

**ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
FEBRUARY 16, 2024
8:30 AM**

1. CALL THE MEETING TO ORDER

At 8:32 AM, Chair Deb Fancher called to order the meeting of the Select Committee on Legislative Ethics. Chair Fancher asked Tamara Maddox to conduct roll call.

Members Present:

Senator David Wilson
Senator Löki Tobin
Representative Sara Hannan
Representative DeLena Johnson
Chair Deb Fancher
Skip Cook
Conner Thomas
Jerry McBeath

Others present in the room:

Jacqui Yeagle
Joyce Anderson

2. UPDATE ON COMMITTEE MEMBER NOMINEES

Chair Deb Fancher asked Tamara Maddox to update the committee on the public member appointment process. Tamara Maddox stated that on January 19, 2024, Chief Justice Maassen reappointed members Skip Cook and Joyce Anderson. He also appointed a new alternate, Rachel Kelly. The Senate ratified the appointments on January 24, 2024. Also on January 24, 2024, the Speaker of the House moved the nominees to the House Judiciary Committee. The judiciary committee is still in the vetting process and the nominees will move out of the committee and to a vote, hopefully, no later than February 23, 2024.

Tamara Maddox introduced alternate public member appointee, Rachel Kelly. Tamara Maddox thanked her for attending the meeting. Conner Thomas thanked Rachel Kelly for her

willingness to serve with the committee.

3. APPROVAL OF THE AGENDA (+)

Representative Sara Hannan announced that she would like to amend the agenda to allow her to speak for a moment about Elizabeth Peratrovich Day. Chair Fancher agreed.

Representative Sara Hannan spoke about the inspiration of Elizabeth Peratrovich had on this day (February 16) in 1945, in passing the law making Alaska the first state to legislate nondiscriminatory action. Representative DeLena Johnson sponsored the bill that approved the Elizabeth Peratrovich coin.

Chair Fancher entertained a motion to approve the amended agenda. Senator David Wilson so moved. Hearing no objection, the motion passed.

4. APPROVAL OF MINUTES (+)

Chair Fancher asked if there were questions or concerns regarding the January 9, 2024, meeting minutes as presented. Jerry McBeath moved to approve the meeting minutes as written. Hearing no opposition, the motion passed. The January 9, 2024, meeting minutes were approved.

5. PUBLIC COMMENT

Chair Deb Fancher invited members of the public to speak to the committee.

Vince Guerra stated he is David Eastman's constituent in Wasilla, Alaska. He spoke to register his support for Representative Eastman. Vince Guerra stated Representative David Eastman has been an amazing legislator, especially in helping constituents break through the "cold wall" of government. Vince Guerra asked that the committee take a look at "the man" and understand the battles he has faced over the last several years: he has been stripped of his staff, his committees, and the ability to raise funds [to fight] the frivolous lawsuits he has had to battle.

Patrick Martin from Wasilla stated that he thinks it is odd that Mr. Eastman is being brought before the committee again. Patrick Martin expressed surprise the committee meeting packet does not contain information about the two complaints to be addressed against Representative David Eastman. Patrick Martin noted Representative David Eastman had waived confidentiality in the complaints. Patrick Martin also addressed his discontent with the inability of Representative David Eastman to raise funds to pay his legal expenses for frivolous lawsuits.

Robert Taylor from Wasilla stated he is confused by an email stating that the legislative ethics apparatus is prohibiting [Representative David Eastman] from being able to defend himself and generate the funds required for the lawfare being waged against him and by proxy the people of Wasilla.

Betty Jo Moore from Anchorage also wanted to know why the public were not given the complaint documents that state why Representative Eastman is being called before the Ethics Committee when he waived confidentiality. With those documents, Betty Jo Moore posits she would be able to provide more detailed testimony.

There was no other public comment.

6. ADVISORY OPINION

Chair Fancher said on December 13, 2023, Representative David Eastman requested an advisory opinion from the committee regarding gifts of legal services. Representative Eastman waived confidentiality. When confidentiality is waived, the advisory opinion can be heard in a public session.

Noah Klein, of Legislative Legal Services, stated that the draft advisory opinion answers two questions submitted by Representative Eastman. Both questions are related to gifts of legal services. The first question is whether a direct payment from the Alaska Anti-Law Affair Defense Fund to the legislator's lawyer is a prohibited gift under AS 24.60.080. The second question asks if the committee would recommend disciplinary

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action if a payment described in the first question is made to the legislator's lawyer without the legislator's consent.

Noah Klein summarized the draft advisory opinion. The committee decided in Advisory Opinion 2023-01 that the exception in AS 24.60.080(c)(8) for a gift of legal services is limited to an in-kind gift. The example described in Representative Eastman's advisory opinion request about raising funds to pay a legislator's legal fees after the fact would not be an in-kind gift of legal services. What the committee has deemed an in-kind gift of legal services would be a direct gift to the legislator from a lawyer or from someone working with a lawyer. In regard to the second question: What would happen if the legislator did not know a gift was being made? A lawyer may not under the rules of professional conduct accept payment from a third party on behalf of a client without the client's approval. If a lawyer tells a legislator they do not have to pay for the legal services, the legislator has a duty to inquire as to why they do not have to pay.

Chair Fancher entertained questions for Noah Klein.

Connor Thomas wanted to clarify the advisory opinion addresses gifts of legislative concern.

Noah Klein stated that is correct. The exception is limited to a matter of legislative concern because Advisory Opinion 23-01 specifically addressed a gift of legal services for a matter of legislative concern and the question references back to that advisory opinion.

Conner Thomas asked for the definition of a matter of legislative concern.

Noah Klein replied there is no definition of a matter of legislative concern, but in Advisory Opinion 23-01 the committee determined when the matter has to do with the qualifications of a member, specifically the role of the courts or the legislature in determining the qualifications of a member, it would be a matter of legislative concern.

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Senator Loki Tobin wondered if the sanctions mentioned in the conclusion would be against the legislator, the defense fund, or the lawyer.

Noah Klein stated that the committee is only able to recommend sanctions against people who are subject to the Legislative Ethics Act. They could not recommend sanctions against the fund or the lawyer. `

Chair Fancher entertained other questions. Hearing none, Chair Fancher entertained a motion to adopt the Advisory Opinion 23-02.

Connor Thomas moved to adopt the draft Advisory Opinion 23-02. There were no objections.

Tamara Maddox conducted a roll call vote.

Roll Call Vote

Senator David Wilson	Yes
Senator Löki Tobin	Yes
Representative Sara Hannan	Yes
Representative DeLena Johnson	Yes
Chair Fancher	Yes
Skip Cook	Yes
Conner Thomas	Yes
Jerry McBeath	Yes

The motion passed unanimously.

7. CHAIR/STAFF REPORTS

Tamara Maddox stated at the meeting on January 9, 2024, the committee reviewed the disclosures submitted in 2023. So far [in 2024] there have been submitted 125 board membership disclosures, three state benefit and loan program disclosures, one disclosure for state contracts, leases, and grants, sixteen disclosures for a close economic association, two disclosures for a close economic association with a lobbyist, and about 20 gifts of travel. Tamara Maddox reported the annual disclosure deadline was February 14, 2024.

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Tamara Maddox addressed campaign year items. The training on campaign year do's and don'ts was canceled, to be rescheduled at a later date. She noted everyone should be aware that campaigning is not allowed during session, and offered the Ethics Office as a resource for questions.

Tamara Maddox moved to the next item: the staff informal report. She noted a particularly interesting question about sharing a legislative calendar with a personal or campaign calendar in order to see all events at the same time. The advice given was that it was impermissible to share a legislative calendar with a campaign calendar and it was not recommended to share a legislative calendar with a personal calendar, but noted the committee has found it permissible to put legislative events on a personal calendar.

Conner Thomas asked legislative members of the Ethics Committee how they use their calendars, and if the advice impacts current practices.

Representative DeLena Johnson responded her understanding is that staff is allowed to update her calendar, they need to know when she is not available. It was important to her to clarify what is allowed and what is not. She is cautious in how she uses her calendar.

Senator Löki Tobin offered that each legislator handles their calendars in unique and different ways. Some offices use Outlook and Gmail, other offices use low tech ways of keeping their calendars.

Representative Sara Hannan reported IT had set up her phone so she can view all three of her calendars. In her office, she uses a color-coded system to show her availability. Not being able to see on the legislative calendar all the events in which everyone in her office is involved creates a cascade of events.

Chair Fancher thanked the legislators for their input, and noted her impression that it is not so much an Ethics matter as it is a cybersecurity matter.

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Joyce Anderson noted the Ethics Committee allows a legislator to put their personal and campaign activities on their legislative calendar as long as staff are not making the appointments or answering phone calls regarding campaigns.

Tamara Maddox reported on 2024 Ethics training numbers. Two training sessions were held, one each in Anchorage and Juneau. Fifty-four individuals were trained in Juneau, some in person and some online. At the Anchorage training, there were eleven online attendees and two in person. There are still a couple of new staff who need to take their training.

Tamara Maddox stated the Ethics Committee receives a lot of social media questions. The social media policy issued in September 2022 is a set of guidelines and recommendations to legislators and legislative employees about how to handle their official legislative pages. The social media policy encourages not blocking individuals from posting to official legislative social media. The guidelines are intended to help legislators to avoid a first amendment challenge. The Ethics Act addresses to use of government resources, so the Ethics Office may refer legislators or legislative employee to Legislative Affairs for more information about the social media policy.

Joyce Anderson added the Ethics Committee is more concerned about the content posted on social media. For example, if a legislator campaigns on an official legislative social media page, that would be a violation of the Ethics Act.

Representative DeLena Johnson finds there is confusion between what is personal social media and what is official legislative social media.

Chair Fancher asked why legislators have a legislative page. Why not post everything to a personal page?

Senator David Wilson said the reason to have two pages is to create a brick wall between a personal page and a legislative resource page. Staff may only post to an official legislative page. A personal page is for family and friends. He wishes

Legislative Council would better define whether a legislative page is a state resource.

Senator Löki Tobin reported it is an evolving issue. Currently, there are at least two cases before the Supreme Court delving into elected officials and the use of social media. She anticipates they may provide some insight and guidelines but does not expect them to provide all of the answers as these situations continue to morph. Many younger legislators more quickly use social media and social platforms to communicate than do those who adopted the technology at a later age. Constituent preferences also drive the use of different types of social media and the type of information a legislator chooses to share. She appreciated the reminder the Ethics Committee is more concerned about content than about platform use.

Representative Sara Hannan added the rulings have determined that public figures, such as legislators, have less expectation of privacy and must have a higher tolerance. She believes it would be premature to discuss policy prior to the Supreme Court rulings. No one owns their identity on social media platforms.

8. BUDGET

Tamara Maddox addressed the budget. She indicated LAA Executive Director Jessica Geary and Deputy Executive Director Santé Lesh were in attendance; they assisted with the budgets and were also able to speak to this matter. The FY 24 personnel services line item shows about \$98,000 remaining. Projected payroll is about \$104,000, a potential shortfall of about \$6,000 in personnel services. However, it is unknown at this time whether there will be a shortfall overall until about May, so no action is needed at this time. There is about \$17,000 remaining in the other line items such as travel services and commodities.

Representative Sara Hannan expressed concern about waiting until May to address a potential FY 24 budget shortfall because it takes time to take the necessary action. She asked if the committee and Legislative Council have meetings planned in May that would facilitate action before the end of the fiscal year.

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Tamara Maddox responded neither a meeting or a vote would be required; Legislative Affairs would be able to transfer funds from another line item or request assistance from Legislative Council.

Chair Fancher asked LAA Executive Director Jessica Geary and Deputy Executive Director Santé Lesh to provide more information. Jessica Geary explained the Ethics Committee budget is within the same appropriation as is the Legislative Council budget and several other budgets. Any of the budgets may have additional funds. Transferring funds in that case would require only an agreement between the committee chair and the person in charge of the funds to be transferred. Around \$6,000 is considered a small potential shortfall, so it should not be a problem.

Tamara Maddox addressed the FY 25 budget, which did require committee action. The fiscal year begins in July. There will be an increase in payroll costs. There may also be other cost increases as well. The Ethics budget will go before Legislative Council. Legislative Council requested a final number by February 21. If the committee approves in this meeting a budget increase to cover additional anticipated expenses, that number will go to Legislative Council. About \$23,000 is required to cover an increase in payroll services.

Chair Fancher asked for a motion to request a budget increase of \$23,000 in the FY 25 budget.

Representative DeLena Johnson said the increase seems reasonable to her.

Senator David Wilson said considering the cost increases anticipated, he concurred with Representative DeLena Johnson.

Representative Sara Hannan moved to approve a budget increase of \$22,698.20 for FY 25 operations of the Ethics Committee.

Chair Fancher entertained objections. Seeing none, Chair Fancher directed Tamara Maddox to conduct a roll call vote.

Roll Call Vote

Senator David Wilson	Yes
Senator Löki Tobin	Yes
Representative Sara Hannan	Yes
Representative DeLena Johnson	Yes
Chair Fancher	Yes
Skip Cook	Yes
Conner Thomas	Yes
Jerry McBeath	Abstain

The motion passed with seven yes votes and one abstention.

9. Motion to go into EXECUTIVE SESSION

Chair Fancher entertained a motion to go into executive session to discuss matters which by law must remain confidential under AS 24.60.160, Uniform Rule 22(b) regarding executive sessions, and Rules of Procedure Section 5: Executive Sessions and discussion of matters, the immediate knowledge of [which] would adversely affect the finances of a governmental unit, and discussion of subjects that tend to prejudice the reputation and character of a person.

Conner Thomas moved to go into executive session. With no objection, the committee did so.

Chair Fancher asked for an exception to allow the following people to stay in the executive session:

Tamara Maddox
Jacqui Yeagle
Joyce Anderson
Noah Klein

There were no objections.

10. EXECUTIVE SESSION

11. PUBLIC SESSION

Chair Fancher explained the committee would vote on an advisory opinion.

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Representative Sara Hannan moved to adopt advisory opinion dated January 10, 2024, work order number 33-LS1114.

Chair Fancher directed Tamara Maddox to conduct a roll call vote.

Roll Call Vote

Representative Sara Hannan	Yes
Representative DeLena Johnson	Yes
Senator Löki Tobin	Yes
Chair Fancher	Yes
Skip Cook	Yes
Conner Thomas	Yes

The advisory opinion was adopted.

12. OTHER BUSINESS

There was no other business.

13. ADJOURN

Connor Thomas moved to adjourn the meeting. and the meeting adjourned at 11:04 a.m.

BACK ON THE RECORD

Due to a technical difficulty, the Ethics Committee went back on the record at 11:06 a.m. Chair Fancher directed Tamara Maddox to conduct roll call.

Roll Call

Representative Sara Hannan	Present
Senator David Wilson	Not Present
Representative DeLena Johnson	Present
Senator Löki Tobin	Not Present
Chair Fancher	Present
Conner Thomas	Present
Skip Cook	Present

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Jerry McBeath

Not Present

There was a quorum.

Deb Fancher asked Representative Sara Hannan to amend her motion to adopt the advisory opinion.

Representative Sara Hannan stated that she misspoke in the motion she previously made. She moved to approve the legal services legal memo that is work order number 33-LS1291. The subject matter is voting when members will receive a benefit.

Skip Cook added for clarification that the format would be changed to reflect the standard format for advisory opinions.

Joyce Anderson added the advisory opinion is AO 24-01.

Chair Fancher entertained other comments. Hearing none, she directed Tamara Maddox to conduct a roll call vote.

Roll Call Vote

Representative Sara Hannan	Yes
Representative DeLena Johnson	Yes
Chair Fancher	Yes
Conner Thomas	Yes
Skip Cook	Yes

AO 24-01 was adopted.

14. ADJOURN

Chair Fancher entertained other comments. Hearing none, she adjourned the meeting at 11:08 AM on Friday February 16, 2024.