

Original sponsor: Begich

Offered: 2/18/69  
Referred: Judiciary

*US Ind.*

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2

CS FOR SENATE BILL NO. 1

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to governmental ethics and disclosure  
of economic interests; and providing for an effective date."

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

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\* Section 1. AS 24 is amended by adding a new chapter to read:

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CHAPTER 55. LEGISLATIVE CONDUCT.

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Sec. 24.55.010. LEGISLATIVE RIGHTS AND DUTIES: PRESUMPTION OF

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GOOD FAITH. (a) In the American system of representative government,  
in which government functions by and with the consent of the governed,  
it is the duty of the legislature and its members to support and defend  
the constitutions of this state and of the United States and to consider  
and enact legislation necessary to the public interest. To maintain a  
proper balance in the consideration and enactment of laws it is essential  
that each legislator exercise his influence and cast his vote according  
to the best interests of the public and his constituents.

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(b) The legislature acknowledges that, in serving the public  
interest, it is a legislator's right to vote upon all questions before  
the house of which he is a member and to participate in the business  
of the house and its committees, and that in doing so he is presumed  
to act in good faith and in the public interest.

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Sec. 24.55.020. JOINT COMMITTEE ON LEGISLATIVE CONDUCT. (a) The  
Joint Committee on Legislative Conduct is established, consisting of the  
majority leader, the minority leader and two members of each house, each  
of the leaders appointing one of the members. The senate majority  
leader is chairman and the house of representatives majority leader is

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1 vice-chairman. The term of an appointed member begins in an odd-  
2 numbered year and lasts for two years if he remains a member of the  
3 legislature. Members of the committee, whether meeting during, or  
4 between legislative sessions, are entitled to the same per diem allow-  
5 ance and travel fare provided for by law for members of the legislature  
6 when attending sessions.

7 (b) The committee shall

8 (1) render advisory opinions on questions of conflict and  
9 conduct when requested by a member of the legislature or of the execu-  
10 tive branch under sec. 40 of this chapter;

11 (2) investigate questions of legislative conduct, violations  
12 of this chapter and the misuse of disclosure reports, and recommend  
13 what action, if any, should be taken;

14 (3) recommend additions to and changes in this chapter and  
15 the Uniform Rules of the Alaska State Legislature respecting

16 (A) legislative conduct,

17 (B) content and filing of disclosure reports,

18 (C) procedures for referring and determining questions  
19 of violation, misconduct and misuse of disclosure reports, and

20 (D) circumstances which presumptively involve a con-  
21 flict of interests, undue influence and abuse of office.

22 (c) The committee shall adopt rules of committee procedure not  
23 inconsistent with the uniform rules of the legislature.

24 (d) The committee may function without regard to recess periods  
25 or adjournment sine die of either house.

26 **Sec. 24.55.030. CITIZENS' ADVISORY BOARD ON LEGISLATIVE**  
27 **CONDUCT.** The Citizens' Advisory Board on Legislative Conduct is  
28 established, consisting of six members of the public, which will,  
29 upon request, advise and consult with the legislature,

1 each of its houses, and the Joint Committee on Legislative Conduct on  
2 policies affecting conflicts of interests. Each of the following  
3 officials shall appoint one member of the board: speaker of the house,  
4 president of the senate, and the majority leader and minority leader  
5 of each house. Each member shall be appointed for a term of two  
6 years and until a successor is designated. Members of the board shall  
7 elect a chairman and a vice-chairman. Members of the board may receive,  
8 for the minimum time required to get to and from meetings and while  
9 attending meetings, the same travel fare and per diem allowances  
10 provided by law for members of the legislature when attending legisla-  
11 tive sessions.

12 Sec. 24.55.040. ADVISORY OPINIONS. If a legislator, executive  
13 department head, or the governor or secretary of state is uncertain  
14 about a possible conflict in his personal circumstances under this  
15 chapter, AS 39.05.105 or AS 44.19.015, respectively, he may request  
16 an advisory opinion of the Joint Committee on Legislative Conduct.  
17 When issued, after review of the circumstances involved, the written  
18 opinion of the committee determines the question of conflict, subject  
19 to further action of the parent house should the question come before  
20 it.

21 Sec. 24.55.050. INSPECTION OF OPINIONS AND CONFIDENTIALITY OF  
22 INFORMATION. Advisory opinions of the committee are public records  
23 and are open to public inspection as provided in AS 9.25.110 and 9.25.-  
24 120. Except as provided in sec. 140 of this chapter, all other informa-  
25 tion in the possession of the committee, its officers, members and  
26 employees, concerning personal affairs of members of the legislature  
27 is confidential and may not be disclosed except as necessary in rela-  
28 tion to disciplinary action, punishment or prosecution.

29 Sec. 24.55.060. HEARING. In performing its duties, the committee

1 shall give each legislator under investigation an opportunity to be  
2 heard after notice, to be advised and assisted by legal counsel, to  
3 produce witnesses and offer evidence, to have compulsory process of  
4 the committee for obtaining witnesses, and to cross examine. Upon  
5 request of the legislator under investigation, the hearing shall be  
6 open to the public.

7 Sec. 24.55.070. BURDEN OF PROOF. When there is no presumption  
8 of wrongdoing, one who accuses a legislator has the burden of es-  
9 tablishing a case of impropriety. He must prove a clear case in  
10 order to overcome the presumption that the legislator is acting in  
11 good faith and in the public interest. When there is a presumption  
12 of wrongdoing it offsets the presumption of good faith and provides a  
13 prima facie case against the legislator; when he meets the presumption  
14 with positive evidence the burden of proving impropriety is on the  
15 accuser.

16 Sec. 24.55.080. LEGAL COUNSEL. The legal staff of the Legisla-  
17 tive Affairs Agency, or an attorney appointed by the committee, shall  
18 serve as legal counsel to the committee in administering this chapter.

19 Sec. 24.55.090. CONFLICT OF INTERESTS. (a) A legislator's  
20 personal interest conflicts with the public interest when it tends to  
21 impair his independence of judgment. A conflict-of-interest situation  
22 affords a basis for abstention under the Uniform Rules of the Alaska  
23 State Legislature.

24 (b) It is presumed that personal interest tends to impair a  
25 legislator's independence of judgment in the following circumstances:

26 (1) having or acquiring a direct interest in an enterprise,  
27 financial or otherwise, which enterprise or interest would be affected  
28 by proposed legislation differently from like enterprises or other  
29 interests in the same enterprise;

1 (2) close relationship to or close economic association with  
2 a person who has a direct interest in an enterprise, financial or other-  
3 wise, which enterprise or interest would be affected by proposed legis-  
4 lation differently from like enterprises or other interests in the  
5 same enterprise;

6 (3) close relationship to or close economic association with  
7 a person who is lobbying or who has employed a lobbyist to propose  
8 legislation or to influence proposed legislation;

9 (4) accepting a gift, loan, favor, service or economic  
10 opportunity of significant value from a person who would be affected  
11 by or who has an interest in an enterprise which would be affected  
12 by proposed legislation;

13 (5) accepting compensation, gratuity, or reimbursement not  
14 authorized by law for services, advice or assistance relating to  
15 proposed legislation;

16 (6) accepting compensation, gratuity, or reimbursement not  
17 authorized by law for voting upon any question or attempting to influ-  
18 ence proposed legislation;

19 (7) accepting compensation, gratuity or reimbursement not  
20 authorized by law for representing or assisting another in respect to  
21 matter before the legislature or one of its committees or subcommittees.

22 Sec. 24.55.100. EFFECT OF LEGISLATIVE ACTION. (a) Decision of  
23 the parent house on a question of conflict is conclusive for all pur-  
24 poses.

25 (b) Enactments of the legislature may not be voided in any  
26 judicial proceeding because of an alleged conflict which was not  
27 questioned in the parent house before final action.

28 Sec. 24.55.110. UNDUE INFLUENCE. (a) A legislator shall avoid  
29 all circumstances which involve substantial risk of undue influence.

1 (b) It is presumed that each of the following activities involve  
2 substantial risk of undue influence:

3 (1) representing or assisting another

4 (A) in a matter before a state agency, unless without  
5 compensation and for the benefit of a constituent;

6 (B) in the sale of goods or services to a state agency  
7 in a transaction not governed by the laws relating to public  
8 purchasing by competitive bidding;

9 (2) appearing as an expert witness for compensation in a  
10 matter before a state agency;

11 (3) selling goods or services to a state agency in a trans-  
12 action not governed by the laws relating to public purchasing by competi-  
13 tive bidding;

14 Sec. 24.55.120. ABUSE OF OFFICE. (a) A legislator shall avoid  
15 all activities which tend to abuse his office.

16 (b) It is presumed that the following activities tend to abuse  
17 legislative office or position:

18 (1) accepting a gift, loan, favor, service or economic  
19 opportunity of significant value from a person who would be substantially  
20 affected by or who has an interest in an enterprise which would be  
21 substantially affected by proposed legislation;

22 (2) accepting compensation, gratuity, or reimbursement not  
23 authorized by law for services, advice or assistance relating to the  
24 legislative process;

25 (3) accepting compensation, gratuity or reimbursement not  
26 authorized by law for voting upon any question or attempting to influ-  
27 ence legislation;

28 (4) obtaining or granting special privilege, exemption or  
29 preferential treatment for self or another, as a result of legislative

1 office and not authorized by law;

2 (5) using confidential information obtained because of  
3 legislative office for the benefit of self or another;

4 (6) disclosing confidential information obtained because of  
5 legislative office except in good faith and to perform a legislative  
6 duty;

7 (7) using legislative stationery in connection with a matter  
8 before a state agency, unless without compensation either to perform  
9 a legislative duty or for the benefit of a constituent.

10 Sec. 24.55.130. DISCLOSURE OF INTERESTS. (a) Every legislator  
11 and every candidate for legislative office shall file with the commit-  
12 tee, at the times, with the detail, and in the manner required by the  
13 committee, a written report listing

14 (1) every enterprise with which he or his spouse or minor  
15 child has a close economic association;

16 (2) every enterprise, having a legislative interest, with  
17 which he or his spouse or minor child has a close economic association;

18 (3) every contract with the state government held, during  
19 the period covered by the report, by the legislator or by his spouse or  
20 minor child or by an enterprise with which any of them has or, during  
21 that period, had a close economic association;

22 (4) all other categories of interest identified by the  
23 committee as potential sources of conflict.

24 (b) The value of an interest in an enterprise need not be reported.  
25 Enterprises may be identified by principal type of economic activity,  
26 with additional detail the committee may require to indicate their  
27 legislative interests and close economic association.

28 (c) The committee shall prepare and keep available for distribu-  
29 tion to persons covered by this section and AS 39.05.105 forms to be

1 submitted in compliance with this section or AS 39.05.105. A completed  
2 sample form shall also be prepared and kept available.

3 Sec. 24.55.140. REPORTS OPEN TO INSPECTION. Reports are public  
4 records and are open to public inspection as provided in AS 9.25.110  
5 and 9.25.120. In addition, the committee shall provide the clerk of  
6 the parent house with a copy of each report and the clerk shall publish  
7 it in the journal of that house as soon as possible after receipt.  
8 However, the committee may exempt a report or part of a report from  
9 publication and inspection if it determines that it is appropriate  
10 for the protection of third parties, and makes available to the public  
11 an explanatory statement to that effect.

12 Sec. 24.55.150. PENALTIES. (a) A legislator who violates a  
13 provision of secs. 50, 90, 110 or 120 of this chapter, or who fails  
14 to file a report under sec. 130 of this chapter, or who files a false  
15 report under that section, knowing of the falsity, is in contempt and  
16 shall be punished as his parent house provides.

17 (b) A candidate for legislative office who files a false report  
18 under sec. 130 of this chapter, knowing of the falsity, is in contempt  
19 and shall be punished as provided by the house in which he sought  
20 office. The petition or declaration of candidacy of a candidate for  
21 legislative office is rendered invalid if he fails to file his report  
22 no later than 10 days after the last date for filing these petitions  
23 and declarations.

24 (c) A nonlegislator who violates sec. 50 of this chapter is in  
25 contempt and shall be punished as provided by the house against which  
26 the offense is committed.

27 (d) A person who induces, attempts to induce, or aids a violation  
28 of this chapter is in contempt and shall be punished as provided by  
29 the house against which the offense is committed.

1 (e) An offended house may hear and determine questions of viola-  
2 tion and impose punishment until convening of the second regular legis-  
3 lative session following the date of an offense. Execution of punish-  
4 ment does not terminate with adjournment sine die of the offended house.

5 Sec. 24.55.160. DEFINITIONS. In this chapter, unless the context  
6 requires otherwise,

7 (1) "close economic association" includes (A) an employer-  
8 employee relationship, (B) a partnership or other association in business  
9 or professional activities, (C) a directorship or officership in or an  
10 agency relationship with a corporation, (D) ownership of more than 10  
11 per cent of the outstanding capital stock of a corporation, (E) an  
12 individual's debtor relationship with an enterprise which is his signi-  
13 ficant unsecured creditor, (F) an individual's creditor relationship  
14 with an enterprise of which he is a significant creditor, and (G) an  
15 individual's status as the beneficiary of a trust or as a trustee with  
16 a power of appointment or disposal; it does not include a relationship  
17 based on an account in a bank or a savings and loan association and it  
18 does not include a directorship, officership or employment in a political,  
19 religious, charitable or educational entity from which he receives com-  
20 pensation of less than \$1,000 per year;

21 (2) "close relationship" means the status of spouse, sibling,  
22 parent, parent or minor child of the individual;

23 (3) "committee" means the Joint Committee on Legislative  
24 Conduct;

25 (4) "legislative interest" means a substantial economic  
26 interest, distinct from that of the general public, in a bill, resolu-  
27 tion, nomination or other issue or proposal pending before or likely  
28 to be proposed to the legislature or one of its committees, subcom-  
29 mittees or commissions;

1 (5) "loan" does not include a loan made by a bank or a  
2 savings and loan association in the regular course of business;

3 (6) "notice" means notice in writing stating the specific  
4 charge, if any, against the person concerned, and the date, time,  
5 place and purpose of a proceeding, delivered to the person concerned  
6 on behalf of the committee by a clerk of his parent house or by an  
7 officer authorized by law to serve subpoenas at least seven days  
8 before the date of the proceeding, or deposited in the United States  
9 mail, certified and return receipt requested at least 14 days before  
10 the date of the proceeding, for delivery to him at his usual place of  
11 residence;

12 (7) "state agency" means a department, office, board,  
13 commission or other organizational unit of the executive branch, but  
14 does not include an agency with adjudicatory powers or an agency in  
15 the judicial or legislative branch of the state government.

16 \* Sec. 2. AS 24.05.120 is amended to read:

17 Sec. 24.05.120. RULES. At the beginning of the first regular  
18 session of each legislature, both houses shall adopt uniform rules of  
19 procedure for enacting bills into law, [AND] adopting resolutions and  
20 handling disciplinary matters under ch. 55 of this title. The rules in  
21 effect at the last regular session of the immediately preceding legis-  
22 lature serve as the temporary rules of the legislature until the  
23 adoption of permanent rules.

24 \* Sec. 3. AS 39.05 is amended by adding a new section to read:

25 Sec. 39.05.105. DISCLOSURE OF INTERESTS BY DEPARTMENT HEADS. (a)  
26 Each person appointed as the head of a principal executive department of  
27 the state government, and each member of a board or commission which  
28 serves as the head of a principal executive department or which has  
29 regulation-promulgating authority for a department as a whole, shall,

1 in the detail and manner specified by the committee, within 30 days of  
2 his appointment, and at additional times specified by the committee,  
3 file with the Joint Committee on Legislative Conduct (AS 24.55.020) a  
4 written report listing

5 (1) every enterprise, with which he or his spouse or minor  
6 child has a close economic association;

7 (2) every enterprise with a substantial economic interest,  
8 which interest is distinct from that of the general public, in a matter  
9 likely to come before him in his official capacity;

10 (3) every contract with the state government held, during  
11 the period covered by the report, by him or by his spouse or minor  
12 child or by an enterprise with which any of them has or, during that  
13 period, had a close economic association;

14 (4) all other categories of interest designated by the  
15 committee as potential sources of conflicts of interest.

16 (b) The value of an interest in an enterprise need not be reported  
17 Enterprises may be identified by principal types of economic activity,  
18 with additional detail the committee may require to indicate their  
19 special interests and close economic association.

20 (c) The committee shall, upon receipt of the report specified in  
21 (a) of this section, provide the secretary of the senate with a copy of  
22 the complete report, which shall be published in the senate journal.  
23 In addition, the reports are public records and are open to public  
24 inspection as provided in AS 9.25.110 and 9.25.120. However, the com-  
25 mittee may exempt a report or part of a report from publication and  
26 inspection if it determines that it is appropriate for the protection  
27 of third parties, and makes available to the public an explanatory  
28 statement to that effect.

29 (d) No appointment of a department head or board or commission

1 member may be confirmed by the legislature if the report required by  
2 (a) of this section has not been filed with the committee. Upon the  
3 failure of such a person, who has already been confirmed, to file an  
4 additional report required by the committee, or the filing of a false  
5 report, knowing of the falsity, the person is in contempt and shall  
6 be punished as provided by the senate.

7 (e) Definition, in AS 24.55.160, of terms used in this section  
8 apply to this section.

9 \* Sec. 4. AS 44.19 is amended by adding a new section to read:

10 Sec. 44.19.015. DISCLOSURE OF ECONOMIC INTERESTS. The governor  
11 and the secretary of state, and each candidate for either of these  
12 offices, shall file with the Joint Committee on Legislative Conduct  
13 (AS 24.55.020) a written report of economic interests and relationships  
14 likely to create a conflict of interests. The statement shall be filed  
15 at the times, in the detail and in the manner prescribed by the com-  
16 mittee; it shall contain the information relating to the governor and  
17 secretary of state, individually, specified in AS 39.05.105 and is  
18 subject to all other provisions of that section except (d) of that  
19 section.

20 \* Sec. 5. All incumbents covered by sec. 3 of this Act shall file the  
21 required report no later than 30 days after the effective date of this Act.  
22 Upon the failure of an individual to do so, he is in contempt and shall be  
23 punished as provided by the senate, unless the Joint Committee on Legislative  
24 Conduct determines that the failure was justified, in which case he shall be  
25 given an additional 30 days before being held in contempt.

26 \* Sec. 6. This Act takes effect on the day after its passage and approval  
27 or on the day it becomes law without approval.