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1 IN THE HOUSE

2 HOUSE BILL NO. 533

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to standards of conduct of legisla-
7 tors and legislative employees and establishing a
8 Select Committee on Legislative Ethics; and providing
9 for an effective date."

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

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

12 CHAPTER 60. STANDARDS OF CONDUCT.

13 Sec. 24.60.010. LEGISLATIVE FINDINGS AND PURPOSE. The legisla-
14 ture finds that it is essential in the conduct of public business that
15 legislators hold the respect and confidence of the people. Legisla-
16 tors must avoid conduct that even appears to violate the trust the
17 people have placed in them. To ensure and preserve public confidence,
18 legislators should have the benefit of specific standards to guide
19 their conduct. Article II, sec. 12, Constitution of the State of
20 Alaska grants to each house of the legislature the power to judge the
21 qualifications of its members. It is the purpose of this Act to
22 establish standards of conduct for state legislators and legislative
23 employees and to establish the Select Committee on Legislative Ethics
24 to consider alleged violations of this chapter and to render advisory
25 opinions to persons affected by this chapter.

26 Sec. 24.60.020. APPLICABILITY. (a) This chapter applies to a
27 member of the legislature and to a permanent or temporary employee of
28 an agency of the legislature except for AS 24.60.080. This chapter
29 does not apply to

1 (1) a former member of the legislature or to a person
2 formerly employed by a member of the legislature or an agency of the
3 legislature unless the provision specifically states that it so ap-
4 plies;

5 (2) a person elected to the legislature who at the time of
6 election is not a member of the legislature;

7 (3) a person employed by the legislature or an employee of
8 an agency of the legislature whose compensation is below Step A, Range
9 18 of the state salary schedule established in AS 39.27.011(a).

10 (b) The provisions of this chapter specifically repeal the
11 provisions of the common law relating to legislative conflict of
12 interest that may apply to a member of the legislature, a person
13 employed by a member of the legislature, or to a permanent or tempo-
14 rary employee of an agency of the legislature. They do not supersede
15 or repeal provisions of the criminal laws of the state.

16 Sec. 24.60.030. CONFLICTS OF INTEREST. (a) A person to whom
17 this chapter applies may not use public office for private advancement
18 or gain.

19 (b) A conflict of interest exists when a person to whom this
20 chapter applies takes or withholds official action or exerts influence
21 that could substantially benefit or harm a financial matter in which
22 the person has a direct or indirect private interest.

23 (c) Conflicts of interest are prohibited but there is not a
24 conflict of interest if, as to a specific matter, there is no substan-
25 tial impropriety or appearance of impropriety because

26 (1) the person's interest is relatively insignificant;

27 (2) the person's authority is relatively far removed from
28 any official action that could reasonably be affected by the potential
29 conflict of interest, provided that no attempt has been made to remove

1 the appearance of impropriety by delegating responsibility for offi-
2 cial action.

3 (d) A conflict exists if benefits accrue to a person to whom
4 this chapter applies beyond that which may accrue uniformly to members
5 of the profession, occupation or group to which the person belongs, or
6 to the public at large.

7 (e) It is not a conflict of interest under this section if a
8 person to whom this chapter applies accepts

9 (1) hospitality at another person's residence within the
10 state, including meals, lodging or transportation;

11 (2) discounts that are generally available to the public or
12 a large class of persons to which the person belongs;

13 (3) an invitation to attend a meal or social event that
14 does not exceed \$100 in value received by the person for each meal or
15 event;

16 (4) food and foodstuffs indigenous to the state that are
17 generally shared as a cultural or social norm; or

18 (5) gifts from the person's family.

19 (f) It is a conflict of interest for a member of the legislature
20 to accept money from an event held within the City and Borough of
21 Juneau during the session if a substantial purpose of the event is to
22 raise money on behalf of the member for state legislative campaign
23 purposes or for other state legislative political purposes.

24 Sec. 24.60.040. CONTRACTS OR LEASES. (a) A person to whom this
25 chapter applies may not be a party to or have an interest in a state
26 contract or lease unless the contract or lease is let under AS 37.-
27 05.230, or the total annual amount of the state contract or lease is
28 \$1,000 or less, or the contract or lease is a standardized contract or
29 lease that was developed under publicly established guidelines and is

1 generally available to the public at large or to members of a
2 profession, occupation or group. A person has an interest in a state
3 contract or lease under this section if the person receives direct or
4 indirect financial benefits.

5 (b) In this section, "direct or indirect financial benefits"
6 means income, profits or other financial benefits under a state con-
7 tract, without regard to whether the income, profits or other finan-
8 cial benefits ensue to the person as a partner, shareholder, investor,
9 agent, employee, consultant, or joint venturer of the contractor.

10 Sec. 24.60.050. STATE LOANS. (a) It is not a conflict of
11 interest for a person to whom this chapter applies to participate in a
12 state program or to receive a loan from the state if the program or
13 loan is generally available to members of the public, is subject to
14 fixed eligibility standards, and minimal discretion is exercised in
15 determining qualification. The committee shall issue a list of those
16 state programs and loans from the state that it considers to meet the
17 standards of this paragraph within 30 days after the effective date of
18 this Act. It shall annually issue a revised list.

19 (b) In determining whether a conflict of interest exists with
20 respect to a state program or to a state loan other than those de-
21 scribed in (a) of this section, because a person to whom this chapter
22 applies may be in a position to influence the loan agency, the commit-
23 tee must consider, but is not limited to, the adequacy of existing
24 administrative procedures for granting and reviewing loans to persons
25 to whom this chapter applies.

26 (c) Upon application for a state loan by a person to whom this
27 chapter applies, other than loans described in (a) of this section,
28 the person shall send a notice of the application to the Alaska Public
29 Offices Commission, which shall incorporate the notice into the

1 applicant's financial disclosure statement, if the applicant is re-
2 quired to file a disclosure statement or if the applicant is not
3 required to file a disclosure statement shall place the notice in a
4 legislative employee loan file that is open to the public. All re-
5 cords relating to a state loan to a person to whom this chapter ap-
6 plies may be disclosed to the committee.

7 (d) Each February 1, each state loan agency must deliver a
8 listing of all outstanding loans to persons to whom this chapter
9 applies, except for loans described in (a) of this section, to the
10 presiding officer of each house. The list must include the name of
11 the person, the date of issuance and current status of the loan. The
12 list shall be published in the supplemental journal.

13 (e) The division of legislative audit shall annually review
14 state loans granted to or held by persons to whom this chapter applies
15 to determine whether loan conditions imposed by the lending agency are
16 being enforced. The division shall report its findings to the commit-
17 tee by April 1.

18 (f) For purposes of this section "state program" means a program
19 in which tangible assets of the state or a right to use tangible
20 assets of the state are transferred from the state to a private per-
21 son.

22 Sec. 24.60.060. CONFIDENTIAL INFORMATION. It is a conflict of
23 interest if a person to whom this chapter applies wilfully discloses,
24 or knowingly uses, for personal gain or for the personal gain of
25 another, information that by law is not available to the public and
26 that the person acquired in the course of official duties.

27 Sec. 24.60.070. INTERESTS BETWEEN PUBLIC OFFICIALS. A person to
28 whom this chapter applies shall disclose in the journal of the appro-
29 priate body or if the legislature is not in session to the committee,

1 which shall maintain a public record of the disclosure and forward the
2 disclosure to the respective house for inclusion in the journal for
3 the first day of the session, the formation or maintenance of a close
4 economic association involving a substantial financial matter with

5 (1) a supervisor who has responsibility or authority,
6 either directly or indirectly, over the person's employment, including
7 preparing or reviewing performance evaluations, or granting or approv-
8 ing pay raises or promotions;

9 (2) legislators;

10 (3) a public official in another branch, if the public
11 official is required to file a financial disclosure statement under
12 AS 39.50;

13 (4) a registered lobbyist who is not a member of the imme-
14 diate family of the person.

15 Sec. 24.60.080. GIFTS. A person to whom this chapter applies
16 may not solicit a gift, or accept or receive, directly or indirectly,
17 a gift, whether in the form of money, services, a loan, travel, enter-
18 tainment, hospitality, or other form, if the gift was intended as a
19 reward or inducement for an official action by the person. A gift of
20 travel and hospitality within Alaska received by a member of the
21 legislature in obtaining information on matters of legislative concern
22 is not prohibited by this section, nor are political contributions
23 received and reported under AS 15.13.040.

24 Sec. 24.60.090. NEPOTISM. (a) A spouse of a member of the
25 legislature may not be employed by either house of the legislature
26 during the interim between sessions or by an agency of the legislature
27 established under AS 24.20. An individual other than the spouse who
28 is related to a member of the legislature may not be employed in the
29 house in which the legislator is a member, by an agency of the

1 legislature established under AS 24.20 or in the other house during
2 the interim between sessions. An individual who is related to an em-
3 ployee of the legislature may not be employed in a position over which
4 the employee has supervisory authority. In this subsection, "an
5 individual who is related to" means a child, adopted child, stepchild,
6 husband, wife, mother, father, sister, brother, or a member of the
7 same household.

8 (b) For purposes of this section an individual is not employed
9 if no compensation is received from the state for the services pro-
10 vided.

11 (c) For purposes of this section, a legislator is not an em-
12 ployee of the legislature.

13 Sec. 24.60.100. REPRESENTATION BY LEGISLATORS. A person to whom
14 this chapter applies who represents another person for compensation
15 before an agency, board, or commission of the state shall disclose the
16 name of the person represented, the subject matter of the representa-
17 tion, and the body before which the representation is to take place in
18 the journal of the appropriate body or if the legislature is not in
19 session to the committee. The committee shall maintain a public
20 record of the disclosure and forward the disclosure to the respective
21 house for inclusion in the journal for the first day of the session.

22 Sec. 24.60.110. ACTION ON A CONFLICT OF INTEREST. A legislator
23 who knowingly has a conflict of interest or has been notified of a
24 conflict of interest shall immediately

25 (1) resign the conflicting position;

26 (2) divest the interest that has resulted in the conflict
27 or potential conflict; or

28 (3) disclose the conflict of interest in the journal of the
29 appropriate body or if the legislature is not in session to the

1 committee; the committee shall maintain a public record of the dis-
2 closure and forward the disclosure to the respective house for inclu-
3 sion in the journal for the first day of the session.

4 Sec. 24.60.120. STATE PROPERTY AND FUNDS. A person to whom this
5 chapter applies may not use state property except property under lease
6 from the state or funds for private gain.

7 Sec. 24.60.130. SELECT COMMITTEE ON LEGISLATIVE ETHICS. (a)
8 There is established within the legislative branch of the state gov-
9 ernment the Select Committee on Legislative Ethics.

10 (b) The committee consists of seven members appointed as fol-
11 lows:

12 (1) the president of the senate shall appoint one member to
13 the committee from the senate with the concurrence by roll call vote
14 of three-fourths of the full membership of the senate;

15 (2) the speaker of the house of representatives shall
16 appoint one member to the committee from the house of representatives
17 with the concurrence by roll call vote of three-fourths of the full
18 membership of the house;

19 (3) the president of the senate shall appoint to the com-
20 mittee two persons who are not members of the legislature and who are
21 citizens of the United States and residents of the state with the
22 concurrence by roll call vote of two-thirds of the full membership of
23 the senate;

24 (4) the speaker of the house of representatives shall
25 appoint to the committee two persons who are not members of the
26 legislature and who are citizens of the United States and residents of
27 the state with the concurrence by roll call vote of two-thirds of the
28 full membership of the house;

29 (5) one member of the committee shall be a former

1 legislator of the state who is appointed by the other members of the
2 committee.

3 (c) No more than four members of the committee may be members of
4 the same political party or residents of the same borough or of the
5 unorganized borough.

6 (d) The members of the committee shall elect a chair and vice-
7 chair and may elect other officers. Those members of the committee
8 who are members of the legislature may not serve as chair or vice-
9 chair.

10 (e) The term of office of a public member of the committee is
11 four years from February 1 of the year of appointment and until a
12 successor is appointed and qualifies. A legislator appointed to the
13 committee may not serve beyond the expiration of the legislative term
14 of office. A committee member may not serve more than one full term.

15 (f) A member of the committee may not

16 (1) hold or seek elective office;

17 (2) be an officer of a political party, political commit-
18 tee, or group; or

19 (3) lobby.

20 (g) The provisions of (f) of this section do not apply to the
21 members of the committee appointed under (b)(1) and (2) of this sec-
22 tion.

23 (h) A vacancy on the committee shall be filled under (b) of this
24 section for the balance of the term.

25 (i) The committee may contract for professional services and may
26 employ staff as it considers necessary. A member of the committee may
27 not serve on the staff of the committee.

28 (j) A member of the committee receives no compensation for
29 service on the committee. Members of the committee are entitled to

1 travel expenses and per diem authorized by law for members of boards
2 and commissions under AS 39.20.180, but a member of the committee who
3 is a legislator is not entitled to travel expenses and per diem from
4 the committee if the legislator is receiving travel expenses and per
5 diem as a legislator.

6 Sec. 24.60.140. DUTIES OF THE COMMITTEE. The committee shall

7 (1) adopt regulations to facilitate the receipt of in-
8 quiries and prompt rendition of its opinions;

9 (2) recommend legislation to the legislature the committee
10 considers desirable or necessary to promote and maintain high stand-
11 ards of ethical conduct in government;

12 (3) subpoena witnesses, administer oaths, and take tes-
13 timony relating to matters before the committee, and may require the
14 production for examination of any books or papers relating to any
15 matter under investigation before the committee;

16 (4) publish semi-annual summaries of decisions, advisory
17 opinions and informal advisory opinions, with sufficient deletions in
18 the summaries to prevent disclosing the identity of the persons in-
19 volved in the decisions or opinions which have remained confidential.

20 Sec. 24.60.150. ADVISORY OPINIONS. The committee shall issue an
21 advisory opinion within 30 days on the request of a person to whom the
22 chapter applies as to whether the facts and circumstances of a partic-
23 ular case constitute a violation of ethical standards. The opinion
24 issued or considered issued is binding on the committee in any subse-
25 quent proceedings concerning the facts and circumstances of the par-
26 ticular case unless material facts were omitted or misstated in the
27 request for the advisory opinion. Except as provided in this chapter
28 an advisory opinion is confidential but may be made public if a writ-
29 ten request by the person who requested the opinion is filed with the

1 committee.

2 Sec. 24.60.160. PROCEEDINGS BEFORE THE COMMITTEE. (a) The
3 committee may initiate, receive and consider complaints alleging a
4 violation of this chapter.

5 (b) The committee may investigate a violation of this chapter in
6 a proceeding begun within one year after the alleged violation occurs
7 and within one year after termination of state service. Nothing in
8 this subsection bars proceedings against a person who intentionally
9 prevents discovery of a violation of this chapter.

10 (c) Before the committee may exercise power authorized in this
11 section, the committee shall by resolution supported by a majority
12 vote of the full membership of the committee, define the nature and
13 scope of the inquiry. The committee shall investigate all complaints
14 on a confidential basis.

15 (d) A proceeding is commenced by the filing of a complaint with
16 the committee. A complaint may be initiated by any person. A com-
17 plaint shall be in writing and signed under oath by the person making
18 the complaint. No complaint, other than a complaint initiated by a
19 majority of the members of the committee, may be received within a
20 period of 60 days preceding a state primary or general election.

21 (e) The committee shall notify in writing each person against
22 whom a complaint is received and afford the person an opportunity to
23 explain the conduct alleged to be a violation of this chapter. If the
24 committee determines that a complaint does not contain allegations of
25 facts sufficient, if the alleged facts are treated as true, to consti-
26 tute a violation of this chapter, the committee may summarily dismiss
27 the complaint.

28 (f) The committee shall investigate the charges filed under this
29 section and issue an advisory opinion to the person alleged to have

1 violated a provision of this chapter.

2 (g) If the committee determines that a probable violation exists
3 that may be corrected by action of the person and that does not war-
4 rant sanctions other than correction, the advisory opinion shall
5 recommend corrective action. The person against whom the complaint
6 was made may comply with the opinion or may request a hearing before
7 the committee. After the hearing the committee may amend or affirm
8 the advisory opinion.

9 (h) If the person fails to comply with the advisory opinion or
10 if a majority of the members of the committee determine that there is
11 probable cause for belief that a violation of this chapter that may
12 not be corrected under (g) of this section has occurred, the committee
13 shall formally charge the person. The charge and statement of the
14 alleged violation shall be personally served on the person charged.
15 The alleged violator has 20 days after service of the charge and
16 statement to respond in writing to the committee.

17 (i) The committee may set a time and place for a hearing before
18 the committee with a minimum of 10 days' notice to the complainant, if
19 any, and to the person charged with a violation of this chapter. A
20 representative of the committee and the person charged with a vio-
21 lation of this chapter shall have an opportunity to be heard, to
22 subpoena witnesses and require the production of books or papers
23 relating to the proceedings, to be represented by counsel, and to have
24 the right of cross-examination. Each witness shall testify under
25 oath. Hearings are closed to the public unless the person charged
26 with a violation of this chapter requests an open hearing. The com-
27 mittee is not bound by the rules of evidence but the committee's
28 findings must be based upon competent and substantial evidence.
29 Testimony taken at the hearing shall be recorded and evidence shall be

1 maintained. The testimony and evidence are available only to the
2 committee and its staff and to the person charged with a violation of
3 this chapter. If the person charged with the violation of a provision
4 of this chapter requests a copy of the transcript of testimony, the
5 copy shall be furnished by the committee without charge.

6 (j) A decision of the committee shall be in writing and signed
7 by the majority of the members of the committee. Each decision of the
8 committee must be accompanied by a written order of the committee de-
9 termining that a violation of this chapter exists or does not exist.
10 The order is confined to this determination. This order is a public
11 record.

12 (k) If the committee issues a decision finding that a member of
13 the legislature has violated a provision of this chapter or that a
14 legislator has declined or failed to cooperate with the committee, it
15 shall refer the decision to the presiding officers of the legislature.
16 The decision shall contain a statement of the facts determined to
17 constitute the violation or the failure to cooperate and may contain
18 recommendations concerning any penalties the legislature may lawfully
19 impose. The committee shall make the decision public 30 days after
20 the referral. The legislature shall act on the decision as it con-
21 siders appropriate.

22 (l) If the majority of the members of the committee agree to a
23 decision that a former member of the legislature or an employee or a
24 former employee of a legislator or of an agency of the legislature has
25 violated a provision of this chapter, the committee shall issue a
26 public statement of its decision 30 days after the date of the deci-
27 sion. The legislature shall act on the decision as it considers
28 appropriate. In the case of an employee the action may include sus-
29 pension, demotion, or dismissal. The employee is entitled to a

1 hearing before final action is taken.

2 (m) A committee member or member of the committee staff who
3 divulges information concerning a proceeding, except as permitted by
4 this chapter, is guilty of a class A misdemeanor.

5 Sec. 24.60.170. COOPERATION BY STATE AGENCIES. Each agency of
6 the executive branch of state government shall, to the extent permit-
7 ted by state or federal law, cooperate fully with the committee by
8 providing information and assistance, including disclosure of finan-
9 cial material and other records relating to a potential violation of
10 this chapter.

11 Sec. 24.60.180. DEFINITION. In this chapter, "committee" means
12 the Select Committee on Legislative Ethics.

13 * Sec. 2. AS 11.56 is amended by adding a new section to read:

14 Sec. 11.56.205. FALSE ACCUSATION. (a) A person commits the
15 crime of false accusation if the person knowingly or intentionally
16 initiates a false complaint with the Select Committee on Legislative
17 Ethics established in AS 24.60.

18 (b) False accusation is a class C felony.

19 * Sec. 3. Nothing in this Act applies to conduct which occurred before
20 the effective date of the Act and the committee established by this Act has
21 no jurisdiction over any alleged violation which occurred before the effec-
22 tive date of this Act.

23 * Sec. 4. Section 24.60.130 and sec. 24.60.140 enacted in sec. 1 of
24 this Act take effect immediately in accordance with AS 01.10.070(c).