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Referred: Special Committee on
Legislative Reform
and State Affairs

1 IN THE SENATE

BY V. FISCHER

2

SENATE BILL NO. 192

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to legislative standards of con-
7 duct."

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

9 * Section 1. LEGISLATIVE DETERMINATION. The Constitution of the State
10 of Alaska in Art. II, sec. 12 grants to each house of the legislature the
11 power to judge the qualifications of its members. The legislature deter-
12 mines that the maintenance of the highest standards of conduct constitutes
13 an important qualification for membership in the legislature.

14 * Sec. 2. AS 24 is amended by adding a new chapter to read:

15 CHAPTER 60. LEGISLATIVE STANDARDS OF CONDUCT.

16 ARTICLE 1. STANDARDS OF CONDUCT GENERALLY.

17 Sec. 24.60.010. APPLICABILITY. (a) This chapter applies to a
18 member of the legislature and to a person employed by a member of the
19 legislature. This chapter does not apply to a former member of the
20 legislature or to a person formerly employed by a member of the legis-
21 lature unless the provision affirmatively states its application to a
22 former member of the legislature or to a person formerly employed by a
23 member of the legislature. This chapter does not apply to a person
24 elected to the legislature who at the time of election is not a member
25 of the legislature.

26 (b) The provisions of this chapter specifically repeal the
27 provisions of the common law relating to legislative conflict of
28 interest insofar as it applies to a member of the legislature or to a
29 person employed by a member of the legislature.

1 (c) Nothing in this chapter precludes the application of other
2 law.

3 Sec. 24.60.020. GENERAL STANDARDS. (a) A member of the legis-
4 lature and a person employed by a member of the legislature may not
5 accept a benefit directly or indirectly resulting from improperly
6 exerted influence.

7 (b) A member of the legislature and a person employed by a
8 member of the legislature may not engage in a business or professional
9 activity that is inconsistent with the conscientious performance of
10 official duties.

11 (c) A member of the legislature and a person employed by a
12 member of the legislature may not misuse state property or funds.

13 Sec. 24.60.030. ADOPTION OF GUIDELINES BY ETHICS COMMITTEE. The
14 absence of a specific statement in this chapter permitting or pre-
15 scribing conduct for a member of the legislature or a person employed
16 by a member of the legislature does not prevent an ethics committee
17 from adopting a guideline regulating the conduct that is consistent
18 with the general principles stated in this chapter.

19 Sec. 24.60.040. CONFLICT OF INTEREST. (a) A conflict of inter-
20 est does not exist under this chapter and there is no duty to disclose
21 a conflict of interest if the benefit or detriment received by a
22 member of the legislature or by a person employed by a member of the
23 legislature is not different from that shared by all residents of the
24 state or by all members of a large group or class of residents of the
25 state.

26 (b) If the benefit or detriment received by a member of the
27 legislature or by a person employed by a member of the legislature is
28 shared only by a small group or class of residents of the state, then
29 a conflict of interest may exist.

1 (c) A personal interest of a member of the legislature or a
2 person employed by a member of the legislature conflicts with the
3 public interest if it tends to impair the independence of judgment of
4 the member of the legislature or the person employed by a member of
5 the legislature.

6 (d) If a member of the legislature or a person employed by a
7 member of the legislature acts on a legislative matter in which a
8 personal interest may exist, the member of the legislature or a person
9 employed by a member of the legislature shall consider whether the
10 personal interest will tend to impair the independence of judgment of
11 the member of the legislature or a person employed by a member of the
12 legislature.

13 (e) If the member of the legislature determines that an actual
14 conflict of interest exists, the member of the legislature shall
15 declare the interest on the floor or in committee, ask to be permitted
16 not to vote, and file a written statement of the conflict of interest
17 with the ethics committee within 48 hours of the determination that a
18 conflict of interest exists. If a person employed by a member of the
19 legislature determines that an actual conflict of interest exists, the
20 person shall file a written statement with the ethics committee within
21 48 hours of the determination that a conflict of interest exists and
22 may not participate further in the matter.

23 Sec. 24.60.050. PRESUMED CONFLICTS OF INTEREST. (a) Except as
24 provided in (b) and (c) of this section a member of the legislature
25 shall request permission to abstain from voting and a member of the
26 legislature or a person employed by a member of the legislature may
27 not undertake other official duties where the member of the legisla-
28 ture or a person employed by a member of the legislature

29 (1) has an interest that is direct and different from the

1 interest of a member of the public in an activity that would receive a
2 benefit or detriment from proposed legislation or official duties;

3 (2) is a participant in a close economic association with
4 an individual or person who the member of the legislature or an
5 employee of the legislature knows

6 (A) has a direct interest in a business activity that
7 will receive a benefit or detriment directly by the proposed
8 legislation or official duties;

9 (B) is a lobbyist or has employed a lobbyist;

10 (3) solicits, accepts, or agrees to accept a gift, loan, or
11 payment in an aggregate amount during a single calendar year of more
12 than \$100 from an individual or person with an interest in a business
13 activity that would receive a benefit by or share a detriment from
14 proposed legislation or official duties.

15 (b) Notwithstanding (a) of this section, a member of the legis-
16 lature may vote for proposed legislation or engage in other official
17 duties prescribed in (a) of this section if the legislator files a
18 sworn statement with an ethics committee. The statement shall de-
19 scribe the circumstances of the apparent conflict and shall state that
20 the apparent conflict will not prevent a fair and objective consid-
21 eration of the proposed legislation or official duties by the member
22 of the legislature.

23 (c) If the member of the legislature files a statement under (b)
24 of this section or if the member of the legislature requests an opin-
25 ion on an apparent or presumed conflict, the ethics committee may
26 issue an opinion concerning the propriety of the proposed action by
27 the member of the legislature.

28 (d) A disclosure to the Public Offices Commission under AS 39.-
29 50.020 does not constitute compliance with the requirements of

1 disclosure of a conflict of interest under this section or AS 24.60.-
2 300.

3 (e) The acceptance by a member of the legislature of campaign
4 contributions that are reported under AS 15.13 does not create a
5 conflict of interest.

6 (f) As used in this section, "close economic association" means,
7 as related to a member of the legislature or a person employed by a
8 member of the legislature, partners, associates, employers and em-
9 ployees in business and professional enterprises, corporations in
10 which the member of the legislature or a person employed by a member
11 of the legislature owns capital stock in excess of \$1,000, and a
12 corporation of which a member of the legislature or a person employed
13 by a member of the legislature is an officer, director, or agent.

14 Sec. 24.60.060. CONTRACTS. (a) A member of the legislature and
15 a person employed by a member of the legislature may not be a party to
16 a contract with the state or a municipality of the state and may not
17 have an interest in the investment of state funds or municipal funds
18 unless the contract or the investment is obtained through competitive
19 bidding.

20 (b) An ethics committee may grant a member of the legislature
21 and an employee of the legislature permission to engage in a contract
22 or in the investment of state or municipal funds not obtained through
23 competitive bidding if the ethics committee determines that the member
24 of the legislature or the person employed by a member of the legisla-
25 ture would not improperly exercise influence in obtaining the con-
26 tract.

27 (c) An employee of an agency of the legislature established
28 under AS 24.20 may not be a party to a contract with the state or a
29 municipality of the state.

1 Sec. 24.60.070. REPRESENTATIONS. (a) Except as provided in
2 this section, a member of the legislature and a person employed by a
3 member of the legislature may not represent a person for compensation
4 before an agency, board, or commission of the state or a municipality
5 of the state.

6 (b) A member of the legislature and a person employed by a
7 member of the legislature may represent a client in

8 (1) a criminal action before a court of the state; or

9 (2) a civil action before a court of the state if the state
10 is not a party to the action.

11 Sec. 24.60.080. STATE PROPERTY AND FUNDS. A member of the
12 legislature and a person employed by a member of the legislature may
13 not use state property or funds of the state for personal or campaign
14 purposes.

15 Sec. 24.60.090. ELIGIBILITY FOR STATE BENEFITS. (a) Except as
16 provided in this section, a member of the legislature and a person
17 employed by a member of the legislature may not accept a benefit from
18 the state not available generally to a member of the public on the
19 same terms. Acceptance of compensation, travel, per diem and other
20 benefits provided by law and consistent with law does not constitute a
21 violation of this subsection.

22 (b) A member of the legislature and a person employed by a
23 member of the legislature may be granted a loan from the state if the
24 qualifications for the loan are established in law or by regulation
25 and the exercise of discretion is not required to determine eligibil-
26 ity for the loan.

27 (c) A member of the legislature and a person employed by a
28 member of the legislature may obtain land from the state if the quali-
29 fications for participation in the state land disposal are established

1 in law or by regulation and the exercise of discretion is not required
2 to determine eligibility for the land disposal.

3 Sec. 24.60.100. NEPOTISM. (a) A member of the legislature may
4 not approve the employment of an individual who is related to the
5 member of the legislature and an employee of the legislature may not
6 approve the employment of an individual who is related to the employee
7 of the legislature. For the purposes of this section, a husband,
8 wife, mother, father, grandparent, grandchild, sister, brother, uncle,
9 aunt, nephew, or niece is related to the approving officer.

10 (b) An individual is not employed if no compensation is received
11 from the state for the services provided.

12 Sec. 24.60.110. BLIND TRUSTS AND DIVESTITURE. A member of the
13 legislature and a person employed by a member of the legislature may
14 establish a blind trust or seek divestiture of assets that create or
15 appear to create a conflict of interest. If circumstances make the
16 establishment of a blind trust or divestiture difficult or impossible,
17 the circumstances shall be reported to the ethics committee and its
18 determinations followed.

19 Sec. 24.60.120. RETALIATION. Retaliation for filing an ethics
20 complaint with or for providing truthful testimony to an ethics com-
21 mittee or to publicly constituted investigatory body constitutes a
22 violation of legislative ethics and shall be dealt with by an ethics
23 committee appropriately.

24 Sec. 24.60.130. EMPLOYMENT OF FORMER MEMBERS AND EMPLOYEES. A
25 former member of the legislature and a former employee of the legisla-
26 ture may accept employment with an agency of the state or with a
27 municipality of the state and may engage in lobbying immediately on
28 the termination of service as a member of the legislature or as a
29 person employed by a member of the legislature. A former member of

1 the legislature and a former employee of the legislature may not use
2 confidential information obtained from the earlier service except for
3 the benefit of the state.

4 Sec. 24.60.140. CONFIDENTIAL INFORMATION. Information obtained
5 by a member of the legislature or a person employed by a member of the
6 legislature in the course of official duties that is not available to
7 the general public by law, regulation, or practice may not be used for
8 personal gain.

9 ARTICLE 2. ETHICS COMMITTEES.

10 Sec. 24.60.200. ETHICS COMMITTEES ESTABLISHED. (a) An ethics
11 committee of the senate and an ethics committee of the house of rep-
12 resentatives are established as permanent committees of the legisla-
13 ture.

14 (b) Each ethics committee shall provide the particular house of
15 the legislature and its members with guidance on legislative standards
16 of conduct through the establishment of substantive and procedural
17 guidelines, the issuance of advisory opinions, and the investigation
18 of complaints of violations of legislative standards of conduct by
19 members of the legislature and by persons employed by a member of the
20 legislature.

21 (c) Nothing in this chapter authorizes the referral by the
22 presiding officer of legislation to an ethics committee at a regular
23 or special session of the legislature.

24 Sec. 24.60.210. MEMBERSHIP. The ethics committee of the senate
25 is composed of five members of the senate appointed by the president
26 of the senate and the ethics committee of the house of representatives
27 is composed of five members of the house of representatives appointed
28 by the speaker of the house. The membership of each committee shall
29 include at least one member from each of the two major political

1 parties represented in that house. The appointing authority in each
2 house shall announce the appointment of members of each committee
3 within 15 days after the convening of the first regular session of
4 each legislature.

5 Sec. 24.60.220. TERM OF MEMBERSHIP. A member serves for the
6 duration of the legislature in which the member is appointed and a
7 member reelected to office or serving a term of office extending into
8 the next succeeding legislature may continue to serve until a succes-
9 sor is appointed.

10 Sec. 24.60.230. VACANCIES. If a vacancy occurs in the member-
11 ship of an ethics committee the presiding officer shall fill the
12 vacancy within 30 days. If the office of the president of the senate
13 or speaker of the house of representatives becomes vacant and a va-
14 cancy occurs among the appointed member of a committee, the remaining
15 committee members shall appoint a new member. A member of the legis-
16 lature appointed to fill a vacancy shall be a member of the same
17 political party as the member vacating the seat, if possible.

18 Sec. 24.60.240. STAFF. (a) Each ethics committee may hire and
19 determine the compensation of staff of the committee. Staff members
20 serve at the direction and at the pleasure of the ethics committee.

21 (b) Staff shall maintain the integrity of the functions and
22 services of each ethics committee by refraining from joining or sup-
23 porting any partisan political organization, faction or activity that
24 would tend to undermine the essential nonpartisan nature of their
25 functions and services. The provisions of this section do not re-
26 strict staff from expressing private opinion, registering or voting.

27 Sec. 24.60.250. MEETING OF THE ETHICS COMMITTEE. Each ethics
28 committee shall meet as necessary during a legislative session and
29 during the interim and it may meet at the request of its chair or of

1 three members of the committee.

2 Sec. 24.60.260. QUORUM. A quorum of the ethics committee con-
3 sists of three members and the vote of three members is required to
4 adopt a motion, determination, or advisory opinion of the ethics
5 committee.

6 ARTICLE 3. RESPONSIBILITIES OF THE ETHICS COMMITTEE.

7 Sec. 24.60.300. DISCLOSURES TO THE COMMITTEE. (a) A member of
8 the legislature and an employee of the legislature shall file with the
9 ethics committee a report disclosing the information required by this
10 section.

11 (b) The statement required by (c) of this section shall be filed
12 with the ethics committee within 72 hours after the event described
13 occurs if either house of the legislature is in session and within 30
14 days of the occurrence of the event if neither house of the legisla-
15 ture is in session; in no case may the information required by (c) of
16 this section be filed more than 72 hours after the event occurred if a
17 house of the legislature is in or comes into session during the 72
18 hour period.

19 (c) Each member of the legislature and each person employed by a
20 member of the legislature shall file a statement with the ethics
21 committee listing the information required by this subsection:

22 (1) a description of each contract with the state or an
23 agency of the state or with a municipality of the state in which the
24 member of the legislature or a person employed by a member of the
25 legislature has acquired an interest;

26 (2) a description of each gift with an aggregate value in
27 excess of \$100 in each calendar year to the member of the legislature
28 or to a person employed by a member of the legislature; as used in
29 this paragraph;

1 (A) one or more gifts shall be cumulated from the
2 particular donor during the calendar year to determine aggregate
3 value; and

4 (B) hospitality in a restaurant or other place of
5 public accommodation or in a home, not associated with overnight
6 accommodations, is not a gift;

7 (C) a gift from a husband, wife, mother, father,
8 grandparent, grandchild, sister, brother, uncle, aunt, nephew,
9 niece and similar step-relatives need not be disclosed;

10 (3) a description of transportation not involving common
11 carriers accepted in the course of official business;

12 (4) a description of each fee or honorarium and, when in
13 excess of \$100, compensation or reimbursement not paid by an agency of
14 the legislature or a committee of the legislature for travel or
15 expenses received for attending or participating in a meeting;

16 (5) a description of each financial transaction involving
17 more than \$500 between two or more members of the legislature, two or
18 more persons employed by a member of the legislature, or between a
19 member of the legislature and a person employed by a member of the
20 legislature.

21 Sec. 24.60.310. COMPLAINTS. (a) A person who believes a viola-
22 tion of this chapter has occurred may file a sworn, confidential
23 complaint with the appropriate ethics committee. The staff of an
24 ethics committee may recommend that the ethics committee initiate a
25 confidential investigation.

26 (b) If an ethics committee determines there is an adequate basis
27 for believing that a violation has occurred, it shall order the staff
28 to undertake a confidential investigation.

29 (c) The staff of an ethics committee shall complete a

1 confidential investigation expeditiously considering the complexity of
2 the underlying facts, the workload of the ethics committee, the rea-
3 sonable and proper protection of reputations, and the public interest.

4 (d) If the staff of an ethics committee concludes after afford-
5 ing notice and an opportunity for a private hearing to the individual
6 against whom the complaint was filed that the acts or practices
7 charged have occurred and that the acts or practices may constitute a
8 violation of this chapter, the staff shall report its confidential
9 findings and recommendations to the ethics committee.

10 (e) The ethics committee shall offer the individual in relation
11 to whom the confidential findings and recommendations have been
12 reported by the staff an opportunity to respond to the findings and
13 recommendations and a hearing. The ethics committee may adopt the
14 findings and recommendations of its staff as its own findings or may
15 modify or reject the findings or recommendations.

16 (f) If the ethics committee finds that the complaint and the
17 investigation of staff do not state a violation of legislative ethics,
18 the findings of the ethics committee remain confidential. An indivi-
19 dual against whom a complaint was filed may request the ethics commit-
20 tee to publish its findings.

21 (g) If an ethics committee finds that the complaint and inves-
22 tigation of the staff as modified by the ethics committee under (e) of
23 this section state a violation of legislative standards of conduct,
24 the commission shall publish its determination. If requested by the
25 attorney general, the ethics committee shall make available to the
26 attorney general the results of its investigation in the case of
27 published findings.

28 Sec. 24.60.320. ACTION ON DETERMINATION OF A VIOLATION OF LEGIS-
29 LATIVE ETHICS. (a) If an ethics committee determines under

1 AS 24.60.310 that a violation of legislative ethics has occurred, the
2 ethics committee may by a majority vote of the ethics committee

3 (1) issue a private reprimand; or

4 (2) recommend

5 (A) revocation of committee assignments;

6 (B) censure by the appropriate house of the legisla-
7 ture;

8 (C) expulsion by the appropriate house of the legisla-
9 ture;

10 (D) suspension or termination of the employment of a
11 person employed by a member of the legislature.

12 (3) refer the matter to the attorney general for action
13 considered appropriate by the attorney general.

14 (b) The attorney general may bring an action in the name of the
15 state for the recovery of improper compensation, gift, or profit
16 received by a member of the legislature or a person employed by a
17 member of the legislature. The attorney general may also bring an
18 action for the cancellation of a contract improperly entered into by a
19 member of the legislature or a person employed by a member of the
20 legislature; in any action brought under this subsection, the attorney
21 general and the court shall consider the interests of an innocent
22 party to a contract. An action to cancel a contract must be brought
23 within 60 days of the publication of the finding that a violation of
24 legislative ethics has occurred.

25 Sec. 24.60.330. ADVISORY OPINION. (a) On the written request
26 of a member of the legislature or a person employed by a member of the
27 legislature, the ethics commission may issue an advisory opinion
28 concerning the propriety under legislative ethics of a matter concern-
29 ing the member of the legislature or a person employed by a member of

1 the legislature.

2 (b) An advisory opinion shall be issued as soon as is practi-
3 cable considering the complexity of the underlying facts, the workload
4 of the ethics committee, the reasonable and proper protection of
5 reputations, and the public interest.

6 (c) If an advisory opinion is not issued by the ethics committee
7 within 21 days of the receipt of the request filed while the legisla-
8 ture is in session or within 42 days of the receipt of the request
9 filed while the legislature is not in session, the individual request-
10 ing the advisory opinion may consider that the facts and circumstances
11 stated in the request do not constitute a violation of legislative
12 ethics.

13 (d) If the workload of the ethics committee prevents a response
14 within the times stated in (c) this section, the staff may issue an
15 interim opinion indicating that the facts and circumstances stated in
16 the request for an advisory opinion may constitute a violation of
17 legislative ethics.

18 (e) An interim opinion of staff and an advisory opinion of the
19 ethics committee under this section are confidential although the
20 individual requesting the advisory opinion may request the ethics
21 committee to release the advisory opinion.

22 (f) A member of the legislature and a person employed by a
23 member of the legislature may rely on an advisory opinion of an ethics
24 committee received in response to a request filed by the member of the
25 legislature or the person employed by a member of the legislature to
26 the extent that the request included a complete and accurate statement
27 of the matter and the person relying on the opinions follows the terms
28 of the advisory opinion in good faith.

29 Sec. 24.60.340. PUBLICATION. (a) Notwithstanding a provision

1 of this chapter regarding the confidentiality of complaints, findings,
2 and advisory opinions, each ethics committee shall publish weekly a
3 report of the ethics committee in the particular journal. A summary
4 of the information filed the preceding week under AS 24.60.300 shall
5 be included in the weekly report in the journal. The report shall
6 also indicate the conclusions of each ethics committee on generalized
7 fact situations as may be of use as future guidelines for members of
8 the legislature, employees of the legislature, and members of the
9 public.

10 (b) The staff of the committee shall prepare a weekly summary of
11 the activity of the ethics committee for inclusion in the journal,
12 preserving as necessary the confidentiality of matters pending before
13 the ethics committee.

14 ARTICLE 4. DEFINITIONS.

15 Sec. 24.60.900. DEFINITIONS. In this chapter,

16 (1) "person employed by a member of the legislature"

17 (A) means a person who is on the permanent or tempo-
18 rary staff of a member of the legislature or of a standing,
19 joint, or special committee of the legislature;

20 (B) does not mean a permanent or temporary employee of
21 an agency of the legislature established under AS 24.20 or this
22 chapter;

23 (2) "ethics committee" means the ethics committee of the
24 house of the legislature to which the member of the legislature or the
25 member employing a person belongs.