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1 IN THE SENATE BY THE CONFERENCE COMMITTEE
2 CONFERENCE CS FOR SENATE BILL NO. 257
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. This chapter does not apply to

29 (1) a former member of the legislature or to a person

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

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

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

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

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

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

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

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

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

1 official action.

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

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

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

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

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

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

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

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

23 Sec. 24.60.040. CONTRACTS OR LEASES. (a) A person to whom this
24 chapter applies may not be a party to or have an interest in a state
25 contract or lease unless the contract or lease is let under AS 37.05.-
26 230 or the total annual amount of the state contract or lease is
27 \$1,000 or less, or is a standardized contract or lease which was
28 developed under publicly established guidelines and is generally
29 available to the public at large, members of a profession, occupation

1 or group. A person has an interest in a state contract or lease under
2 this section if the person receives direct or indirect financial
3 benefits.

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

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

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

25 (c) Upon application for a state loan by a person to whom this
26 chapter applies, other than loans described in (a) of this section,
27 the person shall send a notice of the application to the Alaska Public
28 Offices Commission, which will incorporate the material into the
29 applicant's financial disclosure statement, if the applicant is re-

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

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

12 (e) The division of legislative audit shall annually review
13 state loans granted to or held by persons to whom this chapter applies
14 to determine whether appropriate procedures were observed in granting
15 or reviewing the loans and whether loan conditions imposed by the
16 lending agency are being enforced. The division shall report its
17 findings to the committee 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 is not a member of the legislature who
6 has responsibility or authority, either directly or indirectly, over
7 the person's employment, including preparing or reviewing performance
8 evaluations, or granting or approving 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 in any amount, or accept or receive, directly
17 or indirectly, a gift, whether in the form of money, services, a loan,
18 travel, entertainment, hospitality, or other form, in excess of \$100
19 and which does not in the aggregate exceed \$250 in value during the
20 calendar year, if the gift was intended as a reward or inducement for
21 an official action by the person. A gift of travel and hospitality
22 within Alaska received by a member of the legislature in obtaining
23 information on matters of legislative concern is not prohibited by
24 this section, nor are political contributions received and reported
25 under AS 15.13.040.

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

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

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

12 (c) For purposes of this section, a legislator is not an employ-
13 ee of the legislature.

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

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

26 (1) resign the conflicting position;

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

29 (3) disclose the conflict of interest in the journal of the

1 appropriate body or if the legislature is not in session to the
2 committee; the committee shall maintain a public record of the disclo-
3 sure and forward the disclosure to the respective house for inclusion
4 in the journal for the first day of the session but disclosure does
5 not remove the conflict of interest.

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

9 Sec. 24.60.130. SELECT COMMITTEE ON LEGISLATIVE ETHICS. (a)
10 There is established within the legislative branch of state government
11 the Select Committee on Legislative Ethics.

12 (b) The committee consists of six members, in two subcommittees,
13 as follows:

14 (1) the senate subcommittee consists of three members of
15 the senate, appointed by the president of the senate with the concur-
16 rence by roll call vote of three-fourths of the full membership of the
17 senate; and

18 (2) the house subcommittee consists of three members of the
19 house, appointed by the speaker of the house with the concurrence by
20 roll call vote of three-fourths of the full membership of the house.

21 (c) No more than two members of each subcommittee may be members
22 of the same political party or the same organizational caucus.

23 (d) The members of each subcommittee shall elect a chair. The
24 chair selected by the senate subcommittee shall chair the full commit-
25 tee in odd-numbered years and the chair selected by the house subcom-
26 mittee shall chair the full committee in even-numbered years.

27 (e) A vacancy on the committee shall be filled under (b) of this
28 section.

29 (f) The committee or a subcommittee may contract for profes-

1 sional services and may employ staff as it considers necessary.

2 (g) A member serves for the duration of the legislature during
3 which the member is appointed and, if reelected to or the term of
4 office extends into the next succeeding legislature, continues to
5 serve until reappointed or a successor is appointed.

6 (h) A member is disqualified from participating as a member in
7 any proceeding before the committee involving a complaint against the
8 member or an advisory opinion requested by the member. When a member
9 is disqualified under this subsection, the presiding officer of that
10 member's house shall, with the concurrence by roll call vote of
11 three-fourths of the full membership of that house, appoint another
12 member from that house to act as a member of the committee in the
13 proceeding.

14 Sec. 24.60.140. AUTHORITY OF THE COMMITTEE. (a) The senate
15 subcommittee has authority over proceedings concerning conduct by a
16 member or former member of the senate or a person employed by a member
17 or a committee of the senate.

18 (b) The house subcommittee has authority over proceedings con-
19 cerning the conduct by a member or former member of the house or a
20 person employed by a member or a committee of the house.

21 (c) The full committee has authority

22 (1) over proceedings concerning the conduct by an employee
23 of an agency of the legislature;

24 (2) to review any matter arising under this chapter that
25 would result in action being required by both houses of the legisla-
26 ture; and

27 (3) to issue advisory opinions under AS 24.60.150.

28 Sec. 24.60.150. DUTIES OF THE COMMITTEE. (a) The committee
29 shall

1 (1) adopt procedures to facilitate the receipt of inquiries
2 and prompt rendition of its opinions;

3 (2) publish semi-annual summaries of decisions, advisory
4 opinions and informal advisory opinions, with sufficient deletions in
5 the summaries to prevent disclosing the identity of the persons in-
6 volved in the decisions or opinions that have remained confidential.

7 (b) The committee may

8 (1) recommend legislation to the legislature the committee
9 considers desirable or necessary to promote and maintain high stan-
10 dards of ethical conduct in government;

11 (2) subpoena witnesses, administer oaths, and take testi-
12 mony relating to matters before the committee, and may require the
13 production for examination of any books or papers relating to any
14 matter under investigation before the committee.

15 Sec. 24.60.160. ADVISORY OPINIONS. The committee shall issue an
16 advisory opinion within 30 days on the request of a person to whom the
17 chapter applies as to whether the facts and circumstances of a partic-
18 ular case constitute a violation of ethical standards. The 30-day
19 period for issuing an opinion may be extended by the committee for not
20 more than an additional 10 days if the person requesting the opinion
21 consents. The opinion issued is binding on the committee in any
22 subsequent proceedings concerning the facts and circumstances of the
23 particular case unless material facts were omitted or misstated in the
24 request for the advisory opinion. Except as provided in this chapter
25 an advisory opinion is confidential but may be made public if a writ-
26 ten request by the person who requested the opinion is filed with the
27 committee.

28 Sec. 24.60.170. PROCEEDINGS BEFORE THE COMMITTEE. (a) The
29 committee may initiate, receive and consider complaints alleging a

1 violation of this chapter.

2 (b) The committee may investigate a violation of this chapter in
3 a proceeding begun within four years after the alleged violation
4 occurs and within one year after termination of state service. Noth-
5 ing in this subsection bars proceedings against a person who inten-
6 tionally prevents discovery of a violation of this chapter.

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

12 (d) A proceeding is commenced by the filing of a complaint with
13 the committee. A complaint may be initiated by any person. A com-
14 plaint shall be in writing and signed under oath by the person making
15 the complaint. No complaint, other than a complaint initiated by at
16 least two-thirds of the members of the committee, may be filed within
17 a period of 60 days preceding a state primary or general election.
18 All proceedings pending before the committee on the 60th day preceding
19 a state primary or general election are stayed until certification of
20 the election unless the proceedings are based on a complaint initiated
21 by at least two-thirds of the members of the committee. The committee
22 shall notify in writing a person against whom a complaint has been
23 filed of a stay of the proceeding. If the person objects in writing
24 to the stay the proceedings shall continue.

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

1 constitute a violation of this chapter, the committee may summarily
2 dismiss the complaint.

3 (f) The committee shall investigate the charges filed under this
4 section and issue an opinion to the person alleged to have violated a
5 provision of this chapter.

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

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

20 (i) The committee may set a time and place for a hearing before
21 the committee with a minimum of 10 days notice to the complainant, if
22 any, and to the person charged with a violation of this chapter. A
23 representative of the committee and the person charged with a viola-
24 tion of this chapter shall have an opportunity to be heard, to sub-
25 poena witnesses and require the production of books or papers relating
26 to the proceedings, to be represented by counsel, and to have the
27 right of cross-examination. Each witness shall testify under oath.
28 Hearings are closed to the public unless the person charged with a
29 violation of this chapter requests an open hearing. The committee is

1 not bound by the rules of evidence but the committee's findings must
2 be based upon competent and substantial evidence. Testimony taken at
3 the hearing shall be recorded and evidence shall be maintained. The
4 testimony and evidence are available only to the committee and its
5 staff and to the person charged with a violation of this chapter. If
6 the person charged with the violation of a provision of this chapter
7 requests a copy of the transcript of testimony, the copy shall be
8 furnished by the committee without charge.

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

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

25 (l) If the majority of the members of the committee agree to a
26 decision that a former member of the legislature or an employee or a
27 former employee of a legislator or of an agency of the legislature has
28 violated a provision of this chapter, the committee shall issue a
29 public statement of its decision 30 days after the date of the

1 decision. The legislature shall act on the decision as it considers
2 appropriate. In the case of an employee the action may include sus-
3 pension, demotion, or dismissal. The employee is entitled to a hear-
4 ing before final action is taken.

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

8 Sec. 24.60.180. COOPERATION BY STATE AGENCIES. Each agency of
9 the executive branch of state government shall, to the extent permit-
10 ted by state or federal law, cooperate fully with the committee or a
11 subcommittee by providing information and assistance, including dis-
12 closure of financial material and other records relating to a poten-
13 tial violation of this chapter.

14 Sec. 24.60.190. DEFINITION. In this chapter,

15 (1) "committee" means the Select Committee on Legislative
16 Ethics or where appropriate, the applicable subcommittee.

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

18 Sec. 11.56.805. FALSE ACCUSATION. (a) A person commits the
19 crime of false accusation if the person knowingly or intentionally
20 initiates a false complaint with the Select Committee on Legislative
21 Ethics established in AS 24.60.

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

23 * Sec. 3. AS 39.50 is amended by adding a new section to read:

24 Sec. 39.50.025. NOTIFICATION TO CANDIDATES FOR LEGISLATURE. On
25 receipt of a statement under AS 39.50.020 from a candidate for the
26 legislature the commission shall mail, by certified mail, a copy of
27 AS 24.60, Standards of Conduct, to the candidate at the address shown
28 on the report.

29 * Sec. 4. Nothing in this Act applies to conduct which occurred before

1 the effective date of this section and the committee established by this
2 Act has no jurisdiction over any alleged violation which occurred before
3 the effective date of this section.

4 * Sec. 5. Section 24.60.130 and sec. 24.60.140 enacted in sec. 1 of
5 this Act take effect immediately in accordance with AS 01.10.070(c).