

Adopted: 3/30/84

1 IN THE SENATE

BY THE THIRD CONFERENCE COMMITTEE

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2d CONFERENCE CS FOR SENATE BILL NO. 257

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to standards of conduct of legislators and legislative employees and establishing a Select Committee on Legislative Ethics; and providing for an effective date."

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10 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 60. STANDARDS OF CONDUCT.

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

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Sec. 24.60.020. APPLICABILITY. (a) This chapter applies to a member of the legislature and to a permanent or temporary employee of an agency of the legislature. This chapter does not apply to

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(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 tempor-  
13 ary 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 official  
20 influence that could substantially benefit or harm a financial matter  
21 in which 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;

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

15 (5) gifts from the person's family; or

16 (6) gifts of nominal value given by a nonprofit organiza-  
17 tion in recognition of public service by the recipient.

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

23 (g) members of the legislature elected to represent the Capital  
24 City are exempt from the requirements of (f) of this section.

25 Sec. 24.60.040. CONTRACTS OR LEASES. (a) A person to whom this  
26 chapter applies may not be a party to or have an interest in a state  
27 contract or lease unless the contract or lease is let under AS 37.05.-  
28 230 or the total annual amount of the state contract or lease is  
29 \$1,000 or less, or is a standardized contract or lease which was

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

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

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

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

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

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

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

14 (e) The division of legislative audit shall annually review  
15 state loans granted to or held by persons to whom this chapter applies  
16 to determine whether appropriate procedures were observed in granting  
17 or reviewing the loans and whether loan conditions imposed by the  
18 lending agency are being enforced. The division shall report its  
19 findings to the committee by April 1.

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

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

29 Sec. 24.60.070. INTERESTS BETWEEN PUBLIC OFFICIALS. A person to

1 whom this chapter applies shall disclose in the journal of the appro-  
2 priate body or if the legislature is not in session to the committee,  
3 which shall maintain a public record of the disclosure and forward the  
4 disclosure to the respective house for inclusion in the journal for  
5 the first day of the session, the formation or maintenance of a close  
6 economic association involving a substantial financial matter with

7 (1) a supervisor who is not a member of the legislature who  
8 has responsibility or authority, either directly or indirectly, over  
9 the person's employment, including preparing or reviewing performance  
10 evaluations, or granting or approving pay raises or promotions;

11 (2) legislators;

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

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

17 Sec. 24.60.080. GIFTS. Unless otherwise provided for under AS  
18 24.60.030, a person to whom this chapter applies may not solicit a  
19 gift in any amount, or accept or receive, directly or indirectly, a  
20 gift, whether in the form of money, services, a loan, travel, enter-  
21 tainment, hospitality, or other form, if the gift was intended as a  
22 reward or inducement for an official action by the person. A gift of  
23 travel and hospitality within Alaska received by a member of the  
24 legislature in obtaining information on matters of legislative concern  
25 is not prohibited by this section, nor are political contributions  
26 received and reported under AS 15.13.040.

27 Sec. 24.60.090. NEPOTISM. (a) A spouse or an individual other  
28 than a spouse who is related to a member of the legislature may not be  
29 employed in the house in which the legislator is a member, by an

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

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

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

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

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

24 (1) resign the conflicting position;

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

27 (3) disclose the conflict of interest in the journal of the  
28 appropriate body or if the legislature is not in session to the com-  
29 mittee; the committee shall maintain a public record of the disclosure

1 and forward the disclosure to the respective house for inclusion in  
2 the journal for the first day of the session but disclosure does not  
3 remove the conflict of interest.

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 state funds for private gain.

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

10 (b) The committee consists of seven members, in two subcommit-  
11 tees, as follows:

12 (1) the senate subcommittee consists of three members of  
13 the senate, appointed by the president of the senate with the concur-  
14 rence by roll call vote of two-thirds of the full membership of the  
15 senate; and

16 (2) the house subcommittee consists of three members of the  
17 house, appointed by the speaker of the house with the concurrence by  
18 roll call vote of two-thirds of the full membership of the house; and

19 (3) one public member, who is selected by two-thirds of  
20 each subcommittee and who is ratified by two-thirds of the full  
21 membership of the senate and two-thirds of the full membership of the  
22 house, shall serve on both the full committee and each subcommittee.

23 (c) No more than two legislative members of each subcommittee  
24 may be members of the same political party or the same organizational  
25 caucus.

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

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

3 (f) The committee or a subcommittee may contract for profes-  
4 sional services and may employ staff as it considers necessary.

5 (g) Each member serves for the duration of the legislature  
6 during which the member is appointed.

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

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

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

22 (c) The full committee has authority

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

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

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

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

1 shall

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

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

8 (b) The committee may

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

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

29 Sec. 24.60.170. PROCEEDINGS BEFORE THE COMMITTEE. (a) The

1 committee may initiate, receive and consider complaints alleging a  
2 violation of this chapter.

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

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

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

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

1 facts sufficient, if the alleged facts are treated as true, to consti-  
2 tute a violation of this chapter, the committee may summarily dismiss  
3 the complaint.

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

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

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

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

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

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

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

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

1 public statement of its decision 30 days after the date of the deci-  
2 sion. The legislature shall act on the decision as it considers  
3 appropriate. In the case of an employee the action may include sus-  
4 pension, demotion, or dismissal. The employee is entitled to a hear-  
5 ing before final action is taken.

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

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

15 Sec. 24.60.190. DEFINITION. In this chapter,

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

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

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

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

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

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

1     \* Sec. 4. Nothing in this Act applies to conduct which occurred before  
2 the effective date of this section and the committee established by this  
3 Act has no jurisdiction over any alleged violation which occurred before  
4 the effective date of this section.

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