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Referred: State Affairs and  
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1 IN THE SENATE

BY THE COMMUNITY AND  
REGIONAL AFFAIRS COMMITTEE

2

SENATE BILL NO. 518

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. This chapter does not  
26 effect criminal laws of the state.

27 Sec. 24.60.020. APPLICABILITY. (a) This chapter applies to a  
28 member of the legislature. This chapter does not apply to

29 (1) a former member of the legislature unless the provision

1 specifically states that it so applies;

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

4 (b) The provisions of this chapter specifically supersede the  
5 provisions of the common law relating to legislative conflict of  
6 interest that may apply to a member of the legislature.

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

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

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

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

18 (2) the person's authority is relatively far removed from  
19 any official action that could reasonably be affected by the potential  
20 conflict of interest, provided that no attempt has been made to remove  
21 the appearance of impropriety by delegating responsibility for offi-  
22 cial action.

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

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

29 (1) hospitality at another person's residence within the

1 state, including meals, lodging or transportation;

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

4 (3) an invitation to attend a meal or social event;

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

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

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

13 Sec. 24.60.040. CONTRACTS OR LEASES. (a) A person to whom this  
14 chapter applies may not be a party to or have an interest in a state  
15 contract or lease unless the contract or lease is let under AS 37.05.-  
16 230 or the total annual amount of the state contract or lease is  
17 \$1,000 or less, or is a standardized contract or lease which was  
18 developed under publicly established guidelines and is generally  
19 available to the public at large, members of a profession, occupation  
20 or group. A person has an interest in a state contract or lease under  
21 this section if the person receives direct or indirect financial  
22 benefits.

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

28 Sec. 24.60.050. STATE LOANS. (a) It is not a conflict of  
29 interest for a person to whom this chapter applies to participate in a

1 state program or to receive a loan from the state if the program or  
2 loan is generally available to members of the public, is subject to  
3 fixed eligibility standards, and minimal discretion is exercised in  
4 determining qualification. The committee shall issue a list of those  
5 state programs and loans from the state that it considers to meet the  
6 standards of this paragraph within 30 days after the effective date of  
7 this Act. It shall annually issue a revised list.

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

15 (c) Upon application for a state loan by a person to whom this  
16 chapter applies, other than loans described in (a) of this section,  
17 the person shall send a notice of the application to the Alaska Public  
18 Offices Commission, which will incorporate the material into the  
19 applicant's financial disclosure statement. All records relating to a  
20 state loan to a person to whom this chapter applies may be disclosed  
21 to the committee and public.

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

28 (e) The division of legislative audit shall annually review  
29 state loans granted to or held by persons to whom this chapter applies

1 to determine whether appropriate procedures were observed in granting  
2 or reviewing the loans and whether loan conditions imposed by the  
3 lending agency are being enforced. The division shall report its  
4 findings to the committee by April 1.

5 (f) For purposes of this section "state program" means a program  
6 in which tangible assets of the state or a right to use tangible  
7 assets of the state are transferred from the state to a private per-  
8 son.

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

14 Sec. 24.60.070. INTERESTS BETWEEN PUBLIC OFFICIALS. A person to  
15 whom this chapter applies shall disclose in the journal of the appro-  
16 priate body or if the legislature is not in session to the committee,  
17 which shall maintain a public record of the disclosure and forward the  
18 disclosure to the respective house for inclusion in the journal for  
19 the first day of the session, the formation or maintenance of a close  
20 economic association involving a substantial financial matter with

21 (1) legislators;

22 (2) a public official in another branch, if the public  
23 official is required to file a financial disclosure statement under  
24 AS 39.50;

25 (3) a registered lobbyist who is not a member of the imme-  
26 diate family of the person.

27 Sec. 24.60.080. GIFTS. A person to whom this chapter applies  
28 may not solicit a gift in any amount, or accept or receive, directly  
29 or indirectly, a gift, whether in the form of money, services, a loan,

1 travel, entertainment, hospitality, or other form, if the gift was  
2 intended as a reward or inducement for an official action by the  
3 person. A gift of travel and hospitality within Alaska received by a  
4 member of the legislature in obtaining information on matters of  
5 legislative concern is not prohibited by this section, nor are  
6 political contributions received and reported under AS 15.13.040.

7 Sec. 24.60.090. NEPOTISM. (a) An individual other than a  
8 spouse who is related to a member of the legislature may not be  
9 employed in the house in which the legislator is a member, by an  
10 agency of the legislature established under AS 24.20, or in the other  
11 house during the session or interim between sessions. An individual  
12 who is related to an employee of the legislature may not be employed  
13 in a position over which the employee has supervisory authority. In  
14 this subsection, "an individual who is related to" means a child,  
15 stepchild, husband, wife, mother, father, sister, or brother.

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

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

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

1           Sec. 24.60.110. ACTION ON A CONFLICT OF INTEREST. A legislator  
2 who knowingly has a conflict of interest or has been notified of a  
3 conflict of interest shall immediately

4                   (1) resign the conflicting position;

5                   (2) divest the interest that has resulted in the conflict  
6 or potential conflict; or

7                   (3) disclose the conflict of interest in the journal of the  
8 appropriate body or if the legislature is not in session to the com-  
9 mittee; the committee shall maintain a public record of the disclosure  
10 and forward the disclosure to the respective house for inclusion in  
11 the journal for the first day of the session but disclosure does not  
12 remove the conflict of interest.

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

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

19                   (b) The committee consists of seven members, as follows:

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

23                   (2) the speaker of the house of representatives shall  
24 appoint one member to the committee from the house of representatives  
25 with the concurrence by roll call vote of three-fourths of the full  
26 membership of the house;

27                   (3) the president of the senate shall appoint to the  
28 committee two persons who are citizens of the United States and  
29 residents of the state with the concurrence by roll call vote of

1 two-thirds of the full membership of the senate;

2 (4) the speaker of the house of representatives shall  
3 appoint to the committee two persons who are citizens of the United  
4 States and residents of the state with the concurrence by roll call  
5 vote of two-thirds of the full membership of the house;

6 (5) one member of the committee shall be a former legisla-  
7 tor of the state who is appointed by the other members of the commit-  
8 tee.

9 (c) No more than four members of the committee may be members of  
10 the same political party or residents of the same borough or of the  
11 unorganized borough.

12 (d) The member selected by the senate shall chair the committee  
13 in odd-numbered years and the member selected by the house shall chair  
14 the committee in even-numbered years.

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

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

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

23 (h) A member is disqualified from participating as a member in  
24 any proceeding before the committee involving a complaint against the  
25 member or an advisory opinion requested by the member. When a member  
26 is disqualified under this subsection, the presiding officer of that  
27 member's house shall, with the concurrence by roll call vote of  
28 three-fourths of the full membership of that house, appoint another  
29 member from that house to act as a member of the committee in the

1 proceeding.

2 Sec. 24.60.140. AUTHORITY OF THE COMMITTEE. (a) The committee  
3 has authority over proceedings concerning conduct by a member or  
4 former member of the legislature.

5 (b) The committee has authority

6 (1) to review any matter arising under this chapter that  
7 would result in action being required by both houses of the legisla-  
8 ture; and

9 (2) to issue advisory opinions under AS 24.60.150.

10 Sec. 24.60.150. DUTIES OF THE COMMITTEE. (a) The committee  
11 shall

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

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

18 (b) The committee may

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

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

26 Sec. 24.60.160. ADVISORY OPINIONS. The committee shall issue an  
27 advisory opinion within 30 days on the request of a person to whom the  
28 chapter applies as to whether the facts and circumstances of a partic-  
29 ular case constitute a violation of ethical standards. The 30-day

1 period for issuing an opinion may be extended by the committee for not  
2 more than an additional 10 days if the person requesting the opinion  
3 consents. The opinion issued is binding on the committee in any  
4 subsequent proceedings concerning the facts and circumstances of the  
5 particular case unless material facts were omitted or misstated in the  
6 request for the advisory opinion. Except as provided in this chapter  
7 an advisory opinion is confidential but may be made public if a writ-  
8 ten request by the person who requested the opinion is filed with the  
9 committee.

10 Sec. 24.60.170. PROCEEDINGS BEFORE THE COMMITTEE. (a) The  
11 committee may initiate, receive and consider complaints alleging a  
12 violation of this chapter.

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

18 (c) Before the committee may exercise power authorized in this  
19 section, the committee shall by resolution supported by a majority  
20 vote of the membership of the committee, define the nature and scope  
21 of the inquiry. The committee shall investigate all complaints on a  
22 confidential basis.

23 (d) A proceeding is commenced by the filing of a complaint with  
24 the committee. A complaint may be initiated by any person. A com-  
25 plaint shall be in writing and signed under oath by the person making  
26 the complaint. No complaint, other than a complaint initiated by at  
27 least two-thirds of the members of the committee, may be filed within  
28 a period of 60 days preceding a state primary or general election.  
29 All proceedings pending before the committee on the 60th day preceding

1 a state primary or general election are stayed until certification of  
2 the election unless the proceedings are based on a complaint initiated  
3 by at least two-thirds of the members of the committee. The committee  
4 shall notify in writing a person against whom a complaint has been  
5 filed of a stay of the proceeding. If the person objects in writing  
6 to the stay the proceedings shall continue.

7 (e) The committee shall notify in writing each person against  
8 whom a complaint is received and afford the person an opportunity to  
9 explain the conduct alleged to be a violation of this chapter. If the  
10 committee determines that a complaint does not contain allegations of  
11 facts sufficient, if the alleged facts are treated as true, to consti-  
12 tute a violation of this chapter, the committee may summarily dismiss  
13 the complaint.

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

17 (g) If the committee determines that a probable violation exists  
18 that may be corrected by action of the person and that does not war-  
19 rant sanctions other than correction, the opinion shall recommend  
20 corrective action including, but not limited to, censorship, loss of  
21 pay, fine or other penalties. The person against whom the complaint  
22 was made may comply with the opinion or may request a hearing before  
23 the committee. After the hearing the committee may amend or affirm  
24 the opinion.

25 (h) If the person fails to comply with the opinion or if a  
26 majority of the members of the committee determine that there is  
27 probable cause for belief that a violation of this chapter that may  
28 not be corrected under (g) of this section has occurred, the committee  
29 shall formally charge the person. The charge and statement of the

1       alleged violation shall be personally served on the person charged.  
2       The alleged violator has 20 days after service of the charge and  
3       statement to respond in writing to the committee.

4           (i) The committee may set a time and place for a hearing before  
5       the committee with a minimum of 10 days notice to the complainant, if  
6       any, and to the person charged with a violation of this chapter. A  
7       representative of the committee and the person charged with a viola-  
8       tion of this chapter shall have an opportunity to be heard, to sub-  
9       poena witnesses and require the production of books or papers relating  
10      to the proceedings, to be represented by counsel, and to have the  
11      right of cross-examination. Each witness shall testify under oath.  
12      Hearings are open to the public unless the person charged with a  
13      violation of this chapter requests a closed hearing. The committee is  
14      not bound by the rules of evidence but the committee's findings must  
15      be based upon competent and substantial evidence. Testimony taken at  
16      the hearing shall be recorded and evidence shall be maintained. The  
17      testimony and evidence are available only to the committee and its  
18      staff and to the person charged with a violation of this chapter. If  
19      the person charged with the violation of a provision of this chapter  
20      requests a copy of the transcript of testimony, the copy shall be  
21      furnished by the committee without charge.

22           (j) A decision of the committee shall be in writing and signed  
23      by the majority of the members of the committee. Each decision of the  
24      committee must be accompanied by a written order of the committee de-  
25      termining that a violation of this chapter exists or does not exist.  
26      The order is confined to this determination. This order is a public  
27      record.

28           (k) If the committee issues a decision finding that a member of  
29      the legislature has violated a provision of this chapter or that a

1 legislator has declined or failed to cooperate with the committee, it  
2 shall refer the decision to the presiding officers of the legislature.  
3 The decision shall contain a statement of the facts determined to  
4 constitute the violation or the failure to cooperate and may contain  
5 recommendations concerning any penalties the legislature may lawfully  
6 impose. The committee shall make the decision public after the  
7 referral. The legislature shall act on the decision as it considers  
8 appropriate.

9 (1) If the majority of the members of the committee agree to a  
10 decision that a former member of the legislature has violated a  
11 provision of this chapter, the committee shall issue a public state-  
12 ment of its decision 30 days after the date of the decision. The  
13 legislature shall act on the decision as it considers appropriate.

14 (m) A committee member or member of the committee staff who  
15 divulges information concerning a proceeding, except as permitted by  
16 this chapter, is guilty of a class C felony.

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

23 Sec. 24.60.190. DEFINITION. In this chapter,

24 (1) "committee" means the Select Committee on Legislative  
25 Ethics.

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

27 Sec. 11.56.805. FALSE ACCUSATION. (a) A person commits the  
28 crime of false accusation if the person knowingly or intentionally  
29 initiates a false complaint with the Select Committee on Legislative

1 Ethics established in AS 24.60.

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

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

4 Sec. 39.50.025. NOTIFICATION TO CANDIDATES FOR LEGISLATURE. On  
5 receipt of a statement under AS 39.50.020 from a candidate for the  
6 legislature the commission shall mail, by certified mail, a copy of  
7 AS 24.60, Standards of Conduct, to the candidate at the address shown  
8 on the report.

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

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