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FREE

Federation's Role in our Enterprise Economy



25 May 1983

Representative Charlie Bussell
Chairman of the Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811



Re: Legislative Ethics -- SB 257

Dear Representative Bussell:

On May 23, 1983, the FREE Committee wrote to you concerning SB 257 and HB 362. Since that letter was posted, the final version of SB 257 as it was passed by the Senate on Friday, May 20, became available in Anchorage. It is our understanding that SB 257 will be considered by your committee on Monday, May 30, at 1:30 p.m. and, therefore, a representative of the FREE Committee will be attending that meeting.

There were 14 significant amendments made on the floor to the Senate Judiciary Committee version of the bill before it was passed by the Senate. The FREE Committee has reviewed those amendments and submits the following comments and suggested amendments for your consideration. (Deletions are in brackets and additions are underlined.)

1. To avoid confusion and to ensure that the state can continue to contract non-competitively with sole sources, for fair traded items, for air taxi services, or for other services or goods enumerated in AS 37.05.230, page 3, line 29 and page 4, lines 1 through 7 should be amended to read as follows:

contract or lease unless the contract or lease is let [by competitive bidding under] pursuant to AS 37.05.230 or the total amount of the state contract or lease is \$1000 or less, [or is a standardized contract or lease generally available to the public at large, members of a profession, occupation or group which was developed under publicly established guidelines]. A person has an interest in a state contract or lease under this section if the person receives direct or indirect financial benefits.

There are many occasions when the state has a legitimate reason to contract non-competitively and the FREE Committee believes that it is important to protect that right even where one possible beneficiary is a legislator or employee of the legislature. The second deletion is suggested, because it is not

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A committee of the GFWC Anchorage Woman's Club

clear why the deleted language was included and is, therefore, unnecessary.

2. FREE Committee believes that public officials have the right to expect that ethical standards be clearly defined so that they can avoid ethical problems and, therefore, suggests that the following sentence be added to Sec. 24.60.050 (a) at page 4, line 18:

determining qualification. Within 30 days, the committee shall issue a list of loans that are not considered to create a conflict of interest. Such list shall be reviewed annually.

3. While the public's right to know is important, FREE believes that legislators and legislative employees have a right to privacy. Loan applications and the supporting documents often contain information that should be kept confidential and, therefore, FREE recommends that only notice of a loan application be sent to the APOC. It is simply not the function of the Ethics Committee to second guess the decision of the lending agency to lend money. Where an agency exercises its authority to lend money, even courts are reluctant to impose a contrary determination. More importantly, since the Ethics Committee has subpoena powers and the power to require the production of evidence when it is investigating a complaint, it is unnecessary to require routine production of such confidential information where no complaint has been filed.

In addition, FREE believes that it should be incumbent upon the legislator seeking the loan to notify the APOC, rather than upon the lending agency. Finally, FREE believes that to be consistent, the bill needs to specify where loan applications of legislative employees should be filed. To minimize expense, FREE suggests that APOC could be designated, so long as AS 15.13.030 was amended to permit APOC to receive the information. Based on these reasons, the following changes to page 4, lines 27-29 and to page 5, lines 1-3 are suggested:

the [lending agency] legislator shall send a [copy] notice of the application to the Alaska Public Offices Commission, which will incorporate the [material] notice into the applicant's financial disclosure statement, if the applicant is required to file a disclosure statement or which will place the information in a legislative employee loan file which is open to the public, if the applicant is not required to file a disclosure statement. [All records relating to a state loan to a person to whom this chapter applies may be disclosed to the committee.]

4. FREE is also concerned that Sec. 24.60.050 (d) (page 5, lines 4-9) only requires state loan agencies to list outstanding loans. It does not clearly require quasi-state loan agencies

(such as the Alaska Commercial and Fishing and Agriculture Bank) to provide the same information. Since a large number of loans are processed through such agencies, this language should be re-written to address them. With that in mind, the following language is suggested for page 5, line 4:

(d) Each February 1, each [state loan agency] lending agency that receives more than 50% of its funding from state funds must deliver a . . .

5. Since reasonable regulations should apply to everybody, FREE believes that Sec. 24.60.050 (e) (page 5, lines 10-14) should be deleted entirely. In addition, if separate well written regulations setting up procedures for granting loans are enacted, it makes an Ethics Committee unnecessary, because there would be no reason to review an agency's decision to grant a loan.

6. For reasons discussed above in paragraph 3, subsection (f), page 5, lines 17-18 should be re-written as follows:

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

7. The FREE Committee believes that the entire Sec. 24.60.070, beginning page 5, line 29 and ending page 6, line 16, should be deleted. This section duplicates information already provided to the APOC by legislators and where it would affect legislative employees, that information would already have been filed with the APOC by the other business partner (legislator, public official required to file a financial disclosure, or registered lobbyist). The only economic association that would not already have been disclosed would be an association between supervisor and employee. It is difficult to understand why this is relevant to the purpose of this bill, legislative ethics. Therefore, FREE suggests that this section be deleted.

8. The original language found in SB 257 for Sec. 24.60.080 should be used rather than the new language, page 6, lines 17-25. The original language was clearer and carefully identified gifts which would not create conflicts of interests. The present version creates a legal problem by requiring intent to be established.

9. To be consistent with the rest of Sec. 24.60.090, line 26, page 6, should be changed to read as follows:

Sec. 24.60.090. NEPOTISM. (a) [A relative of] An individual who is related to a member of the . . .

10. Sec. 24.60.100 allows legislators and legislative

employees to represent clients before state agencies, boards and commissions for compensation. FREE believes that this is improper and recommends that the present section be deleted and re-written as follows (page 7, lines 9-17):

Sec. 24.60.100. REPRESENTATION. (a) Except as provided in this section, a member of the legislature or a person employed by an agency of the legislature established under AS 24.20 may not represent another person for compensation before an agency, board, or commission of the state.

(b) A member of the legislature may represent a client in

(1) an action before a court of the state; or
(2) a matter which was pending at the time a person to whom this chapter applies assumes office or is employed.

The FREE Committee believes that if a person receives no compensation, representation does not create a conflict of interest. Legislators should be allowed to represent constituents without fear that they will be subject to censure.

11. To avoid creating unnecessary, expensive permanent interim committees, the FREE Committee suggests that page 7, line 26, be amended to read as follows:

the Rules committee shall maintain a [public] record open to the public of the disclosure

12. In a time of declining revenues, FREE Committee believes that every effort must be made to reduce government and its costs. Therefore, FREE suggests that any committee created to address violations of the ethical code be limited to employing staff only when there is in fact a complaint to investigate. The following addition to page 8, lines 21 and 22, is therefore suggested:

(f) The committee or a subcommittee may contract for professional services and may employ staff as it considers necessary to investigate a complaint and to recommend action by the legislature. The authority of the committee or subcommittee to contract for professional services or to employ staff is expressly limited to those times that it is actively addressing a complaint.

13. The FREE Committee does not believe that any Ethics Committee created by this legislation should be bound by its inaction on a request for an advisory opinion and, therefore, recommends that the sentence binding the committee be eliminated. The section would then read as follows (page 9, lines 8-15):

Sec. 24.6C.150. ADVISORY OPINIONS. The committee shall issue an advisory opinion within 30 days on the request of a person to whom the chapter applies as to whether the facts and circumstances of a particular case constitute a violation of ethical standards. [If an advisory opinion is not issued within 30 days after the request is filed with the committee, the facts and circumstances of the particular case do not constitute a violation of the ethical standards.] The opinion issued [or considered issued] is binding on the committee in any subsequent

14. FREE Committee does not believe that it is appropriate to leave a legislator or legislative employee open to investigation for a violation of this chapter for 4 years. This is unreasonable. Since a person who intentionally hides his or her unethical behavior is not subject to any time limit and since criminal prosecution is not affected by this section, the FREE Committee recommends that any complaint must be brought within one year of the alleged violation. It is too difficult to reconstruct the circumstances surrounding a complaint 4 years later. The amended language would read on page 9, line 26, as follows:

a proceeding begun within [four] one year[s] after the alleged violation

15. Subsection (d) should also be re-written. Since a complaint can be initiated by one private person, it only makes sense that a complaint should be allowed to be initiated by one sub-committee member where the complaint is against a legislator. (It should be remembered that each sub-committee only has three members and this bill would require all three to initiate the complaint.) In addition, the FREE Committee sees no reason to stay all pending actions before a committee within 60 days preceding a state primary or general election. There is some merit to not allowing complaints to be filed within the 60 day period, however. The following language is, therefore, recommended (page 10, lines 7-17):

the committee. A complaint may be initiated by any [private] person [or by three or more members of the committee]. A complaint shall be in writing and signed under oath by the person making the complaint. No complaint, other than a complaint initiated by [five or more members] the majority of the members of the committee, may be received within a period fo 60 days preceding a state primary or general election. [All proceedings pending before the commission on the 60th day preceding a state primary or general election are stayed unless the proceedings are based on a complaint initiated by five or more members of the committee. No further action may be taken in the stayed proceeding

until the legislature next convenes in regular session.]

16. Line 15, page 11 should be amended to set a specific minimum notice period for setting a hearing. This is only fair. The time itself should only be a minimum and is somewhat arbitrary. The language could read as follows:

the committee with a minimum of 10 days notice to the complainant, if any, and to the

17. The Committee believes that subsections (j) and (k) found on page 12, lines 3-19, appear to conflict and are somewhat difficult to understand. It is suggested that they be carefully considered. In particular, the phrase, "The order is confined to this determination." needs to be clarified. While subsection (j) seems to make this order public immediately, subsection (k) appears to require a 30 day waiting period (lines 16-18). The Committee also suggests that the 30 day period should run whether the legislature is in session or not. To do otherwise allows the committees to engage in political manipulation. Therefore, the Committee recommends that the following deletion be made (page 12, lines 17-18):

the referral. [Days during which the legislature is not in session may not be counted in determining the 30 day period.] The legislature

18. Finally, the FREE Committee is concerned about frivolous accusations and complaints. Therefore, the Committee has enclosed a copy of a statute found in the Louisiana ethics legislation which provides a penalty for false accusations. While the penalty provisions might be harsh, it is suggested that this is one approach that the legislature might consider.

Ethics legislation is important to Alaska, its citizens and the persons directly affected by this legislation. The FREE Committee urges you to carefully consider its recommendations.

Sincerely,

Cheri C. Jacobus

Cheri C. Jacobus
Chairman, Legislative Study

cc: all legislators
Governor Bill Sheffield

R.S. 42:1145 PUBLIC OFFICERS—EMPLOYEES

D. Prescription.—No action to enforce any provisions of this Part shall be commenced after the expiration of two years following the discovery of the occurrence of the alleged violation or four years after the alleged violation, whichever period is shorter. No action may be taken against a violator who committed the violation prior to the effective date of this Chapter. Added Acts 1964, No. 110, § 1.

Library references: States Ⓞ51; C.J.S. States § 55.

§ 1146. Criminal laws not affected

Nothing in this Part is intended to nor is to be construed as repealing, amending or modifying in any way the provisions of any of the criminal or penal laws of this state. Added Acts 1964, No. 110, § 1.

Library references: Criminal Law Ⓞ15; C.J.S. Criminal Law § 27.

§ 1147. Penalty for false accusations

Any person who shall knowingly and intentionally file a false complaint with either the Louisiana Commission on Governmental Ethics or the Louisiana Board of Ethics for State Elected Officials or any member of either said board or commission who shall knowingly and intentionally initiate action against any state employee, board or commission member or elected official knowing such action to be false shall, upon conviction in a court of competent jurisdiction, be guilty of the crime of making false accusations.

Whoever commits the crime of making false accusations shall be fined not more than five thousand dollars or imprisoned, with or without hard labor for not more than five years, or both. Added Acts 1964, No. 110, § 1.

Library references: Malignous Prosecution Ⓞ78; C.J.S. Malignous Prosecution § 110.

§ 1148. Procedure and rules of evidence for hearings

Notwithstanding any other provisions of this Chapter, all hearings conducted by the Louisiana Commission on Governmental Ethics and by the Louisiana Board of Ethics for State Elected Officials shall be held in accordance with the rules of procedure set forth in Title 15 of the Louisiana Revised Statutes of 1950, including but not restricted to those rules governing the admissability of evidence and all other rules pertaining to the introduction of and the weight to be given to any evidence. Added Acts 1964, No. 110, § 1.

Library references: Administrative Law and Procedure Ⓞ111 et seq.; C.J.S. Public Administrative Bodies and Procedure § 111 et seq.

Alaska State Legislature

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BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips

HOUSE DISTRICT 15

MEMORANDUM

TO: Representative Charlie Bussell
Chairman, House Judiciary Committee

FROM: Representative Randy Phillips *R.E.P.*

DATE: May 25, 1983

RE: Conflict of Interest Legislation
(House Bill 362, CSSB 257 (Jud) am)

Attached are the following items for your committee's review:

1. Memorandum dated May 24, 1983, entitled "Comparison of CSSB 257 (Jud) am and SB 257. As you know, SB 257 is the same as House Bill 362.

Attached to this memorandum is a copy of CSSB 257 (Jud) am in which the changes from SB 257 to the Senate-passed version have been highlighted.

2. Memorandum dated May 25, 1983, comparing the Legislative Ethics Commission as proposed in HB 362/SB 257 and the Select Committee on Legislative Ethics as proposed in CSSB 257 (Jud) am.

If you have any questions, please do not hesitate to contact me. I plan on being in attendance at this Friday's meeting when I understand this subject matter will be before your committee.

MEMORANDUM

TO: Representative Randy Phillips
FROM: Janet Seitz *J. Seitz*
DATE: May 25, 1983
RE: Conflict of interest legislation

Attached is a seven-page comparison of the Legislative Ethics Commission, as contained in House Bill 352/Senate Bill 257, and the Select Committee on Legislative Ethics, as contained in CSSB 257 (Jud) am.

The provisions for the Legislative Ethics Committee start in Sec. 24.60.130, starting on page 8 of SB 257. The provisions for the Select Committee on Legislative Ethics start in Sec. 24.60.130, starting on page 8 of CSSB 257 (Jud) am.

The page and line number references are included for each category.

1
LEGISLATIVE ETHICS COMMISSION
(SB 257/HB 362)

In legislative branch (p.8, l. 3-5)

Seven Members (p. 8, ls. 6-25)

One Senator appointed by President
with concurrence of 3/4 roll call
vote of full membership

One Representative appointed by
Speaker with concurrence of 3/4
roll call vote of full membership

Two persons appointed by Senate
President with concurrence of 2/3
roll call vote of full membership

Two persons appointed by Speaker
with concurrence of 2/3 roll
call vote of full membership

One former legislator appointed
by other commission members

No more than 4 members of same party
or residents of same organized or
unorganized borough (p. 8, ls. 26-28)

Commission members shall elect
chair and vice-chair and other
offices. Legislators may not serve
as chair or vice-chair (p. 8, l. 29 to
p. 9, l. 3)

Term of office (p. 9, ls. 4-8)
Public member - 4 years from
Feb. 1 of year of appointment
and until successor is appointed
and qualifies

Legislator may not serve beyond
expiration of legislative term

Members may not serve more than
one full term.

Members MAY NOT (p. 9, ls. 9-16)
Hold or seek elective office
(except for legislators who are
members)

SELECT COMMITTEE ON LEGISLATIVE ETHICS
(CSSB 257 (Jud) am) -

In legislative branch (p. 8, l. 3-5)

Six Members - two subcommittees (p. 8,
ls. 6-14)

Senate subcommittee
3 Senators appointed by President
with concurrence of 3/4 roll call
vote of full membership

House subcommittee
3 Representatives appointed by
Speaker with concurrence of
3/4 roll call vote of full
membership

No more than two members of each
subcommittee may be of same party
(p. 8, ls. 15-16)

Members of each subcommittee shall
elect chairs, who shall co-chair
meetings (p. 8, ls. 17-18)

LEGISLATIVE ETHICS COMMISSION
(SB 257/HB 362)

Be officer of political party,
political committee, or group

Lobby

Vacancy (p. 9, ls. 17-18)
Filled under appointment pro-
visions for balance of term

Services and Staff (p. 9, ls. 19-21)-
Commission may contract for
professional services and
staff

Compensation (p. 9, ls. 22-28)
No compensation received except
for travel and per diem. Legisla-
tors who are members of the committee
are not entitled to travel or per
diem if receiving from legislative
duties.

DUTIES OF COMMISSION (p. 9, l. 29
to p. 10, l. 13)

Adopt regulations.

Recommend legislation.

SELECT COMMITTEE ON LEGISLATIVE ETHICS
(CSB 257 (Jud) am)

Vacancy (p. 8, ls. 19-20)
Filled in same manner as original
appointments

Services and Staff (p. 8, ls. 21-22)
Committee may contract for
professional services and
staff

COMMITTEE AUTHORITY (p. 8, l. 23 to
p. 9, l. 7)

Senate subcommittee has authority
over proceedings concerning Senate
member or former member or employee
of Senator or Senate committee.

House subcommittee has authority
over proceedings concerning House
member or former member or employee
of House or House committee.

Full committee:

1. has authority over employee
of legislative agency
2. may review matter arising
under this chapter that would result
in action being required by both
houses
3. may issue advisory opinions

LEGISLATIVE ETHICS COMMISSION
(SB 257/HB 362)

SELECT COMMITTEE ON LEGISLATIVE ETHICS
(CSSB 257 (Jud) am)

Subpoena witnesses, administer oaths, take testimony, require production for examination.

Publish semi-annual summaries of decisions, advisory opinions, and informal advisory opinions, with sufficient deletions to prevent disclosure

ADVISORY OPINIONS (p. 10, ls. 13-21)

Issued on request of person to whom chapter applies.

States whether facts and circumstances of a particular case constitute violation.

If not issued within 30 days of request, no violation.

Opinion issued is binding on commission unless material facts were omitted or misstated in request.

Opinion is confidential but may be made public upon written request of person who requested opinion.

PROCEEDINGS BEFORE COMMISSION (p. 10, l. 28, to p. 11, l. 9)

Commission may initiate, receive, and consider complaints.

Commission may investigate violation in proceeding begun within 4 years after alleged violation and 1 year after termination of service.

Nothing bars proceedings against person who by fraud prevents discovery of violation.

Before the commission may investigate resolution supported by three

ADVISORY OPINIONS (p. 9, ls. 8-21)

May issue on request of person to whom chapter applies as to whether facts and circumstances of particular case constitute violation.

If not issued within 30 days after request is filed, no violation.

Opinion issued is binding on committee on subsequent proceedings concerning facts and circumstances unless facts or circumstances were misrepresented or omitted.

Opinion is confidential unless written request from person involved is received.

PROCEEDINGS BEFORE COMMITTEE (p. 9, l. 22, to p. 10, l. 6)

Committee may initiate, receive, and consider complaints.

May investigate a violation of this chapter in a proceeding begun within 4 years after alleged violation occurs and within one year after termination of state service.

Nothing bars proceedings against person who intentionally prevents discovery of violation.

Before exercising powers authorized, committee must have resolution

4
LEGISLATIVE ETHICS COMMISSION
(SB 257/HB 362)

commission members must be passed
defining nature and scope

Investigations are confidential

COMPLAINTS (p. 11, l. 9, to
p. 12, l. 7)
Proceedings commenced by filing
complaint.

Complaint must be in writing
and signed under oath. Three
or more commission members may
initiate.

No complaint, other than one
initiated by five or more
commission members, may be received
within 60 days preceding state
primary or general election.

Commission must notify in
writing each person against
whom complaint is received.
Person accused must be given
opportunity to explain conduct.

If commission determines that
complaint is insufficient, may
dismiss

Commission shall investigate charges
filed and issue advisory opinion to
person alleged to have violated
provisions of chapter.

SELECT COMMITTEE ON LEGISLATIVE ETHICS
(CSSB 257 (Jud) am)

supported by majority vote of full
membership of the committee to define
scope and nature.

Investigations are confidential.

COMPLAINTS (p. 10, l. 5, to
p. 11, l. 13)
Proceeding initiated by filing of
complaint either by private person
or three or more members of the
committee.

Complaint must be signed under oath
and in writing.

No complaint, other than one initiated
by five or more committee members, may
be received within a period of 60 days
preceding a state primary or general
election.

All proceedings pending before the
committee on the 60th day preceding
election are stayed unless proceedings
are based on a complaint initiated by
five or more members of the committee.
No further action may be taken in stayed
proceedings until the legislature next
convenes in regular session.

Committee shall notify each person
against whom complaint alleged, in
writing, and afford person opportunity
to explain conduct.

If committee determines complaint does
not contain sufficient allegations for
violation, may dismiss

Committee shall investigate charges filed
and issue advisory opinion to person
alleged to have violated provisions
of chapter.

If committee determines that a probable
violation exists that may be corrected
by action of the person, and does not
warrant other sanctions, the advisory
opinion shall recommend such action.

LEGISLATIVE ETHICS COMMISSION
(SB 257/HB 352)

SELECT COMMITTEE ON LEGISLATIVE ETHICS
(CSSB 257 (Jud) am)

If advisory opinion indicates probable violation, person against whom complaint was made may request formal opinion or comply with advisory opinion.

Person against whom complaint is filed may comply with advisory opinion or request hearing.

After hearing, committee may amend or affirm opinion.

Upon failure to comply or belief by majority of commission that probable cause exists regarding violation, commission will file complaint.

If person fails to comply with opinion or if majority of committee determines probable cause for belief violation may not be corrected, committee shall formally charge person.

Complaint shall be personally served on person charged, who has 20 days after service of the complaint to respond in writing to commission.

Charge and statement of alleged violation shall be personally served on person charged and that person has 20 days to respond in writing to the committee.

HEARING (p. 12, ls. 8-25)

HEARING (p. 11. l. 14 to. p. 12, l. 2)

Commission may set time and place for hearing. Notice shall be given to complainant and person charged.

Committee may set time and place for hearing with notice to complainant and person charged.

Representative of commission and the charged with violation shall have opportunity to be heard, subpoena witnesses, require production of items, to be represented by counsel and to have right of cross-examination.

Representative of committee and person charged with violation shall have opportunity to be heard, subpoena witnesses, and require production of items, to be represented by counsel and to have right of cross-examination.

Witnesses shall testify under oath.

Witnesses shall testify under oath.

Hearings are closed to public unless person charged requests open hearing.

Hearings are closed unless person charged otherwise requests.

Commission not bound by rules of evidence but findings must be based upon evidence.

Committee not bound by rules of evidence but findings must be based upon evidence.

Testimony taken shall be recorded and evidence maintained

Testimony recorded and record maintained.

Testimony and evidence available only to commission staff and to person

Testimony and evidence available to committee and staff and person charged

LEGISLATIVE ETHICS COMMISSION
(SB 257/HB 362)

charged with violation.

Copy of transcript may be furnished to person charged with violation upon that person's request and at no charge to that person.

DECISION (p. 12, l. 26 to p. 13, l. 24)

In writing and signed by four or more commission members

Accompanied by written order determining if violation did or did not exist.

Order is confined to determination.

Order is public record.

If decision is that violation has occurred or legislator has not cooperated with commission, decision is to be referred to presiding officers of legislature.

Decision shall contain statement of facts determined to constitute violation or failure to cooperate.

May contain recommendations for civil penalties (up to \$25,000), divestment of interest, termination of legislative privileges, or expulsion.

Decision shall be made public 30 days referral. Days during which legislature is not in session are not counted.

Legislature shall act as appropriate.

If four commission members agree to decision that a former member of legislature or employee or former employee of legislative agency has violated this chapter, commission shall issue a public statement of its decision 30 days after date of decision.

Legislature shall act as appropriate.

SELECT COMMITTEE ON LEGISLATIVE ETHICS
(CS&B 257 (Jud) am)

with violation.

Copy of transcript may be furnished to person charged with violation upon that person's request and at no charge to that person.

DECISION (p. 12, ls. 3-29)

In writing and signed by majority of committee

Accompanied by written order determining if violation did or did not exist.

Order is confined to determination.

Order is public record.

If committee decides violation has occurred, shall refer decision to presiding officers of legislature.

Decision shall contain statement of facts determined to constitute violation or failure to cooperate

May contain recommendations for penalties.

Decision is public 30 days after referral. Days legislature is not in session are not counted.

Legislature shall act as appropriate.

If majority of committee agree to decision that former member or an employee or former employee has violated this chapter, the committee shall issue public statement of decision 30 days after date of decision.

Legislature shall act as appropriate.

LEGISLATIVE ETHICS COMMISSION
(SB 257/HB 362)

In case of an employee, action may include suspension, demotion, or dismissal.

CONFIDENTIALITY (p. 13, ls. 25-28)

Commission member or individual who divulges information regarding a charge before the filing of a complaint by the commission is guilty of misuse of confidential information under AS 11.56.860 (Berrier says this is a Class A misdemeanor.)

SELECT COMMITTEE ON LEGISLATIVE ETHICS
(CSSB 257 (Jud) am)

In case of employee, action may include suspension, demotion, or dismissal.

Employee is entitled to hearing before action taken.

CONFIDENTIALITY (p. 12, l. 29,
to p. 13, l. 2)

A committee member or staff member divulges information concerning proceedings is guilty of a Class A misdemeanor.

MEMORANDUM

TO: REP. RANDY PHILLIPS
 FROM: JANET SEITZ *J. Seitz*
 DATE: MAY 24, 1983
 RE: COMPARISON OF CSSB 257 (JUD) AM and SB 257

On the attached bill, changes are highlighted in yellow.

Changes are also as listed below:

1. Page 1, Line 8, title change -- from "Legislative Ethics Commission" to "Select Committee on Legislative Ethics".
2. Page 1, Line 23 - same as title change. Reference is to the committee's name.
3. Page 1, line 27, deletes "to a person employed by a member of the legislature." This was done by Senator Kelly on the Senate floor. Senator Moss had pointed out that this language would mean that a person employed outside of a member's legislative duties would also be effected by this legislation (Sen. Moss cited the person plowing his field as an example). Remaining language now reads: "This chapter applies to a member of the legislature and to a permanent or temporary employee of an agency of the legislature."
4. Page 2, line 6, deletes "a member of". This is, I think, part of Kelly's amendment, referenced above.
5. Page 2, Line 19, deletes "has discretion to" and then the verbs are changed in the rest of this subsection.
6. Page 2, line 20, changes "which" to "that"
7. Page 3, lines 2-5. Changes the wording to read positively. Rather than a conflict does not exist, this new language states: "A conflict exists . . ."
8. Page 3, Lines 6 to 26. Includes (g) concerning fund raising during legislative session.
9. Page 3, Lines 27-29. Adds "or lease" to this provision.
10. Page 4, Lines 2-7. Adds "or lease" as appropriate. Also ADDS "or is a standardized contract or lease generally available to the public at large, members of a profession, occupation or group which was developed under publicly established guidelines" after "less," on line 3. DELETES "A person has an interest in a state contract under this section if the contract is awarded to (1) a firm, corporation, or association that has assets in excess of \$5,000,000 and in which the person has an ownership

interest greater than 10 percent or that has assets of \$5,000,000 or less and in which the person has an ownership interest greater than 25 percent; or (2) a partnership in which the person is a partner."

11. Page 4, Line 10, deletes "the person is a party to the contract, and without regard to whether"

12. Page 4, Line 11. Changes "inure" to "ensue"

QUERY: No mention is made of "leases" in (b). Oversight?

13. Page 4, Line 22, changes references to "commission" to "committee"

14. Page 5, line 4. Changes "1st" to "1" when referring to date. Adds "state" before "loan agency". Somewhere along the line, I remember some reference to the fact that the language in the original bill would mean all loan agencies, be they state or private, would have to report if the original language was retained. Changes "publish" to "deliver" when referring to the list of loans.

15. Page 5, lines 6-7, adds "to the presiding officer of each house." That's who the list of loans is to be delivered to by the state agencies.

16. Page 5, Lines 8-9. Adds: "The list shall be published in the supplemental journal."

17. Page 5, Line 19. Changes reference from "commission" to "committee".

18. Page 5, Lines 25 and 26. Adds "wilfully" before "discloses" and "knowingly" before "uses".

19. Page 6, Lines 1-5. Drops reference to commission. Adds, after "shall disclose", the following: "in the journal of the appropriate body or if the legislature is not in session to the committee, which shall maintain a public record of the disclosure and forward the disclosure to the respective house for inclusion in the journal for the first day of the session,"

20. Page 6, lines 15-16. Adds "(4) a registered lobbyist who is not a member of the immediate family of the person." as another class of persons that close economic association with (formation or maintenance of) must be disclosed under this section.

21. DROPPED from this section was section (b) of the original bill: "(b) It is a prohibited conflict of interest for a person to whom this chapter applies to form or maintain a close economic association involving a substantial financial matter with a lobbyist who is not a member of the immediate family of the person."

22. Page 6, Line 18, drops reference to the \$100 figure.

23. Page 6, line 19. Same as 22 above.

24. Page 6, lines 20-25, DELETES: "under circumstances in which it may reasonably be inferred that the gift is intended to influence the person in the performance of the duties of the person or is intended as a reward for an official action by the person. (b) It is not a conflict of interest under this section if a person to whom this chapter applies accepts (1) hospitality at another person's residence, including meals, lodging or ground or water transportation; (2) discounts that are generally available to the public or a large class of persons to which the person belongs; (3) an invitation to attend a meal or social event that does not exceed \$100 in value received by the person for each meal or event and that does not in the aggregate exceed \$250 in value during the calendar year from one person; or (4) gifts from the person's immediate family. (c) The commission may establish policies that limit the extent to which persons to whom this chapter applies may accept the benefits set out in (b)(2) of this section, or that require public officials to turn over the benefits to the agency."

PLACED IN THE NEW VERSION IS: "if the gift was intended as a reward for an official action by the person. A gift of travel and hospitality received by a member of the legislature in obtaining information on matters of legislative concern is not prohibited by this section, nor are political contributions received and reported under AS 15.13.040.

25. Page 6, lines 26-29 REPLACES "(a) An individual who is related to a member of the legislature may not be employed in the house in which the legislator is a member, by an agency of the legislature established under AS 24.20, or in the other house during the interim between sessions." WITH "(a) A relative of a member of the legislature may not be employed in the house in which the legislator is a member, by an agency of the legislature established under AS 24.20, or in the other house during the interim between sessions."

26. Page 7, Line 4, adds "stepchild".

27. Page 7, Line 5, REPLACES "a permanent member of the legislators' household" WITH "a member of the same household."

28. Page 7, Lines 6-8, REPLACES "(b) An individual is not employed if no compensation is received from the state for the services provided" WITH "(b) For purposes of this section an individual is not employed if no compensation is received from the state for the services provided."

29. Page 7, Line 9, DROPS "BY LEGISLATORS" and REPLACES "(a) Except as provided in this section, a member of the legislature or a person employed by an agency of the legislature established under AS 24.20 may not represent another person for compensation before an agency, board, or commission of the state. (b) A member of the legislature may represent a client in (1) an action before a court of the state; or (2) a matter which was pending at the time a person to whom this chapter applies assumes office or is employed. (c) A legislator cannot avoid a conflict of interest under this section by waiving compensation for representing another person under circumstances where compensation would

ordinary be expected." WITH "A person to whom this chapter applies who represents another person for compensation before an agency, board, or commission of the state shall disclose the name of the person represented, the subject matter of the representation, and the body before which the representation is to take place in the journal of the appropriate body or if the legislature is not in session to the committee. The committee shall maintain a public record of the disclosure and forward the disclosure to the respective house for inclusion in the journal for the first day of the session."

30. Page 7, lines 18-20. Adds "knowingly" before "has a conflict of interest" and adds "or has been notified of a conflict of interest" before "shall immediately".

31. Page 7, line 21. Adds "conflicting" before "position".

32. Page 7, lines 25-6. Changes reference from "commission" to the committee.

33. Page 8, lines 1-2. REPLACES "for private gain or campaign purposes" WITH "except property under lease from the state or funds for private gain."

34. Page 8, lines 3, through Page 9, line 8. This is where the Commission is dropped and the Committee is inserted.

35. Page 9, lines 8-21. Changes reference from commission to committee.

36. Page 9, line 22, through Page 13, lines 3. Sets out the proceedings before the committee. While some of the procedures are similar, they are not the same.

37. Page 13, lines 3-8, ADDS new section "Cooperation by State Agencies."

38. Page 13, Lines 9, Definitions - defines "committee".

39. Page 13, lines 12-15. Adds Section 2 "Nothing in this Act applies to conduct which occurred before the effective date of the Act and the committee established by this Act has no jurisdiction over any alleged violation which occurred before the effective date of this Act."

Lawmakers judge selves under ethics bill

JUNEAU (AP) — A measure to establish standards of conduct among Alaska legislators and their employees and to create a joint-legislative committee to ensure the standards were followed cleared the Senate Thursday.

The bill, held for a reconsideration vote, was approved 13-6 following the defeat of several amendments including one that to give the public four seats on the panel that would sit in judgment of lawmakers.

As the bill stands now, lawmakers would act as their own judges, a provision that one legislator said injures the measure's main aim -- to instill public confidence in the Legislature.

Chopped from the final version was a provision that would have banned lawmakers from holding campaign fundraisers in the capital during the session unless they lived here. The vote on the deletion, proposed by Sen. Bettye Fahrenkamp, D-Fairbanks, came despite arguments that it was a conflict of interest for lawmakers to solicit donations from lobbyists while considering legislation being sought by lobbyists.

The bill (CSSB257), forged by a special joint-committee on legislative reform and two Senate panels, follows a warning from Attorney General Norman Gorsuch that his office would begin enforcing common law controlling conflicts of interest and related

concerns if the Legislature failed to pass its own standards of conduct.

Common law is defined as law based not on statute but on a body of legal opinion derived from court cases involving conduct of public officials both within and outside Alaska.

Approval came after one opponent called the measure an "abomination" and backers said it represented the Senate's best effort to grapple with the murky area of "ethics."

The bill sets guidelines controlling conflicts of interest, business contracts with the state, applying for some state loans, hiring relatives, accepting gifts and raising campaign funds during the legislative session, among other things.

The measure would not supplant a state statute banning conflicts of interest, which are defined in the law as use of public office for personal gain.

Sen. Fritz Pettyjohn, R-Anchorage, and others, however, said common law was "judges law" and not the proper way to control legislative behavior. "Personally, I want a statute that tells me what I can and cannot do."

Sen. Joe Josephson, D-Anchorage, who played a major role in hammering out the legislation, said "This is not a perfect bill by any means. And if our constituents feel it needs strengthening, they can tell us so and we can take action."

Josephson said he was disappointed in his failed effort to amend the measure to permit public representation on the panel that would judge those who violated the standards of conduct. He said the failure could weaken public confidence in the law.

Sen. Bob Ziegler, D-Ketchikan, submitted an amendment, partly in jest, that would have replaced the measure with the following:

"To be an ethical and moral legislator you must (1) turn aside without ostentation to aid the weak; (2) treasure ideals more than raw ambition; (3) hold honesty of conscience above honesty of purse; (4) track no man to his undeserved hurt; and (5) pursue no woman to her tears."

Ziegler withdrew the amendment but said he viewed the measure with trepidation because "You've got problems when you endeavor to legislate ethics and morality."

Among other things, the bill would:

—Ban conflicts of interest, defined as taking or withholding official action that "could substantially benefit or harm a financial matter in which a person has a direct or indirect private interest.

—Ban virtually any interest in a state contract unless it was for \$1,000 or less or complied with statutory competitive bidding regulations.

—Permit legislators to receive state loans, such as for home mortgages, that are

generally available to the public. However, a legislator or employee who applied for a state loan not generally available to the public, such as a fishing or business business loan, must send a copy of the application to the Alaska Public Offices Commission to be incorporated in the legislator's financial disclosure statement.

—Ban solicitation or acceptance of gifts in any form or amount that is intended as a reward for official action. "However, gifts of travel and hospitality received by a legislator to obtain information about matters of legislative concern" would be expressly exempted.

—Ban relatives of lawmakers from employment in the house of which a legislator is a member or in a legislative agency. Relatives could be employed by the other house during the session, however.

Voting for the measure were: Sens. Dick Eliason, R-Sitka; Fahrenkamp; Jan Faiks, R-Anchorage; Paul Fischer, R-Soldotna; Vic Fischer, D-Anchorage; Josephson; Tim Kelly, R-Anchorage; Jay Kerttula, D-Palmer; Bob Mulcahy, R-Kodiak; Pettyjohn; Bill Ray, D-Juneau; Pat Rodey, D-Anchorage; and Arliss Sturgulewski, R-Anchorage.

Voting against were Sens. Don Bennett, R-Fairbanks; Don Gilman, R-Kenai; Halford; Moss; John Sackett, R-Ruby, and Ziegler.

Senate OKs ethics bill to let lawmakers judge themselves

NEWS 5-20-83

By HAL SPENCER

The Associated Press

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JUNEAU — A measure to establish standards of conduct for Alaska legislators and their employees and to create a joint legislative committee to ensure the standards are followed cleared the Senate on Thursday.

The bill, held for a reconsideration vote, was approved 13-6 following the defeat of several amendments, including one to give the public four seats on the panel that would sit in judgment of lawmakers.

As the bill stands now, lawmakers would act as their own judges, a provision that one legislator said works against the main aim of the measure — to instill public confidence in the legislature.

Chopped from the final version was a provision that would have banned lawmakers from holding campaign fund-raisers in the capital during the session unless they lived here. The vote on the deletion, proposed by Sen. Bettye Fahrenkamp, D-Fairbanks, came despite arguments that it was a conflict of interest for lawmakers to solicit donations from lobbyists while considering legislation being sought by lobbyists.



Sen. Bob Ziegler

The bill, forged by a special joint committee on legislative reform and two Senate panels, follows a warning from Attorney General Norman Gorsuch that his office would begin enforcing common law controlling conflicts of interest and related concerns if the legislature failed to pass its own standards of conduct.

Common law is defined as law based not on statute but on a body of legal opinion derived from court cases in-

volving conduct of public officials both within and outside Alaska.

Approval came after one opponent called the measure an "abomination" and backers said it represented the best effort of the Senate in the murky area of ethics.

The bill sets guidelines controlling conflicts of interest, business contracts with the state, applying for some state loans, hiring relatives, accepting gifts and raising campaign funds during the legislative session, among other things.

The measure would not supplant a state statute banning conflicts of interest, which are defined in the law as use of public office for personal gain.

The key distinction between the proposal and the criminal statute is that the proposal deals with appearances of misconduct while the law, which carries a maximum misdemeanor penalty of a year in jail and a \$5,000 fine, deals with actual misconduct.

The measure would provide a committee composed of legislators the power to advise their colleagues they were violating the standards of con-

duct. If the advice were ignored, the House or Senate could take action against the member in question.

Both bodies could use their existing powers to punish the member by stripping the member of committee assignments, withdrawing privileges, or even expulsion.

"I oppose this bill for the simple reason that it does nothing in and of itself, but does repeal common law," which does maintain legislative standards of conduct, said Sen. Rick Halford, R-Chugiak.

Sen. Joe Josephson, D-Anchorage, who played a major role in drafting the legislation, said, "This is not a perfect bill by any means. And if our constituents feel it needs strengthening, they can tell us so and we can take action."

Josephson said he was disappointed in his failed effort to amend the measure to permit public representation on the panel that would judge those who violated the standards of conduct. He said the failure could weaken public confidence in the law.

Sen. Bob Ziegler, D-Ketchikan, submitted an amendment, partly in jest, that



Sen. Joe Josephson

would have replaced the measure with the following:

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Ziegler withdrew the amendment but said he viewed the measure with

trepidation because "you've got problems when you endeavor to legislate ethics and morality."

Among other things, the bill would:

- Ban conflicts of interest, defined as taking or withholding official action that "could substantially benefit or harm a financial matter in which a person has a direct or indirect private interest."

- Ban virtually any interest in a state contract unless it was for \$1,000 or less or complied with statutory competitive bidding regulations.

- Permit legislators to receive state loans, such as for home mortgages, that are generally available to the public. However, a legislator or employee who applied for a state loan not generally available to the public, such as a fishing or business loan, must send a copy of the application to the Alaska Public Offices Commission.

- Ban solicitation or acceptance of gifts in any form or amount that is intended as a reward for official action.

- Ban relatives of lawmakers from employment in the house of which a legislator is a member or in a legislative agency.

Standards-of-conduct bill clears Senate

by Hal Spencer
Associated Press

Juneau — A measure to establish standards of conduct among Alaska legislators and their employees and to create a joint-legislative committee to ensure the standards were followed cleared the Senate Thursday.

The bill, held for a reconsideration vote, was approved 13-6 following the defeat of several amendments including one that would have given the public four seats on the panel that would sit in judgment of lawmakers. If the bill passes the reconsideration vote, it will go to the House.

As the bill stands now, lawmakers would act as their own judges, a provision that one legislator said injures the measure's main aim — to instill public confidence in the legislature.

Chopped from the final version was a provision that would have banned lawmakers from holding campaign fund-raisers in the capital during the session unless they lived here. The vote on the deletion, proposed by Sen. Bettye Fahrenkamp, D-Fairbanks, came despite arguments that it was a conflict of interest for lawmakers to solicit dona-

tions from lobbyists while considering legislation being sought by lobbyists.

The bill, forged by a special joint-committee on legislative reform and two Senate panels, follows a warning from Attorney General Norman Gorsuch that his office would begin enforcing common law controlling conflicts of interest and related concerns if the legislature failed to pass its own standards of conduct.

Common law is defined as law based not on statute but on a body of legal opinion derived from court cases involving conduct of public officials both within and outside Alaska.

Approval came after one opponent called the measure an "abomination" and backers said it represented the Senate's best effort to grapple with the murky area of "ethics."

The bill sets guidelines controlling conflicts of interest, business contracts with the state, applying for some state loans, hiring relatives, accepting gifts and raising campaign funds during the legislative session, among other things.

The measure would not sup-

plant a state statute banning conflicts of interest, which are defined in the law as use of public office for personal gain.

The key distinction between the proposal and the criminal statute is the proposal deals with appearances of misconduct while the law, which carries a maximum misdemeanor penalty of a year in jail and a \$5,000 fine, deals with actual misconduct.

The measure would provide a committee composed of legislators the power to advise their colleagues they were violating the standards of conduct. If the advice were ignored, the House or Senate could take action against the member in question.

Both bodies could use their existing powers to punish the member by stripping the member of committee assignments, withdrawing privileges, or even expulsion.

"I oppose this bill for the simple reason that it does nothing in and of itself, but does repeal common law," which does maintain legislative standards of conduct, said Sen. Rick Halford, R-Chugiak.

"This bill is an abomination," said Sen. Pappy Moss, D-Delta

Junction. He favored relying on common law to keep lawmakers honest.

Sen. Fritz Pettyjohn and others, however, said common law was "judges law" and not the proper way to control legislative behavior. "Personally, I want a statute that tells me what I can and cannot do."

Sen. Joe Josephson, D-Anchorage, who played a major role in hammering out the legislation, said "This is not a perfect bill by any means. And if our constituents feel it needs strengthening, they can tell us so and we can take action."

Josephson said he was disappointed in his failed effort to amend the measure to permit public representation on the panel that would judge those who violated the standards of conduct. He said the failure could weaken public confidence in the law.

Sen. Bob Ziegler, D-Ketchikan, submitted an amendment, partly in jest, that would have replaced the measure with the following:

"To be an ethical and moral legislator you must (1) turn aside without ostentation to aid the weak; (2) treasure ideals more

regulations.

- Permit legislators to receive state loans, such as for home mortgages, that are generally available to the public. However, a legislator or employee who applied for a state loan not generally available to the public, such as a fishing or business business loan, must send a copy of the application to the Alaska Public Offices Commission to be incorporated in the legislator's financial disclosure statement.

- Ban solicitation or acceptance of gifts in any form or amount that is intended as a reward for official action. "However, gifts of travel and hospitality received by a legislator to obtain information about matters of legislative concern" would be expressly exempted.

- Ban relatives of lawmakers

from employment in the house of which a legislator is a member or in a legislative agency. Relatives could be employed by the other house during the session, however.

Voting for the measure were: Sens. Dick Eliason, R-Sitka; Fahrenkamp; Jan Faiks, R-Anchorage; Paul Fischer, R-Soldotna; Vic Fischer, D-Anchorage; Josephson; Tim Kelly, R-Anchorage; Jay Kerttula, D-Palmer; Bob Mulcahy, R-Kodiak; Pettyjohn; Bill Ray, D-Juneau; Pat Rodey, D-Anchorage; and Arliss Sturgulewski, R-Anchorage.

Voting against were Sens. Don Bennett, R-Fairbanks; Don Gilman, R-Kenai; Halford; Moss; John Sackett, R-Ruby, and Ziegler. Sen. Frank Ferguson, D-Kotzebue, was absent.

SENATE JUDICIARY COMMITTEE

SECTIONAL ANALYSIS

OF

CS SB 257 (JUD)

LEGISLATIVE ETHICS ACT

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Sec. 24.60.010 LEGISLATIVE FINDINGS AND PURPOSE

This section states, in essence, that the basic purpose of this Act is to give legislators and staff the benefit of specific standards to guide their conduct while, at the same time, recognizing that under the Alaska Constitution each house of the legislature has primary responsibility for judging the qualifications of--and by implication judging the conduct of--its own members.

Another key purpose of the Act is to establish a Select Committee on Legislative Ethics (hereinafter the "Ethics Committee") which can initiate, accept, investigate and act upon complaints and render advisory opinions.

Sec. 24.60.020 APPLICABILITY

Pursuant to this section, the Act applies to the following persons:

All legislators once they have been sworn in;

Former legislators, but only in the limited circumstances set forth in the Act;

Legislative employees at or above Step 2, Range 18 (i.e., administrative assistants are covered, but not professional secretaries);

Former legislative employees, but only in the limited circumstances set forth in the Act.

The Act also expressly repeals--or supersedes--common law rules regarding legislative conflicts of interest, but it does not supersede applicable criminal laws.

Sec. 24.60.030 CONFLICTS OF INTEREST

Under this section two things are generally prohibited:

The use of public office for private advancement or gain; and

Conflicts of interest.

A conflict of interest is deemed to exist under the following two broad situations:

When a person takes or withholds official action or exerts influence that could substantially benefit or harm a financial matter in which the person has a direct or indirect private interest; and

If benefits accrue to a person beyond that which may accrue uniformly to members of the profession, occupation

or group to which the person belongs, or to the public at large.

In addition, a conflict of interest is deemed to exist if a legislator who does not represent the City and Borough of Juneau accepts money from a fundraiser held therein during session. However, this does not apply if the legislator is running for anything other than a state legislative office. Thus, for example, a legislator running for statewide or congressional office can hold a fundraiser in Juneau during session without violating the Act.

Furthermore, the Act also provides that it is a conflict of interest to knowingly disclose, or willfully use for personal gain or the gain of another, confidential information acquired in the course of official duties (see Sec. 24.60.060, below).

Conflicts of interest are expressly deemed not to exist under the following specific circumstances:

If there is no substantial impropriety or appearance of impropriety because the person's interest in a matter is relatively insignificant or the person's authority in regard to the matter is relatively remote; or

If a person merely accepts:

Hospitality at another's residence within the state, including meals, lodging or transportation;

Public discounts;

Meals or social events worth \$100 or less each;

Cultural food and foodstuffs;

Gifts from the person's own family.

It is also provided that the Ethics Committee, or a subcommittee thereof, can establish policies limiting the extent to which persons can accept the benefits previously listed. However, legislative approval is necessary to establish these additional limitations.

Sec. 24.60.040 CONTRACTS

This section prohibits virtually any interest in a state contract unless:

The contract is for \$1000 or less; or

It complies with statutory competitive bidding criteria.

The basic philosophy and intent of this section is that a person to whom the Act applies should have the same right as anyone else to enter into

a state contract, as long as the contract complies with statutory competitive bidding criteria. State leases were intentionally omitted because the Judiciary Committee believes that they are inherently different from state contracts and, also, that they are already subject to statutory competitive bidding criteria.

Sec. 24.60.050 STATE LOANS

The basic philosophy, intent and provisions of this section provide that, as to state loans generally available to the public, persons covered by the Act will be treated exactly the same as anyone else.

However, when a person covered by the Act applies for a state loan that is not generally available to the public, full disclosure is required in that the loaning agency must send a copy of the application to APOC, where it will be kept, and where it will be incorporated into the financial disclosure statement of an applicant who is otherwise required to file one with APOC.

State loan agencies must publish annual lists of all outstanding loans that are not generally available to the public and are made to persons covered by the Act. The agencies must also adopt separate procedures for granting and reviewing such state loans, and annual reviews by the division of legislative audit are required, as well as annual reports to the Ethics Committee.

Sec. 24.60.060 CONFIDENTIAL INFORMATION

This section prohibits, by deeming it a conflict of interest, persons covered by the Act from knowingly disclosing or wilfully using, for personal gain or the gain of another, confidential information acquired in the course of official duties.

Sec. 24.60.070 INTERESTS BETWEEN PUBLIC OFFICIALS

Under this section, a person covered by the Act must disclose a close economic association involving a substantial financial matter with:

The person's own supervisor;

A legislator;

A public official in another branch who is required to file an APOC statement; or

A registered lobbyist not a member of the person's immediate family.

Disclosure is to be made as follows:

When the legislature is in session, in the journal of

the appropriate house;

When the legislature is not in session, to the Ethics Committee, which, in addition to maintaining a public record thereof, must forward the disclosure to the appropriate house for inclusion in its journal for the first day of session.

Sec. 24.60.080 GIFTS

This section generally prohibits a person covered by the Act from soliciting, accepting or receiving a gift in any form or amount which is intended as a reward for an official action.

However, gifts of travel and hospitality received by a legislator to obtain information about matters of legislative concern are expressly exempted. Also, under Sec. 24.60.030 (see above), certain other "gifts" --such as hospitality at another's residence within the state--are exempted.

Sec. 24.60.090 NEPOTISM

This section sets forth the following limitations:

Relatives of a legislator may not be employed in the house of which the legislator is a member or be a legislative agency;

Relatives of a legislator may be employed in the house of which the legislator is not a member, but only during session; and

Relatives of an employee of the legislature may not be employed in a position over which the employee has supervisory authority.

However, individuals who are not on the state payroll are exempt from these limitations.

Furthermore, the definition of a relative includes close family members --such as spouses, children, parents and siblings--as well as "a member of the same household".

Sec. 25.60.100 REPRESENTATION

This section provides that a person covered by the Act is not prohibited from paid representation of another before a state agency, board or commission. However, disclosure of such representation must be made in essentially the same manner as disclosure of interests between or with public officials (see Sec. 24.60.070, above).

Sec. 24.60.110 ACTION ON A CONFLICT OF INTEREST

Under this section if a legislator knows or has been notified that he or she has a conflict of interest, the legislator must immediately resign the conflicting position; or get rid of the interest that caused the conflict; or disclose the conflict. Disclosure is to be made in essentially the same manner as disclosure of interests between or with public officials (see Sec. 24.60.070, above).

Sec. 24.60.120 STATE PROPERTY AND FUNDS

Pursuant to this section, the use of state property or funds for private gain is prohibited. However, there is an exception for state leases.

Sec. 24.60.130 SELECT COMMITTEE ON LEGISLATIVE ETHICS

In essence, this section establishes the Ethics Committee, consisting of a three-member subcommittee from each house. Members are to be appointed by the presiding officer with the concurrence of three-fourths of the full membership of each house, and no more than two members of each subcommittee can belong to the same political party.

Sec. 24.60.140 AUTHORITY OF THE COMMITTEE

This section provides that the Ethics Committee as a whole has authority over:

Proceedings involving the conduct of employees of legislative agencies;

Matters requiring action by both houses of the legislature; and

The issuance of advisory opinions.

Each subcommittee has authority over proceedings involving the conduct of members or employees of its respective house.

Sec. 24.60.150 ADVISORY OPINIONS

Pursuant to this section, a person covered by the Act can request an advisory opinion from the Ethics Committee as to whether or not the facts and circumstances of a particular case constitute a violation of ethical standards.

The Ethics Committee has thirty days to issue the advisory opinion. If it fails to do so within that period, the facts and circumstances of that particular case are automatically deemed not to constitute an ethical violation, unless there were material omissions or misstatements in the request for the advisory opinion.

When the Ethics Committee does issue an advisory opinion, that opinion is binding in any subsequent proceeding involving the same facts and circumstances, unless there were material omissions or misstatements in the request for the advisory opinion.

Advisory opinions are confidential unless the persons requesting them ask, in writing, that they be made public.

Sec. 24.60.160 PROCEEDINGS BEFORE THE COMMITTEE

This section generally empowers the Ethics Committee to initiate, receive, investigate and consider complaints against persons covered by the Act, but a complaint must be filed within four years of an alleged violation, unless the accused person has intentionally prevented the discovery of the violation.

A complaint must be filed in writing and under oath, and this can be done by a private person or by three or more members of the Ethics Committee.

No complaint can be filed or acted on in any way within sixty days prior to a state primary or general election, unless the complaint has been initiated by five or more members of the Ethics Committee.

Before acting on a complaint, a majority of the members of the Ethics Committee must pass a resolution defining the nature and scope of the inquiry, and all investigations must be conducted on a confidential basis.

Once the Ethics Committee proceeds to act on a complaint, written notice must be served on the accused person, who must be given an opportunity to explain the alleged misconduct, whereupon the Ethics Committee can summarily dismiss the complaint if it determines that even if the alleged facts and circumstances are true, they are not sufficient to constitute a violation of the Act.

After investigating the charges alleged in a complaint, the Ethics Committee must issue an advisory opinion which can merely recommend that a probable violation of the Act be corrected. The accused person can then simply comply with the recommendation and thus end the matter. However, the accused person can also request a hearing before the Ethics Committee, following which the advisory opinion can either be affirmed or amended.

If an accused person does not comply with an advisory opinion, or if the Ethics Committee determines that a violation has occurred that cannot be corrected as previously described, formal written charges must be personally served on the accused person, who then has twenty days to submit a written response, whereupon a time and place must be set for a formal hearing before the Ethics Committee, with notice thereof to the accused person as well as to the complainant, if any.

Unless the accused person otherwise requests, hearings before the Ethics Committee are closed to the public and are to be conducted pursuant to the following procedural and substantive rights to:

Be represented by counsel;

Be heard (i.e., to testify and present evidence and witnesses);

Subpeona witnesses;

Require the production of books and papers;

Have witnesses testify under oath;

Cross-examine witnesses;

Have the Ethics Committee base its findings on competent and substantial evidence, even though it is not bound by formal rules of evidence;

Have testimony recorded and evidence preserved and not be released to anyone else; and

Receive a free transcript of the testimony.

After a formal hearing, the Ethics Committee must submit a written decision signed by a majority of its members, along with a written order, which becomes a public record, determining only whether or not there was a violation of the Act. If the decision establishes that a legislator has violated the Act or has failed to cooperate with the Ethics Committee, specific details as to what constitutes the violation or failure to cooperate must be provided, and the decision can also contain recommendations as to appropriate penalties to be imposed. The decision will then be referred to the presiding officers of the legislature--and thirty days later the decision is to be made public--for disposition as the legislature deems appropriate.

If the proceedings involved a former legislator or a past or present legislative employee, and if the decision contains a determination that a violation of the Act occurred, the Ethics Committee must issue a public statement of its decision thirty days after it is made, whereupon the legislature must act on it as it deems appropriate.

Furthermore, this section provides that if a member or employee of the Ethics Committee divulges unauthorized information about a proceeding, that person is guilty of a class A misdemeanor.

Sec. 24.60.170 COOPERATION BY STATE AGENCIES

This section provides that state executive agencies must fully cooperate with the Ethics Committee or a subcommittee thereof, including the disclosure of financial and other records, to the extent allowed by state and federal law.

Sec. 24.60.180 DEFINITIONS

This section defines the terms "committee" and "person employed by a member of the legislature."

Fiscal Note for Senate Bill No. 257:

III ANALYSIS:

There are no guidelines in the bill for amount or level of staff or for amounts of travel and per diem. It is necessary, therefore, to establish a set of assumptions on which to build a fiscal note.

Using input from various legislators who worked on the bill, I have made the following assumptions:

Assumption 1: There will be no permanent staff at this time. Personal services and professional services will be contracted as needed; therefore, no office space or equipment will be needed. The commission will determine how the central files are to be kept.

Personal Services Contracts	20.0
Professional Services Contracts	20.0
Other Contractual Services	<u>10.0</u>
	50.0

Assumption 2: To establish a good average for travel costs, I have hypothetically assumed that the Commission is to be made up of members living in Nome, Bethel, Fairbanks, Anchorage, Kodiak, Juneau, Ketchikan, and will travel coach fare: 3 roundtrips to Juneau; 4 roundtrips to Anchorage; and 5 roundtrips to Fairbanks for meetings. There will be no more than an average of three days per month of travel and per diem for meetings. There be no more than an average of one meeting per month.

Per Diem -----	\$18,720
Travel -----	<u>\$25,385</u>
TOTAL Trvl/PD	\$44,105

Assumption 3: Additional costs, if any, for reports or copies made by other agencies for the Commission will be absorbed in that agency's operation budget.

Assumption 4: The Legislative Affairs Agency print shop can print the semi-annual summaries of decisions and advisory opinions.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB No. 257
 Title An act relating to standards of conduct of legislators and legislative
~~Request~~ employees and establishing a Legislative Ethics Commission
 Requested by: Senate State Affairs Date: April 19, 1983

II. FISCAL DETAIL

Agency Affected Legislative Affairs Agency
 Program Category Affected General Government
 BRU, Program, Or Subprogram(s) Affected Legislative Affairs Agency
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		-0-				
200 TRAVEL		44.1				
300 CONTRACTUAL		50.0				
400 COMMODITIES		-0-				
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS, ETC.		-0-				
TOTAL		94.1				

FUNDING (Thousands of Dollars)

GENERAL FUND		94.1				
FEDERAL FUNDS		-0-				
OTHER (Specify Source)		-0-				

POSITIONS

None

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

SEE ATTACHMENT

IV. DATE April 20, 1983 PREPARED BY Wally Harrison, Director, Admin. Svcs.
 AGENCY Legislative Affairs Agency
 Original: Legislative Finance PHONE 465-3850
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/82)

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

RECEIVED JUL 19 1983

Bill Sheffield, Governor

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

July 13, 1983

Honorable Charlie Bussell
Representative
Alaska State Legislature
P. O. Box 4-1325
Anchorage, AK 99509

Re: Common Law Conflicts
of Interest

Dear Representative Bussell:

As you know, none of the legislative ethics bills considered this session was passed. It was my hope that bills dealing with conflicts of interest for both legislators and public employees would be enacted so that definite and certain statutory standards would supersede the common law standards that now apply. As I pointed out in my letter of June 16, 1983 to Senator Vic Fischer, the imposition of common law conflicts of interest standards on citizen legislators in the state of Alaska is less than desirable. First, the common law standards are not well defined, producing uncertainty in determining what conduct is acceptable. In addition, the common law standards are strict, prohibiting not only actual conflicts of interest but also requiring avoidance of even the appearance of impropriety.

The common law conflicts of interest standards that are now in effect will be enforced by this office prospectively only; i.e., from the close of the legislative session. This is in accordance with my memorandum of December 28, 1982, in which I stated that enforcement action of the common law rules relating to conflicts of interest would be deferred until the end of the session, in order to give the legislature the opportunity to modify those rules. Since no action was taken, my decision to defer enforcement must be retracted. I recognize that some of you may have explored or entered into investment or business opportunities during the session in reliance on my decision to defer enforcement and on the presumption that a legislative ethics bill superseding the common law would be enacted. In those instances, even if the final arrangements were made after the end of the session, I will not take enforcement action based on the common law rules, unless, of course, the conduct is egregious (e.g., where the conflict also violates express civil or criminal statutes).

The purpose of this letter is not only to remind you that the common law standards are in effect and will be enforced during the interim, but also to provide you with some basic guidelines regarding conflicts of interest until statutory standards can be established, preferably during the next legislative session. In regard to state contracts and loans, the key to avoiding a conflict is the amount of discretion involved in administration of the loan or contract. As indicated in the December 3, 1982 opinion of this office, home loans and education loans are subject to fixed eligibility standards and little discretion is involved in their administration. Commercial loans, in contrast, involve a much higher degree of discretion, giving rise to a greater potential for influence or abuse. Thus, before entering into a state loan or contract, a legislator should examine carefully the amount of discretion involved, and avoid any situation in which there is potential for influence because of the degree of discretion. If the administrative procedures for granting a loan or contract are well-defined and minimal discretion is exercised in awarding the loan or contract under these procedures, the potential for undue influence should likewise be minimal, and the loan or contract can be accepted without fear of creating a conflict.

In regard to financial interests other than state loans and contracts, certain additional factors should be considered in attempting to avoid potential conflicts. These include:

1. whether your interest is of a type possessed generally by the public or by a large class of persons to which you belong;
2. whether your authority as a legislator is relatively far removed from any official action that could affect a matter in which you have a financial interest;
3. whether the effect that your action or influence could have on a matter in which you have a financial interest is insignificant or speculative; and
4. whether your financial interest is relatively insignificant.

These factors, taken together, should help you to judge whether there is potential for influence or abuse. If that potential exists, a financial interest should be avoided.

I hope this reminder will be of assistance to you in dealing with potential conflicts situations during the interim.

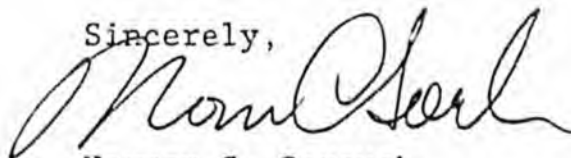
Common Law Conflicts
of Interest

July 13, 1983
Page 3

I trust that in the next legislative session the uncertainty of dealing with the common law standards will be cured with adoption of an ethics bill covering both legislators and public employees.

If you have any questions, please do not hesitate to contact this office. Assistant Attorney General Thomas M. Jahnke can assist you with conflicts problems. If he is unavailable, please contact Assistant Attorney General Diane T. Colvin.

Sincerely,



Norman C. Gorsuch
Attorney General

NCG:DTC:eja

Draft Amendments to CSHB 362(St. Affs.)

by Rep. M.M. Miller

1. Pg. 1 - L. 16 - Delete "must" and insert "should".
2. - L. 18 - After "legislators" add "and legislative employees".
3. - L. 25 - After "chapter." add "This chapter shall be liberally construed to promote high standards of ethical conduct in the legislature."
4. - L. 29 - After "legislature." insert "Except for AS 24.60.090,".
5. Pg. 2 - L. 11 - Delete "specifically repeal" and insert "supersede".
6. Pg. 3 - L. 4 - After "less" insert "except as set forth in subsection (c)."
7. - L. 11 - Insert the following subsections:

(c) A state agency may enter into a contract without resort to the competitive bidding process under AS 37.05.230 when, in the judgment of the agency the property or services should not in the public interest, be acquired through competitive bidding. Written justification for the noncompetitive award of such contract shall be made a matter of public record and shall be filed with the ethics commission at least ten days before such contract is entered into.

(d) In addition to any other penalty provided by law, any contract entered into by the state in violation of this chapter is voidable on behalf of the state; provided that in any action to avoid a contract pursuant to this section, the interests of third parties who may be damaged thereby shall be taken into account, and the action to void the transaction is initiated within sixty days after the determination of a violation under this chapter. The Attorney General shall have the authority to enforce this provision.

8. Pg. 6 - L. 13 - After "lobbyist" insert "as defined by AS 24.45.171,".
9. - L. 19 - Delete "A gift of travel and hospitality received by a member of the legislature in obtaining information on matters of legislative concern is not prohibited by this section."
10. Pg. 7 - L. 15 - Delete the entire section and insert the following:

A person to whom this chapter applies who knowingly has a conflict of interest or has been notified of a conflict of interest shall

(1) Immediately divest the interest that has resulted in the conflict; or

(2) Prepare a written statement describing such matter and the nature of the conflict, and

Draft Amendments to CSHB 362(S.A.) cont.

(A) in the case of a legislator, deliver within 48 hours, copies of the statement to the commission and the presiding officer of respective body of the legislator, who shall cause such statement to be printed in the journal or if the legislature is not in session such statement shall be printed in the first journal of the following legislative session; or

(B) in the case of an employee of the legislature covered by this chapter, deliver within 48 hours, a copy of the statement to the commission and to their immediate superior, if any, who shall assign the matter to another employee, or if the employee has no immediate superior, the employee shall take such steps as the commission shall prescribe or advise to remove the employee from influence over action or decision on the matter.

11. Pg. 10, L. 21 - After "opinion" insert ", or until the opinion is amended or revoked by the commission."

23 May 1983

Representative Charlie Bussell
Pouch V
Juneau, Alaska 99811

Re: Legislative Ethics -- SB 257 and HB 362

Dear Representative Bussell:

For the past two years, the FREE Committee has been concentrating on legislative ethics reform and is on record as recommending that a code of ethics be added to the Uniform Rules. Enclosure 1 is a copy of that recommendation.

The Committee recently completed a careful review of the ethics and conflict of interest laws in all 50 states and based upon that review identified several areas that should be addressed in any ethics legislation considered by the Legislature. Enclosure 2 is a copy of suggested changes to the existing Alaska law that was forwarded to the Joint Legislative Reform Committee in January.

In developing its recommendations, the FREE Committee was also concerned that amendments to the present law not become so restrictive that good legislators with other sources of income be prohibited from serving the public. Therefore, unlike the provisions in SB 257 and HB 363, the FREE Committee proposal would not prohibit public officials from obtaining loans or contracts from the state, so long as the suggested safeguards were incorporated.

We believe that public officials have the right to expect that ethical standards be clearly defined so that ethical problems can be avoided. With these things in mind, the Committee drafted language which if adopted would more clearly identify problem areas and which would provide for binding Attorney General opinions where the law is not clear.

The main difference between the FREE Committee proposal and the versions being considered by the legislature is that the FREE proposal addresses illegal activity and the legislative versions address improper but not necessarily illegal behavior. This distinction is significant, because the state constitution requires the legislature to be the sole judge of the improper behavior of legislators. By adding a code of ethics to the Uniform Rules, similar to that proposed in HCR 33 and SCR 21

(copies enclosed), the legislature could address infractions as a whole body, assigning various members the task of investigating complaints.

After careful consideration, the Committee rejected the approach taken in all versions of SB 257 and HB 362. This legislation would create a new commission whose main purpose is to evaluate and investigate legislator and legislative employee activities for conflicts and to recommend what action should be taken by Legislature. While this is a popular method chosen by other states and is superficially attractive, the Committee rejected this idea for four reasons.

First, this would unduly lengthen the process by creating another layer of government and since nearly every potential conflict would have to be run through the commission to determine whether there is in fact a conflict, the expense could be quite high. In fact, these bills should contain a fiscal note. Even after the process is completed, only the Legislature can finally decide whether disciplinary action should be taken.

Second, we are opposed to creating new governmental bodies if other less expensive and complicated approaches would provide the same or better results.

Third, this could result in politically motivated investigations and less than even handed treatment of persons who are investigated. While some of the versions envision a commission composed of a mix of legislators and citizens, the risk of politically motivated investigations is still real. Unless the citizen members were chosen from the population as a whole by lottery, they would be political creatures and not immune from political motivations.

Fourth, we believe strongly that a public official is a citizen who is serving the public and, therefore, deserves to know what activities are prohibited before being investigated. The present bills do not clearly identify improper behavior.

In summary, the FREE Committee believes that it is important to ensure that our legislators and their employees behave properly and avoid acting solely to enrich themselves. However, we believe that this goal can be accomplished with minimal rules and without creating a new and expensive body. The FREE Committee wants good legislators and, therefore, urges you to vote no on SB 257 and HB 362. We strongly believe no bill is better than a poor bill.

Sincerely,

Cheri C. Jacobus
Cheri C. Jacobus
Chairman, Legislative Study

General Federation of Women's Clubs
Anchorage FREE Committee

LEGISLATIVE STUDY COMMITTEE REPORT

Part I

Second Printing...January 1981

P.O. Box 4-2955
Anchorage, Alaska 99509

FREE Legislative Study Committee Members

Jan Faiks, Chairman

Jan Bomhoff, Vice-Chairman

Darlene Holt, Project Coordinator

Esther Brautigan

Teddy Cartwright

Connie Chambers

Betty Cuddy

Beth Henderson

Annie Laurie Howard

Pauline Martens

Priscilla Thorsness

Bobbye Young

Invited Participants

Bob Fleming - Resource Development Council

Cliff Groh - Former Legislator

Dave Harbour - Registered Lobbyist

Jean Peterson - Common Sense for Alaska

Contributing Legislators

Senator W. E. "Brad" Bradley

Senator Mike Colletta

Senator M. E. Dankworth

Senator Bettye Fahrenkamp

Senator Frank Ferguson

Senator Tim Kelly

Senator Patrick Rodey

Senator Terry Stimson

Senator Arliss Sturgulewski

Representative C. V. "Chat" Chatterton

Representative Samuel Cotten

Representative Richard Halford

Representative Joe L. Hayes

Representative Terry Martin

Representative Russ Meekins, Jr.

Representative Joe D. Montgomery

Representative Joyce Munson

Representative Randy Phillips

Representative Richard L. Randolph

Senator-elect Vic Fischer

Senator-elect Don Gilman

Representative-elect Mitch Abood

Representative-elect Charles Anderson

Representative-elect David Cuddy

INTRODUCTION

The Anchorage FREE Committee is the product of a nation-wide program designated by the General Federation of Women's Clubs. FREE is an acronym for "Federation's Role in our Enterprise Economy", and is dedicated to the preservation of America's enterprise economy. Through active participation in the GFWC FREE Enterprise Program, we can:

- make our nation's lawmakers aware of the impact which 600,000 Clubwomen can have by promoting the American Free Enterprise system.
- broaden public understanding of the American economic system.
- provide a mechanism by which GFWC members can become actively involved in the legislative process at federal, state and local levels.

The free enterprise system is the economic counterpart of a politically free society. It provides economic liberty, which means that the tools of production are privately owned; producers are free to produce and offer in a competitive market what they believe consumers want; consumers are free to buy what they choose.

While monitoring the activities of the Alaska State Legislature, it has become apparent to the members of the Anchorage FREE Committee that legislative rules (or lack of)

and procedures could be used to circumvent the wishes of the majority. Often, it seemed, important decisions and appropriations were made by a very few legislators. A dozen legislators in key positions distributed more than \$1½ million worth of non-competitive contracts and 20 lawmakers split \$3.2 million in interim committee funds, (ref. A.L. ALASKA WEEKLY, 6/27/80, 7/4/80; THE ANCHORAGE TIMES, 10/7/80). Since the political and economic structures of our American society are closely interrelated, each system must be preserved in order that the other might survive.

In an effort to educate ourselves as well as the citizens of Alaska, FREE formed a Legislative Study Committee in September of 1980. The purpose of the committee was to try to discover how policies and procedures of our state legislature might be modified or changed in order to make the legislative process run smoother, allow for additional public input, and make it less vulnerable to abuse.

We have interviewed or received written comments and suggestions from twenty-four legislators regarding our topics. Our sessions with the legislators, involving over 100 hours of discussion, were extremely productive and we are grateful for their willingness to meet with us and share their time and ideas.

At the request of several lawmakers during our discussions, FREE and Common Sense for Alaska have written all states requesting their uniform rules. We are currently

analyzing and comparing the other states' uniform rules to determine how they have avoided, through rules and procedures, problem areas which have surfaced in the Alaska Legislature. A complete report comparing these uniform rules will be made available at a later date.

On the basis of our research and discussions to date, however, FREE feels that there are some legislative rules that warrant immediate attention and change. We have included as much data from the rules of other states as is currently available. The following report deals with these recommendations.

SUMMARY OF RECOMMENDATIONS

The following points summarize the conclusions of this study:

- I. Two consecutive conference committees should be appointed, deliberate in good faith, and be unable to reach a compromise before granting powers of free conference to a third committee. Free conference powers would be granted for those specific areas of disagreement only. Non-germane amendments and sections would be prohibited. All conference or free conference bills should be printed and placed on legislators desks twenty-four hours prior to voting. All budget related conference committee meetings should be open to the public. (pp. 6-9)
- II. A simple "bill content" rule is needed to define "germane" and prevent bill "piggybacking" from occurring. The rule should read, "No bill shall be passed by either house containing more than one subject, which should be clearly expressed in the title." (pp. 10, 11)
- III. The public should be informed of the standing committee meetings and their agendas at least five days prior to the meeting. (pp. 12, 13)
- IV. The House and Senate Finance Committees should meet jointly for the purpose of holding public hearings or considering any proposed or pending legislation. (pp. 14, 15)
- V. The procedures of the standing committees are vital to the quality of legislation. Precise procedures involving a majority of the committee working in the open would serve to maintain and improve the integrity of the committee system. Fiscal impact statements and legislative intent should be included with all bills. The committee report should include one of three recommendations from each member - "do pass", "do pass as amended", or "do not pass". (pp. 16-18)
- VI. No interim committees should be provided except those authorized by the state constitution, or either or both houses jointly may by resolution or statute, provide for the appointment of interim committees. (pp. 19, 20)

- VII. The legislative session should be limited to 120 days. Any extension beyond 120 days should require a 2/3 vote of both houses and include a "limited call" provision. The extension itself should be for a specific number of days. (pp. 21, 22)
- VIII. In order to encourage the concept of a citizen legislature, there should be a limitation on the number of consecutive terms a Representative and Senator may serve. The recommendations are two 4-year terms for a Senator and four 2-year terms for a Representative. An individual could prolong his years of service by alternating legislative houses every eight years. (pp. 23, 24)
- IX. A Code of Ethics should be added to the uniform rules. General aspects should include a definition of ethical conduct, conflict of interest provisions, responsibilities of legislative staff in relation to campaigning and privileged information, and a section dealing with compensation for services rendered. A disciplinary mechanism should be established to deal with alleged violations. (pp. 25-27)
- X. A simple, precise procedure is needed in the awarding of legislative professional service contracts. Requesting committees and legislators should follow specific procedures in requesting professional services. The Legislative Affairs Agency or other existing agency should have the authority to advertise, select and monitor all contracts. (pp. 28-30)

I.

FREE CONFERENCE COMMITTEE

According to the majority of the responding legislators, the use of the FREE Conference Committee is the most abused and dangerous of our Alaska legislative procedures.

In the normal course of events, when a bill is passed by both the House and the Senate, but with differences, a conference committee is appointed. Members of both houses sit on this committee, and their responsibility is to reach a compromise based solely on the material appearing before them in the two bills. The conference committee must choose between two existing concepts, and cannot add new ideas or phraseology, (ref. New Hampshire Joint Rule 20(h), California Joint Rule 29.56).

If the members of the conference committee cannot agree on amendments, or one or both houses refuses to adopt its report, then a Free Conference Committee is appointed. Historically and traditionally, the granting of the powers of free conference is the absolute final step in resolving a deadlock. New language and information germane to the issue can be introduced in an attempt to reach a compromise. The granting of the powers of free conference appears to be a perfectly logical outgrowth of a conference committee which is unable to reach a compromise, (ref. Alaska Uniform Rule 41).

Unfortunately, the free conference committee has been widely abused in the Alaska legislature. Legislators are currently, even before the start of the new session, campaigning for spots on various free conference committees. The legislators are assuming that, first, the House and Senate will surely disagree on a bill, and secondly, that a conference committee will not be able to choose between the bills to arrive at a compromise. In Louisiana, specific guidelines set forth the selection of conference committee members, (ref. Louisiana House Rule 6.15). California prohibits powers of free conference on the budget bill, (ref. California Joint Rule 29.5(c)).

As a practical matter in Alaska, conference committees are "granted the powers of free conference" without going through the conference committee process. Therefore, a non-restricted free conference committee has enormous power to create, add, delete and alter bills without benefit of standing committee approval or public hearings.

Part of the problem with free conference committees is their lack of adherence to the word "germane". Webster defines germane as "closely related, appropriate, pertinent, to the point". At the present time, laws are passed that have no relation to the intent of the original bill, or amendments are added that are totally unrelated in context and intent to the rest of the bill.

Due to the problems encountered with the free conference committee and the lack of a clear, specific germaneness

rule which is adhered to by our legislators, it is tempting to recommend the total elimination of the free conference committee. In many of our sister legislatures in the Lower 48 (10 out of 15 studied), the powers of free conference are not allowed; if the conference committee cannot compromise, the bills are dead.

However, the FREE Committee feels it is not the powers of free conference that are the problem, but rather the guidelines for its use and strict adherence to "germaneness" which is badly needed in Alaska.

FREE recommends the following rule changes in the use of the conference and free conference committees:

1. Two consecutive conference committees should be appointed, deliberate in good faith, and be unable to reach a compromise before granting powers of free conference to a third committee. The specific areas of non-agreement would be clearly documented and signed by all conference committee members. Free conference powers would be granted for those specific areas of disagreement only. (Ref. North Carolina Assembly Rule 44(a-c), California Joint Rule 29, North Dakota Joint Rule 6(e), New Jersey Joint Rule 1-6, Pennsylvania Senate Rule 21(1-3).
2. Non-germane amendments and sections should be prohibited and not allowed under any circumstances. (Ref. New Hampshire Joint Rule 11 and 20.(d)(e)(h), West Virginia Joint Rule 3).

3. All conference or free conference bills should be printed and placed on lawmakers desks twenty-four hours prior to voting. (Ref. New Hampshire Joint Rule 20(d)(e)(h), North Dakota Senate Rule 54, Pennsylvania Senate Rule 21.1-3).
4. All budget related conference or free conference committee meetings should be open and readily accessible to the public. (Ref. California Joint Rule 29.5(a)).

California has a very specific rule relating to appropriation bills which bears further investigation. Number 29 of the Joint Rules states,

"It shall require an affirmative recorded vote of 2/3 of the entire elected membership of each house to adopt any conference report affecting any bill which contains an item or items of appropriation which are subject to subdivision".

Actually, there are several states that have other than majority vote requirements for appropriation bills. We feel this is an area that needs further investigation, and FREE will recommend rule changes on this topic in our next report.

II.

"BILL CONTENT" RULE

Currently, bill "piggybacking" is practiced in the Alaska Legislature, even though Alaska Uniform Rule 34 prohibits such action. This process adds non-germane amendments to existing bills in order to facilitate the passage of weak or controversial bills.

The potential for abuse is obvious in that a particular bill favored by a few can be piggybacked onto another popular bill favored by the public, and therefore be sure to pass. Or, non-germane amendments dealing with other topics can be piggybacked to not only facilitate their passage, but to prevent adequate public hearing on the topic to be added.

Many states have solved this problem by adopting in their joint rules a very simple, but certainly far reaching "bill content" rule. The FREE Committee highly recommends this or a similar rule to stop the piggybacking process.

Simply stated, and quoting from the Arkansas Joint Rules Sec. 4, "No bill shall be passed by either house containing more than one subject, which should be clearly expressed in the title". (Also ref. North Dakota Senate Rule 31d, West Virginia House Rule 97, Pennsylvania Senate Rule 14.3). All amendments must remain within the scope of the bill being considered, or all amendments must be "germane".

(Ref. North Dakota Senate Rule 49, Pennsylvania Senate Rule 15, California Joint Rule 9, North Carolina Assembly Rule 45, Washington House Rule 31, West Virginia House Rule 113, Main Senate Rule 11).

Legislators could then vote on the merit of a bill without having to consider the political consequences of a piggyback, and the rights of the majority would be protected. Each piece of legislation should be considered on the basis of its own merit. (Ref. West Virginia House Rule 62, New Hampshire Joint Rule 11, Florida House Rule 11.8, Washington House Rule 31).

III.

PRIOR NOTICE OF COMMITTEE MEETINGS AND AGENDA

At the present time, there is not adequate prior notice of committee meetings and their agendas. Citizens with interest in a particular bill are often unable to adequately respond in writing or in person unless advance notice is given.

There, FREE recommends the public be informed of the standing committee meetings and their agendas at least five days prior to the meeting. (Ref. North Dakota Senate Rule 43, Arkansas Senate Rule 33, New Jersey Rules of Assembly 10.6, California Joint Rule 36(2), Pennsylvania Senate Rule 16.8, Florida House Rule 6.18, Washington House Rule 78). In an emergency, 2/3 majority of the committee can vote to suspend the public notice rule. (Ref. Arkansas Senate Rule Sec. 33). Public notice and agendas could be placed in the press room and throughout the network of legislative information offices. (Ref. North Carolina Assembly Rule 143-318:12).

FREE feels that there are a great many advantages that would occur as a result of this prior notice. Legislation would have the benefit of additional public scrutiny by allowing for more public input. Legislators would be forced to pre-plan their schedules, which would in turn result in a more organized committee system, and help to alleviate some of the "end of the session crunch".

FREE is aware that there will be protests that one cannot give advance public notice of committee meetings and still expect the legislature to complete its work in 120 days as recommended elsewhere in this report. Certainly it may not be easy at first, but the need for the public to be better informed must take precedence over legislative convenience.

Note: The State of Pennsylvania requires 30 days published notice in the locality affected by a bill prior to its introduction, (ref. Pennsylvania Senate Rule 5, and also Florida House Rule 7.4).

IV.

FINANCE COMMITTEE REFORM

FREE recommends that the House and Senate Finance Committees meet jointly for the purpose of holding public hearings or considering any proposed or pending legislation. (Ref. California Joint Rule 37).

A joint hearing would eliminate the need for state agencies, municipalities, school districts and other entities requesting funds to travel and testify, twice. The financial savings would be significant to the agencies and both houses would receive the same budgetary information. This is a worthwhile consideration for other committees as well. (Ref. Arkansas Joint Rules Sec. 25, New Hampshire Joint Rule 14, California Joint Rule 3, Louisiana Senate Rule 66 and House Rule 6.27, Maine Joint Rule 13, West Virginia Joint Rule 11, 19).

By meeting jointly, coordination of action by the two houses should become automatic and efficiency in pursuing budget matters should be enhanced. A time table should be set early in the session by the Joint Finance Committee for the finalization of the budget. (Ref. Arkansas Senate Rule 93(J)). Every new item added to the budget should list program implications, back-up material, criteria and fiscal impact.

Historically, the budget derives from the governor's initial budget proposal submitted to each new session of

the legislature. Literally thousands of hours have gone into the preparation and justification of this budget by administrators and their staffs throughout the state. After in-depth review by the separate House and Senate Finance Committees, different versions of the budget are passed in each house, and thus the budget ends up in a free conference committee.

It is in the free conference committee that budgetary abuses occur. New items are added based on political motives and "a slice of the pie" theory. There seems to be little or no research done on these new items, and some justification of the new items is not made apparent. Some states have a constitutional limit on such appropriations. (Ref. Arkansas Senate Rule 93(L)). Hopefully, a Joint Finance Committee can work to decrease these abuses and eliminate the need for the budget free conference committees.

V.

STANDING COMMITTEES

The procedures of the standing committees are vital to the quality of legislation, as well as the efficiency and organization of the entire legislature. Legislators should strive to maintain and improve the integrity of the committee system.

FREE feels the following recommendations would enhance standing committee operations:

1. All bills introduced in the name of the committee should have the prior approval (of introduction) by a majority of the committee members. (Ref. Louisiana House Rule 8.14, California Joint Rule 10.7, Florida House Rule 7.1-, Washington House Rule 79).
2. At least a majority of all members constituting a standing committee should be required to report a bill out of committee. (Ref. Pennsylvania Senate Rule 16.16, Arkansas Senate Rule 34(d) and 36, New Jersey Rules of Assembly 10.6, California Joint Rule 62.(c), Florida House Rule 6.32).
3. No action should be taken on any measure outside of a duly constituted committee meeting in which a quorum is present, and such meeting should be open to the general public. (Ref. Washington House Rule 79, Florida House Rule 6.25, New Jersey Rules

of Assembly 10.5, West Virginia House Rule 83, Nevada Senate Rule 13 and 53).

4. Elimination of public hearings or similar measures which detour or abbreviate the bill process should be avoided. (Ref. Louisiana House Rule 6.11, New Jersey Rules of Assembly 10.5, Washington House Rule 79).
5. Any bill or resolution which would have fiscal impact on the state should have a note stating a reliable estimate of the fiscal effect of such a bill. This information could be prepared by the Legislative Finance Division. (Ref. Louisiana Joint Rule 44, New Hampshire Joint Rules 5-a, New Jersey Rules of Assembly 10:11, 15:2(a)-15:2(g), California Joint Rule 37.1, Maine Joint Rule 20, West Virginia House Rule 95a, Florida House Rule 7.16, North Carolina Assembly Rule 38, Delaware House Rule 23).
6. Each committee report should include one of three recommendations from each member - "do pass", "do pass as amended", "do not pass". We feel "no recommendation" should not be allowed, since a committee member who has participated in the public hearings and committee deliberations should be able to make a specific recommendation in the committee report. (Ref. Arkansas Senate Rule 34(a), New Jersey Rules of Assembly 10.6, West Virginia House

Rule 98, Delaware House Rule 17(d), North Carolina Assembly Rule 36, Florida House Rule 6.34, Pennsylvania Senate Rule 16.12).

7. Each committee report should include a statement of the legislative intent of all bills that address themselves to major innovation or change in public policy. (Ref. Florida House Rule 6.33, Arkansas Senate Rule 34(c), New Jersey Rules of the Assembly 15:4, Maine Joint Rule 31, Delaware Senate Rule 8).

Many states have deadlines for reporting bills out of the standing committee to which they have been assigned. (Ref. New Hampshire Joint Rules 10(a-c), North Dakota Senate Rule 38 and 44, Florida House Rule 6.29, Maine Joint Rule 13). In addition, there are early deadlines for the introduction of bills. (Ref. Louisiana Joint Rule 5, New Hampshire Joint Rule 12, Arkansas Joint Rule Sec. 19 and 24, West Virginia Senate Rule 14, Washington House Rule 19). If the standing committees in the Alaska Legislature are having problems organizing and accomplishing their work loads, further consideration should be given to these concepts.

VI.

INTERIM COMMITTEES

According to the majority of legislators interviewed, interim committees are primarily needed and used by legislators to keep good staff year-round, to reward political supporters and to meet the demands of their constituents during the interim. FREE feels that interim committees are not being used in ways that benefit the citizens of Alaska.

Used wisely and with restraint, interim committees could be a legitimate tool of the legislature, but recent legislatures have used them with neither wisdom nor self-restraint. Dissatisfied voters have rejected propositions in 1978 and in 1980 to expand and legitimize interim committees.

FREE recommends that no interim committees be provided except those authorized by the state constitution.

In those cases where there is a need to study or promote a topic, the task can simply be assigned to the appropriate standing committee which has a professional staff, or the legislators can authorize an interim committee by statute. (Ref. California Joint Rule 36, Statutes of Nevada 1968, 1973). This insures that a majority of legislators must agree to the necessity of an interim committee prior to its creation.

In both cases the assumption is made that the request be substantiated by a clear purpose and objective, statement of who will do the work, budget limitations, and reporting procedures. The committee ceases to exist upon completion of its task.

During the discussion on interim committees, there was a great deal of time spent evaluating the demands made on legislators by their constituents between sessions - phone calls, answering mail, attending meetings and generally being responsive to the public. The suggestion was made that secretarial help or legislative aides be provided. FREE does not recommend such staff at this time. The feeling is that meeting these needs is part of the job of being an elected citizen legislator, and that those for whom this is a burden should perhaps reconsider their availability to serve.

VII.

LIMIT ON LEGISLATIVE SESSION

There seems to be growing support throughout the state for imposing a limit on the number of days allowed for each legislative session. FREE concurs with this sentiment, and proposes a limit of 120 days. (Ref. Wyoming State Constitution, Florida State Constitution, Nevada State Constitution). Any extension beyond 120 days should require a 2/3 vote of both houses, and should include a "limited call" provision, whereby the topics to be addressed must be limited and pre-stated, and the extension itself should be for a specific number of days. (Ref. New Hampshire Joint Rule 24).

FREE feels that a session limit would enhance the concept of a citizen legislature, in that a shorter (the tendency has been for longer and longer sessions) and specific time frame would facilitate participation as lawmakers by a greater number of citizens.

The Alaskan legislature has the distinction of being the most costly (per capita) of any state in the union. A limited session would be cost efficient in that salaries, per diem, rents and other costs related to time would be decreased.

A limited session would encourage legislators to work together as a matter of expediency. A deadline

necessitates working and accomplishing goals in the most efficient and organized manner.

Perhaps the quality of legislation would be enhanced. Only those issues which have broad support and concern would be brought before the legislature. There would be less time to create problems where none exist.

Finally, a limited session would help to stop the growing talk from legislators of the need for a full time staff and legislature. The staff, in turn, would be better able to plan for additional employment after the session.

VIII.

LIMIT TERMS OF OFFICE

The FREE Committee strongly believes in the concept of a citizen legislature versus professional lawmakers. For this reason, and others, FREE feels that there should be a limitation on the number of terms a Representative and Senator may serve. Surprisingly, a good portion of the responding legislators favored this concept.

FREE feels that a limitation would serve as an incentive for more citizens to seek elective office - the perception being that incumbents are generally pretty difficult to unseat. New faces bring fresh approaches to programs and issues, needed at all times, but especially now in Alaska with its vast natural resource wealth.

When legislators remain in one house for a long period of time, excessive power over colleagues and staff seems to develop, as do legislative cliches. By dispersing the concentration of power, it will be more difficult for a handful of "long time" legislators to control legislation contrary to the wishes of the majority.

One legislator commented during the discussions that it was difficult for even the "good guy" legislators to remain free of obligations to their colleagues. In the lawmaking process there is always give and take, and legislators who have been on the job for a long time will inevitably build up a certain amount of "favors due" and

"favours owed", so that it becomes increasingly difficult to judge matters under consideration solely on their merit.

FREE recommends the following limitations on the terms of office:

1. Senate - two 4-year consecutive terms.
2. House - four 2-year consecutive terms.
3. Present incumbents would begin counting their terms with the effective date of the law.

Using FREE's formula, legislators popular with their constituents could remain in the legislature, but would have to change Houses every eight years. Thereby, the right of the citizen to choose his lawmakers remains intact.

CODE OF ETHICS

Any public office holder in a free government is entrusted with the security, safety, health, prosperity and general well-being of those whom he serves. With such a trust, high moral and ethical standards which produce the public's confidence should be the goal of every legislator.

FREE recommends that a code of ethics or standards of conduct be added to the uniform rules. Parameters for acceptable and unacceptable behavior must be drawn so that legislators know what kind of behavior to expect from one another. It is difficult to confront and correct unethical activities until the guidelines are drawn and understood by all.

General aspects of the Code of Ethics should include, but not be limited to, the following:

1. Any conflict between private interests and official duties must be avoided. No state legislator should accept any employment which could impair his independence and integrity of judgment nor should he exercise his position of trust to secure unwarranted privileges for himself or others. (Ref. Maine Legislative Code of Ethics, New Jersey Legislative Code of Ethics 2:1.a, California Joint Rules 44.(a)).

2. Members of the legislature should not directly or indirectly receive or agree to receive any compensation for any services which one knows or has reason to believe is given with the intent of influencing him in the performance of his duties as a legislator. (Ref. New Jersey Legislative Code of Ethics 2:1.6, California Joint Rules 44.(3)).
3. Legislators should be directly responsible for the ethical conduct of their staff. (Ref. California Joint Rule 44(f), Florida House Rule 5.11).
4. Legislators should notify the leadership prior to taking any action or voting upon any bill in which he or any member of his immediate family has a personal or professional interest which ensures his private gain or the gain of any principal by whom he is retained or employed. The legislator should disqualify himself from the vote in which he has a conflict of interest. (Ref. Florida House Rule 5.10, California Joint Rules 44.(s), Pennsylvania Senate Rule 22.2, Washington State Constitution Article 2, Sec. 30).
5. Legislative staffs should not be assigned to campaign or fund raising duties; legislative staff should not be considered to be political organizations.

6. Legislators should be prohibited from raising campaign funds during the legislative session.

(Ref. New Jersey Legislative Code of Ethics 2:10.)

New Jersey has developed a comprehensive manual entitled "Legislative Code of Ethics" which would serve as an excellent resource instrument. In addition, North Carolina includes with their General Statutes a thorough "Code of Legislative Ethics".

It follows that once a Code of Ethics is established, some sort of mechanism needs to be implemented to deal with alleged violations. Many states have detailed disciplinary procedures which would make excellent guidelines. (Ref. Pennsylvania Senate Rule 37, 38, Illinois House Rule 12, New Jersey Joint Rule 19(a,b), California Joint Rule 45(a-p), North Carolina General Statutes Article 14, Part 3).

X.

PROFESSIONAL SERVICE CONTRACTS

FREE feels it is extremely important that the new legislature adopt very specific professional service contracting procedures. We are gratified by the concern expressed by many legislators in relation to this subject, but the voiced concern must be developed into a solid, practical set of rules.

FREE recommends the following guidelines:

1. The Legislative Affairs Agency or another existing agency should be in control of all professional service contracts. (Ref. New Jersey Rules of Assembly 10:12).
2. The purposes and objectives of the professional service desired should be clearly defined in written form by the committee or legislator requesting the service, along with a statement of reasons why the administration or legislative staff could not meet the need.
3. The parameters and scope of the service required should be pre-determined and included in the written request.
4. A time frame for commencement and completion should be indicated.
5. The request, including items 2-4, should be forwarded to the controlling agency.

6. The agency should advertise throughout the state.
7. The agency should analyze the bid proposals, ranking the proposals in 1, 2, 3, . . . order.
8. A contract would be negotiated by the legislative agency with the #1 responder, moving on to #2 or #3 until a satisfactory contract is negotiated.
9. The agency should monitor the project and determine if the finished product meets the desired and stated criteria prior to any disbursement of funds.
10. A report should be made available to the public no later than 10 days after it is due to the committee.
11. The final report should include on the title page the name of the requesting committee, the name of the firm providing the service, and the total cost of the report or project.
12. Some provision must be made for needed emergency information when the above procedures cannot, for reasons of time, be followed. FREE suggests any professional service contract needed which cannot follow the prescribed procedures must be approved by 2/3 vote of the house requesting the service.
13. Contracts may be entered into without going through steps 6 and 7 provided the amount of the contract does not exceed \$2,500, and no one

entity receives contracts in excess of \$10,000
in each calendar year.

CONCLUSION

Throughout history, frustration and apprehension have been felt by citizens of their states regarding the actions taken by their state legislatures. Numerous examples of misdeeds have aroused public outcry, which in turn has resulted in changes in procedures.

In comparison to its sister legislatures in the Lower 48, the Alaska State Legislature is a young entity. Currently, the Alaska legislature is undergoing "growing pains", but under a different, and more difficult, set of circumstances than those of other states.

In the Lower 48, legislative activity was, and still is, watched by dozens of news reporters representing numerous small towns and counties, as well as the larger metropolitan areas. This results in close scrutiny of legislative activity, and a better informed public.

Closely tied in with media coverage is the accessibility of the legislative halls to the general population, which also leads to closer scrutiny of legislative activities and greater awareness by the general public of their elected representative's activities.

Finally, when comparing Alaska's legislature with that of other states, one very significant factor is without precedent - no other state has ever had such a huge budget surplus, per capita.

A blessing, yes, and yet a potentially destructive force demanding extreme caution in its management.

Because of these differences, it is incumbent upon our elected officials to follow sound, accountable legislative procedures. While other states have undergone a gradual maturation process over the years, we do not have that luxury. Alaska's state government must do in a couple of years what other states have done in at least sixty years or more (excluding Hawaii).

This, then, is a major challenge facing our Alaska State Legislature. It will require changes in thinking and in ways of conducting legislative business. But the people of Alaska, and our elected officials in particular, are not unfamiliar with challenges. Citizens and legislators, working together, have an opportunity to create a noble and splendid existence.

BIBLIOGRAPHY

Parliamentary Manual of the Senate, 72nd General Assembly,
State of Arkansas.

Permanent Standing Rules of the Assembly, State of
California, 1979-80 Session.

Delaware State Senate Rules, State of Delaware.

House of Representatives 130th General Assembly Rules,
State of Delaware.

The Rules, 1980, Florida House of Representatives.

State of Illinois, House of Representatives Rules of the
81st General Assembly.

State of Illinois, Rules of the Senate of the 81st General
Assembly.

Rules of Order of the House of Representatives, 1980,
State of Louisiana, (Rev. June 1, 1980).

Rules of Order of the Senate, State of Louisiana, (Rev.
April 23, 1980).

109th Legislature, State of Maine, 1979 Senate and House
Registers.

Joint Rules, State of New Hampshire, 1979.

Rules of the House, State of New Hampshire, 1979.

Rules of the Senate, State of New Hampshire, 1979.

House Rules, State of Nevada, September, 1980.

Joint Rules, State of Nevada, September, 1980.

Senate Rules, State of Nevada, September, 1980.

Legislative Code of Ethics, State of New Jersey,
1980-81.

Members and Officers Rules Committees, New Jersey State
Senate, 199th Legislature, 1st Session, 1980.

State of New Jersey, Rules of the General Assembly, 198th
Legislature, 1978.

1979 North Carolina General Assembly House of Representatives
Rules Directory.

1979 North Carolina General Assembly Senate Rules Directory.

46th Legislative Assembly, State of North Dakota, Senate
and House Rules and Committees, 1979.

Rules of the House of Representatives, Commonwealth of
Pennsylvania, 1979.

Rules of the Senate, Commonwealth of Pennsylvania, 1980.

Permanent Rules of the House of Representatives, 46th
Legislature, State of Washington, 1979.

Permanent Rules of the Senate, 46th Legislature, State
of Washington, 1979.

Rules of the 64th Legislature of West Virginia, 1979-80.

Rules, Senate and House of Representatives, 44th State
Legislature, State of Wyoming, 1978.

DELETIONS ARE BRACKETED AND ADDITIONS ARE UNDERLINED

(The following section changes filing requirements for the Alaska Public Offices Commission to be consistent with the other changes. Primarily these changes address inequities created by the law's requirement that nondependent children's income and spousal income be reported but not that income of persons living together. The changes are less wordy and the dollar amounts are more realistic.)

* Section 1. AS 39.50.030 is amended to read:

Sec. 39.50.030. Contents of Statements. (a) Each statement shall be an accurate representation of the financial affairs of the public official or candidate and shall contain the same information for each member of his family or household as [specified in (b) of this section] defined in AS 39.50.200, to the extent that it is ascertainable by the public official or candidate. [An asset or liability under \$500, household goods, and personal effects need not be identified.]

(b) Each statement filed by a public official or candidate under this chapter shall include:

(1) the source of all income over [\$100] \$500, including capital gains, whether or not taxable, received by him [or his spouse or dependent child of his or nondependent child of his who is living with him during the preceding calendar year] , his family or member of his household;

(2) the identity, by name and address, of each business in which he or [his spouse or dependent child of his or nondependent child of his who is living with him] his family or a member of his household was a stockholder, owner, officer, director, partner, proprietor, or employee during the preceding calendar year;

(3) the identity and nature of each interest owned by him or [his spouse or dependent child of his or nondependent child of his who is living with him,] by his family or by a member of his household, in any business during the preceding calendar year;

(4) the identity and nature of each interest in real property, including an option to buy, owned by him or [his spouse or dependent child of his or nondependent child of his who living with him,] by his family or by a member of his household during the preceding calendar year;

(5) the identity of each trust or other fiduciary relation in which he [or his spouse or dependent child of his or nondependent child of his living with him,] his family or member of his household, held a beneficial interest during the preceding calendar year, a description and identification of the property contained in each trust or relation and the nature and extent of the beneficial interest in it;

(6) any loan or loan guarantee made to him or [his spouse or dependent child of his or nondependent child of his who is living with him,] to a member of his family or household and the identity of the maker of the loan or loan guarantor and the identity of each creditor to whom he or [his

spouse or dependent child of his or nondependent child of his who is living with him] a member of his family or household owed \$500 or more;

(7) a list of all contracts and offers to contract with the state, or an instrumentality of the state, during the preceding year, held, bid or offered by him, [his spouse, dependent child of his or nondependent child of his who is living with him, his mother or father] a member of his family or his household or a partnership or professional corporation of which he is a member, or a corporation in which he or [his spouse or his children] a member of his family or household, or a combination of them, hold a controlling interest; and

(8) a list of all mineral, timber, oil, or any other natural resource lease held, or lease offer made, during the preceding calendar year by him, [a dependent child of his or nondependent child of his who is living with him, his mother or father] a member of his family or his household or a partnership or professional corporation of which he is a member, or a corporation of which he or [his spouse or his children,] a member of his family or his household, or a combination of them, hold a controlling interest.

(The following section is rearranged, sections are added to make the law clearer, and certain activities would be punished as felonies. It should be noted that the present versions of SB 257 and HB 362 allow the legislature to impose a fine of up to \$50,000.)

* Section 2. AS 39.50.090 is repealed and reenacted to read:

AS 39.50.090. Prohibited Acts. (a) Violation of this sub-section is a class C felony, punishable by a fine of not less than \$5,000, nor more than \$50,000, by imprisonment of up to 5 years, or by both.

(1) No public official may use his official position or office for the primary purpose of obtaining any financial or other type of benefit for himself, a member of his family or his household or business with which he or his family or household is associated or owns stock.

(2) No public official or former public official shall disclose any information which by law or practice is not available to the public and which he acquired in the course of his official duties or use of the information for his personal gain or the benefit of anyone.

(b) Violation of this sub-section is a misdemeanor, punishable by a fine of not less than \$500, nor more than \$2,000, by imprisonment up to one year, or by both.

(1) No person may offer or pay to a public official and no public official may solicit or receive money for legislative advice or assistance, or for advice or assistance given in the course of the official's public employment or relating to his public employment. However, this prohibition does not apply to a chairman or member of a state commission or board or municipal officer of the subject matter of the

legislative advice or assistance is not related directly to the function of the commission, board, or municipal body served by the municipal officer; this exception from the general prohibition does not apply to one whose service on a state commission or board constitutes him a full-time state employee under AS 39.

(2) No public official may represent a client before a state agency for a fee. However, this prohibition does not apply to a municipal officer, or chairman or member of a state commission or board except with regard to representation before his own commission or board; this exception from the general prohibition does not apply to one whose service on the commission or board constitutes him a full-time state employee under AS 39.

(3) A former public official may not assist any person, business, instrumentality of the state or act in a representative capacity for a fee or other consideration, on matters in which he personally participated as a public official, nor may the former public official within twelve months after termination of office or employment act in a representative capacity for a fee or other consideration before any state agency. This subsection does not prohibit any agency from contracting with a former public official on a matter on behalf of the state and does not prevent the former public official from appearing before any agency with relation to such employment.

(4) A public official may not apply for a loan from a state agency unless the application is simultaneously filed with the commission. A state agency may not approve a loan to a public official who fails to file the application with the commission and a state agency may not grant special consideration to the application of a public official.

(5) No public official, member of his family or household, or business with which he, his family or household, is associated may enter into any contract with the state, valued at \$100 or more, other than a contract of employment as a state employee or pursuant to a court appointment, unless the contract has been awarded in compliance with existing state law in an open and public process, including prior public offer and subsequent public disclosure of all proposals considered and the contract awarded. A member of the legislature shall simultaneously file the offer to contract with the commission; if the offer to contract is a sealed bid, the commission may not open the offer to contract until after the offer to contract has been opened by the agency receiving the offer to contract. A state agency may not award a contract to a public official or to a person known to be a member of the family or of the household of a public official or to a business that is associated with the public official or with a member of the family or of the household of a public official unless the offer to contract is filed with the commission.

(6) No member of the legislature, person acting on behalf of a member of the legislature, member of the legislator's family or household may solicit funds for political contributions to the campaign treasury of the member of the

legislature during a legislative session. Both the legislator and the person soliciting the contribution are liable and subject to penalty for any violation of this subsection.

(c) In this section, "public official" includes, in addition to the persons specified in AS 39.50.200(a)(1), chairmen and members of all commissions and boards created by statute or administrative action as agencies of the state.

(d) No municipal officer may represent a client for a fee before the municipal body which he serves.

(The following section provides for advisory opinions from the Attorney General to help public officials from inadvertently violating the conflict of interest law. This approach is followed in a number of different jurisdictions.)

* Section 3. AS 39.50.095 is added to read:

Sec. 39.50.095. Attorney General Opinion. If any public official or member of his family or household or business with which he is associated is in doubt whether a proposed transaction or action constitutes a violation of this chapter, the public official or business may request in writing a written determination from the Attorney General's office. Within thirty days of such request, the Attorney General's office shall issue a written opinion based on the facts recited by the requester. If a legislator is involved, this advisory opinion shall be published in the daily legislative journal. A public official or business with which he is associated shall not be liable under this chapter, for any action or transaction carried out in accordance with such an advisory interpretation, provided he disclosed all the known facts to the Attorney General at the time of the request.

* Section 4. AS 39.50.200 (a)(8) is amended to read:

(8) "source of income" means the entity for which service is performed or which is otherwise the origin of payment; if the person whose income is being reported is employed by another, his employer is the source of his income; but if he is self employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which he [or his spouse or his children,] his family or a member of his household, or a combination of them, hold a controlling interest, the "source" is the client or customer of the proprietorship, partnership or corporation, but if the entity which is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source;

* Section 5. AS 39.50.200 (a) is amended by adding new paragraphs to read:

(10) "member of his household" means any person whose permanent address is the same as the public official's permanent address or anyone who actually resides in the same household;

(11) "family" includes mother, father, spouse, children, parents in law;

(12) "financial gain" means economic benefit resulting from salary, gratuity, gift, or other compensation or remuneration from any individual, partnership, organization or association, or resulting from ownership or interest in a business entity.

Alaska State Legislature

IN SESSION:
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JUNEAU, ALASKA 99811
(907) 465-4949



BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips

HOUSE DISTRICT 15

MEMORANDUM

TO: Representative Charlie Bussell
Chairman, House Judiciary Committee

FROM: Representative Randy Phillips *R.E.P.*

DATE: May 25, 1983

RE: Conflict of Interest Legislation
(House Bill 362, CSSB 257 (Jud) am)

Attached are the following items for your committee's review:

1. Memorandum dated May 24, 1983, entitled "Comparison of CSSB 257 (Jud) am and SB 257. As you know, SB 257 is the same as House Bill 362.

Attached to this memorandum is a copy of CSSB 257 (Jud) am in which the changes from SB 257 to the Senate-passed version have been highlighted.

2. Memorandum dated May 25, 1983, comparing the Legislative Ethics Commission as proposed in HB 362/SB 257 and the Select Committee on Legislative Ethics as proposed in CSSB 257 (Jud) am.

If you have any questions, please do not hesitate to contact me. I plan on being in attendance at this Friday's meeting when I understand this subject matter will be before your committee.

POUCH V
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465-4990

P.O. Box 4-1325
ANCHORAGE, ALASKA 99509
248-1515

CHAIRMAN
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCES COMMITTEE

Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

TO: All Legislators

FROM: Representative Charlie Bussell

RE: Conference Committee on SB 257 - Ethics

DATE: March 22, 1984

I would like to inform you that today at 3:00 p.m. there will be a meeting of the Conference Committee on SB 257, ethics. The meeting will be held in Judiciary Committee Room, Room 124 of the Capitol. The committee consists of myself, Rep. Bussell, Rep. Martin, Rep. Flood, Senator Ray, Senator Mulchay, and Senator Gilman.

Previously Senator Ray has distributed amendments for consideration.

Attached you will find a CS that I am proposing.

I am sure the committee will appreciate your attendance and comments on this legislation.

A M E N D M E N T

Offered in the SENATE

By Ray

TO: CCSSB 257

Page 3, line 16, following "norm;" delete "or"

Page 3, line 17, delete "." and insert "; or"

Page 3, following line 17, insert:

"(6) gifts of nominal value given by a nonprofit organization in recognition of public service by the recipient."

Page 3, lines 19 and 20 following the word "event", delete:

"held within the City and Borough of Juneau"

Page 6, lines 18-20, following the word "form", delete:

", in excess of \$100 and which does not in the aggregate exceed \$250 in value during the calendar year"

Page 7, line 8, following the word "sister", delete the word "or" and following the word "brother" insert "or spouse-equivalent"

Page 8, line 12, following "six", insert "legislative"

Page 8, line 12, following the word "members", insert:

"and the executive director of the Alaska Public Offices Commission who serves as a member of the full committee and of each subcommittee with all of the rights of a member except the executive director does not have the right to vote"

Page 8, line 21, following "two", insert "legislative"

Page 9, line 2, following "A", insert "legislative"

Page 9, line 8, following "When a", insert "legislative"

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1984

SUBJECT: Sectional Analysis

TO: Conference Committee on SB 257

FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have requested that I prepare a sectional analysis on CCS SB 257 and note changes from the Senate version, CSSB 257 (Jud) am and the House version, HCS CSSB257 (Jud) am H.

Sec. 24.60.010 set out the legislative findings and purpose. It states that it is essential that legislators have the respect and confidence of the people, must avoid conduct that appears to violate the trust of the people and should have specific standards to guide them. The purpose is stated to be to establish standards of conduct for legislators and legislative employees and to establish the Select Committee on Legislative Ethics to consider violations and to render advisory opinions.

* Except for the committee name all three versions are essentially identical.

Sec. 24.60.020 provides the chapter applies to legislators and permanent or temporary employees of an agency of the legislature, excludes former members and former employees except to the extent they are specifically included in a provision, excludes members elect and excludes employees whose pay is below the pay established for Step A, Range 18 of the state salary schedule. It provides this section supersedes common law but does not supersede criminal law.

* The House version excludes employees from the nepotism provision, the Senate bill includes them and the Conference Committee bill also does. Otherwise the three are essentially identical.

Sec. 24.60.030 relates to conflict of interest

(a) Provides that a person may not use public office for private advancement or gain.

* This is identical in all three bills.

(b) Provides that a conflict of interest exists when a person takes official interest or exerts influence that could benefit or harm a private financial matter of the person.

* This is identical in all three bills.

(c) Prohibits conflict of interest but sets out two exceptions where there is no substantial impropriety or appearance of impropriety.

* This is identical in all three bills.

(d) provides that a conflict of interest exists if benefits accrue to a person other than those which accrue uniformly to a group to which the person belongs.

* This is identical in all three bills.

(e) provides that a conflict of interest does not exist if a person accepts hospitality at another persons residence within the state, generally available discounts, meals or social events which do not exceed \$100.00, indigenous food or gifts from a person's family.

* This is identical in all three bills.

(f) provides it is a conflict of interest for a legislator to accept money raised at a fund raiser in Juneau during the session.

* This is identical in all three bills.

* The Senate version allows the committee to establish, with approval of the legislature, additional policies that limit the extent by which a person may accept benefits under (e). The House bill and the Conference Committee bill do not contain this.

Sec. 24.60.040 relates to contracts and leases.

(a) Provides that a person may not be a party to or have an interest in a state contract or lease unless

(1) The contract or lease is let by competitive bidding.

(2) The amount is \$1,000,00 or less.

(3) The contract or lease is standardized and available to the public or to a group generally.

This applies when the person receives a direct or indirect financial benefit under the contract or lease. (b) defines direct or indirect financial benefits.

* The exception for a standardized contract or lease is not contained in the House bill. Otherwise the three bills are essentially identical.

Sec. 24.60.050 relates to state loans.

(a) Provides that it is not a conflict of interest to receive a state loan if the loan is generally available, has fixed eligibility standards and minimal discretion is exercised in determining qualifications. It also requires the Committee to issue a list of programs and loans it considers to meet the standards of this paragraph and revise the list annually.

* The Senate bill does not contain the list requirement which is in the House bill and the Conference Committee bill.

(b) In determining whether a conflict of interest exists the committee must consider the adequacy of administrative procedure for granting and reviewing loans to legislators but is not limited to considering only that.

* In the Senate version this paragraph applies only to legislators. In the House version and the Conference Committee version it applies to all persons covered by the bill.

(e) requires that upon application for a loan, other than a loan described in (a) the person shall send a notice of the application to Alaska Public Offices Commission which will incorporate that in the financial disclosure statement. If the person is not required to file a disclosure statement the notice must be placed in an employee loan file open to the public. All records relating to a loan may be disclosed to the committee.

* The House bill does not contain the provision that all records relating to the loan may be disclosed to the committee which is in the Senate bill and the Conference Committee bill. The Senate bill requires the copy of the application be sent by the lending agency and the House and Conference Committee bill requires it be sent by the person involved. Otherwise this paragraph is identical in each of the bills.

(d) requires that on each February 1, each loan agency must deliver a list of loans to the presiding officer of each house, set out what must be included in the list and provides the list must be published in the supplemental journal.

* This paragraph is identical in each of the bills.

(e) requires the Division of Legislative Audit to annually review state loans to persons to whom this chapter applies to determine whether appropriate procedures were observed in granting the loan and whether loan conditions are being enforced. The division must report its findings to the committee by April 1, of each year.

* The Senate bill requires the auditor to determine whether appropriate procedures were observed in granting the loan. The House bill requires the auditor to determine whether loan conditions are being enforced. The Conference Committee bill requires both.

(f) Defines state program.

* This paragraph is identical in each bill.

* The Senate version requires the lending agencies to adopt regulations that establish separate procedures for granting and reviewing loan to persons to whom this chapter applies.

This requirement is not in the House or Conference Committee bill.

Sec. 24.60.060 provides it is a conflict of interest if a person uses for personal gain of the person or another confidential information the person acquired in the course of official duties.

* This section is identical in each bill.

Sec. 24.60.070 requires disclosure of a close economic association with an employee, and a supervisor if the supervisor is not a member of the legislature, a legislator, a public official in another branch if the public official is required to file a disclosure statement or a lobbyist.

* The House version does not contain this requirement. The Senate version does not explicitly exclude legislators from the supervisor-employee provision.

Sec. 24.60.080 provides that a person may not solicit a gift in any amount or accept a gift in excess of \$100.00 or in the aggregate in excess of \$250.00 during a calendar year if the gift was intended as a reward or inducement for official action. A gift of travel and hospitality within Alaska received by a member of the legislature in obtaining information of legislative concerns and political contribution reported under AS 15.13.040 are not prohibited.

* The Senate bill has no dollar limitation and does not have the term "inducement". The House bill prohibits gifts under circumstance in which it may reasonably be inferred that the gift was intended to influence a person in the performance of official duties and specifically sets out exceptions.

Sec. 24.60.090 prohibits employment of relatives in specified circumstances. A spouse of a legislator may not be employed by either house during the interim or by an agency of the legislature. Other relatives may not be employed in the house in which the related legislator is a member, by an agency of the legislature or by the other house during the interim. An individual who is related to an employee of the legislature may not be employed in a position over which the employee has supervisory authority. The section defines relative. It provides that for this section a person is not employed if the person does not receive compensation and

that a member of the legislature is, for purposes of this section, not an employee of the legislature.

* The provision relating to employment of a spouse during the session is not in the Senate bill or the House bill. Both the House bill and Senate bill include "a member of the same household" in the definition of relative which is not included in the Conference Committee bill. The term "adopted child" is specifically included in both the House and Senate bill but in the Conference Committee bill this term is subsumed under the word "child".

Sec. 24.60.100 requires that a person who represents another person before an agency of the state for compensation shall disclose the representation in the journal if the legislature is in session and, if not, to the committee. The committee must maintain a record of the disclosures and send them to the house involved for inclusion in the journal for the first day of the session.

* The Senate version is identical. The House version prohibits representation before an agency of the state for compensation except in court actions and actions which were pending at the time the person was elected or employed.

Sec. 24.60.110 provides that a legislator who has a conflict of interest shall resign the conflict of interest, divest the interest or disclose the interest in the journal or, if the legislature is not in session to the committee. Disclosure does not remove the conflict.

* Neither the House or Senate bill contains the provision that disclosure does not remove the conflict. Otherwise the three versions are identical.

Sec. 24.60.120 provides a person may not use state funds or state property, except under lease, for private gain.

* This section is identical in all three versions.

Sec. 24.60.130 establishes a Select Committee on Legislative Ethics consisting of three members from each house with a Senate and House subcommittee. The members are appointed by the presiding officer with concurrence of three fourths of the full membership of the house. Vacancies are filled in the same manner. No more than two members may be of the same party or organizational caucus. The chair is elected

by each subcommittee. The chair of the Senate subcommittee chairs the full committee in odd numbered year and the house chair in even numbered years. Members serve for the duration of the legislature. A member of a committee is disqualified from serving if the member is a party and provision is made for appointment of a replacement for the matter involved. The committee or a subcommittee may employ staff and contract for services.

* The Senate version does not contain the prohibition of more than two members and the disqualification provision. Otherwise it is essentially identical. The House version is substantially different. It has a single committee with seven members. A legislator and two other persons are appointed by each presiding office with concurrence of two thirds of the membership of the house. These members appoint the remaining member who must be a former legislator. The public members have four year terms. The legislative members may not serve beyond the expiration of the legislative term of office. A committee member may not serve more than one term. A legislator member may not hold or seek elective office, be an officer of a political party or group or lobby. The chair and vice chair are elected by the committee and may not be legislators. Vacancies are filled in the same manner as the original appointment. Members receive no compensation but may receive travel expenses and per diem. The committee may employ staff and contract for services.

Sec. 24.60.140 provides a subcommittee shall have authority over proceedings involving a member or employee of its house. The full committee has authority over agency employees, a matter that would require action by both houses and issuance of advisory opinions.

Sec. 24.60.150 prescribes duties for the committee requiring the committee to adopt procedures for receipt of inquiries and prompt rendition of opinion. It may recommend legislation and use compulsory process.

* This is identical to the version in the Senate bill. The House version does not include this.

* This is identical with the House version except for the division into mandatory and permissive which is not in the House version. The Senate version does not include this.

Sec. 24.60.160 provides for advisory opinions by the committee on request of a person to whom this chapter applies. The opinion must be issued within 30 days but that period may be extended 10 days with consent of the person requesting the opinion. The opinion is binding on the committee unless material facts were omitted or misstated in the request. The opinion is confidential unless the person who requested the opinion requests in writing that it be made public.

* This provision is substantially identical to the House version except for the 10 day extension of time. In the Senate version if the advisory opinion is not issued within the 30 day period the facts in the particular case for which the opinion is requested do not constitute a violation of ethical standards.

Sec. 24.60.170 establishes the procedure before the committee.

(a) The committee may initiate, receive and consider complaints alleging a violation of the chapter.

* All three versions are identical.

(b) The committee may investigate a violation within four years after the violation and within one year after termination of service. The limitations do not apply if there is intentional prevention of discovery of the violation.

* All three versions are identical.

(c) The committee must by resolution define the nature and the scope of an inquiry before exercising any power under this section. It must investigate all complaints on a confidential basis.

* All three versions are identical.

(d) Proceedings are commenced by filing which is in writing and under oath and may be initiated by any person. Within 60 days of a general election no complaint other than a complaint initiated by two thirds of the members of a committee may be received and, except for such complaints all proceedings are stayed until the election is certified. If the proceedings are stayed

the committee shall notify the person against whom the complaint was filed. If the person objects in writing to the stay the proceedings shall continue.

* In the House version a complaint in the 60 days preceeding election needs a majority of the committee. There is no provision for a stay.

* In the Senate version that complaint requires 5 members of the committee and the stay is until the legislature next convenes in regular session.

(e) The committee must notify the person against whom a complaint is filed and afford the person an opportunity to explain the conduct. The committee may summarily dismiss the complaint if the alleged facts, if true would not constitute a violation.

* All three versions are identical.

(f) The committee must investigate charges filed and issue an opinion to the person charged.

* All three version are identical.

(g) If the committee finds a probable violation exists that may be corrected and does not warrant sanction other than correction it shall recommend corrective action. The person may comply or request a hearing. The committee may affirm the opinion or amend it after the hearing.

* All three versions are identical except that both the House and Senate used the term "advisory opinion" while the Conference Committee deleted "advisory" in this paragraph and in paragraph (h), to avoid confusion with Sec. 24.60.160.

(h) If the person fails to take the corrective action recommended under (g) or corrective action is not sufficient the committee shall charge the person and serve the person with the charge and statement of the violation. The person has 20 days to respond in writing.

* All three versions are identical except for the change noted in (h).

(i) establishes procedure of a hearing and provides the hearing is closed to the public unless the person charged requests an open hearing.

* The Conference Committee version requires a minimum of 10 days notice to the person charged. The House and Senate versions have no explicit notice period. Otherwise all three versions are identical.

(j) A decision must be in writing and signed by a majority of the committee. An order limited to a determination that a violation does not exist must accompany the decision. The order is public.

* All three versions are identical.

(k) If the committee finds a violation or a failure to cooperate by a legislator it must refer the matter to the presiding officer. The decision must contain a statement of facts and may recommend sanctions. The committee shall make the decision public 30 days after transmittal. The house involved shall act on the decision as it considers appropriate.

* The Senate version provides that days when the legislature is not in session may not be counted as part of the 30 day period before the decision is made public. The House and Conference Committee versions do not contain this. Otherwise all three versions are identical.

(l) If the committee finds a violation by an employee it shall make a public statement of the decision 30 days after the date of the decision. The legislature shall act as it considers appropriate. Sanctions may include suspension, demotion or dismissal. The employee is entitled to a hearing before final action is taken.

* All three versions are identical.

(m) Disclosure of information by a committee member or staff concerning a proceeding except as permitted by this chapter is a class A misdemeanor.

* All three versions are identical.

Sec. 24.60.180 requires executive branch agencies to the extent permitted by law to cooperate fully with the committee.

* All three versions are identical.

Sec. 24.60.190 defines committee to mean the Select Committee on Legislative Ethics or where appropriate the applicable subcommittee.

* The House version, which has a single committee, does not refer to the subcommittees.

Sec. 11.56.805 establishes the crime of false accusation if a person knowingly or intentionally initiates a false complaint with the committee as a Class C felony.

* This is not in the Senate version.

Sec. 39.50.025 requires APOC to mail a copy of the standards of conduct established in * Sec. 1 of this bill to each legislative candidate.

* This is not in the House or Senate version.

Section 4 provides the Act does not apply to conduct which occurred before the effective date of this act.

* All three versions are identical.

Section 5 Provides an immediate effective date for the sections establishing the committee and providing for its authority.

* All three versions are identical.



Alaska State Legislature
State Senate

Committee on Judiciary

Senator Bill Ray
Chairman
Senate Floor Leader

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

March 22, 1984

TO: Conference Committee Members on
SB 257

FROM: Senator Bill Ray

The attached are the replies received in response to my memo of March 8 to all legislators asking for their comments on my proposed amendment to CCSSB 257.

Attachments

FILE WITH 257
Alaska State Legislature

IN SESSION:
POUCH V
JUNEAU, ALASKA 99611
907/465-4949



BOX 142
EAGLE RIVER, ALASKA
99577

Representative Randy Phillips

HOUSE DISTRICT 15

MEMORANDUM

TO: Senator Bill Ray, Chairman
Senate Judiciary Committee

FROM: Representative Randy Phillips *R.C.P.*

RE: CCSSB 257 (Legislative Ethics)

DATE: March 8, 1984

I have looked over the compromise language that is proposed to be included in CCSSB 257 and have the following comments and questions:

1. Page 3, following line 17, insert:
"(6) gifts of nominal value given by a nonprofit organization in recognition of public service by the recipient."

QUESTION: What is the definition of "nominal value"?

2. Page 3, lines 19 and 20 following the word "event", delete:
"held within the City and Borough of Juneau"

COMMENT: I would prefer to see such language left in the legislation.

3. Page 8, line 12, following the word "members", insert:
"and the executive director of the Alaska Public Offices Commission who serves as a member of the full committee and of each subcommittee with all of the rights of a member except the executive director does not have the right to vote"

COMMENT: It is my feeling that the ideal composition of the Ethics Committee would be as set out in HCS CSSB 257 (Jud) am H -- one senate member, one house member, two public members appointed by senate, two public members appointed by house, and one past legislator appointed by the other members of the committee.

Or, it would be even more acceptable if a committee composed of three senate members, three house members and one public member who is a member of the Alaska Public Offices Commission.

I appreciate being given the opportunity to comment on the proposed changes in this legislation. Please do not hesitate to contact me should you have any questions regarding my comments on the proposed changes.

REPRESENTATIVE
JOE FLOOD
3423 WEST 79TH
ANCHORAGE, ALASKA 99502
(907) 243-7511

DISTRICT 9
SOUTHWEST ANCHORAGE

Alaska State Legislature



WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811
(907) 465-4937

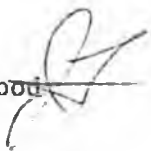
MEMBER
TRANSPORTATION COMMITTEE
MEMBER
REGULATION REVIEW COMMITTEE

House of Representatives

MEMORANDUM

March 14, 1984

TO: Senator Bill Ray

FROM: Representative Joe Flood 

SUBJECT: CSSB 257

I have a few questions in regards to CSSB 257. I would appreciate it if you or a member of your staff would take a few minutes and clarify the following points for me.

1. Page 3, line 19 and 20. Does the elimination of "held within the City and Borough of Juneau" mean that no events anywhere in the state can be held during the session?

2. Page 6, line 18 through 20. Does the elimination of "in excess of \$100 and which does not in the aggregate exceed \$250 in value during the calendar year" mean that no gift whatsoever, irregardless of cost or utility can be accepted by a member, i.e., the calanders we receive, the note pads, the pens, pencils, these sort of innocuous things. If we take out the dollar amounts are we therefore excluding everything.

3. Page 7, lines 1 and 2. This section makes reference to a legislator's family working during the interim. It does not specifically state that a legislator's family could work during the session. Under this clause, it appears to me that I could put my entire family on staff during session. Therefore, it would be extremely helpful to me if you or a member of your staff could read and interpret that clause in regards to this question.

4. Page 8, lines 12 through 17. This clause is referring to having the Executive Director for the Alaska Public Office Commission sitting on the committee. Considering that APOC has to come to the legislature for their budget needs, I believe we would be putting the Executive Director for APOC in an untenable position with respect to issues that come before the Ethics Committee insofar as the Director would be agreeing and in many cases disagreeing with individual legislators who have authority over the Director's department's budget. This appears to

Senator Bill Ray
March 14, 1984
Page 2

me to present quite a problem for both the legislators and that Executive Director. Perhaps it would be better to simply have someone from the private sector be appointed to that committee. Perhaps a retired judge, retired commissioner, or respected but completely retired public official.

These were some of the points that came to mind as I worked through the legislation and I am confident that working together we'll be able to answer these questions and if necessary come up with solutions that are fair and equitable for all parties concerned.

FILE WITH 257
Alaska State Legislature

Representative Milo Fritz
District 5
P.O. Box 158
Anchor Point, Alaska 99556
(907) 235-8366



While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4833

House of Representatives

MILO FRITZ

MEMORANDUM

TO: Senator Bill Ray
FROM: Representative Milo Fritz
DATE: March 8, 1984
SUBJ: CCSSB 257 (Legislative Ethics)

In regards to your memo of March 8 the only change I would like to suggest is on page 1, in reference to page 7, line 8 the change being "or spouse equivalent" to "or consort".

FILE WITH 257



Alaska State Legislature
State Senate

Committee on Judiciary

Senator Bill Ray
Chairman
Senate Floor Leader

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

March 8, 1984

TO: All Legislators
FROM: Senator Bill Ray *BR*
RE: CCSSB 257 (Legislative Ethics)

Attached you will find suggested compromise language that I will propose be added to CCSSB 257 (standards of conduct of legislators and legislative employees and establishing a Select Committee on Legislative Ethics) when the new conference committee meets to consider the above bill.

I would appreciate it if you would carefully look over the amendment and within the next two or three days submit a written response to me indicating whether or not you approve or disapprove the changes, plus any suggested changes you may have.

Your prompt response will be appreciated as I plan to schedule a meeting between the Senate and House conferees sometime next week.

Thank you for your cooperation in this matter.

Attachment

3/9/83

Senator Ray:

- 1. No changes contemplated*
- 2. No objection to amendment*
- 3. No bill would be a better bill*
- 4. Do your thing*

Rep. Hood

Response FROM Rep. ABOOD

John Fair

A M E N D M E N T

Offered in the SENATE

By Ray

TO: CCSSB 257

257

Page 3, line 16, following "norm;" delete "or"

Page 3, line 17, delete "." and insert "; or"

Page 3, following line 17, insert:

OK. no problem

"(6) gifts of nominal value given by a nonprofit organization in recognition of public service by the recipient."

Page 3, lines 19 and 20 following the word "event", delete:

"held within the City and Borough of Juneau"

Good fair to everyone

Page 6, lines 18-20, following the word "form", delete:

", in excess of \$100 and which does not in the aggregate exceed \$250 in value during the calendar year"

no problem.

Page 7, line 8, following the word "sister", delete the word "or" and following the word "brother" insert "or spouse-equivalent"

no problem

Page 8, line 12, following "six", insert "legislative"

Page 8, line 12, following the word "members", insert:

Response from SENATOR FAIR

*great
good
compromise
I hope it
works.*

"and the executive director of the Alaska Public Offices Commission who serves as a member of the full committee and of each subcommittee with all of the rights of a member except the executive director does not have the right to vote"

Page 8, line 21, following "two", insert "legislative"

Page 9, line 2, following "A", insert "legislative"

Page 9, line 8, following "When a", insert "legislative"

*excellent changes - I wish you
luck and fortitude
you are our hope for an Ethics
Bill this year.*

MEMORANDUM

To: Senator Bill Ray, Chairman
Conference Committee on SB 257

From: Senator Frank R. Ferguson *FRF*

Subj: Ethics Legislation Amendments

Date: March 12, 1984

In response to your memorandum of March 8, 1984 concerning the Ethics legislation, I will first of all give you comments on your recommendations and then comment on the overall bill.

Page 3, lines 16 and 17 I agree with these technical and substantive changes;

Page 3, lines 19-20 Although I agree with deleting the City and Borough of Juneau, I believe that the following should be inserted: the Capital City.

Page 6, lines 18-20 I agree with this substantive change.

Page 7, line 8 Although I agree with your change but it should be noted that it will be very difficult to determine whether or not a relationship was platonic or not if two individuals are living together.

Page 8, line 12 I prefer the language in SB 518 but in the spirit of compromise I could go along with the APOC Executive Director to serve as a member of the full committee and that the director or her designee shall sit on each subcommittee. I don't believe that the first Conference Committee reached an acceptable compromise and, therefore, I voted against the first Conference Committee Report.

Page 8, line 21 I agree with the technical change.

Page 9, line 2 I agree with the technical change.

Page 9, line 8 I agree with the technical change.

Additional Comments

Page 1 of 2 1. I believe all reference to legislative employees should be deleted from the bill because

legislators hire and fire. Legislators are elected but employees are appointed. Should a criminal infraction take place involving an employee, the courts can deal with the individual immediately.

2. I believe spouses should be prohibited from employment during both the session and the interim.
3. I believe it should specify the types of disciplinary action the committee can recommend including but not limited to censorship, loss of pay, fines or other penalties.
4. I believe the hearings on complaints should be open to the public unless the person in the complaint desires a closed proceeding.
5. I believe the penalty for divulging of information under this chapter should be changed from a class A misdemeanor to a class C felony.

FILE WITH SB 257

SENATOR
ARLISS STURGULEWSKI

2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99508
SENATE DISTRICT F, SEAT A

Alaska State Legislature

Write in Juneau
FOUCH V
JUNEAU, ALASKA 99811
(907) 465-3918



Senate

MEMORANDUM

March 21, 1984

TO: Senator Bill Ray
FROM: Senator Arliss Sturgulewski *AS*
RE: CCSSB 257 Legislative Ethics

Thank you for an opportunity to comment on proposed changes to the above bill. Following are my comments.

1. You suggested an amendment on page 3, lines 19 and 20, following the word "event" delete "held within the City and Borough of Juneau." I do not support this deletion and prefer the language as currently stated in the bill. However, there does need to be language which provides an exemption for legislators who live within the City and Borough of Juneau.
2. Although you have taken a step in the right direction by adding the executive director of the Alaska Public Offices Commission to the Select Committee on Legislative Ethics, I have and continue to support public members on this committee with all rights of a legislative member. Support has been strong from my constituency for public members on the oversight committee. There is a strong feeling that political considerations will keep the legislature from adequately policing its own actions. I certainly hope you will reconsider the membership of the committee.

The other amendments appear to clarify the legislation. Again, thank you for an opportunity to comment.

FILE WITH 257

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE



P.O. BOX 143
SITKA, ALASKA 99835
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

MEMORANDUM

TO: Conferees, CCSSB 257 - Legislative Ethics
FROM: Senator Dick Eliason *Dick Eliason*
DATE: March 10, 1984
RE: Proposed Amendment

Page 3, lines 19 and 20, following the word "event", delete: "held within the City and Borough of Juneau".

In my opinion, this amendment is proposed for one purpose only, that being to restore the questionable practice of fund raisers held in Juneau when the Legislature is in session. An attempt, but not a very clever attempt.

This specific prohibition was discussed on two occasions on the Senate Floor, when the Senate version passed. It was an amendment to the Ethics Bill, made on the Floor of the Senate and adopted by a majority of the Senate membership.

If it is not a conflict of interest to invite the lobbyists to a fundraiser for a legislator, the perception certainly is. There is no question in my mind that if a committee chairperson held a fundraiser in Juneau during session, any lobbyist who had anything of interest in that committee would feel obligated to either go or contribute. It seems to me to be the prudent thing to do, no matter what the "cover charge" might be.

If we truly want to bring credibility to our presence here in Juneau, such fundraisers must be prohibited.

I would certainly urge you to oppose this proposed amendment.



FILE WITH 257

From the desk of:
Fritz Pettyjohn
Alaska State Senator

Re: CCSSB 257

Bill,

I believe 2 public, voting members should be appointed by the presiding officer of each body, subject to a $3/4$ confirmation vote.

I believe some former legislators (Butrovich?) would have the confidence of enough legislators to make it work. I can think of possible public members who would probably be more trusted than some incumbent legislators.

Fritz



FILE WITH 257

Alaska State Legislature
State Senate

Committee on Judiciary

Senator Bill Ray
Chairman
Senate Floor Leader

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

March 8, 1984

TO: All Legislators
FROM: Senator Bill Ray *BR*
RE: CCSSB 257 (Legislative Ethics)

Attached you will find suggested compromise language that I will propose be added to CCSSB 257 (standards of conduct of legislators and legislative employees and establishing a Select Committee on Legislative Ethics) when the new conference committee meets to consider the above bill.

I would appreciate it if you would carefully look over the amendment and within the next two or three days submit a written response to me indicating whether or not you approve or disapprove the changes, plus any suggested changes you may have.

Your prompt response will be appreciated as I plan to schedule a meeting between the Senate and House conferees sometime next week.

Thank you for your cooperation in this matter.

Attachment

*Bill -
this looks
good!
Vic F.
3-9-84*

Response from SENATOR FISHER