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596

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF HB 596

Legislative Ethics Act of 1990

Received April 9, 1990
by The State Affairs Committee

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Adopted CSHB 596 (SA) May 5, 1990

Passed Out of Committee May 5, 1990
1 Do Pass
2 No Recommendation
1 Amend

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HOUSE COMMITTEE REPORT

(7)

Date Referred: April 9, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HB 596

HOUSE BILL NO. 596

LEGISLATIVE ETHICS ACT OF 1990

"An Act establishing a legislative ethics commission and standards of conduct for legislators and legislative employees, former legislators and employees, and lobbyists; amending legislators' compensation and allowances; and providing for an effective date."

RECOMMENDATIONS:

- ☒ be replaced with CSHB 596(SA) ☒ the same title
☐ a new title
☐ have attached amendment(s)
☐ do pass
☐ do not pass
☒ no recommendation
☐ individual recommendations
☐ additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- ☒ fiscal impact 1AA
☐ zero fiscal note
☐ zero with analysis

- ☐ fiscal note(s)
☐ zero fiscal note(s)
☐ zero fn/analysis

SIGNING DO PASS:

[Signature] Finkelstein

SIGNING:

(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>[Signature]</u> Hanley		☒	
<u>[Signature]</u> Zawacki		☒	
<u>[Signature]</u> Boucher			☒
FEEL PAY RAISE DOES NOT BELONG IN ETHICS LEGISLATION.			

[Signature]
Chairman's Signature

BY THE STATE AFFAIRS COMMITTEE

Danforth decision

1 IN THE HOUSE

2

HOUSE BILL NO. 596

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act establishing a legislative ethics commission

7

and standards of conduct for legislators and legisla-

8

tive employees, former legislators and employees, and

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lobbyists; amending legislators' compensation and

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allowances; and providing for an effective date."

11

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

12

* Section 1. SHORT TITLE. This Act may be known as the Legislative

13

Ethics Act of 1990.

14

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

15

CHAPTER 61. LEGISLATIVE ETHICS ACT OF 1990.

16

ARTICLE 1. LEGISLATIVE FINDINGS AND ETHICAL PRINCIPLES.

17

Sec. 24.61.010. PURPOSE. This chapter is enacted to

18

(1) assure the integrity of representative government and

19

sustain the confidence and trust of the people of this state in their

20

representatives, the legislature as a whole, and the legislative

21

process;

22

(2) provide a comprehensive and unified statement of the

23

ethical principles, considerations, and obligations inherent in the

24

public trust theory of government service and establish specific

25

standards of conduct to ensure that those entrusted with public au-

26

thority avoid conduct that might undermine the people's respect for

27

the legislature; and

28

(3) establish a positive, effective, and comprehensive

29

ethical program that is clear, practical, and fair.

1 Sec. 24.61.015. LEGISLATIVE FINDINGS. The legislature finds
2 that

3 (1) high moral and ethical standards among public servants
4 in the legislative branch of government are essential to the conduct
5 of fair, open, and responsive representative government;

6 (2) the people of this state need and deserve a legislature
7 led by outstanding public servants whose devotion and commitment to
8 pursuing the public interest through established democratic processes
9 outweigh any competing personal or political considerations;

10 (3) state government relies heavily on part-time citizen
11 public servants; it is, therefore, essential to attract talented and
12 principled people willing to provide their time and energy to the
13 state, often with substantial personal and financial sacrifices;

14 (4) the best way to attract the right people is to ensure
15 that the government is respected for its honesty and integrity and
16 that the rules governing their conduct during and after leaving public
17 service are as clear, fair, and complete as possible; the rules,
18 however, should not impose unreasonable or unnecessary burdens that
19 will discourage citizens from entering or staying in government ser-
20 vice;

21 (5) the political culture of the state is the product of a
22 unique blend of history, geography, climate, population, and ethnic
23 influences that must be taken into account in the development of rules
24 and standards regulating the conduct of legislators, legislative
25 employees, and those who work regularly with the legislature;

26 (6) the state's commitment to the notion of a citizen
27 legislature requires that legislators be drawn from all parts of
28 society; they cannot and should not be without personal and financial
29 interests in the decisions and policies of government, and they are

1 expected and permitted to earn outside income;

2 (7) as a result of the state's small population and close
3 sense of community, most legislators and legislative employees have a
4 network of relationships in and outside the legislature that creates
5 potential conflicts of interest;

6 (8) the state's vast size requires frequent travel, usually
7 by air, which increases the expense and burden of public service;

8 (9) the state's cultural diversity is reflected in gift-
9 giving and hospitality customs that may clash with standards prohibit-
10 ing acceptance of gratuities;

11 (10) it is important to preserve the vitality of the state's
12 culture and citizen involvement by assuring that standards of conduct
13 acknowledge real and practical needs of individual legislators and
14 legislative employees without compromising vital universal notions of
15 public service ethics, including the principle that public office is a
16 public trust;

17 (11) upon taking the oath of office, legislators enter into
18 a sacred trust with the people of the state involving extraordinary
19 powers and equally extraordinary legal and moral obligations; one
20 aspect of these obligations requires that those entrusted with public
21 authority unfailingly demonstrate that they are worthy of the public's
22 respect and are devoted to maintaining the absolute integrity of
23 government;

24 (12) effective democratic government depends on the will-
25 ingness of the people to exercise responsible citizenship by voluntary
26 compliance with laws and by active participation in the democratic
27 process; when the public's trust in and respect for government is
28 high, citizens are more likely to fully participate by voting, becom-
29 ing better informed, and becoming more active in public debate and

1 discourse in a way that engenders civic pride and makes government
2 more representative, more responsive, and more effective;

3 (13) unethical or illegal behavior by a legislator or legis-
4 lative employee tends to diminish the stature of the legislature and
5 produce cynicism that erodes public confidence in government; thus,
6 all who serve the legislature have a solemn responsibility to avoid
7 improper conduct and prevent improper behavior by colleagues and
8 subordinates;

9 (14) the principles of public service ethics pervading this
10 chapter view the ethical obligations of public servants in a positive
11 way; high standards of conduct and specific regulations to enforce
12 them are not driven by negative assumptions about the character of
13 those who serve government, but as expressions of the need for clarity
14 and uniformity about the higher duties of public service and the noble
15 dimension of democracy;

16 (15) no code of conduct, however comprehensive, can antici-
17 pate all situations in which the principles and standards apply, nor
18 can it prescribe behaviors that are appropriate to those situations;
19 in addition, laws and regulations regarding ethical responsibilities
20 cannot legislate morality, eradicate corruption, or eliminate bad
21 judgment;

22 (16) legislators and legislative employees who are committed
23 to the ethical principles embodied in the public trust concept of
24 government must exercise considerable discretion and judgment so as to
25 adhere to the spirit of the rules and laws; in exercising this judg-
26 ment it is essential to recognize that an act is not ethical simply
27 because it is legal and that conduct is not proper simply because it
28 is permissible;

29 (17) legislative decisions must be made in a context of

1 clashing interests; the growing effect of state laws and regulations
2 creates incentives for competing special interests to seek to influ-
3 ence the election and policy-making processes through organized advoca-
4 cacy and through the use of campaign contributions;

5 (18) the cost of running for office has risen dramatically
6 in recent years; as a result, many public officials, including legis-
7 lators, spend an increasing amount of time negotiating with special
8 interests in a way that may unduly enlarge the voice and power of
9 those interests;

10 (19) therefore, the state needs a comprehensive ethics
11 program that responds to the challenges of the contemporary political
12 climate, preserves and protects the integrity of the legislative
13 process, and respects the needs of those who serve the legislature.

14 Sec. 24.61.020. PREAMBLE TO STATEMENT OF ETHICAL PRINCIPLES.
15 AS 24.61.025 - 24.61.060 state the overarching ethical principles of
16 legislative ethics. They are, by nature, broader and more philosoph-
17 ical than the standards of conduct and, therefore, somewhat less
18 amenable to strict enforcement. Their primary purpose is not to
19 provide additional bases of punishment, but to establish the theoret-
20 ical and moral foundation for the standards of conduct and to provide
21 explicit guidance and direction for those who wish to follow the
22 ethical high road, not simply out of fear of punishment but out of
23 commitment and conscience. These principles also establish criteria
24 for interpretation and enforcement of the principles themselves and
25 the standards of conduct that follow. The principles shall be re-
26 garded as an integral part of this chapter.

27 Sec. 24.61.025. PRINCIPLE OF GOOD FAITH. Each provision of this
28 chapter shall be construed and implemented with sincerity, integrity,
29 and a good faith commitment to advance rather than evade the purpose

1 and spirit of the provision.

2 Sec. 24.61.030. PRINCIPLE OF NONPARTISANSHIP. All actions,
3 decisions, and votes on matters relating to this chapter shall be made
4 purely on their merits. Decisions shall be made objectively and
5 independently, and without party, regional, or ideological partisan-
6 ship.

7 Sec. 24.61.035. PRINCIPLES OF PUBLIC TRUST. (a) Legislators
8 and legislative employees shall act so as to ensure the reality and
9 perception that the legislature is conducted according to the highest
10 principles of representative democracy and is worthy of public re-
11 spect, trust, and support.

12 (b) Legislators and legislative employees may not engage in
13 conduct that they know or reasonably should know is likely to create
14 in the minds of reasonable, objective, fair-minded observers the
15 perception that they have used their public position improperly or
16 otherwise have not conducted themselves in accordance with the ethical
17 principles and standards of conduct of this chapter.

18 Sec. 24.61.040. PRINCIPLES OF PUBLIC INTEREST. (a) Legislators
19 and legislative employees shall treat their government positions as a
20 public trust, using the powers and resources of public office only to
21 advance public interests, and not to attain personal benefits or
22 pursue other private interests incompatible with the public good.

23 (b) In pursuing the public interest, legislators and legislative
24 employees shall scrupulously observe and abide by the United States
25 and Alaska constitutions, all applicable laws, and democratic pro-
26 cesses.

27 (c) In pursuing the public interest, legislators and legislative
28 employees should

29 (1) put loyalty to democratic principles and to their

1 conscientious convictions about the overall public good above loyalty
2 to political party, narrow constituency, and individual interests that
3 are inconsistent with the general public interest;

4 (2) allocate public funds and formulate general public
5 policies only after evaluating information objectively and deciding
6 what is best for the public as a whole, not just for a narrow consti-
7 tency;

8 (3) take whatever steps are necessary to safeguard and
9 protect the reputation of state government and the integrity and
10 efficiency of their office, subordinating the interests of superiors,
11 colleagues, and friends to the interests of the state.

12 Sec. 24.61.045. PRINCIPLE OF ACCOUNTABILITY. Legislators and
13 legislative employees shall ensure that government is conducted open-
14 ly, efficiently, equitably, and honorably in a manner that permits the
15 citizenry to make informed judgments and hold government officials
16 accountable.

17 Sec. 24.61.050. PRINCIPLE OF DEMOCRATIC LEADERSHIP. Legislators
18 and legislative employees shall honor and respect the principles and
19 spirit of representative democracy and set a positive example of good
20 citizenship by scrupulously observing the letter and spirit of laws
21 and rules.

22 Sec. 24.61.055. PRINCIPLE OF RESPECTABILITY; CONDUCT BEFITTING
23 THE LEGISLATURE. Legislators and legislative employees shall safe-
24 guard public confidence in the integrity of government by not engaging
25 in conduct that demonstrates they are not fit for public office,
26 prevents them from carrying out their public duties, or that unrea-
27 sonably casts discredit on the legislature.

28 Sec. 24.61.060. PRINCIPLE OF INDEPENDENT JUDGMENT. Legislators
29 and legislative employees shall employ independent objective judgment

1 in performing their duties, deciding all matters on the merits, free
2 from conflicts of interest and both real and apparent improper influ-
3 ences.

4 ARTICLE 2. STANDARDS OF CONDUCT.

5 Sec. 24.61.100. MISUSE OF OFFICE FOR PRIVATE GAIN: GENERAL
6 PRINCIPLE. Inherent in the concept that public office is a public
7 trust is the principle that persons refrain from using or attempting
8 to use their government position to attain

9 (1) personal financial gain, other than official legisla-
10 tive compensation;

11 (2) undue personal benefits, advantages, or privileges not
12 available to the public at large, either for themselves or members of
13 their immediate families;

14 (3) undue private benefit for social or business associ-
15 ates, political contributors, corporations, or other organizations in
16 which the public servant is involved; or

17 (4) narrow political advantages where the use of office is
18 inconsistent with the obligation to use public office only to advance
19 the public interest.

20 ~~X~~ Sec. 24.61.110. IMPROPER BENEFIT FROM PERFORMANCE OF PUBLIC
21 DUTIES. (a) A legislator or legislative employee may not seek or
22 accept anything of value as a result of the proper performance of
23 public responsibilities. This subsection may not be construed to
24 prohibit solicitation for and acceptance of campaign contributions
25 under circumstances that are otherwise lawful.

26 (b) A legislator or legislative employee may not accept anything
27 of value under circumstances where the legislator or legislative
28 employee knows or reasonably should know that it is offered with the
29 intent to influence legislative, administrative, or political action.

* This is already in law.

1 conscientious convictions about the overall public good above loyalty
2 to political party, narrow constituency, and individual interests that
3 are inconsistent with the general public interest;

4 (2) allocate public funds and formulate general public
5 policies only after evaluating information objectively and deciding
6 what is best for the public as a whole, not just for a narrow constit-
7 uency;

8 (3) take whatever steps are necessary to safeguard and
9 protect the reputation of state government and the integrity and
10 efficiency of their office, subordinating the interests of superiors,
11 colleagues, and friends to the interests of the state.

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24 guard public confidence in the integrity of government by not engaging
25 in conduct that demonstrates they are not fit for public office,
26 prevents them from carrying out their public duties, or that unrea-
27 sonably casts discredit on the legislature.

28 Sec. 24.61.060. PRINCIPLE OF INDEPENDENT JUDGMENT. Legislators
29 and legislative employees shall employ independent objective judgment

1 (c) A person who violates this section is subject to the civil
2 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
3 misdemeanor.

4 Sec. 24.61.120. DUTY TO REPORT IMPROPER OFFERS. (a) Legisla-
5 tors and legislative employees who receive an offer that reasonably
6 appears to have been intended to improperly influence legislative,
7 administrative, or political action, shall firmly and unequivocally
8 reject the offer and caution the person making it about a possible
9 violation of undue influence and bribery laws.

10 (b) If the attempt to improperly influence is clear, the matter
11 shall be reported to law enforcement authorities.

12 (c) A person who violates this section is subject to the civil
13 sanctions authorized under AS 24.61.560(a).

14 * Sec. 24.61.130. MISUSE OF STATE PROPERTY AND RESOURCES FOR
15 PRIVATE GAIN OR PERSONAL ADVANTAGE. (a) A legislator or legislative
16 employee may not use public funds, time, facilities, equipment, mail-
17 ing lists, computer data, services, or any other government asset or
18 resource for an unauthorized nongovernmental purpose or for the pri-
19 vate gain or advantage of either the legislator, legislative employee,
20 or another person unless authorized by law.

21 (b) A legislator or legislative employee may not seek, accept,
22 use, allocate, grant, or award public funds for a purpose other than
23 that approved by law, or make a false statement in connection with a
24 claim, request, or application for compensation, reimbursement, or
25 travel allowances from public funds.

26 (c) A legislator or legislative employee may not use or seek to
27 use a legislative employee on government time to perform personal
28 services or assist in a private activity not directly related to the
29 official duties of the legislator or legislative employee.

1 (d) A person who violates this section is subject to the civil
2 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
3 misdemeanor.

4 Sec. 24.61.140. MISUSE OF STATE PROPERTY AND RESOURCES FOR
5 POLITICAL PURPOSES. (a) It is the intent of this section to ensure
6 that public resources, including funds, facilities, and personnel are
7 used only for the good of the public at large and not to further
8 partisan campaign purposes or to influence the outcome of an election;
9 that elections are fair and open and not distorted by the use of
10 public resources to the advantage of individual candidates; and that
11 taxpayers are not forced to subsidize the campaign of an incumbent
12 legislator.

13 (b) A legislator or legislative employee may not use public
14 funds, time, facilities, equipment, mailing lists, computer data,
15 services, or another government asset or resource for the purpose of
16 political fund raising, campaigning, to influence the outcome of an
17 election, or other purely political purpose.

18 (c) A legislator or legislative employee may not use or seek to
19 use a legislative employee on government time to assist in political
20 party activities, campaigning, fund raising, or other partisan or
21 personal political activities.

22 (d) A legislator may not use public funds to produce or distrib-
23 ute a printed flyer, newsletter, or similar publication for mass
24 distribution to constituents unless at least one full page of the
25 publication contains a clear statement, in at least eight point type,
26 of the following information:

27 (1) a brief description of the nature of each bill intro-
28 duced by the legislator as a prime sponsor;

29 (2) a brief description of the nature of each committee

1 substitute or significant amendment offered by the legislator;

2 (3) a brief description of the nature of each bill voted on
3 by the legislative body and the vote of the legislator;

4 (4) the name of each contributor of \$250 or more.

5 (e) The information required under (d) of this section must
6 include all activity since the last mailing or, if a previous state-
7 paid mailing was not sent, during the last legislative session, up to
8 and including activity at the time the publication is prepared. This
9 provision does not affect the content of a publication prepared and
10 distributed with campaign funds.

11 (f) Unless superseded by comprehensive regulations relating to
12 the use of government resources for political purposes developed by
13 the legislature and adopted by the commission under AS 24.61.160, the
14 following prohibitions apply:

15 (1) a legislator may not use or authorize the use of public
16 funds, property, time, personnel, or other resources to produce,
17 print, photocopy, publish, broadcast, or otherwise disseminate ma-
18 terial intended to influence the result of an election; ~~this provision~~
19 ~~applies to newsletters and other constituent correspondence that by~~
20 ~~its nature, content, timing, or use clearly appears to be primarily~~
21 ~~intended to influence an election,~~ even if the materials do not make a
22 specific reference to the election;

23 (2) unless approved by the commission, public funds may not
24 be used to print or distribute a mass mailing from or about a legisla-
25 tor who is a candidate for reelection to the legislature or another
26 state office during the period beginning 90 days before the primary
27 election in which the legislator is a candidate, and ending the day
28 after the final election that year in which the legislator is a candi-
29 date;

1 (3) a legislator, or another person on behalf of the legis-
2 lator, or a campaign committee of the legislator, may not solicit or
3 accept a campaign contribution in a facility or office ordinarily used
4 to conduct state government business; this provision applies to tele-
5 phone conversations, personal meetings, and mail; if an unsolicited
6 contribution is offered or sent it shall be refused or returned
7 promptly;

8 (4) a legislator, or another person on behalf of the legis-
9 lator, or a campaign committee of the legislator, may not distribute
10 or post literature, placards, posters, or other communications de-
11 signed to influence the outcome of an election in a facility or office
12 ordinarily used to conduct state government business.

13 (g) A person who violates this section is subject to the civil
14 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
15 misdemeanor.

16 Sec. 24.61.150. OBLIGATION OF SUBORDINATES TO REFUSE TO PERFORM
17 IMPROPER TASKS. (a) A legislative employee who knows or reasonably
18 should know that the employee has been asked to perform improper
19 personal or political tasks shall refuse to perform them.

20 (b) If a legislator or legislative employee with supervisory
21 authority persists in requesting or demanding that a legislative
22 employee perform improper tasks, or if reprisals are threatened or
23 sanctions imposed as a result of the refusal to perform improper
24 tasks, the legislative employee subjected to the requests, threats, or
25 sanctions shall report the matter to the commission.

26 (c) A person who violates this section is subject to the civil
27 sanctions authorized under AS 24.61.560(a).

28 Sec. 24.61.160. REGULATIONS CONCERNING USE OF PUBLIC RESOURCES.

29 (a) The legislative council shall develop and recommend for adoption

1 by the commission detailed regulations relating to the use of govern-
2 ment property, resources, and personnel to assure that the provisions
3 of AS 24.61.140 - 24.61.160 and regulations adopted by the commission
4 are interpreted uniformly and fairly and are consistent with the
5 spirit of this chapter. The legislative council shall annually review
6 the regulations and recommend necessary changes to the commission.

7 (b) If the legislative council fails to make recommendations for
8 the adoption or modification of regulations under (a) of this section,
9 the commission shall develop and adopt the regulations on its own
10 initiative.

11 Sec. 24.61.170. USE OF NONPUBLIC AND CONFIDENTIAL INFORMATION
12 FOR PRIVATE GAIN. (a) A legislator or legislative employee may not
13 use or disclose, other than in the performance of official duties or
14 as required by law, nonpublic or confidential information acquired in
15 the course of and by reason of legislative service to obtain private
16 gain for the legislator or employee or another person or business,
17 including a person or business with whom the legislator or legislative
18 employee is associated or has negotiated prospective employment.

19 (b) A person who violates this section is subject to the civil
20 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
21 misdemeanor.

22 Sec. 24.61.180. MISUSE OF TITLE OR PRESTIGE OF OFFICE FOR PRI-
23 VATE GAIN OR PERSONAL ADVANTAGE. (a) A legislator or legislative
24 employee may not use, or allow others to use, the authority, title, or
25 prestige of the legislator's or employee's office to obtain unwarrant-
26 ed private economic benefits for the legislator, legislative employee,
27 or another person. This provision includes, but is not limited to, a
28 prohibition against the use of authority, title, or prestige to obtain
29 employment, contracts for goods or services, clients, grants, or

1 ~~loans~~

2 (b) A legislator or legislative employee may not use official
3 letterhead in private matters or refer to the legislator's or legisla-
4 tive employee's public position as a means of inducing or intimidating
5 persons to resolve disputes more favorably, provide preferential
6 treatment, or give free tickets, discounts, favors, or other advan-
7 tages.

8 (c) A legislator or legislative employee may not use, or allow
9 others to use, the authority, title, or prestige of the legislator's
10 or employee's office in the context of an endorsement of a commercial
11 product or service. Official letterhead may not be used in materials
12 endorsing a product, service, or candidate for office. This provision
13 may not be construed to prohibit the use of a

14 (1) legislator's or legislative employee's official title
15 or letterhead in the course of an otherwise proper recommendation of a
16 person for employment; or

17 (2) legislator's official title, used in a dignified manner
18 along with the name, as part of a political endorsement.

19 (d) A legislator or legislative employee may not solicit or
20 accept compensation of any sort under terms and conditions where the
21 compensation is not commensurate with the services performed or that
22 would otherwise create in the minds of reasonable objective observers
23 ~~the perception that the stature of office has been unduly exploited~~
24 ~~for private gain.~~

25 (e) A person who violates this section is subject to the civil
26 sanctions authorized under AS 24.61.560(a).

27 Sec. 24.61.190. POST-SERVICE RESTRICTIONS TO PREVENT MISUSE OF
28 PUBLIC OFFICE BY FORMER LEGISLATORS AND LEGISLATIVE EMPLOYEES. (a) A
29 legislative assistant or person who has served as a member of the

1 legislature may not, within one year after the expiration of the
2 person's legislative service, use or disclose nonpublic information
3 acquired in the course of and by reason of legislative service to
4 obtain private personal gain or for the gain of another, including a
5 person or business with whom the former legislator or legislative
6 employee is now associated. A person subject to this subsection may
7 not, at any time, use or disclose information that is by law confiden-
8 tial.

9 *Constitutional problem*
(b) Legislators and legislative assistants may not, for a period
10 of one year after leaving office, act on their own behalf or assist
11 another as a lobbyist, representative, consultant, advisor, or advo-
12 cate in seeking to influence, a

13 (1) legislator or legislative employee to take or withhold
14 legislative, administrative, or political action;

15 (2) state agency, public official, or employee with respon-
16 sibility in an area in which the person, while a legislator or legis-
17 lative assistant, had special oversight or budgeting responsibility,
18 to take or withhold administrative action.

19 (c) A person is considered to have had special oversight or
20 budget authority over an agency if the person served, within the last
21 year of the person's legislative term, as the president of the senate,
22 speaker of the house, chair of the finance committee of either house,
23 or as chair of a committee directly concerned on a regular basis with
24 the agency's activities.

25 (d) A former legislator, within one year after leaving office,
26 may not solicit or accept compensation of any sort under terms and
27 conditions where the compensation is not commensurate with the ser-
28 vices performed or that would otherwise create in the minds of reason-
29 able objective observers the perception that the stature of office has

1 been unduly exploited for private gain.

2 (e) A person who violates this section is subject to the civil
3 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
4 misdemeanor.

5 Sec. 24.61.200. USE OF CAMPAIGN FUNDS: INTENT. Because the
6 right to solicit and accept funds from the public for the purpose of
7 supporting a person's campaign for office is purely an incident of our
8 democratic political system, the use that can properly be made of
9 campaign funds must be sharply limited to prevent actual misuse and
10 improper appearances of misuse of funds. Legislative campaign funds
11 are received, free of tax liability to the recipient, for the specific
12 purpose of assisting a candidate to get elected or reelected to of-
13 fice. Any other use of funds, whether for personal gain or other
14 purposes not closely related to bona fide campaign expenditures, is
15 improper.

16 Sec. 24.61.202. PROPER USES OF CAMPAIGN FUNDS. Campaign funds
17 may be properly expended for an otherwise lawful purpose intended to
18 influence voters to elect or reelect the legislative candidate to the
19 legislature including, but not limited to: payment of staff and
20 consultants; rental of space and equipment for a campaign office;
21 purchase of media time and space; design work; printing of campaign
22 materials; postage; taking polls and interpreting them; telephone
23 installation and usage; costs of distribution of materials; advertis-
24 ing in organizational and club bulletins or other brochures; inscribed
25 promotional materials, including buttons, pencils, pens, and items of
26 clothing; necessary intrastate travel and related expenses for the
27 candidate and a member of the candidate's staff or immediate family
28 provided that the travel and lodging are directly related to attempts
29 to influence voters; victory and thank you celebrations; and

1 newsletters and mass mailings promoting the candidate.

2 Sec. 24.61.205. PROHIBITED USES OF CAMPAIGN FUNDS. (a) A
3 candidate for the legislature may not

4 (1) use funds raised and designated as campaign funds for
5 personal economic benefit, to supplement personal income, or to en-
6 hance personal life style;

7 (2) convert surplus campaign funds or interest earned on
8 campaign funds to personal income;

9 (3) seek or claim a tax deduction or other economic benefit
10 for surplus funds disbursed to a charity under law.

11 (b) A legislative candidate may not borrow from campaign funds
12 or loan them to another person or group.

13 (c) Campaign funds may be used only as is reasonable and neces-
14 sary to advance the interests of the campaign. A person or company
15 providing goods or services to the campaign may not knowingly be paid
16 more than the fair market value of the goods or services purchased.

17 (d) Funds may not be used in a way that would create in the mind
18 of a reasonable objective observer the belief that the funds are for
19 the personal financial benefit of the candidate, the candidate's
20 immediate family, or another person. Campaign funds may not be paid
21 to a member of the candidate's immediate family as an employee or for
22 goods or services provided to the campaign unless the amounts paid are
23 reasonable and proper for the goods or services provided. Excess
24 amounts paid to family members shall be treated as an improper conver-
25 sion of campaign funds to personal use.

26 (e) Except for funds irrevocably pledged during a campaign or
27 campaign money sent before a final election, a legislative candidate
28 who has won office, and a committee related to the election, may not
29 accept campaign contributions. A post-election contribution shall be

1 treated as an illegal gratuity and must be returned.

2 (f) A legislative candidate and a committee controlled by a
3 legislative candidate may not use campaign funds to make a contribu-
4 tion to another candidate running for office or to a committee sup-
5 porting or opposing a candidate for office.

6 (g) Campaign funds may not be used to pay fines or other mone-
7 tary penalties or costs assessed against a candidate by a court or
8 other body, unless the fine, penalty, or cost is assessed as a result
9 of proscribed actions by a member or employee of a campaign committee
10 or another person acting on behalf of the candidate under circum-
11 stances where the candidate did not know of, have reason to know of,
12 acquiesce in, assent to, or direct those actions.

13 (h) A person who violates this section is subject to the civil
14 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
15 misdemeanor.

16 Sec. 24.61.210. DISBURSEMENT OF SURPLUS CAMPAIGN FUNDS. (a) If
17 a legislative candidate ceases to be a candidate or if there remains a
18 balance in the account of the candidate or the candidate's controlled
19 committee after the date of the election, unexpended funds in excess
20 of the amount allowed under (b) of this section may only be used as
21 provided in (1) - (5) of this subsection or to pay for a victory or
22 thank you party. Within 60 days after the end of the candidacy or the
23 election, unexpended funds shall be

24 (1) used to retire bona fide loans supported by appropriate
25 documentation including loans made to a campaign by the legislative
26 candidate or a member of the candidate's immediate family provided
27 that all other outstanding loans are paid first;

28 (2) returned on a pro rata basis to those who have made
29 contributions;

1 (3) paid promptly to the Department of Revenue for deposit
2 to the general fund;

3 (4) donated to one or more charitable organizations that
4 qualify for a federal tax exemption provided that the charity is not
5 one that is controlled by the candidate or a member of the candidate's
6 immediate family or in which the candidate or a member of the candi-
7 date's immediate family is personally involved as a director, trustee,
8 member of the board, officer, or other position of responsibility; or

9 (5) transferred to an ongoing political account controlled
10 by the candidate, but only in the amounts and according to the re-
11 quirements set out in (b) of this section.

12 (b) A maximum of \$2,500 for candidates for the house and \$5,000
13 for candidates for the senate of surplus campaign funds may be trans-
14 ferred to an ongoing political account controlled by the candidate.

15 (c) Funds carried over under this section may be expended for
16 any political purpose for which campaign funds can otherwise properly
17 be used, but they may not be used for a campaign for an office other
18 than the state legislature.

19 Sec. 24.61.220. PAYMENT OF LEGAL EXPENSES; SPECIAL EXPENSE
20 FUNDS. (a) Campaign funds may be used to defray attorney fees and
21 other legal costs incurred in the candidate's legal defense to a
22 civil, criminal, or administrative action arising directly out of the
23 conduct of the campaign or election process or the performance of
24 official action taken as part of the legislator's governmental activ-
25 ities and duties. Campaign funds may not be expended on defense costs
26 relating to legal or ethics charges based on nonofficial personal
27 conduct; however, those costs may be paid from a special defense fund
28 established under this section.

29 (b) A legislative candidate or legislator wishing to establish a

1 legal expense fund account shall file a statement of organization for
2 the legal expense fund with the commission. The statement of orga-
3 nization must identify the specific civil, criminal, or administrative
4 proceeding or proceedings for which the legal expense fund is estab-
5 lished.

6 (c) The legal expense fund shall establish a single account at
7 an office of a financial institution located in the state. A donation
8 to the candidate or legislator for legal expenses shall be deposited
9 into that account if the donation meets the requirements of (d) of
10 this section.

11 (d) Only a donation that is specifically designated by the donor
12 as being for the legal expense fund and is made payable to the legal
13 expense fund may be deposited in the legal expense fund account.

14 (e) Expenditures from the legal expense fund account may be made
15 only for legal costs directly related to the civil, criminal, or
16 administrative proceeding or proceedings for which the legal expense
17 fund is established. Expenditures from the legal expense fund account
18 may not be used to pay or reimburse fines, penalties, judgments, or
19 settlements in connection with a criminal prosecution or a civil or
20 administrative action in which the legislative candidate or legislator
21 is found to have committed, or admits to having committed an inten-
22 tional or negligent violation of the law.

23 (f) Funds may not be transferred from the legal expense fund to
24 another committee. Surplus funds remaining in the legal expense fund
25 account after the proceeding or proceedings for which the account is
26 established have concluded may not be used for another purpose and
27 shall be returned to donors on a pro rata basis or given to the De-
28 partment of Revenue for deposit in the general fund within six months
29 after the final conclusion of the proceeding or proceedings.

1 (g) This section constitutes the sole means for soliciting or
2 accepting donations for legal costs not subject to this chapter's
3 contribution limitations.

4 (h) Funds received from testimonial dinners or other fund rais-
5 ing events must be clearly designated in advance as either for cam-
6 paign purposes or for the legal expense fund and all proceeds shall be
7 dealt with accordingly.

8 (i) A person who violates this section is subject to the civil
9 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
10 misdemeanor.

11 Sec. 24.61.230. IMPROPER COERCION. (a) Legislators wield
12 substantial power and influence and it is essential that constituents
13 and others interested in their legislative, administrative, and polit-
14 ical actions have, and believe they have, a fair and adequate oppor-
15 tunity to express their concerns, grievances, and ideas without regard
16 to their willingness or ability to provide personal benefits, contrib-
17 ute to particular charitable causes favored by a legislator, or pro-
18 vide financial or other forms of political support.

19 (b) A legislator may not, directly or through others acting on
20 the legislator's behalf, engage in conduct that the legislator knows
21 or reasonably should know is likely to create the belief or impression
22 in another that persons and the causes they represent will receive
23 more or less favorable consideration, or that they will be given more
24 or less opportunity to personally state their case, or otherwise be
25 benefited or disadvantaged as a direct result of their willingness to
26 provide

27 (1) funds for a campaign contribution or another cause
28 favored by the legislator; or

29 (2) the legislator with personal benefits or political

1 support.

2 (c) A legislator may not directly or through others acting on
3 the legislator's behalf,

4 (1) agree to, or threaten to take or withhold a legisla-
5 tive, administrative, or political action, including but not limited
6 to support or opposition to a bill, employment, nominations, and
7 appointments, as a result of a person's decision to provide or not
8 provide a political contribution;

9 (2) state or imply that the legislator will perform or
10 refrain from performing a lawful constituent service as a result of a
11 person's decision to provide or not provide a political contribution;

12 (3) participate in a discussion, scheme, or plan clearly
13 designed to evade the plain spirit and purpose of campaign and contri-
14 bution regulations or financial disclosure provision of state law; or

15 (4) knowingly accept a contribution given or offered in
16 violation of law.

17 (d) A person who violates this section is subject to the civil
18 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
19 misdemeanor.

20 Sec. 24.61.240. FUND RAISING LIMITATIONS. (a) Because the
21 process of campaign fund raising involves activities that take great
22 amounts of time and energy and that tend to place legislators in
23 situations rife with the potential for conflicts of interest, it is
24 the intent of this section that fund raising should be limited in ways
25 that permit legislators to concentrate their attention on public
26 matters.

27 (b) A legislator may not, either directly, through a campaign
28 committee, or other means, solicit or accept a campaign contribution
29 or a promise or pledge to make a contribution while the legislature is

1 in session, nor may a legislator otherwise be involved in a fund
2 raising activity for the legislator's own campaign or for another
3 person or cause while the legislature is in session.

4 (c) A legislator may not, either directly, through a campaign
5 committee, or other means, solicit or accept a campaign contribution
6 or a promise or pledge to make a contribution relating to candidacy
7 for the legislature except during the following periods:

8 (1) legislators and other incumbent elected public offi-
9 cials intending to run for the legislature may raise funds from June 1
10 until December 31 in the year before the year of an election in which
11 they intend to be a candidate, and from June 1 through the final
12 election in November in the year of the election;

13 (2) candidates for the legislature who are not in public
14 office at the time of their candidacy may raise funds from June 1 in
15 the year before the year of an election in which they intend to be a
16 candidate through the final election in November in the year of the
17 election.

18 (d) A person who violates this section is subject to the civil
19 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
20 misdemeanor.

21 Sec. 24.61.250. GENERAL OBLIGATION TO AVOID CONFLICTS OF INTER-
22 EST AND PRESERVE ABILITY TO MAKE INDEPENDENT IMPARTIAL JUDGMENTS.
23 Legislators and legislative employees shall safeguard their ability to
24 make independent, objective, fair, and impartial judgments by scrupu-
25 lously seeking to avoid financial, social, and political relationships
26 and transactions that may compromise or give the appearance of com-
27 promising their objectivity, independence, or honesty.

28 Sec. 24.61.255. FINANCIAL CONFLICTS OF INTEREST DEFINED. A
29 financial conflict of interest exists when a person or a member of

1 that person's immediate family has substantial financial interests
2 that may be materially affected by an official action or decision they
3 might make. The interest must be so substantial and the potential
4 effect on that interest must be so material that a reasonable objec-
5 tive person is likely to believe that the ability of the person with
6 the financial interest to make an objective, fair, and impartial
7 professional judgment will be impeded by self-interest. It is not a
8 conflict of interest as to a specific matter if

9 (1) the person's economic interest is not substantial;

10 (2) the person's authority in relation to the interest is
11 such that an action or decision is not likely to materially affect the
12 financial interest; or

13 (3) the economic effect an official action or decision
14 might have on a person's private financial interests is no greater
15 than the effect on a substantial class of persons to which the person
16 belongs as a member of a profession, occupation, industry, or region.

17 Sec. 24.61.260. SUBSTANTIAL INTEREST IN LEGISLATIVE, ADMINISTRA-
18 TIVE, OR POLITICAL ACTION DEFINED. Conflicts of interest arise most
19 often and are most serious when a legislator or legislative employee
20 has a financial or personal relationship with other persons, including
21 governmental entities, that have a substantial interest in legisla-
22 tive, administrative, or political action. Persons, including govern-
23 mental entities, have a substantial interest if they

24 (1) are regulated by the legislature;

25 (2) provide goods or services to the legislature for com-
26 pensation or profit;

27 (3) seek employment in the legislative branch or a govern-
28 ment agency or in a private organization in which a legislator or
29 legislative employee is likely to have, or reasonable appears to have,

1 the ability to influence an employment decision;

2 (4) will be directly and substantially affected, either
3 financially or personally, by a contemplated legislative, administra-
4 tive, or political action in a way that is greater than the effect on
5 a substantial class of persons to which the person belongs as a member
6 of a profession, occupation, industry, or region;

7 (5) have or seek contracts for goods or services with an
8 agency of state government;

9 (6) are registered lobbyists;

10 (7) employ registered lobbyists; or

11 (8) represent, with or without compensation, a person or
12 organization described in (1) - (7) of this section.

13 Sec. 24.61.265. CLOSE ECONOMIC ASSOCIATION DEFINED. "Close
14 economic association" refers to a financial relationship between two
15 or more persons that creates economic interests in a legislator or
16 legislative employee that either (1) conflict with public duties and
17 the obligation to exercise objective independent judgment; or (2)
18 create the appearance that the person may have undue access to confi-
19 dential information or otherwise receive favored treatment regarding
20 public actions. "Close economic association" includes, but is not
21 limited to, relationships involving compensation as an employee,
22 agent, representative, counselor, adviser, or consultant, including
23 professional services as between a lawyer and client or a financial
24 planner and a client; a financial interest resulting from an invest-
25 ment, business enterprise, or interest in real property as a partner,
26 investor, associate, or major stockholder; a landlord and tenant or
27 co-tenants sharing housing expenses; a debt, loan, or loan guarantee;
28 or another relationship in which a legislator or legislative employee
29 has a substantial economic involvement with another person. In this

1 section, "person" includes governmental entities.

2 Sec. 24.61.270. DEALING WITH FINANCIAL CONFLICTS. Except in the
3 relatively few cases in which certain conflict-laden transactions or
4 relationships are banned by this chapter or where divestiture will be
5 ordered by the commission, conflicts of interest are dealt with pri-
6 marily as a matter of required public disclosure and voluntary re-
7 straint.

8 Sec. 24.61.275. PERSONAL RELATIONSHIP CONFLICTS OF INTEREST
9 DEFINED. A personal relationship conflict of interest exists when a
10 legislator or legislative employee is involved in a close personal
11 relationship with another person who is likely to be substantially
12 affected by an official action or decision the legislator or legisla-
13 tive employee might make. A close personal relationship is a special
14 relationship between a legislator or legislative employee and another
15 person that creates strong bonds of loyalty, friendship, or love that
16 could potentially conflict with public duties and the obligation to
17 exercise objective independent judgment or create the appearance that
18 the person may have undue access to confidential information or other-
19 wise receive favored treatment regarding public actions. A close
20 personal relationship includes, but is not limited to, immediate
21 family, long-term personal friends, or former business associates, and
22 persons with whom the legislator or legislative employee has a signif-
23 icant and continuous romantic relationship.

24 Sec. 24.61.280. DEALING WITH PERSONAL RELATIONSHIP CONFLICTS OF
25 INTEREST. Except in the very few cases where certain relationships
26 give rise to specific legal limitations, such as the ban on nepotism,
27 personal relationship conflicts are not restricted or subject to
28 mandatory disclosure. However, this makes them no less damaging to
29 public trust. Legislators and legislative employees shall avoid,

1 where reasonably possible, getting into situations where they have
2 personal relationship conflicts of interest. Where the situations are
3 not reasonably avoidable, legislators and legislative employees shall
4 take affirmative steps to disclose the conflicts that are not apparent
5 and refrain, where reasonably possible, from making decisions or
6 taking actions affected by the conflict.

7 Sec. 24.61.290. RESTRICTED RELATIONSHIPS: NEPOTISM. (a) A
8 member of the immediate family of a legislator may not be employed for
9 compensation

10 (1) in the house of which the legislator is a member during
11 the legislative session;

12 (2) in either house in the interim between legislative
13 sessions; or

14 (3) by the commission, whether for compensation or not, at
15 any time.

16 (b) A member of the immediate family of a legislative employee
17 may not be employed for compensation in a position over which the
18 employee has supervisory authority.

19 (c) In cases where a relative of a legislator or legislative
20 employee is uniquely qualified to perform a task, or another extraor-
21 dinary circumstance exists under which it would be in the state's
22 interest to waive the limitation of this section, an exemption may be
23 sought from the commission.

24 (d) For purposes of this section, a legislator is not an employ-
25 ee of the legislature.

26 (e) A person who violates this section is subject to the civil
27 sanctions authorized under AS 24.61.560(a).

28 Sec. 24.61.300. RESTRICTED RELATIONSHIPS: LOBBYISTS, LEGISLA-
29 TORS, AND LEGISLATIVE EMPLOYEES. (a) A registered lobbyist may not

1 serve as a campaign manager or director, serve as a campaign treasurer
2 or deputy campaign treasurer on a finance or fund-raising committee,
3 host a fund-raising event, or otherwise engage actively in the fund-
4 raising activity of a legislative campaign or for a legal expense fund
5 under AS 24.61.220. Although this subsection prohibits a lobbyist
6 from engaging in all forms of fund raising, it may not be construed to
7 prohibit a lobbyist from making personal contributions to or person-
8 ally advocating on behalf of a candidate.

9 (b) Legislators and legislative employees who have a close
10 economic association or a close personal relationship with a regis-
11 tered lobbyist shall make a written disclosure of the relationship in
12 confidence to the commission. The disclosure shall be made during the
13 first week of each session. If a legislator or legislative employee
14 is not in office during the first week of the session, the disclosure
15 shall be made within 30 days after taking office. If the relationship
16 did not exist during the first week of the session, the disclosure
17 shall be made no later than 45 days after formation of the relation-
18 ship.

19 (c) The written disclosure must state the name of the persons
20 involved, the nature of the relationship, and a brief narrative of the
21 matters the legislator or legislative employee is working on or rea-
22 sonably might work on in the future that could create an actual con-
23 flict of interest. If the commission requests additional information
24 it shall be promptly provided.

25 (d) The commission shall make a determination as to whether the
26 relationship creates a conflict of interest that requires restrictions
27 or disclosure. After making the determination, the commission may
28 elect to

29 (1) keep the matter confidential;

- 1 (2) order some restriction in the activities;
2 (3) order disclosure in the journal of the appropriate
3 body; or
4 (4) order a combination of (1) and (2) or (2) and (3) of
5 this subsection.

6 (e) A legislator or legislative assistant may not provide per-
7 sonal services for compensation for or on behalf of a registered
8 lobbyist, lobbying firm, or another organization or firm that regular-
9 ly engages in lobbying the legislature or state agencies, boards, or
10 commissions, nor may a legislator or legislative assistant have a
11 financial interest in a business that receives a substantial part of
12 its income from lobbyists, lobbying firms, or another organization or
13 firm that regularly engages in lobbying the legislature or state
14 agencies, boards, or commissions.

15 (f) A person required to make a disclosure under this section
16 may not knowingly make a false, deliberately misleading or incomplete,
17 or unreasonably delayed disclosure to the commission.

18 (g) A person who violates this section is subject to the civil
19 sanctions authorized under AS 24.61.560(a) and other penalties au-
20 thorized under AS 24.45 (regulation of lobbying).

21 Sec. 24.61.310. RESTRICTED RELATIONSHIPS: BOARD MEMBERSHIPS.

22 (a) A legislator or legislative employee may not serve on a governing
23 or advisory board of an organization that regularly has a substantial
24 interest in the legislative, administrative, and political actions of
25 the legislator or legislative employee.

26 (b) In extraordinary situations where the criteria for an ex-
27 emption exists, a legislator or legislative employee may seek a waiver
28 of the provisions of this section or a modified order from the commis-
29 sion.

1 (c) A person who violates this section is subject to the civil
2 sanctions authorized under AS 24.61.560(a).

3 Sec. 24.61.320. RESTRICTED FINANCIAL INTERESTS. (a) A legisla-
4 tor or legislative employee may not participate in legislative, admin-
5 istrative, or political action if the legislator or legislative em-
6 ployee has an equity or ownership interest in a business, investment,
7 real property, lease, or other enterprise if the interest has a fair
8 market value of \$25,000 or more and the effect of the action on that
9 interest is greater than the effect on a substantial class of persons
10 to which the legislator or legislative employee belongs as a member of
11 a profession, occupation, industry, or region.

12 (b) In extraordinary situations where the criteria for an ex-
13emption exists, a legislator or legislative employee may seek a waiver
14 of the provisions of this section.

15 (c) A person who violates this section is subject to the civil
16 sanctions authorized under AS 24.61.560(a).

17 Sec. 24.61.330. RESTRICTED ACTIVITIES AS AN ATTORNEY OR REP-
18RESENTATIVE. (a) A legislator or legislative assistant may not
19 professionally represent a person in a legal action against the state
20 where the state is the real party in interest, or receive compensation
21 or any other benefit for acting as an informal representative, advi-
22 sor, or consultant to persons regarding their actions against the
23 state. This provision may not be construed to prevent a legislator or
24 legislative assistant who is an attorney from representing a criminal
25 defendant or clients in competency, commitment, delinquency, support,
26 or Child in Need of Aid cases or similar proceedings where the state
27 is not the real party in interest.

28 (b) A legislator or legislative assistant may not professionally
29 represent either formally or informally as an advocate, advisor, or

1 consultant, a person in a matter involving an agency, board, or com-
2 mission of the state or a local government unless the matter involves
3 a proceeding that is adjudicatory in nature and there is no reasonable
4 basis to conclude that the side represented by the legislator or
5 legislative employee has an unfair advantage. A matter is considered
6 to be adjudicatory in nature where opposing sides are separately
7 represented. This provision does not prohibit an attorney from repre-
8 senting a client in an otherwise permissible action before a criminal
9 or civil court or prevent a legislator or legislative assistant from
10 representing personal interests in an otherwise proper proceeding.
11 This provision shall be construed to prohibit formal and informal
12 professional representation for purposes of obtaining or retaining a
13 state or local license, permit, franchise, grant, loan, or other
14 entitlement, whether or not other parties contending for the benefit
15 are represented. If, however, the granting of the benefit is a purely
16 ministerial matter requiring little or no discretion, this provision
17 does not prohibit representation.

18 (c) Notwithstanding any other law to the contrary, a legislator
19 or legislative employee, acting as an attorney or representative of
20 another, may not seek or accept special treatment, privileges, rights,
21 or concessions solely by reason of service in the legislature. This
22 shall include the seeking and granting of legislative stays.

23 (d) This section may not be construed to prohibit a legislator
24 or legislative assistant from informally advising a constituent about
25 the procedures or appropriateness of bringing an action against the
26 state or a local government. If a legislator or legislative assistant
27 in an otherwise proper manner advises a constituent or another in an
28 action against the state or a local government or before a state or
29 local government agency, the legislator or legislative employee may

1 not reveal nonpublic or confidential information.

2 (e) If an attorney is disqualified under this provision, in
3 accordance with the attorney's code of professional responsibility the
4 firm of the legislator or legislative assistant is also disqualified.

5 (f) In extraordinary situations where the criteria for an ex-
6 emption exists, a legislator or legislative assistant may seek a
7 waiver of this section.

8 (g) A person who violates this section is subject to the civil
9 sanctions authorized under AS 24.61.560(a).

10 Sec. 24.61.340. RESTRICTED TRANSACTIONS: INTEREST IN STATE
11 CONTRACTS OR LEASES. (a) A legislator, a legislative assistant, or a
12 member of the immediate family of a legislator or legislative assis-
13 tant may not be a party to, or have a financial interest in, a state
14 contract or lease unless the contract or lease is permitted under (b),
15 (c), or (d) of this section.

16 (b) A contract is permissible if the contract is let through
17 competitive sealed bidding under AS 36.30 (State Procurement Code) and
18 the legislator or legislative assistant has filed a statement with the
19 commission at the time the bid is made certifying under penalty of
20 unsworn falsification that the legislator or legislative assistant did
21 not have (1) ~~access to inside, nonpublic, or confidential information~~
22 ~~that reasonably could appear to provide an advantage; or (2)~~ dis-
23 cussions or contacts with state officials involved in letting the
24 contract about the contract that could unduly influence the decision.
25 The statement must also specify the nature of the legislator or legis-
26 lative assistant's personal or immediate family interest, including
27 the percentage or share of profits that will be realized. If the
28 commission requests additional information, it shall be promptly
29 provided. If the commission believes the nature or circumstances of

* define

1 the contract raise impermissible conflicts of interest, it may void
2 the contract or order restrictions. The statement filed by the legis-
3 lator or legislative assistant regarding the contract shall be made
4 part of the public record and published in the journal of the appro-
5 priate house.

6 (c) A contract or lease is permissible if the total amount of
7 the contract or lease over the course of a year is less than \$1,000
8 and it was let under circumstances that raise no substantial question
9 as to the use of undue influence.

10 (d) A contract or lease is permissible if the contract or lease
11 was developed and standardized under published guidelines and the
12 benefits and rights conferred are widely available to the general
13 public under the same terms and conditions.

14 (e) A legislator or legislative assistant may not seek or accept
15 compensation, whether in the form of a commission, bonus, retainer,
16 kickback, or other form, on a state contract, nor may a legislator or
17 legislative assistant receive similar compensation for services relat-
18 ing to recommending, supporting, or advocating a contract between a
19 person and an entity of state government, an entity of local govern-
20 ment that receives substantial state subsidy, or a private enterprise
21 that does a substantial portion of its business with state government.

22 (f) A legislator, legislative assistant, or former legislator or
23 legislative assistant, within one year of leaving legislative service,
24 may not seek or accept a contract for goods or personal services, or
25 other compensation concerning a matter on which the legislator or
26 legislative assistant worked extensively within the last year of
27 service.

28 (g) A person required to make a disclosure under this section
29 may not knowingly make a false, deliberately misleading or incomplete,

1 or unreasonably delayed disclosure to the commission.

2 (h) A person who violates this section is subject to the civil
3 sanctions authorized under AS 24.61.560(a).

4 Sec. 24.61.345. PARTICIPATION IN GENERAL STATEWIDE PROGRAMS
5 PERMISSIBLE. (a) A legislator or legislative employee may properly
6 participate in statewide benefit programs or receive a loan from the
7 state if the program or loan is generally available to members of the
8 public, is subject to fixed, objective eligibility standards, and
9 requires minimal discretion in determining qualification.

10 (b) The commission shall review annually state programs and
11 state loans and publish a list of programs and loans, designating
12 which ones meet the qualifications stated.

13 (c) A legislator or legislative employee who participates in a
14 program or receives a loan that does not qualify under this section
15 shall file a written report with the commission by the first Monday in
16 February of each year stating the amounts of the loans or other bene-
17 fits received during the preceding calendar year from nonqualifying
18 programs. The commission shall promptly compile a list of the state-
19 ments indicating the loans and programs and amounts and send it to the
20 presiding officer of each house who shall have it published in the
21 supplemental journals within three weeks of the filing date. If the
22 commission requests additional information it shall be promptly pro-
23 vided.

24 (d) If loan proceeds or other program benefits are received from
25 nonqualifying programs or loans after January 15, the legislator or
26 legislative employee shall file a statement with the commission within
27 30 days after the beginning of participation in the state program or
28 receipt of proceeds from the state loan. The statement shall be
29 promptly forwarded to the presiding officer of the appropriate house

1 who shall cause it to be published in the supplemental journal.

2 (e) If the commission determines that the nature and circum-
3 stances under which the legislator or legislative employee received a
4 state benefit or loan raises an undue appearance of impropriety or was
5 in fact the result of unfair or improper influence it shall be treated
6 as a violation of this chapter and the commission may order whatever
7 authorized remedies are suitable.

8 (f) The commission shall annually identify the programs and
9 loans to be audited by the division of legislative audit during the
10 following year, including the scope of the audit. The records of the
11 relevant state agencies shall be made available to the division of
12 legislative audit. The division of legislative audit shall prepare a
13 report to the commission on its findings. The report is confidential
14 until it is released by the commission.

15 (g) In extraordinary situations where the criteria for an ex-
16 emption exists, a legislator or legislative employee may seek a waiver
17 of this section.

18 (h) A person required to make a disclosure under this section
19 may not knowingly make a false, deliberately misleading or incomplete,
20 or unreasonably delayed disclosure to the commission.

21 (i) A person who violates this section is subject to the civil
22 sanctions authorized under AS 24.61.560(a).

23 Sec. 24.61.350. RESTRICTED TRANSACTIONS: GRATUITIES. (a)
24 Public servants must be extremely cautious and circumspect about
25 accepting a gratuity or favor, especially from persons or entities
26 that have a substantial interest in their legislative, administrative,
27 or political actions. Even where there is a genuine personal friend-
28 ship, the acceptance of personal benefits from those who could gain
29 advantage by influencing official actions raises suspicions that tend

1 to undermine public trust. It is the intent of this section to dis-
2 courage all gratuities, but prohibit only those that create unaccept-
3 able conflicts of interest or appearances of impropriety.

4 (b) A legislator or legislative employee may not solicit, ac-
5 cept, or receive, directly or indirectly, a benefit as a gratuity from
6 a person or entity except as provided in this section. Over the
7 course of a year, a legislator or legislative employee may accept
8 gratuities in the form of personal gifts, free or subsidized travel,
9 tickets to entertainment or sporting events, lodging, and any other
10 benefit, provided that the aggregate value is not in excess of \$100
11 from a single source and provided that the gifts are reported as to
12 source and amount. However, a benefit of any amount may not be ac-
13 cepted under circumstances in which it could be reasonably inferred
14 that the gift is intended to influence the performance of official
15 duties, actions, or judgments.

16 (c) The following benefits may be accepted as gratuities without
17 regard to the \$100 limit of (b) of this section and they need not be
18 reported except as noted within the appropriate paragraph:

19 (1) gifts from immediate family members;

20 (2) birthday, wedding, anniversary, and similar ceremonial
21 gifts from personal friends, but only if the donor does not have a
22 substantial interest in the legislative, administrative, or political
23 action of the recipient;

24 (3) gifts of sample merchandise, promotional items such as
25 pens, calendars, and the like, and appreciation tokens such as candy,
26 fruit baskets, or flowers provided they are of nominal or moderate
27 value, are given to customers or potential customers in the ordinary
28 course of business, and there are no special facts creating a conflict
29 of interest or the appearance of impropriety;

1 (4) unsolicited tokens or awards of appreciation or recog-
2 nition with a value of less than \$150 in the form of a plaque, trophy,
3 clock, desk item, wall memento, and similar items; more valuable
4 awards such as watches, rings, and works of art may be accepted only
5 if the organization making the award does not have a substantial
6 interest in the legislative, administrative, or political action of
7 the recipient or the award has been approved by the commission upon a
8 finding that the gift does not create an impermissible conflict of
9 interest;

10 (5) informational material, brochures, pamphlets, and unso-
11 solicited publications, including newspapers and magazines, with a
12 market value of less than \$100 on an annual basis;

13 (6) food or foodstuffs indigenous to the state, such as
14 walrus and caribou, that are shared generally as a cultural or social
15 norm, and meals and beverages provided and consumed at social or
16 fund-raising events, conferences, or professional meetings, at a
17 restaurant or club, provided that the cost is not lavish or excessive,
18 or as part of personal hospitality at the residence or place of busi-
19 ness of the host; this paragraph may not be construed to permit gifts
20 of packaged liquor, wine, or foodstuffs, nor does it permit the accep-
21 tance of a restaurant meal not consumed with the person providing the
22 gift, for example if a lobbyist arranges to have a dinner for you and
23 your spouse billed to the lobbyist;

24 (7) a gift presented by a representative of a foreign
25 government may be accepted on behalf of the state, provided that if it
26 is worth more than \$100 it must be turned over to the presiding offi-
27 cer of either house for purposes of displaying the gift in public
28 areas of the Capitol or being sold at auction, the proceeds to go to
29 charity or the general fund; if the gift is worth less than \$100, and

1 it was intended as a personal gift, it may be kept provided that the
2 gift is properly reported;

3 (8) reasonable and necessary expenses including reimburse-
4 ment for travel and related food and lodging are not gratuities when
5 they are incidental to a trip paid for by a government agency or a
6 bona fide nonprofit educational or charitable institution for govern-
7 mental or educational purposes, provided that lodging expenses are
8 limited to the day preceding and the day or days of the event; if the
9 institution paying the expenses does not have a substantial interest
10 in the legislative, administrative, or political action of the recipi-
11 ent, expenses may also be paid for a spouse or other companion, in-
12 cluding a member of the legislator or legislative employee's family,
13 if the value of the gift is reported on required disclosure forms;
14 this paragraph does not permit acceptance of free travel from a person
15 or nongovernmental entity with a substantial interest in the legisla-
16 tive, administrative, or political action of the recipient even if the
17 purpose of the travel is related to matters of legislative concern;

18 (9) hospitality including overnight lodging, food, and
19 beverages at the residence or second home of the host provided the
20 host is present; if the host is a personal friend and has no substan-
21 tial interest in the legislative, administrative, or political actions
22 of the recipient and there are no other facts that create a conflict
23 of interest, there is no limit to the number of days stayed; if the
24 host has a substantial interest in the legislative, administrative, or
25 political actions of the recipient, the exempt stay may not exceed two
26 nights and the gratuity shall be reported on financial disclosure
27 forms; this paragraph may not be construed to permit the use of a
28 summer home, company retreat, resort facility, condominium or apart-
29 ment, or other lodging where the host is not personally present or,

1 regardless of the presence of the host, the purpose is to provide the
2 legislator or legislative employee with a paid or subsidized vacation
3 or similar benefit; while the host may use a personal or company car
4 or van to transport the legislator or legislative employee to the
5 place of a social event, unusual or expensive travel as by air or
6 limousine to the residence of the host or another place may not be
7 accepted.

8 (d) In extraordinary situations where the criteria for an exemp-
9 tion exists, a legislator or legislative employee may seek a waiver of
10 this section.

11 (e) A person required to make a disclosure under this section
12 may not knowingly make a false, deliberately misleading or incomplete,
13 or unreasonably delayed disclosure to the commission.

14 (f) A person who violates this section is subject to the civil
15 sanctions authorized under AS 24.61.560(a).

16 Sec. 24.61.360. RESTRICTIONS ON EARNED INCOME: OUTSIDE EMPLOY-
17 MENT AND HONORARIA. (a) Because legislators and many legislative
18 employees serve the state only part-time, most must engage in income
19 producing activities to supplement their legislative salaries. It is
20 the intent of this chapter to allow legislators and legislative em-
21 ployees substantial freedom in their ability to do so with due regard
22 for the state's interest in preventing conflicts of interest and
23 appearances of impropriety that undermine the integrity of government
24 and public trust.

25 (b) A legislator or legislative employee may not seek, accept,
26 or retain employment, including as an advisor or consultant, that

27 (1) will make it unreasonably difficult to fulfill legisla-
28 tive obligations;

29 (2) is likely to involve the disclosure or use of nonpublic

1 or confidential information acquired in the course of legislative
2 service;

3 (3) is likely to involve the legislator or employee acting
4 as a representative in a matter that makes use of the authority,
5 prestige, or title associated with legislative office;

6 (4) involves payments that by reasonable objective stan-
7 dards are not commensurate with the services rendered and appear to
8 involve a premium as a result of the legislator's or legislative
9 employee's position in the legislature;

10 (5) would require the legislator or legislative employee,
11 under conflict of interest and disqualification requirements, to re-
12 frain from taking legislative, administrative, or political actions in
13 an undue number of situations; or

14 (6) will require the legislator or legislative employee to
15 compromise another ethical or legal duty.

16 (c) A legislator or legislative employee may not receive compen-
17 sation for personal services from a state entity other than the legis-
18 lature except as specifically provided in this chapter or approved by
19 the commission. A legislator or legislative employee is not precluded
20 by this subsection from earning compensation at a state-funded school
21 or university, provided that no undue influence was used to obtain the
22 position.

23 (d) A legislator or legislative assistant who accepts otherwise
24 permissible employment with a person that has a substantial interest
25 in their legislative, administrative, or political actions is subject
26 to special disclosure provisions under AS 24.61.405 and shall scrupu-
27 lously avoid conduct that would lead a reasonable person to believe
28 that the legislator or legislative employee is unable or unwilling to
29 exercise independent, objective, and impartial judgment in considering

1 matters that affect the interests of the legislator's or legislative
2 employee's employer.

3 (e) A legislator or legislative employee may not seek or accept
4 honoraria in the form of a payment of money or anything of value from
5 a person or entity that has a substantial interest in legislative,
6 administrative, or political action as compensation for a speech,
7 panel presentation, appearance, or similar service. This paragraph
8 does not prevent a legislator or legislative employee from accepting
9 an honoraria from a governmental entity outside of the state, from a
10 university, or from another bona fide nonprofit educational or civic
11 institution, provided that the amount paid is reasonable and commensu-
12 rate with the services performed and that the circumstances under
13 which the services are to be performed do not create a conflict of
14 interest or appearance of impropriety. Honoraria and related expenses
15 shall be reported on required disclosure forms. Under other pro-
16 visions of this chapter, a legislator or legislative employee is
17 permitted to accept travel and related expenses incurred as the result
18 of an otherwise permissible activity.

19 (f) In extraordinary situations where the criteria for an ex-
20 emption exists, a legislator or legislative employee may seek a waiver
21 of this section.

22 (g) A person required to make a disclosure under this section
23 may not knowingly make a false, deliberately misleading or incomplete,
24 or unreasonably delayed disclosure to the commission.

25 (h) A person who violates this section is subject to the civil
26 sanctions authorized under AS 24.61.560(a).

27 Sec. 24.61.370. OBLIGATION TO MAKE ALL DECISIONS ON THE MERITS:
28 FAVORITISM AND PATRONAGE. (a) Legislators and legislative employees
29 shall exercise their powers and prerogatives without prejudice or

1 favoritism. A legislator or legislative employee may not use public
2 authority simply to reward relatives, friends, or political supporters
3 or to hinder or punish enemies and opponents.

4 (b) A person who violates this section is subject to the civil
5 sanctions authorized under AS 24.61.560(a).

6 Sec. 24.61.380. IMPROPER INTERFERENCE WITH THE INDEPENDENT
7 JUDGMENT OF OTHERS ON BEHALF OF CONSTITUENTS. (a) The proper opera-
8 tion of democratic government requires that each public official carry
9 out the duties of office free from improper influences that tend to
10 prevent decisions from being made on the merits according to fair and
11 established procedures. Under our system of separation of powers,
12 legislators have the responsibility to exercise oversight to assure
13 that the executive branch is carrying out its functions equitably,
14 efficiently, and economically. This responsibility, combined with the
15 duty to provide legitimate constituent service, creates situations
16 where a legislator may become involved with administrative decisions
17 or proceedings that affect constituents. The purpose of this section
18 is to provide ground rules for that involvement so that the activity
19 does not unduly distort or politicize the administrative process,
20 while still affording the legislator the opportunity to advocate and
21 protect the interests of constituents.

22 (b) A legislator, either directly or indirectly, may not inter-
23 fere with the ability or willingness of a state or municipal govern-
24 ment body, official, or employee to make official decisions or take
25 appropriate actions on the merits, based on independent objective
26 judgment.

27 (c) A legislator, either directly or indirectly, may not use or
28 appear to use political influence in a way that is likely to cause
29 another public servant to consider inappropriate factors in exercising

1 public authority. Acts either intended to or likely to be construed
2 as enticement, trade-offs, ingratiation, threats, intimidation, or
3 coercion are improper. Except to assure that a particular person is
4 being treated fairly according to established rules and procedures, a
5 legislator, directly or indirectly, may not interfere with or seek to
6 influence

7 (1) the outcome or substantive findings of an adjudicatory
8 proceeding of a governmental regulatory body;

9 (2) a decision regarding the commencement, scope, or ter-
10 mination of an investigatory process of a governmental agency; or

11 (3) an action of a governmental agency concerning the
12 granting or revocation of a license, permit, franchise, or similar
13 entitlement.

14 (d) This section may not be construed to prevent a legislator
15 from

16 (1) making inquiries about the status of a matter or help-
17 ing a constituent get a benefit or service the constituent is clearly
18 entitled to as a matter of right;

19 (2) openly advocating the position of constituents on the
20 merits, provided that no effort is made to unduly influence the deci-
21 sion making process by express or implied political pressure in mat-
22 ters involving discretionary decisions of administrative bodies that
23 will have direct and significant economic or social effect on the
24 legislator's district; or

25 (3) exercising vigilant oversight with respect to the
26 policies, regulations, procedures, and implementation practices of an
27 agency, provided that the oversight activities are conducted through
28 the normal committee processes of the legislature and that the focus
29 is on the policies, procedures, and practices of the agency and not

1 the handling of a particular matter.

2 (e) A legislator who, directly or indirectly, intervenes in an
3 administrative consideration, action, or proceeding, shall explicitly
4 convey to the administrators involved that the administrator is ex-
5 pected to make an independent judgment and that no advantages or
6 disadvantages to the administrator or the agency will result from a
7 favorable or unfavorable disposition.

8 (f) A person who violates this section is subject to the civil
9 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
10 misdemeanor.

11 Sec. 24.61.390. CONFLICT OF INTEREST DISCLOSURE: STATEMENT OF
12 PURPOSE. The purpose of financial disclosure by legislators and
13 legislative assistants is to

14 (1) discourage legislators and legislative assistants from
15 acting on a private or business interest in the performance of a
16 public duty;

17 (2) assure that legislators and legislative assistants
18 exercise their legislative function free of the influence of undis-
19 closed private or business interests;

20 (3) develop public confidence in persons seeking or holding
21 legislative office, enhance the dignity of the legislature, and make
22 it attractive to citizens who are motivated to public service;

23 (4) develop accountability in government by permitting
24 public access to information necessary to judge the credentials and
25 performance of those who hold public office; and

26 (5) provide the public the financial disclosure required to
27 meet the purposes listed in (1) - (4) of this section while preserving
28 the maximum amount of privacy to legislators and legislative assis-
29 tants.

1 Sec. 24.61.400. CONFLICT OF INTEREST DISCLOSURE BY LEGISLATORS
2 AND LEGISLATIVE ASSISTANTS; "CATEGORY A" AND "CATEGORY B" INCOME
3 DEFINED. (a) A legislator and a legislative assistant shall disclose
4 financial, professional, and personal interests that are likely to
5 create in the mind of a reasonable objective person the belief that
6 the legislator's or legislative assistant's objectivity and ability to
7 exercise independent judgment in the public interest have been ad-
8 versely affected by those interests.

9 (b) A legislator and a legislative assistant shall file with the
10 commission the reports required under AS 24.61.400 - 24.61.410. The
11 commission shall adopt filing guidelines and develop forms that are
12 compatible with financial disclosure forms required to be filed with
13 the Alaska Public Offices Commission under AS 39.50.030.

14 (c) A legislator and a legislative assistant shall disclose to
15 the commission, on a form and at the times prescribed by the commis-
16 sion, detailed information on the sources and amounts of outside
17 income received by them, their spouses, and their dependent children.
18 The information shall be divided into two categories, category A
19 income and category B income.

20 (d) In AS 24.61.400 - 24.61.420,

21 (1) "category A income" refers to all benefits received, in
22 the form of monetary compensation or another thing of value, from
23 persons who are known or reasonably should be known to have a substan-
24 tial interest in legislative, administrative, or political actions;

25 (2) "category B income" refers to all benefits received, in
26 the form of monetary compensation or another thing of value, from
27 persons who do not, or are not known to fall within category A.

28 Sec. 24.61.405. REPORTING CATEGORY A INCOME. (a) As to all
29 benefits received from category A sources, a person required under

1 AS 24.61.400 to report shall file with the commission a sworn state-
2 ment that must include,

3 (1) as to all income received as compensation for services,
4 regardless of the amount, the name and address of the source, a brief
5 statement describing the nature of the services performed including
6 sufficient detail to permit the commission to determine whether the
7 nature of the work created a conflict of interest (for example:
8 "consultant re: expansion of operations;" "engineer, quality con-
9 trol."), and the amount paid;

10 (2) as to each gratuity received and required to be re-
11 ported under AS 24.61.350(b)(1) and (7) - (9), the name and address of
12 the person providing the gratuity, a brief description of its nature,
13 and a good faith statement of its fair market value; if exact values
14 are not known, and cannot be found out without undue hardship or
15 expense, reasonable good faith estimates are acceptable; a loan that
16 was forgiven during the reporting period must be reported as a gratu-
17 ity;

18 (3) the name and address of the source and the cash value
19 of reimbursement for expenses aggregating more than \$100 in the re-
20 porting period;

21 (4) as to each loan and or loan guarantee yielding loan
22 proceeds of \$100 or more in the reporting period and the lender or
23 guarantor is a person with a substantial interest in legislative,
24 administrative, or political actions, the name and address of the
25 person making the loan or guarantee, the amount of the loan, the terms
26 and conditions under which the loan or guarantee was given, the amount
27 outstanding at the time of filing, and whether or not a written loan
28 agreement exists;

29 (5) if the source of a reported benefit is a corporation,

1 the name of its parent corporation, if any, and names of its top
2 corporate officers; and

3 (6) if the source of a reported benefit is a partnership or
4 association doing business under a fictitious name, the names of the
5 principals.

6 (b) The commission shall review category A statements to deter-
7 mine whether an impermissible conflict exists and whether special
8 orders or restrictions are required.

9 (c) Category A statements are public records and shall be made
10 available for public inspection.

11 Sec. 24.61.410. REPORTING CATEGORY B INCOME. (a) A person
12 required under AS 24.61.400 to report shall file a statement of cate-
13 gory B income conforming to the same requirements as category A state-
14 ments, except that in the case of compensation, expense reimburse-
15 ments, loans and loan guarantees, only those income sources providing
16 benefits worth \$1,000 or more need be listed. As to gratuities, the
17 requirements of AS 24.61.350(b)(1) and (7) - (9) control.

18 (b) The commission shall review category B statements to deter-
19 mine whether an impermissible conflict exists, whether special orders
20 or restrictions are required, and whether the statements shall be
21 considered to be public records and made available for public in-
22 spection.

23 (c) If the person filing a statement under this section is a
24 legislator, the statement is presumptively public, which means that it
25 will be made part of the public record unless the legislator submit-
26 ting it requests that it be kept confidential, states the reasons for
27 the request, and the commission finds that no valid public purpose
28 would be advanced by publication.

29 (d) If the person filing a statement under this section is a

1 legislative assistant, the statement is presumptively confidential,
2 which means that it shall be kept confidential unless the commission
3 determines that the public benefit in disclosure substantially out-
4 weighs the individual's interest in privacy.

5 Sec. 24.61.415. REPORTING OBLIGATIONS OF EMPLOYERS AND OTHERS
6 PAYING COMPENSATION TO LEGISLATORS OR LEGISLATIVE ASSISTANTS. (a)
7 Persons who have provided compensation to a legislator or legislative
8 assistant and who qualify as category A sources because they have a
9 substantial interest in legislative, administrative, or political
10 actions, shall file, on a form and at the times prescribed by the
11 commission, a statement regarding the compensation. The statement
12 shall be made under penalty of unsworn falsification. A statement
13 required under this subsection must

14 (1) declare whether the employer, or a parent company,
15 officer, or individual stockholder with at least a 20 percent equity
16 in the company, has had, during the reporting period, a substantial
17 interest in legislative, administrative, or political actions;

18 (2) include a brief narrative of the nature of the rela-
19 tionship with the legislator or legislative assistant, the terms of
20 compensation, and the amount paid during the reporting period.

21 (b) Persons who do not qualify as category A sources because
22 they do not have a substantial interest in legislative, administra-
23 tive, or political actions shall file a statement only if the total
24 compensation paid a legislator or legislative assistant was \$1,000 or
25 more during the reporting period. The statement shall be filed under
26 penalty of unsworn falsification and must include a brief narrative of
27 the nature of the relationship with the legislator or legislative
28 assistant the terms of compensation, and the amount paid during the
29 reporting period.

1 (c) Legislators and legislative assistants shall ensure that
2 persons who have provided compensation to them have the necessary
3 forms and are informed of the obligation to file a statement under
4 this section.

5 (d) Statements required under this section shall be filed with
6 the commission at a time set by the commission, which time may not be
7 less than 30 days before legislators and legislative assistants are
8 required to file the financial disclosure forms required under AS 24.-
9 61.400 - 24.61.410. The person or entity shall contemporaneously
10 provide a copy of the statement to the legislator or legislative
11 assistant.

12 Sec. 24.61.420. PROHIBITED CONDUCT RELATING TO DISCLOSURES. (a)
13 A person required to make a disclosure under AS 24.61.395 - 24.61.420
14 may not knowingly make a false, deliberately misleading or incomplete,
15 or unreasonably delayed disclosure to the commission.

16 (b) A person who violates this section is subject to the civil
17 sanctions authorized under AS 24.61.560(a).

18 Sec. 24.61.30. ACCOUNTABILITY: OPENNESS AND OVERSIGHT. (a)
19 Legislators and legislative employees shall abide by the letter and
20 spirit of AS 44.62.310 - 44.62.312 (open meetings law) and, to the
21 greatest extent reasonably possible, exercise the authority of their
22 offices openly so that the public is informed about governmental
23 decisions and can hold them accountable for their actions.

24 (b) Legislators and legislative employees shall ensure that
25 those to whom they have delegated public power, including their staffs
26 and administrative agencies, carry out their responsibilities effi-
27 ciently, equitably, and ethically.

28 (c) Legislators and legislative employees who believe that a
29 law, policy, or rule of a house is not achieving its intended purpose,

1 is creating unintended harms, or is wasteful or inefficient, should
2 take affirmative steps to improve procedures in a way that will in-
3 crease the fairness and quality of government services and assure that
4 policies are implemented equitably, efficiently, and economically.

5 (d) A person who violates this section is subject to an adminis-
6 trative sanction under AS 24.61.560(b).

7 Sec. 24.61.440. ACCOUNTABILITY: SELF-POLICING, WHISTLE BLOWING,
8 AND PROTECTION OF WHISTLE BLOWERS. (a) Legislators and legislative
9 employees shall maintain the integrity and trustworthiness of govern-
10 ment by taking whatever steps are necessary to prevent unethical
11 practices, unlawful conduct, corruption, mismanagement, gross waste of
12 public funds, danger to public safety, or another abuse of public
13 position, authority, or resources.

14 (b) Legislators and legislative employees who have a good faith
15 reasonable belief that the public interest requires the disclosure of
16 governmental policies or actions thought to be unlawful or improper
17 should reveal their information to appropriate authorities.

18 (c) A legislator or legislative employee may not, directly or
19 indirectly, subject a person who reports to the commission or another
20 government entity conduct the person reasonably believes is a viola-
21 tion of this chapter or any other state law, to reprisal, retaliation,
22 harassment, discrimination, or ridicule. A legislative employee who
23 is discharged, disciplined, involuntarily transferred, or otherwise
24 penalized by a legislator or another legislative employee may

25 (1) bring a complaint before the commission; and

26 (2) bring a separate civil action in the courts seeking
27 damages, payment of back wages, reinstatement, or other relief.

28 (d) In addition to the special civil liability under (c)(2) of
29 this section, a person who violates this section is subject to the

1 civil sanctions authorized under AS 24.61.560(a).

2 Sec. 24.61.450. DUTY TOWARD COLLEAGUES AND SUBORDINATES. (a) A
3 legislator or legislative employee may not knowingly engage in conduct
4 that violates the right of others to be treated fairly, with dignity
5 and respect, nor may they engage in improper acts of discrimination,
6 sexual harassment, or abuse of a person in the course of legislative
7 activities.

8 (b) A person who violates this section is subject to the admin-
9 istrative sanctions authorized under AS 24.61.560(b), in addition to
10 liability under another criminal law or civil action arising from the
11 conduct.

12 ~~X~~ Sec. 24.61.460. DUTY TO ADVANCE PRINCIPLES OF REPRESENTATIVE
13 DEMOCRACY. (a) A legislator or legislative employee may not knowing-
14 ly use improper artifices or schemes to circumvent the clear purpose
15 this chapter or another law, use procedural powers or processes in a
16 way that prevents appropriate consideration of a matter, or exercise
17 leadership authority and power arbitrarily, arrogantly, or in another
18 way that violates the spirit of representative democracy.

— 19 (b) A person who violates this section is subject to the admin-
— 20 istrative sanctions authorized under AS 24.61.560(b).

21 ARTICLE 3. LEGISLATIVE ETHICS COMMISSION.

22 Sec. 24.61.500. LEGISLATIVE ETHICS COMMISSION ESTABLISHED. (a)
23 The Legislative Ethics Commission is established in the legislative
24 branch of government. The commission consists of nine members, se-
25 lected as follows:

26 (1) one member appointed jointly by the president of the
27 senate and the senate minority leader;

28 (2) one member appointed jointly by the speaker of the
29 house and the house minority leader;

1 (3) two members appointed by the supreme court;
2 (4) one member appointed by the governor;
3 (5) one member appointed by the lieutenant governor;
4 (6) one member appointed by the Alaska Public Offices
5 Commission; and

6 (7) two members selected by majority vote of the members
7 appointed under (1) - (6) of this subsection.

8 (b) Commissioners serve staggered terms of five years. A com-
9 missioner is eligible for reappointment; however, a commissioner may
10 not serve more than two consecutive five-year terms. A commissioner
11 whose term has expired continues in office until a successor has been
12 appointed and certified.

13 (c) A vacancy on the commission is filled in the same manner as
14 the original appointment to that seat on the commission. A vacancy
15 shall be filled within 30 days after the vacancy occurs.

16 (d) The commission shall elect a chair and a vice-chair, who
17 serve a term of two years. An officer may not hold the same office
18 for more than two consecutive terms. The vice-chair shall act as
19 chair in the absence of the chair.

20 (e) A commissioner may not be a legislator, a legislative em-
21 ployee, an elected or appointed official of another governmental
22 entity, an officer of a political party, a candidate for public of-
23 fice, or a registered lobbyist.

24 Sec. 24.61.502. CERTIFICATION; LEGISLATIVE DECERTIFICATION OR
25 REMOVAL FROM OFFICE. (a) Upon appointment, a person appointed to the
26 commission shall execute a written oath that includes the following
27 undertaking:

28 I will solemnly perform the duties of this office in a
29 manner that is consistent with both the letter and

1 spirit of the Alaska Legislative Ethics Act and I shall
2 conform my own conduct to the provisions therein. I
3 acknowledge the obligation and need to interpret and
4 apply all its provisions, and the ethical principles
5 that underlie them, vigorously, promptly, fairly, and
6 in good faith. All my actions, decisions, and votes on
7 matters relating to my duties will be made purely on
8 the merits, objectively, independently, and without
9 political, regional, or ideological partisanship.

10 Upon executing the oath, an appointee shall be certified as a commis-
11 sioner and is immediately considered to have begun serving the ap-
12 pointed term.

13 (b) Within 45 days after certification, a commissioner may be
14 decertified by a majority vote of both houses of the legislature, if
15 the legislature is in session, or by a two-thirds vote of the members
16 of the legislative council if the legislature is not in session. If
17 decertified, the commissioner is disqualified and that seat on the
18 commission is vacant.

19 (c) A commissioner may be removed from office by a vote of
20 two-thirds of both houses of the legislature for good cause, including
21 substantial neglect of duty, inability to discharge the powers and
22 duties of office, violation of this chapter, gross misconduct, or
23 conviction of a felony.

24 Sec. 24.61.504. MEETINGS; COMPENSATION. (a) The commission
25 shall meet at the call of the chair or a majority of the commission-
26 ers. The commission shall meet at least once every three months.

27 (b) Five commissioners constitute a quorum. A vote of the
28 majority of the commissioners present at a meeting in which a quorum
29 is present is required for official action of the commission.

1 (c) The commission may meet by teleconference.

2 (d) Commissioners shall receive compensation of \$175 for each
3 day in which they attend or participate in a commission meeting of at
4 least one hour in length, either in person or by teleconference. The
5 chair and vice-chair shall receive an additional stipend of \$500 a
6 year. The commission shall develop and implement policies consistent
7 with those employed by other state commissions for the reimbursement
8 of travel costs and the payment of per diem under AS 39.20.180.

9 (e) The commission shall comply with AS 44.62.310 - 44.62.312
10 (open meetings law).

11 Sec. 24.61.506. EXECUTIVE DIRECTOR AND STAFF. (a) The commis-
12 sion shall hire an executive director and determine the director's
13 salary. The executive director serves at the pleasure of the commis-
14 sion.

15 (b) The executive director may employ and determine the compen-
16 sation of necessary employees, subject to the budget approved by the
17 commission. The executive director may, subject to the approval of
18 the commission, contract for services when those services are tempo-
19 rary or specialized in nature, or it is in the best interest of the
20 state.

21 (c) Subject to the approval of the commission, the executive
22 director may employ or contract with legal counsel to manage, direct,
23 and prosecute cases under this chapter.

24 (d) If the commission determines that an investigation is neces-
25 sary and that the investigation cannot be efficiently, promptly, or
26 adequately handled by commission staff, the executive director shall
27 nominate a special investigator to be appointed on approval by the
28 commission. The executive director shall maintain a list of individu-
29 als qualified to serve as a special investigator by virtue of their

1 experience, reputation, likely availability, willingness to serve, and
2 freedom from conflicts of interest.

3 (e) The executive director and employees of the commission are
4 in the exempt service under AS 39.25.110.

5 Sec. 24.61.508. APPLICABILITY OF CHAPTER TO COMMISSIONERS AND
6 EMPLOYEES; OTHER RESTRICTIONS. (a) Commissioners and employees of
7 the commission, including persons employed or under contract as legal
8 counsel or special investigators, are subject to this chapter and
9 shall be held accountable to the same standards and requirements,
10 including disclosure, as legislative assistants.

11 (b) A commission employee, including a person who provides
12 personal services under a contract with the commission, may not be a
13 legislator, a legislative employee, an elected or appointed official
14 of another governmental entity, an officer of a political party, a
15 candidate for public office, or a registered lobbyist.

16 (c) In addition to the requirements of this chapter, a commis-
17 sioner, employee of the commission, or person under contract to pro-
18 vide personal services to the commission may not

19 (1) participate in political management or in a political
20 campaign during the person's term of office, employment, or contract;

21 (2) participate in the campaign of, attend campaign fund
22 raising events for, or make a financial contribution to

23 (A) a candidate for the legislature;

24 (B) an incumbent legislator or legislative employee
25 who is a candidate for another public office; or

26 (C) a person running for another office against an
27 incumbent legislator or legislative employee;

28 (3) participate in lobbying activities that would require
29 the person to register as a lobbyist except as required to inform the

1 legislature concerning legislation requested by the commission; or

2 (4) take an action or make a statement that is likely to
3 create in the mind of a reasonable objective observer a belief that
4 the commissioner, employee, or other person is not impartial or in-
5 dependent or is otherwise unable to properly perform public duties.

6 (d) A violation or alleged violation of (b) or (c) of this
7 section shall be treated as any other violation of this chapter and
8 shall be dealt with by the commission accordingly. During the pend-
9 ency of a complaint against a commissioner, commission employee, or
10 commission contractor, the person complained against may not partici-
11 pate in official action of the commission.

12 (e) Commissioners and the executive director are subject to
13 AS 39.50.

14 Sec. 24.61.510. GENERAL POWERS AND DUTIES OF THE COMMISSION.

15 (a) The commission shall

16 (1) administer the provisions of this chapter;

17 (2) authorize and train its staff to give informal or
18 written advice regarding the spirit and requirements of this chapter;

19 (3) on request or its own initiative, issue formal written
20 advisory opinions on specific situations or clarify a provision of
21 this chapter;

22 (4) consider requests for, and grant or deny, exemptions
23 from the provisions of this chapter;

24 (5) investigate and adjudicate complaints and recommend
25 disciplinary actions to the legislature;

26 (6) authorize research in the field of legislative ethics
27 and carry out the educational programs that are required by this
28 chapter and additional programs it considers necessary to effectuate
29 the policy and purposes of this chapter;

1 (7) prepare and distribute an ethics manual to legislators,
2 legislative employees, and lobbyists as provided in this chapter;

3 (8) prepare a biennial report to the legislature summariz-
4 ing its activities over the previous two years, evaluating the effec-
5 tiveness of this chapter in accomplishing its stated purposes, and
6 recommending legislative reforms it thinks necessary to improve the
7 administration of this chapter and to better advance its goals.

8 (b) The commission may

9 (1) adopt regulations as required under specific provisions
10 of this chapter and to interpret and implement this chapter; in adopt-
11 ing regulations, the commission shall follow procedures that are
12 consistent with AS 44.62 (Administrative Procedure Act);

13 (2) perform the other acts, duties, and functions necessary
14 to properly administer this chapter, consistent with law and the
15 purpose of this chapter.

16 Sec. 24.61.515. OFFICES; BUDGET. The legislative council shall
17 provide suitable office space and equipment for the commission. The
18 commission shall submit a budget for each fiscal year to the finance
19 committees of the legislature and shall annually submit an estimated
20 budget to the governor for information purposes in preparation of the
21 state operating budget.

22 Sec. 24.61.520. INFORMAL NONBINDING ADVICE. The commission may
23 authorize and train its staff to give oral advice or provide a written
24 informal nonbinding advice letter to persons seeking guidance as to
25 the spirit or legal requirements of this chapter, provided that the
26 advice is given with the express stipulations that

27 (1) the opinions given are not necessarily those of the
28 commission;

29 (2) although the advice is given in good faith, the person

1 seeking the advice relies on it at the person's own risk because it is
2 not binding upon the commission; and

3 (3) information voluntarily provided to a commission em-
4 ployee is not necessarily confidential and may be used against the
5 person seeking the advice if it becomes material to a proceeding
6 before the commission.

7 Sec. 24.61.525. FORMAL BINDING ADVISORY OPINIONS. (a) The
8 commission may issue a formal written advisory opinion on its own
9 initiative, on the request of a person to whom this chapter applies,
10 or on the request of a person elected to the legislature who at the
11 time of election is not a member of the legislature.

12 (b) Requests for written advisory opinions shall be in writing
13 and must set out with reasonable specificity the facts and circum-
14 stances of a real or hypothetical case.

15 (c) The commission shall expeditiously determine whether to
16 issue an advisory opinion addressing the issues raised.

17 (d) An opinion shall be issued by official action of the commis-
18 sion. The vote of each commissioner participating in the opinion
19 shall be indicated on the opinion and it shall be forwarded to the
20 person requesting it and made a part of the public records of the
21 commission.

22 (e) Written formal advisory opinions issued by the commission
23 are binding on the commission in a subsequent proceeding concerning
24 the facts and circumstances of the particular case. If, however, any
25 fact determined by the commission to be material was omitted or mis-
26 stated in the request, the commission is not bound by the opinion.

27 (f) The commission may review, withdraw, or elaborate on a
28 previously issued advisory opinion.

29 (g) Under normal circumstances, the commission shall issue its

1 opinion within 30 days of receiving the request, if the request is
2 received during the first 100 days of the legislative session, or
3 within 60 days of the request if the request is received at another
4 time. The period for issuing an opinion may be shortened or extended
5 by the chair when that action is considered necessary or appropriate
6 to meet the goals of this chapter.

7 (h) The commission and all commission employees shall keep the
8 identity of the requester confidential unless the request, the identi-
9 ty of the person making it, or information conveyed orally or in
10 writing relating to the request is or becomes material to a matter
11 before the commission.

12 Sec. 24.61.530. EXEMPTIONS PROCESS. (a) In situations in which
13 principles of fundamental fairness are best served by exempting cer-
14 tain individuals or acts from specified provisions of this chapter,
15 the commission may grant qualified or unqualified exemptions.

16 (b) The commission shall provide a simple form for petitions for
17 exemptions. A petition must include

- 18 (1) the name and address of the petitioner;
19 (2) relevant provisions involved in the exemption request;
20 (3) essential facts on which an exemption is requested;
21 (4) specific nature of the exemption sought;
22 (5) anticipated unfair or unreasonable consequences that
23 would result from a failure to grant the petition; and

24 (6) a certification that the petitioner verifies under
25 penalty of unsworn falsification that the facts stated are true to the
26 best of the petitioner's knowledge.

27 (c) The commission may, by official action, grant an exemption
28 upon a finding that the petitioner, by a preponderance of the evi-
29 dence, has shown that the

1 (1) harm caused by strict application of this chapter
2 substantially outweighs the benefit of its enforcement in the partic-
3 ular situation;

4 (2) application of the rule or provision under the circum-
5 stances presented would be inconsistent with the spirit and purpose of
6 the provision or this chapter as a whole; and

7 (3) purposes of this chapter and the public interest will
8 be best served by granting the applicant an exemption.

9 (d) The commission may require or permit the personal appearance
10 of the petitioner before the commission and hold hearings regarding
11 the exemption request.

12 (e) Unless a shortened or expanded time is considered necessary
13 or appropriate by the commission, decisions on petitions for exemp-
14 tions shall be made within 30 days after filing the petition. Unless
15 the petitioner consents, extensions of time ordered by the commission
16 may not exceed an additional 60 days.

17 Sec. 24.61.535. INITIATING INVESTIGATORY AND ADJUDICATORY PRO-
18 CESSES. (a) The filing of a complaint is the first step in the
19 investigatory and adjudication process. It is the purpose of this
20 section to assure that complaints provide sufficient information on
21 which to proceed, yet not be so complex or burdensome that the re-
22 quirements unduly discourage or screen out valid good faith com-
23 plaints.

24 (b) A complaint may be initiated by any person or by the commis-
25 sion on its own motion.

26 (c) The commission shall provide a simple form for complaints.
27 A complaint must include

28 (1) the name and address of the complainant;

29 (2) a statement of the facts known or believed to be true

1 that form the basis of the complaint and the sources of the informa-
2 tion, including the approximate dates of the acts alleged and names
3 and addresses of persons with personal knowledge of the facts alleged;
4 and

5 (3) a certification that the complainant verifies under
6 penalty of unsworn falsification that the facts stated are true to the
7 best of the complainant's knowledge and that the complainant knows
8 that it is a crime under AS 11.56.805 to intentionally initiate a
9 false complaint.

10 (d) Unless the chair of the commission concludes that immediate
11 notification would prejudice a preliminary investigation or subject
12 the complainant to an unreasonable risk, a copy of the complaint shall
13 be sent to the person charged with misconduct within two working days.
14 If the matter is to be kept from the respondent for more than 10 days,
15 a majority of the commission must approve and indicate the conditions
16 under which the respondent will be informed of the complaint.

17 (e) Until a preliminary finding on the validity of a complaint
18 has been properly made, the existence and substance of a complaint
19 shall be kept confidential except that all members of the commission
20 and necessary staff may be informed about it.

21 (f) Upon receiving a complaint, commission staff shall review it
22 for formal sufficiency within five days of filing. If the complaint
23 is unsigned or otherwise deficient on its face it shall be returned to
24 the complainant with a statement of the nature of the deficiency.

25 (g) Once a complaint has been determined to be formally suffi-
26 cient, commission staff shall evaluate the complaint and advise the
27 chair as to its opinion as to whether it states a valid complaint that
28 should be investigated. If the executive director is a member of the
29 bar, the executive director may provide the advice. Otherwise, the

1 executive director shall appoint a duly qualified legal counsel to
2 assist in making the determinations required under this subsection.
3 To be valid, the complaint must allege

4 (1) facts that, if true, establish a violation of this
5 chapter;

6 (2) that the conduct providing the basis of the complaint
7 has occurred within five years of the complaint or that the person
8 charged with misconduct intentionally concealed or otherwise sought to
9 prevent discovery of the relevant facts; and

10 (3) that the person charged with misconduct is either a
11 legislator or legislative employee at the time of the filing of the
12 complaint or was a legislator or legislative employee within one year
13 of the filing.

14 (h) Within 20 days after the filing of the complaint, or within
15 45 days if the chair of the commission certifies additional time is
16 required, a determination shall be made on the substantive validity of
17 the complaint. If the chair concludes that there is no substantial
18 reason to question the opinion of staff as to the validity of a com-
19 plaint, the complaint shall either be dismissed or certified for
20 further consideration in accordance with the opinion. The chair or a
21 commissioner, however, may request a hearing on the validity of the
22 complaint at a meeting of the commission.

23 (i) If a complaint is dismissed because of invalidity, it shall
24 be returned to the complainant with a notice of dismissal stating in
25 detail the reason for dismissal. If the commission finds that the
26 complaint was frivolous, malicious, or was filed in bad faith, it
27 shall so state in the notice of dismissal. If the commission finds
28 that the complaint alleges violations outside the scope of this chap-
29 ter, it shall so state and forward the complaint to the appropriate

1 enforcement body for disposition. A copy of the notice of dismissal
2 shall be sent to the respondent. The notice of dismissal is a public
3 record.

4 (j) If the commission concludes that some or all of the alle-
5 gations of the complaint, if proven, would constitute a violation of
6 this chapter, or if the commission has initiated the complaint, the
7 complaint shall be certified and a factual investigation shall com-
8 mence. The record of certification for further consideration is
9 confidential subject to subsequent actions that may make it part of
10 the public record.

11 Sec. 24.61.540. INVESTIGATIONS. (a) Investigation into ethics
12 charges shall be undertaken in a manner that assures the public of an
13 impartial and comprehensive review, is fair to the respondent, and
14 that elicits the information the commission needs to make a decision.

15 (b) Before commencing an investigation, the commission shall
16 adopt a written resolution defining the scope of the investigation, a
17 copy of which shall be supplied to both the complainant and the re-
18 spondent. If, during the investigation, additional facts are dis-
19 covered that justify an expansion of the investigation and the pos-
20 sibility of additional charges beyond those alleged in the complaint,
21 the resolution shall be amended accordingly with copies sent to the
22 complainant and the respondent. The resolution, and the fact that an
23 investigation has been undertaken, shall be kept confidential by the
24 commission except that, upon inquiry, the commission may verify that
25 it is investigating a complaint along with a statement that no finding
26 of probable cause has been made and that no adverse inference of
27 impropriety or guilt should be drawn from the decision to investigate.
28 Additional facts concerning the nature or results of the investigation
29 may not be revealed except as provided in AS 24.61.545 after a

1 determination of probable cause has been made.

2 (c) A legislator or a legislative employee may request in writ-
3 ing that the commission investigate charges of impropriety made
4 against the legislator or legislative employee. The request must
5 state with specificity the nature of the investigation requested. If
6 the commission agrees to undertake an investigation, the investigation
7 is not necessarily limited in scope by the request and, once begun, it
8 shall be handled as any other investigation, with the person request-
9 ing the investigation formally treated as a respondent.

10 (d) A preliminary investigation is conducted by the commission
11 staff, and if the commission determines it is necessary, outside
12 counsel and investigators. The purpose of the preliminary inves-
13 tigation is to determine whether there is probable cause to proceed
14 with a full adjudicatory hearing.

15 (e) The person conducting the preliminary investigation may
16 order a hearing and subpoena witnesses and documents, conduct depo-
17 sitions under oath, require the participation of the respondent, and
18 issue interrogatories to be answered under oath. An oral or written
19 statement, whether incriminatory or exculpatory, may not be considered
20 in the investigator's report unless made under oath. The respondent
21 shall be given an adequate opportunity to provide testimonial and
22 documentary evidence.

23 (f) Upon completion of the investigation, a confidential report
24 summarizing the evidence, evaluating its credibility, and detailing
25 findings on each of the allegations investigated shall be submitted to
26 the commission along with recommendations as to whether the complaint,
27 or a portion of it, should be dismissed or whether the matter should
28 proceed to the full hearing stage. The report shall be prepared so as
29 to exclude unreliable information and uncorroborated and irresponsible

1 allegations. The investigator's notes, records of interviews, and
2 other investigatory matter considered unreliable or unduly prejudicial
3 by the commission shall remain confidential.

4 Sec. 24.61.545. PROBABLE CAUSE DETERMINATION. (a) The commis-
5 sion shall consider the investigator's report in closed session and
6 determine whether substantial credible evidence exists to believe that
7 it is probable that a violation of this chapter has occurred.

8 (b) If the commission does not find that substantial credible
9 evidence exists to warrant a full adjudicatory hearing, it shall
10 dismiss the complaint and so notify the complainant with a notice of
11 dismissal stating in detail the reason for dismissal. If the commis-
12 sion finds that the charges were frivolous, malicious, made in bad
13 faith, or that, in its opinion the respondent should be exonerated of
14 the charges, it shall so state in the notice of dismissal. If the
15 commission finds that the evidence supports violations outside the
16 scope of this chapter, it shall so state and forward the complaint and
17 its report to the appropriate enforcement body for disposition.

18 (c) A copy of the notice of dismissal shall be sent to the
19 respondent. The notice of dismissal and the investigator's report
20 containing findings and recommendations, but not the underlying in-
21 vestigatory materials, shall be made public unless the commission
22 determines that this would unfairly prejudice either the respondent or
23 complainant. This subsection may not be construed to prevent either
24 the complainant or respondent from making the notice of dismissal and
25 the report public.

26 (d) If the commission finds that substantial credible evidence
27 exists establishing probable cause that a violation of this chapter
28 has occurred, it shall serve on the respondent in a manner consistent
29 with the service of summons under the rules of civil procedure, a

1 formal charge stating the specific allegations and a proposed hearing
2 date.

3 (e) The hearing may not be scheduled to commence sooner than 20
4 days after service of the formal charge on the respondent. If the
5 respondent requests an earlier hearing date, the commission may, but
6 is not required to, consent. The commission shall, upon request,
7 grant the respondent reasonable additional time to prepare a defense.
8 The respondent may file responsive pleading admitting or denying the
9 various allegations.

10 (f) The commission may suspend further proceedings if the re-
11 spondent acknowledges the violation and agrees to corrective actions
12 and sanctions considered appropriate by the commission. If the com-
13 mission suspends the proceedings or dismisses the charges as a result
14 of a negotiated settlement, the terms and conditions of the settlement
15 and the reasons for entering into the agreement shall be stated in a
16 written report that shall be sent to the complainant and made part of
17 the public record.

18 (g) Upon determining that probable cause exists to conduct a
19 full adjudicatory hearing, the commission shall make public the inves-
20 tigator's report containing findings and recommendations, but not the
21 underlying investigatory materials.

22 Sec. 24.61.550. ADJUDICATORY HEARING. (a) A formal hearing on
23 ethics charges against a respondent shall be conducted in a manner
24 that inspires confidence in the integrity and objectivity of the
25 process and demonstrates full consideration for the rights and reputa-
26 tion of the respondent.

27 (b) An adjudicatory hearing shall be before a hearing board
28 composed of the commission chair and four commissioners appointed by
29 the chair. If the chair cannot attend all hearing sessions without

1 undue inconvenience, the vice-chair shall serve in the chair's place.
2 If neither the chair nor the vice-chair is available, the chair shall
3 appoint another commissioner. Appointments to hearing boards shall be
4 rotated among the commissioners.

5 (c) The chair, vice-chair, or a commissioner designated by the
6 chair, appropriate, shall preside at the hearing. The executive
7 director or other legal counsel designated by the commission shall
8 attend and advise and counsel the hearing board.

9 (d) An adjudicatory hearing shall be public under AS 44.62.310.
10 A hearing may not be held by teleconference. Except as expressly
11 provided in this chapter, procedures shall be consistent with hearing
12 procedures under AS 44.62.330 - 44.62.630. Upon request, the presid-
13 ing commissioner may issue reasonable discovery and protective orders
14 in a manner consistent with Rule 26 of the Alaska Rules of Civil
15 Procedure.

16 (e) A hearing board may

17 (1) administer oaths and affirmations and subpoena indi-
18 viduals, including the respondent, to testify or to submit to written
19 interrogatories under oath;

20 (2) compel the production of documentary or tangible evi-
21 dence;

22 (3) pay witnesses the same fees and mileage reimbursements
23 paid in similar circumstances by the courts of the state;

24 (4) seek enforcement of subpoenas by written application of
25 the commission to the superior court.

26 (f) The respondent may

27 (1) appear before the hearing board and submit testimony or
28 other evidence;

29 (2) personally, or through counsel, subpoena, examine and

1 cross-examine witnesses, raise objections, and make arguments;

2 (3) exercise the pretrial discovery procedures available in
3 civil actions.

4 Sec. 24.61.555. FINDINGS AND RECOMMENDATIONS. (a) Within 10
5 days after the completion of a hearing, the hearing board shall vote
6 on each charge to determine whether it was established by a preponder-
7 ance of the evidence and prepare a written opinion along with rec-
8 ommendations, if any. A vote of three commissioners is required to
9 find a violation and approve an opinion.

10 (b) As to each charge on which the evidence was found to be
11 insufficient to establish a violation, the hearing board shall include
12 its findings in its written opinion. If the board finds that the
13 charges were frivolous, malicious, made in bad faith, or that, in its
14 opinion the respondent should be exonerated of the charges, it shall
15 so state in its opinion. If the board finds that the respondent
16 should be exonerated, it may recommend that the legislature reimburse
17 the respondent for all or part of reasonable legal fees incurred as a
18 result of the charge. The respondent's legal fees may not be paid
19 from public funds unless the board makes that recommendation.

20 (c) As to each charge on which the evidence was found to be
21 sufficient to establish a violation, the hearing board shall include
22 its findings of fact and law in its written opinion, along with rec-
23 ommendations as to appropriate sanctions.

24 Sec. 24.61.560. CIVIL SANCTIONS. (a) When a hearing board
25 considers the appropriate recommended sanctions to be included in its
26 opinion, it shall give due consideration to the purposes of this
27 chapter, the nature of the violation, and other circumstances that are
28 included in the hearing record. The board may recommend, either
29 singly or in combination,

1 (1) a civil penalty of not more than \$5,000 for each of-
2 fense, or twice the amount improperly gained by the misconduct, which-
3 ever is greater;

4 (2) divestiture of specified assets or withdrawal from
5 specified relationships;

6 (3) detailed disclosure, with or without additional period-
7 ic reporting requirements;

8 (4) suspension from legislative employment, with or without
9 pay;

10 (5) restitution or reimbursement;

11 (6) suspension of pay until orders are complied with;

12 (7) probationary status;

13 (8) a written reprimand;

14 (9) repealing or amending legislation, or voiding or modi-
15 fying other action that resulted from conduct in violation of this
16 chapter;

17 (10) censure, including a recommendation that a legislator
18 censured may not serve as a chair or co-chair on a legislative commit-
19 tee for the remainder of the legislator's current term in office;

20 (11) expulsion of a legislator or dismissal of a legislative
21 employee;

22 (12) payment of costs related to the investigation and
23 adjudication of the charge;

24 (13) another sanction fashioned to achieve the purposes of
25 this chapter.

26 (b) When a provision of this chapter provides for the imposition
27 of administrative sanctions under this subsection, the commission may
28 recommend any of the civil sanctions set out in (a) of this section
29 except sanctions under (a)(1) and (11).

1 Sec. 24.61.565. RECOMMENDATIONS TO THE LEGISLATURE WHERE VIOLA-
2 TOR IS A LEGISLATOR. (a) If the person found to have violated this
3 chapter is or was a member of the legislature, the hearing board's
4 recommendations shall be forwarded by the chair of the commission to
5 the presiding officer of the appropriate house of the legislature.

6 (b) If the legislature is in session, the entire house shall
7 determine the sanctions, if any, that are to be imposed. The vote
8 shall be taken within 10 legislative days of receipt of the commis-
9 sion's recommendations.

10 (c) If the legislature is not in session, the presiding officer
11 may either request a special session under AS 24.05.100 to put the
12 matter to a vote within 30 days, or submit the recommendations to the
13 legislative council, which shall vote on the commission's recommenda-
14 tions within 30 days. If either expulsion or censure is recommended,
15 the matter must be voted on by the legislature in special session.

16 (d) Except in the case of expulsion, which requires a two-thirds
17 vote, all other sanctions shall be determined by a majority vote.

18 (e) In determining the sanctions, if any, to impose, the legis-
19 lature shall scrupulously observe the rule of nonpartisanship. It may
20 not retry the basic facts nor question the hearing board's findings of
21 fact. The only issue before it shall be the determination of the
22 appropriate sanction assuming the validity of the board's findings.

23 Sec. 24.61.570. RECOMMENDATIONS AND ORDER WHERE VIOLATOR IS A
24 LEGISLATIVE EMPLOYEE. (a) If the person found to have violated this
25 chapter is or was a legislative employee, the hearing board's recom-
26 mendations shall be forwarded to the full commission, which shall, as
27 soon as is reasonably possible, determine the sanctions, if any, to be
28 imposed. The commission may not retry the basic facts nor question
29 the hearing board's findings of fact. The only issue before it shall

1 be the determination of the appropriate sanction assuming the validity
2 of the board's findings. After determining the appropriate sanctions,
3 the commission shall issue a written order imposing the sanctions on
4 the employee.

5 (b) The commission shall order the employee's supervisor or
6 appointing authority, as appropriate, to impose sanctions in accor-
7 dance with the commission's order. Failure of the supervisor or
8 appointing authority to implement the commission's order is a viola-
9 tion of this chapter.

10 Sec. 24.61.575. ACTIONS BY THE ATTORNEY GENERAL OR CITIZENS.

11 (a) The attorney general shall assist the commission and the legisla-
12 ture in enforcing all lawful orders and sanctions. The attorney
13 general may independently bring civil or criminal actions relating to
14 violations under this chapter regardless of the outcome or settlement
15 of a charge before the commission, provided that (1) the attorney
16 general may not bring an independent civil action under this chapter
17 if the provision violated is subject only to administrative sanctions
18 under AS 24.61.560(b); and (2) the cumulative civil penalties imposed
19 for a violation may not exceed the amount that could be imposed in an
20 action before the commission. This subsection does not prohibit the
21 attorney general from bringing an action under another civil or crimi-
22 nal law.

23 (b) A citizen may make a written request that the attorney
24 general commence a civil action authorized under (a) of this section
25 against a person for a violation of this chapter. If the attorney
26 general does not initiate the action within 60 days of the request,
27 the citizen may file the action.

28 Sec. 24.61.580. WAIVER OF CONFIDENTIALITY. The commission may
29 publicly respond to a statement or interpretation made concerning the

1 contents of an advisory opinion or decision it has issued or is pur-
2 ported to have issued. A person who requests an advisory opinion and
3 makes that fact public is considered to have waived the confidential-
4 ity of the person's identity and of all records obtained by the com-
5 mission in connection with the request for the advisory opinion.

6 ARTICLE 4. LEGISLATIVE ETHICS EDUCATION PROGRAM.

7 Sec. 24.61.700. ETHICS EDUCATION PROGRAM. (a) The central
8 function of an ethics code is to prevent rather than punish unethical
9 conduct. Prevention depends almost entirely on an effective and
10 comprehensive ethics education program. The purpose of AS 24.61.700 -
11 24.61.760 is to assure that legislators and staff have the means and
12 opportunity to learn and understand the rules and principles underly-
13 ing the standards of conduct.

14 (b) The commission shall oversee and develop the following
15 components of a comprehensive ethics education program:

- 16 (1) publish an ethics education manual;
17 (2) establish an education advisory committee; and
18 (3) design and implement a legislative orientation training
19 course, a current issues and applications seminar, and a lobbyist
20 training course.

21 Sec. 24.61.710. ETHICS EDUCATION MANUAL. (a) The commission
22 shall prepare and publish a legislative ethics manual, which must
23 contain all ethics statutes, regulations, and related information,
24 including detailed explanations of technical and specific legal re-
25 quirements as well as the underlying purposes and ethical principles
26 that comprise the spirit of the requirements. The manual must include
27 realistic examples with recommended actions, as well as questions and
28 answers regarding common problems and situations.

29 (b) The commission shall issue a revised and updated version of

1 the manual no later than 30 days after the commencement of each legis-
2 lature.

3 (c) The manual shall be distributed to all legislators, legisla-
4 tive employees, and registered lobbyists. The manual shall also be
5 available to the public.

6 Sec. 24.61.720. EDUCATION ADVISORY COMMITTEE. (a) The commis-
7 sion chair shall appoint five members to an education advisory commit-
8 tee, that shall include at least two members of the commission, a
9 legislator, and a legislative employee. The education advisory com-
10 mittee may also include an outside expert in the field of ethics.

11 (b) The education advisory committee shall oversee the implemen-
12 tation of, and recommend the content for, the following ethics educa-
13 tion programs:

- 14 (1) legislative orientation training course;
- 15 (2) current issues and applications seminar; and
- 16 (3) lobbyist training course.

17 Sec. 24.61.730. LEGISLATIVE ORIENTATION TRAINING COURSE. (a)
18 The commission shall conduct a legislative ethics orientation training
19 course. The course shall be offered in January of each year. A
20 legislator and a legislative employee shall attend and complete the
21 first course offered after their election, appointment, or hiring
22 date.

23 (b) The education advisory committee shall determine the specif-
24 ic content of the course, and it shall cover the ethics laws, internal
25 rules and policies, as well as the technical and specific legal re-
26 quirements that legislators and legislative employees must follow.
27 The course shall also cover the underlying purposes and ethical prin-
28 ciples of all ethics laws, internal rules and policies, and other
29 related regulations. The course shall highlight the principles of

1 public service ethics and the intent of ethics laws, including their
2 application to practical situations.

3 (c) The commission shall offer separate sessions of the course
4 for legislators and for legislative employees, and shall offer as many
5 sessions as necessary to accommodate the number of people required to
6 take the course. Unless the commission decides otherwise, the course
7 should be at least six hours long and given in one or two sessions.
8 To afford meaningful participation and direct involvement, the commis-
9 sion shall limit the attendance of each session to approximately 50
10 people.

11 Sec. 24.61.740. CURRENT ISSUES AND APPLICATIONS SEMINAR. (a)
12 The commission shall conduct a current issues and applications seminar
13 each year. The seminar is mandatory for all legislators and legisla-
14 tive employees who have previously completed the legislative ethics
15 orientation training course.

16 (b) The specific content of the seminar shall be determined by
17 the education advisory committee, and shall include an overview of all
18 new substantive changes in the laws in the form of amendments, re-
19 visions, and new ethics advisory opinions. The seminar shall include
20 discussions on problem solving skills, practical ethical issues likely
21 to confront a legislator or legislative employee, and the underlying
22 principles of public service ethics.

23 (c) The commission shall offer separate sessions of the seminar
24 for legislators and for legislative employees, and shall offer as many
25 sessions as necessary to accommodate the number of people required to
26 take the seminar. Unless the commission decides otherwise, the semi-
27 nar should be about three hours long in order to accommodate specific
28 problem solving. The commission shall limit the attendance of each
29 session to approximately 50 people.

1 Sec. 24.61.750. LOBBYIST TRAINING COURSE. (a) Lobbyists shall
2 complete a lobbyist training course conducted by the commission as a
3 condition of registering as a lobbyist under AS 24.45. A person who
4 first engages in activities requiring the person to register as a
5 lobbyist either before the commission has offered the training course
6 for that year, or after the training course has been offered for that
7 year, may be authorized by the commission to conditionally register
8 under AS 24.45 unless the person reasonably should have known that the
9 person was likely to engage in lobbying activities and could have
10 attended the most recent training course. A person with a conditional
11 registration must successfully complete the next training course
12 offered or the registration shall be revoked.

13 (b) The specific content of the training course shall be de-
14 termined by the education advisory committee, and shall include a
15 review of all ethics statutes, the rules and regulations relating to
16 appropriate lobbyist conduct, and the principles of public service
17 ethics.

18 (c) The commission shall certify to the Alaska Public Offices
19 Commission the names of persons successfully completing the training
20 course, including persons taking the course under (e) of this section.

21 (d) Unless the commission determines otherwise, the training
22 course should be about four hours in length.

23 (e) Lobbyists shall repeat the training course at least once
24 every three years and the commission shall update the course accord-
25 ingly.

26 (f) At the commission's discretion, lobbyists may be charged
27 reasonable fees to attend the training course.

28 Sec. 24.61.760. ADMINISTRATIVE PROVISIONS. (a) The commission
29 shall assure the continued implementation, improvement, and

1 modification of the ethics education programs. The commission shall
2 develop procedures to assure the attendance of, and course completion
3 by, all legislators, legislative employees, and lobbyists, including
4 procedures to review requests for exemptions.

5 (b) The commission shall assure the attendance of legislative
6 employees who are not in and cannot travel to Juneau by offering the
7 programs by teleconference. When a teleconference connection is
8 unavailable, the commission shall distribute video tapes to the em-
9 ployees or arrange to have them travel to a site where a live or
10 teleconference course is available.

11 (c) The commission may impose sanctions, including suspension of
12 pay and dismissal of legislative employees, recommendations for disci-
13 plinary action for legislators, and recommendations to revoke lobbyist
14 registrations, upon any legislator, legislative employee, or lobbyist
15 who fails to complete the ethics education requirements within a
16 reasonable amount of time, as determined by the commission.

17 (d) The commission shall supply the presiding officer of each
18 house with the names of those legislators and legislative employees
19 who have not complied with the ethics education requirements. The
20 commission shall supply the Alaska Public Offices Commission with the
21 names of lobbyists who have not complied with the ethics education
22 requirements.

23 (e) The commission shall offer all of the education programs at
24 appropriate times and locations and shall fairly publicize them.

25 ARTICLE 5. GENERAL PROVISIONS.

26 ~~Sec. 14.61.900. RELATIONSHIP TO COMMON LAW AND OTHER LAWS. (a)~~
27 ~~The provisions of this chapter specifically replace, supersede, and~~
28 ~~where necessary repeal provisions of the common law relating to legis-~~
29 ~~lative conflict of interest, and specific Alaska statutes including~~

1 ~~Former AS 24.60, and all other laws that are inconsistent or incom-~~
2 ~~patible with a provision of this chapter.~~

3 (b) ~~Nothing in this chapter exempts a person from applicable~~
4 ~~provisions of another law unless the law is explicitly superseded or~~
5 ~~incompatibly inconsistent with specific provisions of this chapter.~~

6 Sec. 24.61.910. APPLICABILITY. (a) Unless otherwise specifi-
7 cally stated, the provisions of this chapter apply to legislators and
8 legislative employees.

9 (b) Certain specified provisions apply to former members of the
10 legislature, candidates for the legislature, former legislative em-
11 ployees, persons who have transactions with legislators or legislative
12 employees, and lobbyists.

13 Sec. 24.61.920. PRINCIPLE OF STRICT COMPLIANCE. In imposing
14 civil or administrative sanctions, legislators and legislative employ-
15 ees shall be held strictly to the provisions and spirit of this chap-
16 ter and, except in extraordinary circumstances, may not assert a lack
17 of knowledge or understanding as a defense to a charge of misconduct.

18 Sec. 24.61.930. MENTAL STATE REQUIRED FOR CRIMINAL ACTIONS.
19 When a provision of this chapter is made subject to criminal penal-
20 ties, unless the provision specifically provides for another mental
21 state, the defendant in a criminal prosecution must be shown to have
22 acted with criminal negligence, as that term is defined in AS 11.81.-
23 900(a). AS 11.81.610(c) applies to this section.

24 Sec. 24.61.940. MAINTENANCE OF DOCUMENTS. Documents filed with
25 or produced by the commission as public records shall be retained for
26 at least six years.

27 Sec. 24.61.950. COOPERATION OF OTHERS. If the commission re-
28 quests their cooperation, a state agency, official, employee, or a
29 person whose conduct is regulated by this chapter shall cooperate with

1 the commission. An individual shall make information reasonably
2 related to an investigation available to the commission on written
3 request. The commission may request and shall receive from every
4 officer, department, division, board, agency, commission, house of the
5 legislature, or other agency of the state, cooperation and assistance
6 in the performance of its duties.

7 Sec. 24.61.960. CONFIDENTIALITY. A person subject to the pro-
8 visions of this chapter may not knowingly make an unauthorized disclo-
9 sure of confidential information acquired in the course of official
10 duties.

11 Sec. 24.61.990. DEFINITIONS. In this chapter,

12 (1) "administrative action" means conduct related to the
13 development, drafting, consideration, enactment, defeat, application,
14 or interpretation of a rule, regulation, policy, or other action in a
15 regulatory proceeding or a proceeding involving a license, permit,
16 franchise, or entitlement for use;

17 (2) "anything of value" and "benefit" include all matters,
18 whether tangible or intangible, that could reasonably be considered to
19 be an advantage, of worth, use, or service to the person to whom it is
20 conferred; the terms are intended to be interpreted broadly and encom-
21 pass all matters that the recipient might find sufficiently desirable
22 to do something in exchange for;

23 (A) "anything of value," "benefit," or "thing of
24 value" includes but is not limited to

- 25 (i) money;
- 26 (ii) products or merchandise;
- 27 (iii) works of art or collectibles;
- 28 (iv) stocks, bonds, notes, or options;
- 29 (v) an interest in real property;

1 (vi) contracts or a promise of a future interest
2 in a contract;
3 (vii) an interest or a promise of a future interest
4 in a business;
5 (viii) meals, beverages, or lodging;
6 (ix) transportation;
7 (x) services, including loaned employees;
8 (xi) loans, loan guarantees, co-signing;
9 (xii) forgiveness of a debt;
10 (xiii) discounts or rebates not extended to the
11 public generally;
12 (xiv) preferential treatment;
13 (xv) tickets or admissions;
14 (xvi) free or discounted use of office facilities;
15 (xvii) loan of office equipment;
16 (xviii) radio or television time;
17 (xix) promise or offer of present or future employ-
18 ment;
19 (xx) use of autos, boats, apartments, or other
20 recreational or lodging facilities;
21 (xxi) intangible rights such as a cause of action;
22 (xxii) licenses, patents, copyrights, or an interest
23 in them;
24 (xxiii) any other item, tangible or intangible,
25 having economic value;
26 (B) "anything of value," "benefit," or "thing of
27 value" does not include
28 (i) unsolicited tokens or awards with a value of
29 less than \$150 in the form of a plaque, trophy, clock, desk

1 or wall memento or decoration, or similar item;

2 (ii) unsolicited advertising items such as calen-

3 dars, key chains, pens, or samples of merchandise with a

4 value of less than \$50;

5 (iii) unsolicited publications with a market value

6 of less than \$100 on an annual basis;

7 (iv) discounts afforded to the general public or

8 specified groups or occupations under normal business con-

9 ditions except that the discounts may not be based on the

10 fact of legislative service unless it is a discount program

11 approved by the commission;

12 (v) campaign contributions, pledges, political

13 endorsements, support in a political campaign, or a promise

14 of endorsement or support;

15 (vi) contributions to a cause or organization,

16 including a bona fide charity, made in response to a direct

17 solicitation from a legislator or a person acting at the

18 legislator's direction;

19 (3) "close economic association" has the meaning given in

20 AS 24.61.265;

21 (4) "close personal relationship" is a special relationship

22 between a legislator or legislative employee and another person that

23 creates strong bonds of loyalty, friendship, or love that could poten-

24 tially conflict with public duties and the obligation to exercise

25 objective independent judgment, or create the appearance that the

26 person may have undue access to confidential information or otherwise

27 receive favored treatment regarding public actions; it includes but is

28 not limited to immediate family, long-term personal friends or former

29 business associates, and persons with whom the legislator or

1 legislative employee has a significant and continuous romantic rela-
2 tionship;

3 (5) "commission" means the Legislative Ethics Commission;

4 (6) "confidential information" refers to information made
5 confidential by law or that is conveyed or accepted with the under-
6 standing that it will only be used for official purposes;

7 (7) "exonerate" means to free from a charge or the imputa-
8 tion of guilt, or to prove blameless;

9 (8) "financial conflict of interest" has the meaning given
10 in AS 24.61.255;

11 (9) "immediate family" means the spouse, parents, including
12 parents-in-law, children, including a stepchild and an adoptive child,
13 grandparents, grandchildren, and siblings of a person;

14 (10) "informal representation" means uncompensated represen-
15 tation including requests for information made with a state or local
16 government entity or an official or employee of the entity, on behalf
17 of a person including clients, constituents, and political contribu-
18 tors;

19 (11) "intent to influence legislative, administrative, or
20 political action" means that an act, including the offering or confer-
21 ring of a thing of value to a public official, is done with the pur-
22 pose of inducing the official to do an act the official would other-
23 wise not have done or refrain from doing something the official would
24 otherwise have done;

25 (12) "knowingly" means for a person to be aware with respect
26 to conduct or to a circumstance described by a provision of law that
27 the person's conduct is of that nature or that the circumstance ex-
28 ists; when knowledge of the existence of a particular fact is
29 required, that knowledge is established if a person is aware of a

1 substantial probability of its existence, unless the person actually
2 believes it does not exist;

3 (13) "legislative action" means conduct relating to the
4 development, drafting, consideration, sponsorship, enactment or de-
5 feat, support or opposition to or of a law, amendment, resolution,
6 report, nomination, or other matter affected by legislative action or
7 inaction;

8 (14) "legislative assistant" means a legislative employee
9 whose assigned duties involve the exercise of substantial discretion
10 and judgment; it does not include employees who perform purely cler-
11 ical or ministerial functions; the commission shall develop guidelines
12 for interpreting this definition;

13 (15) "legislative employee" means a person, other than a
14 legislator, who is compensated by the legislative branch in return for
15 regular or substantial personal services, regardless of the person's
16 pay level or technical status as a full-time or part-time employee,
17 independent contractor, or consultant; it includes members and staff
18 of the commission; it does not include individuals who perform func-
19 tions that are purely incidental to legislative functions such as
20 security, messengers, maintenance, and print shop employees; for
21 purposes of this paragraph, "regular or substantial" means work that
22 is expected to involve, or does involve, at least 400 hours in a
23 calendar year or 300 hours during a regular legislative session; the
24 commission shall develop guidelines for interpreting this definition;

25 (16) "local government" means a municipality, a municipal
26 school district, or a regional educational attendance area;

27 (17) "nonpublic information" means information that is not
28 available to the general public, the use or disclosure of which re-
29 sults in an unwarranted benefit or advantage;

1 (18) "political action" means conduct in which public offi-
2 cials, including legislators or legislative employees, use their
3 official position or political contacts to exercise informal influence
4 on state and local government employees or entities; it includes but
5 is not limited to intervening on behalf of constituents with a govern-
6 ment agency, endorsing, and pledging support or actively supporting a
7 legislative matter, a nominee, or a candidate for public office;

8 (19) "professional representation" means representation for
9 compensation;

10 (20) "reasonably should know" means that, under the circum-
11 stances, a person of reasonable prudence and competence would ascer-
12 tain or know a fact;

13 (21) "representation" means action taken on behalf of anoth-
14 er, whether for compensation or not, including but not limited to
15 telephone calls and meetings and appearances at proceedings or meet-
16 ings;

17 (22) "substantial interest in legislative, administrative,
18 or political action" has the meaning given in AS 24.61.260;

19 (23) "unofficial compensation" means payment for legislative
20 or administrative services made to a legislator or legislative em-
21 ployee by a source other than the state in the form of legislative
22 compensation or per diem payments;

23 (24) "unwarranted benefit" means a benefit not earned,
24 deserved, or attained strictly on the merits or according to normal
25 procedures, but attained as the result of improper use of public
26 office.

27 * Sec. 3. AS 11.56.805(a) is amended to read:

28 (a) A person commits the crime of false accusation if the person
29 knowingly or intentionally initiates a false complaint with the

1 [SELECT COMMITTEE ON] Legislative Ethics Commission established under
2 AS 24.61 [IN AS 24.60].

3 * Sec. 4. AS 24.10.100 is amended to read:

4 Sec. 24.10.100. SALARY OF LEGISLATORS. The annual [MONTHLY]
5 salary for each member of the legislature is \$40,000 [EQUAL TO STEP A,
6 RANGE 10 OF THE SALARY SCHEDULE IN AS 39.27.011(a) FOR JUNEAU]. The
7 president of the senate and the speaker of the house of representa-
8 tives are each entitled to an additional \$500 a year during tenure of
9 office.

10 * Sec. 5. AS 24.10.105 is repealed and reenacted to read:

11 Sec. 24.10.105. LEGISLATIVE PER DIEM. (a) A member of the
12 legislature is entitled to receive per diem at the short-term rate
13 during a legislative session if the legislator is not living in the
14 legislator's place of permanent residence during the session.

15 (b) A legislator is entitled to receive per diem at the long-
16 term rate during a legislative session if the legislator is living in
17 the legislator's place of permanent residence during the session.

18 (c) In this section

19 (1) "long-term rate" means the long-term per diem rate for
20 a state employee established in regulations adopted by the commission-
21 er of administration under AS 39.20.160;

22 (2) "short-term rate" means the short-term per diem rate
23 for a state employee established in regulations adopted by the commis-
24 sioner of administration under AS 39.20.160.

25 * Sec. 6. AS 24.10.130 is amended by adding a new subsection to read:

26 (b) A member of the legislature may be reimbursed for up to two
27 round trip tickets from Juneau to a city in the district from which
28 the legislator was elected during each regular session of the legisla-
29 ture. A trip paid for under this subsection may be for a family,

1 business, or constituent purpose.

2 * Sec. 7. AS 24.45.041(a) is amended to read:

3 (a) Before engaging in lobbying, a lobbyist shall file a regis-
4 tration statement on a form prescribed by the commission. The commis-
5 sion may not accept the form for filing unless the lobbyist's name has
6 been certified to the commission by the Legislative Ethics Commission
7 under AS 24.61.750(c).

8 * Sec. 8. AS 24.45.041(f) is amended to read:

9 (f) Each lobbyist shall renew the registration annually by
10 filing a new registration statement together with a new authorization
11 to act as a lobbyist before engaging in lobbying. The lobbyist also
12 shall file any reports or statements the lobbyist has failed to file
13 for a previous reporting period. The commission may not renew lobby-
14 ing credentials until this provision is complied with and unless the
15 Legislative Ethics Commission has certified the lobbyist's name to the
16 commission under AS 24.61.750(c) and the lobbyist has complied with
17 AS 24.61.750(e).

18 * Sec. 9. AS 24.45.041 is amended by adding a new subsection to read:

19 (g) Notwithstanding (a) and (f) of this section, a lobbyist
20 whose name has not been certified to the commission under AS 24.61.-
21 750(c) may conditionally register or renew a registration under this
22 section if authorized by the Legislative Ethics Commission under
23 AS 24.61.750(a).

24 * Sec. 10. AS 39.25.110 is amended by adding a new paragraph to read:

25 (30) executive director and staff of the Legislative Ethics
26 Commission.

27 * Sec. 11. AS 39.50.025 is amended to read:

28 Sec. 39.50.025. NOTIFICATION TO CANDIDATES FOR LEGISLATURE. On
29 receipt of a statement under AS 39.50.020 from a candidate for the

1 legislature the commission shall mail, by certified mail, a copy of
2 AS 24.61 (Legislative Ethics Act) [AS 24.60 (STANDARDS OF CONDUCT)] to
3 the candidate at the address shown on the report.

4 * Sec. 12. AS 39.50.200(a)(8) is amended to read:

5 (8) "public official" means a judicial officer, a member of
6 the legislature, the fiscal analyst of the legislative finance divi-
7 sion, the legislative auditor of the legislative audit division, the
8 executive director of the Legislative Affairs Agency and the directors
9 of the divisions within the Legislative Affairs Agency, the executive
10 director of the Legislative Ethics Commission, the governor, the
11 lieutenant governor, a person hired or appointed as the head or deputy
12 head of, or director of a division, a department in the executive
13 branch, an assistant to the governor, chair [CHAIRMAN] or member of a
14 state commission or board, the executive director of the Alaska Tour-
15 ism Marketing Council, and each appointed or elected municipal offi-
16 cer;

17 * Sec. 13. AS 39.50.200(b) is amended by adding a new paragraph to
18 read:

19 (50) Legislative Ethics Commission (AS 24.61).

20 * Sec. 14. AS 39.52.910(a) is amended to read:

21 (a) Except as specifically provided, this chapter applies to all
22 public officers within executive-branch agencies, including members of
23 boards or commissions. This chapter does not apply to a former public
24 officer of an executive-branch agency unless a provision specifically
25 states that it so applies. This chapter does not apply to legislators
26 covered by AS 24.61 [AS 24.60].

27 * Sec. 15. AS 24.60 is repealed.

28 * Sec. 16. INITIAL COMMISSION APPOINTMENTS. Notwithstanding AS 24.61.-
29 500(b), as added by sec. 2 of this Act, the terms of the members initially

1 appointed to the Legislative Ethics Commission are as follows:

2 (1) the members appointed by the senate and the house of rep-
3 resentatives and one of the members appointed by the Legislative Ethics
4 Commission, determined by lot, serve terms of five years;

5 (2) the member appointed by the governor and the second member
6 appointed by the Legislative Ethics Commission serve terms of four years;

7 (3) the member appointed by the Alaska Public Offices Commission
8 serves a term of three years;

9 (4) the member appointed by the lieutenant governor services a
10 term of two years; and

11 (5) the member appointed by the supreme court serves a term of
12 one year.

13 * Sec. 17. INITIAL TRAINING COURSES. The initial courses and seminars
14 required under AS 24.61.730 - 24.61.750, as added by sec. 2 of this Act,
15 shall be offered during January and February 1991.

16 * Sec. 18. INITIAL RECOMMENDED REGULATIONS. The Alaska Legislative
17 Council shall make its initial recommendations to the Legislative Ethics
18 Commission under AS 24.61.160, as added by sec. 2 of this Act, by
19 January 1, 1991. If the legislative council does not comply with the
20 deadline under this section, the Legislative Ethics Commission shall pro-
21 ceed to adopt regulations under AS 24.61.160 on its own initiative.

22 * Sec. 19. SELECT COMMITTEE ON LEGISLATIVE ETHICS. Notwithstanding the
23 repeal of AS 24.60 by sec. 15 of this Act, the Select Committee on Legisla-
24 tive Ethics, as established under former AS 24.60.130, continues in exis-
25 tence until January 21, 1991, for the purpose of concluding proceedings or
26 other business pending on June 1, 1990. For the purpose of this section,
27 the committee, and persons subject to former AS 24.60, are governed by the
28 provisions of former AS 24.60 as those provisions read on May 31, 1990.

29 * Sec. 20. TRANSITIONAL PROVISIONS RELATING TO VIOLATIONS OF FORMER

1 AS 24.60. Notwithstanding the repeal of AS 24.60 by sec. 15 of this Act,
2 in addition to the provisions of AS 24.61, as added by sec. 2 of this Act,
3 the Legislative Ethics Commission may consider complaints alleging viola-
4 tions of AS 24.60 that occurred prior to June 1, 1990, and for which pro-
5 ceedings have not been commenced prior to June 1, 1990. For the purpose of
6 this section, the Legislative Ethics Commission shall follow the procedures
7 established under AS 24.61, but may not recommend a sanction or penalty not
8 authorized under former AS 24.60.

9 * Sec. 21. TRANSITIONAL PROVISIONS RELATING TO REPRESENTATION OF
10 OTHERS. Notwithstanding AS 24.61.330, as added by sec. 2 of this Act, a
11 legislator or legislative assistant who is subject to AS 24.61.330 may,
12 until January 1, 1992, represent a person in a proceeding that would other-
13 wise be prohibited under AS 24.61.330 if the legislator or legislative
14 assistant promptly files a statement with the Legislative Ethics Commission
15 that includes the name of the client, an identifying name or number of the
16 action, a brief description of the nature of the action, and the amount of
17 compensation received or anticipated relating to the representation. The
18 statement shall be published in the journal of the appropriate house. If
19 information contained in the statement changes, a supplemental statement
20 shall be filed every 90 days until the matter is completed or January 1,
21 1992, at which time the representation must be terminated. In this sec-
22 tion, "legislative assistant" has the meaning given in AS 24.61.990, as
23 added by sec. 2 of this Act.

24 * Sec. 22. Sections 4- 6 of this Act take effect January 21, 1991.

25 * Sec. 23. Except for secs. 4 - 6, this Act takes effect June 1, 1990.

ALASKA LEGISLATIVE ETHICS ACT OF 1990
Guidelines and Commentary

Article 1. Legislative Findings and Ethical Principles

GENERAL

1. Structure. This Alaska Legislative Ethics Act (ALEA) has three major components:

(a) Ethical Principles and Standards of Conduct -- a comprehensive declaration of the ethical principles inherent in legislative activities along with specific standards of conduct and rules of disclosure expressed in the form of legislative rules, civil laws and criminal offenses which make these obligations binding and enforceable; provisions and interpretative directives in these guidelines and commentary are an intrinsic part of this law.

(b) Legislative Ethics Commission -- an independent public commission is established to implement the Legislative Ethics Act.

(c) Continuous Mandatory Educational Program -- creates a mandatory ongoing educational program for legislators, legislative staff and lobbyists to assure that the legal requirements and ethical expectations embodied in it, as well as the principles and values that underlie them, are known and understood.

2. Types of Provisions. The Statement of Ethical Principles, Standards of Conduct & Guidelines contain three types of provisions:

(a) Legislative Rules and Directives -- the overarching principles and some specific provisions establish internal rules and directives for behavior, the violation of which may subject the violator to administrative sanctions imposed by the legislature through the processes established. They do not provide the basis for a separate civil or criminal charge.

(b) Civil Laws -- some provisions establish legal obligations that give rise to civil liability and court-ordered sanctions. Such actions may be brought by the attorney general's office or by a private citizen.

(c) Criminal Offenses -- some provisions establish criminal offenses enforceable as other criminal laws in the Alaska courts.

3. Strict Compliance is Expected. As codified in AS 24.61.920, legislators and legislative employees in civil and administrative actions will be held strictly to the provisions and spirit of the principles and standards of this act as explained and amplified in the guidelines and commentary. Except in extraordinary circumstances, persons will not be permitted to assert a lack of knowledge or understanding as a defense to a charge of misconduct.

(a) Obligation to Know Duties. While some of the provisions of this code are detailed and complex, it is essential that each legislator, legislative employee and lobbyist accept and fulfill a personal obligation to know and understand its requirements. Extensive educational and training opportunities are provided through the legislative ethics commission to assist them. It is not only unseemly, it is publicly unacceptable when those who are intimately involved in the lawmaking process claim ignorance of the law or assert that violations were mere "technicalities" or mistakes.

(b) Extraordinary Circumstances. The presumption that those covered by this code know and understand its provisions is a strong one but it may be rebutted in exceptional circumstances where the person charged demonstrates that it would be unreasonable to hold him or her to strict knowledge. For example, changes in the law, errors in officially published educational materials or other special circumstances may justify a defense based on a mistake or asserted ignorance of law.

4. Application Depends on Duties Rather Than Salary Status.

Most of the provisions of this chapter apply to all employees involved in some substantive way with the legislative process,

Guidelines and Commentary for the Legislative Ethics Act

regardless of salary or duties (see definitions at AS 24.61.990 (13), (14)). The time of public employees is a state resource which should only be used for proper public purposes. Moreover, many legislative employees expend state funds and have access to confidential information. The most serious restrictions and disclosure requirements, however, only apply to legislative employees who exercise, or are perceived to exercise, discretion and judgment with respect to legislative, administrative or political actions. These individuals are referred to as legislative assistants. The purposes of the chapter should not be circumvented by legalistic arrangements which change the category of a person who otherwise would, and should, be subject to its provisions. Thus, the controlling factors are related to the function employees or agents perform and the amount of discretionary authority they possess, rather than their salary or technical status as full-time or part-time employee, independent contractor or consultant.

STATEMENT OF PRINCIPLES

AS 24.61.020. PREAMBLE. The eight principles stated in AS 24.61.025 -- AS 24.61.060 articulate the theoretical and moral foundation for the standards of conduct. They represent the spirit of the Legislative Ethics Act. They set forth a positive dimension of the ethical obligations of public service in order to make clear that the objective of these rules and regulations is to raise the issue of government ethics to a higher plane. The overarching principles are an integral part of each provision of the standards of conduct and they infuse individual rules with ethical purpose in a way that precludes narrow legalistic approaches leading to the conclusion that if an act is technically legal it is ethical, or that it is proper if it is not clearly prohibited. They direct legislators, legislative employees and lobbyists to follow the ethical high road, not simply to avoid punishment, but to advance the grand, noble and important principles of democracy and public service.

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AS 24.61.025. PRINCIPLE OF GOOD FAITH. The goals of the Legislative Ethics Act cannot be attained unless its provisions are construed and enforced in good faith. The standards of conduct, like other written regulations, are vulnerable to an endless array of evasion strategies. Unduly narrow or legalistic constructions of specific provisions, strained and insincere interpretation of facts and willful blindness to the real motives behind an act undermine the clear purpose of an ethics code and denigrate the spirit this Act. Under the principle of good faith, deliberate bad faith circumvention of these standards is itself a violation of the ethical obligations of public service and may be the basis for administrative sanction.

AS 24.61.030. PRINCIPLE OF NONPARTISANSHIP. If these standards are to rise above politics, they must be applied objectively, on the merits, without regard to party, regional or ideological partisanship.

(a) Highest Duty. The highest duty of legislators and legislative employees is to uphold the integrity of the legislature, regardless of narrow political considerations. Though partisan politics based on party, region and ideology are an integral and often constructive part of the American political structure, it is essential that the ethical responsibilities arising from these standards of conduct -- including consideration of a complaint, imposition of sanctions, appointment of members of the Legislative Ethics commission and appropriation of the commission's budget -- be unfailingly treated as nonpartisan, public interest issues of great importance.

(b) Playing Politics With Ethics. The ethical quality of democracy and the integrity and stature of the legislature are inherently nonpartisan issues. Playing politics with ethics issues creates two very significant harms. First, it undermines the effectiveness and moral authority of the ethical rules themselves. Second, the elevation of politics over ethics is invariably perceived by the public and the

press in a way that dramatically increases public cynicism and disrespect for the legislature -- the very things these standards are designed to prevent. Thus, it is a violation of this provision for a legislator or a legislative employee to bring an ethics complaint for political reasons or to seek to influence any action under this chapter based on an appeal to political partisanship.

(c) Need for Long Term Perspective. Unfortunately, it is often difficult to maintain a nonpolitical, nonpartisan perspective in the context of competitive politics. The disposition of ethics-based charges may have profound political implications, not only on the careers of the persons directly involved, but often for political parties and other individuals vying for power. Ethics issues are often raised for political motives and it takes great restraint and a powerful long term public perspective to separate the motives of a charge from the merits of it. While the political dimension of legislative actions regarding matters of ethics may never be entirely removed, with discipline and commitment to principle, it can be consciously subordinated to a broader view of the legislator's role and of the public interest.

AS 24.61.035. PRINCIPLES OF PUBLIC TRUST. There are two separate dimensions to the obligation to ensure public trust: 1) avoiding actual wrongdoing -- violating laws, legislative rules or doing any other act which involves dishonesty, a lack of integrity, or disregard for ethical standards; and 2) avoiding the appearance of wrongdoing -- engaging in conduct which is likely to generate cynical attitudes and suspicions about government and the people who administer it.

(a) Importance of Perceptions. The concept of trust is as much a creature of perceptions and beliefs as it is of reality. Thus, conduct which a person knows or reasonably should know is likely to create in the minds of reasonable objective observers the perception that government office has been or may be used improperly, violates the obligation

to safeguard public trust even if the conduct does not actually misuse public office.

(b) Reasonable Person Standard. The standard to determine whether something is improper is not set by the most suspicious and cynical members of society who are predisposed to assume bad faith or corrupt motive. The standard is whether reasonable, objective and fair-minded citizens find the conduct improper. In applying this test, however, it is important to remember that such citizens will make their judgments with no special knowledge of the facts or private intentions of the parties.

(c) Responsibility to Act. It is not always right to avoid an act simply because it will look wrong. The ethical obligation to avoid the appearance of impropriety should not be used as an excuse for inaction where, on balance, the action is proper. Excess timidity in the face of possible criticism is no more justifiable than callous disregard for improper appearances. In some cases, legislators should be willing to confront criticisms and endure unfair denunciations, choosing to explain and justify their behavior rather than alter their conduct to suit the cynical perceptions of a misinformed press or public.

(d) Avoiding Bad Decisions. A balance must be found between the need to preserve public confidence by avoiding appearances of impropriety and the responsibility to make sound decisions on the merits. The requirement that legislators avoid even the appearance of impropriety can sometimes undermine the public interest and cause bad decisions. For example, it may lead to discrimination against friends or political supporters simply because a transaction may look bad to the public. Sensitivity, thoughtful discrimination and restraint is important in this area. But if a friend or political supporter is clearly the best qualified person available to perform a needed public task, it is unfair and unwise to automatically and invariably disqualify

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them.

(e) Accountability. Occasionally, a conscientious legislator or legislative employee will decide to override the appearance of impropriety test in order to do what he or she thinks is "right" under the circumstances. In such cases, there is a responsibility to reduce the harm to public trust by taking affirmative steps to assure that all facts relevant to the choice are made public and that the process of decision making is open to and can withstand close scrutiny.

AS 24.61.040. PRINCIPLES OF PUBLIC INTEREST.

(a) Purpose of Government. Subsection (a) establishes one of the most fundamental principles of public service ethics -- pursuit of public interest. The purpose of state government is to advance the public interest by assuring justice, providing educational opportunities, protecting health and the environment, securing public safety, creating economic stability and development, and safeguarding the liberties and rights of the people, among other things. Legislative office and authority should be used only to pursue these and similar public interests. The duty to only use public office in pursuit of the overall public interest is a positive one. Although it precludes using government position for private gain, it also precludes use of public resources, power or prestige for any nonpublic purpose, even if the actor does not personally benefit.

(b) Principle Over Expediency. Subsection (b) precludes unlawful conduct or improper use of office to achieve a "greater good" on the theory that the end justifies the means. In a democracy, the primacy of state and federal constitutions require that each public servant's vision of the public interest be pursued only through lawful processes which acknowledge and respect the separation of powers among government branches and the role of other public officials

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in the formation and implementation of public policy.

(c) Determining the Public Interest. Subsection (c) is designed to provide guidance to legislators and legislative employees who must often unravel conflicting loyalties and duties. It uses the term "should" rather than "shall" because the principles stated in this provision are not amenable to uniform interpretation or enforcement. Still, the principles and rationales stated in this provision and the following commentary are deeply rooted in democratic political philosophy, and they are important. Legislators are accountable to a complex network of competing loyalty obligations -- to country, state, community, constituency groups, political supporters, colleagues, subordinates, family and self. In many political situations, these loyalties conflict. What is best for the country or state may not be good for a particular community; what is good for an individual constituent or interest group may not be in the best interest of other constituents or interest groups; and the highest public interest may conflict with personal career ambitions. Inevitably, legislators must resolve conflicting interests by ranking their loyalty obligations. Though decisions have to be made on a case-by-case basis, the principle of public service generally requires elected officials to pursue the greatest long term good for the greatest number by placing larger, broader interests over smaller, narrower ones: country over state, state over community, community over individuals, and principle over party.

(d) Representative and Administrative Duties of Legislators. A major duty of state legislators is to pursue laws and policies which improve the social and economic conditions of their districts. They are also expected to represent the views and advocate the interests of their constituents and, as an aspect of this responsibility, they often perform an ombudsman function by assisting constituents in their relationships with government to assure

that they are treated fairly and efficiently. In addition to these representative responsibilities, however, all elected officials have policy and law-making obligations which impose a duty to use independent objective judgment to pursue the overall public good. In exercising these responsibilities -- allocating public funds and formulating public policies relating to pressing social issues such as the environment, education, health and safety -- they should transcend their role as advocates of narrow constituent interests. They should perform a role closer to that of a neutral administrator or judge, evaluating information objectively and deciding what is best for the public as a whole.

(e) Conflicts in Constituent and Public Interests. Representation of specific constituent interests usually raises no substantial conflict with public interests. But when it does, the dilemma generally should be resolved in favor of the wider public interest in spite of political risks. For example, the public interest may require taxes that individuals do not want to pay, especially for programs with low constituency support but high public importance (for example, correctional facilities, waste disposal sites, providing aid to homeless or otherwise impoverished but politically powerless groups). Similarly, the public interest may require budget cuts and the elimination of government facilities, public works projects or jobs though the cost of such measures will be felt disproportionately in the districts most directly affected. When decisions about programs and expenditures are controlled by the desire to steer money and jobs to particular districts, the quality and efficiency of government programs inevitably are compromised. This type of decision making is especially dangerous when public health or safety are involved. It also contributes to the cynical impression that political decision makers are more concerned about their political careers than the public

good. It is said that a politician thinks of the next election, a statesman thinks of the next generation.

Politicians who consider staying in office a moral imperative will be unwilling or unable to take such risks. Those who view their role more broadly, however, will see it as their obligation to do so.

(f) Loyalty Conflicts Within Organizations. A common loyalty conflict arises where the interests of an organization are inconsistent with those of individuals within the organization. The problem gets even more complicated when loyalty to a particular person within the organization conflicts with loyalty obligations to others. Under the principles of public interest, the responsibility of office generally demands the placing of institutional interests above individual loyalties though decisions which advance the institution at the cost of individuals should be made and executed with compassion, sensitivity and respect.

AS 24.61.045. PRINCIPLES OF ACCOUNTABILITY. There are several dimensions to accountability: 1) citizens must have the information they need about the actions of their representatives and the legislature as a whole so they can meet their personal responsibilities as citizens to participate as informed voters; 2) constituents are entitled to have specific information about the conduct of their own representatives so they can hold those representatives accountable for them both in discussions and at the polls; and 3) government officials who delegate authority have a responsibility to assure that those to whom power has been assigned use it properly and efficiently.

(a) Individual Citizens Are Personally Accountable. In a democracy every citizen is a public servant. Bottom line responsibility for government rests with the people. As a result, those who perform government functions do so as representatives on behalf of the citizenry. Legislators have the special duty to educate their constituents about the major issues of government so that they use their franchise

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to vote intelligently.

(b) Representatives Are Accountable to Citizens. A separate aspect of accountability concerns the public official's responsibility to employ public authority openly, to state important policy positions and beliefs candidly and publicly, and to assure that their own official conduct and that of other government officials is subject to public scrutiny. Citizens have the obligation to hold their representatives accountable both in public dialogue and at the ballot box. Elected representatives have a corollary obligation to act in a way that allows the public to hold them accountable. See also AS 24.61.430.

(c) Representatives Must Hold Their Agents Accountable. Each public servant in government is responsible to strive to make government as open, efficient, equitable and honorable as possible. In pursuing this responsibility, they must exercise proper oversight with regard to delegated functions. See also AS 24.61.430.

AS 24.61.050. PRINCIPLE OF DEMOCRATIC LEADERSHIP. It is sometimes very difficult to distinguish legitimate political tactics to advance public policy positions from illegitimate ones. An illegitimate tactic is one that tends to disregard any of the overarching ethical principles of public service and places ends over means. The essence of representative democracy is "means." In other words, the procedures for setting policies and resolving disputes established by the federal and state constitutions and by other duly enacted laws is all that sets a republic apart from a dictatorship. The notion that this is a nation of laws, not of men, cautions us remember that even well-meaning persons who seek only their vision of the public good, must defer to democratic due process. See AS 24.61.461.

AS 24.61.055. PRINCIPLE OF RESPECTABILITY -- CONDUCT BEFITTING THE LEGISLATURE

(a) Legislators Must Not Discredit the Legislature. Legis-

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lators and legislative employees are visible leaders in society and they properly are held to high standards of personal probity. Acts which demean or discredit government or demonstrate defects in their character and judgment set a bad example and injure the reputation of the legislature. While public servants are not expected to be perfect, they should realize their special responsibilities. They should strive to conduct their professional and personal lives so as to reveal character traits, attitudes, and judgments that are worthy of honor and respect and demonstrate fitness for public office. Thus, conduct which violates this rule is independently sanctionable.

(b) Honesty and Integrity. Legislators should be scrupulously honest, avoiding any form of lying, deception, deviousness, hypocrisy and cheating in their professional and personal lives. Dishonesty by a legislator is wrong in itself but it also violates principles of public service ethics by seriously undermining the credibility of government. Technical or literal truthfulness is not all that is required; honesty precludes any deliberate deception including the raising of false inferences. Legislators and legislative employees should also reflect personal integrity in all matters, placing principle over expediency and demonstrating courage of convictions. Although it is necessary and proper for elected officials to represent the views of their constituencies it also is necessary that they have pronounced and strong personal convictions--things they stand for. Legislators should offer principled leadership.

(c) Illegal and Dishonest Conduct. Activities which are illegal but not directly related to legislative service (for example, drunk driving, drug use, tax evasion, assault, hiring prostitutes) discredit the individual and the legislature itself. Similarly, private conduct, even if legal, discredits the body if it reveals dishonesty, deviousness, or hypocrisy. All such acts by legislators or legislative

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employees tend to undermine public respect and confidence and, therefore, they violate the principle of respectability.

(d) Private Personal Conduct. The most difficult area of private conduct concerns legal behaviors that subject the actor and the legislature to criticism or ridicule because it violates the moral sensibilities of a significant portion of the public. The obligation of public servants to lead exemplary lives for the sake of the reputation of government in general must be balanced against a real and important right to a private life which may involve choices and behaviors that raise moral issues. Acts of adultery, homosexuality or promiscuity, for example, concern personal matters that should not be the basis of any charge or sanction under these rules unless it is clear that the behavior bears on the fitness to serve or the ability to carry out duties. Whether or not lawful private acts which do not bear in any direct way on the responsibilities of public office are proper subjects of press disclosure and public scrutiny, they are not appropriate concerns under this Act. No separate sanction for private conduct in the "moral arena" is contemplated. Such matters should be left to the electorate.

24.61.060. PRINCIPLE OF INDEPENDENT JUDGMENT. The most heavily regulated area of government ethics relates to conflicts of interest, especially financial conflicts. This provision overarches the individual conflict of interest provisions in this code and states clearly the nature of the ethical obligation. Essentially, a conflict of interest exists whenever a person has personal interests which are inconsistent with professional obligations. In the case of public service, the primary obligation is to exercise independent objective judgment in the public interest and scrupulously avoid interests that are likely to impede the ability to make such judgments. In addition to the need to safeguard one's own ability to make independent objective judgment

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ments on the merits, public servants also are obligated to respect the duty of other government officials to the same. Thus, it is improper to engage in any act designed to cause another public official to violate the duty of independent judgment.

Article 2. STANDARDS OF CONDUCT

AS 24.61.100. MISUSE OF OFFICE FOR PRIVATE GAIN. The obligation to use public office only in the public interest and not for private gain underlies many of the specific provisions of this code. It is impossible, however, to envision and specify all the possible ways that this principle may be violated as the range of private interests and improper motives is almost inexhaustible. This provision makes it clear that it is improper to make any use of office or position primarily to attain personal benefits, whether they are financial, social or political. This statement of principle is somewhat broader but not inconsistent with AS 39.52.120, "Misuse of Official Position," which prohibits non-legislative public officers from using or attempting to use, an official position for personal gain or to secure or grant unwarranted benefits or treatment.

AS 24.61.110. IMPROPER BENEFIT FROM PERFORMANCE OF PUBLIC DUTIES.

(a) Benefit Need Not Affect Conduct. Legislators and legislative employees have an obligation to perform their duties diligently, promptly, efficiently and fairly. In representing constituents from their districts they have the additional responsibility to exercise oversight over administrative agencies and, in some cases, to assist constituents in a reasonable manner that does not unduly interfere with the independent judgment of administrators (see AS 24.61.380). The only lawful compensation for properly performing these services is official salary and allowances paid by the state. It is improper to seek or receive any-

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thing of value from a citizen as a reward, expression of gratitude or payment for the performance of public duties even if the benefit had no actual affect on public decisions or actions.

(b) Unsolicited Gratuities. Even unsolicited gratuities otherwise permitted under AS 24.61.350 create an appearance of impropriety when they are given to a legislator or legislative employee after or in anticipation of an official action or informal representation within the normal scope of duties. Though the recipient may not have anticipated the gift and, therefore, could not have been influenced by its prospect, a reasonable observer might believe it was a payment or reward for services rendered. Minor courtesy items such as ceramic coffee cups, a desk memento, flowers or a box of candy may be accepted, but generally, gifts ought to be returned with a polite but clear message that the gesture was unnecessary and could be construed as improper. If this is not feasible, they ought to be given to charity or otherwise handled in a way which makes it clear that the public servant has not accepted and does not want any personal benefit for official actions.

(c) Avoiding the Appearance of Selling Access. The ability of a citizen to confer directly with a legislator is frequently referred to as access. Because of the great press or duties and demands on the legislator's time, it not always possible for a legislator to personally talk with everyone who seeks an audience or to give them all the time they would like. The legislator's time is a crucial asset which must be carefully allocated among competing demands. It is important, however, that access is not determined by the willingness or ability of the person to provide any benefit to the official whether it be in the form of a gratuity, an honorarium or even a campaign contribution (regulations dealing with improper means of acquiring political support are stated in AS 24.61.230).

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(d) Duty to Reject Improper Offers. Subsection (b) concerns improper offers and the obligation to reject them. Under Alaska's criminal law, AS 11.56.100, "a person commits bribery if the person confers, offers to confer, or agrees to confer a benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, action, decision or exercise of official discretion." If the benefit conferred is accepted with the intent to use one's - government position for private gain, the public servant is also guilty of bribery -- even if no act was actually performed. It is critical to recognize, therefore, that the acceptance by a legislator or legislative employee of benefits of any sort from persons who seek to influence official actions raises criminal as well as ethical issues. Although the high standard of proof and other procedural safeguards of a criminal trial make it difficult to establish the crime of bribery, the ethical obligation to avoid transactions which cast doubt on the integrity of government is not delimited by the standards of provable bribery. Legislators and legislative employees must avoid both the appearance and the reality that public office was used for private gain. Therefore, it is improper to accept any benefit, whether in the form of compensation for services or a gratuity, from a person with a corrupt motive. It is not enough that the public servant has no intent to do anything improper or, in fact, that nothing improper is done.

AS 24.61.120. DUTY TO REPORT IMPROPER OFFERS. It is not always sufficient to turn down an improper offer of gifts or other benefits. Any attempt to unduly influence a public official warrants some action that at least educates the offeror of the impropriety and risk of such conduct. Occasionally, an improper offer is made by an unsophisticated individual who should have, but did not know any better. A polite but firm warning may be sufficient. On the other hand, improperly motivated gratuities are - attempted bribes and when the source is a registered lobbyist

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or otherwise appears to be well aware of the significance and impropriety of the action, the matter should be handled with great seriousness. A failure to react with indignation or report improper offers to the authorities can be viewed as wrong in itself. (Imagine how would it look on the nightly news to learn that a public official was offered a bribe and he merely said, "No thank you.").

AS 24.61.130. MISUSE OF STATE PROPERTY AND RESOURCES FOR PRIVATE GAIN OR PERSONAL ADVANTAGE.

(a) Authorized Use of Government Property to Aid Private Enterprises. Subsection (a) covers situations where a legislator or legislative employee improperly uses state property or resources for personal gain or for the gain of another. In certain cases, economic development activities authorized by law involve using state resources to assist private enterprises. This is permitted.

(b) Misuse of Government Property for Personal Gain.

Subsection (a) also establishes the basic rule that state facilities, equipment and services (office space, typewriters, word processors, telephones, postage, computer data, stationery, mailing facilities, photocopying, etc.) may not be appropriated for personal gain or advantage. Common sense and fairness requires that this provision be interpreted reasonably. Though government facilities should certainly not be used for personal purposes on a substantial, regular or ongoing basis, occasional and limited usage should be permitted so long as: 1) it does not interfere with the performance of public duties; 2) the cost or value related to the use is so nominal that reimbursement procedures would not be worth the effort, and 3) the use does not raise an unreasonable appearance of impropriety or undue political advantage. For example, interpretation of these limitations should take into account the reasonable needs and expectations of employees and permit them to make and receive occasional personal phone calls of short duration or

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makes an occasional personal copy on a state photocopy machine.

(c) Frequent Flyer Points. Unless otherwise provided by law or regulation, the frequent flyer points or other bonuses related to air travel paid for by the state, should be treated as the personal property of the employee. While a strong logical case can be made that the collateral benefits of state-paid travel should accrue to the state, the practical and morale problems entailed in administering such a position do not justify the small gain. The state, of course, has an interest in seeing that public resources are used economically and only spent in the public interest. Allowing public employees to personally benefit from bonuses attributed to government travel raises a potential conflict of interest as it creates an incentive for the employee to select a carrier based on private economic advantage rather than state interests. This conflict is not a major one, however, especially in Alaska where the number of carriers and flights tend to limit options. Moreover, the prohibition against using public authority or funds for personal gain would make selection of a carrier on inappropriate criteria improper. Any legislator or legislative employee who actually allows the desire to earn frequent flyer points or bonuses to influence official decisions violates this provision and is subject to sanction notwithstanding the fact that any points earned are the property of the legislator or employee. This should provide a sufficient deterrent to protect the state's interests.

(d) Misuse of Legislative Employees for Personal Gain.

Subsection (c) prohibits misuse of legislative employees whose time is and should be treated as public property which should not be misappropriated to personal use. Publicly paid employees simply must not be used as personal secretaries or private staff. Overly strict application of this provision, however, is inappropriate. For example, a legis-

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lator should be permitted to make moderate use of staff to help organize and schedule the legislator's calendar, appointments and travel plans -- including some events of a political or private nature. Emphasis, however, must be placed on the word "moderate" and both the aide and the legislator must be vigilant to avoid actual abuse as well as the creation of the appearance of unreasonable use of public personnel. Though this limitation should be interpreted in a reasonable manner given the pressing responsibilities of a legislator, purely personal errands such as dropping off laundry, picking up children, handling household or private matters, and purchasing private gifts are justifiable only in extraordinary circumstances where the task is suddenly necessary to help the legislator perform professional duties.

(e) Use of Employee's Own Time. Generally, employees do not voluntarily contribute their personal time to benefit their employers. Yet public officials sometimes claim that employees willingly perform personal services "on their own time" -- during lunch hour, after normal working hours. Such claims should be examined with skepticism as there is a high risk that the employees believed that they were required to perform personal work as part of their jobs. In such cases, there is at least an appearance of improper exploitation and such use of public personnel should be avoided. If a legislative employee is asked to perform any personal service, it is best if the employee is paid for his or her time out of the official's private funds.

AS 24.61.140. MISUSE OF STATE PROPERTY AND RESOURCES FOR POLITICAL PURPOSES.

(a) Misuse of Resources or Staff for Political Purposes.

Subsections (b) - (d) regulate the use of government resources, including legislative employees, for political or campaign purposes. It is often difficult to distinguish legitimate political work within the scope of official duties

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from campaign activities but the basic rule is clear: public resources should not be used for political purposes as the taxpayer should not be forced to subsidize campaign or other partisan political activities. In general, the use of public employees is justified in activities where there is a substantial and bona fide public purpose to the activity and there is no personal profit (as with the writing of a book for royalties). Materials which express the legislator's opinions or views are generally proper whether in the form of a speech, article, newsletter, or position paper. They can be worked on by legislative staff even if these materials will and are intended to be used as part of a campaign for legislative office.

(b) Special Problems With Senior Aides. Many legislators are assisted by a senior aide who also serves as a major campaign adviser. It is unrealistic to expect that such persons will not be involved intimately in the full political life of their employer. So long as the senior aide "does a full day's work for a full day's pay" to justify the government salary, party and campaign activities above and beyond public duties should be tolerated. In some cases, portions of the aide's salary ought to be paid out of campaign funds. Once one begins to use other legislative staff, however, a serious problem arises and unless the use is expressly justified by regulations promulgated by the legislature or the commission it shall be regarded as improper.

(c) Advice of Commission. A legislator or legislative employee who is unsure about the propriety of a use should seek advice from the commission.

AS 24.61.150. OBLIGATION OF SUBORDINATES TO REFUSE TO PERFORM IMPROPER TASKS. While it is improper for a superior to ask a subordinate to perform personal or political services, it also is improper for a subordinate, as a public servant, to accede to such requests. While tact is imperative as a practical matter,

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employees still have the obligation to assure that their services are not converted to nongovernmental uses. It is a violation of this Act for a supervisor to harass, pressure, embarrass, intimidate or punish an employee who properly refuses to perform improper personal services. This provision will be difficult for some employees to comply with yet its existence and their duty to do so provides the best protection against abuse. It is very likely that improper requests will be sharply reduced by the knowledge of this obligation and the fact that the employee subjected to such requests has no discretion to accede to them.

AS 24.61.170. USE OF NONPUBLIC AND CONFIDENTIAL INFORMATION FOR PRIVATE GAIN. This provision addresses the improper use of information gained in government service for private gain. It forbids the exploitation of not only information which is labeled "confidential" or is treated as confidential by law, it also prohibits the private use of other valuable information not available to the general public which was acquired by the legislator or legislative employee by virtue of public position. For example, "inside information" about state plans or negotiating strategies, information revealed to legislative committees with the expectation that it be only used for official purposes, financial data, computer data and lists obtained during legislative service may not be used to obtain private or political advantages nor conveyed to others to give them such undue advantages. A similar, but narrower, provision is contained in AS 39.52.140 as part of the Code of Ethics for nonlegislative public officials.

AS 24.61.180. MISUSE OF TITLE OR PRESTIGE OF OFFICE FOR PRIVATE GAIN OR PERSONAL ADVANTAGE.

(a) Objective. The objective of these provisions is to prohibit legislators and legislative employees from affording themselves and others unwarranted advantages by the inappropriate use of official title or the prestige of office. Because of the great power and authority of the legislature, the prestige and implied "clout" that usually accompanies

legislative service is often a marketable asset. Some dimensions of this prestige are intimately associated with the person who attained the position and they constitute valid qualifications. It is important, however, that it not appear that a legislator or legislative employee has sought or obtained undue personal benefits from the office, especially in a way that discredits, cheapens or commercializes government service or connections.

(b) Use of Title in Conducting Business. It is improper to use or permit the use of official title in any manner which would lead reasonable observers to believe that legislative office is being exploited to derive direct financial gain or enhance the stature, reputation or business opportunities of an individual, corporation, or organization. It is common to use the stature and prestige of legislative office by direct reference to title or position or by use of official letterhead in communications. When carrying out the business of government, use or mention of official title or legislative affiliation is entirely proper. It is a different matter, however, when one is acting in a personal or private business capacity. Actual or apparent improprieties can arise from such conduct for several reasons: 1) a reference to public position may give the erroneous impression of governmental approval; 2) a person dealing with a high government official may think that the way the private matter is handled will affect treatment by the government; and 3) where legislators or legislative employees are affiliated with a private organization or business, potential clients or customers could easily conclude that the business has access to inside information or powerful connections that may be brought to bear on their behalf.

(c) Board Membership and Consulting. Enterprises of all sorts, including nonprofit associations, charitable organizations corporations and firms involved in lobbying, public relations, law practice and consulting often seek out per-

sons serving in government, especially legislators, to serve on boards, advisory committees or as consultants. All such associations raise ethical problems because of the possibility that public office is used by the legislator and the enterprise that employs the legislator for private benefit. Because of the conflict of interest, AS 24.61.310 generally prohibits board membership on any organization that regularly does business with the state. In other situations, however, this provision applies. While the most serious problems arise when the public servant is compensated in relation to the association, even uncompensated relationships may violate this provision if the legislator or legislative employee knows or reasonably should know that the organization intends to trade on its affiliation with someone in the state legislature.

(d) Pay Should be Commensurate With Services. It is especially important when legislators and legislative employees receive outside income that the compensation is commensurate with the actual personal services rendered. If any premium is being paid due to the public servant's position, or no significant services are being rendered, the enterprise is, in effect, improperly buying, and the public servant is, in effect, improperly selling the prestige associated with the office. In addition, premium payments may be perceived not as compensation, but as illegal gratuities.

(e) Perception of Undue Advantage. Where the compensation paid for services is proportional to the services performed by normal market standards, or the service is uncompensated, the appearance of impropriety is less severe. But even such relationships may inappropriately use public office. For example, clients or customers may seek representation by a firm employing a legislator because they think that they will have some special advantage in dealing with government. Legislators and legislative employees who associate with private enterprises have a special duty to assure that these

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enterprises do not suggest or imply special influence with government and that clients and customers of the enterprise are not led to expect or encouraged to think that the association of the public official with an enterprise may afford them unwarranted benefits.

AS 24.61.190. POST-SERVICE RESTRICTIONS TO PREVENT MISUSE OF PUBLIC OFFICE BY FORMER LEGISLATORS AND LEGISLATIVE EMPLOYEES.

(a) Restrictions on Post-Service Lobbying. This provision addresses the problem of the so called "revolving door." The tendency of persons to leave positions of power and influence in government to represent private interests in their dealings with government, often for compensation many times more than earned in public life, raises a number of serious concerns about the integrity of the political system. Among the concerns: 1) the former legislator or legislative assistant will unduly exploit connections and inside information to gain undue and unfair advantages for their clients or employers; 2) the legislator or legislative assistant may adjust official conduct even while in office in an attempt to attract the attention of or curry favor with prospective employer or clients; and 3) former associates may be too willing to defer to, do favors for or provide inside information to their former colleague. In any event, the perceptions of impropriety are great. Many people would ban former legislative officials from any representational activities concerning the legislature or state agencies. This provision is more narrowly drawn to permit representation of private interests with nonlegislative state agencies provided that the former legislative official did not have special oversight or budget authority. While this may seem to work an unfair hardship on presiding officers and certain committee chairs, their relationship with certain agencies is so close that to permit them to turn around and lobby - these agencies within a year of their government service is simply not appropriate. At the same time, the potential

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conflicts of interests arising from other legislators lobbying state agencies seems manageable so long as there is disclosure.

(b) Improper Appearance of "Cashing In." It is unseemly and a violation of the spirit of public service ethics when present or former government officials appear to be blatantly "cashing in" on their government service by acting as consultants, lobbyists, or spokespersons for private interests in circumstances where it appears that they are peddling influence or selling the prestige and stature of their prior office. This is not to say that former government officials who have important experiences cannot serve on boards, make speeches for substantial fees or engage in consulting or lobbying. But, the circumstances including how, when, and at what price they sell their services are of critical importance. See also Guidelines and Commentary to AS 24.61.180(d) and (e).

AS 24.61.205. PROHIBITED USES OF CAMPAIGN FUNDS.

(a) Improper Conversion or Gratuity. A candidate who solicits donations for the purpose of conducting a campaign accepts such funds on the implicit condition that they are only given for the limited lawful purpose of financing campaign activities for an immediate election. When funds given for this limited purpose are converted to personal use, either before or after a campaign, the use is either an illegal conversion or an improper gratuity. The use of campaign funds for personal benefits violates the principles of these standards by permitting private gain from public office and creates blatant appearances of impropriety.

(b) Examples of Prohibited Uses. It is improper to use campaign funds to: purchase personal items such as clothes, gifts, art; defray normal living costs such as auto leasing or maintenance, gas, or dry cleaning; pay for the travel of spouses or other relatives not clearly relevant to a

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campaign; or to decorate political offices.

(c) Employment of Family. A special problem under Subsection (c) concerns the employment of any member of a candidate's immediate family by the campaign. While such employment is not specifically prohibited, it is most strongly discouraged. Ordinarily, family members would be expected to volunteer their time to support a candidacy and payment, even if the amount is clearly reasonable, appears as a method of siphoning campaign funds for personal use. Payment of a relative by a campaign should be permitted only when: 1) the person has taken leave from a paid position in order to serve on the campaign and 2) the amount is clearly commensurate with the services rendered, in light of the person's qualifications and training and what others non-relatives receive for similar services.

(d) Repeal of Prior Law Re: Post-Election Conversion of Funds. Prior law permitted candidates after an election to disburse surplus campaign funds to themselves provided they declared the funds as income. This provision is expressly repealed with respect to legislative candidates. The ability to convert surplus funds to personal income is totally inconsistent with the limited purpose under which the funds were, and lawfully could be, given and received. Loans of campaign funds to the candidate or others has the effect of converting the funds to personal use. Such loans create a serious appearance of impropriety, whether or not interest is paid and whether or not the loan is paid back in a timely manner.

AS 24.61.210. DISBURSEMENT OF SURPLUS CAMPAIGN FUNDS. Where candidates have raised more funds than they need for an immediate election, continued efforts to raise campaign funds is proper only if the donors are clearly informed about the likely use and lack of immediate need for their contributions. The increasing ability of incumbents to amass large "war chests" well before an election has raised serious ethical issues. This section pre-

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vents this by limiting the carryover of surplus funds to \$5,000 for senate candidates and \$2,500 for house candidates. The discrepancy is justified by the length of time between elections and the fact that other provisions limit fund raising to specific periods. Retained surplus campaign funds can be used for campaign travel and other political activities.

AS 24.61.230. IMPROPER COERCION.

(a) Solicitations of Campaign Contributions or Any Other Benefit. Difficult problems arise with respect to the solicitation and acceptance of any benefit including campaign or other contributions from those who have a substantial interest in legislative, administrative or political actions of a legislator or legislative employee. In such cases, great caution should be exercised to avoid the appearance that solicitations of campaign contributions or other contributions are connected in any way, as a quid pro quo, with any legislative, administrative or political action which might benefit or harm the contributor. For example, solicitations of any benefit made shortly before or shortly after a legislator has done any act on behalf of a constituent should be scrupulously avoided in order to avoid the appearance that the legislator expected a contribution or other benefit in return for legislative, administrative or political services.

(b) Political Contributions or Support in Exchange for Access. A common complaint among lobbyists and others who have a substantial interest in legislative, administrative or political actions is that legislators directly, or through their staff, create the impression that those who make political contributions, hold fund raising events or provide other political support will have special access to the legislator when they want to make their case to influence action. In some cases, this access is expected to give the person an edge in persuading the legislator to take or refrain from taking certain actions. In others, the per-

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son solicited believes that the contributions are more defensive, necessary to lubricate the relationship, believing that the failure to be supportive would significantly reduce their ability to effectively plead their case. In all these situations, however, there is implicit impropriety.

(c) Soliciting Donations to Charitable and Other Causes.

More and more, lobbyists and others who have a substantial interest in legislative, administrative or political actions have complained that legislators "strong arm" them to make donations to charities or other causes in which the legislator has a personal or political interest. Because of the importance of a positive relationship with the legislator, many persons so solicited feel obligated, not by conscience but by fear of offending, to comply with the request. Although most situations do not create the appearance of influence peddling since the benefit is not personal and since it is rarely large enough to create the appearance of a quid pro quo, many insiders see this as a mild form of extortion or a "tax" levied by legislative whim. A legislator who solicits another, either directly or through an aide, to contribute to a charity or a cause, should do so in a manner that clearly and unequivocally removes any suggestion of coercion or implication that the decision to make or not make the requested contribution will in any way affect the professional relationship.

AS 24.61.240. FUND RAISING LIMITATIONS. Previous law limited certain forms of fund raising in the capital city during legislative session but this limitation did not effectively prevent fund raising activities. Instead, it inspired creative methods of non-event fund raising such as raffles, fund raising activities in Juneau for events outside the city and various forms of fund raising by legislators for other candidates. As a result, neither the goal of preventing the diversion of the legislator's time and energy to public matters or of reducing opportunities

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for potential conflicts was achieved. This ban on all fund raising activities during the legislative session will accomplish that purpose. It goes further by preventing "off-year" fundraising and limiting the total period of legislative fund raising to about ten months for incumbents and fourteen months for non public official challengers. Nonincumbent candidates are permitted to fund raise during the legislative session in the year of the election because the reasons to prevent fund raising during sessions do not apply to them and because there is a general consensus that nonincumbents need more time to raise funds.

AS 24.61.250. OBLIGATION TO AVOID CONFLICTS OF INTEREST AND PRESERVE ABILITY TO MAKE INDEPENDENT IMPARTIAL JUDGMENTS. Public officials must be vigilant for relationships and transactions that create conflicts of interest. Such conflicts are either forbidden, in which case, the interest must be divested or the relationship terminated; or it shall be disclosed pursuant to law. In addition, the legislator or legislative employee who has a conflict may be required to refrain from participating in any legislative, administrative or political action which involves the questioned financial interest or personal relationship. Financial conflicts of interest can arise out of almost any close economic association but the most common and significant conflicts for legislators and legislative employees relate to:

- (a) sources of nonlegislative income for personal services, especially when the income is derived from a source that has a substantial interest in legislative, administrative or political actions of the legislator or legislative employee;
- (b) the conferment of any benefit, including investment opportunities, employment, entertainment, gratuities, honoraria, loans, favors and special treatment from a source that has a substantial interest in legislative, administrative or political actions of the legislator or legislative employee;
- (c) close economic associations with other public officials

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or lobbyists, especially those that have a substantial interest in legislative, administrative or political actions of the legislator or legislative employee;

(d) personal financial interests in contracts or leases with the state or other government entities;

(e) personal financial interests in licenses, permits, franchises or other valuable entitlements or privileges granted by the state;

(f) personal participation in state loan or other programs conferring benefits;

(g) representation of oneself or others in actions before state agencies or other government entities;

(h) state regulation or funding which substantially affect a profession, occupation or organization in which the legislator or legislative employee has a substantial economic interest; and

(i) personal involvement at a managerial or governance level with a private enterprise or nonprofit organization that is regulated by or seeks benefits from the state.

AS 24.61.275. PERSONAL RELATIONSHIP CONFLICTS OF INTEREST. The area of personal conflicts of interest is a delicate matter and difficult definitional issues arise. Still, it is important to acknowledge that certain personal relationships raise conflict of interest problems every bit as potent as financial conflicts. The definition of personal conflicts of interest leaves much room for discretion and judgment but the principle of good faith can be of great assistance. There are two separate aspects to the definition of a personal relationship conflict of interest: 1) does the relationship create real conflicts with the ability of the public servant to exercise independent judgment in matters relating to the person involved in the relationship; and 2) does the relationship create in the mind of an objective, fair-minded observer the belief that the person will have undue access to

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confidential information or will otherwise receive favored treatment regarding public actions. It is not intended that this provision create unwarranted and embarrassing intrusions into personal lives yet certain romantic relationships reach a point where they must be reported. This point is not measured by any specific litmus test such as exclusivity, sexual activity, or longevity. It is a common sense test. The "how would it look in the newspaper" test may be helpful. Put another way, given the respective duties and activities of both parties, would a responsible and fair journalist who discovered the relationship, be likely to conclude that the public has a right to know?

AS 24.61.300. RESTRICTED RELATIONSHIPS: LOBBYISTS, LEGISLATORS AND LEGISLATIVE EMPLOYEES.

(a) Fund Raising by Lobbyists. When a lobbyist is actively involved as a fund raiser in a legislative campaign (or for a legal defense fund) both financial interest and personal relationship conflict of interests emerge in major proportions. The likelihood that the legislator will be beholden to the lobbyist in a way that could impede objective impartial independent judgment is so great that the relationship must be prohibited.

(b) Close Relationships. It is the purpose of this code to stay out of the private lives of those regulated to the greatest extent reasonably possible without compromising the public need to assure that impermissible conflicts are prevented and that questionable ones are revealed. The system established in subsection (b) allows the commission to privately screen and evaluate the substantiality of the conflict. Only if it finds the conflict to be substantial or one that ought to be disclosed publicly, shall it take further action. In the case of legislators, however, there ought to be a strong presumption in favor of public disclosure since such information is necessary if the citizens of the legislator's district are to hold the legislator accountable. If the legislator or legislative employee re-

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quests, the matter shall be disclosed.

AS 24.61.310. RESTRICTED RELATIONSHIPS: BOARD MEMBERSHIPS. A person who serves on a governing or advisory board of an organization, whether for profit or not, must be considered to be too integrally involved in the welfare of that organization to exercise independent objective judgment with regard to official actions that affect the organization in a significant way. Though exemptions may be sought, they should be granted rarely and only when the commission can impose limitations on actions involving the organization. If the person is a member of a board of a business in which the person has a substantial economic interest, the conflict is even more clear. Either the interest must be divested or strict limitations must be imposed by the commission prohibiting any actions which involve official or unofficial use of public office to influence the outcome of a decision affecting private business interests.

AS 24.61.320. RESTRICTED FINANCIAL INTERESTS.

This provision presents legislators and legislative assistants with an alternative when it comes to actions relating to a substantial personal financial interest: either divest the interest or refrain from taking any official or unofficial actions. Historically, a legislator with a financial conflict of interest would announce the conflict on the floor and ask to be excused from voting, a request that was invariably rejected. As a result, though conflicts were declared, legislators voted in spite of them. For the most part, such votes were inconsequential since most bills pass or fail by substantial margins. The spirit of this chapter, however, cannot countenance official actions which materially affect private financial interests. Thus, participation in matters in which a legislator or legislative employee has at least a \$25,000 conflicting interest are strictly prohibited unless an exemption is granted.

AS 24.61.330. RESTRICTED ACTIVITIES AS AN ATTORNEY OR REPRESENTATIVE.

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(a) Actions Against the State. A legislator or legislative assistant owes primary loyalty to the state and, therefore, should not represent any person in an action in which the state is a real party in interest. This provision does not prevent representation in various legal contexts where the state is primarily a party in name only and where the representation does not raise any reasonable appearance of divided loyalties or conflicts of interest.

(b) Representation in Matters Involving State or Local Government. Legislators and legislative assistants may not professionally represent, either informally or formally, persons or entities in their dealings with state or local government entities except where the nature of the representation is such that no actual or apparent conflict of interest exists. Where a matter is to be determined in an adversary setting with opposite parties represented, a legislator or legislative assistant may act as a representative. It is not proper, however, for the legislator or legislative assistant to make telephone calls, render advice, or otherwise represent another who is dealing with state or local government. It is impossible to remove the appearance of undue advantage when a person with substantial state legislative authority seeks to help another who is dealing with state or local government agencies. Moreover, the advantage is often real -- some government officials simply do things for legislators and, to a lesser extent, legislative assistants that they would not do for less connected persons.

AS 24.61.350. RESTRICTED TRANSACTIONS: GRATUITIES.

(a) Gift Rules are Not Personal. Some public officials take personal offense at the implication that they would allow their integrity to be compromised by a gift or favor. This reaction unduly personalizes the ethical theory and sound public policy which seeks to insulate public officials from the corrupting influences of gratuities. The motives of the gift givers offers insight to the problems. Rarely

do they expect any quid pro quo; they do not think a public official will consciously change an action because of a gift. Gifts work more subtly to undermine objectivity. Receiving a gift often generates unconscious feelings of gratitude and appreciation which evoke a natural tendency to give something in return, whether out of natural gratitude or the desire to encourage further gifts. Gifts given freely out of affection by persons who want nothing in return create few problems, but most gratuities given to legislators or legislative employees are provided by persons or entities that do want something because they have a substantial interest in the legislative, administrative or political action of the recipient. In spite of the confidence of those who accept gratuities that their judgment remains unimpeded, the people who provide gratuities seem to believe that it is to their advantage to do so and the public perception is that the gift givers are right, at least some of the time. A legislator or legislative employee who is considering accepting even a lawful gratuity should carefully, realistically and objectively evaluate the likely motive of the person offering it: Why am I being offered this gift or favor? Would I be offered the benefit if I did not wield public influence? Who is paying for it? Is it likely to be written off as a business expense? If I accept the benefit will reasonable outsiders think that the donor has some hold on me or that I owe something in return? Since there is no offsetting public good to justify the appearance of impropriety created by the acceptance of gratuities, all close cases should be resolved against any action which raises reasonable suspicions regarding the integrity of the legislator or legislative employee or government in general.

(b) The Source of the Gift is Important. These rules discourage the acceptance of all gratuitous benefits that could raise the slightest appearance of impropriety but they permit wide personal discretion in all but the clearest

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cases of improper appearances. While legislators and legislative employees need not be so sensitive to the adverse appearances that they are unable to have close and cordial relationships lubricated by hospitality, gratuities accepted should be moderate, infrequent and given under circumstances that do not create the impression that the giver seeks undue influence or that the receiver seeks undue personal benefit. Thus, the most stringent rules concern gratuities offered by those who have a substantial interest in the legislative, administrative or political actions of a legislator or legislative employee.

(c) Requirement to Aggregate Gifts From Single Sources.

The rules follow the modern trend to require that gifts under the legal limit be aggregated annually to limit the overall giving power of any individual and to prevent avoidance of the limits by making frequent periodic gifts or by deliberately breaking down gifts into smaller parts.

(d) Permissible Gifts. This section exempts a substantial number of gratuities because they do not present sufficient conflicts of interest to warrant prohibition. There is no specific exemption for discounts that are provided to the general public or any large group since these are not things of value under the definitions of this Act. However, if the basis of the discount relates to government status (for example, airline discounts for legislators and other public officials) it is a gift unless the commission approves the discount program as one that presents no conflict of interest.

AS 24.61.360. RESTRICTIONS ON EARNED INCOME: OUTSIDE EMPLOYMENT AND HONORARIA.

(a) Employment Conflicts. Assuring that a legislator or legislative employee's sources of outside earned income are consistent with the ethical obligations of imposed by public office is a major and continuous challenge for the con-

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scientious citizen-public servants. The major employers in Alaska tend to be very active in the political process, employing lobbyists and engaging in other activities to assure that their interests are protected and advanced in the legislature. It would be unreasonable to ban all employment with these employers but any such employment must be subjected to the most rigorous scrutiny to assure that the legislator or legislative employee is acting in the public's interest rather than in the interest of the sources of outside income. The provisions of this Act do not and cannot exhaust all the possible way in which outside employment with a firm that has a substantial interest in legislative, administrative or political actions can create conflicts. The principles of good faith, public interest, independent judgment and public trust are especially important, therefore, in helping individual legislators, legislative employees and the commission interpret and apply these provisions.

(b) Other State Employment. Employment by other state agencies is prohibited because of the appearance that a legislator or legislative employee has an undue advantage and may have exercised undue influence in obtaining the position. Compensation from the state ought to be strictly limited to official legislative pay and allowances unless special circumstances justify an exemption.

(c) Honoraria. Generally, legislators and legislative employees should not accept payments for giving speeches or writing about matters concerning their public duties. Such payments, often called honoraria, may be proper in exceptional cases where the source has no significant interest in the public servant's governmental decisions and where the nature and amount of the payment is clearly reasonable and proportional to the effort required to earn it. A public official should not accept compensation for merely appearing at a function or attending a breakfast, lunch or dinner meeting and discussing a matter of interest to other

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participants.

AS 24.61.370. OBLIGATION TO MAKE ALL DECISIONS ON THE MERITS: FAVORITISM AND PATRONAGE.

(a) Spending Taxpayer Funds. All expenditures of public funds, whether hiring employees or making purchasing or other decisions with economic impact, involve the use of public resources. Those who have the authority to spend taxpayer money are obligated to do so with scrupulous consideration of the public interest and avoid the temptations to favor family, friends or acquaintances or discriminate against personal enemies and political foes.

(b) Employment Decisions. Legislators and legislative employees should make all employment decisions on the merits, only choosing those who are well qualified. This provision expands specific anti-nepotism rules. In spite of the long tradition of patronage in American politics, public jobs should not be treated as the spoils of victory. Cronyism and patronage inevitably undermine the efficiency and integrity of government.

(c) Fair Distribution of Public Funds. A common derivative of the spoils system mentality is sometimes seen in the allocation of funds by legislative leadership so that majority party members receive substantially more staff support, office equipment, and travel budget than their minority colleagues. This form of favoritism is so traditional that its ethical implications often go unnoticed. For some, it is simply part of the "game." Ultimately, however, a disproportionate allocation of public funds may shortchange the constituents of minority members who have substantially less resources to serve their districts than their brethren on the other side of the aisle. There are many legitimate advantages that the majority may enjoy but leadership ought to make substantial efforts to assure that minority members receive a fair share of legislative resources.

AS 24.61.380. IMPROPER INTERFERENCE WITH THE INDEPENDENT JUDGMENT OF OTHERS ON BEHALF OF CONSTITUENTS.

(a) Intervening on Behalf of Constituents and Friends.

Legislators and legislative employees should be extremely cautious about directly or indirectly intervening with normal decision making, investigatory or adjudicative processes of governmental bodies on behalf of constituents or friends since such intervention can threaten the ability of government administrators to exercise independent objective judgment on the merits. Generally, intervention on behalf of constituents or friends is proper only if it is strictly limited to assuring fairness of the procedures or to helping a constituent get a benefit or service he or she is clearly entitled to as a matter of right. The legislator must be especially cautious when the constituent is also a contributor, particularly a major contributor. A politician should not be required to do any less for a contributor/constituent than the legislator would do for any other constituent, but the legislator should also do no more. Since actions on behalf of campaign contributors will usually receive much greater scrutiny and therefore the legislator's motives should be clear.

(b) Legitimate Casework vs. Improper Interference. Elected politicians are frequently asked by constituents and other supporters to intervene with other government agencies or departments. In fact, "case work" comprises a major part of the service provided by elected officials at all levels of government. Constituents bidding on government contracts often seek the help of "their" representatives; those who are subjected to investigations may expect their legislator to provide protection from what they view to be unfair procedures, and persons seeking government approvals or licenses sometimes ask politicians to facilitate the process. In the ombudsman function, seeking to remedy clear injustices or otherwise assure fair determination of rights is

appropriate. Still, efforts to intervene on behalf of constituents are fraught with potential appearances of impropriety and the possibility that the intervention will prevent other public officials from exercising independent objective judgment on the merits. Legislators should consider a much heavier reliance on the ombudsman's office to avoid conflicts and assist constituents.

(c) Is Intervention in the Public Interest? An initial problem with intervention is that the interests of a particular constituent are not necessarily parallel with the interests of other constituents or the public as a whole. The primary obligation to advance the overall public good may require public servants to refuse requests for assistance in some cases. Another problem associated with intervention is that the public official may not know or understand all the facts that are relevant to a fair regulatory determination or a wise contracting decision.

(d) Perception of Pressure. Even where the intervening politician has no intent to influence improperly the normal process of decision making, it is not unlikely that the public servants involved think otherwise. Unless the intervening politicians are explicit and credible in stating the limited purposes of their involvement, administrators whose budgets are controlled by legislators are likely to feel pressure to make decisions differently than they otherwise would. Sometimes, regardless of the intervener's intent, administrators see the intervention as an opportunity to do a favor for the politician.

AS 24.61.390. CONFLICT OF INTEREST DISCLOSURE: STATEMENT OF PURPOSE. Financial disclosure is a less restrictive means of assuring that legislators and legislative assistants make decisions and take legislative action objectively. In lieu of a full ban, disclosure allows some sources of outside income but requires them to be disclosed, so that a vigilant public can make informed judgments. To serve its "watchdog" function, financial dis-

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closure must be as comprehensive as possible to reveal effectively any potential conflicts of interest to the public. The disclosure requirements in this chapter relate only to relationship conflicts and sources of income and they are not intended to replace disclosure obligations under APOC or any other law. The commission should design forms that are compatible with other disclosure forms.

AS 24.61.400. CONFLICT OF INTEREST DISCLOSURE BY LEGISLATORS AND LEGISLATIVE ASSISTANTS. Disclosure requirements must balance the privacy interests of the legislator or legislative assistant against the public disclosure necessary to guard against conflicts of interests. They should not be so intrusive of individual's privacy that qualified and interested individuals decline public service because of them. The purpose of the category A - category B two-tier reporting requirement of this provision is to prevent unnecessary invasions of the personal domain and, where that is not possible, to restrict the availability of disclosed information when it is reasonable to do so. Income earned from persons or entities which have a substantial interest in legislative, administrative or political actions of the recipient involves such significant potential conflicts that all amounts of income from those sources must be reported. On the other hand, income from a category B sources amounting to less than \$1,000 need not be reported. And, since category B income is inherently less problematical, even if it is over \$1000, the reports will usually be kept confidential. Only if the commission determines affirmatively that the public interest in the disclosure outweighs the individual's right to privacy will the information be made public.

AS 24.61.415. REPORTING OBLIGATIONS OF EMPLOYERS AND OTHERS PAYING COMPENSATION TO LEGISLATORS AND LEGISLATIVE ASSISTANTS. A legislator or legislative assistant who receives nonlegislative compensation may not know whether the source properly qualifies as a category A or category B source or who controls the source if it is a corporation. The requirement that person's paying

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compensation report their status and other facts concerning the details of the financial relationship assures that the legislator or legislative employee and the commission have necessary knowledge and that the source of the compensation is aware of its responsibilities when employing a legislator or legislative employee.

24.61.430. ACCOUNTABILITY: OPENNESS AND OVERSIGHT.

(a) Open Meetings Law. This ethical principle has been essentially incorporated into Alaska's "Open meetings of Governmental Bodies" law (AS 44.62.310). Secret or closed meetings and back room deals which conceal from the public facts that bear on its ability to exercise responsible citizenship are improper, even when made by well intentioned public servants who simply seek to conduct government business efficiently without undue intrusiveness or embarrassment. Conscientious legislators and legislative employees should avoid the temptation to short cut open meeting requirements by devising legalistic theories which effectively remove the public business from the public eye. They should be especially scrupulous about maintaining maximum openness in dealing with issues of compensation, benefits and all other actions which affect their own rights and obligations. Although secrecy or confidentiality occasionally is in the public interest, exceptions to the general rule of openness should be rare and the principles and procedures for determining those exceptions should be subject to scrutiny, debate and oversight.

(b) Evasion of Openness Rules. Legislators and legislative employees should honor the spirit and intent of open government rules and not engage in subterfuges or legalistic schemes to avoid them. While public servants should abide by the letter and spirit of all rules, open meeting, freedom of information, and "sunshine" laws are especially important because they reinforce accountability by requiring public business to be conducted in a way that assures citizen ac-

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cess to political processes. Although these rules tend to be unpopular with many public servants who believe they unreasonably invade privacy and encumber government operations, it is improper to engage in tactics which improperly evade their spirit.

(c) Oversight Responsibilities. It is the duty of public servants with agency oversight responsibilities to develop effective auditing and reporting procedures which permit the exercise of vigilant oversight. In addition, persons in supervisory authority should assure that their staff know and understand the legal and ethical obligations applicable to their duties.

(d) Affirmative Duty to Improve System. This affirmative duty arising from the principle of accountability is not intended to be enforced or to provide the basis of any charge or sanction. It does, however, state an important ethical obligation of those who serve the legislature, especially staff members who might otherwise believe that the fairness and efficiency of government is not necessarily their responsibility. Legislators and legislative employees should take whatever actions they can to correct problems, streamline procedures and improve services. Where desirable changes exceed authority, public servants should promptly and forcefully recommend reform to the appropriate person or body. There is a tendency in all organizations to define one's responsibilities narrowly, fostering an "it's-not-my-job" mentality with respect to defects in policy or implementation. It is every public servant's job to see that the government serves the people well by assuring that it is responsive, respectful, efficient, economical and fair.

(e) Self-Policing. Public servants are often in the best position to observe and take actions against unlawful and unethical uses of public position, authority and resources. In fact, many such uses could not occur without the active involvement or, at least, the acquiescence of colleagues and

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subordinates. The principles of public trust and accountability combine to place a special obligation on persons in public office to refuse to cooperate, to actively discourage, and if necessary to prevent improper conduct, to report violations of both law and ethical standards. It is important to establish an atmosphere in government where potential wrongdoers undertake very high risk in seeking to misuse government office. This occurs when it becomes known that the pride and ethical commitment of all public servants impels them to police their own profession. The person who violates the public trust, not the one who prevents or reports such violations ought to bear the brunt of disapproval from the public and government colleagues.

24.61.440. ACCOUNTABILITY: SELF-POLICING, WHISTLE BLOWING AND PROTECTION OF WHISTLE BLOWERS.

(a) Protection of Whistle Blowers. Without the risk that conscientious public servants will, when necessary, disclose unlawful or improper governmental activities, the likelihood of illegal secret policies, corrupt practices, waste and mismanagement and unaccountable and arrogant decision making increases. Hence, persons who whistle blow in good faith act in the public interest. It is, therefore, improper to harass, punish or seek other reprisals against public servants who seek to hold government accountable. Whistle blowing is most often justified when it is the only practical way to reveal illegal conduct or major abuses of public authority. The decision to whistle blow, however, must be regarded with the utmost seriousness. Although whistle blowing can represent the highest form of loyalty to an institution and to democratic processes, it often requires breaching traditional notions of loyalty to colleagues and organization. In addition, it may involve the violation of professional obligations of confidentiality. Thus, the act of whistle blowing invariably incurs hostility and resentment and tends to undermine trust and create an atmosphere

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of suspicion. Yet, in spite of the personal and institutional costs, whistle blowing is sometimes essential to the public interest and morally justified as a means of preventing or correcting serious wrongs.

(b) Difference Between Leaking and Whistle Blowing. While both leaking and whistle blowing may be acts of conscience, whistle blowers act overtly and hence take greater risks and subject themselves to significant personal abuse including reprisals. In contrast, leakers act covertly and are essentially unaccountable for the consequences of their actions. Since it is fairer that criticisms and charges be made on the record, whistle blowing is preferable to leaking. In fact, in most cases, leaking is an improper violation of confidentiality and fairness. Although leaking is presumptively improper, there are rare circumstances where it is justified as a means of holding the government accountable for improper covert actions. Many issues of great public importance (for example, Watergate, Pentagon Papers, CIA assassination policies) came to light only because of leakers who acted in the public interest but sought to protect themselves and their families from the ramifications of their revelations. Because of general principles of trust, honor and professional discretion, however, disclosure of confidential information or documents through secret leaking is justified only to advance a compelling public interest. In the absence of a clear and compelling interest in disclosure, public servants should honor their confidences and legal obligations to maintain the secrecy of specified information (for example, classified documents, grand jury testimony, medical or psychiatric records, reports about juvenile abuse, etc.). It is not proper, for example, to leak information simply to give one news organization a competitive advantage over another about matters that will be made public in due time (for example, revealing the contents of a report a few days before it is to be formally issued). Nor

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is it proper to leak information simply as a means of affording the leaker some personal or political advantage.

(c) Leaks Concerning the Rights of Others. An especially troublesome category of leaks concerns information that could unjustifiably damage reputations, improperly prejudice court proceedings, unfairly affect elections, or unreasonably endanger the safety of others. It is almost always improper, for example, to leak information about undercover operations, criminal investigations, unsubstantiated charges or secret grand jury testimony. Supervisors in departments which possess potentially damaging information should take steps to protect the rights of those who would be injured by leaks and to hold leakers accountable for their actions.

AS 24.61.450. DUTY TO TOWARD COLLEAGUES AND SUBORDINATES. This section simply makes it clear that improper or illegal conduct with regard to subordinates or colleagues is a legitimate matter for the commission. Only egregious cases ought to be brought to the level of a complaint but the presiding officer of each house should seek to assure that civility and decency prevail. When necessary, the presiding officer should use this provision to counsel and, occasionally, reprimand members who violate it.

AS 24.61.460. DUTY TO ADVANCE PRINCIPLES OF REPRESENTATIVE DEMOCRACY.

(a) Principles of Representative Democracy. This provision is likely to seem naive to some who believe that "all is fair in love and politics" but this is, after all, a statement of ethical principles. The fact is, that notwithstanding various "might makes right" power theories, the ideals of democracy are clear -- one person, one vote; the majority rules but never in a way that tramples the rights of the minority; matters of import should be decided on their merits after full and open debate, not on the basis of power politics which squelches dissent and coerces compliance. Though it is unlikely that a provable violation of this pro-

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vision will arise, conduct which is inconsistent with this representative democracy standard is serious in spite of contrary customs, traditions and political rationalizations.

(b) Abiding by the Spirit as Well as the letter of the Law.

Legislators and legislative employees should not engage in artifices and schemes to exploit loopholes or ambiguities in the law in a way that undermines their spirit and purpose. When public servants seek to circumvent the spirit or purpose of laws they tend to undermine the public's confidence in government and diminish the public's commitment to civic responsibility by legitimizing self-interested evasions of public policy.

(c) Fairness in the Use of Procedural Rules. In using procedural rules, legislators and legislative employees should maintain the integrity, fairness and efficiency of the process by honoring the substance and spirit of the rules and by refraining from conduct which undermines the principles of representative democracy. The importance of technical procedures in the legislative and administrative process encourages legalistic manipulation to achieve political goals. While this is not inherently improper, there is a tendency to adopt an "ends-justifies-the-means" philosophy which can elevate process over substance and power over principle in a way that undermines fundamental assumptions of democratic government. The public interest is not served when public servants engage in trickery or procedural extortion to achieve their ends. Generally, the public views parliamentary machinations with cynicism. Responsible public servants recognize that no specific political victory is worth damaging the delicate structure of democratic government. Legalistic maneuvering which creates unfair or anti-democratic results inevitably spawns ill will and draconian countermeasures. Too often political scheming becomes so prevalent that it demeans the inherent nobility of the democratic process and reduces politics to a cynical game. For

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example, a fundamental rule of fairness is notice. Thus, it is improper to suspend the rules or force a vote in a way that violates customary practices and expectations of fair notice and, therefore, prevents legitimate opposition from having its say.

(d) Use of Leadership Power. Legislative leaders and committee chairs should use their leadership powers only in a manner consistent with fairness, accountability and the principle of representative democracy. Within a legislative body, special powers are delegated to leaders including committee chairs. The purpose of such delegation invariably should be to improve the process so that the organization's general will can be carried out more effectively; never to provide individual legislators with almost dictatorial power to subvert or make public policy in a manner that derogates the prerogatives of the policy-making body as a whole or any other legislator. Legislative committees must sort through and prioritize an overabundance of bills, some which were probably introduced for reasons other than a full commitment to their merits. Since there are no limitations on the number or regulations concerning the quality of bills offered, the committee is empowered to screen proposed legislation to assure that the time of the members is only spent on matters which have a reasonable chance of success. Skilled committee chairs can properly use leadership power to bring factions together, to fashion compromises and to break unhealthy gridlock situations. On the other hand, Lord Acton's admonition that "power corrupts and absolute power corrupts absolutely," applies to legislative leaders who use their position in inappropriate ways to block consideration of important issues, to bully, bribe or intimidate fellow legislators to support positions and programs favored by the leader. A legislator who controls the parliamentary process or is otherwise in a position to facilitate or prevent the consideration of an issue, has an ethical obligation to

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avoid any use that effectively undermines representative democracy.

(e) Improper Uses of the Power to Move or Bury a Bill.

There are a number of proper reasons to move or bury a bill but there are some that are clearly improper because they violate fundamental principles of democracy, fairness, due process and the notion that government is to be run by laws not men. Thus, a legislative leader or committee chair should not prevent a measures from receiving appropriate consideration because they dislike the sponsor of the bill, to get even, or because "burying" the bill creates political advantages sought by the leader or chair. It is also improper and anti-democratic for an individual, or small group of individuals, to use their power to move or bury a bill as a means of extracting concessions or affecting the behavior of other legislators. Persons who abuse their poser in this way should be subjected to internal discipline.

(f) The Ideologically-Driven Veto. The hardest case concerns the use of leadership position to effectively veto a bill on ideological grounds. A legislator who believes that a particular bill, though sincerely offered and vigorously pursued by one or more colleagues is bad policy may have the power to prevent it from leaving a committee. Some believe this is a proper incident of democracy but it is not. Committee chairs are not chosen by any true democratic process which provides them with the legitimate power to act as an ideological filter over the entire body. Nor is the fact that a dozen or more committee chairs may assert similar prerogatives a justification. History is full of circumstances where one person has, through the use of committee power, effectively imposed a personal ideology on a whole legislative body in a way that stymies democracy and elevates single individuals above their colleagues. This disenfranchises individual legislators and their constituents. A democratically-committed representative must

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be willing to lose rather than give in to the end justifies the means rationale.

(g) Civil Disobedience. In rare cases, a legislators or legislative employees may exercise the prerogative of conscientious objection by disobeying the law. In such cases, the illegal behavior should be open and the official should be willing to bear the appropriate legal and political consequences. There is a long and revered history in this country of civil disobedience--the open and public refusal to abide by a law as a means of protest and as an impetus to change the law.

ARTICLE 3. Legislative Ethics Commission

AS 24.61.500. LEGISLATIVE ETHICS COMMISSION ESTABLISHED. The composition of the commission responds to the need for an independent, highly qualified and respectable agency to implement the provisions of the Alaska Legislative Ethics Act. It includes two representatives selected by each branch of government, a representative selected by the commission most involved with the enforcement of general campaign and disclosure laws (APOC), and two additional persons selected by the combined special appointees. In making their appointments, the Supreme Court and the Alaska Public Officials Commission shall develop their own procedures. It is expected that this Commission will take a broad public view of legislative ethics and enable major stakeholders in the legislative process to participate in administering the Act. In making appointments to the commission, the appointing authorities should seek a representative group, diverse in terms of ethnic background, sex, region, and political orientation (including registered independents).

AS 24.61.502. CERTIFICATION; LEGISLATIVE DECERTIFICATION OR REMOVAL FROM OFFICE. The decertification process, in effect, gives the legislature veto power over individual nominations. It is a power that should not be exercised lightly or used for

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political purposes. Other provisions of the Act establish the ethical responsibility of legislators to rise above partisan politics especially when dealing with the commission. Still, the legislature should be comfortable with the integrity, character and capacity of each commissioner and, for good cause, they may decertify a newly appointed commissioner.

AS 24.61.508. APPLICABILITY OF CHAPTER TO COMMISSIONERS AND EMPLOYEES; OTHER RESTRICTIONS. Commissioners and commission staff must not be involved with any political activities with respect to the legislature or individuals over whom they have adjudicatory responsibility in any way that casts reasonable doubt on their impartiality, objectivity or lack of partisanship. Similarly, it is improper to engage in any form of inappropriate conduct which casts reasonable doubt on their ability to serve. For example, the public expression of prejudices or opinions about a legislator or a matter which might come before the commission is inconsistent with the neutral objective temperament demanded by the position.

AS 24.61.520. INFORMAL NONBINDING ADVICE. Ethical behavior is encouraged when legislators and staff are able to raise ethical issues freely and receive informed advice, both formally and informally. Individuals seeking to conform their actions to ethical principles deserve the guidance which informal letters and telephone conversations may give them. Often, unethical conduct can be avoided, and ethical principles maintained, by a simple recitation of the code as applied to any given circumstance. Advice given personally, over the telephone or by informal letter can provide valuable guidance relating to decisions which must be made rapidly or immediately and, thereby, advance behavior consistent with this Act. However, the duties of the Commission to interpret and implement the Act cannot be delegated to staff nor can one seeking informal advice expect it to be preceded by the thorough discussion and research associated with a formal advisory opinion. Therefore, the person seeking advice must be explicitly informed that the opinions given are in no way binding

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on the commission. If the person is unwilling to take the risk, he or she may request a formal advisory opinion which is binding, seek the nonbinding opinion of the committee of the legislature charged with ethics matters, or hire outside personal counsel to get additional guidance.

AS 24.61.525. FORMAL BINDING ADVISORY OPINIONS.

(a) Requests for Opinions. Undertaking to research, discuss and prepare a formal written advisory opinion involves a substantial commitment of time and resources. Therefore, a formal written request is important. The commission has the discretion to refuse or grant the request for a written advisory opinion since not all issues justify the commitment of public resources, either because they relate to minor or moot points or because it is clear from the provisions of the Act or from previous opinions how the questions should be answered.

(b) Confidentiality. Confidentiality is important to enable individuals to seek advice without fear of reprisal or self-incrimination. And, unless matters revealed to the commission or commission staff are pertinent and important to a matter before the commission, the identity of a requester of an advisory opinion and other collateral facts should be kept confidential and not be mentioned in public meetings or in public records. On the other hand, the commission's responsibilities as an independent enforcement agency cannot be compromised by claims of confidentiality with respect to information freely and voluntarily disclosed to the Commission. Persons requesting a formal opinion should be informed of this policy to avoid any misunderstandings.

AS 24.61.530. EXEMPTIONS PROCESS. This subsection was created to address occasional cases where strict application of the provisions of the Act would be contrary to the purposes of the Act. Exemptions should be granted only in rare and exceptional circum-

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stances. The burden of proof is on the applicant to prove the three criteria necessary for exemption.

AS 24.61.550. ADJUDICATORY HEARING. Ethics complaints against public officials should be resolved as quickly as possible consistent with fundamental rules of fairness and the needs of both the respondent and the investigators to prepare. Ethics complaints put a cloud of suspicion over those charged and inevitably hinder their ability to fully and effectively perform their public duties until they are resolved. Thus, the adjudicatory process has been designed to allow for maximum speed and efficiency. Commissioners who have active business and personal lives will not always be available on short notice to alter their schedules to meet the intense time demands that an adjudicatory ethics hearing may require. By having nine confirmed commissioners, any five whom may sit on the hearing board, the commission is more likely to be able to impanel a tribunal quickly. In selecting the hearing board the chair should assume all commissioners are qualified and shall select a board that can perform the adjudicatory function as efficiently as possible. The selection of a hearing board is to be made on a rotating basis that assures that no discretion is exercised in the selection of commissioners. If a commissioner in line for appointment is unable to serve at the times required, the next name will be selected. For subsequent hearing board selections, the names of commissioners who did not serve on the immediately previous hearing shall go to the top of the list.

AS 24.61.555. FINDINGS AND RECOMMENDATIONS.

(a) Exoneration. Since the commission had previously found probable cause to believe that a violation had occurred, it should be very rare that, after a full hearing, it finds that the respondent has been exonerated. If, however, the evidence produced at the hearing clearly establish the falsity or unfairness of the charges, the respondent should have the opportunity to recoup legal fees. Without such a determination, however, the mere acquittal of the respondent

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should not be construed as a vindication warranting the state to pay for the defense.

ARTICLE 4. Legislative Ethics Education Program

24.61.700. ETHICS EDUCATION PROGRAM. In order for ethics rules to be sufficiently specific to provide meaningful guidance and enforceable standards, they must be detailed. If they are to reach the subtleties of the choices that must be made, they sometimes must be complex. In many cases, they dictate results that are not intuitively obvious. It is unrealistic to expect that, without any special effort, that most legislators and legislative employees will read, let alone understand them. Ethics education will serve to explain the rules and regulations that legislators and their staffs must follow. But effective education goes far beyond reading the rules or getting instruction on the filing of disclosure forms. If public servants are to live lives consistent with these standards, they must internalize and remain sensitive to the norms of expected behavior. They need to understand the difference between what is legal and what is ethical, and they must know what procedures can and should be followed if they are to adhere to the highest aspirations of the Act. The ethics education program prescribed should help individuals develop the ability to apply rules, standards, values and ethics codes to specific situations. Public officials are constantly faced not only with hard decisions as to right and wrong, but even harder choices requiring them to choose among conflicting goods or the lesser of evils. Ethics education courses help public servants sort through and deal with the enormously complex ethical issues they are bound to face and emphasize the vital importance of the notion that public office is a public trust.

24.61.710. ETHICS EDUCATION MANUAL. All that can be done should be done to educate public servants on their legal and ethical obligations. One of the overarching principles of this Act is that it must be strictly enforced and that ignorance of the rules or

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their meanings will not be an acceptable excuse. The commission should thoroughly distribute this Manual at each time of issuance and develop procedures, in cooperation with the Personnel Office of the Legislative Affairs Agency, to assure that the Manual reaches all new legislators, legislative employees, and lobbyists.

AS 24.61.730. LEGISLATIVE ORIENTATION TRAINING COURSE. An Orientation Training Course covering both the "letter" and "spirit" of all ethics laws should be a minimum of six hours. The material is both extensive and in depth, involving many laws and complex issues surrounding those laws. The commission should remember that the public's trust and confidence in government is based on the highest ethical standards which can, in fact, be taught. Legislators should attend Orientation Courses and Workshops separately from legislative employees in order to allow the Courses to focus on issues which only affect one or the other group of people. Legislative employees have many different ethical issues to deal with from those of legislators, and as well, will benefit from the more confidential atmosphere achieved by the absence of their superiors. Limiting attendance to fifty people will afford every attendee ample opportunity to ask questions and fully participate in discussions, case studies, and other educational activities. Effective ethics education deals with complex issues of both a professional and personal nature, and therefore depends on the active participation of all attendees and should avoid the development of a passive learning environment.

AS 24.61.750. LOBBYIST TRAINING COURSE. Lobbyists play an integral role in the political process and substantially influence public policy formation. Therefore, it is essential that lobbyists know and understand the specific legal requirements which regulate the lobbying profession. Furthermore, and more importantly, lobbyists share the ethical obligation to not act in ways which will impede the legislature's ability to perform its duties according to the highest standards of public service ethics. The

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commission should cooperate, and coordinate, with the Alaska Public Offices Commission in order to most effectively implement and enforce lobbying regulations.

DRD:lmb

L10/059

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act establishing a legislative
ethics commission & standards of conduct..."
Sponsor: H. State Affairs
Requestor: H. State Affairs

Affected Agency: Legislative Affairs Agency
BRU: Legislative Council
Components: Salaries & Allowances
Council & Subcommittees

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY91	FY92	FY93	FY94	FY95	FY96
Personal Services	865.6	1480.1	1480.1	1480.1	1480.1	1480.1
Travel	-27.7	-27.7	-27.7	-27.7	-27.7	-27.7
Contractual	182.6	182.6	182.6	182.6	182.6	182.6
Supplies	3.0	3.0	3.0	3.0	3.0	3.0
Equipment	20.5	2.0	2.0	2.0	2.0	2.0
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	1044.0	1640.0	1640.0	1640.0	1640.0	1640.0

CAPITAL	0	0	0	0	0	0

REVENUE	0	0	0	0	0	0

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	1044.0	1640.0	1640.0	1640.0	1640.0	1640.0
Federal Fund	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	1044.0	1640.0	1640.0	1640.0	1640.0	1640.0

POSITIONS:

Full-Time	3	3	3	3	3	3
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

HB 596 establishes a Legislative Ethics Commission and standards of conduct for legislators and legislative employees, former legislators and employees, and lobbyists. The bill also amends legislators' compensation and allowances. The following is requested to adequately support the Legislative Ethics Commission and the change in legislators' compensation.

Prepared By: Pamela A. Stoops, Director
Division: Administrative Services

Pamela A. Stoops

Phone: 465-3850
Date: 4/10/90

Approved By: Warren Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren Endicott

Date: 4/10/90

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT & BUDGET
AGENCY (IES)

CONTINUATION OF FISCAL NOTE: HB 596

PERSONAL SERVICES

1. Staff is requested as follows to assist the Legislative Ethics Commission.

Executive Director - Range 24A			
	\$4,687 x 12 months =	\$56,244	
	\$56,244 x 36% benefits =	\$20,247	
		<u>\$76,491</u>	76.5
Administrative Assistant - Range 19A			
	\$3,353 X 12 months =	\$40,236	
	\$40,236 X 36% benefits =	\$14,485	
		<u>\$54,721</u>	54.7
Executive Secretary - Range 15A			
	\$2,531 x 12 months =	\$30,372	
	\$30,372 x 36% benefits =	\$10,933	
		<u>\$41,305</u>	41.3
			<u>172.5</u>

2. Compensation of legislators.

Effective January 21, 1991, legislators' annual salaries will change from \$22,140 to \$40,000. The below figures show the FY 91 cost including benefits for 6 months at the new rate and the estimated FY 92 cost including benefits for 12 months.

CURRENT FY 91 BUDGET REQUEST	CSSB 415(Jud) FY 91 COST
LEGISLATORS' SALARIES	LEGISLATORS' SALARIES
\$1,865,189	\$2,558,304

FY 91 increased personal services cost under Salaries & Allowances would be \$693,115. 693.1

FY 92 estimated increase in personal services cost under Salaries & Allowances is \$1,307,577.

TRAVEL

3. It is anticipated there will be 6 meetings of the Legislative Ethics Commission.

6 meetings x 9 members at 3 days each			
airfare - 6 meetings x 9 members = 54 airfares			
	54 airfares x \$390 =	\$21,060	
compensation - 6 meetings x 9 members = 54			
	54 x 3 days compensation = 162		
	162 x \$175 =	\$28,350	
per diem - 6 meetings x 9 members = 54			
	54 x 3 days per diem = 162		
	162 x \$80 =	\$12,960	
		<u>\$62,370</u>	62.4

CONTINUATION OF FISCAL NOTE: HB 596

4. Additional stipend for Chair and Vice-Chair of the Commission. Stipend is an annual amount. 2 x \$500 each = \$1,000	1.0
5. Legislative Ethics Commission staff travel - travel for Executive Director and staff to Legislative Ethics Commission meetings and other related travel - \$10,000.	10.0
6. Eliminates long-term per diem for legislators. Amount budgeted in FY 91 Legislative Affairs budget is \$180,500.	-180.5
7. A new subsection is added to reimburse a member of the Legislature for up to two round trip tickets from Juneau to a city in the district from which the legislator was elected during each regular session of the Legislature. 2 trips each session Coach travel for 57 legislators \$26,000 x 2 trips = \$52,000	52.0
Per Diem - 3 days x 57 legislators x \$80/day = \$13,680/trip 2 trips x \$13,680 = \$27,360	27.4
	79.4
	79.4

CONTRACTUAL

8. Professional services for contracts to investigate compliance with the Legislative Ethics Act of 1990 with outside investigators, attorneys, additional staff, etc. Training services for orientation education courses, etc. - \$75.0.	75.0
9. Lease office space funding 2,000 sq. ft x \$2.00 sq. ft = \$4,000 \$4,000 x 12 months = \$48,000	48.0
10. Preparation & publication of the Legislative Ethics Manual; development and dissemination of training materials - \$50,000.	50.0
11. Phones and postage - \$800 a month x 12 months = \$9,600	9.6

SUPPLIES

12. Office Supplies - paper, stationery, etc. - \$3,000	3.0

EQUIPMENT

13. 3 desks, 2 filing cabinets, bookcases, 3 chairs, 3 computers, 1 laser printer, phone system, etc. Misc. equipment to furnish Legislative Ethics Commission staff office - \$20,500	20.5

ALASKA LEGISLATIVE ETHICS ACT OF 1990

**An Act Establishing an
INDEPENDENT LEGISLATIVE ETHICS COMMISSION
STATEMENT OF ETHICAL PRINCIPLES AND STANDARDS OF CONDUCT
WITH GUIDELINES AND COMMENTARY
COMPREHENSIVE CONTINUOUS
ETHICS EDUCATION PROGRAM**

Commissioned by the Alaska State Senate

APRIL 1990

**Prepared by the
GOVERNMENT ETHICS CENTER
of the
Joseph & Edna Josephson Institute for the Advancement of Ethics
a national nonprofit public benefit corporation
Headquarters: 310 Washington Street #104, Marina del Rey, CA 90292 Phone: (213) 306-1868**

Project Staff:

The project staff completed the fact finding, research, policy development, and drafting of both the Alaska Legislative Ethics Act of 1990 and an accompanying Report: "The State of Legislative Ethics in the State of Alaska."

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Advisory Council:

The Advisory Council Members, authorities and specialists in the field of ethics and government, offered expert advice and input during the drafting process and in the development of policy recommendations. The Josephson Institute offers its thanks and appreciation to the members of the committee:

Ben Atchley:

Senate Minority Leader, Tennessee, Delegate from the Legislative Leaders Foundation to the Advisory Council of the Government Ethics Center of the Josephson Institute.

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Chris Tyner:

Director of Publications, Josephson Institute.

HIGHLIGHTS OF STATEMENT OF PRINCIPLES AND STANDARDS OF CONDUCT

- Based on affirmative ethical principles: good faith, nonpartisanship, public trust, public interest, accountability, democratic leadership, respectability, independent judgment.
 - Establishes strict standards re: intervention on behalf of constituents.
 - Imposes penalties for bad faith delay or misleading disclosures.
 - Imposes post-service lobbying restrictions: everyone, 1 year with legislature; committee chairs and presiding officers, 1 year with agencies subject to legislator's oversight.
 - Bans fund raising during sessions, everywhere, for legislators and public officials.
 - Bans off-year fund raising: creates period from June 1-December 31 of year before election and June 1 through election for fund raising.
 - Bans post-election fund raising to retire campaign debts.
 - Bans conversion of campaign surplus to personal funds.
 - Limits carryover of excess funds to \$2,500 for house, \$5,000 for senate.
 - Strictly bans use of state property and staff for campaign purposes.
 - Imposes duty on subordinates to refuse to perform improper tasks.
 - Prevents exploitation of office for private gain, selling stature and prestige, requires compensation to be commensurate with services actually performed.
 - Creates legal defense fund procedure.
 - Limits coercive fund raising techniques.
 - Establishes rigorous new reporting requirements for financial and personal conflicts.
 - Bans lobbyists serving as campaign officers or fund raisers for legislative candidates.
 - Strictly limits forms of advising and consulting for compensation.
 - Bans representation before state agencies in most instances.
 - Empowers Commission to order special restrictions re: relationships with lobbyists.
 - Bans income relating to most state contracts.
 - Imposes rigorous new requirements re: income from persons who have a substantial interest in legislative, administrative and political actions (broadly but explicitly defined).
 - Sharply limits honoraria by source.
 - Bans all private-paid travel over \$100, even for legislative purposes but allows bona fide government and nonprofit educational institutions to pay.
 - Establishes new gift standards, including exemptions: no source can provide over \$100 in non-exempt gratuities during a year.
 - Bans memberships on most boards.
 - Imposes duty on both legislators and those that employ them to file sworn reports on precise nature and amount of duties and compensation; reports are presumptively public but a procedure is created to allow Commission to protect privacy in extraordinary cases.
 - Imposes reporting responsibilities on all legislative employees, including some consultants, who exercise professional discretion; eliminates salary range qualification.
 - Establishes procedures to protect privacy if disclosures reveal no significant conflict.
 - Establishes protection for whistle blowers.
 - Mandates proper, respectful and lawful treatment of colleagues and subordinates.
 - Eliminates "legislative stay," undue procedural advantage for lawyers.
 - Condemns use of committee chair powers to undermine representative democracy by burying bills or unfairly allocating public funds among majority and minority members.

HIGHLIGHTS OF FINDINGS AND RECOMMENDATIONS

- The reputation and image of the legislature is unacceptably low and it greatly needs an infusion of active ethical leadership.
- There is no evidence that the conduct of the legislature as a whole justifies this reputation but since public trust is a matter of perception, the problem is serious.
- Surveys showed that most governmental insiders saw a need for behavioral changes.
- Surveys showed there is overwhelming support for more regulation of ethical issues.
- Surveys showed that very few legislators will be so adversely affected by limitations on outside income that it will affect their willingness to serve.
- Detailed and comprehensive rules are needed to assure that they are fair and practical; simple categorical prohibitions won't work.
- A new format for legislation including extensive commentary and guidelines is essential to assure that the letter and spirit of the standards are understood and enforceable.
- Laws alone won't work; comprehensive, continuous, mandatory ethics education is required.
- Piecemeal amendments can easily undermine the purpose and effectiveness of the Act; the burden of persuasion on those who seek to make changes should be a heavy one.
- An independent ethics commission is needed to credibly investigate and adjudicate ethics complaints; legislators have neither the time nor image of nonpartisan objectivity required.
- Since unanticipated results are inevitable, the Commission is granted broad power to make exemptions, issue regulations, and propose amendments.
- The legislature should be ultimately accountable and therefore has the power to remove a Commissioner and the obligation to vote on all sanctions proposed.
- Continued adequate funding for the Commission is vital; the matter is left to the good faith of the legislature.
- Existing laws requiring disclosure of conflicts of interest are seriously inadequate because they fail to require sufficient detail or to provide sufficient deterrence.
- We found some instance where a more sensitive commitment to the dignity and decorum appropriate to high office would be appropriate.
- There is a need for greater protection of legislative employees and the establishment of a grievance process.
- We found that discretionary funds for legislative staff, equipment and travel are inappropriately misallocated on the basis of partisan issues; we recommend new policies for the equitable distribution of resources be developed.
- We found a pervasive and urgent concern about the inappropriate use committee powers to unduly control legislation; we recommend the adoption of policies to remedy this.
- New policies are needed to assure that the legislature pays its own way for travel.
- The present office allowance procedure should be scrapped; more funds are needed and the money should not be paid as a form of compensation.
- Legislators should communicate more effectively with constituents about matters of the legislator's actions and positions; funds for two newsletters per year should be provided.
- During the session, legislators ought to have two paid for trips to their districts.
- Legislative pay ought to be increased to \$40,000, dropping interim per diems.
- Relations between press and legislators in unusually hostile; both sides are responsible.

HIGHLIGHTS -- LEGISLATIVE ETHICS COMMISSION

■ COMPOSITION -- 9 public members, 5 year terms

■ TWO BY LEGISLATURE:

Senate: jointly by President and Minority Leader;

House: jointly by Speaker and Minority leader

■ TWO BY EXECUTIVE BRANCH:

Governor

Lieutenant Governor

■ TWO BY SUPREME COURT

■ ONE BY APOC

■ TWO BY OTHER SEVEN MEMBERS

■ POWERS

■ ADVISORY

Informal nonbinding oral advice.

Informal nonbinding staff letters.

Formal binding advisory opinions

■ IMPLEMENT SPECIAL DISCLOSURE PROVISIONS

Develop forms

Grant exemptions

Determine which disclosures should be public

■ EDUCATIONAL

Publish ethics manual

Establish educational advisory committee

Conduct mandatory orientation programs for legislators, staff and lobbyists

Conduct regular mandatory refresher/discussion seminars

■ ADJUDICATORY

Investigate

Determine guilt or innocence (may exonerate)

Recommend sanctions (payment of defense fees if exoneration).

■ LEGISLATURE'S ROLE

■ MAY REJECT NOMINEE (DECERTIFY) BY MAJORITY VOTE

■ MAY REMOVE SITTING COMMISSIONER BY TWO-THIRDS VOTE

■ MUST APPROVE ALL RECOMMENDED SANCTIONS

ALASKA LEGISLATIVE ETHICS COMMISSION ENFORCEMENT PROCESS

COMPLAINT

- 1) By any person or LEC; 2) Oath; 3) Copy to respondent immediately unless good cause;
- 4) Confidential.

DETERMINATION OF FORMAL SUFFICIENCY

- 1) By staff within 5 days; 2) Returned to complainant if deficient with statement of deficiency;
- 3) Proceeds to validity determination if sufficient.

PRELIMINARY DETERMINATION OF VALIDITY

- 1) within 20 days of filing (or 45 days if chair seeks additional time); 2) Staff advises chair if complaint alleges facts which if true establish violation (conduct occurred within 5 years of complaint, unless concealment, and person was a legislator, legislative employee or former legislator, within one year of filing; 3) May dismiss or certify for further consideration.

- DISMISSAL** -- 1) Complaint returned with Notice of Dismissal stating reasons in detail;
- 2) If found to be frivolous, malicious or in bad faith, stated on Notice; 3) If alleges violations outside ALEA, stated on Notice, sent to appropriate agency; 4) Notice is public record.

- CERTIFICATION FOR FURTHER CONSIDERATION** -- 1) Factual investigation begins;
- 2) Complaint stays confidential until further deliberation.

INVESTIGATION

- 1) Written resolution defining scope; 2) If new facts discovered, resolution amended;
- 3) Resolution and fact of investigation confidential but, on inquiry, LEC verifies that investigation is taking place with statement that no probable cause has yet been found; 4) Legislator/employee may request investigation; may not stop it once commenced; 5) Conducted by staff or special outside investigator at LEC's option; 6) Oath and subpoena powers, no oral statements unless under oath; 7) respondent may present and inspect evidence.

REPORT TO LEC

- 1) Confidential written report summarizing evidence and detailing findings on each allegation with recommendations; 2) Excludes references to unreliable information and uncorroborated, irresponsible allegations.

PROBABLE CAUSE DETERMINATION

- 1) LEC considers report in closed session; 2) Standard: substantial credible evidence establishing probable cause; 3) May dismiss or order full hearing.

- DISMISSAL** -- 1) Complaint returned with Notice of Dismissal stating reasons in detail;
- 2) If LEC finds was frivolous, malicious or in bad faith, or that respondent should be exonerated (found innocent), stated on Notice; 3) Notice of Dismissal and investigator's findings and recommendations made public unless LEC determines release of report would unduly prejudice either complainant or respondent (but they can make Notice public).

- PROBABLE CAUSE FOUND - GOES TO FULL HEARING** -- 1) Respondent formally served; 2) hearing scheduled no sooner than 20 days (unless special order); 3) Investigator's findings and recommendations but not underlying investigatory materials, made public.

ADJUDICATORY HEARING

- 1) Public hearing; 2) appointment of 5 Commissioner hearing board (must rotate).

FINDINGS AND RECOMMENDATIONS

- 1) Within 10 days of completion, board votes on each charge; 2) Standard: preponderance of evidence; 3) three votes needed; 4) may acquit, exonerate or convict; 5) Findings public.

- ACQUITTAL** -- if board finds charges frivolous, malicious, bad faith or that respondent should be exonerated shall state in opinion; if exonerated, shall recommend payment of defense fees.

- CONVICTION** -- may recommend from broad array of sanctions or shape new ones.

LEGISLATIVE VOTE

- Recommendation to appropriate house for floor vote; majority needed.

SENATE BILL NO. ____
IN THE LEGISLATURE OF THE STATE OF ALASKA
SIXTEENTH LEGISLATURE - SECOND SESSION
A BILL

For an act entitled: "An Act relating to the establishment of a legislative ethics commission and standards of ethical conduct for legislators, legislative employees, former legislators and legislative employees, lobbyists.

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

AS 24.60.010 -- AS 24.60.190 is repealed and reenacted to read:

CHAPTER 60
ALASKA LEGISLATIVE ETHICS ACT OF 1990

ARTICLE 1. Declarations and General Provisions

Section

- 10. Title
- 11. Purpose
- 12. Effect
- 13. Repeals and Replaces Prior Law
- 14. Applicability
- 15. Findings and Declarations
- 16. Structure
- 17. Types of Provisions
- 18. Strict Compliance
- 19. Severability
- 20. Enforcement and Penalties
- 30. Definitions

20.60.010. TITLE.

This is the "Alaska Legislative Ethics Act of 1990" which may be cited as ALEA.

20.60.011. PURPOSE.

(a) To assure the integrity of representative government and to sustain the confidence and trust of the People of Alaska in their representatives, the Legislature as a whole, and the legislative process.

(b) To provide a comprehensive and unified statement of the ethical principles, considerations and obligations inherent in the public trust theory of government service and establish specific standards of conduct to assure that those entrusted with public authority avoid conduct that might undermine the People's respect for the Legislature.

(c) To establish a positive, effective and comprehensive ethical program which is clear, practical and fair.

20.60.012. EFFECT.

Unless otherwise specifically provided, this Act shall be effective as of June 1, 1990. Some provisions will become effective on later dates as indicated.

20.60.013. REPEALS AND REPLACES PRIOR LAW.

(a) The provisions of this chapter specifically replace, supersede and where necessary repeal provisions of the common law relating to legislative conflict of interest, and specific Alaska statutes including previous AS 20.40 *et seq.*, and all other laws that are inconsistent or incompatible with any provision herein.

(b) Nothing in this Act shall exempt any person from applicable provisions of any other laws unless such laws are explicitly superseded or incompatibly inconsistent with specific provisions of this Act.

20.60.014. APPLICABILITY.

(a) *Legislators and Legislative Employees.* Unless otherwise specifically stated, the provisions of this Act apply to legislators and legislative employees as defined in sections 20.60.30 (m) and (n).

(b) *Others Covered.* Only as specified, certain provisions apply to former members of the legislature, candidates for the legislature, former legislative employees, and persons who have transactions with legislators or legislative employees.

Guidelines and Commentary

i) *Application Depends on Duties Rather Than Salary Status.* Most of the provisions of this Act apply to all employees involved in some substantive way with the legislative process, regardless of salary or duties. As public employees their time is a state resource which should only be used for proper public purposes. Moreover, virtually all legislative employees expend state funds and have access to confidential information. The most serious restrictions and disclosure requirements, however, only apply to legislative employees who exercise, or are perceived to exercise, discretion and judgment with respect to legislative, administrative or political actions. These individuals are referred to as legislative assistants.

ii) *Technical Status Not Controlling.* The purposes of the Act should not be circumvented by legalistic arrangements which change the category of a person who otherwise would, and should, be subject to its provisions. Thus, the controlling factors are related to the function employees or agents perform and the amount of discretionary authority they possess, rather than their salary or technical status as full-time or part-time employee, independent contractor or consultant.

20.60.015. FINDINGS AND DECLARATIONS.

It is declared that:

(a) High moral and ethical standards among public servants in the legislative branch of government are essential to the conduct of fair, open and responsive representative government.

(b) The People of Alaska need and deserve a legislature led by outstanding public servants whose devotion and commitment to pursuing the public interest through established democratic processes outweigh any competing personal or political con-

siderations.

(c) Alaska government relies heavily on part-time citizen public servants. It is, therefore, essential to attract talented and principled people willing to provide their time and energy to the state, often with substantial personal and financial sacrifices.

(d) The best way to attract such people is to ensure that the government is respected for its honesty and integrity and that the rules governing their conduct during and after leaving public service are as clear, fair and complete as possible. Such rules, however, should not impose unreasonable or unnecessary burdens which will discourage citizens from entering or staying in government service.

(e) The political culture of Alaska is the product of a unique blend of history, geography, climate, population and ethnic influences which must be taken into account in the development of rules and standards regulating the conduct of legislators, legislative employees and those who work regularly with the legislature.

(f) Alaska's commitment to the notion of a citizen legislature requires that legislators be drawn from all parts of society. They cannot and should not be without personal and financial interests in the decisions and policies of government, and they are expected and permitted to earn outside income.

(g) As a result of Alaska's small population and close sense of community, most legislators and legislative employees have a network of relationships in and outside the legislature which create potential conflicts of interest.

(h) Alaska's vast size requires frequent travel, usually by air, which increases the expense and burden of public service.

(i) Alaska's cultural diversity is reflected in gift-giving and hospitality customs that may clash with standards prohibiting acceptance of gratuities.

(j) It is important to preserve the vitality of Alaskan culture and citizen involvement by assuring that standards of conduct acknowledge real and practical needs of individual legislators and legislative employees without compromising vital universal notions of public service ethics including the principle that public office is a public trust.

(k) Upon taking the oath of office, legislators enter into a sacred trust with the People of Alaska involving extraordinary powers and equally extraordinary legal and moral obligations. One aspect of these obligations requires that those entrusted with public authority unfailingly demonstrate that they are worthy of the public's respect and devoted to maintaining the absolute integrity of government.

(l) Effective democratic government depends upon the willingness of the People to exercise responsible citizenship by voluntary compliance with laws and by active participation in the democratic process. When the public's trust in and respect for government is high, citizens are more likely to fully participate by voting, becoming better informed, and by becoming more active in public debate and discourse in a

way that engenders civic pride and makes government more representative, more responsive and more effective.

(m) Unethical or illegal behavior by any legislator or legislative employee tends to diminish the stature of the legislature and produce cynicism that erodes public confidence in government. Thus, all who serve the legislature have a solemn responsibility to avoid improper conduct and prevent such behavior by colleagues and subordinates.

(n) The principles of public service ethics pervading this Act view the ethical obligations of public servants in a positive way. High standards of conduct and specific regulations to enforce them are not driven by negative assumptions about the character of those who serve government, but as expressions of the need for clarity and uniformity about the higher duties of public service and the noble dimension of democracy.

(o) No code of conduct, however comprehensive, can anticipate all situations in which the principles and standards apply, nor can it prescribe behaviors that are appropriate to such situations. In addition, laws and regulations regarding ethical responsibilities cannot legislate morality, eradicate corruption or eliminate bad judgment.

(p) Legislators and legislative employees who are committed to the ethical principles embodied in the public trust concept of government must exercise considerable discretion and judgment so as to adhere to the spirit of the rules and laws. In exercising this judgment it is essential to recognize that an act is not ethical simply because it is legal and that conduct is not proper simply because it is permissible.

(q) Legislative decisions must be made in a context of clashing interests. The growing impact of state laws and regulations create incentives for competing special interests to seek to influence the election and policy-making processes through organized advocacy and through the use of campaign contributions.

(r) The cost of running for office has risen dramatically in recent years. As a result, many public officials, including legislators, spend an increasing amount of time negotiating with special interests in a way that may unduly enlarge the voice and power of those interests.

(s) Therefore, the state needs a comprehensive ethics program which responds to the challenges of the contemporary political climate, preserves and protects the integrity of the legislative process and respects the needs of those who serve the legislature.

20.60.016. STRUCTURE

This Act has three major components:

(1) *Ethical Principles and Standards of Conduct* -- a comprehensive declaration of the ethical principles inherent legislative activities along with specific standards of

conduct and rules of disclosure expressed in the form of legislative rules, civil laws and criminal offenses which make these obligations binding and enforceable. Many of the standards are accompanied by extensive guidelines and commentary which explain, expand, and illustrate the general principles and specific rules and apply them to common issues faced by legislators and legislative employees. The provisions and interpretative directives of the guidelines and commentary are an intrinsic part of this law.

(2) *Legislative Ethics Commission* -- ALEA establishes a Legislative Ethics Commission to be a credible, efficient mechanism for implementing its provisions by issuing informal advice letters and formal written advisory opinions; considering exemption requests in extraordinary cases; investigating and adjudicating complaints; recommending sanctions; and providing regular ethics training and educational programs for legislators, legislative employees and lobbyists.

(3) *Educational Program* -- provisions for an affirmative educational program for legislators, legislative staff and lobbyists to assure that the legal requirements and ethical expectations embodied in it, as well as the principles and values that underlie them, are known, understood, and reinforced.

20.60.017. TYPES OF PROVISIONS

The Statement of Ethical Principles, Standards of Conduct & Guidelines contain three types of provisions:

(a) *Legislative Rules and Directives* -- the overarching principles and some specific provisions establish internal rules and directives for behavior, the violation of which may subject the violator to administrative sanctions imposed by the legislature through the processes established. These rules and directives establish obligations which could appropriately be the basis of a formal complaint. In addition, they also establish the basis of parallel civil laws and criminal offenses.

(b) *Civil Laws* -- some provisions establish legal obligations that give rise to civil liability and court-ordered sanctions. For example, the prohibitions on certain income-producing activities violate legislative rules but they also give rise to a civil action in the Alaska courts. As provided herein, such actions may be brought by the attorney general's office or by a private citizen.

(c) *Criminal Offenses* -- some provisions establish criminal offenses enforceable as other criminal laws in the Alaska courts.

20.60.18. PRINCIPLE OF STRICT COMPLIANCE.

Legislators and legislative employees shall be held strictly to the provisions and spirit of this code and, except in extraordinary circumstances, shall not be permitted to assert a lack of knowledge or understanding as a defense to a charge of misconduct.

Guidelines and Commentary

- i) *Ignorance of the Law is Unjustifiable.* While some of the provisions of this code are detailed and complex, it is essential that each legislator and legislative employee meet a personal obligation to know and understand its requirements. Extensive educational and training opportunities are provided through the Legislative Ethics Commission to assist them. It is not only unseemly, it is publicly unacceptable when those who are intimately involved in the lawmaking process claim ignorance of the law or assert that violations were mere "technicalities" or mistakes.
- ii) *Extraordinary Circumstances.* The presumption that those covered by this code know and understand its provisions is a strong one but it may be rebutted in exceptional circumstances where the person charged demonstrates that it would be unreasonable to hold him or her to strict knowledge. For example, changes in the law, errors in officially published educational materials or other special circumstances may justify a defense based on a mistake or asserted ignorance of law.

20.60.019. SEVERABILITY.

If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of this act and the application of such provisions to other persons and circumstances shall not be affected thereby.

20.60.020. ENFORCEMENT AND PENALTIES.

(a) *Legislative Ethics Commission.* Each provision may be enforced in accordance with its terms and commentary by the Legislative Ethics Commission as a civil matter according to the procedures set forth herein.

(1) Unless otherwise noted in the provision at issue, the Commission may recommend, and the legislative chamber from which the charged person comes may order appropriate sanctions designed to fit the offense and assure both fair treatment of the offender and deterrence to others who might consider similar acts.

(2) The sanctions available include but are not limited to:

(A) civil fines of not more than \$5,000 for each offense, or equal to twice the amount improperly gained by the misconduct, whichever is the greater;

(B) divestiture of specified assets or withdrawal from specified relationships;

(C) detailed disclosure, with or without additional periodic reporting requirements;

(D) suspension from legislative service, with or without pay;

(E) restitution or reimbursement;

(F) suspension of pay until orders are complied with;

(G) forfeiture of pension benefits;

(H) written reprimand;

(I) voiding any legislation or other action resulting from conduct in violation of the Act;

(J) censure (a legislator censured shall not serve as a chair or a co-chair on any legislative committee for the remainder of the legislator's pending term in office);

(K) expulsion of a legislator or dismissal of a legislative employee;

(L) payment of costs related to the investigation and adjudication of the charge;

(M) any other sanction fashioned to achieve the purposes of this act.

(3) Each of the above penalties can be ordered separately or in combination.

(b) *Separate Civil Action.* Each of the provisions also give rise to a separate civil action which may be brought by the attorney general or, upon failure of the attorney general to bring an action within 60 days of written a request to do so, by any citizen.

(1) The right to proceed in a separate civil suit is independent of any proceeding conducted by the Legislative Ethics Commission but to the extent that a civil fine is ordered for any offense, no person be fined more than \$5,000 for each offense, or twice the amount of the benefit received from the conduct providing the basis of the charge, whichever is the greater.

(2) Provided that it does not jeopardize an action before the Commission, cause unfair prejudice to the person charged or violate a legal obligation of confidentiality, information acquired by the Commission shall be made available, on request, to litigants in the civil action.

(c) *Criminal Actions.* Any conduct which is criminal under the specific provisions of this act or any other state law may be separately prosecuted without regard to the resolution or pendency of a charge before the Commission or a civil court.

(1) Provided that it does not jeopardize an action before the Commission, cause unfair prejudice to the person charged or violate a legal obligation of confidentiality, information acquired by the Commission shall be made available, on request, to the defendant and prosecutor in the criminal action.

20.60.30. DEFINITIONS

(a) "*Administrative action*" refers to all conduct related to the development, drafting, consideration, enactment, defeat, application or interpretation of any rule, regulation, policy or other action in a regulatory proceeding or a proceeding involving a license, permit, franchise, or entitlement for use.

(b) "*Anything of value*" is essentially synonymous with "benefit;" both are intended to be interpreted broadly to include all matters, whether tangible or in-

tangible, which could reasonably be considered to be a an advantage, of worth, use or service to the person to whom it is conferred. The term encompasses all matters which the recipient might find sufficiently desirable to do something in exchange for. It includes but is not limited to:

- (1) money
- (2) products or merchandise
- (3) works of art or collectibles
- (4) stocks, bonds, notes, or options
- (5) an interest in real property
- (6) contracts or a promise of a future interest in a contract
- (7) an interest, or a promise of a future interest in a business
- (8) meals, beverages or lodging
- (9) transportation
- (10) services, including loaned employees
- (11) loans, loan guarantees, co-signing
- (12) forgiveness of a debt
- (13) discounts or rebates not extended to the public generally
- (14) preferential treatment
- (15) tickets or admissions
- (16) free or discounted use of office facilities
- (17) loan of office equipment
- (18) radio or television time
- (19) promise or offer of present or future employment
- (20) use of autos, boats, apartments or other recreational or lodging facilities
- (21) intangible rights such as a cause of action
- (22) licenses, patents, copyrights or an interest therein
- (23) any other item, tangible or intangible, having economic value

A thing of value for purposes of this chapter does NOT include:

- (1) unsolicited tokens or awards with a value of less than \$150 in the form of a plaque, trophy, clock, desk or wall memento or decoration or similar item.
- (2) unsolicited advertising items such as calenders, key chains, pens or samples of merchandise with a value of less than \$50.
- (3) unsolicited publications with a market value of less than \$50 on an annual basis.
- (4) discounts afforded to the general public or specified groups or occupations under normal business conditions except that such discounts may not be based on the fact of legislative service unless it is a discount program approved by the LEC.
- (5) campaign contributions, pledges, political endorsements, support in a political campaign or a promise of such endorsement or support.
- (6) contributions to any cause or organization, including a bona fide charity, made in response to a direct solicitation from a legislator or any person acting at his or her direction.

(c) "*Benefit*" refers to anything of value defined above.

(d) "*Close economic association*" refers to a financial relationship between two or more persons or between a person and an entity which creates economic in-

terests in a legislator or legislative employee that either: (1) conflicts with public duties and the obligation to exercise objective independent judgment; or (2) creates the appearance that such person may have undue access to confidential information or otherwise receive favored treatment regarding public actions. Close economic association includes but is not limited to relationships involving compensation as an employee, agent, representative, counselor, adviser or consultant (including professional services as between a lawyer and client or a financial planner and a client); a financial interest resulting from an investment, business enterprise or interest real property as a partner, investor, associate or major stockholder; a landlord and tenant or co-tenants sharing housing expenses; a debt, loan or loan guarantee; or any other relationship in which a legislator or legislative employee has a substantial economic involvement with another.

(e) "*Close personal relationship*" is a special relationship between a legislator or legislative employee and another person which creates strong bonds of loyalty, friendship and/or love that could potentially conflict with public duties and the obligation to exercise objective independent judgment or create the appearance that such person may have undue access to confidential information or otherwise receive favored treatment regarding public actions. It includes but is not limited to immediate family, long-term personal friends or former business associates and persons with whom the legislator or legislative employee has a significant and continuous romantic relationship.

(f) "*Confidential information*" refers to any information made confidential by law or which is conveyed or accepted with the understanding that it will only be used for official purposes.

(g) "*Financial conflict of interest*" exists when a person or a member of that person's immediate family has substantial financial interests which may be materially affected by any official action or decision they might make. The interest must be so substantial and the potential affect on that interest must be so material that a reasonable objective person is likely to believe that the ability of the person with the financial interest to make an objective, fair, and impartial professional judgment will be impeded by self-interest. It is not a conflict of interest as to a specific matter if:

- (1) the person's economic interest is not substantial; or
- (2) the person's authority in relation to the interest is such that an action or decision is not likely to materially affect the financial interest; or
- (3) the economic effect an official action or decision might have on a person's private financial interests is no greater than the effect on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry or region.

(h) "*Immediate family*" refers to a spouse, parents, grandparents, child (in-

cluding step children and children by adoption), grandchildren, brothers, and sisters and parent (including in-laws).

(i) "*Informal representation*" refers to uncompensated representation including requests for information made with a state or local government entity an official or employee of such entity, on behalf of any person including clients, constituents and political contributors.

(j) "*Intent to influence*." Persons have the intent to influence legislative, administrative or political action if they do any act, including offering or conferring a thing of value to a public official, with the purpose of inducing the official to do an act he or she would otherwise not have done or refrain from doing something he or she would otherwise have done.

(k) "*Knows*," "*knowing*" or "*knowingly*." Persons know a fact or have actual knowledge of it when they are aware of its existence with practical certainty. Knowledge may be inferred from circumstances.

(l) "*Legislative action*" refers to all conduct relating to the development, drafting, consideration, sponsorship, enactment or defeat, support or opposition to or of any law, amendment, resolution, report, nomination or other matter affected by legislative action or inaction.

(m) "*Legislative employee*" includes any person, other than a legislator, who is compensated by the legislative branch in return for regular or substantial personal services, regardless of the person's pay level or technical status as a full-time or part-time employee, independent contractor or consultant. It includes members and staff of the Legislative Ethics Commission. It does not include individuals who perform functions which are purely incidental to legislative functions such as security, messengers, maintenance and print shop employees employ. For purposes of this definition, "regular or substantial" includes any person who is either expected to work or has in fact worked, at least: (1) four hundred hours in a calendar year; or (2) three hundred hours during a legislative session.

(n) "*Legislative assistant*" refers to a legislative employee whose assigned duties involve the exercise of substantial and judgment. It does not include employees who perform purely clerical or ministerial functions. The LEC shall develop guidelines for interpreting this section for Alaska legislative employees.

(o) "*Nonpublic information*" refers to information that is not available to the general public, the use or disclosure of which results in an unwarranted benefit or advantage.

(p) "*Oath*" includes affirming, swearing, verifying or certifying the truth of something under penalty of perjury.

(q) "*Political action*" refers to all conduct in which public officials, including

legislators or legislative employees, use their official position or political contacts to exercise informal influence on state and local government employees or entities. It includes but is not limited to intervening on behalf of constituents with any government agency, endorsing, and pledging support or actively supporting a legislative matter, a nominee or a candidate for public office.

(r) "*Professional representation*" refers to representation for compensation.

(s) "*Reasonably should know*." Persons reasonably should know a fact when, under the circumstances, persons of reasonable prudence and competence would ascertain or know the fact. One cannot wilfully blind themselves to facts and inferences in the desire not to know.

(t) "*Representation*" refers to actions taken on behalf of another, whether for compensation or not, including but not limited to telephone calls and meetings and appearances at proceedings or meetings. When compensation is paid, it is professional representation.

(u) "*Substantial interest in legislative, administrative or political action*." Persons and organizations have a substantial interest in legislative, administrative or political action if they

- (1) are regulated by the legislature;
- (2) provide goods or services to the legislature for compensation or profit;
- (3) seek employment in the legislative branch or any government agency or in a private organization in which a legislator or legislative employee is likely to have, or reasonably appears to have, the ability to influence an employment decision;
- (4) will be directly and substantially affected, either financially or personally, by any contemplated legislative, administrative or political action;
- (5) have or seek contracts for goods or services with any agency of state government;
- (6) are registered lobbyists; or
- (7) represent, with or without compensation, a person or organization described in (1)-(7) above.

(v) "*Unofficial compensation*" refers to any payment for legislative or administrative services made to a legislator or legislative employee by any source other than the State of Alaska in the form of legislative compensation or per diem payments.

(w) "*Unwarranted benefit*" refers to any benefit not earned, deserved or attained strictly on the merits or according to normal procedures, but attained as the result of improper use of public office.

ARTICLE 2.

Statement of Ethical Principles, Standards of Conduct & Guidelines for Legislators and Legislative Employees

Section

STATEMENT OF ETHICAL PRINCIPLES

- 50. Principle of Good Faith
- 51. Principle of Nonpartisanship
- 52. Principles of Public Trust
- 53. Principle of Pursuit of Public Interest
- 54. Principle of Accountability
- 55. Principle of Democratic Leadership
- 56. Principle of Respectability -- Conduct Befitting the Legislature
- 57. Principle of Independent Judgment

STANDARDS OF CONDUCT

- 100. Misuse of Office for Private Gain
- 101. Improper Benefit From Performance of Public Duties
- 102. Duty to Report Improper Offers
- 103. Misuse of State Property and Resources for Private Gain or Personal Advantage
- 104. Misuse of State Property and Resources for Political Purposes
- 105. Obligation of Subordinates to Refuse to Perform Improper Tasks
- 106. Regulations Concerning Use of Public Resources
- 107. Use of Nonpublic and Confidential Information for Private Gain
- 108. Misuse of Title or Prestige of Office for Private Gain or Personal Advantage
- 109. Post-Service Restrictions: Misuse of Public Office by Former Legislators and Legislative Employees
- 110. Misuse of Campaign Funds
- 111. Disbursement of Surplus Campaign Funds
- 112. Legal Expense and Defense Funds
- 113. Improper Coercion
- 114. Fund Raising Limitations

- 120. Obligation to Avoid Conflicts of Interest
- 121. Financial Conflicts of Interest
- 122. Personal Relationship Conflicts of Interest
- 123. Restricted Relationships; Nepotism

- 124. Restricted Relationships: Lobbyists, Legislators and Legislative Employees
- 125. Restricted Relationships: Board Memberships
- 126. Restricted Financial Interests
- 127. Restricted Activities as an Attorney or Representative
- 128. Restricted Transactions: State Contracts, Programs and Loans
- 129. Restricted Transactions: Gratuities
- 130. Restrictions on earned Income: Outside Income and Honoraria
- 131. Obligation to Make All Decisions on the Merits: Favoritism and Patronage
- 132. Improper Interference With the Independent Judgment of Others on Behalf of Constituents

- 140. Conflict of Interest Disclosure: Statement of Intent
- 141. Conflict of Interest Disclosure by Legislators and legislative Assistants
- 142. Reporting Category A Income
- 143. Reporting Category B Income
- 144. Reporting Close Economic Associations and Close Personal Relationships
- 145. Reporting Obligations of Persons and Entities Paying Compensation to Legislators and Legislative Assistants
- 146. Enforcement

- 150. Accountability: Openness and Oversight
- 151. Accountability: Self-Policing, Whistle Blowing and Protection of Whistle Blowers

- 160. Duty Toward Colleagues and Subordinates
- 161. Duty to Advance Principles of Representative Democracy

STATEMENT OF ETHICAL PRINCIPLES

Preamble. Sections 50-57 state the overarching ethical principles of legislative ethics. They are, by nature, broader and more philosophical than the Standards of Conduct and, therefore, somewhat less amenable to strict enforcement. Their primary purpose is not to provide additional bases of punishment, but to establish the theoretical and moral foundation for the Standards of Conduct and to provide explicit guidance and direction for those who wish to follow the ethical high road, not simply out of fear of punishment but out of commitment and conscience. These principles also establish criteria for interpretation and enforcement of the principles themselves and the Standards of Conduct that follow. The principles shall be regarded as an integral part of this Act.

20.60.050. PRINCIPLE OF GOOD FAITH.

Each provision of this Act shall be construed and implemented with sincerity, integrity and a good faith commitment to advance rather than evade the purpose and spirit of the provision.

Guidelines and Commentary

These standards of conduct, like any other written regulations, are vulnerable to an endless array of evasion strategies. Unduly narrow or legalistic constructions of specific provisions, strained and insincere interpretation of facts and willful blindness to the real motives behind an act undermine the clear purpose of an ethics code and denigrate the spirit this Act. Under this provision, deliberate bad faith circumvention of these standards is itself a violation of the ethical obligations of public service and may be the basis for administrative sanction.

20.60.051. PRINCIPLE OF NONPARTISANSHIP

All actions, decisions and votes on matters relating to this Act shall be made purely on their merits. Decisions shall be made objectively and independently, and without party, regional or ideological partisanship.

Guidelines and Commentary

- i) *Highest Duty.* The highest duty of legislators and legislative employees is to uphold the integrity of the legislature, regardless of narrow political considerations. Though partisan politics based on party, region and ideology are an integral and often constructive part of the American political structure, it is essential that the ethical responsibilities arising from these standards of conduct -- including consideration of a complaint, imposition of sanctions, appointment of members of the Legislative Ethics Commission and appropriation of the Commission's budget -- be unfailingly treated as nonpartisan, public interest issues of great importance.
- ii) *Playing Politics With Ethics.* The ethical quality of democracy and the integrity and stature of the legislature are inherently nonpartisan issues. Playing politics with ethics issues creates two very significant harms. First, it undermines the effectiveness and moral authority of the ethical rules themselves. Second, the elevation of politics over ethics is invariably perceived by the public and the press in a way that dramatically increases public cynicism and disrespect for the legislature -- the very things these standards are designed to prevent.

iii) *Need for Restraint and a Long Term Perspective.* Unfortunately, it is often difficult to maintain a nonpolitical, nonpartisan perspective in the context of competitive politics. The disposition of ethics-based charges may have profound political implications, not only on the careers of the persons directly involved, but often for political parties and other individuals vying for power. Ethics issues are often raised for political motives and it takes great restraint and a powerful long term public perspective to separate the motives of a charge from the merits of it. While the political dimension of legislative actions regarding matters of ethics may never be entirely removed, with discipline and commitment to principle, it can be consciously subordinated to a broader view of the legislator's role and of the public interest.

20.60.052. PRINCIPLES OF PUBLIC TRUST.

(a) *Ensuring Respect, Trust and Support.* Legislators and legislative employees shall act so as to ensure the reality and perception that the legislature is conducted according to the highest principles of representative democracy and is worthy of public respect, trust and support.

(b) *Avoiding the Appearance of Impropriety.* Legislators and legislative employees shall not engage in any conduct which they know or reasonably should know is likely to create in the minds of reasonable, objective, fair-minded observers the perception that they have used their public position improperly or otherwise have not conducted themselves in accord with the ethical principles and standards of conduct of this code.

Guidelines and Commentary

i) *Positive Duty to Maintain Respect.* There are two separate dimensions to the obligation to ensure public trust: 1) avoiding actual wrongdoing -- violating laws, legislative rules or doing any other act which involves dishonesty, a lack of integrity, or disregard for ethical standards; and 2) avoiding the appearance of wrongdoing -- engaging in conduct which is likely to generate cynical attitudes and suspicions about government and the people who administer it.

ii) *Importance of Perceptions.* The concept of trust is as much a creature of perceptions and beliefs as it is of reality. Thus, conduct which creates in the minds of reasonable observers the perception that government office has been or may be used improperly violates the obligation to safeguard public trust even if the conduct does not actually misuse public office.

iii) *Reasonable Person Test.* The standard to determine whether something is improper is not set by the most suspicious and cynical members of society who are predisposed to assume bad faith or corrupt motive. The standard is whether reasonable, objective and fair-minded citizens find the conduct improper. Still, it is important to remember that such citizens will make their judgments with no special knowledge of the facts or private intentions of the parties.

iv) *Responsibility to Act.* It is not always right to avoid an act simply because it will look wrong. The ethical obligation to avoid the appearance of impropriety should not be used as an excuse for inaction where, on balance, the action is proper. Excess timidity in the face of possible criticism is no more justifiable than callous disregard for improper appearances. In some cases, legislators should be willing to confront criticisms and endure unfair denunciations, choosing to explain and justify their behavior rather than alter their conduct to suit the cynical perceptions of a misinformed press or public.

v) *Avoiding Bad Decisions.* A balance must be found between the need to preserve public confidence and the responsibility to make sound decisions on the merits. The requirement that legislators avoid even the appearance of impropriety can sometimes undermine the public interest and cause bad decisions. For example, it may lead to discrimination against friends or political supporters simply because a transaction may look bad to the public. Sensitivity, thoughtful discrimination and restraint is important in this area. But if a friend or political supporter is *clearly* the best qualified person available to perform a needed public task, it is unfair and unwise to automatically and invariably disqualify them.

vi) *Accountability.* Occasionally, a conscientious legislator or legislative employee will decide to override the appearance of impropriety test in order to do what he or she thinks is "right" under the circumstances. In such cases, there is a responsibility to reduce the harm to public trust by taking affirmative steps to assure that all facts relevant to the choice are made public and that the process of decision making is open to and can withstand close scrutiny.

20.60.053. PRINCIPLES OF PUBLIC INTEREST.

(a) *General Rule.* Legislators and legislative employees shall treat their government positions as a public trust, using the powers and resources of public office only to advance public interests, and not to attain personal benefits or pursue any other private interest incompatible with the public good.

(b) *Primacy of Democratic Processes.* In pursuing the public interest, legislators and legislative employees shall scrupulously observe and abide by the United States and Alaska Constitutions, all applicable laws and democratic processes.

(c) *Pursuing Broad Public Good.* In pursuing the public interest, legislators and legislative employees should

(1) put loyalty to democratic principles and to their conscientious convictions about the overall public good above loyalty to political party, narrow constituency, and individual interests which are inconsistent with the general public interest.

(2) allocate public funds and formulate general public policies only after evaluating information objectively and deciding what is best for the public as a whole, not just for a narrow constituency.

(3) take whatever steps are necessary to safeguard and protect the reputation of state government and the integrity and efficiency of their office, subordinating the interests of superiors, colleagues and friends to the interests of the state.

Guidelines and Commentary

i) *Purpose of Government.* Section 53(a) establishes one of the most fundamental principles of public service ethics -- pursuit of public interest. The purpose of state government is to advance the public interest by assuring justice, providing educational opportunities, protecting health and the environment, securing public safety, creating economic stability and development, and safeguarding the liberties and rights of the people, among other things. Legislative office and authority

should be used only to pursue these and similar public interests. The duty to only use public office in pursuit of the overall public interest is a positive one. Although it precludes using government position for private gain, it also precludes use of public resources, power or prestige for any nonpublic purpose, even if the actor does not personally benefit.

ii) *Principle Over Expediency.* Section 53(b) precludes unlawful conduct or improper use of office to achieve a "greater good" on the theory that the end justifies the means. In a democracy, the primacy of state and federal constitutions require that each public servant's vision of the public interest be pursued only through lawful processes which acknowledge and respect the separation of powers among government branches and the role of other public officials in the formation and implementation of public policy.

iii) *Determining the Public Interest.* Section 53(c) is designed to provide guidance to legislators and legislative employees who must often unravel conflicting loyalties and duties. It uses the term "should" rather than "shall" because the principles stated in this provision are not amenable to uniform interpretation or enforcement. Still, the principles and rationales stated in this provision and the following commentary are deeply rooted in democratic political philosophy, and they are important. Legislators are accountable to a complex network of competing loyalty obligations -- to country, state, community, constituency groups, political supporters, colleagues, subordinates, family and self. In many political situations, these loyalties conflict. What is best for the country or state may not be good for a particular community; what is good for an individual constituent or interest group may not be in the best interest of other constituents or interest groups; and the highest public interest may conflict with personal career ambitions. Inevitably, legislators must resolve conflicting interests by ranking their loyalty obligations. Though decisions have to be made on a case-by-case basis, the principle of public service generally requires elected officials to pursue the greatest long term good for the greatest number by placing larger, broader interests over smaller, narrower ones: country over state, state over community, community over individuals, and principle over party.

iv) *Representative and Administrative Duties of Legislators.* A major duty of state legislators is to pursue laws and policies which improve the social and economic conditions of their districts. They are also expected to represent the views and advocate the interests of their constituents and, as an aspect of this responsibility, they often perform an ombudsman function by assisting constituents in their relationships with government to assure that they are treated fairly and efficiently. In addition to these representative responsibilities, however, all elected officials have policy and law-making obligations which impose a duty to use independent objective judgment to pursue the overall public good. In exercising these responsibilities -- allocating public funds and formulating public policies relating to pressing social issues such as the environment, education, health and safety -- they should transcend their role as advocates of narrow constituent interests. They should perform a role closer to that of a neutral administrator or judge, evaluating information objectively and deciding what is best for the public as a whole.

v) *Conflicts in Constituent and Public Interests.* Representation of specific constituent interests usually raises no substantial conflict with public interests. But when it does, the dilemma generally should be resolved in favor of the wider public interest in spite of political risks. For example, the public interest may require taxes that individuals do not want to pay, especially for programs with low constituency support but high public importance (e.g., correctional facilities, waste disposal sites, providing aid to homeless or otherwise impoverished but politically powerless groups). Similarly, the public interest may require budget cuts and the elimination of government facilities, public works projects or jobs though the cost

of such measures will be felt disproportionately in the districts most directly affected. When decisions about programs and expenditures are controlled by the desire to steer money and jobs to particular districts, the quality and efficiency of government programs inevitably are compromised. This type of decision making is especially dangerous when public health or safety are involved. It also contributes to the cynical impression that political decision makers are more concerned about their political careers than the public good. It is said that a politician thinks of the next election, a statesman thinks of the next generation. Politicians who consider staying in office a moral imperative will be unwilling or unable to take such risks. Those who view their role more broadly, however, will see it as their obligation to do so.

vi) *Loyalty Conflicts Within Organizations.* A common loyalty conflict arises where the interests of an organization are inconsistent with those of individuals within the organization. The problem gets even more complicated when loyalty to a particular person within the organization conflicts with loyalty obligations to others. Under the principles of public interest, the responsibility of office generally demands the placing of institutional interests above individual loyalties though decisions which advance the institution at the cost of individuals should be made and executed with compassion, sensitivity and respect.

20.60.054. PRINCIPLE OF ACCOUNTABILITY.

Legislators and legislative employees shall assure that government is conducted openly, efficiently, equitably and honorably in a manner that permits the citizenry to make informed judgments and hold government officials accountable.

20.60.055. PRINCIPLE OF DEMOCRATIC LEADERSHIP

Legislators and legislative employees should honor and respect the principles and spirit of representative democracy and set a positive example of good citizenship by scrupulously observing the letter and spirit of laws and rules.

20.60.056. PRINCIPLE OF RESPECTABILITY -- CONDUCT BEFITTING THE LEGISLATURE

Legislators and legislative employees shall safeguard public confidence in the integrity of government by engaging in no conduct which demonstrates they are not fit for public office, prevents them from carrying out their public duties or which unreasonably casts discredit on the legislature.

Guidelines and Commentary

i) *Legislators Must Not Discredit the Legislature.* Legislators and legislative employees properly are held to high standards of personal probity and acts which demean or discredit government or demonstrate defects in their character and judgment are improper. They should conduct their professional and personal lives so as to reveal character traits, attitudes, and judgments that are worthy of honor and respect and demonstrate fitness for public office. Thus, conduct which violates this rule is independently sanctionable.

ii) *Honesty and Integrity.* Legislators should be scrupulously honest, avoiding any form of lying, deception, deviousness, hypocrisy and cheating in their professional

and personal lives. Dishonesty by a legislator is wrong in itself but it also violates principles of public service ethics by seriously undermining the credibility of government. Technical or literal truthfulness is not all that is required; honesty precludes any deliberate deception including the raising of false inferences. Legislators and legislative employees should also reflect personal integrity in all matters, placing principle over expediency and demonstrating courage of convictions. Although it is necessary and proper for elected officials to represent the views of their constituencies it also is necessary that they have pronounced and strong personal convictions--things they stand for. Legislators should offer principled leadership.

iii) *Illegal and Dishonest Conduct.* Activities which are illegal but not directly related to legislative service (e.g., drunk driving, drug use, tax evasion, assault, hiring prostitutes) still discredit the individual and the legislature itself. Similarly, private conduct, even if legal, discredits the body if it reveals dishonesty, deviousness, or hypocrisy. All such acts by legislators or legislative employees tend to undermine public respect and confidence and, therefore, they violate the principle of respectability.

iv) *Private Personal Conduct.* The most difficult area of private conduct concerns legal behaviors that subject the actor and the legislature to criticism or ridicule because it violates the moral sensibilities of a significant portion of the public. The obligation of public servants to lead exemplary lives for the sake of the reputation of government in general must be balanced against a real and important right to a private life which may involve choices and behaviors that raise moral issues. Acts of adultery, homosexuality, promiscuity ("womanizing" or "man-izing"), for example, concern personal matters that should not be the basis of any charge or sanction under these rules unless it is clear that the behavior bears on the fitness to serve or the ability to carry out duties. Whether or not lawful private acts which do not bear in any direct way on the responsibilities of public office are proper subjects of press disclosure and public scrutiny, they are not appropriate concerns under this act. No separate sanction for private conduct in the "moral arena" is contemplated. Such matters should be left to the electorate.

21.60.057. PRINCIPLE OF INDEPENDENT JUDGMENT.

Legislators and legislative employees shall employ independent objective judgment in performing their duties, deciding all matters on the merits, free from conflicts of interest and both real and apparent improper influences.

Guidelines and Commentary

The most heavily regulated area of government ethics relates to conflicts of interest, especially financial conflicts. This provision overarches the individual conflict of interest provisions in this code and states clearly the nature of the ethical obligation. Essentially, a conflict of interest exists whenever a person has personal interests which are inconsistent with professional obligations. In the case of public service, the primary obligation is to exercise independent objective judgment in the public interest and scrupulously avoid interests that are likely to impede the ability to make such judgments.

STANDARDS OF CONDUCT

20.60.100. MISUSE OF OFFICE FOR PRIVATE GAIN.

Statement of Intent. Inherent in the concept that public office is a public trust is the principle that persons refrain from using or attempting to use their government position to attain: 1) personal financial gain, other than official legislative compensation; 2) undue personal benefits, advantages or privileges not available to the public at large, either for themselves or members of their immediate families; 3) undue private benefit for social or business associates, political contributors, corporations or other organizations in which the public servant is involved; or 4) narrow political advantages where the use of office is inconsistent with the obligation to use public office only to advance the public interest.

Guidelines and Commentary

The obligation to use public office only in the public interest and not for private gain underlies many of the specific provisions of this code. It is impossible, however, to envision and specify all the possible ways that this principle may be violated as the range of private interests and improper motives is almost inexhaustible. This provision makes it clear that it is improper to make any use of office or position primarily to attain personal benefits, whether they are financial, social or political. This statement of principle is somewhat broader but not inconsistent with AS 39.52.120, "Misuse of Official Position," which prohibits nonlegislative public officers from using or attempt to use, an official position for personal gain or to secure or grant unwarranted benefits or treatment.

20.60.101. IMPROPER BENEFIT FROM PERFORMANCE OF PUBLIC DUTIES.

(a) *Unlawful Compensation or Gratuities.* No legislator or legislative employee shall seek nor accept anything of value as a result of the proper performance of public responsibilities. This provision shall not be construed to prohibit solicitation for and acceptance of campaign contributions under circumstances which are otherwise permitted.

(b) *Improper Offers to Affect Conduct.* No legislator or legislative employee shall accept anything of value under circumstances where the legislator or legislative employee knows or reasonably should know that it is offered with the intent to influence legislative, administrative or political actions.

(c) *Enforcement.* In addition to all civil remedies authorized under AS 20.60.020, violation of this section shall be a class A misdemeanor.

Guidelines and Commentary

i) *Benefit Need Not Affect Conduct.* Legislators and legislative employees have an obligation to perform their duties diligently, promptly, efficiently and fairly. In representing constituents from their districts they have the additional responsibility to exercise oversight over administrative agencies and, in some cases, to assist constituents in a reasonable manner that does not unduly interfere

with the independent judgment of administrators. The only lawful compensation for properly performing these services is official salary and allowances paid by the state. It is improper to seek or receive anything of value from a citizen as a reward, expression of gratitude or payment for the performance of public duties even if the benefit had no actual affect on public decisions or actions.

ii) *Unsolicited Gratuities.* Even unsolicited gratuities otherwise permitted create an appearance of impropriety when they are given to a legislator or legislative employee after or in anticipation of an official action or informal representation within the normal scope of duties. Though the recipient may not have anticipated the gift and, therefore, could not have been influenced by its prospect, a reasonable observer might believe it was a payment or reward for services rendered. Minor courtesy items such as coffee cups and desk memento, flowers or a box of candy may be accepted, but generally, gifts ought to be returned with a polite but firm message that the gesture was unnecessary and could be construed as improper. If this is not feasible, they ought to be given to charity or otherwise handled in a way which makes it clear that the public servant has not accepted and does not want any personal benefit for official actions.

iii) *Avoiding the Appearance of Selling Access.* The ability of a citizen to confer directly with a legislator is frequently referred to as access. Because of the great press of duties and demands on the legislator's time, it not always possible for a legislator to personally talk with everyone who seeks an audience or to give them all the time they would like. The legislator's time is a crucial asset which must be carefully allocated among competing demands. It is important, however, that access is not determined by the willingness or ability of the person to provide any benefit to the official whether it be in the form of a gratuity, an honorarium or even a campaign contribution (regulations dealing with improper means of acquiring political support stated in AS 20.60.150).

(iv) *Duty to Reject Improper Offers.* Section 101(b) concerns improper offers and the obligation to reject them. Under Alaska's criminal law, AS 11.56.100, "a person commits bribery if the person confers, offers to confer, or agrees to confer a benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, action, decision or exercise of official discretion." If the benefit conferred is accepted with the intent to use one's government position for private gain, the public servant is also guilty of bribery -- even if no act was actually performed. It is critical to recognize, therefore, that the acceptance by a legislator or legislative employee of benefits of any sort from persons who seek to influence official actions raises criminal as well as ethical issues. Although the high standard of proof and other procedural safeguards of a criminal trial make it difficult to establish the crime of bribery, the ethical obligation to avoid transactions which cast doubt on the integrity of government is not, however, delimited by the standards of provable bribery. Legislators and legislative employees must avoid both the appearance and the reality that public office was used for private gain. Therefore, it is improper to accepting any benefit, whether in the form of compensation for services or a gratuity, from a person with a corrupt motive; it is not enough that the public servant has no intent to do anything improper or, in fact, that nothing improper is done.

20.60.102. DUTY TO REPORT IMPROPER OFFERS.

(a) *Duty to Reject and Warn.* Legislators and legislative employees who receive an offer which reasonably appears to have been intended to improperly influence legislative, administrative or political action, shall firmly and unequivocally reject the offer and caution the person making it about a possible violation of undue influence and bribery laws.

(b) *Duty to Report.* If the attempt to improperly influence is clear, the matter shall be reported to law enforcement authorities.

(c) *Enforcement.* Violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

Guidelines and Commentary

It is not always sufficient to turn down an improper offer of gifts or other benefits. Any attempt to unduly influence a public official warrants some action that at least educates the offeror of the impropriety and risk of such conduct. Occasionally, an improper offer is made by an unsophisticated individual who should have, but did not know any better. A polite but firm warning may be sufficient. On the other hand, improperly motivated gratuities are attempted bribes and when the source appears to be well aware of the significance and impropriety of the action, the matter should be handled with great seriousness. A failure to react with indignation or report improper offers to the authorities can be viewed as wrong in itself. (Imagine how would it look on the nightly news to learn that a public official was offered a bribe and he merely said, "No thank you.").

20.60.103. MISUSE OF STATE PROPERTY AND RESOURCES FOR PRIVATE GAIN OR PERSONAL ADVANTAGE.

(a) *Misuse of Property for Private Gain.* No legislator or legislative employee shall use public funds, time, facilities, equipment, mailing lists, computer data, services or any other government asset or resource for any unauthorized nongovernmental purpose or for the private gain or advantage of either the legislator, legislative employee or any other person unless authorized by law.

(b) *Misuse of Funds.* No legislator or legislative employee shall seek, accept, use, allocate, grant or award public funds for any purpose other than that approved by law, nor shall any person make any false statement in connection with a claim, request or application for compensation, reimbursement, or travel allowances from public funds.

(c) *Misuse of Public Personnel for Private Gain.* No legislator or legislative employee shall use or seek to use any legislative employee on government time to perform personal services or assist in any private activity not directly related to the official duties of the legislator or legislative employee.

(d) *Enforcement.* In addition to all civil remedies authorized under AS 20.60.020, violation of this section shall be a class A misdemeanor.

Guidelines and Commentary

i) *Authorized Use of Government Property to Aid Private Enterprises.* Section 103(a) covers situations where a legislator or legislative employee improperly uses state property or resources for personal gain or that of another. In certain cases, economic development activities authorized by law involve using state resources to assist private enterprises. This is permitted.

ii) *Misuse of Government Property for Personal Gain.* Section 103(a) establishes the basic rule that state facilities, equipment and services (office space, typewriters, word processors, telephones, postage, computer data, stationery, mailing facilities, photocopying, etc.) may not be appropriated for personal gain or advantage. Common sense and fairness requires that this provision be interpreted reasonably. Though government facilities should certainly not be used for personal purposes on a substantial, regular or ongoing basis, occasional and limited usage should be permitted so long as: 1) it does not interfere with the performance of public duties; 2) the cost or value related to the use is so nominal that reimbursement procedures would not be worth the effort, and 3) the use does not raise an unreasonable appearance of impropriety or undue political advantage. For example, interpretation of these limitations should take into account the reasonable needs and expectations of employees and permit them to make and receive occasional personal phone calls of short duration.

(iii) *Frequent Flyer Points.* Unless otherwise provided by law or regulation, the frequent flyer points or other bonuses related to air travel paid for by the state, shall be treated as the personal property of the employee. While a strong logical case can be made that the collateral benefits of state-paid travel should accrue to the state, the practical and morale problems entailed in administering such a position do not justify the small gain. The state, of course, has an interest in seeing that public resources are used economically and only spent in the public interest. Allowing public employees to personally benefit from bonuses attributed to government travel raises a potential conflict of interest as it creates an incentive for the employee to select a carrier based on private economic advantage rather than state interests. This conflict is not a major one, however, especially in Alaska where the number of carriers and flights tend to limit options. Moreover, the prohibition against using public authority or funds for personal gain would make selection of a carrier on inappropriate criteria improper. Any legislator or legislative employee who actually allows the desire to earn frequent flyer points or bonuses to influence official decisions violates this provision and is subject to sanction notwithstanding the fact that any points earned are the property of the legislator or employee. This should provide a sufficient deterrent to protect the state's interests.

iv) *Misuse of Legislative Employees for Personal Gain.* Section 103(c) prohibits misuse of legislative employees whose time is and should be treated as public property which should not be misappropriated to personal use. Publicly paid employees simply must not be used as personal secretaries or private staff. Overly strict application of this provision, however, is inappropriate. For example, a legislator should be permitted to make moderate use of staff to help organize and schedule the legislator's calendar, appointments and travel plans -- including some events of a political or private nature. Emphasis, however, must be placed on the word "moderate" and both the aide and the legislator must be vigilant to avoid actual abuse as well as the creation of the appearance of unreasonable use of public personnel. Though this limitation should be interpreted in a reasonable manner given the pressing responsibilities of a legislator, purely personal errands such as dropping off laundry, picking up children, handling household or private matters, and purchasing private gifts are justifiable only in extraordinary circumstances where the task is suddenly necessary to help the legislator perform professional duties. Generally, employees do not voluntarily contribute their personal time to benefit their employers. Yet public officials sometimes claim that employees willingly perform personal services "on their own time" -- during lunch hour, after normal working hours. Such claims should be examined with skepticism as there is a high risk that the employees believed that they were required to perform personal work as part of their jobs. In such cases, there is at least an appearance of improper exploitation and such use of public personnel

should be avoided. If a legislative employee is asked to perform any personal service, it is best if the employee is paid for his or her time out of the official's private funds.

20.60.104. MISUSE OF STATE PROPERTY AND RESOURCES FOR POLITICAL PURPOSES.

(a) *Statement of Intent.* Public resources, including funds, facilities and personnel, should be used only for the good of the public at large and should not be used to further partisan campaign purposes or to influence the outcome of an election. Elections should be fair and open and not distorted by the use of public resources to the advantage of individual candidates. The taxpayers should not be forced to subsidize the campaign of an incumbent legislator.

(b) *Misuse of Property for Political Purposes.* No legislator or legislative employee shall use public funds, time, facilities, equipment, mailing lists, computer data, services or any other government asset or resource for the purpose of political fund raising, campaigning, to influence the outcome of an election, or other purely political purposes.

(c) *Misuse of Public Personnel for Political Purposes.* No legislator or legislative employee shall use or seek to use any legislative employee on government time to assist in political party activities, campaigning, fund raising, or other partisan or personal political activities.

(d) *Specific Prohibitions.* Unless and until comprehensive regulations relating to the use of government resources for political purposes have been developed by the legislature and adopted by the LEC pursuant to AS 20.60.106, the following prohibitions shall apply:

(1) *Improper Mass Mailings and Newsletters.* No legislator may use or authorize the use of public funds, property, time, personnel or other resources to produce, print, photocopy, publish, broadcast, or otherwise disseminate material intended to influence the result of an election.

(A) This provision shall apply to newsletters and other constituent correspondence which by its nature, content, timing or use clearly appears to be primarily intended to influence an election, even if the materials do not make a specific reference to the election.

(B) Unless approved by the LEC, no public funds may be used to print or distribute any mass mailing from or about a legislator who is a candidate for reelection to the legislature or any other state office within 90 days of a primary election in which the legislator is a candidate. This prohibition shall persist until after the final election.

(2) *Improper Solicitation or Receipt of Contributions.* No legislator, or any

other person on behalf of the legislator or a campaign committee of the legislator, shall solicit or accept a campaign contribution in a facility or office ordinarily used to conduct state government business. This provision applies to telephone conversations, personal meetings and mail. If an unsolicited contribution is offered or sent it shall be refused or returned promptly.

(3) *Improper Posting of Campaign literature.* No legislator, or any other person on behalf of the legislator or a campaign committee of the legislator, shall distribute or post literature, placards, posters or other communications designed to influence the outcome of an election in a facility or office ordinarily used to conduct state government business.

(e) *Enforcement.* In addition to all civil remedies authorized under AS 20.60.020, violation of this section shall be a class A misdemeanor.

Guidelines and Commentary

i) *Misuse of Resources or Staff for Political Purposes.* Sections 105 (b) - (d) regulate the use of government resources, including legislative employees, for political or campaign purposes. It is often difficult to distinguish legitimate political work within the scope of official duties from campaign activities but the basic rule is clear: public resources should not be used for political purposes as the taxpayer should not be forced to subsidize campaign or other partisan political activities. In general, the use of public employees is justified in activities where there is a *substantial* and *bona fide* public purpose to the activity and there is *no personal profit*. Materials which express the legislator's opinions or views are generally proper whether in the form of a speech, article, newsletter, or position paper. They can be worked on by legislative staff even if these materials will and are intended to be used as part of a campaign for legislative office.

(ii) *Special Problems With Senior Aides.* Many legislators are assisted by a senior aide who also serves as a major campaign adviser. It is unrealistic to expect that such persons will not be involved intimately in the full political life of their employer. So long as the senior aide "does a full day's work for a full day's pay" to justify the government salary, party and campaign activities above and beyond public duties should be tolerated. In some cases, portions of the aide's salary ought to be paid out of campaign funds. Once one begins to use other legislative staff, however, a serious problem arises and unless the use is expressly justified by regulations promulgated by the legislature or the LEC, the use shall be regarded as improper.

(iii) *Advice of LEC.* A legislator or legislative employee who is unsure about the propriety of a use should seek advice from the LEC.

20.60.105. OBLIGATION OF SUBORDINATES TO REFUSE TO PERFORM IMPROPER TASKS.

(a) *Duty to Refuse.* Legislative employees who know or reasonably should know that they have been asked to perform improper personal or political tasks shall refuse to perform them.

(b) *Duty to Report.* If a legislator or legislative employee with supervisory authority persists in requesting or demanding that a legislative employee perform improper tasks, or if reprisals are threatened or sanctions imposed as a result of the refusal to perform such tasks, the legislative employee subjected to the requests,

threats or sanctions shall report the matter to the LEC.

(c) *Enforcement.* Violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

Guidelines and Commentary

While it is improper for a superior to ask a subordinate to perform personal services, it also is improper for a subordinate, as a public servant, to accede to such requests. While tact is imperative as a practical matter, employees still have the obligation to assure that their services are not converted to nongovernmental uses. It is a violation of this Act for a supervisor to harass, pressure, embarrass, intimidate or punish an employee who properly refuses to perform improper personal services. This provision will be difficult for some employees to comply with yet its existence and their duty to do so provides the best protection against abuse. It is very likely that improper requests will be sharply reduced by the knowledge of this obligation and the fact that the employee subjected to such requests has no discretion to accede to them.

20.60.106. REGULATIONS CONCERNING USE OF PUBLIC RESOURCES.

(a) *Development of Regulations.* The Select Committee on Legislative Ethics shall develop and promulgate for the approval of the LEC detailed regulations relating to the use of government property, resources and personnel to assure that these provisions are interpreted uniformly and fairly and are consistent with the spirit of this Act.

(b) *LEC May Develop Regulations.* If the legislature fails to provide the LEC with comprehensive regulations as described above by January 1, 1991 it shall develop and promulgate such regulations on its own initiative.

20.60.107. USE OF NONPUBLIC AND CONFIDENTIAL INFORMATION FOR PRIVATE GAIN.

(a) *Improper Use or Disclosure of Information.* No legislator or legislative employee shall use or disclose, other than in the performance of official duties or as required by law, nonpublic or confidential information acquired in the course of and by reason of legislative service to obtain private gain for the legislator or employee or any other person or business, including a person or business with whom the legislator or legislative employee is associated or has negotiated prospective employment.

(b) *Definition of Nonpublic and Confidential.* Nonpublic information refers to information that is not available to the general public, the use or disclosure of which would result in an unwarranted benefit or advantage. Confidential information refers to any information made confidential by law or which is conveyed or accepted with the understanding that it will only be used for official purposes.

(c) *Enforcement.* In addition to all civil remedies authorized under AS 20.60.020, violation of this section shall be a class A misdemeanor.

Guidelines and Commentary

This provision addresses the improper use of information gained in government service for private gain. It forbids the exploitation of not only information which is labeled "confidential" or is treated as confidential by law, it also prohibits the private use of other valuable information not available to the general public which was acquired by the legislator or legislative employee by virtue of public position. For example, "inside information" about state plans or negotiating strategies, information revealed to legislative committees with the expectation that it be only used for official purposes, financial data, computer data and lists obtained during legislative service may not be used to obtain undue advantages nor conveyed to others to give them such undue advantage. A similar, but narrower, provision is contained in AS 39.52.140 as part of the Code of Ethics for nonlegislative public officials.

20.60.108. MISUSE OF TITLE OR PRESTIGE OF OFFICE FOR PRIVATE GAIN OR PERSONAL ADVANTAGE.

(a) *Unwarranted Economic Benefits.* No legislator or legislative employee shall use, nor allow others to use, the authority, title, or prestige of the legislator or employee's office to obtain unwarranted private economic benefits for the legislator, legislative employee or other person. This provision includes, but is not limited to, use of authority, title or prestige to obtain employment, contracts for goods or services, clients, grants or loans.

(b) *Unwarranted Personal Advantages.* No legislator or legislative employee shall use official letterhead or refer to the legislator or legislative employee's public position as a means of inducing or intimidating persons to resolve disputes more favorably, provide preferential treatment, or give free tickets, discounts, favors or other advantages.

(c) *Improper Endorsements.* No legislator or legislative employee shall use, or allow others to use, the authority, title, or prestige of the legislator's or employee's office in the context of an endorsement of a commercial product or service, nor shall official letterhead be used in materials endorsing a product, service or candidate for office. This provision shall not be construed to prohibit the use of a:

(1) legislator's or legislative employee's official title or letterhead in the course of an otherwise proper recommendation of a person for employment; nor

(2) legislator's official title, used in a dignified manner along with the name, as part of a political endorsement.

(d) *Exploitation of Public Office.* No legislator or legislative employee shall solicit or accept compensation of any sort under terms and conditions where the compensation is not commensurate with the services performed or which would otherwise create in the minds of reasonable objective observers the perception that the stature of office has been unduly exploited for private gain.

(e) *Definition of "Unwarranted Benefit."* Unwarranted benefit refers to any

benefit not earned, deserved or attained strictly on the merits or according to normal procedures, but attained as the result of improper use of public office.

Guidelines and Commentary

i) *Objective.* The objective of these provisions is to prohibit legislators and legislative employees from affording themselves and others unwarranted advantages by the inappropriate use of official title or the prestige of office. Because of the great power and authority of the legislature, the prestige and implied "clout" that usually accompanies legislative service is often a marketable asset. Some dimensions of this prestige are intimately associated with the person who attained the position and they constitute valid qualifications. It is important, however, that it not appear that a legislator or legislative employee has sought or obtained undue personal benefits from the office, especially in a way that discredits, cheapens or commercializes government service or connections.

ii) *Use of Title in Conducting Business.* It is improper to use or permit the use of official title in any manner which would lead reasonable observers to believe that legislative office is being exploited to derive direct financial gain or enhance the stature, reputation or business opportunities of an individual, corporation, or organization. It is common to use the stature and prestige of legislative office by direct reference to title or position or by use of official letterhead in communications. When carrying out the business of government, use or mention of official title or legislative affiliation is entirely proper. It is a different matter, however, when one is acting in a personal or private business capacity. Actual or apparent improprieties can arise from such conduct for several reasons: 1) a reference to public position may give the erroneous impression of governmental approval; 2) a person dealing with a high government official may think that the way the private matter is handled will affect treatment by the government; and 3) where legislators or legislative employees are affiliated with a private organization or business, potential clients or customers could easily conclude that the business has access to inside information or powerful connections that may be brought to bear on their behalf.

iii) *Board Membership and Consulting.* Enterprises of all sorts, including nonprofit associations, charitable organizations corporations and firms involved in lobbying, public relations, law practice and consulting often seek out persons serving in government, especially legislators, to serve on boards, advisory committees or as consultants. All such associations raise ethical problems because of the possibility that public office is used by the legislator and the enterprise that employs the legislator for private benefit. Because of the potential for conflicts of interest, AS 20.60.XXX forbids a legislator from serving on the governing board of organizations that regularly have substantial interest in legislative, administrative and political actions of the legislator. In other situations, however, this provision applies. While the most serious problems arise when the public servant is compensated in relation to the association, even uncompensated relationships may violate this provision if the legislator or legislative employee knows or reasonably should know that the organization intends to trade on its affiliation with someone in the state legislature.

iv) *Pay Should be Commensurate With Services.* It is especially important when legislators and legislative employees receive outside income that the compensation is commensurate with the actual personal services rendered. If any premium is being paid due to the public servant's position, or no significant services are being rendered, the enterprise is, in effect, improperly buying, and the public servant is, in effect, improperly selling the prestige associated with the office. In addition, premium payments may be perceived not as compensation, but as illegal gratuities.

v) *Perception of Undue Advantage.* Where the compensation paid for services is proportional to the services performed by normal market standards, or the service

is uncompensated, the appearance of impropriety is less severe. But even such relationships may reflect inappropriately use public office. For example, clients or customers may seek representation by a firm employing a legislator because they think that they will have some special advantage in dealing with government. Legislators and legislative employees who associate with private enterprises have a special duty to assure that these enterprises do not suggest or imply special influence with government and that clients and customers of the enterprise are not led to expect or encouraged to think that the association of the public official with an enterprise may afford them unwarranted benefits.

20.60.109. POST-SERVICE RESTRICTIONS TO PREVENT MISUSE OF PUBLIC OFFICE BY FORMER LEGISLATORS AND LEGISLATIVE EMPLOYEES.

(a) *Misuse of Nonpublic or Confidential Information.* No legislative assistant or person who has served as a member of the legislature shall, within one year of the expiration of such person's legislative service, use or disclose nonpublic or confidential information acquired in the course of and by reason of legislative service to obtain private personal gain or for the gain of another, including a person or business with whom the former legislator or legislative employee is now associated.

(b) *Improper Representation.* Legislators and legislative assistants shall not, for a period of one year after leaving office, assist another as a lobbyist, representative, consultant, adviser, or advocate in seeking to influence:

(1) any legislator or legislative employee to take or withhold any legislative action.

(2) any state agency, public official or employee with responsibility in an area in which the person, while a legislator or legislative assistant, had special oversight or budgeting responsibility, to take or withhold any administrative action.

(c) *Definition of Special Oversight or Budget Authority.* A person shall be deemed to have had special oversight or budget authority over an agency if he or she served, within the last year of his or her legislative term, as the president of the senate, speaker of the house, chair of the finance committee of either house or as chair of a committee directly concerned on a regular basis with the agency's activities.

(d) *Exploitation of Public Office.* No former legislator, within one year after leaving office, shall solicit or accept compensation of any sort under terms and conditions where the compensation is not commensurate with the services performed or which would otherwise create in the minds of reasonable objective observers the perception that the stature of office has been unduly exploited for private gain.

Guidelines and Commentary

i) *Restrictions on Post-Service Lobbying.* Section 109(b) addresses the problem of

the so called "revolving door." The tendency of persons to leave positions of power and influence in government to represent private interests in their dealings with government, often for compensation many times more than earned in public life, raises a number of serious concerns about the integrity of the political system. Among the concerns: 1) the former legislator will unduly exploit connections and inside information to gain undue and unfair advantages for their clients or employers; 2) the legislator may adjust official conduct even while in office in an attempt to attract the attention of or curry favor with prospective employers or clients; and 3) former associates may be too willing to defer to or give favors to their former colleague. In any event, the perceptions of impropriety are great. Many people would ban former legislative officials from any representational activities concerning the legislature or state agencies. This provision is more narrowly drawn to permit representation of private interests with nonlegislative state agencies provided that the former legislative official did not have special oversight or budget authority. While this may seem to work an unfair hardship on presiding officers and certain committee chairs, their relationship with certain agencies is so close that to permit them to turn around and lobby these agencies within a year of their government service is simply not appropriate. At the same time, the potential conflicts of interests arising from other legislators lobbying state agencies seems manageable so long as there is disclosure.

ii) *Improper Appearance of "Cashing In."* It is unseemly and a violation of the spirit of public service ethics when present or former government officials appear to be blatantly "cashing in" on their government service by acting as consultants, lobbyists, or spokespersons for private interests in circumstances where it appears that they are peddling influence or selling the prestige and stature of their prior office. This is not to say that former government officials who have important experiences cannot serve on boards, make speeches for substantial fees or engage in consulting or lobbying. But, the circumstances including how, when, and at what price they sell their services are of critical importance. See also Guidelines and Commentary to section 108 (iv) and (v).

20.60.110. MISUSE OF CAMPAIGN FUNDS.

(a) *Statement of Intent.* Since the right to solicit and accept funds from the public for the purpose of supporting a person's campaign for office is purely an incident of our democratic political system, the use that can properly be made of campaign funds must be sharply limited to prevent actual misuse and improper appearances of misuse of funds. Legislative campaign funds are received, free of tax liability to the recipient, for the specific purpose of assisting a candidate to get elected or reelected to office. Any other use of the funds, whether for personal gain or other purposes not closely related to *bona fide* campaign expenditures is improper.

(b) *Proper Uses of Campaign Funds.* Campaign funds may be properly expended for any otherwise lawful purpose intended to influence voters to elect or reelect the legislative candidate to the legislature including, but not limited to: payment of staff and consultants; rental of space and equipment for a campaign office; purchase of media time and space; design work; printing of campaign materials; postage; taking polls and interpreting them; telephone installation and usage; costs of distribution of materials; advertising in organizational and club bulletins or other brochures; inscribed promotional materials, including, buttons, pencils, pens, and items of

clothing; necessary intrastate travel and related expenses for the candidate and any member of the candidate's staff or immediate family provided that the travel and lodging are directly related to attempts to influence voters; victory and thank you celebrations; and newsletters and mass mailings promoting the candidate.

(c) *Personal Use Forbidden.* Candidates for the legislature shall not:

(1) use funds raised and designated as campaign funds for personal economic benefit, to supplement personal income or enhance personal life style;

(2) convert surplus campaign funds or interest earned on campaign funds to personal income;

(3) seek or claim a tax deduction or any other economic benefit for surplus funds disbursed to a charity pursuant to law;

(d) *Loans Forbidden.* Legislative candidates shall not borrow from campaign funds nor loan them to any other person or group.

(e) *Expenditures Must Be Bona Fide.* Campaign funds shall be used only as is reasonable and necessary to advance the interests of the campaign.

(1) Any person or company providing goods or services to the campaign shall not knowingly be paid more than the fair market value of the goods or services purchased.

(2) Funds shall not be used in any way which would create in the mind of a reasonable objective observer the belief that the funds are for the personal financial benefit of the candidate, the candidate's immediate family or any other person.

(3) Campaign funds shall not be paid to a member of the candidate's immediate family as an employee or for goods or services provided to the campaign unless the amounts paid are reasonable and proper for the goods or services provided. Any excess amounts paid to family members shall be treated as an improper conversion of campaign funds to personal use.

(f) *Post-Election Fund Raising Forbidden.* Except for funds irrevocably pledged during a campaign or campaign monies sent before a final election, a legislative candidate who has won office, and any committee related to the election, shall not accept campaign contributions. All post-election contributions shall be treated as illegal gratuities and must be returned.

(g) *Transfers Forbidden.* No legislative candidate and no committee controlled by a legislative candidate shall use campaign funds to make any contribution to any other candidate running for office or to any committee supporting or opposing a candidate for office.

(h) *Payment of Fines.* Campaign funds shall not be used to pay fines or other monetary penalties or costs assessed against a candidate by a court or other body, unless the fine, penalty, or cost is assessed as a result of proscribed actions by any member or employee of a campaign committee or any other person acting on behalf of the candidate under circumstances where the candidate did not know of, have reason to know of, acquiesce in, assent to, or direct those actions.

(i) *Enforcement.* In addition to all civil remedies authorized under AS 20.60.020, violation of this section shall be a class A misdemeanor.

Guidelines and Commentary

i) *Conversion to Personal Use.* A candidate who solicits donations for the purpose of conducting a campaign should accept such funds on the assumption that they are only given for the limited purpose of financing campaign activities for an immediate election. Campaign funds look like personal gifts, or worse, attempted bribes, when they are converted to the candidate's personal use. Conversion of campaign funds to personal use permits private gain from public office, creating blatant appearances of impropriety. Thus, it is improper to use campaign funds to: purchase personal items such as clothes, gifts, art; defray normal living costs such as auto leasing or maintenance, gas, or dry cleaning; pay for the travel of spouses or other relatives not clearly relevant to a campaign; or decorate political offices. Prior Alaska law permitted candidates after an election to disburse surplus campaign funds to themselves provided they declared the funds as income. This provision is expressly repealed with respect to legislative candidates. The ability to convert surplus funds to personal income is totally inconsistent with the limited purpose under which the funds were and lawful could be given and received. The converted sums, as well as sums used to repay campaign loans made by the legislator or the legislator's immediate family, are in essence, illegal gratuities. While it may not be possible to determine who provided the gratuity since all contributions are commingled, it is clear that treating campaign funds as personal income results in the improper acceptance of a gratuity.

ii) *Problems With Loans.* Loans of campaign funds to the candidate or others has the effect of converting the funds to personal use. Such loans create a serious appearance of impropriety, whether or not interest is paid and whether or not the loan is paid back in a timely manner.

20.60.111. DISBURSEMENT OF SURPLUS CAMPAIGN FUNDS.

(a) *Candidate's Option.* If a legislative candidate ceases to be a candidate or if there remains a balance in the account of the candidate or his or her controlled committee after the date of the election, the unexpended funds shall be used to:

(1) used to retire bona fide loans supported by appropriate documentation including loans made to a campaign by the legislative candidate or any member of the candidate's immediate family provided that all other outstanding loans are paid first;

(2) returned on a pro rata basis to those who have made contributions;

(3) paid promptly to the state treasurer for deposit to the General Fund of the State;

(4) donated to one or more charitable organizations which qualify for a

federal tax exemption provided that the charity is not one which is controlled by the candidate or a member of the candidate's immediate family or in which the candidate or a member of the candidate's immediate family is personally involved as a director, trustee, member of the board, officer or other position of responsibility;

(5) transferred to an ongoing political account controlled by the candidate but only in the amounts and according to the requirements set forth below.

(b) *Carryover.* A maximum of \$2,500 for candidates of the House of Representative and \$5,000 for candidates for the Senate of surplus campaign funds may be transferred to an ongoing political account controlled by the candidate.

(c) *Use of Carryover Funds.* Funds carried over pursuant to this section may be expended for any political purpose for which campaign funds can otherwise properly be used, but they may not be used for a campaign for any office other than the state legislature.

Guidelines and Commentary

Where candidates have raised more funds than they need for an immediate election, continued efforts to raise campaign funds is proper only if the donors are clearly informed about the likely use and lack of immediate need for their contributions. The increasing ability of incumbents to amass large "war chests" well before an election has raised serious ethical issues. This section prevents this by limiting the carryover of surplus funds to \$5,000 for senate candidates and \$2,500 for house candidates. The discrepancy is justified by the length of time between elections and the fact that other provisions limit non-election year fund raising. Retained surplus campaign funds can be used for campaign travel and other political activities.

20.60.112. LEGAL EXPENSE AND DEFENSE FUNDS.

(a) *Proper and Improper Use of Campaign Funds.* Campaign funds may be used to defray attorney's fees and other legal costs incurred in the candidate's legal defense to any civil, criminal, or administrative action or actions arising directly out of the conduct of the campaign or election process or the performance of any official action taken as part of the legislator's governmental activities and duties. Campaign funds shall not be expended, however, on defense costs relating to legal or ethics charges based on nonofficial personal conduct though pursuant a special defense fund may be established pursuant to the following rules.

(b) *LEC Approved Defense Funds.* A legislative candidate or legislator wishing to establish a legal expense fund account pursuant shall file a statement of organization for the legal expense fund with the LEC.

(1) The statement of organization shall identify the specific civil, criminal or administrative proceeding or proceedings for which the legal expense fund is established.

(2) The legal expense fund shall establish a single account at an office of a financial institution located in the state of Alaska, and all donations to the candidate or legislator for his or her legal expenses shall be deposited into that account.

(3) Only donations that are specifically designated by the donor as being for the legal expense fund may be deposited into the legal expense fund account. All such donations must be made payable to the legal expense fund, and no donation that is not specifically made payable to the legal expense fund may be deposited into the legal expense fund account.

(4) Expenditures from the legal expense fund account shall be made only for legal costs directly related to the civil, criminal or administrative proceeding or proceedings for which the legal expense fund is established. In no instance, however, shall any expenditures from the legal expense fund account be used to pay or reimburse any fines, penalties, judgments, or settlements in connection with any criminal prosecution or any civil or administrative action in which the legislative candidate or legislator is found to have committed, or admits to having committed any intentional or negligent violation of the law.

(5) No funds may be transferred from the legal expense fund to any other committee. Surplus funds remaining in the legal expense fund account after the proceeding or proceedings have concluded for which the account is established may be used for no other purpose and shall be returned to donors on a pro rata basis or given to the State General Fund within six months after the final conclusion of the proceeding or proceedings.

(6) This section shall constitute the sole means for soliciting or accepting donations for legal costs free of this Act's contribution limitations.

(c) *Testimonials and Fund Raisers.* Funds received from testimonial dinners or other fund raising events must be clearly designated in advance as either for campaign purposes or for the legal defense fund and all proceeds shall be dealt with accordingly.

(d) *Enforcement.* In addition to all civil remedies authorized under AS 20.60.020, violation of this section shall be a class A misdemeanor.

20.60.113. IMPROPER COERCION.

(a) *Statement of Intent.* Legislators wield substantial power and influence and it is essential that constituents and others interested in their legislative, administrative and political actions have, and believe they have, a fair and adequate opportunity to express their concerns, grievances and ideas without regard to their willingness or ability to provide personal benefits, contribute to particular charitable causes favored by a legislator or provide financial or other forms of political support.

(b) *Intentional Coercion.* No legislator shall, directly or through others acting on the legislator's behalf, engage in any conduct which the legislator knows or reasonably should know is likely to create the belief or impression in another that such persons and/or the causes they represent will receive more or less favorable consideration, or that they will be given more or less opportunity to personally state their case, or otherwise be benefited or disadvantaged as a direct result of their willingness to provide funds for a campaign contribution or any other cause favored by the legislator, or to provide the legislator with personal benefits or political support.

(c) *Other Prohibited Acts.* A legislator shall not, directly or through others acting on the legislator's behalf,

(1) agree to, or threaten to take or withhold any legislative, administrative or political action, including but not limited to support or opposition to a bill, employment, nominations and appointments, as a result of a person's decision to provide or not provide a political contribution.

(2) state or imply that the legislator will perform or refrain from performing any lawful constituent service as a result of a person's decision to provide or not provide a political contribution.

(3) participate in any discussion, scheme or plan clearly designed to evade the plain spirit and purpose of campaign and contribution regulations and financial disclosure provision of any state law.

(4) knowingly accept any contribution given or offered in violation of law.

(d) *Enforcement.* In addition to all civil remedies authorized under AS 20.60.020, violation of this section shall be a class A misdemeanor.

Guidelines and Commentary

i) *Solicitations of Campaign Contributions or Any Other Benefit.* Difficult problems arise with respect to the solicitation and acceptance of any benefit including campaign or other contributions from those who have a substantial interest in legislative, administrative or political actions of a legislator or legislative employee. In such cases, great caution should be exercised to avoid the appearance that solicitations of campaign contributions or other contributions are connected in any way, as a quid pro quo, with any legislative, administrative or political action which benefits the contributor. For example, solicitations of any benefit made shortly before or shortly after a legislator has done any act on behalf of a constituent should be scrupulously avoided in order to avoid the appearance that the legislator expected a contribution or other benefit in return for legislative, administrative or political services.

ii) *Political Contributions or Support in Exchange for Access.* A common complaint among lobbyists and others who have a substantial interest in legislative, administrative or political actions is that legislators directly, or through their staff, create the impression that those who make political contributions, hold fund raising events or provide other political support will have special access to the legislator when they want to make their case to influence action. In some cases, this access is expected to give the person an edge in persuading the legislator to

take or refrain from taking certain actions. In others, the person solicited believes that the contributions are more defensive, necessary to lubricate the relationship, believing that the failure to be supportive would significantly reduce their ability to effectively plead their case. In all these situations, however, there is implicit impropriety with the exchange of favors sometimes closely resembling a pale form of bribery or the coercion of support resembling a mild form of extortion.

iii) *Soliciting Donations to Charitable and Other Causes.* More and more, lobbyists and others who have a substantial interest in legislative, administrative or political actions have complained that legislators "strong arm" them to make donations to charities or other causes in which the legislator has a personal or political interest. Because of the importance of a positive relationship with the legislator, many persons so solicited feel obligated, not by conscience but by fear of offending, to comply with the request. Although most situations do not create the appearance of influence peddling since the benefit is not personal and since it is rarely large enough to create the appearance of a quid pro quo, many insiders see this as a form of extortion or a "tax" levied by legislative whim. If a legislator is to solicit another, either directly or through an aide, to contribute to a charity or a cause, he or she should do so in a manner that clearly and unequivocally removes any suggestion of coercion or implication that the decision to make or not make the requested contribution will in any way affect the professional relationship.

20.60.114. FUND RAISING LIMITATIONS.

(a) *Statement of Intent.* Because the process of campaign fund raising involves activities which take great amounts of time and energy and which tend to place legislators in situations rife with the potential for conflicts of interest, fund raising should be limited in ways that permit legislators to concentrate their attention on public matters.

(b) *No Fund Raising During Legislative Session.* No legislator, either directly, through a campaign committee, or other means, shall solicit or accept a campaign contribution or a promise or pledge to make a contribution while the legislature is in session, nor shall a legislator otherwise be involved in any fund raising activities for the legislator's own campaign or for any other person or cause.

(c) *Fund Raising Period Limited.* No legislator, either directly, through a campaign committee, or other means, shall solicit or accept a campaign contribution or a promise or pledge to make a contribution relating to candidacy for the legislature except during the following periods:

(1) Legislators and any other incumbent public officials intending to run for the legislature may fund raise from June 1 until December 31 in the year before an election in which they intend to be an candidate, and June 1 through the final election in November in the year of the election.

(2) Candidates for the legislature who are not in public office at the time of their candidacy may fund raise from June 1 in the year before an election in which they intend to be a candidate through the final election in November in the year of the election.

(d) *Enforcement.* In addition to all civil remedies authorized under AS

20.60.020, violation of this section shall be a class A misdemeanor.

Guidelines and Commentary

Previous Alaska law limited certain forms of fund raising in the capital city during legislative session but this limitation did not effectively prevent fund raising activities. Instead, it inspired creative methods of non-event fund raising such as raffles, fund raising activities in Juneau for events outside the city and various forms of fund raising by legislators for other candidates. As a result, neither the goal of preventing the diversion of the legislator's time and energy to public matters or of reducing opportunities for potential conflicts was achieved. This ban on all fund raising activities during the legislative session will accomplish that purpose. Section 114(b) expands the principle of limited fund raising by preventing "off-year" fundraising and limiting the total period of legislative fund raising to about ten months for incumbents and fourteen months for non public official challengers. The nonincumbent candidates are permitted to fund raise during the legislative session in the year of the election because the reasons to prevent fund raising during sessions do not apply to them and because there is a general consensus that nonincumbents need more time to raise funds.

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(1) Legislators and any other incumbent public officials intending to run for the legislature may fund raise from June 1 until December 31 in the year before an election in which they intend to be an candidate, and June 1 through the final election in November in the year of the election.

(2) Candidates for the legislature who are not in public office at the time of their candidacy may fund raise from June 1 in the year before an election in which they intend to be a candidate through the final election in November in the year of the election.

(d) *Enforcement.* In addition to all civil remedies authorized under AS

20.60.120. OBLIGATION TO AVOID CONFLICTS OF INTEREST AND PRESERVE ABILITY TO MAKE INDEPENDENT IMPARTIAL JUDGMENTS.

(a) *General Rule.* Legislators and legislative employees shall safeguard their ability to make independent, objective, fair and impartial judgments by scrupulously seeking to avoid financial, social and political relationships and transactions which may compromise or give the appearance of compromising their objectivity, independence or honesty.

20.60.121. FINANCIAL CONFLICTS OF INTEREST.

(a) *Definition.* A financial conflict of interest exists when a person or a member of that person's immediate family has substantial financial interests which may be materially affected by any official action or decision they might make. The interest must be so substantial and the potential affect on that interest must be so material that a reasonable objective person is likely to believe that the ability of the person with the financial interest to make an objective, fair, and impartial professional judgment will be impeded by self-interest. It is not a conflict of interest as to a specific matter if:

- (1) the person's economic interest is not substantial; or
- (2) the person's authority in relation to the interest is such that an action or decision is not likely to materially affect the financial interest; or
- (3) the economic effect an official action or decision might have on a person's private financial interests is no greater than the effect on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry or region.

(b) *Substantial Interest in Legislative, Administrative or Political Action.* Conflicts of interest arise most often and are most serious when a legislator or legislative employee has a financial or person relationship with other persons or organizations that have a substantial interest in legislative, administrative or political action. Person and organizations have such an interest if they

- (1) are regulated by the legislature;
- (2) provide goods or services to the legislature for compensation or profit;
- (3) seek employment in the legislative branch or any government agency or in a private organization in which a legislator or legislative employee is likely to have, or reasonably appears to have, the ability to influence an employment decision;
- (4) will be directly and substantially affected, either financially or personally, by any contemplated legislative, administrative or political action;

(5) have or seek contracts for goods or services with any agency of state government;

(6) are registered lobbyists;

(7) employ registered lobbyists; or

(8) represent, with or without compensation, a person or organization described in (1)-(8) above.

(c) *Close Economic Association.* Close economic association refers to a financial relationship between two or more persons or between a person and an entity which creates economic interests in a legislator or legislative employee that either:

(1) conflicts with public duties and the obligation to exercise objective independent judgment; or

(2) creates the appearance that such a person may have undue access to confidential information or otherwise receive favored treatment regarding public actions.

(3) Close economic association includes but is not limited to relationships involving compensation as an employee, agent, representative, counselor, adviser or consultant (including professional services as between a lawyer and client or a financial planner and a client); a financial interest resulting from an investment, business enterprise or interest real property as a partner, investor, associate or major stockholder; a landlord and tenant or co-tenants sharing housing expenses; a debt, loan or loan guarantee; or any other relationship in which a legislator or legislative employee has a substantial economic involvement with another.

(d) *Dealing With Financial Conflicts.* Except in the relatively few cases in which certain conflict-laden transactions or relationships are banned by this chapter or where divestiture will be ordered by the LEC, conflicts of interest are dealt with primarily as a matter of required public disclosure and voluntary restraint.

Guidelines and Commentary

Common Conflict-Creating Interests. Public officials must be vigilant for relationships and transactions that create conflicts of interest. Such conflicts are either forbidden, in which case, the interest must be divested or the relationship terminated; or it shall be disclosed pursuant to law. In addition, the legislator or legislative employee who has a conflict may be required to refrain from participating in any legislative, administrative or political action which involves the questioned financial interest or personal relationship. Financial conflicts of interest can arise out of almost any close economic association but the most common and significant conflicts for legislators and legislative employees relate to:

(1) sources of nonlegislative income for personal services, especially when the income is derived from a source that has a substantial interest in legislative, administrative or political actions of the legislator or legislative employee;

(2) the conferment of any benefit, including investment opportunities, employment, entertainment, gratuities, honoraria, loans, favors and special treatment from a source that has a substantial interest in legislative, administrative or political actions of the legislator or legislative employee;

(3) close economic associations with other public officials or lobbyists, especially those that have a substantial interest in legislative, administrative or political actions of the legislator or legislative employee;

(4) personal financial interests in contracts or leases with the state or other government entities;

(5) personal financial interests in licenses, permits, franchises or other valuable entitlements or privileges granted by the state;

(6) personal participation in state loan or other programs conferring benefits;

(7) representation of oneself or others in actions before state agencies or other government entities;

(8) state regulation or funding which substantially affect a profession, occupation or organization in which the legislator or legislative employee has a substantial economic interest; and

(9) personal involvement at a managerial or governance level with a private enterprise or nonprofit organization that is regulated by or seeks benefits from the state.

20.60.122. PERSONAL RELATIONSHIP CONFLICTS OF INTEREST.

(a) *Definition.* A personal relationship conflict of interest exists when a legislator or legislative employee is involved in a close personal relationship with another person who is likely to be substantially affected by any official action or decision the legislator or legislative employee might make.

(1) A close personal relationship is a special relationship between a legislator or legislative employee and another person which creates strong bonds of loyalty, friendship and/or love that could potentially conflict with public duties and the obligation to exercise objective independent judgment or create the appearance that such person may have undue access to confidential information or otherwise receive favored treatment regarding public actions.

(2) It includes but is not limited to immediate family, long-term personal friends or former business associates and persons with whom the legislator or legislative employee has a significant and continuous romantic relationship.

(b) *Dealing With Personal Relationship Conflicts of Interest.* Except in the very few cases where certain relationships give rise to specific legal limitations, such as the ban on nepotism, personal relationship conflicts are not restricted or subject to mandatory disclosure. This makes them no less damaging to public trust, however. Legislators and legislative employees shall avoid, where reasonably possible, getting into situations where they have personal relationship conflicts of interest. Where the situations are not reasonably avoidable, legislators and legislative employees shall take affirmative steps to disclose the conflicts that are not apparent and

refrain, where reasonably possible, from making decisions or taking actions affected by the conflict.

20.60.123. RESTRICTED RELATIONSHIPS: NEPOTISM

(a) *General Restriction for Immediate Family of Legislators.* A member of the immediate family of a legislator shall not be employed for compensation:

(1) in the house in which the legislator is a member during the legislative session;

(2) in either house in the interim between legislative sessions; or

(3) by the LEC, whether for compensation or not, and throughout the year.

(b) *Relatives of Legislative Employees.* A member of the immediate family of a legislative employee shall not be employed for compensation in a position over which the employee has supervisory authority.

(c) *Exclusion.* For purposes of this section, a legislator is not an employee of the legislature.

(d) *May Seek Exemption.* In cases, where a relative of a legislator or legislative employee is uniquely qualified to perform a task, or any other extraordinary circumstances exist under which it would be in the state's interest to waive this limitation, an exemption may be sought from the LEC.

(e) *Enforcement.* Violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

20.60.124. RESTRICTED RELATIONSHIPS: LOBBYISTS, LEGISLATORS AND LEGISLATIVE EMPLOYEES.

(a) *Fund Raising Activities.* A registered lobbyist shall not serve as a campaign manager or director, or serve as a campaign treasurer or deputy campaign treasurer on a finance or fundraising committee, host a fund raising event or otherwise engage actively in the fund raising aspect of any legislative campaign. This provision shall not be construed to prohibit a lobbyist from making personal contributions nor personally advocacy on behalf of a candidate. But it shall prohibit the lobbyist from engaging in all forms of fund raising.

(b) *Close Economic Associations and Personal Relationships.* Legislators and legislative employees who have a close economic association as defined AS 20.60.121(c) or a close personal relationship as defined in AS 20.60.122(a) with a registered lobbyist shall disclose in writing such relationship in confidence to the LEC during the first week of each session, within 30 days of taking office. For those not in office during the first week of the session, or as soon as reasonably possible, but no later than 45 days of formation a relationship that did not exist during the

first week of the legislative session.

(1) The written disclosure shall state the name of the persons or entities involved, the nature of the relationship, and a brief narrative of what matters the legislator or legislative employee is working on or reasonably might work on in the future that could create an actual conflict of interest. The LEC may request further information which shall be promptly provided.

(2) The LEC shall make a determination as to whether the relationship creates a conflict of interest that requires restrictions or disclosure. Thereupon, the LEC may elect to keep the matter confidential, to order some restriction in the activities, and/or to order disclosure in the journal of the appropriate body.

(c) *May Not Represent or Work for a Lobbyist.* No legislator or legislative assistant shall provide personal services for compensation for or on behalf of any registered lobbyist, lobbying firm or any other organization or firm that regularly engages in lobbying the legislature or state agencies, boards or commissions, nor shall any legislator or legislative assistant have any financial interest in a business which receives a substantial part of its income from lobbyists, lobbying firms or any other organization or firm that regularly engages in lobbying the legislature or state agencies, boards or commissions.

(d) *Enforcement.* Knowingly false, deliberately misleading or incomplete, or unnecessarily delayed disclosure to the LEC, as well as any other violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020 and any other remedies available under laws regulating lobbyists.

Guidelines and Commentary

(i) *Fund Raising by Lobbyists.* When a lobbyist is actively involved as a major fund raiser in a legislative campaign both financial interest and personal relationship conflict of interests emerge in major proportions. The likelihood that the legislator will be beholden to the lobbyist in a way that could impede objective impartial independent judgment is so great that the relationship must be prohibited.

(ii) *Close Relationships.* It is the purpose of this code to stay out of the private lives of those regulated to the greatest extent reasonably possible without compromising the public need to assure that impermissible conflicts are prevented and that questionable ones are revealed. The system established in section 124(b) allows the LEC to privately screen and evaluate the substantiality of the conflict. Only if it finds the conflict to be substantial or one that ought to be disclosed publicly, shall it take further action. In the case of legislators, however, there ought to be a strong presumption in favor of public disclosure since such information is necessary if the citizens of the legislator's district are to hold the legislator accountable. If the legislator or legislative employee requests, the matter shall be disclosed.

20.60.125. RESTRICTED RELATIONSHIPS: BOARD MEMBERSHIPS.

(a) *General Rule.* No legislator or legislative employee shall serve a governing

or advisory board of any organization which regularly has a substantial interest in the legislative, administrative and political actions of the legislator or legislative employee unless the legislator or legislative employee with the conflict discloses the relationship and recuses him or herself from any and all actions relating to the organization's interests.

(b) *May Seek Exemption.* In extraordinary situations where the criteria for an exemption exists, a legislator or legislative employee may seek a waiver of this provision or a modified order from the LEC.

(c) *Enforcement.* Violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

20.60.126. RESTRICTED FINANCIAL INTERESTS.

(a) *General Rule.* No legislator or legislative employee shall have an equity or ownership interest in any business, investment, real property or lease, or other enterprise if such interest has a fair market value of \$25,000 or more if financial interest is likely to be materially affected by any legislative, administrative and political actions of the legislator or legislative employee, unless the legislator or legislative employee with the conflict recuses him or herself from any and all actions relating to the interests involved.

(b) *May Seek Exemption.* In extraordinary situations where the criteria for an exemption exists, a legislator or legislative employee may seek a waiver of this provision.

(c) *Enforcement.* Violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

20.60.127. RESTRICTED ACTIVITIES AS AN ATTORNEY OR REPRESENTATIVE.

(a) *Actions Against the State.* No legislator or legislative assistant shall, professionally represent any person or entity in any legal action against the state where the state is the real party in interest, nor receive compensation or any other benefit for acting as an informal representative, adviser or consultant to persons or entities regarding their actions against the state. This provision shall not be construed to prevent a legislator or legislative employee who is an attorney from representing a criminal defendant or clients in competency, commitment, delinquency, support or Child in Need of Aid cases or similar proceedings where the state is not the real party in interest.

(b) *Actions Before State Agencies.* No legislator or legislative assistant shall professionally represent either formally or informally as an advocate, adviser or consultant, any person or entity, in an action before an agency, board or commission of the state unless the proceeding is adjudicatory in nature and there is no reasonable

basis to conclude that the side represented by the legislator or legislative employee has an unfair advantage. A matter will be considered to be adjudicatory in nature where opposing sides are separately represented.

(1) This provision shall not prohibit an attorney from representing a client in any otherwise permissible action before a criminal or civil court nor to prevent a legislator or legislative employee from representing personal interests in an otherwise proper proceeding.

(2) This provision shall be construed to prohibit formal and informal professional representation for purposes of obtaining or retaining a state license, permit, franchise, grant, loan or other entitlement, whether or not other parties contending for the state benefit are represented. If, however, the granting of the benefit is a purely ministerial matter requiring little or no discretion, this provision shall not prohibit representation.

(c) *No Special Treatment.* Notwithstanding any other law to the contrary, no legislator or legislative employee, acting as an attorney or representative of another, shall seek or accept any special treatment, privileges, rights or concessions solely by reason of service in the legislature. This shall include the seeking and granting of legislative stays.

(d) *Informal Advice to Constituents.* This provision shall not be construed to prohibit a legislator or legislative employee from informally advising a constituent about the procedures or appropriateness of bringing an action against the state. If a legislator or legislative employee shall in an otherwise proper manner advise a constituent or another in an action against the state or before a state agency, the legislator or legislative employee shall not reveal any nonpublic or confidential information.

(e) *Disqualification of Law Firm.* If an attorney is disqualified under this provision, in accordance with the attorney's code of professional responsibility, the firm of the legislator or legislative employee shall also be disqualified.

(f) *May Seek Exemption.* In extraordinary situations where the criteria for an exemption exists, a legislator or legislative employee may seek a waiver of this section.

(g) *Limited Option Until January 1, 1992.* Because this provision may require substantial adjustments in the way a legislator or legislative employee earns non-legislative income, those who find it unreasonably difficult to comply with these restrictions for any reason, may, until January 1, 1992, represent persons in any proceeding provided that if the representation is one that would be prohibited under this section:

(1) a statement is promptly filed with the LEC and published in the jour-

nal of the appropriate house including the name of the client, an identifying name or number of the action, a brief description of the nature of the action, and the amount of compensation received or anticipated relating to the representation.

(2) Any changes in any of the above, including any additional compensation paid or anticipated shall be filed every ninety days until the matter is completed or January 1, 1992 at which point the representation must be terminated.

(h) *Enforcement.* Knowingly false, deliberately misleading or incomplete, or unnecessarily delayed disclosure to the LEC, as well as any other violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

20.60.128. RESTRICTED TRANSACTIONS: INTEREST IN STATE CONTRACTS OR LEASES.

(a) *General Ban on Interests in State Contracts and Leases.* No legislator or legislative assistant, nor member of the immediate family of a legislator or legislative assistant, shall be a party to, or have a financial interest in, a state contract or lease except as provided below:

(1) If the contract is let through competitive sealed bidding under AS 36.30 (State Procurement Code) and the legislator or legislative assistant has filed a statement with the LEC at the time the bid is made certifying under penalty of perjury that the legislator or legislative assistant had no:

(A) access to inside, nonpublic or confidential information that reasonably could appear to provide an advantage;

(B) discussions or contacts with state officials involved in letting the contract about the contract that could unduly influence the decision.

(C) The statement shall also specify the nature of the legislator or legislative assistant's personal or immediate family interest, including the percentage or share of profits that will be realized.

(D) The LEC may request additional information which must be promptly provided. If the LEC believes the nature or circumstances of the contract raise impermissible conflicts of interest, it may void the contract or order restrictions. The statement filed by the legislator or legislative assistant regarding the contract shall be made part of the public record and published in the journal of the appropriate house.

(2) If the total amount of the contract or lease over the course of a

year is less than \$1,000 and it was let under circumstances that raise no substantial question as to the use of undue influence.

(3) If the contract or lease was developed and standardized under published guidelines and the benefits and rights conferred are widely available to the general public under the same terms and conditions.

(b) *Ban on Commissions, Bonuses and Kickbacks.* No legislator or legislative assistant shall seek or accept any compensation, whether in the form of a commission, bonus, retainer, kickback, or other form, on any state contract, nor shall any legislator or legislative assistant receive any similar compensation for services relating to recommending, supporting or advocating a contract between any person or business with any entity of state government, any entity of local government which receives substantial state subsidy or any private enterprise which does a substantial portion of its business with state government.

(c) *Ban on Contracts Relating to Prior Legislative Work.* No legislator, legislative assistant or former legislator or legislative assistant, within one year of leaving legislative service, shall seek or accept any contract for goods or personal services or any other compensation concerning a matter on which the legislator or legislative assistant worked extensively within the last year of service.

(d) *Participation in General Statewide Programs Permissible.* A legislator or legislative employee may properly participate in statewide benefit programs or receive a loan from the state provided that the program or loan is generally available to members of the public, is subject to fixed objective eligibility standards, and requires minimal discretion in determining qualification.

(1) The LEC shall review annually state programs and state loans and publish a list of programs and loans, designating which ones meet the qualifications stated.

(2) All persons participating in programs or receiving loans which do not qualify under this section shall file a written report with the LEC by the first Monday in February of each year stating the amounts of the loans and any other benefits received as of January 15 of that year from non-qualifying programs. The LEC shall promptly compile a list of such statements indicating the program and amount and send it to the presiding officer of each house who shall have it published in the supplemental journals within three weeks of the filing date. If the LEC requests more information it shall be promptly provided.

(3) If loan proceeds or other program benefits are received from non-qualifying programs or loans after January 15, the legislator or legislative employee shall file a statement with the LEC within 30 days after the beginning

of participation in the state program or receipt of proceeds from the state loan. This statement shall be promptly forwarded to the presiding officer of the appropriate house who shall cause it to be published in the supplemental journal.

(4) If the LEC determines that the nature and circumstances under which the legislator or legislative employee received a state benefit or loan raises an undue appearance of impropriety or was in fact the result of unfair or improper influence it shall be treated as a violation of this Act and the LEC may order whatever authorized remedies as are suitable.

(5) The LEC shall annually identify the program and loans to be audited by the division of legislative audit during the following year, including the scope of the audit. The records of the relevant state agencies shall be made available to the division of legislative audit. The division of legislative audit shall prepare a report to the LEC on its findings which report shall be confidential until it is released by the LEC.

(e) *May Seek Exemption.* In extraordinary situations where the criteria for an exemption exists, a legislator or legislative employee may seek a waiver of this section.

(f) *Enforcement.* Knowingly false, deliberately misleading or incomplete, or unnecessarily delayed disclosure to the LEC, as well as any other violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

20.60.129. RESTRICTED TRANSACTIONS: GRATUITIES.

(a) *Statement of Intent.* Public servants must be extremely cautious and circumspect about accepting any gratuity or favor, especially from persons or entities which have a substantial interest in their legislative, administrative or political actions. Even where there is a genuine personal friendship, the acceptance of personal benefits from those who could gain advantage by influencing official actions raises suspicions which tend to undermine public trust. These provisions are meant to discourage all gratuities but prohibit only those that create unacceptable conflicts of interest or appearances of impropriety.

(b) *General Rule.* A legislator or legislative assistant shall not solicit, accept, or receive, directly or indirectly, any benefit as a gratuity from any person or entity except as provided herein.

(1) Over the course of a year, a legislator or legislative employee may accept gratuities in the form of personal gifts, free or subsidized travel, tickets to entertainment or sporting events, lodging, and any other benefit, provided that the aggregate value is not in excess of \$100 from a single source and provided that such gifts are reported as to source and amount.

(2) Notwithstanding the foregoing, no benefit of any amount shall be ac-

cepted under circumstances in which it could be reasonably inferred that the gift is intended to influence the performance of official duties, actions or judgments.

(c) *Gratuities Exempt from the General Rule.* The following benefits may be accepted as gratuities without regard to the \$100 limit and they need not be reported except as noted within the appropriate subsection:

(1) *Family gifts* -- gifts from immediate family members are exempt.

(2) *Ceremonial gifts from personal friends* -- birthday, wedding, anniversary and similar ceremonial gifts may be accepted from personal friends but only if the donor does not have a substantial interest in the legislative, administrative or political action of the recipient.

(3) *Business gifts* -- gifts of sample merchandise, promotional items such as pens, calendars and the like, and appreciation tokens such as candy, fruit baskets or flowers provided they are of nominal or moderate value and are given to customers or potential customers in the ordinary course of business and there are no special facts creating a conflict of interest or the appearance of impropriety.

(4) *Awards* -- unsolicited tokens or awards of appreciation or recognition with a value of less than \$150 in the form of a plaque, trophy, clock, desk item, wall memento and similar items are exempt. More valuable awards such as watches, rings and works of art may be accepted only if the organization making the award does not have a substantial interest in the legislative, administrative or political action of the recipient or the award has been approved by the LEC upon a finding that the gift does not create an impermissible conflict of interest.

(5) *Informational material* -- informational material, brochures, pamphlets and unsolicited publications, including newspapers and magazines, with a market value of less than \$50 on an annual basis.

(6) *Food and beverages* -- food or foodstuffs indigenous to the state (e.g., walrus, reindeer) that are shared generally as a cultural or social norm; meals and beverages provided and consumed at social or fund raising events, conferences or professional meetings, at a restaurant or club (provided that the cost is not lavish or excessive) or as part of personal hospitality at the residence or place of business of the host.

(A) This rule shall not be construed to permit gifts of packaged liquor, wine or foodstuffs, nor shall it permit the acceptance of a restaurant meal not consumed with the person providing the gift (e.g., a lobbyist arranges to have a dinner for you and your spouse billed to

the lobbyist).

(7) *Courtesy gifts relating to foreign visits* -- a legislator or legislative employee may accept a gift presented by a representative of a foreign government on behalf of the state provided that if it is worth more than \$100 it must be turned over to the presiding officer of either house for purposes of displaying the gift in public areas of the capital or being sold at auction, the proceeds to go to charity or the general fund. If the gift is worth less than \$100, and it was intended as a personal gift, it may be kept provided that it is properly reported.

(8) *Travel and related expenses* -- reasonable and necessary expenses including reimbursement for travel and related food and lodging are not gratuities when they are incidental to a trip paid for by a government agency or a bona fide nonprofit educational or charitable institution for government or educational purposes, provided that lodging expenses are limited to the day preceding and the day or days of the event.

(A) If the institution paying the expenses does not have a substantial interest in the legislative, administrative or political action of the recipient, expenses may also be paid for a spouse or other companion, including a member of the legislator or legislative employee's family, so long as the value of the gift is reported on required disclosure forms.

(B) This rule does not permit acceptance of free travel from a person or nongovernmental entity with a substantial interest in the legislative, administrative or political action even if the purpose of the travel is related to matters of legislative concern (if the government purpose is legitimate, the government should pay).

(9) *Hospitality and related lodging* -- hospitality including overnight lodging, food and beverages at the residence or second home of the host provided the host is present. If the host is a personal friend and has no substantial interest in the legislative, administrative or political actions of the recipient and there are no other facts which create a conflict of interest, there is no limit to the number of days stayed. If the host has a substantial interest in the legislative, administrative or political actions of the recipient the exempt stay may not exceed two nights and the gratuity shall be reported on financial disclosure forms.

(A) This provision shall not be construed to permit the use of a summer home, company retreat, resort facility, condominium or apartment or other lodging where the host is not personally present

or, regardless of the presence of the host, the purpose is to provide the legislator or legislative employee with a paid or subsidized vacation or similar benefit.

(B) While the host may use a personal or company car or van to transport the legislator or legislative employee to the place of a social event, unusual or expensive travel as by air or limousine, to the residence of the host or any other place shall not be accepted.

(d) *Restriction on Offering Gratuities.* No person shall directly or indirectly, provide, offer, or promise anything of value to a legislator or legislative employee with the intent to influence any legislative, administrative or political action.

(e) *May Seek Exemption.* In extraordinary situations where the criteria for an exemption exists, a legislator or legislative employee may seek a waiver of this section.

(f) *Enforcement.* Knowingly false, deliberately misleading or incomplete, or unnecessarily delayed disclosure to the LEC, as well as any other violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

Guidelines and Commentary

i) *Gift Rules are Not Personal.* Some public officials take personal offense at the implication that they would allow their integrity to be compromised by a gift or favor. This reaction unduly personalizes the ethical theory and sound public policy which seeks to insulate public officials from the corrupting influences of gratuities. The motives of the gift givers offers insight to the problems. Rarely do they expect any *quid pro quo*; they do not think a public official will consciously change an action because of a gift. Gifts work more subtly to undermine objectivity. Receiving a gift often generates unconscious feelings of gratitude and appreciation which evoke a natural tendency to give something in return, whether out of natural gratitude or the desire to encourage further gifts. Gifts given freely out of affection by persons who want nothing in return create few problems, but most gratuities given to legislators or legislative employees are provided by persons or entities that do want something because they have a substantial interest in the legislative, administrative or political action of the recipient. In spite of the confidence of those who accept gratuities that their judgment remains unimpeded, the people who provide gratuities seem to believe that it is to their advantage to do so and the public perception is that the gift givers are right at least some of the time. A legislator or legislative employee who is considering accepting even a lawful gratuity should carefully, realistically and objectively evaluate the likely motive of the person offering it: Why am I being offered this gift or favor? Would I be offered the benefit if I did not wield public influence? Who is paying for it? Is it likely to be written off as a business expense? If I accept the benefit will reasonable outsiders think that the donor has some hold on me or that I owe something in return? Since there is no offsetting public good to justify the appearance of impropriety created by the acceptance of gratuities, all close cases should be resolved against any action which causes reasonable suspicions regarding the integrity of the legislator or legislative employee or government in general.

ii) *The Source of the Gift is Important.* These rules discourage the acceptance of all gratuitous benefits that could raise the slightest appearance of impropriety but they permit wide personal discretion in all but the clearest cases of improper appearances. While legislators and legislative employees need not be so sensitive to

the adverse appearances that they are unable to have close and cordial relationships lubricated by hospitality, gratuities accepted should be moderate, infrequent and given under circumstances that do not create the impression that the giver seeks undue influence or that the receiver seeks undue personal benefit. Thus, the most stringent rules concern gratuities offered by those who have a substantial interest in the legislative, administrative or political actions of a legislator or legislative employee.

iii) *Requirement to Aggregate Gifts From Single Sources.* The rules follow the modern trend to require that gifts under the legal limit be aggregated annually to limit the overall giving power of any individual and to prevent avoidance of the limits by making frequent periodic gifts or by deliberately breaking down gifts into smaller parts.

iv) *Permissible Gifts.* This section exempts a substantial number of gratuities because they do not present sufficient conflicts of interest to warrant prohibition. There is no specific exemption for discounts that are provided to the general public or any large group since these are not things of value under the definitions of this Act. However, if the basis of the discount relates to government status (e.g., airline discounts for legislators and other public officials) it is a gift unless the

¹ EC approves the discount program as one that presents no conflict of interest.

20.60.130. RESTRICTIONS ON EARNED INCOME: OUTSIDE EMPLOYMENT AND HONORARIA.

(a) *Statement of Intent.* Because legislators and many legislative employees serve the state only part-time, most must engage in income producing activities to supplement their legislative salaries. It is the intent of this Act to allow legislators and legislative employees substantial freedom in their ability to do so with due regard for the state's interest in preventing conflicts of interest and appearances of impropriety that undermine the integrity of government and public trust.

(b) *General Rule.* No legislator or legislative employee shall seek, accept or retain any employment, including as an adviser or consultant which:

- (1) will make it unreasonably difficult to fulfill legislative obligations;
- (2) requires the disclosure or use of nonpublic or confidential information acquired in the course of legislative service;
- (3) requires the improper use of government relationships or the authority, prestige, or title associated with legislative office;
- (4) involves payments that by reasonable objective standards are not commensurate with the services rendered and appear to involve a premium as a result of the legislator or legislative employee's position in the legislature;
- (5) would disable the legislator or legislative employee under conflict of interest and disqualification requirements to refrain from taking legislative, administrative or political actions in an undue number of situations;
- (6) will require the legislator or legislative employee to compromise any other ethical or legal duty.

or, regardless of the presence of the host, the purpose is to provide the legislator or legislative employee with a paid or subsidized vacation or similar benefit.

(B) While the host may use a personal or company car or van to transport the legislator or legislative employee to the place of a social event, unusual or expensive travel as by air or limousine, to the residence of the host or any other place shall not be accepted.

(d) *Restriction on Offering Gratuities.* No person shall directly or indirectly, provide, offer, or promise anything of value to a legislator or legislative employee with the intent to influence any legislative, administrative or political action.

(e) *May Seek Exemption.* In extraordinary situations where the criteria for an exemption exists, a legislator or legislative employee may seek a waiver of this section.

(f) *Enforcement.* Knowingly false, deliberately misleading or incomplete, or unnecessarily delayed disclosure to the LEC, as well as any other violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

Guidelines and Commentary

i) *Gift Rules are Not Personal.* Some public officials take personal offense at the implication that they would allow their integrity to be compromised by a gift or favor. This reaction unduly personalizes the ethical theory and sound public policy which seeks to insulate public officials from the corrupting influences of gratuities. The motives of the gift givers offers insight to the problems. Rarely do they expect any *quid pro quo*; they do not think a public official will consciously change an action because of a gift. Gifts work more subtly to undermine objectivity. Receiving a gift often generates unconscious feelings of gratitude and appreciation which evoke a natural tendency to give something in return, whether out of natural gratitude or the desire to encourage further gifts. Gifts given freely out of affection by persons who want nothing in return create few problems, but most gratuities given to legislators or legislative employees are provided by persons or entities that do want something because they have a substantial interest in the legislative, administrative or political action of the recipient. In spite of the confidence of those who accept gratuities that their judgment remains unimpeded, the people who provide gratuities seem to believe that it is to their advantage to do so and the public perception is that the gift givers are right at least some of the time. A legislator or legislative employee who is considering accepting even a lawful gratuity should carefully, realistically and objectively evaluate the likely motive of the person offering it: Why am I being offered this gift or favor? Would I be offered the benefit if I did not wield public influence? Who is paying for it? Is it likely to be written off as a business expense? If I accept the benefit will reasonable outsiders think that the donor has some hold on me or that I owe something in return? Since there is no offsetting public good to justify the appearance of impropriety created by the acceptance of gratuities, all close cases should be resolved against any action which raises reasonable suspicions regarding the integrity of the legislator or legislative employee or government in general.

ii) *The Source of the Gift is Important.* These rules discourage the acceptance of all gratuitous benefits that could raise the slightest appearance of impropriety but they permit wide personal discretion in all but the clearest cases of improper appearances. While legislators and legislative employees need not be so sensitive to

(c) *Employment by the State.* No legislator or legislative employee shall receive compensation for personal services from any state entity except the legislature except as specifically provided or as approved by the LEC.

(1) Legislators or legislative employees shall not be precluded by this section from earning compensation at any state funded school or university provided that no undue influence was used to obtain the position.

(d) *Employment With Persons or Entities With Substantial Interest in Legislative, Administrative or Political Actions.* Legislators or legislative employees who accept otherwise permissible employment with individuals or entities that have a substantial interest in their legislative, administrative or political actions shall be subject to special disclosure provisions set forth in AS 20.60.150 and shall scrupulously avoid any conduct that would lead a reasonable person to believe that the legislator or legislative employee is unable or unwilling to exercise independent, objective, and impartial judgment in considering matters which affect the interests of the legislator or legislative employee's employer.

(e) *Honoraria and Fees for Appearances.* No legislator or legislative employee shall seek or accept any honoraria in the form of a payment of money or anything of value from a person or entity that has a substantial interest in the legislative, administrative or political action as compensation for a speech, panel presentation, appearance or similar service.

(1) This provision shall not prevent a legislator or legislative employee from accepting an honoraria from any governmental entity outside of Alaska, from a university, or from any other bona fide nonprofit educational or civic institution provided that the amount paid is reasonable and commensurate with the services performed and that the circumstances under which the services are to be performed do not create a conflict of interest or appearance of impropriety. All honoraria and related expenses shall be reported on required disclosure forms.

(2) Pursuant to other provisions of this Act, a legislator or legislative employee shall be permitted to accept travel and related expenses incurred as the result of an otherwise permissible activity.

(f) *May Seek Exemption.* In extraordinary situations where the criteria for an exemption exists, a legislator or legislative employee may seek a waiver of this section.

(g) *Enforcement.* Knowingly false, deliberately misleading or incomplete, or unnecessarily delayed disclosure to the LEC, as well as any other violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

Guidelines and Commentary

i) *Employment Conflicts.* Assuring that a legislator or legislative employee's

sources of outside earned income are consistent with the ethical obligations of imposed by public office is a major and continuous challenge for the conscientious citizen-public servants. The major employers in Alaska tend to be very active in the political process, employing lobbyists and engaging in other activities to assure that their interests are protected and advanced in the legislature. It would be unreasonable to ban employment with these employers but any such employment must be subjected to the most rigorous scrutiny to assure that the legislator or legislative employee is acting in the public's interest rather than in the interest of the sources of outside income. The provisions of this Act do not and cannot exhaust all the possible ways in which outside employment with a firm that has a substantial interest in legislative, administrative or political actions can create conflicts. The principles of good faith, public interest, independent judgment and public trust are especially important, therefore, in helping individual legislators, legislative employees and the LEC interpret and apply these provisions.

ii) *Other State Employment.* Employment by other state agencies is prohibited because of the appearance that a legislator or legislative employee has an undue advantage and may have exercised undue influence in obtaining the position. Compensation from the state ought to be strictly limited to official legislative pay and allowances unless special circumstances justify an exemption.

iii) *Honoraria.* Generally, legislators and legislative employees. Because of the great potential for abuse, public servants should not accept payments for giving speeches or writing about matters concerning their public duties. Such payments, often called honoraria, may be proper in exceptional cases where the source has no significant interest in the public servant's governmental decisions and where the nature and amount of the payment is clearly reasonable and proportional to the effort required to earn it. A public official should not accept compensation for merely appearing at a function or attending a breakfast, lunch or dinner meeting and discussing a matter of interest to other participants.

20.60.131. OBLIGATION TO MAKE ALL DECISIONS ON THE MERITS: FAVORITISM AND PATRONAGE.

(a) *General Rule.* Legislators and legislative employees shall exercise their powers and prerogatives without prejudice or favoritism. They shall not use public authority simply to reward relatives, friends or political supporters or to hinder or punish enemies and opponents.

(b) *Enforcement.* In addition to all civil remedies authorized under AS 20.60.020, violation of this section shall be a class A misdemeanor.

Guidelines and Commentary

i) *Spending Taxpayer Funds.* All expenditures of public funds, whether hiring employees or making purchasing or other decisions with economic impact, involve the use of public resources. Those who have the authority to spend taxpayer money are obligated to do so with scrupulous consideration of the public interest and avoid the temptations to favor family, friends or acquaintances or discriminate against personal enemies and political foes.

ii) *Employment Decisions.* Legislators and legislative employees should make all employment decisions on the merits, only choosing those who are well qualified. This provision expands on specific anti-nepotism rules. In spite of the long tradition of patronage in American politics, public jobs should not be treated as the spoils of victory. Cronyism and patronage inevitably undermine the efficiency and integrity of government.

iii) *Fair Distribution of Public Funds.* A common derivative of the spoils system mentality is sometimes seen in the allocation of funds by legislative leadership so that majority party members receive substantially more staff support, office equipment, and travel budget than their minority colleagues. This form of favoritism is so traditional that its ethical implications often go unnoticed. For some, it is simply part of the "game." Ultimately, however, a disproportionate allocation of public funds may shortchange the constituents of minority members who have substantially less resources to serve their districts than their brethren on the other side of the aisle. There are many legitimate advantages that the majority may enjoy but leadership ought to make substantial efforts to assure that minority members receive a full and fair share of legislative resources.

20.60.132. IMPROPER INTERFERENCE WITH THE INDEPENDENT JUDGMENT OF OTHERS ON BEHALF OF CONSTITUENTS.

(a) *Statement of Intent.* The proper operation of democratic government requires that each public official carry out his or her duties free from any improper influences that tend to prevent decisions from being made on the merits according to fair and established procedures. Under our system of separation of powers, legislators have the responsibility to exercise oversight to assure that the executive branch is carrying out its functions equitably, efficiently and economically. This responsibility, combined with the duty to provide legitimate constituent service, creates situations where a legislator may become involved with administrative decisions or proceedings which affect constituents. The purpose of this section is to provide ground rules for such involvement so that the activity does not unduly distort or politicize the administrative process while still affording the legislator the opportunity to advocate and protect the interests of constituents.

(b) *General Rule.* Legislators, either directly or indirectly, shall not interfere with the ability or willingness of any state or municipal government body, official or employee to make official decisions or take appropriate actions on the merits, based on independent objective judgment.

(c) *Improper Interference.* Legislators, either directly or indirectly shall not use or appear to use political influence in any way that is likely to cause another public servant to consider inappropriate factors in exercising public authority. Acts either intended to or likely to be construed as enticement, trade-offs, ingratiation, threats, intimidation, or coercion are improper. Except to assure that a particular person is being treated fairly according to established rules and procedures, no legislator, directly or indirectly, shall interfere with or seek to influence:

(1) the outcome or substantive findings of any adjudicatory proceeding of a governmental regulatory body.

(2) a decision regarding the commencement, scope or termination of an investigatory process of a governmental agency.

(3) an action of any governmental agency concerning the granting or

revocation of a license, permit, franchise or similar entitlement.

(c) *Proper Actions on Behalf of Constituents.* This provision shall not be construed to prevent a legislator:

(1) from making inquiries about the status of a matter;

(2) from openly advocating the position of constituents on the merits, provided that no effort is made to unduly influence the decision making process by express or implied political pressure in matters involving discretionary decisions of administrative bodies which will have direct and significant economic or social impact on the legislator's district.

(3) from exercising vigilant oversight with respect to the policies, regulations, procedures and implementation practices of an agency provided that such oversight activities are conducted through the normal committee processes of the legislature and that the focus is on the policies, procedures and practices of the agency, not on the handling of a particular matter.

(d) *Obligation to Remove Implication of Political Pressure.* A legislator who, directly or indirectly, intervenes in any administrative consideration, action, or proceeding, shall explicitly convey to the administrators involved that the administrator is expected to make an independent judgment and that no advantages or disadvantages to the administrator or the agency will result from a favorable or unfavorable disposition.

(e) *Enforcement.* In addition to all civil remedies authorized under AS 20.60.020, violation of this section shall be a class A misdemeanor.

Guidelines and Commentary

i) *Intervening on Behalf of Constituents and Friends.* Legislators and legislative employees should be extremely cautious about directly or indirectly intervening with normal decision making, investigatory or adjudicative processes of governmental bodies on behalf of constituents or friends since such intervention can threaten the ability of government administrators to exercise independent objective judgment on the merits. Generally, intervention on behalf of constituents or friends is proper only if it is strictly limited to assuring fairness of the procedures.

ii) *Separating Legitimate Casework From Improper Interference.* Elected politicians are frequently asked by constituents and other supporters to intervene with other government agencies or departments. In fact, "case work" comprises a major part of the service provided by elected officials at all levels of government. Constituents bidding on government contracts often seek the help of "their" representatives; those who are subjected to investigations may expect their legislator to provide protection from what they view to be unfair procedures, and persons seeking government approvals or licenses sometimes ask politicians to facilitate the process. In the ombudsman function, seeking to remedy clear injustices or otherwise assure fair determination of rights is appropriate. Still, efforts to intervene on behalf of constituents are fraught with potential appearances of impropriety and the possibility that the intervention will prevent other public officials from exercising independent objective judgment on the merits.

iii) *Is Intervention in the Public Interest?* An initial problem with intervention is

that the interests of a particular constituent are not necessarily parallel with the interests of other constituents or the public as a whole. The primary obligation to advance the overall public good may require public servants to refuse requests for assistance in some cases. Another problem associated with intervention is that the public official may not know or understand all the facts that are relevant to a fair regulatory determination or a wise contracting decision.

iii) *Perception of Pressure.* Even where the intervening politician has no intent to influence improperly the normal process of decision making, it is not unlikely that the public servants involved think otherwise. Unless the intervening politicians are explicit and credible in stating the limited purposes of their involvement, administrators whose budgets are controlled by legislators are likely to feel pressure to make decisions differently than they otherwise would. Sometimes, regardless of the intervener's intent, administrators see the intervention as an opportunity to do a favor for the politician.

20.60.140. CONFLICT OF INTEREST DISCLOSURE: STATEMENT OF INTENT.

(a) *Statement of Intent.* The intent of financial disclosure by legislators and legislative assistants is to:

(1) discourage legislators and legislative assistants from acting upon a private or business interest in the performance of a public duty;

(2) assure that legislators and legislative assistants exercise their legislative function free of the influence of undisclosed private or business interests;

(3) develop public confidence in persons seeking or holding legislative office, enhance the dignity of the legislature and make it attractive to citizens who are motivated to public service, and

(4) develop accountability in government by permitting public access to information necessary to judge the credentials and performance of those who hold public office.

(5) provide the public the financial disclosure required to meet the purposes listed above while preserving the maximum amount of privacy to legislators and legislative assistants.

Guidelines and Commentary

Financial disclosure is a less restrictive means of assuring that legislators and legislative assistants make decisions and take legislative action objectively. In lieu of a full ban, disclosure allows some sources of outside income but requires them to be disclosed, so that a vigilant public can make informed judgments. To serve its "watchdog" function, financial disclosure must be as comprehensive as possible to reveal effectively any potential conflicts of interest to the public.

20.60.141. CONFLICT OF INTEREST DISCLOSURE BY LEGISLATORS AND LEGISLATIVE ASSISTANTS.

(a) *General Rule.* Legislators and legislative assistants shall disclose financial, professional and personal interests which are likely to create in the mind of a reasonable, objective person the belief that the legislator or legislative assistant's objectivity and ability to exercise independent judgment in the public interest have been adversely affected by those interests.

(b) *Who is Required to Report.* Legislators and legislative assistants shall file with the LEC the reports described herein. The LEC shall adopt filing guidelines and develop forms which are compatible with financial disclosure forms required by AS 39.50 -030 to be filed with the Alaska Public Offices Commission.

(c) *Category A and Category B Income.* Legislators and legislative assistants (hereinafter, "reporting persons") shall disclose to the LEC on a form and within a time frame prescribed by the LEC, detailed information on the sources and amounts

of outside income received by them, their spouses and their dependent children. Such information shall be divided into two categories:

(1) "*Category A Income.*" Category A income refers to all benefits received, in the form of monetary compensation or any other thing of value, from persons and entities which are known or reasonably should be known to have a substantial interest in legislative, administrative or political actions.

(A) *Duty of Employer to Disclose Interest.* Persons providing benefits to a legislator or legislative assistant valued at \$1,000 or more per year are required by AS 20.60.144 to file a statement with the LEC with a copy to the recipient indicating, among other things, whether they do have a substantial interest in legislative, administrative or political actions.

(B) *Definition of Substantial Interest.* Persons and entities substantial interest in legislative, administrative or political actions if they:

- (1) are regulated by the legislature;
- (2) provide goods or services to the legislature for compensation or profit;
- (3) seek employment in the legislative branch or any government agency or in a private organization in which a legislator or legislative employee is likely to have, or reasonably appears to have, the ability to influence an employment decision;
- (4) will be directly and substantially affected, either financially or personally, by any contemplated legislative, administrative or political action;
- (5) have or seek contracts for goods or services with any agency of state government;
- (6) are registered lobbyists;
- (7) employ registered lobbyists; or
- (8) represent, with or without compensation, a person or organization described in (1)-(8) above.

(2) "*Category B Income.*" Category B earned income refers to all benefits received, in the form of monetary compensation or any other thing of value, from persons and entities who do not, or are not known to fall within Category A.

Guidelines and Commentary

Disclosure requirements must balance the privacy interests of the legislator or legislative assistant against the public disclosure necessary to guard against con-

licts of interests. Disclosure requirements must not be so unnecessarily intrusive of individual's privacy that qualified and interested individuals decline public service because of them. To keep disclosure from being unnecessarily burdensome is the purpose of the two-tier reporting requirement. Income earned from persons or entities which have a substantial interest in legislative action involves such significant risks of appearances of impropriety that all amounts of income from those sources must be reported. Conversely, income from an other source amounting to less than \$1,000 need not be reported. Income from other another source which aggregates over \$1000 must be reported to the Commission but is generally confidential. Only if the Commission determines affirmatively that the public interest in the disclosure outweighs the individual's right to privacy will the disclosure be made public.

20.60.142. REPORTING CATEGORY A INCOME.

As to all benefits received from Category A sources, reporting persons shall file with the LEC a sworn statement including:

(a) *Compensation.* As to all income received as compensation, regardless of the amount, reporting persons shall disclose the name and address of the source, a brief statement describing the nature of the services performed including sufficient detail to permit the LEC to determine whether the nature of the work created any conflicts of interest (for example: "consultant re: expansion of operations;" "engineer, quality control."), and the amount paid.

(b) *Gratuities.* As to each gratuity received and required to be reported under AS 20.60. 129(b) (1),(7),(8), and (9), reporting persons shall list the name and address of the person providing the gratuity, a brief description of its nature and a good faith statement of its fair market value (if exact values are not known, and cannot be found out without undue hardship or expense, reasonable good faith estimates are acceptable). Any loan which was forgiven during the period must be reported as a gratuity.

(c) *Expense Reimbursements.* Reporting persons shall disclose the name and address of the source, and the cash value of any reimbursement for expenses aggregating more than \$100 in the calendar year.

(d) *Loans and Loan Guarantees.* As to each loan and or loan guarantee yielding loan proceeds of at least \$100 in the reporting period and the lender or guarantor is a person or entity with a substantial interest in legislative, administrative or political actions, reporting persons shall list the name and address of person or entity making the loan or guarantee, the amount of the loan, the terms and conditions under which the loan or guarantee was given, the amount outstanding at the time of filing, and whether or not a written loan agreement exists.

(e) *Names of Sources.* If the source of a reported benefit is a corporation, the statement shall indicate the name of its parent corporation, if any, and names of its top corporate officers. If the source is a partnership or association doing business

under a fictitious name, the names of the principals.

(f) *Review by LEC.* Category A statements will be reviewed by the LEC to determine whether any impermissible conflicts exist and whether special orders or restrictions are required.

(g) *Public Records.* All Category A statements shall be made available for public inspection and shall be deemed to be public records.

20.60.143. REPORTING CATEGORY B INCOME.

(a) *Reporting Category B Income.* Reporting individuals shall file a statement conforming to the same requirements as Category A except that in the case of compensation, expense reimbursements, loans and loan guarantees only those income sources providing benefits worth \$1,000 or more need be listed. As to gratuities, the requirements of AS 20.60.129(b) (1),(7),(8), and (9) control.

(b) *Review by LEC.* Category B statements will be reviewed by the LEC to determine whether any impermissible conflicts exist, whether special orders or restrictions are required and whether the statements shall be made available for public inspection and be deemed to be public records.

(1) If the person filing the statement is a legislator, the statement is presumptively public which means that it will be made part of the public record unless the legislator submitting it requests that it be kept confidential, stating the reasons for the request, and the LEC finds that no valid public purpose would be advanced by publication.

(2) If the person filing the statement is a legislative assistant, the statement is presumptively confidential which means it will remain confidential unless the LEC determines that the public benefit in disclosure substantially outweighs the individual's interest in privacy.

20.60.144. REPORTING CLOSE ECONOMIC ASSOCIATIONS AND CLOSE PERSONAL RELATIONSHIPS.

(a) *Mandatory Disclosure.* Reporting persons shall file with the LEC a statement disclosing all close economic associations as defined in AS 20.60.121(c) and close personal relationships as defined in AS 20.60.122(a) including special statements required with respect to lobbyist relationships (AS 20.60.124(b)), in confidence to the LEC.

(b) *Filing Procedures.* Filing should be made during the first week of each session, within 30 days of taking office. For those not in office during the first week of the session, or as soon as reasonably possible, but no later than 45 days of formation a relationship that did not exist during the first week of the legislative session.

(1) The written disclosure shall state the name of the persons or entities

involved, the nature of the relationship, and a brief narrative of what matters the legislator or legislative employee is working on or reasonably might work on in the future that could create an actual conflict of interest. The LEC may request further information which shall be promptly provided.

(2) The LEC shall make a determination as to whether the relationship creates a conflict of interest that requires restrictions or disclosure. Thereupon, the LEC may elect to keep the matter confidential, to order some restriction in the activities, and/or to order disclosure in the journal of the appropriate body.

20.60.145. REPORTING OBLIGATIONS OF PERSONS AND ENTITIES PAYING COMPENSATION TO LEGISLATORS OR LEGISLATIVE ASSISTANTS.

(a) *Category A Sources.* Persons and entities which have provided any compensation to a legislator or legislative assistant ("employers") and who qualify as Category A sources because they have substantial interest in legislative, administrative or political actions, shall file, in a time frame and on a form prescribed by the LEC, a statement regarding such compensation.

(1) The statement shall be made under penalty of perjury.

(2) It shall declare whether the employer, or any parent company, officer or individual stockholder with at least a 20% equity in the company, has had, during the reporting period, a substantial interest in legislative, administrative or political as defined in herein.

(3) It shall include a brief narrative of the nature of the relationship with the reporting person, the terms of compensation and the amount paid during the reporting period.

(b) *Category B Sources.* Employers who do not qualify as Category A employers because they do not have a substantial interest in legislative, administrative or political actions shall file a statement only if the total compensation paid a reporting person was \$1,000 or more during the reporting period.

(1) The statement shall be filed under penalty of perjury.

(2) It shall include a brief narrative of the nature of the relationship with the reporting person, the terms of compensation and the amount paid during the reporting period.

(c) *Reporting Person's Duty.* The reporting person shall be responsible to assure that employers have the forms necessary and are informed of the obligation to file the statement.

(d) *Filing Procedures.* The employer shall file the original form with the LEC no later than April 1 of each year, which time shall not be later than thirty days before

the reporting person is required to file the financial disclosure forms required by this Act. The employer shall contemporaneously provide a copy of the form to the legislator.

20.60.146. ENFORCEMENT.

(a) *Penalties.* Knowingly false, deliberately misleading or incomplete, or unnecessarily delayed disclosure to the LEC will subject the violator to all civil remedies authorized under AS 20.60.020.

20.60.150. ACCOUNTABILITY: OPENNESS AND OVERSIGHT.

(a) *Openness.* Legislators and legislative employees shall abide by the letter and spirit of open meeting laws and, to the greatest extent reasonably possible, exercise the authority of their offices openly so that the public is informed about governmental decisions and the citizenry can hold them accountable for their actions.

(b) *Oversight.* Legislators and legislative employees shall assure that those to whom they have delegated public power, including their staffs and administrative agencies, carry out their responsibilities efficiently, equitably and ethically.

(c) *Duty to Improve Systems.* Legislators and legislative employees who believe that a law, policy or rule of the house is not achieving its intended purpose, is creating unintended harms, or is wasteful or inefficient, should take affirmative steps to improve procedures in a way that will increase the fairness and quality of government services and assure that policies are implemented equitably, efficiently and economically.

(e) *Enforcement.* Violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

Guidelines and Commentary

i) *Open Meetings Law.* This ethical principle has been essentially incorporated into Alaska's "Open meetings of Governmental Bodies" law (AS 44.62.310). Secret or closed meetings and back room deals which conceal from the public facts that bear on its ability to exercise responsible citizenship are improper, even when made by well intentioned public servants who simply seek to conduct government business efficiently without undue intrusiveness or embarrassment. Conscientious legislators and legislative employees should avoid the temptation to short cut open meeting requirements by devising legalistic theories which effectively remove the public business from the public eye. They should be especially scrupulous about maintaining maximum openness in dealing with issues of compensation, benefits and all other actions which affect their own rights and obligations. Although secrecy or confidentiality occasionally is in the public interest, exceptions to the general rule of openness should be rare and the principles and procedures for determining those exceptions should be subject to scrutiny, debate and oversight.

ii) *Evasion of Openness Rules.* Legislators and legislative employees should honor the spirit and intent of open government rules and not engage in subterfuges or

legalistic schemes to avoid them. While public servants should abide by the letter and spirit of all rules, open meeting, freedom of information, and "sunshine" laws are especially important because they reinforce accountability by requiring public business to be conducted in a way that assures citizen access to political processes. Although these rules tend to be unpopular with many public servants who believe they unreasonably invade privacy and encumber government operations, it is improper to engage in tactics which improperly evade their spirit.

iii) *Oversight Responsibilities.* It is the duty of public servants with agency oversight responsibilities to develop effective auditing and reporting procedures which permit the exercise of vigilant oversight. In addition, persons in supervisory authority should assure that their staff know and understand the legal and ethical obligations applicable to their duties.

iv) *Affirmative Duty to Improve System.* This affirmative duty arising from the principle of accountability is not intended to be enforced or to provide the basis of any charge or sanction. It does, however, state an important ethical obligation of those who serve the legislature, especially staff members who might otherwise believe that the fairness and efficiency of government is not necessarily their responsibility. Legislators and legislative employees should take whatever actions they can to correct problems, streamline procedures and improve services. Where desirable changes exceed authority, public servants should promptly and forcefully recommend reform to the appropriate person or body. There is a tendency in all organizations to define one's responsibilities narrowly, fostering an "it's-not-my-job" mentality with respect to defects in policy or implementation. It is every public servant's job to see that the government serves the people well by assuring that it is responsive, respectful, efficient, economical and fair.

v) *Self-Policing.* Public servants are often in the best position to observe and take actions against unlawful and unethical uses of public position, authority and resources. In fact, many such uses could not occur without the active involvement or, at least, the acquiescence of colleagues and subordinates. The principles of public trust and accountability combine to place a special obligation on persons in public office to refuse to cooperate, to actively discourage, and if necessary to prevent improper conduct, to report violations of both law and ethical standards. It is important to establish an atmosphere in government where potential wrongdoers undertake very high risk in seeking to misuse government office. This occurs when it becomes known that the pride and ethical commitment of all public servants impels them to police their own profession. The person who violates the public trust, not the one who prevents or reports such violations ought to bear the brunt of disapproval from the public and government colleagues.

20.60.151. ACCOUNTABILITY: SELF-POLICING, WHISTLE BLOWING AND PROTECTION OF WHISTLE BLOWERS

(a) *Self-Policing.* Legislators and legislative employees shall maintain the integrity and trustworthiness of government by taking whatever steps are necessary to prevent unethical practices, unlawful conduct, corruption, mismanagement, gross waste of public funds, danger to public safety, or any other abuse of public position, authority or resources.

(b) *Whistle Blowing.* Legislators and legislative employees who have a good faith reasonable belief that the public interest requires the disclosure of governmental policies or actions thought to be unlawful or improper should reveal their information to appropriate authorities.

(c) *Protection of Whistle-Blowers.* No legislator or legislative employee shall, directly or indirectly, subject a person who reports to the LEC or any other government entity, conduct the person reasonably believes is a violation of this Act or any other state law, to reprisal, retaliation, harassment, discrimination or ridicule. A legislative employee who is discharged, disciplined, involuntarily transferred or otherwise penalized by a legislator or another legislative employee, may:

- (1) bring a complaint before the LEC; and
- (2) bring a separate civil action in the courts seeking damages, payment of back wages, reinstatement or other relief.

(d) *Enforcement.* In addition to the special civil remedies provided herein, violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

Guidelines and Commentary

i) *Protection of Whistle Blowers.* Without the risk that conscientious public servants will, when necessary, disclose unlawful or improper governmental activities, the likelihood of illegal secret policies, corrupt practices, waste and mismanagement and unaccountable and arrogant decision making increases. Hence, persons who whistle blow in good faith act in the public interest. It is, therefore, improper to harass, punish or seek other reprisals against public servants who seek to hold government accountable. Whistle blowing is most often justified when it is the only practical way to reveal illegal conduct or major abuses of public authority. The decision to whistle blow, however, must be regarded with the utmost seriousness. Although whistle blowing can represent the highest form of loyalty to an institution and to democratic processes, it often requires breaching traditional notions of loyalty to colleagues and organization. In addition, it may involve the violation of professional obligations of confidentiality. Thus, the act of whistle blowing invariably incurs hostility and resentment and tends to undermine trust and create an atmosphere of suspicion. Yet, in spite of the personal and institutional costs, whistle blowing is sometimes essential to the public interest and morally justified as a means of preventing or correcting serious wrongs.

ii) *Difference Between Leaking and Whistle Blowing.* While both leaking and whistle blowing may be acts of conscience, whistle blowers act overtly and hence take greater risks and subject themselves to significant personal abuse including reprisals. In contrast, leakers act covertly and are essentially unaccountable for the consequences of their actions. Since it is fairer that criticisms and charges be made on the record, whistle blowing is preferable to leaking. In fact, in most cases, leaking is an improper violation of confidentiality and fairness. Although leaking is presumptively improper, there are rare circumstances where it is justified as a means of holding the government accountable for improper covert actions. Many issues of great public importance (e.g., Watergate, Pentagon Papers, CIA assassination policies) came to light only because of leakers who acted in the public interest but sought to protect themselves and their families from the ramifications of their revelations. Because of general principles of trust, honor and professional discretion, however, disclosure of confidential information or documents through secret leaking is justified only to advance a compelling public interest. In the absence of a clear and compelling interest in disclosure, public servants should honor their confidences and legal obligations to maintain the secrecy of specified information (e.g., classified documents, grand jury testimony,

medical or psychiatric records, reports about juvenile abuse, etc.). It is not proper, for example, to leak information simply to give one news organization a competitive advantage over another about matters that will be made public in due time (e.g., revealing the contents of a report a few days before it is to be formally issued). Nor is it proper to leak information simply as a means of affording the leaker some personal or political advantage.

iii) *Leaks Concerning the Rights of Others.* An especially troublesome category of leaks concerns information that could unjustifiably damage reputations, improperly prejudice court proceedings, unfairly affect elections, or unreasonably endanger the safety of others. It is almost always improper, for example, to leak information about undercover operations, criminal investigations, unsubstantiated charges or secret grand jury testimony. Supervisors in departments which possess potentially damaging information should take steps to protect the rights of those who would be injured by leaks and to hold leakers accountable for their actions.

20.60.160. DUTY TOWARD COLLEAGUES AND SUBORDINATES

(a) *General Rule.* No legislator or legislative employee shall knowingly engage in conduct that violates rights of others to be treated fairly, with dignity and respect, nor shall they engage in any improper act of discrimination, sexual harassment or abuse of any person in the course of legislative activities.

(b) *Enforcement.* Violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020 but shall not affect liability for any other civil or criminal action arising from the conduct.

Guidelines and Commentary

- i) This section simply makes it clear that improper or illegal conduct with regard to subordinates or colleagues is a legitimate matter for the LEC.

20.60.161. DUTY TO ADVANCE PRINCIPLES OF REPRESENTATIVE DEMOCRACY.

(a) *General Rule.* No legislator or legislative employee shall knowingly use improper artifices or schemes to circumvent the clear purpose of laws or these rules, use procedural powers or processes in a way that prevents appropriate consideration of a matter, nor exercise leadership authority and power arbitrarily, arrogantly or in any other way that violates the spirit of representative democracy.

(b) *Enforcement.* Violation of this section will subject the violator to all civil remedies authorized under AS 20.60.020.

Guidelines and Commentary

- i) *Principles of Representative Democracy.* This provision is likely to seem naive to some who believe that "all is fair in love and politics" but this is, after all, a statement of ethical principles. The fact is, that notwithstanding various "might makes right" power theories, the ideals of democracy are clear -- one person, one vote; the majority rules but never in a way that tramples the rights of the minority; matters of import should be decided on their merits after full and open debate, not on the basis of power politics which squelches dissent and coerces compliance.

Though it is unlikely that a provable violation of this provision will arise, conduct which is inconsistent with this representative democracy standard is serious in spite of contrary customs, traditions and political rationalizations.

ii) *Abiding by the Spirit as Well as the Letter of the Law.* Legislators and legislative employees should not engage in artifices and schemes to exploit loopholes or ambiguities in the law in a way that undermines their spirit and purpose. When public servants seek to circumvent the spirit or purpose of laws they tend to undermine the public's confidence in government and diminish the public's commitment to civic responsibility by legitimizing self-interested evasions of public policy.

iii) *Fair Use of Procedures.* In using procedural rules, legislators and legislative employees should maintain the integrity, fairness and efficiency of the process by honoring the substance and spirit of the rules and by refraining from conduct which undermines the principles of representative democracy. The importance of technical procedures in the legislative and administrative process encourages legalistic manipulation to achieve political goals. While this is not inherently improper, there is a tendency to adopt an "ends-justifies-the-means" philosophy which can elevate process over substance and power over principle in a way that undermines fundamental assumptions of democratic government. The public interest is not served when public servants engage in trickery or procedural extortion to achieve their ends. Generally, the public views parliamentary machinations with cynicism. Responsible public servants recognize that no specific political victory is worth damaging the delicate structure of democratic government. Legalistic maneuvering which creates unfair or anti-democratic results inevitably spawns ill will and draconian countermeasures. Too often political scheming becomes so prevalent that it demeans the inherent nobility of the democratic process and reduces politics to a cynical game. For example, a fundamental rule of fairness is notice. Thus, it is improper to suspend the rules or force a vote in a way that violates customary practices and expectations of fair notice and, therefore, prevents legitimate opposition from having its say.

iv) *Use of Leadership Power.* Legislative leaders and committee chairs should use their leadership powers only in a manner consistent with representative democracy. It is typical of government processes that administrative, screening and information gathering tasks are delegated to agencies, committees and individuals. The purpose of such delegation invariably should be to improve the process so that the organization's general will can be carried out more effectively. The purpose of such delegation never should be to grant individual leaders increased power to subvert or make public policy in a manner that derogates the prerogatives of the policy-making body as a whole. Skilled politicians can properly use leadership power to bring factions together, to fashion compromises and to break unhealthy gridlock situations. On the other hand, Lord Acton's admonition that "power corrupts and absolute power corrupts absolutely, applies to legislative leaders who use their position in inappropriate ways to block consideration of important issues, to bully, bribe or intimidate fellow legislators to support positions and programs favored by the leader. A legislator who controls the parliamentary process or is otherwise in a position to facilitate or prevent the consideration of an issue, has an ethical obligation to avoid any use that effectively undermines representative democracy. For example, it is improper for legislative leaders, including committee chairs to unilaterally prevent measures from receiving appropriate consideration either on the floor or before the committee.

v) *Civil Disobedience.* In rare cases, a legislators or legislative employees may exercise the prerogative of conscientious objection by disobeying the law. In such cases, the illegal behavior should be open and the official should be willing to bear the appropriate legal and political consequences. There is a long and revered history in this country of civil disobedience--the open and public refusal to abide by a law as a means of protest and as an impetus to change the law.

CHAPTER 60
ALASKA LEGISLATIVE ETHICS ACT OF 1990

ARTICLE 3. Legislative Ethics Commission

Section

- 200. Establishment of legislative Ethics Commission
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20.60.200. ESTABLISHMENT OF LEGISLATIVE ETHICS COMMISSION.

There is hereby established the Legislative Ethics Commission, also referred to in this Act as the "LEC" or "Commission."

(a) *Composition.* The LEC shall consist of nine members, who shall be selected as follows:

- (1) One member appointed jointly by the President of the Senate and the Senate minority leader.
- (2) One member appointed jointly by the Speaker of the House and the House minority leader.
- (3) Two members appointed by the Supreme Court.
- (4) One member appointed by the Governor.
- (5) One member appointed by the Lieutenant Governor.
- (6) One member appointed by the Alaska Public Offices Commission.

(7) Within thirty days of the composition of the members appointed as above, the appointed members shall select an additional two members who shall be promptly appointed.

Guidelines and Commentary

The composition of the LEC responds to the need for an independent, highly qualified and respectable agency to implement the provisions of the Alaska Legislative Ethics Act. It includes two representatives selected by each branch of government, a representative selected by the commission most involved with the enforcement of general campaign and disclosure laws (APOC), and two additional persons selected by the combined special appointees. In making their appointments, the Supreme Court and the Alaska Public Officials Commission shall develop their own procedures. It is expected that this Commission will take a broad public view of legislative ethics and enable major stakeholders in the legislative

process to participate in administering the Act. In making appointments to the LEC, the appointing authorities should seek a representative group, diverse in terms of ethnic background, sex, region, and political orientation (including registered independents).

(b) *Certification.* Upon appointment, each Commissioner shall execute a written oath that shall include the following undertaking: "I will solemnly perform the duties of this office in a manner that is consistent with both the letter and spirit of the Alaska Legislative Ethics Act and I shall conform my own conduct to the provisions therein. I acknowledge the obligation and need to interpret and apply all its provisions, and the ethical principles that underlie them, vigorously, promptly, fairly and in good faith. All my actions, decisions and votes on matters relating to my duties will be made purely on the merits, objectively, independently, and without political, regional or ideological partisanship." Upon executing the oath or affirmation, an appointee shall be certified as a Commissioner of the LEC (hereinafter referred to as a "Commissioner") and shall immediately be deemed to have begun serving the appointed term.

(c) *Legislative Option to Decertify.* Anytime within forty-five days of certification, a Commissioner may be decertified by a majority vote of both houses of the legislature, if the legislature is in session, or by a two thirds vote of the members of the Legislative Council if the legislature is not in session. If decertified, the Commissioner is disqualified and a replacement must be appointed to fill the vacancy.

Guidelines and Commentary

This decertification process, in effect, gives the legislature veto power over individual nominations. It is a power that should not be exercised lightly or used for political purposes. Other provisions of the Act establish the ethical responsibility of legislators to rise above partisan politics especially when dealing with the LEC. Still, the legislature should be comfortable with the integrity, character and capacity of each Commissioner and, for good cause, they may decertify a newly appointed Commissioner.

(d) *Limitations.* No Commissioner or LEC employee shall be a legislator, a legislative employee, an elected or appointed public official (including the commissioner of another governmental body), an officer of any political party, or a candidate for public office.

(e) *Terms.* Commissioners shall serve staggered terms of five years. However, the initial Commissioners shall serve the following terms:

(1) The members appointed by the Senate and the House and one commission-appointed member shall serve a term of five years

(2) The member appointed by the governor and one commission-appointed member shall serve a term of four years.

(3) The member appointed by the Alaska Public Offices Commission shall serve a term of three years.

(4) The member appointed by the Lieutenant Governor shall serve a

term of two years.

(5) The members appointed by the Supreme Court shall serve a term of one year.

(f) *Limitations on Terms.* No Commissioner shall serve for more than ten consecutive years, except that a Commissioner shall continue in office until a successor has been appointed and confirmed.

(g) *Filling Vacancies.* A vacancy for the remainder of an unexpired term shall be filled within thirty days of the occurrence of the vacancy in the same manner as an original appointment.

(h) *Appointment and Certification.* The appointing authorities shall make their appointments within thirty days of written request by the LEC or their appointment shall be made by the LEC itself.

(i) *Chair and Vice Chair.* At its first meeting, the LEC shall elect a chair and a vice chair, each to serve for a two year term with a limit of two consecutive terms. The vice chair shall act as chair in the absence of the chair or in the event of a vacancy in the chairmanship.

(j) *Executive Director.* The LEC, by a majority vote, shall hire an executive director who shall serve at its pleasure.

(1) The executive director shall appoint and discharge employees, including special investigators, consistent with applicable laws and administrative policies and shall fix the compensation of employees and prescribe their duties.

(2) Each year the commission shall review the performance of the executive director with the executive director.

(k) *Legal Counsel.* The LEC, on recommendation of its executive director hire legal counsel to manage, direct and prosecute cases, such counsel to serve at the Commission's pleasure.

(l) *Special Investigators.* In instances in which the LEC determines an investigation is necessary which cannot be efficiently, promptly or adequately handled by the LEC staff, the Executive Director shall nominate a Special Investigator to be appointed upon ratification by the LEC.

(1) The Executive Director shall create and maintain a list of individuals qualified to serve as a Special Investigator by virtue of their experience, reputation, likely availability, willingness to serve and freedom from conflicts of interest.

(2) Special Investigators shall be subject to the same restrictions as Commissioners and LEC employees.

(m) *Other Staff and Services.* The LEC may employ the services of such technical, professional and clerical services experts and consultants as are necessary to carry out its duties. The LEC may also contract for services which cannot be satisfactorily performed by its employees, including legal counsel.

(n) *Removal from Office.* A Commissioner may be removed from office by a vote of two-thirds of both houses of the legislature for good cause, including substantial neglect of duty, inability to discharge the powers and duties of office, violation of the Act, gross misconduct or conviction of a felony.

Guidelines and Commentary

As with the power to decertify, the legislature is given the power to remove a Commissioner but only for good cause.

(o) *Compensation.* Commissioners shall receive compensation of \$175 dollars for each day in which they attend or participate in a Commission meeting of at least one hour in length, either in person or by teleconference. The Chair and Vice Chair shall receive an additional stipend of \$500 per year. The LEC shall develop and implement policies consistent with those employed by other state commissions for the reimbursement of travel costs and the payment of per diem expense allowances.

(p) *Applicability of the Act to Commissioners and Employees.* Commissioners and LEC employees (including person hired by the LEC to perform investigatory or legal counsel functions) shall comply with all provisions of this Act and shall be held to the same standards and requirements, including disclosure, as legislative assistants.

(q) *Additional Restrictions on Commissioners and Employees.*

(1) In addition to being bound by the Act and other applicable statutes, no Commissioner or LEC employee shall:

(A) participate in political management or in a political campaign during the member or employee's term of office or employment; nor

(B) participate in the campaign of, attend campaign fund raising events for, or make a financial contribution to (i) a candidate for the legislature, (ii) any current legislator or legislative employee who is a candidate for any other office, or (iii) any person running against a present legislator or legislative employee; nor

(C) be a registered lobbyist or participate in lobbying activities that would require the individual to register as a lobbyist; nor

(D) take any action or make any statement which is likely to create in the mind of a reasonable objective observer a belief that the

Commissioner or LEC employee is not impartial or independent or is otherwise unable to properly perform public duties.

(2) Violations or alleged violations of this provision shall be treated as violations of any other provision of this Act and shall be dealt with by the LEC accordingly. During the pendency of any complaint against a Commissioner or LEC employee, the Commissioner or employee shall not participate in any official actions of the LEC.

Guidelines and Commentary

Commissioners and LEC staff must not be involved with any political activities with respect to the legislature or individuals over whom they have adjudicatory responsibility in any way that casts reasonable doubt on their impartiality, objectivity or lack of partisanship. Similarly, it is improper to engage in any form of inappropriate conduct which casts reasonable doubt on their ability to serve. For example, the public expression of prejudices or opinions about a legislator or a matter which might come before the LEC is inconsistent with the neutral objective temperament demanded by the position.

20.60.201. MEETINGS AND ACTIONS.

The LEC shall meet at the call of the chair or a majority of Commissioners, but in no event less than once every three months.

(a) *Quorum.* A quorum of the LEC shall consist of five Commissioners.

(b) *Majority Vote.* A vote of the majority of Commissioners present at a meeting in which a quorum is present shall be required for any action in which a vote is required.

20.60.202. GENERAL POWERS AND DUTIES OF THE COMMISSION.

The LEC shall administer the provisions of the Alaska Legislative Ethics Act and shall have the following powers and duties:

(a) *Informal Advice.* The LEC shall authorize and train its staff to give informal or and written advice regarding the spirit and requirements of this Act;

(b) *Formal Advisory Opinions.* The LEC shall, on request or its own initiative, shall issue formal written advisory opinions on specific situations or clarify any provision of the Legislative Ethics Act;

(c) *Exemptions.* The LEC shall consider requests for, and grant or deny, exemptions from the provisions of the Act;

(d) *Investigate and Adjudicate Complaints.* The LEC shall investigate and adjudicate complaints and recommend disciplinary actions to the legislature;

(e) *Educational Programs.* The LEC shall authorize research in the field of legislative ethics and carry out such educational programs which are required by the Act and additional programs as it deems necessary to effectuate the policy and purposes of the Act.

(f) *Ethics Manual.* The LEC shall prepare and distribute an ethics manual to legislators, legislative employees and lobbyists as provided in this Act.

(g) *Report to the Legislature.* The LEC shall prepare a bi-annual report to the legislature summarizing its activities over the previous two years, evaluating the effectiveness of the Legislative Ethics Act in accomplishing its stated purposes, and recommending legislative reforms it thinks necessary to improve the administration of the Act and to better advance its goals.

20.60.203. INFORMAL NONBINDING ADVICE

The LEC may authorize and train its staff to give oral advice or provide a written "Informal Nonbinding Advice Letter" to persons seeking guidance as to the spirit or legal requirements of the Act, provided that such advice is given with the express stipulations that:

- (a) the opinions given are not necessarily those of the LEC; and
- (b) that, though the advice will be given in good faith, the person seeking the advice relies on it at his or her own risk since it is in no way binding upon the LEC; and
- (c) that information voluntarily provided to a LEC employee is not necessarily confidential and may be used against the person seeking the advice if it becomes material to any proceeding before the LEC.

Guidelines and Commentary

Ethical behavior is encouraged when legislators and staff are able to raise ethical issues freely and receive informed advice, both formally and informally. Individuals seeking to conform their actions to ethical principals deserve the guidance which informal letters and telephone conversations may give them. Often, unethical conduct can be avoided, and ethical principles maintained, by a simple recitation of the code as applied to any given circumstance. Advice given personally, over the telephone or by informal letter can provide valuable guidance relating to decisions which must be made rapidly or immediately and, thereby, advance behavior consistent with this Act. However, the duties of the Commission to interpret and implement the Act cannot be delegated to staff nor can one seeking informal advice expect it to be preceded by the thorough discussion and research associated with a formal advisory opinion. Therefore, the person seeking advice must be explicitly informed that the opinions given are in no way binding on the LEC. If the person is unwilling to take the risk, he or she may request a formal advisory opinion which is binding, seek the nonbinding opinion of the committee of the legislature charged with ethics matters, or hire outside personal counsel to get additional guidance.

20.60.204. FORMAL BINDING ADVISORY OPINIONS.

(a) *Who May Request.* The LEC may issue a formal written advisory opinion on its own initiative, on the request of a person to whom the Act applies or on the request of a person elected to the legislature who at the time of election is not a member of the legislature.

(b) *Requests Must Be in Writing.* Requests for written advisory opinions shall be in writing and shall set forth with reasonable specificity the facts and circumstances of a real or hypothetical case.

Guidelines and Commentary

To assure clarity of facts and the seriousness of the request, requests for formal binding advisory opinions must be in writing. Subject to the provisions below, the request shall be kept confidential by the LEC and the staff.

(c) *Discretion to Issue.* The LEC shall expeditiously determine whether to issue an advisory opinion addressing the issues raised.

Guidelines and Commentary

Undertaking to research, discuss and prepare a formal written advisory opinion involves a substantial commitment of time and resources. Not all requests will justify this commitment either because they relate to minor or moot issues or because it is clear from the provisions of the Act or from previous opinions how the questions should be answered.

(d) *Issuance.* An opinion may be issued by a majority of a quorum of Commissioners at any meeting. The vote of each Commissioner participating in the opinion shall be indicated on the opinion and it shall be forwarded to the person requesting it and made a part of the public records of the LEC.

(e) *Binding.* Written formal advisory opinions issued by the LEC are binding on the LEC in any subsequent proceedings concerning the facts and circumstances of the particular case. If, however, any fact deemed to be material by the LEC was omitted or misstated in the request, the LEC shall not be bound by the opinion.

(f) *Revisions.* The LEC may at any time review, withdraw, or elaborate on an advisory opinion.

(g) *Normal Time Frame.* Under normal circumstances, the LEC shall issue its opinion within thirty days of receiving the request, if the request is received during the first hundred days of the legislative session, or within sixty days of the request if the request is received at any other time. The period for issuing an opinion may be shortened or extended by the chair of the LEC when such action is deemed necessary or appropriate to meet the goals of the Act.

(h) *Qualified Confidentiality of Request.* The LEC and all LEC employees shall keep the identity of the requester confidential unless the request, the identity of the person making it, or any information conveyed orally or in writing relating to the request is or becomes material to a matter before the LEC.

Guidelines and Commentary

Confidentiality is important to enable individuals to seek advice without fear of reprisal or self-incrimination. And, unless matters revealed to the LEC or LEC staff are pertinent and important to a matter before the LEC, the identity of a requester of an advisory opinion and other collateral facts should be kept confidential and not be mentioned in public meetings or in public records. On the other hand, the LEC's responsibilities as an independent enforcement agency cannot be

compromised by claims of confidentiality with respect to information freely and voluntarily disclosed to the Commission. Persons requesting a formal opinion should be informed of this policy to avoid any misunderstandings.

20.60.205. EXEMPTIONS PROCESS.

(a) *General Rule.* In situations in which principles of fundamental fairness are best served by exempting certain individuals or acts from specified provisions of the Act, the LEC may grant qualified or unqualified exemptions.

(b) *Petition for Exemption.* The person seeking the exemption (the "petitioner") shall submit a written petition under oath stating:

- (1) the relevant provisions involved in the exemption request; and
- (2) the essential facts on which an exemption is requested; and
- (3) the specific nature of the exemption sought; and
- (4) the anticipated unfair or unreasonable consequences that would result from a failure to grant the petition.

(c) *Standard of Proof.* In order to grant an exemption a majority of a sitting quorum of the LEC must find that the petitioner, by a preponderance of the evidence, has shown that the:

- (1) harm caused by strict application of the Act substantially outweighs the benefit of its enforcement in the particular situation; and
- (2) application of the rule or provision under the circumstances presented would be inconsistent with the spirit and purpose of the provision or the Act as a whole; and
- (3) purposes of the Act and the public interest will be best served by granting the applicant an exemption.

(d) *Hearings and Appearances.* The LEC may, at its sole discretion, require or permit the personal appearance of the applicant before the LEC and hold hearings regarding the exemption request.

(e) *Normal Time Frame.* Unless a shortened or expanded time is deemed necessary or appropriate by the LEC, decisions on petitions for exemptions shall be made within thirty days of filing of the petition. Unless the petitioner consents, extensions of time ordered by the LEC shall not exceed an additional sixty days.

Guidelines and Commentary

This subsection was created to address occasional cases where strict application of the provisions of the Act would be contrary to the purposes of the Act. Exemptions should be granted only in rare and exceptional circumstances. The burden of proof is on the applicant to prove the three criteria necessary for exemption.

20.60.210. INITIATING INVESTIGATORY AND ADJUDICATORY PROCESSES.

(a) *Complaint Process.* The filing of a complaint shall be the first step in the in-

vestigatory and adjudication process. It is the purpose of the Act to assure that complaints should provide sufficient information on which to proceed, yet not be so complex or burdensome that the requirements unduly discourage or screen out valid good faith complaints.

(1) *Who Can File.* A complaint may be initiated by any person or by the LEC on its own motion.

(2) *Form.* The LEC shall provide a simple form for complaints which shall include:

(A) name and address of complainant; and

(B) a statement of the facts known or believed to be true which form the basis of the complaint and the sources of the information including the approximate dates of the acts alleged and names and addresses of persons with personal knowledge of the facts alleged; and

(C) a certification that the complainant verifies under penalty of perjury that the facts stated are true to the best of the complainant's knowledge and that the complainant knows that it is a violation of state law to intentionally initiate a false complaint.

(3) *Complaint to Respondent.* Unless the chair of the LEC concludes that immediate notification would prejudice a preliminary investigation or subject the complainant to an unreasonable risk, a copy of the complaint shall be sent to the person charged (the "respondent") with misconduct within two working days. If the matter is to be kept from the respondent for more than ten days, a majority of the LEC must approve and indicate the conditions under which the respondent will be informed of the complaint.

(4) *Confidentiality of Complaint.* Until a preliminary finding on the validity of a complaint has been properly made, the existence and substance of a complaint shall be kept confidential except that all members of the LEC and necessary staff may be informed about it.

(b) *Formal Sufficiency.* Upon receiving a complaint, staff of the LEC shall review it for formal sufficiency within five days of filing. If the complaint is unsigned or otherwise deficient on its face it shall be returned to the complainant with a statement of the nature of the deficiency.

(c) *Preliminary Determination of Validity.* Once a complaint has been determined to be formally sufficient, staff of the LEC shall evaluate the complaint and advise the chair as to its opinion as to whether it states a valid complaint that should be investigated. If the Executive Director is a member of the bar, the Executive Director may provide such advice. Otherwise, the Executive Director shall appoint a duly qualified legal counsel to assist in making the determinations herein. To be valid,

the complaint must:

(1) allege facts which, if true, establish a violation of this Act; and

(2) the conduct providing the basis of the complaint has occurred within five years of the complaint or the complaint alleges that the person charged with misconduct intentionally concealed or otherwise sought to prevent discovery of the relevant facts; and

(3) the person charged with misconduct is either a legislator or legislative employee at the time of the complaint or was a legislator within one year of the filing.

(d) *Dismissal or Certification of Complaints.* Within twenty days of the filing of the complaint, or within forty five days if the chair of the LEC certifies additional time is required, a determination shall be made on the substantive validity of the complaint.

(1) If the chair of the LEC concludes there is no substantial reason to question the opinion of staff as to the validity of a complaint, the complaint shall either be dismissed or certified for further consideration in accordance with the opinion.

(2) The chair or any other Commissioner, however, may request a hearing on the validity of the complaint at a meeting of the LEC.

(e) *Dismissal for Invalidity.* If a complaint is dismissed because of invalidity, it shall be returned to the complainant with a Notice of Dismissal stating in detail the reason for dismissal.

(1) If the LEC finds that the complaint was frivolous, malicious or was filed in bad faith, it shall so state in the Notice of Dismissal.

(2) If the LEC finds that the complaint alleges violations outside the scope of this act, it shall so state and forward the complaint to the appropriate enforcement body for disposition.

(3) The Notice of Dismissal shall be sent to the respondent.

(4) The Notice of Dismissal shall be a public record.

(f) *Certified for Further Consideration.* If the LEC concludes that some or all of the allegations of the complaint, if proven, would constitute a violation of this Act, or if the LEC has initiated the complaint, the complaint shall be certified and a factual investigation shall commence. The record of certification for further consideration shall be confidential subject to subsequent actions which may make it part of the public record.

20.60.211. INVESTIGATIONS.

(a) *General Requirements.* Investigation into ethics charges should be un-

undertaken in a manner which assures the public of an impartial and comprehensive review, is fair to the respondent and which elicits the information the LEC needs to make a decision.

(b) *Scope of Investigation.* Before commencing an investigation, the LEC shall adopt a written resolution defining the scope of the investigation, a copy of which shall be supplied to both the complainant and the respondent.

(1) If, during the investigation, additional facts are discovered which justify an expansion of the investigation and the possibility of additional charges beyond those alleged in the complaint, the resolution shall be amended accordingly with copies sent to the complainant and the respondent.

(2) The resolution, and the fact that an investigation has been undertaken, shall be kept confidential by the LEC except that, upon inquiry, the LEC may verify that it is investigating a complaint along with a statement that no finding of probable cause has been made and that no adverse inference of impropriety or guilt should be drawn from the decision to investigate. No other facts concerning the nature or results of the investigation shall be revealed except as provided herein after a determination of probable cause has been made.

(c) *Investigation Requested by Legislator or Legislative Employee.* A legislator or a legislative employee may request in writing that the LEC investigate charges of impropriety made against the legislator or legislative employee.

(1) The request must state with specificity the nature of the investigation requested.

(2) The LEC will determine whether it will undertake the investigation.

(3) If the LEC agrees to commence an investigation, the investigation will not necessarily be limited in scope by the request and, once begun, it shall be handled as any other investigation with the person requesting the investigation formally treated as a respondent.

(d) *Nature of the Preliminary Investigation.* The investigation will be conducted by the staff of the LEC and such outside counsel and investigators as the LEC deems necessary. The purpose of the preliminary investigation is to determine whether there is probable cause to proceed with a full adjudicatory hearing.

(e) *Oath and Subpoena Powers.* The LEC's investigator shall have the power to order a hearing and subpoena witnesses and documents, conduct depositions under oath, require the participation of the respondent, and issue interrogatories to be answered under oath.

(1) No oral or written statements, whether incriminating or exculpatory, shall be considered in the investigator's report unless made under oath.

(2) The respondent shall be given an adequate opportunity to provide testimonial and documentary evidence and, upon request, shall be allowed to inspect and make copies of all evidence relating to the allegations.

(f) *Report to the Commission.* Upon completion of the investigation, a confidential written report summarizing the evidence, evaluating its credibility and detailing findings on each of the allegations investigated shall be submitted to the LEC along with recommendations as to whether the complaint, or any portion of it, should be dismissed or whether the matter should proceed to the full hearing stage.

(1) The report shall be prepared so as to exclude unreliable information and uncorroborated and irresponsible allegations.

(2) The investigator's notes, records of interviews and any other investigatory matter deemed unreliable or unduly prejudicial by the LEC shall remain confidential.

20.60.212. PROBABLE CAUSE DETERMINATION.

(a) *Standard of Proof.* The LEC shall consider the report in closed session and determine whether substantial credible evidence exists to believe that it is probable that a violation of the Act has occurred.

(b) *Negative Finding and Dismissal.* If the LEC does not find that substantial credible evidence exists to warrant a full adjudicatory hearing, it shall dismiss the complaint and so notify the complainant with a Notice of Dismissal stating in detail the reason for dismissal.

(1) If the LEC finds that the charges were frivolous, malicious, made in bad faith, or that, in its opinion the respondent should be exonerated of the charges (found to be innocent), it shall so state in the Notice of Dismissal.

(2) If the LEC finds that the evidence supports violations outside the scope of this Act, it shall so state and forward the complaint and its report to the appropriate enforcement body for disposition.

(3) The Notice of Dismissal shall be sent to the respondent.

(4) The Notice of Dismissal and the investigator's report containing findings and recommendations, but not the underlying investigatory materials, shall be made public unless the LEC determines that this would unfairly prejudice either the respondent or complainant. Nothing herein shall be construed to prevent either the complainant or respondent from making the Notice of Dismissal and the report public.

(c) *Affirmative Finding and Adjudicatory Hearing.* If the LEC finds that substantial credible evidence exists establishing probable cause that a violation has occurred, it shall serve on the respondent in a manner consistent with the service of summons under the rules of civil procedure, a formal charge stating the specific al-

legations and scheduling a hearing.

(d) *Date of Hearing.* The hearing shall not be scheduled to commence sooner than twenty days after service of the formal charge on the respondent.

(1) If the respondent requests an earlier date, LEC may, but is not required to, consent.

(2) The LEC shall, upon request, grant respondent reasonable additional time to prepare a defense.

(3) The respondent shall have the right to file a responsive pleading admitting or denying the various allegations.

(4) The LEC may suspend further proceedings if the respondent acknowledges violation and agrees to corrective actions and sanctions deemed appropriate by the LEC. If the LEC suspends the proceedings or dismisses the charges as a result of a negotiated settlement, the terms and conditions of the settlement and the reasons for entering into the agreement shall be stated in a written report that shall be sent to the complainant and made part of the public record.

(e) *Public Record.* Upon determining that probable cause exists to conduct a full adjudicatory hearing, the LEC shall make public the investigator's report containing findings and recommendations, but not the underlying investigatory materials.

20.60.213. ADJUDICATORY HEARING.

(a) *General Requirements.* A formal hearing on ethics charges against a legislator or legislative employee shall be conducted in a manner that inspires confidence in the integrity and objectivity of the process and demonstrate full consideration for the rights and reputation of the respondent.

(b) *Procedures.* The LEC will hold public hearings in accordance with the requirements of the state administrative procedure act, except as otherwise expressly provided.

(c) *Powers of Commission.* The LEC may:

(1) administer oaths and affirmations and subpoena individuals, including the respondent, to testify or to submit to written interrogatories under oath;

(2) compel the production of documentary or tangible evidence;

(3) pay witnesses the same fees and mileage reimbursements paid in similar circumstances by the courts of the state;

(4) seek enforcement of subpoenas by written application of the LEC to a judge with jurisdiction over administrative matters under state law.

(d) *Rights of the Respondent.* The respondent may:

- (1) appear before the LEC and submit testimony or other evidence;
- (2) personally, or through counsel, subpoena, examine and cross-examine witnesses, raise objections and make arguments;
- (3) exercise any pretrial discovery procedures available in civil actions.

(e) *Appointment of Hearing Board.* The adjudicatory hearing shall be before a hearing board composed of five Commissioners. The chair of the LEC shall serve on board and appoint four other Commissioners. If the chair cannot attend all hearing sessions without undue inconvenience, the vice chair shall serve in the chair's place. If neither the chair nor the vice chair is available, the chair shall appoint another Commissioner. Hearings shall be conducted by the chair of the Commission with the advice and counsel of the Executive Director or other legal counsel as directed by the LEC.

Guidelines and Commentary

Ethics complaints against public officials should be resolved as quickly as possible consistent with fundamental rules of fairness and the needs of both the respondent and the investigators to prepare. Ethics complaints put a cloud of suspicion over those charged and inevitably hinder their ability to fully and effectively perform their public duties until they are resolved. Thus, the adjudicatory process has been designed to allow for maximum speed and efficiency. Commissioners who have active business and personal lives will not always be available on short notice to alter their schedules to meet the intense time demands that an adjudicatory ethics hearing may require. By having nine confirmed Commissioners, any five whom may sit on the hearing board, the LEC is more likely to be able to impanel a tribunal quickly. In selecting the hearing board the chair should assume all Commissioners are qualified and shall select a board that can perform the adjudicatory function as efficiently as possible. The chair should avoid any appearances of impropriety in the selection process and, where possible, rotate assignments so that all Commissioners are asked to serve on hearing boards.

20.60.214. FINDINGS AND RECOMMENDATIONS.

(a) *Findings.* Within ten days of the completion of hearings, the hearing board shall vote on each charge to determine whether it was established by a preponderance of the evidence and prepare a written opinion along with recommendations, if any. A vote of three commissioners shall be necessary to find a violation.

(1) *Unproven Charges.* As to each charge on which the evidence was found to be insufficient to establish a violation, the hearing board shall issue a written opinion stating their findings.

(A) If the board finds that the charges were frivolous, malicious, made in bad faith, or that, in its opinion the respondent should be exonerated of the charges (found to be innocent), it shall so state in its opinion.

(B) If the board finds that the respondent should be exonerated, it shall recommend that the legislature reimburse the respondent for all

or part of reasonable legal fees incurred as a result of the charge. Unless the board makes such a recommendation, however, such fees shall not be paid from public funds.

Guidelines and Commentary

Since the Commission had previously found probable cause to believe that a violation had occurred, it should be very rare that, after a full hearing, it finds that the respondent has been exonerated. If, however, the evidence produced at the hearing clearly establish the falsity or unfairness of the charges, the respondent should have the opportunity to recoup legal fees. Without such a determination, however, the mere acquittal of the respondent should not be construed as a vindication warranting the state to pay for the defense.

(2) *Proven Charges.* As to each charge on which the evidence was found to be sufficient to establish a violation, the hearing board shall issue a written opinion stating their findings of fact and law along with recommendations as to appropriate sanctions. As provided in AS 20.60.018, the recommendation may include, but are not limited to:

(A) civil fines of not more than \$5,000 for each offense, or equal to twice the amount improperly gained by the misconduct, whichever is the greater;

(B) divestiture of specified assets or withdrawal from specified relationships;

(C) detailed disclosure, with or without additional periodic reporting requirements;

(D) suspension from legislative service, with or without pay;

(E) restitution or reimbursement;

(F) suspension of pay until orders are complied with;

(G) forfeiture of pension benefits;

(H) written reprimand;

(I) voiding any legislation or other action resulting from conduct in violation of the Act;

(J) censure (a legislator censured shall not serve as a chair or a co-chair on any legislative committee for the remainder of the legislator's pending term in office);

(K) expulsion of a legislator or dismissal of a legislative employee;

(L) payment of costs related to the investigation and adjudication of the charge;

(M) any other sanction fashioned to achieve the purposes of this act.

(b) *Recommendations to the Legislature Where Violator is a Legislator.* If the person found to have violated the Act is or was a member of the legislature, the

hearing board's recommendations shall be forwarded by the chair of the LEC to the presiding officer of the house of the legislature to which the member belongs.

(1) If the legislature is in session, the entire house shall determine what sanctions, if any, are to be imposed. Such vote shall be taken within ten legislative days of receipt of the LEC's recommendations.

(2) If the legislature is not in session, the presiding officer may either call a special session to put the matter to a vote within thirty days, or submit the recommendations to the Legislative Council which shall vote on the LEC's recommendations within thirty days. If either expulsion or censure is recommended the matter must be voted on by the legislature in a special session.

(3) Except in the case of expulsion which shall require a two-thirds vote, all other sanctions shall be determined by a majority vote.

(4) In determining what sanctions, if any, to impose, the legislature shall scrupulously observe the rule of nonpartisanship. It shall not retry the basic facts nor question the hearing board's findings of fact. The only issue before it shall be the determination of the appropriate sanction assuming the validity of the board's findings.

(c) Recommendations to the Legislature Where Violator is a Legislative Employee.

If the person found to have violated the Act is a legislative employee, the hearing board's recommendations shall be forwarded by the chair of the LEC to the Select Committee on Ethics which shall, as soon as is reasonably possible, determine what sanctions, if any, are to be imposed. The committee shall scrupulously observe the rule of nonpartisanship. It shall not retry the basic facts nor question the hearing board's findings of fact. The only issue before it shall be the determination of the appropriate sanction assuming the validity of the board's findings.

20.60.220. ADMINISTRATIVE PROVISIONS.

(a) *Actions by the Attorney General.* The attorney general shall assist the LEC and the legislature in enforcing all lawful orders and sanctions. The attorney general may independently bring civil or criminal actions relating to violations under this act regardless of the outcome or settlement of a charge before the LEC, provided that the cumulative civil fines imposed for any violation do not exceed the amount that could be assessed in an action before the LEC.

(b) *Maintenance of Documents.* Documents filed with or produced by the LEC as public records must be retained for at least six years.

(c) *Cooperation of Others.* The LEC may require the cooperation of a state agency, official, employee and other person whose conduct is regulated by this act and all such persons are required to cooperate with the LEC. An individual shall make information reasonably related to an investigation available to the LEC on

written request. The LEC may request and shall receive from every officer, department, division, board, bureau, commission, chamber of the legislature, or other agency of the state, cooperation and assistance in the performance of its duties.

(d) *General Authority.* The LEC may perform the other acts, duties and functions authorized by or in connection with the administration of this Act, consistent with Alaska administrative acts.

(e) *Confidentiality.* Individuals subject to the provisions of this Act shall not knowingly and improperly disclose any confidential information acquired in the course of official duties.

(f) *Waiver of Confidentiality.* The LEC may publicly respond to a statement or interpretation made concerning the contents of an advisory opinion or decision it has issued or is purported to have issued. A person who publicly identifies himself as the requester of an advisory opinion shall be deemed thereby to have waived the confidentiality of his identity and of all records obtained by the LEC in connection with the request for the advisory opinion.

20.60.230. APPROPRIATION.

There is hereby appropriated from the General Fund to the Legislative Ethics Commission funds sufficient to support the Commission and its purposes and a like sum, adjusted for cost of living changes, during each fiscal year thereafter. The Legislature and the Finance Committees of both the Senate and the House of Representatives shall appropriate such additional amounts to the LEC as may be necessary to carry out the provisions of the Act.

CHAPTER 60
ALASKA LEGISLATIVE ETHICS ACT OF 1990

ARTICLE 4. Legislative Ethics Education Program

Section

- 300. Ethics Education Program
- 301. Ethics Education Manual
- 302. Education Advisory Committee
- 303. Legislative Orientation Training Course
- 304. Current issues and Application Seminar
- 305. Lobbyist Training Course
- 306. Administrative Provisions

20.60.300. ETHICS EDUCATION PROGRAM

(a) *Statement of Intent.* The central function of an ethics code is to prevent, rather than punish, unethical conduct. Prevention depends almost entirely on an effective and comprehensive ethics education program. The purpose of this article is to assure that legislators and staff have the means and opportunity to learn and understand the rules and principles underlying the standards of conduct.

(b) *Components.* The LEC shall oversee and develop the following components of a comprehensive ethics education program:

- (1) publish an Ethics Education Manual.
- (2) establish an Education Advisory Committee.
- (3) design and implement a Legislative Orientation Training Course, a Current Issues and Applications Seminar, and a Lobbyist Training Course.

Guidelines and Commentary

(i) *Components of Ethics Education: Letter and Spirit of the Law.* In order for ethics rules to be sufficiently specific to provide meaningful guidance and enforceable standards, they must be detailed. If they are to reach the subtleties of the choices that must be made, they sometimes must be complex. In many cases, they dictate results that are not intuitively obvious. It is unrealistic to expect that, without any special effort, that most legislators and legislative employees will read, let alone understand them. Ethics education will serve to explain the rules and regulations that legislators and their staffs must follow. But effective education goes far beyond reading the rules or getting instruction on the filing of disclosure forms. If public servants are to live lives consistent with these standards, they must internalize and remain sensitive to the norms of expected behavior. They need to understand the difference between what is legal and what is ethical, and they must know what procedures can and should be followed if they are to adhere to the highest aspirations of the Act. The ethics education program prescribed should help individuals develop the ability to apply rules, standards, values and ethics codes to specific situations. Public officials are constantly faced not only with hard decisions as to right and wrong, but even harder choices requiring them to choose among conflicting goods or the lesser of evils. Ethics education courses help public servants sort through and deal with the enormously complex ethical issues they are bound to face and emphasize the vital importance of the notion that public office is a public trust.

20.60.301. ETHICS EDUCATION MANUAL.

(a) *Content.* The LEC shall prepare and publish a Legislative Ethics Manual ("Manual") which shall contain all ethics statutes, rules, regulations, and related information, including detailed explanations of technical and specific legal requirements as well as the underlying purposes and ethical principles which comprise the "spirit" of such requirements. The Manual shall include realistic examples with recommended actions, as well as questions and answers regarding common problems and situations.

(b) *Revisions.* The LEC shall issue a revised and updated version of the Manual no later than 30 days after the commencement of each two year session.

(c) *Distribution.* The Manual shall be distributed to all legislators, legislative employees, and registered lobbyists. The Manual shall also be available to all other members of the public.

Guidelines and Commentary

All that can be done should be done to educate public servants on their legal and ethical obligations. One of the overarching principles of this Act is that it must be strictly enforced and that ignorance of the rules or their meanings will not be an acceptable excuse. The LEC should thoroughly distribute this Manual at each time of issuance and develop procedures, in cooperation with the Personnel Office of the Legislative Affairs Agency, to assure that the Manual reaches all new legislators, legislative employees, and lobbyists.

20.60.302. EDUCATION ADVISORY COMMITTEE.

(a) *Composition.* The LEC Chairman shall appoint five members to the Education Advisory Committee which shall include at least two members of the LEC, a legislator, and a legislative employee. The Education Advisory Committee may also include an outside expert in the field of ethics.

(b) *Functions.* The Education Advisory Committee shall oversee the implementation of, and recommend the content for, the following ethics education programs:

- 1) Legislative Orientation Training Course,
- 2) Current Issues and Applications Seminar, and
- 3) Lobbyist Training Course.

20.60.303. LEGISLATIVE ORIENTATION TRAINING COURSE.

(a) *Initial Course.* Commencing in 1991, and for every year thereafter, the LEC shall conduct a Legislative Ethics Orientation Training Course ("Course") which shall be mandatory for all legislators and legislative employees.

(b) *Subsequent Courses.* In subsequent years, all new legislators and new legislative employees, who have not already attended the Course, shall attend the Course in January of each year unless otherwise decided by the LEC.

(c) *Content.* The Education Advisory Committee shall determine the specific content of the Course, and it shall cover the ethics laws, internal rules and policies, as well as the technical and specific legal requirements that legislators and legislative employees must follow. The Course shall also cover the underlying purposes and ethical principles of all ethics laws, internal rules and policies, and any other related regulations. The Course shall highlight the principles of public service ethics and the intent of ethics laws, including their application to practical situations.

(d) *Structure.* The LEC shall offer separate sessions of the Course for legislators and for legislative employees, and shall offer as many sessions as necessary to accommodate the number of people required to take the Course. Unless the LEC decides otherwise, the course should be at least six hours long and given in one or two sessions. To afford meaningful participation and direct involvement, the LEC shall limit the attendance of each session to approximately 50 people.

Guidelines and Commentary

An Orientation Training Course covering both the "letter" and "spirit" of all ethics laws should be a minimum of six hours. The material is both extensive and in depth, involving many laws and complex issues surrounding those laws. The LEC should remember that the public's trust and confidence in government is based on the highest ethical standards which can, in fact, be taught. Legislators should attend Orientation Courses and Workshops separately from legislative employees in order to allow the Courses to focus on issues which only affect one or the other group of people. Legislative employees have many different ethical issues to deal with from those of legislators and, as well, will benefit from the more confidential atmosphere achieved by the absence of their superiors. Limiting attendance to fifty people will afford every attendee ample opportunity to ask questions and fully participate in discussions, case studies, and other educational activities. Effective ethics education deals with complex issues of both a professional and personal nature, and therefore depends on the active participation of all attendees and should avoid the development of a passive learning environment.

20.60.304. CURRENT ISSUES AND APPLICATIONS SEMINAR.

(a) *Annual Seminar.* Commencing in 1991, and for every year thereafter, the LEC shall conduct a Current Issues and Applications Seminar ("Seminar") which shall be mandatory for all legislators and legislative employees who have previously completed the Legislative Ethics Orientation Training Course.

(b) *Content.* The specific content of the Seminar shall be determined by the Education Advisory Committee, and shall include an overview of all new substantive changes in the laws in the form of amendments, revisions, and new ethics advisory opinions. The Seminar shall include discussions on problem solving skills, practical ethical issues likely to confront a legislator or legislative employee, and the underlying principles of public service ethics.

(d) *Structure.* The LEC shall offer separate sessions of the Course for legislators and for legislative employees, and shall offer as many sessions as necessary to accommodate the number of people required to take the Seminar. Unless

the LEC decides otherwise, the course should be about three two hours long in order to accommodate specific problem-solving. The LEC shall limit the attendance of each session to approximately 50 people.

20.60.305 LOBBYIST TRAINING COURSE.

(a) *Mandatory Course.* Lobbyists shall complete a Lobbyist Training Course ("Training") conducted by the LEC, as a condition of registering as a lobbyists with the State of Alaska.

(b) *Content.* The specific content of the Training shall be determined by the Education Advisory Committee, and shall include a review of all ethics statutes, the rules and regulations relating to appropriate lobbyist conduct, and the principles of public service ethics.

(c) *Certification.* Certifying completion of the Training shall be a part of the lobbying registration process conducted by the Alaska Public Offices LEC.

(d) *Length.* Unless the LEC determines otherwise, the course should be about four hours in length.

(e) *Reinforcement and Updating.* Lobbyists shall repeat the Training at least once every three years, and the LEC shall update the Training accordingly.

(f) *Fees.* At the LEC's discretion, lobbyists may be charged reasonable fees to attend the Training.

Guidelines and Commentary

Lobbyists play an integral role in the political process and substantially influence public policy formation. Therefore, it is essential that lobbyists know and understand the specific legal requirements which regulate the lobbying profession. Furthermore, and more importantly, lobbyists share the ethical obligation to not act in ways which will impede the legislature's ability to perform its duties according to the highest standards of public service ethics. The LEC should cooperate, and coordinate, with the Alaska Public Offices LEC in order to most effectively implement and enforce lobbying regulations.

20.60.306. ADMINISTRATIVE PROVISIONS

(a) *General.* The LEC shall assure the continued implementation, improvement, and modification of the ethics education programs. The LEC shall develop procedures to assure the attendance of, and course completion by, all legislators, legislative employees, and lobbyists, including procedures to review requests for exemptions.

(b) *Records of Attendance.* The LEC shall assure the attendance of legislative employees who are not in, and cannot travel to, the State Capital by offering the programs by teleconference. When a teleconference connection is unavailable, the LEC shall distribute video tapes to the employees or arrange to have them travel to a site where a live or teleconference course is available.

(c) *Sanctions.* The LEC shall have the authority to impose sanctions, including suspension of pay and dismissal of legislative employees, recommendations for disciplinary action for legislators, and recommendations to deny or revoke lobbyist registrations, upon any legislator, legislative employee, or lobbyist who fails to complete the ethics education requirements within a reasonable amount of time, as determined by the LEC.

(d) *Lists.* The LEC shall supply the Senate President and House Speaker with the names of those legislators, legislative employees, and lobbyists who have not complied with the ethics education requirements.

(g) *Times and Places --* The LEC shall offer all of the education programs at appropriate times and locations and shall fairly publicize them.

THE STATE OF LEGISLATIVE ETHICS IN THE STATE OF ALASKA

FINDINGS

RECOMMENDATIONS

STATISTICAL ANALYSIS

**OPINION SURVEY OF LEGISLATORS,
NONLEGISLATIVE PUBLIC OFFICIALS AND LOBBYISTS**

**A REPORT TO THE
Alaska State Senate**

APRIL 2, 1990

**Prepared by the
GOVERNMENT ETHICS CENTER
Joseph & Edna Josephson Institute for the Advancement of Ethics
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BACKGROUND

On February 20, 1990, the Josephson Institute was commissioned by the state Senate of Alaska to perform the following tasks:

- Review the present laws and rules of the Alaska Legislature.
- Draft legislation and prepare a report regarding matters of legislative ethics including but not necessarily limited to:
 - (a) Process and procedures for resolving ethics charges;
 - (b) Gifts, gratuities and honoraria;
 - (c) Conflicts of interest--including outside income, financial interests and disclosures;
 - (d) Post employment restrictions;
 - (e) Use of public facilities and staff;
 - (f) Conduct discrediting the Legislature
 - (g) Lobbying regulations;
 - (h) Use of campaign funds.
- The report shall recommend legislative changes required for a comprehensive, integrated, practical set of rules and procedures that will establish clear and reasonable standards of conduct for Alaska state legislators and staff.
- According to the contract: "An objective of the proposal is to put Alaska in a nationally recognized leadership role for standards and enforcement of ethical conduct, providing a model for all other states."

PREPARATION

In preparing this report, its Findings and Recommendations and the entire ethics package contained in the Alaska Legislative Ethics Act of 1990, the Josephson Institute through its GOVERNMENT ETHICS CENTER undertook to familiarize itself in detail with the people, laws and political culture of the state.

- We personally met with and interviewed almost one hundred men and women in the state (including virtually every legislator in both the House and the Senate, numerous current and former public officials, former journalists, lobbyists, legislative staff members, and various other members and former members of state boards, commissions, and committees).
- We conducted what we believe has been the most extensive written survey of Alaskan legislators, lobbyists and nonlegislative public officials ever taken.
- We reviewed the current statutes, proposed amendments, committee minutes, correspondence concerning ethics matters, ethics committee formal advisory opinions, reports on various aspects of Alaska law and procedures from APOC, reports from the Attorney General and a report of the National Conference of State Legislatures.

GOALS

■ Integrate and expand on all existing and relevant Alaska statutes in order to establish comprehensive, clear and reasonable guidelines for Alaska's legislators, legislative staff members, and lobbyists who must function in a morally complex world where traditions and expediencies often conflict with ethical principles.

■ Invoke Alaska's legislators and their employees to view the specific ethical obligations entailed in preserving public trust in a positive way, not as restraints based on cynicism or suspicion, but as guidelines which establish clear expectations and preclude conduct which undermines public respect.

■ Offer the Alaska State Legislature an ethics law which is comprehensive, realistic, sensitive, and inspiring: one which can serve as a model for the nation.

FINDINGS AND RECOMMENDATIONS

THE LANDSCAPE

#1. REPUTATION AND STATURE. The reputation and image of the legislature is unacceptably low and it greatly needs an infusion of active, idealistic ethical leadership.

#2. NATIONAL PERSPECTIVE. As bad as things are, there is no evidence that the actual conduct of Alaska legislators warrants the amount of distrust demonstrated or that their behavior is materially worse than in other states. In part, the present state of cynicism is a function of a pervasive national attitude driven by a seemingly endless stream of high level wrongdoing. *Still, the problem is very serious and must be addressed seriously since in the area of public trust, perception is reality.*

#3. NEED FOR BEHAVIORAL CHANGES. The public trust in Alaska has been substantially undermined by specific behaviors that, in the opinion, of a large majority of governmental insiders, raise serious ethical problems that need to be addressed by behavioral changes.

#4. NEED FOR MORE REGULATION RECOGNIZED. Legislators and others involved in state government overwhelmingly believe regulation of the type provided in the Legislative Ethics Act is needed to prevent actual conflicts of interest and appearances of impropriety.

#5. STRICT REGULATION WILL NOT SERIOUSLY AFFECT EXISTING LEGISLATORS. Very few legislators will be so adversely affected by any provision in the Legislative Ethics Act which bans or restricts outside income sources that it would materially affect their willingness to serve.

THE LEGISLATIVE ETHICS ACT

#6. NEED FOR DETAILED COMPREHENSIVE STATUTE. Regulating ethical issues involving conflicts of interest arising from outside income and close personal relationships is especially difficult in Alaska because some outside earnings to supplement legislative salaries is often an essential and some questionably close personal relationships are inevitable. Rather than simple categorical prohibitions, fair and realistic restrictions must be carefully crafted to prohibit no more or less than is necessary to protect public trust. This means general rules must have specific exceptions and explicit guidelines, tending to make the regulations long and complex.

#7. NEED FOR UNIQUE FORMAT. A code establishing standards of ethical conduct designed to restore public trust must be based on commonly accepted ethical principles that drive public perceptions. These principles impose affirmative as well as negative duties and they do not lend themselves to traditional legalistic approaches which assume that if an act is not prohibited, it is proper; that if conduct is legal, it is ethical. Circumvention techniques of all sorts must be anticipated and discouraged by extensive guidelines and commentary expressing clearly the "spirit" of the law and elaborating on the underlying principles of various provisions are necessary and they must be made part of the law. We found legislators particularly apt to approach campaign limitations and disclosure requirements with a minimalist, almost gamesmanship approach. The Legislative Ethics Act directly addresses and disapproves of such an approach.

#8. NEED FOR MORE THAN LAWS. New laws alone will not make a difference. To restore public trust, behaviors and perceptions must change. A comprehensive ethics package, therefore, must include an extensive and continuous educational component and an interpretation and enforcement procedure that generate confidence that all legislators will be consistently held to the high standards established in the code.

#9. THE EDUCATIONAL COMPONENT IS VITAL. Those who are expected to comply with the Legislative Ethics Act should be given the opportunity and incentive to learn both the letter and spirit of the laws applicable to them. In addition, the importance of ethical behavior should be continually demonstrated by a pervasive emphasis on commitment to principle rather than merely compliance with law. In the context of a priority-driven legislature, ethics education should be both continuous and mandatory.

#10. NEED TO PIECEMEAL AMENDMENTS. The Legislative ethics Act seeks to fairly and objectively address all the major ethical issues in an integrated fashion. It is somewhat like a watch with endlessly interrelating parts. While there will be disagreements in policy, and it is inevitable that some legislators will find certain provisions personally undesirable, we strongly recommend that every effort at self-restraint be made so that the code remains essentially in tact. We think those who seek changes should have a very heavy burden of persuasion since piecemeal amendments can easily prevent the Act from accomplishing its purposes.

#11. NEED FOR AN INDEPENDENT ETHICS COMMISSION. We found that a major source of distrust was a lack of confidence in the existing process of adjudicating ethics complaints. A new process is needed which puts the investigatory and adjudicatory phase in the hands of a respected and independent panel free of partisanship and collegial conflicts of interest. We respectfully chose not to place active legislators on the panel because we concluded that they were not likely to have either the time or the image of nonpartisan objectivity that is required.

#12. NEED FOR FLEXIBILITY. A law as comprehensive as the Legislative Ethics Act is bound to cause some unanticipated results. It is essential, therefore, that the ethics commission is given sufficient authority to interpret and apply its provisions according to the law's spirit and purposes, and not mechanically or arbitrarily. To accomplish this, the Act grants broad authority to the Commission to grant exemptions, issue regulations and propose amendments.

#13. LEGISLATURE MUST RETAIN ACCOUNTABILITY. Principles of accountability justify the conclusion that the legislature have an important say in the composition of the ethics commission without being able to dominate it. The Legislative Ethics Act gives the legislature the right to decertify any Commissioner and requires a floor vote on recommended sanctions.

#14. ASSURED FUNDING. In order for the ethics commission to gain and maintain the public confidence it will require, there should be adequate assurance that individual legislators, or the body as a whole, will not use the power of the budget to undermine its ability to vigorously carry out its functions. We propose no special provision to guarantee adequate funding, choosing instead, to rely on the good faith of the legislature. If funding becomes a problem in the future, alternative means of assuring the Commission's independence will be required.

#15. INADEQUATE DISCLOSURE. Disclosure of potential conflicts of interest is an integral part of the present system of ethics regulation and an even more important part of the Legislative Ethics Act. Disclosure, however, is only useful if it includes sufficient detail to permit objective analysis of the nature of the interest disclosed and other facts which bear on its capacity to interfere with objective judgment. The law must also provide sufficient deterrence against inaccurate or misleading statements. We find that present laws both imposed as part of the APOC system and as imposed in present legislative Standards of Conduct are seriously inadequate. We have remedied the situation as it applies to some disclosures covered by the Legislative Ethics Act but we recommend other

provisions be amended to assure that the purposes of the requirements are accomplished.

#16. DIGNITY AND DECORUM. Legislators have an obligation to do all they can to maintain public respect and to treat others respectfully. We found instances of behavior which, while not an appropriate source of legislation, warrant concern. It is not necessary that legislators be stuffy or aloof but conduct which tends to undermine the dignity and decorum associated with high public office ought to be avoided.

OTHER IMPORTANT RECOMMENDATIONS

#17. EXPANSION OF ACT TO ALL PUBLIC EMPLOYEES. There is no reason why all public employees ought not to be held to the same high standards and benefit from the educational programs established in the Legislative Ethics Act. Since, however, it is urgent that the legislature address the issue of its own ethics this term, we recommend no changes now. We do, however, recommend that efforts begin now to modify the Act so that in the future it can be made to apply to all public employees under the auspices of an independent Office of Government Ethics, merging the offices of APOC and the Legislative Ethics Commission.

#18. NEED FOR ETHICAL EMPLOYEE RELATIONS. We found that employees of the legislature are not afforded normal protections incorporated in labor laws. We also encountered evidence that some legislative staff members are regularly asked by superiors to perform personal tasks which are inappropriate to their jobs -- walking a dog, doing laundry, running personal errands, caring for a child or pet in the office. The Legislative Ethics Act prohibits such requests but without institutionalized procedures to protect individual employees, it will be very difficult for some staff members to simultaneously meet the demands of their superiors and their obligations to the state. We recommend that the legislature establish a grievance procedure which provides reasonable guidance to supervisors and protections for legislative staff regarding all matters of fair employment practices.

#19. PARTISAN ALLOCATION OF FUNDS. We found that, regardless of the party, person or coalition in power, the tradition has been that the "ins" discriminate against the "outs" in the allocation of discretionary funds for legislative staff, equipment and travel allowances. Since each legislator represents a population of approximately the same size, misallocation unjustifiably work unfair disadvantage on citizens in some districts. We recommend that procedures be adopted to assure that legislative resources are equitably allocated based on needs of official government business, and no other consideration.

#20. INAPPROPRIATE USE OF COMMITTEE POWERS. We found a pervasive and urgent concern among legislators, lobbyists, and nonlegislative public officials that present customs allowing committee chairs to exercise undue control over the legislative process were unfair and anti-democratic. We recommend that policies and procedures be adopted to remedy this situation.

#21. STATE SHOULD PAY ITS OWN WAY. We found that one continuous source of pressure to accept outside gratuities concerned travel that was related to legislative business but which was not paid for by the legislature. The Legislative Ethics Act bans private parties from paying for such travel in most cases but permits other government entities or bona fide educational institutions to do so. We recommend that the legislature adopt policies to assure that all necessary and reasonable official travel be paid for by the state.

#22. THE PRESENT OFFICE ACCOUNT PROCEDURE SHOULD BE REPLACED. Presently, legislators are given a yearly sum of \$4,000 which they report as personal income but from which they are expected to pay most normal office expenses (other than staff employment). We found that there was consensus that the amount was inadequate and that individual legislators often had to supplement this allocation to cover activities and services which are legitimate public expenses. We recommend that this system be replaced with an official office allowance which shall not be paid to the legislator but will be used to pay for actual legitimate office expenses. The legislature should determine what amount is appropriate, but we suggest \$6,000.

#23. INCREASED SUBSTANTIVE COMMUNICATION WITH CONSTITUENTS. We find that legislators rarely communicate to their constituents in any detail about their votes and actions. To encourage such communication, we recommend that the office allowance be established at a rate that permits the distribution of up to two simple, inexpensive newsletters but only if at least one full page is devoted to a clear statement of the following: 1) a description of each bill introduced or sponsored by the legislator, with a brief narrative as to the legislators goal's and reasons; 2) a record of each vote made on significant substantive matters on the floor, and a description of all major committee activities and votes; 3) the names of campaign contributors over \$250, if any, since the last newsletter; 4) any other information that will help the constituent assess the effectiveness and understand the political positions of his or her representative.

#24. INCREASED TRAVEL ALLOWANCE DURING SESSIONS. We found that for many legislators the obligation to live in the capital city for the four-

month legislative session required them to separate from their families and personal business interests in a manner that causes substantial psychological and economic stress. Many felt a need to return to their districts at least twice during the session for personal or political reasons. While the long term per diem allowance may be adequate to cover these costs, most feel so financially pressed that they look for other ways of subsidizing the travel (such as accepting free travel from private companies or by concocting legislative business such as a hearing which might otherwise be unnecessary). We recommend that the legislature pay the transportation costs for up to two trips back to the legislator's district during the session.

#25. INCREASE LEGISLATIVE PAY. The job of state legislator is simply and clearly worth considerably more than what is being paid. Legislators work harder and longer than most people expect, the position is becoming both more important and more complex, the new ethics laws will make it harder to find proper ways of supplementing income so that the financial and personal sacrifices involved in legislative service will make it harder to attract quality leaders unless a substantial increase is provided. We recommend that in conjunction with enactment of the Legislative Ethics Act, the legislature raise its pay to \$40,000, the amount recommended by the State Officer's Compensation Commission, provided that interim per diem compensation payments are abolished.

#26. REPLACE THE INTERIM PER DIEM SYSTEM. Whether or not an overall salary increase is adopted, the compensation established ought to take into account the reasonable expectation that a legislator will be involved in legislative business during the interim between sessions. The present system which allows legislators to claim per diem payments for days worked in between sessions is cumbersome, unseemly and fraught with the potential for abuse. We recommend the procedure be abandoned and that a fixed sum be added to the compensation.

#27. UNHEALTHY PRESS RELATIONS. We found there is more than the usual amount of hostility and cynicism between the press and the legislature. Portions of the press have inappropriately tend to impute improper motives to legislators, making every negative assumption possible, never affording the benefit of doubt about ambiguous conduct. Likewise, we found legislators who invariably assume that journalists act in bad faith and are incompetent. Since these attitudes tend to focus undue attention and energy of legislators on how to deal with the media, rather than on the business of public policy-making, a constructive effort by both sides to understand each other's mission and treat each other with more respect is very much in order.

HIGHLIGHTS OF LEGISLATIVE ETHICS ACT

- Based on affirmative ethical principles: good faith, nonpartisanship, public trust, public interest, accountability, democratic leadership, respectability, independent judgment.
 - Establishes strict standards re: intervention on behalf of constituents.
 - Imposes penalties for bad faith delay or misleading disclosures.
 - Imposes post-service lobbying restrictions: everyone, 1 year with legislature; committee chairs and presiding officers, 1 year with agencies subject to legislator's oversight.
 - Bans fund raising during sessions, everywhere, for legislators and public officials.
 - Bans off-year fund raising: creates period from June 1-December 31 of year before election and June 1 through election for fund raising.
 - Bans post-election fund raising to retire campaign debts.
 - Bans conversion of campaign surplus to personal funds.
 - Limits carryover of excess funds to \$2,500 for house, \$5,000 for senate.
 - Strictly bans use of state property and staff for campaign purposes.
 - Imposes duty on subordinates to refuse to perform improper tasks.
 - Prevents exploitation of office for private gain, selling stature and prestige, requires compensation to be commensurate with services actually performed.
 - Creates legal defense fund procedure.
 - Limits coercive fund raising techniques.
 - Establishes rigorous new reporting requirements for financial and personal conflicts.
 - Bans lobbyists serving as campaign officers or fund raisers for legislative candidates.
 - Strictly limits forms of advising and consulting for compensation.
 - Bans representation before state agencies in most instances.
 - Empowers Commission to order special restrictions re: relationships with lobbyists.
 - Bans income relating to most state contracts.
 - Imposes rigorous new requirements re: income from persons who have a substantial interest in legislative, administrative and political actions (broadly but explicitly defined).
 - Sharply limits honoraria by source.
 - Bans all private-paid travel over \$100, even for legislative purposes but allows bona fide government and nonprofit educational institutions to pay.
 - Establishes new gift standards, including exemptions: no source can provide over \$100 in non-exempt gratuities during a year.
 - Bans memberships on most boards.
 - Imposes duty on both legislators and those that employ them to file sworn reports on precise nature and amount of duties and compensation; reports are presumptively public.
 - Procedure is created to allow Commission to protect privacy in extraordinary cases.
 - Imposes reporting responsibilities on all legislative employees, including some consultants, who exercise professional discretion; eliminates salary range qualification.
 - Establishes procedures to protect privacy if disclosures reveal no significant conflict.
 - Establishes protection for whistle blowers.
 - Mandates proper, respectful and lawful treatment of colleagues and subordinates.
 - Eliminates "legislative stay," undue procedural advantage for lawyers.
 - Condemns use of committee chair powers to undermine representative democracy by burying bills or unfairly allocating public funds among majority and minority members.

DISCUSSION OF SELECT FINDINGS AND RECOMMENDATIONS

The Issue of Public Trust

THE REPUTATION AND IMAGE OF THE ALASKA LEGISLATURE IS UNACCEPTABLY LOW AND IT GREATLY NEEDS AN INFUSION OF ACTIVE, IDEALISTIC ETHICAL LEADERSHIP.

If there was any question before our study as to the image of the Alaska legislature, such questions have been firmly put to rest. Quite frankly, it is in very sad shape.

While we were unable to assess the opinions of on-the-street Alaskans, we did comprehensively survey governmental insiders -- legislators, public officials and lobbyists -- a group with a unique understanding of the legislative role, the realities of politics and the nature of the conflicts and pressures experienced by public servants. If the average citizen is as cynical or disenchanted as this insider group, and one would suspect they are, the state of public trust is in dismal disrepair.

Every group we surveyed agreed with three main points: 1) Public trust is very important to the effectiveness of government; 2) The overwhelming majority of those surveyed do not personally have a high regard for the integrity of their legislators, and they think the general public has even worse views; and 3) A major reason for the lack of trust is the result of "insensitivity to ethical standards by a significant minority of legislators."

Importance of Public Trust. There was no dispute that public trust is very important. A much smaller percentage of legislators thought it was "essential" than did public officials or lobbyists (Legislators: 12%; Lobbyists 26%; Public Officials: 49% --Appendix. p. 1) but when we combined those who thought public trust was essential with those who thought it was "very important," we find an indisputable consensus: government needs the support and confidence of its citizens (Legislators: 75%; Lobbyists 75%; Public Officials: 93% -- Appendix, p. 1).

Degree of Actual Trust. We tested attitudes about the actual degree of trust in several ways with each surveyed group. No matter the nuance, the result was vividly clear: the level of trust and confidence in the integrity of the legislature is disturbingly low. So low that positive aggressive actions are needed by the legislature to restore public trust.

Public officials and lobbyists were asked their personal opinion of the Alaska legislators and the body as a whole. Lobbyists had a much more favorable view than public officials, but still only 55% had a high opinion of the body as a whole (as against only 27% of the public officials -- Appendix, p. 2). If three quarters of the public officials fail to think well of their legislative colleagues it is doubtful that citizens in general have a higher view. And

even 45% of the lobbyists were cynical.

One cannot hide from the conclusion that things are not what they should be. Legislators showed that they too think there is a wide gap between what they need, trust, and what they have, cynicism -- only 14% thought that most or almost all Alaskans have a sufficiently high degree of trust and confidence in the integrity of legislators (Appendix, p. 4). The figure jumped slightly to 25% (Appendix, p. 3) when they assessed the opinion of their own constituents but, by any standard, it is clear that legislators know that the vast majority of citizens do not have the respect the legislators themselves feel is so important.

Reason for Lack of Trust. Our personal interviews with legislators led us to believe that much of the responsibility for the crisis in confidence was going to be put at the door of the press. There was a noticeable, pervasive hostility about press coverage. The surveys, however, showed a more reflective assessment of the major reasons for public cynicism. While legislators were more likely to attribute the problem to "relentless and unfair media coverage" than any other group, still, only one in four did so (Legislators: 27%; Lobbyists 19%; Public Officials: 5% --Appendix, p. 5). Instead, all groups agreed that insensitivity to ethical standards by a "significant minority" of legislators was a major cause. Action taken on this report and the Legislative Ethics Act should go a long way to sensitize all legislators to their ethical obligations and the fact that a failure to do so is undermining the foundations of Alaskan government.

THE PUBLIC TRUST HAS BEEN SUBSTANTIALLY UNDERMINED BY SPECIFIC BEHAVIORS THAT, IN THE OPINION, OF A LARGE MAJORITY OF GOVERNMENTAL INSIDERS, RAISE SERIOUS ETHICAL PROBLEMS THAT NEED TO BE ADDRESSED BY BEHAVIORAL CHANGES.

We listed 20 types of presently lawful behavior, behavior that might properly be dealt with in an ethics code. We then asked legislators, public officials and lobbyists whether they thought the conduct listed raised serious conflicts of interest or appearances of impropriety. Since public trust is a fragile thing, made up more by perceptions and beliefs than facts and reality, if a substantial minority (10-20%) believe that conduct is improper, the conduct generally ought to be avoided, even if it is legally permissible.

Virtually every listed act was thought to raise serious problems by a substantial minority and, in many cases, a substantial majority of respondents. On the theory that we ought to address serious problems in the Legislative Ethics Act, we took special note of the high proportion of persons who believed that problems were serious (see Appendix, p. 18-23).

For example, 38% of the legislators and 73% of the public officials said that outside income sources raised serious actual problems (is it significant that only 27% of the lobbyists saw this as a problem?) --(Appendix, p. 18, responses E and F).

Legislators were also very concerned about "calculated evasions of the purpose and spirit of campaign laws" -- (Serious actual problem: Legislators: 42%; Lobbyists 29%; Pub-

lic Officials: a whopping 72% --Appendix. p. 22, responses E and F).

We were surprised at how many legislators thought that "improper use of administrative powers or customary authority of legislative leaders, including committee chairs, to hold up or alter legislation" was a serious problem -- 45% (this number, however was small compared to public officials, 75% and lobbyists, 61% who find this anti-democratic conduct a serious problem). This problem is addressed generally in the code but in this report we specifically recommend abandonment of committee practices which give undue power to individuals.

These surveys demonstrate unequivocally that a wide range of behaviors engaged in by legislators are perceived to be improper. Thus, to regain public trust, one has to either change perceptions, convincing persons that the conduct is consistent with high ethical standards, or change the conduct. This report concludes that it is the behavior that ought to be changed. The Legislative Ethics Act implements this conclusion.

The Nature of Required Regulations

LEGISLATORS AND OTHERS INVOLVED IN STATE GOVERNMENT OVERWHELMINGLY BELIEVE REGULATION OF THE TYPE PROVIDED IN THE LEGISLATIVE ETHICS ACT IS NEEDED TO PREVENT ACTUAL CONFLICTS OF INTEREST AND APPEARANCES OF IMPROPRIETY.

Recognizing something as a serious problem does not necessarily indicate a belief that the problem can or should be addressed in the form of further regulation. In fact, a substantial minority of those who described listed behaviors as "problems" also said that more regulation won't help. Yet, as to every single behavior asked about, a substantial minority of every surveyed group (at least 25%) thought that more regulation would help. A clear mandate, we think, for the Legislative Ethics Act. Legislators were especially emphatic about the need for more regulation with respect to:

1. 72% -- "use of gov't staff for campaign/fundraising activities" (#12, Appendix, p. 23);
2. 70% -- "use of gov't facilities for campaign/fundraising activities" (#11, Appendix, p. 23);
3. 62% -- "fundraising activities in Juneau during the session" (#18, Appendix, p. 25);
4. 61% -- "improper travel reimbursement claims" (#1, Appendix, p. 19);
5. 60% -- "calculated evasions of purpose/spirit of campaign laws" (#15, Appendix, p. 23);
6. 59% -- "handling of campaign fund surplus" (#5, Appendix, p. 19);
7. 57% -- "fundraising anywhere in the state during the session" (#19, Appendix, p. 25);
8. 57% -- "outside income sources raising improper conflicts" (#3, Appendix, p. 19);
9. 55% -- "free in-state travel and lodging" (#6, Appendix, p. 21);
10. 52% -- improper use of admin. powers by leaders/committee chairs (#9, Appendix, p. 21);

The public officials "top 10" list included several items that didn't make it on the legislator list, but regardless of the issue they expressed a substantially higher belief in the need for regulation:

1. 84% -- "outside income sources raising improper conflicts" (#3, Appendix, p. 19);
2. 82% -- "use of gov't staff for campaign/fundraising activities" (#12, Appendix, p. 23);
3. 81% -- "improper per diem claims" (#2, Appendix, p. 19)
4. 81% -- "handling of campaign fund surplus" (#5, Appendix, p. 19);
5. 79% -- "free out-of-state travel or use of recreational or lodging" (#7, Appendix, p. 21)
6. 78% -- "improper travel reimbursement claims" (#1, Appendix, p. 19);
7. 78% -- "use of gov't facilities for campaign/fundraising activities" (#11, Appendix, p. 23);
8. 78% -- "calculated evasions of purpose/spirit of campaign laws" (#15, Appendix, p. 23);
9. 75% -- "Inadequate or evasive disclosures of conflicts of interest" (#4, Appendix, p. 19)
10. 68% -- "free in-state travel and lodging" (#6, Appendix, p. 21),
11. 64% -- "post government service lobbying" (#14, Appendix, p. 23)

VERY FEW LEGISLATORS WILL BE SO ADVERSELY AFFECTED BY ANY PROVISION IN THE LEGISLATIVE ETHICS ACT WHICH BANS OR RESTRICTS OUTSIDE INCOME SOURCES THAT IT WOULD MATERIALLY AFFECT THEIR WILLINGNESS TO SERVE.

In considering restrictions on representation of persons or organizations in their dealings with state government, we had to consider the possibility that cutting off these income sources would drive good people out of the legislature and make it difficult to attract new people of quality. Our survey shows this is a theoretical but not a real threat.

The overwhelming majority (never less than 75% -- Appendix, p. 9, responses D and E) indicated a complete ban on outside representation of or consulting with government contractors and others interested in legislative action would work no hardship at all. On the other hand, both lobbyists and public officials preferred outright bans or strict limitations on all such forms of income (Appendix, p. 8, 10).

A substantial minority of legislators, however, (23% -- Appendix, p. 9, responses A and B) did say that their ability or willingness to stay would be jeopardized by a ban on consulting with persons doing business with state and local governments. The provisions in the Legislative Ethics Act dealing with such activities permit a continuation of such activities under regulated circumstances until January 1, 1992. This should provide sufficient time for the necessary adjustments.

The Issue of Compensation.

THE JOB OF STATE LEGISLATOR IS SIMPLY AND CLEARLY WORTH CONSIDERABLY MORE THAN WHAT IS BEING PAID. LEGISLATORS WORK HARDER AND LONGER THAN MOST PEOPLE EXPECT, THE POSITION IS BECOMING BOTH MORE IMPORTANT AND MORE COMPLEX, THE NEW ETHICS LAWS WILL MAKE IT HARDER TO FIND PROPER WAYS OF SUPPLEMENTING INCOME AND THE FINANCIAL AND PERSONAL SACRIFICES INVOLVED IN LEGISLATIVE SERVICE WILL MAKE IT HARDER TO ATTRACT QUALITY LEADERS UNLESS A SUBSTANTIAL INCREASE IS PROVIDED IN CONJUNCTION WITH PASSAGE OF THE LEGISLATIVE ETHICS ACT.

In the present atmosphere of rampant criticism of and apparent dissatisfaction with the legislature as a whole it is difficult, some may say, foolhardy to talk about a major raise. Nevertheless, we are convinced that simple fairness and sound public policy mandate a substantial increase in pay for state legislators -- not necessarily because their job performance, either individually or collectively justifies it, but because it is the right and fair thing to do.

Without question, the demands of the job and the time and energy required even for moderate performance justify compensation in the \$40,000 range as the State Officer's Compensation Commission Recommended in 1989.

Several myths and traditions have worked to make the issue of a legislative raise a touchy and unpopular one. First is the myth that the position only involves a 33% commitment of the legislator's income-generating time since the legislative session is only four months long. It is inconceivable to imagine a state legislator who can restrict public service time to the period of the Juneau legislative session. It is inconceivable to believe that constituents don't demand and deserve year-round, even if not full-time, attention from their representative.

A legislator's official pay is \$22,140 per year. In addition, the legislator receives \$9,680 (about \$2,500 per month) for living and home-travel expenses during the Juneau session and \$50-55 per day for days worked during the interim. Finally, they receive as personal income a \$4,000 stipend to be used for office expenses, newsletters and the like (an amount which does not cover actual costs for most legislators). When all is said and done, most legislators yield a real income, after expenses, in the low \$30,000 range. If legislators really only worked four months, that would amortize to \$90,000 per annum, a

pretty fair salary.

In fact, legislators put in considerably more time --40% said that they spend almost all their income-producing time (90-100%) on activities directly related to their position as a legislator (Appendix, p. 12). Only one in ten said they spend less than 50% of their time and just over two-thirds say they spend at least 75% of their time. This, by the way is much more time than governmental insiders think they deserve: only 25% of the public officials and 29% of the lobbyists said it was reasonable to expect legislators to spend at least 75% of their time on government work (Appendix, p. 13). Most people seem to think the pay justifies about half-time.

Even allowing for the real possibility of some exaggeration in self-reporting, objective observation reveals that substantially more than half time is required. And what is the legislator to do with the other half? If we cut off lucrative consulting arrangements with state contractors and the like, which we seek to do in the Legislative Ethics Act, the options for hit-and-miss availability employment are slim (a legislator is effectively always "on call.")

Our point? It is demonstrably inequitable to pay a person a net salary in the low 30's for such a difficult and responsible job.

What about the argument that they don't deserve it because they are not doing the job well? Doesn't all the ethics turmoil prove how unworthy they are for more money? Such arguments are really quite beside the point. The remedy for incompetent or corrupt officials is to throw them out, not to underpay them. We believe the job is worth more than is being paid, and if voters think that the person in the job is not up to it, they ought to fire him or her.

While we suspect that the general public is more hostile to the idea of a pay increase than public officials or lobbyists, it is important to note that two-thirds of the public officials thought that the Compensation Commission's recommendation was about right or too low (22% thought it was too low, Appendix, p. 14).

In summary, we find that Alaskans are short-changing themselves by being so penny-wise and pound foolish. The low pay creates subtle feelings of resentment and a sub-conscious "I have it coming" attitude that makes some hard-working legislators vulnerable to temptations to find ways of supporting a decent life-style while they serve. We think the state should pay more and demand more. The yearly cost of a raise would be a pittance, easily recoverable by a more committed and responsible body with more time to devote to spending a multi-billion dollar budget wisely.

WHETHER OR NOT A SALARY INCREASE IS GIVEN, THE COMPENSATION SYSTEM OUGHT TO BE SIMPLIFIED AS FOLLOWS:

1) REPLACE THE PER DIEM PAYMENT SYSTEM WITH A FAIR FIXED AMOUNT;

2) REPLACE THE SYSTEM OF PROVIDING AN OFFICE ALLOWANCE IN THE FORM OF A \$4,000 PER ANNUM PAYMENT WITH AN OFFICIAL OFFICE ALLOWANCE, WHICH SHALL NOT BE PAID TO THE LEGISLATOR BUT WILL BE USED TO PAY OR REIMBURSE ACTUAL LEGITIMATE OFFICE EXPENSES, INCLUDING UP TO TWO NEWSLETTERS PROVIDED THEY MEET SPECIFIED REQUIREMENT;

3) PROVIDE EACH LEGISLATOR WITH THE OPTION OF TWO ROUND TRIP TICKETS FROM THE CAPITAL CITY TO THEIR HOME DISTRICT TO BE USED DURING THE SESSION TO MEET FAMILY, CONSTITUENT OR BUSINESS DEMANDS.

The present system tends to mask actual compensation, blur the line between official office expenses and personal income and create unnecessary opportunities for confusion and abuse of per diem requests.

Office Allowance. Legislators ought to have a real and realistic office allowance that reflects common experience as to the needs of running a capital and, sometimes, a district office. The money is not, and should not be confused with compensation as it know is. Under the present system, there is a built-in conflict of interest between the personal finances of a legislator and the resources needed to serve constituents.

Our discussions indicated a uniform belief that the existing allowance is far short of the needs. Since different legislators will have different needs, they should be able to draw up to \$6,000 per year (or whatever other amount is prudent and appropriate) provided they demonstrate the expenses are bona fide.

Expanding the allowance has another purpose: to encourage meaningful communications with constituents that increase accountability. We propose that each legislator be permitted to send, at state expense up to two district-wide news letters provided that at least on full page is devoted to a clear statement of the each of the following matters: 1) a description of each bill introduced or sponsored by the legislator with a brief narrative as to the legislators goals and reasons; 2) each vote made on substantive matters on the floor and a description of all major committee activities; 3) the names of campaign con-

tributors of over \$250, if any, since the last newsletter; 4) any other information that will help the constituent assess the effectiveness and understand the political positions of his or her representative. It is realized that this will require some record keeping of activities not now common. We think this is a good thing.

METHODOLOGY

The most valuable resource in drafting an ethics code is the group of people who will be governed by the code, if enacted into law. As soon as was reasonably possible after being commissioned for this project, we developed surveys which were sent to Alaska state legislators, registered lobbyists, and to a random sampling of Alaska public officials as listed in the *Alaska Directory of State Officials*. We chose this group of people to survey in order to gain an understanding of the legislature from the perspective of those who have an intimate knowledge of state government and the day to day functioning of the legislature. We also know that the public tends to be more, rather than less cynical than those within the halls of government. Thus, our assessment of public trust and confidence in the legislature is likely a conservative one in terms of overall public sentiment. The results of the surveys are summarized in Appendix A.

The surveys were supplemented by on-site interviews of virtually every legislator, several legislative staff members, lobbyists, current and former journalists, staff members in the Executive Branch and the Alaska Public Offices Commissions, as well as other state agencies and commissions, and various others, all of whom have knowledge of, and a vested interest in, the affairs of state government in Alaska. Close to one hundred people were personally interviewed. While the project was commissioned by the Alaska State Senate, the code of ethics should effectively serve the legislature as a whole, and hence the Alaska citizenry. For this reason, interviews were conducted of not only members of the State Senate, but of the House of Representatives as well. Considering they had no formal role in this project, the House members were especially cooperative and helpful to our efforts to learn about the legislature as well as the issues which are unique to Alaska.

We made every effort to learn as much as possible about Alaska, and to write the Alaska Legislative Ethics Act of 1990 (ALEA) with a decided sensitivity to the unique cultural, geographic, economic, and political characteristics of the state. To complement this foundation, we looked to numerous national authorities on ethics, campaign financing, lobbying regulations, and government reform. The Alaska Legislative Ethics Act, therefore, also reflects the expertise, credibility, and experience behind the current national ethics reform movement.

DOCUMENTARY SOURCES

Much notable research and progress has been made in the field of ethics in the past several years. In addition to a substantial amount of original research, we relied heavily on four major documents in the writing of the Alaska Legislative Ethics Act of 1990. These documents offer enormous credibility, expertise, and authority, and are based on extensive research, thought, and discussion on specifically the issue areas being addressed by the Alaska Legislative Ethics Act of 1990.

(1) Preserving the Public Trust: The Principles of Public Service Ethics.

First and foremost, we chose to draw heavily from a publication of the Government Ethics Center of the Josephson Institute for the Advancement of Ethics. *Preserving the Public Trust: The Principles of Public Service Ethics*, published and released in March of 1990, offers a comprehensive and detailed examination of the moral foundations and underlying principles of public service ethics. The document covers five major areas of concern: (1) Public Office as a Public Trust, (2) Independent Objective Judgment, (3) Accountability, (4) Democratic Leadership, and (5) Respectability and Fitness for Public Office. It sets forth standards and guidelines which seek to describe the moral aspirations embodied in the notion of public service. They call on public servants to view their special ethical obligations in a positive way, not as oppressive or insulting regulations driven by cynicism, but as expressions of the nobler dimension of government and politics. The Government Ethics Center developed the ideas and standards in this policy paper with the extensive input from many of the greatest minds and most talented individuals from the field of government.

(2) Ethics and Excellence in Government; Final Report and Recommendations, and Proposed Ethics Law, of the Commission to Draft an Ethics Code for Los Angeles City Government.

During the spring of 1989, after months of investigations and much political embarrassment, the Mayor of the City of Los Angeles created and appointed a commission to draft an ethics code for the City of Los Angeles. After taking on an independent status, this commission of prominent civic, legal, academic, and religious leaders hired a full time staff, and together they went to work for over six months to produce the above named report and ethics law. Their findings and recommendations are a result of studying dozens of national, state and local laws, reading scores of reports and documents on

ethics, interviewing more than two hundred people from all over the country, and holding a dozen public hearings for city officials, ethics experts, and concerned citizens. The *Recommendations of the Commission to Draft an Ethics Code for Los Angeles City Government* is clearly one of the most comprehensive and forward looking sets of guidelines and standards on government ethics available.

(3) *Model Campaign Finance, Ethics, and Lobby Law.*

A product of the Council on Governmental Ethics Laws (COGEL), this report was, and continues to be, written and edited by individuals who together bring to the report close to one hundred years of experience in administering state agencies on ethics and campaign financing. COGEL, a not-for-profit organization, headquartered in Kentucky and founded over twelve years ago, presented an early draft of this report to its membership at an annual conference in 1988. The report has been positively shaped by this group of over 200 members of staffs, boards, commissions, and agencies which do work in the areas of ethics, campaign finance, and lobbying regulations. The COGEL report carries more expertise and authority than perhaps any other existing written document on ethics.

(4) *Conduct Becoming A Legislator.*

In January 1989, the California State Assembly created the Assembly Select Committee on Ethics and charged the Committee with the responsibility of undertaking a broad study, and developing a complete program on ethics for submission to and adoption by the Assembly. *Conduct Becoming A Legislator* contains the findings and recommendations of the Committee which were developed based on surveys of legislators, six internal hearings, seven public hearings, and extensive consultation with ethics experts. Considering the complexity of ethical issues in California government, this report serves as an important model of ethical standards directly developed by a very prominent legislative body.

Other Sources. In addition to the four publications described above, we relied on many other written sources, including all of Alaska's existing statutes, the legislature's *Standards of Conduct Handbook*, and several other documents nationally.

FORMAT OF STANDARDS OF CONDUCT

Statutory Form. We chose to write the statutes using an unusual format, including Guidelines, Commentary, Overarching Principles, and plain English, none of which are commonly found in statutes. While we tried to format the statutes as closely as possible to customary form for Alaska, so as to free the Senate from having to rewrite or reformat the bill, we intentionally included the above mentioned items in an attempt to address certain problems which are posed by almost all legislation in all places:

1. *Plain English.* Traditional legal language often further alienates the public from government and the political process. The ALEA, however, is fairly easy to read and understand, and therefore, perhaps it will be more accessible to Alaska citizens.

2. *Guidelines and Commentary.* Too often guidelines and commentary are included in a separate document apart from the actual bill and never referred to, and therefore disregarded in the implementation of the statutes. The Guidelines and Commentary included in the ALEA are an integral part of the proposed statutes and will make them easier for the legislature, the public, and state agencies to understand, implement, and enforce.

3. *Overarching Principles.* While ethics laws can accomplish a great deal in terms of clarifying acceptable forms of conduct and offering solutions to complex ethical conflicts, the Overarching Principles fill in the inevitable gaps and loopholes which an individual can find if he or she sees no value in abiding by the spirit and purposes of ethics laws. Ethical obligations require individuals to do more than is required and less than is allowed. Without this type of personal commitment, along with the desire to uphold the principles of public service ethics, ethics laws are inherently limited.

The State of Legislative Ethics in the State of Alaska

Summary Report of Questionnaires

**Legislators
Non-Legislative Public Officials
Lobbyists**

Charts & Graphs

Josephson  Institute

GOVERNMENT ETHICS CENTER

April 2, 1990

APPENDIX A

In March, 1990, the GOVERNMENT ETHICS CENTER of the Josephson Institute surveyed Alaska "insiders' -- Legislators, Nonlegislative Public Officials and Lobbyists -- to determine the state of legislative ethics in the state. These are the results.

The following data is the result of a series of mailed anonymous questionnaires (attached at the end of this appendix) sent to all 60 Alaska legislators (41 responded or over 68 %); 375 randomly selected (except that geographical and departmental diversity was sought) persons listed in the February 1990, Directory of Public Officials (169 responded or 45 %); and 142 registered lobbyists (54 responded or 38 %).

Importance of Public Trust

Q. How important to the effectiveness of government do you think it is that those who serve government be held in high esteem by the public?

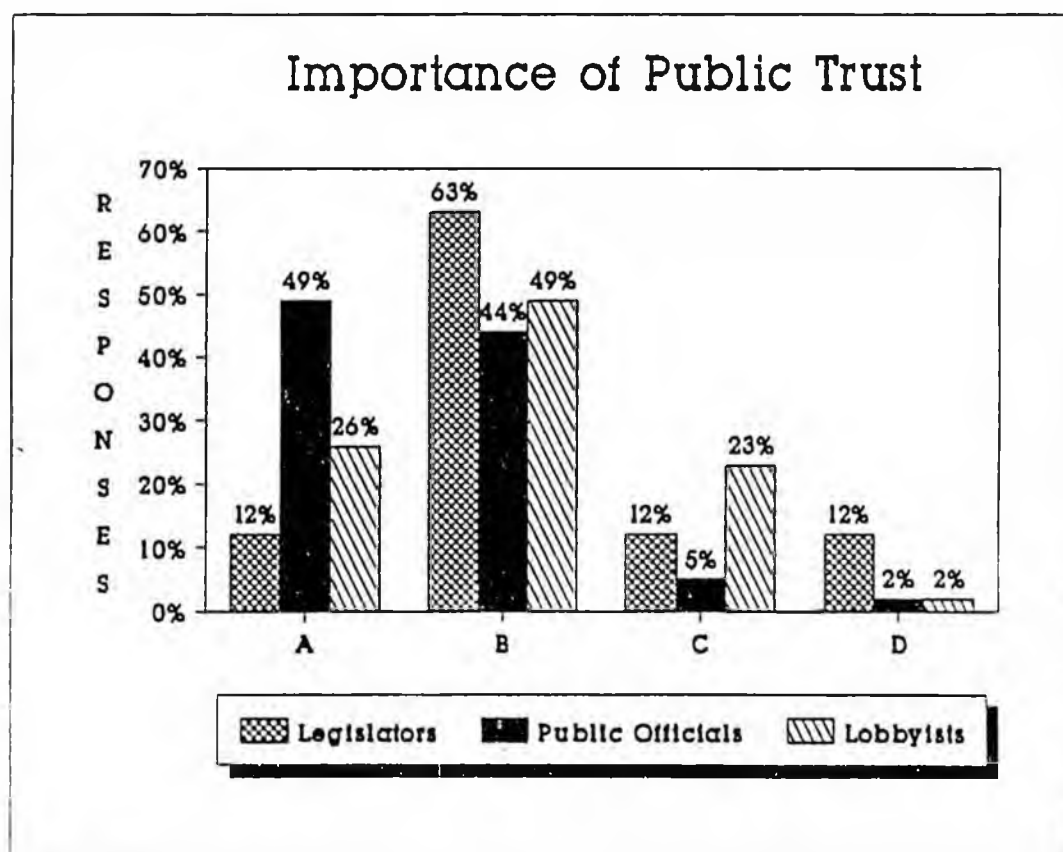
A. *Essential.*

B. *Very important, effectiveness is badly hampered by a lack of trust.*

C. *Somewhat important, but as a practical matter the effectiveness of government is not very much affected by a lack of trust.*

D. *Not very important. The public has always been cynical about politicians and government has always managed to function.*

	Legislators	Public Officials	Lobbyists
A. Essential.	12 % (5)	49 % (81)	26 % (14)
B. Very important, effectiveness is badly hampered by a lack of trust.	63 % (25)	44 % (74)	49 % (26)
C. Somewhat important, but as a practical matter the effectiveness of government is not very much affected by a lack of trust.	12 % (5)	5 % (8)	23 % (12)
D. Not very important. The public has always been cynical about politicians and government has always managed to function.	12 % (5)	2 % (3)	2 % (1)
No Response	(1)	(3)	(1)



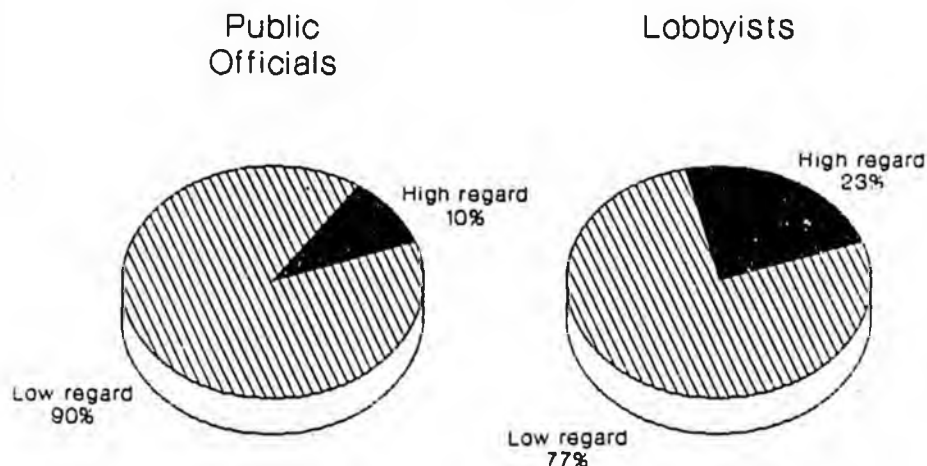
Public Trust - Personal Opinion

Recently, there has been a great deal of discussion about the public's trust and confidence in the integrity of the Alaska state legislature. Please circle the letter next to the statement that comes closest to your opinion as to each of the following issues:

Q. What is your personal opinion of the integrity of Alaska legislators and the body as a whole?

Public Official	Lobbyists	
10 % (17)	23 % (12)	A. I have a high regard for the integrity of almost all legislators and for the body as a whole.
17 % (27)	33 % (17)	B. I have a high regard for most legislators individually but not have a very high regard for the body as a whole.
45 % (74)	33 % (17)	C. Although I have a regard for many legislators, I do not have a very high regard for most of them or for the body as a whole.
23 % (38)	11 % (6)	D. I have a high regard for very few legislators and a low opinion of the body as a whole.
4 % (7)	0 % (0)	E. I have a very low regard for the integrity of almost all legislators and the body as a whole.

Trust & confidence in the Alaska state legislature



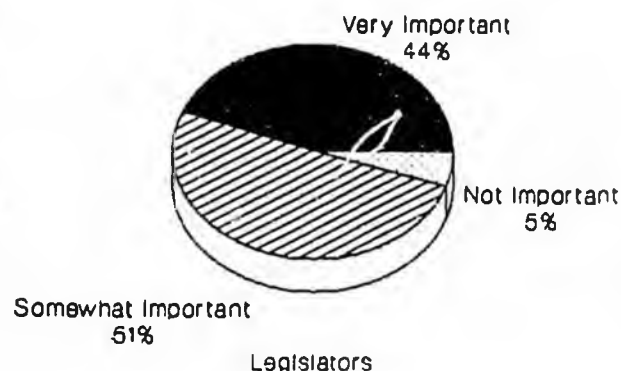
High regard (A)
Low regard (B,C,D & E)

Public Trust - General Public & Constituents Opinion

Q. How important is it to you personally that the legislature as a whole is held in high esteem by the public?

Legislators	
44 % (18)	A. Very important because my own reputation and the satisfaction I get from office is directly affected by general public attitudes.
51 % (21)	B. Somewhat important but generally, my constituents and those who know me judge me as an individual regardless of what they think of other legislators.
5 % (2)	C. Not very important since my constituents and those who know me judge me as an individual.

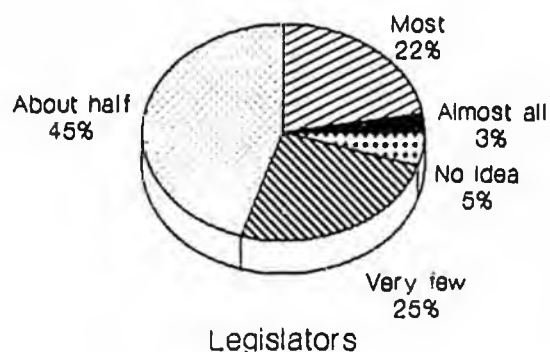
Importance to legislators that the legislature be held in high esteem.



Q. What proportion of your constituents have a sufficiently high degree of trust and confidence in the integrity of legislators?

Legislators	
3 % (1)	A. Almost all
22 % (9)	B. Most
45 % (18)	C. About half
25 % (10)	D. Very few
0 % (0)	E. Almost none
5 % (2)	F. I have no idea

Proportion of constituents who have confidence in their legislators.

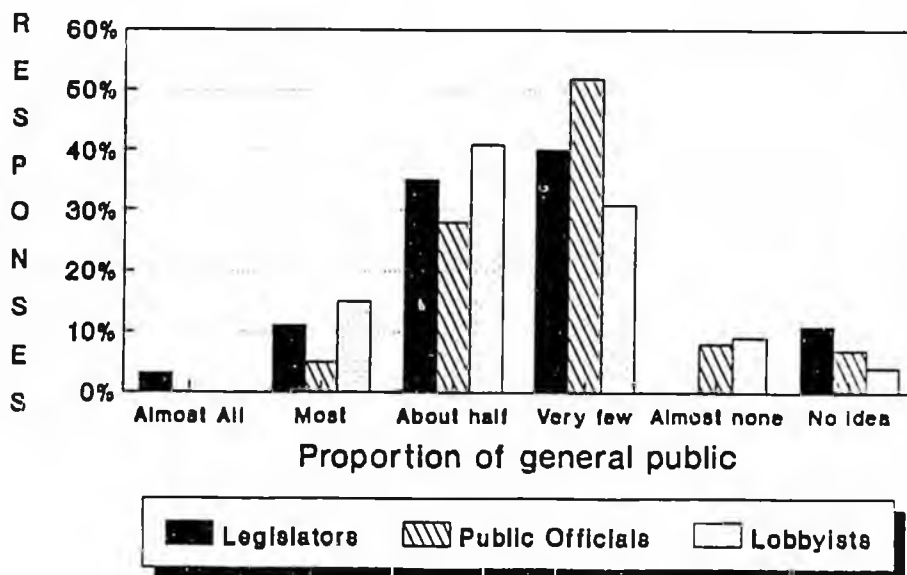


Public Trust - Public Opinion on Legislators

Q. In your opinion, what proportion of the general public (statewide) has a sufficiently high degree of trust and confidence in the integrity of legislators?

Legislators	Public Officials	Lobbyists	
3 % (1)	0 % (0)	0 % (0)	A. Almost All.
11 % (4)	5 % (9)	15 % (8)	B. Most.
35 % (13)	28 % (46)	41 % (22)	C. About half.
40 % (15)	52 % (86)	31 % (17)	D. Very few.
0 % (0)	8 % (13)	9 % (5)	E. Almost none.
11 % (4)	7 % (12)	4 % (2)	F. I have no idea.

Proportion of general public with high confidence in integrity of legislators

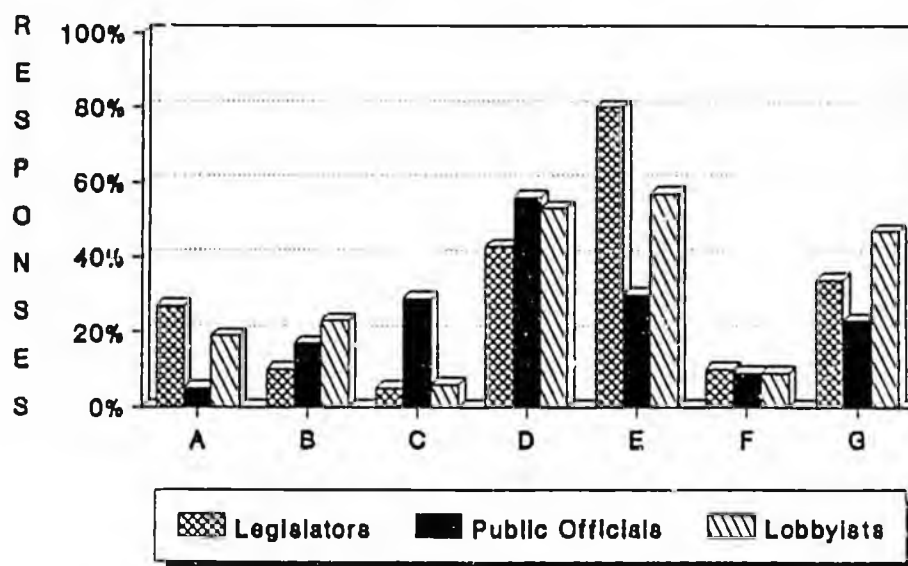


Public Trust

Q. To the extent that trust is not as high as you think it should be, which of the following is a MAJOR reason (you may circle more than one).

Legislators	Public Officials	Lobbyists	
27 % (11)	5 % (8)	19 % (10)	A. Relentless and unfair media coverage.
10 % (4)	17 % (28)	23 % (12)	B. Aggressive but basically fair media coverage.
5 % (2)	29 % (49)	6 % (3)	C. Insensitivity to ethical standards by a substantial majority of legislators.
43 % (17)	56 % (93)	53 % (28)	D. Insensitivity to ethical standards by a significant minority of legislators.
80 % (32)	30 % (50)	57 % (30)	E. Widely publicized misconduct of only a very few legislators.
10 % (4)	9 % (15)	9 % (10)	F. Unreasonable public expectations.
34 % (14)	23 % (38)	47 % (25)	G. The public's predisposition to believe the worst regardless of the facts.

Major reasons why public trust is not as high as it should be



Total greater than 100%--respondents allowed to circle more than one choice

Sources of Income and the Potential for Conflicts of Interest

Each of the following possible sources of income, raise a certain potential for conflicts of interest. Prohibiting them, however, may affect the willingness and ability of some legislators to stay in the legislature. Please indicate the extent to which you think the source ought to be restricted in view of the potential financial hardship and inability to serve such a prohibition may cause.

A = Such income should be banned even if some legislators have to withdraw or undergo serious financial hardship.

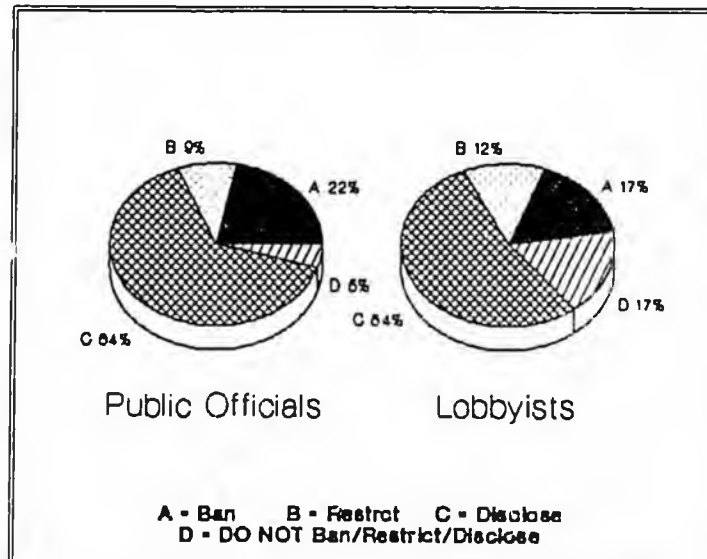
B = Such income should be banned or restricted as much as is reasonably possible without causing legislators to leave the legislature.

C = Such income should be subject to disclosure but not prohibition since the potential conflicts can be resolved so long as the legislator is held accountable to the public.

D = Such income should be neither banned nor subject to any additional disclosure since the potential conflicts of interest are not serious.

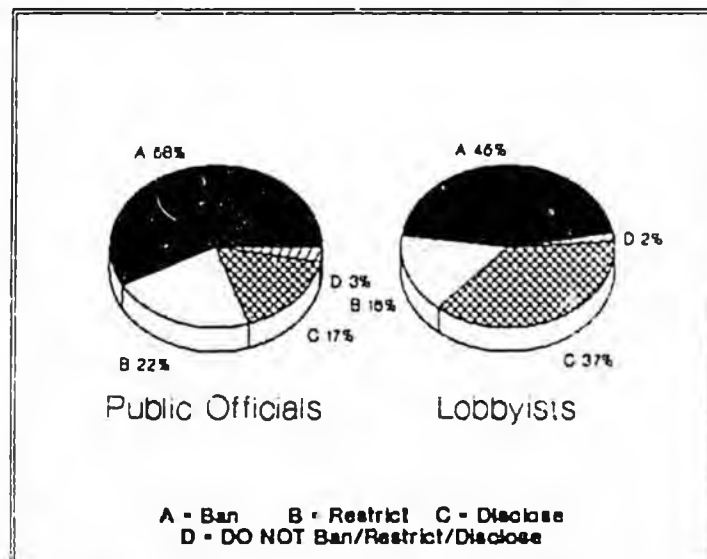
Q. Honoraria -- outside fees for speaking, appearing or writing.

	Public Officials	Lobbyists
A	22 % (36)	17 % (9)
B	9 % (15)	12 % (6)
C	64 % (105)	54 % (28)
D	5 % (8)	17 % (9)
N/R	(5)	(2)



Q. Fees or commissions relating to business or contracts with any entity of state or local government.

	Public Officials	Lobbyists
A	58 % (94)	45 % (23)
B	22 % (36)	16 % (8)
C	17 % (28)	37 % (19)
D	3 % (4)	2 % (1)
N/R	(7)	(3)



Income Sources

Legislators

As to each of the following possible sources of income, please indicate the extent to which a complete prohibition would, in the absence of a compensatory pay raise, place a financial hardship on you and affect your willingness to stay in the legislature.

- A = Unacceptable, I could not stay.
- B = Unreasonably difficult, I might not stay.
- C = Very difficult, but I would stay.
- D = Not significant, since other sources of income are adequate.
- E = Not significant, since I receive little or nothing in this way.

Q. Honoraria -- outside fees for speaking, appearing or writing.

Legislators

A = 3 % (1)
B = 0 % (0)
C = 0 % (0)
D = 5 % (2)
E = 92 % (37)

Q. Fees or commissions relating to business or contracts with any entity of state or local government.

Legislators

A = 3 % (1)
B = 5 % (2)
C = 0 % (0)
D = 5 % (2)
E = 87 % (35)

Sources of Income and the Potential for Conflicts of Interest

Each of the following possible sources of income, raise a certain potential for conflicts of interest. Prohibiting them, however, may affect the willingness and ability of some legislators to stay in the legislature. Please indicate the extent to which you think the source ought to be restricted in view of the potential financial hardship and inability to serve such a prohibition may cause.

A = Such income should be banned even if some legislators have to withdraw or undergo serious financial hardship.

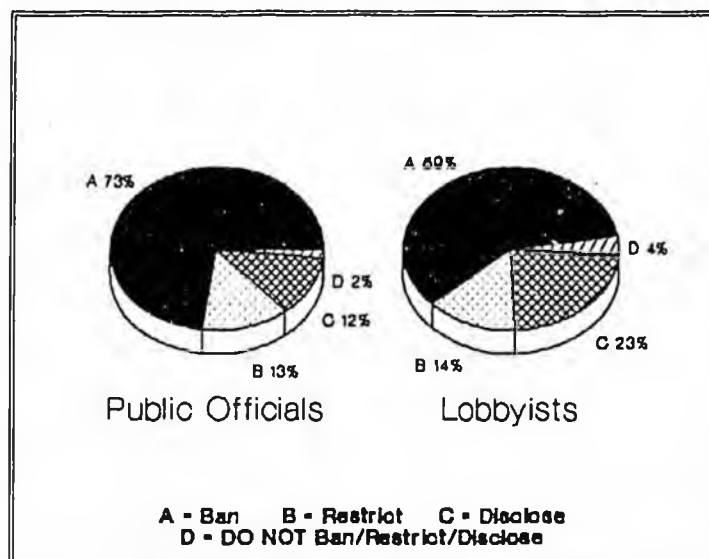
B = Such income should be banned or restricted as much as is reasonably possible without causing legislators to leave the legislature.

C = Such income should be subject to disclosure but not prohibition since the potential conflicts can be resolved so long as the legislator is held accountable to the public.

D = Such income should be neither banned nor subject to any additional disclosure since the potential conflicts of interest are not serious.

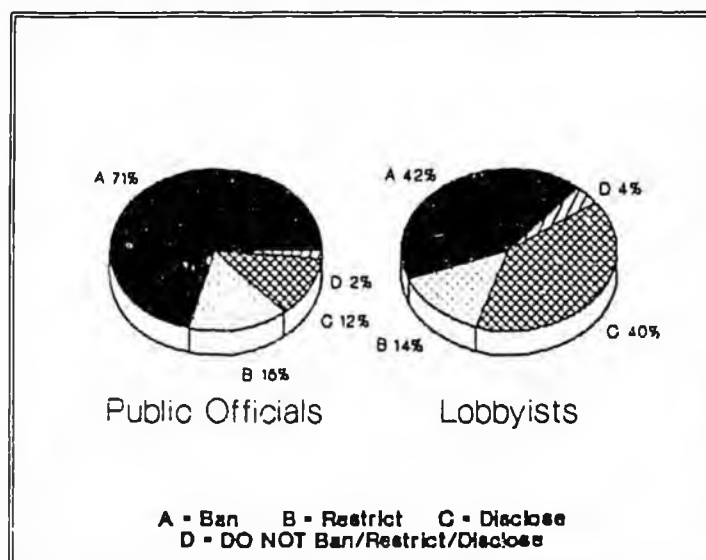
Q. Fees or other compensation relating to direct representation of persons or organizations in their dealings with any state OR local government entity.

	Public Officials	Lobbyists
A	73 % (119)	59 % (30)
B	13 % (21)	14 % (7)
C	12 % (19)	23 % (12)
D	2 % (4)	4 % (2)
N/R	(6)	(3)



Q. Fees of other compensation relating to consulting with persons or organizations with respect to their dealings with any state government entity.

	Public Officials	Lobbyists
A	71 % (115)	42 % (22)
B	15 % (25)	14 % (7)
C	12 % (19)	40 % (21)
D	2 % (3)	4 % (2)
N/R	(7)	(2)



Income Sources

Legislators

As to each of the following possible sources of income, please indicate the extent to which a complete prohibition would, in the absence of a compensatory pay raise, place a financial hardship on you and affect your willingness to stay in the legislature.

- A = Unacceptable, I could not stay.
- B = Unreasonably difficult, I might not stay.
- C = Very difficult, but I would stay.
- D = Not significant, since other sources of income are adequate.
- E = Not significant, since I receive little or nothing in this way.

Q. Fees or other compensation relating to direct representation of persons or organizations in their dealings with any state OR local government entity.

Legislators

A = 5 % (2)
B = 2 % (1)
C = 5 % (2)
D = 5 % (2)
E = 83 % (33)

Q. Fees or other compensation relating to advising or consulting with persons or organizations with respect to their dealings with any state government entity.

Legislators

A = 10 % (4)
B = 13 % (5)
C = 2 % (1)
D = 5 % (2)
E = 70 % (28)

Sources of Income and the Potential for Conflicts of Interest

Each of the following possible sources of income, raise a certain potential for conflicts of interest. Prohibiting them, however, may affect the willingness and ability of some legislators to stay in the legislature. Please indicate the extent to which you think the source ought to be restricted in view of the potential financial hardship and inability to serve such a prohibition may cause.

A = Such income should be banned even if some legislators have to withdraw or undergo serious financial hardship.

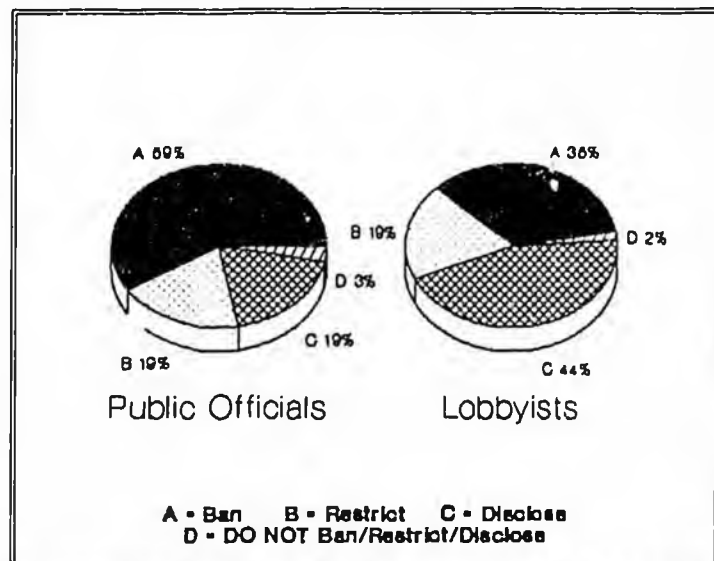
B = Such income should be banned or restricted as much as is reasonably possible without causing legislators to leave the legislature.

C = Such income should be subject to disclosure but not prohibition since the potential conflicts can be resolved so long as the legislator is held accountable to the public.

D = Such income should be neither banned nor subject to any additional disclosure since the potential conflicts of interest are not serious.

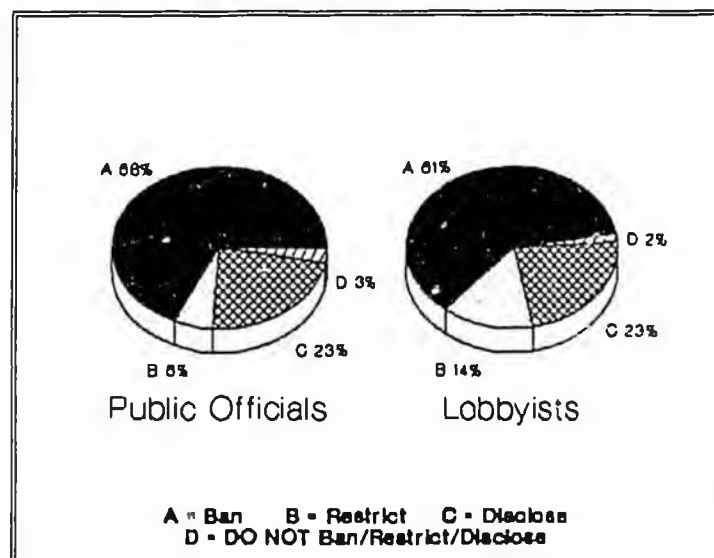
Q. Fees or other compensation relating to consulting with persons or organizations with respect to their dealings with any state OR local government.

	Public Officials	Lobbyists
A	59 % (96)	35 % (18)
B	19 % (31)	19 % (10)
C	19 % (31)	44 % (23)
D	3 % (4)	2 % (1)
N/R	(7)	(1)



Q. Lawful conversion of surplus campaign funds to personal income.

	Public Officials	Lobbyists
A	68 % (111)	62 % (32)
B	6 % (10)	13 % (7)
C	23 % (38)	23 % (12)
D	3 % (4)	2 % (1)
N/R	(6)	(2)



Income Sources

Legislators

As to each of the following possible sources of income, please indicate the extent to which a complete prohibition would, in the absence of a compensatory pay raise, place a financial hardship on you and affect your willingness to stay in the legislature.

- A = Unacceptable, I could not stay.
- B = Unreasonably difficult, I might not stay.
- C = Very difficult, but I would stay.
- D = Not significant, since other sources of income are adequate.
- E = Not significant, since I receive little or nothing in this way.

Q. Fees or other compensation relating to advising or consulting with persons or organizations in their dealings with any state OR local government entity.

Legislators

A = 5 % (2)
B = 13 % (5)
C = 3 % (1)
D = 8 % (3)
E = 71 % (27)

Q. Lawful conversion of surplus campaign funds to personal income.

Legislators

A = 0 % (0)
B = 5 % (2)
C = 10 % (4)
D = 8 % (3)
E = 77 % (31)

Income-producing time and proportion of total income

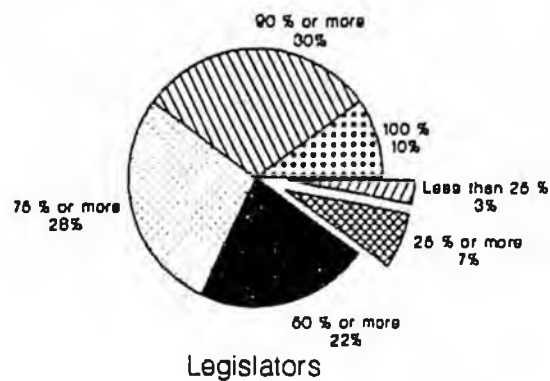
Please circle the letter next to the statement that comes closest to your opinion as to each of the following issues:

One source of real and apparent conflicts of interest is outside earned income necessitated by the part-time compensation of Alaska legislators. Since standards of conduct must address this issue, it is important to assess the potential impact of various solutions which would restrict income sources. Your candid answers to the following questions will provide important information that will help us frame reasonable and practical standards.

Q. On an annual basis, about what proportion of your income-producing time is spent on activities directly related to your position as a legislator?

Legislators	
10 % (4)	A. 100 %
30 % (12)	B. 90 % or more
28 % (11)	C. 75 % or more
22 % (9)	D. 50 % or more
7 % (3)	E. 25 % or more
3 % (1)	F. Less than 25 %

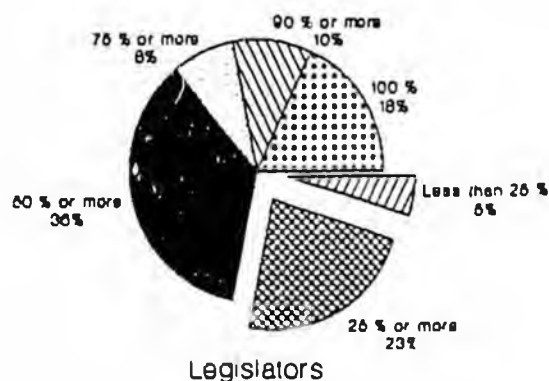
Proportion of income-producing time spent on activities as legislator



Q. On an annual basis, about what proportion of your personal (not including spouse income) total income from all sources is derived from your legislative salary and per diems?

Legislators	
18 % (7)	A. 100 %
10 % (4)	B. 90 % or more
8 % (3)	C. 75 % or more
36 % (14)	D. 50 % or more
23 % (9)	E. 25 % or more
5 % (2)	F. Less than 25 %

Proportion of personal income derived from legislative salary & per diems

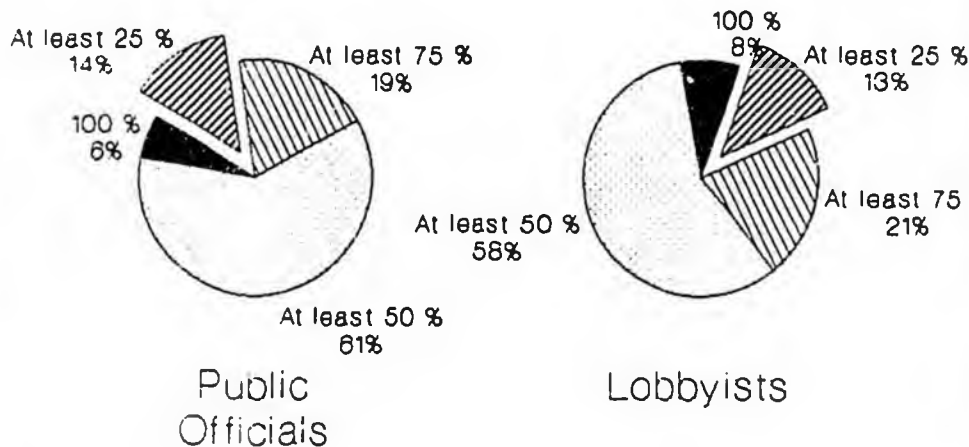


Time Expected of Legislators

Q. Given the 120 day legislative session and the fact that they are presently compensated at the rate of \$22,140 per annum and \$50-\$55 per day for working 4 hours or more when the legislature is not in session (plus \$9,680 for living expenses during the session), what proportion of income-producing time (on an annual basis) do you think it is reasonable to expect legislators to devote to legislative duties?

Public Official	Lobbyists	
6 % (10)	8 % (4)	A. 100 %
19 % (31)	21 % (11)	B. At least 75 %
61 % (98)	58 % (30)	C. At least 50 %
14 % (22)	13 % (7)	D. At least 25 %

Proportion of Income-producing time that is reasonable to expect of legislators

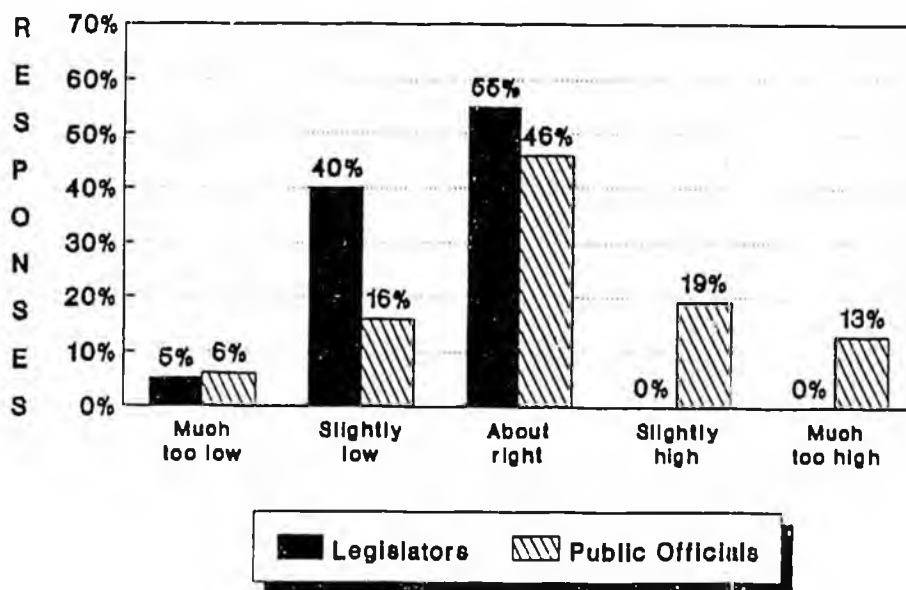


1989 Report of the State Officers' Compensation Commission Recommendation

Q. The 1989 Report of the State Officers' Compensation Commission recommended raising legislative salaries to \$40,000 along with adjustments in the per diem amounts and procedures, two round-trip constituent travel reimbursements during the legislative session and a different way of dealing with the office allowance to prevent it from becoming an income source. Regardless of your opinion as to the political issues involved, what is your opinion as to the substance of the recommendation?

Legislators	Public Officials	
5 % (2)	6 % (10)	A. Much too low.
40 % (16)	16 % (27)	B. Slightly low.
55 % (22)	46 % (75)	C. About right.
0 % (0)	19 % (32)	D. Slightly high.
0 % (0)	13 % (21)	E. Much too high

Opinion on substance of the 1989 State Commission's Recommendation



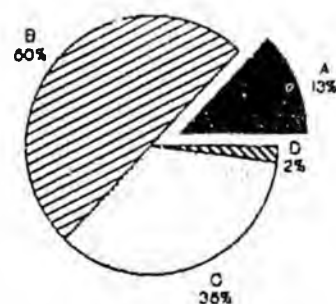
Fund Raising Practices Lobbyists

Please circle the letter next to the statement that comes closest to your opinion as to each of the following issues.

Q. Some people claim that legislators, directly or through aides, effectively coerce lobbyists to make campaign contributions (either personally or through their clients) by creating the impression that refusal to do so could adversely affect the relationship between the legislator and the lobbyist in a way that could hamper lobbyists' ability to effectively advocate the interests of their clients. Which of the following statements comes closest to your view on the matter.

13 % (7)	A. This almost never happens; the contributions that most lobbyist give are fully voluntary and based on ideological support.
50 % (26)	B. This happens occasionally with a few members but by and large the contributions that most lobbyists give are fully voluntary and based on ideological support.
35 % (18)	C. This happens frequently with many members; about half the contributions that most lobbyists give are defensive -- to ward off negative reactions and the loss of access.
2 % (1)	D. This happens frequently with almost all members; most of the contributions that most lobbyists give are defensive -- to ward off negative reactions and the loss of access.

Does the refusal to make campaign contributions adversely affect lobbying?



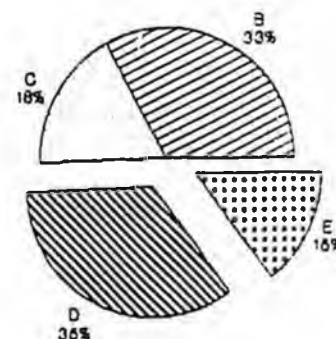
Lobbyists

A=Almost never B=Occasionally
C=Freq/half contributions defensive
D=Freq/most contributions defensive

Q. Which of the following comes closest to your views as to the impact and legitimacy of fund raising practices between lobbyists and legislators?

0 % (0)	A. There is no significant pressure to provide campaign funds to legislators, hence, no impact.
33 % (15)	B. Present practices are a part of legitimate politics; there is nothing wrong with them since they do not adversely affect the process.
18 % (8)	C. Fund raising pressure is occasionally overdone but does not raise serious problems since lobbyist and special interest contributions very rarely influence the legislator's actions.
35 % (16)	D. Fund raising pressure is often overdone and it raises a serious problem since special interests which are able and willing to provide financial support have a significant advantage in telling their story and persuading legislators.
15 % (7)	E. Fund raising pressure raises serious problems not only because special interests which provide financial support have a significant advantage in telling their story and persuading legislators, but in addition, the financial support itself sometimes influences legislative actions.

Fundraising pressures--are they significant/serious?



Lobbyists

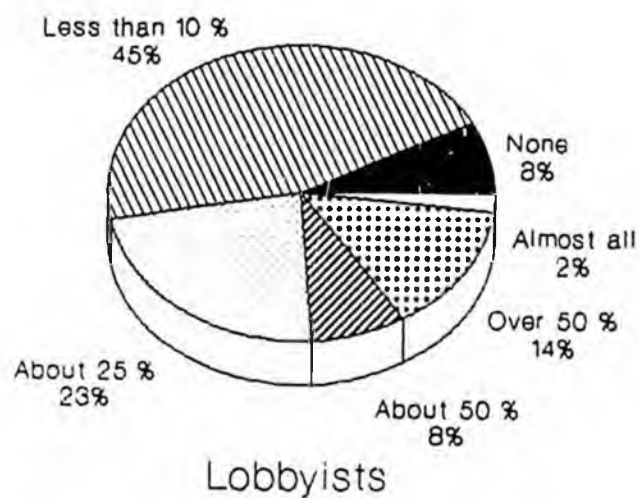
A=No significant pressure
B=Legitimate politics C=Occasionally
D & E=Serious

Financial benefit influence on legislators

Q. In your opinion, what proportion of the present legislature can be influenced to take or withhold some significant legislative action (e.g. intervention with a state agency, committee actions, drafting and amending legislation, voting) by campaign contributions or other financial benefits provided by lobbyists and their employers?

Lobbyists	
8 % (4)	A. None.
45 % (23)	B. No more than 10 %.
23 % (12)	C. About 25 %.
8 % (4)	D. About half.
14 % (7)	E. Over half.
2 % (1)	F. Almost all.

Are legislators influenced by campaign contributions or financial benefits?



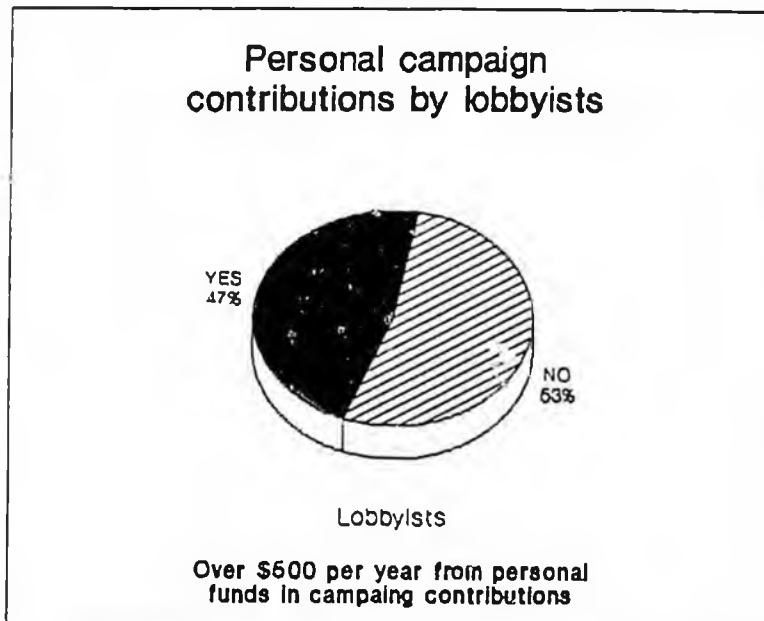
Campaign Contributions Lobbyists

Q. On average, I give over \$500 per year from my personal funds in campaign contributions.

47 % ₍₂₂₎ = YES

53 % ₍₂₅₎ = NO

(7) = No Response

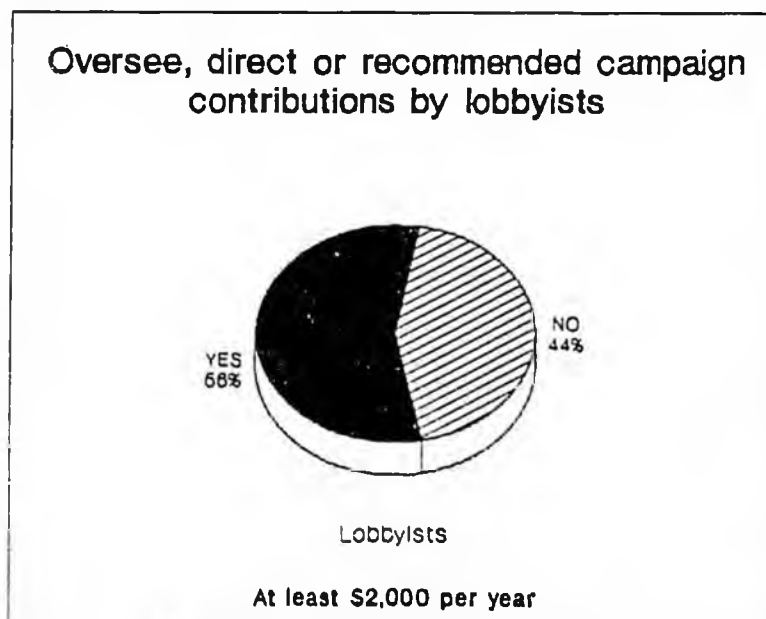


Q. On average, I oversee, direct or recommend the giving of at least \$2,000 per year in campaign contributions from clients.

56 % ₍₂₅₎ = YES

44 % ₍₂₀₎ = NO

(9) = No Response



Actual Conflicts and Appearances of Impropriety

As to each possible source of real or apparent impropriety, indicate whether you think the problem is:

A = Insignificant, more regulation unjustified.

B = Minor but more regulation may help.

C = Serious in terms of appearances but not actual affect, more regulation won't help.

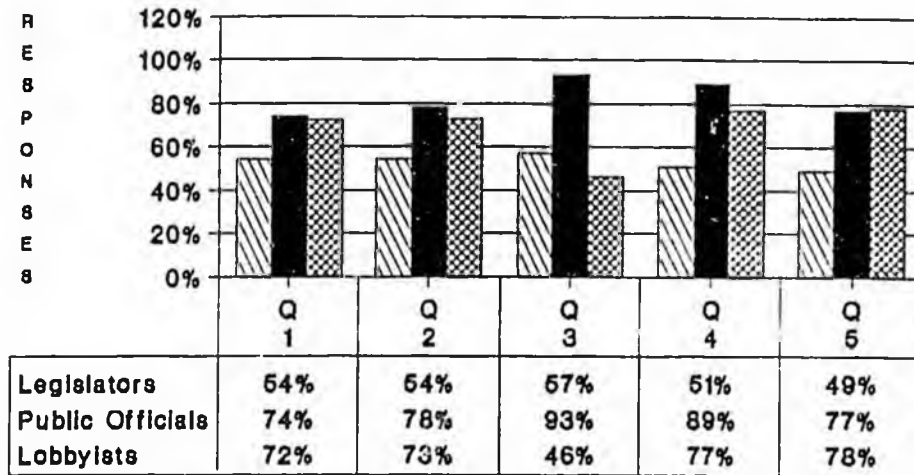
D = Serious in terms of appearances but not actual affect, more regulation will help.

E = Serious actual problem but more regulation won't help.

F = Serious actual problem, more regulation will help

	A	B	C	D	E	F
1. Improper <i>travel</i> /reimbursement claims.						
Legislators	22 % (9)	24 % (10)	12 % (5)	22 % (9)	5 % (2)	15 % (6)
Public Officials	4 % (6)	21 % (34)	8 % (13)	19 % (31)	9 % (15)	38 % (61)
Lobbyists	14 % (7)	14 % (7)	12 % (6)	25 % (13)	2 % (1)	33 % (17)
2. Improper <i>per diem</i> claims.						
Legislators	29 % (12)	17 % (7)	12 % (5)	20 % (8)	5 % (2)	17 % (7)
Public Officials	4 % (7)	19 % (30)	8 % (12)	21 % (34)	8 % (12)	41 % (65)
Lobbyists	16 % (8)	12 % (6)	10 % (5)	22 % (11)	6 % (3)	35 % (18)
3. <i>Outside income sources</i> raising improper conflicts of interest.						
Legislators	15 % (6)	22 % (9)	10 % (4)	15 % (6)	8 % (3)	30 % (12)
Public Officials	1 % (2)	6 % (9)	4 % (6)	16 % (25)	11 % (18)	62 % (97)
Lobbyists	28 % (14)	23 % (12)	16 % (8)	6 % (3)	2 % (1)	25 % (13)
4. Inadequate or <i>evasive disclosures</i> of financial conflicts of interest.						
Legislators	27 % (11)	22 % (9)	13 % (5)	15 % (6)	10 % (4)	13 % (5)
Public Officials	3 % (5)	8 % (12)	1 % (2)	10 % (16)	21 % (33)	57 % (90)
Lobbyists	8 % (4)	15 % (8)	6 % (3)	15 % (8)	12 % (6)	44 % (23)
5. Handling of <i>campaign fund surplus</i> .						
Legislators	26 % (10)	26 % (10)	13 % (5)	15 % (6)	3 % (1)	18 % (7)
Public Officials	7 % (11)	16 % (26)	8 % (12)	17 % (28)	4 % (6)	48 % (77)
Lobbyists	11 % (6)	11 % (6)	6 % (3)	29 % (15)	4 % (2)	39 % (20)

The Problem is Serious

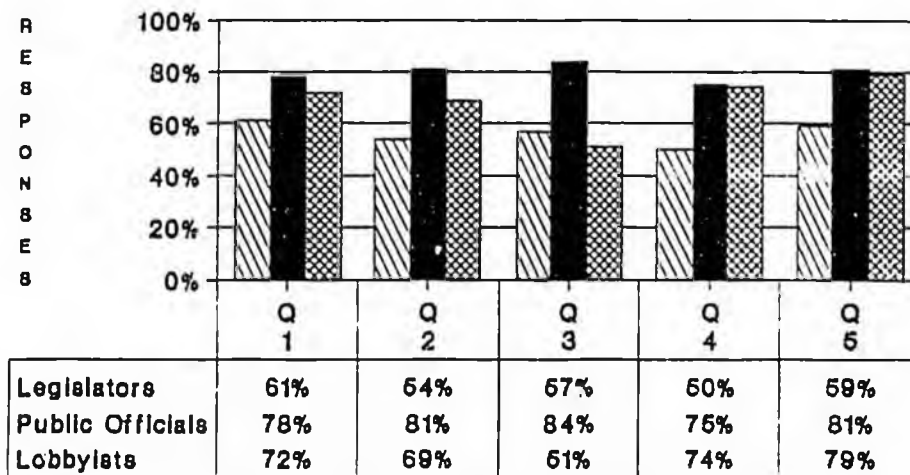


Questions 1 - 5

Legislators Public Officials Lobbyists

Combined responses C,D,E,& F

Will regulation help ?



Questions 1 - 5

Legislators Public Officials Lobbyists

Combined responses B,D & F

Actual Conflicts and Appearances of Impropriety

As to each possible source of real or apparent impropriety, indicate whether you think the problem is:

A = Insignificant, more regulation unjustified.

B = Minor but more regulation may help.

C = Serious in terms of appearances but not actual affect, more regulation won't help.

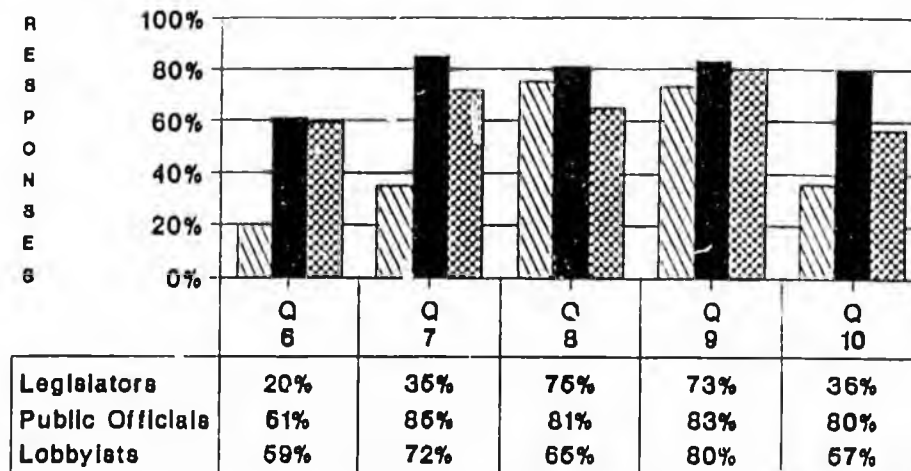
D = Serious in terms of appearances but not actual affect, more regulation will help.

E = Serious actual problem but more regulation won't help.

F = Serious actual problem, more regulation will help

	A	B	C	D	E	F
6. Free in-state travel and lodging.						
Legislators	32 % (13)	48 % (19)	13 % (5)	5 % (2)	0 % (0)	2 % (1)
Public Officials	9 % (15)	30 % (47)	16 % (25)	11 % (17)	7 % (11)	27 % (43)
Lobbyists	23 % (12)	19 % (10)	19 % (10)	17 % (9)	6 % (3)	17 % (9)
7. Free out-of-state travel or use of recreational or lodging facilities.						
Legislators	33 % (13)	33 % (13)	20 % (8)	10 % (4)	0 % (0)	5 % (2)
Public Officials	2 % (4)	13 % (20)	10 % (16)	18 % (28)	9 % (15)	48 % (75)
Lobbyists	13 % (7)	15 % (8)	19 % (10)	19 % (10)	6 % (3)	28 % (15)
8. Inappropriate private conduct of legislators that reflects discredit on the entire body.						
Legislators	15 % (6)	10 % (4)	17 % (7)	15 % (6)	24 % (10)	19 % (8)
Public Officials	16 % (25)	4 % (6)	15 % (24)	9 % (14)	33 % (52)	24 % (38)
Lobbyists	21 % (11)	7 % (4)	23 % (12)	15 % (8)	23 % (12)	11 % (6)
9. Improper use of administrative powers or customary authority of legislative leaders, including committee chairs, to hold up or alter legislation.						
Legislators	20 % (8)	7 % (3)	13 % (5)	15 % (6)	15 % (6)	30 % (12)
Public Officials	12 % (19)	5 % (8)	5 % (8)	2 % (3)	32 % (50)	44 % (70)
Lobbyists	17 % (9)	4 % (2)	17 % (9)	2 % (1)	21 % (11)	40 % (21)
10. Use of official title, prestige of legislative office, or implied official powers to obtain personal benefits.						
Legislators	40 % (15)	24 % (9)	13 % (5)	5 % (2)	5 % (2)	13 % (5)
Public Officials	9 % (15)	10 % (16)	13 % (21)	6 % (9)	20 % (31)	42 % (67)
Lobbyists	23 % (12)	20 % (10)	16 % (8)	8 % (4)	8 % (4)	25 % (13)

The Problem is Serious

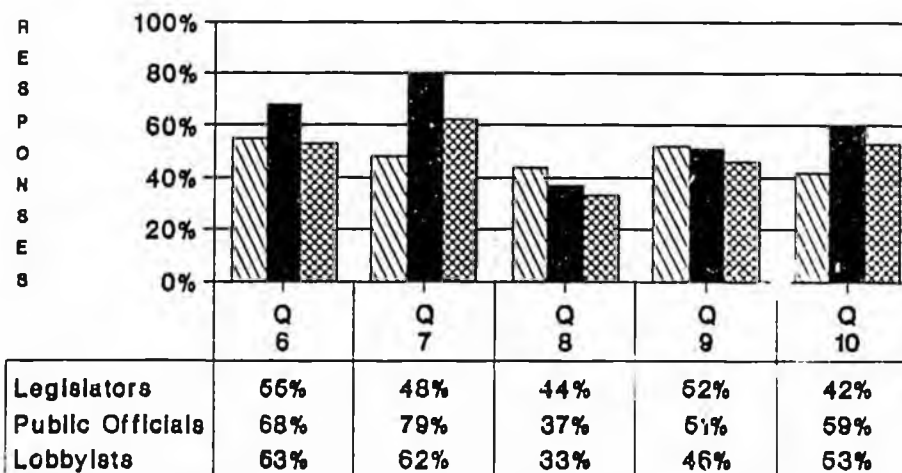


Questions 6 - 10

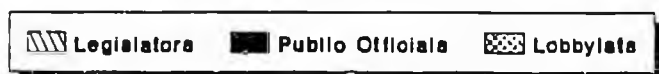


Combined Responses C,D,E, & F

Will regulation help?



Questions 6 - 10



Combined responses B, D, & F

Actual Conflicts and Appearances of Impropriety

As to each possible source of real or apparent impropriety, indicate whether you think the problem is:

A = Insignificant, more regulation unjustified.

B = Minor but more regulation may help.

C = Serious in terms of appearances but not actual affect, more regulation won't help.

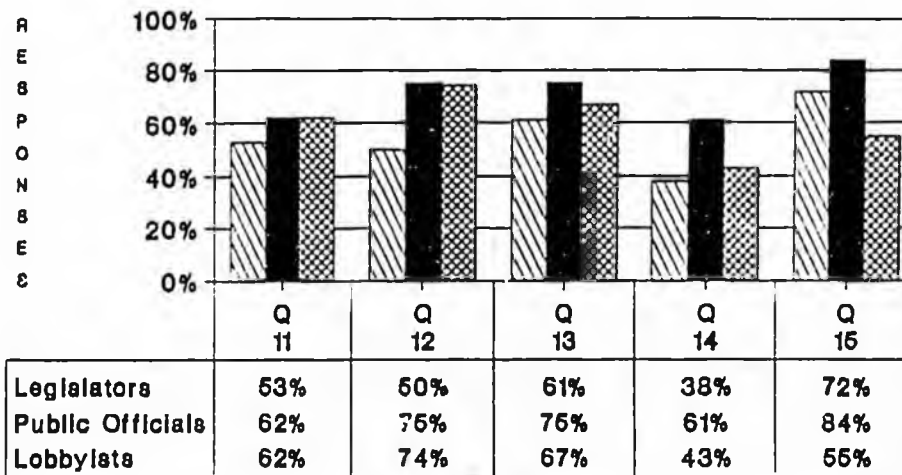
D = Serious in terms of appearances but not actual affect, more regulation will help.

E = Serious actual problem but more regulation won't help.

F = Serious actual problem, more regulation will help.

	A	B	C	D	E	F
11. Use of government facilities for campaign and/or fundraising activities.						
Legislators	17 % (7)	30 % (12)	13 % (5)	13 % (5)	0 % (0)	27 % (11)
Public Officials	13 % (21)	25 % (40)	5 % (8)	15 % (23)	4 % (6)	38 % (61)
Lobbyists	10 % (5)	29 % (15)	10 % (5)	13 % (7)	8 % (4)	31 % (16)
12. Use of government paid staff for campaign and/or fundraising activities.						
Legislators	15 % (6)	35 % (14)	8 % (3)	10 % (4)	5 % (2)	27 % (11)
Public Officials	6 % (10)	19 % (30)	4 % (6)	14 % (22)	8 % (13)	49 % (78)
Lobbyists	9 % (5)	17 % (9)	8 % (4)	21 % (11)	13 % (7)	32 % (17)
13. Fundraising events organized by lobbyists.						
Legislators	26 % (10)	13 % (5)	21 % (8)	11 % (4)	5 % (2)	24 % (9)
Public Officials	16 % (25)	9 % (14)	15 % (24)	8 % (13)	12 % (18)	40 % (62)
Lobbyists	25 % (13)	8 % (4)	31 % (16)	12 % (6)	4 % (2)	20 % (10)
14. Post government service lobbying by legislators or legislative staff.						
Legislators	50 % (20)	13 % (5)	10 % (4)	15 % (6)	0 % (0)	13 % (5)
Public Officials	24 % (38)	15 % (24)	5 % (8)	17 % (26)	7 % (10)	32 % (49)
Lobbyists	42 % (22)	15 % (8)	12 % (6)	12 % (6)	0 % (0)	19 % (10)
15. Calculated evasions of the purpose and spirit of campaign laws through legalistic techniques.						
Legislators	18 % (7)	10 % (4)	10 % (4)	20 % (8)	12 % (5)	30 % (12)
Public Officials	6 % (10)	10 % (16)	1 % (2)	11 % (17)	15 % (23)	57 % (90)
Lobbyists	15 % (6)	29 % (15)	13 % (7)	13 % (7)	8 % (4)	21 % (11)

The Problem is Serious

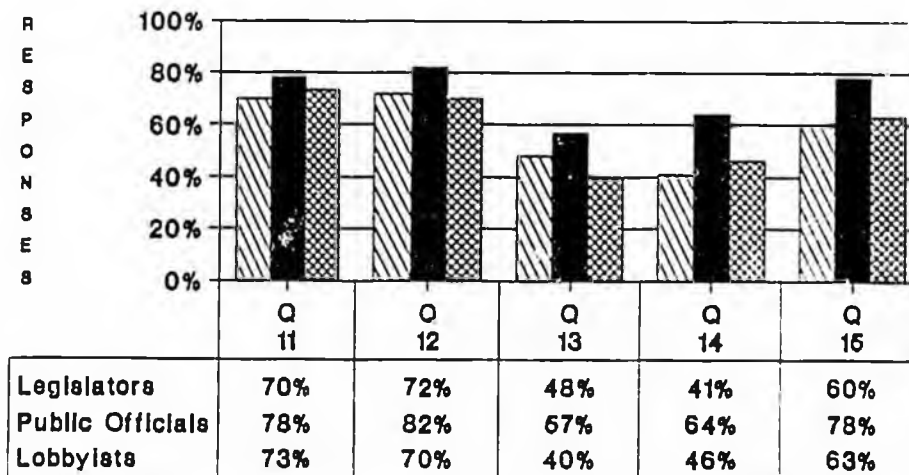


Questions 11 - 15



Combined responses C,D,E,& F

Will regulation help ?



Questions 11 - 15



Combined responses B,D & F

Actual Conflicts and Appearances of Impropriety

As to each possible source of real or apparent impropriety, indicate whether you think the problem is:

A = Insignificant, more regulation unjustified.

B = Minor but more regulation may help.

C = Serious in terms of appearances but not actual affect, more regulation won't help.

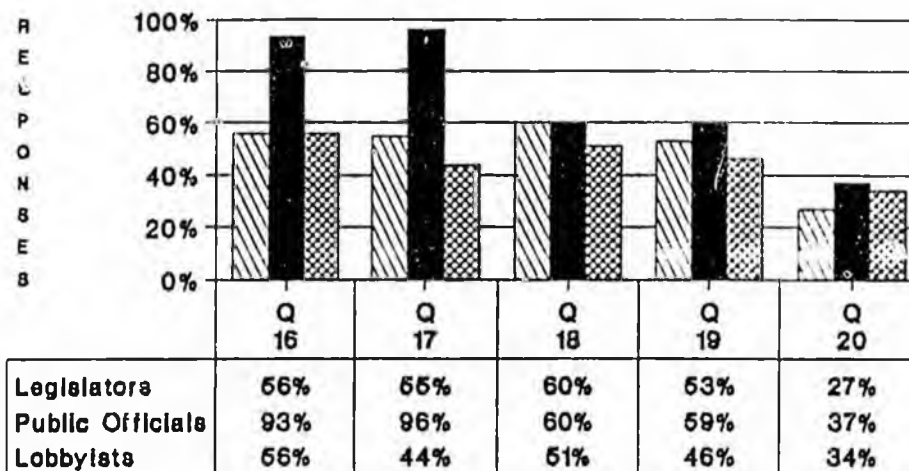
D = Serious in terms of appearances but not actual affect, more regulation will help.

E = Serious actual problem but more regulation won't help.

F = Serious actual problem, more regulation will help.

	A	B	C	D	E	F
16. Legislators making it known that they expect campaign contributions or other support in return for access and good relations.						
Legislators	23 % (9)	23 % (9)	8 % (3)	18 % (7)	13 % (5)	15 % (6)
Public Officials	8 % (12)	10 % (16)	7 % (11)	8 % (12)	29 % (47)	39 % (63)
Lobbyists	25 % (13)	18 % (9)	18 % (9)	6 % (3)	18 % (9)	16 % (8)
17. Legislators pressuring lobbyists to support their favorite charitable cause or event under circumstances which create the impression that refusal to do so could adversely affect the relationship between the legislator and the lobbyist.						
Legislators	35 % (14)	15 % (6)	5 % (2)	15 % (6)	10 % (4)	20 % (8)
Public Officials	16 % (25)	9 % (14)	14 % (21)	10 % (16)	20 % (31)	31 % (49)
Lobbyists	47 % (24)	16 % (8)	16 % (8)	4 % (2)	8 % (4)	10 % (5)
18. Fundraising activities anywhere in Juneau during the legislative session.						
Legislators	30 % (12)	10 % (4)	5 % (2)	15 % (6)	3 % (1)	37 % (15)
Public Officials	28 % (44)	12 % (18)	14 % (21)	7 % (11)	4 % (7)	35 % (55)
Lobbyists	38 % (20)	11 % (6)	17 % (9)	13 % (7)	4 % (2)	17 % (9)
19. Fundraising activities anywhere in the state during the legislative session.						
Legislators	35 % (14)	12 % (5)	8 % (3)	18 % (7)	0 % (0)	27 % (11)
Public Officials	30 % (47)	11 % (17)	14 % (22)	9 % (15)	5 % (8)	31 % (48)
Lobbyists	41 % (22)	13 % (7)	17 % (9)	8 % (4)	6 % (3)	15 % (8)
20. Fundraising activities immediately after elections to retire campaign debts.						
Legislators	45 % (18)	13 % (5)	8 % (3)	17 % (7)	2 % (1)	15 % (6)
Public Officials	49 % (77)	8 % (12)	8 % (12)	9 % (14)	3 % (5)	23 % (37)
Lobbyists	45 % (24)	13 % (7)	19 % (10)	9 % (5)	2 % (1)	11 % (6)

The Problem is Serious

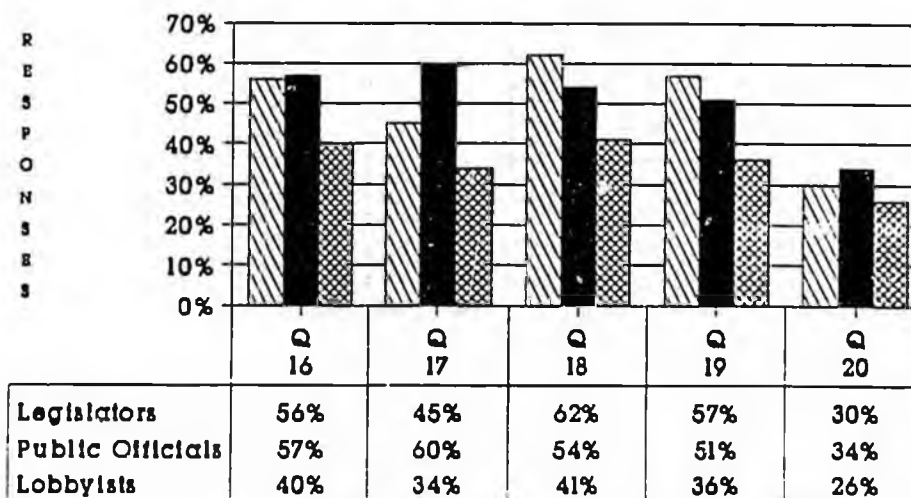


Questions 16 - 20

Legislators
 Public Officials
 Lobbyists

Combined responses C,D,E,& F

Will regulation help ?



Questions 16 - 20

Legislators
 Public Officials
 Lobbyists

Combined responses B,D & F

Alaska Ethics Commission

APPENDIX A

The Josephson Institute

Report on the Alaska Legislative Ethics Act of 1990

Q. Please rank each of the following proposals for a panel to enforce legislative ethical rules in terms of the relative level of trust you would have in the board described (assume each panel will go through a full training program orienting them on the law and their duties). [Use 1 for first choice, 2 for second, etc.]

A panel of six, consisting of three members of the body (Senate or House) of the person charged and three public members appointed by the Alaska Supreme court (existing structure).

A panel of seven, consisting of four public members appointed by the Supreme Court and three legislators from the body of the person charged.

A panel of five, consisting of three public members appointed by the Supreme Court and one legislator from each body appointed by the Senate President and Speaker and confirmed by a two-thirds vote of both bodies.

A panel of five public members all appointed by the Supreme Court.

A panel of five public members, one appointed by the Supreme Court, one appointed by the Governor, one jointly appointed by the President of the Senate and the Senate minority leader, one jointly appointed by the Speaker of the House and the House minority leader and the fifth appointed by the other four appointees.'

A panel of five citizen commissioners drawn from the voter registration rolls, screened by a process similar to that used for the selection of a jury, and confirmed by both Houses.

	Average	Choice Ranking		
		1 & 2	3 & 4	5 & 6
Public Official Lobbyist	4.45 3.85	12 % (17) 22 % (8)	33 % (48) 38 % (15)	55 % (79) 40 % (16)
Public Official Lobbyist	3.12 3.12	39 % (59) 37 % (15)	42 % (62) 49 % (20)	19 % (29) 14 % (6)
Public Official Lobbyist	2.44 2.02	55 % (82) 71 % (31)	35 % (52) 27 % (12)	10 % (15) 2 % (1)
Public Official Lobbyist	3.29 3.03	37 % (54) 51 % (20)	36 % (53) 23 % (9)	27 % (39) 26 % (10)
Public Official Lobbyist	3.37 3.55	37 % (53) 38 % (16)	31 % (45) 19 % (8)	32 % (47) 43 % (18)
Public Official Lobbyist	3.87 4.20	36 % (52) 20 % (7)	15 % (22) 26 % (9)	49 % (70) 54 % (19)

SURVEY OF OPINION ALASKA LEGISLATORS

Government Ethics Center of the Josephson Institute

Please circle the letter next to the statement that comes closest to your opinion as to each of the following issues.

PUBLIC TRUST

Recently, there has been a great deal of discussion about the public's trust and confidence in the integrity of the Alaska state legislature.

1. Regardless of the present state of public trust, how important to the effectiveness of government do you think it is that legislators be held in high esteem by the public?
 - a. Essential.
 - b. Very important, effectiveness is badly hampered by a lack of trust.
 - c. Somewhat important, as a practical matter the effectiveness of government is not very much affected by a lack of trust.
 - d. Not very important. The public has always been cynical about politicians and government has always managed to function.
2. How important is it to you personally that the legislature as a whole is held in high esteem by the public?
 - a. Very important because my own reputation and the satisfaction I get from office is directly affected by general public attitudes.
 - b. Somewhat important but generally, my constituents and those who know me judge me as an individual regardless of what they think of other legislators.
 - c. Not very important since my constituents and those who know me judge me as an individual.
3. In your opinion, what proportion of the general public (statewide) has a sufficiently high degree of trust and confidence in the integrity of legislators?
 - a. Almost all
 - b. Most
 - c. About half
 - d. Very few
 - e. Almost none
 - f. I have no idea
4. What proportion of your constituents have a sufficiently high degree of trust and confidence in the integrity of legislators?
 - a. Almost all
 - b. Most
 - c. About half
 - d. Very few
 - e. Almost none
 - f. I have no idea
5. To the extent that trust is not as high as you think it should be, which of the following is a MAJOR reason (you may circle more than one).
 - a. Relentless and unfair media coverage.
 - b. Aggressive but basically fair media coverage.

- c. Insensitivity to ethical standards by a substantial majority of legislators.
- d. Insensitivity to ethical standards by a significant minority of legislators.
- e. Widely publicized misconduct of only a very few legislators.
- f. Unreasonable public expectations.
- g. The public's predisposition to believe the worst regardless of the facts.

OUTSIDE INCOME

One source of real and apparent conflicts of interest is outside earned income necessitated by the part-time compensation of Alaska legislators. Since standards of conduct must address this issue, it is important to assess the potential impact of various solutions which would restrict income sources. Your candid answers to the following questions will provide important information that will us frame reasonable and practical standards.

6. On an annual basis, about what proportion of your income-producing time is spent on activities directly related to your position as a legislator?
 - a. 100%
 - b. 90% or more
 - c. 75% or more
 - d. 50% or more
 - e. 25% or more
 - f. Less than 25%
7. On an annual basis, about what proportion of your personal (not including spouse income) total income from all sources is derived from your legislative salary and per diems?
 - a. 100%
 - b. 90% or more
 - c. 75% or more
 - d. 50% or more
 - e. 25% or more
 - f. Less than 25%
8. The 1989 Report of the State Officers' Compensation Commission recommended raising legislative salaries to \$40,000 along with adjustments in the per diem amounts and procedures, two round-trip constituent travel reimbursements during the legislative session and a different way of dealing with the office allowance to prevent it from becoming an income source. Regardless of your opinion as to the political issues involved, what is your opinion as to the substance of the recommendation?
 - a. Much too low.
 - b. Slightly low.
 - c. About right.
 - d. Slightly high.
 - e. Much too high.

MORE---

As to each of the following possible sources of income, please indicate the extent to which a complete prohibition would, in the absence of a compensatory pay raise, place a financial hardship on you and affect your willingness to stay in the legislature.

- A = Unacceptable. I could not stay.
- B = Unreasonably difficult, I might not stay.
- C = Very difficult but I would stay.
- D = Not significant since other sources of income are adequate.
- E = Not significant since I receive little or nothing in this way.

____ 9. Honoraria -- outside fees for speaking, appearing or writing.

____ 10. Fees or commissions relating to business or contracts with any entity of state or local government.

____ 11. Fees or other compensation relating to *direct representation* of persons or organizations in their dealings with any *state government entity*.

____ 12. Fees or other compensation relating to *direct representation* of persons or organizations in their dealings with any *state OR local government entity*.

____ 13. Fees or other compensation relating to *advising or consulting* with persons or organizations with respect to their dealings with any *state government entity*.

____ 14. Fees or other compensation relating to *advising or consulting* with persons or organizations with respect to their dealings with any *state OR local government entity*.

____ 15. Lawful conversion of surplus campaign funds to personal income.

ACTUAL CONFLICTS AND APPEARANCES OF IMPROPRIETY

As to each possible source of real or apparent impropriety, indicate whether you think the problem is:

- A = Insignificant, more regulation unjustified.
- B = Minor but more regulation may help.
- C = Serious in terms of appearances but not actual affect, more regulation won't help.
- D = Serious in terms of appearances but not actual affect, more regulation will help.
- E = Serious actual problem but more regulation won't help.
- F = Serious actual problem, more regulation will help.

____ 16. Improper travel reimbursement claims.

____ 17. Improper per diem claims.

____ 18. Outside income sources raising improper conflicts of interest.

____ 19. Inadequate or evasive disclosures of financial conflicts of interest.

____ 22. Handling of campaign fund surplus.

____ 21. Free meals, beverages or entertainment.

____ 22. Free in-state travel and lodging.

____ 23. Free out-of-state travel or use of recreational or lodging facilities.

____ 24. Inappropriate private conduct of legislators that reflects discredit on the entire body.

____ 25. Improper use of administrative powers or customary authority of legislative leaders, including committee chairs, to hold up or alter legislation.

____ 26. Use of official title, prestige of legislative office, or implied official powers to obtain personal benefits.

____ 27. Use of government facilities for campaign and/or fundraising activities.

____ 28. Use of government paid staff for campaign and/or fundraising activities.

____ 29. Fund raising events sponsored or held by lobbyists.

____ 30. Post government service lobbying by legislators or legislative staff.

____ 31. Calculated evasions of the purpose and spirit of campaign contribution limits through legalistic techniques.

____ 32. Legislators soliciting or otherwise making it known that they want or expect personal gifts, favors, campaign contributions or other support in return for access and good relations.

____ 34. Legislators pressuring lobbyists to support their favorite charitable cause or event under circumstances which create the impression that refusal to do so could adversely affect the relationship between the legislator and the lobbyist.

____ 35. Fundraising activities in Juneau during the legislative session.

____ 36. Fundraising activities anywhere in the state during the legislative session.

____ 37. Fundraising activities immediately after elections to retire campaign debts.

THANK YOU VERY MUCH FOR TAKING THE TIME TO PARTICIPATE IN THIS SURVEY.

IF THIS QUESTIONNAIRE STIMULATED ANY ADDITIONAL THOUGHTS YOU WOULD LIKE TO SHARE, PLEASE WRITE AS SOON AS POSSIBLE OR CALL US THROUGH SENATOR PAT POURCHOT'S OFFICE (HE WAS ASSIGNED PROJECT DIRECTOR) OR AT OUR LOS ANGELES OFFICE 213 306-1868.

SURVEY OF OPINION

ADMINISTRATIVE AND LEGISLATIVE ETHICS

Government Ethics Center of the Josephson Institute

RESIDENCE CITY: _____

Please circle the letter next to the statement that comes closest to your opinion as to each of the following issues.

PUBLIC TRUST

1. Regardless of the present state of public trust, how important to the effectiveness of government do you think it is that those who serve government be held in high esteem by the public?
 - a. Essential.
 - b. Very important, effectiveness is badly hampered by a lack of trust.
 - c. Somewhat important, but as a practical matter, the effectiveness of government is not very much affected by a lack of trust.
 - d. Not very important. The public has always been cynical about politicians and government has always managed to function.
2. In your opinion, what proportion of the general public (statewide) has a sufficiently high degree of trust and confidence in the integrity of legislators?
 - a. Almost all
 - b. Most
 - c. About half
 - d. Very few
 - e. Almost none
 - f. I have no idea
3. What is your personal opinion of the integrity of Alaska legislators and the body as a whole?
 - a. I have a high regard for the integrity of almost all legislators and for the body as a whole.
 - b. I have a high regard for most legislators individually but not a very high regard for the body as a whole.
 - c. Although I have a regard for many legislators, I do not have a very high regard for most of them or for the body as a whole.
 - d. I have a high regard for very few legislators and a low opinion of the body as a whole.
 - e. I have a very low regard for the integrity of almost all legislators and the body as a whole.
4. To the extent that trust is not as high as you think it should be, which of the following is a MAJOR reason (you may circle more than one).
 - a. Relentless and unfair media coverage.
 - b. Aggressive but basically fair media coverage.
 - c. Insensitivity to ethical standards by a substantial majority of legislators.
 - d. Insensitivity to ethical standards by a significant minority of legislators.
 - e. Widely publicized misconduct of only a very few legislators.
 - f. Unreasonable public expectations.
 - g. The public's predisposition to believe the

worst regardless of the facts.

5. Given the 120 day legislative session and the fact that they are presently compensated at the rate of \$22,140 per annum and \$50-55 per day for working 4 hours or more when the legislature is not in session (plus \$9,680 for living expenses during the session), what proportion of income-producing time (on an annual basis) do you think it is reasonable to expect legislators to devote to legislative duties?
 - a. 100%
 - b. At least 75%
 - c. At least 50%
 - d. At least 25%
6. The 1989 Report of the State Officers' Compensation Commission recommended raising legislative salaries to \$40,000 along with adjustments in the per diem amounts and procedures, two round-trip constituent travel reimbursements during the legislative session and a different way of dealing with the office allowance to prevent it from becoming an income source. Regardless of your opinion as to the political issues involved, what is your opinion as to the substance of the recommendation?
 - a. Much too low.
 - b. Slightly low.
 - c. About right.
 - d. Slightly high.
 - e. Much too high.

Each of the following possible sources of income, raise a certain potential for conflicts of interest. Prohibiting them, however, may affect the willingness and ability of some legislators to stay in the legislature. Please indicate the extent to which you think the source ought to be restricted in view of the potential financial hardship and inability to serve such a prohibition may cause.

A = Such income should be banned even if some legislators have to withdraw or undergo serious financial hardship.

B = Such income should be banned or restricted as much as is reasonably possible without causing legislators to leave the legislature.

C = Such income should be subject to disclosure but not prohibition since the potential conflicts can be resolved so long as the legislator is held accountable to the public.

D = Such income should be neither banned nor subject to any additional disclosure since the potential conflicts of interest are not serious.

____ 7. Honoraria -- outside fees for speaking, appearing or writing.

____ 8. Fees or commissions relating to business or contracts with any entity of state or local government.

____ 10. Fees or other compensation relating to *direct representation* of persons or organizations in their dealings with any *state OR local government entity*.

____ 11. Fees or other compensation relating to *consulting* with persons or organizations with respect to their dealings with any *state government entity*.

____ 12. Fees or other compensation relating to *consulting* with persons or organizations with respect to their dealings with any *state OR local government entity*.

____ 13. Lawful conversion of surplus campaign funds to personal income.

ACTUAL CONFLICTS AND APPEARANCES OF IMPROPRIETY

As to each possible source of real or apparent impropriety, indicate whether you think the problem is:

A = Insignificant, more regulation unjustified.

B = Minor but more regulation may help.

C = Serious in terms of appearances but not actual affect, more regulation won't help.

D = Serious in terms of appearances but not actual affect, more regulation will help.

E = Serious actual problem but more regulation won't help.

F = Serious actual problem, more regulation will help.

____ 16. Improper travel reimbursement claims.

____ 17. Improper per diem claims.

____ 18. Outside income sources raising improper conflicts of interest.

____ 19. Inadequate or evasive disclosures of financial conflicts of interest.

____ 20. Handling of campaign fund surplus.

____ 21. Free meals, beverages or entertainment.

____ 22. Free in-state travel and lodging.

____ 23. Free out-of-state travel or use of recreational or lodging facilities.

____ 24. Inappropriate private conduct of legislators that reflects discredit on the entire body.

____ 25. Improper use of administrative powers or customary authority of legislative leaders, including committee chairs, to hold up or alter legislation.

____ 26. Use of official title, prestige of legislative office, or implied official powers to obtain personal benefits.

____ 27. Use of government facilities for campaign and/or fundraising activities.

____ 28. Use of government paid staff for campaign and/or fundraising activities.

____ 29. Fund raising events sponsored or held by lobbyists.

____ 30. Post government service lobbying by legislators or legislative staff.

____ 31. Calculated evasions of the purpose and spirit of campaign contribution limits through legalistic techniques.

____ 32. Legislators making it known that they expect campaign contributions or other support in return for access and good relations.

____ 33. Legislators pressuring lobbyists to personally provide or otherwise arrange for campaign contributions under circumstances which create the impression that refusal to do so could adversely affect the relationship between the legislator and the lobbyist.

____ 34. Legislators pressuring lobbyists to support their favorite charitable cause or event under circumstances which create the impression that refusal to do so could adversely affect the relationship between the legislator and the lobbyist.

____ 35. Fundraising activities in Juneau during the legislative session.

____ 36. Fundraising activities anywhere in the state during the legislative session.

____ 37. Fundraising activities immediately after elections to retire campaign debts.

____ 38. Very close personal relationships between legislators and lobbyists.

39. Please rank each of the following proposals for a panel to enforce legislative ethical rules in terms of the relative level of trust you would have in the board described (assume each panel will go through a full training program orienting them on the law and their duties). [Use 1 for first choice, 2 for second, etc.]

____ A panel of six, consisting of three members of the body (Senate or House) of the person charged and three public members appointed by the Alaska Supreme Court (existing structure).

____ A panel of seven, consisting of four public members appointed by the Supreme Court and three legislators from the body of the person charged.

____ A panel of five, consisting of three public members appointed by the Supreme Court and one legislator from each body appointed by the Senate President and Speaker and confirmed by a two-thirds vote of both bodies.

____ A panel of five public members all appointed by the Supreme Court.

____ A panel of five public members, one appointed by the Supreme Court, one appointed by the Governor, one jointly appointed by the President of the Senate and the Senate minority leader, one jointly appointed by the Speaker of the House and the House minority leader and the fifth appointed by the other four appointees.

____ A panel of five citizen commissioners drawn from the voter registration rolls, screened by a process similar to that used for the selection of a jury, and confirmed by both Houses.

SURVEY OF OPINION

LOBBYIST PERSPECTIVE ON LEGISLATIVE ETHICS

Government Ethics Center of the Josephson Institute

TYPE: ☐ Salary ☐ Contract ☐ Volunteer ☐ Expenses only

MAJOR AREA: ☐ Industry/Business ☐ Gov't/Education ☐ Public interest ☐ Other _____

Please circle the letter next to the statement that comes closest to your opinion as to each of the following issues.

1. How important to the effectiveness of government do you think it is that those who serve government be held in high esteem by the public?
 - a. Essential.
 - b. Very important, effectiveness is badly hampered by a lack of trust.
 - c. Somewhat important, but as a practical matter the effectiveness of government is not very much affected by a lack of trust.
 - d. Not very important. The public has always been cynical about politicians and government has always managed to function.
2. In your opinion, what proportion of the general public (statewide) has a sufficiently high degree of trust and confidence in the integrity of legislators?
 - a. Almost all
 - b. Most
 - c. About half
 - d. Very few
 - e. Almost none
 - f. I have no idea
3. What is your personal opinion of the integrity of Alaska legislators and the body as a whole?
 - a. I have a high regard for the integrity of almost all legislators and for the body as a whole.
 - b. I have a high regard for most legislators individually but not for the body as a whole.
 - c. Although I have a high regard for many legislators, I do not for most of them or for the body as a whole.
 - d. I have a high regard for very few legislators and a low opinion of the body as a whole.
 - e. I have a very low regard for the integrity of almost all legislators and the body as a whole.
4. To the extent that trust is not as high as you think it should be, which of the following is a MAJOR reason (you may circle more than one).
 - a. Relentless and unfair media coverage.
 - b. Aggressive but basically fair media coverage.
 - c. Insensitivity to ethical standards by a substantial majority of legislators.
 - d. Insensitivity to ethical standards by a significant minority of legislators.
 - e. Widely publicized misconduct of only a very few legislators.
 - f. Unreasonable public expectations.
 - g. The public's predisposition to believe the worst regardless of the fact.
5. Given the 120 day legislative session and the fact that they are presently compensated at the rate of \$22,140 per annum (plus \$9,680 for living expenses during the session) and \$50-\$55 per day for working 4 hours or more when the legislature is not in session, what proportion of income-producing time (on an annual basis) do you think it is reasonable to expect legislators to devote to legislative duties?
 - a. 100%
 - b. At least 75%
 - c. At least 50%
 - d. At least 25%
6. Some people claim that legislators, directly or through aides, effectively coerce lobbyists to make campaign contributions (either personally or through their clients) by creating the impression that refusal to do so could adversely affect the relationship between the legislator and the lobbyist in a way that could hamper lobbyists' ability to effectively advocate the interests of their clients. Which of the following statements comes closest to your views on the matter.
 - a. This almost never happens; the contributions that most lobbyists give are fully voluntary and based on ideological support.
 - b. This happens occasionally with a few members but by and large the contributions that most lobbyists give are fully voluntary and based on ideological support.
 - c. This happens frequently with many members; about half the contributions that most lobbyists give are defensive -- to ward off negative reactions and the loss of access.
 - d. This happens frequently with almost all members; most of the contributions that most lobbyists give are defensive -- to ward off negative reactions and the loss of access.
7. Which of the following comes closest to your views as to the impact and legitimacy of fund raising practices between lobbyists and legislators?
 - a. There is no significant pressure to provide campaign funds to legislators, hence, no impact.
 - b. Present practices are a part of legitimate politics; there is nothing wrong with them since they do not adversely affect the process.
 - c. Fund raising pressure is occasionally overdone but does not raise serious problems since lobbyist and special interest contributions very rarely influence the legislator's actions.
 - d. Fund raising pressure is often overdone and it raises a serious problem since special interests which are able and willing to provide financial support have a significant advantage in telling their story and persuading legislators. --More

e. Fund raising pressure raises serious problems not only because special interests which provide financial support have a significant advantage in telling their story and persuading legislators, but in addition, the financial support itself sometimes influences legislative actions.

8. In your opinion, what proportion of the present legislature can be influenced to take or withhold some significant legislative action (e.g., intervention with a state agency, committee actions, drafting and amending legislation, voting) by campaign contributions or other financial benefits provided by lobbyists and their employers?

- a. None.
- b. No more than 10%.
- c. About 25%.
- d. About half.
- e. Over half.
- f. Almost all.

Each of the following possible sources of income, raise a certain potential for conflicts of interest. Prohibiting them, however, may affect the willingness and ability of some legislators to stay in the legislature. Please indicate the extent to which you think the source ought to be restricted in view of the potential financial hardship and inability to serve such a prohibition may cause.

A = Such income should be banned even if some legislators have to withdraw or undergo serious financial hardship.

B = Such income should be banned or restricted as much as is reasonably possible without causing legislators to leave the legislature.

C = Such income should be subject to disclosure but not prohibition since the potential conflicts can be resolved so long as the legislator is held accountable to the public.

D = Such income should be neither banned nor subject to any additional disclosure since the potential conflicts of interest are not serious.

____ 9. Fees or other compensation relating to *direct representation* of persons or organizations in their dealings with any *state government entity*.

____ 10. Fees or other compensation relating to *direct representation* of others in dealings with any *state OR local government entity*.

____ 11. Fees or other compensation relating to *consulting* with others with respect to their dealings with any *state government entity*.

____ 12. Fees or other compensation relating to *consulting* with others with respect to their dealings with any *state OR local government entity*.

____ 13. Lawful conversion of surplus campaign funds to personal income.

____ 14. Fees or commissions relating to business or contracts with any entity of state or local government.

____ 15. Honoraria for speaking, appearing, writing.

As to each possible source of real or apparent impropriety, indicate whether you think the problem is:

A = Insignificant, more regulation unjustified.

B = Minor but more regulation may help.

C = Serious in terms of appearances but not actual affect, more regulation won't help.

D = Serious in terms of appearances but not actual affect, more regulation will help.

E = Serious actual problem but more regulation won't help.

F = Serious actual problem, more regulation will help.

____ 16. Improper travel reimbursement claims.

____ 17. Improper per diem claims.

____ 18. Outside income sources.

____ 19. Inadequate or evasive disclosures of financial conflicts of interest.

____ 20. Handling of campaign fund surplus.

____ 21. Very close personal relationships (including marriage) between legislators and lobbyists.

____ 22. Free in-state travel and lodging.

____ 23. Free out-of-state travel or use of recreational or lodging facilities.

____ 24. Inappropriate private conduct of legislators that reflects discredit on the entire body.

____ 25. Improper use of administrative powers or customary authority of legislative leaders, including committee chairs, to hold up or alter legislation.

____ 26. Use of official title, prestige of office, or implied official powers to obtain personal benefits.

____ 27. Use of government facilities for campaign and/or fundraising activities.

____ 28. Use of government paid staff for campaign and/or fundraising activities.

____ 29. Fund raising events organized by lobbyists.

____ 30. Post government service lobbying by legislators or legislative staff.

____ 31. Calculated evasions of the purpose and spirit of campaign laws through legalistic techniques.

____ 32. Legislators making it known that they expect campaign contributions or other support in return for access and good relations.

____ 33. Legislators pressuring lobbyists to provide or otherwise arrange for campaign contributions.

____ 34. Legislators pressuring lobbyists to support their favorite charitable cause or event under circumstances which create the impression that refusal to do so could adversely affect the relationship between the legislator and the lobbyist.

____ 35. Fundraising activities in Juneau during the legislative session.

____ 36. Fundraising activities anywhere in the state during the legislative session.

____ 37. Fundraising activities immediately after elections to retire campaign debts.

38. Please rank each of the following proposals for a panel to enforce legislative ethical rules in terms of the relative level of trust you would have in the board described (assume each panel will go through a full training program orienting them on the law and their duties). [Use 1 for first choice, 2 for second, etc.]

_____ A panel of six, consisting of three members of the body (Senate or House) of the person charged and three public members appointed by the Alaska Supreme Court (existing structure).

_____ A panel of seven, consisting of four public members appointed by the Supreme Court and three legislators from the body of the person charged.

_____ A panel of five, consisting of three public members appointed by the Supreme Court and one legislator from each body appointed by the Senate President and Speaker and confirmed by a two-thirds vote of both bodies.

_____ A panel of five public members all appointed by the Supreme Court.

_____ A panel of five public members, one appointed by the Supreme Court, one appointed by the Governor, one jointly appointed by the President of the Senate and the Senate minority leader, one jointly appointed by the Speaker of the House and the House minority leader and the fifth appointed by the other four appointees.

_____ A panel of five citizen commissioners drawn from the voter registration rolls, screened by a process similar to that used for the selection of a jury, and confirmed by both Houses.

39. _____ On average, I give over \$500 per year from my personal funds in campaign contributions.

40. _____ On average, I oversee, direct or recommend the giving of at least \$2,000 per year in campaign contributions from clients.

41. COMMENTS AND SUGGESTIONS:

APPENDIX B

About The Josephson Institute

Josephson Institute for the Advancement of Ethics

BOARD OF GOVERNORS

The Board of Governors is the Institute's governing board. In 1990 the Board size will be expanded to approximately 20 members. Formal meetings are held tri-annually in April, August and November, alternating between the west and east coasts. Board members provide guidance and consultation, as well as oversight on programs and publications and actively assist in resource development. Members are expected to attend two of three board meetings annually.

About the Institute

Mission. The Joseph & Edna Josephson Institute for the Advancement of Ethics is a public benefit, nonprofit corporation founded by Michael Josephson in honor of his parents. Its mission is to improve the ethical quality of society by teaching and advocating principled reasoning and ethical decision making. The Institute is not a think tank, it is an activist organization which is concerned with conduct rather than theory.

Activities. The Institute became active in mid-1987. Since that time, it has become nationally recognized for its innovative programs and publications. The Institute and its Government Ethics Center has conducted over 200 programs and workshops for over 20,000 influential leaders including legislators and mayors; high ranking public executives and congressional staff; editors and reporters; senior corporate and nonprofit executives; judges and lawyers; and military and police command officers. In addition, it publishes a periodic newsletter, *Ethics in Action* and a widely acclaimed quarterly magazine, *Ethics: Easier Said Than Done*.

Funding. The Institute is a 501 (c) (3) tax-exempt organization funded by individual memberships and gifts, foundation and corporate grants, fees and contributions for services, and sales of printed materials and tapes. In mid-1989 the Institute exhausted the \$1 million gift provided by Michael Josephson, the organization's founder (he also serves as president and takes no salary or other remunerations), and is now dependent on other sources of funding.

John W. English, Vice President and Chief Investment Officer, The Ford Foundation; Trustee/ Director of seven major non-profit organizations and other associations; (former Assistant Treasurer Illinois Bell Telephone Co.; former Director of Investment Management, AT&T New York City).

Edwin Epstein, LL.B, LL.D., Professor, Department of Business Administration; (former President, Academic Senate, University of California at Berkeley; former Director, Program for Business and Social Policy).

Frances Hesselbein, Former National Executive Director, Girl Scouts of the United States of America; Director, Mutual of America Life Insurance Co.; Director, Independent Sector; Executive Committees of four major non-profit organizations; Board of Trustees of two colleges and Board of Visitors of Peter F. Drucker Graduate Management Center graduate management.

Michael Josephson, J. D., President and founder, The Joseph & Edna Josephson Institute for the Advancement of Ethics; attorney and law professor; (former Chairman, Teaching Methods Section, Association of American Law Schools; former CEO and founder, Josephson Bar Review Centers and Center for Creative Educational Services).

Helen Kelley, Ph.D., (former Executive Director, The Josephson Institute for the Advancement of Ethics; former President, Immaculate Heart College; former Director, Older Americans Volunteer Programs, a project of the federal agency, ACTION).

Seth Rosner, LL.B., Attorney-at-law, in New York City; Member, American Bar Association Standing Committee on Ethics and Professional Responsibility; (former Chairman, General Practice Sections, New York State Bar Association and American Bar Association).

Richard Schubert, LL.B., (former President, The American Red Cross; former President and Vice Chairman, Bethlehem Steel; former Undersecretary, U.S. Department of Labor).

Mark Siegler, M.D., Director, Center for Clinical Medical Ethics, University of Chicago; member, American College of Physicians Human Rights and Medical Practice Committee; Editorial Board, American Journal of Medicine.

John Singleton, Vice Chairman, Security Pacific Corporation; Chief Executive Officer, Security Pacific Automation Company Inc.; Chairman of Board, Industry Education Council of California; member several other prominent boards including National Board of Junior Achievement.

Norman Sprinthall, Ed.D., Professor, Department of Counselor Education, North Carolina State University; Editorial Boards, Journal of Adolescence, Journal of Moral Education and Fellow, American Psychological Association.

Ralph Walters, C.P.A., Director of Professional Conduct, California Society of CPAs; (former member, Financial Accounting Standards Board, Board of Governors and Director of Professional Standards, Touche Ross International).

Joseph & Edna Josephson Institute

THE GOVERNMENT ETHICS CENTER

The Government Ethics Center is a division of the Joseph & Edna Josephson Institute for the Advancement of Ethics, a nonprofit, nonpartisan, tax-exempt educational organization. The Center was established to assist those who work in government to build and maintain public trust by enhancing their ethical consciousness, proficiency and practical judgement. The Center's publications and ethics leadership training seminars focus on turning ethical theory into practical problem solving strategies to aid public servants make difficult decisions in the trenches.

Commission

Richard Bolling

Former Congressman

Hodding Carter III

Journalist; former State Dept. Spokesman

Patricia Murphy Derian

Former Ass't. Sec. of State for Human Rights

H. George Frederickson

Prof. Public Administration, Univ. of Kansas

Edwin O. Guthman

Prof., Journalism, USC; former editor Philadelphia

Inquirer; Pulitzer Prize; former press secretary

to Robert F. Kennedy

Joan Hoff-Wilson

Prof., History, American Univ.; Executive Sec.,

Organization of American Historians

Barbara Jordan

Professor, LBJ School of Public Affairs

former Congresswoman

Lew Murphy

TV Commentator; former Mayor, Tucson, Arizona

Albert H. Quie

Former Congressman;

former Governor of Minnesota

Donald Robertson

Attorney; former Speaker Pro Tem, Maryland

House of Delegates

Richard Schubert

Former President, American Red Cross;

former President, Bethlehem Steel

Paul C. Warnke

Attorney;

former Chief U. S. arms control negotiator

Affiliate Organizations and Advisory Council

United States Conference of Mayors

J. Thomas Cochran, Executive Director

National Association of Attorneys General

Christine Milliken, Executive Director

National Conference of State Legislatures

Carl Tubbesing, Director State & Federal Relations

American Society for Public Administration

Bayard Catron, Professor, George Washington Univ.

International City Management Association

G. Curtis Branscome; City Manager, Decatur, Georgia

National Association of State Budget Officers

Gerald H. Miller, Executive Director

National Civic League

John Parr, President

National Conference of Christians and Jews

Harry Robinson, Senior Vice President

National League of Cities

Thomas McCloud, Director Membership Services

Public Affairs Council

Raymond Hoewing, Executive Director

State Legislative Leaders Foundation

Ben Atchley, Sen. Minority Leader, Tennessee

**Senior Executives Association/Professional Development
League**

Carol Bonosaro, President

THE JOSEPHSON INSTITUTE

Media and Program Overview

Feature stories, op/eds or comments about or by The Josephson Institute have been published in many of the nation's news media, including:

TELEVISION

- *Ted Koppel's Nightline*
- *Bill Moyer's World of Ideas*
- *CBS This Morning*
- *ABC Burning Issues*
- *Nightwatch with Charlie Rose*
- *CNN*
- *World Monitor News*

PRINT

- *Boston Globe*
- *Business Week*
- *Christian Science Monitor*
- *Cincinnati Post*
- *Detroit Free Press*
- *Houston Chronicle*
- *Los Angeles Times*
- *New York Times*
- *Philadelphia Inquirer*
- *San Francisco Chronicle*
- *Seattle Times*
- *The Wall Street Journal*
- *Time Magazine*
- *USA Today*
- *Washington Post*

The Institute has conducted programs for the following

Journalism

- Associated Press Managing Editors
- Associated Sports Editors
- American Association of Sunday and Feature Editors
- Knight Ridder Executive Development
- Knight Ridder Washington Bureau
- Los Angeles Times newsroom
- Nevada Press Association
- Orange County Register newsroom
- Philadelphia Inquirer newsroom
- Philadelphia Daily News newsroom
- Radio and Television News Directors Association
- San Jose Mercury News newsroom
- Seattle Times newsroom
- Society of Professional Journalists
- Organization of News Ombudsmen
- Times Mirror Corporate
- Wichita Eagle Beacon newsroom

Business

- Apple Computer--legal counsel
- Bank of America--senior executives
- California Business Roundtable
- California Society of Professional Accountants
- Chevron--public/government affairs
- Goodyear Tire & Rubber Co.--senior executives
- Pacific Bell--senior executives
- Pacific Telesis--executive management team
- Public Affairs Council
- Security Pacific Automation

Government

- Alaska Legislature--members and staff
- American Society for Public Administration
- Arizona Legislature
- Association of Government Accountants
- California Legislature--members and senior staff
- Los Alamos National Laboratory--scientists/administration
- Minnesota state executives (various departments)
- Missouri Legislature
- National Association of State Budget Officers
- National Association of Attorneys General
- National Conference of State Legislatures
- National League of Cities
- New Mexico Legislature
- State Legislative Leaders' Foundation
- U. S. Army--Pentagon generals (procurement)
- U. S. Air Force--officer training instructors
- U. S. Conference of Mayors
- U. S. Senate--senior staff
- U. S. House of Representatives--senior staff

Non-Profit

- Michigan Council on Foundations, Grantpersons
- Girl Scouts of USA
- National Assoc. of Hospital Development
- The National Committee on Planned Giving
- National Society of Fundraising Executives

Publications

Quarterly Magazine: *Ethics: Easier Said Than Done (ESTD)* is a compendium of articles, stories, excerpts and quotations covering the ethical dimensions of news items, social trends and the nation's professions. It is designed to provide a forum for serious discussion of the ethical issues that shape contemporary American culture. The magazine is "very strongly recommended. . ." by The Association of College and Research Libraries/American Library Association's newsletter, for ". . .its clarity and sensitivity to the complicated nature of real-life ethical decision making."

Newsletter: *Ethics in Action* is a bi-monthly newsletter featuring articles to assist the reader in determining ethical obligations and opportunities, items of interest regarding what others are doing in the field of ethics, and updates on Josephson Institute activities.



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ANARCHY

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ETHICS EFFORT

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full of shortcomings

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IN A ROUT

Runnin' Rebels
bedevil Duke by 30

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ANCHORAGE, ALASKA, TUESDAY, APRIL 3, 1990

PRICE 25 CENTS

Ethics expert delivers a tall order to Juneau

Sweeping proposal checks in at 87 pages

By DAVID POSTMAN
Daily News reporter

JUNEAU — The state Senate's ethics guru proposed Monday to repair the legislature's image by restricting legislators' campaign fund raising, employment, travel, use of public funds and just about everything else they do in or out of the capital.

"We are suggesting a whole new systemized approach to democracy," said Michael Josephson, president of the non-profit Josephson Institute for the Advancement of Ethics.

Josephson also recommended legislators get a pay raise to make up for a ban he recommended on some of the more unsavory ways of making money from law-making.

To enforce the proposed 87-page law, the institute says a powerful and independent commission should be created to investigate

ethics complaints, to levy fines and other sanctions, and to conduct mandatory ethics lessons for lawmakers, staff and lobbyists.

The bill was accompanied by a report and survey that says the "reputation and image of the legislature is unacceptably low" although "there is no evidence that the actual conduct of Alaska legislators warrants the amount of distrust demonstrated." Josephson surveyed legislators, their aides, lobbyists and state officials.

He said no one knows how much the package would cost to implement. If passed as it was written, the changes would take effect June 1.

The senators hired Josephson because they said the existing legislative ethics process was flawed, and their reputation

Please see Back Page, ETHICS

PROPOSED ETHICS CHANGES

Here are the some of the highlights of a bill proposed to the Alaska Legislature Monday by ethics consultant Michael Josephson. If passed into law it would:

- Create a public commission to replace the current legislative ethics commission.
- Ban off-year fund raising; create specific periods for raising campaign funds.
- Ban conversion of surplus campaign funds to personal funds.
- Ban for one year lobbying by legislators or aide where the person had "special oversight or budgeting responsibility."
- Require lawmakers and aides to make public how much compensation they earned and specifically what they did if employed by a company "known to have a substantial interest in legislative, administrative or political actions."
- Ban privately funded travel over \$100 except from non-profit educational institutions.
- Ban legislators from representing a client before any state agency.



BOB HELLMER / Anchorage Daily News
Consultant Michael Josephson

Iraq threatens

THE BACK PAGE

ETHICS REPORT: Consultant proposes far-reaching bill to legislature

Continued from Page A-1

had been hurt by a series of ethics controversies. The \$70,000 contract was approved after the Senate ethics subcommittee said it would not pursue a case against Sen. Al Adams, D-Kotzebue, because the statute of limitations put allegations about his business practices outside the committee's jurisdiction.

The contract was approved by the full Senate one day after the Daily News published a story on the ethics subcommittee's confidential report on Adams. The Senate asked the Alaska State Troopers to investigate how the newspaper obtained the report. The investigation is expected to be completed this week, clearing the way for the ethics committee to give the full Senate its first look at the Adams report.

Legislative reaction was mixed Monday to Josephson's proposal. Senate leaders who supported hiring him said the package looked good and promised to support it with no major changes. Others, though, worried that it was too broad and over-reaching and that a complete ethics overhaul may not be possible in the 35 days left in the legislative session.

"There's nothing I have seen in that package that I can't support," said Senate President Tim Kelly, R-Anchorage. "There are several things I have seen I didn't like much, but nothing I won't support, because I think it will go a long way in healing the lack of public confidence in the legislative ethics situation."

On the House side, the lawmaker who will oversee the first review of the bill agreed.

"Some of the points sound at first a little difficult to swallow but when you look at the whole thing I can't find a reason why it can't be adopted as a package," said Rep. David Finkelstein, D-Anchorage, who will head the House subcommittee which will hear the bill.

The proposed law would be enforced by a new nine-member public commission that would replace the current legislative ethics committees. It would include no legislators,

while the current setup is dominated by lawmakers, with just three public members.

The legislature — with concurrence of the presiding officer and minority leader of each house — would appoint two members. The governor, the lieutenant governor and the Alaska Public Offices Commission would name one each, while the Alaska Supreme Court and the rest of the commission will each name two.

The commission would have the authority to give formal and informal opinions to legislators, implement conflict of interest disclosure laws, conduct mandatory ethics classes, investigate violations and recommend sanctions ranging from fines to expulsion from office.

Key recommendations in the Josephson bill: that the commission would enforce include:

- A ban on fund raising by incumbents during the legislative session everywhere, not just in Juneau, as under current law.

- A ban on converting campaign funds to personal use and on post-election fund raising. "I think that if somebody comes who didn't give you money before your election and is all of a sudden willing to give you money immediately after the election — and you have done nothing yet, you just got elected — I have trouble rationalizing that decision other than as something that looks a lot like a shakedown or paying tribute," Josephson said.

- A one-year ban on legislators and aides lobbying the legislature or the administration where the person had "special oversight or budgeting responsibility."

- Require lawmakers and aides to make public how much they earned and what they did if employed by a company "known to have a substantial interest in legislative, administrative or political actions." That includes all lobbyists, industries regulated by the legislature, companies that hire lobbyists and companies that sell things to the state. Oil companies, airlines, labor unions, hospitals and most other major Alaska businesses would fall into that category.

Lawmakers and aides would also have to

report to the ethics commission any income above \$1,000 from any other employer although the amount will be kept confidential unless the commission decides it should be published.

Under current law lawmakers only need to list who they worked for with no mention of how much they were paid or what they did.

- A ban on all privately-funded travel over \$100, unless paid for by non-profit educational institutions. Under current law there is no limit on how much travel money a legislator can take from an outside source.

- A ban on legislators representing clients before state agencies.

The bill also creates a whole new category of ethical behavior that is not specifically described in the law.

It would make it illegal for a legislator or legislative employee to use official powers arbitrarily or arrogantly to influence legislation, or to "use improper artifices or schemes to circumvent the clear purpose of laws."

"It deals with things like, you should not do anything to discredit the house, it deals with non-partisanship on a number of votes, including ethics issues," Josephson said. "We also ask the legislature to deal with what we call representative democratic principles, which means you don't use your committee positions to bury bills."

Josephson said the proposed ethics code could also be used to sanction lawmakers who violate the state open-meetings law, although the state Supreme Court has found that the legislature does not need to follow the law.

Although it is not included in the bill, Josephson recommends that lawmakers' salaries be raised from \$22,000 to \$40,000. But other sources of money, including office expense funds given to legislators, out of session per diem payments and some travel payments, would be eliminated. That money raises many lawmakers' pay to more than \$40,000.

"We need to find a way to eliminate all the monkey business that is going on with compensation," Josephson said. "We really

think there are too many opportunities between travel and per diem and these things to just create petty appearances of impropriety and sometimes real ones."

Josephson said he realizes his bill is far-reaching and that there will be provisions that legislators hate. But he said it must be adopted without many major changes.

"Everywhere in the United States, certainly including Congress, you tend to have a mongrelized (ethics) bill that itself was a result of the very political processes you are trying to rule against," he said. "We're hoping that the total pressure of this bill ... will make it hard to start amending it because piecemeal amendments can destroy this bill."

That attitude bothers Sen. Dick Ellason, R-Sitka, and a member of the Senate ethics subcommittee.

"You're preempting the high ground," Ellason told Josephson during the consultant's presentation to the legislature. In an interview, Ellason said he wants the freedom to make changes without being accused of trying to kill the bill.

At the joint meeting of the House and Senate Judiciary and State Affairs committees, lawmakers expressed several concerns but all praised Josephson for his work.

Rep. Peter Goll, D-Haines, said he worried that the bulk of the bill was built on the premise of the appearance of conflict of interest rather than on actual wrongdoing.

Rep. Fred Boucher, D-Anchorage, said parts of it are too broad and philosophical. "I feel like I was obtaining a philosophy lesson," he said.

Josephson said he did not think the legislature's ethics problem was created by the press but he did have harsh words for the media.

"I have found the press here to be at least as cynical if not more cynical than any group I have dealt with and almost contemptuous of legislators in a very unhealthy way," he told reporters Monday morning. "I have heard derogatory remarks, statements, assumptions being made that collectively, I think, invade the analytical process."

SOVIETS: Vilnius pushes for talks

Continued from Page A-1

that Lithuania has "absolutely no desire to harm the" of Afghanistan in 1979.

IRAQ: Hussein threatens Israelis

Continued from Page A-1

ons against Iranian troops in rately, the speech was "In-

Continued from Page B-1

cial fishing is not covered by the bill. Frank said Sen. Fred Zharoff, D-Kodiak, requested that exemption because it's common for commercial fishermen to compete aggressively on the open sea for prime fishing grounds.

Senate Bill 469 is supported by the National Rifle Association, the Alaska Outdoor Council and the Eskimo Walrus Commission. The Senate passed it 18-1 with no discussion. It now goes to the House.

The issue is not a new one in Alaska, where many people depend on hunting and fishing for their food and livelihood. Similar legislation passed in 1983 and 1984, but was vetoed by then-Gov. Bill Sheffield. Attempts to pass a bill in 1986 and 1988 failed.

David Ramseur, a spokesman for Gov. Steve Cowper, said he was unsure whether the Democrat would support the bill if it passes the House in the legislature's final five weeks.

Frank said he submitted the bill at the request of the Alaska Outdoor Council, an affiliate of the National Rifle Association.

"The problems posed by the increasingly blatant attempts of anti-hunters for lawful outdoorsmen will continue to grow if we do nothing," said Ed Grasser, the council's legislative affairs director, in a memo to Frank.

Animal-rights groups have fought such legislation in other states. Heidi Prescott of The Fund for Animals in Washington, D.C., said her group plans to lobby against Frank's bill in the House.

"We oppose it, not only because of the animal issue but because it's a violation of our First Amendment rights," she said in a telephone interview.

Similar laws have been struck down in at least two other states on grounds that they infringed free-speech rights, Prescott said.

Sen. Jim Duncan, D-Juneau, said he voted against Frank's bill because he had "a gut feeling" it may have constitutional problems.

Prescott said the law is intended only to prevent a form of protest.

"There are normal harassment laws. Hunters are protected just like anyone else. For them to get a special law is just ridiculous," she said.

Members of The Fund for Animals have tried to thwart hunters in other states by accompanying them in the woods and scaring animals away.

"We just believe that wildlife have a right to be there to exist peacefully without us coming out and hunting them," she said.

114 Building, 632 W. Sixth Ave.

POLICE AND FIRE RETIREMENT BOARD meets at 10 a.m. at the municipal ward building, 3605-A Tudor Road. Agenda items include a discussion of cases pending, service retirement terminations, pending federal legislation and an update on the Nolan/Felker lawsuit.

SPENARD COMMUNITY COUNCIL meets at 7 p.m., Spenard Recreation Center. Agenda: Teleconference with legislators followed by open discussion.

ETHICS: Guru riles 'em

Continued from Page B-1

It was at one of those seminars that Sen. Jan Falks, R-Anchorage, heard the call of ethics.

Falks was then Senate president, installed by oil industry lobbyist Ed Dankworth who, she said, "brokered" the organization that ran the Senate. She had made a quick climb from her freshman year in 1983 when she came in as a reform candidate from the Anchorage Women's Club.

But she wasn't handling the power well.

"I was becoming a complete political animal," Falks said Tuesday. "I was reacting to the personalities of my colleagues, reacting to the issues, reacting to the aura of the legislature."

Then Falks heard Josephson and, she said, it changed her life.

"Pretty soon he's got you thinking about yourself,

what kind of person you are, who do you believe is honest or dishonest, and he starts your brain working and you're looking in the mirror and saying, 'Why did I change?'"

So when the Senate needed an ethics consultant, Falks convinced her colleagues to hire Josephson. He could do for them what he did for her, she thought.

Falks and Josephson say they know people doubt the strength of Falks' transformation from reformer to power broker and back to reformer. She says that's to be expected.

"For all the laughing and talking about whether Jan Falks really underwent a change, we wouldn't be here without her," Josephson said. "And whether she underwent a change or not, Alaska's going to undergo a change."

"Even if this bill doesn't go, it will never be quite the same."

Levi to run for lieutenant governor

Steven Levi, an Anchorage free-lance writer and former legislative aide, has announced he is running for lieutenant governor because the other candidates have not offered any good ideas for how to solve Alaska's fiscal crisis.

Levi offered a list of 30 ideas for fiscal salvation, which include legalizing gambling, building a "world-scale, state-of-the-art, environmentally-safe" garbage dump, and establishing a suggestion box with \$1,000 rewards for the best ideas on how to save the state money.

Levi holds a teaching certificate and a masters degree in history, according to his biography. He has lived in Alaska since 1976.

TALES OF THE CITY: Fourth Avenue

Continued from Page B-1

the manager, who is 60 and owns 89 pairs of beaded earrings. Marie, who used to be a nurse, Helen, who'll be 63 soon, Annie herself and others, they can handle anything.

"I've been in front of a gun," Annie said. "I've been in front of a knife. I've been with these big guys with the big mouths."

Annie is a 64-year-old California grandmother who came to Alaska in 1975 to escape her children and their vision of her future as a baby sitter. Lately she's been worried about the future of the cafe she's run for 12 years.

"I think they're going to try to close everybody

down," she said, meaning the urban renewal advocates creeping east along Fourth Avenue. The latest casualty on the Avenue was the Alaska Bar, dark and empty now, its liquor license revoked because of too many drunks making trouble.

So Annie has a new policy. She's not going to let people use her phone anymore to call the police or an ambulance. She doesn't like having to be that way, but she's tired of seeing Annie's Cafe listed in the newspaper: "Police Calls ... Drugs, Annie's Cafe, 4:43 a.m." It all happens outside, she said. People come in off the street, bringing their trouble in with them, and Annie has to live with the bad publicity.

still not the hunt, monitored by Judge H. had not lost by the end appeared the gin to lay or

In papers Tuesday, state commended that be distributed come, first-serve later than Hunter that each hunt to one caribou. will close on A when 50 caribou reported taken. state suggestions.

State officials sure who would a minister the hu Fish and Game o Fish and Wildlife Much of the area Yukon Delta Natl life Refuge.

In the draft judge wrote that reason to believe hunt will hurt herd. The judge last year's Alaska

BOARD

Continued from P

That wasn't good for an ad hoc group itself Citizens for Education, which this year and claim 15 members. It strict ignored recommendations from its own selection group, the Fairness Review Commission which was better to judge social fair

The second group complained about included from the process is the Minors, cation Concerns Commission

No more. "When is trying to close y Annie said, "you h on guard all the t"

Annie's Cafe is restaurants, depe the time of day. when the doors o wearing jeans a breakers with comp os on the back fill regulars who sm their breakfast ce newspaper, a plat and a pack of Mar the counter. These customers Annie b — working-class some who would b class if their futu run out somewhere road.

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"Good good-looking," sa

Call 837-2323 For PIZZA HUT

IMP

Ethics up close

Seminar puts candidates in hot seat

By DIRK MILLER

THE JUNEAU EMPIRE

If the questions were not typical of most political debates, the candidates' answers were even less so Tuesday night at the Centennial Hall.

The replies were of the sort that reveal more than a typical campaign "spin doctor" prefers to be known about his patients.

As a result, an audience of perhaps 100 people caught a personal glimpse of five of Alaska's gubernatorial candidates.

The occasion was Ethics 2000: A Symposium on Leadership Ethics. The five were Sen. Rick Halford, R-Chugiak, Sen. Arliss Sturgulewski, D-Anchorage, newspaper publisher John Lindauer, Anchorage businessman Jim Campbell and ex-Anchorage Mayor Tony Knowles. Because of technical difficulties, a telephone link-up with Lt. Gov. Stephen McAlpine was scrubbed.

The candidates participated in an ethically grueling forum run by Barbara Ley Toffler, the author of the book "Tough Choices: Managers Talk Ethics." They were given a series of three ethical dilemmas and asked how to resolve the problems and to defend their answers.

"I think they were aware people were seeing parts of them never seen," Toffler said. "I think they were all gutsy to do it."

The audience also knew this was the kind of event a spin doctor or campaign manager might be expected to hate.

"Other debates are going to be a lot more political," said Shawn Paul, a University of Alaska Southeast student. "We got to see them actually make choices and stick with them."

For some, the view was illuminating.

"It changed the way I'd vote for some of them," said Judy Pohl. "If that was the only thing I saw, it would be enough to push the button on some names."

One dilemma the candidates were asked to resolve involved an accident at a large manufacturing firm. The dilemmas were all taken from instances in Toffler's book.

The scenario went like this: A machine operator was severely injured and a report on the accident stressed worker carelessness. But Alice, the director of manufacturing, after doing a little snooping, was told by a worker that the acci-

Please turn to Ethics, Page 8

... forward, but I don't feel ... immediately."

A subsequent investigation turned up his sexual harassment of other ... in the office, although not ...



In the middle: Moderator Paul Duke leads discussion in a seminar.

BRIAN WALLACE/JUNEAU EMPIRE

Is it possible to get rich in business and still be ethical?

By KATE RIPLEY

THE JUNEAU EMPIRE

Suppose you're talking to a fellow business person about entering into a venture together, but you have doubts about the deal or the person's character.

Before the two of you shake hands on the proposal and part to think on it, your colleague says with a wink, "Of course, all my business associates have use of my condo in Hawaii anytime, so that may help you make up your mind."

Will it? Do you even consider the condo in making your decision?

These kinds of questions were debated by about 50 Juneau businessmen and women and others Tuesday afternoon before a guest panel at a session called Manager and Employee Ethics - Business for Profit. The workshop was part of Ethics 2000, a symposium on leadership ethics sponsored by a group of businesses and organizations. The symposium continued today at Centennial Hall.

Bernadette Murray, Telephone Utilities of Alaska's vice president, received a similar Hawaii condominium enticement and promptly turned down the offer.

"If you expect your employees to (be ethical), then by God, you better do it yourself," Murray said.

The best method of handling questions of someone's character or intentions, even if it means losing a sale or client, is to listen to inner feelings, said Karen Hofstad of Petersburg-Wrangell Insurance Center in Petersburg.

"If you have a gut feeling about something, react to it or share it with somebody," Hofstad said, referring to a situation where she questioned a person's ac-

tions, but didn't bring the issue to anyone's attention for six months for fear she'd lose a client.

"The person is now in jail by my bringing this to management's attention," she said. "Now when I get this feeling, I act faster."

Kelly Miller of Budget Tapes and CDs related a similar situation.

"We decided to pull off the shelves and not to order, to the best of our knowledge, music with explicit lyrics," Miller said. "We did this because I thought it was the ethical and moral thing to do" even if it meant taking a chance of losing some business.

"After we made that decision, I'd say eight out of 10 people understood ... so that confirmed what our views were," Miller said.

Other merchants and business owners had questions about standards for pricing.

"Pricing is really a function of the marketplace and maybe there isn't any ethical portion to it, but there is an ethical question to it," said Ron Flint of Nugget Work and Outdoor Clothing. "We all have the option to set prices at different levels, it's unfortunate people don't look more at service, but I think there is some ethical thought that needs to go into pricing."

The guest panel included Jack L. McDonald, chief operating officer for CenTex Corp., a New York Stock Exchange company involved in home building, general construction, cement, gas and oil.

When asked if it's true that a person can't "make a million" honestly, McDonald - whose company when he was president grew from sales of \$645,683,000 in 1978 to \$1,163,261,000 by 1984 - responded enthusiastically:

Please turn to Business, Page 8

Ethics...

Continued from Page 1

dent occurred because the operator had been working two shifts and was into his 19th hour of work. The informant said shop management knew and participated in the practice to allow selected workers extra hours without senior management's awareness. The worker said the scam stemmed from labor agitation and he feared violence if anyone found out he had informed.

Alice called the shop manager in, waved a paper around and told him she had an anonymous letter that said the case wasn't what had been reported. The lie about the letter was Alice's method of protecting the informant's identity.

All the candidates decided that the lie was unnecessary. Most felt that Alice could have protected the informant but still confronted the shop manager.

"I think she was right to bring

the issue forward, but I don't feel she acted appropriately," Sturgulewski said.

"The lie was totally unnecessary. She had other ways to go forward without lying," Halford said.

Toffler said she figured the candidate's responses to the accident dilemma would be easy to gauge.

"I knew on the first case nobody would say she did the right thing by lying," Toffler said.

Campbell said that Alice "ought to look for a new job. ... It sounds to me like the attitude of that company is terrible."

The second dilemma was a little tougher. The manager of a large bank described an employee, a Cambodian immigrant, as a hard-working, lovely person - an ideal employee. Except she was caught forging 10 extra days of jury duty. That was because, the employee said, her boss harassed her on the job because of her race and difficulties with the language, making the work atmosphere unpleasant.

A subsequent investigation turned up his sexual harassment of other women in the office, although not the Cambodian woman. The boss was fired.

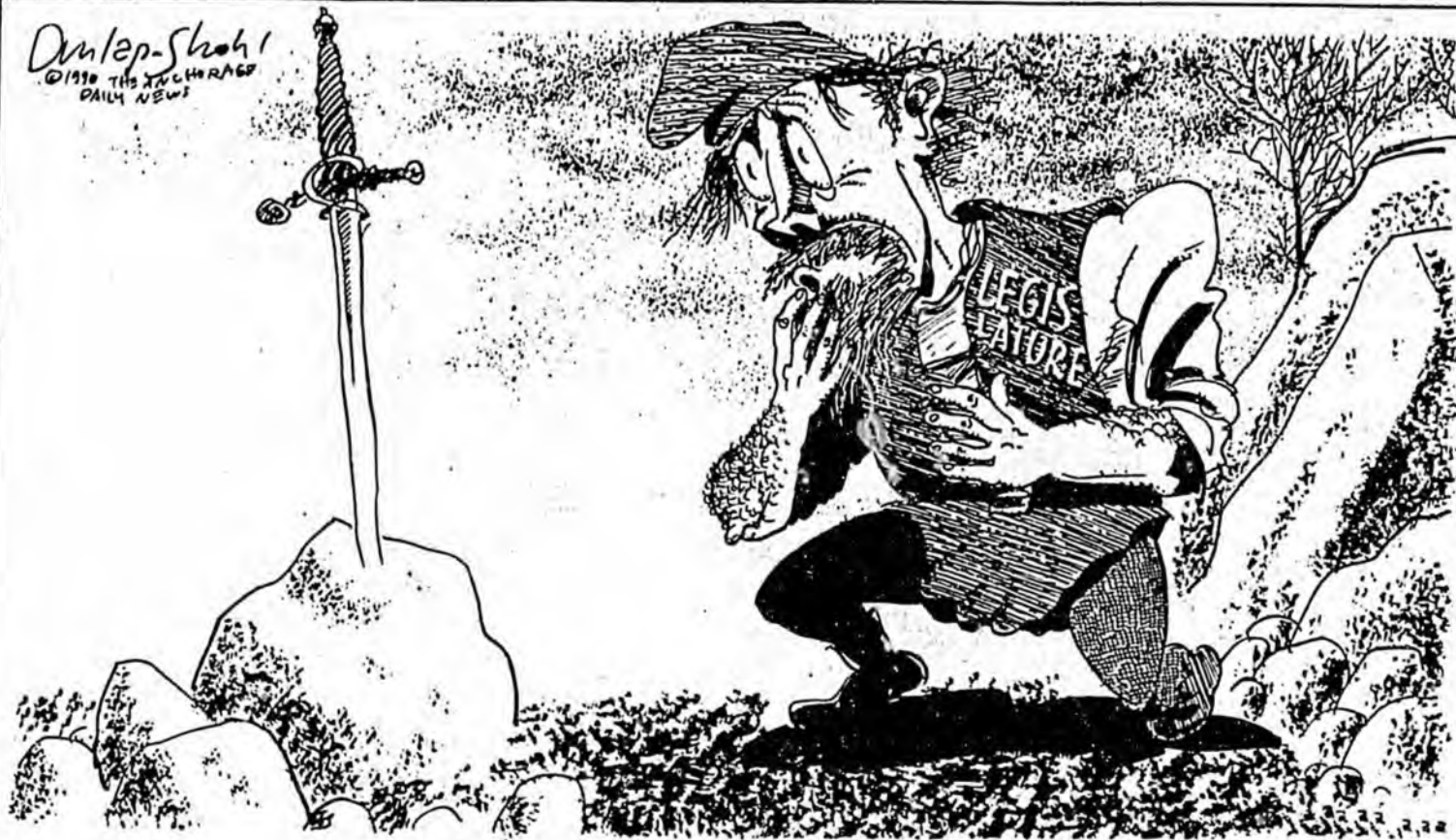
The question the manager faced was what to do with the woman who forged her jury form. A similar forgery on a time card had resulted in another employee, with an already poor record, being discharged.

All but Lindauer said they would not fire the woman. Most said they would reprimand her and make her pay back any wages from the 10-day period.

"If you let someone get away with a forgery like this, even though you know why you do this, on the work floor the discussion's going to be that so and so admittedly forged it, somebody else got fired for doing that," he said.

He said regardless of the reason, the woman effectively stole 10 days wages from the company.

Dimple-Shah
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DAILY NEWS



ETHIXCALIBUR - THE SWORD IN THE STONE

Tough code of ethics

WHEN IT comes to legislative ethics, the safe bet to make is this: Alaska's lawmakers will find that the 31 days remaining in this 1990 session are simply not enough to properly consider all the ramifications of the 87-page proposal designed to clean up their act.

It's not that they are indisposed, you understand, to a rigid code of mandated ethical standards. It's just more likely they will kill this proposal with kindness — and say it should be taken up another year.

Too bad, too.

The fact is there is much to recommend about this package drafted by the Josephson Institute for the Advancement of Ethics, under a \$70,000 contract approved by the Senate — which perhaps got more than it bargained for in the recommendations.

The fact is, though, that many in leadership positions in both the Senate and House reacted positively to the proposals — and urged their colleagues to join in supporting passage of legislation to put the recommendation into effect.

And even those who object to high legislative pay, and we count ourselves among them, might well accept the proposed \$40,000 annual salaries — if the legislators agree to go along with the other restrictions outlined in the recommendations.

The truth is that many already make more than \$40,000 a year — inflating their \$20,140 annual salaries by collecting endlessly from funds which pay each of them \$55 for every day they can concoct a reason to say they are doing legislative business.

THIS PACKAGE, if adopted, would eliminate these per diem payments, and in the process strike down a lot of other benefits and perks with which legislators now enrich themselves — either while they are in office or immediately after they depart.

For example, legislators would be barred from serving as legislative lobbyists for a year after they end

their terms.

They would be prohibited from holding any campaign fund-raising activities anywhere during the course of a legislative session. No campaign funds could be converted to personal use and no post-election fund-raising activities would be allowed to retire campaign debts. In other words, candidates would have to live within their campaign budget — or finance any deficits at the end of the campaign from their own pockets.

The proposals also would extend to lobbyists and to members of the legislative staff — preventing the former from serving as campaign officers or fund raisers for candidates, and making the latter guilty of unethical acts if they perform or fail to report improper personal or professional requests by legislators.

THE WHOLE operation would be under the scrutiny of a nine-member independent Ethics Commission, none of whom would be active legislators. The commission would have broad powers — real powers, up to and including the authority to recommend the expulsion of a legislator found guilty of severe violations of the ethics code.

Is it necessary to go that far? The institute's president, Michael Josephson, in Juneau to speak for his proposals, summed it up this way: "If there was any question before our study as to the image of the Alaska Legislature, such questions have been firmly put to rest. Quite frankly, it is in very sad shape."

It needs to be noted that no other state — and no other political jurisdiction, for that matter — has in place such an extensive and binding code of ethics.

It has often been said that you can't legislate ethics. But this proposal goes a long way toward trying to do the job. If it is adopted in total, says Mr. Josephson, "it will be far and away the finest, most comprehensive in the United States."

But it may be more than Alaska's legislators are willing to swallow.

What others say

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Legislators told to start over on ethics

Image too bad for a quick fix

By DAVE PATRICK
Times Juneau Bureau

JUNEAU — The image of the Legislature is in such bad shape nothing short of a rewrite of its code of conduct will infuse active, ethical leadership, said ethics expert Michael Josephson.

"What people have suspected is very true. The reputation of the Legislature is bad," Josephson said. The consultant unveiled an 87-page ethics reform bill to legislators Monday.

He wants the code of conduct package passed as is, left largely

untouched by lawmakers who have less than six weeks to finish their work. Josephson said Alaska could establish itself as the model for ethics laws governing public officials.

The Alaska Legislative Ethics Act of 1990 would establish a citizens ethics commission, plug campaign financing loopholes, restrict lawmakers' outside income and give legislators a pay raise.

Legislators would no longer investigate each other under the

See Ethics, back page

Ethics

Continued from page A-1

Josephson proposal. A nine-member citizens legislative ethics commission would be formed by appointments from various bodies of government, including the Legislature, Governor and Supreme Court. Ethics hearings would be public if probable cause was found that a violation occurred.

The commission could recommend fines of up to \$5,000 for each offense. A range of actions also could be recommended from the expulsion of a legislator to voiding legislation resulting from violations. The appropriate house of the Legislature would

approve the recommendations and could change the sanctions. Josephson said, legislators should be paid \$40,000 as recommended in 1989 by the State Officer's Compensation Commission. Legislators are currently paid \$22,140 per year but average "in the low \$30,000 range," due to per diem payments and other expenses, Josephson said.

The California attorney, citing an "insiders' survey of nearly 100 legislators and opinion makers in Alaska, found that lawmakers were overworked and underpaid.

In exchange for the salary increase, interim per diems, or payments to lawmakers between legislative sessions would be eliminated. The current interim

"The per diem is demeaning, and it invites every which way of fraud and abuse," said the consultant. Leaders of both Houses said the pay increase could distract attention from the higher priority of passing ethics legislation this session.

"My main concern is that some legislators will use the increase to vote against the package. They'll use it as a red herring," said Senate President Tim Kelly, R-Anchorage.

"I don't think the pay issue will emerge from committee," said House Speaker Sam Cotten, D-Eagle River.

The non-profit Josephson Institute for the Advancement of Ethics was hired by the Senate in 1989 for \$70,000. Senate leaders hired the

nationally known ethics expert following a leak in February of a Senate Ethics Committee investigation of Sen. Al Adams, D-Kotzebue. The ethics panel last year dismissed a complaint against Adams citing statutes of limitations.

Published reports presented a damaging account of Adams' business dealings on the North Slope, portraying the ethics committee action as bound up in dates and technical procedures. Adams continues to deny any wrongdoing.

The reform package also calls for increased regulation of legislators, their employers, legislative staff and lobbyists, requiring increased financial disclosure and stringent restrictions on fund-raising. While most legislators gave

the overall ethics package good reviews, some questioned the language as being vague and overbroad. Legislators also were skeptical of the package being accepted wholesale.

Josephson warned legislators not to "mongrelize" the ethics reform.

Sen. Tim Kelly put bill drafters to work immediately on the proposals, predicting they would arrive in committee within 48 hours.

House Speaker Sam Cotten, aware of the Senate's fast-track schedule for the legislation, said it would get a similar reception among representatives. "I don't want to walk away from the end of the session with Senate passage of the bills sitting there. That's not a good image," Cotten said.

- Ban use of state property and staff for campaign purposes.

- Require legislative staff to refuse to perform improper tasks.

- Ban improper requests of legislative staff, and form a grievance procedure to protect employees.

- Require legislators' outside compensation to be commensurate with services performed to avoid exploiting office for private gain.

- Ban lobbyists from serving as campaign officers or fundraisers for legislative candidates.

- Limit legislators' ability to serve as advisers and consultants for pay.

- Ban privately paid travel worth more than \$100, even if for legislative purposes.

- Require legislators and their employers to file sworn reports on the precise nature and amount of their duties and compensation.

- Provide protection for "whistle-blowers."

- Prohibit legislators and their aides from representing any person or entity in a legal action against the state or before any state agency, board or commission.

- Require mandatory and annual ethics classes for legislators, staff and lobbyists.

Ethics report suggestions

ASSOCIATED PRESS

JUNEAU — Here are highlights of recommendations from the ethics report and legislation proposed to the Alaska Legislature by the Josephson Institute for the Advancement of Ethics:

- Form an independent ethics commission, without active legislators, to investigate and rule on legislative ethics complaints. The commission would replace the Legislative Ethics Committee.

- Allocate money for legislative staff, equipment and travel allowances equitably, based on the needs of official business rather than status in the power structure.

- Change the legislative rules and policies that allow committee chairmen to have undue control over the legislative process.

- Increase legislative pay to \$40,000 a year and eliminate per diem payments during sessions and for days worked between sessions, and increase lawmakers' travel allowance by providing for two paid trips to the legislator's home district during the session.

- Increase the legislators' office reimbursement from \$4,000 to \$6,000, but allocate it as an allowance for actual office expenses rather than as personal income that can be used for anything.

- Ban lobbying for one year after serving in the Legislature.

- Ban fund-raising anywhere during legislative sessions.

- Ban post-election fund-raising to retire campaign debts.

- Ban conversion of campaign surpluses to personal cash.

- Limit carryover of excess campaign money to \$2,500 for House seats and \$5,000 for Senate seats.

Any harm in a tiny fib at a political slumber party?

Government. Honesty.
The two words cancel each other out in the minds of civic-oriented Alaskans every year of deceit and corruption.

That could change in Alaska if Michael Josephson has his way. The California ethics consultant is trying to sell the legislature an 87-page bag of goods that would provide a new conduct code to govern politicians' actions.

The Alaska Legislative Ethics Act of 1990 would establish a citizens ethics commission, plug campaign financing loopholes, restrict lawmakers' outside income and stop legislators from investigating each others' actions.

All of this comes as a great breath of fresh air.

I'm tired of lies and deception not only in government, but throughout society. The American public seems to

Times
Columnist

Jeff Houck



be lowering their standards on how much deception they'll accept, so much so that fibbing is saturating everything we do.

Need proof? Check out these lightweight "white lie" excuses that are used with heavyweight frequency:

"No, thanks. I gave at the office."

"The check is in the mail."
"Your car will be ready tomorrow."
"You may already be a winner."
"This offer will not be repeated."
"It'll only hurt a little bit."
"This can be assembled in minutes."
"I'll have your daughter home by midnight."

Chances are, you've come in contact with these lines at one time or another. They immediately signal an alarm that tells you that something's just not right.

We even create devices like the answering machine that help us lie better.

How many times have you called a friend only to hear, "Sorry, I'm not home right now . . ." Then, as you leave your message, your friend mysteriously appears on the other end of the line.

"I was in the bathroom," the person claims.

The lie continues.

Deception has become so prevalent that we have a difficult time believing someone when they say they're telling the truth.

Consider what happened during the last presidential campaign. New York Gov. Mario Cuomo was touted as the possible presidential candidate for the Democratic Party. When he said he had no intention of running, the press refused to take no for an answer. The dialogue went something like this:

"Are you going to run, Governor?"

"Nope."

"Are you sure."

"I'm sure."

"Are you sure you're sure?"

See Houck, back page

Houck

Continued from page B-1

"I said I was sure."

"Cross you're heart and hope to die?"

"Stick a needle in my eye."

This went on for the better part of two years and, amazingly enough, Cuomo kept his word and didn't run. He said he didn't want to put stress on his family. But when it became too late to enter the race, the press started wondering what Cuomo was hiding.

Toss in a public servant like Washington, D.C., Mayor Marion Barry into the equation and your head really starts swimming.

The man has been raising

questions since 1981, when he allegedly was seen doing drugs at a D.C. club opening. Two years later, a woman named Karen Johnson, with whom Barry has admitted to having an affair, went to jail on contempt of court charges rather than testify on how she supposedly bought drugs for him. When he was called to testify, he repeatedly denied drug abuse.

When the FBI allegedly caught him in January smoking crack on camera, Barry entered a drug rehab center and admitted that he abused prescription drugs. He couldn't admit to smoking crack because he might perjure himself.

Who, besides the liar, is the main victim of all of this? The children who listened to down-to-earth "Say No To Drugs" speeches while their mayor was

probably flying high; the high schoolers learning about American government while the country's prominent leaders admit lying to Congress; the young adults who don't care about casting their votes because they don't know what the truth is.

Politics in The Last Frontier is just as confusing and Josephson's proposals for wiping the smudge from Alaska government probably won't get very far. After all, no one wants to police their own slumber party.

But eventually, the party will be over for the few public officials who are too busy serving the private good.

Someone will have to clean up the mess from the party. Hopefully, the citizens of Alaska won't be caught holding the sleeping bag.

Garcia

Svobodny said Garcia had written three letters threatening to

just 10 days before Arima was murdered

METRO

FRIDAY
SECTION B April 13, 1990

ACLU director criticizes ethics proposal

By DAVID POSTMAN
Daily News reporter

JUNEAU — The proposed overhaul of Alaska's legislative ethics code is probably unconstitutional and raises serious questions about First Amendment and privacy rights of lawmakers, their

staffs and lobbyist, according to the head of the Alaska Civil Liberties Union.

Janile Bollenbach, executive director of the ACLU, said the proposed ethics code steps on civil liberties as it tries to regulate when campaign funds can be raised,

who can raise them, and who can sleep with whom.

"Any proposal to regulate political activity must be scrutinized very carefully to avoid excessive state intervention," Bollenbach told the House State Affairs

Committee Wednesday night.

Part of the problem, he said, is that the proposal is moving too fast.

"Very often constitutional rights suffer when things rapidly progress in the legislature, particularly when

you're talking about very broad powers regulating the political process," he said.

The ethics rewrite was drafted by Michael Josephson, the head of a California ethics institute hired by the state Senate. The bill makes massive changes in the way

lawmakers do their business, both in and out of the Capitol, and creates a powerful, independent commission to enforce the new rules. It is being considered by committees in the House

Please see Page B-3, ACLU



State fights Kwethluk hunt ruling

By CRAIG MEDRED
Daily News reporter

The state of Alaska has decided to fight a federal judge's emergency ruling that the village of Kwethluk in southwest Alaska was entitled to kill some of the animals in the depleted Kilbuck caribou herd.

"We're concerned with the precedent of having courts decide how Alaska should conserve and manage its fish and game," Gov. Steve Cowper said in a prepared statement late Wednesday. "This is a dangerous precedent that we've got to stop now."

Cowper Press Secretary David Ramseur said Thursday the state considers the decision by U.S. District Court Judge H. Russell Holland a significant violation of state's rights.

The Kwethluk hunt is now almost over, but Assistant Attorney General Lance Nelson said the state will still ask Holland for a formal ruling in the case. An amount of \$1.4





kay m. levine

TROUBLESHOOTER

ORANGE WALLS COST INNOCENT RENTER: I rented an apartment managed by Fortune Management. I moved out last September. When I got my security deposit back, they had reduced it by \$50 for two walls in the living room that were painted orange. Those walls were orange when I moved in. I wrote to Fortune in January and again at the end of March. There's been no response. — R.C., Tenakee Springs

✓ You probably have your check by now. You didn't have proof about the orange walls in the form of a pre-rental checklist, but Suzanne Taplin, company vice president, had seen the apartment before you moved in. She remembered the orange walls. Taplin said she'd make sure you got the money right away.

Before Taplin called me, I spoke to Teresa Rogeness, who manages the property you occupied. She had your January letter, but said responding to it wasn't a very high priority with her. Taplin said that attitude doesn't reflect policy at Fortune.

Other readers might note that this renter's problem points up the advisability of using a checklist to note existing flaws. If something as obvious as orange walls can become a point of dispute, imagine the grief you could have over something subtler, like scorch marks on the kitchen counter.

EQUIVOCATING HAS ITS PLACE: I have an old "beater" of a car that uses regular gas. I would prefer, for environmental reasons, to use unleaded. I always assumed I would damage my engine if I did so. I have asked a couple of mechanics if it is alright to use unleaded in my truck and have gotten different answers from each. Perhaps you can come up with a definitive answer? — J.T.

✓ Sorry. The most definite answer I can give you is that if you don't pull a trailer or do anything else that would put a heavy load on the car you can *probably* use unleaded most of the time without harming the vehicle. The two experts I contacted advised using a tank of leaded gas to every five or six tanks of unleaded.

I took your question to Max Morley, who teaches mechanics at UAA, and to Scotty Dawkins, an auto buff and investigator for the state Consumer Protection Section. Here's the deal: The minute quantities of lead in gasoline serve as an engine lubricant, unlikely as that may sound. Hardened valve seats and other modifications protect new cars from the vehicular self-destruction that would ensue without the lead. Some older cars, especially foreign ones, have the kind of parts that can withstand the rigors imposed by unleaded gas. Many older cars do not have the right kind of parts. Even they may survive with unleaded gas if the engine is not subjected to hard use and if they get a tank of leaded gasoline pretty frequently.

You have to know your piston skirts from your aluminum cylinder heads to talk about this in any more detail and I used up my quota of mechanic talk when I said "valve seats." So I'll stop here. Morley suggested checking the public library to see if articles written about the virtues of leaded and unleaded gas provide the make and model of older cars that can handle unleaded gas. If you can't find anything, you'll have to just take your chances or keep looking for a mechanic who can tell you for sure whether your car needs leaded gas some of the time.

□ Just learned there's no government agency to help with landlord-tenant disputes? Write the Troubleshooter at P.O. Box 149001, Anchorage, 99514-9001.

Health experts think ash fou

By STEVE RINEHART
Daily News reporter

Redoubt's volcanic ash may be to blame this week for the highest dust levels ever recorded by the city's air-quality monitors, health officials said.

There is so much dust in the air — 72 percent above the federal limit at one recording station — that the city issued a health advisory Thursday, warning people who have chronic lung ailments such as asthma or emphysema to avoid exposure.

Spring is usually a dusty time in Anchorage. The ice melts off the streets, exposing tons of sand spread during six months of skid control. After a few days of dry weather,

traffic begins kicking up clouds, said Steve Morris, air-quality manager for the city Department of Health and Social Services.

So, what's different this year? "Common sense would say that ash is part of it," Morris said.

Anchorage was dusted lightly with volcanic ash at least twice after Redoubt began erupting in December.

Morris said he plans to have some samples collected from air monitors chemically analyzed, a process that probably will take about three weeks.

Dr. Jennifer Christian, city medical officer, said there is debate about how much long-term physical harm dust causes. But in people with very sensitive respiratory systems it can cause

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ACLU: Director criticizes the proposed ethics code

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and Senate and next week is expected to be referred to a special joint committee on ethics.

In an interview Thursday, Bollenbach said he is most concerned about the part of the bill that would regulate personal relationships between lobbyists and either lawmakers or legislative employees.

The bill says legislators and their employees must report any "close personal relationship" with a lobbyist to the Legislative Ethics Commission. That includes a "special relationship ... which creates strong bonds of loyalty, friendship and/or love" that could cause a conflict of interest, according to the bill.

The ethics commission can keep the disclosure confidential, make it public or "order some restriction in the activities."

Bollenbach said that goes too far.

"It appears to give powers to the Legislative Ethics Commission to regulate personal relationships," he said. "That directly violates the rights of privacy and freedom of association."

Josephson was traveling Thursday and could not be reached for comment.

Bollenbach also worries about new restrictions on political fund raising included in the proposal.

Josephson wants to ban lobbyists from raising money for political candidates. They could still contribute personal funds, but could not be involved in soliciting funds.

"All citizens have the right to organize peaceful political activity," Bollenbach said. "If you're not actually giving money, the

ability to organize fund raising is critical to the democratic process and to restrict it is directly in violation of the Constitution."

He also said the state should not try to restrict when a candidate can raise funds — Josephson proposes fund raising begin no sooner than one year before an election — or if the money is "reasonable and necessary to advance the interests of the campaign," as proposed in the bill.

"This language, on first blush, could be used to harass organizers of small minority or unpopular campaigns," he said. "And regulating the appearance of campaign funds is a frightening prospect forcing the state to judge the highly subjective appearance of constitutionally protected activity and political fund raising."

Two lawmakers taking key roles in the campaign to pass Josephson's bill said Thursday they were not too concerned with Bollenbach's testimony.

"I believe we can craft a system that isn't going to have any severe civil liberty problems," said Rep. David Finkelstein, D-Anchorage, one of the bill's top supporters in the House.

Finkelstein said the proposal "is not a radical departure from our current system" and that with a few technical changes it can be made to work.

On the Senate side, Sen. Jan Faiks, R-Anchorage, said the bill should not be changed just to assuage the ACLU's fears.

"I wouldn't weaken it," she said. "They can do whatever they want but I don't think we should take that into consideration."

TODAY'S N

ALASKA PUBLIC OFFICES COMMISSION
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Room 229 of the Alaska Office Building
for proposal for professional auditing &

Job Corps d more money

By ROSANNE PAGANO
The Associated Press

The state needs to contribute at least another \$1 million if the proposed \$12 million Job Corps training center in Palmer is to be built, according to the director of the federal training program.

Peter Rell advised the state last week that money already committed to the project was not enough.

But state authorities say scaled-back construction plans and a few million dollars may be enough to move the project along.

Gov. Steve Cowper's administration says it already has begun talks with legislators from the Matanuska-Susitna Borough, to see if additional money may be allocated from the region's capital budget.

Spokesman David Ramseur said Cowper also is looking for items to delete. For instance, Ramseur said,

KWETHLUK: S

Continued from Page B-1

"People are really happy that a decision's been made to let people who need meat have it," Max Angellan, a lifelong resident of the village, said after Holland ruled in the community's favor.

The Board of Game had recognized that an emergency situation existed in the village, but decided efforts to rebuild the Killbuck herd were more important. The herd dipped to fewer than 150 animals in 1995, but has increased to approximately 1,400 since a moratorium on hunting was imposed.

A large and healthy Killbuck herd could support hunters from almost 20 villages in the Kuskokwim

AKPIRG: Ailing government, utilities watchdog closes up shop

Continued from Page B-1

she said. "Basically, the organization has been operating by the skin of its teeth

tional organization fell through, but he would not say more because he still hopes to get the money.

Fleischer said AKPIRG has not lost its constituency

survey of bank interest rates has become sporadic. Bohl has been hired to continue the survey for the Daily News, said Business Editor Bill White.

by the state of Alaska," he said.

But Bohl said AKPIRG's best days have passed, and it will fold.

"All of our money has

BOB CRAWFORD
President

TELEPHONE 6
TOM GUSTAFSON
Speaker



THE FLORIDA LEGISLATURE
JOINT COMMITTEE ON
INFORMATION TECHNOLOGY RESOURCES



Representative Susan Guber, Chair
Senator George Stuart, Sr., Vice-Chair

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111 West Madison Street
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FACSIMILE COVER SHEET

DATE: 4/10/90 TIME: 2:01 (East)

TO: Dennis Burns

FROM: Steve Storting

TOTAL NUMBER OF PAGES, INCLUDING COVER LETTER: 3

SPECIAL INSTRUCTIONS: _____

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MEMORANDUM

TO: Dennis J. Burns, Aide
FROM: Steve Stolting
SUBJECT: Ethics Legislation
DATE: April 9, 1990

Here are my comments on the proposed ethics legislation you sent. Many provisions of the bill would be an improvement over what we have in Florida now. I have a couple general comments, and then I'll indicate specific sections where Florida differs significantly or about which I have concerns.

Florida's process is generally working well, with a large volume of inquiries, opinions and complaints. It has become apparent how difficult legislating ethics can be, since recently some pretty egregious cases have fallen outside the restrictions of the law. The legislature has been reluctant to fix some glitches in the ethics laws or give any additional discretion or authority to the Commission, and this has made our lives more difficult. However, from the clips I'll send you, some changes or additional restrictions may be on the way.

I see three general differences or concerns with the bill as compared to Florida. First, our laws apply to all public officers and employees of the State or any political subdivision (city, county, etc.). Second, the draft seems less concerned than Florida's law with giving too much power or discretion to the commission. Here, we cannot initiate the complaint or opinion process, selection of members is more limited, and there is no formal exemption process. Third, be very cautious when it comes to any restrictions on complainants or respondents publicizing information about their cases. Florida and several other states have had their confidentiality provisions declared unconstitutional where they were found to have penalized protected speech. I can send you an opinion on this if you'd like to see it. With regard to specific sections:

20.60.200- The selection process is more diverse than here, which tends to make the Commission more independent. We recently had a

situation where some feel the Governor declined to reappoint a member who voted against his interests on an opinion, and then the opinion was reconsidered and changed.

20.60.204- Allowing the LEC to decide whether to issue an opinion can help manage workload and avoid issuing formal opinions on clear questions. In Florida, opinion issuance is mandatory on request.

20.60.204(h)- Our opinion process is entirely public, and this causes problems where individuals are seeking guidance for situations in which they are already involved. A determination of conflict in an opinion could then lead to a complaint filed with the Commission against that individual. Florida has a very broad public records law which applies to these requests, although as in the bill our complaint process and records are confidential through a probable cause determination.

20.60.205- The exemption process could be very useful. Florida doesn't have one due to the concern with giving the Commission too much discretion or authority. However, I don't see granting this power as politicizing the Commission, and exemptions would avoid some of the de minimus cases or bizarre results that occur sometimes. Instead, our Commission has had to invent a legal rationale for distinguishing certain cases using Section 112.316, Florida Statutes, which has been applied like a statutory exemption provision.

20.60.210- The complaint process looks very much like Florida. The range of penalties, the attorney's fees provision, and the confidentiality provision are more explicit and easier to apply than Florida's.

20.60.220- An Assistant Attorney General acts as our Advocate (prosecutor) because there is a concern that he be independent of the adjudicator (Commission). Would LEC staff prosecute cases before the hearing board? Also, the confidentiality provision at (e) does not contain any penalty or specify what "knowingly and improperly" is. Do they intend the penalties in 20.60.214 to apply? Section 112.317(6), Florida Statutes, which provided criminal penalties for disclosure, was struck down by the federal court as violative of the First Amendment rights of a complainant (in that case, a newspaper) to print information about complaints they had filed. It seems that through the provision in the draft bill, they are trying to keep some restriction on dissemination of information about a complaint without running into constitutional problems.

I also have sent some additional materials which will give you some general background on Florida. If there is anything else I can do or you have any questions, please let me know.

MEMORANDUM

TO: Dennis J. Burns, Aide
FROM: Steve Stolting
SUBJECT: Ethics Legislation
DATE: April 11, 1990

In reflecting on the bill a little further, four additional points came to mind which you may want to consider. First, it seems like a complex and potentially costly way to govern the conduct of comparatively few people. The Florida Commission and procedures are comparable but have jurisdiction over many times that number. (all officers and employees of the state, counties, cities, and other political subdivisions, excepting judicial officers).

Second, even though the Florida Commission's jurisdiction is more expansive, the two groups we don't hold hearings concerning are legislators and impeachable officers. On those groups, we only make a determination of probable cause and then forward our finding to the legislature for action governed by the rules of the respective house. Traditionally, there have been relatively few complaints against legislators, and those have resulted in very few findings of probable cause. In addition, it is expressly provided that the conduct of legislators and legislative employees also shall be governed by the ethical standards in the rules of the respective house. See Sections 112.324(3) and 112.3141(2), Florida Statutes.

Third, there is no mention in the materials provided of appeal rights for persons found in violation. In Florida, a determination of the Commission is considered "final agency action" under our administrative procedures act (Chapter 120, Florida Statutes) and provides an appeal right to our state appellate court. What rights respondent's have in this regard should be addressed, as well as any potential workload this may represent.

Fourth, the materials you have provided to me establish the Commission. This is not where the glitches and problems arise. Rather, the code of conduct which will be applied is where implementation and interpretation questions would arise which may make enforcement difficult. If you would like me to have a look at the specific provisions of the code, I'd be glad to.



American Civil Liberties Union

Alaska Civil Liberties Union -Legislative Committee-217 Second St. #26 -Juneau, Alaska 99801

ALASKA CIVIL LIBERTIES UNION

Memorandum on HB 596

Date: April 13, 1990

Contact: Jamie Bollenbach, Exec. Director 276-2258
Paul Grant, ACLU Attorney, Lobbyist 586-2701

COMMENTARY: The Alaska Civil Liberties Union supports carefully-drafted ethics legislation that furthers responsibility, ethics, and openness in government. However, as currently written, HB 596 contains a number of provisions that violate the letter and/or spirit of free speech, free association, and privacy protections within the state and federal constitutions.

A bill of this complexity and importance cannot be hastily ushered through the legislative process and comply with the very principle of independent objective judgement it seeks to protect. We urge the Commission appointed to revise this bill to consider it with all deliberate speed.

Many of the provisions which currently raise serious constitutional questions could probably be achieved with thorough research and careful rewrites. In the comments below, we will often recommend a problematic section be dropped; this does not mean that the objective of the section is fatally flawed. A more specific and precise wording might accomplish the same end without endangering the constitution. Although we offer some revisions, only a much greater allotment of time and resources can ensure ethics legislation that is both effective and constitutional. ''

Section 21.61.040. Pg. 6 line 26 to Pg. 7 line 3.

We recommend these lines be deleted.

Reason: A principle of democratic government is that the people are free to elect legislators who do not believe in representative democracy, or who are loyal to parties, narrow constituencies, or other individual interests. Although as an ethic this section is laudable, it should not in anyway interfere with the right of the people to choose representatives.

Section 24.61.120. Pg. 9, lines 4 to 13.

This section should be rewritten as follows:

(line 5) legislators and legislative employees who receive an offer of anything of value which is clearly intended to sway legislative or administrative action shall firmly and unequivocally

Reason: The existing language is vague and forces legislators and employees to guess at meanings of offers under threat of civil penalty.

Section 24.61.140, Pg. 10

Line 16. The phrase "to influence the outcome of an election, or other purely political purpose." should be deleted.

Reason: Vague and overbroad. It may be impossible to fairly distinguish between appropriate political activity and electioneering; the section also tends to put the LEC in the position of being a censor of political materials.

Line 19-21. The phrases "political party activities," and "or other partisan or political activities" should be deleted.

Reason: Vague and Overbroad. The evil the bill seeks to correct is use of government resources for electioneering and unofficial business, but the broad existing language may allow the state to interfere in entirely legitimate political activity. The First Amendment strongly protects political organizational activities.

Line 22 (subsection (d))

Subsection (d), Pg. 10, line 22 through Pg. 11 line 10 should be deleted and replaced with new language authorizing a mailing by the LEC or APOC to constituents that includes the information referred to by the existing language, or funding for constituent newsletters should be changed to preclude state control of these newsletters.

Reason:

The existing requirements put in place a principle of control of constituent newsletters by persons other than the legislator. An analogy may be made to college student newspapers; although they may be publicly-funded, censorship of the content or even mandatory statements in these newspapers would violate the First Amendment; on the other hand, this is obviously not true for publications by

other government agencies. The language does not call for censorship, but does establish the precedent of close oversight with possible penalties. Excessive scrutiny alone can chill a willingness to speak freely.

We suggest that the state could simply publish the information itself and mail it to constituents without endangering the spirit of free speech, and would contribute to the spirit of open government in the process.

Pg. 11, Lines 15-18

The standard "intended to influence the outcome of an election" should be deleted or carefully redrafted.

Reason: Vague and Overbroad. Almost any public statement or action by a legislator or legislative employee might be construed to be "intended to influence the outcome of an election." Without a tighter standard, the review process of the use of public time and other resources could become abusive. The ACLU believes that f) (2) (lines 23-29) provides adequate protections.

Pg. 12, lines 1-12

These provisions should be deleted or carefully redrafted.

Reason: Soliciting contributions and campaign materials are protected speech. Some state government buildings, particularly the Capitol, may be considered to be "public forums." If so, speech cannot be regulated for its content, only for reasonable "time, place, and manner" restrictions. And because this is a criminal violation, the prospect of the police obtaining a court order to listen in on legislators' phone conversations or opening their mail is not too farfetched.

Sec.24.61.180

Pg. 14, lines 17-18

These lines should be deleted.

Reason: This would directly regulate the content of protected political messages and may violate the First Amendment.

Sec. 24.61.190

Pg. 15, lines 9-18

These lines should be deleted.

Reason: This section directly prohibiting political activity even on one's own behalf violates the spirit and letter of the First Amendment, and/ or the free speech provisions of the state constitution. In particular, it could be interpreted to prevent a legislative employee from acting as a legislator even if elected. We believe this section to be facially invalid under the state constitution.

Section 24.61.200

Pg. 16, lines 7-9.

We disagree with the premise that fundraising is "purely an incident" of the democratic system, and request that this be changed to reflect that private political fundraising is legitimately part of our constitutional system.

Section 24.61.205

Pg. 17, lines 13-14, should be deleted.

Reason: The state has no ability to fairly determine what a "reasonable and necessary" campaign expense is, and the attempt to regulate this could easily be used to harass minority or unpopular campaigns.

Pg. 17, lines 17-20

The phrase " in a way that would create in the mind of a reasonably objective observer that the funds are" should be deleted and the sentence rewritten to read "Funds may not be used for the personal financial benefit of the candidate, the candidate's immediate family, or another person."

Reason: Original language vague and overbroad.

Sec.24.61.230

Pg. 21, line 15-18

Delete lines 15-18 after the phrase "concerns, grievances, and ideas.

Reason:

Page 21, lines 19-29, Pg. 22, line 1

Change to read "a legislator may not, directly or through others acting on their behalf, make favorable consideration of

persons or causes dependent on a citizen's direct willingness to provide funds for a campaign contribution, funds for another cause favored by the legislator, or other items of value."

Reason:

Section 24.61.240 Pg. 22 line 20 to Pg. 23 line 20

Delete entire section as an unconstitutional interference in the right to free association and free organizational political activity.

Reason: Fundraising is protected First Amendment activity.

Section 24.61.250 Pg. 23

Delete the phrase "social and political" from line 25 to read as amended: "...by scrupulously seeking to avoid financial relationships and transactions..."

Reason:

Section 24.61.260 Pg. 24

Delete the phrase "or personal" from line 20 to read as amended "...has a financial relationship with other persons..."

Reason:

Sec 24.61.240. pg 22. line 20 to page 23. line 20

This section should be deleted or heavily revised.

Reason: Because fundraising is protected First Amendment activity, a direct limitation on when fundraising can be conducted may violate the First Amendment.

The ACLU understands the motivation for limiting fundraising and potential conflicts of interest, but stresses that fundraising is not always a conflict of interest. A distinction should also be made between actual money changing hands and speech intended to raise money. Another problem is that, depending on the definition of "fund raising activity," (line 1-2, pg 23) a candidate may be restricted from participating in legitimate political activities only marginally related to fundraising. This proposal may reduce potential conflicts of interest, but it definitely restricts otherwise legitimate political activity.

This raises particularly complex First Amendment issues, and should receive a full review from the Department of Law.

Sec 24.61.250. pg 23. line 25.

The words "social and political" should be deleted, with the line to read "seeking to avoid financial relationships."

Reason: Vague and overbroad.

Sec. 24.61.275. pg 26. line 8 to pg 27. line 6.

Sec. 24.61.300. pg 27. line 26 to pg 29. line 20.

These sections should be deleted in their entirety.

Reason: The attempt to not only disclose but regulate (pg 29, line 1) the personal social, political, and romantic relationships of legislators, legislative employees, and lobbyists goes far beyond the legitimate realm of regulation to reach deep into the private lives of politically active citizens. These sections are not only unconstitutionally vague and overbroad, but clearly violate privacy and free association rights. This section is also very susceptible to oppressive use against unpopular legislators, employees or lobbyists.

It should be stressed that lobbyists are also subject to the same disclosure and restriction in this bill. Because a lobbyist is defined in Alaska as someone who does more than four hours of attempting to influence legislative action a month, virtually anyone who is politically active would come under severe scrutiny by the LEC. This section could put the LEC in a position even more powerful than the House Un-American Activities Committee. The potential for abuse vastly outweighs any possible gain from this

section.

Also, the prohibitions against lobbyists organizing fundraising events or serving as officers in campaign directly violates First Amendment and voting rights to participate in the electoral process. Such a system could easily have been used to keep civil rights candidates from election in the South by defining the most politically active as lobbyists, and then prohibiting them from helping to organize and fund campaigns.

Sec 24.61.310. pg 29 line 21. pg 30 line 2

This section should be deleted.

Reason: The prohibition against serving on Boards of Directors, particularly of politically active organizations, may violate the First Amendment

Sec. 24.61.350. pg 38. line 18 to pg 39. line 10.

This paragraph should be deleted or carefully rewritten.

Reason: This paragraph may interfere with free association and privacy rights and should be deleted.

Sec. 24.61.400. pg 45. lines 4-5.

The words "professional, and personal" should be deleted from this sentence to read "financial interests that are likely to." The standard "are likely to create in the mind of a reasonable objective person the belief that" should be changed to a more specific standard.

Reason: The standard "are likely to create in the mind of a reasonable objective person the belief that" is extremely vague; and the disclosure of all personal and even professional relationships that would meet that standard would interfere in free association and likely violate the privacy rights of individuals who have relationships with legislators or legislative assistants.

The potential lists of who meets this standard are enormous, and the potential abuse of this information great. Without a much tighter standard, the paperwork alone could be overwhelming.

Sec. 24.61.460 pg 51. lines 16-20

The phrase "or exercise leaders arrogantly, or in another way representative democracy."

lower arbitrarily, spirit of

Reason: This section in general fundamental to the principle of government cannot require that

st. But it is in democracy that the democracy, or an

particular political philosophy, be officially revered. The government may properly require adherence to rules of conduct, but cannot regulate opinions. Under this section, it appears that a legislator could be sanctioned for "violating the spirit of representative democracy" advocating another political philosophy on the floor.

Sec. 24.61.560, lines 4-5.

The phrase "withdrawal from specified relationships" is too broad a power and should be deleted, for reasons stated above. (See comments on Sec. 24.61.300.)

Sec. 24.61.730., Sec. 24.61.740., Sec. 24.61.750.

These courses are excellent ideas and should be offered, but the ACLU suggests that they not be made mandatory. Mandatory classes on specific points of law seem appropriate for legislators and legislative employees, but mandatory classes on principles of ethics approach the idea of mandatory political education as a test for office.

As for lobbyists, particularly volunteer lobbyists, a mandatory class tends to obstruct access to the political process. We recommend that the classes first be made voluntary.

COPY Item 8

STATE OF ALASKA
THE LEGISLATURE

FOUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 11, 1990

SUBJECT: Conflict-of-interest provisions of HB 596
TO: Representative Mike Davis
FROM: John B. Gaguine
Legislative Counsel

You have asked for an analysis of the penalties for violation of the standard-of-conduct provisions in the proposed Legislative Ethics Act of 1990 (HB 596 on the House side). With a few exceptions, violation of all of those provisions carry possible civil penalties (recommended by the ethics commission but imposable only by the legislature) listed in AS 24.61.560(a), and ranging from minor sanctions such as disclosure orders or written reprimands to major ones such as heavy fines, expulsion, and repealing "tainted" legislation. In addition, many violations are also punishable criminally as class A misdemeanors.

The following is a list of the conflict-of-interest provisions that carry the possible civil sanctions listed in AS 24.61.560(a). When a provision is preceded by an asterisk, that provision also carries the criminal penalty.

* 24.61.110. Improper benefit from performance of public duties.

24.61.120. Duty to report improper offers.

* 24.61.130. Misuse of state property and resources for private gain or personal advantage.

* 24.61.140. Misuse of state property and resources for political purposes.

24.61.150. Obligation of subordinates to refuse to perform improper tasks.

* 24.61.170. Use of nonpublic and confidential information for private gain.

24.61.180. Misuse of title or prestige of office for private gain or personal advantage.

* 24.61.190. Post-service restrictions to prevent misuse of public office by former legislators and legislative employees.

* 24.61.205. Prohibited use of campaign funds.

* 24.61.220. Payment of legal expenses; special expense funds.

* 24.61.230. Improper coercion.

* 24.61.240. Fund raising limitations.

24.61.290. Nepotism.

24.61.300. Restricted relationships: lobbyists, legislators, and legislative employees. (Violators are also subject to penalties of AS 24.45.)

24.61.310. Restricted relationships: board memberships.

24.61.320. Restricted financial interests.

24.61.330. Restricted activities as an attorney or representative.

24.61.340. Restricted transactions: interest in state contracts or leases.

24.61.345. Participation in general statewide programs permissible.

24.61.350. Restricted transactions: gratuities.

24.61.360. Restrictions on earned income: outside employment and honoraria.

24.61.370. Obligation to make all decisions on the merits: favoritism and patronage.

* 24.61.380. Improper influence with the independent judgment of others on behalf of constituents.

24.61.420. Prohibited conduct relating to disclosures.

Representative Mike Davis
Page 3
April 11, 1990

There are four provisions that carry only administrative sanctions under AS 24.61.560(b). Those sanctions are any sanction that could be imposed under section 560(a), except for fines and expulsion of a legislator or dismissal of an employee. These four provisions are:

24.61.430. Accountability: openness and oversight.

24.61.440. Accountability: self-policing, whistle blowing, and protection of whistle blowers.

24.61.450. Duty toward colleagues and subordinates.

24.61.460. Duty to advance principles of representative democracy.

Finally, AS 24.61.210 (Disbursement of surplus campaign funds) for some reason carries no sanctions for violations.

Incidentally, I have heard concerns expressed that the sanctions provisions, both civil and criminal, may cause problems in that they cover conduct that currently is the subject of more serious penalties that are provided in this bill. Thus, for instance, a violation of AS 24.61.110(b), an A misdemeanor, is also likely to be a violation of AS 11.56.110(a)(2), receiving a bribe, a B felony. It is certainly possible that a court might rule that the former statute supplants the latter, and that only a misdemeanor prosecution would be possible. Similarly, some of the ethics bill provisions that do not provide for criminal penalties may be read to supplant criminal statutes dealing with the same conduct, and thus preclude prosecution of that conduct.

Also, some of the statutes with criminal penalties are so vague that a prosecution could never be won or, worse, that prosecutions could be brought for political reasons. For example, AS 24.61.205(c) provides that campaign funds "may be used only as is reasonable and necessary to advance the interests of the campaign." Who is to say what is "reasonable and necessary?" I don't see anything to stop a governor from bringing a charge under this section against a senator who has blocked the governor's legislative agenda and who is running TV ads in a bid for reelection. I assume that the power would not be so abused, but the possibility of abuse should not even be present.

If I may be of further assistance, please advise.

JG:mi
wkmi6/075

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

COPY

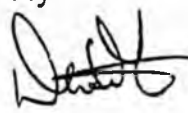
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

April 11, 1990

SUBJECT: Potential Problems in CSSB 415(Judiciary)

TO: Senator Jan Faiks
Chair, Senate Judiciary

FROM: David R. Dierdorff 
Revisor of Statutes

You have asked for a memo discussing problems we have noted in the Ethics Act. Our review of this bill has not been as thorough as we like. The items noted in this memo are those which were relatively obvious in a cursory reading of the bill. We have previously discussed the interaction of this bill with AS 15.13 and other election laws, and with AS 39.50. Dick Bradley should be consulted with respect to the election laws, and John Gaguine is reviewing the interaction with AS 39.50 as well as other aspects of this bill. I focused on criminal provisions and on drafting clarity in general. The Department of Law should be asked to review the criminal provisions to assure that all problems have been brought to light.

Criminal Sanctions Generally. Because of the extremely broad interpretation of legislative immunity in Alaska, it is unlikely that a criminal prosecution against a legislator for a violation of specific provisions of the Ethics Act under many circumstances could proceed. However, immunity does not prevent the legislature from punishing an errant member. If, however, a member resigned before being expelled, for example, there is probably little that could be done to bring the member to justice, either in the courts or in the legislature, unless the constitution was amended to

Senator Jan Faiks

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narrow immunity to a "speech or debate" type of immunity. Consequently, each criminal sanction in AS 24.61 should be viewed as potentially unenforceable as to legislators.

AS 24.61.110. The conduct proscribed by subsection (a) is already illegal in Alaska. Furthermore, existing law is more restrictive than the Josephson proposal. AS 11.56.120 makes it a class A misdemeanor for a public servant to solicit a benefit of any value (above normal compensation) for having performed an authorized or required act, or to accept or agree to accept a benefit worth \$50 or more. Because of the definition of "anything of value" (in AS 24.61.990), AS 24.61.110(a) allows a legislator or employee to accept certain benefits that are worth up to \$100 (the only exception to the existing criminal law is campaign contributions).

If it is important to leave this provision in AS 24.61, it must be rewritten. The provision prohibits a legislator or employee from seeking anything of value as a result of proper performance of the person's public duties. Read strictly, it prevents a person from seeking their official compensation, or asking for a raise. Because there is a criminal penalty, it must be clarified. Language could be added to the definition to ensure that official compensation is not included in "anything of value," or the subsection could be rewritten to read:

(a) A legislator or legislative employee may not solicit, agree to accept, or accept a benefit other than official compensation for the proper performance of public responsibilities. This subsection may not be construed to prohibit lawful solicitation for and acceptance of campaign contributions. A person who violates this subsection is guilty of receiving unlawful gratuities under AS 11.56.120 and is subject to civil sanctions under AS 24.61.560(a).

Because the definition of benefit for AS 24.61 excludes certain unsolicited gifts or awards with a value of less than \$100, it would be possible for a person to violate AS 11.56.120 but not violate AS 24.61.110 (by accepting a token of appreciation worth \$50 to \$99). The dollar amounts allowed ought to be reviewed.

Subsection (b) of AS 24.61.110 describes the crime of receiving a bribe, which is a class B felony under AS 11.56.110. Under AS 24.61.110(a), it is only a class A misdemeanor. Thus, this needs to be rewritten along the lines of (a), or deleted.

Senator Jan Faiks

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Subsection (c) could be deleted if (a) and (b) are rewritten as suggested.

AS 24.61.120. The words "undue influence and" on page 9, line 9 need to be deleted. The offeror is guilty of bribery under AS 11.56.100, not undue influence (there are no such laws). It is bribery to offer, as well as to confer or agree to confer, a benefit with the intent of influencing official conduct. There is no dollar limit on the value of the benefit. It is a class B felony.

AS 24.61.130. The proscriptions of this section include conduct that could be prosecuted as theft of services under AS 11.46, and conduct that could be prosecuted as tampering with public records under AS 11.56.815. In both instances, it is possible that felonious conduct under those provisions could only be prosecuted as a class A misdemeanor because of this provision. There is also some tension between unsworn falsification and this section, but at least they are both class A misdemeanors.

In subsection (c), the words "not directly related to the official duties of the legislator or legislative employee" need to be deleted. With that language included, the provision suggests that it is proper to use a legislative employee on government time to aid a private activity that is directly related to the official duties of the legislator or legislative employee. Because there is a criminal sanction for a violation of this provision, it needs to be carefully drafted.

AS 24.61.140. Subsection (b) needs language to ensure that it is still okay to purchase and use government lists and computer data (e.g. voter registration lists) in a campaign.

AS 24.61.150. Given the nature of Article 1 of this chapter, and the purpose of this provision, the language "in violation of this chapter" should probably be narrowed to "in violation of AS 24.61.100 - 24.61.460." (This was my substitution for "improper.")

AS 24.61.170. It is already against the law to use confidential information for private gain or in any other unauthorized manner (AS 11.56.860). The reference to confidential on line 22 should be deleted. The exception language on lines 21 - 22 should also be deleted. It suggests that it is okay to use or disclose nonpublic information for private gain in the

Senator Jan Faiks

Page 4

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performance of official duties. Again, because there are criminal sanctions, this provision needs to be carefully reviewed and drafted.

AS 24.61.180. The word "unwarranted" needs to be deleted. Unwarranted benefits are defined as those obtained through improper use of office. Thus, as drafted the section prohibits the improper use of office to gain benefits obtained through improper use of office. The crime of official misconduct under AS 11.56.850 covers the conduct described in subsection (a).

AS 24.61.190. Subsection (b) needs to be restricted to compensated activities. A former legislator or assistant has a constitutional right to seek to influence legislative or other government action on his or her own behalf that cannot be diminished by law. Civil sanctions under AS 24.61.560(a) are authorized to penalize persons violating this section, but there are no provisions in AS 24.61 implementing sanctions against former employees. I understand from Mr. Josephson that this was a deliberate decision. This means that as to former employees, the only sanction is prosecution of a violation as a class A misdemeanor. Consequently, the section needs to be carefully reviewed to ensure a criminal prosecution can be sustained. As to former legislators, the legislature is given authority under AS 24.61.565 to impose civil sanctions, presumably some form of monetary penalty, and a former legislator may also be prosecuted for a criminal violation.

AS 24.61.205. Subsection (c) needs to be reviewed carefully, given the fact that it is a class A misdemeanor to violate this provision. Who is to determine whether an expenditure is "reasonable and necessary" to advance the campaign? What if it is reasonable, but not really necessary? If a candidate is unopposed, is it ever reasonable and necessary to spend any money on a campaign?

Subsection (d) has a prohibition against using campaign funds in a way that would cause one to believe that the funds were for the personal financial benefit of "another person" (in addition to the candidate or the candidate's immediate family). But aren't funds paid to a business for campaign materials or to an individual for personal services for the personal financial benefit of the business or the person providing the service? Because there is a criminal penalty, this provision needs to be rewritten to narrow its scope to inappropriate personal benefits.

Senator Jan Faiks

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April 11, 1990

AS 24.61.240. Subsection (b) prohibits a legislator from being otherwise "involved in a fund raising activity * * * for another person or cause" during session. What is meant by "involved in?" Does this prohibit a legislator from attending the annual legislative dinner and skit, or is the prohibition merely against active participation in soliciting contributions. And what is meant by "another cause?" Does this mean a legislator is prohibited from helping raise money for a legitimate charity, as was done this year with the golf tournament? There is a criminal penalty attached to a violation, so it is important to clarify this. I note that a provision in the definitions appears to allow a legislator to solicit for charities. See AS 24.61.990(2)(B)(vi).

AS 24.61.350. This section has some of the same problems discussed in connection with AS 24.61.110. It would seem to authorize some conduct that is now illegal under AS 11.56.120.

AS 24.61.380. Because this section applies only to actions by legislators and carries a criminal penalty, it needs to be carefully reviewed in the context of legislative immunity as well as for clarity in defining the proscribed conduct.

AS 24.61.960. A sentence should be added stating that a violation of this section subjects the violator to prosecution under AS 11.56.860.

AS 24.61.990(9). The definition of "immediate family" is broader than similar provisions in AS 24.60, which did not include grandparents or grandchildren, and AS 24.45, which includes only the spouse and dependent children. Given the interaction between AS 24.45 and AS 24.61, the definition should be reviewed.

AS 24.61.990(11). The definition of "intent to influence" covers acts intended to change an official's position, but not those intended to reinforce existing positions. This loophole needs to be closed.

AS 24.61.990(17). This definition needs to be changed by deleting "results" on page 83, lines 23 - 24 and inserting "is likely to result".

AS 24.61.990(23). The term "unofficial compensation" is not used in this draft, so the definition should be deleted.

Senator Jan Faiks
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AS 24.61.990(24). The term "unwarranted compensation" is only used twice, once in AS 24.61.180, where I recommended deletion, and once in another definition, AS 24.61.990(17). If the latter usage is retained, the definition should be moved to that paragraph. In any event, it needs to be rewritten.

DRD:lmb
900009.lmb

cc: Sen. Pat Pourchot

Item 10

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 12, 1990

SUBJECT: Differences between House and Senate ethics bills

TO: Representative H.A. "Red" Boucher
Chair, State Affairs Committee

FROM: John B. Gaguine *JBG*
Legislative Counsel

Here is a list of the differences between the House ethics bill, HB 596, and the Senate bill, CSSB 415 (Jud). The list may not include every technical change, but I believe that it encompasses every substantial difference. It is keyed to HB 596.

Page 10, line 13, after "use": insert "or authorize the use of". There is a related change, discussed below, at page 85, following line 23.

Page 10, line 16: delete "the outcome of an election", and insert "the election of a candidate in an election".

Page 10, line 23: The Senate version of (d) also allows for production of a newsletter from public funds above and beyond the office allowance, but authorizes two newsletters a year. It also provides, in AS 24.10.110, that additional newsletters could not be funded out of the office allowance.

Page 11, line 18, and page 12, line 11: delete "the outcome of an election", and insert "the election of a candidate in an election".

Page 12, line 5, before "mail": insert "solicitations by".

Page 12, line 7: insert a new phrase at the end of (3) that reads "if an unsolicited contribution is received in the mail, or a lawfully solicited contribution is misdi-

rected to an office ordinarily used to conduct state business, if otherwise lawful it may be accepted but it may not be processed in that office and it shall be delivered promptly to the appropriate location".

Page 12, line 18: delete "improper", and insert after "tasks" on the next line "in violation of this chapter".

Page 12, line 22: a similar change: delete "improper", insert "prohibited".

Page 13, line 18: insert a new sentence at the end of (a) to read: "This subsection does not allow the disclosure of information made confidential by law."

Page 14, following line 24: insert a new subsection (e) to read: "The legislative council shall adopt a written definition of "official letterhead" for purposes of this section."

Page 16, following line 1: The Senate version introduces a new subsection (e) that would allow an aide, but not a legislator, to go to work for another government agency if the aide obtains an exemption from the commission. It is narrower than the amendment by Representative Finkelstein adopted by the committee.

Page 17, line 26: delete "irrevocably pledged during a campaign or campaign money sent before a final election", insert "received or postmarked before a final election".

Page 18, line 29, after "contribution": insert "in excess of \$100 in the aggregate a year". A similar change is made on page 20, line 27 (legal defense fund).

Page 19, line 29: Legislative employees are also allowed to establish legal defense funds.

Page 21, line 3: insert two new sentences at the end of (g), to read:

Except for the provisions of this chapter relating to the times during which political contributions may be solicited or accepted, and provisions inconsistent with specific provisions of this section, this chapter applies to the solicitation and acceptance of funds under this section. The commission may adopt regulations limiting the dollar amount of contributions under this section.

Page 31, line 21: delete the sentence relating to legislative stays. In a related change, the Senate version amends AS 24.40.020 and 24.40.031, the legislative stay provisions, to allow stays only when the legislator is a party or a witness, and not an attorney.

Page 37, lines 22-29: The Senate version rewrites paragraphs (4) and (5) as follows:

(4) unsolicited tokens or awards of appreciation or recognition with a value of more than \$100 in the form of a plaque, trophy, clock, watch, desk item, wall memento, or similar item may be accepted only if the award has been approved by the commission upon a finding that the gift does not create an impermissible conflict of interest;

(5) unsolicited subscriptions to publications, including newspapers and magazines, with a market value of less than \$100 for the duration of a legislative session;

Page 38, lines 25-26; delete "may not exceed two nights and the gratuity."

Page 45, following line 19: insert a new subsection (d) to read:

(d) The commission shall adopt regulations relating to the definitions of category A and B income and the reporting requirements imposed by AS 24.61.400 - 24.61.420. The regulations must include provisions that distinguish between income received for personal services, income received from the ownership of property, income received directly by the legislator or legislative assistant, and income received by an entity in which the legislator or legislative assistant has an ownership interest. The regulations may exclude from category A income, income from sources such as interest on deposit accounts in regulated financial institutions.

Page 53, line 27: delete "Five", insert "Six".

Page 79, line 29: delete "\$150", insert "\$100".

Page 80, line 6: delete "on an annual basis", insert "during a legislative session".

Page 85, following line 23: The Senate version adds a new paragraph to AS 24.45.121(a), prohibitions on lobbyists,

Representative H.A. "Red" Boucher
Page 4
April 12, 1990

so that lobbyists may not "use state property or resources in the conduct of the lobbyist's business; this paragraph does not apply to a state employee whose official duties require the employee to register as a lobbyist."

Finally, the Senate version has quite different effective dates. Generally it makes the provisions establishing the commission and requiring Legislative Council to adopt regulations effective on June 1, 1990; the provisions about campaign financing, including the prohibition on post-election contributions, effective on the date of the November election this year; and the rest of the bill, including the new conflict-of-interest provisions and the repeal of the current ethics law, effective on the first day of the Seventeenth Legislature.

I will be glad to discuss these changes, and the reasons why I believe that the Senate made them, at the next committee meeting.

JBG:pl
WKP4/059

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

POSITION PAPER

April 17, 1990

Item 11

STEVE COWPER, GOVERNOR

REPLY TO:

☐ 2221 E. NORTHERN LIGHTS, RM 128
ANCHORAGE, ALASKA 99508-3598
PHONE: (907) 276-4176

☐ P.O. BOX 60
JUNEAU, ALASKA 99811-0222
PHONE: (907) 465-4864

The Alaska Public Offices Commission has reviewed HB 596 and CSSB 415 (Jud), parallel acts which would establish a Legislative Ethics Commission (LEC) and standards of conduct for legislators.

These bills impact two laws APOC administers: the campaign disclosure law (AS 15.13) and the conflict of interest law (AS 39.50). Comments included in this position paper relate only to these laws.

If enacted, this legislation would make major changes in financing of legislative campaigns, by restricting use of contributions both during and after campaigns, and by limiting acceptance of contributions to a specific time period ending at election day. Additionally, the legislation would require legislators and their staff to provide far more information about their financial interests than is required at present. A summary of the changes is attached.

The commission believes the proposed changes are in the public interest, and strongly supports their enactment, with minor exceptions as noted below. However, the commission has six general concerns:

1. The legislation should take effect on election day to avoid changing campaign fundraising and personal financial disclosure rules in mid-stream.
2. The proposed restrictions on campaign financing should apply not only to legislators, but to candidates for governor, lieutenant governor, and local office as well. The two bills currently before the legislature which address campaign finance issues (CSSB 384 and CSHB 327) should be amended to include language similar to proposed sections 24.61.200 - .240. Additionally, the commission urges the legislature to consider prohibiting use of surplus campaign funds in any amount as seed money for a future legislative campaign (in contrast to the \$2500 - \$5000 carryover proposed in the legislation).
3. The expanded personal financial disclosure requirements should be applied to candidates for legislative office as well as to legislators, since the public should be entitled to the same level of information for prospective as well as incumbent legislators.
4. Legislators should be required to file only one personal financial disclosure

statement. The legislation should be amended to require that legislators file only with the Legislative Ethics Commission.

5. The legislation creates overlapping areas of authority between APOC and LEC. As currently drafted, LEC would administer and enforce campaign finance laws for legislative candidates; APOC would administer and enforce campaign finance laws for candidates for governor, lieutenant governor, and municipal office. However, administration and enforcement of timely, accurate reporting of campaign finances by legislators (and all other candidates) would remain with APOC. This overlap is inefficient and could lead to confusion, as well as to potentially inconsistent interpretation of the laws.

Pending steps toward unified administration of ethics laws, APOC should continue to be responsible for administering all provisions relating to campaign finance and campaign disclosure reporting, including the application of these provisions to legislative campaigns. Funds should be appropriated to provide additional staff to ensure fair, firm enforcement of these laws. LEC should be responsible for administering and enforcing laws relating directly to the legislature, such as standards of legislative conduct and conflict of interest determinations based on higher standards of legislative financial disclosure. This function should also be funded adequately.

6. The legislature should take action this session on existing campaign finance legislation -- CSSB 384 and CSHB 327. At a minimum, the legislature should adopt language establishing campaign finance standards for all candidates similar to the standards adopted for legislative candidates. The legislature should also adopt three noncontroversial provisions contained in both existing bills: authorizing the commission to assess a civil penalty up to \$250 for inadvertent failure to properly identify a "political communication"; exempting small municipal campaigns (under \$1000 in financial activity) from campaign disclosure reporting requirements; and closing the two-day pre-election reporting gap.

The commission also urges the legislature to consider limiting the sources of campaign contributions by allowing only individuals and political parties to contribute to campaigns. The commission believes this provision is essential to achieve meaningful campaign finance reform.

Enactment of this legislation is an important first step toward establishing principled standards for public officers and effective enforcement when problems arise. The commission will be glad to work with individual committees or with the joint committee to address the concerns raised in this position paper.

Summary of Changes

Campaign financing

Current law is either silent on these topics or does not prohibit the activity. Current law applies to all state and local candidates; these changes would apply to legislative candidates only.

1. Legislative finding that restrictions are justified.
2. Prohibition on use of state property for political purposes.
3. Campaign funds to be used only to influence elections.
4. Campaign funds cannot be used to enhance personal lifestyle.
5. Campaign surplus cannot be converted to personal income.
6. Cannot borrow or loan from campaign funds for personal use.
7. Payments to family members by candidates must be reasonable.
8. Contributions may not be accepted after the election date, and any such contributions offered must be returned.
9. No contributions may be made to other candidates from campaign funds.
10. Campaign contributions may not be used to pay fines.
11. Campaign surpluses can be used to retire bona fide loans, returned to contributors on a pro rata basis, donated to charity or the general fund, or transferred to a future legislative campaign in amounts of \$2500 for a House seat and \$5000 for a Senate seat.

Financial disclosure

Current law requires almost all state and local candidates, as well as judges and many appointed state and local officials, to file financial disclosure statements with APOC. Financial interests must be listed, but the law requires neither a detailed description of the nature of the interest nor the amount. These changes would apply only to legislators and their staff; others would continue to be covered by existing law. However, legislators and staff would file disclosure statements with both APOC and LEC.

1. Categorizes income depending on whether the income would have a substantial impact on public decisionmaking.

2. Requires detailed reporting from legislators and legislative staff, including nature and amount of financial interest.
3. Requires extensive review of disclosure reports for possible conflicts and public disclosure.
4. Requires those persons and entities providing benefits to legislators and their staff to file reports with LEC.

Alaska State Legislature

Legislative Research Agency



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Phone: (907) 163-3991
Fax: (907) 163-3351

April 5, 1990

MEMORANDUM

TO: Representative H.A. "Red" Boucher
ATTN: Dennis Burns
FROM: Deb Pomeroy
RE: Limit on the Number of Bills Introduced by Legislators in Other States
Research Request 90.309

You asked whether other states limit the number of bills that may be introduced during a legislative session.

According to a survey published by the National Conference of State Legislatures in 1988, most states use bill deadlines as a means of controlling the number of bills introduced during a session (see the attached table from "Inside the Legislative Process" for survey results). Six states--Colorado, Indiana, Montana, Nebraska, North Dakota, and Tennessee--impose a limit of some type on the number of bills which may be introduced. These limits are briefly discussed below. Copies of the pertinent legislative rules of each of the six states are attached.

Colorado

Colorado uses a combination of limits and deadlines to control the number of bills introduced. A legislator may request an unlimited number of bills from Legal Services up until the sixth legislative day. However, he may not introduce more than six bills during a regular session convening in an odd-numbered year (first session) and four bills during an even-numbered year (second session). Of these, not more than three bills during the first session and two bills during the second session may be requested from Legal Services after the December 1 preceding the convening of session. A legislator may introduce not more than four additional bills from among those recommended by interim legislative council committees or committees created by statute or resolution which operate during the interim.

In addition to the limit on the number of bills a legislator may introduce, the following deadlines apply to the house of introduction: initial introduction of bills requested from Legal Services on or before December 1, 3rd legislative day; bill draft requests to Legal services, 6th day; and final introduction of bills, excluding the long appropriation bill, 22nd day.

Indiana

Senate: There is no limit on the number of bills that may be filed prior to the first day of session in January of the first or second session. However, a senator may not file more than two bills per session-day from the first through the tenth day of the first session. During the second session, this limit is reduced to one bill per session-day from the first through the fourth day of session. Senators may assign, in writing, their rights of bill filing to another senator.

House of Representatives: The House does not limit the number of bills that may be introduced during the first session. There is a bill deadline, however, of 2:00 p.m. on the 15th day of session. No bill may be introduced after this deadline without the consent of two-thirds of the majority of members elected. (A bill may not be filed unless it has previously been submitted to the Legislative Services Agency to be checked for form, and the subject matter must be clearly set forth in both the title and body of the bill.)

During the second regular session, the bill deadline is 2:00 p.m. on the third day of session, and individual representatives are limited to the introduction of no more than five bills.

Montana

Although there is no limit on the number of bills introduced, Montana has a deadline for when requests for bills may be submitted to the Legislative Council for preparation. Prior to 5:00 p.m. on December 5, a legislator may ask the Legislative Council to prepare an unlimited number of bills or resolutions for introduction during the regular session. After that time, a legislator may request up to seven bills or resolutions for introduction as long as two are requested before the regular session convenes. A member may grant the remaining number of unused requests to another member after the 5:00 p.m., December 5 deadline. All bills and resolutions must be reviewed by Legislative Council staff prior to introduction for proper format, style and legal form.

Nebraska

There is no limit to the number of bills individual members may introduce. Standing or special committees may introduce only eight bills each session. The deadline for bill introduction during each session is the tenth legislative day, with the exception of appropriation bills, bills introduced at the Governor's request and standing or special committee bills. (A vote of three-fifths of the elected members of the legislature is required for the introduction of committee bills.)

North Dakota

North Dakota uses bill deadlines as the main control of the introduction of bills. In addition, individual legislators, with the exception of the majority and minority leaders, may not introduce more than three bills as prime sponsor after the ninth legislative day. Additional deadlines are as follows: bills and resolutions, 14th and 18th legislative day, respectively, except upon approval of a majority of the Committee on Delayed Bills or two-thirds vote of the Senate; bills at the request of executive agencies or the supreme court, December 15 prior to the next regular session, except with approval of a majority of the Committee on Delayed Bills; resolutions proposing U.S. Constitutional amendments or directing Legislative Council to carry out a study, 34th legislative day; and resolutions proposing amendments to the North Dakota Constitution, 18th legislative day.

Tennessee

Senate: Tennessee does not limit the number of prefiled bills that may be introduced by a senator. After the third legislative day of each regular annual session, until the final adjournment for that session or year, each senator is limited to nine general bill introductions. Administration bills of the governor must be filed by the tenth legislative day. Bills introduced by a committee chairman at the direction of the committee are excluded from this limitation.

Alaska

In Alaska, individual legislators may not introduce a bill after the 35th legislative day of the second session. There is no limit on the number of bills that may be introduced.

The attached tables list the number of bills and resolutions introduced by each legislator during the Fifteenth and Sixteenth Legislatures. There was a total of 1,021 bills and resolutions introduced by individual legislators in the Fifteenth Legislature (498 in the House; 523 in the Senate) compared with 1,054 introduced as of April 4, 1990 (535 in the House; 519 in the Senate).

You also expressed an interest in the cost of moving a bill or resolution through the legislative process. Legislative Research Memorandum 90.194, attached, discusses the cost of producing a bill, as well as the difficulties in estimating the total cost of bill preparation, introduction, and passage.

I hope this information is useful to you. If you have any questions or would like additional information, please contact this agency.

Attachments

**NUMBER OF BILLS INTRODUCED BY LEGISLATOR
HOUSE OF REPRESENTATIVES**

FIFTEENTH LEGISLATURE (1987 - 1988)

<u>Legislator</u>	<u>Bills Sponsored</u>	<u>Resolutions Sponsored</u>	<u>Total</u>
Adams	8	2	10
Barnes	2		2
Boucher	7	1	8
Boyer	9	3	12
Brown	10	2	12
Cato	13	11	24
Collins	11	4	15
Cotten	7		7
Davidson	6	3	9
Davis, M.	18	4	22
Donley	14	5	19
Ellis	11	5	16
Frank	8	3	11
Furnace	5	1	6
Goll	6		6
Gruenberg	10	2	12
Grussendorf	4	1	5
Hanley	3	3	6
Herrmann	20	6	26
Hoffman	11	3	14
Hudson	7		7
Koponen	15	3	18
Larson	21	2	23
Martin	10	8	18
Menard	10	3	13
Miller	12	4	16
Navarre	9	2	11
Pearce	6	2	8
Pettyjohn	4	3	7
Phillips	4		4
Pourchot	9	3	12
Reiger	3	2	5
Shultz	11	3	14
Springer		1	1
Sund	18	4	22
Swackhammer	11		11
Taylor	18	6	24
Ulmer	20	5	25
Wallis	3	3	6
Zawacki	8	3	11

TOTAL HOUSE 382 116 498

SIXTEENTH LEGISLATURE (1989 - 1990)

<u>Legislator</u>	<u>Bills Sponsored</u>	<u>Resolutions Sponsored</u>	<u>Total</u>
Barnes	1		1
Boucher	18	4	22
Boyer	18	1	19
Brown	18	4	22
Cato	12	5	17
Collins	6		6
Cotten	6	6	12
Davidson	7	5	12
Davis, C.	5	2	7
Davis, M.	12	5	17
Donley	12	3	15
Ellis	21	2	23
Finkelstein	8	1	9
Foster	4	3	7
Furnace	1		1
Goll	6		6
Gruenberg	17	1	18
Grussendorf	2		2
Hanley	7	3	10
Hoffman	7	2	9
Hudson	10	3	13
Jacko	4	7	11
Koponen	29	8	37
Kubina*	4	3	7
Larson	7	4	11
Leman	10	5	15
MacLean	10	4	14
Martin	12	10	22
Menard	18	4	22
Miller	10	1	11
Navarre	11	5	16
Pettyjohn	3	2	5
Phillips	7	3	10
Rieger		1	1
Sharp	4		4
Shultz	8	6	14
Sponholz*	4	1	5
Swackhammer	8	2	10
Taylor	13	1	14
Ulmer	23	8	31
Wallis	4	2	6
Zawacki	10	11	21

397 138 535

* Representative Kubina replaced Representative Cato upon her resignation in December 1989.
Representative Sponholz served in Representative Finkelstein's place until his election was certified.

Source: 1989/1990--Bill Action and Status Inquiry System; 1987/1988--"Final Status of Bills and Resolutions."

Prepared by the Legislative Research Agency, April 1990 (90-309).

NUMBER OF BILLS INTRODUCED BY LEGISLATOR
SENATE

FIFTEENTH LEGISLATURE (1987 - 1988)

<u>Legislator</u>	<u>Bills Sponsored</u>	<u>Resolutions Sponsored</u>	<u>Total</u>
Abood	10		10
Bennett	15	3	18
Binkley	20	10	30
Coghill	37	18	55
Duncan	38	7	45
Eliason	7	2	9
Fahrenkamp	18	6	24
Faiks	26	9	35
Fanning*	8	2	10
Fischer	28	5	33
Halford	18	6	24
Hensley*	14	11	25
Jones	11	6	17
Josephson	25	5	30
Kelly	7	6	13
Kerttula	35	14	49
Rodey	10	2	12
Sturgulewski	9	12	21
Szymanski	9		9
Uehling	9	5	14
Zharoff	34	6	40

SIXTEENTH LEGISLATURE (1989 - 1990)

<u>Legislator</u>	<u>Bills Sponsored</u>	<u>Resolutions Sponsored</u>	<u>Total</u>
Adams	17	6	23
Binkley	23	10	33
Coghill	37	10	47
Duncan	52	4	56
Eliason	6	2	8
Fahrenkamp	14	4	18
Faiks	21	8	29
Fischer	24	8	32
Frank	13	2	15
Halford	11	4	15
Jones	5	5	10
Kelly	14	2	16
Kerttula	38	21	59
Pearce	11	4	15
Pourchat	10	3	13
Rodey	16	8	24
Sturgulewski	22	10	32
Szymanski	15	6	21
Uehling	12	5	17
Zharoff	28	8	36

TOTAL SENATE	388	135	523	339	130	519

- * Senator Hensley was appointed to the Senate upon Senator Ferguson's resignation.
- Senator Fanning was appointed to the Senate upon Senator Bennett's death.

Source: 1989/1990--Bill Action and Status Inquiry System; 1987/1988--"Final Status of Bills and Resolutions."

Prepared by the Legislative Research Agency, April 1990 (90-309).

Inside the Legislative Process



A Comprehensive Survey of the
American Society of Legislative
Clerks and Secretaries



with the
National Conference of
State Legislatures

1988 Edition

SURVEY RESPONDENTS

	SENATE	HOUSE
ALABAMA	•	•
ALASKA	•	•
ARIZONA	•	•
ARKANSAS	•	•
CALIFORNIA	•	•
COLORADO	•	•
CONNECTICUT	•	•
DELAWARE	•	•
FLORIDA	•	•
GEORGIA	•	•
HAWAII	•	•
IDAHO	•	•
ILLINOIS	•	•
INDIANA	•	•
IOWA	•	•
KANSAS	•	•
KENTUCKY	•	•
LOUISIANA	•	•
MAINE	•	•
MARYLAND	•	•
MASSACHUSETTS	•	•
MICHIGAN	•	•
MINNESOTA	•	•
MISSISSIPPI	•	•
MISSOURI	•	•
MONTANA	•	•
NEBRASKA	•	Unicameral
NEVADA	•	•
NEW HAMPSHIRE	•	•
NEW JERSEY	•	•
NEW MEXICO	•	•
NEW YORK	•	•
NORTH CAROLINA	•	•
NORTH DAKOTA	•	•
OHIO	•	•
OKLAHOMA	•	•
OREGON	•	•
PENNSYLVANIA	•	•
RHODE ISLAND	•	•
SOUTH CAROLINA	•	•
SOUTH DAKOTA	•	•
TENNESSEE	•	•
TEXAS	•	•
UTAH	•	•
VERMONT	•	•
VIRGINIA	•	•
WASHINGTON	•	•
WEST VIRGINIA	•	•
WISCONSIN	•	•
WYOMING	•	•
AMERICAN SAMOA	•	•
PUERTO RICO	•	•

BILL PROCESSING

The business of state legislatures has changed considerably over the past three decades. As legislatures have become more independent and public policy questions have grown more complex, not surprisingly the number of bills considered and debated by legislatures has risen sharply. To handle the flow of bills, legislative bodies have instituted various mechanisms to expedite the processing of legislation. The most common techniques -- prefiling and deadlines for the introduction of bills -- are utilized by over three-fourths of the legislative assemblies.

A few states have taken other steps to streamline bill processing. Thirteen legislative bodies use proposed, short-form or skeleton bills, and ten have set limits on the number of introductions.

Proposed, Short-Form or Skeleton Bills

Connecticut Senate and House	New Mexico Senate
Florida House	North Carolina Senate and House
Hawaii Senate and House	Utah House
Indiana Senate and House	Vermont House
Minnesota House	

Limitations on the Number of Introductions

Colorado Senate and House	Nebraska Senate
Indiana Senate and House (Short session only)	North Dakota Senate and House
Montana Senate and House	Tennessee Senate

Chart 30 shows the mechanisms used by legislative bodies to expedite and streamline bill processing.

MECHANISMS USED TO EXPEDITE AND STREAMLINE BILL PROCESSING

KEY:

S=Senate

H=House

B=Both

	Prefiling of Bills	Carryover of Bills From 1st Session	Companion Bills	Deadlines for the Introduction of Bills	Deadlines for Committee Action	Deadlines for 1st and 2nd House Action	Committee Bills
ALABAMA	B		S	S	S	S	
ALASKA	B	B	B	B(1)			
ARIZONA	B			B	B	H	
ARKANSAS	B		H	B			B
CALIFORNIA		S		B	B	B	H
COLORADO	B			B	B	B	S
CONNECTICUT	B			B	B		B
DELAWARE	B	B		H	H		
FLORIDA	B		B	B	H		B
GEORGIA		B		B		S	
HAWAII	B	B	H	B	B	B	
IDAHO				B	S	S	H
ILLINOIS	B	B	S	B	B	B	B
INDIANA	B			B	B	B	
IOWA	B	B	B	S	B	B	B
KANSAS	B	B		B		S	H
KENTUCKY	B		B	B			S
LOUISIANA	B			B			
MAINE	B	B		B	B		
MARYLAND	B		B	B	S		
MASSACHUSETTS	B			B	B		B
MICHIGAN	S		S		H		
MINNESOTA	S	B	B		B	B	B
MISSISSIPPI	B			B	B	B	
MISSOURI	B	S		B			
MONTANA	B			B		S	B
NEBRASKA	S	S		S			S
NEVADA							S
NEW HAMPSHIRE	B	S		B	H	B	
NEW JERSEY	B	S	B				
NEW MEXICO			H	B			
NEW YORK	B	B	B	B	S		
NORTH CAROLINA	B	H	B	B	H	B	
NORTH DAKOTA	B			B	B	B	B
OHIO	S	B		H			
OKLAHOMA	B	B	H	B	B	S	
OREGON	B			B	H	H	H
PENNSYLVANIA	B	B					
RHODE ISLAND							
SOUTH CAROLINA	B	B	H	B			H
SOUTH DAKOTA	B			B	S	B	S
TENNESSEE	B	B	B	B			S
TEXAS	B		H	B			
UTAH	B		H	B	H		H
VERMONT	H	H		H	H	H	H
VIRGINIA	H	H	H	H	H		
WASHINGTON	B	B	S	S	B	B	B
WEST VIRGINIA	B	H	B	B	H	H	H
WISCONSIN	S	B	B				S
WYOMING	B			B	H	H	B
AMERICAN SAMOA		H		H	H		
PUERTO RICO		S					

1. Personal bill deadline - 35th day of the second session.

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23. DEADLINE SCHEDULE

- (a) (1) *Deadline schedule.* For the purposes of organizing the legislative session, the schedule for the enactment of legislation shall be as follows:

First House Deadlines:

- 3rd day Initial deadline for introduction of bills. Bills subject to the initial deadline for introduction are those specified in paragraph (2) of this subsection (a).
- 6th day Deadline for bill draft requests to the Office of Legislative Legal Services.
- 22nd day Final deadline for introduction of bills, except the long appropriation bill. No bill delivered by the Office of Legislative Legal Services on or before the seventeenth legislative day shall be introduced more than five legislative days after such delivery. Any bill delivered by the Office of Legislative Legal Services on or after the eighteenth legislative day shall be introduced not later than the twenty-second legislative day.
- 38th day Deadline for committees of reference to report bills originating in their own house.*
- 48th day Deadline for final passage of bills in the house of introduction.*

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Second House Deadlines:

- 63rd day Deadline for committees of reference to report bills originating in the other house.*
- 73rd day Deadline for final passage of all bills originating in the other house.*
- 76th day Deadline for introduction of the long appropriation bill.
- 118th day If there has been adjournment to a day certain, reconvene for adjournment sine die unless the joint resolution for adjournment to a day certain specifies another day for recovering.

- * All bills in the Appropriations Committee in either house are excluded from these deadlines. All bills in the Appropriations Committee in either house, except the long appropriation bill and supplemental appropriation bills, shall be acted upon no later than seven days after signature of the long appropriations act by the Speaker of the House and the President of the Senate.

MECHANISMS USED TO EXPEDITE AND STREAMLINE BILL PROCESSING

KEY:

S=Senate

H=House

B=Both

	Prefiling of Bills	Carryover of Bills From 1st Session	Companion Bills	Deadlines for the Introduction of Bills	Deadlines for Committee Action	Deadlines for 1st and 2nd House Action	Committee Bills
ALABAMA	B		S	S	S	S	
ALASKA	B	B	B	B (1)	S		
ARIZONA	B			B	B	H	
ARKANSAS	B		H	B			B
CALIFORNIA		S		B	B	B	H
COLORADO	B			B	B	B	S
CONNECTICUT	B			B	B		B
DELAWARE	B	B		H	H		
FLORIDA	B		B	B	H		B
GEORGIA		B		B		S	
HAWAII	B	B	H	B	B	B	
IDAHO				B	S	S	H
ILLINOIS	B	B	S	B	B	B	B
INDIANA	B			B	B	B	
IOWA	B	B	B	S	B	B	B
KANSAS	B	B		B		S	H
KENTUCKY	B		B	B			S
LOUISIANA	B			B			
MAINE	B	B		B	B		
MARYLAND	B		B	B	S		
MASSACHUSETTS	B			B	B		B
MICHIGAN	S		S		H		
MINNESOTA	S	B	B		B	B	B
MISSISSIPPI	B			B	B	B	
MISSOURI	B	S		B			
MONTANA	B			B		S	B
NEBRASKA	S	S		S			S
NEVADA							S
NEW HAMPSHIRE	B	S		B	H	B	
NEW JERSEY	B	S	B				
NEW MEXICO			H	B			
NEW YORK	B	B	B	B	S		
NORTH CAROLINA	B	H	B	B	H	B	
NORTH DAKOTA	B			B	B	B	B
OHIO	S	B		H			
OKLAHOMA	B	B	H	B	B	S	
OREGON	B			B	H	H	H
PENNSYLVANIA	B	B					
RHODE ISLAND							
SOUTH CAROLINA	B	B	H	B			H
SOUTH DAKOTA	B			B	S	B	S
TENNESSEE	B	B	B	B			S
TEXAS	B		H	B			
UTAH	B		H	B	H		H
VERMONT	H	H		H	H	H	H
VIRGINIA	H	H	H	H	H		
WASHINGTON	B	B	S	S	B	B	B
WEST VIRGINIA	B	H	B	B	H	H	H
WISCONSIN	S	B	B				S
WYOMING	B			B	H	H	B
AMERICAN SAMOA		H		H	H		
PUERTO RICO		S					

(1) Personal bill deadline - 35th day of the second session.

- (2) All bills which a member requested on or before December 1 or December 15, whichever is applicable, shall be introduced no later than the initial deadline for introduction of bills, subject to the following conditions:
- (A) A member is not required to introduce more than three bills by said initial deadline; and
 - (B) A member may choose to introduce any bill requested after said December 1 or December 15 instead of any bill requested on or before said December 1 or December 15.
- (b) *Exceptions.* The deadlines established in subsection (a) of this joint rule shall not apply if the prime sponsor in the house of introduction or any member sponsoring or carrying the bill in the other house obtains consent to extend the deadline to a day certain from:
- (1) The House Committee on Delayed Bills, which is hereby established, if the bill is to be introduced in the House or is presently being acted upon by the House. The House Committee on Delayed Bills shall consist of the Speaker, the majority leader, and the minority leader.
 - (2) The Senate Committee on Delayed Bills, which is hereby established, if the bill is to be introduced in the Senate or is presently being acted upon by the Senate. The Senate Committee on Delayed Bills shall consist of the President, the majority leader, and the minority leader.
- (c) The House Committee on Delayed Bills and the Senate Committee on Delayed Bills, acting jointly, may change the deadlines in subsection (a) of this Joint Rule to extend the same to a day certain one or

more times during any session of the General Assembly. The memorandum containing any such change shall be printed in the journal of each house.

- (d) The maximum of one hundred twenty calendar days prescribed by section 7 of article V of the state constitution for regular sessions of the General Assembly shall be deemed to be one hundred twenty consecutive calendar days.

24. SPONSORSHIP OF BILLS

- (a) A bill may be introduced in either house by one or more members of that house and the joint sponsorship of one or more members of the other house.
- (a.5) At least one member of the second house shall be designated as the prime sponsor of the bill in the second house prior to its passage on third reading in the originating house. If the name of such member does not appear on the printed bill, the prime sponsor in the originating house shall be responsible for securing a prime sponsor in the second house, and he may secure one or more other sponsors in the second house. The prime sponsor in the originating house shall notify in writing the presiding officer of the originating house of such sponsors at any time prior to the passage of the bill on third reading in the originating house. Thereupon the presiding officer shall order that the names of such sponsors be added to the bill, and such names shall appear on the reengrossed bill.
- (b) (1) (A) A member of the General Assembly may not introduce more than six bills in a regular session of the General Assembly convening

in an odd-numbered year, excluding bills for appropriations and excluding not more than four additional bills which shall be from among bills recommended by interim legislative council committees or other committees created by statute or resolution which operate during the interim and approved as required by subparagraph (D) of this paragraph (1). Permission to exceed the limits established by this rule may be given by the Senate Committee on Delayed Bills for members of the Senate and the House Committee on Delayed Bills for members of the House of Representatives. Of the bills which are subject to the six-bill limit under this subparagraph (A), not more than three bills may be requested after the December 1 which precedes the convening of the regular session in an odd-numbered year; except that any member who will serve in the odd-year session but who is not a member of the current General Assembly may not introduce more than three bills requested after the December 15 which precedes the convening of said odd-year session. Bills requested on or before said December 1 or December 15, as the case may be, shall be treated as if requested to be prefiled bills, unless the member making the request specifies otherwise.

- (B) A member of the General Assembly may not introduce more than four bills in a regular session of the General Assembly convening in an even-numbered year, excluding bills for appropriations and excluding not more

than four additional bills which shall be from among bills recommended by interim legislative council committees or other committees created by statute or resolution which operate during the interim and approved as required by subparagraph (D) of this paragraph (1). Permission to exceed the limits established by this rule may be given by the Senate Committee on Delayed Bills for members of the Senate and the House Committee on Delayed Bills for members of the House. Of the bills which are subject to the four-bill limit under this subparagraph (B), not more than two bills may be requested after the December 1 which precedes the convening of the regular session in an even-numbered year. Bills requested on or before said December 1 shall be treated as if requested to be prefiled bills, unless the member making the request specifies otherwise.

- (C) Nothing in this subsection (b) shall limit the number of bills originating in the other house which a member may introduce in the second house.
- (D) In order for a committee bill to be designated as one of the four additional bills which may be introduced by a member under subparagraph (A) or (B) of this paragraph (1), including a bill recommended by a committee created by statute or resolution, it shall be approved by the legislative council no later than October 15 in even-numbered years and no later than November 15 in odd-numbered years. Bills or other

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measures recommended by an interim legislative council committee or by a committee created by statute or resolution need not be sponsored by a member of the committee making the recommendation.

- (E) Bills or other measures recommended by an interim legislative council committee or by a committee created by statute or resolution which operates during the interim and which reports to the legislative council need not have a sponsor for purposes of such report; however, no such bill or other measure shall be approved by the legislative council until it has a prime sponsor for introduction.

(2) Repealed in 1984.

- (c) Any member of the General Assembly who submits a bill draft request to the Legislative Drafting Office by subject only shall be required to provide the necessary information to enable said office to proceed with the drafting of the bill within five days after making the request. Failure to submit such information within the prescribed time period shall be considered as a request by a member to withdraw the bill draft request.

**25. OVERSIGHT RESPONSIBILITIES OF
COMMITTEES OF REFERENCE**

- (a) It shall be the duty of committees of reference of the House and Senate to keep themselves advised of the activities, functions, problems, new developments, and budgets of the principal departments or agencies of the executive department or the judicial department of state government which are within the subject-matter jurisdiction of each committee, as provided in

and published at full length. The identification required by this rule shall be made by citation reference.

62. Every bill shall contain a title, which title shall express in concise terms the subject matter of the bill, in sufficient detail to acquaint the Senators with the general subject matter under consideration.

63. Every bill shall be endorsed on the back thereof with the names of the Senators offering the same. Two Senators may be first and second authors or sponsors, and any number of Senators may be coauthors or cosponsors.

64. Petitions, memorials and other papers, including congratulatory and other resolutions addressed to the Senate may be presented by the President or by any Senator. Resolutions expressing congratulations, sympathy, thanks or similar resolutions shall for printing and transmitting purposes be limited to one page, unless prior to presentation, the Senator offering such resolution has obtained permission from the President Pro Tempore. The petition, memorial, resolution or other paper after presentation shall be referred by the President Pro Tempore to some appropriate committee, unless previously designated by the President Pro Tempore for immediate action.

65. Neither the printing contractor nor any subcontractor shall release information concerning bills, their progress or his work thereon to any person not authorized by the President Pro Tempore of the Senate to receive such information.

B. Pre-Filing, Filing, Introduction, First Reading and Committee Assignment

66. Any member or member-elect of the Senate may on or after thirty (30) days prior to the convening of any regular or special session pre-file a bill, joint resolution or concurrent resolution with the Principal Secretary for Introduction. After a regular or special session convenes, members shall file bills with the Secretary any time prior to two (2) hours before the convening of each day's session, including the last day for filing bills for introduction.

67. Every bill or resolution so filed or pre-filed shall be signed by the member or members offering it and shall be delivered in person to the Secretary's office.

68. Any bill or resolution pre-filed may be withdrawn prior to first reading by the author or authors upon written request to the Principal Secretary and the records shall show such bill or resolution as having been withdrawn. In the event that the office of any member or member-elect who has pre-filed a bill or resolution shall become vacant for any reason prior to the first reading thereof, the same shall be introduced in the names of the remaining co-sponsors, if any, and if it was pre-filed only by the member or member-elect whose office is vacant, the same shall be withheld from introduction and the records shall show the same as withdrawn prior to introduction.

69. Bills pre-filed prior to a session or during the recess after organization day may be released by the President Pro Tempore or President Pro Tempore-elect of the Senate to a standing committee for consideration and will be introduced the first or a subsequent session day. Bills filed during a session will be introduced after referral to a committee.

60. The President Pro Tempore of the Senate shall refer each bill or resolution so filed to a standing committee and shall cause the committee reference to be indicated on the list of bills filed; provided, however, that all vehicle bills shall be referred to the Committee on Rules and Legislative Procedure. Bills filed on the last day for filing bills must be referred no later than the following session day.

*

61. (a) First regular session. There shall be no limitation on the number of bills filed by each Senator before the first session day in January; provided, however, that no Senator shall file more than two (2) bills per session day after the Senate convenes in January through the tenth (10th) session day, which shall be the last day for filing bills.

(b) Second regular session. There shall be no limitation on the number of bills filed by each Senator before the first session day in January; provided, however, that no Senator shall

file more than one (1) bill per session day after the Senate convenes in January through the fourth (4th) session day, which shall be the last day for filing bills.

(c) Each Senator shall be allowed to assign, in writing, his right of bill filing to another Senator.

(d) Except with the consent of the Rules and Legislative Procedure Committee, no joint resolution amending the Constitution or bill shall be introduced after the eleventh (11th) session day of the first session or the fifth (5th) session day of the second session. A bill is considered introduced when it is read for the first time.

62. The first reading of a bill shall be for information and assignment to a regular committee or to a Committee of the Whole Senate by the President Pro Tempore.

(a) There shall be one original and twelve copies of each bill prepared for filing, two of which shall be backed. One shall be marked "original" and the other shall be marked "duplicate" and distributed to the Legislative Services Agency. The eleven unbacked copies shall be distributed as follows: one copy to the journal clerk; four copies to the news media; two to the office of the Principal Clerk; one to be retained in the Clerk's office for the purpose of furnishing copies to the members; and one for the Clerk's permanent files; one copy for the author; one copy for the Speaker; one copy for the Indiana State Chamber of Commerce; and one copy for the public bill room for use by the public. Such distribution shall be made upon release of a bill for committee consideration or upon the day of first reading, whichever is earlier.

(b) This rule does not apply to bills filed in the name of the Committee on Rules and Legislative Procedures as provided in Rule 113. Two backed copies of such bills shall be prepared as provided in paragraph (a), but no unbacked copies shall be filed.

102. Authorized Copies. The printing contractor shall work under the direction of the Speaker and no material in the possession of the House shall be printed for any member or other person without the express approval of the Speaker.

103. Release of Information Concerning Printing.

(a) Neither the printing contractor nor his subcontractor shall release information concerning bills, their progress or his work thereon to any person not authorized by the Speaker of the House to receive such information.

(b) A procedure shall be developed under the direction of the Speaker for informing authors or sponsors about printing of their bills.

B. FILING, INTRODUCTION, FIRST READING, COMMITTEE ASSIGNMENT

104. Time to File. On or after the first session day of a regular or special session, any member of the House of Representatives may file a bill with the Principal Clerk for introduction. Filing

shall not be later than 2 o'clock p.m. the day prior to introduction and first reading.

105. Preconditions for Filing. No representative may file a bill for introduction, except the operating and construction budget bills, unless:

1. it has previously been submitted to the Legislative Services Agency for the purpose of checking as to form; and
2. the subject matter is clearly set forth both in the title and the body of the bill.

106. Signatures of Authors and Coauthors.

(a) Every bill filed shall be signed by the member or members offering it and it shall be delivered in person or by certified mail to the Clerk's office. There may be no more than three (3) coauthors or cosponsors of a bill.

(b) This rule does not apply to bills filed for the Committee on Rules and Legislative Procedures as under Rule 107. The Committee on Rules and Legislative Procedures shall be considered the author of such bills at the time of filing.

107. Vehicle Bills. On the sixteenth session day of the first regular session and the fourth session day of the second regular session, twenty-five (25) bills shall be filed in the name of the Committee on Rules and Legislative Procedures; Rule 105 does not apply to such bills.

108. Deadline for Filing.

(a) During the first regular session of any term of the General Assembly no bill may be filed for introduction later than 2 o'clock p.m. of the fifteenth session day nor introduced after the sixteenth session day without consent of a two-thirds majority of the members elected.

(b) During the second regular session of any term of the General Assembly, no bill may be filed for introduction later than 2 o'clock p.m. of the third session day nor introduced after the fourth session day without consent of a two-thirds majority.

(c) This rule does not apply to bills filed in the name of the

Committee on Rules and Legislative Procedures as provided in Rule 107.

109. Bill Limit

(a) During the second regular session, each member shall be permitted to file for introduction not to exceed a total of five bills.

(b) This rule does not apply to bills filed in the name of the Committee on Rules and Legislative Procedures as provided in Rule 107.

(2) Meetings of the joint committee must be held upon call of the chairman of the House Committee on Appropriations, who is chairman of the joint committee.

30-60. Joint committee to estimate revenue. (1) There is a joint committee composed of members of the House and Senate Committees on Taxation. The joint committee shall consider any resolution introduced for the purpose of estimating revenue that may be available for appropriation by the Legislature. The joint committee must be composed of three members from each political party in each house appointed by the chairmen of the respective Committees on Taxation.

(2) Meetings of the joint committee must be held upon the call of the chairman of the joint committee, who must be a member of the House. The joint committee shall issue periodic reports to each of the houses, indicating the committee's current revenue projections. The reports must be issued on the 40th day and the 60th day.

CHAPTER 40

Legislation

40-10. Amendment to state constitution. A bill must be used to propose an amendment to The Constitution of the State of Montana. The bill is not subject to the veto of the Governor (Montana Constitution, Art. VI, Sec. 10(1)).

40-20. Appropriation bills. (1) All appropriation bills must originate in the House of Representatives.

(2) Appropriation bills for the operation of the Legislature must be introduced by the chairman of the House Committee on Appropriations.

40-30. Effective dates. (1) Every statute, except one that provides for appropriation by the Legislature of public funds for a public purpose, takes effect on October 1 following its passage and approval, unless a different time is prescribed therein.

(2) A law appropriating public funds for a public purpose takes effect on July 1 following its passage and approval, unless a different time is prescribed therein.

(3) A joint resolution takes effect on its passage unless a different time is prescribed therein (sections 1-2-201 and 1-2-202, MCA).

40-40. Bill drafting request and introduction limitations. (1) (a) Prior to 5 p.m. on December 5 preceding a regular session of the Legislature, a member may request an unlimited number of bills and resolutions to be prepared by the Legislative Council for introduction in the regular session.

(b) After 5 p.m. on December 5, a member may request no more than seven bills or resolutions to be prepared by the Legislative Council. At least two of the seven bills or resolutions must be requested before the regular session convenes.

(c) After December 5, a member, in the member's discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used.

(d) These limitations on bill and resolution requests do not apply to:

(i) code commissioner bills;

(ii) a bill or resolution requested by a standing committee; and

(1) a bill or resolution requested by a member at the request of a newly elected state official if so designated.

(2) Bills and resolutions must be reviewed by the staff of the Legislative Council prior to introduction for proper format, style, and legal form. The staff of the Legislative Council shall store bills on the automated bill drafting equipment and shall print and deliver them in triplicate to the requesting members. The original bill cover must be signed to indicate review by the Legislative Council. A bill may not be introduced unless it is so signed.

(3) During a session, a bill may be introduced by endorsing it with the name of a member and presenting it in triplicate to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must be introduced in the house in which the member whose name appears first on the bill is a member. The chief joint sponsor's name must appear immediately to the right of the first sponsor's name. In each session of the Legislature, bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.

(4) Any bill proposed by a legislative committee or introduced by request of an administrative or executive agency or department must be so indicated by placing after the names of the sponsors the phrase "By Request of the (Name of committee or agency)".

(5) Bills may be preintroduced, numbered, and reproduced prior to a legislative session by the staff of the Legislative Council. Actual signatures may appear on the face of the preintroduced bill, or signatures may be obtained on a consent form from the Legislative Council and the sponsor's name printed on the bill. Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill. These names will be forwarded to the Legislative Council to be included on the face of the bill following standing committee approval.

(6) All preintroduced bills must be made available to the public.

40-60. Schedules for drafting requests and bill introduction. The following schedule must be followed for submission of drafting requests and introduction of bills and resolutions.

	Request Deadline 5:00 P.M. Legislative Day	Introduction Deadline 5:00 P.M. Legislative Day
• General Bills and Resolutions	10	14
• Revenue Bills	17	21
• Committee Bills and Resolutions	36	40
• Committee Revenue Bills	62	68
• Committee bills implementing provisions of a general appropriation act	75	78
Bills and resolutions delivered after the applicable introduction deadline must be introduced within 2 legislative days after delivery.		
• Appropriation Bills	No deadline	No deadline
• Interim Study Resolutions	No deadline	No deadline
• Resolutions to express confirmation of appointments	No deadline	No deadline
• Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of Administrative Rules	No deadline	No deadline

40-60. Joint resolutions. (1) A joint resolution must be adopted by both houses and is not approved by the Governor. It may be used in:

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(5) the time period during which such funds shall be expended shall be identified.

RRS 49-804.

Sec. 3. Revisor Correctional Bills, Preprinting. (a) Preceding each legislative session, the Chairperson or any member of the Executive Board of the Legislative Council, or if the Executive Board so requests, the senator who, in the preceding session served as Chairperson of the Judiciary Committee, shall sign as introducer the Revisor of Statutes' correctional bills. The Clerk of the Legislature shall number these bills consecutively beginning with number 1 and shall show the committee reference to be General File. The Clerk of the Legislature shall have these bills printed before the convening of the next regular session.

(b) In addition to causing to be printed the revisor bills, the Clerk shall number and cause to be printed all bills delivered to him or her by the Executive Board, provided said Board has referred said bills to a standing committee. No bill so printed shall be withdrawn until after the Legislature convenes.

Sec. 4. Introducers Signing Bills. (a) Members shall introduce only such bills as they are willing to endorse and support personally. The last name and district shall be used, unless an initial or name is necessary to identify the introducer.

(b) A standing committee or special committee may introduce a bill for any purpose, including at the request of another senator, provided said bill receives the endorsement of a majority of the committee members whose names shall be on the bill.

(c) No bill shall be introduced after the tenth legislative day of any session, except:

1. "A" bills, appropriation bills, and bills introduced at the request of the Governor may be introduced at any time;

2. A standing committee or special committee may request that the Legislature consider introduction of a bill. A vote of three-fifths of the elected members of the Legislature shall be required for such bill to be introduced, and a copy of the statement of intent for such bill must be placed on each member's desk before introduction of the bill is voted upon.

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(d) Individual members shall not be limited as to bill introduction. Each committee shall be limited to 8 bills each session. Bills introduced as a result of an interim study of the Legislative Council shall be included within the limitations prescribed by this section. Special committees created as a result of an interim study resolution and as authorized by the Executive Board shall be considered as separate committees for purposes of the limitations prescribed by this section. Bills introduced under Rule 5, Section 3(a) and bills introduced at the request of the Governor will not be included in the limitation.

(e) The introducers of all bills must submit a statement of intent for each bill to the appropriate committee chairperson at least 24 hours prior to the bill's hearing. The statement of intent should discuss clearly and completely the purposes and effects of the bill.

Sec. 5. Scheduling of Bills, Priority Bills. (a) Each senator may designate one bill as a priority bill. Such priority bill need not be the designator's bill, but the principal introducer must concur with the designation as a priority bill and with the withdrawal of the designation once made.

(b) Each chairperson of those committees which are authorized to hold public hearings on bills may designate as priority bills two of the bills referenced to that committee and on which the committee has held a public hearing.

(c) The Speaker may designate up to 25 additional priority bills.

(d) Priority bill designations may be made at any time prior to the annual designation deadline which shall be set each year by the Speaker. The designation deadline shall be prior to the 45th legislative day in the ninety day session and prior to the 30th legislative day in the sixty day session.

(e) A senator or committee may withdraw a priority designation at any time, but will not be allowed to designate another bill as a priority bill in its place. The Speaker may withdraw a priority designation made by the Speaker.

(f) All committees shall schedule priority bills for public hearing ahead of all unscheduled, nonpriority bills unless the person or committee making the priority designation shall otherwise agree.

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(g) All bills not designated as priority bills shall be heard on General File in the order in which they are reported to the floor by the committees, unless the introducer of the bill and the Speaker agree to delay the hearing of a particular bill. This provision shall not be construed to prevent the Speaker from placing bills reported out of committee with two or less dissenting votes on a consent calendar. Any bill placed on consent calendar shall be removed at the written request of three or more senators.

(h) Priority bills shall generally be considered ahead of all other bills at each stage of debate, except that priority bills requiring the expenditure of appropriated funds shall be held on Final Reading until such time as the annual appropriations bills have been passed. A priority bill which fails to advance after two votes on General File, or after one vote on Select File, shall return to nonpriority status.

(i) No priority bill designated under this rule shall have priority over appropriations bills.

Sec. 6. Fiscal Analyst. (a) A copy of every bill introduced shall be transmitted by the Clerk to the Legislative Fiscal Analyst. The Legislative Fiscal Analyst shall review each bill and make an estimate of the anticipated change in state, county, or municipal expenditures or revenue under the provisions of the bill. The Legislative Fiscal Analyst shall prepare a statement to be known as a fiscal note to be attached to each bill prior to its public hearing by a committee, or its first consideration on General File if the bill is referred directly to General File. The fiscal note shall set forth the fiscal impact of the bill and the governmental subdivision affected by the fiscal impact as determined by the Legislative Fiscal Analyst. No bill which has a fiscal impact shall be heard by a committee or considered on General File unless the fiscal note is attached.

(b) In determining the fiscal impact of any bill, the Legislative Fiscal Analyst shall request the appropriate department or other entity of state government or subdivision thereof, or appropriate association which will be affected by the bill, to prepare the fiscal note within five calendar days.

(c) The Legislative Fiscal Analyst shall review the fiscal note so prepared and shall also request a review of such fiscal note by the Budget Division of the Department of Administrative Services. The

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statement by the Budget Division of the Department of Administrative Services shall be attached to and become a part of the fiscal note. The Legislative Fiscal Analyst shall include in the fiscal note any exceptions to the conclusions of the department or other entity and of the Budget Division of the Department of Administrative Services.

(d) The fiscal note shall be delivered by the Legislative Fiscal Analyst to the Clerk at least twenty-four hours prior to the public hearing on the bill or, in the event the bill is referred directly to General File, twenty-four hours prior to the first consideration of the bill on General File. The Clerk shall present the fiscal note to the principal introducer. If extenuating circumstances prevent the Legislative Fiscal Analyst from meeting this deadline, he or she shall present to the principal introducer an unofficial summary of all available fiscal information on the bill by this deadline and deliver to the Clerk the fiscal note when it is available. The Clerk shall attach the fiscal note to the bill and to all copies prepared for members.

(e) When amendments to a bill are adopted by the Legislature and such amendments would change the fiscal impact of the bill, the appropriate changes shall be made in the fiscal note each time the bill is advanced to Enrollment and Review or upon the written request of a member of the Legislature.

(f) When any bill proposes adoption of a new program or change of an existing program, either of which would require an appropriation to implement in the ensuing fiscal year, an appropriation bill for the purposes of funding the provisions of such bill shall be prepared from the information contained in the fiscal note. Such appropriation bill shall be prepared at the direction of the Chairperson of the Appropriations Committee. Such bill shall be placed on General File and considered as introduced by the introducer of the original bill or by the committee which offered the amendments creating the expenditure, and shall bear the number of the original bill with the letter "A" added, and shall accompany the original bill through all stages of the legislative process. All bills for which an "A" bill is prepared shall be bracketed on Final Reading until the "A" bill is advanced to Final Reading.

(g) The authorization bill shall first be considered and if it should be passed on Final Reading then the "A" bill shall be read and voted on for final passage.

344. SIGNING OF BILLS

The President shall sign all bills and resolutions passed by both houses.

345. MOTION TO ADJOURN

A motion to adjourn shall always be in order, except when a member is addressing the chair or a vote is being taken.

346. MEMBERS RETAIN SEATS

When the Senate adjourns, the members shall keep their seats until the President announces the adjournment.

347. PROCEDURE ON HOUSE BILLS

A similar mode of procedure shall be observed with bills which have originated in and passed the House as with bills which have originated in the Senate. The printing or engrossing of those bills may be ordered as provided in these rules.

348. OBJECTION TO READING OF PAPERS

When the reading of a paper is requested and there is an objection by any member, the objection shall be upheld or rejected by the Senate without debate.

349. ELECTRICAL VOTING SYSTEM

Unless otherwise ordered, any vote may be taken by means of the electrical voting system, which shall be under the control of the President.

350. TELEPHONES

No private telephones shall be allowed on the floor of the Senate.

CHAPTER IV. BILLS AND RESOLUTIONS

401. WHO MAY INTRODUCE - JOINT SPONSORSHIP - PREFILING

1. Any bill or resolution which conforms to statutory requirements and

the rules herein set forth, within the time prescribed, may be introduced by any member, standing committee, or the Legislative Council, by filing the same with the Secretary of the Senate, who shall number or letter consecutively each bill or resolution.

2. Any bill or resolution may have, following and separate from the names of the Senate sponsor or sponsors, the names of one or more cosponsors from the House of Representatives.
3. Any bill or resolution, may, prior to the convening of the regular session, be introduced by prefiling in the office of the Legislative Council. Such prefiled bills and resolutions will be numbered and delivered to the Secretary of the Senate. The President of the Senate may assign such prefiled bills and resolutions to committee and may arrange, prior to the convening of the regular session, for the posting of notice of hearing. Prefiled bills and resolutions may not be withdrawn, except on the floor of the Senate in the manner provided by the rules, and such bills and resolutions shall not be confidential.

402. WHEN INTRODUCED

1. No bill shall be introduced after the fourteenth legislative day and no member other than the majority and minority leaders shall introduce more than three bills as prime sponsor after the ninth legislative day, nor shall any resolution, except those resolutions hereinafter provided for, be introduced after the

eighteenth legislative day, except upon approval of a majority of the Committee on Delayed Bills or upon two-thirds vote of the Senate.

2. No bill introduced at the request of an executive agency or the Supreme Court shall be introduced after December fifteenth prior to the ensuing regular session, except upon approval of a majority of the Committee on Delayed Bills.
3. Resolutions which propose amendments to the United States Constitution and resolutions directing the Legislative Council to carry out a study, shall not be introduced after the thirty-fourth legislative day, and shall be reported back from the standing committee, if referred, no later than the forty-fourth legislative day in the case of resolutions proposing constitutional amendments, and no later than the thirty-seventh legislative day in the case of resolutions directing a Legislative Council study.
4. Resolutions which propose amendments to the Constitution of North Dakota shall not be introduced after the eighteenth legislative day, and shall be reported back from the Joint Constitutional Revision Committee no later than the forty-fourth legislative day.
5. A resolution proposing a constitu-

tional amendment or directing a Legislative Council study which is not reported back as provided in this rule shall automatically be placed on the calendar without recommendation.

403. DELAYED BILLS AND RESOLUTIONS

The Committee on the Introduction of Delayed Bills shall receive from the Secretary all bills and resolutions offered for introduction after the time for introduction as heretofore limited, and shall, on the same or the next legislative day after receiving such bill or resolution, report to the Senate its conclusion whether the introduction of the bill or resolution should be allowed, and if a majority of the committee favors introduction, the bill or resolution shall be introduced. All such bills and resolutions shall bear the name or names of the original sponsors.

404. FORM OF BILLS, NUMBER OF COPIES

1. Every bill and resolution shall be in typewritten form and eleven copies shall be filed with the Secretary of the Senate.
2. Each bill and resolution shall have typed on it the name of the member, or members, but no more than five from the Senate, nor more than three from each house on jointly sponsored bills or resolutions, or committee introducing the same.
3. The enacting clause of a bill shall be as follows: "BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA".

NORTH DAKOTA House

listed in alphabetical order for seating purposes.

351. INTRODUCTION OF GUESTS LIMITED - COURTESY OF THE HOUSE

1. Introduction of guests in the House of Representatives shall be limited to those persons called on to address that body and former members of the Legislative Assembly.
2. No person shall be admitted to the floor of the House except state officers; judges of the Supreme Court and district courts; present and former members of Congress; present and former members of the Legislative Assembly; present officers and officials; all employees of both houses of the Legislative Assembly; reporters for newspapers; and any other person granted admission by the Speaker.
3. No member shall have more than one guest seated with the member on the floor at any one time.
4. For the purposes of this rule, the floor of the House is hereby defined as all of the first floor of the House chamber in front of the railing.

CHAPTER IV. BILLS AND RESOLUTIONS

401. WHO MAY INTRODUCE - JOINT SPONSORSHIP - PREFILING

1. Any bill or resolution which conforms to statutory requirements and the rules herein set forth, within the time prescribed, may

be introduced by any member, standing committee, or the Legislative Council, by filing the same with the Clerk of the House, who shall number or letter consecutively each bill or resolution.

2. Any bill or resolution may have, following and separate from the names of the House of Representatives sponsor or sponsors, the names of one or more cosponsors from the Senate.
3. Any bill or resolution, may, prior to the convening of the regular session, be introduced by prefiling in the office of the Legislative Council. Such prefiled bills and resolutions will be numbered and delivered to the Clerk of the House. The Speaker of the House may assign such prefiled bills and resolutions to committee and may arrange, prior to the convening of the regular session, for the posting of notice of hearing. Prefiled bills and resolutions may not be withdrawn, except on the floor of the House in the manner provided by the rules, and such bills and resolutions shall not be confidential.

402. WHEN INTRODUCED

1. No bill shall be introduced after the fourteenth legislative day and no member other than the majority and minority leaders shall introduce more than three bills as prime sponsor after the ninth legislative day, nor shall any resolution, except those resolutions hereinafter provided for, be introduced after the eighteenth legislative day, except upon approval of a majority of the

Committee on Delayed Bills or upon two-thirds vote of the House.

2. No bill introduced at the request of an executive agency or the Supreme Court shall be introduced after December fifteenth prior to the ensuing regular session, except upon approval of a majority of the Committee on Delayed Bills.
3. Resolutions which propose amendments to the United States Constitution and resolutions directing the Legislative Council to carry out a study, shall not be introduced after the thirty-fourth legislative day, and shall be reported back from the standing committee, if referred, no later than the forty-fourth legislative day in the case of resolutions proposing constitutional amendments, and no later than the thirty-seventh legislative day in the case of resolutions directing a Legislative Council study.
4. Resolutions which propose amendments to the Constitution of North Dakota shall not be introduced after the eighteenth legislative day, and shall be reported back from the Joint Constitutional Revision Committee no later than the forty-fourth legislative day.
5. A resolution proposing a constitutional amendment or directing a Legislative Council study which is not reported back as provided in this rule shall automatically be

placed on the calendar without recommendation.

403. DELAYED BILLS AND RESOLUTIONS

The Committee on the Introduction of Delayed Bills shall receive from the Chief Clerk all bills and resolutions offered for introduction after the time for introduction as heretofore limited, and shall, on the same or the next legislative day after receiving such bill or resolution, report to the House its conclusion whether the introduction of the bill or resolution should be allowed, and if a majority of the committee favors introduction, the bill or resolution shall be introduced. All such bills and resolutions shall bear the name or names of the original sponsors.

404. FORM OF BILLS, NUMBER OF COPIES

1. Every bill and resolution shall be in typewritten form and eleven copies thereof shall be filed with the Chief Clerk of the House.
2. Each bill and resolution shall have typed on it the name of the member, or members, but no more than five from the House, nor more than three from each house on jointly sponsored bills or resolutions, or committee introducing the same.
3. The enacting clause of a bill shall be as follows: "BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA".
4. No bill shall embrace more than one subject, which shall be expressed in its title.

drafting of pre-filed bills and resolutions must be received by the Office of Legal Services by the second Tuesday of December of such year.

Any member of the Senate pre-filing a bill or resolution for introduction in the next session shall follow the procedure as follows:

- (1) The bill or resolution shall be filed with the Chief Clerk of the Senate by the member in the number and form prescribed by the Rules of the Senate
- (2) The Chief Clerk shall number the bill or resolution and note thereon the date of the first day of the next session, on which the bill or resolution will be introduced and, in the case of bills, will pass first consideration.
- (3) All general bills or resolutions of general interest shall be printed and distributed in the same manner as bills and resolutions introduced during a session.
- (4) After written request of the sponsor of a pre-filed bill or resolution, the Speaker of the Senate may in his discretion refer the bill or resolution to the appropriate committee to be studied and considered by the committee, or a subcommittee thereof, during the interim between sessions.
- (5) Legal Analyses of bills shall be prepared and distributed in the same manner as during sessions.
- (6) Fiscal notes shall be prepared for pre-filed bills in the same manner as during sessions.

(2) Filing of General Bills for Introduction During Session.

After the third (3rd) Legislative day of each regular annual session until final adjournment of the General Assembly for that session or year, each member of the Senate shall be limited to nine (9) general bill introductions.

This rule shall not apply to administration bills of the governor, but each such administration bill shall be designated as such at the bottom of the front page of the bill and all administration bills shall be filed by the tenth legislative day.

This rule shall not apply to bills introduced by a committee chairman at the direction of the committee.

All bills for introduction shall be filed with the Chief Clerk no later than four (4) o'clock p.m. on the day preceding the date of introduction; provided, however, that commencing with a period of two (2) legislative days before the cut-off date for introducing bills and thereafter until the end of the session for a given year, bills may be introduced on the same day as filed

Requests for the drafting of bills shall be submitted to the Office of Legal Services for the General Assembly, War Memorial Building, Nashville, Tennessee, 37219, which shall acknowledge receipt of such request in writing to the member.

26. LOCAL BILLS. No general bill with local application, local or private bill, shall be introduced unless personally signed by a Senator representing a local unit of the government. No general bill with local application, local or private bill, shall be passed on third consideration unless three-fourths (¾) of the Senators who represent the local unit of government to which that bill is applicable are present or unless three-fourths (¾) of said Senators have otherwise agreed in writing and have

Alaska State Legislature

Legislative Research Agency



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Juneau, AK 99811-3100
Phone: (907) 163-3891
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February 22, 1990

MEMORANDUM

TO: Representative Dave Donley

ATTN: Michael Ward

FROM: Leola Weimer *LW*
Legislative Analyst

RE: Administrative Costs Associated With Producing A Bill
Research Request 90.194

You asked about the administrative costs associated with a legislative bill and a committee substitute (per page). Specifically, you requested that only data entry, printing and handling costs be considered; and that legal and research services be excluded.

Summary

There are many factors associated with the production of a bill, committee substitute, amendment, citation or resolution. The administrative costs of data entry, printing and handling make up only a fraction of the total cost.

There is no difference in administrative costs between a bill, committee substitute, amendment, citation or resolution. In 1989 there were 1,507 documents produced totalling 6,570 pages of material.

The administrative cost for producing a one- or two-page document is \$85.35 per page. Documents three or more pages in length require collating and therefore cost slightly more. A document three or more pages costs \$93.04 per page to produce.

Cost of Producing a Bill

There are many costs associated with producing a bill. Staff time, legal analysis, background research, public testimony, committee hearings, special investigations, drafting, data entry, printing, engrossing, filing, mailing, document management, and many other services provided for and by legislators add to the cost of producing a bill. Legal services and research expenses may constitute the greatest portion of costs associated with producing a bill. Administrative costs (e.g., data entry, printing and handling), which are the subject of this analysis, make up only a fraction of the cost of bill production.

TABLE 1
1989 INTRODUCTIONS

Type	Total Number	Total Pages	% Total Number	% Total Pages
Bills	696	2,916	46 %	44 %
CS/Amendments	507	3,007	34	46
Resolutions	304	647	20	10
Total	1,507	6,570	100 %	100 %

Data entry, printing and handling costs per page were determined from information provided by Pam Stoops, director of the Division of Administrative Services; Tamara Brandt Cook, director of the Division of Legal Services; and Sam Pekovich, manager of Duplicating Services. The administrative cost of a bill, committee substitute, amendment, citation or resolution one to two pages in length is \$85.35 per page. The cost of a document three or more pages is approximately \$93.04 per page.

These cost estimates are comprised of the costs of data entry, printing and handling which are shown below.

$$\text{Data Entry}^2: \frac{\text{Total Expenditures}}{\text{Total Pages}} = \frac{\$400,982.00}{6,570} = \$61.03$$

² Data entry cost:	Salaries	\$377,786.00
	Supplies & Materials	981.00
	+ Equipment	+ 22,215.00
	Total Expenditures	\$400,982.00

Salaries include one legal editor, one administrative assistant, one automation specialist, two secretaries, two messengers and five enrollers: \$377,786.00.

Supplies and materials and equipment for 1989 were estimated by Tamara Brandt Cook and Pinky Kimilinger to be half of Legal Services total expenditures.

b) three or more pages (collating required)

Data Entry	\$ 61.03
Printing	25.34
+ Handling	+ 6.67
Total	\$ 93.04 per page

Table 2 is an incremental chart of total administrative costs involved in producing a bill, committee substitute/amendment, or resolution from one to 49 pages. Documents over 49 pages require special handling by Duplication Services because of collation and stapling machine limitations. Exact figures were not available to compute this added expense. Sam Pekovich explained that added time and labor required to collate and staple documents 50 pages or more by hand makes the cost of production "slightly more" than documents under 50 pages done by machine.

TABLE 2
TOTAL ADMINISTRATIVE COSTS

<u>Pages</u>	<u>Administrative Costs</u>	<u>Pages</u>	<u>Administrative Costs</u>
1	85.35	26	2,418.98
2	170.70	27	2,512.02
3	279.11	28	2,605.04
4	372.15	29	2,698.09
5	465.19	30	2,791.14
6	558.23	31	2,884.16
7	651.26	32	2,977.20
8	744.30	33	3,070.23
9	837.34	34	3,163.28
10	930.38	35	3,256.33
11	1,023.41	36	3,349.38
12	1,116.46	37	3,442.39
13	1,209.49	38	3,535.42
14	1,302.52	39	3,628.43
15	1,395.57	40	3,721.52
16	1,488.60	41	3,814.54
17	1,581.64	42	3,907.61
18	1,674.68	43	4,000.61
19	1,767.71	44	4,093.64
20	1,860.76	45	4,186.71
21	1,953.78	46	4,279.72
22	2,046.82	47	4,372.76
23	2,139.86	48	4,465.84
24	2,232.90	49	4,558.82
25	2,325.95		

I hope this information is useful to you. If you have any questions, please contact this agency.

Alaska State Legislature

Item 13

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 185-3991
Fax: (907) 183-3351

May 2, 1990

MEMORANDUM

TO: Senator Rick Uehling

ATTN: Carol Horos

FROM: Leola Weimer *LWW*
Legislative Analyst

RE: Ethics Codes: A Comparison
Research Request 90.317

You asked for a comparison of governmental ethics codes in the United States. Specifically, you wanted to know the provisions in federal, state and various model ethics codes regarding 1) the composition and jurisdiction of ethics boards or commissions; 2) mandatory ethics education; 3) required disclosures of conflicts of interest; and 4) post-employment restrictions.

SUMMARY

The composition and jurisdiction of ethics boards and commissions vary from state to state. A five-member board that regulates either campaign finance or ethics codes is the most common. Alaska has three agencies that regulate ethics codes: the Alaska Public Offices Commission (APOC) for campaigns, financial disclosures and lobbyist registration; the Personnel Board for deciding matters regarding the Executive Branch Ethics Act; and the Select Committee on Legislative Ethics for matters concerning legislators and legislative staff. These agencies have five, three and nine members, respectively. CSSB 415 would create a Legislative Ethics Commission of nine members.

Education is a key element to an effective ethics code. Most states require ethics commissions to publish annual reports or handbooks on the state's ethics code. The requirement for mandatory ethics education is a relatively new development. Ethics codes for the City of Los Angeles and the State of California are the only two which require mandatory ethics education. Alaska Statutes require APOC to publish a manual on the state ethics codes. CSSB 415 would require mandatory ethics education for all legislators, employees and lobbyists. A five-member education advisor committee would administer the on-going education program.

The purpose of conflict-of-interest provisions is to prevent public officials and employees from abusing the power and status of their public office for personal gain. Financial disclosure is considered the "linchpin" of government

ethics laws. Financial disclosure requirements must be drafted carefully to provide a constitutional balance between the official's or employee's right to privacy and the public's right to know. Alaska Statutes require financial disclosures of legislative members, executive official employees, candidates and lobbyists. Some conflict-of-interest provisions in CSSB 415 are already covered in Alaska Statutes, many of the general proposals have precedence in other states or model codes, and some specific provisions have no precedence.

Twenty-nine states have statutes restricting the employment of government officials or employees after they leave their government posts. These "revolving-door" restrictions typically prohibit high-ranking public officials from lobbying their former agencies on matters in which they were personally and substantially involved. Other common provisions place permanent bans on disclosing confidential information and temporary bans on lobbying for a specific matter in which a high-ranking public official was personally or substantially involved. Such restrictions must be defined narrowly so as not to discourage highly qualified professionals from entering government service, infringe on the constitutional rights of present state officials, or prevent the flow of communication and understanding between the public and private sector. Alaska Statutes place a two-year, post-employment prohibition on executive branch public officers from lobbying, for compensation, their former agencies on matters which they participated in personally and substantially, and permanently bans all government employees from disclosing confidential information. CSSB 415 would prohibit legislators from lobbying, for compensation, the legislature or state agencies on specific matters over which the former legislator had special oversight or budget authority. "Legislative assistants" are subject to a one-year ban from lobbying before the legislature on any matter.

BACKGROUND

The first major ethics reform in the United States was spawned by the Watergate scandal of the early 1970s. At that time, relatively few states had comprehensive or effective ethics laws. Today, almost every state has enacted ethics laws that seek to prevent public officials from using their positions for private gain. Although public support for ethics reform has remained strong, only about a dozen states have something comprehensive enough to be called a state code of ethics.¹

According to a recent *National Journal* article, "almost every state and major city in the U.S. has confronted a scandal among its public officials in the past

¹Jill M. Schultz, legislative analyst, "State Ethics Codes And Minnesota's Ethics Laws--A Comparison," Minnesota Senate Counsel and Research, February 1988, p. 1.

five years."² Publicity of these local scandals and national revelations about the Iran-Contra affair, the scandal at the U.S. Department of Housing & Urban Development, the collapse of the savings and loan industry, and lobbying activities of former White House officials, has spawned a renewed demand to revise and strengthen existing codes of ethics. Over 22 states are currently considering bills to reform their state ethics laws.³

Model ethics codes have been drafted by the Council on Governmental Ethics Laws (COGEL),⁴ by the National Municipal League and by Common Cause. A review of federal ethics was completed by the President's Commission on Federal Ethics Law Reform in March 1989. Many of the commission's recommendations were enacted into law on November 30, 1989 through the passage of the *Ethics Reform Act of 1989* (PL 101-194). Wisconsin has long been considered the model to which other state ethics laws are compared. New York, California and the City of Los Angeles have recently passed ethics codes considered to be the most comprehensive.

COMPOSITION AND JURISDICTION OF ETHICS BOARDS AND COMMISSIONS

The composition and jurisdiction for ethics boards and commissions varies from state to state. Tables 1 - 3, attached, are summaries of the findings from a survey conducted by COGEL in 1989 of the fifty states, District of Columbia and federal government.⁵ A more detailed description by state is found in Attachment A.

Fifty-seven percent of those surveyed have more than one agency which is responsible for regulating the conduct of public officials and employees. The ethics boards and commissions are most commonly (34 percent) composed of 5 members. Thirty-eight percent have separate campaign and ethics commissions, 29 percent have commissions which regulate campaigns only, 23 percent have boards which regulate both campaign finance and ethics codes, and the remaining 10 percent have a complex structure of boards some which regulate both campaigns and ethics and some which regulate only a specific aspect of campaigns or ethics.

²"Grass-Roots Graft," *National Journal*, August 1, 1987, pp. 1962-1967.

³Schultz, *Op. cit.*

is an affiliate of the Council of State Governments (CSG).

⁴Council on Governmental Ethics Laws, *Campaign Finance, Ethics & Lobby Law*, Special Edition, Blue Book 1988-89.

Model Ethics Codes

The Council On Governmental Ethics Laws (COGEL) *Model Laws* recommends the establishment of an independent authority consisting of five members appointed by the governor from a panel of ten individuals nominated by the chief justice (§ 206.01).⁶ Meetings are held at the call of the chair or a majority of its members (§ 206.03). Members serve without compensation, but are afforded actual and necessary expenses incurred in the performance of duties (§ 206.06).

Common Cause (CC) *Model Ethics Law for State Government* recommends the establishment of an independent commission consisting of seven members; five of whom are appointed by the governor, one by the state secretary and one by the attorney general [Section II (1.1)].⁷ A special caution was added in the commentary of the CC report to ensure that there "always be an odd number of commissioners, as well as some mechanism for ensuring timely action by the commission."⁸ The commission is to meet at least once each month. The chair or any four members may call a meeting at any time provided that advance written notice is mailed to each member and public notice is made 72 hours prior to such meeting [Section II (1.7)]. Members are to be compensated for work performed at a set rate and reimbursed for reasonable and necessary expenses [Section II (1.8)].

The National Municipal League (NML) *Model State Conflict of Interest and Financial Disclosure Law* recommends the establishment of a seven-member commission appointed by the governor with the concurrence of the Senate [Section 4 (a)].⁹ There is no recommendation as to the frequency of commission meetings. Each member shall be compensated at a set rate for each day and reimbursed for reasonable and necessary expenses incurred in the performance of official duties [Section 4 (d)].

All three model codes extend the ethics commission's jurisdiction to elected or appointed officials and employees of state legislative, executive and judicial branches.

⁶Council on Governmental Ethics Laws, *Model Laws*, second draft, Section 206.01 (hereafter cited as COGEL Model Laws).

⁷Common Cause, *A Model Ethics Law For State Government*, January 1989, Appendix, Text of Model State Ethics Law, p. 13 (hereafter cited as Common Cause, *Ethics Law*).

⁸*Ibid.*, p. 16.

⁹National Municipal League, *Model State Conflict of Interest & Financial Disclosure Law*, 1979, p. 5 (hereafter cited as NML, *Model Law*).

Alaska's Current Law

In Alaska, government ethics are regulated by the Alaska Public Offices Commission (APOC), the Alaska Executive Branch Ethics Act (AS 39.52) and the Select Committee on Legislative Ethics (AS 24.60.130).
APOC

The duties of the Alaska Public Offices Commission (APOC) are specified in AS 15.13. APOC is the agency in charge of regulating campaign finance, personal financial disclosure and lobbyist registration (AS 15.13.010 - .130). The commission has a total of five members, four of whom are appointed by the governor. The commission meets four times a year and received an annual budget of 572,500 for FY 88.

Executive Branch

Alaska Statute 39.52 establishes the Alaska Executive Branch Ethics Act. Article 4 describes the complaints and hearing procedures. Violations of the Executive Branch Ethics Act are reported to the attorney general. If a complaint is deemed warranted, the attorney general then conducts an investigation and presents the findings to a hearing officer. Within thirty days after the conclusion of the formal hearing, written conclusions are submitted to the Personnel Board who then determines if a violation has occurred and what action should be taken. The Personnel Board is composed of three members appointed by the governor and confirmed by the legislature (AS 39.25.060).

Legislative Branch

Alaska Statute 24.60.130 establishes a Select Committee on Legislative Ethics. The committee adopts procedures and publishes summaries of decisions and advisory opinions. They may also conduct investigations and make recommendations to the legislature. The committee consists of nine members: three senate members, three house members and three public members. The committee is divided into two subcommittees, one for the house and one for the senate; public members serving on both subcommittees.

Josephson's Proposal

Article 3 of CSSB 415 describes the composition and jurisdiction of the Legislative Ethics Commission.

Section 24.61.500 establishes an independent commission of nine members, of whom one member is appointed by the senate, one by the house, two by the supreme court, one by the governor, one by the lieutenant governor, one by APOC, and two by a majority vote of the seven appointed members. Section 24.61.504 requires

that the commission meet at least once every three months and/or at the call of the chair or a majority of the commissioners. The fiscal note for CSSB 415 (JUD) is \$1,244,000 for FY 91.

Section 24.61.504 (d) requires the commission to "develop and implement policies consistent with those employed by other state commissions for the reimbursement of travel costs and the payment of per diem under AS 39.20.180." Attachment B is a summary by state of salary and per diem expenses for existing ethics commissions and their annual budgets.

Section 24.61.510 lists the general powers and duties of the commission. The provisions outlined under this section are similar to those of model and existing state ethics codes.

A comparison of the composition of ethics commissions discussed above is as follows:

<u>Source</u>	<u>Number of Members</u>
COGEL survey of states (mode or 34 percent)	5
COGEL model laws	5
Common Cause model	7
National Municipal League	7
APOC	5
Alaska Personnel Board (Executive Branch)	3
Alaska Select Committee on Legislative Ethics	9
Josephson's Proposal CSSB 415 (5/1/90 draft)	9

ETHICS EDUCATION

Education is a key element to an effective ethics code. Most states require the ethics commission to publish annual reports or handbooks on the state ethics code. For example, Title 8, Section 803(i) of the Federal Ethics Reform Act of 1989 (PL 101-194--November 30, 1989) establishes an Office on Advice and Education which is responsible for a) providing information and guidance; b) submitting written interpretations of applicable laws, rules, regulations, or

other standards upon request; c) recommending formal advisory opinions of general applicability; and d) carrying out periodic educational briefings for members, officers and employees on those laws, rules, regulations, or other standards of conduct applicable to them. In addition, executive branch agencies are responsible for training their employees concerning ethics requirements. To maintain uniformity among executive branch agencies, each must obtain approval of its annual plan for training and awareness activities from the Office of Government Ethics.¹⁰

Mandatory Ethics Education

The requirement for mandatory ethics education is a relatively new development. In 1989, Los Angeles was the first city to initiate a mandatory ethics education program. According to the final report and recommendations of the commission organized to draft an ethics code for the Los Angeles city government, "the central function of an ethics code is to prevent--rather than punish--unethical conduct. To achieve that goal, the Commission believes an educational and training program must accompany the new code."¹¹ Simply reading the rules or getting instruction on the filing of disclosure forms was deemed ineffective. Instead, mandatory ethics training courses and ongoing educational seminars are required for all current and newly elected and appointed officials, city employees, lobbyists, declared candidates and campaign treasurers.¹²

After over one and one half years of special committee hearings and deliberations, the California State Legislature passed a comprehensive political reform act on ethics in government (SB 1738) on April 26, 1990.¹³ Upon enactment of this bill, a new section will be added to the Government Code. One section of this proposal will require mandatory ethics education. In addition to requiring legislators and designated employees to participate in ethics course at least once per biennial session, this bill also amends the Political Reform

¹⁰President's Commission on Federal Ethics Law Reform, *To Serve With Honor*, Report and Recommendations to the President, March 9, 1989, p. 97.

¹¹*Ethics and Excellence in Government*, Final Report and Recommendations of the Commission to Draft an Ethics Code for Los Angeles City Government, November 1989, p. 12 (hereafter cited as *Ethics and Excellence in Government*).

¹²*Ibid.*, p. 11 (Recommendation 7).

¹³Ethics reform in California is a three tier process. One of which includes the passage of SB 1738. There is also an initiative, proposition 112, to be voted on in the next election and a comprehensive reform of internal rules of both houses.

Act to require that lobbyists take the course at least once every two years.¹⁴
Section 1.8956 states

- (a) The appropriate legislative ethics committees shall conduct at least semiannually an orientation course of the relevant statutes and regulations governing official conduct. The curriculum and presentation of the course shall be established by house rules.
- (b) The committees shall conduct at least annually an orientation course on the relevant ethical issues and laws relating to lobbying, in consultation with the Fair Political Practices Commission. This course may be combined with the course described in subdivision (a).
- (c) At least once in each biennial session, each Member of the Legislature and each designated employee of the Legislature shall attend one of these courses.
- (d) The committees shall impose fees on lobbyists for attending the course described in subdivision (b). The fees shall be set at an amount that will enable the lobbyists' participation in the course to be funded from those fees to the fullest extent possible.

Model Ethics Codes

Section 208.12 of the COGEL model ethics law recommends that the ethics commission "(1) conduct research concerning state governmental ethics and (2) implement the educational programs it considers necessary to effectuate this Act."

Chapter 2, Section 2.3 of the Common Cause model ethics law suggests including "a provision requiring the commission to notify all new employees and officials of provisions of conflict of interest law as it applies to them. The commission should publish working interpretations of the law, with examples, for specific branches of government, other agencies, or candidates, thereby 'spreading the word' among employees and officials and facilitating compliance."¹⁵

¹⁴California State Legislature, Conference Committee on SB 1738, hearing April 4, 1990, p. 5.

¹⁵Common Cause, *Ethics Law*, p. 26.

Section 5 (c) of the National Municipal League model ethics code states

The Commission shall, in addition to its other duties:

- (i) Prescribe forms for reports, statements, notices, and other documents required by law;
- (ii) Prepare and publish manuals and guides explaining the duties of individuals covered by this law; and giving instructions and public information materials to facilitate compliance with, and enforcement of, this law; and
- (iii) Provide assistance to agencies, officials and employees in administering the provisions of this law.¹⁶

Alaska Statutes

Alaska Statutes 15.13.030(2) requires the Alaska Public Offices Commission to:

prepare and publish a manual setting out uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter and otherwise assist candidates, groups, and individuals in complying with the requirements of this chapter.

Josephson's Proposal

Article 4 of CSSB 415 (Leg. Ethics) establishes a Legislative Ethics Education Program. A five-member Education Advisor Committee is responsible for implementing mandatory ethics orientation training courses for new legislators and employees each January; current issues and applications seminars required for all existing legislators and legislative employees in January of each odd-numbered year; and lobbyist training courses. There is no specification as to when lobbyist training courses must be offered, but lobbyists are required to repeat the training course at least once every three years.

CONFLICT-OF-INTEREST DISCLOSURE REQUIREMENTS

The purpose of conflict-of-interest provisions is to prevent public officials and employees from abusing the power and status of their public office for personal gain. A variety of conflict-of-interest prohibitions have been adopted

¹⁶NML, *Model Law*, p. 9.

in the United States. Financial disclosure, however, is considered the "linchpin" of any government ethics law.¹⁷ In drafting precise and complete financial disclosure requirements, the official or employee's right to privacy must be weighed against the public's right to know. In general, conflict of interest provisions seek to

1. prohibit the acceptance of gifts and additional compensation,
2. prohibit the solicitation of things of value,
3. prohibit the use of confidential information for personal gain,
4. restrict an employee's or an official's appearances before his or her own agency or other agencies on personal or private business,
5. restrict an employee's or an official's outside business interests and employment, and official acts which would affect his or her financial interests, and
6. restrict an employee's or official's business contracts with the state.¹⁸

Attachment C is a description of personal disclosure statements by state. Conflict-of-interest disclosures are primarily a listing of financial interests. The disclosure of personal relationships beyond one's immediate family members and dependents is not currently required by any state.

Sample States

California and New York are two states commonly referred to as having model ethics codes. California has recently adopted a revised comprehensive ethics code covering executive, judicial and legislative branches. It provides a comprehensive list of conflict-of-interest restrictions. New York's Ethics In Government Act of 1987 (EIGA) is one of the most comprehensive standards of conduct and financial disclosure laws for elected officials. Extensive personal financial disclosures are required for legislators and key legislative employees.

¹⁷*Ethics and Excellence in Government*, p. 15.

¹⁸Schultz, *op cit.*, p. 2.

California

California Political Reform Act on Ethics in Government bans honoraria, limits gifts to no more than \$250 per single source per calendar year and makes various changes on gift limitations and the use of campaign funds. It also strengthens existing conflict of interest laws by imposing a fine of up to \$2,000 per violation for legislators who attempt to use their official positions to influence a governmental decision in which they have a financial interest, including

1. any state governmental decision, other than an action or decision before the legislature, made in the course of his or her duties as a member;
2. approval, modification or cancellation of any contract to which either house or any committee of the legislature is a party;
3. introduction as a lead author of any legislation that the member knows or has reason to know is not general legislation;
4. any vote in a legislative committee or subcommittee on what the member knows or has reason to know is not general legislation;
5. any roll-call vote on the Senate or Assembly floor on an item which the member knows is not general legislation;
6. any action or decision before the legislature in which the member knows or has reason to know the action or decision will have a direct and substantial financial impact, different from the impact on the public generally, on a lobbyist or employer from whom the member has received earned income within the preceding 12 months; and
7. any action or decision before the legislature on legislation that the member knows or has reason to know will have a direct and significant financial impact on any person from whom the member has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any

other action on behalf of that person, before any local board or agency.¹⁹

These provisions do not apply to a vote on the budget bill as a whole, on a consent calendar, motion for reconsideration, waiver of any legislative rule, or purely procedural matters.

New York

One of the major aspects of the New York Ethics in Government Act of 1987 was to provide for stricter personal financial disclosure requirements. Previously, legislative officials were only required to disclose a limited amount of personal financial information. Currently, an extensive financial disclosure form is required for all legislators and legislative staff who earned in excess of \$53,171 from the legislature during 1990 or who hold "policy-making" positions. Employees who earn less than \$53,171 or have "non-policy-making" positions are only required to fill out a limited disclosure form. Copies of both the long and short form are Attachment D. General code of ethics standards as they apply to legislative employees, members of the legislature and officers and employees of state agencies are also in Attachment D.

Federal Conflict of Interest Restrictions

The Ethics Reform Act of 1989 (PL 100-194) provides specific descriptions of the way in which individuals must report assets, income, financial transactions, liabilities, gifts and reimbursements. A review of existing ethics laws by the President's Commission on Federal Ethics Law Reform, however, warned that

the use of unduly narrow categories for specifying asset value and income seems to the Commission to result in a needless burden on filers without providing particularly useful information to the public and also increases the risk that filers will make inadvertent mistakes. In the case of assets other than publicly traded securities, the precision of the required reporting may also necessitate the employee's incurring the cost of a professional appraisal.²⁰

The commission recommended that disclosures be limited to a minimum number of asset value and income categories as may be needed to provide useful information. The commission also recommended that financial disclosure

¹⁹California State Legislature, Conference Committee on SB 1738, hearing April 4, 1990, p. 6.

²⁰President's Commission, *op cit.*, p. 81.

requirements for political appointees and high-level policy makers be extended to include home mortgages and loans from relatives. The commission warned, however, that these requirements should not be extended to "career employees." The commission explained that they were "reluctant to increase reporting burdens on those who have become accustomed to the existing requirements, and there has been no indication that indebtedness among career employees is a significant source of conflict problems."²¹

Model Ethics Codes

COGEL

The COGEL model ethics laws suggest that statutes include both general conflict-of-interest clauses and specific requirements for personal financial disclosure.

Recommended conflict-of-interest sections center around preventing the use of a public position to obtain private benefits for oneself or an immediate family member. This includes appearing as an advocate or representing former clients before state or local entities (except in purely ministerial matters), in a personal capacity for immediate family, or for a government entity that is the public official's or employee's principal employer (Section 230). Acceptance of gifts, honoraria, contracts and outside employment are also regulated (Sections 232, 234, 236 and 238). In the case of accepting anything of value for the promise to perform certain duties and responsibilities, conflict-of-interest restrictions are extended to include business associates (Section 218). Likewise in the case of "using one's public position to obtain benefits for business or social acquaintances," restrictions are extended to persons "with whom the public official or employee has a personal, financial, or other non-business relationship has an economic interest in the particular matter, or may receive an unwarranted privilege as a result of the official or employee's participation" (Section 220). Copies of the relevant sections are found in Attachment E.

The accompanying commentary stresses the need to make clear distinctions "between the proper and improper use of title and prestige of office" and stresses that prohibitions be extended "regardless of whether the public official or employee receives any pecuniary benefit."²²

Special attention should also be paid to serious constitutional questions as to how these restrictions may effect the right to free speech. COGEL recognizes that many of these sections will "be difficult to police and will have to be

²¹Ibid., p. 82.

²²COGEL, *Model Laws*, p. 23.

enforced on a subjective, rather than objective, basis."²³ Endorsement of political parties and candidates for public office is recognized as a constitutionally protected right. Restrictions on endorsements should "serve to temper these endorsements by playing down the public servant's government affiliation and emphasizing instead the individual."²⁴ For example, a campaign advertisement should not say "endorsed by the Governor of Alaska," or "endorsed by Governor Cowper," but rather that the candidate was "endorsed by Steve Cowper."

With regards to financial disclosures, COGEL suggests that public officials, public employees earning \$35,000 or more and consultants disclose their own financial and economic interests and those of their immediate family members. Ten category amounts are specified ranging from less than \$1,000 to over \$100,000 (Section 246, Attachment E). Exceptions are specified and disclosure of the following financial information is not required:

- (1) spouses living separate and apart from the public official or public employee;
- (2) a former spouse;
- (3) a seasonal or special occasion gift exchanged between family members or family friends;
- (4) a campaign contribution (eliminates duplication of campaign finance law disclosure requirements);
- (5) a gift of a nonpecuniary occasional nature that is not substantial in value;
- (6) an award presented at a public ceremony in recognition of the civic, governmental, cultural, charitable, or religious activities of a public official, public employee, or immediate family member; and
- (7) income received by a dependent child from a trust established for that child by a family member.

Common Cause

In September 1989, Common Cause published a special report entitled *Conflict of Interest Legislation in the States*. In the review of the ethics codes in each of the fifty states, they found that "a sound conflict-of-interest statute is

²³*Ibid.*, p. 24.

²⁴*Ibid.*

vital to comprehensive reform."²⁵ Four key elements were identified as essential components of an effective statute:

- (1) personal financial disclosure requirements;
- (2) prohibitions on abuse of public office for personal financial gain;
- (3) prohibitions on conflicts of interest and standards of conduct to prevent and avoid them; and
- (4) the establishment of an independent, nonpartisan commission to administer the law with investigatory and civil enforcement powers.²⁶

In considering the specific scope of personal disclosure statements, special attention must be paid to the constitutional question of balancing "the public's right to know versus the public official's right to privacy."²⁷ Virtually all state courts have upheld the constitutionality of financial disclosure. Most state courts have reached conclusions similar to those of the Supreme Court of Washington decision in the case of *Fritz v. Gorton*, 517 P.2d 911, 925 (1974). In this case, the court held

The right of the electorate to know most certainly is no less fundamental than the right of privacy. When the right of the people to be informed does not intrude upon intimate personal matters which are unrelated to fitness for public office, the candidate or officeholder may not complain that his own privacy is paramount to the interests of the people.²⁸

Section 5 of the Common Cause model ethics law outlines a proposal for financial disclosure guidelines that take into account this delicate balance between the public's right to know and a public official's right to privacy. The complete text of this model ethics code is found in Attachment F. The Common Cause proposal suggests that "all candidates for public office, high-level officials, and their spouses and dependent children must disclose their financial interests

²⁵Common Cause, *Conflict of Interest Legislation in the States*, September 1989, p. 6.

²⁶*Ibid.*, pp. 6-7.

²⁷*Ibid.*, p.10.

²⁸*Ibid.*

according to a system of category amounts."²⁹ It explains that this type of disclosure has become "an accepted foundation of sound ethics laws across the country" and cites statutes in which "the legislators of forty states and the state-wide elected officials of thirty-six states currently must disclose their personal financial interests."³⁰ In evaluating the personal disclosure requirements of these various states, Common Cause warns that "simply requiring candidates, officials and employees to file financial disclosure reports is not enough. To be effective, financial disclosure must be public."³¹

National Municipal League

Sections 11 through 20 of the NML model code regulate conflicts of interest and Sections 9 and 10 deal with financial disclosures. A complete text of this proposal is found in Attachment G. The stated purpose for specified conflict-of-interest provisions is to "prevent public officials and employees from gaining financial profit from their official actions (other than government salaries), or from helping family or friends to profit unfairly because of inside information or preferential treatment."³² The purpose of financial disclosure laws is "to make available sufficient relevant information to allow citizens to judge whether officials are acting in the public interest or tending too much to favor personal interests."³³

Commentary of the NML report explains that "having a conflict of interest is not, in and of itself, evil, wrong or even unusual. Conflicts may be ethnic, cultural, emotional, nostalgic, regional, financial or philosophical." Likewise, "it is not the purpose of financial disclosure laws to give the public a chance to pry into every private detail of an official's life, right down to valuations on jewelry, silver, antiques and art."³⁴

The definition section of the model code extends conflict-of-interest and financial disclosure requirements beyond one's immediate family [Section 3 (e)]. The term "member of household" is used and defined as

²⁹Common Cause, *Ethics Law*, p. 40.

³⁰*Ibid.*, pp. 8 and 40.

³¹*Ibid.*, p. 9.

³²NML, *op cit.*, p. x.

³³*Ibid.*

³⁴*Ibid.*

- (i) a person who is another person's spouse, child, ward, parent or other relative, or the child, ward, parent or other relative of such person's spouse, and who shares such other person's legal residence; or
- (ii) a person who is another person's spouse, child, ward, parent or other relative of such person's spouse, and over whose financial affairs and holdings such other person has legal or actual control, whether or not they share a legal residence.

This definition includes "individuals whose financial affairs are likely to be best know to the official and who, because of ties of blood or affection the official is most likely to want to benefit financially."³⁶

Whereas conflict of interest provisions apply to all state officials and employees, financial disclosure requirements apply only to state officials. A state official is defined as

an elected office holder in the legislative and executive branches of state government, or a member of any state board, commission, agency, bureau, department or any other part of state government who is appointed by any elected state official or by the legislature, except a member of the judiciary . . . [or] a member of any commission which is solely advisory in nature and which has no authority to make binding decisions, to enter into contracts or to make expenditures. . . ³⁶

State employee is defined to include

all persons who, by reason of their work for the government, gain contacts and inside knowledge which, because of their position, may be abused or used in a manner to benefit themselves or others. The definition includes not only persons who stand in formal employment relationship, but also persons who may be regarded as independent contractors.³⁷

The rationale for limiting financial disclosures to only state officials is based on the premise that "over-inclusiveness may become burdensome to the Commission in that the mass of filing may obscure violations rather than reveal

³⁶*Ibid.*, p. 3.

³⁶*Ibid.*, Section 3 (g), p. 4.

³⁷*Ibid.*, Section 3 (f), commentary.

them."³⁸ States, however, are "urged to consider including some state employees in disclosure requirements. . . [but] to limit inclusion to employees who are actually in a position to benefit from their own interests."³⁹

Alaska Statutes

Legislative standards of conduct are detailed in AS 24.60. Conflicts of interest are specified in AS 24.60.030 (attachment H). A conflict of interest generally exists when a public office is used for private advancement or gain. If a conflict of interest arises, AS 24.60.110 requires a legislator to either

- (1) resign the conflicting position;
- (2) divest the interest that has resulted in the conflict or potential conflict; or
- (3) disclose the conflict of interest 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 by the fifth day of the session but disclosure does not remove the conflict of interest (§ 1 ch 36 SLA 1984; am § 8 ch 113 SLA 1986).

The Alaska Executive Branch Ethics Act (AS 39.52) regulates public officers and employees in the executive branch. As it relates to this section, a public official is defined in AS 39.50.200(8) as

a judicial officer, a member of the legislature, the fiscal analyst of the legislative finance division, the legislative auditor of the legislative audit division, the executive director of the Legislative Affairs Agency and the directors of the divisions within the Legislative Affairs Agency, the governor, the lieutenant governor, a person hired or appointed as the head or deputy head of, or director of a division, a department in the executive branch, an assistant to the governor, chairman or member of a state commission or board, the executive director of the Alaska Tourism Marketing Council, and each appointed or elected municipal officer.

Financial disclosure requirements are covered under AS 39.50. Within 30 days of taking office as a public official or declaration of candidacy, public officials and candidates for public office are required to file statements with

³⁸*Ibid.*, p. 15.

³⁹*Ibid.*

the Alaska Public Offices Commission giving income sources and business interests. All financial disclosure statements filed under this chapter are public records.⁴⁰

Josephson's Proposal

Conflict-of-interest and personal disclosure requirements are covered in Article 2 of the proposed CSSB 415 (Leg. Ethics). According to a review of this proposal by John Gaguine, counsel for the Legislative Affairs agency, conduct described in the following sections is already covered under Title 11 (criminal penalties) of the Alaska Statutes:

- 24.61.110. Improper benefit from performance of public duties.
- 24.61.130. Misuse of state property and resources for private gain or personal advantage.
- 24.61.140. Misuse of state property and resources for political purposes.
- 24.61.180. Misuse of title of prestige of office for private gain or personal advantage.
- 24.61.230. Improper coercion.
- 24.61.340. Restricted transactions: interest in state contracts or leases.
- 24.61.345. Participation in general statewide programs permissible.
- 24.61.350. Restricted transactions: gratuities.
- 24.61.380. Improper influence with the independent judgement of others on behalf of constituents.
- 24.61.450. Duty toward colleagues and subordinates.⁴¹

Many of Josephson's general proposals that are not already covered by Alaska Statutes, have a precedence in other states or model ethics codes. Some of the

⁴⁰AS 39,50.020, Alaska Statutes Supplement, pp. 41-42.

⁴¹John B. Gaguine, legislative counsel, Legislative Affairs Agency, State of Alaska, Memorandum to Senator Pat Pourchot, chair, Joint Committee on the Legislative Ethics Act, April 30, 1990, pp. 2-3.

specific provisions regarding definitions of scope and responsibility, however, are apparently unprecedented.

POST-EMPLOYMENT RESTRICTIONS

Twenty-nine states have statutes restricting post-employment of government officials or employees. Attachment I is a listing of these and other substantive restraints by state. Three provisions are commonly found in post-employment or "revolving door" statutes:

- (1) a former employee or official is banned from making an appearance before his or her former agency, usually for one year;
- (2) a former employee or official is prohibited from becoming involved in matters in which he or she participated personally and substantially as a state employee, sometimes permanently and sometimes for one year; and
- (3) a former employee or official is permanently prohibited from disclosing or using confidential information for personal gain, which he or she obtained as an employee.⁴²

Legislative Branch Restrictions

The same employees and public officials that are covered under conflict-of-interest provisions are not necessarily the same as those covered by post-employment restrictions. For example, the code of ethics for Connecticut and Wisconsin apply conflict-of-interest restrictions on legislative branch public officials and employees but exempts them from post-employment restrictions. Similarly, the State of California considered including legislative employees in the revised ethics codes dealing with post-employment but decided to exempt them because "they are 'at will' employees and therefore not afforded the same protection as executive branch employees."⁴³

Ethics codes that do include legislative branch officials and employees typically apply post-employment restrictions only to "top full-time decision makers" or "senior employees." Ethics codes for the city of Los Angeles and the federal government are two such examples.

⁴²Schultz, *op cit.*, p. 4.

⁴³Charlene Simmons, chief staffer, Senate Select Committee on Ethics, telephone conversation April 23, 1990, TEL: (916) 324-8234.

Los Angeles, California

The intent of the Los Angeles ethics codes regarding post-employment restrictions is "to impose limits on the unfair advantages which may come with switching sides. It is not to discourage talented people from entering government, or to penalize them when they leave."⁴⁴ The Los Angeles code of ethics places both permanent and temporary restrictions on the post-employment of city officials and employees.

A permanent ban on lobbying and advocacy is placed upon all former city employees with regard to particular matters in which they were personally and substantially involved. "Personal and substantial involvement" includes "involvement through decision, approval, disapproval, recommendation, the rendering of advice, or investigation."⁴⁵ The ban only applies for as long as the matter does. The commission extended the ban to include self-representation in order "to preclude the possibility that by acquiring a small equity interest, a former employee can evade the revolving door restrictions."⁴⁶

Temporary post-employment restrictions place a one-year ban on lobbying any city department by all elected officials and top, full-time decision-makers upon leaving city government. "Top full-time decision-makers" are defined as "those men and women whose influence and power is pervasive, such as the Deputy Mayor and the Chief Administrator."⁴⁷ The commission recognized that only elected officials and top decision-makers have citywide influence. "Lower-level decision-makers" therefore were not included in the general ban but are subject to a one-year ban on lobbying their own department. All officials and employees are also forbidden to negotiate for employment with individuals or companies that have particular matters in front of them.

Federal Government

Title One of the *Ethics Reform Act of 1989* (PL 101-194) establishes post-employment restrictions on the executive and legislative branches. Table 4 is a summary of federal post-employment restrictions as they apply to legislative members and staff (18 USC § 207). The purpose of post-employment restrictions is to prevent former members and employees from abusing their influence and

⁴⁴*Ethics & Excellence in Government*, p. 39.

⁴⁵*Ibid.*, p. 40.

⁴⁶*Ibid.*

⁴⁷*Ibid.*, p. iii.

knowledge of confidential information to protect the public confidence in the integrity and process of government.⁴⁸

The President's Commission on Federal Ethics Law Reform warned that the definition and scope of post-employment restrictions need to be clear, identifiable and specific if they are to be constitutionally sound and not act as a deterrent to qualified persons from entering or remaining in government service. In explaining their proposals for post-government restrictions, the commission added that,

We cannot over-emphasize the care that must be exercised in drafting such a prohibition. A vague or overbroad restriction might impermissibly chill the exercise of First Amendment rights. The intent of the prohibition is protection, not repression.⁴⁹

Post-employment restrictions are limited to members and "Senior Employees" (employees paid at or above the GS 17 rate, \$78,200 for 1990). The commission considered extending post-employment restrictions to persons paid at the GS 16 rate or above but rejected this idea because it would be "highly detrimental to the efforts of the government to attract able personnel. Indeed, it could cause an immediate exodus of current employees."⁵⁰ Commission records show that

Employees at that level have neither the status nor the political clout to improperly trade on their government service. Their inclusion in the law can only chill employment options and discourage qualified people from seeking government service.⁵¹

Particular concern over the ability to attract individuals with scientific or technological skills was also noted. In particular, overly broad restrictions against aiding or advising were viewed with extreme caution because of the potential for prohibiting the healthy attributes of the so-called "revolving door."

With regard to the release of sensitive information, we have noted that the exchange of information between the government and private sectors can be, and often is, advantageous to both sides. In particular, a former employee's understanding of how an agency works on a day-to-day basis can be a valuable tool for the private sector employer who desires to do business with the government.

⁴⁸President's Commission, *op cit.*, p. 63.

⁴⁹*Ibid.*, p. 64.

⁵⁰*Ibid.*, p. 59.

⁵¹*Ibid.*

Concomitantly, this knowledge saves government resources that would otherwise be necessary to assist the individual or firm in working through the government bureaucracy. The adoption of a general prohibition against aiding or advising would virtually eliminate all communications, including those that would be helpful to both the government and private employer. As such, we concluded that the addition of a general bar on aiding and advising would not be appropriate.⁵²

The commission also noted that

the flow of individuals between private life and occasional government service is a source of invigoration to both sectors, and provides a valuable exchange of information about the workings of government which improves the understanding of each sector about the other. Our system of government in a sense mandates a substantial amount of "revolving door" activity every four or eight years.⁵³

Model Ethics Codes

COGEL

Section 240 of the COGEL Model Laws details the post-employment restrictions of former officers and employees. A copy of these provisions are found in Attachment E. In general, they prevent an officer or employee of state government from negotiating for employment, assisting or representing a non-governmental entity with whom they "participated personally and substantially as a member, officer, or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while employed or serving."⁵⁴ These post-employment restrictions apply to former members of the state legislature and "senior staff." Senior legislative staff are those persons employed as a staff director for a member, committee or the leadership. Their level of responsibility and decision-making authority is thought to be at least equivalent to deputy directors or division chiefs of departments and agencies.⁵⁵

⁵²*Ibid.*, p. 67.

⁵³*Ibid.*, p. 53.

⁵⁴COGEL, *Model Laws*, p. 44 (Section 240).

⁵⁵*Ibid.*, p. 45 [Section 240.01 (f)].

Common Cause

Chapter 4, Section 8 of the CC Model Ethics Law outlines a three-tiered system of post-employment restrictions (Attachment F).

The first level permanently bans former officials and employees from representing nongovernmental interests before their former agencies of employment in specific matters in which the former official was personally and substantially involved. Legislators are exempted from this section since the matters they consider rarely involve specific parties.

The second level places a two- or three- year ban on former state officials from representing, aiding or advising nongovernment interests before their former agency on particular matters involving specific parties for which they were more generally responsible.

Legislators are exempted from first- and second-level restrictions because their "broad responsibilities do not lend themselves to restrictions on particular matters involving specific parties."⁵⁶

The third level of post-government restrictions ban, for one year, "top-level" officials, including legislators, from lobbying any state agency on any matter after leaving public service. "Second-tier" officials are also subject to a one-year lobbying ban, but they are prohibited only from lobbying the agency of their former employment. Top-level officials in the legislative branch include elected officials and "the high-level aides supporting them." Second-tier officials are defined as

- (1) the head of each division, bureau, or other major administrative unit within such state agency and persons exercising similar authority;
- (2) any person whose salary equals or exceeds that of the state employee classified in state statute and who reports directly to said executive or administrative head; or
- (3) any other persons occupying positions involving a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws and rules of the state or the execution of other public

⁵⁶Common Cause, *Ethics Law*, p. 15.

trusts, including appointees to boards and commissions,
so determined by a majority of the ethics commission.⁵⁷

Employees who do not fit under either category are not restricted in their post-employment activities.

The intent of these "revolving door" restrictions is "to prevent former state employees and officials from using their past friendships and associations within government to derive unfair advantage for themselves or others."⁵⁸ Restrictions apply only when a person leaves government service for private sector employment.

National Municipal League

Section 20 of the NML model state ethics law places a two-year post-employment restriction on state officials and employees from assisting or appearing on behalf of any other person or business in connection with any transaction that they had previously had any direct connection. This restriction is also extended to "any business or person associated with such business in which the former state official or state employee is a partner or member or in a professional corporation, a shareholder."⁵⁹ The two-year restriction begins after the end of a term of office or termination of one's state service.

The accompanying commentary warns that the range of prohibitions should be defined narrowly so as not to discourage highly qualified professionals from entering government service by limiting their future employment opportunities, or infringing on the constitutional rights of present state officials and employees. The NML example seeks to "resolve these competing considerations by drawing a balance which results in reasonable limits."⁶⁰ The text of this section is found in Attachment G.

⁵⁷*Ibid.*, Chapter I, Sections 12.5, 12.6 and 12.7, Appendix p. 5.

⁵⁸*Ibid.*, pp. 37-38.

⁵⁹NML, *Model Law*, p. 33-34.

⁶⁰*Ibid.*

Alaska Post-Employment Restrictions

Executive Branch

Two specific provisions of the Alaska Executive Branch Ethics Act (AS 39.52) restrict the actions of executive branch employees after leaving government service. One provision places a two-year, post-employment prohibition on public officers from lobbying, for compensation, their former agencies on matters that they participated in personally and substantially. AS 39.52.180 (a) states that

A public officer who leaves state service may not, for two years after leaving state service represent, advise or assist a person for compensation regarding a matter that was under consideration by the administrative unit served by that public officer, and in which the officer participated personally and substantially through the exercise of official action.

Another statute prohibits former public officers from disclosing confidential information. AS 39.52.140 states that

- (a) A current or former public officer may not disclose or use information gained in the course of, or by reason of, the officer's official duties that could in any way result in the receipt of any benefit for the officer or an immediate family member, if the information has not also been disseminated to the public.
- (b) A current or former public officer may not disclose or use, without appropriate authorization, information acquired in the course of official duties that is confidential by law. (§ 1 ch 87 SLA 1986)

In both of these statutes, the specific term "public officer" is used instead of the term "public employee." AS 39.52.960 (21) defines public officer as "(A) a public employee; and (B) a member of a board or commission." AS 39.52.960 (20) defines public employee as "a permanent, probationary, seasonal, temporary, provisional, or nonpermanent employee of an agency, whether in the classified, partially exempt, or exempt service."

Legislative Branch

Post-employment restrictions on legislators and legislative employees are not specifically defined in Title 24 (Legislature) of the Alaska Statutes. Title 11 (Criminal Law) provisions prohibiting the misuse of confidential information do, however, apply to former legislators and legislative employees. AS 11.56.860 states

- (a) A person who is or has been a public servant commits the crime of misuse of confidential information if the person
 - (1) learns confidential information through employment as a public servant; and
 - (2) while in office or after leaving office, uses the confidential information for personal gain or in a manner not connected with the performance of official duties other than by giving sworn testimony or evidence in a legal proceeding in conformity with a court order.
- (b) As used in this section, "confidential information" means information which has been classified confidential by law.
- (c) Misuse of confidential information is a class A misdemeanor. (§ 5 ch 166 SLA 1978)

Josephson's Proposed Post-Employment Restrictions

Post-Employment Lobbying

Section 24.61.190 of CSSB 415 (Leg. Ethics) proposes a one-year, post-employment prohibition on lobbying for both legislators and legislative assistants. Restrictions for legislators extend to lobbying before legislative and executive branches but is limited to matters which the former legislator had special oversight or budget authority. Legislative assistants, on the other hand, are prohibited only from lobbying before the legislature but the scope includes all matters regardless of whether or not a legislative assistant had any special oversight or authority while employed by the legislature.

The term "legislative assistant" is not defined in Alaska Statutes or the proposed CSSB 415 (Leg. Ethics). The Judiciary Letter of Intent for CSSB 415 (Jud), as published in Senate Journal Supplement No. 22 on April 17, 1990, p. 2 provides guidelines for constructing a definition for legislative assistant. Based on the premise that "many legislative employees expend state funds and have access to confidential information," the Letter of Intent seeks to distinguish a special category of legislative employees referred to as "legislative assistants" who "exercise, or are perceived to exercise, discretion

and judgement with respect to legislative, administrative or political actions."⁶¹

Post-Employment Disclosure of Nonpublic Information

Section 24.61.170 regulates the use of nonpublic information for private gain for both present and former legislators and legislative employees. A one-year prohibition is applied to former legislators and legislative employees. The end of the proscribed one-year prohibition, however, does not allow the disclosure of information made confidential by law.

The term "non-public information" is not defined by Alaska Statutes or the proposed CSSB 415 (Leg. Ethics). Current Alaska Statutes make a distinction between public and confidential information but do not provide a reference for defining nonpublic information. The Letter of Intent for CSSB 415 (Jud) suggests a definition of nonpublic information that includes

valuable information not available to the general public which was acquired by the legislator or legislative employee by virtue of public position. For example, "inside information" about state plans or negotiating strategies, information revealed to legislative committees with the expectation that it be only used for official purposes, financial data, computer data and lists obtained during legislative service . . .⁶²

I hope this information is useful to you. If you have any questions or would like additional information, please contact this agency.

Attachments

⁶¹Judiciary Letter of Intent Alaska Legislative Ethics Act of 1990 Guidelines and Commentary to CSSB 415 (Judiciary), Senate Journal Supplement No. 22, April 17, 1990, p. 2.

⁶²*Ibid.*, p. 15.

TABLE 1
NUMBER OF AGENCIES THAT ADMINISTER ETHICS LAWS
in the 50 States, Federal Government & District of Columbia
(Summary) *

<u>Number of Agencies Within Each State</u>	<u>% of Total</u>
1	40
2	30
3	25
5	2

Source: Council on Governmental Ethic Laws/
Council of State Governments

* See Attachment A for complete list.

Prepared by the Legislative Research Agency, May 1990 (90-317a)

TABLE 2
MEMBERSHIP OF AGENCIES THAT ADMINISTER ETHICS LAWS
in the 50 States, Federal Government & District of Columbia
(Summary) *

<u>Number of Members</u>	<u>% of Total</u>
3	10
4	5
5	34
6	15
7	15
8	8
9	5
11	1.6
12	1.6
15	1.6
18	1.6
28	1.6

Source: Council on Governmental Ethic Laws/
Council of State Governments

* See Attachment A for complete list.

Prepared by the Legislative Research Agency, May 1990 (90-317b)

TABLE 3
JURISDICTION OF AGENCIES THAT ADMINISTER ETHICS LAWS
in the 50 States, Federal Government & District of Columbia
(Summary) *

<u>Jurisdiction</u>	<u>% of Total</u>
Campaign only	29
Campaign & Ethics--Separate	38
Campaign & Ethics-Combined	23
Multiple Agencies with Partial Jurisdiction *	10

*Some states have agencies which regulate both campaigns and ethics as well as some which regulate only a specific aspect of either campaigns or ethics.

Source: Council on Governmental Ethics Laws/
Council of State Governments

* See Attachment A for complete list.

Prepared by the Legislative Research Agency, May 1990 (90-317c).

TABLE 4
Post Employment Restrictions in 18 USC 207(e)

Members	1 year ban on "lobbying" the legislative branch
Employees paid at or above the GS 17 rate for 60 days who serve on:	
Personal Staff	1 year ban on "lobbying" personal staff or the Member
Committee	1 year ban on lobbying Members and employees who are currently on the Committee and Members who were on Committee within one year prior to the employee's termination
Leadership Staff	1 year ban on lobbying any Member or employee of the majority or minority leadership
Other Legislative Offices	1 year ban on lobbying the legislative office which they left
<u>All Members, Officers, and Employees paid at or above the GS 17 rate</u>	1 year ban on representing a foreign entity before the U.S. government and aiding or advising a foreign entity with the intent to influence the U.S. Government
<u>All Members, Officers and Employees, who personally and substantially participate in trade or treaty negotiations</u>	1 year ban on using confidential information to aid or assist anyone regarding that continuing negotiation

M E M O R A N D U M

DATE: MAY 2, 1990
TO: SENATOR FRED F. ZHAROFF
FROM: PENNELOPE GOFORTH
RE: CSSB 415

COMMENTS ON SELECT SECTIONS OF
CS FOR SENATE BILL 415
LEGISLATIVE ETHICS ACT OF 1990

ARTICLE 1. LEGISLATIVE FINDINGS AND ETHICAL PRINCIPLES

This section is the rhetorical "front section" of the bill that provides the "comprehensive and unified statement of the ethical principles, considerations and obligations" that govern the rest of the bill. It contains numerous provisions that legislators and staff "shall" do, but carries no penalties for failure to do so.

ARTICLE 2. STANDARDS OF CONDUCT

This section substantively addresses a variety of actions by legislators, legislative employees and assistants, and their spouses and dependents as well as lobbyists and spells out the punitive measures (civil sanctions and criminal penalties) for violations of these sections. Note that in most cases, the penalties are: criminal, class A misdemeanor, with up to year in jail. Civil penalties can include the greater of a fine up to \$5000 or twice the damages, dismissal, scolding, suspension with or without pay, probationary status, and the recommendation that a committee chair or co-chair be barred from chairing any committee for the duration of their term of office. For a section by section analysis of the sanctions see Attachment 1.

Legislative Counsel John Gaguine, has issued a memorandum (Attachment 2) wherein he concludes that for civil sanctions, legislators "are not precluded by the legislative immunity provision of the Alaska Constitution, Article II, Section 6". Staff face both civil sanctions and criminal penalties.

Sec. 24.61.130 Misuse of State Property and Resources for Private Gain

In this section, it becomes incumbent upon staff and legislators to prohibit lobbyists, friends and relatives from using the copy machine, computers, telephone and staff time to pursue their own interests as well as staff and legislators. (ie. it will not be permitted to use the computer, for example, to balance your personal checkbook or a campaign account (under 24.61.140 also). Also prohibited will be the use of the Macs to print campaign literature and other personal hardcopy.)

Sec. 24.61.130 Misuse of State Property and Resources for Political Gain

This section lays out what you may or may not say in your two allowable state-funded newsletters. Leg Council will determine which of your bills are "significant" and must be written about in these newsletters. Note that including this information is mandatory or else the Commission won't authorize paying for the newsletter. You must also disclose "significant campaign contributions received. You may not mail out your own political campaign material or supporting another's campaign during the period of 60 days before the primary in which you are a candidate and ending the day after a general or special election. You also can't mail out any mass mailings that might be construed as directly or indirectly trying to influence the outcome of an election. You may not accept any campaign contributions in your legislative office or post, circulate or communicate campaign literature in your office.

Sec. 24.61.150 Obligation of Subordinates to Refuse to Perform Improper Tasks

This section mandates that your staff must report any violations of this Ethics Act they observe you doing to the Commission, upon pain of sanctions which can include fines up to \$5000 and dismissal from the job. You may not request your staff to perform any task that may be a violation of this Act and should you persist your staff is required to file a complaint with the Commission. (ie. to regularly do personal errands, to do anything for your spouse or dependents or friends, to perform campaign functions, etc.)

Sec. 24.61.190 Post-Service Restrictions

You and your staff may not accept any position for one year after leaving legislative service that would require you to act as a lobbyist (excepting government positions and volunteer lobbyist positions).

Neither may you or your staff reveal non-public information to obtain a benefit. You may seek a waiver in this instance if you are unsure about a position you may want to consider. Note that "non-public" is not the same as confidential. It is defined in the bill as public information that is not readily accessible to the public.

Sec. 24.61 200-210 Use of Campaign Funds

These sections describe how campaign funds may and may not be used, ie. "only to advance the interests of the campaign". Among the prohibitions are accepting post-election contributions, contributing to another candidate's campaign, transferring more than \$1000 to your office account following the campaign. (These prohibitions were adopted in an effort to prevent incumbents from building up a "war chest" and intimidating challengers. The most that can carry over for next campaign is \$5000.) These sections take effect, conveniently on November 6, 1990.

Sec. 24.61.265, .270, .280, .290, .310 Definitions of Close Associations

These sections define the types of associations you may and may not indulge in and which you may disclose to the Commission if you think it may be a conflict of interest. Not sanctioned except .290 which states that neither your spouse or dependent may work in the same body during session (same as current law) or in either body during interim. Waiver provision added. You must disclose associations with lobbyists under pain of sanction.

Sec. 24.61.320 Restricted Financial Interests

You may not serve as the chair of a budget committee which affects a business in which you are engaged. (ie., commercial fisherman may not oversee Fish & Game budget, educator at the U OF A may not oversee the University budget, etc.) This section has civil sanctions but you may request a waiver.

Sec. 24.61.345 Participation in General Statewide Programs Permissible

You may participate, without disclosure, in a statewide benefit or loan program if it is available to the general public, subject to eligibility standards and requires minimal discretion in determining qualifications. If the program or loan is not exempt, as determined by the Commission, you must disclose.

Sec. 24.61.350 Restricted Transactions: Gratuities

Of note in this section is the provision (c)4 that requires you to disclose overnights stays of more than \$100 in value. (ie., if you are on trip in your district and stay with friends or constituents and then get weathered in, or a mechanical prevents you from flying out on schedule, for several days making the value of your stay more \$100 you will have to report this.) Leg Council has been charged with determining provisions on spouse/dependent restrictions.

Sec. 24.61.380 Improper interference with the Independent Judgment of Others

When communicating with another state agency you "should explicitly convey to the administrators involved that the administrator is expected to make an independent judgement and that no advantages

or disadvantages to the administrator or the agency will result from a favorable or unfavorable disposition". (The so-called Miranda Clause.) Sanctions have been removed from this provision.

Sec. 24.61.415 Reporting obligations of Employers of Legislators/Assistants

Private sector employers will be required under this section to report "Category A" income sources (that is income from those persons who have a substantial interest in legislative administrative or political actions) to the Commission. (This is highly doubtful that it is enforceable. ie., the Commission only has jurisdiction over the legislature.) Your spouse and dependents will be required to disclose their sources of income also. (The so-called "Jim Wright Case-where his wife received substantial funds from a questionable source and they were funneled to her husband. Those sneaky Texans!)

ARTICLE 3 LEGISLATIVE ETHICS COMMISSION

This sections contains the provisions that set up the 9 member Ethics Commission and sets out their duties and responsibilities. The fiscal note will address the costs of hiring an executive director, staff and provisions for an educational program to be presented in January of 1991. The effective date of this section is July 1, 1990. Significant oversight of this section is delegated to Legislative Council. See Attachment 4 for references to Leg Council mandates in the bill.

Sec. 24.61.570 Recommendations and Order Where Violator is an Employee

Under this section the Commission shall order you to impose sanctions in accordance with the Commission's order on your staff. Civil sanctions apply to you if you do not. No appeal process is instituted. (ie, if one of your staff members has done something to violate this Act, whether trivial or major, and the Commission determines that the sanction should be termination of employment, you have to do it. No mitigating circumstances will be considered.)

ARTICLE 5 GENERAL PROVISIONS

Sec. 24.10.100, .105, .110 Salary, Per Diem, Office Expense of Legislators

Your salary will be increased to \$40,000 annually, per diem will be restricted to short-term while in session only (long term if Juneauite), and all office expenses will be on a voucher system. Office expense will be calibrated on a \$7-8-9,000 scale depending on the district you represent. You may be reimbursed for up to two trips to your district for family, personal or constituent business.



Official Business

Alaska State Legislature

Senate

Finance Committee

Pouch V
State Capitol
Juneau, Alaska 99811

APPLICATION AND PENALTIES OF PROVISIONS CONTAINED IN JOSEPHSON PROPOSAL CSSB (415) (Leg. Ethics)

- AS 24.61.100 ALL STAFF - Misuse of Office for Private Gain:
 & LEGISLATORS General Principle
- AS 24.61.110 ALL STAFF - Improper Benefit from Performance
 & LEGISLATORS of Public Duties
- Penalty:
- sub. (a) Is an existing crime 11.56.120
 & civil sanctions
 Staff: Class A misdemeanor
 Legislators: May be protected by
 legislative immunity during session
- sub. (b) May be an existing crime (felony).
 Civil sanctions apply to everyone.
- AS 24.61.120 ALL STAFF Duty to Report Improper Offers
 & LEGISLATORS Penalty: Civil sanctions apply
 to everyone.
- AS 24.61.130 ALL STAFF Misuse of State Property and
 & LEGISLATORS Resources for Private Gain or
 Personal Advantage
- sub. (a) May be prosecuted as "theft" 11.46.
 Legislators may be protected by
 legislative immunity during
 session. Civil sanctions apply to
 everyone.
- sub. (b) Civil sanctions apply to everyone.
 Criminal penalty under another law.
- sub. (c) Staff: Class A misdemeanor
 Legislators: May be protected
 by legislative immunity during
 session. Civil sanctions apply
 to everyone.

AS 24.61.140	ALL STAFF - & LEGISLATORS	Misuse of State Property and Resources for Political Purposes Penalty: sub. (a) Is an existing crime "theft". May be a misdemeanor or felony under existing law. sub. (c) <u>Staff</u> : Class A misdemeanor <u>Legislators</u> : May be protected by legislative immunity during session sub. (d) same as subsection (c) sub. (e)(1) theft under 11.46, Class A mis. sub. (f) May be "theft" under existing law. Civil sanctions apply to everyone. subsections b,c,e (1-3) are civil sanctions.
AS 24.61.150	ALL STAFF ONLY NO LEGISLATORS	Obligation of Subordinates to Refuse to Perform Improper Tasks Penalty: Civil sanctions
AS 24.61.170	ALL STAFF & LEGISLATORS	Use of Nonpublic & Confidential Information for Private Gain Penalty: Civil sanctions
AS 24.61.180	ALL STAFF & LEGISLATORS	Misuse of Title or Prestige of Office for Private Gain or Personal Advantage Penalty: Civil sanctions apply to everyone in addition to criminal penalties under another law.
AS 24.61.190	LEG. ASSISTANTS & LEGISLATORS	Post-service Restrictions to Prevent Misuse of Public Office by Former Legislators and Leg. Employees. (Note contradiction)

		Penalty for former assistants & legislators: Class A misdemeanor & civil sanctions for everyone
AS 24.61.205	LEGISLATORS & CANDIDATES	Prohibited Use of Campaign Funds Penalty: Class A misdemeanor & civil sanctions (Under APOC law but not referenced)
AS 24.61.210	LEGISLATORS & CANDIDATES	Disbursement of Surplus Campaign Funds Penalty: None
AS 24.61.220	ALL STAFF LEGISLATORS & CANDIDATES	Payment of Legal Expenses; Special Expense Funds Penalty: Class A misdemeanor & civil sanctions
AS 24.61.230	ALL STAFF & LEGISLATORS	Improper Coercion sub. (b)(c) Is an existing crime <u>Staff</u> : Class A misdemeanor <u>Legislators</u> : May be protected by legislative immunity during session. Civil sanctions apply to everyone.
AS 24.61.245	LEGISLATORS ONLY	Fund Raising Limitations APOC shall enforce. 15.13.120(a) plus civil sanctions.
AS 24.61.250	ALL STAFF & LEGISLATORS	General Obligation to Avoid Conflicts of Interest & Preserve Ability to Make Independent Impartial Judgements Penalty: None

AS 24.61.260	ALL STAFF & LEGISLATORS	Substantial Interest in Legislative Administrative, or Political Action Defined Penalty: None
AS 24.61.265	ALL STAFF & LEGISLATORS	Close Economic Association Defined Penalty: None
AS 24.61.280	ALL STAFF & LEGISLATORS	Dealing With Personal Relationship Conflicts of Interest Penalty: None
AS 24.61.290	SOME STAFF & LEGISLATORS	Restricted Relationships: Nepotism Penalty: Civil sanctions
AS 24.61.300	ALL STAFF & LEGISLATORS	Restricted Relationships: Lobbyists, Legislators, & Legislative Employees Penalty: Civil sanctions and other penalties under 24.45
AS 24.61.310	ALL STAFF & LEGISLATORS	Restricted Relationships: Board Membership Penalty: Civil sanctions
AS 24.61.320	ALL STAFF & LEGISLATORS	Restricted Financial Interests Penalty: Civil sanctions
AS 24.61.330	LEG. ASSISTANTS & LEGISLATORS	Restricted Activities as an Attorney or Representative Penalty: Civil sanctions & appropriate criminal penalties under another law.
AS 24.61.340	LEG. ASSISTANTS & LEGISLATORS	Restricted Transactions: Interest in State Contracts or Leases

Possibly also an existing crime

Penalty: Civil sanctions

AS 24.61.345	ALL STAFF & LEGISLATORS	Participation in General Statewide Programs Permissible Penalty: Civil sanctions & criminal penalties under another law.
AS 24.61.350	ALL STAFF & LEGISLATORS	Restricted Transactions: Gratuities Penalty: Civil sanctions
AS 24.61.360	ALL STAFF & LEGISLATORS	Restrictions on Earned Income: Outside Employment & Honoraria Penalty: Civil sanctions
AS 24.61.370	ALL STAFF & LEGISLATORS	Obligation to Make all Decisions on the Merits: Favoritism & Patronage Possibly a crime. Penalty: Civil sanctions
AS 24.61.380	ALL STAFF & LEGISLATORS sub. (c)	Improper Influence with the Independent Judgement of Others on Behalf of Constituents Penalty: <u>Staff</u> : Class A misdemeanor <u>Legislators</u> : May be protected under legislative immunity during session. Civil sanctions apply to everyone
AS 24.61.390	LEG. ASSISTANTS & LEGISLATORS	Conflict of Interest Disclosure: Statement of Purpose
AS 24.61.400	LEG. ASSISTANTS & LEGISLATORS	Conflict of Interest Disclosure by Legislators & Legislative Assistants: Category A and Category B Income

AS 24.61.405	LEG. ASSISTANTS & LEGISLATORS	Reporting Category A Income
AS 24.61.410	LEG. ASSISTANTS & LEGISLATORS	Reporting Category B Income
AS 24. 61.415	LEG. ASSISTANTS & LEGISLATORS	Reporting Obligations of Employers and Others Paying Compensation to Legislators or Legislative Assistants
AS 24.61.420	LEG. ASSISTANTS & LEGISLATORS	Prohibited Conduct Relating to Disclosures Penalty: <u>Staff</u> : Class A misdemeanor <u>Legislators</u> : May be protected by legislative immunity during session. Civil sanctions apply to everyone
AS 24.61.430	ALL STAFF & LEGISLATORS	Accountability: Openness & Oversight Penalty: Administrative sanctions
AS 24.61.440	ALL STAFF & LEGISLATORS	Accountability: Self-Policing, Whistleblowing, & Protection of Whistleblowers Penalty: Civil sanctions
AS 24.61.450	ALL STAFF & LEGISLATORS	Duty Toward Colleagues & Subordinates Penalty: Liability under another criminal law or administrative sanctions & civil rights statutes
AS 24.61.460	ALL STAFF	Duty to Advance Principles of

& LEGISLATORS

Representative Democracy

Penalty: Administrative
sanctions

AS 24.61.570

SUPERVISOR OR
APPOINTING AUTHORITY

Recommendations & Order
Where Violator is a
Legislative Employee

Failure to implement the
commission's order is
subject to civil sanctions

AS 24.61.960

ALL STAFF,
LEGISLATORS,
COMMISSION MEMBERS
AND THEIR EMPLOYEES

Confidentiality

Penalty: Subject to
prosecution under 11.56.860
or another law, plus civil
sanctions.

b. Example / Checklist Contact Sheet

LEGISLATIVE SPONSOR: HS State Aff
Pub. Hear Work Ses. Inv. Hear
LEGISLATIVE REFERENCE: HB 596
SUBJECT: Leg Ethics
CONTACT: Ann PH: 4963

TC DATE/DAY: Tues, Apr 17
TIME: 7-9 pm
JUNEAU ROOM: Cap 102
BRIDGE: _____
OF PORTS: _____
DATE TAKEN/BY: 4/12

TELECONFERENCE SITES:

LIO'S

Anchorage
Barrow *
Bethel
Delta Junction *
Dillingham *
Fairbanks
Glennallen *
Juneau
Ketchikan
Kodiak
Kotzebue
Mat-Su
Nome
Petersburg *
Sitka
Soldotna
Valdez *

LTC'S

Homer
Wrangell

VTS'S

See List on
Reverse Side

ALL LIO'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

CHAIRING SITE: Juneau
CHAIRPERSON: Boucher

[] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

OFFNETS: _____

SIGNATURE OF SPONSOR/CONTACT PERSON

DATE

SPECIAL INSTRUCTIONS

b. Example / Checklist Contact Sheet

LEGISLATIVE

SPONSOR:

House State Affairs

TC DATE/DAY:

Tuesday, Apr 17

Pub. Hear

Work Ses.

Inv. Hear

TIME:

8:30-11:00 AM

LEGISLATIVE REFERENCE:

HB 596

JUNEAU ROOM:

Cap 102

SUBJECT:

Leg Ethics Act

BRIDGE:

OF PORTS:

CONTACT:

Ann

PH:

4963

DATE TAKEN/BY:

Barbara 4/12

TELECONFERENCE SITES:

LIO'S

LTC'S

VTS'S

Anchorage

Barrow *

Bethel

Delta Junction *

Dillingham *

Fairbanks

Glennallen *

Juneau

Ketchikan

Kodiak

Kotzebue

Mat-Su

Nome

Petersburg *

Sitka

Soldotna

Valdez *

Homer

Wrangell

See List on

Reverse Side

ALL LIO'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

213-306-1868

OFFNETS: Michael Josephson

CHAIRING SITE:

Juneau

CHAIRPERSON:

Beucher

[] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

SIGNATURE OF SPONSOR/CONTACT PERSON

DATE

SPECIAL INSTRUCTIONS

bridge - 562-2867
give to Irene

b. Example / Checklist Contact Sheet

LEGISLATIVE

SPONSOR: House State Affairs

Pub. Hear Work Ses. Inv. Hear

LEGISLATIVE REFERENCE: HB 596

SUBJECT: leg Ethics

TC DATE/DAY: Wed, Apr 11

TIME: 17pm - 9pm

JUNEAU ROOM: Cap 102

BRIDGE: _____

OF PORTS: _____

CONTACT: Ann PH: 49603 DATE TAKEN/BY: 4/9 Peg

TELECONFERENCE SITES:

LIO'S

Anchorage
Barrow *
Bethel
Delta Junction *
Dillingham *
Fairbanks
Glennallen *
Juneau
Ketchikan
Kodiak
Kotzebue
Mar-Su
Nome
Petersburg *
Sitka
Soldotna
Valdez *

LTC'S

Homer
Wrangell

VTS'S

See List on
Reverse Side

ALL LIO'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

OFFNETS: _____

CHAIRING SITE: Juneau

CHAIRPERSON: Boucher

[] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

SIGNATURE OF SPONSOR/CONTACT PERSON

DATE

SPECIAL INSTRUCTIONS

b. Example / Checklist Contact Sheet

LEGISLATIVE

SPONSOR:

House State Affairs

Pub. Hear

Work Ses.

Inv. Hear

LEGISLATIVE REFERENCE:

HB 596

SUBJECT:

Leg Ethics

TC DATE/DAY:

Thurs Apr 12

TIME:

8:30-10:00

JUNEAU ROOM:

Cap 102

BRIDGE:

OF PORTS:

CONTACT:

Ann

PH:

49603

DATE TAKEN/BY:

4/9 Peg

TELECONFERENCE SITES:

LIO'S

Anchorage

Barrow *

Bethel

Delta Junction *

Dillingham *

Fairbanks

Glennallen *

Juneau

Ketchikan

Kodiak

Kotzebue

Mat-Su

Nome

Petersburg *

Sitka

Soldotna

Valdez *

LTC'S

Homer

Wrangell

VTS'S

See List on

Reverse Side

ALL LIO'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

CHAIRING SITE:

Juneau

CHAIRPERSON:

Boucher

[] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

SIGNATURE OF SPONSOR/CONTACT PERSON

DATE

SPECIAL INSTRUCTIONS

bridge 562-2867

b. EXAMPLE / Checklist Contact Sheet

LEGISLATIVE SPONSOR: House State Affairs
Pub. Hear Work Ses. Inv. Hear
LEGISLATIVE REFERENCE: Inf. Hearing
SUBJECT: legislative Ethics
Reform
CONTACT: Ann PH: 4963

TC DATE/DAY: Mon Apr 9
TIME: 8:30-11:00
JUNEAU ROOM: Cap 102
BRIDGE: _____
OF PORTS: _____
DATE TAKEN/BY: Joanne 4/6

TELECONFERENCE SITES:

LIO'S
Anchorage
Barrow *
Bethel
Delta Junction *
Dillingham *
Fairbanks
Glennallen *
Juneau
Ketchikan
Kodiak
Kotzebue
Mat-Su
Nome
Petersburg *
Sitka
Soldotna
Valdez *

LTC'S
Homer
Wrangell

VTS'S
See List on
Reverse Side

ALL LIO'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

Michael Josephson
OFFNETS: 213-306-1868

CHAIRING SITE: Juneau
CHAIRPERSON: Brucher

[] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

SIGNATURE OF SPONSOR/CONTACT PERSON _____ DATE _____

SPECIAL INSTRUCTIONS

bridge (907) 562-2867
collect or 3rd party