

SCOMM

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DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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FEB 21 1991

MEMORANDUM

February 21, 1991

SUBJECT: Sectional analysis of draft legislative ethics bill (W.O. 7LS0799)

TO: Senator Virginia Collins
Chair, Senate Special Committee on Ethics Reform

FROM: John B. Gaguine *JB*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 adds several prohibitions to the current list of prohibited conduct by a lobbyist. It would prohibit a lobbyist from serving as a campaign treasurer or deputy campaign treasurer for a legislative candidate, from offering gifts (except for food or beverages), loans, and campaign contributions to persons covered by the ethics act during session, and from making a gift or campaign contribution in violation of the ethics act.

Section 2 prohibits a former legislator from lobbying the legislature for one year after the former legislator leaves office. *except for public entities*

Section 3 extends the coverage of the Legislative Ethics Act to all employees Range 15 and above (instead of current Range 18) and to the public members of the Select Committee on Legislative Ethics.

Section 4 essentially gathers in one place all of the prohibitions that are currently spread throughout AS 24.60, and adds a couple of new prohibitions, relating to use of state property and funds for political purposes and to taking action that could substantially affect a person with whom the action-taker is negotiating employment. It retains the provision in current law that an action does not constitute a conflict of

interest unless the impact on the legislator or legislative employee is substantial; e.g., a legislator does not need to worry if he or she owns a couple of shares of Exxon.

Section 5 prohibits a legislator from soliciting or accepting campaign contributions during a session and from accepting money from an event during a session that is designed to raise money for candidates (such as a political party fundraiser).

Section 6 provides that disclosures of close economic associations must be reasonably specific; it would no longer suffice to just state that a close economic association exists, and provide no details.

Sections 7-10 rework the gift provisions of the ethics law. Section 7 raises the allowable limit from \$50 to \$100, and essentially provides that gifts worth less than \$100 are conclusively presumed to be proper. However, the section also prohibits the acceptance of any gift, except for the ones listed in AS 24.60.080(c), from a lobbyist or employer of a lobbyist during a legislative session. Section 8 broadens AS 24.60.-080(c), the exception to the gift prohibition, to include gifts not connected to the recipient's legislative status; this change codifies an ethics committee advisory opinion. Section 9 requires the disclosure of gifts now allowed by Section 8. And Section 10 deals with gifts from foreign governments; it allows their receipt, but only on behalf of the legislature.

Section 11 prohibits honoraria; this section too codifies an ethics committee advisory opinion. The payment of actual travel expenses is allowed. There is an exception where the honorarium is not related to the recipient's legislative status, so that, for instance, a legislator who is a professor of biology could accept an honorarium for speaking at a biology symposium.

Section 12 slightly modifies the nepotism prohibition, to allow a legislator's relatives who may be employed in the other house during session to begin employment shortly before session and to keep working for a few days after session.

Section 13 places a flat ban on representing clients for compensation before an agency, board, or commission (but not a court) of the state. It also makes clear that appearing before an officer or employee of an agency, board, or commission is prohibited. The section would replace existing law allowing such representation, as long as it is disclosed.

Section 14 requires a legislator or legislative employee travelling at legislative expense on legislative business of short duration to get written permission before travelling, or, for a few individuals with no one to get permission from, to set out in writing the reasons for their travel.

Section 15 states, in order to avoid any possible problems, that the Select Committee on Legislative Ethics is a permanent interim committee.

Section 16 changes the terms of public members of the committee from two years (the duration of one legislature) to three, in order to provide greater stability in the committee's membership.

Section 17 reduces the number of both total members and legislative members necessary to make a quorum of the committee.

Section 18 provides that open meetings and public procurement provisions do not apply when their application would be inconsistent with the confidentiality provisions of AS 24.60. (The procurement provisions are included because the committee may need to hire investigators to investigate complaints which are not public during the investigation.)

Section 19 changes the statute relating to advisory opinions to give the committee, when the opinion requestor consents, more time to respond to the request. During the interim it is often difficult to assemble a quorum to act on a request.

Section 20 totally overhauls the committee's complaint procedures. Under current law the procedures are totally closed to the public virtually from beginning to end, including the hearing on a complaint. As overhauled, the procedures would be closed to the public during the initial and investigation stages, but would be open if the investigation disclosed probable cause to proceed. This change would bring AS 24.60 into line with the vast majority of ethics statutes in the United States.

Section 21 would establish the Select Committee on Legislative Ethics as the body adjudicating equal employment opportunity grievances by legislative employees.

Section 22 adds a new provision that a person who was covered by the legislative ethics act (legislators and most aides and legislative employees) may not, for one year after leaving service, represent a client for compensation in any forum on a matter that the person personally and substantially participated in while a legislator or legislative employee.

Section 23 states that persons covered by AS 24.60 are not covered by the total ban in AS 39.50.090(c) (part of the 1974 conflict-of-interest initiative) on representing clients for compensation before state agencies, boards, and commissions. This statute is inconsistent with current AS 24.60.100, and our office has expressed its opinion that AS 24.60.100 was intended to supersede AS 39.50.090(c) with regard to legislators and legislative employees. Note, though, that AS 24.60.100 as amended by this bill would have the same effect as AS 39.50.090(c).

Senator Virginia Collins
February 21, 1991
Page 4

Section 24 repeals two statutes (AS 24.60.060 and 24.60.120) that were incorporated into new AS 24.60.030, and AS 24.60.080(b), that was incorporated into AS 24.60.-080(a).

Section 25 provides that the three current members of the ethics committee just confirmed would serve one, two, and three year terms, with the term length to be determined by lot. The purpose of this is to stagger the three-year terms for public members, so that each year one, and only one, new member would be appointed.

JBG:pl
91-099.plm

2/21/91

preponderance or overwhelming

Frost - lobbyists - should be registered
all year

how do you distinguish between
honoraria and teaching -

- what is the honorarium - need a
definition -

2/9/91- Tennessee - Nashville
Secretary of State -
Elections Division

(615) - 741-7956

- Will Burns -

1989- major overhaul in 1989-
will be dramatic additional
structure in this legislative session

- Copy -

- no large have jurisdiction
created an agency - that
is independent -

Registry of Election Finance

(615) 741-7959-

Director or Asst Director
Peggy Calano - Greg Jenkins

2/20/91-

HB 129-

Independent Commission -

current commission is advisory in nature
new commission

- Court lost 2000 of jurors in the last
5 years -

- salaries will be set by the Commission

AS 24.10.105-

Sec 9, 10+11

Section 13- current commis is repealed

1986 - AG sent a letter that confirmation

some responsibilities as current commission

Sec 15 - duties

remove Dept heads from the

researched Illinois Statutes

27 jurisdiction have compensation Commission
9 set salaries

Post-it[™] telephone message pad 7660

To Holly

Date _____ Time _____

WHILE YOU WERE OUT

M 503 378-5962

of _____

Phone No. _____

TELEPHONED	PLEASE CALL
WAS IN TO SEE YOU	WILL CALL BACK
WANTS TO SEE YOU	URGENT
RETURNED YOUR CALL	

Message _____

Operator _____

removal provisions - the bill does not
outline removal provisions

- ① per diem
- ② removal provisions
- ③

what do you think of making the
1989

HB 4

= APOC - 24.61.160 Pages

consider civil sanctions

Page 13 - 24.61.300 -

definition of personal benefit - Comm
prefers that definition be established
by law

24.61.310 -

Karen Boorman - APOC Director

- Vickie Braego - League of Women Voters -
in April - State Convention •
Thursday 5:00pm - work session
Friday

HOUSE BILL NO. 129

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST

Introduced: 2/11/91

Referred: State Affairs, Judiciary, Finance

A BILL**FOR AN ACT ENTITLED**

1 "An Act establishing the Public Officers Compensation Commission; relating to the
2 compensation of the governor, lieutenant governor, members of the legislature, heads of the
3 principal departments of the executive branch of government, supreme court justices, judges
4 of the court of appeals, judges of the superior court, and district court judges; and
5 providing for an effective date."

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

7 * Section 1. AS 22.05.140(a) is repealed and reenacted to read:

8 (a) The compensation of a supreme court justice shall be established by order of the
9 Public Officers Compensation Commission.

10 * Sec. 2. AS 22.07.090(a) is repealed and reenacted to read:

11 (a) The compensation of a judge of the court of appeals shall be established by order of
12 the Public Officers Compensation Commission. The compensation of a judge may not be
13 diminished during the term of office, unless by general law applying to all salaried officers of

1 the state.

2 * Sec. 3. AS 22.10.190(a) is repealed and reenacted to read:

3 (a) The compensation of a superior court judge shall be established by order of the Public
4 Officers Compensation Commission.

5 * Sec. 4. AS 22.15.220(a) is repealed and reenacted to read:

6 (a) The compensation of a district court judge shall be established by order of the Public
7 Officers Compensation Commission.

8 * Sec. 5. AS 22.15.230 is amended to read:

9 Sec. 22.15.230. ADDITIONAL COMPENSATION. Subject to rule of the supreme court,
10 a [DISTRICT JUDGE OR] magistrate shall receive a per diem allowance and a transportation
11 allowance commensurate with that authorized for other state employees.

12 * Sec. 6. AS 24.10.100 is repealed and reenacted to read:

13 Sec. 24.10.100 SALARY OF LEGISLATORS. The salary for each member of the
14 legislature shall be established by order of the Public Officers Compensation Commission. The
15 commission may authorize additional compensation for the president of the senate and the
16 speaker of the house of representatives.

17 * Sec. 7. AS 24.10.110 is repealed and reenacted to read:

18 Sec. 24.10.110. ADDITIONAL ALLOWANCES. The Public Officers Compensation
19 Commission may authorize an annual allowance for postage, stationary, stenographic services,
20 and other expenses for each member of the legislature.

21 * Sec. 8. AS 24.10.120 is amended to read:

22 Sec. 24.10.120. METHOD OF PAYMENT. Salaries, and, if authorized by the Public
23 Officers Compensation Commission, per diem [,] and additional allowances for members of the
24 legislature shall be paid by warrants drawn on vouchers approved by the legislative fiscal officer.
25 The legislative fiscal officer shall, by January 31 of each year, file with the legislature's fiscal
26 office a report of all vouchers approved for payment under this section during the preceding
27 calendar year. The report must include [SHALL PROVIDE], by legislator, the date of each
28 voucher, the amount paid, and the basis for approval for payment. The report is a public record.

29 * Sec. 9. AS 39.20.010 is repealed and reenacted to read:

30 Sec. 39.20.010. COMPENSATION OF GOVERNOR. The compensation of the governor
31 shall be established by order of the Public Officers Compensation Commission.

1 * Sec. 10. AS 39.20.030 is repealed and reenacted to read:

2 Sec. 39.20.030. COMPENSATION OF LIEUTENANT GOVERNOR. The compensation
3 of the lieutenant governor shall be established by order of the Public Officers Compensation
4 Commission.

5 * Sec. 11. AS 39.20.050 is amended to read:

6 Sec. 39.20.050. EXCLUSIVE COMPENSATION. The compensation established by
7 order of the Public Officers Compensation Commission and other benefits established
8 [FIXED] by law for the governor and lieutenant governor are compensation [IS] in full for all
9 services rendered by each of them in any official capacity or employment whatsoever during their
10 respective terms of office, and shall be paid throughout their respective terms of office unless the
11 office becomes vacant.

12 * Sec. 12. AS 39.20.080(a) is repealed and reenacted to read:

13 (a) The compensation of the head of each principal executive department shall be
14 established by order of the Public Officers Compensation Commission.

15 * Sec. 13. AS 39.23 is amended by adding a new section to read:

16 Sec. 39.23.201. COMPENSATION COMMISSION ESTABLISHED. (a) The Public
17 Officers Compensation Commission is established in the Office of the Governor. The
18 commission is composed of seven members appointed by the governor. Members serve staggered
19 terms of four years. Commission membership shall include at least one business executive, one
20 person with experience in public administration, one person with experience in personnel
21 management, one economist, and one lawyer. A vacancy shall be filled for the balance of the
22 unexpired term. A commission member may serve no more than two complete consecutive
23 terms.

24 (b) The commission shall elect a member to chair its meetings. A majority of the
25 commission members constitutes a quorum to transact business. The affirmative vote of four
26 members is required to approve the commission's report or an order on compensation.

27 (c) The commission shall meet every other year at the call of the chair. Notice of a
28 meeting shall be mailed to each member at least 15 days before the date scheduled for the
29 meeting.

30 (d) The commission shall hold a public hearing to discuss its findings before submitting
31 its report or an order to the legislature.

1 * Sec. 14. AS 39.23.230(a) is amended to read:

2 (a) If requested by the commission, the Department of Administration [LEGISLATIVE
3 AFFAIRS AGENCY] shall provide staff for the commission.

4 * Sec. 15. AS 39.23 is amended by adding a new section to read:

5 Sec. 39.23.241. DUTIES OF THE COMMISSION. (a) The commission shall review
6 the compensation of the governor, lieutenant governor, members of the legislature, heads of the
7 principal departments of the executive branch of state government, supreme court justices, judges
8 of the court of appeals, judges of the superior court, and district court judges. The commission
9 shall submit a report on its findings every odd-numbered year, during the first 10 days of the
10 regular session of the legislature. A commission member who does not concur in the report may
11 file a minority report.

12 (b) The commission may submit an order with the report making changes to the
13 compensation of a public office. Before submitting a report or order on compensation, the
14 commission shall give reasonable public notice of its preliminary findings, solicit public
15 comments, and give due regard to the public comments.

16 (c) An order making changes to the compensation of a public officer shall become
17 effective 60 days after submission or at the end of the legislative session during which it was
18 submitted to the legislature, whichever is earlier, unless a bill disapproving the order in its
19 entirety is enacted into law during that period.

20 * Sec. 16. AS 39.23.250 is amended to read:

21 Sec. 39.23.250. FILING WITH LIEUTENANT GOVERNOR AND CERTIFICATION.
22 The commission shall, upon transmitting an order on [ITS FINAL RECOMMENDATIONS FOR
23 THE] compensation [OF LEGISLATORS] to the legislature, file the order
24 [RECOMMENDATIONS] in the office of the lieutenant governor. When the order becomes
25 [RECOMMENDATIONS BECOME] effective, the commission shall certify the copy of the
26 order [RECOMMENDATIONS] on file in the office of the lieutenant governor.

27 * Sec. 17. AS 39.23.260 is amended to read:

28 Sec. 39.23.260. POLICY OF THE LEGISLATURE. It is the policy of the legislature
29 that the commission determine an equitable rate and form of compensation [, BENEFITS, AND
30 ALLOWANCES] for the governor, lieutenant governor, members of the legislature, heads
31 of the principal departments of the executive branch, supreme court justices, judges of the

1 court of appeals, judges of the superior court, and district court judges. In determining the
2 compensation for each office, the commission shall consider the following factors:

3 (1) the skill required;

4 (2) the time required;

5 (3) the opportunity for other earned income;

6 (4) the value of public services as performed in other states and in the federal
7 government;

8 (5) the value of similar services when performed in the private sector of this
9 state and in other states based on the responsibility and discretion required in the office;

10 (6) the reasonable expenses incurred in performing the public service;

11 (7) the percentage change in the Consumer Price Index for Anchorage,
12 Alaska, as determined by the United States Department of Labor, Bureau of Labor
13 Statistics since the last compensation adjustment;

14 (8) the compensation presently received by the public officers and all other
15 benefits received;

16 (9) the interests and welfare of the public and the financial ability of the state
17 to meet the costs;

18 (10) the geographic cost-of-living based on a public officer's primary place
19 of assignment;

20 (11) the cost-of-living differential between Anchorage, Alaska, and other
21 locations in the United States; and

22 (12) other factors that are normally or traditionally considered in the
23 determination of compensation [LEGISLATORS].

24 * Sec. 18. AS 39.23 is amended by adding a new section to read:

25 Sec. 39.23.401. DEFINITIONS. In this chapter,

26 (1) "commission" means the Public Officers Compensation Commission;

27 (2) "compensation" means the salary, per diem, and allowances paid a public
28 officer.

29 * Sec. 19. AS 22.05.140(c); AS 22.10.190(c); and AS 22.15.220(d) are repealed.

30 * Sec. 20. AS 39.23.200, 39.23.240, and 39.23.400 are repealed.

31 * Sec. 21. AS 24.10.101 is repealed.

1 * Sec. 22. Notwithstanding AS 39.05.055(5) and the provisions of AS 39.23.201 enacted by sec. 13
2 of this Act, one of the initial members appointed by the Public Officers Compensation Commission shall
3 serve a one-year term, two members shall serve two-year terms, two members shall serve three-year
4 terms, and two members shall serve four-year terms.

5 * Sec. 23. When the Public Officers Compensation Commission files its first order changing the
6 compensation of justices of the supreme court or judges of the court of appeals, superior court, or district
7 court, it shall address the compensation of all of those public offices in the order. The commission shall
8 include both the governor and the lieutenant governor in the first order it issues addressing the
9 compensation of either of those public offices.

10 * Sec. 24. Sections 1 - 5 and 19 of this Act take effect on the date that the first order changing the
11 compensation of justices and judges issued by the Public Officers Compensation Commission takes
12 effect.

13 * Sec. 25. Sections 6 - 8 and 21 of this Act take effect on the date that the first order changing the
14 compensation of members of the legislature issued by the Public Officers Compensation Commission
15 takes effect.

16 * Sec. 26. Sections 9 - 11 of this Act take effect on the date that the first order changing the
17 compensation of the governor and the lieutenant governor issued by the Public Officers Compensation
18 Commission takes effect.

19 * Sec. 27. Section 12 of this Act takes effect on the date that the first order changing the
20 compensation of the heads of the principal departments of the executive branch of state government
21 issued by the Public Officers Compensation Commission takes effect.

22 * Sec. 28. Sections 13 - 18, 20, 22 and 23 of this Act take effect immediately under AS 01.10.070(c).

7-LS0799A
Gaguine
2/21/91

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE SPECIAL COMMITTEE ON ETHICS REFORM

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to conduct of legislators, legislative employees, former legislators, former
2 legislative employees, and lobbyists, and to the Select Committee on Legislative Ethics."

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

4 * **Section 1.** AS 24.45.121(a) is amended to read:

5 (a) A lobbyist may not

6 (1) engage in any activity as a lobbyist before registering under AS 24.45.041;

7 (2) do anything with the intent of placing a public official under personal
8 obligation to the lobbyist or to the lobbyist's employer;

9 (3) intentionally deceive or attempt to deceive any public official with regard to
10 any material fact pertinent to pending or proposed legislative or administrative action;

11 (4) cause or influence the introduction of a legislative measure for the purpose
12 of thereafter being employed to secure its passage or its defeat;

13 (5) cause a communication to be sent to a public official in the name of any
14 fictitious person or in the name of any real person, except with the consent of that person;

(6) accept or agree to accept any payment in any way contingent upon the defeat, enactment or outcome of any proposed legislative or administrative action;

(7) serve as a member of a state board, or commission, if the lobbyist's employer may receive direct economic benefit from a decision of that board or commission;

(8) serve as a campaign treasurer or deputy campaign treasurer for a legislative date or a legislative candidate's campaign committee;

offer, solicit, initiate, facilitate, or provide to or on behalf of a person covered by AS 24.60, during a legislative session,

(A) a gift, other than food or beverage for immediate consumption;

(B) a loan, other than a loan made in the ordinary course of business by a person authorized to transact business in this state at terms and interest rates generally available to a member of the public; or

(C) a campaign contribution;

(10) make or offer a gift or a campaign contribution whose acceptance by the person to whom it is offered would violate AS 24.60.

* Sec. 2. AS 24.45.121 is amended by adding a new subsection to read:

(c) A former member of the legislature may not engage in activity as a lobbyist before the legislature for a period of one year after the former member has left the legislature.

* Sec. 3. AS 24.60.020(a) is amended to read:

(a) Except as otherwise provided in this subsection, this chapter applies to a member of the legislature, [AND] to a person employed by the legislative branch of government, and to public members of the Select Committee on Legislative Ethics. This chapter does not apply to

(1) a former member of the legislature or to a person formerly employed by the legislative branch of government unless the provision specifically states that it [SO] applies;

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

(3) a person employed by the legislative branch of government whose position is established below Range 15 [18] of the state salary schedule established in AS 39.27.011(a).

* Sec. 4. AS 24.60.030 is repealed and reenacted to read:

Sec. 24.60.030. CONFLICTS OF INTEREST. (a) A person to whom this chapter

1 applies may not have a conflict of interest. A person has a conflict of interest when the person

2 (1) uses public office for private advancement or gain;

3 (2) takes or withholds official action or exerts official influence that could
4 substantially benefit or harm a financial matter in which the person has a direct or indirect private
5 interest;

6 (3) solicits or accepts a benefit beyond that which may accrue uniformly to
7 members of the profession, occupation, or group to which the person belongs, or to the public
8 at large;

9 (4) wilfully discloses, or knowingly uses, for personal gain or the gain of another,
10 information that by law is not available to the public and that the person acquired in the course
11 of official duties; a person who violates this paragraph may be subject to prosecution under
12 AS 11.56.860;

13 (5) uses state funds or state property, except property under lease from the state,
14 for private advancement or gain;

15 (6) knowingly uses or authorizes the use of the facilities of a public office,
16 including office space, stationery, postage, office machines and equipment, vehicles, and official
17 publications, or knowingly uses or authorizes the use of state-paid employees, with the intent to
18 affect a candidate or campaign for elective office; or

19 (7) takes or withholds official action or exerts official influence that could
20 substantially benefit or harm the financial interest of another person with whom the person to
21 whom this chapter applies is negotiating for employment.

22 (b) Notwithstanding (a) of this section, a person covered by this chapter does not have
23 a conflict of interest if, as to a specific matter, there is no substantial impropriety or appearance
24 of impropriety because

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

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

30 * Sec. 5. AS 24.60 is amended by adding a new section to read:

31 Sec. 24.60.035. PROHIBITED FUND RAISING. (a) A member of the legislature may

1 not

2 (1) solicit or accept a contribution during a legislative session; or

3 (2) accept money from an event held during a legislative session if a substantial
4 purpose of the event is either to raise money on behalf of the member for campaign purposes or
5 to raise money for state legislative political purposes.

6 (b) In this section, "contribution" has the meaning given in AS 15.13.130.

7 * Sec. 6. AS 24.60.070 is amended by adding a new subsection to read:

8 (b) A disclosure under this section must be sufficiently detailed that a reader of the
9 disclosure can ascertain the nature of the association.

10 * Sec. 7. AS 24.60.080(a) is amended to read:

11 (a) A person to whom this chapter applies may not solicit, accept, or receive, directly or
12 indirectly, a gift worth \$100 or more [IN ANY AMOUNT], whether in the form of money,
13 services, a loan, travel, entertainment, hospitality, promise, or other form, or gifts from the same
14 person worth less than \$100 that in a calendar year aggregate to \$100 or more in value, and
15 may not solicit, accept, or receive a gift with any monetary value from a lobbyist, the client
16 of a lobbyist, or a person acting on behalf of a lobbyist or the client of a lobbyist during a
17 legislative session [UNDER CIRCUMSTANCES IN WHICH IT COULD REASONABLY BE
18 INFERRED THAT THE GIFT IS INTENDED TO INFLUENCE THE PERFORMANCE OF
19 OFFICIAL DUTIES, ACTIONS, OR JUDGMENT].

20 * Sec. 8. AS 24.60.080(c) is amended to read:

21 (c) Notwithstanding (a) [(b)] of this section, it is not a violation of this section for a
22 person to whom this chapter applies to accept

23 (1) hospitality, other than hospitality described in (4) of this subsection

24 (A) with incidental transportation at the residence of a person; or

25 (B) at a social event or meal;

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

28 (3) food or foodstuffs indigenous to the state that are shared generally as a
29 cultural or social norm;

30 (4) travel and hospitality primarily for the purpose of obtaining information on
31 matters of legislative concern;

(5) gifts from the family of the person; or

(6) gifts that are not connected with the recipient's legislative status.

* Sec. 9. AS 24.60.080(d) is amended to read:

(d) A person to whom this chapter applies who accepts a gift under (c)(4) or (6) of this section [OF TRAVEL AND HOSPITALITY PRIMARILY FOR THE PURPOSE OF OBTAINING INFORMATION ON MATTERS OF LEGISLATIVE CONCERN] shall disclose the gift if it has a value of \$100 or more. The disclosure must include the name and occupation of the person making the gift and the approximate value of the gift. Each gift required to be disclosed under this subsection shall be disclosed within 30 days of the receipt of the gift 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 it receives and shall forward the disclosure to the appropriate house for inclusion in the journal by the fifth day of the next regular session.

* Sec. 10. AS 24.60.080 is amended by adding a new subsection to read:

(f) Notwithstanding (a) of this section, a person to whom this chapter applies may accept a gift of property worth \$100 or more, other than money, from a foreign government or from an official of a foreign government if the person accepts the gift on behalf of the legislature. The person shall, within 60 days of receiving the gift, deliver the gift to the legislative council, which shall determine the appropriate disposition of the gift.

* Sec. 11. AS 24.60 is amended by adding a new section to read:

Sec. 24.60.085. HONORARIA PROHIBITED. (a) A person to whom this chapter applies may not accept a payment of money or anything of value for an appearance or speech by the person, except that the person may accept payment of actual and necessary travel expenses incurred by the person in making the appearance or speech.

(b) Notwithstanding (a) of this section, a person to whom this chapter applies may accept a payment for an appearance or speech if the appearance or speech is not connected with the person's legislative status.

* Sec. 12. AS 24.60.090(a) is amended to read:

(a) An [A SPOUSE OR AN] individual [OTHER THAN A SPOUSE] who is related to a member of the legislature may not be employed in the house in which the legislator is a member, by an agency of the legislature established under AS 24.20, or in either house during

1 the interim between sessions. An individual who is related to an employee of the legislature may
2 not be employed in a position over which the employee has supervisory authority. In this
3 subsection, "an individual who is related to" means a child, stepchild, husband, wife, mother,
4 father, sister, or brother, and "interim between sessions" means the period beginning on the
5 eighth day after the legislature adjourns from a regular session, and ending eight days
6 before the date that the legislature shall convene under AS 24.05.090.

7 * Sec. 13. AS 24.60.100 is amended to read:

8 Sec. 24.60.100. REPRESENTATION PROHIBITED. A person to whom this chapter
9 applies may not represent [WHO REPRESENTS] another person for compensation before an
10 agency, board, or commission of the state, or before an officer or employee of the agency,
11 board, or commission of the state [SHALL DISCLOSE THE NAME OF THE PERSON
12 REPRESENTED, THE SUBJECT MATTER OF THE REPRESENTATION, AND THE BODY
13 BEFORE WHICH THE REPRESENTATION IS TO TAKE PLACE IN THE JOURNAL OF
14 THE APPROPRIATE BODY OR IF THE LEGISLATURE IS NOT IN SESSION TO THE
15 COMMITTEE. THE COMMITTEE SHALL MAINTAIN A PUBLIC RECORD OF THE
16 DISCLOSURE AND FORWARD THE DISCLOSURE TO THE RESPECTIVE HOUSE FOR
17 INCLUSION IN THE JOURNAL BY THE FIFTH DAY OF THE SESSION].

18 * Sec. 14. AS 24.60 is amended by adding a new section to read:

19 Sec. 24.60.105. LEGISLATIVELY FINANCED TRAVEL. (a) A person to whom this
20 chapter applies who is traveling on legislative business paid for by legislative funds must receive
21 approval in writing in advance of the person's trip if the trip involves less than four hours of
22 legislative business, excluding travel time. This requirement does not apply if the travel is for
23 the purpose of attending a meeting of a committee of the legislature. The approval shall be ob-
24 tained from

- 25 (1) the speaker of the house, if the person is a member of the house;
26 (2) the president of the senate, if the person is a member of the senate;
27 (3) the person's supervisor, if the person is a person covered by this chapter other
28 than a legislator.

29 (b) The speaker of the house, the president of the senate, a public member of the Select
30 Committee on Legislative Ethics, and a legislative employee who does not have an individual
31 supervisor shall state in writing the reason for travel described in (a) of this section, and shall

1 file the statement with the Legislative Affairs Agency.

2 * Sec. 15. AS 24.60.130(a) is amended to read:

3 (a) There is established as a permanent interim committee within the legislative branch
4 of state government the Select Committee on Legislative Ethics.

5 * Sec. 16. AS 24.60.130(g) is amended to read:

6 (g) Each legislative member serves for the duration of the legislature during which the
7 member is appointed. Each public member serves for a three-year term.

8 * Sec. 17. AS 24.60.130(i) is amended to read:

9 (i) A quorum of the full [A] committee established under this section consists of at least
10 two legislative members and at least two public members [A MAJORITY OF THE
11 MEMBERS OF THE COMMITTEE]. A quorum of a subcommittee established under this
12 section consists of at least one legislative member and at least two public members [A
13 MAJORITY OF THE MEMBERS OF THE SUBCOMMITTEE. NOTWITHSTANDING THE
14 PROVISIONS OF THIS SUBSECTION, A COMMITTEE DOES NOT HAVE A QUORUM
15 UNLESS THREE LEGISLATIVE MEMBERS ARE PRESENT AND A SUBCOMMITTEE
16 DOES NOT HAVE A QUORUM UNLESS TWO LEGISLATIVE MEMBERS ARE PRESENT].

17 * Sec. 18. AS 24.60.130 is amended by adding a new paragraph to read:

18 (j) The committee is not subject to AS 44.62.310 - 44.62.312, to the procurement
19 provisions adopted by the legislative council under AS 36.30.020, and to the Uniform Rules of
20 the Alaska State Legislature to the extent that those provisions would prevent the committee from
21 complying with the confidentiality provisions of this chapter. The committee may adopt rules
22 to implement this subsection.

23 * Sec. 19. AS 24.60.160 is amended to read:

24 Sec. 24.60.160. ADVISORY OPINIONS. The committee shall issue an advisory opinion
25 within 30 days on the request of a person to whom the chapter applies or a person elected to the
26 legislature who at the time of election is not a member of the legislature as to whether the facts
27 and circumstances of a particular case constitute a violation of ethical standards. The 30-day
28 period for issuing an opinion may be extended by the committee [FOR NOT MORE THAN AN
29 ADDITIONAL 10 DAYS] if the person requesting the opinion consents. The opinion issued is
30 binding on the committee in any subsequent proceedings concerning the facts and circumstances
31 of the particular case unless material facts were omitted or misstated in the request for the

1 advisory opinion. Except as provided in this chapter an advisory opinion is confidential but shall
2 [MAY] be made public if a written request by the person who requested the opinion is filed with
3 the committee.

4 * Sec. 20. AS 24.60.170 is repealed and reenacted to read:

5 Sec. 24.60.170. PROCEEDINGS BEFORE THE COMMITTEE. (a) The committee
6 shall consider a complaint alleging a violation of this chapter if the alleged violation occurred
7 within five years of the date that the complaint is filed with the committee and, when the subject
8 of the complaint is a former member of the legislature, the complaint is filed within one year of
9 the subject's departure from the legislature. The committee may not consider a complaint filed
10 against a person employed by the legislative branch of government after the person has
11 terminated legislative service. The committee may also initiate complaints on its own motion,
12 subject to the same time limitations. The time limitations of this subsection do not bar
13 proceedings against a person who intentionally prevents discovery of a violation of this chapter.

14 (b) A complaint may be initiated by any person. The complaint must be in writing and
15 signed under oath by the person making the complaint. The committee shall upon request
16 provide a form for a complaint to a person wishing to file a complaint. The committee shall
17 immediately provide a copy of the complaint to the person who is the subject of the complaint.

18 (c) When the committee receives a complaint under (a) of this section, it shall determine
19 whether the allegations of the complaint, if true, constitute a violation of this chapter. If the
20 committee determines that the allegations, if proven, would not give rise to a violation, or if the
21 committee's lack of jurisdiction is apparent on the face of the complaint, the committee shall
22 dismiss the complaint, and shall notify the complainant and the subject of the complaint of the
23 dismissal.

24 (d) If the committee determines that some or all of the allegations of a complaint, if
25 proven, would constitute a violation of this chapter, or if the committee has initiated a complaint,
26 the committee shall investigate the complaint, on a confidential basis. Before beginning an
27 investigation of a complaint not initiated by the committee, the committee shall adopt a resolution
28 defining the scope of the investigation. A copy of this resolution shall be provided to the
29 complainant and to the subject of the complaint. As part of its investigation, the committee shall
30 afford the subject of the complaint an opportunity to explain the conduct alleged to be a violation
31 of this chapter.

1 (e) If the committee determines after investigation that there is not probable cause to
2 believe that the subject of the complaint has violated this chapter the committee shall dismiss
3 the complaint. The committee may also dismiss portions of a complaint if it finds no probable
4 cause to believe that the subject of the complaint has violated this chapter as alleged in those
5 portions. The committee shall issue a decision explaining its dismissal. A copy of the dismissal
6 order and decision shall be sent to the complainant and to the subject of the complaint.
7 Notwithstanding (l) of this section, a dismissal order and decision is open to inspection and
8 copying by the public.

9 (f) If the committee investigation determines that a probable violation of this chapter
10 exists that may be corrected by action of the subject of the complaint and that does not warrant
11 sanctions other than correction, the committee may issue an opinion recommending corrective
12 action. This opinion shall be provided to the complainant and to the subject of the complaint,
13 and is open to inspection by the public. The subject of the complaint may comply with the
14 opinion or may request a hearing before the committee under (h) of this section. After the
15 hearing the committee may amend or affirm the opinion.

16 (g) If the subject of a complaint fails to comply with an opinion issued under (f) of this
17 section, or if the committee determines after investigation that there is probable cause to believe
18 that the subject of the complaint has committed a violation of this chapter that may require
19 sanctions instead of or in addition to corrective action, the committee shall formally charge the
20 person. The charge shall be served on the person charged, in a manner consistent with the
21 service of summons under the rules of civil procedure, and a copy of the charge shall be sent to
22 the complainant. The person charged may file a responsive pleading to the committee admitting
23 or denying some or all of the allegations of the charge.

24 (h) If the committee has issued a formal charge under (g) of this section, and if the
25 person charged has not admitted the allegations of the charge, the committee shall schedule a
26 hearing on the charge. The hearing shall be scheduled for a date more than 20 days after service
27 of the charge on the person charged, unless the person agrees to an earlier hearing date. At the
28 hearing, the person charged shall have the right to appear personally before the committee, to
29 subpoena witnesses and require the production of books or papers relating to the proceedings, to
30 be represented by counsel, and to cross-examine witnesses. A witness shall testify under oath.
31 The committee is not bound by the rules of evidence but the committee's findings must be based

1 upon clear and convincing evidence. Testimony taken at the hearing shall be recorded and
2 evidence shall be maintained.

3 (i) Following the hearing, the committee shall issue a decision stating whether or not the
4 subject of the complaint violated this chapter, and explaining the reasons for the determination.
5 The committee's decision may also indicate whether the subject cooperated with the committee
6 in its proceedings. If the committee finds a violation, or lack of cooperation by the subject, the
7 decision shall recommend what sanctions, if any, the committee believes are appropriate. If there
8 has not been a hearing because the person charged admitted to the allegations of the charge, the
9 committee shall issue a decision outlining the facts of the violation and containing a sanctions
10 recommendation.

11 (j) If the committee issues a decision finding that a member of the legislature has
12 violated a provision of this chapter or that the member has failed to cooperate with the
13 committee, it shall refer the decision to the presiding officer of the house of the legislature to
14 which the member belongs. The legislature shall act on the decision as it considers appropriate.

15 (k) If the committee issues a decision finding that an employee of the legislative branch
16 of government has violated a provision of this chapter, or that the employee has failed to
17 cooperate with the committee, it shall refer the decision to the chair of the legislative council.
18 The legislative council shall act on the decision as it considers appropriate.

19 (l) Proceedings of the committee relating to complaints before it are confidential until
20 the committee determines that there is probable cause to believe that a violation of this chapter
21 has occurred. The complaint and all documents produced or disclosed as a result of the
22 committee investigation are confidential and not subject to inspection by the public, except that
23 the committee may transmit a report of its investigation, including documents disclosed by the
24 investigation, to a law enforcement agency, including the Alaska Public Offices Commission.
25 All meetings of the committee before the determination of probable cause are closed to the
26 public. The confidentiality provisions of this subsection may be waived by the subject of the
27 complaint.

28 (m) All documents issued by the committee after a determination of probable cause to
29 believe that the subject of a complaint has violated this chapter, including an opinion
30 recommending corrective action under (f) of this section and a formal charge under (g) of this
31 section, are subject to public inspection. All hearings of the committee under (h) of this section

1 are open to the public, and all documents presented at a hearing, and all motions filed in
2 connection with the hearing, are subject to inspection by the public. Deliberations of the
3 committee following a hearing, deliberations on motions filed by the subject of a charge under
4 (g) of this section, and deliberations concerning appropriate sanctions are confidential.

5 (n) The committee shall dismiss a complaint against a person employed by the legislative
6 branch of government if the person terminates legislative service. The committee may in its
7 discretion dismiss a complaint against a former member of the legislature whether the complaint
8 was filed before or after the former member departed from the legislature.

9 (o) A committee member or member of the committee staff who divulges information
10 concerning a proceeding, except as permitted by this chapter, is guilty of a class A misdemeanor.

11 * Sec. 21. AS 24.60 is amended by adding a new section to read:

12 Sec. 24.60.175. EMPLOYMENT DISCRIMINATION GRIEVANCES. (a) A person
13 employed or formerly employed by the legislative branch of government may file a grievance
14 with the committee alleging a violation of AS 18.80.220 by the person's employer or former
15 employer. The committee shall adopt procedures concerning the filing, the investigation, the
16 mediation, and the hearing of grievances under this subsection. In adopting procedures, the
17 committee shall consider regulations of the office of equal employment opportunity adopted
18 under AS 44.19.443 and shall protect the confidentiality of grievances.

19 (b) In accordance with the procedures established under (a) of this section the committee
20 may

21 (1) provide for mediation of a grievance;

22 (2) dismiss a grievance without prejudice; or

23 (3) after a hearing, make appropriate recommendations concerning a grievance
24 to the president of the senate, the speaker of the house, or the head of the legislative agency
25 where the grievant is or was employed.

26 (c) This section does not diminish rights under other state or federal law relating to
27 employment discrimination.

28 (d) In this section, "committee" means the legislative members of the house
29 subcommittee when the grievant is or was employed by a member or a committee of the house,
30 the legislative members of the senate subcommittee when the grievant is or was employed by a
31 member or a committee of the senate, and the legislative members of the full committee when

1 the grievant is or was an employee of an agency of the legislature.

2 * Sec. 22. AS 24.60 is amended by adding a new section to read:

3 ARTICLE 2. RESTRICTIONS ON FORMER LEGISLATORS
4 AND LEGISLATIVE EMPLOYEES.

5 Sec. 24.60.200. RESTRICTIONS ON FORMER LEGISLATORS AND LEGISLATIVE
6 EMPLOYEES. (a) A person to whom this chapter applied may not, for a period of one year
7 after this chapter ceased to apply to the person, represent another person for compensation before
8 a court, agency, board, or commission of the state with regard to a matter in which the person
9 participated personally and substantially while this chapter applied to the person.

10 (b) A person who violates this section may be enjoined from continuing to violate it, and
11 is subject to a civil penalty of up to \$5,000.

12 * Sec. 23. AS 39.50.090(c) is amended to read:

13 (c) A public official may not represent a client before a state agency for a fee. However,
14 this prohibition does not apply to a person to whom AS 24.60 applies, to a municipal officer,
15 or to the chair [CHAIRMAN] or a member of a state commission or board except with regard
16 to representation before that commission or board; this exception from the general prohibition
17 does not apply to one whose service on the commission or board constitutes the person as a full-
18 time state employee under this title.

19 * Sec. 24. AS 24.60.060, 24.60.080(b), and 24.60.120 are repealed.

20 * Sec. 25. TRANSITIONAL PROVISIONS RELATING TO PUBLIC MEMBERS OF SELECT
21 COMMITTEE ON LEGISLATIVE ETHICS. Notwithstanding AS 24.61.130(g), as amended by sec. 16
22 of this Act, one of the public members of the Select Committee on Legislative Ethics shall serve until
23 the commencement of the 1992 regular session of the Alaska State Legislature; one of the public
24 members shall serve until the commencement of the 1993 regular session; and the remaining public
25 member shall serve until the commencement of the 1994 regular session. The length of each public
26 member's term under this section shall be determined by lot.