

SB

105

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

1. 6
Bill Version: CSSB105(FIN)
(S) Publish Date: 4/16/97

Revision Date: _____	Dept. Affected: <u>Department of Law</u>
Title: <u>"An Act relating to legislative and executive branch ethics; relating to the conduct of lobbyists . . ."</u>	BRU: <u>Civil Division</u>
Sponsor: <u>Senate Rules Committee</u>	Component: <u>General Legal Services</u>
Requester: <u>Senate Finance Committee</u>	COMPONENT SERIAL NO. <u>2087</u>

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

CSSB 105 (STA) makes numerous amendments to the legislative and executive branch ethics acts, expands the reporting requirements of lobbyists, requires exempt and partially exempt state employees above range 19 to file reports under the conflict of interest statutes (AS 39.50), and makes a conforming amendment to the definition of "public official" for employment security statutes. In amending the executive branch ethics act, the bill transfers certain responsibilities for enforcing the act from the Attorney General to the Personnel Board. The Attorney General retains prosecutorial authority in formal proceedings before the Board, and responsibility for enforcing the Board's decisions. CSSB 105 (STA) also adds new prohibitions, new reporting requirements, new disclosures, and expands list of persons affected by the act.

This bill will have no fiscal impact on the Department of Law. When the Executive Ethics Act was passed in 1986, the legislature did not provide funding to the Department of Law to perform its new responsibilities. Consequently, the department has largely relied on ethics supervisors in the appropriate state agencies to

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Division: <u>Administrative Services Division</u>	Date: <u>4/9/97</u>
Approved by Commissioner: <u>Bruce M. Botelho, Attorney General</u> <i>Bruce M. Botelho for</i>	Date: <u>4/9/97</u>
Agency: <u>Department of Law</u>	

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ANALYSIS CONTINUATION:

perform investigations; where possible, charged other agencies through interagency agreements for work performed under the act on their behalf; and when necessary to undertake the department's duties with scarce general funds, performed them at the expense of other work.

The Department of Law retains responsibility for certain functions under the State Affairs Committee Substitute including prosecuting ethics violations before the Board, seeking civil and criminal penalties, where appropriate, and as a practical matter, continuing to provide informal advice on the Ethics Act to agencies as well. The department hopes to continue to largely rely on interagency agreements to fund these activities.

Alaska State Legislature

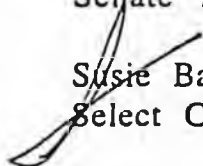
Select Committee on Legislative Ethics

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DATE: April 16, 1997

TO: Senator Tim Kelly, Chair
Senate Rules Committee

FROM:  Susie Barnett, Staff
Select Committee on Legislative Ethics

RE: Review of Ethics Bill, CSSB 105 (FIN)

An Act relating to legislative and executive branch ethics; relating to campaign finances for candidates for the legislature; relating to the conduct of lobbyists with respect to public officials; relating to the filing of disclosures by certain state employees and officials; making a conforming amendment to the definition of 'public official for employment security statutes and providing for an effective date.

This document is intended to supplement the bill, relating to changes to the Legislative Ethics Code, AS 24.60, the Executive Branch Ethics Act, AS 39.52 and the State Personnel Act, AS 39.25, the State Elections Act, AS 15.13. The purpose of this document is to provide an ethics committee analysis of the bill. (Herein, "committee" refers to ethics committee.)

The following sections were amended by the Senate Finance Committee: 1, 2, 3, 6, 8, 24, 45, 60, 63, 65, 111, 112, 113. Note comment re: Section 78.

SECTION 1: AS 15.13.072.(d) RESTRICTIONS ON SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS. Amends the State Elections Act to allow incumbent legislators and certain legislative employees to solicit and accept contributions for non-legislative campaigns during session. This amendment corresponds to the restrictions set out in AS 24.60.031(a), session fundraising restrictions in the legislative ethics code, and, with the exception of not allowing the governor or Lt. governor to fundraise for any state office during session, corresponds to the proposed executive branch session fundraising restrictions set out in AS 39.52.132 of this bill. (Added in Sen. Fin.)

2

SECTION 2: AS 15.13.116(a) DISBURSEMENT OF CAMPAIGN ASSETS As amended by the Senate Finance Committee, the language increases the portion of the unused campaign contribution that may be transferred to a future election account, from \$10,000 to \$30,000 for candidates for senate and from \$5,000 to \$15,000 for candidates for the house. Secs. 111 and 112 allow this section and the section below to take effect immediately and to be retroactive to December 31, 1996. (Added Sen. Fin.)

SECTION 3: AS 15.13.116 DISBURSEMENT OF CAMPAIGN ASSETS New subsection (d) allows, but does not require, a legislator-elect to transfer \$5000 per year from the future election account to a legislative office account. Current law 15.13.116 (9)(D) allows a one time transfer of funds to an office account at \$5000 multiplied by the number of years in the term (\$20,000 per senator, \$10,000 per representative). Secs. 111 and 112 allow this section and the section above to take effect immediately and to be retroactive to December 31, 1996. (Added by Sen. Fin.)

SECTION 4: AS 23.20.526(d) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT. Conforming amendment based on changes in this bill to the executive branch employment security statutes to ensure that the people who are not eligible for unemployment compensation remain ineligible.

SECTION 5: AS 24.25.010(e) SUBPOENA POWERS: The ethics code specifically grants the ethics committee the authority to subpoena witnesses under AS 24.60.150(b)(2). The statute to be amended by this bill sets out general authority for legislative subpoenas and includes a reference requiring the concurrence of the Senate President or Speaker of the House. Subsection(e) currently provides that the section does not apply to the Legislative Council or the Legislative Budget and Audit Committee. Like the ethics committee, both the council and LBA are permanent interim committees and both have express grants of authority to subpoena witnesses. It is the opinion of the ethics committee and the committee's legal counsel, that not including the ethics committee in the AS 24.25.010(e) exemption was an oversight, given the specific grant of authority to subpoena witnesses in the ethics code itself.

SECTION 6: AS 24.45.041(b) LOBBYING: REGISTRATION. The new language, as amended by Senate Finance at the request of APOC, would streamline the reporting requirements set out in AS 24.60.070(d) and AS 39.52.155 of this bill, for legislators, legislative employees and state officials. This language adds a requirement that the lobbyist report on the lobbyist's registration form, whether their spouse or spousal equivalent is a legislator, legislative employee or state official. (Added by Sen. Fin.)

SECTION 7: AS 24.45.171(12) DEFINITIONS. Adds "another legislative employee subject to disclosure" to the definition of public official or public officer in relation to lobbying statutes. (see AS 24.60.990(a)(15) in this bill)

SECTION 8: AS 24.60.030 PROHIBITIONS/Legislative Ethics Code

Sub-para: (a)2)(A): As amended by Senate Finance, the use of state resources for personal purposes would be allowed if the use does not interfere with the performance of public duties and either the cost is nominal or the user reimburses the state for the cost. (Amended by Sen. Fin.)

Sub-para: (a)2)(C): As amended by Senate Finance, allows "facsimile" use for a nongovernmental use or private benefit if the use does not carry a special charge. (Amended by Sen. Fin.)

Sub-para:(a)(5)(A): As amended by Senate Finance, the use of state resources for political fundraising or campaigning purposes would be allowed if the use does not interfere with the performance of public duties and either the cost is nominal or the user reimburses the state for the cost. (Amended by Sen. Fin.)

Sub-para:(a)(5)(C): As amended by Senate Finance, allows "facsimile" use for political fundraising or campaign uses if the use does not carry a special charge. (Amended by Sen. Fin.)

Sub-para:(a)(5)(D): Allows storing and maintaining campaign records (such as APOC reports) in a legislator's office. The Senate Finance Committee deleted the language in the Sen. State Affairs CS which set out that the records could not be displayed publicly. (Amended in Sen. Fin.)

SECTION 9: AS 24.60.030(c) MASS MAILING: The ethics code currently prohibits use of state funds to print or distribute a mass mailing from or about *a legislator who is a candidate for state office*, during the period 90 days before the primary and ending the day after the general election. The proposed language expands the prohibition to include legislators and legislative employees who are candidates for federal and municipal offices or to telephone and electric cooperatives. While other sections of the ethics code clearly prohibit use of state funds for campaign purposes, this section highlights what are considered to be a critical periods and provides a guideline for those who issue mailings during those times. *This prohibition does not apply to a legislator's office allowance.*

SECTION 10: AS 24.60.030(d) CAMPAIGN LITERATURE: The proposed change adds fundraising notices to the list of current prohibitions on distributing or posting campaign literature in state facilities. The prohibitions currently apply only to legislators or someone acting on behalf of a legislator. This expands that prohibition to include legislative employees. Allows legislators to post materials related to a past election in his/her private legislative office.

SECTION 11: AS 24.60.030(f) BOARD MEMBERSHIP: The amendment would change the board membership disclosure period from 30 days to 60 days and would require the committee to publish the disclosures in the journal.

SECTION 12: AS 24.60.030(g) CONFLICTS OF INTERESTS: The amendments to this section have the effect of changing the *prohibition* on taking legislative, administrative or political action to a *disclosure requirement* prior to taking action if one has any of the "interests" listed in the amendment, which are expanded beyond equity or ownership interest to include employment, contracts and membership on a board. It also sets out that the disclosure is to be publicly announced if the action is being taken in a committee meeting or on the floor. Actions being taken other than in committee or on the floor, e.g. drafting a bill or testifying in an administrative hearing, would be disclosed, in writing to the ethics committee within 7 days. Disclosures, whether oral or written, must include the nature of the financial interest and a short description of how the action affects the interest.

SECTION 13: AS 24.60.030 GOVERNMENT TIME Under the proposed language, when determining in a complaint proceeding whether an employee was performing a task on government time, the committee would consider the schedule set by the employee's supervisor. Requires an employee to take leave for the period of time he/she is engaged in political campaign activities, other than incidental campaign activities. Political campaign activities are permissible on government time if the activities are part of the normal legislative duties, including answering phone calls and handling incoming correspondence.

SECTION 14: AS 24.60.031(a) FUNDRAISING DURING SESSION The proposed language clarifies that the restrictions on fundraising during session are in effect on a day when either house is in regular or special session. (This would change the committee's current interpretation of "gavel to gavel") The proposed language retains the restrictions on fundraising during session for state legislative political purposes and by eliminating the term "campaign purposes", it makes clear it is limited to state legislative political purposes.

SECTION 15: AS 24.60.039 EMPLOYMENT DISCRIMINATION The Ethics Committee shares jurisdiction with the Human Rights Commission on complaints filed against a legislator or legislative employee concerning violations of the employment discrimination statute, AS 18.80.220. Current law requires the committee to deal with a complaint alleging a violation of that statute in the same manner they would deal with any other complaint. The proposed language gives the committee the option to refer those who file a complaint of employment discrimination to the Human Rights Commission and defer consideration of the complaint until after the commission has completed its proceedings.

SECTION 16: AS 24.60.040(a) CONTRACTS AND LEASES The proposed language broadens the contract and lease criteria beyond the current code, which restricts a legislator or legislative employee from having a financial interest in a state contract or lease unless:

- it is let through competitive bidding in accordance with the Procurement Code or
- it is worth \$1000 or less annually or
- it is standardized, under publicly established guidelines and generally available to the public at large.

The new language allows participation in contracts or leases that are let under AS 36.30, the State Procurement Code, which addresses a variety of award methods, including sole-source. It also allows participation in contracts and lease that are let under similar procedures to those in AS 36.30 which addresses such agencies as the University, the railroad and the legislature. The new language sets a new reporting threshold at \$5000, changed from the previous \$1000.

This bill eases the 'family member' disclosure requirement to generally read: A legislator or legislative employee who knows, or reasonably ought to know, that a family member is participating in a state contract or lease must disclose that participation.

This relaxing of prohibitions is balanced by the new disclosure requirement. Currently a legislator or legislative employee does not disclose to the ethics committee participation in contracts or leases permitted by the code. The proposed language requires disclosure by the legislator, legislative employee and family members of participation in any state contract or lease over \$5000 annually.

SECTION 17: AS 24.60.040, CONTRACTS AND LEASES. The new subsection clarifies that a grant, contract or lease that falls under one of the State Loan or Benefit Programs in AS 24.60.050, is not subject to this section. (The committee publishes a list of programs that do not meet the criteria in AS 24.60.050 and requires disclosure of participation in any of the listed programs.) It also clarifies that for the purposes of complying with the ethics code, a grant that results in a contract is subject to this section.

SECTION 18: AS 24.60.050(c) REFRAIN FROM PUBLICATION Allows the committee to protect an individual's right to privacy concerning participation in state loan and benefit programs and sets confirming disclosure date. This follows an advisory opinion issued by the committee in 1994 explaining that it chose to not publish the name of a person who received a benefit from the Violent Crimes Compensation Committee but did publish that a person covered by the ethics code had received a benefit.

SECTION 19: AS 24.60.060(b) PROTECTIVE ORDER The subject of an ethics complaint would be in violation of the code for releasing information deemed confidential under a protective order issued by the committee. This change would allow the committee to broaden discovery by the subject while still protecting any innocent, or 'not involved' parties.

SECTION 20: AS 24.60.070(b) DEADLINE FOR CLOSE ECONOMIC ASSOCIATION: The current code required disclosure of close economic associations but did not set a deadline. New deadline is set deadlines in AS 24.60.105 of this bill. The February 15 deadline is in line with others and the 60 day disclosure for new associations matches the new language for disclosures throughout the bill.

SECTION 21: AS 24.60.070. SPOUSAL/SPOUSAL EQUIVALENT LOBBYIST. This new section would require legislators and legislative employees who are married to or who are the spousal equivalents of a lobbyist, to disclose, under Close Economic Association, the name and address of each of the lobbyist's clients and the total monetary value received from each client annually. Changes to the list would have to be reported within 48 hours.

SECTION 22: AS 24.60.080(a): GIFTS The bill increases the gift limit from \$100 to \$250 annually. The language also clarifies that those gifts that come under subsection (c); hospitality, discounts, food shared as a cultural norm, travel/hospitality for obtaining information on legislative matters, gifts from immediate family and gifts not connected to legislative status are exceptions to the general prohibition on accepting gifts. Gifts on behalf of a charitable organization (new subsection (h)) are exempted from both "accepting and soliciting" prohibitions. New language has been added that restricts legislators and legislative employees from accepting, from a lobbyist during

session, anything of monetary value other than food or beverage for immediate consumption.

SECTION 23: AS 24.60.080(c) GIFT EXEMPTIONS The amendment to sub-paragraph(1)(A) clarifies that a stay in a vacation home located outside the state, is not an exempted gift. Amendment to sub-paragraph (2)(B) would allow legislators and legislative employees to accept discounts while on state business if the discount benefits the state. Paragraph (7) allows legislators and personal staff of legislators (not other legislative employees) to accept discounts and welcoming gifts in the capitol city during session.

SECTION 24: AS 24.60.080(d) GIFT REPORTING The changes in this section correspond to those made in previous sections e.g. \$250 limit and changing reporting date for gifts not related to legislative status to February 15 deadline and the change from reporting gifts to APOC.

Currently, a legislator or legislative employee who receives a gift of over \$100 "not related to legislative status" is required to report, confidentially, the name of donor and description of the gift received under this category. If the gift has a value of over \$250, the actual value must also be reported. The new language requires reporting, confidentially, only the name of donor and description of gift for all gifts over \$250 not related to legislative status.

Proposed changes to Sections 200-260 (discussed further down in this document) of the ethics code, remove APOC out from under the responsibility of dealing with reports of gifts received by legislators and legislative directors. This is an effort to ease confusion over what is reported to whom. Under the proposed changes, all gifts would be reported to the ethics committee. Copies of the non-confidential gift disclosures will be forwarded to APOC. Senate Finance, at the request of APOC, added the disclosures of gifts of "legislative employees" who are required to file financial disclosure statement to those that the ethics committee must provide copies of to APOC. (As amended by Sen. Fin.)

SECTION 25: AS 24.60.080(e) Low Budget Campaigns This is a technical change in response to the new campaign finance reform law, to allow certain contributions to "small budget" campaigns to fall within the "contribution" definition.

SECTION 26: AS 24.60.080(f) Government Gifts Allows acceptance of gift from a foreign government, the U.S. government or another state government for protocol purposes so long as the gift is delivered to the legislative council within 60 day. This bill increases the threshold to \$250 to correspond with other changes relating to gifts.

SECTION 27: AS 24.60.080(g) FAMILY Defines the terms in the Gifts Section "Immediate family or family member", which includes cohabitators, when used in relation to gifts received from immediate family and the new subsections in AS 24.60.080: inheritance from a family member (i) or gifts received by a family member (k).

SECTION 28: AS 24.60.080 GIFTS. New Subsections

(h) Permits soliciting and accepting gifts on behalf of charitable organizations, which is in accordance with an advisory opinion issued by the

committee. Allows the committee to set guidelines concerning these types of gifts.

(i) Requires reporting of receipt, but not value of, an inheritance from a person other than a family member. The current statute does not address inheritance. This information is currently required under APOC reporting of gifts. The bill reflects the change from reporting gifts to APOC.

(j) Sets out that gifts of volunteer services for legislative purposes may be accepted by a legislator, legislative committee or legislative agency as a gift to the state, so long as the person donating the services is not paid by another source. Allows a legislator, legislative committee or legislative agency to accept a UA Intern or JTPA trainee as well as any other educational trainees the committee approves. To maintain confidentiality, the ethics committee is not permitted to accept volunteer services.

This subsection requires volunteers, interns, and educational trainees to generally comply with the ethics code, with the exceptions of the following sections: contracts and leases, close economic associations, nepotism or representation before state agencies. The nepotism exemption allows family members to volunteer their time to legislative offices.

(k) The current law does not specifically address whether gifts, from another source, to a family member or spousal equivalent of a legislator or legislative employee fall within the restrictions and/or reporting requirements. The proposed language requires disclosure by a legislator or legislative employee who knows, or reasonably ought to know, that a family member has received a gift because of the family member's connection to the legislator or legislative employee. The bill provides this guideline: if the gift was given directly to the legislator or employee and if it would have to be reported by the legislator or employee, then the same gift, if the gift was given to a family member because of his/her connection to a legislator or legislative employee, would require disclosure. In other words, gifts of travel for matters of legislative concern given to allow the spouse to travel with the legislator, would have to be reported. The same holds true for gifts that legislators or legislative employees would be prohibited from accepting, that are received by family members. For example, gift of over \$250 given to the spouse of a legislator, primarily because of the connection to the legislator, would have to be reported.

The language, "or reasonably ought to know", concerning family members reduces the burden on those covered by the ethics code to research gifts provided to family members with whom there is little or no contact.

(l) Sets out that the value of the gift is fair market value, to the extent that fair market value can be determined. An example of how this might apply is; a tourism company provides a one hour helicopter ride to show a legislator the area in which they would like to expand their tours. The legislator would use the rate charged to helicopter passengers for a one hour tour in reporting the gift.

SECTION 29: AS 24.60.085(a) EARNED INCOME AND HONORARIA The amendments in this section would allow legislators and legislative employees to accept compensation that is less than fees generally charged. The effect of this change would be to allow an attorney to do pro bono work or an engineer to charge a reduced rate for review of plans for a non-profit organization.

SECTION 30: AS 24.60.100 REPRESENTATION Current law does not set reporting deadlines for representation before a state agency. This change

corresponds to the other changes of February 15 and 60 days for new representation, see new section 24.60.105 of this bill.

SECTION 31: AS 24.60.105 DEADLINES FOR FILING DISCLOSURES Sets out a reporting deadline of February 15 for disclosures of interests in state contracts, leases, programs and loans, representations of clients, close economic associations and membership on a board. Interests begun or acquired during the regular session (except for the last 30 days) must be reported within 30 days.

SECTION 32: AS 24.60.130(f). COMMITTEE PER DIEM AND TRAVEL The language corrects a drafting oversight by formalizing the public members' entitlement to receive per diem and travel compensation, as has been customary with legislative committees that have non-legislative members, such as the Code Revision Committee. The public members are not entitled to be paid for their time in service to the committee. AS 39.20.180 sets the rates and terms for per diem and travel for state boards and commissions. The change would apply those rates and terms to the public members of the committee.

SECTION 33: AS 24.60.130(h). MEMBER DISQUALIFICATION The new language prohibits an ethics committee member from participating in a complaint proceeding against a subject of a complaint who is supervised by the member. The process for appointing a new member to serve on the ethics committee in the place of a disqualified member is in new subsection AS 24.60.130(o) of this bill.

SECTION 34: AS 24.60.130(o) APPOINTMENT OF COMMITTEE ALTERNATES The current law sets out that if a member is disqualified during session, the presiding officer, with 2/3 concurrence, appoints another member for that proceeding. If disqualification is during interim, the presiding officer appoints a new member with the concurrence of that house's subcommittee. Involving either body of the legislature defeats confidentiality and allows public knowledge that the disqualified member may be the subject of the complaint. The new language directs the presiding officers to appoint alternates to the committee who will serve when the chair of the committee or subcommittee designates them, due to a legislative member being disqualified in a complaint proceeding. The designation of the alternate by the chair is confidential.

SECTION 35: AS 24.60.134(a). RESTRICTIONS ON THE COMMITTEE. The proposed language strengthens the political restrictions on the public members, staff to the committee and those under contract to the committee, by clarifying that prohibitions of participation in political management or in a political campaign extend to ballot initiatives and to campaigns for federal, state and local offices, regardless of whether the campaign is partisan or nonpartisan. A public member, employee or contractor to the committee may not attend a fundraiser or make a contribution to a political party, a candidate for the legislature, an incumbent legislator or legislative employee who is a candidate for another public office or a person running for another office against an incumbent legislator or legislative employee. The restriction on lobbying activities also remains the same as current law.

SECTION 36: AS 24.60.134(c) RESTRICTIONS: NEW SUBSECTION The proposed language permits a contractor with the ethics committee to request

the committee to exempt some members of the corporation or partnership from having to comply with some or all prohibitions against political activity. The committee has contracted for outside legal counsel with an attorney who is part of a large firm with branch offices outside of Alaska. A strict reading of current law might mandate all employees of that law firm to comply with the restrictions in the Alaska legislative ethics code.

SECTION 37: AS 24.60.150(b) GUIDELINES Permits the committee to adopt guidelines to implement this entire chapter under a public process. A person who acted within the guidelines could not be penalized for violating the ethics code. The current procedure of issuing Advisory Opinions allows interpretations based only on the facts presented by a requester. Situations have come up wherein the committee feels guidelines, based on a broad set of circumstances and an interpretation of the law, would assist those covered by the code in avoiding inadvertent violations.

SECTION 38: AS 24.60.160 ADVISORY OPINIONS The proposed language in this section allows the committee to issue an advisory opinion to a person who anticipates becoming a legislative employee, 45 days prior to employment. Current law restricts the committee to issuing advisory opinions to those already in legislative employment, legislators and legislators-elect. Current law sets 30 days as the response time for the committee to a request for an advisory opinion. The proposed change allows the committee 60 days to respond.

The new language in subsection(b) clarifies that the committee retains the authority to restrict attendance during deliberations in executive session on an advisory opinion.

SECTION 39: AS 24.60.170(a) COMPLAINTS: COMMITTEE JURISDICTION Current law requires the committee to process a complaint received, even if against all members of the legislature or all members of one house of the legislature. The proposed change, prohibiting the committee to consider a complaint of that nature, would allow the committee to return the complaint without action. Current law prohibits considering a complaint against a terminated legislative employee. Proposed language would allow the committee to reinstate a complaint that was closed upon an employee's termination, if the employee was rehired within five years of date the complaint was filed. In other words, if an employee quit to avoid complaint proceedings and the employee was rehired 6 months later, the committee may take up the initial complaint again. New language also allows the committee to follow the same procedure with a former legislator who resumes legislative service within five years of the date of the complaint. This change would affect former staffers who have been elected to the legislature and former legislators who have been employed as staffers.

SECTION 40: AS 24.60.170(b) COMPLAINANT New language clarifies that the complainant must sign a statement that he/she has reason to believe that a violation has occurred and places a responsibility on the committee to notify the complainant that he/she may have to testify during proceedings.

SECTION 41: AS 24.60.170(c) COMPLAINTS: PRELIMINARY EXAM/DISMISSAL The proposed change would put into law the current adopted procedure of the committee, which is to assign complaints to staff for preliminary examination for legal sufficiency and credibility of information.

Staff would then make a recommendation to the committee based on information and evidence contained in the complaint. Staff and the committee would be specifically permitted to solicit additional information from the complainant and the subject. The subject is not obligated to provide information. The new language clarifies that the committee is permitted to dismiss frivolous complaints and complaints that lack credible information. Further clarifies, as is current practice, that proceedings under this subsection are confidential and that confidentiality may be waived by the subject in compliance with AS 24.60.170(i), the subsection dealing with discovery by the subject.

SECTION 42: AS 24.60.170(f) LACK OF PROBABLE CAUSE Clarifies that the deliberations and vote on the dismissal order and decision on a finding of "lack of probable cause that a violation of the ethics code occurred" are not open to the public or to the subject of the complaint.

SECTION 43: AS 24.60.170(g) CORRECTIVE ACTIONS: Clarifies procedures in the event a person, after a finding of probable cause of a violation of the ethics code, agrees to comply with the committee's recommended corrective actions but later fails to complete the corrective action. Under the new language the committee may formally charge the person or refer the matter to the appropriate house of the legislature or appointing authority. It empowers the legislature or the appointing authority to enforce the actions or to decline to enforce and refer the matter back to the committee. If it is referred back to the committee, the committee retains the power to formally charge the person.

SECTION 44: AS 24.60.170(h) CORRECTIVE ACTIONS Conforms subparagraph (h) to the new language in AS 24.60.170(g), empowering the committee to formally charge a person who fails to complete corrective actions.

SECTION 45: AS 24.60.170(i) DISCOVERY Subsection (i) in current law is unclear as to when the subject of a complaint may engage in discovery. The committee feels the appropriate time for discovery and what seems to be the intent of the code, is at the point a person is formally charged. The change from subsection (b) to subsection (h) would clarify that intent. However, the new language permits the committee to adopt procedures concerning discovery which include allowing discovery at an earlier stage than formal charges and imposing reasonable restrictions on release of information to the subject of a complaint, to protect the privacy of persons not under investigation. The Senate Finance Committee amended subsection (i)(3) by adding a requirement that the committee could not impose restrictions on discovery by the subject unless the person agreed to be bound by similar restrictions concerning release of information and the person has not made public the information in or about the complaint or the filing of the complaint. The committee notes that they usually do not have jurisdiction over the complainant nor is the complainant involved in discovery. (Amended by Sen. Fin.)

SECTION 46: AS 24.60.170(l) ATTENDANCE AT EXECUTIVE SESSIONS and WAIVER OF CONFIDENTIALITY. The Uniform Rules set out that a legislator may not be excluded from an executive session. The proposed language clarifies that all meetings of the committee concerning complaints are closed to the public and to legislators who are not committee members. Under this

amendment, the committee may permit the subject of a complaint to attend a meeting, unless the committee is in deliberations on probable cause that a violation occurred. The language limits the power of the complainant to waive confidentiality for others.

SECTION 47: AS 24.60.174(a) TIMETABLE FOR SANCTIONS This sets out a procedure for the ethics committee and the legislature to follow concerning sanctions on legislators. The committee must include a timetable for compliance reports when it submits a report recommending sanctions to a legislative body to consider imposing on a legislator who was found in violation of the ethics code. The report may also include recommended fines that the legislative body may impose if the legislator does not comply in a timely manner.

SECTION 48: AS 24.60.174 TIMETABLE FOR SANCTIONS This subsection requires the legislative body to report to the committee the sanctions and timetable for compliance it has adopted. It further requires the legislator to report compliance with the sanctions according to the timetable to the committee. If the committee determines the legislator or former legislator has not complied fully and in a timely manner, the committee may recommend that the legislative body impose a fine or additional sanctions.

SECTION 49: AS 24.60.176: RECOMMENDATIONS WHERE VIOLATOR IS A LEGISLATIVE EMPLOYEE. The current code sets out that the "appointing authority" determines sanctions to be imposed on a violator who is an employee. (Appointing authority is defined in AS 24.60.176(b) of this bill.) The proposed language in this section establishes that those listed in AS 24.60.176(b) have the authority to impose sanctions on violators who are legislative employees.

SECTION 50: AS 24.60.176(b): APPOINTING AUTHORITY. This new subsection defines which body or person is the appointing authority for each set of legislative employees.

SECTION 51: AS 24.60.178 SANCTIONS Current law does not set out possible sanctions that could be recommended by the committee. The new section lists sanctions the committee may make to the legislature for violations of the ethics code. The list includes; fines on members who violated the code, divestiture of specified assets or withdrawal from certain associations, additional disclosure, suspension or termination from legislative employment (if an employee), restitution or reimbursement, public or private written reprimand, censure, removal from committee positions, probation, expulsion or any other appropriate measure. Subsection (c) clarifies that the committee may recommend that the subject be required to pay all or some of the costs related to the investigation or adjudication of a complaint. The committee's intent is to allow those covered by the code to be aware of possible sanctions and to empower the legislature to impose or require any of the above sanctions on legislators, including fines.

SECTION 52: AS 24.60.200 FINANCIAL DISCLOSURE BY LEGISLATORS, LEGISLATIVE DIRECTORS AND RANGE 19 AND ABOVE LEGISLATIVE EMPLOYEES Under current law, legislators and legislative directors are required to annually file a complete financial disclosure statement to APOC. This statement is similar to the conflict of interest statements filed by statewide

and local elected officials. The proposed changes to the APOC Legislative Financial Disclosure statement deal only with gifts. All other reporting under this section remains the same and remains the responsibility of APOC. The new language removes the responsibility for dealing with reports of any gifts from APOC. The corresponding change described above in AS 24.60.080(d) places that responsibility solely with the ethics committee. The amendment adds the same reporting requirements for Range 19 and above legislative employees and public members of the ethics committee and adds the requirement that spousal equivalent income is also reported.

SECTION 53: AS 24.60.210 DEADLINES FOR FILING. Adds Range 19 and above employees and public members of the ethics committee to the reporting deadline, and changes the deadline from April 15 to February 15. For those employees hired at a Range 19 after January 1, the reporting deadline is 60 days from date of being hired, or promoted, to a Range 19.

SECTION 54: AS 24.60.240. CIVIL PENALTY FOR LATE FILING. Adds Range 19 and above employees and public members of the ethics committee to those subject to civil penalties for late filing.

SECTION 55: AS 24.60.250 FAILURE TO FILE. Adds Range 19 and above employees and public members of the ethics committee to those who could forfeit nomination to office for failure to file report. (See 2/18/97 Cramer memo for discussion of this section)

SECTION 56: AS 24.60.260(a) FINES Current law does not include any penalty for late disclosures to the ethics committee. The proposed changes in this subsection and the new subsection AS 24.60.260(c) in this bill, would allow a person to file a late disclosure but that person would be subject to a fine or to having a complaint filed against them.

SECTION 57: AS 24.60.260(c) FINES Permits the committee to impose fines for late disclosures. Fines are not to exceed \$2 per day to a maximum of \$100 per late disclosure.

SECTION 58: AS 24.60.990(a)(5) IMMEDIATE FAMILY The change to the definition of immediate family affects, in current law, the contracts and leases section (24.60.040) and the section on nepotism, AS 24.60.090. The changes here conform with changes made in AS 24.60.080(g) of this bill.

SECTION 59: AS 24.60.990 - LEGISLATIVE EMPLOYEE AND SPOUSAL EQUIVALENT Adds Range 19 employee and public members of the ethics committee to the definitions of who is required to file the annual Legislative Financial Report to APOC. Adds spousal equivalent to the list of those whose income must be reported if the reporter is required to file the annual Legislative Financial Report to APOC.

SECTION 60: AS 39.25.070: POWERS AND DUTIES OF THE PERSONNEL BOARD. Reflects the changes made in later sections of this bill, which replace the Attorney General with the Personnel Board for many of the duties related to handling executive branch ethics complaints. (Added in Sen. Fin at suggestion of the drafter.)

SECTION 61: AS 39.25.160 New subsection:(j) STATE PERSONNEL ACT. Amends the State Personnel Act by adding a specific prohibition on state employees engaging in campaign activities on behalf of political candidate on government time. Clarifies that Division of Election employees may carry out duties related to elections and members and employees of the Commission on Judicial Conduct may carry out duties related to evaluation of judges.

SECTION 62: AS 39.50.020 REPORT OF FINANCIAL AND BUSINESS INTERESTS. Subsection (a) Amends the non-legislative Conflict of Interest statutes. This section sets out that the public officials listed in AS 39.50.200 must file a financial report within 30 days after taking office as a public official. In reference to filing requirements for candidates, deletes the 30 day grace period for a "person who becomes a candidate by any other means" thereby requiring immediate filing. Subsection (b) sets out that public officials are to file with APOC.

SECTION 63: AS 39.50.030(a) CONTENTS OF FINANCIAL STATEMENTS. Deletes the unnecessary reference to assets or liabilities under \$500, household goods and personal effects, to clarify that only those items listed in subsection (b) and (d) are to be reported. (Amended by Sen. Fin to include (d))

SECTION 64: AS 39.50.030(b) CONTENTS OF FINANCIAL STATEMENTS. Changes the reporting requirements for the executive branch public officials to the same level of legislators; interests over \$1000. Previous reporting level was \$100 for most income/interests and \$500 for loans. Adds requirement for public officials to report any income of over \$250 that is a *gift*. Deletes requirement for reporting of a state contract or natural resource lease held, bid or offered by the official's mother or father, adds reporting of state contract held, bid or offered by a partnership or professional corporation of which the official is a member. Adds official's spouse to the list of those the official must report if the spouse holds a natural resource lease.

SECTION 65: AS 39.50.030 CONTENTS OF FINANCIAL STATEMENTS. Added by Senate Finance at the request of APOC, this language provides a way for state officials to report a close economic association (as required in AS 39.52.155 of this bill) along with their conflict of interest statements on April 15, as opposed to filing a separate report on February 15. (Added by Sen. Fin.) Note overlap with Sections 6 and 78

SECTION 66: AS 39.50.070 FAILURE TO REPORT BY CERTAIN STATE EMPLOYEES. Amends language to conform with changes on who must report, in Sections AS 39.50.020 and AS 39.50.200.

SECTION 67: AS 39.50.080 FAILURE TO REPORT BY A COMMISSION OR BOARD CHAIR OR MEMBER. Amends language to conform with changes on who must report, in Sections AS 39.50.020 and AS 39.50.200.

SECTION 68: AS 39.50.200((a)(8) DEFINITIONS. Combined with following section, changes the definition of who must file a financial report. Adds to the current list, all state employees in the executive branch in the exempt or partially exempt service who are at a Range 19 or above or who earn more than \$4200 per month.

SECTION 69: AS 39.50.200(a)(10) DEFINITIONS. Combined with above section, changes the definition of who must file a financial report. Adds to the current list, all state employees in the executive branch in exempt or partially exempt service who are at a Range 19 or above or who earn more than \$4200 per month.

SECTION 70: AS 39.52.010(a) FINDINGS AND PURPOSE. Generally adds the findings of the legislative ethics act to those in the executive branch ethics code.

SECTION 71: AS 39.52.110(c) SCOPE OF CODE. Conforming change related to removal of Attorney General from certain actions related to administering the executive ethics code.

SECTION 72: AS 39.52.120(b) MISUSE OF OFFICIAL POSITION. This section clarifies that the Governor and Lt. Governor may accept campaign contributions and that public officers and Lt. Governor and Governor may accept lawful gifts.

SECTION 73: AS 39.52.125 MISUSE OF OFFICIAL POSITION BY STATE OFFICIALS. New section. Adds a new section to the executive branch ethics code which sets out additional prohibitions for state officials (as defined at the end of this bill), as generally found in the legislative ethics act, and includes changes made to the legislative ethics act through this legislation.

SECTION 74: AS 39.52.130(c). GIFTS This section and other sections change the reporting, advising and enforcing authority relating to gifts for the executive branch from the Attorney General's office to the Personnel Board.

SECTION 75: AS 39.52.130(e-n) GIFTS . New subsections. Changes language regarding state officials to match legislative gift restrictions and reporting. Sets out the list of gifts that are exempted from restrictions, including voluntary services, to the executive branch. The list matches the exempt list for the legislature, as proposed in this bill. Gifts from another government to be delivered to the Office of the Governor.

SECTION 76: AS 39.52 RESTRICTIONS ON FUNDRAISING. New Subsections. Section 39.52.132: Sets restrictions on campaign fundraising during session for state officials including the governor and lieutenant governor. Section 39.52.134 prohibits a state official, other than the Governor or Lt. Governor, in the exempt or partially exempt service from filing a letter of intent or declaration of candidacy for the legislature. Section 39.52.136 adds state officials to those that must comply with the open meetings law.

SECTION 77: AS 39.52.150(d) IMPROPER INFLUENCE IN STATE GRANTS, CONTRACTS, LEASES, LOANS. Requires reporting to the Personnel Board as well as to supervisor, a report of participation in state contracts, grants, leases, loans.

SECTION 78: AS 39.52.155 DISCLOSURE OF CLOSE ECONOMIC ASSOCIATIONS. New Section: Requires state official to disclose, to supervisor and APOC, close economic associations with those listed in this

section. Sets disclosure deadlines to conform with legislative ethics act. Subsection (c) requires state officials who are married to or living with a lobbyist to report the name of each employer of the lobbyist and the total monetary value received from the employer. Changes must be reported within 48 hours. APOC shall maintain a public record of the disclosures. Note overlap with Section 6 and 65.

SECTION 79: AS 39.52.170 OUTSIDE EMPLOYMENT RESTRICTED. (a) Adds a clause that restricts state officials from accepting outside employment if the compensation is significantly greater than the value of the services. Conforms with legislative ethics language. (b) Requires those who receive compensation for another job to report to both supervisor and Personnel Board.

SECTION 80: AS 39.52.170 (c) OUTSIDE EMPLOYMENT. Adds an honorarium restriction for state officials which matches legislative ethics act restriction.

SECTION 81: AS 39.52.180(b) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE. This references change in new subsection (d) below, restricting agencies from contracting with a former state official for lobbying services before a state agency or the legislature.

SECTION 82: AS 39.52.180(c) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE. References new subsection (d) below and sets a one year limit on waiving restrictions set out in this section regarding lobbying.

SECTION 83: AS 39.52.180 RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE. New subsection. (d) restricts agencies from contracting with a former public officer for services which would include lobbying before a state agency or the legislature.

SECTION 84: AS 39.52.210(a-c) DECLARATION OF POTENTIAL VIOLATIONS. Requires public employees to report potential violations to Personnel Board as well as to supervisor. Requires supervisor to provide a copy of written determination of potential violation to public employee and personnel board.

SECTION 85: AS 39.52.220 DECLARATION OF POTENTIAL VIOLATIONS BY MEMBERS OF BOARDS AND COMMISSIONS. Requires members of boards or commissions to disclose a matter that may result in a violation on the public record and in writing to supervisor and to the personnel board. Replaces AG office with Personnel Board as advisors in matters of potential violation.

SECTION 86: AS 39.52.230 REPORTING OF POTENTIAL VIOLATIONS. A complaint against a state official is filed with the supervisor. The supervisor is required to file a copy of the complaint with the personnel board.

SECTION 87: AS 39.52.240(a) ADVISORY OPINIONS. Adds state officials to those that may request an advisory opinion and sets the personnel board as the body to issue the opinion.

SECTION 88: AS 39.52.240(b) ADVISORY OPINIONS. Replaces the AG office with the personnel board as the body offering oral advice.

SECTION 89: AS 39.52.240(c) ADVISORY OPINIONS. Replaces the AG office with the personnel board as the advising body.

SECTION 90: AS 39.52.240(e) ADVISORY OPINIONS. Replaces the AG office with the personnel board as the advising body

SECTION 91: AS 39.52.240(h) ADVISORY OPINIONS. Replaces the AG office with Personnel Board for purpose of publishing advisory opinions.

SECTION 92: AS 39.52.250 ADVICE TO FORMER PUBLIC OFFICERS. Replaces the AG office with the personnel board as the advising body.

SECTION 93: AS 39.52.260 DESIGNATED SUPERVISOR'S REPORT AND PERSONNEL BOARD REVIEW. Replaces the AG office with the personnel board as the body accepting reports of potential violations.

SECTIONS 94 -103: AS 39.52.310, 320,330,340. COMPLAINTS: The changes in these sections have the effect of removing the AG from handling complaints and placing that responsibility with the Personnel Board.

SECTION 104: AS 39.52.350: PROBABLE CAUSE FOR A HEARING Changes the current role of the AG from determining probable cause and initiating hearings to that of "prosecutor" in the hearing. Establishes the Personnel Board as the body to conduct the preliminary review, determine probable cause and initiate hearings.

SECTION 105: AS 39.52.920 AGENCY POLICIES Replaces the AG office with the Personnel Board as the body which reviews and approves agency policies that restrict a public officers acquisition of personal interest in certain entities and acceptance of gifts.

SECTION 106: AS 39.52.950. REGULATIONS. Limits the AG office to adopting regulations relating to complaints (for this act) and sets out that the personnel board may adopt regulations necessary to interpret and implement sections other than complaints,

SECTION 107: AS 39.52.960(11) DEFINITION OF IMMEDIATE FAMILY. Changes definition in the executive act to match the legislative act, as proposed in this bill.

SECTION 108: AS 39.52.960 (23) DEFINITION OF STATE OFFICIAL. Means governor, lieutenant governor, a person hired or appointed as the head or deputy head of a department in the executive branch or as the director of a division in a department in the executive branch, the chair or member of a state commission or board, the executive director of the Alaska Tourism Marketing Council, an assistant to the governor or lieutenant governor, a state investment officer, the state comptroller in the Department of Revenue, and a state employee who is not otherwise listed in this definition who is employed in a position in the executive branch of state government in the exempt or

partially exempt service and who is compensated at Range 19 A or above on the state salary schedule or at more than \$4200 per month. (This may affect people at lower ranges who are further out in step) Does not include an employee who is a member of collective bargaining unit e.g. state ferry workers.

SECTION 109: AS 44.62.175(a) ALASKA ADMINISTRATIVE JOURNAL. Adds advisory opinions of the personnel board to the list of those things to be published in the journal.

SECTION 110: Temporary Law: AG OPINIONS. Sets out that a public officer or former public officer may rely upon the opinion of the AG's office prior to this act taking effect.

SECTION 111: Temporary Law: DISBURSEMENT OF UNUSED CAMPAIGN CONTRIBUTIONS Allows current legislators to transfer \$5000 per year from unused campaign contributions to a legislative office account and requires the money transferred to be accounted for under AS 15.13.110(a)(4).

SECTION 112: Temporary Law. Retroactive Date for Secs. 1, 2 and 111. Allows the increase in transfer to future election account and subsequent transfer of a portion of that increase to the office account to be retroactive to December 31, 1996.

SECTION 113: Temporary Law. Immediate Effective Date for Secs. 1, 2, 111 and 112.

SECTION 114: EFFECTIVE DATE: APOC has recommended that a January 1 effective date would correspond to their calendar year reporting and would avoid confusion for those who have to file the financial disclosure to APOC for the period of time between January 1 and whatever other date might be selected.