

HCR

12

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

Sponsor Statement for House Concurrent Resolution

**"Proposing an amendment to the Uniform Rules of the Alaska State
Legislature relating to voting."**

Article II, section 12 of the Alaska Constitution requires the Legislature to adopt uniform rules governing the procedures the body will follow. Uniform rule 34(b) governs a request by a member to abstain from a vote.

House Concurrent Resolution XX changes the procedure for abstaining when the request for abstention is related to a violation of the Legislative Ethics Act. Under HCR XX, a member would declare a conflict of interest, make a brief statement, and would be allowed to abstain unless a majority of the members present voted to force the member to vote.

Currently, a member asks to abstain from voting, and then if there is an objection, the member is required to vote. To an outside observer this process can seem confusing, particularly when a member asks to be excused due to a conflict of interest.

When considering whether or not a member should be allowed to abstain from a vote when a conflict is present, the right of constituents to be represented needs to be balanced with the integrity of the institution. Since conflicts of interest and whether or not they are substantial by statutory definition are often judgment calls, HCR XX is designed to protect both the integrity of the institution and the right of the people to be represented. By leaving the determination of whether a member should be allowed to vote to the respective legislative body, HCR XX gives the legislature the power to allow a member to abstain while ensuring those abstentions are warranted.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HCR12
 () Publish Date: _____

Identifier (file name): HCR12-LEG-COU-01-29-08 Dept. Affected: Legislature
 Title "Proposing an amendment to the Uniform Rules of the RDU Legislative Council
 Alaska State Legislature relating to abstention from..." Component Session Expenses
 Sponsor Representative Meyer
 Requester House State Affairs Component Number 782

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	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								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This legislation has zero fiscal impact on the Legislative Affairs Agency.

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 Legislative Affairs Agency

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 Date/Time 1/29/08 3 38 PM
 Date 1/29/2008

industry, or region.

Arizona

Senate Rule 15, 20: Legislators can declare a personal financial interest in a matter when they are called upon to vote. They can either abstain or vote. In either case, they must write a statement describing the matter and the nature of the potential interest. They must give this public record to the Senate president, the chair of the ethics committee and the secretary of the Senate. If a member decides to take part in a decision in which he has a financial interest, he must give his reasons before taking action on the floor.

House Rules 6, 14, 34, 35: Members may abstain if they have a personal financial interest in the question. If they decide not to abstain, they must write a statement describing the matter and nature of interest, give a copy to the speaker, the chairman of the ethics committee and the chief clerk. If a member decides to abstain, he must submit the same statement, but it only must be delivered to the clerk. If the member wishes to abstain, but has failed to file this statement, he can ask the body for permission to abstain.

Senate and House Rules: Legislators are not considered to have personal financial interests if they are part of a group that benefits.

Arizona Revised Statutes 38-503: Any public officer (legislators are included) or employee who has, or whose relative has, a substantial interest in any decision of a public agency (legislature is included) shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

Arkansas

Senate Rule 24.07: A Senator can't take part in the discussion of, or vote on, a question in committee or on the floor on any matter if he knows that:

- He or a family member or an associated business will benefit from the legislative action to a greater extent than other member of his occupation or business.
- The matter will specifically relate to a business which employs the senator or in which he receives compensation as an attorney or consultant, unless the benefit accrues generally to other similar businesses, professions, occupations or groups.

None of the above rules apply if the Senator discloses any financial interests he may have on the issue. Disclosure entails a written statement in the Journal, or with the staff of the appropriate interim committee. Disclosure should detail the source of compensation or financial interests held.

House Rule 14: Members must vote unless they have an immediate personal interest.

Ark. Code Ann. § 21-8-803: A legislator who is required to take an action in the discharge of his or her official duties which may affect his or her financial interest or cause financial benefit or detriment to him or her, or a business in which he or she is an officer, director, stockholder owning more than 10% of the stock of the company, owner, trustee, partner, or employee, which is distinguishable from the effects of the action on the public generally or a broad segment of the public, shall prepare a written statement describing the matter requiring action and stating the potential conflict.

California

Joint Rule 44: Members can't participate, by voting or other action on the floor or in committee, on matters in which they have a personal interest, except they may participate in the final vote if they first file a statement that declares the interest and states that the legislator is able to cast a fair and objective vote regardless.

If a member wishes to abstain from voting on a matter in which he has a personal interest, he must tell the presiding officer before the vote starts. He will be excused from voting without any entry in the Journal. If either House invokes the rule that everyone present must vote, there will be a mark in the Journal stating that the person was excused from voting pursuant to law.

A person has an interest that is in substantial conflict if he would derive a direct monetary gain or loss because of his action. He is not considered to have an interest in substantial conflict if any benefit or detriment accrues to him as a member of a business, profession, occupation or

group to no greater extent than the rest of that group.

California Government Code 87102.5: If a member of the legislature has a financial interest in a matter, he cannot:

- Introduce nongeneral legislation related to that matter as a lead author
- Vote in a legislative committee or subcommittee on related nongeneral legislation
- Participate in a rollcall vote on the Senate or Assembly floor on related nongeneral legislation.

If the member has received any earned income within the preceding 12 months from a lobbyist employer, the member cannot take action on a matter if the action will have a direct and significant financial impact on the lobbyist employer. The impact must be greater on this lobbyist employer than it would be on a significant segment of the public.

If the member has appeared before a local board or agency on behalf of someone for compensation, the member cannot vote on any legislation that would affect the person who paid him if the affect would be greater to that person than it would be to a significant segment of the public.

Colorado

Senate Rule 17, 41: Senators can't vote on bills in which they have personal or private interests. If this is the case, they must disclose those interests before being excused. A senators is considered to have personal or private interests in measures if he:

- Has substantial economic interests in the measure distinct from those held generally by members of the same occupation or business, or if a close relative has such an interest,
- Has an interest in an enterprise that would be affected by the proposed legislation differently from like enterprises,
- Has a close relative or a close economic association with someone who has a financial interest in an enterprise that would be affected differently from others,
- Has a close economic association with, or has a relative who is a lobbyist or lobbyist employer who is influencing legislation on which the legislator would be expected to vote,
- Accepts a gift, loan, service or other economic opportunity from someone who would be affected by, or has interest in an enterprise that would be affected by the legislation.

Senators are always allowed to vote for something that would adversely affect them.

House Rule 21: Members with immediate personal or financial interests in bills pending shall disclose their interests and shall not vote on the measure.

Colorado Constitution Art 5, Sec. 43: A member of the General Assembly who has a "personal or private interest" in pending legislation must disclose the fact of such interest and may not vote on the legislation.

Colorado Revised Statutes 24-18-107. Ethical principles for members of the general assembly. ... In deciding whether or not he has a personal or private interest, a member shall consider, among other things, the following:

- (a) Whether the interest impedes his independence of judgment;
- (b) The effect of his participation on public confidence in the integrity of the general assembly; and
- (c) Whether his participation is likely to have any significant effect on the disposition of the matter.
- (3) An interest situation does not arise from legislation affecting the entire membership of a class.
- (4) If a member of the general assembly elects to disclose the interest, he shall do so as provided in the rules of the house of representatives or the senate, but in no case shall failure to disclose constitute a breach of the public trust of legislative office.

Connecticut

Senate Rule 15: No member who is interested in the decision of any question in such a manner that he cannot vote thereon may stay in the Senate when the question is discussed or decided.

House Rule 40: The speaker has authority to excuse someone from voting who is present in the chamber.

Connecticut General Statutes Sec. 1-85: A public official, (legislators are public officials) who has a substantial conflict may not take official action on the matter. A substantial conflict occurs when a public official has reason to believe or expect that he, his spouse, a dependent child, or a business with which he is associated will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity. It is not considered a substantial conflict if the benefit or detriment accrues to him, his spouse, a dependent child, or a business with which he, his spouse or such dependent child is associated as a member of a profession, occupation or group to no greater extent than any other member of such profession, occupation or group.

Delaware

Senate Rules: None found

House Rule 16: Members with personal or private interests in measures can't vote on them or take part in related discussion, and must disclose their interests. Non-voting members may answer questions about the bill, though, and may correct wrong information. A member is considered to have a personal or private interest in a measure if:

- He or a close relative would receive benefit or harm to a greater extent than other members of the same class or group of people.
- He or a close relative has a financial interest (more than \$5000 interest) in an enterprise that would benefit or be hurt to a greater degree than similar enterprises.
- A lobbyist who is a close relative of the legislator is acting to influence passage of the bill.

Delaware Code Annotated 1002: A legislator who has a personal or private interest in any measure or bill pending in the General Assembly shall disclose the fact to his chamber and shall not participate in the debate nor vote thereon; provided, that upon the request of any other member, a legislator who has such a personal or private interest may respond to questions concerning any such measure. A personal or private interest in a measure or bill is an interest which tends to impair a legislator's independence of judgment in the performance of his or her legislative duties with respect to that measure or bill. A member is considered to have a conflict that impairs his judgment in the same situations laid out in House Rules above.

Florida

Senate Rule 1.20, 1.39: No senator is permitted to vote on any question immediately concerning his or her private rights as distinct from the public interest. Senators must disclose any personal, private or professional interest in a bill that would inure to that senator's special private gain, or the gain of a principal to whom the senator is obligated. This disclosure statement may explain either the logic of voting, or abstaining from voting.

House Rule 3.1: Members cannot vote on measures that would inure to that members special private gain. The member must disclose the interest that is keeping him from voting. Members must also disclose interests in measures at hand of family members or principals by whom the legislator or his family members are retained or employed.

Florida Statutes 112.3143: Any state public officer voting in an official capacity upon any measure which would inure to the officer's special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained; or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer shall, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

Georgia

Senate Rule 175: Members cannot vote on measures if they, or members of their immediate family, have a direct pecuniary interest that is distinct, unique or peculiar to them.

House Rule 134: "Every member within the chamber shall vote unless the member is immediately and particularly interested therein, or unless the member is excused by the house."

No additional provisions found in statutes that apply to legislators.

Hawaii

Senate Rule 71: Members with conflicts of interest shall be excused from voting. Situations considered conflicts of interest include those involving monetary interests in the matter at hand; those involving the behavior of the member; and those in which the member's right to a seat in the Senate will be affected by the outcome. Members who believe they have conflicts shall rise and disclose their interests to the Senate president who will rule on whether there is a conflict.

Senate Rule 85: 1) No member shall vote on any legislation if the member has a direct financial interest in the legislation, unless the member is part of the class of people affected by the official action based upon the member's profession, trade or business; provided that this rule shall not apply to votes on the recommendations of a committee when a member has disclosed a potential conflict. For the purposes of this rule, a "direct financial interest" means that the legislation affects the legislator's personal business, property, or financial interest.

(2) If a member is uncertain as to whether a conflict of interest exists, the member may request a ruling from the President by giving notice and disclosing the direct financial interest to the President prior to voting. When making a determination in cases where a portion of a measure may place a member in a conflict of interest, the President shall give due consideration to the context of that portion as it relates to the overall purpose of the measure. If the President determines that a conflict exists, the President shall excuse the member from voting.

House Rule 60: Members who believe they have a conflict of interest with the matter at hand shall disclose the interest. Situations considered to be conflicts are the same as those in the Senate. The speaker will rule on whether he thinks the member has a substantial enough conflict to be excused from voting.

No additional provisions found in statute.

Idaho

Senate Rule 39: Senators must disclose any conflicts of interest, he must disclose this conflict to the presiding officer in writing, or to the body. The senator may vote on the issue, or may ask to abstain. A 2/3 vote is necessary to be excused from voting.

House Rule 38: If a member's personal interests in the issue under consideration conflicts with the public's interests, the member's legislative activities can be subject to limitations, unless the member discloses the conflict to the presiding officer or to the body. Upon disclosure, the member may vote on the matter or ask to be excused from voting. A majority vote is necessary to be excused.

Idaho Code 59-704: A public official shall not take any official action or make a formal decision or formal recommendation concerning any matter where he has a conflict of interest and has failed to disclose such conflict as provided in this section. Disclosure of a conflict does not affect an elected public official's authority to be counted for purposes of determining a quorum and to debate and to vote on the matter, unless the public official requests to be excused from debate and voting at his or her discretion.

Legislative public officials who have real or potential conflicts shall disclose the nature of the conflict of interest and/or be subject to the rules of the body of which he/she is a member and shall take all action required under such rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue.

Illinois

No rules found

5 ILCS 420/Sec. 3-202: When a legislator must take official action on a legislative matter as to which he has a conflict situation created by a personal, family, or client legislative interest, he should consider the possibility of eliminating the interest creating the conflict situation. If that is not feasible, he should consider the possibility of abstaining from such official action. In making

his decision as to abstention, he should consider;

- whether a substantial threat to his independence of judgment has been created by the conflict situation;
- the effect of his participation on public confidence in the integrity of the legislature;
- whether his participation is likely to have any significant effect on the disposition of the matter;
- the need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the legislature.

He need not abstain if he decides to participate in a manner contrary to the economic interest which creates the conflict situation. If he does abstain, he should disclose that fact to his respective legislative body.

Sec. 3-203: When, despite the existence of a conflict situation, a legislator chooses to take official action on a matter, he should serve the public interest, and not the interest of any person.

Indiana

Senate Rule 4, 89, 90: Senators may be excused from voting if they have direct personal or pecuniary interests in the matter. A senator who has a direct personal or pecuniary interest in a piece of legislation which is so substantial as to affect the Senator's independent legislative judgment can participate in committee and floor debate on the legislation if the senator publicly proclaims that interest. Rules also provide guidelines senators should look to when deciding whether to request to be excused from voting.

House Rule 47: Members who are immediately and particularly interested in a measure shall ask to be excused and shall not vote on it. Members requesting recusal may make a brief statement, but the question is to be considered without debate.

No additional provisions relating to legislators found in statutes.

Iowa

Senate Rule 23: Senators may abstain from voting by disclosing a personal interest in the matter at hand when called upon to vote. The Senate code of ethics provides guidelines for senators in deciding whether to vote on an issue. The senator should consider, among other things, whether his participation would effect public confidence in the integrity of the legislature and the legislatures' need for the senator's particular special knowledge. A senator with a conflict may participate in floor discussion after he discloses his conflict.

House Rule 76: No member shall vote on any question in which that person is financially interested if that interest is distinguishable from the interest of the general public or a substantial class of persons. If a member decides not to participate in committee work or to abstain from voting, the member should disclose this to the legislative body. House rules also include guidelines.

Iowa Code 68B.2A: If a public servant holds any outside employment or activity that is subject to the official control, inspection, review, audit, or enforcement authority of the person during the performance of the person's duties of office or employment, the public servant shall either cease the outside employment or activity or publicly disclose it and refrain from taking any official action or performing any official duty that would detrimentally affect or create a benefit for the outside employment or activity.

Kansas

Senate Rule 19: Any senator who is directly interested in a question may be excused from voting even though there is a call of the Senate. Senators have five minutes to explain why they request recusal. Request is granted with 2/3 vote.

House Rule 2508: Any member who is directly interested in a question may be excused from voting when there is a call of the House. The member has five minutes to explain why he is requesting recusal. Request is granted with 2/3 vote.

No additional provisions found in statute or constitution.

Kentucky

No rules found

Kentucky Constitution, Section 57: A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly, shall disclose the fact to the House of which he is a member, and shall not vote thereon upon pain of expulsion.

Kentucky Revised Statutes 6.761: A legislator shall not intentionally participate in the discussion of a question in committee or on the floor, vote, or make a decision in his official capacity on any matter:

- In which he, a family member, or the legislator's business associate will derive a direct monetary gain or suffer a direct monetary loss as a result of his vote or decision; or
- Which relates specifically to a business in which he owns or controls an interest of \$10,000 or more, or more than 5%.

A legislator may participate and vote on a matter if any benefit or detriment which accrues to him as a member of a business, profession, occupation, or other group, or to a member of his family or a business interest specified above is of no greater extent than the benefit or detriment which accrues generally to other members of the business, profession, occupation, or other group.

A member shall disclose his interest by filing a disclosure statement with the clerk or by a verbal announcement to the body.

The right of legislators to represent their constituencies, however, is of such major importance that legislators should be barred from voting on matters of direct personal interest only in clear cases and if the matter is particularly personal.

Louisiana

Senate Rule 12.1, 13.60, 13.87: Any member may recuse himself from all committee proceedings related to a measure in which he believes he has a conflict of interest.

House Rule 10.1, 14.9: Any member may recuse himself from all committee proceedings related to a measure in which he believes he has a conflict of interest. Members who recuse themselves are allowed to give a written explanation.

Louisiana Revised Statutes §1120: If any elected official would be required to vote on a matter which vote would be a violation of R.S. 42:1112, he shall recuse himself, unless he prepares and files a statement describing the matter in question, the nature of the conflict or potential conflict, and the reasons why, despite the conflict, the he is able to cast a vote that is fair, objective, and in the public interest. Such statement shall be filed within three days of the vote with the chief clerical officer of the respective house of the legislature. This section shall not extend to any act of participation other than voting.

1112: No public servant, except as provided in R.S. 42:1120, shall participate in a transaction in which he, members of his immediate family, persons with whom the public servant has a close economic association or prospective employers have a personal substantial economic interest.

A "substantial economic interest" is one that is of greater benefit to the public servant or other person than to a general class or group of persons.

Maine

Joint Rule 104: A member may not vote on any question in committee when that question immediately involves that member's private right, as distinct from the public interest.

House Rule 401: A member may not vote on any question before the House when that question immediately involves that member's private right as distinct from the public interest.

Maine Revised Statutes Annotated, Title 1, 1015: When a member of the Legislature has a conflict of interest, that member has an affirmative duty not to vote on any question in connection with the conflict in committee or in either branch of the Legislature, and shall not attempt to influence the outcome of that question.

Many situations fall under the state's definition of conflict of interest in section 1014, including, when a legislator or a member of his immediate family has a direct substantial personal financial interest, distinct from that of the general public, in an enterprise which would

be financially benefited by proposed legislation, or derives a direct substantial personal financial benefit from close economic association with a person known by the Legislator to have a direct financial interest in an enterprise affected by proposed legislation.

Maryland

Senate Rule 93: A member may not vote on a measure in which he has an immediate personal or financial interest. Members who recuse themselves are noted in the Journal as excused.

House Rule 93: A member may not vote on a measure in which he has an immediate personal or financial interest. Members who recuse themselves are noted in the Journal as excused.

Maryland Code 15-501: An official or employee may not participate in a matter if he or a qualifying relative has an interest in the matter and knows of that interest. This statute contains a long list of other situations that constitute a conflict serious enough to warrant recusal.

Massachusetts

Senate Rules: No rules found

House Rule 16: No member shall serve on any committee or vote on any question in which his/her private right is immediately concerned, distinct from the public interest.

General Laws of Massachusetts Chapter 268A, Section 6A: Any public official who in the discharge of his official duties would be required knowingly to take an action which would substantially affect such official's financial interests, unless the effect on such an official is no greater than the effect on the general public, shall file a written description of the required action and the potential conflict of interest with the state ethics commission.

Michigan

Senate Rule 1.306: A senator having a personal, private or professional interest in a bill, of which he or she has knowledge, shall not vote on the bill and shall disclose in writing to the Secretary of State his or her interest in the bill. Such an interest is defined as one that would particularly benefit the senator or an individual or entity to whom the senator is financially or legally obligated, or personally related. If a senator votes on a bill in which it may appear that he has a conflict of interest, he may submit a statement explaining his reasons for voting.

House Rule 13, 32: A member may abstain from voting because of a potential conflict of interest by rising, announcing his intent not to vote and reserving the right to explain the abstention. The member has the right to have an explanatory statement of at most 100 words printed in the Journal.

No additional provisions found in statute or constitution.

Minnesota

Senate Rule 41.2, 57: A member wishing to be excused from voting may make a brief statement of the reason for making the request. The question on the motion to excuse must be taken without further debate. A member who must take action or make a decision that would substantially affect his financial interests or those of an associated business shall disclose the potential conflict by following procedures detailed in Minnesota Statutes Section 10A.07, unless the benefit the legislator would receive is no greater than others in the member's business, classification, profession or occupation.

House Rule 2.05: A member who has an immediate interest in a question shall not vote on it. A member who does not vote when his name is called must state his reasons. After others vote, the presiding officer shall ask the body if the member shall be excused from voting.

Minnesota Statutes 10A.07: A public official who would be required to take an action that would substantially affect the official's financial interests or those of an associated business, unless the effect is no greater than on other members of the official's business classification, profession, or occupation, must prepare a written statement describing the matter requiring action and the nature of the potential conflict of interest and deliver a copy to the presiding officer. If there is insufficient time to comply with this, the public official must orally inform the official body.

Mississippi

Senate Rule 124: No senator shall act in committee or vote on a question in which his private interest, distinct from the public interest, is immediately concerned.

House Rule 26: No member shall vote on any question, the result of which he is pecuniarily

interested.

No additional provisions found in statute.

Missouri

Senate Rules: None found

House Rule 88: Every member shall vote on each question put unless he has a direct personal or pecuniary interest in such question.

Missouri Revised Statutes 105.461. 1: Any member of the general assembly who has a substantial personal or private interest in any measure before the general assembly, shall, before such official passes on the measure, bill, order or ordinance, file a written report of the nature of the interest with the chief clerk of the house of representatives or the secretary of the senate and such statement shall be recorded in the appropriate journal. If the legislator has filed his annual financial disclosure statement, and that statement is current, this statement is not necessary.

Montana

Joint Rule 10-60: A member who has a personal or private interest in any measure or bill proposed or pending before the legislature shall disclose the fact to the house to which the member belongs.

Montana Code Annotated 2-2-112: A legislator may, subject to legislative rule, vote on an issue on which the legislator has a conflict, after disclosing the interest. When a legislator must take official action on a matter as to which he has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the legislator's influence, benefit, or detriment in regard to the legislative matter, the legislator shall disclose the interest prior to participating in the official action.

In making a decision as to whether to take official action, the legislator shall consider:

- whether the conflict impedes the legislator's independence of judgment;
- the effect of the legislator's participation on public confidence in the integrity of the legislature;
- whether the legislator's participation is likely to have any significant effect on the disposition of the matter; and
- whether a pecuniary interest is involved or whether a potential occupational, personal, or family benefit could arise from the legislator's participation.

A conflict situation does not arise from legislation or legislative duties affecting the membership of a profession, occupation, or class. A legislator who is a member of a profession, occupation, or class affected by legislation is not required to disclose an interest unless the class contained in the legislation is so narrow that the vote will have a direct and distinctive personal impact on the legislator.

Nebraska

No rules found.

Nebraska Revised Statutes 49-1499: A member of the Legislature who would be required to take any action that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall disclose information about the conflict in this manner. He shall prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict, and if he or she will not abstain from voting, deliberating, or taking other action on the matter, the statement shall state why, despite the potential conflict, he or she intends to vote or otherwise participate. The statement should be delivered to the ethics commission and the speaker of the legislature.

The member of the Legislature may abstain from voting, deliberating, or taking other action on the matter on which the potential conflict exists, in which case he or she may have the reasons for the abstention recorded in the journal or minutes of the Legislature.

Nevada

Senate Rule 32: No senator may vote on a question in which he is in any way personally or directly interested.

Assembly Rule 23: A legislator who has a conflict of interest may vote upon, advocate or oppose the measure in conflict if he makes a general disclosure of the conflict. In determine whether to vote or abstain, the legislator should consider his independence of judgment, and whether his interest is greater than the interests of an entire class of persons similarly situated, among other factors.

Nevada Revised Statutes 281.501: A public officer may vote upon a matter if the benefit or detriment accruing to him as a result of the decision either individually or in a representative capacity as a member of a general business, profession, occupation or group is not greater than that accruing to any other member of the general business, profession, occupation or group.

However, in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by: (a) His acceptance of a gift or loan; (b) His pecuniary interest; or (c) His commitment in a private capacity to the interests of others.

New Hampshire

No provisions found in rules.

New Hampshire Revised Statutes: Legislators must disclose areas of potential conflicts on their financial disclosure forms.

New Jersey

No provisions found in rules.

New Jersey Statutes Annotated 52:13D-18: No member of the Legislature shall participate by voting or any other action, on the floor of the General Assembly or the Senate, or in committee or elsewhere, in the enactment or defeat of legislation in which he has a personal interest.

A member is considered to have a personal interest in legislation if, by reason of his participation in the enactment or defeat of any legislation, he or a member of his immediate family, will derive a direct monetary gain or suffer a direct monetary loss. It is not considered a personal interest if no benefit or detriment could reasonably be expected to accrue to him, or a member of his immediate family, as a member of a business, profession, occupation or group, to any greater extent than any such benefit or detriment could reasonably be expected to accrue to any other member of such business, profession, occupation or group.

New Mexico

Senate Rule 7-5, 7-6: Every senator shall vote on each question unless he has a direct personal or pecuniary interest in the event of such a question. A senator desiring to be excused from voting may, when his name is called, make a brief statement explaining his reasons. The senate must vote on whether to excuse him.

House Rule 7-5, 7-6: Every member of the house shall vote on each question or motion coming up before the house, unless excused by a majority vote. A member who wishes to be excused from voting may make a brief explaining his reasons. Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct of the members. The code of conduct is in House Rule 26-1.

No additional provisions in statute that apply to state legislators.

New York

Senate Rules IX: Every senator shall vote on each question unless he has a direct personal or pecuniary interest in the event of such a question. Senators wishing to be excused may make a brief statement as to their reasons when they are called upon to vote.

Assembly Rule V, Part 2: A member may abstain from a vote only on the grounds that it would constitute a conflict of interest.

No additional provisions in statute pertain to legislators voting in conflict of interest situation, but **New York Consolidated Laws Chapter 32, Article 4, Section 74** says no member of the legislature should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation which is in substantial conflict with the proper discharge of his duties in the public interest. Substantial conflict is not defined.

North Carolina

Senate Rule 29: Any senator may move to be excused from voting at any time on any matter. If the senator is excused, he may not debate the bill or any amendments. The senator may make a brief statement as to his reasons.

House Rule 24.1A: Any member shall, upon request, be excused from the deliberations and voting on a particular bill. The member may make a brief oral statement of the reasons for making the request. The member excused shall not debate the bill or any amendment to the bill.

North Carolina General Statutes

Conflict of interest in official actions. G.S. 138A-36 and G.S. 138A-37 prohibit both public servants and legislators from participating in official actions in which they have an economic interest. G.S. 138A-38 provides a number of exceptions to the participation restrictions, including when (1) the covered person has received a written advisory opinion from the State Ethics Commission or the Legislative Ethics Committee authorizing the participation, (2) the employing entity determines that there is not a conflict, or (3) the public servant is the only person with legal authority to take the action and the conflict is disclosed in writing.

G.S. 138A-37 prohibits a legislator's participation in a legislative action if (1) the legislator, the legislator's extended family, or an associated business has an economic interest in the action or may benefit from the action and (2) following a consideration of whether the legislator's judgment would be influenced and the need for the legislator's particular contribution, the legislator concludes that there is an economic interest that would impair the legislator's judgment.

North Dakota

Senate Rule 321: Any member who has a personal or private interest in a bill shall disclose that fact to the Senate and may not vote thereon without the consent of the Senate. A personal or private interest is one that affects the member directly, individually, uniquely and substantially.

House Rules 321: Any member who has a personal or private interest in a bill shall disclose that fact to the House and may not vote thereon without the consent of the House. A personal or private interest is one that affects the member directly, individually, uniquely and substantially.

No additional provisions found in statute.

Ohio

Senate Rule 58, 61: No senator shall vote upon any question in contravention of the Legislative Code of Ethics or in violation of section 102.031 of the Revised Code. Any senator requesting to be excused from voting may briefly explain the reason for such request, and the Senate shall pass upon the request without debate.

House Rule 56: A request to be excused from voting shall be accompanied by a brief written statement of the reasons for making such request, which shall be acted upon by the House without debate.

Legislative Code of Ethics, Section 4: A member who has a substantial personal interest in legislation may request permission of the chair to abstain from voting on the legislation and may state the member's reason for the request. The request shall be granted by the chair or the member's respective chamber of the General Assembly pursuant to the rules of that chamber. The request and permission to abstain shall be entered in the Journal.

Legislative Code of Ethics/Ohio Revised Code 102.031: No member of the General Assembly shall vote on any legislation that is then being actively advocated by a lobbyist who is (1) an employee, (2) a business associate, or (3) a person, other than an employee who is hired under contract to perform certain services and such position involves a substantial and material exercise of administrative discretion in the formulation of public policy.

Oklahoma

Oklahoma Constitution, Article V, Section 24: A member of the Legislature, who has a personal or private interest in any measure shall disclose the fact to the House of which he is a member, and shall not vote thereon.

No additional provisions found in statute or rules.

Oregon

Senate Rule 3.33: When involved in a potential conflict of interest as defined by ORS 244.020, a member shall announce, on the Senate floor or in the committee meeting, the nature of the potential conflict prior to voting on the issue giving rise to the potential conflict. The member's announcement shall be recorded in the Journal or in the committee minutes. In addition, the member may file a statement with his chamber. If a member suspects that another member is not disclosing a conflict, he may file a complaint and an investigation will ensue.

House Rule 3.21: When involved in an actual or potential conflict of interest, as defined by ORS 244.020, a member shall announce, on the floor or in the committee meeting, the nature of the potential conflict prior to voting on the issue giving rise to the potential conflict. The member's announcement of an actual or potential conflict of interest shall be recorded in the Journal or in the committee minutes. In addition, the member may file in writing a statement of the nature of the potential conflict with the Chief Clerk or the committee assistant within one hour following adjournment of the session or the committee meeting.

Oregon Revised Statutes 244.120: When met with an actual or potential conflict of interest, a member of the Legislative Assembly shall announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official. This announcement shall be noted in the official record of the public body.

244.020: An "actual conflict of interest" occurs when an action, decision or recommendation by a public official would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (14) of this section.

Subsection 14: A "Potential conflict of interest" occurs when an action, decision or recommendation by a public official could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged. The commission may by rule limit the minimum size of or otherwise establish criteria for or identify the smaller classes that qualify under this exception.

(c) Membership in or membership on the board of directors of a nonprofit.

Pennsylvania

Senate Rule XXI: Senators who have a personal or private interest in any measure or bill shall disclose the fact to the Senate, and shall not vote thereon.

House Rule 65: A member who has a personal or private interest in any measure or bill proposed or pending before the House shall disclose the fact to the House and shall not vote thereon.

Pennsylvania Consolidated Statutes 1103 (j): Where voting conflicts are not otherwise addressed by the constitution of Pennsylvania or by any law, rule, regulation, order or ordinance, the following procedure shall be employed. Any public official who in the discharge of his official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken, except that if a quorum is not present on the person with the conflict recuses himself, he is permitted to vote as long as the conflict is properly disclosed.

Pa. Constitution, Article 3, Section 12: A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly shall disclose the fact to

the House of which he is a member, and shall not vote thereon.

Rhode Island

Senate Rules: None found

House Rules 20, 21: No member shall vote on any question of private property in the event of which he or she is immediately and particularly interested. Every member (except as provided in rule 3) who shall be in the House when the question is put, shall give his or her vote, unless prior thereto the Speaker shall excuse him or her, in accordance with the Code of Ethics statute 36-14-6.

Rhode Island General Laws 36-14-6: Legislators who are required to take an action, make a decision, or refrain therefrom that will or can reasonably be expected to directly result in an economic benefit to the person, or spouse (if not estranged), or any dependent child, business associate or any business by which the person is employed or which the person represents, shall file a sworn statement describing the conflict and file it with the ethics commission and the presiding officer. If the legislator does not request to be excused from voting, he shall state why he can participate fairly and in the public interest despite the conflict.

South Carolina

Senate Rules: None found

House Rules 3.1: No member shall be permitted to vote on any question immediately concerning his private rights as distinct from the public interest.

South Carolina Code 8-13-700: A public official who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated shall file with the presiding officer a statement describing the matter and the nature of the conflict of interest. The presiding officer shall excuse the member from participating in the matter.

South Dakota

Joint Rule 12-1: Either body may excuse a member from voting.

No additional provisions found in statute or constitution.

Tennessee

Senate Rule 13: When a member of this body arises to address himself to a bill, section thereof, or amendment in which he has a personal interest, he shall state to the Speaker and members of the body "that it may be considered that I have a degree of personal interest in the subject matter of this bill, but I declare that my argument and my ultimate vote answer only to my conscience and to my obligation to my constituents and the citizens of the State of Tennessee."

House Rules: None found

No additional provisions found in statute or rules.

Texas

Senate Rules: None found

House Rule 5, Part E, Section 42: Any member who has a personal or private interest in any measure or bill shall disclose the fact and not vote thereon.

Texas Government Code 572.0531: Before introducing, sponsoring or voting on a bill on a subject area in which a lobbyist who is the legislator's spouse or first degree relative, the legislator must file a disclosure statement.

Texas Constitution Article 3, Section 22: A member who has a personal or private interest in any measure or bill, proposed, or pending before the Legislature, shall disclose the fact to the House, of which he is a member, and shall not vote thereon.

Utah

Joint Rule 16.05: If a legislator reasonably believes he may have a conflict of interest, that legislator should, before the vote, orally declare to the committee or body before which the matter is pending that the legislator may have a conflict of interest and what that conflict is. This declaration of conflict of interest shall be noted in the minutes of any committee meeting or in the Journal.

A legislator shall file a Declaration of Conflict of Interest form with the Secretary of the Senate if the legislator is a Senator or with the Chief Clerk of the House of Representatives if the legislator is a Representative. This form shall include the general legislative areas in which the legislator may have a conflict of interest. A "conflict of interest" is defined below. T

his form satisfies that legislator's disclosure of any conflicts of interest as required by the first paragraph and Utah Code Annotated Section 76-8-109.

Legislators may vote on matters in which they have a conflict as long as that conflict has been declared.

Utah Code 76-8-109: If a legislator must vote on a matter in which he has actual knowledge of a conflict of interest which is not stated on his conflict of interest form, he shall declare the conflict to the body. The declaration shall be noted in the minutes or the Journal. Legislators must also file a declaration of conflict of interest form with the secretary of the senate or chief clerk of the house.

"Conflict of interest" means legislation or action by a legislator that the legislator reasonably believes may cause direct financial benefit or detriment to him, a member of the legislator's immediate family, or a business in which the legislator is associated, and that benefit or detriment is distinguishable from the effects of that action on the public or on the legislator's profession, occupation, or association generally.

Vermont

Senate Rule 71: No senator shall be permitted to vote upon any question in which he or she is directly or immediately interested.

House Rule 75: Members shall not be permitted to vote upon any question in which they are immediately or directly interested.

No additional provisions found in statutes or constitution.

Virginia

Senate Rule 20, 36: A Senator who has a personal interest in a transaction, as defined in § 30-101 of the Code of Virginia, before the entire Senate or a committee, shall neither vote nor be counted upon it, and he shall withdraw, or invoke this rule not to be counted, prior to the division and the fact shall be recorded on the voting machine. If a Senator invokes this rule, the Senator shall not participate, directly or indirectly, in the matter wherein the rule is invoked.

House Rules 69: No member who has an immediate and personal interest in the result of the question shall either vote or be counted upon it.

Code of Virginia 30-108: A legislator who has a personal interest in a transaction shall disqualify himself from participating in the transaction. Unless otherwise prohibited by the rules of his house, the disqualification requirement of this section shall not prevent any legislator from participating in discussions and debates, provided (i) he verbally discloses his personal interest at the outset of the discussion and (ii) he does not vote on the transaction.

Washington

Senate Rule 22: No senator shall be allowed to vote upon any question upon which he or she is in any way personally or directly interested (See also Art. 2, Secs. 27 and 30, State Constitution.). A member not voting by reason of personal or direct interest may explain the reason for not voting by a brief statement not to exceed fifty words in the journal.

House Rule 19: No member shall vote on any question which affects that member privately and particularly. A member who has a private interest in any bill or measure proposed or pending before the legislature shall disclose the fact to the house of which he is a member, and shall not vote thereon. (Art. II § 30)

Washington Constitution Article II, Section 30: A member who has a private interest in any bill or measure proposed or pending before the legislature, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

West Virginia

Senate Rule 43: Every member within the Senate Chamber, when a question is put, shall vote unless he or she is immediately and particularly interested therein, meaning an interest that affects the member directly and not as one of a class, or the Senate excuses him or her. All motions to excuse a member from voting must be made by the member requesting to be

excused before the Senate divides, or before the call of the yeas and nays is commenced, and it shall be decided without debate, except that the member making the motion to be excused from voting may briefly state the reason why it ought to be adopted.

House Rule 49: When a question is put, any member having a direct personal or pecuniary interest therein should announce this fact and request to be excused from voting. The disqualifying interest must be such as affects the member directly and not as one of a class.

No additional provisions found in statute or constitution.

Wisconsin

Senate Rule 73, Assembly Rule 77: Either body may excuse a member from voting.

Wisconsin Statutes 19.46: No state public official may take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.

Wyoming

Senate Rule 14-7: A member who has a personal or private interest in any bill shall disclose the fact to the Senate members at the time of initial consideration during the committee of the whole or at the time of introduction during the budget session. If the status of the conflict changes during the legislative process, the member shall disclose the change in the status of the conflict. Disclosures of a conflict of interest shall be entered in the Daily Journal.

House Rule 17-3: A member who has a personal or private interest in any bill shall disclose the fact to the house members at the time of initial consideration during committee of the whole or at the first time the conflict becomes apparent to the declarer, or at the time of introduction during the budget session and shall not vote thereon. On general appropriation and recodification bills a member who has declared a conflict of interest on a section or an amendment to a section shall not vote on that section, but may vote on the entire bill.

"Personal or private interest" means the member shall receive or incur a direct financial gain or loss if the measure or bill is enacted. "Personal or private interest" does not include a financial gain or loss which shall be received or incurred by a member if the gain or loss shall also be received or incurred by a substantial class of persons.

Wyoming Statutes 9-13-106: A public official shall not make an official decision or vote on an official decision if he has a personal or private interest in the matter. In determining whether he has a personal or private interest in a matter, the public official shall recognize the importance of his right to represent his constituency and shall abstain from voting only in clear cases of a personal or private interest as defined in this subsection. A public official or public member shall not vote to give money or any direct financial benefit to himself except for tax reductions affecting the general public. For the purposes of this section, a personal or private interest must (i) be direct and immediate as opposed to speculative and remote; and (ii) provide the public official, public employee or public member a greater benefit or a lesser detriment than it does for a large or substantial group or class of persons who are similarly situated.

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FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HCR12
 () Publish Date: _____

Identifier (file name): HCR12-LEG-COU-01-29-08 Dept. Affected: Legislature
 Title "Proposing an amendment to the Uniform Rules of the RDU Legislative Council
 Alaska State Legislature relating to abstention from... Component Session Expenses
 Sponsor Representative Meyer
 Requester House State Affairs Component Number 782

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
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	0.0

CAPITAL EXPENDITURES							
-----------------------------	--	--	--	--	--	--	--

CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by Karla Schofield, Deputy Director
 Division Legislative Affairs Agency
 Approved by Pamela Varni, Executive Director
 Legislative Affairs Agency

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Lawmakers should fix their approach to conflicts of interest

One of the more outrageous comments made by a legislator so far this session concerned conflict of interest legislation.

Currently, lawmakers with a conflict of interest can be required to vote if a fellow member verbally objects to an abstention. In the wake of recent corruption scandals, at least five measures have been written to fix this faulty system.

But Rep. Kevin Meyer, R-Anchorage, recently endorsed the status quo.

"The more I've worked with it, the more I realize the current process, albeit not perfect, is probably the best we are going to get," he said.

Ironically, Meyer, who is a procurement officer for ConocoPhillips, presented a proposal to the House State Affairs Committee that would have changed the system, but in a bizarre twist he later testified against his own measure.

Even had Meyer stuck behind it, the proposal doesn't seriously deal with conflicts of interest. It would still be too easy for a lawmaker with a conflict to vote because a majority of lawmakers would have to be in favor of the abstention for it to be granted.

What we have is a game in which lawmakers can disingenuously declare a conflict of interest, knowing full well that their colleagues will allow them to go

ahead and vote.

"If I knew someone wasn't going to object, I'd think a lot harder about standing up to declare a conflict," Meyer said.

Meyer argues that if a legislator is unnecessarily barred from voting it would disenfranchise his or her constituents. But this argument doesn't wash. Constituents don't want a bought vote.

Legislators need to remember what exactly a conflict of interest is: a competing professional or personal interest that prevents them from acting impartially or appearing to act impartially. If a lawmaker has such a conflict and votes anyway, the public trust is violated. The bottom line is that lawmaker shouldn't be allowed to vote when they have conflicts.

The current system clearly doesn't work. The Associated Press reported that no one in the Legislature remembers a lawmaker ever being allowed to abstain from voting. The bar must be raised.

Legislation by Rep. Mike Doogan, D-Anchorage, which would permit a lawmaker to abstain unless the entire body objects, seems a step in the right direction, and his measure isn't the only one before the Legislature.

But if lawmakers prove they can't be counted on to take conflicts of interest seriously, then the voters need to hold them accountable.

Mendenhall City (For



HI, WE'RE YOU

Flower

You know, it really bugs me when, in course of a heated conversation (sorry people would call these arguments), my wife gives me that look.

You know the one I mean. It's a patronizing cross between "You men!" and "Exactly who your home planet?" And of course it effectively renders further discussion useless. Fum-sputter, gesticulate wildly — all to no avail, and like a defeated general on a demolished front line, I beat a hasty retreat trying to salvage what little dignity the moment affords.

Retiring to my bedroom office, I typically click on the computer and feign busyness: all the while staring at a blank screen while the VCR in my mind constantly hits the "play back" button. Sighs intermin