

HB

368

SENATE COMMITTEE REPORT

DATE: 4/6/08

FURTHER:

DATE TURNED
IN TO OFFICE: _____

State Affairs Committee considered CS FOR HOUSE BILL NO. 368(FIN) am

HB 368 ETHICS: LEGISLATIVE & GOV/LT GOV

"An Act amending the Legislative Ethics Act to modify the limitation on political fund raising by legislators and legislative employees during legislative sessions, to allow legislators and legislative employees to accept certain gifts from lobbyists, to clarify the Legislative Ethics Act as it relates to legislative volunteers and educational trainees, to reduce the frequency of publication of summaries by the Select Committee on Legislative Ethics, and to revise procedures and fines related to the late filing of disclosures required by the Legislative Ethics Act."

and recommends:

- be replaced with SCS or CS HB 368 (STA)
- adopt previous SCS or CS _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/> Same Title	_____
<input type="checkbox"/> New Title	_____
HOUSE BILL:	
<input type="checkbox"/> Same Title	_____
<input type="checkbox"/> Technical Title Change	_____
<input type="checkbox"/> New Title w/ SCR # _____	_____


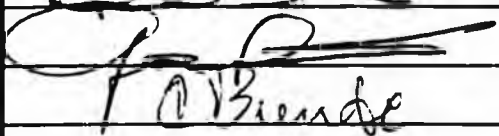
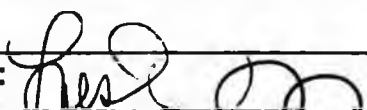
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LEG	4/3/08			✓	

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	French			✓	
	Biende			 	
CHAIR: 	McBire	✓		 	

Alaska State Legislature



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A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

CSHB 368(FIN) am: Legislative Ethics **Sponsor Statement for Version 25-LS1326\N.A**

No longer can a lobbyist blame the Legislature for not being allowed to buy their spouse a diamond ring!

Seriously, House Bill 368 makes common-sense changes to the state's ethics laws for gifts to and from legislators, legislative employees and lobbyists who are immediate family members.

This bill allows a legislator or legislative employee to accept a gift worth \$250 or more in value from anyone in a calendar year; and a gift of any monetary value from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist if:

"the gift is unconnected with the recipient's legislative status and is from a member of the legislator's or legislative employee's immediate family."

HB 368 also adds language to include other existing gift exemptions in one section of code.

This bill also allows a legislator to raise or spend campaign funds during a special session held during the 90 days immediately preceding an election if the district for which the legislator has filed for office is in the municipality where the special session occurs.

Other proposed changes within HB 368 include:

- Modifying the restrictions on the location where legislators and legislative employees who are candidates for the state legislative can raise campaign funds when the legislature is in session;
- Establishing the fine for late disclosure filings that are "willful" at \$100 for each day to a maximum of \$2,500; and
- Allowing the Select Committee on Legislative Ethics to publish official summaries of decisions and advisory opinions on an annual basis.

Most of the sections in HB 368 are based on recommendations from the Select Committee on Legislative Ethics.

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FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS HB368 (FIN)
 () Publish Date: _____

Identifier (file name): CSHB368(FIN)-LEG-ETH-04-03-08 Dept. Affected: Legislature
 Title: "An Act amending the Legislative Ethics Act to modify the limitation on political fund raising by legislators..." RDU: Legislative Council
 Sponsor: House State Affairs Committee Component: Select Committee on Leg Ethics
 Requester: House Finance Committee Component Number: 2321

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		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

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

Phone 465-6626
 Date/Time 4/3/08 10:57 AM
 Date 4/3/2008

Alaska State Legislature

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State Affairs Committee

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Economic Development, Trade & Tourism
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CSHB 368(FIN) am: Explanation of Changes for 25-LS1326\N.A From earlier versions M, L (STA) and V (JUD)

Title Changes in CSHB 368(FIN) am

The title was cleaned up and tightened from earlier versions, to delete a reference to political fund raising during legislative sessions by candidates running for governor and lieutenant governor; and to delete the word "penalties" insert the word "fines" on page 1, line 6.

Section Changes in CSHB 368(FIN) am

Version V deleted Sec. 1. AS 15.13.072(g), related to political fund raising during legislative sessions by candidates running for governor and lieutenant governor.

Version N.A, the current CSHB 368(FIN) am, adds a new Sec. 2. creating subsection AS 24.60.031(c), to allow a legislator to raise or spend campaign funds during a special session held during 90 days immediately preceding an election if the district for which the legislator has filed for office is in the municipality where the special session occurs.

Other changes from earlier versions:

- Include other existing gift exemptions in one section of the ethics code.
- Delete "shall" and insert "may" after "subsection" on page 5, line 11.
- Change the spelling of "wilful" to "willful" on page 5, line 10.
- Delete a section defining the term, "partisan political party."

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CSHB 368(FIN) am: Legislative Ethics **Sectional Analysis for Version 25-LS1326\N.A**

Sec. 1. Amends AS 24.60.031(a) to modify the location where a legislator or legislative employee who is a candidate for the state legislature may not raise and spend campaign funds, extending from just the "capital city" to also include "municipality in which the session is convened" when either house of the legislature is in regular or special session.

Sec. 2. Amends AS 24.60.031 by adding a new subsection (c) to allow a legislator to raise or spend campaign funds during a special session held during the 90 days immediately preceding an election if the district for which the legislator has filed for office is in the municipality where the special session occurs.

Sec. 3. Amends AS 24.60.080(a) to allow a legislator or legislative employee to accept a gift worth \$250 or more in value from anyone in a calendar year; or accept a gift of any monetary value from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist if:

"the gift is unconnected with the recipient's legislative status and is from a member of the legislator's or legislative employee's immediate family."

Sec. 2 also adds language to include other existing gift exemptions in one section of code.

Sec. 4 and 5. Amends AS 24.60.080 to restructure language for the Legislative Ethics Act as it relates to legislative volunteers and trainees.

Sec. 6. Amends AS 24.60.150(a) to allow the publishing of official summaries of decisions and advisory opinions by the Select Committee on Legislative Ethics on an annual basis versus a semi-annual basis.

Sec. 7. Amends AS 24.60.260(c) to establish the fine that may be imposed for a "willful" late filing to \$100 for each day to a maximum of \$2,500. The fine remains the same at \$2 for each day to a maximum of \$100 for each late filing. If the filing was "inadvertent," the maximum fine is still \$25.

Sec. 01.10.060. Definitions.

(a) In the laws of the state, unless the context otherwise requires,

(1) "action" includes any matter or proceeding in a court, civil or criminal;

(2) "daytime" means the period between sunrise and sunset;

(3) "month" means a calendar month unless otherwise expressed;

(4) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

(5) "nighttime" means the period between sunset and sunrise;

(6) "oath" includes affirmation or declaration;

(7) "peace officer" means

(A) an officer of the state troopers;

(B) a member of the police force of a municipality;

(C) a village public safety officer;

(D) a regional public safety officer;

(E) a United States marshal or deputy marshal; and

(F) an officer whose duty it is to enforce and preserve the public peace;

(8) "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;

(9) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(10) "property" includes real and personal property;

(11) "real property" is coextensive with land, tenements, and hereditaments;

Sec. 24.60.990. Definitions.

(a) In this chapter,

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

(2) "anything of value," "benefit," or "thing of value" includes all matters, whether tangible or intangible, that could reasonably be considered to be a material advantage, of material worth, use, or service to the person to whom it is conferred; the terms are intended to be interpreted broadly and encompass all matters that the recipient might find sufficiently desirable to do something in exchange for; "anything of value," "benefit," or "thing of value" does not include

(A) an item listed in AS 24.60.080 (a)(2)(B) or (c);

(B) campaign contributions, pledges, political endorsements, support in a political campaign, or a promise of endorsement or support;

(C) contributions to a cause or organization, including a charity, made in response to a direct solicitation from a legislator or a person acting at the legislator's direction; or

(D) grants under AS 37.05.316 to named recipients;

(3) "committee" means the Select Committee on Legislative Ethics and includes, when appropriate, the senate or house subcommittee;

(4) "compensation" means remuneration for personal services rendered, including salary, fees, commissions, bonuses, and similar payments, but does not include reimbursement for actual expenses incurred by a person;

(5) "domestic partner" means a person who is cohabiting with another person in a relationship that is like a marriage but that is not a legal marriage;

(6) "immediate family" means

(A) the spouse or domestic partner of the person; or

(B) a parent, child, including a stepchild and an adoptive child, and sibling of a person if the parent, child, or sibling resides with the person,

is financially dependent on the person, or shares a substantial financial interest with the person;

(7) "income" means an asset that a person has received or expects to receive, regardless of whether it is earned or unearned; inheritances and other gifts are not income;

(8) "knowingly" has the meaning given in AS 11.81.900 :

(9) "legislative action" means conduct relating to the development, drafting, consideration, sponsorship, enactment or defeat, support or opposition to or of a law, amendment, resolution, report, nomination, or other matter affected by legislative action or inaction;

(10) "legislative director" means the director of the legislative finance division, the legislative auditor, the director of the legislative research agency, the ombudsman, the victims' advocate, the executive director of the Legislative Affairs Agency, and the directors of the divisions within the Legislative Affairs Agency;

(11) "legislative employee" means a person, other than a legislator, who is compensated by the legislative branch in return for regular or substantial personal services, regardless of the person's pay level or technical status as a full-time or part-time employee, independent contractor, or consultant; it includes public members and staff of the committee; it does not include individuals who perform functions that are incidental to legislative functions, including security, messenger, maintenance, and print shop employees, and other employees designated by the committee;


Alaska State Legislature

Select Committee on Legislative Ethics

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Mailing Address:
P.O. Box 101468
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99510 - 1468

TO: All Legislators

FROM: Herman G. Walker, Jr, Chair 

DATE: January 7, 2008

RE: Legislative Ethics Legislation

As we approach the 2008 legislative session, it is likely ethics legislation will be one of the priorities again. If you are considering 'legislative' ethics legislation, keep in mind staff and committee members are here to work with you and assist you in drafting legislation. Joyce Anderson is very knowledgeable about the code and may have background information or be able to direct you to supplementary materials which would be helpful to you and your staff.

Given we are the body who administers the ethics code, the committee is respectfully requesting copies of ethics legislation prior to introduction. The committee and/or staff would like to have time to review the changes and provide you with a constructive review of your proposed legislation.

Thank you for considering our request to be actively involved in legislation having a direct impact on the Select Committee on Legislative Ethics' oversight of the ethics code.

The committee is recommending three statutory changes to the Legislative Ethics Act. For your information, attached is a copy of a letter sent to the House and Senate State Affairs and Judiciary chairs outlining the proposed changes. If you would like copies of the background materials on these proposed changes, please give the ethics office a call.

Alaska State Legislature

Select Committee on Legislative Ethics

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Mailing Address:
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Anchorage, AK
99510 - 1468

January 7, 2008

Sent to: Senator Hollis French, chair, Senate Judiciary
Senator Lesil McGuire, chair, Senate State Affairs
Representative Jay Ramras, chair, House Judiciary
Representative Bob Lynn, chair, House State Affairs

RE: 2008 Suggested Statutory Changes to the Legislative Ethics Act

At the September 28, 2007 and December 12, 2007 meetings, the Select Committee on Legislative Ethics voted to forward recommendations to the chairs of the Senate and House Judiciary Committees and State Affairs Committees for changes to the Legislative Ethics Act, AS 24.60.

1. **Gifts from registered lobbyists who are immediate family members.**
Currently, a legislative employee cannot receive a gift from a spouse or domestic partner who is a registered lobbyist under AS 24.60.080. The same would hold true if a sibling or child of a legislative employee was a registered lobbyist. With the implementation of HB 109, a legislator's spouse or domestic partner cannot be a registered lobbyist under AS 24.45.121(e). A sibling or child of a legislator who is a registered lobbyist may not give a gift to the legislator.

The committee recommends the strict prohibition on gifts from lobbyists be relaxed to allow gifts from immediate family members who are registered lobbyists. The committee did not define "immediate family member" but decided to leave the definition up to the legislature. There are two definitions of "immediate family member" in AS 24.60. One definition is narrowly construed, AS 24.60.990(a)(6), and the other is broad and includes extended family members, AS 24.60.080(c)(5).

2. **Campaigning during a special session.** AS 24.60.031 prohibits campaigning during a special session unless the session is during the 90 days immediately preceding an election and then the prohibition only applies in the Capital City. For example: if a special session was held in Anchorage, legislators who represent Anchorage could attend the session during the day and campaign in the evening.

The committee recommends the statute be changed to include language prohibiting campaigning in any location where a legislative session is held.

3. **Fine structure for late disclosures.** AS 24.60.260 authorizes the Ethics Committee to impose fines of \$2.00 for each day a disclosure is late with a maximum fine of \$100. A maximum fine of \$100 does not have an intended deterrent effect. Further, the attorney general's office has a policy of not pursuing fines of less than \$500.

The committee recommends adding a fine structure for willful omission or blatantly failing to file a disclosure. An innocent late filing would not trigger the increased penalty and the current fine structure would apply. The committee would make the determination of a willful omission or blatant failure to file. After reviewing a survey of the fine structure in thirteen states, the committee recommended the fine structure in the State of Louisiana - \$100 a day with a maximum of \$2500.

7. Attached are background materials that may be helpful in preparing legislation. Joyce Anderson, administrator, is available to answer any questions you may have and work with you and your staff in drafting legislation.

Changes to the Legislative Ethics Act have a direct impact on the committee's oversight of the Act. Therefore, the committee's active role in the legislative process is essential.

Thank you for considering our recommendations.

Sincerely,

Herman G. Walker, Jr.
Chair, Legislative Ethics Committee

Enc.

September 28, 2007 Ethics Committee Meeting

Minutes from Agenda Item # 7, Advisory Opinion 07-03, Lobbyists and Gifts

7. ADVISORY OPINION 07-03: Lobbyists and Gifts, requested by the Ethics Committee

Dan Wayne, LAA legal, went over the draft opinion. A legislator or legislative employee may not accept a gift, other than food and beverage for immediate consumption or tickets to a charity event, from a lobbyist, regardless if the lobbyist is a family member of the person. A gift of food and beverage for immediate consumption may be accepted at a lobbyist's residence. A gift of incidental travel is prohibited. AS 24.60.080(a) now provides a very broad prohibition. A lobbyist may also not facilitate a gift of arranging travel for a legislative fact-finding trip if the facilitating has a monetary value.

Staff stated she believes the unintended consequence of changes to AS 24.60.080 prohibit gifts from lobbyist family members of legislators and legislative staff and recommends the statute be changed. Senator Bunde moved to have the committee make a recommendation to the legislature to change the statute to allow gifts from a family member lobbyist. Mr. Wayne pointed out the definition of family member in AS 24.60.080 is very broad. Senator Bunde's motion was deferred until action was taken on the opinion.

Member Thomas made a motion to accept the opinion. Further discussion held. Chair Cook posed the following scenario: A lobbyist would host a reception for a legislative employee at the lobbyist's residence. Informal advice previously given stated the use of the home would be considered a "service" to the legislative employee. If the home were to be provided, the employee would need to pay for the use of the home. Committee members agreed with this interpretation and felt no additional language was needed in the draft opinion. Roll vote taken: YES - all members present voted in favor of the draft opinion. AO 07-03 accepted as drafted.

Back to Senator Bunde's motion on suggested legislation. The first step is to define family member. Staff pointed out there are two definitions of family in the ethics code. AS 24.60.990(a)(6) includes spouse domestic partner, child, stepchild, adoptive child, parent, sibling, grandparent, aunt and uncle and stepparent sister, brother grandparent aunt uncle of both the person covered by the code and their spouse domestic. AS 24.60.080(c)(5) includes only spouse domestic partner, parent, child, stepchild, adoptive child or sibling. AS 24.60.080 Senator Bunde preferred the more narrow definition. Representative Roses questioned whether a cousin could give a gift. The committee decided to leave the definition of family member to the legislature.

**THE FOLLOWING PAGES MAY
NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**

Alaska State Legislature

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September 28, 2007

ADVISORY OPINION 2007-03

Subject: Gifts - Lobbyists

RE: Gifts from lobbyists.

This opinion was initiated by the Select Committee on Legislative Ethics (the committee) in order to clarify its understanding of how AS 24.60.080 regulates gifts from lobbyists to legislators and legislative employees.

Questions presented

The following questions involve hypothetical persons and situations.

1. Does AS 24.60.080 prohibit a person who is a legislator or legislative employee from accepting a gift from a lobbyist who is a family member of the person?
2. Does AS 24.60.080 prohibit a legislator or legislative employee from accepting from a lobbyist a gift of hospitality at the lobbyist's residence, including, for example, food and beverage for immediate consumption, or a gift of incidental transportation, like a ride to or from the airport?
3. May a legislator or legislative employee accept a gift of travel provided by the lobbyist's employer for a legislative fact-finding purpose, where the gift is facilitated by the lobbyist?

General Discussion

AS 24.60.080 is the principal statute governing acceptance of gifts by persons subject to the code of legislative ethics. Effective July 10, 2007, as amended by sec. 27, ch. 47, SLA 2007, subsection (a) of that statute says, in relevant part:

(a) Except as otherwise provided in this section, a legislator or legislative employee may not . . .

(2) solicit, accept, or receive during a legislative session a gift with any monetary value from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist, except

- (A) food or beverage for immediate consumption; or
- (B) tickets for a charity event at any time . . .

In addition, as amended by sec. 25, ch. 47, SLA 2007, subsection (c) was narrowed so that exceptions for certain gifts by lobbyists and their immediate family members that were formerly allowed are now disallowed. The changes prohibit legislators and legislative employees from accepting a gift of any monetary value, other than a gift of food or beverage for immediate consumption or a ticket for a charity event, from a lobbyist, an immediate family member of a lobbyist, or person acting on behalf of a lobbyist.

There is one more exception to the general rule restricting gifts from lobbyists and immediate family members of lobbyists that is found outside of AS 24.60.050. As part of the broad revision of the Legislative Ethics Act made by ch. 47, SLA 2007, and effective July 10, 2007, the legislature adopted AS 24.60.075, the "compassionate gift exemption." A "compassionate gift" is one that is "intended to aid or comfort a recipient or a member of the recipient's immediate family in contending with a catastrophe, a tragedy, or a health-related emergency." AS 24.60.075(e). The exemption establishes that, notwithstanding AS 24.60.080 (limiting acceptance of gifts by legislators and legislative employees) and AS 24.45.121 (limiting the activities of lobbyists), a legislator or legislative employee may accept, receive, and solicit a compassionate gift from any person, including a lobbyist, if the gift is pre-approved by the chair of Legislative Council and the chair or vice-chair of this committee has "approved in writing" the decision of the Legislative Council chair. Certain limitations and disclosure requirements apply. In effect, as it relates to gifts by lobbyists, the compassionate gift exemption operates as an exception to the prohibition against accepting gifts from lobbyists that is set out in AS 24.60.080(a)(2).

Lastly, note that the special definition of "immediate family" formerly applicable to AS 24.60.080 found in subsection (k) was repealed by sec. 74, ch. 47, SLA 2007. Therefore, as it relates to the prohibition against gifts from a lobbyist or a lobbyist's immediate family member, the definition under AS 24.60.990(a)(6) now applies.

1. Does AS 24.60.080 prohibit a person who is subject to it from accepting a gift from a lobbyist who is a family member of the person?

As AS 24.60.080 was revised in 2007, except for food and beverage for immediate consumption and tickets to a charity event, that section broadly prevents a person who is subject to it from accepting any other gift from a lobbyist, regardless of whether the lobbyist is a family member of the person. The former exception for gifts from immediate family members contained in AS 24.60.080(c)(5) before its 2007 amendment no longer applies if the gift giver is a lobbyist.

2. Does AS 24.60.080 prohibit a person who is subject to it from accepting from a lobbyist a gift of hospitality at the lobbyist's residence, including, for example, food and beverage for immediate consumption or a gift of incidental travel such as a ride to the airport?

AS 24.60.080(a)(2) prohibits a legislator or legislative employee from accepting any gift of monetary value from a lobbyist, but subparagraph (a)(2)(A) makes an exception for food and beverage that is for immediate consumption, whether at the lobbyist's residence

or elsewhere. Former exceptions under AS 24.60.080(c) that may have allowed additional types of gifts of hospitality or incidental travel no longer apply when the gift giver is a lobbyist.

3. May a legislator or legislative employee accept a gift of travel provided by the lobbyist's employer for a legislative fact-finding purpose, where the gift is facilitated by the lobbyist?

AS 24.60.080(c)(4) allows the legislator or legislative employee to accept a gift of travel if the travel is primarily for the purpose of obtaining information on a matter of legislative concern. However, AS 24.60.080(c) no longer applies to lobbyists. AS 24.60.080(a)(2) prevents a person subject to the section to accept a gift from a lobbyist "with any monetary value." Consequently, if the service of facilitating travel has a monetary value and the service is deemed to be provided to the legislator or legislative employee, rather than to the lobbyist's employer, the legislator or legislative employee may not accept the gift. (See also, AS 24.45.121(a)(9), which prohibits a lobbyist from "facilitating" a gift "to or on behalf of a person covered by AS 24.60.")

Adopted by the Select Committee on Legislative Ethics on September 28, 2007.

Members present and concurring in this opinion were:

Dennis "Skip" Cook, Chair
Senator Gary Stevens
Senator Con Bunde
Representative Bob Roses
H. Conner Thomas, public member
Ann Rabinowitz, public member
Gary J. Turner, public member
Herman G. Walker, public member

Members dissenting from this opinion were: None.

Member absent was:

Representative Berta Gardner

DCW:ljlmb
07-335 ljlw

2008 STANDARDS OF CONDUCT HANDBOOK

GIFTS

AS 24.60.080

A legislator or legislative employee may not solicit or accept (whether directly or indirectly) any gift worth \$250 or more, or a series of gifts from the same person or entity which total \$250 or more in a calendar year. Gifts may be in the form of money, services, loans, travel, entertainment, hospitality, promise or other form.

AS 24.60.080(a)(1)

A legislator or legislative employee may not solicit, accept or receive, a gift with any monetary value from a lobbyist or from an immediate family member of a lobbyist or from a person acting on behalf of a lobbyist. WITH THE EXCEPTION OF food or beverage for immediate consumption OR tickets to a 501(c)(3) charity event pre-approved by Legislative Council. **AS 24.60.080(a)(2)(A) and AS 24.60.080(a)(2)(B)**

1. **Food and Beverage:** Legislators and legislative employees may accept food and beverage for immediate consumption from a lobbyist at any time.
 - a. Under AS 24.45.051 a lobbyist must report to APOC the cost of food and beverage for immediate consumption that exceeds \$15.00 per person if provided for a legislator or legislative employee.
 - b. AS 24.45.051 expands the reporting requirements to include the spouse/domestic partner of a legislator or legislative employee.
 - c. If the food and beverage is provided as part of an event open to all legislators or employees, no disclosure is required.

2. **Charity Event:** Legislators and legislative employees may accept a ticket to a pre-approved charity event from a lobbyist at any time.
 - a. The Alaska Legislative Council must approve the charity event in advance.
 - b. The value of the ticket(s) may not be worth more than \$250 aggregate from the same lobbyist in a calendar year.

Gifts to immediate family members of legislators and legislative employees must be reported to the committee. IF the gift was given because of the family member's connection to the legislator or legislative employee and the value of the gift(s) is \$250 or more.

An immediate family member of a legislator or legislative employee may not receive a gift prohibited under this section

IMMEDIATE FAMILY MEMBER is defined in AS 24.60.990 as

- Spouse or domestic partner
- Parent, child (including stepchild and adoptive child) or sibling IF financially dependent on the legislator or legislative employee OR shares a substantial financial interest

Political contributions reported to APOC are not gifts under this section

EXCEPTIONS TO THE \$250 GIFT LIMIT: There are exceptions to the prohibitions in AS 24.60.080(a)(1) which limits a gift to less than \$250. The exceptions are defined below. Keep in mind the following exceptions do not apply to AS 24.60.080(a)(2) which are gifts received from a lobbyist, an immediate family member of a lobbyist or a person acting on behalf of a lobbyist.

The exceptions are:

- **gift of hospitality in another person's home and travel to reach the home.**
Note: a vacation home located outside the state is not considered a residence under this subparagraph. **AS 24.60.080(c)(1)**
- **gift of hospitality at a social event or meal.** **AS 24.60.080(c)(1)**
- **discounts available to the public or to a large class of people to which the legislator or employee belongs or discounts accepted while on official business if the discount benefits the state.** **AS 24.60.080(c)(2)**
- **gift of food that is native to the state and is shared as part of a normal cultural or social pattern.** **AS 24.60.080(c)(3)**
- **gift of travel and hospitality to obtain information on matters of legislative concern.**
A person who accepts a gift worth \$250 or more under this exception must disclose the gift to the Ethics Committee within 30 days.
DISCLOSURE REQUIRED **AS 24.60.080 (c)(4)**
- **gift(s) from the recipient's immediate family.**
In this section only, immediate family includes the spouse, (or domestic partner) parents, children, siblings, grandparents, aunts and uncles as well as in-laws and step-relations. No limit on the value of the gift and no disclosure is required.
AS 24.60.080(c)(5)
- **gifts not connected with the recipient's legislative status.**
A person who accepts a gift worth \$250 or more under this exception must disclose the gift to the committee within 30 days of receipt of the gift. The disclosure is kept confidential. The disclosure must include the name and occupation of the donor and, if the value exceeds \$250, a description of the gift.
CONFIDENTIAL DISCLOSURE REQUIRED **AS 24.60.080(c)(6)**
- **gifts other than money from another government or government official.**
Gifts of this nature are allowable if the recipient accepts the gift on behalf of the legislature and delivers it to Legislative Council within 60 days. **AS 24.60.080(f)**
- **discounts and welcoming gifts offered during session in the capital city to legislators and their personal staff (but not other legislative employees).**
These are gifts offered to all legislators and their staff such as parking passes.
AS 24.60.080(c)(7)
- **gift of legal services related to a matter of legislative concern and other services related to a matter of legislative concern.**

This exception is for a gift of services and not a monetary gift. This exception does not relate to private matters.

DISCLOSURE REQUIRED

AS 24.60.080(c)(8)

- **gift of transportation from a legislator or legislative employee to a legislator or a legislative employee.**

This exception relates to travel within the state and only to a mode of transportation owned or under the control of the donor (i.e., aircraft, boat, motor vehicle, etc.).

AS 24.60.080(c)(9)

- **gift received by immediate family member because of legislative connection.**

A spouse/domestic partner or dependent parent, child or sibling must disclose receipt of a gift with a value of \$250 or more that is given because of the family member's connection with the legislator or legislative employee.

DISCLOSURE REQUIRED

AS 24.60.080(i)

- **prohibited gifts to immediate family members**

The list of prohibited gifts a legislator or legislative employee may accept extends to gifts to immediate family members.

AS 24.60.080(i)

REMEMBER: *If a gift exceeds \$250 in value or if the cumulative value in a year exceeds \$250, you will have to say "No thank you" to the donor and return the gift unless the gift falls within one of the exceptions listed in (c)(1) through (c)(9) and (i).*

If a person covered by the ethics code receives a gift of unknown value that may exceed the \$250 limit, that person should use caution and explain the \$250 limit to the donor. If the donor states the value to be greater than \$250, the gift would need to be returned unless it falls into one of the exceptions listed in AS 24.60.080(c)(1) through (c)(9).

May a legislator or legislative employee accept a waiver of conference fees, when the purpose of attending the conference is to obtain information on matters of legislative concern?

Yes. The gift of "waived fees" may be accepted but, if over \$250, the gift must be disclosed to the Ethics Committee within 30 days.

May a legislator or legislative employee accept airfare to a meeting paid for by another branch of state government?

Yes but, if over \$250, the gift must be disclosed to the committee within 30 days.

May a person covered by the ethics code accept a loan exceeding \$250 from a personal friend who is not connected with the loan recipient's legislative status?

Loans are gifts. The loan may be accepted because the friendship is not related to legislative status. The gift must be disclosed because the value is over \$250. The disclosure is confidential and not published in the Legislative Journal. See Advisory Opinion 03-02. Commercial loans do not require disclosure.

May a legislator accept the services of a JTPA (Job Training Partnership Act) volunteer in his or her legislative office?

Yes. Volunteers in a legislative office are allowed so long as the volunteer is not paid by another source. Only the JTPA program and the University Legislative Intern program are exempted from this outside payment restriction. The legislator is expected to take responsibility for the ethical conduct of volunteers.

Are volunteers in a legislative office subject to the ethics code?

Volunteers are generally required to comply with the ethics code with the exception of the sections addressing contracts and leases, state programs and loans, close economic associations, nepotism, and representation before state agencies.

May a legislator's spouse (or other immediate family member) accept travel and hospitality to a conference the legislator is also attending?

Yes, but the acceptance of the gift must be disclosed within 30 days to the Ethics Committee if \$250 or more in value.

May a legislator or legislative employee solicit contributions in excess of \$250 for a nonpolitical charitable organization?

Yes, the organization must have either a 501(c)(3) tax exemption or have an extended history in the community. The committee notes that lobbyists could be approached for contributions to charitable nonpolitical organizations but urges extreme caution in doing so as this may lead to the appearance of impropriety.

May a person subject to the ethics code accept payment of golfing greens fees or tournament fees that exceed \$250?

No, unless the gift is not related to legislative status or if from an immediate family member as defined in AS 24.60.080(c)(5). If not related to legislative status, the gift may be accepted. Because the gift exceeds the \$250 limit, the gift must be disclosed within 30 days.

Does receipt of a prize in a raffle require disclosure of a gift to the Ethics Committee?

No, assuming the raffle was open to the public and the chance to win the prize was purchased.

May a legislator or legislative employee accept a gift of lodging in excess of \$250 at a hotel grand opening?

Generally no, unless the purpose of attending relates to matters of legislative concern. If so, the gift must be disclosed.

May a legislator or legislative employee accept a gift of a fishing trip from a lobbyist?

No, regardless of the value. Gifts of this nature from lobbyists are not allowed. A legislator or legislative employee may only solicit, accept and receive a gift of food and beverage for immediate consumption, a ticket to a pre-approved charity event or a compassionate gift pre-approved Legislative Council and the Ethics Committee chair from a lobbyist.

May a legislator or legislative employee accept a gift of a round of golf from the spouse of a lobbyist?

No, regardless of the value. A legislator or legislative employee may not accept a gift from an immediate family member of a lobbyist. A legislator or legislative employee may only solicit, accept and receive a gift of food and beverage for immediate consumption, a ticket to a pre-approved charity event or a compassionate gift pre-approved Legislative Council and the Ethics Committee chair from an immediate family member of a lobbyist.

What if a legislator or legislative employee is in a dating relationship? May they accept gifts in excess of \$250 from the person they are dating?

Yes. However, a confidential gift disclosure is required.

Sec. 24.60.080. Gifts. (effective July 10, 2007)

- (a) Except as otherwise provided in this section, a legislator or legislative employee may not
- (1) solicit, accept, or receive, directly or indirectly, a gift worth \$250 or more, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, or gifts from the same person worth less than \$250 that in a calendar year aggregate to \$250 or more in value;
 - (2) solicit, accept, or receive a gift with any monetary value from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist, except
 - (A) food or beverage for immediate consumption; or
 - (B) tickets for a charity event at any time, except that tickets to or gifts received at a charity event under this subparagraph are subject to the calendar year limit on the value of gifts received by a legislator or legislative employee in (1) of this subsection; in this subparagraph, "charity event" means an event the proceeds of which go to a charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and the Alaska Legislative Council has approved in advance; the tickets may entitle the bearer to admission to the event, to entertainment, to food or beverage, or to other gifts or services involved in charity event.

(b) [Repealed, § 42 ch 127 SLA 1992.]

(c) Notwithstanding (a)(1) of this section, it is not a violation of this section for a person who is a legislator or legislative employee to accept

- (1) hospitality, other than hospitality described in (4) of this subsection,
 - (A) with incidental transportation at the residence of a person; however, a vacation home located outside the state is not considered a residence for the purposes of this subparagraph; or
 - (B) at a social event or meal;
- (2) discounts that are available
 - (A) generally to the public or to a large class of persons to which the person belongs; or
 - (B) when on official state business, but only if receipt of the discount benefits the state;
- (3) food or foodstuffs indigenous to the state that are shared generally as a cultural or social norm;
- (4) travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern;
- (5) gifts from the immediate family of the person. In this paragraph "immediate family" means
 - (A) the spouse of the person;
 - (B) the person's domestic partner;
 - (C) a child, including a stepchild and an adoptive child, of the person or of the person's domestic partner;
 - (D) a parent, sibling, grandparent, aunt, or uncle of the person;
 - (E) a parent, sibling, grandparent, aunt, or uncle of the person's spouse or the person's domestic partner; and
 - (F) a stepparent, stepsister, stepbrother, step-grandparent, step-aunt, or step-uncle of the person, the person's spouse, or the person's domestic partner;
- (6) gifts that are not connected with the recipient's legislative status.

- (7) a discount for all or part of a legislative session, including time immediately preceding or following the session, or other gift to welcome a legislator or legislative employee who is employed on the personal staff of a legislator or by a standing or special committee to the capital city or in recognition of the beginning of a legislative session if the gift or discount is available generally to all legislators and the personal staff of legislators and staff of standing and special committees. This paragraph does not apply to legislative employees who are employed by the Legislative Affairs Agency, the office of the chief clerk, the office of the senate secretary, the legislative budget and audit committee, the office of victims' right, or the office of the ombudsman;
- (8) a gift of legal services in a matter of legislative concern and a gift of other services related to the provision of legal services in a matter of legislative concern;
- (9) a gift of transportation from a legislator or a legislative employee to a legislator or a legislative employee if the transportation takes place in the state on or in an aircraft, boat, motor vehicle, or other means of transport owned or under the control of the donor; this paragraph does not apply to travel described in (4) of this subsection or travel for political campaign purposes; or
- (10) a contribution to a charity event from any person at any time; in this paragraph, "charity event" has the meaning given in (a)(2)(B) of this subsection.

(d) A legislator or legislative employee who accepts a gift under (c)(4) of this section that has a value of \$250 or more shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor and the approximate value of the gift. A legislator or legislative employee who accepts a gift under (c)(8) of this section that the recipient expects will have a value of \$250 or more in the calendar year shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor, a general description of the matter of legislative concern with respect to which the gift is made, and the approximate value of the gift. The committee shall maintain a public record of the disclosures it receives relating to gifts under (c)(4), (c)(8) and (i) of this section and shall forward the disclosures to the appropriate house for inclusion in the journal. The committee shall forward to the Alaska Public Offices Commission copies of the disclosures concerning gifts under (c)(4), (c)(8) and (i) of this section that it receives from legislators and legislative directors. A legislator or legislative employee who accepts a gift under (c)(6) of this section that has a value of \$250 or more shall, within 30 days after receiving the gift, disclose to the committee the name and occupation of the donor and a description of the gift. The committee shall maintain disclosures relating to gifts under (c)(6) of this section as confidential records and may only use, or permit a committee employee or contractor to use, a disclosure under (c)(6) of this section in the investigation of a possible violation of this section or in a proceeding under AS 24.60.170. If the disclosure under (c)(6) of this section becomes part of the record of a proceeding under AS 24.60.170, the confidentiality provisions of that section apply to the disclosure.

(e) A political contribution is not a gift under this section if it is reported under AS 15.13.040 or is exempt from the reporting requirement under AS 15.13.040 (g). The use of a bulk mailing permit owned by a legislator's campaign committee or used in a legislator's election campaign is not a gift to that legislator under this section.

(f) Notwithstanding (a) of this section, a legislator or legislative employee may accept a gift of property worth \$250 or more, other than money, from another government or from an official of another government if the person accepts the gift on behalf of the legislature. The person shall, within 60 days after receiving the gift, deliver the gift to the legislative council, which shall determine the appropriate disposition of the gift. In this subsection, "another government" means

a foreign government or the government of the United States, another state, a municipality, or another jurisdiction

(g) Notwithstanding (a) of this section, a legislator or legislative employee may solicit, accept, or receive a gift on behalf of a recognized, nonpolitical charitable organization

(h) A legislator, a legislative committee other than the Select Committee on Legislative Ethics, or a legislative agency may accept

- (1) a gift of volunteer services for legislative purposes so long as the person making the gift of services is not receiving compensation from another source for the services; or
- (2) the services of a trainee who is participating in an educational program approved by the committee if the services are used for legislative purposes. The committee shall approve training under a program of the University of Alaska and training under 29 U.S.C. 2801 - 2945 (Workforce Investment Act of 1998). A legislative volunteer or educational trainee shall be considered to be a legislative employee for purposes of compliance with this section, AS 24.60.030 - 24.60.039, 24.60.060, 24.60.085, 24.60.158 - 24.60.170, 24.60.176, and 24.60.178. If a person believes that a legislative volunteer or educational trainee has violated the provisions of one of those sections, the person may file a complaint under AS 24.60.170. The provisions of AS 24.60.170 apply to the proceeding.

(i) A legislator or legislative employee who knows or reasonably should know that an immediate family member has received a gift because of the family member's connection with the legislator or legislative employee shall disclose for publication under (d) of this section the receipt of the gift by the family member to the committee if the gift would have to be disclosed under this section if it had been received by the legislator or legislative employee. If receipt of the gift by a person who is a legislator or legislative employee would be prohibited under this section, a member of the person's immediate family may not receive the gift.

(j) In this section, the value of a gift shall be determined by the fair market value of the gift to the extent that the fair market value can be determined.

Revisor's notes — Subsections (g) — (j) were enacted as (h) — (k). Relettered in 1998, at which time former subsection (g) was relettered as (k).

Effect of amendments — The 1998 amendment, effective January 1, 1999, in subsection (a) added "Except as otherwise provided in this section," at the beginning, substituted "\$250" for "\$100" in three places, and added "Except for food or beverage for immediate consumption, a legislator or legislative employee" at the beginning of the last sentence. In subsection (c), rewrite paragraphs (1) and (2) and added paragraphs (7) and (8); rewrite subsections (d) - (f) and (k), and added subsections (g) - (j).

The first 2002 amendment, effective April 16, 2002,

in subsection (c) added paragraph (9) and made related stylistic changes.

The second 2002 amendment, effective July 1, 2002, substituted reference to the Workforce Investment Act of 1998 for reference to the Job Training Partnership Act in the second sentence in subsection (h).

The first 2003 amendment, effective September 14, 2003, substituted "domestic partner" for "spousal equivalent" throughout subsection (k).

The second 2003 amendment, effective September 15, 2003, added paragraph (e) (1).

The 2006 amendment, effective March 31, 2006, added paragraph (1) of subsection (c), making corresponding stylistic changes.

Related Advisory Opinions 88-13, 88-15, 88-19, 89-1, 89-3, 89-4, 89-6, 90-1, 92-1, 92-3, 93-3, 93-4, 97-5, 93-16, 93-18, 93-19, 94-3, 94-9, 95-13, 96-3, 96-4, 96-5, 97-1, 99-1, 99-2, 2001-2, 2002-3, 2002

Alaska State Legislature

Select Committee on Legislative Ethics

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TO:

FROM: Joyce Anderson, Administrator

DATE:

RE: Fund Raising During Session

You have asked if it is permissible under AS 24.60 for a legislator to conduct fund raising activities during session for a campaign for an office other than a legislative office. Specifically, fund raising in Juneau during session.

First of all, I suggest you check with the Alaska Public Offices Commission to determine if AS 15.13, state election campaigns, imposes any restrictions on the activities you are contemplating. I will only address the ethical considerations in AS 24.60 in relation to your position as a legislator.

AS 24.60.031 addresses restrictions on fund raising for legislators and legislative employees. (See statute below.) The restrictions in AS 24.60.031 prohibit legislators from soliciting or accepting a contribution or a promise or pledge to make a contribution when either house is in regular or special session for a campaign for the state legislature. Additionally, legislators cannot accept money from an event held on a day when either house is in regular or special session if the substantial purpose of the event is to raise money on behalf of the legislator for state legislative political purposes.

The statute is clear in that only campaigns for the state legislature fall under the restrictions imposed in AS 24.60.031(a) and (b). Legislators running for statewide office are not restricted from accepting or soliciting campaign contributions during session. Further, legislators running for state office are not restricted from holding an event for the

purpose of raising funds for a statewide campaign. Since the legislative ethics code places no restrictions on fund raising for state office by a legislator this would include fund raising activities in Juneau during session.

Historical information: *In Advisory Opinion 94-04, the ethics committee answered the question of whether a legislator who is a candidate for statewide elective office may engage in fund raising activities for that office during the legislative session. The committee concluded AS 24.60.031(b) prohibited a legislator who is candidate for a statewide race from accepting money from an event held during the legislative session. The language in AS 24.60.031(b) also prohibited a legislator from accepting money from an event held during the legislative session for any elective office. AS 24.60.031(b) in 1994 read as follows: A legislator or legislative employee may not accept money from an event held during a legislative session if the substantial purpose of the event is to raise money on behalf of the member or legislative employee for campaign purposes or to raise money for state legislative political purposes: ...*

AS 24.60.031(b) was changed in 1998 with the passage of Senate Bill 105. The restriction on accepting money from an event held during a legislative session was narrowly applied only to a legislator running for a state legislative office. The language 'for campaign purposes' (which was determined to include any elective office) was deleted. Attached is Advisory Opinion 94-04 for your information. AS 24.60.031 (b) has not had any further changes to date.

Again, I would like to mention you should contact APOC for a review of AS 15.13.

Pursuant to AS 24.60.158 my advice is informal and not binding on the committee. However, I feel this statute is clear on its face and an advisory opinion is not necessary due to the accompanying documentation in Advisory Opinion 94-04 and 1998 legislative changes to the one section addressed in A.O. 94-04.

However, you have the option to request an advisory opinion from the committee if you so choose.

Enc. Advisory Opinion 94-04
AS 24.60.031

Alaska State Legislature

**Select Committee on
Legislative Ethics**

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January 24, 1994

ADVISORY OPINION 94-04

Subject: Campaigning During Session

RE: May a legislator who is a candidate for a statewide elective office engage in fund raising activities for that office during the legislative session?

You are a legislator, covered by the Legislative Code of Ethics. You have filed a general letter of intent and you have announced that you are running for Lieutenant Governor in the next election. You ask whether you may engage in fund raising activities concerning that campaign during the legislative session.

Discussion

To begin with, the committee notes that campaign contributions that you report as required by law are excluded from the provisions concerning gifts by AS 24.60.080(e).¹

Under AS 24.60.031, a legislator's fund raising activities are restricted during the legislative session. The section states:

Sec. 24.60.031. RESTRICTIONS ON FUND RAISING. (a) A legislator or legislative employee may not

(1) while the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a state legislative campaign:

¹ AS 24.60.080(e) states:

(e) A political contribution that is reported under AS 15.13.040 is not a gift under this section.

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

(3) expend money in a state legislative campaign that was raised by or on behalf of a legislator during a legislative session under a general letter of intent to become a candidate for public office.

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

Under paragraph (1) of subsection (a), legislators are prohibited from soliciting or accepting contributions during the legislative session for state legislative campaigns. Under paragraph (3), legislators may not spend money in a state legislative campaign that was raised during the session. The scope of paragraph (2) is not clearly limited to "state legislative campaigns." That paragraph prohibits legislators from accepting money raised at events held during the session if the event was to raise money on behalf of the legislator for campaign purposes or for state legislative political purposes. Unlike the other two paragraphs, this paragraph does not, on its face, limit the prohibition related to "campaign purposes" to "state legislative campaigns."

The committee believes that the language of the statute should be interpreted as it is written. Accordingly, a legislator running for statewide office may solicit and accept contributions for that office during the legislative session (as permitted by paragraph (1) of 24.60.031(a)) and a legislator who has filed a general letter of intent to become a candidate for public office may spend money raised during the session on a campaign for statewide office (as permitted by paragraph (3)). However, under paragraph (2), a legislator may not accept money from an event held during the legislative session if the purpose of the event was to raise money for the legislator's campaign for any elective office. The committee recognizes that this result appears inconsistent, but the committee believes that any change from this result should be made by amendment to the statute, not by interpretation of it.

Conclusion

For the reasons discussed above, the committee finds that the prohibition contained in AS 24.60.031(a)(2), concerning accepting money from an event held during the legislative session, applies to statewide campaigns, including your campaign for lieutenant governor. Therefore, you may not accept money raised during the session at fundraising events.

Adopted by the Select Committee on Legislative Ethics on January 24, 1994. Members present and concurring in this opinion were:

Joseph P. Donahue, Chair
Ed Granger, Vice-Chair
Senator Drue Pearce

Margie MacNeille
Representative Brian Porter
Shirley A. McCoy
Senator Jay Kerttula

Members absent were:

Edith Vorderstrasse
Representative Jerry Mackie

TC:gc
94-038.glc

Alaska State Legislature

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December 12, 2007

ADVISORY OPINION 2007-06

RE: Campaign Endorsements and Fundraising During a Legislative Session

This opinion was initiated by the Select Committee on Legislative Ethics (the committee) in order to clarify its understanding of restrictions imposed by AS 24.60.031 on a legislator or legislative employee campaigning, during a legislative session, on behalf of a candidate for the state legislature.

Questions presented

The following questions involve hypothetical persons and situations.

1. Does AS 24.60.031 of the Legislative Ethics Act prohibit a legislator or legislative employee from hosting or co-hosting a campaign fundraising event for a candidate for the state legislature during a legislative session?
2. Does AS 24.60.031 of the Legislative Ethics Act prohibit a legislator or legislative employee from endorsing a candidate for the state legislature during a legislative session?

Discussion

1. Does AS 24.60.031 of the Legislative Ethics Act prohibit a legislator or legislative employee from hosting or co-hosting a campaign fundraising event for a candidate for the state legislature during a legislative session?

AS 24.60.031(a)(1) says a legislator or legislative employee may not

(1) on a day when either house of the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a campaign for the state legislature; however, a legislator or legislative employee may, except in the capital city, solicit or accept a contribution, promise, or pledge for a campaign for the state

This opinion is limited to consideration of AS 24.60.031 and does not consider other authority, including personnel policies, that may limit a legislator or legislative employee's campaign fundraising and endorsement activity.

legislature that occurs during the 90 days immediately preceding an election.

The language of this paragraph seems to unequivocally ban all solicitation or acceptance of a campaign contribution by a legislator or legislative employee, for any campaign for the state legislature -- except for that which occurs outside of the capital city during the 90 days immediately preceding an election. The ban is not total, however, because of the way in which "contribution" is defined by a cross-reference in AS 24.60.031(b). The cross-referenced definition, in AS 15.13.400, says:

(4) "contribution"

(A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made and that is made for the purpose of influencing the nomination or election of a candidate, and in AS 15.13.010(b) for the purpose of influencing a ballot proposition or question, including the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that are rendered to the candidate or political party;

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;

(ii) ordinary hospitality in a home;

(iii) two or fewer mass mailings before each election by each political party describing the party's slate of candidates for election, which may include photographs, biographies, and information about the party's candidates;

(iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate;

(v) any communication in the form of a newsletter from a legislator to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(vi) a fundraising list provided without compensation by one candidate or political party to a candidate or political party;

The ban on fundraising in AS 24.60.031(a)(1) only bans solicitation or acceptance of contributions that fall within this definition of "contribution," and therefore anything listed as an exception in this definition would be allowed. For example, notwithstanding the prohibition set out in AS 24.60.031(a)(1), a legislator or legislative employee could

"Election" is not defined by the Act, and for the purpose of this opinion we interpret it to mean a general, special, or primary election for membership in the state legislature.

still solicit or accept, on behalf of any candidate, contributions of certain kinds of (i) volunteer campaign services; (ii) hospitality in a home; (iii) mass mailings by a political party; (iv) poll results not related to a particular candidate; (v) newsletters from a legislator to the legislator's constituents; or (vi) fundraising lists provided without charge. This list of exceptions from what legally constitutes a contribution does not include contributions of money, and therefore hosting or co-hosting a legislative campaign fundraising event during a legislative session would violate the prohibition in AS 24.60.031(a), unless the fundraiser is held outside of the capital city and within the 90 days immediately preceding an election.

2. Does AS 24.60.031 of the Legislative Ethics Act prohibit a legislator or legislative employee from endorsing a candidate for the state legislature during a legislative session?

AS 24.60.031 does not prohibit a legislator or legislative employee from endorsing a candidate for the state legislature, at any time, unless the endorsement is part of a solicitation for a contribution in violation of AS 24.60.031(a)(1). The following examples illustrate the difference between an endorsement that is in compliance with AS 24.60.031, and one that is not:

1. A legislator endorses a candidate in a signature ad that solicits votes for the candidate but does not solicit contributions to the campaign. This endorsement does not violate AS 24.60.031(a)(1), because the statute does not prohibit a solicitation for votes.

2. A legislator endorses a candidate by allowing the legislator's name to appear in a fundraising event's invitation or advertisement. This endorsement would violate AS 24.60.031(a)(1) because it is a solicitation for a money contribution to the candidate. Even if the name merely appears on a long list of other candidate supporters or campaign officers, if the legislator allows it to be used in a fundraising event's invitation or ad at a time and place when AS 24.60.031(a)(1) prohibits the legislator from soliciting campaign contributions, there is a violation.

Conclusion

For the reasons stated above, the committee finds that directly or indirectly hosting, co-hosting, or soliciting participation in a fundraiser for a legislative candidate during a legislative session is prohibited by AS 24.60.031, unless the fundraiser is held outside of Juneau in the 90-day period immediately preceding an election.

Adopted by the Select Committee on Legislative Ethics on December 12, 2007.

Members present and concurring in this opinion were:

Dennis "Skip" Cook, Chair

Representative Bob Roses

Representative Berta Gardner

Senator Hollis French (alternate for Senator Gary Stevens)

Senator Con Bunde

H. Conner Thomas, public member

Gary J. Turner, public member
Herman G. Walker, public member

Members dissenting from this opinion were: None.

Member absent were:
Senator Gary Stevens
Ann Rabinowitz, public member

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ALASKA STATUTE

Sec. 24.60.031. Restrictions on fund raising.

(a) A legislator or legislative employee may not

- (1) on a day when either house of the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a campaign for the state legislature; however, a legislator or legislative employee may, except in the capital city, solicit or accept a contribution, promise, or pledge for a campaign for the state legislature that occurs during the 90 days immediately preceding an election;
- (2) accept money from an event held on a day when either house of the legislature is in regular or special session if a substantial purpose of the event is to raise money on behalf of the member or legislative employee for state legislative political purposes; however, this paragraph does not prohibit a legislator or legislative employee from accepting money from an event held in a place other than the capital city during the 90 days immediately preceding an election; or
- (3) in a campaign for the state legislature, expend money that was raised on a day when either house of the legislature was in a legislative session by or on behalf of a legislator under a declaration of candidacy or a general letter of intent to become a candidate for public office; however, this paragraph does not apply to money raised in a place other than the capital city during the 90 days immediately preceding an election.

(b) In this section, "contribution" has the meaning given in AS 15.13.400.

2008 STANDARDS OF CONDUCT HANDBOOK FUNDRAISING FOR POLITICAL CAMPAIGNS DURING SESSION

AS 24.60.031

Please contact APOC to discuss additional restrictions within the Campaign Disclosure Law.

A legislator or legislative employee may not request or accept a contribution, or a promise to make a contribution, for any state legislative campaign while the legislature is in *regular or special session*.

This rule prohibits legislators and legislative employees from raising funds for other legislative candidates. There is one exception for special sessions which is called the "90 day window". If the special session falls within the period 90 days immediately preceding an election, legislators and legislative employees may solicit and accept contributions in a place other than the capital city.

A legislator or legislative employee (or on behalf of another) may not accept money from a fundraising event held during session if a substantial purpose of the event was to raise money for the legislator's campaign or for state legislative political purposes, with the exception of the 90 day window for special sessions.

A legislator or legislative employee may not circumvent these prohibitions by failing to declare that a seat in the Legislature is his or her campaign goal. Specifically, a legislator or legislative employee may not *spend* money for a legislative campaign that was raised in the following manner: 1) filing a letter of intent or declaration of candidacy which does not specify which public office will be sought; 2) raising money under that letter of intent; then 3) declaring as a candidate for the Legislature after the legislative session ends. (Also, see *Candidacies of Legislative Employees*, page 17.)

The prohibitions in AS 24 60 031 do not apply to legislators who have filed for the office of governor, lieutenant governor or a federal office.

May a legislator keep a campaign contribution that was received prior to a regular session but not opened and acknowledged until after session began?

No, the committee has determined that a contribution in the form of a check or cash is 'accepted' when the legislator, or someone the legislator has given authority to deal with contributions, has physically received the contribution, knows that it is a contribution and has decided to keep it rather than return it.

May a legislator *expend* campaign funds, during a session, that were legitimately raised during the interim?

Yes. This would not be a violation of the ethics code, however, the legislator would need to comply with all APOC requirements.

May a legislator *mail*, during a regular session, an invitation to a fundraiser for his/her campaign, which would be held after session?

No, this would be considered a solicitation during session and be prohibited.

May a legislator or legislative employee host a fundraiser during session for a non-incumbent candidate for a legislative seat?

No. The prohibition extends to *any* state legislative campaign.

May a legislator accept funds raised from an event that had been scheduled well in advance but fell on a date during a special session?

Generally no, unless the event falls within the "90 day window", which is the 90 days immediately preceding an election and so long as the event is not held in the capital city of Juneau. If the event does not fall within the "90 day window", the event must either be canceled or campaign contributions must be turned down at the event and the legislator may not say anything about "accepting contributions after the special session is over."

Other States, fines imposed for late filing

State	Who's Covered	Late Fine - Structure	Criminal
Alabama	Public Official Public Employee	\$10 a day \$1,000 max	
Arizona	Public Official Public Employee Candidate	\$50 a day \$500 max	
Arkansas	Public Employee	\$25 a day \$1,000 max	civil penalties in the form of public caution, warning, reprimand, fines
Delaware	Public Officer	min - letter of reprimand max - guilty of class B misdemeanor - fail to file max - guilty of class A misdemeanor - false information	
Hawaii	Legislator Employees	Bill pending before Council to authorize the Commission to impose civil fines on elected officers. \$50 penalty, \$10 each day with not maximum	
Kansas	Legislator	\$10 a day \$300 maximum Also possible civil fine up to \$5,000	
Louisiana	Legislator	\$100 a day - \$2,500 max	
Maine	Legislator	\$10 a day (campaign finance report - is subject to percentage of total Contributions or expenditures, whichever is greater 1% of Violation: 3 rd 2 nd violation, 5% 3 rd or more violation)	
Maryland	Filers of Financial Disclosures -	subject to fines up to \$250 Ethics Comm. can go to court to seek civil fines up to \$5,000 per violation.	
Massachusetts	Elected St Officials County Officials Candidates for such office St Employees in policy-making positions	1 - 10 days \$50 11 - 20 days \$100 21 - 30 days \$200 over 30 days civil penalties up to \$2,000 per violation	up to \$1,000 and or imprisonment of up to 3 yrs for each violation

Minnesota	Individual	up to \$3,000 and guilty of gross misdemeanor for false or omitted information
New Jersey	Employees	(Admin. Civil Criminal) Jt Cmte may impose fines between \$500 and \$10,000 order employees removed from office, refer legislator violations to appropriate House for further action
Pennsylvania	Public Officials Public Employees Candidates	\$25 a day \$250 max

June 11, 2007 Ethics Committee Meeting

Minutes from Agenda Item #5, Disclosures

5. Chair/Staff Report:

a. Disclosures: Ms. Anderson reported the disclosure list in the packet is current as of May 31, 2007. Six late disclosures were received. No fines were issued as these were the first late disclosures received from these individuals: Sen Lyman Hoffman, Mary Katherine Shows, Rep Mike Chenault, Rep Mike Kelly, Sen Kim Elton, and Sen Gary Stevens.

Letters were sent to six former legislators asking for clarification of previous ethics disclosures. Five of the six filed updated disclosures forms. No fine was assessed. Former Rep Jim Holm has not responded to two letters to file "final day of service" disclosures. He previously submitted disclosures for an AIDEA loan and membership on a board of directors. Pursuant to AS 24.60.260 his fine would be \$100 for each late disclosure. Senator Bunde asked what options are available for collecting fines. Staff reported there are no options or language in the new statute for collecting fines from those no longer in office. Chair Cook stated the committee's options are to waive the fine or keep it in place even if it is not paid. Chair Cook asked Ms. Anderson to follow up on options available for securing the fine and also what is in statute regarding APOC fines. Senator Bunde made a motion to keep the fine in place and notify Mr. Holmes. Staff will send a certified letter notifying Mr. Holm the disclosures are required and a fine of \$100 for each late disclosure is imposed. Hearing no objection, motion passed. Member Turner asked to add to a future agenda the subject of reviewing our fine structure.

September 28, 2007 Ethics Committee Meeting

Minutes from Agenda Item # 4, Disclosures

4. CHAIR/STAFF REPORT:

a. Disclosures: Ms. Anderson stated the disclosure list in the packet is current as of September 28. There are more disclosures than usual because of the awareness of ethics.

Staff reported a certified letter was sent to former Representative Jim Holm on June 15, 2007 per committee action at the June 11, 2007 meeting. The letter notified Mr. Holm of his duty to complete ethics disclosures upon leaving office and of the committee's action to impose a fine of \$200 for failure to file the disclosures in a timely manner. The letter was unclaimed and another letter was sent on July 15, 2007. Staff talked to Mr. Holm on July 20, 2007 and he stated he would not file the disclosures, would not pay the fine and hung up in the middle of the conversation.

Staff was asked at the June 11 meeting to check to see what options are available to collect the fine. Karla Schofield, Assistant Director LAA, stated if the individual was still employed by the legislature, the fine could be taken out of their last paycheck. APOC's process is similar to ours in that they send out certified letters. They have worked out payment schedules as well if the fine is significant or the individual cannot pay the entire amount up front. If an individual does not pay a fine, they refer the matter to the Attorney General's office. Their understanding is that the AG's office does not follow up unless the fine is \$500 or greater. Staff reported our policy has been to publish the names of individuals who do not pay their fines.

Committee discussed the options available: include Mr. Holm's name in the ethics newsletter and forward the matter to the AG. Member Turner indicated it would be troubling if the committee did not take any action and what kind of message would the committee be sending on the importance of filing disclosures. What about garnishing their PFD? Staff reported in order to do this a judgment is required. Representative Roses asked what about small claims court? Representative Roses agrees that the committee would be setting a precedent in whatever action is taken. Perhaps the answer is to increase the amount of fines so it would be worth going after. Senator Stevens stated the point is to file the disclosure, which Mr. Holm did, what is the point in pursuing the fine for so little an amount. Member Walker stated we do have a responsibility to follow up on the fine otherwise the fact disclosures are required could be ignored. Senator Bunde moved to refer the matter to the AG (after confirmation the AG is proper authority). The committee would be following the letter of the law and thus taking responsibility for pursuing unpaid fines. Staff will draft for the next meeting language for the committee's Rules of Procedure on this subject. Roll call vote taken: NO - Senator Stevens; YES - Senator Bunde, Representative Roses, Members Rabinowitz, Turner, Thomas, Walker and Chair Cook. Motion carried.

Article 4. Required Annual Financial Disclosure.

Section	Section
200 Financial disclosure by legislators, public members of the committee and legislative directors	240 Criminal penalty for late filing
210 Deadlines for filing of disclosure statements	250 Effect of failure to file
220 Administration of AS 24.60.200 - 24.60.260	260 Prohibited conduct relating to disclosures
230 Statements as public records	

Administrative Code - For legislative financial disclosure, see 2 AAC 50, art 5

Sec. 24.60.200. Financial disclosure by legislators, public members of the committee, and legislative directors.

(a) A legislator, a public member of the committee, and a legislative director shall file a disclosure statement, under oath and on penalty of perjury, with the Alaska Public Offices Commission giving the following information about the income received by the discloser, the discloser's spouse or domestic partner, the discloser's dependent children, and the discloser's nondependent children who are living with the discloser:

- (1) the information that a public official is required to report under AS 39.50.030, other than information about gifts;
- (2) as to income in excess of \$5,000 received as compensation for personal services, the name and address of the source of the income, and a statement describing the nature of the services performed; if the source of income is known or reasonably should be known to have a substantial interest in legislative, administrative, or political action and the recipient of the income is a legislator or a legislative director, the amount of income received from the source shall be disclosed;
- (3) as to each loan or loan guarantee over \$1,000 from a source with a substantial interest in legislative, administrative, or political action, the name and address of the person making the loan or guarantee, the amount of the loan, the terms and conditions under which the loan or guarantee was given, the amount outstanding at the time of filing, and whether or not a written loan agreement exists.

(b) The Alaska Public Offices Commission may request the information required under AS 24.60.200 - 24.60.260 to be submitted electronically but shall accept any information required under AS 24.60.200 - 24.60.260 that is typed in clear and legible black typeface or hand-printed in dark ink on paper in a format approved by the commission or on forms provided by the commission and that is filed with the commission. The commission shall print the forms provided under this section so that the front and back of each page have the same orientation when the page is rotated on the vertical axis of the page. (§ 31 ch 127 SLA 1992; am § 58 ch 74 SLA 1998; am §§ 30, 31 ch 108 SLA 2003; am § 3 ch 155 SLA 2004)

Effect of amendments - The 1998 amendment, effective January 1, 1999, rewrote the introductory language and paragraph (1) and created former paragraph (4).

The 2004 amendment, effective September 14, 2004, amended the introductory language and paragraph (1).

The 2003 amendment, effective July 1, 2003, amended the introductory language and §§ 30 and 31 in paragraphs (2) and added paragraph (3).

The 2002 amendment, effective January 1, 2002, rewrote the introductory language.

Sec. 24.60.210. Deadlines for filing of disclosure statements

(a) A person required to file a disclosure statement under AS 24.60.200 shall file an annual report with the Alaska Public Offices Commission, covering the previous calendar year, containing the disclosures required by AS 24.60.200, on or before March 15 of each year.

(b) Notwithstanding (a) of this section, a public member and a public member nominee of the committee shall file an annual report with the Alaska Public Offices Commission, covering the previous calendar year, containing the disclosures required by AS 24.60.200, on or before the second Monday in January of each year. (§ 31 ch 127 SLA 1992; am § 59 ch 74 SLA 1998; am § 1 ch 127 SLA 2002)

Effect of amendments. — The 1998 amendment, effective January 1, 1999, substituted "A person required to file a disclosure statement under AS 24.60.200" for "A legislator and legislative director"

at the beginning and "March 15" for "April 15."
The 2002 amendment, effective October 3, 2002, added subsection (b).

Sec. 24.60.220. Administration of AS 24.60.200 - 24.60.260.

The Alaska Public Offices Commission shall

- (1) **adopt regulations to implement and interpret the provisions of AS 24.60.200 - 24.60.260;**
- (2) **prepare standardized forms on which the statements required by AS 24.60.200 shall be filed; and**
- (3) **examine, investigate, and compare all reports and statements required under AS 24.60.200, and report all possible violations of this chapter it discovers to the committee. (§ 31 ch 127 SLA 1992)**

Sec. 24.60.230. Statements as public records.

A statement filed with the Alaska Public Offices Commission under AS 24.60.200 is a public record. A person is not required to comply with AS 24.60.200 to the extent that a court of competent jurisdiction of the state determines that legally privileged professional relationships or constitutional privacy considerations would be violated by compliance. (§ 31 ch 127 SLA 1992)

Sec. 24.60.240. Civil penalty for late filing.

A person required to file a disclosure statement under AS 24.60.200 who fails to file a properly completed report under AS 24.60.200 is subject to a **civil penalty of not more than \$10 a day for each day the delinquency continues as the Alaska Public Offices Commission determines, subject to appeal to the superior court.** An affidavit stating facts in mitigation may be submitted to the Alaska Public Offices Commission by the person against whom the civil penalty is assessed. However, the **imposition of the penalties prescribed in this section does not excuse the person from filing reports required by AS 24.60.200.** (§ 31 ch 127 SLA 1992; am § 60 ch 74 SLA 1992)

Effect of amendments. — The 1998 amendment, effective January 1, 1998, substituted "A person required to file a disclosure statement under AS

24.60.200 for "A legislator and legislator-elect" in the beginning.

Sec. 24.60.250. Effect of failure to file.

(a) In addition to the sanctions described in AS 24.60.260, if the Alaska Public Offices Commission finds that a candidate for the legislature who is an incumbent legislator has failed to file a report under AS 24.60.200 by March 15, the commission shall notify the candidate that the report is late. If the candidate fails to file the report within 30 days after it is due,

- (1) the commission shall notify the lieutenant governor;
- (2) the candidate shall forfeit nomination to office and may not be seated in office;
- (3) the lieutenant governor may not certify the person's nomination for office or election to office; and
- (4) nomination to the office shall be certified as provided in AS 39.50.060(b).

(b) In addition to the sanctions described in AS 24.60.260, if the Alaska Public Offices Commission finds that a member of the committee has failed or refused to file a report under AS 24.60.200 by a deadline established in AS 24.60.210, it shall notify the presiding officer of the appropriate legislative body. In the case of a public member of the committee, the commission shall notify both presiding officers.

(c) In addition to the sanctions described in AS 24.60.260, if the Alaska Public Offices Commission finds that a legislative director has failed or refused to file a report under AS 24.60.200 by a deadline established in AS 24.60.210, it shall notify the Alaska Legislative Council or the Legislative Budget and Audit Committee, as appropriate. For the ombudsman, the Alaska Legislative Council shall be notified. (§ 31 ch 127 SLA 1992; am § 14 ch 63 SLA 1998, am § 61 ch 74 SLA 1998)

Cross references. — For the text of this section as it read on and after the amendment effective June 2, 1998 made by § 14, ch. 63 SLA 1998 (which was made retroactive to March 15, 1998) but before the amendment effective June 4, 1998 made by § 61, ch 74 SLA 1998, see § 14, ch. 63 SLA 1998 in the 1998 Temporary and Special Acts. For provisions of the Legislative Financial Disclosure Grace Period relating to the June 2, 1998 amendment § 14, ch. 63 SLA 1998, see § 15, ch. 63 SLA 1998 in the 1998 Temporary and Special Acts.

Effect of amendments. — The 1998 amendment,

effective June 4, 1998, rewrote this section.

Editor's notes. — This section was amended by § 14, ch. 63 SLA 1998, with an effective date of June 2, 1998 and retroactive to March 15, 1998 under § 14, ch 63, SLA 1998. The section was also amended by § 61, ch 74, SLA 1998, with a later effective date of June 4, 1998. The section as amended by § 14, ch. 63, SLA 1998, with the earlier effective date, is identical to subsection (a) of the section as amended by § 61, ch 74, SLA 1998, with the later effective date. Only the section as amended by § 61, ch 74, SLA 1998 has been printed.

Sec. 24.60.260. Prohibited conduct relating to disclosures.

(a) A person required to make a disclosure under this chapter may not knowingly make a false or deliberately misleading or incomplete disclosure to the committee or to the Alaska Public Offices Commission. A person who files a disclosure after a deadline set by this chapter or by a regulation adopted by the committee or by the Alaska Public Offices Commission has

violated this chapter and may be subject to imposition of a fine as provided in (c) of this section or AS 24.60.240.

(b) A person who violates this section is subject to a proceeding under AS 24.60.170, in addition to penalties that may be imposed by the Alaska Public Offices Commission under AS 24.60.240 and to the penalty set out in AS 24.60.250.

(c) The committee may impose a fine on a person who files a disclosure after a deadline set by this chapter. The amount of the fine imposed under this subsection may not exceed \$2 for each day to a maximum of \$100 for each disclosure for a late disclosure. However, if the committee finds that a late filing was inadvertent, the maximum fine the committee may impose under this subsection is \$25. (§31 ch 127 SLA 1992; am §§ 62, 63 ch 74 SLA 1998)

Effect of amendments. — The 1998 amendment, effective January 1, 1999, in subsection (a) substituted "A person who files" for "or filed" near the middle and added "has violated this chapter and may

be subject to imposition of a fine as provided in (c) of this section or AS 24.60.240" at the end, and added subsection (c).