

**SB**

**89**

<TARGET><BILL>SB 89</BILL><SUBJECT>SB  
89</SUBJECT><COMM>SJUD27</COMM></TARGET>

# First Session 27th Alaska Legislature

## SB 89 Ethics Amendments



Senator John Coghill  
Room 504

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**CS FOR SENATE BILL NO. 89(STA)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SEVENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE STATE AFFAIRS COMMITTEE**

**Offered: 4/1/11**  
**Referred: Judiciary**

**Sponsor(s): SENATOR COGHILL**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act clarifying that a legislator or legislative employee is allowed to accept certain**  
2 **compassionate gifts; allowing legislators and legislative employees who are representing**  
3 **persons in an administrative hearing to contact hearing officers and attempt to influence**  
4 **the outcome of the hearing if they are professionals licensed in the state, and allowing**  
5 **legislators and legislative employees who are not professionals licensed in the state to**  
6 **contact hearing officers for the purpose of influencing the outcome of the hearing in**  
7 **certain instances; requiring the Select Committee on Legislative Ethics to maintain a**  
8 **public record of certain ethics disclosures made by legislators and legislative employees;**  
9 **prohibiting a public member of the Select Committee on Legislative Ethics from**  
10 **disclosing confidential information without authorization; clarifying the ethics**  
11 **disclosure requirements for tickets to or gifts in connection with charity events;**  
12 **amending disclosure deadlines under the Legislative Ethics Act; relating to requests to**

1 refrain from disclosure under the Legislative Ethics Act; relating to the applicability of  
 2 certain provisions of the Legislative Ethics Act to certain legislative employees,  
 3 volunteers, and interns; establishing a seat for an alternate public member on the Select  
 4 Committee on Legislative Ethics; clarifying the requirements related to participation by  
 5 alternate public members and alternate legislative members in the proceedings of the  
 6 committee; amending the definition of 'legislative employee' in the Legislative Ethics  
 7 Act; and repealing a procedure for appointment of alternate legislative members."

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

9 \* **Section 1.** AS 24.60.030(a) is amended to read:

10 (a) A legislator or legislative employee may not

11 (1) solicit, agree to accept, or accept a benefit other than official  
 12 compensation for the performance of public duties; this paragraph may not be  
 13 construed to prohibit lawful solicitation for and acceptance of campaign contributions,  
 14 solicitation or acceptance of contributions for a charity event, as defined in  
 15 AS 24.60.080(a)(2)(B), or the acceptance of a gift [LAWFUL GRATUITY] under  
 16 AS 24.60.075 or 24.60.080 [AS 24.60.080];

*Compassion  
 gift →*

17 (2) use public funds, facilities, equipment, services, or another  
 18 government asset or resource for a nonlegislative purpose, for involvement in or  
 19 support of or opposition to partisan political activity, or for the private benefit of  
 20 [EITHER] the legislator, legislative employee, or another person; this paragraph does  
 21 not prohibit

22 (A) limited use of state property and resources for personal  
 23 purposes if the use does not interfere with the performance of public duties and  
 24 either the cost or value related to the use is nominal or the legislator or  
 25 legislative employee reimburses the state for the cost of the use;

26 (B) the use of mailing lists, computer data, or other information  
 27 lawfully obtained from a government agency and available to the general  
 28 public for nonlegislative purposes;

1 (C) the legislative council, notwithstanding AS 24.05.190, from  
2 designating a public facility for use by legislators and legislative employees for  
3 health or fitness purposes; when the council designates a facility to be used by  
4 legislators and legislative employees for health or fitness purposes, it shall  
5 adopt guidelines governing access to and use of the facility; the guidelines may  
6 establish times in which use of the facility is limited to specific groups;

7 (D) a legislator from using the legislator's private office in the  
8 capital city during a legislative session, and for the 10 days immediately before  
9 and the 10 days immediately after a legislative session, for nonlegislative  
10 purposes if the use does not interfere with the performance of public duties and  
11 if there is no cost to the state for the use of the space and equipment, other than  
12 utility costs and minimal wear and tear, or the legislator promptly reimburses  
13 the state for the cost; an office is considered a legislator's private office under  
14 this subparagraph if it is the primary space in the capital city reserved for use  
15 by the legislator, whether or not it is shared with others;

16 (E) a legislator from use of legislative employees to prepare  
17 and send out seasonal greeting cards;

18 (F) a legislator from using state resources to transport  
19 computers or other office equipment owned by the legislator but primarily used  
20 for a state function;

21 (G) use by a legislator of photographs of that legislator;

22 (H) reasonable use of the Internet by a legislator or a legislative  
23 employee except if the use is for election campaign purposes;

24 (I) a legislator or legislative employee from soliciting,  
25 accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable  
26 organization in a state facility;

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

1 (K) full participation in a charity event approved in advance by  
2 the Alaska Legislative Council;

3 (3) knowingly seek, accept, use, allocate, grant, or award public funds  
4 for a purpose other than that approved by law, or make a false statement in connection  
5 with a claim, request, or application for compensation, reimbursement, or travel  
6 allowances from public funds;

7 (4) require a legislative employee to perform services for the private  
8 benefit of the legislator or employee at any time, or allow a legislative employee to  
9 perform services for the private benefit of a legislator or employee on government  
10 time; it is not a violation of this paragraph if the services were performed in an  
11 unusual or infrequent situation and the person's services were reasonably necessary to  
12 permit the legislator or legislative employee to perform official duties;

13 (5) use or authorize the use of state funds, facilities, equipment,  
14 services, or another government asset or resource for the purpose of political fund  
15 raising or campaigning; this paragraph does not prohibit

16 (A) limited use of state property and resources for personal  
17 purposes if the use does not interfere with the performance of public duties and  
18 either the cost or value related to the use is nominal or the legislator or  
19 legislative employee reimburses the state for the cost of the use;

20 (B) the use of mailing lists, computer data, or other information  
21 lawfully obtained from a government agency and available to the general  
22 public for nonlegislative purposes;

23 (C) storing or maintaining, consistent with (b) of this section,  
24 election campaign records in a legislator's office;

25 (D) a legislator from using the legislator's private office in the  
26 capital city during a legislative session, and for the 10 days immediately before  
27 and the 10 days immediately after a legislative session, for nonlegislative  
28 purposes if the use does not interfere with the performance of public duties and  
29 if there is no cost to the state for the use of the space and equipment, other than  
30 utility costs and minimal wear and tear, or the legislator promptly reimburses  
31 the state for the cost; an office is considered a legislator's private office under

1 this subparagraph if it is the primary space in the capital city reserved for use  
2 by the legislator, whether or not it is shared with others; or

3 (E) use by a legislator of photographs of that legislator.

4 \* **Sec. 2.** AS 24.60.030(i) is amended to read:

5 (i) A [EXCEPT FOR SUPPLYING INFORMATION REQUESTED BY THE  
6 HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH  
7 AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN  
8 RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR  
9 THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE  
10 THE FINAL DECISION IN THE CASE, A] legislator or legislative employee may  
11 not attempt to influence the outcome of an administrative hearing by directly or  
12 indirectly contacting or attempting to contact the hearing officer assigned to the  
13 hearing or the individual, board, or commission with authority to make the final  
14 decision in the matter [CASE] unless [THE]

15 (1) the legislator or legislative employee is representing another  
16 person for compensation subject to AS 24.60.100 and as a professional who is  
17 licensed in the state;

18 (2) the contact is made in the presence of all parties to the hearing or  
19 the parties' representatives while the legislator or legislative employee is acting as a  
20 party or a witness in the matter or responding to a question asked of the  
21 legislator or legislative employee by the hearing officer, individual, board, or  
22 commission and the contact is made a part of the record; or

23 (3) the contact is inadvertent and ex parte and the [(2)] fact and  
24 are [IS] promptly disclosed by the legislator or legislative  
25 employee to all parties to the hearing and [THE CONTACT IS] made a part of the  
26 record.

27 \* **Sec. 3.** AS 24.60.050(c) is amended to read:

28 (c) A legislator or legislative employee who participates in a program or  
29 receives a loan that is not exempt from disclosure under (a) of this section shall file  
30 with the committee by the date required under AS 24.60.105 a disclosure stating the  
31 amounts of the loans outstanding or benefits received during the preceding calendar

1 year from nonqualifying programs. If the committee requests additional information  
 2 necessary to determine the propriety of participating in the program or receiving the  
 3 loan, it shall be promptly provided. The committee shall maintain the disclosure as a  
 4 public record and promptly forward the information contained in the disclosure  
 5 [PROMPTLY COMPILE A LIST OF THE STATEMENTS INDICATING THE  
 6 LOANS AND PROGRAMS AND AMOUNTS AND SEND IT] to the presiding  
 7 officer of each house who shall have it published in the supplemental journals on or  
 8 before the next regularly scheduled publication of ethics disclosures. If a legislator or  
 9 legislative employee asks the committee to keep any part of the disclosure confidential  
 10 and a quorum of the committee determines by vote of a majority of committee  
 11 members that making the entire disclosure public would cause an unjustifiable  
 12 invasion of personal privacy, the committee may elect to publish only the fact that a  
 13 person has participated in the program and the amount of benefit that the unnamed  
 14 person received. The committee shall maintain the disclosure of the name of the  
 15 person as confidential and may only use the disclosure in a proceeding under  
 16 AS 24.60.170. If the disclosure becomes part of the record of a proceeding under  
 17 AS 24.60.170, the disclosure may be made public as provided in that section.

18 \* **Sec. 4.** AS 24.60.060(a) is amended to read:

19 (a) A legislator, [OR] legislative employee, or public member of the  
 20 committee may not knowingly make an unauthorized disclosure of information that is  
 21 made confidential by law and that the person acquired in the course of official duties.  
 22 A person who violates this section is subject to a proceeding under AS 24.60.170 and  
 23 may be subject to prosecution under AS 11.56.860 or another law.

24 \* **Sec. 5.** AS 24.60.080(a) is amended to read:

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

27 (1) solicit, accept, or receive, directly or indirectly, a gift worth \$250  
 28 or more, whether in the form of money, services, a loan, travel, entertainment,  
 29 hospitality, promise, or other form, or gifts from the same person worth less than \$250  
 30 that in a calendar year aggregate to \$250 or more in value;

31 (2) solicit, accept, or receive a gift with any monetary value from a

1 lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a  
2 lobbyist, except

3 (A) food or beverage for immediate consumption;

4 (B) a contribution to a charity event, [FROM ANY PERSON  
5 AT ANY TIME, AND] tickets to [FOR] a charity event, and [AT ANY TIME,  
6 EXCEPT THAT TICKETS TO OR] gifts to which the tickets may entitle the  
7 bearer; however, under this subparagraph a legislator or legislative  
8 employee may not solicit, accept, or receive from the same lobbyist, an  
9 immediate family member of the lobbyist, or a person acting on behalf of  
10 the lobbyist, tickets to a charity event, gifts to which the tickets may entitle  
11 the bearer, or both, that in a calendar year aggregate to \$250 or more in  
12 value [RECEIVED AT A CHARITY EVENT UNDER THIS  
13 SUBPARAGRAPH ARE SUBJECT TO THE CALENDAR YEAR LIMIT  
14 ON THE VALUE OF GIFTS RECEIVED BY A LEGISLATOR OR  
15 LEGISLATIVE EMPLOYEE IN (1) OF THIS SUBSECTION]; in this  
16 subparagraph, "charity event" means an event the proceeds of which go to a  
17 charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and that  
18 the Alaska Legislative Council has approved in advance; the tickets may entitle  
19 the bearer to admission to the event, to entertainment, to food or beverages, or  
20 to other gifts or services in connection with [INVOLVED IN] the charity  
21 event; *as long as is generally available to all participants?*

22 (C) a gift that is unconnected with the recipient's legislative  
23 status and is from a member of the legislator's or legislative employee's  
24 immediate family;

25 (D) a gift delivered on the premises of a state facility and  
26 accepted on behalf of a recognized nonpolitical charitable organization; or

27 (E) a compassionate gift under AS 24.60.075.

28 \* Sec. 6. AS 24.60.080(c) is amended to read:

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

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

1 subsection,

2 (A) with incidental transportation at the residence of a person;  
3 however, a vacation home located outside the state is not considered a  
4 residence for the purposes of this subparagraph; or

5 (B) at a social event or meal;

6 (2) discounts that are available

7 (A) generally to the public or to a large class of persons to  
8 which the person belongs; or

9 (B) when on official state business, but only if receipt of the  
10 discount benefits the state;

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

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

15 (5) gifts from the immediate family of the person; in this paragraph,  
16 "immediate family" means

17 (A) the spouse of the person;

18 (B) the person's domestic partner;

19 (C) a child, including a stepchild and an adoptive child, of the  
20 person or of the person's domestic partner;

21 (D) a parent, sibling, grandparent, aunt, or uncle of the person;

22 (E) a parent, sibling, grandparent, aunt, or uncle of the person's  
23 spouse or the person's domestic partner; and

24 (F) a stepparent, stepsister, stepbrother, step-grandparent, step-  
25 aunt, or step-uncle of the person, the person's spouse, or the person's domestic  
26 partner;

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

28 (7) a discount for all or part of a legislative session, including time  
29 immediately preceding or following the session, or other gift to welcome a legislator  
30 or legislative employee who is employed on the personal staff of a legislator or by a  
31 standing or special committee to the capital city or in recognition of the beginning of a

1 legislative session if the gift or discount is available generally to all legislators and the  
 2 personal staff of legislators and staff of standing and special committees; this  
 3 paragraph does not apply to legislative employees who are employed by the  
 4 Legislative Affairs Agency, the office of the chief clerk, the office of the senate  
 5 secretary, the legislative budget and audit committee, the office of victims' rights, or  
 6 the office of the ombudsman;

7 (8) a gift of legal services in a matter of legislative concern and a gift  
 8 of other services related to the provision of legal services in a matter of legislative  
 9 concern;

10 (9) a gift of transportation from a legislator or a legislative employee to  
 11 a legislator or a legislative employee if the transportation takes place in the state on or  
 12 in an aircraft, boat, motor vehicle, or other means of transport owned or under the  
 13 control of the donor; this paragraph does not apply to travel described in (4) of this  
 14 subsection or travel for political campaign purposes; or

15 (10) a contribution to a charity event, **a ticket to a charity event, or a**  
 16 **gift in connection with a charity event** [FROM ANY PERSON AT ANY TIME]; in  
 17 this paragraph, "charity event" has the meaning given in (a)(2)(B) of this section.

18 \* Sec. 7. AS 24.60.080(d) is amended to read:

19 (d) A legislator or legislative employee who accepts a gift under (c)(4) **of this**  
 20 **section that has a value of \$250 or more or a ticket to a charity event or gift in**  
 21 **connection with a charity event under (c)(10)** of this section that has a value of \$250  
 22 or more shall disclose to the committee, within **60** [30] days after receipt of the gift,  
 23 the name and occupation of the donor and the approximate value of the gift. A  
 24 legislator or legislative employee who accepts a gift under (c)(8) of this section that  
 25 the recipient expects will have a value of \$250 or more in the calendar year shall  
 26 disclose to the committee, within 30 days after receipt of the gift, the name and  
 27 occupation of the donor, a general description of the matter of legislative concern with  
 28 respect to which the gift is made, and the approximate value of the gift. The committee  
 29 shall maintain a public record of the disclosures it receives relating to gifts under  
 30 (c)(4), (c)(8), **(c)(10)**, and (i) of this section and shall forward the disclosures to the  
 31 appropriate house for inclusion in the journal. The committee shall forward to the

1 Alaska Public Offices Commission copies of the disclosures concerning gifts under  
 2 (c)(4), (c)(8), (c)(10), and (i) of this section that it receives from legislators and  
 3 legislative directors. A legislator or legislative employee who accepts a gift under  
 4 (c)(6) of this section that has a value of \$250 or more shall, within 30 days after  
 5 receiving the gift, disclose to the committee the name and occupation of the donor and  
 6 a description of the gift. The committee shall maintain disclosures relating to gifts  
 7 under (c)(6) of this section as confidential records and may only use, or permit a  
 8 committee employee or contractor to use, a disclosure under (c)(6) of this section in  
 9 the investigation of a possible violation of this section or in a proceeding under  
 10 AS 24.60.170. If the disclosure under (c)(6) of this section becomes part of the record  
 11 of a proceeding under AS 24.60.170, the confidentiality provisions of that section  
 12 apply to the disclosure.

13 \* **Sec. 8.** AS 24.60.105 is amended by adding a new subsection to read: *Ethics disclosure*

14 (d) A person may submit a written request to refrain from making a disclosure  
 15 that is required by this chapter if making the disclosure would violate state or federal  
 16 law, including the United States Constitution and the Constitution of the State of  
 17 Alaska, or a rule, adopted formally by a trade or profession, that state or federal law  
 18 requires the person to follow. The committee shall approve or deny the request, or  
 19 require further justification from the person making the request. At the request of the  
 20 committee or a person authorized to act on behalf of the committee, a person who  
 21 seeks to refrain from making a disclosure under this subsection shall provide the  
 22 committee with justification in writing, and the committee may review the written  
 23 justification to determine whether it is sufficient.

24 \* **Sec. 9.** AS 24.60.112 is amended to read:

25 **Sec. 24.60.112. Applicability to volunteers and educational trainees.** A  
 26 person who works more than 30 days as a legislative volunteer or educational  
 27 trainee shall be considered to be a legislative employee for purposes of compliance  
 28 with AS 24.60.030 - 24.60.039, 24.60.060, 24.60.080, 24.60.085, 24.60.155,  
 29 24.60.158 - 24.60.170, 24.60.176, and 24.60.178. If a person believes that a legislative  
 30 volunteer or educational trainee has violated the provisions of one of those sections,  
 31 the person may file a complaint under AS 24.60.170. The provisions of AS 24.60.170

1 apply to the proceeding.

2 \* **Sec. 10.** AS 24.60.130(h) is amended to read:

3 (h) A member is disqualified from participating as a member in any  
4 proceeding before the committee involving a complaint against the member or an  
5 employee whose work is supervised by the member or an advisory opinion requested  
6 by the member. If a regular legislative member of the committee is disqualified under  
7 this subsection from participating in a proceeding involving a complaint, the member's  
8 alternate shall be designated under AS 24.60.131 [(n) OF THIS SECTION].

9 \* **Sec. 11.** AS 24.60.130(o) is amended to read:

10 (o) Notwithstanding (h) [AND (n)] of this section and AS 24.60.131, if a  
11 complaint before the committee alleges a violation of this chapter by a group of  
12 legislators that includes a legislative member of the committee and that member's  
13 alternate, the member and alternate member are disqualified from serving on the  
14 committee with regard to the complaint. If the two disqualified members of the  
15 committee are members of the majority organizational caucus, the presiding officer of  
16 the house in which the two disqualified members serve shall appoint from that house  
17 an alternate to serve with regard to the complaint. If one of the two disqualified  
18 legislative members of the committee is not a member of the majority organizational  
19 caucus, the leader of the minority organizational caucus with the greatest number of  
20 members shall appoint from that house an alternate to serve with regard to the  
21 complaint. If a complaint alleges a violation of this chapter that includes all legislative  
22 members of the majority organizational caucus of one house, the presiding officer of  
23 that house shall appoint from the other house an alternate to serve with regard to the  
24 complaint. If the complaint alleges a violation of this chapter that includes all  
25 legislative members of a minority organizational caucus of one house, the leader of  
26 that minority organizational caucus shall appoint from the other house an alternate to  
27 serve with regard to the complaint.

28 \* **Sec. 12.** AS 24.60 is amended by adding a new section to read:

29 **Sec. 24.60.131. Alternate members.** (a) When appointing members of the  
30 legislature to serve on the committee under AS 24.60.130(b), the speaker of the house  
31 of representatives or the president of the senate, as appropriate, shall appoint an

1 alternate member for each regular member. The alternate member shall have the same  
2 qualifications for appointment to the committee as the regular member for whom the  
3 alternate stands as alternate. The alternate member's appointment is subject to  
4 confirmation as required for appointment of the regular member.

5 (b) When selecting public members to serve on the committee under  
6 AS 24.60.130(b), the Chief Justice of the Alaska Supreme Court shall select one  
7 alternate public member. The alternate public member's selection is subject to  
8 ratification as required for selection of the regular public members.

9 (c) Subject to (d) of this section, if a regular member of the committee or a  
10 subcommittee is unable to participate in a proceeding other than a proceeding under  
11 AS 24.60.170, the chair of the committee or subcommittee that holds the proceeding  
12 shall designate the regular member's alternate to participate in place of the regular  
13 member at the proceeding, and the alternate shall participate for the duration of that  
14 proceeding unless the alternate is unable to participate.

15 (d) If a regular member of the committee or a subcommittee or an alternate  
16 member appointed under (a) or (b) of this section participates at the commencement of  
17 a proceeding under AS 24.60.170, the member shall participate for the duration of the  
18 proceeding unless the member is disqualified under AS 24.60.130(h) or is unable to  
19 continue participating. If the participating member is disqualified under  
20 AS 24.60.130(h) or becomes unable to participate, the chair of the committee or  
21 subcommittee that holds the proceeding shall designate the member's alternate to  
22 participate in place of the member for the duration of the proceeding unless the  
23 alternate is disqualified or is unable to participate.

24 (e) If both a regular legislative member and that member's alternate appointed  
25 under (a) of this section are not available to participate at the commencement of a  
26 proceeding under AS 24.60.170 because they are disqualified under AS 24.60.130(h),  
27 the presiding officer of the house in which the two members serve shall appoint from  
28 that house an alternate and designate that alternate to participate in the proceeding;  
29 however, if the two members who are not available to participate are not members of  
30 the majority organizational caucus, the leader of the minority organizational caucus  
31 with the greatest number of members shall appoint from that house an alternate and

1 designate that alternate to participate in the proceeding.

2 (f) A designation under (c) - (e) of this section is a confidential proceeding  
3 under AS 24.60.170(l) unless the member who is replaced as a result of the  
4 designation waives confidentiality.

5 \* **Sec. 13.** AS 24.60.155 is amended to read:

6 **Sec. 24.60.155. Legislative ethics course.** A person who serves for more  
7 than 30 days as a legislative volunteer or educational trainee or who is a legislator,  
8 legislative employee, or public member of the committee shall complete a legislative  
9 ethics course administered by the committee under AS 24.60.150(a)(4) within 10 days  
10 of the first day of the first regular session of each legislature. However, a person who  
11 begins a period of service of more than 30 days as a volunteer or trainee or who  
12 first takes office or begins employment after the 10th day of the first regular session of  
13 a legislature shall complete the course required by this section within 30 days after the  
14 person's first day of service and, thereafter, as required by this section. The committee  
15 may grant a person additional time to complete the course required by this section.

16 \* **Sec. 14.** AS 24.60.990(a)(11) is amended to read:

17 (11) "legislative employee" means a person, other than a legislator,  
18 who is compensated by the legislative branch in return for regular or substantial  
19 personal services, regardless of the person's pay level or technical status as a full-time  
20 or part-time employee, independent contractor, or consultant; it includes public  
21 members and staff of the committee; it does not include individuals who are hourly  
22 employees who perform functions that are incidental to legislative functions,  
23 [INCLUDING SECURITY, MESSENGER, MAINTENANCE, AND PRINT SHOP  
24 EMPLOYEES,] and other employees designated by the committee;

25 \* **Sec. 15.** AS 24.60.130(n) is repealed.

2

# ALASKA STATE SENATE



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**Room 204**

**SENATOR JOHN COGHILL**

## Senate Bill 89 Legislative Ethics Amendments

This bill is a product of discussions by the Select Committee of Legislative Ethics over the past couple of years.

The bill draws a bright line for legislators and legislative staff to follow for assisting constituents with problems they encounter with state agencies. Once an issue has been appealed to an administrative hearing officer, the legislator or legislative staffer may no longer make contacts with the agency, unless that person is a licensed professional to represent a person in such a proceeding and is being compensated for that representation. There are also provisions for inadvertent ex parte contact.

It also extends the reporting deadline for reporting gifts of travel and from charitable events from 30 to 60 days and expands legislative ethics training to legislative volunteers or educational trainees who are on the job for more than 30 days.

The bill adds public members of the ethics committee to the statute prohibiting members from knowingly making unauthorized disclosure of confidential information. This bill clarifies that disclosures prohibited by state and federal confidentiality laws are not required by the Select Committee on Legislative Ethics

The committee recommended a statute that would allow an alternate member of the ethics committee who participates in the beginning of a proceeding to participate in the entire proceeding. The Chief Justice of the Alaska Supreme Court would also be required to appoint one alternate for the public members.

SB 89 clarifies that a gift of a ticket from a lobbyist to a charity event sanctioned by Legislative Council cannot exceed \$250.00. It also further describes a contribution to a charity event as a ticket to a charity event or a gift in connection with the charity event.

The Ethics Committee has been grappling with the issue of partisan activities while on state travel since 1993. This bill was a first attempt at setting standards by which a legislator or a legislative staffer can participate in a partisan activity or a campaign fundraiser when traveling on legislative business. The State Affairs Committee deleted the language that set a standard but agreed further discussion needs to take place in Senate Judiciary on the issue.

3



# ALASKA STATE LEGISLATURE

## SENATOR JOHN COGHILL

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### MEMORANDUM

#### SB 89 Legislative Ethics Bill Summary of Version T

- Sec. 1.** Replaces “lawful gratuity” with “gift” to make section of law consistent with the usage of “gift”.
- Sec. 2.** **Bright line** for legislators or staff being actively involved in constituent problems with the State. Once the issue is assigned to an administrative hearing the involvement of the legislative office ceases. Exceptions are included for lawyers and provision for inadvertent exparte contact.
- Sec. 3.** **Eliminates requirement** of committee to **compile lists of financial disclosure** statements. They must only maintain public records and forward them to chief clerk and senate secretary.
- Sec. 4.** **Adds public members** to statute **prohibiting disclosure of confidential information.**
- Sec. 5.** Clarifies that a **ticket to a charity event from a lobbyist**, or gifts received because of the ticket from a lobbyist **cannot exceed \$250.**
- Sec. 6.** **Further describes “a contribution to a charity event”** by clarifying it could be a ticket to a charity event or a gift in connection with a charity event.
- Sec. 7.** **Extend the reporting period** for gifts of travel for the purpose of obtaining information on legislative matters and disclosure of gifts from charitable events from 30 days to 60 days.
- Sec. 8.** **Allows for exceptions from disclosure** under the legislative ethics law if it would be in violation of the state or federal constitution or state or federal law. **The State Affairs Committee added language that includes exceptions for disclosures for a rule, adopted formally by a trade or profession, that state or federal law requires the person to follow.** A written request with justification must be submitted to the committee.

- Sec. 9.** Requires anyone who is a volunteer or educational trainee for more than 30 days to take the ethics training. The 30 day guideline was added in State Affairs.
- Sec. 10.** Adds cite for new section on Alternate Members to statute describing the committee, its structure and its duties.
- Sec. 11.** Adds cite for new section on Alternate Members to statute describing the committee, its structure and its duties.
- Sec. 12.** This is a new section describing the process for appointing alternates. The section adds a new provision that provides for the Chief Justice to appoint an alternate public member.
- Sec. 13.** Adds legislative volunteers and educational trainees who are in that capacity for more than 30 days to the statute requiring the Legislative ethics course. The 30 day guideline was added in State Affairs.
- Sec. 14.** Redefines legislative employee.
- Sec. 15.** Repeals old statute describing the process for appointing alternates.

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# FISCAL NOTE

**STATE OF ALASKA**  
**2011 LEGISLATIVE SESSION**

Fiscal Note Number 1  
 Bill Version CSSB 89(STA)  
 (S) Publish Date 4/1/11

Identifier (file name) CSSB89-LEG-COU-3-30-2011 Dept. Affected Legislature  
 Title "Legislative Ethics Act" Appropriation Legislative Council  
 Allocation Select Committee on Ethics  
 Sponsor Senator Coghill  
 Requester Senate State Affairs Committee OMB Component Number 2321

**Expenditures/Revenues** (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
<b>OPERATING EXPENDITURES</b>							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Grants & Claims							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>							
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<b>CHANGE IN REVENUES</b>							
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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							
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2011) cost \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

**Why this fiscal note differs from previous version**

Initial Version

Prepared by Shane Miller, Finance Manager  
 Division Legislative Affairs Agency  
 Approved by Pamela Varni, Executive Director  
Legislative Affairs Agency

Phone 465-6626  
 Date/Time 3/30/11 3:59 PM  
 Date 3/30/2011

FISCAL NOTE #1

STATE OF ALASKA  
2011 LEGISLATIVE SESSION

BILL NO. CSSB 89(STA)

**Analysis**

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

27th Legislature(2011-2011)

**Bill History/Action for 27 Legislature**

**BILL:** SB 89

**SHORT TITLE:** LEGISLATIVE ETHICS ACT

**BILL VERSION:**

**CURRENT STATUS:** (S) JUD

**STATUS DATE:** 04/01/11

**SPONSOR(s):** SENATOR(S) COGHILL

**HEARING:** (S) JUD Apr 11 1:30 PM BELTZ 105 (TSBI)dg TELECONFERENCE

**TITLE:** "An Act clarifying that a legislator or legislative employee is allowed to accept certain compassionate gifts; allowing legislators and legislative employees to use legislative mailing lists for campaign purposes and nonlegislative purposes; allowing legislators and legislative employees who are representing persons in an administrative hearing to contact hearing officers and attempt to influence the outcome of the hearing if they are professionals licensed in the state, and allowing legislators and legislative employees who are not professionals licensed in the state to contact hearing officers for the purpose of influencing the outcome of the hearing in certain instances; allowing legislators and legislative employees, in certain circumstances, to participate in partisan political activity while on state travel; prohibiting a public member of the Select Committee on Legislative Ethics from disclosing confidential information without authorization; clarifying the ethics disclosure requirements for tickets to or gifts in connection with charity events; amending disclosure deadlines under the Legislative Ethics Act; relating to requests to refrain from disclosure under the Legislative Ethics Act; and establishing a seat for an alternate public member on the Select Committee on Legislative Ethics and clarifying the requirements related to participation by alternate members in the proceedings of the committee."

Bill Number:

Jrn-Date	Jrn-Page	Action
02/16/11	<a href="#">0277</a>	(S) READ THE FIRST TIME - REFERRALS
02/16/11	<a href="#">0277</a>	(S) STA, JUD
03/15/11	<a href="#">Text</a>	(S) STA AT 9:00 AM BUTROVICH 205
03/15/11	<a href="#">Text</a>	(S) Heard & Held
03/15/11	<a href="#">Text</a>	(S) MINUTE(STA )
03/31/11	<a href="#">Text</a>	(S) STA AT 9:00 AM BUTROVICH 205
03/31/11	<a href="#">Text</a>	(S) Moved CSSB 89(STA) Out of Committee
03/31/11	<a href="#">Text</a>	(S) MINUTE(STA )
04/01/11	<a href="#">0667</a>	(S) STA RPT CS 1DP 4NR NEW TITLE
04/01/11	<a href="#">0667</a>	(S) DP: MEYER
04/01/11	<a href="#">0667</a>	(S) NR: WIELECHOWSKI, KOOKESH, PASKVAN, GIESSEL
04/01/11	<a href="#">0667</a>	(S) FNI: ZERO(LEG)
04/01/11	<a href="#">0667</a>	(S) REFERRED TO JUDICIARY
04/11/11	<a href="#">Text</a>	(S) JUD AT 1:30 PM BELTZ 105 (TSBI)dg

[Similar Subject Match](#) or [Exact Subject Match](#)

- [ADMINISTRATIVE PROCEDURE](#)
- [ATTORNEYS](#)
- [BOARDS & COMMISSIONS](#)
- [DISCLOSURE](#)
- [ETHICS](#)
- [HEARINGS](#)
- [LEGISLATORS](#)
- [LOBBYISTS](#)

Bill Number:

[Return to Basis Main Menu \(27 Legislature\)](#)

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## Rynniewa Moss

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**From:** Carolyn Kuckertz  
**Sent:** Tuesday, April 05, 2011 8:30 PM  
**To:** pressreleasedistribution  
**Subject:** Senate Bipartisan Working Group- Press Availability Transcript 4-5-2011

Good Evening Everyone!

Just in case you missed it, here is a transcript of today's Senate Bipartisan Working Group Press Availability.

If you'd rather watch or listen to it: [http://gavelalaska.org/media/?media\\_id=SMJP110405A](http://gavelalaska.org/media/?media_id=SMJP110405A)

In attendance: Sen. Stevens, Sen. Meyer, Sen. Ellis, Sen. Stedman, Sen. Hoffman, Sen. Paskvan

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Question: Stefan Milkowski with the Alaska Budget Report, a question about Senator John Coghill's ethics legislation. One thing that was in his original bill was a provision that would have allowed a certain amount of partisan activity, would've allowed legislators to do a certain amount of partisan activity while on state sponsored travel? A question for the rural members, is that something that you support?

Sen. Hoffman: Yes.

Question: Why?

Sen. Hoffman: Because it makes sense.

Sen. Stedman: I could add a little bit to that. It is awkward, for instance, if I travel to Anchorage, where most of the state business is done out of Session, cause that's where most of the people live, it's not rocket science. But to expect me to go to Anchorage, take care of some business, fly all the way back to Sitka, then turn around and fly back to Anchorage and then fly back home is ludicrous. Another situation is when I send a staff member to Anchorage and

maybe they are there for two weeks, three weeks, four weeks or even longer and they can't stop by some political rally after work or on the weekend or stop by some political guys running for this or that, his little booth. It doesn't work. They have, the employees that we have, have rights too. I don't feel that the state, with this huge geographical footprint we have, should have everything concentrated in Anchorage with a concentration on how everything should work out of Anchorage. We need to recognize that, for instance, it's expensive to move a Senator from Golovin to Juneau. It's more expensive to do that from Anchorage to Juneau or Juneau to Juneau. We just need to realize that this is large state and recognize that and work with that. So how that legislation matures through the process, clearly, it's an issue that we need to clean-up and resolve.

Sen. Stevens – I'm not sure I can clarify this, but I can tell you the way the new rules read is, if Senator Stedman say, were in Anchorage for three days of meetings and he wanted to go to a fundraiser for Senator Murkowski or Senator Begich, he would have to fly back to Sitka, fly back to Anchorage to go to an evening fundraiser. Somehow, we've lost the common sense in the whole process. But that has been taken out in the House, I believe, and we'll see what happens to that as we move along.

Question: Senator – is it fair that the state pay for your entire trip? You addressed the logistical problem. But why should the public pay for all of a trip when part of it used for partisan purposes or non-state business?

Sen. Stedman- I think it becomes more of an issue the closer you are to an election. I'll give you an example. For instance, if I happen to be running, and I'll just use 30 days, it was 30 days in front in the election, or you know some number. I think there's need to be some cutoff where you clearly you have an election account to pay that travel. But I can also use an example like this past year, I wasn't running. When I went up to Anchorage to work on issues I couldn't stop by Lisa Murkowski's booth or what have you, her little headquarters and b.s. with them or anything. I wasn't running for anything nor do I have enough in fundraising accounts. Nothing. It just doesn't work. It needs to be modified somewhat. I'm not interested in having the state foot the bill for the so-called partisan fundraising activities and stuff like that. That's not the issue at hand.

Sen. Stevens: So to just to look at the bigger picture here – The Select Committee on Legislative Ethics has had several issues that have been percolating over the years that they wanted addressed and I did ask Senator Coghill to carry that bill. He's been quite courageous about stepping up and doing what he thinks is right. The bill will change as it moves through the committee process.

Question: But quickly for the two Finance Co-Chairs- do you support the language that Sen. Coghill came up with on that bill?

Sen. Stedman: I don't know what the language he had is. I haven't looked at it in that detail. I haven't talked with Senator Coghill on the subject since the beginning of the Session in just the concept phase, so I couldn't tell you what his language was.

Senator Hoffman: Same here.

Question: So I am going to give a hypothetical- where somebody spends three days on state business and wants to do one dinner that's partisan business.

How do you guard against the opposite situation where somebody has three days of campaign and they schedule one meeting with an AIDEA official about a project and say they were there on state business.

Senator Stevens: Well then you report it, and then the public throws the (??) out. **\*laughter\***

Senator Stedman: Clearly, if I'm campaigning in Anchorage, there is something wrong. My voters are in Southeast. They don't vote for me in Anchorage. So, there's a disconnect there. And the funding reports are available and we all look at them and stuff like that. We look at where the money comes from, in-district, out-of-district, all that stuff. That's a standard procedure in the business.

Sen. Hoffman: I think you could put language in there, it may be arbitrary, but say incidental, the amount of time that you spend is incidental to the initial purpose of the trip.

Sen. Stevens: I think as I recall, Senator Coghill had put in an 8 to 5 day and beyond that, I believe that's the wording he used, beyond that you were on your own. You were free to do your own business, whatever that might be. Senator Paskvan, you had some comments, did we bypass you on HB 110? Do you have any thoughts that you want to share with us?

Sen. Paskvan: I think that the Senate Resource Committee, we've been working on this bill for a quite a long time now and I kind of get back to sayings by my carpenter friends. You measure twice and cut once. So that kind of raised the issue of what are the tools that we need to use to measure and what are the tools we need to use to cut? Part of the problem that we have is whether the lack of information at present time puts us in a situation where we don't have enough information to even measure the first time much less getting back to the original carpenter's saying, measure twice cut one. So, I think we're working on it. We're working hard on it. We're going to continue to work on it, but I think we have to do our due diligence as we move forward.

Sen. Stevens: We had a whole bunch of people online, but I think they gave up in disgust. So that's a disadvantage of being online, I guess. So I want to thank them for at least attempting to be with us. That was Mike Mason from Dillingham, KDLG, Andrew Rogers from KRSN and Matt Lichtenstein, KFSK Petersburg. We appreciate them being them with us. One or two more questions. Bob?

Question: Senator Paskvan- Have you placed any requests with the Administration or any department that you haven't gotten a response to yet for information or studies or models on the oil tax bill?

Sen. Paskvan: Over the last couple of months, there's been a lot of requests and there have been responses and those responses have been modified. So, as we move forward, I think we are trying to establish a factual foundation. And again, that's where the difficulty is – Not that there is a lack of response, I think that there is some cooperation, but it's trying to get to the substantive numbers themselves so that when one looks at the tax system, it's not just the nominal rate, it's the effective rate when one rolls the credit system into it. Some credits are applied in the current year, some credits are applied in a subsequent year and other credits are paid out in cash. Trying to assemble all of those components into one unified understanding of what the state brings in far as production tax has been awkward at times. But I think we are heading towards better information to rely upon. But again that gets to the point of the tools necessary so that we can measure once before we proceed from there.

Question: But you are not aware of any requests that have been refused?

Sen. Paskvan: I'm not aware of any request that has been refused.

Question: Judy Erickson, I asked this question last week, but I am going to ask it one more time. You told us last week you were talking with the House. As a long time observer of this process, I haven't quite seen it come down to the wire here with hardly any of members priority bills even in Rules of either body. So, besides the budgets and perhaps Coastal Zone, are there any other bills that you guys have agreed are priorities for this Session with the House? Any agreements with the House?

Sen. Stedman: Just a clarification- House and Senate Priorities together?

Question: Well, I was looking at the Senate priorities. It seems to me that Senator Ellis – his film production tax credit is probably a priority, I think it's still in the Senate-

Sen. Ellis: For me!

Sen. Stevens: and he won't let us forget it either. \*laughter\*

Questions: But that's what I'm saying, members' priorities. Do you have any agreements?

Sen. Stevens: I think Coastal Zone Management is an issue that is extremely important. We're working towards that. We're anxious to see what the House came up with. Senator Hoffman explained that very clearly. I think that's an important issue. I think we must do something to bring that to conclusion. Whether it's a major change or whether it's a one-year-extension. I'm hoping that we can come to a serious decision on that. Senator Hoffman, any comments on that?

Sen. Hoffman: No. And I'd like to see 97 passed too. That's the revenue sharing bill.

Sen. Stevens: An important bill as well. Thank you all very much. Appreciate it.

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6

ALASKA STATE LEGISLATURE  
SENATE STATE AFFAIRS STANDING COMMITTEE

March 31, 2011

9:03 a.m.

**MEMBERS PRESENT**

Senator Bill Wielechowski, Chair  
Senator Joe Paskvan, Vice Chair  
Senator Albert Kookesh  
Senator Kevin Meyer  
Senator Catherine Giessel

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

SENATOR JOHN COGHILL

**COMMITTEE CALENDAR**

SENATE BILL NO. 104

"An Act relating to manufactured homes, including manufactured homes permanently affixed to land, to the conversion of manufactured homes to real property, to the severance of manufactured homes from real property, to the titling, conveyance, and encumbrance of manufactured homes, and to manufacturers' certificates of origin for vehicles; and providing for an effective date."

- MOVED SB 104 OUT OF COMMITTEE

SENATE BILL NO. 89

"An Act clarifying that a legislator or legislative employee is allowed to accept certain charity events; amending disclosure deadlines under the Legislative Ethics Act; relating compassionate gifts; allowing legislators and legislative employees to use legislative to requests to refrain from disclosure under the Legislative Ethics Act; and establishing mailing lists for campaign purposes and non legislative purposes; allowing legislators a seat for an alternate public member on the Select Committee on Legislative Ethics and legislative employees who are representing persons in an administrative hearing to clarifying the requirements related to participation by alternate members in the contact hearing

CHAIR WIELECHOWSKI asked about the issue of title companies, and stated it seems to be more of a Judiciary issue rather than State Affairs. He said he would like to see more information when the bill reaches Judiciary.

SENATOR PASKVAN moved to report SB 104, version I, from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

9:07:00 AM

At-ease.

9:08:39 AM

SB 89-LEGISLATIVE ETHICS ACT

CHAIR WIELECHOWSKI announced the next order of business would be SB 89. The new CS is version T.

9:08:59 AM

SENATOR PASKVAN moved to adopt the proposed committee substitute to SB 89, labeled CSSB 89(STA), Version T, as the working document of the committee

CHAIR WIELECHOWSKI objected for discussion purposes.

9:09:20 AM

SENATOR JOHN COGHILL, sponsor of SB 89, said he would comment after the review of the new CS.

MICHELE SYDEMAN, staff to Senator Wielechowski, said she would explain the changes in the CS, version T. This version makes four changes to the previous version. The first substantive change is to remove provisions that would have allowed a legislator to use his or her legislative mailing list for campaign purposes. Underlined text was removed from Version E, page 3, lines 3-4. On page 4, lines 26-27, the same wording was removed.

9:12:27 AM

The next substantive change was removal of the provision allowing a legislator or legislative employee to campaign or participate in partisan activities while on state travel.

The third substantive change added a provision allowing a legislator or legislative employee to request to refrain from

making a disclosure if that would violate a confidentiality rule of his or her profession.

9:14:45 AM

The fourth substantive change adds language clarifying the requirement that volunteers or trainees complete the legislative ethics class. It would now apply only to those who work for more than 30 days. Casual or drop-in employees or volunteers would not have to complete the ethics training.

9:16:11 AM

SENATOR GIESSEL asked what committee is being referred to on page 10, section 8, line 18, which says "the committee shall approve or deny the request."

MS. SYDEMAN answered it referred to the Legislative Ethics Committee.

9:16:42 AM

SENATOR COGHILL said the 30 day change for volunteers was an excellent idea, and he also had no problem with section change to section 8.

RYNIEVA MOSS, staff to Senator Coghill, said a change on page 12 was requested by the Chair of the Legislative Ethics Committee. They had removed language on line 26 which said "or unable to participate." This change got dropped from the new CS.

9:19:33 AM

SENATOR COGHILL said the mailing list issue came from an advisory opinion that they wanted to include in the statutory language. The new CS says legislators may not use mailing list from office in campaign. The advisory opinion went to the direction that you can use it. He noted that would probably make them revise the ethics opinion.

CHAIR WIELECHOWSKI said removal would not alter an existing advisory opinion.

SENATOR COGHILL said he just wanted to clarify. He is okay as long as there is a clear rule.

9:21:23 AM

SENATOR COGHILL stated the big question is what happens with regard to partisan activity while on state travel. This has been discussed since 1993. If you are under state travel, is there any time that partisan activity is acceptable? He tried to find

a way to say that there are times and reasons. For legislators from urban areas, they can go from a committee meeting to a Republican luncheon, but those from out of town cannot because they are away from home on state business.

He said he was trying to find a reasonable solution. The question is left unanswered in the version T CS. He understands the reason. When his bill was introduced, headlines implied they were trying to use state monies to campaign. This leaves a strict prohibition.

CHAIR WIELECHOWSKI noted the bill has a further referral to the Judiciary Committee.

9:24:49 AM

SENATOR COGHILL said he has been tasked to ask the question. It is a tough question. In fairness to people who live outside the urban areas, we need to resolve this issue.

JOYCE ANDERSON, Chair, Legislative Ethics Committee, said this has been an issue since 1993. She feels the legislature needs to decide if they want to change this policy or keep as it is. The Ethics Committee has not made any specific proposal; that is up to the legislature.

9:26:27 AM

SENATOR COGHILL said in the ethics act which applies to members of the administration, they talk about de minimis use of time. Perhaps that could be used in this bill also.

SENATOR PASKVAN asked if there is some place to look for de minimus conduct. If someone just attends a luncheon, that might be okay; if they were the keynote speaker, then that would be another thing. He asked how to define de minimus and what are some examples.

SENATOR COGHILL said he struggles with that, because it is a question of intent. This kind of question would always need to come before the Ethics Committee. If statutes list prohibited actions, then intent is not as much of a problem. He would like to see the statutes be clear. Any time there is an ethics complaint, it puts peoples' integrity at risk. He is trying to clarify actions so that a member knows he when has crossed a line.

9:30:21 AM

That is why he put time frames and other specific items in the bill. Action versus intent is too hard to define. Under much of the ethics law we have guidance as to what is ethical behavior, but we need good guidelines as to what is unethical. We have put legislators not in urban areas under an ethical cloud. In this bill he was trying to find a way to dispel that cloud.

CHAIR WIELECHOWSKI said could hold SB 89 or move it to Judiciary. He asked the will of the committee.

SENATOR KOOKESH moved to report CSSB 89(STA), version T, from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

9:33:01 AM

There being no further business to come before the committee, Chair Wielechowski adjourned the meeting at 9:33 a.m.

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**SENATE BILL NO. 89**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY SENATOR COGHILL

Introduced: 2/16/11

Referred: State Affairs, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act clarifying that a legislator or legislative employee is allowed to accept certain**  
2 **compassionate gifts; allowing legislators and legislative employees to use legislative**  
3 **mailing lists for campaign purposes and nonlegislative purposes; allowing legislators**  
4 **and legislative employees who are representing persons in an administrative hearing to**  
5 **contact hearing officers and attempt to influence the outcome of the hearing if they are**  
6 **professionals licensed in the state, and allowing legislators and legislative employees who**  
7 **are not professionals licensed in the state to contact hearing officers for the purpose of**  
8 **influencing the outcome of the hearing in certain instances; allowing legislators and**  
9 **legislative employees, in certain circumstances, to participate in partisan political**  
10 **activity while on state travel; prohibiting a public member of the Select Committee on**  
11 **Legislative Ethics from disclosing confidential information without authorization;**  
12 **clarifying the ethics disclosure requirements for tickets to or gifts in connection with**

1 by the legislator, whether or not it is shared with others; or

2 (E) use by a legislator of photographs of that legislator.

3 \* **Sec. 2.** AS 24.60.030(i) is amended to read:

4 (i) A [EXCEPT FOR SUPPLYING INFORMATION REQUESTED BY THE  
5 HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH  
6 AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN  
7 RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR  
8 THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE  
9 THE FINAL DECISION IN THE CASE, A] legislator or legislative employee may  
10 not attempt to influence the outcome of an administrative hearing by directly or  
11 indirectly contacting or attempting to contact the hearing officer assigned to the  
12 hearing or the individual, board, or commission with authority to make the final  
13 decision in the **matter** [CASE] unless [THE]

14 (1) **the legislator or legislative employee is representing another**  
15 **person for compensation subject to AS 24.60.100 and as a professional who is**  
16 **licensed in the state;**

17 (2) **the** contact is made in the presence of all parties to the hearing or  
18 the parties' representatives **while the legislator or legislative employee is acting as a**  
19 **party or a witness in the matter or responding to a question asked of the**  
20 **legislator or legislative employee by the hearing officer, individual, board, or**  
21 **commission** and the contact is made a part of the record; or

22 (3) **the contact is inadvertent and ex parte and the** [(2)] fact and  
23 substance of the contact **are** [IS] promptly disclosed by the legislator or legislative  
24 employee to all parties to the hearing and [THE CONTACT IS] made a part of the  
25 record.

26 \* **Sec. 3.** AS 24.60.030 is amended by adding a new subsection to read:

27 (j) Notwithstanding the limitations under (a)(2), (a)(4), and (c) of this section  
28 and subject to other laws of the state or the United States, a legislator or legislative  
29 employee who is on state travel may participate in partisan political activity, including  
30 campaign activity, if the legislator or the legislative employee does not use or  
31 authorize the use of state resources to pay for the activity and if the legislator or

1 legislative employee does not participate in the activity

2 (1) during a normal workday between 8:00 a.m. and 5:00 p.m.,  
3 excluding meal breaks;

4 (2) on a state or municipal election day;

5 (3) during the 30 days immediately preceding an election in which the  
6 participating legislator or the legislator for whom the participating employee works is  
7 a candidate for elective office; or

8 (4) by fund raising for a political party or campaign.

9 \* **Sec. 4.** AS 24.60.031 is amended by adding a new subsection to read:

10 (d) Notwithstanding the limitations under (a) and (b) of this section and  
11 subject to other laws of the state or the United States, a legislator or legislative  
12 employee who is on state travel may participate in partisan political activity, including  
13 campaign activity, during the state travel if the legislator or the legislative employee  
14 does not use or authorize the use of state resources to pay for the activity and if the  
15 legislator or legislative employee does not participate in the activity

16 (1) during a normal workday between 8:00 a.m. and 5:00 p.m.,  
17 excluding meal breaks;

18 (2) on a state or municipal election day;

19 (3) during the 30 days immediately preceding an election in which the  
20 participating legislator or the legislator for whom the participating employee works is  
21 a candidate for elective office; or

22 (4) by fund raising for a political party or campaign.

23 \* **Sec. 5.** AS 24.60.060(a) is amended to read:

24 (a) A legislator, ~~legislative employee,~~ or public member of the  
25 committee may not knowingly make an unauthorized disclosure of information that is  
26 made confidential by law and that the person acquired in the course of official duties.  
27 A person who violates this section is subject to a proceeding under AS 24.60.170 and  
28 may be subject to prosecution under AS 11.56.860 or another law.

29 \* **Sec. 6.** AS 24.60.080(a) is amended to read:

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

Title 39. PUBLIC OFFICERS AND EMPLOYEES  
Chapter 39.20. COMPENSATION, ALLOWANCES, AND LEAVE

Article 02. TRAVEL REGULATIONS

Sec. 39.20.110. Per diem allowance.

Officials and employees of the state agencies, while traveling on official business and away from their designated post of duty, shall be allowed, instead of their actual expenses for subsistence and all fees or tips, a per diem allowance to be prescribed by the commissioner of administration under the regulatory authority set out in AS 39.20.160, and in consultation with the head of the agency concerned.

Sec. 39.20.120. Allowable expenses.

Except as provided in AS 39.20.110 - 39.20.170, only actual and necessary traveling expenses shall be allowed to an official or employee.

Sec. 39.20.130. Mileage allowance.

Officials and employees of state agencies shall, under regulations adopted by the commissioner of administration, and whenever the mode of transportation is authorized or approved as more advantageous to the state, be paid an amount, instead of actual expenses of transportation, not to exceed a mileage allowance set by the commissioner of administration for the use of privately-owned automobiles or airplanes, when engaged in official travel inside or outside their designated posts of duty or places of service. In addition to the mileage allowance, there may be allowed reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls. When two or more officials or employees are traveling in the same direction, and it is possible to share a privately-owned automobile or airplane, the mileage permitted shall be allowed only once.

Sec. ~~39.20.140~~. Travel costs and travel outside the state.

(a) The Department of Administration may not pay an official or employee for per diem or transportation costs unless the travel is clearly necessary to benefit the state.

(b) The Department of Administration may not reimburse an official or employee or pay for more than the lowest tourist class fare for the most direct route unless

(1) tourist class accommodation is not available;

(2) waiting for tourist class accommodation would occasion a delay harmful to the state; or

(3) the Department of Administration finds that travel by tourist class accommodation is not in the best interest of the state, and authorizes other accommodation.

(c) When the Department of Administration authorizes more expensive travel under (b)(3) of this section, it shall file a justification for that authorization with the travel voucher. When fares other than tourist class are authorized under (b) of this section, the Department of Administration may not reimburse the official or employee or pay for more than the lowest first class fare available.

(d) Officials and employees are authorized to travel only the least number of days necessary to transact the business involved, to secure return passage, and to return.

(e) Every official and employee shall, unless otherwise authorized by law to travel outside the state, obtain prior approval for travel outside the state from the head of the official's or employee's department or from an immediate supervisor, or from the Department of Administration if the official or employee is not within a department or is not under the direct supervision of an official or supervisor. If an employee deviates materially from the travel authorized under this section, the employee must obtain approval for the deviation from the person who approved the travel before the Department of Administration may reimburse the employee for the travel.

#### Sec. 39.20.150. Advances and recovery.

(a) An agency may advance, through proper disbursing methods, to a person entitled to per diem or mileage allowance under AS 39.20.110 - 39.20.170 the sums considered advisable considering the character and probable duration of the travel to be performed.

(b) Sums advanced and not used for allowable travel expense are recoverable by setoff against salary due, or otherwise, from the person to whom advanced, or the person's estate, by deduction from any amount due from the state, or by other legal methods of recovery that may be necessary.

#### Sec. 39.20.160. Regulations.

The fixing and payment under AS 39.20.110 - 39.20.170 of travel and per diem allowances and of advances and recovery and reimbursement of travel expenses shall be in accordance with regulations adopted by the commissioner of administration. The regulations shall be uniform for all officials and employees, and all agencies and departments. The regulations shall also govern the use of public transportation facilities by officials and employees. The regulations relate to the internal management of state agencies and their adoption is not subject to AS 44.62 (Administrative Procedure Act).

#### Sec. 39.20.170. Construction of AS 39.20.110 - 39.20.170.

AS 39.20.110 - 39.20.170 may not be construed to modify or repeal a law providing for the travel expenses of the governor, or members of the legislature, or members of boards or commissions of the state government.

# Attachment 3

Prepared by: Ethics Committee  
November 18, 2010

## HISTORICAL PERSPECTIVE LEGISLATIVE TRAVEL AND COLLATERAL CAMPAIGN ATIVITY

### 1993 - Chair of the Ethics Committee in September 1993 recommended

Use of State Funds and Property:

State funds (travel, per diem, or salary stipend) may not be claimed, received or accepted by legislators or legislative employees unless the primary purpose of the trip is official legislative business.

Incidental use of time in travel or pay status may be spent for personal purposes provided:

- a.) No time, materials, equipment, or funds are spent in political activities; e.g. fund raising, handing out campaign literature, circulating petitions, or requesting support or assistance for any candidate or cause.
- b.) No time, materials, equipment or funds are spent in lobbying activities of any kind.
- c.) No unlawful activities are undertaken.

*No action taken by the Committee.*

### 1993- Memo from Speaker of the House, Ramona Barnes

In a memo dated September 21, 1993 from Speaker Barnes, she states,

“During the legislative session each lawmaker is allowed one trip back to their district for legislative business. This applies to both majority and minority members. During the interim all requests from legislators for travel to NCSL and the Western Legislative Conference have been approved as have all travel requests by committee members wishing to attend their committee meetings. Additionally it has been my policy to approve travel requests by members appointed to various task forces and subcommittees to attend events that relate to the work they are involved in. All other travel requests are reviewed on a case by case basis. I approve all staff travel on a case by case basis when such travel is appropriate to their majority or minority status. With respect to attending campaign activities during a state paid trip that involved legislative business, it has not been allowed in the past and is not allowed now.”

### 1993- Letter from Senate President Rick Halford

In a letter dated October 23, 1993, from Senate President, he states,

“You specifically requested travel authorization information concerning attendance at campaign activities during a state paid trip. State paid travel is authorized for legislative business. Campaign activities are not an acceptable purpose for travelling at state expense.”

**1994- Ethics Committee suggested the following guidelines**

Version 1: Campaign activity may occur provided the legislator completes no less than 7.5 hours per day of non-campaign related state business. The travel authorization request, filed in advance, must indicate what specific state business activities will be undertaken for a minimum of 7.5 hours per day and must indicate what type of campaign activity the legislator will be participating in. This does not apply to legislative employees. Legislative employees are not permitted to participate in campaign activities while in travel status.

*No action taken by the Committee.*

Version 2: Campaign activity may occur provided the legislator [or legislative employee] completes no less than 4 hours per day of state related business. The travel authorization request must be filed in advance.

*No action taken by the Committee.*

**1995 - Ethics Committee: Open Issue regarding Legislation**

What can or can't a legislator or legislative employee do while in "travel status?"

Ethics Committee Minutes: On February 3, 1994, the committee sent a letter to Legislative Council requesting the council to develop guidelines concerning travel, specifically campaign activities while in "travel status." Legislative Council did not respond to the request. The committee continues to receive inquiries on this issue. On February 13, 1995, the committee directed staff to send another letter to Legislative Council.

*No response is on file in the Ethics Office.*

**1996 - Ethics Committee issues Advisory Opinion 96-05**

The committee was asked the following by a legislator: Whether a legislator may accept payment for the costs of a trip on which the legislator conducted both legislative business and personal business? The committee concluded it is permissible for a legislator to accept state payment for the costs of a trip on which governmental business was conducted. The committee further noted that it does not have authority, in the context of advisory opinions, to use its judgment in lieu of a legislator's judgment in determining what is necessary state business or how much state business is necessary to justify accepting state payment for a trip. The committee also cautioned that if a legislator or legislative employee were to intentionally use a façade of legislative business to obtain a government paid trip but were to fail to conduct any governmental business to justify governmental payment, the committee might well find a violation of AS 24.60.0309(a)(2). The committee also noted in the opinion the following statements: "The ethics committee has, in the past, requested an explanation of legislative travel and per diem policy from Legislative Council. A response has not been forthcoming to date."

**1997/98 -- SB 105, Ethics/Lobbying/Campaign Finance**

SB 105 was introduced on February 25, 1997 by the Senate Rules Committee by Request of the Legislative Ethics Committee. SB 105 was signed into law on July 15, 1998. An amendment to the bill, which was not adopted, addressed the subject of state paid travel and campaigning while on that trip. The amendment read as follows:

SB 105H HCS CCSSB 105(STA) 4/23/98

House CS for CS for Senate Bill No. 105(STA)

Section 17. AS 24.60.031 is amended by adding new subsections to read:

(c) A legislator may not travel at state expense to a place in which the legislator plans to hold a campaign fund raising event if the travel occurs less than 48 hours before the event is scheduled to begin. This subsection does not prohibit a legislator from holding a campaign fund raising event in a place to which the legislator travels at state expense if the

(1) travel to the place is completed at least 48 hours before the event was scheduled to begin;

(2) legislator made a trip at state expense to a place, returned from that place, and then, within 48 hours, made a second trip to the place and the cost of the second trip was not paid for at state expense; or

(3) travel was to the capital city immediately before the beginning of a legislative session or from the capital city to the legislator's home immediately after the final adjournment of a regular or special legislative session.

(d) In (c) of this section, an event is considered to be a campaign fund raising event only if the legislator, or another person acting on behalf of the legislator with the legislator's expense or implied permission,

(1) asks for contributions for the legislator's campaign at the event;

(2) announces that the legislator will accept contributions for the legislator's campaign at the event; or

(3) otherwise uses the event in a manner that clearly demonstrates that a primary purpose of the event is to raise contributions for the legislator's campaign;

the fact that a legislator received campaign contributions at an event is insufficient, without other evidence, to satisfy the proof required by this paragraph.

This subject was discussed at the following committee meetings:

- House State Affairs Committee meeting of April 9, 1998
- House State Affairs Committee meeting of April 16, 1998
- House State Affairs Committee meeting of April 21, 1998
- House Finance Committee meeting of April 24, 1998.

(Minutes from these meetings are attached for your reference.)

**2010 – Ethics Committee Staff drafted two versions of possible clarifying statutory language**  
AS 24.60.030(a)(5) A legislator or legislative employee may use or authorize the use of state funds, facilities, equipment, services or another government asset or resource for the purpose of political fund raising or campaigning: this paragraph does not prohibit

Version 1 – add a new section (B)

(B) limited use of state funds while traveling on legislative business for political fund raising or campaigning purposes if the use

- (i) is collateral or incidental to the normal, scheduled performance of official duties;
- (ii) does not exceed 10 percent of the total time spent on the trip;
- (iii) does not interfere with the performance of public duties, and
- (iv) there is no additional cost to the state;

Version 2 – add a new section (B)

(B) limited use of state funds while traveling on legislative business for political fund raising or campaigning purposes if the use

- (i) is collateral or incidental to the normal, scheduled performance of official duties;
- (ii) does not exceed 10 percent of the total time spent on the trip;
- (iii) does not interfere with the performance of public duties,
- (iv) does not occur within 30 days of an election in which the legislator or legislative employee is a candidate for office,
- (v) generate no additional cost to the state, and
- (vi) the proportionate share of the actual cost of the use shall be reimbursed to the state;

*No discussion. Item was not before the committee as an agenda item.*

**2010 - Ethics Committee issues Advisory Opinion 10-01 and then rescinded their action**

The committee issued Advisory Opinion 10-01 on May 27, 2010 and then rescinded the opinion at the June 14, 2010 meeting and referred back to the August 19, 2008 letter to the Alaska Public Offices Commission for guidance in this area. AO 10-01 stated that it was the nature of the business conducted rather than whether it is paid for with state resources that should be the governing standard in determining whether an ethical violation has occurred. A statement signed by the legislator designating the primary nature and purpose of the business rather than whether it is paid for by state resources should suffice to govern whether or not collateral activities can or cannot occur. AS 24.60.030(a)(3).

The August 19, 2008 letter to APOC the committee stated a legislative resource, including money provided by the legislature to cover or reimburse costs incurred by a legislator or legislative employee while traveling on legislative business, is a government asset or resource. A government asset or resource may not be used for involvement in or support of or opposition to partisan political activity. AS 24.560.030(a)(2). A legislator or legislative employee may not use or authorize the use of government asset or resource for the purpose of political fund raising or campaigning. AS 24.60.030(a)(5).

20th Legislature(1997-1998)

**Bill History/Action for 20 Legislature**

BILL: SB 105

SHORT TITLE: ETHICS/LOBBYING/CAMPAIGN FINANCE

BILL VERSION: HCS CSSB 105(FIN) AM H

CURRENT STATUS: CHAPTER 74 SLA 98

STATUS DATE: 06/03/98

SPONSOR(s): RULES BY REQUEST OF LEGISLATIVE ETHICS COMMITTEE

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

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Minutes

Display Bill History

Jrn-Date	Jrn-Page	Action
02/25/97	<a href="#">0494</a>	(S) READ THE FIRST TIME - REFERRAL(S)
02/25/97	<a href="#">0494</a>	(S) STATE AFFAIRS, FINANCE
03/11/97	<a href="#">Text</a>	(S) STA AT 3:30 PM BELTZ ROOM 211
03/11/97	<a href="#">Text</a>	(S) <BILL HELD OVER TO 3/13 MEETING>
03/11/97	<a href="#">Text</a>	(S) MINUTE(STA)
03/13/97	<a href="#">Text</a>	(S) STA AT 3:30 PM BELTZ ROOM 211
03/13/97	<a href="#">Text</a>	(S) MINUTE(STA)
03/18/97	<a href="#">Text</a>	(S) MINUTE(STA)
03/25/97	<a href="#">Text</a>	(S) STA AT 3:30 PM BELTZ ROOM 211
03/25/97	<a href="#">Text</a>	(S) MINUTE(STA)
03/26/97	<a href="#">0873</a>	(S) STA RPT CS 3DP NEW TITLE
03/26/97	<a href="#">0873</a>	(S) DP: GREEN, MILLER, WARD
03/26/97	<a href="#">0873</a>	(S) FISCAL NOTE TO SB (ADM)
03/26/97	<a href="#">0873</a>	(S) ZERO FISCAL NOTE TO SB (LAA)
03/26/97	<a href="#">0873</a>	(S) FISCAL NOTE TO CS (ADM)
04/10/97	<a href="#">Text</a>	(S) FIN AT 5:00 PM SENATE FINANCE 532
04/10/97	<a href="#">Text</a>	(S) MINUTE(FIN)
04/10/97	<a href="#">Text</a>	(S) MINUTE(FIN)
04/15/97	<a href="#">Text</a>	(S) FIN AT 8:00 AM SENATE FINANCE 532
04/15/97	<a href="#">Text</a>	(S) MINUTE(FIN)
04/16/97	<a href="#">1163</a>	(S) FIN RPT CS 2DP 5NR NEW TITLE
04/16/97	<a href="#">1163</a>	(S) DP: PEARCE: DP IF AM: PHILLIPS
04/16/97	<a href="#">1163</a>	(S) NR: SHARP, PARNELL, ADAMS, TORGERSON,
04/16/97	<a href="#">1163</a>	(S) DONLEY
04/16/97	<a href="#">1163</a>	(S) PREVIOUS ZERO FN APPLIES (LAA)
04/16/97	<a href="#">1163</a>	(S) ZERO FNS TO CS (LABOR, LAW)
04/16/97	<a href="#">1163</a>	(S) PREVIOUS ZERO FN APPLIES (LAA)
04/16/97	<a href="#">Text</a>	(S) FIN AT 8:00 AM SENATE FINANCE 532
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04/16/97	<a href="#">Text</a>	(S) MINUTE(FIN)
04/18/97	<a href="#">1276</a>	(S) RULES TO CALENDAR & INR 4/18/97
04/18/97	<a href="#">1279</a>	(S) READ THE SECOND TIME
04/18/97	<a href="#">1279</a>	(S) FIN CS ADOPTED UNAN CONSENT
04/18/97	<a href="#">1280</a>	(S) AM NO 1 OFFERED AND WITHDRAWN

04/18/97 1281 (S) AM NO 2 FAILED Y4 N13 E3  
 04/18/97 1282 (S) AM NO 3 FAILED Y4 N13 E3  
 04/18/97 1283 (S) AMENDMENTS 4, 5 NOT OFFERED  
 04/18/97 1283 (S) AM NO 6 ADOPTED Y12 N5 E3  
 04/18/97 1285 (S) AM NO 7 FAILED Y7 N10 E3  
 04/18/97 1286 (S) AM NO 8 FAILED Y5 N12 E3  
 04/18/97 1287 (S) AM NO 9 ADOPTED Y17 N- E3  
 04/18/97 1291 (S) ADVANCED TO THIRD READING UNAN CONSENT  
 04/18/97 1291 (S) READ THE THIRD TIME CSSB 105(FIN) AM  
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 04/21/97 1335 (S) AM NO 10 ADOPTED Y14 N5 E1  
 04/21/97 1336 (S) AUTOMATICALLY IN THIRD READING  
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 02/24/98 Text (H) STA AT 3:00 PM CAPITOL 102  
 02/24/98 Text (H) MINUTE(STA)  
 02/26/98 Text (H) STA AT 3:00 PM CAPITOL 102  
 02/26/98 Text (H) MINUTE(STA)  
 03/03/98 Text (H) STA AT 3:00 PM CAPITOL 102  
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 04/23/98 3210 (H) ...TECHNICAL TITLE CHANGE  
 04/23/98 3210 (H) NR: JAMES, IVAN, ELTON, BERKOWITZ.  
 04/23/98 3210 (H) RYAN, HODGINS  
 04/23/98 3211 (H) FISCAL NOTE (LAW)  
 04/23/98 3211 (H) ZERO FISCAL NOTE (ETH CMTE)  
 04/24/98 Text (H) FIN AT 8:00 AM HOUSE FINANCE 519  
 04/24/98 Text (H) MINUTE(FIN)  
 04/27/98 Text (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 05/04/98 Text (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 05/04/98 Text (H) FIN AT 6:00 PM HOUSE FINANCE 519  
 05/05/98 Text (H) MINUTE(FIN)  
 05/05/98 Text (H) MINUTE(FIN)  
 05/06/98 3556 (H) FIN RPT HCS(FIN) NT 3DP 4NR 1AM  
 05/06/98 3556 (H) ...TECHNICAL TITLE CHANGE  
 05/06/98 3556 (H) DP: MULDER, MARTIN, DAVIES  
 05/06/98 3556 (H) NR: THERRIAULT, GRUSSENDORF, DAVIS,  
 05/06/98 3556 (H) KELLY; AM: KOHRING  
 05/06/98 3556 (H) FISCAL NOTE (ADM)  
 05/06/98 3556 (H) 2 ZERO FNS (H.FIN/LAA, ADM)  
 05/06/98 3556 (H) FISCAL NOTE (LAW) 4/23/98  
 05/06/98 3557 (H) ZERO FISCAL NOTE (ETHICS) 4/23/98  
 05/11/98 3821 (H) RULES TO 1ST SUPPLEMENTAL CAL 5/11/98  
 05/11/98 3821 (H) READ THE SECOND TIME  
 05/11/98 3821 (H) FIN HCS ADOPTED UNAN CONSENT  
 05/11/98 3822 (H) AM NO 1 FAILED Y14 N23 A3  
 05/11/98 3822 (H) AM NO 2 ADOPTED UNAN CONSENT  
 05/11/98 3823 (H) AM NO 3 ADOPTED UNAN CONSENT  
 05/11/98 3823 (H) AM NO 4 NOT OFFERED  
 05/11/98 3823 (H) AM NO 5 FAILED Y14 N25 A1  
 05/11/98 3824 (H) WITHDRAW AM NO 6 PASSED Y21 N18 A1  
 05/11/98 3825 (H) AM NO 7 OFFERED  
 05/11/98 3825 (H) AM TO AM 7 ADOPTED UNAN CONSENT  
 05/11/98 3826 (H) AM 7 AS AM FAILED Y12 N27 A1  
 05/11/98 3826 (H) ADVANCED TO THIRD READING 5/12 CALENDAR  
 05/12/98 3897 (H) READ/THIRD TIME HCS CSSB 105(FIN) AM 11  
 05/12/98 3897 (H) RETURN TO SECOND FOR AM 8 UNAN CONSENT  
 05/12/98 3898 (H) AM NO 8 ADOPTED Y21 N17 A2

- 05/12/98 [3899](#) (H) AUTOMATICALLY IN THIRD READING
- 05/12/98 [3899](#) (H) PASSED Y37 N1 A2
- 05/12/98 [3900](#) (H) EFFECTIVE DATE(S) SAME AS PASSAGE
- 05/12/98 [3900](#) (H) RESCIND ACTION IN PASSING Y25 N14 A1
- 05/12/98 [3901](#) (H) RETURN/2ND RESCIND ACTION AM 8 PD Y27N13
- 05/12/98 [3902](#) (H) RESCIND ACTION/PASSING AM8 PD Y26 N13 A1
- 05/12/98 [3902](#) (H) AM NO 8 FAILED Y18 N22
- 05/12/98 [3903](#) (H) AUTOMATICALLY IN THIRD READING
- 05/12/98 [3903](#) (H) PASSED Y40
- 05/12/98 [3903](#) (H) EFFECTIVE DATE(S) SAME AS PASSAGE
- 05/12/98 [3943](#) (H) TRANSMITTED TO (S) AS AMENDED
- 05/12/98 [4166](#) (S) CONCUR AM OF (H) Y20 N-
- 05/26/98 [4205](#) (S) 10:40 AM 5/15/98 TRANSMITTED TO GOVERNOR
- 07/15/98 [4276](#) (S) SIGNED INTO LAW 6/3 CHAPTER 74 SLA 98
- 07/15/98 [4277](#) (S) EFFECTIVE DATE OF LAW SEE CHAPTER

Similar Subject Match or Exact Subject Match

CAMPAIGNS

DISCLOSURE

EMPLOYMENT

ETHICS

EXECUTIVE BRANCH

GOVERNOR

LEGISLATIVE AGENCIES

LEGISLATORS

LOBBYISTS

PUBLIC EMPLOYEES

PUBLIC OFFICERS

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20th Legislature(1997-1998)

**House or Senate Minutes**Bill : SB 105Dates: **01/01/1997 to 01/06/2011**

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03/18/1997 3:37 PM Senate STATE AFFAIRS [Minutes](#)  
03/25/1997 3:33 PM Senate STATE AFFAIRS [Minutes](#)  
04/10/1997 5:14 PM Senate FINANCE [Minutes](#)  
04/10/1997 5:14 PM Senate FINANCE [Minutes](#)  
04/15/1997 8:10 AM Senate FINANCE [Minutes](#)  
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02/17/1998 8:12 AM House STATE AFFAIRS [Minutes](#)  
02/19/1998 9:11 AM House STATE AFFAIRS [Minutes](#)  
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02/26/1998 3:00 PM House STATE AFFAIRS [Minutes](#)  
03/03/1998 3:00 PM House STATE AFFAIRS [Minutes](#)  
03/05/1998 3:00 PM House STATE AFFAIRS [Minutes](#)  
03/12/1998 1:00 PM House STATE AFFAIRS [Minutes](#)  
03/19/1998 3:00 PM House STATE AFFAIRS [Minutes](#)  
03/24/1998 1:55 PM House FINANCE [Minutes](#)  
03/26/1998 1:00 PM House STATE AFFAIRS [Minutes](#)  
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04/07/1998 8:06 AM House STATE AFFAIRS [Minutes](#)  
04/09/1998 8:13 AM House STATE AFFAIRS [Minutes](#)  
04/16/1998 8:05 AM House STATE AFFAIRS [Minutes](#)  
04/18/1998 10:03 AM House STATE AFFAIRS [Minutes](#)  
04/21/1998 8:17 AM House STATE AFFAIRS [Minutes](#)  
04/24/1998 1:55 PM House FINANCE [Minutes](#)  
05/05/1998 2:00 PM House FINANCE [Minutes](#)  
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20<sup>TH</sup> Legislature (1977-1998)  
Committee Minutes  
HOUSE STATE AFFAIRS  
April 09, 1998

Number 0201

CHAIR JAMES asked Mr. Brown to address Amendment LS0074\L.2,  
Cramer, 4/3/98.

MR. BROWN explained Amendment L.2 deals with fund-raisers happening when people are traveling at state expense. This language puts a prohibition in place for legislators, governor and lieutenant governor. If you go somewhere at state expense it should have to be incidental if you end up staying there and holding a political fund-raiser it should not at any way be apparent to the public that that was part of the reason there at state expense. This puts a 48-hour ban in place to try to prevent that sort of activity.

Page 17, following line 5, insert a new bill section to read:

\*Sec. 21. AS 24.60.031 is amended by adding a new subsection to read:

(c) a legislator may not travel at state expense to a place in which the legislator plans to hold a campaign fund raising event if the travel occurs less than 48 hours before the event is scheduled to begin. This subsection does not prohibit a legislator from holding a campaign fund raising event in a place to which the legislator traveled at state expense if the travel to the place is completed at least 48 hours before the event was scheduled to begin.

Page 48, following line 31, insert a new subsection to read:

(b) Except for travel to the capital city, an elected official may not travel at state expense to a place in which the official plans to hold a campaign fund raising event if the travel occurs less than 48 hours before the event is scheduled to begin. This subsection does not prohibit an elected official from holding a campaign fund raising event in a place to which the elected official traveled at state expense if the travel to the place is completed at least 48 hours before the event was scheduled to begin. In this subsection, "elected official" means the governor or the lieutenant governor.

Number 0210

REPRESENTATIVE BERKOWITZ stated, "I drive home at the end of session ... they want to have a fund-raising event for me when I get there, they can't do it."

MR. BROWN replied they can after 48-hours or if you don't take your state reimbursement for the drive. If it were 48-hours after you got home state expense would cover your reimbursement.

Number 0213

CHAIR JAMES stressed she didn't think that was ever the intent of this amendment, there should be an exception when you go home at the end of the legislative session. She suggested they include that as an amendment to this amendment.

MR. BROWN indicated that was discussed with the drafter as an exemption for adjourning travel not for convening travel.

REPRESENTATIVE BERKOWITZ remarked if you don't want people to travel at state expense solely or primarily to have a fund-raising event, and if that's the case why don't we just say it that way.

CHAIR JAMES asked for a motion to adopt Amendment L.2 for discussion and amending if needed.

Number 0222

REPRESENTATIVE HODGINS made a motion to adopt proposed Amendment L.2 for discussion.

REPRESENTATIVE RYAN objected.

CHAIR JAMES noted there is an objection. Chair James said she believes it should be amended that in the adjourning trip home, especially when they are limited to any campaigning while in the capital and there is so little time, going home should not be the issue.

REPRESENTATIVE HODGINS said he is totally against the amendment since he lives in Kenai and makes many trips to Anchorage. He indicated this means he can't go into Anchorage two days prior to, a function or committee meeting, or something like that. He will be voting against it if it is a 48-hour thing.

CHAIR JAMES responded it is not proper for her to fly from Fairbanks to Anchorage to attend fund-raising. She indicated she has either paid her own way or used her campaign funds to pay and has not traveled to Anchorage for a fund-raiser on state pay because she doesn't believe it's right.

Number 0234

REPRESENTATIVE HODGINS continued. He pointed out Kenai is so close to Anchorage that he will make several trips back and forth. If he has business the day before (An Oil and Gas Committee meeting) and travels on a state warrant and returns to Kenai and the following day travel to Anchorage on his own money for a fund-raiser that would unduly restrict him for the compensation of traveling the day before. He said they're assuming that you...

CHAIR JAMES stressed the four days is a problem in the amendment.

REPRESENTATIVE HODGINS read the amendment which addresses traveling at state expense and travel that occurs less than 48 hours before the event is scheduled to begin. He stressed if he makes a round-trip on Tuesday and attends a fund-raiser on Wednesday...

CHAIR JAMES reiterated this isn't going to work.

MR. BROWN remarked he believes the drafter deleted another sentence when she put the legislative language in there. He indicated at that time they were only dealing with the governor.

Number 0246

CHAIR JAMES noted the governor is what prompted them on the issue of whether or not he should be raising funds while they are in a legislative session when someone is running against him. She said, "We tried to solve on the floor ... so now he can't. That means he can go visit somebody, any place in the state, and have a fund-raiser while he's there. Unless we put something in here, that's still allowed. I don't think it should be, and I think it's fair for both of us to not." She asked that this amendment be withdrawn for now and move onto the next amendment.

Number 0254

REPRESENTATIVE HODGINS removed his motion to adopt Amendment L.2.

CHAIR JAMES indicated they need to talk to the drafter.

*No action taken at  
this meeting.*

20<sup>TH</sup> Legislature (1977-1998)  
Committee Minutes  
HOUSE STATE AFFAIRS  
April 16, 1998

MR. BROWN explained Amendment P.2 deals with the ban of fund-raising by elected officials who have traveled somewhere at state expense for that fund-raiser. The problem with the way it was written is that the ban precluded a...

TAPE 98-52, SIDE B  
Number 0004

MR. BROWN continued. That same place, within the 48 hours, and still be able to have a fund-raising event. Especially those on the road system near Anchorage would be penalized by that. He indicated that wasn't the intention that was a grafting error.

Sec. 17. AS 24.60.031 is amended by adding a new subsection to read:

(c) A legislator may not travel at state expense to a place in which the legislator plans to hold a campaign fund raising event if the travel occurs less than 48 hours before the event is scheduled to begin. This subsection does not prohibit a legislator from holding a fund raising event in a place to which the legislator traveled at state expense if the

(1) travel to the place is completed at least 48 hours before the event was scheduled to begin;

(2) legislator made a trip at state expense to a place, returned from that place, and then, within 48 hours, made a second trip to the place and the cost of the second trip was not paid for at state expense; or

(3) travel was to the capital city immediately before the beginning of a legislative session or from the capital city to the legislator's home immediately after the final adjournment of a regular or special legislative session.

Re-number the following bill sections accordingly.

Page 47, line 28:

Delete: "a new subsection"

Insert: "new subsections"

Page 47, following line 28:

Insert a new subsection to read:

(d) Except for travel to the capital city, the governor or the lieutenant governor may not travel at state expense to a place in which the official plans to hold a campaign fund raising event if the travel occurs less than 48 hours before the event is scheduled to begin. This subsection does not prohibit the governor or the lieutenant governor from holding a campaign fund raising event in a place to which the official traveled at state expense if the

(1) travel to the place is completed at least 48 hours before the event was scheduled to begin;

(2) official made a trip at state expense to a place, returned from that place, and then, within 48 hours, made a second trip to the place and the cost of the second trip was not paid for at state expense.

MR. BROWN said the prohibition doesn't exist right now. It's come up more as an issue in terms of the executive branch and concern about travel at state expense by the chief executive and then fund-raisers being held. He implied the same standard has been put in place for the governor, and the governor's home is considered to be Juneau for the purposes of the governor's term of office. Other than that, there is the same 48-hour ban and the go, come back, and go back again at personal expense or campaign expense exemption.

Number 0022

REPRESENTATIVE BERKOWITZ asked what's a campaign event. If someone slips him a check, is that a campaign event.

MR. BROWN responded no.

REPRESENTATIVE BERKOWITZ asked if he goes around collecting checks from people that's fine.

CHAIR JAMES replied, "No that's a campaign event. If somebody accidentally gives you one, or sends you one, gives you one when you're there - people do that all the time, but if you are making an effort to collect them (indisc. - interrupted) depends on who initiates it."

MR. BROWN added that we would hold that standard if an invitation went out, or a public announcement was made, or there was a guest list, or someone was coordinating the event.

Number 0029

REPRESENTATIVE BERKOWITZ said if he starts calling people and asking for money that doesn't seem to rise to the level of being an event.

MR. BROWN said he doesn't foresee that being a problem, of course for legislators, running for legislative office. This isn't going to happen during session anyway, this is an interim concern. For the governor, as SB 275 is now on its way through the system, it's a concern year-round. He implied that it's a heightened level of concern for the governor.

Number 0037

REPRESENTATIVE ELTON expressed that his heightened concern is for the governor and the lieutenant governor. He asked does this mean that if they're in Anchorage on business that they cannot have dinner with their campaign manager.

MR. BROWN replied he didn't think dinner with the campaign manager is a fund-raising event. If the campaign manager invited ten employees from the timber industry to sit down with the governor, and they were told ahead of time to please bring a check, that would be an event. He expressed the public policy goal is not to have the governor fly to Anchorage at state expense and attend that dinner.

REPRESENTATIVE ELTON indicated they may be discussing a fund-raising event that they will be setting up a month later.

MR. BROWN responded saying that's a strategy, that's not a fund-raising event. He said they didn't want to (indisc.) in that too wide here. It was just to ban a very specific organized type of fund-raising activity. It's a public perception thing, people will say, "Gosh I saw this public official on TV this morning cutting a ribbon, and I know tonight this public official is having a fundraiser at so and so's house, and I know that this public official traveled to and from Anchorage - is paid by the state."

MR. BROWN implied Ms. Barnett recommended that if it were possible to apportion the cost of your trip, say it was 50 percent business and 50 percent campaign. He said that would be the squeaky clean way to do it, but in terms of enforcement and advising people, it just didn't seem that that was going to be a very workable statute. It seemed easier to say, if it's for state expense you travel at state expense, and if it's for campaign purposes you travel at campaign expense.

Number 0056

REPRESENTATIVE IVAN IVAN indicated he can respect the intent of the legislation to correct deficiencies that occurred several years ago, but it's getting to a borderline of controlling our thinking. He said, "The governor sitting down with his campaign manager, or me sitting down with someone that will help me ... and now his thoughts are going to be controlled."

CHAIR JAMES stated that she doesn't think that was the intent of the conversation. She said she thinks the intent was to try to define a fund-raising event and if it's still questionable, as to what a fund-raising event is, we might want to describe what it is and what it isn't. It's not questionable and would be easy to define. That the questions that Representative Berkowitz had - if somebody hands you an occasional check, when you're out on state business, or whatever, during a period of time, when it's okay to

accept a check, that certainly is not a fund-raising event. Chair James interpreted a fund-raising event as a place where people come, they either pay to come, or they're invited to attend and to bring their checkbook to an event. This could be any kind of event where more than a certain number of people come together for that purpose.

Number 0073

CHAIR JAMES said, "If any one of us has traveled ... and we talk to somebody who is a campaign chairman or something, it wouldn't necessarily happen with the legislator because the legislator is going to be traveling within their own district. ... It's 250 miles from one end of my district to the other and I live in one end, and if I go down the other end - sometimes I go down there for business and sometimes I go down there because I'm campaigning - and it's not like buying an airplane ticket because I don't fly to get there I get in my car and I drive. And then if it's legislative business I turn in the mileage and any expense I had as a legislative trip. If I'm going down there, and going to be campaigning, or having a fund-raiser or something, then I don't do that. I don't turn that in. And so there is a decision as to whether or not you're going on state business or not."

CHAIR JAMES said, "But generally when you're talking about traveling some place on state business, having a fund-raiser happens a lot when we have fund-raisers in Anchorage and I'm in Fairbanks. And so if I'm going to travel down there, even if I'm traveling on fund-raising money, my campaign account is an example, and I'm going to be there for several days, I'm going to do legislative business too, which could be in an election year considered to be almost campaigning too - if I'm going to be talking to the people that I want to talk about, about future issues (indisc.) help as to how things should be addressed. We have many times caucuses in Anchorage, and then we also have a fund-raiser when we have a caucus. To me the caucus is happening because we have the fund-raiser. I'll pay my way with my campaign account to get there. In fact, we don't usually get any reimbursement for going to a caucus anyway because it's a political issue. So, the only time that I would be down there on state business is if I'm going to be there for some kind of a hearing, some kind of a committee meeting, or something to that effect. And if it happens to be that there's a fund-raiser scheduled at that same time, then I either should pay for my way to get down there, under this law, or with my campaign funds, or I should go back home and come back again, one way or the other, or I shouldn't go to the fund-raiser. Now that may affect some of the ways we've been doing things in the legislature because it is true, if we happen to have committee meetings or something and there is a fund-raiser, that there probably are some cases in the past where I was paid to go to Anchorage and back because of the committee. I don't know of any specifics, but there could have been, and I don't know that that ever happened. But it's a possibility, probably not under the current campaign finance law where you can't do any fund-raising in the off-year, then that might not be the case. And so I didn't go to any -- but they had some fund-raisers in this last campaign year for the party, I didn't go to any of them. So I know I haven't done that. But this would make it perfectly clear, that if you're going anywhere to attend a fund-raiser - and the only ones I could think of would be going to Anchorage because that's where a lot of fund-raisers are happening. You don't use state funds to get

there, and I'm perfectly comfortable with that, I think it's a good thing to put into law."

CHAIR JAMES said, as far as the governor is concerned she believes that is also the case. That during an election year, it can't happen in the other three years before that, and it can't happen under this current law because there can't be any fund-raising in those three years. It's only in the year of the campaign that the advantage of the governor and the lieutenant governor is (indisc.) in their being able to travel the state on governmental business, and have a fund-raiser everywhere they go. Chair James indicated that is wrong in her estimation. It doesn't make it fair if the governor can travel all over the state, having fund-raisers and campaigning, and the challengers can't. What we're trying to do is to make a level playing field. She believes this is a rational way of doing it.

Number 0117

REPRESENTATIVE ELTON asked Ms. Barnett how comfortable she is now that the Legislative Ethics Committee is going to have this kind of oversight of the chief administrative officers of the State of Alaska which is under AS 24.60.

MS. BARNETT replied she still doesn't have the P version of the bill but is assuming that other section, page 47, must go under 39.50 or must appear in a different part.

MR. BROWN directed the members to page 1, line 21 of the amendment. He said it refers you to page 47 of Version P of the bill under the Executive Branch Ethics Act.

Number 0126

REPRESENTATIVE ELTON asked how does this effect, for example, the Democratic Party. Every year it has a fund-raiser that's a golf tournament in Anchorage, how would this affect participation. If a person were in Anchorage on business, would they have to return, and then go back assuming that part of those receipts go to the Democratic Party and then to candidates?

MR. BROWN replied, "Right now, all this party building fund-raising - governor's funds, House and Senate Majority fund, those are not fund-raising events for individual candidates. This ban wouldn't apply to those, this is not a very wide net, this net is cast specifically for fund-raisers for individual campaigns. And the biggest one I'd like is, it doesn't apply to campaigning it applies to fund-raising. You can still go kiss every baby you want to, and shake every hand you want to, and hand out a million little plastic flags, you just can't raise money. ... So I don't think it's an onerous intrusion upon the rights of the incumbents to continue behaving politically, it's just targeting a very specific form of their activity which is raising money for themselves. If they were raising money in the off-year for themselves, they'd be violating the Campaign Finance Act. So those have to be party fund-raisers."

CHAIR JAMES reiterated that when you are raising money for your campaign, it doesn't seem right to have the expense of that fund-raiser be paid for by the state, that's the issue. She emphasized, if you get there at state expense, you better pay it back with your campaign expense. It's that simple.

MS. BARNETT referred to Representative Elton's question. She said she's not quite sure that it is clear in this language that it is a fund-raising event solely for that legislator. Maybe there's a way to clean that up a little bit more. She said she's not arguing at all with the notion, or concept. Ms. Barnett said it could be confusing if there was a party fund-raiser where moneys ended up in that legislator's hand at a later point.

REPRESENTATIVE BERKOWITZ said, "When the legislator plans, I think that's the determining phrase, if the party plans, it is something else."

CHAIR JAMES mentioned she is also having a problem with that. She said she is thinking of some of the fund-raisers that occurred in the campaign year. In particular, a majority fund-raiser where individual checks were made out to candidates. She indicated she doesn't feel comfortable with saying that because it's a party event.

MR. BROWN explained, under the Campaign Finance Act, those are reportable either as contributions to the party or to your campaign. The clarity exists in the Campaign Finance Act. He said, "You would be planning to hold an event - if there was a basket with your name on it at the event. If there was only a basket that said 'House Majority Fund' at the event - you know under the law you have no guarantee of receipt of those funds in your personal campaign even though you might be shaking people (indisc.). So I don't know how to go beyond the clarity of an APOC [Alaska Public Offices Commission] has to go on, when very likely some of those funds will end up in your campaign coffer. But they're going through the party first, and they're reportable to the party, and then the party has to report its donation to you, and someone has to make that decision."

Number 0160

CHAIR JAMES reiterated that she understands the intent and that she is not comfortable with the language as well because it's not specific enough.

MS. BARNETT referred to 24.60.031. She said in the existing law there is something that says a legislator or a legislative employee may not accept money from an event held during a legislative session. She said this language may help:

if a substantial purpose of the event is to raise money on behalf of the member for campaign purposes

MS. BARNETT stated she is a little more comfortable with that where it targets that person.

CHAIR JAMES said she is willing to put Amendment P.2 aside since we will be working on it between now and Saturday to come up with something that's more definitive.

MR. BROWN said, "I asked the drafter, 'Do we know what a fund-raising event is,' and she said 'yes, it's a fund-raising event,' just like you [Chair James] said. So there are times when you want to define, and there are times when you think the language is going to do the job itself. But I think it's -- if there's some gray

area, that's the point of concern here is what's a fund-raising event - if it's party building, if it's a majority event. So I'm happy to work with the drafter and actually put a definition in for the purposes of the subsection of the Legislative Ethics Code and the Executive Branch Ethics Act."

REPRESENTATIVE BERKOWITZ said, another thing, when you're looking at the executive branch, not all governors call Juneau home.

MR. BROWN responded, "It's like a tax home. You have to take a home and not have it, you can't have two. Juneau has to be your home, it is, the governor's house is here - some governor's have chosen not to reside in it - in a very regular basis and they might take exception to that." He said he didn't know if it is possible to craft a statute to enable the governor to say, "I don't want to live in Juneau..."

CHAIR JAMES said she would venture to say that wherever the governor lives that when he goes back and forth between Juneau and that place, he's paid for at state expense, so the same applies.

MR. BROWN remarked that only one of them can be - he can only come home in one direction, you can't be going home both ways. He said, "If you have a suggestion about giving the Chief Executive the option of declaring some other place in the capital city his or her home for the purposes of their term office, I think it would be to that governor's disadvantage to pick some place besides Juneau, unless the governor's really not going to spend very much time here. But if the governor's really going to spend (indisc.) time here..."

REPRESENTATIVE BERKOWITZ said he spends four months of the year here and this doesn't make Juneau his home. If he is living in Clark for example that would be his home.

MR. BROWN said, "That's fine, but I'm going to say it's probably to your advantage, as the governor who wants to raise money. By the way he was the last governor who ran as an incumbent, right. So that's the last time we dealt with this issue really since the last two governors (indisc.) haven't run for reelection - or three. But the issue here is, do you want to be able to come back to Lake Clark and have unlimited fund-raisers within 48 hours, or do you want to be able to come back to Juneau and do that. So you can give the person the option, but they still have to pick one place."

REPRESENTATIVE BERKOWITZ said he doesn't want, by law that we declare that Juneau is the governor's home.

REPRESENTATIVE ELTON stated that he is not totally bothered by that.

MR. BROWN said, "For the purposes of the subsection."

REPRESENTATIVE BERKOWITZ reported that he's raised the point, he's thrown it out there, we've chewed on it, and now he's letting it go.

Number 0196

REPRESENTATIVE HODGINS said, "While we were pondering about the definition of frivolous, I wonder if we should ponder about the

definition of high-centered. I think there's some important stuff in this amendment as I pointed out earlier. My discomfort with the language was discriminatory about my situation. If I traveled to Anchorage from Kenai which I do quite a bit on state business the day before a fund-raiser, I can't really, the way the existing law is, is I cannot really accept - I have to travel on my own nickel even it's going to be for state business if it's 48 hours. This amendment allows me to make a round-trip the day of the thing at my expense and then to attend a fund-raiser which I think is very appropriate. And I would hope that we would go ahead and move this amendment, or some portion of this amendment. I don't have any problem on waiting until Saturday even though I detest Saturday meetings. As long as we don't get high-centered, I'll be here. But if we continue to get high-centered I won't be here."

MR. BROWN suggested the committee adopt the amendment now. He said he can bring forward a definition of a fund-raising event, or we can take this away and come back with one remembering everything that's been discussed.

Number 0209

CHAIR JAMES announced if there's no objection, we'll just set P.2 aside and deal with it again on Saturday. She said this bill is not leaving this committee without this provision in it.

REPRESENTATIVE BERKOWITZ said he thinks we just got off-center.

20th Legislature(1997-1998)

**Committee Minutes**

HOUSE STATE AFFAIRS

Apr 21, 1998

SB 105 - ETHICS/LOBBYING/CAMPAIGN FINANCE

Number 0088

CHAIR JAMES announced the next order of business is CSSB 105(FIN) am, "An Act relating to legislative and executive branch ethics; relating to campaign finances for candidates for state office; relating to the conduct and regulation of lobbyists with respect to public officials; relating to the filing of disclosures by certain state employees and officials; making a conforming amendment to the definition of 'public official' for employment security statutes; and providing for an effective date."

Number 0090

BEN BROWN, Legislative Administrative Assistant to Senator Kelly Alaska State Legislature, came before the committee. He stated he distributed the revised work draft, LS0079\Q, Cramer, 4/20/98, that incorporates all the amendments made at the last meeting of the State Affairs Committee.

MR. BROWN also distributed Amendment Q.1 that reflects some concerns that other members of the House had, who probably won't have an opportunity to look at the bill in committee themselves.

Number 0096

REPRESENTATIVE MARK HODGINS asked if travel at state expense is included in the amendment.

MR. BROWN replied it is in both sections, the legislative ethics section and the executive branch ethics section. Mr. Brown referred to Section 17, page 15, AS 24.60.031 adds a new subsection on fund-raising during session. Section 74, page 48, AS 39.52.120. The provisions of the two are very similar and they do allow you to "double-back" as long as you pay for your trip - the most recent time you travel somewhere, then there's no 48 hours...

Number 0109

REPRESENTATIVE HODGINS had a question on Section 17, page 15, beginning on line 10.

(2) legislator made a trip at state expense to a place, returned from that place, and then, within 48 hours, made a second trip to the place and the cost of the second trip was not paid for at state expense;

REPRESENTATIVE HODGINS said, "If I was in Fairbanks on state business, flew into Anchorage on my normal course of going home, and then I flew down to Kenai, and then returned, I haven't really returned to the place that I came from at state expense - which would be Fairbanks. ... I just wanted to make sure there's no problem. ... Let's say that I live in Fairbanks, and I flew on state business to Anchorage and then decided I was going to have a fund-raiser, and it was a heck of a lot cheaper for me to fly to

Kenai at my own money and back ... or I even traveled by car to Palmer and back at my own expense. Does then that absolve me from having to go back to Fairbanks before I have a fund-raiser?"

CHAIR JAMES stated she didn't believe the intent of this is to have you go back to Fairbanks.

Number 0127

REPRESENTATIVE HODGINS gave another example. He said, "Let's say that I lived in Kenai and I'm flying into Anchorage on state business, and then while I'm there I think, well I'm going to have a fund-raiser, there's a fund-raiser planned. Rather than go to Kenai again, if I just rented a car and drove to Palmer and back, made a trip out of town and back at my own expense, I guess that's what I'm asking. As long as you make a trip out of the location, and back at your own expense, it doesn't really matter where you go."

CHAIR JAMES indicated what she would do is reimburse the state out of her campaign money, the cost of getting from Kenai to Anchorage. If you're going to have a fund-raiser, you take your fund-raising money and pay your way to get there.

MR. BROWN stated if you look back at the beginning of prohibition, you may not travel at state expense to a place where you plan to hold a campaign fund-raising event. That's the initial rule you have to look at -- it's a matter of planning. He said, "The best way to protect yourself is to have the most - the leg immediately prior to the fund-raiser, not be paid for at state expense. Someone still might try to challenge you under this but that would be your best first line of defense. Don't pay the last leg of your journey with a state TR [travel request]."

Number 0149

MR. BROWN remarked, "I'm more concerned actually, because it just occurred to me while you were talking, that second might not work if you're really busy going back and forth, and it almost seems (indisc.) subsequent. (Indisc.). So I don't know that we've perfected this language yet, it's a thorny issue. And I don't think I see a problem sequential legs like you do. I think as long as your most recent leg -- we can only close it so tight and there's still going to be a tiny loophole and I think that's probably as tight as we can get it."

Number 0153

REPRESENTATIVE KIM ELTON said he agreed with Mr. Brown. Under the provisions, as amended, he believes the simplest way out the bind in that example would be, when you travel to Fairbanks at state expense, either drive to Anchorage at your own expense or fly to Anchorage at your own expense. Then you don't need to worry about it because you haven't arrived in Anchorage on a state TR.

Number 0159

REPRESENTATIVE HODGINS said his point is, can you cleanse it by taking a shorter trip someplace and going back. Obviously it's cheaper to buy a ticket to Kenai, and back and forth, or to drive to Palmer, back and forth, than it is to pay your own way from

Fairbanks.

Number 0175

CHAIR JAMES stated she doesn't believe this amendment will stay in the bill until the end. But it's very important to her because she doesn't believe they should be traveling on state expense for campaign fund-raising activities. She indicated she feels very strongly about it both on the legislative and governor's side. She would like to leave it in there.

REPRESENTATIVE HODGINS mentioned he agrees wholeheartedly, he's just looking at the loopholes.

Number 0215

REPRESENTATIVE HODGINS made a motion to adopt Amendment Q.1.

Number 0216

MR. BROWN suggested the committee adopt version Q as a work draft and then Amendment Q.1.

Number 0218

REPRESENTATIVE HODGINS amended his motion to adopt HCS CSSB 105, version Q, with the Amendment Q.1.

Number 0219

CHAIR JAMES said, "Before I accept that motion, let's say that we did have an amendment on the floor of Q.1, which will be displaced by this motion, to accept the CS Q and Q.1 the amendment, is there any objection."

REPRESENTATIVE ELTON asked Chair James to explain the motion. He indicated he heard a two-part motion that we adopt version Q and the amendment [Q.1].

CHAIR JAMES replied that's what they did.

Number 0225

REPRESENTATIVE HODGINS made a motion to adopt HCS CSSB 105, version LS0074\Q, there being no objections, that version was before the committee.

Number 0027

REPRESENTATIVE HODGINS made a motion to adopt Amendment Q.1.

Number 0229

REPRESENTATIVE ELTON objected. He said he would like to offer an amendment to the amendment on page 3, line 18 of the amendment.

Page 26, line 16 through 18:

Delete:

A person who requested an opinion, including a legislator, may not require admittance to an executive session of the committee when it is deliberating concerning the advisory opinion.

Number 0232

CHAIR JAMES objected. A roll call vote was taken. Representatives Berkowitz and Elton voted for the amendment. Representative Hodgins, Ivan, James and Ryan, voted against the amendment. The amendment to the amendment failed by a vote of 2-4.

CHAIR JAMES asked if there were any objections to Amendment Q.1. There being none, Amendment Q.1 was adopted.

Number 0240

CHAIR JAMES noted, "We have a fiscal note here, it's a draft, it's not signed, but we will probably have one signed before I move it on for \$5,000 from the Attorney General's Office for additional staff time for the reporting that's required by this bill. So we need to move this fiscal note with it was well."

Number 0243

REPRESENTATIVE HODGINS made a motion to move HCS CSSB 105, version Q, as amended, with individual recommendations, and attached fiscal note.

Number 0246

REPRESENTATIVE ELTON objected.

CHAIR JAMES requested a roll call vote. Representatives Ryan, Hodgins, Ivan, James, Elton and Berkowitz voted to move HCS CSSB 105(STA). HCS CSSB 105(STA) moved from the House State Affairs Standing Committee.

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20<sup>TH</sup> Legislature (1977-1998)  
**Committee Minutes**  
HOUSE FINANCE  
April 24, 1998

SECTION 17: AS 24.60.031(c) BAN ON FUNDRAISING WHEN TRAVELING AT STATE EXPENSE This section adds new

subsections to the fundraising restrictions in the Legislative Ethics Code. Subsection (c) prevents travel at State expense to a place where a fundraiser is planned within 48 hours of the travel. It allows State-paid travel if the fundraiser is at least 48 hours after the travel occurs, if a subsequent trip (not paid for by the State) is made between the two locations, or if the travel is to convene or adjourn for a legislative session in the capital city. Subsection (e) defines 'campaign fundraising event'.

Mr. Brown observed that the intent is that fundraising be allowed following the convening or adjourning travel. Similar language was added to the Executive Branch Ethics Act to govern the conduct of the Governor and Lieutenant Governor.

Co-Chair Therriault questioned how the provision would work. Members concluded that further clarification was needed. Mr. Brown stated that he had prepared an amendment to address a second trip. Representative Davies observed that Ethics Committee has advised him to apportion the cost of trips that include state and private business. He noted that it is difficult to apportion costs. He recommended that half of the cost be paid from campaign funds. He noted the imposition on the legislator's time. Mr. Brown stated that he is concern with the definition of fundraising event. He stated that would work with members for a better solution.

**SENATE BILL NO. 89**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY SENATOR COGHILL

Introduced: 2/16/11

Referred: State Affairs, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act clarifying that a legislator or legislative employee is allowed to accept certain  
2 compassionate gifts; allowing legislators and legislative employees to use legislative  
3 mailing lists for campaign purposes and nonlegislative purposes; allowing legislators  
4 and legislative employees who are representing persons in an administrative hearing to  
5 contact hearing officers and attempt to influence the outcome of the hearing if they are  
6 professionals licensed in the state, and allowing legislators and legislative employees who  
7 are not professionals licensed in the state to contact hearing officers for the purpose of  
8 influencing the outcome of the hearing in certain instances; allowing legislators and  
9 legislative employees, in certain circumstances, to participate in partisan political  
10 activity while on state travel; prohibiting a public member of the Select Committee on  
11 Legislative Ethics from disclosing confidential information without authorization;  
12 clarifying the ethics disclosure requirements for tickets to or gifts in connection with

1 by the legislator, whether or not it is shared with others; or

2 (E) use by a legislator of photographs of that legislator.

3 \* **Sec. 2.** AS 24.60.030(i) is amended to read:

4 (i) A [EXCEPT FOR SUPPLYING INFORMATION REQUESTED BY THE  
5 HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH  
6 AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN  
7 RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR  
8 THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE  
9 THE FINAL DECISION IN THE CASE, A] legislator or legislative employee may  
10 not attempt to influence the outcome of an administrative hearing by directly or  
11 indirectly contacting or attempting to contact the hearing officer assigned to the  
12 hearing or the individual, board, or commission with authority to make the final  
13 decision in the **matter** [CASE] unless [THE]

14 (1) the legislator or legislative employee is representing another  
15 person for compensation subject to AS 24.60.100 and as a professional who is  
16 licensed in the state;

17 (2) the contact is made in the presence of all parties to the hearing or  
18 the parties' representatives while the legislator or legislative employee is acting as a  
19 party or a witness in the matter or responding to a question asked of the  
20 legislator or legislative employee by the hearing officer, individual, board, or  
21 commission and the contact is made a part of the record; or

22 (3) the contact is inadvertent and ex parte and the [(2)] fact and  
23 substance of the contact are [IS] promptly disclosed by the legislator or legislative  
24 employee to all parties to the hearing and [THE CONTACT IS] made a part of the  
25 record.

26 \* **Sec. 3.** AS 24.60.030 is amended by adding a new subsection to read:

27 (j) Notwithstanding the limitations under (a)(2), (a)(4), and (c) of this section  
28 and subject to other laws of the state or the United States, a legislator or legislative  
29 employee who is on state travel may participate in partisan political activity, including  
30 campaign activity, if the legislator or the legislative employee does not use or  
31 authorize the use of state resources to pay for the activity and if the legislator or

1 legislative employee does not participate in the activity

2 (1) during a normal workday between 8:00 a.m. and 5:00 p.m.,  
3 excluding meal breaks;

4 (2) on a state or municipal election day;

5 (3) during the 30 days immediately preceding an election in which the  
6 participating legislator or the legislator for whom the participating employee works is  
7 a candidate for elective office; or

8 (4) by fund raising for a political party or campaign.

9 \* **Sec. 4.** AS 24.60.031 is amended by adding a new subsection to read:

10 (d) Notwithstanding the limitations under (a) and (b) of this section and  
11 subject to other laws of the state or the United States, a legislator or legislative  
12 employee who is on state travel may participate in partisan political activity, including  
13 campaign activity, during the state travel if the legislator or the legislative employee  
14 does not use or authorize the use of state resources to pay for the activity and if the  
15 legislator or legislative employee does not participate in the activity

16 (1) during a normal workday between 8:00 a.m. and 5:00 p.m.,  
17 excluding meal breaks;

18 (2) on a state or municipal election day;

19 (3) during the 30 days immediately preceding an election in which the  
20 participating legislator or the legislator for whom the participating employee works is  
21 a candidate for elective office; or

22 (4) by fund raising for a political party or campaign.

23 \* **Sec. 5.** AS 24.60.060(a) is amended to read:

24 (a) A legislator, [OR] legislative employee, or public member of the  
25 committee may not knowingly make an unauthorized disclosure of information that is  
26 made confidential by law and that the person acquired in the course of official duties.  
27 A person who violates this section is subject to a proceeding under AS 24.60.170 and  
28 may be subject to prosecution under AS 11.56.860 or another law.

29 \* **Sec. 6.** AS 24.60.080(a) is amended to read:

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

Title 39. PUBLIC OFFICERS AND EMPLOYEES  
Chapter 39.20. COMPENSATION, ALLOWANCES, AND LEAVE

Article 02. TRAVEL REGULATIONS

Sec. 39.20.110. Per diem allowance.

Officials and employees of the state agencies, while traveling on official business and away from their designated post of duty, shall be allowed, instead of their actual expenses for subsistence and all fees or tips, a per diem allowance to be prescribed by the commissioner of administration under the regulatory authority set out in AS 39.20.160, and in consultation with the head of the agency concerned.

Sec. 39.20.120. Allowable expenses.

Except as provided in AS 39.20.110 - 39.20.170, only actual and necessary traveling expenses shall be allowed to an official or employee.

Sec. 39.20.130. Mileage allowance.

Officials and employees of state agencies shall, under regulations adopted by the commissioner of administration, and whenever the mode of transportation is authorized or approved as more advantageous to the state, be paid an amount, instead of actual expenses of transportation, not to exceed a mileage allowance set by the commissioner of administration for the use of privately-owned automobiles or airplanes, when engaged in official travel inside or outside their designated posts of duty or places of service. In addition to the mileage allowance, there may be allowed reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls. When two or more officials or employees are traveling in the same direction, and it is possible to share a privately-owned automobile or airplane, the mileage permitted shall be allowed only once.

Sec. ~~39.20.140~~. Travel costs and travel outside the state.

(a) The Department of Administration may not pay an official or employee for per diem or transportation costs unless the travel is clearly necessary to benefit the state.

(b) The Department of Administration may not reimburse an official or employee or pay for more than the lowest tourist class fare for the most direct route unless

(1) tourist class accommodation is not available;

(2) waiting for tourist class accommodation would occasion a delay harmful to the state; or

(3) the Department of Administration finds that travel by tourist class accommodation is not in the best interest of the state, and authorizes other accommodation.

(c) When the Department of Administration authorizes more expensive travel under (b)(3) of this section, it shall file a justification for that authorization with the travel voucher. When fares other than tourist class are authorized under (b) of this section, the Department of Administration may not reimburse the official or employee or pay for more than the lowest first class fare available.

(d) Officials and employees are authorized to travel only the least number of days necessary to transact the business involved, to secure return passage, and to return.

(e) Every official and employee shall, unless otherwise authorized by law to travel outside the state, obtain prior approval for travel outside the state from the head of the official's or employee's department or from an immediate supervisor, or from the Department of Administration if the official or employee is not within a department or is not under the direct supervision of an official or supervisor. If an employee deviates materially from the travel authorized under this section, the employee must obtain approval for the deviation from the person who approved the travel before the Department of Administration may reimburse the employee for the travel.

#### Sec. 39.20.150. Advances and recovery.

(a) An agency may advance, through proper disbursing methods, to a person entitled to per diem or mileage allowance under AS 39.20.110 - 39.20.170 the sums considered advisable considering the character and probable duration of the travel to be performed.

(b) Sums advanced and not used for allowable travel expense are recoverable by setoff against salary due, or otherwise, from the person to whom advanced, or the person's estate, by deduction from any amount due from the state, or by other legal methods of recovery that may be necessary.

#### Sec. 39.20.160. Regulations.

The fixing and payment under AS 39.20.110 - 39.20.170 of travel and per diem allowances and of advances and recovery and reimbursement of travel expenses shall be in accordance with regulations adopted by the commissioner of administration. The regulations shall be uniform for all officials and employees, and all agencies and departments. The regulations shall also govern the use of public transportation facilities by officials and employees. The regulations relate to the internal management of state agencies and their adoption is not subject to AS 44.62 (Administrative Procedure Act).

#### Sec. 39.20.170. Construction of AS 39.20.110 - 39.20.170.

AS 39.20.110 - 39.20.170 may not be construed to modify or repeal a law providing for the travel expenses of the governor, or members of the legislature, or members of boards or commissions of the state government.

# Attachment 3

Prepared by: Ethics Committee  
November 18, 2010

## HISTORICAL PERSPECTIVE LEGISLATIVE TRAVEL AND COLLATERAL CAMPAIGN ACTIVITY

### 1993 - Chair of the Ethics Committee in September 1993 recommended

Use of State Funds and Property:

State funds (travel, per diem, or salary stipend) may not be claimed, received or accepted by legislators or legislative employees unless the primary purpose of the trip is official legislative business.

Incidental use of time in travel or pay status may be spent for personal purposes provided:

- a.) No time, materials, equipment, or funds are spent in political activities; e.g. fund raising, handing out campaign literature, circulating petitions, or requesting support or assistance for any candidate or cause.
- b.) No time, materials, equipment or funds are spent in lobbying activities of any kind.
- c.) No unlawful activities are undertaken.

*No action taken by the Committee.*

### 1993- Memo from Speaker of the House, Ramona Barnes

In a memo dated September 21, 1993 from Speaker Barnes, she states,

“During the legislative session each lawmaker is allowed one trip back to their district for legislative business. This applies to both majority and minority members. During the interim all requests from legislators for travel to NCSL and the Western Legislative Conference have been approved as have all travel requests by committee members wishing to attend their committee meetings. Additionally it has been my policy to approve travel requests by members appointed to various task forces and subcommittees to attend events that relate to the work they are involved in. All other travel requests are reviewed on a case by case basis. I approve all staff travel on a case by case basis when such travel is appropriate to their majority or minority status. With respect to attending campaign activities during a state paid trip that involved legislative business, it has not been allowed in the past and is not allowed now.”

### 1993- Letter from Senate President Rick Halford

In a letter dated October 23, 1993, from Senate President, he states,

“You specifically requested travel authorization information concerning attendance at campaign activities during a state paid trip. State paid travel is authorized for legislative business. Campaign activities are not an acceptable purpose for travelling at state expense.”

**1994- Ethics Committee suggested the following guidelines**

Version 1: Campaign activity may occur provided the legislator completes no less than 7.5 hours per day of non-campaign related state business. The travel authorization request, filed in advance, must indicate what specific state business activities will be undertaken for a minimum of 7.5 hours per day and must indicate what type of campaign activity the legislator will be participating in. This does not apply to legislative employees. Legislative employees are not permitted to participate in campaign activities while in travel status.

*No action taken by the Committee.*

Version 2: Campaign activity may occur provided the legislator [or legislative employee] completes no less than 4 hours per day of state related business. The travel authorization request must be filed in advance.

*No action taken by the Committee.*

**1995 - Ethics Committee: Open Issue regarding Legislation**

What can or can't a legislator or legislative employee do while in "travel status?"

Ethics Committee Minutes: On February 3, 1994, the committee sent a letter to Legislative Council requesting the council to develop guidelines concerning travel, specifically campaign activities while in "travel status." Legislative Council did not respond to the request. The committee continues to receive inquiries on this issue. On February 13, 1995, the committee directed staff to send another letter to Legislative Council.

*No response is on file in the Ethics Office.*

**1996 – Ethics Committee issues Advisory Opinion 96-05**

The committee was asked the following by a legislator: Whether a legislator may accept payment for the costs of a trip on which the legislator conducted both legislative business and personal business? The committee concluded it is permissible for a legislator to accept state payment for the costs of a trip on which governmental business was conducted. The committee further noted that it does not have authority, in the context of advisory opinions, to use its judgment in lieu of a legislator's judgment in determining what is necessary state business or how much state business is necessary to justify accepting state payment for a trip. The committee also cautioned that if a legislator or legislative employee were to intentionally use a façade of legislative business to obtain a government paid trip but were to fail to conduct any governmental business to justify governmental payment, the committee might well find a violation of AS 24.60.0309(a)(2). The committee also noted in the opinion the following statements: "*The ethics committee has, in the past, requested an explanation of legislative travel and per diem policy from Legislative Council. A response has not been forthcoming to date.*"

1997/98 -- SB 105, Ethics/Lobbying/Campaign Finance

SB 105 was introduced on February 25, 1997 by the Senate Rules Committee by Request of the Legislative Ethics Committee. SB 105 was signed into law on July 15, 1998. An amendment to the bill, which was not adopted, addressed the subject of state paid travel and campaigning while on that trip. The amendment read as follows:

SB 105H HCS CCSSB 105(STA) 4/23/98

House CS for CS for Senate Bill No. 105(STA)

Section 17. AS 24.60.031 is amended by adding new subsections to read:

(c) A legislator may not travel at state expense to a place in which the legislator plans to hold a campaign fund raising event if the travel occurs less than 48 hours before the event is scheduled to begin. This subsection does not prohibit a legislator from holding a campaign fund raising event in a place to which the legislator travels at state expense if the

- (1) travel to the place is completed at least 48 hours before the event was scheduled to begin;
- (2) legislator made a trip at state expense to a place, returned from that place, and then, within 48 hours, made a second trip to the place and the cost of the second trip was not paid for at state expense; or
- (3) travel was to the capital city immediately before the beginning of a legislative session or from the capital city to the legislator's home immediately after the final adjournment of a regular or special legislative session.

(d) In (c) of this section, an event is considered to be a campaign fund raising event only if the legislator, or another person acting on behalf of the legislator with the legislator's expense or implied permission,

- (1) asks for contributions for the legislator's campaign at the event;
- (2) announces that the legislator will accept contributions for the legislator's campaign at the event; or
- (3) otherwise uses the event in a manner that clearly demonstrates that a primary purpose of the event is to raise contributions for the legislator's campaign;

the fact that a legislator received campaign contributions at an event is insufficient, without other evidence, to satisfy the proof required by this paragraph.

This subject was discussed at the following committee meetings:

- House State Affairs Committee meeting of April 9, 1998
- House State Affairs Committee meeting of April 16, 1998
- House State Affairs Committee meeting of April 21, 1998
- House Finance Committee meeting of April 24, 1998.

(Minutes from these meetings are attached for your reference.)

**2010 – Ethics Committee Staff drafted two versions of possible clarifying statutory language**

AS 24.60.030(a)(5) A legislator or legislative employee may use or authorize the use of state funds, facilities, equipment, services or another government asset or resource for the purpose of political fund raising or campaigning: this paragraph does not prohibit

Version 1 – add a new section (B)

(B) limited use of state funds while traveling on legislative business for political fund raising or campaigning purposes if the use

- (i) is collateral or incidental to the normal, scheduled performance of official duties;
- (ii) does not exceed 10 percent of the total time spent on the trip;
- (iii) does not interfere with the performance of public duties, and
- (iv) there is no additional cost to the state;

Version 2 – add a new section (B)

(B) limited use of state funds while traveling on legislative business for political fund raising or campaigning purposes if the use

- (i) is collateral or incidental to the normal, scheduled performance of official duties;
- (ii) does not exceed 10 percent of the total time spent on the trip;
- (iii) does not interfere with the performance of public duties,
- (iv) does not occur within 30 days of an election in which the legislator or legislative employee is a candidate for office,
- (v) generate no additional cost to the state, and
- (vi) the proportionate share of the actual cost of the use shall be reimbursed to the state;

*No discussion. Item was not before the committee as an agenda item.*

**2010 - Ethics Committee issues Advisory Opinion 10-01 and then rescinded their action**

The committee issued Advisory Opinion 10-01 on May 27, 2010 and then rescinded the opinion at the June 14, 2010 meeting and referred back to the August 19, 2008 letter to the Alaska Public Offices Commission for guidance in this area. AO 10-01 stated that it was the nature of the business conducted rather than whether it is paid for with state resources that should be the governing standard in determining whether an ethical violation has occurred. A statement signed by the legislator designating the primary nature and purpose of the business rather than whether it is paid for by state resources should suffice to govern whether or not collateral activities can or cannot occur. AS 24.60.030(a)(3).

The August 19, 2008 letter to APOC the committee stated a legislative resource, including money provided by the legislature to cover or reimburse costs incurred by a legislator or legislative employee while traveling on legislative business, is a government asset or resource. A government asset or resource may not be used for involvement in or support of or opposition to partisan political activity. AS 24.560.030(a)(2). A legislator or legislative employee may not use or authorize the use of government asset or resource for the purpose of political fund raising or campaigning. AS 24.60.030(a)(5).

20th Legislature(1997-1998)

**Bill History/Action for 20 Legislature**

BILL: SB 105

SHORT TITLE: ETHICS/LOBBYING/CAMPAIGN FINANCE

BILL VERSION: HCS CSSB 105(FIN) AM H

CURRENT STATUS: CHAPTER 74 SLA 98

STATUS DATE: 06/03/98

SPONSOR(s): RULES BY REQUEST OF LEGISLATIVE ETHICS COMMITTEE

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

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Next Bill

Full Text

Minutes

Display Bill History

Jrn-Date	Jrn-Page	Action
02/25/97	<a href="#">0494</a>	(S) READ THE FIRST TIME - REFERRAL(S)
02/25/97	<a href="#">0494</a>	(S) STATE AFFAIRS, FINANCE
03/11/97	<a href="#">Text</a>	(S) STA AT 3:30 PM BELTZ ROOM 211
03/11/97	<a href="#">Text</a>	(S) <BILL HELD OVER TO 3/13 MEETING>
03/11/97	<a href="#">Text</a>	(S) MINUTE(STA)
03/13/97	<a href="#">Text</a>	(S) STA AT 3:30 PM BELTZ ROOM 211
03/13/97	<a href="#">Text</a>	(S) MINUTE(STA)
03/18/97	<a href="#">Text</a>	(S) MINUTE(STA)
03/25/97	<a href="#">Text</a>	(S) STA AT 3:30 PM BELTZ ROOM 211
03/25/97	<a href="#">Text</a>	(S) MINUTE(STA)
03/26/97	<a href="#">0873</a>	(S) STA RPT CS 3DP NEW TITLE
03/26/97	<a href="#">0873</a>	(S) DP: GREEN, MILLER, WARD
03/26/97	<a href="#">0873</a>	(S) FISCAL NOTE TO SB (ADM)
03/26/97	<a href="#">0873</a>	(S) ZERO FISCAL NOTE TO SB (LAA)
03/26/97	<a href="#">0873</a>	(S) FISCAL NOTE TO CS (ADM)
04/10/97	<a href="#">Text</a>	(S) FIN AT 5:00 PM SENATE FINANCE 532
04/10/97	<a href="#">Text</a>	(S) MINUTE(FIN)
04/10/97	<a href="#">Text</a>	(S) MINUTE(FIN)
04/15/97	<a href="#">Text</a>	(S) FIN AT 8:00 AM SENATE FINANCE 532
04/15/97	<a href="#">Text</a>	(S) MINUTE(FIN)
04/16/97	<a href="#">1163</a>	(S) FIN RPT CS 2DP 5NR NEW TITLE
04/16/97	<a href="#">1163</a>	(S) DP: PEARCE; DP IF AM: PHILLIPS
04/16/97	<a href="#">1163</a>	(S) NR: SHARP, PARNELL, ADAMS, TORGERSON,
04/16/97	<a href="#">1163</a>	(S) DONLEY
04/16/97	<a href="#">1163</a>	(S) PREVIOUS ZERO FN APPLIES (LAA)
04/16/97	<a href="#">1163</a>	(S) ZERO FNS TO CS (LABOR, LAW)
04/16/97	<a href="#">1163</a>	(S) PREVIOUS ZERO FN APPLIES (LAA)
04/16/97	<a href="#">Text</a>	(S) FIN AT 8:00 AM SENATE FINANCE 532
04/16/97	<a href="#">Text</a>	(S) MINUTE(FIN)
04/16/97	<a href="#">Text</a>	(S) MINUTE(FIN)
04/18/97	<a href="#">1276</a>	(S) RULES TO CALENDAR & INR 4/18/97
04/18/97	<a href="#">1279</a>	(S) READ THE SECOND TIME
04/18/97	<a href="#">1279</a>	(S) FIN CS ADOPTED UNAN CONSENT
04/18/97	<a href="#">1280</a>	(S) AM NO 1 OFFERED AND WITHDRAWN

04/18/97 1281 (S) AM NO 2 FAILED Y4 N13 E3  
 04/18/97 1282 (S) AM NO 3 FAILED Y4 N13 E3  
 04/18/97 1283 (S) AMENDMENTS 4, 5 NOT OFFERED  
 04/18/97 1283 (S) AM NO 6 ADOPTED Y12 N5 E3  
 04/18/97 1285 (S) AM NO 7 FAILED Y7 N10 E3  
 04/18/97 1286 (S) AM NO 8 FAILED Y5 N12 E3  
 04/18/97 1287 (S) AM NO 9 ADOPTED Y17 N- E3  
 04/18/97 1291 (S) ADVANCED TO THIRD READING UNAN CONSENT  
 04/18/97 1291 (S) READ THE THIRD TIME CSSB 105(FIN) AM  
 04/18/97 1292 (S) PASSED Y15 N2 E3  
 04/18/97 1292 (S) EFFECTIVE DATE(S) SAME AS PASSAGE  
 04/18/97 1292 (S) LINCOLN NOTICE OF RECONSIDERATION  
 04/18/97 Text (S) RLS AT 10:45 AM FAHRENKAMP RM 203  
 04/18/97 Text (S) MINUTE(RLS)  
 04/21/97 1334 (S) RECON TAKEN UP - IN THIRD READING  
 04/21/97 1335 (S) RETURN TO SECOND FOR AM 10 UNAN CONSENT  
 04/21/97 1335 (S) AM NO 10 ADOPTED Y14 N5 E1  
 04/21/97 1336 (S) AUTOMATICALLY IN THIRD READING  
 04/21/97 1337 (S) PASSED ON RECONSIDERATION Y17 N2 E1  
 04/21/97 1337 (S) EFFECTIVE DATE(S) SAME AS PASSAGE  
 04/21/97 1370 (S) TRANSMITTED TO (H)  
 04/22/97 1232 (H) READ THE FIRST TIME - REFERRAL(S)  
 04/22/97 1233 (H) STATE AFFAIRS, FINANCE  
 02/05/98 Text (H) STA AT 8:00 AM CAPITOL 102  
 02/05/98 Text (H) MINUTE(STA)  
 02/12/98 Text (H) STA AT 8:00 AM CAPITOL 102  
 02/12/98 Text (H) MINUTE(STA)  
 02/17/98 Text (H) STA AT 8:00 AM CAPITOL 102  
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 02/24/98 Text (H) STA AT 3:00 PM CAPITOL 102  
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 04/04/98 Text (H) MINUTE(STA)  
 04/07/98 Text (H) STA AT 8:00 AM CAPITOL 102  
 04/07/98 Text (H) <BILL HELD OVER>

04/07/98 Text (H) MINUTE(STA)  
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 04/18/98 Text (H) STA AT 10:00 AM CAPITOL 102  
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 04/21/98 Text (H) STA AT 8:00 AM CAPITOL 102  
 04/21/98 Text (H) <BILL HELD OVER>  
 04/21/98 Text (H) MINUTE(STA)  
 04/23/98 3210 (H) STA RPT HCS(STA) NT 6NR  
 04/23/98 3210 (H) ...TECHNICAL TITLE CHANGE  
 04/23/98 3210 (H) NR: JAMES, IVAN, ELTON, BERKOWITZ.  
 04/23/98 3210 (H) RYAN, HODGINS  
 04/23/98 3211 (H) FISCAL NOTE (LAW)  
 04/23/98 3211 (H) ZERO FISCAL NOTE (ETH CMTE)  
 04/24/98 Text (H) FIN AT 8:00 AM HOUSE FINANCE 519  
 04/24/98 Text (H) MINUTE(FIN)  
 04/27/98 Text (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 05/04/98 Text (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 05/04/98 Text (H) FIN AT 6:00 PM HOUSE FINANCE 519  
 05/05/98 Text (H) MINUTE(FIN)  
 05/05/98 Text (H) MINUTE(FIN)  
 05/06/98 3556 (H) FIN RPT HCS(FIN) NT 3DP 4NR 1AM  
 05/06/98 3556 (H) ...TECHNICAL TITLE CHANGE  
 05/06/98 3556 (H) DP: MULDER, MARTIN, DAVIES  
 05/06/98 3556 (H) NR: THERRIAULT, GRUSSENDORF, DAVIS,  
 05/06/98 3556 (H) KELLY; AM: KOHRING  
 05/06/98 3556 (H) FISCAL NOTE (ADM)  
 05/06/98 3556 (H) 2 ZERO FNS (H.FIN/LAA, ADM)  
 05/06/98 3556 (H) FISCAL NOTE (LAW) 4/23/98  
 05/06/98 3557 (H) ZERO FISCAL NOTE (ETHICS) 4/23/98  
 05/11/98 3821 (H) RULES TO 1ST SUPPLEMENTAL CAL 5/11/98  
 05/11/98 3821 (H) READ THE SECOND TIME  
 05/11/98 3821 (H) FIN HCS ADOPTED UNAN CONSENT  
 05/11/98 3822 (H) AM NO 1 FAILED Y14 N23 A3  
 05/11/98 3822 (H) AM NO 2 ADOPTED UNAN CONSENT  
 05/11/98 3823 (H) AM NO 3 ADOPTED UNAN CONSENT  
 05/11/98 3823 (H) AM NO 4 NOT OFFERED  
 05/11/98 3823 (H) AM NO 5 FAILED Y14 N25 A1  
 05/11/98 3824 (H) WITHDRAW AM NO 6 PASSED Y21 N18 A1  
 05/11/98 3825 (H) AM NO 7 OFFERED  
 05/11/98 3825 (H) AM TO AM 7 ADOPTED UNAN CONSENT  
 05/11/98 3826 (H) AM 7 AS AM FAILED Y12 N27 A1  
 05/11/98 3826 (H) ADVANCED TO THIRD READING 5/12 CALENDAR  
 05/12/98 3897 (H) READ/THIRD TIME HCS CSSB 105(FIN) AM 11  
 05/12/98 3897 (H) RETURN TO SECOND FOR AM 8 UNAN CONSENT  
 05/12/98 3898 (H) AM NO 8 ADOPTED Y21 N17 A2

- 05/12/98 [3899](#) (H) AUTOMATICALLY IN THIRD READING
- 05/12/98 [3899](#) (H) PASSED Y37 N1 A2
- 05/12/98 [3900](#) (H) EFFECTIVE DATE(S) SAME AS PASSAGE
- 05/12/98 [3900](#) (H) RESCIND ACTION IN PASSING Y25 N14 A1
- 05/12/98 [3901](#) (H) RETURN/2ND RESCIND ACTION AM 8 PD Y27N13
- 05/12/98 [3902](#) (H) RESCIND ACTION PASSING AM8 PD Y26 N13 A1
- 05/12/98 [3902](#) (H) AM NO 8 FAILED Y18 N22
- 05/12/98 [3903](#) (H) AUTOMATICALLY IN THIRD READING
- 05/12/98 [3903](#) (H) PASSED Y40
- 05/12/98 [3903](#) (H) EFFECTIVE DATE(S) SAME AS PASSAGE
- 05/12/98 [3943](#) (H) TRANSMITTED TO (S) AS AMENDED
- 05/12/98 [4166](#) (S) CONCUR AM OF (H) Y20 N-
- 05/26/98 [4205](#) (S) 10:40 AM 5/15/98 TRANSMITTED TO GOVERNOR
- 07/15/98 [4276](#) (S) SIGNED INTO LAW 6/3 CHAPTER 74 SLA 98
- 07/15/98 [4277](#) (S) EFFECTIVE DATE OF LAW SEE CHAPTER

Similar Subject Match or Exact Subject Match

CAMPAIGNS

DISCLOSURE

EMPLOYMENT

ETHICS

EXECUTIVE BRANCH

GOVERNOR

LEGISLATIVE AGENCIES

LEGISLATORS

LOBBYISTS

PUBLIC EMPLOYEES

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20th Legislature(1997-1998)

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20<sup>TH</sup> Legislature (1977-1998)  
Committee Minutes  
HOUSE STATE AFFAIRS  
April 09, 1998

Number 0201

CHAIR JAMES asked Mr. Brown to address Amendment LS0074\L.2,  
Cramer, 4/3/98.

MR. BROWN explained Amendment L.2 deals with fund-raisers happening when people are traveling at state expense. This language puts a prohibition in place for legislators, governor and lieutenant governor. If you go somewhere at state expense it should have to be incidental if you end up staying there and holding a political fund-raiser it should not at any way be apparent to the public that that was part of the reason there at state expense. This puts a 48-hour ban in place to try to prevent that sort of activity.

Page 17, following line 5, insert a new bill section to read:

\*Sec. 21. AS 24.60.031 is amended by adding a new subsection to read:

(c) a legislator may not travel at state expense to a place in which the legislator plans to hold a campaign fund raising event if the travel occurs less than 48 hours before the event is scheduled to begin. This subsection does not prohibit a legislator from holding a campaign fund raising event in a place to which the legislator traveled at state expense if the travel to the place is completed at least 48 hours before the event was scheduled to begin.

Page 48, following line 31, insert a new subsection to read:

(b) Except for travel to the capital city, an elected official may not travel at state expense to a place in which the official plans to hold a campaign fund raising event if the travel occurs less than 48 hours before the event is scheduled to begin. This subsection does not prohibit an elected official from holding a campaign fund raising event in a place to which the elected official traveled at state expense if the travel to the place is completed at least 48 hours before the event was scheduled to begin. In this subsection, "elected official" means the governor or the lieutenant governor.

Number 0210

REPRESENTATIVE BERKOWITZ stated, "I drive home at the end of session ... they want to have a fund-raising event for me when I get there, they can't do it."

MR. BROWN replied they can after 48-hours or if you don't take your state reimbursement for the drive. If it were 48-hours after you got home state expense would cover your reimbursement.

Number 0213

CHAIR JAMES stressed she didn't think that was ever the intent of this amendment, there should be an exception when you go home at the end of the legislative session. She suggested they include that as an amendment to this amendment.

MR. BROWN indicated that was discussed with the drafter as an exemption for adjourning travel not for convening travel.

REPRESENTATIVE BERKOWITZ remarked if you don't want people to travel at state expense solely or primarily to have a fund-raising event, and if that's the case why don't we just say it that way.

CHAIR JAMES asked for a motion to adopt Amendment L.2 for discussion and amending if needed.

Number 0222

REPRESENTATIVE HODGINS made a motion to adopt proposed Amendment L.2 for discussion.

REPRESENTATIVE RYAN objected.

CHAIR JAMES noted there is an objection. Chair James said she believes it should be amended that in the adjourning trip home, especially when they are limited to any campaigning while in the capital and there is so little time, going home should not be the issue.

REPRESENTATIVE HODGINS said he is totally against the amendment since he lives in Kenai and makes many trips to Anchorage. He indicated this means he can't go into Anchorage two days prior to, a function or committee meeting, or something like that. He will be voting against it if it is a 48-hour thing.

CHAIR JAMES responded it is not proper for her to fly from Fairbanks to Anchorage to attend fund-raising. She indicated she has either paid her own way or used her campaign funds to pay and has not traveled to Anchorage for a fund-raiser on state pay because she doesn't believe it's right.

Number 0234

REPRESENTATIVE HODGINS continued. He pointed out Kenai is so close to Anchorage that he will make several trips back and forth. If he has business the day before (an Oil and Gas Committee meeting) and travels on a state warrant and returns to Kenai and the following day travel to Anchorage on his own money for a fund-raiser that would unduly restrict him for the compensation of traveling the day before. He said they're assuming that you...

CHAIR JAMES stressed the four days is a problem in the amendment.

REPRESENTATIVE HODGINS read the amendment which addresses traveling at state expense and travel that occurs less than 48 hours before the event is scheduled to begin. He stressed if he makes a round-trip on Tuesday and attends a fund-raiser on Wednesday...

CHAIR JAMES reiterated this isn't going to work.

MR. BROWN remarked he believes the drafter deleted another sentence when she put the legislative language in there. He indicated at that time they were only dealing with the governor.

Number 0246

CHAIR JAMES noted the governor is what prompted them on the issue of whether or not he should be raising funds while they are in a legislative session when someone is running against him. She said, "We tried to solve on the floor ... so now he can't. That means he can go visit somebody, any place in the state, and have a fund-raiser while he's there. Unless we put something in here, that's still allowed. I don't think it should be, and I think it's fair for both of us to not." She asked that this amendment be withdrawn for now and move onto the next amendment.

Number 0254

REPRESENTATIVE HODGINS removed his motion to adopt Amendment L.2.

CHAIR JAMES indicated they need to talk to the drafter.

*No action taken at  
this meeting.*

20<sup>TH</sup> Legislature (1977-1998)  
Committee Minutes  
HOUSE STATE AFFAIRS  
April 16, 1998

MR. BROWN explained Amendment P.2 deals with the ban of fund-raising by elected officials who have traveled somewhere at state expense for that fund-raiser. The problem with the way it was written is that the ban precluded a...

TAPE 98-52, SIDE B  
Number 0004

MR. BROWN continued. That same place, within the 48 hours, and still be able to have a fund-raising event. Especially those on the road system near Anchorage would be penalized by that. He indicated that wasn't the intention that was a drafting error.

Sec. 17. AS 24.60.031 is amended by adding a new subsection to read:

(c) A legislator may not travel at state expense to a place in which the legislator plans to hold a campaign fund raising event if the travel occurs less than 48 hours before the event is scheduled to begin. This subsection does not prohibit a legislator from holding a fund raising event in a place to which the legislator traveled at state expense if the

(1) travel to the place is completed at least 48 hours before the event was scheduled to begin;

(2) legislator made a trip at state expense to a place, returned from that place, and then, within 48 hours, made a second trip to the place and the cost of the second trip was not paid for at state expense; or

(3) travel was to the capital city immediately before the beginning of a legislative session or from the capital city to the legislator's home immediately after the final adjournment of a regular or special legislative session.

ReNUMBER the following bill sections accordingly.

Page 47, line 28:

Delete: "a new subsection"

Insert: "new subsections"

Page 47, following line 28:

Insert a new subsection to read:

(d) Except for travel to the capital city, the governor or the lieutenant governor may not travel at state expense to a place in which the official plans to hold a campaign fund raising event if the travel occurs less than 48 hours before the event is scheduled to begin. This subsection does not prohibit the governor or the lieutenant governor from holding a campaign fund raising event in a place to which the official traveled at state expense if the

(1) travel to the place is completed at least 48 hours before the event was scheduled to begin;

(2) official made a trip at state expense to a place, returned from that place, and then, within 48 hours, made a second trip to the place and the cost of the second trip was not paid for at state expense.

MR. BROWN said the prohibition doesn't exist right now. It's come up more as an issue in terms of the executive branch and concern about travel at state expense by the chief executive and then fundraisers being held. He implied the same standard has been put in place for the governor, and the governor's home is considered to be Juneau for the purposes of the governor's term of office. Other than that, there is the same 48-hour ban and the go, come back, and go back again at personal expense or campaign expense exemption.

Number 0022

REPRESENTATIVE BERKOWITZ asked what's a campaign event. If someone slips him a check, is that a campaign event.

MR. BROWN responded no.

REPRESENTATIVE BERKOWITZ asked if he goes around collecting checks from people that's fine.

CHAIR JAMES replied, "No that's a campaign event. If somebody accidentally gives you one, or sends you one, gives you one when you're there - people do that all the time, but if you are making an effort to collect them (indisc. - interrupted) depends on who initiates it."

MR. BROWN added that we would hold that standard if an invitation went out, or a public announcement was made, or there was a guest list, or someone was coordinating the event.

Number 0029

REPRESENTATIVE BERKOWITZ said if he starts calling people and asking for money that doesn't seem to rise to the level of being an event.

MR. BROWN said he doesn't foresee that being a problem, of course for legislators, running for legislative office, this isn't going to happen during session anyway, this is an interim concern. For the governor, as SB 275 is now on its way through the system, it's a concern year-round. He implied that it's a heightened level of concern for the governor.

Number 0037

REPRESENTATIVE ELTON expressed that his heightened concern is for the governor and the lieutenant governor. He asked does this mean that if they're in Anchorage on business that they cannot have dinner with their campaign manager.

MR. BROWN replied he didn't think dinner with the campaign manager is a fund-raising event. If the campaign manager invited ten employees from the timber industry to sit down with the governor, and they were told ahead of time to please bring a check, that would be an event. He expressed the public policy goal is not to have the governor fly to Anchorage at state expense and attend that dinner.

REPRESENTATIVE ELTON indicated they may be discussing a fund-raising event that they will be setting up a month later.

MR. BROWN responded saying that's a strategy, that's not a fund-raising event. He said they didn't want to (indisc.) in that too wide here. It was just to ban a very specific organized type of fund-raising activity. It's a public perception thing, people will say, "Gosh I saw this public official on TV this morning cutting a ribbon, and I know tonight this public official is having a fund-raiser at so and so's house, and I know that this public official traveled to and from Anchorage - is paid by the state."

MR. BROWN implied Ms. Barnett recommended that if it were possible to apportion the cost of your trip, say it was 50 percent business and 50 percent campaign. He said that would be the squeaky clean way to do it, but in terms of enforcement and advising people, it just didn't seem that that was going to be a very workable statute. It seemed easier to say, if it's for state expense you travel at state expense, and if it's for campaign purposes you travel at campaign expense.

Number 0056

REPRESENTATIVE IVAN IVAN indicated he can respect the intent of the legislation to correct deficiencies that occurred several years ago, but it's getting to a borderline of controlling our thinking. He said, "The governor sitting down with his campaign manager, or me sitting down with someone that will help me ... and now his thoughts are going to be controlled."

CHAIR JAMES stated that she doesn't think that was the intent of the conversation. She said she thinks the intent was to try to define a fund-raising event and if it's still questionable, as to what a fund-raising event is, we might want to describe what it is and what it isn't. It's not questionable and would be easy to define. That the questions that Representative Berkowitz had - if somebody hands you an occasional check, when you're out on state business, or whatever, during a period of time, when it's okay to

accept a check, that certainly is not a fund-raising event. Chair James interpreted a fund-raising event as a place where people come, they either pay to come, or they're invited to attend and to bring their checkbook to an event. This could be any kind of event where more than a certain number of people come together for that purpose.

Number 0073

CHAIR JAMES said, "If any one of us has traveled ... and we talk to somebody who is a campaign chairman or something, it wouldn't necessarily happen with the legislator because the legislator is going to be traveling within their own district. ... It's 250 miles from one end of my district to the other and I live in one end, and if I go down the other end - sometimes I go down there for business and sometimes I go down there because I'm campaigning - and it's not like buying an airplane ticket because I don't fly to get there I get in my car and I drive. And then if it's legislative business I turn in the mileage and any expense I had as a legislative trip. If I'm going down there, and going to be campaigning, or having a fund-raiser or something, then I don't do that. I don't turn that in. And so there is a decision as to whether or not you're going on state business or not."

CHAIR JAMES said, "But generally when you're talking about traveling some place on state business, having a fund-raiser happens a lot when we have fund-raisers in Anchorage and I'm in Fairbanks. And so if I'm going to travel down there, even if I'm traveling on fund-raising money, my campaign account is an example, and I'm going to be there for several days, I'm going to do legislative business too, which could be in an election year considered to be almost campaigning too - if I'm going to be talking to the people that I want to talk about, about future issues (indisc.) help as to how things should be addressed. We have many times caucuses in Anchorage, and then we also have a fund-raiser when we have a caucus. To me the caucus is happening because we have the fund-raiser. I'll pay my way with my campaign account to get there. In fact, we don't usually get any reimbursement for going to a caucus anyway because it's a political issue. So, the only time that I would be down there on state business is if I'm going to be there for some kind of a hearing, some kind of a committee meeting, or something to that effect. And if it happens to be that there's a fund-raiser scheduled at that same time, then I either should pay for my way to get down there, under this law, or with my campaign funds, or I should go back home and come back again, one way or the other, or I shouldn't go to the fund-raiser. Now that may affect some of the ways we've been doing things in the legislature because it is true, if we happen to have committee meetings or something and there is a fund-raiser, that there probably are some cases in the past where I was paid to go to Anchorage and back because of the committee. I don't know of any specifics, but there could have been, and I don't know that that ever happened. But it's a possibility, probably not under the current campaign finance law where you can't do any fund-raising in the off-year, then that might not be the case. And so I didn't go to any -- but they had some fund-raisers in this last campaign year for the party, I didn't go to any of them. So I know I haven't done that. But this would make it perfectly clear, that if you're going anywhere to attend a fund-raiser - and the only ones I could think of would be going to Anchorage because that's where a lot of fund-raisers are happening. You don't use state funds to get

there, and I'm perfectly comfortable with that, I think it's a good thing to put into law."

CHAIR JAMES said, as far as the governor is concerned she believes that is also the case. That during an election year, it can't happen in the other three years before that, and it can't happen under this current law because there can't be any fund-raising in those three years. It's only in the year of the campaign that the advantage of the governor and the lieutenant governor is (indisc.) in their being able to travel the state on governmental business, and have a fund-raiser everywhere they go. Chair James indicated that is wrong in her estimation. It doesn't make it fair if the governor can travel all over the state, having fund-raisers and campaigning, and the challengers can't. What we're trying to do is to make a level playing field. She believes this is a rational way of doing it.

Number 0117

REPRESENTATIVE ELTON asked Ms. Barnett how comfortable she is now that the Legislative Ethics Committee is going to have this kind of oversight of the chief administrative officers of the State of Alaska which is under AS 24.60.

MS. BARNETT replied she still doesn't have the P version of the bill but is assuming that other section, page 47, must go under 39.50 or must appear in a different part.

MR. BROWN directed the members to page 1, line 21 of the amendment. He said it refers you to page 47 of Version P of the bill under the Executive Branch Ethics Act.

Number 0126

REPRESENTATIVE ELTON asked how does this effect, for example, the Democratic Party. Every year it has a fund-raiser that's a golf tournament in Anchorage, how would this affect participation. If a person were in Anchorage on business, would they have to return, and then go back assuming that part of those receipts go to the Democratic Party and then to candidates?

MR. BROWN replied, "Right now, all this party building fund-raising - governor's funds, House and Senate Majority fund, those are not fund-raising events for individual candidates. This ban wouldn't apply to those, this is not a very wide net, this net is cast specifically for fund-raisers for individual campaigns. And the biggest one I'd like is, it doesn't apply to campaigning it applies to fund-raising. You can still go kiss every baby you want to, and shake every hand you want to, and hand out a million little plastic flags, you just can't raise money. ... So I don't think it's an onerous intrusion upon the rights of the incumbents to continue behaving politically, it's just targeting a very specific form of their activity which is raising money for themselves. If they were raising money in the off-year for themselves, they'd be violating the Campaign Finance Act. So those have to be party fund-raisers."

CHAIR JAMES reiterated that when you are raising money for your campaign, it doesn't seem right to have the expense of that fund-raiser be paid for by the state, that's the issue. She emphasized, if you get there at state expense, you better pay it back with your campaign expense. It's that simple.

MS. BARNETT referred to Representative Elton's question. She said she's not quite sure that it is clear in this language that it is a fund-raising event solely for that legislator. Maybe there's a way to clean that up a little bit more. She said she's not arguing at all with the notion, or concept. Ms. Barnett said it could be confusing if there was a party fund-raiser where moneys ended up in that legislator's hand at a later point.

REPRESENTATIVE BERKOWITZ said, "When the legislator plans, I think that's the determining phrase, if the party plans, it is something else."

CHAIR JAMES mentioned she is also having a problem with that. She said she is thinking of some of the fund-raisers that occurred in the campaign year. In particular, a majority fund-raiser where individual checks were made out to candidates. She indicated she doesn't feel comfortable with saying that because it's a party event.

MR. BROWN explained, under the Campaign Finance Act, those are reportable either as contributions to the party or to your campaign. The clarity exists in the Campaign Finance Act. He said, "You would be planning to hold an event - if there was a basket with your name on it at the event. If there was only a basket that said 'House Majority Fund' at the event - you know under the law you have no guarantee of receipt of those funds in your personal campaign even though you might be shaking people (indisc.). So I don't know how to go beyond the clarity of an APOC [Alaska Public Offices Commission] has to go on, when very likely some of those funds will end up in your campaign coffer. But they're going through the party first, and they're reportable to the party, and then the party has to report its donation to you, and someone has to make that decision."

Number 0160

CHAIR JAMES reiterated that she understands the intent and that she is not comfortable with the language as well because it's not specific enough.

MS. BARNETT referred to 24.60.031. She said in the existing law there is something that says a legislator or a legislative employee may not accept money from an event held during a legislative session. She said this language may help:

if a substantial purpose of the event is to raise money on behalf of the member for campaign purposes

MS. BARNETT stated she is a little more comfortable with that where it targets that person.

CHAIR JAMES said she is willing to put Amendment P.2 aside since we will be working on it between now and Saturday to come up with something that's more definitive.

MR. BROWN said, "I asked the drafter, 'Do we know what a fund-raising event is,' and she said 'yes, it's a fund-raising event,' just like you [Chair James] said. So there are times when you want to define, and there are times when you think the language is going to do the job itself. But I think it's -- if there's some gray

area, that's the point of concern here is what's a fund-raising event - if it's party building, if it's a majority event. So I'm happy to work with the drafter and actually put a definition in for the purposes of the subsection of the Legislative Ethics Code and the Executive Branch Ethics Act."

REPRESENTATIVE BERKOWITZ said, another thing, when you're looking at the executive branch, not all governors call Juneau home.

MR. BROWN responded, "It's like a tax home. You have to take a home and not have it, you can't have two. Juneau has to be your home, it is, the governor's house is here - some governor's have chosen not to reside in it - in a very regular basis and they might take exception to that." He said he didn't know if it is possible to craft a statute to enable the governor to say, "I don't want to live in Juneau..."

CHAIR JAMES said she would venture to say that wherever the governor lives that when he goes back and forth between Juneau and that place, he's paid for at state expense, so the same applies.

MR. BROWN remarked that only one of them can be - he can only come home in one direction, you can't be going home both ways. He said, "If you have a suggestion about giving the Chief Executive the option of declaring some other place in the capital city his or her home for the purposes of their term office, I think it would be to that governor's disadvantage to pick some place besides Juneau, unless the governor's really not going to spend very much time here. But if the governor's really going to spend (indisc.) time here..."

REPRESENTATIVE BERKOWITZ said he spends four months of the year here and this doesn't make Juneau his home. If he is living in Clark for example that would be his home.

MR. BROWN said, "That's fine, but I'm going to say it's probably to your advantage, as the governor who wants to raise money. By the way he was the last governor who ran as an incumbent, right. So that's the last time we dealt with this issue really since the last two governors (indisc.) haven't run for reelection - or three. But the issue here is, do you want to be able to come back to Lake Clark and have unlimited fund-raisers within 48 hours, or do you want to be able to come back to Juneau and do that. So you can give the person the option, but they still have to pick one place."

REPRESENTATIVE BERKOWITZ said he doesn't want, by law that we declare that Juneau is the governor's home.

REPRESENTATIVE ELTON stated that he is not totally bothered by that.

MR. BROWN said, "For the purposes of the subsection."

REPRESENTATIVE BERKOWITZ reported that he's raised the point, he's thrown it out there, we've chewed on it, and now he's letting it go.

Number 0196

REPRESENTATIVE HODGINS said, "While we were pondering about the definition of frivolous, I wonder if we should ponder about the

definition of high-centered. I think there's some important stuff in this amendment as I pointed out earlier. My discomfort with the language was discriminatory about my situation. If I traveled to Anchorage from Kenai which I do quite a bit on state business the day before a fund-raiser, I can't really, the way the existing law is, is I cannot really accept - I have to travel on my own nickel even it's going to be for state business if it's 48 hours. This amendment allows me to make a round-trip the day of the thing at my expense and then to attend a fund-raiser which I think is very appropriate. And I would hope that we would go ahead and move this amendment, or some portion of this amendment. I don't have any problem on waiting until Saturday even though I detest Saturday meetings. As long as we don't get high-centered, I'll be here. But if we continue to get high-centered I won't be here."

MR. BROWN suggested the committee adopt the amendment now. He said he can bring forward a definition of a fund-raising event, or we can take this away and come back with one remembering everything that's been discussed.

Number 0209

CHAIR JAMES announced if there's no objection, we'll just set P.2 aside and deal with it again on Saturday. She said this bill is not leaving this committee without this provision in it.

REPRESENTATIVE BERKOWITZ said he thinks we just got off-center.

20th Legislature(1997-1998)  
**Committee Minutes**  
HOUSE STATE AFFAIRS  
Apr 21, 1998

SB 105 - ETHICS/LOBBYING/CAMPAIGN FINANCE

Number 0038

CHAIR JAMES announced the next order of business is CSSB 105(FIN) am, "An Act relating to legislative and executive branch ethics; relating to campaign finances for candidates for state office; relating to the conduct and regulation of lobbyists with respect to public officials; relating to the filing of disclosures by certain state employees and officials; making a conforming amendment to the definition of 'public official' for employment security statutes; and providing for an effective date."

Number 0090

BEN BROWN, Legislative Administrative Assistant to Senator Kelly Alaska State Legislature, came before the committee. He stated he distributed the revised work draft, LS0079\Q, Cramer, 4/20/98, that incorporates all the amendments made at the last meeting of the State Affairs Committee.

MR. BROWN also distributed Amendment Q.1 that reflects some concerns that other members of the House had, who probably won't have an opportunity to look at the bill in committee themselves.

Number 0096

REPRESENTATIVE MARK HODGINS asked if travel at state expense is included in the amendment.

MR. BROWN replied it is in both sections, the legislative ethics section and the executive branch ethics section. Mr. Brown referred to Section 17, page 15, AS 24.60.031 adds a new subsection on fund-raising during session. Section 74, page 48, AS 39.52.120. The provisions of the two are very similar and they do allow you to "double-back" as long as you pay for your trip - the most recent time you travel somewhere, then there's no 48 hours...

Number 0109

REPRESENTATIVE HODGINS had a question on Section 17, page 15, beginning on line 10.

(2) legislator made a trip at state expense to a place, returned from that place, and then, within 48 hours, made a second trip to the place and the cost of the second trip was not paid for at state expense;

REPRESENTATIVE HODGINS said, "If I was in Fairbanks on state business, flew into Anchorage on my normal course of going home, and then I flew down to Kenai, and then returned, I haven't really returned to the place that I came from at state expense - which would be Fairbanks. ... I just wanted to make sure there's no problem. ... Let's say that I live in Fairbanks, and I flew on state business to Anchorage and then decided I was going to have a fund-raiser, and it was a heck of a lot cheaper for me to fly to

Kenai at my own money and back ... or I even traveled by car to Palmer and back at my own expense. Does then that absolve me from having to go back to Fairbanks before I have a fund-raiser?"

CHAIR JAMES stated she didn't believe the intent of this is to have you go back to Fairbanks.

Number 0127

REPRESENTATIVE HODGINS gave another example. He said, "Let's say that I lived in Kenai and I'm flying into Anchorage on state business, and then while I'm there I think, well I'm going to have a fund-raiser, there's a fund-raiser planned. Rather than go to Kenai again, if I just rented a car and drove to Palmer and back, made a trip out of town and back at my own expense, I guess that's what I'm asking. As long as you make a trip out of the location, and back at your own expense, it doesn't really matter where you go."

CHAIR JAMES indicated what she would do is reimburse the state out of her campaign money, the cost of getting from Kenai to Anchorage. If you're going to have a fund-raiser, you take your fund-raising money and pay your way to get there.

MR. BROWN stated if you look back at the beginning of prohibition, you may not travel at state expense to a place where you plan to hold a campaign fund-raising event. That's the initial rule you have to look at -- it's a matter of planning. He said, "The best way to protect yourself is to have the most - the leg immediately prior to the fund-raiser, not be paid for at state expense. Someone still might try to challenge you under this but that would be your best first line of defense. Don't pay the last leg of your journey with a state TR [travel request]."

Number 0149

MR. BROWN remarked, "I'm more concerned actually, because it just occurred to me while you were talking, that second might not work if you're really busy going back and forth, and it almost seems (indisc.) subsequent. (Indisc.). So I don't know that we've perfected this language yet, it's a thorny issue. And I don't think I see a problem sequential legs like you do. I think as long as your most recent leg -- we can only close it so tight and there's still going to be a tiny loophole and I think that's probably as tight as we can get it."

Number 0153

REPRESENTATIVE KIM ELTON said he agreed with Mr. Brown. Under the provisions, as amended, he believes the simplest way out the bind in that example would be, when you travel to Fairbanks at state expense, either drive to Anchorage at your own expense or fly to Anchorage at your own expense. Then you don't need to worry about it because you haven't arrived in Anchorage on a state TR.

Number 0159

REPRESENTATIVE HODGINS said his point is, can you cleanse it by taking a shorter trip someplace and going back. Obviously it's cheaper to buy a ticket to Kenai, and back and forth, or to drive to Palmer, back and forth, than it is to pay your own way from

Fairbanks.

Number 0175

CHAIR JAMES stated she doesn't believe this amendment will stay in the bill until the end. But it's very important to her because she doesn't believe they should be traveling on state expense for campaign fund-raising activities. She indicated she feels very strongly about it both on the legislative and governor's side. She would like to leave it in there.

REPRESENTATIVE HODGINS mentioned he agrees wholeheartedly, he's just looking at the loopholes.

Number 0215

REPRESENTATIVE HODGINS made a motion to adopt Amendment Q.1.

Number 0216

MR. BROWN suggested the committee adopt version Q as a work draft and then Amendment Q.1.

Number 0218

REPRESENTATIVE HODGINS amended his motion to adopt HCS CSSB 105, version Q, with the Amendment Q.1.

Number 0219

CHAIR JAMES said, "Before I accept that motion, let's say that we did have an amendment on the floor of Q.1, which will be displaced by this motion, to accept the CS Q and Q.1 the amendment, is there any objection."

REPRESENTATIVE ELTON asked Chair James to explain the motion. He indicated he heard a two-part motion that we adopt version Q and the amendment [Q.1].

CHAIR JAMES replied that's what they did.

Number 0225

REPRESENTATIVE HODGINS made a motion to adopt HCS CSSB 105, version LS0074\Q, there being no objections, that version was before the committee.

Number 0027

REPRESENTATIVE HODGINS made a motion to adopt Amendment Q.1.

Number 0229

REPRESENTATIVE ELTON objected. He said he would like to offer an amendment to the amendment on page 3, line 15 of the amendment.

Page 26, line 16 through 18:

Delete:

A person who requested an opinion, including a legislator, may not require admittance to an executive session of the committee when it is deliberating concerning the advisory opinion.

Number 0232

CHAIR JAMES objected. A roll call vote was taken. Representatives Berkowitz and Elton voted for the amendment. Representative Hodgins, Ivan, James and Ryan, voted against the amendment. The amendment to the amendment failed by a vote of 2-4.

CHAIR JAMES asked if there were any objections to Amendment Q.1. There being none, Amendment Q.1 was adopted.

Number 0240

CHAIR JAMES noted, "We have a fiscal note here, it's a draft, it's not signed, but we will probably have one signed before I move it on for \$5,000 from the Attorney General's Office for additional staff time for the reporting that's required by this bill. So we need to move this fiscal note with it was well."

Number 0243

REPRESENTATIVE HODGINS made a motion to move HCS CSSB 105, version Q, as amended, with individual recommendations, and attached fiscal note.

Number 0246

REPRESENTATIVE ELTON objected.

CHAIR JAMES requested a roll call vote. Representatives Ryan, Hodgins, Ivan, James, Elton and Berkowitz voted to move HCS CSSB 105(STA). HCS CSSB 105(STA) moved from the House State Affairs Standing Committee.

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20<sup>TH</sup> Legislature (1977-1998)  
Committee Minutes  
HOUSE FINANCE  
April 24, 1998

SECTION 17: AS 24.60.031(c) BAN ON FUNDRAISING WHEN TRAVELING AT STATE EXPENSE This section adds new

subsections to the fundraising restrictions in the Legislative Ethics Code. Subsection (c) prevents travel at State expense to a place where a fundraiser is planned within 48 hours of the travel. It allows State-paid travel if the fundraiser is at least 48 hours after the travel occurs, if a subsequent trip (not paid for by the State) is made between the two locations, or if the travel is to convene or adjourn for a legislative session in the capital city. Subsection (e) defines 'campaign fundraising event'.

Mr. Brown observed that the intent is that fundraising be allowed following the convening or adjourning travel. Similar language was added to the Executive Branch Ethics Act to govern the conduct of the Governor and Lieutenant Governor.

Co-Chair Therriault questioned how the provision would work. Members concluded that further clarification was needed. Mr. Brown stated that he had prepared an amendment to address a second trip. Representative Davies observed that Ethics Committee has advised him to apportion the cost of trips that include state and private business. He noted that it is difficult to apportion costs. He recommended that half of the cost be paid from campaign funds. He noted the imposition on the legislator's time. Mr. Brown stated that he is concerned with the definition of fundraising event. He stated that would work with members for a better solution.

## AAM 60. TRAVEL

<u>60.010</u>	Introduction to Travel	01/11
<u>60.020</u>	Travel Definitions	04/11
<u>60.030</u>	E-Travel	04/11
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<u>60.065</u>	Taxes Related to Travel	01/11
<u>60.070</u>	Travel Advances	07/10
<u>60.080</u>	Interruption or Deviation of Travel for Traveler Convenience	07/10
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<u>60.100</u>	Airline Delays, Rescheduling, and Overheading	01/07
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<u>60.130</u>	Airport Shuttle, Courtesy Van, and Taxi Service	01/07
<u>60.140</u>	Privately Owned Vehicles	04/09
<u>60.150</u>	Privately Owned Aircraft	10/07
<u>60.160</u>	Charters and Group Transportation	01/10
<u>60.170</u>	Alternatives to Travel	04/05
<u>60.180</u>	Boards and Commissions	01/07
<u>60.190</u>	Health and Safety of Travelers	01/10
<u>60.200</u>	Travel Related to Contracts	10/08
<u>60.210</u>	Traveler Reimbursement	04/11
<u>60.220</u>	Travel Expenses - Required Receipts and Documentation	04/11
<u>60.230</u>	Third Party Reimbursements	01/07
<u>60.240</u>	Lodging Types and Rates	04/11
<u>60.250</u>	Meal and Incidental Expense Allowances	04/11
<u>60.260</u>	Contracting for Subsistence	07/05

<b>AAM 60.010</b>	<b>Introduction to Travel (01-11)</b>
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The travel policies of the State of Alaska are adopted by the Commissioner of the Department of Administration in accordance with AS 39.20.160. State agencies and travelers are required to comply with these policies whenever traveling on state business and are prohibited

Once the taxes are included they cannot be removed due to local city, borough, or municipality regulations. It is the traveler's responsibility to pay any taxes not removed prior to issuance of receipt.

<b>AAM 60.070</b>	<b>Travel Advances (07-10)</b>
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Travel advances are limited to payments made prior to travel commencing, and are generally calculated at 80% of estimated meals and incidental expenses. Departments may authorize higher advances when circumstances warrant. Departments may choose to pay travel advances using either EDI, or through use of the Card at an ATM.

All travel advances require employee notification that any monies owed the State of Alaska by the traveler may be deducted from the employee's paycheck. The Travel Advance Authorization form, available on the Division of Finance web site, needs to be signed only once by a traveler for recovering all subsequent advances through payroll deductions. These forms should be kept on file by travel planners.

A traveler shall not receive an additional travel advance until the previous travel advance and trip has been reconciled and closed out.

Agencies may make exceptions to policies in this section when circumstances justify.

<b>AAM 60.080</b>	<b>Interruption or Deviation of Travel for Traveler Convenience (07-10)</b>
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Any interruption or deviation from the most direct and efficient means of travel for traveler convenience requires prior approval at the agency level by the appropriate supervisor or designee. Such approvals must weigh the interests of the state as travelers are not automatically entitled to deviations for personal convenience.

Any additional time or expense resulting from an interruption or deviation for traveler convenience shall be borne solely by the traveler. Travelers are responsible for researching and purchasing air, car, and lodging for the personal portion of the travel on their own time. This is not a work function, and travel planners cannot research or purchase travel outside of the minimum itinerary required to conduct state business. The business itinerary must be documented in a state-authorized fare quote (see 3 below) when the travel is approved.

Travelers should be aware that personal deviations from the state-authorized itinerary may negate workers' compensation coverage. The

greater the personal deviation, the more likely the departure from the course of employment, and thereby workers' compensation coverage.

When a traveler interrupts business travel for personal reasons, the following apply:

1. Per diem, travel allowances, and reimbursements are calculated for the minimum itinerary that is required to conduct state business without regard for the actual itinerary that includes the deviation for personal convenience. For example, a traveler (Anchorage duty station) is traveling on state business (in Seattle) and the business is concluded at noon on Wednesday. For personal reasons the traveler will not return to the duty station until the following Monday. In this example, the traveler's entitlement to per diem, mileage, and other travel reimbursements ends an hour after the first flight that would get the traveler home Wednesday evening is scheduled to land. This entitlement is not increased if the Wednesday evening flight does not operate as scheduled, as travelers relinquish their right to reimbursement for flight delays once they choose to deviate from the business itinerary. See Personal Travel FAQs for other examples.
2. A traveler requesting approved personal air travel deviation for an alternate routing, personal discount coupons to purchase companion travel, or travel that increases airfare, will make the transportation arrangements for the entire trip on their own time. These arrangements will be purchased by the traveler using a personal form of payment instead of a state form of payment. Personal travel segments cannot be purchased at state-contracted rates. Exception: If the only deviation is an extension of dates on either end of the state-authorized dates, departments may opt to pay for the combined airfare when purchased if the personal portion can be recovered from the traveler's reimbursement after travel is complete.
3. A state-authorized fare quote must be obtained when the travel is approved for a price comparison to determine traveler reimbursement. The fare quote may be obtained and saved in E-Travel Online with the research option (no fee), or by calling the contracted travel agency (fee applies). After travel is complete, the traveler must present a copy of the ticket receipt or itinerary showing payment and the state-authorized fare quote to obtain reimbursement. If the traveler cannot produce a state-authorized fare quote, the travel planner will obtain a quote for the lowest fare currently available for the state routing, and any fees will be charged to the traveler. The state will reimburse the lesser amount of either the ticket purchased or the state-authorized fare quote.
4. Rental cars obtained for official state business are authorized only for the minimum business itinerary. The rental period may not extend to

the personal travel. See AAM 60.140 for clarification on personal travel involving privately owned vehicles.

5. Any additional time that reduces the traveler's work week related to indirect travel will be charged to annual leave, personal leave, or leave without pay. In the example 1 above, the employee's leave status would begin Thursday morning when the traveler could have returned to work based on the scheduled flights for the minimum business itinerary. Leave in conjunction with business travel must be documented in prior approval and supervisors are responsible for ensuring that leave is reported appropriately for travelers they supervise.
6. Per diem is allowed when a traveler is granted leave due to illness. However, the per diem allowance shall not be authorized for a period of illness exceeding three calendar days in any one period of absence. Per diem is not authorized if the traveler is hospitalized or otherwise has no actual and necessary business expenses requiring reimbursement.
7. Agencies must ensure that employees combining business and personal travel are well-informed and cautioned that airfares may result in a liability to the employee, should the reason for the business travel be cancelled. Employees leaving on vacation in conjunction with the business event will become responsible for all costs should the business event be cancelled. Employees opting not to travel if the business event is cancelled will be responsible for the cost of travel that the state cannot recover that was attributable to the personal portion of the airfare. The employee may be reimbursed, at the department's option, for the business portion of unused tickets. The business portion of unused tickets paid to employees must be monitored by the department as state assets until they are used or expire. Employees leaving the department prior to the expiration of such a ticket are required to return the state payment for any business portion that is still available for use by the employee.
8. Voluntary denied boarding compensation where the traveler voluntarily vacates his/her seat and takes a later flight may be retained by a traveler (viewed as an insignificant personal travel credit under ethics rules). A traveler cannot volunteer for denied boarding on an outbound flight unless the traveler has previously approved personal travel for the beginning of the travel period. Nor may a traveler volunteer for denied boarding if it may cause a delay in return to work. By accepting a voluntary bump on the return portion, the traveler puts himself on personal travel rather than state business. Travel status ends, no further per diem is allowed, and all state insurance coverage ceases for the duration of the trip. The traveler is

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Legislatures & Elections » Ethics » States' Legislative Ethics and Lobbying Laws

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## Links to States' Legislative Ethics and Lobbying Laws

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June, 2010

This page contains links to ethics and lobbying statutes for the 50 states. In some cases, links to legislative rules or state constitutions are provided. However, this is not a complete list of all state constitutional ethics provisions and all ethics legislative rules.

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### Alabama

Alabama Code: [Code of Ethics for Public Officials, Employees, Etc.](#) Title 36, Chapter 25.

### Alaska

Alaska Statutes: [Standards of Conduct](#), Title 24, Chapter 60.  
For [Regulation of Lobbying](#), Title 24, Chapter 45.

### Arizona

Arizona Revised Statutes

[Title 38 - Public Officers and Employees](#)

- For Conflict of Interest of Officers and Employees, scroll to Chapter 3, Conduct of Office; Article 8.
- For Standards of Conduct for Members of the State Legislature, scroll to Chapter 3, Conduct of Office; Article 8.1.
- For Standards for Financial Disclosure, scroll to Chapter 3.1.

[Title 41 - State Government](#)

For Registration and Regulation of Lobbyists, scroll to Chapter 7, Legislature; Article 8.1.

### Arkansas

[Arkansas Code](#)

For Ethics and Conflict of Interest laws for legislators and lobbyists, scroll to Title 21, Public Officers and Employees, Chapter 8.

### California

[California Government Code](#)

Conflict of Interest: Title 9 Chapter 7

[General Prohibition](#)

[Disclosure](#)

Ethics: Title 9 Chapter 9.5

[Honoraria](#)

[Gifts](#)

<p><u>Travel</u></p> <p>Lobbyists: Title 9 Chapter 6</p> <p><u>Registration and Reporting</u></p> <p><u>Prohibitions</u></p> <p><u>Exemptions</u></p>
<p><b>Colorado</b></p> <p><u>Colorado Revised Statutes</u></p> <p>For Code of Ethics for Legislators: Title 24, Government-State; Administration; Article 18, Standards of Conduct; Part 1, Code of Ethics.</p> <p>For Public Official Disclosure Law and Regulation of Lobbyists: Title 24, Government-State; Administration; Article 6, Colorado Sunshine Law; Part 2, Public Official Disclosure Law; Part 3, Regulation of Lobbyists.</p>
<p><b>Connecticut</b></p> <p>Connecticut General Statutes</p> <p><u>Code of Ethics</u>. Title 1, Chapter 10 - §1-79 through 1-101.</p>
<p><b>Delaware</b></p> <p>Delaware Code Annotated</p> <p><u>Legislative Conflicts of Interest</u>. Title 29, State Government; Chapter 10.</p> <p><u>Laws Regulating the Conduct of Officers and Employees of the State</u>. Title 29, State Government; Chapter 58.</p> <p><u>Code of Conduct</u>. Subchapter I.</p> <p><u>Financial disclosure</u>. Subchapter II.</p> <p><u>Registration of lobbyists</u>. Subchapter IV.</p>
<p><b>Florida</b></p> <p>Florida Statutes</p> <p><u>Code of Ethics for Public Officers and Employees</u>. Title X, Chapter 112, Part III.</p> <p>For lobbyist regulation, go to <u>Legislative Organization, Procedures and Staffing</u>, Title III, Chapter 11. Scroll to 11.045-11.062.</p>
<p><b>Georgia</b></p> <p>Georgia Code</p> <p><u>Code of Ethics for Government Service</u>. Title 45, Public Officers and Employees, Chapter 10</p> <p>For prohibited activities, go to 45-10-3.</p> <p>For conflict of interest, go to 45-10-20 - 45-10-80.</p> <p>Ethics in Government Act. Title 21, Elections; Chapter 5.</p> <p>For powers of the state ethics commission, go to 21-5-6 and 21-5-7.</p> <p>For honorarium restrictions, go to 21-5-11.</p> <p>For financial disclosure requirements, go to 21-5-50 - 21-5-53.</p> <p>For lobbyist regulation, go to 21-5-70 - 21-5-76.</p>
<p><b>Hawaii</b></p> <p>Hawaii Revised Statutes</p>

<p><u>Standards of Conduct</u>, Chapter 84. <u>Lobbyist Law</u>, Chapter 97.</p>
<p><b>Idaho</b></p> <p>Idaho Code</p> <p><u>Ethics in Government</u>, Title 59, Chapter 7. <u>Gifts to Public Servants by Persons Subject to their Jurisdiction</u>, Title 18 Chapter 13. <u>Election Campaign Contributions and Expenditures --Lobbyists</u>, Title 67, Chapter 66.</p>
<p><b>Illinois</b></p> <p>Illinois Compiled Statutes</p> <p><u>Illinois Governmental Ethics Act</u>, 5 ILCS 420/, includes financial disclosure and ethical principles. <u>State Officials and Employees Ethics Act</u>, 5 ILCS 430/, includes gift ban and ethics commission statutes. <u>Lobbyist Registration Act</u>, 25 ILCS 170/</p>
<p><b>Indiana</b></p> <p>Indiana Code</p> <p><u>Legislative Ethics</u>, Title 2, General Assembly; Article 2.1, Legislative Sessions and Procedures; Chapter 3 <u>Bribery, Conflict of Interest, and Official Misconduct</u>, Title 35, Criminal Law and Procedure; Article 44, Offenses Against Public Administration; Chapter 1. <u>Lobbyists</u>, Title 2, General Assembly; Article 7. <u>Ethics and Conflicts of Interest</u>, Title 4, State Offices and Administration; Article 2, State Officers Generally; Chapter 6. (In this section, the term "state officer" does not apply to legislator.)</p>
<p><b>Iowa</b></p> <p>Iowa Code</p> <p><u>Conflict of Interest of Public Officers and Employees</u>, Title II, Subtitle 2, Chapter 68B.</p> <p>Scroll to 68B.35 for financial disclosure. Scroll to 68B.37 for lobbyist reporting.</p>
<p><b>Kansas</b></p> <p><u>Kansas Statutes</u></p> <p>Scroll to Statute Table of Contents and highlight Chapter 46 - Legislatures. Then click the "List Articles in Chapter" button. Highlight Article 2 - State Governmental Ethics and click the "List Statutes in Article" button. State Governmental Ethics Law: 46-215 - 46-293.</p> <p>Gift restrictions are at 46-237 and 46-237a. Financial disclosure requirements are at 46-239 and 46-247 - 46-252. Nepotism restrictions are at 46-246a. Lobbyist regulation is at 46-265 - 46-271.</p>
<p><b>Kentucky</b></p> <p>Kentucky Revised Statutes</p> <p><u>Chapter 6</u>, Ethics laws are from 6.601-6.850.</p> <p>For Kentucky Legislative Ethics Commission, scroll to 6.651. For Conduct of Legislators, scroll to 6.731. For Financial Disclosure, scroll to 6.781.</p>

<p>For Legislative Lobbying, scroll to 6.801.  <u>Chapter 11A</u>. For Executive Agency Lobbying, scroll to 11A.201.</p>
<p><b>Louisiana</b></p> <p>Louisiana Revised Statutes  <u>Code of Governmental Ethics</u>, Chapter 15 (42:1101 - 42:1170).  <u>Lobbyist Disclosure Act</u> (24:50 - 24:58.1).</p>
<p><b>Maine</b></p> <p>Maine Revised Statutes Annotated  <u>Governmental Ethics, Title 1</u>, Chapter 25.  <u>Lobbyist Disclosure Procedures</u>, Title 3, Chapter 15.</p>
<p><b>Maryland</b></p> <p><u>Maryland Code</u>  For Public Ethics, §15-101 - 15-715, go to State Government; Title 15, Public Ethics.  Subtitle 5 is Conflict of Interest.  Subtitle 6 is Financial Disclosure.  Subtitle 7 is Lobbying regulations.</p>
<p><b>Massachusetts</b></p> <p>General Laws of Massachusetts  <u>Conduct of Public Officials and Employees</u>, Chapter 268A.  For lobbyist regulation, go to Chapter 3, <u>The General Court</u>, and scroll to sections 39 through 50.</p>
<p><b>Michigan</b></p> <p>Michigan Codified Laws  <u>Chapter 15. Public Officers and Employees</u>:  <u>Conflict of Interest</u>: Act 318 of 1968 (15.301-15.310).  <u>Contracts of Public Servants with Public Entities</u>: Act 317 of 1968 (15.322-15.330).  <u>Standards of Conduct for Public Officers and Employees</u>: Act 196 of 1973 (15.341-15.348).  <u>Incompatible Public Offices</u>: Act 566 of 1978 (15.181-15.185).  <u>Chapter 4. Legislature</u>  <u>Lobbyists, Lobbying Agents, and Lobbying Activities</u>: Act 472 of 1978 (4.411-4.431).</p>
<p><b>Minnesota</b></p> <p>Minnesota Statutes  Legislator ethics and lobbyist regulation under Chapter 10A, <u>Campaign Finance and Public Disclosure</u>.</p>
<p><b>Mississippi</b></p> <p><u>Mississippi Code</u>  For Ethics in Government, scroll to Title 25, Public Officers and Employees, Public Records; Chapter 4, Ethics in Government.  For the Lobbying Law Reform Act of 1994, scroll to Title 5, Legislative Department; Chapter 8.</p>

**Missouri**

Missouri Revised Statutes

[Chapter 105, Public Officers and Employees - Miscellaneous Provisions](#)

For Ethics Laws, scroll to 105.450 - 105.496.

Lobbyist laws start at 105.470.

**Montana**

Montana Code Annotated

[Standards of Conduct](#). Title 2, Chapter 2.

[Lobbying](#). Title 5, Chapter 7.

**Nebraska**

Nebraska Revised Statutes

[Nebraska Political Accountability and Disclosure Act](#)

Financial disclosure starts at 49-1493.

Lobbying regulations start at 49-1480.

Conflict of Interest starts at 49-1498.

**Nevada**

Nevada Revised Statutes

For Ethics in Government laws, go to [Title 23, Public Officers and Employees; Chapter 281, General Provisions](#) and scroll to NRS 281.411 through 281.581. See also [Chapter 281A, Ethics in Government](#).

For Lobbying Disclosure laws, go to [Title 17, State Legislative Department; Chapter 218 State Legislature](#) and scroll to NRS 218.900 through 218.944.

**New Hampshire**

New Hampshire Revised Statutes

[Legislative Ethics Committee](#): Title 1, Chapter 14-B.

[Lobbyist laws](#): Title 1, Chapter 15.

[Financial Disclosure](#): Title 1, Chapter 15-A.

[Gifts, Testimonials and Honorariums](#): Title 1, Chapter 15-B.

[Ethics Guidelines and Procedural Rules, November 2004 Edition](#) (New Hampshire's statutes give the Legislative Ethics Committee the authority to write ethics provisions, which include gift restrictions and conflict of interest measures, among others.)

**New Jersey**

[New Jersey Statutes Annotated](#)

Ethics Laws for legislators and lobbyists are at *N.J.S.A. 52:13C*.

Conflict of interest laws are at *52:13D*.

*To use New Jersey's system, scroll to Title 52. Click on the cross button to the left of the title to view all the sections in the title. Click on the arrow icon in the lower right corner of the screen to view more sections. Do this until Section 52:13C is visible. This is the start of the state's legislative ethics laws. Scroll to 52:13D for Conflict of Interest law.*

**New Mexico**New Mexico Statutes Unannotated

*Note that the term "public official" does not apply to legislators in New Mexico.*

Governmental Conduct, Chapter 10; Article 16.  
 Financial Disclosures, Chapter 10; Article 16A.  
 Governmental Ethics Oversight Committee, Chapter 2; Article 15.  
 Lobbyist Regulation, Chapter 2; Article 11.

**New York**New York State Consolidated Laws

Legislative Ethics Commission: Consolidated Laws, Legislative (LEG), Article 5.  
 Powers and Duties of Public Officers: Consolidated Laws, Public Officers (PBO), Article 4.  
     For Financial Disclosure scroll to 73a.  
     For Code of Ethics, scroll to 74.  
     For Bribery, scroll to section 75.  
 Lobbying Act: Consolidated Laws, Legislative (LEG), Article 1-A

**North Carolina**North Carolina General Statutes

State Government Ethics Act: Chapter 138A.  
Lobbying Act: Chapter 120C.

**North Dakota**

## North Dakota Century Code

Statements of Economic Interest: Title 16, Elections, chapter 16.1-09.  
 For Legislative Lobbying, go to Title 54, State Government, and scroll to chapter 54-05 and 54-05.1.

**Ohio**Ohio Revised Code

Public Officers Ethics: Title 1, State Government; Chapter 102.  
 Legislative Lobbying: Title 1, State Government; Chapter 101, General Assembly; 101.70-101.79.  
 Retirement System Lobbying: Title 1, State Government; Chapter 101 General Assembly; 101.90-101.99.  
 Executive Agency Lobbying: Title 1, State Government; Chapter 121, State Departments; 121.60-121.69.

**Oklahoma**

Laws governing the Ethics Commission, the conduct of state officers and state employees, and related statutes requiring lobbyist registration, fees, etc. include, but are not limited to, the following:

In the Oklahoma Constitution, found on the Oklahoma Legislatures's Web site: Ethics Rules, Ethics Commission and Criminal Penalties, click on Article XXIX, Ethics Commission.

In the Oklahoma Statutes:

Title 17, Section 48;  
 Title 21, Sections 308 334, 360 and 463;  
 Title 68, Section 2358.3;  
 Chapter 62--Ethics Commission Act [Sections 4200 through 4248.1 of Title 74 of the Oklahoma Statutes [repealed];

Chapter 62--statutes governing lobbying registration and activities [Sections 4249 through 4258 of the Oklahoma Statutes];  
and Chapter 62--Appendix: Title 257. Ethics Commission [Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 Oklahoma Statutes, Chapter 62, Appendix] [the "Rules"].

Oklahoma Statutes

A document from the Oklahoma Ethics Commission compiles much of the above.

**Oregon**

Oregon Revised Statutes

For Ethics laws for legislators go to Chapter 244. Government Standards and Practices.

Financial Disclosure begins at 244.050.

Conflict of Interest begins at 244.120.

Ethics Commission begins at 244.250.

Enforcement begins at 244.350.

For Lobbying regulations to to Chapter 171. Legislature. Scroll to 171.725.

**Pennsylvania**

Pennsylvania Consolidated Statutes

Title 65 Pa.C.S.A. Public Officers, Chapter 11, Ethics Standards and Financial Disclosure.

Title 65 Pa.C.S.A. Public Officers, Chapter 13, Lobby Regulation and Disclosure.

**Rhode Island**

Rhode Island General Laws

Code of Ethics for legislators index. Chapter 36-14.

Prohibited activities are at 36-14-5.

Conflict of interest is at 36-14-6.

Contents of Financial disclosure statements at 36-14-17. Other financial disclosure is 36-14-16 to -19.

Lobbying index: Chapter 22-10.

Financial reports are at 22-10-9.

**South Carolina**

South Carolina Code

Ethics, Government Accountability, and Campaign Reform. Title 8, Chapter 13.

For Rules of Conduct, scroll to section 8-13-700.

Disclosure of Economic Interest begins at 8-13-1110.

Penalties begin at 8-13-1510.

Lobbyists and Lobbying. Title 2, Chapter 17

**South Dakota**

South Dakota Codified Laws

Lobbyists, Chapter 2-12.

Personal Financial Disclosure for public officers, Chapter 3-1A.

Malfeasance, Misfeasance and Nonfeasance in Office, Chapter 3-16.

**Tennessee**

Tennessee Code Annotated

Title 3, Legislature, Chapter 5 Ethics and Lobbying.

[Comprehensive Ethics Reform Act of 2006](#)  
[Lobbying](#)

## Texas

[Texas Government Code](#)

For the Texas Ethics Commission, scroll to Chapter 571.  
 For Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest scroll to Chapter 572.  
 For Registration of Lobbyists, scroll to Chapter 305.

## Utah

Utah Code

[Lobbyist Disclosure and Regulation Act](#), Title 36, Chapter 11.  
[Legislative Conflict of Interest](#), Title 36, Chapter 19.  
[Prohibiting Employment of Relatives](#), Title 52, Chapter 03.  
[Offenses Against Administration of the Government](#), Title 76, Chapter 8

For bribery, go to [76-8-105](#).  
 For alteration of legislation, go to [76-8-107](#) and [76-8-108](#).  
 For failure of a legislator to disclose interest in a bill, go to [76-8-109](#).

See also [Joint Legislative Rules](#). Joint ethics rules are at JR-16.01-JR-16.07.

## Vermont

[Vermont Statutes Annotated](#)

For Registration of Lobbyists, go to Title 2, Chapter 11.

## Virginia

Code of Virginia

[The General Assembly Conflicts of Interest Act](#), Title 30, Chapter 13, Section 100-129.  
 Lobbying laws begin at [Title 2.2, Administration of Government](#); Chapter 4, Section 2.2-422.

## Washington

Revised Code of Washington

[Ethics in Public Service](#), Chapter 42.52.  
[Disclosure, Campaign Finances, Lobbying, Records](#), Chapter 42.17.

## West Virginia

West Virginia Code

[Public Officers and Employees, Ethics, Conflict of Interest, Financial Disclosure](#), Chapter 6B.

Ethics Commission powers and duties begin at Article 2.  
 Lobbyist laws begin at Article 3.  
 Ethical standards for elected and appointed officials and public employees are at 6B-2-5.  
 Financial disclosure requirements begin at 6B-2-6.

**Wisconsin**

Wisconsin Statutes

General Duties of Public Officials. For Code of Ethics for Public Officials and Employees, scroll to Chapter 19 and view statutes 19.41 to 19.59.

Financial disclosure begins at 19.43.

Conflict of interest prohibition is at 19.46.

Honorariums are discussed at 19.56.

For Regulation of Lobbying, go to Chapter 13. Legislative Branch. Scroll to Subchapter III, 13.61 to 13.75.

**Wyoming**

Wyoming Statutes

Government Ethics Title 9, Chapter 13.

Lobbyists, Title 28, Chapter 7.

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## Alaska State Legislature

### Select Committee on

#### Legislative Ethics

716 W. 4th, Suite 230 Mailing Address:  
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April 23, 2004

### ADVISORY OPINION 2004-01

RE: Use of constituent information gathered by a legislator.

You are a legislator and therefore covered by the Legislative Ethics Code. You have requested an advisory opinion concerning facts and circumstances that you have related. The committee relies on facts that you have described in answering your questions. You have waived your right to confidentiality under AS 24.60.160(b).

#### Statement of Facts

You have asked the following questions:

1. Can constituent information gathered by a candidate who is subsequently elected to office be used by the legislator during his or her term of office?
2. Can constituent information gathered by a legislator be used by the legislator in his or her campaign for re-election and, if so, are there any restrictions on maintaining the database using state resources?

You characterized the information referred to in the questions as:

- A. Voter information obtained from the Division of Elections for a small fee.
- B. Information obtained from public sources such as Permanent Fund recipients and corporation and business licenses databases which can be downloaded by anyone from public agency internet sites for free or for a small fee.
- C. Information gathered about individual constituents during a legislator's term, including email addresses, phone and fax numbers, and issue information.
- D. Similar constituent information as in C obtained during a candidate's campaign.

#### Discussion

In this document

- "constituent" means a natural person residing within a legislator's district;
- "information" means contact information including name and address as well as any other information and facts known about the contact such as issues and legislation the contact is interested in;
- "database" means an organized body of related information which is in a format read by computer database programs.

1. Can constituent information gathered by a candidate who is subsequently elected to

office be used by the legislator during his or her term of office?

This question involves a legislator using, for legislative purposes, information gathered in the course of an election campaign, described in D above. This information was obtained using private resources.

There is no prohibition in the ethics code on a legislator using private resources for legislative purposes, so a legislator may use for legislative purposes information gathered during non-legislative time without the use of legislative resources.

2. Can constituent information gathered by a legislator be used by the legislator in his or her campaign for re-election and, if so, are there any restrictions on maintaining the database using state resources?

It is assumed in this answer that "information gathered by a legislator" is information collected for the legislator, described in C above, with the help of legislative staff employed to handle constituent concerns using legislative equipment. This information is being gathered for the benefit of the legislator in performing public duties. As long as the purpose is to assist the legislator in performing current legislative duties, the building and maintenance of a database containing constituent information is permitted using legislative resources. As is the case with the files maintained by a legislator's office for legislative use, a database is considered to be the confidential property of the legislator.<sup>1</sup>

There is a general prohibition against using legislative resources for non-legislative purposes:

(a) A legislator or legislative employee may not . . . (2) use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of either the legislator, legislative employee, or another person;

AS 24.60.030(a)(2). However there is an exemption for a de minimis use:

[AS 24.60.030(a)(2)] does not prohibit (A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

We find that it is considered to be a de minimis use of public assets under AS 24.60.030(a)(2)(A) for a legislator to make a copy of a database created or maintained in the legislator's own office for personal or campaign use.<sup>2</sup>

In regard to voter information and other publicly available databases, the information described in A and B above, a legislator may obtain this information for legislative purposes. This information would probably be combined into the legislator's constituent database. As discussed above, a legislator can make a copy of the legislator's own database for personal or campaign purposes.

In the case of purchased databases, there may be copyright issues if a person copies a database rather than purchasing another license for separate use. If the legislator wants another copy of a commercial database, a separate license, if required, should be purchased with personal funds.

### Conclusion

For the reasons stated above, the committee finds that constituent information gathered by a candidate using private resources can be used by that person if subsequently elected to serve as a legislator, and that constituent information gathered by a legislator using legislative resources such as staff time and

equipment for legislative purposes may be copied and used for personal or campaign use by a legislator as a de minimis use of public assets under AS 24.60.030(a)(2)(A).

Adopted by the Select Committee on Legislative Ethics on April 23, 2004

Members present and concurring in this opinion were:

H. Connor Thomas, Chair  
Representative Mary Kapsner  
Representative Norman Rokeberg  
Senator Kim Elton  
Senator Ben Stevens  
Dennis "Skip" Cook, public member  
Ann Rabinowitz, public member  
Marianne Stillner, public member

Member present & abstained from voting because not present for entire discussion:

Herman G. Walker, public member

BRC:mdr:lmb  
04-164.mdr

<sup>1</sup> When the legislator leaves office, the files and information belong to the legislator. A legislator's files, including information such as databases on a legislator's office computers are considered confidential.

<sup>2</sup> This opinion does not condone the unauthorized copying of copyright protected information.

AO 01-01 -2-

-3- AO 04-01

<b>Document Properties</b>	
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## Alaska State Legislature

### Select Committee on

#### Legislative Ethics

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August 19, 2008

#### ADVISORY OPINION 2008-03

**SUBJECT: Conflict of Interest – Use of Government Resources**

**RE:** Use of state resources by legislative aides working for constituents.

Note: Advisory Opinion 08-03 supersedes and is contrary to Advisory Opinion 07-04 adopted on December 12, 2007.

You are a legislative employee and therefore covered by the legislative ethics code. You have requested an advisory opinion concerning facts and circumstances that you have related in connection with three examples. You have asked the committee to provide guidance, in the form of an advisory opinion, as to whether or not the aide in each example given can provide the services described in a manner that is in compliance with restrictions on the use of state resources under the Legislative Ethics Act.<sup>1</sup>

#### Statement of Facts

Example 1. A constituent asks a legislative aide to serve as her "personal representative" before the Alaska Workers' Compensation Board. The aide understands that this duty will require acting on behalf of the constituent in the matter by communicating with the Board and the employer, creating, typing, copying and delivering motions and hearing exhibits, and attending the hearing as the constituent's advocate. The aide undertakes and accomplishes this duty, and, when transmitting documents on the constituent's behalf, uses legislative letterhead as a coversheet listing the documents transmitted, the intended recipients of the documents, and "information regarding meetings/timeframes/etc."

Example 2. On a constituent's behalf, a legislative aide uses legislative phone lines and e-mail to communicate with the Alaska's Child Support Enforcement Division and negotiate a settlement between the constituent, the Alaska CSED, and the California CSED. The settlement may net the constituent as much as \$85,000 in child support back-payments.

Example 3. A legislative aide uses legislative letterhead and e-mail to pursue an informal appeal of the Alaska Permanent Fund Division's denial of a constituent's dividend eligibility. The denial is based on the constituent's alleged failure to meet legal requirements of Alaska residency because the constituent left the state for a time to attend a religious post-secondary school. The aide convinces the division to

reverse the denial by arguing that, because the education sought was not available at Alaska schools, the break in Alaska residency does not disqualify the constituent from eligibility.

### Discussion

In the examples given, a hypothetical aide uses either legislative letterhead or legislative e-mail in the course of providing assistance to a constituent. In our Advisory Opinion 07-02, we concluded that an incumbent legislator may use legislative letterhead to communicate on any matter if the matter has a legislative purpose. The same is true of any "official" means of communication used by a legislator (or the legislator's aide) for a legislative purpose. An aide's use of legislative letterhead, legislative e-mail, legislative fax, or any other mode of communication identifiable on its face as legislative is permissible if it is for a legislative purpose.

AS 24.60.030(a)(2) says, in part, that a legislative employee may not

(2) use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of either the legislator, legislative employee, or another person;

The committee notes that, while "legislative action" is defined in AS 24.60.990, "nonlegislative purpose" is not defined. Its opposite, "legislative purpose," is not defined either. The committee concludes that legislative purpose has a broader meaning than "legislative action" that could include the provision of services for constituents with problems dealing with government agencies.

The Legislative Ethics Act refers to constituent services twice in AS 24.60.030.

AS 24.60.030(e)(2) says a legislator may not directly, or by authorizing another to act on the legislator's behalf,

(2) state or imply that the legislator will perform or refrain from performing a lawful constituent service as a result of a person's decision to provide or not provide a political contribution, donate or not donate to a cause favored by the legislator, or provide or not provide a thing of value;

AS 24.60.030(i) implies that the practice of using legislative resources to resolve constituents' problems in forums outside of the legislature is permitted by the Act. <sup>2</sup> AS 24.60.030(i) states:

(i) Except for supplying information requested by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, a legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the case unless the

(1) contact is made in the presence of all parties to the hearing or the parties' representatives and the contact is made a part of the record; or

(2) fact and substance of the contact is promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact is made a part of the record.

We also note that the practice of using legislative resources to assist constituents with problems with

government agencies is not a requirement of legislative office, but is the choice of individual legislators. Our intent is not to interfere with a legislator's method of performing constituent services but to provide guidelines with regard to the use of government resources for the private benefit of a person. Legislative offices are one of the viable and necessary avenues by which Alaskans can access state government to obtain or improve service for themselves.

For purposes of this opinion, the committee defines "performing constituent service" as assisting constituents in navigating state bureaucracy and developing a communication line between the state agency and the constituent. The legislative intent in performing constituent service is threefold; to move the constituent's concerns forward, to make sure everyone involved knows what they need to know and to urge the government agency to take timely action. Constituents often do not know about laws, rules or regulations governing a particular agency or it may be they just do not accept the relevant parameters.

The fact that state agency personnel are aware legislative offices are looking over their shoulders is positive. Occasionally, engaging in a constituent problem brings to light shortcomings in a law or regulation. A legislator may ask for a formal legislative review of the law or regulation or may introduce legislation to correct or clarify a statute. This type of action provides a benefit to the public in general.

But where do you draw the line when performing constituent services and the use of public resources?

The use of public resources to provide help to constituents dealing with government agencies is not prohibited under AS 24.60.030(a)(2) as a nonlegislative purpose. However, that same paragraph prohibits the use of public resources "for the private benefit of either the legislator, legislative employee, or another person . . . ."

This opinion will focus on two areas. First, there is a difference between performing constituent services as defined above and advocating for a constituent's private interest. Legislators and staff must never cross the line and involve themselves in advocating a constituent's private interest. "Advocate" is defined in Webster's New World Dictionary to mean; a person who pleads another's cause, a person who speaks or writes in support of something, or to be in favor of.<sup>3</sup> In that regard, legislative aides should not enter into ongoing litigation or administrative processes regardless of professional certification or expertise. The Act does not prohibit a legislative aide from performing these activities on personal time.

In Example 1 of this opinion, the legislative aide served as the "personal representative" for a constituent before the Worker's Compensation Board; in Example 2, the legislative aide negotiated a settlement with the Alaska Child Support Enforcement Division and an outside state agency; and in Example 3, the legislative aide pursued an appeal for a constituent and convinced a state division to repeal the denial.

All these examples fall within the realm of constituent advocacy and provide a private benefit to the constituent. The private benefit referred to does not mean the outcome is favorable to the constituent such as the award of back child support or the successful resolution of a law suit resulting in a monetary award. The amount of time spent on a constituent issue also does not factor into private benefit. The amount of time may depend on the area of the state where the constituent lives and the level of services available. This factor alone could add to the number of hours working on a constituent issue.

The private benefit received by a constituent in these examples is the free representation before the Workers Compensation Board, the free services of a negotiator on a child enforcement issue and the free services in appealing a denial. All these services are customarily performed on a fee basis.

Further, in Example 1, legislative letterhead was used to pursue an informal appeal for a constituent before the Worker's Compensation Board. Advocating a constituent's position with the use of legislative letterhead, a state resource, is also not a permitted use of state resources. In this instance,

there is an appearance of impropriety in that the legislator is attempting to influence the outcome of an issue with a government agency to be in favor of the constituent. AS 24.60.010 states, ". . . a fair and open government requires that legislators and legislative employees conduct the public's business in a manner that preserves the integrity of the legislative process and avoids conflicts of interest or even appearances of conflicts of interest; . . . ."

Secondly, state resources should not be used for activities such as obtaining records from a medical doctor, picking up records from a facility, creating and typing reports or listings of items requested by a state agency, to name a few. This type of preparation work is the responsibility of the constituent. State resources used for these activities would constitute a private benefit. Further, allowing these activities to be performed with the use of state resources would open the door to equal access of state resources for all individuals. As stated earlier, the role of legislative staff is to be the conduit between the constituent and the government agency. Keep in mind, a legislative aide is certainly not prohibited from providing assistance to a constituent if a roadblock occurs, for example, obtaining requested documents.

### **Conclusion**

It is an established legislative practice to use legislative aides, as part of regular duties, to provide assistance to constituents on issues with government agencies. This creates a rebuttable presumption that an aide who does so is performing a service that has a legislative purpose. Providing assistance to constituents as defined in this opinion does not provide a private benefit to the constituent. The volume of public resources that may be expended to provide constituent assistance is not considered to be a private benefit. The volume of public resources expended is dependent upon the facts of the particular case. Performing constituent services does not include advocating for the constituent's private interest and/or preparation work to present the issue to the government agency. It is understood that a constituent may receive a private benefit such as a monetary award for a favorable solution to an issue which in and of itself is not considered a private benefit under AS 24.60.030. -

Adopted by the Select Committee on Legislative Ethics on August 19, 2008.

A unanimous vote of the Committee.

Members present and concurring with this opinion were:

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

Drafted by: Ethics Staff

DCW:lmb  
 08-208.lmb

<sup>1</sup> This opinion treats the three examples given as hypothetical, and, as requested, reviews them only for compliance with Legislative Ethics Act provisions relating to the use of state resources. Other laws may apply. For example, a person may not engage in the practice of law in the state unless the person is a

licensed and active member of the Alaska Bar. AS 08.08.210. There is no special exception from this prohibition for constituent advocacy by a legislator or legislative aide. The unauthorized practice of law is a misdemeanor. AS 08.08.230. The "practice of law," as defined in Alaska Bar Rule 63, includes:

(b) either (i) representing another before a court or governmental body which is operating in its adjudicative capacity, including the submission of pleadings, or (ii) for compensation, providing advice or preparing documents for another which affect legal rights or duties.

<sup>2</sup> Advisory Opinion 05-01, legislative contacts with administrative decision makers, further clarifies the prohibitions and requirements of AS 24.60.030(i).

<sup>3</sup> Webster's New World Dictionary of the American Language, 1968, pages 20-21.

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-5- AO 08-03

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## Alaska State Legislature

### Select Committee on Legislative Ethics

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May 27, 2010

#### ADVISORY OPINION 10-01

**SUBJECT: Conflict of Interest – Use of State Resources**

**RE: Conflict of Interest – State Paid Travel and Collateral Campaign Activities**

Note: This advisory opinion was rescinded at the June 14, 2010 Ethics Committee meeting. Refer to the August 19, 2008 letter to the Alaska Public Offices Commission for guidance in this area. (The letter is attached as an addendum to this opinion.)

This opinion was initiated by the Select Committee on Legislative Ethics.

#### Question Presented

In an August 19, 2008 letter to the Alaska Public Offices Commission, this Committee held that a legislator who travels on legislative business using state resources may not engage in political campaigning or other partisan political party activities during the trip. In reaching this decision, the Committee examined the restrictions imposed upon legislators under AS 24.60.030(a)(2)<sup>1</sup> and 24.60.030(a)(5)<sup>2</sup>, as well as the legislative purposes set out in AS 24.60.010. The committee, at their February 17, 2010 meeting, asked for a review of this position.

#### Discussion

While we note the prohibitions in the statute above, we also believe that a practical solution exists which ensures compliance with the statutes, provides a practical solution to the issue presented, and incorporates other provisions of AS 24.60 to ensure compliance. In short, we believe that the nature of the business rather than whether it is paid for with state resources should be the governing standard in determining whether an ethical violation has occurred. A statement signed by a legislator designating the primary nature and purpose of the business rather than whether it is paid for by state resources should suffice to govern whether or not collateral activities can or cannot occur. Violations or false statements made in this designation can be enforced pursuant to AS 24.60.030(3)<sup>3</sup>. If a legislator gives as his or her primary or sole purpose for taking the trip as engaging in political campaigning or partisan political activity, then he or she would not be entitled to state paid travel expenses. On the other hand, if the legislator gives as his or her primary purpose traveling to and from the Legislative session, visiting constituents, or engaging in other legislative business, then they should not be barred from engaging in

other incidental activities like political campaigning or partisan political activity during the trip. While this requires reliance on the “honor system,” legislators are held to similar standards in soliciting, accepting or receiving gifts.<sup>4</sup>

As has been explained to us, this issue arises primarily in the context of travel by legislators and how it affects different legislators from around the state in different ways. Some legislators are not required to use any state funds to travel to and from the session or to service their constituents. Other legislators use state funds to travel back and forth to Juneau for the session and/or to meet with their constituents.

Issues have arisen about whether it is appropriate to engage in other types of activities when State funds have been used to pay for travel expenses in ether context.

Previous discussions have cited AS 24.60.030(a)(2) and (5) for the proposition that if any travel expenses are paid by the State of Alaska to cover or reimburse travel costs, it is a violation of the ethics statute to engage in any activities which are characterized as political campaigning or other partisan political activity. These arguments are based upon the specific language in the statute and also on the limited exceptions set out in the accompanying statutory language<sup>5</sup>. While facially sound, this argument creates significant differences in how different legislators must conduct their affairs in the performance of their duties. For example, all out of town legislators who are compensated for traveling to and from their home towns to Juneau at the beginning of the session would never be able to engage in political campaigning or other partisan political activity before the session began or after it expired. Arguably, a violation could also be alleged if a legislator returned home at the state expense and promptly engaged in political campaigning or other partisan political activity. Neither of these scenarios is faced by legislators who incur no travel costs for attending the Legislative session in Juneau. Additionally, many legislators’ representation districts are vast in size and require significant travel expenses in order to properly represent their constituents. If a legislator accepts state money to pay for travel costs to visit his or her constituents, they cannot then engage in any activities characterized as political campaigning or other partisan political activity during the trip. Again, this is not an issue for legislators who do not have to incur travel costs to visit their constituents.

We believe this argument blurs the distinction between direct costs and indirect costs associated with travel by legislators. Another way to look at indirect costs is that they are incidental costs.<sup>6</sup> Because of the nature of the expense, travel costs can either be a direct or indirect expense of a particular endeavor.

If a legislator incurs travel expenses for the sole purpose of engaging in non-legislative purposes, or partisan political activity, or for his or her private benefit, then use of state funds to facilitate those activities would not be appropriate or permitted. But when a legislator engages in multiple activities – legitimate legislative business and other activities which may have specific prohibitions in statute – while traveling, it is the primary purpose of the trip that dictates when state funds can be used to cover travel expenses. The tenor of AS 24.60.030 is to preclude direct use of public funds for non-legislative purposes and it is not clear that travel expenses for mixed activities was intended to be prohibited. The primary harm that this subsection prevents is the use of state resources for the direct purpose of political campaigning or partisan political party activity.

Additionally, this argument ignores the prohibitory language found in AS 24.60.030(a)(3). This statute makes it an ethical violation for a legislator or legislative employee to “...make a false statement in connection with a request, or application for compensation, reimbursement, or travel allowance from public funds.” Legislators are currently required to fill out a pre authorization travel form naming their purpose for engaging in the proposed travel.<sup>7</sup> This “statement” could be challenged or evaluated in light of the legislator’s actual activities at a later time. Certainly, if a legislator made a false statement in this context, he or she would be in violation of AS 24.60.030(a)(3). These statements are a part of the public record and can and may be scrutinized by citizens who could file a complaint based upon the actual

activities of the legislator. This Committee would then be called upon to make a determination of whether a violation has occurred under AS 24.60.170.

This opinion is consistent with committee decisions addressing similar issues. For instance, in Advisory Opinion 96-05, a legislator requested an advisory opinion about whether it is appropriate to accept payment for the costs of a trip on which the legislator conducted both legislative business and personal business. The Select Committee issued the following opinion:

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Id., at p. 1. The opinion goes on to state:

It is permissible under the legislative ethics code for a legislator to accept state payment for the costs of a trip on which he or she conducted governmental business. As noted above, the committee does not have authority, in the context of advisory opinions, to use its judgment in lieu of a legislator's judgment in determining what is necessary state business or how much state business is necessary to justify accepting state payment for a trip.

The committee also cautions that if a legislator or legislative employee were to intentionally use a facade of legislative business to obtain a government-paid trip but were to fail to conduct any governmental business to justify governmental payment, the committee might well find a violation of AS 24.60.030(a)(2).

Id., at p. 2.

#### **Conclusion**

In short, the enforcement provisions under AS 24.60.030(a)(3) provide sufficient protection against improper use of state funds for transportation costs.<sup>8</sup>

Adopted by the Select Committee on Legislative Ethics on May 27, 2010.

Members present and concurring in this opinion were:

Senator John Coghill  
Senator Gary Stevens (via teleconference)  
Representative Les Gara (alternate member)  
Representative Craig Johnson (alternate member)  
Antoinette "Toni" Mallott

Members dissenting from this opinion were:

H. Conner Thomas, Chair  
Gary J. Turner, public member  
Dennis "Skip" Cook, public member

Member absent:

Herman G. Walker, Jr., public member

BRC:jma

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## Alaska State Legislature

### Select Committee on Legislative Ethics

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August 19, 2008

Holly Hill, Executive Director  
Alaska Public Offices Commission  
2221 East Northern Lights, Rom 128  
Anchorage AK 99508-4149

Ms. Hill:

The Select Committee on Legislative Ethics (Committee) is writing in regard to a request (from the former executive director, Brooke Miles) for input concerning regulations to be drafted by the Alaska Public Offices Commission in 2008 on the subject of paid state travel and collateral campaign activity.

Review and discussion of Advisory Opinion 06-03-CD issued by the Alaska Public Offices Commission on October 31, 2006 occurred at four committee meetings; December 12, 2007, January 16, 2008, May 12, 2008, and August 19, 2008.

The Committee looked at the restrictions imposed by AS 24.60, the Legislative Ethics Act, on a legislator or legislative employee who while traveling on legislative business using legislative resources engages in political campaigning or other partisan political activity.

A legislative resource, including money provided by the legislature to cover or reimburse costs incurred by a legislator or legislative employee while traveling on legislative business, is a government asset or

resource. A government asset or resource may not be used by a legislator or legislative employee for involvement in or support of or opposition to partisan political activity. AS 24.60.030(a)(2). More specifically, a legislator or legislative employee may not use or authorize the use of a government asset or resource for the purpose of political fund raising or campaigning. AS 24.60.030(a)(5). (Partisan political activity, political fund raising and campaigning are herein referred to as "partisan political activity.")

The legislature may wish to revisit the absolute restriction in AS 24.60 in view of the vast difference between urban and rural areas in our state. Legislative districts vary greatly in the land mass encompassing a district. Both cost and time expended to visit areas within a district also vary greatly. Travel for a matter of legislative concern or for partisan political activity can be quite costly and time consuming. The extreme example of traveling to a remote area of the state for legislative business and then returning to the legislator's home base and again traveling to the same area for partisan political activity was discussed.

Based on these factors, the Committee looked at de minimis use of state resources as a possible solution. However, de minimis use of a legislative resource for partisan political activity is prohibited under AS 24.60. To allow de minimis use of state resources for partisan political activity would require a legislative change in AS 24.60. Currently the only exception for de minimis use of state resources is for personal reasons if there is no cost to the state or the cost is promptly reimbursed.

If the legislature adopted an exception to AS 24.60.030 to permit partisan political activity that required the legislator to reimburse the state for pro-rated costs of such activity then the use might be considered de minimis. A legislator or legislative employee could then attend an event, for example, that had the overtones of being campaign related or was actually campaign related while on a legislative business trip if the primary purpose of the trip was for a matter of legislative concern. Committee members very strongly stated that a legislative trip should not be planned or scheduled around a campaign activity and further underscored no additional expenses to the state must be incurred when conducting the partisan political activities.

Under a de minimis use exception, the allocation formula allowed under Executive Branch ethics and outlined in AO 06-03-CD is the method the Committee feels is most equitable and fair. The allocation of state funds would be determined based on the percentage of time spent on state business and the percentage of time spent on partisan political activity. The percentage of time spent on a partisan political activity would be used to determine the allocated cost for reimbursement to the state.

After considerable debate, the committee determined travel to and from the legislator's home district to attend a legislative session should be exempt from the requirement of allocating costs for partisan political activity.

We hope our comments will be helpful to the Commission in preparing draft regulations on this subject. I am available to answer any questions.

Sincerely,

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

Cc: Ethics Committee Members

<sup>1</sup> In pertinent part, AS 24.60.030(a)(2) states, "A legislator or legislative employee may not ... use public funds, facilities, equipment, services, or another government asset or resource for a non-legislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of the legislator, legislative employee, or another person..."

<sup>2</sup> In pertinent part, AS 24.60.030(a)(5) makes it unethical to "use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning..."

<sup>3</sup> AS 24.60.030(a)(3) makes it an ethical violation for a legislator or legislative employee to "...make a false statement in connection with a request, or application for compensation, reimbursement, or travel allowance from public funds."

<sup>4</sup> Under AS 24.60.080 only four types of gifts require disclosure. Legislators are held to the "honor system" in determining how to identify other gifts received. A gift log is no longer required by statute but recommended. *See also* AS 24.60.010 (7)"compliance with a code of ethics is an individual responsibility..."

<sup>5</sup> AS 24.60.030 has a number of noted exceptions to the general rules that state resources may not be used for partisan political activity or political campaigning. *See* AS 24.60.030(a)(2)(A)-(K), AS 24.60.030(a)(5)(A)-(E), AS 24.60.030(d) and AS 24.60.030(h).

<sup>6</sup> AS 24.60.030(h) allows incidental campaign activities during the employee's workday while on government time. If the activity is more than incidental the employee shall take leave time. A similar analogy could be made regarding legislative travel.

<sup>7</sup> Each legislator must complete a Senate, House, Finance Committee or Legislative Council Pre Travel Authorization Form prior to travel for legislative business and a Legislative Affairs Agency Travel Claim form to request reimbursement after travel has been completed. Additionally, the Senate and House each year approve guidelines for travel and per diem for legislators. Legislative Council has also a travel and per diem policy for both legislators and legislative employees.

<sup>8</sup> The Committee recommends that the Legislature consider amending AS 24.60.030 to clarify this matter.

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AO 10-01

Document Properties	
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<b>Title:</b>	ADVISORY OPINION 10-01
<b>Subject:</b>	Conflict of Interest – Use of State Resources
<b>Author:</b>	Select Committee on Legislative Ethics
<b>Keywords:</b>	Opinion No. 01 May 27, 2010
<b>Comments:</b>	Conflict of Interest – State Paid Travel and Collateral Campaign Activities
<b>Template:</b>	Letter.dot
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**Alaska State Legislature**

**Select Committee on  
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99510

April 14, 1994

**Advisory Opinion 94-07**

RE: Must participation in the Violent Crimes Compensation Commission Program be published in the journals?

You are a legislative employee covered by the legislative ethics code. You have filed a disclosure of participation in a state benefit program but asked that the committee refrain from publishing the disclosure in the journal.

**Statement of Facts**

The facts and circumstances that you have related, and on which the committee relies in answering your questions, are as follows:

You are a legislative employee, covered by the legislative code of ethics. During 1993, you received \$763 from the Violent Crimes Compensation Program. You reported this participation in a state benefit program to the committee on February 15 but requested that the committee not publish the disclosure.

The committee has chosen to treat your request for confidentiality as a request for an advisory opinion in order to give notice of its decision on the issue your request raises.

**Discussion**

Under AS 24.60.050(c), a legislator or legislative employee who participates in a state benefit or loan program that is not exempt under (a) of that section must disclose the participation. The programs and loans that are exempt from disclosure under subsection (a) are those that are generally available to members of the public, are subject to fixed, objective eligibility standards, and require minimal discretion in determining qualification. Under subsection (b), the committee publishes a list of programs designating those for which disclosure is required. Appendix G of the Standards of Conduct Handbook, prepared by the ethics committee and published in January 1993, lists those programs that must be reported. The Violent Crimes Compensation Program is one of the programs listed. Therefore, you are required to report your participation, which you did.

Under AS 24.60.050(c), the committee is required to

promptly compile a list of the statements [of participation in programs or receipt of loans] indicating the loans and programs and amounts and send it to the presiding officer of each house who shall have it published in the supplemental journals within three weeks of the filing date.

The statute on its face does not provide any exceptions to the requirement that each person participating in a program or loan be included on the list that is published in the journals. However, the committee believes that an exception based on the constitutional right of privacy must be read into the publication requirement and should be applied in the case of programs such as the Violent Crimes Compensation Program.<sup>1</sup>

The committee staff contacted the Violent Crimes Compensation office to discuss the privacy issue. According to the staff of that office, the names of participants in the program and files relating to them are kept confidential. There is no public access through the commission to any information on an individual. They do publish an annual report from which any identifying information concerning individuals has been removed.

In Advisory Opinion 88-1, concerning disclosure of representation before a state agency, board, or commission under AS 24.60.100, the committee relied on the constitutional right to privacy and on the state supreme court's implementation of that right to find a limited exemption to the disclosure requirement imposed by the ethics code. The committee permitted the legislator-attorney to refrain from disclosing the name of a client whose privacy would be invaded by disclosure but did require disclosure of the existence of an unnamed client, the subject of the representation, and the body before which the matter was heard.

In Falcon v. Alaska Public Offices Com'n, 570 P.2d 469 (Alaska 1977), the court considered whether a doctor who had been appointed to the State Medical Board was required to reveal the names of patients on his financial disclosure statement. The court stated that whether a privacy invasion is justified turns on the precise nature of the privacy interest involved:

There must be a "fair and substantial relation" between the statutory means and a legitimate governmental purpose. Thus to determine the validity of the disclosure provisions of the Conflict of Interest law, we must consider both the nature and the extent of the privacy invasion and the strength of the state interest requiring disclosure.

Id. at 476. (Footnotes omitted) In Falcon, the court found that the purposes of the Conflict of Interest law were to promote efficient, ethical government and preserve the integrity and fairness of the political process both in fact and in appearance. Those purposes are similar to the purposes of the legislative ethics code, stated at AS 24.60.010(1) and (2).<sup>2</sup> The court then considered how invasive the revelation of the names of the patients would be and noted that ordinarily disclosure of patients of a physician would involve only a minimal invasion of privacy but that in particular situations, the disclosure might have the effect of making public information that was confidential or sensitive. The court quoted a commentator on how to determine whether information should be considered sensitive:

[s]ensitive information is that which a person desires to keep private and which, if disseminated, would tend to cause substantial concern, anxiety or embarrassment to a

reasonable person.

Id. at 479. The court gave an example of visits to a physician who specializes in contraceptive matters or abortions as private and sensitive information. The court then concluded: that the extent to which the governmental interest in promoting fair and honest government would not outweigh the individual's privacy interest in protecting sensitive personal information from public disclosure in those kinds of situations. Id. at 480.

Applying this analysis to your situation, the committee must decide whether your participation in the Violent Crimes Compensation program should be considered to be sensitive information. If the committee finds that the information is sensitive, it must weigh whether your privacy interest should take precedence over the governmental interest in public disclosure of your participation in the program. In making this judgment, the committee will consider the possibility of the appearance of impropriety in your participation as well as the possibility of actual impropriety. The committee will also consider the degree of influence you might have had because of your legislative position.

The committee finds that your participation in the Violent Crimes Compensation program should be considered sensitive personal information. You have expressed concern about having the events that happened made public and the committee finds that a reasonable person would have similar concerns. This conclusion is supported by the fact that the information is treated as confidential by the Violent Crimes Compensation Commission. Because the amount of money you received from the program was relatively small and because you do not occupy a position that can take official action or exert official influence over this state program, the committee finds that your name should not be made public.<sup>3</sup> However, in order to comply as completely as possible with the statutory requirements, the committee will publish the fact that a person required to make disclosures under the legislative code of ethics did participate in the program and will disclose the amount of the benefit that you and your family received. Your name will be kept confidential.

### **Conclusion**

For the reasons stated above, the committee finds that under AS 24.60.050, you were required to report your participation in the Violent Crimes Compensation program to the committee but that your constitutional right to privacy requires the committee to keep your name confidential. Accordingly the committee will publish notice that a person required to disclose under AS 24.60.050 participated in that program and will report the amount you received.

Adopted by the Select Committee on Legislative Ethics on April 14, 1994. Members present and concurring in this opinion were:

Joseph P. Donahue, Chair  
 Representative Jerry Mackie  
 Representative Brian Porter  
 Margie MacNeille  
 Edith Vorderstrasse  
 Shirley McCoy

Members absent were:

Ed Granger, Vice-Chair  
 Senator Jay Kerttula  
 Senator Drue Pearce

94-263.plm

<sup>1</sup> Art. I, sec. 22 constitution of the State of Alaska, states

The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.

<sup>2</sup> AS 24.60.010(1) and (2) state

The legislature finds that

(1) high moral and ethical standards among public servants in the legislative branch of government are essential to assure the trust, respect, and confidence of the people of this state;

(2) a fair and open government requires that legislators and legislative employees conduct the public's business in a manner that preserves the integrity of the legislative process and avoids conflicts of interest or even appearances of conflicts of interest;

<sup>3</sup> The committee does not now decide that all participants in this program should be kept confidential. Each case should be considered based on its own surrounding circumstances.

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<b>Subject:</b>	Gifts – Lobbyists
<b>Author:</b>	Select Committee on Legislative Ethics
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## Alaska State Legislature

### Select Committee on Legislative Ethics

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May 27, 2010

#### ADVISORY OPINION 10-01

**SUBJECT: Conflict of Interest – Use of State Resources**

**RE: Conflict of Interest – State Paid Travel and Collateral Campaign Activities**

Note: This advisory opinion was rescinded at the June 14, 2010 Ethics Committee meeting. Refer to the August 19, 2008 letter to the Alaska Public Offices Commission for guidance in this area. (The letter is attached as an addendum to this opinion.)

This opinion was initiated by the Select Committee on Legislative Ethics.

#### Question Presented

In an August 19, 2008 letter to the Alaska Public Offices Commission, this Committee held that a legislator who travels on legislative business using state resources may not engage in political campaigning or other partisan political party activities during the trip. In reaching this decision, the Committee examined the restrictions imposed upon legislators under AS 24.60.030(a)(2)<sup>1</sup> and 24.60.030(a)(5)<sup>2</sup>, as well as the legislative purposes set out in AS 24.60.010. The committee, at their February 17, 2010 meeting, asked for a review of this position.

#### Discussion

While we note the prohibitions in the statute above, we also believe that a practical solution exists which ensures compliance with the statutes, provides a practical solution to the issue presented, and incorporates other provisions of AS 24.60 to ensure compliance. In short, we believe that the nature of the business rather than whether it is paid for with state resources should be the governing standard in determining whether an ethical violation has occurred. A statement signed by a legislator designating the primary nature and purpose of the business rather than whether it is paid for by state resources should suffice to govern whether or not collateral activities can or cannot occur. Violations or false statements made in this designation can be enforced pursuant to AS 24.60.030(3)<sup>3</sup>. If a legislator gives as his or her primary or sole purpose for taking the trip as engaging in political campaigning or partisan political activity, then he or she would not be entitled to state paid travel expenses. On the other hand, if the legislator gives as his or her primary purpose traveling to and from the Legislative session, visiting constituents, or engaging in other legislative business, then they should not be barred from engaging in

other incidental activities like political campaigning or partisan political activity during the trip. While this requires reliance on the “honor system,” legislators are held to similar standards in soliciting, accepting or receiving gifts.<sup>4</sup>

As has been explained to us, this issue arises primarily in the context of travel by legislators and how it affects different legislators from around the state in different ways. Some legislators are not required to use any state funds to travel to and from the session or to service their constituents. Other legislators use state funds to travel back and forth to Juneau for the session and/or to meet with their constituents.

Issues have arisen about whether it is appropriate to engage in other types of activities when State funds have been used to pay for travel expenses in ether context.

Previous discussions have cited AS 24.60.030(a)(2) and (5) for the proposition that if any travel expenses are paid by the State of Alaska to cover or reimburse travel costs, it is a violation of the ethics statute to engage in any activities which are characterized as political campaigning or other partisan political activity. These arguments are based upon the specific language in the statute and also on the limited exceptions set out in the accompanying statutory language<sup>5</sup>. While facially sound, this argument creates significant differences in how different legislators must conduct their affairs in the performance of their duties. For example, all out of town legislators who are compensated for traveling to and from their home towns to Juneau at the beginning of the session would never be able to engage in political campaigning or other partisan political activity before the session began or after it expired. Arguably, a violation could also be alleged if a legislator returned home at the state expense and promptly engaged in political campaigning or other partisan political activity. Neither of these scenarios is faced by legislators who incur no travel costs for attending the Legislative session in Juneau. Additionally, many legislators’ representation districts are vast in size and require significant travel expenses in order to properly represent their constituents. If a legislator accepts state money to pay for travel costs to visit his or her constituents, they cannot then engage in any activities characterized as political campaigning or other partisan political activity during the trip. Again, this is not an issue for legislators who do not have to incur travel costs to visit their constituents.

We believe this argument blurs the distinction between direct costs and indirect costs associated with travel by legislators. Another way to look at indirect costs is that they are incidental costs.<sup>6</sup> Because of the nature of the expense, travel costs can either be a direct or indirect expense of a particular endeavor.

If a legislator incurs travel expenses for the sole purpose of engaging in non-legislative purposes, or partisan political activity, or for his or her private benefit, then use of state funds to facilitate those activities would not be appropriate or permitted. But when a legislator engages in multiple activities – legitimate legislative business and other activities which may have specific prohibitions in statute – while traveling, it is the primary purpose of the trip that dictates when state funds can be used to cover travel expenses. The tenor of AS 24.60.030 is to preclude direct use of public funds for non-legislative purposes and it is not clear that travel expenses for mixed activities was intended to be prohibited. The primary harm that this subsection prevents is the use of state resources for the direct purpose of political campaigning or partisan political party activity.

Additionally, this argument ignores the prohibitory language found in AS 24.60.030(a)(3). This statute makes it an ethical violation for a legislator or legislative employee to “...make a false statement in connection with a request, or application for compensation, reimbursement, or travel allowance from public funds.” Legislators are currently required to fill out a pre authorization travel form naming their purpose for engaging in the proposed travel.<sup>7</sup> This “statement” could be challenged or evaluated in light of the legislator’s actual activities at a later time. Certainly, if a legislator made a false statement in this context, he or she would be in violation of AS 24.60.030(a)(3). These statements are a part of the public record and can and may be scrutinized by citizens who could file a complaint based upon the actual

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Id., at p. 2.

#### **Conclusion**

In short, the enforcement provisions under AS 24.60.030(a)(3) provide sufficient protection against improper use of state funds for transportation costs.<sup>8</sup>

Adopted by the Select Committee on Legislative Ethics on May 27, 2010.

Members present and concurring in this opinion were:

Senator John Coghill  
Senator Gary Stevens (via teleconference)  
Representative Les Gara (alternate member)  
Representative Craig Johnson (alternate member)  
Antoinette "Toni" Mallott

Members dissenting from this opinion were:

H. Conner Thomas, Chair  
Gary J. Turner, public member  
Dennis "Skip" Cook, public member

Member absent:

Herman G. Walker, Jr., public member

BRC:jma

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## Alaska State Legislature

### Select Committee on Legislative Ethics

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August 19, 2008

Holly Hill, Executive Director  
Alaska Public Offices Commission  
2221 East Northern Lights, Rom 128  
Anchorage AK 99508-4149

Ms. Hill:

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A legislative resource, including money provided by the legislature to cover or reimburse costs incurred by a legislator or legislative employee while traveling on legislative business, is a government asset or

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The legislature may wish to revisit the absolute restriction in AS 24.60 in view of the vast difference between urban and rural areas in our state. Legislative districts vary greatly in the land mass encompassing a district. Both cost and time expended to visit areas within a district also vary greatly.

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Based on these factors, the Committee looked at de minimis use of state resources as a possible solution.

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If the legislature adopted an exception to AS 24.60.030 to permit partisan political activity that required the legislator to reimburse the state for pro-rated costs of such activity then the use might be considered de minimis. A legislator or legislative employee could then attend an event, for example, that had the overtones of being campaign related or was actually campaign related while on a legislative business trip if the primary purpose of the trip was for a matter of legislative concern. Committee members very strongly stated that a legislative trip should not be planned or scheduled around a campaign activity and further underscored no additional expenses to the state must be incurred when conducting the partisan political activities.

Under a de minimis use exception, the allocation formula allowed under Executive Branch ethics and outlined in AO 06-03-CD is the method the Committee feels is most equitable and fair. The allocation of state funds would be determined based on the percentage of time spent on state business and the percentage of time spent on partisan political activity. The percentage of time spent on a partisan political activity would be used to determine the allocated cost for reimbursement to the state.

After considerable debate, the committee determined travel to and from the legislator's home district to attend a legislative session should be exempt from the requirement of allocating costs for partisan political activity.

We hope our comments will be helpful to the Commission in preparing draft regulations on this subject. I am available to answer any questions.

Sincerely,

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

Cc: Ethics Committee Members

<sup>1</sup> In pertinent part, AS 24.60.030(a)(2) states, "A legislator or legislative employee may not ... use public funds, facilities, equipment, services, or another government asset or resource for a non-legislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of the legislator, legislative employee, or another person..."

<sup>2</sup> In pertinent part, AS 24.60.030(a)(5) makes it unethical to "use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning..."

<sup>3</sup> AS 24.60.030(a)(3) makes it an ethical violation for a legislator or legislative employee to "...make a false statement in connection with a request, or application for compensation, reimbursement, or travel allowance from public funds."

<sup>4</sup> Under AS 24.60.080 only four types of gifts require disclosure. Legislators are held to the "honor system" in determining how to identify other gifts received. A gift log is no longer required by statute but recommended. *See also* AS 24.60.010 (7)"compliance with a code of ethics is an individual responsibility..."

<sup>5</sup> AS 24.60.030 has a number of noted exceptions to the general rules that state resources may not be used for partisan political activity or political campaigning. See AS 24.60.030(a)(2)(A)-(K), AS 24.60.030(a)(5)(A)-(E), AS 24.60.030(d) and AS 24.60.030(h).

<sup>6</sup> AS 24.60.030(h) allows incidental campaign activities during the employee's workday while on government time. If the activity is more than incidental the employee shall take leave time. A similar analogy could be made regarding legislative travel.

<sup>7</sup> Each legislator must complete a Senate, House, Finance Committee or Legislative Council Pre Travel Authorization Form prior to travel for legislative business and a Legislative Affairs Agency Travel Claim form to request reimbursement after travel has been completed. Additionally, the Senate and House each year approve guidelines for travel and per diem for legislators. Legislative Council has also a travel and per diem policy for both legislators and legislative employees.

<sup>8</sup> The Committee recommends that the Legislature consider amending AS 24.60.030 to clarify this matter.

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<b>Author:</b>	Select Committee on Legislative Ethics
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# Alaska State Legislature

## Select Committee on Legislative Ethics

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### MINUTES from June 16, 2010 FULL COMMITTEE MEETING Anchorage LIO, Room 550

- 1. CALL THE MEETING TO ORDER:** Chair Conner Thomas called the meeting to order at 12:05 p.m. Members present: Senator John Coghill, (via teleconference), Senator Gary Stevens, Representative Les Gara, (alternate for Rep Gardner), Representative Carl Gatto, Gary J. Turner, Dennis (Skip) Cook, Herman G. Walker, Jr., Antoinette (Toni) Mallott. Staff present: Joyce Anderson, Administrator. Also present: Brent Cole, Legal Counsel and Dan Wayne, LAA Legal Counsel (via teleconference).
- 2. APPROVAL OF AGENDA:** Chair Thomas asked if there were any objections to the proposed agenda and hearing none, the agenda was approved.
- 3. APPROVAL OF MINUTES:** Vice Chair Turner requested the word "almost" be inserted on page 4, third paragraph, first sentence, before "three years now". Member Walker made a motion to approve the minutes as amended. No objections.
- 4. PUBLIC COMMENT:** Representative Craig Johnson stated he served as an alternate for Rep Gatto at the May 27<sup>th</sup> Ethics Committee meeting and wanted to clarify his position on the subject of legislative travel and campaign activity on the same trip. He did not believe it was a violation to have a conversation with a constituent on campaigning in a super market while traveling on state business. He did feel it would not be appropriate to schedule a state paid trip and a fundraiser at the same time. He further stated he believed there needed to be a balance between these two activities but questioned whether the Ethics Committee had the ability to do this within the structure of the law. Rep Johnson wanted the Committee to know for the record that he did not agree with what he and the Committee approved at the last meeting.
- 5. CHAIR/STAFF REPORT:** Ms. Anderson informed the committee the NCSL's State Legislatures magazine, June edition, had published an article about 25 innovative web sites. The searchable database of more than 100 advisory opinions from 1984 to the present on our website was showcased. The article also mentioned disclosures could be filed online.

Ms. Anderson also informed the committee that she recently learned the audio from our Ethics Committee meetings were not available to the public and requested the Committee consider making them available, like other interim committees, on BASIS. The Committee determined the audios should be on BASIS. Sen Coghill suggested BASIS and the Ethics website be linked as well.

6. **REVIEW OF ACTION TAKEN AT MAY 27, 2010 MEETING - STATE PAID TRAVEL AND COLLATERAL CAMPAIGN ACTIVITIES:** Chair Thomas reminded members an advisory opinion was approved at the May 27 meeting authorizing collateral campaign activities when on a state paid trip as long as the trip was primarily for legislative business. The results were: YES: 5; NO: 3; with one member absent. A couple of days later, Rep Gara, who voted yes, requested reconsideration of his vote. (See his request via E-mail in meeting packet.)

Chair Thomas stated it was his role as chair to decide if the request was timely. Because the advisory opinion had already been made public, including notification to the Press, and advice had already been given out based on the opinion; he ruled the request was not timely. He stated he asked Ms. Anderson to contact each Committee member to see if there was any interest in rescinding the opinion. Several members expressed their interest in discussing this item further and possibly rescinding the advisory opinion.

Chair Thomas indicated if there was a motion today to rescind the committee's previous action and it passed, the item would be put on the table for discussion. Rep Gara made a motion to rescind the action taken by the Ethics Committee on May 27, 2010.

**Discussion on State Paid Travel and Collateral Campaign Activities:** Chair Thomas reminded members the Committee did not have the authority to set policy but only interpret the Legislative Ethics Act. The Chair gave the floor to Rep Gara to allow him the opportunity to explain his request to rescind and present his recommendations.

Rep Gara summarized the E-mail he sent to members: We were given two options at the last meeting; one prepared by Mr. Brent Cole, outside legal counsel, and the other prepared by Mr. Dan Wayne, LAA Legal Counsel. He stated Mr. Cole's opinion was flawed in that campaign fundraising activities were permitted and Mr. Wayne's opinion was also flawed by banning of legitimate, free speech.

Rep Gara recommended accepting Mr. Cole's opinion focusing on the "primary purpose" rule and adding a statement indicating, "**fundraising on a state-paid trip can create the appearance of impropriety.**"

The Chair asked Mr. Wayne if the Committee has the authority to make the type of modification Rep Gara is recommending and to also give his legal opinion on the freedom of speech issue. Mr. Wayne stated the Committee has the authority to interpret the statute based on the facts of the question and statutory language. He stated he understood Rep Gara's concerns.

Mr. Wayne pointed out in his updated opinion that if the political activity the person is engaged in is made possible by the use of state resources, and then s/he should not engage in it. The opinion included relevant examples. However, Mr. Wayne concluded the subject matter can be complicated and it would not be difficult to think of unusual conundrums that people could run into.

Sen Stevens agreed this issue was complicated and suggested the committee make it simple and clear for legislators to know when they are in violation and when they are not. He questioned if the legislature should be working this issue, not the Committee.

Member Walker stated that he understood the merit of Sen Stevens' position and Rep Gara's and believes this should be a legislative fix. The public members have been in favor of a legislative fix from the start. He stated there needs to be a balance between urban and rural legislators with the way the state is laid out. The balance should not be determined by this Committee.

Member Cook concurred with Member Walker stating he felt the Legislature should fix this issue, not the Committee. There are problems with both opinions but ultimately it's the statute that is the problem and needs to be addressed. He felt the statute was too absolute in that campaigning is prohibited and there are no exceptions, whatsoever. There are exceptions for everything else. If the Legislature can come up with a quick fix to the state jet issue (Administrator's Note: When this issue came to light, legislation was passed to address it the next legislative session), then they can fix and corrected this situation as well. Member Cook believes the Legislature does not want to loosen up the rules; they want the Ethics Committee to do it for them. As a member of the Committee, he is not willing to do what the Legislature should be doing. The Legislature passed the statute, let the Legislature fix it.

Member Mallott stated she was under the impression from the May 27 minutes that Sen Coghill was going to take this issue to the Legislature for review. Member Mallott also brought up a very common scenario that could occur while a legislator was visiting a village on state business. If a legislator declined an invitation to a potluck to discuss campaign issues, the legislator would be insulting the village and community. Potlucks are a common event in small villages.

Chair Thomas redirected the discussion and requested Mr. Cole to address Rep Gara's concerns before addressing Member Mallott's comments.

Mr. Cole stated it was not uncommon for a statute to be rewritten. He also stated it was not unusual to have two or three interpretations relating to the same statute. Legislators need guidance and he felt Mr. Wayne's interpretation allows for too many limitations for legislators while they are traveling on state business. He did not feel his opinion was "extreme", as some members had stated. He stated if legislators are on a state paid trip to a village, the legislator should be able to communicate with the people there on all facets.

Chair Thomas asked Mr. Cole if the Committee has the authority to revise the opinion as Rep Gara suggested. Mr. Cole stated he believed the Committee has the authority. It would first require rescinding the advisory opinion which has already been approved and then rewriting certain sections as the committee directed. However, he did not agree with Rep Gara's recommendation of prohibiting fundraising only.

Sen Stevens agreed with Mr. Cole's comment that legislators need guidance and it needs to be clear. If a legislator files paperwork to attend a meeting and states the meeting is the primary purpose of the trip, and he approves it as Senate President, and the legislator also attends a campaign fundraising event for himself or herself while on the trip, anyone can file a complaint saying that was not the primary purpose of the trip. In his opinion, it is obvious and clear to him that this person violated the ethics code.

Rep Gara agreed the issue is clarity. He did not agree with Mr. Wayne's opinion since it banned free speech. Rep Gara also stated he agreed that this was the Legislature's job but it was not realistic to expect it to pass. From past experience, even with the best intentions, it is difficult to pass a bill. That is why it is important to come up with something now; a rule that honors the statute but isn't unreasonable or with unintended circumstances.

Rep Gara stated Mr. Cole's opinion makes sense but liked the idea that the Ethics Committee could bar things that raise the appearance of impropriety. Chair Thomas added the Committee has in the past deemed the appearance of impropriety was not in and of itself an ethics code violation.

Mr. Cole stated he did not see how you could say fundraising raises the appearance of impropriety but then allows other candidate campaign activities. In his opinion all campaign activities raise the appearance of impropriety.

Rep Gatto agreed leeway was important but finding the right language was a difficult task. What a legislator might see and what another perceives as proper or improper can be very different.

Chair Thomas believed it boils down to the purpose of the trip; i.e., the specific set of circumstances. He does not believe they can come up with any rule that can guarantee a complaint won't ever be filed.

Sen Stevens stated that he was invited to attend two fundraisers the night before, which he did not attend, but questioned if the Committee was referring to personal fundraisers for the legislators on the state paid trip or any fundraiser. Mr. Wayne indicated there is another opinion on this subject. He believes the statute reads whether you are helping someone else raise money for their campaign or raising money for your campaign, it's all considered fundraising. This would include the situation where your name is listed on an invitation to a fundraiser. Mr. Wayne offered to look up the opinion and provide additional information. Sen Stevens then questioned if it included attending fundraisers for other candidates, such as a fundraiser for Sen Murkowski or President Obama. Member Cook stated the statute reads, "no partisan political activity", which includes all

levels of partisan political activity. Member Cook indicated that's the problem with the statute; it's very broad. Sen Stevens stated the words "primary purpose" definitely clarifies things for him and that he preferred the term.

Chair Thomas stated that there was a motion on the floor and asked each member to voice their opinion before taking a vote.

- Member Cook stated the Legislature should make the policy call through legislation.
- Sen Coghill stated he preferred Mr. Cole's opinion in that the term "primary purpose" was defined and was against rescinding the opinion.
- Rep Gara stated he would like a rule that meets the public's expectations – when on a state paid trip you are not going to a fundraiser on the same trip. He clarified the prohibition doesn't mean you shouldn't be able to talk to a voter or the press while on that trip. He is against the approved opinion and hopes the Committee comes up with a rational rule.
- *MEMBER MALLOTT'S COMMENTS WERE INAUDIBLE.*
- Member Walker had no comment at this time.
- Sen Stevens stated he was against rescinding the opinion without replacing it with something else. He believes in the honor system; i.e., signing paperwork that states the primary purpose of a trip is for legislative business. He believes the committee is delving in dangerous territory in that we are close to writing legislation which is not the Committee's job.
- Rep Gatto stated he was against rescinding the opinion.
- Chair Thomas agreed with Member Cook. The Legislature was clear when they wrote the current legislation. No state resources can be used for campaigning. He also agrees that the prohibition does not mean a legislator cannot talk on the phone about campaign issues. But he stated there are no exceptions in the current statute for the use of state resources and that is a concern that has been voiced by many members. He stated the Legislature should be addressing this issue. Chair Thomas explained that in August of 2008 the Ethics Committee's letter to APOC is what generated this discussion. There was an opinion drafted but never adopted. The Committee maintained its position that there were no exceptions in the statute.

Sen Stevens voiced concern and frustration over rescinding Mr. Cole's opinion due to the fact Legislators had been notified of the opinion and received advice based on the opinion and now the opinion may be rescinded today.

Chair Thomas agreed that it is frustrating to him as well, but if the current opinion is rescinded today and no other opinion is approved, the recommended advice to legislators and staff would be what was in place prior to adopting Mr. Cole's opinion in May. The advice provided after the May 27 opinion was adopted would stand and action taken by legislators and staff during the period the opinion was in force would not be in violation of the Act.

Chair Thomas asked Ms. Anderson to take a roll call vote. YEAS: Skip Cook, Rep Gara, Toni Mallott, Gary Turner, Herman Walker, Jr., Chair Thomas, NAYS: Sen Coghill, Rep Gatto, Sen Stevens. Motion to rescind the committee's May 27 action passes.

Chair Thomas suggested the members break for 10 minutes to review Mr. Wayne's advisory opinion.

Sen Stevens recommended legislators be notified immediately that Mr. Cole's advisory opinion was rescinded today. Ms. Anderson stated she would send out an "All Users" e-mail ASAP.

(Herman Walker leaves the meeting and does not return.)

1:40 p.m. - Members reconvened.

Mr. Wayne presented a revised draft of the 2008 advisory opinion not approved by the committee. He explained that he reviewed previous discussion on this subject and incorporated some of the examples in this opinion. He clarified his drafted opinion was to assist the Committee and not to advocate for any particular policy. The Committee can accept it, modify it or reject it.

(Sen Stevens temporarily leaves the meeting.)

Mr. Wayne proceeded to point out the changes he made from his first draft opinion. He changed the wording from "legislative resources" to "state resources" throughout the opinion to be consistent with the term used in statute. The examples will aid in understanding where the Committee might "draw the line". The long paragraph on page three is new and addresses the interpretation of the two prohibitions in statute in regard to legislators and staff traveling to and from legislative sessions. There was some discussion at previous meetings in relation to the term "incidental" and the long paragraph on page 3 and page 4 covers those concerns. The second paragraph on page 5 covers "inadvertent" campaign activity that many members voiced concerns about; for example, if you're approached by a constituent in the super market with a campaign related issue while traveling on a state paid business trip.

(Sen Stevens returns to the meeting.)

Sen Stevens requested a definition of the terms "political fundraising", "campaigning" and "partisan political activity". Mr. Wayne provided Sen Stevens some examples but explained there were no definitions in statute. Mr. Wayne indicated there are the

obvious examples of when you are campaigning, but there are also gray areas which may be more obvious or less obvious to some and fall subject to interpretation.

Rep Gara requested clarification regarding phone calls and a scenario during a month long special session. What if a legislator received a call from the press stating your opponent has accused you of doing something you did not and you feel you need to address it immediately, and you do, are you engaging in "political activity". Mr. Wayne stated he would have to know the facts of the subject matter that was before the press. Without the facts, he could not answer the question.

Vice Chair Turner commented that APOC also did not have definitions on these three terms. They have said it would greatly help them if there were definitions. He also commented that he did not fully agree with any of the options today and reminded the members there was still the option to adopt the Executive Branch's method, which was prompted by the use of the executive airplane by a sitting governor, such as portioning the expense out.

Members discussed what the next step should be. Rep Gara stated he could agree with members if the consensus was more discussion and more work on the issue. However, he was concerned about what was to be the rule in the meantime. He offered taking it to the Legislature, but felt time was of the essence. He felt that a ruling should be made today and requested feedback from members on his recommendation of adopting Mr. Cole's opinion with the exception of fundraising.

Sen Coghill indicated the pressing concerns were definitions, the freedom of speech issue, and when impropriety of fundraising occurs. He feels the Committee wants a rule that is "prescriptive" rather than something they can use as a guide. For example, the members want to be able to tell people when it is okay to fundraise rather than what is the impropriety in mixing legislative work with campaign work. He felt this was discussion for the Legislature, as was defining terms. He agreed that the statute was too narrow, but the Committee has been pretty clear about what an impropriety might look like. He voiced it was not impossible to get things passed in the Legislature it just takes tenacity. He felt the statute is what it is but there is also a record of the numerous discussions held on this issue and minutes available to the public that shows why the impasse is so difficult to navigate.

Members discussed the next step. Legislators asked what advice the Ethics office will be giving to legislators. Chair Thomas replied that the Committee will stand behind what the statute says and the position outlined in the committee's letter to APOC.

Rep Gara made a motion to accept Mr. Cole's opinion with the exception of fundraising, reiterating that he felt a rule needed to be in place today. If a ruling was not made today, he felt what could happen is that a complaint will be filed and then the Committee will be forced to come up with a rule. He disagrees with this practice.

The Chair disagreed with Rep Gara in that the Committee has already taken a position. The position the Committee has taken is outlined in the letter to APOC. What the Committee has not done is adopt an advisory opinion.

All members agreed there should not be a vote without Member Walker's presence. Rep Gara withdrew his motion.

Members reviewed the August 19, 2008 letter to APOC. Rep Gara noted that the freedom of speech issues continue to be a problem.

Chair Thomas concluded that the item today will be tabled for the next Committee meeting.

7. **ADJOURN:** Member Cook moved to adjourn the meeting at approximately 2:30 p.m. No objections.

# Alaska State Legislature

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### MINUTES from May 27, 2010 FULL COMMITTEE MEETING Anchorage LIO, Room 220

1. **CALL THE MEETING TO ORDER:** Vice Chair Gary Turner called the meeting to order at 11:32 a.m. Roll call was taken by Joyce Anderson. Members present: Senator John Coghill, Senator Gary Stevens (attending by teleconference), Representative Les Gara (11:35 a.m.) alternate for Rep Gardner, Chair H. Conner Thomas (11:40 a.m.), Representative Craig Johnson (12:00) alternate for Rep Gatto, Gary J. Turner, Dennis (Skip) Cook, Antoinette (Toni) Mallott. Staff present: Joyce Anderson, Administrator. Absent: Herman G. Walker, Jr. Also present Brent Cole, Legal Counsel and Dan Wayne, LAA Legal Counsel (attending by teleconference).
2. **APPROVAL OF AGENDA:** Vice Chair Turner requested a motion to approve the agenda. Motion to move and approve the agenda made by Rep Johnson. No objections.
3. **APPROVAL OF MINUTES:** Sen Coghill motioned and moved to approve the minutes of the Senate Subcommittee meeting of February 17, 2010, and the Full Committee meeting minutes of February 17, 2010; no objections.
4. **PUBLIC COMMENT:** None.
5. **CHAIR/STAFF REPORT:**
  - a. **Ethics disclosures:** Ms. Anderson stated that disclosures, filed between February 18<sup>th</sup> (deadline for annual disclosures) and April 18<sup>th</sup> (last day of session) will be published in the Legislative Journal at the end of June. The next publication of interim disclosures will be in January of 2011, unless deemed otherwise by House Clerk and Senate Secretary. A current list of disclosures submitted will be updated and posted on the Ethics website.
  - b. There were eight late disclosures filed since the last committee meeting in February. Four were first time late filings and no fine was assessed; Rep Kawasaki, Rep Millett, Rep Stoltze and T. Bannister. The other four varied in reasons for lateness:

Rep Holmes was fined \$25 for an inadvertent late filing; Sen Huggins was fined \$25 for an inadvertent late filing; S. Long was fined \$100 for a late filing; and Sen Dyson's late filing was waived since he had filed with APOC.

- c. **Informal Advice Staff Report:** Ms. Anderson provided an explanation of the informal advice provided between November 1, 2009, and May 14, 2010. The report does not include routinely asked questions but questions involving more detailed advice. Ms. Anderson stated that the current method used in preparation of this report is tedious and time consuming. However, she is anticipating the availability of a database this summer which will simplify this task. The database is being developed by the State of Massachusetts and would be available free. Sen Coghill complemented Ms. Anderson on categorizing the report stating it was helpful to him to review advice in this manner.

6. **SECOND LEGAL OPINION:** Chair Thomas arrived at 11:40 a.m. and relieved Vice Chair Turner who was temporarily sitting in for him. Mr. Cole was not scheduled to arrive until 12Noon to present this item. Chair Thomas provided members a history of the subject and the discussions previously held leading up to this point, noting that there are members present today who were not present at prior meetings.

Chair Thomas referred members to the letter in today's meeting packet written by the Ethics Committee in response to APOC's (Alaska Public Offices Commission) request for the Ethics Committee's input concerning regulations on the subject of paid state travel and collateral campaign activity. At the time of this request, (December of 2007), APOC had no regulations in place. APOC's request is what generated the Ethics Committee to hold various discussions and ask for an advisory opinion on the subject. A draft opinion discussed at the January 2008 meeting was not approved or issued but the committee concluded there absolutely cannot be a mixing of state resources for campaigning or incidental partisan political activity. The Committee then wrote APOC stating the position of the Ethics Committee; however, no advisory opinion was ever adopted or a vote taken by the committee.

The Chair also noted that this issue comes up often, most recently, at his and Vice Chair Turner's confirmation hearings, where the House Judiciary Committee questioned both of them about the committee's advice and recommended that the Committee consider submitting a second opinion. The Chair stated that the question before them today is if they should adopt the second opinion or rely on the advice in the draft opinion written by Dan Wayne, LAA legal counsel.

The Chair asked Dan Wayne to go over his opinion and his view on Mr. Cole's second opinion. Mr. Wayne stated he reviewed Mr. Cole's opinion and indicated he did not agree with Mr. Cole's analysis. Mr. Wayne expressed that his opinion was based on **AS 24.60.030, "A legislator or legislative employee may not use public funds, utilities, equipment, services or another government asset or resource for a non-legislative purpose for involvement in or support of or opposition to partisan political activity or for the private benefit of either the legislator or legislative employee or another person."** Mr. Wayne provided the exceptions, as follows:

**“This paragraph does not prohibit a) the limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duty. And either the cost or value of related use is nominal or the legislator or legislative employee reimburses the state for the cost of the use.”** If this were the only exception, “personal use” *could* encompass campaign use or political use. But there’s another exception having to do with political campaigning, which is AS 24.60.030(a)(5), and states as follows: **“A legislator or legislative employee may not use or authorize the use of state funds, facilities, equipment, services or government asset or resource”**, which is similar to the first exception he read.

He further stated, for the purpose of political fundraising or campaigning, there are five exceptions: **1) this paragraph does not prohibit a) the limited use of state property and resources for personal purposes.** This reiterates the “personal use” exception. It also says it doesn’t prohibit the use of mailing lists, computer data or information obtained by a government agency and available to the general public for non-legislative purposes; it doesn’t prohibit the storing or maintaining election campaign records in a legislator’s office, and it doesn’t prohibit a legislator from using a legislator’s private office in the Capitol city during a legislative session and for the 10 days immediately before and the 10 days immediately after a legislative session. Also, a legislator is not prohibited from using photographs of him or herself.

He pointed out that what we don’t see in this prohibition under 24.60.030(a)(5) is an exception that allows some sort of *de minimis* or case-by-case basis political campaign usage of state resources. In his opinion, he’s said that’s a “blanket” prohibition. If the exception had “allowed limited use of state property and resources for political purposes or political campaign purposes, or personal purposes including political campaign use,” the statute would have so stated. Mr. Wayne stated he was willing to draft something else, if the Committee determined the statute should be interpreted otherwise.

The Chair asked if there were any questions. Sen Stevens asked Mr. Wayne to comment on what the words “primary purpose” means in the second opinion. Mr. Wayne explained that in his opinion the statute does not allow for any “splitting out” or any division between a primary purpose or secondary, minimal purpose as is the case with “personal, non-legislative” use of state resources. Mr. Wayne referred Sen Stevens to Mr. Cole for an explanation.

Sen Stevens pointed out that in Mr. Cole’s opinion he mentioned the difference between a legislator who represents a district in downtown Anchorage versus one in rural Alaska with multiple cities/boroughs. For example, at the end of session, when he traveled to Homer from his Kodiak residence, his purpose was to explain what transpired in session. However, since people in Homer know he’s running for office in August, it is very difficult reporting what the legislature did and report nothing on the fact that he’s running for office. Sen Stevens felt that although this subject needs to be simplified and clear and kept as separate as you can, it was very hard to do.

Member Cook stated he initially sided with the prohibition of campaigning with the use of state funds, however, can appreciate what legislators have said and their concerns.

He suggested adopting the formula that was developed when the state owned the aircraft for state travel; that if anyone is going to use the aircraft on state business, if campaigning occurred and exceeded 10%, then the legislator would reimburse the state. When there's reimbursement, you are not using state funds. The "limit" allows someone to address a campaign related question or issue if it inadvertently or unexpectedly comes up and would address concerns brought forth by Sen Stevens.

Rep Gara stated he agreed with Sen Stevens. He emphasized the importance of the word "for". For example, did you take the trip "for" the purpose of campaigning or "for" a legislative purpose? "For" is the key word in the statute. He felt Mr. Coles' analysis was correct. Rep Gara stated that the practical matter is that people from Anchorage have an advantage over people from Kodiak or Nome, etc., because the reality of political campaigning is the activity is more prevalent in larger cities. If you're in Nome, most of your donations are going to come from outside of Nome. He pointed out the following example: I can go to a legislative meeting during the day in Anchorage and in the evening, I can go to a campaign activity after hours; others who come here for a legislative purpose cannot attend a campaign event after hours.

Vice Chair Turner stated that discussions on this have gone on for almost three years now. He respects the opinions and input from the legislators, but as he's gone on record in the past, there is an advantage to the incumbent, especially in an election year. For example, the challenger has to pay for his/her trip to Anchorage to campaign.

Chair Thomas asked Mr. Wayne about his footnote in his opinion (Draft Opinion 07-08) **"Although legislators and legislative employees travel to the capital city and sometimes other locations within Alaska in order to participate in legislative sessions, the committee does not consider that travel, or travel outside of the capital, to be within the scope of this opinion...."** Mr. Wayne referred the Chair to wording from the letter written by the Ethics Committee to APOC in the second to last paragraph, **"After considerable debate, the committee determined travel to and from the legislator's home district to attend a legislative session should be exempt from the requirement of allocating costs for partisan political activity."** The Chair stated that the letter to APOC was written *after* Mr. Wayne's opinion was drafted and asked if Mr. Wayne could recollect background on the reasoning for his footnote. Mr. Wayne could not recollect the revolution of the footnote but recalled the committee having a lot of discussion about it and believed at the time there was no "black and white" legal authority to say that travel to and from the session from the home district was exempt, but that as a practical matter had been considered that way and the committee adopted that exception, informally, in their letter to APOC.

The Chair introduced Mr. Cole to the floor and requested that he provide the members a quick overview of his Second Legal Opinion.

*NOTE: MR BRENT COLE'S TESTIMONY WAS INAUDIBLE; PLEASE REFER TO HIS SECOND LEGAL OPINION LETTER FOR DETAILS THAT MAY NOT BE IN THE MINUTES.*

Mr. Cole explained that he was an "outsider" but aware of the issues and concerns by legislators as well as the general public. He stated his opinion was written with the existing statute in mind, regardless if it does not contain the best language or does not directly address the issue. Existing law has to be followed. He stated he did not focus on one or two provisions of the statute but encompassed all of the provisions in 24.60.030. Conflict of Interest and Unethical Conduct. Mr. Cole stated his opinion contained a melding of all concerns. His solution is provided in the second paragraph of his opinion stating, **"we believe that the nature of the business rather than whether it is paid for with state resources should be the governing standard in determining whether an ethical violation has occurred. A statement signed by a legislator designating the primary nature and purpose of the business rather than whether it is paid for by state resources should suffice to govern whether or not collateral activities can or cannot occur. Violations or false statements made in this designation can be enforced pursuant to AS 24.60.030(3) If a legislator gives as his her primary or sole purpose for taking the trip as engaging in political campaigning or partisan political activity, then s/he would not be entitled to state paid travel expenses."** Mr. Cole added that AS 24.60.030(a)(3) was not considered previously. AS 24.606.030(a)(3) makes it an ethical violation for a legislator or legislative employee to **"...make a false statement in connection with a request, or application for compensation, reimbursement, or travel allowance from public funds."**

The Chair requested comments, consideration or discussion on using percentages.

*TESTIMONY FROM THE CHAIR, MR. COLE AND MR. WAYNE IS INAUDIBLE. SEN STEVENS MENTIONS DIFFICULTY IN HEARING TESTIMONY. HOWEVER, SEN STEVENS IN HIS TESTIMONY COMMENTS ON THE DISCUSSION BETWEEN THE CHAIR, MR. WAYNE AND MR. COLE.*

Sen Stevens believes the terms "de minimis" and/or "primary" are understandable but splitting the cost and dealing with percentages could be difficult and cumbersome. Sen Stevens also refers to page 4 of Mr. Cole's opinion, **"...the individual entrusted with approval authority is responsible for reviewing the purpose of the proposed trip..."** noting that this is another "check and balance" on the use of state funds. It is the President of the Senate and the Speaker of the House who are responsible for reviewing and examining a request for state paid travel and have the authority to question a request and in turn either approve or deny the request. Basically, legislators are under the "honor system" when it comes to a request for reimbursement for legislative travel.

*DUE TO THE DIFFICULTY OF HEARING TESTIMONY, SEN STEVENS NOTIFIES THE MEMBERS HE MAY LEAVE THE MEETING. MS. ANDERSON ASKED SEN STEVENS TO NOTIFY THE CHAIR WHEN HE LEAVES.*

Rep Gara recommended the members interpret the statute as presented in Mr. Cole's opinion. He stated there will be a lot of problems if we do not. He provided the following scenario in relation to attending a conference: The conference lasts 6 hours but you are normally you're up 18 hours a day which leaves the remaining 12 hours to be spent doing whatever you do on your personal time, whether you're at the movies, shopping, visiting friends, etc, it's all "personal time". However, in this instance your

“free” time is not “de minimis” to the time spent at the legislative conference. If the committee approves a rule that says, “other than de minimis use”, the above example would not fit into the box. He provided another example: If you go to Washington, DC, you’re going to want to see many of the attractions which may result in spending a substantial amount of your day doing non-legislative business. We cannot take a set of rules designed to prevent corruption and use them to prevent rational activity. When rural members come in for a Caucus meeting, over a period of 2-3 days, most of the time they spend here, they are not doing legislative business. The meetings end at two o’clock and afterwards, they’re dining at a restaurant, etc.

Rep Gara stated he feels the whole legislative process favors the incumbent, although attempts to level the playing field are made by limiting campaign contributions and limiting fundraising activities during legislative session. If we reject Mr. Cole’s opinion, the current rule disfavors the incumbent. He explained that during the AGIA special session here in Anchorage, that lasted about 30 days, he was able to campaign and go door-knocking after hours. Others who were here from out of town could not do this on their free time. He reiterated his previous statement: Were you there “for” the AGIA or were you there “for” campaigning? Additionally, he felt what we are doing is regulating someone’s free time. If a fundraiser were held during the day during the AGIA session, that is a different story and the person would have violated the statute.

Mr. Cook stated the legislature approves the statutes and the committee is trying work within that framework and has been for the last three years. He feels the statutes are clear in that there is an explicit prohibition on the use of state resources for campaign related activities in that there are exceptions for personal use but no exceptions for political campaigning activity. The simplest way to fix this problem would be for the legislature to amend AS 24.60.030 and remove the prohibition on political campaigning activity or put limits on it in the statute, as was done with the Executive Branch and the state jet. Legislators and the public get upset with the Committee for trying to impose rules, but the committee is only interpreting the statutes that were passed by the legislature. He recommends fixing the statute instead of asking the Committee to interpret it. He would like to see a reimbursement formula similar to AS 39.52.120(f) in which public funds weren’t being used for campaigning.

Sen Coghill stated he agreed with Member Cook. However, when a person is in the political arena, that person is always a political person. S/he will always be a policy person with a point of view of a political nature. Under Mr. Wayne’s opinion a legislator is always going to be “unethical” because partisan or political activities occur all of the time. Sen Coghill believes the committee needs to address it.

Sen Coghill voiced his opinion on the power of the incumbency. He agreed with Rep Gara. In Mr. Cole’s opinion, there are certain disadvantages to legislators and incumbents. He would like to see the term “primary purpose” addressed. He would like take this opinion and move forward with it even though there are questions on the definition of the term “primary”. He stated he would be willing to work with Sen Stevens in defining “primary purpose”. Sen Coghill also stated that if he were elected again, he would take this issue to the legislature. He felt Mr. Cole’s opinion should be

adopted, even though there are questions about what is considered "primary" and he questioned whether the premise of an honor system is reasonable to move forward with.

Sen Coghill motioned that we accept Mr. Cole's legal opinion and adopt the opinion for the Ethics Committee.

Vice Chair Turner stated he had a concern with there being two different standards. One based on AS 39.52.120, with the 90/10 split, and Mr. Cole's opinion, with the term "primary purpose". He believes there will be a lot of questions on why the Executive Branch holds one set of standards and why the Legislature holds another. Mr. Cole stated that the answer would be because there is a specific statute for the Executive Branch and there is not one for the Legislative Branch. Mr. Cole further added that it is not easy to pass any legislation in regards to ethics. Having the issue brought out into the public eye may force the legislature to act. The decision today is going to create more interest, hopefully making legislators realize the legislature needs to get together and address the issue. The public is going to demand it. What's consistent with the statute and what's consistent with reality must be balanced. The difficulty with Alaska is that it's very diverse. It's not just the Republicans or Democrats, it involves urban and rural and incumbent and non-incumbent. It encompasses a lot of different interests competing, which makes this a challenge.

Rep Johnson stated if the motion is adopted, it would be much easier for Sen Coghill, Rep Gara and himself to clarify this in statute through legislation. This would be the opinion the committee would be operating under and this is the law as it stands now. He stated the statute could then be crafted to be consistent with the committee's opinion and put one of the legislative committee member's names on it. The statute would endorse what has been previously determined as unethical behavior by the committee.

The motion was brought before the members for a vote.

YEAS: Sen Stevens, Sen Coghill, Rep Johnson, Rep Gara, Toni Mallott. NAYS: Skip Cook, Gary Turner, Chair Thomas; motion passes.

## **7. FY2011 BUDGET BRIEFING:**

- a. Travel:** Ms. Anderson briefed the members that the Committee had requested an increase in travel due to the fact the travel budget has been consistently exceeded. The Committee also requested an upgrade in the Administrator position and an increase in time for the Secretary's position. The travel budget received a decrease of \$2,500 for FY11, the Secretary's position changed from 50% time to 60% time with benefits, and there was no change in the Administrator position. Members were referred to a handout reflecting travel expenses for legislators. Sen Stevens stated he approves travel for senators and travel expenses should be coming out of Senate funds and not Ethics Committee funds. Ms. Anderson stated she would notify LAA Accounting of this change.
- b. Ethics meeting with House Finance:** Vice Chair Turner provided an update to the members on his and Ms. Anderson's meetings on February 16, 2010, with House

Finance committee members regarding the Ethics budget. Here is a recap: Speaker Chenault was noncommittal. Reps Dahlstrom and Kerttula both who were favorable for a budget increase. Rep Thomas thought the requests were somewhat reasonable but was not comfortable increasing the budget. Sen Stevens was in favor of the increase. Rep Hawker first wanted to know if we had submitted our budget to the governor and if he had accepted it. Ms. Anderson stated the ethics budget has never been presented to the governor in the past and she doesn't think the committee required to do so. They were unsuccessful in meeting with Rep Stoltze after numerous attempts. Rep Gara recommended going to both the governor and legislature for budget requests.

- c. **Annual Report:** Ms. Anderson proposed to the committee that an annual report be prepared to improve the visibility of Ethics Committee within the Legislature. Ms. Anderson did some research and found that other Ethics Committees have annual reports. The report would include statistics and goal planning. Ms. Anderson proposed that the report be submitted to legislators at the beginning of legislative session. Sen Coghill stated that when session starts he already has at least 50 annual reports to read through. Rep Gara cautioned against preparing a report. The most important items are already available, the rulings and the informal advice. He stated the time to prepare a report exceeds the need of additional work on the administrator's plate. Chair Thomas suggested Ms. Anderson draft a report and present it to the committee for input to see if it would be beneficial or not.

- 8. **LEGISLATIVE OVERSIGHT OF ETHICS COMMITTEE:** Vice Chair Turner stated he felt the Ethics Committee is becoming more politicized. The committee is experiencing budget decreases and intent language placed in the budget by the House Finance Subcommittee –Legislature, to name a few. He also noted there are no minutes or an audio recording of the finance meeting in which to review the actual comments by legislators. Also, at the February 16 meeting previously mentioned, it was evident that many legislators may have had issues with many of the Advisory Opinions the Committee has recently passed and informal advice given by the Administrator. As Member Cook mentioned earlier, the committee interprets what's in statute. Additionally, at his and Chair Thomas' confirmation hearings, they felt attacked by some House Judiciary committee members who questioned why the Committee would recommend legislative changes to statutes as well as suggesting that the Committee bend the rules as necessary to fit each fact specific situation. Vice Chair Turner also noted that the Administrator salary is not at the same salary level as her peers in similar positions and upon requesting a salary increase, it was declined again.

Based on the above reasons, Member Turner has come to the conclusion that the Committee should discuss the possibility of becoming a "Commission" like other states have done. This would mean becoming an independent state agency, much like APOC. Vice Chair Turner referred to the article in the packet where Kentucky legislators understood how difficult it could be to sit in judgment of colleagues on ethics issues, then walk out of the meeting and ask those same colleagues for support on a bill or amendment.

Vice Chair Turner, through the Chair, requested that Ms. Anderson present her research to the members. Ms. Anderson stated the difference between a Committee and a Commission is that a Committee is made up of legislators and public members and a Commission is made up of public members only. On the handout titled, "Research of Ethics Oversight Agencies", there are six states which have Legislative Ethics Committees and/or Commissions, eight states that have State Ethics Commissions, Executive and Legislative Branches under one body, and thirty three states are comprised of legislators, and the remaining three states differ from all of them.

*(INAUDIBLE – MINTUES REFLECT THE RECOLLECTIONS OF MS. ANDERSON REGARDING THIS QUESTION)* Sen Coghill asked Ms. Anderson if she attended any seminars at the COGEL (Council on Governmental Ethics Laws) conference in December 2009 or talked to other participants about this concept and also the subject of budget issues. Ms. Anderson responded she attended a seminar on the subject of budgets and stated other jurisdictions have had problems with their budgets when a controversial decision or decisions were made by the ethics body.

Rep Gara stated that he understood Vice Chair Turner's concern and has witnessed some of it too, where the conduct of legislators was inappropriate toward the public members of the ethics committee, but did not believe that changing the status of Committee was going to change this type of conduct. APOC is a Commission and they get just as much, if not more than the Ethics Committee. Their budget has gone up and down as well. In the end, the Legislature has to approve the budget anyway.

Vice Chair Turner indicated Member Walker was in favor of this idea as well. Vice Chair Turner had hoped this would be a way to gain a little more independence. Under a Commission, the decision on the Administrator's salary would not be influenced by a legislator who may have a difficulty with the Administrator of the Ethics Committee or the committee itself. Having worked in the University system, salary levels are determined through the HR system without political influence. Additionally, the treatment received at the confirmation hearings for public members was influenced by the decision rendered by the Ethics Committee, and not by their personal service or qualifications, which is the point of a confirmation hearing.

Members agreed to table the item for the next meeting where Member Walker would have an opportunity to participate in this discussion.

Rep Johnson did not feel changing the status of the committee would change anything. He did not believe Vice Chair Turner's example of the University system applied, due to the fact the University is part of a collective bargaining unit. Sen Coghill noted there's always room for improvement. He understood Vice Chair Turner's point, with regard to the Committee becoming politicized where this can be an advantage or disadvantage. Sen Coghill noted that he's been on a lot of boards in the past and witnessed decisions from political influence, and unfortunately, it is not an uncommon practice. Rep Johnson stated he sat through the board of Fish & Game confirmations and the political influence is very notable. He apologized if the confirmation hearing was more brutal

than it should have been. He personally appreciates the public members' service on the Ethics Committee and asked the members not to take it personally.

Ms. Anderson stated this has been a challenging year for the Ethics office. Ms. Anderson stated that APOC is now fully staffed after being understaffed for many years. They are now able to perform audits which they have not been staffed to do in the past. The same is true for the ethics office. Her position started out as 80% time and then increased to 90% and is now 100%. During that time period her workload increased. Even before the increase in time, the hours worked were close to 95% to 98%. The ethics office now has a permanent part-time staff person. Now that APOC and the Ethics office have more resources, both agencies are able to do more than just maintain the office. There is time to conduct research and be proactive instead of just reactive. For example, the office reviewed legislative candidate web sites to ensure "solicitations for contributions during a legislative session" were not listed on the web site. Quite a few legislators were notified and removed the prohibiting language. More oversight has been occurring this year than in the past and some of it has not been received very well. Ms. Anderson feels this is unfortunate. The ethics office, in being proactive, is trying to prevent a complaint from being filed against a legislator or a staff person for violating the ethics code.

Chair Thomas recognized and acknowledged testimonies before him today and recommended more follow up on this subject at the next meeting.

9. **OTHER BUSINESS:** Sen Stevens requested to speak on an issue that is not on the agenda. Chair Thomas allowed Sen Stevens to proceed. Sen Stevens stated that he feels sometimes the ethics committee/office goes beyond its responsibilities and look for things to get involved in that the committee should not. One of which has caused consternation among staff and members of the legislature is in regards to the legislature's Accomplishment Book. It is a booklet that the majority publishes every year at the end of every session. It contains detail about what transpired regarding fiscal matters and accomplished legislation. It is his understanding that Ethics staff has now stated the Accomplishment Book is a campaign issue and cannot be distributed two months before the election. He disagrees with this statement because the booklet has been published after session every year and he does not feel this is a campaign-related-item. He would like the Committee members to address this.

Chair Thomas did not know what advice was provided and asked Ms. Anderson if she could respond. Ms. Anderson stated she was aware that Accomplishment Booklets are printed every year and stated that perhaps the staff person she spoke with may have misunderstood the comments she provided. Ms. Anderson stated she had originally met with the staff person regarding another issue and then asked about the Accomplishment Booklet and how it was going to be distributed. The staff person replied that it had already been distributed by E-mail. Ms. Anderson stated she went on to explain an Ethics statute states such a booklet cannot be "mass mailed" during the 60 days before an election if the publication is "from a legislator or about a legislator." She proceeded to pointed out to Sen Stevens that she did not say the booklet could not be distributed.

Sen Stevens stated it may have been a misunderstanding but he was making it clear now that he will allow any Senator to hand out any of the booklets at any time up to the day of an election. He asked Ms. Anderson if she had any objection. Ms. Anderson replied by stating "no" to his question and explaining the statute talks about a "mass mailing" but it does not talk about handing out individual Booklets. Mass mailing means it would be mailed to a group of individuals. Sen Stevens reiterated that is not up to the Ethics office to decide whether or not a Senator can do a mass mailing of the booklet to everyone in their district at any time.

Ms. Anderson replied that she would have to research the statute further about the definition of a "mass mailing" and get back to Sen Stevens. She read AS 24.60.030(c) which states, **unless approved by the committee, during a campaign period for an election in which the legislator or legislative staff employee is a candidate, the legislator or legislative employee may not use or permit another to use state funds, other than funds to which the legislator is entitled to under 24.10.110** (which is a legislator's personal allowance account) **to print or distribute a mass mailing to individuals eligible to vote for the candidate. Campaign period begins 60 days for the date of an election."**

Sen Stevens suggest there be a legal opinion and disagreed with the interpretation. He further stated the booklet was not a campaign item and that it contained the accomplishments of the legislature. Ms. Anderson stated the committee previously issued an advisory opinion on the subject and she would pull the opinion for reference. Sen Stevens stated he was not referring to any mass mailing other than how the Accomplishment Booklet could be distributed. He stated it should be up to the legislator to determine the distribution method and not Ethics. Chair Thomas recommended Sen Stevens request formal advice or a legal opinion. Sen Stevens stated he did not want a legal opinion and reiterated that he believed the Accomplishment Booklet could be published and distributed any way a legislator wanted.

Rep Gara requested a re-visit to an existing opinion regarding a link on a campaign web site that would take the viewer to a legislative website. He stated APOC had referred him to the Ethics office as they thought Ethics had a ruling on this topic. Ms. Anderson stated that APOC is the deciding authority on what can and cannot be on a Campaign website, not the Ethics Committee. She will forward a copy of her paperwork on this issue to Rep Gara.

**10. ADJOURN:** Member Turner made a motion to adjourn the meeting at 2:00 p.m

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## Committee forwards amended legislative ethics bill

Posted: March 31, 2011 - 9:17pm

By CHRIS STEIN

THE ASSOCIATED PRESS

**JUNEAU** — A bill aimed at clarifying recurring ethical questions among legislators was passed out of the Senate State Affairs on Thursday.

The committee stripped out two provisions of the bill before sending it to the Senate Judiciary Committee, but lawmakers said the bill will undergo further deliberations in the Judiciary Committee before reaching the Senate floor.

Bill sponsor Sen. John Coghill, R-North Pole, objected to the committee's removal of a clause allowing lawmakers to campaign on legislative business, a practice currently prohibited.

The committee also removed a clause from the bill that allowed lawmakers to use their mailing list for political purposes.

For legislators who live in rural areas, attending a partisan event, such as political party luncheon, is often easiest done after attending a legislative event like a committee meeting, Coghill said.

"In fairness to those who live outside of urban areas of Alaska, I think it's a fair question to answer," Coghill said.

Committee chair Sen. Bill Wielechowski, D-Anchorage, said both changes were made because the committee did not feel that lawmakers should be using state resources for political reasons.

"The problem is if you're using state funds to travel from one place to another, my personal opinion is you shouldn't be doing partisan activities," Wielechowski said.

Coghill said he proposed the bill to address ethical quandaries that he has dealt as a member of the Select Committee on Legislative Ethics.

Comment



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State Affairs Comte. Approves Ethics Changes – SB 89

**Senator John Coghill – Senate District F**

For Immediate Release: March 31, 2011

**Senate State Affairs Committee Approves  
Legislative Ethics Changes, Passes SB 89**

(Juneau) – The Senate State Affairs Committee today moved SB 89, which better defines ethical issues for legislators and staff. Among other changes, the bill provides better definitions for gifts; constituent advocacy efforts are given better guidelines; it adds training requirements for volunteers; and makes some conforming changes.

“A remaining concern that has been looking for a solution since 1993 is how state travel impacts some areas of Alaska more than others,” said bill sponsor Sen. John Coghill, R-North Pole.

“Unfortunately, the State Affairs Committee chose to remove this section from SB 89.

“For convenience, most non-session committee work is done in urban centers, allowing most legislators to conduct state business, civic business, personal business, and political business in their area. Legislators from outside of the urban centers, who are required to travel for state business to do committee work, must leave their home, civic or employment business and, because they are travelling for legislative business, they are forbidden by law to do any partisan activity alongside those urban legislators who are at liberty to do it all.

“The proposal that I put forward has three clear policy positions; (1) it prohibits any campaign fundraising while on state travel, (2) it prohibits partisan activity during regular business hours, 8 am to 5pm and, (3) it makes some exception for luncheons that are partisan.

“My attempt to clarify these tough ethical questions has not found the answer yet, but I think they are worth working on to get to a clear policy for legislators.”

SB 89 was moved from the State Affairs committee on to the next committee of referral, the Senate Judiciary committee.

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Senate Republican Caucus Meets with Congressman Don Young

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## Coghill introduces ethics bill

The Associated Press

Published: February 18th, 2011 10:16 PM

Last Modified: February 18th, 2011 10:16 PM

JUNEAU -- Lawmakers could participate in some partisan political activities while on state travel under a measure introduced by Sen. John Coghill.

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The Republican hopes to provide clarity to an issue he says the legislative ethics committee, on which he serves, has grappled with for years. He expects a debate over what's ethical and what's fair, noting that some people believe incumbents have an inherent advantage.

He considers the issues separate. He says candidates have more fundraising options than sitting legislators.

There are exceptions to legislator politicking: Legislators cannot participate in partisan activities while on state travel if they fall during normal workday hours, on election day, within 30 days of an election in which the lawmaker is running, or are for fundraising.

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The measure also would let lawmakers use legislative mailing lists for campaign purposes.

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**CS FOR SENATE BILL NO. 89(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR COGHILL

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act clarifying that a legislator or legislative employee is allowed to accept certain  
2 compassionate gifts; allowing legislators and legislative employees who are representing  
3 persons in an administrative hearing to contact hearing officers and attempt to influence  
4 the outcome of the hearing if they are professionals licensed in the state, and allowing  
5 legislators and legislative employees who are not professionals licensed in the state to  
6 contact hearing officers for the purpose of influencing the outcome of the hearing in  
7 certain instances; requiring the Select Committee on Legislative Ethics to maintain a  
8 public record of certain ethics disclosures made by legislators and legislative employees;  
9 prohibiting a public member of the Select Committee on Legislative Ethics from  
10 disclosing confidential information without authorization; clarifying the ethics  
11 disclosure requirements for tickets to or gifts in connection with charity events;  
12 amending disclosure deadlines under the Legislative Ethics Act; relating to requests to

1 refrain from disclosure under the Legislative Ethics Act; relating to the applicability of  
 2 certain provisions of the Legislative Ethics Act to certain legislative employees,  
 3 volunteers, and interns; establishing a seat for an alternate public member on the Select  
 4 Committee on Legislative Ethics; clarifying the requirements related to participation by  
 5 alternate public members and alternate legislative members in the proceedings of the  
 6 committee; amending the definition of 'legislative employee' in the Legislative Ethics  
 7 Act; and repealing a procedure for appointment of alternate legislative members."

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

9 \* **Section 1.** AS 24.60.030(a) is amended to read:

10 (a) A legislator or legislative employee may not

11 (1) solicit, agree to accept, or accept a benefit other than official  
 12 compensation for the performance of public duties; this paragraph may not be  
 13 construed to prohibit lawful solicitation for and acceptance of campaign contributions,  
 14 solicitation or acceptance of contributions for a charity event, as defined in AS  
 15 24.60.080(a)(2)(B), or the acceptance of a **gift** [LAWFUL GRATUITY] under **AS**  
 16 **24.60.075 or 24.60.080** [AS 24.60.080];

17 (2) use public funds, facilities, equipment, services, or another  
 18 government asset or resource for a nonlegislative purpose, for involvement in or  
 19 support of or opposition to partisan political activity, or for the private benefit of  
 20 [EITHER] the legislator, legislative employee, or another person; this paragraph does  
 21 not prohibit

22 (A) limited use of state property and resources for personal  
 23 purposes if the use does not interfere with the performance of public duties and  
 24 either the cost or value related to the use is nominal or the legislator or  
 25 legislative employee reimburses the state for the cost of the use;

26 (B) the use of mailing lists, computer data, or other information  
 27 lawfully obtained from a government agency and available to the general  
 28 public for nonlegislative purposes;

1 (C) the legislative council, notwithstanding AS 24.05.190, from  
2 designating a public facility for use by legislators and legislative employees for  
3 health or fitness purposes; when the council designates a facility to be used by  
4 legislators and legislative employees for health or fitness purposes, it shall  
5 adopt guidelines governing access to and use of the facility; the guidelines may  
6 establish times in which use of the facility is limited to specific groups;

7 (D) a legislator from using the legislator's private office in the  
8 capital city during a legislative session, and for the 10 days immediately before  
9 and the 10 days immediately after a legislative session, for nonlegislative  
10 purposes if the use does not interfere with the performance of public duties and  
11 if there is no cost to the state for the use of the space and equipment, other than  
12 utility costs and minimal wear and tear, or the legislator promptly reimburses  
13 the state for the cost; an office is considered a legislator's private office under  
14 this subparagraph if it is the primary space in the capital city reserved for use  
15 by the legislator, whether or not it is shared with others;

16 (E) a legislator from use of legislative employees to prepare  
17 and send out seasonal greeting cards;

18 (F) a legislator from using state resources to transport  
19 computers or other office equipment owned by the legislator but primarily used  
20 for a state function;

21 (G) use by a legislator of photographs of that legislator;

22 (H) reasonable use of the Internet by a legislator or a legislative  
23 employee except if the use is for election campaign purposes;

24 (I) a legislator or legislative employee from soliciting,  
25 accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable  
26 organization in a state facility;

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

1 (K) full participation in a charity event approved in advance by  
2 the Alaska Legislative Council;

3 (3) knowingly seek, accept, use, allocate, grant, or award public funds  
4 for a purpose other than that approved by law, or make a false statement in connection  
5 with a claim, request, or application for compensation, reimbursement, or travel  
6 allowances from public funds;

7 (4) require a legislative employee to perform services for the private  
8 benefit of the legislator or employee at any time, or allow a legislative employee to  
9 perform services for the private benefit of a legislator or employee on government  
10 time; it is not a violation of this paragraph if the services were performed in an  
11 unusual or infrequent situation and the person's services were reasonably necessary to  
12 permit the legislator or legislative employee to perform official duties;

13 (5) use or authorize the use of state funds, facilities, equipment,  
14 services, or another government asset or resource for the purpose of political fund  
15 raising or campaigning; this paragraph does not prohibit

16 (A) limited use of state property and resources for personal  
17 purposes if the use does not interfere with the performance of public duties and  
18 either the cost or value related to the use is nominal or the legislator or  
19 legislative employee reimburses the state for the cost of the use;

20 (B) the use of mailing lists, computer data, or other information  
21 lawfully obtained from a government agency and available to the general  
22 public for nonlegislative purposes;

23 (C) storing or maintaining, consistent with (b) of this section,  
24 election campaign records in a legislator's office;

25 (D) a legislator from using the legislator's private office in the  
26 capital city during a legislative session, and for the 10 days immediately before  
27 and the 10 days immediately after a legislative session, for nonlegislative  
28 purposes if the use does not interfere with the performance of public duties and  
29 if there is no cost to the state for the use of the space and equipment, other than  
30 utility costs and minimal wear and tear, or the legislator promptly reimburses  
31 the state for the cost; an office is considered a legislator's private office under

1 this subparagraph if it is the primary space in the capital city reserved for use  
2 by the legislator, whether or not it is shared with others; or

3 (E) use by a legislator of photographs of that legislator.

4 \* **Sec. 2.** AS 24.60.030(i) is amended to read:

5 (i) A [EXCEPT FOR SUPPLYING INFORMATION REQUESTED BY THE  
6 HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH  
7 AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN  
8 RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR  
9 THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE  
10 THE FINAL DECISION IN THE CASE, A] legislator or legislative employee may  
11 not attempt to influence the outcome of an administrative hearing by directly or  
12 indirectly contacting or attempting to contact the hearing officer assigned to the  
13 hearing or the individual, board, or commission with authority to make the final  
14 decision in the matter [CASE] unless [THE]

15 (1) the legislator or legislative employee is representing another  
16 person for compensation subject to AS 24.60.100 and as a professional who is  
17 licensed in the state;

18 (2) the contact is made in the presence of all parties to the hearing or  
19 the parties' representatives while the legislator or legislative employee is acting as a  
20 party or a witness in the matter or responding to a question asked of the  
21 legislator or legislative employee by the hearing officer, individual, board, or  
22 commission and the contact is made a part of the record; or

23 (3) the contact is inadvertent and ex parte and the [(2)] fact and  
24 substance of the contact are [IS] promptly disclosed by the legislator or legislative  
25 employee to all parties to the hearing and [THE CONTACT IS] made a part of the  
26 record.

27 \* **Sec. 3.** AS 24.60.050(c) is amended to read:

28 (c) A legislator or legislative employee who participates in a program or  
29 receives a loan that is not exempt from disclosure under (a) of this section shall file  
30 with the committee by the date required under AS 24.60.105 a disclosure stating the  
31 amounts of the loans outstanding or benefits received during the preceding calendar

1 year from nonqualifying programs. If the committee requests additional information  
 2 necessary to determine the propriety of participating in the program or receiving the  
 3 loan, it shall be promptly provided. The committee shall **maintain the disclosure as a**  
 4 **public record and promptly forward the information contained in the disclosure**  
 5 [PROMPTLY COMPILE A LIST OF THE STATEMENTS INDICATING THE  
 6 LOANS AND PROGRAMS AND AMOUNTS AND SEND IT] to the presiding  
 7 officer of each house who shall have it published in the supplemental journals on or  
 8 before the next regularly scheduled publication of ethics disclosures. If a legislator or  
 9 legislative employee asks the committee to keep any part of the disclosure confidential  
 10 and a quorum of the committee determines by vote of a majority of committee  
 11 members that making the entire disclosure public would cause an unjustifiable  
 12 invasion of personal privacy, the committee may elect to publish only the fact that a  
 13 person has participated in the program and the amount of benefit that the unnamed  
 14 person received. The committee shall maintain the disclosure of the name of the  
 15 person as confidential and may only use the disclosure in a proceeding under AS  
 16 24.60.170. If the disclosure becomes part of the record of a proceeding under AS  
 17 24.60.170, the disclosure may be made public as provided in that section.

18 \* **Sec. 4.** AS 24.60.060(a) is amended to read:

19 (a) A legislator, [OR] legislative employee, **or public member of the**  
 20 **committee** may not knowingly make an unauthorized disclosure of information that is  
 21 made confidential by law and that the person acquired in the course of official duties.  
 22 A person who violates this section is subject to a proceeding under AS 24.60.170 and  
 23 may be subject to prosecution under AS 11.56.860 or another law.

24 \* **Sec. 5.** AS 24.60.080(a) is amended to read:

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

27 (1) solicit, accept, or receive, directly or indirectly, a gift worth \$250  
 28 or more, whether in the form of money, services, a loan, travel, entertainment,  
 29 hospitality, promise, or other form, or gifts from the same person worth less than \$250  
 30 that in a calendar year aggregate to \$250 or more in value;

31 (2) solicit, accept, or receive a gift with any monetary value from a

1 lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a  
2 lobbyist, except

3 (A) food or beverage for immediate consumption;

4 (B) a contribution to a charity event, [FROM ANY PERSON  
5 AT ANY TIME, AND] tickets to [FOR] a charity event, and [AT ANY TIME,  
6 EXCEPT THAT TICKETS TO OR] gifts to which the tickets may entitle the  
7 bearer; however, under this subparagraph a legislator or legislative  
8 employee may not solicit, accept, or receive from the same lobbyist, an  
9 immediate family member of the lobbyist, or a person acting on behalf of  
10 the lobbyist, tickets to a charity event, gifts to which the tickets may entitle  
11 the bearer, or both, that in a calendar year aggregate to \$250 or more in  
12 value [RECEIVED AT A CHARITY EVENT UNDER THIS  
13 SUBPARAGRAPH ARE SUBJECT TO THE CALENDAR YEAR LIMIT  
14 ON THE VALUE OF GIFTS RECEIVED BY A LEGISLATOR OR  
15 LEGISLATIVE EMPLOYEE IN (1) OF THIS SUBSECTION]; in this  
16 subparagraph, "charity event" means an event the proceeds of which go to a  
17 charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and that  
18 the Alaska Legislative Council has approved in advance; the tickets may entitle  
19 the bearer to admission to the event, to entertainment, to food or beverages, or  
20 to other gifts or services in connection with [INVOLVED IN] the charity  
21 event;

22 (C) a gift that is unconnected with the recipient's legislative  
23 status and is from a member of the legislator's or legislative employee's  
24 immediate family;

25 (D) a gift delivered on the premises of a state facility and  
26 accepted on behalf of a recognized nonpolitical charitable organization; or

27 (E) a compassionate gift under AS 24.60.075.

28 \* **Sec. 6.** AS 24.60.080(c) is amended to read:

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

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

1 subsection,

2 (A) with incidental transportation at the residence of a person;  
3 however, a vacation home located outside the state is not considered a  
4 residence for the purposes of this subparagraph; or

5 (B) at a social event or meal;

6 (2) discounts that are available

7 (A) generally to the public or to a large class of persons to  
8 which the person belongs; or

9 (B) when on official state business, but only if receipt of the  
10 discount benefits the state;

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

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

15 (5) gifts from the immediate family of the person; in this paragraph,  
16 "immediate family" means

17 (A) the spouse of the person;

18 (B) the person's domestic partner;

19 (C) a child, including a stepchild and an adoptive child, of the  
20 person or of the person's domestic partner;

21 (D) a parent, sibling, grandparent, aunt, or uncle of the person;

22 (E) a parent, sibling, grandparent, aunt, or uncle of the person's  
23 spouse or the person's domestic partner; and

24 (F) a stepparent, stepsister, stepbrother, step-grandparent, step-  
25 aunt, or step-uncle of the person, the person's spouse, or the person's domestic  
26 partner;

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

28 (7) a discount for all or part of a legislative session, including time  
29 immediately preceding or following the session, or other gift to welcome a legislator  
30 or legislative employee who is employed on the personal staff of a legislator or by a  
31 standing or special committee to the capital city or in recognition of the beginning of a

1 legislative session if the gift or discount is available generally to all legislators and the  
 2 personal staff of legislators and staff of standing and special committees; this  
 3 paragraph does not apply to legislative employees who are employed by the  
 4 Legislative Affairs Agency, the office of the chief clerk, the office of the senate  
 5 secretary, the legislative budget and audit committee, the office of victims' rights, or  
 6 the office of the ombudsman;

7 (8) a gift of legal services in a matter of legislative concern and a gift  
 8 of other services related to the provision of legal services in a matter of legislative  
 9 concern;

10 (9) a gift of transportation from a legislator or a legislative employee to  
 11 a legislator or a legislative employee if the transportation takes place in the state on or  
 12 in an aircraft, boat, motor vehicle, or other means of transport owned or under the  
 13 control of the donor; this paragraph does not apply to travel described in (4) of this  
 14 subsection or travel for political campaign purposes; or

15 (10) a contribution to a charity event, a ticket to a charity event, or a  
 16 gift in connection with a charity event [FROM ANY PERSON AT ANY TIME]; in  
 17 this paragraph, "charity event" has the meaning given in (a)(2)(B) of this section.

18 \* **Sec. 7.** AS 24.60.080(d) is amended to read:

19 (d) A legislator or legislative employee who accepts a gift under (c)(4) of this  
 20 section that has a value of \$250 or more or a ticket to a charity event or gift in  
 21 connection with a charity event under (c)(10) of this section that has a value of \$250  
 22 or more shall disclose to the committee, within 60 [30] days after receipt of the gift,  
 23 the name and occupation of the donor and the approximate value of the gift. A  
 24 legislator or legislative employee who accepts a gift under (c)(8) of this section that  
 25 the recipient expects will have a value of \$250 or more in the calendar year shall  
 26 disclose to the committee, within 30 days after receipt of the gift, the name and  
 27 occupation of the donor, a general description of the matter of legislative concern with  
 28 respect to which the gift is made, and the approximate value of the gift. The committee  
 29 shall maintain a public record of the disclosures it receives relating to gifts under  
 30 (c)(4), (c)(8), (c)(10), and (i) of this section and shall forward the disclosures to the  
 31 appropriate house for inclusion in the journal. The committee shall forward to the

1 Alaska Public Offices Commission copies of the disclosures concerning gifts under  
2 (c)(4), (c)(8), (c)(10), and (i) of this section that it receives from legislators and  
3 legislative directors. A legislator or legislative employee who accepts a gift under  
4 (c)(6) of this section that has a value of \$250 or more shall, within 30 days after  
5 receiving the gift, disclose to the committee the name and occupation of the donor and  
6 a description of the gift. The committee shall maintain disclosures relating to gifts  
7 under (c)(6) of this section as confidential records and may only use, or permit a  
8 committee employee or contractor to use, a disclosure under (c)(6) of this section in  
9 the investigation of a possible violation of this section or in a proceeding under AS  
10 24.60.170. If the disclosure under (c)(6) of this section becomes part of the record of a  
11 proceeding under AS 24.60.170, the confidentiality provisions of that section apply to  
12 the disclosure.

13 \* **Sec. 8.** AS 24.60.105 is amended by adding a new subsection to read:

14 (d) A person may submit a written request to refrain from making a disclosure  
15 that is required by this chapter if making the disclosure would violate state or federal  
16 law, including the United States Constitution and the Constitution of the State of  
17 Alaska, or a rule, adopted formally by a trade or profession, that state or federal law  
18 requires the person to follow. The committee shall approve or deny the request, or  
19 require further justification from the person making the request. At the request of the  
20 committee or a person authorized to act on behalf of the committee, a person who  
21 seeks to refrain from making a disclosure under this subsection shall provide the  
22 committee with justification in writing, and the committee may review the written  
23 justification to determine whether it is sufficient.

24 \* **Sec. 9.** AS 24.60.112 is amended to read:

25 **Sec. 24.60.112. Applicability to volunteers and educational trainees.** A  
26 person who works more than 30 days as a legislative volunteer or educational  
27 trainee shall be considered to be a legislative employee for purposes of compliance  
28 with AS 24.60.030 - 24.60.039, 24.60.060, 24.60.080, 24.60.085, 24.60.155,  
29 24.60.158 - 24.60.170, 24.60.176, and 24.60.178. If a person believes that a legislative  
30 volunteer or educational trainee has violated the provisions of one of those sections,  
31 the person may file a complaint under AS 24.60.170. The provisions of AS 24.60.170

1 apply to the proceeding.

2 \* **Sec. 10.** AS 24.60.130(h) is amended to read:

3 (h) A member is disqualified from participating as a member in any  
4 proceeding before the committee involving a complaint against the member or an  
5 employee whose work is supervised by the member or an advisory opinion requested  
6 by the member. If a regular legislative member of the committee is disqualified under  
7 this subsection from participating in a proceeding involving a complaint, the member's  
8 alternate shall be designated under AS 24.60.131 [(n) OF THIS SECTION].

9 \* **Sec. 11.** AS 24.60.130(o) is amended to read:

10 (o) Notwithstanding (h) [AND (n)] of this section and AS 24.60.131, if a  
11 complaint before the committee alleges a violation of this chapter by a group of  
12 legislators that includes a legislative member of the committee and that member's  
13 alternate, the member and alternate member are disqualified from serving on the  
14 committee with regard to the complaint. If the two disqualified members of the  
15 committee are members of the majority organizational caucus, the presiding officer of  
16 the house in which the two disqualified members serve shall appoint from that house  
17 an alternate to serve with regard to the complaint. If one of the two disqualified  
18 legislative members of the committee is not a member of the majority organizational  
19 caucus, the leader of the minority organizational caucus with the greatest number of  
20 members shall appoint from that house an alternate to serve with regard to the  
21 complaint. If a complaint alleges a violation of this chapter that includes all legislative  
22 members of the majority organizational caucus of one house, the presiding officer of  
23 that house shall appoint from the other house an alternate to serve with regard to the  
24 complaint. If the complaint alleges a violation of this chapter that includes all  
25 legislative members of a minority organizational caucus of one house, the leader of  
26 that minority organizational caucus shall appoint from the other house an alternate to  
27 serve with regard to the complaint.

28 \* **Sec. 12.** AS 24.60 is amended by adding a new section to read:

29 **Sec. 24.60.131. Alternate members.** (a) When appointing members of the  
30 legislature to serve on the committee under AS 24.60.130(b), the speaker of the house  
31 of representatives or the president of the senate, as appropriate, shall appoint an

1 alternate member for each regular member. The alternate member shall have the same  
2 qualifications for appointment to the committee as the regular member for whom the  
3 alternate stands as alternate. The alternate member's appointment is subject to  
4 confirmation as required for appointment of the regular member.

5 (b) When selecting public members to serve on the committee under AS  
6 24.60.130(b), the Chief Justice of the Alaska Supreme Court shall select one alternate  
7 public member. The alternate public member's selection is subject to ratification as  
8 required for selection of the regular public members.

9 (c) Subject to (d) of this section, if a regular member of the committee or a  
10 subcommittee is unable to participate in a proceeding other than a proceeding under  
11 AS 24.60.170, the chair of the committee or subcommittee that holds the proceeding  
12 shall designate the regular member's alternate to participate in place of the regular  
13 member at the proceeding, and the alternate shall participate for the duration of that  
14 proceeding unless the alternate is unable to participate.

15 (d) If a regular member of the committee or a subcommittee or an alternate  
16 member appointed under (a) or (b) of this section participates at the commencement of  
17 a proceeding under AS 24.60.170, the member shall participate for the duration of the  
18 proceeding unless the member is disqualified under AS 24.60.130(h) or is unable to  
19 continue participating. If the participating member is disqualified under AS  
20 24.60.130(h) or becomes unable to participate, the chair of the committee or  
21 subcommittee that holds the proceeding shall designate the member's alternate to  
22 participate in place of the member for the duration of the proceeding unless the  
23 alternate is disqualified or is unable to participate.

24 (e) If both a regular legislative member and that member's alternate appointed  
25 under (a) of this section are not available to participate at the commencement of a  
26 proceeding under AS 24.60.170 because they are disqualified under AS 24.60.130(h),  
27 the presiding officer of the house in which the two members serve shall appoint from  
28 that house an alternate and designate that alternate to participate in the proceeding;  
29 however, if the two members who are not available to participate are not members of  
30 the majority organizational caucus, the leader of the minority organizational caucus  
31 with the greatest number of members shall appoint from that house an alternate and

1 designate that alternate to participate in the proceeding.

2 (f) A designation under (c) - (e) of this section shall be treated as confidential  
3 to the same extent that the identity of the subject of a complaint is required to be kept  
4 confidential.

5 \* **Sec. 13.** AS 24.60.155 is amended to read:

6 **Sec. 24.60.155. Legislative ethics course.** A person who serves for more  
7 than 30 days as a legislative volunteer or educational trainee or who is a legislator,  
8 legislative employee, or public member of the committee shall complete a legislative  
9 ethics course administered by the committee under AS 24.60.150(a)(4) within 10 days  
10 of the first day of the first regular session of each legislature. However, a person who  
11 begins a period of service of more than 30 days as a volunteer or trainee or who  
12 first takes office or begins employment after the 10th day of the first regular session of  
13 a legislature shall complete the course required by this section within 30 days after the  
14 person's first day of service and, thereafter, as required by this section. The committee  
15 may grant a person additional time to complete the course required by this section.

16 \* **Sec. 14.** AS 24.60.990(a)(11) is amended to read:

17 (11) "legislative employee" means a person, other than a legislator,  
18 who is compensated by the legislative branch in return for regular or substantial  
19 personal services, regardless of the person's pay level or technical status as a full-time  
20 or part-time employee, independent contractor, or consultant; it includes public  
21 members and staff of the committee; it does not include individuals who are hourly  
22 employees who perform functions that are incidental to legislative functions,  
23 [INCLUDING SECURITY, MESSENGER, MAINTENANCE, AND PRINT SHOP  
24 EMPLOYEES,] and other employees designated by the committee;

25 \* **Sec. 15.** AS 24.60.130(n) is repealed.

AMENDMENT

OFFERED IN THE SENATE  
TO: CSSB 89(STA)

BY SENATOR COGHILL

1 Page 1, line 7, following "instances;":

2 Insert "**allowing legislators and legislative employees, in certain circumstances, to**  
3 **participate in partisan political activity while on state travel;**"

4  
5 Page 5, following line 26:

6 Insert new bill sections to read:

7 **\*\* Sec. 3.** AS 24.60.030 is amended by adding a new subsection to read:

8 (j) Notwithstanding the limitations under (a)(2), (a)(4), and (c) of this section  
9 and subject to other state or federal laws, a legislator or legislative employee who is on  
10 state travel may participate in partisan political activity, including campaign activity, if

11 (1) the participation is incidental to the purpose of the travel;

12 (2) the legislator or the legislative employee does not use or authorize  
13 the use of state resources to pay for the activity; and

14 (3) the legislator or legislative employee does not participate in the  
15 activity

16 (A) during a normal workday between 8:00 a.m. and 5:00 p.m.,  
17 excluding meal breaks;

18 (B) on a state or municipal election day;

19 (C) during the 30 days immediately preceding an election in  
20 which the participating legislator or the legislator for whom the participating  
21 employee works is a candidate for elective office; or

22 (D) by fund raising for a political party or campaign.

23 **\* Sec. 4.** AS 24.60.031 is amended by adding a new subsection to read:

1 (d) Notwithstanding the limitations under (a) and (b) of this section and subject  
2 to other state or federal laws, a legislator or legislative employee who is on state travel  
3 may participate in partisan political activity, including campaign activity, if

4 (1) the participation is incidental to the purpose of the travel;

5 (2) the legislator or the legislative employee does not use or authorize  
6 the use of state resources to pay for the activity; and

7 (3) the legislator or legislative employee does not participate in the  
8 activity

9 (A) during a normal workday between 8:00 a.m. and 5:00 p.m.,  
10 excluding meal breaks;

11 (B) on a state or municipal election day;

12 (C) during the 30 days immediately preceding an election in  
13 which the participating legislator or the legislator for whom the participating  
14 employee works is a candidate for elective office; or

15 (D) by fund raising for a political party or campaign."  
16

17 Renumber the following bill sections accordingly.

18  
19 Page 13, following line 24:

20 Insert a new bill section to read:

21 **\*\* Sec. 17.** AS 24.60.990(a) is amended by adding a new paragraph to read:

22 (17) "state travel" means travel with transportation or overnight  
23 lodging that is provided or paid for with state resources."  
24

25 Renumber the following bill section accordingly.

"The word 'inchoate,' not much used in ordinary discourse, means just begun, undeveloped. The common law has given birth to three general offences which are usually termed 'inchoate' or preliminary crimes -- attempt, conspiracy, and incitement. A principal feature of these crimes is that they are committed even though the substantive offence is not successfully consummated. An attempt fails, a conspiracy comes to nothing, words of incitement are ignored -- in all these instances, there may be liability for the inchoate crime." Andrew Ashworth, *Principles of Criminal Law* 395 (1991).

**inchoate crime.** See *inchoate offense* under OFFENSE (1).

**inchoate dower.** See DOWER.

**inchoate instrument.** See INSTRUMENT (3).

**inchoate interest.** See INTEREST (2).

**inchoate lien.** See LIEN.

**inchoate offense.** See OFFENSE (1).

**inchoate right.** 1. A right that has not fully developed, matured, or vested. 2. *Patents.* An inventor's right that has not yet vested into a property right because the patent application is pending. [Cases: Patents ¶182.]

**incident, adj.** Dependent upon, subordinate to, arising out of, or otherwise connected with (something else, usu. of greater importance) <the utility easement is incident to the ownership of the tract>. — **incident, n.**

**incident, n.** 1. A discrete occurrence or happening <an incident of copyright infringement>. 2. A dependent, subordinate, or consequential part (of something else) <child support is a typical incident of divorce>.

**incidental, adj.** Subordinate to something of greater importance; having a minor role <the FAA determined that the wind played only an incidental part in the plane crash>.

**incidental admission.** See ADMISSION (1).

**incidental authority.** See AUTHORITY (1).

**incidental beneficiary.** See BENEFICIARY.

**incidental damages.** See DAMAGES.

**incidental demand.** See DEMAND (1).

**incidental main motion.** See MOTION (2).

**incidental motion.** See MOTION (2).

**incidental power.** See *incident power* under POWER (3).

**incidental use.** See USE (1).

**incidenter** (in-si-den-tər). [Latin] *Hist.* Incidentally.

**incident of ownership.** (*usu. pl.*) Any right of control that may be exercised over a transferred life-insurance policy so that the policy's proceeds will be included in a decedent's gross estate for estate-tax purposes <because Douglas still retained the incidents of ownership after giving his life-insurance policy to his daughter, the policy proceeds were taxed against his estate>. • The incidents of ownership include the rights to change the policy's beneficiaries and to borrow against, assign, and cancel the policy. [Cases: Internal Revenue ¶4155. C.J.S. *Internal Revenue* § 510.]

**incident power.** See POWER (3).

**incident to employment.** *Workers' compensation* that is related to or connected with a worker's duties. [Cases: Workers' Compensation ¶¶ C.J.S. *Workmen's Compensation* §§ 376, 378.]

**incidere** (in-sid-ə-ree), *vb.* [Latin] "fall into" *Roman law.* To come within the scope of a fall into a legal category; esp. to become involved in a situation that entangles a person in a legal matter. • This term had a similar meaning under common law. For example, a person might become involved in a situation (or "fall into") a crime. See AMERCEMENT.

**incipitur** (in-sip-i-tər). [Law Latin] *Hist.* It is begun. This refers to the practice of entering into the commencement of a pleading on the court roll.

**incite, vb.** To provoke or stir up (someone to commit a criminal act, or the criminal act itself). Cf. ABET.

**incitee.** A person who has been incited, esp. to commit a crime.

**inciteful, adj.** Tending to incite <inciteful speech>.

**incitement, n.** 1. The act or an instance of provoking on, or stirring up. 2. *Criminal law.* The act of persuading another person to commit a crime. [Cases: Criminal Law ¶45. C.J.S. *Criminal Law* §§ 115, 124-126.] — **inciteful, adj.**

"An inciter is one who counsels, commands or aids in the commission of a crime. It will be observed that the definition is much the same as that of an accessory before the fact. What, then, is the difference between the two? In incitement the crime has not (or has not necessarily) been committed, whereas a party cannot be an accessory to a crime unless the crime has been committed. An act is a crime before the fact is party to consummated mischief if the inciter is guilty only of an inchoate crime." (Williams, *Criminal Law* 612 (2d ed. 1961).

"Emphasis upon the theory of one offense with guilt attaching to several is quite appropriate because it is still the groundwork of our legal philosophy, so far as principals, abettors and inciters are concerned, despite the fact that some of the statutes require lipservice to the notion of separate substantive offense, in the effort to avoid procedural difficulties. It explains how one may be charged with a crime he could not perpetrate, by having caused it as a result of his abetment or incitement." (M. Perkins & Ronald N. Boyce, *Criminal Law* 732-33 (1982).

**inciter.** A person who incites another to commit a crime; an aider or abettor.

**inciting revolt.** See MUTINY.

**incivile** (in-siv-ə-lee), *adj.* [Law Latin] Irregular; contrary to the due course of law.

**incivism** (in-si-viz-əm). Unfriendliness toward one's own country or its government; lack of good citizenship.

**inclausa** (in-klaw-zə). [Law Latin] *Hist.* An enclosure near a house; a home close. See CLOSE (1).

**in clientela** (in kl-ən-tee-lə). [Latin] *Hist.* In the relationship between client and patron.

**inclose, vb.** See ENCLOSE.

**inclosure.** See ENCLOSURE.

**include, vb.** To contain as a part of something. • The verb *including* typically indicates a partial inclusion <the plaintiff asserted five tort claims, including slander and libel>. But some drafters use *phr-*

"The word 'inchoate,' not much used in ordinary discourse, means just begun, undeveloped. The common law has given birth to three general offences which are usually termed inchoate or preliminary crimes — attempt, conspiracy, and incitement. A principal feature of these crimes is that they are committed even though the substantive offence is not successfully consummated. An attempt fails, a conspiracy comes to nothing, words of incitement are ignored — in all these instances, there may be liability for the inchoate crime." Andrew Ashworth, *Principles of Criminal Law* 395 (1991).

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**inchoate dower.** See DOWER.

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**inchoate interest.** See INTEREST (2).

**inchoate lien.** See LIEN.

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**incident, n.** 1. A discrete occurrence or happening <an incident of copyright infringement>. 2. A dependent, subordinate, or consequential part (of something else) <child support is a typical incident of divorce>.

✓ **incidental, adj.** Subordinate to something of greater importance; having a minor role <the FAA determined that the wind played only an incidental part in the plane crash>.

**incidental admission.** See ADMISSION (1).

**incidental authority.** See AUTHORITY (1).

**incidental beneficiary.** See BENEFICIARY.

**incidental damages.** See DAMAGES.

**incidental demand.** See DEMAND (1).

**incidental main motion.** See MOTION (2).

**incidental motion.** See MOTION (2).

**incidental power.** See *incident power* under POWER (3).

**incidental use.** See USE (1).

**incidenter** (in-si-den-tər). [Latin] *Hist.* Incidentally.

**incident of ownership.** (*usu. pl.*) Any right of control that may be exercised over a transferred life-insurance policy so that the policy's proceeds will be included in a decedent's gross estate for estate-tax purposes <because Douglas still retained the incidents of ownership after giving his life-insurance policy to his daughter, the policy proceeds were taxed against his estate>. • The incidents of ownership include the rights to change the policy's beneficiaries and to borrow against, assign, and cancel the policy. [Cases: Internal Revenue  $\approx$ 4155. C.J.S. *Internal Revenue* § 510.]

**incident power.** See POWER (5).

**incident to employment.** *Workers' compensation* that is related to or connected with a worker's duties. [Cases: Workers' Compensation  $\approx$  C.J.S. *Workmen's Compensation* §§ 376, 378.]

**incidere** (in-sid-ə-ree), *vb.* [Latin] "fall into Roman law. To come within the scope of a fall into a legal category; esp. to become involved in a situation that entangles a person in a legal matter. • This term had a similar meaning under law. For example, a person might become (or "fall into") amercement (*incidere in misericordiam*). See AMERCEMENT.

**incipitur** (in-sip-i-tər). [Law Latin] *Hist.* It is begun. This refers to the practice of entering the commencement of a pleading on the court roll.

**incite, vb.** To provoke or stir up (someone to a criminal act, or the criminal act itself). Cf. ABET.

**incitee.** A person who has been incited, esp. to a crime.

**inciteful, adj.** Tending to incite <inciteful speech>.

**incitement, n.** 1. The act or an instance of provoking on, or stirring up. 2. *Criminal law.* The persuading another person to commit a crime. [Cases: Criminal Law  $\approx$ 45. C.J.S. *Criminal Law* §§ 115, 124-126.] — **inciteful, adj.**

"An inciter is one who counsels, commands or aids the commission of a crime. It will be observed that the definition is much the same as that of an accessory before the fact. What, then, is the difference between the two? In incitement the crime has not (or has not necessarily) been committed, whereas a party cannot be an accessory before the fact unless the crime has been committed. An accessory before the fact is guilty only of an inchoate crime." (Williams, *Criminal Law* 612 (2d ed. 1961)).

"Emphasis upon the theory of one offense with guilt attaching to several is quite appropriate because it is still the groundwork of our legal philosophy, so far as principals, abettors and inciters are concerned, despite the fact that some of the statutes require lipservice to the notion of separate substantive offense, in the effort to avoid procedural difficulties. It explains how one may be charged with a crime he could not perpetrate, by having caused it as a result of his abetment or incitement." (M. Perkins & Ronald N. Boyce, *Criminal Law* 732-33 (1982)).

**inciter.** A person who incites another to commit a crime; an aider or abettor.

**inciting revolt.** See MUTINY.

**incivile** (in-siv-ə-lee), *adj.* [Law Latin] Irregular; contrary to the due course of law.

**incivism** (in-si-viz-əm). Unfriendliness toward one's own country or its government; lack of good citizenship.

**inclausa** (in-klaw-zə). [Law Latin] *Hist.* An enclosure near a house; a home close. See CLOSE (1).

**in clientela** (in klī-ən-tee-lə). [Latin] *Hist.* In the relation between client and patron.

**inclose, vb.** See ENCLOSE.

**inclosure.** See ENCLOSURE.

**include, vb.** To contain as a part of something. • The participle *including* typically indicates a partial inclusion <the plaintiff asserted five tort claims, including slander and libel>. But some drafters use *phrasing*.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 24, 2012

**SUBJECT:** Amendment T.5 drafting issues (CSSB 89(STA))  
(Work Order No. 27-LS0452\T.5)

**TO:** Senator Hollis French  
Attn: Cindy Smith

**FROM:** Dan Wayne   
Legislative Counsel

I am writing to discuss the changes you requested in the enclosed amendment.

The goal of the first change, adding the language "program similar to the" on page 1, lines 11 - 12 of the amendment, is unclear to me. The Legislative Council establishes a program under AS 24.20.060(8), and under current law the Select Committee on Legislative Ethics is required to approve that program and a program under 29 U.S.C. 2801 - 2945. The Select Committee may also approve other internship programs. Questions about whether a particular service rendered by an intern in a program meets the requirements of the gift exception in AS 24.60.080(h) are up to the Select Committee, and, unless AS 24.60 is amended to exclude interns in that program, it's the responsibility of the Select Committee to oversee the interns' compliance with the Act. Addition of the language you've suggested could cause the affected provision to omit services by interns in the program under AS 24.20.060(8) from the gift exception in AS 24.60.080(h), although services by interns in similar programs would be included. Also note that adding "chair" at page 1, line 9, does not negate the full committee's duty (on page 1, lines 8 - 9) to approve all educational programs.

The second change, removing "educational trainee" and adding "intern" (page 10, lines 25, 26, and 30; page 13, lines 7 and 8), does not completely remove "educational trainee" from the Legislative Ethics Act as you intend. AS 24.60.080(h) refers to "a trainee who is participating in an educational program" and "training under 29 U.S.C. 2801 - 2945 (Workforce Investment Act of 1998)." I considered substituting "intern" and "internship" for "trainee" and "training," respectively, when drafting your proposed amendment 27-LS0452\T.2, but the federal Workforce Investment Act does not use "intern" and "internship" to describe people and programs it covers -- it uses "trainee" and "training." I have omitted "trainee" from sec. 10 as you requested. However, unless the federal law changes, or the AS 24.60.080(h) exemption for training under the federal Workforce Investment Act is dropped from the Legislative Ethics Act, I advise keeping the terms "training" and "trainee" (or "educational trainee") in your amendment.

Senator Hollis French  
January 24, 2012  
Page 2

Also, please note that on page 2, line 1 of the enclosed amendment, I've added AS 24.60.155 to the list of Legislative Ethics Act sections that are applicable to volunteers and interns.

If I may be of further assistance, please advise.

DCW:ljw  
12-043.ljw

Enclosure

**AMENDMENT**

OFFERED IN THE SENATE

BY SENATOR FRENCH

TO: CSSB 89(STA)

1 Page 10, following line 12:

2 Insert a new bill section to read:

3 **"\* Sec. 8.** AS 24.60.080(h) is amended to read:

4 (h) A legislator, a legislative committee other than the Select Committee on  
5 Legislative Ethics, or a legislative agency may accept a gift of (1) volunteer services  
6 for legislative purposes so long as the person making the gift of services is not  
7 receiving compensation from another source for the services, or (2) the services of **an**  
8 **intern or** a trainee who is participating in an educational program approved by the  
9 committee if the services are used for legislative purposes. The **chair of the**  
10 committee shall approve **services provided by an intern who is participating in a**  
11 **program similar to the legislative internship program established by the**  
12 **legislative council under AS 24.20.060(8)** [TRAINING UNDER A PROGRAM OF  
13 THE UNIVERSITY OF ALASKA] and **services, used for legislative purposes, that**  
14 **are provided by a person because the person is participating in** training under 29  
15 U.S.C. 2801 - 2945 (Workforce Investment Act of 1998)."  
16

17 Renumber the following bill sections accordingly.

18

19 Page 10, line 24, through page 11, line 1:

20 Delete all material and insert:

21 **"\* Sec. 10.** AS 24.60.112 is repealed and reenacted to read:

22 **Sec. 24.60.112. Applicability to volunteers and interns.** A legislative  
23 volunteer or intern shall be considered to be a legislative employee for purposes of

1 compliance with AS 24.60.030 - 24.60.039, 24.60.060, 24.60.080, 24.60.085,  
2 24.60.155, 24.60.158 - 24.60.170, 24.60.176, and 24.60.178. If a person believes that a  
3 legislative volunteer or intern has violated the provisions of one of those sections, the  
4 person may file a complaint under AS 24.60.170. The provisions of AS 24.60.170  
5 apply to the proceeding."  
6

7 Page 13, line 7:

8 Delete "educational trainee"

9 Insert "intern"  
10

11 Page 13, line 11:

12 Delete "trainee"

13 Insert "intern"

AMENDMENT

OFFERED IN THE SENATE  
TO: CSSB 89(STA)

BY SENATOR FRENCH

1 Page 10, following line 12:

2 Insert a new section to read:

3 **"\* Sec. 8.** AS 24.60.080(h) is amended to read:

4 (h) A legislator, a legislative committee other than the Select Committee on  
5 Legislative Ethics, or a legislative agency may accept a gift of (1) volunteer services  
6 for legislative purposes so long as the person making the gift of services is not  
7 receiving compensation from another source for the services, or (2) the services of **an**  
8 **intern or** a trainee who is participating in an educational program approved by the  
9 committee if the services are used for legislative purposes. The committee shall  
10 approve **services provided by an intern who is participating in a legislative**  
11 **internship program established by the legislative council under AS 24.20.060(8)**  
12 **[TRAINING UNDER A PROGRAM OF THE UNIVERSITY OF ALASKA] and**  
13 **services, used for legislative purposes, that are provided by a person because the**  
14 **person is participating in** training under 29 U.S.C. 2801 - 2945 (Workforce  
15 Investment Act of 1998)."  
16

17 Renumber the following bill sections accordingly.  
18

19 Page 10, line 25, following "volunteers":

20 Insert "**, interns,**"  
21

22 Page 10, line 26, following "volunteer":

23 Insert "**, intern,**"

1

2 Page 10, line 30, following "volunteer":

3 Insert "**intern.**"

4

5 Page 13, line 7, following "**volunteer**":

6 Insert "**intern.**"

7

8 Page 13, line 11, following "**volunteer**":

9 Insert "**intern.**"

**AMENDMENT**

OFFERED IN THE SENATE

BY SENATOR FRENCH

TO: CSSB 89(STA)

- 1 Page 13, lines 2 - 4:
- 2 Delete all material and insert:
- 3 "(f) A designation under (c) - (e) of this section shall be treated as confidential
- 4 to the same extent that the identity of the subject of a complaint is required to be kept
- 5 confidential."


AMENDMENT

**OFFERED IN SENATE JUDICIARY**

1 **Page 13, lines 2 – 4: Delete all language.**

2 Insert:

3 (f) A designation under (c) – (e) if this section shall be treated as confidential to the

4 extent that the identity of the subject of a complaint is required to be kept confidential 

5 ~~under AS 24.60.170(c):~~

6

7



05.01  
-----  
08.03

1 designate that alternate to participate in the proceeding.

2 (f) A designation under (c) - (e) of this section is a confidential proceeding  
3 under AS 24.60.170(d) unless the member who is replaced as a result of the  
4 designation waives confidentiality.

5 \* **Sec. 13.** AS 24.60.155 is amended to read:

6 **Sec. 24.60.155. Legislative ethics course.** A person who serves for more  
7 than 30 days as a legislative volunteer or educational trainee or who is a legislator,  
8 legislative employee, or public member of the committee shall complete a legislative  
9 ethics course administered by the committee under AS 24.60.150(a)(4) within 10 days  
10 of the first day of the first regular session of each legislature. However, a person who  
11 begins a period of service of more than 30 days as a volunteer or trainee or who  
12 first takes office or begins employment after the 10th day of the first regular session of  
13 a legislature shall complete the course required by this section within 30 days after the  
14 person's first day of service and, thereafter, as required by this section. The committee  
15 may grant a person additional time to complete the course required by this section.

16 \* **Sec. 14.** AS 24.60.990(a)(11) is amended to read:

17 (11) "legislative employee" means a person, other than a legislator,  
18 who is compensated by the legislative branch in return for regular or substantial  
19 personal services, regardless of the person's pay level or technical status as a full-time  
20 or part-time employee, independent contractor, or consultant; it includes public  
21 members and staff of the committee; it does not include individuals who are hourly  
22 employees who perform functions that are incidental to legislative functions,  
23 [INCLUDING SECURITY, MESSENGER, MAINTENANCE, AND PRINT SHOP  
24 EMPLOYEES,] and other employees designated by the committee;

25 \* **Sec. 15.** AS 24.60.130(n) is repealed.

# Alaska State Legislature

**Senator Hollis French, Chair**  
State Capitol, Room 417  
Juneau, Alaska 99801  
Phone: (907) 465-3892  
Fax: (907) 465-6595



**Committee Members:**  
Senator Bill Wielechowski  
Senator Lesil McGuire  
Senator Joe Paskvan  
Senator John Coghill

## Senate Judiciary Committee

### MEMORANDUM

January 21, 2012

TO: Dan Wayne, Leg. Legal

FROM: Cindy Smith 465-6641

RE: amendments to SB89 27-LS0452\T

Please draft 2 amendments to SB89, version "T" as follows:

1. An amendment replacing references to "trainee" and "educational trainee" in 24.60.080 (h) and in sections 9 and 13 (and if found elsewhere in the bill, in those places as well!) with the word "intern" in order to be consistent with the language in AS 24.20.060(8).
2. An amendment replacing the language on page 13, lines 2-4 with the original language in 24.60.130(n), per our discussion on Thursday.

Thanks! If you have any questions give me a call - we would like to put this bill back up on Friday, so I'd like to get the amendments by Thursday in order to have time to run them by the bill's sponsor and Ms. Anderson, so we're all on the same page. You are also free to talk with either Rynnieva or Joyce as needed, of course!

## Cindy Smith

---

**From:** Rynnieva Moss  
**Sent:** Friday, January 20, 2012 8:24 AM  
**To:** Cindy Smith; LAA Legal  
**Cc:** Joyce Anderson  
**Subject:** Attn: Dan Wayne and Cindy Smith

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I received this email from Joyce Anderson yesterday. Would it be appropriate to address this in Judiciary? Cindy, please let Dan know. Thanks.

---

**From:** Joyce Anderson  
**Sent:** Thursday, January 19, 2012 6:29 PM  
**To:** Rynnieva Moss  
**Subject:** SB 89 Suggestion

Rynnieva: *amend #1*

I was working with another legislative office today and realized in AS 24.60.080(h) the term "trainee" is used when the intent is actually referring to legislative interns. New language in SB 89 in Section 9, AS 24.60.112, the term "educational trainees" was added and Section 13, AS 24.60.155, the term "educational trainee" was added -- both are actually referring to "interns."

I think the term should be changed to "intern" to be consistent with the language in AS 24.20.060(8) which addresses the U of A intern program. I

The term "educational trainee" does not really relate to what the term "intern" means when it comes to working in a legislative office.

Is it possible to add this item to SB 89 as an amendment.

Thanks for your consideration.

Joyce

# FISCAL NOTE

STATE OF ALASKA cost # codes  
 2012 LEGISLATIVE SESSION

Bill Version CSSB 89  
 Fiscal Note Number \_\_\_\_\_  
 Publish Date \_\_\_\_\_

Identifier (file name) CSSB89-LEG-COU-1-17-2012 Dept. Affected Legislature  
 Title "Legislative Ethics Act" Appropriation Legislative Council  
 Allocation Select Committee on Ethics  
 Sponsor Senator Coghill  
 Requester Senate Judiciary Committee OMB Component Number 2321

**Expenditures/Revenues** (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS**

Full-time							
Part-time							
Temporary							

**CHANGE IN REVENUES**

--	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY12) operating costs \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

initial version

Prepared by Jessica Geary, Finance Manager  
 Division Legislative Affairs Agency  
 Approved by Pamela Varni, Executive Director  
Legislative Affairs Agency

Phone 465-6626  
 Date/Time 1/17/12 10:46 AM  
 Date 1/17/2012

**FISCAL NOTE**

**STATE OF ALASKA  
2012 LEGISLATIVE SESSION**

**BILL NO. CSSB 89**

**Analysis**

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

ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE

April 15, 2011

1:31 p.m.

**MEMBERS PRESENT**

Senator Hollis French, Chair  
Senator Bill Wielechowski, Vice Chair  
Senator Joe Paskvan  
Senator John Coghill

**MEMBERS ABSENT**

Senator Lesil McGuire

**COMMITTEE CALENDAR**

SENATE BILL NO. 89

"An Act clarifying that a legislator or legislative employee is allowed to accept certain charity events; amending disclosure deadlines under the Legislative Ethics Act; relating compassionate gifts; allowing legislators and legislative employees to use legislative to requests to refrain from disclosure under the Legislative Ethics Act; and establishing mailing lists for campaign purposes and nonlegislative purposes; allowing legislators a seat for an alternate public member on the Select Committee on Legislative Ethics and and legislative employees who are representing persons in an administrative hearing to clarifying the requirements related to participation by alternate members in the contact hearing officers and attempt to influence the outcome of the hearing if they are proceedings of the committee."

- HEARD & HELD

SENATE BILL NO. 98

"An Act relating to biometric information."

- MOVED CSSB 98 (JUD) OUT OF COMMITTEE

SENATE BILL NO. 104

"An Act relating to manufactured homes, including manufactured homes permanently affixed to land, to the conversion of manufactured homes to real property, to the severance of manufactured homes from real property, to the titling, conveyance, and encumbrance of manufactured homes, and to

manufacturers' certificates of origin for vehicles; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 89

SHORT TITLE: LEGISLATIVE ETHICS ACT

SPONSOR(S): SENATOR(S) COGHILL

02/16/11	(S)	READ THE FIRST TIME - REFERRALS
02/16/11	(S)	STA, JUD
03/15/11	(S)	STA AT 9:00 AM BUTROVICH 205
03/15/11	(S)	Heard & Held
03/15/11	(S)	MINUTE(STA)
03/31/11	(S)	STA AT 9:00 AM BUTROVICH 205
03/31/11	(S)	Moved CSSB 89(STA) Out of Committee
03/31/11	(S)	MINUTE(STA)
04/01/11	(S)	STA RPT CS 1DP 4NR NEW TITLE
04/01/11	(S)	DP: MEYER
04/01/11	(S)	NR: WIELECHOWSKI, KOOKESH, PASKVAN, GIESSEL
04/11/11	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/11/11	(S)	Scheduled But Not Heard
04/13/11	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/13/11	(S)	Scheduled But Not Heard
04/15/11	(S)	JUD AT 1:30 PM BUTROVICH 205

BILL: SB 104

SHORT TITLE: MANUFACTURED HOMES AS REAL PROPERTY

SPONSOR(S): SENATOR(S) FRENCH

03/16/11	(S)	READ THE FIRST TIME - REFERRALS
03/16/11	(S)	STA, JUD
03/29/11	(S)	STA AT 9:00 AM BUTROVICH 205
03/29/11	(S)	Heard & Held
03/29/11	(S)	MINUTE(STA)
03/31/11	(S)	STA AT 9:00 AM BUTROVICH 205
03/31/11	(S)	Moved SB 104 Out of Committee
03/31/11	(S)	MINUTE(STA)
04/01/11	(S)	STA RPT 2DP 3NR
04/01/11	(S)	DP: KOOKESH, MEYER
04/01/11	(S)	NR: WIELECHOWSKI, PASKVAN, GIESSEL
04/06/11	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/06/11	(S)	Heard & Held
04/06/11	(S)	MINUTE(JUD)

04/15/11 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 98

SHORT TITLE: BIOMETRIC INFORMATION FOR ID

SPONSOR(s): SENATOR(s) WIELECHOWSKI

03/11/11 (S) READ THE FIRST TIME - REFERRALS  
03/11/11 (S) STA, JUD  
03/15/11 (S) STA AT 9:00 AM BUTROVICH 205  
03/15/11 (S) Heard & Held  
03/15/11 (S) MINUTE(STA)  
03/17/11 (S) STA AT 9:00 AM BUTROVICH 205  
03/17/11 (S) Moved CSSB 98(STA) Out of Committee  
03/17/11 (S) MINUTE(STA)  
03/18/11 (S) STA RPT CS 4DP SAME TITLE  
03/18/11 (S) DP: WIELECHOWSKI, GIESSEL, MEYER,  
PASKVAN  
03/21/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/21/11 (S) Heard & Held  
03/21/11 (S) MINUTE(JUD)  
03/28/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/28/11 (S) Heard & Held  
03/28/11 (S) MINUTE(JUD)  
04/06/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
04/06/11 (S) Heard & Held  
04/06/11 (S) MINUTE(JUD)  
04/15/11 (S) JUD AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

RYNNIEVA MOSS, Chief of Staff  
Senator John Coghill  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Provided a sectional analysis of SB 89 on behalf of the sponsor.

MICHAEL CAUFIELD, Staff  
Senator Bill Wielechowski  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Described the changes in version T of SB 98.

ANDY MODEROW, Staff  
Senator Hollis French  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Described the changes in version D of SB 104.

PAT GREEN, State Government Relations Director  
Wells Fargo Bank  
Anchorage, AK

**POSITION STATEMENT:** Answered questions related to SB 104.

JEFF HARRIS, Loan Administration Manager  
Wells Fargo Home Mortgage  
Anchorage, AK

**POSITION STATEMENT:** Answered questions related to SB 104.

#### **ACTION NARRATIVE**

1:31:21 PM

**CHAIR HOLLIS FRENCH** called the Senate Judiciary Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Paskvan, Coghill, Wielechowski, and French.

^#sb89

#### **SB 89-LEGISLATIVE ETHICS ACT**

1:31:54 PM

**CHAIR HOLLIS FRENCH** announced the consideration of SB 89. [CSSB 89(STA), 27-LS0452\T was before the committee.]

**SENATOR JOHN COGHILL**, Sponsor of SB 89, stated that this ethics bill is a work in progress that wound up in his hands. His chief of staff, Ms. Moss, would provide a sectional analysis after which he would offer an amendment. He noted that the current version T removed some of the more contentious issues.

1:33:22 PM

**RYNNIEVA MOSS**, Chief of Staff to Senator Coghill, sponsor of SB 89, said the only changes in Section 1 appear on page 2. For consistency with AS 24.60.080, the phrase "lawful gratuity" was changed to "gift" and reference to the compassionate gift statute, AS 24.60.075, was inserted.

Section 2 attempts to draw a bright line for legislators and staff in dealing with constituents. It says that unless the legislator is an attorney, the legislative office will sever any assistance it gave to the constituent once a matter goes before an administrative hearing officer. It also allows for inadvertent ex parte contact.

CHAIR FRENCH asked if he were to write a letter on behalf of a constituent asking for a fair hearing on a permanent fund dividend denial, if the letter would go to an administrative hearing officer on the first level or to the department.

MS. MOSS replied the first level is called an informal denial and at that stage he could communicate with the department. Once there's a formal denial and a request for an administrative hearing, the legislator's office would need to back off.

CHAIR FRENCH asked for an example of the point at which it is no longer acceptable for a legislator to act in regard to child placement actions under the Office of Children's Services (OCS).

MS. MOSS replied OCS has worked with legislative offices all during the process even though it's actually a court case. They also have a legislative liaison that legislative offices can contact directly. An example where contact would be limited beyond a certain point would be workers compensation. Once the issue reaches the point of having administrative hearings, the legislative office would have to back away. With regard to child support, once the matter reaches the point of requesting an administrative hearing, the legislative office can no longer be involved.

1:36:43 PM

SENATOR COGHILL explained that the ethics laws were written before there were administrative law judges so this was an attempt to clarify the point at which a legislative office must step away from a constituent issue they'd been working on. He noted that at one point the Ethics Committee suggested a 10-hour limit, but he believes this is a better way. It's okay for a legislative office to help a constituent up to the point of the administrative decision, but it's wrong to put pressure on the decision-maker.

CHAIR FRENCH asked if legislators could safely send complaints to a legislative liaison office about the way their constituents were being treated.

MS. MOSS replied she didn't know the answer, but she didn't believe there was a protection under the law. She added that the biggest problem is when a constituent doesn't say where they are in the process.

1:38:56 PM

CHAIR FRENCH asked if the ten-hour provision was an ethics opinion or in statute at one time.

SENATOR COGHILL replied it was an ethics opinion.

CHAIR FRENCH asked if this would supersede that opinion.

SENATOR COGHILL answered yes.

SENATOR WIELECHOWSKI referred to the workers' compensation example and said he reads the bill to say that a legislator could call a department director to ask about the status of a particular case.

MS. MOSS agreed that would be accurate.

SENATOR WIELECHOWSKI asked for confirmation that the legislator couldn't contact the chief of adjudications.

MS. MOSS replied they could contact the worker that is handling the workers' compensation case, but not the hearing officer or the attorneys for the insurance company or constituent.

SENATOR COGHILL added that the idea was to keep legislators from becoming free legal advisors unless the legislator was practicing law.

1:40:26 PM

MS. MOSS clarified that a non-attorney can handle a workers' compensation case, but once the matter gets to an administrative hearing it's between the constituent, their attorney, and the division under challenge.

SENATOR WIELECHOWSKI asked where it says the legislator couldn't contact the attorney who represents the injured worker.

MS. MOSS replied it doesn't say that specifically, but once the dispute goes to a hearing officer the legislative office isn't supposed to contact those parties. Contacting a constituent's attorney would be considered an ex parte contact.

SENATOR WIELECHOWSKI asked where it says that in the bill.

MS. MOSS replied "ex parte" is contacting a party in a case without going through the court.

SENATOR WIELECHOWSKI said his understanding is different.

*needs to change*

CHAIR FRENCH said he believes that "ex parte" is between a party and the judge without the other party being present.

SENATOR WIELECHOWSKI agreed.

SENATOR PASKVAN agreed, and said the purpose of that definition of "ex parte" is to encourage contact between the parties directly, but while they're trying to work things out neither party can singularly contact the judge without the other being present.

MS. MOSS added that the bill also requires legislators to disclose any contact that is considered inappropriate.

1:42:51 PM

CHAIR FRENCH summarized that in this case "ex parte" would be between a legislator and a hearing officer, not a legislator and an attorney representing the constituent.

MS. MOSS said when a constituent contacts Senator Coghill's office for help she always asks if they have an attorney.

SENATOR WIELECHOWSKI said he didn't believe that under current law or if this were to pass that it would be illegal or unethical for a legislator to contact a constituent's attorney to express concern about the timeliness of a hearing.

MS. MOSS said she appreciates having that on the record.

SENATOR COGHILL recalled that the administrative law judge who spoke to his office about two years ago agreed with that point.

CHAIR FRENCH noted that Joyce Anderson was online to answer questions about ethics laws.

1:45:36 PM

MS. MOSS said Section 3 releases the Ethics Committee from having to compile disclosure form statements, but they would still have to maintain a record of the forms that are available to the public.

Section 4 adds "or public member of the committee" to AS 24.60.060(a), which is the statute that prohibits disclosure of confidential information.

Sections 5 and 7 have been reworded to make it clear that legislators, their employees, or a public member of the committee may not accept from a lobbyist a ticket to a charitable event that is valued at more than \$249.99.

SENATOR COGHILL added that it also allows accepting a charitable gift beyond that amount from somebody other than a lobbyist, but it must be reported and a sanctioned event.

MS. MOSS said Section 7 changes the reporting requirements from 30 days to 60 days for charitable gifts and gifts of travel for purposes of gaining legislative information.

1:47:22 PM

SENATOR PASKVAN asked if this changes what a lobbyist may offer to a legislator.

SENATOR COGHILL answered no. It changes charitable events that are specifically mentioned in statute. The rewording attempts to allow a charitable gift donation from people who are not lobbyists.

1:48:44 PM

CHAIR FRENCH observed that it was a little confusing to talk about tickets to a charitable event in conjunction with gifts, and asked if this was separate from the general gift prohibition.

MS. MOSS responded it addresses circumstances like receiving a ticket to a sanctioned charitable event and winning the door prize.

SENATOR COGHILL added that a question came up about winning a cruise at the "Thanksgiving in March" event. In another instance a legislator was given a gift from a non-lobbyist to sit at a head table, which was valued at more than \$400. An ethics complaint was lodged but there was not an ethical problem. But beyond a sanctioned event there might be a problem, he said.

MS. MOSS explained that Section 8 allows certain persons to request a waiver from disclosing clients or making any disclosures that would violate state or federal laws or constitutions. The State Affairs Committee added the language "or a rule adopted formally by a trade or profession, that state or federal law requires the person to follow." So certain occupations don't have to disclose their sources of income from clients.

CHAIR FRENCH asked if it's an ethics disclosure, an Alaska Public Offices Commission (APOC) disclosure, or both.

MS. MOSS replied it's an ethics disclosure.

SENATOR COGHILL added that under HIPPA there are some restrictions on confidentiality, and there was some concern about reporting if a legislative office was working on a healthcare issue for a constituent.

MS. MOSS said Sections 9 and 13 were added in the State Affairs Committee, and state that if someone is a volunteer or educational trainee for 30 days they would be expected to take an ethics class.

Sections 10 and 11 make reference to the new statute in Section 12.

Section 12 is a new section of law that deals with alternate members. It adds an alternate for a public member and allows them to participate in the full proceeding once they've been selected.

SENATOR COGHILL said it became apparent that it would be easier to make a quorum for the public members if there was an alternate. A decision was made that once the alternate was engaged in a particular ethical question they should remain until the conclusion. That would be true for the public and legislative members.

1:53:42 PM

MS. MOSS said Section 14 changes the definition of "legislative employee." It clarifies that hourly employees are not included and are not required to take ethics training.

1:54:28 PM

SENATOR COGHILL observed that the bill was a benign housekeeping matter without his amendment, which addresses how to reasonably and properly allow legislators to participate in partisan political activities while on state travel. Generally speaking, most of the meetings that legislators hold outside of Juneau are held in Anchorage or Fairbanks. Legislators from those urban areas may attend partisan events after conducting state business, but those from out of town cannot. He said he was trying to find a reasonable solution without allowing legislators to use state money to campaign. That's the one-way

valve. "We want them to do one thing nobly, and we don't want them to use it improperly."

1:56:37 PM

SENATOR COGHILL moved Amendment 1, labeled 27-LS0452\T.1.

**AMENDMENT 1**

OFFERED IN THE SENATE  
TO: CSSB 89(STA)

BY SENATOR COGHILL

Page 1, line 7, following "instances;":

Insert "allowing legislators and legislative employees, in certain circumstances, to participate in partisan political activity while on state travel;"

Page 5, following line 26:

Insert new bill sections to read:

"\* **Sec. 3.** AS 24.60.030 is amended by adding a new subsection to read:

(j) Notwithstanding the limitations under (a)(2), (a)(4), and (c) of this section and subject to other state or federal laws, a legislator or legislative employee who is on state travel may participate in partisan political activity, including campaign activity, if

(1) the participation is incidental to the purpose of the travel;

(2) the legislator or the legislative employee does not use or authorize the use of state resources to pay for the activity; and

(3) the legislator or legislative employee does not participate in the activity

(A) during a normal workday between 8:00 a.m. and 5:00 p.m., excluding meal breaks;

(B) on a state or municipal election day;

(C) during the 30 days immediately preceding an election in which the participating legislator or the legislator for whom the participating employee works is a candidate for elective office; or

(D) by fund raising for a political party or campaign.

\* **Sec. 4.** AS 24.60.031 is amended by adding a new subsection to read:

(d) Notwithstanding the limitations under (a) and (b) of this section and subject to other state or federal laws, a legislator or legislative employee who is on state travel may participate in partisan political activity, including campaign activity, if

(1) the participation is incidental to the purpose of the travel;

(2) the legislator or the legislative employee does not use or authorize the use of state resources to pay for the activity; and

(3) the legislator or legislative employee does not participate in the activity

(A) during a normal workday between 8:00 a.m. and 5:00 p.m., excluding meal breaks;

(B) on a state or municipal election day;

(C) during the 30 days immediately preceding an election in which the participating legislator or the legislator for whom the participating employee works is a candidate for elective office; or

(D) by fund raising for a political party or campaign."

Renumber the following bill sections accordingly.

Page 13, following line 24:

Insert a new bill section to read:

\*\* **Sec. 17.** AS 24.60.990(a) is amended by adding a new paragraph to read:

(17) "state travel" means travel with transportation or overnight lodging that is provided or paid for with state resources."

Renumber the following bill section accordingly.

CHAIR FRENCH objected and opened discussion on the amendment.

SENATOR COGHILL said he would understand if the Chair decided to set the bill aside for more in depth consideration next session. He explained that the amendment addresses AS 24.60.030, which talks about ethical management, and AS 24.60.031, which talks about the management of fundraising. He read the amendment into the record and the following legal definition of "incidental:" "Subordinate to something of greater importance; having a minor role." He was trying to say that there are reasons to prohibit the activity, but there should be an accommodation for participation in partisan political activity that is clearly incidental. Whereas fund raising for any political party or campaign is absolutely prohibited. This sets the bar and clarifies that the activity has to be very small in comparison to the activity for which the legislator is using state travel.

SENATOR COGHILL said if he goes to Anchorage on state travel and is called by a radio program and gives his opinion, he could be charged with participating in partisan activity when he's really just expressing his beliefs. The question needs to be answered and the forgoing are the criteria he set.

2:03:25 PM

CHAIR FRENCH said he appreciates the thought that went into the amendment and shares some of the concerns. Leveling a complaint that a legislator has violated the ethics rules is a powerful complaint. It will be discussed further over the summer and next year. Some of the questions that arise relate to the size differences in the legislative districts and the sort of things a legislator should be able to do when he/she is paid to travel inside his/her own district. Some things could conceivably be an ethics violation under the current rules that he's not sure should be. Is it a violation if you're traveling to Anchorage on state business and you update your Facebook page relating to your campaign when you're in your hotel room at night? Could you call into a Fairbanks radio show from Anchorage promoting your campaign while on state travel? He reiterated that he'd spend time on the question between now and next year.

2:05:54 PM

SENATOR WIELECHOWSKI said he agrees. If you're traveling to Anchorage and you get a call from a radio station and talk about partisan activities, does it matter if you're in Anchorage or Fairbanks? The problem has been how to define where the line is. The State Affairs Committee couldn't figure it out, but with further dialog there may be a solution.

SENATOR COGHILL said he assumes that some legislators and some people that watch legislators will be bad actors, but others are genuinely concerned about ethical behavior. It's a balance and he's trying to figure out the clearest rule possible. Trying to define motives is not the answer, but defining action items helps establish bright lines so that legislators know what is expected of them as partisan people. It also helps those who genuinely want to keep legislators ethically accountable for the use of state resources.

He said his district includes the Richardson Highway, the Glenn Highway, the Denali Highway, and the coast from Valdez to Whittier so he can be anywhere in those communities and be totally forbidden from going to a Republican event even though he had traveled 800 miles to visit three other communities in the district. It's painful to be unable to participate.

Under the current statutes, there is an exact prohibition on partisan activity anytime a legislator is on the state dime. This leaves legislators vulnerable to people who have bad intentions. The Ethics Committee has discussed this extensively over the years and legislators have repeatedly asked for relief. He asked the committee to carefully consider the amendment; it's his best effort to define what is and is not ethical.

SENATOR COGHILL asked the Chair how he wanted to proceed with the amendment and the bill itself.

2:11:19 PM

SENATOR PASKVAN commented that he looks forward to further healthy debate on the matter and that this committee was best suited for this substantive discussion. It's a complex subject that requires careful consideration from both sides. Legislators should in all instances act ethically, but he doesn't want to give unfair advantage to someone who can use private wealth to scam the system, knowing that the person they're attacking can't fight back because they were traveling at state expense.

SENATOR COGHILL said he's passionate that this is not about fairness; it's about what is ethical. Right now you can't be a partisan politician while on the state dime. That's not reasonable and doesn't address the ethical question.

CHAIR FRENCH stated that he'd leave matters as they are; both the bill and the amendment are in front of the committee and he was maintaining his objection.

2:14:10 PM

SENATOR COGHILL said his office was prepared to work with the committee and was open to suggestions.

CHAIR FRENCH announced he would hold SB 89 in committee.

^#sb98

**SB 98-BIOMETRIC INFORMATION FOR ID**

2:14:40 PM

CHAIR FRENCH announced the consideration of SB 98 and asked for a motion to adopt the proposed committee substitute (CS).

SENATOR WIELECHOWSKI moved to adopt CS for SB 98, labeled 27-LS0661\T, as the working document.

CHAIR FRENCH objected for discussion purposes.

SENATOR WIELECHOWSKI asked his staff to describe the changes.

2:15:35 PM

MICHAEL CAUFIELD, Staff to Senator Wielechowski, sponsor of SB 98, described the following changes:

Page 2, lines 17-19, contains new language that clarifies that occupational exams are also educational exams, and that the exam administrator may determine what constitutes an acceptable alternative ID other than biometrics. He noted that some questions may still arise about this section.

Page 3, line 18, the phrase "agents of the state," was removed to ensure that the state is exempt from liability, but not the organization that contracts with the state.

Page 3, lines 29-30, creates an exemption for voice data collected for quality assurance purposes, and the exemption for "facial images in a biometric system" was removed.

Page 3, lines 1-2, "facial images" was changed to "facial mapping" in the redefinition of "biometric data" on page 4, lines 1-2.

Page 4, lines 25-26, "facial mapping" was defined as "the use of digital technology to measure the features of an individual's face." This was done to ensure that pictures cannot be defined as biometric information.

SELECT COMMITTEE ON  
LEGISLATIVE ETHICS

COMMITTEE  
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Gary J. Turner,  
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Rep Carl Gatto

Antoinette "Toni" Mallott

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Staff:

Joyce Anderson,  
Administrator  
269-0150

Linda Leigh,  
Secretary  
269-8179

# THE ADVISOR

JULY 2010



## Campaign Year Activities- CLARIFICATION

### LEGISLATIVE PAID TRIP AND CAMPAIGNING

The Ethics Committee determined on June 16, that there is an absolute restriction on the use of state resources for purposes related to campaigning (which includes fund raising) and partisan political activity. The office has received many inquiries asking for clarification of this policy.

When a legislator or legislative employee is on a state paid trip (either some expenses or all are reimbursed), campaign activities are prohibited pursuant to AS 24.60.030(a) (2) and (a)(5).

Reimbursement for a legislative trip is considered a use of state resources. What constitutes the use of a "state resource" in this context? The question you need to ask yourself on a state paid trip:

**Is this an activity that could be performed only because you are on the state paid trip?**

Examples of activities that can be performed only on the state paid trip and are therefore prohibited:

- Campaign door knocking
- Dropping off campaign fliers at businesses and residences
- Attending a campaign fundraiser
- Campaign appearance at a function

**\*\*Keep in mind the above activities apply to all campaigns.\*\***

Examples of activities that would be permitted on a state paid trip. These

are not activities that are only made possible by the use of state resources.

- Returning a call, fax or email from a campaign worker
- Responding to a call from the media
- Working on the details of a future campaign fund raiser to be held in another town

**Exception to the above analogy:**

Responding to a constituent who comes up to you while on the state paid trip asking campaign questions. The best course of action to take is to provide campaign contact information to the constituent.

\*\*\*

If a complaint were filed alleging the use of state resources for campaign or partisan political reasons, the Ethics Committee would look at the specific facts of the situation and take into consideration whether or not state resources were being used to facilitate the activity or if the activity was something that could still have occurred absent the use of state resources. ■

**Inside this issue:**

Legislative Paid Trip and Campaigning	<b>cover</b>
Legislative Involvement in <u>Supporting</u> or <u>Opposing</u> Ballot Propositions	<b>2</b>
Legislative Newsletters During a Campaign Period	<b>3</b>
Door Knocking During a Campaign Period, Moratorium on Ethics Complaints During a Campaign Period, & NEW! Legislative Ethics Annual Calendar	<b>4</b>

## Ethics office:

## Mailing address:

P. O. Box 101468 Anchorage, AK  
99510-1468

Ph (907) 269-0150  
Fax (907) 269-0152

## Location:

716 4th Avenue  
Suite 230  
Anchorage, AK  
99501-2133

## LEGISLATIVE INVOLVEMENT IN SUPPORTING OR OPPOSING BALLOT PROPOSITIONS



In Advisory Opinion 97-02, the committee determined that action to support or oppose an initiative (which becomes a ballot proposition) is related to duties of the legislature.

- ❖ Legislators are frequently called on to comment on public issues and to take stands on those issues.
- ❖ Legislators need to hear from their constituents and others concerning public issues.

In carrying out this dialogue, a legislator may use state resources, including state paid staff time, state facilities and equipment, and reimbursement for travel expenses.

Some examples of activities include:

### ⇒ Preparing communications concerning the legislator's position.

- Letters
- Mailings
- Brochures or handouts
- Any other written or electronic communication



### ⇒ Attending public functions or direct staff to attend on their behalf.

- Personal appearances in the media, at events and gatherings, including state fairs. (Note: If renting a booth at a state fair, campaign activities cannot be conducted at the same time.)

### ⇒ Gathering and presenting information to the public concerning the proposition.



### ⇒ Directing staff to research issues raised by the ballot proposition.

- The results of the research may be made available to others, including individuals supporting or opposing the proposition.

Email:  
[ethics\\_committee@legis.state.ak.us](mailto:ethics_committee@legis.state.ak.us)

Website  
<http://ethics.legis.state.ak.us>

Keep in mind, that in carrying out this dialogue, a legislator or legislative employee may not allow state resources to be used by groups organized in support of or in opposition to a ballot proposition. The use of state resources in this manner would confer a "private benefit" to the group and allow state resources to be used for "campaigning" both of which are prohibited under AS 24.60.030(a)(2) and AS 24.60.030(a)(5). ■

# LEGISLATIVE NEWSLETTERS DURING A CAMPAIGN PERIOD

## Cutoff Date for distributing a legislative newsletter

Many offices have called asking what is the cutoff date for distributing legislative newsletters prior to an election. (Also applies to constituent meetings.)

The Legislative Ethics Act does not stipulate a date. However, the **closer to Election Day that a newsletter is mailed or e-mailed, the greater the appearance it has of a political “campaign mailing.”**

We recommend no later than one month prior to an election, but it is a personal decision each legislator must make. There are always exceptions to this general recommendation. The bottom line rests on the content of the newsletter, the timeliness of the information, timing of distributing the newsletter, and to whom it is being sent.



**Primary Election – one month prior is July 24**

**General Election – one month prior is October 1**

Here are some examples:

- May Be Appropriate:  
Major sewer issue in a legislator’s district. It may be timely to send information to the residents affected by the issue during the 30 day period.
- Probably Not Appropriate:  
Sending a general information legislative newsletter during the 30 day period that could be sent after the election.

The nine member Ethics Committee would make the determination if a complaint was filed alleging the use of state resources were used for campaign or partisan political purposes. ■

## Content of Legislative Newsletter

Campaign related information is prohibited in legislative newsletters. An entire newsletter is considered campaign related even if there is only one campaign statement and the other sections contain legislative information.

Examples of campaign related statements:

“I have filed for a new term as your state Senator/Representative.”

*(Announcing that you are running for a legislative office is considered campaigning.)*

“I hope to be in the legislature next year and will propose the following xxxx”;

*(OR)*

“ I will likely file legislation next session on that subject and work with the administration on the issue.”

*(These statements inform constituents that if they vote for you in the 2010 election this is the action you will take. The statements are ones that would appear on campaign material as part of your campaign platform.)*

Including other legislator’s names in your newsletter, indicating they are candidates for a particular office and their position on issues.

*(Even though there is not a direct endorsement of these candidates, the mere mention that they are candidates and their position on a particular issue is typical of language on campaign literature and has the appearance of campaigning.)*

The Ethics Office is available to review newsletters for content appropriate language. ■



## DOOR KNOCKING DURING A CAMPAIGN PERIOD



### LEGISLATIVE DOOR KNOCKING

Legislators are not prohibited from “door knocking” in their legislative district for a legislative purpose during a campaign period.

However, door knocking is a traditional way of meeting residents of a legislative district during a campaign. Since the Legislative Ethics Act does not stipulate a cutoff date for legislative door knocking, it is important to note that the closer to Election Day this activity is performed, the greater the appearance it has of “campaigning.” We recommend no later than one month prior to an election, but it is a personal decision each legislator must make.

Many legislators hand out their end-of-session legislative newsletter while door knocking. Remember, campaign activities cannot be performed at the same time; i.e., announcing that you are running for another term or handing out campaign literature for example. ■



### CAMPAIGN DOOR KNOCKING

Legislators are prohibited from using state resources for campaign door knocking activities at any time.

In Advisory Opinion 07-07, the committee determined that legislators may *not*—while campaign door knocking—do the following:

- Hand out your legislative business card.
- Verbally give legislative contact information to a constituent.
- Handwrite legislative contact information on campaign materials left with the constituent, either in person or left on the constituent’s door.

If, while campaign door knocking, a constituent has a concern about legislative services, you may:

- ❖ provide a legislative business card.
- ❖ verbally give the constituent legislative contact information.

Listing legislative contact information on campaign materials would lead to a violation of AS 24.60.030(a)(5) or (b). ■

## MORATORIUM ON ETHICS COMPLAINTS DURING A CAMPAIGN PERIOD

Complaints received concerning the conduct of a candidate for state office during a campaign period shall be returned to the complainant unless the subject of the complaint permits the committee to proceed. AS 24.60.170(o) & (p)

### Campaign period:

Begins 45 days before a Primary Election and ends at the close of General Election Day or the day the candidate withdraws or the day the results of the primary election are certified, whichever is earlier. AS 24.60.170(q)

Campaign period runs from Saturday, July 10 through Tuesday, November 2.

# NEW!

## Legislative Ethics Annual Calendar



Are you having trouble keeping track of all the due dates for Ethics reporting? Wish there was a calendar that showed what was due and when? Well, your wish has come true! The Ethics Committee has posted on their website a calendar of due dates that you are required to track and it's now available! Let us know what you think. HERE'S THE LINK: <http://ethics.legis.state.ak.us>

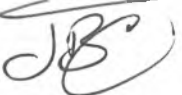


# ALASKA STATE LEGISLATURE

## SENATOR JOHN COGHILL

State Capitol, Room 504, Juneau, AK 99801-1182 (907) 465-3719  
3340 Badger Road Suite #290, North Pole, AK 99705 (907) 488-5725

### MEMORANDUM

Date: March 31, 2011  
To: Senator Hollis French, Chairman, Senate Judiciary Committee  
From: Senator John Coghill   
Re: Scheduling Request for SB 89

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I Request SB 89 "An Act relating to legislative ethics and the Select Committee on Legislative Ethics" be scheduled for hearing at your earliest convenience.

Attached is the backup information on the bill.

Thank you for your consideration.



# ALASKA STATE LEGISLATURE

## SENATOR JOHN COGHILL

State Capitol, Room 504, Juneau, AK 99801-1182 (907) 465-3719  
301 Santa Claus Lane, Ste. 3B, North Pole, AK 99705 (907) 488-5725

### MEMORANDUM

#### SB 89 Legislative Ethics Bill Summary of Version T

- Sec. 1.** Replaces “lawful gratuity” with “gift” to make section of law consistent with the usage of “gift”.
- Sec. 2.** **Bright line** for legislators or staff being actively involved in constituent problems with the State. Once the issue is assigned to an administrative hearing the involvement of the legislative office ceases. Exceptions are included for lawyers and provision for inadvertent exparte contact.
- Sec. 3.** **Eliminates requirement** of committee to **compile lists of financial disclosure** statements. They must only maintain public records and forward them to chief clerk and senate secretary.
- Sec. 4.** **Adds public members to statute prohibiting disclosure of confidential information.**
- Sec. 5.** Clarifies that a **ticket to a charity event from a lobbyist**, or gifts received because of the ticket from a lobbyist **cannot exceed \$250.**
- Sec. 6.** **Further describes “a contribution to a charity event”** by clarifying it could be a ticket to a charity event or a gift in connection with a charity event.
- Sec. 7.** **Extend the reporting period** for gifts of travel for the purpose of obtaining information on legislative matters and disclosure of gifts from charitable events **from 30 days to 60 days.**
- Sec. 8.** **Allows for exceptions from disclosure** under the legislative ethics law if it would be in violation of the state or federal constitution or state or federal law. **The State Affairs Committee added language that includes exceptions for disclosures for a rule, adopted formally by a trade or profession, that state or federal law requires the person to follow.** A written request with justification must be submitted to the committee.

- Sec. 9.** Requires anyone who is a **volunteer or educational trainee for more than 30 days to take the ethics training. The 30 day guideline was added in State Affairs.**
- Sec. 10.** Adds cite for new section on Alternate Members to statute describing the committee, its structure and its duties.
- Sec. 11.** Adds cite for new section on Alternate Members to statute describing the committee, its structure and its duties.
- Sec. 12.** This is a **new section describing the process for appointing alternates. The section adds a new provision that provides for the Chief Justice to appoint an alternate public member.**
- Sec. 13.** Adds **legislative volunteers and educational trainees** who are in that capacity for **more than 30 days** to the statute requiring the Legislative ethics course. **The 30 day guideline was added in State Affairs.**
- Sec. 14.** **Redefines** legislative employee.
- Sec. 15.** **Repeals** old statute describing the process for appointing alternates.

# ALASKA STATE HOUSE OF REPRESENTATIVES

**Contact:**

Interim Address:

**3340 Badger Road**  
**North Pole, AK 99705**  
(907)-488-5725  
Fax# (907)-488-4271

**Session**

(907)-465-3719  
FAX# (907)-465-3258  
**State Capitol**  
**Room 204**

## SENATOR JOHN COGHILL

### Senate Bill 89 Legislative Ethics Amendments

This bill is a product of discussions by the Select Committee of Legislative Ethics over the past couple of years.

The bill draws a bright line for legislators and legislative staff to follow for assisting constituents with problems they encounter with state agencies. Once an issue has been appealed to an administrative hearing officer, the legislator or legislative staffer may no longer make contacts with the agency, unless that person is a licensed professional to represent a person in such a proceeding and is being compensated for that representation. There are also provisions for inadvertent ex parte contact.

It also extends the reporting deadline for reporting gifts of travel and from charitable events from 30 to 60 days and expands legislative ethics training to legislative volunteers or educational trainees who are on the job for more than 30 days.

The bill adds public members of the ethics committee to the statute prohibiting members from knowingly making unauthorized disclosure of confidential information. This bill clarifies that disclosures prohibited by state and federal confidentiality laws are not required by the Select Committee on Legislative Ethics

The committee recommended a statute that would allow an alternate member of the ethics committee who participates in the beginning of a proceeding to participate in the entire proceeding. The Chief Justice of the Alaska Supreme Court would also be required to appoint one alternate for the public members.

SB 89 clarifies that a gift of a ticket from a lobbyist to a charity event sanctioned by Legislative Council cannot exceed \$250.00. It also further describes a contribution to a charity event as a ticket to a charity event or a gift in connection with the charity event.

The Ethics Committee has been grappling with the issue of partisan activities while on state travel since 1993. This bill was a first attempt at setting standards by which a legislator or a legislative staffer can participate in a partisan activity or a campaign fundraiser when traveling on legislative business. The State Affairs Committee deleted the language that set a standard but agreed further discussion needs to take place in Senate Judiciary on the issue.

27-LS0452\T  
Wayne  
3/30/11

**CS FOR SENATE BILL NO. 89(STA)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SEVENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE STATE AFFAIRS COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR COGHILL**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act clarifying that a legislator or legislative employee is allowed to accept certain**  
2 **compassionate gifts; allowing legislators and legislative employees who are representing**  
3 **persons in an administrative hearing to contact hearing officers and attempt to influence**  
4 **the outcome of the hearing if they are professionals licensed in the state, and allowing**  
5 **legislators and legislative employees who are not professionals licensed in the state to**  
6 **contact hearing officers for the purpose of influencing the outcome of the hearing in**  
7 **certain instances; requiring the Select Committee on Legislative Ethics to maintain a**  
8 **public record of certain ethics disclosures made by legislators and legislative employees;**  
9 **prohibiting a public member of the Select Committee on Legislative Ethics from**  
10 **disclosing confidential information without authorization; clarifying the ethics**  
11 **disclosure requirements for tickets to or gifts in connection with charity events;**  
12 **amending disclosure deadlines under the Legislative Ethics Act; relating to requests to**

1 refrain from disclosure under the Legislative Ethics Act; relating to the applicability of  
2 certain provisions of the Legislative Ethics Act to certain legislative employees,  
3 volunteers, and interns; establishing a seat for an alternate public member on the Select  
4 Committee on Legislative Ethics; clarifying the requirements related to participation by  
5 alternate public members and alternate legislative members in the proceedings of the  
6 committee; amending the definition of 'legislative employee' in the Legislative Ethics  
7 Act; and repealing a procedure for appointment of alternate legislative members."

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

9 \* **Section 1.** AS 24.60.030(a) is amended to read:

10 (a) A legislator or legislative employee may not

11 (1) solicit, agree to accept, or accept a benefit other than official  
12 compensation for the performance of public duties; this paragraph may not be  
13 construed to prohibit lawful solicitation for and acceptance of campaign contributions,  
14 solicitation or acceptance of contributions for a charity event, as defined in  
15 AS 24.60.080(a)(2)(B), or the acceptance of a gift [LAWFUL GRATUITY] under  
16 AS 24.60.075 or 24.60.080 [AS 24.60.080];

17 (2) use public funds, facilities, equipment, services, or another  
18 government asset or resource for a nonlegislative purpose, for involvement in or  
19 support of or opposition to partisan political activity, or for the private benefit of  
20 [EITHER] the legislator, legislative employee, or another person; this paragraph does  
21 not prohibit

22 (A) limited use of state property and resources for personal  
23 purposes if the use does not interfere with the performance of public duties and  
24 either the cost or value related to the use is nominal or the legislator or  
25 legislative employee reimburses the state for the cost of the use;

26 (B) the use of mailing lists, computer data, or other information  
27 lawfully obtained from a government agency and available to the general  
28 public for nonlegislative purposes;

1 (C) the legislative council, notwithstanding AS 24.05.190, from  
2 designating a public facility for use by legislators and legislative employees for  
3 health or fitness purposes; when the council designates a facility to be used by  
4 legislators and legislative employees for health or fitness purposes, it shall  
5 adopt guidelines governing access to and use of the facility; the guidelines may  
6 establish times in which use of the facility is limited to specific groups;

7 (D) a legislator from using the legislator's private office in the  
8 capital city during a legislative session, and for the 10 days immediately before  
9 and the 10 days immediately after a legislative session, for nonlegislative  
10 purposes if the use does not interfere with the performance of public duties and  
11 if there is no cost to the state for the use of the space and equipment, other than  
12 utility costs and minimal wear and tear, or the legislator promptly reimburses  
13 the state for the cost; an office is considered a legislator's private office under  
14 this subparagraph if it is the primary space in the capital city reserved for use  
15 by the legislator, whether or not it is shared with others;

16 (E) a legislator from use of legislative employees to prepare  
17 and send out seasonal greeting cards;

18 (F) a legislator from using state resources to transport  
19 computers or other office equipment owned by the legislator but primarily used  
20 for a state function;

21 (G) use by a legislator of photographs of that legislator;

22 (H) reasonable use of the Internet by a legislator or a legislative  
23 employee except if the use is for election campaign purposes;

24 (I) a legislator or legislative employee from soliciting,  
25 accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable  
26 organization in a state facility;

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

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(K) full participation in a charity event approved in advance by the Alaska Legislative Council;

(3) knowingly seek, accept, use, allocate, grant, or award public funds for a purpose other than that approved by law, or make a false statement in connection with a claim, request, or application for compensation, reimbursement, or travel allowances from public funds;

(4) require a legislative employee to perform services for the private benefit of the legislator or employee at any time, or allow a legislative employee to perform services for the private benefit of a legislator or employee on government time; it is not a violation of this paragraph if the services were performed in an unusual or infrequent situation and the person's services were reasonably necessary to permit the legislator or legislative employee to perform official duties;

(5) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning; this paragraph does not prohibit

(A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

(B) the use of mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;

(C) storing or maintaining, consistent with (b) of this section, election campaign records in a legislator's office;

(D) a legislator from using the legislator's private office in the capital city during a legislative session, and for the 10 days immediately before and the 10 days immediately after a legislative session, for nonlegislative purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than utility costs and minimal wear and tear, or the legislator promptly reimburses the state for the cost; an office is considered a legislator's private office under

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this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others; or

(E) use by a legislator of photographs of that legislator.

\* **Sec. 2.** AS 24.60.030(i) is amended to read:

(i) A [EXCEPT FOR SUPPLYING INFORMATION REQUESTED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, A] legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the matter [CASE] unless [THE]

(1) the legislator or legislative employee is representing another person for compensation subject to AS 24.60.100 and as a professional who is licensed in the state;

(2) the contact is made in the presence of all parties to the hearing or the parties' representatives while the legislator or legislative employee is acting as a party or a witness in the matter or responding to a question asked of the legislator or legislative employee by the hearing officer, individual, board, or commission and the contact is made a part of the record; or

(3) the contact is inadvertent and ex parte and the [(2)] fact and substance of the contact are [IS] promptly disclosed by the legislator or legislative employee to all parties to the hearing and [THE CONTACT IS] made a part of the record.

\* **Sec. 3.** AS 24.60.050(c) is amended to read:

(c) A legislator or legislative employee who participates in a program or receives a loan that is not exempt from disclosure under (a) of this section shall file with the committee by the date required under AS 24.60.105 a disclosure stating the amounts of the loans outstanding or benefits received during the preceding calendar

1 year from nonqualifying programs. If the committee requests additional information  
2 necessary to determine the propriety of participating in the program or receiving the  
3 loan, it shall be promptly provided. The committee shall **maintain the disclosure as a**  
4 **public record and promptly forward the information contained in the disclosure**  
5 [PROMPTLY COMPILE A LIST OF THE STATEMENTS INDICATING THE  
6 LOANS AND PROGRAMS AND AMOUNTS AND SEND IT] to the presiding  
7 officer of each house who shall have it published in the supplemental journals on or  
8 before the next regularly scheduled publication of ethics disclosures. If a legislator or  
9 legislative employee asks the committee to keep any part of the disclosure confidential  
10 and a quorum of the committee determines by vote of a majority of committee  
11 members that making the entire disclosure public would cause an unjustifiable  
12 invasion of personal privacy, the committee may elect to publish only the fact that a  
13 person has participated in the program and the amount of benefit that the unnamed  
14 person received. The committee shall maintain the disclosure of the name of the  
15 person as confidential and may only use the disclosure in a proceeding under  
16 AS 24.60.170. If the disclosure becomes part of the record of a proceeding under  
17 AS 24.60.170, the disclosure may be made public as provided in that section.

18 \* **Sec. 4.** AS 24.60.060(a) is amended to read:

19 (a) A legislator, [OR] legislative employee, **or public member of the**  
20 **committee** may not knowingly make an unauthorized disclosure of information that is  
21 made confidential by law and that the person acquired in the course of official duties.  
22 A person who violates this section is subject to a proceeding under AS 24.60.170 and  
23 may be subject to prosecution under AS 11.56.860 or another law.

24 \* **Sec. 5.** AS 24.60.080(a) is amended to read:

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

27 (1) solicit, accept, or receive, directly or indirectly, a gift worth \$250  
28 or more, whether in the form of money, services, a loan, travel, entertainment,  
29 hospitality, promise, or other form, or gifts from the same person worth less than \$250  
30 that in a calendar year aggregate to \$250 or more in value;

31 (2) solicit, accept, or receive a gift with any monetary value from a

1 lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a  
2 lobbyist, except

3 (A) food or beverage for immediate consumption;

4 (B) a contribution to a charity event, [FROM ANY PERSON  
5 AT ANY TIME, AND] tickets to [FOR] a charity event, and [AT ANY TIME,  
6 EXCEPT THAT TICKETS TO OR] gifts to which the tickets may entitle the  
7 bearer; however, under this subparagraph a legislator or legislative  
8 employee may not solicit, accept, or receive from the same lobbyist, an  
9 immediate family member of the lobbyist, or a person acting on behalf of  
10 the lobbyist, tickets to a charity event, gifts to which the tickets may entitle  
11 the bearer, or both, that in a calendar year aggregate to \$250 or more in  
12 value [RECEIVED AT A CHARITY EVENT UNDER THIS  
13 SUBPARAGRAPH ARE SUBJECT TO THE CALENDAR YEAR LIMIT  
14 ON THE VALUE OF GIFTS RECEIVED BY A LEGISLATOR OR  
15 LEGISLATIVE EMPLOYEE IN (1) OF THIS SUBSECTION]; in this  
16 subparagraph, "charity event" means an event the proceeds of which go to a  
17 charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and that  
18 the Alaska Legislative Council has approved in advance; the tickets may entitle  
19 the bearer to admission to the event, to entertainment, to food or beverages, or  
20 to other gifts or services in connection with [INVOLVED IN] the charity  
21 event;

22 (C) a gift that is unconnected with the recipient's legislative  
23 status and is from a member of the legislator's or legislative employee's  
24 immediate family;

25 (D) a gift delivered on the premises of a state facility and  
26 accepted on behalf of a recognized nonpolitical charitable organization; or

27 (E) a compassionate gift under AS 24.60.075.

28 \* **Sec. 6.** AS 24.60.080(c) is amended to read:

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

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

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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

1 legislative session if the gift or discount is available generally to all legislators and the  
2 personal staff of legislators and staff of standing and special committees; this  
3 paragraph does not apply to legislative employees who are employed by the  
4 Legislative Affairs Agency, the office of the chief clerk, the office of the senate  
5 secretary, the legislative budget and audit committee, the office of victims' rights, or  
6 the office of the ombudsman;

7 (8) a gift of legal services in a matter of legislative concern and a gift  
8 of other services related to the provision of legal services in a matter of legislative  
9 concern;

10 (9) a gift of transportation from a legislator or a legislative employee to  
11 a legislator or a legislative employee if the transportation takes place in the state on or  
12 in an aircraft, boat, motor vehicle, or other means of transport owned or under the  
13 control of the donor; this paragraph does not apply to travel described in (4) of this  
14 subsection or travel for political campaign purposes; or

15 (10) a contribution to a charity event, **a ticket to a charity event, or a**  
16 **gift in connection with a charity event** [FROM ANY PERSON AT ANY TIME]; in  
17 this paragraph, "charity event" has the meaning given in (a)(2)(B) of this section.

18 \* Sec. 7. AS 24.60.080(d) is amended to read:

19 (d) A legislator or legislative employee who accepts a gift under (c)(4) **of this**  
20 **section that has a value of \$250 or more or a ticket to a charity event or gift in**  
21 **connection with a charity event under (c)(10)** of this section that has a value of \$250  
22 or more shall disclose to the committee, within **60** [30] days after receipt of the gift,  
23 the name and occupation of the donor and the approximate value of the gift. A  
24 legislator or legislative employee who accepts a gift under (c)(8) of this section that  
25 the recipient expects will have a value of \$250 or more in the calendar year shall  
26 disclose to the committee, within 30 days after receipt of the gift, the name and  
27 occupation of the donor, a general description of the matter of legislative concern with  
28 respect to which the gift is made, and the approximate value of the gift. The committee  
29 shall maintain a public record of the disclosures it receives relating to gifts under  
30 (c)(4), (c)(8), **(c)(10)**, and (i) of this section and shall forward the disclosures to the  
31 appropriate house for inclusion in the journal. The committee shall forward to the

1 Alaska Public Offices Commission copies of the disclosures concerning gifts under  
2 (c)(4), (c)(8), (c)(10), and (i) of this section that it receives from legislators and  
3 legislative directors. A legislator or legislative employee who accepts a gift under  
4 (c)(6) of this section that has a value of \$250 or more shall, within 30 days after  
5 receiving the gift, disclose to the committee the name and occupation of the donor and  
6 a description of the gift. The committee shall maintain disclosures relating to gifts  
7 under (c)(6) of this section as confidential records and may only use, or permit a  
8 committee employee or contractor to use, a disclosure under (c)(6) of this section in  
9 the investigation of a possible violation of this section or in a proceeding under  
10 AS 24.60.170. If the disclosure under (c)(6) of this section becomes part of the record  
11 of a proceeding under AS 24.60.170, the confidentiality provisions of that section  
12 apply to the disclosure.

13 \* **Sec. 8.** AS 24.60.105 is amended by adding a new subsection to read:

14 (d) A person may submit a written request to refrain from making a disclosure  
15 that is required by this chapter if making the disclosure would violate state or federal  
16 law, including the United States Constitution and the Constitution of the State of  
17 Alaska, or a rule, adopted formally by a trade or profession, that state or federal law  
18 requires the person to follow. The committee shall approve or deny the request, or  
19 require further justification from the person making the request. At the request of the  
20 committee or a person authorized to act on behalf of the committee, a person who  
21 seeks to refrain from making a disclosure under this subsection shall provide the  
22 committee with justification in writing, and the committee may review the written  
23 justification to determine whether it is sufficient.

24 \* **Sec. 9.** AS 24.60.112 is amended to read:

25 **Sec. 24.60.112. Applicability to volunteers and educational trainees.** A  
26 person who works more than 30 days as a legislative volunteer or educational  
27 trainee shall be considered to be a legislative employee for purposes of compliance  
28 with AS 24.60.030 - 24.60.039, 24.60.060, 24.60.080, 24.60.085, 24.60.155,  
29 24.60.158 - 24.60.170, 24.60.176, and 24.60.178. If a person believes that a legislative  
30 volunteer or educational trainee has violated the provisions of one of those sections,  
31 the person may file a complaint under AS 24.60.170. The provisions of AS 24.60.170

1 apply to the proceeding.

2 \* **Sec. 10.** AS 24.60.130(h) is amended to read:

3 (h) A member is disqualified from participating as a member in any  
4 proceeding before the committee involving a complaint against the member or an  
5 employee whose work is supervised by the member or an advisory opinion requested  
6 by the member. If a regular legislative member of the committee is disqualified under  
7 this subsection from participating in a proceeding involving a complaint, the member's  
8 alternate shall be designated under AS 24.60.131 [(n) OF THIS SECTION].

9 \* **Sec. 11.** AS 24.60.130(o) is amended to read:

10 (o) Notwithstanding (h) [AND (n)] of this section **and AS 24.60.131**, if a  
11 complaint before the committee alleges a violation of this chapter by a group of  
12 legislators that includes a legislative member of the committee and that member's  
13 alternate, the member and alternate member are disqualified from serving on the  
14 committee with regard to the complaint. If the two disqualified members of the  
15 committee are members of the majority organizational caucus, the presiding officer of  
16 the house in which the two disqualified members serve shall appoint from that house  
17 an alternate to serve with regard to the complaint. If one of the two disqualified  
18 legislative members of the committee is not a member of the majority organizational  
19 caucus, the leader of the minority organizational caucus with the greatest number of  
20 members shall appoint from that house an alternate to serve with regard to the  
21 complaint. If a complaint alleges a violation of this chapter that includes all legislative  
22 members of the majority organizational caucus of one house, the presiding officer of  
23 that house shall appoint from the other house an alternate to serve with regard to the  
24 complaint. If the complaint alleges a violation of this chapter that includes all  
25 legislative members of a minority organizational caucus of one house, the leader of  
26 that minority organizational caucus shall appoint from the other house an alternate to  
27 serve with regard to the complaint.

28 \* **Sec. 12.** AS 24.60 is amended by adding a new section to read:

29 **Sec. 24.60.131. Alternate members.** (a) When appointing members of the  
30 legislature to serve on the committee under AS 24.60.130(b), the speaker of the house  
31 of representatives or the president of the senate, as appropriate, shall appoint an

1 alternate member for each regular member. The alternate member shall have the same  
2 qualifications for appointment to the committee as the regular member for whom the  
3 alternate stands as alternate. The alternate member's appointment is subject to  
4 confirmation as required for appointment of the regular member.

5 (b) When selecting public members to serve on the committee under  
6 AS 24.60.130(b), the Chief Justice of the Alaska Supreme Court shall select one  
7 alternate public member. The alternate public member's selection is subject to  
8 ratification as required for selection of the regular public members.

9 (c) Subject to (d) of this section, if a regular member of the committee or a  
10 subcommittee is unable to participate in a proceeding other than a proceeding under  
11 AS 24.60.170, the chair of the committee or subcommittee that holds the proceeding  
12 shall designate the regular member's alternate to participate in place of the regular  
13 member at the proceeding, and the alternate shall participate for the duration of that  
14 proceeding unless the alternate is unable to participate.

15 (d) If a regular member of the committee or a subcommittee or an alternate  
16 member appointed under (a) or (b) of this section participates at the commencement of  
17 a proceeding under AS 24.60.170, the member shall participate for the duration of the  
18 proceeding unless the member is disqualified under AS 24.60.130(h) or is unable to  
19 continue participating. If the participating member is disqualified under  
20 AS 24.60.130(h) or becomes unable to participate, the chair of the committee or  
21 subcommittee that holds the proceeding shall designate the member's alternate to  
22 participate in place of the member for the duration of the proceeding unless the  
23 alternate is disqualified or is unable to participate.

24 (e) If both a regular legislative member and that member's alternate appointed  
25 under (a) of this section are not available to participate at the commencement of a  
26 proceeding under AS 24.60.170 because they are disqualified under AS 24.60.130(h),  
27 the presiding officer of the house in which the two members serve shall appoint from  
28 that house an alternate and designate that alternate to participate in the proceeding;  
29 however, if the two members who are not available to participate are not members of  
30 the majority organizational caucus, the leader of the minority organizational caucus  
31 with the greatest number of members shall appoint from that house an alternate and

1 designate that alternate to participate in the proceeding.

2 (f) A designation under (c) - (e) of this section is a confidential proceeding  
3 under AS 24.60.170(l) unless the member who is replaced as a result of the  
4 designation waives confidentiality.

5 \* **Sec. 13.** AS 24.60.155 is amended to read:

6 **Sec. 24.60.155. Legislative ethics course.** A person who serves for more  
7 than 30 days as a legislative volunteer or educational trainee or who is a legislator,  
8 legislative employee, or public member of the committee shall complete a legislative  
9 ethics course administered by the committee under AS 24.60.150(a)(4) within 10 days  
10 of the first day of the first regular session of each legislature. However, a person who  
11 begins a period of service of more than 30 days as a volunteer or trainee or who  
12 first takes office or begins employment after the 10th day of the first regular session of  
13 a legislature shall complete the course required by this section within 30 days after the  
14 person's first day of service and, thereafter, as required by this section. The committee  
15 may grant a person additional time to complete the course required by this section.

16 \* **Sec. 14.** AS 24.60.990(a)(11) is amended to read:

17 (11) "legislative employee" means a person, other than a legislator,  
18 who is compensated by the legislative branch in return for regular or substantial  
19 personal services, regardless of the person's pay level or technical status as a full-time  
20 or part-time employee, independent contractor, or consultant; it includes public  
21 members and staff of the committee; it does not include individuals who are hourly  
22 employees who perform functions that are incidental to legislative functions,  
23 [INCLUDING SECURITY, MESSENGER, MAINTENANCE, AND PRINT SHOP  
24 EMPLOYEES,] and other employees designated by the committee;

25 \* **Sec. 15.** AS 24.60.130(n) is repealed.

# FISCAL NOTE

**STATE OF ALASKA**  
**2011 LEGISLATIVE SESSION**

Fiscal Note Number \_\_\_\_\_  
 Bill Version           CSSB 89            
 () Publish Date \_\_\_\_\_

Identifier (file name)           CSSB89-LEG-COU-3-30-2011           Dept. Affected           Legislature            
 Title           "Legislative Ethics Act"           Appropriation           Legislative Council            
 Allocation           Select Committee on Ethics            
 Sponsor           Senator Coghill            
 Requester           Senate State Affairs Committee           OMB Component Number           2321          

**Expenditures/Revenues** (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2012	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES</b>								
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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								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2011) cost \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

**Why this fiscal note differs from previous version**

Initial Version

Prepared by           Shane Miller, Finance Manager            
 Division           Legislative Affairs Agency            
 Approved by           Pamela Varni, Executive Director            
          Legislative Affairs Agency          

Phone           465-6626            
 Date/Time           3/30/11 3:59 PM            
 Date           3/30/2011

**Analysis**

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

**CS FOR SENATE BILL NO. 89(STA)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SEVENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE STATE AFFAIRS COMMITTEE**

**Offered: 4/1/11**

**Referred: Judiciary**

**Sponsor(s): SENATOR COGHILL**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act clarifying that a legislator or legislative employee is allowed to accept certain**  
2 **compassionate gifts; allowing legislators and legislative employees who are representing**  
3 **persons in an administrative hearing to contact hearing officers and attempt to influence**  
4 **the outcome of the hearing if they are professionals licensed in the state, and allowing**  
5 **legislators and legislative employees who are not professionals licensed in the state to**  
6 **contact hearing officers for the purpose of influencing the outcome of the hearing in**  
7 **certain instances; requiring the Select Committee on Legislative Ethics to maintain a**  
8 **public record of certain ethics disclosures made by legislators and legislative employees;**  
9 **prohibiting a public member of the Select Committee on Legislative Ethics from**  
10 **disclosing confidential information without authorization; clarifying the ethics**  
11 **disclosure requirements for tickets to or gifts in connection with charity events;**  
12 **amending disclosure deadlines under the Legislative Ethics Act; relating to requests to**

1 refrain from disclosure under the Legislative Ethics Act; relating to the applicability of  
 2 certain provisions of the Legislative Ethics Act to certain legislative employees,  
 3 volunteers, and interns; establishing a seat for an alternate public member on the Select  
 4 Committee on Legislative Ethics; clarifying the requirements related to participation by  
 5 alternate public members and alternate legislative members in the proceedings of the  
 6 committee; amending the definition of 'legislative employee' in the Legislative Ethics  
 7 Act; and repealing a procedure for appointment of alternate legislative members."

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

9 \* **Section 1.** AS 24.60.030(a) is amended to read:

10 (a) A legislator or legislative employee may not

11 (1) solicit, agree to accept, or accept a benefit other than official  
 12 compensation for the performance of public duties; this paragraph may not be  
 13 construed to prohibit lawful solicitation for and acceptance of campaign contributions,  
 14 solicitation or acceptance of contributions for a charity event, as defined in  
 15 AS 24.60.080(a)(2)(B), or the acceptance of a gift [LAWFUL GRATUITY] under  
 16 AS 24.60.075 or 24.60.080 [AS 24.60.080];

17 (2) use public funds, facilities, equipment, services, or another  
 18 government asset or resource for a nonlegislative purpose, for involvement in or  
 19 support of or opposition to partisan political activity, or for the private benefit of  
 20 [EITHER] the legislator, legislative employee, or another person; this paragraph does  
 21 not prohibit

22 (A) limited use of state property and resources for personal  
 23 purposes if the use does not interfere with the performance of public duties and  
 24 either the cost or value related to the use is nominal or the legislator or  
 25 legislative employee reimburses the state for the cost of the use;

26 (B) the use of mailing lists, computer data, or other information  
 27 lawfully obtained from a government agency and available to the general  
 28 public for nonlegislative purposes;

1 (C) the legislative council, notwithstanding AS 24.05.190, from  
2 designating a public facility for use by legislators and legislative employees for  
3 health or fitness purposes; when the council designates a facility to be used by  
4 legislators and legislative employees for health or fitness purposes, it shall  
5 adopt guidelines governing access to and use of the facility; the guidelines may  
6 establish times in which use of the facility is limited to specific groups;

7 (D) a legislator from using the legislator's private office in the  
8 capital city during a legislative session, and for the 10 days immediately before  
9 and the 10 days immediately after a legislative session, for nonlegislative  
10 purposes if the use does not interfere with the performance of public duties and  
11 if there is no cost to the state for the use of the space and equipment, other than  
12 utility costs and minimal wear and tear, or the legislator promptly reimburses  
13 the state for the cost; an office is considered a legislator's private office under  
14 this subparagraph if it is the primary space in the capital city reserved for use  
15 by the legislator, whether or not it is shared with others;

16 (E) a legislator from use of legislative employees to prepare  
17 and send out seasonal greeting cards;

18 (F) a legislator from using state resources to transport  
19 computers or other office equipment owned by the legislator but primarily used  
20 for a state function;

21 (G) use by a legislator of photographs of that legislator;

22 (H) reasonable use of the Internet by a legislator or a legislative  
23 employee except if the use is for election campaign purposes;

24 (I) a legislator or legislative employee from soliciting,  
25 accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable  
26 organization in a state facility;

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

1 (K) full participation in a charity event approved in advance by  
2 the Alaska Legislative Council;

3 (3) knowingly seek, accept, use, allocate, grant, or award public funds  
4 for a purpose other than that approved by law, or make a false statement in connection  
5 with a claim, request, or application for compensation, reimbursement, or travel  
6 allowances from public funds;

7 (4) require a legislative employee to perform services for the private  
8 benefit of the legislator or employee at any time, or allow a legislative employee to  
9 perform services for the private benefit of a legislator or employee on government  
10 time; it is not a violation of this paragraph if the services were performed in an  
11 unusual or infrequent situation and the person's services were reasonably necessary to  
12 permit the legislator or legislative employee to perform official duties;

13 (5) use or authorize the use of state funds, facilities, equipment,  
14 services, or another government asset or resource for the purpose of political fund  
15 raising or campaigning; this paragraph does not prohibit

16 (A) limited use of state property and resources for personal  
17 purposes if the use does not interfere with the performance of public duties and  
18 either the cost or value related to the use is nominal or the legislator or  
19 legislative employee reimburses the state for the cost of the use;

20 (B) the use of mailing lists, computer data, or other information  
21 lawfully obtained from a government agency and available to the general  
22 public for nonlegislative purposes;

23 (C) storing or maintaining, consistent with (b) of this section,  
24 election campaign records in a legislator's office;

25 (D) a legislator from using the legislator's private office in the  
26 capital city during a legislative session, and for the 10 days immediately before  
27 and the 10 days immediately after a legislative session, for nonlegislative  
28 purposes if the use does not interfere with the performance of public duties and  
29 if there is no cost to the state for the use of the space and equipment, other than  
30 utility costs and minimal wear and tear, or the legislator promptly reimburses  
31 the state for the cost; an office is considered a legislator's private office under

1 this subparagraph if it is the primary space in the capital city reserved for use  
2 by the legislator, whether or not it is shared with others; or

3 (E) use by a legislator of photographs of that legislator.

4 \* **Sec. 2.** AS 24.60.030(i) is amended to read:

5 (i) A [EXCEPT FOR SUPPLYING INFORMATION REQUESTED BY THE  
6 HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH  
7 AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN  
8 RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR  
9 THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE  
10 THE FINAL DECISION IN THE CASE, A] legislator or legislative employee may  
11 not attempt to influence the outcome of an administrative hearing by directly or  
12 indirectly contacting or attempting to contact the hearing officer assigned to the  
13 hearing or the individual, board, or commission with authority to make the final  
14 decision in the matter [CASE] unless [THE]

15 (1) the legislator or legislative employee is representing another  
16 person for compensation subject to AS 24.60.100 and as a professional who is  
17 licensed in the state;

18 (2) the contact is made in the presence of all parties to the hearing or  
19 the parties' representatives while the legislator or legislative employee is acting as a  
20 party or a witness in the matter or responding to a question asked of the  
21 legislator or legislative employee by the hearing officer, individual, board, or  
22 commission and the contact is made a part of the record; or

23 (3) the contact is inadvertent and ex parte and the [(2)] fact and  
24 substance of the contact are [IS] promptly disclosed by the legislator or legislative  
25 employee to all parties to the hearing and [THE CONTACT IS] made a part of the  
26 record.

*Deleted Secs. 2 & 3 dealing with state travel*

27 \* **Sec. 3.** AS 24.60.050(c) is amended to read:

28 (c) A legislator or legislative employee who participates in a program or  
29 receives a loan that is not exempt from disclosure under (a) of this section shall file  
30 with the committee by the date required under AS 24.60.105 a disclosure stating the  
31 amounts of the loans outstanding or benefits received during the preceding calendar

1 year from nonqualifying programs. If the committee requests additional information  
 2 necessary to determine the propriety of participating in the program or receiving the  
 3 loan, it shall be promptly provided. The committee shall **maintain the disclosure as a**  
 4 **public record and promptly forward the information contained in the disclosure**  
 5 [PROMPTLY COMPILE A LIST OF THE STATEMENTS INDICATING THE  
 6 LOANS AND PROGRAMS AND AMOUNTS AND SEND IT] to the presiding  
 7 officer of each house who shall have it published in the supplemental journals on or  
 8 before the next regularly scheduled publication of ethics disclosures. If a legislator or  
 9 legislative employee asks the committee to keep any part of the disclosure confidential  
 10 and a quorum of the committee determines by vote of a majority of committee  
 11 members that making the entire disclosure public would cause an unjustifiable  
 12 invasion of personal privacy, the committee may elect to publish only the fact that a  
 13 person has participated in the program and the amount of benefit that the unnamed  
 14 person received. The committee shall maintain the disclosure of the name of the  
 15 person as confidential and may only use the disclosure in a proceeding under  
 16 AS 24.60.170. If the disclosure becomes part of the record of a proceeding under  
 17 AS 24.60.170, the disclosure may be made public as provided in that section.

18 \* **Sec. 4.** AS 24.60.060(a) is amended to read:

19 (a) A legislator, [OR] legislative employee, **or public member of the**  
 20 **committee** may not knowingly make an unauthorized disclosure of information that is  
 21 made confidential by law and that the person acquired in the course of official duties.  
 22 A person who violates this section is subject to a proceeding under AS 24.60.170 and  
 23 may be subject to prosecution under AS 11.56.860 or another law.

24 \* **Sec. 5.** AS 24.60.080(a) is amended to read:

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

27 (1) solicit, accept, or receive, directly or indirectly, a gift worth \$250  
 28 or more, whether in the form of money, services, a loan, travel, entertainment,  
 29 hospitality, promise, or other form, or gifts from the same person worth less than \$250  
 30 that in a calendar year aggregate to \$250 or more in value;

31 (2) solicit, accept, or receive a gift with any monetary value from a

1 lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a  
2 lobbyist, except

3 (A) food or beverage for immediate consumption;

4 (B) a contribution to a charity event, [FROM ANY PERSON  
5 AT ANY TIME, AND] tickets to [FOR] a charity event, and [AT ANY TIME,  
6 EXCEPT THAT TICKETS TO OR] gifts to which the tickets may entitle the  
7 bearer; however, under this subparagraph a legislator or legislative  
8 employee may not solicit, accept, or receive from the same lobbyist, an  
9 immediate family member of the lobbyist, or a person acting on behalf of  
10 the lobbyist, tickets to a charity event, gifts to which the tickets may entitle  
11 the bearer, or both, that in a calendar year aggregate to \$250 or more in  
12 value [RECEIVED AT A CHARITY EVENT UNDER THIS  
13 SUBPARAGRAPH ARE SUBJECT TO THE CALENDAR YEAR LIMIT  
14 ON THE VALUE OF GIFTS RECEIVED BY A LEGISLATOR OR  
15 LEGISLATIVE EMPLOYEE IN (1) OF THIS SUBSECTION]; in this  
16 subparagraph, "charity event" means an event the proceeds of which go to a  
17 charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and that  
18 the Alaska Legislative Council has approved in advance; the tickets may entitle  
19 the bearer to admission to the event, to entertainment, to food or beverages, or  
20 to other gifts or services in connection with [INVOLVED IN] the charity  
21 event;

22 (C) a gift that is unconnected with the recipient's legislative  
23 status and is from a member of the legislator's or legislative employee's  
24 immediate family;

25 (D) a gift delivered on the premises of a state facility and  
26 accepted on behalf of a recognized nonpolitical charitable organization; or

27 (E) a compassionate gift under AS 24.60.075.

28 \* **Sec. 6.** AS 24.60.080(c) is amended to read:

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

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

1 subsection,

2 (A) with incidental transportation at the residence of a person;  
3 however, a vacation home located outside the state is not considered a  
4 residence for the purposes of this subparagraph; or

5 (B) at a social event or meal;

6 (2) discounts that are available

7 (A) generally to the public or to a large class of persons to  
8 which the person belongs; or

9 (B) when on official state business, but only if receipt of the  
10 discount benefits the state;

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

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

15 (5) gifts from the immediate family of the person; in this paragraph,  
16 "immediate family" means

17 (A) the spouse of the person;

18 (B) the person's domestic partner;

19 (C) a child, including a stepchild and an adoptive child, of the  
20 person or of the person's domestic partner;

21 (D) a parent, sibling, grandparent, aunt, or uncle of the person;

22 (E) a parent, sibling, grandparent, aunt, or uncle of the person's  
23 spouse or the person's domestic partner; and

24 (F) a stepparent, stepsister, stepbrother, step-grandparent, step-  
25 aunt, or step-uncle of the person, the person's spouse, or the person's domestic  
26 partner;

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

28 (7) a discount for all or part of a legislative session, including time  
29 immediately preceding or following the session, or other gift to welcome a legislator  
30 or legislative employee who is employed on the personal staff of a legislator or by a  
31 standing or special committee to the capital city or in recognition of the beginning of a

1 legislative session if the gift or discount is available generally to all legislators and the  
 2 personal staff of legislators and staff of standing and special committees; this  
 3 paragraph does not apply to legislative employees who are employed by the  
 4 Legislative Affairs Agency, the office of the chief clerk, the office of the senate  
 5 secretary, the legislative budget and audit committee, the office of victims' rights, or  
 6 the office of the ombudsman;

7 (8) a gift of legal services in a matter of legislative concern and a gift  
 8 of other services related to the provision of legal services in a matter of legislative  
 9 concern;

10 (9) a gift of transportation from a legislator or a legislative employee to  
 11 a legislator or a legislative employee if the transportation takes place in the state on or  
 12 in an aircraft, boat, motor vehicle, or other means of transport owned or under the  
 13 control of the donor; this paragraph does not apply to travel described in (4) of this  
 14 subsection or travel for political campaign purposes; or

15 (10) a contribution to a charity event, **a ticket to a charity event, or a**  
 16 **gift in connection with a charity event** [FROM ANY PERSON AT ANY TIME]; in  
 17 this paragraph, "charity event" has the meaning given in (a)(2)(B) of this section.

18 \* Sec. 7. AS 24.60.080(d) is amended to read:

19 (d) A legislator or legislative employee who accepts a gift under (c)(4) **of this**  
 20 **section that has a value of \$250 or more or a ticket to a charity event or gift in**  
 21 **connection with a charity event under (c)(10)** of this section that has a value of \$250  
 22 or more shall disclose to the committee, within **60** [30] days after receipt of the gift,  
 23 the name and occupation of the donor and the approximate value of the gift. A  
 24 legislator or legislative employee who accepts a gift under (c)(8) of this section that  
 25 the recipient expects will have a value of \$250 or more in the calendar year shall  
 26 disclose to the committee, within 30 days after receipt of the gift, the name and  
 27 occupation of the donor, a general description of the matter of legislative concern with  
 28 respect to which the gift is made, and the approximate value of the gift. The committee  
 29 shall maintain a public record of the disclosures it receives relating to gifts under  
 30 (c)(4), (c)(8), **(c)(10)**, and (i) of this section and shall forward the disclosures to the  
 31 appropriate house for inclusion in the journal. The committee shall forward to the

1 Alaska Public Offices Commission copies of the disclosures concerning gifts under  
 2 (c)(4), (c)(8), (c)(10), and (i) of this section that it receives from legislators and  
 3 legislative directors. A legislator or legislative employee who accepts a gift under  
 4 (c)(6) of this section that has a value of \$250 or more shall, within 30 days after  
 5 receiving the gift, disclose to the committee the name and occupation of the donor and  
 6 a description of the gift. The committee shall maintain disclosures relating to gifts  
 7 under (c)(6) of this section as confidential records and may only use, or permit a  
 8 committee employee or contractor to use, a disclosure under (c)(6) of this section in  
 9 the investigation of a possible violation of this section or in a proceeding under  
 10 AS 24.60.170. If the disclosure under (c)(6) of this section becomes part of the record  
 11 of a proceeding under AS 24.60.170, the confidentiality provisions of that section  
 12 apply to the disclosure.

13 \* **Sec. 8.** AS 24.60.105 is amended by adding a new subsection to read:

14 (d) A person may submit a written request to refrain from making a disclosure  
 15 that is required by this chapter if making the disclosure would violate state or federal  
 16 law, including the United States Constitution and the Constitution of the State of  
 17 Alaska, or a rule, adopted formally by a trade or profession, that state or federal law  
 18 requires the person to follow. The committee shall approve or deny the request, or  
 19 require further justification from the person making the request. At the request of the  
 20 committee or a person authorized to act on behalf of the committee, a person who  
 21 seeks to refrain from making a disclosure under this subsection shall provide the  
 22 committee with justification in writing, and the committee may review the written  
 23 justification to determine whether it is sufficient.

*Added in  
State  
Affairs*

24 \* **Sec. 9.** AS 24.60.112 is amended to read:

25 **Sec. 24.60.112. Applicability to volunteers and educational trainees.** A  
 26 person who works more than 30 days as a legislative volunteer or educational  
 27 trainee shall be considered to be a legislative employee for purposes of compliance  
 28 with AS 24.60.030 - 24.60.039, 24.60.060, 24.60.080, 24.60.085, 24.60.155,  
 29 24.60.158 - 24.60.170, 24.60.176, and 24.60.178. If a person believes that a legislative  
 30 volunteer or educational trainee has violated the provisions of one of those sections,  
 31 the person may file a complaint under AS 24.60.170. The provisions of AS 24.60.170

1 apply to the proceeding.

2 \* **Sec. 10.** AS 24.60.130(h) is amended to read:

3 (h) A member is disqualified from participating as a member in any  
4 proceeding before the committee involving a complaint against the member or an  
5 employee whose work is supervised by the member or an advisory opinion requested  
6 by the member. If a regular legislative member of the committee is disqualified under  
7 this subsection from participating in a proceeding involving a complaint, the member's  
8 alternate shall be designated under AS 24.60.131 [(n) OF THIS SECTION].

9 \* **Sec. 11.** AS 24.60.130(o) is amended to read:

10 (o) Notwithstanding (h) [AND (n)] of this section and AS 24.60.131, if a  
11 complaint before the committee alleges a violation of this chapter by a group of  
12 legislators that includes a legislative member of the committee and that member's  
13 alternate, the member and alternate member are disqualified from serving on the  
14 committee with regard to the complaint. If the two disqualified members of the  
15 committee are members of the majority organizational caucus, the presiding officer of  
16 the house in which the two disqualified members serve shall appoint from that house  
17 an alternate to serve with regard to the complaint. If one of the two disqualified  
18 legislative members of the committee is not a member of the majority organizational  
19 caucus, the leader of the minority organizational caucus with the greatest number of  
20 members shall appoint from that house an alternate to serve with regard to the  
21 complaint. If a complaint alleges a violation of this chapter that includes all legislative  
22 members of the majority organizational caucus of one house, the presiding officer of  
23 that house shall appoint from the other house an alternate to serve with regard to the  
24 complaint. If the complaint alleges a violation of this chapter that includes all  
25 legislative members of a minority organizational caucus of one house, the leader of  
26 that minority organizational caucus shall appoint from the other house an alternate to  
27 serve with regard to the complaint.

28 \* **Sec. 12.** AS 24.60 is amended by adding a new section to read:

29 **Sec. 24.60.131. Alternate members.** (a) When appointing members of the  
30 legislature to serve on the committee under AS 24.60.130(b), the speaker of the house  
31 of representatives or the president of the senate, as appropriate, shall appoint an

1 alternate member for each regular member. The alternate member shall have the same  
 2 qualifications for appointment to the committee as the regular member for whom the  
 3 alternate stands as alternate. The alternate member's appointment is subject to  
 4 confirmation as required for appointment of the regular member.

5 (b) When selecting public members to serve on the committee under  
 6 AS 24.60.130(b), the Chief Justice of the Alaska Supreme Court shall select one  
 7 alternate public member. The alternate public member's selection is subject to  
 8 ratification as required for selection of the regular public members.

9 (c) Subject to (d) of this section, if a regular member of the committee or a  
 10 subcommittee is unable to participate in a proceeding other than a proceeding under  
 11 AS 24.60.170, the chair of the committee or subcommittee that holds the proceeding  
 12 shall designate the regular member's alternate to participate in place of the regular  
 13 member at the proceeding, and the alternate shall participate for the duration of that  
 14 proceeding unless the alternate is unable to participate.

15 (d) If a regular member of the committee or a subcommittee or an alternate  
 16 member appointed under (a) or (b) of this section participates at the commencement of  
 17 a proceeding under AS 24.60.170, the member shall participate for the duration of the  
 18 proceeding unless the member is disqualified under AS 24.60.130(h) or is unable to  
 19 continue participating. If the participating member is disqualified under  
 20 AS 24.60.130(h) or becomes unable to participate, the chair of the committee or  
 21 subcommittee that holds the proceeding shall designate the member's alternate to  
 22 participate in place of the member for the duration of the proceeding unless the  
 23 alternate is disqualified or is unable to participate.

24 (e) If both a regular legislative member and that member's alternate appointed  
 25 under (a) of this section are not available to participate at the commencement of a  
 26 proceeding under AS 24.60.170 because they are disqualified under AS 24.60.130(h),  
 27 for unable to participate the presiding officer of the house in which the two members serve shall appoint from  
 28 that house an alternate and designate that alternate to participate in the proceeding;  
 29 however, if the two members who are not available to participate are not members of  
 30 the majority organizational caucus, the leader of the minority organizational caucus  
 31 with the greatest number of members shall appoint from that house an alternate and

1 designate that alternate to participate in the proceeding.

2 (f) A designation under (c) - (e) of this section is a confidential proceeding  
3 under AS 24.60.170(l) unless the member who is replaced as a result of the  
4 designation waives confidentiality.

5 \* **Sec. 13.** AS 24.60.155 is amended to read:

6 **Sec. 24.60.155. Legislative ethics course.** A person who serves for more  
7 than 30 days as a legislative volunteer or educational trainee or who is a legislator,  
8 legislative employee, or public member of the committee shall complete a legislative  
9 ethics course administered by the committee under AS 24.60.150(a)(4) within 10 days  
10 of the first day of the first regular session of each legislature. However, a person who  
11 begins a period of service of more than 30 days as a volunteer or trainee or who  
12 first takes office or begins employment after the 10th day of the first regular session of  
13 a legislature shall complete the course required by this section within 30 days after the  
14 person's first day of service and, thereafter, as required by this section. The committee  
15 may grant a person additional time to complete the course required by this section.

16 \* **Sec. 14.** AS 24.60.990(a)(11) is amended to read:

17 (11) "legislative employee" means a person, other than a legislator,  
18 who is compensated by the legislative branch in return for regular or substantial  
19 personal services, regardless of the person's pay level or technical status as a full-time  
20 or part-time employee, independent contractor, or consultant; it includes public  
21 members and staff of the committee; it does not include individuals who are hourly  
22 employees who perform functions that are incidental to legislative functions,  
23 [INCLUDING SECURITY, MESSENGER, MAINTENANCE, AND PRINT SHOP  
24 EMPLOYEES,] and other employees designated by the committee;

25 \* **Sec. 15.** AS 24.60.130(n) is repealed.

27-LS0452\D  
Wayne  
3/3/11

**CS FOR SENATE BILL NO. 89( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SEVENTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR COGHILL**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act clarifying that a legislator or legislative employee is allowed to accept certain**  
2 **compassionate gifts; allowing legislators and legislative employees to use legislative**  
3 **mailing lists for campaign purposes and nonlegislative purposes; allowing legislators**  
4 **and legislative employees who are representing persons in an administrative hearing to**  
5 **contact hearing officers and attempt to influence the outcome of the hearing if they are**  
6 **professionals licensed in the state, and allowing legislators and legislative employees who**  
7 **are not professionals licensed in the state to contact hearing officers for the purpose of**  
8 **influencing the outcome of the hearing in certain instances; allowing legislators and**  
9 **legislative employees, in certain circumstances, to participate in partisan political**  
10 **activity while on state travel; requiring the Select Committee on Legislative Ethics to**  
11 **maintain a public record of certain ethics disclosures made by legislators and legislative**  
12 **employees; prohibiting a public member of the Select Committee on Legislative Ethics**

1 from disclosing confidential information without authorization; clarifying the ethics  
 2 disclosure requirements for tickets to or gifts in connection with charity events;  
 3 amending disclosure deadlines under the Legislative Ethics Act; relating to requests to  
 4 refrain from disclosure under the Legislative Ethics Act; eliminating an exemption for  
 5 certain legislative employees, volunteers, and interns from the requirement under the  
 6 Legislative Ethics Act that legislative employees attend a legislative ethics course;  
 7 establishing a seat for an alternate public member on the Select Committee on  
 8 Legislative Ethics; clarifying the requirements related to participation by alternate  
 9 public members and alternate legislative members in the proceedings of the committee;  
 10 amending the definition of 'legislative employee' in the Legislative Ethics Act; and  
 11 repealing a procedure for appointment of alternate legislative members."

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

*Prohibited conduct and conflict of interest.*

13 \* Section 1. AS 24.60.030(a) is amended to read:

14 (a) A legislator or legislative employee may not

15 (1) solicit, agree to accept, or accept a benefit other than official  
 16 compensation for the performance of public duties; this paragraph may not be  
 17 construed to prohibit lawful solicitation for and acceptance of campaign contributions,  
 18 solicitation or acceptance of contributions for a charity event, as defined in  
 19 AS 24.60.080(a)(2)(B), or the acceptance of a gift [LAWFUL GRATUITY] under  
 20 AS 24.60.075 or 24.60.080 [AS 24.60.080];

21 (2) use public funds, facilities, equipment, services, or another  
 22 government asset or resource for a nonlegislative purpose, for involvement in or  
 23 support of or opposition to partisan political activity, or for the private benefit of  
 24 [EITHER] the legislator, legislative employee, or another person; this paragraph does  
 25 not prohibit

26 (A) limited use of state property and resources for personal  
 27 purposes if the use does not interfere with the performance of public duties and

*adds  
 compassion  
 gifts to  
 exceptions  
 24.60.075*

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either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

(B) the use of a legislator's legislative mailing list for campaign purposes, or the use of mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;

(C) the legislative council, notwithstanding AS 24.05.190, from designating a public facility for use by legislators and legislative employees for health or fitness purposes; when the council designates a facility to be used by legislators and legislative employees for health or fitness purposes, it shall adopt guidelines governing access to and use of the facility; the guidelines may establish times in which use of the facility is limited to specific groups;

(D) a legislator from using the legislator's private office in the capital city during a legislative session, and for the 10 days immediately before and the 10 days immediately after a legislative session, for nonlegislative purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than utility costs and minimal wear and tear, or the legislator promptly reimburses the state for the cost; an office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others;

(E) a legislator from use of legislative employees to prepare and send out seasonal greeting cards;

(F) a legislator from using state resources to transport computers or other office equipment owned by the legislator but primarily used for a state function;

(G) use by a legislator of photographs of that legislator;

(H) reasonable use of the Internet by a legislator or a legislative employee except if the use is for election campaign purposes;

(I) a legislator or legislative employee from soliciting, accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable

*allows use of legislator mailing list for partisan activity per Opinion 04-*

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organization in a state facility;

(J) a legislator from sending any communication in the form of a newsletter 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

(K) full participation in a charity event approved in advance by the Alaska Legislative Council;

(3) knowingly seek, accept, use, allocate, grant, or award public funds for a purpose other than that approved by law, or make a false statement in connection with a claim, request, or application for compensation, reimbursement, or travel allowances from public funds;

(4) require a legislative employee to perform services for the private benefit of the legislator or employee at any time, or allow a legislative employee to perform services for the private benefit of a legislator or employee on government time; it is not a violation of this paragraph if the services were performed in an unusual or infrequent situation and the person's services were reasonably necessary to permit the legislator or legislative employee to perform official duties;

(5) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning; this paragraph does not prohibit

(A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

(B) the use of a legislator's legislative mailing list, or the use of mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;

(C) storing or maintaining, consistent with (b) of this section, election campaign records in a legislator's office;

*allows use of legislator's mailing list for campaign purposes*

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(D) a legislator from using the legislator's private office in the capital city during a legislative session, and for the 10 days immediately before and the 10 days immediately after a legislative session, for nonlegislative purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than utility costs and minimal wear and tear, or the legislator promptly reimburses the state for the cost; an office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others; or

(E) use by a legislator of photographs of that legislator.

\* Sec. 2. AS 24.60.030(i) is amended to read: *Prohibited conduct and conflict of interest*

(i) A [EXCEPT FOR SUPPLYING INFORMATION REQUESTED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, OR WHEN RESPONDING TO CONTACTS INITIATED BY THE HEARING OFFICER OR THE INDIVIDUAL, BOARD, OR COMMISSION WITH AUTHORITY TO MAKE THE FINAL DECISION IN THE CASE, A] legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the matter [CASE] unless [THE]

(1) the legislator or legislative employee is representing another person for compensation subject to AS 24.60.100 and as a professional who is licensed in the state; *representation*

(2) the contact is made in the presence of all parties to the hearing or the parties' representatives while the legislator or legislative employee is acting as a party or a witness in the matter or responding to a question asked of the legislator or legislative employee by the hearing officer, individual, board, or commission and the contact is made a part of the record; or

(3) the contact is inadvertent and ex parte and the [(2)] fact and substance of the contact are [IS] promptly disclosed by the legislator or legislative

1 employee to all parties to the hearing and [THE CONTACT IS] made a part of the  
2 record.

*Prohibited conduct and conflict of interest.*

3 \* Sec. 3. AS 24.60.030 is amended by adding a new subsection to read:

4 (j) Notwithstanding the limitations under (a)(2) - (4) and (c) of this section and  
5 subject to other laws of the state or the United States, a legislator or legislative  
6 employee who is on state travel may participate in partisan political activity, including  
7 campaign activity during the state travel, if the legislator or the legislative employee  
8 does not use or authorize the use of state resources to pay for the activity and if the  
9 legislator or legislative employee does not participate in the activity

- 10 (1) during a normal workday between 8:00 a.m. and 5:00 p.m.,
- 11 excluding a meal break;
- 12 (2) on a state or municipal election day;
- 13 (3) during the 30 days immediately preceding an election in which the
- 14 participating legislator or the legislator for whom the participating employee works is
- 15 a candidate for elective office; or
- 16 (4) by fund raising for a political party or campaign.

17 \* Sec. 4. AS 24.60.031 is amended by adding a new subsection to read: *Restrictions on fundraising*

18 (d) Notwithstanding the limitations under (a) and (b) of this section and  
19 subject to other laws of the state or the United States, a legislator or legislative  
20 employee who is on state travel may participate in partisan political activity, including  
21 campaign activity, during the state travel if the legislator or the legislative employee  
22 does not use or authorize the use of state resources to pay for the activity and if the  
23 legislator or legislative employee does not participate in the activity

- 24 (1) during a normal workday between 8:00 a.m. and 5:00 p.m.,
- 25 excluding a meal break;
- 26 (2) on a state or municipal election day;
- 27 (3) during the 30 days immediately preceding an election in which the
- 28 participating legislator or the legislator for whom the participating employee works is
- 29 a candidate for elective office; or
- 30 (4) by fund raising for a political party or campaign.

31 \* Sec. 5. AS 24.60.050(c) is amended to read:

*adds. exception to prohibit conduct for attending partisan activities while on state travel.*

*sets a standard for attending partisan function while on state travel.*

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(c) A legislator or legislative employee who participates in a program or receives a loan that is not exempt from disclosure under (a) of this section shall file with the committee by the date required under AS 24.60.105 a disclosure stating the amounts of the loans outstanding or benefits received during the preceding calendar year from nonqualifying programs. If the committee requests additional information necessary to determine the propriety of participating in the program or receiving the loan, it shall be promptly provided. The committee shall maintain the disclosure as a public record and promptly forward the information contained in the disclosure [PROMPTLY COMPILE A LIST OF THE STATEMENTS INDICATING THE LOANS AND PROGRAMS AND AMOUNTS AND SEND IT] to the presiding officer of each house who shall have it published in the supplemental journals on or before the next regularly scheduled publication of ethics disclosures. If a legislator or legislative employee asks the committee to keep any part of the disclosure confidential and a quorum of the committee determines by vote of a majority of committee members that making the entire disclosure public would cause an unjustifiable invasion of personal privacy, the committee may elect to publish only the fact that a person has participated in the program and the amount of benefit that the unnamed person received. The committee shall maintain the disclosure of the name of the person as confidential and may only use the disclosure in a proceeding under AS 24.60.170. If the disclosure becomes part of the record of a proceeding under AS 24.60.170, the disclosure may be made public as provided in that section.

\* Sec. 6. AS 24.60.060(a) is amended to read: *Confidential Information*

(a) A legislator, [OR] legislative employee, or public member of the committee may not knowingly make an unauthorized disclosure of information that is made confidential by law and that the person acquired in the course of official duties. A person who violates this section is subject to a proceeding under AS 24.60.170 and may be subject to prosecution under AS 11.56.860 or another law.

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

(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

*Provides for disclosure but no register*

*adds public members to prohibition of disclosing confidential information*

L

1 or more, whether in the form of money, services, a loan, travel, entertainment,  
2 hospitality, promise, or other form, or gifts from the same person worth less than \$250  
3 that in a calendar year aggregate to \$250 or more in value;

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

7 (A) food or beverage for immediate consumption;

8 (B) a contribution to a charity event, [FROM ANY PERSON  
9 AT ANY TIME, AND] tickets to [FOR] a charity event, and [AT ANY TIME,  
10 EXCEPT THAT TICKETS TO OR] gifts to which the tickets may entitle the  
11 bearer; however, under this subparagraph a legislator or legislative  
12 employee may not solicit, accept, or receive from the same lobbyist, an  
13 immediate family member of the lobbyist, or a person acting on behalf of  
14 the lobbyist, tickets to a charity event, gifts to which the tickets may entitle  
15 the bearer, or both, that in a calendar year aggregate to \$250 or more in  
16 value [RECEIVED AT A CHARITY EVENT UNDER THIS  
17 SUBPARAGRAPH ARE SUBJECT TO THE CALENDAR YEAR LIMIT  
18 ON THE VALUE OF GIFTS RECEIVED BY A LEGISLATOR OR  
19 LEGISLATIVE EMPLOYEE IN (1) OF THIS SUBSECTION]; in this  
20 subparagraph, "charity event" means an event the proceeds of which go to a  
21 charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and that  
22 the Alaska Legislative Council has approved in advance; the tickets may entitle  
23 the bearer to admission to the event, to entertainment, to food or beverages, or  
24 to other gifts or services in connection with [INVOLVED IN] the charity  
25 event;

26 (C) a gift that is unconnected with the recipient's legislative  
27 status and is from a member of the legislator's or legislative employee's  
28 immediate family;

29 (D) a gift delivered on the premises of a state facility and  
30 accepted on behalf of a recognized nonpolitical charitable organization; or

31 (E) a compassionate gift under AS 24.60.075.

*clarifies that  
an allowable  
from a lobbyist  
is a charity  
event ticket  
or gift from  
a charity  
must be less  
than \$250.*

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

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

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

6 (A) with incidental transportation at the residence of a person;  
7 however, a vacation home located outside the state is not considered a  
8 residence for the purposes of this subparagraph; or

9 (B) at a social event or meal;

10 (2) discounts that are available

11 (A) generally to the public or to a large class of persons to  
12 which the person belongs; or

13 (B) when on official state business, but only if receipt of the  
14 discount benefits the state;

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

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

19 (5) gifts from the immediate family of the person; in this paragraph,  
20 "immediate family" means

21 (A) the spouse of the person;

22 (B) the person's domestic partner;

23 (C) a child, including a stepchild and an adoptive child, of the  
24 person or of the person's domestic partner;

25 (D) a parent, sibling, grandparent, aunt, or uncle of the person;

26 (E) a parent, sibling, grandparent, aunt, or uncle of the person's  
27 spouse or the person's domestic partner; and

28 (F) a stepparent, stepsister, stepbrother, step-grandparent, step-  
29 aunt, or step-uncle of the person, the person's spouse, or the person's domestic  
30 partner;

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

1 (7) a discount for all or part of a legislative session, including time  
 2 immediately preceding or following the session, or other gift to welcome a legislator  
 3 or legislative employee who is employed on the personal staff of a legislator or by a  
 4 standing or special committee to the capital city or in recognition of the beginning of a  
 5 legislative session if the gift or discount is available generally to all legislators and the  
 6 personal staff of legislators and staff of standing and special committees; this  
 7 paragraph does not apply to legislative employees who are employed by the  
 8 Legislative Affairs Agency, the office of the chief clerk, the office of the senate  
 9 secretary, the legislative budget and audit committee, the office of victims' rights, or  
 10 the office of the ombudsman;

11 (8) a gift of legal services in a matter of legislative concern and a gift  
 12 of other services related to the provision of legal services in a matter of legislative  
 13 concern;

14 (9) a gift of transportation from a legislator or a legislative employee to  
 15 a legislator or a legislative employee if the transportation takes place in the state on or  
 16 in an aircraft, boat, motor vehicle, or other means of transport owned or under the  
 17 control of the donor; this paragraph does not apply to travel described in (4) of this  
 18 subsection or travel for political campaign purposes; or

19 (10) a contribution to a charity event, a ticket to a charity event, or a  
 20 gift in connection with a charity event [FROM ANY PERSON AT ANY TIME]; in  
 21 this paragraph, "charity event" has the meaning given in (a)(2)(B) of this section.

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

23 (d) A legislator or legislative employee who accepts a gift under (c)(4) of this  
 24 section that has a value of \$250 or more or a ticket to a charity event or gift in  
 25 connection with a charity event under (c)(10) of this section that has a value of \$250  
 26 or more shall disclose to the committee, within 60 [30] days after receipt of the gift,  
 27 the name and occupation of the donor and the approximate value of the gift. A  
 28 legislator or legislative employee who accepts a gift under (c)(8) of this section that  
 29 the recipient expects will have a value of \$250 or more in the calendar year shall  
 30 disclose to the committee, within 30 days after receipt of the gift, the name and  
 31 occupation of the donor, a general description of the matter of legislative concern with

*clarification  
of tickets &  
gifts from  
charity event*

*gifts from  
charity event  
more than \$25  
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must be  
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*reporting of gift of travel's  
charity events increased  
to 60 days*

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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), (c)(10), 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), (c)(10), 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.

\* **Sec. 10.** AS 24.60.105 is amended by adding a new subsection to read: *Deadline for Filing Disclosure*

(d) A person may submit a written request to refrain from making a disclosure that is required by this chapter if making the disclosure would violate the United States Constitution, the Constitution of the State of Alaska, or other state or federal law. The committee shall approve or deny the request, or require further justification from the person making the request. At the request of the committee or a person authorized to act on behalf of the committee, a person who seeks to refrain from making a disclosure under this subsection shall provide the committee with justification in writing, and the committee may review the written justification to determine whether it is sufficient.

*allows for exceptions from disclosure*

\* **Sec. 11.** AS 24.60.112 is amended to read:

**Sec. 24.60.112. Applicability to volunteers and educational trainees.** A legislative volunteer or educational trainee shall be considered to be a legislative employee for purposes of compliance with AS 24.60.030 - 24.60.039, 24.60.060, 24.60.080, 24.60.085, 24.60.155, 24.60.158 - 24.60.170, 24.60.176, and 24.60.178. If

*requires volunteers to take ethics classes*

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1 a person believes that a legislative volunteer or educational trainee has violated the  
2 provisions of one of those sections, the person may file a complaint under  
3 AS 24.60.170. The provisions of AS 24.60.170 apply to the proceeding.

4 \* Sec. 12. AS 24.60.130(h) is amended to read:

5 (h) A member is disqualified from participating as a member in any  
6 proceeding before the committee involving a complaint against the member or an  
7 employee whose work is supervised by the member or an advisory opinion requested  
8 by the member. If a regular legislative member of the committee is disqualified under  
9 this subsection from participating in a proceeding involving a complaint, the member's  
10 alternate shall be designated under AS 24.60.131 [(n) OF THIS SECTION].

*adds  
alternate  
members  
to disquali-  
- cation  
provisions*

11 \* Sec. 13. AS 24.60.130(o) is amended to read:

12 (o) Notwithstanding (h) [AND (n)] of this section and AS 24.60.131, if a  
13 complaint before the committee alleges a violation of this chapter by a group of  
14 legislators that includes a legislative member of the committee and that member's  
15 alternate, the member and alternate member are disqualified from serving on the  
16 committee with regard to the complaint. If the two disqualified members of the  
17 committee are members of the majority organizational caucus, the presiding officer of  
18 the house in which the two disqualified members serve shall appoint from that house  
19 an alternate to serve with regard to the complaint. If one of the two disqualified  
20 legislative members of the committee is not a member of the majority organizational  
21 caucus, the leader of the minority organizational caucus with the greatest number of  
22 members shall appoint from that house an alternate to serve with regard to the  
23 complaint. If a complaint alleges a violation of this chapter that includes all legislative  
24 members of the majority organizational caucus of one house, the presiding officer of  
25 that house shall appoint from the other house an alternate to serve with regard to the  
26 complaint. If the complaint alleges a violation of this chapter that includes all  
27 legislative members of a minority organizational caucus of one house, the leader of  
28 that minority organizational caucus shall appoint from the other house an alternate to  
29 serve with regard to the complaint.

*alternate to  
alternate*

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

31 **Sec. 24.60.131. Alternate members.** (a) When appointing members of the

1 legislature to serve on the committee under AS 24.60.130(b), the speaker of the house  
2 of representatives or the president of the senate, as appropriate, shall appoint an  
3 alternate member for each regular member. The alternate member shall have the same  
4 qualifications for appointment to the committee as the regular member for whom the  
5 alternate stands as alternate. The alternate member's appointment is subject to  
6 confirmation as required for appointment of the regular member.

7 (b) When selecting public members to serve on the committee under  
8 AS 24.60.130(b), the Chief Justice of the Alaska Supreme Court shall select one  
9 alternate public member. The alternate public member's selection is subject to  
10 ratification as required for selection of the regular public members.

11 (c) Subject to (d) of this section, if a regular member of the committee or a  
12 subcommittee is unable to participate in a proceeding other than a proceeding under  
13 AS 24.60.170, the chair of the committee or subcommittee that holds the proceeding  
14 shall designate the regular member's alternate to participate in place of the regular  
15 member at the proceeding, and the alternate shall participate for the duration of that  
16 proceeding unless the alternate is unable to participate.

17 (d) If a regular member of the committee or a subcommittee or an alternate  
18 appointed under (a) or (b) of this section participates at the commencement of a  
19 proceeding under AS 24.60.170, the member shall participate for the duration of the  
20 proceeding unless the member is disqualified under AS 24.60.130(h) or is unable to  
21 continue participating. If the participating member is disqualified under  
22 AS 24.60.130(h) or becomes unable to participate, the chair of the committee or  
23 subcommittee that holds the proceeding shall designate the member's alternate to  
24 participate in place of the member for the duration of the proceeding unless the  
25 alternate is disqualified or is unable to participate.

26 (e) If both a regular legislative member and that member's alternate appointed  
27 under (a) of this section are not available to participate in a proceeding under  
28 AS 24.60.170 because they are disqualified under AS 24.60.130(h) or unable to  
29 participate, the presiding officer of the house in which the two members serve shall  
30 appoint from that house an alternate and designate that alternate to participate in the  
31 proceeding; however, if the two members who are not available to participate are not

1 members of the majority organizational caucus, the leader of the minority  
2 organizational caucus with the greatest number of members shall appoint from that  
3 house an alternate and designate that alternate to participate in the proceeding.

4 (f) A designation under (c) - (e) of this section is a confidential proceeding  
5 under AS 24.60.170(f) unless the member who is replaced as a result of the  
6 designation waives confidentiality.

7 \* Sec. 15. AS 24.60.155 is amended to read:

8 **Sec. 24.60.155. Legislative ethics course.** A person who is a legislator,  
9 legislative employee, legislative volunteer, educational trainee, or public member of  
10 the committee shall complete a legislative ethics course administered by the  
11 committee under AS 24.60.150(a)(4) within 10 days of the first day of the first regular  
12 session of each legislature. However, a person who first takes office, [OR] begins  
13 employment, or begins service as a volunteer or trainee after the 10th day of the  
14 first regular session of a legislature shall complete the course required by this section  
15 within 30 days after the person's first day of service and, thereafter, as required by this  
16 section. The committee may grant a person additional time to complete the course  
17 required by this section.

*ethics course*

18 \* Sec. 16. AS 24.60.990(a)(11) is amended to read:

19 (11) "legislative employee" means a person, other than a legislator,  
20 who is compensated by the legislative branch in return for regular or substantial  
21 personal services, regardless of the person's pay level or technical status as a full-time  
22 or part-time employee, independent contractor, or consultant; it includes public  
23 members and staff of the committee; it does not include individuals who are hourly  
24 employees who perform functions that are incidental to legislative functions,  
25 [INCLUDING SECURITY, MESSENGER, MAINTENANCE, AND PRINT SHOP  
26 EMPLOYEES,] and other employees designated by the committee;

*legislative employee definition*

27 \* Sec. 17. AS 24.60.990(a) is amended by adding a new paragraph to read:

28 (17) "state travel" means travel with transportation or overnight  
29 lodging that is provided or paid for with state resources. *Defined state travel*

30 \* Sec. 18. AS 24.60.130(n) is repealed.

*Section 14 replaces Sec 18 dealing with Alternate Members*