

SB

89

<TARGET><BILL>SB 89</BILL><SUBJECT>SB
89</SUBJECT><COMM>SSTA27</COMM></TARGET>

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/16/11

FURTHER: Judiciary

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3-31-11

State Affairs Committee considered SENATE BILL NO. 89

SB 89-LEGISLATIVE ETHICS ACT

"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."

and recommends:

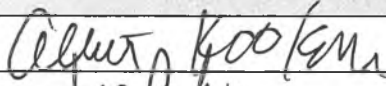
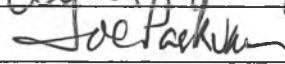
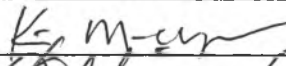
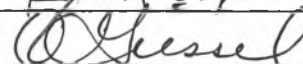
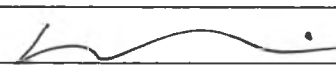
- be replaced with CS _____ (_____) Same Title New Title
- adopt previous CS _____ SCS/CS- Forthcoming _____) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LEG
CED	LAW
COR	LWF
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	Koolan			X	
	PASKUTA			X	
	Meyer	X			
	Giessel			X	
CHAIR: 	Wielechawski			X	



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

SUMMARY OF CHANGES IN CSSB 89 (27-LS0452I)

Page 5, line 27, after "(a)(2)", language is amended to include subsection (a)(3) to clarify that limitations include (a)(2) – (a)(4); not (a)(2) and (a)(4).

Page 5, line 30, after "campaign activity," **during the state travel** has been added to make language consistent with language in section 4.

Page 7, lines 9 – 17, this subsection was rewritten to make it very clear a charity event ticket or charitable event gift may be received from a lobbyist, immediate family member, or person acting on behalf of a lobbyist, but the gift cannot be valued at \$250 or more.

The new version deleted sections 9 and 10 of the original bill which extended deadlines for filing of disclosures for service on boards and commissions, interest in state contracts, participation in state loans, close economic associations, and representation of someone, as well as other disclosures, from 30 to 60 days.

Under the current bill, the only disclosure headlines extended to 60 days are travel gifts for the person of educating a legislator and charity tickets and charity gifts for charity activities sanctioned by the ethics committee.

27-LS0452N
Wayne
2/22/11

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; 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 **charity events; amending disclosure deadlines under the Legislative Ethics Act; relating**
2 **to requests to refrain from disclosure under the Legislative Ethics Act; and establishing**
3 **a seat for an alternate public member on the Select Committee on Legislative Ethics and**
4 **clarifying the requirements related to participation by alternate members in the**
5 **proceedings of the committee."**

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

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

8 (a) A legislator or legislative employee may not

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

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

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

24 (B) the use of a legislator's legislative mailing list for
25 campaign purposes, or the use of mailing lists, computer data, or other
26 information lawfully obtained from a government agency and available to the
27 general public for nonlegislative purposes;

28 (C) the legislative council, notwithstanding AS 24.05.190, from
29 designating a public facility for use by legislators and legislative employees for

1 health or fitness purposes; when the council designates a facility to be used by
2 legislators and legislative employees for health or fitness purposes, it shall
3 adopt guidelines governing access to and use of the facility; the guidelines may
4 establish times in which use of the facility is limited to specific groups;

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

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

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

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

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

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

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

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

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

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

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

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

18 (B) the use of a legislator's legislative mailing list, or the use
19 of mailing lists, computer data, or other information lawfully obtained from a
20 government agency and available to the general public for nonlegislative
21 purposes;

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

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

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) - (4) and (c) of this section and
28 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 during the state travel, if the legislator or the legislative employee
31 does not use or authorize the use of state resources to pay for the activity and if the

1 legislator or 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

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

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

8 (A) food or beverage for immediate consumption;

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

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

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

1 (E) a compassionate gift under AS 24.60.075.

2 * **Sec. 7.** AS 24.60.080(c) is amended to read:

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

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

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

10 (B) at a social event or meal;

11 (2) discounts that are available

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

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

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

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

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

22 (A) the spouse of the person;

23 (B) the person's domestic partner;

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

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

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

29 (F) a stepparent, stepsister, stepbrother, step-grandparent, step-
30 aunt, or step-uncle of the person, the person's spouse, or the person's domestic
31 partner;

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

(7) a discount for all or part of a legislative session, including time immediately preceding or following the session, or other gift to welcome a legislator or legislative employee who is employed on the personal staff of a legislator or by a standing or special committee to the capital city or in recognition of the beginning of a legislative session if the gift or discount is available generally to all legislators and the personal staff of legislators and staff of standing and special committees; this paragraph does not apply to legislative employees who are employed by the Legislative Affairs Agency, the office of the chief clerk, the office of the senate secretary, the legislative budget and audit committee, the office of victims' rights, or the office of the ombudsman;

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

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

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

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

(d) A legislator or legislative employee who accepts a gift under (c)(4) of this section that has a value of \$250 or more or a ticket to a charity event or gift in connection with a charity event under (c)(10) of this section that has a value of \$250 or more shall disclose to the committee, within 60 [30] days after receipt of the gift, the name and occupation of the donor and the approximate value of the gift. A legislator or legislative employee who accepts a gift under (c)(8) of this section that the recipient expects will have a value of \$250 or more in the calendar year shall disclose to the committee, within 30 days after receipt of the gift, the name and

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

18 * **Sec. 9.** AS 24.60.105 is amended by adding a new subsection to read:

19 (d) A person may submit a written request to refrain from making a disclosure
20 that is required by this chapter if making the disclosure would violate the United
21 States Constitution, the Constitution of the State of Alaska, or other state or federal
22 law. The committee shall approve or deny the request, or require further justification
23 from the person making the request. At the request of the committee or a person
24 authorized to act on behalf of the committee, a person who seeks to refrain from
25 making a disclosure under this subsection shall provide the committee with
26 justification in writing, and the committee may review the written justification to
27 determine whether it is sufficient.

28 * **Sec. 10.** AS 24.60.130(n) is amended to read:

29 (n) **A member who participates at the commencement of a proceeding**
30 **under AS 24.60.170 shall participate for the duration of the proceeding unless**
31 **disqualified or unable to continue participating for any reason; however,**

1 **provision shall be made for service by alternate members on the committee or on**
2 **a subcommittee, as follows:**

3 **(1) when** [WHEN] appointing members of the legislature to serve on
4 the committee, the speaker of the house or the president of the senate, as appropriate,
5 shall appoint an alternate member for each regular member; **an** [. AN] alternate must
6 have the same qualifications as the regular member for whom the alternate stands as
7 alternate and is subject to confirmation as required for the regular member;

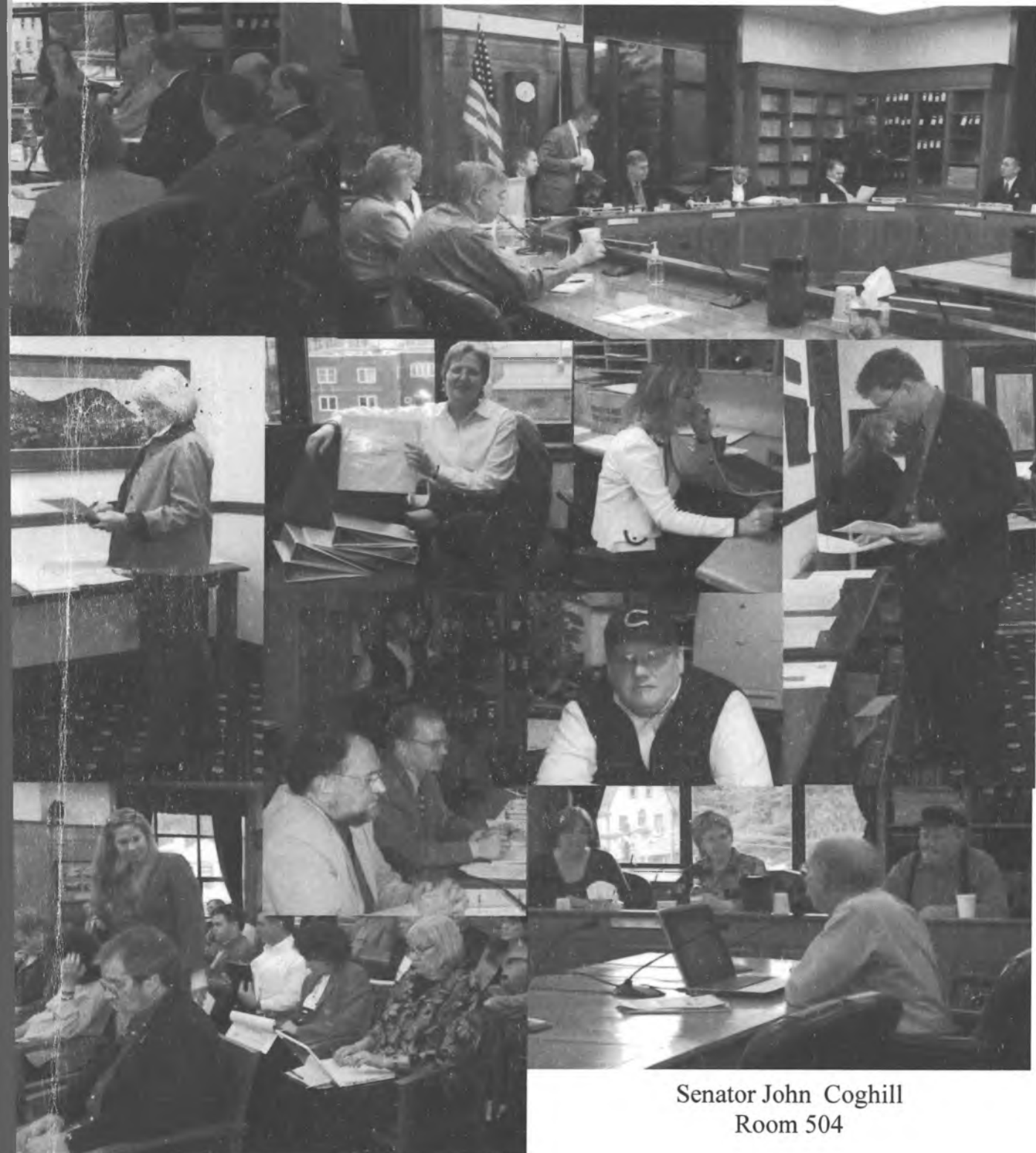
8 **(2) when selecting public members to serve on the committee, the**
9 **Chief Justice of the Alaska Supreme Court shall also select one alternate public**
10 **member; the alternate public member's selection is subject to ratification as**
11 **required for selection of the regular public members;**

12 **(3) if, except as to a proceeding under AS 24.60.170,** [IF] a regular
13 [LEGISLATIVE] member of the committee or a subcommittee is unable to
14 **participate in** [ATTEND] a meeting, the chair of the committee or a subcommittee
15 shall designate the regular member's alternate to **participate** [SERVE] in place of the
16 regular member at the meeting, and the designated alternate, **unless for any reason**
17 **unable to participate,** shall **participate for the duration of that meeting; if**
18 [SERVE UNLESS UNABLE TO SERVE FOR ANY REASON. IF] a regular
19 [LEGISLATIVE] member of the committee or a subcommittee is disqualified under
20 (h) of this section from **participating in** [SERVING ON THE COMMITTEE OR
21 THE SUBCOMMITTEE CONCERNING] a proceeding under AS 24.60.170 or if the
22 regular member is unable to **participate** [ATTEND], the chair of the committee or a
23 subcommittee shall designate the regular member's alternate to **participate** [SERVE]
24 in place of the regular member **for the duration of** [IN] the proceeding unless the
25 alternate is [ALSO] disqualified **or is for any reason unable to participate; the**
26 [FROM SERVING. THE] designation shall be treated as confidential to the same
27 extent that the identity of the subject of a complaint is required to be kept confidential.

28 * **Sec. 11.** AS 24.60.990(a) is amended by adding a new paragraph to read:

29 (17) "state travel" means travel with transportation or overnight
30 lodging that is provided or paid for with state resources.

First Session 27th Alaska Legislature
SB 89 Ethics Amendments



Senator John Coghill
Room 504

27-LS0452ND
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
compassionate
gifts to
exceptions
24.60.075*

1 either the cost or value related to the use is nominal or the legislator or
2 legislative employee reimburses the state for the cost of the use;

3 (B) the use of a legislator's legislative mailing list for
4 campaign purposes, or the use of mailing lists, computer data, or other
5 information lawfully obtained from a government agency and available to the
6 general public for nonlegislative purposes;

7 (C) the legislative council, notwithstanding AS 24.05.190, from
8 designating a public facility for use by legislators and legislative employees for
9 health or fitness purposes; when the council designates a facility to be used by
10 legislators and legislative employees for health or fitness purposes, it shall
11 adopt guidelines governing access to and use of the facility; the guidelines may
12 establish times in which use of the facility is limited to specific groups;

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

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

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

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

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

30 (I) a legislator or legislative employee from soliciting,
31 accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable

*allows use
of legislative
mailing list
for partisan
activity per
opinion of-*

L

1 organization in a state facility;

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

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

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

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

19 (5) use or authorize the use of state funds, facilities, equipment,
20 services, or another government asset or resource for the purpose of political fund
21 raising or campaigning; this paragraph does 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 a legislator's legislative mailing list, or the use
27 of mailing lists, computer data, or other information lawfully obtained from a
28 government agency and available to the general public for nonlegislative
29 purposes;

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

*allows use
of legislator
mailing list
for campaign
purposes*

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

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

11 * Sec. 2. AS 24.60.030(i) is amended to read: *Prohibited conduct and conflict of interest*

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

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

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

30 (3) the contact is inadvertent and ex parte and the [(2)] fact and
 31 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.

Prohibited conduct and conflict of interest.

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

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

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

(2) on a state or municipal election day;

(3) 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

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

* Sec. 4. AS 24.60.031 is amended by adding a new subsection to read: *Restrictions on fundraising*

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

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

(2) on a state or municipal election day;

(3) 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

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

* Sec. 5. AS 24.60.050(c) is amended to read:

adds exception to prohibit conduct for partisan activities while on state travel.

sets a standard for attending partisan function while on state travel.

(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.

Provides for disclosure but no register

* 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.

adds public members to prohibiting disclosure of confidential information

* 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

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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 lobbyist
event ticket
or gift from
a charity event
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

*Classification
 of tickets &
 gifts from
 charity events
 gifts from
 charity events
 more than \$25
 from non lobby
 must be
 reported*

*reporting of gift of travel's
 charity events increased
 to 60 days*

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

17 * **Sec. 10.** AS 24.60.105 is amended by adding a new subsection to read: *Deadline for Filing disclosure*

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

*allows for
 exceptions
 from
 disclosure*

27 * **Sec. 11.** AS 24.60.112 is amended to read:

28 **Sec. 24.60.112. Applicability to volunteers and educational trainees.** A
 29 legislative volunteer or educational trainee shall be considered to be a legislative
 30 employee for purposes of compliance with AS 24.60.030 - 24.60.039, 24.60.060,
 31 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*

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(l) 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 17 replaces Sec 18 dealing with Alternate Members

ALASKA STATE HOUSE OF REPRESENTATIVES

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SENATOR JOHN COGHILL

Senate Bill 89 Legislative Ethics Amendments Version D

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

Two amendments requested by the committee address tickets to charity events and disclosure of gifts of tickets for and gifts from charitable events. First, the bill clarifies that legislators and legislative employees may not exceed the \$250 limit when securing a ticket from lobbyists, immediate family members of lobbyists, or persons acting on behalf of a lobbyist and adds that the value of these tickets and gifts received at a charity event must be disclosed within 60 days of receipt. Second, they allow persons who are not lobbyists to give a gift of a ticket to a charitable event sanctioned by the Legislative Council to a legislator or legislative employee that has a value of \$250.00 or more. However, the recipient of the ticket must disclose to the Select Committee on Legislative Ethics the value of the ticket that exceeds the \$250.00 limit.

The bill also 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.

Over years of discussion this bill is 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. It also extends the reporting deadline for reporting gifts of travel and from charitable events from 30 to 60 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.

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SENATOR JOHN COGHILL

Sectional Version D

Senate Bill 89 Ethic Amendments

Section 1. Replaces “lawful gratuity” with the word “gift”; and adds new language allowing compassionate gifts. This section also allows a legislator to use his or her legislative mailing list for nonlegislative purposes. **Advisory Opinion 04-01**

Section 2. Draws a bright line for legislators and legislative employee 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 employee may no longer make contact with the agency, unless the person is licensed in the state for such representation and the income from that representation is reported under AS 24.60.100. This section protects a legislator or legislative employee from inadvertent ex parte contact and allows contact if the legislator or legislative employee is a party or witness to the matter. **Advisory Opinion 08-03 and 05-01**

Section 3. This provision establishes a clear distinction as to when a legislator or legislative employee can participate in partisan activities and not be engaging in a prohibited conduct. **Advisory Opinion 10-01**

Section 4. This provision establishes a clear distinction as to when a legislator or legislative employee can participate in partisan activities that involve fundraising. **Advisory Opinion 10-01**

Section 5. This provision establishes how information that is not exempt from disclosure by a legislator or legislative employee will be retained and disclosed. *Request of the Committee*

Section 6. Adds public members of the Select Committee on Legislative Ethics to the statute that prohibits disclosure of confidential information. *Request of the Committee*

Section 7. Clarifies that a legislator or legislative employee may accept tickets for a Legislative Council sanctioned charity event or a gift from a sanctioned charity event from a lobbyist as long as it does not exceed \$250.00 in value. *Request of the Committee*

Section 8. Clarifies that persons who are not lobbyists can give a ticket or a gift in connection with a charitable event sanctioned by the Legislative Council to a legislator or legislative employee that has a value of \$250.00 or more. However, the recipient of the ticket must disclose to the Select Committee on Legislative Ethics the value of the ticket that exceeds the \$250.00 limit. Extends the reporting period to 60 days. *Request of the Committee*

Section 9. Clarifies that if a legislator or legislative employee accepts tickets or a gift in connection with a charity event with a value of \$250 or more must be reported within 60 days. *Request of the Committee*

Section 10. Allows exceptions from filing a disclosure if it would violate the United States Constitution, the Constitution of the State of Alaska, or any other state or federal law. **Advisory Opinions 09-02 and 94-07**

Section 11. Requires legislative volunteers and educational trainees to complete the legislative ethics class. *Request of the Committee*

Section 12. Adds alternate members to disqualification provisions. *Request of the Committee*

Section 13. Adding reference to new section AS 24.60.131.pertaining to alternates to the statute providing that if both members are disqualified, the presiding officer may appoint another member. *Request of the Committee*

Section 14. Completely rewrites the section for alternate members. Allows House Speaker, Senate President, and Chief Justice to appoint alternate members. If those members are disqualified all three can appoint an alternate to the alternate. *Request of the Committee*

Section 15. Adds legislative volunteer and educational trainee to the statute that requires people to complete the legislative ethics course. *Request of the Committee*

Section 16. Defines legislative employee.

Section 17. Defines state travel.

Section 18. Repeals that section of law that Section 14 replaces dealing with alternate members of the Select Committee on Legislative Ethics.



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](#)

Travel

Lobbyists: Title 9 Chapter 6

Registration and Reporting
Prohibitions
Exemptions

ColoradoColorado Revised Statutes

For Code of Ethics for Legislators: Title 24, Government-State; Administration; Article 18, Standards of Conduct; Part 1, Code of Ethics.

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.

Connecticut

Connecticut General Statutes

Code of Ethics. Title 1, Chapter 10 - §1-79 through 1-101.**Delaware**

Delaware Code Annotated

Legislative Conflicts of Interest. Title 29, State Government; Chapter 10.Laws Regulating the Conduct of Officers and Employees of the State. Title 29, State Government; Chapter 58.Code of Conduct. Subchapter I.Financial disclosure. Subchapter II.Registration of lobbyists. Subchapter IV.**Florida**

Florida Statutes

Code of Ethics for Public Officers and Employees. Title X, Chapter 112, Part III.

For lobbyist regulation, go to Legislative Organization, Procedures and Staffing, Title III, Chapter 11. Scroll to 11.045-11.062.

Georgia

Georgia Code

Code of Ethics for Government Service, Title 45, Public Officers and Employees, Chapter 10

For prohibited activities, go to 45-10-3.

For conflict of Interest, go to 45-10-20 - 45-10-80.

Ethics in Government Act. Title 21, Elections; Chapter 5.

For powers of the state ethics commission, go to 21-5-6 and 21-5-7.

For honorarium restrictions, go to 21-5-11.

For financial disclosure requirements, go to 21-5-50 - 21-5-53.

For lobbyist regulation, go to 21-5-70 - 21-5-76.

Hawaii

Hawaii Revised Statutes

<p><u>Standards of Conduct</u>, Chapter 84. <u>Lobbyist Law</u>, Chapter 97.</p>
<p>Idaho</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>Illinois</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>Indiana</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>Iowa</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>Kansas</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>Kentucky</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>Louisiana</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>Maine</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>Maryland</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>Massachusetts</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>Michigan</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>Minnesota</p> <p>Minnesota Statutes Legislator ethics and lobbyist regulation under Chapter 10A, <u>Campaign Finance and Public Disclosure</u>.</p>
<p>Mississippi</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 MexicoNew 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 YorkNew 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 CarolinaNorth Carolina General Statutes

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

North DakotaNorth 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.

OhioOhio 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

<p>Title 3, Legislature, Chapter 5 Ethics and Lobbying.</p> <p><u>Comprehensive Ethics Reform Act of 2006</u> <u>Lobbying</u></p>
<p>Texas</p> <p><u>Texas Government Code</u></p> <p>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.</p>
<p>Utah</p> <p>Utah Code</p> <p><u>Lobbyist Disclosure and Regulation Act</u>, Title 36, Chapter 11. <u>Legislative Conflict of Interest</u>, Title 36, Chapter 19. <u>Prohibiting Employment of Relatives</u>, Title 52, Chapter 03. <u>Offenses Against Administration of the Government</u>, Title 76, Chapter 8 For bribery, go to <u>76-8-105</u>. For alteration of legislation, go to <u>76-8-107</u> and <u>76-8-108</u>. For failure of a legislator to disclose interest in a bill, go to <u>76-8-109</u>. See also <u>Joint Legislative Rules</u>. Joint ethics rules are at JR-16.01-JR-16.07.</p>
<p>Vermont</p> <p><u>Vermont Statutes Annotated</u></p> <p>For Registration of Lobbyists, go to Title 2, Chapter 11.</p>
<p>Virginia</p> <p>Code of Virginia</p> <p><u>The General Assembly Conflicts of Interest Act</u>, Title 30, Chapter 13, Section 100-129. Lobbying laws begin at <u>Title 2.2. Administration of Government</u>; Chapter 4, Section 2.2-422.</p>
<p>Washington</p> <p>Revised Code of Washington</p> <p><u>Ethics in Public Service</u>, Chapter 42.52. <u>Disclosure, Campaign Finances, Lobbying, Records</u>, Chapter 42.17.</p>
<p>West Virginia</p> <p>West Virginia Code</p> <p><u>Public Officers and Employees, Ethics, Conflict of Interest, Financial Disclosure</u>, Chapter 6B.</p> <p>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.</p>

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

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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.¹

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.²

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

¹ 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.

² This opinion does not condone the unauthorized copying of copyright protected information.

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-3- AO 04-01

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Alaska State Legislature

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November 9, 2005

ADVISORY OPINION 2005-01

RE: AS 24.60.030(i) and legislative contacts with administrative decision makers

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 several specific questions in regard to AS 24.60.030(i).¹ This subsection makes it a violation of the legislative ethics code for a legislator or legislative employee to "attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact" a decision maker in an administrative adjudication. Such communication is only permitted if the communication with the decision maker is made in the presence of all parties to the adjudication, and made a part of the record; or, if the fact and substance of the communication is promptly disclosed to all parties and made part of the record.

You ask how AS 24.60.030(i) will be applied in the following situations.

1. Can a legislator² contact a decision maker without trying to influence the outcome of the case by asking the decision maker:
 - a. if certain documents had been filed;
 - b. whether a file was complete; or
 - c. if there was other information that could be provided.
2. Who has the duty to disclose a contact to all parties in an adjudication under AS 24.60.030(i)(2)? What if the legislator does not know the identity or contact information of other parties?
3. If a legislator decides to advocate on behalf of a constituent, does that legislator have a duty to disclose the fact and substance of the contact to all parties to the hearing and make the contact a part of the record? Shouldn't the agency have the burden of distributing the substance of the contact with a decision maker to all parties?

Discussion

The provisions of AS 24.60.030(i) will only apply to an administrative matter that has progressed to a hearing. A legislator or legislative staff member may contact any administrative department with questions regarding a matter that is not the subject of a pending administrative adjudication.³

The ethical standards which prohibit ex parte contacts by legislators and legislative employees recognize that impartial fact finders and decision makers are an essential part of the due process of law.⁴

Administrative decision makers are required to be impartial and may not engage in ex parte communications.⁵ An ex parte communication is a contact or communication (personal communications or some form of evidence) with the decision maker that takes place outside the presence of all parties to the proceeding.

1. Obtaining information on behalf of a constituent in regard to an administrative adjudication.

While a legislator or legislative staff member may contact an administrative department with questions regarding a matter, once that matter is assigned to a hearing officer or other decision maker there should be no direct contact with the decision maker.

Once a matter is in a hearing process, questions to the administrative unit should be limited to procedural matters and case information. The answers to those questions can most likely be answered by a person other than the decision maker. For example, if the office of administrative hearings has jurisdiction of the matter, that office will be able to provide information about the case file without impairing the impartial role of the hearing officer.⁶ If the adjudication is not within the jurisdiction of the office of administrative hearings, the agency holding the hearings will have procedures to insulate the decision makers from improper contacts. Legislators subject to AS 24.60 will be expected to make every effort to obtain basic procedural or case file information about a matter under administrative adjudication by means other than contacting the hearing officer. Also, in response to your questions, it would not be the proper function of any administrator in the adjudicatory process to give advice in response to your questions, but only to provide information about the case file, parties, scheduling or other routine procedural matters.⁷

In the rare instance that a communication with a hearing officer occurs the legislator must comply with AS 24.60.030(i)(2): the "fact and substance of the contact [must be] promptly disclosed by the legislator or legislative employee to all parties to the hearing and the contact [must be] made a part of the record."

A failure by a legislator to properly make this disclosure may be held to be a violation of the legislative ethics code.

The committee is also concerned that ex parte contacts, by a legislator or legislative employee, with a decision maker creates an appearance of a violation of the ethics code. This is based on AS 24.60.010 which provides in pertinent part:

The legislature finds that

...

(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;

...

2. Who has the duty to disclose a contact to all parties in an adjudication under AS 24.60.030(i)(2)? What if the legislator does not know the identity or contact information of other parties?

If contact with a decision maker does occur, a legislator or legislative employee must notify all parties and make the contact a part of the record. Complying with this requirement of disclosure to all parties is the responsibility of the legislator who initiated the ex parte contact, not the adjudicator hearing the

matter. Information about the other parties to the matter can be obtained as discussed in the answer to the first question.

There is no obligation to contact all parties in regarding communications with administrative departments or personnel initiated by a legislator when a matter has not yet been assigned to a hearing officer.

3. If a legislator decides to advocate on behalf of a constituent, does that legislator have a duty to disclose the fact and substance of the contact to all parties to the hearing and make the contact a part of the record? Shouldn't the agency have the burden of distributing the substance of the contact with a decision maker to all parties?

As discussed above, a legislator may advocate and communicate on an administrative matter on behalf of a constituent. AS 24.60.030(i) only applies once an administrative matter is assigned to an administrative decision maker. In the event that a legislator makes an ex parte contact with a decision maker, the requirements of AS 24.60.030(i)(2) apply. The ethics statute clearly places the responsibility for compliance with (i)(2) on the legislator making the ex parte contact, not the adjudication agency or the administrative agency who is a party to the matter.

Conclusion

For the reasons stated above, the committee finds that a legislator or legislative employee seeking information on an administrative matter that is assigned to a hearing officer, individual, board or commission should not attempt to contact the decision maker assigned to that matter.⁸ Information about the procedural aspects of the matter may be sought from the office administering the hearing, but not the decision maker directly. If a legislator or legislative employee makes an ex parte communication and fails to comply with the requirements of AS 24.60.030(i)(2), it could be considered a violation of the legislative ethics code.

AS 24.60.030 does not apply to contacts in regard to administrative matters that have not been assigned to an administrative decision maker.

Adopted by the Select Committee on Legislative Ethics on November 9, 2005.

Members present and concurring in this opinion were:

Herman G. Walker, Jr. Chair
Representative Max Gruenberg
Senator Hollis French
Senator Ben Stevens
Ann Rabinowitz, public member
Marianne Stillner, public member
H. Connor Thomas, public member

Members dissenting from this opinion were:

Members absent were:

Representative Bruce Weyhrauch
Dennis "Skip" Cook, public member

BRC:med
05-475.med

¹ This new subsection of AS 24.60.030, "Prohibitions related to conflicts of interest and unethical conduct," became effective July 1, 2005. The office of administrative hearings, created effective July 1, 2004, began hearing administrative proceedings that began on or after July 1, 2005. Sec. 92(a), ch. 163, SLA 2004. No previous advisory opinions have discussed AS 24.60.030(i).

This new subsection provides:

(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.

² All references in this opinion to a legislator also apply to legislative employees subject to AS 24.60.

³ It may be difficult to determine from a constituent whether the matter of concern has reached the stage that this ethical prohibition applies so care should be taken to avoid contacting any person or entity that has the authority to make a final decision. It may be prudent for a legislator to make a call to the department administering a matter, to determine the appropriate person to contact for the information, in order to avoid inadvertently contacting a decision maker.

⁴ Under the Alaska Constitution, a person may not "be deprived of life, liberty, or property, without due process of law." The Alaska Supreme Court has interpreted this provision as requiring an impartial fact finder. In re Robson, 575 P.2d 771 (Alaska 1978); K & L Distributors, Inc. v. Murkowski, 486 P.2d 351 (Alaska 1971). Questioning of a decision-maker while the case is pending impairs the impartiality of the judicial process. It may even invalidate the decision reached in the matter, causing the whole matter to be reheard. "To subject an administrator to a searching examination as to how and why he reached his decision in a case still pending before him, . . . sacrifices the appearance of impartiality - the *sine qua non* [essential condition] of American *judicial* justice . . ." Pillsbury v. F.T.C., 354 F.2d 952, 963 (5th Cir Ct. of Appeals, 1966). "Legislative intervention which occurs during a pending decisional process of an agency endangers and may undermine the integrity of the ensuing decision, and it has been held that administrative decisions which are based in whole or in part on pressures emanating from the legislature may be invalid." 73 C.J.S. Sec. 31, Public Administrative Law and Procedure.

⁵ For example see AS 44.62.630 in the Administrative Procedure Act, also see AS 44.64.050(b) regarding the standard of conduct for hearing officers in the office of administrative hearings.

⁶ See AS 44.64.030 for the jurisdiction of the office of administrative hearings. Child support services and permanent fund dividend adjudications are under the jurisdiction of the office of administrative hearings.

AS 44.64.050 provides fundamental standards of conduct required of hearing officers. The chief administrative law judge is required to adopt regulations for a code of conduct.

. . . The following fundamental canons of conduct shall be included in the code: in carrying out official duties, an administrative law judge or hearing officer shall

- (1) uphold the integrity and independence of the office;
- (2) avoid impropriety and the appearance of impropriety;
- (3) perform the duties of the office impartially and diligently;
- (4) conduct unofficial activities in ways that minimize the risk of conflict with the obligations of the office; and
- (5) refrain from inappropriate activity in seeking employment with another agency or employer or in seeking reappointment.

The proposed draft regulations at 2 AAC 64.030 provide:

(b) The following guidelines apply to any determination on whether a hearing officer of administrative law judge has adhered to the canons [of hearing officer conduct]:

(1) The requirement to uphold the integrity and independence of the office, and of the hearing function, dictates that a hearing officer or administrative law judge establish and personally observe high standards of conduct and avoid improper ex parte communications with private and agency parties on the subject of a hearing request; so that the integrity and independence of the office and hearing function will be preserved;

. . . .
(3) The requirement to perform the duties of the office or of the hearing function impartially and diligently dictates that a hearing officer or administrative law judge . . .

(B) not initiate, permit, or consider improper ex parte communications, . . .

"improper ex parte communications" are defined at 2 AAC 64.990(13) as a direct or indirect, oral or written communication between a decision maker and a party to a proceeding, or another person trying to influence the decision maker, which occurs outside the presence of the other parties, and without a notice and an opportunity to participate being given to the other parties.

⁷ You have asked "can a legislator contact a decision maker to ask if there was other information that could be provided." This would require the decision maker or the administrator in charge of the case file to advise the legislator on how to conduct the case or influence the outcome. This would not be appropriate, as it impairs the impartiality of the hearing process.

⁸ The only exceptions are described in AS 24.60.030(i):

[e]xcept 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 . . .

AO 05-01 -6-

-5- AO 05-01

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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.¹

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. ² 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.³ 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

¹ 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.

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

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

AO 08-03 -4-

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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)¹ and 24.60.030(a)(5)², 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)¹. 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.⁴

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 language⁵. 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.⁶ 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.⁷ 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:

The ethics committee cannot comment on whether you have complied with legislative policy with regard to travel and per diem allowances.

Legislative Council is the body which sets those policies, and which is, together with the House and Senate leadership and the chair of legislative committees, responsible for interpreting and implementing that policy.

The ethics committee notes that in approving a request for travel funds, the individual entrusted with approval authority is responsible for reviewing the purpose of the proposed trip and determining that the use of travel money is a valid use of public funds.

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.⁸

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

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

¹ 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..."

² 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..."

³ 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."

⁴ 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..."

⁵ 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).

⁶ 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.

⁷ 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.

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

Document Properties	
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Title:	ADVISORY OPINION 10-01
Subject:	Conflict of Interest – Use of State Resources
Author:	Select Committee on Legislative Ethics
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May 28, 2009

ADVISORY OPINION 2009-02

SUBJECT: Close Economic Association – Medical Services

RE: Close Economic Association

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. Unless stated otherwise, the committee relies on facts that you have described in answering your questions.¹

Statement of Facts

You are also a licensed medical professional who sometimes provides outpatient medical services to legislative colleagues, including legislators and legislative employees, although you do not provide medical services to your supervisor or at your supervisor's direction. In some instances you provide medical services to a person on a one-time basis; in other instances you provide medical services in a series of appointments. In all instances you are paid at or close to the market value for the type of service you provide and you assess fees according to standards and practices commonly used in your profession. You are paid directly by your clients, although they may be eligible for reimbursement through a medical insurance benefit in some instances. You are subject to federal and state law, including the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), which require you to keep certain information relating to your services confidential.²

Discussion

You have asked if you are required to disclose the names of your clients, or other information about them, under AS 24.60.070, a section of the Legislative Ethics Act that requires disclosure of close economic associations. The section reads:

Sec. 24.60.070. Disclosure of close economic associations.

(a) A legislator or legislative employee shall disclose to the committee, which shall maintain a public record of the disclosure and forward the disclosure to the respective house for inclusion in the journal, the formation or maintenance of a close economic association involving a substantial financial matter with

(1) a supervisor who is not a member of the legislature who has responsibility or authority, either directly or indirectly, over the person's employment, including preparing or reviewing performance evaluations, or granting or approving pay raises or promotions; this paragraph does not apply to a public member of the committee;

- (2) legislators;
 - (3) a public official as that term is defined in AS 39.50;
 - (4) a registered lobbyist; or
 - (5) a legislative employee if the person required to make the disclosure is a legislator.
- (b) A legislator or legislative employee required to make a disclosure under this section shall make a disclosure by the date set under AS 24.60.105 of the legislator's or legislative employee's close economic associations then in existence. A disclosure under this section must be sufficiently detailed that a reader of the disclosure can ascertain the nature of the association.
- (c) When making a disclosure under (a) of this section concerning a relationship with a lobbyist to whom the legislative employee is married or who is the legislative employee's domestic partner, the legislative employee shall also disclose the name and address of each employer of the lobbyist and the total monetary value received by the lobbyist from the lobbyist's employer. The legislative employee shall report changes in the employer of the spouse or domestic partner within 48 hours after the change. In this subsection, "employer of the lobbyist" means the person from whom the lobbyist received amounts or things of value for engaging in lobbying on behalf of the person.
- (d) In this section, "close economic association" means a financial relationship that exists between a person covered by this chapter and some other person or entity, including but not limited to relationships where the person covered by this chapter serves as a consultant or advisor to, is a member or representative of, or has a financial interest in, any association, partnership, business, or corporation.

Your relationship with your clients is financial, as defined by subsection (d), since you are paid by your clients to provide a professional service. However, this does not necessarily mean that relationship involves a "substantial financial matter," something that subsection (a) requires of an economic relationship in order for it to be a close economic association and require disclosure under the Legislative Ethics Act, and we do not need to resolve that question in order to respond to your request.

In AO 88-01 we considered whether certain information about a lawyer-legislator's private clients, including their names, is exempt from the disclosure requirements of the Legislative Ethics Act. We said:

The statutory language is straightforward and on its face allows no exceptions. However, it is axiomatic that a state law may not be enforced to conflict with the state or federal constitution and, in some areas, federal legislation has preempted the state's regulatory power. Therefore the committee determines to read into the statute a limited exception. To the extent that disclosure would conflict with an established constitutional right or with a federal prohibition against disclosure which preempts state law, a legislator should disclose the existence of a client but not the client's name, and also disclose the subject of the representation and the body before which the matter is held.

For the same reasons we adopted the foregoing exception in 1988, today we read into the Legislative Ethics Act another exception to the Act's disclosure requirements: a person who is subject to the disclosure requirements of the Legislative Ethics Act may withhold disclosure of information they would otherwise be required by the Act to disclose, to the extent that disclosure would conflict with an established constitutional right or with the requirements of a federal law.

The federal Health Insurance Portability and Accountability Act (HIPAA) requires that providers of health care services maintain strict confidentiality of patient records. The Legislative Ethics Act does not require that you disclose information that HIPAA requires you to withhold; however, the exception

we have adopted in this opinion does not excuse compliance with the Act's disclosure requirements altogether. You are still required to comply with the disclosure requirements to the extent that your compliance does not conflict with HIPAA.

Conclusion

Based on the foregoing facts and for the reasons discussed above, the committee finds that AS 24.60.070 does not require you to disclose information that is required by law to be kept confidential, including information protected by confidentiality requirements of HIPAA. To the extent you are able to partially comply with the disclosure requirements of AS 24.60.070 without violating HIPAA requirements you should make a partial disclosure. You are responsible for determining what HIPAA requires of you in this regard, and for citing the specific HIPAA provisions that are relevant in your disclosure report to the committee.

Adopted by the Select Committee on Legislative Ethics on May 28, 2009.

Members present and concurring in this opinion were:

Senator Joe Thomas
Senator Tom Wagoner
Representative Berta Gardner
Representative John Coghill
H. Conner Thomas
Dennis "Skip" Cook
Ann Rabinowitz
Herman G. Walker, Jr.
Gary J. Turner, Chair

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¹ On the committee's behalf, legislative counsel contacted you by phone on February 18, 2009 and you provided factual information in that conversation that is supplemental to the written facts you provided on February 11, 2009.

² Although you have also asked that the committee advise you on the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), interpretation of that law exceeds the authority of this committee under AS 24.60.140 and 24.60.160. You are responsible for determining what HIPAA requires of you in this matter.

AO 09-02 -4-

-3- AO 09-02

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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.¹

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).² 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.³ 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

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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 18th (deadline for annual disclosures) and April 18th (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 complimented 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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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 27th 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.

KENTUCKY – CONDUCT OF LEGISLATORS

6.731 General standards of conduct -- Penalties.

A legislator, by himself or through others, shall not intentionally:

- (1) Use or attempt to use his influence as a member of the General Assembly in any matter which involves a substantial conflict between his personal interest and his duties in the public interest. Violation of this subsection is a Class A misdemeanor;
- (2) Use his official position or office to obtain financial gain for himself, any members of the legislator's family, or a business associate of the legislator. Violation of this subsection is a Class D felony;
- (3) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in direct contravention of the public interest at large. Violation of this subsection is a Class A misdemeanor;
- (4) Use public funds, time, or personnel for his private gain or that of another, unless the use is authorized by law. Violation of this subsection is a Class A misdemeanor;
- (5) Use public funds, time, or personnel for partisan political campaign activity, unless the use is:
 - (a) Authorized by law; or
 - (b) Properly incidental to another activity required or authorized by law, such as elections to constitutional or party offices within the General Assembly. Violation of this subsection is a Class A misdemeanor;
- (6) Use his official legislative stationery, or a facsimile thereof, to solicit a vote or a contribution for his or another person's campaign for election or reelection to public office, or use the great seal of the Commonwealth on his campaign stationery or campaign literature. For purposes of this subsection, "official legislative stationery" means the stationery used by a legislator on a day-to-day basis for correspondence related to his duties as a member of the General Assembly. Violation of this subsection is ethical misconduct.
- (7) While in the discharge of the duties of his office, become intoxicated by the use of spiritous, vinous, or malt liquors, or any controlled substance, as defined in KRS 218A.010. Any legislator who is unable, incompetent, or disqualified to discharge any of the duties of his office because of the use of spiritous, vinous, or malt liquors, or any controlled substance, as defined in KRS 218A.010, shall be deemed to have violated this subsection. Violation of this subsection is ethical misconduct.

Effective: September 16, 1993

History: Amended 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 6, effective September 16, 1993. -
- Amended 1988 Ky. Acts ch. 420, sec. 1, effective July 15, 1988. -- Created 1976 Ky. Acts ch. 262, sec. 6.

Formerly codified as KRS 6.775.

Montana Code Annotated 2009

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2-2-121. Rules of conduct for public officers and public employees. (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(2) A public officer or a public employee may not:

(a) subject to subsection (7), use public time, facilities, equipment, supplies, personnel, or funds for the officer's or employee's private business purposes;

(b) engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's or employee's agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency;

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the officer's or employee's supervisor and department director.

(3) (a) Except as provided in subsection (3)(b), a public officer or public employee may not use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:

(i) authorized by law; or

(ii) properly incidental to another activity required or authorized by law, such as the function of an elected public officer, the officer's staff, or the legislative staff in the normal course of duties.

(b) As used in this subsection (3), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. **With respect to ballot issues, properly incidental activities are restricted to:**

(i) the activities of a public officer, the public officer's staff, or legislative staff related to **determining the impact of passage or failure of a ballot issue on state or local government operations;**

(ii) in the case of a school district, as defined in Title 20, chapter 6, compliance with the requirements of law governing public meetings of the local board of trustees, including the resulting dissemination of information by a board of trustees or a school superintendent or a

designated employee in a district with no superintendent in support of or opposition to a bond issue or levy submitted to the electors. **Public funds may not be expended for any form of commercial advertising in support of or opposition to a bond issue or levy submitted to the electors.**

(c) This subsection (3) is not intended to restrict the right of a public officer or public employee to express personal political views.

(4) A candidate, as defined in 13-1-101(6)(a), may not use or permit the use of state funds for any advertisement or public service announcement in a newspaper, on radio, or on television that contains the candidate's name, picture, or voice except in the case of a state or national emergency and then only if the announcement is reasonably necessary to the candidate's official functions.

(5) A public officer or public employee may not participate in a proceeding when an organization, other than an organization or association of local government officials, of which the public officer or public employee is an officer or director is:

(a) involved in a proceeding before the employing agency that is within the scope of the public officer's or public employee's job duties; or

(b) attempting to influence a local, state, or federal proceeding in which the public officer or public employee represents the state or local government.

(6) A public officer or public employee may not engage in any activity, including lobbying, as defined in 5-7-102, on behalf of an organization, other than an organization or association of local government officials, of which the public officer or public employee is a member while performing the public officer's or public employee's job duties. The provisions of this subsection do not prohibit a public officer or public employee from performing charitable fundraising activities if approved by the public officer's or public employee's supervisor or authorized by law.

(7) A listing by a public officer or a public employee in the electronic directory provided for in 30-17-101 of any product created outside of work in a public agency is not in violation of subsection (2)(a) of this section. The public officer or public employee may not make arrangements for the listing in the electronic directory during work hours.

(8) A department head or a member of a quasi-judicial or rulemaking board may perform an official act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a statute and if the person complies with the disclosure procedures under 2-2-131.

(9) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee unless the member is also a full-time public employee.

(10) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local government from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to performing the official act.

History: En. 59-1706 by Sec. 6, Ch. 569, L. 1977; R.C.M. 1947, 59-1706; amd. Sec. 1, Ch. 59, L. 1991; amd. Sec. 7, Ch. 562, L. 1995; amd. Sec. 3, Ch. 42, L. 1997; amd. Sec. 3, Ch. 122, L. 2001; amd. Sec. 1, Ch. 58, L. 2003; amd. Sec. 1, Ch. 145, L. 2005; amd. Sec. 3, Ch. 173, L. 2005; amd. Sec. 1, Ch. 437, L. 2005.

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Room 204

REPRESENTATIVE JOHN COGHILL

Sectional Version D

Senate Bill 89 Ethic Amendments

Section 1. Replaces “lawful gratuity” with the word “gift”; and adds new language allowing compassionate gifts. This section also allows a legislator to use his or her legislative mailing list for nonlegislative purposes.

Section 2. Draws a bright line for legislators and legislative employee 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 employee may no longer make contact with the agency, unless the person is licensed in the state for such representation and the income from that representation is reported under AS 24.60.100. This section protects a legislator or legislative employee from inadvertent ex parte contact and allows contact if the legislator or legislative employee is a party or witness to the matter.

Section 3. This provision establishes a clear distinction as to when a legislator or legislative employee can participate in partisan activities and not be engaging in a prohibited conduct.

Section 4. This provision establishes a clear distinction as to when a legislator or legislative employee can participate in partisan activities that involve fundraising.

Section 5. This provision establishes how information that is not exempt from disclosure by a legislator or legislative employee will be retained and disclosed.

Section 6. Adds public members of the Select Committee on Legislative Ethics to the statute that prohibits disclosure of confidential information.

Section 7. Clarifies that a legislator or legislative employee may accept tickets for a Legislative Council sanctioned charity event or a gift from a sanctioned charity event from a lobbyist as long as it does not exceed \$250.00 in value.

Section 8. Clarifies that persons who are not lobbyists can give a ticket or a gift in connection with a charitable event sanctioned by the Legislative Council to a legislator or legislative employee that has a value of less than \$250.00. However, the recipient of the ticket must disclose to the Select Committee on Legislative Ethics the value of the ticket that exceeds the \$250.00 limit. Extends the reporting period to 60 days.

Section 9. Clarifies that if a legislator or legislative employee accepts tickets or a gift in connection with a charity event with a value of \$250 or more must be reported within 60 days.

Section 10. Allows exceptions from filing a disclosure if it would violate the United States Constitution, the Constitution of the State of Alaska, or any other state or federal law.

Section 11. Requires legislative volunteers and educational trainees to complete the legislative ethics class.

Section 12. Adds alternate members to disqualification provisions.

Section 13. If both members are disqualified, the presiding officer may appoint another member.

Section 14. Completely rewrites the section for alternate members. Allows House Speaker, Senate President, and Chief Justice to appoint alternate members. If those members are disqualified all three can appoint an alternate to the alternate.

Section 15. Adds legislative volunteer and educational trainee to the statute that requires people to complete the legislative ethics course.

Section 16. Defines legislative employee.

Section 17. Defines state travel.

Section 18. Repeals that section of law that Section 14 replaces dealing with alternate members of the Select Committee on Legislative Ethics.



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

SUMMARY OF CHANGES IN CSSB 89 (27-LS0452D)

Page 6, line 4, after “(a)(2)”; language is added to include subsection (a)(3) to clarify that limitations include (a)(2) – (a)(4); not (a)(2) and (a)(4). (Sec. 3)

Page 6, line 21; after “campaign activity,” **during the state travel** has been added to make language consistent with language in section 3. (Sec. 4)

Page 7, line 7; AS 24.60.050, **State Programs and Loans**, is amended to eliminate a requirement for the Ethics Committee to compile a list of loans and programs to submit to presiding officers, but rather requires them to maintain disclosures as public record and submit disclosures to presiding officers of legislature. (Sec. 5)

Page 8, lines 8 – 16; this subsection was rewritten to make it very clear a charity event ticket or charitable event gift may be received from a lobbyist, immediate family member, or a person acting on behalf of a lobbyist, but the gift cannot be valued at more than \$250 and it must be reported. (Sec. 7)

The new version deleted sections 9 and 10 of the original bill which extended deadlines for filing of disclosures for service on boards and commissions, interest in state contracts, participation in state loans, close economic associations, and representation of someone, as well as, other disclosures, from 30 days to 60 days. Under the new CS, the only disclosures extended to sixty days are reporting of gifts from a charitable event including tickets and gifts of travel for educational purposes.

Page 11, line 27; adds legislative volunteers or education trainees to the persons required to take the ethics class. (Sec. 11)

Page 12, line 10, (Section 12 of SB 89) AS 24.60.130(n) is repealed on page 14, line 30. It is reenacted under Sec 14 of Version D on page 12, line 30 - page 14, line 6. (Sec. 18)

Page 12, line 12; deletes reference to repealed AS 24.60.130(n) and adds reference to new section AS 24.60.131 to subsection (o). (Sec. 13)

Page 12, line 30 – page 14, line 6; new section that consolidates the appointment of alternate members by the legislature and the Alaska Supreme Court and the method of disqualification of regular members of the committee and appointing alternate members. (Sec. 14)

Page 14, line 7 – 17; added legislative volunteer and educational trainee to the statute establishing the legislative ethics course. (Sec. 15)

Page 14, lines 18 – 26; amends the statutory definition for “legislative employee”, to exclude hourly employees from ethics training, eliminating the specific listing of job positions. (Sec. 16)

Rynniva Moss

From: Joyce Anderson
Sent: Thursday, March 03, 2011 10:10 AM
To: Rynniva Moss
Subject: RE: Senate State Affairs Mtg

Importance: High

Skip Cook or one of the other public members from the committee will be available to testify. They are very well versed on the travel issue and the other sections of the bill. As a matter of fact, they may carry more weight with Sen Wielechowski and other committee members.

I would go ahead and schedule the bill for Thurs, March 17, since Sen Wielechowski has already agreed to hear it that week. He may change his mind for any number of reasons. There will be more hearings.

Let me know if it is scheduled and I will have Skip Cook mark that date on his calendar so he doesn't schedule another meeting.

Joyce

Joyce Anderson, Administrator
Select Committee on Legislative Ethics
269-0150

From: Rynniva Moss
Sent: Wednesday, March 02, 2011 4:12 PM
To: Joyce Anderson
Subject: RE: Senate State Affairs Mtg

Michelle said the redistricting board is presenting on the 15th.

From: Joyce Anderson
Sent: Wednesday, March 02, 2011 10:19 AM
To: Rynniva Moss
Subject: Senate State Affairs Mtg

Rynniva:

I talked to Michelle in Sen Wielechowski's office before I left Juneau yesterday and she told me the same information that you relayed to me that the bill will probably be scheduled for the week of March 14.

Just wanted to let you know that I will not be available to testify for a State Affairs meeting on Thurs that week. I was wondering if Sen Wielechowski could schedule SB 89 for Tues, March 15.

Let me know. Thanks.

If you think I should call Michelle, let me know.

Joyce Anderson

Administrator, Select Committee on Legislative Ethics

P.O. Box 101468

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(907) 269-0150

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ALASKA STATE HOUSE OF REPRESENTATIVES



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SENATOR JOHN COGHILL

Senate Bill 89 Legislative Ethics Amendments **Sponsor Statement**

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

First the bill makes a couple of housekeeping amendment. It adds reference to the compassionate gifts statute to AS 24.60.030(a) as an exception to "Prohibited conduct and conflicts of interest. It also places in statute an allowance of use of legislative mailing lists for campaign purposes.

Two amendments requested by the committee address tickets to charity events and disclosure of gifts of tickets for charitable events that have a value of more than \$250.00. They allow persons who are not lobbyists to give a gift of a ticket to a charitable event sanctioned by the Legislative Council to a legislator or legislative employee that has a value of more than \$250.00. However, the recipient of the ticket must disclose to the Select Committee on Legislative Ethics the value of the ticket that exceeds the \$250.00 limit. The bill clarifies that lobbyists, immediate family members of lobbyists, or persons acting on behalf of a lobbyist may not exceed the \$250 limit.

The bill also 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.

After over three years of discussion this bill is a first attempt to set standards by which a legislator or a legislative staffer can participate in a partisan activity or a campaign fundraiser.

The bill adds public members of the ethics committee to the statute prohibiting members from knowingly making unauthorized disclosure of confidential information.

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 an alternate.

The bill clarifies that disclosures prohibited by state and federal confidentiality laws are not required by the Select Committee on Legislative Ethics.



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 8, 2011

To: Senator Bill Wielechowski, Chairman
Senate State Affairs Committee

From: Senator John Coghill

A handwritten signature in black ink, appearing to read "JBC", with a long horizontal line extending to the right.

Re: Senate Bill 89 Legislative Ethics

I respectfully request a hearing on SB 89 An Act clarifying legislative ethics statutes.
I am attaching the back up for the hearing and looking forward to presenting it to the
Senate State Affairs Committee.

Thanks for your consideration.

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. Exception of 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.** 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.**
- 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.
- Sec. 14.** **Redefines legislative employee.**
- Sec. 15.** **Repeals old statute** describing the process for appointing alternates.

SB 89: Version T

Explanation of Changes

The committee substitute to SB 89 (version T) makes four changes to the bill:

- 1) It removes provisions allowing a legislator to use his/her legislative mailing list for campaign purposes.
 - On page 3 of version E, lines 3-4: deleted the underlined text
 - On page 4 of version E, lines 26-27: deleted the underlined text
- 2) It removes the provision allowing a legislator or legislative employee to campaign or participate in partisan activities while on state travel.
 - On page 6 of version E, deleted sections 3 and 4
- 3) It adds a provision stipulating that a legislator or legislative employee may request to refrain from making a disclosure if making the disclosure would violate a rule adopted formally by his or her trade or profession, if state or federal law requires the person to follow that rule.

For example, lawyers may be barred from revealing the name of a client if revealing the name of that client would cause the client harm.

My understanding is that state law requires attorneys licensed in the state to follow Alaska Bar Association rules.

This new language is on page 10, lines 15-18.

- 4) It adds language clarifying the requirement that volunteers or educational trainees complete the legislative ethics class. This requirement would only apply to volunteers or trainees who work more than 30 days. Casual or drop-in volunteers or trainees – those who come for an afternoon or several days – would not be required to take the course.

This is consistent with existing statute (AS 24.60.155), which requires employees who begin after the 10th day of the session to complete the course within 30 days.

27-LS0452VT
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

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
 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.

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

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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

or unable to participate

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
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES								
---------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (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.

Coghill introduces ethics bill

The Associated Press
(02/18/11 22:16:02)

JUNEAU -- Lawmakers could participate in some partisan political activities while on state travel under a measure introduced by Sen. John Coghill.

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.

The measure also would let lawmakers use legislative mailing lists for campaign purposes.

Bill would OK campaigning by lawmakers on state-paid trips

ETHICS: Chairman skeptical but likely to grant proposal a hearing.

By SEAN COCKERHAM
scockerham@adn.com The Associated Press
(03/01/11 07:46:11)

A bill that would let lawmakers campaign while traveling on the state's dime and use legislative mailing lists for their re-election efforts is drawing questions.

"I knew the moment it was introduced that it would be controversial," said Anchorage Democratic Sen. Bill Wielechowski, who holds the bill in his committee.

Wielechowski said he's skeptical of the proposal. But he said he'll likely give it a hearing and let North Pole Republican Sen. John Coghill come and make the case.

Coghill, the sponsor of Senate Bill 89, said he wants people to hear him out and not jump to conclusions. "As long as a guy can give a reasoned answer for what he stands for, I think people are willing to give you the benefit of thoughtfulness," he said.

He described the ethics bill as a task handed to him by the Legislature's ethics committee and several other lawmakers. He said he doesn't mind because he has experience in working on ethics laws but is aware of the pitfalls.

"It's a ticklish issue... it has to be handled deliberately, purposefully and resolutely. I guess I got the short straw when it came to wander out on this one," he said.

POLITICS AND TRAVEL?

Senate Bill 89 deals with a range of ethics issues. Some aren't likely to cause much dispute, like requiring an alternate on the ethics committee who starts hearing a confidential case to hear it all the way through.

Wielechowski said he's most skeptical of the part of the bill that would let legislators campaign on state-paid travel. It became an issue last year when the Legislature's ethics committee voted to start letting legislators campaign while traveling at state expense, including raising money for their political races.

There was a backlash, and the ethics committee quickly reversed the decision.

Coghill's bill does not go as far as what the ethics committee originally tried to do. He doesn't want to let legislators do fundraising while they're on state-paid travel.

"It's always unethical to go home on the state dime and do campaign fundraising. It's very, very clear," Coghill said.

But he said legislators are both policy makers and politicians when they're traveling at state expense, and his bill would give them guidelines on what they're allowed to do. His bill would allow

legislators or their staffers who are on state-paid travel participate in partisan activity, including campaigning for their re-elections. But they couldn't do so between 8 a.m. and 5 p.m. on a workday -- except for meal breaks -- and they couldn't do so within 30 days of the election.

Coghill said it shouldn't be considered unethical to go from Juneau on state travel to his home district during the legislative session, meet with constituents in the day, and go to the Republican Party's Lincoln Day dinner at night. There also shouldn't be a problem with him going to talk with his constituents in Glennallen, and then letting supporters have a rally, he said.

"We've created a place where people can make ethical charges when we're really not doing unethical things," he said.

Coghill has a reputation as a straight shooter. But he could have a hard time convincing the State Affairs Committee, chaired by Wielechowski, that this is worth doing.

"I'm just very skeptical of allowing partisan activity while people are on state travel," Wielechowski said. "I don't know that it gets much more than a hearing, but I think we'll give (Coghill) the opportunity to make the case."

"IS IT REASONABLE?"

Wielechowski also singled out the part of the bill that says lawmakers can use their legislative mailing lists for campaigns. "My concern with that is just allowing state resources to be used for campaign purposes," he said.

The Legislature's ethics committee has already said it's OK to do it. Lawmakers generally aren't allowed to use legislative resources for their own personal political gain. But the ethics committee put out an advisory opinion in 2004 that said a database of constituent information, put together with the help of legislative staff members, could later be used for the legislator's re-election campaign.

The advisory opinion basically said it was OK because it was a minimal use of public assets for legislators to make copies of their legislative databases to use in their campaigns. The database is considered to be the confidential property of the legislator.

Senate Bill 89 would put the advisory opinion into law. Coghill said he doesn't have strong feelings about the issue, but thinks it's reasonable because of how lawmakers put together the mailing lists.

Coghill said legislators often put the lists together during their campaigns, while they are raising money and trying to drum up votes. They then bring the information with them to Juneau, he said, and add people who contact their offices. The lists are then used to send out newsletters, surveys, and the like.

He said it would be difficult to separate the names added to the list during the campaign and names that came up while in office, especially since many of the names are the same.

"I don't think it's an unethical thing to do. And whenever I'm looking at ethics law, I'm looking at what is the ethical question? And does it cross a line or is it reasonable?" Coghill said.

Reach Sean Cockerham at scockerham@adn.com or 257-4344.

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

March 21, 2011

SUBJECT: Changes to CSSB 89(), regarding designation of alternate legislative members in proceedings under AS 24.60.170 (Work Order No. 27-LS0452\E)

TO: Representative John Coghill
Attn: Rynniva Moss

FROM: Dan Wayne 
Legislative Counsel

Enclosed is a new version of CSSB 89() with deletion of "or unable to serve", on page 13, lines 28 - 29. In the same sentence, on page 13, line 27, I deleted "in" and inserted "at the commencement of". Also, on page 13, line 17, following "alternate", I inserted the word "member" in order to make the sentence beginning on that line read better.

Please let me know if there is anything else I can do to assist you.

DCW:plm
11-170.plm

Enclosure

ALASKA STATE HOUSE OF REPRESENTATIVES

Interim Address:

3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271



Session Contact:
(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

SENATOR JOHN COGHILL

Sectional Version E

Senate Bill 89 Ethic Amendments

Section 1. Replaces “lawful gratuity” with the word “gift”; and adds new language allowing compassionate gifts. This section also allows a legislator to use his or her legislative mailing list for nonlegislative purposes. **Advisory Opinion 04-01**

Section 2. Draws a bright line for legislators and legislative employee 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 employee may no longer make contact with the agency, unless the person is licensed in the state for such representation and the income from that representation is reported under AS 24.60.100. This section protects a legislator or legislative employee from inadvertent ex parte contact and allows contact if the legislator or legislative employee is a party or witness to the matter. **Advisory Opinion 08-03 and 05-01**

Section 3. This provision establishes a clear distinction as to when a legislator or legislative employee can participate in partisan activities and not be engaging in a prohibited conduct. **Advisory Opinion 10-01**

Section 4. This provision establishes a clear distinction as to when a legislator or legislative employee can participate in partisan activities that involve fundraising. **Advisory Opinion 10-01**

Section 5. This provision establishes how information that is not exempt from disclosure by a legislator or legislative employee will be retained and disclosed. *Request of the Committee*

Section 6. Adds public members of the Select Committee on Legislative Ethics to the statute that prohibits disclosure of confidential information. *Request of the Committee*

Section 7. Clarifies that a legislator or legislative employee may accept tickets for a Legislative Council sanctioned charity event or a gift from a sanctioned charity event from a lobbyist as long as it does not exceed \$250.00 in value. *Request of the Committee*

Section 8. Clarifies that persons who are not lobbyists can give a ticket or a gift in connection with a charitable event sanctioned by the Legislative Council to a legislator or legislative employee that has a value of \$250.00 or more. However, the recipient of the ticket must disclose to the Select Committee on Legislative Ethics the value of the ticket that exceeds the \$250.00 limit. Extends the reporting period to 60 days. *Request of the Committee*

Section 9. Clarifies that if a legislator or legislative employee accepts tickets or a gift in connection with a charity event with a value of \$250 or more must be reported within 60 days. *Request of the Committee*

Section 10. Allows exceptions from filing a disclosure if it would violate the United States Constitution, the Constitution of the State of Alaska, or any other state or federal law. **Advisory Opinions 09-02 and 94-07**

Section 11. Requires legislative volunteers and educational trainees to complete the legislative ethics class. *Request of the Committee*

Section 12. Adds alternate members to disqualification provisions. *Request of the Committee*

Section 13. Adding reference to new section AS 24.60.131.pertaining to alternates to the statute providing that if both members are disqualified, the presiding officer may appoint another member. *Request of the Committee*

Section 14. Completely rewrites the section for alternate members for better clarification of the process, adds language allowing for an alternate participating in the beginning of a proceeding to attending meetings dealing with that specific proceeding to the end of the proceeding, and to add a provision allowing the Chief Justice to appoint an alternate public member to the ethics committee. *Request of the Committee*

Section 15. Adds legislative volunteer and educational trainee to the statute that requires people to complete the legislative ethics course. *Request of the Committee*

Section 16. Defines legislative employee.

Section 17. Defines state travel.

Section 18. Repeals that section of law that Section 14 replaces dealing with alternate members of the Select Committee on Legislative Ethics.

27-LS0452\E
Wayne
3/21/11

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:**

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

1 either the cost or value related to the use is nominal or the legislator or
2 legislative employee reimburses the state for the cost of the use;

3 (B) the use of a legislator's legislative mailing list for
4 campaign purposes, or the use of mailing lists, computer data, or other
5 information lawfully obtained from a government agency and available to the
6 general public for nonlegislative purposes;

7 (C) the legislative council, notwithstanding AS 24.05.190, from
8 designating a public facility for use by legislators and legislative employees for
9 health or fitness purposes; when the council designates a facility to be used by
10 legislators and legislative employees for health or fitness purposes, it shall
11 adopt guidelines governing access to and use of the facility; the guidelines may
12 establish times in which use of the facility is limited to specific groups;

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

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

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

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

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

30 (I) a legislator or legislative employee from soliciting,
31 accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable

1 organization in a state facility;

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

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

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

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

19 (5) use or authorize the use of state funds, facilities, equipment,
20 services, or another government asset or resource for the purpose of political fund
21 raising or campaigning; this paragraph does 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 a legislator's legislative mailing list, or the use
27 of mailing lists, computer data, or other information lawfully obtained from a
28 government agency and available to the general public for nonlegislative
29 purposes;

30 (C) storing or maintaining, consistent with (b) of this section,
31 election campaign records in a legislator's office:

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

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

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

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

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

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

30 (3) the contact is inadvertent and ex parte and the [(2)] fact and
31 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.

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:

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:

1 (c) A legislator or legislative employee who participates in a program or
2 receives a loan that is not exempt from disclosure under (a) of this section shall file
3 with the committee by the date required under AS 24.60.105 a disclosure stating the
4 amounts of the loans outstanding or benefits received during the preceding calendar
5 year from nonqualifying programs. If the committee requests additional information
6 necessary to determine the propriety of participating in the program or receiving the
7 loan, it shall be promptly provided. The committee shall **maintain the disclosure as a**
8 **public record and promptly forward the information contained in the disclosure**
9 [PROMPTLY COMPILE A LIST OF THE STATEMENTS INDICATING THE
10 LOANS AND PROGRAMS AND AMOUNTS AND SEND IT] to the presiding
11 officer of each house who shall have it published in the supplemental journals on or
12 before the next regularly scheduled publication of ethics disclosures. If a legislator or
13 legislative employee asks the committee to keep any part of the disclosure confidential
14 and a quorum of the committee determines by vote of a majority of committee
15 members that making the entire disclosure public would cause an unjustifiable
16 invasion of personal privacy, the committee may elect to publish only the fact that a
17 person has participated in the program and the amount of benefit that the unnamed
18 person received. The committee shall maintain the disclosure of the name of the
19 person as confidential and may only use the disclosure in a proceeding under
20 AS 24.60.170. If the disclosure becomes part of the record of a proceeding under
21 AS 24.60.170, the disclosure may be made public as provided in that section.

22 * **Sec. 6.** AS 24.60.060(a) is amended to read:

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

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

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

31 (1) solicit, accept, or receive, directly or indirectly, a gift worth \$250

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.

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

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

17 * **Sec. 10.** AS 24.60.105 is amended by adding a new subsection to read:

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

27 * **Sec. 11.** AS 24.60.112 is amended to read:

28 **Sec. 24.60.112. Applicability to volunteers and educational trainees.** A
29 legislative volunteer or educational trainee shall be considered to be a legislative
30 employee for purposes of compliance with AS 24.60.030 - 24.60.039, 24.60.060,
31 24.60.080, 24.60.085, 24.60.155, 24.60.158 - 24.60.170, 24.60.176, and 24.60.178. If

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].

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.

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 member appointed under (a) or (b) of this section participates at the commencement of
19 a 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 at the commencement of a
28 proceeding under AS 24.60.170 because they are disqualified under AS 24.60.130(h),
29 the presiding officer of the house in which the two members serve shall appoint from
30 that house an alternate and designate that alternate to participate in the proceeding;
31 however, if the two members who are not available to participate are not members of

1 the majority organizational caucus, the leader of the minority organizational caucus
2 with the greatest number of members shall appoint from that house an alternate and
3 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(l) 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.

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;

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.

30 * **Sec. 18.** AS 24.60.130(n) is repealed.