

HB

44

<TARGET><BILL>HB 44</BILL><SUBJECT>HB
44</SUBJECT><COMM>SJUD30</COMM></TARGET>

ALASKA STATE LEGISLATURE

Session

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Dept. of Administration
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Rep.Jason.Grenn@akleg.gov

REPRESENTATIVE JASON GRENN

SPONSOR STATEMENT

House Bill 44

Legislative Ethics: Voting & Conflicts

House Bill 44 aims to provide assurances that legislators are representing the public interest, promote transparency within state government, and bring Alaska's laws into conformity with most other states.

Currently, roughly half of U.S. state legislative bodies ban legislators from voting on legislation when they have a substantial financial interest in its outcome. HB 44 would bring Alaska in line with most other states by establishing a stronger conflict of interest standard than currently exists in Alaska statute. More clearly defining when a legislator has a voting conflict not only provides guidance on when conflicts should be declared, but also ensures for the public that true conflicts are being acknowledged and addressed by their elected officials.

HB 44 contains provisions to ensure conflicts are "substantial" before a legislator would be required to abstain from voting. Any benefit a legislator or a member of the legislator's immediate family might receive from supporting a particular piece of legislation would have to be greater than the benefit a large group of Alaskans would receive in order to require abstention. The bill recognizes the responsibility of legislators to vote, except in clear cases where the outcome of the vote would result in substantial personal financial gain. This includes cases where an immediate family member or a legislator's employer would receive a large and direct financial benefit.

Alaska has a strong history of standing apart from the rest of the country and blazing a trail for our state. However, in the case of legislative conflict of interest reform, the manner in which our standards set us apart from the rest of the nation does not best serve Alaskans. HB 44 seeks to bring Alaska in line with most other states, increasing transparency and ensuring every vote cast by the Legislature is one case for Alaska.

I urge your consideration and support of HB 44.



January 22, 2017

Alaska Public Interest Research Group
Lori Hanemann
Executive Director
P.O. Box 201416
Anchorage, AK 99520-1416

Representative Jason Grenn
State Capitol
Juneau, AK 99801

Dear Representative Grenn:

RE: House Bill 44. Legislative Ethics: Voting & Conflicts

On behalf of the Alaska Public Interest Research Group, we are sending our support of House Bill 44: LEGISLATIVE ETHICS: VOTING & CONFLICTS. As long time advocates for Alaskans' public interest, we want our legislators to pass bills which protect citizens in our state from corruption and corporate influence. We believe HB 44 brings more transparency and accountability to the legislative process by ensuring legislators are representing the people and the state, not favoring their own best interest or that of a business or corporate lobbyist. This Bill brings Alaska's voting process closer to the more fair practices in other states, giving Legislators procedures and rules to consistently handle conflicts of interest as they come up and allow them to recuse themselves when their influence would bring personal gain to them or their family. This is the right thing for both the legislators and the citizens, and it will give more confidence as the public learns and understands a vote is based on its value and not corporate influence.

Sincerely,

Lori Hanemann
AkPIRG Executive Director



The League of Women Voters

A Voice For Citizens, A Force For Change

P.O. Box 90079, Anchorage, AK 99509-0079

January 23, 2017

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Dear Representative Claman, Chariman of the House Judiciary Committee,

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The League of Women Voters of Alaska urges you to support HB 44 and send it on to its next committee of referral with a "Do Pass." Transparency in government is important to the League at all levels--local, state, and national. When an elected official has a conflict of interest, that official should not be voting on the legislation under consideration.

One of democracy's greatest challenges comes when citizens no longer think government represents or cares about them and, in response, fail to participate. We can see this erosion of confidence in the declining numbers of citizens who participate in our elections..

Part of what restores confidence is making it clear that legislators do not use their position for personal gain. We applaud the bill's sponsor for seeing that one way to restore confidence is to change the rule that has allowed legislators with a conflict to be excused from not voting. In this way, voters can be sure that the vote cast is not done for personal benefit.

We often hear supporters of the current practice say that to not vote is to deprive a district of its voice. The answer to that is that a vote cast under a cloud also deprives voters of knowing that the vote was cast for the benefit of the district and the state.

Again, thank you for giving the League the opportunity to speak in support of a bill that strengthens our democracy.

Sincerely,

Pat Redmond, President

League of Woman Voters Alaska

cc. Representative Jason Grenn



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Research Brief

TO: Senator Bill Wielechowski
FROM: Tim Spengler, Legislative Analyst
DATE: June 23, 2015
RE: Definition of Substantial Conflict of Interest in State Legislative Ethics Laws
LRS Report 15.423

You asked how states define substantial conflict of interest as it relates to legislative ethics. Specifically, you wished to know how legislative ethics commissions determine when a legislator has a conflict of interest that qualifies as substantial. You also asked about flexible thresholds and about definitions of the term "group" as they apply to ethics laws and commission rulings.

As you know, states typically require specific actions—such as abstaining from voting or declaring a conflict—of legislators who have a substantial conflict of interest in a matter before the legislature. While a number of states have some definition of substantial conflict of interest in statute, these definitions tend to be quite general. According to our review, it appears that state legislative ethics commissions (and similar bodies with different names) typically make case-by-case determinations of what is substantial—often with relatively broad guidelines to inform them. Mark Quiner, director, Center for Legislative Ethics in Government, National Conference of State Legislatures (NCSL), notes the following:

Most legislative ethics oversight bodies make a case-by-case determination of what constitutes "substantial" when it comes to conflict of interest determinations. The reasons may be because it would be difficult if not impossible to define "substantial" in a manner which would address all situations which may arise.¹

We identified 16 states—including Alaska—that describe in statute some sort of numerical or proportional threshold to apply to conflict of interest determinations. These states are Alabama, Alaska, Arkansas, Arizona, California, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New Mexico, Tennessee, Texas, Virginia and West Virginia. The values vary from percentages (for example, pertaining to stock holdings) to specific numerical values. In the table on the following page we provide the relevant citations from each of these states along with a brief summary of the thresholds. In the last section of this report we include information on conflict of interest in Alaska, which was provided to us by Jerry Anderson, administrator, Alaska's Select Committee on Legislative Ethics.²

We include, as Attachment A, an NCSL document entitled "Conflict of Interest Definitions," updated in 2014, which provides a thorough overview of conflict of interest statutes in all 50 states. We encourage you to peruse this document as it contains significantly more detail than our table on the following page.³ Another relevant NCSL product that you may find of interest is a table on state voting recusal provisions, which can be viewed at <http://www.ncsl.org/research/ethics/50-state-table-voting-recusal-provisions.aspx>. This NCSL table includes rules—senate, house, uniform, and/or joint—from states regarding when legislators can or must recuse themselves from the voting process. An example of such a rule is the following excerpt from California:

Joint Rule 44: Members can't participate, by voting or other action on the floor or in committee, on matters in which they have a personal interest, except they may participate in the final vote if they first file a statement.

¹ Mr. Quiner can be reached at (303) 364-7700.

² Mr. Anderson can be reached at (907) 269-0152. He noted that he is happy to talk with legislators on any matter regarding legislative ethics.

³ This document is also available at <http://www.ncsl.org/research/ethics/50-state-table-conflict-of-interest-definitions.aspx>.

**States with Numerical or Proportional Thresholds to Apply to
Conflict of Interest Determinations**

State	Citation	Summary of Thresholds ¹
Alabama	CA § 36-35-5	Interest greater than five percent of the value of any corporation, company or any other business entity
Alaska	AS 24.60.990(b)	Has or seeks contracts in excess of \$10,000 annually for goods or services with the legislature or with an agency of the state
Arkansas	ACA § 21-8-803	Owens more than ten percent of the stock of company
Arizona	ARS § 38-503	May not provide equipment, material, supplies, or services to a public agency in excess of \$1,000 annually
California	Cal Gov Code § 87103	Financial interest includes investment worth \$2,000 or more
Kansas	KSA § 46-229	Equitable interest exceeding \$5,000 or five percent of any business
Kentucky	KRS § 6.761	Own or control an interest of \$10,000 or more, or more than five percent of business
Louisiana	LSA § 42:1112	Control an interest in excess of 25 percent
Maryland	ACM § 15-511	Ten percent or more of stock; stock with a cumulative value of \$25,000 or more
Michigan	MCLA § 15.304	Owens more than one percent of total stock, or stock value of more than \$25,000
Mississippi	MC § 25-4-103	Owens ten percent or more in a business where public servant's net gain is more than \$1,000; owns two percent of a business where the net gain is greater than \$5,000
New Mexico	NMSA § 10-16-2	Owens interest greater than 20 percent
Tennessee	TCA § 8-50-502	Investment in excess of \$10,000 or five percent of the total capital
Texas	VTCA § 572.005	Owens more than ten percent of the voting interest in the business entity; owns more than \$25,000 of the fair market value of the business entity
Virginia	CV § 30-101	Interest in real estate or business exceeds \$10,000
West Virginia	WVC § 6B-2-5	Owens more than five percent of stock of company

Notes: These are states that we identified with thresholds that apply *in some way* to conflict of interest determinations. It is possible that other states have similar thresholds that our review did not uncover.

1) Please note these are extremely abbreviated excerpts from state laws. To put threshold summaries in perspective, we encourage you to consult the complete statutes available at the NCSL link below. It is important to note that these thresholds do not necessarily mean that lawmakers must recuse themselves from voting or take other particular actions.

Sources: National Conference of State Legislators (<http://www.ncsl.org/research/ethics/50-state-table-conflict-of-interest-definitions.aspx>), state ethics commission websites, and correspondence with state ethics commission staff.

You also asked whether any states apply a flexible threshold to substantial interest determinations to take into consideration the total assets of a legislator. We found no reference to the existence or application of such flexible thresholds in statutes, in rules, in the advisory opinions we reviewed, or in communications with ethics committee staff in the states we queried.

Additionally, you wished to know what constitutes a “group” in state ethics statutes. As you may know, most, if not all, conflict of interest statutes exempt legislators from conflicts of interest when the interest is no different from that of the public at large, their constituents, or a group or class in which the legislator is a member. Of the statutes and rules described in the NCSL documents and the ethics websites we reviewed, and according to the state ethics commission staff with whom we corresponded, many states include the term “group,” and also “industry,” “organization,” “profession,” and “occupation” in their ethics statutes. According to our review, states do not define such terms with any specificity.

Finally, you also asked how states deal with single items in a larger budget bill when a legislator has a conflict of interest in a single item. In Alaska, and in most states we reviewed, such a scenario is not addressed in statute, regulation, or rule. We also found scant evidence of ethics commissions issuing advisory opinions on this matter. We did get feedback from ethics personnel in a few states on how they address the issue, which we relate below.⁴ As you can see from this small sample, states apply a variety of approaches.

Connecticut: Legislator may vote on larger bills as long as they do not participate in any discussion or debate regarding a specific item in which they have a personal issue.

Massachusetts: Legislators may vote on the entire budget without raising an issue under the conflict law because the budget is not considered a particular matter. If the legislator has a conflict with respect to an individual line item, he or she will have to either file a disclosure before participating (if there is an appearance of a conflict) or abstain from participating (if there is an actual conflict) in that item.⁵

Montana: A legislator must disclose the conflict prior to voting on the bill, but determining whether there is a conflict is a subjective judgement by the legislator. A House member may abstain; a Senate member may not abstain.

Ohio: A legislator who had a conflict of interest within the budget bill is not able to participate via voting, discussing or deliberating (either formally or informally) on the budget bill.

Washington: Legislators cannot vote on a larger budget bill when they have a significant conflict of interest on any item in the bill.

Additionally, NCSL’s Mark Quiner informs us that in Wyoming—where he spent over 25 years as a legislative counsel—when lawmakers have conflicts of interest with a specific budget item, they declare the conflict and do not vote on that item. That does not prohibit a lawmaker from voting on the entire budget as a whole; he or she just has to declare a conflict of interest on that specific item or section. Mr. Quiner relates this happens with some regularity in Wyoming and he suspects many other states handle it similarly.

⁴ The information on these states came from email responses from state ethics commissions.

⁵ You may find of interest an advisory on the Massachusetts website regarding this issue, <http://www.mass.gov/ethics/education-and-training-resources/educational-materials/advisories/advisory-10-01-general-and-special-legislation.html>.

Alaska

In Alaska, a substantial interest is defined under AS 24.60.990(b) as follows:

A person has a substantial interest in legislative, administrative, or political action if the person (1) is not a natural person and will be directly and substantially affected financially by a legislative, administrative, or political action; (2) is a natural person and will be directly and substantially affected financially by a legislative, administrative, or political action in a way that is greater than the effect on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region; (3) has or seeks contracts in excess of \$10,000 annually for goods or services with the legislature or with an agency of the state; or (4) is a lobbyist. For the purpose of this subsection, the state, the federal government, and an agency, corporation, or other entity of or owned by the state or federal government do not have a substantial interest in legislative, administrative, or political action.

Jerry Anderson, administrator, Alaska's Select Committee on Legislative Ethics, relates that in a close economic association situation—described in AS 24.60.070—the Committee has determined that \$250 or more qualifies as substantial. Mr. Anderson provided us with advisory opinions AO 14-01 and AO 07-01 regarding close economic association, which we include as Attachment B.

Alaska does not apply flexible thresholds when making conflict determinations. Also, as we mentioned above, the state does not have statutes, rules, or advisory opinions pertaining to a legislator's action on a larger budget bill when a conflict on one aspect of the bill exists, according to Mr. Anderson.

We hope this is helpful. If you have questions or need additional information, please let us know.

Attachment A

"Conflict of Interest Definitions," NCSL, 2014

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Conflict of Interest Definitions

Updated February 2014

Whether it be in state constitution, statute or rule, all states address the potential of conflicts of interests for legislators. Definitions usually specify that a legislator may not have a personal or private interest or gain in a financial way by votes and in their legislative duties. States differ on how to handle the conflict - for more information on conflicts of interest and voting, visit our information on [Voting Recusal Provisions](#).

This table is intended to provide general information and does not necessarily address all aspects of this topic. Because the facts of each situation may vary, this information may need to be supplemented by consulting legal advisors.

The box allows you to conduct a full text search or use the dropdown menu option to select a state.

STATES	TITLE
Alabama	<p>§ 36-25-1</p> <p>(8) Conflict of interest. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs. A conflict of interest shall not include any of the following:</p> <ol style="list-style-type: none"> A loan or financial transaction made or conducted in the ordinary course of business. An occasional nonpecuniary award publicly presented by an organization for performance of public service. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for the personal attendance of a public official or public employee at a convention or other meeting at which he or she is scheduled to meaningfully participate in connection with his or her official duties and for which attendance no reimbursement is made by the state. Any campaign contribution, including the purchase of tickets to, or advertisements in journals, for political or testimonial dinners, if the contribution is actually used for political purposes and is not given under circumstances from which it could reasonably be inferred that the purpose of the contribution is to substantially influence a public official in the performance of his or her official duties. <p>§ 36-25-5</p> <p>(f) A conflict of interest shall exist when a member of a legislative body, public official, or public employee has a substantial financial interest by reason of ownership of, control of, or the exercise of power over any interest greater than five percent of the value of any corporation, company, association, or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation; or who is an officer or director for any such corporation, company, association, or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation.</p>
Alaska	<p>§ 24.60.030</p> <p>Prohibitions related to conflicts of interest and unethical conduct.</p> <p>(a) A legislator or legislative employee may not</p> <ol style="list-style-type: none"> solicit, agree to accept, or accept a benefit other than official compensation for the performance of public duties; this paragraph may not be construed to prohibit lawful solicitation for and acceptance of campaign contributions or the acceptance of a lawful gratuity under AS 24.60.080; 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; this paragraph does not prohibit <p>(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</p>

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interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;

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

(C) telephone or facsimile use that does not carry a special charge;

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

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

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

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

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

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

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

(C) telephone or facsimile use that does not carry a special charge;

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

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

(b) A legislative employee may not on government time assist in political party or candidate activities, campaigning, or fund raising. A legislator may not require an employee to perform an act in violation of this subsection.

(f) A legislative employee may not serve in a position that requires confirmation by the legislature. A legislator or legislative employee may serve on a board of an organization, including a governmental entity, that regularly has a substantial interest in the legislative activities of the legislator or employee if the legislator or employee discloses the board membership to the committee. A legislator or legislative employee who is required to make a disclosure under this subsection shall file the disclosure with the committee by the deadlines set out in AS 24.60.105 stating the name of each organization on whose board the person serves. The committee shall maintain a public record of the disclosure and forward the disclosure to the appropriate house for inclusion in the journal. This subsection does not require a legislator or legislative employee who is appointed to a board by the presiding officer to make a disclosure of the appointment to the committee if the appointment has been published in the appropriate legislative journal during the calendar year.

(g) Unless required by the Uniform Rules of the Alaska State Legislature, a legislator may not vote on a question if the legislator has an equity or ownership interest in a business,

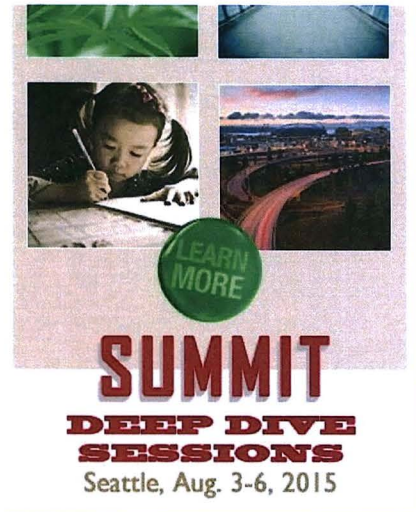
investment, real property, lease, or other enterprise if the interest is substantial and the effect on that interest of the action to be voted on is greater than the effect on a substantial class of persons to which the legislator belongs as a member of a profession, occupation, industry, or region...

Arizona

§ 38-503

A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public



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agency and shall refrain from participating in any manner as an officer or employee in such decision.

C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that: 1. A school district governing board may purchase, as provided in sections 15-213 and 15-323, supplies, materials and equipment from a school board member. 2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.

D. Notwithstanding subsections A and B of this section and as provided in sections 15-421 and 15-1441, the governing board of a school district or a community college district may not employ a person who is a member of the governing board or who is the spouse of a member of the governing board.

§ 38-502

3. "Make known" means the filing of a paper which is signed by a public officer or employee and which fully discloses a substantial interest or the filing of a copy of the official minutes of a public agency which fully discloses a substantial interest. The filing shall be in the special file established pursuant to section 38-509.

10. "Remote interest" means:

- (a) That of a nonsalaried officer of a nonprofit corporation.
 - (b) That of a landlord or tenant of the contracting party.
 - (c) That of an attorney of a contracting party.
 - (d) That of a member of a nonprofit cooperative marketing association.
 - (e) The ownership of less than three per cent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five per cent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five per cent of his total annual income.
 - (f) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
 - (g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.
 - (h) That of a public school board member when the relative involved is not a dependent, as defined in section 43-1001, or a spouse.
 - (i) That of a public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or his relative, of any of the following:
 - (i) Another political subdivision.
 - (ii) A public agency of another political subdivision.
 - (iii) A public agency except if it is the same governmental entity.
 - (j) That of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.
11. "Substantial interest" means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

House Rule 35 (E)(2) & Senate Rule 30 (E)(2)

A personal financial interest exists if it is reasonably foreseeable that an action in the discharge of his official duties will have a material financial benefit or detriment either directly or indirectly on the member, his spouse or any minor child of whom he has legal custody, except that no personal financial interest exists if the legislator or such member of his household is a member of a class of persons and it reasonably appears that a majority of the total membership of that class is to be affected by such action.

Arkansas

§ 21-8-803

(a) A legislator who is required to take an action in the discharge of his or her official duties that may affect his or her financial interest or cause financial benefit or detriment to him, or a business in which he or she is an officer, director, stockholder owning more than ten percent (10%) of the stock of the company, owner, trustee, partner, or employee, which is distinguishable from the effects of the action on the public generally or a broad segment of the public, shall:

(1) Prepare a written statement describing the matter requiring action and stating the potential conflict; and (2) (A) Deliver a copy of the statement to the appropriate official to be filed with the statement of financial interest. (B) The copy of the statement may be delivered in person by the public official, by mail, or by a person authorized by the public official to deliver the copy.

(b) The obligation to report a potential conflict of interest under this section arises as soon as the legislator is aware of the conflict. (c) If the statement of financial interest filed by the legislator makes the conflict readily apparent, then no report need be filed.

California

Joint Rule 44

A person subject to this rule (recusal) has an interest that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state, or a personal interest, arising from any situation, within the scope of this rule, if he or she has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity. He or she does not have an interest that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state, or a personal interest, arising from any situation, within the scope of this rule, if any benefit or detriment accrues to him or her as a member of a business, profession, occupation, or group to no greater extent than any other member of the business, profession, occupation, or group....

GOVERNMENT CODE; Title 9. Political Reform; Chapter 7. Conflicts of Interest; Article 1. General Prohibition
 § 87100. Prohibition because of financial interest.

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

GOVERNMENT CODE; Title 9. Political Reform; Chapter 7. Conflicts of Interest; Article 1. General Prohibition
 § 87101. Exception when participation in decision required.

Section 87100 does not prevent any public official from making or participating in the making of a governmental decision to the extent his participation is legally required for the action or decision to be made. The fact that an official's vote is needed to break a tie does not make his participation legally required for purposes of this section.

GOVERNMENT CODE; Title 9. Political Reform; Chapter 7. Conflicts of Interest; Article 1. General Prohibition
 § 87102.5. Application of remedies of Fair Political Practices Act.

(a) The remedies provided in Chapter 3 (commencing with Section 83100) shall apply to any Member of the Legislature who makes, participates in making, or in any way attempts to use his or her official position to influence any of the following governmental decisions in which he or she knows or has reason to know that he or she has a financial interest:

- (1) Any state governmental decision, other than any action or decision before the Legislature, made in the course of his or her duties as a member.
- (2) Approval, modification, or cancellation of any contract to which either house or a committee of the Legislature is a party.
- (3) Introduction as a lead author of any legislation that the member knows or has reason to know is nongeneral legislation.
- (4) Any vote in a legislative committee or subcommittee on what the member knows or has reason to know is nongeneral legislation.
- (5) Any rollcall vote on the Senate or Assembly floor on an item which the member knows is nongeneral legislation.
- (6) Any action or decision before the Legislature in which all of the following occur:

- (A) The member has received any salary, wages, commissions, or similar earned income within the preceding 12 months from a lobbyist employer.
- (B) The member knows or has reason to know the action or decision will have a direct and significant financial impact on the lobbyist employer.
- (C) The action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(7) Any action or decision before the Legislature on legislation that the member knows or has reason to know will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the member has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(b) For purposes of this section, all of the following apply:

- (1) "Any action or decision before the Legislature" means any vote in a committee or subcommittee, or any rollcall vote on the floor of the Senate or Assembly.
- (2) "Financial interest" means an interest as defined in Section 87103.
- (3) "Legislation" means a bill, resolution, or constitutional amendment.
- (4) "Nongeneral legislation" means legislation that is described in Section 87102.6 and is not of a general nature pursuant to Section 16 of Article IV of the Constitution.
- (5) A Member of the Legislature has reason to know that an action or decision will have a direct and significant financial impact on a person with respect to which disqualification may be required pursuant to subdivision (a) if either of the following apply:

- (A) With the knowledge of the member, the person has attempted to influence the vote of the member with respect to the action or decision.
- (B) Facts have been brought to the member's personal attention indicating that the action or decision will have a direct and significant impact on the person.

(6) The prohibitions specified in subdivision (a) do not apply to a vote on the Budget Bill as a whole, or to a vote on a consent calendar, a motion for reconsideration, a waiver of any

legislative rule, or any purely procedural matter.

(7) A Member of the Legislature has reason to know that legislation is nongeneral legislation if facts have been brought to his or her personal attention indicating that it is nongeneral legislation.

(8) Written advice given to a Member of the Legislature regarding his or her duties under this section by the Legislative Counsel shall have the same effect as advice given by the commission pursuant to subdivision (b) of Section 83114 if both of the following apply:

(A) The member has made the same written request based on the same material facts to the commission for advice pursuant to Section 83114 as to his or her duties under this section, as the written request and facts presented to the Legislative Counsel.

(B) The commission has not provided written advice pursuant to the member's request prior to the time the member acts in good faith reliance on the advice of the Legislative Counsel.

GOVERNMENT CODE; Title 9. Political Reform; Chapter 7. Conflicts of Interest; Article 1. General Prohibition
§ 87102.6. "Nongeneral legislation".

(a) "Nongeneral legislation" means legislation as to which both of the following apply:

(1) It is reasonably foreseeable that the legislation will have direct and significant financial impact on one or more identifiable persons, or one or more identifiable pieces of real property.

(2) It is not reasonably foreseeable that the legislation will have a similar impact on the public generally or on a significant segment of the public.

(b) For purposes of this section and Section 87102.5, all of the following apply:

(1) "Legislation" means a bill, resolution, or constitutional amendment.

(2) "Public generally" includes an industry, trade, or profession.

(3) Any recognized subgroup or specialty of the industry, trade, or profession constitutes a significant segment of the public.

(4) A legislative district, county, city, or special district constitutes a significant segment of the public.

(5) More than a small number of persons or pieces of real property is a significant segment of the public.

(6) Legislation, administrative action, or other governmental action impacts in a similar manner all members of the public, or all members of a significant segment of the public, on which it has a direct financial effect, whether or not the financial effect on individual members of the public or the significant segment of the public is the same as the impact on the other members of the public or the significant segment of the public.

(7) The Budget Bill as a whole is not nongeneral legislation.

(8) Legislation that contains at least one provision that constitutes nongeneral legislation is nongeneral legislation, even if the legislation also contains other provisions that are general and do not constitute nongeneral legislation.

GOVERNMENT CODE; Title 9. Political Reform; Chapter 7. Conflicts of Interest; Article 1. General Prohibition

§ 87102.8. Use of official position to influence governmental decision in which official has financial interest.

(a) No elected state officer, as defined in subdivision (f) of Section 14 of Article v. of the California Constitution, shall make or participate in the making of, or use his or her official position to influence, any governmental decision before the agency in which the elected state officer serves, where he or she knows or has reason to know that he or she has a financial interest.

(b) An elected state officer knows or has reason to know that he or she has a financial interest in any action by, or a decision before the agency in which he or she serves where either of the following occur:

(1) The action or decision will have a direct and significant financial impact on a lobbyist employer from which the officer has received any salary, wages, commissions, or similar earned income within the preceding 12 months and the action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(2) The action or decision will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the officer has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(c) The definitions of "public generally" and "significant segment of the public" contained in Section 87102.6 shall apply to this section.

(d) Notwithstanding Section 87102, the remedies provided in Chapter 3 (commencing with Section 83100) shall apply to violations of this section.

GOVERNMENT CODE; Title 9. Political Reform; Chapter 7. Conflicts of Interest; Article 1. General Prohibition
§ 87103. Financial interest.

A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

- (a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.
- (b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.
- (c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.
- (d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.
- (e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (f) of Section 89503.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

Colorado

Colo. Const. Art. 5, § 43

A member who has a personal or private interest in any measure or bill proposed or pending before the general assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

House Rule 21

"A member who has an immediate personal or financial interest in any bill or measure proposed or pending before the General Assembly shall disclose the fact to the House, and shall not vote upon such bill or measure."

Senate Rule 17

"Any Senator having a personal or private interest in any question or bill pending, shall disclose such fact to the Senate and shall not vote thereon, and if the vote be by ayes or noes, such fact shall be entered in the journal."

Senate Rule 41

(b) Conflicts of interest - personal or private interests versus public interest - definition.

(1) Subject to article V, section 43, of the state constitution, a Senator has the right to vote upon all questions before the Senate and to participate in the business of the Senate and its committees, and, in so doing, is presumed to act in good faith and in the public interest. When a personal interest conflicts with the public interest and tends to affect the Senator's independence of judgment, legislative activities are subject to limitations. Where any such conflict exists, it disqualifies the Senator from voting upon any question and from attempting to influence any legislation to which it relates.

(2) A question arises as to whether a personal or private interest tends to affect a Senator's independence of judgment if the Senator:

- (A) Has or acquires a substantial economic interest by reason of the Senator's personal situation, distinct from that held generally by members of the same occupation, profession, or business, in a measure proposed or pending before the General Assembly; or has a close relative or close economic associate with such an interest.
- (B) Has or acquires a financial interest in an enterprise, direct or indirect, which enterprise or interest would be affected by proposed legislation differently from like enterprises.
- (C) Has or acquires a close economic association with, or is a close relative of, a person who has a financial interest in an enterprise, direct or indirect, which enterprise or interest would be affected by proposed legislation differently from like enterprises.
- (D) Has or acquires a close economic association with, or is a close relative of, a person who is a lobbyist or who employs or has employed a lobbyist to propose legislation or to influence proposed legislation on which the Senator has or may be expected to vote.
- (E) Accepts a gift, loan, service, or economic opportunity of significant value from a person who would be affected by or who has an interest in an enterprise which would be affected by proposed legislation. This provision shall likewise apply where such gift, loan, service, or opportunity is accepted by a close relative of the Senator. It shall not normally apply in the following cases: A commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of this state to engage in the business of making loans; an occasional nonpecuniary gift, insignificant in value; a nonpecuniary award publicly presented by a nonprofit organization in recognition of public service; or payment of or reimbursement for actual and necessary expenditures for travel and subsistence for personal attendance at a convention or other meeting at which the Senator is scheduled to participate and for which attendance no reimbursement is made by the state of Colorado.

Connecticut

TITLE 1 PROVISIONS OF GENERAL APPLICATION ; CHAPTER 10 CODES OF ETHICS;
PART I CODE OF ETHICS FOR PUBLIC OFFICIALS

§ 1-85. (Formerly Sec. 1-68). Interest in conflict with discharge of duties.

A public official, including an elected state official, or state employee has an interest which is in substantial conflict with the proper discharge of his duties or employment in the public interest and of his responsibilities as prescribed in the laws of this state, if he has reason to believe or

and of his responsibilities as prescribed in the laws of this state, if he has reason to believe or expect that he, his spouse, a dependent child, or a business with which he is associated will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity. A public official, including an elected state official, or state employee does not have an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed by the laws of this state, if any benefit or detriment accrues to him, his spouse, a dependent child, or a business with which he, his spouse or such dependent child is associated as a member of a profession, occupation or group to no greater extent than any other member of such profession, occupation or group. A public official, including an elected state official or state employee who has a substantial conflict may not take official action on the matter.

Delaware

TITLE 29. STATE GOVERNMENT; PART II. THE GENERAL ASSEMBLY; CHAPTER
10. LEGISLATIVE CONFLICTS OF INTEREST
§ 1002. Restrictions relating to personal or private interest.

(a) A legislator who has a personal or private interest in any measure or bill pending in the General Assembly shall disclose the fact to the House of which he or she is a member and shall not participate in the debate nor vote thereon; provided, that upon the request of any other member of the House or Senate, as the case may be, a legislator who has such a personal or private interest may nevertheless respond to questions concerning any such measure or bill. A personal or private interest in a measure or bill is an interest which tends to impair a legislator's independence of judgment in the performance of his or her legislative duties with respect to that measure or bill.

(b) A legislator has an interest which tends to impair his or her independence of judgment in the performance of his or her legislative duties with regard to any bill or measure when:

- (1) The enactment or defeat of the measure or bill would result in a financial benefit or detriment to accrue to the legislator or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons; or
- (2) The legislator or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by a measure or bill to a lesser or greater extent than like enterprises or other interests in the same enterprise; or
- (3) A person required to register as a legislative agent pursuant to Chapter 16 of this title is a close relative of the legislator and that person acts to promote, advocate, influence or oppose the measure or bill.

(c) Disclosure required under subsection (a) of this section shall be made in open session:

- (1) Prior to the vote on the measure or bill by any committee of which the legislator is a member; and
- (2) Prior to the vote on the measure or bill in the House of which the legislator is a member.

(d) A legislator who violates the provisions of this section shall be subject to such sanction as shall be prescribed by the House of which he or she is a member pursuant to rules adopted under article II, § 9 of the Delaware Constitution.

District of
Columbia

TITLE 1. GOVERNMENT ORGANIZATION; CHAPTER 11. ELECTION CAMPAIGNS;
LOBBYING; CONFLICT OF INTEREST; SUBCHAPTER I. GENERAL PROVISIONS; PART
F. CONFLICT OF INTEREST AND DISCLOSURE
§ 1-1106.01. Conflict of interest [Formerly § 1-1461].

(a) The Congress declares that elective and public office is a public trust, and any effort to realize personal gain through official conduct is a violation of that trust.

(b) No public official shall use his or her official position or office to obtain financial gain for himself or herself, any member of his or her household, or any business with which he or she or a member of his or her household is associated, other than that compensation provided by law for said public official. This subsection shall not affect a vote by a public official: (1) On any matter which affects a class of persons (such a class shall include no less than 50 persons) of which such public official is a member if the financial gain to be realized is de minimis; (2) on any matter relating to such public official's compensation as authorized by law; or (3) regarding any elections law. If an action is taken by any department, agency, board, or commission of the District of Columbia, except by the Council of the District of Columbia, in violation of this section, such action may be set aside and declared void and of no effect, upon a proper order of a court of competent jurisdiction.

(c) No person shall offer or give to a public official or a member of a public official's household, and no public official shall solicit or receive anything of value, including a gift, favor, service, loan gratuity, discount, hospitality, political contribution, or promise of future employment, based on any understanding that such public official's official actions or judgment or vote would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence the public official in the discharge of his or her duties, or as a reward, except for political contributions publicly reported pursuant to § 1-1102.06 and transactions made in the ordinary course of business of the person offering or giving the thing of value.

(d) No person shall offer or pay to a public official, and no public official shall solicit or receive any money, in addition to that lawfully received by the public official in his or her official capacity, for advice or assistance given in the course of the public official's employment or relating to his or her employment.

(e) No public official shall use or disclose confidential information given in the course of or by reason of his or her official position or activities in any way that could result in financial gain for

himself or herself or for any other person.

(f) No member or employee of the Council of the District of Columbia or Board of Education of the District of Columbia shall accept assignment to serve on a committee the jurisdiction of which consists of matters (other than of a de minimis nature) in which he or she or a member of his or her family or a business with which he or she is associated, has financial interest.

(g) Any public official who, in the discharge of his or her official duties, would be required to take an action or make a decision that would affect directly or indirectly his or her financial interests or those of a member of his or her household, or a business with which he or she is associated, or must take an official action on a matter as to which he or she has a conflict situation created by a personal, family, or client interest, shall:

- (1) Prepare a written statement describing the matter requiring action or decision, and the nature of his or her potential conflict of interest with respect to such action or decision;
- (2) Cause copies of such statement to be delivered to the District of Columbia Board of Elections and Ethics (referred to in this subchapter as the "Board"), and to his or her immediate superior, if any;
- (3) If he or she is a member of the Council of the District of Columbia or member of the Board of Education of the District of Columbia, or employee of either, deliver a copy of such statement to the Chairman thereof, who shall cause such statement to be printed in the record of proceedings, and, upon request of said member or employee, shall excuse the member from votes, deliberations, and other action on the matter on which a potential conflict exists;
- (4) If he or she is not the Mayor or a member of the Council of the District of Columbia, his or her superior, if any, shall assign the matter to another employee who does not have a potential conflict of interest, or, if he or she has no immediate superior, except the Mayor, he or she shall take such steps as the Board prescribes through rules and regulations to remove himself or herself from influence over actions and decisions on the matter on which potential conflict exists; and
- (5) During a period when a charge of conflict of interest is under investigation by the Board, if he or she is not the Mayor or a member of the Council of the District of Columbia or a member of the Board of Education, his or her superior, except the Mayor, if any, shall have the arbitrary power to assign the matter to another employee who does not have a potential conflict of interest, or if he or she has no immediate superior, he or she shall take such steps as the Board shall prescribe through rules and regulations to remove himself or herself from influence over actions and decisions on the matter on which there is a conflict of interest.

(h) Neither the Mayor nor any member of the Council of the District of Columbia may represent another person before any regulatory agency or court of the District of Columbia while serving in such office. The preceding sentence does not apply to an appearance by such an official before any such agency or court in his or her official capacity or to the appearance by a member of the Council (not the Chairman) licensed to practice law in the District of Columbia, before any court or non-District of Columbia regulatory agency in any matter which does not affect his or her official position.

(h-1)

- (1) No member of a board or commission shall be eligible for appointment by the members of that board or commission to any paid office or position under the supervision of that board or commission.
- (2) No former member of a board or commission shall be eligible for appointment to any paid office or position under the supervision of the board or commission on which he or she served, unless

- (A) At least 45 days have passed since the date of termination of his or her service as a member of the board or commission; and
- (B) He or she has followed the same employment application requirements required of other applicants for the paid office or position.

(i) As used in this section, the term:

- (1) "Public official" means any person required to file a financial statement under § 1-1106.02.
- (2) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock, trust, and any legal entity through which business is conducted for profit.
- (3) "Business with which he or she is associated" means any business of which the person or member of his or her household is a director, officer, owner, employee, or holder of stock worth \$ 1,000 or more at fair market value, and any business which is a client of that person.
- (4) "Household" means the public official and his or her immediate family.
- (5) "Immediate family" means the public official's spouse and any parent, brother, or sister, or child of the public official, and the spouse of any such parent, brother, sister, or child.

Florida

§ 112.3143. Voting conflicts.

...

- (2) No state public officer is prohibited from voting in an official capacity on any matter. However, any state public officer voting in an official capacity upon any measure which would inure to the officer's special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained; or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer shall, within 15 days after the vote occurs, disclose the nature of his or her

interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

§ 112.312. Definitions.

...

(8) Conflict or conflict of interest means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

Georgia

§ 45-10-3. Code of ethics for members of boards, commissions, and authorities -- Establishment and text.

Notwithstanding any provisions of law to the contrary, each member of all boards, commissions, and authorities created by general statute shall:

...

(9) Never take any official action with regard to any matter under circumstances in which he knows or should know that he has a direct or indirect monetary interest in the subject matter of such matter or in the outcome of such official action.

§ 45-10-90. Definitions. As used in this part, the term:

(1) "Abuse of official power" means threatening to use the powers or personnel of a state entity for personal purposes of coercion, retaliation, or punishment.

(4) "Conflict of interest" means an individual has multiple interests and uses his or her official position to exploit, in some way, his or her position for his or her own direct, unique, pecuniary, and personal benefit.

(6) "Improper conduct" means a member of the General Assembly:

- (A) Engages in conduct that is a conflict of interest;
- (B) Engages in conduct that is an abuse of official power; or
- (C) Illegally uses an employee in a political campaign

House Rule 133

Members are expected to abstain from voting if they are "immediately and particularly interested."

Senate Rule 1-4.1

(d) No Senator shall vote upon any question if the Senator or any member of the Senator's immediate family has a direct pecuniary interest in the result of such vote which interest is distinct, unique or peculiar to the Senator or the Senator's immediate family.

Senate Rule 1-4.3

(a) Senators and staff shall avoid financial conflicts of interest and close economic associations where official action or decisions are motivated not by public duty but by economic self-interest or association. "Financial conflicts of interest and close economic associations" are defined as those financial interests or interests arising from close economic associations with other persons or entities which are so material, direct, distinct, unique, and peculiar to the Senator or staff that it might reasonably be expected that impartial official judgment could not be exercised.

Guam

TITLE 4. PUBLIC OFFICERS AND EMPLOYEES; CHAPTER 15. STANDARD OF CONDUCT FOR ELECTED OFFICERS, APPOINTED OFFICERS, AND PUBLIC EMPLOYEES OF THE GOVERNMENT OF GUAM; ARTICLE 2. SPECIFIED STANDARDS
§ 15205. Conflicts of Interest.

(a) No employee shall take any official action directly affecting:

- (1) business or other undertaking in which the employee has a financial interest; or
- (2) private undertaking in which the employee is engaged as legal counsel, advisor, consultant, representative, or other agency capacity. A department head who is unable to be disqualified on any matter described in item (1) or (2) of this Subsection may be in violation of this Subsection even if the individual has complied with the disclosure requirements of § 15208; and a person whose position on a board, commission or committee is mandated by statute, resolution or executive order to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which such person has a financial interest; provided that the financial interest is related to the member's particular qualifications.

(b) No employee shall acquire financial interests in any business or other undertaking which the employee has reason to believe may be directly involved in official action to be taken by the employee.

(c) No employee shall assist any person or business or act in a representative capacity before any territorial agency for any compensation in any transaction involving the Territory.

(d) No employee shall assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim, or other transaction or proposal in which the employee has participated or will participate as an employee, nor shall the employee assist any person, or business, or act in a representative capacity for a fee or other compensation on such bill, contract, claim, or other transaction or

proposal before the Legislature or territorial agency of which the individual is an employee.

(e) No employee shall assist any person or business or act in a representative capacity before a territorial agency for a fee or other compensation, on any bill, contract, claim, or other transaction or proposal involving official action by the agency if the employee has official authority over that agency unless such employee has complied with the disclosure requirements of § 15208.

(f) Nothing herein shall preclude an employee from having outside business interests or employment so long as such interests or employment do not interfere with performance of official duties and is not otherwise in direct conflict with this Chapter.

Hawaii

§ 84-14. Conflicts of interests.

(a) No employee shall take any official action directly affecting:

(1) A business or other undertaking in which he has a substantial financial interest; or (2) A private undertaking in which he is engaged as legal counsel, advisor, consultant, representative, or other agency capacity. A department head who is unable to disqualify himself on any matter described in items (1) and (2) above will not be in violation of this subsection if he has complied with the disclosure requirements of section 84-17; and a person whose position on a board, commission, or committee is mandated by statute, resolution, or executive order to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which he has a substantial financial interest; provided that the substantial financial interest is related to the member's particular qualifications.

(b) No employee shall acquire financial interests in any business or other undertaking which he has reason to believe may be directly involved in official action to be taken by him.

(c) No legislator or employee shall assist any person or business or act in a representative capacity before any State or county agency for a contingent compensation in any transaction involving the State.

(d) No legislator or employee shall assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim, or other transaction or proposal in which he has participated or will participate as a legislator or employee, nor shall he assist any person or business or act in a representative capacity for a fee or other compensation on such bill, contract, claim, or other transaction or proposal before the legislature or agency of which he is an employee or legislator.

(e) No employee shall assist any person or business or act in a representative capacity before a state or county agency for a fee or other consideration on any bill, contract, claim, or other transaction or proposal involving official action by the agency if he has official authority over that state or county agency unless he has complied with the disclosure requirements of section 84-17.

Idaho

§ 59-703. Definitions.

(4) "Conflict of interest" means any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit of the person or a member of the person's household, or a business with which the person or a member of the person's household is associated, unless the pecuniary benefit arises out of the following:

- (a) An interest or membership in a particular business, industry, occupation or class required by law as a prerequisite to the holding by the person of the office or position;
- (b) Any action in the person's official capacity which would affect to the same degree a class consisting of an industry or occupation group in which the person, or a member of the person's household or business with which the person is associated, is a member or is engaged;
- (c) Any interest which the person has by virtue of his profession, trade or occupation where his interest would be affected to the same degree as that of a substantial group or class of others similarly engaged in the profession, trade or occupation;
- (d) Any action by a public official upon any revenue measure, any appropriation measure or any measure imposing a tax, when similarly situated members of the general public are affected by the outcome of the action in a substantially similar manner and degree.

5) "Economic gain" means increase in pecuniary value from sources other than lawful compensation as a public official.

§ 59-704. Required action in conflicts.

A public official shall not take any official action or make a formal decision or formal recommendation concerning any matter where he has a conflict of interest and has failed to disclose such conflict as provided in this section. Disclosure of a conflict does not affect an elected public official's authority to be counted for purposes of determining a quorum and to debate and to vote on the matter, unless the public official requests to be excused from debate and voting at his or her discretion. In order to determine whether a conflict of interest exists relative to any matter within the scope of the official functions of a public official, a public official may seek legal advice from the attorney representing that governmental entity or from the attorney general or from independent counsel. If the legal advice is that no real or potential conflict of interest exists, the public official may proceed and shall not be subject to the prohibitions of this chapter. If the legal advice is that a real or potential conflict may exist, the public official:

- (1) If he is an elected legislative public official, he shall disclose the nature of the potential conflict of interest and/or be subject to the rules of the body of which he/she is a member and shall take all action required under such rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue.
- (2) If he is an elected state public official, he shall prepare a written statement describing the matter required to be acted upon and the nature of the potential conflict, and shall file such statement with the secretary of state prior to acting on the matter. A public official may seek legal advice from the attorney representing that agency or from the attorney general or from independent counsel. The elected public official may then act on the advice of the agency's attorney, the attorney general or independent counsel.
- (3) If he is an appointed or employed state public official, he shall prepare a written statement describing the matter to be acted upon and the nature of the potential conflict, and shall deliver the statement to his appointing authority. The appointing authority may obtain an advisory opinion from the attorney general or from the attorney representing that agency. The public official may then act on the advice of the attorney general, the agency's attorney or independent counsel.
- (4) If he is an elected public official of a county or municipality, he shall disclose the nature of a potential conflict of interest prior to acting on a matter and shall be subject to the rules of the body of which he/she is a member and take all action required by the rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue. The public official may obtain an advisory opinion from the attorney general or the attorney for the county or municipality or from independent counsel. The public official may then act on the advice of the attorney general or attorney for the county or municipality or his independent counsel.
- (5) If he is an appointed or employed public official of a county or municipality, he shall prepare a written statement describing the matter required to be acted upon and the nature of the potential conflict, and shall deliver the statement to his appointing authority. The appointing authority may obtain an advisory opinion from the attorney for the appointing authority, or, if none, the attorney general. The public official may then act on the advice of the attorney general or attorney for the appointing authority or independent counsel.
- (6) Nothing contained herein shall preclude the executive branch of state government or a political subdivision from establishing an ethics board or commission to perform the duties and responsibilities provided for in this chapter. Any ethics board or commission so established shall have specifically stated powers and duties including the power to:
- (a) Issue advisory opinions upon the request of a public official within its jurisdiction;
 - (b) Investigate possible unethical conduct of public officials within its jurisdiction and conduct hearings, issue findings, and make recommendations for disciplinary action to a public official's appointing authority;
 - (c) Accept complaints of unethical conduct from the public and take appropriate action.

Illinois § 5 ILCS 420/3-202. [Conflict situations; abstention]

When a legislator must take official action on a legislative matter as to which he has a conflict situation created by a personal, family, or client legislative interest, he should consider the possibility of eliminating the interest creating the conflict situation. If that is not feasible, he should consider the possibility of abstaining from such official action. In making his decision as to abstention, the following factors should be considered;

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

He need not abstain if he decides to participate in a manner contrary to the economic interest which creates the conflict situation.

If he does abstain, he should disclose that fact to his respective legislative body.

§ 5 ILCS 420/3-203. [Public interest to prevail]

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

Indiana § 35-44-1-3. Conflicts of interest -- Public servants.

- (a) A public servant who knowingly or intentionally:
- (1) has a pecuniary interest in; or

(2) derives a profit from;

a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D felony.

(b) This section does not prohibit a public servant from receiving compensation for:

(1) services provided as a public servant; or

(2) expenses incurred by the public servant as provided by law.

(c) This section does not prohibit a public servant from having a pecuniary interest in or deriving a profit from a contract or purchase connected with the governmental entity served under any of the following conditions:

(1) If the:

(A) public servant is not a member or on the staff of the governing body empowered to contract or purchase on behalf of the governmental entity; (B) functions and duties performed by the public servant for the governmental entity are unrelated to the contract or purchase; and (C) public servant makes a disclosure under subsection (d)(1) through (d)(6).

(2) If the contract or purchase involves utility services from a utility whose rate structure is regulated by the state or federal government.

(3) If the public servant:

(A) is an elected public servant or a member of the board of trustees of a state supported college or university; and (B) makes a disclosure under subsection (d)(1) through (d)(6).

(4) If the public servant:

(A) was appointed by an elected public servant or the board of trustees of a state supported college or university; and (B) makes a disclosure under subsection (d)(1) through (d)(7).

(5) If the public servant:

(A) acts in only an advisory capacity for a state supported college or university; and (B) does not have authority to act on behalf of the college or university in a matter involving a contract or purchase.

(6) If the public servant:

(A) is employed by the governing body of a school corporation and the contract or purchase involves the employment of a dependent or the payment of fees to a dependent; and (B) makes a disclosure under subsection (d)(1) through (d)(6).

(7) If the public servant is under the jurisdiction of the state ethics commission as provided in IC 4-2-6-2.5 and obtains from the state ethics commission, following full and truthful disclosure, written approval that the public servant will not or does not have a conflict of interest in connection with the contract or purchase under IC 4-2-6 and this section. The approval required under this subdivision must be:

(A) granted to the public servant before action is taken in connection with the contract or purchase by the governmental entity served; or (B) sought by the public servant as soon after the contract or purchase as the public servant becomes aware of the facts that give rise to a question of conflict of interest.

(d) A disclosure required by this section must:

(1) be in writing;

(2) describe the contract or purchase to be made by the governmental entity;

(3) describe the pecuniary interest that the public servant has in the contract or purchase;

(4) be affirmed under penalty of perjury;

(5) be submitted to the governmental entity and be accepted by the governmental entity in a public meeting of the governmental entity prior to final action on the contract or purchase;

(6) be filed within fifteen (15) days after final action on the contract or purchase with:

(A) the state board of accounts; and (B) if the governmental entity is a governmental entity other than the state or a state supported college or university, the clerk of the circuit court in the county where the governmental entity takes final action on the

contract or purchase; and

(7) contain, if the public servant is appointed, the written approval of the elected public servant (if any) or the board of trustees of a state supported college or university (if any) that appointed the public servant.

(e) The state board of accounts shall forward to the state ethics commission a copy of all disclosures filed with the board under IC 16-22-2 through IC 16-22-5, IC 16-23-1, or this section.

(f) The state ethics commission shall maintain an index of all disclosures received by the commission. The index must contain a listing of each public servant, setting forth the disclosures received by the commission made by that public servant.

(g) A public servant has a pecuniary interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of:

- (1) the public servant; or
- (2) a dependent of the public servant who:
 - (A) is under the direct or indirect administrative control of the public servant; or
 - (B) receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the public servant.

(h) It is a defense in a prosecution under this section that the public servant's interest in the contract or purchase and all other contracts and purchases made by the governmental entity during the twelve (12) months before the date of the contract or purchase was two hundred fifty dollars (\$250) or less.

(i) Notwithstanding subsection (d), a member of the board of trustees of a state supported college or university, or a person appointed by such a board of trustees, complies with the disclosure requirements of this chapter with respect to the member's or person's pecuniary interest in a particular type of contract or purchase which is made on a regular basis from a particular vendor if the member or person files with the state board of accounts and the board of trustees a statement of pecuniary interest in that particular type of contract or purchase made with that particular vendor. The statement required by this subsection must be made on an annual basis.

(j) This section does not apply to members of the governing board of a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1.

(k) As used in this section, "dependent" means any of the following:

- (1) The spouse of a public servant.
- (2) A child, stepchild, or adoptee (as defined in IC 31-9-2-2) of a public servant who is:
 - (A) unemancipated; and
 - (B) less than eighteen (18) years of age.
- (3) Any individual more than one-half (1/2) of whose support is provided during a year by the public servant.

Senate Rules 87-96

VII. ETHICS.

87. It is declared that high moral and ethical standards among State Senators are essential to the conduct of free government; that the Senate believes that a code of ethics for the guidance of State Senators will help them avoid conflicts of interest in public office, will improve standards of public service, and will promote and strengthen the faith and confidence of the people of Indiana. The code is intended to protect the individual Senators while providing guidelines for all members of the Senate. Recognizing that service in the Indiana General Assembly is a part-time endeavor and that members of the General Assembly are individuals who are active in the affairs of their localities and elsewhere and that it is necessary that they maintain a livelihood and source of income apart from their legislative compensation, the following guidelines are adopted to assist the members in the conduct of their legislative duties.

88. A Senator who is offered:

- (1) an economic or investment opportunity; or
- (2) a loan, gratuity, discount, favor, hospitality, or other goods or services; by a person, shall consider, in determining whether or not to accept the offer, whether the Senator's acceptance of the offer may affect the Senator's independent legislative judgment. In so considering, the Senator shall take into account the following:
 - (A) whether the opportunity is being offered with the intent to influence the Senator's conduct in the performance of legislative duties; or
 - (B) whether acceptance of the offer would have a unique, direct, and material effect on the nonlegislative income of the Senator, a member of the Senator's immediate family or those of a partnership, corporation or business in which the Senator holds a legal or equitable interest. Should the Senator determine that, by acceptance of the offer, the Senator's independent legislative judgment may be affected, the Senator shall refuse the offer.

89. A Senator who has a direct personal or pecuniary interest in a piece of legislation which is so substantial as to affect the Senator's independent legislative judgment is not precluded from participating in committee and floor debate on the legislation, if the Senator publicly proclaims that interest.

90. During the course of a legislative session, a Senator may be placed in a position where the Senator has the obligation to vote on legislation in which the Senator has a direct personal or pecuniary interest. In making this decision pursuant to Rule 4 of the Standing Rules of the Senate and Orders for Government relative to the Senator's activity on the legislation, the Senator shall consider the following:

- (1) Whether the Senator's interest in the legislation is so substantial as to affect the Senator's independence of judgment with respect to the legislation.
- (2) To what extent the Senator's interest in the legislation mirrors the interest of the citizenry to which the Senator is directly responsible.
- (3) The effect of the Senator's participation in the voting on the legislation on public confidence in the integrity of the legislature.
- (4) The need of the Senator's particular contribution, such as special knowledge of the subject matter, to the effective functioning of the legislature.
- (5) Whether the legislation would have a unique, direct, and material effect on the nonlegislative income of the Senator, a member of the Senator's immediate family or those of a partnership, corporation, or business in which the Senator holds a legal or equitable interest.

91. A Senator may request the assistance of the Senate Legislative Ethics Committee (established pursuant to IC 2-2.1-3-5) in determining the propriety of the Senator's:

- (1) proposed acceptance of an offer;
- (2) participation in upcoming debate; or
- (3) participation in an upcoming vote.

92. Under Rule 91, the Senator shall:

- (1) Prepare a written statement describing the matter requiring action or decision by the Senator and the nature of the Senator's potential conflict of interest; and
- (2) Deliver a copy of the statement to the Chairman of the Senate Legislative Ethics Committee. If the Chairman is unavailable, a copy of the statement may be delivered to the President Pro Tempore.

93. If a Senator requests the assistance of the Senate Legislative Ethics Committee under Rule 91, and there is insufficient time to comply with Rule 92, the Senator shall orally inform the Chairman of the Senate Legislative Ethics Committee of the potential conflict. The matter shall then be immediately referred to the Legislative Ethics Committee for its recommendation. The Committee shall issue an oral recommendation to the Senator making the request as soon as possible after considering the request. The Committee shall follow the oral recommendation with a written report as required by Senate Rule 95.

94. The Legislative Ethics Committee shall meet as soon as possible and render an advisory opinion on the question raised. Should the committee vote result in a tie, the effect will be to make no recommendation.

95. The written report of the Legislative Ethics Committee shall be forwarded to the President Pro Tempore of the Senate and the Senate Minority Leader. Copies of the report and the written statement of the Senator making the request shall be maintained in the offices of the Majority Attorney and the Minority Attorney. The committee's written report and the written statement of the Senator making the request under Rule 92 shall remain confidential unless the Senator making the request consents to their disclosure.

96. In addition to any meetings held under Rule 94, the Senate Legislative Ethics Committee shall meet and may recommend amendments to the code of ethics for the Senate not later than thirty (30) days after the first session day of each legislative session, pursuant to IC 2-2.1-3-6.

House Code of Ethics

Every member of the House of Representatives shall, to the best of his or her ability, be fully objective when considering a proposition upon which he or she must act, keeping the welfare of all of the citizens of the state in mind at all times.

No member of the House of Representatives shall sponsor or cast a vote on any legislative matter, except budget or general revenue bills, that might reasonably be expected to directly result in a substantial increase of his or her non-legislative income. Any member of the House of Representatives not voting for this reason shall be considered present for the purpose of determining a quorum. If a significant number of members are so affected, the House of Representatives or a committee thereof, as the case may be, may, by a vote of two-thirds of those voting, permit such members to vote.

Every member shall give freely of his or her particular expertise during a discussion or debate upon a given proposition; in doing so the member shall, insofar as it is possible, present the positions of all sides of the proposition.

Iowa

§ 68B.2A Conflicts of interest -- outside employment and activities.

1. Any person who serves or is employed by the state or a political subdivision of the state shall not engage in any outside employment or activity which is in conflict with the person's official duties and responsibilities. In determining whether particular outside employment or activity creates an unacceptable conflict of interest, situations in which an unacceptable conflict shall be deemed to exist shall include, but not to be limited to, any of the following:

a. The outside employment or activity involves the use of the state's or the political subdivision's time, facilities, equipment, and supplies or the use of the state or political subdivision badge, uniform, business card, or other evidences of office or employment to give the person or member of the person's immediate family an advantage or pecuniary benefit that is not available to other similarly situated members or classes of members of the general public. This paragraph does not apply to off-duty peace officers who provide private duty security or fire fighters or emergency medical care providers certified under chapter 147A who provide private duty fire safety or emergency medical services while carrying their badge or wearing their official uniform, provided that the person has secured the prior approval of the agency or political subdivision in which the person is regularly employed to engage in the activity. For purposes of this subsection, a person is not "similarly situated" merely by being or being related to a person who serves or is employed by the state or a political subdivision of the state.

b. The outside employment or activity involves the receipt of, promise of, or acceptance of money or other consideration by the person, or a member of the person's immediate family, from anyone other than the state or the political subdivision for the performance of any act that the person would be required or expected to perform as a part of the person's regular duties or during the hours during which the person performs service or work for the state or political subdivision of the state.

c. The outside employment or activity is subject to the official control, inspection, review, audit, or enforcement authority of the person, during the performance of the person's duties of office

or employment.

2. If the outside employment or activity is employment or activity described in subsection 1, paragraph "a" or "b", the person shall immediately cease the employment or activity. If the outside employment or activity is employment or activity described in subsection 1, paragraph "c", or constitutes any other unacceptable conflict of interest, unless otherwise provided by law, the person shall take one of the following courses of action:

- a. Cease the outside employment or activity.
- b. Publicly disclose the existence of the conflict and refrain from taking any official action or performing any official duty that would detrimentally affect or create a benefit for the outside employment or activity. For purposes of this paragraph, "official action" or "official duty" includes, but is not limited to, participating in any vote, taking affirmative action to influence any vote, granting any license or permit, determining the facts or law in a contested case or rulemaking proceeding, conducting any inspection, or providing any other official service or thing that is not available generally to members of the public in order to further the interests of the outside employment or activity.

3. Unless otherwise specifically provided the requirements of this section shall be in addition to, and shall not supersede, any other rights or remedies provided by law.

Kansas

§ 46-229. "Substantial interest" and "client or customer" defined.

"Substantial interest" means any of the following:

(a) If an individual or an individual's spouse, either individually or collectively, has owned within the preceding 12 months a legal or equitable interest exceeding \$ 5,000 or 5% of any business, whichever is less, the individual has a substantial interest in that business.

(b) If an individual or an individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of \$ 2,000 from any business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.

(c) If an individual or an individual's spouse, either individually or collectively, has received directly or indirectly in the preceding 12 months, gifts or honoraria having an aggregate value of \$ 500 or more from any person, the individual has a substantial interest in that person. If a gift is received for which the value is unknown, the individual shall be deemed to have a substantial interest in the donor. A substantial interest does not exist under this subsection by reason of: (1) A gift or bequest received as the result of the death of the donor; (2) a gift from a spouse, parent, grandparent, sibling, aunt or uncle; or (3) acting as a trustee of a trust for the benefit of another.

(d) If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, the individual has a substantial interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse.

(e) If an individual or an individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has a substantial interest in any client or customer who pays fees or commissions to the business or combination of businesses from which fees or commissions the individual or the individual's spouse, either individually or collectively, received an aggregate of \$ 2,000 or more in the preceding calendar year.

As used in this subsection, "client or customer" means a business or combination of businesses.

Kentucky

Kentucky Constitution, Section 57

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

Kentucky Revised Statutes, 6.731. 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...

Louisiana

LOUISIANA REVISED STATUTES

§ 42:1120. Recusal from voting.

If any elected official, in the discharge of a duty or responsibility of his office or position, would be required to vote on a matter which vote would be a violation of R.S. 42:1112, he shall

recuse himself from voting. An elected official who recuses himself from voting pursuant to this Section shall not be prohibited from participating in discussion and debate concerning the matter, provided that he verbally discloses the nature of the conflict or potential conflict during his participation in the discussion or debate and prior to any vote taken on the matter.

LOUISIANA REVISED STATUTES

§ 42:1112. Participation in certain transactions involving the governmental entity.

A. No public servant, except as provided in R.S. 42:1120, shall participate in a transaction in which he has a personal substantial economic interest of which he may be reasonably expected to know involving the governmental entity.

B. No public servant, except as provided in R.S. 42:1120, shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any of the following persons has a substantial economic interest:

(1) Any member of his immediate family.

(2) Any person in which he has a substantial economic interest of which he may reasonably be expected to know.

(3) Any person of which he is an officer, director, trustee, partner, or employee.

(4) Any person with whom he is negotiating or has an arrangement concerning prospective employment.

(5) Any person who is a party to an existing contract with such public servant, or with any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, or who owes any thing of economic value to such public servant, or to any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, and who by reason thereof is in a position to affect directly the economic interests of such public servant.

C. Every public employee, excluding an appointed member of any board or commission, shall disqualify himself from participating in a transaction involving the governmental entity when a violation of this Part would result. The procedures for such disqualification shall be established by regulations issued pursuant to R.S. 42:1134(1).

D. No appointed member of any board or commission, except as otherwise provided in R.S. 42:1120.1, 1120.2, or 1120.3, shall participate or be interested in any transaction involving the agency when a violation of this Part would result.

Maine

TITLE 1. GENERAL PROVISIONS

§ 1014. Conflict of interest.

1. Situations involving conflict of interest. A Legislator engages in a violation of legislative ethics if that Legislator votes on a question in connection with a conflict of interest in committee or in either body of the Legislature or attempts to influence the outcome of that question unless a presiding officer in accordance with the Joint Rules of the Legislature requires a Legislator to vote or advises the Legislator that there is no conflict in accordance with section 1013, subsection 2, paragraph K. A conflict of interest includes:

A. Where a Legislator or a member of his immediate family has or acquires a direct substantial personal financial interest, distinct from that of the general public, in an enterprise which would be financially benefited by proposed legislation, or derives a direct substantial personal financial benefit from close economic association with a person known by the Legislator to have a direct financial interest in an enterprise affected by proposed legislation.

B. Where a Legislator or a member of his immediate family accepts gifts, other than campaign contributions duly recorded as required by law, from persons affected by legislation or who have an interest in a business affected by proposed legislation, where it is known or reasonably should be known that the purpose of the donor in making the gift is to influence the Legislator in the performance of his official duties or vote, or is intended as a reward for action on his part.

C. Receiving compensation or reimbursement not authorized by law for services, advice or assistance as a Legislator.

D. Appearing for, representing or assisting another in respect to a claim before the Legislature, unless without compensation and for the benefit of a citizen.

E. Where a Legislator or a member of his immediate family accepts or engages in employment which could impair the Legislator's judgment, or where the Legislator knows that there is a substantial possibility that an opportunity for employment is being afforded him or a member of his immediate family with intent to influence his conduct in the performance of his official duties, or where the Legislator or a member of his immediate family stands to derive a personal private gain or loss from employment, because of legislative action, distinct from the gain or losses of other employees or the general community.

F. Where a Legislator or a member of his immediate family has an interest in legislation relating to a profession, trade, business or employment in which the Legislator or a member of his immediate family is engaged, where the benefit derived by the Legislator or a member of his immediate family is unique and distinct from that of the general public or persons engaged in similar professions, trades, businesses or employment.

2-A. Undue influence. It is a violation of legislative ethics for a Legislator to engage in conduct that constitutes the exertion of undue influence, including, but not limited to:

A. Appearing for, representing or advocating for another person in a matter before a state agency or authority, for compensation other than compensation as a Legislator, if the Legislator makes reference to that Legislator's legislative capacity, communicates with the agency or authority on legislative stationery or makes threats or implications relating to legislative action;

B. Appearing for, representing or advocating for another person in a matter before a state agency or authority if the Legislator oversees the policies of the agency or authority as a result of the Legislator's committee responsibilities, unless:

(1) The appearance, representation or advocacy is provided without compensation and for the benefit of a constituent;

(2) The Legislator is engaged in the conduct of the Legislator's profession and is in good standing with a licensing board, if any, that oversees the Legislator's profession;

(3) The appearance, representation or advocacy is provided before a court or office of the judicial branch; or

(4) The representation consists of filing records or reports or performing other routine tasks that do not involve the exercise of discretion on the part of the agency or authority; and

C. Representing or assisting another person in the sale of goods or services to the State, a state agency or a state authority, unless the transaction occurs after public notice and competitive bidding.

3. ABUSE OF OFFICE OR POSITION. It is presumed that a conflict of interest exists where a Legislator abuses his office or position, including but not limited to the following cases.

A. Where a Legislator or a member of his immediate family has a direct financial interest or an interest through a close economic association in a contract for goods or services with the State, a state agency or authority in a transaction not covered by public notice and competitive bidding or by uniform rates established by the State, a state agency, authority or other governmental entity or by a professional association or organization.

B. Granting or obtaining special privilege, exemption or preferential treatment to or for oneself or another, which privilege, exemption or treatment is not readily available to members of the general community or class to which the beneficiary belongs.

C. Use or disclosure of confidential information obtained because of office or position for the benefit of self or another.

Maryland

§ 15-511. Disqualification -- Presumption of conflict.

(a) "Close economic association" defined.

(1) In this section, "close economic association" means:

- (i) a legislator's: 1. employer; 2. employee; or 3. partner in a business or professional enterprise;
- (ii) a partnership, limited liability partnership, or limited liability company in which a legislator has invested capital or owns an interest;
- (iii) a corporation in which a legislator owns the lesser of: 1. 10% or more of the outstanding capital stock; or 2. capital stock with a cumulative value of \$ 25,000 or more; and
- (iv) a corporation in which the legislator is an officer, director, or agent.

(2) "Close economic association" does not mean stock owned directly through a mutual fund, retirement plan, or other similar commingled investment vehicle the individual investments of which the legislator does not control or manage.

(b) Disqualification.

(1) An interest of a member of the General Assembly conflicts with the public interest if the legislator's interest tends to impair the legislator's independence of judgment

(2) The conflict disqualifies the legislator from participating in any legislative action, or otherwise attempting to influence any legislation, to which the conflict relates.

(c) Presumption of conflict. -- It is presumed that an interest disqualifies a legislator from participating in legislative action in any of the following circumstances:

(1) having or acquiring a direct interest in an enterprise which would be affected by the legislator's vote on proposed legislation, unless the interest is common to all members of:

- (i) a profession or occupation of which the legislator is a member; or
- (ii) the general public or a large class of the general public;

(2) benefiting financially from a close economic association with a person whom the legislator knows has a direct interest in an enterprise or interest which would be affected by the legislator's participation in legislative action, differently from other like enterprises or interests;

(3) benefiting financially from a close economic association with a person who is lobbying for the purpose of influencing legislative action; or

(4) soliciting, accepting, or agreeing to accept a loan, other than a loan from a commercial lender in the normal course of business, from a person who would be affected by or has an interest in an enterprise which would be affected by the legislator's participation in legislative action.

Massachusetts

Senate Rule 10. No member, officer, or employee shall use or attempt to use improper means to influence an agency, board, authority, or commission of the Commonwealth or any political subdivision of the Commonwealth. No member, officer, or employee of the Senate shall receive compensation or permit compensation to accrue to the member, officer or employee's beneficial interest by virtue of influence improperly exerted from the member, officer or employee's position in the Senate. Every reasonable effort shall be made to avoid situations where it might appear that the member, officer or employee is making such use of the member, officer or employee's official position. Members, officers, and employees should avoid accepting or retaining an economic interest or opportunity which represents a threat to their independence of judgment.

Senate Rule 16A. (1.) While members, officers and employees should not be denied those opportunities available to all other citizens to acquire and retain private, economic and other interests, members, officers, and employees should exercise prudence in any and all such endeavors and make every reasonable effort to avoid transactions, activities, or obligations, which are in substantial conflict with or will substantially impair their independence of judgment. (4.) No member, officer or employee shall receive any compensation or permit any compensation to accrue to his or her beneficial interest by virtue of influence improperly exerted from his or her official position in the House.

Chapter 268A Conduct of Public Officials and Employees

§ 6A. Notifying State Ethics Commission of Conflict of Interest.

Any public official, as defined by section one of chapter two hundred and sixty-eight B, who in the discharge of his official duties would be required knowingly to take an action which would substantially affect such official's financial interests, unless the effect on such an official is no greater than the effect on the general public, shall file a written description of the required action and the potential conflict of interest with the state ethics commission.

Michigan

§ 15.302. Prohibition of substantial conflict of interest.

Sec. 2. No member of the legislature, herein referred to as a "legislator", nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest.

§ 15.304 Pecuniary interest; cases in which there is no substantial conflict of interest.

Sec. 4. (1) As used in section 2, "interested" means a pecuniary interest.

(2) If there is a conflict of interest on the part of a legislator or state officer in respect to a contract with the state or a political subdivision of the state, to be prohibited by this act his or her personal interest must be of such substance as to induce action on his or her part to promote the contract for his or her own personal benefit.

(3) In the following cases, there is no substantial conflict of interest:

(a) A contract between the state or a political subdivision of the state and any of the following:

(i) A corporation in which a legislator or state officer is a stockholder owning 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or the stock has a present market value of \$25,000.00 or less if the stock is listed on a stock exchange.

(ii) A corporation in which a trust, where a legislator or state officer is a beneficiary under the trust, owns 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or the stock has a present market value of \$25,000.00 or less if the stock is listed on a stock exchange.

(iii) A professional limited liability company organized pursuant to the Michigan limited liability company act, Act No. 23 of the Public Acts of 1993, being sections 450.5101 to 450.6200 of the Michigan Compiled Laws, if a legislator or state officer is an employee but not a member of the company.

(b) A contract between the state or a political subdivision of the state and any of the following:

(i) A corporation in which a legislator or state officer is a stockholder owning more than 1% of the total stock outstanding in any class if the stock is not listed on a stock exchange or the stock has a present market value in excess of \$25,000.00 if the stock is listed on a stock exchange or a director, officer, or employee.

(ii) A firm, partnership, or other unincorporated association, in which a legislator or state officer is a partner, member, or employee.

(iii) A corporation or firm that has an indebtedness owed to a legislator or state officer.

(iv) A trustee or trustees under a trust in which a legislator or state officer is a beneficiary or trustee or a corporation in whose stock the trust funds are invested, if the investment includes more than 1% of the total stock outstanding in any class if the stock is not listed on a stock exchange or if the stock has a present market value in excess of \$25,000.00 if the stock is listed on a stock exchange, if the legislator or state officer does not solicit the contract, takes no part in the negotiations for or in the approval of the contract or any amendment to the contract, and does not in any way represent either party in the transaction and the contract is not with or authorized by the department or agency of the state or a political subdivision with which the state officer is connected.

(c) A contract between the state and a political subdivision of the state or between political subdivisions of the state.

(d) A contract awarded to the lowest qualified bidder, upon receipt of sealed bids pursuant to a published notice for bids provided the notice does not bar, except as authorized by law, any qualified person, firm, corporation, or trust from bidding. This subdivision does not apply to amendments or renegotiations of a contract or to additional payments under the contract which were not authorized by the contract at the time of award.

(e) A contract for public utility services where the rates for the services are regulated by the state or federal government.

Senate Rule 1.303. Improper influence. A Senator shall not accept anything that will influence his or her official act, decision, or vote.

1.305. A Senator shall not use his or her influence in any matter that involves substantial conflict between his or her personal interest and his or her duties in the public interest.

1.306. A personal, private, or professional interest in a bill is an interest that would provide a

benefit particular to a Senator or a benefit particular to any individual or entity to whom the Senator is financially or legally obligated or is personally related.

House Rule 47. A Member shall not use his or her position in any manner to solicit or obtain anything of value for himself or herself, House employees or any other Member which tends to influence the manner in which the Member performs his or her official duties.

Minnesota

§ 10A.07 CONFLICTS OF INTEREST.

A public official or a local official elected to or appointed by a metropolitan governmental unit who in the discharge of official duties would be required to take an action or make a decision that would substantially affect the official's financial interests or those of an associated business, unless the effect on the official is no greater than on other members of the official's business classification, profession, or occupation, must take the following actions:

- (1) prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest;
- (2) deliver copies of the statement to the official's immediate superior, if any; and
- (3) if a member of the legislature or of the governing body of a metropolitan governmental unit, deliver a copy of the statement to the presiding officer of the body of service.

If a potential conflict of interest presents itself and there is insufficient time to comply with clauses (1) to (3), the public or local official must orally inform the superior or the official body of service or committee of the body of the potential conflict.

Subd. 2. Required actions.

If the official is not a member of the legislature or of the governing body of a metropolitan governmental unit, the superior must assign the matter, if possible, to another employee who does not have a potential conflict of interest. If there is no immediate superior, the official must abstain, if possible, in a manner prescribed by the board from influence over the action or decision in question. If the official is a member of the legislature, the house of service may, at the member's request, excuse the member from taking part in the action or decision in question. If the official is not permitted or is otherwise unable to abstain from action in connection with the matter, the official must file a statement describing the potential conflict and the action taken. A public official must file the statement with the board and a local official must file the statement with the governing body of the official's political subdivision. The statement must be filed within a week of the action taken.

Subd. 3. Interest in contract; local officials.

This section does not apply to a local official with respect to a matter governed by sections 471.87 and 471.88.

§ 471.87 PUBLIC OFFICERS, INTEREST IN CONTRACT; PENALTY

Except as authorized in section 471.88, a public officer who is authorized to take part in any manner in making any sale, lease, or contract in official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially therefrom. Every public officer who violates this provision is guilty of a gross misdemeanor.

Mississippi

§ 25-4-105. Certain actions, activities and business relationships prohibited or authorized; contracts in violation of section voidable; penalties.

- (1) No public servant shall use his official position to obtain or attempt to obtain pecuniary benefit for himself other than that compensation provided for by law, or to obtain or attempt to obtain pecuniary benefit for any relative or any business with which he is associated.
- (2) No public servant shall be interested, directly or indirectly, during the term for which he shall have been chosen, or within one (1) year after the expiration of such term, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member.
- (3) No public servant shall:
 - (a) Be a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent, other than in his contract of employment, or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent.
 - (b) Be a purchaser, direct or indirect, at any sale made by him in his official capacity or by the governmental entity of which he is an officer or employee, except in respect of the sale of goods or services when provided as public utilities or offered to the general public on a uniform price schedule.
 - (c) Be a purchaser, direct or indirect, of any claim, certificate, warrant or other security issued by or to be paid out of the treasury of the governmental entity of which he is an officer or employee.
 - (d) Perform any service for any compensation during his term of office or employment by which he attempts to influence a decision of the authority of the governmental entity of which he is a member.

(4) Perform any service for any compensation for any person or business other

(e) perform any service for any compensation for any person or business after termination of his office or employment in relation to any case, decision, proceeding or application with respect to which he was directly concerned or in which he personally participated during the period of his service or employment.

(4) Notwithstanding the provisions of subsection (3) of this section, a public servant or his relative:

(a) May be an officer or stockholder of banks or savings and loan associations or other such financial institutions bidding for bonds, notes or other evidences of debt or for the privilege of keeping as depositories the public funds of a governmental entity thereof or the editor or employee of any newspaper in which legal notices are required to be published in respect to the publication of said legal notices.

(b) May be a contractor or vendor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a contractor or vendor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent where such contract is let to the lowest and best bidder after competitive bidding and three (3) or more legitimate bids are received or where the goods, services or property involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws.

(c) May be a subcontractor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a subcontractor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent where the primary contract is let to the lowest and best bidder after competitive bidding or where such goods or services involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws.

(d) May be a contractor, subcontractor or vendor with any authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a contractor, subcontractor or vendor with any authority of the governmental entity of which he is a member, officer, employee or agent: (i) where such goods or services involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws; or (ii) where the contractual relationship involves the further research, development, testing, promotion or merchandising of an intellectual property created by the public servant.

(e) May purchase securities issued by the governmental entity of which he is an officer or employee if such securities are offered to the general public and are purchased at the same price as such securities are offered to the general public.

(f) May have an interest less than a material financial interest in a business which is a contractor, subcontractor or vendor with any governmental entity.

(g) May contract with the Mississippi Veteran's Home Purchase Board, Mississippi Housing Finance Corporation, or any other state loan program, for the purpose of securing a loan; however, public servants shall not receive favored treatment.

(h) May be employed by or receive compensation from an authority of the governmental entity other than the authority of the governmental entity of which the public servant is an officer or employee.

(i) If a member of the Legislature or other public servant employed on less than a full-time basis, may represent a person or organization for compensation before an authority of the governmental entity other than an authority of the governmental entity of which he is an officer or employee.

(j) If a constable, may be employed and receive compensation as a deputy sheriff or other employee of the county for which he serves as constable.

(5) No person may intentionally use or disclose information gained in the course of or by reason of his official position or employment as a public servant in any way that could result in pecuniary benefit for himself, any relative, or any other person, if the information has not been communicated to the public or is not public information.

(6) Any contract made in violation of this section may be declared void by the governing body of the contracting or selling authority of the governmental subdivision or a court of competent jurisdiction and the contractor or subcontractor shall retain or receive only the reasonable value, with no increment for profit or commission, of the property or the services furnished prior to the date of receiving notice that the contract has been voided.

(7) Any person violating the provisions of this section shall be punished as provided for in Sections 25-4-109 and 25-4-111.

25-4-103

(k) "Material financial interest" means a personal and pecuniary interest, direct or indirect, accruing to a public servant or spouse, either individually or in combination with each other. Notwithstanding the foregoing, the following shall not be deemed to be a material financial interest with respect to a business with which a public servant may be associated:

(i) Ownership of any interest of less than ten percent (10%) in a business where the aggregate annual net income to the public servant therefrom is less than One Thousand Dollars (\$ 1 000 00).

(i) Ownership of any interest of less than two percent (2%) in a business where the aggregate annual net income to the public servant therefrom is less than Five Thousand Dollars (\$ 5,000.00);

(ii) Ownership of any interest of less than two percent (2%) in a business where the aggregate annual net income to the public servant therefrom is less than Five Thousand Dollars (\$ 5,000.00);

(iii) The income as an employee of a relative if neither the public servant or relative is an officer, director or partner in the business and any ownership interest would not be deemed material pursuant to subparagraph (i) or (ii) herein; or

(iv) The income of the spouse of a public servant when such spouse is a contractor, subcontractor or vendor with the governmental entity that employs the public servant and the public servant exercises no control, direct or indirect, over the contract between the spouse and such governmental entity.

(l) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain. Expenses associated with social occasions afforded public servants shall not be deemed a pecuniary benefit.

§ 25-4-119. Officials not to derive pecuniary benefits as result of official duties; penalties

No elected or appointed official shall derive any pecuniary benefit, directly or indirectly, as a result of such elected or appointed official's duties under Sections 21-19-33, 27-109-1, 27-109-3, 27-109-7, 27-109-9, 67-1-71, 87-1-5, 95-3-25, 97-33-1, 97-33-7, 97-33-9, 97-33-17, 97-33-25, and 97-33-27. Any person convicted of a violation of this section shall be punished pursuant to the provisions of this article.

NOTE: the statutes mentioned deal with municipal government, gaming, taxation and finance, among others.

Missouri

§ 105.452. Prohibited acts by elected and appointed public officials and employees.

No elected or appointed official or employee of the state or any political subdivision thereof shall:

(1) Act or refrain from acting in any capacity in which he is lawfully empowered to act as such an official or employee by reason of any payment, offer to pay, promise to pay, or receipt of anything of actual pecuniary value paid or payable, or received or receivable, to himself or any third person, including any gift or campaign contribution, made or received in relationship to or as a condition of the performance of an official act, other than compensation to be paid by the state or political subdivision; or

(2) Use confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself, his spouse, his dependent child in his custody, or any business with which he is associated;

(3) Disclose confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself or any other person;

(4) Favorably act on any matter that is so specifically designed so as to provide a special monetary benefit to such official or his spouse or dependent children, including but not limited to increases in retirement benefits, whether received from the state of Missouri or any third party by reason of such act. For the purposes of this subdivision, "special monetary benefit" means being materially affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected. In all such matters such officials must recuse themselves from acting and shall not be relieved by reason of the provisions of section 105.460, except that such official may act on increases in compensation subject to the restrictions of section 13 of article VII of the Missouri Constitution; or

(5) Use his decision-making authority for the purpose of obtaining a financial gain which materially enriches himself, his spouse or dependent children by acting or refraining from acting for the purpose of coercing or extorting from another anything of actual pecuniary value.

Montana

§ 2-2-112 Ethical requirements for legislators.

(1) The requirements in this section are intended as rules for legislator conduct, and violations constitute a breach of the public trust of legislative office.

(2) A legislator has a responsibility to the legislator's constituents to participate in all matters as required in the rules of the legislature. A legislator concerned with the possibility of a conflict may briefly present the facts to the committee of that house that is assigned the determination of ethical issues. The committee shall advise the legislator as to whether the legislator should disclose the interest prior to voting on the issue pursuant to the provisions of subsection (5). The legislator may, subject to legislative rule, vote on an issue on which the legislator has a conflict, after disclosing the interest.

(3) When a legislator is required to take official action on a legislative matter as to which the legislator has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the legislator's influence, benefit, or detriment in regard to the legislative matter, the legislator shall disclose the interest creating the conflict prior to participating in the official action, as provided in subsections (2) and (5) and the rules of the legislature. In making a decision, the legislator shall consider:

(a) whether the conflict impedes the legislator's independence of judgment;

(b) the effect of the legislator's participation on public confidence in the integrity of the legislature;

(c) whether the legislator's participation is likely to have any significant effect on the disposition

of the matter; and

(d) whether a pecuniary interest is involved or whether a potential occupational, personal, or family benefit could arise from the legislator's participation.

(4) A conflict situation does not arise from legislation or legislative duties affecting the membership of a profession, occupation, or class.

(5) A legislator shall disclose an interest creating a conflict, as provided in the rules of the legislature. A legislator who is a member of a profession, occupation, or class affected by legislation is not required to disclose an interest unless the class contained in the legislation is so narrow that the vote will have a direct and distinctive personal impact on the legislator. A legislator may seek a determination from the appropriate committee provided for in 2-2-135.

Nebraska

§ 49-1499. Legislature; discharge of official duties; potential conflict; actions required.

(1) A member of the Legislature who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

(a) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict, and if he or she will not abstain from voting, deliberating, or taking other action on the matter, the statement shall state why, despite the potential conflict, he or she intends to vote or otherwise participate; and

(b) Deliver a copy of the statement to the commission and to the Speaker of the Legislature who shall cause the statement to be filed with the Clerk of the Legislature to be held as a matter of public record.

(2) Nothing in this section shall prohibit any member of the Legislature from voting, deliberating, or taking other action on any matter that comes before the Legislature.

(3) The member of the Legislature may abstain from voting, deliberating, or taking other action on the matter on which the potential conflict exists. He or she may have the reasons for the abstention recorded in the Legislative Journal.

Nevada

NRS 281A.400 A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest, or any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person. As used in this subsection "unwarranted" means without justification or adequate reason.

281A.420: (DOES NOT APPLY TO LEGISLATORS - see part 7)

1. Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter: (a) Regarding which the public officer or employee has accepted a gift or loan; (b) In which the public officer or employee has a significant pecuniary interest; or (c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interests of another person, without disclosing information concerning the gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of the person that is sufficient to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's significant pecuniary interest, or upon the person to whom the public officer or employee has a commitment in a private capacity. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of the public officer's or employee's organization or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected...

3. Except as otherwise provided in this section, in addition to the requirements of subsection 1, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by:

(a) The public officer's acceptance of a gift or loan; (b) The public officer's significant pecuniary interest; or (c) The public officer's commitment in a private capacity to the interests of another person.

4. In interpreting and applying the provisions of subsection 3:

(a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of another person, accruing to the other person, is not greater than that accruing to any other member of any general business profession occupation or group that is affected by the matter. The

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general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the disclosure of the acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer has properly disclosed the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

5. Except as otherwise provided in [NRS 241.0355](#), if a public officer declares to the body or committee in which the vote is to be taken that the public officer will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.

7. The provisions of this section do not, under any circumstances, apply to State Legislators or allow the Commission to exercise jurisdiction or authority over State Legislators. The responsibility of a State Legislator to make disclosures concerning gifts, loans, interests or commitments and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of State Government which are adopted, administered and enforced exclusively by the appropriate bodies of the Legislative Department of State Government pursuant to [Section 6 of Article 4](#) of the Nevada Constitution.

281.221. Contracts in which state officer has interest prohibited; exceptions; penalties.

1. Except as otherwise provided in this section and [NRS 281A.430](#), it is unlawful for a state officer, who is not a member of the Legislature subject to the restrictions set forth in [NRS 218A.970](#), to:

(a) Become a contractor under any contract or order for supplies or other kind of contract authorized by or for the State or any of its departments, or the Legislature or either of its houses, or to be interested, directly or indirectly, as principal, in any kind of contract so authorized.

(b) Be interested in any contract made by the officer or to be a purchaser or interested in any purchase under a sale made by the officer in the discharge of the officer's official duties.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by the board, commission or body may supply or contract to supply, in the ordinary course of his or her business, goods, materials or services to any state or local agency, except the board, commission or body of which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member in the Nevada System of Higher Education may bid on or enter into a contract with a governmental agency, or may benefit financially or otherwise from a contract between a governmental agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to [NRS 396.255](#).

4. A state officer, other than an officer described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, the officer has not taken part in developing the contract plans or specifications and the officer will not be personally involved in opening, considering or accepting offers.

5. Any contract made in violation of this section may be declared void at the instance of the

State or of any other person interested in the contract except an officer prohibited from making or being interested in the contract.

6. A person who violates this section is guilty of a gross misdemeanor and shall forfeit his or her office.

Senate Rule 23 and Assembly Rule 23: Senate Rule 23: 8. In determining whether a Legislator has a conflict of interest, the Legislator should consider whether the independence of judgment of a reasonable person in his or her situation upon the matter in question would be materially affected by the Legislator's:

(a) Acceptance of a gift or loan; (b) Private economic interest; or (c) Commitment to a member of his or her household or immediate family.

In interpreting and applying the provisions of this subsection, it must be presumed that the independence of judgment of a reasonable person in the Legislator's situation would not be materially affected by the Legislator's private economic interest or the Legislator's commitment to a member of his or her household or immediate family where the resulting benefit or detriment accruing to the Legislator, or if the Legislator has a commitment to a member of his or her household or immediate family, accruing to those other persons, is not greater than that accruing to any other member of the general business, profession, occupation or group that is

affected by the matter.

**New
Hampshire**

Per the General Court's Ethics Guidelines

§ 2, pt. 2. "Conflict of Interest" is the condition in which a legislator has a financial interest in any official activity.

If participation in an official activity creates a conflict of interest not disclosed in the financial disclosure forms, legislators must complete and file a Declaration of Intent Form in accordance with section 5 of the Ethics Guidelines. Even if legislators disclose a financial interest on this form, he may still have to file a separate Declaration of Intent Form on a particular bill.

New Jersey

§ 52:13D-13. Definitions

...

(g) "Interest" means (1) the ownership or control of more than 10% of the profits or assets of a firm, association, or partnership, or more than 10% of the stock in a corporation for profit other than a professional service corporation organized under the "Professional Service Corporation Act," P.L. 1969, c. 232 (C. 14A:17-1 et seq.); or (2) the ownership or control of more than 1% of the profits of a firm, association, or partnership, or more than 1% of the stock in any corporation, which is the holder of, or an applicant for, a casino license or in any holding or intermediary company with respect thereto, as defined by the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-1 et seq.). The provisions of this act governing the conduct of individuals are applicable to shareholders, associates or professional employees of a professional service corporation regardless of the extent or amount of their shareholder interest in such a corporation.

§ 52:13D-23. Codes of ethics.

(a) (1) The head of each State agency, or the principal officer in charge of a division, board, bureau, commission or other instrumentality within a department of State Government designated by the head of such department for the purposes hereinafter set forth, shall within six months from the date of enactment, promulgate a code of ethics to govern and guide the conduct of the members of the Legislature...

(e) A code of ethics for officers and employees of a State agency shall conform to the following general standards:

(1) No State officer or employee or special State officer or employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest.

(2) No State officer or employee or special State officer or employee should engage in any particular business, profession, trade or occupation which is subject to licensing or regulation by a specific agency of State Government without promptly filing notice of such activity with the State Ethics Commission, if he is an officer or employee in the Executive Branch, or with the Joint Legislative Committee on Ethical Standards, if he is an officer or employee in the Legislative Branch.

(3) No State officer or employee or special State officer or employee should use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others.

(4) No State officer or employee or special State officer or employee should act in his official capacity in any matter wherein he has a direct or indirect personal financial interest that might reasonably be expected to impair his objectivity or independence of judgment.

(5) No State officer or employee or special State officer or employee should undertake any employment or service, whether compensated or not, which might reasonably be expected to impair his objectivity and independence of judgment in the exercise of his official duties.

(6) No State officer or employee or special State officer or employee should accept any gift, favor, service or other thing of value under circumstances from which it might be reasonably inferred that such gift, service or other thing of value was given or offered for the purpose of influencing him in the discharge of his official duties.

(7) No State officer or employee or special State officer or employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his acts that he may be engaged in conduct violative of his trust as a State officer or employee or special State officer or employee.

(8) Rules of conduct adopted pursuant to these principles should recognize that under our democratic form of government public officials and employees should be drawn from all of our society, that citizens who serve in government cannot and should not be expected to be without any personal interest in the decisions and policies of government; that citizens who are government officials and employees have a right to private interests of a personal, financial and economic nature; that standards of conduct should separate those conflicts of interest which are unavoidable in a free society from those conflicts of interest which are substantial and material, or which bring government into disrepute.

(f) The code of ethics for members of the Legislature shall conform to subsection (e) hereof as nearly as may be possible.

New Jersey Legislative Code of Ethics.

For the purpose of this section a "personal interest" means the member of the Legislature, or a member of his immediate family, believes or has reason to believe he will derive a direct monetary gain or suffer a direct monetary loss by the enactment or defeat of the legislation; a

"personal interest" does not mean that by enactment or defeat of the legislation no benefit or detriment could be expected to accrue to him, or to a member of his immediate family, as a member of a business, profession, occupation or group, to any greater extent than any such benefit or detriment could be expected to accrue to any other member of such business, profession, occupation or group (C.52:13D-18).

New Mexico

§ 10-16-2. Definitions.

- F. "financial interest" means an interest held by an individual or the individual's family that is: (1) an ownership interest in business or property; or (2) any employment or prospective employment for which negotiations have already begun;
- H. "official act" means an official decision, recommendation, approval, disapproval or other action that involves the use of discretionary authority;
- J. "standards" means the conduct required by the Governmental Conduct Act;
- L. "substantial interest" means an ownership interest that is greater than twenty percent.

§ 10-16-3. Ethical principles of public service; certain official acts prohibited; penalty.

- A. A legislator or public officer or employee shall treat the legislator's or public officer's or employee's government position as a public trust. The legislator or public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.
- B. Legislators and public officers and employees shall conduct themselves in a manner that justifies the confidence placed in them by the people, at all times maintaining the integrity and discharging ethically the high responsibilities of public service.
- C. Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times, reasonable efforts shall be made to avoid undue influence and abuse of office in public service.
- D. No legislator or public officer or employee may request or receive, and no person may offer a legislator or public officer or employee, any money, thing of value or promise thereof that is conditioned upon or given in exchange for promised performance of an official act. Any person who knowingly and willfully violates the provisions of this subsection is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

Senate and House Rule 26-1: A. Members of the senate shall conduct themselves in a manner that justifies the confidence placed in them by the people. The members shall not use their offices for private gain and shall at all times maintain the integrity and discharge ethically the high responsibilities of their legislative positions. Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct of the members.

B. To avoid a potential conflict of interest:

- (1) a senator shall not accept anything of value that improperly influences an official act, decision or vote;
- (2) a senator shall attempt to ensure that his private employment does not impair his impartiality and independence of judgment in the exercise of official duties;
- (3) a senator shall not receive compensation or reimbursement not authorized by law for rendering services, advice or assistance as a legislator;
- (4) a senator shall not accept gifts, other than lawfully collected and reported campaign contributions, from persons affected by legislation or from persons who have an interest in a business affected by proposed legislation, where it is known or reasonably should be known that the purpose of the donor in making the gift is to influence the senator in the performance of his official duties or vote or is intended as a reward for action on his part;
- (5) a senator shall not accept or engage in employment if the senator knows it is being afforded him with the intent to influence his conduct in the performance of his official duties

New York

PUBLIC OFFICERS LAW; ARTICLE 4. POWERS AND DUTIES OF PUBLIC OFFICERS

§ 74. Code of ethics.

Rule with respect to conflicts of interest. No officer or employee of a state agency, member of the legislature or legislative employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

North Carolina

§ 138A-35. Other rules of conduct.

- (a) A public servant shall make a due and diligent effort before taking any action, including voting or participating in discussions with other public servants on a board on which the public servant also serves, to determine whether the public servant has a conflict of interest. If the public servant is unable to determine whether or not a conflict of interest may exist, the public servant has a duty to inquire of the Commission as to that conflict.
- (b) A public servant shall continually monitor, evaluate, and manage the public servant's personal, financial, and professional affairs to ensure the absence of conflicts of interest.
- (c) A public servant shall obey all other civil laws, administrative requirements, and criminal statutes governing conduct of State government applicable to appointees and employees.

138A-3. Definitions.

(14c) Financial benefit. — A direct pecuniary gain or loss to the legislator, the public servant, or a person with which the legislator or public servant is associated, or a direct pecuniary loss to a business competitor of the legislator, the public servant, or a person with which the legislator or public servant is associated.

North Dakota	<p>§ 44-04-22. Conflict of interest law.</p> <p>A person acting in a legislative or quasi-legislative or judicial or quasi-judicial capacity for a political subdivision of the state who has a direct and substantial personal or pecuniary interest in a matter before that board, council, commission, or other body, must disclose the fact to the body of which that person is a member, and may not participate in or vote on that particular matter without the consent of a majority of the rest of the body.</p>
Ohio	<p>§ 102.02. Duty to file disclosure statement with ethics commission.</p> <p>(10)(B) The Ohio ethics commission shall examine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by the person's disclosure statement, might interfere with the public interests the person is required to serve in the exercise of the person's authority and duties in the person's office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure statement and shall make the portions of the disclosure statement that indicate a potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements. Any portion of the disclosure statement that the commission determines does not indicate a potential conflict of interest shall be kept confidential by the commission and shall not be made subject to public inspection, except as is necessary for the enforcement of Chapters 102. and 2921. of the Revised Code and except as otherwise provided in this division.</p>
Oklahoma	<p>TITLE 74. STATE GOVERNMENT; CHAPTER 62. APPENDIX. TITLE 257. ETHICS COMMISSION CHAPTER 20. ETHICS AND CONFLICTS OF INTEREST 257:20-1-7. Votes, deliberations, and discussions by legislators or statewide elective officers.</p> <p>(a) A legislator or statewide elective officer shall not introduce or cause to have introduced, request the introduction of, promote, or vote on any legislation if the statewide elective officer or legislator or a child adopted child, step-child or spouse of the officer or legislator or a business or entity with which the legislator or officer or a member of the immediate family of the legislator or officer is associated has: (1) a pecuniary interest in; or (2) a reasonably foreseeable benefit from; the legislation. A reasonably foreseeable benefit includes detriment to a business competitor to the legislator or statewide elective officer, to a business competitor of a member of the immediate family of the legislator or officer, or to a business competitor of a business or entity with which the legislator or officer or child, adopted child, step-child or spouse of the legislator or officer is associated. (b) A legislator or statewide elective officer may introduce or cause to have introduced, request the introduction of, promote, or vote on legislation if the only pecuniary interest or reasonably foreseeable benefit that may accrue to the legislator or officer, child, adopted child, step-child or spouse of the legislator or officer, or business or entity with which a legislator or officer or a child, adopted child, step-child or spouse of a legislator or officer is associated is incidental to the legislator's or officer's, child's, adopted child's, step-child's, or spouse's or business or entity's position, or which accrues to the legislator or officer, child, adopted child, step-child or spouse of the legislator or officer, or business or entity as a member of a profession, occupation, or large class, whichever is applicable, to no significantly greater extent than the pecuniary interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class. (c) Nothing in this subsection shall allow a legislator or a member of the immediate family of a legislator, a statewide elective officer, or a business or entity with which the legislator or statewide elective officer is associated to contract with a governmental entity except as provided in Subsection (b) of Section 10 of this chapter.</p>
Oregon	<p>244.020. Definitions.</p> <p>(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (12) of this section.</p> <p>(12) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:</p> <p>(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.</p> <p>(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.</p> <p>(c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.</p>
Pennsylvania	<p>PENNSYLVANIA CONSOLIDATED STATUTES; TITLE 65. PUBLIC OFFICERS; PART II. ACCOUNTABILITY; CHAPTER 11. ETHICS STANDARDS AND FINANCIAL DISCLOSURE § 1102. Definitions 65 Pa.C.S. § 1102</p>

"Conflict" or "conflict of interest." Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated. The term does not include an action having a de minimis economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the public official or public employee, a member of his immediate family or a business with which he or a member of his immediate family is associated.

Puerto Rico

TITLE 3. EXECUTIVE; CHAPTER 65. ETHICS IN GOVERNMENT ACT; SUBCHAPTER
III. CODE OF ETHICS FOR THE EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCHES;
RESTRICTIONS ON FORMER PUBLIC SERVANTS
§ 1822. Prohibitions--Generally

(a) No public official or employee, whether personally or acting as a public servant, shall disregard the laws in effect, or the summons or orders of the Courts of Justice, the Legislative Branch or the agencies of the Executive Branch thus empowered.

(b) No public official or employee shall delay the rendering of services that the executive agencies of the Government of the Commonwealth of Puerto Rico are obligated to render, or hinder the efficient operation of the Executive Branch.

(c) No public official or employee shall use the duties and powers of his office, or public property or funds directly or indirectly, to obtain advantages, benefits or privileges not permitted by law, for himself, any member of his family unit, or for any other person, business or entity.

(d) No public official or employee shall request or accept any asset whatsoever of monetary value as payment for carrying out the duties and responsibilities of his employment other than the salary, wage or compensation to which he is entitled because of his public duties or employment.

(e) No public official or employee shall accept or solicit from any person whatsoever, directly or indirectly, either for himself, for any member of his family unit or for any other person, business or entity, any asset whatsoever of monetary value, including gifts, loans, promises, favors or services, in exchange for the actions of said public official or employee being of influence in behalf of that person or any other.

(f) No public official or employee who is a regular employee of the Government shall receive additional pay or special compensation of any nature from the Government of Puerto Rico or from any municipality, board, commission or body which in no way depends on the Government for personal services or official services of any nature, even though they are rendered in addition to the regular functions of the official or employee, unless said special pay or compensation is expressly authorized by § 551 of this title, or any other legal provision.

(g) No public official or employee shall reveal or use confidential information acquired as a result of his/her employment, to obtain, directly or indirectly, any economic advantage or benefit for him/her, a member of his/her family unit or for any other person, business or entity.

(h) No public official shall intervene, in any way, in any matter in which he/she or any member of his/her family unit has a conflict of interest.

(i) No public official or employee may appoint or promote to a position as a public official or employee or to contract, whether per se or through another natural or juridical person, business or entity with an interest in the executive agency in which the latter works or has the power to decide or influence, to any person who is a relative of said public official or employee within the fourth degree of consanguinity or the second degree of affinity. When the public official or employee with power to decide or influence believes that it is utterly necessary for the good of public service and the sound operation of the agency, to contract, appoint or promote a relative of his/her[s] within the degree of kinship mentioned above, in a position as public official or employee, [he/she] shall be bound to request a written authorization from the Executive Director of the Government Ethics Office in which he or she states the specific reasons that justify such a contract, appointment or promotion in that specific case, before carrying out such an action, pursuant to the regulations adopted by the Government Ethics Office.

The Government Ethics Office shall, within the directive term of thirty (30) days from the date of having filed the request for dispensation, authorize or deny the same. The Government Ethics Office shall notify the person making the request of the approval or denial of the dispensation. In the event the request for dispensation is denied, it shall show the grounds for such a decision by presenting a written report.

The prohibition established herein shall not apply in cases in which a public official or employee that appoints or promotes in a career position in the agency in which he/she works or over which he/she exerts jurisdiction, a public official or employee that is his/her relative within the abovementioned degrees, when the appointed or promoted public employee has had the opportunity of competing on an equal footing with other candidates through a selection process based on education and experience tests or evaluations, and it has been objectively determined that he or she is a suitable or the best qualified candidate in the register of eligibles for the position in question and the relative with power has not intervened in the process. Likewise, the prohibitions described above, with the exception of that on appointments, shall apply to those public employees or officials that acquire such a relationship of kinship degree provided for in this act after their appointment or designation.

(j) No public official or employee of the Executive Branch may use any representative motifs,

emblems, logos, buttons, transfers, stickers, signs, or insignias of any political party or candidate, or identify or promote, directly or indirectly, the electoral interests of any political party or candidate while in the performance of their duties, regardless of the location in which same are rendering their services.

TITLE 3. EXECUTIVE; CHAPTER 65. ETHICS IN GOVERNMENT ACT; SUBCHAPTER
III. CODE OF ETHICS FOR THE EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCHES;
RESTRICTIONS ON FORMER PUBLIC SERVANTS

§ 1823. Prohibitions--Relative to other employment, contracts or business

(a) No public official or employee shall accept an employment or maintain contractual or business relationships or responsibilities in addition to those of his public office or employment, whether it is in the Government or in the private sector, which, although legally permitted, has the effect of undermining his freedom of judgment in the performance of his official functions.

(b) No public official or employee shall accept employment or maintain contractual business relationships, with a person, business or entity which is regulated by, or does business with the government agency for which he/she works, when the public official or employee participates in institutional decisions of the agency or is empowered to decide or influence the official actions of the agency related to said person, business or entity.

(c) No public official or employee who is authorized to contract in the name of the executive agency for which he/she works, shall execute a contract between his agency and an entity or business in which he/she, or any member of his/her family unit, has, or has had, during the last four (4) years before taking office, a direct or indirect pecuniary interest.

(d) No executive agency may execute a contract in which any of its officials or employees, or any member of their family units, has or has had, during the last (4) years before taking office, a direct or indirect pecuniary interest, unless the Governor authorizes it, subject to the recommendations of the Secretary of the Treasury and the Secretary of Justice.

(e) No public official or employee shall be a part of, or have any interest in, the profits or benefits resulting from a contract with any other executive agency or government dependency, unless the Governor expressly authorizes it, subject to the prior recommendation of the Secretary of the Treasury and the Secretary of Justice. The contracting may only be executed in a case foreseen by this paragraph, without requesting and obtaining the authorization of the Governor, in the case of:

(1) Contracts whose value is not greater than three thousand (3,000) dollars and [which] occur only once in any fiscal year.

(2) Lease, exchange, purchase and sale, loan, mortgage insurance or contracts of any other nature that refer to housing and/or a lot provided or to be financed, or whose financing is secured or guaranteed by a government agency.

(3) Service, loan, guarantee and incentive programs sponsored by government agencies.

In the cases specified in clauses (2) and (3) of this subsection the contracting agency shall authorize the transactions provided the following requirements concur:

(A) The contracts, loans, insurance, guarantees or transactions are accessible to any citizen who qualifies therefor.

(B) Eligibility requirements are of general application.

(C) The public official or employee meets all the eligibility standards and is not granted treatment which is preferential or different from that of the public in general.

(f) No public official or employee who is empowered to approve or authorize contracts, shall evaluate, consider, approve or authorize a contract between an executive agency and entity or business in which he/she or any member of his/her family unit has or has had, during the last four (4) years before taking office, a direct or indirect pecuniary interest.

(g) No public official or employee shall execute or authorize a contract with a private person knowing that this person, in turn, is representing personal interests in cases or matters which involve a conflict of interest or public policy between the contracting government agency and the personal interests said private person is representing. To those effects, all government agencies shall require all private persons with whom it executes a contract, to include a contractual clause in which said private person certifies that he/she is not involved in a conflict of interest or public policy pursuant to the provisions of this subsection.

(h) In every case in which a contract has been executed in violation of the provisions of this section, and once said violations have been indicated by the Director of the Ethics in Government Office, [if] steps have not been taken to obtain a dispensation within ten (10) days following the notice, the contract shall be annulable and the Office of Ethics in Government and the Secretary of Justice are authorized to petition the courts of justice, in representation of the Commonwealth, for said contract [to] be declared null. When a contract is granted without obtaining the dispensation referred to in subsections (d) and (e), or when the same is obtained after the contract is granted, the Director of the Ethics in Government Office may impose a fine on the officials responsible for failing to obtain the dispensation, pursuant to the provisions of §§ 2201 et seq. of this title, part of the Commonwealth of Puerto Rico Uniform Administrative Procedures Act. The efforts to obtain the dispensation within the ten (10) days following the notification by the Director of a violation to subsections (d) and (e) shall be considered as extenuating circumstances but shall not exempt the officials subject of the deficiency, from liability.

(i) The prohibitions set forth in this section shall not apply to contracts executed by any executive agency for the acquisition of literary or artistic property rights, letters or patent to its

executive agency for the acquisition of literary or artistic property rights, letters or patent to its officers and public employees.

TITLE 3. EXECUTIVE; CHAPTER 65. ETHICS IN GOVERNMENT ACT; SUBCHAPTER III. CODE OF ETHICS FOR THE EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCHES; RESTRICTIONS ON FORMER PUBLIC SERVANTS

§ 1824. Prohibitions--Related to the representation of private interests in conflict with official functions

(a) No public official or employee may represent any private person, whatsoever directly or indirectly, to obtain the approval of an act or ordinance, to obtain a contract, the payment of a claim, a permit, license or authorization, or any other matter, transaction or proposal, if he or any member of his family unit has participated or will participate, or will probably participate in his official capacity in the disposition of the matter. This prohibition shall not apply when dealing with official acts of the public officials or employee within the limits of his authority.

(b) No public official or employee shall represent any private person whatsoever, directly or indirectly, before an executive agency, with regard to any claim, permit, license, authorization, matter, transaction or proposal that involves official action on the part of the agency, if he/she, or any member of his/her family unit, possesses executive authority over the agency.

(c) No public official or employee shall represent, or otherwise counsel any private person whatsoever, directly or indirectly, before any executive agency, court or other government dependency, in cases and matters related to the Government of Puerto Rico, or in cases or matters that involve conflicts of interest or public policy, between the Government and the interests of said private person.

(d) No full-time public official or employee shall, during working hours, represent, counsel or serve as an expert for private entities or persons in litigation, trials, public hearings or in any other matter before the courts of justice, quasi judicial bodies and administrative agencies.

(e) For the purposes of this section and § 1827 of this title, the term "matter" means those in which the official or employee has participated personally and substantially, and which occurred through a decision, approval or disapproval, recommendation or advice, or a special investigation involving specific parties. It does not include the participation or intervention of the official or the employee in the promulgation of standards or regulations of general application, or abstract directives and instructions that do not allude to special situations or specific cases.

Rhode Island

§ 36-14-7. Interest in conflict with discharge of duties.

(a) A person subject to this code of ethics has an interest which is in substantial conflict with the proper discharge of his or her duties or employment in the public interest and of his or her responsibilities as prescribed in the laws of this state, if he or she has reason to believe or expect that he or she or any person within his or her family or any business associate, or any business by which the person is employed or which the person represents will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity.

(b) A person subject to this code of ethics does not have an interest which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state, if any benefit or detriment accrues to him or her or any person within his or her family or any business associate, or any business by which the person is employed or which the person represents, as a member of a business, profession, occupation, or group, or of any significant and definable class of persons within the business, profession, occupation, or group, to no greater extent than any other similarly situated member of the business, profession, occupation, or group, or of the significant and definable class of persons within the business, profession, occupation or group.

§ 36-14-6. Statement of conflict of interest.

Any person subject to this code of ethics who, in the discharge of his or her official duties, is or may be required to take an action, make a decision, or refrain therefrom that will or can reasonably be expected to directly result in an economic benefit to the person, or spouse (if not estranged), or any dependent child of the person, or business associate or any business by which the person is employed or which the person represents, shall, before taking any such action or refraining therefrom:

(1) Prepare a written statement sworn to under the penalties for perjury describing the matter requiring action and the nature of the potential conflict; if he or she is a member of a legislative body and he or she does not request that he or she be excused from voting, deliberating, or taking action on the matter, the statement shall state why, despite the potential conflict, he or she is able to vote and otherwise participate fairly, objectively, and in the public interest; and

(2) Deliver a copy of the statement to the commission, and:

- (i) If he or she is a member of the general assembly or of any city or town legislative body, he or she shall deliver a copy of the statement to the presiding officer of the body, who shall cause the statement to be recorded in the journal of the body and, upon request of the member, may excuse the member from votes, deliberations, or any other action on the matter on which a potential conflict exists; or
- (ii) If the person is not a legislator, his or her superior, if any, shall, if reasonably possible, assign the matter to another person who does not have a conflict of interest. If he or she has no immediate superior, he or she shall take such steps as the commission shall prescribe through rules or regulations to remove him or herself from influence over any action on the matter on which the conflict of interest exists.

South Carolina	<p>§ 8-13-100. Definitions</p> <p>(11) (a) "Economic interest" means an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.</p> <p>(b) This definition does not prohibit a public official, public member, or public employee from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the public official, public member, or public employee is incidental to the public official's, public member's, or public employee's position or which accrues to the public official, public member, or public employee as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.</p>
	<p>§ 8-13-700. Use of official position or office for financial gain; disclosure of potential conflict of interest.</p> <p>(A) No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use which does not result in additional public expense.</p> <p>(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated shall:</p> <ol style="list-style-type: none"> (1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision; (2) if the public official is a member of the General Assembly, he shall deliver a copy of the statement to the presiding officer of the appropriate house. The presiding officer shall have the statement printed in the appropriate journal and require that the member of the General Assembly be excused from votes, deliberations, and other action on the matter on which a potential conflict exists; (3) if he is a public employee, he shall furnish a copy of the statement to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest. If he has no immediate superior, he shall take the action prescribed by the State Ethics Commission; (4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of any agency, commission, board, or of any county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes; (5) if he is a public member, he shall furnish a copy to the presiding officer of any agency, commission, board, or of any county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause such disqualification and the reasons for it to be noted in the minutes. <p>(C) Where a public official, public member, or public employee or a member of his immediate family holds an economic interest in a blind trust, he is not considered to have a conflict of interest with regard to matters pertaining to that economic interest, if the existence of the blind trust has been disclosed to the appropriate supervisory office.</p> <p>(D) The provisions of this section do not apply to any court in the unified judicial system.</p> <p>(E) When a member of the General Assembly is required by law to appear because of his business interest as an owner or officer of the business or in his official capacity as a member of the General Assembly, this section does not apply.</p>
South Dakota	<p>Sout Dakota Constitution, Art. III, § 12....</p> <p>[N]or shall any member of the Legislature during the term for which he shall have been elected, or within one year thereafter, be interested, directly or indirectly, in any contract with the state or any county thereof, authorized by any law passed during the term for which he shall have been elected.</p>
Tennessee	<p>§ 8-50-502. Disclosure statements -- Contents.</p> <p>Legislators must file a Conflict of Interest Disclosure statement that meets the following requirements:</p> <p>Disclosure shall be made of:</p>

- (1) The major source or sources of private income of more than one thousand dollars (\$1,000), including, but not limited to, offices, directorships, and salaried employments of the person making disclosure, the spouse, or minor children residing with such person, but no dollar amounts need be stated. This subdivision (1) shall not be construed to require the disclosure of any client list or customer list;
- (2) Any investment which the person making disclosure, that person's spouse, or minor children residing with that person has in any corporation or other business organization in excess of ten thousand dollars (\$10,000) or five percent (5%) of the total capital; however, it shall not be necessary to state specific dollar amounts or percentages of such investments;
- (3) Any person, firm, or organization for whom compensated lobbying is done by any associate of the person making disclosure, that person's spouse, or minor children residing with the person making disclosure, or any firm in which the person making disclosure or they hold any interest, complete to include the terms of any such employment and the measure or measures to be supported or opposed;
- (4) In general terms by areas of the client's interest, the entities to which professional services, such as those of an attorney, accountant, or architect, are furnished by the person making disclosure or that person's spouse;
- (5) By any member of the general assembly, the amount and source, by name, or any contributions from private sources for use in defraying the expenses necessarily related to the adequate performance of that member's legislative duties. The expenditure of campaign funds by an officeholder for the furtherance of the office of the officeholder shall be considered as an expenditure under title 2, chapter 10, and such expenditures need not be reported under the provisions of this chapter;
- (6) Any retainer fee which the person making the disclosure receives from any person, firm, or organization who is in the practice of promoting or opposing, influencing or attempting to influence, directly or indirectly, the passage or defeat of any legislation before the general assembly, the legislative committees, or the members to such entities;
- (7) Any adjudication of bankruptcy or discharge received in any United States district court within five (5) years of the date of the disclosure;
- (8) Any loan or combination of loans of more than one thousand dollars (\$1,000) from the same source made in the previous calendar year to the person making disclosure or to the spouse or minor children unless:

(A) The loan is from an immediate family member;

(B) The loan is from a financial institution whose deposits are insured by an entity of the federal government, or such loan is made in accordance with existing law and is made in the ordinary course of business. A loan is made in the ordinary course of business if the lender is in the business of making loans, and the loan bears the usual and customary interest rate of the lender for the category of loan involved, is made on a basis which assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule;

(C) The loan is secured by a recorded security interest in collateral, bears the usual and customary interest rate of the lender for the category of loan involved, is made on a basis which assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule;

(D) The loan is from a partnership in which the legislator has at least ten percent (10%) partnership interest; or

(E) The loan is from a corporation in which more than fifty percent (50%) of the outstanding voting shares are owned by the person making disclosure or by a member of such person's immediate family.

As used in this subdivision (8), "immediate family member" means a spouse, parent, sibling or child; and

(9) Such additional information as the person making disclosure might desire.

Senate Code of Ethics, Article 2

Section 1. A Senator has a personal interest that conflicts with the proper discharge of the Senator's duties if:

- (a) The Senator has reason to believe or expect that he or she will derive a direct monetary gain or any other advantage or suffer a direct monetary loss by reason of his or her official activity;
- (b) The Senator is employed by a business entity that employs a lobbyist who seeks to influence legislative action regarding a matter before the Senate or any committee thereof; or
- (c) The immediate family, as defined in T.C.A. Section 3-6-301(12), of the Senator is a lobbyist employed to influence legislative action regarding a matter before the Senate or any committee thereof.

Section 2: ... (b) No Senator shall violate the provisions of T.C.A. Sections 2-10-123, 3-6-304, 3-6-305, or 39-16-102, nor shall any Senator otherwise misuse the Senator's office for personal financial gain.

(i) No Senator shall use the Senator's office either to grant or to obtain special privilege, exemption, or preferential treatment to or for him or herself.

Texas

GOVERNMENT CODE; CHAPTER 572. PERSONAL FINANCIAL DISCLOSURE, STANDARDS OF CONDUCT, AND CONFLICT OF INTEREST
§ 572.005. Determination of Substantial Interest.

An individual has a substantial interest in a business entity if the individual:

- (1) has a controlling interest in the business entity;
- (2) owns more than 10 percent of the voting interest in the business entity;
- (3) owns more than \$25,000 of the fair market value of the business entity;
- (4) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gains of the business entity;
- (5) is a member of the board of directors or other governing board of the business entity;
- (6) serves as an elected officer of the business entity; or
- (7) is an employee of the business entity.

Utah § 76-8-109. Failure of member of Legislature to disclose interest in measure or bill.

(a) "Conflict of interest" means an action that is taken by a regulated officeholder that the officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder's immediate family, or an entity that the officeholder is required to disclose under the provisions of this section, and that benefit or detriment is distinguishable from the effects of that action on the public or on the officeholder's profession, occupation, or association generally.

Vermont Senate Rule 71.

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

House Rule 75.

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

Virginia General Assembly. § 30-101. Definitions.

"Personal interest" means a financial benefit or liability accruing to a legislator or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$ 10,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business that exceeds, or may reasonably be anticipated to exceed, \$ 10,000 annually; (iv) ownership of real or personal property if the interest exceeds \$ 10,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; or (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business.

"Personal interest in a contract" means a personal interest which a legislator has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business which is a party to the contract.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency which involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth of Virginia, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the legislator's own governmental agency.

"Personal interest in a transaction" means a personal interest of a legislator in any matter considered by the General Assembly. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business, or represents any individual or business and such property, business or represented individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. A "personal interest in a transaction" exists only if the legislator or member of his immediate family or an individual or business represented by the legislator is affected in a way that is substantially different from the general public or from persons comprising a profession, occupation, trade, business or other comparable and generally recognizable class or group of which he or the individual or business he represents is a member.

"Transaction" means any matter considered by the General Assembly, whether in a committee, subcommittee, or other entity of the General Assembly or before the General Assembly itself, on which official action is taken or contemplated.

Senate Rule 36.

Every Senator present in the Chamber, when any question is put or vote taken, shall vote or be counted as voting on one side or the other, except in the case of pairs, as hereinafter provided. A Senator who has a personal interest in the transaction, as defined in § 30-101 of the Code of Virginia, shall neither vote nor be counted upon it, and he shall withdraw, or invoke this rule not to be counted, prior to the division and the fact shall be recorded on the voting machine. If a Senator invokes this rule, the Senator shall not participate, directly or indirectly, in the matter wherein the rule is invoked.

House Rule 69.

Upon a division of the House on any question, a member who is present and fails to vote shall on the demand of any member be counted on the negative of the question and when the yeas and nays are taken shall, in addition, be entered on the Journal as present and not voting. However, no member who has an immediate and personal interest in the result of the question shall either vote or be counted upon it...

Washington

§ 42.52.020. Activities incompatible with public duties.

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

§ 42.52.030.

(1) No state officer or state employee, except as provided in subsection (2) of this section, may be beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract, sale, lease, purchase, or grant.

(2) No state officer or state employee may participate in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest, except that an officer or employee of an institution of higher education or the *Spokane intercollegiate research and technology institute may serve as an officer, agent, employee, or member, or on the board of directors, board of trustees, advisory board, or committee or review panel for any nonprofit institute, foundation, or fund-raising entity; and may serve as a member of an advisory board, committee, or review panel for a governmental or other nonprofit entity.

West Virginia

6B-2-5 (d). Interests in public contracts. --

(1) In addition to the provisions of section fifteen, article ten, chapter sixty-one of this code, no elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or over which he or she may have control: *Provided*, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body: *Provided, however*, That nothing herein shall be construed to prohibit a member of the Legislature from entering into a contract with any governmental body, or prohibit a part-time appointed public official from entering into a contract which the part-time appointed public official may have direct authority to enter into or over which he or she may have control when the official has not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has been excused from voting on the contract and has fully disclosed the extent of his or her interest in the contract.

(2) In the absence of bribery or a purpose to defraud, an elected or appointed public official or public employee or a member of his or her immediate family or a business with which he or she is associated shall not be considered as having a prohibited financial interest in a public contract when such a person has a limited interest as an owner, shareholder or creditor of the business which is awarded a public contract. A limited interest for the purposes of this subsection is:

(A) An interest which does not exceed one thousand dollars in the profits or benefits of the public contract or contracts in a calendar year;

(B) An interest as a creditor of a public employee or official who exercises control over the contract, or a member of his or her immediate family, if the amount is less than five thousand dollars.

(3) If a public official or employee has an interest in the profits or benefits of a contract, then he or she may not make, participate in making, or in any way attempt to use his office or employment to influence a government decision affecting his or her financial or limited financial interest. Public officials shall also comply with the voting rules prescribed in subsection (j) of this section.

(4) Where the provisions of subdivisions (1) and (2) of this subsection would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship, or other substantial interference with the operation of a state, county, municipality, county school board or other

governmental agency, the affected governmental body or agency may make written application to the Ethics Commission for an exemption from subdivisions (1) and (2) of this subsection.

6B-2-5. (j) Limitations on Voting.

(1) Public officials, excluding members of the Legislature who are governed by subsection (i) of this section, may not vote on a matter:

(A) In which they, an immediate family member, or a business with which they or an immediate family member is associated have a financial interest. Business with which they are associated means a business of which the person or an immediate family member is a director, officer, owner, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stocks of any class.

(B) If a public official is employed by a financial institution and his or her primary responsibilities include consumer and commercial lending, the public official may not vote on a matter which directly affects the financial interests of a customer of the financial institution if the public official is directly involved in approving a loan request from the person or business appearing before the governmental body or if the public official has been directly involved in approving a loan for

that person or business within the past 12 months: *Provided*, That this limitation only applies if the total amount of the loan or loans exceeds fifteen thousand dollars.

(C) A personnel matter involving the public official's spouse or relative;

(D) The appropriations of public moneys or the awarding of a contract to a nonprofit corporation if the public official or an immediate family member is employed by the nonprofit.

(I) A public official may vote:

(A) If the public official, his or her spouse, immediate family members or relatives or business with which they are associated are affected as a member of, and to no greater extent than any other member of a profession, occupation, class of persons or class of businesses. A class shall consist of not fewer than five similarly situated persons or businesses; or

(B) If the matter affects a publicly traded company when: (i) The public official, or dependent family members individually or jointly own less than five percent of the issued stock in the publicly traded company and the value of the stocks individually or jointly owned is less than ten thousand dollars; and (ii) Prior to casting a vote the public official discloses his or her interest in the publicly traded company.

(3) For a public official's recusal to be effective, it is necessary to excuse him or herself from participating in the discussion and decision-making process by physically removing him or herself from the room during the period, fully disclosing his or her interests, and recusing him or herself from voting on the issue.

See also Title 58, Legislative Rule of the Ethics Commission, Series 8, Interest in Public Contracts.

Wisconsin

§ 19.45. Standards of conduct; state public officials.

(1) The legislature hereby reaffirms that a state public official holds his or her position as a public trust, and any effort to realize substantial personal gain through official conduct is a violation of that trust... The legislature further recognizes that in a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government; that citizens who serve as state public officials retain their rights as citizens to interests of a personal or economic nature; that standards of ethical conduct for state public officials need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are substantial and material; and that state public officials may need to engage in employment, professional or business activities, other than official duties, in order to support themselves or their families and to maintain a continuity of professional or business activity, or may need to maintain investments, which activities or investments do not conflict with the specific provisions of this subchapter.

(2) No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. 11.

(5) No state public official may use or attempt to use the public position held by the public official to influence or gain unlawful benefits, advantages or privileges personally or for others....

(13) No state public official or candidate for state public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under s. 11.05, or any person making a communication that contains a reference to a clearly identified state public official holding an elective office or to a candidate for state public office.

§ 19.46. Conflict of interest prohibited; exception.

(1) Except in accordance with the boards advice under s. 5.05 (6a) and except as otherwise provided in sub. (3), no state public official may:

(a) Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.

(b) Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the officials immediate family either separately or together, or an organization with which the official is associated.

§ 19.42

(2) "Associated", when used with reference to an organization, includes any organization in which an individual or a member of his or her immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity or of which an individual or a member of his or her immediate family is an authorized representative or agent.

Wyoming

§ 6-5-101.

"Pecuniary benefit" is benefit in the form of property, but does not include: Property with a value of less than twenty dollars (\$20.00); Food or drink or entertainment authorized as a proper deductible expense for income tax purposes under the United States Internal Revenue Code up to an amount of one hundred dollars (\$100.00) per year; or Contributions to a political

... up to an amount of one hundred dollars (\$100.00) per year of contributions to a political campaign of a public servant as provided in W.S. 22-25-102.

§ 6-5-103. Compensation for past official behavior; penalties. A person commits an offense if he solicits, accepts or agrees to accept any pecuniary benefit as compensation for having, as a public servant, given a decision or vote favorable to another, or for having otherwise exercised a discretion in his favor, or for having violated his statutory duties. For purposes of this section, "compensation" does not include mere acceptance of an offer of employment.

§ 6-5-106. Conflict of interest; penalties; disclosure of interest and withdrawal from participation.

(a) Except as provided by subsection (b) of this section, a public servant commits an offense if he requests or receives any pecuniary benefit, other than lawful compensation, on any contract, or for the letting of any contract, or making any appointment where the government employing or subject to the discretion or decisions of the public servant is concerned.

(b) If any public servant discloses the nature and extent of his pecuniary interest to all parties concerned therewith and does not participate during the considerations and vote thereon and does not attempt to influence any of the parties and does not act for the governing body with respect to the contracts or appointments, then the acts are not unlawful under subsection (a) of this section. Subsection (a) of this section does not apply to the operation, administration, inspection or performance of banking and deposit contracts or relationships after the selection of a depository.

(c) Violation of subsection (a) of this section is a misdemeanor punishable by a fine of not more than five thousand dollars (\$5,000.00).

Virgin Islands

TITLE THREE Executive; Chapter 37. Conflicts of Interest

§ 1103. Substantial conflict of interest.

A person subject to this chapter has an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the laws of the Virgin Islands or a personal interest, arising from any situation, within the scope of this chapter, if he will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity. He does not have an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed by the laws of the Virgin Islands or a personal interest, arising from any situation, within the scope of this chapter, if any benefit or detriment accrues to him as a member of an industry, profession, occupation, or group to no greater extent than any other member of such business, profession, occupation, or group.

TITLE THREE Executive; Chapter 37. Conflicts of Interest

§ 1104. Remote interest

(a) A territorial officer or employee shall not be deemed to be interested in a contract entered into by a public agency of which he is a member within the meaning of this chapter if he has only a remote interest in the contract and if the fact of such interest is disclosed to the public agency of which he is a member and noted in its official records, and thereafter the public agency authorizes, approves, or ratifies the contract in good faith.

(b) As used in this chapter "remote interest" means:

- (1) that of a nonsalaried officer or a nonprofit organization;
- (2) that of a former employee or agency of a party contracting with the government, if the territorial officer or employee was an employee or agent of said contracting party for at least three (3) years prior to his initially becoming a territorial officer or employee. Time of employment with the contracting party shall be counted in computing the three (3) year period even though such contracting party has been converted from one form of business organization to a different form of business organization within the three (3) years of the initial taking of office by such territorial officer or employee. Time of employment in such case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the contracting party is the same or substantially similar to that which existed before such transfer or change in organization. Stock holders, bond holders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of such contracting party.
- (3) that of a parent in the earnings of his minor child for personal services.
- (4) that of a landlord or tenant of the party contracting with the government.
- (5) that of an attorney of the party contracting with the government but not representing the contracting party in negotiating with the government.
- (6) that of a former supplier of goods or services to a party contracting with the government when such goods or services were supplied to the contracting party by the territorial officer or employee for at least five (5) years prior to his election or appointment to a territorial office or employment.

(c) The provisions of this section shall not be applicable to any territorial officer or employee interested in a contract who influences or attempts to influence another member of a public agency of which he is a member to enter into the contract.

(d) The willful failure of a territorial officer or employee to disclose the fact of his interest in a contract pursuant to this section shall be punishable as provided in this chapter. Such violation shall not void the contract, however, unless the contracting party had knowledge of the fact of the remote interest of the officer at the time the contract was executed.

(e) A territorial officer or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his sole interest is that of an officer, director, or employee or a bank or financial institution with which a party to the contract has the relationship of borrower or depositor or creditor.

NCSL Member Toolbox

Members Resources

- Get Involved With NCSL
- Jobs Clearinghouse
- Legislative Careers
- NCSL Staff Directories
- Staff Directories
- StateConnect Directory

Policy & Research Resources

- Bill Information Service
- Legislative Websites
- NCSL Bookstore
- State Legislatures Magazine

Meeting Resources

- Calendar
- Online Registration

Press Room

- Media Contact
- NCSL in the News
- Press Releases

Denver

7700 East First Place
Denver, CO 80230
Tel: 303-364-7700 | Fax: 303-364-7800

Washington

444 North Capitol Street, N.W., Suite 515
Washington, D.C. 20001
Tel: 202-624-5400 | Fax: 202-737-1069

Attachment B

Alaska's Select Committee on Legislative Ethics, advisory opinion

Ethics Opinion Web Search

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Legislative Ethics**

716 W. 4th, Suite 230 Mailing Address:
Anchorage, AK P.O. Box 101468
(907) 269-0150 Anchorage, AK
FAX: 269-0152 99510-1468

June 11, 2007

ADVISORY OPINION 2007-01**Subject: Conflict of Interest - Legislation**

RE: You have asked the committee to advise you in regard to the following:
Are you in violation of the Legislative Ethics Act if, given the particular circumstances described below, you continue to sponsor a bill that you have introduced, and if you take or withhold official action on certain legislation related to it but sponsored by others?

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.

Statement of Facts

You are the sole owner and managing member of Corporation X and the president and sole officer of Corporation Y. For a number of years your corporations have earned the majority of their annual income from service contracts with Company A. During a recent legislative session you were in negotiation with Company A to extend or renew these contracts, which were about to expire. During the time period in which these negotiations took place, you introduced and sponsored a bill that, if it becomes law, could indirectly confer a substantial financial benefit upon Company A. The bill is still pending, and you are still a sponsor. During the same time period, you took or withheld official action on other bills, introduced by others, that also might indirectly confer a substantial financial benefit upon Company A.

Discussion

Company A could benefit substantially from enactment of the bill you introduced, and, perhaps to a lesser degree, from enactment of the related bills sponsored by others, upon which you took or withheld official action.

Unless required by the Uniform Rules of the Alaska State Legislature, a legislator may not vote on a question if the legislator has an equity or

Items 1 - 29

File Name Details

- [AO 09-05.doc](#) **Subject:** Close Economic Association – Independent Contractor/Consultant
Synopsis: ...ak.us September 24, 2009 ADVISORY OPINION 2009-05 SUBJECT: **Close** Economic Association – Independent Contractor/Consultant RE: The filing deadline for ...
- [AO 85-5.doc](#) **Subject:** Gifts \96 Lobbyists
Synopsis: ...16, 1985 Advisory Opinion 85-5 Re: What constitutes a "**close** economic association" with a registered lobbyist or a public official ...
- [AO 87-1.doc](#) **Subject:** Gifts \96 Lobbyists
Synopsis: ...a business relationship with a registered lobbyist must disclose a **close** economic association with that lobbyist; and whether a conflict of ...
- [AO 94-01.DOC](#) **Subject:** Gifts – Lobbyists
Synopsis: ...loan of a car result in a gift or a **close** economic association under the Legislative Code of Ethics? You have ...
- [AO 87-3.doc](#) **Subject:** Gifts \96 Lobbyists
Synopsis: ...sharing a dwelling and associated expenses during session creates a **close** economic association. You have submitted a request for an advisory ...
- [AO 14-01.pdf](#) **Subject:**
Synopsis: ...99510-1468 May 29, 2014 ADVISORY OPINION 2014-01 SUBJECT: **Close** Economic Association – Cell Phone Plan RE: Does the Legislative Ethics ...
- [AO 94-14.DOC](#) **Subject:** Gifts – Lobbyists
Synopsis: ...of lodging and charter fishing to a lobbyist create a **close** economic association? You are a

legislator covered by the legislative ...

[AO 87-2.doc](#) **Subject:** Gifts '96 Lobbyists
Synopsis: ...registered agent of a financial planning firm must disclose a **close** economic association with another legislator or with a legislative employee ...

[AO 09-02.doc](#) **Subject:** Close Economic Association – Medical Services
Synopsis: ...99510-1468 May 28, 2009 ADVISORY OPINION 2009-02 **SUBJECT: Close** Economic Association – Medical Services **RE: Close** Economic Association You are ...

[AO 92-04.DOC](#) **Subject:** Gifts – Lobbyists
Synopsis: ...1992 Advisory Opinion 92-4 **RE: Advisory** Opinion request concerning **close** economic associations. You have requested an advisory opinion concerning whether ...

[AO 08-04.doc](#) **Subject:** Close Economic Association - Lodging
Synopsis: ...99510-1468 August 19, 2008 ADVISORY OPINION 2008-04 **SUBJECT: Close** Economic Association - Lodging **RE: If a legislator or legislative employee ...**

[AO03-01.DOC](#) **Subject:** Gifts – Lobbyists
Synopsis: ...2003-1 **RE:** Disclosure under AS 24.60.070 of **close** economic associations involving the separate property of the spouse of ...

[AO 86-1.doc](#) **Subject:** Gifts '96 Lobbyists
Synopsis: ...day of the session, the formation or maintenance of a **close** economic association involving a substantial financial matter with 1) a ...

[AO 93-02.DOC](#) **Subject:** Gifts – Lobbyists
Synopsis: ...whether a real estate agent representing a seller has a **close** economic association with a buyer. You have requested an advisory ...

[AO 95-03.DOC](#) **Subject:** Gifts – Lobbyists
Synopsis: ...equipment. The joint ownership of the equipment might create a **close** economic association involving a substantial financial matter, depending on the ...

[AO 86-2.doc](#) **Subject:** Gifts '96 Lobbyists
Synopsis: ...that covered persons

ownership interest in a business, investment, real property, lease, or other enterprise, if the interest is substantial, and if the effect on that interest of the action to be voted on is greater than the effect on a substantial class of persons to which the legislator belongs as a member of a profession, occupation, industry, or region. AS 24.60.030(g). Because of the business relationship you have with Company A, as you have described it, you have a conflict of interest, under AS 24.60.030(g), with respect to the bill you introduced and other legislation favorable to the industry occupied by Company A and your corporations. Your introduction of a bill that could substantially benefit this industry during a period in which you were negotiating substantial business contracts with Company A is of special concern to the committee.¹

Under AS 24.60.010(2), in order to protect the integrity of the legislative process, even the appearance of a conflict of interest in the legislative branch of government is to be avoided. When a legislator has a conflict of interest in a matter, the Uniform Rules of the Alaska State Legislature can require that the legislator cast a vote, the conflict of interest notwithstanding. However, a legislator's introduction or sponsorship of a bill is always discretionary; the rules never require that the legislator introduce or sponsor a bill. When, under the Act, a legislator has a conflict of interest in a matter, introducing or sponsoring legislation in the matter is contrary to AS 24.60.010 generally, and improper under AS 24.60.010(2) specifically. A determination by this committee that a legislator should not introduce or sponsor a bill in a matter in which the legislator has a conflict of interest under the Act would not prohibit legislators from earning outside income, or impair legislators' income-earning abilities or opportunities. It would allow a person to be a citizen legislator, while at the same time preserving the "high moral and ethical standards among public servants in the legislative branch of government . . . essential to assure the trust, respect, and confidence of the people of this state." AS 24.60.010.

Conclusion

For the reasons stated above, the Legislative Ethics Act requires that you should continue to give notice of a conflict of interest before voting on legislation of the industry in which you conduct business in common with Company A and that when you have a conflict of interest in a matter, under the Legislative Ethics Act, you should not take any official action in the matter except as the Uniform Rules require.

The committee finds that under AS 24.60.010(2) it was improper for you to have introduced the bill favorable to Company A's industry because, due to your business relationship with Company A, you have a conflict of interest.

The committee suggests that you consider abandoning sponsorship of the legislation by asking for its withdrawal (Uniform Rule 27(b)). In any event, except as required by the Uniform Rules, you should take no official action to advance the bill.

Adopted by the Select Committee on Legislative Ethics on June 11, 2007.

Members present and concurring in this opinion were:
 Dennis (Skip) Cook, Chair

disclose the formation or maintenance of a **close** economic association involving a substantial financial matter with a supervisor ...

AO 03-02.doc Subject:
Synopsis: ...violation if the recipient was subject to the ethics code.
Close Economic Association For scenarios A - D a loan agreement for ...

AO 94-06.DOC Subject: Gifts – Lobbyists
Synopsis: ...the charitable organization). The sale probably will not create a **close** economic association between you and the purchaser, reportable under AS ...

AO 11-05.pdf Subject:
Synopsis: ...the requirements of AS 24.60.070 that relate to **close** economic associations, and the financial disclosure requirements under AS 24 ...

AO 87-6.doc Subject: Gifts \96 Lobbyists
Synopsis: ...stated that a legislative aide should treat a spouse's **close** economic associations as his or her own, for purposes of ...

AO 94-09.doc Subject:
Synopsis: ...credits without violating AS 24.60.030(a)(1). A **close** examination of the overlap between your public duties and the ...

AO 04-02.doc Subject:
Synopsis: ...their full vigor are the following: That no motions to **close** or limit a debate are allowed, that it is not ...

AO 93-03.DOC Subject: Gifts – Lobbyists
Synopsis: ...under AS 24.60.050, and does not establish a **close** economic association between you and any of the types of ...

AO 98-02.DOC Subject: Gifts – Lobbyists
Synopsis: ...than an action of the legislature. However, initiatives are sufficiently **close** to legislation as to be treated as a governmental action ...

AO 97-02.DOC Subject: Gifts – Lobbyists
Synopsis: ...than an action of the legislature. However, initiatives are sufficiently **close** to legislation as to be treated as a governmental action ...

AO 93-05.DOC Subject: Gifts – Lobbyists
Synopsis: ...gift exceeds \$100. The committee recognizes that this is a

Representative Bob Roses
 Representative Berta Gardner
 Senator Con Bunde
 Gary J. Turner, public member
 Ann Rabinowitz, public member
 Herman G. Walker, public member

Members dissenting from this opinion were:

Members absent were:
 Senator Gary Stevens
 H. Conner Thomas, public member

DCW:ljw
 07-306.ljw

¹ Unless required by the Uniform Rules of the Alaska State Legislature, a legislator may not take or withhold official action or exert official influence that could substantially benefit or harm the financial interest of another person with whom the legislator is negotiating for employment. AS 24.60.030(e). Your introduction and sponsorship of the bill, or any other official action or influence by you that could have substantially benefited the industry, and that occurred during or in connection with the negotiation period you've described, would violate AS 24.60.030(e) if your negotiations with Company A were negotiations for employment. (This is especially true of official action taken or withheld, or of influence asserted, during a period when you were negotiating contracts with company A.)

"Employment" is not defined in the Legislative Ethics Act, and there is no applicable definition in other Alaska Statutes. Broadly defined, the term could include work as an independent contractor, which arguably would include the services you provide under contract to Company A. Narrowly defined, the term would exclude the contract negotiations you have described. The committee applies a narrow definition in this instance and therefore finds that AS 24.60.030(e) does not apply. It is, however, worth noting that the committee considers this a **close** question.

There is some authority in the Legislative Ethics Act definitions suggesting that the Legislature views employment broadly, at least in one circumstance. The Act does not define "employer" or "employee" but defines "legislative employee" as follows, in AS 24.60.990(11):

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

close question. In reaching its decision, the committee reviewed the language ...

[AO 99-1.doc](#) **Subject:** Gifts '96 Lobbyists
Synopsis: ...regardless of contract type. The public disclosure could include any **close** economic associations with legislators or legislative employees and would be ...

[AO 88-4.doc](#) **Subject:** Gifts '96 Lobbyists
Synopsis: ...upgrade the street in front of your home. There are **close** to 50 homes along the street, which is a state ...

[AO 07-01.doc](#) **Subject:** Conflict of Interest - Legislation
Synopsis: ...is, however, worth noting that the committee considers this a **close** question. There is some authority in the Legislative Ethics Act ...

Items 1 - 29

AO 07-01 -2-

-3- AO 07-01

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Alaska State Legislature

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May 29, 2014

ADVISORY OPINION 2014-01

SUBJECT: Close Economic Association – Cell Phone Plan

RE: Does the Legislative Ethics Act require an employee who shares a cellphone service plan with a legislator to report a 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. The committee relies on facts that you have described in answering your questions.

Statement of Facts

You are employed as staff to a member of the legislature. You are responsible to a cellphone carrier for the cost of a personal cellphone service plan shared by five users: your spouse, your parent, your sibling, and, since April 2014, a member of the legislature. Users share 10 gigabytes (GB) of data each month, have their own phone and phone number, and are responsible for making a monthly contribution toward the cost of the shared plan. With four users sharing the plan, three would each contribute approximately \$48.00 a month, and one, by agreement of all users, would contribute \$15.00 a month. With five users sharing the plan, four contribute approximately \$40.00 a month and one, by agreement of all users, contributes \$15.00 a month.¹ As a result of adding a fifth user to the plan in April, you, your spouse, and your parent each pay approximately \$8.00 per month less than you would pay without adding the fifth user.

Although the committee relies on the facts you have described, we visited the website of the cellphone service provider you named in order to determine the cost a single user would pay in order to obtain service comparable to the service they obtain as a user of your shared plan. According to the website, a single user would pay \$40.00 monthly for two GB of data, and at least \$25.00 monthly for a phone line. The website indicates that users on any of the provider's service plans may be responsible for taxes and other additional costs assessed by the state or federal government.

¹ Based on information you provided, the \$40.00 amount is comprised of a \$15.00 line charge and \$25.00 for data surcharges.

Discussion

Generally "Ethics disclosure requirements are based in part on the principle that certain potential conflicts of interest, once out in the open, pose less of a threat to the public's confidence in government than they might if they were not revealed."² As a legislative employee, you are required to disclose a close economic association with a legislator.

In a previous opinion we discussed further the purpose underlying the Act's close economic association disclosure requirement.³

The Legislative Ethics Act generally encourages legislators and legislative staff to avoid conflicts of interest that could undermine public trust in government. The formation or maintenance of a close economic association involving a substantial financial matter creates a potential conflict of interest because it puts two or more persons under obligation to each other; it tends to set each up for potential financial gain, or loss, depending on how they treat each other, and in so doing it may complicate their relationship to an extent that might interfere with their legislative mission. Nevertheless, the Act allows the formation and maintenance of certain close economic associations, requiring only that they be disclosed in a particular manner and at particular times.

According to AS 24.60.070(a), a close economic association is:

[T]he 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.

(Emphasis added.)

AS 24.60 does not define "substantial financial matter." However, in AO 03-02 we applied the Act's close economic provision (AS 24.60.070) to hypothetical facts

² AO 09-05.

³ AO 09-05.

involving a loan by a legislator to a legislative employee. In that case we said "[t]he committee determines in this opinion that if the amount of a loan exceeds the maximum value of a gift that can be accepted under AS 24.60.080, then it should be considered a substantial financial relationship under AS 24.60.070." In making the determination that the \$250.00 annual gift limit provided a reasonable benchmark we considered the narrow exception for gifts and the need to avoid even the appearance of a conflict of interest, citing AS 24.60.010(2), of the Act's "legislative findings and purpose" section, as follows:

[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.

The facts you provide describe an informal agreement between you and the legislator to share use of a cellphone service plan. With regard to formation of a close economic association, we have said that such an association can exist based on a "hand-shake" agreement or a written agreement.⁴ Furthermore, although you have indicated that the agreement can be terminated on short notice by either of you, it is also possible for the agreement to be maintained for a year or longer.

Based on the facts you provided, and the facts we obtained from your service provider's website, the addition of the legislator as a fifth user of your shared cellphone service plan would save you and two members of your immediate family an approximate total of \$96.00 each, or \$288.00 combined, in a 12-month period;⁵ and, in that same period, the legislator would save approximately \$300.00 over the cost of a single-user plan with the same provider.⁶ Therefore, applying the rationale we adopted in AO 03-02, based on the \$250 annual gift limit in AS 24.60.080, the four of you share a substantial financial interest in the five-user arrangement you have described.⁷ For purposes of this opinion,

⁴ AO 09-05.

⁵ "Immediate family" is defined by the Act in AS 24.60.990(a)(6), as:

- (A) the spouse or domestic partner of the person; or
- (B) a parent, child, including a stepchild and an adoptive child, and sibling of a person if the parent, child, or sibling resides with the person, is financially dependent on the person, or shares a substantial financial interest with the person;

⁶ These numbers are approximated because they do not include additional incidental charges that may apply to the shared plan or the single-user plan, including possible state and federal government assessments.

⁷ Based on the facts we rely on for this opinion, your sibling, one of the four users who originally shared the plan, does not directly benefit from the addition of a fifth user.

and the applicability of AS 24.60.070, we attribute the relevant financial interests of your spouse and your parent to you.

In AO 87-01, we found that a legislative aide should treat a spouse's close economic associations as his or her own for purposes of disclosure under AS 24.60.070. We apply that rule here and, in this instance, we extend it to your parent as well. Your parent's interest in the association is facilitated by a cellphone plan for which you are responsible, and an agreement that you have made with a legislator. Your parent shares with you a substantial financial interest under AS 24.60.070 and is therefore a member of your immediate family for the purpose of applying the Legislative Ethics Act in this instance.

Conclusion

For reasons stated above, the committee finds that:

- 1) You have entered into an agreement with a legislator to share a cellphone service plan.
- 2) The agreement results in a combined savings of at least \$288.00 a year for you and two members of your immediate family, and a savings of at least \$300.00 per year to the legislator.
- 3) Each of these amounts constitute a substantial financial interest under AS 24.60.070 because they exceed \$250 in one year, and therefore you, your immediate family, and the legislator share a substantial financial interest in the agreement.
- 4) The agreement you have described constitutes the formation and maintenance of a close economic association under AS 24.60.070(a) and is subject to the disclosure requirements of that subsection.

As a separate matter, it is worth noting that your disclosure of this close economic association will not excuse the legislator with whom you share a cellphone plan from the disclosure requirements of AS 24.60.070 or other applicable requirements of the Legislative Ethics Act.⁸

⁸ In AO 09-05, which involved a staff employee who also provided private professional consulting services to legislators as an independent contractor, we advised as follows:

Initially, it is each person's own responsibility to determine if they are required by AS 24.60.070 to file a disclosure. We note that any of your clients who are subject to the Legislative Ethics Act are required by AS 24.60.070 to disclose a close economic association with you, even if you have already filed your own disclosure report.

Adopted by the Select Committee on Legislative Ethics on May 29, 2014

Members present and concurring in this opinion were:

Gary J. Turner, Chair
Representative Andy Josephson
Senator Berta Gardner
Janie Leask, public member
H. Conner Thomas, public member
Dennis "Skip" Cook, public member
Senator Anna Fairclough, alternate member

Members dissenting from this opinion were: None.

Members absent were:

Representative Charisse Millett
Herman G. Walker, Jr., public member

DCW:lnd
14-218.lnd

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MEMORANDUM

March 21, 2018

SUBJECT: Constitutional issues
(SCS CSSSHB 44(STA)); Work Order No. 30-LS0208(N)

TO: Senator Kevin Meyer
Attn: Christine Marasigan

FROM: Daniel C. Wayne 
Legislative Counsel

The draft bill described above is attached. Because it would require a title change in the second house, if the bill passes the Senate will need to adopt a title change resolution. Please let me know if you would like one drafted.

Please read the draft bill carefully. It is similar but not identical to initiative 17AKGA (the initiative), also known as the "Government Accountability Act." Both the bill and the initiative raise constitutional issues.

Effect of bill on Initiative Election

If a court determines the bill is "substantially the same" as the initiative, the bill's enactment would void the initiative and displace it from the ballot, under art. XI, sec. 4, Constitution of the State of Alaska, which reads:

Initiative Election. An initiative petition may be filed at any time. The lieutenant governor shall prepare a ballot title and proposition summarizing the proposed law, and shall place them on the ballot for the first statewide election held more than one hundred twenty days after adjournment of the legislative session following the filing. If, before the election, substantially the same measure has been enacted, the petition is void.

Under AS 15.45.210, the lieutenant governor, with the concurrence of the attorney general, is responsible for determining whether an act of the legislature is substantially the same as a proposed initiative, for purposes of applying art. XI, sec. 4, Constitution of the State of Alaska. AS 15.45.210 reads:

Sec. 15.45.210. Determination of void petition. If the lieutenant governor, with the formal concurrence of the attorney general, determines that an act of the legislature that is substantially the same as the proposed law was enacted after the petition had been filed, and before the date of the

election, the petition is void and the lieutenant governor shall so notify the committee.¹

The general test for similarity between a measure enacted by the legislature and an initiative is set out by the Alaska Supreme Court in 1975, in *Warren v. Boucher*:

It is clear that the legislative act need not conform to the initiative in all respects, and that the framers intended that the legislature should have some discretion in deciding how far the legislative act should differ from the provisions of the initiative. The question, of course, is how great is the permitted variance before the legislative act becomes no longer substantially the same.

Upon reflection we have concluded that the legislature's discretion in this matter is reasonably broad. If in the main the legislative act achieves the same general purpose as the initiative, if the legislative act accomplishes that purpose by means or systems which are fairly comparable, then substantial similarity exists.²

In *Warren*, the Court compared the provisions of a legislative act with the provisions of an initiative, and observed that although there were many differences between the two, "it is clear that they both cover the same general subject matter. Both are aimed at the control of election campaign contributions and expenditures."³ The Court commented on some of the differences between the act and initiative as follows:

Both measures control the total amount of expenditures by candidates as to primary and general elections. The specific amounts limited in each measure vary. As to the candidates for governor and lieutenant governor the amounts work out nearly the same. As to candidates for the House the initiative limits expenditures to \$6,000, while the act limits them to about \$7,000. The initiative limits Senate campaign expenditures to \$8,000, while the formula used under the act results in a limit of about \$14,000.

¹ AS 15.45.240 reads:

Sec. 15.45.240. Judicial review. Any person aggrieved by a determination made by the lieutenant governor under AS 15.45.010 - 15.45.220 may bring an action in the superior court to have the determination reviewed within 30 days of the date on which notice of the determination was given.

² 543 P.2d 731, 736-39 (Alaska 1975).

³ *Id.* at 737.

In short, the statute is not a hollow gesture toward the regulation of election campaigns.⁴

Ultimately, the Court determined that the legislative act met the requirements of art. XI, sec. 4, Constitution of the State of Alaska, to void the initiative and displace it from the ballot because

[v]iewing the two measures as a whole we find that they accomplish the same general goals. They adopt similar, although not identical, functional techniques to accomplish those goals. The variances in detail between the measures are no more than the legislature might have accomplished through reasonable amendment had the initiative become law. Nothing is present here to suggest that the act was a subterfuge to frustrate the ability of the public to obtain consideration and enactment of a comprehensive system to regulate election campaign contributions and expenditures.⁵

In *State v. Trust the People*, the Alaska Supreme Court explained further how the general test adopted in *Warren* applies in a case where the scope of an initiative's subject matter is narrow compared to the scope of the initiative's subject matter in *Warren*:

Warren developed a three-part test to determine whether a proposed initiative and legislation are substantially the same: A court must first determine the scope of the subject matter, and afford the legislature greater or lesser latitude depending on whether the subject matter is broad or narrow; next, it must consider whether the general purpose of the legislation is the same as the general purpose of the initiative; and finally it must consider whether the means by which that purpose is effectuated are the same in both the legislation and the initiative.⁶

Most of the differences between the attached draft bill and the initiative can be attributed to drafting style, but a few are substantive. For example, instead of using "de minimus" to describe food and beverages that a lobbyist can give a legislator or legislative employee, the bill establishes a \$15.00 limit on the value of that gift; and, as further explained below, the bill narrows applicability the initiative's prohibition on campaign contributions and expenditures by foreign-influenced corporations. However, the substantive differences between the bill and the initiative are few, and they amount to different ways of addressing identical issues. Therefore, although I cannot predict with certainty the outcome of potential litigation, if a court were to apply the three-part test developed in *Warren* and refined in *State v. Trust the People* to the attached draft bill and the initiative 17AKGA,

⁴ *Id.* at 739 (internal footnote omitted).

⁵ *Id.* at 739.

⁶ 113 P.3d 613, 621 (Alaska 2005).

the court would probably find that the bill passes that test. If so, the bill would displace the initiative from the election ballot.

The bill raises raise other constitutional issues.

Salary and expenses of legislators

Article II, sec. 7, Constitution of the State of Alaska provides:

Salary and Expenses. Legislators shall receive annual salaries. They may receive a per diem allowance for expenses while in session and are entitled to travel expenses going to and from sessions. Presiding officers may receive additional compensation.

This provision has not yet been interpreted by the Alaska Supreme Court. A plain reading of this section suggests that legislators (1) are constitutionally entitled to a salary; (2) "may receive a per diem allowance," but do not have a constitutional right to receive one; and, (3) are constitutionally entitled to receive "travel expenses going to and from sessions." While the constitution requires that legislators be provided a salary and travel expenses, it appears that per diem is optional; it may or may not be provided by the legislature. Without a constitutional mandate requiring that per diem be provided, a court may find that the legislature may adopt a statute that prohibits payment of per diem after 121 days. However, if the legislature were to later adopt a uniform rule or a legislative policy setting per diem that conflicts with the statute's prohibition on legislative per diem after 121 days of a regular session, the uniform rule or legislative policy may prevail over the statute if challenged.⁷ Even when a statute imposes a procedural requirement on the legislature, the court has found the issue to be nonjusticiable. *Abood*, 743 P.2d 333, holding that the Open Meetings Act (AS 44.62.310), then applicable to the legislature, only established a rule of procedure that is not a subject of judicial inquiry unless the procedural violation also infringes on the rights of a third person, ignores constitutional restraints, or violates fundamental rights.

Federal preemption

Sections 1 and 2 of the bill (and section 9 of the initiative) prohibit "foreign-influenced corporations" from making, or promising to make, certain contributions and expenditures in state election campaigns. This may be preempted by federal law. (The draft bill at least partially addresses this issue, as further explained below).

The Federal Election Campaign Act (FECA) prohibits any foreign national from contributing, donating, or spending funds in connection with any federal, state, or local election in the United States, either directly or indirectly.⁸ Because 52 U.S.C. sec. 30121

⁷ *Abood v. League of Women Voters*, 743 P.2d 333 (Alaska 1987); *Malone v. Meekins*, 650 P.2d 351 (Alaska 1982).

⁸ See 52 U.S.C. sec. 30121, 22 U.S.C. § 611(b), and 11 C.F.R. 110.4.

already clearly prohibits foreign nationals from making campaign contributions, expenditures, and independent expenditures in federal, state, and local elections, a state effort to legislate in this area may face a preemption challenge.

The Supremacy Clause, Art. VI, cl. 2 of the Constitution of the United States, provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Alaska Supreme Court has noted that "[u]nder the Supremacy Clause of the federal constitution, state laws that interfere with federal laws are invalid."⁹ The Court has summarized federal preemption law as follows:

There is a presumption against federal preemption of state law, and preemption doctrine "enjoin[s] seeking out conflicts between state and federal regulation where none clearly exists." Additionally, "[w]here co-ordinate state and federal efforts exist within a complementary administrative framework, and in the pursuit of common purposes," . . . "the case for federal pre-emption becomes a less persuasive one." But where state law comes into conflict with federal law, the Supremacy Clause of the United States Constitution dictates that state law must always yield.

There are three major types of federal preemption of state law: "express," "field," and "conflict" preemption. Express preemption occurs when Congress explicitly declares an intent to preempt state law in a particular area. . . .

Field preemption is the term used when the federal law governing a particular area is so comprehensive and so complete that Congress is said to have completely occupied a field, leaving no room for state law. We "will not infer an intent to occupy the field where Congress has left some room for state involvement." . . .

Conflict preemption occurs when a state law and a federal law are in conflict, either because compliance with both state and federal law is impossible or because the state law "stands as an obstacle to accomplishment and execution of the full purposes and objectives of

⁹ *Allen v. State*, 203 P.3d 1155, 1161, n. 12 (Alaska 2009), quoting *State v. Dupier*, 118 P.3d 1039, 1049 (Alaska 2005).

Congress." . . .¹⁰

The state clearly does not have authority to regulate contributions and expenditures in campaigns for federal office; that has been expressly preempted by federal law.¹¹ Whether the state may regulate contributions and expenditures from foreign nationals in campaigns for state office is less clear. I am not aware of any federal statute or regulation which expressly preempts state regulation of foreign contributions and expenditures in campaigns for state office.

However, field preemption may come into play. To the extent a court found that the federal law governing contributions and expenditures by foreign nationals is so comprehensive and complete as to "occupy the field," it could invalidate state law attempting to cover the same ground. To the extent that a state and federal law conflict with each other, conflict preemption is also a possibility.

The draft bill addresses the preemption issue by adding the prohibition on contributions and expenditures by foreign-influenced corporations to AS 15.13.068, a current statute that prohibits foreign nationals from making contributions and expenditures in state election campaigns, and makes the bill's prohibitions on foreign-influenced corporations subject to AS 15.13.068(b) -- a provision that, as amended, by the bill, would require application of the new prohibition to remain within parameters established by federal law.

Freedom of speech and association

The First Amendment protects freedom of speech and freedom of association. Contributions to political campaigns and independent expenditures made on the behalf of a candidate are protected speech under the First Amendment.¹² This speech is a fundamental right. In deciding whether this provision violates a person's rights under the federal constitution's First and Fourteenth Amendments and the state constitution's art. I, secs. 5 and 6, a court will (1) weigh the character and magnitude of the burden that the state's rule imposes on the person's rights against the interests that are contended by the state to justify that burden, and (2) consider the extent to which the state's concerns make the burden necessary.

In this instance, the relevant legal analysis is whether the initiative's campaign contribution

¹⁰ *Allen v. State*, 203 P.3d 1155, 1160 - 1161 (Alaska 2009) (citations and footnotes omitted).

¹¹ 52 USC 30143 (specifying that the provisions of the federal election campaigns act "supersede and preempt any provision of state law with respect to election to federal office."); 11 C.F.R. 108.7(b)(3) (federal law "supersedes state law concerning the . . . [l]imitation on contributions and expenditures regarding Federal candidates and political committees.").

¹² See *Randall v. Sorrell*, 126 S. Ct. 2479 (2006); *Buckley v. Valeo*, 424 U.S. 1 (1976).

and expenditure prohibition "burden[s] substantially more speech [or association] than is necessary to further the government's legitimate interests."¹³ Without regard to the possible preemption issues prohibiting candidate contributions from a *corporation* controlled by a foreign national, or imposing some restrictions on contributions from *corporations* described as "foreign-influenced corporations" under the initiative, prohibiting a foreign national from contributing to or spending money on a state election campaign is likely constitutional,¹⁴ but the bill's secs. 1 and 2 (and sec. 9 of the initiative) both go further than this, in a way that a court may find is not sufficiently narrowly tailored to the state's interest in protecting its processes of self government, because the prohibition is on *all* expenditures with respect to a candidate in an election and *all* contributions to groups by entities covered by the initiative's expansive definition of "foreign-influenced corporation."

Equal protection

Because the requirements of sections 1 and 2 of the bill (and section 9 of the initiative) apply to a corporation with a certain percentage of its ownership interest held by a foreign national or nationals, or a corporation that permits a foreign national to participate in the process of making decisions, and not to other corporations, these requirements may be vulnerable to an equal protection challenge.

Alaska evaluates equal protection claims using a sliding scale.¹⁵ There are several steps

¹³ *State v. Alaska Civil Liberties Union*, 978 P.2d 597, 619 (Alaska 1999), quoting *California ProLife Council v. Scully*, 989 F. Supp. 1282, 1296 (E. D. Cal. 1998), quoting *Ward v. Rock Against Racism*, 491 U. S. 781, 799 (1989).

¹⁴ The government may exclude foreign citizens from activities "intimately related to the process of democratic self-government." *Bernal v. Fainter*, 467 U.S. 216, 220 (1984); *see also Gregory v. Ashcroft*, 501 U.S. 452, 462 (1991). In the context of elections and campaign finance, the United States District Court for the District of Columbia stated:

It is fundamental to the definition of our national political community that foreign citizens do not have a constitutional right to participate in, and thus may be excluded from, activities of democratic self-government. It follows, therefore, that the United States has a compelling interest for purposes of First Amendment analysis in limiting the participation of foreign citizens in activities of American democratic self-government, and in thereby preventing foreign influence over the U.S. political process.

Bluman v. F.E.C., 800 F. Supp P.2d 281, 288 (D.D.C. 2011) (holding that the government may bar foreign citizens (at least those who are not lawful permanent residents) from participating in campaign processes to influence how voters would cast their ballots in elections for public office) (*affirmed by Bluman v. F.E.C.*, 565 U.S. 1104 (2012)).

¹⁵ *Matanuska-Susitna Borough School v. State*, 931 P.2d 391, 396 (Alaska 1997).

involved. First, the court determines the importance of the interest impaired by the challenged statute. Then the court looks at the purposes served by the statute. Finally, the court looks at how well the statutory means fits the purpose. "The common question in addressing equal protection cases is whether two groups of people who are treated differently are similarly situated and thus entitled to equal treatment."¹⁶ Because campaign contributions and expenditures are a form of political speech subject to protection under the First Amendment, a court will apply "strict scrutiny." Under a strict scrutiny standard, a law must be narrowly tailored to serve a compelling governmental interest.

Like the initiative, the bill's prohibition on certain campaign contributions and expenditures is applicable to a corporation with as little as a five percent foreign ownership interest or, even if there is no foreign ownership interest, to a corporation which employs a foreign national who participates in making decisions relating to campaign contributions and expenditures.¹⁷ Given the multinational and diverse nature of many corporations, it is possible that this prohibition would apply to a large number of corporations (including domestic corporations), doing business in the state. If the prohibition is litigated, a court may find that qualifying a corporation as "foreign-influenced" because a foreign national controls as little as five percent of it, or participates even minimally in the corporation's decision-making relating to contributions and expenditures in some manner, implicates at least some corporations whose campaign contributions and expenditures are not significantly influenced by a foreign national. Although the prohibition against certain contributions and expenditures from foreign-influenced corporations may serve a compelling state interest, a court may find it is an unconstitutional violation of certain corporations' right to equal protection because it is not narrowly tailored to protect that state interest.

If you have questions, please do not hesitate to contact me.

DCW:mlp
18-176.mlp

Attachment

¹⁶ *Anderson v. State*, 78 P.3d 710, 718 (Alaska 2003).

¹⁷ See the initiative's sec. 9(b)(9)(C), reflected in the addition of subparagraph 15.13.068(c)(5)(C) in section 1 of this draft bill.

ALASKA STATE LEGISLATURE

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House Finance Committee

Dept. of Law
Finance Subcommittee
Chairman

Dept. of Administration
Finance Subcommittee
Chairman

Rep.Jason.Grenn@akleg.gov

REPRESENTATIVE JASON GRENN

HB 44 Explanation of Changes Version R to Version N

The sections of Version R can be found in the corresponding sections of Version N

- Ver R Section 1 corresponds with Section 7 in ver N
- Ver R Section 2 corresponds with Section 8 in ver N
- Ver R Section 3 corresponds with Section 9 in ver N
- Ver R Section 4 corresponds with Section 11 in ver N

The new sections of the bill include:

Sections 1 and 2, prohibits foreign corporations and nationals from making political expenditures on behalf of candidates in state elections.

Section 3, page 6 lines 5-12, amends AS 24.10.120(a) to implement a stricter policy on legislative foreign travel.

Section 4, page 6 lines 5-12, amends AS 24.10.130(b) so there will be no per diem for legislators after 121 days if the budget has not been passed

Section 5, page 6 lines 25-31, amends AS 24.10.130(c) to direct the Legislative Council to adopt a per diem policy in accordance with section 4 of the bill.

Section 6, page 8 lines 1-12, amends AS 24.45.121(a) to read that a lobbyist may only purchase a non-alcoholic beverage for a legislator.

Section 10, page 9, amends AS 24.10.120(a) to clarify that a Legislator can accept a non-alcoholic beverage from a lobbyist.

Section 12, page 11 line 4-19, amends AS 39.23.540(d) to include the new stipulations on per diem set forth in section 4.

Section 13, page 11, line 20, repeals AS 24.10.051(b).

Section 14, page 11 lines 21-24, amends the uncodified law of the State of Alaska to direct the Alaska Public Office Commission to adopt the necessary regulations to implement sections 1 and 2 of this bill.

Section 15, page 11 lines 27-31, amends the uncodified law of the State of Alaska to state that if any section of this bill is found invalid, then the rest of the bill will not be affected.

Section 16, page 12 line 1, states that section 14 of the bill will take effect immediately upon the bill's passage.

Section 17, page 12 line 2, changes the effective date to July 1, 2018.