

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1776 SCOMM 72: JOINT COMMITTEE ON LEGISLATIVE ETHICS ACT OF 1990344

Senator Jan Faiks
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April 18, 1990

of category A and B income could be solved if we approached this set of provisions from a slightly different perspective. Rather than categorize income, categorize the source, and define the type of income we are worried about, e.g., income for personal services vs. investment income.

13. Note that I have eliminated many separate provisions (typically subsections) that treated false or late disclosures, and revised AS 24.61.420 to cover all disclosures under AS 24.61.100 - 24.61.420. This provision would be vastly improved by setting a definite time deadline in lieu of "unreasonably delayed."

14. Note also my changes in AS 24.61.535(g)(1) and 24.61.545(a) and (d) in which I narrowed the language to include only violations of "provisions of this chapter for which civil or administrative sanctions are authorized." I did this for several reasons. First, given the fact that essentially every provision that prohibits specific behavior contains a penalty provision, the courts may very well interpret the balance of the chapter as being without a specific remedy. Second, because a lot of the provisions are "noble ideas" and "lofty goals" rather than prescriptions for behavior, they are probably unenforceable even if a penalty were provided. In any event, please review that change carefully to see if you agree.

15. Finally, I rewrote AS 24.61.900 to narrow its reach. I was very concerned about the interaction with criminal laws under AS 11 and other laws, including some in AS 39, that may be available to prosecute an errant staffer or member.

From this point forward, I will be back to revising and John Gaguine will be working with you on the bill. If you have any questions about this draft, however, please feel free to contact me. I am certain that we haven't discovered and/or dealt with all of the problems.

DRD:gc
G14/009

Enclosure

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL

JUNEAU, ALASKA 99811

907-465-3800

RECEIVED APR 19 1990

MEMORANDUM

April 20, 1990

SUBJECT: Changes in most recent version of CSSB 415

TO: Members of the joint committee on the ethics bill

FROM: John B. Gaguine *JBG*
Legislative Counsel

The Senate Judiciary Committee last week reported out CSSB 415 (Jud). This bill was the Michael Josephson ethics bill, with a number of changes. At the judiciary committee meeting, Dave Dierdorff discussed a number of problems that he saw in the bill, and that Laurie Otto of the Department of Law had commented on. As a result, Mr. Dierdorff was directed to do a further draft of the bill addressing these problems. The result was CSSB 415 (), Work Order 6-2007H (4/18/90).

In order to enable the committee to understand the changes the bill has gone through, I am attaching several memoranda on the bill. First, there is a memo from me to Representative Boucher, dated April 12, that details the changes between CSSB 415 and the basic Josephson bill (HB 596). Next there is a memo from Mr. Dierdorff to Senator Faiks, dated April 11, setting forth some of the problems he saw with the bill; this memo was the basis of his discussion at the Judiciary Committee hearing. Finally, there is a memo from Mr. Dierdorff to Senator Faiks, dated April 18, that discusses further changes that he believes should be considered.

In this memo I will try to point out the major differences between CSSB 415 () and CSSB 415 (Jud).

Many of the differences between the two versions involve an attempt to make sure that AS 24.61 does not make a misdemeanor conduct that is a felony under AS 11, or does not eliminate criminal penalties altogether for conduct that is criminal under AS 11. Dave Dierdorff's April 11 memo discusses this issue. In order to achieve this goal, he has

altered CSSB 415 (Jud) in AS 24.61.110(a) and (b), 24.61.-130(a) and (b), 24.61.140(b) and (g), 24.61.180(f), 24.61.-230(d), 24.61.340(g), 24.61.350(e), and 24.61.420(b). In addition, he has deleted the numerous references throughout AS 24.61 to giving false or incomplete information, and incorporated this into one statute, AS 24.61.420.

Other significant changes are as follows (page references are to CSSB 415 ()):

Page 8, line 20: AS 24.61.110(a) is changed by adding "agree to accept" on line 22, and by specifying that the section does not preclude the acceptance of lawful gratuities.

Page 9, line 12: Delete "undue influence or" before bribery; there are no undue influence laws.

Page 10, line 9, after first sentence: Add a new sentence to read "This subsection does not authorize an employee on government time to perform services for the private gain or advantage of the legislator or legislative employee."

Page 10, line 28, after first sentence: Add a new sentence to read "This subsection does not prohibit the use of mailing lists or computer data lawfully obtained from a government agency and available to the general public for nongovernmental purposes."

Page 12, line 7: "are intended" used to read "clearly appeared to be primarily intended".

Page 14, line 7: References to confidential information have been removed from AS 24.61.170, since it is a crime to misuse confidential information for any reason, not just private gain.

Page 14, line 20: Delete "unwarranted" before private.

Page 15, line 9: Delete "otherwise proper" before recommendation.

Page 16, line 4: The prohibition in (b) is changed to limit only paid lobbying; volunteer lobbying or representation is now allowed.

Page 16, line 14: The definition in (c) is expanded to cover legislative assistants to the legislators listed in (c).

Page 16, line 25: Delete "unduly" before exploited.

Page 17, line 14: The first sentence of AS 24.61.202, about reasonable and necessary use of campaign funds, has been moved to here from AS 24.61.205(c). In 205(c) it carried a criminal sanction, which was obviously inappropriate for such a vague proscription.

Page 18, line 18: "unjustly enrich" inserted; otherwise the subsection could be read to prohibit any campaign spending.

Page 24, line 6: insert "regular or special", for clarity.

Page 24, line 23: Subsection (d) is new.

Page 33, line 24: Delete reference to "inside" information; this term seems no different than nonpublic.

Page 36, line 5: Add sentence that reads "In addition, the commission shall report the violation to the attorney general for action under other civil or criminal laws."

Page 37, page 1: Delete "solicit" after may not. It is never proper to solicit a gift.

Page 62, line 1, and page 66, lines 4 and 26: after chapter insert "for which civil or administrative sanctions are authorized".

Page 72, line 10: Delete former first sentence of (a), which read "The attorney general shall assist the commission and the legislature in enforcing all lawful orders and sanctions."

Page 77, line 26: Delete part at end of (a) that read "and specific Alaska statutes including former AS 24.60, and all other laws that are inconsistent or incompatible with a provision of this chapter." Dave Dierdorff noted in his April 18 memo that he was concerned about the interaction of AS 24.61 with the criminal laws under AS 11 and some other laws, including those in AS 39, that might be applicable. Leaving in the language cited above might have precluded application of those laws.

Page 82, line 15: The definition of "intent to influence legislative, administrative, or political action" is rewritten. The former definition made it illegal to bribe someone

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to change his or her mind, but okay to bribe in order to ensure that the person adhered to a previously announced position.

Page 83, line 21: The definition of "nonpublic information" is limited to information that a person obtained as a result of legislative duties.

Page 83, following line 13: Delete former definitions of "unofficial compensation" and "unwarranted benefit". These terms are not used in the revised version.

JBG:pl
WKP4/069

Enclosures

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

COPY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

April 12, 1990

SUBJECT: Differences between House and Senate ethics bills

TO: Representative H.A. "Red" Boucher
Chair, State Affairs Committee

FROM: John B. Gaguine *JB*
Legislative Counsel

Here is a list of the differences between the House ethics bill, HB 596, and the Senate bill, CSSB 415 (Jud). The list may not include every technical change, but I believe that it encompasses every substantial difference. It is keyed to HB 596.

Page 10, line 13, after "use": insert "or authorize the use of". There is a related change, discussed below, at page 85, following line 23.

Page 10, line 16: delete "the outcome of an election", and insert "the election of a candidate in an election".

Page 10, line 23: The Senate version of (d) also allows for production of a newsletter from public funds above and beyond the office allowance, but authorizes two newsletters a year. It also provides, in AS 24.10.110, that additional newsletters could not be funded out of the office allowance.

Page 11, line 18, and page 12, line 11: delete "the outcome of an election", and insert "the election of a candidate in an election".

Page 12, line 5, before "mail": insert "solicitations by".

Page 12, line 7: insert a new phrase at the end of (3) that reads "if an unsolicited contribution is received in the mail, or a lawfully solicited contribution is misdi-

rected to an office ordinarily used to conduct state business, if otherwise lawful it may be accepted but it may not be processed in that office and it shall be delivered promptly to the appropriate location".

Page 12, line 18: delete "improper", and insert after "tasks" on the next line "in violation of this chapter".

Page 12, line 22: a similar change: delete "improper", insert "prohibited".

Page 13, line 18: insert a new sentence at the end of (a) to read: "This subsection does not allow the disclosure of information made confidential by law."

Page 14, following line 24: insert a new subsection (e) to read: "The legislative council shall adopt a written definition of "official letterhead" for purposes of this section."

Page 16, following line 1: The Senate version introduces a new subsection (e) that would allow an aide, but not a legislator, to go to work for another government agency if the aide obtains an exemption from the commission. It is narrower than the amendment by Representative Finkelstein adopted by the committee.

Page 17, line 26: delete "irrevocably pledged during a campaign or campaign money sent before a final election", insert "received or postmarked before a final election".

Page 18, line 29, after "contribution": insert "in excess of \$100 in the aggregate a year". A similar change is made on page 20, line 27 (legal defense fund).

Page 19, line 29: Legislative employees are also allowed to establish legal defense funds.

Page 21, line 3: insert two new sentences at the end of (g), to read:

Except for the provisions of this chapter relating to the times during which political contributions may be solicited or accepted, and provisions inconsistent with specific provisions of this section, this chapter applies to the solicitation and acceptance of funds under this section. The commission may adopt regulations limiting the dollar amount of contributions under this section.

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Page 31, line 21: delete the sentence relating to legislative stays. In a related change, the Senate version amends AS 24.40.020 and 24.40.031, the legislative stay provisions, to allow stays only when the legislator is a party or a witness, and not an attorney.

Page 37, lines 22-29: The Senate version rewrites paragraphs (4) and (5) as follows:

(4) unsolicited tokens or awards of appreciation or recognition with a value of more than \$100 in the form of a plaque, trophy, clock, watch, desk item, wall memento, or similar item may be accepted only if the award has been approved by the commission upon a finding that the gift does not create an impermissible conflict of interest;

(5) unsolicited subscriptions to publications, including newspapers and magazines, with a market value of less than \$100 for the duration of a legislative session;

Page 38, lines 25-26; delete "may not exceed two nights and the gratuity."

Page 45, following line 19: insert a new subsection (d) to read:

(d) The commission shall adopt regulations relating to the definitions of category A and B income and the reporting requirements imposed by AS 24.61.400 - 24.61.420. The regulations must include provisions that distinguish between income received for personal services, income received from the ownership of property, income received directly by the legislator or legislative assistant, and income received by an entity in which the legislator or legislative assistant has an ownership interest. The regulations may exclude from category A income, income from sources such as interest on deposit accounts in regulated financial institutions.

Page 53, line 27: delete "Five", insert "Six".

Page 79, line 29: delete "\$150", insert "\$100".

Page 80, line 6: delete "on an annual basis", insert "during a legislative session".

Page 85, following line 23: The Senate version adds a new paragraph to AS 24.45.121(a), prohibitions on lobbyists,

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so that lobbyists may not "use state property or resources in the conduct of the lobbyist's business; this paragraph does not apply to a state employee whose official duties require the employee to register as a lobbyist."

Finally, the Senate version has quite different effective dates. Generally it makes the provisions establishing the commission and requiring Legislative Council to adopt regulations effective on June 1, 1990; the provisions about campaign financing, including the prohibition on post-election contributions, effective on the date of the November election this year; and the rest of the bill, including the new conflict-of-interest provisions and the repeal of the current ethics law, effective on the first day of the Seventeenth Legislature.

I will be glad to discuss these changes, and the reasons why I believe that the Senate made them, at the next committee meeting.

JBG:pl
WKP4/059

STATE OF ALASKA
THE LEGISLATURE
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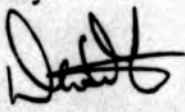
POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

MEMORANDUM

April 11, 1990

SUBJECT: Potential Problems in CSSB 415(Judiciary)

TO: Senator Jan Faiks
Chair, Senate Judiciary

FROM: David R. Dierdorff 
Revisor of Statutes

You have asked for a memo discussing problems we have noted in the Ethics Act. Our review of this bill has not been as thorough as we like. The items noted in this memo are those which were relatively obvious in a cursory reading of the bill. We have previously discussed the interaction of this bill with AS 15.13 and other election laws, and with AS 39.50. Dick Bradley should be consulted with respect to the election laws, and John Gaguine is reviewing the interaction with AS 39.50 as well as other aspects of this bill. I focused on criminal provisions and on drafting clarity in general. The Department of Law should be asked to review the criminal provisions to assure that all problems have been brought to light.

Criminal Sanctions Generally. Because of the extremely broad interpretation of legislative immunity in Alaska, it is unlikely that a criminal prosecution against a legislator for a violation of specific provisions of the Ethics Act under many circumstances could proceed. However, immunity does not prevent the legislature from punishing an errant member. If, however, a member resigned before being expelled, for example, there is probably little that could be done to bring the member to justice, either in the courts or in the legislature, unless the constitution was amended to

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narrow immunity to a "speech or debate" type of immunity. Consequently, each criminal sanction in AS 24.61 should be viewed as potentially unenforceable as to legislators.

AS 24.61.110. The conduct proscribed by subsection (a) is already illegal in Alaska. Furthermore, existing law is more restrictive than the Josephson proposal. AS 11.56.120 makes it a class A misdemeanor for a public servant to solicit a benefit of any value (above normal compensation) for having performed an authorized or required act, or to accept or agree to accept a benefit worth \$50 or more. Because of the definition of "anything of value" (in AS 24.61.990), AS 24.61.110(a) allows a legislator or employee to accept certain benefits that are worth up to \$100 (the only exception to the existing criminal law is campaign contributions).

If it is important to leave this provision in AS 24.61, it must be rewritten. The provision prohibits a legislator or employee from seeking anything of value as a result of proper performance of the person's public duties. Read strictly, it prevents a person from seeking their official compensation, or asking for a raise. Because there is a criminal penalty, it must be clarified. Language could be added to the definition to ensure that official compensation is not included in "anything of value," or the subsection could be rewritten to read:

(a) A legislator or legislative employee may not solicit, agree to accept, or accept a benefit other than official compensation for the proper performance of public responsibilities. This subsection may not be construed to prohibit lawful solicitation for and acceptance of campaign contributions. A person who violates this subsection is guilty of receiving unlawful gratuities under AS 11.56.120 and is subject to civil sanctions under AS 24.61.560(a).

Because the definition of benefit for AS 24.61 excludes certain unsolicited gifts or awards with a value of less than \$100, it would be possible for a person to violate AS 11.56.120 but not violate AS 24.61.110 (by accepting a token of appreciation worth \$50 to \$99). The dollar amounts allowed ought to be reviewed.

Subsection (b) of AS 24.61.110 describes the crime of receiving a bribe, which is a class B felony under AS 11.56.110. Under AS 24.61.110(a), it is only a class A misdemeanor. Thus, this needs to be rewritten along the lines of (a), or deleted.

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Subsection (c) could be deleted if (a) and (b) are rewritten as suggested.

AS 24.61.120. The words "undue influence and" on page 9, line 9 need to be deleted. The offeror is guilty of bribery under AS 11.56.100, not undue influence (there are no such laws). It is bribery to offer, as well as to confer or agree to confer, a benefit with the intent of influencing official conduct. There is no dollar limit on the value of the benefit. It is a class B felony.

AS 24.61.130. The proscriptions of this section include conduct that could be prosecuted as theft of services under AS 11.46, and conduct that could be prosecuted as tampering with public records under AS 11.56.815. In both instances, it is possible that felonious conduct under those provisions could only be prosecuted as a class A misdemeanor because of this provision. There is also some tension between unsworn falsification and this section, but at least they are both class A misdemeanors.

In subsection (c), the words "not directly related to the official duties of the legislator or legislative employee" need to be deleted. With that language included, the provision suggests that it is proper to use a legislative employee on government time to aid a private activity that is directly related to the official duties of the legislator or legislative employee. Because there is a criminal sanction for a violation of this provision, it needs to be carefully drafted.

AS 24.61.140. Subsection (b) needs language to ensure that it is still okay to purchase and use government lists and computer data (e.g. voter registration lists) in a campaign.

AS 24.61.150. Given the nature of Article 1 of this chapter, and the purpose of this provision, the language "in violation of this chapter" should probably be narrowed to "in violation of AS 24.61.100 - 24.61.460." (This was my substitution for "improper.")

AS 24.61.170. It is already against the law to use confidential information for private gain or in any other unauthorized manner (AS 11.56.860). The reference to confidential on line 22 should be deleted. The exception language on lines 21 - 22 should also be deleted. It suggests that it is okay to use or disclose nonpublic information for private gain in the

Senator Jan Faiks

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performance of official duties. Again, because there are criminal sanctions, this provision needs to be carefully reviewed and drafted.

AS 24.61.180. The word "unwarranted" needs to be deleted. Unwarranted benefits are defined as those obtained through improper use of office. Thus, as drafted the section prohibits the improper use of office to gain benefits obtained through improper use of office. The crime of official misconduct under AS 11.56.850 covers the conduct described in subsection (a).

AS 24.61.190. Subsection (b) needs to be restricted to compensated activities. A former legislator or assistant has a constitutional right to seek to influence legislative or other government action on his or her own behalf that cannot be diminished by law. Civil sanctions under AS 24.61.560(a) are authorized to penalize persons violating this section, but there are no provisions in AS 24.61 implementing sanctions against former employees. I understand from Mr. Josephson that this was a deliberate decision. This means that as to former employees, the only sanction is prosecution of a violation as a class A misdemeanor. Consequently, the section needs to be carefully reviewed to ensure a criminal prosecution can be sustained. As to former legislators, the legislature is given authority under AS 24.61.565 to impose civil sanctions, presumably some form of monetary penalty, and a former legislator may also be prosecuted for a criminal violation.

AS 24.61.205. Subsection (c) needs to be reviewed carefully, given the fact that it is a class A misdemeanor to violate this provision. Who is to determine whether an expenditure is "reasonable and necessary" to advance the campaign? What if it is reasonable, but not really necessary? If a candidate is unopposed, is it ever reasonable and necessary to spend any money on a campaign?

Subsection (d) has a prohibition against using campaign funds in a way that would cause one to believe that the funds were for the personal financial benefit of "another person" (in addition to the candidate or the candidate's immediate family). But aren't funds paid to a business for campaign materials or to an individual for personal services for the personal financial benefit of the business or the person providing the service? Because there is a criminal penalty, this provision needs to be rewritten to narrow its scope to inappropriate personal benefits.

Senator Jan Faiks

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AS 24.61.240. Subsection (b) prohibits a legislator from being otherwise "involved in a fund raising activity * * * for another person or cause" during session. What is meant by "involved in?" Does this prohibit a legislator from attending the annual legislative dinner and skit, or is the prohibition merely against active participation in soliciting contributions. And what is meant by "another cause?" Does this mean a legislator is prohibited from helping raise money for a legitimate charity, as was done this year with the golf tournament? There is a criminal penalty attached to a violation, so it is important to clarify this. I note that a provision in the definitions appears to allow a legislator to solicit for charities. See AS 24.61.990(2)(B)(vi).

AS 24.61.350. This section has some of the same problems discussed in connection with AS 24.61.110. It would seem to authorize some conduct that is now illegal under AS 11.56.120.

AS 24.61.380. Because this section applies only to actions by legislators and carries a criminal penalty, it needs to be carefully reviewed in the context of legislative immunity as well as for clarity in defining the proscribed conduct.

AS 24.61.960. A sentence should be added stating that a violation of this section subjects the violator to prosecution under AS 11.56.860.

AS 24.61.990(9). The definition of "immediate family" is broader than similar provisions in AS 24.60, which did not include grandparents or grandchildren, and AS 24.45, which includes only the spouse and dependent children. Given the interaction between AS 24.45 and AS 24.61, the definition should be reviewed.

AS 24.61.990(11). The definition of "intent to influence" covers acts intended to change an official's position, but not those intended to reinforce existing positions. This loophole needs to be closed.

AS 24.61.990(17). This definition needs to be changed by deleting "results" on page 83, lines 23 - 24 and inserting "is likely to result".

AS 24.61.990(23). The term "unofficial compensation" is not used in this draft, so the definition should be deleted.

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AS 24.61.990(24). The term "unwarranted compensation" is only used twice, once in AS 24.61.180, where I recommended deletion, and once in another definition, AS 24.61.990(17). If the latter usage is retained, the definition should be moved to that paragraph. In any event, it needs to be rewritten.

DRD:lmb
900009.lmb

cc: Sen. Pat Pourchot

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STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

April 18, 1990

SUBJECT: CSSB 415() (Legislative Ethics)

TO: Senator Jan Faiks, Chair
Senate Judiciary Committee

FROM: David R. Dierdorff
Revisor of Statutes

Enclosed is the draft committee substitute you requested. In addition to the changes we discussed and that were suggested in my memo of April 11, I addressed several problems spotted by the Department of Law and problems in drafting that I had failed to see the first few times through the bill. I might mention that Laurie Otto testified as to many of these problems in House State Affairs on April 17 and Michael Josephson, who was present by teleconference, concurred in her recommendations.

I have several items I want to bring to your attention. Most of them are in the nature of policy questions that the legislature should address if this is to be a workable law.

1. In AS 24.61.170 and a few other locations, the term "nonpublic" used. Even though it is defined for the chapter, given our public records laws isn't it a given that in this state material is either confidential or public? If there is a grey area of "nonpublic" but nonconfidential information, we need to do a better job of defining it than is done in this draft.

2. In AS 24.61.180(a) the term "private economic benefits" is used. Given the definition of "benefit", do we need to say "private economic" as well?

3. AS 24.61.205(d) may be unconstitutionally vague and unenforceable.

4. As to money received that does not meet the requirements of AS 24.61.220(d) and can't be deposited, what happens to

it? Does it have to be returned? Can it be used for the campaign if otherwise permissible?

5. AS 24.61.320(a) seems inconsistent with other, related provisions of the chapter in that it places a dollar threshold on the interest, while the chapter generally applies to any level of benefit (except for gifts, etc. of relatively little value). What is the rationale for treating this potential benefit differently than all others are treated?

6. In AS 24.61.340(b) there is a provision that authorizes the commission to void a contract. The commission probably can't do that. However, it could require the legislator or legislative employee to withdraw from the contract.

7. In AS 24.61.340(f) a definition of "extensively" would help (there is a criminal penalty attached to a violation, so it needs to be clear).

8. AS 24.61.350 is generally very confusing as it is cast. The problem is, in essence, that gratuities are generally allowed if they total less than \$100 from a single source in a year and are reported, but then a laundry list of items that are "not subject to the \$100 limit" is brought into the picture in (c), and many items on that list are set out in a manner that creates tension with the basic precept set out in (b). The entire section needs to be carefully pulled apart and reconstructed so that it can be understood by all.

9. AS 24.61.350(c)(6) would benefit if a dollar amount was substituted for "lavish and excessive." As you know, what is lavish to one person may be quite reasonable to another, etc.

10. Does AS 24.61.350(c)(9) rule out house-sitting? As you know, that is frequently done here, given the housing situation and the fact that people often go south for extended vacations in the winter, leaving pets, house plants, etc., behind.

11. Should the conduct described in AS 24.61.380(e) really be subject to a criminal penalty? Given legislative immunity, it is unlikely that any prosecution could be successfully pursued.

12. AS 24.61.415 would benefit if "compensation" were defined. Many of the problems we discussed in the context

Senator Jan Faiks
Page 3
April 18, 1990

of category A and B income could be solved if we approached this set of provisions from a slightly different perspective. Rather than categorize income, categorize the source, and define the type of income we are worried about, e.g., income for personal services vs. investment income.

13. Note that I have eliminated many separate provisions (typically subsections) that treated false or late disclosures, and revised AS 24.61.420 to cover all disclosures under AS 24.61.100 - 24.61.420. This provision would be vastly improved by setting a definite time deadline in lieu of "unreasonably delayed."

14. Note also my changes in AS 24.61.535(g)(1) and 24.61.545(a) and (d) in which I narrowed the language to include only violations of "provisions of this chapter for which civil or administrative sanctions are authorized." I did this for several reasons. First, given the fact that essentially every provision that prohibits specific behavior contains a penalty provision, the courts may very well interpret the balance of the chapter as being without a specific remedy. Second, because a lot of the provisions are "noble ideas" and "lofty goals" rather than prescriptions for behavior, they are probably unenforceable even if a penalty were provided. In any event, please review that change carefully to see if you agree.

15. Finally, I rewrote AS 24.61.900 to narrow its reach. I was very concerned about the interaction with criminal laws under AS 11 and other laws, including some in AS 39, that may be available to prosecute an errant staffer or member.

From this point forward, I will be back to revising and John Gaguine will be working with you on the bill. If you have any questions about this draft, however, please feel free to contact me. I am certain that we haven't discovered and/or dealt with all of the problems.

DRD:gc
G14/009

Enclosure

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MAY 2 1990

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
207 465 3800

MEMORANDUM

May 2, 1990

SUBJECT: Sectional analysis of CSSB 415 (Legislative Ethics)

TO: Senator John Binkley
Senator Rick Uehling
Co-Chairs, Senate Finance Committee

FROM: John B. Gaguine
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. This is especially true in the case of a piece of legislation as lengthy and complex as HB 596.

Section 1 gives the act a title, the Legislative Ethics Act of 1990.

Section 2 establishes a new legislative ethics code, AS 24.61, as follows:

Article 1 contains legislative findings and purpose and eight general principles to be followed in interpreting the law. The article notes, in AS 24.61.020, that these principles are "broader and more philosophical than the standards of conduct and, therefore, not amenable to strict enforcement." Nevertheless, the principles "shall be regarded as an integral part" of the law. The principles are:

1. Good faith commitment to advance the purpose of the ethics laws
2. Nonpartisanship - consideration of ethics matters only on their merits

3. Public trust - duty to avoid perception that legislators are acting for selfish motives
4. Public interest - duty to avoid putting narrow interests over general public good
5. Accountability to public
6. Representative democracy - duty to avoid abuse of procedural powers and arbitrary use of authority
7. Respectability - duty not to discredit legislature and not to treat others unfairly
8. Independent judgment, free from conflicts of interest and both real and perceived improper influences

Article 2 contains the specific standards of conduct that must be followed. All apply to legislators; most apply to legislative aides in positions of influence; some apply to most legislative employees and to candidates for the legislature. Nearly all are subject to penalties that may be imposed by the legislature, including heavy fines, censure and expulsion (or, in the case of a legislative employee, termination). Many violations can also be prosecuted as Class A misdemeanors, or deal with conduct that is criminal under a Title 11 statute. The standards of conduct are as follows:

- AS 24.61.110 prohibits the acceptance of anything of value in connection with the performance of legislative duties

- AS 24.61.120 imposes a duty on persons to report improper offers to influence

- AS 24.61.130 prohibits the use of state property, staff and resources for private gain or personal advantage

- AS 24.61.140 prohibits the use of state property, staff, and resources for political purposes, and includes a ban on mass mailings near an election and on solicitation and acceptance of campaign contributions in a state office.

- AS 24.61.150 imposes an obligation on legislative employees to refuse to perform improper tasks

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- AS 24.61.170 prohibits the use of nonpublic (so-called "inside") and confidential information for private gain

- AS 24.61.180 prohibits a legislator for using his or her title or prestige for private gain or personal advantage, and includes a ban on use of the title in commercials

- AS 24.61.190 bans former legislators and aides, for a period of one year after leaving legislative service, from lobbying the legislature, and bans certain key legislators from administratively lobbying in connection with matters or agencies over which they had influence

- AS 24.61.205 prohibits the use of campaign funds for personal purposes (including legal fees not connected to the campaign or public office), loans and contributions to another group (e.g., to another candidate), paid campaign expenses, and the payment of fines, and election campaign contributions

- AS 24.61.210 restricts the use of campaign funds to retiring loans, returning contributions to contributors on a pro rata basis, donating them to the state, a municipality, or a charity, and, within monetary limits, transferring them to an ongoing political account or office expense account

- AS 24.61.220 authorizes a legal defense fund to defend against specific charges, including ethics charges, and prohibits the acceptance of funds for legal defense except as provided in the section

- AS 24.61.230 prohibits withholding or threatening to withhold legislative action in order to obtain campaign funds or gifts

- AS 24.61.240 prohibits fund-raising by a legislator during legislative sessions and restricts it to certain time periods for both legislators and challengers

- AS 24.61.290 prohibits nepotism in a manner similar to current AS 24.60.090

- AS 24.61.300 restricts the participation of lobbyists in political campaigns, requires disclosure of close economic associations with lobbyists, and restricts employment of legislators or aides by lobbyists and lobbying groups

- AS 24.61.310 prohibits legislators from serving on governing or advisory boards of nongovernmental entities with substantial interests in legislation, requires aides serving on such boards to disclose their membership, and prohibits aides from serving on most elected local government boards and in state positions requiring legislative confirmation

- AS 24.61.320 prevents a legislator or aide from participating in governmental action when he or she has a substantial financial interest involved

- AS 24.61.330 restricts representation for compensation by legislators and aides before state courts and agencies; it allows such representation in certain quasi-judicial hearings

- AS 24.61.340 restricts the ability of legislators, legislative aides, and their family members from entering into state contracts or leases other than those competitively bid, of a small amount, or standardized; the section is similar to current AS 24.60.040

- AS 24.61.345 authorizes legislators and legislative employees to participate in general statewide programs; the section is similar to current AS 24.60.050

- AS 24.61.350 prohibits, with certain exceptions, the solicitation or receipt of single gifts worth \$100 or more or gifts from a single source whose aggregate value is \$100 or more; the section is similar to current AS 24.60.080 as the ethics committee proposed to modify it, with one major exception: a legislator or legislative employee would no longer be allowed to have travel on matters on legislative concern paid by a nongovernmental entity with a substantial interest in the legislator's or employee's activities

- AS 24.61.360 prohibits legislators and legislative employees from accepting outside employment that would create conflicts of interest or that involves inappropriately high payment for the work done, and from accepting most offers of honoraria (other than reimbursement of travel expenses)

- AS 24.61.380 prohibits improper influence on decisions by other government officials and bodies, but does not prohibit constituent "casework" or the exercise of legislative oversight

- AS 24.61.390 - 24.61.420 establish income disclosure requirements, in some ways considerably broader than the APOC-administered requirements under AS 39.50; the requirements distinguish between income derived from sources with interest in legislation (amounts must be disclosed and sources without such interest (amounts need not be disclosed)

- AS 24.61.430 requires compliance by legislators with the Open Meetings Act; if this section is violated, a legislator may not be fined or expelled

- AS 24.61.440 requires legislators and employees to police the legislative system and prohibits retaliation against or harassment of "whistleblowers"

- AS 24.61.450, which like AS 24.61.430 carries limited sanctions, prohibits acts of employment discrimination in violation of the state Human Rights Act

Article 2 also contains several sections relating to financial and personal relationships between legislators and legislative employees and persons with interests before the legislature. AS 24.61.250 states a general rule that legislators and legislative employees should avoid financial relationships and transactions that might compromise or appear to compromise them. AS 24.61.255 - 24.61.265 define three terms ("financial conflict of interest," "substantial interest in legislative, administrative, or political action," and "close economic association") that govern what financial relationships must be disclosed under AS 24.61.300(b). AS 24.61.270 states that financial conflicts shall be generally dealt with as a matter of disclosure and voluntary restraint. AS 24.61.280 states that personal relationship conflicts of interest can be damaging to the public trust, but generally are dealt with as a matter of voluntary restraint.

Article 3 establishes the Legislative Ethics Commission, consisting of nine public members appointed by all three branches of government, and subject to decertification by the legislature. It authorizes the hiring of an executive director and other staff. The article, like current law, provides for advisory opinions and a complaint process (more open than current law, and similar to what the ethics committee proposed in HB 451); it also authorizes the commission to grant exceptions to the prohibitions of AS 24.61.

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AS 24.61.560 sets out a lengthy list of the sanctions that the commission can recommend to the legislature, if a legislator is found guilty of an ethics violation, or that the commission can impose itself, if a legislative employee is found guilty. Article 3 also authorizes the attorney general to bring civil or criminal actions to enforce AS 24.61.

Article 4 establishes an ethics education program for legislators, aides and lobbyists, including the publication of an ethics manual, the establishment of an education advisory committee, and the giving of ethics seminars at which attendance is mandatory.

Article 5 contains general provisions for AS 24.61. Among other things the article sets forth a principle of strict compliance (AS 24.61.920), and retains current laws concerning the cooperation of others with the ethics commission and the prohibition against "leaking" confidential ethics information. The article also defines terms used in AS 24.61.

Sections 3 - 7 of the bill make technical changes.

Section 8 raises the annual salary of legislators to \$40,000 from the current \$22,140 (Range 10, Step A of the state salary schedule).

Section 9 repeals the provision of current law allowing legislators to receive long-term per diem of \$50 per day for work that they do in their districts during the interim. It retains the provisions relating to per diem during the session and to per diem for travel on legislative business at any time to a location other than the legislator's residence.

Section 10 eliminates the current office allowance, and instead allows legislators to charge actual office expenses to the state, up to a maximum that varies according to the number of constituents a legislator represents. It also allows each legislator to send two constituent newsletters a year, not subject to the office expense limit, provided that the newsletters comply with the ethics act.

Section 11 allows each legislator two state-paid round trip airplane tickets to a city in the legislator's district for "a personal, family, business, or constituent purpose."

Sections 12 - 13 eliminate current provisions of law that allow an attorney-legislator who represents a client to get an automatic stay of a court case during the session.

Sections 14 - 16 are additions to the regulation of lobbying chapter to ensure compliance with the ethics education for lobbyists provisions.

Section 17 prohibits lobbyists from using state property as part of their lobbying activities, and from participating in a candidate's campaign management or hosting a fund-raiser.

Section 18 places the executive director and staff of the legislative ethics commission in the exempt service.

Section 19 - 20 transfer the authority for handling financial disclosure statements of legislators and legislative candidates from APOC to the ethics commission.

Section 21 makes a technical change.

Section 22 repeals the current legislative ethics law, AS 24.-60, and three provisions that make AS 39.50 applicable to legislators.

Section 23 provides for terms of varying length of the initial commission appointees, in order to stagger terms.

Section 24 provides that the initial ethics courses and seminars provided for by the act will be held in January and February, 1991.

Section 25 provides that the Legislative Council make its proposals to the Legislative Ethics Commission for adoption as regulations required by the act by January 1, 1991.

Section 26 provides that, notwithstanding the repeal of AS 24.60, the Legislative Ethics Commission may consider complaints under AS 24.60 that arise before January 21, 1991 (the effective date of most of AS 24.61), but that are not filed until after that date.

Section 27 provides for a transitional period for those covered by AS 24.61 who are currently representing others in violation of the new law. It requires that any such representation be terminated by January 1, 1992, but that the Legislative Ethics Commission may grant an exemption from this date in exceptional cases.

Section 28 makes effective on July 1, 1990, the portions of the bill establishing the commission and requiring it to

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adopt regulations and begin the ethics education process.
It also makes sections 23 - 25 effective on July 1.

Section 29 makes AS 24.61.200 - 24.61.240 (primarily campaign financing sections) effective on November 6, 1990, the day after the election.

Section 30 makes the remainder of the bill, including the new standards of conduct and the repeal of AS 24.60, effective on January 21, 1991 (the date that the Seventeenth Legislature convenes).

JG:mi:pl
WKP4/104

Original sponsor(s): SEN. POURCHOT/Select Committee on Legislative Ethics

1 IN THE SENATE
2 CS FOR SENATE BILL NO. 415 (Leg. Ethics)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act establishing a legislative ethics commission
7 and standards of conduct for legislators, candidates
8 for the legislature, and legislative employees,
9 former legislators and employees, and lobbyists;
10 requiring financial disclosures by legislators,
11 candidates for the legislature, and certain legisla-
12 tive employees; amending legislators' compensation
13 and allowances; and providing for an effective date."
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
15 * Section 1. SHORT TITLE. This Act may be known as the Legislative
16 Ethics Act of 1990.
17 * Sec. 2. AS 24 is amended by adding a new chapter to read:
18 CHAPTER 61. LEGISLATIVE ETHICS ACT OF 1990.
19 ARTICLE 1. LEGISLATIVE FINDINGS AND ETHICAL PRINCIPLES.
20 Sec. 24.61.010. PURPOSE. This chapter is enacted to
21 (1) assure the integrity of representative government and
22 sustain the confidence and trust of the people of this state in their
23 representatives, the legislature as a whole, and the legislative
24 process;
25 (2) provide a comprehensive and unified statement of the
26 ethical principles, considerations, and obligations inherent in the
27 public trust theory of government service and establish specific
28 standards of conduct to ensure that those entrusted with public au-
29 thority avoid conduct that might undermine the people's respect for

1 the legislature; and

2 (3) establish a positive, effective, and comprehensive
3 ethical program that is clear, practical, and fair.

4 Sec. 24.61.015. LEGISLATIVE FINDINGS. The legislature finds
5 that

6 (1) high moral and ethical standards among public servants
7 in the legislative branch of government are essential to the conduct
8 of fair, open, and responsive representative government;

9 (2) the people of this state need and deserve a legislature
10 led by outstanding public servants whose devotion and commitment to
11 pursuing the public interest through established democratic processes
12 outweigh any competing personal or political considerations;

13 (3) state government relies heavily on part-time citizen
14 public servants; it is, therefore, essential to attract talented and
15 principled people willing to provide their time and energy to the
16 state, often with substantial personal and financial sacrifices;

17 (4) the best way to attract the right people is to ensure
18 that the government is respected for its honesty and integrity and
19 that the rules governing their conduct during and after leaving public
20 service are as clear, fair, and complete as possible; the rules,
21 however, should not impose unreasonable or unnecessary burdens that
22 will discourage citizens from entering or staying in government ser-
23 vice;

24 (5) the political culture of the state is the product of a
25 unique blend of history, geography, climate, population, and ethnic
26 influences that must be taken into account in the development of rules
27 and standards regulating the conduct of legislators, legislative
28 employees, and those who work regularly with the legislature;

29 (6) the state's commitment to the notion of a citizen

1 legislature requires that legislators be drawn from all parts of
2 society; they cannot and should not be without personal and financial
3 interests in the decisions and policies of government, and they are
4 expected and permitted to earn outside income;

5 (7) as a result of the state's small population and close
6 sense of community, most legislators and legislative employees have a
7 network of relationships in and outside the legislature that creates
8 potential conflicts of interest;

9 (8) the state's vast size requires frequent travel, usually
10 by air, which increases the expense and burden of public service;

11 (9) the state's cultural diversity is reflected in gift-
12 giving and hospitality customs that may clash with standards prohibit-
13 ing acceptance of gratuities;

14 (10) it is important to preserve the vitality of the state's
15 culture and citizen involvement by assuring that standards of conduct
16 acknowledge real and practical needs of individual legislators and
17 legislative employees without compromising vital universal notions of
18 public service ethics, including the principle that public office is a
19 public trust;

20 (11) upon taking the oath of office, legislators enter into
21 a special trust with the people of the state involving extraordinary
22 powers and equally extraordinary legal and moral obligations; one
23 aspect of these obligations requires that those entrusted with public
24 authority unfailingly demonstrate that they are worthy of the public's
25 respect and are devoted to maintaining the absolute integrity of
26 government;

27 (12) effective democratic government depends on the will-
28 ingness of the people to exercise responsible citizenship by voluntary
29 compliance with laws and by active participation in the democratic

1 process; when the public's trust in and respect for government is
2 high, citizens are more likely to fully participate by voting, becom-
3 ing better informed, and becoming more active in public debate and
4 discourse in a way that engenders civic pride and makes government
5 more representative, more responsive, and more effective;

6 (13) unethical or illegal behavior by a legislator or legis-
7 lative employee tends to diminish the stature of the legislature and
8 produce cynicism that erodes public confidence in government; thus,
9 all who serve the legislature have a solemn responsibility to avoid
10 improper conduct and prevent improper behavior by colleagues and
11 subordinates;

12 (14) the principles of public service ethics pervading this
13 chapter view the ethical obligations of public servants in a positive
14 way; high standards of conduct and specific regulations to enforce
15 them are not driven by negative assumptions about the character of
16 those who serve government, but as expressions of the need for clarity
17 and uniformity about the higher duties of public service and the noble
18 dimension of democracy;

19 (15) no code of conduct, however comprehensive, can antici-
20 pate all situations in which the principles and standards apply, nor
21 can it prescribe behaviors that are appropriate to those situations;
22 in addition, laws and regulations regarding ethical responsibilities
23 cannot legislate morality, eradicate corruption, or eliminate bad
24 judgment;

25 (16) legislators and legislative employees who are committed
26 to the ethical principles embodied in the public trust concept of
27 government must exercise considerable discretion and judgment so as to
28 adhere to the spirit of the rules and laws; in exercising this judg-
29 ment it is essential to recognize that an act is not ethical simply

1 because it is legal and that conduct is not proper simply because it
2 is permissible;

3 (17) legislative decisions must be made in a context of
4 clashing interests; the growing effect of state laws and regulations
5 creates incentives for competing special interests to seek to influ-
6 ence the election and policy-making processes through organized advo-
7 cacy and through the use of campaign contributions;

8 (18) the cost of running for office has risen dramatically
9 in recent years; as a result, many public officials, including legis-
10 lators, spend an increasing amount of time negotiating with special
11 interests in a way that may unduly enlarge the voice and power of
12 those interests;

13 (19) therefore, the state needs a comprehensive ethics
14 program that responds to the challenges of the contemporary political
15 climate, preserves and protects the integrity of the legislative
16 process, and respects the needs of those who serve the legislature.

17 Sec. 24.61.020. PREAMBLE TO STATEMENT OF ETHICAL PRINCIPLES.
18 AS 24.61.025 - 24.61.060 state the overarching ethical principles of
19 legislative ethics. They are, by nature, broader and more philosoph-
20 ical than the standards of conduct and, therefore, not amenable to
21 strict enforcement. Their purpose is not to provide additional bases
22 of punishment, but to establish the theoretical and moral foundation
23 for the standards of conduct and to provide explicit guidance and
24 direction for those who wish to follow the ethical high road, not
25 simply out of fear of punishment but out of commitment and conscience.
26 These principles also establish criteria for interpretation and en-
27 forcement of the principles themselves and the standards of conduct
28 that follow. The principles shall be regarded as an integral part of
29 this chapter.

1 Sec. 24.61.025. PRINCIPLE OF GOOD FAITH. Each provision of this
2 chapter shall be construed and implemented with sincerity, integrity,
3 and a good faith commitment to advance rather than evade the purpose
4 and spirit of the provision.

5 Sec. 24.61.030. PRINCIPLE OF NONPARTISANSHIP. All actions,
6 decisions, and votes on matters relating to this chapter shall be made
7 on their merits. Decisions shall be made objectively and independent-
8 ly, and without party, regional, or ideological partisanship.

9 Sec. 24.61.035. PRINCIPLES OF PUBLIC TRUST. (a) Legislators
10 and legislative employees shall act so as to ensure the reality and
11 perception that the legislature is conducted according to the highest
12 principles of representative democracy and is worthy of public re-
13 spect, trust, and support.

14 (b) Legislators and legislative employees may not engage in
15 conduct that they know or reasonably should know is likely to create
16 in the minds of reasonable, objective, fair-minded observers the
17 perception that they have used their public position improperly or
18 otherwise have not conducted themselves in accordance with the ethical
19 principles and standards of conduct of this chapter.

20 Sec. 24.61.040. PRINCIPLES OF PUBLIC INTEREST. (a) Legislators
21 and legislative employees shall treat their government positions as a
22 public trust, using the powers and resources of public office only to
23 advance public interests, and not to attain personal benefits or
24 pursue other private interests incompatible with the public good.

25 (b) In pursuing the public interest, legislators and legislative
26 employees shall scrupulously observe and abide by the United States
27 and Alaska constitutions, all applicable laws, and democratic pro-
28 cesses.

29 (c) In pursuing the public interest, legislators and legislative

1 employees should

2 (1) put loyalty to democratic principles and to their
3 conscientious convictions about the overall public good above loyalty
4 to political party, narrow constituency, and individual interests that
5 are inconsistent with the general public interest;

6 (2) allocate public funds and formulate general public
7 policies only after evaluating information objectively and deciding
8 what is best for the public as a whole, not just for a narrow constit-
9 uency;

10 (3) take whatever steps are necessary to safeguard and
11 protect the reputation of state government and the integrity and
12 efficiency of their office, subordinating the interests of superiors,
13 colleagues, and friends to the interests of the state.

14 Sec. 24.61.045. PRINCIPLE OF ACCOUNTABILITY. (a) Legislators
15 and legislative employees shall ensure that government is conducted
16 openly, efficiently, equitably, and honorably in a manner that permits
17 the citizenry to make informed judgments and hold government officials
18 accountable.

19 (b) Legislators and legislative employees who believe that a
20 law, policy, or rule of a house is not achieving its intended purpose,
21 is creating unintended harms, or is wasteful or inefficient, shall
22 take affirmative steps to improve procedures in a way that will in-
23 crease the fairness and quality of government services and assure that
24 policies are implemented equitably, efficiently, and economically.

25 Sec. 24.61.050. PRINCIPLE OF REPRESENTATIVE DEMOCRACY. (a)
26 Legislators and legislative employees shall honor and respect the
27 principles and spirit of representative democracy and set a positive
28 example of good citizenship by scrupulously observing the letter and
29 spirit of laws and rules.

1 (b) A legislator or legislative employee may not knowingly use
2 improper artifices or schemes to circumvent the clear purpose of this
3 chapter or another law, use procedural powers or processes in a way
4 that prevents appropriate consideration of a matter, or exercise
5 leadership authority and power arbitrarily, arrogantly, or in another
6 way that violates the spirit of representative democracy.

7 Sec. 24.61.055. PRINCIPLE OF RESPECTABILITY; CONDUCT BEFITTING
8 THE LEGISLATURE. (a) Legislators and legislative employees shall
9 safeguard public confidence in the integrity of government by not
10 engaging in conduct that prevents them from carrying out their public
11 duties or that unreasonably casts discredit on the legislature.

12 (b) A legislator or legislative employee may not knowingly
13 engage in conduct that violates the rights of others to be treated
14 fairly, and with dignity and respect.

15 Sec. 24.61.060. PRINCIPLE OF INDEPENDENT JUDGMENT. (a) Legis-
16 lators and legislative employees shall employ independent objective
17 judgment in performing their duties and shall decide all matters on
18 the merits.

19 (b) Legislators and legislative employees should avoid trans-
20 actions and relationships that create conflicts of interest and both
21 real and apparent improper influences. Where the interests and influ-
22 ences are unavoidable, legislators and legislative employees shall
23 subordinate other interests to their public duties.

24 (c) Legislators and legislative employees shall exercise their
25 powers and prerogatives without prejudice or favoritism. A legislator
26 or legislative employee may not use public authority simply to reward
27 relatives, friends, or political supporters or to hinder or punish
28 enemies and opponents.

29 (d) Legislators who, directly or indirectly, intervene in an

1 administrative consideration, action, or proceeding, should explicitly
2 convey to the administrator involved that the administrator is ex-
3 pected to make an independent judgment and that no advantage or dis-
4 advantage to the administrator or the agency will result from a favor-
5 able or unfavorable disposition.

6 ARTICLE 2. STANDARDS OF CONDUCT.

7 Sec. 24.61.100. MISUSE OF OFFICE FOR PRIVATE GAIN: GENERAL
8 PRINCIPLE. Inherent in the concept that public office is a public
9 trust is the principle that legislators and legislative employees
10 refrain from using or attempting to use their government position to
11 attain

12 (1) personal financial gain, other than official legisla-
13 tive compensation;

14 (2) benefits, advantages, or privileges not available to
15 the public at large, either for themselves, members of their immediate
16 families, or their friends;

17 (3) benefit for social or business associates, political
18 contributors, corporations, or other organizations in which the public
19 servant is involved; or

20 (4) political advantages where the use of office is incon-
21 sistent with the obligation to use public office only to advance the
22 public interest.

23 Sec. 24.61.110. IMPROPER BENEFIT FROM PERFORMANCE OF PUBLIC
24 DUTIES. (a) A legislator or legislative employee may not solicit,
25 agree to accept, or accept a benefit other than official compensation
26 for the performance of public duties. This subsection may not be
27 construed to prohibit lawful solicitation for and acceptance of cam-
28 paign contributions or the acceptance of a lawful gratuity under
29 AS 24.61.350. A person who violates this subsection is guilty of

1 receiving unlawful gratuities under AS 11.56.120 and is subject to
2 civil sanctions under AS 24.61.560(a).

3 (b) A legislator or legislative employee may not accept anything
4 of value under circumstances where the legislator or legislative
5 employee knows or reasonably should know that it is offered with the
6 intent to influence legislative, administrative, or political action.
7 A person who violates this subsection is guilty of receiving a bribe
8 under AS 11.56.110 and is subject to civil sanctions under AS 24.61.-
9 560(a).

10 Sec. 24.61.120. DUTY TO REPORT IMPROPER OFFERS. (a) Legisla-
11 tors and legislative employees who receive an offer of anything of
12 value that reasonably appears to have been intended to improperly
13 influence legislative, administrative, or political action, shall
14 firmly and unequivocally reject the offer and caution the person
15 making it about a possible violation of bribery laws.

16 (b) If the attempt to improperly influence is clear, the person
17 receiving the offer shall report it to law enforcement authorities.

18 (c) A person who violates this section is subject to the civil
19 sanctions authorized under AS 24.61.560(a).

20 Sec. 24.61.130. MISUSE OF STATE PROPERTY AND RESOURCES FOR
21 PRIVATE GAIN OR PERSONAL ADVANTAGE. (a) A legislator or legislative
22 employee may not use public funds, time, facilities, equipment, mail-
23 ing lists, computer data, services, or any other government asset or
24 resource for a nongovernmental purpose or for the private gain or
25 advantage of either the legislator, legislative employee, or another
26 person. This subsection does not prohibit (1) the occasional and
27 limited use of state property and resources for personal purposes if
28 the use does not interfere with the performance of public duties, the
29 cost or value related to the use is so nominal that reimbursement

1 procedures would not be justified, and the use does not create the
2 appearance of impropriety or improper influence; or (2) the use of
3 mailing lists, computer data, or other information lawfully obtained
4 from a government agency and available to the public for nongovern-
5 mental purposes. A person who violates this subsection is subject to
6 civil sanctions under AS 24.61.560(a) and may be prosecuted for theft
7 under AS 11.46.

8 (b) A legislator or legislative employee may not seek, accept,
9 use, allocate, grant, or award public funds for a purpose other than
10 that approved by law, or make a false statement in connection with a
11 claim, request, or application for compensation, reimbursement, or
12 travel allowances from public funds. A person who violates this
13 subsection is subject to the civil sanctions authorized under AS 24.-
14 61.560(a) in addition to appropriate criminal penalties under another
15 law.

16 (c) A legislator or legislative employee may not require or
17 permit a legislative employee to perform personal services or assist
18 in a private activity except in unusual and infrequent situations
19 where the person's service is reasonably necessary to permit the
20 legislator or legislative employee to perform official duties. A
21 person who violates this subsection is subject to civil sanctions
22 under AS 24.61.560(a) in addition to appropriate criminal penalties
23 under another law.

24 Sec. 24.61.140. MISUSE OF STATE PROPERTY AND RESOURCES FOR
25 POLITICAL PURPOSES. (a) It is the intent of this section to ensure
26 that public resources, including funds, facilities, and personnel are
27 used only for the good of the public at large and not to further
28 partisan campaign purposes or to influence the outcome of an election;
29 that elections are fair and open and not distorted by the use of

1 public resources to the advantage of individual candidates; and that
2 taxpayers are not forced to subsidize the campaign of an incumbent
3 legislator.

4 (b) A legislator or legislative employee may not use or author-
5 ize the use of public funds, time, facilities, equipment, mailing
6 lists, computer data, services, or another government asset or re-
7 source for the purpose of political fund raising, campaigning, or
8 influencing an election. This subsection does not prohibit the use of
9 mailing lists, computer data, or other public information lawfully
10 obtained from a government agency and available to the general public
11 for nongovernmental purposes. A person who violates this subsection
12 may be prosecuted for theft under AS 11.46.

13 (c) A legislator or legislative employee may not require a
14 legislative employee on government time to assist in political party
15 activities, campaigning, fund raising, or other partisan or personal
16 political activities.

17 (d) The legislative council shall adopt policies relating to a
18 legislator's use of public funds for the production of newsletters or
19 similar publications for distribution to the legislator's constitu-
20 ents. The policies must address the form and content of these publi-
21 cations and must include a requirement that the publications include

22 (1) a brief description of the nature of each bill intro-
23 duced by the legislator as a prime sponsor;

24 (2) an identification of significant bills voted on by the
25 legislator's house and the vote of the legislator; and

26 (3) the name of each significant contributor to the legis-
27 lator's campaign.

28 (e) Unless superseded by policies relating to the use of govern-
29 ment resources for political purposes developed by the legislative

1 council and adopted by the commission as regulations under AS 24.61.-
2 160, the following prohibitions apply:

3 (1) a legislator may not use or authorize the use of public
4 funds, property, time, personnel, or other resources to produce,
5 print, photocopy, publish, broadcast, or otherwise disseminate mater-
6 ial primarily intended to influence an election; this provision
7 applies to newsletters and other constituent correspondence that by
8 their nature, content, timing, or use are intended to influence an
9 election, even if the materials do not make a specific reference to
10 the election, but does not apply to newsletters and other constituent
11 correspondence that express the legislator's opinions or views on
12 issues before the legislature, or that describe the legislator's
13 votes, legislative proposals, or other legislative action.

14 (2) unless approved by the commission, public funds may not
15 be used to print or distribute a mass mailing from or about a legisla-
16 tor who is a candidate for reelection to the legislature or another
17 state office during the period beginning 60 days before the primary
18 election in which the legislator is a candidate, and ending the day
19 after a general or special election in which the legislator is a
20 candidate;

21 (3) a legislator, or another person on behalf of the legis-
22 lator, or a campaign committee of the legislator, may not solicit or
23 accept or authorize the solicitation or acceptance of, a campaign
24 contribution in a facility or office ordinarily used to conduct state
25 government business; this provision applies to telephone conversa-
26 tions, personal meetings, and solicitations by mail; if an unsolicited
27 contribution is offered it shall be refused or returned promptly; if
28 an unsolicited contribution is received in the mail, or a lawfully
29 solicited contribution is misdirected to an office ordinarily used to

1 conduct state business, if otherwise lawful it may be accepted but it
2 may not be processed in that office and it shall be delivered promptly
3 to an appropriate location;

4 (4) a legislator, or another person on behalf of the legis-
5 lator, or a campaign committee of the legislator, may not distribute
6 or post literature, placards, posters, or other communications in-
7 tended to influence the election of a candidate in an election in a
8 facility or office ordinarily used to conduct state government busi-
9 ness.

10 (f) Except for a person who violates (e)(1) of this section or a
11 regulation adopted under AS 24.61.160 that supersedes (e)(1) of this
12 section and whose conduct may be prosecuted as theft under AS 11.46, a
13 person who violates (c) or (e)(1) - (3) of this section or a regu-
14 lation adopted under AS 24.61.160 that supersedes (e)(1) - (3) of this
15 section is guilty of a class A misdemeanor.

16 (g) In addition to criminal penalties, a person who violates
17 (b), (c), or (e)(1) - (3) of this section or a regulation relating to
18 (b), (c), or (e)(1) - (3) of this section is subject to civil sanc-
19 tions under AS 24.61.560(a).

20 Sec. 24.61.150. OBLIGATION OF SUBORDINATES TO REFUSE TO PERFORM
21 IMPROPER TASKS. (a) A legislative employee who knows or reasonably
22 should know that the employee has been asked to perform a personal or
23 political task in violation of AS 24.61.100 - 24.61.460 shall refuse
24 to perform the task.

25 (b) If a legislator or legislative employee with supervisory
26 authority persists in requesting or demanding that a legislative
27 employee perform prohibited tasks, or if reprisals are threatened or
28 sanctions imposed as a result of the refusal to perform prohibited
29 tasks, the legislative employee subjected to the requests, threats, or

1 sanctions shall report the matter to the commission.

2 (c) A person who violates this section is subject to the civil
3 sanctions authorized under AS 24.61.560(a).

4 Sec. 24.61.160. REGULATIONS CONCERNING USE OF PUBLIC RESOURCES.

5 (a) The legislative council shall develop and recommend for adoption
6 by the commission detailed regulations relating to the use of govern-
7 ment property, resources, and personnel. The legislative council
8 shall annually review the regulations and recommend necessary changes
9 to the commission.

10 (b) If the legislative council fails to make recommendations for
11 the adoption or modification of regulations under (a) of this section,
12 the commission shall develop and adopt the regulations on its own
13 initiative.

14 Sec. 24.61.170. USE OF NONPUBLIC INFORMATION FOR PRIVATE GAIN.

15 (a) A legislator or legislative employee, or a former legislator or
16 legislative employee who terminated legislative service within one
17 year, may not use or disclose nonpublic information to obtain a bene-
18 fit for the legislator, employee, former legislator or employee, or
19 another person, including a person with whom the legislator, employee,
20 or former legislator or employee is associated or has negotiated pro-
21 spective employment. This subsection does not allow the disclosure of
22 information made confidential by law.

23 (b) A person who violates this section is subject to civil
24 sanctions under AS 24.61.560(a).

25 Sec. 24.61.180. MISUSE OF TITLE OR PRESTIGE OF OFFICE FOR PRI-
26 VATE GAIN OR PERSONAL ADVANTAGE. (a) A legislator or legislative
27 employee may not use or aid, induce, cause, or encourage others to
28 use, the authority, title, official letterhead, or prestige of the
29 legislator's or legislative employee's office for the benefit of the

1 legislator or legislative employee.

2 (b) A legislator or legislative employee may not solicit or
3 accept anything of value under terms and conditions where the compen-
4 sation is not commensurate with the services performed or where a
5 reasonable person would believe that the authority, title, or prestige
6 of office had been exploited.

7 (c) A legislator or legislative employee may not endorse commer-
8 cial products by agreeing to use official letterhead or the legisla-
9 tor's or employee's title in paid advertisements, unless the endorse-
10 ment is for a public purpose and the member receives no compensation.

11 (d) Nothing in this section may be construed to prohibit appro-
12 priate uses of official letterhead. The legislative council shall
13 adopt a written definition of "official letterhead" and its appropri-
14 ate uses, which must include, but are not limited to, letters of
15 recommendation for employment, scholarships, fellowships, internships,
16 entry into educational institutions, appointments to boards or commis-
17 sions, and honorary awards.

18 (e) Nothing in this section may be construed to prohibit the use
19 of a legislator's official title as a part of a political campaign or
20 political endorsement.

21 (f) A person who violates this section is subject to civil
22 sanctions under AS 24.61.560(a) in addition to appropriate criminal
23 penalties under another law.

24 Sec. 24.61.190. POST-SERVICE RESTRICTIONS TO PREVENT MISUSE OF
25 PUBLIC OFFICE BY FORMER LEGISLATORS AND LEGISLATIVE ASSISTANTS. (a)
26 Legislators may not, for a period of one year after leaving office,
27 act as a lobbyist in seeking to influence a (1) legislator or legisla-
28 tive employee to take or withhold legislative, administrative, or
29 political action; or (2) state agency, public official, or employee to

1 take or withhold official action if the agency is one over which the
2 former legislator had special oversight or budget authority. A person
3 is considered to have had special oversight or budget authority over
4 an agency if the person served, within the last year of the person's
5 legislative term, as the president of the senate, speaker of the
6 house, chair of the finance committee of either house, or as chair of
7 a committee directly concerned on a regular basis with the agency's
8 activities.

9 (b) A legislative assistant may not, for a period of one year
10 after leaving office or legislative employment, act as a lobbyist
11 before the legislature.

12 (c) A former legislator, within one year after leaving office,
13 may not solicit or accept anything of value under terms and conditions
14 where the compensation by reasonable objective standards is not com-
15 mensurate with the services performed or where a reasonable person
16 would believe that the stature of office had been exploited.

17 (d) In extraordinary situations, a former legislator or legisla-
18 tive assistant may seek a waiver of a provision of this section under
19 AS 24.61.530.

20 (e) A person who violates (a) - (c) of this section is guilty of
21 a class A misdemeanor and is subject to civil sanctions under AS 24.-
22 61.560(a).

23 Sec. 24.61.200. USE OF CAMPAIGN FUNDS: INTENT. Because the
24 right to solicit and accept funds from the public for the purpose of
25 supporting a person's campaign for office is purely an incident of our
26 democratic political system, the use that can properly be made of
27 campaign funds must be sharply limited to prevent actual misuse and
28 improper appearances of misuse of funds. Legislative campaign funds
29 are received, free of tax liability to the recipient, for the specific

1 purpose of assisting a candidate to get elected or reelected to of-
2 fice. Any other use of funds, whether for personal gain or other
3 purposes not closely related to bona fide campaign expenditures, is
4 improper.

5 Sec. 24.61.202. PROPER USES OF CAMPAIGN FUNDS. Campaign funds
6 may be used only to advance the interests of the campaign. Campaign
7 funds may be properly expended for an otherwise lawful purpose intend-
8 ed to influence voters to elect or reelect the legislative candidate
9 to the legislature including, but not limited to: payment of staff
10 and consultants; rental of space and equipment for a campaign office;
11 purchase of media time and space; design work; printing of campaign
12 materials; postage; taking polls and interpreting them; telephone
13 installation and usage; costs of distribution of materials; advertis-
14 ing in organizational and club bulletins or other brochures; inscribed
15 promotional materials, including buttons, pencils, pens, and items of
16 clothing; necessary travel and related expenses for the candidate and
17 members of the candidate's staff or immediate family provided that the
18 travel and lodging are directly related to attempts to raise campaign
19 funds or influence voters; victory and thank you celebrations; news-
20 letters and mass mailings promoting the candidate; and payment of
21 attorney fees and other legal expenses incurred in the defense of a
22 civil, criminal, or administrative action arising directly out of the
23 conduct of the campaign or election process or out of the performance
24 of activities within the scope of a candidate's legislative duties.

25 Sec. 24.61.205. PROHIBITED USES OF CAMPAIGN FUNDS. (a) A
26 candidate for the legislature may not

27 (1) use funds raised and designated as campaign funds for
28 the personal benefit of the candidate or another person, or for pay-
29 ment of attorney fees and other legal expenses arising from civil,

1 criminal, or administrative actions based on conduct not directly
2 related to the campaign or official duties;

3 (2) convert surplus campaign funds or interest earned on
4 campaign funds to personal income;

5 (3) seek or claim a tax deduction or other economic benefit
6 for surplus funds disbursed to a charity under law.

7 (b) A legislative candidate may not borrow from campaign funds
8 or loan them to another person or group.

9 (c) A legislative candidate, or another person on behalf of the
10 legislative candidate, or a campaign committee of the legislative
11 candidate, may not knowingly pay more than the fair market value for
12 goods or services purchased for the campaign.

13 (d) Campaign funds may not be paid to a member of the candi-
14 date's immediate family as an employee or for goods or services pro-
15 vided to the campaign unless the amounts paid do not exceed the fair
16 market value of the goods or services provided.

17 (e) Except for funds received or postmarked before a general or
18 special election, a legislative candidate who has won office, and a
19 committee related to the election, may not accept campaign contribu-
20 tions. A post-election contribution must be returned.

21 (f) A legislative candidate and a committee controlled by a
22 legislative candidate may not use campaign funds to make a contribu-
23 tion to another candidate running for office or to a committee sup-
24 porting or opposing a candidate for office.

25 (g) Campaign funds may not be used to pay fines or other mone-
26 tary penalties or costs assessed against a candidate by a court or
27 other body, unless the fine, penalty, or cost is assessed as a result
28 of proscribed actions by a member or employee of a campaign committee
29 or another person acting on behalf of the candidate under

1 circumstances where the candidate did not know of or have reason to
2 know of those actions.

3 Sec. 24.61.210. DISBURSEMENT OF SURPLUS CAMPAIGN FUNDS. (a) If
4 a legislative candidate ceases to be a candidate or if there remains a
5 balance in the account of the candidate or a committee controlled by
6 the candidate after the date of the election, unexpended funds in
7 excess of the amount allowed under (b) of this section may only be
8 used as provided in (1) - (5) of this subsection or to pay for a
9 victory or thank you party. Within 60 days after the end of the
10 candidacy or the election, unexpended funds shall be

11 (1) used to retire bona fide loans supported by written
12 documentation including loans made to a campaign by the legislative
13 candidate or a member of the candidate's immediate family provided
14 that all other outstanding loans are paid first;

15 (2) returned on a pro rata basis to those who have made
16 contributions in excess of \$100 in the aggregate a year;

17 (3) donated to the general fund of the state or of a munic-
18 ipality;

19 (4) donated to one or more organizations that qualify as
20 charitable organizations under 26 U.S.C. 501(c)(3) provided that the
21 charity is not one that is controlled by the candidate or a member of
22 the candidate's immediate family or in which the candidate or a member
23 of the candidate's immediate family is personally involved as a direc-
24 tor, trustee, member of the board, officer, or other position of
25 responsibility;

26 (5) transferred to an ongoing political account controlled
27 by the candidate, but only in the amounts and according to the re-
28 quirements set out in (b) of this section; or

29 (6) transferred, in an amount not to exceed \$1,000, to a

1 legislative office account for expenditures qualifying as business
2 expenses under 26 U.S.C. 162.

3 (b) A maximum of \$2,500 for candidates for the house and \$5,000
4 for candidates for the senate of surplus campaign funds may be trans-
5 ferred to an ongoing political account controlled by the candidate.

6 (c) Funds carried over under (b) of this section may be expended
7 for any political purpose for which campaign funds can otherwise
8 properly be used, but they may not be used for a campaign for an
9 office other than the state legislature.

10 Sec. 24.61.220. PAYMENT OF LEGAL EXPENSES; LEGAL DEFENSE FUNDS.

11 (a) A legislative candidate, legislator, or legislative employee may
12 establish a legal defense fund to assist with the payment of attorney
13 fees and other costs arising from the legislator's or employee's
14 defense of a civil, criminal, or administrative action brought against
15 the legislator or employee. Contributions to a legal defense fund
16 that meet the requirements of this section are not subject to the
17 restrictions in AS 24.61.350.

18 (b) A legislative candidate, legislator, or legislative employee
19 who wishes to establish a legal defense fund account shall file a
20 statement of organization for the legal defense fund with the commis-
21 sion. The statement of organization must identify the specific civil,
22 criminal, or administrative proceeding or proceedings for which the
23 legal defense fund is established.

24 (c) The legal defense fund shall establish a single account at
25 an office of a financial institution located in the state. A donation
26 to the candidate, legislator, or legislative employee for legal expen-
27 ses shall be deposited into that account if the donation meets the
28 requirements of (d) of this section.

29 (d) Only a donation that is specifically designated by the donor

1 as being for the legal defense fund and is made payable to the legal
2 defense fund may be deposited in the legal defense fund account. A
3 donation that the recipient believes is intended for the legal defense
4 fund but that does not meet the requirements of this subsection shall
5 be returned to the donor.

6 (e) Expenditures from the legal defense fund account may be made
7 only for legal costs directly related to the civil, criminal, or
8 administrative proceeding or proceedings for which the legal defense
9 fund is established. Expenditures from the legal defense fund account
10 may not be used to pay or reimburse fines, penalties, judgments, or
11 settlements in connection with a criminal prosecution or a civil or
12 administrative action in which the legislative candidate, legislator,
13 or legislative employee is found to have committed, or admits to
14 having committed a violation of the law.

15 (f) Surplus funds remaining in the legal defense fund account
16 after the proceeding or proceedings for which the account is estab-
17 lished have concluded may not be used for another purpose. These
18 funds shall, within six months after the conclusion of the proceeding
19 or proceedings, be

20 (1) returned to donors on a pro rata basis as to contribu-
21 tions in excess of \$100 in the aggregate;

22 (2) donated to the state or to a municipality; or

23 (3) donated to a charitable organization that meets the
24 requirements of AS 24.61.210(a)(4).

25 (g) This section constitutes the sole means for legislators and
26 legislative employees to solicit or accept donations for legal costs
27 that may not be paid from campaign funds under AS 24.61.202. Except
28 for AS 24.61.240(b) and (c), the provisions of this chapter relating
29 to the solicitation and acceptance of campaign funds apply to the

1 solicitation and acceptance of contributions to a legal defense fund
2 established under this section. The commission may adopt regulations
3 limiting the dollar amount of contributions under this section and
4 shall adopt regulations requiring the disclosure of donors to a legal
5 defense fund.

6 (h) Funds received from fundraising events must be clearly
7 designated in advance as either for campaign purposes or for the legal
8 defense fund and all proceeds shall be dealt with as required by this
9 chapter.

10 (i) A person who violates this section is guilty of a class A
11 misdemeanor and is subject to civil sanctions under AS 24.61.560(a).

12 Sec. 24.61.230. IMPROPER COERCION. (a) Legislators wield
13 substantial power and influence and it is essential that constituents
14 and others interested in their legislative, administrative, and polit-
15 ical actions have, and believe they have, a fair and adequate oppor-
16 tunity to express their concerns, grievances, and ideas without regard
17 to their willingness or ability to provide personal benefits, contrib-
18 ute to particular charitable causes favored by a legislator, or pro-
19 vide financial or other forms of political support.

20 (b) A legislator may not, directly or by authorizing another to
21 act on the legislator's behalf, state or imply that the legislator's
22 consideration of an issue, cause, or piece of legislation, or the
23 legislator's willingness to meet with a person, is dependent on the
24 person making a campaign contribution, donating to a cause favored by
25 the legislator, or providing a thing of value to the legislator.

26 (c) A legislator may not directly, or by authorizing another to
27 act on the legislator's behalf,

28 (1) agree to, or threaten to take or withhold a legisla-
29 tive, administrative, or political action, including but not limited

1 to support or opposition to a bill, employment, nominations, and
2 appointments, as a result of a person's decision to provide or not
3 provide a political contribution;

4 (2) state or imply that the legislator will perform or
5 refrain from performing a lawful constituent service as a result of a
6 person's decision to provide or not provide a political contribution;

7 (3) agree to or participate in a scheme or plan intended to
8 evade the requirements of this chapter, a regulation adopted under
9 this chapter, or another financial disclosure provision of state law;
10 or

11 (4) knowingly accept a contribution given or offered in
12 violation of this chapter.

13 (d) Unless the conduct violates a provision of AS 11 and the
14 person is subject to prosecution under that provision, a person who
15 violates (b) or (c) of this section is guilty of a class A misde-
16 meanor.

17 (e) In addition to criminal penalties, a person who violates
18 this section is subject to civil sanctions under AS 24.61.560(a).

19 Sec. 24.61.240. FUNDRAISING LIMITATIONS. (a) Because the
20 process of campaign fundraising involves activities that take great
21 amounts of time and energy and that tend to place legislators in
22 situations rife with the potential for conflicts of interest, it is
23 the intent of this section that fundraising should be limited in ways
24 that permit legislators to concentrate their attention on public
25 matters.

26 (b) A legislator may not, either directly, through a campaign
27 committee, or other means, solicit or accept a campaign contribution
28 or a promise or pledge to make a contribution while the legislature is
29 in regular session, nor may a legislator solicit campaign funds or

1 host a campaign fundraising event for another person while the legis-
2 lature is in session. This subsection does not prevent fundraising
3 activity for a charitable organization if the activity does not vio-
4 late AS 24.61.230.

5 (c) A legislator or a candidate for the legislature may not,
6 either directly, through a campaign committee, or other means, solicit
7 or accept a campaign contribution or a promise or pledge to make a
8 contribution relating to candidacy for the legislature in an election
9 other than a special election under AS 15.40 except during the follow-
10 ing periods:

11 (1) legislators and other incumbent elected public offi-
12 cials intending to run for the legislature may raise funds from June 1
13 until December 31 in the year before the year of an election in which
14 they intend to be a candidate, and from June 1 through the general
15 election in November in the year of the election; in this paragraph,
16 "public official" means a person required to file a campaign disclo-
17 sure statement under AS 15.13;

18 (2) candidates for the legislature who are not in public
19 office at the time of their candidacy may raise funds from June 1 in
20 the year before the year of an election in which they intend to be a
21 candidate through the general election in November in the year of the
22 election.

23 (d) This section does not prohibit a legislator from making an
24 otherwise lawful contribution or from attending an otherwise lawful
25 fund raising activity at any time.

26 Sec. 24.61.245. ENFORCEMENT OF CAMPAIGN FUND PROVISIONS. The
27 Alaska Public Offices Commission shall enforce AS 24.61.205, 24.61.-
28 210, and 24.61.240. A person who believes that AS 24.61.205, 24.61.-
29 210, or 24.61.240(b) or (c) has been violated may file a complaint

1 under AS 15.13.120(d) with the Alaska Public Offices Commission, which
2 shall handle the complaint in the same manner as a complaint alleging
3 a violation of AS 15.13. The penalties for a violation of AS 24.61.-
4 205, 24.61.210, and 24.61.240(b) and (c) are those set out in AS 15.-
5 13.120(a). In addition, if the Alaska Public Offices Commission
6 determines after a hearing under AS 15.13.120(d), or if a legislator
7 admits, that the legislator violated or caused, induced, aided, or
8 encouraged a violation of AS 24.61.205, 24.61.210, or 24.61.240(b) and
9 (c), the legislator is subject to sanctions under AS 24.61.560(a).

10 Sec. 24.61.250. GENERAL OBLIGATION TO AVOID CONFLICTS OF INTER-
11 EST AND PRESERVE ABILITY TO MAKE INDEPENDENT IMPARTIAL JUDGMENTS.
12 Legislators and legislative employees shall safeguard their ability to
13 make independent, objective, fair, and impartial judgments by avoiding
14 financial relationships and transactions that may compromise or give
15 the appearance of compromising their objectivity, independence, or
16 honesty.

17 Sec. 24.61.255. FINANCIAL CONFLICTS OF INTEREST DEFINED. A
18 financial conflict of interest exists when a person or a member of
19 that person's immediate family has substantial financial interests
20 that may be materially affected by an official action or decision they
21 might make. The interest must be so substantial and the potential
22 effect on that interest must be so material that a reasonable person
23 is likely to believe that the ability of the person with the financial
24 interest to make an objective, fair, and impartial professional judg-
25 ment will be impeded by self-interest. It is not a conflict of inter-
26 est as to a specific matter if

27 (1) the person's economic interest is not substantial;

28 (2) the person's authority in relation to the interest is
29 such that an action or decision is not likely to materially affect the

1 financial interest; or

2 (3) the economic effect an official action or decision
3 might have on a person's private financial interests is no greater
4 than the effect on a substantial class of persons to which the person
5 belongs as a member of a profession, occupation, industry, or region.

6 Sec. 24.61.260. SUBSTANTIAL INTEREST IN LEGISLATIVE, ADMINISTRA-
7 TIVE, OR POLITICAL ACTION DEFINED. Conflicts of interest arise most
8 often and are most serious when a legislator or legislative employee
9 has a financial or personal relationship with other persons, including
10 governmental entities, that have a substantial interest in legisla-
11 tive, administrative, or political action. Persons, including govern-
12 mental entities, have a substantial interest if they

13 (1) seek employment in the legislative branch or a govern-
14 ment agency or in a private organization in which a legislator or
15 legislative employee is likely to have, or reasonably appears to have,
16 the ability to influence an employment decision;

17 (2) will be directly and substantially affected, either
18 financially or personally, by a legislative, administrative, or polit-
19 ical action in a way that is greater than the effect on a substantial
20 class of persons to which the person belongs as a member of a profes-
21 sion, occupation, industry, or region;

22 (3) have or seek contracts in excess of \$10,000 annually
23 for goods or services with the legislature or with an agency of state
24 government;

25 (4) are lobbyists;

26 (5) employ lobbyists; or

27 (6) represent, with or without compensation, a person or
28 organization described in (1) - (5) of this section.

29 Sec. 24.61.265. CLOSE ECONOMIC ASSOCIATION DEFINED. "Close

1 economic association" refers to a financial relationship between two
2 or more persons that creates economic interests in a legislator or
3 legislative employee that either (1) conflict with public duties and
4 the obligation to exercise objective independent judgment; or (2)
5 create the appearance that the person may have access to confidential
6 information or otherwise receive favored treatment regarding public
7 actions. "Close economic association" includes, but is not limited
8 to, relationships involving compensation as an employee, agent, rep-
9 resentative, counselor, adviser, or consultant, including professional
10 services provided by a lawyer or a financial planner to a client; a
11 financial interest resulting from an investment, business enterprise,
12 or interest in real property as a partner, investor, associate, or
13 major stockholder; a landlord and tenant or co-tenants sharing housing
14 expenses; a debt, loan, or loan guarantee; or another relationship in
15 which a legislator or legislative employee has a substantial economic
16 involvement with another person. In this section, "person" includes
17 governmental entities.

18 Sec. 24.61.270. DEALING WITH FINANCIAL CONFLICTS. Except in the
19 relatively few cases in which certain transactions or relationships
20 are banned by this chapter or where divestiture may be ordered by the
21 commission, conflicts of interest are dealt with primarily as a matter
22 of required public disclosure and voluntary restraint.

23 Sec. 24.61.280. DEALING WITH PERSONAL RELATIONSHIP CONFLICTS OF
24 INTEREST. Except in the very few cases where certain relationships
25 give rise to specific legal limitations, such as the ban on nepotism,
26 personal relationship conflicts are not restricted or subject to
27 mandatory disclosure. However, this makes them no less damaging to
28 public trust. Close personal relationships that raise potential
29 conflicts may be unavoidable but legislators and legislative employees

1 shall ensure that they take no official actions under circumstances
2 where the personal relationship actually impedes the ability to make
3 an independent objective judgment on the merits. Legislators and
4 legislative employees may, but are not required to, disclose to the
5 commission the nature of personal relationships that might create
6 appearances of impropriety and seek informal or formal advice.

7 Sec. 24.61.290. RESTRICTED RELATIONSHIPS: NEPOTISM. (a) A
8 member of the immediate family of a legislator may not be employed for
9 compensation

10 (1) in the house of which the legislator is a member during
11 the legislative session;

12 (2) in either house in the interim between legislative
13 sessions; or

14 (3) by the commission, whether for compensation or not, at
15 any time.

16 (b) A member of the immediate family of a legislative employee
17 may not be employed for compensation in a position over which the
18 employee has supervisory authority.

19 (c) In cases where a member of the immediate family of a legis-
20 lator or legislative employee is uniquely qualified to perform a task,
21 or another extraordinary circumstance exists under which it would be
22 in the state's interest to waive the limitation of this section, an
23 exemption may be sought from the commission.

24 (d) For purposes of this section, a legislator is not an employ-
25 ee of the legislature.

26 (e) A person who violates this section is subject to the civil
27 sanctions authorized under AS 24.61.560(a).

28 Sec. 24.61.300. RESTRICTED RELATIONSHIPS: LOBBYISTS, LEGISLA-
29 TORS, LEGISLATIVE CANDIDATES, AND LEGISLATIVE ASSISTANTS. (a) It is

1 important for legislators and legislative assistants to maintain and
2 appear to maintain independence from lobbyists seeking legislative,
3 administrative, and political actions. A legislator or a legislative
4 candidate may not solicit or knowingly permit a lobbyist to actively
5 engage in fundraising activities for a legislative campaign or for a
6 legal expense fund under AS 24.61.220, which activities include (1)
7 serving as a campaign manager or director; (2) serving as a campaign
8 treasurer or deputy campaign treasurer on a finance or fundraising
9 committee; (3) hosting a fundraising event. This subsection may not
10 be construed as prohibiting a lobbyist from making personal contribu-
11 tions to or personally advocating on behalf of a candidate. A legis-
12 lator or a legislative candidate may not seek to evade the purposes of
13 this subsection by soliciting or knowingly permitting a member of a
14 business entity retained to lobby, or an employee of a lobbyist to
15 perform similar fundraising services.

16 (b) Legislators and legislative assistants who have a close
17 economic association with a lobbyist shall make a written disclosure
18 of the association in confidence to the commission. The disclosure
19 shall be made during the first week of each session. If a legislator
20 or legislative assistant is not in office or employed during the first
21 week of the session, or if the association did not exist during the
22 first week of the session, the disclosure shall be made within 30 days
23 after taking office or being employed or the creation of the associa-
24 tion.

25 (c) The written disclosure must state the name of the persons
26 involved, the nature of the association, and a brief narrative of the
27 matters the legislator or legislative assistant is working on that
28 could create an actual conflict of interest. If the commission re-
29 quests additional information it shall be promptly provided.

1 (d) The commission shall make a determination as to whether the
2 association creates a conflict of interest that warrants restrictions
3 or disclosure. After making the determination, the commission may
4 elect to

5 (1) keep the matter confidential;

6 (2) recommend some restriction in the activities; or

7 (3) order full or partial disclosure in the journal of the
8 appropriate body.

9 (e) A legislator or legislative assistant may not provide per-
10 sonal services for compensation for or on behalf of a lobbyist or a
11 business entity retained to lobby, and may not have a financial inter-
12 est in a business that receives a substantial part of its income from
13 lobbyists and business entities retained to lobby.

14 (f) A person who violates this section is subject to the civil
15 sanctions authorized under AS 24.61.560(a) and other penalties au-
16 thorized under AS 24.45 (regulation of lobbying).

17 Sec. 24.61.310. RESTRICTED RELATIONSHIPS: BOARD MEMBERSHIPS AND
18 OTHER PUBLIC OFFICES. (a) A legislator may not serve on a governing
19 or advisory board of a nongovernmental organization that regularly has
20 a substantial interest in the legislative, administrative, and politi-
21 cal actions of the legislator.

22 (b) A legislative assistant may not serve in an elected public
23 office for which a candidate must file campaign disclosure statements
24 under AS 15.13, and may not serve in a position that requires confir-
25 mation by the legislature. A legislative assistant may serve on a
26 board of an organization, including a governmental entity, that regu-
27 larly has a substantial interest in the legislative activities of the
28 assistant, if the assistant discloses the board membership to the
29 commission. A legislative assistant may not, as part of the

1 assistant's employment, be personally involved in an issue or take a
2 specific action that directly relates to an organization of which the
3 assistant is a board member.

4 (c) In extraordinary situations where the criteria for an ex-
5 emption exists, a legislator or legislative assistant may seek a
6 waiver of the provisions of this section or a modified order from the
7 commission.

8 (d) A person who violates this section is subject to the civil
9 sanctions authorized under AS 24.61.560(a).

10 Sec. 24.61.320. RESTRICTED FINANCIAL INTERESTS. (a) Unless
11 required by the Uniform Rules of the Alaska State Legislature, a
12 legislator or legislative employee may not participate in legislative,
13 administrative, or political action if the legislator or legislative
14 employee has an equity or ownership interest in a business, invest-
15 ment, real property, lease, or other enterprise if the interest is
16 substantial and the effect of the action on that interest is greater
17 than the effect on a substantial class of persons to which the legis-
18 lator or legislative employee belongs as a member of a profession,
19 occupation, industry, or region.

20 (b) In extraordinary situations where the criteria for an ex-
21 emption exists, a legislator or legislative employee may seek a waiver
22 of the provisions of this section.

23 (c) A person who violates this section is subject to the civil
24 sanctions authorized under AS 24.61.560(a).

25 Sec. 24.61.330. RESTRICTED ACTIVITIES AS AN ATTORNEY OR REP-
26 RESENTATIVE. (a) A legislator or legislative assistant may not for
27 compensation represent, as an advocate, advisor, or consultant, a
28 person in a matter involving an agency, board, or commission of the
29 state, unless the agency, board, or commission is acting

1 quasi-judicially and there is no reasonable basis to conclude that the
2 side represented by the legislator or legislative assistant has an
3 unfair advantage. This provision does not prohibit an attorney from
4 representing a client in a judicial action or prevent a legislator or
5 legislative assistant from representing personal interests in an
6 otherwise proper proceeding. This subsection may not be construed to
7 permit compensated representation for purposes of obtaining or
8 retaining a state or local license, permit, franchise, grant, loan, or
9 other benefit, whether or not other parties contending for the benefit
10 are represented, unless the granting of the benefit is a purely minis-
11 terial matter requiring little or no discretion.

12 (b) This section may not be construed to prohibit a legislator
13 or legislative assistant from informally advising a constituent about
14 the procedures or appropriateness of bringing an action against the
15 state or a local government. If a legislator or legislative assistant
16 in an otherwise proper manner advises a constituent or another in an
17 action against the state or a local government or before a state or
18 local government agency, the legislator or legislative assistant may
19 not reveal nonpublic or confidential information.

20 (c) In extraordinary situations where the criteria for an ex-
21 emption exists, a legislator or legislative assistant may seek a
22 waiver of this section.

23 (d) A person who violates (a) of this section is subject to the
24 civil sanctions authorized under AS 24.61.560(a).

25 Sec. 24.61.340. RESTRICTED TRANSACTIONS: INTEREST IN STATE
26 CONTRACTS OR LEASES. (a) A legislator, a legislative assistant, or a
27 member of the immediate family of a legislator or legislative assis-
28 tant may not be a party to, or have a financial interest in, a state
29 contract or lease unless the contract or lease is permitted under (b),

1 (c), or (d) of this section.

2 (b) A contract is permissible if the contract is let through
3 competitive sealed bidding under AS 36.30 (State Procurement Code) and
4 the legislator or legislative assistant files a statement with the
5 commission before the contract is executed certifying under penalty of
6 unsworn falsification that the legislator or legislative assistant did
7 not have (1) access to nonpublic or confidential information that
8 reasonably could provide an advantage; or (2) discussions or contacts
9 with state officials involved in letting the contract about the con-
10 tract that could influence the decision. The statement must also
11 specify the nature of the legislator's or legislative assistant's per-
12 sonal or immediate family interest, including the percentage or share
13 of profits that will be realized. If the commission requests addi-
14 tional information, it shall be promptly provided. If the commission
15 believes the nature or circumstances of the contract raise imper-
16 missible conflicts of interest, it may recommend that the contract be
17 voided or that restrictions be placed on the contractor. The state-
18 ment filed by the legislator or legislative assistant regarding the
19 contract shall be made part of the public record and published in the
20 journal of the appropriate house.

21 (c) A contract or lease is permissible if the total amount of
22 the contract or lease over the course of a year is less than \$1,000
23 and it was let under circumstances that do not raise a substantial
24 question of improper influence.

25 (d) A contract or lease is permissible if it is a standardized
26 contract or lease that was developed under publicly adopted regula-
27 tions or procedures and is generally available to the public at large
28 or to members of a profession, occupation, or group to which the
29 legislator, legislative assistant, or member of the legislator's or

1 assistant's immediate family belongs.

2 (e) A legislator or legislative assistant may not receive any-
3 thing of value to procure or advocate for a contract with state or
4 local government.

5 (f) A legislator, legislative assistant, or former legislator or
6 legislative assistant, within one year of leaving legislative service,
7 may not seek or accept a contract with the state or a person that does
8 a substantial portion of its business with the state for goods or
9 personal services concerning a matter on which the legislator or
10 legislative assistant participated personally and substantially within
11 the last year of service.

12 (g) A person who violates this section is subject to civil
13 sanctions under AS 24.61.560(a) in addition to appropriate criminal
14 penalties under another law.

15 Sec. 24.61.345. PARTICIPATION IN GENERAL STATEWIDE PROGRAMS
16 PERMISSIBLE. (a) A legislator or legislative employee may, without
17 disclosure to the commission, participate in a statewide benefit
18 program or receive a loan from the state if the program or loan is
19 generally available to members of the public, is subject to fixed,
20 objective eligibility standards, and requires minimal discretion in
21 determining qualification.

22 (b) The commission shall review annually state programs and
23 state loans and publish a list of programs and loans, designating
24 which ones meet the qualifications stated.

25 (c) A legislator or legislative employee who participates in a
26 program or receives a loan that is not exempt from disclosure under
27 (a) of this section shall file a written report with the commission by
28 the first Monday in February of each year stating the amounts of the
29 loans or other benefits received during the preceding calendar year

1 from nonqualifying programs. If the commission requests additional
2 information it shall be promptly provided. The commission shall
3 promptly compile a list of the statements indicating the loans and
4 programs and amounts and send it to the presiding officer of each
5 house who shall have it published in the supplemental journals within
6 three weeks of the filing date.

7 (d) If loan proceeds or other program benefits are received from
8 nonqualifying programs or loans after January 15, the legislator or
9 legislative employee shall file a statement with the commission within
10 30 days after the beginning of participation in the state program or
11 receipt of proceeds from the state loan. If the commission receives
12 the statement while the legislature is in session, it shall promptly
13 forward the statement to the chief clerk of the house or the secretary
14 of the senate, as appropriate, who shall cause it to be published in
15 the supplemental journal. If the commission receives a statement
16 while the legislature is not in session, it shall forward the state-
17 ment to the chief clerk of the house or the secretary of the senate
18 for publication when the legislature next convenes.

19 (e) If the commission determines that the nature and circum-
20 stances under which the legislator or legislative employee received a
21 state benefit or loan raises an appearance of impropriety or was in
22 fact the result of unfair or improper influence it shall be treated as
23 a violation of this section. In addition, the commission shall report
24 the violation to the attorney general for action under other civil or
25 criminal laws.

26 (f) The commission shall annually identify the programs and
27 loans to be audited by the division of legislative audit during the
28 following year, including the scope of the audit. The records of the
29 relevant state agencies shall be made available to the division of

1 legislative audit. The division of legislative audit shall prepare a
2 report to the commission on its findings. The report is confidential
3 until it is released by the commission.

4 (g) In extraordinary situations where the criteria for an ex-
5 emption exists, a legislator or legislative employee may seek a waiver
6 of this section.

7 (h) A person who violates this section is subject to the civil
8 sanctions authorized under AS 24.61.560(a) in addition to appropriate
9 criminal penalties under another law.

10 Sec. 24.61.350. RESTRICTED TRANSACTIONS: GRATUITIES. (a)
11 Legislators and legislative employees must be extremely cautious and
12 circumspect about accepting a gratuity or favor, especially from
13 persons or entities that have a substantial interest in their legisla-
14 tive, administrative, or political actions. Even where there is a
15 genuine personal friendship, the acceptance of personal benefits from
16 those who could gain advantage by influencing official actions raises
17 suspicions that tend to undermine public trust. It is the intent of
18 this section to discourage all gratuities, but prohibit only those
19 that create unacceptable conflicts of interest or appearances of
20 impropriety.

21 (b) A legislator or legislative employee may not accept or
22 receive, directly or indirectly, a benefit as a gratuity from a person
23 or entity except as provided in this section. A legislator or legis-
24 lative employee may accept gratuities in the form of personal gifts,
25 free or subsidized travel, tickets to entertainment or sporting
26 events, unsolicited subscriptions to publications, lodging, pens,
27 calendars, candy, fruit baskets, flowers, and any other benefit,
28 provided that the aggregate value in a calendar year is not in excess
29 of \$100 from a single source. However, a benefit of any amount may

1 not be accepted under circumstances in which it could be reasonably
2 inferred that the gift is intended to influence the performance of
3 official duties, actions, or judgments.

4 (c) The following benefits may be accepted as gratuities without
5 regard to the \$100 limit of (b) of this section and they need not be
6 reported except as noted within the appropriate paragraph:

7 (1) gifts from immediate family members;

8 (2) birthday, wedding, anniversary, and similar ceremonial
9 gifts if the donor does not have a substantial interest in the legis-
10 lative, administrative, or political action of the recipient;

11 (3) unsolicited tokens or awards of appreciation or recog-
12 nition with a value of more than \$100 in the form of a plaque, trophy,
13 clock, watch, desk item, wall memento, or similar item if the award
14 has been approved by the commission upon a finding that the gift does
15 not create an impermissible conflict of interest;

16 (4) food or foodstuffs indigenous to the state that are
17 shared generally as a cultural or social norm, and meals and beverages
18 provided and consumed at social or fund-raising events, conferences,
19 or professional meetings, at a restaurant or club, or as part of
20 personal hospitality at the residence or place of business of the
21 host; gratuities under this paragraph with a value of more than \$100
22 shall be reported on financial disclosure forms; this paragraph may
23 not be construed to exclude from the coverage of (b) of this section
24 gifts of packaged liquor, wine, or foodstuffs, nor does it exclude
25 from the coverage of (b) of this section the acceptance of a restau-
26 rant meal not consumed with the person providing the gift;

27 (5) a gift presented by a representative of a foreign
28 government, provided that if it is worth more than \$100 it must be
29 accepted on behalf of the legislature and turned over within 60 days

1 to the presiding officer of either house for purposes of displaying
2 the gift in public areas of the Capitol or other appropriate public
3 location or being sold at auction, the proceeds to go to charity or
4 the general fund;

5 (6) reasonable and necessary expenses, including reimburse-
6 ment for travel and related food and lodging, when they are incidental
7 to a trip paid for by a government agency or a nonprofit educational,
8 charitable, or political institution for governmental or educational
9 purposes; the commission shall adopt regulations implementing this
10 paragraph, including regulations relating to the payment of expenses
11 for the members of a person's immediate family;

12 (7) hospitality including overnight lodging, food, and
13 beverages at the residence or second home of the host provided the
14 host is present, or, if the host is not present, the person is staying
15 as a house-sitter; if the host has a substantial interest in the
16 legislative, administrative, or political actions of the recipient, a
17 stay with a value of more than \$100 shall be reported on financial
18 disclosure forms; this paragraph may not be construed to permit the
19 use, other than as a house-sitter in a residence or a second home, of
20 a summer home, company retreat, resort facility, condominium or apart-
21 ment, or other lodging where the host is not personally present or,
22 regardless of the presence of the host, the purpose is to provide the
23 legislator or legislative employee with a paid or subsidized vacation
24 or similar benefit; the host may use customary and usual means of
25 transportation to transport the legislator or legislative employee to
26 the host's residence or the place of a social event;

27 (8) leave donated under AS 39.20.245(b);

28 (9) the portion of a student loan forgiven under former
29 AS 14.43.120(j).

1 (d) In extraordinary situations where the criteria for an exemp-
2 tion exists, a legislator or legislative employee may seek a waiver of
3 this section.

4 (e) A person who violates this section is subject to civil
5 sanctions under AS 24.61.560(a) and may be subject to prosecution
6 under AS 11.56.120 (receiving unlawful gratuities).

7 Sec. 24.61.360. RESTRICTIONS ON EARNED INCOME: OUTSIDE EMPLOY-
8 MENT AND HONORARIA. (a) Because legislators and many legislative
9 assistants serve the state only part-time, most must engage in income
10 producing activities to supplement their legislative salaries. It is
11 the intent of this chapter to allow legislators and legislative assis-
12 tants substantial freedom in their ability to do so with due regard
13 for the state's interest in preventing conflicts of interest and
14 appearances of impropriety that undermine the integrity of government
15 and public trust.

16 (b) A legislator or legislative assistant may not seek, accept,
17 or retain employment, including as an advisor or consultant, that

18 (1) will preclude the fulfillment of legislative obliga-
19 tions;

20 (2) is likely to involve the disclosure or use of nonpublic
21 or confidential information acquired in the course of legislative
22 service;

23 (3) is likely to involve the legislator or assistant acting
24 as a representative in a matter that makes use of the authority,
25 prestige, or title associated with legislative office;

26 (4) involves payments that by reasonable objective stan-
27 dards are not commensurate with the services rendered and appear to
28 involve a premium as a result of the legislator's or legislative
29 assistant's position in the legislature;

1 (5) is likely to require the legislator or legislative
2 assistant, under conflict of interest and disqualification require-
3 ments, to refrain from taking legislative, administrative, or politi-
4 cal actions in an undue number of situations;

5 (6) will require the legislator or legislative assistant to
6 act as a lobbyist; or

7 (7) will require the legislator or legislative assistant to
8 compromise another ethical or legal duty.

9 (c) A legislator or legislative assistant may not receive com-
10 pensation for personal services from a state entity other than the
11 legislature except as specifically provided in this chapter or
12 approved by the commission. A legislator or legislative assistant is
13 not precluded by this subsection from earning compensation at a state-
14 funded school or university, provided that influence was not used to
15 obtain the position.

16 (d) A legislator or legislative assistant who accepts otherwise
17 permissible employment with a person that has a substantial interest
18 in legislative, administrative, or political actions is subject to
19 special disclosure provisions under AS 24.61.405 and shall avoid
20 conduct that would lead a reasonable person to believe that the legis-
21 lator or legislative assistant is unable or unwilling to exercise
22 independent, objective, and impartial judgment in considering matters
23 that affect the interests of the legislator's or legislative assis-
24 tant's employer.

25 (e) A legislator or legislative assistant may not seek or accept
26 an honorarium from a person or entity that has a substantial interest
27 in legislative, administrative, or political action. This subsection
28 does not prevent a legislator or legislative assistant from accepting
29 an honorarium from a governmental entity outside of the state, from a

1 university other than the University of Alaska, or from another non-
2 profit educational or civic institution, provided that the amount paid
3 is reasonable and commensurate with the services performed and that
4 the circumstances under which the services are to be performed do not
5 create a conflict of interest or appearance of impropriety. Honoraria
6 shall be reported on required disclosure forms. Under other pro-
7 visions of this chapter, a legislator or legislative assistant is
8 permitted to accept travel and related expenses incurred as the result
9 of an otherwise permissible activity.

10 (f) In extraordinary situations where the criteria for an ex-
11 emption exists, a legislator or legislative assistant may seek a
12 waiver of this section.

13 (g) A person who violates this section is subject to civil
14 sanctions under AS 24.61.560(a).

15 Sec. 24.61.380. IMPROPER INTERFERENCE WITH THE INDEPENDENT
16 JUDGMENT OF OTHERS ON BEHALF OF CONSTITUENTS. (a) The proper opera-
17 tion of democratic government requires that each public official carry
18 out the duties of office free from improper influences that tend to
19 prevent decisions from being made on the merits according to fair and
20 established procedures. Under our system of separation of powers,
21 legislators have the responsibility to exercise oversight to assure
22 that the executive branch is carrying out its functions equitably,
23 efficiently, and economically. This responsibility, combined with the
24 duty to provide legitimate constituent service, creates situations
25 where a legislator may become involved with administrative decisions
26 or proceedings that affect constituents. The purpose of this section
27 is to provide ground rules for that involvement so that the activity
28 does not unduly distort or politicize the administrative process,
29 while still affording the legislator the opportunity to advocate and

1 protect the interests of constituents.

2 (b) A legislator, either directly or indirectly, should not
3 interfere with the ability or willingness of a state or municipal
4 government body, official, or employee to make official decisions or
5 take appropriate actions on the merits, based on independent objective
6 judgment.

7 (c) A legislator may not directly use or appear to use political
8 influence in a way that is likely to cause a public official to con-
9 sider inappropriate factors in exercising public authority. Acts
10 either intended to or likely to be construed as enticement, trade-
11 offs, ingratiation, threats, intimidation, or coercion are improper.
12 A legislator may not directly and improperly interfere with or seek to
13 influence

14 (1) the outcome or substantive findings of an adjudicatory
15 proceeding of a governmental regulatory body;

16 (2) a decision regarding the commencement, scope, or ter-
17 mination of an investigatory process of a governmental agency; or

18 (3) an action of a governmental agency concerning the
19 granting or revocation of a license, permit, franchise, or similar
20 entitlement.

21 (d) This section may not be construed to prevent a legislator
22 from

23 (1) ensuring that a constituent is being treated fairly
24 according to established rules and procedures;

25 (2) making inquiries about the status of a matter or help-
26 ing a constituent get a benefit or service that the legislator be-
27 lieves the constituent is entitled to as a matter of right;

28 (3) openly advocating the position of constituents on the
29 merits, provided that no effort is made to influence the decision

1 making process by express or implied political pressure in matters
2 involving discretionary decisions of administrative bodies that will
3 have direct and significant economic or social effect on the legisla-
4 tor's district; or

5 (4) exercising vigilant oversight with respect to the
6 policies, regulations, procedures, and implementation practices of an
7 agency, provided that the oversight activities are conducted through
8 the normal committee processes of the legislature and that the focus
9 is on the policies, procedures, and practices of the agency and not
10 the handling of a particular matter.

11 (e) A person who violates (c) of this section is subject to
12 civil sanctions under AS 24.61.560(a) in addition to appropriate
13 criminal penalties under another law.

14 Sec. 24.61.390. CONFLICT OF INTEREST DISCLOSURE: STATEMENT OF
15 PURPOSE. The purpose of financial disclosure by legislators, candi-
16 dates for the legislature, and legislative assistants is to

17 (1) discourage legislators and legislative assistants from
18 acting on a private or business interest in the performance of a
19 public duty;

20 (2) assure that legislators and legislative assistants
21 exercise their legislative function free of the influence of undis-
22 closed private or business interests;

23 (3) develop public confidence in persons seeking or holding
24 legislative office, enhance the dignity of the legislature, and make
25 it attractive to citizens who are motivated to public service;

26 (4) develop accountability in government by permitting
27 public access to information necessary to judge the credentials and
28 performance of those who hold public office; and

29 (5) provide the public the financial disclosure required to

1 meet the purposes listed in (1) - (4) of this section while preserving
2 the maximum amount of privacy to legislators, candidates for the
3 legislature, and legislative assistants.

4 Sec. 24.61.400. CONFLICT OF INTEREST DISCLOSURE BY LEGISLATORS
5 AND LEGISLATIVE ASSISTANTS; "CATEGORY A" AND "CATEGORY B" INCOME
6 DEFINED. (a) A legislator, a candidate for the legislature, and a
7 legislative assistant shall disclose financial interests that would
8 cause a reasonable person to believe that the legislator's, candi-
9 date's, or legislative assistant's objectivity and ability to exercise
10 independent judgment in the public interest have been adversely af-
11 fected by those interests.

12 (b) A legislator, a candidate for the legislature, and a legis-
13 lative assistant shall file with the commission the reports required
14 under AS 24.61.400 - 24.61.410. A candidate for the legislature,
15 including an incumbent legislator, shall file the reports at the time
16 required under AS 15.25.030 or 15.25.180. In addition, legislators
17 and legislative assistants shall file annual reports on or before
18 April 15. The commission shall adopt filing guidelines and develop
19 forms that are compatible with financial disclosure forms required to
20 be filed with the Alaska Public Offices Commission under AS 39.50.030.

21 (c) A legislator, a candidate for the legislature, and a legis-
22 lative assistant shall disclose to the commission detailed information
23 as required under AS 24.61.405 and 24.61.410 on the sources and
24 amounts of outside income received by them, their spouses, and their
25 dependent children, except that disclosure of the amount of income
26 received by a legislator's or assistant's spouse or dependent children
27 is not required. If the spouse or dependent child receives income
28 from a person with a substantial interest in legislative, administra-
29 tive, or political actions of the legislator or legislative assistant,

1 the legislator or legislative assistant shall file a statement with
2 the commission stating that (1) all the funds earned by the spouse or
3 dependent child were reasonable payments for services actually ren-
4 dered, and (2) employment of the spouse or dependent child was not
5 related to any attempt to influence or do any favor for the legislator
6 or legislative assistant. The information shall be divided into two
7 categories, category A income and category B income. The legislator,
8 candidate, or legislative assistant shall also report information
9 relating to income and assets that a public official would be required
10 to report under AS 39.50.030.

11 (d) The commission shall adopt regulations relating to the
12 definitions of category A and B income and the reporting requirements
13 imposed by AS 24.61.400 - 24.61.410. The regulations must include
14 provisions that distinguish between income received for personal
15 services, income received from the ownership of property, income
16 received directly by the legislator, candidate for the legislature, or
17 legislative assistant, and income received by an entity in which the
18 legislator, candidate, or legislative assistant has an ownership
19 interest. The regulations may exclude from category A income, income
20 from sources such as interest on deposit accounts in regulated finan-
21 cial institutions.

22 (e) In AS 24.61.400 - 24.61.410,

23 (1) "category A income" refers to all benefits received, in
24 the form of monetary compensation or another thing of value, from
25 persons who are known or reasonably should be known to have a substan-
26 tial interest in legislative, administrative, or political actions;
27 income received from the legislature or an agency of the legislature
28 is not category A income;

29 (2) "category B income" refers to all benefits received, in

1 the form of monetary compensation or another thing of value, from
2 persons who do not, or are not known to fall within category A.

3 Sec. 24.61.405. REPORTING CATEGORY A INCOME. (a) As to all
4 benefits received from category A sources, a person required under
5 AS 24.61.400 to report shall file with the commission a statement that
6 must include,

7 (1) as to all income received as compensation for services,
8 regardless of the amount, the name and address of the source, a brief
9 statement describing the nature of the services performed including
10 sufficient detail to permit the commission to determine whether the
11 nature of the work created or would create a conflict of interest (for
12 example: "consultant re: expansion of operations;" "engineer, quality
13 control."), and the amount paid;

14 (2) as to each gratuity received and required to be re-
15 ported under AS 24.61.350(c)(4) and (7), the name and address of the
16 person providing the gratuity, a brief description of its nature, and
17 a good faith statement of its fair market value; if exact values are
18 not known, and cannot be found out without undue hardship or expense,
19 reasonable good faith estimates are acceptable;

20 (3) the name and address of the source and the cash value
21 of reimbursement for expenses aggregating more than \$100 in the re-
22 porting period;

23 (4) as to each loan or loan guarantee yielding loan pro-
24 ceeds of \$100 or more in the reporting period and the lender or guar-
25 antor is a person with a substantial interest in legislative, adminis-
26 trative, or political actions, the name and address of the person
27 making the loan or guarantee, the amount of the loan, the terms and
28 conditions under which the loan or guarantee was given, the amount
29 outstanding at the time of filing, and whether or not a written loan

1 agreement exists;

2 (5) if the source of a reported benefit is a corporation,
3 other than a publicly traded corporation, the name of its parent
4 corporation, if any, and names of its top corporate officers; and

5 (6) if the source of a reported benefit is a partnership or
6 association doing business under a fictitious name, the names of the
7 principals.

8 (b) The commission shall review category A statements to deter-
9 mine whether an impermissible conflict exists or would exist and
10 whether special orders or restrictions are required.

11 (c) Category A statements are public records and shall be made
12 available for public inspection.

13 (d) In extraordinary situations, a legislator, a candidate for
14 the legislature, or a legislative assistant may seek a waiver of this
15 provision under AS 24.61.530.

16 Sec. 24.61.410. REPORTING CATEGORY B INCOME. (a) A person
17 required under AS 24.61.400 to report shall file a statement listing
18 the items in AS 24.61.405(a)(1) - (6) that the person has received
19 from a category B source, except that the person shall disclose only
20 those income sources providing benefits worth \$1,000 or more. The
21 person is not required to report the amount of income from a report-
22 able source. As to gratuities, the requirements of AS 24.61.350(c)(4)
23 and (7) control, but apply to the candidates for the legislature as to
24 disclosure requirements only.

25 (b) The commission shall review category B statements to deter-
26 mine whether an impermissible conflict exists or would exist, whether
27 special orders or restrictions are required, and whether the state-
28 ments shall be considered to be public records and made available for
29 public inspection.

1 (c) If the person filing a statement under this section is a
2 legislator, or a candidate for the legislature, the statement is
3 presumptively public, which means that it will be made part of the
4 public record unless the legislator or candidate submitting it re-
5 quests that it be kept confidential, states the reasons for the re-
6 quest, and the commission finds that no valid public purpose would be
7 advanced by publication.

8 (d) If the person filing a statement under this section is a
9 legislative assistant, the statement is presumptively confidential,
10 which means that it shall be kept confidential unless the commission
11 determines that the public benefit in disclosure substantially out-
12 weighs the individual's interest in privacy.

13 Sec. 24.61.415. REPORTING OBLIGATIONS OF EMPLOYERS OF LEGISLA-
14 TORS AND LEGISLATIVE ASSISTANTS. (a) A person who has provided
15 compensation for personal services to a legislator or legislative
16 assistant and who qualifies as a category A source under AS 24.61.-
17 400(e) shall file a report to the commission concerning the compen-
18 sation paid. The report must contain all information required by the
19 commission.

20 (b) The commission shall adopt regulations prescribing the times
21 at which a report under (a) of this section must be filed, and the
22 information that the report must contain. The regulations must pro-
23 vide that the report include a brief narrative of the nature of the
24 employment relationship with the legislator or legislative assistant,
25 the terms of compensation, and the amount paid during the reporting
26 period.

27 (c) Legislators and legislative assistants shall ensure that
28 persons who have provided compensation to them for personal services
29 have the necessary forms and are informed of the obligation to file a

1 report under this section. At the time of filing the report the
2 person filing shall provide a copy to the legislator or legislative
3 assistant.

4 Sec. 24.61.420. PROHIBITED CONDUCT RELATING TO DISCLOSURES. (a)
5 A person required to make a disclosure under AS 24.61.100 - 24.61.420
6 may not knowingly make a false or deliberately misleading or incom-
7 plete disclosure to the commission, or file a disclosure after a
8 deadline set by this chapter or by a regulation adopted by the commis-
9 sion under AS 24.61.160.

10 (b) A person who violates this section is guilty of a class A
11 misdemeanor and is subject to civil sanctions under AS 24.61.560(a).

12 (c) In addition to the sanctions in (b) of this section, if the
13 commission finds that a candidate for the legislature, including an
14 incumbent legislator, has committed a substantial violation of this
15 section, the commission shall notify the lieutenant governor. The
16 lieutenant governor shall return the candidate's filing fee and shall
17 remove the candidate's name from the filing records. In this sub-
18 section "substantial violation" includes the refusal or failure to
19 make a filing required under AS 24.61.400 - 24.61.410.

20 Sec. 24.61.430. ACCOUNTABILITY: OPENNESS AND OVERSIGHT. (a)
21 Legislators shall abide by AS 44.62.310 - 44.62.312 (open meetings
22 law) and, to the greatest extent reasonably possible, exercise the
23 authority of their offices openly so that the public is informed about
24 governmental decisions and can hold them accountable for their
25 actions.

26 (b) A person who violates this section is subject to an adminis-
27 trative sanction under AS 24.61.560(b).

28 Sec. 24.61.440. ACCOUNTABILITY: SELF-POLICING, WHISTLE BLOWING,
29 AND PROTECTION OF WHISTLE BLOWERS. (a) Legislators and legislative

1 employees shall maintain the integrity and trustworthiness of govern-
2 ment by taking whatever steps are necessary to prevent unethical
3 practices, unlawful conduct, corruption, mismanagement, improper use
4 of public funds, danger to public safety, or another abuse of public
5 position, authority, or resources.

6 (b) Legislators and legislative employees who have a good faith
7 belief that the public interest requires the disclosure of govern-
8 mental policies or actions thought to be unlawful or improper should
9 reveal their information to appropriate authorities.

10 (c) A legislator or legislative employee may not, directly or
11 indirectly, subject a person who reports to the commission or another
12 government entity conduct the person reasonably believes is a viola-
13 tion of this chapter or any other state law, to reprisal, retaliation,
14 harassment, discrimination, or ridicule. A legislative employee who
15 is discharged, disciplined, involuntarily transferred, or otherwise
16 penalized by a legislator or another legislative employee may

17 (1) bring a complaint before the commission; and

18 (2) bring a separate civil action in the courts seeking
19 damages, payment of back wages, reinstatement, or other relief.

20 (d) In addition to the special civil liability under (c)(2) of
21 this section, a person who violates this section is subject to the
22 civil sanctions authorized under AS 24.61.560(a).

23 Sec. 24.61.450. DUTY TOWARD COLLEAGUES AND SUBORDINATES. (a) A
24 legislator or legislative employee may not engage in acts of dis-
25 crimination in violation of AS 18.80.220.

26 (b) A person who violates this section is subject to the admin-
27 istrative sanctions authorized under AS 24.61.560(b), in addition to
28 liability under another criminal law or civil action arising from the
29 conduct.

1 **ARTICLE 3. LEGISLATIVE ETHICS COMMISSION.**

2 **Sec. 24.61.500. LEGISLATIVE ETHICS COMMISSION ESTABLISHED. (a)**

3 The Legislative Ethics Commission is established in the legislative
4 branch of government. The commission consists of nine members, se-
5 lected as follows:

6 (1) one member appointed jointly by the president of the
7 senate and the senate minority leader;

8 (2) one member appointed jointly by the speaker of the
9 house and the house minority leader;

10 (3) two members appointed by the supreme court;

11 (4) one member appointed by the governor;

12 (5) one member appointed by the lieutenant governor;

13 (6) one member appointed by the Alaska Public Offices
14 Commission; and

15 (7) two members selected by majority vote of the members
16 appointed under (1) - (6) of this subsection.

17 (b) Commissioners serve staggered terms of five years. A com-
18 missioner is eligible for reappointment; however, a commissioner may
19 not serve more than two consecutive five-year terms. A commissioner
20 whose term has expired continues in office until a successor has been
21 appointed and certified.

22 (c) A vacancy on the commission is filled in the same manner as
23 the original appointment to that seat on the commission. A vacancy
24 shall be filled within 30 days after the vacancy occurs.

25 (d) The commission shall elect a chair and a vice-chair, who
26 serve a term of two years. An officer may not hold the same office
27 for more than two consecutive terms. The vice-chair shall act as
28 chair in the absence of the chair.

29 (e) A commissioner may not be a legislator, a legislative

1 employee, an elected or appointed official required to make conflict-
2 of-interest disclosures under AS 39.50, an officer of a political
3 party, a candidate for public office, or a registered lobbyist.

4 Sec. 24.61.502. CERTIFICATION; LEGISLATIVE DECERTIFICATION OR
5 REMOVAL FROM OFFICE. (a) Upon appointment, a person appointed to the
6 commission shall execute a written oath that includes the following
7 undertaking:

8 I will solemnly perform the duties of this office in a
9 manner that is consistent with both the letter and
10 spirit of the Alaska Legislative Ethics Act and I shall
11 conform my own conduct to the provisions therein. I
12 acknowledge the obligation and need to interpret and
13 apply all its provisions, and the ethical principles
14 that underlie them, vigorously, promptly, fairly, and
15 in good faith. All my actions, decisions, and votes on
16 matters relating to my duties will be made purely on
17 the merits, objectively, independently, and without
18 political, regional, or ideological partisanship.

19 Upon executing the oath, an appointee shall be certified as a commis-
20 sioner and is immediately considered to have begun serving the ap-
21 pointed term.

22 (b) Within 45 days after certification, a commissioner may be
23 decertified by a majority vote of both houses of the legislature, if
24 the legislature is in session, or by a two-thirds vote of the members
25 of the legislative council if the legislature is not in session. If
26 decertified, the commissioner is disqualified and that seat on the
27 commission is vacant.

28 (c) A commissioner may be removed from office by a vote of
29 two-thirds of both houses of the legislature for good cause, including

1 substantial neglect of duty, inability to discharge the powers and
2 duties of office, violation of this chapter, gross misconduct, or
3 conviction of a felony.

4 Sec. 24.61.504. MEETINGS; COMPENSATION. (a) The commission
5 shall meet at the call of the chair or a majority of the commission-
6 ers. The commission shall meet at least once every three months.

7 (b) Six commissioners constitute a quorum. A vote of the major-
8 ity of the commissioners present at a meeting in which a quorum is
9 present is required for official action of the commission.

10 (c) The commission may meet by teleconference.

11 (d) Commissioners shall receive compensation of \$175 for each
12 day in which they attend or participate in a commission meeting of at
13 least one hour in length, either in person or by teleconference. The
14 chair shall receive an additional stipend of \$500 a year. The commis-
15 sion shall develop and implement policies consistent with those em-
16 ployed by other state commissions for the reimbursement of travel
17 costs and the payment of per diem under AS 39.20.180.

18 (e) The commission shall comply with AS 44.62.310 - 44.62.312
19 (open meetings law).

20 Sec. 24.61.506. EXECUTIVE DIRECTOR AND STAFF. (a) The commis-
21 sion shall hire an executive director and determine the director's
22 salary. The executive director serves at the pleasure of the commis-
23 sion.

24 (b) The executive director may employ and determine the compen-
25 sation of necessary employees, subject to the budget approved by the
26 commission. The executive director may, subject to the approval of
27 the commission, contract for services when those services are tempo-
28 rary or specialized in nature, or it is in the best interest of the
29 state.

1 (c) Subject to the approval of the commission, the executive
2 director may employ or contract with legal counsel to manage, direct,
3 and prosecute cases under this chapter.

4 (d) If the commission determines that an investigation is neces-
5 sary and that the investigation cannot be efficiently, promptly, or
6 adequately handled by commission staff, the executive director shall
7 nominate a special investigator to be appointed upon approval by the
8 commission. The executive director shall maintain a list of individu-
9 als qualified to serve as a special investigator by virtue of their
10 experience, reputation, likely availability, willingness to serve, and
11 freedom from conflicts of interest.

12 (e) The executive director and employees of the commission are
13 in the exempt service under AS 39.25.110.

14 Sec. 24.61.508. APPLICABILITY OF CHAPTER TO COMMISSIONERS AND
15 EMPLOYEES; OTHER RESTRICTIONS. (a) Commissioners and employees of
16 the commission, including persons employed or under contract as legal
17 counsel or special investigators, are subject to this chapter and
18 shall be held accountable to the same standards and requirements,
19 including disclosure, as legislative assistants.

20 (b) A commission employee, including a person who provides
21 personal services under a contract with the commission, may not be a
22 legislator, a legislative employee, an elected or appointed official
23 of another governmental entity, an officer of a political party, a
24 candidate for public office, or a registered lobbyist.

25 (c) In addition to the requirements of this chapter, a commis-
26 sioner, employee of the commission, or person under contract to pro-
27 vide personal services to the commission may not

28 (1) participate in political management or in a political
29 campaign during the person's term of office, employment, or contract;

1 (2) participate in the campaign of, attend campaign fund
2 raising events for, or make a financial contribution to

3 (A) a candidate for the legislature;

4 (B) an incumbent legislator or legislative employee
5 who is a candidate for another public office; or

6 (C) a person running for another office against an
7 incumbent legislator or legislative employee;

8 (3) participate in lobbying activities that would require
9 the person to register as a lobbyist except as required to inform the
10 legislature concerning legislation requested by the commission or
11 other matters related to the commission; or

12 (4) take an action or make a statement that is likely to
13 cause a reasonable person to believe that the commissioner, employee,
14 or other person is not impartial or independent or is otherwise unable
15 to properly perform public duties.

16 (d) A violation or alleged violation of (b) or (c) of this
17 section shall be treated as any other violation of this chapter and
18 shall be dealt with by the commission accordingly. During the pend-
19 ency of a complaint against a commissioner, commission employee, or
20 commission contractor, the person complained against may not partici-
21 pate in official action of the commission.

22 (e) Commissioners and the executive director are subject to
23 AS 39.50.

24 Sec. 24.61.510. GENERAL POWERS AND DUTIES OF THE COMMISSION.

25 (a) The commission shall

26 (1) administer the provisions of this chapter;

27 (2) authorize and train its staff to give informal or
28 written advice regarding the spirit and requirements of this chapter;

29 (3) on request or its own initiative, issue formal written

1 advisory opinions on specific situations or clarify a provision of
2 this chapter;

3 (4) consider requests for, and grant or deny, exemptions
4 from the provisions of this chapter;

5 (5) investigate and adjudicate complaints and recommend
6 disciplinary actions to the legislature;

7 (6) authorize research in the field of legislative ethics
8 and carry out the educational programs that are required by this
9 chapter and additional programs it considers necessary to effectuate
10 the policy and purposes of this chapter;

11 (7) prepare and distribute an ethics manual to legislators,
12 legislative employees, and registered lobbyists as provided in this
13 chapter;

14 (8) mail by certified mail a copy of this chapter to a
15 candidate for the legislature upon the receipt of notice of the candi-
16 date's declaration of candidacy under AS 15.25.030 or petition under
17 AS 15.25.150;

18 (9) prepare a biennial report to the legislature summariz-
19 ing its activities over the previous two years, evaluating the effec-
20 tiveness of this chapter in accomplishing its stated purposes, and
21 recommending legislative reforms it thinks necessary to improve the
22 administration of this chapter and to better advance its goals.

23 (b) The commission may

24 (1) adopt regulations as required under specific provisions
25 of this chapter and to interpret and implement this chapter; in adopt-
26 ing regulations, the commission shall follow procedures that are
27 consistent with AS 44.62 (Administrative Procedure Act);

28 (2) perform the other acts, duties, and functions necessary
29 to properly administer this chapter, consistent with law and the

1 purpose of this chapter.

2 Sec. 24.61.515. OFFICES; BUDGET. The legislative council shall
3 provide suitable office space and equipment for the commission. The
4 commission shall submit a budget for each fiscal year to the finance
5 committees of the legislature and shall annually submit an estimated
6 budget to the governor for information purposes in preparation of the
7 state operating budget.

8 Sec. 24.61.520. INFORMAL NONBINDING ADVICE. The commission may
9 authorize and train its staff to give oral advice or provide a written
10 informal nonbinding advice letter to persons seeking guidance as to
11 the spirit or legal requirements of this chapter, provided that the
12 advice is given with the express stipulations that

13 (1) the opinions given are not necessarily those of the
14 commission; and

15 (2) although the advice is given in good faith, the person
16 seeking the advice relies on it at the person's own risk because it is
17 not binding upon the commission.

18 Sec. 24.61.525. FORMAL BINDING ADVISORY OPINIONS. (a) The
19 commission may issue a formal written advisory opinion on its own
20 initiative, on the request of a person to whom this chapter applies,
21 or on the request of a person elected to the legislature who at the
22 time of election is not a member of the legislature.

23 (b) Requests for written advisory opinions shall be in writing
24 and must set out with reasonable specificity the facts and circum-
25 stances of a real or hypothetical case.

26 (c) The commission shall expeditiously determine whether to
27 issue an advisory opinion addressing the issues raised.

28 (d) An opinion shall be issued by official action of the commis-
29 sion. The vote of each commissioner participating in the opinion

1 shall be indicated on the opinion and it shall be forwarded to the
2 person requesting it and made a part of the public records of the
3 commission.

4 (e) Written formal advisory opinions issued by the commission
5 are binding on the commission in a subsequent proceeding concerning
6 the facts and circumstances of the particular case. If, however, any
7 fact determined by the commission to be material was omitted or mis-
8 stated in the request, the commission is not bound by the opinion.

9 (f) The commission may review, withdraw, or elaborate on a
10 previously issued advisory opinion.

11 (g) Under normal circumstances, the commission shall issue its
12 opinion within 30 days of receiving the request, if the request is
13 received during the first 100 days of the legislative session, or
14 within 60 days of the request if the request is received at another
15 time. The period for issuing an opinion may be shortened or extended
16 by the chair when that action is considered necessary or appropriate
17 to meet the goals of this chapter.

18 (h) The commissior and all commission employees shall keep
19 confidential the identity of the requester and all information con-
20 veyed orally or in writing relating to the request, unless the re-
21 quester authorizes the commission to make public the requester's
22 identity or the information conveyed.

23 (i) Advisory opinions issued by the commission are public re-
24 cords. If the requester of the opinion has not waived confidentiality
25 under (h) of this section, the advisory opinion shall be written so
26 that the identity of the requester cannot be ascertained.

27 Sec. 24.61.527. USE OF INFORMATION SUBMITTED WITH REQUEST FOR
28 ADVICE. The commission may not bring a complaint against a person
29 based upon information voluntarily given to the commission by the