ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672
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events, unsolicited subscriptions to publications, lodging, pens, calendars, candy, fruit baskets, flowers, and any other benefit, provided that the aggregate value in a calendar year is not in excess of $100 from a single source. However, a benefit of any amount may not be accepted under circumstances in which it could be reasonably inferred that the gift is intended to influence the performance of official duties, actions, or judgments.

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

(1) gifts from immediate family members;

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

(3) 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 if the award has been approved by the commission upon a finding that the gift does not create an impermissible conflict of interest;

(4) food or foodstuffs indigenous to the state that are shared generally as a cultural or social norm, and meals and beverages provided and consumed at social or fund-raising events, conferences, or professional meetings, at a restaurant or club, or as part of personal hospitality at the residence or place of business of the host; this paragraph may not be construed to exclude from the coverage of (b) of this section gifts of packaged liquor, wine, or foodstuffs, nor does it exclude from the coverage of (b) of this section the acceptance of a restaurant meal not consumed with the person providing the gift;

(5) a gift presented by a representative of a foreign government, provided that if it is worth more than $100 it must be accepted on behalf of the legislature and turned over within 60 days to the presiding officer of either house for purposes of displaying the gift in public areas of the Capitol or other appropriate public location or being sold at auction, the proceeds to go to charity or the general fund;

(6) reasonable and necessary expenses including reimbursement for travel and related food and lodging, when they are incidental to a trip paid for by a government agency or a bona fide nonprofit educational, charitable, or political institution for governmental or educational purposes;

(7) hospitality including overnight lodging, food, and beverages at the residence or second home of the host provided the host is present, or, if the host is not present, the person is staying as a house-sitter; if the host has a substantial interest in the legislative, administrative, or political actions of the recipient, the exempt stay shall be reported on financial disclosure forms; this paragraph may not be construed to permit the use, other than as a house-sitter in a residence or a second home, of a summer home, company retreat, resort facility, condominium or apartment, or other lodging where the host is not personally present or, regardless of the presence of the host, the purpose is to provide the legislator or legislative employee with a paid or subsidized vacation or similar benefit; the host may use customary and usual means of transportation to transport the legislator or legislative employee to the host's residence or the place of a social event;

(8) leave donated under AS 39.20.245(b).

(d) In extraordinary situations where the criteria for an exemp-

tion exists, a legislator or legislative employee may seek a waiver of this section.

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

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

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

(1) will preclude the fulfillment of legislative obligations;

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

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

(4) involves payments that by reasonable objective standards are not commensurate with the services rendered and appear to involve a premium as a result of the legislator's or legislative employee's position in the legislature;

(5) would require the legislator or legislative employee,

under conflict of interest and disqualification requirements, to refrain from taking legislative, administrative, or political actions in an undue number of situations; or

(6) will require the legislator or legislative employee to compromise another ethical or legal duty.

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

(d) A legislator or legislative assistant who accepts otherwise permissible employment with a person that has a substantial interest in their legislative, administrative, or political actions is subject to special disclosure provisions under AS 24.61.405 and shall avoid conduct that would lead a reasonable person to believe that the legislator or legislative employee is unable or unwilling to exercise independent, objective, and impartial judgment in considering matters that affect the interests of the legislator's or legislative employee's employer.

(e) A legislator or legislative employee may not seek or accept honoraria in the form of a payment of money or anything of value from a person or entity that has a substantial interest in legislative, administrative, or political action as compensation for a speech, panel presentation, appearance, or similar service. This paragraph does not prevent a legislator or legislative employee from accepting an honoraria from a governmental entity outside of the state, from a university, or from another nonprofit educational or civic institu-

tion, provided that the amount paid is reasonable and commensurate with the services performed and that the circumstances under which the services are to be performed do not create a conflict of interest or appearance of impropriety. Honoraria and related expenses shall be reported on required disclosure forms. Under other provisions of this chapter, a legislator or legislative employee is permitted to accept travel and related expenses incurred as the result of an otherwise permissible activity.

(f) In extraordinary situations where the criteria for an exemption exists, a legislator or legislative employee may seek a waiver of this section.

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

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

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

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

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

(2) a decision regarding the commencement, scope, or termination of an investigatory process of a governmental agency; or

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

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

(1) making inquiries about the status of a matter or helping a constituent get a benefit or service the constituent is clearly entitled to as a matter of right;

(2) openly advocating the position of constituents on the merits, provided that no effort is made to influence the decision making process by express or implied political pressure in matters involving discretionary decisions of administrative bodies that will have direct and significant economic or social effect on the legisla-

tor's district; or

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

(e) A legislator who, directly or indirectly, intervenes in an administrative consideration, action, or proceeding, should explicitly convey to the administrators involved that the administrator is expected to make an independent judgment and that no advantages or disadvantages to the administrator or the agency will result from a favorable or unfavorable disposition.

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

Sec. 24.61.390. CONFLICT OF INTEREST DISCLOSURE: STATEMENT OF PURPOSE. The purpose of financial disclosure by legislators, candidates for the legislature, and legislative assistants is to

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

(2) assure that legislators and legislative assistants exercise their legislative function free of the influence of undisclosed private or business interests;

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

(4) develop accountability in government by permitting

public access to information necessary to judge the credentials and performance of those who hold public office; and

(5) provide the public the financial disclosure required to meet the purposes listed in (1) - (4) of this section while preserving the maximum amount of privacy to legislators, candidates for the legislature, and legislative assistants.

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

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

(c) A legislator, a candidate for the legislature, and a legislative assistant shall disclose to the commission detailed information as required under AS 24.61.405 and 24.61.410 on the sources and amounts of outside income received by them, their spouses, and their dependent children, except that disclosure of the amount of income received by a legislator's or assistant's spouse or dependent children

is not required. The information shall be divided into two categories, category A income and category B income. The legislator, candidate, or legislative assistant shall also report information relating to income and assets that a public official would be required to report under AS 39.50.030.

(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 - 24.61.410. 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, candidate for the legislature, or legislative assistant, and income received by an entity in which the legislator, candidate, 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.

(e) In AS 24.61.400 - 24.61.410,

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

(2) "category B income" refers to all benefits received, in the form of monetary compensation or another thing of value, from persons who do not, or are not known to fall within category A.

Sec. 24.61.405. REPORTING CATEGORY A INCOME. (a) As to all benefits received from category A sources, a person required under AS 24.61.400 to report shall file with the commission a sworn state-

ment that must include,

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

(2) as to each gratuity received and required to be reported under AS 24.61.350(b) and (c)(7) - (9), the name and address of the person providing the gratuity, a brief description of its nature, and a good faith statement of its fair market value; if exact values are not known, and cannot be found out without undue hardship or expense, reasonable good faith estimates are acceptable; a loan that was forgiven during the reporting period must be reported as a gratuity;

(3) the name and address of the source and the cash value of reimbursement for expenses aggregating more than $100 in the reporting period;

(4) as to each loan and or loan guarantee yielding loan proceeds of $100 or more in the reporting period and the lender or guarantor is a person with a substantial interest in legislative, administrative, or political actions, the name and address of the person making the loan or guarantee, the amount of the loan, the terms and conditions under which the loan or guarantee was given, the amount outstanding at the time of filing, and whether or not a written loan agreement exists;

(5) if the source of a reported benefit is a corporation, other than a publicly traded corporation, the name of its parent

corporation, if any, and names of its top corporate officers; and

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

(b) The commission shall review category A statements to determine whether an impermissible conflict exists or would exist and whether special orders or restrictions are required.

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

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

Sec. 24.61.410. REPORTING CATEGORY B INCOME. (a) A person required under AS 24.61.400 to report shall file a statement listing the items in AS 24.61.405(a)(1) - (6) that the person has received from a category B source, except that the person shall disclose only those income sources providing benefits worth $1,000 or more. The person is not required to report the amount of income from a reportable source. As to gratuities, the requirements of AS 24.61.-350(c)(8) - (9) control, but apply to the candidates for the legislature as to disclosure requirements only.

(b) The commission shall review category B statements to determine whether an impermissible conflict exists or would exist, whether special orders or restrictions are required, and whether the statements shall be considered to be public records and made available for public inspection.

(c) If the person filing a statement under this section is a legislator, or a candidate for the legislature, the statement is presumptively public, which means that it will be made part of the

public record unless the legislator or candidate submitting it requests that it be kept confidential, states the reasons for the request, and the commission finds that no valid public purpose would be advanced by publication.

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

Sec. 24.61.420. PROHIBITED CONDUCT RELATING TO DISCLOSURES. (a) A person required to make a disclosure under AS 24.61.100 - 24.61.420 may not knowingly make a false or deliberately misleading or incomplete disclosure to the commission, or file a disclosure after a deadline set by this chapter or by a regulation adopted by the commission under AS 24.61.160.

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

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

Sec. 24.61.430. ACCOUNTABILITY: OPENNESS AND OVERSIGHT. (a) Legislators shall abide by AS 44.62.310 - 44.62.312 (open meetings law) and, to the greatest extent reasonably possible, exercise the authority of their offices openly so that the public is informed about

governmental decisions and can hold them accountable for their actions.

(b) A person who violates this section is subject to an administrative sanction under AS 24.61.560(b).

Sec. 24.61.440. ACCOUNTABILITY: SELF-POLICING, WHISTLE BLOWING, AND PROTECTION OF WHISTLE BLOWERS. (a) Legislators and legislative employees shall maintain the integrity and trustworthiness of government by taking whatever steps are necessary to prevent unethical practices, unlawful conduct, corruption, mismanagement, gross waste of public funds, danger to public safety, or another abuse of public position, authority, or resources.

(b) Legislators and legislative employees who have a good faith reasonable belief that the public interest requires the disclosure of governmental policies or actions thought to be unlawful or improper should reveal their information to appropriate authorities.

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

(1) bring a complaint before the commission; and

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

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

Sec. 24.61.450. DUTY TOWARD COLLEAGUES AND SUBORDINATES. (a) A

legislator or legislative employee may not engage in acts of discrimination in violation of AS 18.80.220.

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

ARTICLE 3. LEGISLATIVE ETHICS COMMISSION.

Sec. 24.61.500. LEGISLATIVE ETHICS COMMISSION ESTABLISHED. (a) The Legislative Ethics Commission is established in the legislative branch of government. The commission consists of nine members, selected as follows:

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

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

(3) two members appointed by the supreme court;

(4) one member appointed by the governor;

(5) one member appointed by the lieutenant governor;

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

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

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

(c) A vacancy on the commission is filled in the same manner as the original appointment to that seat on the commission. A vacancy

shall be filled within 30 days after the vacancy occurs.

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

(e) A commissioner may not be a legislator, a legislative employee, an elected or appointed official required to make conflict-of-interest disclosures under AS 39.50, an officer of a political party, a candidate for public office, or a registered lobbyist.

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

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

Upon executing the oath, an appointee shall be certified as a commissioner and is immediately considered to have begun serving the appointed term.

(b) Within 45 days after certification, a commissioner may be decertified by a majority vote of both houses of the legislature, if

the legislature is in session, or by a two-thirds vote of the members of the legislative council if the legislature is not in session. If decertified, the commissioner is disqualified and that seat on the commission is vacant.

(c) A commissioner may be removed from office by a vote of two-thirds of both houses of the legislature for good cause, including substantial neglect of duty, inability to discharge the powers and duties of office, violation of this chapter, gross misconduct, or conviction of a felony.

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

(b) Six commissioners constitute a quorum. A vote of the majority of the commissioners present at a meeting in which a quorum is present is required for official action of the commission.

(c) The commission may meet by teleconference.

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

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

Sec. 24.61.506. EXECUTIVE DIRECTOR AND STAFF. (a) The commission shall hire an executive director and determine the director's salary. The executive director serves at the pleasure of the commission.

(b) The executive director may employ and determine the compensation of necessary employees, subject to the budget approved by the commission. The executive director may, subject to the approval of the commission, contract for services when those services are temporary or specialized in nature, or it is in the best interest of the state.

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

(d) If the commission determines that an investigation is necessary and that the investigation cannot be efficiently, promptly, or adequately handled by commission staff, the executive director shall nominate a special investigator to be appointed upon approval by the commission. The executive director shall maintain a list of individuals qualified to serve as a special investigator by virtue of their experience, reputation, likely availability, willingness to serve, and freedom from conflicts of interest.

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

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

(b) A commission employee, including a person who provides personal services under a contract with the commission, may not be a legislator, a legislative employee, an elected or appointed official of another governmental entity, an officer of a political party, a

candidate for public office, or a registered lobbyist.

(c) In addition to the requirements of this chapter, a commissioner, employee of the commission, or person under contract to provide personal services to the commission may not

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

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

(A) a candidate for the legislature;

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

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

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

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

(d) A violation or alleged violation of (b) or (c) of this section shall be treated as any other violation of this chapter and shall be dealt with by the commission accordingly. During the pendency of a complaint against a commissioner, commission employee, or commission contractor, the person complained against may not participate in official action of the commission.

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

Sec. 24.61.510. GENERAL POWERS AND DUTIES OF THE COMMISSION. (a) The commission shall

(1) administer the provisions of this chapter;

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

(3) on request or its own initiative, issue formal written advisory opinions on specific situations or clarify a provision of this chapter;

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

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

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

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

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

(9) prepare a biennial report to the legislature summarizing its activities over the previous two years, evaluating the effectiveness of this chapter in accomplishing its stated purposes, and recommending legislative reforms it thinks necessary to improve the administration of this chapter and to better advance its goals.

(b) The commission may

(1) adopt regulations as required under specific provisions

of this chapter and to interpret and implement this chapter; in adopting regulations, the commission shall follow procedures that are consistent with AS 44.62 (Administrative Procedure Act);

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

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

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

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

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

(3) information voluntarily provided to a commission employee is not necessarily confidential and may be used against the person seeking the advice if it becomes material to a proceeding before the commission.

Sec. 24.61.525. FORMAL BINDING ADVISORY OPINIONS. (a) The commission may issue a formal written advisory opinion on its own initiative, on the request of a person to whom this chapter applies,

or on the request of a person elected to the legislature who at the time of election is not a member of the legislature.

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

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

(d) An opinion shall be issued by official action of the commission. The vote of each commissioner participating in the opinion shall be indicated on the opinion and it shall be forwarded to the person requesting it [illegible] a part of the public records of the commission.

(e) Written fo[illegible]y opinions issued by the commission are binding on the co[illegible] in a subsequent proceeding concerning the facts and circumstances of the particular case. If, however, any fact determined by the commission to be material was omitte[illegible] or misstated in the request, the commission is not bound by the opinion.

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

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

(h) The commission and all commission employees shall keep the identity of the requester confidential unless the request, the identity of the person making it, or information conveyed orally or in

writing relating to the request is or becomes material to a matter before the commission.

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

Sec. 24.61.527. USE OF INFORMATION SUBMITTED WITH REQUEST FOR ADVICE. The commission may not bring a complaint against a person based upon information voluntarily given to the commission by the person in connection with a request for advice under AS 24.61.520 or 24.61.525, and may not use that information against the person in a proceeding under AS 24.61.545 or 24.61.550. This subsection does not preclude the commission from acting on a complaint concerning the subject of a person's request for advice if the complaint is brought by another person, and does not preclude the commission from using information or evidence obtained from an independent source, even if that information or evidence was also submitted with a request for advice.

Sec. 24.61.530. EXEMPTIONS PROCESS. (a) In situations in which principles of fundamental fairness are best served by exempting certain individuals or acts from specified provisions of this chapter, the commission may grant full or partial exemptions.

(b) The commission shall provide a simple form for petitions for exemptions. A petition must include

(1) the name and address of the petitioner;

(2) relevant provisions involved in the exemption request;

(3) essential facts on which an exemption is requested;

(4) specific nature of the exemption sought;

(5) anticipated unfair or unreasonable consequences that

would result from a failure to grant the petition; and

(6) a certification that the petitioner verifies under penalty of unsworn falsification that the facts stated are true to the best of the petitioner's knowledge.

(c) The commission may, by official action, grant an exemption upon a finding that the petitioner, by a preponderance of the evidence, has shown that the

(1) harm caused by strict application of this chapter substantially outweighs the benefit of its enforcement in the particular situation;

(2) application of the regulation or provision under the circumstances presented would be inconsistent with the spirit and purpose of the regulation or provision or of this chapter as a whole; or

(3) purposes of this chapter and the public interest will be best served by granting the applicant an exemption.

(d) The commission may request or permit the appearance of the petitioner before the commission, in person or by teleconference, and hold hearings regarding the exemption request.

(e) Unless a shortened or expanded time is considered necessary or appropriate by the commission, decisions on petitions for exemptions shall be made within 30 days after filing the petition. Unless the petitioner consents, extensions of time ordered by the commission may not exceed an additional 60 days.

Sec. 24.61.535. INITIATING INVESTIGATORY AND ADJUDICATORY PROCESSES. (a) The filing of a complaint is the first step in the investigatory and adjudication process. It is the purpose of this section to assure that complaints provide sufficient information on which to proceed, yet not be so complex or burdensome that the re-

quirements unduly discourage or screen out valid good faith complaints.

(b) A complaint may be initiated by any person or by the commission on its own motion.

(c) The commission shall provide a simple form for complaints. A complaint must include

(1) the name and address of the complainant;

(2) a statement of the facts known or believed to be true that form the basis of the complaint and the sources of the information, including the approximate dates of the acts alleged and names and addresses of persons with personal knowledge of the facts al[illegible]t; and

(3) a certification that the complainant verifies under penalty of unsworn falsification that the facts stated are true to the best of the complainant's knowledge and that the complainant knows that it is a crime under AS 11.56.805 to intentionally initiate a false complaint.

(d) Unless the chair of the commission concludes that immediate notification would prejudice a preliminary investigation or subject the complainant to an unreasonable risk, a copy of the complaint shall be sent to the person charged with misconduct within two working days. If the matter is to be kept from the respondent for more than 10 days, a majority of the commission must approve and indicate the conditions under which the respondent will be informed of the complaint.

(e) Until a preliminary finding on the validity of a complaint has been properly made, the existence and substance of a complaint shall be kept confidential except that all members of the commission and necessary staff may be informed about it.

(f) Upon receiving a complaint, commission staff shall review it

for formal sufficiency within five days of filing. If the complaint is unsigned or otherwise deficient on its face it shall be returned to the complainant with a statement of the nature of the deficiency.

(g) Once a complaint has been determined to be formally sufficient, commission staff shall evaluate the complaint and advise the chair as to its opinion as to whether it states a valid complaint that should be investigated. If the executive director is a member of the bar, the executive director may provide the advice. Otherwise, the executive director shall appoint a duly qualified legal counsel to assist in making the determinations required under this subsection. To be valid, the complaint must allege

(1) facts that, if true, establish a violation of a provision of this chapter for which civil or administrative sanctions are authorized;

(2) that the conduct providing the basis of the complaint has occurred

(A) within five years of the complaint; or

(B) if the person charged with misconduct intentionally concealed or otherwise sought to prevent discovery of the relevant facts within one year of the discovery of the relevant facts and within eight years of the complaint; and

(3) that the person charged with misconduct is either a legislator or legislative employee at the time of the filing of the complaint or was a legislator or legislative employee within one year of the filing.

(h) Within 20 days after the filing of the complaint, or within 45 days if the chair of the commission certifies additional time is required, a determination shall be made on the substantive validity of the complaint. If the chair concludes that there is no substantial

reason to question the opinion of staff as to the validity of a complaint, the complaint shall either be dismissed or certified for further consideration in accordance with the opinion. The chair or a commissioner, however, may request a hearing on the validity of the complaint at a meeting of the commission.

(i) If a complaint is dismissed because of invalidity, it shall be returned to the complainant with a notice of dismissal stating in detail the reason for dismissal. If the commission finds that the complaint was frivolous, malicious, or was filed in bad faith, it shall so state in the notice of dismissal. If the commission finds that the complaint alleges violations outside the scope of this chapter, it shall so state and forward the complaint to the appropriate enforcement body for disposition. A copy of the notice of dismissal shall be sent to the respondent. The notice of dismissal is a public record.

(j) If the commission concludes that some or all of the allegations of the complaint, if proven, would constitute a violation of this chapter, or if the commission has initiated the complaint, the complaint shall be certified and a factual investigation shall commence. The record of certification for further consideration is confidential subject to subsequent actions that may make it part of the public record.

Sec. 24.61.540. INVESTIGATIONS. (a) Investigation into ethics charges shall be undertaken in a manner that assures the public of an impartial and comprehensive review, is fair to the respondent, and that elicits the information the commission needs to make a decision.

(b) Before commencing an investigation, the commission shall adopt a written resolution defining the scope of the investigation, a copy of which shall be supplied to both the complainant and the re-

spondent. If, during the investigation, additional facts are discovered that justify an expansion of the investigation and the possibility of additional charges beyond those alleged in the complaint, the resolution shall be amended accordingly with copies sent to the complainant and the respondent. The resolution, and the fact that an investigation has been undertaken, shall be kept confidential by the commission except that, upon inquiry, the commission may verify that it is investigating a complaint along with a statement that no finding of probable cause has been made and that no adverse inference of impropriety or guilt should be drawn from the decision to investigate. Additional facts concerning the nature or results of the investigation may not be revealed except as provided in AS 24.61.545 after a determination of probable cause has been made.

(c) A legislator or a legislative employee may request in writing that the commission investigate charges of impropriety made against the legislator or legislative employee. The request must state with specificity the nature of the investigation requested. If the commission agrees to undertake an investigation, the investigation is not necessarily limited in scope by the request and, once begun, it shall be handled as any other investigation, with the person requesting the investigation formally treated as a respondent.

(d) A preliminary investigation is conducted by the commission staff, and if the commission determines it is necessary, outside counsel and investigators. The purpose of the preliminary investigation is to determine whether there is probable cause to proceed with a full adjudicatory hearing.

(e) The person conducting the preliminary investigation may order a hearing and subpoena witnesses and documents, conduct depositions under oath, require the participation of the respondent,

and issue interrogatories to be answered under oath. An oral or written statement, whether incriminatory or exculpatory, may not be considered in the investigator's report unless made under oath. The respondent shall be given an adequate opportunity to provide testimonial and documentary evidence.

(f) Upon completion of the investigation, a confidential report summarizing the evidence, evaluating its credibility, and detailing findings on each of the allegations investigated shall be submitted to the commission along with recommendations as to whether the complaint, or a portion of it, should be dismissed or whether the matter should proceed to the full hearing stage. The report shall be prepared so as to exclude unreliable information and uncorroborated and irresponsible allegations. The investigator's notes, records of interviews, and other investigatory matter considered unreliable or unduly prejudicial by the commission shall remain confidential.

Sec. 24.61.545. PROBABLE CAUSE DETERMINATION. (a) The commission shall consider the investigator's report in closed session and determine whether substantial credible evidence exists to believe that it is probable that a violation of a provision of this chapter for which civil or administrative sanctions are authorized has occurred.

(b) If the commission does not find that substantial credible evidence exists to warrant a full adjudicatory hearing, it shall dismiss the complaint and so notify the complainant with a notice of dismissal stating in detail the reason for dismissal. If the commission finds that the charges were frivolous, malicious, made in bad faith, or that, in its opinion the respondent should be exonerated of the charges, it shall so state in the notice of dismissal. If the commission finds that the evidence supports violations outside the scope of this chapter, it shall so state and forward the complaint and

its report to the appropriate enforcement body for disposition.

(c) A copy of the notice of dismissal shall be sent to the respondent. The notice of dismissal and the investigator's report containing findings and recommendations, but not the underlying investigatory materials, shall be made public unless the commission determines that this would unfairly prejudice either the respondent or complainant. This subsection may not be construed to prevent either the complainant or respondent from making the notice of dismissal and the report public.

(d) If the commission finds that substantial credible evidence exists establishing probable cause that a violation of a provision of this chapter for which civil or administrative sanctions are authorized has occurred, it shall serve on the respondent in a manner consistent with the service of summons under the rules of civil procedure, a formal charge stating the specific allegations and a proposed hearing date.

(e) The hearing may not be scheduled to commence sooner than 20 days after service of the formal charge on the respondent. If the respondent requests an earlier hearing date, the commission may, but is not required to, consent. The commission shall, upon request, grant the respondent reasonable additional time to prepare a defense. The respondent may file a responsive pleading admitting or denying the various allegations.

(f) The commission may suspend further proceedings if the respondent acknowledges the violation and agrees to corrective actions and sanctions considered appropriate by the commission. If the commission suspends the proceedings or dismisses the charges as a result of a negotiated settlement, the terms and conditions of the settlement and the reasons for entering into the agreement shall be stated in a

written report that shall be sent to the complainant and made part of the public record.

(g) Upon determining that probable cause exists to conduct a full adjudicatory hearing, the commission shall make public the investigator's report containing findings and recommendations, but not the underlying investigatory materials.

Sec. 24.61.550. ADJUDICATORY HEARING. (a) A formal hearing on ethics charges against a respondent shall be conducted in a manner that inspires confidence in the integrity and objectivity of the process and demonstrates full consideration for the rights and reputation of the respondent.

(b) An adjudicatory hearing shall be before a hearing board composed of the commission chair and four commissioners appointed by the chair. If the chair cannot attend all hearing sessions without undue inconvenience, the vice-chair shall serve in the chair's place. If neither the chair nor the vice-chair is available, the chair shall appoint another commissioner. Appointments to hearing boards shall be rotated among the commissioners.

(c) The chair, vice-chair, or a commissioner designated by the chair, as appropriate, shall preside at the hearing. The executive director or other legal counsel designated by the commission may attend and advise and counsel the hearing board.

(d) An adjudicatory hearing shall be public under AS 44.62.310. A hearing may not be held by teleconference. Except as expressly provided in this chapter, procedures shall be consistent with hearing procedures under AS 44.62.330 - 44.62.630. Upon request, the presiding commissioner may issue reasonable discovery and protective orders in a manner consistent with Rule 26 of the Alaska Rules of Civil Procedure.

(e) A hearing board may

(1) administer oaths and affirmations and subpoena individuals, including the respondent, to testify or to submit to written interrogatories under oath;

(2) compel the production of documentary or tangible evidence;

(3) pay witnesses the same fees and mileage reimbursements paid in similar circumstances by the courts of the state;

(4) seek enforcement of subpoenas by written application of the commission to the superior court.

(f) The respondent may

(1) appear before the hearing board and submit testimony or other evidence;

(2) personally, or through counsel, subpoena, examine and cross-examine witnesses, raise objections, and make arguments;

(3) exercise the pretrial discovery procedures available in civil actions.

Sec. 24.61.555. FINDINGS AND RECOMMENDATIONS. (a) Within 10 days after the completion of a hearing, the hearing board shall vote on each charge to determine whether it was established by clear and convincing evidence, and shall prepare a written opinion along with recommendations, if any. A vote of three commissioners is required to find a violation and approve an opinion.

(b) As to each charge on which the evidence was found to be insufficient to establish a violation, the hearing board shall include its findings in its written opinion. If the board finds that the charges were frivolous, malicious, made in bad faith, or that, in its opinion the respondent should be exonerated of the charges, it shall so state in its opinion. The respondent's reasonable legal fees

should be paid in full or in part from public funds if the respondent is exonerated.

(c) As to each charge on which the evidence was found to be sufficient to establish a violation, the hearing board shall include its findings of fact and law in its written opinion, along with recommendations as to appropriate sanctions.

Sec. 24.61.560. CIVIL SANCTIONS. (a) When a hearing board considers the appropriate recommended sanctions to be included in its opinion, it shall give due consideration to the purposes of this chapter, the nature of the violation, and other circumstances that are included in the hearing record. The board may recommend, either singly or in combination,

(1) a civil penalty of not more than $5,000 for each offense, or twice the amount improperly gained by the misconduct, whichever is greater;

(2) divestiture of specified assets or withdrawal from specified associations;

(3) detailed disclosure, with or without additional periodic reporting requirements;

(4) suspension from legislative employment, with or without pay;

(5) restitution or reimbursement;

(6) suspension of pay until orders are complied with;

(7) probationary status;

(8) a written reprimand;

(9) censure, including a recommendation that a legislator censured may not serve as a chair or co-chair on a legislative committee for the remainder of the legislator's current term in office;

(10) expulsion of a legislator or dismissal of a legislative

employee;

(11) payment of costs related to the investigation and adjudication of the charge;

(12) another sanction fashioned to achieve the purposes of this chapter.

(b) When a provision of this chapter provides for the imposition of administrative sanctions under this subsection, the commission may recommend any of the civil sanctions set out in (a) of this section except sanctions under (a)(1) and (10).

(c) If the commission finds that a violation of AS 24.61.100 - 24.61.450 contributed substantially to the enactment of legislation or to other legislative action, the commission may recommend to the presiding officer of each house that the legislation be repealed or amended or that the other legislative action be rescinded or modified.

Sec. 24.61.565. RECOMMENDATIONS TO THE LEGISLATURE WHERE VIOLATOR IS A LEGISLATOR. (a) If the person found to have violated this chapter is or was a member of the legislature, the hearing board's recommendations shall be forwarded by the chair of the commission to the presiding officer of the appropriate house of the legislature.

(b) If the legislature is in session, the entire house shall determine the sanctions, if any, that are to be imposed. The vote shall be taken within 10 legislative days of receipt of the commission's recommendations.

(c) If the legislature is not in session or is not within 30 days of convening in regular session, the presiding officer may request a special session under AS 24.05.100 to put the matter to a vote. If expulsion is recommended, a special session should be convened.

(d) Except in the case of expulsion, which requires a two-thirds

vote, all other sanctions shall be determined by a majority vote of the full house.

(e) In determining the sanctions, if any, to impose, the legislature should scrupulously observe the rule of nonpartisanship. It should not retry the basic facts nor question the hearing board's findings of fact. The only issue before it should be the determination of the appropriate sanction assuming the validity of the board's findings.

Sec. 24.61.570. RECOMMENDATIONS AND ORDER WHERE VIOLATOR IS A LEGISLATIVE EMPLOYEE. (a) If the person found to have violated this chapter is or was a legislative employee, the hearing board's recommendations shall be forwarded to the full commission, which shall, as soon as is reasonably possible, determine the sanctions, if any, to be imposed. The commission may not retry the basic facts nor question the hearing board's findings of fact. The only issue before it shall be the determination of the appropriate sanction assuming the validity of the board's findings. After determining the appropriate sanctions, the commission shall issue a written order imposing the sanctions on the employee.

(b) The commission shall order the employee's supervisor or appointing authority, as appropriate, to impose sanctions in accordance with the commission's order. Failure of the supervisor or appointing authority to implement the commission's order is a violation of this chapter subject to civil sanctions under AS 24.61.560(a).

Sec. 24.61.575. ACTIONS BY THE ATTORNEY GENERAL. (a) The attorney general may independently bring civil or criminal actions relating to violations under this chapter regardless of the outcome or settlement of a charge before the commission, provided that (1) the attorney general may not bring an independent civil action under this

chapter if the provision violated is subject only to administrative sanctions under AS 24.61.560(b); and (2) the cumulative civil penalties imposed for a violation may not exceed the amount that could be imposed in an action before the commission. This subsection does not prohibit the attorney general from bringing an action under another civil or criminal law.

(b) A citizen may make a written request that the attorney general commence a civil action authorized under (a) of this section against a person for a violation of this chapter.

Sec. 24.61.580. WAIVER OF CONFIDENTIALITY. The commission may publicly respond to a statement or interpretation made concerning the contents of an advisory opinion or decision it has issued or is purported to have issued. A person who requests an advisory opinion and makes that fact public is considered to have waived the confidentiality of the person's identity.

ARTICLE 4. LEGISLATIVE ETHICS EDUCATION PROGRAM.

Sec. 24.61.700. ETHICS EDUCATION PROGRAM. (a) The central function of an ethics code is to prevent rather than punish unethical conduct. Prevention depends almost entirely on an effective and comprehensive ethics education program. The purpose of AS 24.61.700 - 24.61.760 is to assure that legislators and staff have the means and opportunity to learn and understand the rules and principles underlying the standards of conduct.

(b) The commission shall oversee and develop the following components of a comprehensive ethics education program:

(1) publish an ethics education manual;

(2) establish an education advisory committee; and

(3) design and implement a legislative orientation training course, a current issues and applications seminar, and a lobbyist

training course.

Sec. 24.61.710. ETHICS EDUCATION MANUAL. (a) The commission shall prepare and publish a legislative ethics manual, which must contain all ethics statutes, regulations, and related information, including detailed explanations of technical and specific legal requirements as well as the underlying purposes and ethical principles that comprise the spirit of the requirements. The manual must include realistic examples with recommended actions, as well as questions and answers regarding common problems and situations.

(b) The commission shall issue a revised and updated version of the manual no later than 30 days after the commencement of each legislature.

(c) The manual shall be distributed to all legislators, legislative employees, and registered lobbyists. The manual shall also be available to the public.

Sec. 24.61.720. EDUCATION ADVISORY COMMITTEE. (a) The commission chair shall appoint five members to an education advisory committee, that shall include at least two members of the commission, a legislator, and a legislative employee. The education advisory committee may also include an outside expert in the field of ethics.

(b) The education advisory committee shall oversee the implementation of, and recommend the content for, the following ethics education programs:

(1) legislative orientation training course;

(2) current issues and applications seminar; and

(3) lobbyist training course.

Sec. 24.61.730. LEGISLATIVE ORIENTATION TRAINING COURSE. (a) The commission shall conduct a legislative ethics orientation training course. The course shall be offered in January of each year. A

legislator and a legislative employee shall attend and complete the first course offered after their initial election, appointment, or hiring date.

(b) The education advisory committee shall determine the specific content of the course, and it shall cover the ethics laws, internal rules and policies, as well as the technical and specific legal requirements that legislators and legislative employees must follow. The course shall also cover the underlying purposes and ethical principles of all ethics laws, internal rules and policies, and other related regulations. The course shall highlight the principles of public service ethics and the intent of ethics laws, including their application to practical situations.

(c) The commission shall offer separate sessions of the course for legislators and for legislative employees, and shall offer as many sessions as necessary to accommodate the number of people required to take the course.

Sec. 24.61.740. CURRENT ISSUES AND APPLICATIONS SEMINAR. (a) The commission shall conduct a current issues and applications seminar in January of each odd-numbered year. The seminar is mandatory for all legislators and legislative employees who have previously completed the legislative ethics orientation training course.

(b) The specific content of the seminar shall be determined by the education advisory committee, and shall include an overview of all new substantive changes in the laws in the form of amendments, revisions, and new ethics advisory opinions. The seminar shall include discussions on problem solving skills, practical ethical issues likely to confront a legislator or legislative employee, and the underlying principles of public service ethics.

(c) The commission shall offer separate sessions of the seminar

for legislators and for legislative employees, and shall offer as many sessions as necessary to accommodate the number of people required to take the seminar.

Sec. 24.61.750. LOBBYIST TRAINING COURSE. (a) Lobbyists shall complete a lobbyist training course conducted by the commission as a condition of registering as a lobbyist under AS 24.45. A person who first engages in activities requiring the person to register as a lobbyist either before the commission has offered the training course for that year, or after the training course has been offered for that year, may be authorized by the commission to conditionally register under AS 24.45 unless the person reasonably should have known that the person was likely to engage in lobbying activities and could have attended the most recent training course. A person with a conditional registration must successfully complete the next training course offered or the registration shall be revoked.

(b) The specific content of the training course shall be determined by the education advisory committee, and shall include a review of all ethics statutes, the rules and regulations relating to appropriate lobbyist conduct, and the principles of public service ethics.

(c) The commission shall certify to the Alaska Public Offices Commission the names of persons successfully completing the training course, including persons taking the course under (d) of this section.

(d) Lobbyists shall repeat the training course at least once every three years and the commission shall update the course accordingly.

(e) At the commission's discretion, lobbyists may be charged reasonable fees to attend the training course.

Sec. 24.61.760. ADMINISTRATIVE PROVISIONS. (a) The commission

shall assure the continued implementation, improvement, and modification of the ethics education programs. The commission shall develop procedures to assure the attendance of, and course completion by, all legislators, legislative employees, and lobbyists.

(b) The commission shall assure the attendance of legislative employees who are not in and cannot travel to Juneau by offering the programs by teleconference. When a teleconference connection is unavailable, the commission shall distribute video tapes to the employees or arrange to have them travel to a site where a live or teleconference course is available.

(c) The commission may impose sanctions, including suspension of pay and dismissal of legislative employees, recommendations for disciplinary action for legislators, and recommendations to revoke lobbyist registrations, upon any legislator, legislative employee, or lobbyist who fails to complete the ethics education requirements within a reasonable amount of time, as determined by the commission.

(d) The commission shall supply the presiding officer of each house with the names of those legislators and legislative employees who have not complied with the ethics education requirements.

(e) The commission shall offer all of the education programs at appropriate times and locations and shall provide adequate notice of them.

(f) The commission may grant an exemption from the requirements of AS 24.61.730 - 24.61.750 upon a showing of good cause for the exemption.

ARTICLE 5. GENERAL PROVISIONS.

Sec. 24.61.900. RELATIONSHIP TO COMMON LAW AND OTHER LAWS. (a) The provisions of this chapter specifically replace, supersede, and where necessary repeal provisions of the common law relating to legis-

lative conflict of interest.

(b) This chapter does not exempt a person from applicable provisions of another law unless the law is expressly superseded or incompatibly inconsistent with specific provisions of this chapter.

Sec. 24.61.910. APPLICABILITY. (a) Unless otherwise specifically stated, the provisions of this chapter apply to legislators and legislative employees.

(b) Certain specified provisions apply to former members of the legislature, candidates for the legislature, former legislative employees, persons who have transactions with legislators or legislative employees, and lobbyists.

Sec. 24.61.920. PRINCIPLE OF STRICT COMPLIANCE. In imposing civil or administrative sanctions, the commission and the legislature shall hold legislators and legislative employees strictly to the provisions and spirit of this chapter. Except in extraordinary circumstances, legislators and employees may not assert a lack of knowledge or understanding as a defense to a charge of misconduct.

Sec. 24.61.930. MENTAL STATE REQUIRED FOR CRIMINAL ACTIONS. When a provision of this chapter is made subject to criminal penalties, unless the provision specifically provides for another mental state, the defendant in a criminal prosecution must be shown to have acted with criminal negligence, as that term is defined in AS 11.81.-900(a). AS 11.81.610(c) applies to this section.

Sec. 24.61.940. MAINTENANCE OF DOCUMENTS. Documents filed with or produced by the commission as public records shall be retained for at least six years.

Sec. 24.61.950. COOPERATION OF OTHERS. If the commission requests their cooperation, a state agency, official, employee, or a person whose conduct is regulated by this chapter shall cooperate with

the commission. An individual shall make information reasonably related to an investigation available to the commission on written request. The commission may request and shall receive from every officer, department, division, board, agency, commission, house of the legislature, or other agency of the state, cooperation and assistance in the performance of its duties.

Sec. 24.61.960. CONFIDENTIALITY. A person subject to the provisions of this chapter may not knowingly make an unauthorized disclosure of confidential information acquired in the course of official duties. A person who violates this section is subject to civil sanctions under AS 24.61.560(a) and may be subject to prosecution under AS 11.56.860 or another law.

Sec. 24.61.990. DEFINITIONS. In this chapter,

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

(2) "anything of value," "benefit," or "thing of value" includes all matters, whether tangible or intangible, that could reasonably be considered to be an advantage, of worth, use, or service to the person to whom it is conferred; the terms are intended to be interpreted broadly and encompass all matters that the recipient might find sufficiently desirable to do something in exchange for;

(A) "anything of value," "benefit," or "thing of value" includes but is not limited to

(i) money;

(ii) products or merchandise;

(iii) works of art or collectibles;

(iv) stocks, bonds, notes, or options;

(v) an interest in real property;

(vi) contracts or a promise of a future interest in a contract;

(vii) an interest or a promise of a future interest in a business;

(viii) meals, beverages, or lodging;

(ix) transportation;

(x) services, including loaned employees;

(xi) loans, loan guarantees, co-signing;

(xii) forgiveness of a debt;

(xiii) discounts or rebates not extended to the public generally;

(xiv) preferential treatment;

(xv) tickets or admissions;

(xvi) free or discounted use of office facilities;

(xvii) loan of office equipment;

(xviii) radio or television time;

(xix) promise or offer of present or future employment;

(xx) use of autos, boats, apartments, or other recreational or lodging facilities;

(xxi) intangible rights such as a cause of action;

(xxii) licenses, patents, copyrights, or an interest in them;

(xxiii) any other item, tangible or intangible, having economic value;

(B) "anything of value," "benefit," or "thing of value" does not include

(i) an item listed in AS 24.61.350(c)(1) - (8);

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

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

(3) "close economic association" has the meaning given in AS 24.61.265;

(4) "close personal relationship" is a special relationship between a legislator or legislative employee and another person that creates strong bonds of loyalty, friendship, or love that could potentially conflict with public duties and the obligation to exercise objective independent judgment, or could create the appearance that the other person may have access to confidential information or otherwise receive favored treatment regarding public actions; it includes relationships with immediate family members, long-term personal friends, former business associates, and persons with whom the legislator or legislative employee has a significant and continuous romantic relationship;

(5) "commission" means the Legislative Ethics Commission;

(6) "confidential information" means information that has been classified confidential by law;

(7) "exonerate" means to free from a charge or the imputation of guilt, or to prove blameless;

(8) "financial conflict of interest" has the meaning given in AS 24.61.255;

(9) "immediate family" means the spouse, parents, including

parents-in-law, children, including a stepchild and an adoptive child, and siblings of a person;

(10) "intent to influence legislative, administrative, or political action" means that an act, including the offering or conferring of a thing of value to a public official, is done with the intent to induce the official to do or refrain from doing an act;

(11) "knowingly" has the meaning given in AS 11.81.900;

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

(13) "legislative assistant" means a legislative employee whose assigned duties involve the exercise of substantial discretion and judgment; it does not include employees who perform purely clerical or ministerial functions; the legislative council shall propose policies relating to the interpretation of this definition, and the commission shall consider the adoption of these guidelines as regulations under AS 24.61.160;

(14) "legislative employee" means a person, other than a legislator, who is compensated by the legislative branch in return for regular or substantial personal services, regardless of the person's pay level or technical status as a full-time or part-time employee, independent contractor, or consultant; it includes members and staff of the commission; it does not include individuals who perform functions that are purely incidental to legislative functions such as security, messengers, maintenance, and print shop employees; for purposes of this paragraph, "regular or substantial" means work that is expected to involve, or does involve, at least 400 hours in a

calendar year or 300 hours during a regular legislative session; the legislative council shall propose policies relating to the interpretation of this definition, and the commission shall consider the adoption of these guidelines as regulations under AS 24.61.160;

(15) "local government" means a municipality, a municipal school district, or a regional educational attendance area;

(16) "nonpublic information" means information that

(A) is obtained in the course of a person's legislative duties and that is subject to public inspection under AS 09.25.110 - 09.25.120, but that, because of its nature, is not readily accessible to the public or the profession, occupation, or group to which the person belongs; and

(B) if used or disclosed, a personal benefit or advantage is likely to result;

(17) "political action" means conduct in which public officials, including legislators or legislative employees, use their official position or political contacts to exercise influence on state and local government employees or entities; it includes but is not limited to intervening on behalf of constituents with a government agency, endorsing, and pledging support or actively supporting a legislative matter, a nominee, or a candidate for public office;

(18) "reasonably should know" means that, under the circumstances, a reasonable person would know a fact;

(19) "registered lobbyist" means a person who is required to register under AS 24.45.041 and is described under AS 24.45.171(8)(A), but does not include a volunteer lobbyist described in AS 24.45.-161(a)(1) or a representational lobbyist as defined under regulations of the Alaska Public Offices commission.

(20) "representation" means action taken on behalf of anoth-

er, whether for compensation or not, including but not limited to telephone calls and meetings and appearances at proceedings or meetings;

(21) "substantial interest in legislative, administrative, or political action" has the meaning given in AS 24.61.260.

* Sec. 3. AS 11.56.805(a) is amended to read:

(a) A person commits the crime of false accusation if the person knowingly or intentionally initiates a false complaint with the [SELECT COMMITTEE ON] Legislative Ethics Commission established under AS 24.61 [IN AS 24.60].

* Sec. 4. AS 15.25.030(b) is amended to read:

(b) A person filing a declaration of candidacy under this section other than for a state legislative office shall simultaneously file with the director a statement of income sources and business interests that complies with the requirements of AS 39.50. A person filing a declaration of candidacy for state legislative office shall simultaneously file with the director a disclosure statement that complies with the requirements of AS 24.61.400 - 24.61.410.

* Sec. 5. AS 15.25.030(c) is amended to read:

(c) An incumbent public official other than a legislator who has a current statement of income sources and business interests on file with the Alaska Public Offices Commission, or an incumbent legislator who has a current disclosure statement on file with the Legislative Ethics Commission, is not required to file a statement of income sources and business interests or a disclosure statement with the declaration of candidacy under (b) of this section.

* Sec. 6. AS 15.25.180(b) is amended to read:

(b) A person filing a nominating petition under this section other than for a state legislative office shall also file with the

director a statement of income sources and business interests that complies with the requirements of AS 39.50 within 30 days of filing the petition. A person filing a nominating petition for state legislative office shall file with the director a disclosure statement that complies with the requirements of AS 24.61.400 - 24.61.410 within 30 days of filing the petition.

* Sec. 7. AS 15.25.180(c) is amended to read:

(c) An incumbent public official other than a legislator who has a current statement of income sources and business interests on file with the Alaska Public Offices Commission, or an incumbent legislator who has a current disclosure statement on file with the Legislative Ethics Commission, is not required to file a statement of income sources and business interests or a disclosure statement with the declaration of candidacy under (b) of this section.

* Sec. 8. AS 24.10.100 is amended to read:

Sec. 24.10.100. SALARY OF LEGISLATORS. The annual [MONTHLY] salary for each member of the legislature is $40,000 [EQUAL TO STEP A, RANGE 10 OF THE SALARY SCHEDULE IN AS 39.27.011(a) FOR JUNEAU]. The president of the senate and the speaker of the house of representatives are each entitled to an additional $500 a year during tenure of office.

* Sec. 9. AS 24.10.105 is repealed and reenacted to read:

Sec. 24.10.105. LEGISLATIVE PER DIEM. (a) A member of the legislature is entitled to receive per diem at the short-term rate

(1) during a legislative session if the legislator is not living in the legislator's place of permanent residence during the session; or

(2) while on committee business or other legislative business in a place that is not the legislator's place of permanent resi-

dence.

(b) A legislator is entitled to receive per diem at the long-term rate during a legislative session if the legislator is living in the legislator's place of permanent residence during the session.

(c) In this section,

(1) "long-term rate" means the long-term per diem rate for a state employee established in regulations adopted by the commissioner of administration under AS 39.20.160;

(2) "short-term rate" means the short-term per diem rate for a state employee established in regulations adopted by the commissioner of administration under AS 39.20.160.

* Sec. 10. AS 24.10.110 is repealed and reenacted to read:

Sec. 24.10.110. LEGISLATIVE OFFICE ALLOWANCE. (a) A legislator may be reimbursed for the lawful expenses of maintaining a legislative office to supplement resources generally provided to legislators by the legislature and its agencies. Expenses eligible for reimbursement under this section include those incurred in a district office or an office in the capital city.

(b) Expenses that may be paid with public funds under AS 24.61 (Legislative Ethics Act) are presumed to be lawful.

(c) A representative from a single-representative district may voucher up to $6,000 under this section. A representative from a two-representative district and a senator from a single-senator district may voucher up to $7,500 under this section. A senator from a two-senator district may voucher up to $10,500 under this section. Vouchers shall be processed under AS 24.10.120 and policies adopted by the legislative council consistent with 26 U.S.C. 162.

(d) Notwithstanding (b) of this section, expenses related to newsletters may not be paid under this section. The legislative

council shall adopt guidelines under which each legislator may prepare and distribute two newsletters a year that comply with AS 24.61. The guidelines must be consistent with AS 24.61 and regulations under that chapter adopted by the Legislative Ethics Commission and must provide for the payment of expenses for the newsletters from appropriations to the legislature.

* Sec. 11. AS 24.10.130 is amended by adding a new subsection to read:

(b) During each regular session of the legislature, a member of the legislature may be reimbursed for up to two round trip tickets from Juneau to a city in the district from which the legislator was elected. A trip paid for under this subsection may be for a personal, family, business, or constituent purpose. This section does not apply to travel as a part of a legislative committee or subcommittee or for other official business of the legislature.

* Sec. 12. AS 24.40.020 is amended to read:

Sec. 24.40.020. CONTINUANCE IN A CRIMINAL PROCEEDING WHERE DEFENDANT [, DEFENSE ATTORNEY] OR WITNESS IS A MEMBER OF THE LEGISLATURE. Upon a showing that [THE ATTORNEY OF RECORD AT THE TIME OF THE DEFENDANT'S FIRST APPEARANCE IN THE COURT OF RECORD OR] a principal witness or a party in a criminal proceeding is a member of the legislature and that the legislature is in session or that a legislative interim committee of which the legislator is a member is meeting or is to meet within the next seven days, the defendant is entitled to a reasonable continuance of the date of trial until at least 15 days after the legislative session or interim committee meeting. However, a continuance for this reason <u>may</u> [SHALL] not exceed 30 days after recess of the legislature or interim committee. A continuance may not be granted for any longer time than it is affirmatively proved the ends of justice require.

* Sec. 13. AS 24.40.031 is amended to read:

Sec. 24.40.031. POSTPONEMENT OF CIVIL PROCEEDINGS WHEN A PARTY [OR ATTORNEY] IS A MEMBER OF THE LEGISLATURE. When it appears that a party [OR AN ATTORNEY OF RECORD OF A PARTY] to a civil action is a member of the legislature of this state [,] and that the legislature is in session, the action shall be continued until 10 days after the legislature has adjourned, unless the party [OR ATTORNEY] upon the call of the action for trial waives the benefit of this section. When it appears that a party [OR AN ATTORNEY OF RECORD OF A PARTY] to a civil action is a member of the Alaska Legislative Council, the Legislative Budget and Audit Committee, or one of their subcommittees, the action shall be continued when the legislative council, budget and audit committee, or the subcommittee, as the case may be, is holding a meeting, unless the party [OR ATTORNEY] upon the call of the action for trial waives the benefit of this section. When it is necessary to file a brief or memorandum of law in an action <u>that</u> [WHICH] has been continued under the provisions of this section, the action shall be continued for a time sufficient to prepare and file the brief or memorandum.

* Sec. 14. AS 24.45.041(a) is amended to read:

(a) Before engaging in lobbying, a lobbyist shall file a registration statement on a form prescribed by the commission. <u>The commission may not accept the form for filing unless the lobbyist's name has been certified to the commission by the Legislative Ethics Commission under AS 24.61.750(c).</u>

* Sec. 15. AS 24.45.041(f) is amended to read:

(f) Each lobbyist shall renew the registration annually by filing a new registration statement together with a new authorization to act as a lobbyist before engaging in lobbying. The lobbyist also

shall file any reports or statements the lobbyist has failed to file for a previous reporting period. The commission may not renew lobbying credentials until this provision is complied with and unless the Legislative Ethics Commission has certified the lobbyist's name to the commission under AS 24.61.750(c) and the lobbyist has complied with AS 24.61.750(e).

* Sec. 16. AS 24.45.041 is amended by adding a new subsection to read:

(g) Notwithstanding (a) and (f) of this section, a lobbyist whose name has not been certified to the commission under AS 24.61.-750(c) may conditionally register or renew a registration under this section if authorized by the Legislative Ethics Commission under AS 24.61.750(a).

* Sec. 17. AS 24.45.121(a) is amended to read:

Sec. 24.45.121. PROHIBITIONS. (a) A lobbyist may not

(1) engage in any activity as a lobbyist before registering under AS 24.45.041;

(2) do anything with the intent of placing a public official under personal obligation to the lobbyist or to the lobbyist's employer;

(3) intentionally deceive or attempt to deceive any public official with regard to any material fact pertinent to pending or proposed legislative or administrative action;

(4) cause or influence the introduction of a legislative measure for the purpose of thereafter being employed to secure its defeat;

(5) cause a communication to be sent to a public official in the name of any fictitious person or in the name of any real person, except with the consent of that person;

(6) accept or agree to accept any payment in any way con-

tingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action;

(7) serve as a member of a state board [,] or commission [,] if the lobbyist's employer may receive direct economic benefit from a decision of that board or commission;

(8) use state property or resources in the conduct of the lobbyist's business.

* Sec. 18. AS 39.25.110 is amended by adding a new paragraph to read:

(30) executive director and staff of the Legislative Ethics Commission.

* Sec. 19. AS 39.50.020 is amended to read:

Sec. 39.50.020. REPORT OF FINANCIAL AND BUSINESS INTERESTS. (a) A judicial officer, commissioner, chair [CHAIRMAN] or member of a state commission or board specified in AS 39.50.200(b), a person hired or appointed as head or deputy head of, or director of a division within, a department in the executive branch, a person appointed as assistant to the governor, and a municipal officer, shall file a statement giving income sources and business interests, under oath and on penalty of perjury, within 30 days after taking office as a public official. Candidates for governor and lieutenant governor [STATE ELECTIVE OFFICE] shall file such a statement with the director of elections at the time of filing a declaration of candidacy or within 30 days of the filing of any nominating petition, or within 30 days of becoming a candidate by any other means. Candidates for elective municipal office shall file such a statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office. Refusal or failure to file within the time prescribed shall require that the candidate's filing fees, if any, and filing for office be refused or that a previously

accepted filing fee be returned and the candidate's name removed from the filing records. A statement shall also be filed by public officials no later than April 15 or 15 days after the person files a federal income tax return in each following year, whichever comes first. Persons who, on or after December 11, 1974, were members of boards or commissions not named in AS 39.50.200(b) are not required to file financial statements.

(b) The governor, lieutenant governor, [MEMBERS OF THE LEGISLATURE,] judicial officers, each commissioner, head or deputy head of, or director of a division within, a department in the executive branch, assistant to the governor or chair [CHAIRMAN] or member of a commission or board required to report under this chapter, shall file the statement with the Alaska Public Offices Commission. Candidates for the office of governor and [,] lieutenant governor [, AND THE LEGISLATURE] shall file the statement under AS 15.25.030 or 15.25.180. Municipal officers, and candidates for elective municipal office, shall file with the municipal clerk or other municipal official designated to receive their filing for office. All statements required to be filed under this chapter are public records.

* Sec. 20. AS 39.50.200(a)(8) is amended to read:

(8) "public official" means a judicial officer. [A MEMBER OF THE LEGISLATURE, THE FISCAL ANALYST OF THE LEGISLATIVE FINANCE DIVISION, THE LEGISLATIVE AUDITOR OF THE LEGISLATIVE AUDIT DIVISION, THE EXECUTIVE DIRECTOR OF THE LEGISLATIVE AFFAIRS AGENCY AND THE DIRECTORS OF THE DIVISIONS WITHIN THE LEGISLATIVE AFFAIRS AGENCY,] the governor, the lieutenant governor, a person hired or appointed as the head or deputy head of, or director of a division, a department in the executive branch, an assistant to the governor, chair [CHAIRMAN] or member of a state commission or board, the executive director of the

Alaska Tourism Marketing Council, and each appointed or elected municipal officer;

* Sec. 21. AS 39.52.910(a) is amended to read:

(a) Except as specifically provided, this chapter applies to all public officers within executive-branch agencies, including members of boards or commissions. This chapter does not apply to a former public officer of an executive-branch agency unless a provision specifically states that it so applies. This chapter does not apply to legislators covered by AS 24.61 [AS 24.60].

* Sec. 22. AS 24.60, AS 39.50.025, and 39.50.120 are repealed.

* Sec. 23. INITIAL COMMISSION APPOINTMENTS. Notwithstanding AS 24.61.-500(b), as added by sec. 2 of this Act, the terms of the members initially appointed to the Legislative Ethics Commission are as follows:

(1) the members appointed by the senate and the house of representatives and one of the members appointed by the Legislative Ethics Commission, determined by lot, serve terms of five years;

(2) the member appointed by the governor and the second member appointed by the Legislative Ethics Commission serve terms of four years;

(3) the member appointed by the Alaska Public Offices Commission serves a term of three years;

(4) the member appointed by the lieutenant governor services a term of two years; and

(5) the member appointed by the supreme court serves a term of one year.

* Sec. 24. INITIAL TRAINING COURSES. The initial courses and seminars required under AS 24.61.730 - 24.61.750, as added by sec. 2 of this Act, shall be offered during January and February 1991. Notwithstanding AS 24.-61.730(a), as enacted by sec. 2 of this Act, all legislators and legislative staff shall attend a legislative ethics orientation training course in

1991.

* Sec. 25. INITIAL RECOMMENDED REGULATIONS. The Alaska Legislative Council shall make its initial recommendations to the Legislative Ethics Commission under AS 24.61.160, as added by sec. 2 of this Act, by January 21, 1991. If the legislative council does not comply with the deadline under this section, the Legislative Ethics Commission shall proceed to adopt regulations under AS 24.61.160 on its own initiative.

* Sec. 26. TRANSITIONAL PROVISIONS RELATING TO VIOLATIONS OF FORMER AS 24.60. Notwithstanding the repeal of AS 24.60 by sec. 22 of this Act, in addition to the provisions of AS 24.61, as added by sec. 2 of this Act, the Legislative Ethics Commission may consider complaints alleging violations of AS 24.60 that occurred prior to January 21, 1991, and for which proceedings have not been commenced or concluded prior to January 21, 1991. For the purpose of this section, the Legislative Ethics Commission shall follow the procedures established under AS 24.61, but may not recommend a sanction or penalty not authorized under former AS 24.60.

* Sec. 27. TRANSITIONAL PROVISIONS RELATING TO REPRESENTATION OF OTHERS. Notwithstanding AS 24.61.330, as added by sec. 2 of this Act, a legislator or legislative assistant who is subject to AS 24.61.330 may, until January 1, 1992, represent a person in a proceeding that would otherwise be prohibited under AS 24.61.330 if the legislator or legislative assistant promptly files a statement with the Legislative Ethics Commission that includes the name of the client, an identifying name or number of the action, a brief description of the nature of the action, and the amount of compensation received or anticipated relating to the representation. The statement shall be published in the journal of the appropriate house. If information contained in the statement changes, a supplemental statement shall be filed every 90 days until the matter is completed or January 1, 1992, at which time the representation must be terminated. The representa-

tion may continue beyond January 1, 1992, if the legislator or legislative assistant applies for, and the Legislative Ethics Commission grants, an exemption to the termination date under AS 24.61.530, as added by sec. 2 of this Act. In this section, "legislative assistant" has the meaning given in AS 24.61.990, as added by sec. 2 of this Act.

* Sec. 28. AS 24.61.160, 24.61.400(d), 24.61.500 - 24.61.720 and 24.-61.990, as added by sec. 2 of this Act, and secs. 23 - 25 of this Act, take effect July 1, 1990.

* Sec. 29. AS 24.61.200 - 24.61.240, as added by sec. 2 of this Act, take effect November 6, 1990.

* Sec. 30. Except as provided in secs. 28 and 29 of this Act, this Act takes effect January 21, 1991.

Sec. 24.61.526. REQUESTS FOR ADVICE THROUGH ANOTHER. A person who believes that the person may have violated or may be violating a provision of this chapter and who wishes to request advice under AS 24.61.520 or AS 24.61.525 may have another person request the advice in a manner that avoids the disclosure of the identity of the interested party.

Sec. 24.61.527. USE OF INFORMATION SUBMITTED WITH REQUEST FOR ADVICE. Information voluntarily given to the commission in connection with a request for advice under AS 24.61.520 or 24.61.525, and the identity of the person requesting the advice, shall be kept confidential unless the information reveals facts that suggest that a violation of this chapter has occurred and that, in the commission's discretion, justify the filing of a complaint under AS 24.61.535 or the use of the facts in a proceeding under AS 24.61.545 or 24.61.-550. Though a person covered by this chapter will be held to knowledge of this provision whether or not the person was informed of it at the time of voluntarily providing information, the commission shall take reasonable efforts to remind persons that the information may be used either as the basis of a complaint or during a proceeding.

JBG:pl
WKP4/103
5/1/90

MASTER LIST OF SUGGESTED CHANGES

AS 24.61.010 -

AS 24.61.015- Rieger #1, Hope p.1

AS 24.61.020 - Gaguine #1

AS 24.61.025 -

AS 24.61.030 - Rieger #2

AS 24.61.035 - Rieger #3

AS 24.61.040 - Rieger #4, ACLU p.1

AS 24.61.045 -

AS 24.61.050 - Josephson #1 - 3

AS 24.61.055 - Hope p.2

AS 24.61.060 - Rieger #5, Josephson # 4 - 6

AS 24.61.100 - Josephson #7 - 9

AS 24.61.110 - Rieger #7, Otto #1

AS 24.61.120 - Baldwin #1, Josephson #10 - 11, Pourchot #1,

ACLU p.2

AS 24.61.130 - Rieger #8 - 9, Baldwin #2, Otto #2 - 3, Q1 - 2, Josephson, #12 - 16, Pourchot #2, Hope p.3

AS 24.61.140 - Rieger #10 - 14, Baldwin #3, Otto #4 - 9, Q3, Josephson #17 - 25, Pourchot #3 - 7, ACLU p.2 - 3, Gaguine #2

AS 24.61.150 - Rieger #15, Pourchot #18

AS 24.61.160 - Otto #10

AS 24.61.170 - Baldwin #14, Otto #11 - 12, Josephson #26

AS 24.61.180 - Dierdorff #1, Baldwin #5 - 7, Otto #13 - 22, Q4 - 5, Josephson #27 (like Dierdorff), Pourchot #9, Fowler p.2, ACLU p.3

AS 24.61.190 - Rieger #17 - 18, Baldwin #8, Otto #23 - 26, Q6 & 19a, Josephson #28 - 37, Pourchot #10 - 11, Fowler p.2, Hope p.4 - 5, ACLU p.3 - 4, Gaguine #3

AS 24.61.200 - Pourchot #12, ACLU p.4

AS 24.61.202 - Rieger #20, Josephson #38, Pourchot #13, Gaguine #4

AS 24.61.205 - Rieger #21 - 23, Otto #27 - 30, Q7, Josephson #39, ACLU p.4, Gaguine #5

AS 24.61.210 - Rieger #24, Otto Q19b, Gaguine #6

AS 24.61.220 - Rieger #25, Dierdorff #2, Baldwin #9, Josephson #40 (like Dierdorff), Pourchot #14 - 15, Otto Q8 (like Dierdorff) - 9, Gaguine #7

AS 24.61.230 - Rieger #26, Otto #31 - 33, Josephson #41 (like Otto), Pourchot #16, ACLU p.4 - 5, Gaguine #8

AS 24.61.240 - Rieger #27, Baldwin #10, Josephson #42 - 43, Pourchot #17, ACLU p.6, Otto Q10

AS 24.61.250 - Rieger #28, ACLU p.6

AS 24.61.255 -

AS 24.61.260 - Rieger #29, Josephson #44, Pourchot #18 - 19

AS 24.61.265 -

AS 24.61.270 - Pourchot #20

AS 24.61.275 - Rieger #30, Josephson 45, Pourchot #21, Hope p.6 - 7, ACLU p.6 - 7

AS 24.61.280 - Josephson #46, Pourchot #22

AS 24.61.290 - Hanley #1, Pourchot #23, Hope p.8

AS 24.61.300 - Rieger #31 - 36, Josephson #47 - 49, Pourchot #24 - 26, ACLU p.6 - 7

AS 24.61.310 - Rieger #37, Chenoweth #1, Baldwin #11, Josephson #50 (inaccurate), 51 - 53, Pourchot #27, Hope p.9, ACLU p.7

AS 24.61.320 - Rieger #38, Baldwin #12, Josephson #50 (right place), Pourchot #28

AS 24.61.330 - Rieger #39 - 40, Gaguine #9 - 10

AS 24.61.340 - Rieger #41 - 44, Dierdorff #3, Baldwin #13 - 15, Otto #34 - 35, Q19e & f, Josephson #54 - 55 (like Dierdorff), Pourchot #29, Fowler p.2 - 3

AS 24.61.345 - Rieger #45, Pourchot #30, Otto Q19g, Gaguine #11

AS 24.61.350 - Rieger #46 - 51, Dierdorff #4 - 6, Baldwin #16 - 17, Josephson #56 (like Dierdorff), Pourchot #31 - 36, Hope p.10, ACLU p.7, Otto Q11, Gaguine #12

AS 24.61.360 - Rieger #52, Chenoweth #2, Baldwin #18, Pourchot #37, Hope p.11, Otto Q19h

AS 24.61.370 - Rieger #53, Pourchot #38, Hope p.12

AS 24.61.380 - Rieger #54, Dierdorff #7, Josephson #57 - 58, Pourchot #39 - 41, Hope p.13 (agrees with Josephson), Otto Q12, Gaguine #13

AS 24.61.390 -

AS 24.61.400 - 420 - Rieger #55, APOC #1, #2

AS 24.61.400 - Rieger #55a & b, Baldwin #19, Otto #36, Josephson #59, Pourchot #42, Hope p.14, ACLU p.7

AS 24.61.405 - Rieger #55c, d, e, f, and g, Pourchot #43, Hope p.15

AS 24.61.410 - Rieger #55h & i

AS 24.61.415 - Rieger #55j, Dierdorff #8, Gaguine #14

AS 24.61.420 - Dierdorff #9, Otto Q19 (like Dierdorff)

AS 24.61.430 - Rieger #56, Baldwin #20, Pourchot #44, Hope p.16, Gaguine #15

AS 24.61.440 - Rieger #57, Hanley #2, Fowler p.3, Otto Q13

AS 24.61.450 - Rieger #58

AS 24.61.460 - Rieger #60, Otto #37 (typo), Josephson #60 - 61, ACLU p.7 - 8

AS 24.61.500 - Rieger #61 - 62

AS 24.61.502 -

AS 24.61.504 -

AS 24.61.506 - Rieger #63

AS 24.61.508 - Otto #38, Pourchot #45, Gaguine #16

AS 24.61.510 - APOC #3

AS 24.61.515 -

AS 24.61.520 - Rieger #64, Hope p.18 (agrees with Rieger)

AS 24.61.525 - Rieger #65

AS 24.61.530 - Rieger #66 - 67, Hope P.17 & 19

AS 24.61.535 - Rieger #68 - 70, Hope p.20 - 21

AS 24.61.540 - Rieger #71 - 72

AS 24.61.545 - Rieger #73 - 76

AS 24.61.550 - Rieger #77, Hope p.22, Gaguine #17 - 18

AS 24.61.555 - Rieger #78 - 80, Hope p.23

AS 24.61.560 - Dierdorff #11, Hope p.24, ACLU p.8 (like Hope)

AS 24.61.565 - Rieger #81 - 82, Gaguine #19

AS 24.61.570 - Rieger #83 - 84

AS 24.61.575 - Rieger #85

AS 24.61.580 - Rieger #86, Hope p.25 (like Rieger)

AS 24.61.700 -

AS 24.61.710 - Hope p.26

AS 24.61.720 -

AS 24.61.730 - Rieger #87, Pourchot #46, ACLU p.8

AS 24.61.740 - Rieger #88, Pourchot #46 (again) - 47, ACLU p.8

AS 24.61.750 - Rieger #89, Pourchot #48, ACLU p.8

AS 24.61.760 - Rieger #90, Pourchot #49 - 51

AS 24.61.900 -

AS 24.61.910 -

AS 24.61.920 - Rieger #91

AS 24.61.930 -

AS 24.61.940 -

AS 24.61.950 - Rieger #92, Fowler p.3 - 4, Otto Q14

AS 24.61.960 - Hope p.27 (unnecessary)

AS 24.61.990 - Rieger #93 - 97, Dierdorff #10, Otto #39 - 41, Q15 - 17, 19j, Pourchot #52 - 55, Gaguine #20

Bill Sec. 3 -

Bill Sec. 4 -

Bill Sec. 5 - Pourchot #56 (see Josephson #69)

Bill Sec. 6 - Otto Q18

Bill Sec. 7 -

Bill Sec. 8 -

Bill Sec. 9 -

Bill Sec. 10 - Rieger #100

Bill Sec. 11 - Rieger #101

Bill Sec. 12 -

Bill Sec. 13 - Hope p.28

Bill Sec. 14 - Rieger #102

Bill Sec. 15 -

Bill Sec. 16 - Rieger #102

Bill Sec. 17 -

Bill Sec. 18 -

Bill Sec. 19 -

Bill Sec. 20 -

Bill Sec. 21 -

Bill Sec. 22 -

Bill Sec. 23 -

Bill Sec. 24 - Rieger #103

Bill Sec. 25 -

Bill Sec. 26 -

Bill Sec. 27 -

Additions to AS 24.61 - Szymanski #1

Additions to rest of bill - Fowler p.1, Donley

JBG:lmb
L10/080

COMMENTARY AND SUGGESTIONS RE: LEGISLATIVE ETHICS ACT OF 1990
WORK DRAFT 4/29/90
by Michael Josephson
Government Ethics Center, Josephson Institute

1. P7, L18: Sec. 24.61.045 ACCOUNTABILIY. Subsection (c) from 24.61.430 (4/18 draft) was to be placed here. Related commentary should also be moved.

2. P8, L21: Sec. 24.61.060. PRINCIPLE OF INDEPENDENT JUDGMENT. Change "the interests" to "such interests".

3. P9, L9-10: Sec. 24.61.100. MISUSE OF OFFICE FOR PRIVATE GAIN: GENERAL. Should read: "either for themselves, members of their families, or friends;"

4. P10, L7: Sec. 24.61.120. DUTY TO REPORT IMPROPER OFFERS. Change "shall" to "should".

5. P11, L18-24: Sec. 24.61.130. MISUSE OF STATE RESOURCES FOR PERSONAL GAIN. Subsection (c) should read: "A legislator or legislative employee may not require or permit a legislative employee to perform personal services or assist in a private activity except in unusual and infrequent situations where the personal service is reasonably necessary to permit the legislator or legislative employee to perform official duties and where the performance of the service by the legislative employee will not create the reasonable perception of improper use of government staff for personal purposes." [Retain last sentence, lines 16-17]

DELETE (d) lines 18-24

6. P12, L27: Sec. 24.61.140. MISUSE OF STATE RESOURCES FOR POLITICAL GAIN.

REPLACE LANGUAGE AS "(2) a brief description of the nature of each committee substitute or significant amendment offered by the legislator."

8. P12, L29: add Money limit for contribution. Suggest: $250.

9. ADD TO COMMENTARY
(d) Contents of Newsletters. The purpose of the requiremnts regarding revelation of bills, committee substitutes and significant amendments introduced by a legislator, as well as the legislator's votes on significant bills acted on by the legislator's house is to provide constituents with detailed relevant information which will inform them of the actions and judgments of their representatives and empower them to hold the legislator accountable. The regulations drawn up by legislative council should provide a uniform statement of all significant bills to be used by all legislators and should otherwise advance the purposes of this provision. The information required under (d) of this section must include all activity since the last mailing or be approved by the commission.

10. P15, L16-23 24.61.170. USE OF NONPUBLIC INFORMATION ETC. REPLACE SECTION WITH FOLLOWING.

"USE OF INFORMATION GAINED IN THE COURSE OF LEGISLATIVE DUTIES. (a) In the course of their official duties, legislators and legislative employees may acquire information confidential as a matter of law and other information not generally known or accessible even though it is technically available to the public. In some cases, simply learning of information before it is generally available can provide a substantial advantage for those who use or disclose it. A legislator or legislative employee may not actually or reasonably appear to gain special personal benefits by virtue of access to information resulting from public service.

(b) A legislator or legislative employee may not use or disclose confidential information for any purpose. In addition, a legislator or legislative employee may not receive any personal benefit for the disclosure of nonconfidential information acquired in the course of and by reason of legislative service nor may any information so acquired be disclosed or used for personal gain or for the gain of another unless and until such information is actually and practically accessible to the general public.

(c) Legislators and legislative employees may not agree to keep information private or secret if the information is of the type that is required by law to be available to the public but they should keep proper commitments to keep matters confidential where such confidentiality is consistent with law, professional discretion and the public interest.

(d) A person who reveals information confidential as a matter of law or receives a personal benefit for the disclosure of nonconfidential information under subsection (b) is guilty of a class A misdemeanor and is subject to civil sanctions under AS 24.61.560(a). Violations of any other provision of this section subjects the violator to civil sanctions under AS 24.61.560(a).".

11. P16, L2: Sec. 24.61.180. MISUSE OF TITLE, ETC.

reinsert: "or another person. This provision includes, but is not limited to, a prohibition against the use of authority, title, or prestige to obtain employment, conbtracts for goods or services, clients, grants, or loans."

AND (b) P14, L25-29 from 4/18 draft OR add to comment as part of Commentary (b).

12. P16, L21: DISCUSS ISSUE OF USE OF NAME IN POLITICAL ENDORSEMENTS. "Endorsed by the Speaker of the House and Chairman of the Finance Committee"

13. P17, L4-12: Sec. 24.61.190. POST-SERVICE RESTRICTIONS. DELETE AND REPLACE WITH:

"(b) Legislators may not for compensation, for a period of one year after leaving office, act as a registered lobbyist or a representative for another in seeking to influence a (1) legislator or legislative employee to take or withhold legislative, administrative, or political action; or 2) state agency, public official or employee to take or withhold official action if the agency is one over which the former

legislator had special oversight or budget authority."
"(c) [Use definition from P16, L14-20 4/18 draft]
"(d) A legislative assistant may not for compensation, for a period of one year after leaving legislative service act as a registered lobbyist seeking to influence a (1) state legislator or legislative employee to take or withhold legislative, administrative or political action; (2) state agency, public official, or employee to take official action relating to a a matter on which the former legislative assistant worked personally and substantially."
(f): "If within one year of termination of legislative service, a former legislative assistant, who is not a registered lobbyist, in the course of employment with a governmental, nonprofit or business entity, engages in direct communications designed to influence a state legislator or legislative employee to take or withhold legislative, administrative or political action; or a state agency, public official, or employee with responsibility in an area or on a matter in which the former legislative assistant worked personally and substantially to take or withhold administrative action, the former legislative assistant a shall disclose the contacts to the legislative ethics commission. The disclosure shall be in writing, describe the date, nature and purpose of the communication, and identify the person or persons contacted.
(g): "Nothing in this provision shall be construed to prohibit a former legislator or legislative assistant from [insert here language from lobbyist statute with definition that permits a person to testify as a witness, lobby if serving as a public official or respond to requests for information -- I don't have the statute with me, sorry].

OTHERWISE MUST CHANGE COMMENTARY

14. P18, L26: Sec. 24.61.202. PROPER USES OF CAMPAIGN FUNDS.

DEFINE "part of a candidate's governmental activities and duties"

15. P18-19: Sec. 24.61.205. PROHIBITED USES OF CAMPAIGN FUNDS.
ADD TO COMMENTARY AT END OF (c):
"Campaign funds should not be used in a way that would create in the mind of a reasonable person the belief that the funds are for the personal financial benefit of the candidate or the candidate's immediate family, or to unjustly enrich another person. Thus, campaign funds may not be paid to a member of the candidate's immediate family aas an employee or for goods or services unless the amounts paid do not exceed the fair market value for the goods or services. Excess amounts paid to family members is a form of improper conversion of campaign funds to personal use."

16. P25, L1: Sec. 24.61.240. FUNDRAISING LIMITATIONS.
ADD "nor may a legislator solicit funds, host a fund raising event, for any other person ~~or~~ otherwise encourage persons to contribute to ~~any political campaign of any sort~~ while the legislature is in session. This provision does not prevent fund raising activities for ~~a bona fide nonpolitical~~ charitable organization provided such activities comply with AS 24.61.230."

17. P27, L11: Sec. 24.61.260. SUBSTANTIAL INTEREST DEFINED
After "action." insert "This provision does not suggest or imply that there is any impropriety in having financial or personal relationships with persons who have a substantial interest in legislative, administrative or political action or that such transactions or relationships should be avoided. The purpose of the designation is to identify those who by virtue of their interest in the professional actions of legislators and legislative employees have an incentive to influence such actions and, therefore, transactions and relationships with this interested class should be subject to closer scrutiny."

IF NOT ADDED HERE, ADD TO COMMENTARY (NEW SECTION)

18. P30, L19: Sec. 24.61.300. RESTRICTED RELATIONSHIPS: LOBBYISTS, ETC.
change to "cause or permit"

Cross reference to lobbyist obligations at p. 89.

19. P30, L27

Cross reference to lobbyist obligations at p.89 "A lobbyist may not seek to evade the purposes of this subsection by directing a business associate or other person to perform similar fund raising services."

20. P32, L3: Sec. 24.61.310. BOARD MEMBERSHIPS

ADD TO CAPTION TITLE "; OTHER PUBLIC OFFICES"

21. P32, L24-25: Sec. 24.61.320. RESTRICTED FINANCIAL INTERESTS.
Change opening phrase to:
"Notwithstanding any contrary provision of the Uniform Rules of the Alaska Legislature,"

OR
at P33, L4 Add:
"A legislator should not consent to the participation or vote of any other legislator who has a conflict of interest under this section."

22. P33, L1: change "substantial" to a money amount

23. P39, L15 and L20 Sec. 24.61.350 GRATUITIES

ADD SECTIONS ON sample merchandise and subscriptions for clarity.

24. P39, L24
after "hospitality" add "provided the cost does not exceed over $50." OR another amount

25. P40, L 7

foreign gifts -- should be reported and not agggregated over $100
after "funds" insert "gifts received under this section shall be reported on financial disclosure forms."

26. P40, L12

Reinstate language about length of stay and payment for spouses/companions from P38 L27; P39, L1-8 4/18 draft

27. P44, L1: Sec. 24.61.380. IMPROPER INTERFERENCE
CHANGE "should not" to "may not"

28. P44, L11
Reconsider reinserting explanatory language at P43, L18-19, 4/18 draft

29. P47, L1 Sec. 24.61.400. CONFLICT OF INTEREST DISCLOSURE.
After "required." insert "If the spouse or dependent child receives income from a person with a substantial interest in legislative, administrative or political actions of the legislator or legislative assistant, the legislator or legsialtive assistant shall file a certified statement with the commission stating that (1) all the funds earned by the spouse or dependent child were reasonable payments for services actually rendered, (2) employment of the spouse or dependent child was not related to any attempt to influence or do any favor for the legislator or legislative assistant, and (3) that, to the best of the legislator or legislative assistant's knowledge, the compensation presents no conflict of interest."

30. P50, L10 Sec. 24.61.415. REPORTING OBLIGATIONS OF EMPLOYERS.

REINSTATE P49, L1-29; P50, L1-8 4/18 DRAFT

OR

Provide some means of assuring that employee gains and reports all information involved in section.

ADDITIONAL COMMENTARY AND SUGGESTIONS
RE: LEGISLATIVE ETHICS ACT OF 1990
WORK DRAFT 4/29/90
by Michael Josephson
Government Ethics Center, Josephson Institute

31. P27, L13-15; L25-26: Sec. 24.61.260. SUBSTANTIAL INTEREST IN LEGISLATIVE, ADMINISTRATIVE, OR POLITICAL ACTION DEFINED.

Delete (1), (2) and insert
"(1) are actively involved in efforts seeking to influence a particular legislative, administrative or political decision;
(2) are subject to continuous regulation and oversight of the legislature;

Delete (5) and insert
(5) have or seek contracts for goods or services with the legislature or any agency of state government in excess of $10,000 annually."

BE SURE TO MAKE CHANGES IN ALL PLACES THIS DEFINITION OCCURS

32. ADD TO COMMENTARY
"AS 24.61.260. SUBSTANTIAL INTEREST IN LEGISLATIVE, ADMINISTRATIVE, OR POLITICAL ACTION DEFINED.

(a) PURPOSE OF DEFINITION. The purpose of this definition is to designate those persons, companies and entities which have a substantial interest in the decisions and actions of a legislator or legislative employee because this interest creates incentives to influence persons in the legislative process. In Alaska, a significant majority of companies and government bodies are included in this definition. There are, of course, many entirely legitimate means of influencing legislative actions and no presumption of impropriety should attach to relationships between legislators and legislative employees and those that have a substantial interest in their actions. On the other hand, private transactions with such persons raise a sufficiently serious potential for conflict of interest that they should be subjected to public scrutiny.

(b) REGULATED INDUSTRIES. Subsection (2) of this definition is meant to designate firms and industries that are continuously and closely regulated by the legislature. This includes but is not necessarily limited to firms and associations involved in telecommunications, utilities, oil and gas, fisheries, mining, and forestry. It does not include professions and occupations such as nursing, optometry and vetinarians which are subject to state regulation on the less pervasive or continous basis. Persons and firms in areas not considered to be continuously and closely regulated may, nevertheless, have a substantial interest in legislative, administrative or political action under subsection (1) when they are involved with seeking to influence actions realting to their industry or profession.

33. P60, L7-18: Sec. 24.61.527. USE OF INFORMATION SUBMITTED WITH REQUEST FOR ADVICE.

Delete new section and insert

influencing legislative or administrative action as defined in AS 24.45.171(1), (6), (7) and this chapter; when a person becomes a lobbyist upon meeting the tests of this section, he must register in accordance with AS 24.45.041 and must report in accordance with AS 24.45.051 and 2 AAC 50. (Eff. 12/29/77, Reg. 64)

Authority: AS 24.45.021(b)
AS 24.45.041
AS 24.45.051
AS 24.45.061(b)
AS 24.45.171(1),(6),(7),(8)(A), (10)(B),(11) and (12)

ARTICLE 5.
GENERAL PROVISIONS

Section
905. Advisory opinions
910. Availability of reports filed with the commission
920. Definitions

2 AAC 50.905. ADVISORY OPINIONS. (a) A person or group may request an advisory opinion concerning AS 15.13, AS 39.50, AS 24.45, or this chapter.

(b) Each advisory opinion request must describe a specific transaction or activity that the requesting person or group is presently engaged in, or intends to undertake in the future. Advisory opinion requests must include a complete description of all relevant facts. Requests posing a hypothetical situation, or regarding the activities of third parties, will not be considered by the commission staff.

(c) The commission staff shall review all requests for advisory opinions submitted under this section. If the staff determines a request is incomplete or does not qualify for consideration under (a) and (b) of this section, it shall notify the requesting person or group and specify the deficiencies in the request.

(d) Advisory opinion requests and advisory opinions are public records.

(e) The commission staff shall issue a proposed advisory opinion approving or disapproving of the activity, and may make other recommendations to the commission.

(f) The commission will review the proposed advisory opinion and will, in its discretion, review written or oral comments by any person, or any other relevant evidence. The commission will approve, disapprove, or modify the proposed advisory opinion. The commission will approve an advisory opinion by the affirmative vote of at least four members, or else the advisory opinion will be considered disapproved.

(g) An advisory opinion rendered by the commission may be relied upon to the extent that commission staff may not commence a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, or 2 AAC 50.507(i) of

(1) any person involved in the specific transaction or activity with respect to which an advisory opinion approving of the activity was rendered.

(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which an advisory opinion was rendered.

(h) The commission will, in its discretion, reconsider an advisory opinion at any time upon the motion of a commissioner who voted with the majority that originally approved the opinion, and if the commission adopts the motion to reconsider by the affirmative vote of at least four members. Adoption of a motion to reconsider vacates the advisory opinion to which it relates. Actions taken in good faith reliance by the requesting party before they receive written notice of reconsideration may not be the subject of a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, or 2 AAC 50.507(i). (Eff. 1/4/86, Reg. 97)

Authority: AS 15.13.030

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

02-576(2/77)

ADDITIONAL COMMENTARY AND SUGGESTIONS
RE: LEGISLATIVE ETHICS ACT OF 1990
WORK DRAFT 4/29/90
by Michael Josephson
Government Ethics Center, Josephson Institute

31. P27, L13-15; L25-26: Sec. 24.61.260. SUBSTANTIAL INTEREST IN LEGISLATIVE, ADMINISTRATIVE, OR POLITICAL ACTION DEFINED.

Delete (1), (2) and insert
"(1) are actively involved in efforts seeking to influence a particular legislative, administrative or political decision;
(2) are subject to continuous regulation and oversight of the legislature;

Delete (5) and insert
(5) have or seek contracts for goods or services with the legislature or any agency of state government in excess of $10,000 annually."

BE SURE TO MAKE CHANGES IN ALL PLACES THIS DEFINITION OCCURS

32. ADD TO COMMENTARY
"AS 24.61.260. SUBSTANTIAL INTEREST IN LEGISLATIVE, ADMINISTRATIVE, OR POLITICAL ACTION DEFINED.

(a) PURPOSE OF DEFINITION. The purpose of this definition is to designate those persons, companies and entities which have a substantial interest in the decisions and actions of a legislator or legislative employee because this interest creates incentives to influence persons in the legislative process. In Alaska, a significant majority of companies and government bodies are included in this definition. There are, of course, many entirely legitimate means of influencing legislative actions and no presumption of impropriety should attach to relationships between legislators and legislative employees and those that have a substantial interest in their actions. On the other hand, private transactions with such persons raise a sufficiently serious potential for conflict of interest that they should be subjected to public scrutiny.

(b) REGULATED INDUSTRIES. Subsection (2) of this definition is meant to designate firms and industries that are continuously and closely regulated by the legislature. This includes but is not necessarily limited to firms and associations involved in telecommunications, utilities, oil and gas, fisheries, mining, and forestry. It does not include professions and occupations such as nursing, optometry and vetinarians which are subject to state regulation on the less pervasive or continous basis. Persons and firms in areas not considered to be continuously and closely regulated may, nevertheless, have a substantial interest in legislative, administrative or political action under subsection (1) when they are involved with seeking to influence actions realting to their industry or profession.

33. P60, L7-18: Sec. 24.61.527. USE OF INFORMATION SUBMITTED WITH REQUEST FOR ADVICE.

Delete new section and insert

"Information voluntarily given to the commission in connection with request for advice under AS 24.61.520 or 24.61.525 and the identity of the person requesting the advice shall be kept confidential unless the information reveals facts which establish a violation of this chapter and which, in the commission's discretion, justify the filing of a complaint or the use of such information in a proceeding under AS 24.61.545 or 24.61.550. The commission represents the legislature as a whole and, ultimately, the people of Alaska and not the person who seeks informal or formal advice. Though persons covered by this chapter will be held to knowledge of this provision whether or not they were informed of it at the time they voluntarily provided information, the commission shall take reasonable efforts to remind persons that the information may be used either as the basis of a complaint or during a proceeding."

REASONS. THE PRESENT PROPOSAL CREATES AN UNRESOLVABLE CONFLICT OF INTEREST BETWEEN THE COMMISSION'S OBLIGATION TO NOT USE INFORMATION PROVIDED BY THE PERSON REQUESTING ADVICE AND THE OBLIGATION TO DILIGENTLY ENFORCE THIS CHAPTER. THE INDEPENDENT SOURCE RULE, AS WITH A SIMILAR RULE IN CRIMINAL PROCEDURE RELATING TO THE USE OF INFORMATION OBTAINED IN VIOLATION OF THE CONSTITUTION, CREATES ENORMOUS BURDEN OF PROOF PROBLEMS AND PROVIDES A TECHNICAL BASIS FOR DISMISSAL OF A CASE THAT WOULD CREATE GREAT PROBLEMS OF PUBLIC TRUST. NO ONE IS REQUIRED TO GIVE SUCH INFORMATION AND THEIR ARE NO SELF-INCRIMINATION PROBLEMS. MOREOVER, MOST ADVICE WILL AND SHOULD RELATE TO CONDUCT NOT YET UNDERTAKEN AND THERFORE THE REQUESTER HAS THE OPTION OF REFRAINING FROM THE CONDUCT IF SO ADVISED. ON THE OTHER HAND, IF A PERSON ACTS IN SPITE OF THE ADVICE OF THE COMMISSION OR HAS ALREADY ACTED THE COMMISSION'S HANDS MUST NOT BE TIED WITH RESPECT TO BRINGING A COMPLAINT OR USING THE INFORMATION THEY HAVE IN A PROCEEDING. A CLEVER PERSON COULD CREATE A POSSIBLE BASIS FOR DISMISSAL AND IMPOSE A HIGH BURDEN OF PROOF ON THE COMMISSION TO PROVE THEY OBTAINED INFORMATION FROM AN INDEPENDENT SOURCE.

34. CHANGE COMMENTARY 525(b) to 527.

You may want to add part of the above reasoning to the commentary:

35. P61, L13: ~~ADD A NEW SECTION:~~
Sec. 24.61.32\ COMMENTARY AND GUIDELINES. In all matters relating to this chapter the commission shall refer to and interpret provisions consistent with the Commentary and Guidelines.

36. P69, L29; P70 L1-2: Sec. 24.61.555. FINDINGS AND RECOMMENDATIONS.
Delete and change to: "The opinion may also recommend what, if any, portion of the respondent's legal fees shall be paid from public funds if the respondent is exonerated."

REASONING. I RECOMMEND AGAINST EFFECTIVELY CREATING A LEGAL RIGHT TO RECOVER LEGAL FEES. THE PRESENT PROVISION CAN BE SO READ AND WILL AUTOMATICALY MAKE THE ISSUE "WHAT IS REASONABLE" IN THE LEGAL FEE AREA. THIS MAY DEPEND ON WHO ONE HIRES AND HOW MANY LAWYERS ONE HIRES. IN ADDITION, MAKING LEGAL FEES MANDATORY WITH EXONERATION MAY AFFECT THE WILLINGNESS TO EXONERATE. I RECOMMEND THAT THE TWO THINGS BE SEPARATE: EXONERATION AND REIMBURSEMENT FOR LEGAL FEES.

influencing legislative or administrative action as defined in AS 24.45.171(1), (6), (7) and this chapter; when a person becomes a lobbyist upon meeting the tests of this section, he must register in accordance with AS 24.45.041 and must report in accordance with AS 24.45.051 and 2 AAC 50. (Eff. 12/29/77, Reg. 64)

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AS 24.45.041
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(c) The commission staff shall review all requests for advisory opinions submitted under this section. If the staff determines a request is incomplete or does not qualify for consideration under (a) and (b) of this section, it shall notify the requesting person or group and specify the deficiencies in the request.

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(f) The commission will review the proposed advisory opinion and will, in its discretion, review written or oral comments by any person, or any other relevant evidence. The commission will approve, disapprove, or modify the proposed advisory opinion. The commission will approve an advisory opinion by the affirmative vote of at least four members, or else the advisory opinion will be considered disapproved.

(g) An advisory opinion rendered by the commission may be relied upon to the extent that commission staff may not commence a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, or 2 AAC 50.507(i) of

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(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which an advisory opinion was rendered.

(h) The commission will, in its discretion, reconsider an advisory opinion at any time upon the motion of a commissioner who voted with the majority that originally approved the opinion, and if the commission adopts the motion to reconsider by the affirmative vote of at least four members. Adoption of a motion to reconsider vacates the advisory opinion to which it relates. Actions taken in good faith reliance by the requesting party before they receive written notice of reconsideration may not be the subject of a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, or 2 AAC 50.507(i). (Eff. 1/4/86, Reg. 97)

Authority: AS 15.13.030

Adopted as a work draft by the Joint Committee on the AK Leg Ethics Act

6-2007H
Dierdorff
4/18/90

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

IN THE SENATE

CS FOR SENATE BILL NO. 415 ( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing a legislative ethics commission and standards of conduct for legislators and legislative employees, former legislators and employees, and lobbyists; amending legislators' compensation and allowances; and providing for an effective date."

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

* Section 1. SHORT TITLE. This Act may be known as the Legislative Ethics Act of 1990.

* Sec. 2. AS 24 is amended by adding a new chapter to read:

CHAPTER 61. LEGISLATIVE ETHICS ACT OF 1990.

ARTICLE 1. LEGISLATIVE FINDINGS AND ETHICAL PRINCIPLES.

Sec. 24.61.010. PURPOSE. This chapter is enacted to

(1) assure the integrity of representative government and sustain the confidence and trust of the people of this state in their representatives, the legislature as a whole, and the legislative process;

(2) provide a comprehensive and unified statement of the ethical principles, considerations, and obligations inherent in the public trust theory of government service and establish specific standards of conduct to ensure that those entrusted with public authority avoid conduct that might undermine the people's respect for the legislature; and

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

Sec. 24.61.015. LEGISLATIVE FINDINGS. The legislature finds that

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

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

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

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

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

(6) the state's commitment to the notion of a citizen legislature requires that legislators be drawn from all parts of society; they cannot and should not be without personal and financial interests in the decisions and policies of government, and they are

expected and permitted to earn outside income;

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

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

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

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

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

(12) effective democratic government depends on the willingness of the people to exercise responsible citizenship by voluntary compliance with laws and by active participation in the democratic process; when the public's trust in and respect for government is high, citizens are more likely to fully participate by voting, becoming better informed, and becoming more active in public debate and

discourse in a way that engenders civic pride and makes government more representative, more responsive, and more effective;

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

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

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

(16) legislators and legislative employees who are committed to the ethical principles embodied in the public trust concept of government must exercise considerable discretion and judgment so as to adhere to the spirit of the rules and laws; in exercising this judgment it is essential to recognize that an act is not ethical simply because it is legal and that conduct is not proper simply because it is permissible;

(17) legislative decisions must be made in a context of

clashing interests; the growing effect of state laws and regulations creates incentives for competing special interests to seek to influence the election and policy-making processes through organized advocacy and through the use of campaign contributions;

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

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

Sec. 24.61.020. PREAMBLE TO STATEMENT OF ETHICAL PRINCIPLES. AS 24.61.025 - 24.61.060 state the overarching ethical principles of legislative ethics. They are, by nature, broader and more philosophical than the standards of conduct and, therefore, somewhat less amenable to strict enforcement. Their primary purpose is not to provide additional bases of punishment, but to establish the theoretical and moral foundation for the standards of conduct and to provide explicit guidance and direction for those who wish to follow the ethical high road, not simply out of fear of punishment but out of commitment and conscience. These principles also establish criteria for interpretation and enforcement of the principles themselves and the standards of conduct that follow. The principles shall be regarded as an integral part of this chapter.

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

and spirit of the provision.

Sec. 24.61.030. PRINCIPLE OF NONPARTISANSHIP. All actions, decisions, and votes on matters relating to this chapter shall be made purely on their merits. Decisions shall be made objectively and independently, and without party, regional, or ideological partisanship.

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

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

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

(b) In pursuing the public interest, legislators and legislative employees shall scrupulously observe and abide by the United States and Alaska constitutions, all applicable laws, and democratic processes.

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

(1) put loyalty to democratic principles and to their

conscientious convictions about the overall public good above loyalty to political party, narrow constituency, and individual interests that are inconsistent with the general public interest;

(2) allocate public funds and formulate general public policies only after evaluating information objectively and deciding what is best for the public as a whole, not just for a narrow constituency;

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

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

Sec. 24.61.050. PRINCIPLE OF ~~DEMOCRATIC~~ REPRESENTATIVE LEADERSHIP. Legislators and legislative employees shall honor and respect the principles and spirit of representative democracy and set a positive example of good citizenship by scrupulously observing the letter and spirit of laws and rules.

Sec. 24.61.055. PRINCIPLE OF RESPECTABILITY; CONDUCT BEFITTING THE LEGISLATURE. Legislators and legislative employees shall safeguard public confidence in the ~~integrity of government~~ by not engaging in conduct that demonstrates they are not fit for public ~~office~~ service, prevents them from carrying out their public duties, ~~or that unreasonably casts discredit on the legislature~~.

Sec. 24.61.060. PRINCIPLE OF INDEPENDENT JUDGMENT. Legislators and legislative employees shall employ independent objective judgment

in performing their duties, deciding all matters on the merits, free from conflicts of interest and both real and apparent improper influences.

ARTICLE 2. STANDARDS OF CONDUCT.

Sec. 24.61.100. MISUSE OF OFFICE FOR PRIVATE GAIN: GENERAL PRINCIPLE. Inherent in the concept that public office is a public trust is the principle that persons shall refrain from using or attempting to use their government position to attain

(1) personal financial gain, other than official legislative compensation;

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

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

(4) narrow political advantages where the use of office is inconsistent with the obligation to use public office only to advance the public interest.

Sec. 24.61.110. IMPROPER BENEFIT FROM PERFORMANCE OF PUBLIC DUTIES. (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 or the acceptance of a lawful gratuity under AS 24.61.350. 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).

(b) A legislator or legislative employee may not accept anything

of value under circumstances where the legislator or legislative employee knows or reasonably should know that it is offered with the intent to influence legislative, administrative, or political action. A person who violates this subsection is guilty of receiving a bribe under AS 11.56.110 and is subject to civil sanctions under AS 24.61.560(a).

Sec. 24.61.120. DUTY TO REPORT IMPROPER OFFERS. (a) Legislators and legislative employees who receive an offer that reasonably appears to have been intended to improperly influence legislative, administrative, or political action, shall firmly and unequivocally reject the offer and caution the person making it about a possible violation of bribery laws.

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

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

Sec. 24.61.130. MISUSE OF STATE PROPERTY AND RESOURCES FOR PRIVATE GAIN OR PERSONAL ADVANTAGE. (a) A legislator or legislative employee may not use public funds, time, facilities, equipment, mailing lists, computer data, services, or any other government asset or resource for an unauthorized nongovernmental purpose or for the private gain or advantage of either the legislator, legislative employee, or another person unless authorized by law. A person who violates this subsection is guilty of theft under AS 11.46 and is subject to civil sanctions under AS 24.61.560(a).

(b) A legislator or legislative employee may not seek, accept, use, allocate, grant, or award public funds for a purpose other than that approved by law, or make a false statement in connection with a claim, request, or application for compensation, reimbursement, or

travel allowances from public funds. A person who violates this subsection is subject to the civil sanctions authorized under AS 24.-61.560(a) in addition to appropriate criminal penalties under another law.

(c) A legislator or legislative employee may not require a legislative employee on government time to perform personal services or assist in a private activity unless the personal service or private activity is directly related to the official duties of the legislator or legislative employee. 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. A person who violates this subsection is guilty of a class A misdemeanor and is subject to civil sanctions under AS 24.61.560(a).

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

(b) A legislator or legislative employee may not use or authorize the use of public funds, time, facilities, equipment, mailing lists, computer data, services, or another government asset or resource for the purpose of political fund raising, campaigning, to influence the election of a candidate in an election, or other purely political purpose. This subsection does not prohibit the use of mailing lists or computer data lawfully obtained from a government