

ALASKA LEGISLATURE COMMITTEE FILES 1985 - 1986 8672

4428.1 SELECT COMMITTEE ON LEGISLATIVE ETHICS 1/80



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Lawrence M. Butler
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3/17/92
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Ethics

STATE OF ALASKA
THE LEGISLATURE

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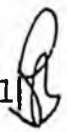
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

November 21, 1986

SUBJECT: Procedures of the Select Committee
(Work Order No. 15-0188)

TO: Representative Mike M. Miller
Chairman, Select Committee on Legislative
Ethics

FROM: Richard A. Bradley 
Legislative Counsel

You have requested that we comment on the draft of procedures for the Select Committee. Attached you will find a redraft of the procedures.

I have taken the suggested procedures apart and to some extent reordered them. While I have changed the language in some cases, perhaps in most cases, the most substantial change I have made is to reorder the sequence of the material. For example, I determined that most of the material in the suggested rule on "confidentiality" was more appropriate either to the sections on advisory opinions or on complaints.

I note that much of the suggested procedures do not so much supplement AS 24.60 but rather they duplicate large parts of it. As you understand, there are significant policy arguments against paraphrasing substantive law in regulations. The question becomes: What is to be followed, if there is a variance between the two, the law or the regulations. I have not sought to carve out the material that duplicates AS 24.60 but it is my suggestion that it be done.

While we have incorporated the proposals into this memorandum for convenience and to permit a simultaneous commentary, we will be pleased to provide you with a clean draft of the proposals at any time.

SELECT COMMITTEE
on
LEGISLATIVE ETHICS

Procedures

Section 1. PROCEDURES ON ADVISORY OPINIONS. (a) The committee shall furnish forms for a request for an advisory opinion to each person who requests a form. The Legislative Affairs Agency may also make forms available for a request. A request for an advisory opinion may be filed with the committee in any form as long as it is in writing.

Authority: AS 24.60.160.

(b) On receipt of a request for an advisory opinion, the committee shall acknowledge in writing its receipt of the request to the person making the request. The committee shall also advise the person of the date by which the opinion will be issued.

Authority: AS 24.60.160.

Comment: I have omitted B. and C. as unnecessary. I note that the law permits an extension in the time within which the advisory opinion will be issued. The suggested draft and this draft do not provide for the extension.

(c) Except as provided in (d) of this section, an advisory opinion may not be adopted by the committee unless a majority of the members of the committee are personally present and vote for the advisory opinion. Except as required by law, if a legislator requests an advisory opinion, the opinion should not normally be issued unless the quorum personally present at the issuance of the advisory opinion includes a member of the legislature from the house of the legislator making the request.

Authority: AS 24.60.____

Comment: The request and the suggested language require members to be present to vote on an advisory opinion. Existing law at AS 44.62.310(a) permits a committee to vote by teleconferencing. The second sentence is more legislative courtesy than law. Finally, the language suggested uses the word "committee" in place of the

suggested "full committee;" as you know, the alternative to the "committee" is a "subcommittee."

(d) If it is clear from the facts and circumstances of a situation presented to the committee in an advisory opinion request that there is or there is not a violation of AS 24.60, a draft advisory opinion may be provided to each member of the committee. If each member of the committee concurs in the draft advisory opinion in writing, the advisory opinion is adopted. If a member of the committee fails to concur in the draft advisory opinion, the draft advisory opinion is rejected.

Authority: AS 24.60.____

Comment: The requirement of unanimity in the vote by mail seems unusual and is not required by the law. I have deleted the requirement of telephoned concurrence since the suggested draft also contained a mailed concurrence; if the mailed-in concurrence is obtained, there seems little merit to the additional telephoned concurrence.

(e) The subject of a draft advisory opinion is confidential and, except as provided in this subsection, the committee may discuss the request only in an executive session. The committee may discuss a request for an advisory opinion during an open meeting of the committee if the facts in the request do not necessarily identify either the person making the request or others involved in the request.

Authority: AS 24.60.160

(f) The committee shall publish a summary of its advisory opinions on June 30th and on the day on which the legislature convenes each January.

Authority: AS 24.60.150(a)(2)

Comment: The subsection duplicates AS 24.60.150(a)(2).

Sec. 2. PROCEDURES ON COMPLAINTS. (a) The committee shall furnish forms for a complaint to each person who requests a form. The Legislative Affairs Agency may also make forms available for a complaint. A sworn complaint may be filed in any form as long as it is in writing.

Authority: AS 24.60.170(a)

(b) A sworn complaint alleging a violation of AS 24.60 by a member or a former member of the senate or by an individual employed by a member of the senate or a senate committee shall be filed with the senate subcommittee.

Authority: AS 24.60.140(a)

Comment: The subsection duplicates AS 24.60.140(a).

(c) A sworn complaint alleging a violation of AS 24.60 by a member or a former member of the house of representatives or by an individual employed by a member of the house of representatives or a committee of the house of representatives shall be filed with the house of representatives subcommittee.

Authority: AS 24.60.140(b)

Comment: The subsection duplicates AS 24.60.140(b).

(d) A sworn complaint alleging a violation of AS 24.60 by an employee of an agency of the legislature shall be filed with the committee.

Authority: AS 24.60.140(c)(1)

Comment: The subsection duplicates AS 24.60.140(c)(1). Paragraph E. from your draft has been omitted.

(e) On receipt of a sworn complaint, the committee shall acknowledge in writing its receipt of the complaint to the person making the complaint.

Authority:

Comment: The law does not require this form of notice and is not concerned about the complainant after the complaint is received.

(f) The committee may initiate, receive, and consider a sworn complaint alleging a violation of AS 24.60 if the facts constituting the violation occurred within two years of the filing of the complaint and within one year of the termination of state service. The committee may consider a complaint alleging facts that occurred more than two years before the filing of the complaint if the individual involved has intentionally prevented discovery of facts constituting a violation of AS 24.60.

Authority: AS 24.60.170(a) - (b)

Comment: The subsection duplicates AS 24.60.170(a) - (b).

(g) The committee may initiate a complaint against an individual subject to AS 24.60. If the complaint will be initiated within the period 60 days before a state general or a state primary election, it may be initiated only by a two-thirds vote of the members of the committee. Each proceeding pending before the committee on the 60th day preceding a state primary or general election is stayed until certification of the election unless the proceeding was initiated by the committee under this subsection. The committee shall notify in writing the individual against whom a complaint was filed of the stay of the proceedings; if the individual objects in writing to the stay, the proceedings continue.

Authority: AS 24.60.170(d)

Comment: To some extent, the material duplicates AS 24.60.170(d); since some clarification of sec. 170(d) is attempted, the duplication may not be a problem. The language is different from that suggested by the committee. As I read AS 24.60.170(d), the two-thirds vote relates to complaints initiated at a specified time before an election, not to complaints initiated by a committee outside that time.

(h) The committee may dismiss a complaint without an investigation on its determination that the facts alleged, even if true, do not constitute a violation of AS 24.60. The committee may, at the request of the individual involved, issue an explanatory statement.

Authority: AS 24.60.170(e)

(i) If the committee determines that a complaint filed against an individual is without merit and that there is no basis for further proceedings before the committee against the individual, the committee may, at the request of the individual, issue an explanatory statement.

Authority: AS 24.60.170(e)

(j) On the completion of an investigation or proceeding before the committee, the committee shall disclose to the

individual who filed the complaint its disposition on the complaint as follows:

- (1) the committee found no basis for action under the complaint; or
- (2) the committee has ordered appropriate corrective action except that the committee may not disclose the nature of the corrective action; or
- (3) the committee has referred its findings to the presiding officer of a house of the legislature for appropriate action and the findings will be made public 30 days after the referral.

Authority: AS 24.60.____.

Comment: The law itself is not concerned with providing information to the person making the complaint after the complaint is filed. The suggested language is not otherwise objectionable.

(k) If the committee determines that an individual against whom a complaint was filed probably committed a violation of AS 24.60, that the violation may be corrected by the action of the individual, and that other sanctions are not warranted, the committee may recommend that the individual take corrective action. The individual may comply with the recommended action or may request a hearing before the committee. The committee may amend its recommendations after the hearing.

Authority: AS 24.60.170(g).

Comment: The subsection duplicates AS 24.60.170(g).

- (1) The committee shall formally charge an individual
 - (1) against whom a complaint was filed and to whom an opinion recommending corrective action under (k) of this section was issued who fails to comply with the recommended corrective action; or
 - (2) if a majority of the committee determine that there is probable cause to believe that a violation of the ethics code has occurred that may not be corrected.

Authority: AS 24.60.170(h)

Comment: The subsection duplicates AS 24.60.170(h).

(m) The committee may employ special counsel to present the charges and the special counsel may conduct a further investigation.

Authority: AS 24.60.170(i)

(n) The individual charged under (l) of this section is entitled to counsel of the individual's choosing.

Authority: AS 24.60.170(i)

Comment: The subsection duplicates a portion of AS 24.60.170(i).

(o) The charge and statement of the alleged violation shall be personally served on the individual charged. The individual charged has 20 days from the date of service to respond in writing to the committee. After receipt of the response by the committee or after the end of the 20 day period, the committee may, on no less than 10 days' notice to the complainant and to the individual charged, set a time and place for the hearing.

Authority: AS 24.60.170(h) - (i)

Comment: The subsection duplicates parts of AS 24.60.170(h) and (i).

(p) The formal hearing shall be conducted before the committee. The chairman of the committee or a committee member designated by the chairman shall preside at the hearing. The committee shall proceed with the hearing notwithstanding a failure of the individual charged to respond or to appear at the hearing. A failure of the individual charged to appear or to testify at the hearing is not evidence. The proceedings shall be electronically recorded.

Authority: AS 24.60.170(i)

(q) The rules of evidence do not apply at the hearing but the findings of the committee shall be based upon competent and substantial evidence. Testimony shall be under oath.

Authority: AS 24.60.170(i)

The subsection duplicates a part of AS 24.60.170(i).

(r) The decision of the committee shall be in writing and signed by a majority of the members of the committee. The decision shall be accompanied by a written order determining only that a violation of AS 24.60 exists or does not exist; the order is a public record.

Authority: AS 24.60.170(j)

Comment: The subsection essentially duplicates AS 24.60.170(j).

(s) If the committee determines that a member of the legislature has violated a provision of AS 24.60 or that a member of the legislature has failed to cooperate with the committee, it shall refer the decision to the the presiding officers of the legislature. The committee may make recommendations for appropriate legislative action.

Authority: AS 24.60.170(k)

Comment: The subsection duplicates a portion of AS 24.60.170(k)

(t) If the committee determines that a former member of the legislature or an employee or a former employee of the legislature has violated a provision of AS 24.60, the committee shall issue a public statement of its decision 30 days after the date of the decision.

Authority: AS 24.60.170(l)

Comment: The subsection duplicates a portion of AS 24.60.170(l).

(u) The committee shall publish a summary of its decisions on June 30th and on the day on which the legislature convenes each January.

Authority: AS 24.60.150(a)(2)

Comment: The subsection duplicates AS 24.60.150(a)(2).

(v) The committee may confirm or deny the existence of a complaint before it, may clarify the procedural aspects of a complaint, or explain the right of a person to a fair hearing when the nature of the complaint is generally know to the public. Notwithstanding the provisions of this

section, the committee may not identify the individual against whom the complaint has been filed.

Authority: AS 24.60.170(a)

Comment: The section seems to have some internal tension; if the "nature of the complaint" is known generally, it seems that the identity of the person complained against may also be known. Thus I do not understand the refusal to identify the person complained against at the same time that the existence of the complaint is acknowledged.

(w) As used in this section, "committee" includes the senate subcommittee and the house subcommittee.

Authority: AS 24.60.140

Sec. 3. DISCLOSURES. Information contained in a disclosure made to the committee under a requirement of AS 24.60 becomes public when the disclosure is received by the committee.

Authority: AS 24.60.110(3)

Sec. 4. CONFIDENTIALITY. (a) Except as provided in sec. 3, each request for an advisory opinion, each proceeding concerning any person, and each complaint, investigation, report, record, and file of the committee is confidential and a disclosure of the contents of a request for an advisory opinion, proceeding, complaint, investigation, report, record, or file may be made only as permitted under AS 24.60.

Authority: AS 24.60.160
AS 24.60.170(c), (i)

Most of the material in this section of your draft has been moved from this section to another section.

(b) Notwithstanding (a) of this section, the committee may make a public statement explaining the nature of its jurisdiction and responsibility, the procedure for filing a complaint, the limitations on its power and authority, and report on the general conduct of the affairs of the committee.

Authority: AS 24.60.170(a)

Sec. 5. NOTICE. (a) When required under AS 24.60. notice shall be given in writing and by personal service.

(b) As used in (a) of this section, "personal service" has the meaning given in Rule 4(d) of the Supreme Court's Rules of Civil Procedure.

Authority: AS 24.60.170(d)
AS 24.60.170(h)

Comment: I note that there are essentially two proceedings contemplated under AS 24.60.170: see AS 24.60.170(c) - (d) and AS 24.60.170(h). The first is silent on the service required; only the second requires "personal service." I note also that the concepts in the suggested draft approximate those of the Civil Rules of court. I suggest that if the committee wishes to use an expanded concept of "personal service" beyond its literal meaning that the precise formulation of Rule 4(d) of the Civil Rules be used rather than a restatement. My preference would be that the term not be defined and that the literal meaning be employed. But see my modification.

Sec. 6. INVESTIGATIONS. (a) The committee shall conduct an investigation after

- (1) a complaint has been filed with the committee; or
- (2) the committee has adopted a resolution defining the nature and scope of the inquiry.

Authority: AS 24.60.170(c)
AS 24.60.170(d)

Comment: The law may have an ambiguity in this area. There seems to be a need for the committee to define the "nature and scope of the inquiry" only if the complaint is initiated by the committee; if the complaint is filed by someone not on the committee, it seems logical that the complaint itself defines the scope of the inquiry and I suggest that the committee may not wish to intrude itself into a redefinition of that complaint. Thus the use of "or" in the above draft is a significant departure from your draft.

(b) When an investigation is undertaken, the individual who is the subject of the investigation shall be served with a

notice of the investigation and shall be afforded a reasonable opportunity to explain the conduct alleged to violate AS 24.60. The notice shall advise the individual

(1) of the nature of the complaint and the name of the individual making the complaint; or

(2) that the investigation is based on a resolution supported by a majority of the members of the committee.

Authority: AS 24.60.170(c)
AS 24.60.170(d)

Comment: The subsection duplicates the concepts in AS 24.60.170(c) - (d). Because, as suggested above, there is some ambiguity and the language clarifies that ambiguity, the duplication seems not a problem.

(c) An individual being investigated by the committee is entitled to counsel chosen by the individual.

Authority: AS 24.60.170(i)

Comment: The subsection duplicates AS 24.60.170(i).

(d) The committee at any time may compel by subpoena

(1) the attendance and testimony of witnesses, including the person against who a complaint has been filed; and

(2) the production of papers, books, accounts, and other documents relevant to the investigation.

Authority: AS 24.60.170(i)

Comment: The section essentially duplicates a portion of AS 24.60.170(i). While the law is not clear, I believe that there is a possible interpretation of AS 24.60.170(i) that would limit the subpoena power to those situations after the committee "formally charges the person" under AS 24.60.170(h); the location of the grant of the power within the section leads to this conclusion. This interpretation would conclude that under the earlier phase (AS 24.60.170(c) - (d)), the subpoena power was not available. The committee should also note that the individual being investigated retains "Fifth Amendment" type protections.

RULE . ADVISORY OPINIONS

A. The committee shall furnish forms for a request for an advisory opinion to each person, to whom AS 24.60 applies, who asks for a form. Forms shall also be made available through the Legislative Affairs Agency. However, a request for an advisory opinion is valid and may be filed with the committee in any form, as long as it is in writing.

B. A completed form or other written communication requesting an advisory opinion shall be returned to the office of the full committee.

C. Upon receipt of a request for an advisory opinion, a file shall be opened in the committee office.

D. Upon receipt of a request for an advisory opinion, the committee shall make written acknowledgement of its receipt to the person requesting the advisory opinion, and shall advise that person of the date by which the opinion must be issued.

E. Except as provided in (f) of this rule, no official action may be taken by the committee on an advisory opinion unless a majority of the members of the committee are present. If an opinion is requested by a legislator, legislative courtesy requires that at least one committee

member from the house in which that legislator sits be present, if possible. The adoption of an advisory opinion requires a majority vote of the full committee.

F. If the facts and circumstances of a particular situation presented to the committee in an advisory opinion request are clear on their face that there is or is not a violation of the ethics code (AS 24.60), the committee need not meet to approve the draft opinion. The draft opinion may be circulated to each member of the committee and if each member of the committee concurs in the substance of the opinion by telephone and confirms that concurrence in writing, the opinion is adopted. However, if a single committee member objects to the opinion, a committee meeting must be held to discuss the opinion.

[Except as provided in this section, the discussion of an advisory opinion is confidential and may only be held in executive session. However, the committee may discuss an advisory opinion during an open committee meeting if the facts of the situation are such that it is not necessary to identify the maker of the advisory opinion request and other individuals who might be involved in the situation set out in the request.]

G. The committee shall publish semi-annual summaries of its decisions and advisory opinions on June 30th and the day on which the legislature convenes each January.

RULE . DISCLOSURES

A. When a disclosure is made to the committee pursuant to a requirement of AS 24.60, that disclosure becomes a public record when received at the committee address and shall be placed in a public disclosure file.

RULE . CONFIDENTIALITY.

A. All committee discussions of advisory opinions, proceedings concerning any person, records, files, complaints, investigations and reports of the committee are confidential and no disclosure may be made except as permitted or required by AS 24.60.

B. In order to preserve public confidence in the legislative branch of government, the committee in its discretion, may issue one or more announcements confirming or denying the existence of complaints before it, clarifying the procedural aspects, or explaining the right of a person to a fair hearing when the subject matter of a proceeding is generally known to the public. However, the person against whom a complaint is filed may not be identified.

C. In any instance where a complaint against a person has been considered by the committee and it has been determined that there is no basis for the complaint or for further proceedings before the committee, the committee may, at the request or with the approval of the person, issue an explanatory statement.

D. Upon completion of an investigation or proceeding, the committee shall disclose to the person filing an accusation against a person that after an investigation of the charges

the committee (i) has found no basis for action against the person (ii) has required an appropriate corrective action, the nature of which shall not be disclosed, or (iii) has reached a decision which has been referred to the presiding officer of the appropriate house and which will be made public 30 days after the date of referral.

E. The committee may, from time to time, issue press releases and other public statements explaining the nature of its jurisdiction, procedure for filing of complaints, limitations upon its powers and authority, and reports on the conduct of the affairs of the committee, providing that such releases and reports may not identify by name, position, or address the identity of any person involved in any inquiry before the committee unless the disclosure is provided for in AS 24.60.

RULE . NOTICE

A. Written notice when required by AS 24.60 shall be given by personal service, or by prepaid certified or registered mail, for unrestricted delivery, mailed to the last address provided to the committee or the Legislative Affairs Agency by the person to be notified.

B. All notices which AS 24.60 requires be personally served may be served by any competent adult by: 1) personally delivering the notice to the person who must be notified; 2) by leaving the notice at the person's place of residence with some person of suitable age and discretion residing in the residence; 3) by leaving the notice at the person's office with that person's secretary or other person in charge of the office; or 4) by sending the notice to the person by prepaid certified or registered mail, for restricted delivery only to that person.

RULE . COMPLAINTS

A. The committee shall make forms available for a complaint to each person who alleges a violation of AS 24.60. Forms for a complaint shall also be made available to the public through the Legislative Information Office. However, a written complaint that otherwise meets the requirements of AS 24.60.170(d) may be filed with the committee and need not be submitted on the committee form.

B. A completed complaint alleging a violation of AS 24.60 by a member or former member of the senate or a person employed by a member or a committee of the senate shall be returned to the office of the senate subcommittee.

C. A completed complaint alleging a violation of AS 24.60 by a member or former member of the house or a person employed by a member or a committee of the house shall be returned to the office of the house subcommittee.

D. A completed complaint alleging a violation of AS 24.60 by an employee of the legislature shall be returned to the office of the full committee.

E. Upon receipt of a sworn complaint by a complainant or upon the initiation of a complaint by the committee, a file

shall be opened in the committee office.

F. Upon receipt of a sworn complaint, the committee shall acknowledge the receipt of the complaint to the complainant.

G. If the committee determines that a complaint does not contain allegations of facts sufficient, if the alleged facts are treated as true, to constitute a violation of a provision of AS 24.60, the committee may summarily dismiss the complaint and so notify the person who filed the complaint, as well as the person against whom the complaint was filed.

H. The committee may initiate, receive and consider complaints alleging a violation of AS 24.60 if the alleged violation has occurred within two years of the filing of the complaint and within one year of termination of state service. However, this rule does not prevent the committee from bringing, initiating, receiving or considering a complaint outside these time frames if the person against whom a complaint is filed has intentionally prevented the discovery of a violation of this chapter.

I. The committee may, by two-thirds vote of the members of the committee, initiate its own complaint against a person.

J. Only a complaint initiated by the committee may be filed within 60 days preceding a state primary or general election.

K. All proceedings pending before the committee on the 60th day preceding a state primary or general election are stayed until certification of that election unless the proceedings are based on a complaint initiated by the committee under (J) of this rule.

L. The committee shall notify in writing a person against whom a complaint was filed of a stay of the proceeding. If the person objects in writing to the stay, the proceedings shall continue. If the person does not object the proceedings are stayed.

RULE . INVESTIGATIONS.

A. After a complaint is filed with or by the committee, and the committee has adopted a resolution supported by a majority of the full membership of the committee defining the nature and scope of the inquiry into the complaint, the committee shall investigate the complaint.

B. If an investigation is undertaken, the person who is being investigated shall be served with notice of the investigation, the nature of the complaint, and the name of the person making the complaint, or that the investigation is based on a complaint filed on the committee's own motion, and shall be afforded reasonable opportunity to explain the conduct alleged to be a violation of AS 24.60.

C. The person against whom a complaint is filed is entitled to counsel of the person's own choosing.

D. At any stage of the investigation, the committee may compel by subpoena the attendance and testimony of witnesses, including the person against whom a complaint is filed, and the production of papers, books, accounts, and other documents relevant to the investigation.

RULE . OPINION RECOMMENDING CORRECTIVE ACTION.

A. If the committee determines that a probable violation exists that may be corrected by an action of the person against whom the complaint was filed and that other sanctions are not warranted, the committee shall issue an opinion to the person recommending corrective action. The person may comply with the recommended action or may request a hearing before the committee. After the hearing, the committee may amend or affirm the opinion.

RULE . FORMAL CHARGE AND HEARING.

A. If a person, against whom a complaint was filed and about whom an opinion recommending corrective action was issued, fails to comply with the opinion, or if a majority of the members of the committee determine that there is probable cause to believe that a violation of the ethics code has occurred which may not be corrected, the committee shall formally charge the person.

B. The committee may employ a special counsel to present the formal charges. The special counsel may conduct a further investigation.

C. The person charged is entitled to counsel of that person's own choosing.

D. The charge and statement of the alleged violation shall be personally served on the person charged. The alleged violator has 20 days from the date of service of the charge and statement to respond in writing to the committee.

E. After receipt of the response or after the end of the 20 day period, the committee may set a time and place for a hearing with at least 10 days notice to the complainant, if any, and to the person charged with a violation of this chapter.

F. The formal hearing shall be conducted before the committee. The chairperson of the committee or another committee member designated by the chairperson shall preside over the formal hearing.

G. (1) At the time and place set for the hearing the committee shall proceed with the hearing whether or not the person charged has filed an answer or personally appears at the hearing.

(2) The failure of the person charged to answer, to appear or to testify at the hearing shall not be taken as evidence of the truth of the facts alleged.

(3) The proceedings at the hearing shall be reported by electronic recording device in the same manner as proceedings are reported in a court of records.

H. The rules of evidence do not apply but the committee's findings must be based on competent and substantial evidence. All testimony must be under oath. The chairperson or presiding member shall administer the oath, rule on the admissibility of evidence, and otherwise direct the manner and order of proceedings in the same manner as a judge of a court of record. The presiding officer is authorized to issue subpoenas for attendance of witnesses called to testify or to produce books, papers, and other

evidentiary matter. Commission attorneys or special counsel retained for the purpose, shall present the case to the committee. The person who is charged shall be permitted to adduce evidence and produce and cross-examine witnesses.

RULE . DECISION OF THE COMMITTEE.

A. A decision of the committee shall be in writing and signed by the majority of the members of the committee. Each decision of the committee must be accompanied by a written order of the committee determining that a violation of AS 24.60 exists or does not exist. The order is confined to this determination. This order is a public record.

B. If the committee issues a decision finding that a member of the legislature has violated a provision of AS 24.60 or that a legislator has declined or failed to cooperate with the committee, it shall refer the decision to the appropriate presiding officer or officers of the legislature. The decision shall contain recommendations concerning any penalties the legislature may lawfully impose. The committee shall make the decision public 30 days after the referral.

C. If the majority of the members of the committee agree to a decision that a former member of the legislature or an employee or a former employee of the legislative branch of government has violated a provision of AS 24.60, the committee shall issue a public statement of its decision 30 days after the date of the decision.

RULE . DEFINITIONS.

A. In these rules, "committee" means the Select Committee on Legislative Ethics or the subcommittee of the house or senate, according to the position of the person against whom a complaint is filed.

SELECT COMMITTEE ON
LEGISLATIVE ETHICS

COMPLAINT

C- _____
(committee use only)

Date received stamp

INSTRUCTIONS

- A. Please type or print your statement.
- B. Please describe as precisely as you can what the person did or did not do which you believe was a violation of AS 24.60. Organize your statement with the date(s) or time in chronological order and identify the places(s) where this activity took place. Use additional pages if needed.
- C. If there is any background information that would help us understand your complaint, please include it.
- D. Attach any documents which may assist us in our investigation of your complaint.
- E. Sign the third page before a notary public or other officer empowered to administer oaths.
- F. If the complaint is made against a member or former member of the House, or a person employed by a member or committee of the House, return the original complaint and attachments to:

Select Committee on Legislative Ethics
House Subcommittee
P.O. Box V
Juneau, Alaska 99811

If the complaint is made against a member or former member of the Senate, or a person employed by a member or committee of the Senate, return the original complaint and attachments to:

Select Committee on Legislative Ethics
Senate Subcommittee
P.O. Box V
Juneau, Alaska 99811

If the complaint is made against an employee of an agency of the legislature, return the original complaint and attachments to:

Select Committee on Legislative Ethics
P.O. Box V
Juneau, Alaska 99811

- G. Any person who knowingly or intentionally initiates a false complaint with the Select Committee on Legislative Ethics commits the crime of false accusation, a class A misdemeanor.

I have reviewed this complaint and any attachments, and I swear under penalty of perjury that the information contained therein is true and complete to the best of my knowledge.

Signature Date

Subscribed and sworn to or affirmed before me at _____,
_____ on _____, 19____.

Notary Public for the State of Alaska
My commission expires _____

Signature of Officer

Title of Officer

SELECT COMMITTEE ON
LEGISLATIVE ETHICS

REQUEST FOR AN
ADVISORY OPINION

AO- _____
(committee use only)

Date received stamp

INSTRUCTIONS

- A. Please type or print your request for an advisory opinion.
- B. On request, the committee shall issue an advisory opinion as to whether a particular case constitutes a violation of ethical standards. Please describe as precisely as you can the facts and circumstances of the particular case upon which you would like an advisory opinion rendered.
- C. If there is any background information that would help the committee understand your request, please include it.
- D. Attach any documents which may assist the committee in answering your request for an advisory opinion.
- E. Sign the second page of this request for an advisory opinion.
- F. Please return the original request and any attachments to:

Select Committee on Legislative Ethics
P.O. Box V
Juneau, Alaska 99811

Be sure to keep a copy of the request and any attachments for your records.

- G. The committee must respond within 30 days to a request for an advisory opinion from a person to whom AS 24.60 applies. The opinion issued is binding on the committee in any subsequent proceedings concerning the facts and circumstances of the particular case unless material facts were omitted or misstated in the request.

1. This request for an advisory opinion is made by:

Name

Title

Address

Employer

Phone number (home) (work)

Salary range (employees only)

Date of employment or office

2. I request an advisory opinion as to whether the facts and circumstances set forth below constitute a violation of ethical standards under AS 24.60. (use additional pages if needed)

I have reviewed this request for an advisory opinion and any attachments and the information contained therein is true and complete to the best of my knowledge.

Signature

Date



Alaska State Legislature

SELECT COMMITTEE ON LEGISLATIVE ETHICS

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

Sectional Analysis of a Draft Bill making various amendments to Legislative Branch Ethics Code

*Section 1. A problem has arisen regarding the coverage of AS 24.60.050. In the past the committee has only listed and categorized state loans according to the provisions of (a) and (d) of sec. 50. However, the language of sec. 50 refers to both state loans and programs. Legislative Audit has felt uncomfortable with the past implied interpretation of the committee that only state loans are to be listed. They requested an opinion from legislative counsel, Dick Bradley, on this point. His opinion concludes that the statute does require the listing and categorization of both loans and programs. (See attached opinion.)

One possible solution, and that which I have taken, is to remove the state program language from AS 24.60.050, making it clear that only loans are to be dealt with. You, of course, have the option of going the other way on the issue and having the section redrafted to make the section clearly include both state programs and loans.

*Section 2. This is a drafting amendment for language clarity and is not substantive.

*Section 3. Legislative Audit has pointed out a problem with the language of sec. 50(d). Under present law, each state loan agency must deliver a listing of all outstanding loans to persons covered by the ethics code to the presiding officer of each house by February 1 of each year. The problem is that February 1 is one of the worst dates possible for the legislative branch. Because session employees are often not hired until mid-January and their personnel actions are often not processed until the first of March, it becomes impossible for Legislative Audit to give to the state loan agencies the names of legislative employees so that they may determine whether those employees have covered loans. The language in sec. 3 of the draft

bill provides the flexibility necessary to deal with this situation.

*Section 4. Legislative Audit is required to report to the ethics committee its findings of whether appropriate procedures were followed in granting loans to individuals covered by the ethics code. Because confidentiality is not mentioned in this context, it was felt that the findings of the audit division should be specifically made confidential.

*Section 5. This amendment to AS 24.60.050(f) provides a definition of "state loan". If the committee decides that it would like to cover state programs (see discussion under sec. 1), then the definition of "state programs" which presently exists should remain in the section and a revised definition of "state loans" should be included.

*Section 6. The present law does not provide for the filling of a vacancy on the committee during the interim. A situation might arise where several vacancies occur on the committee making the conduct of business difficult if not impossible. It only makes sense that there be a mechanism in place for interim appointments to the committee. The same basic procedure which is provided in AS 24.60.130(f) for the temporary appointment of members has been adapted to the permanent vacancy situation.

*Section 7. This section adds a new provision regarding quorum requirements under the expanded committee membership, i.e., the addition of two more public members. It avoids the possibility of three public members and one legislator taking action in a subcommittee meeting or three public members and two legislators taking action in a full committee meeting.

*Section 8. Under existing law, all proceedings under a formal complaint are stayed on the 60th day preceding a state primary or general election unless the proceedings are based on a complaint initiated by a 2/3 vote of the members of the committee. In discussions at a previous committee meeting, it was felt that there should be a way for the committee to lift the stay without filing its own complaint. This section provides for a lifting of the stay by a 2/3 vote of the committee.

*Section 9. This is a new provision which would allow the committee to discuss an advisory opinion in public session if, from the discussion, the identity of the individual or individuals involved could not be determined. This was the subject of discussion at an earlier committee meeting.



Alaska State Legislature

SELECT COMMITTEE ON LEGISLATIVE ETHICS

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

To: All legislators and permanent or temporary employees of the legislative branch of government who are at Step A, Range 18 or above

From: Representative M. M. Miller, Chairman
Select Committee on Legislative Ethics *Michael Miller*

Date: December 17, 1986

Re: Disclosure Statements

As 24.60 is the chapter of the Alaska Statutes which deals with legislative branch ethics and which created the Select Committee on Legislative Ethics. It sets out certain disclosure requirements which must be complied with by all persons covered by the law. If you are a legislator or a permanent or temporary employee of the legislative branch of government and are compensated at or above a Step A, range 18 of the state salary schedule, please read this memorandum and the attachments carefully to determine whether there are disclosures you must make.

A. The Select Committee on Legislative Ethics has classified state loans pursuant to AS 24.60.050. Paragraph (a) loans are loans which are generally available to the public, which are subject to fixed eligibility standards, and which allow minimal discretion to be exercised in determining qualifications. Paragraph (d) loans are all loans not meeting these standards. A person who applies for a paragraph (d) loan must notify the Alaska Public Offices Commission. Persons who have paragraph (d) loans must also have this fact reported in a supplemental journal. The committee has the authority to determine if a particular paragraph (d) loan has resulted in a conflict of interest. Enclosed you will find a list of loans as classified by the committee (Appendix A).

B. Pursuant to AS 24.60.070, all persons to whom AS 24.60 applies must disclose in the journal of the appropriate body the formation or maintenance of a close economic association involving a substantial financial matter with:

- 1) a supervisor who is not a member of the legislature who has responsibility or authority, either directly or indirectly, over the person's employment, including preparing or reviewing performance evaluations, or granting or approving pay raises or promotions;
- 2) legislators;
- 3) a public official who is required to file a financial disclosure statement under AS 39.50 and is not an appointed municipal officer. A public official includes 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 within, a department in the executive branch, an assistant to the governor, chairman or member of a state commission or board (see Appendix B) and each elected municipal officer;
- 4) a registered lobbyist;
- 5) a person who is covered by AS 24.60 as an employee of the legislative branch of government if the close economic association is with a legislator.

A letter containing the disclosure should be provided to the Clerk of the House or the Secretary of the Senate. Disclosures made to the committee during the interim will be published in the fifth day's journal. Any disclosures not made during the interim should be made available to the clerk or secretary immediately, so that they may be published as soon as possible.

C. Pursuant to AS 24.60.100, a person to whom AS 24.60 applies who represents another person for compensation before an agency, board, or commission of the state shall disclose the name of the person represented, the subject matter of the representation, and the body before which the representation is to take place in the journal of the appropriate body. A letter containing the disclosure should be provided to the clerk or the secretary for publication in the fifth day's journal. Any disclosures not made during the interim should be made available to the clerk or secretary immediately, so that they can be published as soon as possible.

D. Pursuant to AS 24.60.110, a legislator, (not a legislative employee) who knowingly has a conflict of interest or has been notified of a conflict of interest shall immediately:

- 1) resign the conflicting position;
- 2) divest the interest that has resulted in the conflict or potential conflict; or
- 3) disclose the conflict of interest in the journal of the appropriate body. However, disclosure alone does not remove the conflict.

A letter containing the disclosure should be provided to the clerk or secretary for publication in the fifth day's journal. Any disclosures not made during the interim should be made available to the clerk or secretary immediately, so that they can be published as soon as possible.

Enclosed you will also find a copy of AS 24.60 and forms on which a complaint or request for an advisory opinion should be made.

Please feel free to contact the committee if you have any questions or comments on these matters.

APPENDIX A

Classification of state loan programs under AS 24.60.050(a) and (d).

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

Division of Investments:

Alternative Energy Revolving Loan Fund	A
Bulk Fuel Revolving Loan Fund	
Child Care Facility Revolving Loan Fund	D
Commercial Fishing Revolving Loan Fund	D
Fisheries Enhancement Revolving Loan Fund	D
Historical District Revolving Loan Fund	A
Mining Loan Fund	D
Residential Energy Conservation Fund	A
Small Business Revolving Loan Fund	D
Tourism Revolving Loan Fund	D
Veterans' Revolving Loan Fund	A

Instrumentalities:

Alaska Industrial Development Authority	A
Alaska Power Authority:	
Power Project Loan Fund	D
Rural Electrification Revolving Loan Fund	D

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

Division of Housing Assistance:

Housing Assistance Loan Fund	A
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DEPARTMENT OF EDUCATION

Instrumentalities:

Alaska Commission on Postsecondary Education:

Memorial Scholarship Revolving Loan Fund	D
Scholarship Revolving Loan Fund	A
Teacher Scholarship Revolving Loan Fund	D

DEPARTMENT OF NATURAL RESOURCES

Division of Agriculture:

Agricultural Revolving Loan Fund D
Alaska Grain Reserve Loan Fund D

DEPARTMENT OF REVENUE

Division of Treasury:

Alaska Resources Corporation D

Instrumentalities:

Alaska Housing Finance Corporation:

Home Ownership Assistance Program A
Mobile Home Loan Purchase Program A
Mortgage Bond Subsidy Tax Act Loan Program A
Mortgage Loan Assumption Program A
(This is a new loan program)
Mortgage Refinance Program A
(This is a new loan program)
Mortgage Rental Program A
(This is a new loan program)
Nonconforming Housing Loan Program A
Pledged Account Mortgage A
Second Mortgage Loan Program A
Taxable Mortgage Program Conventional Loan A
Tri-plex and Four-plex Mortgage Loan Program A
Veterans' Mortgage Program A
Alaska Medical Facility Authority D
Alaska Municipal Bond Bank Authority D
Alaska Permanent Fund Corporation A

COOPERATIVES

Commercial Fishing and Agricultural Bank D

APPENDIX A

Classification of state loan programs under AS 24.60.050(a) and (d).

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

Division of Investments:

Alternative Energy Revolving Loan Fund	A
Bulk Fuel Revolving Loan Fund	
Child Care Facility Revolving Loan Fund	D
Commercial Fishing Revolving Loan Fund	D
Fisheries Enhancement Revolving Loan Fund	D
Historical District Revolving Loan Fund	A
Mining Loan Fund	D
Residential Energy Conservation Fund	A
Small Business Revolving Loan Fund	D
Tourism Revolving Loan Fund	D
Veterans' Revolving Loan Fund	A

Instrumentalities:

Alaska Industrial Development Authority	A
Alaska Power Authority:	
Power Project Loan Fund	D
Rural Electrification Revolving Loan Fund	D

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

Division of Housing Assistance:

Housing Assistance Loan Fund	A
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DEPARTMENT OF EDUCATION

Instrumentalities:

Alaska Commission on Postsecondary Education:

Memorial Scholarship Revolving Loan Fund	D
Scholarship Revolving Loan Fund	A
Teacher Scholarship Revolving Loan Fund	D

DEPARTMENT OF NATURAL RESOURCES

Division of Agriculture:

Agricultural Revolving Loan Fund D
Alaska Grain Reserve Loan Fund D

DEPARTMENT OF REVENUE

Division of Treasury:

Alaska Resources Corporation D

Instrumentalities:

Alaska Housing Finance Corporation:

Home Ownership Assistance Program A
Mobile Home Loan Purchase Program A
Mortgage Bond Subsidy Tax Act Loan Program A
Mortgage Loan Assumption Program A
(This is a new loan program)
Mortgage Refinance Program A
(This is a new loan program)
Mortgage Rental Program A
(This is a new loan program)
Nonconforming Housing Loan Program A
Pledged Account Mortgage A
Second Mortgage Loan Program ..
Taxable Mortgage Program Conventional Loan A
Tri-plex and Four-plex Mortgage Loan Program A
Veterans' Mortgage Program A
Alaska Medical Facility Authority D
Alaska Municipal Bond Bank Authority D
Alaska Permanent Fund Corporation A

COOPERATIVES

Commercial Fishing and Agricultural Bank D

APPENDIX B

- (b) In this chapter "state commission or board" means the
- (1) Agricultural Revolving Loan Fund Board (created administratively to assist in administration of AS 03.10);
 - (2) Alaska State Council on the Arts (AS 44.27.040);
 - (3) Alcoholic Beverage Control Board (AS 04.06.010);
 - (4) State Assessment Review Board (AS 43.56.040);
 - (5) *[Repealed, § 1 ch 54 SLA 1981.]*
 - (6) Board of Education (AS 14.07.075);
 - (7) Alaska Public Broadcasting Commission (AS 44.21.256);
 - (8) Alaska Public Offices Commission (AS 15.13.020);
 - (9) Employment Security Advisory Council (AS 23.20.025);
 - (10) Alaska Commercial Fisheries Entry Commission (AS 16.43.020);
 - (11) Fishermen's Fund Advisory and Appeals Council (AS 23.35.010);
 - (12) Alaska State Building Authority (AS 18.55.020);
 - (13) State Commission for Human Rights (AS 18.80.010);
 - (14) *[Repealed, § 86 ch 59 SLA 1982.]*
 - (15) Alaska Judicial Council (art. IV, § 8, Alaska Constitution);
 - (16) Commission on Judicial Conduct (art. IV, § 10, Alaska Constitution);
 - (17) Governor's Commission on the Administration of Justice (AS 44.19.110);
 - (18) Local Boundary Commission (AS 44.47.565);
 - (19) Occupational Safety and Health Review Board (AS 18.60.057);
 - (20) Board of Parole (AS 33.16.020);
 - (21) State Personnel Board (AS 39.25.060);
 - (22) *[Repealed, § 20 ch 110 SLA 1981.]*
 - (23) Public Employees Retirement Board (AS 39.35.030);
 - (24) Alaska Public Utilities Commission (AS 42.05.010);
 - (25) University of Alaska Board of Regents (AS 14.40.120);
 - (26) Alaska Royalty Oil and Gas Development Advisory Board (AS 38.06.020);
 - (27) *[Repealed, § 86 ch 59 SLA 1982.]*
 - (28) *[Repealed, § 86 ch 59 SLA 1982.]*
 - (29) Alaska Teachers' Retirement Board (AS 14.25.035);
 - (30) *[Repealed, 1983 Initiative Proposal No. 2, § 6.]*
 - (31) Workers' Compensation Board (AS 23.30.005);
 - (32) Alaska Commission on Postsecondary Education (AS 14.42.015);
 - (33) Alaska Municipal Bond Bank Authority (AS 44.85.020);
 - (34) *[Repealed, § 1 ch 54 SLA 1981.]*
 - (35) Alaska Medical Facility Authority (AS 18.26.010 — 18.26.900);
 - (36) Alaska Oil and Gas Conservation Commission (AS 31.05.005 — 31.05.170);
 - (37) Alaska Housing Finance Corporation (AS 18.56.010 — 18.56.210);
 - (38) Alaska Coastal Policy Council members and their alternates (AS 44.19.155);
 - (39) *[Repealed, § 1 ch 75 SLA 1979.]*
 - (40) Board of Fisheries (AS 16.05.221(a));
 - (41) Board of Game (AS 16.05.221(b));
 - (42) Board of Trustees and executive director of the Alaska Permanent Fund Corporation (AS 37.13.040);
 - (43) Alaska Energy Center (AS 46.12);
 - (44) Alaska Seafood Marketing Institute (AS 16.51.010);
 - (45) Council on Domestic Violence and Sexual Assault (18.66.010);
 - (46) Alaska Power Authority public directors (AS 44.83.030);
 - (47) Alaska Resources Corporation (AS 37.12.010); and
 - (48) the Guide Board.

APPENDIX B

- (b) In this chapter "state commission or board" means the
- (1) Agricultural Revolving Loan Fund Board (created administratively to assist in administration of AS 03.10);
 - (2) Alaska State Council on the Arts (AS 44.27.040);
 - (3) Alcoholic Beverage Control Board (AS 04.06.010);
 - (4) State Assessment Review Board (AS 43.56.040);
 - (5) *[Repealed, § 1 ch 54 SLA 1981.]*
 - (6) Board of Education (AS 14.07.075);
 - (7) Alaska Public Broadcasting Commission (AS 44.21.256);
 - (8) Alaska Public Offices Commission (AS 15.13.020);
 - (9) Employment Security Advisory Council (AS 23.20.025);
 - (10) Alaska Commercial Fisheries Entry Commission (AS 16.43.020);
 - (11) Fishermen's Fund Advisory and Appeals Council (AS 23.35.010);
 - (12) Alaska State Building Authority (AS 18.55.020);
 - (13) State Commission for Human Rights (AS 18.80.010);
 - (14) *[Repealed, § 86 ch 59 SLA 1982.]*
 - (15) Alaska Judicial Council (art. IV, § 8, Alaska Constitution);
 - (16) Commission on Judicial Conduct (art. IV, § 10, Alaska Constitution);
 - (17) Governor's Commission on the Administration of Justice (AS 44.19.110);
 - (18) Local Boundary Commission (AS 44.47.565);
 - (19) Occupational Safety and Health Review Board (AS 18.60.057);
 - (20) Board of Parole (AS 33.16.020);
 - (21) State Personnel Board (AS 39.25.060);
 - (22) *[Repealed, § 20 ch 110 SLA 1981.]*
 - (23) Public Employees Retirement Board (AS 39.35.030);
 - (24) Alaska Public Utilities Commission (AS 42.05.010);
 - (25) University of Alaska Board of Regents (AS 14.40.120);
 - (26) Alaska Royalty Oil and Gas Development Advisory Board (AS 38.06.020);
 - (27) *[Repealed, § 86 ch 59 SLA 1982.]*
 - (28) *[Repealed, § 86 ch 59 SLA 1982.]*
 - (29) Alaska Teachers' Retirement Board (AS 14.25.035);
 - (30) *[Repealed, 1983 Initiative Proposal No. 2, § 6.]*
 - (31) Workers' Compensation Board (AS 23.30.005);
 - (32) Alaska Commission on Postsecondary Education (AS 14.42.015);
 - (33) Alaska Municipal Bond Bank Authority (AS 44.85.020);
 - (34) *[Repealed, § 1 ch 54 SLA 1981.]*
 - (35) Alaska Medical Facility Authority (AS 18.26.010 — 18.26.900);
 - (36) Alaska Oil and Gas Conservation Commission (AS 31.05.005 — 31.05.170);
 - (37) Alaska Housing Finance Corporation (AS 18.56.010 — 18.56.210);
 - (38) Alaska Coastal Policy Council members and their alternates (AS 44.19.155);
 - (39) *[Repealed, § 1 ch 75 SLA 1979.]*
 - (40) Board of Fisheries (AS 16.05.221(a));
 - (41) Board of Game (AS 16.05.221(b));
 - (42) Board of Trustees and executive director of the Alaska Permanent Fund Corporation (AS 37.13.040);
 - (43) Alaska Energy Center (AS 46.12);
 - (44) Alaska Seafood Marketing Institute (AS 16.51.010);
 - (45) Council on Domestic Violence and Sexual Assault (18.66.010);
 - (46) Alaska Power Authority public directors (AS 44.83.030);
 - (47) Alaska Resources Corporation (AS 37.12.010); and
 - (48) the Guide Board.

1 IN THE HOUSE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to standards of conduct for member
7 of the legislature and employees of the legislature
8 and providing for an effective date."

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

10 * Section 1. AS 24.60.050(a) is amended to read:

11 (a) It is not a conflict of interest for a person to whom this
12 chapter applies to apply for [PARTICIPATE IN A STATE PROGRAM] or to
13 receive a loan from the state if the [PROGRAM OR] loan program is
14 generally available to members of the public, is subject to fixed
15 eligibility standards, and minimal discretion is exercised in deter-
16 mining qualification. The committee shall issue annually a list of
17 those state loan programs [AND LOANS FROM THE STATE] that it considers
18 to meet the standards of this subsection [PARAGRAPH WITHIN 30 DAYS
19 AFTER JULY 19, 1984. IT SHALL ANNUALLY ISSUE A REVISED LIST].

20 * Sec. 2. AS 24.60.050(c) is amended to read:

21 (c) Upon application for a state loan by a person to whom this
22 chapter applies, other than a loan [LOANS] described in (a) of this
23 section, the applicant [PERSON] shall send a notice of the application
24 to the Alaska Public Offices Commission, which will incorporate the
25 material into the applicant's financial disclosure statement, if the
26 applicant is required to file a disclosure statement or if the appli-
27 cant is not required to file a disclosure statement will place the
28 notice in a legislative employee loan file that is open to the public.
29 All records relating to a state loan to a person to whom this chapter

1 applies may be disclosed to the committee.

2 * Sec. 3. AS 24.60.050(d) is amended to read:

3 (d) Each [FEBRUARY 1, EACH] state loan agency shall [MUST]
4 deliver a listing of each outstanding loan on February 1 of that year
5 to a person [ALL OUTSTANDING LOANS TO PERSONS] to whom this chapter
6 applies, except for state loans described in (a) of this section, to
7 the division of legislative audit as soon after February 1 as is
8 practicable [PRESIDING OFFICER OF EACH HOUSE]. The list must include
9 the name of the person, the date of issuance and current status of the
10 loan. As soon as is practicable, the division of legislative audit
11 shall provide the list to the presiding officer of each house for
12 publication [THE LIST SHALL BE PUBLISHED] in the supplemental journal
13 [BEFORE FEBRUARY 5 OF EACH YEAR].

14 * Sec. 4. AS 24.60.050(e) is amended to read:

15 (e) The division of legislative audit shall annually review
16 state loans granted to or held by persons to whom this chapter applies
17 to determine whether appropriate procedures were observed in granting
18 or reviewing the loans and whether loan conditions imposed by the
19 lending agency are being enforced. The division shall report its
20 findings to the committee by April 1 of each year. The findings
21 reported to the committee under this subsection are confidential.

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

23 (f) In this section "state loan" ["STATE PROGRAM"]

24 (A) means participation in a loan under [A PROGRAM IN]
25 which financial [TANGIBLE] assets of the state or a right to use
26 financial [TANGIBLE] assets of the state are transferred from the
27 state to a private person;

28 (B) does not include a situation where

29 (i) the state transfers physical assets of the

1 state or the right to use or acquire physical assets of the
2 state to a private person;

3 (ii) financial assets of the state or the right to
4 use financial assets of the state are only incidentally
5 transferred from the state to a private person; or

6 (iii) the private person incidentally or acci-
7 dentally has become a debtor of the state.

8 * Sec. 6. AS 24.60.130(e) is amended to read:

9 (e) Except as provided in this subsection, a [A] vacancy on the
10 committee shall be filled under (b) of this section. An individual
11 who is appointed to fill a vacancy that occurs during the last 10 days
12 of the first regular session of a legislature or during the interim
13 between regular sessions of that legislature serves without concur-
14 rence or ratification through the 10th day of the second regular
15 session of the legislature. An individual who is appointed to fill a
16 vacancy that occurs during the last 10 days of the second regular
17 session of a legislature or during the interim after the second regu-
18 lar session serves without concurrence or ratification through the
19 convening of the first regular session of the next legislature.

20 * Sec. 7. AS 24.60.130 is amended by adding a new subsection to read:

21 (i) A quorum on a committee established under this section
22 consists of a majority of the members of the committee. A quorum on a
23 subcommittee established under this section consists of a majority of
24 the members of the subcommittee. Notwithstanding the provisions of
25 this subsection, a committee does not have a quorum unless three
26 legislative members are present and a subcommittee does not have a
27 quorum unless two legislative members are present.

28 * Sec. 8. AS 24.60.170(d) is amended to read:

29 (d) A proceeding is commenced by the filing of a complaint with

1 the committee. A complaint may be initiated by any person. A com-
2 plaint shall be in writing and signed under oath by the person making
3 the complaint. A [NO] complaint, other than a complaint initiated by
4 at least two-thirds of the members of the committee, may not be filed
5 within a period of 60 days preceding a state primary or general elec-
6 tion. Each proceeding [ALL PROCEEDINGS] pending before the committee
7 on the 60th day preceding a state primary or general election is [ARE]
8 stayed until certification of the election unless the proceeding is
9 [PROCEEDINGS ARE] based on a complaint initiated by at least two-
10 thirds of the members of the committee or, on a complaint initiated by
11 a person who is not a member of the committee, if two-thirds of the
12 members of the committee direct the continuation of the proceeding.

13 The committee shall notify in writing a person against whom a com-
14 plaint has been filed of a stay of the proceeding. If the person
15 objects in writing to the stay the proceedings shall continue.

16 * Sec. 9. AS 24.60.160 is amended by adding a new subsection to read:

17 (b) Notwithstanding (a) of this section, the committee may
18 discuss in a public session a request for an advisory opinion that is
19 pending before the committee if the name and identity of the indi-
20 vidual involved in the matter are not disclosed.

21 * Sec. 10. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).