

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6136 HOUSE STATE AFFAIRS

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1 regardless of the presence of the host, the purpose is to provide the
2 legislator or legislative employee with a paid or subsidized vacation
3 or similar benefit; while the host may use a personal or company car
4 or van to transport the legislator or legislative employee to the
5 place of a social event, unusual or expensive travel as by air or
6 limousine to the residence of the host or another place may not be
7 accepted.

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

11 (e) A person required to make a disclosure under this section
12 may not knowingly make a false, deliberately misleading or incomplete,
13 or unreasonably delayed disclosure to the commission.

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

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

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

27 (1) will make it unreasonably difficult to fulfill legisla-
28 tive obligations;

29 (2) is likely to involve the disclosure or use of nonpublic

1 or confidential information acquired in the course of legislative
2 service;

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

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

10 (5) would require the legislator or legislative employee,
11 under conflict of interest and disqualification requirements, to re-
12 frain from taking legislative, administrative, or political actions in
13 an undue number of situations; or

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

16 (c) A legislator or legislative employee may not receive compen-
17 sation for personal services from a state entity other than the legis-
18 lature except as specifically provided in this chapter or approved by
19 the commission. A legislator or legislative employee is not precluded
20 by this subsection from earning compensation at a state-funded school
21 or university, provided that no undue influence was used to obtain the
22 position.

23 (d) A legislator or legislative assistant who accepts otherwise
24 permissible employment with a person that has a substantial interest
25 in their legislative, administrative, or political actions is subject
26 to special disclosure provisions under AS 24.61.405 and shall scrupu-
27 lously avoid conduct that would lead a reasonable person to believe
28 that the legislator or legislative employee is unable or unwilling to
29 exercise independent, objective, and impartial judgment in considering

1 matters that affect the interests of the legislator's or legislative
2 employee's employer.

3 (e) A legislator or legislative employee may not seek or accept
4 honoraria in the form of a payment of money or anything of value from
5 a person or entity that has a substantial interest in legislative,
6 administrative, or political action as compensation for a speech,
7 panel presentation, appearance, or similar service. This paragraph
8 does not prevent a legislator or legislative employee from accepting
9 an honoraria from a governmental entity outside of the state, from a
10 university, or from another bona fide nonprofit educational or civic
11 institution, provided that the amount paid is reasonable and commensu-
12 rate with the services performed and that the circumstances under
13 which the services are to be performed do not create a conflict of
14 interest or appearance of impropriety. Honoraria and related expenses
15 shall be reported on required disclosure forms. Under other pro-
16 visions of this chapter, a legislator or legislative employee is
17 permitted to accept travel and related expenses incurred as the result
18 of an otherwise permissible activity.

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

22 (g) A person required to make a disclosure under this section
23 may not knowingly make a false, deliberately misleading or incomplete,
24 or unreasonably delayed disclosure to the commission.

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

27 Sec. 24.61.370. OBLIGATION TO MAKE ALL DECISIONS ON THE MERITS:
28 FAVORITISM AND PATRONAGE. (a) Legislators and legislative employees
29 shall exercise their powers and prerogatives without prejudice or

1 favoritism. A legislator or legislative employee may not use public
2 authority simply to reward relatives, friends, or political supporters
3 or to hinder or punish enemies and opponents.

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

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

22 (b) A legislator, either directly or indirectly, may not inter-
23 fere with the ability or willingness of a state or municipal govern-
24 ment body, official, or employee to make official decisions or take
25 appropriate actions on the merits, based on independent objective
26 judgment.

27 (c) A legislator, either directly or indirectly, may not use or
28 appear to use political influence in a way that is likely to cause
29 another public servant to consider inappropriate factors in exercising

1 public authority. Acts either intended to or likely to be construed
2 as enticement, trade-offs, ingratiation, threats, intimidation, or
3 coercion are improper. Except to assure that a particular person is
4 being treated fairly according to established rules and procedures, a
5 legislator, directly or indirectly, may not interfere with or seek to
6 influence

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

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

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

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

16 (1) making inquiries about the status of a matter or help-
17 ing a constituent get a benefit or service the constituent is clearly
18 entitled to as a matter of right;

19 (2) openly advocating the position of constituents on the
20 merits, provided that no effort is made to unduly influence the deci-
21 sion making process by express or implied political pressure in mat-
22 ters involving discretionary decisions of administrative bodies that
23 will have direct and significant economic or social effect on the
24 legislator's district; or

25 (3) exercising vigilant oversight with respect to the
26 policies, regulations, procedures, and implementation practices of an
27 agency, provided that the oversight activities are conducted through
28 the normal committee processes of the legislature and that the focus
29 is on the policies, procedures, and practices of the agency and not

1 the handling of a particular matter.

2 (e) A legislator who, directly or indirectly, intervenes in an
3 administrative consideration, action, or proceeding, shall explicitly
4 convey to the administrators involved that the administrator is ex-
5 pected to make an independent judgment and that no advantages or
6 disadvantages to the administrator or the agency will result from a
7 favorable or unfavorable disposition.

8 (f) A person who violates this section is subject to the civil
9 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
10 misdemeanor.

11 Sec. 24.61.390. CONFLICT OF INTEREST DISCLOSURE: STATEMENT OF
12 PURPOSE. The purpose of financial disclosure by legislators and
13 legislative assistants is to

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

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

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

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

26 (5) provide the public the financial disclosure required to
27 meet the purposes listed in (1) - (4) of this section while preserving
28 the maximum amount of privacy to legislators and legislative assis-
29 tants.

1 Sec. 24.61.400. CONFLICT OF INTEREST DISCLOSURE BY LEGISLATORS
2 AND LEGISLATIVE ASSISTANTS; "CATEGORY A" AND "CATEGORY B" INCOME
3 DEFINED. (a) A legislator and a legislative assistant shall disclose
4 financial, professional, and personal interests that are likely to
5 create in the mind of a reasonable objective person the belief that
6 the legislator's or legislative assistant's objectivity and ability to
7 exercise independent judgment in the public interest have been ad-
8 versely affected by those interests.

9 (b) A legislator and a legislative assistant shall file with the
10 commission the reports required under AS 24.61.400 - 24.61.410. The
11 commission shall adopt filing guidelines and develop forms that are
12 compatible with financial disclosure forms required to be filed with
13 the Alaska Public Offices Commission under AS 39.50.030.

14 (c) A legislator and a legislative assistant shall disclose to
15 the commission, on a form and at the times prescribed by the commis-
16 sion, detailed information on the sources and amounts of outside
17 income received by them, their spouses, and their dependent children.
18 The information shall be divided into two categories, category A
19 income and category B income.

20 (d) In AS 24.61.400 - 24.61.420,

21 (1) "category A income" refers to all benefits received, in
22 the form of monetary compensation or another thing of value, from
23 persons who are known or reasonably should be known to have a substan-
24 tial interest in legislative, administrative, or political actions;

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

28 Sec. 24.61.405. REPORTING CATEGORY A INCOME. (a) As to all
29 benefits received from category A sources, a person required under

1 AS 24.61.400 to report shall file with the commission a sworn state-
2 ment that must include,

3 (1) as to all income received as compensation for services,
4 regardless of the amount, the name and address of the source, a brief
5 statement describing the nature of the services performed including
6 sufficient detail to permit the commission to determine whether the
7 nature of the work created a conflict of interest (for example:
8 "consultant re: expansion of operations;" "engineer, quality con-
9 trol."), and the amount paid;

10 (2) as to each gratuity received and required to be re-
11 ported under AS 24.61.350(b)(1) and (7) - (9), the name and address of
12 the person providing the gratuity, a brief description of its nature,
13 and a good faith statement of its fair market value; if exact values
14 are not known, and cannot be found out without undue hardship or
15 expense, reasonable good faith estimates are acceptable; a loan that
16 was forgiven during the reporting period must be reported as a gratu-
17 ity;

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

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

29 (5) if the source of a reported benefit is a corporation,

1 the name of its parent corporation, if any, and names of its top
2 corporate officers; and

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

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

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

11 Sec. 24.61.410. REPORTING CATEGORY B INCOME. (a) A person
12 required under AS 24.61.400 to report shall file a statement of cate-
13 gory B income conforming to the same requirements as category A state-
14 ments, except that in the case of compensation, expense reimburse-
15 ments, loans and loan guarantees, only those income sources providing
16 benefits worth \$1,000 or more need be listed. As to gratuities, the
17 requirements of AS 24.61.350(b)(1) and (7) - (9) control.

18 (b) The commission shall review category B statements to deter-
19 mine whether an impermissible conflict exists, whether special orders
20 or restrictions are required, and whether the statements shall be
21 considered to be public records and made available for public in-
22 spection.

23 (c) If the person filing a statement under this section is a
24 legislator, the statement is presumptively public, which means that it
25 will be made part of the public record unless the legislator submit-
26 ting it requests that it be kept confidential, states the reasons for
27 the request, and the commission finds that no valid public purpose
28 would be advanced by publication.

29 (d) If the person filing a statement under this section is a

1 legislative assistant, the statement is presumptively confidential,
2 which means that it shall be kept confidential unless the commission
3 determines that the public benefit in disclosure substantially out-
4 weighs the individual's interest in privacy.

5 Sec. 24.61.415. REPORTING OBLIGATIONS OF EMPLOYERS AND OTHERS
6 PAYING COMPENSATION TO LEGISLATORS OR LEGISLATIVE ASSISTANTS. (a)
7 Persons who have provided compensation to a legislator or legislative
8 assistant and who qualify as category A sources because they have a
9 substantial interest in legislative, administrative, or political
10 actions, shall file, on a form and at the times prescribed by the
11 commission, a statement regarding the compensation. The statement
12 shall be made under penalty of unsworn falsification. A statement
13 required under this subsection must

14 (1) declare whether the employer, or a parent company,
15 officer, or individual stockholder with at least a 20 percent equity
16 in the company, has had, during the reporting period, a substantial
17 interest in legislative, administrative, or political actions;

18 (2) include a brief narrative of the nature of the rela-
19 tionship with the legislator or legislative assistant, the terms of
20 compensation, and the amount paid during the reporting period.

21 (b) Persons who do not qualify as category A sources because
22 they do not have a substantial interest in legislative, administra-
23 tive, or political actions shall file a statement only if the total
24 compensation paid a legislator or legislative assistant was \$1,000 or
25 more during the reporting period. The statement shall be filed under
26 penalty of unsworn falsification and must include a brief narrative of
27 the nature of the relationship with the legislator or legislative
28 assistant the terms of compensation, and the amount paid during the
29 reporting period.

1 (c) Legislators and legislative assistants shall ensure that
2 persons who have provided compensation to them have the necessary
3 forms and are informed of the obligation to file a statement under
4 this section.

5 (d) Statements required under this section shall be filed with
6 the commission at a time set by the commission, which time may not be
7 less than 30 days before legislators and legislative assistants are
8 required to file the financial disclosure forms required under AS 24.-
9 61.400 - 24.61.410. The person or entity shall contemporaneously
10 provide a copy of the statement to the legislator or legislative
11 assistant.

12 Sec. 24.61.420. PROHIBITED CONDUCT RELATING TO DISCLOSURES. (a)
13 A person required to make a disclosure under AS 24.61.395 - 24.61.420
14 may not knowingly make a false, deliberately misleading or incomplete,
15 or unreasonably delayed disclosure to the commission.

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

18 Sec. 24.61.30. ACCOUNTABILITY: OPENNESS AND OVERSIGHT. (a)
19 Legislators and legislative employees shall abide by the letter and
20 spirit of AS 44.62.310 - 44.62.312 (open meetings law) and, to the
21 greatest extent reasonably possible, exercise the authority of their
22 offices openly so that the public is informed about governmental
23 decisions and can hold them accountable for their actions.

24 (b) Legislators and legislative employees shall ensure that
25 those to whom they have delegated public power, including their staffs
26 and administrative agencies, carry out their responsibilities effi-
27 ciently, equitably, and ethically.

28 (c) Legislators and legislative employees who believe that a
29 law, policy, or rule of a house is not achieving its intended purpose,

1 is creating unintended harms, or is wasteful or inefficient, should
2 take affirmative steps to improve procedures in a way that will in-
3 crease the fairness and quality of government services and assure that
4 policies are implemented equitably, efficiently, and economically.

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

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

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

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

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

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

28 (d) In addition to the special civil liability under (c)(2) of
29 this section, a person who violates this section is subject to the

1 civil sanctions authorized under AS 24.61.560(a).

2 Sec. 24.61.450. DUTY TOWARD COLLEAGUES AND SUBORDINATES. (a) A
3 legislator or legislative employee may not knowingly engage in conduct
4 that violates the right of others to be treated fairly, with dignity
5 and respect, nor may they engage in improper acts of discrimination,
6 sexual harassment, or abuse of a person in the course of legislative
7 activities.

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

12 ~~X~~ Sec. 24.61.460. DUTY TO ADVANCE PRINCIPLES OF REPRESENTATIVE
13 DEMOCRACY. (a) A legislator or legislative employee may not knowing-
14 ly use improper artifices or schemes to circumvent the clear purpose
15 this chapter or another law, use procedural powers or processes in a
16 way that prevents appropriate consideration of a matter, or exercise
17 leadership authority and power arbitrarily, arrogantly, or in another
18 way that violates the spirit of representative democracy.

19 (b) A person who violates this section is subject to the admin-
20 istrative sanctions authorized under AS 24.61.560(b).

21 ARTICLE 3. LEGISLATIVE ETHICS COMMISSION.

22 Sec. 24.61.500. LEGISLATIVE ETHICS COMMISSION ESTABLISHED. (a)
23 The Legislative Ethics Commission is established in the legislative
24 branch of government. The commission consists of nine members, se-
25 lected as follows:

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

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

1 (3) two members appointed by the supreme court;
2 (4) one member appointed by the governor;
3 (5) one member appointed by the lieutenant governor;
4 (6) one member appointed by the Alaska Public Offices
5 Commission; and

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

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

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

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

20 (e) A commissioner may not be a legislator, a legislative em-
21 ployee, an elected or appointed official of another governmental
22 entity, an officer of a political party, a candidate for public of-
23 fice, or a registered lobbyist.

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

28 I will solemnly perform the duties of this office in a
29 manner that is consistent with both the letter and

1 spirit of the Alaska Legislative Ethics Act and I shall
2 conform my own conduct to the provisions therein. I
3 acknowledge the obligation and need to interpret and
4 apply all its provisions, and the ethical principles
5 that underlie them, vigorously, promptly, fairly, and
6 in good faith. All my actions, decisions, and votes on
7 matters relating to my duties will be made purely on
8 the merits, objectively, independently, and without
9 political, regional, or ideological partisanship.

10 Upon executing the oath, an appointee shall be certified as a commi:-
11 sioner and is immediately considered to have begun serving the ap-
12 pointed term.

13 (b) Within 45 days after certification, a commissioner may be
14 decertified by a majority vote of both houses of the legislature, if
15 the legislature is in session, or by a two-thirds vote of the members
16 of the legislative council if the legislature is not in session. If
17 decertified, the commissioner is disqualified and that seat on the
18 commission is vacant.

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

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

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

1 (c) The commission may meet by teleconference.

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

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

11 Sec. 24.61.506. EXECUTIVE DIRECTOR AND STAFF. (a) The commis-
12 sion shall hire an executive director and determine the director's
13 salary. The executive director serves at the pleasure of the commis-
14 sion.

15 (b) The executive director may employ and determine the compen-
16 sation of necessary employees, subject to the budget approved by the
17 commission. The executive director may, subject to the approval of
18 the commission, contract for services when those services are tempo-
19 rary or specialized in nature, or it is in the best interest of the
20 state.

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

24 (d) If the commission determines that an investigation is neces-
25 sary and that the investigation cannot be efficiently, promptly, or
26 adequately handled by commission staff, the executive director shall
27 nominate a special investigator to be appointed upon approval by the
28 commission. The executive director shall maintain a list of individu-
29 als qualified to serve as a special investigator by virtue of their

1 experience, reputation, likely availability, willingness to serve, and
2 freedom from conflicts of interest.

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

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

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

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

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

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

23 (A) a candidate for the legislature;

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

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

28 (3) participate in lobbying activities that would require
29 the person to register as a lobbyist except as required to inform the

1 legislature concerning legislation requested by the commission; or

2 (4) take an action or make a statement that is likely to
3 create in the mind of a reasonable objective observer a belief that
4 the commissioner, employee, or other person is not impartial or in-
5 dependent or is otherwise unable to properly perform public duties.

6 (d) A violation or alleged violation of (b) or (c) of this
7 section shall be treated as any other violation of this chapter and
8 shall be dealt with by the commission accordingly. During the pend-
9 ency of a complaint against a commissioner, commission employee, or
10 commission contractor, the person complained against may not partici-
11 pate in official action of the commission.

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

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

15 (a) The commission shall

16 (1) administer the provisions of this chapter;

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

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

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

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

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

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

3 (8) prepare a biennial report to the legislature summariz-
4 ing its activities over the previous two years, evaluating the effec-
5 tiveness of this chapter in accomplishing its stated purposes, and
6 recommending legislative reforms it thinks necessary to improve the
7 administration of this chapter and to better advance its goals.

8 (b) The commission may

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

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

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

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

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

29 (2) although the advice is given in good faith, the person

1 seeking the advice relies on it at the person's own risk because it is
2 not binding upon the commission; and

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

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

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

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

17 (d) An opinion shall be issued by official action of the commis-
18 sion. The vote of each commissioner participating in the opinion
19 shall be indicated on the opinion and it shall be forwarded to the
20 person requesting it and made a part of the public records of the
21 commission.

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

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

29 (g) Under normal circumstances, the commission shall issue its

1 opinion within 30 days of receiving the request, if the request is
2 received during the first 100 days of the legislative session, or
3 within 60 days of the request if the request is received at another
4 time. The period for issuing an opinion may be shortened or extended
5 by the chair when that action is considered necessary or appropriate
6 to meet the goals of this chapter.

7 (h) The commission and all commission employees shall keep the
8 identity of the requester confidential unless the request, the identi-
9 ty of the person making it, or information conveyed orally or in
10 writing relating to the request is or becomes material to a matter
11 before the commission.

12 Sec. 24.61.530. EXEMPTIONS PROCESS. (a) In situations in which
13 principles of fundamental fairness are best served by exempting cer-
14 tain individuals or acts from specified provisions of this chapter,
15 the commission may grant qualified or unqualified exemptions.

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

- 18 (1) the name and address of the petitioner;
- 19 (2) relevant provisions involved in the exemption request;
- 20 (3) essential facts on which an exemption is requested;
- 21 (4) specific nature of the exemption sought;
- 22 (5) anticipated unfair or unreasonable consequences that
23 would result from a failure to grant the petition; and
- 24 (6) a certification that the petitioner verifies under
25 penalty of unsworn falsification that the facts stated are true to the
26 best of the petitioner's knowledge.

27 (c) The commission may, by official action, grant an exemption
28 upon a finding that the petitioner, by a preponderance of the evi-
29 dence, has shown that the

1 (1) harm caused by strict application of this chapter
2 substantially outweighs the benefit of its enforcement in the partic-
3 ular situation;

4 (2) application of the rule or provision under the circum-
5 stances presented would be inconsistent with the spirit and purpose of
6 the provision or this chapter as a whole; and

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

9 (d) The commission may require or permit the personal appearance
10 of the petitioner before the commission and hold hearings regarding
11 the exemption request.

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

17 Sec. 24.61.535. INITIATING INVESTIGATORY AND ADJUDICATORY PRO-
18 CESSES. (a) The filing of a complaint is the first step in the
19 investigatory and adjudication process. It is the purpose of this
20 section to assure that complaints provide sufficient information on
21 which to proceed, yet not be so complex or burdensome that the re-
22 quirements unduly discourage or screen out valid good faith com-
23 plaints.

24 (b) A complaint may be initiated by any person or by the commis-
25 sion on its own motion.

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

28 (1) the name and address of the complainant;

29 (2) a statement of the facts known or believed to be true

1 that form the basis of the complaint and the sources of the informa-
2 tion, including the approximate dates of the acts alleged and names
3 and addresses of persons with personal knowledge of the facts alleged;
4 and

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

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

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

21 (f) Upon receiving a complaint, commission staff shall review it
22 for formal sufficiency within five days of filing. If the complaint
23 is unsigned or otherwise deficient on its face it shall be returned to
24 the complainant with a statement of the nature of the deficiency.

25 (g) Once a complaint has been determined to be formally suffi-
26 cient, commission staff shall evaluate the complaint and advise the
27 chair as to its opinion as to whether it states a valid complaint that
28 should be investigated. If the executive director is a member of the
29 bar, the executive director may provide the advice. Otherwise, the

1 executive director shall appoint a duly qualified legal counsel to
2 assist in making the determinations required under this subsection.
3 To be valid, the complaint must allege

4 (1) facts that, if true, establish a violation of this
5 chapter;

6 (2) that the conduct providing the basis of the complaint
7 has occurred within five years of the complaint or that the person
8 charged with misconduct intentionally concealed or otherwise sought to
9 prevent discovery of the relevant facts; and

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

14 (h) Within 20 days after the filing of the complaint, or within
15 45 days if the chair of the commission certifies additional time is
16 required, a determination shall be made on the substantive validity of
17 the complaint. If the chair concludes that there is no substantial
18 reason to question the opinion of staff as to the validity of a com-
19 plaint, the complaint shall either be dismissed or certified for
20 further consideration in accordance with the opinion. The chair or a
21 commissioner, however, may request a hearing on the validity of the
22 complaint at a meeting of the commission.

23 (i) If a complaint is dismissed because of invalidity, it shall
24 be returned to the complainant with a notice of dismissal stating in
25 detail the reason for dismissal. If the commission finds that the
26 complaint was frivolous, malicious, or was filed in bad faith, it
27 shall so state in the notice of dismissal. If the commission finds
28 that the complaint alleges violations outside the scope of this chap-
29 ter, it shall so state and forward the complaint to the appropriate

1 enforcement body for disposition. A copy of the notice of dismissal
2 shall be sent to the respondent. The notice of dismissal is a public
3 record.

4 (j) If the commission concludes that some or all of the alle-
5 gations of the complaint, if proven, would constitute a violation of
6 this chapter, or if the commission has initiated the complaint, the
7 complaint shall be certified and a factual investigation shall com-
8 mence. The record of certification for further consideration is
9 confidential subject to subsequent actions that may make it part of
10 the public record.

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

15 (b) Before commencing an investigation, the commission shall
16 adopt a written resolution defining the scope of the investigation, a
17 copy of which shall be supplied to both the complainant and the re-
18 spondent. If, during the investigation, additional facts are dis-
19 covered that justify an expansion of the investigation and the pos-
20 sibility of additional charges beyond those alleged in the complaint,
21 the resolution shall be amended accordingly with copies sent to the
22 complainant and the respondent. The resolution, and the fact that an
23 investigation has been undertaken, shall be kept confidential by the
24 commission except that, upon inquiry, the commission may verify that
25 it is investigating a complaint along with a statement that no finding
26 of probable cause has been made and that no adverse inference of
27 impropriety or guilt should be drawn from the decision to investigate.
28 Additional facts concerning the nature or results of the investigation
29 may not be revealed except as provided in AS 24.61.545 after a

1 determination of probable cause has been made.

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

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

15 (e) The person conducting the preliminary investigation may
16 order a hearing and subpoena witnesses and documents, conduct depo-
17 sitions under oath, require the participation of the respondent, and
18 issue interrogatories to be answered under oath. An oral or written
19 statement, whether incriminatory or exculpatory, may not be considered
20 in the investigator's report unless made under oath. The respondent
21 shall be given an adequate opportunity to provide testimonial and
22 documentary evidence.

23 (f) Upon completion of the investigation, a confidential report
24 summarizing the evidence, evaluating its credibility, and detailing
25 findings on each of the allegations investigated shall be submitted to
26 the commission along with recommendations as to whether the complaint,
27 or a portion of it, should be dismissed or whether the matter should
28 proceed to the full hearing stage. The report shall be prepared so as
29 to exclude unreliable information and uncorroborated and irresponsible

1 allegations. The investigator's notes, records of interviews, and
2 other investigatory matter considered unreliable or unduly prejudicial
3 by the commission shall remain confidential.

4 Sec. 24.61.545. PROBABLE CAUSE DETERMINATION. (a) The commis-
5 sion shall consider the investigator's report in closed session and
6 determine whether substantial credible evidence exists to believe that
7 it is probable that a violation of this chapter has occurred.

8 (b) If the commission does not find that substantial credible
9 evidence exists to warrant a full adjudicatory hearing, it shall
10 dismiss the complaint and so notify the complainant with a notice of
11 dismissal stating in detail the reason for dismissal. If the commis-
12 sion finds that the charges were frivolous, malicious, made in bad
13 faith, or that, in its opinion the respondent should be exonerated of
14 the charges, it shall so state in the notice of dismissal. If the
15 commission finds that the evidence supports violations outside the
16 scope of this chapter, it shall so state and forward the complaint and
17 its report to the appropriate enforcement body for disposition.

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

26 (d) If the commission finds that substantial credible evidence
27 exists establishing probable cause that a violation of this chapter
28 has occurred, it shall serve on the respondent in a manner consistent
29 with the service of summons under the rules of civil procedure, a

1 formal charge stating the specific allegations and a proposed hearing
2 date.

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

10 (f) The commission may suspend further proceedings if the re-
11 spondent acknowledges the violation and agrees to corrective actions
12 and sanctions considered appropriate by the commission. If the com-
13 mission suspends the proceedings or dismisses the charges as a result
14 of a negotiated settlement, the terms and conditions of the settlement
15 and the reasons for entering into the agreement shall be stated in a
16 written report that shall be sent to the complainant and made part of
17 the public record.

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

22 Sec. 24.61.550. ADJUDICATORY HEARING. (a) A formal hearing on
23 ethics charges against a respondent shall be conducted in a manner
24 that inspires confidence in the integrity and objectivity of the
25 process and demonstrates full consideration for the rights and reputa-
26 tion of the respondent.

27 (b) An adjudicatory hearing shall be before a hearing board
28 composed of the commission chair and four commissioners appointed by
29 the chair. If the chair cannot attend a hearing sessions without

1 undue inconvenience, the vice-chair shall serve in the chair's place.
2 If neither the chair nor the vice-chair is available, the chair shall
3 appoint another commissioner. Appointments to hearing boards shall be
4 rotated among the commissioners.

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

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

16 (e) A hearing board may

17 (1) administer oaths and affirmations and subpoena indi-
18 viduals, including the respondent, to testify or to submit to written
19 interrogatories under oath;

20 (2) compel the production of documentary or tangible evi-
21 dence;

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

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

26 (f) The respondent may

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

29 (2) personally, or through counsel, subpoena, examine and

1 cross-examine witnesses, raise objections, and make arguments;

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

4 Sec. 24.61.555. FINDINGS AND RECOMMENDATIONS. (a) Within 10
5 days after the completion of a hearing, the hearing board shall vote
6 on each charge to determine whether it was established by a preponder-
7 ance of the evidence and prepare a written opinion along with rec-
8 ommendations, if any. A vote of three commissioners is required to
9 find a violation and approve an opinion.

10 (b) As to each charge on which the evidence was found to be
11 insufficient to establish a violation, the hearing board shall include
12 its findings in its written opinion. If the board finds that the
13 charges were frivolous, malicious, made in bad faith, or that, in its
14 opinion the respondent should be exonerated of the charges, it shall
15 so state in its opinion. If the board finds that the respondent
16 should be exonerated, it may recommend that the legislature reimburse
17 the respondent for all or part of reasonable legal fees incurred as a
18 result of the charge. The respondent's legal fees may not be paid
19 from public funds unless the board makes that recommendation.

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

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

- 1 (1) a civil penalty of not more than \$5,000 for each of-
2 fense, or twice the amount improperly gained by the misconduct, which-
3 ever is greater;
- 4 (2) divestiture of specified assets or withdrawal from
5 specified relationships;
- 6 (3) detailed disclosure, with or without additional period-
7 ic reporting requirements;
- 8 (4) suspension from legislative employment, with or without
9 pay;
- 10 (5) restitution or reimbursement;
- 11 (6) suspension of pay until orders are complied with;
- 12 (7) probationary status;
- 13 (8) a written reprimand;
- 14 (9) repealing or amending legislation, or voiding or modi-
15 fying other action that resulted from conduct in violation of this
16 chapter;
- 17 (10) censure, including a recommendation that a legislator
18 censured may not serve as a chair or co-chair on a legislative commit-
19 tee for the remainder of the legislator's current term in office;
- 20 (11) expulsion of a legislator or dismissal of a legislative
21 employee;
- 22 (12) payment of costs related to the investigation and
23 adjudication of the charge;
- 24 (13) another sanction fashioned to achieve the purposes of
25 this chapter.
- 26 (b) When a provision of this chapter provides for the imposition
27 of administrative sanctions under this subsection, the commission may
28 recommend any of the civil sanctions set out in (a) of this section
29 except sanctions under (a)(1) and (11).

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

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

10 (c) If the legislature is not in session, the presiding officer
11 may either request a special session under AS 24.05.100 to put the
12 matter to a vote within 30 days, or submit the recommendations to the
13 legislative council, which shall vote on the commission's recommenda-
14 tions within 30 days. If either expulsion or censure is recommended,
15 the matter must be voted on by the legislature in special session.

16 (d) Except in the case of expulsion, which requires a two-thirds
17 vote, all other sanctions shall be determined by a majority vote.

18 (e) In determining the sanctions, if any, to impose, the legis-
19 lature shall scrupulously observe the rule of nonpartisanship. It may
20 not retry the basic facts nor question the hearing board's findings of
21 fact. The only issue before it shall be the determination of the
22 appropriate sanction assuming the validity of the board's findings.

23 Sec. 24.61.570. RECOMMENDATIONS AND ORDER WHERE VIOLATOR IS A
24 LEGISLATIVE EMPLOYEE. (a) If the person found to have violated this
25 chapter is or was a legislative employee, the hearing board's recom-
26 mendations shall be forwarded to the full commission, which shall, as
27 soon as is reasonably possible, determine the sanctions, if any, to be
28 imposed. The commission may not retry the basic facts nor question
29 the hearing board's findings of fact. The only issue before it shall

1 be the determination of the appropriate sanction assuming the validity
2 of the board's findings. After determining the appropriate sanctions,
3 the commission shall issue a written order imposing the sanctions on
4 the employee.

5 (b) The commission shall order the employee's supervisor or
6 appointing authority, as appropriate, to impose sanctions in accor-
7 dance with the commission's order. Failure of the supervisor or
8 appointing authority to implement the commission's order is a viola-
9 tion of this chapter.

10 Sec. 24.61.575. ACTIONS BY THE ATTORNEY GENERAL OR CITIZENS.

11 (a) The attorney general shall assist the commission and the legisla-
12 ture in enforcing all lawful orders and sanctions. The attorney
13 general may independently bring civil or criminal actions relating to
14 violations under this chapter regardless of the outcome or settlement
15 of a charge before the commission, provided that (1) the attorney
16 general may not bring an independent civil action under this chapter
17 if the provision violated is subject only to administrative sanctions
18 under AS 24.61.560(b); and (2) the cumulative civil penalties imposed
19 for a violation may not exceed the amount that could be imposed in an
20 action before the commission. This subsection does not prohibit the
21 attorney general from bringing an action under another civil or crimi-
22 nal law.

23 (b) A citizen may make a written request that the attorney
24 general commence a civil action authorized under (a) of this section
25 against a person for a violation of this chapter. If the attorney
26 general does not initiate the action within 60 days of the request,
27 the citizen may file the action.

28 Sec. 24.61.580. WAIVER OF CONFIDENTIALITY. The commission may
29 publicly respond to a statement or interpretation made concerning the

1 contents of an advisory opinion or decision it has issued or is pur-
2 ported to have issued. A person who requests an advisory opinion and
3 makes that fact public is considered to have waived the confidential-
4 ity of the person's identity and of all records obtained by the com-
5 mission in connection with the request for the advisory opinion.

6 ARTICLE 4. LEGISLATIVE ETHICS EDUCATION PROGRAM.

7 Sec. 24.61.700. ETHICS EDUCATION PROGRAM. (a) The central
8 function of an ethics code is to prevent rather than punish unethical
9 conduct. Prevention depends almost entirely on an effective and
10 comprehensive ethics education program. The purpose of AS 24.61.700 -
11 24.61.760 is to assure that legislators and staff have the means and
12 opportunity to learn and understand the rules and principles underly-
13 ing the standards of conduct.

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

- 16 (1) publish an ethics education manual;
17 (2) establish an education advisory committee; and
18 (3) design and implement a legislative orientation training
19 course, a current issues and applications seminar, and a lobbyist
20 training course.

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

29 (b) The commission shall issue a revised and updated version of

1 the manual no later than 30 days after the commencement of each legis-
2 lature.

3 (c) The manual shall be distributed to all legislators, legisla-
4 tive employees, and registered lobbyists. The manual shall also be
5 available to the public.

6 Sec. 24.61.720. EDUCATION ADVISORY COMMITTEE. (a) The commis-
7 sion chair shall appoint five members to an education advisory commit-
8 tee, that shall include at least two members of the commission, a
9 legislator, and a legislative employee. The education advisory com-
10 mittee may also include an outside expert in the field of ethics.

11 (b) The education advisory committee shall oversee the implemen-
12 tation of, and recommend the content for, the following ethics educa-
13 tion programs:

- 14 (1) legislative orientation training course;
- 15 (2) current issues and applications seminar; and
- 16 (3) lobbyist training course.

17 Sec. 24.61.730. LEGISLATIVE ORIENTATION TRAINING COURSE. (a)
18 The commission shall conduct a legislative ethics orientation training
19 course. The course shall be offered in January of each year. A
20 legislator and a legislative employee shall attend and complete the
21 first course offered after their election, appointment, or hiring
22 date.

23 (b) The education advisory committee shall determine the specif-
24 ic content of the course, and it shall cover the ethics laws, internal
25 rules and policies, as well as the technical and specific legal re-
26 quirements that legislators and legislative employees must follow.
27 The course shall also cover the underlying purposes and ethical prin-
28 ciples of all ethics laws, internal rules and policies, and other
29 related regulations. The course shall highlight the principles of

1 public service ethics and the intent of ethics laws, including their
2 application to practical situations.

3 (c) The commission shall offer separate sessions of the course
4 for legislators and for legislative employees, and shall offer as many
5 sessions as necessary to accommodate the number of people required to
6 take the course. Unless the commission decides otherwise, the course
7 should be at least six hours long and given in one or two sessions.
8 To afford meaningful participation and direct involvement, the commis-
9 sion shall limit the attendance of each session to approximately 50
10 people.

11 Sec. 24.61.740. CURRENT ISSUES AND APPLICATIONS SEMINAR. (a)
12 The commission shall conduct a current issues and applications seminar
13 each year. The seminar is mandatory for all legislators and legisla-
14 tive employees who have previously completed the legislative ethics
15 orientation training course.

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

23 (c) The commission shall offer separate sessions of the seminar
24 for legislators and for legislative employees, and shall offer as many
25 sessions as necessary to accommodate the number of people required to
26 take the seminar. Unless the commission decides otherwise, the semi-
27 nar should be about three hours long in order to accommodate specific
28 problem solving. The commission shall limit the attendance of each
29 session to approximately 50 people.

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

13 (b) The specific content of the training course shall be de-
14 termined by the education advisory committee, and shall include a
15 review of all ethics statutes, the rules and regulations relating to
16 appropriate lobbyist conduct, and the principles of public service
17 ethics.

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

21 (d) Unless the commission determines otherwise, the training
22 course should be about four hours in length.

23 (e) Lobbyists shall repeat the training course at least once
24 every three years and the commission shall update the course accord-
25 ingly.

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

28 Sec. 24.61.760. ADMINISTRATIVE PROVISIONS. (a) The commission
29 shall assure the continued implementation, improvement, and

1 modification of the ethics education programs. The commission shall
2 develop procedures to assure the attendance of, and course completion
3 by, all legislators, legislative employees, and lobbyists, including
4 procedures to review requests for exemptions.

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

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

17 (d) The commission shall supply the presiding officer of each
18 house with the names of those legislators and legislative employees
19 who have not complied with the ethics education requirements. The
20 commission shall supply the Alaska Public Offices Commission with the
21 names of lobbyists who have not complied with the ethics education
22 requirements.

23 (e) The commission shall offer all of the education programs at
24 appropriate times and locations and shall fairly publicize them.

25 ARTICLE 5. GENERAL PROVISIONS.

26 ~~Sec. 14.61.900. RELATIONSHIP TO COMMON LAW AND OTHER LAWS. (a)~~
27 ~~The provisions of this chapter specifically replace, supersede, and~~
28 ~~where necessary repeal provisions of the common law relating to legis-~~
29 ~~lative conflict of interest, and specific Alaska statutes including~~

1 ~~Former AS 24.60, and all other laws that are inconsistent or incom-~~
2 ~~patible with a provision of this chapter.~~

3 (b) ~~Nothing in this chapter exempts a person from applicable~~
4 ~~provisions of another law unless the law is explicitly superseded or~~
5 ~~incompatibly inconsistent with specific provisions of this chapter.~~

6 Sec. 24.61.910. APPLICABILITY. (a) Unless otherwise specifi-
7 cally stated, the provisions of this chapter apply to legislators and
8 legislative employees.

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

13 Sec. 24.61.920. PRINCIPLE OF STRICT COMPLIANCE. In imposing
14 civil or administrative sanctions, legislators and legislative employ-
15 ees shall be held strictly to the provisions and spirit of this chap-
16 ter and, except in extraordinary circumstances, may not assert a lack
17 of knowledge or understanding as a defense to a charge of misconduct.

18 Sec. 24.61.930. MENTAL STATE REQUIRED FOR CRIMINAL ACTIONS.
19 When a provision of this chapter is made subject to criminal penal-
20 ties, unless the provision specifically provides for another mental
21 state, the defendant in a criminal prosecution must be shown to have
22 acted with criminal negligence, as that term is defined in AS 11.81.-
23 900(a). AS 11.81.610(c) applies to this section.

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

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

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

7 Sec. 24.61.960. CONFIDENTIALITY. A person subject to the pro-
8 visions of this chapter may not knowingly make an unauthorized disclo-
9 sure of confidential information acquired in the course of official
10 duties.

11 Sec. 24.61.990. DEFINITIONS. In this chapter,

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

17 (2) "anything of value" and "benefit" include all matters,
18 whether tangible or intangible, that could reasonably be considered to
19 be an advantage, of worth, use, or service to the person to whom it is
20 conferred; the terms are intended to be interpreted broadly and encom-
21 pass all matters that the recipient might find sufficiently desirable
22 to do something in exchange for;

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

- 25 (i) money;
- 26 (ii) products or merchandise;
- 27 (iii) works of art or collectibles;
- 28 (iv) stocks, bonds, notes, or options;
- 29 (v) an interest in real property;

- 1 (vi) contracts or a promise of a future interest
2 in a contract;
- 3 (vii) an interest or a promise of a future interest
4 in a business;
- 5 (viii) meals, beverages, or lodging;
- 6 (ix) transportation;
- 7 (x) services, including loaned employees;
- 8 (xi) loans, loan guarantees, co-signing;
- 9 (xii) forgiveness of a debt;
- 10 (xiii) discounts or rebates not extended to the
11 public generally;
- 12 (xiv) preferential treatment;
- 13 (xv) tickets or admissions;
- 14 (xvi) free or discounted use of office facilities;
- 15 (xvii) loan of office equipment;
- 16 (xviii) radio or television time;
- 17 (xix) promise or offer of present or future employ-
18 ment;
- 19 (xx) use of autos, boats, apartments, or other
20 recreational or lodging facilities;
- 21 (xxi) intangible rights such as a cause of action;
- 22 (xxii) licenses, patents, copyrights, or an interest
23 in them;
- 24 (xxiii) any other item, tangible or intangible,
25 having economic value;
- 26 (B) "anything of value," "benefit," or "thing of
27 value" does not include
- 28 (i) unsolicited tokens or awards with a value of
29 less than \$150 in the form of a plaque, trophy, clock, desk

1 or wall memento or decoration, or similar item;

2 (ii) unsolicited advertising items such as calen-
3 dars, key chains, pens, or samples of merchandise with a
4 value of less than \$50;

5 (iii) unsolicited publications with a market value
6 of less than \$100 on an annual basis;

7 (iv) discounts afforded to the general public or
8 specified groups or occupations under normal business con-
9 ditions except that the discounts may not be based on the
10 fact of legislative service unless it is a discount program
11 approved by the commission;

12 (v) campaign contributions, pledges, political
13 endorsements, support in a political campaign, or a promise
14 of endorsement or support;

15 (vi) contributions to a cause or organization,
16 including a bona fide charity, made in response to a direct
17 solicitation from a legislator or a person acting at the
18 legislator's direction;

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

21 (4) "close personal relationship" is a special relationship
22 between a legislator or legislative employee and another person that
23 creates strong bonds of loyalty, friendship, or love that could poten-
24 tially conflict with public duties and the obligation to exercise
25 objective independent judgment, or create the appearance that the
26 person may have undue access to confidential information or otherwise
27 receive favored treatment regarding public actions; it includes but is
28 not limited to immediate family, long-term personal friends or former
29 business associates, and persons with whom the legislator or

1 legislative employee has a significant and continuous romantic rela-
2 tionship;

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

4 (6) "confidential information" refers to information made
5 confidential by law or that is conveyed or accepted with the under-
6 standing that it will only be used for official purposes;

7 (7) "exonerate" means to free from a charge or the imputa-
8 tion of guilt, or to prove blameless;

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

11 (9) "immediate family" means the spouse, parents, including
12 parents-in-law, children, including a stepchild and an adoptive child,
13 grandparents, grandchildren, and siblings of a person;

14 (10) "informal representation" means uncompensated represen-
15 tation including requests for information made with a state or local
16 government entity or an official or employee of the entity, on behalf
17 of a person including clients, constituents, and political contribu-
18 tors;

19 (11) "intent to influence legislative, administrative, or
20 political action" means that an act, including the offering or confer-
21 ring of a thing of value to a public official, is done with the pur-
22 pose of inducing the official to do an act the official would other-
23 wise not have done or refrain from doing something the official would
24 otherwise have done;

25 (12) "knowingly" means for a person to be aware with respect
26 to conduct or to a circumstance described by a provision of law that
27 the person's conduct is of that nature or that the circumstance ex-
28 ists; when knowledge of the existence of a particular fact is
29 required, that knowledge is established if a person is aware of a

1 substantial probability of its existence, unless the person actually
2 believes it does not exist;

3 (13) "legislative action" means conduct relating to the
4 development, drafting, consideration, sponsorship, enactment or de-
5 feat, support or opposition to or of a law, amendment, resolution,
6 report, nomination, or other matter affected by legislative action or
7 inaction;

8 (14) "legislative assistant" means a legislative employee
9 whose assigned duties involve the exercise of substantial discretion
10 and judgment; it does not include employees who perform purely cler-
11 ical or ministerial functions; the commission shall develop guidelines
12 for interpreting this definition;

13 (15) "legislative employee" means a person, other than a
14 legislator, who is compensated by the legislative branch in return for
15 regular or substantial personal services, regardless of the person's
16 pay level or technical status as a full-time or part-time employee,
17 independent contractor, or consultant; it includes members and staff
18 of the commission; it does not include individuals who perform func-
19 tions that are purely incidental to legislative functions such as
20 security, messengers, maintenance, and print shop employees; for
21 purposes of this paragraph, "regular or substantial" means work that
22 is expected to involve, or does involve, at least 400 hours in a
23 calendar year or 300 hours during a regular legislative session; the
24 commission shall develop guidelines for interpreting this definition;

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

27 (17) "nonpublic information" means information that is not
28 available to the general public, the use or disclosure of which re-
29 sults in an unwarranted benefit or advantage;

1 (18) "political action" means conduct in which public offi-
2 cials, including legislators or legislative employees, use their
3 official position or political contacts to exercise informal influence
4 on state and local government employees or entities; it includes but
5 is not limited to intervening on behalf of constituents with a govern-
6 ment agency, endorsing, and pledging support or actively supporting a
7 legislative matter, a nominee, or a candidate for public office;

8 (19) "professional representation" means representation for
9 compensation;

10 (20) "reasonably should know" means that, under the circum-
11 stances, a person of reasonable prudence and competence would ascer-
12 tain or know a fact;

13 (21) "representation" means action taken on behalf of another,
14 whether for compensation or not, including but not limited to
15 telephone calls and meetings and appearances at proceedings or meet-
16 ings;

17 (22) "substantial interest in legislative, administrative,
18 or political action" has the meaning given in AS 24.61.260;

19 (23) "unofficial compensation" means payment for legislative
20 or administrative services made to a legislator or legislative em-
21 ployee by a source other than the state in the form of legislative
22 compensation or per diem payments;

23 (24) "unwarranted benefit" means a benefit not earned,
24 deserved, or attained strictly on the merits or according to normal
25 procedures, but attained as the result of improper use of public
26 office.

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

28 (a) A person commits the crime of false accusation if the person
29 knowingly or intentionally initiates a false complaint with the

1 [SELECT COMMITTEE ON] Legislative Ethics Commission established under
2 AS 24.61 [IN AS 24.60].

3 * Sec. 4. AS 24.10.100 is amended to read:

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

10 * Sec. 5. AS 24.10.105 is repealed and reenacted to read:

11 Sec. 24.10.105. LEGISLATIVE PER DIEM. (a) A member of the
12 legislature is entitled to receive per diem at the short-term rate
13 during a legislative session if the legislator is not living in the
14 legislator's place of permanent residence during the session.

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

18 (c) In this section

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

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

25 * Sec. 6. AS 24.10.130 is amended by adding a new subsection to read:

26 (b) A member of the legislature may be reimbursed for up to two
27 round trip tickets from Juneau to a city in the district from which
28 the legislator was elected during each regular session of the legis-
29 ature. A trip paid for under this subsection may be for a family,

1 business, or constituent purpose.

2 * Sec. 7. AS 24.45.041(a) is amended to read:

3 (a) Before engaging in lobbying, a lobbyist shall file a registra-
4 tion statement on a form prescribed by the commission. The commis-
5 sion may not accept the form for filing unless the lobbyist's name has
6 been certified to the commission by the Legislative Ethics Commission
7 under AS 24.61.750(c).

8 * Sec. 8. AS 24.45.041(f) is amended to read:

9 (f) Each lobbyist shall renew the registration annually by
10 filing a new registration statement together with a new authorization
11 to act as a lobbyist before engaging in lobbying. The lobbyist also
12 shall file any reports or statements the lobbyist has failed to file
13 for a previous reporting period. The commission may not renew lobby-
14 ing credentials until this provision is complied with and unless the
15 Legislative Ethics Commission has certified the lobbyist's name to the
16 commission under AS 24.61.750(c) and the lobbyist has complied with
17 AS 24.61.750(e).

18 * Sec. 9. AS 24.45.041 is amended by adding a new subsection to read:

19 (g) Notwithstanding (a) and (f) of this section, a lobbyist
20 whose name has not been certified to the commission under AS 24.61.-
21 750(c) may conditionally register or renew a registration under this
22 section if authorized by the Legislative Ethics Commission under
23 AS 24.61.750(a).

24 * Sec. 10. AS 39.25.110 is amended by adding a new paragraph to read:

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

27 * Sec. 11. AS 39.50.025 is amended to read:

28 Sec. 39.50.025. NOTIFICATION TO CANDIDATES FOR LEGISLATURE. On
29 receipt of a statement under AS 39.50.020 from a candidate for the

1 legislature the commission shall mail, by certified mail, a copy of
2 AS 24.61 (Legislative Ethics Act) [AS 24.60 (STANDARDS OF CONDUCT)] to
3 the candidate at the address shown on the report.

4 * Sec. 12. AS 39.50.200(a)(8) is amended to read:

5 (8) "public official" means a judicial officer, a member of
6 the legislature, the fiscal analyst of the legislative finance divi-
7 sion, the legislative auditor of the legislative audit division, the
8 executive director of the Legislative Affairs Agency and the directors
9 of the divisions within the Legislative Affairs Agency, the executive
10 director of the Legislative Ethics Commission, the governor, the
11 lieutenant governor, a person hired or appointed as the head or deputy
12 head of, or director of a division, a department in the executive
13 branch, an assistant to the governor, chair [CHAIRMAN] or member of a
14 state commission or board, the executive director of the Alaska Tour-
15 ism Marketing Council, and each appointed or elected municipal offi-
16 cer;

17 * Sec. 13. AS 39.50.200(b) is amended by adding a new paragraph to
18 read:

19 (50) Legislative Ethics Commission (AS 24.61).

20 * Sec. 14. AS 39.52.910(a) is amended to read:

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

27 * Sec. 15. AS 24.60 is repealed.

28 * Sec. 16. INITIAL COMMISSION APPOINTMENTS. Notwithstanding AS 24.61.-
29 500(b), as added by sec. 2 of this Act, the terms of the members initially

1 appointed to the Legislative Ethics Commission are as follows:

2 (1) the members appointed by the senate and the house of rep-
3 resentatives and one of the members appointed by the Legislative Ethics
4 Commission, determined by lot, serve terms of five years;

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

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

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

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

13 * Sec. 17. INITIAL TRAINING COURSES. The initial courses and seminars
14 required under AS 24.61.730 - 24.61.750, as added by sec. 2 of this Act,
15 shall be offered during January and February 1991.

16 * Sec. 18. INITIAL RECOMMENDED REGULATIONS. The Alaska Legislative
17 Council shall make its initial recommendations to the Legislative Ethics
18 Commission under AS 24.61.160, as added by sec. 2 of this Act, by
19 January 1, 1991. If the legislative council does not comply with the
20 deadline under this section, the Legislative Ethics Commission shall pro-
21 ceed to adopt regulations under AS 24.61.160 on its own initiative.

22 * Sec. 19. SELECT COMMITTEE ON LEGISLATIVE ETHICS. Notwithstanding the
23 repeal of AS 24.60 by sec. 15 of this Act, the Select Committee on Legisla-
24 tive Ethics, as established under former AS 24.60.130, continues in exis-
25 tence until January 21, 1991, for the purpose of concluding proceedings or
26 other business pending on June 1, 1990. For the purpose of this section,
27 the committee, and persons subject to former AS 24.60, are governed by the
28 provisions of former AS 24.60 as those provisions read on May 31, 1990.

29 * Sec. 20. TRANSITIONAL PROVISIONS RELATING TO VIOLATIONS OF FORMER

1 AS 24.60. Notwithstanding the repeal of AS 24.60 by sec. 15 of this Act,
2 in addition to the provisions of AS 24.61, as added by sec. 2 of this Act,
3 the Legislative Ethics Commission may consider complaints alleging viola-
4 tions of AS 24.60 that occurred prior to June 1, 1990, and for which pro-
5 ceedings have not been commenced prior to June 1, 1990. For the purpose of
6 this section, the Legislative Ethics Commission shall follow the procedures
7 established under AS 24.61, but may not recommend a sanction or penalty not
8 authorized under former AS 24.60.

9 * Sec. 21. TRANSITIONAL PROVISIONS RELATING TO REPRESENTATION OF
10 OTHERS. Notwithstanding AS 24.61.330, as added by sec. 2 of this Act, a
11 legislator or legislative assistant who is subject to AS 24.61.330 may,
12 until January 1, 1992, represent a person in a proceeding that would other-
13 wise be prohibited under AS 24.61.330 if the legislator or legislative
14 assistant promptly files a statement with the Legislative Ethics Commission
15 that includes the name of the client, an identifying name or number of the
16 action, a brief description of the nature of the action, and the amount of
17 compensation received or anticipated relating to the representation. The
18 statement shall be published in the journal of the appropriate house. If
19 information contained in the statement changes, a supplemental statement
20 shall be filed every 90 days until the matter is completed or January 1,
21 1992, at which time the representation must be terminated. In this sec-
22 tion, "legislative assistant" has the meaning given in AS 24.61.990, as
23 added by sec. 2 of this Act.

24 * Sec. 22. Sections 4- 6 of this Act take effect January 21, 1991.

25 * Sec. 23. Except for secs. 4 - 6, this Act takes effect June 1, 1990.

ALASKA LEGISLATIVE ETHICS ACT OF 1990
Guidelines and Commentary

Article 1. Legislative Findings and Ethical Principles

GENERAL

1. Structure. This Alaska Legislative Ethics Act (ALEA) has three major components:

(a) Ethical Principles and Standards of Conduct -- a comprehensive declaration of the ethical principles inherent in legislative activities along with specific standards of conduct and rules of disclosure expressed in the form of legislative rules, civil laws and criminal offenses which make these obligations binding and enforceable; provisions and interpretative directives in these guidelines and commentary are an intrinsic part of this law.

(b) Legislative Ethics Commission -- an independent public commission is established to implement the Legislative Ethics Act.

(c) Continuous Mandatory Educational Program -- creates a mandatory ongoing educational program for legislators, legislative staff and lobbyists to assure that the legal requirements and ethical expectations embodied in it, as well as the principles and values that underlie them, are known and understood.

2. Types of Provisions. The Statement of Ethical Principles, Standards of Conduct & Guidelines contain three types of provisions:

(a) Legislative Rules and Directives -- the overarching principles and some specific provisions establish internal rules and directives for behavior, the violation of which may subject the violator to administrative sanctions imposed by the legislature through the processes established. They do not provide the basis for a separate civil or criminal charge.

(b) Civil Laws -- some provisions establish legal obligations that give rise to civil liability and court-ordered sanctions. Such actions may be brought by the attorney general's office or by a private citizen.

(c) Criminal Offenses -- some provisions establish criminal offenses enforceable as other criminal laws in the Alaska courts.

3. Strict Compliance is Expected. As codified in AS 24.61.920, legislators and legislative employees in civil and administrative actions will be held strictly to the provisions and spirit of the principles and standards of this act as explained and amplified in the guidelines and commentary. Except in extraordinary circumstances, persons will not be permitted to assert a lack of knowledge or understanding as a defense to a charge of misconduct.

(a) Obligation to Know Duties. While some of the provisions of this code are detailed and complex, it is essential that each legislator, legislative employee and lobbyist accept and fulfill a personal obligation to know and understand its requirements. Extensive educational and training opportunities are provided through the legislative ethics commission to assist them. It is not only unseemly, it is publicly unacceptable when those who are intimately involved in the lawmaking process claim ignorance of the law or assert that violations were mere "technicalities" or mistakes.

(b) Extraordinary Circumstances. The presumption that those covered by this code know and understand its provisions is a strong one but it may be rebutted in exceptional circumstances where the person charged demonstrates that it would be unreasonable to hold him or her to strict knowledge. For example, changes in the law, errors in officially published educational materials or other special circumstances may justify a defense based on a mistake or asserted ignorance of law.

4. Application Depends on Duties Rather Than Salary Status.

Most of the provisions of this chapter apply to all employees involved in some substantive way with the legislative process,

Guidelines and Commentary for the Legislative Ethics Act

regardless of salary or duties (see definitions at AS 24.61.990 (13), (14)). The time of public employees is a state resource which should only be used for proper public purposes. Moreover, many legislative employees expend state funds and have access to confidential information. The most serious restrictions and disclosure requirements, however, only apply to legislative employees who exercise, or are perceived to exercise, discretion and judgment with respect to legislative, administrative or political actions. These individuals are referred to as legislative assistants. The purposes of the chapter should not be circumvented by legalistic arrangements which change the category of a person who otherwise would, and should, be subject to its provisions. Thus, the controlling factors are related to the function employees or agents perform and the amount of discretionary authority they possess, rather than their salary or technical status as full-time or part-time employee, independent contractor or consultant.

STATEMENT OF PRINCIPLES

AS 24.61.020. PREAMBLE. The eight principles stated in AS 24.61.025 -- AS 24.61.060 articulate the theoretical and moral foundation for the standards of conduct. They represent the spirit of the Legislative Ethics Act. They set forth a positive dimension of the ethical obligations of public service in order to make clear that the objective of these rules and regulations is to raise the issue of government ethics to a higher plane. The overarching principles are an integral part of each provision of the standards of conduct and they infuse individual rules with ethical purpose in a way that precludes narrow legalistic approaches leading to the conclusion that if an act is technically legal it is ethical, or that it is proper if it is not clearly prohibited. They direct legislators, legislative employees and lobbyists to follow the ethical high road, not simply to avoid punishment, but to advance the grand, noble and important principles of democracy and public service.

Guidelines and Commentary for the Legislative Ethics Act

AS 24.61.025. PRINCIPLE OF GOOD FAITH. The goals of the Legislative Ethics Act cannot be attained unless its provisions are construed and enforced in good faith. The standards of conduct, like other written regulations, are vulnerable to an endless array of evasion strategies. Unduly narrow or legalistic constructions of specific provisions, strained and insincere interpretation of facts and willful blindness to the real motives behind an act undermine the clear purpose of an ethics code and denigrate the spirit this Act. Under the principle of good faith, deliberate bad faith circumvention of these standards is itself a violation of the ethical obligations of public service and may be the basis for administrative sanction.

AS 24.61.030. PRINCIPLE OF NONPARTISANSHIP. If these standards are to rise above politics, they must be applied objectively, on the merits, without regard to party, regional or ideological partisanship.

(a) Highest Duty. The highest duty of legislators and legislative employees is to uphold the integrity of the legislature, regardless of narrow political considerations. Though partisan politics based on party, region and ideology are an integral and often constructive part of the American political structure, it is essential that the ethical responsibilities arising from these standards of conduct -- including consideration of a complaint, imposition of sanctions, appointment of members of the Legislative Ethics commission and appropriation of the commission's budget -- be unflinchingly treated as nonpartisan, public interest issues of great importance.

(b) Playing Politics With Ethics. The ethical quality of democracy and the integrity and stature of the legislature are inherently nonpartisan issues. Playing politics with ethics issues creates two very significant harms. First, it undermines the effectiveness and moral authority of the ethical rules themselves. Second, the elevation of politics over ethics is invariably perceived by the public and the

Guidelines and Commentary for the Legislative Ethics Act

press in a way that dramatically increases public cynicism and disrespect for the legislature -- the very things these standards are designed to prevent. Thus, it is a violation of this provision for a legislator or a legislative employee to bring an ethics complaint for political reasons or to seek to influence any action under this chapter based on an appeal to political partisanship.

(c) Need for Long Term Perspective. Unfortunately, it is often difficult to maintain a nonpolitical, nonpartisan perspective in the context of competitive politics. The disposition of ethics-based charges may have profound political implications, not only on the careers of the persons directly involved, but often for political parties and other individuals vying for power. Ethics issues are often raised for political motives and it takes great restraint and a powerful long term public perspective to separate the motives of a charge from the merits of it. While the political dimension of legislative actions regarding matters of ethics may never be entirely removed, with discipline and commitment to principle, it can be consciously subordinated to a broader view of the legislator's role and of the public interest.

AS 24.61.035. PRINCIPLES OF PUBLIC TRUST. There are two separate dimensions to the obligation to ensure public trust: 1) avoiding actual wrongdoing -- violating laws, legislative rules or doing any other act which involves dishonesty, a lack of integrity, or disregard for ethical standards; and 2) avoiding the appearance of wrongdoing -- engaging in conduct which is likely to generate cynical attitudes and suspicions about government and the people who administer it.

(a) Importance of Perceptions. The concept of trust is as much a creature of perceptions and beliefs as it is of reality. Thus, conduct which a person knows or reasonably should know is likely to create in the minds of reasonable objective observers the perception that government office has been or may be used improperly, violates the obligation

Guidelines and Commentary for the Legislative Ethics Act:

to safeguard public trust even if the conduct does not actually misuse public office.

(b) Reasonable Person Standard. The standard to determine whether something is improper is not set by the most suspicious and cynical members of society who are predisposed to assume bad faith or corrupt motive. The standard is whether reasonable, objective and fair-minded citizens find the conduct improper. In applying this test, however, it is important to remember that such citizens will make their judgments with no special knowledge of the facts or private intentions of the parties.

(c) Responsibility to Act. It is not always right to avoid an act simply because it will look wrong. The ethical obligation to avoid the appearance of impropriety should not be used as an excuse for inaction where, on balance, the action is proper. Excess timidity in the face of possible criticism is no more justifiable than callous disregard for improper appearances. In some cases, legislators should be willing to confront criticisms and endure unfair denunciations, choosing to explain and justify their behavior rather than alter their conduct to suit the cynical perceptions of a misinformed press or public.

(d) Avoiding Bad Decisions. A balance must be found between the need to preserve public confidence by avoiding appearances of impropriety and the responsibility to make sound decisions on the merits. The requirement that legislators avoid even the appearance of impropriety can sometimes undermine the public interest and cause bad decisions. For example, it may lead to discrimination against friends or political supporters simply because a transaction may look bad to the public. Sensitivity, thoughtful discrimination and restraint is important in this area. But if a friend or political supporter is clearly the best qualified person available to perform a needed public task, it is unfair and unwise to automatically and invariably disqualify

Guidelines and Commentary for the Legislative Ethics Act

them.

(e) Accountability. Occasionally, a conscientious legislator or legislative employee will decide to override the appearance of impropriety test in order to do what he or she thinks is "right" under the circumstances. In such cases, there is a responsibility to reduce the harm to public trust by taking affirmative steps to assure that all facts relevant to the choice are made public and that the process of decision making is open to and can withstand close scrutiny.

AS 24.61.040. PRINCIPLES OF PUBLIC INTEREST.

(a) Purpose of Government. Subsection (a) establishes one of the most fundamental principles of public service ethics -- pursuit of public interest. The purpose of state government is to advance the public interest by assuring justice, providing educational opportunities, protecting health and the environment, securing public safety, creating economic stability and development, and safeguarding the liberties and rights of the people, among other things. Legislative office and authority should be used only to pursue these and similar public interests. The duty to only use public office in pursuit of the overall public interest is a positive one. Although it precludes using government position for private gain, it also precludes use of public resources, power or prestige for any nonpublic purpose, even if the actor does not personally benefit.

(b) Principle Over Expediency. Subsection (b) precludes unlawful conduct or improper use of office to achieve a "greater good" on the theory that the end justifies the means. In a democracy, the primacy of state and federal constitutions require that each public servant's vision of the public interest be pursued only through lawful processes which acknowledge and respect the separation of powers among government branches and the role of other public officials

Guidelines and Commentary for the Legislative Ethics Act

in the formation and implementation of public policy.

(c) Determining the Public Interest. Subsection (c) is designed to provide guidance to legislators and legislative employees who must often unravel conflicting loyalties and duties. It uses the term "should" rather than "shall" because the principles stated in this provision are not amenable to uniform interpretation or enforcement. Still, the principles and rationales stated in this provision and the following commentary are deeply rooted in democratic political philosophy, and they are important. Legislators are accountable to a complex network of competing loyalty obligations -- to country, state, community, constituency groups, political supporters, colleagues, subordinates, family and self. In many political situations, these loyalties conflict. What is best for the country or state may not be good for a particular community; what is good for an individual constituent or interest group may not be in the best interest of other constituents or interest groups; and the highest public interest may conflict with personal career ambitions. Inevitably, legislators must resolve conflicting interests by ranking their loyalty obligations. Though decisions have to be made on a case-by-case basis, the principle of public service generally requires elected officials to pursue the greatest long term good for the greatest number by placing larger, broader interests over smaller, narrower ones: country over state, state over community, community over individuals, and principle over party.

(d) Representative and Administrative Duties of Legislators. A major duty of state legislators is to pursue laws and policies which improve the social and economic conditions of their districts. They are also expected to represent the views and advocate the interests of their constituents and, as an aspect of this responsibility, they often perform an ombudsman function by assisting constituents in their relationships with government to assure

Guidelines and Commentary for the Legislative Ethics Act

that they are treated fairly and efficiently. In addition to these representative responsibilities, however, all elected officials have policy and law-making obligations which impose a duty to use independent objective judgment to pursue the overall public good. In exercising these responsibilities -- allocating public funds and formulating public policies relating to pressing social issues such as the environment, education, health and safety -- they should transcend their role as advocates of narrow constituent interests. They should perform a role closer to that of a neutral administrator or judge, evaluating information objectively and deciding what is best for the public as a whole.

(e) Conflicts in Constituent and Public Interests. Representation of specific constituent interests usually raises no substantial conflict with public interests. But when it does, the dilemma generally should be resolved in favor of the wider public interest in spite of political risks. For example, the public interest may require taxes that individuals do not want to pay, especially for programs with low constituency support but high public importance (for example, correctional facilities, waste disposal sites, providing aid to homeless or otherwise impoverished but politically powerless groups). Similarly, the public interest may require budget cuts and the elimination of government facilities, public works projects or jobs though the cost of such measures will be felt disproportionately in the districts most directly affected. When decisions about programs and expenditures are controlled by the desire to steer money and jobs to particular districts, the quality and efficiency of government programs inevitably are compromised. This type of decision making is especially dangerous when public health or safety are involved. It also contributes to the cynical impression that political decision makers are more concerned about their political careers than the public

Guidelines and Commentary for the Legislative Ethics Act

good. It is said that a politician thinks of the next election, a statesman thinks of the next generation.

Politicians who consider staying in office a moral imperative will be unwilling or unable to take such risks. Those who view their role more broadly, however, will see it as their obligation to do so.

(f) Loyalty Conflicts Within Organizations. A common loyalty conflict arises where the interests of an organization are inconsistent with those of individuals within the organization. The problem gets even more complicated when loyalty to a particular person within the organization conflicts with loyalty obligations to others. Under the principles of public interest, the responsibility of office generally demands the placing of institutional interests above individual loyalties though decisions which advance the institution at the cost of individuals should be made and executed with compassion, sensitivity and respect.

AS 24.61.045. PRINCIPLES OF ACCOUNTABILITY. There are several dimensions to accountability: 1) citizens must have the information they need about the actions of their representatives and the legislature as a whole so they can meet their personal responsibilities as citizens to participate as informed voters; 2) constituents are entitled to have specific information about the conduct of their own representatives so they can hold those representatives accountable for them both in discussions and at the polls; and 3) government officials who delegate authority have a responsibility to assure that those to whom power has been assigned use it properly and efficiently.

(a) Individual Citizens Are Personally Accountable. In a democracy every citizen is a public servant. Bottom line responsibility for government rests with the people. As a result, those who perform government functions do so as representatives on behalf of the citizenry. Legislators have the special duty to educate their constituents about the major issues of government so that they use their franchise

Guidelines and Commentary for the Legislative Ethics Act

to vote intelligently.

(b) Representatives Are Accountable to Citizens. A separate aspect of accountability concerns the public official's responsibility to employ public authority openly, to state important policy positions and beliefs candidly and publicly, and to assure that their own official conduct and that of other government officials is subject to public scrutiny. Citizens have the obligation to hold their representatives accountable both in public dialogue and at the ballot box. Elected representatives have a corollary obligation to act in a way that allows the public to hold them accountable. See also AS 24.61.430.

(c) Representatives Must Hold Their Agents Accountable. Each public servant in government is responsible to strive to make government as open, efficient, equitable and honorable as possible. In pursuing this responsibility, they must exercise proper oversight with regard to delegated functions. See also AS 24.61.430.

AS 24.61.050. PRINCIPLE OF DEMOCRATIC LEADERSHIP. It is sometimes very difficult to distinguish legitimate political tactics to advance public policy positions from illegitimate ones. An illegitimate tactic is one that tends to disregard any of the overarching ethical principles of public service and places ends over means. The essence of representative democracy is "means." In other words, the procedures for setting policies and resolving disputes established by the federal and state constitutions and by other duly enacted laws is all that sets a republic apart from a dictatorship. The notion that this is a nation of laws, not of men, cautions us remember that even well-meaning persons who seek only their vision of the public good, must defer to democratic due process. See AS 24.61.461.

AS 24.61.055. PRINCIPLE OF RESPECTABILITY -- CONDUCT BEFITTING THE LEGISLATURE

(a) Legislators Must Not Discredit the Legislature. Legis-

Guidelines and Commentary for the Legislative Ethics Act

lators and legislative employees are visible leaders in society and they properly are held to high standards of personal probity. Acts which demean or discredit government or demonstrate defects in their character and judgment set a bad example and injure the reputation of the legislature. While public servants are not expected to be perfect, they should realize their special responsibilities. They should strive to conduct their professional and personal lives so as to reveal character traits, attitudes, and judgments that are worthy of honor and respect and demonstrate fitness for public office. Thus, conduct which violates this rule is independently sanctionable.

(b) Honesty and Integrity. Legislators should be scrupulously honest, avoiding any form of lying, deception, deviousness, hypocrisy and cheating in their professional and personal lives. Dishonesty by a legislator is wrong in itself but it also violates principles of public service ethics by seriously undermining the credibility of government. Technical or literal truthfulness is not all that is required; honesty precludes any deliberate deception including the raising of false inferences. Legislators and legislative employees should also reflect personal integrity in all matters, placing principle over expediency and demonstrating courage of convictions. Although it is necessary and proper for elected officials to represent the views of their constituencies it also is necessary that they have pronounced and strong personal convictions--things they stand for. Legislators should offer principled leadership.

(c) Illegal and Dishonest Conduct. Activities which are illegal but not directly related to legislative service (for example, drunk driving, drug use, tax evasion, assault, hiring prostitutes) discredit the individual and the legislature itself. Similarly, private conduct, even if legal, discredits the body if it reveals dishonesty, deviousness, or hypocrisy. All such acts by legislators or legislative

Guidelines and Commentary for the Legislative Ethics Act

employees tend to undermine public respect and confidence and, therefore, they violate the principle of respectability.

(d) Private Personal Conduct. The most difficult area of private conduct concerns legal behaviors that subject the actor and the legislature to criticism or ridicule because it violates the moral sensibilities of a significant portion of the public. The obligation of public servants to lead exemplary lives for the sake of the reputation of government in general must be balanced against a real and important right to a private life which may involve choices and behaviors that raise moral issues. Acts of adultery, homosexuality or promiscuity, for example, concern personal matters that should not be the basis of any charge or sanction under these rules unless it is clear that the behavior bears on the fitness to serve or the ability to carry out duties. Whether or not lawful private acts which do not bear in any direct way on the responsibilities of public office are proper subjects of press disclosure and public scrutiny, they are not appropriate concerns under this Act. No separate sanction for private conduct in the "moral arena" is contemplated. Such matters should be left to the electorate.

24.61.060. PRINCIPLE OF INDEPENDENT JUDGMENT. The most heavily regulated area of government ethics relates to conflicts of interest, especially financial conflicts. This provision overarches the individual conflict of interest provisions in this code and states clearly the nature of the ethical obligation. Essentially, a conflict of interest exists whenever a person has personal interests which are inconsistent with professional obligations. In the case of public service, the primary obligation is to exercise independent objective judgment in the public interest and scrupulously avoid interests that are likely to impede the ability to make such judgments. In addition to the need to safeguard one's own ability to make independent objective judg-

Guidelines and Commentary for the Legislative Ethics Act

ments on the merits, public servants also are obligated to respect the duty of other government officials to the same. Thus, it is improper to engage in any act designed to cause another public official to violate the duty of independent judgment.

Article 2. STANDARDS OF CONDUCT

AS 24.61.100. MISUSE OF OFFICE FOR PRIVATE GAIN. The obligation to use public office only in the public interest and not for private gain underlies many of the specific provisions of this code. It is impossible, however, to envision and specify all the possible ways that this principle may be violated as the range of private interests and improper motives is almost inexhaustible. This provision makes it clear that it is improper to make any use of office or position primarily to attain personal benefits, whether they are financial, social or political. This statement of principle is somewhat broader but not inconsistent with AS 39.52.120, "Misuse of Official Position," which prohibits non-legislative public officers from using or attempting to use, an official position for personal gain or to secure or grant unwarranted benefits or treatment.

AS 24.61.110. IMPROPER BENEFIT FROM PERFORMANCE OF PUBLIC DUTIES.

(a) Benefit Need Not Affect Conduct. Legislators and legislative employees have an obligation to perform their duties diligently, promptly, efficiently and fairly. In representing constituents from their districts they have the additional responsibility to exercise oversight over administrative agencies and, in some cases, to assist constituents in a reasonable manner that does not unduly interfere with the independent judgment of administrators (see AS 24.61.380). The only lawful compensation for properly performing these services is official salary and allowances paid by the state. It is improper to seek or receive any-

Guidelines and Commentary for the Legislative Ethics Act

thing of value from a citizen as a reward, expression of gratitude or payment for the performance of public duties even if the benefit had no actual affect on public decisions or actions.

(b) Unsolicited Gratuities. Even unsolicited gratuities otherwise permitted under AS 24.61.350 create an appearance of impropriety when they are given to a legislator or legislative employee after or in anticipation of an official action or informal representation within the normal scope of duties. Though the recipient may not have anticipated the gift and, therefore, could not have been influenced by its prospect, a reasonable observer might believe it was a payment or reward for services rendered. Minor courtesy items such as ceramic coffee cups, a desk memento, flowers or a box of candy may be accepted, but generally, gifts ought to be returned with a polite but clear message that the gesture was unnecessary and could be construed as improper. If this is not feasible, they ought to be given to charity or otherwise handled in a way which makes it clear that the public servant has not accepted and does not want any personal benefit for official actions.

(c) Avoiding the Appearance of Selling Access. The ability of a citizen to confer directly with a legislator is frequently referred to as access. Because of the great press or duties and demands on the legislator's time, it not always possible for a legislator to personally talk with everyone who seeks an audience or to give them all the time they would like. The legislator's time is a crucial asset which must be carefully allocated among competing demands. It is important, however, that access is not determined by the willingness or ability of the person to provide any benefit to the official whether it be in the form of a gratuity, an honorarium or even a campaign contribution (regulations dealing with improper means of acquiring political support are stated in AS 24.61.230).

Guidelines and Commentary for the Legislative Ethics Act

(d) Duty to Reject Improper Offers. Subsection (b) concerns improper offers and the obligation to reject them. Under Alaska's criminal law, AS 11.56.100, "a person commits bribery if the person confers, offers to confer, or agrees to confer a benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, action, decision or exercise of official discretion." If the benefit conferred is accepted with the intent to use one's - government position for private gain, the public servant is also guilty of bribery -- even if no act was actually performed. It is critical to recognize, therefore, that the acceptance by a legislator or legislative employee of benefits of any sort from persons who seek to influence official actions raises criminal as well as ethical issues. Although the high standard of proof and other procedural safeguards of a criminal trial make it difficult to establish the crime of bribery, the ethical obligation to avoid transactions which cast doubt on the integrity of government is not delimited by the standards of provable bribery. Legislators and legislative employees must avoid both the appearance and the reality that public office was used for private gain. Therefore, it is improper to accept any benefit, whether in the form of compensation for services or a gratuity, from a person with a corrupt motive. It is not enough that the public servant has no intent to do anything improper or, in fact, that nothing improper is done.

AS 24.61.120. DUTY TO REPORT IMPROPER OFFERS. It is not always sufficient to turn down an improper offer of gifts or other benefits. Any attempt to unduly influence a public official warrants some action that at least educates the offeror of the impropriety and risk of such conduct. Occasionally, an improper offer is made by an unsophisticated individual who should have, but did not know any better. A polite but firm warning may be sufficient. On the other hand, improperly motivated gratuities are - attempted bribes and when the source is a registered lobbyist

Guidelines and Commentary for the Legislative Ethics Act

or otherwise appears to be well aware of the significance and impropriety of the action, the matter should be handled with great seriousness. A failure to react with indignation or report improper offers to the authorities can be viewed as wrong in itself. (Imagine how would it look on the nightly news to learn that a public official was offered a bribe and he merely said, "No thank you.").

AS 24.61.130. MISUSE OF STATE PROPERTY AND RESOURCES FOR PRIVATE GAIN OR PERSONAL ADVANTAGE.

(a) Authorized Use of Government Property to Aid Private Enterprises. Subsection (a) covers situations where a legislator or legislative employee improperly uses state property or resources for personal gain or for the gain of another. In certain cases, economic development activities authorized by law involve using state resources to assist private enterprises. This is permitted.

(b) Misuse of Government Property for Personal Gain.

Subsection (a) also establishes the basic rule that state facilities, equipment and services (office space, typewriters, word processors, telephones, postage, computer data, stationery, mailing facilities, photocopying, etc.) may not be appropriated for personal gain or advantage. Common sense and fairness requires that this provision be interpreted reasonably. Though government facilities should certainly not be used for personal purposes on a substantial, regular or ongoing basis, occasional and limited usage should be permitted so long as: 1) it does not interfere with the performance of public duties; 2) the cost or value related to the use is so nominal that reimbursement procedures would not be worth the effort, and 3) the use does not raise an unreasonable appearance of impropriety or undue political advantage. For example, interpretation of these limitations should take into account the reasonable needs and expectations of employees and permit them to make and receive occasional personal phone calls of short duration or

Guidelines and Commentary for the Legislative Ethics Act

makes an occasional personal copy on a state photocopy machine.

(c) Frequent Flyer Points. Unless otherwise provided by law or regulation, the frequent flyer points or other bonuses related to air travel paid for by the state, should be treated as the personal property of the employee. While a strong logical case can be made that the collateral benefits of state-paid travel should accrue to the state, the practical and morale problems entailed in administering such a position do not justify the small gain. The state, of course, has an interest in seeing that public resources are used economically and only spent in the public interest. Allowing public employees to personally benefit from bonuses attributed to government travel raises a potential conflict of interest as it creates an incentive for the employee to select a carrier based on private economic advantage rather than state interests. This conflict is not a major one, however, especially in Alaska where the number of carriers and flights tend to limit options. Moreover, the prohibition against using public authority or funds for personal gain would make selection of a carrier on inappropriate criteria improper. Any legislator or legislative employee who actually allows the desire to earn frequent flyer points or bonuses to influence official decisions violates this provision and is subject to sanction notwithstanding the fact that any points earned are the property of the legislator or employee. This should provide a sufficient deterrent to protect the state's interests.

(d) Misuse of Legislative Employees for Personal Gain.

Subsection (c) prohibits misuse of legislative employees whose time is and should be treated as public property which should not be misappropriated to personal use. Publicly paid employees simply must not be used as personal secretaries or private staff. Overly strict application of this provision, however, is inappropriate. For example, a legis-

Guidelines and Commentary for the Legislative Ethics Act

lator should be permitted to make moderate use of staff to help organize and schedule the legislator's calendar, appointments and travel plans -- including some events of a political or private nature. Emphasis, however, must be placed on the word "moderate" and both the aide and the legislator must be vigilant to avoid actual abuse as well as the creation of the appearance of unreasonable use of public personnel. Though this limitation should be interpreted in a reasonable manner given the pressing responsibilities of a legislator, purely personal errands such as dropping off laundry, picking up children, handling household or private matters, and purchasing private gifts are justifiable only in extraordinary circumstances where the task is suddenly necessary to help the legislator perform professional duties.

(e) Use of Employee's Own Time. Generally, employees do not voluntarily contribute their personal time to benefit their employers. Yet public officials sometimes claim that employees willingly perform personal services "on their own time" -- during lunch hour, after normal working hours. Such claims should be examined with skepticism as there is a high risk that the employees believed that they were required to perform personal work as part of their jobs. In such cases, there is at least an appearance of improper exploitation and such use of public personnel should be avoided. If a legislative employee is asked to perform any personal service, it is best if the employee is paid for his or her time out of the official's private funds.

AS 24.61.140. MISUSE OF STATE PROPERTY AND RESOURCES FOR POLITICAL PURPOSES.

(a) Misuse of Resources or Staff for Political Purposes. Subsections (b) - (d) regulate the use of government resources, including legislative employees, for political or campaign purposes. It is often difficult to distinguish legitimate political work within the scope of official duties

Guidelines and Commentary for the Legislative Ethics Act

from campaign activities but the basic rule is clear: public resources should not be used for political purposes as the taxpayer should not be forced to subsidize campaign or other partisan political activities. In general, the use of public employees is justified in activities where there is a substantial and bona fide public purpose to the activity and there is no personal profit (as with the writing of a book for royalties). Materials which express the legislator's opinions or views are generally proper whether in the form of a speech, article, newsletter, or position paper. They can be worked on by legislative staff even if these materials will and are intended to be used as part of a campaign for legislative office.

(b) Special Problems With Senior Aides. Many legislators are assisted by a senior aide who also serves as a major campaign adviser. It is unrealistic to expect that such persons will not be involved intimately in the full political life of their employer. So long as the senior aide "does a full day's work for a full day's pay" to justify the government salary, party and campaign activities above and beyond public duties should be tolerated. In some cases, portions of the aide's salary ought to be paid out of campaign funds. Once one begins to use other legislative staff, however, a serious problem arises and unless the use is expressly justified by regulations promulgated by the legislature or the commission it shall be regarded as improper.

(c) Advice of Commission. A legislator or legislative employee who is unsure about the propriety of a use should seek advice from the commission.

AS 24.61.150. OBLIGATION OF SUBORDINATES TO REFUSE TO PERFORM IMPROPER TASKS. While it is improper for a superior to ask a subordinate to perform personal or political services, it also is improper for a subordinate, as a public servant, to accede to such requests. While tact is imperative as a practical matter,

Guidelines and Commentary for the Legislative Ethics Act

employees still have the obligation to assure that their services are not converted to nongovernmental uses. It is a violation of this Act for a supervisor to harass, pressure, embarrass, intimidate or punish an employee who properly refuses to perform improper personal services. This provision will be difficult for some employees to comply with yet its existence and their duty to do so provides the best protection against abuse. It is very likely that improper requests will be sharply reduced by the knowledge of this obligation and the fact that the employee subjected to such requests has no discretion to accede to them.

AS 24.61.170. USE OF NONPUBLIC AND CONFIDENTIAL INFORMATION FOR PRIVATE GAIN. This provision addresses the improper use of information gained in government service for private gain. It forbids the exploitation of not only information which is labeled "confidential" or is treated as confidential by law, it also prohibits the private use of other valuable information not available to the general public which was acquired by the legislator or legislative employee by virtue of public position. For example, "inside information" about state plans or negotiating strategies, information revealed to legislative committees with the expectation that it be only used for official purposes, financial data, computer data and lists obtained during legislative service may not be used to obtain private or political advantages nor conveyed to others to give them such undue advantages. A similar, but narrower, provision is contained in AS 39.52.140 as part of the Code of Ethics for nonlegislative public officials.

AS 24.61.180. MISUSE OF TITLE OR PRESTIGE OF OFFICE FOR PRIVATE GAIN OR PERSONAL ADVANTAGE.

(a) Objective. The objective of these provisions is to prohibit legislators and legislative employees from affording themselves and others unwarranted advantages by the inappropriate use of official title or the prestige of office. Because of the great power and authority of the legislature, the prestige and implied "clout" that usually accompanies

Guidelines and Commentary for the Legislative Ethics Act

legislative service is often a marketable asset. Some dimensions of this prestige are intimately associated with the person who attained the position and they constitute valid qualifications. It is important, however, that it not appear that a legislator or legislative employee has sought or obtained undue personal benefits from the office, especially in a way that discredits, cheapens or commercializes government service or connections.

(b) Use of Title in Conducting Business. It is improper to use or permit the use of official title in any manner which would lead reasonable observers to believe that legislative office is being exploited to derive direct financial gain or enhance the stature, reputation or business opportunities of an individual, corporation, or organization. It is common to use the stature and prestige of legislative office by direct reference to title or position or by use of official letterhead in communications. When carrying out the business of government, use or mention of official title or legislative affiliation is entirely proper. It is a different matter, however, when one is acting in a personal or private business capacity. Actual or apparent improprieties can arise from such conduct for several reasons: 1) a reference to public position may give the erroneous impression of governmental approval; 2) a person dealing with a high government official may think that the way the private matter is handled will affect treatment by the government; and 3) where legislators or legislative employees are affiliated with a private organization or business, potential clients or customers could easily conclude that the business has access to inside information or powerful connections that may be brought to bear on their behalf.

(c) Board Membership and Consulting. Enterprises of all sorts, including nonprofit associations, charitable organizations corporations and firms involved in lobbying, public relations, law practice and consulting often seek out per-

sons serving in government, especially legislators, to serve on boards, advisory committees or as consultants. All such associations raise ethical problems because of the possibility that public office is used by the legislator and the enterprise that employs the legislator for private benefit. Because of the conflict of interest, AS 24.61.310 generally prohibits board membership on any organization that regularly does business with the state. In other situations, however, this provision applies. While the most serious problems arise when the public servant is compensated in relation to the association, even uncompensated relationships may violate this provision if the legislator or legislative employee knows or reasonably should know that the organization intends to trade on its affiliation with someone in the state legislature.

(d) Pay Should be Commensurate With Services. It is especially important when legislators and legislative employees receive outside income that the compensation is commensurate with the actual personal services rendered. If any premium is being paid due to the public servant's position, or no significant services are being rendered, the enterprise is, in effect, improperly buying, and the public servant is, in effect, improperly selling the prestige associated with the office. In addition, premium payments may be perceived not as compensation, but as illegal gratuities.

(e) Perception of Undue Advantage. Where the compensation paid for services is proportional to the services performed by normal market standards, or the service is uncompensated, the appearance of impropriety is less severe. But even such relationships may inappropriately use public office. For example, clients or customers may seek representation by a firm employing a legislator because they think that they will have some special advantage in dealing with government. Legislators and legislative employees who associate with private enterprises have a special duty to assure that these

Guidelines and Commentary for the Legislative Ethics Act

enterprises do not suggest or imply special influence with government and that clients and customers of the enterprise are not led to expect or encouraged to think that the association of the public official with an enterprise may afford them unwarranted benefits.

AS 24.61.190. POST-SERVICE RESTRICTIONS TO PREVENT MISUSE OF PUBLIC OFFICE BY FORMER LEGISLATORS AND LEGISLATIVE EMPLOYEES.

(a) Restrictions on Post-Service Lobbying. This provision addresses the problem of the so called "revolving door." The tendency of persons to leave positions of power and influence in government to represent private interests in their dealings with government, often for compensation many times more than earned in public life, raises a number of serious concerns about the integrity of the political system. Among the concerns: 1) the former legislator or legislative assistant will unduly exploit connections and inside information to gain undue and unfair advantages for their clients or employers; 2) the legislator or legislative assistant may adjust official conduct even while in office in an attempt to attract the attention of or curry favor with prospective employer or clients; and 3) former associates may be too willing to defer to, do favors for or provide inside information to their former colleague. In any event, the perceptions of impropriety are great. Many people would ban former legislative officials from any representational activities concerning the legislature or state agencies. This provision is more narrowly drawn to permit representation of private interests with nonlegislative state agencies provided that the former legislative official did not have special oversight or budget authority. While this may seem to work an unfair hardship on presiding officers and certain committee chairs, their relationship with certain agencies is so close that to permit them to turn around and lobby - these agencies within a year of their government service is simply not appropriate. At the same time, the potential

Guidelines and Commentary for the Legislative Ethics Act

conflicts of interests arising from other legislators lobbying state agencies seems manageable so long as there is disclosure.

(b) Improper Appearance of "Cashing In." It is unseemly and a violation of the spirit of public service ethics when present or former government officials appear to be blatantly "cashing in" on their government service by acting as consultants, lobbyists, or spokespersons for private interests in circumstances where it appears that they are peddling influence or selling the prestige and stature of their prior office. This is not to say that former government officials who have important experiences cannot serve on boards, make speeches for substantial fees or engage in consulting or lobbying. But, the circumstances including how, when, and at what price they sell their services are of critical importance. See also Guidelines and Commentary to AS 24.61.180(d) and (e).

AS 24.61.205. PROHIBITED USES OF CAMPAIGN FUNDS.

(a) Improper Conversion or Gratuity. A candidate who solicits donations for the purpose of conducting a campaign accepts such funds on the implicit condition that they are only given for the limited lawful purpose of financing campaign activities for an immediate election. When funds given for this limited purpose are converted to personal use, either before or after a campaign, the use is either an illegal conversion or an improper gratuity. The use of campaign funds for personal benefits violates the principles of these standards by permitting private gain from public office and creates blatant appearances of impropriety.

(b) Examples of Prohibited Uses. It is improper to use campaign funds to: purchase personal items such as clothes, gifts, art; defray normal living costs such as auto leasing or maintenance, gas, or dry cleaning; pay for the travel of spouses or other relatives not clearly relevant to a

Guidelines and Commentary for the Legislative Ethics Act

campaign; or to decorate political offices.

(c) Employment of Family. A special problem under Subsection (c) concerns the employment of any member of a candidate's immediate family by the campaign. While such employment is not specifically prohibited, it is most strongly discouraged. Ordinarily, family members would be expected to volunteer their time to support a candidacy and payment, even if the amount is clearly reasonable, appears as a method of siphoning campaign funds for personal use. Payment of a relative by a campaign should be permitted only when: 1) the person has taken leave from a paid position in order to serve on the campaign and 2) the amount is clearly commensurate with the services rendered, in light of the person's qualifications and training and what others non-relatives receive for similar services.

(d) Repeal of Prior Law Re: Post-Election Conversion of Funds. Prior law permitted candidates after an election to disburse surplus campaign funds to themselves provided they declared the funds as income. This provision is expressly repealed with respect to legislative candidates. The ability to convert surplus funds to personal income is totally inconsistent with the limited purpose under which the funds were, and lawfully could be, given and received. Loans of campaign funds to the candidate or others has the effect of converting the funds to personal use. Such loans create a serious appearance of impropriety, whether or not interest is paid and whether or not the loan is paid back in a timely manner.

AS 24.61.210. DISBURSEMENT OF SURPLUS CAMPAIGN FUNDS. Where candidates have raised more funds than they need for an immediate election, continued efforts to raise campaign funds is proper only if the donors are clearly informed about the likely use and lack of immediate need for their contributions. The increasing ability of incumbents to amass large "war chests" well before an election has raised serious ethical issues. This section pre-

Guidelines and Commentary for the Legislative Ethics Act

vents this by limiting the carryover of surplus funds to \$5,000 for senate candidates and \$2,500 for house candidates. The discrepancy is justified by the length of time between elections and the fact that other provisions limit fund raising to specific periods. Retained surplus campaign funds can be used for campaign travel and other political activities.

AS 24.61.230. IMPROPER COERCION.

(a) Solicitations of Campaign Contributions or Any Other Benefit. Difficult problems arise with respect to the solicitation and acceptance of any benefit including campaign or other contributions from those who have a substantial interest in legislative, administrative or political actions of a legislator or legislative employee. In such cases, great caution should be exercised to avoid the appearance that solicitations of campaign contributions or other contributions are connected in any way, as a quid pro quo, with any legislative, administrative or political action which might benefit or harm the contributor. For example, solicitations of any benefit made shortly before or shortly after a legislator has done any act on behalf of a constituent should be scrupulously avoided in order to avoid the appearance that the legislator expected a contribution or other benefit in return for legislative, administrative or political services.

(b) Political Contributions or Support in Exchange for Access. A common complaint among lobbyists and others who have a substantial interest in legislative, administrative or political actions is that legislators directly, or through their staff, create the impression that those who make political contributions, hold fund raising events or provide other political support will have special access to the legislator when they want to make their case to influence action. In some cases, this access is expected to give the person an edge in persuading the legislator to take or refrain from taking certain actions. In others, the per-

Guidelines and Commentary for the Legislative Ethics Act

son solicited believes that the contributions are more defensive, necessary to lubricate the relationship, believing that the failure to be supportive would significantly reduce their ability to effectively plead their case. In all these situations, however, there is implicit impropriety.

(c) Soliciting Donations to Charitable and Other Causes.

More and more, lobbyists and others who have a substantial interest in legislative, administrative or political actions have complained that legislators "strong arm" them to make donations to charities or other causes in which the legislator has a personal or political interest. Because of the importance of a positive relationship with the legislator, many persons so solicited feel obligated, not by conscience but by fear of offending, to comply with the request. Although most situations do not create the appearance of influence peddling since the benefit is not personal and since it is rarely large enough to create the appearance of a quid pro quo, many insiders see this as a mild form of extortion or a "tax" levied by legislative whim. A legislator who solicits another, either directly or through an aide, to contribute to a charity or a cause, should do so in a manner that clearly and unequivocally removes any suggestion of coercion or implication that the decision to make or not make the requested contribution will in any way affect the professional relationship.

AS 24.61.240. FUND RAISING LIMITATIONS. Previous law limited certain forms of fund raising in the capital city during legislative session but this limitation did not effectively prevent fund raising activities. Instead, it inspired creative methods of non-event fund raising such as raffles, fund raising activities in Juneau for events outside the city and various forms of fund raising by legislators for other candidates. As a result, neither the goal of preventing the diversion of the legislator's time and energy to public matters or of reducing opportunities

Guidelines and Commentary for the Legislative Ethics Act

for potential conflicts was achieved. This ban on all fund raising activities during the legislative session will accomplish that purpose. It goes further by preventing "off-year" fundraising and limiting the total period of legislative fund raising to about ten months for incumbents and fourteen months for non public official challengers. Nonincumbent candidates are permitted to fund raise during the legislative session in the year of the election because the reasons to prevent fund raising during sessions do not apply to them and because there is a general consensus that nonincumbents need more time to raise funds.

AS 24.61.250. OBLIGATION TO AVOID CONFLICTS OF INTEREST AND PRESERVE ABILITY TO MAKE INDEPENDENT IMPARTIAL JUDGMENTS. Public officials must be vigilant for relationships and transactions that create conflicts of interest. Such conflicts are either forbidden, in which case, the interest must be divested or the relationship terminated; or it shall be disclosed pursuant to law. In addition, the legislator or legislative employee who has a conflict may be required to refrain from participating in any legislative, administrative or political action which involves the questioned financial interest or personal relationship. Financial conflicts of interest can arise out of almost any close economic association but the most common and significant conflicts for legislators and legislative employees relate to:

- (a) sources of nonlegislative income for personal services, especially when the income is derived from a source that has a substantial interest in legislative, administrative or political actions of the legislator or legislative employee;
- (b) the conferment of any benefit, including investment opportunities, employment, entertainment, gratuities, honoraria, loans, favors and special treatment from a source that has a substantial interest in legislative, administrative or political actions of the legislator or legislative employee;
- (c) close economic associations with other public officials

Guidelines and Commentary for the Legislative Ethics Act

or lobbyists, especially those that have a substantial interest in legislative, administrative or political actions of the legislator or legislative employee;

(d) personal financial interests in contracts or leases with the state or other government entities;

(e) personal financial interests in licenses, permits, franchises or other valuable entitlements or privileges granted by the state;

(f) personal participation in state loan or other programs conferring benefits;

(g) representation of oneself or others in actions before state agencies or other government entities;

(h) state regulation or funding which substantially affect a profession, occupation or organization in which the legislator or legislative employee has a substantial economic interest; and

(i) personal involvement at a managerial or governance level with a private enterprise or nonprofit organization that is regulated by or seeks benefits from the state.

AS 24.61.275. PERSONAL RELATIONSHIP CONFLICTS OF INTEREST. The area of personal conflicts of interest is a delicate matter and difficult definitional issues arise. Still, it is important to acknowledge that certain personal relationships raise conflict of interest problems every bit as potent as financial conflicts. The definition of personal conflicts of interest leaves much room for discretion and judgment but the principle of good faith can be of great assistance. There are two separate aspects to the definition of a personal relationship conflict of interest: 1) does the relationship create real conflicts with the ability of the public servant to exercise independent judgment in matters relating to the person involved in the relationship; and 2) does the relationship create in the mind of an objective, fair-minded observer the belief that the person will have undue access to

Guidelines and Commentary for the Legislative Ethics Act

confidential information or will otherwise receive favored treatment regarding public actions. It is not intended that this provision create unwarranted and embarrassing intrusions into personal lives yet certain romantic relationships reach a point where they must be reported. This point is not measured by any specific litmus test such as exclusivity, sexual activity, or longevity. It is a common sense test. The "how would it look in the newspaper" test may be helpful. Put another way, given the respective duties and activities of both parties, would a responsible and fair journalist who discovered the relationship, be likely to conclude that the public has a right to know?

AS 24.61.300. RESTRICTED RELATIONSHIPS: LOBBYISTS, LEGISLATORS AND LEGISLATIVE EMPLOYEES.

(a) Fund Raising by Lobbyists. When a lobbyist is actively involved as a fund raiser in a legislative campaign (or for a legal defense fund) both financial interest and personal relationship conflict of interests emerge in major proportions. The likelihood that the legislator will be beholden to the lobbyist in a way that could impede objective impartial independent judgment is so great that the relationship must be prohibited.

(b) Close Relationships. It is the purpose of this code to stay out of the private lives of those regulated to the greatest extent reasonably possible without compromising the public need to assure that impermissible conflicts are prevented and that questionable ones are revealed. The system established in subsection (b) allows the commission to privately screen and evaluate the substantiality of the conflict. Only if it finds the conflict to be substantial or one that ought to be disclosed publicly, shall it take further action. In the case of legislators, however, there ought to be a strong presumption in favor of public disclosure since such information is necessary if the citizens of the legislator's district are to hold the legislator accountable. If the legislator or legislative employee re-

Guidelines and Commentary for the Legislative Ethics Act

quests, the matter shall be disclosed.

AS 24.61.310. RESTRICTED RELATIONSHIPS: BOARD MEMBERSHIPS. A person who serves on a governing or advisory board of an organization, whether for profit or not, must be considered to be too integrally involved in the welfare of that organization to exercise independent objective judgment with regard to official actions that affect the organization in a significant way. Though exemptions may be sought, they should be granted rarely and only when the commission can impose limitations on actions involving the organization. If the person is a member of a board of a business in which the person has a substantial economic interest, the conflict is even more clear. Either the interest must be divested or strict limitations must be imposed by the commission prohibiting any actions which involve official or unofficial use of public office to influence the outcome of a decision affecting private business interests.

AS 24.61.320. RESTRICTED FINANCIAL INTERESTS.

This provision presents legislators and legislative assistants with an alternative when it comes to actions relating to a substantial personal financial interest: either divest the interest or refrain from taking any official or unofficial actions. Historically, a legislator with a financial conflict of interest would announce the conflict on the floor and ask to be excused from voting, a request that was invariably rejected. As a result, though conflicts were declared, legislators voted in spite of them. For the most part, such votes were inconsequential since most bills pass or fail by substantial margins. The spirit of this chapter, however, cannot countenance official actions which materially affect private financial interests. Thus, participation in matters in which a legislator or legislative employee has at least a \$25,000 conflicting interest are strictly prohibited unless an exemption is granted.

AS 24.61.330. RESTRICTED ACTIVITIES AS AN ATTORNEY OR REPRESENTATIVE.

Guidelines and Commentary for the Legislative Ethics Act

(a) Actions Against the State. A legislator or legislative assistant owes primary loyalty to the state and, therefore, should not represent any person in an action in which the state is a real party in interest. This provision does not prevent representation in various legal contexts where the state is primarily a party in name only and where the representation does not raise any reasonable appearance of divided loyalties or conflicts of interest.

(b) Representation in Matters Involving State or Local Government. Legislators and legislative assistants may not professionally represent, either informally or formally, persons or entities in their dealings with state or local government entities except where the nature of the representation is such that no actual or apparent conflict of interest exists. Where a matter is to be determined in an adversary setting with opposite parties represented, a legislator or legislative assistant may act as a representative. It is not proper, however, for the legislator or legislative assistant to make telephone calls, render advice, or otherwise represent another who is dealing with state or local government. It is impossible to remove the appearance of undue advantage when a person with substantial state legislative authority seeks to help another who is dealing with state or local government agencies. Moreover, the advantage is often real -- some government officials simply do things for legislators and, to a lesser extent, legislative assistants that they would not do for less connected persons.

AS 24.61.350. RESTRICTED TRANSACTIONS: GRATUITIES.

(a) Gift Rules are Not Personal. Some public officials take personal offense at the implication that they would allow their integrity to be compromised by a gift or favor. This reaction unduly personalizes the ethical theory and sound public policy which seeks to insulate public officials from the corrupting influences of gratuities. The motives of the gift givers offers insight to the problems. Rarely

Guidelines and Commentary for the Legislative Ethics Act

do they expect any quid pro quo; they do not think a public official will consciously change an action because of a gift. Gifts work more subtly to undermine objectivity. Receiving a gift often generates unconscious feelings of gratitude and appreciation which evoke a natural tendency to give something in return, whether out of natural gratitude or the desire to encourage further gifts. Gifts given freely out of affection by persons who want nothing in return create few problems, but most gratuities given to legislators or legislative employees are provided by persons or entities that do want something because they have a substantial interest in the legislative, administrative or political action of the recipient. In spite of the confidence of those who accept gratuities that their judgment remains unimpeded, the people who provide gratuities seem to believe that it is to their advantage to do so and the public perception is that the gift givers are right, at least some of the time. A legislator or legislative employee who is considering accepting even a lawful gratuity should carefully, realistically and objectively evaluate the likely motive of the person offering it: Why am I being offered this gift or favor? Would I be offered the benefit if I did not wield public influence? Who is paying for it? Is it likely to be written off as a business expense? If I accept the benefit will reasonable outsiders think that the donor has some hold on me or that I owe something in return? Since there is no offsetting public good to justify the appearance of impropriety created by the acceptance of gratuities, all close cases should be resolved against any action which raises reasonable suspicions regarding the integrity of the legislator or legislative employee or government in general.

(b) The Source of the Gift is Important. These rules discourage the acceptance of all gratuitous benefits that could raise the slightest appearance of impropriety but they permit wide personal discretion in all but the clearest

Guidelines and Commentary for the Legislative Ethics Act

cases of improper appearances. While legislators and legislative employees need not be so sensitive to the adverse appearances that they are unable to have close and cordial relationships lubricated by hospitality, gratuities accepted should be moderate, infrequent and given under circumstances that do not create the impression that the giver seeks undue influence or that the receiver seeks undue personal benefit. Thus, the most stringent rules concern gratuities offered by those who have a substantial interest in the legislative, administrative or political actions of a legislator or legislative employee.

(c) Requirement to Aggregate Gifts From Single Sources.

The rules follow the modern trend to require that gifts under the legal limit be aggregated annually to limit the overall giving power of any individual and to prevent avoidance of the limits by making frequent periodic gifts or by deliberately breaking down gifts into smaller parts.

(d) Permissible Gifts. This section exempts a substantial number of gratuities because they do not present sufficient conflicts of interest to warrant prohibition. There is no specific exemption for discounts that are provided to the general public or any large group since these are not things of value under the definitions of this Act. However, if the basis of the discount relates to government status (for example, airline discounts for legislators and other public officials) it is a gift unless the commission approves the discount program as one that presents no conflict of interest.

AS 24.61.360. RESTRICTIONS ON EARNED INCOME: OUTSIDE EMPLOYMENT AND HONORARIA.

(a) Employment Conflicts. Assuring that a legislator or legislative employee's sources of outside earned income are consistent with the ethical obligations of imposed by public office is a major and continuous challenge for the con-

Guidelines and Commentary for the Legislative Ethics Act

scientious citizen-public servants. The major employers in Alaska tend to be very active in the political process, employing lobbyists and engaging in other activities to assure that their interests are protected and advanced in the legislature. It would be unreasonable to ban all employment with these employers but any such employment must be subjected to the most rigorous scrutiny to assure that the legislator or legislative employee is acting in the public's interest rather than in the interest of the sources of outside income. The provisions of this Act do not and cannot exhaust all the possible way in which outside employment with a firm that has a substantial interest in legislative, administrative or political actions can create conflicts. The principles of good faith, public interest, independent judgment and public trust are especially important, therefore, in helping individual legislators, legislative employees and the commission interpret and apply these provisions.

(b) Other State Employment. Employment by other state agencies is prohibited because of the appearance that a legislator or legislative employee has an undue advantage and may have exercised undue influence in obtaining the position. Compensation from the state ought to be strictly limited to official legislative pay and allowances unless special circumstances justify an exemption.

(c) Honoraria. Generally, legislators and legislative employees should not accept payments for giving speeches or writing about matters concerning their public duties. Such payments, often called honoraria, may be proper in exceptional cases where the source has no significant interest in the public servant's governmental decisions and where the nature and amount of the payment is clearly reasonable and proportional to the effort required to earn it. A public official should not accept compensation for merely appearing at a function or attending a breakfast, lunch or dinner meeting and discussing a matter of interest to other

Guidelines and Commentary for the Legislative Ethics Act

participants.

AS 24.61.370. OBLIGATION TO MAKE ALL DECISIONS ON THE MERITS: FAVORITISM AND PATRONAGE.

(a) Spending Taxpayer Funds. All expenditures of public funds, whether hiring employees or making purchasing or other decisions with economic impact, involve the use of public resources. Those who have the authority to spend taxpayer money are obligated to do so with scrupulous consideration of the public interest and avoid the temptations to favor family, friends or acquaintances or discriminate against personal enemies and political foes.

(b) Employment Decisions. Legislators and legislative employees should make all employment decisions on the merits, only choosing those who are well qualified. This provision expands specific anti-nepotism rules. In spite of the long tradition of patronage in American politics, public jobs should not be treated as the spoils of victory. Cronyism and patronage inevitably undermine the efficiency and integrity of government.

(c) Fair Distribution of Public Funds. A common derivative of the spoils system mentality is sometimes seen in the allocation of funds by legislative leadership so that majority party members receive substantially more staff support, office equipment, and travel budget than their minority colleagues. This form of favoritism is so traditional that its ethical implications often go unnoticed. For some, it is simply part of the "game." Ultimately, however, a disproportionate allocation of public funds may shortchange the constituents of minority members who have substantially less resources to serve their districts than their brethren on the other side of the aisle. There are many legitimate advantages that the majority may enjoy but leadership ought to make substantial efforts to assure that minority members receive a fair share of legislative resources.

Guidelines and Commentary for the Legislative Ethics Act

AS 24.61.380. IMPROPER INTERFERENCE WITH THE INDEPENDENT JUDGMENT OF OTHERS ON BEHALF OF CONSTITUENTS.

(a) Intervening on Behalf of Constituents and Friends.

Legislators and legislative employees should be extremely cautious about directly or indirectly intervening with normal decision making, investigatory or adjudicative processes of governmental bodies on behalf of constituents or friends since such intervention can threaten the ability of government administrators to exercise independent objective judgment on the merits. Generally, intervention on behalf of constituents or friends is proper only if it is strictly limited to assuring fairness of the procedures or to helping a constituent get a benefit or service he or she is clearly entitled to as a matter of right. The legislator must be especially cautious when the constituent is also a contributor, particularly a major contributor. A politician should not be required to do any less for a contributor/constituent than the legislator would do for any other constituent, but the legislator should also do no more. Since actions on behalf of campaign contributors will usually receive much greater scrutiny and therefore the legislator's motives should be clear.

(b) Legitimate Casework vs. Improper Interference. Elected politicians are frequently asked by constituents and other supporters to intervene with other government agencies or departments. In fact, "case work" comprises a major part of the service provided by elected officials at all levels of government. Constituents bidding on government contracts often seek the help of "their" representatives; those who are subjected to investigations may expect their legislator to provide protection from what they view to be unfair procedures, and persons seeking government approvals or licenses sometimes ask politicians to facilitate the process. In the ombudsman function, seeking to remedy clear injustices or otherwise assure fair determination of rights is

Guidelines and Commentary for the Legislative Ethics Act

appropriate. Still, efforts to intervene on behalf of constituents are fraught with potential appearances of impropriety and the possibility that the intervention will prevent other public officials from exercising independent objective judgment on the merits. Legislators should consider a much heavier reliance on the ombudsman's office to avoid conflicts and assist constituents.

(c) Is Intervention in the Public Interest? An initial problem with intervention is that the interests of a particular constituent are not necessarily parallel with the interests of other constituents or the public as a whole. The primary obligation to advance the overall public good may require public servants to refuse requests for assistance in some cases. Another problem associated with intervention is that the public official may not know or understand all the facts that are relevant to a fair regulatory determination or a wise contracting decision.

(d) Perception of Pressure. Even where the intervening politician has no intent to influence improperly the normal process of decision making, it is not unlikely that the public servants involved think otherwise. Unless the intervening politicians are explicit and credible in stating the limited purposes of their involvement, administrators whose budgets are controlled by legislators are likely to feel pressure to make decisions differently than they otherwise would. Sometimes, regardless of the intervener's intent, administrators see the intervention as an opportunity to do a favor for the politician.

AS 24.61.390. CONFLICT OF INTEREST DISCLOSURE: STATEMENT OF PURPOSE. Financial disclosure is a less restrictive means of assuring that legislators and legislative assistants make decisions and take legislative action objectively. In lieu of a full ban, disclosure allows some sources of outside income but requires them to be disclosed, so that a vigilant public can make informed judgments. To serve its "watchdog" function, financial dis-

Guidelines and Commentary for the Legislative Ethics Act

closure must be as comprehensive as possible to reveal effectively any potential conflicts of interest to the public. The disclosure requirements in this chapter relate only to relationship conflicts and sources of income and they are not intended to replace disclosure obligations under APOC or any other law. The commission should design forms that are compatible with other disclosure forms.

AS 24.61.400. CONFLICT OF INTEREST DISCLOSURE BY LEGISLATORS AND LEGISLATIVE ASSISTANTS. Disclosure requirements must balance the privacy interests of the legislator or legislative assistant against the public disclosure necessary to guard against conflicts of interests. They should not be so intrusive of individual's privacy that qualified and interested individuals decline public service because of them. The purpose of the category A - category B two-tier reporting requirement of this provision is to prevent unnecessary invasions of the personal domain and, where that is not possible, to restrict the availability of disclosed information when it is reasonable to do so. Income earned from persons or entities which have a substantial interest in legislative, administrative or political actions of the recipient involves such significant potential conflicts that all amounts of income from those sources must be reported. On the other hand, income from a category B sources amounting to less than \$1,000 need not be reported. And, since category B income is inherently less problematical, even if it is over \$1000, the reports will usually be kept confidential. Only if the commission determines affirmatively that the public interest in the disclosure outweighs the individual's right to privacy will the information be made public.

AS 24.61.415. REPORTING OBLIGATIONS OF EMPLOYERS AND OTHERS PAYING COMPENSATION TO LEGISLATORS AND LEGISLATIVE ASSISTANTS. A legislator or legislative assistant who receives nonlegislative compensation may not know whether the source properly qualifies as a category A or category B source or who controls the source if it is a corporation. The requirement that person's paying