

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

9036 SENATE STATE AFFAIRS

person cohabitating with a legislator in a conjugal relationship from engaging in lobbying the legislature. These individuals may still act as representational lobbyists before the legislature or testify before committees, provided they are not compensated for such services. They may lobby agencies of the executive branch or another governmental entity for compensation. (AMENDED BY CS)

**\*SECTION 4: AS 24.45.171(12) DEFINITIONS.** Adds "another legislative employee subject to disclosure" to the definition of public official or public officer in relation to lobbying statutes. (see Section 56) (Added in RULES CS)

**\*SECTION 5: AS 24.60.030(a) TELEPHONE/FAX USE.**

\*Subsection (2XA): The changes in subsection(2XA) would allow the use of state resources for personal purposes if the use doesn't interfere with performance of public duties and either the cost is nominal or the legislator/legislative employee reimburses the state for cost. Requires employee to comply with supervisor's policy on state resource use. (Amended by STA CS)

\*Subsection (2XC) allows use of state phones and fax machines for private benefit and requires a legislator/employee who incurs a special charge to reimburse the state. (Amended by STA CS)

\*Subsection (5XA) allows use of state resources for political fund raising or campaigning if the use doesn't interfere with performance of public duties or the legislator/employee reimburses the state for cost. Requires employee to comply with supervisor's policy on state resource use. (Amended by STA CS)

\*Subsection (5XC) allows use of phones and faxes for political fund raising or campaigning and requires a legislator/employee who incurs a special charge to reimburse the state. (Amended by STA CS)

\*Subsection (5XD) allows campaign records, including APOC reports, to be kept in a legislator's office and prohibits a legislative employee from working on campaign records on government time. (Amended by STA CS)

**\*SECTION 6: AS 24.60.030(c) MASS MAILING.** The ethics code currently prohibits use of state funds to print or distribute a mass mailing from or about a legislator who is a candidate for state office, during the period 90 days before the primary and ending the day after the general election. The proposed language expands the prohibition to include legislators and legislative employees who are candidates for federal and municipal offices or to telephone and electric cooperatives. While other sections of the ethics code clearly prohibit use of state funds for campaign purposes, this section highlights what are considered to be a critical periods and provides a guideline for those who issue mailings during those times. This subsection does not refer to an individual legislator's office allowance. Rules Committee deleted, under definition of political mass mailing: (a person other than a legislator or employee who is a candidate for election to the legislature) (Amended by STA and RULES CS)

**\*SECTION 7: AS 24.60.030(d) CAMPAIGN LITERATURE.** The proposed change adds fundraising notices to the list of current prohibitions on distributing or posting campaign literature in state facilities. The prohibitions currently apply only to legislators or someone on behalf of a legislator. This language expands that prohibition to include legislative employees. The Senate State Affairs Committee added language which states that the offices of individual legislators are not public areas for the purposes of this section. (Amended by STA CS)

**SECTION 8: AS 24.60.030(f) BOARD MEMBERSHIP.** The bill would put in statute what is current practice for disclosure, with two exceptions. The committee now

requests disclosure of a new membership on a board within 30 days and board membership disclosures are not published in the journal. The amendment would change the new membership disclosure period to 60 days and would require the committee to publish the disclosures in the journal. (Unchanged by C8)

**\*SECTION 9: AS 24.60.030(g) CONFLICTS OF INTERESTS.** The amendments to this section have the effect of changing the *prohibition* on taking legislative, administrative or political action to a *disclosure requirement* prior to taking action if one has any of the "interests" listed in the amendment, which are expanded beyond equity or ownership interest to include employment, contracts and membership on a board. It also sets out that the disclosure is to be publicly announced if the action is being taken in a committee meeting or on the floor. Actions being taken other than in committee or on the floor, e.g. drafting a bill or testifying in an administrative hearing, would be disclosed in writing to the ethics committee within 7 days. Disclosures must include the nature of the financial interest and a short description of how action taken affects the interest, whether written or oral. (Amended by STA C8, recommended by committee)

**\*SECTION 10: AS 24.60.030 GOVERNMENT TIME.** Under the proposed language, when determining in a complaint proceeding whether an employee was performing a task on government time, the committee would consider the schedule set by the employee's superior. Requires an employee to take leave for the period of time he/she is engaged in political campaign activities, other than incidental campaign activities. As amended in Senate State Affairs, political campaign activities are permissible on government time if the activities are part of the normal legislative duties, including answering phone calls and handling incoming correspondence. (Amended by STA C8)

**SECTION 11: AS 24.60.031(a) FUNDRAISING DURING SESSION.** The proposed language clarifies that the restrictions on fundraising during session are in effect on a day when either house is in regular or special session. (This would change the committee's current interpretation of "gavel to gavel") The proposed language retains the restrictions on fundraising during session for state legislative political purposes and eliminates the unnecessary term for "campaign purposes". This proposal tightens the language that might have allowed someone to expend money raised during session under a general letter of intent without a declaration of candidacy. (Unchanged by C8)

**SECTION 12: AS 24.60.039 EMPLOYMENT DISCRIMINATION.** The Ethics Committee shares jurisdiction with the Human Rights Commission (HRC) on complaints filed against a legislator or legislative employee concerning violations of the employment discrimination statute, AS 18.60.230. Current law requires the committee to deal with a complaint alleging a violation of that statute in the same manner they would deal with any other complaint. The proposed language gives the committee the option to refer complaints of employment discrimination to the HRC and defer consideration of the complaint until after the commission has completed its proceedings. (Unchanged by C8)

**SECTION 13: AS 24.60.040(a) CONTRACTS AND LEASES.** The proposed language broadens the contract and lease criteria beyond the current code, which restricts a legislator or legislative employee from having a financial interest in a state contract or lease unless:

- it is let through competitive bidding in accordance with the Procurement Code or

- it is worth \$1000 or less annually or
- it is standardized, under publicly established guidelines and generally available to the public at large.

The new language allows participation in contracts or leases that are let under AS 36.30, the State Procurement Code, which addresses a variety of award methods, including sole-source. It also allows participation in contracts and lease that are let under similar procedures to those in AS 36.30 which addresses such agencies as the University and the Railroad. The new language sets a new reporting threshold at \$5000, changed from the previous \$1000.

This bill eases the 'family member' disclosure requirement to generally read: A legislator or legislative employee who knows, or reasonably ought to know, that a family member is participating in a state contract or lease (with an annual value of \$5000 or more) must disclose that participation.

This relaxing of prohibitions is balanced by the new disclosure requirement. Currently a legislator or legislative employee does not disclose to the ethics committee participation in contracts or leases permitted by the code. The proposed language requires disclosure by the legislator, legislative employee and family members of participation in any state contract or lease over \$5000 annually. It also clarifies that for the purposes of complying with the ethics code, a grant that results in a contract is subject to this section. (Unchanged by CS)

**SECTION 14: AS 24.60.040 CONTRACTS AND LEASES.** Clarifies that a grant, contract or lease that falls under one of the State Loan or Benefit Programs in AS 24.60.050, is not subject to this section. (The committee publishes a list of programs that do not meet the criteria in AS 24.60.050 and requires disclosure of participation in any of the listed programs.) (Unchanged by CS)

**SECTION 15: AS 24.60.050(c) REFRAIN FROM PUBLICATION.** Allows the committee to protect an individual's right to privacy concerning participation in state loan and benefit programs. This follows an advisory opinion issued by the committee in 1994 explaining that it chose to not publish the name of a person who received a benefit from the Violent Crimes Compensation Committee but did publish that a person covered by the ethics code had received a benefit. (Unchanged by CS)

**SECTION 16: AS 24.60.090(b) PROTECTIVE ORDER.** The subject of an ethics complaint would be in violation of the code for releasing information deemed confidential under a protective order issued by the committee. This change would allow the committee to broaden discovery by the subject while still protecting any innocent, or 'not involved' parties. See AS 24.60.170(i) Section 42, which was amended by STA CS. (Unchanged by CS)

**SECTION 17: AS 24.60.070(b) DEADLINE FOR CLOSE ECONOMIC ASSOCIATION.** The current code required disclosure but did not set a deadline. The February 15 deadline is in line with others and the 60 day disclosure for new associations matches the new language for disclosures throughout the bill. (Unchanged by CS)

**SECTION 18: AS 24.60.070(d) SPOUSAL/SPOUSAL EQUIVALENT LOBBYIST.** This new section would require legislators and legislative employees who are married to or who are the spousal equivalents of a lobbyist, to disclose, under Close

Economic Association, the name and address of each of the lobbyist's clients and the total monetary value received from each client annually. Changes to the list would have to be reported within 48 hours. This section applies to spouses or spousal equivalents of legislators and legislative employees who lobby any branch of state government. Note that Section 3 prohibits spouses or equivalents from lobbying the legislature. (AMENDED BY RULES CS)

**SECTION 19: AS 24.60.060(a): GIFTS.** The bill increases the gift limit from \$100 to \$250 annually. New language has been added that clarifies the restriction on legislators and legislative employees from accepting, from a lobbyist during session, anything of monetary value other than food or beverage for immediate consumption. This change matches the restrictions currently in the APOC statutes for lobbyists. (Technical Change only in RULES CS)

**\*SECTION 20: AS 24.60.060(c) GIFT EXEMPTIONS.** The committee has received inquiries as to whether a stay at a person's vacation home is an exempted gift. This language clarifies that a stay in a vacation home located outside the state, is not an exempted gift. Language would allow legislators and legislative employees to accept unlimited discounts while on state business. (Amended by STA CS)

**\*SECTION 21: AS 24.60.060(d) GIFT REPORTING.** Proposed changes to Sections 24.60.200-260 (discussed further down in this document) of the ethics code, remove APOC out from under the responsibility of dealing with reports of gifts received by legislators and legislative directors. This is an effort to ease confusion over what is reported to whom. Under the proposed changes, all gifts would be reported to the ethics committee. The changes in this section correspond to those made in previous sections e.g. \$250 limit and changing reporting date for gifts not related to legislative status to February 15 deadline and the change from reporting gifts to APOC. Changes the confidential disclosure requirement for gifts "not related to legislative status" from donor, description of gift and value to just donor and description of gift. Gifts that do not relate to legislative status will remain confidential. (Amended by STA CS)

**\*SECTION 22: AS 24.60.060(f) GIFTS FROM GOVERNMENTS.** Allows acceptance of gift from a foreign government, the U.S. government or another state government for protocol purposes so long as the gift is delivered to the legislative council within 60 days. This bill increases the threshold to \$250 to correspond with other changes relating to gifts. (Amended by STA CS)

**\*SECTION 23: AS 24.60.060(g) FAMILY.** Defines the terms in the Gifts Section "immediate family or family member", when used in relation to gifts received from immediate family and the new subsections in AS 24.60.060: inheritance from a family member (i) or gifts received by a family member (k). (Amended by STA CS, STA added to (B) with a person cohabiting in a conjugal relationship that is not a legal marriage.) (Technical change only in RULES CS)

**\*SECTION 24: AS 24.60.060 GIFTS.** New subsections (b) Permits soliciting and accepting gifts on behalf of charitable organizations, which is in accordance with the advisory opinion issued by the committee last year. Allows the committee to set guidelines concerning these types of gifts. (Unchanged by CS)

(i) Requires reporting of receipt, but not value of, an inheritance from a person other than a family member. The current statute does not address inheritance. This information is currently required under APOC reporting of gifts. The bill reflects the change from reporting gifts to APOC. (Unchanged by CS)

(j) The committee issued an opinion interpreting the restriction on accepting volunteer 'services' over \$100 in value. This bill reflects that opinion and sets out that gifts of volunteer services for legislative purposes may be accepted by a legislator, legislative committee or legislative agency as a gift to the state, so long as the person donating the services is not paid by another source. The CS amends this section by allowing a legislator, legislative committee or legislative agency to accept a UA Intern or JTPA trainee as well as any other educational trainees the committee approves. For purposes of maintaining confidentiality, the ethics committee is not permitted to accept volunteer services. (Amended by STA CS)

This subsection requires volunteers, interns, and educational trainees to generally comply with the ethics code, with the exceptions of the following sections: contracts and leases, close economic associations, nepotism or representation before state agencies. The nepotism exemption allows family members to volunteer their time to legislative offices. (Amended by STA CS. Educational trainees, including UA intern and JTPA added)

(k) The current law does not specifically address whether gifts, from another source, to a family member of a legislator or legislative employee fall within the restrictions and/or reporting requirements. The issue has been discussed by the committee in relation to spouses of legislators receiving gifts of travel to attend conferences with the legislator. The proposed language requires disclosure by a legislator or legislative employee who knows, or reasonably ought to know, that a family member has received a gift because of the family member's connection to the legislator or legislative employee. The bill provides this guideline: If the gift was given directly to the legislator or employee and if it would have to be reported by the legislator or employee, then the same gift, if the gift was given to a family member because of his/her connection to a legislator or legislative employee, would require disclosure. In other words, gifts of travel for matters of legislative concern given to allow the spouse to travel with the legislator, would have to be reported. The same holds true for gifts that legislators or legislative employees would be prohibited from accepting, that are received by family members. For example, gift of over \$250 given to the spouse of a legislator, primarily because of the connection to the legislator, would have to be reported.

The language, "or reasonably ought to know", concerning family members reduces the burden on those covered by the ethics code to research gifts provided to family members with whom there is little or no contact. (Technical Change in RULES CS)

(l) Sets out that the value of the gift is fair market value, to the extent that fair market value can be determined. An example of how this might apply is: a tourism company provides a one hour helicopter ride to show a legislator the area in which they would like to expand their tours. The legislator would use the rate charged to helicopter passengers for a one hour tour in reporting the gift. (Unchanged by CS)

**SECTION 25: AS 24.00.005(a) EARNED INCOME AND HONORARIA.** Allows legislators and legislative employees to accept compensation that is less than fees generally charged. The effect of this change would be to allow an attorney to do pro bono work or an engineer to charge a reduced rate for review of plans for a non-profit organization. (Unchanged by CS)

**SECTION 26: AS 24.00.100 REPRESENTATION.** Current law does not set reporting deadlines for representation before a state agency. This change corresponds to the other changes of February 15 and 60 days for new representation. (Unchanged by CS)

**\*SECTION 27: AS 24.60.111: LEGAL DEFENSE AND ELECTION CHALLENGE FUNDS.** New section allows a legislator or legislative employee to establish a Legal Defense and Election Challenge Fund to assist with payment of attorney fees and other costs related to defense of a civil, criminal or administrative action or related to the prosecution of defense of an administrative or judicial action concerning a contested election. Sets out that contributions to the fund are not subject to the restrictions on campaign contributions or gifts in the ethics code. Requires APOC to adopt regulations concerning the fund and establishes that a person who violates the regulations is guilty of a Class B misdemeanor and is subject to civil sanctions as recommended by the ethics committee in the complaint process. See Section 28, relating to the Campaign Finance Reform Initiative (Added by STA CS)

**\*SECTION 28: AS 24.60.111: LEGAL DEFENSE AND ELECTION CHALLENGE FUNDS.** This section, which also establishes the Legal Defense and Election Fund would only take effect if an initiative relating to campaign financing is approved by the voters in 1996. If initiative is not approved, this section sunsets and the section above stays in effect. Effective dates for this section are included at the end of this bill. (Added by STA CS)

**SECTION 29: AS 24.60.130(f) COMMITTEE PER DIEM AND TRAVEL.** The language formalizes the public members' entitlement to receive per diem and travel compensation, as has been customary with legislative committees that have non-legislative members, such as the Code Revision Committee. The public members are not entitled to be paid for their time in service to the committee. AS 39 20.180 sets the rates and terms for per diem and travel for state boards and commissions. The change would apply those rates and terms to the public members of the committee. (Unchanged by CS)

**SECTION 30: AS 24.60.130(h) MEMBER DISQUALIFICATION.** The process for appointing a new member to serve on the ethics committee in the place of a disqualified member is in new subsection AS 24.60.130(o). (Unchanged by CS)

The new language prohibits an ethics committee member from participating in a complaint proceeding against a subject of a complaint that is supervised by the member. (Unchanged by CS)

**SECTION 31: AS 24.60.130(o) APPOINTMENT OF COMMITTEE ALTERNATES** The current law sets out that if a member is disqualified during session, the presiding officer, with 2/3 concurrence, appoints another member for that proceeding. If disqualification is during interim, the presiding officer appoints a new member with the concurrence of that house's subcommittee. Involving either body of the legislature defeats that level of confidentiality and public knowledge of the disqualified member could lead to speculation as to who is the subject of the complaint. The new language directs the presiding officers to appoint alternates to the committee who will serve when the chair of the committee or subcommittee appoints them, due to a legislative member being disqualified in a complaint proceeding. The appointment of the alternate by the chair is confidential. (Unchanged by CS)

**SECTION 32: AS 24.60.134(a) RESTRICTIONS ON PUBLIC MEMBERS OF THE COMMITTEE.** The proposed language strengthens the political restrictions on the public members, staff to the committee and those under contract to the committee, by clarifying that prohibitions of participation in political management or in a political campaign extend to ballot initiatives and to campaigns for federal, state

and local offices, regardless of whether the campaign is partisan or nonpartisan. The restrictions on attending a fundraising event or making a campaign contribution remain, as in current law, tied to the legislature. A public member, employee or contractor to the committee may not attend a fundraiser or make a contribution to a candidate for the legislature, an incumbent legislator or legislative employee who is a candidate for another public office or a person running for another office against an incumbent legislator or legislative employee. The restriction on lobbying activities also remains the same as current law. (Unchanged by CS)

**SECTION 33: AS 24.60.134 RESTRICTIONS: NEW SUBSECTIONS.** The committee advocates further restricting public members, employees and contractors of the committee from participating in or attending a political fundraising event held on behalf of a political party. Current law does not address this issue. New subsection (c) adds this restriction. (TECHNICAL CHANGE IN RULES CS)

Proposed subsection (d) The proposed language permits a contractor with the ethics committee to request the committee to exempt some members of the corporation or partnership from having to comply with some or all prohibitions against political activity. The committee currently contracts for outside legal counsel with an attorney who is part of a large firm with branch offices outside of Alaska. A strict reading of current law prohibits all employees of that law firm to comply with the restrictions in the Alaska legislative ethics code. (TECHNICAL CHANGE IN RULES CS)

**SECTION 34: AS 24.60.150(b) GUIDELINES.** The proposed language permits the committee to adopt guidelines under a public process. A person who acted within the guidelines could not be penalized for violating the ethics code. The current procedure of issuing Advisory Opinions allows interpretations based only on the facts presented by a requestor. Situations have come up wherein the committee feels guidelines, based on a broad set of circumstances and an interpretation of the law, would assist those covered by the code in avoiding inadvertent violations. (Unchanged by CS)

**SECTION 35: AS 24.60.160 ADVISORY OPINIONS.** The proposed language in this section allows the committee to issue an advisory opinion to a person who anticipates becoming a legislative employee, 45 days prior to employment. Current law restricts the committee to issuing opinions to those already in legislative employment, legislators and legislators-elect. Current law sets 30 days as the response time for the committee to a request for an advisory opinion. The proposed change allows the committee 60 days to respond. (Unchanged by CS)

The new language in subsection(b) clarifies that the committee retains the authority to restrict attendance during deliberations in executive session on an advisory opinion. (Unchanged by CS)

**SECTION 36: AS 24.60.170(a) COMPLAINTS.** Current law requires the committee to process a complaint received, even if against all members of the legislature or all members of one house of the legislature. The proposed change, prohibiting the committee to consider a complaint of that nature, would allow the committee to return the complaint without action. Current law prohibits considering a complaint against a terminated legislative employee. Proposed language would allow the committee to reinstate a complaint that was closed upon an employee's

termination, if the employee was rehired within five years of date the complaint was filed. New language also allows the committee to follow the same procedure with a former legislator who resumes legislative service within five years of the date of the complaint. (Unchanged by CS)

**\*SECTION 37: AS 24.60.170(b) COMPLAINTS.** Requires the committee to inform the subject of a complaint of the procedures relating to discovery of confidential information as set out in AS 24.60.170(i). (Amended by STA CS)

**SECTION 38: AS 24.60.170(c) COMPLAINTS.** The proposed change would put into law the current adopted procedure of the committee, which is to assign complaints to staff for preliminary examination for legal sufficiency and credibility of information. Staff would then make a recommendation to the committee based on information and evidence contained in the complaint. Staff and the committee would be specifically permitted to solicit additional information from the complainant and the subject. The subject is not obligated to provide information. The new language clarifies that the committee is permitted to dismiss frivolous complaints for lack of credible information. Further clarifies, as is current practice, that proceedings under this subsection are confidential and that confidentiality may be waived by the subject in compliance with AS 24.60.170(i), the subsection dealing with discovery by the subject. (Affected by STA CS changes to AS 24.60.170(i))

**SECTION 39: AS 24.60.170(f) LACK OF PROBABLE CAUSE.** Clarifies that the deliberations and vote on the dismissal order and decision on a finding of "lack of probable cause that a violation of the ethics code occurred" are not open to the public or to the subject of the complaint. (Unchanged by CS)

**\*SECTION 40: AS 24.60.170(g) CORRECTIVE ACTIONS.** Clarifies procedures in the event a person, after a finding of probable cause of a violation of the ethics code, agrees to comply with the committee's recommended corrective actions but later fails to complete the corrective action. Under the new language the committee may formally charge the person or refer the matter to the appropriate house of the legislature or appointing authority. It empowers the legislature or the appointing authority to enforce the actions or to decline to enforce and refer the matter back to the committee. If it is referred back to the committee, the committee maintains the power to formally charge the person. (Amended by STA CS, committee recommended)

**\*SECTION 41: AS 24.60.170(h) CORRECTIVE ACTIONS.** Complies with new language in AS 24.60.170(g), empowering the committee to formally charge a person who fails to complete corrective actions. (Amended by CS, committee recommended)

**\*SECTION 42: AS 24.60.170(i) DISCOVERY.** Subsection (i) in current law is confusing as to when the subject of a complaint may engage in discovery. The committee feels the appropriate time for discovery and what seems to be the intent of the code, is at the point a person is formally charged. The change from subsection (b) to subsection (h) would clarify that intent. However, the new language permits the committee to adopt procedures concerning discovery which include allowing discovery at an earlier stage than formal charges and imposing reasonable restrictions on release of information to the subject of a complaint, to protect the privacy of persons not under investigation. The Senate State Affairs committee amended this section by adding a requirement that the committee could

not impose restrictions on discovery by the subject unless the person filing the complaint agreed to be bound by similar restrictions concerning release of information and the person has not made public the information in or about the complaint or the filing of a complaint. (Amended by STA CS)

**\*SECTION 43: AS 24.60.170(i) ATTENDANCE AT EXECUTIVE SESSIONS and WAIVER OF CONFIDENTIALITY.** The Uniform Rules set out that a legislator may not be excluded from an executive session. The proposed language clarifies that all meetings of the committee concerning complaints are closed to the public and to legislators who are not committee members. Senate State Affairs committee amended this section to require the committee to permit the subject of the complaint and the subject's attorney to attend any meeting concerning the complaint, including confidential meetings and to notify the subject of any meetings on the complaint. Proposed language clarifies that the subject of the complaint may waive the confidentiality provisions under this subsection but may not waive the committee's confidentiality duty to others. For example, if a complaint named three subjects and one of the subjects waived confidentiality, the committee would adhere to the confidentiality requirements for the other two. (Amended by CS)

**\*SECTION 44: AS 24.60.174(a) TIMETABLE FOR SANCTIONS.** This sets out a procedure for the ethics committee and the legislature to follow concerning sanctions on legislators. When the committee submits a report recommending sanctions to a legislative body to consider imposing on a legislator who was found in violation of the ethics code, a timetable for compliance with the sanctions must be included. The report may also include recommended fines that the legislative body may impose if the legislator does not comply in a timely manner. (Amended by CS, committee recommended)

**\*SECTION 45: AS 24.60.174 TIMETABLE FOR SANCTIONS.** This subsection requires the legislative body to report to the committee the sanctions and timetable for compliance it has adopted. It further requires the legislator to report compliance with the sanctions according to the timetable to the committee. If the committee determines the legislator or former legislator has not complied fully and in a timely manner, the committee may recommend that the legislative body impose a fine or additional sanctions. (Amended by CS, committee recommended)

**\*SECTION 46: AS 24.60.176: RECOMMENDATIONS WHERE VIOLATOR IS A LEGISLATIVE EMPLOYEE.** The current code sets out that the "appointing authority" determines sanctions to be imposed on a violator who is an employee. (Appointing authority is defined in AS 24.60.176(b) of this bill.) The proposed language in this section establishes that those listed in AS 24.60.176(b) have the authority to impose sanctions on violators who are legislative employees. The CS adds language to comply with the changes in AS 24.60.174 of this bill concerning reporting to the committee on a set timetable. (Amended by CS, committee recommended)

**\*SECTION 47: AS 24.60.176(b): APPOINTING AUTHORITY.** This new subsection defines which body or person is the appointing authority for each set of legislative employees. The STA committee changed the appointing authority for employees of individual legislators from the Rules Committee to the legislator who made the hiring decision. The legislator may refer the matter to Rules if he/she so chooses. (Amended by STA CS)

**\*SECTION 48: AS 24.60.178 SANCTIONS.** Current law does not set out possible sanctions that could be recommended by the committee. The new section lists recommendations to be made by the committee for violators of the code for the legislature to impose or require: fines on members who violated the code, divestiture of specified assets or withdrawal from certain associations, additional disclosure, suspension or termination from legislative employment (if an employee), restitution or reimbursement, public or private written reprimand, censure, removal from committee positions, probation, expulsion or any other appropriate measure. Subsection (c) clarifies that the committee may recommend that the subject be required to pay all or some of the costs related to the investigation or adjudication of a complaint. The committee's intent is to allow those covered by the code to be aware of possible sanctions and to empower the legislature to impose or require any of the above sanctions on legislators, including fines. STA committee in subsection (7) added language to the censure clause that a legislator could be removed from a leadership position or committee membership position and a determination that the legislator would not be appointed to a leadership or committee membership position for the remainder of that legislature. (Amended by STA CS)

**\*SECTION 49: AS 24.60.200 FINANCIAL DISCLOSURE BY LEGISLATORS, LEGISLATIVE DIRECTORS, AND CERTAIN LEGISLATIVE EMPLOYEES** Under current law, legislators and legislative directors are required to annually file a complete financial disclosure statement to APOC. The change made in the Rules CS requires legislative employees at a Range 19 and above to file financial disclosures reports. This statement is similar to the conflict of interest statements filed by statewide and local elected officials. The proposed changes to the APOC Legislative Financial Disclosure statement deal only with gifts. All other reporting under this section remains the same and remains the responsibility of APOC. The new language removes the responsibility for dealing with reports of any gifts from APOC. The corresponding change described above in AS 24.60.080(d) places that responsibility solely with the ethics committee. (The RULES CS adds "certain legislative employees" and includes a Technical Change)

**\*SECTION 50: AS 24.60.210 DEADLINES FOR FILING OF DISCLOSURE STATEMENTS.** Adds "a legislative employee who is required to disclose" to those required to file an annual report with APOC. (Added by RULES CS)

**\*SECTION 51: AS 24.60.240 CIVIL PENALTY FOR LATE FILING.** Adds "a legislative employee who is required to disclose" to those required to file an annual report with APOC. (Added by RULES CS)

**\*SECTION 52: AS 24.60.250 EFFECT OF FAILURE TO FILE BY LEGISLATIVE CANDIDATE.** Adds "a legislative employee who is required to disclose" to those required to file an annual report with APOC. (Added by RULES CS)

**SECTION 53: AS 24.60.260(a) FINES.** Current law does not include any penalty for late disclosures to the ethics committee. The proposed changes in this subsection and the new subsection below (c) would allow a person to file a late disclosure but that person would be subject to a fine or to having a complaint filed against them. (Unchanged by CS)

**SECTION 54: AS 24.60.260(c) FINES.** Permits the committee to impose fines for late disclosures. Fines are not to exceed \$2 per day to a maximum of \$25 per

disclosure for inadvertent late filing. The committee may impose an additional fine of \$100 for intentionally not filing a disclosure. (Unchanged by CS)

**\*SECTION 55: AS 24.60.990(a)(5) IMMEDIATE FAMILY.** The change to the definition of immediate family affects, in current law, the contracts and leases section (24.60.040), the gifts section (24.60.080 (c)(5) and (g)) and the Legislative Financial Disclosure reporting requirements (24.60.200(4)). (Amended by STA CS).

**\*SECTION 56: AS 24.60.990 (a)(15) DEFINITIONS.** "A legislative employee who is required to disclose" is defined as a legislative employee, other than a legislator or a legislative director, who is compensated at a Range 19 or above who will now be subject to financial and conflict of interest disclosure. (Added by RULES CS)

**\*SECTION 57: AS 39.25.070. POWERS AND DUTIES OF THE PERSONNEL BOARD.** Reflects the changes made in Sections 90-100 of this bill, which replace the Attorney General with the Personnel Board for many of the duties related to handling complaints. (Added by Rules CS)

**\*SECTION 58: AS 39.25.160 (j) STATE PERSONNEL ACT.** Amends the State Personnel Act by adding a specific prohibition on state employees engaging in campaign activities on behalf of political candidate on government time. Clarifies that Division of Election employees may carry out duties related to elections and members and employees of the Commission on Judicial Conduct may carry out duties related to evaluation of judges. (Added by STA CS)

**\*SECTION 59: AS 39.50.020 REPORT OF FINANCIAL AND BUSINESS INTERESTS.** Subsection (a) Amends the non-legislative Conflict of Interest statutes. This section sets out that the public officials listed in AS 39.50.200 (8) must file a financial report within 30 days after taking office as a public official. The Tourism Marketing Council director is the only change from previous definition. In reference to filing requirements for candidates, the Rules CS deletes the 30 day grace period for a "person who becomes a candidate by any other means" thereby requiring immediate filing. Subsection (b) sets out that public officials are to file with APOC. (Amended by STA CS)

**\*SECTION 60: AS 39.50.030(a) CONTENTS OF FINANCIAL STATEMENTS.** Deletes the unnecessary reference to assets or liabilities under \$500, household goods and personal effects, to clarify that only those items listed in subsection (b) are to be reported. (Amended by RULES CS)

**\*SECTION 61: AS 39.50.030(b) CONTENTS OF FINANCIAL STATEMENTS.** Changes the reporting requirements for the executive branch public officials to the same level of legislators; interests over \$1000. Previous reporting level was \$100. Adds requirement for public officials to report any income of over \$250 that is a gift. Deletes requirement for reporting of a state contract or natural resource lease held, bid or offered by the officials mother or father, adds reporting of state contract held, bid or offered by a partnership or professional corporation of which the official is a member. Adds official's spouse to the list of those the official must report if the spouse holds a natural resource lease. (Amended by RULES CS)

**\*SECTION 62: AS 39.50.070 FAILURE TO REPORT BY CERTAIN STATE EMPLOYEES.** Amends language to conform with changes on who must report, in Section AS 39.50.020 and AS 39.50.200. (Amended by RULES CS)

**\*SECTION 63: AS 39.50.080 FAILURE TO REPORT BY A COMMISSION OR BOARD CHAIR OR MEMBER.** Amends language to conform with changes on who must report, in Section AS 39.50.020 and AS 39.50.200. (Added by RULES CS)

**\*SECTION 64: AS 39.50.200(a)(8) DEFINITIONS.** Combined with following section, changes the definition of who must file a financial report. Adds to the current list, all state employees in the executive branch in the exempt or partially exempt service who are at a Range 21 or above. (Added by RULES CS)

**\*SECTION 65: AS 39.50.200(a)(10) DEFINITIONS.** Combined with above section, changes the definition of who must file a financial report. Adds to the current list, all state employees in the executive branch in exempt or partially exempt service who are at a Range 21 or above. (Added by RULES CS)

**\*SECTION 66: AS 39.52.010(a) FINDINGS AND PURPOSE.** Generally adds the findings of the legislative ethics act to those in the executive branch ethics code. (Added by RULES CS)

**\*SECTION 67: AS 39.52.110(c) SCOPE OF CODE.** Conforming change related to removal of Attorney General from certain actions related to administering the executive ethics code, see Sections 90-100. (Amended by Rules CS).

**\*SECTION 68: AS 39.52.120(b) MISUSE OF OFFICIAL POSITION.** This section clarifies that the Governor and Lt. Governor may accept campaign contributions and that public officers and Lt. Governor and Governor may accept lawful gifts. (Added by RULES CS)

**\*SECTION 69: AS 39.52.125 MISUSE OF OFFICIAL POSITION BY STATE OFFICIALS.** New section. Adds a new section to the executive branch ethics code which sets out additional prohibitions for state officials (as defined in Section 104), as generally found in the legislative ethics act, and includes changes made to the legislative ethics act through this legislation. (Added by RULES CS)

**\*SECTION 70: AS 39.52.130(c). GIFTS** This section and other sections change the reporting, advising and enforcing authority relating to gifts for the executive ethics code from the Attorney General's office to the Personnel Board. (Added by RULES CS)

**\*SECTION 71: AS 39.52.130(e-n) GIFTS . New subsections.** Changes language regarding state officials to match legislative gift restrictions and reporting and adds the list, as proposed in this bill, of exempted gifts under the legislative ethics code, including voluntary services, to the executive branch ethics act. Gifts from another government to be delivered to the Office of the Governor. (Added by RULES CS)

**\*SECTION 72: AS 39.52.155 RESTRICTIONS ON FUNDRAISING. New Subsections.** Section 39.52.192: Sets the same restrictions on campaign fundraising for state officials including the governor and lieutenant governor as for legislators and legislative employees. Section 39.52.194 prohibits a state official in the exempt or partially exempt service from filing a letter of intent or declaration of candidacy for the legislature. Section 39.52.196 adds state officials to those that must comply with the open meetings law. (Added by RULES CS)

**\*SECTION 73: AS 39.52.150(d) IMPROPER INFLUENCE IN STATE GRANTS, CONTRACTS, LEASES, LOANS.** Changes receipt of report of participation in state contracts, grants, leases, loans from AG office to Personnel Board. (Added by RULES CS)

**\*SECTION 74: AS 39.52. DISCLOSURE OF CLOSE ECONOMIC ASSOCIATIONS.** Requires state official to disclose to supervisor and APOC, which shall maintain a public record, close economic associations with those listed in this section. Sets disclosure deadlines to conform with legislative ethics act. Subsection (c) requires state officials who are married to or living with a lobbyist to report the name of each employer of the lobbyist and the total monetary value received from the employer. Changes must be reported within 48 hours. (Added by RULES CS)

**\*SECTION 75: AS 39.52.170 OUTSIDE EMPLOYMENT RESTRICTED.** Adds a clause that restricts state officials from accepting outside employment if the compensation is significantly greater than the value of the services. Conforms with legislative ethics language. (Added by RULES CS)

**\*SECTION 76: AS 39.52.170 (c) OUTSIDE EMPLOYMENT.** Adds an honorarium restriction for state officials which matches legislative ethics act restriction. (Added by RULES CS)

**\*SECTION 77: AS 39.52.180(b) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE.** This references change in new subsection (d) below, restricting agencies from contracting with a former state official for services which would include lobbying before a state agency or the legislature. (Added by RULES CS)

**\*SECTION 78: AS 39.52.180(c) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE.** References new subsection (d) below and sets a one year limit on waiving restrictions set out in this section regarding lobbying. (Added by RULES CS)

**\*SECTION 79: AS 39.52.180(d) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE.** New subsection. (d) restricts agencies from contracting with a former public officer for services which would include lobbying before a state agency or the legislature. (Added by RULES CS)

**\*SECTION 80: AS 39.52.210(a-c) DECLARATION OF POTENTIAL VIOLATIONS.** Requires public employees to report potential violations to Personnel Board as well as to supervisor. Requires supervisor to provide a copy of written determination of potential violation to public employee and personnel board. (Added by RULES CS)

**\*SECTION 81: AS 39.52.220 DECLARATION OF POTENTIAL VIOLATIONS BY MEMBERS OF BOARDS AND COMMISSIONS.** Requires members of boards or commissions to disclose a matter that may result in a violation on the public record and in writing to supervisor and to the personnel board. Replaces AG office with Personnel Board as advisors in matters of potential violation. (Added by RULES CS)

**\*SECTION 82: AS 39.52.230 REPORTING OF POTENTIAL VIOLATIONS.** A complaint is filed against a state official with the supervisor. The supervisor is required to file a copy of the complaint with the personnel board. (Added by RULES CS)

**\*SECTION 83: AS 39.52.240(m) ADVISORY OPINIONS.** Adds state officials to those that may request an advisory opinion and sets the personnel board as the body to issue the opinion. (Added by RULES CS)

**\*SECTION 84: AS 39.52.240(b) ADVISORY OPINIONS.** Replaces the AG office with the personnel board as the body offering oral advice. (Added by RULES CS)

**\*SECTION 85: AS 39.52.240(c) ADVISORY OPINIONS.** Replaces the AG office with the personnel board as the advising body. (Added by RULES CS)

**\*SECTION 86: AS 39.52.240(e) ADVISORY OPINIONS.** Replaces the AG office with the personnel board as the advising body. (Added by RULES CS)

**\*SECTION 87: AS 39.52.240(h) ADVISORY OPINIONS.** Replaces the AG office with Personnel Board for purpose of publishing advisory opinions. (Added by RULES CS)

**\*SECTION 88: AS 39.52.250 ADVICE TO FORMER PUBLIC OFFICERS.** Replaces the AG office with the personnel board as the advising body. (Added by RULES CS)

**\*SECTION 89: AS 39.52.260 DESIGNATED SUPERVISOR'S REPORT AND PERSONNEL BOARD REVIEW.** Replaces the AG office with the personnel board as the body accepting reports of potential violations. (Added by RULES CS)

**\*SECTIONS 90-99: AS 39.52.310, 320, 330, 340. COMPLAINTS:** The changes made in the Rules CS in sections 90-99 have the effect of removing the AG from handling complaints and placing that responsibility with the Personnel Board. (Added by RULES CS)

**\*SECTION 100: AS 39.52.350 PROBABLE CAUSE FOR HEARING.** Changes the current role of the AG from determining probable cause and initiating hearings to that of "prosecutor" in the hearing. Establishes the Personnel Board as the body to conduct preliminary review, determine probable cause and initiate hearings. (Added by Rules CS)

**\*SECTION 101: AS 39.52.920 AGENCY POLICIES.** Replaces the AG office with the personnel board as the body which reviews and approves agency policies that restrict a public officers acquisition of personal interest in certain entities and acceptance of gifts. (Added by RULES CS)

**\*SECTION 102: AS 39.52.950. REGULATIONS.** Sets out that the AG office may adopt regulations under the Administrative Procedures Act and that the personnel board may adopt regulations necessary to interpret and implement sections other than complaints. (Added by RULES CS)

**\*SECTION 103: AS 39.52.960(11) DEFINITION OF IMMEDIATE FAMILY.** Changes definition in the executive act to match the legislative act. (Added by RULES CS)

**\*SECTION 104: AS 39.52.960 (23) DEFINITION OF STATE OFFICIAL.** Means governor, lieutenant governor, a person hired or appointed as the head or deputy head of a department in the executive branch or as the director of a division in a department in the executive branch, the chair or member of a state commission or

board, the executive director of the Alaska Tourism Marketing Council, an assistant to the governor or lieutenant governor, a state investment officer, the state comptroller in the Department of Revenue, and a state employee who is not otherwise listed in this definition who is employed in a position in the executive branch of state government in the exempt or partially exempt service and who is compensated at Range 21 A or above on the state salary schedule or at more than \$4200 per month. (This may affect people at lower ranges who are further out in step) Does not include an employee who is a member of collective bargaining unit like state ferry workers. (Added by RULES CS)

\*SECTION 105: AS 44.62.175(a) ALASKA ADMINISTRATIVE JOURNAL. Adds advisory opinions of the personnel board to the list of those things to be published in the journal. (Added by RULES CS)

\*SECTION 106: AG OPINIONS. Sets out that a public officer or former public officer may rely upon the opinion of the AG's office prior to this act taking effect. (Added by RULES CS)

\*SECTION 107 Clarifies that Section 28, the Legal Defense and Election Challenge Fund, takes effect only if the campaign finance reform initiative is approved in 1996. (Amended by STA CS)

\*SECTION 108: Further clarifies that Section 28, the Legal Defense Fund would take effect on the day after the initiative takes effect. (Amended by STA CS)

\*SECTION 109: EFFECTIVE DATE. APOC has recommended that a January 1 effective date would correspond to their calendar year reporting. The CS amends the year to 1997, with the exception of section 108. (Amended by STA CS)

# LEGAL SERVICES

## DIVISION OF LEGAL AND RESEARCH SERVICES LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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120 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

April 29, 1996

**SUBJECT:** Technical changes to the Ethics Bill (CSB 141) (RES) "Z" version dated 4/27/96

**TO:** Senator Dine Pearce  
Attn: Laura Williams

**FROM:** Teresa B. Cramer *TBC*  
Legislative Counsel

Since I have proposed a number of technical changes to the ethics bill, I thought it would be helpful if I listed them. If there are any that you don't want me to make the next time the bill is prepared, please let me know.

1. AS 24.60.030(g), page 7, lines 24, 25, and 27. These references to the ethics committee will be changed from "committee" to "ethics committee" to distinguish the reference from the reference to "legislative committee" in lines 19 and 21.

2. AS 24.60.030(a), page 9, lines 19 - 20. The list will be changed to read "generally available to the public at large or to [...] members of a profession, occupation, or group".

3. Definitions of "spousal equivalent" in AS 24.60.030(g), page 13, line 11; AS 24.60.990(a)(5), page 29, line 14; AS 39.52.130(m), page 40, line 31; AS 39.52.155(c), page 42, line 30; and AS 39.52.960(1), page 48, line 13. The definition as presented in the bill has one too many repetitions of "with the person". I will change the definition to read

another person cohabiting with the person in a conjugal relationship that is not a legal marriage.

4. AS 24.60.134(c), page 18, line 27. This new subsection prohibits the employees and contractors of the ethics committee from participating in or attending a political party fund-raising event. The new proposed rule on page 19 allows the ethics committee to make an exception for partners of the person actually doing the work if there would be any undue political influence or appearance of impropriety. The exception in 19 was intended to apply to the prohibition in 18 as I understand it. Therefore I will change the beginning of line 27 to read



# MEMORANDUM

State of Alaska

Department of Law

Pat Pouchot  
Legislative Director  
Office of the Governor

DATE April 12, 1996

FILE NO

TEL NO

465-2127

SUBJECT

Possible constitutional  
problems with certain  
sections of CSSB 141(STA)  
(legislative ethics bill)

John B. Caguine <sup>16</sup>~~15~~  
Assistant Attorney General  
Governmental Affairs - Juneau

Shari Kochman of your office has asked for a brief memorandum on possible constitutional problems with sections 52-56 of CSSB 141(STA). These sections would greatly expand the number of executive branch employees who must file financial disclosure statements under AS 39.50, by extending the filing requirement to all executive branch employees in exempt and partially exempt positions Range 21 and higher. We see two possible problems.

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Under current law, non-elected state officials who must file such statements are judges, commissioners, members of certain boards, deputy commissioners, division heads, assistants to the governor, state investment officers, and the state comptroller. Among the larger groups of state employees who would have to file if this proposed change were enacted are most attorneys working for the Department of Law's civil and criminal divisions, for the Public Defender Agency, and for the Office of the Public Advocate; most of the senior staff in the Permanent Fund Corporation, the Alaska Industrial Development and Export Authority, the Commercial Fisheries Entry Commission, the Postsecondary Education Commission, the Aerospace Development Corporation, the Alaska Seafood Marketing Institute; several high-level employees in the APUC; most physicians employed by the state; most petroleum engineers and petroleum geologists employed by the state; many Alaska Marine Highway System officers; certain division deputy directors; and the principal executive officers of several boards listed in AS 39.25.120(c)(9). According to the Alaska Public Offices Commission, approximately 800 public officials are currently subject to AS 39.50, and these bill sections would add about 450 more.

Because the proposed amendment uses Range 21 as a reference, it is not entirely clear whether highly-paid positions not subject to the classification scheme in AS 39.27.011 (such as AERS officers subject to collective bargaining, who are in the exempt service) would be affected by the change. We believe that

(continued...)

Neither of them necessarily would doom these sections, if they are enacted into law, but both give us cause for concern.

First, it is possible that a court would find that these bill sections violate the privacy rights, under article I, section 22 of the Alaska constitution, of the executive branch employees who the bill would require to file. There are no reported Alaska decisions on AS 39.50 and the privacy rights of officers and employees who must file.<sup>2</sup> However, some decisions from other states have found that, in order to avoid violating the privacy rights of public employees, disclosure requirements must have some rational connection with the goal of preventing conflicts of interest, and the functions of the officials must be considered in determining whether disclosure is constitutional. See, e.g., City of Carmel-by-the-Sea v. Young, 466 P.2d 225 (Cal. 1970); Advisory Opinion on the Constitutionality of 1975 PA 227 (Questions 2-10), 242 N.W.2d 3, 18-21 (Mich. 1976).<sup>1</sup> While other courts have not taken this position, we cannot say for a certainty that the Alaska courts would not agree with the California and Michigan courts; the

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(...continued)

a court would be likely to look at salary, and conclude that the legislature intended that these employees be covered.

Another, even larger question along these lines pertains to the administration, faculty and staff of the University of Alaska. These employees are in the exempt service under AS 39.25.110(5). Again, they are not paid under the salary schedule in AS 39.27.011. And are they even executive branch employees under proposed bill section 567? See 1977 Op. Att'y Gen. No. 9 (Feb. 28), discussing question of status of university vis-a-vis executive and legislative branches.

In Falcon v. APOC, 570 P.2d 469 (Alaska 1977), the Alaska Supreme Court dealt with a claim, by a doctor serving on the Kodiak Island School Board, that the privacy rights of his patients (but not his own rights) were violated by the requirement that he disclose his patients' names to the APOC under AS 39.50. The court partially agreed with him.

The New York courts have not found problems with applying disclosure requirements to a broad range of officials, but have found that allowing unfettered public access to all disclosure statements may violate the privacy rights of some officials. Hunter v. City of New York, 396 N.Y.S.2d 186 (App. Div. 1977), aff'd, 405 N.Y.S.2d 455 (1978). Because nothing in AS 39.50 restricts public access to disclosure statements, the concerns of the New York courts would be relevant here.

Alaska courts place special emphasis on the individual's right of privacy, guaranteed by the constitutional provision. And there are many partially exempt and exempt employees Range 21 and above who are not at a policy-making level, and for whom there would seem to be no adequate justification for requiring disclosure.'

The second possible constitutional problem that we see with these bill sections is their inclusion of executive branch employees Range 21 and above and their exclusion of judicial and legislative branch employees in these ranges. Again there is case law from other states holding that similar differences violate equal protection guarantees. See, e.g., Comer v. City of Mobile, 337 So.2d 742, 751-53 (Ala. 1976) (statute requiring financial disclosure by members of certain boards and commissions of cities with population in excess of 15,000, and not by members of boards and commissions of cities with population of less than 15,000, violates equal protection); Spider v. Thornburgh, 436 A.2d 593 (Pa. 1981) (equal protection violated by statute requiring financial disclosure of elected school board officials, but not appointed ones, since both types received no salary and performed similar duties). We frankly are hard-pressed to come up with a rationale why executive branch employees must disclose and judicial and legislative employees do not have to.'

---

\* Psychiatrists working at the Alaska Psychiatric Institute would appear to be a good example of such employees. So would public defenders.

\* It could also be argued that equal protection is violated by requiring disclosure of exempt and partially exempt employees in the executive branch but not classified executive branch employees. Given the theoretical differences between the services, this argument would likely not prevail. However, it cannot be totally discounted. The courts might wonder why some division deputy directors are in the partially exempt service, and others are in the classified service. They might also wonder why all employees of some agencies (such as the Commercial Fisheries Entry Commission and the Postsecondary Education Commission) are in the exempt service, and most or all employees of other agencies (such as the Alaska Public Utilities Commission and the Alaska Commission on Aging) are in the classified service.

Pat Pourchot  
CSSB 141 (STA)

April 12, 1996  
Page 4

If you have any questions about this memorandum please do not hesitate to ask.

.JBG:jn

cc: Bruce Botelho  
Attorney General

Barbara Ritchie  
Deputy Attorney General

Deborah Behr  
Legislative Attorney  
Dept. of Law

Chrystal Smith  
Legal Administrator  
Dept. of Law

**CSSB 141(STA) -  
ADMINISTRATION CONCERNS**

- Requiring financial disclosure for all employees in the executive branch Range 21 and higher is excessive - many, if not most, of these employees are not policy-makers for whom disclosure is appropriate; for example, psychiatrists at API and public defenders. Requiring disclosure for these non-policy-making employees may even be unconstitutional, as violating their right to privacy.
- There is no justification for requiring disclosure for executive branch employees Range 21 and above and not requiring disclosure for legislative and judicial employees in these ranges. Why, for instance, do assistant attorneys general have to disclose, and not the legislature's attorneys or the chief counsel for the court system? Again, this difference in treatment may even make these bill sections unconstitutional, as violating equal protection.
- Adding some 600 additional public officials required to file disclosure statements would add significantly to APOC's workload, and no additional funding has been provided.
- The bill as written has several major ambiguities that would make it difficult to administer. For instance, are highly-paid employees who are not paid according to the pay schedule in AS 39.27.011 - such as ferry officers - subject to the disclosure requirements? Are University of Alaska faculty and administrators executive branch employees?

**FISCAL NOTE**

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSSB 141 (RLS)

Revision Date \_\_\_\_\_  
Title: "An Act Relating to Legislative Ethics."  
Sponsor: Senate Rules Committee by Request of the  
Legislative Council for the Select Committee on Leg. Ethics

Department Affected: Administration  
BRU: Public Offices Commission  
Component: Public Offices Commission  
Requestor: Senate Rules Committee  
COMPONENT SERIAL NO. 70

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	64.4	83.1	57.1	57.1	57.1	57.1
TRAVEL	2.0	0	0	0	0	0
CONTRACTUAL	6.3	6.0	5.0	5.0	5.0	5.0
SUPPLIES	7.2	1.2	1.1	1.1	1.1	1.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>81.9</b>	<b>91.1</b>	<b>64.1</b>	<b>64.1</b>	<b>64.1</b>	<b>64.1</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	81.9	91.1	64.1	64.1	64.1	64.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>81.9</b>	<b>91.1</b>	<b>64.1</b>	<b>64.1</b>	<b>64.1</b>	<b>64.1</b>

Estimate of any current year (FY 96) cost: \$ 0

**POSITIONS:**

FULL-TIME	3	3	2	2	2	2
PART-TIME	0	0	0	0	0	0
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

There are several parts of this bill which have fiscal impact upon APOC. Sections 26 and 27, AS 24 60 111 enable legislators and legislative employees to set up legal defense and election challenge funds. Section 55 requires all legislative employees compensated at Range 19 and above to file Legislative Financial Disclosure Statements. Section 63, AS 39 50 200(a) requires partially exempt and exempt executive branch employees range 21 and over to file Conflict of Interest Statements, and Section 71 requires that state officials file a "disclosure of close economic association" with APOC.

See attached

Prepared by Karen Spierman  
Division Public Offices Commission

Phone 276-4170  
Date \_\_\_\_\_

Approved by Commissioner Mark Royer  
Agency Department of Administration

Date 4/10/96

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## FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSSB 141 (RLS)

### ANALYSIS (continued)

Partially Exempt and Exempt Executive Branch Employees Range 21 and over must file Conflict of Interest Statements (COI) Legislative Employees Range 19 and over must file Legislative Financial Disclosure Statements (LFD). State Officials must file a disclosure of close economic association.

These provisions will take effect midway through FY 97. The first major filing deadline for new filers under the new requirements would be 30 days after the bills effective date, when approximately 528 new Conflict of Interests Statements and 190 LFD Statements would be due. These provisions would require extensive education of all new filers. Turnover will add another 200 filers over the course of a year. Additional manuals and forms would be necessary to provide immediate help. Civil penalty assessments, advisory opinions and adjudication of complaints would provide long term guidance. 1450 state official filers would have to file "disclosures of close economic association" with APOC and their designated ethics supervisor. APOC would make these available to the public.

Positions would not be established until January 1, 1997. An Administrative Clerk III Range 10 would be responsible for processing filed statements as well as accurate and prompt input of data. This person would assist an existing Paralegal Assistant and a new seasonal Paralegal Assistant to evaluate Conflict of Interest Statements to determine their accuracy, obtain more information from filers whose statements are inaccurate, and answer questions from the public about filers' Conflict of Interest Statements. This position would assign work to and supervise an existing Administrative Clerk II and answer inquiries from the public.

A six month full time seasonal Paralegal Assistant, Range 13, is needed to deal with the increase of Conflict of Interest and Legislative Financial Disclosure filers. This seasonal position would be active from January to June when filing demands are the greatest. This is a flex position once training has been completed. This position would compare and examine reports, interpret statutes and regulations, draft informal advice and proposed advisory opinions and prepare civil penalty recommendations for and orders of the Commission.

Travel costs in FY 97 cover training in Fairbanks and Juneau. Contractual and supply costs cover printing and mailing new manuals and forms and other necessary correspondence. Equipment costs in FY 97 cover computer equipment for one of the new positions.

### Legal Defense and Election Challenge Funds

This provision will vary depending upon whether the campaign finance reform initiative passes. This provision applies to the 60 legislators and the approximately 250 legislative employees that fall under AS 24.60. This provision would require the rapid development and implementation of regulations and the provision of informal advice and advisory opinions to legislators and legislative employees until regulations are effective. It is not clear who will administer this section beyond regulations development. No funds are included in this fiscal note for administration.

Funds are needed for a temporary position, a Regulations Specialist II, Range 16. This position would be established for 6 months full time and one year part time to develop regulations, work with the Commission on their adoption and shepherd them through the legal process to enactment. This position would provide informal advice and draft advisory opinions for the Commission. Other costs include postage for mailing to legislators, legislative employees, supplies and advertising funds for required legal notices of proposed regulations.

# Alaska State Legislature

## Select Committee on Legislative Ethics

716 W. 4th, Suite 230  
Anchorage AK  
(907) 258-6172  
FAX: 258-2108

Mailing Address:  
P O Box 101488  
Anchorage, AK  
99510 - 1488

**DATE:** April 29, 1996  
**TO:** All Senators  
**FROM:** Susie Barnett, Staff  
Select Committee on Legislative Ethics  
**RE:** Review of DRAFT CS SB 141(RLS) Z Version  
Dated 4/27/96

"An Act relating to legislative and executive branch ethics; relating to the conduct of lobbyist with respect to public officials; relating to campaigning by state employees; relating to the filing of financial disclosures by certain state employees and officials; making a conforming amendment to the definition of 'public official' for employment security statutes; and providing for an effective date."

This document is intended to supplement CS SB 141(RLS) ("Z") and provide an ethics committee analysis of the bill. (Herein, "committee" refers to ethics committee.) The \*asterisks indicate sections amended by the Senate State Affairs Committee and by the Senate Rules Committee.

**\*LETTER OF INTENT:** States that it is the intent of the legislature that nothing in the legislation shall be construed as prohibiting a legislator from being employed or being retained on a contractual basis by any political subdivision of the state. (Added in STA CS)

**\*SECTION 1: AS 23.20.526(d) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT.** Conforming amendment to employment security statutes. See memo from Department of Labor. (Added in Rules CS)

**SECTION 2: AS 24.25.010(e) SUBPOENA POWERS.** The ethics code specifically grants the ethics committee the authority to subpoena witnesses under AS 24.60.150(b)(2). The statute to be amended by this bill, AS 24.25.010, sets out general guidance for legislative subpoenas and includes a reference requiring the concurrence of the Senate President or Speaker of the House. Subsection (e) provides that the concurrence requirement does not apply to the Legislative Council or the Legislative Budget and Audit Committee. Like the ethics committee, both the council and LBA are permanent interim committees and both have express grants of authority to subpoena witnesses. It is the opinion of the ethics committee and the committee's legal counsel, that not including the ethics committee in the AS 24.25.010(e) exemption was an oversight, especially given the specific grant of authority. (Unchanged by CS)

**RULES CS DELETES PROHIBITION ON SPOUSAL/SPOUSAL EQUIVALENTS LOBBYISTS.**

**SECTION 3: AS 24.45.171(12) DEFINITIONS.** Adds "another legislative employee subject to disclosure" to the definition of public official or public officer in relation to lobbying statutes. (see Section 55) (Added in RULES CS)

**\*SECTION 4: AS 24.60.030(a) TELEPHONE/FAX USE.**

\*Subsection (2)(A): The changes in subsection(2)(A) would allow the use of state resources for personal purposes if the use doesn't interfere with performance of public duties and either the cost is nominal or the legislator/legislative employee reimburses the state for cost. Requires employee to comply with supervisor's policy on state resource use. (Amended by STA CS)

\*Subsection (2)(C) allows use of state phones and fax machines for private benefit and requires a legislator/employee who incurs a special charge to reimburse the state. (Amended by STA CS)

\*Subsection (5)(A) allows use of state resources for political fund raising or campaigning if the use doesn't interfere with performance of public duties or the legislator/employee reimburses the state for cost. Requires employee to comply with supervisor's policy on state resource use. (Amended by STA CS)

\*Subsection (5)(C) allows use of phones and faxes for political fund raising or campaigning and requires a legislator/employee who incurs a special charge to reimburse the state. (Amended by STA CS)

\*Subsection (5)(D) allows campaign records, including APOC reports, to be kept in a legislator's office and prohibits a legislative employee from working on campaign records on government time. (Amended by STA CS)

**\*SECTION 5: AS 24.60.030(c) MASS MAILING.** The ethics code currently prohibits use of state funds to print or distribute a mass mailing from or about a *legislator who is a candidate for state office*, during the period 90 days before the primary and ending the day after the general election. The proposed language expands the prohibition to include legislators and legislative employees who are candidates for federal and municipal offices or to telephone and electric cooperatives. While other sections of the ethics code clearly prohibit use of state funds for campaign purposes, this section highlights what are considered to be a critical periods and provides a guideline for those who issue mailings during those times. This subsection does not refer to an individual legislator's office allowance. Rules Committee deleted, under definition of political mass mailing: [a person other than a legislator or employee who is a candidate for election to the legislature] (Amended by STA and RULES CS)

**\*SECTION 8: AS 24.60.030(d) CAMPAIGN LITERATURE.** The proposed change adds fundraising notices to the list of current prohibitions on distributing or posting campaign literature in state facilities. The prohibitions currently apply only to legislators or someone on behalf of a legislator. This language expands that prohibition to include legislative employees. The Senate State Affairs Committee added language which states that the offices of individual legislators are not public areas for the purposes of this section. (Amended by STA CS)

**SECTION 7: AS 24.60.030(f) BOARD MEMBERSHIP.** The bill would put in statute what is current practice for disclosure, with two exceptions. The committee now requests disclosure of a new membership on a board within 30 days and board membership disclosures are not published in the journal. The amendment would

change the new membership disclosure period to 60 days and would require the committee to publish the disclosure in the journal. (Unchanged by CS)

**\*SECTION 8: AS 24.60.030(g) CONFLICTS OF INTERESTS.** The amendments to this section have the effect of changing the *prohibition* on taking legislative, administrative or political action to a *disclosure requirement* prior to taking action if one has any of the "interests" listed in the amendment, which are expanded beyond equity or ownership interest to include employment, contracts and membership on a board. It also sets out that the disclosure is to be publicly announced if the action is being taken in a committee meeting or on the floor. Actions being taken other than in committee or on the floor, e.g. drafting a bill or testifying in an administrative hearing, would be disclosed in writing to the ethics committee within 7 days. Disclosures must include the nature of the financial interest and a short description of how action taken affects the interest, whether written or oral. (Amended by STA C3, recommended by committee)

**\*SECTION 9: AS 24.60.030 GOVERNMENT TIME.** Under the proposed language, when determining in a complaint proceeding whether an employee was performing a task on government time, the committee would consider the schedule set by the employee's supervisor. Requires an employee to take leave for the period of time he/she is engaged in political campaign activities, other than incidental campaign activities. As amended in Senate State Affairs, political campaign activities are permissible on government time if the activities are part of the normal legislative duties, including answering phone calls and handling incoming correspondence. (Amended by STA CS)

**SECTION 10: AS 24.60.031(a) FUNDRAISING DURING SESSION.** The proposed language clarifies that the restrictions on fundraising during session are in effect on a day when either house is in regular or special session. (This would change the committee's current interpretation of "gavel to gavel") The proposed language retains the restrictions on fundraising during session for state legislative political purposes and eliminates the unnecessary term for "campaign purposes". This proposal tightens the language that might have allowed someone to expend money raised during session under a general letter of intent without a declaration of candidacy. (Unchanged by CS)

**SECTION 11: AS 24.60.039 EMPLOYMENT DISCRIMINATION.** The Ethics Committee shares jurisdiction with the Human Rights Commission on complaints filed against a legislator or legislative employee concerning violations of the employment discrimination statute, AS 18.80.220. Current law requires the committee to deal with a complaint alleging a violation of that statute in the same manner they would deal with any other complaint. The proposed language gives the committee the option to refer complaints of employment discrimination to the Human Rights Commission and defer consideration of the complaint until after the commission has completed its proceedings. (Unchanged by CS)

**SECTION 12: AS 24.60.040(n) CONTRACTS AND LEASES.** The proposed language broadens the contract and lease criteria beyond the *current* code, which restricts a legislator or legislative employee from having a financial interest in a state contract or lease unless:

- it is let through competitive bidding in accordance with the Procurement Code or
- it is worth \$1000 or less annually or

-it is standardized, under publicly established guidelines and generally available to the public at large.

The new language allows participation in contracts or leases that are let under AS 36.30, the State Procurement Code, which addresses a variety of award methods, including sole-source. It also allows participation in contracts and lease that are let under similar procedures to those in AS 36.30 which addresses such agencies as the University and the Railroad. The new language sets a new reporting threshold at \$5000, changed from the previous \$1000.

This bill eases the 'family member' disclosure requirement to generally read; A legislator or legislative employee who knows, or reasonably ought to know, that a family member is participating in a state contract or lease (with an annual value of \$5000 or more) must disclose that participation.

This relaxing of prohibitions is balanced by the new disclosure requirement. Currently a legislator or legislative employee does not disclose to the ethics committee participation in contracts or leases permitted by the code. The proposed language requires disclosure by the legislator, legislative employee and family members of participation in any state contract or lease over \$5000 annually. It also clarifies that for the purposes of complying with the ethics code, a grant that results in a contract is subject to this section. (Unchanged by CS)

**SECTION 13: AS 24.60.040 CONTRACTS AND LEASES.** The new subsection further clarifies that a grant, contract or lease that falls under one of the State Loan or Benefit Programs in AS 24.60.050, is not subject to this section. (The committee publishes a list of programs that do not meet the criteria in AS 24.60.050 and requires disclosure of participation in any of the listed programs. ) (Unchanged by CS)

**SECTION 14: AS 24.60.050(c) REFRAIN FROM PUBLICATION.** Allows the committee to protect an individual's right to privacy concerning participation in state loan and benefit programs. This follows an advisory opinion issued by the committee in 1994 explaining that it chose to not publish the name of a person who received a benefit from the Violent Crimes Compensation Committee but did publish that a person covered by the ethics code had received a benefit. (Unchanged by CS)

**SECTION 15: AS 24.60.060(h) PROTECTIVE ORDER.** The subject of an ethics complaint would be in violation of the code for releasing information deemed confidential under a protective order issued by the committee. This change would allow the committee to broaden discovery by the subject while still protecting any innocent, or 'not involved' parties. (Unchanged by CS)

**SECTION 16: AS 24.60.070(b) DEADLINE FOR CLOSE ECONOMIC ASSOCIATION.** The current code required disclosure but did not set a deadline. The February 15 deadline is in line with others and the 60 day disclosure for new associations matches the new language for disclosures throughout the bill. (Unchanged by CS)

**\*SECTION 17: AS 24.60.070(d) SPOUSAL/SPOUSAL EQUIVALENT LOBBYIST.** This new section would require legislators and legislative employees who are married to or who are the spousal equivalents of a lobbyist, to disclose, under Close Economic Association, the name and address of each of the lobbyist's clients and

the total monetary value received from each client annually. Changes to the list would have to be reported within 48 hours. (Original language rec'd by Ethics Comm, CHANGED BY STA, replaced by Rules)

**SECTION 18: AS 24.60.080(a): GIFTS.** The bill increases the gift limit from \$100 to \$250 annually. New language has been added that clarifies the restriction on legislators and legislative employees from accepting, from a lobbyist during session, anything of monetary value other than food or beverage for immediate consumption. This change matches the restrictions currently in the APOC statutes for lobbyists. (Technical Change only in RULES CS)

**\*SECTION 19: AS 24.60.080(c) GIFT EXEMPTIONS.** The committee has received inquiries as to whether a stay at a person's vacation home is an exempted gift. This language clarifies that a stay in a vacation home located outside the state, is not an exempted gift. Language would allow legislators and legislative employees to accept unlimited discounts while on state business. (Amended by STA CS)

**\*SECTION 20: AS 24.60.080(d) GIFT REPORTING.** Proposed changes to Sections 24.60.200-260 (discussed further down in this document) of the ethics code, remove APOC out from under the responsibility of dealing with reports of gifts received by legislators and legislative directors. This is an effort to ease confusion over what is reported to whom. Under the proposed changes, all gifts would be reported to the ethics committee. The changes in this section correspond to those made in previous sections e.g. \$250 limit and changing reporting date for gifts not related to legislative status to February 15 deadline and the change from reporting gifts to APOC. Changes the confidential disclosure requirement for gifts "not related to legislative status" from donor, description of gift and value to just donor and description of gift. Gifts that do not relate to legislative status will remain confidential. (Amended by STA CS)

**\*SECTION 21: AS 24.60.080(f) FOREIGN GIFTS.** Allows acceptance of gift from a foreign government, the U.S. government or another state government for protocol purposes so long as the gift is delivered to the legislative council within 60 days. This bill increases the threshold to \$250 to correspond with other changes relating to gifts. (Amended by STA CS)

**\*SECTION 22: AS 24.60.080(g) FAMILY.** Defines the terms in the Gifts Section "Immediate family or family member", when used in relation to gifts received from immediate family and the new subsections in AS 24.60.080: inheritance from a family member (i) or gifts received by a family member (k). (Amended by STA CS, STA added to (B) with a person cohabiting in a conjugal relationship with the person that is not a legal marriage.) (Technical change only in RULES CS)

**\*SECTION 23: AS 24.60.080 GIFTS.** New subsections (h) Permits soliciting and accepting gifts on behalf of charitable organizations, which is in accordance with the advisory opinion issued by the committee last year. Allows the committee to set guidelines concerning these types of gifts. (Unchanged by CS)

(i) Requires reporting of receipt, but not value of, an inheritance from a person other than a family member. The current statute does not address inheritance. This information is currently required under APOC reporting of gifts. The bill reflects the change from reporting gifts to APOC. (Unchanged by CS)

(j) The committee issued an opinion interpreting the restriction on accepting volunteer 'services' over \$100 in value. This bill reflects that opinion and sets out that gifts of volunteer services for legislative purposes may be accepted by a

legislator, legislative committee or legislative agency as a gift to the state, so long as the person donating the services is not paid by another source. The CS amends this section by allowing a legislator, legislative committee or legislative agency to accept a UA Intern or JTPA trainee as well as any other educational trainees the committee approves. For purposes of maintaining confidentiality, the ethics committee is not permitted to accept volunteer services. (Amended by STA CS)

This subsection requires volunteers, interns, and educational trainees to generally comply with the ethics code, with the exceptions of the following sections: contracts and leases, close economic associations, nepotism or representation before state agencies. The nepotism exemption allows family members to volunteer their time to legislative offices. (Amended by STA CS. Educational trainees, including UA intern and JTPA added)

(k) The current law does not specifically address whether gifts, from another source, to a family member of a legislator or legislative employee fall within the restrictions and/or reporting requirements. The issue has been discussed by the committee in relation to spouses of legislators receiving gifts of travel to attend conferences with the legislator. The proposed language requires disclosure by a legislator or legislative employee who knows, or reasonably ought to know, that a family member has received a gift because of the family member's connection to the legislator or legislative employee. The bill provides this guideline: if the gift was given directly to the legislator or employee and if it would have to be reported by the legislator or employee, then the same gift, if the gift was given to a family member because of his/her connection to a legislator or legislative employee, would require disclosure. In other words, gifts of travel for matters of legislative concern given to allow the spouse to travel with the legislator, would have to be reported. The same holds true for gifts that legislators or legislative employees would be prohibited from accepting, that are received by family members. For example, gift of over \$250 given to the spouse of a legislator, primarily because of the connection to the legislator, would have to be reported.

The language, "or reasonably ought to know", concerning family members reduces the burden on those covered by the ethics code to research gifts provided to family members with whom there is little or no contact. (Technical Change in RULES CS)

(l) Sets out that the value of the gift is fair market value, to the extent that fair market value can be determined. An example of how this might apply is; a tourism company provides a one hour helicopter ride to show a legislator the area in which they would like to expand their tours. The legislator would use the rate charged to helicopter passengers for a one hour tour in reporting the gift. (Unchanged by CS)

**SECTION 24: AS 24.60.085(a) EARNED INCOME AND HONORARIA.** Allows legislators and legislative employees to accept compensation that is less than fees generally charged. The effect of this change would be to allow an attorney to do pro bono work or an engineer to charge a reduced rate for review of plans for a non-profit organization. (Unchanged by CS)

**SECTION 25: AS 24.60.100 REPRESENTATION.** Current law does not set reporting deadlines for representation before a state agency. This change corresponds to the other changes of February 15 and 60 days for new representation. (Unchanged by CS)

**\*SECTION 26: AS 24.60.111: LEGAL DEFENSE AND ELECTION CHALLENGE FUNDS.** New section allows a legislator or legislative employee to establish a Legal Defense and Election Challenge Fund to assist with payment of attorney fees and

other costs related to defense of a civil, criminal or administrative action or related to the prosecution of defense of an administrative or judicial action concerning a contested election. Sets out that contributions to the fund are not subject to the restrictions on campaign contributions or gifts in the ethics code. Requires APOC to adopt regulations concerning the fund and establishes that a person who violates the regulations is guilty of a Class B misdemeanor and is subject to civil sanctions as recommended by the ethics committee in the complaint process. See Section 27, relating to the Campaign Finance Reform Initiative (Added by STA CS)

**\*SECTION 27: AS 24.60.111: LEGAL DEFENSE AND ELECTION CHALLENGE FUNDS.** This section, which also establishes the Legal Defense and Election Fund would only take effect if an initiative relating to campaign financing is approved by the voters in 1996. If initiative is not approved, this section sunsets and the section above stays in effect. Effective dates for this section are included at the end of this bill. (Added by STA CS)

**SECTION 28: AS 24.60.130(f) COMMITTEE PER DIEM AND TRAVEL** The language formalizes the public members' entitlement to receive per diem and travel compensation, as has been customary with legislative committees that have non-legislative members, such as the Code Revision Committee. The public members are not entitled to be paid for their time in service to the committee. AS 39.20.180 sets the rates and terms for per diem and travel for state boards and commissions. The change would apply those rates and terms to the public members of the committee. (Unchanged by CS)

**SECTION 29: AS 24.60.130(h) MEMBER DISQUALIFICATION.** The process for appointing a new member to serve on the ethics committee in the place of a disqualified member is in new subsection AS 24.60.130(o). (Unchanged by CS)

The new language prohibits an ethics committee member from participating in a complaint proceeding against a subject of a complaint that is supervised by the member. (Unchanged by CS)

**SECTION 30: AS 24.60.130(o) APPOINTMENT OF COMMITTEE ALTERNATES** The current law sets out that if a member is disqualified during session, the presiding officer, with 2/3 concurrence, appoints another member for that proceeding. If disqualification is during interim, the presiding officer appoints a new member with the concurrence of that house's subcommittee. Involving either body of the legislature defeats that level of confidentiality and public knowledge of the disqualified member could lead to speculation as to who is the subject of the complaint. The new language directs the presiding officers to appoint alternates to the committee who will serve when the chair of the committee or subcommittee appoints them, due to a legislative member being disqualified in a complaint proceeding. The appointment of the alternate by the chair is confidential. (Unchanged by CS)

**SECTION 31: AS 24.60.134(a) RESTRICTIONS ON PUBLIC MEMBERS OF THE COMMITTEE.** The proposed language strengthens the political restrictions on the public members, staff to the committee and those under contract to the committee, by clarifying that prohibitions of participation in political management or in a political campaign extend to ballot initiatives and to campaigns for federal, state and local offices, regardless of whether the campaign is partisan or nonpartisan. The restrictions on attending a fundraising event or making a campaign contribution remain, as in current law, tied to the legislature. A public member,

employee or contractor to the committee may not attend a fundraiser or make a contribution to a candidate for the legislature, an incumbent legislator or legislative employee who is a candidate for another public office or a person running for another office against an incumbent legislator or legislative employee. The restriction on lobbying activities also remains the same as current law. (Unchanged by CS)

**SECTION 32: AS 24.60.134 RESTRICTIONS: NEW SUBSECTIONS.** The committee advocates further restricting public members, employees and contractors of the committee from participating in or attending a political fundraising event held on behalf of a political party. Current law does not address this issue. New subsection (c) adds this restriction. (Unchanged by CS)

Proposed subsection (d) The proposed language permits a contractor with the ethics committee to request the committee to exempt some members of the corporation or partnership from having to comply with some or all prohibitions against political activity. The committee currently contracts for outside legal counsel with an attorney who is part of a large firm with branch offices outside of Alaska. A strict reading of current law prohibits all employees of that law firm to comply with the restrictions in the Alaska legislative ethics code. (Unchanged by CS)

**SECTION 33: AS 24.60.150(b) GUIDELINES.** The proposed language permits the committee to adopt guidelines under a public process. A person who acted within the guidelines could not be penalized for violating the ethics code. The current procedure of issuing Advisory Opinions allows interpretations based only on the facts presented by a requestor. Situations have come up wherein the committee feels guidelines, based on a broad set of circumstances and an interpretation of the law, would assist those covered by the code in avoiding inadvertent violations. (Unchanged by CS)

**SECTION 34: AS 24.60.160 ADVISORY OPINIONS.** The proposed language in this section allows the committee to issue an advisory opinion to a person who anticipates becoming a legislative employee, 45 days prior to employment. Current law restricts the committee to issuing opinions to those already in legislative employment, legislators and legislators-elect. Current law sets 30 days as the response time for the committee to a request for an advisory opinion. The proposed change allows the committee 60 days to respond. (Unchanged by CS)

The new language in subsection(b) clarifies that the committee retains the authority to restrict attendance during deliberations in executive session on an advisory opinion. (Unchanged by CS)

**SECTION 35: AS 24.60.170(a) COMPLAINTS.** Current law requires the committee to process a complaint received, even if against all members of the legislature or all members of one house of the legislature. The proposed change, prohibiting the committee to consider a complaint of that nature, would allow the committee to return the complaint without action. Current law prohibits considering a complaint against a terminated legislative employee. Proposed language would allow the committee to reinstate a complaint that was closed upon an employee's termination, if the employee was rehired within five years of date the complaint was filed. New language also allows the committee to follow the same procedure with a former legislator who resumes legislative service within five years of the date of the complaint. (Unchanged by CS)

**\*SECTION 36: AS 24.60.170(b) COMPLAINTS.** Requires the committee to inform the subject of a complaint of the procedures relating to discovery of confidential information as set out in AS 24.60.170(i). (Amended by STA CS)

**SECTION 37: AS 24.60.170(c) COMPLAINTS.** The proposed change would put into law the current adopted procedure of the committee, which is to assign complaints to staff for preliminary examination for legal sufficiency and credibility of information. Staff would then make a recommendation to the committee based on information and evidence contained in the complaint. Staff and the committee would be specifically permitted to solicit additional information from the complainant and the subject. The subject is not obligated to provide information. The new language clarifies that the committee is permitted to dismiss frivolous complaints for lack of credible information. Further clarifies, as is current practice, that proceedings under this subsection are confidential and that confidentiality may be waived by the subject in compliance with AS 24.60.170(i), the subsection dealing with discovery by the subject. (Affected by STA CS changes to AS 24.60.170(i))

**SECTION 38: AS 24.60.170(f) LACK OF PROBABLE CAUSE.** Clarifies that the deliberations and vote on the dismissal order and decision on a finding of "lack of probable cause that a violation of the ethics code occurred" are not open to the public or to the subject of the complaint. (Unchanged by CS)

**\*SECTION 39: AS 24.60.170(g) CORRECTIVE ACTIONS.** Clarifies procedures in the event a person, after a finding of probable cause of a violation of the ethics code, agrees to comply with the committee's recommended corrective actions but later fails to complete the corrective action. Under the new language the committee may formally charge the person or refer the matter to the appropriate house of the legislature or appointing authority. It empowers the legislature or the appointing authority to enforce the actions or to decline to enforce and refer the matter back to the committee. If it is referred back to the committee, the committee maintains the power to formally charge the person. (Amended by STA CS, committee recommended)

**\*SECTION 40: AS 24.60.170(h) CORRECTIVE ACTIONS.** Complies with new language in AS 24.60.170(g), empowering the committee to formally charge a person who fails to complete corrective actions. (Amended by CS, committee recommended)

**\*SECTION 41: AS 24.60.170(i) DISCOVERY.** Subsection (i) in current law is confusing as to when the subject of a complaint may engage in discovery. The committee feels the appropriate time for discovery and what seems to be the intent of the code, is at the point a person is formally charged. The change from subsection (b) to subsection (h) would clarify that intent. However, the new language permits the committee to adopt procedures concerning discovery which include allowing discovery at an earlier stage than formal charges and imposing reasonable restrictions on release of information to the subject of a complaint, to protect the privacy of persons not under investigation. The Senate State Affairs committee amended this section by adding a requirement that the committee could not impose restrictions on discovery by the subject unless the person filing the complaint agreed to be bound by similar restrictions concerning release of information and the person has not made public the information in or about the complaint or the filing of a complaint. (Amended by STA CS)

**\*SECTION 42: AS 24.60.170(d) ATTENDANCE AT EXECUTIVE SESSIONS and WAIVER OF CONFIDENTIALITY.** The Uniform Rules set out that a legislator may not be excluded from an executive session. The proposed language clarifies that all meetings of the committee concerning complaints are closed to the public and to legislators who are not committee members. Senate State Affairs committee amended this section to require the committee to permit the subject of the complaint and the subject's attorney to attend any meeting concerning the complaint, including confidential meetings and to notify the subject of any meetings on the complaint. Proposed language clarifies that the subject of the complaint may waive the confidentiality provisions under this subsection but may not waive the committee's confidentiality duty to others. For example, if a complaint named three subjects and one of the subjects waived confidentiality, the committee would adhere to the confidentiality requirements for the other two. (Amended by CS)

**\*SECTION 43: AS 24.60.174(a) TIMETABLE FOR SANCTIONS.** This sets out a procedure for the ethics committee and the legislature to follow concerning sanctions on legislators. When the committee submits a report recommending sanctions to a legislative body to consider imposing on a legislator who was found in violation of the ethics code, a timetable for compliance with the sanctions must be included. The report may also include recommended fines that the legislative body may impose if the legislator does not comply in a timely manner. (Amended by CS, committee recommended)

**\*SECTION 44: AS 24.60.174 TIMETABLE FOR SANCTIONS.** This subsection requires the legislative body to report to the committee the sanctions and timetable for compliance it has adopted. It further requires the legislator to report compliance with the sanctions according to the timetable to the committee. If the committee determines the legislator or former legislator has not complied fully and in a timely manner, the committee may recommend that the legislative body impose a fine or additional sanctions. (Amended by CS, committee recommended)

**\*SECTION 45: AS 24.60.176: RECOMMENDATIONS WHERE VIOLATOR IS A LEGISLATIVE EMPLOYEE.** The current code sets out that the "appointing authority" determines sanctions to be imposed on a violator who is an employee. (Appointing authority is defined in AS 24.60.174(b) of this bill.) The proposed language in this section establishes that those listed in AS 24.60.174(b) have the authority to impose sanctions on violators who are legislative employees. The CS adds language to comply with the changes in AS 24.60.174 of this bill concerning reporting to the committee on a set timetable. (Amended by CS, committee recommended)

**\*SECTION 46: AS 24.60.176(b): APPOINTING AUTHORITY.** This new subsection defines which body or person is the appointing authority for each set of legislative employees. The STA committee changed the appointing authority for employees of individual legislators from the Rules Committee to the legislator who made the hiring decision. The legislator may refer the matter to Rules if he/she so chooses. (Amended by STA CS)

**\*SECTION 47: AS 24.60.178 SANCTIONS.** Current law does not set out possible sanctions that could be recommended by the committee. The new section lists recommendations to be made by the committee for violators of the code for the legislature to impose or require: fines on members who violated the code, divestiture of specified assets or withdrawal from certain associations, additional

disclosure, suspension or termination from legislative employment (if an employee), restitution or reimbursement, public or private written reprimand, censure, removal from committee positions, probation, expulsion or any other appropriate measure. Subsection (c) clarifies that the committee may recommend that the subject be required to pay all or some of the costs related to the investigation or adjudication of a complaint. The committee's intent is to allow those covered by the code to be aware of possible sanctions and to empower the legislature to impose or require any of the above sanctions on legislators, including fines. STA committee in subsection (7) added language to the censure clause that a legislator could be removed from a leadership position or committee membership position and a determination that the legislator would not be appointed to a leadership or committee membership position for the remainder of that legislature. (Amended by STA CS)

SECTION 48: AS 24.60.200 FINANCIAL DISCLOSURE BY LEGISLATORS, LEGISLATIVE DIRECTORS, AND CERTAIN LEGISLATIVE EMPLOYEES. Under current law, legislators and legislative directors are required to annually file a complete financial disclosure statement to APOC. The change made in the Rules CS requires legislative employees at a Range 19 and above to file financial disclosures reports. This statement is similar to the conflict of interest statements filed by statewide and local elected officials. The proposed changes to the APOC Legislative Financial Disclosure statement deal only with gifts. All other reporting under this section remains the same and remains the responsibility of APOC. The new language removes the responsibility for dealing with reports of any gifts from APOC. The corresponding change described above in AS 24.60.060(d) places that responsibility solely with the ethics committee. (The RULES CS adds "certain legislative employees" and includes a T, clerical Change)

SECTION 49: AS 24.60.210 DEADLINES FOR FILING OF DISCLOSURE STATEMENTS. Adds "a legislative employee who is required to disclose" to those required to file an annual report with APOC. (Added by RULES CS)

SECTION 50: AS 24.60.240 CIVIL PENALTY FOR LATE FILING. Adds "a legislative employee who is required to disclose" to those required to file an annual report with APOC. (Added by RULES CS)

SECTION 51: AS 24.60.250 EFFECT OF FAILURE TO FILE BY LEGISLATIVE CANDIDATE. Adds "a legislative employee who is required to disclose" to those required to file an annual report with APOC. (Added by RULES CS)

SECTION 52: AS 24.60.260(a) FINES. Current law does not include any penalty for late disclosures to the ethics committee. The proposed changes in this subsection and the new subsection below (c) would allow a person to file a late disclosure but that person would be subject to a fine or to having a complaint filed against them. (Unchanged by CS)

SECTION 53: AS 24.60.260(c) FINES. Permits the committee to impose fines for late disclosures. Fines are not to exceed \$2 per day to a maximum of \$25 per disclosure for inadvertent late filing. The committee may impose an additional fine of \$100 for intentionally not filing a disclosure. (Unchanged by CS)

SECTION 54: AS 24.60.990(A)(5) IMMEDIATE FAMILY. The change to the definition of immediate family affects, in current law, the contracts and leases

section (24.60.040), the gifts section (24.60.080 (c)(5) and (g)) and the Legislative Financial Disclosure reporting requirements (24.60.200(4)). (Amended by STA CB).

**\*SECTION 55: AS 24.60.990 (a)(15) DEFINITIONS.** "A legislative employee who is required to disclose" is defined as a legislative employee, other than a legislator or a legislative director, who is compensated at a Range 19 or above who will now be subject to financial and conflict of interest disclosure. (Added by RULES CB)

**\*SECTION 56: AS 39.25.160 (J) STATE PERSONNEL ACT.** Amends the State Personnel Act by adding a specific prohibition on state employees engaging in campaign activities on behalf of political candidate on government time. Clarifies that Division of Election employees may carry out duties related to elections and members and employees of the Commission on Judicial Conduct may carry out duties related to evaluation of judges. (Added by STA CB)

**\*SECTION 57: AS 39.50.020 REPORT OF FINANCIAL AND BUSINESS INTERESTS.** Subsection (a) Amends the non-legislative Conflict of Interest statutes. This section sets out that the public officials listed in AS 39.50.200 (8) must file a financial report within 30 days after taking office as a public official. The Tourism Marketing Council director is the only change from previous definition. In reference to filing requirements for candidates, the Rules CB deletes the 30 day grace period for a "person who becomes a candidate by any other means" thereby requiring immediate filing. Subsection (b) sets out that public officials are to file with APOC. (Amended by STA CB)

**\*SECTION 58: AS 39.50.030(a) CONTENTS OF FINANCIAL STATEMENTS.** Deletes the unnecessary reference to assets or liabilities under \$500, household goods and personal effects, to clarify that only those items listed in subsection (b) are to be reported. (Amended by RULES CB)

**\*SECTION 59: AS 39.50.030(b) CONTENTS OF FINANCIAL STATEMENTS.** Changes the reporting requirements for the executive branch public officials to the same level of legislators: interests over \$1000. Previous reporting level was \$100. Adds requirement for public officials to report any income of over \$250 that is a gift. Deletes requirement for reporting of a state contract or natural resource lease held, bid or offered by the officials mother or father, adds reporting of state contract held, bid or offered by a partnership or professional corporation of which the official is a member. Adds official's spouse to the list of those the official must report if the spouse holds a natural resource lease. (Amended by RULES CB)

**\*SECTION 60: AS 39.50.070 FAILURE TO REPORT BY CERTAIN STATE EMPLOYEES.** Amends language to conform with changes on who must report, in Section AS 39.50.020 and AS 39.50.200. (Amended by RULES CB)

**\*SECTION 61: AS 39.50.080 FAILURE TO REPORT BY A COMMISSION OR BOARD CHAIR OR MEMBER.** Amends language to conform with changes on who must report, in Section AS 39.50.020 and AS 39.50.200. (Added by RULES CB)

**\*SECTION 62: AS 39.50.200(a)(8) DEFINITIONS.** Combined with following section, changes the definition of who must file a financial report. Adds to the current list, all state employees in the executive branch in the exempt of partially exempt service who are at a Range 21 or above. (Added by RULES CB)

**\*SECTION 63: AS 39.50.200(a)(8) DEFINITIONS.** Combined with above section, changes the definition of who must file a financial report. Adds to the current list, all state employees in the executive branch in exempt or partially exempt service who are at a Range 21 or above. (Added by RULES CS)

**\*SECTION 64: AS 39.50.010(a) FINDINGS AND PURPOSE.** Adds the findings of the legislative ethics act to those in the executive branch ethics code. (Added by RULES CS)

**\*SECTION 65: AS 39.52.120(b) MISUSE OF OFFICIAL POSITION.** This section clarifies that the Governor and Lt. Governor may accept campaign contributions and that public officers and Lt. Governor and Governor may accept lawful gifts. (Added by RULES CS)

**\*SECTION 66: AS 39.52.125 MISUSE OF OFFICIAL POSITION BY STATE OFFICIALS.** New section. Adds a new section to the executive branch ethics code which sets out additional prohibitions for state officials (as defined in Section 90), as generally found in the legislative ethics act, and includes changes made to the legislative ethics act through this legislation. (Added by RULES CS)

**\*SECTION 67: AS 39.52.130(c). GIFTS** This section and other sections change the reporting, advising and enforcing authority for the executive ethics code from the Attorney Generals office to the Personnel Board. (Added by RULES CS)

**\*SECTION 68: AS 39.52.130(e-n) GIFTS .** New subsections. Changes language regarding state officials to match legislative gift restrictions and reporting and adds the list, as proposed in this bill, of exempted gifts under the legislative ethics code, including voluntary services, to the executive branch ethics act. Gifts from another government to be delivered to the Office of the Governor. (Added by RULES CS)

**\*SECTION 69: AS 39.52.155 RESTRICTIONS ON FUNDRAISING.** New Subsections. Section 39.52.132: Sets the same restrictions on campaign fundraising for state officials including the governor and lieutenant governor as for legislators and legislative employees. Section 39.52.134 prohibits a state official in the exempt or partially exempt service from filing a letter of intent or declaration of candidacy for the legislature. Section 39.52.136 adds state officials to those that must comply with the open meetings law. (Added by RULES CS)

**\*SECTION 70: AS 39.52.150(d) IMPROPER INFLUENCE IN STATE GRANTS, CONTRACTS, LEASES, LOANS.** Changes receipt of report of participation in state contracts, grants, leases, loans from AG office to Personnel Board. (Added by RULES CS)

**\*SECTION 71: AS 39.52. DISCLOSURE OF CLOSE ECONOMIC ASSOCIATIONS.** Requires state official to disclose to supervisor and personnel board, which shall maintain a public record, close economic associations with those listed in this section. Sets disclosure deadlines to conform with legislative ethics act. Subsection (c) requires state officials who are married to or living with a lobbyist to report the name of each employer of the lobbyist and the total monetary value received from the employer. Changes must be reported within 48 hours. (Added by RULES CS)

**\*SECTION 72: AS 39.52.170 OUTSIDE EMPLOYMENT RESTRICTED.** Adds a clause that restricts state officials from accepting outside employment if the

compensation, is significantly greater than the value of the services. Conforms with legislative ethics language. (Added by RULES CS)

**\*SECTION 73: AS 39.52.170 (c) OUTSIDE EMPLOYMENT.** Adds an honorarium restriction for state officials which matches legislative ethics act restriction. (Added by RULES CS)

**\*SECTION 74: AS 39.52.180(b) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE.** This references change in new subsection (d) below, restricting agencies from contracting with a former state official for services which would include lobbying before a state agency or the legislature. (Added by RULES CS)

**\*SECTION 75: AS 39.52.180(c) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE.** References new subsection (d) below and sets a one year limit on waiving restrictions set out in this section regarding lobbying. (Added by RULES CS)

**\*SECTION 76: AS 39.52.180(d) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE.** New subsection. (d) restricts agencies from contracting with a former public officer for services which would include lobbying before a state agency or the legislature. (Added by RULES CS)

**\*SECTION 77: AS 39.52.210(a-c) DECLARATION OF POTENTIAL VIOLATIONS.** Requires public employees to report potential violations to Personnel Board as well as to supervisor. Requires supervisor to provide a copy of written determination of potential violation to public employee and personnel board. (Added by RULES CS)

**\*SECTION 78: AS 39.52.220 DECLARATION OF POTENTIAL VIOLATIONS BY MEMBERS OF BOARDS AND COMMISSIONS.** Requires members of boards or commissions to disclose a matter that may result in a violation on the public record and in writing to supervisor and to the personnel board. Replaces AG office with Personnel Board as advisors in matters of potential violation. (Added by RULES CS)

**\*SECTION 79: AS 39.52.230 REPORTING OF POTENTIAL VIOLATIONS.** A complaint is filed against a state official with the supervisor. The supervisor is required to file a copy of the complaint with the personnel board. (Added by RULES CS)

**\*SECTION 80: AS 39.52.240(a) ADVISORY OPINIONS.** Adds state officials to those that may request an advisory opinion and sets the personnel board as the body to issue the opinion. (Added by RULES CS)

**\*SECTION 81: AS 39.52.240(b) ADVISORY OPINIONS.** Replaces the AG office with the personnel board as the body offering oral advice. (Added by RULES CS)

**\*SECTION 82: AS 39.52.240(c) ADVISORY OPINIONS.** Replaces the AG office with the personnel board as the advising body. (Added by RULES CS)

**\*SECTION 83: AS 39.52.240(e) ADVISORY OPINIONS.** Replaces the AG office with the personnel board as the advising body. (Added by RULES CS)

**\*SECTION 84: AS 39.52.240(c) ADVISORY OPINIONS.** Replaces the AG office with Personnel Board for purpose of publishing advisory opinions. (Added by RULES CS)

**\*SECTION 85: AS 39.52.250 ADVICE TO FORMER PUBLIC OFFICERS.** Replaces the AG office with the personnel board as the advising body. (Added by RULES CS)

**\*SECTION 86: AS 39.52.260 DESIGNATED SUPERVISOR'S REPORT AND PERSONNEL BOARD REVIEW.** Replaces the AG office with the personnel board as the body accepting reports of potential violations. . (Added by RULES CS)

**\*SECTION 87: AS 39.52.920 AGENCY POLICIES.** Replaces the AG office with the personnel board as the body which reviews and approves agency policies that restrict a public officers acquisition of personal interest in certain entities and acceptance of gifts. (Added by RULES CS)

**\*SECTION 88: AS 39.52.950. REGULATIONS.** Sets out that the AG office may adopt regulations concerning complaints under the executive ethics act and that the personnel board may adopt regulations necessary to interpret and implement sections other than complaints. (Added by RULES CS)

**\*SECTION 89: AS 39.52.960(11) DEFINITION OF IMMEDIATE FAMILY.** Changes definition in the executive act to match the legislative act. (Added by RULES CS)

**\*SECTION 90: AS 39.52.960 (23) DEFINITION OF STATE OFFICIAL.** Means governor, lieutenant governor, a person hired or appointed as the head or deputy head of a department in the executive branch or as the director of a division in a department in the executive branch, the chair or member of a state commission or board, the executive director of the Alaska Tourism Marketing Council, an assistant to the governor or lieutenant governor, a state investment officer, the state comptroller in the Department of Revenue, and a state employee who is not otherwise listed in this definition who is employed in a position in the executive branch of state government in the exempt or partially exempt service and who is compensated at Range 21 or above on the state salary schedule under AS 39.27.011. (Added by RULES CS)

**\*SECTION 91: AS 44.62.175(a) ALASKA ADMINISTRATIVE JOURNAL.** Adds advisory opinions of the personnel board to the list of those things to be published in the journal. (Added by RULES CS)

**\*SECTION 92: AG OPINIONS.** Sets out that a public officer or former public officer may rely upon the opinion of the AG's office prior to this act taking effect. (Added by RULES CS)

**\*SECTION 93:** Clarifies that Section 27, the Legal Defense and Election Challenge Fund, takes effect only if the campaign finance reform initiative is approved in 1996. (Amended by STA CS)

**\*SECTION 94:** Further clarifies that Section 27, the Legal Defense Fund would take effect on the day after the initiative takes effect. (Amended by STA CS)

**\*SECTION 95: EFFECTIVE DATE.** APOC has recommended that a January 1 effective date would correspond to their calendar year reporting. The CS amends the year to 1997, with the exception of section 89. (Amended by STA CS)

## **DEFINITIONS F.Y.I.**

**AS 59.50.200 (8) DEFINITION OF PUBLIC OFFICIAL.** Means a judicial officer, the governor, the lieutenant governor, a person hired or appointed as the head or deputy head of, or director of a division, a department in the executive branch, chair or member of a state commission or board, the executive director of the Alaska Tourism Marketing Council, another state employee subject to this chapter, and each appointed or elected municipal officer.

(SEE SECTION 62 of CS SB 141 version Z)

**AS 39.50.200 (a) (10) DEFINITION OF ANOTHER STATE EMPLOYEE SUBJECT TO THIS CHAPTER.** Means a state employee who is employed in a position in the executive branch of state government in the exempt or partially exempt service and who is compensated at Range 21 or above on the state salary schedule under AS 39.27.011, an assistant to the governor, an assistant to the lieutenant governor, a state investment officer, and the state comptroller in the Department of Revenue, but does not include a state officer or employee who is otherwise included in the definition of "public official" under this section."

(SEE SECTION 63 of CS SB 141 version Z)

**AS 39.52.960(21)(A-C) DEFINITION OF PUBLIC OFFICER.** Means (A) a public employee; (B) a member of a board or commission; and (C) a state officer designated by the governor to act as trustee of the trust or a person to whom the trustee has delegated trust duties; in this paragraph, "trust" has the meaning given in AS 37.14.450

(NOT AMENDED BY THIS BILL)

**AS 39.52.960 (23) DEFINITION OF STATE OFFICIAL.** Means governor, lieutenant governor, a person hired or appointed as the head or deputy head of a department in the executive branch or as the director of a division in a department in the executive branch, the chair or member of a state commission or board, the executive director of the Alaska Tourism Marketing Council, an assistant to the governor or lieutenant governor, a state investment officer, the state comptroller in the Department of Revenue, and a state employee who is not otherwise listed in this definition who is employed in a position in the executive branch of state government in the exempt or partially exempt service and who is compensated at Range 21 or above on the state salary schedule under AS 39.27.011.

(SEE SECTION 90 of CS SB 141 version Z)

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

ALASKA PUBLIC OFFICES COMMISSION

TONY KNOWLES, GOVERNOR

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April 26, 1996

The Honorable Mike Miller  
Chair  
Senate Rules Committee  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Re: CSSB141(STA) Legislative Ethics

Dear Mr. Chair:

Thank you for the opportunity to submit comments on this bill. Several years ago the Alaska Public Offices Commission proposed legislative changes to AS 39.50, the Conflict of Interest Law. These were subsumed within another bill which did not pass. These proposed amendments are housekeeping in nature, provide consistency within AS 39.50 and change thresholds so that all financial disclosure filings are reported at the same \$1000.00 or greater threshold. As the Senate has expanded this bill to include AS 39.50, these amendments seem appropriate and are attached.

The following are the Commission's comments on the proposed legislation. Page 13, Section 25 and Page 14, Section 26 allow legislators and legislative employees to establish a legal defense fund or election challenge fund under a new section AS 24.60.111. Section 25 takes effect on the effective date of the bill, January 1, 1997. Section 26 takes effect only if the proposed campaign finance reform initiative is approved by the voters.

The Commission has strong reservations about the proposed legal defense fund provisions as well as a number of questions. Not much guidance has been given as to the limits intended to be placed on these funds. It appears that legal defense funds could be used for any civil, criminal or administrative action. A divorce? A fish license violation? Traffic violation? DWI?

There are no limits or guidance as to how much can be contributed, when contributions can be made or received, or how much can be spent and for what purposes. Under Sections 25 and 26, AS 24.60.111 the restrictions of AS 24.60.080, the gifts section of the law, do not apply to these funds.

Under Section 26 which is effective if the campaign finance reform initiative passes in November, the time limits on accepting contributions during a campaign or during legislative session, the prohibitions on the use of campaign funds, and the limitations on the disbursement of campaign assets proposed in the campaign finance reform initiative do not apply to these funds.

As structured, these sections appear to call for APOC to develop regulations defining the fund and the Select Committee on Legislative Ethics to enforce civil violations and the Department of Law, criminal violations. No one appears to be assigned to administer the statutory provision and no reports appear to be required. Having two or more entities responsible for different aspects of the same provision is not workable, especially if the two are in different branches of government. One entity should be assigned responsibility for all aspects.

The concept of an election challenge fund tied to a legislative candidacy is one the Commission finds more acceptable. Such a provision is present in the campaign finance reform initiative and in the campaign finance reform bills in both houses. However in those vehicles, it applies to all candidates not just legislators and legislative employees who are candidates which may be more appropriate.

The following comments relate to the changes in who should file Conflict of Interest Statements. If AS 39.50.200(b)(49) in current statute is amended to read, "(49) Alaska Tourism Marketing Council and its executive director", then the wording in bold on page 28, line 27-28 Sec. 54. AS 39.50.080, "including the executive director of the Alaska Tourism Marketing Council" and the wording on page 29, line 13-14, "the executive director of the Alaska Tourism Marketing Council" would not be necessary but the executive director would be required to file.

Page 29, line 16. Sec. 56. AS 39.50.200(a)(10) creates a new class of state employee filer subject to the Conflict of Interest Law. Currently there are approximately 800 state officials subject to annual filing under AS 39.50. The inclusion of partially exempt and exempt employees at range 21 and over would

add about 600 additional filers annually, almost doubling the number of state filers. This provision would have significant fiscal impact for APOC not reflected in the \$0 fiscal note attached to the original version of this bill. An updated fiscal note has been submitted.

Sincerely,

  
Karen Boorman  
Executive Director

cc:  
Commission members  
attachment

**SB**

**141**

*(File 2)*

## SB 141 - Administration Concerns

CSSB 141 proposes to amend the Executive Branch Ethics Act. As explained below these amendments are unnecessary and ill-considered.

- **The Executive Branch Ethics Act should not contain two-tiers of executive branch employees.** CSSB 141 creates two tiers of executive branch employees by defining "state official" to exclude all members of the classified service. This distinction is a grave error. The Executive Branch Ethics Act should apply to all executive branch officers. CSSB 141 will create confusion regarding what is allowed or disallowed for public employees. It will undermine the administration's effort to ensure that all public officers maintain a high ethical standard.
- **The changes to the Executive Branch Ethics Act are not necessary because unethical activity is already prohibited.** Under current law, misuse of official position by an executive branch employee is prohibited. This section has been strictly interpreted by the Attorney General to prohibit any use of a state position for a commercial business or partisan political purposes. The amendments to the Executive Branch Ethics Act, which purport to constrain political activity by certain state officials, are not necessary--these officials are prohibited from engaging in this activity under current law.
- **Transferring Executive Branch Ethics Act responsibility away from the Attorney General will decrease compliance with the Ethics Act.** The Executive Branch Ethics Act was passed in 1986 after much debate and analysis. The 1986 Legislature determined that the office of the Attorney General could best provide both advice and enforcement of the Act. In the ten intervening years, the office of the Attorney General has issued ethics advice to agencies hundreds of times and has investigated many ethics complaints. State public officers respect and heed the authority of the Attorney General.
- **Transfer of ethics authority to the Personnel Board unnecessarily creates another level of bureaucracy.** The Attorney General advises state agencies and investigates legal matters. The Personnel Board does not. Transfer of the investigatory and advisory functions under the Ethics Act from the Attorney General to the Personnel Board will unnecessarily create new bureaucracy and require duplication of services and expertise.
- **CSSB 141 destroys years of Ethics Act interpretation and education.** CSSB 141 significantly changes the Executive Branch Ethics Act. It appears to restore the common law "appearance of impropriety" standard--a standard specifically rejected by the 1986 Act. It waters down the ethical requirements relating to providing benefits to family members. Ten years worth of Ethics Act interpretations and precedents will be of questionable value if this bill passes.
- **CSSB 141 is a result of bad process.** The 1986 Executive Branch Ethics Act was the result of considerable public debate. In contrast, the sweeping changes to the Executive Branch Ethics Act contained in CSSB 141 surfaced without notice or opportunity for public comment in the waning hours of the 1996 session. Changes to the Ethics Act should be carefully considered and evaluated rather than hastily forced on the legislature and the public. CSSB 141 appears to decrease the ethical standards for state workers rather than increase them. This is the result of bad process.

# Alaska State Legislature

## Select Committee on Legislative Ethics

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Mailing Address:  
P.O.Box 101468  
Anchorage, AK  
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DATE: April 18, 1996

TO: Senate Rules Committee

FROM: Susie Barnett, Staff  
Select Committee on Legislative Ethics

RE: Review of DRAFT CS SB 141(RLS) W Version  
Dated 4/12/96  
An Act relating to legislative and executive branch ethics.; relating to campaigning by state employees; relating to the filing of financial disclosures by certain state employees and officials.

This document is intended to supplement CS SB 141(RLS). The purpose of this document is to provide an ethics committee analysis of the bill. (Herein, "committee" refers to ethics committee.) The \*asterisks indicate sections amended by the Senate State Affairs Committee and by the Senate Rules Committee.

**LETTER OF INTENT:** States that it is the intent of the legislature that nothing in the legislation shall be construed as prohibiting a legislator from being employed or being retained on a contractual basis by any political subdivision of the state. (ADDED IN STA CS)

**SECTION 1: AS 24.25.010(e) SUBPOENA POWERS:** The ethics code specifically grants the ethics committee the authority to subpoena witnesses under AS 24.60.150(b)(2). The statute to be amended by this bill, AS 24.25.010, sets out general guidance for legislative subpoenas and includes a reference requiring the concurrence of the Senate President or Speaker of the House. Subsection (e) provides that the concurrence requirement does not apply to the Legislative Council or the Legislative Budget and Audit Committee. Like the ethics committee, both the council and LBA are permanent interim committees and both have express grants of authority to subpoena witnesses. It is the opinion of the ethics committee and the committee's legal counsel, that not including

the ethics committee in the AS 24.25.010(e) exemption was an oversight, especially given the specific grant of authority. (Unchanged by CS)

**RULES CS DELETES PROHIBITION ON SPOUSAL/SPOUSAL EQUIVALENTS LOBBYISTS.**

**\*SECTION 2: AS 24.60.030(a) TELEPHONE/FAX USE:**

\*Subsection (2)(A): The changes in subsection(2)(A) would allow the use of state resources for personal purposes if the use doesn't interfere with performance of public duties and either the cost is nominal or the legislator/legislative employee reimburses the state for cost. Requires employee to comply with supervisor's policy on state resource use. (Amended by STA CS)

\*Subsection (2)(C) allows use of state phones and fax machines for private benefit and requires a legislator/employee who incurs a special charge to reimburse the state. (Amended by STA CS)

\*Subsection (5)(A) allows use of state resources for political fund raising or campaigning if the use doesn't interfere with performance of public duties or the legislator/employee reimburses the state for cost. Requires employee to comply with supervisor's policy on state resource use. (Amended by STA CS)

\*Subsection (5)(C) allows use of phones and faxes for political fund raising or campaigning and requires a legislator/employee who incurs a special charge to reimburse the state. (Amended by STA CS)

\*Subsection (5)(D) allows campaign records, including APOC reports, to be kept in a legislator's office and prohibits a legislative employee from working on campaign records on government time. (Amended by STA CS)

**\*SECTION 3: AS 24.60.030(e) MASS MAILING:** The ethics code currently prohibits use of state funds to print or distribute a mass mailing from or about *a legislator who is a candidate for state office*, during the period 90 days before the primary and ending the day after the general election. The proposed language expands the prohibition to include legislators and legislative employees who are candidates for federal and municipal offices or to telephone and electric cooperatives.. While other sections of the ethics code clearly prohibit use of state funds for campaign purposes, this section highlights what are considered to be a critical periods and provides a guideline for those who issue mailings during those times. This subsection does not refer to an individual legislator's office allowance. (Changed by RULES CS) Rules Committee deleted, under definition of political mass mailing: [a person other than a legislator or employee who is a candidate for election to the legislature]

**\*SECTION 4: AS 24.60.030(d) CAMPAIGN LITERATURE:** The proposed change adds fundraising notices to the list of current prohibitions on distributing or posting campaign literature in state facilities. The prohibitions currently apply only to legislators or someone on behalf of a legislator. This language expands that prohibition to include legislative employees. The Senate State Affairs Committee added language which states that the offices of individual legislators are not public areas for the purposes of this section. (Amended by STA CS)

**SECTION 5: AS 24.60.030(f) BOARD MEMBERSHIP:** The bill would put in statute what is current practice for disclosure, with two exceptions. The committee now requests disclosure of a new membership on a board within 30 days and board membership disclosures are not published in the journal. The amendment would change the new membership disclosure period to 60 days and would require the committee to publish the disclosures in the journal. (Unchanged by CS)

**\*SECTION 6: AS 24.60.030(g) CONFLICTS OF INTERESTS:** The amendments to this section have the effect of changing the *prohibition* on taking legislative, administrative or political action to a *disclosure requirement* prior to taking action if one has any of the "interests" listed in the amendment, which are expanded beyond equity or ownership interest to include employment, contracts and membership on a board. It also sets out that the disclosure is to be publicly announced if the action is being taken in a committee meeting or on the floor. Actions being taken other than in committee or on the floor, e.g. drafting a bill or testifying in an administrative hearing, would be disclosed in writing to the ethics committee within 7 days. Disclosures must include the nature of the financial interest and a short description of how action taken affects the interest, whether written or oral. (Amended by STA CS, recommended by committee)

**\*SECTION 7: AS 24.60.030 GOVERNMENT TIME** Under the proposed language, when determining in a complaint proceeding whether an employee was performing a task on government time, the committee would consider the schedule set by the employee's supervisor. Requires an employee to take leave for the period of time he/she is engaged in political campaign activities, other than incidental campaign activities. As amended in Senate State Affairs, political campaign activities are permissible on government time if the activities are part of the normal legislative duties, including answering phone calls and handling incoming correspondence. (Amended by STA CS)

**SECTION 8: AS 24.60.031(a) FUNDRAISING DURING SESSION** The proposed language clarifies that the restrictions on fundraising during session are in effect on a day when either house is in regular or special

session. (This would change the committee's current interpretation of "gavel to gavel") The proposed language retains the restrictions on fundraising during session for state legislative political purposes and eliminates the unnecessary term for "campaign purposes". This proposal tightens the language that might have allowed someone to expend money raised during session under a general letter of intent without a declaration of candidacy. (Unchanged by CS)

**SECTION 9: AS 24.60.039 EMPLOYMENT DISCRIMINATION** The Ethics Committee shares jurisdiction with the Human Rights Commission on complaints filed against a legislator or legislative employee concerning violations of the employment discrimination statute, AS 18.80.220. Current law requires the committee to deal with a complaint alleging a violation of that statute in the same manner they would deal with any other complaint. The proposed language gives the committee the option to refer complaints of employment discrimination to the Human Rights Commission and defer consideration of the complaint until after the commission has completed its proceedings. (Unchanged by CS)

**SECTION 10: AS 24.60.040(a) CONTRACTS AND LEASES** The proposed language broadens the contract and lease criteria beyond the current code, which restricts a legislator or legislative employee from having a financial interest in a state contract or lease unless:

- it is let through competitive bidding in accordance with the Procurement Code or
- it is worth \$1000 or less annually or
- it is standardized, under publicly established guidelines and generally available to the public at large.

The new language allows participation in contracts or leases that are let under AS 36.30, the State Procurement Code, which addresses a variety of award methods, including sole-source. It also allows participation in contracts and lease that are let under similar procedures to those in AS 36.30 which addresses such agencies as the University and the Railroad. The new language sets a new reporting threshold at \$5000, changed from the previous \$1000.

This bill eases the 'family member' disclosure requirement to generally read: A legislator or legislative employee who knows, or reasonably ought to know, that a family member is participating in a state contract or lease (with an annual value of \$5000 or more) must disclose that participation.

This relaxing of prohibitions is balanced by the new disclosure requirement. Currently a legislator or legislative employee does not

disclose to the ethics committee participation in contracts or leases permitted by the code. The proposed language requires disclosure by the legislator, legislative employee and family members of participation in any state contract or lease over \$5000 annually. It also clarifies that for the purposes of complying with the ethics code, a grant that results in a contract is subject to this section. (Unchanged by CS)

**SECTION 11, AS 24.60.040, CONTRACTS AND LEASES.** The new subsection further clarifies that a grant, contract or lease that falls under one of the State Loan or Benefit Programs in AS 24.60.050, is not subject to this section. (The committee publishes a list of programs that do not meet the criteria in AS 24.60.050 and requires disclosure of participation in any of the listed programs.) (Unchanged by CS)

**SECTION 12: AS 24.60.050(c) REFRAIN FROM PUBLICATION** Allows the committee to protect an individual's right to privacy concerning participation in state loan and benefit programs. This follows an advisory opinion issued by the committee in 1994 explaining that it chose to not publish the name of a person who received a benefit from the Violent Crimes Compensation Committee but did publish that a person covered by the ethics code had received a benefit. (Unchanged by CS)

**SECTION 13: AS 24.60.060(b) PROTECTIVE ORDER** The subject of an ethics complaint would be in violation of the code for releasing information deemed confidential under a protective order issued by the committee. This change would allow the committee to broaden discovery by the subject while still protecting any innocent, or "not involved" parties. (Unchanged by CS)

**SECTION 14: AS 24.60.070(b) DEADLINE FOR CLOSE ECONOMIC ASSOCIATION:** The current code required disclosure but did not set a deadline. The February 15 deadline is in line with others and the 60 day disclosure for new associations matches the new language for disclosures throughout the bill. (Unchanged by CS)

**\*SECTION 15: AS 24.60.070(d) SPOUSAL/SPOUSAL EQUIVALENT LOBBYIST.** This new section would require legislators and legislative employees who are married to or who are the spousal equivalents of a lobbyist, to disclose, under Close Economic Association, the name and address of each of the lobbyist's clients and the total monetary value received from each client annually. Changes to the list would have to be reported within 48 hours. (Original language rec'd by Ethics Comm. CHANGED BY STA, replaced by Rule)

**SECTION 16: AS 24.60.080(a): GIFTS** The bill increases the gift limit from \$100 to \$250 annually. New language has been added that clarifies the restriction on legislators and legislative employees from accepting, from a lobbyist during session, anything of monetary value other than food or beverage for immediate consumption. This change matches the restrictions currently in the APOC statutes for lobbyists. (TECHNICAL CHANGE ONLY IN RULES CS)

**\*SECTION 17: AS 24.60.080(c) GIFT EXEMPTIONS** The committee has received inquiries as to whether a stay at a person's vacation home is an exempted gift. This language clarifies that a stay in a vacation home located outside the state, is not an exempted gift. Language would allow legislators and legislative employees to accept unlimited discounts while on state business. (Amended by STA CS.)

**\*SECTION 18: AS 24.60.080(d) GIFT REPORTING** Proposed changes to Sections 24.60.200-260 (discussed further down in this document) of the ethics code, remove APOC out from under the responsibility of dealing with reports of gifts received by legislators and legislative directors. This is an effort to ease confusion over what is reported to whom. Under the proposed changes, all gifts would be reported to the ethics committee. The changes in this section correspond to those made in previous sections e.g. \$250 limit and changing reporting date for gifts not related to legislative status to February 15 deadline and the change from reporting gifts to APOC. Changes the confidential disclosure requirement for gifts "not related to legislative status" from donor, description of gift and value to just donor and description of gift. (Amended by STA CS)

**\*SECTION 19: AS 24.60.080(f) Foreign Gifts** Allows acceptance of gift from a foreign government, the U.S. government or another state government for protocol purposes so long as the gift is delivered to the legislative council within 60 day. This bill increases the threshold to \$250 to correspond with other changes relating to gifts. (Amended by STA CS)

**\*SECTION 20: AS 24.60.080(g) FAMILY** Defines the terms in the Gifts Section "Immediate family or family member", when used in relation to gifts received from immediate family and the new subsections in AS 24.60.080: inheritance from a family member (i) or gifts received by a family member (k). (Amended by STA CS, STA added to (B) with a person cohabitating with the person in a conjugal relationship with the person that is not a legal marriage.) (Technical change only in Rules CS)

**\*SECTION 21: AS 24.60.080 GIFTS, New Subsections**

(h) Permits soliciting and accepting gifts on behalf of charitable organizations, which is in accordance with the advisory opinion issued by the committee last year. Allows the committee to set guidelines concerning these types of gifts. (UNCHANGED BY CS)

(i) Requires reporting of receipt, but not value of, an inheritance from a person other than a family member. The current statute does not address inheritance. This information is currently required under APOC reporting of gifts. The bill reflects the change from reporting gifts to APOC. (UNCHANGED BY CS)

\* (j) The committee issued an opinion interpreting the restriction on accepting volunteer 'services' over \$100 in value. This bill reflects that opinion and sets out that gifts of volunteer services for legislative purposes may be accepted by a legislator, legislative committee or legislative agency as a gift to the state, so long as the person donating the services is not paid by another source. The CS amends this section by allowing a legislator, legislative committee or legislative agency to accept a UA Intern or JTPA trainee as well as any other educational trainees the committee approves. For purposes of maintaining confidentiality, the ethics committee is not permitted to accept volunteer services. (Amended by STA CS)

This subsection requires volunteers, interns, and educational trainees to generally comply with the ethics code, with the exceptions of the following sections: contracts and leases, close economic associations, nepotism or representation before state agencies. The nepotism exemption allows family members to volunteer their time to legislative offices. (AMENDED BY STA CS. Educational trainees, including UA intern and JTPA added)

(k) The current law does not specifically address whether gifts, from another source, to a family member of a legislator or legislative employee fall within the restrictions and/or reporting requirements. The issue has been discussed by the committee in relation to spouses of legislators receiving gifts of travel to attend conferences with the legislator. The proposed language requires disclosure by a legislator or legislative employee who knows, or reasonably ought to know, that a family member has received a gift because of the family member's connection to the legislator or legislative employee. The bill provides this guideline: if the gift was given directly to the legislator or employee and if it would have to be reported by the legislator or employee, then the same gift, if the gift was given to a family member because of his/her connection to a legislator or legislative employee, would require disclosure. In other words, gifts of travel for matters of legislative concern given to allow the spouse to travel with the legislator, would have to be reported. The same holds true for gifts that legislators or legislative employees would be prohibited from accepting, that are received by family members. For example, gift of over \$250 given to the spouse of a

legislator, primarily because of the connection to the legislator, would have to be reported.

The language, "or reasonably ought to know", concerning family members reduces the burden on those covered by the ethics code to research gifts provided to family members with whom there is little or no contact. (Technical Change in Rules CS)

(1) Sets out that the value of the gift is fair market value, to the extent that fair market value can be determined. An example of how this might apply is; a tourism company provides a one hour helicopter ride to show a legislator the area in which they would like to expand their tours. The legislator would use the rate charged to helicopter passengers for a one hour tour in reporting the gift. (UNCHANGED BY CS)

**SECTION 22: AS 24.60.085(a) EARNED INCOME AND HONORARIA** Allows legislators and legislative employees to accept compensation that is less than fees generally charged. The effect of this change would be to allow an attorney to do pro bono work or an engineer to charge a reduced rate for review of plans for a non-profit organization. (UNCHANGED BY CS)

**SECTION 23: AS 24.60.100 REPRESENTATION** Current law does not set reporting deadlines for representation before a state agency. This change corresponds to the other changes of February 15 and 60 days for new representation. (UNCHANGED BY CS)

**\*SECTION 24: AS 24.60.111: LEGAL DEFENSE AND ELECTION CHALLENGE FUNDS:** New section allows a legislator or legislative employee to establish a Legal Defense and Election Challenge Fund to assist with payment of attorney fees and other costs related to defense of a civil, criminal or administrative action or related to the prosecution of defense of an administrative or judicial action concerning a contested election. Sets out that contributions to the fund are not subject to the restrictions on campaign contributions or gifts in the ethics code. Requires APOC to adopt regulations concerning the fund and establishes that a person who violates the regulations is guilty of a Class B misdemeanor and is subject to civil sanctions as recommended by the ethics committee in the complaint process. (Added by STA CS.) See Section 25, relating to the Campaign Finance Reform Initiative)

**\*SECTION 25: AS 24.60.111: LEGAL DEFENSE AND ELECTION CHALLENGE FUNDS:** This section, which also establishes the Legal Defense and Election Fund would only take effect if an initiative relating to campaign financing is approved by the voters in 1996. If initiative is not approved, this section sunsets and the section above stays in effect. Effective dates for this section are included at the end of this bill. (Added by STA CS)

**SECTION 26: AS 24.60.130(f). COMMITTEE PER DIEM AND TRAVEL.** The language formalizes the public members' entitlement to receive per diem and travel compensation, as has been customary with legislative committees that have non-legislative members, such as the Code Revision Committee. The public members are not entitled to be paid for their time in service to the committee. AS 39.20.180 sets the rates and terms for per diem and travel for state boards and commissions. The change would apply those rates and terms to the public members of the committee. (UNCHANGED BY CS)

**SECTION 27: AS 24.60.130(h). MEMBER DISQUALIFICATION** The process for appointing a new member to serve on the ethics committee in the place of a disqualified member is in new subsection AS 24.60.130(o). (UNCHANGED BY CS)

The new language prohibits an ethics committee member from participating in a complaint proceeding against a subject of a complaint that is supervised by the member. (UNCHANGED BY CS)

**SECTION 28: AS 24.60.130(o) APPOINTMENT OF COMMITTEE ALTERNATES** The current law sets out that if a member is disqualified during session, the presiding officer, with 2/3 concurrence, appoints another member for that proceeding. If disqualification is during interim, the presiding officer appoints a new member with the concurrence of that house's subcommittee. Involving either body of the legislature defeats that level of confidentiality and public knowledge of the disqualified member could lead to speculation as to who is the subject of the complaint. The new language directs the presiding officers to appoint alternates to the committee who will serve when the chair of the committee or subcommittee appoints them, due to a legislative member being disqualified in a complaint proceeding. The appointment of the alternate by the chair is confidential. (UNCHANGED BY CS)

**SECTION 29: AS 24.60.134(a) RESTRICTIONS ON PUBLIC MEMBERS OF THE COMMITTEE.** The proposed language strengthens the political restrictions on the public members, staff to the committee and those under contract to the committee, by clarifying that prohibitions of participation in political management or in a political campaign extend to ballot initiatives and to campaigns for federal, state and local offices, regardless of whether the campaign is partisan or nonpartisan. The restrictions on attending a fundraising event or making a campaign contribution remain, as in current law, tied to the legislature. A public member, employee or contractor to the committee may not attend a fundraiser or make a contribution to a candidate for the legislature, an incumbent legislator or legislative employee who is a

candidate for another public office or a person running for another office against an incumbent legislator or legislative employee. The restriction on lobbying activities also remains the same as current law. (UNCHANGED BY CS)

**SECTION 30: AS 24.60.134 RESTRICTIONS: NEW SUBSECTIONS**

The committee advocates further restricting public members, employees and contractors of the committee from participating in or attending a political fundraising event held on behalf of a political party. Current law does not address this issue. New subsection (c) adds this restriction. (UNCHANGED BY CS)

Proposed subsection (d) The proposed language permits a contractor with the ethics committee to request the committee to exempt some members of the corporation or partnership from having to comply with some or all prohibitions against political activity. The committee currently contracts for outside legal counsel with an attorney who is part of a large firm with branch offices outside of Alaska. A strict reading of current law prohibits all employees of that law firm to comply with the restrictions in the Alaska legislative ethics code. (UNCHANGED BY CS)

**SECTION 31: AS 24.60.150(b) GUIDELINES** The proposed language permits the committee to adopt guidelines under a public process. A person who acted within the guidelines could not be penalized for violating the ethics code. The current procedure of issuing Advisory Opinions allows interpretations based only on the facts presented by a requestor. Situations have come up wherein the committee feels guidelines, based on a broad set of circumstances and an interpretation of the law, would assist those covered by the code in avoiding inadvertent violations. (UNCHANGED BY CS)

**SECTION 32: AS 24.60.160 ADVISORY OPINIONS** The proposed language in this section allows the committee to issue an advisory opinion to a person who anticipates becoming a legislative employee, 45 days prior to employment. Current law restricts the committee to issuing opinions to those already in legislative employment, legislators and legislators-elect. Current law sets 30 days as the response time for the committee to a request for an advisory opinion. The proposed change allows the committee 60 days to respond. (UNCHANGED BY CS)

The new language in subsection(b) clarifies that the committee retains the authority to restrict attendance during deliberations in executive session on an advisory opinion. (UNCHANGED BY CS)

**SECTION 33: AS 24.60.170(a) COMPLAINTS** Current law requires the committee to process a complaint received, even if against all

members of the legislature or all members of one house of the legislature. The proposed change, prohibiting the committee to consider a complaint of that nature, would allow the committee to return the complaint without action. Current law prohibits considering a complaint against a terminated legislative employee. Proposed language would allow the committee to reinstate a complaint that was closed upon an employee's termination, if the employee was rehired within five years of date the complaint was filed. New language also allows the committee to follow the same procedure with a former legislator who resumes legislative service within five years of the date of the complaint. (UNCHANGED BY CS)

**\*SECTION 34: AS 24.60.170(b) COMPLAINTS** Requires the committee to inform the subject of a complaint of the procedures relating to discovery of confidential information as set out in AS 24.60.170(i). (Amended by STA CS)

**SECTION 35: AS 24.60.170(c) COMPLAINTS** The proposed change would put into law the current adopted procedure of the committee, which is to assign complaints to staff for preliminary examination for legal sufficiency and credibility of information. Staff would then make a recommendation to the committee based on information and evidence contained in the complaint. Staff and the committee would be specifically permitted to solicit additional information from the complainant and the subject. The subject is not obligated to provide information. The new language clarifies that the committee is permitted to dismiss frivolous complaints for lack of credible information. Further clarifies, as is current practice, that proceedings under this subsection are confidential and that confidentiality may be waived by the subject in compliance with AS 24.60.170(i), the subsection dealing with discovery by the subject. (Affected by STA CS changes to AS 24.60.170(i))

**SECTION 36: AS 24.60.170(f) LACK OF PROBABLE CAUSE** Clarifies that the deliberations and vote on the dismissal order and decision on a finding of "lack of probable cause that a violation of the ethics code occurred" are not open to the public or to the subject of the complaint. (UNCHANGED BY CS)

**\*SECTION 37: AS 24.60.170(g) CORRECTIVE ACTIONS:** Clarifies procedures in the event a person, after a finding of probable cause of a violation of the ethics code, agrees to comply with the committee's recommended corrective actions but later fails to complete the corrective action. Under the new language the committee may formally charge the person or refer the matter to the appropriate house of the legislature or appointing authority. It empowers the legislature or the appointing authority to enforce the actions or to decline to enforce and refer the

matter back to the committee. If it is referred back to the committee, the committee maintains the power to formally charge the person. (Amended by CS, committee recommended)

**\*SECTION 38: AS 24.60.170(h) CORRECTIVE ACTIONS** Complies with new language in AS 24.60.170(g), empowering the committee to formally charge a person who fails to complete corrective actions. (Amended by CS, committee recommended)

**\*SECTION 39: AS 24.60.170(i) DISCOVERY** Subsection (i) in current law is confusing as to when the subject of a complaint may engage in discovery. The committee feels the appropriate time for discovery and what seems to be the intent of the code, is at the point a person is formally charged. The change from subsection (b) to subsection (h) would clarify that intent. However, the new language permits the committee to adopt procedures concerning discovery which include allowing discovery at an earlier stage than formal charges and imposing reasonable restrictions on release of information to the subject of a complaint, to protect the privacy of persons not under investigation. The Senate State Affairs committee amended this section by adding a requirement that the committee could not impose restrictions on discovery by the subject unless the person filing the complaint agreed to be bound by similar restrictions concerning release of information and the person has not made public the information in or about the complaint or the filing of a complaint. (Amended by CS)

**\*SECTION 40: AS 24.60.170(l) ATTENDANCE AT EXECUTIVE SESSIONS and WAIVER OF CONFIDENTIALITY.** The Uniform Rules set out that a legislator may not be excluded from an executive session. The proposed language clarifies that all meetings of the committee concerning complaints are closed to the public and to legislators who are not committee members. Senate State Affairs committee amended this section to require the committee to permit the subject of the complaint and the subject's attorney to attend any meeting concerning the complaint, including confidential meetings and to notify the subject of any meetings on the complaint. Proposed language clarifies that the subject of the complaint may waive the confidentiality provisions under this subsection but may not waive the committee's confidentiality duty to others. For example, if a complaint named three subjects and one of the subjects waived confidentiality, the committee would adhere to the confidentiality requirements for the other two (Amended BY CS)

**\*SECTION 41: AS 24.60.174(a) TIMETABLE FOR SANCTIONS** This sets out a procedure for the ethics committee and the legislature to follow concerning sanctions on legislators. When the committee submits a report recommending sanctions to a legislative body to consider

imposing on a legislator who was found in violation of the ethics code, a timetable for compliance with the sanctions must be included. The report may also include recommended fines that the legislative body may impose if the legislator does not comply in a timely manner. (AMENDED BY CS, committee recommended)

**\*SECTION 42: AS 24.60.174 TIMETABLE FOR SANCTIONS** This subsection requires the legislative body to report to the committee the sanctions and timetable for compliance it has adopted. It further requires the legislator to report compliance with the sanctions according to the timetable to the committee. If the committee determines the legislator or former legislator has not complied fully and in a timely manner, the committee may recommend that the legislative body impose a fine or additional sanctions. (AMENDED BY CS, committee recommended)

**\*SECTION 43: AS 24.60.176: RECOMMENDATIONS WHERE VIOLATOR IS A LEGISLATIVE EMPLOYEE.** The current code sets out that the "appointing authority" determines sanctions to be imposed on a violator who is an employee. (Appointing authority is defined in AS 24.60.174(b) of this bill.) The proposed language in this section establishes that those listed in AS 24.60.174(b) have the authority to impose sanctions on violators who are legislative employees. The CS adds language to comply with the changes in AS 24.60.174 of this bill concerning reporting to the committee on a set timetable. (AMENDED BY CS, committee recommended)

**\*SECTION 44: AS 24.60.176(b): APPOINTING AUTHORITY.** This new subsection defines which body or person is the appointing authority for each set of legislative employees. (AMENDED BY CS. The STA committee changed the appointing authority for employees of individual legislators from the Rules Committee to the legislator who made the hiring decision. The legislator may refer the matter to Rules if he/she so chooses).

**\*SECTION 45: AS 24.60.178 SANCTIONS** Current law does not set out possible sanctions that could be recommended by the committee. The new section lists recommendations to be made by the committee for violators of the code for the legislature to impose or require: fines on members who violated the code, divestiture of specified assets or withdrawal from certain associations, additional disclosure, suspension or termination from legislative employment (if an employee), restitution or reimbursement, public or private written reprimand, censure, removal from committee positions, probation, expulsion or any other appropriate measure. Subsection (c) clarifies that the committee may recommend that the subject be required to pay all or some of the costs related to the

investigation or adjudication of a complaint. The committee's intent is to allow those covered by the code to be aware of possible sanctions and to empower the legislature to impose or require any of the above sanctions on legislators, including fines. (Amended by STA CS. STA committee in subsection (7) added language to the censure clause that a legislator could be removed from a leadership position or committee membership position and a determination that the legislator would not be appointed to a leadership or committee membership position for the remainder of that legislature.)

**SECTION 46: AS 24.60.200 FINANCIAL DISCLOSURE BY LEGISLATORS** Under current law, legislators and legislative directors are required to annually file a complete financial disclosure statement to APOC. This statement is similar to the conflict of interest statements filed by statewide and local elected officials. The proposed changes to the APOC Legislative Financial Disclosure statement deal only with gifts. All other reporting under this section remains the same and remains the responsibility of APOC. The new language removes the responsibility for dealing with reports of any gifts from APOC. The corresponding change described above in AS 24.60.080(d) places that responsibility solely with the ethics committee. (Technical Change in Rules CS)

**SECTION 47: AS 24.60.260(a) FINES** Current law does not include any penalty for late disclosures to the ethics committee. The proposed changes in this subsection and the new subsection below (c) would allow a person to file a late disclosure but that person would be subject to a fine or to having a complaint filed against them. (UNCHANGED BY CS)

**SECTION 48: AS 24.60.260(c) FINES** Permits the committee to impose fines for late disclosures. Fines are not to exceed \$2 per day to a maximum of \$25 per disclosure for inadvertent late filing. The committee may impose an additional fine of \$100 for intentionally not filing a disclosure. (UNCHANGED BY CS)

**\*SECTION 49: AS 24.60.990(a)(5) IMMEDIATE FAMILY** The change to the definition of immediate family affects, in current law, the contracts and leases section (24.60.040), the gifts section (24.60.080 (c)(5) and (g)) and the Legislative Financial Disclosure reporting requirements (24.60.200(4)). (Amended by STA CS).

**\*SECTION 50: AS 39.25.160 STATE PERSONNEL ACT** Amends the State Personnel Act by adding a specific prohibition on state employees engaging in campaign activities on behalf of political candidate on government time. Clarifies that Division of Election employees may carry out duties related to elections and members and employees of the

Commission on Judicial Conduct may carry out duties related to evaluation of judges. (Added by STA CS)

**\*SECTION 51: AS 39.50.020: REPORT OF FINANCIAL AND BUSINESS INTERESTS.** Subsection (a) Amends the non-legislative Conflict of Interest statutes. This section sets out that the public officials listed in AS 39.50.200 (8) must file a financial report within 30 days after taking office as a public official. The Tourism Marketing Council director is the only change from previous definition. In reference to filing requirements for candidates, the Rules CS deletes the 30 day grace period for a "person who becomes a candidate by any other means" thereby requiring immediate filing. Subsection (b) sets out that public officials are to file with APOC. (Amended by STA CS)

**\*SECTION 52: AS 39.50.030(a) CONTENTS OF FINANCIAL STATEMENTS.** Deletes the unnecessary reference to assets or liabilities under \$500, household goods and personal effects, to clarify that only those items listed in subsection (b) are to be reported. (Amended by Rules CS)

**\*SECTION 53: AS 39.50.030(b) CONTENTS OF FINANCIAL STATEMENTS.** Changes the reporting requirements for the executive branch public officials to the same level of legislators; interests over \$1000. Previous reporting level was \$100. Adds requirement for public officials to report any income of over \$100 that is a *gift*. Deletes requirement for reporting of a state contract or natural resource lease held, bid or offered by the officials mother or father, adds reporting of state contract held, bid or offered by a partnership or professional corporation of which the official is a member. Adds official's spouse to the list of those the official must report if the spouse holds a natural resource lease. (Amended by Rules CS)

**\*SECTION 54: AS 39.50.070 FAILURE TO REPORT BY CERTAIN STATE EMPLOYEES.** Amends language to conform with changes on who must report, in Section AS 39.50.020 and AS 39.50.200. (Amended by Rules CS)

**\*SECTION 55: AS 39.50.080 FAILURE TO REPORT BY A COMMISSION OR BOARD CHAIR OR MEMBER.** Amends language to conform with changes on who must report, in Section AS 39.50.020 and AS 39.50.200. Added by Rules CS)

**\*SECTION 56: AS 39.50.200((a))(8) DEFINITIONS.** Combined with following section, changes the definition of who must file a financial report. Adds to the current list, all state employees in the executive

branch in the exempt or partially exempt service who are at a Range 21 or above. (Added by Rules CS)

**\*SECTION 57: AS 39.50.200((a)(8) DEFINITIONS.** Combined with above section, changes the definition of who must file a financial report. Adds to the current list, all state employees in the executive branch in exempt or partially exempt service who are at a Range 21 or above. (Added by Rules CS)

**\*SECTION 58: AS 39.50.010(a) FINDINGS AND PURPOSE.** Adds the findings of the legislative ethics code to those in the executive branch ethics code. (Added by Rules CS)

**\*SECTION 59: AS 39.52.120(b) MISUSE OF OFFICIAL POSITION.** Sets out additional prohibitions for public officers, as generally found in the legislative ethics code, to the executive branch ethics code and includes changes made to the legislative ethics code through this legislation. (Added by Rules CS)

**\*SECTION 60: AS 39.52.120 MISUSE OF OFFICIAL POSITION.** Sets out additional prohibitions for public officers, as generally found in the legislative ethics code, to the executive branch ethics code and includes changes made to the legislative ethics code through this legislation. (Added by Rules CS)

**\*SECTION 61: AS 39.52.130(a) GIFTS.** Deletes the previous restrictions on gifts accepted a public officer and replaces the section with the legislative restrictions and limits, as amended by this legislation. (Added by Rules CS)

**\*SECTION 62: AS 39.52.130(b) GIFTS** Changes language to match legislative gift restrictions and reporting. Sets out that public officers report to the Personnel Board. Requires Personnel Board to receive both confidential and public gift disclosures and to forward public disclosures to APOC. (Added by Rules CS)

**\*SECTION 63: AS 39.52.130(c). GIFTS** This section and other sections change the reporting, advising and enforcing authority for the executive ethics code from the Attorney Generals office to the Personnel Board. (Added by Rules CS)

**\*SECTION 64: AS 39.52.130 GIFTS. NEW SUBSECTIONS.** Adds the list, as proposed in this bill, of exempted gifts under the legislative ethics code to the executive branch ethics code. (Added by Rules CS)

**\*SECTION 65: AS 39.52. New Subsection; RESTRICTIONS ON FUNDRAISING.** Section 39.52.132: Sets the same restrictions on campaign fundraising for public officers as for legislators and legislative employees. Section 39.52.134 prohibits a public officer from filing a letter of intent or declaration of candidacy for the legislature. Section 39.52.136 adds public officers to those that must comply with the open meetings law. (Added by Rules CS)

**\*SECTION 66: AS 39.52.150(d) IMPROPER INFLUENCE IN STATE GRANTS, CONTRACTS, LEASES, LOANS.** Changes receipt of report of participation in state contracts, grants, leases, loans from AG office to Personnel Board. (Added by Rules CS)

**\*SECTION 67: AS 39.52. DISCLOSURE OF CLOSE ECONOMIC ASSOCIATIONS.** Requires public officer to disclose to supervisor and personnel board, which shall maintain a public record, close economic associations with those listed in this section. Sets disclosure deadlines to conform with legislative ethics code. Subsection (c) requires public officers who are married to or living with a lobbyist to report the name of each employer of the lobbyist and the total monetary value received from the employer. Changes must be reported within 24 hours. (Added by Rules CS)

**\*SECTION 68: AS 39.52.170 OUTSIDE EMPLOYMENT RESTRICTED.** Adds a clause that restricts public officers from accepting outside employment if the compensation is significantly greater than the value of the services. Conforms with legislative ethics language. (Added by Rules CS)

**\*SECTION 69: AS 39.52.170 OUTSIDE EMPLOYMENT.** Adds an honorarium restriction for public officers which matches legislative ethics code restriction. (Added by Rules CS)

**\*SECTION 70: AS 39.52.180(b) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE.** This references change in new subsection (d) below, restricting agencies from contracting with a former public officer for services which would include lobbying before a state agency or the legislature. (Added by Rules CS)

**\*SECTION 71: AS 39.52.180(c) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE.** References new subsection (d) below and sets a one year limit on waiving restrictions set out in this section. (Added by Rules CS)

**\*SECTION 72: AS 39.52.180(d) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE.** New subsection (d) restricts agencies

from contracting with a former public officer for services which would include lobbying before a state agency or the legislature. (Added by Rules CS)

**\*SECTION 73: AS 39.52.210 DECLARATION OF POTENTIAL VIOLATIONS.** Requires public officers to report potential violations to Personnel Board as well as to supervisor. Requires supervisor to provide a copy of written determination of potential violation to public officer and personnel board. (Added by Rules CS)

**\*SECTION 74: AS 39.52.220 DECLARATION OF POTENTIAL VIOLATIONS BY MEMBERS OF BOARDS AND COMMISSIONS.** Requires members of boards or commissions to disclose a matter that may result in a violation on the public record and in writing to supervisor and to the personnel board. Replaces AG office with Personnel Board as advisors in matters of potential violation. (Added by Rules CS)

**\*SECTION 75: AS 39.52.230 REPORTING OF POTENTIAL VIOLATIONS.** A complaint is filed with the supervisor. The supervisor is required to file a copy of the complaint with the personnel board. (Added by Rules CS)

**\*SECTION 76: AS 39.52.240(a) ADVISORY OPINIONS.** Adds public officers to those that may request an advisory opinion and sets the personnel board as the body to issue the opinion. (Added by Rules CS)

**\*SECTION 77: AS 39.52.240(b) ADVISORY OPINIONS.** Replaces the AG office with the personnel board as the body offering oral advice. (Added by Rules CS)

**\*SECTION 78: AS 39.52.240(c) ADVISORY OPINIONS.** Replaces the AG office with the personnel board as the advising body. (Added by Rules CS)

**\*SECTION 79: AS 39.52.240(e) ADVISORY OPINIONS.** Replaces the AG office with the personnel board as the advising body. (Added by Rules CS)

**\*SECTION 80: AS 39.52.240(e) ADVISORY OPINIONS.** Replaces the AG office with Personnel Board for purpose of publishing advisory opinions. (Added by Rules CS)

**\*SECTION 81: AS 39.52.250 ADVICE TO FORMER PUBLIC OFFICERS.** Replaces the AG office with the personnel board as the advising body. (Added by Rules CS)

**\*SECTION 82: AS 39.52.260 DESIGNATED SUPERVISOR'S REPORT AND PERSONNEL BOARD REVIEW.** Replaces the AG office with the personnel board as the body accepting reports of potential violations. . (Added by Rules CS)

**\*SECTION 83: AS 39.52.920 AGENCY POLICIES.** Replaces the AG office with the personnel board as the body which reviews and approves agency policies that restrict a public officers acquisition of personal interest in certain entities and acceptance of gifts. (Added by Rules CS)

**\*SECTION 84: AS 39.52.950. REGULATIONS.** Sets out that the AG office may adopt regulations concerning complaints under the executive ethics act and that the personnel board may adopt regulations necessary to interpret and implement sections other than complaints. (Added by Rules CS)

**\*SECTION 85: AS 39.52.960(11) Definition of Immediate Family.** Changes definition in the executive act to match the legislative code. (Added by Rules CS)

**\*SECTION 86: AS 44.62.175(a) ALASKA ADMINISTRATIVE JOURNAL.** ADDS ADVISORY OPINIONS OF THE PERSONNEL BOARD TO THE LIST OF THOSE THINGS TO BE PUBLISHED IN THE JOURNAL. (Added by Rules CS)

**\*SECTION 87: AG OPINIONS.** Sets out that a public officer or former public officer may rely upon the opinion of the AG's office prior to this act taking effect. (Added by Rules CS)

**\*SECTION 88:** Clarifies that Section 25, the Legal Defense and Election Challenge Fund, takes effect only if the campaign finance reform initiative is approved in 1996. (Amended by CS)

**\*SECTION 89:** Further clarifies that Section 25, the Legal Defense Fund would take effect on the day after the initiative takes effect. (Amended by CS)

**\*SECTION 90: EFFECTIVE DATE:** APOC has recommended that a January 1 effective date would correspond to their calendar year reporting and would avoid confusion for legislators and legislative directors for the period of time between January 1 and whatever other

# Alaska State Legislature

## Select Committee on Legislative Ethics

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March 28, 1996

Ann Ringstad  
Senate State Affairs Committee Aide  
State Capitol  
Juneau, AK 99811

VIA FAX

Dear Ann:

I want to express my appreciation for the time and effort you have given to SB 141. I have reviewed the changes made on 3/26/96. I have a few concerns or questions on certain CS amendments:

**AS 24.45.161(a): APOC Regulation of lobbying.** It is unclear why spouses and "spousal equivalents" are listed in this section. Is the purpose to restrict spouses and equivalents from providing testimony before the legislature, even if the spouse or equivalent would not be a lobbyist and would not be paid to lobby? The prohibition in AS 24.45.165 seems to reach the goal of prohibiting paid spouse/equivalent lobbyists.

**AS 24.60.030(5)(C)** The amendment made to this section has the effect of allowing a legislator or employee unlimited use of state phone and fax for campaigning or political fundraising if the cost is reimbursed. There are no requirements to comply with an office policy or to minimize use of these resources, as set out in the other CS amendments to this section. Is that the intent?

**AS 24.60.080(c): Discounts** The amendment to this section, changed the committee's original intent, which was to allow discounts that benefited the state. By deleting the caveat "which benefit the state" a loophole in the gifts section has been created. Now a legislator or employee on state business could accept a "discount" of any value. Is this the committee's intent? It may be

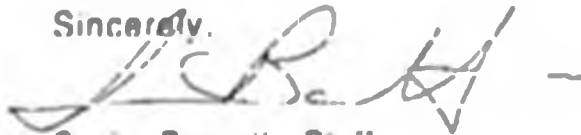
preferable to delete AS 24.60.080(c)(2)(B), which would then bring discounts back to the \$100 per donor annual limit.

AS 24.60.111. Legal Defense Fund: Do I understand correctly that APUC would write the regulations (therefore approved by the AG's office) and the ethics committee would then enforce the regulations? This section does not appear empower APUC to set limits on contributions, is it therefore unlimited? Could a legislator or legislative employee use this fund for any defense, ranging from DUI to divorce to an ethics violation?

AS 24.60.170 Complaint Proceedings and Discovery. Margie MacNette discussed her concerns on opening the committee's deliberations on complaints at a previous State Affairs meeting. A portion of an executive session of the ethics committee may be the deliberations on probable cause or on formal charges. It may be that the State Affairs committee wishes to open to the subject the executive session, during which the investigative summary and case presentation occur, and then allow the committee to close the meeting during the deliberation stage.

Thank you for considering these comments.

Sincerely,



Susie Burnett, Staff  
Select Committee on Legislative Ethics

date might be selected. The CS amends the year to 1997, with the exception of section 89. (AMENDED BY CS)

9-LS01741W  
Cramer  
4/12/96

CS FOR SENATE BILL NO. 141( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsors: SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL FOR  
THE SELECT COMMITTEE ON LEGISLATIVE ETHICS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to legislative and executive branch ethics; relating to  
2 campaigning by state employees; relating to the filing of financial disclosures by  
3 certain state employees and officials; and providing for an effective date."

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

5 \* Section 1. AS 24.25.010(e) is amended to read:

6 (e) This section does not apply to the legislative council, the Select  
7 Committee on Legislative Ethics, or (NOR TO) the Legislative Budget and Audit  
8 Committee.

9 \* Sec. 2. AS 24.60.030(a) is amended to read:

10 (a) A legislator or legislative employee may not  
11 (1) solicit, agree to accept, or accept a benefit other than official  
12 compensation for the performance of public duties. this paragraph may not be  
13 construed to prohibit lawful solicitation for and acceptance of campaign contributions  
14 or the acceptance of a lawful gratuity under AS 24.60.080.

1 (2) use public funds, facilities, equipment, services, or another  
2 government asset or resource for a nongovernmental purpose or for the private benefit  
3 of either the legislator, legislative employee, or another person: this paragraph does not  
4 prohibit

5 (A) [LIMITED] use of state property and resources for personal  
6 purposes if the use does not interfere with the performance of public duties and  
7 either the cost or value related to the use is nominal or the legislator or  
8 legislative employee reimburses the state for the cost; a legislative  
9 employee shall comply with the policy on use of state property adopted by  
10 the employee's supervisor; this subparagraph does not apply to telephone  
11 or facsimile use;

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

15 (C) telephone or facsimile use; however, a legislator or  
16 legislative employee who incurs a special charge for use of the telephone  
17 or facsimile machine shall reimburse the state for the cost [THAT DOES  
18 NOT CARRY A SPECIAL CHARGE];

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

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

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

1 (A) [LIMITED] use of state property and resources for personal  
 2 purposes if the use does not interfere with the performance of public duties and  
 3 either the cost or value related to the use is nominal or the legislator or  
 4 legislative employee reimburses the state for the cost; a legislative  
 5 employee shall comply with the policy on use of state property adopted by  
 6 the employee's supervisor; this subparagraph does not apply to telephone  
 7 or facsimile use;

8 (B) the use of mailing lists, computer data, or other information  
 9 lawfully obtained from a government agency and available to the general public  
 10 for nongovernmental purposes; [OR]

11 (C) telephone or facsimile use; however, a legislator or  
 12 legislative employee who incurs a special charge for use of the telephone  
 13 or facsimile machine shall reimburse the state for the cost; or

14 (D) maintaining campaign records, including records  
 15 required by or relating to the Alaska Public Offices Commission, in a  
 16 legislator's office; however, an employee may not work on campaign  
 17 records on government time [THAT DOES NOT CARRY A SPECIAL  
 18 CHARGE].

19 • Sec. 3. AS 24.60.030(c) is repealed and reenacted to read:

20 (c) Unless approved by the committee, during a campaign period for an  
 21 election in which the legislator or legislative employee is a candidate, a legislator or  
 22 legislative employee may not use or permit another to use state funds, other than funds  
 23 to which the legislator is entitled as an office allowance, to print or distribute a  
 24 political mass mailing to individuals eligible to vote for the candidate. In this  
 25 subsection,

26 (1) a "campaign period" is the period that

27 (A) begins 90 days before an election to the board of an electric  
 28 or telephone cooperative organized under AS 10.25, a municipal election or a  
 29 primary election or that begins on the date of the governor's proclamation  
 30 calling a special election; and

31 (B) ends the day after the cooperative election, municipal

1 election, or the general or special election;

2 (2) a mass mailing is considered to be political if it is from or about a

3 (A) legislator who is a candidate for reelection to the legislature  
4 or election to another federal, state, or municipal office or to the board of a  
5 telephone or electric cooperative;

6 (B) legislative employee who is a candidate for election to the  
7 legislature or another federal, state, or municipal elective office or to the board  
8 of a telephone or electric cooperative;

9 (C) person other than a legislator or a legislative employee who  
10 is a candidate for election to a federal, state, or municipal office or to the board  
11 of a telephone or electric cooperative.

12 \* Sec. 4. AS 24.60.030(d) is amended to read:

13 (d) A legislator, a legislative employee, or another person on behalf of the  
14 legislator or legislative employee, or a campaign committee of the legislator or  
15 legislative employee, may not distribute or post campaign literature, placards, posters,  
16 fund-raising notices, or other communications intended to influence the election of  
17 a candidate in an election in public areas in a facility ordinarily used to conduct state  
18 government business. For purposes of this subsection, the office of a legislator is  
19 not considered to be a public area.

20 \* Sec. 5. AS 24.60.030(f) is amended to read:

21 (f) A legislative employee may not serve in a position that requires  
22 confirmation by the legislature. A legislator or legislative employee may serve on a  
23 board of an organization, including a governmental entity, that regularly has a  
24 substantial interest in the legislative activities of the legislator or employee, if the  
25 legislator or employee discloses the board membership to the committee. A legislator  
26 or legislative employee who is required to make a disclosure under this subsection  
27 shall file an annual written report with the committee by February 15 of each  
28 year stating the name of each organization on whose board the person serves. If  
29 the legislator or legislative employee becomes a member of a board after filing the  
30 annual disclosure statement, or after February 15 if no annual disclosure  
31 statement is filed, the legislator or legislative employee shall file a supplemental

1 disclosure within 60 days after appointment or election to the board. The  
2 committee shall maintain a public record of the disclosure and forward the  
3 disclosure to the appropriate house for inclusion in the journal. This subsection  
4 does not require a legislator or legislative employee who is appointed to a board  
5 by the presiding officer to make a disclosure of the appointment to the committee  
6 if the appointment has been published in the appropriate legislative journal  
7 during the calendar year.

8 • Sec. 6. AS 24.60.030(g) is repealed and reenacted to read:

9 (g) A legislator or legislative employee who has a substantial financial interest  
10 that may be affected by legislative, administrative, or political action may not take the  
11 legislative, administrative, or political action unless the legislator or legislative  
12 employee first discloses the financial interest as required by this subsection. Before  
13 acting on a matter subject to this subsection in a legislative committee or a house of  
14 the legislature, a legislator or legislative employee shall orally disclose the financial  
15 interest to the committee or the legislative house, as appropriate. The disclosure shall  
16 be reported in the journal or in the committee minutes, as appropriate. If the action  
17 is not taken in a legislative committee or a house of the legislature, the legislator or  
18 legislative employee shall disclose the financial interest to the committee in writing,  
19 to be received by the committee within seven days after the legislator or legislative  
20 employee took the action. This written disclosure is a public document. The  
21 committee shall promptly forward the disclosure to the clerk of the house or the senate  
22 secretary for publication in the journal. A disclosure under this subsection, whether  
23 written or oral, must include the nature of the financial interest and a short description  
24 of how the action taken affects the interest. In this subsection, a financial interest  
25 includes

26 (1) an equity or ownership interest in a business, investment, real  
27 property, lease, or other enterprise if the effect of the action on that interest is greater  
28 than the effect on a substantial class of persons to which the legislator or legislative  
29 employee belongs as a member of a profession, occupation, industry, or region;

30 (2) an interest based on employment of the legislator or legislative  
31 employee or the spouse or dependent child of the legislator or legislative employee;

1 (3) an interest based on a contract in which the legislator or legislative  
2 employee or the spouse or dependent child of the legislator or legislative employee is  
3 entitled to receive a benefit from a business or other entity, including a personal  
4 services contract;

5 (4) an interest created by membership on the board of directors of a  
6 corporation regardless of whether the effect of the action on that interest is greater than  
7 the effect on a substantial class of persons to which the legislator or legislative  
8 employee belongs as a member of a profession, occupation, industry, or region.

9 \* Sec. 7. AS 24.60.030 is amended by adding a new subsection to read:

10 (h) In this section, when determining whether an employee is considered to be  
11 performing a task on government time, the committee shall consider the employee's work  
12 schedule as set by the employee's immediate supervisor. An employee who engages in  
13 political campaign activities other than incidental campaign activities as described in this  
14 subsection during the employee's work day shall take leave for the period of  
15 campaigning. Political campaign activities while on government time are permissible if  
16 the activities are part of the normal legislative duties of the employee, including  
17 answering telephone calls and handling of incoming correspondence.

18 \* Sec. 8. AS 24.60.031(a) is amended to read:

19 (a) A legislator or legislative employee may not

20 (1) on a day when either house of [WHILE] the legislature is in regular  
21 or special session, solicit or accept a contribution or a promise or pledge to make a  
22 contribution for a state legislative campaign;

23 (2) accept money from an event held on a day when either house of the  
24 legislature is in regular or special [DURING A LEGISLATIVE] session if a substantial  
25 purpose of the event is [EITHER] to raise money on behalf of the member or legislative  
26 employee for [CAMPAIGN PURPOSES OR TO RAISE MONEY FOR] state legislative  
27 political purposes; or

28 (3) expend money in a state legislative campaign that was raised by or  
29 on behalf of a legislator on a day when either house of the legislature was in  
30 [DURING] a legislative session under a declaration of candidacy or a general letter of  
31 intent to become a candidate for public office.

32 \* Sec. 9. AS 24.60.039 is amended by adding a new subsection to read:

1 (b) If a person files a complaint with the committee under AS 24.60.170  
2 alleging a violation of this section, the committee may refer the complainant to the State  
3 Commission on Human Rights and may defer its consideration of the complaint until  
4 after the complainant establishes to the satisfaction of the committee that the commission  
5 has completed its proceedings in the matter.

6 \* Sec. 10. AS 24.60.040(a) is amended to read:

7 (a) A legislator or legislative employee, or a member of the immediate family  
8 of a legislator or legislative employee may not be a party to or have an interest in a state  
9 contract or lease unless the contract or lease is let [THROUGH COMPETITIVE  
10 SEALED BIDDING] under AS 36.30 (State Procurement Code) or, for agencies that  
11 are not subject to AS 36.30, under similar procedures or the total annual amount of  
12 the state contract or lease is \$5,000 [\$1,000] or less, or is a standardized contract or lease  
13 that was developed under publicly established guidelines and is generally available to the  
14 public at large, members of a profession, occupation, or group. A person has an interest  
15 in a state contract or lease under this section if the person receives direct or indirect  
16 financial benefits. A legislator or legislative employee who participates in, or who  
17 knows or reasonably ought to know that a family member is participating in, a state  
18 contract or lease that has an annual value of \$5,000 or more shall disclose the  
19 participation to the committee by February 15 of each year. The disclosure must  
20 state the amount of the contract or lease and the name of the state agency issuing  
21 the contract or lease, and must identify the procedures under which the contract  
22 or lease was issued. If the disclosure concerns a contract or lease in which a family  
23 member of the discloser is participating, the disclosure must identify the  
24 relationship between the participant and the discloser.

25 \* Sec. 11. AS 24.60.040 is amended by adding a new subsection to read:

26 (c) This section does not apply to a contract or lease issued under a state  
27 program or loan that is subject to AS 24.60.050. A grant that results in a contract but  
28 that is not subject to AS 24.60.050 is subject to this section.

29 \* Sec. 12. AS 24.60.050(c) is amended to read:

30 (c) A legislator or legislative employee who participates in a program or receives  
31 a loan that is not exempt from disclosure under (a) of this section shall file a written  
32 report with the committee by February 15 of each year stating the amounts of the loans

1 outstanding or benefits received during the preceding calendar year from nonqualifying  
2 programs. If the committee requests additional information necessary to determine the  
3 propriety of participating in the program or receiving the loan, it shall be promptly  
4 provided. The committee shall promptly compile a list of the statements indicating the  
5 loans and programs and amounts and send it to the presiding officer of each house who  
6 shall have it published in the supplemental journals within three weeks after [OF] the  
7 filing date. A legislator or legislative employee who believes that disclosure of  
8 participation in a program would be an invasion of the participant's right to  
9 privacy under the state constitution may request the committee to keep the  
10 disclosure confidential. If the committee finds that publication would constitute an  
11 invasion of privacy, the committee shall publish only the fact that a person was  
12 participated in the program and the amount of benefit that the unnamed person  
13 received. The committee shall maintain the disclosure of the name of the person  
14 as confidential and may only use the disclosure in a proceeding under AS 24.60.170.  
15 If the disclosure becomes part of the record of a proceeding under AS 24.60.170,  
16 the disclosure may be made public as provided in that section.

17 • Sec. 13. AS 24.60.060 is amended by adding a new subsection to read:

18 (b) A legislator or legislative employee who is the subject of a complaint under  
19 AS 24.60.170 violates this section if the legislator or legislative employee violates a  
20 protective order issued under AS 24.60.170(i).

21 • Sec. 14. AS 24.60.070(b) is amended to read:

22 (b) A legislator or legislative employee required to make a disclosure under  
23 this section shall make an annual disclosure no later than February 15 of each year  
24 of the legislator's or legislative employee's close economic associations then in  
25 existence. If the legislator or legislative employee forms a close economic association  
26 after that date, the disclosure must be made within 60 days after forming the  
27 association. A disclosure under this section must be sufficiently detailed that a reader  
28 of the disclosure can ascertain the nature of the association.

29 • Sec. 15. AS 24.60.070 is amended by adding a new subsection to read:

30 (d) When making a disclosure under (a) of this section concerning a relationship  
31 with a lobbyist to whom the legislator or legislative employee is married or who is the  
32 legislator's or legislative employee's spousal equivalent, the legislator or legislative

1 employee shall also disclose the name and address of each employer of the lobbyist and  
 2 the total monetary value received from the lobbyist's employer. The legislator or  
 3 legislative employee shall report changes in the employer of the spouse or spousal  
 4 equivalent within 48 hours after the change. In this subsection,

5 (1) "employer of the lobbyist" means the person from whom the lobbyist  
 6 received amounts or things of value for engaging in lobbying on behalf of the person;

7 (2) "spousal equivalent" means a person with whom the legislator or  
 8 legislative employee is living in a conjugal relationship not a legal marriage.

9 • Sec. 16. AS 24.60.080(a) is amended to read:

10 (a) Except as provided in this section, a [A] legislator or legislative employee  
 11 may not solicit, accept, or receive, directly or indirectly, a gift worth \$250 [\$100] or  
 12 more, whether in the form of money, services, a loan, travel, entertainment, hospitality,  
 13 promise, or other form, or gifts from the same person worth less than \$250 [\$100] that  
 14 in a calendar year aggregate to \$250 [\$100] or more in value. Except for food or  
 15 beverage for immediate consumption, a legislator or legislative employee [, AND]  
 16 may not solicit, accept, or receive during a legislative session a gift with any monetary  
 17 value from a lobbyist or a person acting on behalf of a lobbyist.

18 • Sec. 17. AS 24.60.080(c) is amended to read:

19 (c) Notwithstanding (a) of this section, it is not a violation of this section for a  
 20 legislator or legislative employee to accept

21 (1) hospitality, other than hospitality described in (4) of this subsection

22 (A) with incidental transportation at the residence of a person;

23 however, a vacation home located outside the state is not considered a  
 24 residence for the purposes of this subparagraph; or

25 (B) at a social event or meal;

26 (2) discounts that are available

27 (A) generally to the public or to a large class of persons to which  
 28 the person belongs; or

29 (B) when on state business;

30 (3) food or foodstuffs indigenous to the state that are shared generally  
 31 as a cultural or social norm;

32 (4) travel and hospitality primarily for the purpose of obtaining

1 information on matters of legislative concern:

2 (5) gifts from the immediate family of the person; or

3 (6) gifts that are not connected with the recipient's legislative status.

4 \* Sec. 18. AS 24.60.080(d) is amended to read:

5 (d) A legislator or legislative employee who accepts a gift under (c)(4) [OR (6)]  
6 of this section shall disclose the gift if it has a value of \$250 [S100] or more; the [  
7 THE] disclosure must include the name and occupation of the person making the gift and  
8 the approximate value of the gift. A gift under (c)(4) of this section required to be  
9 disclosed under this subsection shall be disclosed to the committee within 30 days after  
10 [OF] the receipt of the gift. Except as provided in (l) of this section, a gift [TO THE  
11 COMMITTEE. GIFTS] under (c)(6) of this section that has a value of \$250 or more  
12 shall be disclosed to the committee annually on or before February 15 [APRIL 15] of  
13 the following calendar year; the [AND THE] disclosure needs to include only a  
14 description of the gift and the identity of the donor [THE VALUE ONLY IF THE  
15 VALUE OF THE GIFT EXCEEDS \$250]. The committee shall maintain a public record  
16 of the disclosure it receives relating to gifts under (c)(4) of this section and shall forward  
17 the disclosure to the appropriate house for inclusion in the journal. Disclosures relating  
18 to gifts under (c)(6) of this section shall be maintained, but are confidential and may only  
19 be used by the committee and its employees and contractors in the investigation of a  
20 possible violation of this section or in a proceeding under AS 24.60.170. If the  
21 disclosures become part of the record of a proceeding under AS 24.60.170, the  
22 confidentiality provisions of that section apply to the disclosures. The committee shall  
23 forward disclosures it receives from legislators concerning gifts under (c)(4) of this  
24 section to the Alaska Public Offices Commission.

25 \* Sec. 19. AS 24.60.080(f) is amended to read:

26 (f) Notwithstanding (a) of this section, a legislator or legislative employee may  
27 accept a gift of property worth \$250 [S100] or more, other than money, from a foreign  
28 government or from the government of the United States or another state or from  
29 an official of a foreign government or of the government of the United States or  
30 another state if the person accepts the gift on behalf of the legislature. The person shall,  
31 within 60 days after [OF] receiving the gift, deliver the gift to the legislative council,  
32 which shall determine the appropriate disposition of the gift.

1 \* Sec. 20. AS 24.60.080(g) is amended to read:

2 (g) In this section, "immediate family" or "family member" means

3 (1) the spouse of the person;

4 (2) another person cohabiting with the person in a conjugal  
5 relationship with the person that is not a legal marriage;

6 (3) a child, including a stepchild and an adoptive child, of the person;

7 (4) a parent, sibling, grandparent, aunt, or uncle of the person; and

8 (5) a parent, sibling, grandparent, aunt, or uncle of the person's  
9 spouse [HAS THE MEANING GIVEN IN AS 24.60.990(a)(5) AND INCLUDES THE  
10 GRANDPARENTS, AUNTS, AND UNCLES OF A PERSON, AND ALSO INCLUDES  
11 A PERSON DESCRIBED IN THIS SUBSECTION OR AS 24.60.990(a)(5) WHO IS  
12 RELATED TO THE PERSON BY MARRIAGE].

13 \* Sec. 21. AS 24.60.080 is amended by adding new subsections to read:

14 (h) Notwithstanding (a) of this section, a legislator or legislative employee may  
15 solicit, accept, or receive a gift on behalf of a recognized, nonpolitical charitable  
16 organization in accordance with guidelines adopted by the committee.

17 (i) A legislator or legislative employee who receives an inheritance from a  
18 person other than a family member shall disclose the fact of the receipt of an  
19 inheritance and the identity of the person from whom it was received to the committee  
20 within 60 days after receiving notice of the inheritance. The committee shall maintain  
21 a public record of the disclosure. This subsection does not require disclosure of the  
22 value of the inheritance.

23 (j) A legislator, a legislative committee other than the Select Committee on  
24 Legislative Ethics, or a legislative agency may accept (1) a gift of volunteer services  
25 for legislative purposes so long as the person making the gift of services is not  
26 receiving compensation from another source for the services or (2) a gift of the  
27 services of a trainee who is participating in an educational program approved by the  
28 committee if the services are used for legislative purposes. The committee shall  
29 approve training under a program of the University of Alaska and training under 29  
30 U.S.C. 1501 - 1792b (Job Training Partnership Act). A legislative volunteer or  
31 educational trainee shall be considered to be a legislative employee for purposes of  
32 compliance with AS 24.60.030 - 24.60.039, 24.60.060, 24.60.080, 24.60.085, 24.60.158

*Technical amendments only*

1 - 24.60.170, 24.60.176, and 24.60.178. If a person believes that a legislative volunteer  
2 or educational trainee has violated the provisions of one of those sections, the person  
3 may file a complaint under AS 24.60.170. The provisions of AS 24.60.170 apply to  
4 the proceeding. This subsection does not permit a legislator or legislative employee  
5 to accept a gift of services for nonlegislative purposes.

6 (k) A legislator or legislative employee who knows or reasonably ought to  
7 know that a family member has received a gift because of the family member's  
8 connection with the legislature through the legislator or legislative employee shall  
9 report the receipt of the gift by the family member to the committee if the gift would  
10 have to be reported under this section if it had been received by the legislator or  
11 legislative employee or if receipt of the gift by a legislator or legislative employee  
12 would be prohibited under this section.

13 (l) In this section, the value of a gift shall be determined by the fair market  
14 value of the gift to the extent that the fair market value can be determined.

15 \* Sec. 22. AS 24.60.085(a) is amended to read:

16 (a) A legislator or legislative employee may not

17 (1) seek or accept compensation for personal services that is  
18 significantly greater than the value of [INVOLVES PAYMENTS THAT ARE NOT  
19 COMMENSURATE WITH] the services rendered taking into account the higher rates  
20 generally charged by specialists in a profession; or

21 (2) accept a payment of anything of value, except for actual and  
22 necessarily incurred travel expenses, for an appearance or speech by the legislator or  
23 legislative employee; this paragraph does not apply to the salary paid to a legislator  
24 or legislative employee for making an appearance or speech as part of the legislator's  
25 or legislative employee's normal course of employment.

26 \* Sec. 23. AS 24.60.100 is amended to read:

27 Sec. 24.60.100. REPRESENTATION. A legislator or legislative employee  
28 who represents another person for compensation before an agency, board, or  
29 commission of the state shall disclose the name of the person represented, the subject  
30 matter of the representation, and the body before which the representation is to take  
31 place to the committee. The disclosure shall be made within 60 days after

1 beginning the representation. In addition, a legislator or legislative employee  
 2 shall, no later than February 15, make an annual disclosure of all of the clients  
 3 represented during the previous calendar year. The committee shall maintain a  
 4 public record of a [THE] disclosure under this section and forward the disclosure to  
 5 the respective house for inclusion in the journal. A legislator or legislative employee  
 6 may not represent another person for compensation before an agency, committee, or  
 7 other entity of the legislative branch.

8 \* Sec. 24. AS 24.60 is amended by adding a new section to article 2 to read:

9 Sec. 24.60.111. LEGAL DEFENSE AND ELECTION CHALLENGE FUNDS.

10 (a) A legislator or legislative employee may establish a fund to assist with the  
 11 payment of attorney fees and other costs arising from the legislator's or employee's  
 12 defense of a civil, criminal, or administrative action brought against the legislator or  
 13 employee, or from the prosecution or defense of an administrative or judicial action  
 14 concerning a contested election in which the legislator or employee is a candidate.  
 15 Contributions to a fund under this section are not subject to the restrictions of  
 16 AS 24.60.080.

17 (b) The Alaska Public Offices Commission shall adopt regulations relating to  
 18 the methods of establishing a fund under this section, the accounting requirements for  
 19 a fund, the uses for which money from the fund may be expended, and the disposition  
 20 of surplus money in the fund. A person who violates these regulations is guilty of a  
 21 class B misdemeanor and is subject to civil sanctions as recommended by the  
 22 committee under AS 24.60.178.

23 \* Sec. 25. AS 24.60.111 is repealed and reenacted to read:

24 Sec. 24.60.111. LEGAL DEFENSE AND ELECTION CHALLENGE FUNDS.

25 (a) A legislator or legislative employee may establish a fund to assist with the  
 26 payment of attorney fees and other costs arising from the legislator's or employee's  
 27 defense of a civil, criminal, or administrative action brought against the legislator or  
 28 employee, or from the prosecution or defense of an administrative or judicial action  
 29 concerning a contested election in which the legislator or legislative employee was a  
 30 candidate.

31 (b) Notwithstanding the deadlines imposed by AS 15.13.070(d), contributions

1 to the fund may be solicited, offered, and accepted at any time permitted under this  
2 chapter. Notwithstanding AS 15.13.070(e), a legislator or legislative employee may  
3 solicit and accept contributions to a fund established under this section at any time  
4 whether or not the legislature is in session. Notwithstanding AS 15.13.072, a legislator  
5 or legislative employee may use the fund for the purposes set out in (a) of this section.  
6 Notwithstanding AS 15.13.073, a legislator or legislative employee may distribute  
7 money in the candidate's campaign fund or other assets of the campaign remaining  
8 after the date of an election to a fund established under this section.

9 (c) Contributions to a fund under this section are not subject to the restrictions  
10 of AS 24.60.031 or 24.60.080.

11 (d) The Alaska Public Offices Commission shall adopt regulations relating to  
12 the methods of establishing a fund under this section, the accounting requirements for  
13 a fund, the uses for which money from the fund may be expended, and the disposition  
14 of surplus money in the fund. A person who violates these regulations is guilty of a  
15 class B misdemeanor and is subject to civil sanctions as recommended by the  
16 committee under AS 24.60.178.

17 \* Sec. 26. AS 24.60.130(f) is amended to read:

18 (f) The committee may contract for professional services and may employ staff  
19 as it considers necessary. A committee employee, including a person who provides  
20 personal services under a contract with the committee, may not be a legislator, an  
21 elected or appointed official of a state or local governmental entity, an officer of a  
22 political party, a candidate for public office, or a registered lobbyist. The legislative  
23 council shall provide office space, equipment, and additional staff support for the  
24 committee. The committee shall submit a budget for each fiscal year to the finance  
25 committees of the legislature and shall annually submit an estimated budget to the  
26 governor for information purposes in preparation of the state operating budget. Public  
27 members of the committee serve without compensation for their services, but are  
28 entitled to travel and per diem expenses authorized for members of state boards  
29 and commissions under AS 39.20.180.

30 \* Sec. 27. AS 24.60.130(h) is amended to read:

31 (h) A member is disqualified from participating as a member in any

1 proceeding before the committee involving a complaint against the member or an  
2 employee whose work is supervised by the member or an advisory opinion  
3 requested by the member. If a regular legislative member is disqualified under this  
4 subsection, an alternate shall be appointed under (o) of this section. [IF THE  
5 LEGISLATURE IS IN SESSION WHEN A LEGISLATIVE MEMBER IS  
6 DISQUALIFIED UNDER THIS SUBSECTION, THE PRESIDING OFFICER OF  
7 THAT MEMBER'S HOUSE SHALL, WITH THE CONCURRENCE BY ROLL  
8 CALL VOTE OF TWO-THIRDS OF THE FULL MEMBERSHIP OF THAT HOUSE,  
9 APPOINT ANOTHER MEMBER FROM THAT HOUSE TO ACT AS A MEMBER  
10 OF THE COMMITTEE IN THE PROCEEDING. IF THE LEGISLATURE IS NOT  
11 IN SESSION WHEN A LEGISLATIVE MEMBER IS DISQUALIFIED, THE  
12 PRESIDING OFFICER OF THE HOUSE OF WHICH THE DISQUALIFIED  
13 LEGISLATOR IS A MEMBER SHALL APPOINT ANOTHER MEMBER FROM  
14 THAT HOUSE, WITH A RECORDED CONCURRENCE OF A MAJORITY VOTE  
15 OF THE SUBCOMMITTEE OF THAT HOUSE, TO ACT AS A MEMBER OF THE  
16 COMMITTEE IN THE PROCEEDING.]

17 \* Sec. 28. AS 24.60.130 is amended by adding a new subsection to read:

18 (o) When appointing members of the legislature to serve on the committee, the  
19 speaker of the house or the president of the senate, as appropriate, shall appoint an  
20 alternate member for each regular member. An alternate must have the same  
21 qualifications as the regular member for whom the alternate stands as alternate and is  
22 subject to confirmation as required for the regular member. If a regular legislative  
23 member of the committee or a subcommittee is disqualified under (h) of this section  
24 from serving on the committee or the subcommittee during a proceeding under  
25 AS 24.60.170, the chair of the committee or a subcommittee shall appoint the regular  
26 member's alternate to serve in place of the regular member in the proceeding unless  
27 the alternate is also disqualified from serving. The appointment shall be treated as  
28 confidential to the same extent that the identity of the subject of a complaint is  
29 required to be kept confidential.

30 \* Sec. 29. AS 24.60.134(a) is amended to read:

31 (a) Except as provided in (d) of this section, in [IN] addition to the

1 requirements of this chapter, a public member of the committee, an employee of the  
2 committee, or a person under contract to provide personal services to the committee  
3 may not, during the person's term of office or employment or during the life of  
4 the contract, participate in

5 (1) [PARTICIPATE IN] political management or in a political  
6 campaign for a candidate for election to federal, state, or local office, regardless  
7 of whether the campaign is partisan or nonpartisan, or for a ballot measure of  
8 any type [DURING THE PERSON'S TERM OF OFFICE, EMPLOYMENT, OR  
9 CONTRACT];

10 (2) [PARTICIPATE IN] the campaign of, attend campaign fund-raising  
11 events for, or make a financial contribution to

12 (A) a candidate for the legislature;

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

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

17 (3) [PARTICIPATE IN] lobbying activities that would require the  
18 person to register as a lobbyist except as required to inform the legislature concerning  
19 legislation requested by the committee or other matters related to the committee.

20 \* Sec. 30. AS 24.60.134 is amended by adding new subsections to read:

21 (c) In addition to the prohibitions under (a) of this section, a public member  
22 of the committee, an employee of the committee, or a person under contract to provide  
23 personal services to the committee may not, during the duration of the person's term  
24 of office or employment, or during the life of the contract, participate in or attend a  
25 fund-raising event held on behalf of a political party.

26 (d) A person under contract to provide personal services to the committee who  
27 is part of a corporation or partnership that includes individuals who will not be  
28 participating directly in the work performed by the entity for the committee may  
29 request the committee to exclude members of the entity from some or all of the  
30 provisions of this section. The committee may grant the request if it finds that doing  
31 so will not lead to the appearance that the committee is subject to undue political

1 influence and if there is no appearance of impropriety.

2 • Sec. 31. AS 24.60.150(o) is amended to read:

3 (b) The committee may

4 (1) recommend legislation to the legislature the committee considers  
5 desirable or necessary to promote and maintain high standards of ethical conduct in  
6 government:

7 (2) subpoena witnesses, administer oaths, and take testimony relating  
8 to matters before the committee, and may require the production for examination of  
9 any books or papers relating to any matter under investigation before the committee;

10 (3) adopt guidelines to implement this chapter; in adopting  
11 guidelines, the committee shall provide notice of its intended action and an  
12 opportunity for public comment; a person who reasonably relies on a guideline  
13 adopted by the committee may not be penalized for having violated a conflicting  
14 provision of this chapter.

15 • Sec. 32. AS 24.60.160 is amended to read:

16 Sec. 24.60.160. ADVISORY OPINIONS. (a) The committee shall issue an  
17 advisory opinion within 60 [30] days on the request of a person to whom the chapter  
18 applies or a person elected to the legislature who at the time of election is not a  
19 member of the legislature as to whether the facts and circumstances of a particular case  
20 constitute a violation of ethical standards. If it finds that it is advisable to do so, the  
21 committee may issue an opinion under this section on the request of a person who  
22 reasonably expects to become subject to this chapter within the next 45 days. The  
23 60-day [30-DAY] period for issuing an opinion may be extended by the committee if  
24 the person requesting the opinion consents.

25 (b) An [THE] opinion issued under this section is binding on the committee  
26 in any subsequent proceedings concerning the facts and circumstances of the particular  
27 case unless material facts were omitted or misstated in the request for the advisory  
28 opinion. Except as provided in this chapter, an advisory opinion is confidential but  
29 shall be made public if a written request by the person who requested the opinion is  
30 filed with the committee. A person who requested an opinion, including a  
31 legislator, may not require admittance to an executive session of the committee

1 when it is deliberating concerning the advisory opinion request.

2 • Sec. 33. AS 24.60.170(a) is amended to read:

3 (a) The committee shall consider a complaint alleging a violation of this  
4 chapter if the alleged violation occurred within five years before [OF] the date that the  
5 complaint is filed with the committee and, when the subject of the complaint is a  
6 former member of the legislature, the complaint is filed within one year after [OF] the  
7 subject's departure from the legislature. The committee may not consider a complaint  
8 filed against all members of the legislature, against all members of one house of  
9 the legislature, or against a person employed by the legislative branch of government  
10 after the person has terminated legislative service. However, the committee may  
11 reinstitute proceedings concerning a complaint that was closed because a former  
12 employee terminated legislative service or because a legislator left the legislature  
13 if the former employee or legislator resumes legislative service, whether as an  
14 employee or legislator, within five years after the alleged violation. The committee  
15 may also initiate complaints on its own motion, subject to the same time limitations.  
16 The time limitations of this subsection do not bar proceedings against a person who  
17 intentionally prevents discovery of a violation of this chapter.

18 • Sec. 34. AS 24.60.170(b) is amended to read:

19 (b) A complaint may be initiated by any person. The complaint must be in  
20 writing and signed under oath by the person making the complaint. The committee  
21 shall upon request provide a form for a complaint to a person wishing to file a  
22 complaint. The committee shall immediately provide a copy of the complaint to the  
23 person who is the subject of the complaint. The committee shall advise the  
24 complainant of the provisions concerning release of confidential information set  
25 out in (i) of this section.

26 • Sec. 35. AS 24.60.170(c) is amended to read:

27 (c) When the committee receives a complaint under (a) of this section, it may  
28 assign the complaint to a staff person. The staff person shall conduct a  
29 preliminary examination of the complaint and recommend to the committee  
30 whether the allegations of the complaint, if true, constitute a violation of this  
31 chapter and whether there is credible information to indicate that a further

1 investigation and proceeding is warranted. The recommendation shall be based  
2 on the information and evidence contained in the complaint as supplemented by  
3 the complainant and the subject of the complaint, if requested to do so by the  
4 staff member. The committee shall consider the recommendation of the staff  
5 member and shall determine whether the allegations of the complaint, if true,  
6 constitute a violation of this chapter. If the committee determines that the allegations,  
7 if proven, would not give rise to a violation, that the complaint is frivolous on its  
8 face, that there is insufficient credible information that can be uncovered to  
9 warrant further investigation by the committee, or that (IF) the committee's lack  
10 of jurisdiction is apparent on the face of the complaint, the committee shall dismiss the  
11 complaint (.) and shall notify the complainant and the subject of the complaint of the  
12 dismissal. The committee may ask the complainant to provide clarification or  
13 additional information before it makes a decision under this subsection and may  
14 request information concerning the matter from the subject of the complaint. The  
15 subject of a complaint is not obligated to provide the information. A proceeding  
16 conducted under this subsection, documents that are part of a proceeding, and a  
17 dismissal under this subsection are confidential as provided in (l) of this section  
18 unless the subject of the complaint waives confidentiality as provided in that  
19 subsection.

20 • Sec. 36. AS 24.60.170(f) is amended to read:

21 (f) If the committee determines after investigation that there is not probable  
22 cause to believe that the subject of the complaint has violated this chapter, the  
23 committee shall dismiss the complaint. The committee may also dismiss portions of  
24 a complaint if it finds no probable cause to believe that the subject of the complaint  
25 has violated this chapter as alleged in those portions. The committee shall issue a  
26 decision explaining its dismissal. Committee deliberations and vote on the  
27 dismissal order and decision are not open to the public or the subject of the  
28 complaint. A copy of the dismissal order and decision shall be sent to the  
29 complainant and to the subject of the complaint. Notwithstanding (l) of this section,  
30 a dismissal order and decision is open to inspection and copying by the public.

31 • Sec. 37. AS 24.60.170(g) is amended to read:

1 (g) If the committee investigation determines that a probable violation of this  
2 chapter exists that may be corrected by action of the subject of the complaint and that  
3 does not warrant sanctions other than correction, the committee may issue an opinion  
4 recommending corrective action. This opinion shall be provided to the complainant  
5 and to the subject of the complaint, and is open to inspection by the public. The  
6 subject of the complaint may comply with the opinion or may request a hearing before  
7 the committee under (j) of this section. After the hearing the committee may amend  
8 or affirm the opinion. If the subject of the complaint agrees to comply with the  
9 opinion but later fails to complete the corrective action in a timely manner, the  
10 committee may formally charge the person as provided in (h) of this section or  
11 may refer the matter to the appropriate house of the legislature, in the case of a  
12 legislator, or, in the case of a legislative employee, to the employee's appointing  
13 authority. The appropriate house of the legislature or the appointing authority,  
14 as appropriate, may take action to enforce the corrective action or may decline  
15 to take action and refer the matter to the committee. In that case, the committee  
16 may formally charge the person under (h) of this section.

17 • Sec. 38. AS 24.60.170(h) is amended to read:

18 (h) If the subject of a complaint fails to comply with an opinion and the  
19 committee formally charges the person [ISSUED] under (g) of this section, or if the  
20 committee determines after investigation that there is probable cause to believe that the  
21 subject of the complaint has committed a violation of this chapter that may require  
22 sanctions instead of or in addition to corrective action, the committee shall formally  
23 charge the person. The charge shall be served on the person charged, in a manner  
24 consistent with the service of summons under the rules of civil procedure, and a copy  
25 of the charge shall be sent to the complainant. The person charged may file a  
26 responsive pleading to the committee admitting or denying some or all of the  
27 allegations of the charge.

28 • Sec. 39. AS 24.60.170(i) is amended to read:

29 (i) A person charged under (h) [(b)] of this section may engage in discovery  
30 in a manner consistent with the Alaska Rules of Civil Procedure. The committee may  
31 adopt procedures that