

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

9038 SENATE STATE AFFAIRS

1 who represents another person for compensation before an agency, board, or
2 commission of the state shall disclose the name of the person represented, the subject
3 matter of the representation, and the body before which the representation is to take
4 place to the committee. The disclosure shall be made within 60 days after
5 beginning the representation. In addition, a legislator or legislative employee
6 shall, no later than February 15, make an annual disclosure of all of the clients
7 represented during the previous calendar year. The committee shall maintain a
8 public record of a [THE] disclosure under this section and forward the disclosure to
9 the respective house for inclusion in the journal. A legislator or legislative employee
10 may not represent another person for compensation before an agency, committee, or
11 other entity of the legislative branch.

12 • Sec. 24. AS 24.60 is amended by adding a new section to article 2 to read:

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

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

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

27 • Sec. 25. AS 24.60.130(f) is amended to read:

28 (f) The committee may contract for professional services and may employ staff
29 as it considers necessary. A committee employee, including a person who provides
30 personal services under a contract with the committee, may not be a legislator, an
31 elected or appointed official of a state or local governmental entity, an officer of a

1 political party, a candidate for public office, or a registered lobbyist. The legislative
 2 council shall provide office space, equipment, and additional staff support for the
 3 committee. The committee shall submit a budget for each fiscal year to the finance
 4 committees of the legislature and shall annually submit an estimated budget to the
 5 governor for information purposes in preparation of the state operating budget. Public
 6 members of the committee serve without compensation for their services, but are
 7 entitled to travel and per diem expenses authorized for members of state boards
 8 and commissions under AS 39.20.180.

9 * Sec. 26. AS 24.60.130(h) is amended to read:

10 (h) A member is disqualified from participating as a member in any
 11 proceeding before the committee involving a complaint against the member or an
 12 employee whose work is supervised by the member or an advisory opinion
 13 requested by the member. [A regular legislative member is disqualified under this
 14 subsection, an alternate shall be appointed under (o) of this section. (IF THE
 15 LEGISLATURE IS IN SESSION WHEN A LEGISLATIVE MEMBER IS
 16 DISQUALIFIED UNDER THIS SUBSECTION, THE PRESIDING OFFICER OF
 17 THAT MEMBER'S HOUSE SHALL, WITH THE CONCURRENCE BY ROLL
 18 CALL, VOTE OF TWO-THIRDS OF THE FULL MEMBERSHIP OF THAT HOUSE,
 19 APPOINT ANOTHER MEMBER FROM THAT HOUSE TO ACT AS A MEMBER
 20 OF THE COMMITTEE IN THE PROCEEDING. IF THE LEGISLATURE IS NOT
 21 IN SESSION WHEN A LEGISLATIVE MEMBER IS DISQUALIFIED, THE
 22 PRESIDING OFFICER OF THE HOUSE OF WHICH THE DISQUALIFIED
 23 LEGISLATOR IS A MEMBER SHALL, APPOINT ANOTHER MEMBER FROM
 24 THAT HOUSE, WITH A RECORDED CONCURRENCE OF A MAJORITY VOTE
 25 OF THE SUBCOMMITTEE OF THAT HOUSE, TO ACT AS A MEMBER OF THE
 26 COMMITTEE IN THE PROCEEDING.]

27 * Sec. 27. AS 24.60.130 is amended by adding a new subsection to read

28 (o) When appointing members of the legislature to serve on the committee, the
 29 speaker of the house or the president of the senate, as appropriate, shall appoint an
 30 alternate member for each regular member. An alternate must have the same
 31 qualifications as the regular member for whom the alternate stands as alternate and is

1 subject to confirmation as required for the regular member. If a regular legislative
 2 member of the committee or a subcommittee is disqualified under (h) of this section
 3 from serving on the committee or the subcommittee during a proceeding under
 4 AS 24.60.170, the chair of the committee or a subcommittee shall appoint the regular
 5 member's alternate to serve in place of the regular member in the proceeding unless
 6 the alternate is also disqualified from serving. The appointment shall be treated as
 7 confidential to the same extent that the identity of the subject of a complaint is
 8 required to be kept confidential.

9 * Sec. 28. AS 24.60.134(a) is amended to read:

10 (a) ~~Except as provided in (d) of this section, in~~ (IN) addition to the
 11 requirements of this chapter, a public member of the committee, an employee of the
 12 committee, or a person under contract to provide personal services to the committee
 13 may not, ~~during the person's term of office or employment or during the life of~~
 14 ~~the contract, participate in~~

15 (1) [PARTICIPATE IN] political management or in a political
 16 campaign ~~for a candidate for election to federal, state, or local office, regardless~~
 17 ~~of whether the campaign is partisan or nonpartisan, or for a ballot measure of~~
 18 ~~any type~~ [DURING THE PERSON'S TERM OF OFFICE, EMPLOYMENT, OR
 19 CONTRACT]:

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

22 (A) a candidate for the legislature;

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

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

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

30 * Sec. 29. AS 24.60.134 is amended by adding new subsections to read:

31 (c) In addition to the prohibitions under (a) of this section, a public member

1 of the committee, an employee of the committee, or a person under contract to provide
2 personal services to the committee may not, during the duration of the person's term
3 of office or employment, or during the life of the contract, participate in or attend a
4 fund-raising event held on behalf of a political party.

5 (d) A person under contract to provide personal services to the committee who
6 is part of a corporation or partnership that includes individuals who will not be
7 participating directly in the work performed by the entity for the committee may
8 request the committee to exclude members of the entity from some or all of the
9 provisions of this section. The committee may grant the request if it finds that doing
10 so will not lead to the appearance that the committee is subject to undue political
11 influence and if there is no appearance of impropriety.

12 • Sec. 30. AS 24.60.150(b) is amended to read:

13 (b) The committee may

14 (1) recommend legislation to the legislature the committee considers
15 desirable or necessary to promote and maintain high standards of ethical conduct in
16 government;

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

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

25 • Sec. 31. AS 24.60.160 is amended to read:

26 Sec. 24.60.160. ADVISORY OPINIONS. (a) The committee shall issue an
27 advisory opinion within 60 [30] days on the request of a person to whom the chapter
28 applies or a person elected to the legislature who at the time of election is not a
29 member of the legislature as to whether the facts and circumstances of a particular case
30 constitute a violation of ethical standards. If it finds that it is advisable to do so, the
31 committee may issue an opinion under this section on the request of a person who

1 reasonably expects to become subject to this chapter within the next 45 days. The
2 60-day [30-DAY] period for issuing an opinion may be extended by the committee if
3 the person requesting the opinion consents.

4 (b) An [THE] opinion issued under this section is binding on the committee
5 in any subsequent proceedings concerning the facts and circumstances of the particular
6 case unless material facts were omitted or misstated in the request for the advisory
7 opinion. Except as provided in this chapter, an advisory opinion is confidential but
8 shall be made public if a written request by the person who requested the opinion is
9 filed with the committee. A person who requested an opinion, including a
10 legislator, may not require admittance to an executive session of the committee
11 when it is deliberating concerning the advisory opinion request.

12 • Sec. 32. AS 24.60.170(a) is amended to read:

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

28 • Sec. 33. AS 24.60.170(b) is amended to read:

29 (b) A complaint may be initial- by any person. The complaint must be in
30 writing and signed under oath by the person making the complaint. The committee
31 shall upon request provide a form for a complaint to a person wishing to file a

1 complaint. The committee shall immediately provide a copy of the complaint to the
2 person who is the subject of the complaint. The committee shall advise the
3 complainant of the provisions concerning release of confidential information set
4 out in (i) of this section.

5 * Sec. 34. AS 24.60.170(c) is amended to read:

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

30 * Sec. 35. AS 24.60.170(f) is amended to read:

31 (f) If the committee determines after investigation that there is not probable

1 cause to believe that the subject of the complaint has violated this chapter, the
2 committee shall dismiss the complaint. The committee may also dismiss portions of
3 a complaint if it finds no probable cause to believe that the subject of the complaint
4 has violated this chapter as alleged in those portions. The committee shall issue a
5 decision explaining its dismissal. Committee deliberations and vote on the
6 dismissal order and decision are not open to the public or the subject of the
7 complaint. A copy of the dismissal order and decision shall be sent to the
8 complainant and to the subject of the complaint. Notwithstanding (l) of this section,
9 a dismissal order and decision is open to inspection and copying by the public.

10 * Sec. 36. AS 24.60.170(g) is amended to read:

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

27 * Sec. 37. AS 24.60.170(h) is amended to read:

28 (h) If the subject of a complaint fails to comply with an opinion and the
29 committee formally charges the person (ISSUED) under (g) of this section, or if the
30 committee determines after investigation that there is probable cause to believe that the
31 subject of the complaint has committed a violation of this chapter that may require

1 sanctions instead of or in addition to corrective action, the committee shall formally
2 charge the person. The charge shall be served on the person charged, in a manner
3 consistent with the service of summons under the rules of civil procedure, and a copy
4 of the charge shall be sent to the complainant. The person charged may file a
5 responsive pleading to the committee admitting or denying some or all of the
6 allegations of the charge.

7 * Sec. 38. AS 24.60.170(i) is amended to read:

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

11 (1) impose reasonable restrictions on the time for this discovery and on
12 the materials that may be discovered;

13 (2) permit a person who is the subject of a complaint to engage in
14 discovery at an earlier stage of the proceedings;

15 (3) impose reasonable restrictions on the release of information that
16 the subject of a complaint acquires from the committee in the course of discovery,
17 or on information obtained by use of the committee's authority, in order to
18 protect the privacy of persons not under investigation to whom the information
19 pertains; however, the committee may not impose restrictions on the release of
20 information by the subject of the complaint unless the complainant has agreed to
21 be bound by similar restrictions and has not made public the information
22 contained in the complaint, information about the complaint, or the fact of filing
23 the complaint.

24 * Sec. 39. AS 24.60.170(l) is amended to read:

25 (l) Proceedings of the committee relating to complaints before it are
26 confidential until the committee determines that there is probable cause to believe that
27 a violation of this chapter has occurred. The complaint and all documents produced
28 or disclosed as a result of the committee investigation are confidential and not subject
29 to inspection by the public. If in the course of an investigation or probable cause
30 determination the committee finds evidence of probable criminal activity, the
31 committee shall transmit a statement and factual findings limited to that activity to the

1 appropriate law enforcement agency. If the committee finds evidence of a probable
2 violation of AS 15.13, the committee shall transmit a statement to that effect and
3 factual findings limited to the probable violation to the Alaska Public Offices
4 Commission. All meetings of the committee before the determination of probable
5 cause are closed to the public and to legislators who are not members of the
6 committee. However, the committee shall permit the subject of the complaint and
7 the subject's attorney to attend any meeting concerning the complaint, including
8 confidential meetings. The committee shall notify the subject of the complaint of
9 the schedule of its proceedings. The confidentiality provisions of this subsection may
10 be waived by the subject of the complaint, except that the subject of the complaint
11 may not waive the confidentiality duty the committee owes to others.

12 * Sec. 40. AS 24.60.174(a) is amended to read:

13 (a) If the person found to have violated this chapter is or was a member of the
14 legislature, the committee's recommendations shall be forwarded by the chair of the
15 committee to the presiding officer of the appropriate house of the legislature. If the
16 committee recommends sanctions other than expulsion from the legislature, the
17 committee recommendation

18 (1) must include a suggested timetable for the compliance reports
19 required under (e) of this section, if any; and

20 (2) may include recommended fines that the legislature may impose
21 if the legislator who was found to have violated this chapter does not comply with
22 the sanctions imposed by the legislature in a timely manner.

23 * Sec. 41. AS 24.60.174 is amended by adding a new subsection to read:

24 (e) When a house of the legislature imposes a sanction other than expulsion
25 on a member or former member, it shall advise the committee at the time of imposing
26 the sanction of the terms it has imposed and of the timetable for compliance adopted
27 with the sanctions. A legislator or former legislator on whom sanctions other than
28 expulsion have been imposed shall report to the committee as required by the
29 timetable. If the committee determines that the legislator or former legislator has not
30 complied fully and in a timely manner with the sanctions imposed by the legislature,
31 the committee may recommend that the legislature impose a fine or additional

1 sanctions.

2 * Sec. 42. AS 24.60.176 is amended to read:

3 Sec. 24.60.176. RECOMMENDATIONS WHERE VIOLATOR IS A
4 LEGISLATIVE EMPLOYEE. If the person found to have violated this chapter is or
5 was a legislative employee, the committee's recommendations shall be forwarded to
6 the appropriate appointing authority that shall, as soon as is reasonably possible,
7 determine the sanctions, if any, to be imposed. The appointing authority may not
8 question the committee's findings of fact. The appointing authority shall assume the
9 validity of the committee's findings [,] and determine and impose the appropriate
10 sanctions. The appointing authority has the power to impose a sanction
11 recommended by the committee or to impose a different sanction. The appointing
12 authority shall enforce the sanction and shall report to the committee at a time
13 specified by the committee concerning the employee's compliance with the
14 sanction.

15 * Sec. 43. AS 24.60.176 is amended by adding a new subsection to read:

16 (b) In this section, "appointing authority" means

17 (1) the legislative council for employees of the Legislative Affairs
18 Agency and of the legislative council and for legislative employees not otherwise
19 covered under this subsection;

20 (2) the Legislative Budget and Audit Committee for the legislative
21 fiscal analyst and employees of the division of legislative finance, the legislative
22 audit and employees of the division of legislative audit, and employees of the
23 Legislative Budget and Audit Committee;

24 (3) the appropriate finance committee for employees of the senate or
25 house finance committees;

26 (4) the appropriate rules committee for employees of standing
27 committees of the legislature other than the finance committees, for employees of the
28 senate secretary's office and the office of the chief clerk of the house of
29 representatives;

30 (5) the legislator who made the hiring decision for employees of
31 individual legislators; however, the legislator may request the appropriate rules

1 committee to act in the legislator's stead;

2 (6) the ombudsman for employees of the office of the ombudsman,
3 other than the ombudsman;

4 (7) the legislature for the ombudsman.

5 * Sec. 44. AS 24.60 is amended by adding a new section to read:

6 Sec. 24.60.178. RECOMMENDED SANCTIONS. (a) When the committee
7 finds that a person has violated this chapter, the committee may recommend
8 appropriate sanctions, including sanctions set out in (b) of this section.

9 (b) The sanctions that the committee may recommend include

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

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

14 (3) additional, detailed disclosure, either as a public disclosure or as a
15 confidential disclosure to the committee;

16 (4) in the case of a legislative employee, suspension of employment
17 with or without pay for a stated period of time or until stated conditions are met, or
18 termination from legislative employment;

19 (5) restitution of property or reimbursement of improperly received
20 benefits;

21 (6) public or private written reprimand;

22 (7) censure, including, in the case of a legislator, removal from a
23 leadership position or committee membership and a determination that the legislator
24 will not be appointed to serve in a leadership position or on a committee during the
25 remainder of that legislature;

26 (8) placing the person on probationary status;

27 (9) in the case of a legislator, expulsion from the house of the
28 legislature;

29 (10) any other appropriate measure.

30 (c) In addition to or in place of a sanction recommended under (b) of this
31 section, the committee may recommend that the subject of a complaint be required to

1 pay all or a portion of the costs related to the investigation and adjudication of a
2 complaint.

3 * Sec. 45. AS 24.60.200 is amended to read:

4 Sec. 24.60.200. FINANCIAL DISCLOSURE BY LEGISLATORS AND
5 LEGISLATIVE DIRECTORS. A legislator and a legislative director shall file a
6 disclosure statement, under oath and on penalty of perjury, with the Alaska Public
7 Offices Commission giving the following information about the income received by
8 them, their spouses, their dependent children, and their nondependent children who are
9 living with them:

10 (1) the information that a public official is required to report under
11 AS 39.50.030; however, a legislator or legislative director is not required to report
12 [, EXCEPT THAT] sources of income [OTHER THAN GIFTS] of \$1,000 or less,
13 [AND] loans of \$1,000 or less, or any gifts [NEED NOT BE REPORTED];

14 (2) as to income in excess of \$1,000 received as compensation for
15 personal services, the name and address of the source of the income, and a statement
16 describing the nature of the services performed; ~~if the source of income is known or~~
17 reasonably should be known to have a ^{substantial} ~~substantial~~ interest in legislative, administrative,
18 or political action and the recipient of the income is a legislator or a legislative
19 director, the amount of income received from the source shall be disclosed:

20 (3) as to each loan or loan guarantee over \$1,000 from a source with
21 a substantial interest in legislative, administrative, or political action, the name and
22 address of the person making the loan or guarantee, the amount of the loan, the terms
23 and conditions under which the loan or guarantee was given, the amount outstanding
24 at the time of filing, and whether or not a written loan agreement exists [:

25 (4) THE SOURCE OF A GIFT, OTHER THAN AN INHERITANCE,
26 RECEIVED DURING THE PRECEDING CALENDAR YEAR BY THE PERSON,
27 THE PERSON'S SPOUSE OR DEPENDENT CHILD, OR A NONDEPENDENT
28 CHILD OF THE PERSON WHO IS LIVING WITH THE PERSON, IF THE
29 AMOUNT OF THE GIFT EXCEEDS \$100 AND IS RECEIVED FROM A PERSON
30 WHO IS NOT A MEMBER OF THE RECIPIENT'S FAMILY].

31 * Sec. 46. AS 24.60.260(a) is amended to read:

1 (a) A person required to make a disclosure under this chapter may not
2 knowingly make a false or deliberately misleading or incomplete disclosure to the
3 committee or to the Alaska Public Offices Commission. A person who files [. OR
4 FILE] a disclosure after a deadline set by this chapter or by a regulation adopted by
5 the committee or by the Alaska Public Offices Commission has violated this chapter
6 and may be subject to imposition of a fine as provided in (c) of this section or
7 AS 24.60.240.

8 * Sec. 47. AS 24.60.260 is amended by adding a new subsection to read:

9 (c) The committee may impose a fine on a person who files a disclosure after
10 a deadline set by this chapter. The amount of the fine imposed under this subsection
11 may not exceed \$2 for each day to a maximum of \$25 per disclosure for an
12 inadvertent late disclosure. If the committee finds that a person intentionally waited
13 until after a deadline had passed to file a disclosure or, knowing a disclosure was
14 required under this chapter, intentionally failed to make the disclosure, the committee
15 may impose an additional fine of \$100 under this subsection.

16 * Sec. 48. AS 24.60.990(a)(5) is amended to read:

17 (5) "immediate family" means

18 (A) the spouse of the person;

19 (B) another person cohabiting with the person in a conjugal
20 relationship with the person that is not a legal marriage; or

21 (C) a parent, child [, PARENTS, CHILDREN], including a
22 stepchild and an adoptive child, and sibling [SIBLINGS] of a person [if the
23 parent, child, or sibling resides with the person, is financially dependent
24 on the person, or shares a substantial financial interest with the person;

25 * Sec. 49. AS 39.25.160 is amended by adding a new subsection to read:

26 (j) A state employee, whether in the classified, partially exempt, or exempt
27 service, may not campaign on behalf of a political candidate on government time.
28 This subsection does not prohibit the employees of the division of elections from
29 carrying out duties related to elections or the members and employees of the
30 commission on judicial conduct from carrying out duties relating to the evaluation of
31 justices and judges.

1 * Sec. 50. AS 39.50.020 is amended to read:

2 Sec. 39.50.020. REPORT OF FINANCIAL AND BUSINESS INTERESTS.

3 (a) A public official as defined in AS 39.50.200 (JUDICIAL OFFICER,
4 COMMISSIONER, CHAIR OR MEMBER OF A STATE COMMISSION OR BOARD
5 SPECIFIED IN AS 39.50.200(b), A PERSON HIRED OR APPOINTED AS HEAD
6 OR DEPUTY HEAD OF, OR DIRECTOR OF A DIVISION WITHIN, A
7 DEPARTMENT IN THE EXECUTIVE BRANCH, A PERSON APPOINTED
8 AS ASSISTANT TO THE GOVERNOR, A STATE INVESTMENT OFFICER AND
9 THE STATE COMPTROLLER IN THE DEPARTMENT OF REVENUE, AND A
10 MUNICIPAL OFFICER) shall file a statement giving income sources and business
11 interests, under oath and on penalty of perjury, within 30 days after taking office as
12 a public official. Candidates for state elective office other than a candidate who is
13 subject to AS 24.60 shall file ~~the~~ [SUCH A] statement with the director of elections
14 at the time of filing a declaration of candidacy or a nominating petition, or within 30
15 days after [OF] becoming a candidate by any other means. Candidates for elective
16 municipal office shall file ~~the~~ [SUCH A] statement at the time of filing a nominating
17 petition, declaration of candidacy, or other required filing for the elective municipal
18 office. Refusal or failure to file within the time prescribed shall require that the
19 candidate's filing fees, if any, and filing for office be refused or that a previously
20 accepted filing fee be returned and the candidate's name removed from the filing
21 records. A statement shall also be filed by public officials no later than April 15 or 15
22 days after the person files a federal income tax return in each following year,
23 whichever comes first. Persons who are members of boards or commissions not named
24 in AS 39.50.200(b) are not required to file financial statements.

25 (b) A public official other than an elected or appointed municipal officer
26 [THE GOVERNOR, LIEUTENANT GOVERNOR, JUDICIAL OFFICERS, EACH
27 COMMISSIONER, HEAD OR DEPUTY HEAD OF, OR DIRECTOR OF A
28 DIVISION WITHIN, A DEPARTMENT IN THE EXECUTIVE BRANCH,
29 ASSISTANT TO THE GOVERNOR, STATE INVESTMENT OFFICERS AND THE
30 STATE COMPTROLLER IN THE DEPARTMENT OF REVENUE, OR CHAIR OR
31 MEMBER OF A COMMISSION OR BOARD REQUIRED TO REPORT UNDER

1 THIS CHAPTER.) shall file the statement with the Alaska Public Offices Commission.
 2 Candidates for the office of governor and lieutenant governor and, if the candidate is
 3 not subject to AS 24.60, the legislature shall file the statement under AS 15.25.030 or
 4 15.25.180. Municipal officers, and candidates for elective municipal office, shall file
 5 with the municipal clerk or other municipal official designated to receive their filing
 6 for office. All statements required to be filed under this chapter are public records.

7 • Sec. 51. AS 39.50.070 is amended to read:

8 Sec. 39.50.070. FAILURE TO REPORT BY CERTAIN STATE
 9 EMPLOYEES [DEPARTMENT, DIVISION, OR DEPUTY DEPARTMENT
 10 HEADS]. A person hired or appointed as the head or deputy head of, or director of
 11 a division within, a department in the executive branch or another state employee
 12 subject to this chapter who refuses or fails to file a report of financial interests
 13 required under this chapter when due may not hold office, and the person's name may
 14 not be submitted to the legislature for confirmation, until the person complies. The
 15 person may not be confirmed, hired, or appointed, and the person forfeits and may not
 16 be paid any salary, per diem, or travel expenses, until the person complies. If, after
 17 installation as the head or deputy head of, or director of a division within, a
 18 department, or, for other state employees, after beginning employment in the
 19 position subject to this chapter, the person refuses or fails to file the required
 20 statement when due, the person is guilty of a misdemeanor and upon conviction is
 21 punishable by a fine of not less than \$100 nor more than \$1,000 and shall be removed
 22 from office if compliance is not made within 30 days after the due date of the report.

23 • Sec. 52. AS 39.50.080 is amended to read

24 Sec. 39.50.080. FAILURE TO REPORT BY A COMMISSION OR BOARD
 25 CHAIR [CHAIRMAN] OR MEMBER. A person hired or appointed as a
 26 commissioner, chair, [CHAIRMAN] or member of a state commission or board
 27 specified in AS 39.50.200(b), including the executive director of the Alaska
 28 Tourism Marketing Council, who fails to file a report of financial interests required
 29 under this chapter when due may not hold office, and the person's name may not be
 30 submitted to the legislature until the person complies. The person may not be
 31 confirmed, and the person forfeits and may not be paid any salary, per diem or travel

1 expenses, until the person complies. If, after being seated as commissioner, chair,
2 [CHAIRMAN] or member of the [SUCH A] commission or board the person refuses
3 or fails to file the required statement when due, the person is guilty of a misdemeanor
4 and upon conviction is punishable by a fine of not less than \$100 nor more than
5 \$1,000 and shall be removed from office if compliance is not made within 30 days
6 after the due date.

7 • Sec. 53. AS 39.50.200(a)(8) is amended to read:

8 (8) "public official" means a judicial officer, the governor, the
9 lieutenant governor, a person hired or appointed as the head or deputy head of, or
10 director of a division, a department in the executive branch, [AN ASSISTANT TO
11 THE GOVERNOR.] chair or member of a state commission or board, [STATE
12 INVESTMENT OFFICERS AND THE STATE COMPTROLLER IN THE
13 DEPARTMENT OF REVENUE.] the executive director of the Alaska Tourism
14 Marketing Council, another state employee subject to this chapter, and each
15 appointed or elected municipal officer.

16 • Sec. 54. AS 39.50.200(a) is amended by adding a new paragraph to read:

17 (10) "another state employee subject to this chapter" means a state
18 employee who is employed in a position in the executive branch of state government
19 in the exempt or partially exempt service and who is compensated at Range 21 or
20 above on the state salary schedule under AS 39.27.011, an assistant to the governor,
21 and a state investment officer, and the state comptroller in the Department of Revenue,
22 but does not include a state officer or employee who is otherwise included in the
23 definition of "public official" under this section.

24 • Sec. 55. This Act takes effect January 1, 1997.

SB

141

(File 3)

Attached Amendments to proposed CSSB 141(STA) version
"R" dated 3/25/96:

0.1 (Sec. Sec. 2, page 3, lines 14-17) A S
24.60.030(A)(5)(C)

-Allows legislator to maintain campaign records in his/her office; also included is a caveat that legislative employees may not work on campaign records on government time.

0.5 (Amends Sec. 17, page 9, line 27) A S
24.60.080(c)(2)(B)

-deletes reference to receipt of discount benefiting the state.

0.2 (Amends Sec. 17, Page 10, lines 21-25) A S
24.60.080(d)

-Amends gifts section to require forwarding of gifts received by legislators from other states or the government of the US to the Legislative Council, ~~which is current practice for receipt foreign govt. gifts~~

K.26 (Amends bill to add new section 24, page 13, lines
12-26) AS 24.60.111

Establishes a Legal Defense Fund to assist with payment of attorney fees and other costs arising from legislator's or employee's defense of a civil, criminal, or administrative action, or action concerning a contested election.

K.25 (New bill section 33 (see page 17) and amend Sec.
38 (Page 20, lines 19-23)) AS 24.60.170(b); AS
24.60.170(i)(3)

-Adds new section to address complaints to Ethics Committee and disclosure thereof to the complainant. Also amends Section 38 re: restrictions on release of information by subject of complaint.

K.35 (Sec. Sec. 2, page 1, lines 10-14; Page 2, lines 1-3),
page 3, lines 1-13) AS 24.25.030(a)

Adds new bill section to require employee/legislative reimbursement to state of personal phone calls/faxes. Policy regarding such to be adopted by employee's supervisor

O.6 (Sec. Sec. 49-54, page 25 - 28) AS 39.25.160; AS 39.50.020, .070, .080, .200(a)(8), .200(a)(10)

Relating to campaigning by state employees; prohibits campaigning during government time.

Requires certain state employees to file financial disclosures with APOC - i.e., any "public official" re: judicial officer, governor, Lt. governor, head/deputy head of department, director level, chair/member of state commission/board, director of ATMC, or any state employee at a pay range of 21 or above.

K.24 (Amends Sec. 37, page 19, lines 26-28)

Would allow subject of complaint and attorney to attend any Ethics Committee meeting, including confidential meetings.

.....
AMENDMENTS NOT INCORPORATED INTO "O" CS as of 3/23/96:

M.1 by Senator Phillips:

(Would create new Section 2, page 1)

Prohibits spouses and spousal equivalents of legislators from serving as legislative lobbyists

O.4 by Senator Donley (formerly K.28)

(Amends Section 4 (page 4, lines 2-3))

-Amendment allows a legislative employee to hand out fund-raising notices, but would not allow distribution or posting of campaign literature, etc., by employee.

O.3 by Sen. Donley (formerly K.29)

(Amends Sec. 7, page 5-6)

~~-Deletes reference to "incidental political campaign activities"~~

Conceptual amendments:

**Legislator may not work for Executive branch, quasi-state agency or university while holding public office. Legislator may not provide any services, materials or supplies unless legislator goes through the state's procurement code procedures regulating the competitive bidding process.

(Note: This would amend Section 10 of Version "O" which allows legislator to hold sole source contract with the state as long as the legislator discloses such association.)

**Amendment to hold confirmed members of boards/commissions that are paid a salary under the (Executive?) Ethics Act.

**Amendment to hold employees of Executive Branch under (Executive?) Ethics Act.

(Side-by-side being drawn up to compare existing Executive Ethics statutes with existing Legislative Ethics statutes.)

Ann
3/26/96

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 141(STA), "O" version dated 2/19/96

1 Page 3, line 1:

2 Delete "or"

3 Insert "[OR]"

4 Page 3, line 4, following "cost"

5 Insert "; or"

6 (D) maintaining campaign records, including records
7 required by or relating to the Alaska Public Offices Commission, in a
8 legislator's office; however, an employee may not work on campaign
9 records on government time"

433

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 141(STA) "O" version, dated 2/19/96

1 Page 9, line 13:

2 Delete "official"

3 Page 9, lines 13 - 14:

4 Delete "but only if receipt of the discount benefits the state"

Handwritten initials

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 141(STA), "O" version, dated 2/19/96

1 Page 10, line 17:

2 Delete "or from an official of a foreign government"

3 Insert "or from the government of the United States or another state or from an
4 official of a foreign government or of the government of the United States or another
5 state"

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 141

BY SENATOR DONLEY

to "O" version dated 7/10/96

1 Page ¹² 10, after line ²⁸ 10:

2 Insert a new bill section to read:

3 "• Sec. ²⁴ 22. AS 24.60 is amended by adding a new section to article 2 to read:

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

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

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

18 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE SENATE

TO: SB 141

*to "O" version
dated 2/19/96*

- 1 Page ¹⁶~~14~~, after line ²⁹~~21~~:
- 2 Insert a new bill section to read:
- 3 "• Sec. ²²~~30~~. AS 24.60.170(b) is amended to read:
- 4 (b) A complaint may be initiated by any person. The complaint must be in
- 5 writing and signed under oath by the person making the complaint. The committee
- 6 shall upon request provide a form for a complaint to a person wishing to file a
- 7 complaint. The committee shall immediately provide a copy of the complaint to the
- 8 person who is the subject of the complaint. The committee shall advise the
- 9 complainant of the provisions concerning release of confidential information set
- 10 out in (d) of this section."
- 11 Renumber the following bill sections accordingly.
- 12 Page ¹¹~~18~~, line ¹³~~29~~, after "pertains".
- 13 Insert "however, the committee may not impose restrictions on the release of
- 14 information by the subject of the complaint unless the complainant has agreed to be
- 15 bound by similar restrictions and has not made public the information contained in the
- 16 complaint, information about the complaint, or the fact of filing the complaint"

↓ -
Sen. Donley

AMENDMENT

OFFERED IN THE SENATE

TO: SB 141

1 Page 1, after line 6:

2 Insert a new bill section to read:

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

4 (a) A legislator or legislative employee may not

5 (1) solicit, agree to accept, or accept a benefit other than official
6 compensation for the performance of public duties; this paragraph may not be
7 construed to prohibit lawful solicitation for and acceptance of campaign contributions
8 or the acceptance of a lawful gratuity under AS 24.60.080;

9 (2) use public funds, facilities, equipment, services, or another
10 government asset or resource for a nongovernmental purpose or for the private benefit
11 of either the legislator, legislative employee, or another person; this paragraph does
12 not prohibit

13 (A) [LIMITED] use of state property and resources for personal
14 purposes if the use does not interfere with the performance of public duties
15 and either the cost or value related to the use is nominal or the legislator or
16 legislative employee reimburses the state for the cost; a legislative
17 employee shall comply with the policy on use of state property adopted by
18 the employee's supervisor; this subparagraph does not apply to telephone
19 or facsimile use;

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

23 (C) telephone or facsimile use; however, a legislator or
24 legislative employee who incurs a special charge for use of the telephone
25 or facsimile machine shall reimburse the state for the cost [THAT DOES

1 NOT CARRY A SPECIAL CHARGE];

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

6 (4) require a legislative employee to perform services for the private
7 benefit of the legislator or employee at any time, or allow a legislative employee to
8 perform services for the private benefit of a legislator or employee on government
9 time; it is not a violation of this paragraph if the services were performed in an
10 unusual or infrequent situation and the person's services were reasonably necessary
11 to permit the legislator or legislative employee to perform official duties;

12 (5) use or authorize the use of state funds, facilities, equipment,
13 services, or another government asset or resource for the purpose of political fund
14 raising or campaigning; this paragraph does not prohibit

15 (A) [LIMITED] use of state property and resources for personal
16 purposes if the use does not interfere with the performance of public duties
17 and either the cost or value related to the use is nominal or the legislator or
18 legislative employee reimburses the state for the cost; a legislative
19 employee shall comply with the policy on use of state property adopted by
20 the employee's supervisor; this subparagraph does not apply to telephone
21 or facsimile use;

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

25 (C) telephone or facsimile use; however, a legislator or
26 legislative employee who incurs a special charge for use of the telephone
27 or facsimile machine shall reimburse the state for the cost [THAT DOES
28 NOT CARRY A SPECIAL CHARGE]."

29 Renumber the following bill sections accordingly.

9-LS0174\O.6 /
Cramer
3/13/96

Sen. Sharp

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 141(STA) "O"version dated 2/19/96

Page 1, line 1, after "ethics":

2 Insert "; relating to campaigning by state employees; requiring certain state
3 employees to file financial disclosures;"

4 Page 24, after line 13:

5 Insert new bill sections to read:

6 ** Sec. 47. AS 39.25.160 is amended by adding a new subsection to read:

7 (j) A state employee, whether in the classified, partially exempt, or exempt
8 service, may not campaign on behalf of a political candidate on government time.
9 This subsection does not prohibit the employees of the division of elections from
10 carrying out duties related to elections or the members and employees of the
11 commission on judicial conduct from carrying out duties relating to the evaluation of
12 justices and judges.

13 • Sec. 48. AS 39.50.020 is amended to read:

14 Sec. 39.50.020. REPORT OF FINANCIAL AND BUSINESS INTERESTS.
15 (a) A public official as defined in AS 39.50.200 [JUDICIAL OFFICER,
16 COMMISSIONER, CHAIR OR MEMBER OF A STATE COMMISSION OR
17 BOARD SPECIFIED IN AS 39.50.200(b), A PERSON HIRED OR APPOINTED
18 AS HEAD OR DEPUTY HEAD OF, OR DIRECTOR OF A DIVISION WITHIN, A
19 DEPARTMENT IN THE EXECUTIVE BRANCH, A PERSON APPOINTED
20 AS ASSISTANT TO THE GOVERNOR, A STATE INVESTMENT OFFICER AND
21 THE STATE COMPTROLLER IN THE DEPARTMENT OF REVENUE, AND A
22 MUNICIPAL OFFICER] shall file a statement giving income sources and business
23 interests, under oath and on penalty of perjury, within 30 days after taking office as
24 a public official. Candidates for state elective office other than a candidate who is

9-LS017410.6

1 subject to AS 24.60 shall file the [SUCH A] statement with the director of elections
2 at the time of filing a declaration of candidacy or a nominating petition, or within 30
3 days after [OF] becoming a candidate by any other means. Candidates for elective
4 municipal office shall file the [SUCH A] statement at the time of filing a nominating
5 petition, declaration of candidacy, or other required filing for the elective municipal
6 office. Refusal or failure to file within the time prescribed shall require that the
7 candidate's filing fees, if any, and filing for office be refused or that a previously
8 accepted filing fee be returned and the candidate's name removed from the filing
9 records. A statement shall also be filed by public officials no later than April 15 or
10 15 days after the person files a federal income tax return in each following year,
11 whichever comes first. Persons who are members of boards or commissions not
12 named in AS 39.50.200(b) are not required to file financial statements.

13 (b) A public official other than an elected or appointed municipal officer
14 [THE GOVERNOR, LIEUTENANT GOVERNOR, JUDICIAL OFFICERS, EACH
15 COMMISSIONER, HEAD OR DEPUTY HEAD OF, OR DIRECTOR OF A
16 DIVISION WITHIN, A DEPARTMENT IN THE EXECUTIVE BRANCH,
17 ASSISTANT TO THE GOVERNOR, STATE INVESTMENT OFFICERS AND THE
18 STATE COMPTROLLER IN THE DEPARTMENT OF REVENUE, OR CHAIR OR
19 MEMBER OF A COMMISSION OR BOARD REQUIRED TO REPORT UNDER
20 THIS CHAPTER.] shall file the statement with the Alaska Public Offices
21 Commission. Candidates for the office of governor and lieutenant governor and, if
22 the candidate is not subject to AS 24.60, the legislature shall file the statement under
23 AS 15.25.030 or 15.25.180. Municipal officers, and candidates for elective municipal
24 office, shall file with the municipal clerk or other municipal official designated to
25 receive their filing for office. All statements required to be filed under this chapter
26 are public records.

27 • Sec. 49. AS 39.50.070 is amended to read:

28 Sec. 39.50.070. FAILURE TO REPORT BY CERTAIN STATE
29 EMPLOYEES [DEPARTMENT, DIVISION, OR DEPUTY DEPARTMENT
30 HEADS]. A person hired or appointed as the head or deputy head of, or director of
31 a division within, a department in the executive branch or another state employee
32 subject to this chapter who refuses or fails to file a report of financial interests

9-LS01740.6

1 required under this chapter when due may not hold office, and the person's name may
2 not be submitted to the legislature for confirmation, until the person complies. The
3 person may not be confirmed, hired, or appointed, and the person forfeits and may not
4 be paid any salary, per diem, or travel expenses, until the person complies. If, after
5 installation as the head or deputy head of, or director of a division within, a
6 department, or, for other state employees, after beginning employment in the
7 position subject to this chapter, the person refuses or fails to file the required
8 statement when due, the person is guilty of a misdemeanor and upon conviction is
9 punishable by a fine of not less than \$100 nor more than \$1,000 and shall be removed
10 from office if compliance is not made within 30 days after the due date of the report.

11 • Sec. 50. AS 39.50.080 is amended to read:

12 Sec. 39.50.080. FAILURE TO REPORT BY A COMMISSION OR BOARD
13 CHAIR [CHAIRMAN] OR MEMBER. A person hired or appointed as a
14 commissioner, chair, [CHAIRMAN] or member of a state commission or board
15 specified in AS 39.50.200(b), including the executive director of the Alaska
16 Tourism Marketing Council, who fails to file a report of financial interests required
17 under this chapter when due may not hold office, and the person's name may not be
18 submitted to the legislature until the person complies. The person may not be
19 confirmed, and the person forfeits and may not be paid any salary, per diem or travel
20 expenses, until the person complies. If, after being vested as commissioner, chair,
21 [CHAIRMAN] or member of the [SUCH A] commission or board the person refuses
22 or fails to file the required statement when due, the person is guilty of a misdemeanor
23 and upon conviction is punishable by a fine of not less than \$100 nor more than
24 \$1,000 and shall be removed from office if compliance is not made within 30 days
25 after the due date.

26 • Sec. 51. AS 39.50.200(a)(8) is amended to read:

27 (8) "public official" means a judicial officer, the governor, the
28 lieutenant governor, a person hired or appointed as the head or deputy head of, or
29 director of a division, a department in the executive branch, [AN ASSISTANT TO
30 THE GOVERNOR.] chair or member of a state commission or board, [STATE
31 INVESTMENT OFFICERS AND THE STATE COMPTROLLER IN THE
32 DEPARTMENT OF REVENUE.] the executive director of the Alaska Tourism

9-L9017406

1 Marketing Council, another state employee subject to this chapter, and each
2 appointed or elected municipal officer.

3 • Sec. 52. AS 39.50.200(a) is amended by adding a new paragraph to read:

4 (10) "another state employee subject to this chapter" means a state
5 employee who is employed in a position in the executive branch of state government:
6 in the exempt or partially exempt service and who is compensated at Range 21 or
7 above on the state salary schedule under AS 39.27.011, an assistant to the governor,
8 and a state investment officer, and the state comptroller in the Department of
9 Revenue, but does not include a state officer or employee who is otherwise included
10 in the definition of "public officer" under "his section."

11 Renumber the following bill section accordingly.

AMENDMENT

OFFERED IN THE SENATE

TO: SB 141

*to "0" version
dated 2/1/96*

1 Page ^A 18, lines ²⁶⁻²⁸ ~~17-19~~

2 Delete "However, the committee may permit the subject of the complaint to
3 attend a meeting other than the deliberations on probable cause"

4 Insert "However, the committee shall permit the subject of the complaint and the
5 subject's attorney to attend any meeting concerning the complaint, including confidential
6 meetings. The committee shall notify the subject of the complaint of the schedule of its
7 proceedings."

Alaska State Legislature

Special Committee on
Legislative Ethics

716 W. 4th, Suite 730
Anchorage, AK
(907) 244-8172
FAX 244-2158

Meeting Room
P.O. Box 110449
Anchorage, AK
99519-1049

DATE: February 23, 1996

TO: Senator Bert Sharp, Chair
Senate State Affairs

FROM:  Steve Barnett, Staff
Special Committee on Legislative Ethics

RE: Review of DRAFT CS SB 141(STA) O Version
An Act relating to legislative ethics.

This document is intended to supplement DRAFT CS SB 141(STA) O version, relating to changes to the Ethics Code, AS 24.60. The asterisks indicate changes made to the previous M version of CS SB 141 (STA).

***SECTION 2: AS 24.60.030(a) TELEPHONE/FAX USE:** The changes in this section would allow the use of state telephones and facsimile machines by legislators and legislative employees so long as the user reimburses the state for the cost. (Amended 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. (Amended by CS, recommended by committee)

***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 acceptable gift. This language clarifies that the committee does not consider a stay in a vacation home located outside the state, regardless of

location, to be an exempted gift. (Amended by CS. inserted located outside the state)

The committee does believe legislators and legislative employees should be able to accept discounts that benefit the state. The proposed language would allow, for example, those covered by the ethics code to accept an offer of a 25% discount on flights paid by State TRs, even if the offer was made only to legislators and legislative employees. Under current code, that offer would not be allowed to be accepted (UNCHANGED BY 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 language in Section 21, inheritance from a family member (i) or gifts received by a family member (k) (Amended by CS. committee recommended. STA added to (B) with a person that is not a legal marriage.)

*SECTION 21: AS 24.60.080 GIFTS, New Subsections

(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 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 CS. Educational trainees, including UA intern and JTPA added)

*SECTION 34: 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)

S. STA
(see sec. 34)

*SECTION 35: AS 24.60.170(h) CORRECTIVE ACTIONS Complies with new language in Section 35, empowering the committee to formally charge a person who fails to complete corrective actions. (Amended by CS, committee recommended)

K.12

*SECTION 38: 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)

K.19

*SECTION 39: 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)

91

*SECTION 40: 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 Section 35 of this bill.) The proposed language in this section establishes that those listed in Section 35 have the authority to impose sanctions on violators who are legislative employees. The CS adds language to comply with the changes in Sections 38 and 39 concerning reporting to the committee on a set timetable. (AMENDED BY CS, committee recommended)

41=0

S. STA

*SECTION 41: 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 42: 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 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.)

5-27-78

*Note: AS 24.60.210 DEADLINE TO REPORT TO APOC CS deleted the proposed change from February 15 to April 15. Report deadline would remain as April 15.

*1105
1-26-33*

*SECTION 46: 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 CS).

*SECTION 41: 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 date might be selected. The CS amends the year to 1997. (AMENDED BY CS)

Alaska State Legislature

Select Committee on Legislative Ethics

716 W 4th, Suite 230
Anchorage AK
(907) 258-8172
FAX: 258-2109

Mailing Address:
PO Box 101468
Anchorage, AK
99510 - 1468

DATE: February 22, 1996

TO: Senator Bert Sharp, Chair
Senate State Affairs

FROM: Susie Barnett, Staff
Select Committee on Legislative Ethics

RE: Review of DRAFT CS SB 141(STA) O Version
An Act relating to legislative ethics.

This document is intended to supplement DRAFT CS SB 141(STA) O version, relating to changes to the Ethics Code, AS 24.60. The purpose of this document is to provide an ethics committee analysis of the bill. (Herein, "committee" refers to ethics committee.) The asterisks indicate changes made to the previous M version of CSSB 141 (STA).

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 council, 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)

***SECTION 2: AS 24.60.030(a) TELEPHONE/FAX USE:** The changes in this section would allow the use of state telephones and facsimile machines by legislators and legislative employees so long as the user reimburses the state for the cost. (Amended by CS)

SECTION 3: 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 and a person other than a legislator or employee who is a candidate for election to the legislature. 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. It remains the committee's desire that state funds should never be used for campaign purposes. (Unchanged by CS)

SECTION 4: AS 24.60.030(d) CAMPAIGN LITERATURE: The ethics committee received inquiries as to whether the current prohibitions on distributing or posting campaign literature in state facilities included notices of fundraising events for candidates. The proposed change adds fundraising notices to the list. The prohibitions currently apply only to legislators or someone on behalf of a legislator. This language expands that to include legislative employees. (Unchanged by 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 now membership disclosure period to 60 days and would require the committee to publish the disclosures in the journal. The committee feels that receipt, but non-publication, of disclosures does not meet the 'public disclosure' standard. (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. (Amended by CS, recommended by committee)

SECTION 7: AS 24.60.030 GOVERNMENT TIME This new subsection reflects the committee's discussions and formal advisory opinion on the

issue of 'government time'. The committee clearly finds most legislative employees do not have a standard 8-5 workday. Under the proposed language, the committee would consider the schedule set by the employee's supervisor in any complaint proceedings. The committee does not condone participation in campaign activities while on government time. To emphasize this, the proposed language sets out the requirement that employee take leave for the period of time he or she is participating in any political campaign activity during a workday. The term 'political campaign activity' has been interpreted broadly by the committee to include local, state, federal elections and ballot measures. (Unchanged by CS)

SECTION 8: AS 24.60.031(a) FUNDRAISING DURING SESSION The current code does not specify exactly when the prohibition on fundraising during session begins and ends. The committee issued an advisory opinion in 1994 stating that, for the purposes of compliance with the ethics code, the session begins and ends at the fall of the gavel. If a legislator were to accept a campaign contribution on the first or last day of session, but before or after the gavel falls, it would appear on the legislator's APOC report as received on a day in which the legislature was in session. This would give the public the impression that the legislator violated the ethics code. The committee feels it would be in the legislators' and the public's best interest to restrict acceptance of contributions on the day when either house is in session, even on a day on which the legislature 'sine died' at 12:05 a.m. 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 committee feels that given the Human Rights Commission's history in handling complaints concerning employment discrimination, the committee should have the option to refer complaints of employment discrimination to the commission and defer consideration of the complaint until after the commission has completed its proceedings. The proposed language would allow the committee to refer complaints to the commission. (Unchanged by CS)

SECTION 10: AS 24.60.040(a) CONTRACTS AND LEASES The committee recognizes that a citizen legislature and 'session only' employment for a portion of legislative employees requires certain flexibility in financial restrictions. 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 reporting threshold from \$1000 to \$5000.

The committee also recognizes that not all family members live with, or are in communication with legislators and legislative employees and therefore, eased 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 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: SPOUSAL OR 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 employers and the total monetary value received from each client annually. Changes to the list would have to be reported within 48 hours. (Unchanged by CS)

SECTION 16: AS 24.60.080(a): GIFTS The committee feels that the purpose in restricting gifts is to decrease the opportunities to be influenced or conflicted. The committee found that an annual gift of \$250 or less is unlikely to "buy the vote or influence of an elected official". The bill increases the gift limit from \$100 to \$250 annually. The language also clarifies that those gifts that come under subsection (c); hospitality, discounts, food shared as a cultural norm, travel/hospitality for obtaining information on legislative matters, gifts from immediate family and gifts not connected to legislative status are exceptions to the general prohibition on accepting gift. Gifts on behalf of a charitable organization (new subsection (h)) are exempted from both accepting and soliciting prohibitions. New language has been added that restricts 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 APCC statutes for lobbyists. (UNCHANGED BY 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 acceptable gift. This language clarifies that the committee does not

consider a stay in a vacation home located outside the state, regardless of location, to be an exempted gift. (Amended by CS, inserted located outside the state.)

The committee does believe legislators and legislative employees should be able to accept discounts that benefit the state. The proposed language would allow, for example, those covered by the ethics code to accept an offer of a 25% discount on flights paid by State TRs, even if the offer was made only to legislators and legislative employees. Under current code, that offer would not be allowed to be accepted. (UNCHANGED BY CS)

SECTION 18: AS 24.60.080(d) GIFT REPORTING Proposed changes to Sections 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.

Currently, a legislator or legislative employee who receives a gift of over \$100 "not related to legislative status" is required to report, confidentially, the name of donor and description of the gift received under this category. If the gift has a value of over \$250, the actual value must also be reported. The new language follows the type of reporting previously required by APOC, which is reporting only the name of donor and description of gift for all gifts, regardless of purpose or status, over \$250.

The committee feels the public wishes to hold elected officials to more stringent disclosure requirements than they do legislative employees. Therefore, this bill would require public disclosure of the source and description of all allowable gifts over \$250, as stated above, by legislators. The confidential aspect of the disclosure of 'gifts not related to legislative status' would be eliminated for legislators.

Legislative employees would also be required to submit disclosures of the source and description of all allowable gifts over \$250. However, legislative employees would retain the right to confidential disclosure of those 'gifts not related to legislative status'. (UNCHANGED BY CS)

SECTION 19: AS 24.60.080(i) Foreign Gifts Allows acceptance of gift from a foreign 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.
(Unchanged by 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 language in Section 21: inheritance from a family member (i) or gifts received by a family member (k). (Amended by CS, committee recommended. STA added to (B) with a person that is not a legal marriage.)

***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 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 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. (UNCHANGED BY 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 22: AS 24.60.085(a) EARNED INCOME AND HONORARIA The committee feels that legislators and legislative employees should not be restricted from charging less or not charging for personal services and that this was not the intent behind the current law, which restricts legislators and legislative employees from accepting compensation that is not commensurate with fees generally charged. This bill would 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 24.60.130(l). 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 branch 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 25: AS 24.60.130(h). MEMBER DISQUALIFICATION The process for appointing a new member to serve in the place of a disqualified member is in new subsection AS 24.60.130(o). (UNCHANGED BY CS)

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

SECTION 26: 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. The committee feels this process conflicts with the strict confidentiality requirements of the ethics code. The committee has interpreted the code to require them to not even acknowledge publicly if it has any complaints before it. 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 27: AS 24.60.134(a) RESTRICTIONS ON PUBLIC MEMBERS OF THE COMMITTEE. The committee feels the public members must strive to be above reproach during their service on the ethics 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 28: 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) reflects the committee's recognition that the political restrictions on contractors to the committee do not necessarily need to extend to the contractor's corporation or partnership as that could be an unreasonable burden. The proposed language permits the contractor 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, which they have agreed to. (UNCHANGED BY CS)

SECTION 27: 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. An example might be a set of guidelines for those in 'lay off' status, clarifying that a person in lay off status is not a legislative employee for purposes of compliance with the ethics code and providing a list of requirements upon rehire. One such requirement, under current law, would be calendar year disclosures, regardless of status during that calendar year. (UNCHANGED BY CS)

SECTION 30: 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 advisory 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. This is not realistic as the committee does not meet on a regular basis. 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 31: 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. In other words, if an employee quit to avoid complaint proceedings and the employee was rehired 6 months later, the committee may take up the initial complaint again. 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 32: 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 24.170(i), the subsection dealing with discovery by the subject. (UNCHANGED BY CS)

SECTION 33: AS 24.60.170(l) 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 34: 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 35: AS 24.60.170(h) CORRECTIVE ACTIONS** Complies with new language in Section 35, empowering the committee to formally charge a person who fails to complete corrective actions. (Amended by CS, committee recommended)

SECTION 36: 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 protect the privacy of persons not under investigation. (Unchanged by CS)

SECTION 37: 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. Under this amendment, the committee may permit the subject of a complaint to attend a meeting, unless the committee is in deliberations on probable cause that a violation occurred.

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. (UNCHANGED BY CS)

***SECTION 38: 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 39: 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 40: 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 Section 35 of this bill.) The proposed language in this section establishes that those listed in Section 35 have the authority to impose sanctions on violators who are legislative employees. The CS adds language to comply with the changes in Sections 38 and 39 concerning reporting to the committee on a set timetable. (AMENDED BY CS, committee recommended)

***SECTION 41: 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 42: 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 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 43: 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. (UNCHANGED BY CS)

***Note: AS 24.60.210 DEADLINE TO REPORT TO APOC** CS deleted the proposed change from February 15 to April 15. Report deadline would remain as April 15.

SECTION 44: 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 45: 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 46: AS 24.60.990(e)(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 CS)

***SECTION 41: 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 date might be selected. The CS amends the year to 1997. (AMENDED BY CS)

Attached Amendments to proposed CSSB 141(STA) version
"O" dated 2/9/96:

*8 AMENDMENTS WILL BE MADE
(6 - Donley, 1 - Ethics, 1 - Simon)*

O.1 by Senator Donley (formerly K.21)

(Sec. 2, page 3, lines 1 & 4)

-Allows legislator to maintain campaign records in his/her office; also included is a caveat that legislative employees may not work on campaign records on government time.

O.5 by Sen. Donley (formerly K.33)

(Amends Sec. 17, page 9, lines 13-14)

-deletes reference to receipt of discount benefiting the state.

O.2 by the Ethics Committee

(Amends Sec. 17, Page 10, line 17)

-Amends gifts section to require forwarding of gifts received by legislators from other states or the government of the US to the Legislative Council, (which is current practice for receipt foreign govt. gifts)

K.26 by Sen. Donley

(Amends bill to add new section 24, page 12, after line 28)

Establishes a Legal Defense Fund to assist with payment of attorney fees and other costs arising from legislator's or employee's defense of a civil, criminal, or administrative action, or action concerning a contested election.

K.25 by Sen. Donley

(New bill section 32(see page 16) and amend Sec. 36 (Page 19))

-Adds new section to address complaints to Ethics Committee and disclosure thereof to the complainant. Also amends Section 36 re: restrictions on release of information by subject of complaint.

K.35 By Sen. Donley

Adds new bill section to require employee/legislative reimbursement to state of personal phone calls/faxes. Policy regarding such to be adopted by employee's supervisor.

O.6 dated 3/13/96

Relating to campaigning by state employees: prohibits campaigning during government time.

Requires certain state employees to file financial disclosures with APOC - i.e., any "public official" re: judicial officer, governor, Lt. governor, head/deputy head of department, director level, chair/member of state commission/board, director of ATMC, or any state employee at a pay range of 21 or above.

K.24 by Sen. Donley

(Amends Sec. 37, page 19, lines 26-28)

Would allow subject of complaint and attorney to attend any Ethics Committee meeting, including confidential meetings.

.....
6 PROPOSED AMENDMENTS - 11/11/95, 2-15-96 /
AMENDMENTS NOT INCORPORATED INTO "O" CS as of 3/23/96

M.1 by Senator Phillips:

(Would create new Section 2, page 1)

Prohibits spouses and spousal equivalents of legislators from serving as legislative lobbyists.

O.4 by Senator Donley (formerly K.28)

(Amends Section 4 (page 4 lines 2-3))

Amendment allows a legislative employee to hand out fund-raising notices, but would not allow distribution or posting of campaign literature, etc., by employee.

0.3 by Sen. Donley (formerly K.29)

(Amends Sec. 7, page 5-6)

-Deletes reference to "incidental political campaign activities"

Conceptual amendments:

**Legislator may not work for Executive branch, quasi-state agency or university while holding public office. Legislator may not provide any services, materials or supplies unless legislator goes through the state's procurement code procedures regulating the competitive bidding process.

(Note: This would amend Section 10 of Version "O" which allows legislator to hold sole source contract with the state as long as the legislator discloses such association.)

**Amendment to hold confirmed members of boards/commissions that are paid a salary under the (Executive?) Ethics Act.

**Amendment to hold employees of Executive Branch under (Executive?) Ethics Act.

(Matrix being drawn up to compare existing Executive Ethics statutes with existing Legislative Ethics statutes.)

Ann
3/23/96

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 141(STA), "O" version dated 2/19/96

1 Page 3, line 1:

2 Delete "or"

3 Insert "[OR]"

4 Page 3, line 4, following "cost"

5 Insert "; or"

6 (D) maintaining campaign records, including records
7 required by or relating to the Alaska Public Offices Commission, in a
8 legislator's office; however, an employee may not work on campaign
9 records on government time"

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 141(STA) "O" version, dated 2/19/96

1 Page 9, line 13:

2 Delete "official"

3 Page 9, lines 13 - 14:

4 Delete "but only if receipt of the discount benefits the state"

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 141(STA), "O" version, dated 2/19/96

1 Page 10, line 17:

2 Delete "or from an official of a foreign government"

3 Insert "or from the government of the United States or another state or from an
4 official of a foreign government or of the government of the United States or another
5 state"

AMENDMENT

OFFERED IN THE SENATE

TO: SB 141

BY SENATOR DONLEY

to "O" version dated 2/10/96

1 Page ¹²~~10~~, after line ²⁸~~10~~:

2 Insert a new bill section to read:

3 ** Sec. ²⁴~~22~~ AS 24.60 is amended by adding a new section to article 2 to read:

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

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

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

18 Renumber the following bill sections accordingly.

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 141

*to "0" version
dated 2/1/96*1 Page ¹⁶~~14~~, after line ²⁹~~11~~:

2 Insert a new bill section to read:

3 ³² " * Sec. ~~30~~. AS 24.60.170(b) is amended to read:

4 (b) A complaint may be initiated by any person. The complaint must be in
5 writing and signed under oath by the person making the complaint. The committee
6 shall upon request provide a form for a complaint to a person wishing to file a
7 complaint. The committee shall immediately provide a copy of the complaint to the
8 person who is the subject of the complaint. The committee shall advise the
9 complainant of the provisions concerning release of confidential information set
10 out in (i) of this section."

11 Renumber the following bill sections accordingly.

12 Page ^A~~15~~, line ¹³~~29~~, after "pertains":

13 Insert "; however, the committee may not impose restrictions on the release of
14 information by the subject of the complaint unless the complainant has agreed to be
15 bound by similar restrictions and has not made public the information contained in the
16 complaint, information about the complaint, or the fact of filing the complaint"

AMENDMENT

OFFERED IN THE SENATE

TO: SB 141

to "0" version
dated 2/19/96

1 Page ^A 18, lines ²⁶⁻²⁸ 12-13.

2 Delete "However, the committee may permit the subject of the complaint to
3 attend a meeting other than the deliberations on probable cause"

4 Insert "However, the committee shall permit the subject of the complaint and the
5 subject's attorney to attend any meeting concerning the complaint, including confidential
6 meetings. The committee shall notify the subject of the complaint of the schedule of its
7 proceedings."

1st
incorporated
as of 3/23

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR PHILLIPS

TO: CSSB 141(STA) Version "M" (dated 4/18/95)

1 Page 1, line 1, after ";":

2 Insert "prohibiting the spouses and spousal equivalents of legislators from serving
3 as legislative lobbyists;"

4 Page 1, after line 6:

5 Insert new bill sections to read:

6 "• Sec. 2. AS 24.45.161(a) is amended to read:

7 (a) This chapter does not apply to

8 (1) an individual, except as provided in AS 24.45.165 for spouses
9 and spousal equivalents of legislators,

10 (A) who lobbies without payment of compensation or other
11 consideration and makes no disbursement or expenditure for or on behalf of
12 a public official to influence legislative or administrative action other than to
13 pay the individual's reasonable personal travel and living expenses; and

14 (B) who limits lobbying activities to appearances before public
15 sessions of the legislature, or its committees or subcommittees, or to public
16 hearings or other public proceedings of state agencies;

17 (2) an elected or appointed state or municipal public officer or an
18 employee of the state or a municipality acting in an official capacity or within the
19 scope of employment except as provided in AS 24.45.165 for spouses and spousal
20 equivalents of legislators;

21 (3) any newspaper or other periodical of general circulation, book
22 publisher, radio or television station (including an individual who owns, publishes, or
23 is employed by that newspaper or periodical, radio or television station) that publishes
24 news items, editorials, or other comments, or paid advertisements, that directly or

AMENDMENT

*not
incorporated
into "O"*

OFFERED IN THE SENATE

TO: CSSB 141(STA) "O" version, dated 2/19/96

- 1 Page 4, line 2:
- 2 Delete "fund-raising notices."
- 3 Page 4, line 3, after "election":
- 4 Insert ", other than event or fund-raising notices."

(459)

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 141(STA), "O" version, dated 2/19/96

*not
incorporated
into "O"*

1 Page 5, line 28:

2 Delete "minimal,"

3 Page 5, line 30:

4 Delete "Incidental political"

5 Insert "Political"

6 Page 5, line 32:

7 Delete "short"

8 Delete "incidental"

9 Page 6, line 1:

10 Delete "Incidental political campaign activities shall be kept to a minimum."

mor. 4/27 for markup
 Note: ① Amendments 0.1, 0.5, 0.2, K.26, K.25, K.35,
 0.6, K.24 Noted on sidebar

9-LS017410 ✓
 Cramer
 2/19/96

② proposed amendment m.1, 0.4 0.3 + (original) ...
 NOT incorporated as of 3/23/96
 CS FOR SENATE BILL NO. 141(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
 Referred:

Sponsor(s): 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 ethics; and providing for an effective date."

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

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

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

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

8 (a) A legislator or legislative employee may not

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

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

*Proposed
 m.1*

K.22

1 prohibit

2 (A) limited use of state property and resources for personal
3 purposes if the use does not interfere with the performance of public duties and
4 the cost or value related to the use is nominal; this subparagraph does not
5 apply to telephone or facsimile use;

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

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

13 (3) knowingly seek, accept, use, allocate, grant, or award public funds
14 for a purpose other than that approved by law, or make a false statement in connection
15 with a claim, request, or application for compensation, reimbursement, or travel
16 allowances from public funds;

17 (4) require a legislative employee to perform services for the private
18 benefit of the legislator or employee at any time, or allow a legislative employee to
19 perform services for the private benefit of a legislator or employee on government
20 time; it is not a violation of this paragraph if the services were performed in an
21 unusual or infrequent situation and the person's services were reasonably necessary to
22 permit the legislator or legislative employee to perform official duties;

23 (5) use or authorize the use of state funds, facilities, equipment,
24 services, or another government asset or resource for the purpose of political fund
25 raising or campaigning; this paragraph does not prohibit

26 (A) limited use of state property and resources for personal
27 purposes if the use does not interfere with the performance of public duties and
28 the cost or value related to the use is nominal; this subparagraph does not
29 apply to telephone or facsimile use;

30 (B) the use of mailing lists, computer data, or other information
31 lawfully obtained from a government agency and available to the general public

K.27
K.35

for nongovernmental purposes; or

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

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

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

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

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

(B) ends the day after the cooperative election, municipal election, or the general or special election;

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

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

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

(C) person other than a legislator or a legislative employee who is a candidate for election to the legislature.

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

(d) A legislator, a legislative employee, or another person on behalf of the legislator or legislative employee, or a campaign committee of the legislator or

add
H.27
0.1

insert 0.1 re: "maintaining
campaign records."

Proposed
0.4
(with 2.1)

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legislative employee, may not distribute or post campaign literature, placards, posters, fund-raising notices, or other communications intended to influence the election of a candidate in an election in public areas in a facility ordinarily used to conduct state government business.

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

(f) A legislative employee may not serve in a position that requires confirmation by the legislature. A legislator or legislative employee may serve on a board of an organization, including a governmental entity, that regularly has a substantial interest in the legislative activities of the legislator or employee, if the legislator or employee discloses the board membership to the committee. A legislator or legislative employee who is required to make a disclosure under this subsection shall file an annual written report with the committee by February 15 of each year stating the name of each organization on whose board the person serves. If the legislator or legislative employee becomes a member of a board after filing the annual disclosure statement, or after February 15 if no annual disclosure statement is filed, the legislator or legislative employee shall file a supplemental disclosure within 60 days after appointment or election to the board. The committee shall maintain a public record of the disclosure and forward the disclosure to the appropriate house for inclusion in the journal. This subsection does not require a legislator or legislative employee who is appointed to a board by the presiding officer to make a disclosure of the appointment to the committee if the appointment has been published in the appropriate legislative journal during the calendar year.

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

(g) A legislator or legislative employee who has a substantial financial interest that may be affected by legislative, administrative, or political action may not take the legislative, administrative, or political action unless the legislator or legislative employee first discloses the financial interest as required by this subsection. Before acting on a matter subject to this subsection in a legislative committee or a house of the legislature, a legislator or legislative employee shall orally disclose the financial interest to the committee or the legislative house, as appropriate. The disclosure shall

K10
C.S.B.
11-22-01

1 be reported in the journal or in the committee minutes, as appropriate. If the action
 2 is not taken in a legislative committee or a house of the legislature, the legislator or
 3 legislative employee shall disclose the financial interest to the committee in writing,
 4 to be received by the committee within seven days after the legislator or legislative
 5 employee took the action. This written disclosure is a public document and must
 6 include the nature of the financial interest and a short description of how the action
 7 taken affects the interest. The committee shall promptly forward the disclosure to the
 8 clerk of the house or the senate secretary for publication in the journal. In this
 9 subsection, a financial interest includes

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

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

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

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

24 • Sec. 7. AS 24.60.030 is amended by adding a new subsection to read:

25 (h) In this section, when determining whether an employee is considered to be
 26 performing a task on government time, the committee shall consider the employee's work
 27 schedule as set by the employee's immediate supervisor. An employee who engages in
 28 political campaign activities other than minimal, incidental campaign activities as
 29 described in this subsection during the employee's work day shall take leave for the
 30 period of campaigning. Incidental political campaign activities while on government
 31 time are permissible if the activities are part of the normal legislative duties of the
 32 employee, including answering short telephone calls and incidental handling of incoming

*Proposed
K 29
(new 0.3)*

1 correspondence. ~~Incidental political campaign activities shall be kept to a minimum.~~

2 • Sec. 8. AS 24.60.031(a) is amended to read:

3 (a) A legislator or legislative employee may not

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

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

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

16 • Sec. 9. AS 24.60.039 is amended by adding a new subsection to read:

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

22 • Sec. 10. AS 24.60.040(a) is amended to read:

23 (a) A legislator or legislative employee, or a member of the immediate family
24 of a legislator or legislative employee may not be a party to or have an interest in a state
25 contract or lease unless the contract or lease is let [THROUGH COMPETITIVE
26 SEALED BIDDING] under AS 36.30 (State Procurement Code) or, for agencies that
27 are not subject to AS 36.30, under similar procedures or the total annual amount of
28 the state contract or lease is \$5,000 [5,000] or less, or is a standardized contract or lease
29 that was developed under publicly established guidelines and is generally available to the
30 public at large, members of a profession, occupation, or group. A person has an interest
31 in a state contract or lease under this section if the person receives direct or indirect
32 financial benefits. A legislator or legislative employee who participates in, or who

1 knows or reasonably ought to know that a family member participating in a state
2 contract or lease that has an annual value of \$5,000 or more shall disclose the
3 participation to the committee by February 15 of each year. The disclosure must
4 state the amount of the contract or lease and the name of the state agency issuing
5 the contract or lease, and must identify the procedures under which the contract
6 or lease was issued. If the disclosure concerns a contract or lease in which a family
7 member of the discloser is participating, the disclosure must identify the
8 relationship between the participant and the discloser.

- 9 • Sec. 11. AS 24.60.040 is amended by adding a new subsection to read:

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

- 13 • Sec. 12. AS 24.60.050(c) is amended to read:

14 (c) A legislator or legislative employee who participates in a program or receives
15 a loan that is not exempt from disclosure under (a) of this section shall file a written
16 report with the committee by February 15 of each year stating the amounts of the loans
17 outstanding or benefits received during the preceding calendar year from nonqualifying
18 programs. If the committee requests additional information necessary to determine the
19 propriety of participating in the program or receiving the loan, it shall be promptly
20 provided. The committee shall promptly compile a list of the statements indicating the
21 loans and programs and amounts and send it to the presiding officer of each house who
22 shall have it published in the supplemental journals within three weeks after [OF] the
23 filing date. A legislator or legislative employee who believes that disclosure of
24 participation in a program would be an invasion of the participant's right to
25 privacy under the state constitution may request the committee to keep the
26 disclosure confidential. If the committee finds that publication would constitute an
27 invasion of privacy, the committee shall publish only the fact that a person has
28 participated in the program and the amount of benefit that the unnamed person
29 received. The committee shall maintain the disclosure of the name of the person
30 as confidential and may only use the disclosure in a proceeding under AS 24.60.170.
31 If the disclosure becomes part of the record of a proceeding under AS 24.60.170,
32 the disclosure may be made public as provided in that section.

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

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

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

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

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

14 (d) When making a disclosure under (a) of this section concerning a relationship
15 with a lobbyist to whom the legislator or legislative employee is married or who is the
16 legislator's or legislative employee's spousal equivalent, the legislator or legislative
17 employee shall also disclose the name and address of each employer of the lobbyist and
18 the total monetary value received from the lobbyist's employer. The legislator or
19 legislative employee shall report changes in the employer of the spouse or spousal
20 equivalent within 48 hours after the change. In this subsection,

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

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

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

26 (a) Except as provided in (c) and (h) of this section, a [A] legislator or
27 legislative employee may not solicit, accept, or receive, directly or indirectly, a gift worth
28 \$250 [\$100] or more, whether in the form of money, services, a loan, travel,
29 entertainment, hospitality, promise, or other form, or gifts from the same person worth
30 less than \$250 [\$100] that in a calendar year aggregate to \$250 [\$100] or more in value,
31 Except for food or beverage for immediate consumption, a legislator or legislative
32 employee [, AND] may not solicit, accept, or receive during a legislative session a gift

1 with any monetary value from a lobbyist or a person acting on behalf of a lobbyist.

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

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

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

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

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

9 (B) at a social event or meal;

10 (2) discounts that are available

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

13 ^{0.5} (B) when on [official] state business [but only if receipt of the
14 discount benefits the state];

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

17 (4) travel and hospitality primarily for the purpose of obtaining
18 information on matters of legislative concern;

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

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

21 • Sec. 18. AS 24.60.080(d) is amended to read:

22 (d) A legislator or legislative employee who accepts a gift under (c)(4) [OR (6)]
23 of this section shall disclose the gift if it has a value of \$250 [\$100] or more; the [
24 THE] disclosure must include the name and occupation of the person making the gift and
25 the approximate value of the gift. A gift under (c)(4) of this section required to be
26 disclosed under this subsection shall be disclosed to the committee within 30 days after
27 [OF] the receipt of the gift. Except as provided in (i) of this section, a gift [TO THE
28 COMMITTEE. GIFTS] under (c)(6) of this section that has a value of \$250 or more
29 shall be disclosed to the committee annually on or before February 15 [APRIL 15] of
30 the following calendar year; the [AND THE] disclosure needs to include only a
31 description of the gift and the identity of the donor [THE VALUE ONLY IF THE
32 VALUE OF THE GIFT EXCEEDS \$250]. The committee shall maintain a public record

Gift
10/10/13
0.5
(10/10/13)

1 of the disclosure it receives relating to gifts under (c)(4) of this section and shall forward
 2 the disclosure to the appropriate house for inclusion in the journal. Disclosures from
 3 legislative employees relating to gifts under (c)(6) of this section shall be maintained,
 4 but are confidential and may only be used by the committee and its employees and
 5 contractors in the investigation of a possible violation of this section or in a proceeding
 6 under AS 24.60.170. If the disclosures from legislative employees become part of the
 7 record of a proceeding under AS 24.60.170, the confidentiality provisions of that section
 8 apply to the disclosures. The committee shall maintain a public record of the
 9 disclosures it receives from legislators concerning gifts under (c)(6) of this section
 10 and shall forward the disclosures to the appropriate house for inclusion in the
 11 journal. The committee shall forward disclosures it receives from legislators
 12 concerning gifts under (c)(4) and (6) of this section to the Alaska Public Offices
 13 Commission.

14 • Sec. 19. AS 24.60.080(f) is amended to read:

15 (f) Notwithstanding (a) of this section, a legislator or legislative employee may
 16 accept a gift of property worth \$250 [~~\$100~~] or more, other than money, from a foreign
 17 government ^{0.2: insert: or from govt. of US or another state} or from an official of a foreign government if the person accepts the gift on
 18 behalf of the legislature. The person shall, within 60 days after [OF] receiving the gift,
 19 deliver the gift to the legislative council, which shall determine the appropriate
 20 disposition of the gift.

21 • Sec. 20. AS 24.60.080(g) is amended to read:

22 (g) In this section, "immediate family" or "family member"
 23 (1) means
 24 (A) the spouse of the person;
 25 (B) another person cohabiting with the person in a conjugal
 26 relationship with the person that is not a legal marriage;
 27 (C) a child, including a stepchild and an adoptive child, of the
 28 person;
 29 (D) a parent, sibling, grandparent, aunt, or uncle of the
 30 person; and *Mark*
 31 (E) a parent, sibling, grandparent, aunt, or uncle of the
 32 person's spouse (HAS THE MEANING GIVEN IN AS 24.60.990(a)(5) AND

1 INCLUDES THE GRANDPARENTS, AUNTS, AND UNCLES OF A PERSON,
2 AND ALSO INCLUDES A PERSON DESCRIBED IN THIS SUBSECTION OR
3 AS 24.60.990(a)(5) WHO IS RELATED TO THE PERSON BY MARRIAGE].

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

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

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

14 (j) A legislator, a legislative committee other than the Select Committee on
15 Legislative Ethics, or a legislative agency may accept (1) a gift of volunteer services
16 for legislative purposes so long as the person making the gift of services is not
17 receiving compensation from another source for the services or (2) a gift of the
18 services of a trainee who is participating in an educational program approved by the
19 committee if the services are used for legislative purposes. The committee shall
20 approve training under a program of the University of Alaska and training under 29
21 U.S.C. 1501 - 1792b (Job Training Partnership Act). A legislative volunteer or
22 educational trainee shall be considered to be a legislative employee for purposes of
23 compliance with AS 24.60.030 - 24.60.039, 24.60.060, 24.60.080, 24.60.085, 24.60.158
24 - 24.60.170, 24.60.176, and 24.60.178. If a person believes that a legislative volunteer
25 or educational trainee has violated the provisions of one of those sections, the person
26 may file a complaint under AS 24.60.170. The provisions of AS 24.60.170 apply to
27 the proceeding. This subsection does not permit a legislator or legislative employee
28 to accept a gift of services for nonlegislative purposes.

29 (k) A legislator or legislative employee who knows or reasonably ought to
30 know that a family member has received a gift because of the family member's
31 connection with the legislator or legislative employee shall report the receipt of the gift
32 by the family member to the committee if the gift would have to be reported under this

1 section if it had been received by the legislator or legislative employee or if receipt of
2 the gift by a legislator or legislative employee would be prohibited under this section.

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

5 • Sec. 22. AS 24.60.085(a) is amended to read:

6 (a) A legislator or legislative employee may not

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

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

16 • Sec. 23. AS 24.60.100 is amended to read:

17 Sec. 24.60.100. REPRESENTATION. A legislator or legislative employee
18 who represents another person for compensation before an agency, board, or
19 commission of the state shall disclose the name of the person represented, the subject
20 matter of the representation, and the body before which the representation is to take
21 place to the committee. The disclosure shall be made within 60 days after
22 beginning the representation. In addition, a legislator or legislative employee
23 shall, no later than February 15, make an annual disclosure of all of the clients
24 represented during the previous calendar year. The committee shall maintain a
25 public record of a [THE] disclosure under this section and forward the disclosure to
26 the respective house for inclusion in the journal. A legislator or legislative employee
27 may not represent another person for compensation before an agency, committee, or
28 other entity of the legislative branch.

29 • Sec. 24. AS 24.60.130(f) is amended to read:

30 (f) The committee may contract for professional services and may employ staff
31 as it considers necessary. A committee employee, including a person who provides

*H. 116
Legis. Staff
2/15/01*

1 personal services under a contract with the committee, may not be a legislator, an
2 elected or appointed official of a state or local governmental entity, an officer of a
3 political party, a candidate for public office, or a registered lobbyist. The legislative
4 council shall provide office space, equipment, and additional staff support for the
5 committee. The committee shall submit a budget for each fiscal year to the finance
6 committees of the legislature and shall annually submit an estimated budget to the
7 governor for information purposes in preparation of the state operating budget. Public
8 members of the committee serve without compensation for their services, but are
9 entitled to travel and per diem expenses authorized for members of state boards
10 and commissions under AS 39.20.180.

- 11 • Sec. 25. AS 24.60.130(h) is amended to read:

12 (h) A member is disqualified from participating as a member in any
13 proceeding before the committee involving a complaint against the member or an
14 employee whose work is supervised by the member or an advisory opinion
15 requested by the member. If a regular legislative member is disqualified under this
16 subsection, an alternate shall be appointed under (o) of this section. [IF THE
17 LEGISLATURE IS IN SESSION WHEN A LEGISLATIVE MEMBER IS
18 DISQUALIFIED UNDER THIS SUBSECTION, THE PRESIDING OFFICER OF
19 THAT MEMBER'S HOUSE SHALL, WITH THE CONCURRENCE BY ROLL
20 CALL VOTE OF TWO-THIRDS OF THE FULL MEMBERSHIP OF THAT HOUSE,
21 APPOINT ANOTHER MEMBER FROM THAT HOUSE TO ACT AS A MEMBER
22 OF THE COMMITTEE IN THE PROCEEDING. IF THE LEGISLATURE IS NOT
23 IN SESSION WHEN A LEGISLATIVE MEMBER IS DISQUALIFIED, THE
24 PRESIDING OFFICER OF THE HOUSE OF WHICH THE DISQUALIFIED
25 LEGISLATOR IS A MEMBER SHALL APPOINT ANOTHER MEMBER FROM
26 THAT HOUSE, WITH A RECORDED CONCURRENCE OF A MAJORITY VOTE
27 OF THE SUBCOMMITTEE OF THAT HOUSE, TO ACT AS A MEMBER OF THE
28 COMMITTEE IN THE PROCEEDING.]

- 29 • Sec. 26. AS 24.60.130 is amended by adding a new subsection to read:

30 (o) When appointing members of the legislature to serve on the committee, the
31 speaker of the house or the president of the senate, as appropriate, shall appoint an

1 alternate member for each regular member. An alternate must have the same
2 qualifications as the regular member for whom the alternate stands as alternate and is
3 subject to confirmation as required for the regular member. If a regular legislative
4 member of the committee or a subcommittee is disqualified under (h) of this section
5 from serving on the committee or the subcommittee during a proceeding under
6 AS 24.60.170, the chair of the committee or a subcommittee shall appoint the regular
7 member's alternate to serve in place of the regular member in the proceeding unless
8 the alternate is also disqualified from serving. The appointment shall be treated as
9 confidential to the same extent that the identity of the subject of a complaint is
10 required to be kept confidential.

11 • Sec. 27. AS 24.60.134(a) is amended to read:

12 (a) Except as provided in (d) of this section. In [IN] addition to the
13 requirements of this chapter, a public member of the committee, an employee of the
14 committee, or a person under contract to provide personal services to the committee
15 may not, during the person's term of office or employment or during the life of
16 the contract, participate in

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

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

24 (A) a candidate for the legislature;

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

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

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

1 * Sec. 28. AS 24.60.134 is amended by adding new subsections to read:

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

7 (d) A person under contract to provide personal services to the committee who
8 is part of a corporation or partnership that includes individuals who will not be
9 participating directly in the work performed by the entity for the committee may
10 request the committee to exclude members of the entity from some or all of the
11 provisions of this section. The committee may grant the request if it finds that doing
12 so will not lead to the appearance that the committee is subject to undue political
13 influence and if there is no appearance of impropriety.

14 * Sec. 29. AS 24.60.150(b) is amended to read:

15 (b) The committee may

16 (1) recommend legislation to the legislature the committee considers
17 desirable or necessary to promote and maintain high standards of ethical conduct in
18 government;

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

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

27 * Sec. 30. AS 24.60.160 is amended to read:

28 Sec. 24.60.160. ADVISORY OPINIONS. (a) The committee shall issue an
29 advisory opinion within 60 [30] days on the request of a person to whom the chapter
30 applies or a person elected to the legislature who at the time of election is not a
31 member of the legislature as to whether the facts and circumstances of a particular case

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constitute a violation of ethical standards. If it finds that it is advisable to do so, the committee may issue an opinion under this section on the request of a person who reasonably expects to become subject to this chapter within the next 45 days. The 60-day [30-DAY] period for issuing an opinion may be extended by the committee if the person requesting the opinion consents.

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

* Sec. 31. AS 24.60.170(a) is amended to read:

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

* Sec. 32. AS 24.60.170(c) is amended to read:

(c) When the committee receives a complaint under (a) of this section, it may

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[unclear]

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

24 * Sec. 33. AS 24.60.170(f) is amended to read:

25 (f) If the committee determines after investigation that there is not probable
26 cause to believe that the subject of the complaint has violated this chapter, the
27 committee shall dismiss the complaint. The committee may also dismiss portions of
28 a complaint if it finds no probable cause to believe that the subject of the complaint
29 has violated this chapter as alleged in those portions. The committee shall issue a
30 decision explaining its dismissal. Committee deliberations and vote on the
31 dismissal order and decision are not open to the public or the subject of the

1 complaint. A copy of the dismissal order and decision shall be sent to the
 2 complainant and to the subject of the complaint. Notwithstanding (l) of this section,
 3 a dismissal order and decision is open to inspection and copying by the public.

4 * Sec. 34. AS 24.60.170(g) is amended to read:

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

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 S. STA

21 * Sec. 35. AS 24.60.170(h) is amended to read:

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

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* Sec. 36. AS 24.60.170(i) is amended to read:

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

(1) impose reasonable restrictions on the time for this discovery and on the materials that may be discovered;

(2) permit a person who is the subject of a complaint to engage in discovery at an earlier stage of the proceedings;

(3) impose reasonable restrictions on the release of information that the subject of a complaint acquires from the committee in the course of discovery, or on information obtained by use of the committee's authority, in order to protect the privacy of persons not under investigation to whom the information pertains.

* Sec. 37. AS 24.60.170(l) is amended to read:

(l) Proceedings of the committee relating to complaints before it are confidential until the committee determines that there is probable cause to believe that a violation of this chapter has occurred. The complaint and all documents produced or disclosed as a result of the committee investigation are confidential and not subject to inspection by the public. If in the course of an investigation or probable cause determination the committee finds evidence of probable criminal activity, the committee shall transmit a statement and factual findings limited to that activity to the appropriate law enforcement agency. If the committee finds evidence of a probable violation of AS 15.13, the committee shall transmit a statement to that effect and factual findings limited to the probable violation to the Alaska Public Offices Commission. All meetings of the committee before the determination of probable cause are closed to the public and to legislators who are not members of the committee. However, the committee may permit the subject of the complaint to attend a meeting other than the deliberations on probable cause. The confidentiality provisions of this subsection may be waived by the subject of the complaint, except that the subject of the complaint may not waive the confidentiality duty the committee owes to others.

Handwritten notes in the left margin: "4.27", "28", "30", "31", and "of any meeting".

February 12, 1996

CSSB 141 - STA (4/18/95) (version "M")

1. K.10 (Ethics committee)
Disclosures of (possible) conflict of interest.
**-Amend to "oral" disclosure prior to action or vote per S.STA.
2. K.17 - (Ethics Committee)
"Immediate family" definition.
**-Also amend bill to reflect "spousal equivalent" definition throughout bill.
3. K.15 - (Ethics Committee)
Sanctions/enforcement by Ethics Committee
4. K.19 - (Ethics Committee)
Sanctions and timetable for enforcement
5. K.20 - (Ethics Committee)
Gift of educational services approved by Ethics Committee prior to volunteer employment.
6. K.21 - (Sen. Donley)
Use of Office - "maintaining" campaign records in leg. office;
**- (Ethics Committee concerned with "maintaining" term, i.e. does this mean that leg. employee makes out legislator's APOC reports? Needs to be clarified.
7. K.24 - (Sen. Donley)
Allows subject of complaint to attend all meetings concerning complainant.
8. K.25 - (Sen. Donley)
Release of confidential information
**- Clarify if amendment relates to complainant or Ethics Comm.
9. K.27 - (Sen. Donley)
Use of state phone/fax and reimbursement thereof.

To be considered: (i.e "stand alone amendments)

10. M.1 - (Sen Phillips)
Ban on Legislative spouse as lobbyist.
11. K.26- (Sen. Donley)
Legal defense fund
12. K.29 - (Sen. Donley)
Legislative employees performing duties on govt. time - deletes reference to "incidental political campaign activities."
13. K.28 - (Sen. Donley)
Campaign fund-raising notices distributed by legislative employees.
14. K.33 - (Sen. Donley)
Discounts available on state business.
15. K.35 - (Sen. Donley)
Use of state property re: phone/fax (also see K.27 and K.21)
16. Amend - (S.STA)
re: Section 35 - appointing authority of legislative employees should be the legislators that hire them; Rules Committee only approves number of slots per legislator. Legislator should have the option to defer to Rules Committee if warranted. Authority of Staff of Standing Committees should be Rules Committee (although it is understood that individual legislators hire these staff as well.)
17. Amend - (S.STA)
re: Section 36 - Recommended sanctions:
Sanctions could include removal from a leadership position or committee membership. Amend accordingly.
18. Amend - (Ethics Committee)
re: Section 15 - Acceptance of gifts from other states to be handled like gifts from foreign countries, that is, the legislator may accept the gift and immediately turn it over to the Legislative Council for disposition.

19. Amend: - (S.STA)

re: Section 15 and use of "Alaskan" vacation cabin; S.STA was concerned that this amendment address only those properties owned outside the state of Alaska, i.e. condo in Maui...a remote cabin in the bush should not apply here...(Should disclosure still apply here, though?)

20. Amend: (S.STA)

Section 38 - disclosure dates should be changed back to April 15, rather than February 15 to allow for time to receive financial information from partners, etc.

21. Note Effective date of January 1, 1996 - APOC would very much like the date of this legislation to take affect on a calendar year basis, rather than cause additional confusion with commencement in mid-year.

January 29, 1996

ANALYSIS OF AMENDMENTS

FORWARDED TO SENATE STATE AFFAIRS COMMITTEE
from the Select Committee on Legislative Ethics

Amendment K.10: AS 24.60.030(g) CONFLICTS OF INTEREST

The prohibition on taking legislative, administrative, or political action in the current ethics code requires meeting three tests before it takes effect:

1. The legislator or legislative employee must have a substantial equity or ownership interest.
2. The equity or ownership interest will be affected by legislative, administrative or political action.
and
3. The effect of the action on the legislator or employee will be greater than the effect on others in the legislator's or employee's profession, occupation, industry or region.

Test #1: The term "substantial" is not defined in the code. The ethics committee has found the term substantial to be relative. For example, owning \$2000 stock in a major oil company would not be considered substantial whereas owning \$2000 stock in a fledgling business that only issued \$10,000 total in stock would be considered substantial.

Test #2: An example: A legislator's equity or ownership interest, if the legislator owned an air service business, would be affected by a bill to reduce taxes on airplane fuel.

Test # 3: Under current law, in addition to establishing whether the equity or ownership interest is substantial and whether or not the interest would be affected, the legislator or legislative employee must assess if the affect of the action will be greater on the legislator or employee than others in the affected group. For example, if a legislator who owns a piece of property in an inaccessible area introduced an amendment to the capital budget that provided for a road that went only to his or her property, the effect on the legislator's interest would be greater than on the interests of the other property owners in the area.

There is an exception when the Uniform Rules require the legislator to take action. For example, the Uniform Rules state that every legislator present in a House or Senate floor session must vote. According to Rule 34(b), a legislator may ask to be excused from voting, however, the body must give unanimous consent for the legislator to abstain. If any member objects, the legislator must vote. Note that the Uniform Rules do not

require a legislator to be excused nor has either legislative body traditionally excused legislators from voting.

The proposed amendment has the effect of changing the *prohibition* on taking 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.

AMENDMENT K.17: AS 24.60.990(a)(5) IMMEDIATE FAMILY

Lines 1-18 of this amendment change the definition of "immediate family" as it applies to gifts by adding "another person cohabiting with the person in a conjugal relationship with the person" to the list of those people that a legislator or legislative employee may receive gifts from without restriction or disclosure.

The second part of the amendment changes the definition of "immediate family" as it applies to the contract, lease and grant sections (Secs. 8 & 9) of SB 141. Under current law, a legislator or legislative employee would be in violation of the ethics code if an immediate family member, with whom the legislator or employee does not communicate or share finances, were to participate in a state contract, lease or grant prohibited in the ethics code. The proposed amendment would set the restrictions laid out in SB 141 on the spouse, the spousal equivalent and a parent, child and sibling of the person if the parent child or sibling resides with the person, is financially dependent on the person or shares a substantial financial interest with the person. In other words, if the legislator or legislative employee reasonably out to know that a relative is seeking a contract, grant or lease, then the restrictions apply.

AMENDMENT K.15 CORRECTIVE ACTIONS ON LEGISLATORS AND LEGISLATIVE EMPLOYEES and SANCTIONS ON EMPLOYEES AS 24.60.170(g) & (h)

This amendment 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.

Lines 7-10 (Page 2) of the amendment apply to cases where legislative employees have been formally charged, found in violation and sanctions have been recommended by the committee to the appointing authority. The appointing authority would be required to report back to the committee at a time specific concerning the employee's compliance.

K. 19 AMENDMENT. SANCTIONS ON LEGISLATORS AS 24.60.174 and AS 24.60 174(a)

This amendment sets out a procedure for the ethics committee and the legislature to follow concerning sanctions on legislators. Lines 3-13 set out a requirement, that 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.

Lines 14-23 require 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.

Submitted to Senator Sharp, Chair, Senate State Affairs 1/29/96
Susan Barnett, Staff to Select Committee on Legislative Ethics

AMENDMENT K.10

OFFERED IN THE SENATE

TO: SB 141

*Amendment
to SB 141
original
text*

1 Page 3, after line 10:

2 Insert a new bill section to read:

3 • Sec. 5. AS 24.60.030(g) is repealed and reenacted to read:

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

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

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