

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 00/2

9470 HOUSE STATE AFFAIRS

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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 10, 1997

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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Gary P. Bader, Chair
Alaska State Personnel Board
c/o Beverly Reaume
M/S 0201
Department of Administration
10th Floor, Alaska State Office Building
Juneau, AK

Re: Dismissal of Ethics Act
complaint against Robert
Silverman

Dear Mr. Bader:

This letter is to inform you that the Department of Law has stipulated to the dismissal of an Ethics Act complaint filed against Robert Silverman, a former employee of the Department of Education. I am enclosing a copy of the stipulation with this letter. The Accusation, which includes a description of the Ethics Act violations complained of against Mr. Silverman, is on file with the Personnel Board and will be provided to you by Beverly Reaume at your request.

The Accusation arose out of conduct that occurred in 1993 and 1994. Department of Education management discovered irregularities in the travel reimbursement requests made by Mr. Silverman. The irregularities resulted in his personal financial gain. Information about the travel irregularities was turned over to the Alaska State Troopers for investigation and disposition, and on March 8, 1995, Mr. Silverman left state service. Once the criminal investigation had begun, the Attorney General was required to hold in abeyance any further action on the Ethics Act violations because the violations involved the same conduct.

A criminal complaint was filed against Mr. Silverman on November 8, 1996. The Ethics Act Unit in the Department of Law became concerned that the tolling date of the statute of limitations was drawing near and a further delay in the criminal proceeding might preclude action under the Ethics Act. On November 26, 1996, the Attorney General filed an Accusation against

Gary P. Bader, Chair
Alaska State Personnel Board
c/o Beverly Reaume

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Mr. Silverman with the Personnel Board. A notice of stay accompanied the Accusation, and Mr. Silverman's attorney was notified that no response to the Accusation would be expected pending disposition of the criminal action. In a plea agreement, Mr. Silverman pled guilty to some of the criminal charges and was convicted and sentenced on January 6, 1997. The sentence, in summary, required reimbursement and fines in the approximate amount of \$2,500, probation, and community service time. The remaining criminal charges were dismissed.

Three days after the convictions in the criminal case Mr. Silverman's counsel was notified that the stay was lifted and an answer to the Accusation should be filed with the Personnel Board. Settlement negotiations began shortly thereafter. The Department of Law concluded that a resolution of the matter under AS 39.52.330 would be in the public interest. The Department agreed that the case could be settled and the Accusation dismissed if Mr. Silverman would pay \$7,226 and admit that he had violated the Ethics Act. The Department of Education concurred that the size of the settlement would have a valuable deterrent effect and was in the public interest. The settlement was agreed to with those understandings. Mr. Silverman has agreed to make periodic payments, the last payment to be made on or before October 15, 1997.

This matter is public and you may discuss it at a public meeting. If you have any questions, please feel free to contact me.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Thomas H. Dahl
Assistant Attorney General

THD:pao

Enclosure

cc: Shirley Hol'oway, Commissioner
Rick Cross, Deputy Commissioner

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IN THE DEPARTMENT OF LAW FOR THE STATE OF ALASKA

In the matter of)
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 Robert Silverman,)
)
 Respondent.)
_____)

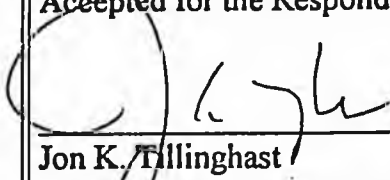
STIPULATION TO RESOLUTION AND DISMISSAL
OF ETHICS ACT ACCUSATION

Pursuant to AS 39.52.330, Attorney General Bruce Botelho and Respondent Robert Silverman stipulate to dismissal of the November 20, 1996, Ethics Act Accusation filed against Mr. Silverman under the following terms and conditions:

1. Mr. Silverman acknowledges that he has violated the Executive Branch Ethics Act, AS 39.52.
2. In resolution of the Ethics Act violations, Mr. Silverman agrees to pay a fine of \$7226.00 to the state, according to the following schedule: \$2409 on February 15, 1997; \$2409 on June 16, 1997; \$2408 on October 15, 1997.
3. The state agrees to dismiss with prejudice the November 20, 1996, Ethics Act Accusation against Mr. Silverman. The state will not pursue any action under the Ethics Act regarding the facts described in the Accusation if Mr. Silverman complies with the terms of this agreement. If Mr. Silverman does not comply with this agreement, the state may pursue an accusation against Mr. Silverman before the Personnel Board related to this matter, within two years from the time it has notice of the breach, regardless of the statute of limitations in AS 39.52.310(h).
4. This document is a public document. A public officer who obtains this document in the course of the officer's official duties may use this document only for legitimate state purposes, and may not make an improper use of this document.

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Accepted for the Respondent:

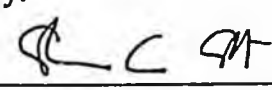


Jon K. Tillinghast
SIMPSON, TILLINGHAST, SORENSEN,
& LORENSEN
Attorney for Respondent

Accepted for the State:

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Stephen C. Slotnick
Assistant Attorney General

DATED: 2/6/97

DATED: 2/6/97

ATTORNEY GENERAL, STATE OF ALASKA
DIMOND COURTHOUSE
P.O. BOX 110300, JUNEAU, ALASKA 99811
PHONE: 465-3600

Sectional analysis of provisions of CSSB 105 (FIN) am that significantly affect standards of conduct under the Executive Branch Ethics Act

1. Page 41, lines 26-29; Sec. 71. Amends AS 39.52.010(a) to make the "appearance of impropriety" a violation of the Executive Branch Ethics Act. This is a complete departure from the existing Executive Branch Ethics Act. Indeed, the legislative history of the Act reveals that one of the main goals of the original legislation was to move away from the unenforceable common law "appearance" standard. See Letter from Governor Sheffield to Senate President Bennett at 1 (April 2, 1986) (primary goal of Ethics Act is "replacement of the relatively unknown and unworkable aspects of the common law on conflicts of interest with concrete standards of conduct"). The existing Act forbids a public officer from taking official action on matters where the officer has an *actual* conflict of interest. AS 39.52.120. The regulations adopted under the existing Act specify that an appearance of impropriety does not establish an ethics violation. 9 AAC 52.010.

2. Pages 42, line 30,--43, line 1; Sec. 74. This section applies new standards for misuse of official conduct to a select group of executive branch officials called "state officials." Under Sec. 102, a state official includes, in general, employees in the exempt or partially exempt service above range 19, and members of boards and commissions. *The new standards do not apply to any state employee in the classified service, regardless of whether that employee makes discretionary policy decisions. The new standards are stated as being "in addition to" the standards already existing in law. Under the tenets of statutory construction, however, a court will construe the Ethics Act as a whole. Banner v. Wichman, 874 P.2d 949, 957 (Alaska 1994) ("Whenever possible, we construe each part or section of a statute with every other part or section, to produce a harmonious whole."). It will interpret each statute in a manner that avoids rendering a related statute superfluous. See Rydwell v. Anchorage School Dist., 864 P.2d 526, 530-31 (Alaska 1993) ("[w]e recognize a presumption that the legislature intended every word, sentence, or provision of a statute to have some purpose, force, and effect, and that no words or provisions are superfluous."). Here, because "state officials" are also "public officers" any interpretation of the new standards that overlaps with the old standards would render the new standards superfluous. Therefore, a court will assume that the old standards do not prohibit the conduct that is proscribed in the new law that applies only to state officials. Put another way, any statute that reads "a state official may not . . ." may be interpreted to mean "a public officer who is not a state official may . . ."*

3. **Page 43, lines 2-4; Sec. 74.** Creates AS 39.52.125(a)(1), which prohibits state officials from taking official action that *substantially* benefits or harms the financial interest of a person with whom the official is *negotiating* for employment. This is a significantly lower standard than that applied under the existing Ethics Act, which prohibits a public officer from taking official action if that official action has more than an insignificant effect on the officer's personal or financial interest. Under the existing law, an officer may not take official action if the action will affect the interests of the officer's prospective future employer. The current law does not require that the state prove that the effect of the action will be *substantial* or that *negotiations* be in progress. It is not clear whether a court would apply the old, more rigorous, standard to public officers who are not "state officials," or whether a court would conclude that no standards at all apply to prospective employment of those employees not specifically enumerated in the new statute.

4. **Page 43, lines 5-8; Sec. 74.** Creates AS 39.52.125(a)(2), which prohibits knowing uses of state funds for purposes not approved by law. Current law prohibits action that intentionally confers "unwarranted benefit or treatment" on any person. AS 39.52.120. Under the ethics regulations, this would cover unauthorized uses of state funds or resources provided that the officer making the use did so with an improper motivation. "Knowingly" usually means that the officer be aware of what the officer is doing, but not necessarily be aware that the action violates the law. Under the new law, a state official would be in violation of the Ethics Act if the officer knowingly makes an unauthorized use of public funds, even if the officer believes that the use is authorized and in the best interest of the state.

5. **Page 43, lines 9-11; Sec. 74.** Creates AS 39.52.125(a)(3), which prohibits "state officials" from requiring a public officer to perform services for the official on state time. Appears to be redundant with AS 39.52.120(a) and AS 39.52.120(b)(5).

6. **Page 43, lines 12-14; Sec. 74.** Creates AS 39.52.125(a)(4), which prohibits "state officials" from using of state resources for political uses. Completely redundant with AS 39.52.120.

7. **Pages 43, line 19,--44, line 6; Sec. 74.** Creates AS 39.52.125(c), which prohibits "state officials" from using state funds to distribute a "political mass mailing" during a "campaign period," unless approved by the Personnel Board. Current law would prevent any public officer from using state funds for political purposes at any time.

8. **Page 44, lines 7-11; Sec. 74.** Creates AS 39.52.125(d), which prevents "state officials" from posting campaign materials in a state facility. Redundant with AS 39.52.120(b)(3).

9. **Page 44, lines 12-21; Sec. 74.** Creates AS 39.52.125(e), which prohibits "state officials" from retaliating or rewarding another's political contributions. Redundant with the prohibition in AS 39.52.120(a) against providing unwarranted benefits or treatment; existing law is broader in that it would apply to unwarranted treatment based on any political activity not just contributions.

10. **Page 44, lines 22-24; Sec. 74.** Creates AS 39.52.125(f) which allows a "state official" to serve on a board, even if that board "regularly has a substantial interest in the official actions of the official," as long as the state official discloses the interest to the personnel board. This section significantly undercuts and is impossible to harmonize with existing AS 39.52.170(a) and 39.52.150. Under existing law, a public officer may serve on a board unless: (1) the service is incompatible with the officer's state employment; AS 39.52.170(a); or (2) the board receives a state grant, contract, lease, or loan that the officer may take official action on, and the award is either (i) from the officer's administrative unit, or (ii) not competitively solicited and made by the officer's agency; AS 39.52.150. Under current law, service on a board that is affected by the officer's action would be considered incompatible with state employment. The new law would consider such a conflict of interest "compatible." The new law would probably be held to supersede AS 39.52.150 for "state officials" and allow them to sit on boards even if they award grants, contracts, leases, or loans to that board. It is not clear to what extent the existing restrictive standards will continue to apply to "public officers who are not state officials."

11. **Pages 44, line 25--45, line 2; Sec. 74.** Creates AS 39.52.175(g), which allows political activity during work hours if the political activities are part of the normal governmental duties of the state official, such as answering telephone calls and handling income correspondence. Under the current law, ministerial tasks would not be violations of the ethics act. Yet, when performed by personnel range 19 and above, these tasks are not likely ministerial, but more likely political acts. As such, they would not be allowed under current law. This section appears to weaken the ethical standards of state employees.

12. **Page 45, line 7--48, line 2; Sec. 76.** Amends AS 39.52.130, the gifts statute, by adding several new provisions that apply only to "state officials." This section undercuts current law because it allows "state officials" to accept work-related gifts up to \$250; current law cuts off gifts at \$50. This section also undercuts current law by narrowing the definition family members who may accept gifts that would be prohibited if accepted by the state official; current law would exclude gifts to grandchildren. (Although the new law expands to include relatives of the official's spouse.) Given that the current law is more restrictive, the new law is either completely superfluous, or the current law is repealed by implication.

13. **Page 48, lines 4-16; Sec. 77.** Creates AS 39.52.132, a new section that restrict campaign activities of "state officials" during days that the legislature is in session. These sections raise constitutional questions in that they restrict the speech and associational rights of state citizens, including citizens who are not state employees, without protecting a corresponding significant interest of the state. *See, e.g., State v. Haley*, 687 P.2d 305 (1984); *Buckley v. Valeo*, 424 U.S. 1 (1976). It is far from clear that the government has an interest in restricting legitimate campaign activity of executive branch employees during the legislative session, much less of volunteer board and commission members.
14. **Page 48, lines 17-19; Sec. 77.** Creates AS 39.52.134, which makes it an ethics violation for "state officials" to become candidates or file declarations of candidacy for the legislature.
15. **Page 48, lines 20-21; Sec. 77.** Creates AS 39.52.136, which makes it an ethics violation for state officials to violate the open meetings act. This will likely become a trap for unwary citizens who volunteer for public service on state boards or commissions.
16. **Page 48, line 28,--50, line 2; Sec. 79.** Creates AS 39.52.155, which requires "state officials" to disclose close economic associations. Because no action is required on the disclosure, this section more properly belongs in AS 39.50 than 39.52.
17. **Page 50, lines 8-11; Sec. 80.** Amends AS 39.52.170 to clarify that payment by a private entity for services provided by a state official at above market rates would be incompatible outside employment, but only for "state officials."
18. **Page 50, lines 18-21; Sec. 81.** Creates new subsection AS 39.52.170(c), which prohibits state officials from accepting payment for a speech or appearance. This section applies to citizens who serve on boards and commissions and is not limited to speeches connected with the official's state duties. It is likely unconstitutional under *United States v. National Treasury Employees Union*, __ U.S. __, 115 S.Ct. 1003 (1995).
19. **Pages 50, line 27,--51, line 1; Sec. 83.** Amends AS 39.52.180(c) to require a one year lag period before former "state officials" may work on matters connected to their former state service, even if the work would be in the public interest.
20. **Page 51, lines 3-6; Sec. 84.** Amends AS 39.52.180 by adding subsection (d) to prohibit waivers of the two-year lag for former state officials if the proposed employment involves lobbying. This section will not likely have much effect because most lobbying involves legislation, which is not a "matter" that would create a conflict for former state officials under AS 39.52.180(a). Thus, usually no waiver is needed for a former official to immediately engage in lobbying.

Alaska State Legislature

Select Committee on Legislative Ethics

HOUSE SUBCOMMITTEE

In re: Representative Jerry Sanders

DECISION: H 96-02

The House Subcommittee of the Select Committee on Legislative Ethics (Committee) finds that Representative Jerry Sanders violated the Ethics Act by using state funds, legislative staff, state equipment and state facilities for nongovernmental purposes, including political purposes. The Committee reached this decision based on clear and convincing evidence and did not find it necessary to make inferences from those witnesses who exercised the privilege against self-incrimination.

In this decision, the Committee sets out the procedural history of the complaint, the reasons for its determination, including a review of the evidence presented at the public hearing held November 14th and 15th 1996, and recommendations to the House of Representatives for sanctions to be imposed on Representative Sanders.

A. Procedural History

A complaint was filed with the Committee against Rep. Sanders on April 19, 1996. Following the requirements of AS 24.60.170, the Committee determined that the complaint was in the proper form and contained allegations, which if true, would constitute violations of the Ethics Act, and issued a resolution defining the scope of investigation into the complaint on July 24, 1996. An investigation was conducted. After reviewing the results of the investigation, on September 23, 1996, the Committee found probable cause to believe Rep. Sanders had committed violations of the Ethics Act that might require sanctions instead of, or in addition to, corrective action and therefore issued formal charges.

Rep. Sanders was served with the charges but did not choose to answer them. Therefore the Committee scheduled a hearing on the charges for November 14th and 15th, 1996. The Committee appointed Michael N. White as its Hearing Officer to address pre-hearing issues and preside over the hearing. On October 28, 1996, Rep. Sanders sought relief in Superior Court in Anchorage on several pre-hearing issues. His case was dismissed because the Superior Court found it did not have jurisdiction over the internal affairs of the Legislature.

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The Committee held a public hearing on the charges on November 14th and 15th, 1996. Members of the Committee present (Rep. Cynthia Toolcy and the public members: Joseph Donahue, Ed Granger, Margie Mac Neille, Shirley McCoy and Edith Vorderstrasse) heard testimony presented by the Committee's counsel Michael Spaan and staff. Rep. Sander's attorney, Lester Syron, cross-examined Committee witnesses but elected not to present any witnesses. At the conclusion of the public hearing, the Committee began its deliberations, using only the evidence admitted during the hearing. After determining that violations had occurred, the Committee reviewed the public record of pleadings and correspondence which had been received after the probable cause determination.

Rep. Sanders, a member of his staff and an ex-employee claimed their 5th Amendment right not to testify in response to numerous questions at the hearing.¹ Although the Committee is permitted, as a matter of law, to draw inferences from their doing so, it did not do so in making its findings or reaching its decision. Unfortunately, the witnesses' exercise of their privilege may have deprived the committee of information which could have explained, or made less serious, the violations which the evidence presented demonstrated. The Committee regrets that it has never heard Rep. Sanders' side of the story, although he has been given every opportunity to tell it. However, the Committee must deal with the evidence before it. The Committee will not be referring this matter to any other authority under AS 24.60.170(1).

B. Reasons for determination

The Committee finds, as alleged in Charge 1 of the formal charges.

That Rep. Sanders used public funds, facilities, equipment, services or another government asset or resource for a non-governmental purpose or for his own private benefit or the benefit of another person by producing or mailing, to one or more people, a letter dated March 4, 1996 concerning participation in the Republican Party's presidential straw poll, in violation of AS 24.60.030(a)(2).

On January 29, 1996, the Republican Party of Alaska held a Presidential Straw Poll. (Testimony of Linda McKay) People participating in the straw poll in District 19, Rep. Sanders' district, wrote their names and addresses on sign-in forms. (Ex. 5)

Earnest Woods, who attended the Republican Straw Poll for District 19, subsequently received a letter. (Ex. 6) The letter is on the letterhead of Rep. Jerry Sanders, which indicates he serves as Chairman of the Economic Development Committee of the Alaska State Legislature, includes the seal of the state of Alaska and is marked "Official Business". The letter is dated March

¹ They declined to testify on the advice of their attorney on the grounds that their testimony might subject them to criminal prosecution.

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4, 1996; its envelope bears the return address "Representative Jerry Sanders, State Capitol, Room 13, Juneau, Alaska 99801-1182" and a Juneau postmark of March 5, 1996. The letter is signed "Jerry". Under the typed signature line, "Representative Jerry Sanders", the initials "JS:jl" appear. (Testimony of Earnest Woods, Exs. 5 & 6)

The text for this letter and a mailing list containing 265 names corresponding to names on the District 19 Republican Straw Poll sign-in forms were found, under the file names "strawpoll" and "poll", in a computer located in Rep. Sanders' office and used by his employee, Jeanne Lovell. File information from that computer shows that one document was last modified on March 4, 1996 at 10:38 am and the other was last modified at 10:43 am that day. (Exs. 11 and 12)

March 4th, 1996 was a Monday during the legislative session and it was not a holiday. Rep. Sanders' office employees during the legislative session included Jeanne Lovell and Patricia Perez. (Exs. 8 & 9) Ms. Lovell's time cards for the period indicate that she did not file any leave slips for March 4th or 5th (or any at all for the period from January 29th through March 5th.) (Ex. 7) Ms. Perez did not recall doing any project that wasn't "with the job". (Testimony of Patricia Perez) Ms. Perez told the Committee's investigator, Susan Barnett, that she printed out, folded and mailed the March 4 letter to Republican Straw Poll participants, assisting Jeanne Lovell in the project. (Testimony of Susan Barnett, Ex. 15) The Committee determined that the tasks related to the letter were completed while the employees were on government time.

On March 5, 1996, \$76.48 was charged to the Juneau Mailroom Account maintained for Rep. Sanders by Legislative Services, reflecting the mailing of 239 pieces of mail. (Ex. 10) That account was funded by transfers, of \$100 on January 16, 1996 and \$250 on March 7, 1996, from Rep. Sanders' "accountable" office account. (Ex. 4) Legislators receive an office allowance of \$6000 per year from the Legislature. They may choose to take this allowance in cash, after payroll and income tax deductions, or they may leave it on account with the Legislative Affairs Agency. If they choose this option, they may only submit for payment business-related expenses, substantiated by receipts. No taxes are paid on money disbursed under this account. (Exs. 1 & 3). Rep. Sanders chose the "accountable" office allowance plan. (Ex. 4) The Committee determined that funds held in the "accountable" office account are public funds, not to be used for personal purposes.

The Committee finds that there is clear and convincing evidence Rep. Sanders sent this letter as part of a mass mailing on March 5th. It was on his stationary, prepared and mailed from his office by his employees, and its signature matches the signature on his office allowance form. (Ex. 4) The Committee finds that the act of preparing and sending the letter used public funds (the accountable office allowance) for postage; used public facilities and equipment (the state computer in his office) and used public resources (the staff time of his employees).

The text of the letter is as follows :

I would like to take this opportunity to thank you for your participation in the first presidential straw poll to be held in Alaska. Not only have we broken new ground historically, politically we have gained prestige on the national level.

It was exciting to learn that District 19's participation was among the strongest areas to go out and cast a vote for a presidential candidate. With the inclement weather to deal with, I really appreciate the interest shown by my fellow Republicans.

Seeing a lot of you in the halls of the polling station within my district was indeed a pleasure. If I didn't get a chance to talk with you, please accept my apology.

I have always held in high regard those people who will go that "extra mile" to do what is needed. Taking the time out of your busy schedule to fulfill your civic duty is greatly appreciated.

The Committee finds, by clear and convincing evidence, that this letter does not have a legislative purpose. It concerns a function of a political party on a national level, the effort to influence the choice of the Republican nominee for President. It was sent to active members of Rep. Sanders' political party, in his district, in a year he was running for election. Legislators may use public funds, facilities and staff to communicate with constituents if that communication has a connection to a legislative purpose. This letter has a political, not a legislative purpose. The Committee finds that Rep. Sanders' use of public funds, facilities and equipment and staff time was for a nongovernmental purpose, and for his private benefit (campaign good will) and for the benefit of another person (the Republican Party). Under AS 24.60.030(a)(2), any one of these purposes is a violation.

AS 24.60.030(a)(2)(A) does not prohibit limited use of public funds, facilities and equipment or resources for personal purposes if the use does not interfere with the performance of public duties and the cost or value related to the use is nominal. The Committee finds that this exception does not apply in this case. Ms. Perez told Ms. Barnett that she and Ms. Lovell worked on the production and mailing of the letter for about a day, with other legislative duties being done in between. (Testimony of Ms. Barnett, Ex. 15). Ms. Donna Daniels, a skilled legal secretary, recreated the letter and a mailing list from the District 19 sign-in forms, printed them, folded them, stuffed them in envelopes and ran them through a postage meter in 6 1/2 hours. (Testimony of Donna Daniels) Unless Rep. Sanders' employees had no public duties to perform (an assumption the Committee is unwilling to make), the tasks related to the letter interfered by necessity with their public duties for that period. The Committee finds the cost of producing the mass mailing is not nominal.

The Committee finds, as alleged in Charge II,

That Rep. Sanders used or authorized the use of state funds, facilities, equipment, services or another governmental asset or resource for the purpose of political fundraising or campaigning by producing and mailing, to one or more people, a letter dated March 4, 1996 concerning participation in the Republican Party's presidential straw poll, in violation of AS 24.60.030(a)(5).

Under Charge I above, the Committee has already found that Rep. Sanders used state funds, facilities and equipment, and resources (staff time) to produce the letter dated March 4th. Under this section of the Ethics Act, the issue is whether the letter was for the purpose of political fundraising or campaigning. The Committee, by clear and convincing evidence, finds that the letter was not for political fundraising but that it was for the purpose of political campaigning, for the Republican Party generally and Rep. Sanders individually. (Ex. 6)

Under AS 24.60.030(5), just as under AS 24.60.030(a)(2), limited use of state property and resources for personal purposes is permitted if the use does not interfere with the performance of public duties and the cost is nominal. As in Charge I, the Committee finds this exception does not apply.

The Committee finds, as alleged in Charge III,

That Rep. Sanders required an employee to assist in political party or candidate activities, campaigning or fundraising while on government time, by requiring a legislative employee to perform duties related to the production and mailing of a letter, to one or more people, dated March 4, 1996 concerning participation in the Republican Party's presidential straw poll, in violation of AS 24.60.030(b).

The Committee finds, by clear and convincing evidence, that Rep. Sanders did so violate AS 24.60.030(b). Rep. Sanders' initials and signature appear on the letter Mr. Woods received, indicating that he generated the letter. It is highly improbable to the Committee that the mass mailing took place without his directing his employees to carry it out. Legislators are responsible for the activities of their employees while the employees are on government time. As discussed in Charge II above, the letter constituted a political party activity and campaigning (but not fundraising).

C. Cooperation of Representative Sanders

Under AS 24.60.170(k), the Committee's decision following a public hearing may indicate whether the subject cooperated with the Committee in its proceedings. Rep. Sanders did not cooperate with the Committee in this case. In several areas, Rep. Sanders' view of the applicable law is different than that

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of the committee's, specifically whether the judicial branch of state government has jurisdiction over the Ethics Committee and whether one person can claim the 5th Amendment privilege against self-incrimination to avoid testimony that might incriminate another person. A subject does not have to agree with the Committee to be considered cooperative, and the committee does not hold these differences of opinion against Rep. Sanders. However, these issues aside, the Committee finds, upon reviewing the pleadings and correspondence in the case since the probable cause determination, a pattern of delaying and obstructing tactics (including lack of compliance with the Hearing Officer's orders) which constitutes a lack of cooperation which was inappropriate.

D. Recommended Sanctions

Since the Committee has found both violations of the Ethics Act and a lack of cooperation by the subject, it must recommend to the House the sanctions it deems appropriate. In making those recommendations the Committee considered several factors.

First, the offenses must be looked at in light of the spectrum of possible violations. A considerable amount of legislative staff time, \$76 in postage, and the official state letterhead were used for partisan political purposes. Although significant, the offenses are not the most serious.

Second, the Committee has found probable cause to believe that Rep. Sanders violated the Ethics Act twice before and has required corrective action. Although the second offense was minor, both violations involved using state resources for personal or political benefit. It does not appear that the corrective actions required by the Committee in the past have had the desired positive effect on Rep. Sanders' conduct in this area.

Third, state resources are entrusted to the legislators for their use in performing their legislative functions. The public has the right to expect that these resources will not be diverted to other purposes. Public trust in the legislature depends on the assurance that a legislator will not use these resources in partisan efforts or for personal benefit.

The Committee and the Legislature must take a strong stand when misuse of public resources occurs. The Committee has increased the sanctions recommended because of the prior findings of probable cause that Rep. Sanders violated the Ethics Act and because of his lack of cooperation.

The sanctions recommended by the Committee for imposition by the House are:

1. Rep. Sanders shall be stripped of any committee chairmanships he may hold for his next term. Being a committee chair places additional state



Official Business

Alaska State Legislature

Select Committee on Legislative Ethics

P.O. Box 1
State Capitol
Juneau, Alaska 99811

April 15, 1993

ADVISORY OPINION 93-3

RE: Receipt of a prize in a raffle.

~~You are a legislator covered by the legislative ethics code~~ who purchased a ticket for a raffle sponsored by Perseverance Theatre, a nonprofit performing arts organization, and won sixth prize. The total value of the items included in the prize was \$455. The raffle was open to the general public and you were told that a participant in the raffle had a one in 80 chance of winning a prize. The prize list you enclosed from Perseverance Theatre indicates that the raffle is a fundraiser for the theatre.

You ask whether you must disclose receipt of your prize. You have also pointed out that the question may be of interest to others covered by the legislative ethics code so you have no objection to the opinion being made public.

Based on the facts that you have described above, the committee concludes that your participation in the raffle does not raise any obligations under the legislative ethics code. You purchased a chance to win a prize, and the odds were clearly against winning. Therefore, the committee concludes that your prize should not be considered a gift under AS 24.60.080. The opportunity to buy raffle tickets was in no way limited to legislators and legislative employees, so there is no implication that the raffle was used as a means of disguising a gift to you or other persons covered by the legislative ethics code. The fact that the value of the prize substantially exceeded the purchase price is offset by the odds against receiving a prize at all.

The prize does not fall within any of the sections that require disclosure -- it is not a state program or loan, which you would be required to disclose under AS 24.60.050, and does not establish a close economic association between you and any of the types of individuals listed in AS 24.60.070. The committee notes that Perseverance Theatre does have a registered lobbyist; however, the prize was not received from the lobbyist but rather from the organization.

In conclusion, the committee finds that you may accept your prize without obligation to disclose under the legislative ethics code.

Adopted by the Select Committee on Legislative Ethics on April 15, 1993. Members present and concurring the opinion were:

Joseph P. Donahue, Chair
Ed Granger, Vice-Chair
Margie MacNeille
Shirley A. McCoy
Edith A. Vorderstrasse (participated by teleconference)
Senator Jay Kerttula
Senator Drue Pearce
Representative Brian Porter
Representative Jerry Mackie

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Official Business

Alaska State Legislature

Senate

State Capitol
Juneau, AK. 99801-1182

Rules Committee

MEMORANDUM.

TO: Representative James, Chairman
House State Affairs Committee

FROM: Senator Kelly, ^{TK}Chairman
Senate Rules Committee

DATE: 22 April 1997

IN RE: scheduling SB 105

Please schedule Senate Bill 105, "An Act relating to legislative and executive branch ethics ...," for a hearing before the House State Affairs Committee as soon as possible. A current sectional analysis is attached. Benjamin Brown of my staff will provide your Committee Aide with any necessary supplementary documentation. Ben can be reached at extension 4823 to answer any questions you or your staff may have.

Thank you for your consideration of this request.

Alaska State Legislature

Select Committee on Legislative Ethics

716 W. 4th, Suite 230
Anchorage AK
(907) 258-8172
FAX: 258-2106

Mailing Address:
P.O.Box 101468
Anchorage, AK
99510 - 1468

DATE: April 22, 1997

TO: Representative James, Chair
House State Affairs Committee

FROM: Susie Barnett, Staff
Select Committee on Legislative Ethics

RE: Review of Ethics Bill, CSSB 105 (FIN) am

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

This document is intended to supplement the bill, relating to changes to the Legislative Ethics Code, AS 24.60, the Executive Branch Ethics Act, AS 39.52 and the State Personnel Act, AS 39.25, the State Elections Act, AS 15.13.. The purpose of this document is to provide an ethics committee analysis of the bill. (Herein, "committee" refers to ethics committee.)

The Senate State Affairs Committee added, (27 page amendment) the sections dealing with the executive branch ethics/personnel board, and amended AS 24.60.260(c) by deleting a reference to inadvertent late disclosures.

The following sections were amended by the Senate Finance Committee: 1, 3, 4, 8, 10, 26, 47, 62, 65, 67, 113, 114, 115. Note comment re: Section 80.

The following sections were amended on the senate floor: Secs 1,2, 3,4, 5, 8, 16, 23, 113

SECTION 1: AS 15.13.072.(d) RESTRICTIONS ON SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS. Amends the State Elections Act to prohibit candidates for election or reelection to state office from soliciting or

accepting a campaign contribution while the legislature is in regular or special session. (as amended on the senate floor)

(Senate Finance had previously adopted an amendment which allowed incumbent legislators and certain legislative employees to solicit and accept contributions for non-legislative campaigns during session but retained a "fundraising during session restriction" on the governor and Lt. governor.)

SECTION 2: AS 15,13,074(c) PROHIBITED CONTRIBUTIONS prohibits a person or group from contributing to a candidate for state office while the legislature is convened in its regular session. (as amended on the senate floor)

SECTION 3: AS 15.13.116(a) DISBURSEMENT OF CAMPAIGN ASSETS As amended on the senate floor, allows a transfer of unused campaign contributions to a legislative office account reserve, in accordance with the new subsection which follows. Secs. 113 and 114 allow this section and the section below to take effect immediately and to be retroactive to December 31, 1996. (As amended on the senate floor)

(The Senate Finance Committee had previously adopted language to increase the portion of the unused campaign contribution that may be transferred to a future election account, from \$10,000 to \$30,000 for candidates for senate and from \$5,000 to \$15,000 for candidates for the house. The floor amendment deleted that language.)

SECTION 4: AS 15.13.116 DISBURSEMENT OF CAMPAIGN ASSETS New subsection (d) allows, but does not require, a legislator to transfer \$5000 per year from the office account reserve to a legislative office account, with a limit of \$20,000 for senators and \$10,000 for representatives. (Current law 15.13.116 (9)(D) allows a one time transfer of funds to an office account at \$5000 multiplied by the number of years in the term.) At the end of the legislator's term, a balance in the office account must be disposed of as provided in (a) (1)-(8) of this section, which includes paying campaign bills, victory party, charitable donations, repaying contributors, candidate defense fund, and future election accounts. Secs. 113 and 114 allow this section and the section above to take effect immediately and to be retroactive to December 31, 1996. (Added by Sen. Fin., amended on the senate floor)

SECTION 5: AS 15.13.400 DEFINITIONS Adds "state office" to the list of defined terms in the State Elections Law, relating to changes made in Secs. 1 and 2 of this bill. "State office" is defined as office of governor, Lt. governor, member of the legislature or similar state office. (As amended on the senate floor)

SECTION 6: AS 23.20.526(d) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT. Conforming amendment based on changes in this bill to the executive branch employment security statutes to ensure that the people who are not eligible for unemployment compensation remain ineligible.

SECTION 7: AS 24.25.010(c) 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 sets out general authority for legislative subpoenas and includes a reference requiring the concurrence of the Senate President or Speaker of the House. Subsection(e) currently provides that the section does not apply to the Legislative Council or the Legislative Budget and Audit Committee. Like the ethics committee, both the council and LBA are permanent interim committees and both have express grants of authority to subpoena witnesses. It is the opinion of the ethics committee and the committee's legal counsel, that not including the ethics committee in the AS 24.25.010(e) exemption was an oversight, given the specific grant of authority to subpoena witnesses in the ethics code itself.

SECTION 8: AS 24.45 NEW SECTION 24.25.165. PROHIBITION ON LOBBYING ACTIVITY FOR SPOUSES AND COHABITANTS OF LEGISLATORS (a) Prohibits a spouse or a person cohabiting with a legislator from lobbying the executive branch or legislature. (b) defines "person cohabiting". (Amended on senate floor)

(The senate floor amendment deleted a previous Sen. Fin. amendment made at the request of APOC, to streamline the lobbyist related reporting requirements set out in AS 24.60.070(d) and AS 39.52.155 of this bill, for legislators, legislative employees and state officials. That language added a requirement that the lobbyist report on the lobbyists registration form, whether their spouse or spousal equivalent is a legislator, legislative employee or state official.)

SECTION 9: AS 24.45.171(12) DEFINITIONS. Adds "another legislative employee subject to disclosure" to the definition of public official or public officer in relation to lobbying statutes. (see AS 24.60.990(a)(15) in this bill)

SECTION 10: AS 24.60.030 PROHIBITIONS/Legislative Ethics Code

Sub-para: (a)2(A): As amended by Senate Finance, the use of state resources for personal purposes would be allowed if the use does not interfere with the performance of public duties and either the cost is nominal or the user reimburses the state for the cost. (Amended by Sen. Fin.)

Sub-para: (a)2(C): As amended by Senate Finance, allows "facsimile" use for a nongovernmental use or private benefit if the use does not carry a special charge. (Amended by Sen. Fin.)

Sub-para:(a)5(A): As amended by Senate Finance, the use of state resources for political fundraising or campaigning purposes would be allowed if the use does not interfere with the performance of public duties and either the cost is nominal or the user reimburses the state for the cost. (Amended by Sen. Fin.)

Sub-para:(a)5(C): As amended by Senate Finance, allows "facsimile" use for political fundraising or campaign uses if the use does not carry a special charge. (Amended by Sen. Fin.)

Sub-para:(a)5(D): Allows storing and maintaining campaign records (such as APOC reports) in a legislator's office. The Senate Finance Committee deleted the language in the Sen. State Affairs CS which set out that the records could not be displayed publicly. (Amended in Sen. Fin.)

SECTION 11: AS 24.60.030(c) MASS MAILING: The ethics code currently prohibits use of state funds to print or distribute a mass mailing from or about a legislator who is a candidate for state office, during the period 90 days before the primary and ending the day after the general election. The proposed language expands the prohibition to include legislators and legislative

employees who are candidates for federal and municipal offices or to telephone and electric cooperatives. While other sections of the ethics code clearly prohibit use of state funds for campaign purposes, this section highlights what are considered to be a critical periods and provides a guideline for those who issue mailings during those times. *This prohibition does not apply to a legislator's office allowance.*

SECTION 12: AS 24.60.030(d) CAMPAIGN LITERATURE: The proposed change adds fundraising notices to the list of current prohibitions on distributing or posting campaign literature in state facilities. The prohibitions currently apply only to legislators or someone acting on behalf of a legislator. This expands that prohibition to include legislative employees. Allows legislators to post materials related to a past election in his/her private legislative office.

SECTION 13: AS 24.60.030(f) BOARD MEMBERSHIP: The amendment would change the board membership disclosure period from 30 days to 60 days and would require the committee to publish the disclosures in the journal.

SECTION 14: AS 24.60.030(g) CONFLICTS OF INTERESTS: The amendments to this section have the effect of changing the *prohibition* on taking legislative, administrative or political action to a *disclosure requirement* prior to taking action if one has any of the "interests" listed in the amendment, which are expanded beyond equity or ownership interest to include employment, contracts and membership on a board. It also sets out that the disclosure is to be publicly announced if the action is being taken in a committee meeting or on the floor. Actions being taken other than in committee or on the floor, e.g. drafting a bill or testifying in an administrative hearing, would be disclosed, in writing to the ethics committee within 7 days. Disclosures, whether oral or written, must include the nature of the financial interest and a short description of how the action affects the interest.

SECTION 15: AS 24.60.030 GOVERNMENT TIME Under the proposed language, when determining in a complaint proceeding whether an employee was performing a task on government time, the committee would consider the schedule set by the employee's supervisor. Requires an employee to take leave for the period of time he/she is engaged in political campaign activities, other than incidental campaign activities. Political campaign activities are permissible on government time if the activities are part of the normal legislative duties, including answering phone calls and handling incoming correspondence.

SECTION 16: AS 24.60.031(a) FUNDRAISING DURING SESSION The proposed language clarifies that the restrictions on fundraising during session are in effect on a day when either house is in regular or special session. A legislator or legislative employee may not solicit or accept contributions to state office campaigns during session, may not accept money from events held for state office political purposes during session and may not expend money for state office campaigns if the money was raised during session. (As amended on the senate floor to expand restriction from "non-legislative" to "state office")

SECTION 17: AS 24.60.039 EMPLOYMENT DISCRIMINATION The Ethics Committee shares jurisdiction with the Human Rights Commission on complaints filed against a legislator or legislative employee concerning violations of the employment discrimination statute, AS 18.80.220. Current law requires the committee to deal with a complaint alleging a violation of that statute in the same manner they would deal with any other complaint. The proposed language gives the committee the option to refer those who file a complaint of employment discrimination to the Human Rights Commission and defer consideration of the complaint until after the commission has completed its proceedings.

SECTION 18: AS 24.60.040(a) CONTRACTS AND LEASES The proposed language broadens the contract and lease criteria beyond the current code, which restricts a legislator or legislative employee from having a financial interest in a state contract or lease unless:

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

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

This bill eases the 'family member' disclosure requirement to generally read: A legislator or legislative employee who knows, or reasonably ought to know, that a family member is participating in a state contract or lease 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.

SECTION 19: AS 24.60.040, CONTRACTS AND LEASES. The new subsection 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.) 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.

SECTION 20: 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 and sets confirming disclosure date. 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.

SECTION 21: 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.

SECTION 22: AS 24.60.070(b) DEADLINE FOR CLOSE ECONOMIC ASSOCIATION: The current code required disclosure of close economic associations but did not set a deadline. New deadline is set deadlines in AS 24.60.105 of this bill. 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.

SECTION 23: AS 24.60.070. SPOUSAL/SPOUSAL EQUIVALENT LOBBYIST. This new section would require legislative employees who are married to or who are the spousal equivalents of a lobbyist, to disclose, under Close Economic Association, the name and address of each of the lobbyist's clients and the total monetary value received from each client annually. Changes to the list would have to be reported within 48 hours. (Amended on senate floor to delete "legislators" due to ban on spousal/equivalent lobbying.)

SECTION 24: AS 24.60.080(a): GIFTS 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 gifts. 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.

SECTION 25: AS 24.60.080(c) GIFT EXEMPTIONS The amendment to sub-paragraph(1)(A) clarifies that a stay in a vacation home located outside the state, is not an exempted gift. Amendment to sub-paragraph (2)(B) would allow legislators and legislative employees to accept discounts while on state business if the discount benefits the state. Paragraph (7) allows legislators and personal staff of legislators (not other legislative employees) to accept discounts and welcoming gifts in the capitol city during session.

SECTION 26: AS 24.60.080(d) GIFT REPORTING 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 requires reporting, confidentially, only the name of donor and description of gift for all gifts over \$250 not related to legislative status.

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. Copies of the non-confidential gift disclosures will be forwarded to APOC. Senate Finance, at the request of APOC, added the disclosures of gifts of "legislative employees" who are required to file financial disclosure statement to those that the ethics committee must provide copies of to APOC. (As amended by Sen. Fin.)

SECTION 27: AS 24.60.080(e) Low Budget Campaigns This is a technical change in response to the new campaign finance reform law, to allow certain contributions to "small budget" campaigns to fall within the "contribution" definition.

SECTION 28: AS 24.60.080(f) Government Gifts Allows acceptance of gift from a foreign government, the U.S. government or another state government for protocol purposes so long as the gift is delivered to the legislative council within 60 day. This bill increases the threshold to \$250 to correspond with other changes relating to gifts.

SECTION 29: AS 24.60.080(g) FAMILY Defines the terms in the Gifts Section "Immediate family or family member", which includes cohabitators, when used in relation to gifts received from immediate family and the new subsections in AS 24.60.080: inheritance from a family member (i) or gifts received by a family member (k).

SECTION 30: AS 24.60.080 GIFTS. New Subsections

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

(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.

(j) 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. Allows 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. To maintain confidentiality, the ethics committee is not permitted to accept volunteer services.

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.

(k) The current law does not specifically address whether gifts, from another source, to a family member or spousal equivalent of a legislator or

legislative employee fall within the restrictions and/or reporting requirements. 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.

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

SECTION 31: AS 24.60.085(a) EARNED INCOME AND HONORARIA The amendments in this section would allow legislators and legislative employees to accept compensation that is less than fees generally charged. The effect of this change would be to allow an attorney to do pro bono work or an engineer to charge a reduced rate for review of plans for a non-profit organization.

SECTION 32: 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, see new section 24.60.105 of this bill.

SECTION 33: AS 24.60.105 DEADLINES FOR FILING DISCLOSURES Sets out a reporting deadline of February 15 for disclosures of interests in state contracts, leases, programs and loans, representations of clients, close economic associations and membership on a board. Interests begun or acquired during the regular session (except for the last 30 days) must be reported within 30 days.

SECTION 34: AS 24.60.130(f). COMMITTEE PER DIEM AND TRAVEL The language corrects a drafting oversight by formalizing the public members' entitlement to receive per diem and travel compensation, as has been customary with legislative committees that have non-legislative members, such as the Code Revision Committee. The public members are not entitled to be paid for their time in service to the committee. AS 39.20.180 sets the rates and terms for per diem and travel for state boards and commissions. The change would apply those rates and terms to the public members of the committee.

SECTION 35: AS 24.60.130(h). MEMBER DISQUALIFICATION

The new language prohibits an ethics committee member from participating in a complaint proceeding against a subject of a complaint who is supervised by the member. The process for appointing a new member to serve on the ethics committee in the place of a disqualified member is in new subsection AS 24.60.130(o) of this bill.

SECTION 36: AS 24.60.130(o) APPOINTMENT OF COMMITTEE ALTERNATES The current law sets out that if a member is disqualified during session, the presiding officer, with 2/3 concurrence, appoints another member for that proceeding. If disqualification is during interim, the presiding officer appoints a new member with the concurrence of that house's subcommittee. Involving either body of the legislature defeats confidentiality and allows public knowledge that the disqualified member may be 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 designates them, due to a legislative member being disqualified in a complaint proceeding. The designation of the alternate by the chair is confidential.

SECTION 37: AS 24.60.134(a) RESTRICTIONS ON THE COMMITTEE. The proposed language strengthens the political restrictions on the public members, staff to the committee and those under contract to the committee, by clarifying that prohibitions of participation in political management or in a political campaign extend to ballot initiatives and to campaigns for federal, state and local offices, regardless of whether the campaign is partisan or nonpartisan. A public member, employee or contractor to the committee may not attend a fundraiser or make a contribution to a political party, 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.

SECTION 38: AS 24.60.134(c) RESTRICTIONS: NEW SUBSECTION The proposed language permits a contractor with the ethics committee to request the committee to exempt some members of the corporation or partnership from having to comply with some or all prohibitions against political activity. The committee has contracted 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 might mandate all employees of that law firm to comply with the restrictions in the Alaska legislative ethics code.

SECTION 39: AS 24.60.150(b) GUIDELINES Permits the committee to adopt guidelines to implement this entire chapter 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 requester. 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.

SECTION 40: 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. The proposed change allows the committee 60 days to respond.

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.

SECTION 41: AS 24.60.170(a) COMPLAINTS: COMMITTEE JURISDICTION

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. This change would affect former staffers who have been elected to the legislature and former legislators who have been employed as staffers.

SECTION 42: AS 24.60.170(b) COMPLAINANT New language clarifies that the complainant must sign a statement that he/she has reason to believe that a violation has occurred and places a responsibility on the committee to notify the complainant that he/she may have to testify during proceedings.

SECTION 43: AS 24.60.170(c) COMPLAINTS: PRELIMINARY EXAM/DISMISSAL

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 and complaints that lack credible information. Further clarifies, as is current practice, that proceedings under this subsection are confidential and that confidentiality may be waived by the subject in compliance with AS 24.60.170(i), the subsection dealing with discovery by the subject.

SECTION 44: AS 24.60.170(f) LACK OF PROBABLE CAUSE Clarifies that the deliberations and vote on the dismissal order and decision on a finding of "lack of probable cause that a violation of the ethics code occurred" are not open to the public or to the subject of the complaint.

SECTION 45: 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 retains the power to formally charge the person.

SECTION 46: AS 24.60.170(h) CORRECTIVE ACTIONS Conforms subparagraph (h) to the new language in AS 24.60.170(g), empowering the committee to formally charge a person who fails to complete corrective actions.

SECTION 47: AS 24.60.170(i) DISCOVERY Subsection (i) in current law is unclear as to when the subject of a complaint may engage in discovery. The committee feels the appropriate time for discovery and what seems to be the intent of the code, is at the point a person is formally charged. The change from subsection (b) to subsection (h) would clarify that intent. However, the new language permits the committee to adopt procedures concerning discovery which include allowing discovery at an earlier stage than formal charges and imposing reasonable restrictions on release of information to the subject of a complaint, to protect the privacy of persons not under investigation. The Senate Finance Committee amended subsection (i)(3) by adding a requirement that the committee could not impose restrictions on discovery by the subject unless the person agreed to be bound by similar restrictions concerning release of information and the person has not made public the information in or about the complaint or the filing of the complaint. The committee notes that they usually do not have jurisdiction over the complainant nor is the complainant involved in discovery. (Amended by Sen. Fin.)

SECTION 48: 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. The language limits the power of the complainant to waive confidentiality for others.

SECTION 49: 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. The committee must include a timetable for compliance reports when it submits a report recommending sanctions to a legislative body to consider imposing on a legislator who was found in violation of the ethics code. The report may also include recommended fines that the legislative body may impose if the legislator does not comply in a timely manner.

SECTION 50: 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.

SECTION 51: AS 24.60.176: RECOMMENDATIONS WHERE VIOLATOR IS A LEGISLATIVE EMPLOYEE. The current code sets out that the "appointing authority" determines sanctions to be imposed on a violator who is an employee. (Appointing authority is defined in AS 24.60.176(b) of this bill.) The proposed language in this section establishes that those listed in AS 24.60.176(b) have the authority to impose sanctions on violators who are legislative employees.

SECTION 52: 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.

SECTION 53: AS 24.60.178 SANCTIONS Current law does not set out possible sanctions that could be recommended by the committee. The new section lists sanctions the committee may make to the legislature for violations of the ethics code. The list includes; 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.

SECTION 54: AS 24.60.200 FINANCIAL DISCLOSURE BY LEGISLATORS, LEGISLATIVE DIRECTORS AND RANGE 19 AND ABOVE LEGISLATIVE EMPLOYEES 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. The amendment adds the same reporting requirements for Range 19 and above legislative employees and public members of the ethics committee and adds the requirement that spousal equivalent income is also reported.

SECTION 55: AS 24.60.210 DEADLINES FOR FILING. Adds Range 19 and above employees and public members of the ethics committee to the reporting deadline, and changes the deadline from April 15 to February 15. For those employees hired at a Range 19 after January 1, the reporting deadline is 60 days from date of being hired, or promoted, to a Range 19.

SECTION 56: AS 24.60.240. CIVIL PENALTY FOR LATE FILING. Adds Range 19 and above employees and public members of the ethics committee to those subject to civil penalties for late filing.

SECTION 57: AS 24.60.250 FAILURE TO FILE. Adds Range 19 and above employees and public members of the ethics committee to those who could forfeit nomination to office for failure to file report. (See 2/18/97 Cramer memo for discussion of this section)

SECTION 58: 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 AS 24.60.260(c) in this bill, 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.

SECTION 59: 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 \$100 per late disclosure.

SECTION 60: 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) and the section on nepotism, AS 24.60.090. The changes here conform with changes made in AS 24.60.080(g) of this bill.

SECTION 61: AS 24.60.990 LEGISLATIVE EMPLOYEE AND SPOUSAL EQUIVALENT Adds Range 19 employee and public members of the ethics committee to the definitions of who is required to file the annual Legislative Financial Report to APOC. Adds spousal equivalent to the list of those whose income must be reported if the reporter is required to file the annual Legislative Financial Report to APOC. As amended on the senate floor, adds definition of "state office" in relation to fundraising restrictions. (Amended on senate floor)

SECTION 62: AS 39.25.070: POWERS AND DUTIES OF THE PERSONNEL BOARD. Reflects the changes made in later sections of this bill, which replace the Attorney General with the Personnel Board for many of the duties related to handling executive branch ethics complaints. (Added in Sen. Fin at suggestion of the drafter.)

SECTION 63: AS 39.25.160 New subsection:(j) STATE PERSONNEL ACT. Amends the State Personnel Act by adding a specific prohibition on state employees engaging in campaign activities on behalf of political candidate on government time. Clarifies that Division of Election employees may carry out duties related to elections and members and employees of the Commission on Judicial Conduct may carry out duties related to evaluation of judges.

SECTION 64: AS 39.50.020 REPORT OF FINANCIAL AND BUSINESS INTERESTS. Subsection (a) Amends the non-legislative Conflict of Interest statutes. This section sets out that the public officials listed in AS 39.50.200 must file a financial report within 30 days after taking office as a public official. In reference to filing requirements for candidates, deletes the 30 day grace period for a "person who becomes a candidate by any other means" thereby requiring immediate filing. Subsection (b) sets out that public officials are to file with APOC.

SECTION 65: AS 39.50.030(a) CONTENTS OF FINANCIAL STATEMENTS. Deletes the unnecessary reference to assets or liabilities under \$500, household

goods and personal effects, to clarify that only those items listed in subsection (b) and (d) are to be reported. (Amended by Sen. Fin to include (d))

SECTION 66: AS 39.50.030(b) CONTENTS OF FINANCIAL STATEMENTS. Changes the reporting requirements for the executive branch public officials to the same level of legislators; interests over \$1000. Previous reporting level was \$100 for most income/interests and \$500 for loans. Adds requirement for public officials to report any income of over \$250 that is a *gift*. Deletes requirement for reporting of a state contract or natural resource lease held, bid or offered by the official's mother or father, adds reporting of state contract held, bid or offered by a partnership or professional corporation of which the official is a member. Adds official's spouse to the list of those the official must report if the spouse holds a natural resource lease.

SECTION 67: AS 39.50.030 CONTENTS OF FINANCIAL STATEMENTS. Added by Senate Finance at the request of APOC, this language provides a way for state officials to report a close economic association (as required in AS 39.52.155 of this bill) along with their conflict of interest statements on April 15, as opposed to filing a separate report on February 15. (Added by Sen. Fin.) Note overlap with Section 80

SECTION 68: AS 39.50.070 FAILURE TO REPORT BY CERTAIN STATE EMPLOYEES. Amends language to conform with changes on who must report, in Sections AS 39.50.020 and AS 39.50.200.

SECTION 69: AS 39.50.080 FAILURE TO REPORT BY A COMMISSION OR BOARD CHAIR OR MEMBER. Amends language to conform with changes on who must report, in Sections AS 39.50.020 and AS 39.50.200.

SECTION 70: AS 39.50.200((a)(8) DEFINITIONS. Combined with following section, changes the definition of who must file a financial report. Adds to the current list, all state employees in the executive branch in the exempt or partially exempt service who are at a Range 19 or above or who earn more than \$4200 per month.

SECTION 71: AS 39.50.200(a)(10) DEFINITIONS. Combined with above section, changes the definition of who must file a financial report. Adds to the current list, all state employees in the executive branch in exempt or partially exempt service who are at a Range 19 or above or who earn more than \$4200 per month.

SECTION 72: AS 39.52.010(a) FINDINGS AND PURPOSE. Generally adds the findings of the legislative ethics act to those in the executive branch ethics code.

SECTION 73: AS 39.52.110(c) SCOPE OF CODE. Conforming change related to removal of Attorney General from certain actions related to administering the executive ethics code.

SECTION 74: AS 39.52.120(b) MISUSE OF OFFICIAL POSITION. This section clarifies that the Governor and Lt. Governor may accept campaign contributions and that public officers and Lt. Governor and Governor may accept lawful gifts.

SECTION 75: AS 39.52.125 MISUSE OF OFFICIAL POSITION BY STATE OFFICIALS. New section. Adds a new section to the executive branch ethics code which sets out additional prohibitions for state officials (as defined at the end of this bill), as generally found in the legislative ethics act, and includes changes made to the legislative ethics act through this legislation.

SECTION 76: AS 39.52.130(c). GIFTS This section and other sections change the reporting, advising and enforcing authority relating to gifts for the executive branch from the Attorney General's office to the Personnel Board.

SECTION 77: AS 39.52.130(e-n) GIFTS . New subsections. Adds legislative gift restrictions and reporting requirements to existing restrictions for state officials. Sets out the list of gifts that are exempted from restrictions, including voluntary services, to the executive branch. The list matches the exempt list for the legislature, as proposed in this bill. Gifts from another government to be delivered to the Office of the Governor.

SECTION 78: AS 39.52 RESTRICTIONS ON FUNDRAISING. New Subsections. Section 39.52.132: Sets restrictions on campaign fundraising during session for state officials including the governor and lieutenant governor. Section 39.52.134 prohibits a state official, other than the Governor or Lt. Governor, in the exempt or partially exempt service from filing a letter of intent or declaration of candidacy for the legislature. Section 39.52.136 adds state officials to those that must comply with the open meetings law.

SECTION 79: AS 39.52.150(d) IMPROPER INFLUENCE IN STATE GRANTS, CONTRACTS, LEASES, LOANS. Requires reporting to the Personnel Board as well as to supervisor, a report of participation in state contracts, grants, leases, loans.

SECTION 80: AS 39.52.155 DISCLOSURE OF CLOSE ECONOMIC ASSOCIATIONS. New Section: Requires state official to disclose, to supervisor and APOC, close economic associations with those listed in this section. Sets disclosure deadlines to conform with legislative ethics act. Subsection (c) requires state officials who are married to or living with a lobbyist to report the name of each employer of the lobbyist and the total monetary value received from the employer. Changes must be reported within 48 hours. APOC shall maintain a public record of the disclosures. Note overlap with Section 67.

SECTION 81: AS 39.52.170 OUTSIDE EMPLOYMENT RESTRICTED. (a) Adds a clause that restricts state officials from accepting outside employment if the compensation is significantly greater than the value of the services. Conforms with legislative ethics language. (b) Requires those who receive compensation for another job to report to both supervisor and Personnel Board.

SECTION 82: AS 39.52.170 (c) OUTSIDE EMPLOYMENT. Adds an honorarium restriction for state officials which matches legislative ethics act restriction.

SECTION 83: AS 39.52.180(b) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE. This references change in new subsection (d) below, restricting agencies from contracting with a former state official for lobbying services before a state agency or the legislature.

SECTION 84: AS 39.52.180(c) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE. References new subsection (d) below and sets a one year limit on waiving restrictions set out in this section regarding lobbying.

SECTION 85: AS 39.52.180 RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE. New subsection. (d) restricts agencies from contracting with a former public officer for services which would include lobbying before a state agency or the legislature.

SECTION 86: AS 39.52.210(a-c) DECLARATION OF POTENTIAL VIOLATIONS. Requires public employees to report potential violations to Personnel Board as well as to supervisor. Requires supervisor to provide a copy of written determination of potential violation to public employee and personnel board.

SECTION 87: AS 39.52.220 DECLARATION OF POTENTIAL VIOLATIONS BY MEMBERS OF BOARDS AND COMMISSIONS. Requires members of boards or commissions to disclose a matter that may result in a violation on the public record and in writing to supervisor and to the personnel board. Replaces AG office with Personnel Board as advisors in matters of potential violation.

SECTION 88: AS 39.52.230 REPORTING OF POTENTIAL VIOLATIONS. A complaint against a state official is filed with the supervisor. The supervisor is required to file a copy of the complaint with the personnel board.

SECTION 89: AS 39.52.240(a) ADVISORY OPINIONS. Adds state officials to those that may request an advisory opinion and sets the personnel board as the body to issue the opinion.

SECTION 90: AS 39.52.240(b) ADVISORY OPINIONS. Replaces the AG office with the personnel board as the body offering oral advice.

SECTION 91: AS 39.52.240(c) ADVISORY OPINIONS. Replaces the AG office with the personnel board as the advising body.

SECTION 92: AS 39.52.240(e) ADVISORY OPINIONS. Replaces the AG office with the personnel board as the advising body

SECTION 93: AS 39.52.240(h) ADVISORY OPINIONS. Replaces the AG office with Personnel Board for purpose of publishing advisory opinions.

SECTION 94: AS 39.52.250 ADVICE TO FORMER PUBLIC OFFICERS. Replaces the AG office with the personnel board as the advising body.

SECTION 95: AS 39.52.260 DESIGNATED SUPERVISOR'S REPORT AND PERSONNEL BOARD REVIEW. Replaces the AG office with the personnel board as the body accepting reports of potential violations.

SECTIONS 96 -105: AS 39.52.310, 320,330,340. COMPLAINTS: The changes in these sections have the effect of removing the AG from handling complaints and placing that responsibility with the Personnel Board.

SECTION 106: AS 39.52.350: PROBABLE CAUSE FOR A HEARING Changes the current role of the AG from determining probable cause and initiating hearings to that of "prosecutor" in the hearing. Establishes the Personnel Board as the body to conduct the preliminary review, determine probable cause and initiate hearings.

SECTION 107: AS 39.52.920 AGENCY POLICIES Replaces the AG office with the Personnel Board as the body which reviews and approves agency policies that restrict a public officers acquisition of personal interest in certain entities and acceptance of gifts.

SECTION 108: AS 39.52.950. REGULATIONS. Limits the AG office to adopting regulations relating to complaints (for this act) and sets out that the personnel board may adopt regulations necessary to interpret and implement sections other than complaints.

SECTION 109: AS 39.52.960(11) DEFINITION OF IMMEDIATE FAMILY. Changes definition in the executive act to match the legislative act, as proposed in this bill.

SECTION 110: AS 39.52.960 (23) DEFINITION OF STATE OFFICIAL. Means governor, lieutenant governor, a person hired or appointed as the head or deputy head of a department in the executive branch or as the director of a division in a department in the executive branch, the chair or member of a state commission or board, the executive director of the Alaska Tourism Marketing Council, an assistant to the governor or lieutenant governor, a state investment officer, the state comptroller in the Department of Revenue, and a state employee who is not otherwise listed in this definition who is employed in a position in the executive branch of state government in the exempt or partially exempt service and who is compensated at Range 19 A or above on the state salary schedule or at more than \$4200 per month. (This may affect people at lower ranges who are further out in step) Does not include an employee who is a member of collective bargaining unit e.g. state ferry workers.

SECTION 111: AS 44.62.175(a) ALASKA ADMINISTRATIVE JOURNAL. Adds advisory opinions of the personnel board to the list of those things to be published in the journal.

SECTION 112: Temporary Law: AG OPINIONS. Sets out that a public officer or former public officer may rely upon the opinion of the AG's office prior to this act taking effect.

SECTION 113: Temporary Law: DISBURSEMENT OF UNUSED CAMPAIGN CONTRIBUTIONS Allows current legislators to transfer unused campaign contributions to a legislative office account under Sec. 3 of this act and requires the money transferred to be accounted for under AS 15.13.110(a)(4). (Added by Sen. Fin, amended on senate floor to reflect changes in Secs 3 &4)

SECTION 114: Temporary Law. Retroactive Date for Secs. 3, 4 and 113. Allows the increase in transfer to future election account and subsequent transfer of a portion of that increase to the office account to be retroactive to December 31, 1996. (Added by Sen. Fin.)

SECTION 115: Temporary Law. Immediate Effective Date for Secs. 3, 4, 113 and 114. (Added by Sen. Fin.)

SECTION 116: EFFECTIVE DATE: APOC has recommended that a January 1 effective date would correspond to their calendar year reporting and would avoid confusion for those who have to file the financial disclosure to APOC for the period of time between January 1 and whatever other date might be selected.

Alaska State Legislature

Select Committee on Legislative Ethics

716 W. 4th, Suite 230
Anchorage AK
(907) 258-8172
FAX: 258-2106

Mailing Address:
P.O.Box 101468
Anchorage, AK
99510 - 1468

DATE: December 8, 1997

TO:

FROM: Susie Barnett, Staff
Select Committee on Legislative Ethics

RE: Review of Ethics Bill, CSSB 105 (FIN) am

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

This document is intended to supplement the bill, relating to changes to the Legislative Ethics Code, AS 24.60, the Executive Branch Ethics Act, AS 39.52 and the State Personnel Act, AS 39,25, the State Elections Act, AS 15.13.. The purpose of this document is to provide an ethics committee analysis of the bill. (Herein, "committee" refers to ethics committee.)

CAMPAIGN FINANCE SECTIONS

SECTION 1: AS 15.13.072.(d) RESTRICTIONS ON SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS. Amends the State Elections Act to expand the prohibition on candidates soliciting or accepting campaign contributions for election or reelection to **state office** while the legislature is in regular or special session. "State office" is defined in AS 15.13.400 of this bill to include the governor, lt. governor, legislators and similar state offices. (**amendment offered by Senator Donley, adopted on the senate floor**)

(Senate Finance had previously adopted an amendment which allowed incumbent legislators and certain legislative employees to solicit and accept contributions for non-legislative campaigns during session but retained a "fundraising during session restriction" on the governor and lt. governor.)

SECTION 2: AS 15,13,074(c) PROHIBITED CONTRIBUTIONS prohibits a person or group from contributing to a candidate for state office while the legislature is convened in its regular session. The prohibition currently applies only to candidates for the state legislature. (**amendment offered by Senator Donley, adopted on the senate floor**)

committee and the committee's legal counsel, that not including the ethics committee in the AS 24.25.010(e) exemption was an oversight, given the specific grant of authority to subpoena witnesses in the ethics code itself. (Proposed by Ethics Committee)

Lobbying Laws

SECTION 8: AS 24.45 NEW SECTION 24.25.165. PROHIBITION ON LOBBYING ACTIVITY FOR SPOUSES AND COHABITANTS OF LEGISLATORS (a) Prohibits a spouse or a person cohabiting with a legislator from lobbying the executive branch or legislature. (b) defines "person cohabiting". (Offered by Senator Phillips, adopted on senate floor)

(The senate floor amendment deleted a previous Sen. Fin. amendment made at the request of APOC, to streamline the lobbyist related reporting requirements set out in AS 24.60.070(d) and AS 39.52.155 of this bill, for legislators, legislative employees and state officials. That language added a requirement that the lobbyist report on the lobbyists registration form, whether their spouse or spousal equivalent is a legislator, legislative employee or state official.)

SECTION 9*: AS 24.45.171(12) DEFINITIONS. Adds "another legislative employee subject to disclosure" to the definition of public official or public officer in relation to lobbying statutes. (see AS 24.60.990(a)(15) in this bill) (Added by SSTA at the request of Senator Pearce)

*Cramer notes that it would be clearer if this section was changed to refer to legislative employees who are "required to disclose" instead of employees who are "subject to disclosure."

Legislative Code of Ethics

SECTION 10: AS 24.60.030 PROHIBITIONS/Legislative Ethics Code

Sub-para: (a)2(A): As amended by Senate Finance, the use of state resources for personal purposes would be allowed if the use does not interfere with the performance of public duties and either the cost is nominal or the user reimburses the state for the cost. (Amended by Sen. Fin.)

Sub-para: (a)2(C): As amended by Senate Finance, allows "facsimile" use for a nongovernmental use or private benefit if the use does not carry a special charge. (Amended by Sen. Fin.)

Sub-para: (a)5(A): As amended by Senate Finance, the use of state resources for political fundraising or campaigning purposes would be allowed if the use does not interfere with the performance of public duties and either the cost is nominal or the user reimburses the state for the cost. (Amended by Sen. Fin.)

Sub-para: (a)5(C): As amended by Senate Finance, allows "facsimile" use for political fundraising or campaign uses if the use does not carry a special charge. (Amended by Sen. Fin.)

Sub-para: (a)5(D): Allows storing and maintaining campaign records (such as APOC reports) in a legislator's office. The Senate Finance Committee deleted the language in the Sen. Stat. Affairs CS which set out that the records could not be displayed publicly. (Amended in Sen. Fin.)

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



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Alaska State Legislature

Select Committee on Legislative Ethics

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Mailing Address:
P.O.Box 101468
Anchorage, AK
99510 - 1468

DATE: December 8, 1997

TO:

FROM: Susie Barnett, Staff
Select Committee on Legislative Ethics

RE: Review of Ethics Bill, CSSB 105 (FIN) am

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This document is intended to supplement the bill, relating to changes to the Legislative Ethics Code, AS 24.60, the Executive Branch Ethics Act, AS 39.52 and the State Personnel Act, AS 39.25, the State Elections Act, AS 15.13.. The purpose of this document is to provide an ethics committee analysis of the bill. (Herein, "committee" refers to ethics committee.)

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(Senate Finance had previously adopted an amendment which allowed incumbent legislators and certain legislative employees to solicit and accept contributions for non-legislative campaigns during session but retained a "fundraising during session restriction" on the governor and lt. governor.)

SECTION 2: AS 15,13,074(c) PROHIBITED CONTRIBUTIONS prohibits a person or group from contributing to a candidate for state office while the legislature is convened in its regular session. The prohibition currently applies only to candidates for the state legislature. (amendment offered by Senator Donley, adopted on the senate floor)

SECTION 3: AS 15.13.116(a) DISBURSEMENT OF CAMPAIGN ASSETS As amended on the senate floor, allows a transfer of unused campaign contributions to a legislative office account reserve, in accordance with the new subsection which follows. Secs. at the end of the bill allow this section and the section below to take effect immediately and to be retroactive to December 31, 1996. (amendment offered by Senator Donley, adopted on the senate floor)

(The Senate Finance Committee had previously adopted language to increase the portion of the unused campaign contribution that may be transferred to a future election account, from \$10,000 to \$30,000 for candidates for senate and from \$5,000 to \$15,000 for candidates for the house. The floor amendment deleted that language.)

SECTION 4: AS 15.13.116 DISBURSEMENT OF CAMPAIGN ASSETS New subsection (d) allows, but does not require, a legislator to transfer \$5000 per year from the office account reserve to a legislative office account, with a limit of \$20,000 for senators and \$10,000 for representatives. (Current law 15.13.116 (9)(D) allows a one time transfer of funds to an office account at \$5000 multiplied by the number of years in the term.) At the end of the legislator's term, a balance in the office account must be disposed of as provided in (a) (1)-(8) of this section, which includes paying campaign bills, victory party, charitable donations, repaying contributors, candidate defense fund, and future election accounts. Secs. at the end of this bill allow this section and the section above to take effect immediately and to be retroactive to December 31, 1996. (Added by Sen. Fin., amended on the senate floor)

SECTION 5: AS 15.13.400 DEFINITIONS Adds "state office" to the list of defined terms in the State Elections Law, relating to changes made in Secs. 1 and 2 of this bill. "State office" is defined as office of governor, lt. governor, member of the legislature or similar state office. (As amended on the senate floor)

Technical Change

SECTION 6: AS 23.20.526(d) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT. Conforming amendment based on changes in this bill to the executive branch employment security statutes to ensure that the people who are not eligible for unemployment compensation remain ineligible.

SUBPOENA Power

SECTION 7: 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 sets out general authority for legislative subpoenas and includes a reference requiring the concurrence of the Senate President or Speaker of the House. Subsection(e) currently provides that the section does not apply to the Legislative Council or the Legislative Budget and Audit Committee. Like the ethics committee, both the council and LBA are permanent interim committees and both have express grants of authority to subpoena witnesses. It is the opinion of the ethics

committee and the committee's legal counsel, that not including the ethics committee in the AS 24.25.010(e) exemption was an oversight, given the specific grant of authority to subpoena witnesses in the ethics code itself. (Proposed by Ethics Committee)

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Sub-para: (a)5(A): As amended by Senate Finance, the use of state resources for political fundraising or campaigning purposes would be allowed if the use does not interfere with the performance of public duties and either the cost is nominal or the user reimburses the state for the cost. (Amended by Sen. Fin.)

Sub-para: (a)5(C): As amended by Senate Finance, allows "facsimile" use for political fundraising or campaign uses if the use does not carry a special charge. (Amended by Sen. Fin.)

Sub-para: (a)5(D): Allows storing and maintaining campaign records (such as APOC reports) in a legislator's office. The Senate Finance Committee deleted the language in the Sen. State Affairs CS which set out that the records could not be displayed publicly. (Amended in Sen. Fin.)

SECTION 11: AS 24.60.030(c) MASS MAILING: The ethics code currently prohibits use of state funds to print or distribute a mass mailing from or about a *legislator who is a candidate for state office*, during the period 90 days before the primary and ending the day after the general election. The proposed language expands the prohibition to include legislators and legislative employees who are candidates for federal and municipal offices or to telephone and electric cooperatives. While other sections of the ethics code clearly prohibit use of state funds for campaign purposes, this section highlights what are considered to be a critical periods and provides a guideline for those who issue mailings during those times. *This prohibition does not apply to a legislator's office allowance. (Proposed by Ethics Committee)*

SECTION 12: AS 24.60.030(d) CAMPAIGN LITERATURE: The proposed change adds fundraising notices to the list of current prohibitions on distributing or posting campaign literature in state facilities. The prohibitions currently apply only to legislators or someone acting on behalf of a legislator. This expands that prohibition to include legislative employees. Allows legislators to post materials related to a past election in his/her private legislative office. *(Proposed by Ethics Committee)*

SECTION 13: AS 24.60.030(f) BOARD MEMBERSHIP: The amendment clarifies that whose appointment to a board is disclosed in the journal do not need to make an additional disclosure to the committee. Refers to AS 24.60.105 in the bill, which changes the board membership disclosure period from 30 days to 60 days and requires the committee to publish the disclosures in the journal. *(Proposed by Ethics Committee)*

SECTION 14: AS 24.60.030(g) CONFLICTS OF INTERESTS: The amendments to this section have the effect of changing the *prohibition* on taking legislative, administrative or political action to a *disclosure requirement* prior to taking action, if one has any of the "interests" listed in the amendment, which are expanded beyond equity or ownership interest to include employment, contracts and membership on a board. It also sets out that the disclosure is to be publicly announced if the action is being taken in a committee meeting or on the floor. Actions being taken other than in committee or on the floor, e.g. drafting a bill or testifying in an administrative hearing, would be disclosed, in writing to the ethics committee within 7 days. Disclosures, whether oral or written, must include the nature of the financial interest and a short description of how the action affects the interest. *(Proposed by Ethics Committee)*

SECTION 15: AS 24.60.030 GOVERNMENT TIME Under the proposed language, when determining in a complaint proceeding whether an employee was performing a task on government time, the committee would consider the schedule set by the employee's supervisor. Requires an employee to take leave for the period of time he/she is engaged in political campaign activities, other than incidental campaign activities. Political campaign activities are permissible on government time if the activities are part of the normal legislative duties, including answering phone calls and handling incoming correspondence. *(Proposed by Ethics Committee)*

SECTION 16: AS 24.60.031(a) FUNDRAISING DURING SESSION The proposed language

clarifies that the restrictions on fundraising during session are in effect on a day when either house is in regular or special session. A legislator or legislative employee may not solicit or accept contributions to state office campaigns during session, may not accept money from events held for state office political purposes during session and may not expend money for state office campaigns if the money was raised during session. **(As amended on the senate floor to expand restriction from "non-legislative" to "state office")**

SECTION 17: AS 24.60.039 EMPLOYMENT DISCRIMINATION The Ethics Committee shares jurisdiction with the Human Rights Commission on complaints filed against a legislator or legislative employee concerning violations of the employment discrimination statute, AS 18.80.220. Current law requires the committee to deal with a complaint alleging a violation of that statute in the same manner they would deal with any other complaint. The proposed language gives the committee the option to refer those who file a complaint of employment discrimination to the Human Rights Commission and defer consideration of the complaint until after the commission has completed its proceedings. **(Proposed by Ethics Committee)**

SECTION 18: AS 24.60.040(a) CONTRACTS AND LEASES The proposed language broadens the contract and lease criteria beyond the current code, which restricts a legislator or legislative employee from having a financial interest in a state contract or lease unless:

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

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

This bill eases the 'family member' disclosure requirement to generally read: A legislator or legislative employee who knows, or reasonably ought to know, that a family member is participating in a state contract or lease 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. **(Proposed by Ethics Committee)**

SECTION 19: AS 24.60.040, CONTRACTS AND LEASES. The new subsection 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.) 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. *(Proposed by Ethics Committee)*

SECTION 20: 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 and sets confirming disclosure date. 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. *(Proposed by Ethics Committee)*

SECTION 21: 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. *(Proposed by Ethics Committee)*

SECTION 22: AS 24.60.070(b) DEADLINE FOR CLOSE ECONOMIC ASSOCIATION: The current code required disclosure of close economic associations but did not set a deadline. New deadline is set deadlines in AS 24.60.105 of this bill. 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. *(Proposed by Ethics Committee)*

SECTION 23: AS 24.60.070. SPOUSAL/SPOUSAL EQUIVALENT LOBBYIST. This new section would require legislative employees who are married to or who are the spousal equivalents of a lobbyist, to disclose, under Close Economic Association, the name and address of each of the lobbyist's clients and the total monetary value received from each client annually. Changes to the list would have to be reported within 48 hours. *(Amended on senate floor to delete "legislators" from reporting requirement due to ban on a legislator's spouse or equivalent lobbying.)*

SECTION 24: AS 24.60.080(a): GIFTS 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 gifts. 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, to comply with APOC requirements in AS 24.45.121(a)(9). *(Proposed by Ethics Committee)*

SECTION 25: AS 24.60.080(c) GIFT EXEMPTIONS The amendment to sub-paragraph(1)(A) clarifies that a stay in a vacation home located outside the state, is not an exempted gift. Amendment to sub-paragraph (2)(B) would

allow legislators and legislative employees to accept discounts while on state business if the discount benefits the state. Paragraph (7) allows legislators and personal staff of legislators (not other legislative employees) to accept discounts and welcoming gifts in the capitol city during session. (**Proposed by Ethics Committee**)

SECTION 26: AS 24.60.080(d) GIFT REPORTING 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 requires reporting, confidentially, only the name of donor and description of gift for all gifts over \$250 not related to legislative status.

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. Copies of the non-confidential gift disclosures will be forwarded to APOC. Senate Finance, at the request of APOC, added the disclosures of gifts of "legislative employees" who are required to file financial disclosure statement to those that the ethics committee must provide copies of to APOC. (**As amended by Sen. Fin.**)

SECTION 27: AS 24.60.080(e) Low Budget Campaigns This is a technical change in response to the new campaign finance reform law, to allow certain contributions to "small budget" campaigns to fall within the "contribution" definition. (**technical change**)

SECTION 28: AS 24.60.080(f) Government Gifts Allows acceptance of gift from a foreign government, the U.S. government or another state government for protocol purposes so long as the gift is delivered to the legislative council within 60 day. This bill increases the threshold to \$750 to correspond with other changes relating to gifts. (**Proposed by Ethics Committee**)

SECTION 29: AS 24.60.080(g) FAMILY Defines the terms in the Gifts Section "Immediate family or family member", which includes cohabitators, when used in relation to gifts received from immediate family and the new subsections in AS 24.60.080: inheritance from a family member (i) or gifts received by a family member (k). . (**Proposed by Ethics Committee**)

SECTION 30: AS 24.60.080 GIFTS. New Subsections

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

(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.

(j) 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. Allows 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. To maintain confidentiality, the ethics committee is not permitted to accept volunteer services.

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.

(k) The current law does not specifically address whether gifts, from another source, to a family member or spousal equivalent of a legislator or legislative employee fall within the restrictions and/or reporting requirements. 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.

(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.

(Changes in this section proposed by Ethics Committee)

SECTION 31: AS 24.60.085(a) EARNED INCOME AND HONORARIA The amendments in this section would allow legislators and legislative employees to accept compensation that is less than fees generally charged. The effect of this change would be to allow an attorney to do pro bono work or an engineer to charge a reduced rate for review of plans for a non-profit organization.
(Proposed by Ethics Committee)

SECTION 32: 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, see new

section 24.60.105 of this bill. (*Proposed by Ethics Committee*)

SECTION 33: AS 24.60.105 DEADLINES FOR FILING DISCLOSURES Sets out a reporting deadline of February 15 for disclosures of interests in state contracts, leases, programs and loans, representations of clients, close economic associations and membership on a board. Interests begun or acquired during the regular session (except for the last 30 days) must be reported within 30 days. (*Proposed by Ethics Committee*)

SECTION 34: AS 24.60.130(f). COMMITTEE PER DIEM AND TRAVEL The language corrects a drafting oversight by formalizing the public members' entitlement to receive per diem and travel compensation, as has been customary with legislative committees that have non-legislative members, such as the Code Revision Committee. The public members are not entitled to be paid for their time in service to the committee. AS 39.20.180 sets the rates and terms for per diem and travel for state boards and commissions. The change would apply those rates and terms to the public members of the committee. (*Proposed by Ethics Committee*)

SECTION 35: AS 24.60.130(h). MEMBER DISQUALIFICATION

The new language prohibits an ethics committee member from participating in a complaint proceeding against a subject of a complaint who is supervised by the member. The process for appointing a new member to serve on the ethics committee in the place of a disqualified member is in new subsection AS 24.60.130(o) of this bill. . (*Proposed by Ethics Committee*)

SECTION 36: AS 24.60.130(o) APPOINTMENT OF COMMITTEE ALTERNATES The current law sets out that if a member is disqualified during session, the presiding officer, with 2/3 concurrence, appoints another member for that proceeding. If disqualification is during interim, the presiding officer appoints a new member with the concurrence of that house's subcommittee. Involving either body of the legislature defeats confidentiality and allows public knowledge that the disqualified member may be 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 designates them, due to a legislative member being disqualified in a complaint proceeding. The designation of the alternate by the chair is confidential. (*Proposed by Ethics Committee*)

SECTION 37: AS 24.60.134(a) RESTRICTIONS ON THE COMMITTEE. The proposed language strengthens the political restrictions on the public members, staff to the committee and those under contract to the committee, by clarifying that prohibitions of participation in political management or in a political campaign extend to ballot initiatives and to campaigns for federal, state and local offices, regardless of whether the campaign is partisan or nonpartisan. A public member, employee or contractor to the committee may not attend a fundraiser or make a contribution to a political party, 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. (*Proposed by Ethics Committee*)

SECTION 38: AS 24.60.134(c) RESTRICTIONS: NEW SUBSECTION The proposed language permits a contractor with the ethics committee to request the committee to exempt some members of the corporation or partnership from having to comply with some or all prohibitions against political activity. The committee has contracted 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 might mandate all employees of that law firm to comply with the restrictions in the Alaska legislative ethics code. *(Proposed by Ethics Committee)*

SECTION 39: AS 24.60.150(b) GUIDELINES Permits the committee to adopt guidelines to implement this entire chapter 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 requester. 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. *(Proposed by Ethics Committee)*

SECTION 40: 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. The proposed change allows the committee 60 days to respond.

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.

(Proposed by Ethics Committee)

SECTION 41: AS 24.60.170(a) COMPLAINTS: COMMITTEE JURISDICTION 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. This change would affect former staffers who have been elected to the legislature and former legislators who have been employed as staffers. *(Proposed by Ethics Committee)*

SECTION 42: AS 24.60.170(b) COMPLAINANT New language clarifies that the complainant must sign a statement that he/she has reason to believe that a violation has occurred and places a responsibility on the committee to notify

the complainant that he/she may have to testify during proceedings. (*Proposed by Ethics Committee*)

SECTION 43: AS 24.60.170(c) COMPLAINTS: PRELIMINARY EXAM/DISMISSAL 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 and complaints that lack credible information. Further clarifies, as is current practice, that proceedings under this subsection are confidential and that confidentiality may be waived by the subject in compliance with AS 24.60.170(i), the subsection dealing with discovery by the subject. (*Proposed by Ethics Committee*)

SECTION 44: AS 24.60.170(f) LACK OF PROBABLE CAUSE Clarifies that the deliberations and vote on the dismissal order and decision on a finding of "lack of probable cause that a violation of the ethics code occurred" are not open to the public or to the subject of the complaint. (*Proposed by Ethics Committee*)

SECTION 45: 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 retains the power to formally charge the person. (*Proposed by Ethics Committee*)

SECTION 46: AS 24.60.170(h) CORRECTIVE ACTIONS Conforms sub-paragraph (h) to the new language in AS 24.60.170(g), empowering the committee to formally charge a person who fails to complete corrective actions. (*Proposed by Ethics Committee*)

SECTION 47: AS 24.60.170(i) DISCOVERY Subsection (i) in current law is unclear as to when the subject of a complaint may engage in discovery. The committee feels the appropriate time for discovery and what seems to be the intent of the code, is at the point a person is formally charged. The change from subsection (b) to subsection (h) would clarify that intent. However, the new language permits the committee to adopt procedures concerning discovery which include allowing discovery at an earlier stage than formal charges and imposing reasonable restrictions on release of information to the subject of a complaint, to protect the privacy of persons not under investigation. The Senate Finance Committee amended subsection (i)(3) by adding a requirement that the committee could not impose restrictions on discovery by the subject unless the person agreed to be bound by similar restrictions concerning release of information and the person has not made public the information in

or about the complaint or the filing of the complaint. The committee notes that they usually do not have jurisdiction over the complainant nor is the complainant involved in discovery. (Amended by Sen. Fin.)

SECTION 48: AS 24.60.170(1) 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. The language limits the power of the complainant to waive confidentiality for others. (Proposed by Ethics Committee)

SECTION 49: 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. The committee must include a timetable for compliance reports when it submits a report recommending sanctions to a legislative body to consider imposing on a legislator who was found in violation of the ethics code. The report may also include recommended fines that the legislative body may impose if the legislator does not comply in a timely manner. (Proposed by Ethics Committee)

SECTION 50: 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. (Proposed by Ethics Committee)

SECTION 51: AS 24.60.176: RECOMMENDATIONS WHERE VIOLATOR IS A LEGISLATIVE EMPLOYEE. The current code sets out that the "appointing authority" determines sanctions to be imposed on a violator who is an employee. (Appointing authority is defined in AS 24.60.176(b) of this bill.) The proposed language in this section establishes that those listed in AS 24.60.176(b) have the authority to impose sanctions on violators who are legislative employees. (Proposed by Ethics Committee)

SECTION 52: 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. (Proposed by Ethics Committee)

SECTION 53: AS 24.60.178 SANCTIONS Current law does not set out possible sanctions that could be recommended by the committee. The new section lists sanctions the committee may make to the legislature for violations of the ethics code. The list includes; 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. *(Proposed by Ethics Committee)*

Legislative Financial Disclosure

SECTION 54: AS 24.60.200 FINANCIAL DISCLOSURE BY LEGISLATORS, LEGISLATIVE DIRECTORS AND RANGE 19 AND ABOVE LEGISLATIVE EMPLOYEES 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. The amendment adds the same reporting requirements for Range 19 and above legislative employees and public members of the ethics committee and adds the requirement that spousal equivalent income is also reported. *(Proposed by Ethics Committee)*

SECTION 55: AS 24.60.210 DEADLINES FOR FILING. Adds Range 19 and above employees and public members of the ethics committee to the reporting deadline, and changes the deadline from April 15 to February 15. For those employees hired at a Range 19 after January 1, the reporting deadline is 60 days from date of being hired, or promoted, to a Range 19. *(Proposed by Ethics Committee)*

SECTION 56: AS 24.60.240. CIVIL PENALTY FOR LATE FILING. Adds Range 19 and above employees and public members of the ethics committee to those subject to civil penalties for late filing. *(Proposed by Ethics Committee)*

SECTION 57: AS 24.60.250 FAILURE TO FILE. Adds Range 19 and above employees and public members of the ethics committee to those who could forfeit nomination to office for failure to file report. (See 2/18/97 Cramer memo for discussion of this section) *(Proposed by Ethics Committee)*

SECTION 58: 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 AS 24.60.260(c) in this bill, 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. *(Proposed by Ethics Committee)*

SECTION 59: 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 \$100 per late disclosure. *(Proposed by Ethics Committee)*

Legislative Ethics Definitions

SECTION 60: 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) and the section on nepotism, AS 24.60.090. The changes here conform with changes made in AS 24.60.080(g) of this bill. (*Proposed by Ethics Committee*)

SECTION 61: AS 24.60.990 LEGISLATIVE EMPLOYEE AND SPOUSAL EQUIVALENT Adds Range 19 employee and public members of the ethics committee to the definitions of who is required to file the annual Legislative Financial Report to APOC. Adds spousal equivalent to the list of those whose income must be reported if the reporter is required to file the annual Legislative Financial Report to APOC. As amended on the senate floor, adds, definition of "state office" in relation to fundraising restrictions. (**Amended on senate floor**)

State Personnel Board

SECTION 62: AS 39.25.070: POWERS AND DUTIES OF THE PERSONNEL BOARD. Reflects the changes made in later sections of this bill, which replace the Attorney General with the Personnel Board for many of the duties related to handling executive branch ethics complaints. (**Added in Sen. Fin at suggestion of the drafter.**)

Prohibiting Political Campaigning by State Employees

SECTION 63: AS 39.25.160 New subsection: (j) **STATE PERSONNEL ACT.** Amends the State Personnel Act by adding a specific prohibition on state employees engaging in campaign activities on behalf of political candidate on government time. Clarifies that Division of Election employees may carry out duties related to elections and members and employees of the Commission on Judicial Conduct may carry out duties related to evaluation of judges. (**Added in SSTA**)

Conflict of Interest and Financial Disclosure

SECTION 64: AS 39.50.020 REPORT OF FINANCIAL AND BUSINESS INTERESTS. Subsection (a) Amends the non-legislative Conflict of Interest statutes. This section sets out that the public officials listed in AS 39.50.200 must file a financial report within 30 days after taking office as a public official. In reference to filing requirements for candidates, deletes the 30 day grace period for a "person who becomes a candidate by any other means" thereby requiring immediate filing. Subsection (b) sets out that public officials are to file with APOC. (**Added in SSTA**)

SECTION 65: AS 39.50.030(a) CONTENTS OF FINANCIAL STATEMENTS. Deletes the unnecessary reference to assets or liabilities under \$500, household goods and personal effects, to clarify that only those items listed in subsection (b) and (d) are to be reported. (**Amended by Sen. Fin to include (d)**)

SECTION 66: AS 39.50.030(b) CONTENTS OF FINANCIAL STATEMENTS. Changes the reporting requirements for the executive branch public officials to the same level of legislators; interests over \$1000. Previous reporting level was \$100 for most income/interests and \$500 for loans. Adds requirement for public officials to report any income of over \$250 that is a gift. Deletes requirement for reporting of a state contract or natural resource lease held, bid or offered by the official's mother or father, adds reporting of state contract held, bid or offered by a partnership or professional corporation of

which the official is a member. Adds official's spouse to the list of those the official must report if the spouse holds a natural resource lease. (Added in SSTA)

SECTION 67: AS 39.50.030 CONTENTS OF FINANCIAL STATEMENTS. Added by Senate Finance at the request of APOC, this language provides a way for state officials to report a close economic association (as required in AS 39.52.155 of this bill) along with their conflict of interest statements on April 15, as opposed to filing a separate report on February 15. (Added by Sen. Fin.) Note overlap with Section 80

SECTION 68: AS 39.50.070 FAILURE TO REPORT BY CERTAIN STATE EMPLOYEES. Amends language to conform with changes on who must report, in Sections AS 39.50.020 and AS 39.50.200. (Added in SSTA)

SECTION 69: AS 39.50.080 FAILURE TO REPORT BY A COMMISSION OR BOARD CHAIR OR MEMBER. Amends language to conform with changes on who must report, in Sections AS 39.50.020 and AS 39.50.200. (Added in SSTA)

SECTION 70: AS 39.50.200((a)(8) DEFINITIONS. Combined with following section, changes the definition of who must file a financial report. Adds to the current list, all state employees in the executive branch in the exempt or partially exempt service who are at a Range 19 or above or who earn more than \$4200 per month. (Added in SSTA)

SECTION 71: AS 39.50.200(a)(10) DEFINITIONS. Combined with above section, changes the definition of who must file a financial report. Adds to the current list, all state employees in the executive branch in exempt or partially exempt service who are at a Range 19 or above or who earn more than \$4200 per month. (Added in SSTA)

Executive Branch Ethics Act

SECTION 72: AS 39.52.010(a) FINDINGS AND PURPOSE. Generally adds the findings of the legislative ethics act to those in the executive branch ethics code. (Added in SSTA)

SECTION 73: AS 39.52.110(c) SCOPE OF CODE. Conforming change related to removal of Attorney General from certain actions related to administering the executive ethics code. (Added in SSTA)

SECTION 74: AS 39.52.120(b) MISUSE OF OFFICIAL POSITION. This section clarifies that the Governor and Lt. Governor may accept campaign contributions and that public officers and Lt. Governor and Governor may accept lawful gifts. (Added in SSTA)

SECTION 75: AS 39.52.125 MISUSE OF OFFICIAL POSITION BY STATE OFFICIALS. New section. Adds a new section to the executive branch ethics code which sets out additional prohibitions for state officials (as defined at the end of this bill), as generally found in the legislative ethics act, and includes changes made to the legislative ethics act through this legislation. (Added in SSTA)

SECTION 76: AS 39.52.130(c). GIFTS This section and other sections change the

reporting, advising and enforcing authority relating to gifts for the executive branch from the Attorney General's office to the Personnel Board. (Added in SSTA)

SECTION 77: AS 39.52.130(e-n) GIFTS . New subsections. Adds legislative gift restrictions and reporting requirements to existing restrictions for state officials. Sets out the list of gifts that are exempted from restrictions, including voluntary services, to the executive branch. The list matches the exempt list for the legislature, as proposed in this bill. Gifts from another government to be delivered to the Office of the Governor. (Added in SSTA)

SECTION 78: AS 39.52 RESTRICTIONS ON FUNDRAISING. New Subsections. Section 39.52.132: Sets restrictions on campaign fundraising during session for state officials including the governor and lieutenant governor. **Section 39.52.134** prohibits a state official, other than the Governor or Lt. Governor, in the exempt or partially exempt service from filing a letter of intent or declaration of candidacy for the legislature. **Section 39.52.136** adds state officials to those that must comply with the open meetings law. (Added in SSTA)

SECTION 79: AS 39.52.150(d) IMPROPER INFLUENCE IN STATE GRANTS, CONTRACTS, LEASES, LOANS. Requires reporting to the Personnel Board as well as to supervisor, a report of participation in state contracts, grants, leases, loans. (Added in SSTA)

SECTION 80: AS 39.52.155 DISCLOSURE OF CLOSE ECONOMIC ASSOCIATIONS. New Section: Requires state official to disclose, to supervisor and APOC, close economic associations with those listed in this section. Sets disclosure deadlines to conform with legislative ethics act. Subsection (c) requires state officials who are married to or living with a lobbyist to report the name of each employer of the lobbyist and the total monetary value received from the employer. Changes must be reported within 48 hours. APOC shall maintain a public record of the disclosures. Note overlap with Section 67. (Added in SSTA)

SECTION 81: AS 39.52.170 OUTSIDE EMPLOYMENT RESTRICTED. (a) Adds a clause that restricts state officials from accepting outside employment if the compensation is significantly greater than the value of the services. Conforms with legislative ethics language. (b) Requires those who receive compensation for another job to report to both supervisor and Personnel Board. (Added in SSTA)

SECTION 82: AS 39.52.170 (c) OUTSIDE EMPLOYMENT. Adds an honorarium restriction for state officials which matches legislative ethics act restriction. (Added in SSTA)

SECTION 83: AS 39.52.180(b) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE. This references change in new subsection (d) below, restricting agencies from contracting with a former state official for lobbying services before a state agency or the legislature. (Added in SSTA)

SECTION 84: AS 39.52.180(c) RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE. References new subsection (d) below and sets a one year limit on

waiving restrictions set out in this section regarding lobbying. (Added in SSTA)

SECTION 85: AS 39.52.180 RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE. New subsection. (d) restricts agencies from contracting with a former public officer for services which would include lobbying before a state agency or the legislature. (Added in SSTA)

SECTION 86: AS 39.52.210(a-c) DECLARATION OF POTENTIAL VIOLATIONS. Requires public employees to report potential violations to Personnel Board as well as to supervisor. Requires supervisor to provide a copy of written determination of potential violation to public employee and personnel board. (Added in SSTA)

SECTION 87: AS 39.52.220 DECLARATION OF POTENTIAL VIOLATIONS BY MEMBERS OF BOARDS AND COMMISSIONS. Requires members of boards or commissions to disclose a matter that may result in a violation on the public record and in writing to supervisor and to the personnel board. Replaces AG office with Personnel Board as advisors in matters of potential violation.

SECTION 88: AS 39.52.230 REPORTING OF POTENTIAL VIOLATIONS. A complaint against a state official is filed with the supervisor. The supervisor is required to file a copy of the complaint with the personnel board.

SECTION 89: AS 39.52.240(a) ADVISORY OPINIONS. Adds state officials to those that may request an advisory opinion and sets the personnel board as the body to issue the opinion. (Added in SSTA)

SECTION 90: AS 39.52.240(b) ADVISORY OPINIONS. Replaces the AG office with the personnel board as the body offering oral advice. (Added in SSTA)

SECTION 91: AS 39.52.240(c) ADVISORY OPINIONS. Replaces the AG office with the personnel board as the advising body. (Added in SSTA)

SECTION 92: AS 39.52.240(e) ADVISORY OPINIONS. Replaces the AG office with the personnel board as the advising body (Added in SSTA)

SECTION 93: AS 39.52.240(h) ADVISORY OPINIONS. Replaces the AG office with Personnel Board for purpose of publishing advisory opinions. (Added in SSTA)

SECTION 94: AS 39.52.250 ADVICE TO FORMER PUBLIC OFFICERS. Replaces the AG office with the personnel board as the advising body. (Added in SSTA)

SECTION 95: AS 39.52.260 DESIGNATED SUPERVISOR'S REPORT AND PERSONNEL BOARD REVIEW. Replaces the AG office with the personnel board as the body accepting reports of potential violations. (Added in SSTA)

SECTIONS 96 -105: AS 39.52.310, 320,330,340. COMPLAINTS: The changes in these sections have the effect of removing the AG from handling complaints and placing that responsibility with the Personnel Board. (Added in SSTA)

SECTION 106: AS 39.52.350: PROBABLE CAUSE FOR A HEARING Changes the current role of the AG from determining probable cause and initiating hearings to that of "prosecutor" in the hearing. Establishes the Personnel Board as the body to

conduct the preliminary review, determine probable cause and initiate hearings. (Added in SSTA)

SECTION 107: AS 39.52.920 AGENCY POLICIES Replaces the AG office with the Personnel Board as the body which reviews and approves agency policies that restrict a public officers acquisition of personal interest in certain entities and acceptance of gifts. (Added in SSTA)

SECTION 108: AS 39.52.950. REGULATIONS. Limits the AG office to adopting regulations relating to complaints (for this act) and sets out that the personnel board may adopt regulations necessary to interpret and implement sections other than complaints. (Added in SSTA)

SECTION 109: AS 39.52.960(11) DEFINITION OF IMMEDIATE FAMILY. Changes definition in the executive act to match the legislative act, as proposed in this bill. (Added in SSTA)

SECTION 110: AS 39.52.960 (23) DEFINITION OF STATE OFFICIAL. Means governor, lieutenant governor, a person hired or appointed as the head or deputy head of a department in the executive branch or as the director of a division in a department in the executive branch, the chair or member of a state commission or board, the executive director of the Alaska Tourism Marketing Council, an assistant to the governor or lieutenant governor, a state investment officer, the state comptroller in the Department of Revenue, and a state employee who is not otherwise listed in this definition who is employed in a position in the executive branch of state government in the exempt or partially exempt service and who is compensated at Range 19 A or above on the state salary schedule or at more than \$4200 per month. (This may affect people at lower ranges who are further out in step) Does not include an employee who is a member of collective bargaining unit e.g. state ferry workers. (Added in SSTA)

Other Statutes

SECTION 111: AS 44.62.175(a) ALASKA ADMINISTRATIVE JOURNAL. Adds advisory opinions of the personnel board to the list of those things to be published in the journal.

Transition Sections and Effective Dates

SECTION 112: Temporary Law: AG OPINIONS. Sets out that a public officer or former public officer may rely upon the opinion of the AG's office prior to this act taking effect. (Added in SSTA)

SECTION 113: Temporary Law: DISBURSEMENT OF UNUSED CAMPAIGN CONTRIBUTIONS Allows current legislators to transfer unused campaign contributions to a legislative office account under Sec. 3 of this act and requires the money transferred to be accounted for under AS 15.13.110(a)(4). (Added by Sen. Fin, amended on senate floor to reflect changes in Secs 3 &4)

SECTION 114: Temporary Law. Retroactive Date for Secs. 3, 4 and 113. Allows the increase in transfer to future election account and subsequent transfer of a portion of that increase to the office account to be retroactive to December 31, 1996. (Added by Sen. Fin.)

SECTION 115: Temporary Law. Immediate Effective Date for Secs. 3, 4, 113 and 114. (Added by Sen. Fin.)

SECTION 116: EFFECTIVE DATE: APOC has recommended that a January 1 effective date would correspond to their calendar year reporting and would avoid confusion for those who have to file the financial disclosure to APOC for the period of time between January 1 and whatever other date might be selected.

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 29, 1997

The Honorable Jeannette James
Alaska House of Representatives
State Capitol, Room 102
Juneau, Alaska 99801-1182

Dear Representative James:

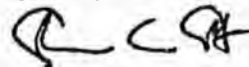
Thank you for meeting with me and Charlie Cole yesterday. I appreciate your concern about the amendments to the Executive Branch Ethics Act contained in SB 105.

After session ends, I will prepare a packet of materials for you on the Executive Branch Ethics Act, and would appreciate an opportunity to sit down with you and explain how the Act works. In addition, I would be happy to meet with you during the interim to help craft a bill that meets your requirements. I agree with your comments yesterday that an ethics bill must be carefully drafted.

I warn you in advance that my expertise begins and ends with the Executive Branch Ethics Act. I know very little about the Legislative Ethics Act or the campaign finance matters that make up the bulk of SB 105, but I can find the right person to answer questions you may have about those areas.

Thank you again for taking time out of your busy schedule. Please call me any time to discuss ethics questions.

Very truly yours,



Stephen C. Slotnick
Assistant Attorney General

SCS/smw

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

Neil Strick - 465 - 6710
A.G. for Ethics

That WJ then 9/17/97 —
in North pole.
Will have suggested revisions —
much of that is done in
already covered in EXEC.
Procedure Act.

Jeannette -

You and I will
need to sit down
and strategize on
the Ethics bill - we
have lots of amend-
ments we want in it.

Thanks -
Gael

Jeannette,

If you are going
to schedule SB105
(Ethics) I have an
amendment I'd
like to talk to
you about.

Pyron

**GAIL PHILLIPS
SPEAKER OF THE HOUSE**

Rep. J. James

4/28/97

*Copy for
Caucus*

MEMORANDUM

Representative John Cowdery

TO: Majority Caucus
FROM: Rep. Cowdery
DATE: Jan 5, 1997
RE: Ethics Law Issues
Cc:

*Jeanette - Pls go thru
these suggestions from
John to see if they should
be incorporated into the
Ethics bill. Thanks -
Gail*

*Ken
1/27/97
Not
possible*

1. Currently, if a member keeps the \$6K office expenses in an LAA account, instead of taking it as personal income, he/she is open to ethics charges depending on how it is spent. Whereas, if a member takes the \$6K as personal income and pays taxes on it, he/she is free from any constraints of the ethics law.

Recommendation: The \$6K office account should be exempt from the ethics law.

2. Legislators are subject to personal animosity or prejudice from each other just like people in any other arena. If a charge is filed with the Ethics Committee and the legislator being charged feels that a member of the committee bears a grudge, the charged legislator should have the right to pre-empt suspect members of the committee; legislative or public members.

Done

Recommendation: Change law to provide three alternates for the house members, three for the senate members and three for the public members.

3. The Ethics Committee should not have a blank check book to spend \$24K on a \$200 violation.

*(Can't
file as
a violation
problem)*

Solved:

Recommendation: Require the Ethics Committee to come to Legislative Council for approval to spend more than ?\$5K to pursue a case.

- 1. Staff will investigate first -*
- 2. Subject may have to pay costs.*

4. Current law requires the reporting of expenditures above \$100 annually between legislators and legislators, and, legislators and staff.

Recommendation: Eliminate the reporting requirement for these two groups.

Now raised to \$250.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)am

Revision Date: _____ Department Affected: Administration
 Title: An Act relating to legislative and executive
branch ethics. . . . BRU: Personnel
 Sponsor: Sen. Rules Comm. by Reg. of Select Comm. on Leg Ethics Component: Personnel
 Requestor: House State Affairs Committee COMPONENT SERIAL NO. 56

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	116.3	236.9	236.9	236.9	236.9	236.9
TRAVEL	7.5	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	7.6	15.2	15.2	15.2	15.2	15.2
SUPPLIES	.8	1.6	1.6	1.6	1.6	1.6
EQUIPMENT	19.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	151.2	268.7	268.7	268.7	268.7	268.7

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	151.2	268.7	268.7	268.7	268.7	268.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	151.2	268.7	268.7	268.7	268.7	268.7

Estimate of any current year (FY 97) cost: \$0.0

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.) Sections 62, 63, and 72-112 of CSSB 105(FIN)am amend the Executive Branch Ethics Act (AS 39.52) and make conforming amendments to the Personnel Act (AS 39.52) and the Alaska Administrative Journal publication requirements (AS 44.62.175). Additional ethics prohibitions are added, additional reporting is required, more people are covered under certain provisions, and much work is transferred from the attorney general to the Personnel Board. These changes in workload are summarized as follows:

Section 75. New prohibitions added. New requirement for review by the Personnel Board of certain political mass mailings. New disclosures to the Personnel Board added.

Section 76. Additional persons can request guidance concerning whether acceptance of a particular gift is prohibited. The work is transferred from the attorney general to the Personnel Board.

Prepared by: Beverly Reaume *Beverly Reaume* Phone: 465-4429
 Division: Division of Personnel Date: _____

Approved by Commissioner: Mark Boyer *Mark Boyer* Date: 4/30/97
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)am

ANALYSIS: (continued)

- Section 77. New prohibitions added. New reporting to the Personnel Board added. New requirement for guidance by the Personnel Board on recognized, nonpolitical charitable organizations. New reporting requirement on inheritances. New requirement for the Personnel Board to approve training programs for gifts of volunteer services.
- Section 78. New prohibitions added.
- Section 79. Duplicate reporting (to Personnel Board) of personal or financial interests in grants, contracts, or loans.
- Section 80. New disclosure requirements added.
- Section 81. New prohibitions added. Duplicate reporting to the Personnel Board added.
- Section 82. New prohibition added.
- Sections 83-85. New restrictions added on post-separation employment.
- Section 86. Duplicate reporting to the Personnel Board added. Additional persons can request guidance on whether a public employee's participation in a matter would violate the Executive Branch Ethics Act. The work is transferred from the attorney general to the Personnel Board.
- Section 87. Duplicate reporting to the Personnel Board added. Additional persons can request guidance on whether a member of a board or commission's participation in a matter would violate the Executive Branch Ethics Act. The work is transferred from the attorney general to the Personnel Board.
- Section 88. Providing Personnel Board with copy of report of potential violation added.
- Sections 89, 92, 93, and 94. Responsibility to issue interpretative opinions transferred to the Personnel Board. Additional persons can request opinions.
- Section 90. Option of oral advice transferred to Personnel Board.
- Section 95. Receipt, review, and public summary of reports of designated supervisors transferred from the attorney general to the Personnel Board.
- Section 96. Authority to initiate a complaint transferred from the attorney general to the Personnel Board.
- Section 97. Executive Branch Ethics Act complaints to be filed with the Personnel Board instead of the attorney general.
- Section 98. Responsibility to investigate a complaint against the governor, lieutenant governor, or attorney general transferred from independent counsel to the Personnel Board.
- Section 99. Responsibility to review Executive Branch Ethics Act complaints for completeness and threshold allegations transferred from the attorney general to the Personnel Board.
- Section 100. Option of referring a complaint to a designated supervisor transferred from the attorney general to the Personnel Board.
- Section 101. Service of a complaint transferred from the attorney general to the Personnel Board.
- Section 102. Responsibility for investigation of a complaint with authority to issue a subpoena transferred from the attorney general to the Personnel Board.
- Section 103. Authority to dismiss a complaint for lack of probable cause transferred from the attorney general to the Personnel Board.
- Section 104. Authority to direct corrective action without hearing transferred from the attorney general to the Personnel Board.
- Section 105. Responsibility for maintaining confidentiality during an investigation transferred from the attorney general to the Personnel Board.
- Section 106. Authority to initiate formal action on a finding of probable cause transferred from the attorney general to the Personnel Board.
- Section 107. Authority to review and approve agency policies on conflicts of interest transferred from the attorney general to the Personnel Board.
- Section 108. Regulation adoption authority transferred from the attorney general to the Personnel Board. Additional regulation authority added.
- Section 109. Definition of "immediate family member" rewritten. The current records of Department of Law lose their precedential value.
- Section 110. Definition of "state official" added to include more positions subject to reporting.

We estimate the need for four positions and associated costs for the Personnel Board to carry out these new requirements. The Personnel Board is authorized to employ staff members by AS 39.25.070(7). One position would be an attorney who would do the legal research and drafting of advice as directed by the Personnel Board. A paralegal position would be responsible for assisting in the legal research and ensuring that all noticing requirements are properly completed. A clerical position would be responsible for the maintenance of the physical files. An investigator will conduct all the investigations, both to determine if a complaint, if true, would constitute a violation and to determine if a violation did indeed occur.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)am

We estimate the need for the Personnel Board to meet on a monthly basis under the changes proposed here. Two of three meetings could probably be conducted by teleconference. A quarterly meeting in person would be required. Estimated public notice expenses and travel expenses are included.

Since a January 1, 1998, effective date is proposed (Section 116 of CSSB 105(FIN)am), the FY 98 costs are estimated for one-half year. Costs for FY 99 and beyond are estimated full year costs.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)am

Revision Date: 1/29/98 (update for 2nd Session) Department Affected: Administration
 Title: An Act relating to legislative and executive BRU: Personnel
branch ethics. . . . Component: Personnel
 Sponsor: Sen. Rules Comm. by Reg. of Select Comm. on Leg Ethics
 Requestor: House State Affairs Committee COMPONENT SERIAL NO. 2265

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	122.3	248.7	248.7	248.7	248.7	248.7
TRAVEL	7.5	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	7.6	15.2	15.2	15.2	15.2	15.2
SUPPLIES	.8	1.6	1.6	1.6	1.6	1.6
EQUIPMENT	19.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	157.2	280.5	280.5	280.5	280.5	280.5

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	157.2	280.5	280.5	280.5	280.5	280.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	157.2	280.5	280.5	280.5	280.5	280.5

Estimate of any current year (FY 97) cost: \$0.0

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.) Assumption: effective date sections 114-116 will be amended to one year later.

Sections 62, 63, and 72-112 of CSSB 105(FIN)am amend the Executive Branch Ethics Act (AS 39.52) and make conforming amendments to the Personnel Act (AS 39.25) and the Alaska Administrative Journal publication requirements (AS 44.62.175). Additional ethics prohibitions are added, additional reporting is required, more people are covered under certain provisions, and much work is transferred from the attorney general to the Personnel Board. These changes in workload are summarized as follows:

Section 75. New prohibitions added. New requirement for review by the Personnel Board of certain political mass mailings. New disclosures to the Personnel Board added.

Prepared by: Beverly Reaume
 Division: Division of Personnel

Phone: 465-4429
 Date: _____

Approved by Commissioner: Mark Bover *Mark Bover*
 Agency: Department of Administration

Date: 2/5/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)am

ANALYSIS: (continued)

- Section 77. New prohibitions added. New reporting to the Personnel Board added. New requirement for guidance by the Personnel Board on recognized, nonpolitical charitable organizations. New reporting requirement on inheritances. New requirement for the Personnel Board to approve training programs for gifts of volunteer services.
- Section 78. New prohibitions added.
- Section 79. Duplicate reporting (to Personnel Board) of personal or financial interests in grants, contracts, or loans.
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- Section 81. New prohibitions added. Duplicate reporting to the Personnel Board added.
- Section 82. New prohibition added.
- Sections 83-85. New restrictions added on post-separation employment.
- Section 86. Duplicate reporting to the Personnel Board added. Additional persons can request guidance on whether a public employee's participation in a matter would violate the Executive Branch Ethics Act. The work is transferred from the attorney general to the Personnel Board.
- Section 87. Duplicate reporting to the Personnel Board added. Additional persons can request guidance on whether a member of a board or commission's participation in a matter would violate the Executive Branch Ethics Act. The work is transferred from the attorney general to the Personnel Board.
- Section 88. Providing Personnel Board with copy of report of potential violation added.
- Sections 89, 92, 93, and 94. Responsibility to issue interpretative opinions transferred to the Personnel Board. Additional persons can request opinions.
- Section 90. Option of oral advice transferred to Personnel Board.
- Section 95. Receipt, review, and public summary of reports of designated supervisors transferred from the attorney general to the Personnel Board.
- Section 96. Authority to initiate a complaint transferred from the attorney general to the Personnel Board.
- Section 97. Executive Branch Ethics Act complaints to be filed with the Personnel Board instead of the attorney general.
- Section 98. Responsibility to investigate a complaint against the governor, lieutenant governor, or attorney general transferred from independent counsel to the Personnel Board.
- Section 99. Responsibility to review Executive Branch Ethics Act complaints for completeness and threshold allegations transferred from the attorney general to the Personnel Board.
- Section 100. Option of referring a complaint to a designated supervisor transferred from the attorney general to the Personnel Board.
- Section 101. Service of a complaint transferred from the attorney general to the Personnel Board.
- Section 102. Responsibility for investigation of a compliant with authority to issue a subpoena transferred from the attorney general to the Personnel Board.
- Section 103. Authority to dismiss a compliant for lack of probably cause transferred from the attorney general to the Personnel Board.
- Section 104. Authority to direct corrective action without hearing transferred from the attorney general to the Personnel Board.
- Section 105. Responsibility for maintaining confidentiality during an investigation transferred from the attorney general to the Personnel Board.
- Section 106. Authority to initiate formal action on a finding of probably cause transferred from the attorney general to the Personnel Board.
- Section 107. Authority to review and approve agency policies on conflicts of interest transferred from the attorney general to the Personnel Board.
- Section 108. Regulation adoption authority transferred from the attorney general to the Personnel Board. Additional regulation authority added.
- Section 109. Definition of "immediate family member" rewritten. The current records of Department of Law lose their precedential value.
- Section 110. Definition of "state official" added to include more positions subject to reporting.

We estimate the need for four positions and associated costs for the Personnel Board to carry out these new

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)am

requirements. The Personnel Board is authorized to employ staff members by AS 39.25.070(7). One position would be an attorney who would do the legal research and drafting of advice as directed by the Personnel Board. A paralegal position would be responsible for assisting in the legal research and ensuring that all noticing requirements are properly completed. A clerical position would be responsible for the maintenance of the physical files. An investigator will conduct all the investigations, both to determine if a complaint, if true, would constitute a violation and to determine if a violation did indeed occur.

We estimate the need for the Personnel Board to meet on a monthly basis under the changes proposed here. Two of three meetings could probably be conducted by teleconference. A quarterly meeting in person would be required. Estimated public notice expenses and travel expenses are included.

We assume that the effective date will be amended to January 1, 1999 (Section 116 of CSSB 105(FIN)am). Therefore, the FY 99 costs are estimated for one-half year. Costs for FY 00 and beyond are estimated full year costs.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Version: 1.6 CSSB105(FIN)
(S) Publish Date: 4/16/97

Revision Date: _____	Dept. Affected: <u>Department of Law</u>
Title: <u>"An Act relating to legislative and executive branch ethics; relating to the conduct of lobbyists . . ."</u>	BRU: <u>Civil Division</u>
Sponsor: <u>Senate Rules Committee</u>	Component: <u>General Legal Services</u>
Requester: <u>Senate Finance Committee</u>	COMPONENT SERIAL NO. <u>2087</u>

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

CSSB 105 (STA) makes numerous amendments to the legislative and executive branch ethics acts, expands the reporting requirements of lobbyists, requires exempt and partially exempt state employees above range 19 to file reports under the conflict of interest statutes (AS 39.50), and makes a conforming amendment to the definition of "public official" for employment security statutes. In amending the executive branch ethics act, the bill transfers certain responsibilities for enforcing the act from the Attorney General to the Personnel Board. The Attorney General retains prosecutorial authority in formal proceedings before the Board, and responsibility for enforcing the Board's decisions. CSSB 105 (STA) also adds new prohibitions, new reporting requirements, new disclosures, and expands list of persons affected by the act.

This bill will have no fiscal impact on the Department of Law. When the Executive Ethics Act was passed in 1986, the legislature did not provide funding to the Department of Law to perform its new responsibilities. Consequently, the department has largely relied on ethics supervisors in the appropriate state agencies to

Prepared by: Joan M. Kasson *[Signature]*
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General *[Signature]*
 Agency: Department of Law

Phone: 465-5370
 Date: 4/9/97
 Date: 4/9/97

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ANALYSIS CONTINUATION:

perform investigations; where possible, charged other agencies through interagency agreements for work performed under the act on their behalf; and when necessary to undertake the department's duties with scarce general funds, performed them at the expense of other work.

The Department of Law retains responsibility for certain functions under the State Affairs Committee Substitute including prosecuting ethics violations before the Board, seeking civil and criminal penalties, where appropriate, and as a practical matter, continuing to provide informal advice on the Ethics Act to agencies as well. The department hopes to continue to largely rely on interagency agreements to fund these activities.

FISCAL NOTE

No. 5

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO.

Bill Version: CSSB 105(EIN)
(S) Publish Date: 4/16/97

Revision Date: _____
Title: Legislative Ethics Code Reform
Sponsor: Senate Rules Committee
Requestor: Senate Finance Committee

Department Affected: Labor
BRU: Employment Security
Component: Employment/Unemployment Services
COMPONENT SERIAL NO. 1807

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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CHANGE IN REVENUE FUND SOURCE #						
--	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: \$ None

ANALYSIS: The bill amends standards and establishes new standards in three major areas: AS 24.60, governing legislative standards of conduct, the conflict of interest provisions in AS 39.50, and the Executive Branch Ethics Act in AS 39.52.

No fiscal impact is anticipated.

Prepared by: Rebecca Nance, Director Phone: 465-2711
 Division: Employment Security Division Date: 4/4/97
 Approved by Commissioner: Tom Cashen, Commissioner
 Agency: Department of Labor Date: 4/4/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 4
Bill Version: CS SB 105 (FIN)
(S) Publish Date: 4/16/97

Revision Date: _____
Title: "An Act relating to legislative ethics..."

Department Affected: Administration
BRU: Alaska Public Offices Commission
Component: Alaska Public Offices Commission

Sponsor: (S) Rules by Request of Legislative Ethics
Requestor: (S) FIN

COMPONENT SERIAL NO. 70

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	43.1	71.6	76.1	76.1	76.1	76.1
TRAVEL	2.2	2.2	2.2	2.2	2.2	2.2
CONTRACTUAL	7.4	7.4	7.4	7.4	7.4	7.4
SUPPLIES	1.6	1.6	1.6	1.6	1.6	1.6
EQUIPMENT	4.6					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	58.9	82.8	87.3	87.3	87.3	87.3

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	58.9	82.8	87.3	87.3	87.3	87.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	58.9	82.8	87.3	87.3	87.3	87.3

Estimate of any current year (FY 97) cost: \$ 0

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
SEE ATTACHED

Prepared by: Karen Boorman
Division: Alaska Public Offices Commission

Phone: 276-4176
Date: _____

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Date: 4/1/97

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FISCAL NOTE

STATE OF ALASKA

BILL NO. CSSB 105(STA) **

1997 LEGISLATIVE SESSION

ANALYSIS: (continued)

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

There are several parts of this bill which would impact the Alaska Public Offices Commission. Section 55, amending AS 24.60.990(a), and Section 63, amending AS 39.50.200(a), require that legislative employees and state employees compensated at Range 19 and above or at more than \$4200 a month file personal financial disclosure statements. Section 72, adding AS 39.52.155 requires that all state employees who file personal financial disclosure statements also file disclosures of close economic association with the APOC.

Currently, the Commission receives about 800 personal financial disclosure statements from all state filers including 65 from legislators and legislative directors. Approximately 1200 municipal officials file municipal financial disclosure statements.

Under the proposed changes to AS 24.60 an additional 192 legislative employees, Range 19 and above, plus 10% turnover per year and an estimated 50% turnover every two years would be required to file annual Legislative Financial Disclosure (LFD) Reports. An additional 658 state employees plus 10% annual turnover would be required to file annual Conflict of Interest (COI) Statements under AS 39.50. In addition, under AS 39.52, up to 1488 state employees would be required to file annual disclosures of close economic association and update them within sixty days of forming new close economic associations.

Current staffing to advise and train filers, provide manuals and forms, review completed statements, assess penalties and report to the Commission is provided by one Paralegal Assistant. At current staffing levels, review of many municipal filings is not possible and review of state filings is delayed. The addition of these new legislative employee and state employee filers more than doubles the number of individuals filing personal financial disclosure statements.

These provisions will take effect midway through FY 98, on January 1, 1998. The first major filing deadlines for filers under the new requirements would be 30 days after appointment or notification for state employees and 60 days after appointment for legislative employees. Over the following six months, approximately 725 new COI Interest Statements and 212 new LFD Reports would be due. This would require extensive education of all new filers. Additional manuals and forms would be necessary to provide immediate help. To provide long term guidance and enforcement, the Commission would engage in civil penalty assessments, advisory opinions and adjudication of complaints. Up to 1488 state official filers would have to file "disclosures of close economic association" with APOC and their designated ethics supervisor. APOC would make these available to the public.

Additional staff is needed to support these changes. An Administrative Clerk III Range 10 would be responsible for processing filed statements as well as accurate and prompt input of data. This person would assist in evaluating Conflict of Interest and Legislative Financial Disclosure Statements to determine their accuracy, obtain more information from filers whose statements are inaccurate, and provide information to the public about filers' Statements. This would be a seven month position the first year, twelve months thereafter.

A nine month full time seasonal Paralegal Assistant, Range 13, is needed to deal with the increase in Conflict of Interest and Legislative Financial Disclosure filers. This seasonal position would be active from December to August when filing demands are the greatest. This seasonal paralegal would compare and examine reports, interpret statutes and regulations, draft informal advice and proposed advisory opinions, and prepare civil penalty recommendations and orders for approval by the Commission. This would be a six month position the first year.

Additional funds are requested for travel and training of new legislative filers in Juneau and new state employee filers in Juneau and Fairbanks. Equipment costs in FY98 cover two filing cabinets, two telephones and installation of lines, a computer and its installation. Contractual and supply costs cover printing and mailing of new manuals, forms and other necessary correspondence for FY98 and subsequent years.

FISCAL NOTE

No. 3
 Bill Version: SSB105(STA)
 (S) Publish Date: 3/26/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Administration
 Title: An Act relating to legislative and executive
branch ethics. BRU: Personnel
 Component: Personnel
 Sponsor: Sen. Rules Comm. by Req. of Select Comm. on Leg Ethics
 Requestor: Senate State Affairs Committee COMPONENT SERIAL NO. 56

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	116.3	236.9	236.9	236.9	236.9	236.9
TRAVEL	7.5	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	7.6	15.2	15.2	15.2	15.2	15.2
SUPPLIES	.8	1.6	1.6	1.6	1.6	1.6
EQUIPMENT	19.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	151.2	268.7	268.7	268.7	268.7	268.7

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	152.2	268.7	268.7	268.7	268.7	268.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	152.2	268.7	268.7	268.7	268.7	268.7

Estimate of any current year (FY 97) cost: \$0.0

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.) This analysis is based on the draft amendments identified as O-LS0074\B.2 by Cramer, 3/18/97. Bill Section numbers may not match the numbers in the final committee substitute.

Sections 64-102 of the draft amendments amend the Executive Branch Ethics Act. Additional prohibitions are added, additional reported is required, more people are covered under certain provisions, and much work is transferred from the attorney general to the Personnel Board. These changes in workload are summarized as follows:

Section 67. New prohibitions added. New requirement for review by the Personnel Board of certain political mass mailings. New disclosures to the Personnel Board added.

Section 68. Additional persons can request guidance concerning whether acceptance of a particular gift is prohibited. The work is transferred from the attorney general to the Personnel Board.

Prepared by: Beverly Reaume *Beverly Reaume* Phone: 465-4429
 Division: Division of Personnel Date: _____

Approved by Commissioner: Mark Boyer *Mark Boyer*
 Agency: Department of Administration Date: 3/24/97

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ANALYSIS: (continued)

- Section 69. New prohibitions added. New reporting to the Personnel Board added. New requirement for guidance by the Personnel Board on recognized, nonpolitical charitable organizations. New reporting requirement on inheritances. New requirement for the Personnel Board to approve training programs for gifts of volunteer services.
- Section 70. New prohibitions added.
- Section 71. Duplicate reporting (to Personnel Board) of personal or financial interests in grants, contract, or loans.
- Section 72. New disclosure requirements added.
- Section 73. New prohibitions added. Duplicate reporting to the Personnel Board added.
- Section 74. New prohibition added.
- Sections 75-77. New restrictions added on post separation employment.
- Section 78. Duplicate reporting to the Personnel Board added. Additional persons can request guidance on whether a public employee's participation in a matter would violate the Executive Branch Ethics Act. The work is transferred from the attorney general to the Personnel Board.
- Section 79. Duplicate reporting to the Personnel Board added. Additional persons can request guidance on whether a member of a board or commission's participation in a matter would violate the Executive Branch Ethics Act. The work is transferred from the attorney general to the Personnel Board.
- Section 80. Providing Personnel Board with copy of report of potential violation added.
- Section 81, 84, 85, 86. Responsibility to issue interpretative opinions transferred to the Personnel Board. Additional persons can request opinions.
- Sections 82. Option of oral advice transferred to Personnel Board.
- Section 87. Receipt, review, and public summary of reports of designated supervisors transferred from the attorney general to the Personnel Board.
- Section 88. Authority to initiate a complaint transferred from the attorney general to the Personnel Board.
- Section 89. Executive Branch Ethics Act complaints to be filed with the Personnel Board instead of the attorney general.
- Section 90. Responsibility to investigate a complaint against the governor, lieutenant governor, or attorney general transferred from independent counsel to the Personnel Board.
- Section 91. Responsibility to review Executive Branch Ethics Act complaints for completeness and threshold allegations transferred from the attorney general to the Personnel Board.
- Section 92. Option of referring a complaint to a designated supervisor transferred from the attorney general to the Personnel Board.
- Section 93. Service of a complaint transferred from the attorney general to the Personnel Board.
- Section 94. Responsibility for investigation of a complaint with authority to issue a subpoena transferred from the attorney general to the Personnel Board.
- Section 95. Authority to dismiss a complaint for lack of probable cause transferred from the attorney general to the Personnel Board.
- Section 96. Authority to direct corrective action without hearing transferred from the attorney general to the Personnel Board.
- Section 97. Responsibility for maintaining confidentiality during an investigation transferred from the attorney general to the Personnel Board.
- Section 98. Authority to initiate formal action on a finding of probable cause transferred from the attorney general to the Personnel Board.
- Section 99. Authority to review and approve agency policies on conflicts of interest transferred from the attorney general to the Personnel Board.
- Section 100. Regulation adoption authority transferred from the attorney general to the Personnel Board. Additional regulation authority added.
- Section 101. Definition of "immediate family member" rewritten. The current records of Department of Law lose their precedential value.
- Section 102. Definition of "state official" added to include more positions subject to reporting.

We estimate the need for four positions and associated costs for the Personnel Board to carry out these new requirements. The Personnel Board is authorized to employ staff members by AS 39.25.070(7). One position would be an attorney who would do the legal research and drafting of advice as directed by the Personnel Board. A paralegal position would be responsible for assisting in the legal research and ensuring that all noticing requirements are properly completed. A clerical position would be responsible for the maintenance of the physical files. An investigator will conduct all the investigations, both to determine if a complaint, if true, would constitute a violation and to determine if a violation did indeed occur.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CS SB105 (SA) ⁴³

We estimate the need for the Personnel Board to meet on a monthly basis under the changes proposed here. Two of three meetings could probably be conducted by teleconference. A quarterly meeting in person would be required. Estimated public notice expenses and travel expenses are included.

Since a January 1, 1998, effective date is proposed (Section 54 of SB 105), the FY 98 costs are estimated for one-half year. Costs for FY 99 and beyond are estimated full year costs.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

NO. _____
 BILL VERSION: SB105
 PUBLISH DATE: (S) Publish Date: 3/26/97

Revision Date: _____
 Title: "An Act relating to legislative ethics; relating to the filing of disclosures by certain legislative...
 Sponsor: Senate Rules Committee
 Requestor: Senate State Affairs

Department Affected: Legislative Affairs Agency
 BRU: All
 Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Karla Schofield, Deputy Director Phone: 465-3852
 Division: Administrative Services Date: 3/10/97

Approved By: Pamela A. Varni, Executive Director Date: 3/10/97
 Agency: Legislative Affairs Agency

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 105(FIN) am

Revision Date (Note if correction) _____	Dept. Affected <u>Law</u>
Title <u>"An Act relating to legislative and executive branch ethics; relating to the conduct of lobbyists..."</u>	BRU <u>Civil Division</u>
Sponsor <u>Senate Rules Committee</u>	Component <u>All</u>
Requester <u>House State Affairs</u>	Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

POSITIONS	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Full-time	0	0	0	0	0	0
Part-time						
Temporary						

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

CSSB 105 (FIN) am makes numerous amendments to the legislative and executive branch ethics acts, expands the reporting requirements of lobbyists, requires exempt and partially exempt state employees above range 19 to file reports under the conflict of interest statutes (AS 39.50), and makes a conforming amendment to the definition of "public official" for employment security statutes. In amending the executive branch ethics act, the bill transfers certain responsibilities for enforcing the act from the Attorney General to the Personnel Board. The Attorney General retains prosecutorial authority in formal proceedings before the Board, and responsibility for enforcing the Board's decisions. CSSB 105 (FIN) am also adds new prohibitions, new reporting requirements, new disclosures, and expands list of persons affected by the act.

This bill will have no fiscal impact on the Department of Law. When the Executive Ethics Act was passed in 1986 the

Prepared by <u>Joan M. Kasson</u>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date <u>2/2/98</u>
Approved by Commissioner <u>Bruce M. Botelho, Attorney General</u>	Date <u>2/2/98</u>
Agency <u>Department of Law</u>	

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 105(FIN)am

ANALYSIS CONTINUATION

legislature did not provide funding to the Department of Law to perform its new responsibilities. Consequently, the department has largely relied on ethics supervisors in the appropriate state agencies to perform investigations; where possible, charged other agencies through interagency agreements for work performed under the act on their behalf; and when necessary to undertake the department's duties with scarce general funds, performed them at the expense of other work.

The Department of Law retains responsibility for certain functions under the Finance Committee Substitute as amended, including prosecuting ethics violations before the Board, seeking civil and criminal penalties, where appropriate, and as a practical matter, continuing to provide informal advice on the Ethics Act to agencies as well. The department hopes to continue to largely rely on interagency agreements to fund these activities.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)am

Revision Date: 1/29/98 (update for 2nd Session)
 Title: An Act relating to legislative and executive branch ethics. . .
 Sponsor: Sen. Rules Comm. by Req. of Select Comm. on Leg Ethics
 Requestor: House State Affairs Committee

Department Affected: Administration
 BRU: Personnel
 Component: Personnel
 COMPONENT SERIAL NO. 2265

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	122.3	248.7	248.7	248.7	248.7	248.7
TRAVEL	7.5	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	7.6	15.2	15.2	15.2	15.2	15.2
SUPPLIES	.8	1.6	1.6	1.6	1.6	1.6
EQUIPMENT	19.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	157.2	280.5	280.5	280.5	280.5	280.5

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	157.2	280.5	280.5	280.5	280.5	280.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	157.2	280.5	280.5	280.5	280.5	280.5

Estimate of any current year (FY 97) cost: \$0.0

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.) Assumption: effective date sections 114-116 will be amended to one year later.

Sections 62, 63, and 72-112 of CSSB 105(FIN)am amend the Executive Branch Ethics Act (AS 39.52) and make conforming amendments to the Personnel Act (AS 39.25) and the Alaska Administrative Journal publication requirements (AS 44.62.175). Additional ethics prohibitions are added, additional reporting is required, more people are covered under certain provisions, and much work is transferred from the attorney general to the Personnel Board. These changes in workload are summarized as follows:

Section 75. New prohibitions added. New requirement for review by the Personnel Board of certain political mass mailings. New disclosures to the Personnel Board added.

Prepared by: Beverly Reaume
 Division: Division of Personnel

Phone: 465-4429
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 2/5/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)am

ANALYSIS: (continued)

- Section 77. New prohibitions added. New reporting to the Personnel Board added. New requirement for guidance by the Personnel Board on recognized, nonpolitical charitable organizations. New reporting requirement on inheritances. New requirement for the Personnel Board to approve training programs for gifts of volunteer services.
- Section 78. New prohibitions added.
- Section 79. Duplicate reporting (to Personnel Board) of personal or financial interests in grants, contracts, or loans.
- Section 80. New disclosure requirements added.
- Section 81. New prohibitions added. Duplicate reporting to the Personnel Board added.
- Section 82. New prohibition added.
- Sections 83-85. New restrictions added on post-separation employment.
- Section 86. Duplicate reporting to the Personnel Board added. Additional persons can request guidance on whether a public employee's participation in a matter would violate the Executive Branch Ethics Act. The work is transferred from the attorney general to the Personnel Board.
- Section 87. Duplicate reporting to the Personnel Board added. Additional persons can request guidance on whether a member of a board or commission's participation in a matter would violate the Executive Branch Ethics Act. The work is transferred from the attorney general to the Personnel Board.
- Section 88. Providing Personnel Board with copy of report of potential violation added.
- Sections 89, 92, 93, and 94. Responsibility to issue interpretative opinions transferred to the Personnel Board. Additional persons can request opinions.
- Section 90. Option of oral advice transferred to Personnel Board.
- Section 95. Receipt, review, and public summary of reports of designated supervisors transferred from the attorney general to the Personnel Board.
- Section 96. Authority to initiate a complaint transferred from the attorney general to the Personnel Board.
- Section 97. Executive Branch Ethics Act complaints to be filed with the Personnel Board instead of the attorney general.
- Section 98. Responsibility to investigate a complaint against the governor, lieutenant governor, or attorney general transferred from independent counsel to the Personnel Board.
- Section 99. Responsibility to review Executive Branch Ethics Act complaints for completeness and threshold allegations transferred from the attorney general to the Personnel Board.
- Section 100. Option of referring a complaint to a designated supervisor transferred from the attorney general to the Personnel Board.
- Section 101. Service of a complaint transferred from the attorney general to the Personnel Board.
- Section 102. Responsibility for investigation of a complaint with authority to issue a subpoena transferred from the attorney general to the Personnel Board.
- Section 103. Authority to dismiss a complaint for lack of probable cause transferred from the attorney general to the Personnel Board.
- Section 104. Authority to direct corrective action without hearing transferred from the attorney general to the Personnel Board.
- Section 105. Responsibility for maintaining confidentiality during an investigation transferred from the attorney general to the Personnel Board.
- Section 106. Authority to initiate formal action on a finding of probable cause transferred from the attorney general to the Personnel Board.
- Section 107. Authority to review and approve agency policies on conflicts of interest transferred from the attorney general to the Personnel Board.
- Section 108. Regulation adoption authority transferred from the attorney general to the Personnel Board. Additional regulation authority added.
- Section 109. Definition of "immediate family member" rewritten. The current records of Department of Law lose their precedential value.
- Section 110. Definition of "state official" added to include more positions subject to reporting.

We estimate the need for four positions and associated costs for the Personnel Board to carry out these new

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)am

requirements. The Personnel Board is authorized to employ staff members by AS 39.25.070(7). One position would be an attorney who would do the legal research and drafting of advice as directed by the Personnel Board. A paralegal position would be responsible for assisting in the legal research and ensuring that all noticing requirements are properly completed. A clerical position would be responsible for the maintenance of the physical files. An investigator will conduct all the investigations, both to determine if a complaint, if true, would constitute a violation and to determine if a violation did indeed occur.

We estimate the need for the Personnel Board to meet on a monthly basis under the changes proposed here. Two of three meetings could probably be conducted by teleconference. A quarterly meeting in person would be required. Estimated public notice expenses and travel expenses are included.

We assume that the effective date will be amended to January 1, 1999 (Section 116 of CSSB 105(FIN)am). Therefore, the FY 99 costs are estimated for one-half year. Costs for FY 00 and beyond are estimated full year costs.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CCSB 105(FIN)am

Revision Date: (Note if correction)
 Title: "An Act relating to legislative ethics...."

Department Affected: Administration
 BRU: Alaska Public Offices Commission
 Component: Alaska Public Offices Commission

Sponsor: (S) Rules by Request of Legislative Ethics
 Requestor: (H) STA

COMPONENT SERIAL NO. 70

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	43.1	71.6	76.1	76.1	76.1	76.1
TRAVEL	4.2	4.2	2.2	2.2	2.2	2.2
CONTRACTUAL	22.4	7.4	7.4	7.4	7.4	7.4
SUPPLIES	1.6	1.6	1.6	1.6	1.6	1.6
EQUIPMENT	4.6					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	75.9	84.8	87.3	87.3	87.3	87.3

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	75.9	84.8	87.3	87.3	87.3	87.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	75.9	84.8	87.3	87.3	87.3	87.3

Estimate of any current year (FY 98) cost: \$ 0.0

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED

Prepared by: Karen Boorman
 Division: Alaska Public Offices Commission

Phone: 274-4176
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 2/3/98

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**FISCAL NOTE
STATE OF ALASKA**

1998 LEGISLATIVE SESSION

BILL NO. CCSB 105(FIN)am

ANALYSIS: (continued)

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

There are several parts of this bill which would impact the Alaska Public Offices Commission. Section 55, amending AS 24.60.990(a), and Section 63, amending AS 39.50.200(a), require that legislative employees and state employees compensated at Range 19 and above or at more than \$4200 a month file personal financial disclosure statements. Section 72, adding AS 39.52.155 requires that all state employees who file personal financial disclosure statements also file disclosures of close economic association with the APOC.

Currently, the Commission receives about 800 personal financial disclosure statements from all state filers including 65 from legislators and legislative directors. Approximately 1200 municipal officials file municipal financial disclosure statements. Under the proposed changes to AS 24.60 an additional 192 legislative employees, Range 19 and above, plus 10% turnover per year and an estimated 50% turnover every two years would be required to file annual Legislative Financial Disclosure (LFD) Reports. An additional 658 state employees plus 10% annual turnover would be required to file annual Conflict of Interest (COI) Statements under AS 39.50. In addition, under AS 39.52, up to 1488 state employees would be required to file annual disclosures of close economic association and update them within sixty days of forming new close economic associations.

Current staffing to advise and train filers, provide manuals and forms, review completed statements, assess penalties and report to the Commission is provided by one Paralegal Assistant. At current staffing levels, review of many municipal filings is not possible and review of state filings is delayed. The addition of these new legislative employee and state employee filers more than doubles the number of individuals filing personal financial disclosure statements.

These provisions will take effect midway through FY 99, on January 1, 1999. The first major filing deadlines for filers under the new requirements would be 30 days after appointment or notification for state employees and 60 days after appointment for legislative employees. Over the following six months, approximately 725 new COI Interest Statements and 212 new LFD Reports would be due. This would require extensive education of all new filers. Additional manuals and forms would be necessary to provide immediate help. To provide long term guidance and enforcement, the Commission would engage in civil penalty assessments, advisory opinions and adjudication of complaints. Up to 1488 state official filers would have to file "disclosures of close economic association" with APOC and their designated ethics supervisor. APOC would make these available to the public.

Additional staff is needed to support these changes. An Administrative Clerk III Range 10 would be responsible for processing filed statements as well as accurate and prompt input of data. This person would assist in evaluating Conflict of Interest and Legislative Financial Disclosure Statements to determine their accuracy, obtain more information from filers whose statements are inaccurate, and provide information to the public about filers' Statements. This would be a seven-month position the first year, twelve months thereafter.

A nine-month full time seasonal Paralegal Assistant, Range 13/16, is needed to deal with the increase in Conflict of Interest and Legislative Financial Disclosure filers. This seasonal position would be active from December to August when filing demands are the greatest. This seasonal paralegal would compare and examine reports, interpret statutes and regulations, draft informal advice and proposed advisory opinions, and prepare civil penalty recommendations and orders for approval by the Commission. This would be a six-month position the first year.

Additional funds are requested for travel and training of new legislative filers and new state employee filers around the State through seminars, video conferencing and video training materials with emphasis on new filers in the first two years (FY99 & FY00) of implementation. Equipment costs in FY99 cover two filing cabinets, two telephones and installation of lines, a computer and its installation. Contractual and supply costs cover printing and mailing of new manuals, forms and other necessary correspondence for FY99 and subsequent years. FY99 contractual costs also include upgrading and reprogramming the financial disclosure database, streamlining filing procedures and the development of video training materials.