

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9473 HOUSE STATE AFFAIRS

109

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 105(FIN) am

1 Page 8, lines 18 - 19:

2 Delete "a legislative director or another legislative employee who is subject to
3 disclosure"

4 Insert "an upper-level employee [A LEGISLATIVE DIRECTOR]"

5 Page 31, lines 18 - 19:

6 Delete "[AND] legislative directors, public members of the committee, and certain
7 legislative employees"

8 Insert "upper-level employees, and public members of the committee
9 [LEGISLATIVE DIRECTORS]"

10 Page 31, lines 20 - 21:

11 Delete "[AND A] legislative director, public member of the committee and
12 legislative employee who is required to disclose"

13 Insert "upper-level employee, and a public member of the committee
14 [LEGISLATIVE DIRECTOR]"

15 Page 31, lines 28 - 29:

16 Delete "; however, a person subject to disclosure requirements is not required to
17 report any gifts"

18 Insert "other than information about gifts"

19 Page 32, lines 5 - 6:

20 Delete "person subject to disclosure requirements [LEGISLATOR OR]"

21 Insert "legislator or an upper-level employee ["

1 Page 32, lines 20 - 21:

2 Delete "person subject to disclosure requirements [LEGISLATOR AND"

3 Insert "legislator and an upper-level employee ["

4 Page 32, lines 24 - 25:

5 Delete "a legislative employee who is required to disclose"

6 Insert "an upper-level employee"

7 Page 32, lines 30 - 31:

8 Delete "person subject to disclosure requirements [LEGISLATOR OR"

9 Insert "legislator or an upper-level employee ["

10 Page 33, lines 11 - 12:

11 Delete "a person subject to disclosure requirements [AN INCUMBENT
12 LEGISLATOR"

13 Insert "an incumbent legislator ["

14 Page 33, line 17, following "AS 39.50.060(b).":

15 Insert "In addition to the sanctions described in AS 24.60.260, if the Alaska Public
16 Offices Commission finds that an upper-level employee has failed or refused to file a
17 report under AS 24.60.200 by a deadline established in AS 24.60.210, it shall notify the
18 appropriate committee of the legislature. For the ombudsman and employees of the
19 office of the ombudsman, the appropriate committee is the Legislative Council. For
20 upper-level employees who are not employed by the Legislative Affairs Agency or the
21 Legislative Budget and Audit Committee, the commission shall notify the Rules
22 Committee of the appropriate legislative body."

23 Page 34, lines 9 - 14:

24 Delete all material.

25 Page 34, line 15:

26 Delete "(17)"

1 Insert "(15)"

2 Page 34, line 17:

3 Delete "(18)"

4 Insert "(16)"

5 Page 34, line 18:

6 Delete "."

7 Insert ";

8 (17) "upper-level legislative employee" c. "upper-level employee" means a
9 legislative employee who is compensated at Range 19 or above of the state salary schedule
10 under AS 39.27.011."

Passed

OK by Subcomm 2/24
AMENDMENT

0-LS0074\KA.20
Cramer
2/9/98

OFFERED IN THE HOUSE

TO: CSSB 105(FIN) am

1 Page 18, line 24:

2 Delete "in accordance with guidelines adopted by the committee"

3 Page 23, line 21, through page 24, line 2:

4 Delete all material.

5 Renumber the following bill sections accordingly.

6 Renumber internal references to bill sections in accordance with this amendment. Internal bill
7 section references occur in the following places:

8 Page 59, lines 21 and 28

9 Page 60, lines 1, 3, 4, and 6

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 105(FIN) am

1 Page 9, line 7:

2 Delete "or"

3 Insert "[OR]"

4 Page 9, line 9, following ",":

5 Insert "or

6 (D) the legislative council from designating a public facility for use
7 by legislators and legislative employees for health or fitness purposes; when the
8 council designates a facility to be used by legislators and legislative employees for
9 health or fitness purposes, it shall adopt guidelines governing access to and use
10 of the facility; the guidelines may establish times in which use of the facility is
11 limited to specific groups:"

*Leave for
Full Committee*

AMENDMENT

OFFERED IN THE HOUSE

TO: CSSB 105(FIN) am

- 1 Page 60. line 6:
- 2 Delete all material and insert:
- 3 *** Sec. 116.** Sections 1, 2, and 5 of this Act take effect seven days after the date on which
- 4 this Act becomes law.
- 5 *** Sec. 117.** Sections 6 - 112 of this Act take effect January 1, 1999."

*Revised w/
full committee
(Fin SB 275)*

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 105(FIN) am

*"Make it"
not necessary!*

1 Page 1, line 2, following "state":

2 Insert "or municipal"

3 Page 1, following line 7:

4 Insert a new bill section to read:

5 **"* Section 1.** AS 15.13.040 is amended by adding a new subsection to read:

6 (i) The permission of the owner of real or personal property to post political
7 signs, including bumper stickers, on property is not considered to be a contribution
8 under this chapter unless the owner customarily charges a fee or receives payment for
9 permitting the posting of political signs. The fact that the owner customarily charges
10 a fee or receives payment for posting signs that are not political signs is not
11 determinative of whether the owner customarily does so for political signs."

12 Page 1, line 8:

13 Delete "Section 1"

14 Insert "Sec. 2"

15 Renumber the following bill sections accordingly.

16 Page 60, following line 5:

17 Insert a new bill section to read:

18 **"* Sec. 117.** Section 1 of this Act takes effect seven days after the date on which this Act
19 becomes law."

20 Renumber the following bill section accordingly.

1 Renumber internal references to bill sections in accordance with this amendment. Internal
2 bill section references occur at the following places:

3 Page 59, line 21

4 Page 59, line 28

5 Page 60, line 1

6 Page 60, line 3

7 Page 60, line 4

8 Page 60, line 6

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 105(FIN)

1 Page 1, line 2, following "state":

2 Insert "or municipal"

3 Page 5, following 21:

4 Insert a new bill section to read:

5 **"* Sec. 4. AS 15.13.116(b) is amended to read:**

6 (b) After a general, special, municipal, or municipal runoff election, a
7 candidate may retain the ownership of one computer and one printer and of personal
8 property, except money, that was acquired by and for use in the campaign. The
9 current fair market value of the property retained, exclusive of the computer and
10 printer, may not exceed \$2,500. All other property shall be disposed of, or sold and
11 the sale proceeds disposed of, in accordance with (a) or (c) of this section.
12 Notwithstanding any other provision of this chapter, a candidate may (1) retain
13 a bulk mailing permit that was paid for with campaign funds, and (2) use
14 personal funds, campaign funds, or unused campaign contributions transferred
15 to a legislative office account under AS 15.13.116(a)(9) to pay the continuing
16 charges for the permit after the election. Money used to continue the life of the
17 permit is not considered to be a contribution under this chapter. In addition to
18 any other use permitted under this chapter, during the candidate's term of office,
19 the candidate may use the bulk mailing permit for mailings associated with
20 service in the office to which the candidate was elected. During the candidate's
21 term of office, if the candidate files a declaration of candidacy or a letter of
22 intent to become a candidate for the same or a different elective office, the
23 candidate may also use the bulk mailing permit in that election campaign."

*Review
Commission
will handle
this?*

1 Renumber the following bill sections accordingly.

2 Page 17, line 30, following "AS 15.13.040(g)":

3 Insert "The use of a bulk mailing permit owned by a legislator's campaign
4 committee or used in a legislator's election campaign is not a gift to that legislator under
5 this section"

6 Page 60, line 6:

7 Delete all material and insert:

8 "*** Sec. 117.** Sections 1, 2, 4, and 6 - 113 of this Act take effect January 1, 1999."

9 Renumber internal references to bill sections in accordance with this amendment. Internal
10 bill section references occur at the following places:

11 Page 59, line 21

12 Page 59, line 28

13 Page 60, line 1

14 Page 60, line 3

15 Page 60, line 4

16 Page 60, line 6

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 105(FIN) am

Self Attached

1 Page 9, line 7:

2 Delete "or"

3 Insert "[OR]"

4 Page 9, line 9, following "":

5 Insert "or

6 (D) a legislator from using the legislator's private office for
7 nongovernmental purposes if the use does not interfere with the
8 performance of public duties and if the cost to the state for the use of the
9 space, equipment, and supplies is nominal or the legislator reimburses the
10 state for the cost; an office is considered a legislator's private office under
11 this subparagraph if it is reserved for use by the legislator, whether or not
12 it is shared with others;"

13 Page 9, line 31:

14 Delete "or"

15 Page 10, line 2, following "office":

16 Insert "; or

17 (E) a legislator from using the legislator's private office for
18 nongovernmental purposes if the use does not interfere with the
19 performance of public duties and if the cost to the state for the use of the
20 space, equipment, and supplies is nominal or the legislator reimburses the
21 state for the cost; an office is considered a legislator's private office under
22 this subparagraph if it is reserved for use by the legislator, whether or not

1

it is shared with others"

2/26/98
Susie Barrett, Staff
Select Committee on Legislative Ethics

*Immd. Attn.
Barbara*

*EM
KA.61*

Suggested language re: Amendment KA.61

Change both paragraphs to read:

a legislator from using the legislator's private office in the capital city during a legislative session, and for the five days immediately before and the five days immediately after a legislative session, for nongovernmental purposes if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment, other than utility costs and (minimal wear and tear) or the legislator promptly reimburses the state for the cost; and office is considered a legislator's private office under this subparagraph ~~is the~~ the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others.

IF it is

*Drafter
may
find a
better form*

Adopted.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 105(FIN) am

1 Page 9, line 7:

2 Delete "or"

3 Insert "[OR]"

4 Page 9, line 9, following "":

5 Insert "or

6 (D) a legislator from using the legislator's private office in
7 the capital city during a legislative session, and for the five days
8 immediately before and the five days immediately after a legislative
9 session, for nongovernmental purposes if the use does not interfere with
10 the performance of public duties and if the incremental cost to the state
11 for the use of the space, equipment, and supplies is not substantial or the
12 legislator reimburses the state for the cost; an office is considered a
13 legislator's private office under this subparagraph if it is the primary
14 space in the capital city reserved for use by the legislator, whether or not
15 it is shared with others:"

16 Page 9, line 31:

17 Delete "or"

18 Page 10, line 2, following "office":

19 Insert "; or

20 (E) a legislator from using the legislator's private office in
21 the capital city during a legislative session, and for the five days
22 immediately before and the five days immediately after a legislative

1 session, for nongovernmental purposes if the use does not interfere with
2 the performance of public duties and if the incremental cost to the state
3 for the use of the space, equipment, and supplies is not substantial or the
4 legislator reimburses the state for the cost; an office is considered a
5 legislator's private office under this subparagraph if it is the primary
6 space in the capital city reserved for use by the legislator, whether or not
7 it is shared with others"

LEGAL SERVICES

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MEMORANDUM

June 13, 1997

SUBJECT: Sectional Summary of CSSB 105(FIN) am. (Legislative and Executive Branch Ethics bill)

TO: Senator Tim Kelly
Attn: Ben Brown

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Campaign finance sections

Section 1 amends AS 15.13.072(d) to expand the prohibition on candidates soliciting or accepting contributions during a legislative session to include candidates for election or reelection to state office. "State office" is defined in sec. 5 of the bill to include the governor, lieutenant governor, legislators, and similar state offices.

Sec. 2 amends AS 15.13.074(c) to prohibit persons or groups from making contributions to a candidate for state office during a regular legislative session. The prohibition currently applies only to candidates for the state legislature.

Secs. 3 and 4 amend AS 15.13.116(a)(9) and add AS 15.13.116(d), to permit legislators to establish office account reserves from unused campaign contributions. A legislator may transfer up to \$5,000 each year of office from the reserve account to the legislator's legislative office account. At the end of the legislator's term, any amount remaining in the legislative office account reserve must be disposed of as provided in AS 15.13.116(a)(1) - (8).

Sec. 5 defines "state office" for purposes of AS 15.13.

Technical change

Sec. 6 makes a technical amendment to the state's unemployment compensation law. The amendment is made necessary because the definition of "public official" in AS 39.50.200(a) is amended by sec. 70 of the bill. The change made by bill sec. 70 is not intended to apply to the unemployment compensation laws. Therefore, the meaning of "public official" as it reads in current law is set out in AS 23.20.526(d)(8)(A).

Subpoena Power

Sec. 7 amends AS 24.25.010(e) to include the Legislative Ethics Committee in the list of legislative committees that may issue a subpoena without securing the concurrence of the presiding officer.

Lobbying laws

Sec. 8 adds a new section to AS 24.45, the state lobbying laws, to prohibit a legislator's spouse or a person cohabiting with a legislator from engaging in lobbying the executive branch of state government or the legislature during the legislator's term of office. "Engage in lobbying" and "person cohabiting with" are defined in subsection (b).

Sec. 9 amends AS 24.45.171(12), the definition of "public official" or "public officer" for the state lobbying laws, to include those legislative employees who are required to make financial disclosures under AS 24.60.990(a). The terms "legislative employee who is required to disclose" and "person subject to disclosure requirements" are defined in bill sec. 61, which adds paragraphs to AS 24.60.990(a). Those definitions refer to legislative employees who are compensated at or above Range 19 of the state salary schedule.

It would be clearer if this bill section were changed to refer to legislative employees who are "required to disclose" instead of employees who are "subject to disclosure."

Legislative Code of Ethics

Sec. 10 amends AS 24.60.030(a). The amendments to (2)(A) and to (5)(A) permit legislators and legislative employees to make limited use of public property (paragraph 2) or state property (paragraph 5) for personal purposes even if there is a cost to the state for the use so long as the legislator or legislative employee reimburses the state for the cost. Legislators and legislative employees may also make limited use of office facsimile machines for personal purposes. The amendment to paragraph (5)(D) permits the storing or maintaining of election campaign records in a legislator's office. (Under AS 24.60.030(b) a legislative employee is prohibited from working on campaign matters on government time).

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Sec. 11 repeals and reenacts AS 24.60.030(c) to clarify that state funds other than the office allowance may not be used for mass mailings about legislators, legislative employees, or other persons who are candidates for federal, state or municipal office or to the board of an electric or telephone cooperative.

Sec. 12 extends the prohibition in AS 24.60.030(d) against distributing or posting campaign communications to also prohibit distributing or posting notices about fund-raising events for candidates. The amendment applies the prohibition to legislative employees as well as legislators and applies whether or not the election has been concluded. There is an exception for communications posted in a legislator's private office.

Sec. 13 amends AS 24.60.030(f) to clarify that a legislator or legislative employee whose appointment to a board is disclosed in the House or Senate Journal does not need to make an additional disclosure to the Ethics Committee. The disclosures of membership on a board must be filed by the deadlines set out in AS 24.60.105, added by bill sec. 33.

Sec. 14 repeals and reenacts AS 24.60.030(g) to address when and to what extent a legislator or legislative employee who has a substantial financial interest in an issue can take official action on the issue. Under the proposal, for votes and other activities in committee or on the floor of the House or Senate, the legislator or legislative employee would have to make an oral disclosure of his or her interest before acting. For other kinds of actions (requesting that research be done or a bill be drafted, for example), the legislator or legislative employee would have to disclose the substantial financial interest to the ethics committee in writing within seven days after taking the action. The written disclosure is a public document. The subsection defines "financial interest" and "official action."

Sec. 15 adds subsection (h) to AS 24.60.030 to address how to determine whether an employee is on government time. The committee is directed to consider the work schedule set by the employee's immediate supervisor. An employee is required to take leave for periods of political campaigning during the employee's work day. Some political activities (answering a phone call, forwarding incoming mail to the campaign committee) are permitted if they are part of the normal legislative duties of the employee.

Sec. 16 clarifies that, for purposes of the prohibition against fund-raising during sessions contained in AS 24.60.031(a), a legislator or legislative employee may not solicit or accept a campaign contribution for any state office, accept money from an event held during session, or spend money on a campaign for state office that was raised during any part of a day when either house of the legislature is in session.

Sec. 17 amends AS 24.60.039 to permit the Ethics Committee to refer employment discrimination complaints to the State Human Rights Commission and to wait until the Human Rights Commission has completed its proceedings before considering the complaint itself.

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Sec. 18 amends AS 24.60.040(a) to permit legislators and legislative employees to enter into a state contract or lease that is let under any method permitted by the State Procurement Code or under similar procedures for agencies not subject to the Procurement Code. Currently legislators and legislative employees may only enter into state contracts and leases that are let through competitive sealed bidding, that are worth less than \$1,000, or that are in a standardized form. In addition to expanding the types of procedures under which the contract may be let, this bill section increases the ceiling to an annual value of \$5,000. Legislators and legislative employees who participate in a state contract or lease, or the renegotiation of a contract or lease, that has an annual value of at least \$5,000 or who know of a family member who is participating in a state contract or lease worth at least \$5,000 must disclose the participation.

Sec. 19 adds a new subsection, AS 24.60.040(c), to clarify that the statute on state contracts and leases does not apply to state programs and loans that are subject to AS 24.60.050.

Sec. 20 amends AS 24.60.050(c) to incorporate the disclosure procedures set out in AS 24.60.105, enacted by bill sec. 33, and to permit the committee to refrain from publishing disclosures of participation in a state program where disclosure would violate the constitutional right to privacy. This amendment is consistent with Advisory Opinion No. 94-07.

Sec. 21 adds a new subsection to AS 24.60.060 to require a legislator or legislative employee who is the subject of a complaint before the Ethics Committee to comply with protective orders issued by the committee.

Sec. 22 amends AS 24.60.070(b) to set deadlines for disclosures of close economic associations. The disclosures must be made by the date set under AS 24.60.105, which is added to the ethics code by sec. 33 of the bill.

Sec. 23 adds a new subsection to AS 24.60.070 to require a legislative employee who is married to a lobbyist or who is maintaining a spousal-like relationship with a lobbyist to make disclosures concerning the lobbyist's employers and income from lobbying.

Sec. 24 amends AS 24.60.080(a) to increase the gift exemption from \$100 per year to \$250 per year. The subsection prohibits gifts from lobbyists during session except food or beverage for immediate consumption. This limitation conforms the legislative ethics law to the restrictions that already apply to lobbyists under AS 24.45.121(a)(9).

Sec. 25 amends AS 24.60.080(c) which sets out the exemptions to the prohibition against accepting gifts. Paragraph (c)(1)(A) forbids legislators and legislative employees from accepting a gift of hospitality at a person's vacation home located outside the state. The statute continues to permit them to accept gifts of hospitality at a residence that is not an out-of-state vacation home.

Paragraph (c)(2)(B) permits legislators and legislative employees to accept discounts that are not generally available to the public or a large class of persons when on official state business but only if receipt of the discount benefits the state.

Paragraph (7) permits legislators, the personal staff of legislators, and committee staff to accept discounts and other gifts offered to welcome them to the capital city or in recognition of the beginning of the legislative session. Paragraph (7) does not apply to legislative employees who are employed by the Legislative Affairs Agency, the chief clerk or senate secretary, the legislative budget and audit committee, or the ombudsman.

Sec. 26 amends AS 24.60.080(d) to change the reporting deadline for gifts that are not related to a person's legislative status from April 15 to February 15. The subsection also requires disclosure of gifts of travel and hospitality to gather information of legislative concern (AS 24.60.080(c)(4)) only if the gift is valued at \$250 or more. The current threshold is \$100. Disclosure of gifts not connected to a person's legislative status must include only a description of the gift and the identity of the donor. Currently, the recipient is also required to disclose the value of gifts worth more than \$250. The last sentence of the bill section requires the committee to forward copies of the disclosures concerning travel to gather legislative information to the Alaska Public Offices Committee.

Sec. 27 amends AS 24.60.080(e) in response to changes made to the campaign finance laws last year. There are now low budget campaigns that do not have to report political contributions. This bill section provides that a political contribution that is exempt from that reporting requirement would not have to be treated as a gift under the legislative ethics code.

Sec. 28 increases the gift threshold in AS 24.60.080(f) to \$250 for gifts from foreign governments and adds that legislators and legislative employees may accept gifts from the federal or other state governments on behalf of the legislature.

Sec. 29 amends the definition of "immediate family" or "family member" for AS 24.60.080 to add that the relatives of the legislator's or legislative employee's spousal equivalent who fall within the categories listed in paragraph (5) are treated as relatives of the legislator or legislative employee for purposes of accepting gifts.

Sec. 30 adds new subsections to AS 24.60.080. Proposed subsection (h) permits legislators and legislative employees to solicit, accept, and receive gifts on behalf of recognized, nonpolitical charitable organizations in accordance with guidelines adopted by the committee.

Proposed subsection (i) requires disclosure of the receipt of inheritances from persons other than family members. The name of the person from whom the inheritance was received is to be disclosed but the value of the inheritance does not have to be reported. The disclosure is a public record.

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Under proposed subsection (j), legislators, legislative committees other than the Ethics Committee, and legislative agencies may accept gifts of volunteer services so long as the person donating the services is not receiving compensation from another source for the services. However, the last sentence of subsection (j) makes clear that legislators and legislative employees may not accept a gift of services for nonlegislative purposes (unless the gift can be accepted under a different exception of the code). A legislative volunteer is required to comply with a substantial portion of the Legislative Ethics Code. However, the volunteer does not have to comply with the sections on contracts and leases (AS 24.60.040), state program or loan participation (AS 24.60.050), close economic associations (AS 24.60.070), nepotism (AS 24.60.090), or representation before state agencies (AS 24.60.100).

Proposed subsection (k) requires a legislator or legislative employee who knows or reasonable ought to know that a family member has received a gift because of the family member's connection to the legislator or employee to report the gift if it would have to be reported if it were given directly to the legislator or employee. For example, if a corporation gives a legislator's spouse airplane tickets and accommodations so that the spouse can attend a conference that the legislator is attending and if the gift is given because the recipient is married to the legislator (and not because the spouse is an expert on the topic of the conference), the legislator should disclose the gift.

Proposed subsection (l) states that in determining the value of a gift, the fair market value should be used.

Sec. 31 amends AS 24.60.085(a) to clarify that legislators and legislative employees may not receive significantly larger than usual payment for personal services but may charge less than the going rate for personal services if they wish.

Sec. 32 amends AS 24.60.100 to require that disclosures concerning representations before state agencies be made under the deadlines set out in AS 24.60.105. The existing provision prohibiting legislative employees from accepting honoraria for making a speech unrelated to the employee's employment is subject to challenge as an infringement of the employee's right of free speech as discussed in the description of bill section 82.

Sec. 33 enacts AS 24.60.105 to set deadlines for disclosures. The general deadline is February 15.

Sec. 34 amends AS 24.60.130(f) to clarify that public members of the Ethics Committee serve without compensation but are entitled to reimbursement for travel expenses and per diem for other state board and commission members.

Sec. 35 amends AS 24.60.130(h) to prohibit a legislator who supervises an employee who is the subject of an ethics complaint from taking part in the complaint proceedings

concerning that employee. Because of the changes proposed by AS 24.60.130(o) in sec. 36 of the bill, the amendment to AS 24.60.130(h) also deletes requirements for appointment of alternate committee members.

Sec. 36 amends AS 24.60.130 by adding a new subsection to direct the presiding officers to appoint legislative alternates to the Ethics Committee who will serve when the chair of the committee or a subcommittee designates them to serve because a regular member has been disqualified from participating in a complaint. The designation of the alternate to serve during a complaint proceeding is confidential to the same extent that the identity of the subject of a complaint is confidential.

Sec. 37 amends AS 24.60.134(a) to clarify that the prohibition against political activity that applies to public members of the committee, committee employees, and persons under contract to the committee extends to campaigns for federal, state, and local offices regardless of whether the campaign is partisan or nonpartisan, and applies to ballot measures and political party fund-raising events.

Sec. 38 amends AS 24.60.134 by adding a new subsection (c). Under proposed subsection (c), persons under contract to the ethics committee may request the committee to exempt some of the members of the partnership or corporation from having to comply with some or all of the prohibitions against political activity. The committee may grant the request if doing so will not lead to the appearance that the committee is subject to undue political influence and if there is no appearance of impropriety.

Sec. 39 amends AS 24.60.150(b) to permit the committee to adopt guidelines and provides that a person complying with the guidelines may not be penalized for having violated a conflicting provision of the statutes (if a later committee decides that the guidelines are wrong, for example).

Sec. 40 amends AS 24.60.160 to give the committee 60 days to respond to a request for an advisory opinion and to permit the committee to issue opinions on the request of about-to-be legislative employees. Under subsection (b), the committee deliberations concerning an advisory opinion are designated as executive sessions, not open to the requester.

Sec. 41 amends AS 24.60.170(a) to prohibit the committee from considering a complaint against all members of the legislature or all members of one house of the legislature. The amendment also permits the committee to reinstitute proceedings that were filed against a legislative employee and then closed when the employee stopped working for the legislature or against a former legislator if the employee or former legislator resumes legislative service within five years after the alleged violation.

Sec. 42 amends AS 24.60.170(b) to describe the required contents of a complaint and to require the committee to advise complainants that they may be asked to testify.

Sec. 43 amends AS 24.60.170(c) to permit the committee to assign complaints to a staff member for preliminary investigation. The staff member may recommend whether the complaint warrants further investigation and proceedings, based on the information and evidence contained in the complaint as supplemented by the complainant and the subject of the complaint. The section also permits the committee to dismiss frivolous complaints and complaints for which there is insufficient credible information to warrant further investigation. The committee is also permitted to request additional information from the complainant and the subject of the complaint. Proceedings under the subsection are confidential as are documents and dismissals. The subject of the complaint may waive confidentiality as provided in AS 24.60.170(l).

Sec. 44 amends AS 24.60.170(f) to provide that committee deliberations and votes on a dismissal order and decision are not open to the public or to the subject of the complaint.

Sec. 45 amends AS 24.60.170(g) to address how the committee and the legislature should handle a situation in which the subject of the complaint initially agrees to comply with corrective action but later fails to do so.

Sec. 46 makes changes to AS 24.60.170(h) to conform it to the changes made to AS 24.60.170(g).

Sec. 47 amends AS 24.60.170(i) to permit the committee to adopt procedures concerning discovery and the release of information. The committee may not impose restrictions on the subject of the complaint unless the complainant has agreed to be bound by similar restrictions.

Sec. 48 amends AS 24.60.170(l) to clarify that the confidential proceedings of the ethics committee are closed to other legislators and to prohibit the subject of the complaint from waiving the committee's confidentiality duty to others and right to deliberate confidentially.

Sec. 49 amends AS 24.60.174(a) to require the committee to include a timetable with its recommended sanctions and to permit the committee to recommend fines.

Sec. 50 adds a new subsection to AS 24.60.174 to require the House or the Senate to tell the ethics committee when it imposes a sanction other than expulsion on the subject of a complaint and to set a timetable for compliance. The committee may recommend additional action by the House or Senate if the timetable is not complied with.

Secs. 51 and 52 amend AS 24.60.176. Section 51 requires that appointing authorities of legislative employees enforce the sanctions they have imposed and report to the committee concerning the employee's compliance. Section 52 adds a definition of "appointing authority."

Sec. 53 adds AS 24.60.178 to set out a list of possible sanctions including, in paragraph (10), "any other appropriate measure." The new section also permits the committee to recommend that the subject of a complaint be required to pay all or a portion of the costs related to an investigation and adjudication.

Legislative Financial Disclosure

Sec. 54 amends AS 24.60.200 to require public members of the ethics committee and legislative employees who are compensated at Range 19 or above to file the same financial disclosure that legislators and legislative directors are now required to file. Legislative employees are included by using the phrase "legislative employee who is required to disclose" which is defined in bill sec. 61. Paragraph (1) removes the requirement to report gifts to APOC.

Sec. 55 conforms AS 24.60.210 to include those legislative employees who will be required to file disclosure statements and changes the due date on the report from April 15 to February 15. Legislative employees first hired after January 1 of a calendar year have 60 days to file their first report.

Secs. 56 and 57 amend AS 24.60.240 and 24.60.250 to reflect the addition of legislative employees who will be required to file disclosure statements.

Secs. 58 and 59 amend AS 24.60.260 to permit the ethics committee to impose a fine on persons who file late ethics disclosures.

Legislative Ethics Definitions

Sec. 60 amends the definition of "immediate family" in AS 24.60.990(a)(5).

Sec. 61 adds definitions of "legislative employee who is required to disclose," "person subject to disclosure requirements," "spousal equivalent," and "state office" to the legislative ethics code.

State Personnel Board

Sec. 62 amends AS 39.25.070, setting out the powers and duties of the Personnel Board, to reflect the changes made to the Executive Branch Ethics Code by bill secs. 72 - 110.

Prohibiting Political Campaigning by State Employees

Sec. 63 adds a subsection to AS 39.25.160 to prohibit classified, partially exempt, and exempt state employees from campaigning on behalf of a political candidate on government time.

Conflict of Interest and Financial Disclosure

Sec. 64 amends AS 39.50.020 to add executive branch employees who are in the exempt or partially exempt service and are compensated at Range 19 or above to the list of public officials who must file financial disclosure statements. The definition of "public official" is amended in bill sec. 70 to include these employees.

Secs. 65 and 67 amend AS 39.50.030(a) and add subsections (d) - (f) to require state officials to disclose close economic associations. "State official" is defined in subsection (f) to have the same meaning as the term is given in the Executive Branch Ethics Act. Alternatively, to reach the same result, "state official" could be defined using terms defined for AS 39.50. The definition would read:

"state official" means a public official, other than a judicial officer or an appointed or elected municipal officer, and a state employee subject to this chapter.

Sec. 66 amends AS 39.50.030(b) concerning the contents of financial disclosure statements. The threshold reporting level of income, beneficial interests from trusts, and loans is increased from \$100 to \$1,000. Gifts must be reported if the value of the gift exceeds \$250. Contracts with the state entered into by a partnership or professional corporation of which the person filing the report is a member must be reported but state contracts entered into by the person's parents would no longer have to be reported. Similarly, natural resource leases of the person's parents would not have to be reported, but leases held by the person's spouse would be added to the reporting requirements.

Sec. 68 amends AS 39.50.070 to include reference to the new reporting requirements for certain Range 19 and above state employees.

Sec. 69 clarifies that the executive director of the Alaska Tourism Marketing Council is subject to penalties for failing to file the required reports.

Secs. 70 and 71 amend the definition of "public official" and add a definition of "another state employee subject to this chapter" to AS 39.50.200.

Executive Branch Ethics Act

Sec. 72 amends AS 39.52.010, setting out the purposes of the Executive Branch Ethics Act.

Sec. 73 removes reference in AS 39.52.110(c) to the Attorney General issuing opinions and reaching decisions to conform this section to bill sections 89 - 107, which remove the Attorney General's authority to issue advisory opinions and conduct hearings and replace the Attorney General with the Personnel Board.

Sec. 74 amends AS 39.52.120(b) to clarify that the governor and lieutenant governor may solicit and accept lawful campaign contributions and that public officers may accept lawful gifts.

Sec. 75 adds a new section to the Executive Branch Ethics Act to address misuse of official position by state officials. ("State official" is defined in bill sec. 110.) These provisions are generally based on AS 24.60.030 as that section is amended by this bill (see bill secs. 10 - 15).

Sec. 76 substitutes the Personnel Board for the Attorney General in AS 39.52.130(c), concerning advice on whether a gift is permitted or prohibited under the Executive Branch Ethics Act gift section.

Sec. 77 amends AS 39.52.130 by adding subsections addressing gifts that may be accepted and disclosure of gifts. These subsections are based on AS 24.60.080 as amended by this bill (see bill secs. 24 - 30).

Sec. 78 adds new sections to the Executive Branch Ethics Act.

Sec. 39.52.132 imposes fund-raising restrictions on state officials, including the governor and the lieutenant governor. This section is based on AS 24.60.031, as amended by bill sec. 16.

Sec. 39.52.134 prohibits state officials other than the governor and lieutenant governor from continuing in office after becoming a candidate for the legislature. This section is based on AS 24.60.033.

Sec. 39.52.136 requires state officials to abide by the open meetings law. This section is somewhat similar to AS 24.60.037.

Sec. 79 amends AS 39.52.150(d) to require that reports of personal or financial interests held by a public officer be reported to the Personnel Board as well as to the individual's designated supervisor.

Sec. 80 adds a new section concerning disclosure of close economic associations. This section is based on AS 24.60.070 as amended by bill secs. 22 and 23. Note that bill sec. 67 also requires state officials to disclose close economic associations to APOC. It is not necessary to have both sec. 67 and this section in the bill.

Sec. 81 amends AS 39.52.170(a) and (b) to prohibit state officials who have outside employment from seeking or accepting compensation that is significantly greater than the value of the services rendered. The amendment to subsection (a) is based on AS 24.60.085(a) as amended by bill sec. 31.

Sec. 82 amends AS 39.52.170 to prohibit state officials from accepting a payment for making appearances or speeches. This provision is based on AS 24.60.085(a)(2), which prohibits legislators and legislative employees from accepting payments for appearances and speeches. Both the existing legislative branch law and the proposed executive branch prohibition may be subject to challenge as an unconstitutional limitation on the right of free speech under the United States Supreme Court holding in United States v. National Treasury Employees Union, 513 U.S. 454, 115 S.Ct. 1003, 130 L.Ed.2d 964 (1995). In that case, the United States Supreme Court struck down a restriction on federal employees compensated below grade GS-16 accepting honoraria for speeches and articles not connected with their official duties. In the case of legislators and top executive branch and legislative branch officials it is possible that the state could justify the prohibition because of the state's interest in preventing the misuse or appearance of misuse of political power. That justification fails with respect to state officials and employees with less political power.

Secs. 83 - 85 amend AS 39.52.180, relating to restrictions employment after leaving state service. Currently, there is a two-year ban prohibiting a public officer who has left state service from accepting employment regarding a matter in which the officer participated personally and substantially. There is an exception permitting state agencies to contract with former public officers to act on behalf of the state, and the head of an agency may waive the prohibition as to other employers. The amendment made by bill sec. 84 prohibits waiver for the first year after a state official left state service.

Under subsection (d), enacted by bill sec. 85, a state agency may not enter into a contract with a former state official and the head of an agency may not waive the prohibition if the purpose of the proposed contract or representation includes lobbying before a state agency or before the state legislature.

Subsection (d) is not as clearly drafted as it might be. It would be clearer if it read

(d) An agency may not, under (b) of this section, enter into a contract with a state official who has left state service and the head of an agency may not waive application of (a) of this section if the purpose of the proposed contract or representation includes lobbying before a state agency or the state legislature.

Sec. 86 amends AS 39.52.210 to require that potential violations of the Executive Branch Ethics Act be reported to the Personnel Board as well as to a public employee's designated supervisor. Subsection (c) permits state officials to request guidance concerning whether a public employee is involved in a matter that may have violated the Executive Branch Ethics Act and substitutes the Personnel Board for the Attorney General as the source of that guidance.

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Sec. 87 amends AS 39.52.220 to require that members of boards or commissions disclose potential conflicts to the Personnel Board as well as to the member's designated supervisor. Board members may request guidance concerning whether they may have violated the Executive Branch Ethics Act from the Personnel Board.

Sec. 88 amends AS 39.52.230 to require supervisors to provide copies of reports concerning potential violations to the Personnel Board as well as to the officer who is the subject of the report.

Secs. 89 - 95 amend AS 39.52.240 - 39.52.260 to permit a state official as well as a designated supervisor to ask for an advisory opinion and to require the Personnel Board rather than the Attorney General to issue the opinion.

Secs. 96 - 106 make changes to AS 39.52.310 - 39.52.350, relating to complaint proceedings under the Executive Branch Ethics Act, to substitute the Personnel Board for the Attorney General in those proceedings.

Sec. 107 substitutes the Personnel Board for the Attorney General in AS 39.52.920, concerning review of agency policies that impose additional conflict of interest limitations on executive branch employees.

Sec. 108 amends AS 39.52.950 to limit the regulations that the Attorney General is authorized to adopt to those necessary to interpret and implement the provisions concerning complaints under the Executive Branch Ethics Act. The Personnel Board is given authority to adopt regulations for the rest of the chapter.

Secs. 109 and 100 define "immediate family member" for the Executive Branch Ethics Act and add a definition of "state official" to the Act.

Other statutes

Sec. 111 amends AS 44.62.175(a) to reflect the substitution of the Personnel Board for the Attorney General in the responsibility for advisory opinions.

Transition sections and effective dates

Sec. 112 is a temporary law section to allow public officers to rely on advisory opinions issued by the Attorney General under the current provisions of the Executive Branch Ethics Act.

Sec. 113 makes the changes to treatment of legislative office accounts and unused campaign contributions applicable to current legislators.

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Secs. 114 and 115 make the changes to legislative office accounts retroactive to December 31, 1996.

Sec. 116 makes the rest of the Act effective January 1, 1998.

TC:pl
97-148.plm



Official Business

Alaska State Legislature

Senate

State Capitol
Juneau, AK. 99801-1182

Rules Committee

TO: Representative James, Chairman
House State Affairs Committee

FROM: Benjamin Brown, ^{SEN.} Legislative Aide to Senator Kelly

DATE: 5 February 1998

IN RE: analysis of proposed amendments to CSSB 105 (Fin) am

Amendment KA.36: *PUBLIC OFFICE EXPENSE TERM (POET)
ACCOUNT RESERVES*

Sections 3 and 4 of this bill create a new option for disposal of unused campaign assets, called a legislative office account reserve in the current version of the bill. Campaign finance reform in 1996 made legislative office accounts an option for unused campaign assets. Last year, the Senate Finance Committee added the option of office account reserves to the list. Amendment KA.36 renames these legislative office account as Public Office Expense Term (POET) accounts and POET account reserve. This will avoid confusion with the \$6000 legislative office allowance managed by the Legislative Affairs Agency. Expenditures from POET accounts will be reportable to APOC under 15.13.110(a)(4).

The bill's current language allows legislators at the end of their terms to allocate the unexpended balance in a POET account reserve in the same variety of ways as is allowed when unused campaign assets are disposed of in the 90 days after an election, including paying campaign bills, making charitable donations, candidate defense funds and future election accounts. Amendment KA.36 prohibits money in a POET account reserve at the end of a legislator's term from being used for election-related purposes, but lets the legislator donate funds to a political party, the state's general fund, a municipality, the federal government, or to qualified charitable organizations not controlled by the candidate or a member of the candidate's immediate family. The amendment also allows repayment of contributions to contributors.

Amendment KA.2: *PROHIBITED CONTRIBUTIONS*

Section 2 of this bill prohibits a person or group from contributing to a candidate for state office while the legislature is convened in its regular session. This technical amendment deletes subsection (C)(1) as it is no longer necessary due to the change the bills makes from banning donations, "to a candidate for state legislature," to the broader prohibition against donating, "to a candidate for state office."

Amendment KA.3: *SPOUSAL/SPOUSAL EQUIVALENT LOBBYIST*

Section 8 of this bill prohibits lobbying activity by legislators' spouses and cohabitants. Section 22 of the bill requires legislative employees to disclose information on their spouse or spousal equivalent's lobbying clients and how much they were paid. Amendment KA.3 adds contingency language to the bill so that if the ban on spousal lobbying for legislators is found unconstitutional, there won't be a hole in the law. If the ban is struck down, a disclosure requirement for legislative spousal lobbying will go into effect 30 days after the later of either a final judgment, or the expiration of an appeal or final decision in an appeal. Disclosure requirements for legislators would then be identical to those the bill prescribes for legislative and executive branch employees.

Amendment KA.4: *STREAMLINING DISCLOSURE OF CLOSE ECONOMIC ASSOCIATIONS IN THE EXECUTIVE BRANCH*

Section 80 of the bill creates a new section in the executive branch ethics act (39.52.155) which requires state officials to disclose to supervisors and APOC, the same close economic associations which legislators must currently disclose. Section 67 of the bill provides a way for state officials to report close economic associations along with their annual conflict of interest reports. Amendment KA.4 deletes Section 80 from the bill, eliminating a "double reporting" requirement. It also makes necessary changes in numerical references.

Amendment KA.10: *LEGISLATIVE ETHICS COMPLAINTS DURING ELECTION PERIODS*

This amendment adds a new bill section which suspends the Ethics Committee's jurisdiction on certain complaints for a period of time near an election. The amendment requires the committee to return complaints received against a legislator or legislative employee* who is a candidate for state office 45 days* prior to the primary election unless the candidate/subject of the complaint notifies within a specified period of time that he/she is waiving the suspension of jurisdiction. The amendment sets out subject and complainant notification

requirements for the committee, including a notification that the complainant may refile the complaint at the end of the moratorium period.

*Under the current ethics code (AS 24.60.033), legislative employees are prohibited from running for a legislative seat but are not prohibited from running for another elective office.

*The amendment sets out that the moratorium begins *on the later of* 45 days before a primary election in which a legislator or legislative employee is a candidate for state office *or* the day on which the individual files for state office. The moratorium ends at the close of the general or special election day or on the day the candidate withdraws or, for candidates who lose the primary, on the day the primary election is certified.

You will revise this for the legislators to all to include in CS!

AMENDMENT

OFFERED IN THE HOUSE

TO: CSSB 105(FIN) am

1 Page 34, line 19, through page 59, line 19:

2 Delete all material and insert:

3 **** Sec. 62.** AS 39.25.070 is amended to read:

4 **Sec. 39.25.070. Powers and duties of personnel board.** In addition to the
5 other duties imposed by this chapter, the personnel board shall

6 (1) approve or disapprove amendments to the personnel rules in
7 accordance with AS 39.25.140;

8 (2) consider and act upon recommendations for the extension of the
9 partially exempt service and the classified service as provided in AS 39.25.130;

10 (3) hear and determine appeals by employees in the classified service
11 as provided in AS 39.25.170;

12 (4) establish its own rules of procedure; two members constitute a
13 quorum for the transaction of business and two affirmative votes are required for final
14 action on matters acted upon by the board;

15 (5) elect a chair [CHAIRMAN] from its membership;

16 (6) have the power to administer oaths, subpoena witnesses, and
17 compel the production of books and papers pertinent to a hearing authorized by this
18 chapter;

19 (7) employ staff members, who shall be in the classified service;

20 (8) carry out its powers and duties under AS 39.52 [RETAIN
21 INDEPENDENT COUNSEL IN ACCORDANCE WITH AS 39.52.310(c);

22 (9) APPOINT, AND REVIEW THE FINDINGS, CONCLUSIONS,
23 AND RECOMMENDATIONS OF, HEARING OFFICERS IN ACCORDANCE
24 WITH AS 39.52.350(c), 39.52.360, AND 39.52.370;

25 (10) ISSUE FINDINGS, CONCLUSIONS, AND DECISIONS

*OK
Procs*

*"this is good"
Neil says.*

1 REGARDING VIOLATIONS OF THE CODE OF ETHICS IN AS 39.52.110 -
2 39.52.190; AND

3 (11) IMPOSE THE PENALTIES DESCRIBED IN AS 39.52.410,
4 39.52.440, AND 39.52.450].

5 * Sec. 63. AS 39.25.160(e) is amended to read:

6 (e) An employee in the classified, [OR] partially exempt, or exempt service
7 who seeks nomination or becomes a candidate for state or national elective political
8 office shall immediately resign any position held in the state service. The employee's
9 position becomes vacant on the date the employee files a declaration of candidacy for
10 state or national elective office. This subsection does not apply to a justice or
11 judge who is seeking retention, to the governor, to the lieutenant governor, to a
12 member of the legislature, or to an employee seeking election as a delegate to a
13 constitutional convention.

Handwritten notes: "Check list" and "amended" written vertically on the left margin.

14 * Sec. 64. AS 39.25.160 is amended by adding a new subsection to read:

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

Handwritten notes: "OK" and "JUCS" written in a circle on the left margin.

21 * Sec. 65. AS 39.50.020 is amended to read:

22 Sec. 39.50.020. Report of financial and business interests. (a) A public
23 official as defined in AS 39.50.200 other than the governor or the lieutenant
24 governor [JUDICIAL OFFICER, COMMISSIONER, CHAIR OR MEMBER OF A
25 STATE COMMISSION OR BOARD SPECIFIED IN AS 39.50.200(b), A PERSON
26 HIRED OR APPOINTED AS HEAD OR DEPUTY HEAD OF, OR DIRECTOR OF
27 A DIVISION WITHIN, A DEPARTMENT IN THE EXECUTIVE BRANCH, A
28 PERSON APPOINTED AS ASSISTANT TO THE GOVERNOR, A STATE
29 INVESTMENT OFFICER AND THE STATE COMPTROLLER IN THE
30 DEPARTMENT OF REVENUE, AND A MUNICIPAL OFFICER] shall file a
31 statement giving income sources and business interests, under oath and on penalty of
32 perjury, within 30 days after taking office as a public official. Candidates for state

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

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

28 * **Sec. 66.** AS 39.50.030(a) is amended to read:

29 (a) Each statement must [SHALL] be an accurate representation of the
30 financial affairs of the public official or candidate and must [SHALL] contain the
31 same information for each member of the person's family, as specified in (b) and (d)
32 of this section, to the extent that it is ascertainable by the public official or candidate.

1 [AN ASSET OR LIABILITY UNDER \$500, HOUSEHOLD GOODS, AND
2 PERSONAL EFFECTS NEED NOT BE IDENTIFIED.]

3 * Sec. 67. AS 39.50.030(b) is amended to read:

4 (b) Each statement filed by a public official or candidate under this chapter
5 must [SHALL] include the following:

6 (1) the source of all income over \$1,000 [\$100] during the preceding
7 calendar year, including taxable and nontaxable capital gains, received by the person,
8 the person's spouse or dependent child, or a nondependent child of the person who is
9 living with that person, except that a source of income that is a gift must be
10 included if the value of the gift exceeds \$250;

11 (2) the identity, by name and address, of each business in which the
12 person, the person's spouse or dependent child, or a nondependent child of the person
13 who is living with that person was a stockholder, owner, officer, director, partner,
14 proprietor, or employee during the preceding calendar year;

15 (3) the identity and nature of each interest owned in any business
16 during the preceding calendar year by the person, the person's spouse or dependent
17 child, or a nondependent child of the person who is living with that person;

18 (4) the identity and nature of each interest in real property, including
19 an option to buy, owned at any time during the preceding calendar year by the person,
20 the person's spouse or dependent child, or a nondependent child of the person who is
21 living with that person;

22 (5) the identity of each trust or other fiduciary relation in which the
23 person, the person's spouse or dependent child, or a nondependent child of the person
24 who is living with that person held a beneficial interest exceeding \$1,000 during the
25 preceding calendar year, a description and identification of the property contained in
26 each trust or relation, and the nature and extent of the beneficial interest in it;

27 (6) any loan or loan guarantee of more than \$1,000 made to the
28 person, the person's spouse or dependent child, or a nondependent child of the person
29 who is living with that person, and the identity of the maker of the loan or loan
30 guarantor and the identity of each creditor to whom the person, the person's spouse
31 or dependent child, or a nondependent child of the person who lives with that person
32 owed more than \$1,000; this paragraph requires disclosure of a loan, loan

1 guarantee, or indebtedness only if the loan or guarantee was made, or the
 2 indebtedness incurred, during the preceding calendar year, or if the amount still
 3 owing on the loan, loan guarantee, or indebtedness was more than \$1,000 at any
 4 time during the preceding calendar year [\$500 OR MORE];

5 (7) a list of all contracts and offers to contract with the state or an
 6 instrumentality of the state during the preceding calendar year held, bid, or offered by
 7 the person, the person's spouse or dependent child, a nondependent child of the person
 8 who is living with that person, a partnership or professional corporation of which
 9 the person is a member [THE PERSON'S MOTHER OR FATHER], or a corporation
 10 in which the person or the person's spouse or children, or a combination of them, hold
 11 a controlling interest; and

12 (8) a list of all mineral, timber, oil, or any other natural resource lease
 13 held, or lease offer made, during the preceding calendar year by the person, the
 14 person's spouse or dependent child, a nondependent child of the person who is living
 15 with that person, [THE PERSON'S MOTHER OR FATHER.] a partnership or
 16 professional corporation of which the person is a member, or a corporation in which
 17 the person or the person's spouse or children, or a combination of them, holds a
 18 controlling interest.

19 * Sec. 68. AS 39.50.030 is amended by adding new subsections to read:

20 (d) In addition to the requirements of (b) of this section, each statement filed
 21 by ~~an upper-level~~ public officer under this chapter must include a disclosure of the
 22 formation or maintenance of a close economic association involving a substantial
 23 financial matter as required by this subsection. The disclosure must be sufficiently
 24 detailed so that a reader can ascertain the nature of the association. An upper level
 25 public officer shall disclose a close economic association with

26 (1) a supervisor who is ~~not~~ a public officer who has responsibility or
 27 authority either directly or indirectly over the person's employment, including
 28 preparing or reviewing performance evaluations, or granting or approving pay raises
 29 or promotions;

30 (2) a legislator;

31 (3) a public official who is not an appointed or elected municipal
 32 officer; or

1 (4) a public officer if the person required to make the disclosure is the
2 governor or the lieutenant governor.

3 (e) If an upper level public officer forms a close economic association after
4 the date on which the public officer files the financial disclosure statement required
5 by (a) of this section, disclosure of the association must be made to the public
6 officer's designated supervisor within 60 days after the formation of the association.

7 (f) In this section,

8 (1) "close economic association" means a financial relationship that
9 exists between an upper level public officer and some other person or entity, including
10 a relationship where the public officer serves as a consultant or advisor to, is a
11 member or representative of, or has a financial interest in an association, partnership,
12 business, or corporation;

13 (2) "designated supervisor" has the meaning given in AS 39.52.960;

14 (3) "public officer" has the meaning given in AS 39.52.960.

15 * Sec. 69. AS 39.50.070 is amended to read:

16 **Sec. 39.50.070. Failure to report by certain state employees**
17 **[DEPARTMENT, DIVISION, OR DEPUTY DEPARTMENT HEADS].** A person
18 hired or appointed as the head or deputy head of, or director of a division within, a
19 department in the executive branch **or an upper level public officer** who refuses or
20 fails to file a report of financial interests required under this chapter when due may
21 not hold office, and the person's name may not be submitted to the legislature for
22 confirmation, until the person complies. The person may not be confirmed, hired, or
23 appointed, and the person forfeits and may not be paid any salary, per diem, or travel
24 expenses, until the person complies. If, after installation as the head or deputy head
25 of, or director of a division within, a department, **or, for upper level public officers,**
26 **after beginning employment in the position subject to this chapter,** the person
27 refuses or fails to file the required statement when due, the person is guilty of a
28 misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor
29 more than \$1,000 and shall be removed from office if compliance is not made within
30 30 days after the due date of the report.

31 * Sec. 70. AS 39.50.080 is amended to read:

32 **Sec. 39.50.080. Failure to report by a commission or board chair**

1 [CHAIRMAN] or member. A person hired or appointed as a commissioner, chair,
 2 [CHAIRMAN] or member of a state commission or board specified in
 3 AS 39.50.200(b), including the executive director of the Alaska Tourism
 4 Marketing Council, who fails to file a report of financial interests required under this
 5 chapter when due may not hold office, and the person's name may not be submitted
 6 to the legislature until the person complies. The person may not be confirmed, and
 7 the person forfeits and may not be paid any salary, per diem or travel expenses, until
 8 the person complies. If, after being seated as commissioner, chair, [CHAIRMAN]
 9 or member of the [SUCH A] commission or board the person refuses or fails to file
 10 the required statement when due, the person is guilty of a misdemeanor and upon
 11 conviction is punishable by a fine of not less than \$100 nor more than \$1,000 and
 12 shall be removed from office if compliance is not made within 30 days after the due
 13 date.

14 * Sec. 71. AS 39.50.200(a)(8) is amended to read:

15 (8) "public official" means a judicial officer, the governor, the
 16 lieutenant governor, a person hired or appointed as the head or deputy head of [, OR
 17 DIRECTOR OF A DIVISION,] a department in the executive branch or as the
 18 director of a division in a department in the executive branch, [AN ASSISTANT
 19 TO THE GOVERNOR,] chair or member of a state commission or board, [STATE
 20 INVESTMENT OFFICERS AND THE STATE COMPTROLLER IN THE
 21 DEPARTMENT OF REVENUE,] the executive director of the Alaska Tourism
 22 Marketing Council, an upper level public officer, and each appointed or elected
 23 municipal officer;

24 * Sec. 72. AS 39.50.200(a) is amended by adding a new paragraph to read:

25 *Sec 112* (10) "upper level public officer" has the meaning given in
 26 AS-39.52.960 but does not include a state officer or employee who is otherwise
 27 included in the definition of "public official" under this section.

28 * Sec. 73. AS 39.52.010(a) is amended to read:

29 (a) It is declared that

30 (1) [THAT] high moral and ethical standards among public officers
 31 in the executive branch are essential to assure the trust, respect, and confidence of
 32 the people of this state; [TO THE CONDUCT OF FREE GOVERNMENT; AND]

OK
es

1 (2) [THAT THE LEGISLATURE BELIEVES THAT] a code of ethics
2 for the guidance of public officers will

3 (A) discourage those officers from acting upon personal or
4 financial interests in the performance of their public responsibilities;

5 (B) [, WILL] improve standards of public service; and

6 (C) [, AND WILL] promote and strengthen the faith and
7 confidence of the people of this state in their public officers;

8 (3) [. IT IS FURTHER DECLARED THAT] holding public office or
9 employment is a public trust and that as one safeguard of that trust, the people require
10 public officers to adhere to a code of ethics;

11 (4) a fair and open government requires that executive branch
12 public officers conduct the public's business in a manner that preserves the
13 integrity of the governmental process and avoids conflicts of interest;

14 (5) in order for the rules governing conduct to be respected both
15 during and after leaving public service, the code of ethics must be administered
16 fairly without bias or favoritism;

17 (6) no code of conduct, however comprehensive, can anticipate all
18 situations in which violations may occur nor can it prescribe behaviors that are
19 appropriate to every situation; in addition, laws and regulations regarding ethical
20 responsibilities cannot legislate morality, eradicate corruption, or eliminate bad
21 judgment; and

22 (7) compliance with a code of ethics is an individual responsibility;
23 thus all who serve the state have a solemn responsibility to avoid improper
24 conduct and prevent improper behavior by colleagues and subordinates.

25 * Sec. 74. AS 39.52.110(c) is amended to read:

26 (c) Designated [THE ATTORNEY GENERAL, DESIGNATED] supervisors,
27 hearing officers, and the personnel board must be guided by this section when issuing
28 opinions and reaching decisions.

29 * Sec. 75. AS 39.52.120(b) is amended to read:

30 (b) A public officer may not

31 (1) seek other employment or contracts through the use or attempted
32 use of official position;

1 (2) accept, receive, or solicit compensation for the performance of
2 official duties or responsibilities from a person other than the state;

3 (3) use state time, property, equipment, or other facilities to benefit
4 personal or financial interests;

5 (4) take or withhold official action in order to affect a matter in which
6 the public officer has a personal or financial interest; or

7 (5) attempt to benefit a personal or financial interest through coercion
8 of a subordinate or require another public officer to perform services for the
9 private benefit of the public officer at any time;

10 (6) use or authorize the use of state funds, facilities, equipment,
11 services, or another government asset or resource for partisan political purposes;
12 this paragraph does not prohibit use of the governor's house for meetings to
13 discuss political strategy and does not prohibit use of the communications
14 equipment in the governor's house so long as there is no special charge to the
15 state for the use.

16 *Sec. 76. AS 39.52.120 is amended by adding new subsections to read:

17 (d) Unless approved by the personnel board, during a campaign period for an
18 election in which the public officer is a candidate, a public officer may not use or
19 permit another to use state funds to print or distribute a political mass mailing to
20 individuals eligible to vote for the candidate. This subsection does not apply to the
21 election pamphlet under AS 15.58. In this subsection,

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

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

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

29 (2) a mass mailing is considered to be political if it is about the

30 (A) public officer who is a candidate for election to a federal,
31 state, or municipal elective office or to the board of a telephone or electric
32 cooperative;

OK
mail etc
2/28/08
Not necessary
in transcripts
will process??
Yes it is
NOT IN CS.

22
6
define this?

1 (B) another person who is a candidate for election to a federal,
2 state, or municipal elective office or to the board of a telephone or electric
3 cooperative.

4 (e) In this section, when determining whether a public officer is considered
5 to be performing a task on government time, the personnel board shall consider the
6 public officer's work schedule as set by the public officer's immediate supervisor, if
7 any. A public officer other than the governor and lieutenant governor who engages
8 in political campaign activities other than incidental campaign activities as described
9 in this subsection during the work day shall take leave for the period of campaigning.

10 The performance of regular governmental duties that include incidental handling of
11 campaign-related items or inquiries, including receiving and opening mail and
12 answering the telephone, is not considered performance of political campaign activities
13 for purposes of this subsection so long as the political campaign-related activities are
14 kept to a minimum.

15 * Sec. 77. AS 39.52.130(b) is amended to read:

16 (b) Notice of the receipt by a public officer of a gift with a value in excess
17 of \$150 [\$50], including the name of the giver and a description of the gift and its
18 approximate value, must be provided to the designated supervisor within 30 days after
19 the date of its receipt

20 (1) if the public officer may take or withhold official action that
21 affects the giver; or

22 (2) if the gift is connected to the public officer's governmental
23 status.

24 * Sec. 78. AS 39.52.130(c) is amended to read:

25 (c) In accordance with AS 39.52.240, a designated supervisor or an upper
26 level public officer may request guidance from the personnel board [ATTORNEY
27 GENERAL] concerning whether acceptance of a particular gift is prohibited.

28 * Sec. 79. AS 39.52.130 is amended by adding new subsections to read:

29 (e) A public officer who, on behalf of the state, accepts a gift from another
30 government or from an official of another government shall, within 60 days after its
31 receipt, deliver it to the Office of the Governor. The Office of the Governor shall
32 determine the appropriate disposition of the gift. In this subsection, "another

1 government" means a foreign government or the government of the United States,
2 another state, a municipality, or another jurisdiction.

3 (f) A public officer who knows or reasonably ought to know that a family
4 member has received a gift because of the family member's connection with the
5 public office held by the public officer shall report the receipt of the gift by the
6 family member to the public officer's designated supervisor if the gift would have to
7 be reported under this section if it had been received by the public officer or if receipt
8 of the gift by a public officer would be prohibited under this section.

9 (g) In this section, unless the personnel board determines that a different
10 method of determining value is more appropriate in the circumstances, the value of
11 a gift shall be determined by using the fair market value of the gift to the extent that
12 the fair market value can be determined.

13 * **Sec. 80.** AS 39.52 is amended by adding a new section to read:

14 **Sec. 39.52.132. Restrictions on fund raising.** (a) The governor, lieutenant
15 governor, or a commissioner may not

16 (1) on a day when either house of the legislature is in regular or
17 special session, solicit or accept a contribution or a promise or pledge to make a
18 contribution for a candidate for state office; however, the governor or the lieutenant
19 governor may solicit or accept a contribution, promise, or pledge for a campaign for
20 state office that occurs during the 90 days immediately preceding an election in which
21 the governor or lieutenant governor is a candidate for state office;

22 (2) accept money from an event held on a day when either house of
23 the legislature is in regular or special session if a substantial purpose of the event is
24 to raise money on behalf of the governor or lieutenant governor for a campaign for
25 state office; however, this paragraph does not prohibit the governor or lieutenant
26 governor from accepting money from an event held during the 90 days immediately
27 preceding an election in which the governor or lieutenant governor is a candidate for
28 state office; or

29 (3) expend money in a campaign for state office that was raised by or
30 on behalf of the governor or lieutenant governor under a declaration of candidacy or
31 a general letter of intent to become a candidate for public office if the money was
32 raised on a day when either house of the legislature was in a legislative session;

1 however, this paragraph does not apply to money raised during the 90 days
 2 immediately preceding an election in which the governor or lieutenant governor is a
 3 candidate for state office.

4 (b) In this section,

5 (1) "commissioner" means the head of a principal executive department
 6 in the state government;

7 (2) "contribution" has the meaning given in AS 15.13.400.

8 * **Sec. 81.** AS 39.52.170 is amended by adding a new subsection to read:

9 (c) The head of a principal executive department of the state may not engage
 10 ~~in or~~ accept employment for compensation outside the agency that the executive head
 11 serves.

12 * **Sec. 82.** AS 39.52.180(c) is amended to read:

13 (c) The head of an agency may waive application of (a) of this section after
 14 determining that representation by a former public officer is not adverse to the public
 15 interest. The waiver must be in writing and a copy of the waiver must be provided
 16 to the personnel board [ATTORNEY GENERAL] for approval or disapproval.

17 * **Sec. 83.** AS 39.52.180 is amended by adding a new subsection to read:

18 (d) A former governor, lieutenant governor, or head of a principal department
 19 in the executive branch may not engage in activity as a lobbyist under AS 24.45 for
 20 a period of one year after leaving service as the governor, lieutenant governor, or
 21 department head, as appropriate. This subsection does not prohibit service as a
 22 volunteer lobbyist described in AS 24.45.161(a)(1) or a representational lobbyist as
 23 defined under regulations of the Alaska Public Offices Commission.

24 * **Sec. 84.** AS 39.52.210(c) is amended to read:

25 (c) An upper level public officer who is a public employee or a [A]
 26 designated supervisor may request guidance from the personnel board [ATTORNEY
 27 GENERAL], in accordance with AS 39.52.240, when determining whether a public
 28 employee is involved in a matter that may result in a violation of AS 39.52.110 -
 29 39.52.190.

30 * **Sec. 85.** AS 39.52.220(b) is amended to read:

31 (b) The member of the board or commission, the designated supervisor, or
 32 the board or commission may request guidance from the personnel board

1 [ATTORNEY GENERAL], in accordance with AS 39.52.240, when determining
2 whether a member of a board or commission is involved in a matter that may result
3 in a violation of AS 39.52.110 - 39.52.190.

4 * **Sec. 86.** AS 39.52.240(a) is amended to read:

5 (a) Upon the written request of an upper level public officer, a designated
6 supervisor, or a board or commission, the personnel board [ATTORNEY
7 GENERAL] shall issue opinions interpreting this chapter. The requester must supply
8 any additional information requested by the personnel board [ATTORNEY
9 GENERAL] in order to issue the opinion. Within 60 days after receiving a complete
10 request, the personnel board [ATTORNEY GENERAL] shall issue an advisory
11 opinion on the question.

12 * **Sec. 87.** AS 39.52.240(b) is amended to read:

13 (b) The personnel board [ATTORNEY GENERAL] may offer oral advice
14 if delay would cause substantial inconvenience or detriment to the requesting party.

15 * **Sec. 88.** AS 39.52.240(c) is amended to read:

16 (c) In the case of a request for advice from a designated supervisor or a
17 board or commission, the [THE] designated supervisor or the [A] board or
18 commission shall make a written determination based on the advice of the personnel
19 board [ATTORNEY GENERAL]. If the advice [OF THE ATTORNEY GENERAL]
20 provides more than one way for a public officer to avoid or correct a problem found
21 under AS 39.52.110 - 39.52.190, the designated supervisor or the board or
22 commission shall, after consultation with the officer, determine the alternative that is
23 most appropriate and advise the officer of any action required of the officer to avoid
24 or correct the problem.

25 * **Sec. 89.** AS 39.52.240(e) is amended to read:

26 (e) The personnel board [ATTORNEY GENERAL] may reconsider, revoke,
27 or modify an advisory opinion at any time, including upon a showing that material
28 facts were omitted or misstated in the request for the opinion.

29 * **Sec. 90.** AS 39.52.240(h) is amended to read:

30 (h) The personnel board [ATTORNEY GENERAL] shall publish in the
31 Alaska Administrative Journal, with sufficient deletions to prevent disclosure of the
32 persons whose identities are confidential under (g) of this section, the advisory

1 opinions issued under this section that the personnel board [ATTORNEY
2 GENERAL] determines to be of major import because of their general applicability
3 to executive branch officers.

4 * **Sec. 91.** AS 39.52.250 is amended to read:

5 **Sec. 39.52.250. Advice to former public officers.** (a) A former public
6 officer may request, in writing, an opinion from the personnel board [ATTORNEY
7 GENERAL] interpreting this chapter. The personnel board [ATTORNEY
8 GENERAL] shall give advice in accordance with AS 39.52.240(a) or (b) and publish
9 opinions in accordance with AS 39.52.240(h).

10 (b) A former public officer is not liable under this chapter for any action
11 carried out in accordance with the advice of the personnel board [ATTORNEY
12 GENERAL] issued under this section, if the public officer fully disclosed all relevant
13 facts reasonably necessary to the issuance of the advice.

14 * **Sec. 92.** AS 39.52.260 is amended to read:

15 **Sec. 39.52.260. Designated supervisor's report and personnel board**
16 **[ATTORNEY GENERAL] review.** (a) A designated supervisor shall quarterly
17 submit a report to the personnel board that [ATTORNEY GENERAL WHICH]
18 states the facts, circumstances, and disposition of any disclosure made under
19 AS 39.52.210 - 39.52.240. In the case of a determination under AS 39.52.210
20 concerning an upper level public officer or a determination under AS 39.52.220
21 concerning a member of a board or commission, the designated supervisor shall
22 submit a copy of the supervisor's determination to the personnel board within
23 five working days after having made the determination.

24 (b) The personnel board [ATTORNEY GENERAL] shall review
25 determinations reported under this section. The personnel board [ATTORNEY
26 GENERAL] may request additional information from a supervisor concerning a
27 specific disclosure and its disposition.

28 (c) The report prepared under this section is confidential and not available for
29 public inspection unless formal proceedings under AS 39.52.350 are initiated based
30 on the report. If formal proceedings are initiated, the relevant portions of the report
31 are public documents open to inspection. The personnel board [ATTORNEY
32 GENERAL] shall, however, make available to the public a summary of the reports

1 received under this section, with sufficient deletions to prevent disclosure of a person's
2 identity.

3 * **Sec. 93.** AS 39.52.260 is amended by adding a new subsection to read:

4 (d) A designated supervisor shall submit to the personnel board a copy of
5 each report that the supervisor receives from an upper level public officer that was
6 made under the following:

7 (1) receipt of a gift by a family member under AS 39.52.130(f);

8 (2) a personal or financial interest in a state grant, contract, lease, or
9 loan under AS 39.52.150(d);

10 (3) outside services or employment under AS 39.52.170(b);

11 (4) declaration of potential violations by members of boards or
12 commissions under AS 39.52.220(a);

13 (5) reporting of potential violations under AS 39.52.230.

14 * **Sec. 94.** AS 39.52 is amended by adding a new section to article 3 to read:

15 **Sec. 39.52.270. Disclosure statements.** (a) A public officer required to file
16 a disclosure statement under this chapter shall meet the requirements of this
17 subsection in making the disclosure. When the public officer files a disclosure
18 statement under this chapter, the public officer signing the disclosure shall certify that,
19 to the best of the public officer's knowledge, the statement is true, correct, and
20 complete. The disclosure must state that, in addition to any other penalty or
21 punishment that may apply, a person who submits a false statement that the person
22 does not believe to be true is punishable under AS 11.56.200 - 11.56.240.

23 (b) A designated supervisor who receives a disclosure statement under
24 AS 39.52.110 - 39.52.220 shall review it. If the designated supervisor believes that
25 there is a possibility that the activity or situation reported in a disclosure statement
26 filed under AS 39.52.110 - 39.52.190 may result in a violation of this chapter, the
27 designated supervisor shall take appropriate steps under AS 39.52.210 - 39.52.240.
28 Failure of the designated supervisor to proceed under AS 39.52.210 - 39.52.240 does
29 not relieve the public officer of the public officer's obligations under those statutes.

30 (c) In this section, "disclosure statement" means a report or written notice
31 filed under AS 39.52.110 - 39.52.220.

32 * **Sec. 95.** AS 39.52.310(a) is amended to read:

1 (a) The personnel board [ATTORNEY GENERAL] may initiate a complaint,
2 or elect to treat as a complaint, any matter disclosed under AS 39.52.210, 39.52.220,
3 39.52.250, or 39.52.260.

4 * **Sec. 96.** AS 39.52.310(b) is amended to read:

5 (b) A person may file a complaint with the personnel board [ATTORNEY
6 GENERAL] regarding the conduct of a current or former public officer. A complaint
7 must be in writing, be signed under oath, and contain a clear statement of the details
8 of the alleged violation.

9 * **Sec. 97.** AS 39.52.310(c) is amended to read:

10 (c) If a complaint alleges a violation of AS 39.52.110 - 39.52.190 by the
11 governor, lieutenant governor, or the attorney general, the [MATTER SHALL BE
12 REFERRED TO THE PERSONNEL BOARD. THE] personnel board shall retain
13 independent counsel who shall act in the place of the attorney general under
14 AS 39.52.350 [(d) - (i) OF THIS SECTION, AS 39.52.320 - 39.52.350,] and
15 39.52.360(c) and (d).

16 * **Sec. 98.** AS 39.52.310(d) is amended to read:

17 (d) The personnel board [ATTORNEY GENERAL] shall review each
18 complaint filed, to determine whether it is properly completed and contains allegations
19 which, if true, would constitute conduct in violation of this chapter. The personnel
20 board [ATTORNEY GENERAL] may require the complainant to provide additional
21 information before accepting the complaint. If the personnel board [ATTORNEY
22 GENERAL] determines that the allegations in the complaint do not warrant an
23 investigation, the personnel board [ATTORNEY GENERAL] shall dismiss the
24 complaint with notice to the complainant and the subject of the complaint.

25 * **Sec. 99.** AS 39.52.310(e) is amended to read:

26 (e) The personnel board [ATTORNEY GENERAL] may refer a complaint
27 to the subject's designated supervisor for resolution under AS 39.52.210 or 39.52.220.

28 * **Sec. 100.** AS 39.52.310(f) is amended to read:

29 (f) If the personnel board [ATTORNEY GENERAL] accepts a complaint for
30 investigation, the personnel board [ATTORNEY GENERAL] shall serve a copy of
31 the complaint upon the subject of the complaint, for a response. The personnel
32 board [ATTORNEY GENERAL] may require the subject to provide, within 20 days

1 after service, full and fair disclosure in writing of all facts and circumstances
2 pertaining to the alleged violation. Misrepresentation of a material fact in a response
3 to the personnel board [ATTORNEY GENERAL] is a violation of this chapter.
4 Failure to answer within the prescribed time, or within any additional time period that
5 may be granted in writing by the personnel board [ATTORNEY GENERAL], may
6 be considered an admission of the allegations in the complaint.

7 * **Sec. 101.** AS 39.52.310(g) is amended to read:

8 (g) If a complaint is accepted under (f) of this section, the personnel board
9 [ATTORNEY GENERAL] shall investigate to determine whether a violation of this
10 chapter has occurred. At any stage of an investigation or review, the personnel
11 board [ATTORNEY GENERAL] may issue a subpoena under AS 39.52.380.

12 * **Sec. 102.** AS 39.52.320 is amended to read:

13 **Sec. 39.52.320. Dismissal before formal proceedings.** If, after investigation,
14 it appears that there is no probable cause to believe that a violation of this chapter has
15 occurred, the personnel board [ATTORNEY GENERAL] shall dismiss the complaint
16 and [PREPARE AND FILE A CONFIDENTIAL SUMMARY WITH THE
17 PERSONNEL BOARD. THE ATTORNEY GENERAL] shall communicate
18 disposition of the matter promptly to the complainant and to the subject of the
19 complaint.

20 * **Sec. 103.** AS 39.52.330 is amended to read:

21 **Sec. 39.52.330. Corrective or preventive action.** After determining that the
22 conduct of the subject of a complaint does not warrant a hearing under AS 39.52.360,
23 the personnel board [ATTORNEY GENERAL] shall recommend action to correct
24 or prevent a violation of this chapter. The personnel board [ATTORNEY
25 GENERAL] shall communicate the recommended action to the complainant and the
26 subject of the complaint. The subject of the complaint shall comply with the
27 personnel board's [ATTORNEY GENERAL'S] recommendation.

28 * **Sec. 104.** AS 39.52.340(a) is amended to read:

29 (a) Before the initiation of formal proceedings under AS 39.52.350, the
30 complaint and all other documents and information regarding an investigation
31 conducted under this chapter [,] or obtained by the personnel board [ATTORNEY
32 GENERAL] during the investigation are [, IS] confidential and not subject to

1 inspection by the public. All meetings of the personnel board concerning the
 2 complaint and investigation before the determination of probable cause are closed
 3 to the public. If, in the course of an investigation or probable cause
 4 determination, the personnel board finds evidence of probable criminal activity,
 5 the personnel board shall transmit a statement and factual findings limited to
 6 that activity to the appropriate law enforcement agency. If the personnel board
 7 finds evidence of a probable violation of AS 15.13, the personnel board shall
 8 transmit a statement to that effect and factual findings limited to the probable
 9 violation to the Alaska Public Offices Commission. The personnel board
 10 [ATTORNEY GENERAL AND ALL PERSONS CONTACTED DURING THE
 11 COURSE OF AN INVESTIGATION] shall maintain confidentiality regarding the
 12 existence of the investigation. [A PERSON WHO VIOLATES THIS SECTION IS
 13 GUILTY OF A CLASS A MISDEMEANOR.]

14 * Sec. 105. AS 39.52.340(c) is amended to read:

15 (c) The subject of the complaint may, in writing, waive the confidentiality
 16 protection of this section. However, the subject of the complaint may not waive
 17 the confidentiality duty the personnel board owes to others and may not require
 18 the personnel board to deliberate in public.

19 * Sec. 106. AS 39.52.350 is amended to read:

20 **Sec. 39.52.350. Probable cause for hearing.** (a) If the personnel board
 21 [ATTORNEY GENERAL] determines that there is probable cause to believe that a
 22 knowing violation of this chapter or a violation that cannot be corrected under
 23 AS 39.52.330 has occurred, or that the subject of a complaint failed to comply with
 24 a recommendation for corrective or preventive action, the personnel board
 25 [ATTORNEY GENERAL] shall initiate formal proceedings by requesting the
 26 attorney general to serve [SERVING] a copy of an accusation upon the subject of
 27 the accusation. The accusation shall specifically set out the alleged violation. After
 28 service, the accusation is a public document open to inspection. Except as provided
 29 in AS 39.52.370(c), all subsequent proceedings are open to the public.

30 (b) The subject of the accusation shall file an answer with the personnel
 31 board and the attorney general within 20 days after service of the accusation, or at
 32 a later time specified by the personnel board. The answer must be signed under

1 oath [ATTORNEY GENERAL]. If the subject of the accusation fails to timely
2 answer, the allegations are considered admitted.

3 (c) If the subject of the accusation denies that a violation of this chapter has
4 occurred, the [ATTORNEY GENERAL SHALL REFER THE MATTER TO THE]
5 personnel board may determine to conduct a hearing or to [, WHICH SHALL]
6 appoint a hearing officer to conduct a hearing.

7 (d) If the subject of the accusation admits a violation of this chapter, the
8 [ATTORNEY GENERAL SHALL REFER THE MATTER TO THE] personnel board
9 shall [TO] impose penalties under AS 39.52.410, 39.52.440, and 39.52.450, as
10 appropriate.

11 * **Sec. 107.** AS 39.52.360 is amended by adding a new subsection to read:

12 (i) If the personnel board has determined that it will conduct the hearing itself
13 under AS 39.52.350(c), the powers and duties given to a hearing officer in this section
14 shall be exercised by the personnel board, and references in this section to the hearing
15 officer shall be considered to refer to the personnel board.

16 * **Sec. 108.** AS 39.52.370(a) is amended to read:

17 (a) Within 10 days after receipt of the [HEARING OFFICER'S] report of the
18 hearing, either party may protest the [OFFICER'S] findings of fact, conclusions of
19 law, and recommendation [,] and, if a protest is filed, shall serve a copy on the other
20 party. Oral argument before the personnel board must be provided only if requested
21 by either party. The board chair shall set the deadline for submission of requests for
22 oral argument [,] and set the dates for submission of briefs and oral argument before
23 the board, if requested.

24 * **Sec. 109.** AS 39.52.920 is amended to read:

25 **Sec. 39.52.920. Agency policies.** Subject to the review and approval of the
26 personnel board [ATTORNEY GENERAL], an agency may adopt a written policy
27 that, in addition to the requirements of this chapter, limits the extent to which a public
28 officer in the agency or an administrative unit of the agency may

29 (1) acquire a personal interest in an organization or a financial interest
30 in a business or undertaking that may benefit from official action taken or withheld
31 by the agency or unit;

32 (2) have a personal or financial interest in a state grant, contract, lease,

Handwritten notes:
1. Sec 5
2. Sec 6
3. Sec 7
4. Sec 8

1 or loan administered by the agency or unit; or

2 (3) accept a gift.

3 * Sec. 110. AS 39.52.950 is amended to read:

4 **Sec. 39.52.950. Regulations.** The attorney general may adopt regulations
5 under AS 44.62 ([THE] Administrative Procedure Act) necessary to interpret and
6 implement the provisions concerning complaints under this chapter. The
7 personnel board may adopt regulations under AS 44.62 (Administrative
8 Procedure Act) necessary to interpret and implement the other provisions of this
9 chapter.

10 * Sec. 111. AS 39.52.960(11) is amended to read:

11 (11) "immediate family member" means

12 (A) the spouse of the person;

13 (B) another person cohabiting with the person in a conjugal
14 relationship that is not a legal marriage;

15 (C) a child, including a stepchild and an adoptive child, of
16 the person;

17 (D) a parent, sibling, grandparent, aunt, or uncle of the
18 person; and

19 (E) a parent, sibling, grandparent, aunt, or uncle of the
20 person's spouse [A PUBLIC OFFICER'S SPOUSE, A RELATION BY
21 BLOOD WITHIN AND INCLUDING THE SECOND DEGREE OF
22 KINDRED, AND A REGULAR MEMBER OF THE OFFICER'S
23 HOUSEHOLD];

24 * Sec. 112. AS 39.52.960 is amended by adding a new paragraph to read:

25 (23) "upper level public officer" means the governor, the lieutenant
26 governor, a person hired or appointed as the head or deputy head of a department in
27 the executive branch or as the director of a division in a department in the executive
28 branch, the chair or member of a state commission or board, as defined in
29 AS 39.50.200(b), the executive director of the Alaska Tourism Marketing Council, an
30 assistant to the governor or the lieutenant governor, a state investment officer, the
31 state comptroller in the Department of Revenue, and a state employee who is not
32 otherwise listed in this definition who is employed by an agency in the executive

1 branch of state government in the exempt or partially exempt service and who is
2 compensated at Range 19A or above on the state salary schedule under AS 39.27.011
3 or at more than \$4,200 per month; however, "upper level public officer" does not
4 include a member of a collective bargaining unit composed of state employees.

5 * **Sec. 113.** AS 44.62.175(a) is amended to read:

6 (a) The lieutenant governor shall publish or contract for the publication of the
7 Alaska Administrative Journal. The journal shall be published weekly. The journal
8 must include

9 (1) notices of proposed actions given under AS 44.62.190(a);

10 (2) notices of state agency meetings required under AS 44.62.310(e),
11 even if the meeting has been held;

12 (3) notices of solicitations to bid issued under AS 36.30.130;

13 (4) notices of state agency requests for proposals issued under
14 AS 18.55.255, 18.55.320; AS 36.30.210; AS 37.05.316; AS 38.05.120; and
15 AS 43.40.010;

16 (5) executive orders and administrative orders issued by the governor;

17 (6) written delegations of authority made by the governor or the head
18 of a principal department under AS 44.17.010;

19 (7) the text or a summary of the text of a regulation or order of repeal
20 of a regulation for which notice is given under AS 44.62.190(a), including an
21 emergency regulation or repeal whether or not it has taken effect;

22 (8) a summary of the text of recently issued formal opinions and
23 memoranda of advice of the attorney general;

24 (9) a list of vacancies on boards, commissions, and other bodies whose
25 members are appointed by the governor; and

26 (10) in accordance with AS 39.52.240(h), advisory opinions of the
27 personnel board [ATTORNEY GENERAL]."

28 Renummer internal references to bill sections in accordance with this amendment. Below are
29 all internal bill section references in this bill:

30 Page 59, line 21

- 1 Page 59, line 28
- 2 Page 60, line 1
- 3 Page 60, line 3
- 4 Page 60, line 4
- 5 Page 60, line 6

SB

122

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: May 9, 1997

FURTHER REFERRALS: Labor and Commerce
World Trade

Date of Committee Action: 2/19/98

The STATE AFFAIRS Committee considered:

SB 122

SENATE BILL NO. 122

INS. COVERAGE: MARRIAGE & FAMILY THERAPIST

"An Act relating to unfair discrimination under a group health insurance policy for services provided by marital and family therapists; and providing for an effective date."

recommends it be replaced with the following committee substitute H.C.S.C.S.S.B. 122 (STA) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) CED

| SIGNING WITH RECOMMENDATIONS | DP | DNP | NR | AM |
|------------------------------|----|-----|----|----|
| <i>Janette James</i> | ✓ | | | |
| <i>Ken [unclear]</i> | ✓ | | | |
| <i>[unclear]</i> | ✓ | | | |
| <i>[unclear]</i> | | | ✓ | |
| <i>Fred [unclear]</i> | ✓ | | | |
| <i>Mark [unclear]</i> | | | ✓ | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

CHAIR'S SIGNATURE *Janette James*



Official Business

Alaska State Legislature

SENATE

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT SB 122: Marital and Family Therapists

Senate Bill 122 was introduced by the Labor and Commerce Committee at the request of the Alaska Association for Marriage and Family Therapy (AAMFT). SB 122 adds marital and family therapists to the list of providers against whom insurers may not discriminate.

This bill does not require insurers to add coverage of marital and family therapists where the coverage currently is not provided. It merely requires that insurers treat marital and family therapists on equal footing with other licensed providers.

Section 1 adds marital and family therapists to the unfair discrimination list under group health insurance policies with an effective date of July 1, 1998.

Legislation (Section 4, CH 39, SLA 1993) affecting the unfair discrimination clause was passed in 1993 with an effective date of 1998. Section 2 repeals and reenacts this section to reflect the addition of marital and family therapists.

AAMFT is a division of the American Association for Marriage and Family Therapy, Inc.. Marriage and Family Therapists (MFTs) are a group of mental health professionals with background in a variety of disciplines, including psychology, social work, and family social science. MFTs are licensed or certified in 37 states and are recognized by the U.S. Department of Health and Human Services as one of the five core mental health disciplines in the United States.

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

March 13, 1997

SUBJECT: Insurance discrimination - (SB 122)

TO: Senator Loren Lemman *LL*
Attn: Annette

FROM: Michael F. Ford
Legislative Counsel

You asked for an explanation of the legal effect of adding marital and family therapists to AS 21.36.090(d). This provision of law requires that group health insurers who provide coverage for a particular health care service, cannot deny coverage for services performed by a listed class of health care provider, if the service is within the scope of the health care provider's occupational license. By adding marital and family therapists to the list of "provider" they fall under the antidiscrimination protection of this section. For example, assuming SB 122 becomes law, if a marital and family therapist provides a service that is covered under the health insurance policy and within their occupational license, an insurer could not deny coverage. Note that SB 122 does not mandate coverage for particular services. Only if the service is covered under the group health policy does AS 21.36.090(d) have an effect.

Please contact me if you have further questions.

MFF:glc
97-171.glc

Commonly Asked Questions About Marriage and Family Therapists

Q) Who are you? How are you credentialed?

A) Marriage and family therapists (MFTs) are a multidisciplinary group of mental health professionals with backgrounds in a variety of disciplines, including psychology, social work, and family social science. MFTs are licensed or certified in 37 states and are recognized by the U.S. Department of Health and Human Services as one of the five core mental health disciplines in the U.S.

Q) What kind of services do MFTs provide?

A) MFTs are mental health generalists. They are versatile, working with individuals, couples, and families and across all age groups (i.e., children, adolescents, adults, and elders).

MFTs treat a wide variety of serious mental health problems most commonly depression, other psychological problems, marital problems, anxiety, parent-child problems, and problems related to alcohol and drug use. In a national study of 850 cases treated by MFTs, the problems in nearly half the cases (48.7%) were considered severe, extremely severe, or catastrophic. 29.3% of the clients were on a psychotropic medication, most commonly anti-depressants, and 16.6% of the clients also saw a psychiatrist. About 10% of the clients in the sample had been hospitalized for psychiatric problems in the past year. 17% of the clients also had a chronic or serious medical condition in addition to their psychosocial problems.

Q) How long does treatment take? Isn't "marriage counseling" endless?

A) Treatment by marriage and family therapists typically is brief with the average treatment case completed in 12 sessions. Treatment of families (9 sessions) and couples (11.5 sessions) is briefer than individual therapy (13 sessions). In a national study of marriage and family therapists, 42% of the cases were completed in 10 or fewer sessions and two-thirds (66%) were completed within 20 sessions.

Q) What do consumers say about treatment by marriage and family therapists?

A) In a national survey, clients of marriage and family therapists expressed overwhelming satisfaction with every aspect of the services they received. 98.1% of those surveyed rated services as good or excellent. 98% of clients said that the services they received from a marriage and family therapist helped them deal more effectively with their problems. 94% said that they would return to same therapist in future and 97% said that they would recommend their therapist to family and friends.

Similarly, a 1993 survey of consumers in the American Psychologist found that MFTs were the type of therapist most often recommended by consumers to family and friends.

Q) Does marriage and family therapy work? What is the outcome of treatment?

A) There is a large body of research indicating that marriage and family therapy is effective in treating individuals, couples and families with a wide variety of presenting problems and diagnoses. Consumers report that treatment by an MFT resulted in improvements in functioning in a number of areas including physical health, work performance, relationships with partners and family members, child behavior, and school performance.

There are studies that indicate that family problems are now the number one problem brought to Employee Assistance Programs (EAPs), replacing alcohol and drug problems. Left untreated, these problems can result in lost hours and diminished productivity.

Business people are interested in getting people back to work or having them be productive and focused at work. Treatment by MFTs can help to meet that goal. In 55% of the cases in our study, clients reported an improvement in their functioning at work and 46% of clients reported that they were better able to get along with co-workers. In addition, almost two-thirds of all clients (63.4%) in our study reported that their physical health was better than it had been prior to treatment.

Q) What does it cost? Do MFTs provide cost-effective treatment?

A) Since we know about typical length of treatment and average costs nationally and in 16 states, we can now approximate the average cost of treatment for the typical case.

Couple and family treatment is briefer than individual treatment. It is reasonable to conclude, therefore, that treating 4 family members conjointly for 4 sessions will be cheaper than treating 4 family members individually for 10 sessions each.

Source: William J. Doherty and Deborah S. Simmons. (1996). Clinical practice patterns of marriage and family therapists: A national survey of therapists and their clients. *Journal of Marital and Family Therapy*, 22, 9-25.

Explanation of Services



Blue Cross
of Washington and Alaska
An independent licensee of the
Blue Cross and Blue Shield Association

P.O. Box 327
Seattle, Washington 98111-0327
1-800-213-5470

Date: 04/14/97
Provider #: 564428465
Page #: 1

| SUBSCRIBER NAME PATIENT ACCOUNT/GROUP # PATIENT NAME CLAIM NUMBER/SUBSCRIBER ID | DATES OF SERVICE | PROCEDURE CODE(S) | TOTAL CHARGE(S) | ALLOWED AMOUNT | AMOUNT PAID | P D T O | SUBSCRIBER BALANCE | AUDIT CODE(S) |
|--|--|--|---|-------------------|--|------------------|---|------------------|
| J. MI 7597055575/574706122 | 030397 030397 | 90899 | 150.00 | | .00 | | 150.00 | OOC |
| J. M 7094203576/574706122 | 121096 121096 121796 121796 010297 010297 010697 010697 011397 011397 012197 012197 012997 012997 020497 020497 021997 021997 022597 022597 | 90899 90899 90860 90899 90860 90844 90844 90860 90860 90860 | 262.50 150.00 112.50 150.00 112.50 75.00 100.00 112.50 130.25 112.50 | | .00 .00 .00 .00 .00 .00 .00 .00 .00 .00 | | 262.50 150.00 112.50 150.00 112.50 75.00 100.00 112.50 130.25 112.50 | OOC |
| | PATIENT TOTAL--- | | 1467.75 | .00 | .00 | | 1467.75 | |
| | DED. APPLIED--- | | .00 | OTH COVERAGE--- | | | .00 | |
| | PATIENT BALANCE | | 1467.75 | .00 | .00 | | 1467.75 | |
| | PAID AS ALLOWED | | .00 | .00 | .00 | | .00 | |
| | PAID AS CHARGED | | .00 | .00 | .00 | | .00 | |
| | VOUCHER TOTAL--- | | 1467.75 | .00 | .00 | | 1467.75 | |

EXPLANATION of AUDIT CODE(S):
OOC SERVICES BY THIS PROVIDER ARE NOT COVERED.

EXPLANATION of PAID TO CODE(S):
P = PROVIDER
S = SUBSCRIBER
C = CO-PAY
A = ADJUSTMENT
O = OTHER

*Counseling provided by
Licensed Marriage & Family Therapist
not reimbursed*

Licensed MFT

DIXIE A HOOD MA
222 SEWARD #210
JUNEAU AK 99801-1236



*ordered Final 7/19/98
& updated fiscal Note
From Shari*

0-LS0700VI
Ford
2/17/98

HOUSE CS FOR CS FOR SENATE BILL NO. 122()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to unfair discrimination under a group health insurance policy
2 for services provided by marital and family therapists; and providing for an
3 effective date."

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

5 * Section 1. AS 21.36.090(d) is amended to read:

6 (d) Except to the extent necessary to comply with AS 21.42.365 and AS 21.56,
7 a person may not practice or permit unfair discrimination against a person who
8 provides a service covered under a group health insurance policy that extends coverage
9 on an expense incurred basis, or under a group service or indemnity type contract
10 issued by a nonprofit corporation, if the service is within the scope of the provider's
11 occupational license. In this subsection, "provider" means a state licensed physician,
12 dentist, osteopath, optometrist, chiropractor, nurse midwife, advanced nurse
13 practitioner, naturopath, physical therapist, occupational therapist, marital and family
14 therapist, psychologist, psychological associate, or licensed clinical social worker, or

1 certified direct-entry midwife.

2 * Sec. 2. This Act applies to a policy of insurance issued or renewed on or after the
3 effective date of this Act.

4 * Sec. 3. This Act takes effect July 1, 1998.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 122

Revision Date (2/19/98) Dept. Affected Commerce & Economic Development
 Title An Act relating to unfair discrimination under a group BRU Insurance
Insurance policy for services provided by marital and family therapists Component Insurance
 Sponsor Senate L&C by request
 Requester House - State Affairs Component Serial No. 354

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 | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 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 (FY99) cost: 0.0

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)
 This bill has no fiscal impact on the component

Prepared by Marianne K. Burke, Director Phone 465-2515
 Division Insurance Date 2/19/98
 Approved by Commissioner Deborah B. Sedwick Date 2-19-98
 Agency Commerce and Economic Development

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FISCAL NOTE

No. 1

Bill Version: CSSB 122 (Lec)

(S) Publish Date: 4-9-97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act relating to unfair discrimination under a group
insurance policy for services provided by marital and family therapists
 Sponsor: Senate L&C
 Requestor: _____

Department: Commerce and Economic Development
 BRU: Insurance
 Component: Insurance

COMPONENT SERIAL NO. _____ 324

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 | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|---------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES | | | | | | |
|---------------------------|--|--|--|--|--|--|

FUND SOURCE

(Thousands of Dollars)

| | | | | | | |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 General Fund | | | | | | |
| 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 (FY 97) cost: \$ 0.0

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on the component.

Prepared by: Marianne K. Burke, Director
 Division: Insurance
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2515
 Date: 3-25-97
 Date: 3/25/97

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SB

124

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: April 10, 1997

FURTHER REFERRALS:

Date of Committee Action: 4/24/97

The STATE AFFAIRS Committee considered:

SB 124

SENATE BILL NO. 124

CHARITABLE GAMING SALMON AND RACE CLASSIC

"An Act relating to salmon classics and race classics."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) RSV

| SIGNING WITH RECOMMENDATIONS | DP | DNP | NR | AM |
|------------------------------|----|-----|----|----|
| <i>Jeanette James</i> | ✓ | | | |
| <i>[Signature]</i> | | | ✓ | |
| <i>[Signature]</i> | | | ✓ | |
| <i>[Signature]</i> | ✓ | | | |
| <i>[Signature]</i> | ✓ | | | |
| <i>[Signature]</i> | ✓ | | | |
| | | | | |
| | | | | |
| | | | | |

CHAIR'S SIGNATURE Jeanette James

Alaska State Legislature



Committee Membership

Senate Finance
Senate Resources
Senate Rules
Legislative Budget & Audit

Senator John Torgerson

District Address:
145 Main St. Loop; Ste. 226
Kenai, AK 99611
(907) 283-2690
fax 283-9267

Session Address:
State Capitol: Room 514
Juneau, AK 99801-1182
(907) 465-2828
fax 465-4779

Sponsor Statement

SB 124: Charitable Gaming Salmon & Race Classic

This legislation amends AS 05.15.100(a) by including race classics as one of the games of skill and chance which municipalities or qualified organizations are allowed to conduct. One function of this bill is to authorize a classic for the Seward Mt. Marathon Race, to be operated by the Seward Chamber of Commerce Convention & Visitors' Bureau. The bill therefore includes a definition for "race" classics.

The bill also amends AS 05.15.690(40) by extending the definition of a salmon classic to include the Seward Silver Salmon Derby Classic and the Sterling Area Senior Citizen's, Inc. Sockeye Salmon Crossing Classic.

Both the Seward Chamber of Commerce Convention & Visitors' Bureau and the Sterling Area Senior Citizen's, Inc., are non-profit corporations. Both entities provide a valuable community service and, like many local service organizations, they are searching for ways to supplement their revenues.

Providing these potential revenue vehicles will assist these service organizations in the continuation of the services they provide for their respective communities.

Alaska State Legislature



Committee Membership

Senate Finance
Senate Resources
Senate Rules
Legislative Budget & Audit

Senator John Torgerson

District Address:
145 Main St. Loop; Ste. 226
Kenai, AK 99611
(907) 283-2690
fax 283-9267

Session Address:
State Capitol: Room 514
Juneau, AK 99801-1182
(907) 465-2828
fax 465-4779

Sectional Analysis

SB 124: Charitable Gaming Salmon & Race Classic

Section 1: Amends AS 05.15.100(a) by inserting "race classics".

Section 2: Amends AS 05.15.115(c) by inserting "race classics".

Section 3: Amends AS 05.15.180(b) by inserting "race classics".

Section 4: Amends AS 05.15.690(40) by inserting:

- (A) New subsection "A" to renumber for additions (B) and (C);
- (B) New subsection and language authorizing a Seward Silver Salmon Derby Classic;
- (C) New subsection and language authorizing a Sterling Area Senior Citizen's, Inc. Sockeye Salmon Crossing Classic.

Section 5: Amends AS 05.15.690 by inserting new subsection which defines a "race classic".

Sections 6-8: These bill sections amend a 1995 session law. They are necessary due to the sunset or repealer provided in ch. 13, SLA 1995. That session law provided for mushing sweepstakes and for the sunset of those sweepstakes in 2000. The sunset was accomplished by having sections 2, 4, and 6 of the session law take effect in the year 2000. Because those sections are going to be repealed and reenacted in 2000, it is necessary to amend the session law to include any intervening amendments to those sections to avoid the repeal of intervening amendments - like this one for "race classics".

Alaska State Legislature



Committee Membership

Senate Finance
Senate Resources
Senate Rules
Legislative Budget & Audit

Senator John Torgerson

District Address:
145 Main St. Loop; Ste. 226
Kenai, AK 99611
(907) 283-2690
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Session Address:
State Capitol: Room 514
Juneau, AK 99801-1182
(907) 465-2828
fax 465-4779

MEMORANDUM

DATE: April 14, 1997

TO: Representative James, Chair
House State Affairs Committee

FROM: Senator John Torgerson 

RE: SB 124 Committee Hearing

I would appreciate your scheduling SB 124 - Charitable Gaming Salmon and Race Classic, for hearing before your committee.

Attached find a Sponsor Statement and Sectional Analysis for the bill.

Thank you for your time and consideration.

FISCAL NOTE

No. 1
Bill Version: SB 124
Publish Date: 4-4-97

Revision Date: _____ Dept. Affected: Revenue
Title: Charitable Gaming Salmon and Race Classic BRU: Revenue Operations
Component: Charitable Gaming Division
Sponsor: Sen. Torgerson
Requestor: (STA) COMPONENT SERIAL NO. 1883

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 | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill seeks to add Race Classics as a new charitable gaming activity. It also adds two new Salmon Classics to existing Alaska Statutes. The Department of Revenue, Charitable Gaming Division does not anticipate any changes in program receipts in respect to this bill.

Prepared by: Dennis R. Poshard, Director DRP
Division: Charitable Gaming Division
Approved by Commissioner: Wilson L. Condon WLC
Agency: Revenue

Phone: 465-2279
Date: 4-1-97
Date: _____

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SB

180

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 24, 1998

FURTHER REFERRALS:

Resources
Finance

Date of Committee Action: 3/31/98

The STATE AFFAIRS Committee considered:

CSSB 180(FIN)

CS FOR SENATE BILL NO. 180(FIN)

STATE RIGHTS-OF-WAY: RS 2477

"An Act relating to state rights-of-way."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) DNR

zero fiscal note(s) _____

zero fiscal note(s) DOTY PF

| SIGNING WITH RECOMMENDATIONS | DP | DNP | NR | AM |
|------------------------------|----|-----|----|----|
| <i>Jeannette James</i> | ✓ | | | |
| <i>John V. Edwards</i> | | ✓ | | |
| <i>Mark ...</i> | ✓ | | | |
| <i>John ...</i> | | | ✓ | |
| <i>Joe Rippon</i> | ✓ | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

CHAIR'S SIGNATURE *Jeannette James*

Alaska State Legislature

Senate

Official Business

**RICK
HALFORD**

State Capitol
Juneau, Alaska
99801-1182
Phone (907) 465-4958
Fax (907) 465-4928

P.O. Box 670190
Chugiak, Alaska 99567
Phone (907) 694-4958
Fax (907) 694-0549

600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 376-4958

Sponsor Statement

CSSB 180(FIN)

" An Act Relating to State Rights-of-way."

Revised Statute 2477 (R.S. 2477) was a right granted to the states by the United States Congress with the passage of the Mining Act of 1866. The purpose of this law was to provide for, and guarantee, the public's right to establish access across federal lands. Subsequent congressional action, and more than 100 years of case law, has recognized the state's authority to determine and define R.S. 2477 rights-of-way.

Although Congress repealed R.S. 2477 in 1976 with the adoption of the Federal Land Policy and Management Act, they specifically acknowledged the legal existence of R.S. 2477 rights-of-way established prior to the repeal. Current Federal Regulation explicitly provides that any rights conferred by the R.S. 2477 grant shall not be diminished. (43 CFR § 2801.4)

Last year the legislature passed SJR 13 with broad support reiterating their position regarding R.S. 2477 and making clear the objection to the United States Department of the Interior's new policy. Information that came forward during the committee process on SJR 13 as well as during the Joint Senate and House Resources Committee's overview of the issue supports the subsequent action being taken with Senate Bill 180.

SB 180, an Act relating to state rights-of-way, codifies 602 documented R.S. 2477 rights-of-way, requires them to be recorded and provides a process for, and limitations on, their vacation.

Beginning with the legislative appropriations in 1992 and 1993, which funded the research and compilation of historical information regarding R.S. 2477, the legislature has taken the lead in moving this issue forward. In undertaking those legislatively designated projects, the Department of Natural Resources (DNR) reviewed some 1,700 potential R.S. 2477 routes. This DNR review resulted in the identification of 602 rights-of-way that appear to qualify and can be supported with appropriate documentation. These 602 routes are published in the Historical Trails catalogue and incorporated into the state land administration system (LAS).

While the R.S. 2477 rights-of-way codified in this bill have already been accepted by public users and deemed supportable by the state, it is likely the federal government will dispute the state's ownership on some or all of these routes. Although the current federal administration is attempting to limit the state's rights regarding R.S. 2477 rights-of-way, over 100 years of case law on point recognizes state law as controlling on the issue. Codifying these routes in statute will strengthen the state's position for possible subsequent court action, and provide the affected land owners and general public clear notification that these R.S. 2477 rights-of-way are available for use.

R.S. 2477 rights-of-way are crucial to the future of our young and still largely undeveloped state. They are essential to provide surface travel to Alaska's many untapped mineral deposits and other natural resources, recreational areas and tourism opportunities, and access to and between Alaska's rural areas.

R.S. 2477 rights-of-way are an existing state right that we cannot allow to be "regulated away" by the federal bureaucracy. I urge your support of this legislation.

Alaska State Legislature

Senate

**RICK
HALFORD**


State Capitol
Juneau, Alaska
99801-1182
Phone (907) 465-4958
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P.O. Box 670190
Chugiak, Alaska 99567
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600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 376-4958

Official Business

TO: Representative Jeannette James, Chairman
House State Affairs Committee

FROM: Senator Rick Halford 

DATE: March 25, 1998

RE: Scheduling of SB 180 "An Act relating to state rights-of-way"

I request that you schedule SB 180 for a hearing in the House State Affairs Committee at your earliest convenience. If you have any questions, or need additional information, please do not hesitate to contact either me or Brett Huber, the member of my staff working on this legislation.

SENATE FINANCE COMMITTEE REPORT

DATE: 2/24/98

FURTHER: 3/11/98

DATE TURNED
IN TO OFFICE: 3/12/98

Finance Committee considered

SENATE BILL NO. 180

"An Act relating to state rights-of-way."

and recommends:

- be replaced with _____ CS SB 180 (FIN)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

| SIGNING DO PASS | DP | OTHER RECOMMENDATIONS | NR | DNP | AM |
|---------------------------|----|-----------------------|----|-----|----|
| <i>Bill E. Telle</i> | ✓ | <i>Ed Lehman</i> | X | | |
| <i>John Doherty</i> | ✓ | | | | |
| <i>Johnson</i> | ✓ | | | | |
| Co-Chair: <i>Pease</i> | ✓ | Co-Chair: | | | |
| Co-Chair: <i>Bob King</i> | ✓ | Co-Chair: | | | |

NEW FISCAL NOTE(S):

| Department | Date | Zero | Fiscal |
|------------|------|------|--------|
| | | | |
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PREVIOUS FISCAL NOTE(S):*

| Department | Date | Zero | Fiscal |
|--------------------------|----------------|------|--------------|
| <i>Natural Resources</i> | <i>2/24/98</i> | | <i>141.7</i> |
| <i>DOT + PF</i> | <i>2/5/98</i> | ✓ | |
| | | | |
| | | | |
| | | | |

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 4/18/97

FURTHER: Finance

Date of 5-Day Notice: 1/29/98
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 2/24/98

Resources Committee considered

SENATE BILL NO. 180

"An Act relating to state rights-of-way."

and recommends:

- be replaced with _____ CS 180 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:
- same title
 - new title
- House Bill:
- same title
 - technical title
 - new: SCR# _____

| SIGNING DO PASS | DP | OTHER RECOMMENDATIONS | NR | DNP | AM |
|----------------------------|----|-----------------------|----|-----|----|
| <i>Thomas D. Keenan</i> | ✓ | | | | |
| <i>Scott M. Thompson</i> | ✓ | | | | |
| <i>Lynda Green</i> | ✓ | | | | |
| <i>Chair: Rick Halford</i> | ✓ | <i>CHAIR:</i> | | | |

NEW FISCAL NOTE(S):

SB+
CS
SB+
CS

| Department | Date | Zero | Fiscal |
|------------|---------------|------|-------------|
| <i>NR</i> | <i>7/29</i> | | <i>14.7</i> |
| <i>DOT</i> | <i>7/5/91</i> | ✓ | |
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| | | | |
| | | | |

PREVIOUS FISCAL NOTE(S):*

| Department | Date | Zero | Fiscal |
|------------|------|------|--------|
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APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill



THE SECRETARY OF THE INTERIOR
WASHINGTON

RECEIVED
JAN 27 1997

JAN 22 1997

Ans'd.....

Memorandum

To: Assistant Secretary, Fish and Wildlife and Parks
 Assistant Secretary, Land and Minerals Management
 Assistant Secretary, Indian Affairs
 Assistant Secretary, Water and Science

From: Secretary

Subject: Interim Departmental Policy on Revised Statute 2477 Grant of Right-of-Way for Public Highways; Revocation of December 7, 1988 Policy

Revised Statute 2477, which provided that "[t]he right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted," was repealed on October 21, 1976, by the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. § 1701 *et seq.* FLPMA did not terminate valid rights-of-way established under R.S. 2477 prior to its repeal. The existence and extent of valid rights-of-way previously established pursuant to R.S. 2477 remains an issue in some places.

States or local governments asserting that R.S. 2477 rights-of-way exist on federal lands can in appropriate situations file a lawsuit in federal court seeking to establish the validity of that assertion. In the alternative or in advance of filing such a lawsuit, the Department of the Interior may also be asked to give its views on such assertions.

On December 7, 1988, Secretary Hodel signed a memorandum that discussed his policy for making determinations whether the Department would recognize claims for rights-of-way under R.S. 2477. That policy was not promulgated according to rulemaking procedures and is not a rule. In fact, because the Department has not been making such determinations in recent years, that policy has not been carried out for several years. The purpose of this memo is to revoke the 1988 policy and establish a revised policy for carrying out any determinations the Department might be called upon to make regarding R.S. 2477.

Background

At the request of Congress, the Department submitted a Report to Congress on R.S. 2477 in June 1993. In accordance with that Report's recommendations, the Department determined that regulations should be written for R.S. 2477, and a Notice of Proposed Rulemaking was published in 1994. 59 Fed. Reg. 39,216 (August 1, 1994). Thereafter, Congress attached a provision to the Department's appropriation for fiscal year 1996 that prohibited using funds appropriated by that statute for "developing, promulgating, and thereafter implementing a

rule concerning rights-of-way under section 2477 of the Revised Statutes." Pub. L. 104-134, § 110, 110 Stat. 1321-177 (1996). The Department's appropriation for fiscal year 1997 permits the publication of final regulations but says they shall not take effect unless "expressly authorized by an Act of Congress subsequent to the date of enactment of this Act." Pub. L. 104-208, § 108, 110 Stat. 5009 (1996).

I addressed the issue of whether the Department should continue to make determinations regarding R.S. 2477 claims in my May 28, 1993, letter to Congress transmitting the Department's Report: "Until final rules are effective, I have instructed the Bureau of Land Management to defer any processing of R.S. 2477 assertions except in cases where there is a demonstrated, compelling, and immediate need to make such determinations." This instruction is still in effect.

Revised Policy on R.S. 2477 Rights-of-way Determinations

Those making claims of the existence of valid R.S. 2477 rights-of-way continue to have the option of seeking to establish the validity of their claims in court. Nevertheless, it is possible that the Department may be asked, in advance of final rules taking effect, to make such determinations on the basis that such a demonstrated, compelling, and immediate need is claimed to exist. If so, until final rules are published and take effect, determinations regarding R.S. 2477 rights-of-way will be made by the Secretary of the Interior, in consultation with the appropriate Interior agency, according to the following policy:

1. **Claims.** An entity wishing the Secretary or any agencies of the Department of the Interior to make a determination whether an R.S. 2477 right-of-way exists shall file a written request with the Interior agency having jurisdiction over the lands underlying the asserted right-of-way, along with an explanation of why there is a compelling and immediate need for such a determination. The request should be accompanied by documents and maps that the entity wishes the agency to consider in making its recommendation to the Secretary. If, based on the information provided, the agency does not believe a compelling and immediate need for the determination exists, it should without further examination recommend the Secretary defer processing until final rules are effective.

2. **Withdrawals and Reservations.** The agency shall consult the public land records maintained by the Bureau of Land Management to determine the status of the lands over which the claimed right-of-way passes. If such lands were withdrawn, reserved, or otherwise unavailable pursuant to R.S. 2477 at the time that the highway giving rise to the claim of an R.S. 2477 right-of-way was allegedly constructed and remained unavailable through October 21, 1976, the agency will recommend the Secretary deny the claim.

3. **Construction.** If the lands were not withdrawn, reserved, or otherwise unavailable pursuant to R.S. 2477, the agency shall examine all available documents and maps and perform an on-site examination to determine whether construction on the alleged right-of-way had occurred prior to the repeal of R.S. 2477 on October 21, 1976. If the agency

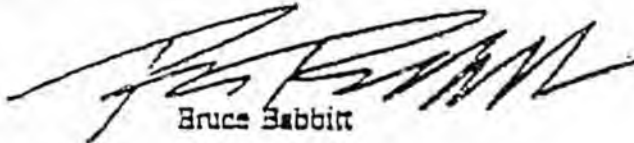
determines that construction did not occur, the agency will recommend the Secretary deny the claim.

4. Highway. The agency shall evaluate whether the alleged right-of-way constitutes a highway. A highway is a thoroughfare used prior to October 21, 1976, by the public for the passage of vehicles carrying people or goods from place to place. If the agency determines that the alleged right-of-way does not constitute a highway, the agency will recommend the Secretary deny the claim.

5. Role of State Law. In making its recommendations, the agency shall apply state law in effect on October 21, 1976, to the extent that it is consistent with federal law. The agency will in no case recommend approval of claims that do not comply with the requirements of applicable state law.

6. Secretary's Determination. The agency will make recommendations on the above-described issues to the Secretary. The Secretary will approve or disapprove those recommendations.

The December 7, 1988 policy, including attachment 1, is hereby revoked.



Bruce Babbitt