

ALASKA STATE LEGISLATURE

2015-2016

STANDARDS OF CONDUCT HANDBOOK

for

Legislators and Legislative employees

Prepared by the

SELECT COMMITTEE ON LEGISLATIVE ETHICS

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INTRODUCTION

PURPOSE OF THIS HANDBOOK

This handbook is intended to be a **practical guide** to Alaska's Legislative Ethics Act, AS 24.60, as amended in 2012.

The descriptions, questions/answers and examples in this book are provided as guidelines but do not have the force of law.

HOW TO USE THIS HANDBOOK

First decide if you are covered by the Legislative Ethics Act. The people to which the Act applies are listed on pages 3 & 4. If you are covered by the Ethics Act, read both the narrative section and the Legislative Ethics Act AS 24.60.

If the Act applies to you, find out if you need to file any disclosures to the committee. Appendix B of this handbook contains a list of disclosure requirements and deadlines. Blank reporting forms are provided for your convenience in the back of this handbook, Appendix B. Filing online is easy to do.

Visit us at: <http://ethics.akleg.gov/ethics.disclosures.php>

Please make a copy of the forms, as you may need to disclose using the same form several times a year. Please note that filing late disclosure is a violation of the Ethics Act and may subject you to a fine.

The index in the front of this handbook will assist you in locating specific information.

Page 5 of this handbook provides a quick overview of the Complaint Process. For a more complete understanding of the process, please refer to pages 44-48.

A HANDBOOK IS NICE BUT I NEED ADVICE RIGHT NOW!

People subject to the Legislative Ethics Act and members of the general public may request **informal advice** about the Act from the Ethics Committee staff. Although staff advice is given in good faith, it does not necessarily reflect the opinions of the members of the committee and *it is not binding on the committee*. Your questions are welcome in any form but you are encouraged to ask your questions via e-mail, which allows both parties to have a record of the question and the answer. Requests for informal advice are kept confidential, with the understanding of the level of confidentiality available electronically. Ethics staff do not provide informal advice when someone is requesting advice regarding the actions of another.

E-mail: <mailto:ethics.committee@akleg.gov>

WAIT, I WANT A BINDING ADVISORY OPINION

A person subject to the Legislative Ethics Act, a person who has been elected to the legislature but not yet sworn into office, or a person who will be working for the legislature but is not yet on the payroll, may request **formal advisory opinions** from the committee. Requests for advisory opinions must be in written form, must contain all the facts of your particular case, and should pose the question, "Do the facts of this case constitute a violation of the Ethics Act?" Advisory opinion requests are kept confidential, unless confidentiality is waived. Additional information on advisory opinions is on page 43.

THE WEBSITE - ADDITIONAL INFORMATION:

<http://ethics.akleg.gov/>

The Ethics Committee maintains a website that includes committee member information, the Ethics Act, past advisory opinions, recent issues of the committee newsletter, disclosure forms, and other information useful to the public and those in the legislative branch.

APPLICABILITY

TO WHOM DO THE RULES IN THE ETHICS ACT APPLY?

AS 24.60.020, 24.60.080, 24.60.090 and 24.60.990

The requirements and prohibitions in the Ethics Act apply in varying degrees to legislators, most employees of the legislative branch, and to public members of the Ethics Committee. The Act applies to a limited extent to family members of legislators and employees and to legislative interns and volunteers in legislative offices. The Act does not apply to candidates or people who have been elected to the legislature but have not yet been sworn into office. The Ethics Act uses the following terms to distinguish which persons are covered by a particular requirement or restriction:

“Legislator” means a person currently serving in the Alaska Legislature.

“Former member of the legislature” means a person who previously served but is not currently a member of the legislature. The activities of a former member are *not* governed by the Ethics Act. However, a complaint may be filed against a former member for violations committed while in office, for a period of five years after the former member’s departure from the legislature. Alaska’s lobbying law and the Alaska Constitution limit the employment options of former members of the legislature.

“Legislative employee” means a person who is paid by the legislative branch for regular or substantial personal services, including part-time and full-time employees, legislative directors, independent contractors, and consultants. Public members and staff of the Ethics Committee are specifically included.

By statute, the term does not include staff whose jobs are considered incidental to legislative functions and other employees designated by the committee. However, beginning in 2010, the Legislative Affairs Agency (LAA) Executive Director has directed all LAA staff, except hourly employees, to attend ethics training and comply with the requirements of Legislative Ethics Act. Contact the Ethics Committee if you are unsure if you are covered by the Ethics Act.

“Legislative Director” means a legislative employee who is the head of one of the divisions within the legislative branch, specifically, the director of Legislative Finance, the Legislative Auditor, the Ombudsman, the Legislative Affairs Agency (LAA) Executive Director, and the directors of the divisions within LAA. Legislative directors are subject to the rules for legislative employees as well as additional reporting requirements set out in AS 24.60.200-260.

“Committee employees and contractors” mean legislative employees who are hired or paid under contract by the Ethics Committee. Committee employees and contractors are considered legislative employees and are subject to the rules for legislative employees as well as the additional restrictions set out in AS 24.60.130(f) and (k) and AS 24.60.134.

“Public member of the committee” means each of the five non-legislators who serve on the Ethics Committee and one non-legislator who serves as an alternate member. Public members are considered legislative employees and are subject to the rules for legislative employees in addition to rules set specifically for public members.

“Member of the immediate family of a legislator or legislative employee” means the spouse, domestic partner, parent, child (including stepchildren and adoptive children) and sibling of the person, if the member of the family resides with the person, is financially dependent on the person or shares a substantial financial interest with the person. The restrictions on the activities of immediate family members appear in AS 24.60.040, concerning state contracts, leases and grants and in AS 24.60.090, concerning nepotism.

Gifts to legislators and legislative employees from immediate family members are addressed in AS 24.60.080. An expanded definition of immediate family member is defined in AS 24.60.080(c)(5).

“Individual who is related to a member of the legislature or a legislative employee” means a member of the person’s immediate family or the person’s domestic partner with whom the legislator or employee is cohabiting with in a relationship that is like a marriage but which is not a legal marriage. This term appears only in AS 24.60.090, the nepotism section.

“Campaign committee of a legislator” means a group formed or controlled by a legislator whose purpose is to help elect the legislator to public office. This term appears only in AS 24.60.030(d), the prohibition on distributing or posting campaign materials in state facilities.

“Domestic partner” means a person who is cohabiting with another person in a relationship that is like a marriage but that is not a legal marriage.

“State Office” includes the office of governor, lieutenant governor, member of the legislature, or similar state office.

“Legislative volunteer” means a person who provides services for legislative purposes who is not receiving compensation from another source for the services. Referenced AS 24.60.080(h), AS 24.60.112, and AS 24.60.155. A legislative volunteer shall be considered to be a legislative employee for purposes of compliance with these sections.

“Legislative intern” means a person who provides services for legislative purposes who is participating in an educational program pre-approved by the committee. Referenced AS 24.60.080(h), AS 24.60.112, and AS 24.60.155. A legislative intern shall be considered to be a legislative employee for purposes of these sections.

COMPLAINTS

WHO CAN FILE AN ETHICS COMPLAINT?

Anyone who believes the Legislative Ethics Act has been violated may file a complaint with the Ethics Committee. For more information, see pages 44-48 of this handbook.

HOW DOES ONE FILE A COMPLAINT?

Appendix B of this handbook contains a complaint form. Complaints will be accepted in any form so long as they are in writing, notarized and include a statement that the complainant has reason to believe a violation occurred and that they understand they may be called upon to testify as to their belief that a violation occurred.

AGAINST WHOM MAY AN ETHICS COMPLAINT BE FILED?

The Ethics Committee may consider complaints filed against current and former legislators and current legislative employees, including public members of the Ethics Committee, if the complaint alleges that a violation occurred within five years of the filing date.

The committee has the authority to reinstate a complaint that was closed upon an employee's termination if the employee is rehired or elected to legislative office within five years of the date of the complaint.

The committee may not consider complaints filed against all members of the legislature or all members of one house. The committee lacks authority to consider complaints filed against family members of legislators or legislative employees.

ARE THERE RESTRICTIONS ON WHEN A COMPLAINT MAY BE FILED?

If a complaint is filed against a legislator or legislative employee who is a candidate for state office and if the complaint is filed during a *campaign period, the committee must return the complaint without action, unless the subject of the complaint waives suspension of action. The complaint may be re-filed after the closure of the *campaign period. **Campaign Period: begins on the later of 45 days before a primary election or the day on which the individual files as a candidate for state office and ends at the close of election day for general or special elections or on the day the candidate withdraws from the elections, whichever is earlier.*

WOULD I KNOW IF A COMPLAINT HAD BEEN FILED AGAINST ME?

AS 24.60.170(b)

Yes. A copy of the complaint is delivered to the subject of the complaint as soon as possible.

STANDARDS OF CONDUCT

The legislature has found that high moral and ethical standards among public servants in the legislative branch of government are essential to assure the trust, respect and confidence of the people of this state and further finds that compliance with an act of ethics is an individual responsibility; thus all who serve the legislature have a solemn responsibility to avoid improper behavior.

AS 24.60.010 Legislative Findings

“BENEFIT”, “ANYTHING OF VALUE”, and “THING OF VALUE”

AS 24.60.990(a)(2)

If conduct results in, or there is an attempt to gain, a “benefit”, “thing of value” or “anything of value” to the legislator or employee, the Ethics Act prohibits legislators and legislative employees from doing certain things, including accepting outside payments for doing a legislative job, misusing government assets or resources, or indicating that a legislator will take certain official action.

These terms are defined very broadly in AS 24.60.990(a)(2) to include anything that could reasonably be considered to be a material advantage or of material worth to the person who receives it. The terms include anything that is valuable enough to the person who receives it, for that person to be willing to do something to get it and anything that furthers a person’s financial interest or from which a person hopes to gain in any way. The terms are not limited to economic or financial value. The terms specifically do *not* include permitted gifts under AS 24.60.080 or lawful campaign contributions.

PAYMENT FOR PERFORMING LEGISLATIVE DUTIES

AS 24.60.030(a)(1)

A legislator or legislative employee may *not* request or accept payment or another benefit, except for official state compensation, for doing his or her legislative job. Further, the Alaska criminal code, AS 11.56.120, prohibits a public servant from soliciting or accepting an unlawful gratuity for performing an official action.

Does this prohibition on accepting benefits apply to campaign contributions?

No. Lawful campaign contributions may be accepted, except when specifically prohibited under AS 24.60.031. (Contact APOC for additional restrictions on campaign contributions.)

Does the prohibition on accepting benefits apply to gifts?

No, so long as the gifts are within the legal restrictions set out in the Ethics Act, AS 24.60.080.

May a legislator or a legislative employee hold a job outside the legislature?

Yes, as long as the second employer is paying the legislator or employee for the duties related to the second job and not for legislative duties related to the legislative job. (Note: Some restrictions may apply.)

May a legislative employee, who would have to work overtime to make copies of legislative files for a constituent, accept payment from the constituent for the extra time required?

Absolutely not.

May a legislative employee serve as an election official while working for the legislature?

No. This is not a legislative duty. However, you may take leave to serve as an election official.

PRIVATE BENEFIT or NONLEGISLATIVE USE: USE OF GOVERNMENT ASSET
AS 24.60.030(a)(2)

A legislator or legislative employee may not use government assets for his/her own, or another person's, private benefit, for a non-legislative purpose or for partisan political purposes. Government funds, buildings, equipment, and services should not be treated as the personal possessions of legislators or legislative employees.

There are a few narrow exceptions to this general rule. Limited use of state resources for personal purposes is allowed, if the use does not interfere with the performance of state work and either the cost or value related to the use is nominal or the state is reimbursed for the cost. The committee notes that "use" should be infrequent under these exceptions. Mailing lists, computer data and other forms of government information, which are available to the general public, may also be used. Also, Legislative Council is authorized to designate space for use by legislators and legislative employees for health and fitness purposes.

Legislators are allowed to use their private offices in the Capitol during session for non-legislative purposes if there is no cost (or the cost is promptly reimbursed) and the use does not interfere with the performance of public duties. AS 24.60.030(a)(2)(D).

Note: This exception does not apply to a legislator's interim office.

May a legislator or legislative employee make personal long distance calls on the office phone?

Yes, if each call is charged to a personal account, is placed "collect," or is *promptly* reimbursed. Your employer or supervisor is expected to limit the amount of time spent on personal calls.

May legislators or legislative employees print the legislative office number and fax number, along with the separate business information, on their private business cards?

No. While the actual number of contacts made to the legislative office may prove to be minimal, this would imply that government resources, including legislative staff, are there for the private benefit of the legislator or legislative employee.

May a legislator or legislative employee solicit signatures for a ballot initiative or referendum in a legislative office?

No; however, copies of the initiative or referendum petition, (not the official petition to be signed), may be made available in a legislative office. Referenced Advisory Opinion 97-02.

May a “legislator” run a small consulting business out of a legislative office, after hours, when it would not interfere with performance of public duties?

The legislature amended the Ethics Act in 1998, to allow a legislator (not an employee) to use his/her private office in Juneau during a legislative session (and the ten days before and after) for nonlegislative purposes if the use does not interfere with the performance of public duties and there is no cost to the state for the use of the space and equipment or the legislator promptly reimburses the state for the costs. The committee notes that the legislative intent was not to encourage legislators to set up business or campaign offices in the capitol, the intent was to ensure that citizen legislators were not penalized for incidental use for non-legislative purposes while away from their home district.

May a “legislative employee” run a small consulting business out of a legislative office, after hours, when it would not interfere with the performance of public duties?

No. This goes beyond limited use.

May a legislative office provide pre-printed labels to a constituent for a private purpose?

No. While computer data or lists that are generally available to the public may be provided to the constituent, pre-printed labels would fall under the prohibition on use of government assets for non-legislative purposes.

May a legislator or legislative employee create a personal resume on his or her own time, using a state computer?

Yes, under the following conditions: creating the resume does not interfere with performing legislative duties, only one copy is printed and the resume is stored on a disk purchased by the person creating the resume. Copies of the resume should be purchased through a private print shop.

Are voting-related activities, such as driving people to the polls on Election Day, considered “legislative”?

No. State resources, including legislative employees on state-paid time, should not be used for activities related to elections. However, answering incidental inquiries as to where a person votes would be allowable.

May a legislator’s personal appointments be added to the office legislative calendar?

Yes. Legislators and staff need to be aware of the legislator’s time commitments. However, legislative staff may only add the appointment to the calendar. It is not the responsibility of staff to make the appointment or any arrangements connected with the appointment. Referenced Advisory Opinion 94-08.

The Ethics Act does not define the terms “limited” or “nominal”. The Ethics Committee finds that the following general rule should be applied, except in unusual circumstances:

DO NOT USE, OR ALLOW OTHERS TO USE, GOVERNMENT ASSETS FOR PERSONAL BENEFIT OR FOR NON-LEGISLATIVE PURPOSES.

LEGISLATIVE NEWSLETTERS TO CONSTITUENTS: USE OF STATE RESOURCES
AS 24.60.030(a)(2)(J)

A legislator may use public funds, facilities, equipment, services, or another government asset or resource to send out a legislative communication to constituents, i.e., a printed newsletter, e-newsletter, postcard, etc.

- A legislator may not send a communication expressly advocating the election or defeat of a candidate.
- A legislator may not send a communication that is clearly only for the private benefit of a legislator or legislative employee.

The Legislative Ethics Act does not stipulate a cutoff date for distributing a legislative communication prior to an election. However, the closer to Election Day that a communication is mailed, e-mailed or delivered, the greater the appearance it has of a political “campaign mailing.” The committee recommends no later than one month prior to an election, but it is a personal decision each legislator must make.

There are always exceptions to this general recommendation. The bottom line rests on the following:

1. The content of the communication.
2. The timeliness of the information.
3. Timing of the distribution.
4. To whom it is being sent.

May a legislator send out a communication to a specific group of constituents in the legislator’s district concerning a major sewer project that was just approved by the municipality due to major issues which just occurred and is to begin two weeks prior to the Primary Election?

Yes. The content of the communication to be sent is fact specific and addresses only this issue. The information is timely since the project was just approved and will occur immediately. The distribution is also timely. The distribution will be only to affected constituents.

May a legislator send a general information legislative newsletter/communication to district-wide constituents during the 30 days prior to an election?

A general information newsletter/communication sent to district-wide constituents in the 30 days prior to an election has the appearance of a political campaign mailing. A general information newsletter/communication does not contain time sensitive information. The newsletter/communication has a “feel good” appearance which is typical of campaign literature. A complaint filed alleging the use of state resources for campaign purposes would be decided by the committee based on the specific facts presented.

May a legislator send a legislative newsletter/communication that includes statements similar to: “I have filed for a new term as your state senator/ representative.” OR “I hope to be in the legislature next and year will propose the following . . .” OR “I will likely file legislation next session on that subject and work with the Department of Fish and Game on the issue.”

No. Announcing you are running for a legislative office is considered campaigning. These statements inform constituents that if they vote for you this is the action you will take. The statements are ones that would appear on campaign materials as part of your campaign platform. Referenced Complaint H10-01.

PUBLIC FUNDS

AS 24.60.030(a)(3)

A legislator or legislative employee may not knowingly use government money in ways that are not permitted by law. Legislators and legislative employees may not make false claims in connection with a claim, request, or application for compensation, reimbursement, or travel allowances from public funds.

May a legislator claim travel per diem from the state and reimbursement for food and lodging from a campaign fund for the same day?

No. Either the travel per diem or the campaign reimbursement may be justified but claiming both would be a violation of either the Ethics Act or campaign laws.

May a legislator or legislative employee request that the state pay for a hotel room at a conference if another person (i.e., person’s spouse, children, family, friend, etc.) is also occupying the room?

If the legislator or legislative employee personally pays the difference between a single occupancy room and a double occupancy room rate, he or she may request state payment for the remaining amount, as long as using state funds to pay for attending the conference had been approved.

EMPLOYEES: USE OF EMPLOYEES FOR PERSONAL TASKS

AS 24.60.030(a)(4)

A legislator or legislative employee may not require another legislative employee to do personal tasks for him or her at *any* time. A legislator or legislative employee may not even allow another legislative employee to voluntarily perform personal tasks for him or her on “government time”. An exception to this general rule is allowed in infrequent and unusual situations where the legislative employee’s personal services are necessary to permit a legislator or another legislative employee to perform legislative duties.

The Ethics Act does not define “government time”. The committee interprets “government time” to mean time for which the employee is being compensated by the state for work performed based on a schedule set by a supervisor. Legislative employees have a wide variety of work schedules. The specific hours in “government time” may vary according to the work schedules set by supervisors for each employee. The term “government time” is also referenced in AS 24.60.030(b).

A person covered by the Legislative Ethics Act should note that, in the event a complaint is filed alleging participation in non-legislative activities on government time, the burden of proof would be on the employee to show a pre-approved work schedule or show leave time had been requested for the time in question.

May a legislator or legislative employee *allow* staff to arrange for personal vacation travel *while on government time*?

No.

May a legislator or legislative employee *require* staff, *at any time*, to seek clients for the legislator's private business?

No.

May a legislator or legislative employee ask or allow staff to pick up personal dry cleaning each week during the employee's workday?

No.

May a legislator or legislative employee ask or allow staff to pick up a clean shirt at the dry cleaners if the legislator or employee just spilled ink on the shirt being worn and must soon attend a legislative meeting?

Yes, this falls within the infrequent and unusual situation rule.

May a legislator or legislative employee require staff to baby-sit their child while attending a legislative reception?

No.

CAMPAIGNING: USE OF GOVERNMENT ASSETS

AS 24.60.030(a)(5) & AS 24.60.030(h)

A legislator or legislative employee may not use government assets for political fundraising or campaigning. Government assets include state funds, facilities, equipment, services or any other government asset or resource.

In Advisory Opinion 07-07, the Ethics Committee determined a legislative business card, which contains legislative contact information, is also a government resource and therefore cannot be handed out or verbally given to constituents while campaign door-knocking. Further, a legislator cannot handwrite legislative contact information on campaign material while performing campaign activities such as door-knocking.

Legislative contact information includes:

- Legislative phone numbers (office number or cell phone number)
- Legislative fax number
- Legislative email address
- Legislative mailing address (either a physical address or a post office box address)

Legislative materials containing legislative contact information, i.e., legislative website, legislative press releases, legislative newsletters, etc., are state resources and, therefore,

cannot be linked to or used for political fundraising or campaign activities. Referenced Advisory Opinion 12-04.

The Act does allow *minimal* use of government assets if the use does not interfere with the performance of state work, is applied infrequently and the use is considered nominal or limited, or the legislator or employee reimburses the state for cost of the use.

Incidental political campaign activities while on government time are permissible if the activities are part of the normal legislative duties of the employee. A few examples of incidental political campaign activities include: answering telephone calls and handling incoming correspondence. An employee, who engages in political campaign activities, other than of an incidental nature, is required to take leave time for the period of campaigning.

In the past, the committee has strictly interpreted this section of the Act. Those covered by the Ethics Act should use caution when the line between campaigning and performing legislative duties becomes less than clear.

May a legislator, while on a two day legislative business trip paid for with state funds, conduct a campaign fundraiser during the evening of the first day?

No, a legislator may not use a state resource, i.e., state funds, for a campaign related activity.

What if a campaign-related call comes into the legislative office?

The caller should be politely referred to the telephone number of the campaign headquarters, the home of the legislator or the campaign email address.

May a legislator put the legislative office number, fax number, email address and/or mailing address on candidate materials, i.e., printed campaign fliers/mailers, campaign websites, other campaign handouts, etc.?

No, as that would require or allow staff to handle campaign related contacts. Note that this includes the State Division of Elections Voter Guide, campaign reports, letter of intent to run for office, affidavit of candidacy, candidate registration form, and campaign websites to name a few. Referenced Advisory Opinion 07-07.

May campaign materials be stored in a legislator's office, as long as they are not in public view?

Legislators are allowed to store APOC campaign records (i.e., financial reports, Letters of Intent, Candidate Registration forms) in their private office. Current campaign materials (i.e., campaign signs and other campaign materials) which are intended to influence the outcome of a pending election are prohibited. Staff may not be involved in any aspect of this activity.

May a legislator or legislative employee publish, as part of a political election campaign communication on the Internet or elsewhere, an address or electronic link to an Internet website created or maintained with legislative resources?

To be consistent with AO 07-07, the Act does not permit a legislator or a legislative employee to publish, as part of a political election campaign communication on the Internet or elsewhere, an address or electronic link to an Internet website created

or maintained with legislative resources if the website contains the legislator's contact information. Referenced Advisory Opinion 12-04.

May a legislator hold a press conference in the legislative office to announce his or her candidacy?

No. That activity could easily interfere with performance of state work and would imply on-going use of the office for campaign purposes.

What if an unsolicited campaign contribution arrives in the office mail during the legislative interim?

The legislator, not staff, should take the contribution to the campaign headquarters or home for processing. It is inappropriate for staff to be doing campaign related activities while receiving a legislative salary. Campaign contributors should be provided the legislator's campaign or home address.

May a legislator or legislative employee make copies of campaign materials on a state copier?

Generally, no. Limited exceptions are listed in AS 24.60.030(c)(5).

May campaign appointments be listed on a legislator's legislative calendar?

Yes. Legislators and staff need to be aware of the legislator's time commitments. However, legislative staff may only add the appointment to the calendar. It is not the responsibility of staff to make the appointment or any arrangements connected with the appointment. Referenced Advisory Opinion 94-08.

May a legislator request staff to research an issue in response to a constituent concern and then later use that information in a campaign speech?

A qualified yes, as long as the information is public information and available to anyone who may request it. The legislator may not use staff to assist in researching or writing campaign speeches.

GOVERNMENT TIME: POLITICAL AND CAMPAIGN WORK

AS 24.60.030(b)

A legislative employee may not participate in political party or candidate activities, campaigning or fundraising on government time. Legislators may not require an employee to violate this prohibition. In this section, "government time" is interpreted to mean time for which the employee is being compensated by the state for work performed based upon a schedule set by the supervisor. Legislative employees have a wide variety of work schedules. The specific hours included in "government time" vary according to the work schedules set by the supervisor for each employee. The term "government time" is also used in AS 24.60.030(a)(4).

A person covered by the Ethics Act should note that, in the event a complaint is filed alleging campaign work on government time, the burden of proof would be on the employee to show a pre-approved work schedule.

Think about how it looks to the public when legislative employees participate in campaigns, especially the campaign of the person for whom they work.

May a legislative employee design a campaign flyer either at work or in a private location while on government time?

No.

May a legislative employee participate in fundraising efforts or signature gathering for a ballot initiative while on government time?

No. Contact APOC for additional restrictions on the use of state resources for candidate and ballot propositions/advisory votes. Referenced Advisory Opinions 97-02 and 02-01.

May a legislative employee assist a legislator in completing APOC campaign disclosure statements while on government time or in a state building?

No.

If a legislator sets a schedule, for example, that allows an employee to work for five hours, be on personal time in the afternoon and return to work for 2 1/2 hours in the evening, may a legislative employee participate in campaign activities on the designated personal time?

Yes, so long as the employee is not in a state building or using state resources while doing campaign work.

MASS MAILING: USE OF STATE FUNDS

AS 24.60.030(c)

State money (including but not limited to: Finance Committee funds, leadership funds) may not be used to print or distribute a mass mailing from or about a legislator who is a candidate for state, federal, municipal offices or for telephone/electric cooperative boards, during the period beginning 60 days before the primary and ending the day after the general or special election. However, a legislator's personal office allowance account may be used for legislative business mailings (per LAA guidelines) at any time. The Ethics Committee may grant exceptions to this prohibition in specific cases. Referenced Advisory Opinion 99-04 for a review of how this section applies to mass e-mailing.

What if a legislator, who is running for reelection and who serves as chair of a committee, uses committee funds to send out a mass mailing describing personal achievements as chair of the committee, 45 days prior to the general election?

The legislator would be in violation of the Ethics Act for the following reasons:

- A) The legislator is a candidate for state office.
- B) Costs related to the mailing are from state funds.
- C) The mailing occurs within the 60-day restriction period.

Is there a legal way for a committee chair to disseminate information, using committee funds, during the "60 days before election" restriction period?

The legislator may ask for a waiver from the Ethics Committee to authorize the mailing.

CAMPAIGN LITERATURE: DISTRIBUTION IN STATE BUILDINGS

AS 24.60.030(d)

A legislator, legislative employee, another person acting on behalf of the legislator or the campaign committee of the legislator may not distribute or post campaign literature in public areas of a building ordinarily used to conduct state business.

This prohibition applies to any literature intended to influence the election of any candidate in any election, not just to the legislator's own materials and includes notices of fundraising events for political campaigns. The law does allow a legislator to post materials related to a past election in a private legislative office.

May a legislator, legislative employee, or someone on behalf of the legislator, place invitations to a candidate fundraiser in the legislative mailboxes?

No.

May a legislator or someone on behalf of the legislator, *mail* campaign fundraiser invitations or send campaign fundraiser *emails* to state addresses?

The committee has determined this activity does not violate the Act. However, the committee does not encourage this practice as some public employees and officials have expressed dismay about receiving political literature at their offices. Keep in mind state resources may not be used for any campaign related activity.

Does the prohibition on legislators distributing campaign materials in state facilities apply to literature about municipal candidates as well?

Yes. The prohibition refers to campaign literature "intended to influence the election of a candidate in an election"; therefore it extends to any candidate in any election.

CONTRIBUTIONS: COERCION

AS 24.60.030(e)(1)&(2)

A legislator may not threaten, state, or imply that the legislator's decision to take an official action or perform a constituent service will be influenced by a person's contribution to a political campaign, a cause favored by the legislator or by a person's offer or withholding of a thing of value.

A legislator may not authorize another person to make coercive statements or implications on his or her behalf.

An official action means administrative, political, or legislative action, and includes such things as supporting or opposing a bill, nomination, appointment, or employment, influencing writing of regulations, and scheduling bills for hearings.

For example, a legislator may not say or imply to a lobbyist that the legislator would be more interested in the lobbyist's concern if the lobbyist would support the legislator's campaign, or a cause favored by the legislator or offer a thing of value.

May a legislator threaten or imply that his or her support for public broadcasting may be withdrawn if a radio station airs a controversial story about the legislator?

No, this action would be in violation of the Ethics Act.

May a legislator imply that he or she will draft a bill on behalf of an interest group, if that group will support his or her favorite charity organization?

No, regardless of the community value of the organization, this *quid pro quo* behavior is prohibited.

May a legislator direct a staff person to gently remind a business owner that, if the owner starts doing business with the legislator's sister, the legislator will look favorably on helping with the business owner's workers' compensation problem?

No. This implies administrative action would be taken in response to receiving a benefit, even if indirectly.

May a legislator sign a pledge to agree to take legislative action, such as introducing a bill favorable to the organization, in exchange for a "campaign endorsement" or a promise of a "campaign endorsement" from the organization?

The Act does not prohibit signing a pledge that is accompanied by a campaign endorsement or a promise of a campaign endorsement. A campaign endorsement or a promise of a campaign 'endorsement' is exempt under AS 24.60.990(2). Referenced Advisory Opinion 12-03.

May a legislator sign a pledge and agree to take legislative action, such as introduce a bill favorable to the organization, in exchange for a "campaign contribution" or a promise of a "campaign contribution" from the organization?

The signing of a pledge in a 'quid pro quo' exchange, i.e., a campaign contribution or a promise of a campaign contribution, is prohibited by the Act. The campaign contribution need not be an immediate action. If there is an understanding that the campaign contribution would be made at some point in time in exchange for signing the pledge, a legislator is prohibited from signing the pledge. Referenced Advisory Opinion 12-03.

FUTURE EMPLOYMENT: RESTRICTIONS ON ACTIONS

AS 24.60.030(e)(3)

A legislator may not take, or authorize another person to take, official action or exert official influence that could substantially benefit or harm the financial interest of a person or business with whom the legislator is negotiating for employment. For the purposes of compliance with the Ethics Act, contractual employment is the same as employment.

There is an exception when the Uniform Rules require the legislator to take action. For example, the Uniform Rules state that every legislator present in a House or Senate floor session must vote. According to Rule 34(b), a legislator may ask to be excused from voting; however, the body must give unanimous consent in order for the legislator to abstain. If any member objects, the legislator must vote.

May a legislator introduce a personal bill concerning a trucking issue during a time in which that legislator is seeking employment with a trucking company?

No, regardless of whether the bill benefits or harms the business.

If a legislator is negotiating a contract for consulting services with an aviation fuel company and a bill waiving certain taxes for aviation fuel producers is brought to the floor for a vote, may the legislator vote on the bill?

The legislator should ask to be excused from voting. If any member of the body objects, the legislator must vote, under Uniform Rules.

BOARDS: SERVICE ON STATE AND PRIVATE BOARDS

AS 24.60.030(f)

Legislators and legislative employees must disclose to the Ethics Committee their membership on the board of directors of all organizations whether the position is a paid position or voluntary.

Advisory Opinion 13-02 defines the following:

“board of an organization” to mean a group of persons having managerial, supervisory, investigatory, or advisory powers over an administrative and functional structure, such as a business, or over a group of people united for a common purpose, such as an association or society;

“board membership” to mean having the status of being an individual who is one of the individuals composing a board;

“organization” to mean an administrative and functional structure, such as a business, or a group of people united for a common purpose, such as an association or society.

A legislator who is appointed by the Senate President or Speaker of the House to serve on a board need not disclose the membership **if** the appointment is reported in the legislative journal.

A legislative employee may not serve in a position that requires confirmation by the legislature. A list of state boards requiring confirmation is available from your local Legislative Information Office or the Office of the Governor.

The Ethics Committee requires timely disclosure. Reporting forms for disclosures are provided in Appendix B. Filing online is easy to do.

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Board memberships must be disclosed:

- Within 30 days of board appointment or election
- Annually within the first 30 days of a regular legislative session under AS 24.60.105
- 90 days after final day of service under AS 24.60.115

May a legislative employee serve on the State Board of Education?

No. State Board of Education members must be confirmed by the legislature.

Does a legislator or legislative employee have to disclose membership on a board of a native regional corporation?

Yes. All board memberships must be disclosed.

What if a legislator or legislative employee is elected to serve on a non-profit board?

All board memberships must be disclosed regardless of whether the organization is for profit or non-profit.

FINANCIAL INTEREST: RESTRICTION ON VOTING

AS 24.60.030(g)

Legislators who have financial interests that meet the three following tests are prohibited from voting, unless required to vote under Uniform Rules:

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

The term "substantial" is not defined in the Act. The committee finds that, in this instance, the term substantial is relative. For example, owning \$2,000 stock in a major oil company would not be considered substantial whereas owning \$2,000 stock in a fledgling business that only issued \$10,000 total, in stock, would be considered substantial.

In addition to establishing whether the equity or ownership interest is substantial, the legislator must assess if the effect of the action will be greater on the legislator than others in the affected group. For example, if an amendment to the capital budget provided for a road that went only to a legislator's piece of property in an inaccessible area, the effect on the legislator's interest would be greater than on the interests of the other property owners in the area.

There is an exception when the Uniform Rules require the legislator to take action. For example, the Uniform Rules state that every legislator present in a House or Senate floor session must vote. According to Rule 34(b), a legislator may ask to be excused from voting, however, the body must give unanimous consent for the legislator to abstain. If any member objects, the legislator must vote.

May a legislator who owns a helicopter business vote on a measure which would open a new area to helicopter access? The practical effect of opening that particular area would be to greatly benefit the legislator's business.

No. This situation meets all three tests; the ownership interest is substantial, the interest would be affected by the improved access and it would appear that, in this scenario, the effect would be greater on the legislator's interest than on other

helicopter business owners' interest; therefore, the legislator should ask to be excused from voting on the measure. The legislator may be required to vote on the measure pursuant to requirements in Uniform Rule 34(b). However, the legislator's request to be excused from voting is recorded in the Legislative Journal.

LEGISLATIVE CONTACT: WITH ADMINISTRATIVE DECISION MAKERS

AS 24.60.030(i)

A legislator or legislative employee seeking information on an administrative matter which has progressed to the hearing stage should not attempt to contact the decision maker. The intent of AS 24.60.030(i) is to avoid influencing the outcome of an administrative hearing.

Information about procedural aspects of the matter may be sought from the office administering the hearing, but not the decision maker or potential decision makers. A legislator or legislative employee may supply information requested by the decision maker without violating the provisions of AS 24.60.030(i).

"Administrative hearing" means a quasi-judicial hearing before an agency. "Administrative hearing" does not include an informal conference or review held by an agency before a final decision is issued or a rate-making proceeding or other nonadjudicative public hearing.

Decision makers are required to be impartial and may not engage in 'ex parte' communications. Any 'ex parte' communication, either direct or attempted by legislators or legislative employees with the decision maker or potential decision maker, must be promptly disclosed by the legislator or legislative employee directly to each party whose identity is public information, or through the hearing officer for each party whose identity is not public information. It is the responsibility of the legislator or legislative employee to initiate the contact and disclose the fact and substance of the contact. The contact is made part of the official record. Failure to comply with the requirements of AS 24.60.030(i)(2), may result in a violation of the Act.

Contact made in the presence of all parties to the hearing or the parties' representatives is permissible **only** when acting as a party or a witness in the matter or when responding to a question asked by the hearing officer, individual, board, or commission, **and** the contact is made part of the official record. Referenced Advisory Opinions 05-01 and 08-03.

The restrictions in AS 24.60.030(i) do not prevent a legislator or legislative employee from representing a person for compensation before a state agency, board, or commission in an administrative hearing. Representation before a state agency, board, or commission is subject to the requirements, restrictions and disclosure outlined in AS 24.60.100. Additionally, the legislator or legislative employee must be a licensed professional in the state.

An administrative decision maker in an adjudicatory matter may include, but not be limited to, an administrative law judge, a hearing officer, the commissioner of a department, a division director, or an individual or board member of a state board or commission with adjudicatory authority.

Some examples of state boards and commissions with adjudicatory powers are:

- **Local Boundary Commission**
- **Alaska Public Offices Commission**
- **Alcoholic Beverage Control Board**
- **Board of Fisheries**
- **Board of Forestry**
- **Board of Game**
- **Commercial Fisheries Entry Commission**
- **All professional/occupational licensing boards/commissions.**

Who is the proper person to call when a constituent asks for help with a matter before a state department, a division of a state department, or a board or commission?

Each agency has different steps prior to reaching the level of a hearing, i.e., an adjudicatory matter. It may be difficult to determine from a constituent whether the matter of concern has reached the stage of an administrative decision maker. Care should be taken to avoid contacting any person or entity that has the authority to make a final decision. It may be prudent to make a call to the agency administering the matter and ask for clarification prior to taking any action in order to avoid inadvertently contacting a decision maker.

May a legislator or legislative employee attend and participate in an administrative hearing at the request of a constituent?

No. However, certain exceptions apply. Legislators and legislative employees are permitted to attend and participate in an administrative hearing **only** when acting as a party or a witness in the matter. The contact would be made in the presence of all parties and become part of the official record of the proceeding.

May a legislator or legislative employee write a character reference letter on behalf of a constituent on a matter before an administrative decision maker?

Acting in a personal capacity: If asked to provide a character reference for a party in an adjudication who thinks such a reference would be helpful in the case, a legislator or legislative employee, acting in his or her personal capacity, can provide such a reference by letter or affidavit or even through testimony at a hearing. A written document, however, should be given to the constituent prior to the hearing so the constituent can file it and serve copies on other parties as required by the procedures in AS 24.60.031.

The use of legislative letterhead for this activity is prohibited. The Ethics Committee has determined that a legislator's title may be used at any time as long as the use does not imply proffering or denying state resources; therefore, a legislator may use his/her title on the character reference letter. However, legislators should be cognizant of the risk that the public may perceive this use as an improper attempt to influence the outcome of the hearing based on their legislative status.

May a legislator or legislative employee testify as a witness at an administrative hearing at the request of a constituent?

Acting in a personal capacity: Yes. However, the legislator and legislative employee should recognize that the testimony is because of expertise in the

particular field and not because of legislative status. The testimony is made part of the official record.

While in legislative status: Yes. A legislator or legislative employee may testify, based on legislative status, only when acting as a party or witness in the matter. The testimony is made part of the record.

May a legislator or legislative employee help a constituent who was denied a PFD?

First, determine whether the matter has progressed to a hearing. This means the constituent has filed an appeal to the decision. At the time of your contact, the appeal may not have been assigned to a decision maker. The restrictions in AS 24.60.030(i) would then apply to all potential administrative decision makers until the case is assigned.

Once the matter has progressed to a hearing, the legislator or legislative employee may only request case status information and procedural matter information and should not contact the administrative decision maker in the matter.

A legislator or legislative employee may attend an informal conference or review held by the agency before a final decision is issued.

May a legislator or legislative employee contact a social worker at OCS to obtain information on a case related to child custody?

The answer is dependent upon whether there is an administrative hearing pending on the case. The social worker may be a witness at a child custody hearing, and if so, contact with the social worker is covered by the restrictions in AS 24.60.030(i). It may be prudent to make a call to the agency administering the matter and ask for clarification prior to taking any action.

May a legislator or legislative employee contact someone in the executive branch to obtain information about a state contract that has been appealed?

Because the matter is in the hearing stage, questions should be directed to the administrative unit and not the administrative decision maker. Questions should be limited to procedural matters and case status information. Asking, either directly or indirectly, if there was other information that could be provided would require the administrative decision maker to advise the legislator or legislative employee on how to conduct the case or influence the outcome. Under AS 24.60.030(i), the action of asking also includes an 'attempt' to contact the decision maker.

If contact with an administrative decision maker is made, even inadvertent contact, during any stage of the hearing process, the fact and substance of the contact must be promptly disclosed. Under AS 24.60.030(i), it is the responsibility of the legislator or legislative employee to notify all parties connected to the case of any contact to avoid being in violation.

May a legislator or legislative employee attend a hearing with a mentally challenged constituent appealing the denial of Section 8 housing before the Alaska Housing Finance Corporation, a division of the Department of Revenue, and notify the decision maker ahead of time of attending the meeting?

A legislator or legislative employee is prohibited from attending the hearing unless acting as a party or a witness in the matter. A legislator or legislative employee should not initiate contact with the decision maker.

FUNDRAISING FOR POLITICAL CAMPAIGNS DURING SESSION

AS 24.60.031

Please contact APOC to discuss additional restrictions within the Campaign Disclosure Law, AS 15.13.

A legislator or legislative employee may not request or accept a contribution, or a promise to make a contribution, for any state or municipal office while the legislature is in *regular* or *special* session.

This rule also prohibits legislators from raising funds: for a candidate in an election for federal office; to influence a state ballot proposition or question; or for a political party.

There is an exception for special sessions, which is called the “90 day window”.

Legislators: If the special session falls within the period 90 days immediately preceding an election, legislators may solicit and accept contributions for their own campaign for state or municipal office in a place other than the capital city or a municipality in which the special session is convened.

Legislative Employees: If the special session falls within the period 90 days immediately preceding an election, legislative employees may solicit and accept contributions for state or municipal office in a place other than the capital city or a municipality in which the special session is convened.

A legislator or legislative employee on behalf of another may not accept money from a fundraising event held during session if a substantial purpose of the event was to raise money for the legislator’s campaign for state or municipal office with the exception of the “90 day window” for special sessions.

A legislator or legislative employee may not circumvent these prohibitions by failing to declare which public office will be sought. (Also, see *Candidacies of Legislative Employees*, page 23.) Specifically, a legislator or legislative employee may not spend money for a legislative campaign that was raised in the following manner:

- 1) Filing a letter of intent or declaration of candidacy which does not specify which public office will be sought,
- 2) Raising money under that letter of intent,
then
- 3) Declaring as a candidate for state or municipal office after the legislative session ends.

May a legislator keep a campaign contribution that was received prior to a regular session but not opened and acknowledged until after session began?

The committee has determined that a contribution in the form of a check or cash is 'accepted' when the legislator or someone the legislator has given authority to, has physically received the contribution, knows that it is a contribution, and has decided to keep it rather than return it.

May a legislator *expend* campaign funds, during a session, that were legitimately raised during the interim?

Yes; however, the legislator would need to comply with all APOC requirements.

May a legislator *mail, during a regular session, an invitation to a fundraiser for his/her campaign, which would be held after session?*

No, this act would be considered a solicitation during session and be prohibited.

During session may a legislator or legislative employee host, co-host or endorse a fundraiser by placing their name on the invitation for a non-incumbent candidate for a legislative seat?

No. The prohibition on fundraising extends to *any* state legislative campaign.

May a legislator accept funds raised from an event that had been scheduled well in advance but fell on a date during a special session?

Generally no, unless the event falls within the "90 day window" and the event is held in a place other than the capital city or a municipality in which the special session is convened. If the event does not fall within the "90 day window", the event must either be canceled or campaign contributions must be turned down at the event. Additionally, the legislator may not solicit a promise or a pledge to make a contribution at a later date.

CANDIDACIES OF LEGISLATIVE EMPLOYEES

AS 24.60.033 and AS 39.25.160

A legislative employee may not seek nomination or become a candidate for the legislature or any state or national political office. A legislative employee may not file a letter of intent to become a candidate for the legislature.

The Ethics Act does not prohibit a legislative employee from running for or holding a local political office, however, the employment policies of the individual supervisor may restrict certain employee activities.

2AAC 50.724 states, "A letter of intent need not include the specific seat for which the individual may file but must state whether the individual will seek state or municipal office." (Alaska Administrative Code)

Also, see section titled "Fundraising for Political Campaigns During Session", page 22.

Must a legislative employee (even if on lay-off status) resign prior to initiating a campaign for a legislative seat or for a state or national office? (i.e., initiating a campaign means filing a "letter of intent" with APOC, filing a declaration of candidacy with the State Elections Office, or spending money to announce a candidacy.)

Yes, the employee must terminate employment.

WHISTLE BLOWERS: PROTECTION

AS 24.60.035

A legislator or legislative employee may not punish or harass a *person* who reports a violation of any state law to the proper authorities. Please note that this includes reporting a violation of the Ethics Act to the Ethics Committee.

If a legislative employee who reports a violation has suffered retaliation from a legislator or another legislative employee, the employee may bring a civil action in the courts seeking damages, payments of back wages, reinstatement or other relief, and may file an ethics complaint.

What if a legislator or legislative employee refuses to provide a constituent service because that person filed an ethics complaint against the legislator or the employee?

The legislator or employee could be in violation of the Ethics Act.

Does the whistle blower protection extend to a person who reports that a legislator or legislative employee violated, for example, state OSHA (Occupational Safety and Health Administration standards)?

Yes.

OPEN MEETINGS LAW

AS 24.60.037

Historical Background

In 1993, the legislature enacted AS 24.60.037, requiring legislators to abide by Open Meeting Principles. The committee was charged with developing guidelines for the application of the principles of open meetings and submitting them to the legislature.

The committee submitted proposed guidelines to the 19th, 20th, 21st, 22nd, and 23rd legislatures for review. The guidelines did not receive legislative approval.

On May 4, 2004, HB 563, Open Meetings, was introduced in the House. The bill outlined Open Meetings Guidelines for the legislature. The bill passed out of the House on May 8, 2004, with a vote of 30 yeas, 8 nays and 2 excused. The Senate approved the bill on May 11, 2004, with a vote of 13 YEAS and 7 NAYS.

The open meetings statute became law on June 30, 2004, without Governor Frank Murkowski's signature.

Open Meetings Guidelines became effective July 1, 2004.
Referenced Advisory Opinion 04-03.

Open Meetings Law

- Meeting of a legislative body is open to the public.
- Uniform Rules of the Alaska State Legislature control the procedure for conducting open and executive sessions of a legislative body.
- If there are conflicts between the open meeting guidelines and the Uniform Rules, the Uniform Rules prevail.

Meeting occurs when:

- Majority of the members of a **legislative body** is present; **and**
- Action, including voting, is taken or could be taken; **or**
- Primary purpose of meeting is discussion of legislation or state policy.

Legislative body:

- Senate
- House
- Senate and house meeting in joint session
- Committee of legislature including standing, special, joint, conference, free conference, committee of the whole
- Permanent interim committee
- Legislative commission, task force, or other group established by statute or resolution
- Caucus of members of one or more of the above bodies
- Does NOT include:
 - Committee on Committees
 - Selection of legislative officers
 - Legislative leadership meetings
 - Committee or group of legislators and the governor or staff
 - Officers of a **caucus**
 - Group of legislators who organize as a group; and
 - Share a political philosophy; or
 - Have a common goal

Meeting does NOT include:

- Gathering of members of a legislative body for primarily ministerial or social purposes.
- Forums where members of a legislative body have been invited to address a group on legislative issues or concerns.

Legislators may meet:

- **Closed caucus; or**
- **Private, informal meeting for the following:**
 - Discussing and deliberating on **political strategy**
 - Organization of the houses
 - Assigning committee memberships
 - Scheduling of bills
 - Vehicles for adoptions
 - House/Senate relations
 - Other procedural matters
 - Caucus operations
 - Meetings between majority and minority caucus leaders
 - Meetings between majority and minority caucus leaders of both houses
 - Meetings with the governor
 - Deliberations with regard to political strategy
 - Discussion of issues in context of political strategy

(These meetings are exempt from the legislative open meetings guidelines.)

DISCRIMINATION IN EMPLOYMENT DECISIONS

AS 24.60.039

A legislator or legislative employee may not engage in acts of job discrimination in violation of the state and federal human rights laws. (See Appendix B for the state law.) Employment decisions may not be based on a person's race, religion, or national origin, or on age, physical or mental disability, sex, marital status, pregnancy or parenthood unless the reasonable demands of the position require a distinction on that basis.

The courts have interpreted the law to prohibit harassment based on the characteristics listed above.

A person who finds a violation of employment discrimination laws may file a complaint with the Alaska Human Rights Commission and the Ethics Committee as well as bringing a lawsuit under applicable state or federal law. The Ethics Committee retains the authority to hold consideration of a complaint of discrimination until after the Human Rights Commission completes its review process.

The LAA Personnel Officer serves as the legislative branch's equal opportunity officer and can answer questions about state and federal employment practices law.

Is making comments or jokes about another legislative employee's race or gender considered a violation of the Ethics Act?

Making comments or jokes that a reasonable person would find offensive could be a violation of the employment discrimination laws as well as a violation of the Ethics Act.

May a legislator choose not to hire single parents for fear that they wouldn't be able to handle the long work hours during session?

Such a decision could be a violation of the employment discrimination laws.

Legislators, legislative employees and their *immediate family members* may not have a financial interest in a state contract, lease, or grant unless it meets one or more of the following standards:

1. Let under the State Procurement Code, AS 36.30.
2. Let under procedures similar to those set out in the State Procurement Code by such agencies as the University and ARR.
3. Worth \$5,000 or less annually **or**
4. Standardized, developed under publicly established guidelines and generally available to the public at large or members of a profession, occupation, or group.

A legislator or legislative employee who participates in a state contract, lease, or grant that has an annual value of \$5,000 or more shall disclose participation to the Ethics Committee. A legislator or employee who knows or reasonably ought to know of a family member's participation must disclose that family member's participation.

Grant: For purposes of the Ethics Act, a grant that requires a person to do something in return for the grant is considered the same as a contract.

The Ethics Committee requires timely disclosure. (Reporting forms for disclosures are provided in Appendix B.) Filing online is easy to do.

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Interests begun, acquired, or renegotiated must be disclosed:

- Within 30 days of the matter or interest
- Annually within the first 30 days of a regular legislative session under AS 24.60.105
- 90 days after final day of service under AS 24.60.115

What if the funds for a contract originated with the federal government?

If the state *appropriates* the money, the funds are considered state funds. The restrictions and/or disclosure requirements apply.

May a legislator, legislative employee, or family member of the legislator or employee accept a sole source contract with the state?

If the contract is less than \$5,000 or is let under the State Procurement Code procedures, the contract may be accepted. It is the responsibility of the legislator or legislative employee to determine if a contract and/or a contract for family members meet the criteria in the code. The Ethics Office is available to help the legislator or legislative employee with this process.

May a legislator, legislative employee, or family member of the legislator or employee participate in a grant received by a political subdivision in which the award process is unknown?

An individual covered by the Ethics Act must make a reasonable effort to determine whether state funds were secured under one or more of the exclusions listed above.

Does this mean that the restrictions and disclosure requirements on contracts, leases, and grants apply to a sibling of a legislator or a legislative employee, even if the sibling doesn't reside with the legislator or legislative employee and there is no shared financial interest?

The restrictions in this section of the Ethics Act apply to "immediate family" (spouse/domestic partner and parents, children and siblings), if the parent, child or sibling resides with person, is financially dependent on the person or shares a substantial financial interest with the legislator or employee. A legislator or legislative employee is required to disclose that family member's participation in a contract if the legislator or employee knows or reasonably ought to know that a family member is participating in state contracts, grants, or leases.

BENEFIT OR LOAN PROGRAMS

AS 24.60.050

A legislator or legislative employee may participate in any state benefit or loan program. However, participation in certain programs must be disclosed to the Ethics Committee. The programs that require disclosure are listed in Appendix C. It is not necessary to disclose participation in programs not listed in Appendix C.

State Benefit and Loan programs which do *not* require disclosure must meet the following three standards:

1. The program is generally available to members of the public.
 2. The program is subject to fixed, objective eligibility standards.
- and**
3. The program requires minimal discretion in determining qualification.

If a program does not meet these standards, it is included on the list requiring disclosure of participation.

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Interests begun or acquired must be disclosed:

- Within 30 days of the matter or interest
- Annually within the first 30 days of a regular legislative session under AS 24.60.105
- 90 days after final day of service under AS 24.60.115

Note: In addition to disclosing certain loans to the Ethics Committee, legislators must disclose all loans over \$1,000 on the annual APOC Financial Disclosure Statement.

If the Ethics Committee determines that a legislator or employee received a state loan or benefit as a result of improper influence, an ethics complaint could be filed and the committee must refer the matter to the State Attorney General.

What if a legislator or a legislative employee attempts to persuade a state agency to give him/her a loan by reminding the state agency that s/he works for the chair of the subcommittee for that agency's budget?

The employee would be in violation of the Ethics Act and the committee must refer the matter to the Attorney General for action under civil or criminal laws.

Does participation in a Commercial Fishing Revolving Loan Fund program require disclosure to the Ethics Committee?

Yes. The program does not meet the standards outlined in AS 24.60.050 and therefore requires disclosure. See Appendix C for a list of reportable programs.

CONFIDENTIAL INFORMATION

AS 24.60.060(a)

A legislator, legislative employee, or public member of the committee may not knowingly disclose information made confidential by law which the legislator or employee acquired through legislative work. In addition to being subject to an ethics complaint, a person who misuses confidential information may be subject to criminal prosecution under AS 11.56.860 (see page D-5).

May a legislator or a legislative employee discuss the information gathered in an executive session on pending state lawsuits with a person not present in the session?

Generally, no. In this specific case, the question should be presented to the Attorney General for permission to discuss the matter with the person.

May a legislator or legislative employee disclose confidential information obtained in a confidential Ethics Committee meeting?

No, unless granted permission to do so by the committee.

PROTECTIVE ORDERS

AS 24.60.060(b)

The subject of an ethics complaint may not release information deemed confidential under a protective order issued under 24.60.170(i), the DISCOVERY section of the complaint proceedings.

CLOSE ECONOMIC ASSOCIATIONS

AS 24.60.070

Legislators and legislative employees must disclose close economic associations involving substantial financial matters with certain people. A close economic association means a financial relationship, such as sharing an interest in a business, owning real estate together, or sharing housing in Juneau. The disclosure must be sufficiently detailed so that a reader of the disclosure can ascertain the nature of the association.

A disclosure is required for a close economic association with the following:

- Supervisor;
- Legislator;
- Public official as defined under AS 39.50;
- Registered lobbyist; or
- Legislative employee when the person disclosing is a legislator.

Note: The Ethics Act does not require two legislative employees to disclose the existence of a close economic association unless one of them “supervises” the other. For example, two employees, neither supervising the other, need not disclose an economic association while sharing housing expenses during session in Juneau.

The Ethics Committee requires timely disclosures. Reporting forms for disclosures are provided in Appendix B; filing online is easy to do.

Visit us at: <http://ethics.akleg.gov/ethics.disclosures.php>

Close Economic Associations must be disclosed:

- Within 30 days of the association
- Annually within the first 30 days of a regular legislative session under AS 24.60.105
- 90 days after final day of service under AS 24.60.115

A legislative employee who is married to or who is the domestic partner of a lobbyist is required to disclose the name, address, and compensation agreement of each of the lobbyists’ clients. Changes to the client list must be reported within 48 hours.

If the spouse (or domestic partner) of a legislator or legislative employee works for a lobbyist, is disclosure of a close economic association required?

Yes, based on the assumption the employee and spouse (or domestic partner) has a financial relationship.

May a legislator’s spouse (or domestic partner) be a “registered” lobbyist?

No, pursuant to the restrictions in AS 24.45.121(e); however, a spouse (or domestic partner) is not prohibited from acting as a volunteer or representational lobbyist.

If a legislator or legislative employee shares housing expenses with a person in one of the categories listed above, is disclosure required?

Yes.

If a legislator or legislative employee is one in a group of investors, of which one member is a lobbyist, is disclosure required?

Yes.

Does payment by a legislator or legislative employee for a two hour consultation with an attorney, who is a legislator, establish a close economic association?

No; however, if the legislator were to represent the employee on an on-going basis, disclosure would be required.

A legislator or legislative employee may solicit, receive, or accept a compassionate gift, subject to the limitations set out in AS 24.60.075(b) through (e).

Compassionate gift means a solicited or unsolicited gift intended to aid or comfort a person covered by the Act or member of the person's immediate family in contending with a catastrophe, a tragedy, or health-related emergency.

- A written request to solicit, receive or accept compassionate gift(s) must be pre-approved in writing by the chair of the Legislative Council and the Ethics Committee Chair or Vice Chair.
- The value of gift(s) solicited, received, or accepted, either directly or indirectly, is separate from the value of gifts received as outlined in AS 24.60.080.
- The value of the gifts(s) shall be determined by the fair market value of the gift(s) to the extent the fair market value can be determined.
- No limit on the value of a compassionate gift.
- Lobbyists giving gifts under this section do not violate the gift restrictions as outlined in AS 24.45.121 and AS 24.60.080.
- **DISCLOSURE REQUIRED**
Gift(s) must be disclosed within 30 days of receipt including the name of the gift's source, a description of the gift, and the value.

May a legislator or legislative employee solicit, accept, or receive a gift for a compassionate reason prior to approval by Legislative Council or the Ethics Committee?

No. Soliciting, accepting, or receiving a gift for this reason without prior written approval from Legislative Council and the Ethics Committee would be a violation of the Legislative Ethics Act.

Does a gift of flowers, candy, fruit basket or a flag from a Veteran's organization require pre-approval?

No. Incidental gifts such as flowers and flags do not meet the definition of a "thing of value" in AS 24.60.090. A "thing of value" must be considered to be a material advantage, of material worth, use or service; therefore, incidental gifts of flowers and flags and similar items do not fall under the "compassionate gift" requirement of pre-approval.

May a legislator or legislative employee or an immediate family member accept a gift from a lobbyist intended to aid and/or comfort the recipient while contending with a tragedy?

Yes. The prohibition on gifts from lobbyists does not apply when the gift is for a compassionate reason and has been pre-approved.

GIFTS

AS 24.60.080

AS 24.60.080(a)(1). A legislator or legislative employee may not solicit or accept (whether directly or indirectly) any gift worth \$250 or more, or a series of gifts from the same person or entity which total \$250 or more in a calendar year.

Gifts may be in the form of money, services, loans, travel, entertainment, hospitality, promise, or other form.

(Note: Political contributions reported to APOC are not gifts under this section.)

GIFTS FROM LOBBYISTS

AS 24.60.080(a)(2). A legislator or legislative employee may not solicit, accept, or receive, a gift with any monetary value from a lobbyist or from an immediate family member of a lobbyist or from a person acting on behalf of a lobbyist. The following exceptions apply:

1. Food and Beverage: Legislators and legislative employees may accept food and beverage for immediate consumption from a lobbyist at any time.
 - a. Under AS 24.45.051, a lobbyist must report to APOC the cost of food and beverage for immediate consumption that exceeds \$15.00 per person if provided for a legislator or legislative employee.
 - b. AS 24.45.051(6)(b) expands the reporting requirements to include the spouse/domestic partner of a legislator or legislative employee.
 - c. If the food and beverage is provided as part of an event open to all legislators or employees, no disclosure is required.
2. Charity Event: Legislators and legislative employees may accept a ticket to a pre-approved charity event from a lobbyist at any time. Referenced AO 11-04.
 - a. The Alaska Legislative Council must approve the charity event in advance.
 - b. The value of the ticket(s) may not be worth more than \$250 aggregate from the same lobbyist in a calendar year.
3. Charity Event: Gifts to which the ticket may entitle the bearer are subject to the \$250 gift limit.
4. Contributions to a Charity Event: Legislators and legislative employees may accept a contribution (either monetary or an item) to a charity event at any time from a lobbyist.
5. Immediate Family Member Lobbyist: Legislators and legislative employees may accept gift(s) from their spouse or domestic partner or their parent, child, or sibling, if they are a lobbyist, reside with the legislator or employee, are financially dependent, or share a substantial financial interest with them as only as the gift is not connected to legislative status.
6. Compassionate Gift: Legislators and legislative employees may accept compassionate gifts from lobbyists under the requirements of AS 24.60.075.

7. Contributions to a Charity: Legislators and legislative employees may accept a gift delivered on the premises of a state facility on behalf of a recognized nonpolitical charitable organization.

GIFTS TO IMMEDIATE FAMILY MEMBERS

AS 24.60.080(i). An immediate family member of a legislator or legislative employee may not receive a gift prohibited under this section.

Immediate Family Member is defined in AS 24.60.990 as:

- Spouse or domestic partner
- Parent, child (including stepchild and adoptive child) or sibling IF financially dependent on the legislator or legislative employee OR shares a substantial financial interest OR resides with the person.

EXCEPTIONS TO THE \$250 GIFT LIMIT

There are exceptions to the prohibitions in AS 24.60.080(a)(1) which limits a gift to less than \$250. The exceptions are defined below.

REMEMBER: If a gift exceeds \$250 in value or if the cumulative value of gifts from the same person/entity exceeds \$250 in a calendar year, you will have to say "No thank you" to the donor and return the gift unless the gift falls within one of the exceptions listed in (c)(1) through (c)(10).

If a person covered by the Ethics Act receives a gift of unknown value that may exceed the \$250 limit, the person should use caution and explain the \$250 limit to the donor. If the donor states the value to be greater than \$250, the gift would need to be returned unless it falls into one of the exceptions listed in AS 24.60.080(c)(1) through (c)(10).

Keep in mind that the following exceptions do not apply to AS 24.60.080(a)(2), gifts received from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist.

The **exceptions** are:

- **Gift of hospitality in another person's residence** and travel to reach the residence. Note: A vacation home located outside the state is not considered a residence under this subparagraph. **AS 24.60.080(c)(1)(A)**
- **Gift of hospitality at a social event or meal.** **AS 24.60.080(c)(1)(B)**
- **Discounts available to the public** or to a large class of people to which the legislator or employee belongs or **discounts accepted while on official business if the discount benefits the state.** **AS 24.60.080(c)(2)**
- **Gift of food that is native to the state** and is shared as part of a normal cultural or social pattern. **AS 24.60.080(c)(3)**

- **Gift of travel and hospitality to obtain information on matters of legislative concern.**
 - o A person who accepts a gift under this exception must disclose the gift to the Ethics Committee within 60 days.
DISCLOSURE REQUIRED **AS 24.60.080 (c)(4)**

- **Gifts from the recipient’s immediate family.**
In this section only, immediate family includes the spouse, (or domestic partner) parents, children, siblings, grandparents, aunts and uncles, as well as in-laws and step-relations. There is no limit on the value of the gift; nor is a disclosure required.
AS 24.60.080(c)(5)

- **Gifts not connected with the recipient’s legislative status.**
A person who accepts a gift worth \$250 or more under this exception must disclose the gift to the committee within 30 days of receipt of the gift. The disclosure is kept **confidential**. The disclosure must include the name and occupation of the donor, the date received and a description of the gift. The disclosure will be reviewed by the Ethics Committee chair and administrator.
CONFIDENTIAL DISCLOSURE REQUIRED **AS 24.60.080(c)(6)**

- **Gifts other than money from another government or government official.**
Gifts of this nature may be accepted. If the gift is worth \$250 or more, the recipient accepts the gift on behalf of the legislature and delivers it to Legislative Council within 60 days.
AS 24.60.080(f)

- **Discounts and welcoming gifts offered during session in the Capital City to legislators and their staff (but not other legislative employees).**
These are gifts offered to all legislators and their staff. **AS 24.60.080(c)(7)**

- **Gift of legal services related to a matter of legislative concern and other services related to a matter of legislative concern.**
This exception is for a gift of “services” in-kind and not a monetary gift. “In-kind” means consisting of something (as goods or commodities) other than money. Some examples of “in-kind services” would include but are not limited to: Free or below market cost representation of or legal advice by an attorney, or the gift of providing other services such as expert witness services provided by an expert witness in support of litigation for free or for below market value.
DISCLOSURE REQUIRED **AS 24.60.080(c)(8)**

- **Gift of transportation from a legislator or legislative employee to a legislator or a legislative employee.**
This exception relates only to travel within the state and on a mode of transportation owned or under the control of the donor (i.e., aircraft, boat, motor vehicle, etc.).
AS 24.60.080(c)(9)

- **Gift of a ticket to a charity event or receipt of a gift in connection with the charity event.**
This exception applies only to pre-approved charity events.
DISCLOSURE REQUIRED **AS 24.60.080(c)(10)**

- **Gift received by an immediate family member because of legislative connection.**

A spouse/domestic partner or dependent parent, child or sibling must disclose receipt of a gift with a value of \$250 or more that is given because of the family member's connection with the legislator or legislative employee.

DISCLOSURE REQUIRED

AS 24.60.080(i)

COMMON GIFT QUESTIONS

May a legislator or legislative employee accept a waiver of conference fees, when the purpose of attending the conference is to obtain information on matters of legislative concern?

Yes. The gift of "waived fees" may be accepted; but, if over \$250, the gift must be disclosed to the Ethics Committee within 60 days.

May a legislator or legislative employee accept airfare to a meeting that is paid for by another branch of state government?

Yes, but if over \$250, the gift must be disclosed to the committee within 60 days. Referenced Advisory Opinions 89-04 and 89-01.

May a legislator's spouse (or other immediate family member) accept travel and hospitality to a conference the legislator is attending?

Yes. The gift would be related to legislative status. Therefore, if the gift is \$250 or more in value, the gift must be disclosed by the legislator within 60 days.

May a person, who is covered by the Act, accept a loan exceeding \$250 from a personal friend who is not connected with the recipient's legislative status?

Loans are gifts. The loan may be accepted because the friendship is not related to legislative status. The gift must be disclosed because the value is over \$250. The disclosure is confidential. See Advisory Opinion 03-02. Note: Commercial loans do not require disclosure.

May a legislator accept the services of a legislative intern in a legislative office?

Yes. The committee determined in AO 94-03 that the services of a legislative intern are not considered a "gift". The Workforce Investment Act and the University Legislative Intern programs are approved by statute. Other internship programs must be approved by the Ethics Committee. To date, the following internship programs have been approved: First Alaskans Institute; Job Xperience Internship Program; McCombs School of Business; Mercer University Walter F. George School of Law; De Paul University, Graduate School of Business; Tlingit and Haida Tribal Vocational Rehabilitation Program; IDEA (Individuals with Disabilities Education Act) Alaska Close Up Government Internship Program; MASST (Mature Alaskans Seeking Skills Training) Intern Program; The Alaska Universities Legislative Internship Program administered by the Legislative Council of the Alaska State Legislature and representatives from the University of Alaska Anchorage (UAA), the University of Alaska Fairbanks (UAF), the University of Alaska Southeast (UAS), Alaska Pacific University (APU); University of Alaska

Political Science Department Course PSA 495 Internship; UAA-49th State Fellows Program; UAA-Masters of Social Work Program; UAA-Career Services (CSC); UAA-Political Science A322 United States Foreign Policy; Bob Jones University; REACH, Inc.; Creighton University's School of Law-The Werner Institute.

May a legislator accept the services of a legislative volunteer in a legislative office?

Yes. The committee determined in AO 94-03 that the services of a legislative volunteer are not considered a "gift". It is important to note a legislative volunteer may not be paid by another source to perform these services. The Senate and House have internal policies regarding volunteers. Legislators considering placing a legislative volunteer in their office should contact the Rules Chair in their respective body for guidance.

Are volunteers and interns in a legislative office subject to the Ethics Act?

Legislative interns and volunteers are required to comply with certain sections of the Act. The exceptions are: contracts and leases, state programs and loans, close economic associations, nepotism, and representation before state agencies. AS 24.60.112. Ethics training is mandatory for legislative interns and volunteers if they serve 30 or more days in one legislature. AS 24.60.155

May a legislator or legislative employee solicit contributions in excess of \$250 for a nonpolitical charitable organization?

Yes, the organization must have either a 501(c)(3) tax exemption or have an extended history of charitable giving in the community. The committee notes that lobbyists could be approached for contributions to charitable, nonpolitical organizations but urges extreme caution in doing so as this may lead to the appearance of impropriety. AO 12-02 points out that the act of "soliciting" does not include organizing and/or facilitating activities connected with the charitable/fundraising effort.

May a person who is subject to the Act accept payment of golfing greens fees or tournament fees that exceed \$250?

No, unless the gift is not related to legislative status or if from an immediate family member as defined in AS 24.60.080(c)(5). If not related to legislative status, the gift may be accepted; however, if the gift exceeds the \$250 limit, the gift must be disclosed within 30 days.

Does receipt of a prize in a raffle require disclosure of the gift?

No, assuming the raffle was open to the public and the chance to win was available to all who participated. Referenced AO 93-03.

May a legislator or legislative employee accept a gift of lodging in excess of \$250 at a hotel grand opening?

Generally, no. However, if the purpose of attending relates to matters of legislative concern, the gift of lodging may be accepted. The gift must be disclosed.

May a legislator or legislative employee accept a gift of a fishing trip from a lobbyist?

No, regardless of the value. Gifts of this nature from lobbyists are not allowed. However, the legislator and legislative employee may accompany a lobbyist on a fishing trip as long as the legislator or legislative employee pays their own way.

Food and beverage for immediate consumption from a lobbyist is permitted while on the trip. If the value is \$15 or more, the lobbyist is required to report the particulars on the next lobbyist report to APOC.

May a legislator or legislative employee accept a gift of a round of golf from the spouse of a lobbyist?

No, regardless of the value. A legislator or legislative employee may not accept a gift from an immediate family member of a lobbyist.

What if a legislator or legislative employee is in a dating relationship? May they accept gifts in excess of \$250 from the person they are dating?

Yes; however, a confidential gift disclosure is required under certain conditions.

COMPENSATION FOR SERVICES: EARNED INCOME

AS 24.60.085

A legislator or legislative employee may not request or accept compensation for personal services which is significantly greater than the value of the services performed. The Act acknowledges specialists in a profession generally charge higher rates. The purpose of this statute is to prohibit unjustifiably large payments, not to prohibit acceptance of compensation at regular or less than regular rates. Legislators should also be aware that the Alaska Constitution limits legislators' employment outside the legislature. Questions concerning constitutional provisions should be directed to LAA attorneys.

A legislator may not accept or agree to accept compensation, except from the State of Alaska, for work associated with legislative action, administrative action or political action. Legislative and administrative action is defined in AS 24.45.171 and political action is defined in AS 24.60.990. The purpose of this statute is to prohibit legislators from receiving outside compensation for work associated with legislative, administrative, or political action while at the same time using their official position to exercise influence on these actions.

May a legislator or a legislative employee accept a job paying \$30,000 when the going rate is \$10,000?

No, the rate compensated would not correspond to the value of the service performed and acceptance would be a violation of the Act.

If a legislator or legislative employee is offered a \$50,000 contract for consulting services, without any requirement or expectation of a work product, may he or she accept the contract?

No. The acceptance of the contract would be a violation of this section.

HONORARIA: FOR APPEARANCES AND SPEECHES

AS 24.60.085

A legislator or legislative employee may not accept payment, except necessary travel expenses, for an appearance or speech connected with the person's legislative status.

This rule does not apply to the salary paid to a legislator or legislative employee for a job which includes occasional appearances or speeches.

The committee has determined that certain gifts, such as a plaque with the legislator's or employee's name etched on it, may be accepted as a thank you for speaking appearances as long as the plaque is worth less than \$250 and it does not have a resale value.

May a legislator or legislative employee who is also a geologist accept payment for a speech on minerals found in the Copper River Basin?

Yes, as long as the speech is not connected to legislative status.

May a legislator or a legislative employee accept payment for a speech about the legislature's handling of health care issues?

No; however, if actual and necessary expenses are incurred as part of the speaking engagement (i.e. lodging, travel, meals) and these expenses are paid by or reimbursed by the organization, a disclosure is required within 60 days.

May a legislator or legislative employee make a speech to a community organization and then accept a plaque or similar memento as a thank you gift from the organization?

Yes, as long as the gift has a value of less than \$250 and does not have a resale value.

NEPOTISM: EMPLOYING RELATIVES

AS 24.60.090

An individual who is related to a legislator or legislative employee may not hold certain paid jobs in the legislative branch. "An individual who is related to or relative" means (for this nepotism section) the spouse or domestic partner* of the person; a parent, child, including a stepchild and an adoptive child, and sibling of a person if the parent, child, or sibling resides with the person, is financially dependent on the person, or shares a substantial financial interest with the person.

***domestic partner** means a person with whom the legislator or employee is living in a conjugal relationship which is not a legal marriage, (which is interpreted to mean a person with whom a legislator or legislative employee shares a relationship which has the same characteristics as a marriage); some of the characteristics of this type of relationship are co-habitation and financial interdependence.

A relative of a legislative *employee* may not work for pay in a position supervised by that legislative employee. A relative of a *legislator*, during a legislative session, may not be employed in the same house in which the legislator is a member or by an agency of the legislature. A relative of a *legislator*, during the interim, may not hold any job in the legislative branch.

For the purposes of this section, interim begins on the eighth day after a regular legislative session and ends eight days before the next regular session. The prohibition, therefore, applies during a special session that occurs during the interim except for the eight days immediately before or after the regular session. Legislator's relatives may not work for the Ethics Committee, even in a voluntary capacity.

May a senator's son or daughter work for the House of Representatives?

Yes, but only during session. A relative of a legislator may not work for the legislature in any capacity during the interim. (See above definition of "individual who is related".)

May a representative's spouse work for the Legislative Finance Division?

No, a relative of a legislator may not work for an agency of the legislature. (See above definition of "individual who is related".)

REPRESENTATION: PAID REPRESENTATION BEFORE A STATE AGENCY

AS 24.60.100

A legislator or legislative employee may not represent another person for pay before the legislative branch of state government. A legislator or legislative employee may represent another person for pay before the executive or judicial branch. Representation before executive branch agencies, boards, or commissions must be disclosed to the Ethics Committee and must include the name of the client, the subject matter of the representation, and the name of the agency, board, or commission before which the representation is to take place. The name of the client may be omitted if state or federal law requires confidentiality.

The Ethics Committee requires timely disclosure. Reporting forms for disclosures are provided in Appendix B; filing on line is easy.

Visit us at: <http://ethics.akleg.gov/ethics.disclosures.php>

Representation for pay must be disclosed:

- Within 30 days of the matter or interest
- Annually within the first 30 days of a regular legislative session under AS 24.60.105
- 90 days after final day of service under AS 24.60.115

May a legislator or legislative employee represent a client for pay before the Child Support Enforcement Division?

Yes, but the representational relationship must be disclosed within 30 days of the representation.

May a legislator or legislative employee receive pay for advocating another person's cause to other legislators or legislative employees?

No. Representation for pay before the legislative branch is prohibited. This statute essentially prohibits those in the legislative branch from being paid lobbyists while serving the legislature.

DISCLOSURES: DEADLINES FOR FILING DISCLOSURES

AS 24.60.105, AS 24.60.115, and AS 24.60.260

Membership on a board of directors, interests in state contracts and leases, participation in certain state benefit and loan programs, close economic associations, and representation of clients before state agencies must be disclosed within 30 days after the commencement of the interest or matter or on the date the person first becomes subject to the Legislative Ethics Act, whichever comes later.

Close economic associations for a legislative employee's spouse/domestic partner lobbyist must be kept current. The Act sets a 48 hour reporting deadline for any changes to the lobbyist's client list.

A person may submit a written request to the committee to refrain from making a disclosure that is required by the Act if making the disclosure would violate state or federal law, including the United States Constitution and the Constitution of the State of Alaska, or a rule, adopted formally by a trade or profession, that state or federal law requires the person to follow. The committee may review the written justification to determine whether it is sufficient.

Additionally, the above disclosures must be filed annually within the first 30 days of a regular session. Upon leaving service, disclosures must be filed within 90 days UNLESS previously disclosed OR the matter or interest is no longer subject to disclosure.

GIFTS WITH A VALUE OF \$250 OR MORE:

- Gifts of travel/hospitality must be disclosed within 60 days from the beginning date of the trip. See AS 24.60.080(c)(4)
- Gifts of a ticket to a charity event must be disclosed within 60 days of the event. See AS 24.60.080(d)
- Gifts received in connection with a charity event must be disclosed within 60 days of the event. See AS 24.60.080(d)
- Gifts related to legal services in a matter of legislative concern must be disclosed within 30 days. See AS 24.60.080(c)(8)
- Gifts that are not connected to the recipients' legislative status must be disclosed within 30 days. See AS 24.60.080(c)(6)

AS 24.60.260 Fines for late disclosure

- A person who files a late disclosure may be fined \$2/day up to a maximum of \$100.
- If the committee determines the late filing was willful, the amount of the fine may be \$100 a day up to a maximum of \$2,500 under AS 24.60.260.
- If the committee determines the late filing was inadvertent the maximum fine is \$25.

SELECT COMMITTEE ON LEGISLATIVE ETHICS

ETHICS COMMITTEE: POLITICAL ACTIVITY BY PUBLIC MEMBERS, EMPLOYEES, AND CONTRACTORS **AS 24.60.134**

This section applies only to public members, employees, and contractors of the Ethics Committee. Political activities are restricted during their service to the committee. In addition to the prohibition against filing as a candidate for the legislature, the following prohibitions apply:

- Participating in political management or in a political campaign for federal, state, or local offices or ballot measures;
- Attending a campaign fundraising event or make a financial contribution to a legislator or a legislative employee running for any office, to any candidate for the Legislature, or to a candidate for any office who is running against an incumbent legislator or legislative employee;
- Serving as a registered lobbyist;
- Filing as a candidate for political office;
- Serving as an officer of a political party; or
- Attending a political party campaign fundraising event or a campaign fundraising event on behalf of a political party.

May a public member of the Ethics Committee volunteer to work for a political campaign while serving on the committee?

No.

May a public member, employee, or contractor with the Ethics Committee run for a seat on the school board?

No.

WHAT DOES THE ETHICS COMMITTEE DO?

AS 24.60.140 - 150

The main responsibilities of the Select Committee on Legislative Ethics (Ethics Committee) are to:

- Help those covered by the Legislative Ethics Act understand and comply with the Act
 - Conduct mandatory yearly training classes for legislators and legislative employees
 - Issue informal ethics advice through the Committee Administrator
 - Provide educational materials and a Standards of Conduct Handbook
 - Publish a bi-monthly legislative newsletter
 - Maintain a website
- Issue and publish formal, binding advisory opinions
- Investigate complaints alleging violations of the Act and make recommendations for corrective actions or sanctions for violators

- Monitor and maintain public files of disclosure statements
- Recommend Ethics legislation

HOW DOES THE ETHICS COMMITTEE OPERATE?

AS 24.60.130 - 150

The Ethics Committee has nine members: two senators, two representatives, and five public members. Each legislator has an alternate member who serves when there is a conflict or when the regular member is unable to serve. There is one alternate public member who serves similar to the legislative alternates. The House Subcommittee consists of the two representatives and five public members. The Senate Subcommittee consists of the two senators and five public members.

Complaints are considered by the appropriate subcommittee e.g. a complaint filed against a representative or an employee of a representative is considered by the House Subcommittee.

INFORMAL ADVICE ON INTERPRETING THE ETHICS ACT

AS 24.60.158

Individuals subject to the Ethics Act and members of the public may request informal advice about the Act from the Ethics Committee staff. Although staff advice is given in good faith, it does not necessarily reflect the opinions of the members of the Ethics Committee and it is not binding on the committee. Only individuals subject to the Ethics Act may request a formal binding advisory opinion from the Ethics Committee.

May a person covered by the Ethics Act request *written* informal advice?

Yes. A person may send a request for written informal advice showing the facts of the case to Ethics Committee staff; even if the advice is in writing, informal advice is not binding on the committee.

ADVISORY OPINIONS

AS 24.60.160 - 165

An advisory opinion is a written, binding interpretation of the Ethics Act, based on the facts presented in the request for an opinion. A person subject to the Ethics Act, a person who has been elected to the legislature but not yet sworn into office, the Ethics Committee or the Alaska Public Offices Commission may request formal advisory opinions from the Ethics Committee. The committee does not issue advisory opinions about the conduct of people other than the requester or about matters not within its jurisdiction. If the facts provided are insufficient to reach a conclusion, the committee will not be able to give advice unless the requester provides additional information. In a case of the omission of material facts that would have affected the outcome of the opinion, the opinion will not be considered “binding”.

The request for an advisory opinion and the committee's discussion of the opinion are considered confidential. The requester may waive confidentiality to allow the discussion to be held in a public meeting. The committee may not use information a person voluntarily gave the committee in a good faith request for advice against the person in an ethics complaint proceeding, unless the person chooses to ignore the advice provided in the opinion. The committee will issue a public advisory opinion which has been edited to prevent disclosure of the identity of the requester.

The full Ethics Committee acts on advisory opinions. The committee must issue an opinion within 60 days, unless the requester consents to an extension. The committee publishes annual summaries of advisory opinions and provides them to each legislative office and to anyone else, upon request.

The Ethics website is: <http://ethics.akleg.gov/>. It contains a searchable database of Advisory Opinions.

See Appendix D for a list of advisory opinions issued by the Ethics Committee.

May a legislative employee, who is on lay-off status, request a formal advisory opinion?

The Act allows the committee to issue opinions to a person who anticipates becoming a legislative employee within 45 days. The committee has traditionally chosen to respond to requests for advice from those in lay-off status who intend to return to legislative work during the following session.

What penalty exists for not following the advice set out in a formal advisory opinion?

Requests for advisory opinions must ask whether the facts of a particular case constitute, or could constitute, a violation of the Act. If the requester receives advice which states that certain actions would be a violation and then proceeds to take those actions, that person may be subject to an ethics complaint.

COMPLAINTS ALLEGING VIOLATION OF THE ETHICS ACT

AS 24.60.170

Anyone who believes the Legislative Ethics Act has been violated may file a complaint with the Ethics Committee. A complaint must be in writing and notarized. Complaints should be sent to the committee chair at the Ethics Committee office. It is a Class A misdemeanor under AS 11.56.805 to knowingly or intentionally file a false complaint with the Ethics Committee. Complainants may be asked to testify in support of their complaint. A complaint form is provided in Appendix B.

Complaints received during a *campaign period against a candidate who is subject to the Ethics Act, will be returned without action, unless the subject of the complaint waives the right to suspend consideration within 11 days.

*A campaign period begins 45 days before the primary election in which one is a candidate or the day one files for office, whichever is later and ends the day of the general or special election, the day after primary results are certified for a candidate

who loses in the primary or the day a candidate withdraws. Complaints may be re-filed at the end of the campaign period.

During the campaign period, (described in the paragraph above), the committee is restricted from proceeding beyond the point of confidentiality on a pending complaint concerning a candidate, unless the subject waives the right to suspended proceedings.

1. The Ethics Committee and the House and Senate Subcommittees have authority to consider complaints against legislative employees, including the public members of the Ethics Committee, and current or former legislators.
2. A complaint must be filed within five years after the date of the alleged ethics violation for current or former legislators.
3. The Ethics Committee does not have the authority to consider a complaint against a legislative employee after the employee has stopped working for the Legislature. If the employee leaves legislative work, the Ethics Committee must dismiss a complaint against the employee. However, the committee may reinstate a complaint if that person is rehired within five years as a legislative employee or elected to serve as a legislator.
4. The Ethics Committee may not consider complaints against family members of legislators or legislative employees.

The House Subcommittee considers complaints against representatives, former representatives, and employees of representatives and committees of the House, chaired by representatives. The Senate Subcommittee handles complaints against senators, former senators, and employees of senators and committees of the Senate, chaired by senators. The full Ethics Committee considers complaints against employees of legislative agencies, joint committees and the public members and employees of the Ethics Committee. When the Ethics Committee Chair receives a complaint, the chair refers it to the appropriate subcommittee or to the full committee.

Meetings of the Ethics Committee to consider a complaint are confidential until the committee determines there is probable cause to believe the accused person violated the Act. Committee documents are confidential; however, the committee decision is a public document.

The Public Hearing process is open to the public and documents issued by the committee or documents presented at the formal hearing are open to public inspection.

All committee deliberations are confidential. Please reference AS 24.60.170 for information on a subject's ability to waive confidentiality for portions of a complaint proceeding.

In considering a complaint, the Ethics Committee, or the appropriate House or Senate Subcommittee (referred to collectively as “the committee”), must take the following steps:

1. Receipt of complaint.
 - a. Verify that the complaint is sworn to, validly filed against a person subject to the Ethics Act, and that alleged misconduct occurred within the timeframes set out in statute. (Note: If filed against a candidate during the campaign period, complaint must be returned, unless the subject waives suspension.)
 - b. Decide whether the allegations, if proven to be true, would constitute a violation of the Legislative Ethics Act over which the committee has jurisdiction.
2. Notify the subject of the complaint if the above conditions are met. Provide a copy of the complaint and any accompanying documents. (Note: If the above conditions are not met, the committee takes no further action other than notifying the complainant.)
3. Pass a resolution defining the Scope of the Investigation to be conducted. A copy of The Scope of the Investigation is provided to the complainant and the subject of the complaint.
4. Investigate the facts of the case.
5. Hold a committee meeting to review the investigative material and deliberate. The meeting shall be held in Executive Session. The subject has the right to appear personally before the committee and may be accompanied by legal counsel or another person.
6. Determine whether there is “probable cause” (more likely than not) to believe that the subject of the complaint has violated the Legislative Ethics Act.
 - a. If no violation is found, dismiss the complaint and issue a dismissed order. No further action is taken.
 - b. If “probable cause” is found, determine if corrective action and/or sanctions are warranted.
7. Decide whether the violation can be corrected or if sanctions are warranted.
 - a. **CORRECTIVE ACTION:** If the violation can be corrected, the committee may issue an opinion recommending corrective action. Within 20 days after receipt of the opinion, the subject may request a confidential meeting with the committee for the purpose of explaining the decision. The committee shall explain the reasons for its recommendations. The committee may divulge confidential information to the subject of the complaint; however, the information remains confidential. Within 20 days after receipt of the opinion, the subject may request a formal public hearing before the committee. If the subject agrees to comply with the opinion but does not act upon the recommended corrective action in a timely manner, the committee

may formally charge the person or refer the matter to the appropriate House, in the case of a legislator, or in the case of a legislative employee, to the employee's appointing authority. The appropriate House or appointing authority may take action to enforce the corrective action or may decline to take action and refer the matter to the committee. In either case, the committee may formally charge the person.

b. SANCTIONS: If the violation requires sanctions instead of or in addition to corrective action, the committee shall formally charge the person.

- 8.** Formally charge the person. The charge shall be served in a manner consistent with the Service of Summons under the Rules of Civil Procedure, and a copy of the charge shall be sent to the complainant. If the subject has not admitted to the allegations, the committee must schedule a formal, public hearing.
- 9.** Hold a formal hearing. The hearing shall be scheduled for a date more than 20 days and less than 90 days after service of the charge, unless the committee schedules a later hearing date. The person shall have the right to appear personally before the committee, to subpoena witnesses, and require the production of books or papers relating to the proceedings to be represented by counsel, and to cross-examine witnesses. A witness shall testify under oath. The committee will take testimony and other evidence. The committee's findings must be based on "clear and convincing" evidence that the subject violated the Legislative Ethics Act. The committee may also state on record whether the subject cooperated with the committee during the complaint process. Testimony taken shall be recorded and evidence shall be maintained.

VIOLATIONS OF ETHICS ACT: PENALTIES

AS 24.60.170(i), AS 24.60.174-176, and 24.60.970

Legislator: If the violator is or was a legislator, the body in which the legislator served (i.e. the House or Senate) must vote on the penalty. The body has the power to review the committee's recommendation and to alter the penalty. The body may not question the Ethics Committee's finding that the Act was violated and must impose an appropriate penalty. AS 24.60.176(a). Expulsion from the legislature requires a two-thirds vote of the full body. All other penalties require a majority vote of the full body in which the legislator served.

Legislative Employee: If the violator is or was a legislative employee, the appointing authority (defined in AS 24.60176(b)) must determine the penalty. The appointing authority may not question the Ethics Committee's finding that the Act was violated and must impose an appropriate penalty. The appointing authority has the power to impose the penalty recommended by the committee or to impose a different penalty. AS 24.60.176(a).

Possible Other Action

In addition to any Ethics Committee action, the Attorney General may bring civil lawsuits against anyone covered by the Legislative Ethics Act.

If, in the course of an investigation, the Ethics Committee finds evidence of:

- Probable criminal activity, the committee shall transmit a statement and factual findings limited to the activity to the appropriate law enforcement agency. AS 24.60.170 (l).
- Probable violation of AS 15.13, the committee shall transmit a statement and factual finding limited to the probable violation to the Alaska Public Offices Commission. AS 24.60.170(l).
- Probable violation of AS 18.80.220, the committee shall transmit a statement and factual findings limited to the probable violation to the State Commission on Human Rights. AS 24.60.039.

ANNUAL LEGISLATIVE FINANCIAL DISCLOSURE (LFD) STATEMENTS

Reporting Required for Legislators, Legislative Directors, and Ethics Committee Members

DISCLOSURE TO ALASKA PUBLIC OFFICES COMMISSION

AS 24.60.200

The last part of the Legislative Ethics Act requires legislators, legislative directors, and Ethics Committee members to file an annual, Legislative Financial Disclosure (LFD) statement with the Alaska Public Offices Commission (APOC).

In general, the Act requires disclosure of income including loans, business, and real property interests received or held by the legislator, legislative director, or Ethics Committee member, and family members residing with those required to file. Income in excess of \$1,000 must include a description of whether it was or will be earned by commission, by the job, by the hour or by some other method along with the dates and approximate hours worked or to be worked and a description of the nature of the service to be performed.

APOC has the authority to adopt regulations to implement and interpret the Legislative Financial Disclosure requirements. APOC also prepares annual report forms and instruction manuals that explain specifically what information must be disclosed. For additional information on filing requirements, contact APOC at (907) 276-4176.

FILING DEADLINES AND PENALTIES

AS 24.60.210 - 260

Legislators and legislative directors must file an LFD with APOC on or before March 15 of each year. Public members of the Ethics Committee must file an LFD on or before the second Monday in January of each year.

The LFD covers the previous calendar year. APOC may fine legislators, legislative directors, and members of the Ethics Committee who fail to file properly a completed LFD statement by the deadline. A person required to file who does not file within a 30-day grace period, may not be a candidate for the Legislature. A person who knowingly makes a false or misleading claim on an LFD statement may be subject to an Ethics Committee complaint as well as an APOC complaint.

A legislator, legislative director, or a public member of the Ethics Committee must file an LFD within 30 days of appointment.

Within 90 days of leaving service, a final LFD report containing disclosures for the period from the date of the last disclosure to the final day of service must be filed.

The LFD statements are public information. A legislator, legislative director, or an Ethics Committee member may request an exemption from disclosing the name of a person who is a source of income if:

- The person's constitutionally protected expectation of privacy would be violated by disclosure;
- Disclosure of the person's name is prohibited by law; or
- The person's name is legally privileged (a legally privileged relationship extends to exempting the disclosure of a person's name under narrowly defined circumstances).

Legislators, legislative directors, and Ethics Committee members may contact APOC for more information regarding requests for an exemption from disclosing a person's name as a source of income.

APPENDIX A

Legislative Ethics Act

AS 24.60

ALASKA LEGISLATIVE ETHICS ACT -- AS 24.60

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APPENDIX A

State of Alaska Legislative Ethics Act, AS 24.60 as amended 2012

SB 89, Chapter 45

Chapter 60. Standards of Conduct.

Article

1. Purpose and Applicability (§§ 24.60.010, 24.60.020)
2. Standards of Conduct (§§ 24.60.030 - 24.60.115)
3. Legislative Ethics Committee; Opinions; Complaints (§§ 24.60.130 - 24.60.178)
4. Required Annual Financial Disclosure (§§ 24.60.200 - 24.60.260)
5. Miscellaneous and General Provisions (§§ 24.60.970 - 24.60.995)

Cross references. — The Select Committee on Legislative Ethics maintains a public online electronic database of advisory opinions interpreting this chapter.

Administrative Code. — For legislative financial disclosure, see 2 AAC 50, art. 5.

Article 1. Purpose and Applicability.

Section

10. Legislative findings and purpose

Section

20. Applicability; relationship to common law and other laws

Sec. 24.60.010. Legislative findings and purpose. The legislature finds that

- (1) high moral and ethical standards among public servants in the legislative branch of government are essential to assure the trust, respect, and confidence of the people of this state;
- (2) a fair and open government requires that legislators and legislative employees conduct the public's business in a manner that preserves the integrity of the legislative process and avoids conflicts of interest or even appearances of conflicts of interest;
- (3) the public's commitment to a part-time citizen legislature requires legislators be drawn from all parts of society and the best way to attract competent people is to acknowledge

that they provide their time and energy to the state, often at substantial personal and financial sacrifice;

- (4) a part-time citizen legislature implies that legislators are expected and permitted to earn outside income and that the rules governing legislators' conduct during and after leaving public service must be clear, fair, and as complete as possible; the rules, however, should not impose unreasonable or unnecessary burdens that will discourage citizens from entering or staying in government service;
- (5) in order for the rules governing conduct to be respected both during and after leaving public service, the code must be administered fairly without bias or favoritism;
- (6) no code of conduct, however comprehensive, can anticipate all situations in which violations may occur nor can it prescribe behaviors that are appropriate to every situation; in addition, laws and regulations regarding ethical responsibilities cannot legislate morality, eradicate corruption, or eliminate bad judgment;
- (7) compliance with a code of ethics is an individual responsibility; thus all who serve the legislature have a solemn responsibility to avoid improper conduct and prevent improper behavior by colleagues and subordinates;
- (8) the purpose of this chapter is to establish standards of conduct for state legislators and legislative employees and to establish the Select Committee on Legislative Ethics to consider alleged violations of this chapter and to render advisory opinions to persons affected by this chapter. (§ 1 ch 36 SLA 1984; am § 1 ch 127 SLA 1992)

NOTES TO DECISIONS

No duty to disclose conflict of interest. – Two former members of the Alaska legislature who were charged with honest services fraud under 18 USC § § 1341, 1343, and 1346 could exclude evidence of their failure to disclose a conflict of interest arising from their dealings with a corporation; neither this section nor AS 24.60.030(e)(3) impose a duty to disclose, and state law controls. *United States v. Kott*, -- F. Supp.2d – (D. Alaska Sept. 4, 2007), (Requirement of violation of state

law duty to disclose to support conviction under 18 U.S.C. § 1346 was rejected in *United States v. Weyhrauch*, 548 F.3d 1237 (9th Cir. 2008). However, the scope of § 1346 was narrowed by *Skilling v. United States*, -- U.S. --, 130 S. Ct. 2896 (2010) to apply only to bribery/kickback schemes, rejecting inclusion of undisclosed self-dealing by a public official.).

Sec. 24.60.020. Applicability; relationship to common law and other laws.

(a) Except as otherwise provided in this subsection, this chapter applies to a member of the legislature, to a legislative employee, and to public members of the committee. This chapter does not apply to

- (1) a former member of the legislature or to a person formerly employed by the legislative branch of government unless a provision of this chapter specifically states that it applies;
- (2) a person elected to the legislature who at the time of election is not a member of the legislature.

(b) The provisions of this chapter specifically supersede the provisions of the common law relating to legislative conflict of interest that may apply to a member of the legislature or a legislative employee. This chapter does not supersede or repeal provisions of the criminal laws of the state. This chapter does not exempt a person from applicable provisions of another law unless the law is expressly superseded or incompatibly inconsistent with the specific provisions of this chapter. (§ 1 ch 36 SLA 1984; § § 2, 3 ch 113 SLA 1986; am § 1 ch 167 SLA 1988; am § 2 ch 127 SLA 1992); am § 18 ch 47 SLA 2007)

Effect of amendments. — The 2007 amendment, effective July 10, 2007, substituted “a provision of this chapter” for “the provision” in paragraph (a)(1)

Related Advisory Opinions: 87-04, 99-01, 99-03

Article 2. Standards of Conduct.

Section

- 30. Prohibited conduct and conflicts of interest
- 31. Restrictions on fund raising
- 33. Restrictions on employee candidacies
- 35. Protection of whistle blowers
- 37. Open meetings guidelines
- 39. Discrimination prohibited
- 40. Contracts or leases
- 50. State programs and loans

- 60. Confidential information

Section

- 70. Disclosure of close economic associations
- 75. Compassionate gift exemption.
- 80. Gifts
- 85. Restrictions on earned income and honoraria
- 90. Nepotism
- 100. Representation
- 105. Deadlines for filing disclosures
- 112. Applicability to volunteers and educational trainees
- 115. Disclosure required of a legislator, legislative employee, or public member of the committee after final day of service

Sec. 24.60.030. Prohibitions related to conflicts of interest and unethical conduct.

(a) A legislator or legislative employee may not

- (1) solicit, agree to accept, or accept a benefit other than official compensation for the performance of public duties; this paragraph may not be construed to prohibit lawful solicitation for and acceptance of campaign contributions, solicitation or acceptance of contributions for a charity event, as defined in AS 24.60.080(a)(2)(B), or the acceptance of a gift under AS 24.60.075 or 24.60.080;
- (2) use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of the legislator, legislative employee, or another person; this paragraph does not prohibit
 - (A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;
 - (B) the use of mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;
 - (C) the legislative council, notwithstanding AS 24.05.190, from designating a public facility for use by legislators and legislative employees for health or fitness purposes; when the council designates a facility to be used by legislators and legislative employees for health or fitness purposes, it shall

- adopt guidelines governing access to and use of the facility; the guidelines may establish times in which use of the facility is limited to specific groups;
- (D) a legislator from using the legislator's private office in the capital city during a legislative session, and for the 10 days immediately before and the 10 days immediately after a legislative session, for nonlegislative 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; an office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others;
 - (E) a legislator from use of legislative employees to prepare and send out seasonal greeting cards;
 - (F) a legislator from using state resources to transport computers or other office equipment owned by the legislator but primarily used for a state function;
 - (G) use by a legislator of photographs of that legislator;
 - (H) reasonable use of the Internet by a legislator or a legislative employee except if the use is for election campaign purposes;
 - (I) a legislator or legislative employee from soliciting, accepting, or receiving a gift on behalf of a recognized, nonpolitical charitable organization in a state facility;
 - (J) a legislator from sending any communication in the form of a newsletter to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or
 - (K) full participation in a charity event approved in advance by the Alaska Legislative Council;
- (3) knowingly seek, accept, use, allocate, grant, or award public funds for a purpose other than that approved by law, or make a false statement in connection with a claim, request, or application for compensation, reimbursement, or travel allowances from public funds;
 - (4) require a legislative employee to perform services for the private benefit of the legislator or employee at any time, or allow a legislative employee to perform services for the private benefit of a legislator or employee on government time; it is not a violation of this paragraph if the services were performed in an unusual or infrequent situation and the person's services were reasonably necessary to permit the legislator or legislative employee to perform official duties;
 - (5) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning; this paragraph does not prohibit
 - (A) limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal or the legislator or legislative employee reimburses the state for the cost of the use;
 - (B) the use of mailing lists, computer data, or other information lawfully obtained from a government agency and available to the general public for nonlegislative purposes;
 - (C) storing or maintaining, consistent with (b) of this section, election campaign records in a legislator's office;
 - (D) a legislator from using the legislator's private office in the capital city during a legislative session, and for the 10 days immediately before and the 10 days

immediately after a legislative session, for nonlegislative 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; an office is considered a legislator's private office under this subparagraph if it is the primary space in the capital city reserved for use by the legislator, whether or not it is shared with others; or

(E) use by a legislator of photographs of that legislator.

(b) A legislative employee may not on government time assist in political party or candidate activities, campaigning, or fund raising. A legislator may not require an employee to perform an act in violation of this subsection.

(c) Unless approved by the committee, during a campaign period for an election in which the legislator or legislative employee is a candidate, a legislator or legislative employee may not use or permit another to use state funds, other than funds to which the legislator is entitled under AS 24.10.110, to print or distribute a political mass mailing to individuals eligible to vote for the candidate. In this subsection,

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

(A) begins 60 days before the date of an election to the board of an electric or telephone cooperative organized under AS 10.25, a municipal election, or a primary election, or that begins on the date of the governor's proclamation calling a special election; and

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

(2) a mass mailing is considered to be political if it is from or about a legislator, legislative employee, or another person who is a candidate for election or reelection to the legislature or another federal, state, or municipal office or to the board of an electric or telephone cooperative.

(d) A legislator, legislative employee, or another person on behalf of the legislator or legislative employee, or a campaign committee of the legislator or legislative employee, may not distribute or post campaign literature, placards, posters, fund-raising notices, or other communications intended to influence the election of a candidate in an election in public areas in a facility ordinarily used to conduct state government business. This prohibition applies whether or not the election has been concluded. However, a legislator may post, in the legislator's private office, communications related to an election that has been concluded.

(e) A legislator may not directly, or by authorizing another to act on the legislator's behalf,

(1) agree to, threaten to, or state or imply that the legislator will take or withhold a legislative, administrative, or political action, including support or opposition to a bill, employment, nominations, and appointments, as a result of a person's decision to provide or not provide a political contribution, donate or not donate to a cause favored by the legislator, or provide or not provide a thing of value;

(2) state or imply that the legislator will perform or refrain from performing a lawful constituent service as a result of a person's decision to provide or not provide a political contribution, donate or not donate to a cause favored by the legislator, or provide or not provide a thing of value; or

(3) unless required by the Uniform Rules of the Alaska State Legislature, take or withhold official action or exert official influence that could substantially benefit or harm the financial interest of another person with whom the legislator is negotiating for employment.

(f) A legislative employee may not serve in a position that requires confirmation by the legislature. A legislator or legislative employee who serves on a board of an organization, including a governmental entity, shall disclose the board membership to the committee. A person required to make a disclosure under this subsection shall file the disclosure with the committee by the deadlines set out in AS 24.60.105 stating the name of each organization on whose board the person serves. The committee shall maintain a public record of the disclosure and forward the disclosure to the appropriate house for inclusion in the journal. This subsection does not require a legislator or legislative employee who is appointed to a board by the presiding officer to make a disclosure of the appointment to the committee if the appointment has been published in the appropriate legislative journal during the calendar year.

(g) Unless required by the Uniform Rules of the Alaska State Legislature, a legislator may not vote on a question if the legislator has an equity or ownership interest in a business, investment, real property, lease, or other enterprise if the interest is substantial and the effect on that interest of the action to be voted on is greater than the effect on a substantial class of persons to which the legislator belongs as a member of a profession, occupation, industry, or region.

(h) An employee who engages in political campaign activities other than incidental campaign activities during the employee's work day shall take leave for the period of campaigning. Political campaign activities while on government time are permissible if the activities are part of the normal legislative duties of the employee, including answering telephone calls and handling incoming correspondence.

(i) A legislator or legislative employee may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer assigned to the hearing or the individual, board, or commission with authority to make the final decision in the matter unless

- (1) the legislator or legislative employee is representing another person for compensation subject to AS 24.60.100 and as a professional who is licensed in the state;
- (2) the contact is made in the presence of all parties to the hearing or the parties' representatives while the legislator or legislative employee is acting as a party or a witness in the matter or responding to a question asked of the legislator or legislative employee by the hearing officer, individual, board, or commission and the contact is made a part of the record; or
- (3) the contact is inadvertent and ex parte and the legislator or legislative employee
 - (A) promptly discloses the fact and substance of the contact
 - (i.) directly to each party to the hearing whose identity as a party is public information; or
 - (ii.) through the hearing officer for each party to the hearing whose identity as a party is not public information; and
 - (B) makes the fact and substance of the contact part of the record.

(j) In this section, "administrative hearing" means a quasi-judicial hearing before an agency; "administrative hearing" does not include an informal conference or review held by an agency before a final decision is issued or a rate-making proceeding or other nonadjudicative public hearing. (§ 1 ch 36 SLA 1984; am § 27 ch 85 SLA 1988; am § 8 ch 167 SLA 1988; am § 3 ch 127 SLA 1992; am §§ 13 – 18 ch 74 SLA 1998; am § 8 ch 3 SLA 2002; am § 49 ch 163 SLA 2004; am § 2 ch 10 SLA 2006; am §§ 19—21 ch 47 SLA 2007; am §§ 1—3 ch 45 SLA 2012)

Cross references. – For bribery and related offenses, see AS 11.56.100–11.56.130.

Effect of amendments. — The 2006 amendment, effective March 31, 2006, in subsection (a), inserted “solicitation or acceptance of contributions for a charity event, as defined in AS 24.60.080(c)(10)” in paragraph (1) and “or legislative employee” in paragraph (2)(J), and added paragraph (2)(L), making corresponding stylistic changes.

The 2007 amendment, effective July 10, 2007, substituted “AS 24.60.080(a)(2)(B)” for “AS 24.60.080(c)(10)” in paragraph (a)(1), deleted former

paragraphs (a) (2)(C) and (a)(5)(C), relating to telephone or facsimile use and redesignated the following subparagraphs accordingly, substituted “60 days” for “90 days” in paragraph (c)(1)(A), rewrote the second sentence of subsection (f), and substituted “person” for “legislator or legislative employee who is” in the third sentence of subsection(f).

The 2012 amendment, effective August 22, 2012, in (a)(1), substituted “gift under AS 24.60.075 or 24.60.080” for “lawful gratuity under AS 24.60.080”; rewrote (i); added (j)

NOTES TO DECISIONS

No duty to disclose. – Two former members of the Alaska legislature who were charged with honest services fraud under 18 USCS §§ 1341, 1343, and 1346 could exclude evidence of their failure to disclose a conflict of interest arising from their dealings with a corporation; neither this section nor AS 24.60.010 impose a duty to disclose, and state law controls. *United States v. Kott*, -- F. Supp. 2d – (D. Alaska Sept. 4, 2007), (Requirement of violation of state law duty to disclose to support conviction under 18 U.S.C. § 1346 was rejected in *United States v. Weyhrauch*, 548 F.3d 1237 (9th Cir. 2008). However, the scope of § was narrowed by *Skilling v. United States*, -- U.S. --, 130 S.Ct. 2896 (2010) to apply only to bribery/kickback schemes, rejecting inclusion of undisclosed self-dealing by a public official.).

Legislature did not intend to imply a duty to disclose.

— Alaska legislature clearly knows how to establish a duty to disclose and has done so in several instances. Its failure to include an explicit duty to disclose in subsection (e)(3) is significant; reading AS 24.60 as a whole, it would be inappropriate to imply a duty to disclose matters within the ambit of (e)(3). *United States v. Kott*, -- F. Supp. 2d – (D. Alaska September 4, 2007), (Requirement of violation of state law duty to disclose to support conviction under 18 U.S.C. § 1346 was rejected in *United States v. Weyhrauch*, 548 F.3d 1237 (9th Cir. 2008). However, the scope of § 1346 was narrowed by *Skilling v. United States*, -- U.S. --, 130 S.Ct. 2896 (2010) to apply only to bribery/kickback schemes, rejecting inclusion of undisclosed self-dealing by a public official.).

Related Advisory Opinions: 84-01, 84-02, 84-04, 85-01, 85-02, 85-04, 85-06, 86-03, 86-04, 86-07, 87-01, 87-07, 88-02, 88-04, 88-06, 88-07, 88-10, 89-05, 90-02, 92-02, 94-02, 94-06, 94-08, 94-13, 95-03, 97-02, 98-02, 98-03, 99-04, 01-01, 02-01, 04-01, 04-02, 05-01, 06-01, 07-01, 07-04, 07-05, 08-01, 08-02, 08-03, 09-03, 09-04, 11-01, 11-02, 11-03, 11-05, 12-02, 12-03, 12-04

Sec. 24.60.031. Restrictions on fundraising.

(a) A legislative employee may not

- (1) on a day when either house of the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a campaign for state or municipal office; however, a legislative employee may, except in the capital city, or in the municipality in which the legislature is convened in special session if the legislature is convened in a municipality other than the capital city, solicit or accept a contribution, promise, or pledge for a campaign for state or municipal office that occurs during the 90 days immediately preceding the election for that office; or
- (2) accept money from an event held on a day when either house of the legislature is in regular or special session if a substantial purpose of the event is to raise money on behalf of the legislative employee for political purposes; however, this paragraph does not prohibit a legislative employee from accepting money from an event held in a place other than the capital city or a municipality in which the legislature is convened in special session if the legislature is convened in a municipality other than a capital city during the 90 days immediately preceding an election for state or municipal public office in which the legislative employee is a candidate.

(b) A legislator may not

- (1) on a day when either house of the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution
 - (A) for the legislator's own campaign for state or municipal public office, unless the solicitation, acceptance, promise, or pledge occurs in a place other than the capital city or a municipality in which the legislature is convened in special session if the legislature is convened in a municipality other than the capital city during the 90 days immediately preceding the election in which the legislator is a candidate;
 - (B) for another candidate in an election for municipal, state, or federal office;
 - (C) to influence a state ballot proposition or question; or
 - (D) for a political party;
- (2) accept money from an event held on a day when either house of the legislature is in regular session or special session if a substantial purpose of the event is to raise money on behalf of the legislator's campaign for state or municipal public office; however, this paragraph does not prohibit a legislator from accepting money from an event held in a place other than the capital city or a municipality in which the legislature is convened in special session if the legislature is convened in a municipality other than the capital city during the 90 days immediately preceding a state or municipal election in which the legislator is a candidate; or
- (3) in a campaign for state or municipal office, expend money that was raised on a day when either house of the legislature was in a legislative session by or on behalf of a legislator under a declaration of candidacy or a general letter of intent to become a candidate for public office; however this paragraph does not apply to money raised in a place other than the capital city or a municipality in which the legislature is convened in special session if the legislature is convened in a municipality other than the capital city during the 90 days immediately preceding an election in which the legislator is a candidate.

(c) In this section, "contribution" has a meaning given in AS 15.13.400. (§ 4 ch 127 SLA 1992; am § 27 ch 48 SLA 1996; am § 19 ch 74 SLA 1998; am § § 2, 3 ch 106 SLA 2008)

Revisor's notes. — Subsection (b) was enacted as (c); relettered in 2008, at which time subsection (b) was relettered as subsection (c).

Cross references. — For provisions relating to the applicability of AS 15.13 to certain persons if a court determines that persons who are not individuals must be allowed to contribute to candidates or groups, see § 30, ch. 48, SLA 1996 in the Temporary and Special Acts.

Effect of amendments. — The 2008 amendment, effective June 21, 2008, rewrote subsection (a), and added subsection (c) [now (b)].

Editor's notes. — Section 33 (a), ch. 48, SLA 1996 provides that the amendment to this section made by § 27, ch. 48, SLA 1996 takes effect only in the lieutenant governor determines that § § 1–32, ch. 48, SLA 1996 are substantially the same as the law proposed by the initiative identified as Initiative Petition 95 CFPO. The lieutenant governor communicated her determination to that effect to the initiative sponsors by letter dated May 29, 1996. See also May 21, 1996. See also May 21, 1996 OP. Att'y Gen. Accordingly, under § 35, ch. 48, SLA 1996, the amendment to this section takes effect January 1, 1997.

Related Advisory Opinions: 84-05, 85-03, 86-04, 88-08, 94-04, 94-05, 96-01, 07-06, 07-07, Memo March 22, 1996

Sec. 24.60.033. Restrictions on employee candidacies.

A legislative employee may not file a letter of intent to become a candidate or file a declaration of candidacy for the legislature. (§ 4 ch 127 SLA 1992)

Sec. 24.60.035. Protection of whistle blowers.

A legislator or legislative employee may not, directly or indirectly, subject a person who reports to the committee or another government entity conduct the person reasonably believes is a violation of this chapter or another state law, to reprisal, harassment, or discrimination. A legislative employee who is discharged, disciplined, involuntarily transferred, or otherwise penalized by a legislator or another legislative employee in violation of this subsection may

- (1) bring a complaint before the committee; and
- (2) bring a separate civil action in the courts seeking damages, payment of back wages, reinstatement, or other relief. (§ 4 ch 127 SLA 1992)

Sec. 24.60.037. Open meetings guidelines.

(a) A meeting of a legislative body is open to the public in accordance with the open meetings guidelines established in this section. A legislator may not participate in a meeting held in violation of these open meetings guidelines.

(b) For purposes of the legislative open meetings guidelines, a meeting occurs when a majority of the members of a legislative body is present and action, including voting, is taken or could be taken, or if a primary purpose of the meeting is the discussion of legislation or state policy. The Uniform Rules of the Alaska State Legislature control the procedure for conducting open and executive sessions of a legislative body.

(c) Legislators may meet in a closed caucus or in a private, informal meeting to discuss and deliberate on political strategy. Those meetings are exempt from the legislative open meetings guidelines. For purposes of this subsection, “political strategy” includes organization of the houses, assignment of committee membership, scheduling of bills, vehicles for adoptions, house-senate relations, other procedural matters, caucus operations, meetings between majority and minority caucus leaders, meetings between majority and minority caucus leaders of both houses, meetings with the governor, deliberations with regard to political strategy, and discussions of issues in the context of political strategy.

(d) *[Repealed, § 74 ch 47 SLA 2007.]*

(e) In cases where there are conflicts between these guidelines and the uniform rules adopted by the Alaska State Legislature, the uniform rules prevail.

(f) The legislative open meetings guidelines are the guidelines that shall be used by the committee when considering complaints filed regarding open meetings.

(g) In the legislative open meetings guidelines,

- (1) “caucus” means a group of legislators who share a political philosophy, or have a common goal, and who organize as a group;

- (2) “legislative body”
- (A) includes
 - (i) the senate;
 - (ii) the house of representatives;
 - (iii) the senate and the house of representatives meeting in joint session;
 - (iv) a committee of the legislature, other than the Committee on Committees, but including a standing committee, special committee, joint committee, conference or free conference committee, committee of the whole, and permanent interim committee;
 - (v) a legislative commission, task force, or other group established by statute or resolution; or
 - (vi) a caucus of members of one or more of the bodies set out in (i) – (v) of this subparagraph;
 - (B) does not include
 - (i) any committee or group of legislators considering only matters involving the organization of a committee or a house of the legislature, including selection of legislative officers;
 - (ii) any committee or group of legislators and the governor or staff of the Office of the Governor;
 - (iii) legislative leadership meetings;
 - (iv) officers of a caucus;
- (3) “meeting” does not include
- (A) a gathering of members of a legislative body for primarily ministerial or social purposes; or
 - (B) forums where members of a legislative body have been invited to address a group on legislative issues or concerns. (§ 4 ch 127 SLA 1992; am § 1 ch 69 SLA 1994; am § 1 ch 135 SLA 2004; am § 74 ch 47 SLA 2007)

Effect of amendments. — The 2007 amendment, effective July 10, 2007, repealed paragraph (d).

Related Advisory Opinions: 04-03

Sec. 24.60.039. Discrimination prohibited.

(a) A legislator or legislative employee may not engage in acts of discrimination in violation of AS 18.80.220.

(b) If a person files a complaint with the committee under AS 24.60.170 alleging a violation of this section, the committee may refer the complainant to the State Commission for Human Rights and may defer its consideration of the complaint until after the complainant establishes to the satisfaction of the committee that the commission has completed its proceedings in the matter. (§ 4 ch 127 SLA 1992; am § 20 ch 74 SLA 1998)

Sec. 24.60.040. Contracts or leases.

(a) A legislator or legislative employee, or a member of the immediate family of a legislator or legislative employee, may not be a party to or have an interest in a state contract or lease unless the contract or lease is let under AS 36.30 (State Procurement Code) or, for agencies that are not subject to AS 36.30, under similar procedures, or the total annual amount of the state contract or lease is \$5,000 or less, or is a standardized contract or lease that was developed under publicly established guidelines and is generally available to the public at large, members of a profession, occupation, or group. A person has an interest in a state contract or lease under this section if the person receives direct or indirect financial benefits. A legislator or legislative employee who participates in, or who knows or reasonably should know that a family member is participating in, a state contract or lease that has an annual value of \$5,000 or more shall disclose the participation to the committee by the date required under AS 24.60.105. The committee shall promptly forward the disclosure to the appropriate house for inclusion in the journal, and the presiding officer shall cause the disclosure to be published in the journal or in the supplemental journal not later than the next regularly scheduled publication of ethics disclosures. The legislator or legislative employee shall also disclose the renegotiation of a state contract or lease if the original had to be disclosed under this section or if, as a result of renegotiation, disclosure is required under this section. The disclosure must state the amount of the contract or lease and the name of the state agency issuing the contract or lease and must identify the procedures under which the contract or lease was issued. If the disclosure concerns a contract or lease in which a family member of the discloser is participating, the disclosure must identify the relationship between the participant and the discloser.

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

(c) In this section, "direct or indirect financial benefits" means income, profits, or other financial benefits under a state contract, without regard to whether the income, profits, or other financial benefits ensue to the person as a partner, shareholder, investor, agent, employee, consultant, or joint venture of the contractor. (§ 1 ch 36 SLA 1984; am § 24 ch 106 SLA 1986; am § 4 ch 113 SLA 1986; am § 5 ch 127 SLA 1992; am §§ 21, 22 ch 74 SLA 1998; am § 22 ch 47 SLA 2007)

Revisor's notes. — Subsection (b) was enacted as (c). Relettered in 1998, at which time former (b) was relettered as (c).

Effect of amendments. — The 2007 amendment, effective July 10, 2007, inserted the fourth sentence subsection (a).

Related Advisory Opinions: 84-06, 86-05, 87-04, 87-06, 87-07, 91-01, 93-01, 93-07, 95-02, 99-01

Sec. 24.60.045. Hazardous waste contracts. [Repealed, § 42 ch 127 SLA 1992.]

Sec. 24.60.050. State programs and loans.

(a) A legislator or legislative employee may, without disclosure to the committee, participate in a state benefit program or receive a loan from the state if the program or loan is generally available to members of the public, is subject to fixed, objective eligibility standards, and requires minimal discretion in determining qualification.

(b) The committee shall review state benefit programs and state loans and annually publish a list of programs and loans, designating which ones do not meet the standards of (a) of this section.

(c) A legislator or legislative employee who participates in a program or receives a loan that is not exempt from disclosure under (a) of this section shall file with the committee by the date required under AS 24.60.105 a disclosure stating the amounts of the loans outstanding or benefits received during the preceding calendar year from nonqualifying programs. If the committee requests additional information necessary to determine the propriety of participating in the program or receiving the loan, it shall be promptly provided. The committee shall maintain the disclosure as a public record and promptly forward the information contained in the disclosure to the presiding officer of each house who shall have it published in the supplemental journals on or before the next regularly scheduled publication of ethics disclosures. If a legislator or legislative employee asks the committee to keep any part of the disclosure confidential and a quorum of the committee determines by vote of a majority of committee members that making the entire disclosure public would cause an unjustifiable invasion of personal privacy, the committee may elect to publish only the fact that a person has participated in the program and the amount of benefit that the unnamed person received. The committee shall maintain the disclosure of the name of the person as confidential and may only use the disclosure in a proceeding under AS 24.60.170. If the disclosure becomes part of the record of a proceeding under AS 24.60.170, the disclosure may be made public as provided in that section.

(d) If loan proceeds or other program benefits are received from nonqualifying programs or loans after the end of a calendar year, the legislator or legislative employee shall file a statement with the committee within 30 days after the beginning of participation in the state program or receipt of proceeds from the state loan or by the date required under AS 24.60.105, whichever is later. If the committee receives the statement while the legislature is in session, it shall promptly forward the statement to the chief clerk of the house or the secretary of the senate, as appropriate, who shall cause it to be published in the supplemental journal. If the committee receives a statement while the legislature is not in session, it shall forward the statement to the chief clerk of the house or the secretary of the senate for publication when the legislature next convenes.

(e) If the committee determines that a legislator or legislative employee received a state benefit or loan as a result of unfair or improper influence, the committee may initiate a complaint or take other appropriate action. In addition, the committee shall refer the matter to the attorney general for action under other civil or criminal laws.

(f) The committee shall annually recommend to the Legislative Budget and Audit Committee the programs and loans to be audited by the division of legislative audit during the following year, including the scope of the audit. The records of the relevant state agencies shall be made available to the division of legislative audit. The division of legislative audit shall prepare a report to the Legislative Budget and Audit Committee on its findings. The report is confidential until it is released by the Legislative Budget and Audit Committee.

(§ 1 ch 36 SLA 1984; am § 5 ch 113 SLA 1986; am § 2 ch 167 SLA 1988; am § 6 ch 127 SLA 1992; am § 23 ch 74 SLA 1998; am § 14 ch 33 SLA 1999; am § 23 ch 47 SLA 2007; am § 4 ch 45 SLA 2012)

Effect of amendments. — The 2007 amendment, effective July 10, 2007, rewrote subsection (c).

The 2012 amendment, effective August 22, 2012, in the third sentence of (c), substituted “maintain the

disclosure as a public record and promptly forward the information contained in the “disclosure” for “promptly compile a list of the statements indicating the loans and programs and amounts and sent it.”

Related Advisory Opinions: 94-07

Sec. 24.60.060. Confidential information.

(a) A legislator, legislative employee, or public member of the committee may not knowingly make a n unauthorized disclosure of information that is made confidential by law and that the person acquired in the course of official duties. A person who violates this section is subject to a proceeding under AS 24.60.170 and may be subject to prosecution under AS 11.56.860 or another law.

(b) A legislator or legislative employee who is the subject of a complaint under AS 24.60.170 violates this section if the legislator or legislative employee violates a protective order issued under AS 24.60.170(i). (§ 1 ch 36 SLA 1984; am § 7 ch 127 SLA 1992; am § 24 ch 74 SLA 1998; am § 5 ch 45 SLA 2012)

Effect of amendments. — The 2012 amendment, effective August 22, 2012, in (a), added “public member of the committee” and made a related change.

Sec. 24.60.070. Disclosure of close economic associations.

(a) A legislator or legislative employee shall disclose to the committee, which shall maintain a public record of the disclosure and forward the disclosure to the respective house for inclusion in the journal, the formation or maintenance of a close economic association involving a substantial financial matter with

- (1) a supervisor who is not a member of the legislature who has responsibility or authority, either directly or indirectly, over the person's employment, including preparing or reviewing performance evaluations, or granting or approving pay raises or promotions; this paragraph does not apply to a public member of the committee;
- (2) legislators;
- (3) a public official as that term is defined in AS 39.50;
- (4) a registered lobbyist; or
- (5) a legislative employee if the person required to make the disclosure is a legislator.

(b) A legislator or legislative employee required to make a disclosure under this section shall make a disclosure by the date set under AS 24.60.105 of the legislator's or legislative employee's close economic associations then in existence. A disclosure under this section must be sufficiently detailed that a reader of the disclosure can ascertain the nature of the association.

(c) When making a disclosure under (a) of this section concerning a relationship with a lobbyist to whom the legislative employee is married or who is the legislative employee's domestic partner, the legislative employee shall also disclose the name and address of each employer of the lobbyist and the total monetary value received by the lobbyist from the lobbyist's employer. The legislative employee shall report changes in the employer of the spouse or domestic partner within 48 hours after the change. In this subsection, "employer of the lobbyist" means the person from whom the lobbyist received amounts or things of value for engaging in lobbying on behalf of the person.

(d) In this section, "close economic association" means a financial relationship that exists between a person covered by this chapter and some other person or entity, including but not limited to relationships where the person covered by this chapter serves as a consultant or advisor to, is a member or representative of, or has a financial interest in, any association, partnership, business, or corporation.

(§ 1 ch 36 SLA 1984; § 6 ch 113 SLA 1986; am §§ 8, 9 ch 127 SLA 1992; am § 16 ch 6 SLA 1993; am §§ 2, 26 ch 74 SLA 1998; am § 27 ch 108 SLA 2003; am §§ 24, 25 ch 47 SLA 2007)

Revisor's notes. — Subsection (c) was enacted as (d). Relettered in 1998, at which time former subsection (c) was relettered as (d).

Effect of amendments. — The 2007 amendment, effective July 10, 2007, substituted “ as that term is

defined in AS 39.50” for “who is required to file a financial disclosure statement under AS 39.50 and is not an appointed municipal officer” in paragraph (a)(3), and deleted references to “legislator or” preceding “legislative employee” throughout subsection (c).

Related Advisory Opinions: 85-05, 86-01, 86-02, 87-01, 87-02, 87-03, 92-04, 93-02, 94-01, 94-06, 94-14, 95-03, 03-01, 08-04, 09-02, 09-05

Sec. 24.60.075. Compassionate gift exemption.

(a) Notwithstanding AS 24.45.121 and AS 24.60.080, a person may give a compassionate gift to a legislator or legislative employee, and a legislator or a legislative employee may solicit, receive, or accept a compassionate gift from a person, subject to the limitations in (b) – (e) of this section.

(b) A compassionate gift may not be solicited, accepted, or received unless a written request has been approved in writing by the chair of the legislative council, and the committee chair or vice-chair has approved in writing the decision of the chair of the legislative council.

(c) A legislator or legislative employee who receives a compassionate gift, directly or indirectly, shall disclose to the committee the name of the gift's source and the value of the gift within 30 days after receipt.

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

(e) In this section, “compassionate gift” means a solicited or unsolicited gift intended to aid or comfort a recipient or a member of the recipient's immediate family in contending with a catastrophe, a tragedy, or a health-related emergency. (§ 26 ch 47 SLA 2007; am § 1 ch 2 SLA 2008)

Effect of amendments. — The 2008 amendment, effective February 14, 2008, deleted the first sentence of subsection (c), which read: “A legislator or legislative employee may not solicit,

accept, or receive, directly or indirectly, compassionate gifts worth less than \$250 that in a calendar year aggregate to \$250 or more in value and are from the same person.”

Sec. 24.60.080. Gifts.

- (a) Except as otherwise provided in this section, a legislator or legislative employee may not
- (1) solicit, accept, or receive, directly or indirectly, a gift worth \$250 or more, whether in the form of money, services, a loan, travel, entertainment, hospitality, promise, or other form, or gifts from the same person worth less than \$250 that in a calendar year aggregate to \$250 or more in value;
 - (2) solicit, accept, or receive a gift with any monetary value from a lobbyist, an immediate family member of a lobbyist, or a person acting on behalf of a lobbyist, except

- (A) food or beverage for immediate consumption;
- (B) a contribution to a charity event, tickets to a charity event, and gifts to which the tickets may entitle the bearer; however, under this subparagraph a legislator or legislative employee may not solicit, accept, or receive from the same lobbyist, an immediate family member of the lobbyist, or a person acting on behalf of the lobbyist, tickets to a charity event, gifts to which the tickets may entitle the bearer, or both, that in a calendar year aggregate to \$250 or more in value; in this subparagraph, “charity event” means an event the proceeds of which go to a charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and that the Alaska Legislative Council has approved in advance; the tickets may entitle the bearer to admission to the event, to entertainment, to food or beverages, or to other gifts or services in connection with the charity event;
- (C) a gift that is unconnected with the recipient’s legislative status and is from a member of the legislator’s or legislative employee’s immediate family;
- (D) a gift delivered on the premises of a state facility and accepted on behalf of a recognized nonpolitical charitable organization; or
- (E) a compassionate gift under AS 24.60.075.

(b) [Repealed, § 42 ch 127 SLA 1992.]

(c) Notwithstanding (a)(1) of this section, it is not a violation of this section for a person who is a legislator or legislative employee to accept

- (1) hospitality, other than hospitality described in (4) of this subsection,
 - (A) with incidental transportation at the residence of a person; however, a vacation home located outside the state is not considered a residence for the purposes of this subparagraph; or
 - (B) at a social event or meal;
- (2) discounts that are available
 - (A) generally to the public or to a large class of persons to which the person belongs; or
 - (B) when on official state business, but only if receipt of the discount benefits the state;
- (3) food or foodstuffs indigenous to the state that are shared generally as a cultural or social norm;
- (4) travel and hospitality primarily for the purpose of obtaining information on matters of legislative concern;
- (5) gifts from the immediate family of the person; in this paragraph “immediate family” means
 - (A) the spouse of the person;
 - (B) the person’s domestic partner;
 - (C) a child, including a stepchild and an adopted child, of the person or of the person’s domestic partner;
 - (D) a parent, sibling, grandparent, aunt, or uncle of the person;
 - (E) a parent, sibling, grandparent, aunt, or uncle of the person’s spouse or the person’s domestic partner; and
 - (F) a stepparent, stepsister, stepbrother, step-grandparent, step-aunt, or step-uncle of the person, the person’s spouse, or the person’s domestic partner;
- (6) gifts that are not connected with the recipient's legislative status;
- (7) a discount for all or part of a legislative session, including time immediately preceding or following the session, or other gift to welcome a legislator or legislative employee who is employed on the personal staff of a legislator or by a standing or special

committee to the capital city or in recognition of the beginning of a legislative session if the gift or discount is available generally to all legislators and the personal staff of legislators and staff of standing and special committees; this paragraph does not apply to legislative employees who are employed by the Legislative Affairs Agency, the office of the chief clerk, the office of the senate secretary, the legislative budget and audit committee, the office of victims' rights, or the office of the ombudsman;

- (8) a gift of legal services in a matter of legislative concern and a gift of other services related to the provision of legal services in a matter of legislative concern;
- (9) a gift of transportation from a legislator or a legislative employee to a legislator or a legislative employee if the transportation takes place in the state on or in an aircraft, boat, motor vehicle, or other means of transport owned or under the control of the donor; this paragraph does not apply to travel described in (4) of this subsection or travel for political campaign purposes; or
- (10) a contribution to a charity event, a ticket to a charity event, or a gift in connection with a charity event; in this paragraph, "charity event" has the meaning given in (a)(2)(B) of this section.

(d) A legislator or legislative employee who accepts a gift under (c)(4) of this section that has a value of \$250 or more or a ticket to a charity event or gift in connection with a charity event under (c)(10) of this section that has a value of \$250 or more shall disclose to the committee, within 60 days after receipt of the gift, the name and occupation of the donor and the approximate value of the gift. A legislator or legislative employee who accepts a gift under (c)(8) of this section that the recipient expects will have a value of \$250 or more in the calendar year shall disclose to the committee, within 30 days after receipt of the gift, the name and occupation of the donor, a general description of the matter of legislative concern with respect to which the gift is made, and the approximate value of the gift. The committee shall maintain a public record of the disclosures it receives relating to gifts under (c)(4), (c)(8), (c)(10), and (i) of this section and shall forward the disclosures to the appropriate house for inclusion in the journal. The committee shall forward to the Alaska Public Offices Commission copies of the disclosures concerning gifts under (c)(4), (c)(8), (c)(10), and (i) of this section that it receives from legislators and legislative directors. A legislator or legislative employee who accepts a gift under (c)(6) of this section that has a value of \$250 or more shall, within 30 days after receiving the gift, disclose to the committee the name and occupation of the donor and a description of the gift. The committee shall maintain disclosures relating to gifts under (c)(6) of this section as confidential records and may only use, or permit a committee employee or contractor to use, a disclosure under (c)(6) of this section in the investigation of a possible violation of this section or in a proceeding under AS 24.60.170. If the disclosure under (c)(6) of this section becomes part of the record of a proceeding under AS 24.60.170, the confidentiality provisions of that section apply to the disclosure.

(e) A political contribution is not a gift under this section if it is reported under AS 15.13.040 or is exempt from the reporting requirement under AS 15.13.040 (g). The use of a bulk mailing permit owned by a legislator's campaign committee or used in a legislator's election campaign is not a gift to that legislator under this section.

(f) Notwithstanding (a) of this section, a legislator or legislative employee may accept a gift of property worth \$250 or more, other than money, from another government or from an official of another government if the person accepts the gift on behalf of the legislature. The person shall, within 60 days after receiving the gift, deliver the gift to the legislative council, which shall determine the appropriate disposition of the gift. In this subsection, "another government" means a foreign government or the government of the United States, another state, a municipality, or another jurisdiction.

(g) Notwithstanding (a) of this section, a legislator or legislative employee may solicit, accept, or receive a gift on behalf of a recognized, nonpolitical charitable organization.

(h) A legislator, a legislative committee other than the Select Committee on Legislative Ethics, or a legislative agency may accept a gift of

- (1) volunteer services for legislative purposes so long as the person making the gift of services is not receiving compensation from another source for the services, or
- (2) the services of a legislative intern who is participating in an educational program approved by the committee if the services are used for legislative purposes. The committee shall approve training under a program of the University of Alaska and training under 29 U.S.C. 2801 – 2945 (Workforce Investment Act of 1998).

(i) A legislator or legislative employee who knows or reasonably should know that an immediate family member has received a gift because of the family member's connection with the legislator or legislative employee shall disclose for publication under (d) of this section the receipt of the gift by the family member to the committee if the gift would have to be disclosed under this section if it had been received by the legislator or legislative employee. If receipt of the gift by a person who is a legislator or legislative employee would be prohibited under this section, a member of the person's immediate family may not receive the gift.

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

(k) [Repealed, § 74 ch 47 SLA 2007.] (§ 1 ch 36 SLA 1984; am § 3 ch 167 SLA 1988; am §§ 10 – 13, 42 ch 127 SLA 1992; am §§ 27 – 33 ch 74 SLA 1998; am § 9 ch 3 SLA 2002; am § 42 ch 86 SLA 2002; am § 28 ch 108 SLA 2003; am § 6 ch 115 SLA 2003; am § 3 ch 10 SLA 2006; am §§ 27 – 30, 74 ch 47 SLA 2007; §§ 2, 3 ch 94 SLA 2008; am §§ 6–9 ch 45 SLA 2012)

Revisor's notes — Subsections (g) — (j) were enacted as (h) — (k). Relettered in 1998, at which time former subsection (g) was relettered as (k).

Effect of amendments. — The 2006 amendment, effective March 31, 2006, added paragraph (11) of subsection (c), making corresponding stylistic changes.

The 2007 amendment, effective July 10, 2007, inserted the paragraph (1) and (2) designations in subsection (a), rewrote paragraph (a)(2), substituted "(a)(1)" for "(a)" in the introductory language of subsection (c), inserted "person who is a" in the introductory language of subsection (c), added the definition of "immediate family" in paragraph (c)(5), inserted "the office of victims' rights" in paragraph (c)(7), inserted "or a legislative employee" twice in paragraph (c)(9), deleted former paragraph (c)(10), relating to tickets for charity events, redesignated former paragraph (c)(11) as (c)(10), substituted "(a)(2)(B)" for "(10)" in paragraph (c)(10), substituted "(c)(8), and (i)" for "and (8)" in the third and fourth sentences of subsection (d), substituted "within 30 days after receiving the gift, disclose to the committee" for "disclose to the committee annually on or before March

15" in the fifth sentence of subsection (d), split subsection (i) into two sentences, substituted "an immediate family member" for "a family member," "disclose for publication under (d) of this section" for "report," and "disclosed" for "reported" in the first sentence of subsection (i), inserted "person who is a" and "a member of the person's immediate family may not receive the gift" in the second sentence of subsection (i), and repealed subsection (k).

The 2008 amendment, effective September 14, 2008, inserted "a contribution to a charity event from any person at any time, and" at the beginning of subparagraph (a)(2)(B), added subparagraphs (a)(2)(C) – (E), and deleted the last two sentences of subsection (h), relating to legislative volunteers or educational trainees.

The 2012 amendment, effective August 22, 2012, rewrote (a)(2)(B); in (c)(10), substituted "a ticket to a charity event, or a gift in connection with a charity event" for "from any person at any time"; in the first sentence of (d), added "of this section that has a value of \$250 or more or a ticket to a charity event or gift in connection with a charity event under (c)(10)" following "under (c)(4)" and substituted "60" for "30", in the third and fourth sentences inserted "(c)(10)" following "(c)(8)"; in (h), substituted "services of a legislative intern" for "services of a trainee".

Related Advisory Opinions: 88-03, 88-05, 88-09, 89-01, 89-03, 89-04, 89-06, 90-01, 92-01, 92-03, 93-03, 93-04, 93-05, 93-06, 93-08, 93-09, 94-03, 94-09, 95-03, 96-03, 96-04, 96-05, 97-01, 98-01, 99-02, 00-01, 02-02, 03-02, 11-04

(Note: See 24.60.112. Applicability to legislative interns and volunteers.)

Sec. 24.60.085. Restrictions on earned income and honoraria.

(a) A legislator or legislative employee may not

- (1) seek or accept compensation for personal services that is significantly greater than the value of the services rendered taking into account the higher rates generally charged by specialists in a profession; or
- (2) accept a payment of anything of value, except for actual and necessarily incurred travel expenses, for an appearance or speech by the legislator or legislative employee; this paragraph does not apply to the salary paid to a legislator or legislative employee for making an appearance or speech as part of the legislator's or legislative employee's normal course of employment.

(b) Notwithstanding (a) of this section, a legislator or legislative employee may accept a payment for an appearance or speech if the appearance or speech is not connected with the person's legislative status.

(c) During the term for which elected or appointed, a legislator may not, directly or by authorizing another to act on the legislator's behalf, accept or agree to accept compensation, except from the State of Alaska, for work associated with legislative action, administrative action, or political action. Notwithstanding AS 24.60.990, in this subsection, "administrative action" and "legislative action" have the meanings given in AS 24.45.171. (§ 14 ch 127 SLA 1992; am § 34 ch 74 SLA 1998; am § 31 ch 47 SLA 2007)

Effect of amendments. — The 2007 amendment, effective July 10, 2007, added subsection (c).

Related Advisory Opinions: 87-05, 95-01

Sec. 24.60.090. Nepotism.

(a) An individual who is related to a member of the legislature may not be employed for compensation

- (1) during the legislative session in the house in which the legislator is a member,
- (2) by an agency of the legislature established under AS 24.20,
- (3) in either house during the interim between sessions, or
- (4) whether for compensation or not, by the committee.

An individual who is related to a legislative employee may not be employed in a position over which the employee has supervisory authority. In this subsection, "an individual who is related to" means a member of the legislator's or legislative employee's immediate family or a person who is a legislator's or legislative employee's domestic partner living together in a conjugal relationship not a legal marriage with the legislator or legislative employee, and "interim between sessions"

means the period beginning on the eighth day after the legislature adjourns from a regular session, and ending eight days before the date that the legislature shall convene under AS 24.05.090 .

(b) [Repealed, § 42 ch 127 SLA 1992.]

(c) [Repealed, § 42 ch 127 SLA 1992.] (§ 1 ch 36 SLA 1984; am §§ 15, 42 ch 127 SLA 1992; am § 29 ch 108 SLA 2003)

NOTES TO DECISIONS

Stated in Muller v. BP Exploration (Alaska) Inc.,
923 P.2d 783 (Alaska 1996).

Related Advisory Opinions: 96-02

Sec. 24.60.100. Representation.

A legislator or legislative employee who represents another person for compensation before an agency, board, or commission of the state shall disclose the name of the person represented, the subject matter of the representation, and the body before which the representation is to take place to the committee. The disclosure shall be made by the deadlines set out in AS 24.60.105. The committee shall maintain a public record of a disclosure under this section and forward the disclosure to the respective house for inclusion in the journal. A legislator or legislative employee may not represent another person for compensation before an agency, committee, or other entity of the legislative branch. (§ 1 ch 36 SLA 1984; § 7 ch 113 SLA 1986; am § 16 ch 127 SLA 1992; am § 35 ch 74 SLA 1998)

Related Advisory Opinions: 86-06, 88-01, 89-02

Sec. 24.60.105. Deadlines for filing disclosures.

(a) When a legislator or legislative employee is required to file a disclosure under this chapter and a date by which the disclosure must be filed is not otherwise set by statute, the deadline for filing the disclosure shall be 30 days after the commencement of the matter or interest or the date the legislator or legislative employee first becomes subject to this chapter, whichever comes later.

(b) Disclosures under the following statutes are subject to the deadlines set out in this section:

- (1) service on the board of an organization as set out in AS 24.60.030(f);
- (2) an interest in a state contract or lease under AS 24.60.040 and the renegotiation of the terms of a state contract or lease that materially affect the obligations of either party;
- (3) participation in a state program or receipt of a state loan under AS 24.60.050 and the renegotiation of the terms of the program or loan if the renegotiation materially affects the obligations of either party;
- (4) formation or maintenance of a close economic association under AS 24.60.070;
- (5) representation of a client under AS 24.60.100.

(c) In addition to the filing requirements under (a) and (b) of this section, the disclosures under this section shall be made annually, in a report filed with the committee within 30 days after the first day of the regular legislative session. (§ 36 ch 74 SLA 1998; am §§ 32, 33 ch 47 SLA 2007)

(d) A person may submit a written request to refrain from making a disclosure that is required by this chapter if making the disclosure would violate state or federal law, including the United States

Constitution and the Constitution of the State of Alaska, or a rule, adopted formally by a trade or profession, that state or federal law requires the person to follow. The committee shall approve or deny the request, or require further justification from the person making the request. At the request of the committee or a person authorized to act on behalf of the committee, a person who seeks to refrain from making a disclosure under this subsection shall provide the committee with justification in writing, and the committee may review the written justification to determine whether it is sufficient. (§ 36 ch 74 SLA 1998; am §§ 32, 33 ch 47 SLA 2007; am § 10 ch 45 SLA 2012)

Effect of amendments. — The 2007 amendment, effective July 10, 2007, rewrote subsection (a) and added subsection (c).

The 2012 amendment, effective August 22, 2012, added (d).

Sec. 24.60.110. Action on a conflict of interest. [Repealed, § 42 ch 127 SLA 1992.]

Related Advisory Opinions: 07-01

Sec. 24.60.112 Applicability to legislative interns and volunteers. A legislative intern or legislative volunteer shall be considered to be a legislative employee for purposes of compliance with AS 24.60.030 – 24.60.039, 24.60.060, 24.60.080, 24.60.085, 24.60.158 - 24.60.170, 24.60.176, and 24.60.178. If a person believes that a legislative intern or legislative volunteer has violated the provisions of one of those sections, the person may file a complaint under AS 24.60.170. The provisions of AS 24.60.170 apply to the proceeding. (§ 4 ch 94 SLA 2008; am § 11 ch 45 SLA 2012)

Revisor’s notes. — This section was enacted as AS 24.60.080 (i) and renumbered in 2008, at which time “this section” was deleted and “24.60.080” was added. However, before its enactment as AS 24.60.080(i), the language of this section was part of AS 24.60.080(h).

Effect of amendments. – The 2012 amendment, effective August 22, 2012, rewrote the section, substituting “legislative volunteer” for “educational trainee” throughout.

Sec. 24.60.115. Disclosure required of a legislator, legislative employee, or public member of the committee after final day of service.

A person serving as a legislator, legislative employee, or public member of the committee shall, not later than 90 days after the person’s final day of service as a legislator, legislative employee, or public member, file a final disclosure of every matter or interest, except for a matter or interest subject to disclosure under AS 24.60.200, that was subject to disclosure under this chapter while the person was serving, unless the person previously disclosed the matter or interest and, for that reason, the matter or interest is no longer subject to disclosure. Nothing in this section excuses the filing of a disclosure or report as may be required by another section of this chapter.

(§ 34 ch 47 SLA 2007)

Sec. 24.60.120. State property and funds. [Repealed, § 42 ch 127 SLA 1992.]

Article 3. Legislative Ethics Committee; Opinions; Complaints.

Section

- 130. Select Committee on Legislative Ethics
- 134. Prohibited conduct by public members and committee employees and contractors
- 140. Authority of the committee and its subcommittees
- 150. Duties of the committee
- 155. Legislative ethics course
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Section

- 165. Use of information submitted with request for advice
- 170. Proceedings before the committee; limitations
- 174. Recommendations to the legislature where violator is a legislator
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Sec. 24.60.130. Select Committee on Legislative Ethics.

(a) There is established as a permanent interim committee within the legislative branch of state government the Select Committee on Legislative Ethics.

(b) The committee consists of nine members, in two subcommittees, as follows:

- (1) the senate subcommittee, which consists of two members of the senate, one of whom shall be a member of the minority organizational caucus, if any, appointed by the president of the senate with the concurrence by roll call vote of two-thirds of the full membership of the senate, and includes the five public members appointed under (3) of this subsection;
- (2) the house subcommittee, which consists of two members of the house, one of whom shall be a member of the minority organizational caucus, if any, appointed by the speaker of the house with the concurrence by roll call vote of two-thirds of the full membership of the house, and includes the five public members appointed under (3) of this subsection; and
- (3) five public members who are selected by the Chief Justice of the Alaska Supreme Court and who are ratified by two-thirds of the full membership of the senate and two-thirds of the full membership of the house.

(c) No more than one public member may be a former legislator and no more than two public members of the committee may be members of the same political party.

(d) The members of each subcommittee shall elect a chair and a vice-chair, who serve a term of two years. Neither a chair nor a vice-chair may be a member of the legislature. An officer may not hold the same office for more than two consecutive terms. The vice-chair shall act as chair in the absence of the chair. The chair selected by the senate subcommittee shall chair the full committee beginning the first day of the regular session in odd-numbered years and the chair selected by the house subcommittee shall chair the full committee beginning the first day of the regular session in even-numbered years.

(e) Except as provided in this subsection, a vacancy on the committee shall be filled under (b) of this section. An individual who is appointed to fill a vacancy that occurs during the last 10 days of the first regular session of a legislature or during the interim between regular sessions of that legislature serves without concurrence or ratification through the 10th day of the second regular session of the legislature. An individual who is appointed to fill a vacancy that occurs during the

last 10 days of the second regular session of a legislature or during the interim after the second regular session serves without concurrence or ratification through the convening of the first regular session of the next legislature.

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

(g) Each legislative member serves for the duration of the legislature during which the member is appointed. Each public member serves for a term that commences on the date the member is ratified and ends on the first day of the third regular session that follows the ratification. A public member whose term has expired continues in office until a successor has been appointed and ratified or until the 30th calendar day of the first legislative session that follows the successor's appointment, whichever is earlier. A member of the committee may be removed from membership on the committee for failure to carry out the person's duties as a member of the committee. A legislator may be removed with the concurrence by roll call vote of two-thirds of the full membership of the house of the legislature to which the member belongs. A public member may be removed with the concurrence by roll call vote of two-thirds of the full membership of each house of the legislature.

(h) A member is disqualified from participating as a member in any proceeding before the committee involving a complaint against the member or an employee whose work is supervised by the member or an advisory opinion requested by the member. If a regular legislative member of the committee is disqualified under this subsection from participating in a proceeding involving a complaint, the member's alternate shall be designated under AS 24.60.131.

(i) A quorum of the committee consists of a majority of the members and must include at least two legislative members and three public members. A quorum of a subcommittee established under this section consists of a majority of the members of the subcommittee and must include at least one legislative member and three public members. A vote of a majority of the members appointed to the committee or a subcommittee is required for official action.

(j) Except to the extent that a provision would prevent the committee from complying with the confidentiality provisions of this chapter, the committee is subject to AS 44.62.310 - 44.62.312 and to the procurement provisions adopted by the legislative council under AS 36.30.020 . In this subsection, "committee" includes a subcommittee.

(k) A member or an employee or contractor of the committee may obtain access to closed committee files containing information that is made confidential by law only if the committee determines that the person has a need to obtain access to the closed files that relates to the official duties of the committee and the person seeking access.

(l) The committee or a subcommittee shall meet at the call of the chair or a majority of the members. The committee or a subcommittee may meet by teleconference.

(m) Except as provided in (b)(1) and (2) of this section, a member may not be a legislator, a legislative employee, an elected or appointed official required to make disclosures under AS 39.50 (public official financial disclosure), an officer of a political party, a candidate for public office, or a registered lobbyist.

(n) *[Repealed, § 18 ch 45 SLA 2012.]*

(o) Notwithstanding (h) of this section and AS 24.60.131, if a complaint before the committee alleges a violation of this chapter by a group of legislators that includes a legislative member of the committee and that member's alternate, the member and alternate member are disqualified from serving on the committee with regard to the complaint. If the two disqualified members of the committee are members of the majority organizational caucus, the presiding officer of the house in which the two disqualified members serve shall appoint from that house an alternate to serve with regard to the complaint. If one of the two disqualified legislative members of the committee is not a member of the majority organizational caucus, the leader of the minority organizational caucus with the greatest number of members shall appoint from that house an alternate to serve with regard to the complaint. If a complaint alleges a violation of this chapter that includes all legislative members of the majority organizational caucus of one house, the presiding officer of that house shall appoint from the other house an alternate to serve with regard to the complaint. If the complaint alleges a violation of this chapter that includes all legislative members of a minority organizational caucus of one house, the leader of that minority organizational caucus shall appoint from the other house an alternate to serve with regard to the complaint.

(p) In this section,

- (1) "majority organizational caucus" means a group of legislators who have organized and elected a majority leader and constitute more than 50 percent of the total membership of the house or senate, as appropriate;
- (2) "minority organizational caucus" means a group of legislators who have organized and elected a minority leader and constitute at least 25 percent of the total membership of the house or senate, as appropriate.

(§ 1 ch 36 SLA 1984; am §§ 9, 10 ch 113 SLA 1986; am §§ 4 — 6 ch 167 SLA 1988; am §§ 17 — 24 ch 127 SLA 1992; am §§ 37 — 40 ch 74 SLA 1998; am § 15 ch 33 SLA 1999; am §§ 35 — 37 ch 47 SLA 2007; am §§ 12, 13, 18 ch 45 SLA 2012)

Revisor's notes. — Subsection (n) was enacted as

(o) and relettered in 1998. Subsection (o) was enacted as (p) and relettered in 2007. Former subsection (n) was relettered as (o) in 1998, and relettered again as (p) in 2007.

In 2010, "AS 44.62.310—44.62.319 (Open Meetings Act)" was substituted for "AS 44.62.310—44.62.312" in accordance with § 29(2), ch. 58, SLA 2010.

Effect of amendments. — The 2007 amendment, effective July 10, 2007, inserted the third sentence of

subsection (n), inserted "or if the regular member is unable to attend" in the fourth sentence of subsection (n), inserted the designations of paragraph (1) and (2) in subsection (o) [now (p)], and added subsection (p)(1) [now (o)(1)].

The 2012 amendment, effective August 22, 2012, in (h), substituted "AS 24.60.131" for "(n) of this section"; in the first sentence of (o), substituted "Notwithstanding (h) of this section and AS 24.60.131" for "Notwithstanding (h) and (n) of this section"; repealed (n).

Sec. 24.60.131. Alternate members.

(a) When appointing members of the legislature to serve on the committee under AS 24.60.130(b), the speaker of the house of representatives or the president of the senate, as appropriate, shall appoint an alternate member for each regular member. The alternate member shall have the same qualifications for appointment to the committee as the regular member for whom the

alternate stands as alternate. The alternate member's appointment is subject to confirmation as required for appointment of the regular member.

- (b) When selecting public members to serve on the committee under AS 24.60.130(b), the Chief Justice of the Alaska Supreme Court shall select one alternate public member. The alternate public member's selection is subject to ratification as required for selection of the regular public members.
- (c) Subject to (d) of this section, if a regular member of the committee or a subcommittee is unable to participate in a proceeding other than a proceeding under AS 24.60.170, the chair of the committee or subcommittee that holds the proceeding shall designate the regular member's alternate to participate in place of the regular member at the proceeding, and the alternate shall participate for the duration of that proceeding unless the alternate is unable to participate.
- (d) If a regular member of the committee or a subcommittee or an alternate member appointed under (a) or (b) of this section participates at the commencement of a proceeding under AS 24.60.170, the member shall participate for the duration of the proceeding unless the member is disqualified under AS 24.60.130(h) or is unable to continue participating. If the participating member is disqualified under AS 24.60.130(h) or becomes unable to participate, the chair of the committee or subcommittee that holds the proceeding shall designate the member's alternate to participate in place of the member for the duration of the proceeding unless the alternate is disqualified or is unable to participate.
- (e) If both a regular legislative member and that member's alternate appointed under (a) of this section are not available to participate at the commencement of a proceeding under AS 24.60.170 because they are disqualified under AS 24.60.130(h), the presiding officer of the house in which the two members serve shall appoint from that house an alternate and designate that alternate to participate in the proceeding; however, if the two members who are not available to participate are not members of the majority organization caucus, the leader of the minority organizational caucus with the greatest number of members shall appoint from that house an alternate and designate that alternate to participate in the proceeding.
- (f) A designation under (c) – (e) of this section shall be treated as confidential to the same extent that the identity of the subject of a complaint is required to be kept confidential. (§ 14 ch 45 SLA 2012)

Effect dates. – Sections 14, ch. 45, SLA 2012, which enacted this section, took effect on August 22, 2012.

Sec. 24.60.134. Prohibited conduct by public members and committee employees and contractors.

- (a) Except as provided in (c) of this section, in addition to complying with the other requirements of this chapter, a public member of the committee, an employee of the committee, or a person under contract to provide personal services to the committee may not, during the person's term of office or employment or during the life of the contract, participate in
 - (1) political management or in a political campaign for a candidate for election to federal, state, or local office, regardless of whether the campaign is partisan or nonpartisan, or for passage or defeat of a ballot measure of any type;

- (2) the campaign of, attend campaign fund-raising events for, or make a financial contribution to
 - (A) a candidate for the legislature;
 - (B) an incumbent legislator or legislative employee who is a candidate for another public office; or
 - (C) a person running for another office against an incumbent legislator or legislative employee;
- (3) a fund-raising event held on behalf of a political party or attend a political party fund-raising event; or
- (4) lobbying activities that would require the person to register as a lobbyist except as required to inform the legislature concerning legislation requested by the committee or other matters related to the committee.

(b) A violation or alleged violation of this section shall be treated as any other violation of this chapter and shall be dealt with by the committee accordingly. During the pendency of a complaint against a member, committee employee, or committee contractor, the person complained against may not participate in official action of the committee.

(c) A person under contract to provide personal services to the committee who is part of a corporation or partnership that includes individuals who will not be participating directly in the work performed by the entity for the committee may request the committee to exclude members of the entity from some or all of the provisions of this section. The committee may grant the request if it finds that 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. (§ 25 ch 127 SLA 1992; am §§ 41, 42 ch 74 SLA 1998)

Related Advisory Opinions: 94-10, 95-02, 96-06

Sec. 24.60.140. Authority of the committee and its subcommittees.

(a) The senate subcommittee has authority over proceedings concerning conduct by a member or former member of the senate or a person employed by a member or a committee of the senate.

(b) The house subcommittee has authority over proceedings concerning the conduct by a member or former member of the house or a person employed by a member or a committee of the house.

- (c)** The full committee has authority
- (1) over proceedings concerning the conduct by an employee of an agency of the legislature;
 - (2) to review any matter arising under this chapter that would result in action being required by both houses of the legislature; and
 - (3) to issue advisory opinions under AS 24.60.160. (§ 1 ch 36 SLA 1984)

Sec. 24.60.150. Duties of the committee.

- (a)** The committee shall
- (1) adopt procedures to facilitate the receipt of inquiries and prompt rendition of its opinions;

- (2) publish annual summaries of decisions and advisory opinions with sufficient deletions in the summaries to prevent disclosing the identity of the persons involved in the decisions or opinions that have remained confidential;
- (3) publish legislative ethics materials, including an annually updated handbook on standards of ethical conduct and bimonthly legislative newsletter, to help educate legislators, legislative employees, and public members of the committee on the subject of legislative ethics;
- (4) within 10 days of the first day of each regular session of the legislature and at other times determined by the committee, administer two types of legislative ethics courses that teach means of compliance with this chapter and are designed to give an understanding of this chapter's purpose under AS 24.60.010; one course, for returning legislators, legislative employees, or public members of the committee, shall refresh knowledge and review compliance issues; a separate course shall be designed to give first-time legislators, legislative employees, or public members of the committee a fundamental understanding of this chapter and how to comply with it.

(b) The committee may

- (1) recommend legislation to the legislature the committee considers desirable or necessary to promote and maintain high standards of ethical conduct in government;
- (2) subpoena witnesses, administer oaths, and take testimony relating to matters before the committee, and may require the production for examination of any books or papers relating to any matter under investigation before the committee.

(§ 1 ch 36 SLA 1984; am § 11 ch 113 SLA 1986; am § 38 ch 47 SLA 2007; am § 5 ch 94 SLA 2008)

Effect of amendments. — The 2007 amendment effective July 10, 2007, added paragraphs (3) and (4) in subsection (a)

The 2008 amendment, effective September 14, 2008, substituted “annual” for “semi-annual” in paragraph (a)(2).

Sec. 24.60.155. Legislative ethics course.

(a) A person who is a legislator, legislative employee, public member of the committee, legislative intern, or legislative volunteer shall complete a legislative ethics course administered by the committee under AS 24.60.150(a)(4) within 10 days of the first day of the first regular session of each legislature or, if the person first takes office or begins service after the 10th day of that session, within 30 days after the person takes office or begins service. The committee may grant a person additional time to complete the course required by this section.

(b) A legislative intern or legislative volunteer who serves fewer than 30 days in one legislature is not subject to the requirements under (a) of this section. (§ 39 ch 47 SLA 2007; am § 15 ch 45 SLA 2012)

Effect of amendments. — The 2012 amendment, effective August 22, 2012, rewrote the section to add

references to legislative interns and legislative volunteers, and a (b).

Sec. 24.60.158. Advice by staff.

The committee shall authorize and train its staff to give oral advice and provide a written informal nonbinding advice letter to persons seeking guidance as to the spirit or legal requirements of this chapter, provided that the advice is given with the express stipulations that

- (1) the opinions given are not necessarily those of the committee;
- (2) although the advice is given in good faith, the person seeking the advice relies on it at the person's own risk; and
- (3) the advice is not binding upon the committee. (§ 26 ch 127 SLA 1992)

Sec. 24.60.160. Advisory opinions.

(a) On the request of the committee, the Alaska Public Offices Commission, a person to whom this chapter applies, or a person who has been newly elected to the legislature, the committee shall issue an advisory opinion within 60 days as to whether the facts and circumstances of a particular case constitute a violation of ethical standards. If it finds that it is advisable to do so, the committee may issue an opinion under this section on the request of a person who reasonably expects to become subject to this chapter within the next 45 days. The 60-day period for issuing an opinion may be extended by the committee if the person requesting the opinion consents.

(b) An opinion issued under this section is binding on the committee in any subsequent proceedings concerning the facts and circumstances of the particular case unless material facts were omitted or misstated in the request for the advisory opinion. An opinion issued under this section must be issued with sufficient deletions to prevent disclosing the identity of the person or persons involved. Advisory opinion discussions and deliberations are confidential, unless the requester and anyone else named in the request who is covered by this chapter waives confidentiality. The committee's final vote on the advisory opinion is a public record.

(§ 1 ch 36 SLA 1984; am § 12 ch 113 SLA 1986; am § 27 ch 127 SLA 1992; am § 43 ch 74 SLA 1998; am § 40 ch 47 SLA 2007)

Cross references. — The Select Committee on Legislative Ethics maintains a public online electronic database of advisory opinions interpreting the Legislative Ethics Act.

Effect of amendments. — The 2007 amendment, effective July 10, 2007, inserted “the committee, the

Alaska Public Offices Commission” and made stylistic changes in the first sentence of subsection (a), substituted the last three sentences of subsection (b) for the last sentence, which provided for the confidentiality of advisory opinions.

Related Advisory Opinions: 84-02, 84-03, 84-04

Sec. 24.60.165. Use of information submitted with request for advice.

The committee may not bring a complaint against a person based upon information voluntarily given to the committee by the person in connection with a good faith request for advice under AS 24.60.158 or 24.60.160, and may not use that information against the person in a proceeding under AS 24.60.170. This section does not preclude the committee from acting on a complaint concerning the subject of a person's request for advice if the complaint is brought by another person, or if the complaint arises out of conduct taking place after the advice is requested, and does not preclude the committee from using information or evidence obtained from an independent source, even if that information or evidence was also submitted with a request for advice. (§ 28 ch 127 SLA 1992)

Sec. 24.60.170. Proceedings before the committee; limitations.

(a) The committee shall consider a complaint alleging a violation of this chapter if the alleged violation occurred within five years before the date that the complaint is filed with the committee. The committee may not consider a complaint filed against all members of the legislature, against all members of one house of the legislature, or against a person employed by the legislative branch of government after the person has terminated legislative service. However, the committee may reinstitute proceedings concerning a complaint that was closed because a former employee terminated legislative service if the former employee resumes legislative service, whether as an employee or a legislator, within five years after the alleged violation.

(b) A complaint may be initiated by any person. The complaint must be in writing and signed under oath by the person making the complaint and must contain a statement that the complainant has reason to believe that a violation of this chapter has occurred and describe any facts known to the complainant to support that belief. The committee shall upon request provide a form for a complaint to a person wishing to file a complaint. Upon receiving a complaint, the committee shall advise the complainant that the committee or the subject of the complaint may ask the complainant to testify at any stage of the proceeding as to the complainant's belief that the subject of the complaint has violated this chapter. The committee shall respond to a complaint concerning the conduct of a candidate for election to state office received during the campaign period in accordance with (o) of this section. The committee shall treat a complaint concerning the conduct of a candidate for election to state office that is pending at the beginning of a campaign period in accordance with (p) of this section. The committee shall immediately provide a copy of the complaint to the person who is the subject of the complaint.

(c) When the committee receives a complaint under (a) of this section, it may assign the complaint to a staff person. The staff person shall conduct a preliminary examination of the complaint and advise the committee whether the allegations of the complaint, if true, constitute a violation of this chapter and whether there is credible information to indicate that a further investigation and proceeding is warranted. The staff recommendation shall be based on the information and evidence contained in the complaint as supplemented by the complainant and by the subject of the complaint, if requested to do so by the staff member. The committee shall consider the recommendation of the staff member, if any, and shall determine whether the allegations of the complaint, if true, constitute a violation of this chapter. If the committee determines that the allegations, if proven, would not give rise to a violation, that the complaint is frivolous on its face, that there is insufficient credible information that can be uncovered to warrant further investigation by the committee, or that the committee's lack of jurisdiction is apparent on the face of the complaint, the committee shall dismiss the complaint and shall notify the complainant and the subject of the complaint of the dismissal. The committee may ask the complainant to provide clarification or additional information before it makes a decision under this subsection and may request information concerning the matter from the subject of the complaint. Neither the complainant nor the subject of a complaint is obligated to provide the information. A proceeding conducted under this subsection, documents that are part of a proceeding, and a dismissal under this subsection are confidential as provided in (l) of this section unless the subject of the complaint waives confidentiality as provided in that subsection.

(d) If the committee determines that some or all of the allegations of a complaint, if proven, would constitute a violation of this chapter, or if the committee has initiated a complaint, the committee shall investigate the complaint, on a confidential basis. Before beginning an investigation of a complaint, the committee shall adopt a resolution defining the scope of the investigation. A copy of this resolution shall be provided to the complainant and to the subject of the complaint. As part

of its investigation, the committee shall afford the subject of the complaint an opportunity to explain the conduct alleged to be a violation of this chapter.

(e) If during the investigation under (d) of this section, the committee discovers facts that justify an expansion of the investigation and the possibility of additional charges beyond those contained in the complaint, the resolution described in (d) of this section shall be amended accordingly and a copy of the amended resolution shall be provided to the subject of the complaint.

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

(g) If the committee investigation determines that a probable violation of this chapter exists that may be corrected by action of the subject of the complaint and that does not warrant sanctions other than correction, the committee may issue an opinion recommending corrective action. This opinion shall be provided to the complainant and to the subject of the complaint, and is open to inspection by the public. Within 20 days after receiving the opinion, the subject of the complaint may request a confidential meeting with the committee at which meeting the committee shall explain the reasons for its recommendations. The committee may divulge confidential information to the subject of the complaint. The information remains confidential. The subject of the complaint may comply with the opinion or may request a hearing before the committee under (j) of this section. After the hearing, the committee may amend or affirm the opinion. If the subject of the complaint agrees to comply with the opinion but later fails to complete the corrective action in a timely manner, the committee may formally charge the person as provided in (h) of this section or may refer the matter to the appropriate house of the legislature, in the case of a legislator, or, in the case of a legislative employee, to the employee's appointing authority. The appropriate house of the legislature or the appointing authority, as appropriate, may take action to enforce the corrective action or may decline to take action and refer the matter to the committee. In either case, the committee may formally charge the person under (h) of this section.

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

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

- (1) impose reasonable restrictions on the time for this discovery and on the materials that may be discovered;
- (2) permit a person who is the subject of a complaint to engage in discovery at an earlier stage of the proceedings;

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

(j) If the committee has issued a formal charge under (h) of this section, and if the person charged has not admitted the allegations of the charge, the committee shall schedule a hearing on the charge. The committee may appoint an individual to present the case against the person charged if that individual does not provide other legal advice to the committee except in the course of presenting cases under this subsection. The hearing shall be scheduled for a date more than 20 and less than 90 days after service of the charge on the person charged, unless the committee schedules a later hearing date. If the complainant prevents the hearing from starting before the 90-day deadline passes and a quorum of the committee determines by vote of a majority of committee members the delay is not supported by a compelling reason or will result in the person charged being deprived of a fair hearing, the committee may dismiss the complaint with prejudice or enter some other order the committee determines is appropriate. At the hearing, the person charged shall have the right to appear personally before the committee, to subpoena witnesses and require the production of books or papers relating to the proceedings, to be represented by counsel, and to cross-examine witnesses. A witness shall testify under oath. The committee is not bound by the rules of evidence, but the committee's findings must be based upon clear and convincing evidence. Testimony taken at the hearing shall be recorded, and evidence shall be maintained.

(k) Following the hearing, the committee shall issue a decision stating whether or not the subject of the complaint violated this chapter, and explaining the reasons for the determination. The committee's decision may also indicate whether the subject cooperated with the committee in its proceedings. If the committee finds a violation, or lack of cooperation by the subject, the decision shall recommend what sanctions, if any, the committee believes are appropriate. If there has not been a hearing because the person charged admitted to the allegations of the charge, the committee shall issue a decision outlining the facts of the violation and containing a sanctions recommendation.

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

confidentiality provision, the committee shall immediately dismiss the complaint. Dismissal of a complaint under this subsection does not affect the right of the committee or any other person other than the complainant to initiate a complaint based on the same factual allegations.

(m) All documents issued by the committee after a determination of probable cause to believe that the subject of a complaint has violated this chapter, including an opinion recommending corrective action under (g) of this section and a formal charge under (h) of this section, are subject to public inspection. Hearings of the committee under (j) of this section are open to the public, and documents presented at a hearing, and motions filed in connection with the hearing, are subject to inspection by the public. Deliberations of the committee following a hearing, deliberations on motions filed by the subject of a charge under (h) of this section, and deliberations concerning appropriate sanctions are confidential.

(n) The committee shall dismiss a complaint against a person employed by the legislative branch of government if the person terminates legislative service. The committee may in its discretion dismiss a complaint against a former member of the legislature whether the complaint was filed before or after the former member departed from the legislature.

(o) The committee shall return a complaint concerning the conduct of a candidate for state office received during a campaign period to the complainant unless the subject of the complaint permits the committee to assume jurisdiction under this subsection. If the committee receives a complaint concerning the conduct of a candidate during the campaign period, the committee shall immediately notify the subject of the complaint of the receipt of the complaint, of the suspension of the committee's jurisdiction during the campaign period, and of the candidate's right to waive the suspension of jurisdiction under this subsection. The candidate may, within 11 days after the committee mails or otherwise sends notice of the complaint to the candidate, notify the committee that the candidate chooses to have the committee proceed with the complaint under this section. If the candidate does not act within that time or if the candidate notifies the committee that the candidate is not waiving the suspension of committee jurisdiction, the committee shall return the complaint to the complainant with notice of the suspension of jurisdiction under this subsection and of the right of the complainant to file the complaint after the end of the campaign period.

(p) When the committee has a complaint concerning the conduct of a candidate for state office pending before it at the beginning of a campaign period that has not resulted in the issuance of formal charges under (h) of this section, the committee may proceed with its consideration of the complaint only to the extent that the committee's actions are confidential under this section. The committee may not, during a campaign period, issue a dismissal order or decision under (f) of this section, issue an opinion under (g) of this section, or formally charge a person under (h) of this section. If the committee has formally charged a person under (h) of this section and the charge is still pending when a campaign period begins, the committee shall suspend any public hearings on the matter until after the campaign period ends. The parties to the hearing may continue with discovery during the campaign period. If a hearing has been completed before the beginning of a campaign period but the committee has not yet issued its decision, the committee may not issue the decision until after the end of the campaign period. Notwithstanding the suspension of public proceedings provided for in this subsection, a candidate who is the subject of a complaint may notify the committee in writing that the candidate chooses to have the committee proceed with the complaint under this section.

(q) A campaign period under this section begins on the later of 45 days before a primary election in which the legislator or legislative employee is a candidate for state office or the day on which the individual files as a candidate for state office and ends at the close of election day for the general or special election in which the individual is a candidate or on the day that the candidate withdraws

from the election, if earlier. For a candidate who loses in the primary election, the campaign period ends on the day that results of the primary election showing that another individual won the election are certified.

(r) At any point in the proceedings when the subject of a complaint appears before the committee, the subject of a complaint may choose to be accompanied by legal counsel or another person who may also present arguments before the committee. The choice of counsel or another person is not subject to review and approval or disapproval by the committee. The choice by the subject of a complaint to be accompanied under this subsection does not constitute a waiver of any confidentiality provision of this chapter. (§ 1 ch 36 SLA 1984; am § 13 ch 113 SLA 1986; am § 7 ch 167 SLA 1988; am § 29 ch 127 SLA 1992; am §§ 44 — 52 ch 74 SLA 1998; am §§ 2 — 4 ch 135 SLA 2004; am § 41 ch 47 SLA 2007; am § 8 ch 95 SLA 2008)

Cross references. — For initiation of a false complaint as a crime, see AS 11.56.805.

Effect of amendments. — The 2007 amendment, effective July 10, 2007, substituted “other” for “and has not provided” in the second sentence of subsection (j), substituted “the committee schedules” for “the person agrees to” in the third sentence of subsection (j), and inserted the fourth sentence of subsection (j).

The 2008 amendment, effective January 1, 2009, substituted “five years” for “two years” in the first and third sentences of subsection (a), deleted “and, when the subject of the complaint is a former member of the legislature, the complaint is filed within one year after the subject’s departure from the legislature”

at the end of the first sentence of subsection (a), deleted “or because a legislator left the legislature” following “terminated legislative service” and “or legislator” preceding “resumes legislative service” in the third sentence of subsection (a), and deleted the former last sentence of subsection (a), relating to proceedings against a person who intentionally prevents discovery of a violation.

Editor’s notes. — Section 13(e), ch. 95, SLA 2008, provides that the 2008 amendment of (a) of this section “applies to complaints alleging that violations of [this chapter] occurred

“(1) within two years before January 1, 2009; or
“(2) on or after January 1, 2009.”

Sec. 24.60.174. Recommendations to the legislature where violator is a legislator.

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

- (1) must include a suggested timetable for the compliance reports required under (e) of this section, if any; and
- (2) may include recommended fines that the legislature may impose if the legislator who was found to have violated this chapter does not comply with the sanctions imposed by the legislature in a timely manner.

(b) If the legislature is in session, the appropriate house shall determine the sanctions, if any, that are to be imposed. The vote shall be taken within 10 legislative days of receipt of the committee’s recommendations.

(c) If the legislature is not in session, the presiding officer of the appropriate house may request the legislature to consider convening itself into special session under AS 24.05.100 (a)(2) to consider the committee’s recommendations. If expulsion is recommended, the presiding officer shall so request. If the legislature does not convene itself into special session, the appropriate house shall consider the recommendations during the first 10 days of the next regular session.

(d) Except in the case of expulsion, which requires a two-thirds vote, all other sanctions shall be determined by a majority vote of the full house of which the legislator is a member.

(e) When a house of the legislature imposes a sanction other than expulsion on a member or former member, it shall advise the committee at the time of imposing the sanction of the terms it has imposed and of the timetable for compliance adopted with the sanctions. A legislator or former legislator on whom sanctions other than expulsion have been imposed shall report to the committee as required by the timetable. If the committee determines that the legislator or former legislator has not complied fully and in a timely manner with the sanctions imposed by the legislature, the committee may recommend that the legislature impose a fine or additional sanctions. (§ 30 ch 127 SLA 1992; am §§ 53, 54 ch 74 SLA 1998)

Sec. 24.60.176. Recommendations where violator is a legislative employee.

(a) If the person found to have violated this chapter is or was a legislative employee, the committee's recommendations shall be forwarded to the appropriate appointing authority which shall, as soon as is reasonably possible, determine the sanctions, if any, to be imposed. The appointing authority may not question the committee's findings of fact. The appointing authority shall assume the validity of the committee's findings and determine and impose the appropriate sanctions. The appointing authority has the power to impose a sanction recommended by the committee or to impose a different sanction. The appointing authority shall enforce the sanction and shall report to the committee at a time specified by the committee concerning the employee's compliance with the sanction.

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

- (1) the legislative council for employees of the Legislative Affairs Agency and of the legislative council and for legislative employees not otherwise covered under this subsection;
- (2) the Legislative Budget and Audit Committee for the legislative fiscal analyst and employees of the division of legislative finance, the legislative auditor and employees of the division of legislative audit, and employees of the Legislative Budget and Audit Committee;
- (3) the appropriate finance committee for employees of the senate or house finance committees;
- (4) the appropriate rules committee for employees of
 - (A) standing committees of the legislature, other than the finance committees;
 - (B) the senate secretary's office and the office of the chief clerk of the house of representatives; and
 - (C) house records and senate records;
- (5) the legislator who made the hiring decision for employees of individual legislators; however, the legislator may request the appropriate rules committee to act in the legislator's stead;
- (6) the ombudsman for employees of the office of the ombudsman, other than the ombudsman;
- (7) the legislature for the ombudsman.
- (8) the victims' advocate for employees of the office of victims' rights, other than the victims' advocate;
- (9) the legislature for the victims' advocate.

(§ 30 ch 127 SLA 1992; am §§ 55, 56 ch 74 SLA 1998; § 41 ch 47 SLA 2007)

Effect of amendments. — The 2007 amendment, effective July 10, 2007, added paragraphs (8) and (9) of subsection (b).

Sec. 24.60.178. Sanctions recommended by committee.

(a) When the committee finds that a person has violated this chapter, the committee may recommend appropriate sanctions, including sanctions set out in (b) of this section.

(b) The sanctions that the committee may recommend include

- (1) imposition of a civil penalty of not more than \$5,000 for each offense or twice the amount improperly gained, whichever is greater;
- (2) divestiture of specified assets or withdrawal from specified associations;
- (3) additional, detailed disclosure, either as a public disclosure or as a confidential disclosure to the committee;
- (4) in the case of a legislative employee, suspension of employment with or without pay for a stated period of time or until stated conditions are met, or termination from legislative employment;
- (5) restitution of property or reimbursement of improperly received benefits;
- (6) public or private written reprimand;
- (7) censure, including, in the case of a legislator, removal from a leadership position or committee membership and a determination that the legislator will not be appointed to serve in a leadership position or on a committee during the remainder of that legislature;
- (8) placing the person on probationary status;
- (9) in the case of a legislator, expulsion from the house of the legislature;
- (10) any other appropriate measure.

(c) In addition to or in place of a sanction recommended under (b) of this section, the committee may recommend that the subject of a complaint be required to pay all or a portion of the costs related to the investigation and adjudication of a complaint. (§ 57 ch 74 SLA 1998)

Cross references. — For forfeiture of pensions of certain public officers convicted of crimes involving

Corruption; see AS 37-10.310. For bribery and related offenses, see AS 11.56.100 – 11.56.130.

Sec. 24.60.180. [Renumbered as AS 24.60.980.]

Sec. 24.60.190. Definitions. [Repealed, § 42 ch 127 SLA 1992.]

Article 4. Required Annual Financial Disclosure.

Section

200. Financial disclosure by legislators, public members of the committee and legislative directors

210. Deadlines for filing of disclosure statements

220. Administration of AS 24.60.200 - 24.60.260

230. Statements as public records

Section

240. Civil penalty for late filing

250. Effect of failure to file

255. Administrative complaints

260. Prohibited conduct relating to disclosures

Administrative Code. — For legislative financial disclosure, see 2 AAC 50, art.5.

Sec. 24.60.200. Financial disclosure by legislators, public members of the committee, and legislative directors.

A legislator, a public member of the committee, and a legislative director shall file a disclosure statement, under oath and on penalty of perjury, with the Alaska Public Offices Commission giving the following information about the income received or deferred income, earned or otherwise, to be received by the discloser, the discloser's spouse or domestic partner, the discloser's dependent children, and the discloser's nondependent children who are living with the discloser:

- (1) the information that a public official is required to report under AS 39.50.030 , other than information about
 - (A) income received as compensation for personal services;
 - (B) a loan or loan guarantee;
 - (C) gifts;
- (2) as to income or deferred income in excess of \$1,000 earned or received as compensation for personal services, and as to dividend income or deferred compensation in excess of \$1,000 received from limited liability company as compensation or deferred compensation for personal services, a statement describing
 - (A) the names and addresses of the source and the recipient;
 - (B) the amount;
 - (C) whether it was or will be earned by commission, by the job, by the hour, or by some other method;
 - (D) the dates and approximate number of hours worked or to be worked to earn it; and
 - (E) unless required by law to be kept confidential, a description sufficient to make clear to a person of ordinary understanding the nature of each service performed or to be performed and the date the service was performed or will be performed;
- (3) as to each loan or loan guarantee over \$1,000 from a source with a substantial interest in legislative, administrative, or political action, the name and address of the person making the loan or guarantee, the amount of the loan, the terms and conditions under which the loan or guarantee was given, the amount outstanding at the time of filing, and whether or not a written loan agreement exists. (§ 31 ch 127 SLA 1992; am § 58 ch 74 SLA 1998; am §§ 30, 31 ch 108 SLA 2003; am § 3 ch 155 SLA 2004; am § 43 ch 47 SLA 2007)

Effect of amendments. — The 2006 amendment, effective December 17, 2006, substituted “\$1,000” for “\$5,000” in paragraph (2); and deleted former subsection (b), concerning specifications for information submitted in print form.

The 2007 amendment, effective July 10, 2007, in-

serted “or deferred income, earned or otherwise, to be received” in the introductory language, in paragraph (1), inserted subparagraphs (A) and (B) and the subparagraph (C) designation, and rewrote paragraph (2).

NOTES TO DECISIONS

Reporting of deferred income. — Because of indefinite and ambiguous reporting statutes and instructions, a state senator could not be fined a civil penalty for failure to report on his Legislative

Financial Disclosure Statement deferred income he received as a member of a corporate board of directors. Alaska Pub. Offices Comm’n v. Stevens, 205 P.3d 321 (Alaska 2009), (decided under prior version of section).

Sec. 24.60.210. Deadlines for filing of disclosure statements.

(a) A person required to file a disclosure statement under AS 24.60.200 shall file an annual report with the Alaska Public Offices Commission, covering the previous calendar year, containing the disclosures required by AS 24.60.200, on or before March 15 of each year, except that a person appointed as a legislator under AS 15.40, a public member of the committee, or a legislative director must file within 30 days after the person’s appointment. In addition, a person subject to this subsection shall within 90 days after leaving service as a legislator, legislative director, or public member of the committee, file a final report containing the disclosures required of the person by AS 24.60.200 for the period that begins on the last day of the last period for which the person filed a report required by that section and ends on the date of the person’s last day of service.

(b) Notwithstanding (a) of this section, a public member and a public member nominee of the committee shall file an annual report with the Alaska Public Offices Commission, covering the previous calendar year, containing the disclosures required by AS 24.60.200, on or before the second Monday in January of each year.

(c) The Alaska Public Offices Commission shall require that the reports required under this section be submitted electronically but may, when circumstances warrant an exception, accept any information required under this section that is typed in clear and legible black typeface or hand-printed in dark ink on paper in format approved by the commission or on forms provided by the commission and that is filed with the commission. (§ 31 ch 127 SLA 1992; am § 59 ch 74 SLA 1998; am § 1 ch 127 SLA 2002; am §§ 44, 45 ch 47 SLA 2007) (c) effective January 1, 2009

Effect of amendments. — The first 2007 amendment, effective July 10, 2007, added the exception at the end of the first sentence of subsection (a), and added the second sentence of that subsection.

The second 2007 amendment, effective January 1, 2009, added subsection (c).

Sec. 24.60.220. Administration of AS 24.60.200 - 24.60.260.

The Alaska Public Offices Commission shall

- (1) adopt regulations to implement and interpret the provisions of AS 24.60.200 - 24.60.260;
- (2) prepare standardized forms on which the statements required by AS 24.60.200 shall be filed; and
- (3) examine, investigate, and compare all reports and statements required under AS 24.60.200, and report all possible violations of this chapter it discovers to the committee. (§ 31 ch 127 SLA 1992)

Sec. 24.60.230. Statements as public records.

A statement filed with the Alaska Public Offices Commission under AS 24.60.200 is a public record. A person is not required to comply with AS 24.60.200 to the extent that a court of competent jurisdiction of the state determines that legally privileged professional relationships or constitutional privacy considerations would be violated by compliance. (§ 31 ch 127 SLA 1992)

Sec. 24.60.240. Civil penalty for late filing.

A person required to file a disclosure statement under AS 24.60.200 who fails to file a properly completed report under AS 24.60.200 is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as the Alaska Public Offices Commission determines, subject to appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the Alaska Public Offices Commission by the person against whom the civil penalty is assessed. However, the imposition of the penalties prescribed in this section does not excuse the person from filing reports required by AS 24.60.200. (§ 31 ch 127 SLA 1992; am § 60 ch 74 SLA 1992)

Sec. 24.60.250. Effect of failure to file.

(a) In addition to the sanctions described in AS 24.60.260, if the Alaska Public Offices Commission finds that a candidate for the legislature who is an incumbent legislator has failed to file a report under AS 24.60.200 by March 15, the commission shall notify the candidate that the report is late. If the candidate fails to file the report within 30 days after it is due,

- (1) the commission shall notify the lieutenant governor;
- (2) the candidate shall forfeit nomination to office and may not be seated in office;
- (3) the lieutenant governor may not certify the person's nomination for office or election to office; and
- (4) nomination to the office shall be certified as provided in AS 39.50.060(b).

(b) In addition to the sanctions described in AS 24.60.260, if the Alaska Public Offices Commission finds that a member of the committee has failed or refused to file a report under AS 24.60.200 by a deadline established in AS 24.60.210, it shall notify the presiding officer of the appropriate legislative body. In the case of a public member of the committee, the commission shall notify both presiding officers.

(c) In addition to the sanctions described in AS 24.60.260, if the Alaska Public Offices Commission finds that a legislative director has failed or refused to file a report under AS 24.60.200 by a deadline established in AS 24.60.210, it shall notify the Alaska Legislative Council or the Legislative Budget and Audit Committee, as appropriate. For the ombudsman, and the office of victims' rights, the Alaska Legislative Council shall be notified. (§ 31 ch 127 SLA 1992; am § 14 ch 63 SLA 1998; am § 61 ch 74 SLA 1998; am § 46 ch 47 SLA 2007)

Effect of amendments. — The 2007 amendment effective July 10, 2007, inserted “and the office of victims' rights” in the last sentence of subsection (c).

Sec. 24.60.255. Administrative complaints.

(a) A person may file a written complaint alleging a violation of AS 24.60.200 – 24.60.260 has occurred or is occurring.

(b) Complaints filed under (a) of this section must be filed within five years after date of the alleged violation.

(c) If a member of the Alaska Public Offices Commission files a complaint, that member of the commission may not participate in any proceeding of the commission relating to the complaint. (§ 9 ch 95 SLA 2008)

Cross references. — For initiation of a false complaint as a crime, see AS 11.56.805.

Editor's notes. – Section 13(f), ch. 95, SLA

2008, provides that this section “applies to complaints alleging violations of AS 24.60.200 – 24.60.260 that occur on or after January 1, 2009.

Sec. 24.60.260. Prohibited conduct relating to disclosures; penalties.

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

(b) A person who violates this section is subject to a proceeding under AS 24.60.170, in addition to penalties that may be imposed by the Alaska Public Offices Commission under AS 24.60.240 and to the penalty set out in AS 24.60.250.

(c) The committee may impose a fine on a person who files a disclosure after a deadline set by this chapter. The amount of the fine imposed under this subsection may not exceed \$2 for each day to a maximum of \$100 for each late filing unless the committee determines that the late filing was inadvertent or willful. If the committee finds that a late filing was inadvertent, the maximum fine the committee may impose under this subsection is \$25. If the committee determines that the late filing was willful, the amount of the fine imposed under this subsection may be \$100 for each day but may not exceed a maximum of \$2,500. (§31 ch 127 SLA 1992; am §§ 62, 63 ch 74 SLA 1998; am § 6 ch 94 SLA 2008; am § 16 ch 45 SLA 2012)

Effect of amendments. — The 2008 amendment, effective September 14, 2008, substituted “late filing unless the committee determines that the late filing was inadvertent or willful” for “disclosure for a late disclosure” in the second sentence of subsection (c),

deleted “However” at the beginning of the third sentence of that subsection, and added the last sentence of that subsection.

The 2012 amendment, effecting August 22, 2012, in the second sentence of (a), deleted “by the committee or” following “by a regulation adopted”.

Article 5. Miscellaneous and General Provisions.

Section

970. Actions by the attorney general

980. Cooperation by state agencies

Section

990. Definitions

995. Short title

Sec. 24.60.970. Actions by the attorney general.

The attorney general may independently bring civil actions relating to violations under this chapter regardless of the outcome or settlement of a charge before the committee. This section does not prohibit the attorney general from bringing an action under another civil or criminal law.
(§ 30 ch 127 SLA 1992)

Revisor’s notes. — Enacted as AS 24.60.178.
Renumbered in 1992.

Sec. 24.60.980. Cooperation by state agencies.

Each agency of the executive branch of state government shall, to the extent permitted by state or federal law, cooperate fully with the committee or a subcommittee by providing information and assistance, including disclosure of financial material and other records relating to a potential violation of this chapter.
(§ 1 ch 36 SLA 1984)

Revisor’s notes. — Formerly AS 24.60.180.
Renumbered in 1992.

Sec. 24.60.990. Definitions.

(a) In this chapter,

- (1) "administrative action" means conduct related to the development, drafting, consideration, enactment, defeat, application, or interpretation of a rule, regulation, policy, or other action in a regulatory proceeding or a proceeding involving a license, permit, franchise, or entitlement for use;
- (2) "anything of value," "benefit," or "thing of value" includes all matters, whether tangible or intangible, that could reasonably be considered to be a material advantage,

of material worth, use, or service to the person to whom it is conferred; the terms are intended to be interpreted broadly and encompass all matters that the recipient might find sufficiently desirable to do something in exchange for; "anything of value," "benefit," or "thing of value" does not include

- (A) an item listed in AS 24.60.080(a)(2)(B) or (c);
 - (B) campaign contributions, pledges, political endorsements, support in a political campaign, or a promise of endorsement or support;
 - (C) contributions to a cause or organization, including a charity, made in response to a direct solicitation from a legislator or a person acting at the legislator's direction; or
 - (D) grants under AS 37.05.316 to named recipients;
- (3) "committee" means the Select Committee on Legislative Ethics and includes, when appropriate, the senate or house subcommittee;
 - (4) "compensation" means remuneration for personal services rendered, including salary, fees, commissions, bonuses, and similar payments, but does not include reimbursement for actual expenses incurred by a person;
 - (5) "domestic partner" means a person who is cohabiting with another person in a relationship that is like a marriage but that is not a legal marriage;
 - (6) "immediate family" means
 - (A) the spouse or domestic partner of the person; or
 - (B) a parent, child, including a stepchild and an adopted child, and sibling of a person if the parent, child, or sibling resides with the person, is financially dependent on the person, or shares a substantial financial interest with the person;
 - (7) "income" means an asset that a person has received or expects to receive, regardless of whether it is earned or unearned; inheritances and other gifts are not income;
 - (8) "knowingly" has the meaning given in AS 11.81.900;
 - (9) "legislative action" means conduct relating to the development, drafting, consideration, sponsorship, enactment or defeat, support or opposition to or of a law, amendment, resolution, report, nomination, or other matter affected by legislative action or inaction;
 - (10) "legislative director" means the director of the legislative finance division, the legislative auditor, the director of the legislative research agency, the ombudsman, the victims' advocate, the executive director of the Legislative Affairs Agency, and the directors of the divisions within the Legislative Affairs Agency;
 - (11) "legislative employee" means a person, other than a legislator, who is compensated by the legislative branch in return for regular or substantial personal services, regardless of the person's pay level or technical status as a full-time or part-time employee, independent contractor, or consultant; it includes public members and staff of the committee; it does not include individuals who perform functions that are incidental to legislative functions, and other employees designated by the committee;
 - (12) "lobbyist" means a person who is required to register under AS 24.45.041 and is described under AS 24.45.171, but does not include a volunteer lobbyist described in AS 24.45.161 (a)(1) or a representational lobbyist as defined under regulations of the Alaska Public Offices Commission;
 - (13) "political action" means conduct in which public officials, including legislators or legislative employees, use their official position or political contacts to exercise influence on state and local government employees or entities; it includes but is not limited to endorsing and pledging support or actively supporting a legislative matter, a nominee, or a candidate for public office;
 - (14) "registered lobbyist" means a person who is required to register under AS 24.45.041;

- (15) "representation" means action taken on behalf of another, whether for compensation or not, including but not limited to telephone calls and meetings and appearances at proceedings or meetings;
- (16) "state office" includes the office of governor, lieutenant governor, member of the legislature, or similar state office.

(b) A person has a substantial interest in legislative, administrative, or political action if the person

- (1) is not a natural person and will be directly and substantially affected financially by a legislative, administrative, or political action;
- (2) is a natural person and will be directly and substantially affected financially by a legislative, administrative, or political action in a way that is greater than the effect on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region;
- (3) has or seeks contracts in excess of \$10,000 annually for goods or services with the legislature or with an agency of the state; or
- (4) is a lobbyist. For the purpose of this subsection, the state, the federal government, and an agency, corporation, or other entity of or owned by the state, the federal government, do not have a substantial interest in legislative, administrative, or political action. (§ 31 ch 127 SLA 1992; am §§ 64, 65 ch 74 SLA 1998; am § 17 ch 92 SLA 2001; am §§ 32, 33, 41 ch 108 SLA 2003; am § 7 ch 115 SLA 2003; am §§ 47, 48 ch 47 SLA 2007; am § 17 ch 45 SLA 2012)

Revisor's notes. — Paragraph (5) was enacted as paragraph (17) and renumbered in 2003, at which time former paragraph (15) was repealed and paragraphs (5) – (14) were renumbered as (6) – (15).

Effect of amendments. — The 2007 amendment, effective July 10, 2007, substituted “AS 24.60.080(a)(2)(B) or (c)” for “AS 24.60.080(c)” in subparagraph (a)(2)(A); and substituted “an asset that a

person has received or expects to receive, regardless of whether it is” for “assets that are received, regardless of whether they are” in paragraph (a)(7).

The 2012 amendment, effective August 22, 2012, in (a)(11), deleted “including security, messenger, maintenance, and print shop employees,” following “incidental to legislative functions.”

NOTES TO DECISIONS

“Compensation.” — Because of indefinite and ambiguous reporting statutes and instructions, a senator could not be fined a civil penalty for failure to report on his Legislative Financial Disclosure Statement

deferred income he received as a member of a corporate board of directors. *Alaska Pub. Offices Comm'n v. Stevens*, 205 P.3d 321 (Alaska 2009), (decided under prior version of section).

Related Advisory Opinions: 87-04, 99-01, 99-03, Memo June 7, 1996

Sec. 24.60.995. Short title. This chapter may be cited as the Legislative Ethics Act. (§ 18 ch 12 SLA 2006)

APPENDIX B

DEADLINES

for

ETHICS REPORTING DISCLOSURES

and

DISCLOSURE FORMS

FINANCIAL DISCLOSURES TO APOC

COMPLAINT FORM

APPENDIX B

Reporting Deadlines

Legislators, legislative employees, Legislative Budget and Audit employees, public members of the Ethics Committee, Office of the Ombudsman employees, Office of Victims' Rights employees, and legislative directors are covered by AS 24.60, Legislative Ethics Act.

Please review the following information concerning disclosures and determine if you need to file a disclosure. The Legislative Ethics Office is available to answer any questions you may have and help you in completing disclosure forms.

Who	What	Where	When
Legislators & Legislative Employees	Membership on a Board of Directors AS 24.60.030 (f)	Ethics Committee	<ul style="list-style-type: none"> ▪ Within 30 days ▪ Annually within first 30 days of session ▪ 90 days after final day of service
Legislators & Legislative Employees	State Benefit and Loan Programs AS 24.60.050	Ethics Committee	<ul style="list-style-type: none"> ▪ Within 30 days ▪ Annually within first 30 days of session ▪ 90 days after final day of service
Legislators & Legislative Employees	Representation before a State Agency AS 24.60.100	Ethics Committee	<ul style="list-style-type: none"> ▪ Within 30 days ▪ Annually within first 30 days of session ▪ 90 days after final day of service
Legislators & Legislative Employees	Interests in State Contracts/Leases AS 24.60.040	Ethics Committee	<ul style="list-style-type: none"> ▪ Within 30 days ▪ Annually within first 30 days of session ▪ 90 days after final day of service
Legislators & Legislative Employees	Close Economic Associations AS 24.60.070	Ethics Committee	<ul style="list-style-type: none"> ▪ Within 30 days ▪ Annually within first 30 days of session ▪ 90 days after final day of service

NOTE: A legislator or employee, or a family member, who participates in a state contract, lease, or grant with an annual value of \$5,000 or more, must disclose. Reporting applies to interests begun, acquired, or renegotiated.

Who	What	Where	When
Legislative Employees	Close Economic Association with Lobbyist Spouse or Domestic Partner AS 24.60.070	Ethics Committee	<ul style="list-style-type: none"> ▪ Within 30 days ▪ Annually within first 30 days of session ▪ 90 days after final day of service
Legislators & Legislative Employees	Gift of Travel/Hosp. for legislative matters worth \$250 or more AS 24.60.080(c)(4)	Ethics Committee	Within 60 days
Legislators & Legislative Employees	Gift of Travel/Hosp. - Family Member (Because of Legislative Connection) AS 24.60.080(i)	Ethics Committee	Within 60 days
Legislators & Legislative Employees	Gift of Legal Services Related to Legislative Matters AS 24.60.080(c)(8)	Ethics Committee	Within 30 days
Legislators & Legislative Employees	Gift Not Connected to Legislative Status AS 24.60.080(c)(6)	Ethics Committee	Within 30 days
Legislators & Legislative Employees	Gift for Compassionate Reasons AS 24.60.075(c)	Ethics Committee	Within 30 days
Legislators & Legislative Employees	Gift Related to Sanctioned Charity Event AS 24.60.080(c)(10)	Ethics Committee	Within 60 days
Legislators & Legislative Employees	Gift Related to Sanctioned Charity Event-Family Member AS 24.60.080(i)	Ethics Committee	Within 60 days
Legislators & Legislative Employees	Request to Refrain from Making a Disclosure AS 24.60.105(d)	Ethics Committee	See Form B-14

Note: You do not have to file a disclosure if you have nothing to report.

Disclosures may be completed on-line or by using the following disclosure forms.

We encourage you to complete your disclosures on-line. It's easy to do!

Go to: <http://ethics.akleg.gov/disclosures.php>

You will automatically receive an email confirmation indicating your disclosure has been received by the Ethics Office indicating date and time of receipt.

A searchable database of previous disclosures filed online is available at:

<http://ethics.akleg.gov/search.php>

Who	What	Where	When
Legislators, Legislative Directors	Legislative Financial Disclosure (LFD) (Annual Report to APOC)	APOC	March 15, covers previous year
Ethics Committee Public Members	AS 24.60.200	APOC	Second Monday of January, covers previous year

- Newly appointed: File within 30 days of appointment, covers previous year.
- Leaving service: File within 90 days after leaving service covers, period from last report to last day of service.

APPENDIX B

REPORTING FORMS for DISCLOSURES and COMPLAINT FORM

Membership on a Board of Directors.....	B-1
Participation in certain state benefit and loan programs.....	B-2
Agreement to represent a client before a state agency.....	B-3
State contracts, leases, and grants over \$5,000 annual value.....	B-4
Close economic associations.....	B-5
Lobbyist spouse, or spousal equivalent, association.....	B-6
Gift of travel and/or hospitality primarily for matters of legislative concern.....	B-7
Gift of travel and/or hospitality-Family member (due to legislative connection).....	B-8
Gift of legal services related to legislative matters.....	B-9
Gift not connected with the recipient's legislative status-CONFIDENTIAL DISCLOSURE....	B-10
Gift for compassionate reasons.....	B-11
Gift related to Sanctioned Charity Event.....	B-12
Gift related to Sanctioned Charity Event-Family Member.....	B-13
Request to Refrain from Making a Disclosure-CONFIDENTIAL DISCLOSURE.....	B-14
Complaint alleging a violation of the Ethics Act.....	B-15

Disclosure of
Membership on a Board of Directors
of any organization

NAME OF DISCLOSER: _____
Please Print

ADDRESS: _____

PHONE NUMBER (Daytime) _____

EMPLOYER (if legislative employee) _____

**Disclosure of membership on a board of directors
in accordance with AS 24.60.030(f)**

Name of Organization or Entity	Address	Date of Board Membership
1. _____ _____	_____	____/____/____
2. _____ _____	_____	____/____/____
3. _____ _____	_____	____/____/____
4. _____ _____	_____	____/____/____

The above is a true and accurate representation of my membership on boards of directors,
in accordance with AS 24.60.030(f)

Signature

Date

<input type="checkbox"/> Check box if this is your 90 day final report and there are no changes to the above information. <i>AS 24.60.115 requires legislators, legislative employees and public members of the committee leaving service to disclose every matter or interest UNLESS previously disclosed OR the matter or interest is no longer subject to disclosure.</i>	
_____ Signature	_____ Date

REPORTING DEADLINES: AS 24.60.105 and AS 24.60.115

- Within 30 days of becoming a director on a board.
- Annually within the first 30 days of a regular session.
- 90 days after final day of service.

EXPLANATION

A legislator or legislative employee may serve on a board of an organization, including a governmental entity, if the legislator or employee discloses the board membership to the committee. A legislative employee may not serve in a position that requires confirmation by the legislature. Appointments to boards by the presiding officer published in the legislative journal do not require disclosure.

Disclosure of Participation in
State Benefit and Loan Programs
listed in Appendix C of the Standards of Conduct Handbook

NAME OF DISCLOSER: _____

Please Print

ADDRESS: _____

PHONE NUMBER (Daytime): _____

EMPLOYER (if legislative employee): _____

Disclose amounts of loans outstanding or benefits received during the preceding year, in accordance with AS 24.60.050(c), and/or disclose amounts of new loans in the current calendar year, in accordance with AS 24.60.050(d).

Table with 3 columns: NAME OF BENEFIT OR LOAN PROGRAM, Amount of Loan Proceeds or Amount of Program Benefits or Total Amount Outstanding as of 12/31, Date of Receipt or Date of New Loan. Includes rows 1 and 2 for data entry.

The above is a true and accurate representation of my participation in state benefit and/or state loan programs, in accordance with AS 24.60.050(c) and/or (d).

Signature

Date

Check box ONLY if this is your 90 day final report and there are no changes to the above information. AS 24.60.115 requires legislators, legislative employees, and public members of the committee leaving service to disclose every matter or interest UNLESS previously disclosed OR the matter or interest is no longer subject to disclosure. Signature and Date lines.

REPORTING DEADLINES: AS 24.60.105 and AS 24.60.115

- Within 30 days of participation
• Annually within the first 30 days of a regular session.
• 90 days after final day of service.

EXPLANATION

Those covered by the Legislative Ethics Act may participate in any state benefit or state loan program. Participation in any benefit or loan program listed in Appendix C must be disclosed. The programs listed in Appendix C have been selected because they do not meet one or more of the following criteria:

- 1. The program is generally available to members of the public.
2. It is subject to fixed, objective eligibility standards.
3. It requires minimum discretion in determining qualification.

Disclosure of
REPRESENTATION FOR COMPENSATION
THE EXISTENCE OF AN AGREEMENT TO REPRESENT
A CLIENT BEFORE A STATE AGENCY, BOARD OR COMMISSION

NAME OF DISCLOSER: _____
Please Print

ADDRESS: _____

PHONE NUMBER (Daytime): _____

EMPLOYER (if legislative employee) _____

Name of person represented: _____

Subject matter of representation: _____

Body before which representation occurred or is to occur: _____

Date of Representation: _____

The above is a true and accurate representation of my representation,
in accordance with AS 24.60.100

Signature Date

Check box if this is your 90 day final report and there are no changes to the above information. AS 24.60.115 requires legislators, legislative employees and public members of the committee leaving service to disclose every matter or interest UNLESS previously disclosed OR the matter or interest is no longer subject to disclosure.

Signature Date

REPORTING DEADLINES: AS 24.60.105 and AS 24.60.115

- Within 30 days of representation occurring.
- Annually within the first 30 days of a regular session.
- 90 days after final day of service.

EXPLANATION

A legislator or legislative employee may not represent another person for pay before the legislative branch of state government. They may represent another person for pay before the executive or judicial branch. Paid representation before an agency, board or commission of the state must be disclosed. Contact the Ethics Committee if state or federal law requires omitting the name of a client for confidentiality purposes.

Note: AS 24.60.085 prohibits a legislator, directly or by authorizing another to act on their behalf, from accepting or agreeing to accept compensation for work associated with legislative, administrative or political action. Administrative and legislative action is defined in AS 24.45.071. Political action is defined in AS 24.60.990.

Disclosure of Participation in
State Contracts, Leases, and Grants over \$5,000
which meet criteria in AS 24.60.040

NAME OF DISCLOSER: _____
Please Print

NAME OF FAMILY MEMBER (if disclosing participation of a family member): _____

RELATIONSHIP BETWEEN FAMILY MEMBER AND DISCLOSER: _____

ADDRESS OF DISCLOSER: _____

PHONE NUMBER OF DISCLOSER (Daytime): _____

DISCLOSER'S EMPLOYER (if legislative employee): _____

TYPE (Select one): ___ Contract ___ Lease ___ Grant

Describe services provided: _____

Name of state agency awarding contract, lease, or grant: _____

Date of contract, lease, grant, or renegotiation agreement:

Start date: _____ End date: _____

Under what method(s) was contract, lease, or grant issued? (i.e., request for proposals, single source, competitive sealed bid, etc.)

Annual amount/value of contract, lease, or grant: \$_____

Additional clarifying information: _____

The above is a true and accurate representation of my participation in state contracts, leases, and grants over \$5,000, in accordance with AS 24.60.040.

Signature

Date

Check box ONLY if this is your 90 day final report and there are no changes to the above information. AS 24.60.115 requires legislators, legislative employees, and public members of the committee leaving service to disclose every matter or interest UNLESS previously disclosed OR the matter or interest is no longer subject to disclosure.

Signature

REPORTING DEADLINES: AS 24.60.105 and AS 24.60.115

- Within 30 days of signing contract, lease, grant agreement, or renegotiation agreement.
• Annually within the first 30 days of a regular session.
• 90 days after final day of service.

EXPLANATION

Renegotiation of contract, lease, or grant must be disclosed if original contract, lease, or grant was disclosed or, if as a result of renegotiation, the contract, lease, or grant falls under the disclosure requirements.

Disclosure of a
CLOSE ECONOMIC ASSOCIATION
(Lobbyist Spouse or Domestic Partner of Legislative Employee)

NAME OF DISCLOSER: _____
Please Print

ADDRESS: _____

PHONE NUMBER (Daytime): _____

EMPLOYER: _____

**Disclosure of a close economic association,
in accordance with AS 24.60.070(c)**

Lobbyist with whom association exists: _____

Lobbyist Employer	Address	Total Contract Value	Date of Contract
1. _____	_____	_____	_____
_____	_____	_____	_____
2. _____	_____	_____	_____
_____	_____	_____	_____
3. _____	_____	_____	_____
_____	_____	_____	_____
4. _____	_____	_____	_____

The above is a true and accurate representation of my close economic association,
in accordance with AS 24.60.070(c)

Signature Date

Check box ONLY if this is your 90 day final report and there are no changes to the above information. AS 24.60.115 requires legislators, legislative employees, and public members of the committee leaving service to disclose every matter or interest UNLESS previously disclosed OR the matter or interest is no longer subject to disclosure.

Signature Date

REPORTING DEADLINES: AS 24.60.105, AS 24.60.115 and AS 24.60.070(c)

- Within 30 days of association
- Within 48 hours after a change in client list
- Annually within the first 30 days of a regular session.
- 90 days after final day of service.

EXPLANATION

When making a disclosure about a close economic association with a lobbyist to whom you are married or who is your domestic partner, you must disclose the name and address of each employer of the lobbyist and the contract value received by the lobbyist from that employer. Changes must be reported within 48 hours.

Disclosure of receipt of
GIFT OF TRAVEL AND/OR HOSPITALITY
Primarily for
MATTERS OF LEGISLATIVE CONCERN

NAME OF DISCLOSER: _____
Please Print

ADDRESS: _____

PHONE NUMBER (Daytime): _____

EMPLOYER: (if legislative employee) _____

**Disclosure of receipt of a gift of travel and/or hospitality, in accordance with
AS 24.60.080(c)(4)**

Name of donor: _____

Occupation of donor: (Example: government agency, legislator, individual, for-profit organization, non-profit, non-partisan,
bi-partisan; describe key activities) _____

Address of donor: _____

Description of travel and/or hospitality (Example: airfare, lodging, meals, ground transportation, conference fees, etc.):

Purpose of travel and/or hospitality (Example: I attended an NCSL conference on Food Safety Modernization Act):

Location of travel and/or hospitality (City & State): _____

Approximate value of travel and/or hospitality: \$ _____

Date(s) of travel and/or hospitality received: _____

The above is a true and accurate representation of the gift of travel and/or hospitality received,
in accordance with AS 24.60.080(c)(4)

Signature

Date

REPORTING DEADLINE: AS 24.60.080(d)

Within 60 days of date of travel/hospitality

EXPLANATION

A legislator or legislative employee may not solicit or accept any gift worth \$250 or more, or gifts from the same person which total \$250 or more in a calendar year. An **exception** to that rule is **gifts of travel and hospitality to obtain (or provide) information on matters of legislative concern**. A person who accepts a gift of \$250 or more under the "matters of legislative concern" exception must disclose receipt of the gift.

Note: Travel paid for by state agencies must be disclosed. AS 24.60.080(c)(4)

FAX: 269-0152

Mail: P. O. Box 101468, Anchorage, AK 99510

Pouch: Anchorage LIO

Disclosure of receipt of
GIFT OF LEGAL SERVICES
RELATED TO LEGISLATIVE MATTERS

NAME OF DISCLOSER: _____

Please Print

ADDRESS: _____

PHONE NUMBER (Daytime): _____

EMPLOYER: (if legislative employee) _____

**Disclosure of receipt of a gift of legal services in a matter of legislative concern
and a gift of other services related to the provision of legal services
in a matter of legislative concern, in accordance with AS 24.60.080(c)(8)**

Name of donor: _____

Occupation of donor: _____

Address of donor: _____

Description of gift: _____

Legal Matter/Case: _____

Approximate value of gift: _____

Date gift(s) received: _____

The above is a true and accurate representation of the gift received,
in accordance with AS 24.60.080(c)(8)

Signature

Date

REPORTING DEADLINE: AS 24.60.080(d)

Within 30 days of receipt of the gift.

EXPLANATION

A legislator or legislative employee may not solicit or accept any gift worth \$250 or more, or gifts from the same person which total \$250 or more in a calendar year. An **exception** to that rule is **gift of legal services related to legislative matters**. A person who accepts a gift of \$250 or more under the "legal services" exception must disclose receipt of the gift within 30 days.

CONFIDENTIAL

Disclosure of receipt of GIFT NOT RELATED TO LEGISLATIVE STATUS

NAME OF DISCLOSER: _____
Please Print

ADDRESS: _____

PHONE NUMBER (Daytime): _____

EMPLOYER: (if legislative employee) _____

Disclosure of receipt of a gift not related to legislative status, in accordance with AS 24.60.080(c)(6)

Name of donor: _____

Occupation of donor: _____

Address of donor: _____

Description of gift(s) with a value of \$250 or more: _____

Reason gift(s) unrelated to recipient's legislative status: _____

Date gift(s) received: _____

The above is a true and accurate representation of the gift received,
in accordance with AS 24.60.080(c)(6)

Signature

Date

REPORTING DEADLINE: AS 24.60.080(d)

Within 30 days of receipt of the gift.

EXPLANATION

A legislator or legislative employee may not solicit or accept any gift worth \$250 or more, or gifts from the same person which total \$250 or more in a calendar year. An **exception** to that rule is **gifts not related with recipient's legislative status**. A person who accepts a gift of \$250 or more under the "not related status" exception must confidentially disclose receipt of the gift.

Disclosure of receipt of
GIFT FOR COMPASSIONATE REASONS

NAME OF DISCLOSER: _____

Please Print

ADDRESS: _____

PHONE NUMBER (Daytime): _____

EMPLOYER: (if legislative employee) _____

**Disclosure of receipt of a compassionate gift,
in accordance with AS 24.60.075(c)**

Legislative Council Date of Approval _____

Ethics Committee Date of Approval _____

Name of donor: _____

Occupation of donor (if any): _____

Address of donor: _____

Description of gift (i.e., money, item, services, etc.): _____

Reason for compassionate gift: _____

If gift is for Immediate Family Member (specify): _____

Approximate value of gift(s): _____

Date(s) of receipt of gift(s): _____

The above is a true and accurate representation of the compassionate gift(s) received,
in accordance with AS 24.60.075(c)

Signature

Date

REPORTING DEADLINE: AS 24.60.075(c)

Within 30 days of receipt

EXPLANATION

A legislator or legislative employee or immediate family member may solicit, receive or accept a gift or gifts from the same person with an aggregate total of less than \$250 in a calendar year for a compassionate reason regardless of whether they have already received a gift or gifts from the same person which were connected to legislative status. The prohibitions relating to lobbyists gifts under AS 24.45.121 and AS 24.60.080 do not apply. Immediate family member is defined as a spouse (or domestic partner) or a dependent parent, sibling, or child.

Disclosure of receipt of
GIFT RELATED TO SANCTIONED CHARITY EVENT

NAME OF DISCLOSER: _____

Please Print

ADDRESS: _____

PHONE NUMBER (Daytime): _____

EMPLOYER: (if legislative employee) _____

AS 24.60.080(a)(2)(B) "Charity Event" means an event the proceeds of which go to a charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and that the Alaska Legislative Council has approved in advance; the tickets may entitle the bearer to admission to the event, to entertainment, to food or beverages, or to other gifts or services in connection with the charity event.

Name of donor: _____

Occupation of donor: _____

Address of donor: _____

Name of sanctioned charity event: _____

Date of sanctioned charity event: _____

Description of gift(s) with a value of \$250 or more:

Ticket/admission fee. Value: \$_____

Other Gift(s) received. Value: \$_____

List items: _____

The above is a true and accurate representation of the gift(s) received,
in accordance with AS 24.60.080(c)(10)

Signature

Date

REPORTING DEADLINE: AS 24.60.080(d)

Within 60 days of receipt of the gift.

EXPLANATION

A legislator or legislative employee may not solicit or accept any gift worth \$250 or more, or gifts from the same person which total \$250 or more in a calendar year. An **exception** to that rule is **gifts related to a sanctioned charity event**. A person who accepts a ticket to a charity event or gift in connection to the charity event of \$250 or more must disclose receipt of the gift. AS 24.60.080(c)(10)

(Note: Gifts from lobbyists are prohibited if \$250 or more in value.)

Disclosure of receipt of
GIFT RELATED TO SANCTIONED CHARITY EVENT-
FAMILY MEMBER
(Because of Legislative Connection)

NAME OF DISCLOSER: _____

(Legislator or Legislative Employee) - Please Print

ADDRESS: _____

PHONE NUMBER (Daytime): _____

EMPLOYER: (if legislative employee) _____

AS 24.60.080(a)(2)(B) "Charity Event" means an event the proceeds of which go to a charitable organization with tax-free status under 26 U.S.C. 501(c)(3) and that the Alaska Legislative Council has approved in advance; the tickets may entitle the bearer to admission to the event, to entertainment, to food or beverages, or to other gifts or services in connection with the charity event.

Name of family member: _____

Relationship (spouse/domestic partner, child, parent, sibling): _____

Name of donor: _____

Occupation of donor: _____

Address of donor: _____

Name of sanctioned charity event: _____

Date of sanctioned charity event: _____

Description of gift(s) with a value of \$250 or more:

[] Ticket/admission fee. Value: \$ _____

[] Other Gift(s) received. Value: \$ _____

List items: _____

The above is a true and accurate representation of the gift received,
in accordance with AS 24.60.080(i)

Signature of Legislator or Legislative Employee

Date

REPORTING DEADLINE: AS 24.60.080(d)

Within 60 days of receipt of the gift(s).

EXPLANATION

A legislator or legislative employee who knows or reasonably should know that an *immediate family member has received a gift related to a sanctioned charity event because of the immediate family member's connection with the legislator or legislative employee shall report the gifts with a cumulative value over \$250 from the same person. AS 24.60.080(i)

*Immediate Family Member: Spouse or domestic partner, child, including a stepchild and adoptive child of the person, a parent or sibling, if financially dependent or share a substantial financial interest with the legislator or legislative employee.

(Note: Gifts from lobbyists are prohibited if \$250 or more in value.)

C O N F I D E N T I A L
THIS FORM CONSTITUTES THE WRITTEN REQUEST TO
REFRAIN FROM MAKING A DISCLOSURE

Information deemed “confidential by law” is not required. Do not provide.

Explanation: AS 24.60.105(d). A person may submit a written request to refrain from making a disclosure if making the disclosure would violate state or federal law, including the U.S. Constitution, the Constitution of Alaska, or a rule adopted formally by a trade or profession that state or federal law requires the person to follow. The committee shall approve or deny the request, or require further justification before determining whether it is sufficient. AS 24.60.070. A “close economic association” means a financial relationship. Disclosure of “close economic associations” must be in sufficient detail.

NAME OF PERSON completing the disclosure _____

Please Print

Check one: PROVIDING THE SERVICE: _____ RECEIVING THE SERVICE: _____

WORK ADDRESS: _____

WORK PHONE NUMBER: _____

NAME OF LEGISLATIVE EMPLOYER (if legislative employee): _____

in accordance with AS 24.60.105(d) and AS 24.60.070

Person's Status with whom association exists:

- legislator or legislative employee public official or lobbyist

Reason for request to refrain from making a **public** disclosure, please be specific:

Violation of: State Law _____

Federal Law (including Tribal Law) _____

United States Constitution _____

State of Alaska Constitution _____

Rule adopted by a trade or profession that state or federal law requires the person
to follow _____

Date of association: _____ One-time association ___ On-going association ___

Nature of Services (general description) _____

If providing the service, please provide the following information, if applicable:

Provider License #: _____

Provider License Type: _____

Provider License Expiration Date: _____

The above is a true and accurate representation of my request to refrain from making a
disclosure in accordance with AS 24.60.105(d).

**The work performed and/or the compensation received does not create an ethical
conflict of interest with the person's work for the legislature.**

Signature

Date

REPORTING DEADLINES: See AS 24.60.105 and AS 24.60.115

Within 30 days of association and annually within the first 30 days of a regular session

Please list any additional materials attached to this complaint:

Name of person filing complaint (please print): _____

Daytime phone number: _____

Evening phone number: _____

Address: _____

The above complaint is a true and accurate representation of my belief that a violation of the Legislative Ethics Act occurred.

Signature Date

Subscribed and sworn to before me this _____ day of _____ in the year _____

Notary Public's Signature Notary Public's Printed Name

State of _____

Judicial District _____

Commission expires: _____

Complainant: I understand that a person commits the crime of false accusation if the person knowingly or intentionally initiates a false complaint with the Select Committee on Legislative Ethics (AS 11.56.805). I understand that I may be asked by the committee or the subject of the complaint to testify at any stage of the complaint proceeding as to my belief that the subject of this complaint violated the Ethics Act.

Note: If a complaint is filed against a legislator or legislative employee who is a candidate for state office and if the complaint is filed during a ***campaign period**, the committee must return the complaint without action, unless the subject of the complaint waives suspension. The complaint may be re-filed after the closure of the *campaign period. **Campaign Period: begins on the later of 45 days before a primary election or the day on which the individual files as a candidate for state office and ends at the close of election day for general or special elections or on the day the candidate withdraws from the elections, whichever is earlier.*

APPENDIX C

State Benefit & Loan Program

Disclosures under AS 24.60.050(c)

APPENDIX C

State Benefit and Loan Program Disclosures under AS 24.60.050(c)

Department of Administration Programs.....	C-1
Department of Commerce, Community and Economic Development Loans.....	C-1
Department of Commerce, Community & Economic Development Programs.....	C-1
Department of Environmental Conservation.....	C-2
Department of Health and Social Services Programs.....	C-2
Department of Military & Veterans Affairs.....	C-2
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APPENDIX C

2016

Alaska State Benefit and Loan Programs under AS 24.60.050(c)

Participation in the following State Benefit and Loan Programs during the *preceding* year and for the *current* year must be reported. Disclosure forms are available in Appendix B.

Department of Administration Programs

Violent Crimes Compensation Board:

Violent Crimes Compensation (please reference Advisory Opinion 94-07 for an explanation of disclosure requirements)

Department of Commerce, Community and Economic Development Loans

(NOTE: A new loan under this department is under consideration by the Ethics Committee; results will be determined at the committee meeting in January, 2015. Please contact the Ethics office for clarification.)

Division of Economic Development:

Alaska Capstone Avionics Revolving Loan Fund
Commercial Fishing Revolving Loan Fund
Fisheries Enhancement Revolving Loan Fund
Rural Development Initiative Fund
Small Business Economic Development Revolving Loan Fund
Mariculture Loan Fund
Community Quota Entity Loan Fund
Microloan Loan Fund
Alternative Energy Conservation Loan Fund
Commercial Charter Fisheries Loan Fund

Alaska Industrial Development and Export Authority and Alaska Energy Authority:

AIDEA Loans
ASSETS (Alaska Sustainable Strategy for Energy Transmission & Supply) Loan Program
Development Finance Program

Department of Commerce, Community & Economic Development Programs

(NOTE: Removal of existing loans under this department is under consideration by the Ethics Committee; results will be determined at the committee meeting in January, 2015. Please contact the Ethics office for clarification.)

Alcoholic Beverage Control Board:

Liquor License

Alaska Railroad Corporation:

Real Estate Lease - Negotiated

Sale of Surplus Property - Negotiated
Railroad Permit
Rail Transportation Contract – Negotiated
Division of Banking and Securities:
Deferred Deposit Advances
Approval of Articles of Incorporation, Bank Charters, and Certificates of Authority
for: State Chartered Banks, Mutual Savings Banks,
Savings Associations, and Credit Unions
License to Engage in the Business of Making Loans
Premium Finance Company License
Business Industrial Development Corporation License

Department of Environmental Conservation

Alaska Clean Water Revolving Loan Fund
Alaska Drinking Water Revolving Loan Fund

Department of Health and Social Services Programs

Various Divisions:
Licensing of Health Care Facilities

Department of Military and Veterans Affairs

Alaska Aerospace Development Corporation:
Scholarship Program

Department of Natural Resources Programs

Division of Forestry:
Timber Sales – Negotiated
Personal Use Permits
Division of Mining, Land and Water:
Preference Right Land Sales AS 38.05
Agricultural Land Lottery Sale Program
Additional Non-competitive Land Leases - Negotiated
Approving Easement Vacations in the Unorganized Borough and Certain
Other Areas
Exchange of State Land
Homesite Entry Program
Homestead Entry Program
Land Use Permit
Material Sale - Negotiated
Upland, Tideland, or Grazing Lease - Negotiated
Right-of-Way or Easement
Water Authorizations
Trapping Cabin Permit
Offshore Prospecting Permit
Coal Prospecting Permit
Mining Reclamation Plan Approval
Coal Surface Mining Reclamation Program

- Mineral Discovery Bonus
- Exploration Incentive Credits
- Substantial Compliance Determination (re: Mining Locations)
- State Pipeline Coordinator's Office:
 - Pipeline Right-of-Way Lease
- Division of Oil and Gas:
 - In-Kind Royalty Gas or Oil Sale
 - Exploration Incentive Credits
- Division of Parks and Outdoor Recreation:
 - Free Disabled Veterans State Park Camping Permit

Department of Natural Resources Loans

- Division of Agriculture:
 - Agricultural Revolving Loan Fund

Department of Transportation and Public Facilities Programs

- Division of Design and Engineering:
 - Disposal of Excess Right-of-Way Land
 - Right-of-Way Acquisition
 - Right-of-Way Permit
 - Encroachment, Driveway or Airspace Permit
 - Utility Permit on State Right-of-Way
 - Right-of-Way Rental

University of Alaska

- Land Management Division
 - Real Property Transactions – Negotiated Non-Competitive

APPENDIX D

**TOPICAL INDEX
OF
ADVISORY OPINIONS**

1993 - 2015

APPENDIX D

Topical Index of Advisory Opinions 1993 - 2015

This index lists advisory opinions by subject. An advisory opinion is only binding on the Ethics Committee for the specific case which was the subject of the opinion. When an opinion concerns two sections of the Legislative Ethics Act, it is listed under both.

The Ethics Committee publishes annual summaries of advisory opinions with deletions to prevent disclosure of the identity of the opinion requesters. Paper copies of advisory opinions are available from the Ethics Committee and the Legislative Library. Advisory opinions can be accessed via the Internet at: <http://www.akleg.gov/search/ethics>

A complete list of advisory opinions is available by "Subject Matter" and by "Year". Both can be accessed at: <http://ethics.akleg.gov/>

The Alaska Legislative Ethics Act has been amended 11 times since its creation in 1984. The amendments took effect in 1986, 1988, 1993, 1999 (with a few section changes effective 1998), 2002, 2003, 2004, 2006, 2007, 2008, and 2012. *The 1993, 1999, and 2007 amendments were very extensive and made many of the previous advisory opinions obsolete.*

Board Membership

13-02: Parameters for defining “board of an organization”, “board membership”, and “organization”.

Charitable Organizations/Fundraising and Private Benefit

94-06: Sale of various items and solicitations for donations on behalf of charitable organizations.

96-03: Discounts from businesses.

96-04: Legislative employees engaging in fundraising activities for the purpose of hosting an NCSL meeting.

11-04: Participating in charity events; tickets to and gifts received at the event.

12-02: Parameters for use of state resources for soliciting charitable contributions.

13-04: May a legislative office assist a charitable organization, associated with a State agency and housed in the State agency, with the logistics of securing charitable items (i.e., lap top computers) and other activities connected to readying the items for use.

Close Economic Associations

93-02: Concerning whether a real estate agent representing a seller has a close economic association with a buyer.

94-01: Whether a house-sitting arrangement and loan of a car is a gift or a close economic association.

94-14: Whether the sale of lodging and charter fishing by a legislator to a lobbyist creates a close economic association.

95-03: A portion of this opinion addresses whether the joint ownership of exercise equipment constitutes a close economic association.

03-01: Whether a close economic association exists if a legislator's spouse rents apartments owned by the spouse to a legislator during session.

08-04: Whether a close economic association exists when a legislator or legislative employee provides a few days of free lodging at their residence to another legislator or legislative employee.

09-02: Whether a close economic association disclosure by a licensed medical professional violates the 1996 HIPPA confidentiality requirements.

09-05: Parameters determining when the formation of a close economic association begins in relation to contractual services.

14-01: Whether a close economic association exists when a legislative employee and legislator share a cell phone plan.

Definition of Legislative Employee

Finding: 6/7/96 Are legislative employees who select lay-off status subject to the Ethics Act during the period of lay-off?

99-01: Do those who provide contractual services to the Legislature fall within the definition of legislative employee?

99-03: Are volunteer members of a legislative advisory council covered by the Ethics Act?

Disclosures

06-03: Disclosure requirements apply for each day a legislator is in office and each day a legislative employee is employed by the legislative branch.

Ethics Committee

94-10: May a public member of the Ethics Committee run for a non-partisan office or participate in a non-partisan campaign?

96-06: Does the Ethics Act apply to all employees in a professional limited liability company which contracts with the committee?

Fundraising/Campaigning

94-04: May a legislator who is a candidate for statewide elective office engage in fundraising activities for that office during the legislative session?

94-05: Acceptance of campaign contributions during a legislative session.

94-13: Wearing campaign buttons while performing legislative duties.

96-01: Political contributions from the proceeds of bingo games. (Affected by the 1996 campaign finance reforms)

96-04: Legislative employees engaging in fundraising activities for the purpose of hosting an NCSL meeting.

Finding: 3/22/96 Legislators who are candidates for federal office accepting campaign contributions.

97-02: Restrictions on legislator and legislative employees concerning ballot initiative activities.

01-01: May a legislator use public resources for fundraising relating to a local boundary change effort for or against a proposed change?

04-01: Constituent information gathered by a candidate used by the legislator after being elected; constituent information gathered by a legislator used by that legislator as a candidate.

07-05: Use of legislative Blackberry for political fundraising or campaigning.

07-06: May a legislator or legislative employee host or co-host a legislative candidate fundraiser during session or endorse a legislative candidate if the endorsement is connected to a campaign fundraiser?

07-07: May a legislator use the legislative phone number on campaign material and handout legislative business cards while campaigning?

10-01: State paid travel and collateral campaign activities while on the trip. (*Opinion rescinded June 14, 2010. Refer to August 19, 2088 letter to APOC for guidance.*)

12-03: Pre-election pledges accompanied by an endorsement or a quid pro quo exchange for a campaign contribution.

12-04: Use of a legislative address or electronic link to an Internet website created and maintained with legislative resources on a political election communication.

Gifts

93-03: Receipt of a prize in a raffle.

93-04: Whether a person subject to the Legislative Ethics Act may allow another person to pay the legislative person's golfing greens fees or the entry fees and other expenses of participation in a golf tournament.

- 93-05: Does a gift of meal, hotel accommodations and mementos constitute a gift of hospitality at a social event under AS 24.60.080(c)(2)?
- 93-06: Whether a person covered by the Ethics Act may accept, from an organization sponsoring a convention, an offer to attend the convention without paying the registration fee.
- 93-08: Acceptance of gifts under AS 24.60.080(c)(6) from an individual, including a lobbyist, with a significant interest in legislative matters.
- 93-09: Acceptance of overnight lodging and travel when invited to speak before a group.
- 94-01: Whether a house-sitting arrangement and loan of a car is a gift or a close economic association.
- 94-03: Participation by a legislative office in the Job Training Partnership Act program.
- 94-09: Whether a person covered by the Ethics Act may receive continuing education credits for conferences at which attendance was paid for by the legislature or another entity.
- 95-01: Whether a plaque or picture provided to a legislator for giving a speech may be accepted.
- 96-03: Discounts from businesses.
- 96-05: Accepting state payment for the costs of a trip on which s/he conducted some state business.
- 97-01: May a legislator-elect accept a gift of value exceeding \$100?
- 99-02: Staying in another person's home while on per diem.
- 00-01: Gift, during session, from a family member who is a lobbyist.
- 02-02: May a lobbyist, during session, give a ticket to a legislator or employee for a social event where food and beverage are provided?
- 02-02: May a lobbyist, during session, set up arrangements to obtain a ticket for a social event that is later paid for by the legislator or employee?
- 03-02: Whether loans by a legislator to a legislative employee or prospective legislative employee for travel to Juneau and initial living expenses constitute an allowed gift.
- 07-03: May a legislator or legislative employee accept from a lobbyist a gift from a family member for hospitality or travel?
- 09-04: Receipt of continuing education credits.
- 11-04: Participation in charity events; tickets to and gifts received at the event.

Honoraria

95-01: Whether a plaque or picture provided to a legislator for giving a speech may be accepted.

Government Time

94-08: Restrictions on activities of legislative employees on government time.

94-13: Wearing campaign buttons while performing legislative duties.

96-03: May legislative employees engage in fundraising activities for the expenses of hosting an NCSL meeting?

97-02: Restrictions on legislator and legislative employees concerning ballot initiative activities.

07-04: Parameters and guidelines when responding to constituent service issues.
(*Advisory Opinion 08-03 supersedes and is contrary to 07-04*)

08-03: Parameters and guidelines when responding to constituent service issues.

Lay-off Status

Finding: 6/7/96 Are legislative employees who select lay-off status subject to the Ethics Act during the period of lay-off?

Legislative, Administrative or Political Action

94-02: May a legislator write a letter of recommendation at the request of a lobbyist seeking a legislative lobbying contract with a political subdivision?

04-02: Financial interest in legislation and conflict of interest issues at both the committee level and on the floor.

05-01: Legislative contacts with administrative decisions makers; i.e., hearing officer, individual, or board or commission.

07-01: May a legislator sponsor a bill and/or take or withhold official action on certain legislation when the legislation could indirectly confer a substantial financial benefit to the company who provides the majority of income received by the legislator?

08-01: Does a private sector job in a natural resources industry present a conflict of interest and prevent voting on legislation or taking other action where the interests of the industry or employer are concerned?

08-02: Does negotiating for employment and carrying out job duties with a growth company focusing on development present a conflict of interest?

11-01: May a legislator lobby other legislators for funds to build a state building when the legislator is on the board of directors of a corporation who could receive substantial benefits from the proposal?

11-05: Does employment with a private sector company pose a conflict of interest if the job duties include communicating with the legislators constituents, voting on matters the company supports or opposes and testifying before the U. S. Congress?

12-03: Pre-election pledges accompanied by an endorsement or a quid pro quo exchange for a campaign contribution.

13-01: Does a private sector job in the liquefied natural gas industry and/or ownership of stock in the company present a conflict of interest that would prevent voting on legislation or taking other action where the interests of the industry or employer are concerned?

13-01: Does being self-employed as a commercial fisherman, including owning and operating a commercial fishing vessel, present a conflict of interest that would prevent voting on legislation or taking other action where the interests of the industry or employer are concerned?

13-01: Does being self-employed as the owner of residential housing for rent present a conflict of interest that would prevent voting on legislation or taking other action where the interests of the industry or employer are concerned?

Lobbyist Related

93-08: Acceptance of gifts under AS 24.60.080(c)(6) from an individual, including a lobbyist, with a significant interest in legislative matters.

94-02: May a legislator write a letter of recommendation at the request of a lobbyist seeking a legislative lobbying contract with a political subdivision?

94-14: Whether the sale of lodging and charter fishing by a legislator to a lobbyist creates a close economic association.

99-02: Accepting a gift of hospitality from a lobbyist during session.

00-01: Gift, during session, from a family member who is a lobbyist.

02-02: May a legislator or legislative employee accept, during session, a ticket from a lobbyist for a social event where food and beverage are provided?

02-02: May a legislator or legislative employee, during session, buy a ticket for a social event from a lobbyist when the lobbyist or someone acting on the lobbyist's behalf has set up arrangements to obtain the ticket?

07-03: May a legislator or legislative employee accept from a lobbyist a gift from a family member for hospitality or travel?

Nepotism

96-02: Are legislative interns subject to the nepotism law?

Open Meetings

04-03: Bill reintroduced under “bills previously heard or scheduled” in second year of legislative session.

Participation in State Contracts and Leases

93-01: Participation in state contract by immediate family member of legislative employee.

93-07: Does receipt of a contract funded by a state grant program constitute participating in a state contract?

95-02: Participation in a state subcontract by an immediate family member of a public member of the Ethics Committee.

11-01: May a legislator act on behalf of a private organization in lease negotiations with the State?

Participation in State Benefits and Loans

94-07: Must participation in the Violent Crimes Compensation Commission Programs be published in the journals?

Private Benefit

95-03: Concerning the joint purchase of exercise equipment and the establishment of an exercise room in the capitol.

94-09: Whether a person covered by the Ethics Act may receive continuing education credits for conferences at which attendance was paid for by the legislature or another entity.

09-04: Receipt of continuing education credits.

Use of State Resources and Private Benefit:

97-02: To what extent may legislator and legislative employees become involved in ballot initiative activities?

98-01: What restrictions exist on a legislator’s participating as an individual plaintiff in litigation brought by Legislative Council?

98-02: To what extent may legislators and legislative employees become involved in constitutional amendment activities?

98-03: May the leadership of the Legislature use state funds to print or distribute a mailing describing the accomplishments of the Legislature with the period beginning 90 days before the primary election and ending with the general election?

99-04: Use of e-mail on state provided Internet access and computer equipment for communicating with constituents.

99-04: Link legislator’s website to majority or minority website.

- 01-01: Use of public resources to further the discussion relating to a local boundary change and to advocate for a position or proposed change.
- 02-01: Initiative petition available for signature in legislator's office.
- 04-01: Constituent information gathered by a candidate used by the legislator after being elected; constituent information gathered by a legislator used by that legislator as a candidate.
- 06-01: "De minimis" use of the Capitol mailroom by legislative staff for personal mail.
- 07-02: Limits on the use of legislative letterhead.
- 07-04: Use of state resources by legislative aides working for constituents.
(Advisory Opinion 08-03 supersedes and is contrary to 07-04)
- 07-05: Use of legislative Blackberry for political fundraising or campaigning.
- 09-03: Personal use exemption applies to use of a public facility operated by the Legislature.
- 10-01: State paid travel and collateral campaign activities while on the trip.
(Opinion rescinded June 14, 2010. Refer to August 19, 2008 letter to APOC for guidance.)
- 11-02: Parameters for thanking non-profits and for-profit entities in a legislative communication.
- 11-03: Parameters for listing the names of health care providers that specialize in serving patients insured by Medicare.
- 12-02: Parameters for use of state resources for soliciting charitable contributions.
- 12-04: Use of a legislative address or electronic link to an Internet website created and maintained with legislative resources on a political election communication.
- 13-03: Parameters for using the U. S. Postal Service Every Door Direct Mail (EDDM) services for delivery of legislators' newsletters.

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Last modified on 01/01/16

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07-05	Conflict of Interest - Use of State Resources-Campaigning
10-01	Conflict of Interest-Use of State Resources-Campaigning <i>(rescinded 06-14-10)</i>
07-07	Conflict of Interest - Use of State Resources-Campaigning

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APPENDIX E

Related State Laws

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Related State Laws

The legislative ethics law (AS 24.60) is not the only law which sets standards for the conduct of legislators and legislative employees in their work. This appendix includes portions of the Alaska Constitution, the Alaska Criminal Code and other state laws which relate to standards of conduct and are referred in the Legislative Ethics Act. **Violations of these laws are not under the jurisdiction of the Select Committee on Legislative Ethics.** Appendix E is not an all-inclusive list. Legislators and legislative employees who have questions about the legality of specific situations or activities should contact the Legal Services Division of the Legislature or another legal counsel.

Alaska Constitution

Restrictions on Legislators' Employment **Article II, Section 5. Disqualifications**

No legislator may hold any other office or position of profit under the United States or the State. During the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office or position of profit which has been created, or the salary or emoluments of which have been increased, while he was a member. This section shall not prevent any person from seeking or holding the office of governor, secretary of state, or member of Congress. This section shall not apply to employment by or election to a constitutional convention.

Editor's Note: Senate Joint Resolution No. 2, "changing the name of the secretary of state to lieutenant governor" in 16 sections of the Alaska Constitution, approved by the voters August 25, 1970, inadvertently omitted express amendment in this section.

Legislative Immunity **Article II, Section 6. Immunities**

Legislators may not be held to answer before any other tribunal for any statement made in the exercise of their legislative duties while the Legislature is in session. Members attending, going to, or returning from legislative sessions are not subject to civil process and are privileged from arrest except for felony or breach of the peace.

Note: Legislative immunity is also granted under AS 24.40.010 (see page E-19).

Alaska Criminal Code: Offenses Against Public Administration

Title 11 of the Alaska Statutes, also called the Criminal Code, includes a series of offenses against public administration relating to bribery, perjury, tampering with public records, official misconduct, making false accusations to the Select Committee on Legislative Ethics and misusing confidential information. The Alaska Criminal Code uses the term "public servant", which is defined in AS 11.81.900(54) to include legislators and employees of the State.

Bribery **AS 11.56.100**

Sec. 11.56.100. Bribery.

(a) A person commits the crime of bribery if the person confers, offers to confer, or agrees to confer a benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, action, decision, or exercise of official discretion.

(b) In a prosecution under this section, it is not a defense that the person sought to be influenced was not qualified to act in the desired way, whether because that person had not assumed office, lacked jurisdiction, or for any other reason.

(c) Bribery is a class B felony. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Consecutive fines. — A judge does not err in imposing consecutive fines for the separate offenses of offering a bribe and agreeing to receive a bribe. *Hohman v. State*, 669 P.2d 1316 (Alaska Ct. App. 1983).

Receiving a Bribe **AS 11.56.110**

Sec. 11.56.110. Receiving a bribe.

(a) A public servant commits the crime of receiving a bribe if the public servant

- (1) solicits a benefit with the intent that the public servant's vote, opinion, judgment, action, decision, or exercise of discretion as a public servant will be influenced; or
- (2) accepts or agrees to accept a benefit upon an agreement or understanding that the public servant's vote, opinion, judgment, action, decision, or exercise of discretion as a public servant will be influenced.

(b) Receiving a bribe is a class B felony. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Constitutionality. — This section is not unconstitutionally overbroad and vague. *Bachlet v. State*, 941 P.2d 200 (Alaska Ct. App. 1997)

“Agreement or understanding.” — A public defender’s conduct in accepting meals, marijuana, a trip and a promise to build a cabin from criminal defendant fell within the ordinary meaning of the phrase “agreement or understanding.” *Bachlet v. State*, 941 P.2d 200 (Alaska Ct. App. 1997)

“Public Servant.” — A public defender employed by the state falls squarely within the definition of “public servant” for purposes of this section. *Blachlet v. State* 941 P.2d 200 (Alaska Ct. App. 1997)

“Benefit.” — A public defender’s agreement to accept meals, marijuana, a trip and a promise to build

a cabin from a criminal defendant fell within the definition of “benefit” for purposes of this section. *Bachlet v. State*, 941 P.2d 200 (Alaska Ct. App. 1997).

Burden of proof. — This section does not require the state to prove that the public servant acted corruptly. *Bachlet v. State*, 941 P.2d 200 (Alaska Ct. App. 1997).

Consecutive fines. — A judge does not err in imposing consecutive fines for the separate offenses of offering a bribe and agreeing to receive a bribe. *Hohman v. State*, 669 P.2d 1316 (Alaska Ct. App. 1983).

Cited in *Moore v. State*, 740 P.2d 472 (Alaska Ct. App. 1987).

Receiving Unlawful Gratuities AS 11.56.120

Sec. 11.56.120. Receiving unlawful gratuities.

(a) A public servant commits the crime of receiving unlawful gratuities if, for having engaged in an official act which was required or authorized and for which the public servant was not entitled to any special or additional compensation, the public servant

- (1) solicits a benefit, regardless of value; or
- (2) accepts or agrees to accept a benefit having a value of \$50 or more.

(b) Receiving unlawful gratuities is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

“Public servant.” — Counselor employed by a private organization which was under contract with the state to provide counseling services to prison inmates was not a “public servant” within

the meaning of this section or the definition in AS 11.81.900(b)(49) (now (b)(50)). *State v. Mullin*, 778 P.2d 223 (Alaska Ct. App. 1989).

1. AS 11.56.130 and AS 11.81.900 define "benefit." The term "benefit" does not include political contributions; concurrence in official action in the cause of legitimate compromise between public servants; or support, including a vote, solicited by a public servant or offered by any person in an election.

2. Note: Gifts are also regulated by the legislative ethics law, AS 24.60.080. Payment for performing legislative duties is restricted in AS 24.60.030(a)(1).

**Failure to Report Bribery
Or Receiving a Bribe**
AS 11.56.124

Sec. 11.56.124. Failure to report bribery or receiving a bribe.

(a) A public servant commits the crime of failure to report bribery or receiving a bribe if the public servant

- (1) witnesses what the public servant knows or reasonably should know is
 - (A) bribery of a public servant by another person; or
 - (B) receiving a bribe by another public servant; and
- (2) does not as soon as reasonably practicable report that crime to a peace officer or a law enforcement agency.

(b) Failure to report bribery or receiving a bribe is a class A misdemeanor. (§ 1 ch 47 SLA 2007)

Effective dates. — Section 79, ch. 47, SLA 2007, makes this section effective July 10, 2007, in accordance with AS 01.10.070(c).

Editor's notes. — Under (§ 75(a), ch. 47, SLA 2007, this section applies to offenses occurring on or after July 10, 2007.

Definition - Bribery
AS 11.56.130

Sec. 11.56.130. Definition.

In AS 11.56.100 – 11.56.130, “benefit” has the meaning ascribed to it in AS 11.81.900 but does not include

- (1) political campaign contributions reported in accordance with AS 15.13 unless the contribution is made or received in exchange for an agreement to alter an elected official’s or candidate’s vote or position on a matter the elected official has, or the candidate on election would have, the authority to take official action on; in this paragraph, “official action” means advice, participation, or assistance, including, for example, a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction;
- (2) concurrence in official action in the cause of legitimate compromise between public servants; or
- (3) support, including a vote, solicited by a public servant or offered by any person in an election. (§ 6 ch 166 SLA 1978; am § 2 ch 47 SLA 2007)

Cross references. — For definition of terms used in this chapter, see AS 11.56.900; for definition of terms used in this title, see AS 11.81.900.

Effect of amendments. — The 2007 amendment, effective July 10, 2007, added the

language in paragraph (1) following “with AS 15.13.”

Editor's notes. — Under (§ 75(a), ch. 47, SLA 2007, the amendment to paragraph (1) of this section made by § 2, ch. 47, SLA 2007 applies to offenses occurring on or after July 10, 2007.

False Accusations to the Ethics Committee
AS 11.56.805

Sec. 11.56.805. False accusation.

(a) A person commits the crime of false accusation if the person knowingly or intentionally initiates a false complaint with the Select Committee on Legislative Ethics established in AS 24.60.

(b) False accusation is a class A misdemeanor. (§ 2 ch 36 SLA 1984; am § 1 ch 113 SLA 1986)

Tampering with Public Records
in the First Degree
AS 11.56.815

Sec. 11.56.815. Tampering with public records in the first degree.

(a) A person commits the crime of tampering with public records in the first degree if the person violates

- (1) AS 11.56.820 (a)(3) with intent to obtain a benefit for that person or any person or to injure or deprive another person of a benefit; or
- (2) AS 11.56.820(a)(1) or (2) with the intent to conceal a fact material to an investigation or The provision of services under AS 47.10, AS 47.12, AS 47.17, AS 47.20, or AS 47.24

(b) Tampering with public records in the first degree is a class C felony. (§ 1 ch 51 SLA 1985; am § 1 ch 141 SLA 2003)

Effect of amendments. — The 2003 amendment, effective October 8, 2003, in subsection (a) added the paragraph (1) designation and paragraph (2) and made related stylistic changes.

Tampering with Public Records
in the Second Degree
AS 11.56.820

Sec. 11.56.820. Tampering with public records in the second degree.

(a) A person commits the crime of tampering with public records in the second degree if the person

- (1) knowingly makes a false entry in or falsely alters a public record;
- (2) knowingly destroys, mutilates, suppresses, conceals, removes, or otherwise impairs the verity, legibility, or availability of a public record, knowing that the person lacks the authority to do so; or
- (3) certifies a public record setting out a claim against a government agency, or the property of a government agency, with reckless disregard of whether the claim is lawful, or that payment of the claim is not authorized in the budget of the government agency.

(b) In this section

- (1) "certifies" means attesting to the existence, truth, or accuracy of facts, or that one holds an opinion, stated in a public record; the term includes the responsibilities for state officials set out in AS 37.10.030;
- (2) "falsely alters" has the meaning ascribed to it in AS 11.46.580 ; and
- (3) "makes a false entry" means to change or create a public record, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or by any other means, so that the record so changed or created states or implies a fact that the maker knows is not true, or states or implies an opinion that the maker does not hold.

(c) Tampering with public records in the second degree is a class A misdemeanor. (§ 6 ch 166 SLA 1978; am § 2 ch 51 SLA 1985)

Opinions of attorney general. — When an official of a land title company seeking to file a warranty deed in Alaska, in the presence of the recorder altered a California notary clause to

change the name and title of the person that the California notary public swore had appeared before her, the alteration may well have violated this section. December 22, 1987, Op. Att’y Gen.

Impersonating a Public Servant **AS 11.56.830**

Sec. 11.56.830. Impersonating a public servant.

(a) A person commits the crime of impersonating a public servant if the person pretends to be a public servant and does any act in that capacity.

(b) It is not a defense to a prosecution under this section that

- (1) the office the defendant pretended to hold did not in fact exist; or
- (2) the defendant was in fact a public servant different than the one the defendant pretended to be.

(c) This section does not apply to a peace officer acting within the scope and authority of the officer's employment.

(d) Impersonating a public servant is a class B misdemeanor. (§ 6 ch 166 SLA 1978)

Cross references. — For criminal impersonation, see AS 11.46.570.

Official Misconduct **AS 11.56.850**

Sec. 11.56.850. Official misconduct.

(a) A public servant commits the crime of official misconduct if, with intent to obtain a benefit or to injure or deprive another person of a benefit, the public servant

- (1) performs an act relating to the public servant's office but constituting an unauthorized exercise of the public servant's official functions, knowing that that act is unauthorized; or
- (2) knowingly refrains from performing a duty which is imposed upon the public servant by law or is clearly inherent in the nature of the public servant's office.

(b) Official misconduct is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Misuse of Confidential Information

AS 11.56.860

Sec. 11.56.860. Misuse of confidential information.

(a) A person who is or has been a public servant commits the crime of misuse of confidential information if the person

- (1) learns confidential information through employment as a public servant; and
- (2) while in office or after leaving office, uses the confidential information for personal gain or in a manner not connected with the performance of official duties other than by giving sworn testimony or evidence in a legal proceeding in conformity with a court order.

(b) As used in this section, "confidential information" means information which has been classified confidential by law.

(c) Misuse of confidential information is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

Definitions

AS 11.81.900(a)

Sec. 11.81.900(a). Definitions.

(a) For purposes of this title, unless the context requires otherwise,

- (1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;
- (2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;
- (3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would

observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

- (4) a person acts with “criminal negligence” with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

NOTES TO DECISIONS

“Knowingly”.

The legislative history of this section shows that the legislature concluded that the test for knowledge is a subjective one; accordingly, “knowingly” in AS

23.30.250(a) is necessarily a subjective, not an objective, standard *Arctec Servs. V Cummings*, 295 P.3d 916 (Alaska 2013).

Other Laws

Common Law **AS 01.10.060(8)**

Sec. 01.10.060(8)

...”person” includes a corporation, company, partnership, firm, association, business trust, or society, as well as a natural person.

Public Records **AS 09.25.110-140**

Unless the law specifically provides otherwise, the public records of all public agencies, including the Legislature, are open to inspection by the public. "Public records" are defined in AS 40.25.220 as, "books, papers, files, accounts, writings, including drafts and memorializations of conversations, and other items, regardless of format or physical characteristics, that are developed or received by a public agency, or by a private contractor for a public agency, and that are preserved for their informational value or as evidence of the organization or operation of the public agency; 'public records' does not include proprietary software programs." AS 40.25.123(b) requires the Legislative Council to supervise and adopt procedures for the operation and implementation of AS 40.25.110 – 40.25.140 by public agencies in the legislative branch. Legislative Council adopted a Records Policy on March 14, 1996, contact LAA for copies.

Definitions **AS 11.81.900(55)**

"public servant" means each of the following, whether compensated or not, but does not include jurors or witness:

- (A) an officer or employee of the state, a municipality or other political subdivision of the state, or a governmental instrumentality of the state, including legislators, members of the judiciary, and peace officers;
- (B) a person acting as an advisor, consultant, or assistant at the request of, the direction of, or under contract with the state, a municipality or other political subdivision of the state, or another governmental instrumentality; in this subparagraph "person" includes an employee of the person;
- (C) a person who serves as a member of the board or commission created by statute or by legislative, judicial, or administrative action by the state, a municipality or other political subdivision of the state, or a governmental instrumentality;
- (D) a person nominated, elected, appointed, employed, or designated to act in a capacity defined in (A) - (C) of this paragraph, but who does not occupy the position;

Pension Forfeiture **AS 14.25.040(c)**

Sec. 14.25.040(c).

...A state legislator may not receive membership credit under AS 14.25.009 – 14.25.220 for legislative service on or after the date the legislator commits a criminal offense from which a pension forfeiture under AS37.10.310 results.

Campaign Disclosure Law **AS 15.13**

For detailed information regarding the Campaign Disclosure Law, contact the Alaska Public Offices Commission at 2221 East Northern Lights Blvd, Suite 128, Anchorage AK 99508-4143, (907) 276-4176.

State Elections Campaigns **AS 15.13.040 & 15.13.400**

Sec. 15.13.040. Contributions, expenditures, and supplying of services to be reported.

(a) [See delayed amendment note.] Except as provided in (g) and (l) of this section, each candidate shall make a full report, upon a form prescribed by the commission,

- (1) listing
 - (A) the date and amount of all expenditures made by the candidate;
 - (B) the total amount of all contributions, including all funds contributed by the candidate;
 - a. the name, address, date, and amount contributed by each contributor; and
 - b. for contributions in excess of \$50 in the aggregate during a calendar year, the principal occupation and employer of contributor; and
- (2) filed in accordance with AS 15.13.110 and certified correct by the candidate or campaign treasurer.

(b) Each group shall make a full report upon a form prescribed by the commission, listing

- (1) the name and address of each officer and director;
- (2) the aggregate amount of all contributions made to it; and, for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; for purposes of this paragraph, “contributor” means the true source of the funds, property, or services being contributed; and
- (3) the date and amount of all contributions made by it and all expenditures made, incurred, or authorized by it.

(c) The report required under (b) of this section shall be filed in accordance with AS 15.13.110 and shall be certified as correct by the group’s treasurer.

(d) Every person making an independent expenditure shall make a full report of expenditures made and contributions received, upon a form prescribed by the commission, unless exempt from reporting.

(e) Each person required to report under (d) of this section shall file a full report in accordance with AS 15.13.110(g) on a form prescribed by the commission. The report must contain

- (1) the name, address, principal occupation, and employer of the individual filing the report;
- (2) an itemized list of all expenditures made, incurred, or authorized by the person;
- (3) the name of the candidate or the title of the ballot proposition or question supported or opposed by each expenditure and whether the expenditure is made to support or oppose the candidate or ballot proposition or question;
- (4) the name and address of each officer and director, when applicable;
- (5) the aggregate amount of all contributions made to the person, if any, for the purpose of influencing the outcome of an election; for all contributions, the date of the contribution and amount contributed by each contributor; and, for a contributor
 - (A) who is an individual, the name and address of the contributor and, for contributions in excess of \$50 in the aggregate during a calendar year, the name, address, principal occupation, and employer of the contributor; or
 - (B) that is not an individual, the name and address of the contributor and the name and address of each officer and director of the contributor.

(f) During each year in which an election occurs, all businesses, persons, or groups that furnish any of the following services, facilities, or supplies to a candidate or group shall maintain a record of each transaction: newspapers, radio, television, advertising agency services, accounting billboards, printing, secretarial, public opinion polls, or research and professional campaign consultation or management, media production or preparation, or computer services. Records of provision of services, facilities, or supplies shall be available for inspection by the commission.

(g) The provisions of (a) and (l) of this section do not apply to a delegate to a constitutional convention, a judge seeking judicial retention, or a candidate for election to a municipal office under AS 15.13.010, if that delegate, judge, or candidate

- (1) indicates, on a form prescribed by the commission, an intent not to raise and not to expend more than \$5,000 in seeking election to office, including both the primary and general elections;
- (2) accepts contributions totaling not more than \$5,000 in seeking election to office, including both the primary and general elections; and
- (3) makes expenditures totaling not more than \$5,000 in seeking election to office, including both the primary and general elections.

(h) The provisions of (d) of this section do not apply to one or more expenditures made by an individual acting independently of any other person if the expenditures

- (1) cumulatively do not exceed \$500 during a calendar year; and
- (2) are made only for billboards, signs, or printed material concerning a ballot proposition as that term is defined by AS 15.13.065(c).

(i) The permission of the owner of real or personal property to post political signs, including bumper stickers, or to use space for an event or to store campaign-related materials is not considered to be a contribution to a candidate under this chapter unless the owner customarily charges a fee or receives payment for that activity. The fact that the owner customarily charges a fee or receives payment for posting signs that are not political signs is not determinative of whether the owner customarily does so for political signs.

(j) Except as provided in (l) of this section, each nongroup entity shall make a full report in accordance with AS 15.13.110 upon a form prescribed by the commission and certified by the nongroup entity's treasurer, listing

- (1) the name and address of each officer and director of the nongroup entity;
- (2) the aggregate amount of all contributions made to the nongroup entity for the purposes of influencing the outcome of an election;
- (3) for all contributions described in (2) of this subsection, the name, address, date, and amount contributed by each contributor and, for all contributions described in (2) of this subsection in excess of \$250 in the aggregate during a calendar year, the principal occupation and employer of the contributor; and
- (4) the date and amount of all contributions made by the nongroup entity, and, except as provided for certain independent expenditures in AS 15.13.135(a), all expenditures made, incurred, or authorized by the nongroup entity, for purpose of influencing the outcome of an election; a nongroup entity shall report contributions made to a different nongroup entity for the purpose of influencing the outcome of an election and expenditures made on behalf of a different nongroup entity for the purpose of influencing the outcome of an election as soon as the total contributions and expenditures to that nongroup entity for the purpose of influencing the outcome of an election reach \$500 in a year and for all subsequent contributions and expenditures to that nongroup entity in a year whenever the total contributions and expenditures to that

nongroup entity for the purpose of influencing the outcome of an election that have not been reported under this paragraph reach \$500.

(k) Every individual, person, nongroup entity, or group contributing a total of \$500 or more to a group organized for the principal purpose of influencing the outcome of a proposition, and every individual, person, nongroup entity, or group contributing a total of \$500 or more to a group organized for the principal purpose of filing an initiative proposal application under AS 15.45.020 or that has filed an initiative proposal application under AS 15.45.020, shall report the contribution or contributions on a form prescribed by the commission not later than 30 days after the contribution that requires the contributor to report under this subsection is made. The report must include the name, address, principal occupation, and employer of the individual filing the report and the amount of the contribution, as well as the total amount of contributions made to that group by the individual, person, nongroup entity, or group during the calendar year.

(l) Notwithstanding (a), (b), and (j) of this section for any fund-raising activity in which contributions are in amounts or values that do not exceed \$50 a person, the candidate, group, or nongroup entity shall report contributions and expenditures and supplying of services under this subsections follows:

- (1) a report under this subsection must
 - (A) describe the fund-raising activity;
 - (B) include the number of persons making contributions and the total proceeds from the activity;
 - (C) report all contributions made for the fund-raising activity that do not exceed \$50 a person in amount or value; if a contribution for the fund-raising activity exceeds \$50, the contribution shall be reported under (a), (b), and (j) of this section.
- (2) for purposes of this subsection,
 - (A) “contribution” means a cash donation, a purchase such as the purchase of a ticket, the purchase of goods or services offered for sale at a fund-raising activity, or a donation of goods or services for the fund-raising activity.
 - (B) “fund-raising activity” means an activity, event, or sale of goods undertaken by a candidate, group, or nongroup entity in which contributions are \$50 a person or less in amount or value.

(m) [See delayed amendment note.] Information required under this chapter shall be submitted to the commission electronically, except that the following information may be submitted in clear and legible black typeface or hand-printed in dark on paper in a format approved by the commission or on forms provided by the commission:

- (1) information submitted by
 - (A) a candidate for election to a borough or city office of mayor, membership on a borough assembly, city council, or school board, or any state office, who meets the requirements of (g)(1) – (3) of this section; or
 - (B) a candidate for municipal office for a municipality with a population of less than 15,000; in this subparagraph, “municipal office” means the office of an elected borough or city
 - (i) mayor; or
 - (ii) assembly, council, or school board member;
- (2) any information if the commission determines that circumstances warrant an exception to the electronic submission requirement;

(n) The commission shall print the forms to be provided under this chapter so that the front and back of each page have the same orientation when the page is rotated on the vertical axis of the page.

(o) Information required by this chapter that is submitted to the commission on paper and not electronically shall be electronically scanned and published on the Internet by the commission, in a format accessible to the general public, within two working days after the commission receives the information.

(p) For purposes of (b), (e), and (j) of this section, “contributor” means the true source of the funds, property, or services being contributed.

(q) For purposes of (e) of this section,

(1) “director” means a member of the board of directors of a corporation or any person performing a similar function with respect to any organization;

(2) “officer” means a president, vice-president, secretary, treasurer, principal financial officer, or comptroller with respect to any organization. (§ 1 ch 76 SLA 1974; am § 13 ch 189 SLA 1975; am § 33 ch 50 SLA 1989; am § 4 ch 126 SLA 1994; am §§ 5 – 7 ch 48 SLA 1996; am §§ 6, 7 ch 6 SLA 1998; am § 1 ch 74 SLA 1998; am §§ 3 – 6 ch 1 SLA 2002; am §§ 1 – 4 ch 1 TSSLA 2002; am §§ 2 – 7 ch 108 SLA 2003; am § 9 ch 99 SLA 2004; am §§ 1, 2 ch 155 SLA 2004; am § 3 2006 Primary Election Ballot Measure No. 1; am §§ 6 – 9 ch 47 SLA 2007; am § 1 ch 95 SLA 2008)

Delayed amendment of subsection (a). – Until January 1, 2009, subsection (a) — of this section reads as follows: “(a) Except as provided in (g) and (l) of this section, each candidate shall make a full report, upon a form prescribed by the commission,

“(1) listing

“(A) the date and amount of all expenditures made by the candidate;

“(B) the total amount of all contributions, including all funds contributed by the candidate;

“(C) the name, address, date, and amount contributed by each contributor; and

“(D) for contributions in excess of \$250 in the aggregate during a calendar year, the principal occupation and employer of the contributor; and

“(2) filed in accordance with AS 15.13.110 and certified correct by the candidate or campaign treasurer.”

Delayed amendment of subsection (a). – Until January 1, 2009, (m) of this section reads as follows: “(m) Information required under this chapter shall be submitted to the commission electronically, except that the following information may be submitted in clear and legible black typeface or hand-printed in dark ink on paper in a format approved by the commission or on forms provided by the commission:

“(1) information submitted by a candidate for municipal office; in this paragraph, “municipal office” means the office of an elected borough or city

“(A) mayor; or

“(B) assembly, council, or school board member;

The first 2002 amendment, effective April 16, 2002, in subsection (b) added the language beginning “for purposes of this paragraph” to the end of paragraph (2); in the introductory language of subsections (d) and (h) inserted references to nongroup entities; added subsection (j); and made a minor stylistic change.

The second 2002 amendment, effective June 26, 2002, rewrote subsection (d); in subsection (e) deleted “by the contributor” following “commission” and “contribution or” preceding “expenditure” in the second sentence and deleted the former third sentence, which read “A copy of the report shall be furnished to the candidate, campaign treasurer, or deputy campaign treasurer at the time the contribution is made”; updated an internal reference in subsection (h); and added subsection (k).

The 2003 amendment, effective September 14, 2003, rewrote subsections (a) and (b); in subsection (g) inserted “and (l)” in the introductory language and substituted “\$5,000” for “\$2,500” in three places; in paragraph (h)(1) substituted “\$500” for “\$250”; in subsection (j) added “Except as provided in (l) of this section,” at the beginning, added the paragraph (3); and (4) designations, and rewrote paragraph (3); and added subsections (l), (m), and (o) [formerly (n)].

The second 2004 amendment, effective October 1, 2004, rewrote subsection (m), and added subsection (o) [now (n)].

The 2006 amendment, effective December 17, 2006, rewrote subsection (b).

The 2007 amendment, effective July 10, 2007, substituted “to a delegate to a constitutional convention, a judge seeking judicial retention, or a candidate for election to a municipal office under AS

“(2) any information if the commission determines that circumstances warrant an exception to the electronic submission requirement.

“(3) information submitted by a candidate for election to state office other than the legislature who meets the requirements of (g)(1) – (3) of this section;

“(4) information submitted before January 1, 2009, by a candidate for the legislature.”

Revisor’s notes — Subsection (n) was enacted as subsection (o). Relettered in 2004, at which time former subsection (n) was relettered as subsection (o). Subsection (o) was enacted as (p) and relettered in 2007, at which time former subsection (o) was relettered as (p).

Effects of amendments. — The 1996 amendment, effective January 1, 1997, in subsection (a), added the exception at the beginning of the first sentence and made a related stylistic change; in subsection (d), in paragraph (2), added “unless exempted from reporting by (h) of this section,” and inserted “or other periodicals” and made minor stylistic changes and added subsections (g) and (h).

The first 1998 amendment, effective June 28, 1998, rewrote paragraph (d)(1) and the second and third sentences in subsection (f).

The second 1998 amendment, effective June 4, 1998, added subsection (i).

The first 2004 amendment, effective June 26, 2004, deleted “and principal occupation of the contributor, and the” following address in paragraph (j)(3), and inserted “principal occupation and” in that paragraph.

15.13.010, if that delegate, judge, or” for “if a” in the introductory language of subsection (g), repealed and reenacted subsection (m), and added subsection (p) [now (o)].

The 2008 amendment, effective January 1, 2009, substituted “\$50” for “\$250” in subparagraph (a)(1)(D)

Editor’s notes — From April 16, 2002, through June 25, 2002, the reference in subsection (h) to “(d) of this section” reads “to (d)(2) of this section” and subsection (d) reads as follows: “(d) Every individual, person, nongroup entity, or group making a contribution or expenditure shall make a full report, upon a form prescribed by the commission, of

“(1) contributions made to a candidate or group and expenditures made on behalf of a candidate or group

“(A) as soon as the total contributions and expenditures to that candidate or group reaches \$500 in a year; and

“(B) for all subsequent contributions and expenditures to that candidate or group in a year whenever the total contributions and expenditures to that candidate or group that have not been reported under this paragraph reaches \$500;

“(2) unless exempted from reporting by (h) of this section, any expenditure whatsoever for advertising in newspapers or other periodicals, on radio, or on television; or for the publication, distribution, or circulation of brochures, flyers, or other campaign material for any candidate or ballot proposition or question.”

Sec. 15.13.400. Definitions. In this chapter,

(1) “candidate”

(A) means an individual who files for election to the state legislature, for governor, for lieutenant governor, for municipal office, for retention in judicial office, or for constitutional convention delegate, or who campaigns as a write-in candidate for any of these offices; and

(B) when used in a provision of this chapter that limits or prohibits the donation, solicitation, or acceptance of campaign contributions, or limits or prohibits an expenditure, includes

(i) a candidate’s campaign treasurer and a deputy campaign treasurer;

(ii) a member of the candidate’s immediate family;

(iii) a person acting as agent for the candidate;

(iv) the candidate’s campaign committee; and

(v) a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of the candidate;

(2) “commission” means the Alaska Public Offices Commission;

(3) “communication” means, an announcement or advertisement disseminated through print or broadcast media, including radio, television, cable, and satellite, the Internet, or through a mass mailing, excluding those placed by an individual or nongroup entity and costing \$500 or less and those that do not directly or indirectly identify a candidate or proposition, as that term is defined in AS 15.13.065(c);

(4) “contribution”

(A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made, and includes the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that is rendered to the candidate or political party, and that is made for the purpose of

(i) influencing the nomination or election of a candidate;

(ii) influencing a ballot proposition or question; or

(iii) supporting or opposing an initiative proposal application filed with the lieutenant governor under AS 15.45.020;

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;

(ii) ordinary hospitality in a home;

(iii) two or fewer mass mailings before each election by each political party describing the party's slate of candidates for election, which may include photographs, biographies, and information about the party's candidates;

(iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate;

(v) any communication in the form of a newsletter from a legislator or the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(vi) a fundraising list provided without compensation by one candidate or political party to a candidate or political party;

(5) "electioneering communication" means a communication that

(A) directly or indirectly identifies a candidate;

(B) addresses an issue of national, state, or local political importance and attributes a position on that issue to the candidate identified; and

(C) occurs within the 30 days preceding a general or municipal election;

(6) "expenditure"

(A) means a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of

(i) influencing the nomination or election of a candidate or any individual who files for nomination at a later date and becomes a candidate;

(ii) use by a political party;

(iii) the payment by a person other than a candidate or political party of compensation for the personal services of another person that are rendered to a candidate or political party;

(iv) influencing the outcome of a ballot proposition or question; or

(v) supporting or opposing an initiative proposal application filed with the lieutenant governor under AS 15.45.020;

(B) does not include a candidate's filing fee or the cost of preparing reports and statements required by this chapter;

(C) includes an express communication and an electioneering communication, but does not include an issues communication;

(7) "express communication" means a communication that, when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate;

(8) "group" means

- (A) every state and regional executive committee of a political party;
- (B) any combination of two or more individuals acting jointly who organize for the principal purpose of influencing the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one individual, or intends to expend more than 50 percent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with the candidate's knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group the candidate files with the commission, on a form provided by the commission, an affidavit that the group is operating without the candidate's control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 percent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of AS 15.13.070, whether or not control of the group has been disclaimed by the candidate; and
- (C) any combination of two or more individuals acting jointly who organize for the principal purpose of filing an initiative proposal application under AS 15.45.020 or who file an initiative proposal application under AS 15.45.020;
- (9) "immediate family" means the spouse, parents, children, including a stepchild and an adopted child, and siblings of an individual;
- (10) "independent expenditure" means an expenditure that is made without the direct or indirect consultation or cooperation with, or at the suggestion or the request of, or with the prior consent of, a candidate, a candidate's campaign treasurer or deputy campaign treasurer, or another person acting as a principal or agent of the candidate;
- (11) "individual" means a natural person;
- (12) "issues communication" means a communication that
 - (A) directly or indirectly identifies a candidate; and
 - (B) addresses an issue of national, state, or local political importance and does not support or oppose a candidate for election to public office.
- (13) "nongroup entity" means a person, other than an individual, that takes action the major purpose of which is to influence the outcome of an election, and that
 - (A) cannot participate in business activities;
 - (B) does not have shareholders who have a claim on corporate earnings; and
 - (C) is independent from the influence of business corporations.
- (14) "person" has the meaning given in AS 01.10.060, and includes a labor union, nongroup entity, and a group;
- (15) "political party" means any group that is a political party under AS 15.60.010 and any subordinate unit of that group if, consistent with the rules or bylaws of the political party, the unit conducts or supports campaign operations in a municipality, neighborhood, house district, or precinct;
- (16) "publicly funded entity" means a person, other than an individual, that receives half or more of the money on which it operates during a calendar year from government, including a public corporation. (am § 24 ch 48 SLA 1996; am § 39 ch 21 SLA 2000; am §§ 25, 26 ch 1 SLA 2002; am § 7ch 3 SLA 2002; am §§ 8, 9 ch 1 TSSLA 2002; am §§ 18, 19 ch 108 SLA 2003; am § 2 ch 90 SLA 2006)

Revisor's notes. — Paragraph (13) was enacted as (12) and paragraphs (3), (5), (7), and (12) were enacted as (13 – 16). Renumbered in 2002 to retain alphabetical order.

Effect of amendments. — The 2002 amendment effective April 28, 2000, substituted “house district” for “election district” in subparagraph (10)(B).

The first 2002 amendment, effective April 16, 2002, added paragraph (13) and in paragraph (14) inserted “, nongroup entity.”

The second 2002 amendment, effective April 16, 2002, in subparagraph (4)(B), in item (i) inserted “political party,” and deleted “, but it does include professional services volunteered by individuals for which they ordinarily would be paid a fee or wage;” from the end; deleted former item (ii), which read “services provided by an accountant or other person to prepare reports and statements required by this

chapter; redesignated former item (iii) as item (ii); added present items (iii) to (v); and made a stylistic change.

The third 2002 amendment, effective June 26, 2002, added subparagraph (6)(C) and paragraphs (3), (5), (7), and (12).

The 2003 amendment, effective September 14, 2003, rewrote paragraphs (7) and (15).

The 2006 amendment, effective October 11, 2006, added subparagraph (4)(B)(iv) and made related stylistic changes.

Opinions of attorney general. — The statutory limit under AS 15.12.070(a) is applicable to “control groups” under former AS 15.13.130. Exempting such groups from the contribution limit would seriously undermine the statute’s primary purpose of deterring the buying of elections and the undue influence of large contributors. June 15, 1987, Op.Att’y Gen.

Unlawful Employment Practices **AS 18.80.220**

Sec. 18.80.220. Unlawful employment practices; exception.

(a) Except as provided in (c) of this section, it is unlawful for

- (1) an employer to refuse employment to a person, or to bar a person from employment, or to discriminate against a person in compensation or in a term, condition, or privilege of employment because of the person's race, religion, color, or national origin, or because of the person's age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood;
- (2) a labor organization, because of a person's sex, marital status, changes in marital status, pregnancy, parenthood, age, race, religion, physical or mental disability, color, or national origin, to exclude or to expel a person from its membership, or to discriminate in any way against one of its members or an employer or an employee;
- (3) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication, or to use a form of application for employment or to make an inquiry in connection with prospective employment, that expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, age, race, creed, color, or national origin, or an intent to make the limitation, unless based upon a bona fide occupational qualification;
- (4) an employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against a person because the person has opposed any practices forbidden under AS 18.80.200 - 18.80.280 or because the person has filed a complaint, testified, or assisted in a proceeding under this chapter;
- (5) an employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character or work in the same operation, business, or type of work in the same locality; or

(6) a person to print, publish, broadcast, or otherwise circulate a statement, inquiry, or advertisement in connection with prospective employment that expresses directly a limitation, specification, or discrimination as to sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, age, race, religion, color, or national origin, unless based upon a bona fide occupational qualification.

(b) The state, employers, labor organizations, and employment agencies shall maintain records on age, sex, and race that are required to administer the civil rights laws and regulations. These records are confidential and available only to federal and state personnel legally charged with administering civil rights laws and regulations. However, statistical information compiled from records on age, sex, and race shall be made available to the general public.

(c) Notwithstanding the prohibition against employment discrimination on the basis of marital status or parenthood under (a) of this section,

- (1) an employer may, without violating this chapter, provide greater health and retirement benefits to employees who have a spouse or dependent children than are provided to other employees;
- (2) a labor organization may, without violating this chapter, negotiate greater health and retirement benefits for employees of an employer who have a spouse or dependent children than are provided to other employees of the employer.

(d) In this section, "dependent child" means an unmarried child, including an adopted child, who is dependent upon a parent for support and who is either

- (1) less than 19 years old;
- (2) less than 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education and Early Development; or
- (3) of any age and totally and permanently disabled. . (§ 6 ch 117 SLA 1965; am § 4 ch 119 SLA 1969; am § 1 ch 237 SLA 1970; am §§ 5,6 ch 42 SLA 1972; am § 1 ch 119 SLA 1974; am § 9 ch 104 SLA 1975; am § 9 ch 69 SLA 1987; am §§ 1, 2 ch 16 SLA 1996)

Revisor's notes — In 1999, "Department of Education" was changed to "Department of Education and Early Development" in this section in accordance with § 89 ch 58 SLA 1999.

Cross references. — For original jurisdiction of the superior court over suits arising under this chapter, see AS 22.10.020.

Opinions of attorney general. — Because discrimination on the basis of citizenship has the effect of discriminating on the basis of national origin, this section and AS 18.80.225 make it clear that an employer, including the state or any of its political subdivisions, may not discriminate against a potential or existing employee because that person is not a citizen of the United States. April 14, 1975 Op. Att'y Gen.

Subsection (b) should be interpreted to require the commission to keep confidential information from a survey for records maintained to administer civil rights laws and regulations until it is presented at public hearing unless the information is released in a format which does not identify individual responding employers or unions. May 14, 1979 Op. Att'y Gen.

It is the opinion of the attorney general that State Deferred Compensation Plan options calculated by gender-based actuarial tables unlawfully discriminate against women employees. June 2, 1980 Op Att'y Gen.

An employment decision not to hire one who lives with a person of the opposite sex does not come within the prohibition against employment decisions based on marital status. January 4, 1980 Op. Att'y Gen.

Subsection (a) preserves the nonassociational rights of those public employees whose sincere and conscientious beliefs forbid union membership but who, because they are not members of an organized religion, do not come within coverage of AS 23.40.225. January 13, 1984 Op. Att'y Gen.

A state employee in a collective bargaining unit who does not belong to an organized religion is entitled to an accommodation of this religious opposition to the payment of union dues. January 13, 1984 Op. Att'y Gen.

Legislative Space AS 24.05.190

Sec. 24.05.190. Control of legislative space.

(a) The state capitol, with the exception of the capitol space now occupied by the Office of the Governor, and space occupied in any other state building by the legislature or its agencies is under the control of and subject to assignment by the Legislative Affairs Agency as directed by the legislature. The Legislative Affairs Agency is responsible for the equitable allocation of parking spaces at the capitol according to the needs of the legislature and other agencies occupying capitol offices.

(b) Access to legislative space during sessions is generally governed by the uniform rules of the legislature and by (a) of this section. During a session of the legislature a person not a member or an authorized employee of the legislature or its agencies may not, without the invitation of the presiding officer or the house, enter upon the floor of either house while it is sitting, or enter upon the floor of either house during a recess or when adjourned for the day, without the invitation of a member of that house. (§ 21 ch 157 SLA 1959; am § 5 ch 47 SLA 1961; am § 3 ch 126 SLA 1966; am § 1 ch 10 SLA 1976)

Effect of amendments. — The 2000 amendment, effective June 29, 2000, added subsection (b).

Legislative Immunity AS 24.40.010

Sec. 24.40.010. Immunities.

A legislator may not be held to answer before any other tribunal for any statement made in the exercise of legislative duties while the legislature is in session. A member attending, going to, or returning from legislative sessions is not subject to civil process and is privileged from arrest except for felony or breach of the peace. The immunities provided in this section extend to a legislator attending, going to, or returning from a meeting of an interim standing or special committee of the legislature of which the legislator is a member. For the purposes of going to and returning from a session or meeting, the immunities provided extend to a legislator for a period of five days immediately preceding and following the legislator's attendance at the session or meeting. (§ 8 ch 157 SLA 1959)

Cross references. — For constitutional provisions on legislative immunity, see Alaska Const. art. II, § 6.

Opinions of attorney general — A “session” is the sitting of the legislature during the period of time that it is convened as a legislature to do business as a legislative body. 1959 Op. Att’y Gen., No. 8.

The privilege from arrest does not extend to those violations of our law which constitute a “felony or breach of the peace.” In these two categories a member of the state legislature stands in the eyes of the law as any other citizen. 1959 Op. Att’y Gen., No. 8.

Members of the state legislature, while “going to,” “attending” or “returning from” a legislative session

from arrest, which must be asserted or it may be deemed waived. See 1959 Op. Att’y Gen., No. 8.

The immunity of legislators under this section runs from the time the member is “going to” or “returning from” a legislative session, 24 hours a day, seven days a week from the time that the legislature is convened to the time that it adjourns sine die. 1959 Op. Att’y Gen., No. 8.

Executions are “civil process.” 1959 Op. Att’y Gen., No. 8.

A legislator is immune from all civil process during the legislative session, including garnishment of wages; garnishment under a continuing writ must therefore be suspended at least five days before the session begins

enjoy an absolute immunity against civil process. 1959 Op. Att’y Gen., No. 8.

Immunity against civil process cannot be waived by the legislator since the Alaska immunity is intended to protect the public as well as serve the convenience of the legislators. 1959 Op. Att’y Gen., No. 8.

Members of the legislature have only a “privilege”

and may not be reinstated until after the session adjourns pursuant to AS 24.40.010. Dec.10, 1986 Op. Att’y Gen.

Collateral references. — Nature and extent of privilege accorded public statements, relating to subject of legislative business or concern, made by member of state or local legislature or council outside of formal proceedings. 41.ALR4th 1116.

Note: Legislative immunity is also granted in the Alaska Constitution.

Lobbyists Disclosure: Registration and Reports **AS 24.45.041**

Sec. 24.45.041. Registration; disqualification.

(a) Before engaging in lobbying, a lobbyist shall file a registration statement on a form prescribed by the commission.

(b) The registration form prescribed by the commission must include

- (1) the lobbyist’s full name and complete permanent residence and business address and telephone number, as well as any temporary residential and business address and telephone number in the state capital during a legislative session;
- (2) the full name and complete address of each person by whom the lobbyist is retained or employed;
- (3) whether the person from whom the lobbyist receives compensation employs the person solely as a lobbyist or whether the person is a regular employee performing other services for the employer that include but are not limited to the influencing of legislative or administrative action;
- (4) the nature or form of the lobbyist’s compensation for engaging in lobbying, including salary, fees, or reimbursement for expenses received in consideration for, or directly in support of or in connection with, the influencing of legislative or administrative action;
- (5) a general description of the subjects or matters on which the registrant expects to lobby or to engage in the influencing of legislative or administrative action;
- (6) the full name and complete address of the person, if other than the registrant, who has custody of the accounts, books, papers, bills, receipts, and other documents required to be maintained under this chapter;
- (7) the identification of a legislative employee or public official to whom the lobbyist is married or who is the domestic partner of the lobbyist;
- (8) a sworn affirmation by the lobbyist that the lobbyist has completed the training course administered by the commission under AS 24.45.031(a) within the 12-month period preceding the date of registration or registration renewal under this chapter, except that this paragraph does not apply to a person who is a representational lobbyist as defined under regulations of the commission;
- (9) a sworn affirmation by the lobbyist that the lobbyist has not been previously convicted of a felony involving moral turpitude; in this paragraph, “felony involving moral turpitude” has the meaning given in AS 15.60.010, and includes convictions for a violation of the law of this state or a violation of the law of another jurisdiction with elements similar to a felony involving moral turpitude in this state.

(c) At the option of the registrant, the registration form may be accompanied by four two and one-half inch by two and one-half inch black and white photographs of the lobbyist. The photographs may not be more than five years old. These photographs shall be included in the directory published under (e) of this section.

(d) If a change occurs in any of the information contained in a registration statement filed under (a) of this section, or in any accompanying document, an appropriate amendment shall be filed with the commission within 10 days after the change.

(e) Within 15 days after the convening of each regular session of the legislature, the commission shall publish a directory of registered lobbyists, containing the information prescribed in (b) of this section for each lobbyist and the photograph, if any, furnished by a lobbyist under (c) of this section. From time to time thereafter, the commission shall publish those supplements to the directory that in the commission's judgment may be necessary. The directory shall be made available to public officials and to the public at the following locations: a public adjacent to the legislative chambers in the state capitol building, the office of the lieutenant governor, the legislative reference library of the Legislative Affairs Agency and the commission's central office.

(f) Each lobbyist shall renew the registration annually by filing a new registration statement together with a new authorization to act as lobbyist before engaging in lobbying. The lobbyist also shall file any reports or statements the lobbyist has failed to file for a previous reporting period. The commission may not renew lobbying credentials until this provision is complied with.

(g) An application for registration as a lobbyist under (a) of this section or for renewal of a registration under (f) of this section is subject to a fee of \$250. The commission may not accept an application for registration or renew a registration until the fee is paid. This subsection does not apply to volunteer lobbyist under AS 24.45.161 or a representational lobbyist under regulations of the commission.

(h) Upon request of the commission, information required under this section shall be submitted electronically.

(i) A person may not register if the person has been previously convicted of a felony involving moral turpitude in violation of a law of this state or the law of another jurisdiction with elements similar to a felony involving moral turpitude in this state.

(j) In this section,

(1) "felony involving moral turpitude" has the meaning given in AS 15.60.010;

(2) "previously convicted" means the defendant entered a pleas of guilty, no contest, or nolo contendere, or has been found guilty by a court or jury; "previously convicted" does not include a conviction that has been set aside under AS 12.55.085 or a similar procedure in another jurisdiction, or that has been reversed or vacated by a court. (§ 2 ch 167 SLA 1976; am § 39 ch 36 SLA 1990; am § 12 ch 74 SLA 1998; am § 9 ch 22 SLA 2001; am §§ 20 – 22 ch 108 SLA 2003; am § 10 ch 34 SLA 2007; am §§ 12, 13 ch 47 SLA 2007)

Effect of amendments. The 1998 amendment, effective January 1, 1999, in subsection (b) added paragraph (7) and made minor stylistic changes.

The 2001 amendment, effective May 10, 2001, made a section reference substitution in paragraph (b)(7).

The first 2007 amendment, effective January 1, 2008, substituted "15 days" for "45 days" near the beginning of the first sentence of subsection (e), and inserted a comma following "thereafter" near the beginning of the second sentence.

The 2003 amendment, effective September 14, 2003, substituted “domestic partner” for “spousal equivalent” in two places in paragraph (b)(7); substituted “\$250” for “\$100” in the first sentence in subsection (g); and added subsection (h).

The second 2007 amendment, effective July 10, 2007, deleted “legislator” following “the identification of a” at the end of paragraph (b)(7), added paragraphs (b)(8) and (b)(9), and added subsection (i) and (j)

Lobbyists: Reports **AS 24.45.051(b)**

Sec. 24.45.051(b). Reports

- (b) A lobbyist required to report to the commission under (a) of this section, who provides or pays for food or beverage for immediate consumption by a legislator or legislative employee or a spouse or domestic partner of a legislator or legislative employee shall report the date the food or beverage was provided or paid for and the recipient’s name and relationship to the legislator or legislative employee, unless the food and beverage
- (1) cost \$15 or less; or
 - (2) are provided as part of an event that is open to all legislators or legislative employees.

Lobbyists: Prohibitions **AS 24.45.121**

Sec. 24.45.121. Prohibitions.

- (a) [See effect of amendments note]. A lobbyist may not
- (1) engage in any activity as a lobbyist before registering under AS 24.45.041;
 - (2) do anything with the intent of placing a public official under personal obligation to the lobbyist or to the lobbyist’s employer;
 - (3) intentionally deceive or attempt to deceive any public official with regard to any material fact pertinent to pending or proposed legislative or administrative action;
 - (4) cause or influence the introduction of a legislative measure solely for the purpose of thereafter being employed to secure its passage or its defeat;
 - (5) cause a communication to be sent to a public official in the name of any fictitious person or in the name of any real person, except with the consent of that person;
 - (6) accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action;
 - (7) serve as a member of a state board or commission, if the lobbyist’s employer may receive direct economic benefit from a decision of that board or commission;
 - (8) serve as a campaign manager or director, serve as a campaign treasurer or deputy campaign treasurer on a finance or fund-raising committee, host a fund-raising event, directly or indirectly collect contributions for, or deliver contributions to, a candidate, or otherwise engage in the fund-raising activity of a legislative campaign or campaign for governor or lieutenant governor if the lobbyist has registered, or is required to register, as a lobbyist under this chapter, during the calendar year; this paragraph does not apply to a representational lobbyist as defined in the regulations of the Alaska Public Offices

- Commission, and does not prohibit a lobbyist from making personal contributions to a candidate as authorized by AS 15.13 or personally advocating on behalf of a candidate;
- (9) offer, solicit, initiate, facilitate, or provide to or on behalf of a person covered by AS 24.60, during a legislative session, a gift, other than food or beverage for immediate consumption; however, this paragraph does not prohibit a lobbyist from providing, during a legislative session or at any other time of the year, tickets to a charity event described in AS 24.60.080(c)(10), or a contribution to a charity event under AS 24.60.080(c)(11);
- (A) a gift to a legislator or legislative employee who is a member of the lobbyist's immediate family as defined in AS 24.60.990(a), if the gift is unconnected to the recipient's legislative status;
 - (B) tickets to a charity event described in AS 24.60.080(a)(2)(B); or
 - (C) a contribution to a charity event under AS 24.60.080(c)(10);
- (10) make or offer a gift or a campaign contribution whose acceptance by the person to whom it is offered would violate AS 24.60.

(b) A person may not employ for pay or any consideration, or pay or agree to pay consideration to, a person to lobby who is not registered under AS 24.45.041 unless that person registers and that person does in fact so register before engaging in lobbying.

(c) A former member of the legislature may not engage in activity as a lobbyist before the legislature for a period of one year after the former member has left the legislature. This subsection does not prohibit a former member from acting as a volunteer lobbyist described in AS 24.45.161 (a)(1) or a representational lobbyist as defined under regulations of the commission.

(d) An individual may not, at any time that AS 39.52 prohibits that individual from engaging in activity as a lobbyist. This subsection does not prohibit registration or service as a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational lobbyist, as defined in regulation by the commission.

(e) The spouse or domestic partner of a legislator may not engage in activity as a lobbyist. This subsection does not prohibit the spouse or domestic partner from acting as a volunteer lobbyist under AS 24.45.161(a)(1) or a representational lobbyist, as defined in regulation by the commission. (§ 2 ch 167 SLA 1976; am § 1 ch 159 SLA 1984; am §§ 37, 38 ch 127 SLA 1992; am § 26 ch 48 SLA 1996; am § 1 ch 115 SLA 2003)

Cross references. — For legislative findings and purpose concerning the 1996 amendments made by ch. 48, SLA 1996 that relate to this section, see § 1, ch. 48, SLA 1996 in the Temporary and Special Acts. For construction of the 1996 amendments, see § 29, ch. 48, SLA 1996 in the Temporary and Special Acts. For provisions relating to the applicability of AS 15.13 to certain persons if a court determines that persons who are not individuals must be allowed to contribute to candidates or groups, see § 30, ch. 48, SLA 1996 in the Temporary and Special Acts. For severability of the provisions of ch. 48, SLA 1996, see § 31, ch. 48, SLA 1996 in the Temporary and Special Acts.

Effect of amendments. — The 1996 amendment, effective January 1, 1997, rewrote paragraph (a)(8).

The 2003 amendment, effective September 15, 2003, added the exception at the end of paragraph (a)(9).

Editor's notes. — Section 33(a), ch. 48, SLA 1996 provides that the amendment to this section made by § 26, ch. 48, SLA 1996 takes effect only if the lieutenant governor determines that §§ 1—32, ch. 48, SLA 1996 are substantially the same as the law proposed by the initiative identified as Initiative Petition 95 CFPO. The lieutenant governor communicated her determination to that effect to the initiative sponsors by letter dated May 29, 1996. See also May 21, 1996 Op. Att'y Gen. Accordingly, under § 35, ch. 48, SLA 1996, this amendment to this section takes effect January 1, 1997.

Lobbyists: General Provisions **AS 24.45.161(a)(1) & AS 24.45.171**

Sec. AS 24.45.161(a)(1). Exemptions.

(a) This chapter does not apply to

(1) an individual

- (A) who lobbies without payment of compensation or other consideration and makes no disbursement or expenditure for or on behalf of a public official to influence legislative or administrative action other than to pay the individual's reasonable personal travel and living expenses; and
- (B) who limits lobbying activities to appearances before public sessions of the legislature, or its committees or subcommittees, or to public hearings or other public proceedings of the state agencies.

Legislative history reports. — For legislative intent, see report on CSHB 522, 1976 House Journal, p. 562

Sec. AS 24.45.171. Definitions.

- (1) “administrative action” means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by any state agency of any rule or regulation, or any other quasi-legislative or quasi-judicial action or proceeding whether or not governed by AS 44.62 (Administrative Procedure Act); “administrative action” does not include
 - (A) a proceeding or an action to determine the rights or duties of a person under existing statutes, regulations, or policies;
 - (B) the issuance, amendment, or revocation of a permit, license, or entitlement for use under existing statutes, regulations, or policies by the agency authorized to issue, amend, or revoke the permit, license, or entitlement for use;
 - (C) the enforcement of compliance with existing law or the imposition of sanctions for a violation of existing law;
 - (D) procurement activity, including the purchase or sale of property, goods, or services by the agency or the award of a grant contract;
 - (E) the issuance of, or ensuring compliance with, an opinion or activity related to a collective bargaining agreement including negotiating or enforcing the agreement;
- (2) “agency” means a state department, division, commission, board, office, bureau, institution, corporation, authority, organization, committee, council or board in the executive branch, or independent of the executive branch, of state government;
- (1) “commission” means the Alaska Public Offices Commission;
- (2) “communicate directly” means to speak with a legislator, legislative employee, or public official;
 - (A) by telephone;
 - (B) by two-way electronic communication; or
 - (C) in person;
- (5) “domestic partner” has the meaning given in AS 39.50.200(a);
- (6) “gift”

- (A) means any payment to the extent that consideration of equal or greater value is not received;
- (B) includes but is not limited to
 - (i) a loan, loan guarantee, forgiveness of a loan, payment of a loan by a third party, or an enforceable promise to make a payment except when full and adequate consideration is received.
 - (ii) the purchase of tickets for travel or for entertainment events; and
 - (iii) the granting of discounts or rebates for goods or services not extended to the public generally;
- (C) does not include
 - (i) informational or promotional materials, including but not limited to books, reports, pamphlets, calendars, or periodicals; however, payments for travel or reimbursement for expenses may not be considered “information material”;
 - (ii) food and beverages consumed in places of public accommodation;
- (7) “immediate family” means the spouse and dependent children of an individual;
- (8) “individual” means a natural person;
- (9) “influencing legislative or administrative action” means to communicate directly for the purpose of introducing, promoting, advocating, supporting, modifying, opposing, or delaying or seeking to do the same with respect to any legislative or administrative action;
- (10) “legislative action” means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, defeat, or rejection of any bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the legislature, or by a standing, interim, or special committee of the legislature, or by a member or employee of the legislature acting in an official capacity; it includes, but is not limited to, the action of the governor in approving or vetoing a bill or the action of the legislature in considering, overriding, or sustaining that veto and the action of the legislature in considering, confirming, or rejecting an executive appointment of the governor;
- (11) “lobbyist” means a person who
 - (A) is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, to communicate directly or through the person’s agents with any public official for the purpose of influencing legislation or administrative action for more than 10 hours in any 30-day period in one calendar year; or
 - (B) represents oneself as engaging in the influencing of legislative or administrative action as a business, occupation, or profession;
- (12) “payment” means the disbursement, distribution, transfer, loan, advance, deposit, gift, or other rendering or tendering of money, property, goods, or services or anything else of value;
- (13) “payment to influence legislative or administrative action” means any of the following:
 - (A) a direct or indirect payment to a lobbyist whether for salary, fee, compensation for expenses, or any other purpose by a person employing, retaining, or contracting for the services of the lobbyist separately or jointly with other persons;
 - (B) a payment in support of or assistance to a lobbyist or the lobbyist’s activities, including but not limited to the direct payment of expenses incurred at the request or suggestion of the lobbyist;
 - (C) a payment that directly benefits a public official or a member of the immediate family of that official;

- (D) a payment, including compensation, payment, or reimbursement for the services, time, or expenses of an employee for or in connection with direct communication with a public official;
- (E) a payment for or in connection with soliciting or urging other persons to enter into direct communication with a public official;
- (F) a payment or reimbursement for expenses in categories set out in AS 24.45.051(a)(2);
- (14) “person”, in addition to the terms set out in AS 01.10.060 includes a labor union; and
- (15) “public official” or “public officer” means a public official as defined in AS 39.50.200(a), a member of the legislature, or a legislative director as defined in AS 24.60.990(a); however it does not include a judicial officer or an elected or appointed municipal officer. (§ 2 ch 167 SLA 1976; am § 39 ch 37 SLA 1986; am § 39 ch 127 SLA 1992; am § 26 ch 108 SLA 2003; am §§ 2 – 5 ch 115 SLA 2003; am § 4, 2006 Primary Election Ballot Measure 1; am § 17 ch 47 SLA 2007)

Revisor’s notes. — Paragraphs (3) and (4) were enacted as paragraph (13) and renumbered in 2003, at which time paragraphs (3) – (12) were renumbered as (5) – (14). Paragraph (5) was enacted as paragraph (15) and renumbered in 2007, at which time paragraphs (5) – (14) were renumbered as (6) – (15).

Effect of amendments. — The first 2003 amendment, effective September 14, 2003, added paragraph (3).

The second 2003 amendment, effective September 15, 2003, in paragraph (1), in the introductory

language, deleted “order, decision, determination,” following “of any rule” and added “ ‘administrative action’ does not include” at the end, and added subparagraphs (A)-(E); rewrote paragraphs (8) and (10) [now (9) and (11)]; and added paragraph (4).

The 2006 amendment, effective December 17, 2006, rewrote paragraph (10) [now (11)].

The 2007 amendment, effective July 10, 2007, added paragraph (15) [now (5)].

Legislative Procurement Procedures AS 36.30.020

Sec. AS 36.30.020. Legislature

The legislative council shall adopt and publish procedures to govern the procurement of supplies, services, professional services, and construction by the legislative branch. The procedures must be based on the competitive principles consistent with this chapter and must be adapted to the special needs of the legislative branch as determined by the legislative council. The procedures must contain provisions for prohibiting procurement from a person that has headquarters in a country listed in Tier 3 of the most recent Trafficking in Persons Report published by the United States Secretary of State under 22 U.S.C. 7107(b)(1)(C). The procedures may contain provisions for restricting procurement from a person that conducts business in but does not have headquarters in a country listed in Tier 3 of the most recent Trafficking in Persons Report published by the United States Secretary of State under 22 U.S.C. 7107(b)(1)(C). The procedures must be consistent with the provisions of AS 36.30.080(c) – e and 36.30.085. Notwithstanding the other provisions of this section, the legislative agencies subject to the legislative council’s regulations shall comply with AS 36.30.170(b). (§ 2 ch 106 SLA 1986; am § 6 ch 181 SLA 1990; am § 1 ch 73 SLA 1992; am § 4 ch 75 SLA 1994; am § 5 ch 137 SLA 1996; am § 3 ch 72 SLA 2006)

Effect of amendments. — The 2013 amendment, effective June 27, 2013, in the last sentence substituted “the five percent preference under AS 36.30.321(a)” for “AS 36.30.170(b).”

Effect of amendments. — The 2006 amendment, effective July 1, 2006, inserted the third and fourth sentences.

Administration of Grants AS 37.05.316

Sec. AS 37.05.316. Grants to named recipients.

(a) When an amount is appropriated or allocated to a department as a grant under this section for a named recipient that is not a municipality, the department to which the appropriation or allocation is made shall promptly notify the named recipient of the availability of the grant and request the named recipient to submit a proposal to provide the goods or services specified in the appropriation act for which the appropriation or allocation is made. A grant agreement must be executed within 60 days after the effective date of the appropriation or allocation unless the department determines that an award of the grant would not be in the public interest.

(b) The Department of Labor and Workforce Development shall require a recipient awarded a grant for a public works project under (a) of this section to comply with the hiring preferences under AS 36.10.150 – 36.10.175 for employment generated by the grant. (§ 2 ch 4 SLA 1982; am § 8 ch 33 SLA 1986; am § 39 ch 106 SLA 1986; am § 5 ch 59 SLA 1997)

Revisor's notes. — In 1999, in (b) of this section, “Department of Labor” was changed to “Department of Labor and Workforce Development” in accordance with § 90, ch.58 SLA 1999.

Pension Forfeiture to Preserve Public Trust in Government AS 37.10.310

Sec. AS 37.10.310. Pension

(a) A public officer, as defined in AS 39.52.960, a legislator, or a person employed as a legislative director, as that term is defined in AS 24.60.990, who is convicted of a federal or state felony offense of bribery, receiving a bribe, perjury, subornation of perjury, scheme to defraud, fraud, mail fraud, misuse of funds, corruption, or tax evasion may not receive a state pension benefit if the offense was committed on or after the effective date of this section and was in connection with the person's official duties.

(b) Pension benefits and employee contributions that accrue to a person before the date of the person's commission of the offense described in (a) of this section are not diminished or impaired by that subsection.

(c) A state pension benefit under (a) of this section does not include

- (1) insurance, voluntary wage reductions, involuntary wage reductions, or supplemental or health benefits under AS 39.30.090 – 39.30.495 or former 39.37.145;
- (2) member or employee contributions under AS 14.25.050, 14.25.055, 14.25.075, 14.25.340, 14.25.360(a), AS 22.25.011, AS 39.35.160, 39.35.165(f), 39.35.180, 39.35.730, 39.35.760(a), or former AS 39.37.070.

(d) In a pension forfeiture matter under this section, the board may award to a spouse, dependent, or former spouse of the person governed by the limitations in (a) of this section some or all of the amount that, but

for the forfeiture under (a) of this section, may otherwise be payable. In determining whether to make an award under this subsection, the board shall consider the totality of circumstances, including

- (1) the role, if any, of the person's spouse, dependent, or former spouse in connection with the illegal conduct for which the person was convicted; and
- (2) the degree of knowledge, if any, possessed by the person's spouse, dependent, or former spouse in connection with the illegal conduct for which the person was convicted. (§ 50 ch 47 SLA 2007)

Cross references. — For applicability of this section, see AS 14.25.212, AS 14.25.532, AS 22.25.800, AS 39.35.273, and AS 39.35.932.

Effective dates. — Section 79, ch. 47, SLA 2007, makes this section effective July 10, 2007, in accordance with AS 01.10.070(c)

Editors notes. — Under § 76 ch 47 SLA 2007, the provisions of this section “apply to benefits under former AS 39.37 (elected public officers’ retirement system).”

Compensation, Allowances, and Leave

AS 39.20.180

Sec. 39.20.180. Transportation and per diem expenses for members of boards, commissions, etc. Except as otherwise provided by law, the provisions in this section relating to per diem and transportation govern exclusively with respect to a member of a state board, commission, committee, judicial council, or other similar body of persons of the state organized or established under the authority of law, but excluding any other state employee other than a legislator, who is otherwise entitled by law to receive from the state payments for expenses of transportation, and for reimbursement or for per diem in lieu of reimbursement for other expenses incident to duties as such member:

- (1) for transportation, the member is entitled either to the use of state transportation requests, or to be reimbursed for expenses of transportation to the same extent, in the same manner, and under the same conditions as provided for state officials and employees by the provisions of AS 39.20.110 - 39.20.170;
- (2) for reimbursement for other expenses, the member is entitled to a per diem allowance prescribed by the commissioner of administration under the regulatory authority set out in AS 39.20.160 for each day or portion of a day spent in actual meeting or on authorized official business incident to duties as a member. (§ 1 ch 130 SLA 1953; am § 1 ch 34 SLA 1960; am § 1 ch 37 SLA 1962; am § 5 ch 136 SLA 1967; am § 12 ch 47 SLA 1974; am § 31 ch 85 SLA 1988)

Cross references. — For coverage of state board and commission members under the Worker's Compensation Act, see AS 23.30.242

Opinions of attorney general. — In order to recover an allowance for nonmeeting activity, an occupational licensing board member must be engaged in an activity within the scope of the applicable board's powers. November 6, 1984 Op. Att'y Gen.

An occupational licensing board member cannot receive a per diem allowance for conducting an activity that should be performed by division personnel; any activity approved must be specifically

defined by statute as a board duty and should be an activity that cannot be accomplished within the confines of a board meeting. If the task can be performed during a meeting, then per diem should not be paid for time unnecessarily spent by a board member outside a board meeting. It is important, of course, for budgetary reasons, that board activity for which per diem compensation is sought be kept to a minimum. November 6, 1984 Op. Att'y Gen.

The Alaska Power Authority may reimburse a member only for (1) time spent in actual meeting or (2) time spent on authorized official business to his duties as a member. April 19, 1984 Op. Att'y Gen.

Employment with the State **AS 39.35.300(a)**

Sec. 39.35.300(a). Employment

(a) An active employee is entitled to credited service for periods of employment with the state after January 1, 1961, regardless of the office department, division, or agency of the state in which the person was employed. For purposes of AS 39.35.095 – 39.35.680, the University of Alaska is not an office, department, division, or agency of the state. Service credit may not be granted under AS 39.35.095 – 39.35.680 for service that is creditable under the teachers' retirement system, AS 14.25, or for a person's service as a public officer, as defined in AS 39.52.960, a legislator, or legislative director, if the service occurs on or after the date the person commits a criminal offense from which a pension forfeiture under AS 37.10.310 results.

Public Official Financial Disclosure **AS 39.50.030 and AS 39.50.060(b)**

Sec. 39.50.030. Contents of Statement.

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

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

- (1) for all sources of income over \$1,000 during the preceding calendar year, including taxable capital gains, and for all gifts from a single source with a cumulative value exceeding \$250 in a calendar year, received by the person, the person's spouse or domestic partner, or the person's dependent child,
 - (A) each source of the income or gift;
 - (B) the recipient of the income or gift;
 - (C) the amount of the income or value of the gift;
 - (D) a brief statement describing whether the income was earned by commission, by the job, by the hour, or by some other method;
 - (E) the approximate number of hours worked to earn the income; and
 - (F) unless required by law to be kept confidential, a description sufficient to make clear to a person of ordinary understanding the nature of each service performed and the date the service was performed;
- (2) the identity, by name and address, of each business in which the person, the person's spouse or domestic partner, or the person's dependent child has an interest or was a stockholder, owner, officer, director, partner, proprietor, or employee during the preceding calendar year, except that an interest of less than \$1,000 in stock of a publicly traded corporation need not be included;
- (3) the identity and nature of each interest in real property, including an option to buy, owned at any time during the preceding calendar year by the person, the person's spouse or domestic partner, or the person's dependent child;

- (4) the identity of each trust or other fiduciary relationship in which the person, the person's spouse or domestic partner, or the person's dependent child held a beneficial interest exceeding \$1,000 during the preceding calendar year, a description and identification of the property contained in each trust or relation, and the nature and extent of the beneficial interest in it;
- (5) any loan or loan guarantee of more than \$1,000 made to the person, the person's spouse or domestic partner, or the person's dependent child, and the identity of the maker of the loan or loan guarantor and the identity of each creditor to whom the person, the person's spouse or domestic partner, or the person's dependent child owed more than \$1,000; this paragraph requires disclosure of a loan, loan guarantee, or indebtedness only if the loan or guarantee was made, or the indebtedness incurred, during the preceding calendar year, or if the amount still owing on the loan, loan guarantee, or indebtedness was more than \$1,000 at any time during the preceding calendar year;
- (6) a list of all contracts and offers to contract with the state or an instrumentality of the state during the preceding calendar year held, bid, or offered by the person, the person's spouse or domestic partner, or the person's dependent child, a partnership, limited liability company, or professional corporation of which the person is a member, or a corporation in which the person or the person's spouse, domestic partner, or dependent child, or a combination of them, hold a controlling interest; and
- (7) a list of all mineral, timber, oil, or any other natural resource lease held, or lease offer made, during the preceding calendar year by the person, the person's spouse or domestic partner, or the person's dependent child, a partnership, limited liability company, or professional corporation of which the person is a member, or a corporation in which the person or the person's spouse, domestic partner, or dependent child, or a combination of them, holds a controlling interest.

(c) [Repealed, § 26 ch 250 SLA 1975.]

(d) In addition to the requirements of (b) of this section, each statement filed under this chapter by a public official in the executive branch of state government other than the chair or a member of a state commission or board must include a disclosure of the formation or maintenance of a close economic association involving a substantial financial matter as required by this subsection. The disclosure must be sufficiently detailed so that a reader can ascertain the nature of the association. A public official shall disclose a close economic association with

- (1) a legislator;
- (2) a public official who is not an elected or appointed municipal officer;
- (3) a lobbyist; or
- (4) a public officer if the person required to make the disclosure is the governor or the lieutenant governor.

(e) If a public official required to disclose a close economic association under (d) of this section forms a close economic association after the date on which the public official files the financial disclosure statement required by (a) of this section, disclosure of the association must be made to the commission within 60 days after the formation of the association.

(f) When making a disclosure under (d) of this section concerning a relationship with a lobbyist to whom the public official is married or who is the public official's domestic partner the public official shall also disclose the name and address of each employer of the lobbyist and the total monetary value received from the lobbyist's employer. The public official shall report changes in the employers of the spouse or domestic partner within 48 hours after the change. In this subsection, "employer of the

lobbyist” means the person from whom the lobbyist received money, or goods or services having a monetary value, for engaging in lobbying on behalf of the person.

(g) The requirements in this section for disclosures related to a person’s domestic partner do not apply to an elected or appointed municipal officer.

(h) In this section,

- (1) “close economic association” means a financial relationship that exists between a public official required to disclose a close economic association under (d) of this section and some other person or entity, including a relationship where the public official serves as a consultant or advisor to, is a member or representative of, or has a financial interest in an association, partnership, limited liability company, business, or corporation;
- (2) “lobbyist” has the meaning given in AS 24.60.990(a);
- (3) “public officer” has the meaning given in AS 39.52.960. (1974 Initiative Proposal No. 2, § 1; am §§ 3, 4, 26 ch 25 SLA 1975; am §§ 70 – 72 ch 74 SLA 1998; am §§ 34, 35, 41 ch 108 SLA 2003; am § 24 ch 99 SLA 2004; am §§ 55, 56 ch 47 SLA 2007;

Effect of amendments. — The 2003 amendment, effective September 14, 2003, substituted “domestic partner” for “spousal equivalent” throughout subsection (b) and otherwise rewrote that subsection; substituted “domestic partner” for “spousal equivalent” in two places in subsection (f); and repealed paragraph (h)(1).

The 2004 amendment, effective June 26, 2004, substituted “domestic partner” for “spousal equivalent” in subsection (g).

The 2007 amendment, effective July 10, 2007, substituted “\$1,000” for “\$5,000” throughout subsection (b), rewrote paragraph (b)(1), substituted

“relationship” for “relation” in paragraph (b)(4), inserted “limited liability company” in paragraphs (b)(6), (b)(7), and (h)(3), substituted “dependent child” for “dependent children” near the end of paragraphs (h)(6) and (b)(7), redesignated paragraphs (h)(2) through (h)(4) as (h)(1) through (h)(3), and made stylistic changes.

Opinions of attorney general. — Requiring an attorney who is a public official to disclose the names of clients, including the clients of the firm, is valid and legally supportable; and disclosure of such names does not violate any constitutional or professional privileges. February 15, 1985 Op. Att’y Gen.

Public Official Financial Disclosure **AS 39.50.060(b)**

Sec. 39.50.060(b). Penalty for willful violation of disclosure requirements.

(b) Any person failing or refusing to comply with the requirements of this chapter, in addition to the penalties prescribed, shall forfeit nomination to office and may not be seated or installed in office if the person has not complied. Nominated, hired, or appointed officials, commissioners, chairs, or members of commissions or boards specified in AS 39.50.200(b) may not be confirmed by the legislature if compliance has not been made. In the case of elected officials, the lieutenant governor, or other certifying authority, may not certify a person’s nomination for office or the person’s election to office if compliance was not made within the time required. The nomination to office or election to office shall be certified to the highest vote getter for that nomination for that office or election to that office who has complied within the times required and who shall be declared nominated or elected. For purposes of this subsection, a person is considered to have complied within the time required if the person complies within 30 days after the due date established by this chapter. (1974 Initiative Proposal No. 2, § 1; am § 9 ch 25 SLA 1975; am § 73 ch 74 SLA 1998)

Cross references. — For applicability of subsection (b) to legislators and candidates for the legislature, see AS 24.60.200

Definition: Partisan Political Purposes
AS 39.52.120

Sec. 39.52.120. Misuse of official position.

(b) A public officer may not

(6) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes; this paragraph does not prohibit use of the governor's residence for meetings to discuss political strategy and does not prohibit use of state aircraft or the communications equipment in the governor's residence so long as there is no charge to the state for the use; in this paragraph, "for partisan political purposes"

(A) means having the intent to differentially benefit or harm a

(i) candidate or potential candidate for elective office; or

(ii) political party or group;

(B) but does not include having the intent to benefit the public interest at large through the normal performance of official duties.

Use of the State Seal without Permission Prohibited
AS 44.09.015

Sec. 44.09.015. Use of seal without permission prohibited.

(a) A person may not use or make a die or impression of the state seal for any advertising or commercial purpose, unless written permission has first been obtained from the lieutenant governor.

(b) Violation of this section is a misdemeanor, and upon conviction is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both. (§ 1 ch 90 SLA 1968)

Revisor's notes. — Formerly AS 11.60.225.
Renumbered in 1978

Periodically questions arise concerning use of the state seal in political campaign material, e.g., an endorsement letter on a legislator's letterhead. Neither the legislative ethics law, nor the election law refers to the state seal. In the past, a Lieutenant Governor issued a letter of opinion stating that use of the state seal for campaign purposes was not permitted, absent his/her written permission.

Open Meetings of Governmental Bodies
AS 44.62.310 & AS 44.62.312

Sec. 44.62.310. Government meetings public.

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at

meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.

(b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

(c) The following subjects may be considered in an executive session:

- (1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
- (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (3) matters which by law, municipal charter, or ordinance are required to be confidential;
- (4) matters involving consideration of government records that by law are not subject to public disclosure.

(d) This section does not apply to

- (1) a governmental body performing a judicial or quasi-judicial function when holding a meeting solely to make a decision in an adjudicatory proceeding;
- (2) juries;
- (3) parole or pardon boards;
- (4) meetings of a hospital medical staff;
- (5) meetings of the governmental body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline;
- (6) staff meetings or other gatherings of the employees of a public entity, including meetings of an employee group established by policy of the Board of Regents of the University of Alaska or held while acting in an advisory capacity to the Board of Regents; or
- (7) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings.
- (8) meetings of municipal service area boards established under AS 29.35.450-29.35.490 when meeting solely to act on matters that are administrative or managerial in nature.

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and if, the meeting is by teleconference, the location of any teleconferencing facilities that will be used. Subject to posting notice of a meeting on the Alaska Online Public Notice System as required by AS 44.62.175(a), the notice may be given using print or broadcast media. The notice shall be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. The governmental body shall provide notice in a consistent fashion for all its meetings.

(f) Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within 180 days after the date of the action. A member of a governmental body may not be named in an action to enforce this section in the member's personal capacity. A governmental body that violates or is alleged to have violated this section may cure the violation or alleged violation by holding another meeting in compliance with notice and other requirements of this section and conducting a substantial and public reconsideration of the matters considered at the original meeting. If the court finds that an action is void, the governmental body may discuss and act on the matter at another meeting held in compliance with this section. A court may hold that an action taken at a meeting held in violation of this section is void only if the court finds that, considering all of the circumstances, the public interest in compliance with this section outweighs the harm that would be caused to the public interest and to the public entity by voiding the action. In making this determination, the court shall consider at least the following:

- (1) the expense that may be incurred by the public entity, other governmental bodies and individuals if the action is voided;
- (2) the disruption that may be caused to the affairs of the public entity, other governmental bodies, and individuals if the action is voided;
- (3) the degree to which the public entity, other governmental bodies, and individuals may be exposed to additional litigation if the action is voided;
- (4) the extent to which the governing body, in meetings held in compliance with this section, has previously considered the subject;
- (5) the amount of time that has passed since the action was taken;
- (6) the degree to which the public entity, other governmental bodies, or individuals have come to rely on the action;
- (7) whether and to what extent the governmental body has, before or after the lawsuit was filed to void the action, engaged in or attempted to engage in the public reconsideration of matters originally considered in violation of this section;
- (8) the degree to which violations of this section were willful, flagrant, or obvious;
- (9) the degree to which the governing body failed to adhere to the policy under AS 44.62.312(a)

(g) Subsection (f) of this section does not apply to a governmental body that has only authority to advise or make recommendations to a public entity and has no authority to establish policies or make decisions for the public entity.

(h) In this section,

- (1) "governmental body" means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;
- (2) "meeting" means a gathering of members of a governmental body when
 - (A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or
 - (B) more than three members or a majority of the members, whichever is less, are present, the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act and the governmental body has only authority to advise or make recommendations for public entity but has no authority to establish policies or make decisions for the public entity;

- (3) “public entity” means an entity of the state or of a political subdivision of the state including an agency, a board or commission, the University of Alaska, a public authority or corporation, a municipality, a school district, and other governmental units of the state or a political subdivision of the state; it does not include the court system or the legislative branch of state government. (§ 1 art VI (ch 1) ch 143 SLA 1959; am § 1 ch 48 SLA 1966; am § 1 ch 78 SLA 1968; am § 1 ch 7 SLA 1969; am §§ 1, 2 ch 98 SLA 19792; am § 2 ch 100 SLA 1972; am § 1 ch 189 SLA 1976; am §§ 2, 3 ch 54 SLA 1985; am § 2 ch 201 SLA 1990; am § 7 ch 74 SLA 1991; am §§ 2 – 8 ch 69 SLA 1994; am § 7ch 54 SLA 2000)

Cross references. — For provisions related to meetings of legislative bodies, see AS 24.60.037.

Effects of amendments. — The 2000 amendment, effective May 12, 2000, substituted “posting notice of a meeting on the Alaska Online Public Notice System as required by AS 44.62.175(a)” for “the publication required by AS 44.62.175(a) in the Alaska Administrative Journal” in the third sentence in subsection (e).

Opinions of attorney general. — The mental health lands working group is not a public body covered by the Open Meetings Act, and its meetings are not covered by the Open Meetings Act. That working group was not a formally established entity with a specific charge to take specific action or give specific advice, and the activities of the group were not financed by public money. It consisted of individuals, including state department heads, meeting merely to begin settlement discussions to resolve the legal issues in a lawsuit. January 1, 1992, Op. Att’y Gen.

The notice requirements of the Open Meetings Act require that the Museum Collections Advisory Committee publish a schedule of its fixed monthly meetings twice yearly, stating the date, time, and place of the meetings. For unscheduled meetings, the

public may be notified by public service announcements on the radio, as long as there confidence that the announcements will in fact be made; but regardless of the media used, at least three days notice should be given. December 30, 1992. Op. Att’y Gen.

The present practice of allowing boards and commissions to conduct routing business by mail does not violate the Open Meetings Act. It neither constitutes a meeting, nor is it motivated by an intent to circumvent the Open Meetings Act. Rather, mail voting is expressly authorized by statute. It also furthers sound policy by reducing both administrative costs and administrative burdens. July 5, 1994 Op. Att’y Gen.

AS 44.62.310(a) unambiguously provides for teleconference meetings. As 44.62.310(e) also requires that all teleconferencing facilities be open to the public and that they be noticed. It undue hardship makes it impossible or impractical for a member to participate from a noticed public teleconferencing site, then the governmental body may allow that member to participate in deliberations and votes of that governmental body by telephone without giving public notice of him or her location. August 21, 1995. Op. Att’y Gen.

Sec. 44.62.312. State policy regarding meetings.

(a) It is the policy of the state that

- (1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people’s business;
- (2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;
- (3) the people of this state do not yield their sovereignty to the agencies that serve them;
- (4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.
- (5) the people’s right to remain informed shall be protected so that they may retain control over the instruments they have created;
- (6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310(c) and (d) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions. (§ 3 ch 98 SLA 1972; am § 4 ch 54 SLA 1985; am § 9 ch 69 SLA 1994)