

# Alaska State Legislature

## Select Committee on Legislative Ethics

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### MINUTES from October 20, 2006 FULL COMMITTEE MEETING Anchorage LIO, 2<sup>nd</sup> Floor Conference Room

**1. Call the Meeting to Order:** The meeting was called to order at 9:35 a.m. by Chair H. Conner Thomas. Members present: Senator Hollis French, Representative Bruce Weyhrauch (by teleconference – on line from 9:35 a.m. to 9:38 a.m. – unable to reconnect due to cell phone problems), Representative Max Gruenberg (joined the meeting at 10:12 a.m.), Skip Cook, Herman Walker, Ann Rabinowitz and Gary J. Turner. Member absent: Senator Ben Stevens. Staff present: Joyce Anderson, and Daniel Wayne from LAA Legal (joined the meeting by teleconference at 10:10 a.m.). (Note: At 9:38 a.m., the committee did not have a quorum. Chair Thomas proceeded with items not requiring a vote. The committee again had a quorum at 10:12 a.m. when Representative Gruenberg joined the meeting. The agenda was not taken up in the order presented to the committee. The committee took a break from 11:15 a.m. to 11:25 p.m. and from 12:20 p.m. to 12:50 p.m.)

**2. Approval of Agenda:** At 11:10 am. Member Cook made a motion to approve the agenda. Hearing no objection, the agenda was approved.

**3. Welcome New Public Member:** Chair Thomas welcomed new public member Gary J. Turner. He gave a brief overview of his background.

Two public member terms are up in 2007; Chair Thomas and Ann Rabinowitz. Chair Thomas has asked Chief Justice Dana Fabe to be reconsidered for another term. Ann Rabinowitz will decide next week.

**4. Approval of Minutes:** At 11:12 a.m. Member Cook made a motion to approve the minutes from January 4, 2006. Hearing no objection, the minutes were approved. Member Cook made a motion to approve the minutes from February 7, 2006. Hearing no objection, the minutes were approved.

**5. Public Comment:** None.

**6. Chair/Staff Report:**

**a. Disclosures:** Staff reported thirteen late disclosures were received between

November 2005 and September 30, 2006. Representative Neuman and Representative McGuire were fine \$100 each for a second late disclosure. The following individuals received their first late disclosure: Representative Neuman, Senator Ellis, Representative Gardner, Senator Green, Ginger Blaisdell, Representative Kelly, Representative Olson, Representative Gatto, Senator Stedman, Juli Lucky and Ryan Makinster.

**b. Report on staff presentation to UAA ethics class:** In June, staff gave a presentation on legislative ethics to a graduate UAA ethics class titled “Public Accountability, Ethics and Law.” Speakers also included representatives from the executive branch department of law, municipality of Anchorage, the judicial branch, the media, AKPIRG and the FBI.

**c. Web Site and Ethics Handbook Update:** Staff reported both the web site and the handbook were updated. The statute section of the handbook was verified word-by-word, footnotes were added and advisory opinion numbers were added to each statute section. Member Turner asked if tracking was available on the number of hits on the ethics website with a breakdown of the number of hits by legislative staff versus the general public. Staff will follow up on this request and report back to the committee.

**d. Informal Advice Staff Report:** No questions by committee members.

**i. Gift not related to legislative status – disclosure form:** Staff received a request for clarification on why the disclosure for a ‘gift not related to legislative status’ required a dollar amount for the gift. Research showed 1998 amendments to AS 24.60.080(d) removed the requirement to report the ‘value’ of the gift(s) not related to legislative status. The form was not updated. The disclosure form has been changed to reflect statutory language.

**ii. Clarification of reporting timeframes for specific AS 24.60 disclosures:** Chair Thomas reported staff received an inquiry from a legislator asking if legislators who are leaving office are required to file disclosures which have a March 15, 2007 disclosure date. The legislator asking the question did not want to request an advisory opinion at this time. Dan Wayne, LAA Legal, gave an overview of his research on the subject. He divided the question into two parts. Does a legislator have a duty to report disclosures due on March 15 of the following year after a legislator leaves and what are the penalties? Mr. Wayne pointed to his research and stated he believes statutory language requires disclosure and referenced AS 24.60.020, Applicability; relationship to common law and other laws. He also referenced AS 24.60.010, Legislative findings and purpose. He stated leaving office does not amount to an amnesty from disclosure requirements. If it did then there would be a period in every legislator’s career where the legislator could disregard much of the ethics code, safe in the knowledge that, once the legislator makes it past the last day of reporting, he or she would be safe from scrutiny. He doesn’t believe the code allows for a penalty for failure to file the required disclosure. Staff reported a penalty could include the filing of a complaint and/or a civil fine as stated in AS 24.60.260.

Brooke Miles, director, APOC, reported the statutes for Executive Branch officials only

require disclosures from persons in office on the date the disclosure is due. No disclosure is required if the person has left office. Ms. Miles suggested specific language be added to AS 24.60.200 requiring a legislator to file a legislative financial disclosure for the last year in office. She pointed to the language in AS 24.60.200 which states 'unless the provision specifically states that it applies.' Member Cook referenced AS 24.60.210 and believes the deadline on or before March 15 of each year indicates the legislature anticipated a filing the year the legislator leaves office.

Chair Thomas suggested a formal binding advisory opinion be requested. The committee cannot request an opinion based on the requirements of AS 24.60.160. Representative Max Gruenberg offered to request an advisory opinion on the subject since he is up for re-election.

**iii. Clarification of the 'name of donor' on a gift of travel/hospitality.** (item not on printed agenda) Staff asked for direction from the committee. A legislator reported on a travel disclosure reimbursement for expenses for a trip related to a legislative matter and listed the name of the donor as the corporation who issued the reimbursement check. The name of the donor on the disclosure form however did not match the information on the lobbyist report filed with APOC. After further checking it was determined the actual donor was an oil company but since the oil company contracts with a local company to coordinate activities, the check for reimbursement to the legislator was from the local company and not the oil company. The true source of funds however was from the oil company. The ethics statute only states 'name of donor' and does not provide any qualifications.

Ms. Miles, APOC director, told the committee both sources are reported for APOC purposes. The definition of source of income in AS 39.50.200(10) is the 'client or customer of the proprietorship, partnership, or corporation, but if the entity that is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source.'

The committee determined the 'donor of the gift' for ethics disclosures should follow the definition in AS 39.50.200(10). Staff will add the name of the oil company to the legislator's gift of travel disclosure. The committee also asked legal to determine if there is a conflict in the ethics code which would prohibit the committee from using the definition in AS 39.50.200(10). Staff will report back to the committee by email and include the definition in the appropriate ethics newsletter if legal determines no conflict exists.

## **7. Budget:**

**a. FY06: (Period July 1, 2005 through June 30, 2006.)** Staff reviewed the FY06 budget. FY06 authorized was \$139,200 with actual expenses of \$116,300. This included \$3,155.20 for a temporary on-call employee at a Range 15 for the period March 20, 2006 through June 30, 2006. Staff reported the temporary employee worked on a variety of projects including some which enhanced and supplemented information available on the ethics web site. Staff further reported the actual expenditures for FY06 were lower than

FY05 (Authorized \$128,000, expenditures \$121,200) due to fewer committee meetings which incur travel costs for members and sometimes staff.

**b. FY07: (Period July 1, 2006 through June 30, 2007.)** The committee's request to increase the budget by \$19,500 for a temporary on-call employee was not approved by the legislature. The request died in committee. Chair Thomas asked the committee to authorize the hiring of the same person as a temporary on-call employee for FY07 to provide clerical support to the administrator as needed and if time and resources permit work on projects that have been on hold. It appears, based on past budget figures, there would be a sufficient amount of money in the budget to allocate \$5000 for this purpose. Staff would monitor the budget monthly. Senator French moved to authorize \$5000 for the purpose of hiring a temporary on-call person. Member Turner asked if staff could come back to the committee for more dollars if needed. Chair Thomas indicated yes. Hearing no opposition, the motion was approved.

Member Walker asked if the committee should again ask for an additional \$19,500 for a temporary on-call person. Representative Gruenberg suggested we revisit this issue at our January meeting. The FY08 budget will be submitted in January/February 2007 to Pam Varni, Executive Director, LAA. Representative Gruenberg asked why the original request was denied. Staff reported two reasons: the request was considered late in the overall budget process and secondly because staff is budgeted to work a four day work week and the budget committee felt staff should be working five days. Ms. Anderson reported many weeks she does work five days but there are times when five days is not sufficient. Member Cook commented if staff works five days at the higher rate, the cost is greater than if a clerical person is hired to work at a lower rate.

**8. Legal Counsel Contract:** Senator French made a motion to approve the legal counsel contract with Marston & Cole for \$10,000 for the period July 1, 2006 through June 30, 2007. An email was sent in June to all committee members asking for approval per Committee Rules of Procedure, Section 2(c), Contracts. All committee members approved the extension. The rules require the contract be approved at a committee meeting. Hearing no objection, the contract was approved.

**9. 2007 Ethics Workshop:** Discussion held at 10:00 a.m. Chair Thomas asked staff to give a brief overview of meetings held over the summer and fall months concerning an ethics workshop for legislators conducted by an outside speaker. A workshop focusing on the global aspects of ethics versus the nuts and bolts of the Alaska ethics code has not been conducted since 1988. Mr. Josephson of the Josephson Institute for Ethics conducted the workshop titled, "Ethical Dimensions for Political Leadership." Mr. Josephson also was hired by the Alaska Senate in 1990 to conduct a survey on ethics. He was instrumental in crafting the current ethics code which became effective in 1993. He testified before many House and Senate committees in 1991 and 1992. (Note: Current ethics training includes a staff training session and one for new legislators the week prior to session covering basic information about the ethics law and reporting requirements.)

Staff contacted the Josephson Institute for Ethics and requested a proposal for a one-day

workshop for legislators. Mr. Josephson would conduct pre-program conference calls with leadership and the ethics committee chair, pre-program research and design a program mixing presentation with interactive sessions. His costs for a one-day program are \$19,500 plus travel expenses. The workshop would consist of a three-hour session in the morning and a three-hour session in the afternoon for legislators.

Staff also contacted Peggy Kerns, director, Center for Ethics in Government, with the National Conference of State Legislatures (NCSL). She conducts a 90-minute presentation or longer if requested. Since Alaska is a member of NCSL, her costs would include only travel costs.

Staff met with Speaker Harris to discuss the possibility of holding an ethics workshop the first week of the legislative session for legislators and he was very receptive. He expanded the concept of the workshop to include staff. Speaker Harris suggested Thursday, January 18 for the legislator workshop and Friday, January 19 for the staff workshop. He indicated session funds would be available for these workshops. He also stated he would make it mandatory for all legislators in the House to attend the workshop. Staff did not meet with Senate President Stevens but written materials were provided to his office.

Alaska Common Ground, of which Representative Gruenberg is a member, is interested in holding a public ethics forum and would like to piggyback resources such as the presenters. Steve Aufrecht, a member of Alaska Common Ground and professor emeritus from UAA, was present to talk to the committee

Senator French stated \$19,500 seems high for one day's work and asked if anyone had attended a seminar conducted by Mr. Josephson. Mr. Aufrecht stated he has talked to people who have heard Mr. Josephson speak and he is a dynamic speaker. Brooke Miles, director APOC, heard Mr. Josephson speak in 1988 and again at a COGEL conference and agreed he engages the audience. Representative Gruenberg has attended both Mr. Josephson's and Ms. Kerns training in the past and had positive comments about both trainers.

Representative Gruenberg suggested incorporating both speakers into the workshops since the committee has agreed with Speaker Harris' recommendation to have one workshop for legislators and another one for staff. Member Cook stated if the two would agree to work together then we would have a more varied and dynamic program. Staff reported Ms. Kerns has already indicated she will work with Mr. Josephson. Staff will need to find out if the response is the same from Mr. Josephson.

Senator French made a motion to have staff ask Mr. Josephson if he would conduct a two-day workshop for the same price of \$19,500. If he says no, then go back to the drawing board or ask Ms. Kerns to conduct one of the workshops. Hearing no objection, motion passed. If Mr. Josephson does not agree to the committee's proposal, staff will send an email to committee members with the options available and ask for a consensus on how to proceed. Depending on the option chosen, staff will go back to leadership with

a request for additional funds if needed and inform the committee of the response.

Steve Aufrecht explained to the committee the concept of two public forums, one in Juneau and one in Anchorage. Ideally they would like to have Mr. Josephson and Ms. Kerns as panelists. The League of Women Voters of Anchorage has agreed to be a co-sponsor. (Note: Joyce Anderson, staff to the committee, disclosed she is a board member of the LWV of Anchorage.) Other groups are also considering signing on as co-sponsors. The proposed format consists of an overview of legislative ethics and APOC responsibilities, panel members opening statements, panel discussion, questions from the audience, and possibly small group interaction. Who will be on the panel has not been determined. However they plan to include legislators, someone from the ethics committee, the press, public interest group representative, and possibly Mr. Josephson and/or Ms. Kerns. The forum is a work in progress.

Committee members discussed how involved the committee should be with respect to the public forums. Member Turner believes the committee would benefit from the PR generated from the forum. He stated the University might be interested in co-sponsoring the forum as one of their 'public square' events. Member Rabinowitz stated the committee should remain separate from the forum because of our role in hearing complaints, etc. But she feels a sharing of resources is OK. Senator French echoed her comments. He stated the committee is a quasi-judicial body which oversees the conduct of legislators. The committee could participate and be a panelist but should not formally join forces with the sponsors of the forum. Member Turner stated he thought the committee should be a co-sponsor of the forum because it is put on by a bi-partisan organization and is an educational event. After further discussion, the committee determined staff could help with the coordination of resources and logistics of the public forum but the committee would not add their name as a co-sponsor.

**10. Advisory Opinion 06-01 Personal Use of the Legislative Mail Room in Juneau:**

Chair Thomas stated the opinion was discussed very extensively at the last committee meeting. The opinion was rewritten by Representative Weyhrauch and reviewed by ethics staff and the chair. Staff gave a brief overview of the opinion and the technical changes made. No substantive changes were made. Member Walker made a motion to approve the draft opinion dated October 3, 2006, as written. Roll call vote taken: all members voted to approve the opinion. Staff will include the opinion in the next ethics newsletter to alert staff of the change.

**11. Advisory Opinion 06-02 Use of legislative phone number on campaign materials with the qualification "For Legislative Business":**

Representative Gruenberg is disqualified from participating in this discussion under AS 24.60.130(h) and AS 24.60.130(n) as he requested the advisory opinion. Representative Gara joined the committee at 11:25 a.m. as his alternate.

Representative Gruenberg explained his request. Many constituents, when going door-to-door campaigning, have issues they want to talk to the legislator about. Under current rulings by the ethics committee, the legislative phone number may not be included on

campaign material, even to the extent the qualification “For Legislative Business” is included. He stated by including the qualifier, the concern about legislative staff handling more than limited campaign related issues would not occur. The inclusion of the phone number would facilitate the on-going business of the legislator.

Mr. Wayne went over the draft opinion. On page 2, he quoted, “Communication with constituents on legislative business is an official duty of a legislator and his or her staff. Listing the legislative office phone number facilitates the performance of that duty.” He further stated the processing of campaign calls would not violate AS 24.60.030(a)(4) if the calls were “unusual or infrequent”, the legislative office had a written policy in place addressing this issue and both the campaign and legislative office phone were listed.

Representative Gara asked if a verbal policy would suffice. Mr. Wayne recommended to the committee the policy be written. Verbal instructions can be misunderstood and are not always passed down to future staff and could cause a gray area for the ethics committee. Representative Gruenberg suggested the ethics committee come up with a one-paragraph policy. Mr. Wayne agreed and stated a legislator may add to the policy if they so choose.

Senator French was concerned about combining campaign activities and legislative activities. What if the legislator only said “Problem, Call (legislative phone number).” Mr. Wayne stated if this resulted in more than a ‘de minimis’ number of campaign related calls, a complaint could be filed. Member Cook questioned whether a candidate could list their business phone number on campaign material which would be similar to the legislative phone number for a legislator. Brooke Miles, director APOC, addressed the committee and clarified the campaign statutes do not permit a business phone number on campaign material unless the candidate is the sole proprietor of the business. The commission issued an advisory opinion in 2005 concerning incoming phone calls and faxes at a candidate’s business (of which the candidate is not the sole proprietor). The opinion further stated the candidate should notify the person calling or the person sending the fax to direct calls and faxes to the campaign address in the future.

Member Turner was concerned with other verbiage as well such as, “I’ve been your legislator for the last six years and I have solved your problems in the past and if you have any problems, please call me at (legislative phone number).” This type of language would give the incumbent even more of an advantage. He was OK with limiting the language on the campaign piece to “For Legislative Business Only.”

Chair Thomas questioned AS 24.60.030(b) which states “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.” Mr. Wayne pointed out there is the exception of ‘unusual or infrequent’ in AS 24.60.030(a)(5)(A).

Senator French stated we are playing with fire. What about a TV ad. The ad might say what the legislator will do for you if elected and then say by the way if you have any

legislative concerns call the number at the bottom of the screen for legislative problems. Paid for by 'legislator name' for senate/house.

Representative Gruenberg stated he probably knocks on 30-50 doors a day during a campaign period and receives two to three constituent inquiries of a legislative nature. Representative Gara commented when you go door knocking the person at the door doesn't really know there is a difference between the legislator as a legislator and the legislator as a candidate. His main concern was to limit the number of calls staff respond to which are campaign related. Senator French agreed and stated the two areas should be separate. Member Walker also agreed and suggested leaving the legislative business card as a means to inform constituents of the legislative phone number. Representative Gara noted approximately two-thirds of the residents are not home when you go door knocking.

Chair Thomas reminded the committee it is not our charge to come up with a way to do what is asked in the request but to determine if the ethics code permits or prohibits this type of action.

Senator French referred to the 1998 ethics probable cause violation where a legislator had put the legislative phone number on a campaign mailing. Mr. Wayne stated the difference between the 1998 violation and today's request is the fact the phone number would have a disclaimer "for legislative business". Representative Gruenberg stated the opinion should be more explicit in requiring a qualifying phrase for both the legislative phone number and the campaign phone number. Representative Gara stated the legislative phone number should not be placed on campaign material as this activity may result in staff answering campaign related phone calls which could be more than de minimis in nature.

Member Walker asked Mr. Wayne what do the terms 'unusual or infrequent' mean in this opinion. Mr. Wayne speculated the number of calls cannot be determined and he has no threshold or floor on numbers which would fall within more than 'infrequent or unusual' in this context. If someone felt the number of calls were more than infrequent or unusual, a complaint could be filed. Representative Gara receives only 2-3 calls a month and closer to the campaign he may receive 1-2 calls per day. Based on the discussion about 'infrequent or unusual' he now feels placing the legislative number on campaign material would be OK.

Senator French pointed out AS 24.60.030(a)(5)(A) states a legislator may not 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 but does not prohibit limited use of state property and resources for 'personal' purposes. This statute does not mention for other than personal uses such as campaigning. He believes the question is in a gray area and is not black and white. The committee has ruled in the past this practice was a 'probable cause' violation of the ethics code.



Senator French made a motion to adopt Advisory Opinion 06-02 to place it before the committee for consideration. He noted, however, he objects to the opinion. Representative Gara asked what is the policy in place if this opinion is not passed. If this opinion does not pass, the status quo applies. Legislative phone numbers may not be included on campaign material even with the qualifying statement “for legislative business.’ Chair Thomas pointed out the difference between the 1998 probable cause violation and the opinion today is the qualifying language of “For Legislative Business.”

Chair Thomas stated a NO vote means the qualifying language does not make a difference and the use of the legislative phone number on campaign material is prohibited. A YES vote means the qualifying language does make a difference and would be required on all campaign material listing a legislative phone number. Roll call vote taken: YES – Representative Gara, Chair Thomas; NO – Senator French, Members Turner, Cook and Walker; Abstain – Member Rabinowitz. Motion failed, the advisory opinion was not adopted.

After a short break, the committee returned to Item 11. Representative Gruenberg and Member Turner asked several questions concerning campaigning and when would it be appropriate to provide a legislative phone number. The committee asked Mr. Wayne, LAA Legal, to address the questions in a memo to staff. The questions were:

- a. May a legislator, while campaigning, hand out a legislative business card to constituents if they are home?
- b. If the constituent is not home when campaigning, may a legislator attach a business card to the campaign literature and leave both for the constituent?
- c. While campaign door knocking, may a legislator write the legislative phone number on campaign literature if the constituent is not home?
- d. May a legislator, when campaigning, verbally give the legislative phone number to a constituent even if they didn’t ask for it?
- e. May a legislator verbally give a constituent the legislative phone number if asked by the constituent while campaign door knocking?

**12. Committee’s Rules of Procedure:** The committee continued their review of the Rules of Procedure, Section 9(a) and Sections 17 through 19.

Section 9(a) Informal Advice – Confidentiality - The section was redrafted based on comments from the January 2006 meeting. The committee was concerned about confidentiality of the identity of the person requesting the advice and any other identifying information as well in the advice. Member Walker made a motion to approve the section as drafted. Hearing no objection, Section 9(a) was approved.

Section 17 Complaints – Decisions -

Section (a) contained clerical changes. Section (b)’s title was changed to be consistent with other section titles and a reference change was made. In Section (c), one paragraph was divided into two subsections for clarification and some sentences were moved within the paragraph to read better. Section (d), two new subsections were added to be consistent with (c). Member Cook questioned the language ‘dismissal order and

decision’. What is the difference? Senator French suggested the terms are interchangeable. The actual statute was read. Discussion held. Senator French made a motion to approve the changes as presented. Chair Thomas suggested the word “also” be deleted in Section (d)(3). Senator French considered this suggestion a friendly amendment. Hearing no objection, Section 17 was approved.

Section 18 Complaints – Hearing Procedures – In Section (a) several clerical changes were made and the actual title of the rule referenced for both the Alaska Bar and Commission on Judicial Conduct were added. Representative Gruenberg asked to remove the commas after ‘Alaska Bar’ and ‘Commission on Judicial Conduct’.

In Section (b) statutory language was added concerning legal counsel restrictions. Representative Gruenberg questioned this statutory language because it seems to say legal counsel presenting cases in the past under the complaint statute cannot present a case before the committee ever again. Chair Thomas agreed with the interpretation and indicated he was also concerned about the ramifications of this statute. Representative Gruenberg asked if the committee was considering proposing an ethics bill for the 2007 session. Chair Thomas suggested this item be added to a list of statutory changes to be reviewed by the committee for possible legislation.

In Section (c)(2) additional language concerning ex parte communication was added which is similar to language in Section 14(g). Chair Thomas stated the language in Section (c)(1) is not clear and needs revision. The section was changed to read, “In order to assure a separation between the determination of probable cause and the hearing, committee members shall confine themselves to the evidence presented at the hearing.”

Technical changes were made to sections (d) and (e). Chair Thomas changed ‘productions’ to ‘production’ in section (e). Section (f), no changes. Representative Gruenberg asked for clarification of Section (d) Timelines for a public hearing. This section refers to AS 24.60.170(j) where the subject has to agree to a later hearing outside of the 90-day statutory requirement. Nowhere in the statute does it say the committee must also agree. Several scenarios were discussed. What if the subject requests a public hearing two-years down the road. Member Cook questioned what would happen if the committee did not have a quorum and could not meet within the statutory requirement of 90 days and the subject did not agree to a later hearing date. Does the committee have the authority to have a hearing outside of the 90- day timeframe? Representative Gruenberg asked Mr. Wayne, legal counsel, to research precedent to see if the committee has legal ground to stand on if this occurs.

Section (g) contained of clerical changes. Chair Thomas offered the following language as clarification for subsection (3), “The Hearing Officer will decide the issue if agreement is not reached.” Representative Gruenberg and Member Turner suggested changing the first sentence in (5) to read, “All persons will be required to conduct themselves in an orderly manner consistent with court room protocol.” The term ‘persons’ covers all individuals. There is no need to name groups of people individually.

Section (h) contained clerical changes. Chair Thomas offered the following language to clarify the second paragraph, “After deliberations, the committee will issue a written decision either finding a violation(s) of AS 24.60, based on clear and convincing evidence, or dismiss the charge.”

Senator French moved to approve Section 18 with the amendments. Hearing no objection, Section 18 was approved.

Section 19 Complaints – Discovery - Technical changes were made to the entire section. In subsection (a)(1) the term “If” was changed to “When.”

Senator French asked for clarification of Section (a)(1) Timeframe for Discovery at an Earlier Stage. AS 24.60.170(i)(2) does allow the subject of a complaint to engage in discovery at an earlier stage of the proceedings with the committee’s approval. The committee is authorized but not required to allow discovery at an earlier stage. The timing of this request is at the point when the subject fails to comply with the committee opinion/recommendations and the committee has charged the subject or when the committee finds sanctions are warranted. Senator French made a motion to approve Section 19 as amended. Hearing no objection, Section 19 was approved.

Section 16(b)(2) Subpoenas

Representative Gruenberg requested the committee revisit Section 16 Subpoenas. The case referenced in Subsection (b)(2) refers to a federal grand jury subpoena and should be so stated in this section. The section was changed to read “The Supremacy Clause of the U.S. Constitution requires compliance with a subpoena from a federal grand jury despite state law to the contrary.” Representative Gruenberg made a motion to approve the above language. Hearing no objection, Subsection (b)(2) was approved.

Section 17(c) Dismissal for Lack of Probable Cause

Member Cook requested the committee revisit Section 17(c). He pointed out the statute is consistent in that it refers to ‘dismissal order and decision’ and the language in our Rules of Procedure should be the same. He suggested in subsection (c)(1) to change the word ‘order’ in three places to ‘dismissal order and decision’ and delete the words ‘and a written decision’ in the first sentence. In subsection (2) the word ‘order’ in two places should be changed to ‘order and decision’. Member Cook made a motion to accept the changes as presented. Hearing no objection, motion passed.

**13. Other Business** – None.

**14. Adjourn** – Senator French made a motion to adjourn at 3:00 p.m.