

Alaska State Legislature

Select Committee on Legislative Ethics

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MINUTES from May 28, 2009 FULL COMMITTEE MEETING Anchorage LIO, Room 220

1. **CALL THE MEETING TO ORDER:** The meeting was called to order at 9:07 a.m. by Chair Gary Turner. Roll call taken by Joyce Anderson, Ethics Administrator. Members present: Senator Joe Thomas (sitting in for Senator Gary Stevens), Senator Tom Wagoner, Representative John Coghill, Representative Berta Gardner, Ann Rabinowitz, H. Connor Thomas, Herman Walker, Skip Cook. Members absent: None. Teleconference: Dan Wayne, LAA Legal, and Pam Varni, LAA Executive Director
2. **APPROVAL OF AGENDA:** Chair Turner requested that Item 8 be discussed upon Pam Varni's arrival at 10:00 a.m. Member Thomas motioned and moved to approve agenda. No objection.
3. **APPROVAL OF MINUTES:** Member Thomas motioned and moved to approve minutes for the full committee meeting of February 24, 2009. No objection.
4. **PUBLIC COMMENT:** None.
5. **STAFF REPORT PRESENTED BY JOYCE ANDERSON:**
 - a. **Disclosures:** The electronic process of filing disclosures is still "work in progress". There have been program changes to correct errors and more information is being updated on the website. Not many disclosures have been filed since the session ended but more online disclosures are being submitted versus handwritten. Whenever someone calls with a question, online filing is encouraged and Ms. Anderson has assisted individuals filing online disclosures. Ms. Anderson stated she finds that people are getting more comfortable with online filing, thus there is more compliance. The disclosure report which contains disclosures through April 30, 2009, has been posted on the Ethics website. It is not included in the committee meeting packets today and will no longer be included since it is available online and is about 12-15 pages long. The Legislative Journal was published on Friday of last week and will be

dated April 19, 2009, last date of session. A supplemental disclosure journal may be published during the interim, depending on the volume. Depending on the volume of disclosures received during the interim, the next publication may be at the beginning of the next session. The Ethics office, House Clerk and Senate Secretary have been working together on disclosures that need correcting. Presently, only the “programmer” can edit the disclosures when someone has made a mistake. The programmer is working on a solution where the Ethics office can do the editing. Member Berta Gardner member asked if there was a trail of changes that were made to the disclosures. Ms. Anderson stated that if someone made a mistake on their disclosure or wanted to add to it, the discloser would contact the Ethics office and the Ethics office would make the changes/corrections and provide a copy of the new disclosure to the person who requested the corrections. Representative Gardner asked if a member of the public would be able to see a trail of corrections made to a disclosure. Ms. Anderson stated that the public would only have access to the final version; however, if a “gift” disclosure was filed with an estimated cost of a trip because the discloser was unable to obtain the value of the gift before the 30 day filing timeframe and the estimated cost was significantly different than what was reported, then an amended disclosure would be submitted with the correct dollar amount and the public would be able to view both disclosures. If the disclosure was simply “incomplete”, then that would not be available to the public. Representative Gardner brought up a case of an APOC disclosure where a question was raised a long time after a disclosure was submitted and information that had not been included in the original disclosure which was handwritten in pencil was re-written and re-submitted with changes to it. Ms. Anderson clarified that the Ethics office does not handle APOC disclosures but agreed with member Gardner the principle still applied. Ms. Anderson explained that the Ethics office reviews the information provided to ensure it is complete, and if it is incomplete, the discloser is contacted for clarification. The discloser would then have the option to resubmit a new disclosure with the additional information or the Ethics office would make the change and document this information on the back of the form. Representative Gardner felt that if the discloser has the ability to make a change to an already submitted disclosure, there should be a record of it. Ms. Anderson does not want the discloser to have the ability to make changes to a disclosure already submitted and prefers that the Ethics office be notified if any changes that need to be made to a disclosure.

Co-Chair H. Connor Thomas asked if the public members had access to the electronic filing. Ms. Anderson stated that former staff member, Ms. Donna Greenier, sent a letter to the committee members prior to her departure. Each member should have an e-mail address and password to access the online filing. Ms. Anderson will follow-up and resend the information if members did not receive their access information.

- b. Legislative Secretary Position:** The part-time position announcement produced 56 applications. About two weeks were spent reviewing resumes. Ms. Anderson stated that the pool of candidates was fantastic. Most of the applicants had very good qualifications; some with master and bachelor degrees, but in other fields. Ms. Anderson interviewed six candidates and narrowed it down to two candidates. References were checked. Linda Leigh was selected and starts on Monday, June 2,

2009. She is moving from Fairbanks to Eagle River; her husband is retiring from the military, and she has worked for the military. She has excellent qualifications and is excited to start work. Ms. Anderson stated that she spoke to the Chair Turner and plans to hand over some of her responsibilities to Ms. Leigh as time goes on which will free Ms. Anderson to concentrate on other administrative and pressing duties. Ms. Greenier has organized the office which has enabled Ms. Anderson to reevaluate the duties of this position. Ms. Anderson also pointed out that the position is budgeted for six months, but is termed an “on-call” position. Ms. Anderson plans to have Ms. Leigh work two days a week and then hours will be based on workload once the office is caught up. Ms. Anderson anticipates workload will be stable now through the end of the year and then into session. Ms. Anderson will introduce Ms. Leigh to those of you who have offices in the Anchorage LIO and have her meet with the LIO staff to show her BASIS.

- c. Ethics Training:** Ms. Anderson has received calls from four or five offices with new staff on board who need training. The training video has been put on hold until June. In the meantime, Ms. Anderson will have a teleconferenced, “makeup” training in June at the Anchorage LIO, which will allow other LIOs to call in. Ms. Leigh will be tasked to determine who needs training by working with Personnel on a list of active employees. Ms. Anderson informed the members that she flew to Juneau and met with Senator Dennis Egan, who replaced Senator Elton, and provided him with a one-on-one Ethics training session. The Chair and Senator both felt this was needed due to the fact that the Senator had been out of the public sector for some time. Senator Egan was appreciative of the one-on-one and had many questions. Ms. Anderson reported that at this time, all legislators have been trained.
- d. Informal Advice Staff Report:** The packet put together by Ms. Anderson includes a section of informal advice she provided between August of 2008, and May of 2009. The Chair noted that the documentation does not represent all inquiries that Ms. Anderson has received, but areas for which she has provided more than routine advice. Ms. Anderson stated the staff report is very generic to maintain the confidentiality of the person calling, so if any advice isn’t clear, please feel free to ask for clarification. Representative Coghill appreciated the report was in general categories as it was helpful to him when trying to reference the advice because of issues in the law coming up for review that would have a significant impact on what the law would be.
- e. Outreach:** The Chair announced that Ms. Anderson has suggested she visit some of the LIO offices during the interim and agreed it was a good idea due to the fact that the Legislature is so busy during session, and that this would allow Ms. Anderson and the Ethics Committee to be more recognized among legislators, staff to legislators and staff at the LIOs. Ms. Anderson reiterated that legislators and staff are so busy during session and she is busy conducting training during session that it is difficult to develop a rapport with legislators and staff. Ms. Anderson stated she felt it was important that the Ethics office be proactive instead of reactive when something arises, and in order to achieve this, there needs to be some outreach. It has also been her experience upon visiting LIOs for specific issues that legislators and staff have questions for her when she’s there. She suggested she begin by visiting the MAT-SU LIO, where there are six legislators with staff. She planned to notify each office in

advance of her visit so they could make arrangements to speak with her individually and confidentially if they so chose as well as in a group setting. She would then meet with the offices in Eagle River, which is not an LIO, with three legislators with staff; next would be the Fairbanks and North Pole LIOs, possibly together at either location; then Kenai, Ketchikan, the Capitol and the Terry Miller Building. Ms. Leigh would accompany her to at least one LIO visit which would probably be the MAT-SU. Travel funds would be needed for Ms. Anderson's visits. Member Dennis "Skip" Cook asked Ms. Anderson if she would consider inviting him and/or committee members in the area to join her and inviting the public to ask questions about the ethics laws or what the Ethics Committee does. Ms. Anderson supported the idea. Senator Thomas asked if there were adequate funds in the budget to support this idea. Ms. Anderson confirmed that although the travel funds were over budget, funds from services could be moved to travel. The Chair noted the committee was approximately \$60K under budget.

Senator Thomas requested the committee back up and go to the second item on page 19, and asked if there was a dollar limit in accepting a gift of a vacation ticket with a value in excess of \$1,000. Ms. Anderson clarified that there was no limit but a disclosure would be required.

Ms. Anderson stated she would proceed with the outreach idea including the considerations that were brought forth in today's discussion.

6. BUDGET:

- a. The Chair stated the committee's FY09 budget was in good shape and under budget by about \$62K.
- b. The Chair stated that the FY10 was submitted. The Chair also noted that travel was over budgeted the last three years with authorizations of approximately \$18K. He would like to request an increase in FY11's budget by about \$22K-\$23K, anticipating that travel costs would not be decreasing in the future. Senator Thomas asked the Chair and members if video conferencing would be an option to reduce travel spending. Ms. Anderson stated that the rules and procedures allowed video conferencing of committee meetings, except when there are executive sessions for either a complaint or to discuss confidential matters. These meetings need to be in-person, according to the committee's Rules and Procedures.

Member Cook brought up the surplus of funds in services. Ms. Anderson stated that the surplus is due to the fact that funds for a public hearing are built into the budget in the event the committee holds a public hearing. Although there hasn't been a public hearing since 2001, the administrator and committee members felt the money needed to be built into the budget because it would be difficult to go back to the Legislature asking for funds when the public hearing may be about a member of their own. The money would cover the cost of a hearing officer, a court reporter, and hiring an outside attorney to represent the committee. The Chair noted that we have been under budget in services for the past three years and would track this category this year and make a determination on whether or not to decrease the amount. However, in consideration that the cost of a public hearing could cost over

\$10K, the Chair noted it would definitely be better to have the funds than to have to go back to the Legislature for additional funds.

7. **MARSTON & COLE Legal Counsel Contract:** Chair Turner stated the contracted amount is \$10K and has been that amount for the past 2 years. Mr. Brent Cole has agreed to continue the contract for another fiscal year for the same amount. Expenses “to date this year” were \$1,280. Member Cook made a motion to approve the contract for FY10 as presented. Unanimous approval.
8. **Review of exempt positions from the Legislative Ethics Act requirements pursuant to AS 24.60.990(a)(11):** Executive Director Pam Varni of the Legislative Affairs Agency joined the meeting via teleconference from Juneau. Ms. Varni referenced her memo regarding LAA manager positions exempt from Legislative Ethics Code. Ms. Varni recommended that in addition to LAA managers, that all LAA employees working for the legislature and legislative staff be covered by the Legislative Ethics Act, except for summer tour guides and hourly paid employees, such as teleconference moderators throughout the state who come in occasionally, or those who help with moving. Compliance would not be difficult as it would mean attending training once a year and filing disclosures, particularly those who have rentals and rent to legislators. At the very least, Ms. Varni felt that the managers should be covered by the Ethics Code. Representative Gardner asked if any legislative action was required or if Ms. Varni could cover these positions by her regulations. Ms. Varni responded by stating she would recommend all of her staff attend ethics training but statutory changes are needed for some positions. Chair Turner stated that since HB 193, sponsored by Representative Coghill, was still in action the committee may want to consider attaching this item to that bill. Member Walker requested clarification on those who would be exempt. Ms. Varni restated that only seasonal and hourly employees would be exempt. Full-time, salaried employees or seasonal who are working monthly, not working hourly, would be covered. Member Walker asked Ms. Anderson if there were ethics training issues. Ms. Anderson did not foresee any issues of concern; Ms. Anderson would tailor a training session to their needs over a 2 day period to ensure department coverage. Ms. Varni stated approximately 30 people would need ethics training. Departments include Supply, Maintenance, Security, and Print Shop, most of which are located in Juneau. Member Cook stated that the statute would need changing due to the fact that it currently reads that Security and messengers are not covered by the code as they provide “incidental services”. Ms. Varni stated she does not consider either of these positions as incidental, therefore, she recommends including them. Ms. Varni stated that tour guides and hourly paid, casual labor would be the only exempt positions. Member Cook noted that members would also need to consider changing or removing the sentence, “others designated by the committee”. Ms. Anderson offered to work with Ms. Varni on legislation and recommend rewording the statute and adding it to HB 193. Representative Coghill agreed to Ms. Anderson’s suggestion. A motion to approve was made by a committee member with unanimous approval.
9. **2009 Ethics Legislation Update-HB 193, sponsored by Representative Coghill:** Representative Coghill informed the committee that the bill ended up in the House Finance Committee. Rep Coghill was able to stress the importance of these changes to the Ethics code and the need for them at the House Judiciary Committee meeting. Rep

Coghill reported that there was discussion about a thorough review the \$150 stipend for public members of the committee and thought it might take up more time at the end of session than they wanted to allot to it so the bill was not heard in Finance. This indicated to him that more discussion will follow. Senators and Representatives worked on defining “constituent”, “constituent services”, and “legislative purpose”. Rep Coghill described HB 193 as a must pass bill before the next session.

Ms. Anderson and Rep Coghill presented the bill section by section as follows:

Section 1, page 2: The meal limit for lobbyists was increased from \$15 to \$50; meaning that if a legislator or legislative employee was taken out to dinner by a lobbyist, no reporting would be necessary on the lobbyist’s part unless the meal was valued over \$50. Although there was a great deal of debate over the issue, it passed. More debate on this issue is expected.

Section 2: Legal Counsel Dan Wayne pointed out that the words “lawful gratuity” used in the Ethics statute had a different meaning than what was intended and recommended removing it and replacing it with the word “gift”. This change is more of a language clean-up effort and no substantive change.

On page 3, under The Use of Public Facilities, the word “either” was removed so that it did not mean one or the other. Also, at the top of page 3, “mailing lists” was changed to “legislator’s legislative mailing list for campaign purposes, or the use of mailing list computer data, or other information lawfully obtained from a government agency and available to the general public for non-legislative purposes”. The committee also issued an Advisory Opinion on this particular item in 2004 or 2005, and it was determined that the recommendation should be put in statute.

On page 4, the same language was added; an Advisory Opinion was issued and then it was put into statute; there’s one specifically for non-legislative purposes and private benefit and one on campaigns.

Section 3: This section is in regard to Administrative Hearings and when a legislator or legislative employee can represent a constituent for compensation before a Legislative Administrative Hearing. Terry Thurbin, chief administrator law judge assisted with the language as it coincided with another Advisory Opinion issued by the committee in 2005. It was determined that a legislative employee should not be a representative for an individual at an Administrative Hearing. For example, a legislative employee should not be a representative for someone on a worker’s comp case or PFD case. However, it is acceptable if you are a licensed professional in the state. Also, language was added in if someone inadvertently had exparte contact, they would not be found in violation of the statute. Ms. Anderson stated this would be helpful to her when she gives advice.

Section 4: “Public members of the committee” was added to this section of the Act where it states that legislators and legislative employees may not knowingly make an unauthorized disclosure of information that is made confidential by law.

Section 5, 6 & 7: Charity events will be sanctioned as a charity event when all proceeds go to a charity. The addition to this section was, "If the gift, such as a ticket to attend a charity event, is over \$250, the receipt of the gift will need to be disclosed."

Section 8: This is a new section regarding disclosure of a close economic association. If someone is prohibited from making a disclosure due to a federal law, they would be allowed to submit a written request refraining from having to submit a disclosure, which in turn, honors both laws. A written request provides a record of the association and the person would not be in violation of the Act.

Section 9, page 10: Language changes were made to include a stipend of \$150 a day for public members who attend committee meetings.

Section 10: "Alternate" members were added for the public members and a statement that a member who participated at the commencement of a proceeding under the complaint statute that s/he participate for the duration of the proceedings, unless disqualified or unable to continue participating for any reason. This was added to have consistency of issues. For example, if there was a complaint before the House or Senate Subcommittee, and s/he was a part of the committee at that time as a public member or an alternate, and the meeting did not provide a conclusion to the matter, and there was a second meeting, that person would continue to be at the second meeting and so on so that there would be some consistency of discussion and information. Member Thomas asked if there was a definition of the word "proceeding" and asked if this statement applied to Advisory Opinions or only to complaints. Ms. Anderson stated that she had this concern and conferred with LAA Attorney Dan Wayne, who assured her that the statement did not apply only to complaints and that it applied to Advisory Opinions as well. Ms. Anderson asked Mr. Wayne for clarification. Mr. Wayne explained that there were two parts in Section 10 and referenced page 10, starting on line 16. If, and except for proceedings under AS 24.61.70, a regular member of the committee or subcommittees is unable to participate in a meeting, the Chair of the committee or subcommittee will select an alternate to participate, and the designated alternate, unless for any reason is unable to participate, shall participate for the duration of the meeting." Representative Gardner stated that in our last meeting minutes that Rep Gara sat in for her but left after the first hour, as she returned to the meeting. Rep Gardner felt that the designated alternate should not be required to participate for the duration of the meeting if the regular member was able to return to the meeting. Rep Coghill stated that the intent was that if a public member was brought to a meeting, the member would remain at the meeting throughout the duration of the meeting for continuity sake, at no additional cost. Continuity of the discussion was the main reason, not confidentiality. This applied primarily to a public member, but Rep Coghill did not know if it also applied to legislative members and presented the question to Mr. Wayne. Mr. Wayne stated that the requirement was the same for both, per AS 24.61.30(n), paragraph 3. Mr. Wayne also provided a response to the Reps Gardner and Gara scenario, that on page 11, line 3, it states, "*unless for any reason is unable to participate*", which means that an alternate can terminate his or hers participation from the meeting. Mr. Wayne noted that it is not as strict of a requirement as it is stated on the previous page, on line 16, proceedings under AS 24.61.70, this

language would have more restriction in requiring participation until the end, when there are “due process” issues and in fairness to the people who are subject to the deliberation. Ms. Anderson returned to Member Thomas’ initial question, stating that the alternate member would not need to return to the second meeting for discussion that was continued on an Advisory Opinion. Mr. Wayne confirmed Ms. Anderson’s answer and added that proceedings under AS 24.61.70 are complaint proceedings; other proceedings, having to do with Advisory Opinions are dealt with in regular committee meetings, which are addressed in Section 10, paragraph 3. Members discussed whether the alternate member was obligated to update the primary member on a discussion on an Advisory Opinion that was to be continued at the next meeting, prior to the next meeting, or if the committee preferred to have the alternate member at the second meeting until that item was completed. Member Cook stated that since the alternate is representing the member, s/he should confer with the member to see where s/he stands on the upcoming topics of discussion prior to the meeting. The alternate member would then provide the primary member the outcome of a decision or where the discussion left off, if it were continued, and the primary member would attend the second meeting. Mr. Wayne interjected by reminding the members that the committee could adopt procedures on how it would handle an AO request if it were continued, or adopt whatever procedures they wanted and followed them as long as it is not in conflict with the statutes. Adopted procedures do not necessarily need to be added to the statute.

Section 11: Ms. Anderson deferred this section to Rep Coghill as it pertains to “definitions”.

Before going to Section 11, Chair Turner requested the committee discuss an issue from one of Ms. Anderson’s documented informal advice and referred the members to the pink section of the packet, page 19, second item. Ms. Anderson received a call from an organization who wanted to give her a free subscription valued over \$250. She and the Chair discussed the call this morning and determined that if it benefited the state, a discounted gift valued up to \$250 can be accepted, however, it is not clear as to whether a “free” gift is considered the same as a “discounted” gift. Rep Gardner questioned whether the offer was extended to all legislators and legislative staff or one person, and that it only benefits the state if the gift was offered to all legislators and staff and the state paid for it at a discounted price. The Chair recommended changing the wording on HB 193 to include adding the word, “free”, and changing the acceptable gift value from “up to \$250” to “\$250 or more”. Rep Coghill suggested we determine who is benefitting from the gift; is it considered a benefit to the state or to an individual. Mr. Wayne verified that the issues of concern are provided in the existing statute which reads: “If it is a gift to the legislature, then the legislature is not subject to the gift restriction”. He further explained that if it is a gift to an individual legislator then AS 24.60.080 would apply, with the discount exception, with specific language stating that a “gift or discount is available generally to all legislators and personal staff of legislators”. The issue of concern is already covered in the existing wording. This topic of discussion concluded that the only wording that may need changing is the value of the gift, and Ms. Anderson offered to work with Rep Coghill on it.

Section 11: The members returned to Section 11.

Rep Coghill stated that a definition of “constituent” and “constituent services” had to be identified in order to answer questions which have been raised by the ethics committee and people who have attended ethics training. Rep Coghill provided a broad definition of constituent, defined by the House Judiciary Committee: **“To whom a legislator owes a duty of the representation under the constitution of the State of Alaska”**. This definition has been used as a starting point for discussion. Rep Coghill acknowledged that it was a broad definition and expressed various issues were encountered while trying to define constituent. Committee members brainstormed by using existing statutes that referenced “constituent”. As members voiced suggestions, other issues within that context arose. For example, Ms. Anderson referred members to existing usage of constituents under AS 24.60.030(a)(2)(j): **“...that doesn’t prohibit a legislator from sending any communication in the form of a newsletter to the legislator’s constituents except the communication expressly advocating the election or the defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or legislative employee”**. Rep Coghill stated that “how” the newsletter went out was also an issue needing to be addressed. Rep Coghill went onto say that a constituent has a broader connotation when you’re a legislator, and sending newsletters to your district needs to be narrowly defined. Rep Coghill further stated that if you tell someone that as a representative they cannot help anyone outside their district, then you limit the expertise available as some legislators may be well versed with a particular issue and you may not. We would likely find ourselves in a situation where the district would become the issue, rather than the constituent. Narrowing the legislator’s authority only to the district, compromises their constitutional oath. Chair Turner recognized the philosophy from where all of this is coming and suggested to Rep Coghill, the bill sponsor, and co-sponsors that they tighten up these areas within this bill so all goes forward at the same time.

Member Walker asked Rep Coghill to explain the practical matter in the interchange or inter-play with an issue of sending a newsletter from one district to another. Mr. Coghill stated you must first determine what duty you owe your district, as far as reporting back to your district, and what duty you owe the state of Alaska. A newsletter should not determine the definition of constituency. You need to determine what the broader authority is when answering the newsletter question. Rep Gardner added that we have “state” constituents and “district” constituents and her office does not spend money or resources given from her district outside of her district. However, she will answer inquiries by a committee she is on and although they are not her district constituents, she still is obligated to answer their questions. However, she refers them to their own representative or senator as a courtesy. If they don’t get a response and return to her, she will do what she can. Rep Gardner also agreed that there is a tension about spending resources. Rep Coghill related to protocol brought up by Rep Gardner and added that incorporating protocol into statute will be a difficult task. Rep Gardner expressed concern with Section 11, Item 18--definition of constituent service including representation—specifically, the word “representation”. If an Alaskan has a conflict with a state agency, as a legislator, Rep Gardner said she did not feel it was her job to take up

that constituent's cause or be concerned with the outcome. Mr. Cook added that he, too, had concerns on where to draw the line when providing "assistance" and "legislative service" to a constituent. Rep. Coghill cautioned making definitions too prescriptive so that it leaves no room for latitude. However, too little authority leaves room for misuse.

Senator Wagoner voiced his concern about when to draw the line when someone requests legal advice and whether or not you can refer someone to a specific attorney. Ms. Anderson addressed Sen Wagoner's question by noting that recommending to someone that they seek an attorney for advice is acceptable, however, referring the constituent to a specific attorney is considered providing a private benefit to someone based on your legislative status. Ms. Anderson added that if someone asked you for your recommendation of an attorney or a list of attorneys, that might be acceptable, but offering a name is not. In response to Mr. Cook's concerns, Ms. Anderson noticed a discrepancy in Section 3 & Section 11, line 18; in Section 3, it was decided representation was unacceptable at an administrative hearing, however, it is considered acceptable in Section 11. Rep. Coghill brought up another issue in connection to this issue and that was influencing the outcome of an administrative hearing. Is making a call to the PFD office is considered representation? The intent is to get some action, not to influence the decision. Representation can be misused, but excluding advocacy would be eliminating a third of his responsibility. Rep. Gardner agreed that a phone call to the PFD office inquiring about receipt of information and gathering information on the problem is very different than calling the PFD office and telling them your constituent should get their PFD and you want them to make it happen. Mr. Cook reiterated his concerns on providing assistance and constituent service. Mr. Cook suggested narrowing "assistance" down to "assistance with state agencies" or "assistance with navigating the state process". Mr. Walker commented that it was our job to determine what type of "assistance" is acceptable and what is not. Mr. Walker and Rep. Gardner stated this would result in limiting acceptable assistance in too many instances. Rep. Coghill suggested determining when it is ethical and when it is unethical because assistance is generally ethical. Narrowing a term down to one definition will prevent the term from applying to the rest of statutory provisions. Chair Turner asked Mr. Wayne if statutory language allowed examples of unacceptable assistance. Mr. Wayne answered no, not under definitions. Substantive law is not allowed in statutory definition. Examples are used when interpreting a statute, and that's when an Advisory Opinion is issued.

Member Thomas stated it was only after reading the definitions did he realize he had some concerns. It was his understanding that the prohibition against private benefits and doing something without a legislative purpose would still stand, but that is not the case under these definitions. His concern is the definition of legislative purpose means providing constituent service. If legislative purpose was tightened up, then the other definitions wouldn't be as necessary to focus on. The definition of legislative purpose is so open-ended that it does away with the prohibitions in the Standards of Conduct. Rep. Coghill said when looking at the legislative arm of government there are three areas of legislative purpose: 1) constitutional duties under the article that describe legislative action, 2) constituency, and 3) looking out for best benefit of Alaska. Rep. Coghill referred back to his earlier statement to ask yourself when it is unethical to do something.

Chair Turner requested that Ms. Anderson check with some other states and the Josephson Institute for their definitions of these terms. Ms. Anderson announced that there was a COGEL (Council on Governmental Ethics Laws) conference coming up December 6-9, 2009, in Scottsdale, AZ. It is hosted by Arizona's Citizens Clean Elections Commission. There is no agenda at this time, but Ms. Anderson will circulate it when it becomes available. Members want to attend to obtain information from other states on this subject. Members agreed that there was more work to be done on all Sections. Members took a 10 minute break.

Members returned from break at 11:14 a.m.

10. ADVISORY OPINION 94-09 Continuing Education Credits – Should the committee revisit the opinion?

Ms. Anderson stated that an individual contacted her and asked if the legislature would pay for an upcoming conference that was going to award continuing education credits, and the person was interested in receiving the education credits. After reviewing AO 94-09, the answer was no. Specifically, the opinion states that if there was an overlap between a person's public duties and private benefit, and in light of the fact CEUs would be awarded because of the knowledge gained and not because of action that can only be taken by a legislator or legislative employee, a portion of the conference was a personal benefit and not for legislative business. Accordingly, a portion of the registration cost should be paid by the person and no legislative per diem should be received. Several members stated that they disagreed with AO 94-09, and all members agreed that AO 94-09 should be revisited and discussed at the next committee meeting. Ms. Anderson will prepare a request for an advisory opinion using current fact specific examples.

11. ADVISORY OPINION 09-02

Member Walker made a motion to go into Executive Session to discuss an advisory opinion request that is confidential by statute, AS 24.60.160(b).

12. PUBLIC SESSION

Representative Coghill made a motion to go back into open session. Senator Wagoner made a motion to approve draft Advisory Opinion 09-02 with changes. Roll call vote taken: Yeas: Senator Thomas, Senator Wagoner, Representative Coghill, Representative Coghill, and Members Thomas, Cook, Rabinowitz, Walker and Chair Turner. Opinion approved.

13. OTHER BUSINESS: None.

14. ADJOURN

Member Walker made a motion to adjourn the meeting at 11: 50 a.m.