

# Alaska State Legislature

## Select Committee on Legislative Ethics

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### MINUTES from May 27, 2010 FULL COMMITTEE MEETING Anchorage LIO, Room 220

1. **CALL THE MEETING TO ORDER:** Vice Chair Gary Turner called the meeting to order at 11:32 a.m. Roll call was taken by Joyce Anderson. Members present: Senator John Coghill, Senator Gary Stevens (attending by teleconference), Representative Les Gara (11:35 a.m.) alternate for Rep Gardner, Chair H. Conner Thomas (11:40 a.m.), Representative Craig Johnson (12:00) alternate for Rep Gatto, Gary J. Turner, Dennis (Skip) Cook, Antoinette (Toni) Mallott. Staff present: Joyce Anderson, Administrator. Absent: Herman G. Walker, Jr. Also present Brent Cole, Legal Counsel and Dan Wayne, LAA Legal Counsel (attending by teleconference).
2. **APPROVAL OF AGENDA:** Vice Chair Turner requested a motion to approve the agenda. Motion to move and approve the agenda made by Rep Johnson. No objections.
3. **APPROVAL OF MINUTES:** Sen Coghill motioned and moved to approve the minutes of the Senate Subcommittee meeting of February 17, 2010, and the Full Committee meeting minutes of February 17, 2010; no objections.
4. **PUBLIC COMMENT:** None.
5. **CHAIR/STAFF REPORT:**
  - a. **Ethics disclosures:** Ms. Anderson stated that disclosures, filed between February 18<sup>th</sup> (deadline for annual disclosures) and April 18<sup>th</sup> (last day of session) will be published in the Legislative Journal at the end of June. The next publication of interim disclosures will be in January of 2011, unless deemed otherwise by House Clerk and Senate Secretary. A current list of disclosures submitted will be updated and posted on the Ethics website.
  - b. There were eight late disclosures filed since the last committee meeting in February. Four were first time late filings and no fine was assessed; Rep Kawasaki, Rep Millett, Rep Stoltze and T. Bannister. The other four varied in reasons for lateness:

Rep Holmes was fined \$25 for an inadvertent late filing; Sen Huggins was fined \$25 for an inadvertent late filing; S. Long was fined \$100 for a late filing; and Sen Dyson's late filing was waived since he had filed with APOC.

- c. **Informal Advice Staff Report:** Ms. Anderson provided an explanation of the informal advice provided between November 1, 2009, and May 14, 2010. The report does not include routinely asked questions but questions involving more detailed advice. Ms. Anderson stated that the current method used in preparation of this report is tedious and time consuming. However, she is anticipating the availability of a database this summer which will simplify this task. The database is being developed by the State of Massachusetts and would be available free. Sen Coghill complemented Ms. Anderson on categorizing the report stating it was helpful to him to review advice in this manner.
6. **SECOND LEGAL OPINION:** Chair Thomas arrived at 11:40 a.m. and relieved Vice Chair Turner who was temporarily sitting in for him. Mr. Cole was not scheduled to arrive until 12Noon to present this item. Chair Thomas provided members a history of the subject and the discussions previously held leading up to this point, noting that there are members present today who were not present at prior meetings.

Chair Thomas referred members to the letter in today's meeting packet written by the Ethics Committee in response to APOC's (Alaska Public Offices Commission) request for the Ethics Committee's input concerning regulations on the subject of paid state travel and collateral campaign activity. At the time of this request, (December of 2007), APOC had no regulations in place. APOC's request is what generated the Ethics Committee to hold various discussions and ask for an advisory opinion on the subject. A draft opinion discussed at the January 2008 meeting was not approved or issued but the committee concluded there absolutely cannot be a mixing of state resources for campaigning or incidental partisan political activity. The Committee then wrote APOC stating the position of the Ethics Committee; however, no advisory opinion was ever adopted or a vote taken by the committee.

The Chair also noted that this issue comes up often, most recently, at his and Vice Chair Turner's confirmation hearings, where the House Judiciary Committee questioned both of them about the committee's advice and recommended that the Committee consider submitting a second opinion. The Chair stated that the question before them today is if they should adopt the second opinion or rely on the advice in the draft opinion written by Dan Wayne, LAA legal counsel.

The Chair asked Dan Wayne to go over his opinion and his view on Mr. Cole's second opinion. Mr. Wayne stated he reviewed Mr. Cole's opinion and indicated he did not agree with Mr. Cole's analysis. Mr. Wayne expressed that his opinion was based on **AS 24.60.030, "A legislator or legislative employee may not use public funds, utilities, equipment, services or another government asset or resource for a non-legislative purpose for involvement in or support of or opposition to partisan political activity or for the private benefit of either the legislator or legislative employee or another person."** Mr. Wayne provided the exceptions, as follows:

**“This paragraph does not prohibit a) the limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duty. And either the cost or value of related use is nominal or the legislator or legislative employee reimburses the state for the cost of the use.”** If this were the only exception, “personal use” *could* encompass campaign use or political use. But there’s another exception having to do with political campaigning, which is AS 24.60.030(a)(5), and states as follows: **“A legislator or legislative employee may not use or authorize the use of state funds, facilities, equipment, services or government asset or resource”**, which is similar to the first exception he read.

He further stated, for the purpose of political fundraising or campaigning, there are five exceptions: **1) this paragraph does not prohibit a) the limited use of state property and resources for personal purposes.** This reiterates the “personal use” exception. It also says it doesn’t prohibit the use of mailing lists, computer data or information obtained by a government agency and available to the general public for non-legislative purposes; it doesn’t prohibit the storing or maintaining election campaign records in a legislator’s office, and it doesn’t prohibit a legislator from using a legislator’s private office in the Capitol city during a legislative session and for the 10 days immediately before and the 10 days immediately after a legislative session. Also, a legislator is not prohibited from using photographs of him or herself.

He pointed out that what we don’t see in this prohibition under 24.60.030(a)(5) is an exception that allows some sort of *de minimis* or case-by-case basis political campaign usage of state resources. In his opinion, he’s said that’s a “blanket” prohibition. If the exception had “allowed limited use of state property and resources for political purposes or political campaign purposes, or personal purposes including political campaign use,” the statute would have so stated. Mr. Wayne stated he was willing to draft something else, if the Committee determined the statute should be interpreted otherwise.

The Chair asked if there were any questions. Sen Stevens asked Mr. Wayne to comment on what the words “primary purpose” means in the second opinion. Mr. Wayne explained that in his opinion the statute does not allow for any “splitting out” or any division between a primary purpose or secondary, minimal purpose as is the case with “personal, non-legislative” use of state resources. Mr. Wayne referred Sen Stevens to Mr. Cole for an explanation.

Sen Stevens pointed out that in Mr. Cole’s opinion he mentioned the difference between a legislator who represents a district in downtown Anchorage versus one in rural Alaska with multiple cities/boroughs. For example, at the end of session, when he traveled to Homer from his Kodiak residence, his purpose was to explain what transpired in session. However, since people in Homer know he’s running for office in August, it is very difficult reporting what the legislature did and report nothing on the fact that he’s running for office. Sen Stevens felt that although this subject needs to be simplified and clear and kept as separate as you can, it was very hard to do.

Member Cook stated he initially sided with the prohibition of campaigning with the use of state funds, however, can appreciate what legislators have said and their concerns.

He suggested adopting the formula that was developed when the state owned the aircraft for state travel; that if anyone is going to use the aircraft on state business, if campaigning occurred and exceeded 10%, then the legislator would reimburse the state. When there's reimbursement, you are not using state funds. The "limit" allows someone to address a campaign related question or issue if it inadvertently or unexpectedly comes up and would address concerns brought forth by Sen Stevens.

Rep Gara stated he agreed with Sen Stevens. He emphasized the importance of the word "for". For example, did you take the trip "for" the purpose of campaigning" or "for" a legislative purpose? "For" is the key word in the statute. He felt Mr. Coles' analysis was correct. Rep Gara stated that the practical matter is that people from Anchorage have an advantage over people from Kodiak or Nome, etc., because the reality of political campaigning is the activity is more prevalent in larger cities. If you're in Nome, most of your donations are going to come from outside of Nome. He pointed out the following example: I can go to a legislative meeting during the day in Anchorage and in the evening, I can go to a campaign activity after hours; others who come here for a legislative purpose cannot attend a campaign event after hours.

Vice Chair Turner stated that discussions on this have gone on for almost three years now. He respects the opinions and input from the legislators, but as he's gone on record in the past, there is an advantage to the incumbent, especially in an election year. For example, the challenger has to pay for his/her trip to Anchorage to campaign.

Chair Thomas asked Mr. Wayne about his footnote in his opinion (Draft Opinion 07-08) **"Although legislators and legislative employees travel to the capital city and sometimes other locations within Alaska in order to participate in legislative sessions, the committee does not consider that travel, or travel outside of the capital, to be within the scope of this opinion...."** Mr. Wayne referred the Chair to wording from the letter written by the Ethics Committee to APOC in the second to last paragraph, **"After considerable debate, the committee determined travel to and from the legislator's home district to attend a legislative session should be exempt from the requirement of allocating costs for partisan political activity."** The Chair stated that the letter to APOC was written *after* Mr. Wayne's opinion was drafted and asked if Mr. Wayne could recollect background on the reasoning for his footnote. Mr. Wayne could not recollect the evolution of the footnote but recalled the committee having a lot of discussion about it and believed at the time there was no "black and white" legal authority to say that travel to and from the session from the home district was exempt, but that as a practical matter had been considered that way and the committee adopted that exception, informally, in their letter to APOC.

The Chair introduced Mr. Cole to the floor and requested that he provide the members a quick overview of his Second Legal Opinion.

*NOTE: MR BRENT COLE'S TESTIMONY WAS INAUDIBLE; PLEASE REFER TO HIS SECOND LEGAL OPINION LETTER FOR DETAILS THAT MAY NOT BE IN THE MINUTES.*

Mr. Cole explained that he was an “outsider” but aware of the issues and concerns by legislators as well as the general public. He stated his opinion was written with the existing statute in mind, regardless if it does not contain the best language or does not directly address the issue. Existing law has to be followed. He stated he did not focus on one or two provisions of the statute but encompassed all of the provisions in 24.60.030. Conflict of Interest and Unethical Conduct. Mr. Cole stated his opinion contained a melding of all concerns. His solution is provided in the second paragraph of his opinion stating, **“we believe that the nature of the business rather than whether it is paid for with state resources should be the governing standard in determining whether an ethical violation has occurred. A statement signed by a legislator designating the primary nature and purpose of the business rather than whether it is paid for by state resources should suffice to govern whether or not collateral activities can or cannot occur. Violations or false statements made in this designation can be enforced pursuant to AS 24.60.030(3) If a legislator gives as his her primary or sole purpose for taking the trip as engaging in political campaigning or partisan political activity, then s/he would not be entitled to state paid travel expenses.”** Mr. Cole added that AS 24.60.030(a)(3) was not considered previously. AS 24.606.030(a)(3) makes it an ethical violation for a legislator or legislative employee to **“...make a false statement in connection with a request, or application for compensation, reimbursement, or travel allowance from public funds.”**

The Chair requested comments, consideration or discussion on using percentages.

*TESTIMONY FROM THE CHAIR, MR. COLE AND MR. WAYNE IS INAUDIBLE. SEN STEVENS MENTIONS DIFFICULTY IN HEARING TESTIMONY. HOWEVER, SEN STEVENS IN HIS TESTIMONY COMMENTS ON THE DISCUSSION BETWEEN THE CHAIR, MR. WAYNE AND MR. COLE.*

Sen Stevens believes the terms “de minimis” and/or “primary” are understandable but splitting the cost and dealing with percentages could be difficult and cumbersome. Sen Stevens also refers to page 4 of Mr. Cole’s opinion, **“...the individual entrusted with approval authority is responsible for reviewing the purpose of the proposed trip...”** noting that this is another “check and balance” on the use of state funds. It is the President of the Senate and the Speaker of the House who are responsible for reviewing and examining a request for state paid travel and have the authority to question a request and in turn either approve or deny the request. Basically, legislators are under the “honor system” when it comes to a request for reimbursement for legislative travel.

*DUE TO THE DIFFICULTY OF HEARING TESTIMONY, SEN STEVENS NOTIFIES THE MEMBERS HE MAY LEAVE THE MEETING. MS. ANDERSON ASKED SEN STEVENS TO NOTIFY THE CHAIR WHEN HE LEAVES.*

Rep Gara recommended the members interpret the statute as presented in Mr. Cole’s opinion. He stated there will be a lot of problems if we do not. He provided the following scenario in relation to attending a conference: The conference lasts 6 hours but you are normally you’re up 18 hours a day which leaves the remaining 12 hours to be spent doing whatever you do on your personal time, whether you’re at the movies, shopping, visiting friends, etc, it’s all “personal time”. However, in this instance your

“free” time is not “de minimis” to the time spent at the legislative conference. If the committee approves a rule that says, “other than de minimis use”, the above example would not fit into the box. He provided another example: If you go to Washington, DC, you’re going to want to see many of the attractions which may result in spending a substantial amount of your day doing non-legislative business. We cannot take a set of rules designed to prevent corruption and use them to prevent rational activity. When rural members come in for a Caucus meeting, over a period of 2-3 days, most of the time they spend here, they are not doing legislative business. The meetings end at two o’clock and afterwards, they’re dining at a restaurant, etc.

Rep Gara stated he feels the whole legislative process favors the incumbent, although attempts to level the playing field are made by limiting campaign contributions and limiting fundraising activities during legislative session. If we reject Mr. Cole’s opinion, the current rule disfavors the incumbent. He explained that during the AGIA special session here in Anchorage, that lasted about 30 days, he was able to campaign and go door-knocking after hours. Others who were here from out of town could not do this on their free time. He reiterated his previous statement: Were you there “for” the AGIA or were you there “for” campaigning? Additionally, he felt what we are doing is regulating someone’s free time. If a fundraiser were held during the day during the AGIA session, that is a different story and the person would have violated the statute.

Mr. Cook stated the legislature approves the statutes and the committee is trying work within that framework and has been for the last three years. He feels the statutes are clear in that there is an explicit prohibition on the use of state resources for campaign related activities in that there are exceptions for personal use but no exceptions for political campaigning activity. The simplest way to fix this problem would be for the legislature to amend AS 24.60.030 and remove the prohibition on political campaigning activity or put limits on it in the statute, as was done with the Executive Branch and the state jet. Legislators and the public get upset with the Committee for trying to impose rules, but the committee is only interpreting the statutes that were passed by the legislature. He recommends fixing the statute instead of asking the Committee to interpret it. He would like to see a reimbursement formula similar to AS 39.52.120(f) in which public funds weren’t being used for campaigning.

Sen Coghill stated he agreed with Member Cook. However, when a person is in the political arena, that person is always a political person. S/he will always be a policy person with a point of view of a political nature. Under Mr. Wayne’s opinion a legislator is always going to be “unethical” because partisan or political activities occur all of the time. Sen Coghill believes the committee needs to address it.

Sen Coghill voiced his opinion on the power of the incumbency. He agreed with Rep Gara. In Mr. Cole’s opinion, there are certain disadvantages to legislators and incumbents. He would like to see the term “primary purpose” addressed. He would like take this opinion and move forward with it even though there are questions on the definition of the term “primary”. He stated he would be willing to work with Sen Stevens in defining “primary purpose”. Sen Coghill also stated that if he were elected again, he would take this issue to the legislature. He felt Mr. Cole’s opinion should be

adopted, even though there are questions about what is considered “primary” and he questioned whether the premise of an honor system is reasonable to move forward with.

Sen Coghill motioned that we accept Mr. Cole’s legal opinion and adopt the opinion for the Ethics Committee.

Vice Chair Turner stated he had a concern with there being two different standards. One based on AS 39.52.120, with the 90/10 split, and Mr. Cole’s opinion, with the term “primary purpose”. He believes there will be a lot of questions on why the Executive Branch holds one set of standards and why the Legislature holds another. Mr. Cole stated that the answer would be because there is a specific statute for the Executive Branch and there is not one for the Legislative Branch. Mr. Cole further added that it is not easy to pass any legislation in regards to ethics. Having the issue brought out into the public eye may force the legislature to act. The decision today is going to create more interest, hopefully making legislators realize the legislature needs to get together and address the issue. The public is going to demand it. What’s consistent with the statute and what’s consistent with reality must be balanced. The difficulty with Alaska is that it’s very diverse. It’s not just the Republicans or Democrats, it involves urban and rural and incumbent and non-incumbent. It encompasses a lot of different interests competing, which makes this a challenge.

Rep Johnson stated if the motion is adopted, it would be much easier for Sen Coghill, Rep Gara and himself to clarify this in statute through legislation. This would be the opinion the committee would be operating under and this is the law as it stands now. He stated the statute could then be crafted to be consistent with the committee’s opinion and put one of the legislative committee member’s names on it. The statute would endorse what has been previously determined as unethical behavior by the committee.

The motion was brought before the members for a vote.

YEAS: Sen Stevens, Sen Coghill, Rep Johnson, Rep Gara, Toni Mallott. NAYS: Skip Cook, Gary Turner, Chair Thomas; motion passes.

## **7. FY2011 BUDGET BRIEFING:**

- a. Travel:** Ms. Anderson briefed the members that the Committee had requested an increase in travel due to the fact the travel budget has been consistently exceeded. The Committee also requested an upgrade in the Administrator position and an increase in time for the Secretary’s position. The travel budget received a decrease of \$2,500 for FY11, the Secretary’s position changed from 50% time to 60% time with benefits, and there was no change in the Administrator position. Members were referred to a handout reflecting travel expenses for legislators. Sen Stevens stated he approves travel for senators and travel expenses should be coming out of Senate funds and not Ethics Committee funds. Ms. Anderson stated she would notify LAA Accounting of this change.
- b. Ethics meeting with House Finance:** Vice Chair Turner provided an update to the members on his and Ms. Anderson’s meetings on February 16, 2010, with House

Finance committee members regarding the Ethics budget. Here is a recap: Speaker Chenault was noncommittal. Reps Dahlstrom and Kerttula both who were favorable for a budget increase. Rep Thomas thought the requests were somewhat reasonable but was not comfortable increasing the budget. Sen Stevens was in favor of the increase. Rep Hawker first wanted to know if we had submitted our budget to the governor and if he had accepted it. Ms. Anderson stated the ethics budget has never been presented to the governor in the past and she doesn't think the committee required to do so. They were unsuccessful in meeting with Rep Stoltze after numerous attempts. Rep Gara recommended going to both the governor and legislature for budget requests.

- c. **Annual Report:** Ms. Anderson proposed to the committee that an annual report be prepared to improve the visibility of Ethics Committee within the Legislature. Ms. Anderson did some research and found that other Ethics Committees have annual reports. The report would include statistics and goal planning. Ms. Anderson proposed that the report be submitted to legislators at the beginning of legislative session. Sen Coghill stated that when session starts he already has at least 50 annual reports to read through. Rep Gara cautioned against preparing a report. The most important items are already available, the rulings and the informal advice. He stated the time to prepare a report exceeds the need of additional work on the administrator's plate. Chair Thomas suggested Ms. Anderson draft a report and present it to the committee for input to see if it would be beneficial or not.

- 8. **LEGISLATIVE OVERSIGHT OF ETHICS COMMITTEE:** Vice Chair Turner stated he felt the Ethics Committee is becoming more politicized. The committee is experiencing budget decreases and intent language placed in the budget by the House Finance Subcommittee –Legislature, to name a few. He also noted there are no minutes or an audio recording of the finance meeting in which to review the actual comments by legislators. Also, at the February 16 meeting previously mentioned, it was evident that many legislators may have had issues with many of the Advisory Opinions the Committee has recently passed and informal advice given by the Administrator. As Member Cook mentioned earlier, the committee interprets what's in statute. Additionally, at his and Chair Thomas' confirmation hearings, they felt attacked by some House Judiciary committee members who questioned why the Committee would recommend legislative changes to statutes as well as suggesting that the Committee bend the rules as necessary to fit each fact specific situation. Vice Chair Turner also noted that the Administrator salary is not at the same salary level as her peers in similar positions and upon requesting a salary increase, it was declined again.

Based on the above reasons, Member Turner has come to the conclusion that the Committee should discuss the possibility of becoming a "Commission" like other states have done. This would mean becoming an independent state agency, much like APOC. Vice Chair Turner referred to the article in the packet where Kentucky legislators understood how difficult it could be to sit in judgment of colleagues on ethics issues, then walk out of the meeting and ask those same colleagues for support on a bill or amendment.

Vice Chair Turner, through the Chair, requested that Ms. Anderson present her research to the members. Ms. Anderson stated the difference between a Committee and a Commission is that a Committee is made up of legislators and public members and a Commission is made up of public members only. On the handout titled, "Research of Ethics Oversight Agencies", there are six states which have Legislative Ethics Committees and/or Commissions, eight states that have State Ethics Commissions, Executive and Legislative Branches under one body, and thirty three states are comprised of legislators, and the remaining three states differ from all of them.

*(INAUDIBLE – MINTUES REFLECT THE RECOLLECTIONS OF MS. ANDERSON REGARDING THIS QUESTION)* Sen Coghill asked Ms. Anderson if she attended any seminars at the COGEL (Council on Governmental Ethics Laws) conference in December 2009 or talked to other participants about this concept and also the subject of budget issues. Ms. Anderson responded she attended a seminar on the subject of budgets and stated other jurisdictions have had problems with their budgets when a controversial decision or decisions were made by the ethics body.

Rep Gara stated that he understood Vice Chair Turner's concern and has witnessed some of it too, where the conduct of legislators was inappropriate toward the public members of the ethics committee, but did not believe that changing the status of Committee was going to change this type of conduct. APOC is a Commission and they get just as much, if not more than the Ethics Committee. Their budget has gone up and down as well. In the end, the Legislature has to approve the budget anyway.

Vice Chair Turner indicated Member Walker was in favor of this idea as well. Vice Chair Turner had hoped this would be a way to gain a little more independence. Under a Commission, the decision on the Administrator's salary would not be influenced by a legislator who may have a difficulty with the Administrator of the Ethics Committee or the committee itself. Having worked in the University system, salary levels are determined through the HR system without political influence. Additionally, the treatment received at the confirmation hearings for public members was influenced by the decision rendered by the Ethics Committee, and not by their personal service or qualifications, which is the point of a confirmation hearing.

Members agreed to table the item for the next meeting where Member Walker would have an opportunity to participate in this discussion.

Rep Johnson did not feel changing the status of the committee would change anything. He did not believe Vice Chair Turner's example of the University system applied, due to the fact the University is part of a collective bargaining unit. Sen Coghill noted there's always room for improvement. He understood Vice Chair Turner's point, with regard to the Committee becoming politicized where this can be an advantage or disadvantage. Sen Coghill noted that he's been on a lot of boards in the past and witnessed decisions from political influence, and unfortunately, it is not an uncommon practice. Rep Johnson stated he sat through the board of Fish & Game confirmations and the political influence is very notable. He apologized if the confirmation hearing was more brutal

than it should have been. He personally appreciates the public members' service on the Ethics Committee and asked the members not to take it personally.

Ms. Anderson stated this has been a challenging year for the Ethics office. Ms. Anderson stated that APOC is now fully staffed after being understaffed for many years. They are now able to perform audits which they have not been staffed to do in the past. The same is true for the ethics office. Her position started out as 80% time and then increased to 90% and is now 100%. During that time period her workload increased. Even before the increase in time, the hours worked were close to 95% to 98%. The ethics office now has a permanent part-time staff person. Now that APOC and the Ethics office have more resources, both agencies are able to do more than just maintain the office. There is time to conduct research and be proactive instead of just reactive. For example, the office reviewed legislative candidate web sites to ensure "solicitations for contributions during a legislative session" were not listed on the web site. Quite a few legislators were notified and removed the prohibiting language. More oversight has been occurring this year than in the past and some of it has not been received very well. Ms. Anderson feels this is unfortunate. The ethics office, in being proactive, is trying to prevent a complaint from being filed against a legislator or a staff person for violating the ethics code.

Chair Thomas recognized and acknowledged testimonies before him today and recommended more follow up on this subject at the next meeting.

9. **OTHER BUSINESS:** Sen Stevens requested to speak on an issue that is not on the agenda. Chair Thomas allowed Sen Stevens to proceed. Sen Stevens stated that he feels sometimes the ethics committee/office goes beyond its responsibilities and look for things to get involved in that the committee should not. One of which has caused consternation among staff and members of the legislature is in regards to the legislature's Accomplishment Book. It is a booklet that the majority publishes every year at the end of every session. It contains detail about what transpired regarding fiscal matters and accomplished legislation. It is his understanding that Ethics staff has now stated the Accomplishment Book is a campaign issue and cannot be distributed two months before the election. He disagrees with this statement because the booklet has been published after session every year and he does not feel this is a campaign-related-item. He would like the Committee members to address this.

Chair Thomas did not know what advice was provided and asked Ms. Anderson if she could respond. Ms. Anderson stated she was aware that Accomplishment Booklets are printed every year and stated that perhaps the staff person she spoke with may have misunderstood the comments she provided. Ms. Anderson stated she had originally met with the staff person regarding another issue and then asked about the Accomplishment Booklet and how it was going to be distributed. The staff person replied that it had already been distributed by E-mail. Ms. Anderson stated she went on to explain an Ethics statute states such a booklet cannot be "mass mailed" during the 60 days before an election if the publication is "from a legislator or about a legislator." She proceeded to pointed out to Sen Stevens that she did not say the booklet could not be distributed.

Sen Stevens stated it may have been a misunderstanding but he was making it clear now that he will allow any Senator to hand out any of the booklets at any time up to the day of an election. He asked Ms. Anderson if she had any objection. Ms. Anderson replied by stating “no” to his question and explaining the statute talks about a “mass mailing” but it does not talk about handing out individual Booklets. Mass mailing means it would be mailed to a group of individuals. Sen Stevens reiterated that is not up to the Ethics office to decide whether or not a Senator can do a mass mailing of the booklet to everyone in their district at any time.

Ms. Anderson replied that she would have to research the statute further about the definition of a “mass mailing” and get back to Sen Stevens. She read AS 24.60.030(c) which states, **unless approved by the committee, during a campaign period for an election in which the legislator or legislative staff employee is a candidate, the legislator or legislative employee may not use or permit another to use state funds, other than funds to which the legislator is entitled to under 24.10.110** (which is a legislator’s personal allowance account) **to print or distribute a mass mailing to individuals eligible to vote for the candidate. Campaign period begins 60 days for the date of an election.”**

Sen Stevens suggest there be a legal opinion and disagreed with the interpretation. He further stated the booklet was not a campaign item and that it contained the accomplishments of the legislature. Ms. Anderson stated the committee previously issued an advisory opinion on the subject and she would pull the opinion for reference. Sen Stevens stated he was not referring to any mass mailing other than how the Accomplishment Booklet could be distributed. He stated it should be up to the legislator to determine the distribution method and not Ethics. Chair Thomas recommended Sen Stevens request formal advice or a legal opinion. Sen Stevens stated he did not want a legal opinion and reiterated that he believed the Accomplishment Booklet could be published and distributed any way a legislator wanted.

Rep Gara requested a re-visit to an existing opinion regarding a link on a campaign web site that would take the viewer to a legislative website. He stated APOC had referred him to the Ethics office as they thought Ethics had a ruling on this topic. Ms. Anderson stated that APOC is the deciding authority on what can and cannot be on a Campaign website, not the Ethics Committee. She will forward a copy of her paperwork on this issue to Rep Gara.

**10. ADJOURN:** Member Turner made a motion to adjourn the meeting at 2:00 p.m