

# Alaska State Legislature

## Select Committee on Legislative Ethics

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### MINUTES from June 26, 2009 FULL COMMITTEE MEETING Anchorage LIO, Room 220

- 1. CALL THE MEETING TO ORDER:** The meeting was called to order at 9:05 a.m. by Chair Gary Turner. Members present at the Anchorage LIO: Public Member Ann Rabinowitz and Representative Berta Gardner. Members attending via teleconference: Senator Tom Wagoner, Senator Gary Stevens, Representative John Coghill, and Public Members H. Connor Thomas and Dennis (Skip) Cook, and Gary J. Turner, chair. Member absent: Herman Walker.

Also attending and present at the Anchorage LIO were: Brent Cole, legal counsel for the committee; Representative Max Gruenberg; Lisa Valenta, staff from Rep Gruenberg's office; William Knott, an intern from Rep Gruenberg's office; Jamie Fink, an intern from Representative Bob Lynn's office; and Dirk Moffat from Rep Bob Lynn's office. Attending by teleconference was Katrina Matheny, staff to Senator Stevens and Tim Floyd, Law Professor from Mercer University.

- 2. APPROVAL OF AGENDA:** Member Thomas moved to approve the agenda. Agenda was approved; no objections.
- 3. PUBLIC COMMENT:** None.

- 4. INTERNSHIPS IN LEGISLATIVE OFFICES-AS 24.60.080(h):**

Chair Turner stated that discussion on the internship programs was not to determine whether the internship programs were true, credible or worthy. It was his belief that the two individuals and institutions provided enough evidence and backing that indicated they are worthy internships, particularly because they were from accredited institutions.

Ms. Anderson stated that it was unusual to have interns working during the interim, and reiterated that the purpose of the discussion today was not on the merit of the internships but to discuss the process the Ethics Committee is required to follow per Alaska Statue 24.60.080(h).

- a. (a. & b.) Representative Max Gruenberg's office-Internship through Mercer University: Ms. Anderson recommended that the committee approve Mr. Knott's internship in Rep. Gruenberg's office. Sen. Stevens stated he was generally in favor of internships during legislative session, but questioned the value of an internship during the interim. Rep. Gruenberg responded to Sen. Stevens' question stating that Mr. Knott has been assigned to research legal issues, is learning how laws were made, how statute's are interpreted, and the real world of the legislature. For law students and other graduates, the best time to acquire an intern is during the summer and in some cases, the only time. Rep. Gruenberg noted there was a lot of activity in his office in dealing with constituent issues and policy issues and that his office is currently preparing for the next legislative session. Additionally, Rep. Gruenberg stated that he has more time to devote to an intern during the interim than during legislative session.

Chair Turner added that the institutions draw up the frame work for the internship and ensure that the internship is fulfilling a rigor and value they expect the intern to receive. Rep. Coghill was unaware that there was a process or structure in place until now, which is why he requested a discussion on internships. In addition to discussing the accountability issue, Rep. Coghill would also like to discuss the authority to approve a program.

Rep. Gruenberg introduced Professor Floyd. Mr. Floyd referred to the e-mail all committee members had in their packet that explained the university's process and their internship program. Under the accredited guidelines, the student may work anywhere and receive academic credit, or the institution pays a stipend and the student does not receive credit. This is an internship where the institution paid a stipend for living expenses. Mr. Floyd stated that as director of this program his job is to ensure a great educational experience for the student. Mr. Knott applied for the internship and provided a letter from Rep. Gruenberg's office which described the kind of work he would be doing. Their committee researched it and determined the internship would an interesting, valuable and educational program. Mr. Knott addressed the committee by stating he was very satisfied with the work he's been doing. He has been working on a House bill relating to DNA and clearing up executive and voting act ambiguities. Rep. Coghill appreciated hearing the credibility side of the internships.

Rep. Coghill then asked if legislative (inside) legal council could join in. The Chair stated that internal procedural questions are handled by outside legal counsel. Ms. Anderson clarified by adding that procedural questions have always been referred to outside legal counsel due to a possible conflict of interest with internal legal counsel. Rep. Coghill asked if interns fall under the Ethics rules, specifically, if interns would be required to complete Ethics training and if they would be receiving e-mail accounts. Ms. Anderson stated that Mr. Knott completed classroom Ethics training but Ms. Fink has not as she had a conflict the day training had been offered. However, she would be taking the Ethics training online when it becomes available in

the near future. Chair Turner confirmed that interns would fall under the Ethics rules and be required to complete Ethics training. He also stated the accountability and measure of value of an internship program was the responsibility of the legislative office. Mr. Cook asked if the stipend needed to be disclosed by the intern. Chair Turner stated it was not required because the stipend was coming from the intern's institution and not another entity. Mr. Cook added that the authorization of the program was to ensure that the legislator was not receiving a gift, because the intern was getting something of value in return. Rep. Gruenberg appreciated the discussion taking place, but did not want to set a precedent that all money must come from the intern's institution and limit future interns from receiving stipends from other sources, such as scholarships, fellowships or third parties. Mr. Coghill stated that the American Legion would be a willing party to something like this if they could, and in the past, he has been asked if he would be willing to take an intern for two months. Rep. Coghill asked how to handle an offer such as this one. Ms. Anderson answered that the statute states that a volunteer in a legislative office is someone who is not being paid. As a legislative employee, you are allowed to receive a gift up to \$250. Volunteers and interns are covered by certain parts of the Ethics Code and the gift statute is one of them. The reason there's a separate section for interns is because an internship program has more of an accountability factor than that of a person who volunteers in a legislative office. Also, because it is an exchange of services, and not a gift of services, the intern could receive a stipend. Mr. Coghill questioned how to determine when is it considered more than volunteer services, when factoring in compensation and state resources. The Chair reiterated that the exchange of services is what distinguishes the two. A volunteer is a gift of services.

Rep. Coghill questioned if volunteers were required to complete Ethics training. Ms. Anderson answered yes. Rep. Coghill and the Chair agreed that ethics training should be a requirement of volunteers as part of learning the process. Mr. Cook thought it would be beneficial to disclose internships and their funding. Ms. Anderson stated there was no form available for this purpose. Mr. Cook withdrew his suggestion. The Chair recommended discussing this at a future meeting.

The members agreed to return to the focus of approving the two internship programs and authority presented before them. Senator Stevens stated he was concerned about the credibility of the programs. Sen. Stevens felt that the legislature should be required to fulfill certain academic criteria during the interim since the duties are vastly different than during a legislative session. Ms. Valenta responded by stating she was supervising Mr. Knott and can assure that Mr. Knott will receive valuable experience during the interim as he would during a legislative session. Ms. Valenta proceeded to list some of the research projects Mr. Knott has been tasked with, such as the stimulus package, how we access funds, constituent issues, family law, immigration issues, and learning statutory interpretation and the Alaska system. Additionally, Mr. Knott will be required to write a 10-12 page paper at the end of his internship outlining his experience here. Rep. Gruenberg and his office are determined to make Mr. Knott's experience a valuable one so other students will be interested in coming to Alaska. Ms. Valenta ended by stating that during the interim

is when legislative offices into the “nitty gritty” and write legislation. Mr. Gruenberg also addressed Sen. Stevens’ question by noting that his role as a legislator is a little different during the interim than it is during a legislative session. He stated he acts more as an Ombudsman helping constituents with their problems and looking at how government operates. An intern, during session, is working on bills and does not get a chance to see or experience the other duties of legislators. Sen. Stevens understood the value an intern would receive during the interim but felt the intern would get a better academic education if s/he were on board during session. Rep. Gruenberg further noted that allowing interns to work during the interim would open up the pool of students from universities of surrounding areas who cannot easily travel to Juneau for the legislative session. The Chair supported the idea of having internships during the interim, especially if it means seeing more interns here than what we’ve been seeing. Ms. Anderson confirmed only these two interns have been here during the interim in the last 10 years.

Rep. Coghill asked what state’s resources would be available for interns during the interim, such as travel. Chair Turner stated that the legislature would have to make that determination as it is not currently in statute. Senator Stevens posed a question that was presented to him by Sen. Bunde regarding an internship sponsored by a political party and getting involved with campaign work. Ms. Anderson recollected the discussion by Sen. Bunde at a previous committee meeting when he was a member of the Ethics Committee. Ms. Anderson pointed out the committee, at that time, questioned why they were tasked with approving internships and determined it was to assure certain conditions were met. Sen. Bunde further stated approval was needed because an internship could be provided by a political party and the intern may not be working on just legislative projects—they may be working on campaign issues. Sen. Stevens decided it did not apply to approving these two internships and suggested it be discussed under topic 4c., under delegation of authority. Rep. Gruenberg added that he felt it was important that none of the interns feel any pressure to do anything political in nature. Chair Turner stated that an intern would be in violation of the Ethics Code and the legislator as well if political activity was performed on government time.

Member Cook moved to approve both internships. Roll call vote: YEAS; Sen. Stevens, Rep. Coghill, Rep. Gardner, Public Members Rabinowitz, Cook, Thomas and Chair Turner. Absent: Sen. Wagoner. (Note: Sen Wagoner had left the meeting prior to the vote being taken.) Motion approved.

- c. Chair Turner asked Ms. Anderson to provide background on the topic of delegation of authority. Ms. Anderson referred the committee members to the section in the packet. Advisory Opinion 94-03, issued in January 1994, approved the placement of an intern in a legislative office under the federal Job Training Partnership Act, JTPA. The Ethics Committee, which came into play in 1992, followed the guidelines of the University of Alaska’s internship program outlined in AS 24.20.062. Then in 1998, actual language was passed in Senate bill 105 addressing volunteers and educational trainees. There have not been any changes to this section of the statute since.

Additionally, there are several different types of internships; those that are connected with a university and those offered by non-profit organization who provide individuals in the community work experience. JobX and First Alaskans Institute internships have been approved by the Committee and interns worked during the legislative session.

Professor Floyd left the meeting.

Mr. Cole presented an overview of his legal opinion regarding delegating authority to the administrator and committee chair to approve internship programs. Mr. Cole stated that it is a power that can be delegated. He believed the best policy is to have a set procedure in the committee's rules indicating the types of internships that can be approved by the administrator, such as educational internships that meet certain guidelines currently set in statute. Additionally, we might consider adding that Ms. Anderson may approve non-educational internships but these could be subject to consideration by the whole committee. Rep. Gardner questioned if the committee could delegate approval of a governmental agency internship, assuming the intern was non-partisan as well. Mr. Cole answered yes to Rep. Gardner's question but suggested that the approving authority research and verify that they do meet the policies set forth. Dirk Moffatt stated he did not believe you had to be a student of a university or college in order to serve as an intern. Chair Turner clarified that was not the committee's intent. Internships other than from a university or an accredited institution would require review by the committee to determine the internship met the rigor that is required of university or college internships. Rep. Coghill stated he wanted assurance that regardless of the type of internship, the intern be made aware of the Ethics law and further asked if whether or not the intern would be accountable to anyone besides the legislator. Chair Turner confirmed that interns would require completion of Ethics training in response to Rep. Coghill's first question; and also stated interns were accountable to their institution and professor assisting in the internship program.

Rep. Gardner made a motion to grant delegation of authority to the administrator and committee chair to approve, without a committee meeting, internships through an accredited educational institution or through a government agency. Rep. Coghill opposed the motion unless sufficient guidelines were established for use for approving internships; specifically, he would like accountability measures similar to which the universities are following. Ms. Anderson stated accountability guidelines were already in place under AS 24.20 along with specific guidelines in the Advisory Opinion issued in 1994 which differentiates between a gift of services versus an exchange of services. Chair Turner indicated that if Rep. Coghill feels these guidelines should be put in statute, we could do so. Ms. Anderson stated she was comfortable with the guidelines presently available. Rep. Coghill commented that until today, the existing guidelines were unclear and difficult to find. Rep. Coghill requested that the motion include a statement indicating what accountability factors were in place and what criteria were used to approve the internship.

Chair Turner stated that if the committee were to approve of the delegation of authority to the administrator, Ms. Anderson would be requesting documentation from the legislative office and from the potential intern, just as it was requested for the two internships presented today. Ms. Anderson would use this information to make an informed decision. If she's not comfortable at that point with what she's received, she would forward the decision to the committee for consideration. Rep. Coghill stressed the importance of the inclusion of these criteria to prevent the taint of favoritism, no matter who the administrator is and regardless of the type of internship. Chair Turner assured Rep. Coghill that this was understood by the members and the administrator would be the person to ensure approval was not based on political persuasion, etc.

Sen. Stevens felt that the discussion of taking this decision out of the hands of the committee and placing it in Ms. Anderson's and the committee chair's hands was too time consuming and asked Ms. Anderson her reasons for suggesting this action. Ms. Anderson stated the issue before the committee today became known when Jamie Fink started working in Rep. Lynn's office as a volunteer employee. When her duties increased and became more of those of an intern, she requested an internship through the university she was attending and the request was approved within a week. Approval became a time sensitive matter since Ms. Fink had already started work. Ms. Anderson and the Chair decided to seek advice from Mr. Cole and this meeting was scheduled. Member Rabinowitz asked why Mr. Cole recommended the committee only designate the administrator as the delegating authority. Mr. Cole stated because it is the area he is familiar with because of the training program. Mr. Cole clarified that it was his opinion only and not a recommendation. He further stated that the committee has the ability to put any limitations on this authority and encouraged members to do so. He stated the members voiced very important concerns today on the types of programs that should be approved and recommendations in the area of ensuring that the program being offered is consistent with the goals of the terms of employment.

Ms. Anderson presented wording to add to the Committee's Rules & Procedures, Section 2, Administrative Policies section, as follows: "**f. Internship Program Approval** – *The committee at the June 26, 2009, meeting granted authority to the administrator to approve internship programs under AS 24.60.080(h). The committee members will be notified of all internship programs approved. Backup materials will be available upon request. A committee member may, however, request an internship program be brought before the committee for review. University internship programs and government agency internship programs that do not meet the guidelines, general guidelines, set out in AS 24.20.060.2 for the University of Alaska internship programs in Advisory Opinion 94.03, will automatically be referred to the committee for review.*" Member Thomas asked if Ms. Anderson could ask the committee for review of internships she plans to approve for any objections and if there were none, then approve them. Member Cook approved of this idea and recommended a timeframe of 10 days for any objections. Chair

Turner stated 10 days was too long and suggested 3-5 days. Rep. Coghill suggested 7 days.

Members voted on the Member Thomas' proposed amendment: to have a review by the committee within 7 days. Roll call vote taken:

Yea-Rep. Coghill, H. Conner Thomas, Skip Cook, Ann Rabinowitz,

Nay- Sen. Stevens, Sen. Wagoner, Rep. Gardner, Chair Turner

Motion failed.

Ms. Anderson read Rep. Gardner's motion for members: to delegate authority to the administrator and chair for approval of educational internship programs and

government agency internship programs. Roll call vote taken:

Yea-Rep. Coghill, H. Conner Thomas, Rep. Gardner, Skip Cook, Ann Rabinowitz,

Gary Turner; Nay- Sen. Stevens, Sen. Wagoner

Motion carried.

Rep. Coghill requested that both the Administrator and Chair be involved in the decision when reporting back to the committee, with regards to the motion made to the wording in the Rules & Procedures.

Ms. Anderson will make a change in what was read aloud to the members and based on the discussion today send out a draft for approval by the end of next week.

**d. OTHER BUSINESS:** None.

**e. ADJOURN:**

The meeting adjourned at 10:35a.m.