

Minutes approved 1/13/2020

**ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS**

DECEMBER 2, 2019

9:30 AM

Full Committee Meeting

[9:10:42 AM](#)

1. CALL THE MEETING TO ORDER

Deb Fancher called the meeting to order at 9:37 a.m.

Roll call

Senator John Coghill
Senator Elvi Gray-Jackson (Alternate for Senator Tom Begich)
Representative Louise Stutes
Skip Cook
Conner Thomas
Deb Fancher
Alternate Patrick FitzGerald
Quorum present.

Absent

Senator Tom Begich
Representative DeLena Johnson
Joyce Anderson
Lee Holmes

Others

Jerry Anderson
Jacqui Yeagle
Dan Wayne

2. APPROVAL OF AGENDA

Deb Fancher entertained a motion to approve the agenda.

Jerry Anderson recommended removal of the Rules of Procedure discussion because Joyce Anderson, the principal architect of the changes to the document, was absent.

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Deb Fancher asked if there were objections to or questions about Jerry Anderson's recommendation. There were no objections or questions.

Senator John Coghill moved to amend the agenda.

Deb Fancher entertained discussion of the motion.

There was no discussion and there were no objections; the agenda was approved.

3. APPROVAL OF MINUTES

Deb Fancher entertained a motion to approve the August 14, 2019 Full Committee meeting minutes.

Conner Thomas moved to approve the minutes. Senator John Coghill seconded the motion. There were no objections. The minutes were approved.

Deb Fancher entertained a motion to approve the August 14, 2019 House Subcommittee meeting minutes.

Skip Cook moved to approve the minutes. Patrick FitzGerald seconded the motion. There were no objections. The minutes were approved.

4. PUBLIC COMMENT

Deb Fancher asked for public comment.

Taralyn Dicus identified herself and said she wanted to make a public comment.

Taralyn Dicus said that she lives in Wasilla and is a wife and mother of three small children. She added that she has been following on Facebook her district's elected representative, David Eastman, and is becoming increasingly disturbed and alarmed by the way he conducts himself on social media.

Taralyn Dicus said she had been in contact with Jerry Anderson about her concerns and she asked that Representative Eastman's multiple official social media profiles be examined and condensed into a single profile so that what he posts in the future is consistent with and no longer in violation of the current Alaska Legislature's social media guidelines. She also asked that the existing social media guidelines be reviewed and updated to prevent future misconduct by elected officials.

Taralyn Dicus read from the current Alaska Legislature guidelines:

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- Perception is reality. In online social networks, the lines between public and private, personal and professional are blurred. Just by identifying yourself as a State employee or elected official, you are creating perceptions about your expertise. Be sure that all content associated with you is consistent with your work and with the Legislature's professional standards.
- Write what you know. Make sure you write and post about your areas of expertise.
- Social communication should add value. It should be thought-provoking and build a sense of community.

Taralyn Dicus questioned how, if these are the guidelines, it is okay for Representative Eastman to regularly post misinformation, satire, bigoted opinion pieces, and divisive partisan rhetoric? How is it improving knowledge or solving problems to post anti-trans propaganda on Trans Remembrance Day? How is it relevant or professional for him to post ghoulish, graphic accounts of fetuses being dismembered on Mother's Day?

Taralyn Dicus commented that Representative Eastman has repeatedly abused his position of power to rile, inflame, and influence constituents with his personal religious agenda. She said that she thinks Representative Eastman needs to be reminded that he exists in an official capacity to represent his constituents in the state of Alaska, not himself or his religion.

As a woman and a mother in his district, Taralyn Dicus feels that her rights and her children's future rights are directly threatened by his attempts to misinform voters in the community about important human rights issues such as LGBTQ inclusivity and access to safe, legal abortions.

Taralyn Dicus realizes Alaska has many, much bigger problems, but this is important. She added that with most people looking online for news and information, an elected official's social media presence can have a powerful impact on public opinion and policy and it is crucial that our leaders conduct themselves ethically and with integrity at all times.

Taralyn Dicus thanked the committee for their time.

Deb Fancher thanked Taralyn Dicus for her comments and for being part of the process.

5. ADVISORY OPINION 19-06 Compassionate gift exemption class of people - Waiver of confidentiality

Deb Fancher invited Dan Wayne to speak about the advisory opinion.

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Dan Wayne identified himself and said that he had drafted the opinion.

Dan Wayne directed attention to the first page of the draft and the questions he addressed. Wayne explained there were no facts in this case, that the opinion begins by setting forth the statute, and then suggested that he move directly to the conclusion and to addressing the committee's questions.

Deb Fancher agreed to Dan Wayne's approach to reviewing the draft opinion and explained to the audience that the draft opinion addressed compassionate gifts.

Dan Wayne read the first question: What persons are entitled to make a request for a compassionate gift exemption under AS 24.60.075(b) and (e)? Is this class of persons limited to the "recipient or members of the recipient's immediate family"?

Dan Wayne then read the conclusion: Legislators and legislative employees are the only persons entitled to request a compassionate gift exemption under AS 24.60.075. Dan Wayne said that the conclusion was based on AS 24.60.075, which he read in part: "... a legislator or legislative employee, ... may solicit, receive, or accept a compassionate gift from a person, subject to the limitations ... of this section."

Dan Wayne read the second question: What is the full extent of persons entitled to be a "recipient" of a compassionate gift exemption under AS 24.60.075(e)? Does the term "recipient" refer to the actual person who has incurred the qualifying catastrophe, tragedy, or health-related emergency?

Dan Wayne said Sec. 24.60.075(e) defines a compassionate gift: "... a solicited or unsolicited gift intended to aid or comfort a recipient or a member of the recipient's immediate family ... " Dan Wayne speculated that in reading the section it could be inferred that a family member may request a compassionate gift but he countered that no, only a legislative employee can solicit, accept, or receive a compassionate gift, which is not to say that a family may not benefit from the gift, but the transaction must be through a legislator or legislative employee.

Dan Wayne read the conclusion to the question: "A member of a legislator's or legislative employee's immediate family may not solicit (request) a compassionate gift unless they are also a legislator or legislative employee; however, they may receive aid and comfort from a compassionate gift when they are a member of the immediate family of a legislator or legislative employee who receives the compassionate gift."

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Dan Wayne read the third question: What information is required in a request for a compassionate gift exemption under AS 24.60.075(b)?

Dan Wayne explained he reviewed the statute and included in the draft all of the requirements he could find and added for the committee's consideration a couple of requirements as well.

Dan Wayne read the answer to the question: In order for a written request to satisfy the requirements of AS 24.60.075, it should at a minimum contain (1) the identity of the legislator or legislative employee requesting the compassionate gift; (2) the identity of the legislator or legislative employee who is the recipient of the gift; (3) the identity of the person who is the source of the gift, if known; (4) a description of the gift; (5) the fair market value of the gift, to the extent its fair value can be determined; [he noted at this point that the word "market" was missing from the sentence] and, (6) a description of how the gift will aid or comfort the recipient or a member of the recipient's immediate family in contending with a catastrophe, a tragedy, or a health-related emergency.

Dan Wayne asked for discussion or questions about the draft.

Conner Thomas asked about the last part of question two: Does the term "recipient" refer to the actual person who has incurred the qualifying catastrophe, tragedy, or health-related emergency?

Dan Wayne responded that the recipient always refers to a legislator or legislative employee; however, the person who incurs the catastrophe, tragedy, or health-related emergency may be a family member of the legislator or legislative employee.

Deb Fancher asked Conner Thomas if the answer was clear.

Conner Thomas responded that the answer seemed to be clear and said he understood that the recipient may not be the person who incurred the catastrophe.

Deb Fancher asked Dan Wayne if Conner Thomas's understanding aligned with the draft's conclusion.

Dan Wayne agreed that Conner Thomas's understanding aligned with the draft and added that it was complicated but he tried to be concise because he did not think adding more words would make it less complicated.

Conner Thomas said he was satisfied with the answer.

Senator Elvi Gray-Jackson asked for more clarification about the nature of a compassionate gift.

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Skip Cook offered to give examples from the past to respond to Senator Gray-Jackson's question.

Deb Fancher directed Skip Cook to continue.

Skip Cook said there was a senator who needed help with travel and cancer treatment. All of the compassionate gift exemption requests were from the person who was injured.

Deb Fancher asked Senator John Coghill to add to Skip Cook's answer.

Senator John Coghill said the senator under discussion had a kidney problem and a legislative employee wanted to donate a kidney, which was prohibited and that is why the compassionate gift exemption was established. The wife of the legislator needed to handle the process and so the request came from a family member. The exemption was intended for those who know and work with each other.

Senator Coghill added that the market value of a gift, in this case of donating a kidney, was difficult to define. Senator Coghill told Dan Wayne that it was fine to leave out the word "market" [in the answer to question three].

Dan Wayne asked Deb Fancher if he could address Senator John Coghill's remark about value.

Deb Fancher agreed and Dan Wayne read the term from AS 24.60.075(d): ..."the value of a gift shall be determined by the fair market value" and so the term will always mean fair market value even if the opinion says value.

Senator John Coghill acknowledged Dan Wayne's point and said that it was fine to use the term fair market value in the opinion.

Dan Wayne proposed that he add a comment that might frame the issue more clearly.

Deb Fancher agreed to Dan Wayne's proposal.

Dan Wayne asked Deb Fancher if he could help frame the issue.

Deb Fancher agreed to Dan Wayne's proposal.

Dan Wayne said that the Ethics Act only apply to legislators and legislative employees and in some cases, only to members of the committee and to former legislators. While lobbyists are mentioned; for example, AS 24.60.080 says you can't receive a gift from a lobbyist. AS 24.60.080 does not say a lobbyist can't

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gift you gift. That prohibition is under another statute. It mentions a family member but you can't file an ethics complaint against a lobbyist or family member.

Dan Wayne continued, saying that the Ethics Act does not prevent a person who is not a legislator or legislative employee from raising money or soliciting gifts. Dan Wayne added that he wanted to make sure that it was understood that a non-legislator or -legislative employee may solicit or accept a gift.

Deb Fancher asked Senator Elvi Gray-Jackson if the discussion answered her question.

Senator Elvi Gray-Jackson replied that it did.

Skip Cook asked to speak.

Deb Fancher recognized Skip Cook.

Skip Cook addressed the first full paragraph on page three: "AS 24.60.075 allows a legislator or legislative employee to request a compassionate gift for himself or herself or for another legislator or legislative employee." Skip Cook stated that he did not read the statute that way. He said he agrees that a legislator or legislative employee may request a compassionate gift for him or herself, but in his reading of AS 24.60.075(a): "...a legislator or a legislative employee may solicit, receive, or accept a ... gift from a person, subject to ... limitations," it does not say a legislator or legislative employee can request a gift for another person.

Deb Fancher called on Dan Wayne to respond to Skip Cook's comment.

Dan Wayne replied that the committee could interpret it more narrowly if it so chooses, or they could interpret it in the way the draft is written.

Skip Cook said he did not see how Dan Wayne came to the conclusion he did based on the language in the statute.

Dan Wayne said that the statute says they can request a gift from; for example, a legislative employee can request a gift from his or her parent for his or her child.

Skip Cook responded that he understood Dan Wayne to say that a legislator can request a gift for another legislator or legislative employee.

Dan Wayne said that another legislator or legislative employee can receive and accept a gift.

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Skip Cook agreed that a legislator could receive an unsolicited gift but insisted he did not see language that allows a legislator or legislative employee to ask for a compassionate gift for another person - only for themselves.

Dan Wayne said AS 24.60.080 allows legislators to solicit, accept, and receive gifts on behalf of others - a charity, for example. Dan Wayne added that as long as the recipient was a legislator or legislative employee another legislator or legislative employee would be allowed to request or solicit a gift.

Skip Cook countered that he agreed that would be nice but statute does not say that.

Dan Wayne said that is the history [of the compassionate gift exemption]. Dan Wayne said that if his memory is correct, in the example of the legislator who needed a kidney, legislative employees solicited help. The legislator did not solicit a kidney for himself. Dan Wayne suggested that Senator John Coghill may have a better memory of the event.

Senator John Coghill concurred with Dan Wayne's opinion and said that a safeguard in subsection B requires legislative council review to ensure the solicitation is done orderly and appropriately. Senator John Coghill added that the intent is to not make someone a bad actor because they are looking out for someone else's well-being.

Skip Cook said that agreed with Senator John Coghill but did not know if the statute allows soliciting for another but understood that you want people to be compassionate.

Deb Fancher asked if there were further discussion.

Conner Thomas addressed Skip Cook's comment. Conner Thomas asked Skip Cook where the statute limits solicitation only for themselves.

Skip Cook replied that the statute does not address whether the solicitation is for themselves or another person.

Conner Thomas said that on reading the statute more broadly, if the recipient does not have to be the person who suffered the catastrophe, then soliciting for another is acceptable.

Skip Cook withdrew his objection.

Deb Fancher noted that some of the committee members did not have the history and thanked Skip Cook for initiating the discussion.

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Deb Fancher asked for other comments. There were no further comments.

Deb Fancher asked Jerry Anderson to conduct a roll call vote on draft Advisory Opinion 19-06.

Jerry Anderson read the summary:

Formal Advisory Opinion AO 19-06 advises what persons may make a request for compassionate gift exemption under AS 24.60.075 and who may be the recipient of a gift under that section. This advisory opinion states what information is required in a request for a compassionate gift exemption.

Roll Call Vote [is] to concur or not concur with the draft opinion. A vote of yes will be a vote to concur with the draft opinion [as amended in committee discussion]. A vote of no will be to not concur with the draft opinion [as amended in committee discussion].

Jerry Anderson prompted the members about the amendment during the discussion to add the word "market" be added on page seven.

Jerry Anderson conducted a roll call vote.

Roll Call Vote

Senator Elvi Gray-Jackson	Y
Representative Louise Stutes	Y
Skip Cook	Y
Conner Thomas	Y
Deb Fancher	Y
Patrick FitzGerald	Y
Senator John Coghill	Y

The Ethics Committee adopted Advisory Opinion 19-06 as amended with a vote of 7-0.

6. REVIEW OF COMMITTEE RULES OF PROCEDURE

Deb Fancher stated that agenda item 6, Rules of Procedure, had been moved to the next meeting

7. CHAIR/STAFF REPORT

Dan Wayne asked to be excused from the remainder of the meeting.

Deb Fancher excused Dan Wayne from the meeting, then proceeded to confirm with Jerry Anderson that there was nothing to report about the first item under the chair and staff report, the internship program change.

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Jerry Anderson confirmed Deb Fancher's statement.

Deb Fancher requested Jerry Anderson speak about the National Conference of State Legislatures training planned for January 20, 2020.

Jerry Anderson said that there are two training sessions scheduled for new employees, at which the National Conference of State Legislature will conduct the human rights training that was formerly conducted by the Human Rights Commission and some of the ethics training component. Jerry Anderson said that the three-hour trainings will be recorded for viewing by employees who do not attend one of those training sessions.

Jerry Anderson said that because the next Ethics Committee meeting is scheduled for January 21, some of the public members are arriving for the meeting on January 20 and expressed interest in attending the afternoon training session. Jerry Anderson invited interested legislative members to attend as well.

8. STATE BENEFIT AND LOAN PROGRAM REVIEW UNDER AS 24.60.050 and COMMITTEE RULES OF PROCEDURE SECTION 2(h)

Deb Fancher said that the committee needed to approve the deletion of one program.

Senator Elvi Gray-Jackson asked for more information about the action needed.

Deb Fancher asked Jerry Anderson to respond to Senator Elvi Gray-Jackson's request.

Jerry Anderson explained there are state benefit and loan programs that are subject to disclosure by legislators and legislative employees.

Jerry Anderson said that the ethics office had been informed that the University of Alaska Land Management Program no longer exists and its removal from the list was requested. Jerry Anderson added that a list of the programs subject to disclosure appear in the handbook under Appendix C.

Senator Elvi Gray-Jackson thanked Jerry Anderson for his response.

Conner Thomas asked for permission to speak. Deb Fancher consented.

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Conner Thomas asked for confirmation that the list provided in the packet is the updated list without the UA Land Management Program.

Jerry Anderson responded that it was the 2020 list and noted that there was reference to 2019 that needed removal.

Deb Fancher entertained a motion to approve the 2020 list with the amendment removing the reference to 2019.

Representative Louise Stutes so moved. Senator Elvi Gray-Jackson seconded the motion.

Deb Fancher directed Jerry Anderson to conduct a roll call vote on the motion, stating that a vote in the affirmative is agreement to delete the UA Land Management Program.

Jerry Anderson conducted a roll call vote on deleting the UA Land Management Program from the list of state benefit and loan programs subject to disclosure.

Roll Call

Senator John Coghill	Y
Senator Elvi Gray-Jackson	Y
Representative Louise Stutes	Y
Chair Cook	Y
Conner Thomas	Y
Deb Fancher	Y
Patrick FitzGerald	Y

The Ethics Committee passed the motion 7-0.

9. OTHER BUSINESS

Deb Fancher reminded committee members that the next meeting is scheduled for January 21, 2020 at 2:00 p.m.

10. ADJOURN

Deb Fancher entertained a motion to adjourn.

Senator Elvi Gray-Jackson moved to adjourn the meeting.

Patrick FitzGerald seconded the motion.

Deb Fancher adjourned the meeting at 10:25 a.m.

[10:22:08 AM](#)