

Original sponsor: Rules Committee by
request of the Governor

Offered: 3/28/75
For today's Calendar

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 62 am H

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to conflicts of interests; and pro-
7 viding for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 39.50.020 is amended to read:

10 Sec. 39.50.020. REPORT OF FINANCIAL AND BUSINESS INTERESTS. (a)
11 A [THE GOVERNOR, THE LIEUTENANT GOVERNOR, EACH LEGISLATOR, EACH] judi-
12 cial officer, [EACH] commissioner, chairman or member of a state
13 commission or board specified in sec. 200(9) of this chapter, [AND
14 EACH] person hired or appointed as head or deputy head of, or director
15 of a division within, a department in the executive branch, person
16 appointed as assistant to the governor, and a municipal officer, shall
17 file a statement giving his income sources and business interests,
18 under oath and on penalty of perjury, within 30 days after [BEFORE THE
19 TIME] he takes office as [IS HIRED, APPOINTED, CERTIFIED, CONFIRMED,
20 OR APPROVED AND BECOMES] a public official [AND ASSUMES HIS DUTIES].
21 Candidates [EACH CANDIDATE OR INCUMBENT] for [OR IN] state elective
22 office shall file such a statement at the time of filing a declaration
23 of candidacy or within 30 [20] days of the filing of any nominating
24 petition, or within 30 [20] days of becoming a candidate by any other
25 means. Candidates for elective municipal office shall file such a
26 statement at the time of filing a nominating petition, declaration of
27 candidacy, or other required filing for the elective municipal office.
28 Refusal or failure to file within the time prescribed shall require that
29 the candidate's filing fees, if any, and filing for office be refused or

1 that his previously accepted filing fee be returned and his name removed
2 [LIEUTENANT GOVERNOR REFUSE TO ACCEPT THE CANDIDATE'S FILING FEE OR HIS
3 FILING FOR OFFICE, OR TO RETURN THE FILING FEE AND REMOVE THE NAME OF
4 THE CANDIDATE] from the filing records. A statement shall also be filed
5 by public officials no later than April 15 or 15 days after the person
6 files his federal income tax return in each following year, whichever
7 shall come first. Persons who, on or after December 11, 1974, were
8 members of boards or commissions not named in sec. 200(9) of this chapter
9 are not required to file financial statements [, BY ALL PERSONS NAMED IN
10 THIS SUBSECTION].

11 * Sec. 2. AS 39.50.020(b) is repealed and re-enacted to read:

12 (b) The governor, lieutenant governor, members of the legislature,
13 and candidates for these offices, judicial officers, each commissioner,
14 head or deputy head of, or director of a division within, a department
15 in the executive branch, assistant to the governor or chairman or member
16 of a commission or board required to report under this chapter, shall
17 file the statement with the Alaska Public Offices Commission. Municipal
18 officers, and candidates for elective municipal office, shall file with
19 the municipal clerk or other municipal official designated to receive
20 their filing for office. All statements required to be filed under this
21 chapter are public records.

22 * Sec. 3. AS 39.50.030(a) is amended to read:

23 (a) Each statement shall be an accurate representation of the
24 financial affairs of the public official or candidate and shall contain
25 the same information for each member of his [HOUSEHOLD OR] family, as
26 specified in (b) of this section, to the extent that it is ascertainable
27 by the public official or candidate. An asset or liability under
28 \$500, household goods, and personal effects need not be identified.

29 * Sec. 4. AS 39.50.030(b) is amended to read:

1 (b) Each statement filed by a public official or candidate under
2 this chapter shall include:

3 (1) the source of all income over \$100, including capital
4 gains, whether or not taxable, received by him or his spouse or
5 dependent child of his or nondependent child of his who is living with
6 him, [A MEMBER OF HIS HOUSEHOLD] during the preceding calendar year
7 [12 MONTHS];

8 (2) the identity, by name and address, of each business in
9 which he or his spouse or dependent child of his or nondependent child
10 of his who is living with him [A MEMBER OF HIS HOUSEHOLD] was a stock-
11 holder, owner, officer, director, partner, proprietor, or employee
12 during the preceding calendar year [12 MONTHS];

13 (3) the identity and nature of each interest owned by him
14 or his spouse or dependent child of his or nondependent child of his
15 who is living with him, [A MEMBER OF HIS HOUSEHOLD] in any business
16 during the preceding calendar year [12 MONTHS];

17 (4) the identity and nature of each interest in real prop-
18 erty, including an option to buy, owned by him or his spouse or depen-
19 dent child of his or nondependent child of his who is living with him,
20 [A MEMBER OF HIS HOUSEHOLD] at any time during the preceding calendar
21 year [12 MONTHS];

22 (5) the identity of each trust or other fiduciary relation
23 in which he or his spouse or dependent child of his or nondependent
24 child of his who is living with him, [A MEMBER OF HIS HOUSEHOLD] held
25 a beneficial interest during the preceding calendar year [12 MONTHS],
26 a description and identification of the property contained in each
27 trust or relation, and the nature and extent of the beneficial interest
28 in it;

29 (6) any loan or loan guarantee made to him or his spouse or

1 dependent child of his or nondependent child of his who is living with
2 him, [A MEMBER OF HIS HOUSEHOLD] and the identity of the maker of the
3 loan or loan guarantor and the identity of each creditor to whom he or
4 his spouse or dependent child of his or nondependent child of his who
5 is living with him [THE PERSON OR A MEMBER OF HIS HOUSEHOLD] owed \$500
6 or more;

7 (7) a list of all contracts and offers to contract with the
8 state, or an instrumentality of the state, during the preceding calendar
9 year [12 MONTHS], held, bid or offered by him, his spouse, dependent
10 child of his or nondependent child of his who is living with him, his
11 mother or father or a partnership or professional corporation of which
12 he is a member, or a corporation in which he or his spouse or his
13 children, or a combination of them, hold a controlling interest [THE
14 PERSON OR MEMBER OF HIS FAMILY, OR HOUSEHOLD]; and

15 (8) a list of all mineral, timber, oil, or any other natural
16 resource lease held, or lease offer, made, during the preceding calendar
17 year by him, a dependent child of his or nondependent child of his who
18 is living with him, his mother or father or a partnership or profes-
19 sional corporation of which he is a member, or a corporation in which
20 he or his spouse or his children, or a combination of them, hold a
21 controlling interest [HELD BY HIM OR A MEMBER OF HIS HOUSEHOLD OR
22 FAMILY DURING THE PRECEDING 12 MONTHS].

23 * Sec. 5. AS 39.50 is amended by adding a new section to read:

24 Sec. 39.50.035. EXEMPTIONS. No person subject to this chapter
25 is exempt from any of its provisions except to the extent state courts
26 determine that legally privileged professional relationships preclude
27 complete compliance.

28 * Sec. 6. AS 39.50.040(a) is amended to read:

29 (a) A public official may transfer all or a portion of his assets

1 to a blind trust for the duration of his service in public office.
2 The original [THOSE] assets placed in the [WHICH ARE IN A] blind trust
3 shall be listed by the official in the statement required to be filed
4 under this chapter. The instrument creating the blind trust must be
5 included with the statement.

6 * Sec. 7. AS 39.50.050(a) is amended to read:

7 (a) The Alaska Public Offices Commission created under AS
8 15.13.020(a) shall administer the provisions of this chapter. The
9 commission [LIEUTENANT GOVERNOR] shall prepare and keep available for
10 distribution, standardized forms on which the reports required by this
11 chapter shall be filed.

12 * Sec. 8. AS 39.50.050(b) is amended to read:

13 (b) The commission shall [LIEUTENANT GOVERNOR MAY] promulgate
14 regulations to implement and interpret the provisions of this chapter;
15 regulations or interpretation shall be within the intents and purposes
16 of this chapter and are subject to judicial review in accordance with
17 the provisions of the Administrative Procedure Act (AS 44.62).

18 * Sec. 9. AS 39.50.060 is amended to read:

19 Sec. 39.50.060. PENALTY FOR WILFUL VIOLATION OF DISCLOSURE RE-
20 QUIREMENTS. (a) A person required to file a report of financial or
21 business interests under this chapter who refuses or knowingly fails
22 to disclose required information within the time required in this
23 chapter, or who provides false or misleading information, knowing it
24 to be false or misleading, is guilty of a misdemeanor and upon con-
25 viction is punishable by a fine of not less than \$100 [\$500] nor more
26 than \$1,000 [\$5,000], or by imprisonment for a period of not more than
27 six months [UP TO ONE YEAR], or by both.

28 (b) Any person failing to or refusing to comply with the require-
29 ments of this chapter, in addition to the penalties prescribed, shall

1 forfeit his nomination to office and shall not be seated or installed
2 in office if he has not complied. Nominated, hired, or appointed
3 officials, commissioners, chairmen or members of commissions or boards
4 specified in sec. 200(9) of this chapter shall not be confirmed by the
5 legislature if compliance has not been made. In the case of elected
6 officials, the lieutenant governor, or other certifying authority, shall
7 not certify a person's nomination for office or his election to office if
8 compliance was not made within the time required. The nomination to
9 office or election to office shall be certified [BY THE LIEUTENANT
10 GOVERNOR] to the highest vote getter for that nomination for that office
11 or election to that office who has complied within the times required
12 and who shall be declared nominated or elected.

13 * Sec. 10. AS 39.50.070 is amended to read:

14 Sec. 39.50.070. FAILURE TO REPORT BY DEPARTMENT, DIVISION, OR
15 DEPUTY DEPARTMENT HEADS. A person hired or appointed as the head or
16 deputy head of, or director of a division within, a department in the
17 executive branch who refuses or fails to file a report of financial
18 interests required under this chapter when due may not hold office or
19 have his name submitted to the legislature for confirmation until he
20 complies. He may not be confirmed, hired, or appointed, and he forfeits
21 and may not be paid any salary or per diem and travel expenses until
22 he complies. If, after installation as the head or deputy head of, or
23 director of a division within, a department [HEAD], he refuses or fails
24 to file the required statement when due, he is guilty of a misdemeanor
25 and upon conviction is punishable by a fine of not less than \$100
26 [\$500] nor more than \$1,000 [\$5,000] and shall be removed from office
27 if compliance is not made within 30 days after the due date of the
28 report.

29 * Sec. 11. AS 39.50.080 is amended to read:

1 Sec. 39.50.080. FAILURE TO REPORT BY A COMMISSION OR BOARD
2 CHAIRMAN OR MEMBER. A person hired or appointed as a commissioner,
3 chairman or member of a state commission or board specified in sec.
4 200(9) of this chapter who fails to file a report of financial interests
5 required under this chapter when due shall not [BE HIRED OR APPOINTED
6 OR] hold office or have his name submitted to the legislature until he
7 complies. He may not be confirmed, and he forfeits and shall not be
8 paid any salary or per diem or travel expenses until he complies. If,
9 after being seated as commissioner, chairman or member of such a
10 commission or board he refuses or fails to file the required statement
11 when due, he is guilty of a misdemeanor and upon conviction is punish-
12 able by a fine of not less than \$100 [\$500] nor more than \$1,000
13 [\$5,000] and shall be removed from office if compliance is not made
14 within 30 days after the due date.

15 * Sec. 12. AS 39.50.090 is amended to read:

16 Sec. 39.50.090. PROHIBITED ACTS. (a) No public official may
17 use his official position or office for the primary purpose of obtaining
18 [TO OBTAIN] financial gain for himself, or his spouse, child, mother,
19 or father, [A MEMBER OF HIS FAMILY] or business with which he is
20 associated or owns stock.

21 (b) No person may offer or pay to a public official, and no
22 public official may solicit or receive money for legislative advice or
23 assistance, or for advice or assistance given in the course of the
24 public official's employment or relating to his employment. However,
25 this prohibition does not apply to a chairman or member of a state
26 commission or board if the subject matter of the legislative advice or
27 assistance is not related directly to the function of the commission
28 or board; this exception from the general prohibition does not apply
29 to one whose service on the commission or board constitutes him a

1 full-time state employee under AS 39.

2 (c) No public official may represent a client before a state
3 [REGULATORY] agency for a fee. However, this prohibition does not
4 apply to a chairman or member of a state commission or board except
5 with regard to representation before his own commission or board; this
6 exception from the general prohibition does not apply to one whose
7 service on the commission or board constitutes him a full-time state
8 employee under AS 39.

9 (d) Violation of this section is a misdemeanor, punishable upon
10 conviction by a fine of not less than \$500 [\$1,000], nor more than
11 \$2,000 [\$10,000], by imprisonment up to one year, or by both.

12 (e) In this section, "public official" includes, in addition to
13 the persons specified in sec. 200(1) of this chapter, chairmen and
14 members of all commissions and boards created by statute or administra-
15 tive action as agencies of the state.

16 * Sec. 13. AS 39.50.110 is amended to read:

17 Sec. 39.50.110. REPORT OF FINANCIAL INTERESTS OF JUDICIAL OFFI-
18 CERS. Each judicial officer as defined in sec. 200(2) of this chapter
19 shall file reports of financial and business interests required by
20 this chapter. A judicial officer who refuses or fails to file a
21 report when it is due forfeits and may not be paid his salary, per
22 diem, and travel expenses after the due date, until he complies, and
23 is guilty of a misdemeanor and upon conviction is punishable by a fine
24 of not less than \$100 [\$500] nor more than \$1,000 [\$5,000]. He may
25 not be appointed by the governor or other authority until he complies.
26 Upon failure or refusal to comply within 30 days of the due date, he
27 forfeits his office and shall be removed from office.

28 * Sec. 14. AS 39.50.120 is amended to read:

29 Sec. 39.50.120. REPORT OF FINANCIAL INTERESTS OF LEGISLATORS.

1 Each legislator shall file the reports of financial or business inter-
2 ests required by this chapter. A legislator who refuses or fails to
3 file the report when due forfeits and shall not be paid his salary and
4 per diem and travel expenses after the due date until he complies and
5 is guilty of a misdemeanor and upon conviction is punishable by a fine
6 of not less than \$100 [\$500] nor more than \$1,000 [\$5,000].

7 * Sec. 15. AS 39.50.130 is amended to read:

8 Sec. 39.50.130. REPORT OF FINANCIAL INTERESTS OF GOVERNOR AND
9 LIEUTENANT GOVERNOR. The governor and lieutenant governor shall each
10 file a report of financial interests required by this chapter. If the
11 governor or lieutenant governor fails to file the report when due, he
12 forfeits and may not be paid his salary and per diem and travel
13 expenses after the due date and until he complies, and is guilty of a
14 misdemeanor and upon conviction is punishable by a fine of not less
15 than \$100 [\$500] nor more than \$1,000 [\$5,000].

16 * Sec. 16. AS 39.50 is amended by adding a new section to read:

17 Sec. 39.50.145. PARTICIPATION BY MUNICIPALITIES. A municipality
18 may exempt its municipal officers from the requirements of this chapter
19 if a majority of the voters voting on the question at a general election
20 vote to exempt its municipal officers from the requirements of this
21 chapter. The question of exemption from the requirements of this chapter
22 may be submitted by the city council or borough assembly by ordinance or
23 by initiative ordinance.

24 * Sec. 17. AS 39.50.150 is amended to read:

25 Sec. 39.50.150. INITIAL FILING DATE FOR [INCUMBENT] PUBLIC OFFI-
26 CIALS. (a) Every person who is a public official or a public official-
27 elect on December 11, 1974 [AS DEFINED IN THIS CHAPTER ON THE EFFECTIVE
28 DATE OF THIS CHAPTER] shall file the [REQUIRED] statements required by
29 this [THE] chapter before April 15, 1975 [WITHIN 60 DAYS OF THE EFFECTIVE

1 DATE OF THIS CHAPTER]. However, a public official who resigned his
2 office or whose term of office expired on or after December 11, 1974
3 but before April 15, 1975, need not file a financial statement.

4 (b) Municipal officers shall file the statements required by
5 this chapter before November 15, 1975. However, a municipal officer
6 who resigns his office or whose term of office expires before Novem-
7 ber 15, 1975 need not file a financial statement.

8 * Sec. 18. AS 39.50.200(1) is amended to read:

9 (1) "public official" means a judicial officer, a member of
10 the legislature, the governor, the lieutenant governor, a person hired
11 or appointed as the head or deputy head of, or director of a division
12 within, a department in the executive branch, an assistant to the
13 governor, [A PERSON HIRED OR APPOINTED AS] chairman or member of a
14 state commission or board, and each appointed or elected municipal
15 officer [BOARD, OR COMMISSIONER OR MEMBER ON THE ALASKA TRANSPORTATION
16 COMMISSION, THE ALASKA PUBLIC UTILITY COMMISSION, OR THE ALASKA PIPELINE
17 COMMISSION, OR ANY OTHER STATE COMMISSION OR BOARD TO WHICH THE STATE
18 APPOINTS THE MEMBERS, OR A PERSON WHO BECOMES A CANDIDATE FOR STATE
19 ELECTIVE OFFICE];

20 * Sec. 19. AS 39.50.200 is amended by adding new paragraphs to read:

21 (3) "child" includes a biological child, an adoptive child,
22 and a stepchild;

23 (4) "commission" means the Alaska Public Offices Commission
24 created under AS 15.13.020(a);

25 (5) "instrumentality of the state" means a state department
26 or agency, whether in the legislative, judicial, or executive branch,
27 including such entities as the University of Alaska and the Alaska
28 State Housing Authority;

29 (6) "municipal officer" includes a borough or city mayor,

1 borough assemblyman, city councilman, school board member, elected
2 utility board member, city or borough manager, members of a city or
3 borough planning or zoning commission within a home rule or general law
4 city or borough, including but not limited to a unified municipality
5 under AS 29.68;

6 (7) "mother or father" includes a biological parent, an
7 adoptive parent, and a step-parent;

8 (8) "source of income" means the entity for which service is
9 performed or which is otherwise the origin of payment; if the person
10 whose income is being reported is employed by another, his employer is
11 the source of his income; but if he is self-employed by means of a sole
12 proprietorship, partnership, professional corporation, or a corporation
13 in which he or his spouse or his children, or a combination of them,
14 hold a controlling interest, the "source" is the client or customer of
15 the proprietorship, partnership or corporation, but if the entity which
16 is the origin of payment is not the same as the client or customer for
17 whom the service is performed, both are considered the source;

18 (9) "state commission or board" means the

- 19 (A) Agricultural Loan Advisory Board (created adminis-
20 tratively to assist in administration of AS 03.10);
21 (B) Alaska State Council on the Arts (AS 44.19.900);
22 (C) Alcoholic Beverage Control Board (AS 04.05.060);
23 (D) State Assessment Review Board (AS 43.56.040);
24 (E) Capital Selection Committee (Initiative #1, 1974);
25 (F) Board of Education (AS 14.07.075);
26 (G) Educational Broadcasting Commission (AS 14.58.020);
27 (H) Alaska Public Offices Commission (AS 15.13);
28 (I) Employment Security Advisory Council (AS 23.20.025);
29 (J) Board of Fish and Game (AS 16.05.220);

- 1 (K) Alaska Commercial Fisheries Entry Commission
2 (AS 16.40.010);
- 3 (L) Fishermen's Fund Advisory and Appeals Council
4 (AS 23.35.010);
- 5 (M) Alaska State Housing Authority (AS 18.55.020);
6 (N) State Commission for Human Rights (AS 18.80.010);
7 (O) State Investment Advisory Committee (AS 37.10.020);
8 (P) Alaska Judicial Council (art. IV, sec. 8, Alaska
9 Constitution);
- 10 (Q) Commission on Judicial Qualifications (art. IV,
11 sec. 10, Alaska Constitution);
- 12 (R) Governor's Commission on the Administration of
13 Justice (AS 44.19.746);
- 14 (S) State Section of Joint Federal-State Land Use
15 Planning Commission (AS 41.40);
- 16 (T) Local Boundary Commission (AS 44.19.250);
17 (U) Occupational Safety and Health Review Board (AS 18.-
18 60.057);
- 19 (V) State Board of Parole (AS 33.15.010);
20 (W) State Personnel Board (AS 39.25.060);
21 (X) Alaska Pipeline Commission (AS 42.06);
22 (Y) Public Employees Retirement Board (AS 39.35.030);
23 (Z) Alaska Public Utilities Commission (AS 42.05.010);
24 (AA) University of Alaska Board of Regents (AS 14.40.120)
25 (BB) Alaska Royalty Oil and Gas Development Advisory
26 Board (AS 38.06);
- 27 (CC) Small Business Development Corporation of Alaska
28 (AS 44.60.020);
- 29 (DD) Alaska State Development Corporation (AS 44.59.010);

1 (EE) Board of Directors, State-Operated Schools
2 (AS 14.08.060);

3 (FF) Alaska Teachers' Retirement Board (AS 14.25.035);

4 (GG) Alaska Transportation Commission (AS 42.07.010);

5 (HH) Workmen's Compensation Board (AS 32.30.005);

6 (II) Alaska Commission on Postsecondary Education (AS 14-
7 40.901);

8 (10) "assistant to the governor" includes any executive,
9 legislative, special, administrative or press assistant to the governor,
10 and any person similarly employed.

11 * Sec. 20. AS 11.30.040 is amended to read:

12 Sec. 11.30.040. BRIBERY. A person who corruptly gives, offers, or
13 promises to give a gift, gratuity, valuable consideration or other
14 thing, or corruptly promises to do or causes to be done an act bene-
15 ficial to a peace officer, judicial officer, [OR] executive officer or
16 public official, with intent to influence the vote, opinion, decision,
17 judgment, or official conduct of the officer or official in a matter,
18 question, duty, cause, or proceeding which is or by law may come or be
19 brought before him, or with intent to influence the person [OFFICER] to
20 act in his official capacity in a particular manner to produce or pre-
21 vent a particular result, upon conviction, is punishable by imprisonment
22 [IN THE PENITENTIARY] for not less than two years nor more than 10
23 years.

24 * Sec. 21. AS 11.30.050 is amended to read:

25 Sec. 11.30.050. ACCEPTING BRIBE. A peace officer, judicial
26 officer, [OR] executive officer or public official who corruptly accepts
27 or receives a gift, gratuity, valuable consideration, or thing, or a
28 promise of one of them, or a promise to do or cause to be done an act
29 beneficial to him, with the understanding or agreement, express or

1 implied, that the officer or official will give his vote, opinion,
2 decision, or judgment in a particular manner in a matter, question,
3 duty, cause, or proceeding which then is or may by law come or be brought
4 before him, or with the understanding or agreement that the person
5 [OFFICER] will in his official capacity act in a particular manner to
6 produce or prevent a particular result, upon conviction, is punishable
7 by imprisonment [IN THE PENITENTIARY] for not less than five years nor
8 more than 15 years.

9 * Sec. 22. AS 11.30 is amended by adding a new section to read:

10 Sec. 11.30.075. PUBLIC OFFICIAL DEFINED. For the purposes of
11 secs. 40 and 50 of this chapter, the definitions contained in AS 39.50.-
12 200(1), as supplemented by AS 39.50.090(e), shall be controlling.

13 * Sec. 23. AS 15.13.020(a) is amended to read:

14 (a) There is created in the office of the lieutenant governor the
15 Alaska Public Offices [ELECTION CAMPAIGN] Commission.

16 * Sec. 24. AS 15.13.030(10) is amended to read:

17 (10) adopt regulations necessary to implement [EFFECTUATE]
18 and clarify the provisions of AS 39.50 and this chapter, subject to
19 the provisions of the Administrative Procedure Act (AS 44.62).

20 * Sec. 25. AS 44.62.330(a)(39) is amended to read:

21 (39) Alaska Public Offices [ELECTION CAMPAIGN] Commission.

22 * Sec. 26. AS 39.50.030(c), 39.50.040(b)(6) and 39.50.140 are repealed.

23 * Sec. 27. Statements filed with the lieutenant governor, administrator
24 of courts or the Alaska Legislative Council under AS 39.50.020(b) before
25 the effective date of this Act shall be transferred to the Alaska Public
26 Offices Commission for filing under AS 39.50.050, as amended by this Act.

27 * Sec. 28. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).