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Referred: Judiciary and  
Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2

CS FOR HOUSE BILL NO. 706 (State Affairs)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the ethical conduct of govern-  
7 mental activities; and providing for an effective  
8 date."

9

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

10

\* Section 1. AS 39 is amended by adding a new chapter to read:

11

CHAPTER 52. ALASKA EXECUTIVE BRANCH ETHICS ACT.

12

ARTICLE 1. DECLARATIONS.

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Sec. 39.52.010. DECLARATION OF POLICY. (a) It is declared (1)

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that high moral and ethical standards among public officers in the

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executive branch are essential to the conduct of free government; and

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(2) that the legislature believes that a code of ethics for the guid-

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ance of public officers will discourage those officers from acting

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upon personal or financial interests in the performance of their

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public responsibilities, will improve standards of public service, and

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will promote and strengthen the faith and confidence of the people of

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this state in their public officers. It is further declared that

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holding public office or employment is a public trust and that as one

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safeguard of that trust, the people require public officers to adhere

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to a code of ethics.

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(b) The legislature declares that it is the policy of the state,

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when a public employee is appointed to serve on a state board or

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commission, that the holding of such offices does not constitute the

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holding of incompatible offices unless expressly prohibited by the

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Alaska Constitution, this chapter and any opinions or decisions

1 rendered under it, or another statute.

2 ARTICLE 2. CODE OF ETHICS.

3 Sec. 39.52.110. SCOPE OF CODE. (a) The legislature reaffirms  
4 that each public officer holds office as a public trust, and any  
5 effort to benefit a personal or financial interest through official  
6 action is a violation of that trust. In addition, the legislature  
7 affirms that this chapter does not prevent an officer from following  
8 other independent pursuits so long as these pursuits do not interfere  
9 with the full and faithful discharge of an officer's public duties and  
10 responsibilities. The legislature further recognizes that

11 (1) in a representative democracy, the representatives are  
12 drawn from society and, therefore, cannot and should not be without  
13 personal and financial interests in the decisions and policies of  
14 government;

15 (2) people who serve as public officers retain their rights  
16 to interests of a personal or financial nature; and

17 (3) standards of ethical conduct for members of the execu-  
18 tive branch need to distinguish between those minor and inconseque-  
19 ntial conflicts that are unavoidable in a free society, and those  
20 conflicts of interests that are substantial and material.

21 (b) Unethical conduct is prohibited, but there is no substantial  
22 impropriety if, as to a specific matter, a public officer's

23 (1) personal or financial interest in the matter is insig-  
24 nificant, or of a type that is possessed generally by the public or a  
25 large class of persons to which the public officer belongs; or

26 (2) action or influence would have insignificant or conjec-  
27 tural effect on the matter.

28 (c) The attorney general, designated supervisors, hearing offi-  
29 cers, and the personnel board shall be guided by this section when

1 issuing opinions and reaching decisions.

2 Sec. 39.52.120. MISUSE OF OFFICIAL POSITION. (a) A public  
3 officer may not use, or attempt to use, an official position for  
4 personal gain and may not intentionally secure or grant unwarranted  
5 benefits or treatment for any person.

6 (b) A public officer may not

7 (1) seek other employment or contracts through the use or  
8 attempted use of official position;

9 (2) accept, receive, or solicit compensation for the per-  
10 formance of official duties or responsibilities from a person other  
11 than the state;

12 (3) use state time, property, equipment, or other facil-  
13 ities to benefit personal or financial interests;

14 (4) take or withhold official action in order to affect a  
15 matter in which the public officer has a personal or financial inter-  
16 est; or

17 (5) attempt to benefit a personal or financial interest  
18 through coercion of a subordinate.

19 Sec. 39.52.130. IMPROPER GIFTS. (a) A public officer may not  
20 solicit, accept, or receive, directly or indirectly, a gift, whether  
21 in the form of money, service, loan, travel, entertainment, hospitali-  
22 ty, employment, promise, or in any other form, that is a benefit to  
23 the officer's personal or financial interests, under circumstances in  
24 which it could reasonably be inferred that the gift is intended to  
25 influence the performance of official duties, actions, or judgment.

26 (b) A public officer shall notify the officer's designated  
27 supervisor of the receipt of a gift with a value in excess of \$50,  
28 including the name of the giver, a description of the gift, and its  
29 approximate value, within 30 days after the date of its receipt if the

1 public officer may take or withhold official action that affects the  
2 giver.

3 (c) A designated supervisor may request guidance from the attor-  
4 ney general under AS 39.52.240 concerning whether acceptance of a  
5 particular gift is prohibited.

6 (d) The restrictions relating to gifts imposed by this section  
7 do not apply to a campaign contribution to a candidate for elective  
8 office if the contribution complies with laws and regulations govern-  
9 ing elections and campaign disclosure.

10 Sec. 39.52.140. IMPROPER USE OR DISCLOSURE OF INFORMATION. (a)  
11 A current or former public officer may not disclose or use information  
12 gained in the course of, or by reason of, the officer's official  
13 duties that could result in the receipt of a benefit for the officer  
14 or an immediate family member, unless the information has also been  
15 disseminated to the public.

16 (b) In this section, information is considered disseminated to  
17 the public if an agency has publicized it by

18 (1) distribution or circulation in an agency publication,  
19 report, or notice that is available to the public;

20 (2) public announcement by press release, telecast, broad-  
21 cast, or other means;

22 (3) the normal forms of conveyance of public information  
23 used by the agency; or

24 (4) the giving of a public speech, legislative testimony,  
25 comments at a press conference, or presentation at other public fo-  
26 rums.

27 (c) A simple communication, whether written, oral, or tele-  
28 phonic, does not meet the standard imposed by this section; rather,  
29 dissemination implies and requires a public distribution of the

1 information, so that the information transmitted becomes public in a  
2 more general sense and is dispersed or conveyed in a way calculated to  
3 more broadly inform.

4 (d) A current or former public officer may not disclose or use,  
5 without appropriate authorization, information acquired in the course  
6 of official duties that is confidential by law.

7 Sec. 39.52.150. IMPROPER INFLUENCE IN STATE GRANTS, CONTRACTS,  
8 LEASES, OR LOANS. (a) A public officer, or an immediate family  
9 member, may not attempt to acquire or have a personal or financial  
10 interest in a state grant, contract, lease, or loan if the public  
11 officer may take or withhold official action that affects the award,  
12 execution, or administration of the state grant, contract, lease, or  
13 loan.

14 (b) The prohibition in (a) of this section does not apply to a  
15 state grant, contract, or lease competitively solicited unless the  
16 officer

17 (1) is employed by the administrative unit awarding the  
18 grant, contract, or lease or is employed by the administrative unit  
19 for which the grant, contract, or lease is let; or

20 (2) takes official action with respect to the award, exe-  
21 cution, or administration of the grant, contract, or lease.

22 (c) The prohibition in (a) of this section does not apply to a  
23 state loan held by the officer or an immediate family member if

24 (1) the public officer does not take or withhold official  
25 action that affects the award, execution, or administration of the  
26 loan;

27 (2) the loan is generally available to members of the  
28 public; and

29 (3) the loan is subject to fixed eligibility standards.

1 (d) A public officer shall report in writing to the designated  
2 supervisor a personal or financial interest held by the officer or an  
3 immediate family member in a state grant, contract, lease, or loan  
4 that is awarded, executed, or administered by the agency the officer  
5 serves.

6 Sec. 39.52.160. IMPROPER REPRESENTATION. (a) A public officer  
7 may not represent, advise, or assist a person in any matter pending  
8 before the administrative unit that the officer serves, if the rep-  
9 resentation, advice, or assistance is

10 (1) for compensation, unless the representation, advice,  
11 assistance, and compensation are required by statute, regulation, or  
12 court rule, or is otherwise customary; or

13 (2) without compensation, but rendered to benefit a per-  
14 sonal or financial interest of the public officer.

15 (b) This section does not prohibit activities related to collec-  
16 tive bargaining.

17 (c) A nonsalaried member of a board or commission may represent,  
18 advise, or assist in any matter in which the member has a personal or  
19 financial interest regulated by the board or commission on which the  
20 member serves if the member acts in accordance with AS 39.52.220.

21 Sec. 39.52.170. OUTSIDE EMPLOYMENT RESTRICTED. (a) A public  
22 employee may not render services to benefit a personal or financial  
23 interest or engage in or accept employment outside the agency which  
24 the employee serves if the outside employment or service is incom-  
25 patible or in conflict with the proper discharge of official duties.

26 (b) A public employee rendering services for compensation or  
27 engaging in employment outside the employee's agency shall report by  
28 July 1 of each year the outside services or employment to the employ-  
29 ee's designated supervisor. The employee shall also report a change

1 in the employee's outside service or employment activity to the desig-  
2 nated supervisor when the change occurs.

3 Sec. 39.52.180. RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE  
4 SERVICE. (a) A public officer who leaves state service may not, for  
5 two years after leaving state service, represent, advise, or assist a  
6 person for compensation regarding a matter that was under considera-  
7 tion by the administrative unit served by the officer and in which the  
8 officer participated personally and substantially through the exercise  
9 of official action. In this subsection, "matter" includes a case,  
10 proceeding, application, contract, or determination, but does not  
11 include the proposal or consideration of legislative bills, resolu-  
12 tions and constitutional amendments, or other legislative measures; or  
13 the proposal, consideration, or adoption of administrative regula-  
14 tions.

15 (b) Nothing in this section prohibits an agency from contracting  
16 with a former public officer to act on a matter on behalf of the  
17 state.

18 (c) If the attorney general approves, the head of an agency may  
19 waive application of (a) of this section after determining that rep-  
20 resentation by a former public officer is not adverse to the public  
21 interest. The waiver must be in writing.

22 Sec. 39.52.190. AIDING A VIOLATION PROHIBITED. It is a viola-  
23 tion of this chapter for a public officer to knowingly aid another  
24 public officer in a violation of this chapter.

25 ARTICLE 3. DISCLOSURE AND ACTION TO PREVENT  
26 VIOLATION OF CODE.

27 Sec. 39.52.210. DECLARATION OF POTENTIAL VIOLATIONS BY PUBLIC  
28 EMPLOYEES. (a) A public employee who is involved in a matter that  
29 may result in a violation of AS 39.52.110 - 39.52.190 shall

1 (1) refrain from taking any official action relating to the  
2 matter until a determination is made under this section; and

3 (2) immediately disclose the matter in writing to the  
4 designated supervisor.

5 (b) A public employee's designated supervisor shall make a  
6 written determination whether an employee's involvement violates  
7 AS 39.52.110 - 39.52.190. If the supervisor determines that a vio-  
8 lation could exist or will occur, the supervisor shall

9 (1) reassign duties to cure the employee's potential vio-  
10 lation, if feasible; or

11 (2) direct the divestiture or removal by the employee of  
12 the personal or financial interests that give rise to the potential  
13 violation.

14 (c) A designated supervisor may request guidance from the attor-  
15 ney general, in accordance with AS 39.52.240, when determining whether  
16 a public employee is involved in a matter that may result in a viola-  
17 tion of AS 39.52.110 - 39.52.190.

18 Sec. 39.52.220. DECLARATION OF POTENTIAL VIOLATIONS BY MEMBERS  
19 OF BOARDS OR COMMISSIONS. (a) A member of a board or commission who  
20 is involved in a matter that may result in a violation of AS 39.52.-  
21 110 - 39.52.190 shall disclose the matter on the public record and in  
22 writing to the designated supervisor. The supervisor shall determine  
23 whether the member's involvement violates AS 39.52.110 - 39.52.190.  
24 If a supervisor discloses a matter that may result in a violation of  
25 AS 39.52.110 - 39.52.190, or if a member of the board or commission  
26 objects to a ruling of a supervisor, the members present at a meeting,  
27 excluding the involved member, shall vote on the matter. If the  
28 supervisor or a majority of the members voting determine that a vio-  
29 lation will exist if the member continues to participate, the member

1 shall refrain from voting, deliberating, or participating in the  
2 matter.

3 (b) The designated supervisor or the board or commission may  
4 request guidance from the attorney general, in accordance with AS 39.-  
5 52.240, when determining whether a member of a board or commission is  
6 involved in a matter that may result in a violation of AS 39.52.110 -  
7 39.52.190.

8 Sec. 39.52.230. REPORTING OF POTENTIAL VIOLATIONS. A person may  
9 report to a public officer's designated supervisor, under oath and in  
10 writing, a potential violation of AS 39.52.110 - 39.52.190 by the  
11 public officer. The supervisor shall provide a copy of the report to  
12 the officer who is the subject of the report and shall review the  
13 report to determine whether a violation may exist. The supervisor  
14 shall comply with AS 39.52.210 or 39.52.220 if the supervisor deter-  
15 mines that the matter may result in a violation of AS 39.52.110 -  
16 39.52.190.

17 Sec. 39.52.240. ADVISORY OPINIONS. (a) Upon the written re-  
18 quest of a designated supervisor or a board or commission, the attor-  
19 ney general shall issue an opinion interpreting this chapter. The re-  
20 quester shall supply any additional information requested by the  
21 attorney general in order to issue the opinion. Within 60 days after  
22 receiving a complete request, the attorney general shall issue an  
23 advisory opinion on the question.

24 (b) The attorney general may offer oral advice if delay would  
25 cause substantial inconvenience or detriment to the requesting party,  
26 but the attorney general shall provide a brief written statement,  
27 summarizing the content of the oral advice, to the designated super-  
28 visor within two working days of the proffered advice.

29 (c) The designated supervisor or a board or commission shall

1 make a written determination based on the advice of the attorney  
2 general. If the advice of the attorney general provides more than one  
3 way for a public officer to avoid or correct a problem found under  
4 AS 39.52.110 - 39.52.190, the designated supervisor or the board or  
5 commission shall determine the alternative that is most appropriate  
6 after consultation with the officer, and shall advise the officer of  
7 action required to avoid or correct the problem.

8 (d) A public officer is not liable under this chapter for an  
9 action carried out in accordance with a determination made under  
10 AS 39.52.210 - 39.52.240 if the officer fully disclosed all relevant  
11 facts reasonably necessary to the determination.

12 (e) The attorney general may reconsider, revoke, or modify an  
13 advisory opinion at any time, including upon a showing that material  
14 facts were omitted or misstated in the request for the opinion.

15 (f) A person may rely on an advisory opinion that is currently  
16 in effect.

17 (g) A request for advice made under (a) of this section is  
18 confidential.

19 (h) The attorney general shall make the advisory opinions issued  
20 under this section available for public inspection, with sufficient  
21 deletions to prevent disclosure of the persons whose identities are  
22 confidential under (g) of this section.

23 Sec. 39.52.250. ADVICE TO FORMER PUBLIC OFFICERS. (a) A former  
24 public officer may request, in writing, an opinion from the attorney  
25 general interpreting this chapter. The attorney general shall give  
26 advice in accordance with AS 39.52.240(a) or (b) and publish opinions  
27 in accordance with AS 39.52.240(h).

28 (b) A former public officer is not liable under this chapter for  
29 an action carried out in accordance with the advice of the attorney

1 general issued under this section if the public officer fully dis-  
2 closed all relevant facts reasonably necessary to the issuance of the  
3 advice.

4 Sec. 39.52.260. DESIGNATED SUPERVISOR'S REPORT AND ATTORNEY  
5 GENERAL REVIEW. (a) A designated supervisor shall submit a quarterly  
6 report to the attorney general that states the facts, circumstances,  
7 and disposition of disclosures made under AS 39.52.210 - 39.52.240.

8 (b) The attorney general shall review determinations reported  
9 under this section. The attorney general may request additional  
10 information from a supervisor concerning a specific disclosure and its  
11 disposition.

12 (c) The report prepared under this section is confidential and  
13 not available for public inspection unless formal proceedings under  
14 AS 39.52.350 are initiated based on the report. If formal proceedings  
15 are initiated, the relevant portions of the report are public docu-  
16 ments open to inspection. However, the attorney general shall make  
17 available to the public a summary of the reports received under this  
18 section, with sufficient deletions to prevent disclosure of each  
19 person's identity.

20 ARTICLE 4. COMPLAINTS; HEARING PROCEDURES.

21 Sec. 39.52.310. COMPLAINTS. (a) The attorney general may  
22 initiate a complaint, or elect to treat as a complaint any matter  
23 disclosed under AS 39.52.210, 39.52.220, 39.52.250, or 39.52.260.

24 (b) A person may file a complaint with the attorney general  
25 regarding the conduct of a current or former public officer. A com-  
26 plaint must be in writing, be signed under oath, and contain a clear  
27 statement of the details of the alleged violation.

28 (c) If a complaint alleges a violation of AS 39.52.110 - 39.52.-  
29 190 by the governor, lieutenant governor, or the attorney general, the

1 matter shall be referred to the personnel board. The personnel board  
2 shall retain independent counsel who shall act in the place of the  
3 attorney general under (d) - (i) of this section, AS 39.52.320 -  
4 39.52.350, and 39.52.360.

5 (d) The attorney general shall review each complaint filed, to  
6 determine whether it is properly completed and contains allegations  
7 which, if true, would constitute conduct in violation of this chapter.  
8 The attorney general may require the complainant to provide additional  
9 information before accepting the complaint. If the attorney general  
10 determines that the allegations in the complaint do not warrant an  
11 investigation, the attorney general shall dismiss the complaint with  
12 notice to the complainant and the subject of the complaint.

13 (e) The attorney general may refer a complaint to the subject's  
14 designated supervisor for resolution under AS 39.52.210 or 39.52.220.

15 (f) If the attorney general accepts a complaint for investiga-  
16 tion, the attorney general shall serve a copy of the complaint upon  
17 the subject of the complaint, for a response. The attorney general  
18 may require the subject to provide, within 20 days after service, full  
19 and fair disclosure in writing of all facts and circumstances pertain-  
20 ing to the alleged violation. Misrepresentation of a material fact in  
21 a response to the attorney general is a violation of this chapter.  
22 Failure to answer within the prescribed time, or within any additional  
23 time period that may be granted in writing by the attorney general,  
24 may be considered an admission of the allegations in the complaint.

25 (g) If a complaint is accepted under (f) of this section, the  
26 attorney general shall investigate to determine whether a violation of  
27 this chapter has occurred. At any stage of an investigation or re-  
28 view, the attorney general may issue a subpoena under AS 39.52.380.

29 (h) A violation of this chapter may be investigated within two

1 years after discovery of the alleged violation.

2 (i) The unwillingness of a complainant to assist in an investi-  
3 gation, the withdrawal of a complaint, or restitution by the subject  
4 of the complaint may, but need not in and of itself, justify termina-  
5 tion of an investigation or proceeding.

6 Sec. 39.52.320. DISMISSAL BEFORE FORMAL PROCEEDINGS. If, after  
7 investigation, it appears that there is no probable cause to believe  
8 that a violation of this chapter has occurred, the attorney general  
9 shall dismiss the complaint and prepare and file a confidential summa-  
10 ry with the personnel board. The attorney general shall communicate  
11 disposition of the matter promptly to the complainant and to the  
12 subject of the complaint.

13 Sec. 39.52.330. CORRECTIVE OR PREVENTIVE ACTION. After deter-  
14 mining that the conduct of the subject of a complaint does not warrant  
15 a hearing under AS 39.52.360, the attorney general shall recommend  
16 action to correct or prevent a violation of this chapter. The attor-  
17 ney general shall communicate the recommended action to the complain-  
18 ant and the subject of the complaint. The subject of the complaint  
19 shall comply with the attorney general's recommendation.

20 Sec. 39.52.340. CONFIDENTIALITY. (a) Before the initiation of  
21 formal proceedings under AS 39.52.350, information regarding an inves-  
22 tigation conducted under this chapter, or obtained by the attorney  
23 general during the investigation, is confidential. The attorney  
24 general and all persons contacted during the course of an investiga-  
25 tion shall maintain confidentiality regarding the existence of the  
26 investigation.

27 (b) It is not a violation of this section for a person to con-  
28 tact an attorney or to participate in a criminal investigation.

29 (c) The subject of the complaint may, in writing, waive the

1 confidentiality protection of this section.

2 (d) A person who violates this section is guilty of a class A  
3 misdemeanor.

4 Sec. 39.52.350. PROBABLE CAUSE FOR HEARING. (a) If the attor-  
5 ney general determines that there is probable cause to believe that a  
6 knowing violation of this chapter or a violation that cannot be cor-  
7 rected under AS 39.52.330 has occurred, or that the subject of a com-  
8 plaint failed to comply with a recommendation for corrective or pre-  
9 ventive action, the attorney general shall initiate formal proceedings  
10 by serving a copy of an accusation upon the subject of the accusation.  
11 The accusation shall specifically set out the alleged violation.  
12 After service, the accusation is a public document open to inspection.  
13 Except as provided in AS 39.52.370(c), all subsequent proceedings are  
14 open to the public.

15 (b) The subject of the accusation shall file an answer with the  
16 attorney general within 20 days after service of the accusation, or at  
17 a later time specified by the attorney general. If the subject of the  
18 accusation fails to timely answer, the allegations are considered  
19 admitted.

20 (c) If the subject of the accusation denies that a violation of  
21 this chapter has occurred, the attorney general shall refer the matter  
22 to the personnel board, which shall appoint a hearing officer to con-  
23 duct a hearing.

24 (d) If the subject of the accusation admits a violation of this  
25 chapter, the attorney general shall refer the matter to the personnel  
26 board to impose penalties under AS 39.52.410, 39.52.440, and 39.52.-  
27 450, as appropriate.

28 Sec. 39.52.360. HEARINGS. (a) The hearing officer may convene  
29 a pre-hearing conference to set a time and place for the hearing, for

1 stipulation as to matters of fact and to simplify issues, to identify  
2 and schedule pre-hearing matters, and to resolve other similar matters  
3 before the hearing.

4 (b) The hearing officer may administer oaths, hold hearings, and  
5 take testimony. Upon application by a party to the hearing, the  
6 hearing officer may issue subpoenas under AS 39.52.380.

7 (c) The attorney general shall present the charges before the  
8 hearing officer. At a hearing, the attorney general has the burden of  
9 demonstrating by a preponderance of the evidence that the subject of  
10 the accusation has, by act or omission, violated this chapter.

11 (d) The parties to a hearing are the attorney general and the  
12 subject of the accusation. The subject of an accusation may be repre-  
13 sented by counsel. Each party has an opportunity to be heard and  
14 cross-examine witnesses, who shall testify under oath.

15 (e) The Administrative Procedure Act does not apply to hearings  
16 under this section, except as provided in AS 39.52.380.

17 (f) Technical rules of evidence do not apply, but the hearing  
18 officer's findings must be based upon reliable and relevant evidence.  
19 All testimony and other evidence taken at the hearing must be recorded  
20 and the evidence maintained. Copies of transcripts of the hearing  
21 record are available to the subject of the accusation at the subject's  
22 expense; however, upon request, a copy of the recording of the hearing  
23 shall be furnished without charge to the subject of the accusation.

24 (g) At the conclusion of the formal hearing, the hearing officer  
25 may direct either or both parties to file proposed findings of fact,  
26 conclusions of law, and recommendation within 10 days after the con-  
27 clusion of the hearing.

28 (h) Within 30 days after the conclusion of a formal hearing, the  
29 hearing officer shall serve a written report on the personnel board

1 and the parties, unless the personnel board grants an extension of  
2 time. The report must contain the officer's findings of fact, conclu-  
3 sions of law, and recommendation. The hearing officer shall submit  
4 the record to the personnel board.

5 Sec. 39.52.370. PERSONNEL BOARD ACTION. (a) Within 10 days  
6 after receipt of the hearing officer's report, either party may pro-  
7 test the officer's findings of fact, conclusions of law, and recommen-  
8 dation, and, if a protest is filed, shall serve a copy on the other  
9 party. Oral argument before the personnel board must be provided only  
10 if requested by either party. The board chair shall set the deadline  
11 for submission of requests for oral argument, and set the dates for  
12 submission of briefs and oral argument before the board, if requested.

13 (b) The board may issue subpoenas under AS 39.52.380, and may,  
14 for good cause shown, augment the hearing record, in whole or in part,  
15 or hold a hearing de novo.

16 (c) The personnel board shall review each report submitted by a  
17 hearing officer and shall either adopt or amend the findings of fact,  
18 conclusions of law, and recommendation of the officer. Deliberations  
19 of the personnel board must be conducted in sessions closed to the  
20 public.

21 (d) If the personnel board determines that a violation occurred,  
22 it may impose penalties under AS 39.52.410, 39.52.440, and 39.52.450,  
23 as appropriate. If the board determines that no violation occurred,  
24 the board shall issue a written order of dismissal.

25 (e) The personnel board secretary shall promptly notify the  
26 parties and the public officer's designated supervisor of the board's  
27 action.

28 (f) The subject of the accusation may appeal the personnel  
29 board's decision by filing an appeal in the superior court as provided

1 in the Alaska Rules of Appellate Procedure.

2 Sec. 39.52.380. SUBPOENAS. (a) As provided in AS 39.52.310(g),  
3 39.52.360(b), and 39.52.370(b), the attorney general, independent  
4 counsel retained under AS 39.52.310(c), a hearing officer, the subject  
5 of an accusation, and the personnel board may summon witnesses and  
6 require the production of records, books, and papers by the issuance  
7 of subpoenas.

8 (b) Subpoenas shall be served in the manner prescribed by  
9 AS 44.62.430 and Rule 45 of the Alaska Rules of Civil Procedure.  
10 Failure or refusal to obey a subpoena issued under this chapter is  
11 punishable as contempt in the manner provided by law and court rule.  
12 The superior court may compel obedience to the subpoena in the same  
13 manner as prescribed for obedience to a subpoena issued by the court.

14 Sec. 39.52.390. SERVICE. Service of an accusation shall be made  
15 under Rule 4 of the Alaska Rules of Civil Procedure. Service of any  
16 other pleading, motion, or other document shall be made under Rule 5  
17 of the Alaska Rules of Civil Procedure.

18 ARTICLE 5. ENFORCEMENT; REMEDIES.

19 Sec. 39.52.410. VIOLATIONS; PENALTIES FOR MISCONDUCT. (a) If  
20 the personnel board determines that a public employee has violated  
21 this chapter, it

22 (1) shall order the employee to stop engaging in any offi-  
23 cial action related to the violation;

24 (2) may order divestiture, establishment of a blind trust,  
25 restitution, or forfeiture; and

26 (3) may recommend that the employee's agency take disciplin-  
27 ary action, including dismissal.

28 (b) If the personnel board determines that a nonsalaried member  
29 of a board or commission has violated this chapter, it (1) shall order

1 the member to refrain from voting, deliberating, or participating in  
2 the matter; (2) may order restitution; and (3) may recommend to the  
3 appropriate appointing authority that the member be removed from the  
4 board or commission. A violation of this chapter is grounds for  
5 removal of a board or commission member for cause. If the personnel  
6 board recommends that a board or commission member be removed from  
7 office, the appointing authority shall immediately act to remove the  
8 member from office.

9 (c) If the personnel board determines that a former public  
10 officer has violated this chapter, it shall (1) issue a public state-  
11 ment of its findings, conclusions, and recommendation; and (2) request  
12 the attorney general to exercise all legal and equitable remedies  
13 available to the state to seek whatever relief is appropriate.

14 (d) If the personnel board finds a violation of this chapter by  
15 a public officer removable from office only by impeachment, it shall  
16 file a report of its findings with the president of the senate. The  
17 report must contain a statement of the facts alleged to constitute the  
18 violation.

19 Sec. 39.52.420. DISCIPLINARY ACTION FOR VIOLATION. (a) In  
20 addition to any other cause an agency may have to discipline a public  
21 employee, an agency may reprimand, demote, suspend, discharge, or  
22 otherwise subject an employee to agency disciplinary action commensu-  
23 rate with the violations of this chapter. This section does not  
24 prohibit the review of a disciplinary action in the manner prescribed  
25 by an applicable collective bargaining agreement or personnel statute  
26 or rule.

27 (b) An agency may initiate appropriate disciplinary action in  
28 the absence of an accusation under this chapter or during the pendency  
29 of a hearing or personnel board action.

1           Sec. 39.52.430. ACTIONS VOIDABLE. (a) In addition to any other  
2 penalty provided by law, a state grant, contract, or lease entered  
3 into in violation of this chapter is voidable by the state. In a  
4 determination under this section of whether to void a grant, contract,  
5 or lease, the interests of third parties who could be damaged may be  
6 taken into account. The attorney general shall give notice of intent  
7 to void a state grant, contract, or lease under this section no later  
8 than 30 days after the personnel board's determination of a violation  
9 under this chapter.

10           (b) In addition to any other penalty provided for by law, the  
11 state may require a state loan received in violation of this chapter  
12 to become immediately payable.

13           (c) Any state action taken in violation of this chapter is  
14 voidable, except that the interests of third parties and the nature of  
15 the violation may be taken into account. The attorney general may  
16 pursue any other available legal and equitable remedies.

17           (d) The attorney general may recover any fee, compensation,  
18 gift, or benefit received by a person as a result of a violation of  
19 this chapter by a current or former public officer. Action to recover  
20 under this subsection must be brought within two years after discovery  
21 of the violation.

22           Sec. 39.52.440. CIVIL PENALTIES. The personnel board may impose  
23 on a current or former public officer civil penalties not to exceed  
24 \$5,000 for a violation of this chapter. A penalty imposed under this  
25 section is in addition to and not instead of any other penalty that  
26 may be imposed according to law.

27           Sec. 39.52.450. PAYMENT OF TWICE THE FINANCIAL BENEFIT. The  
28 personnel board may, in addition to the civil penalties described in  
29 this chapter, require a current or former public officer who has

1 financially benefited a person in violation of this chapter to pay to  
2 the state up to twice the amount that the person realized from the  
3 violation.

4 Sec. 39.52.460. CRIMINAL SANCTIONS ADDITIONAL. To the extent  
5 that violations under this chapter are punishable in a criminal  
6 action, the criminal penalty is in addition to the civil remedies set  
7 out in this chapter.

8 ARTICLE 6. GENERAL PROVISIONS.

9 Sec. 39.52.910. APPLICABILITY. (a) Except as specifically  
10 provided, this chapter applies to all public officers within execu-  
11 tive-branch agencies, including members of boards or commissions.  
12 This chapter does not apply to a former public officer of an execu-  
13 tive-branch agency unless a provision specifically states that it so  
14 applies. This chapter does not apply to legislators covered by  
15 AS 24.60.

16 (b) The provisions of this chapter supersede the common law on  
17 conflicts of interests that may apply to a public officer of an execu-  
18 tive-branch agency and any personnel rules relating to conflicts of  
19 interests, excluding nepotism, adopted under AS 39.25. However,  
20 nothing in this chapter precludes a prosecution under an applicable  
21 criminal statute nor prevents enforcement of another state law that  
22 imposes a stricter standard of ethical conduct on public officers.

23 (c) The provisions of this chapter are not subject to negotia-  
24 tion by collective bargaining under AS 23.40 or AS 42.40.720 - 42.40.-  
25 880.

26 Sec. 39.52.920. AGENCY POLICIES. Subject to the review and  
27 approval of the attorney general, an agency may adopt a written policy  
28 that, in addition to the requirements of this chapter, limits the  
29 extent to which a public officer in the agency or an administrative

1 unit of the agency may

2 (1) acquire a personal interest in an organization or a  
3 financial interest in a business or undertaking that may benefit from  
4 official action taken or withheld by the agency or unit;

5 (2) have a personal or financial interest in a state grant,  
6 contract, lease, or loan administered by the agency or unit; or

7 (3) accept a gift.

8 Sec. 39.52.930. COOPERATION. All agencies and instrumentalities  
9 of the state shall cooperate fully with the attorney general and the  
10 personnel board in the performance of their duties under this chapter.

11 Sec. 39.52.940. CONSTRUCTION. This chapter shall be construed  
12 to promote high standards of ethical conduct in state government.

13 Sec. 39.52.950. REGULATIONS. The attorney general may adopt  
14 regulations under the Administrative Procedure Act necessary to inter-  
15 pret and implement this chapter.

16 Sec. 39.52.960. DEFINITIONS. In this chapter, unless the con-  
17 text requires otherwise,

18 (1) "administrative unit" means a branch, bureau, center,  
19 committee, division, fund, office, program, section, or any other  
20 subdivision of an agency;

21 (2) "agency" means a department, office of the governor, or  
22 entity in the executive branch, including but not limited to the  
23 University of Alaska, the Alaska Railroad, public or quasi-public  
24 corporations, and boards or commissions;

25 (3) "benefit" means anything that is to a person's advan-  
26 tage or self-interest, or from which a person profits, regardless of  
27 the financial gain, including any dividend, pension, salary, acqui-  
28 sition, agreement to purchase, transfer of money, deposit, loan or  
29 loan guarantee, promise to pay, grant, contract, lease, money, goods,

1 service, privilege, exemption, patronage, advantage, advancement, or  
2 anything of value;

3 (4) "board or commission" means a board, commission, au-  
4 thority, or board of directors of a public or quasi-public corpo-  
5 ration, established by statute in the executive branch, including the  
6 Alaska Railroad;

7 (5) "business" includes a corporation, company, firm,  
8 partnership, sole proprietorship, trust or foundation, or any other  
9 individual or entity carrying on a business, whether operated for  
10 profit or non-profit;

11 (6) "compensation" means any money, thing of value, or  
12 economic benefit conferred on or received by a person in return for  
13 services rendered or to be rendered by the person for another;

14 (7) "designated supervisor" or "supervisor" means

15 (A) the commissioner of each department in the execu-  
16 tive branch, for public employees within the department;

17 (B) the president of the University of Alaska, for  
18 university employees;

19 (C) the chief executive officer of the Alaska Rail-  
20 road, for railroad employees;

21 (D) the attorney general, for the governor and lieu-  
22 tenant governor;

23 (E) the executive director of a board or commission  
24 for the staff of the board or commission;

25 (F) the chair or acting chair of the board or commis-  
26 sion, for the members and the executive director of a board or  
27 commission; and

28 (G) the governor, for commissioners and for other  
29 public officers not included in (A) - (F) of this subsection; or

1 (H) a public officer designated by a commissioner, the  
2 university president, or the governor to act as the supervisor if  
3 the name and position of the officer designated has been reported  
4 to the attorney general;

5 (8) "financial interest" means

6 (A) an interest held by a public officer or an immedi-  
7 ate family member, which includes an involvement or ownership of  
8 an interest in a business, including a property ownership, or a  
9 professional or private relationship, that is a source of income,  
10 or from which, or as a result of which, a person has received or  
11 expects to receive a financial benefit;

12 (B) holding a position in a business, such as an  
13 officer, director, trustee, partner, employee, or the like, or  
14 holding a position of management;

15 (9) "gain" includes actual or anticipated gain, benefit,  
16 profit, or compensation;

17 (10) "immediate family member" means a public officer's  
18 spouse, a relation by blood within and including the second degree of  
19 kindred, and a regular member of the officer's household;

20 (11) "instrumentality of the state" means a state agency or  
21 administrative unit, whether in the legislative, judicial, or execu-  
22 tive branch, including such entities as the University of Alaska, the  
23 Alaska Railroad, and any public or quasi-public corporations, boards,  
24 or commissions; and municipalities;

25 (12) "nonsalaried member of a board or commission" means a  
26 member of a board or commission who is not a public employee by virtue  
27 of membership on a board or commission; receipt of per diem, nominal  
28 compensation for attendance at meetings, and travel expense reimburse-  
29 ment does not make a member of a board or commission a public employee

1 for purposes of this chapter;

2 (13) "official action" means a recommendation, decision,  
3 approval, disapproval, vote, or other similar action, including inac-  
4 tion, by a public officer;

5 (14) "organization" includes a group, association, society,  
6 political party, or other entity made up of two or more persons,  
7 whether operated for profit or non-profit;

8 (15) "person" includes a natural person, a business, and an  
9 organization;

10 (16) "personal interest" means an interest held or involve-  
11 ment by a public officer, or the officer's immediate family member or  
12 parent, including membership, in any organization, whether fraternal,  
13 non-profit, for profit, charitable, or political, from which, or as a  
14 result of which, a person or organization receives a benefit; in this  
15 paragraph "parent" includes a biological parent, an adoptive parent,  
16 and a step-parent of the public officer;

17 (17) "personnel board" or "board" means the personnel board  
18 established in AS 39.25.060;

19 (18) "public employee" or "employee" means a permanent,  
20 probationary, seasonal, temporary, provisional, or nonpermanent em-  
21 ployee of an agency, whether in the classified, partially exempt, or  
22 exempt service;

23 (19) "public officer" or "officer" means

24 (A) a public employee; and

25 (B) a member of a board or commission;

26 (20) "source of income" means an entity for which service is  
27 performed for compensation or which is otherwise the origin of pay-  
28 ment; if the person whose income is being reported is employed by  
29 another, the employer is the source of income; if the person is self-

1 employed by means of a sole proprietorship, partnership, professional  
2 corporation, or a corporation in which the person, the person's spouse  
3 or child, or a combination of them, holds a controlling interest, the  
4 "source" is the client or customer of the proprietorship, partnership,  
5 or corporation; if the entity which is the origin of payment is not  
6 the same as the client or customer for whom the service is performed,  
7 both are considered the source; in this paragraph "child" includes a  
8 biological child, an adoptive child, and a stepchild.

9 \* Sec. 2. AS 39.25.060(c) is amended to read:

10 (c) A board member may be removed by the governor only for cause  
11 [HOLDS OFFICE AT THE PLEASURE OF THE GOVERNOR NOTWITHSTANDING THE  
12 MEMBER'S TERM].

13 \* Sec. 3. AS 39.25.070 is amended to read:

14 Sec. 39.25.070. POWERS AND DUTIES OF PERSONNEL BOARD. In addi-  
15 tion to the other duties imposed by this chapter, the personnel board  
16 shall

17 (1) approve or disapprove amendments to the personnel rules  
18 in accordance with AS 39.25.140;

19 (2) consider and act upon recommendations for the extension  
20 of the partially exempt service and the classified service as provided  
21 in AS 39.25.130;

22 (3) hear and determine appeals by employees in the clas-  
23 sified service as provided in AS 39.25.170;

24 (4) establish its own rules of procedure (two members  
25 constitute a quorum for the transaction of business and two affirma-  
26 tive votes are required for final action on matters acted upon by the  
27 board);

28 (5) elect a chairman from its membership;

29 (6) have the power to administer oaths, subpoena witnesses,

1 and compel the production of books and papers pertinent to a hearing  
2 authorized by this chapter;[.]

3 (7) employ staff members, who shall be in the classified  
4 service;

5 (8) retain independent counsel as required under AS 39.-  
6 52.310(c);

7 (9) appoint, and review the findings, conclusions, and  
8 recommendations of, hearing officers under AS 39.52.350(c), 39.52.360,  
9 and 39.52.370;

10 (10) issue findings, conclusions, and decisions regarding  
11 violations of the code of ethics in AS 39.52.110 - 39.52.190; and

12 (11) impose penalties under AS 39.52.410, 39.52.440, and  
13 39.52.450.

14 \* Sec. 4. AS 42.40.710 is amended to read:

15 Sec. 42.40.710. CORPORATION EMPLOYEES. Employees of the Alaska  
16 Railroad are employees of the corporation and not of the state. The  
17 provisions of AS 39, except AS 39.52, do not apply to employees of the  
18 corporation.

19 \* Sec. 5. The attorney general and the personnel board have no juris-  
20 diction over an alleged violation of AS 39.52.110 - 39.52.190 that occurred  
21 before January 1, 1987, unless the violation continues after that date.

22 \* Sec. 6. An agency or administrative unit with a policy in effect on  
23 July 1, 1986, related to the subject of AS 39.52.110 - 39.52.190 shall, by  
24 January 1, 1987, submit the policy to the attorney general for review as to  
25 conformity with the provisions enacted in this Act, the attorney general's  
26 suggestions for amendment, and the attorney general's necessary approval  
27 under AS 39.52.920.

28 \* Sec. 7. AS 39.52.010, 39.52.210 - 39.52.260, and 39.52.910 - 39.52.-  
29 960, enacted in sec. 1 of this Act, and secs. 2 - 6 of this Act take effect

1 July 1, 1986.

2 \* Sec. 8. AS 39.52.110 - 39.52.190, and 39.52.310 - 39.52.460, enacted  
3 in sec. 1 of this Act, take effect January 1, 1987.