

SCOMM

82:9

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bi. Version: SB 372(S) Publish Date: 1-27-92

Revision Date: _____ Department Affected: REVENUE
 Title: State Investment Officers BRU: Revenue Operations
comply with AS 39.50 Component: Treasury Management
 Sponsor: _____
 Requestor: _____ COMPONENT SERIAL NO.

0	1	2	1
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Darrel J. Rexwinkel Phone: 465-2300
 Division: Treasury Date: 12/10/91
 Approved by Commissioner: Darrel J. Rexwinkel *Darrel J. Rexwinkel*
 Agency: Department of Revenue Date: _____



Official Business

Alaska State Legislature

Senate

SPECIAL COMMITTEE ON ETHICS REFORM Senator Virginia Collins

Pouch V
State Capitol
Juneau, Alaska 99811

April 8, 1992

MEMORANDUM

TO: Members of the Senate

FROM: Senator Virginia Collins, Chair 
Special Committee on Ethics Reform

SUBJECT: SB 372 - requires investment officers and the state comptroller to comply with AS 39.50

Senate Bill 372 adds state investment officers and the state comptroller to comply to the list of public officials required to comply with the Executive Branch ethics statutes.

This legislation requires the state's investment officers and the state comptroller to file a statement giving income sources and business interests with APOC upon taking office. These individuals make significant independent decisions concerning financial management of various state funds. The disclosure of potential conflicts of interest allow for prudent management of the state's resources.

SB 372 received three "do pass" recommendations from the Special Committee on Ethics Reform and four "do pass" recommendations from the State Affairs Committee. The bill has a zero fiscal note.



Official Business

Alaska State Legislature

Senate

SPECIAL COMMITTEE ON ETHICS REFORM

Senator Virginia Collins

Pouch V
State Capitol
Juneau, Alaska 99811

AGENDA

10:30 am

February 27, 1992
Beltz Room

1. Call to Order
2. Public Hearing SB 299
 - a. Changes to Alaska Public Offices Commission
 - b. Teleconference to Anchorage - APOC
Karen Boorman, Executive Director
3. Public Hearing SB 372
 - a. Changes to Executive Branch Ethics Statutes
4. Adjourn

Alaska State Legislature

During Session
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2828



During Interim
3111 C Street, Suite 540
Anchorage, Alaska 99503
(907) 561-2040

Senator Virginia Collins

February 11, 1992

MEMORANDUM

TO: Nancy Quinto, Senate Secretary

FROM: Senator Virginia Collins, Chair
Senate Special Committee On Ethics Reform

SUBJECT: Public hearing on SB 299 changes to APOC and SB 372
changes to Executive Branch Ethics statutes

The Senate Special Committee on On Ethics Reform will meet at 5:00 pm on Thursday, February 13th, in the Fahrenkamp Room. The committee will have a public hearing on SB 299 and SB 372.



WALTER J. HICKEL
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB372

January 27, 1992

*The Honorable Richard I. Eliason
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear President Eliason:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill that would require investment officers and the comptroller in the Department of Revenue to comply with the disclosure requirements and financial gain and representation prohibitions of Alaska's conflict of interest law, AS 39.50.

I am aware of no problems with these officials regarding conflicts of interest. However, given that the comptroller's duties include examining, auditing, and reporting on the state's financial condition, and that the investment officers' duties include investing the state's money, and managing the state's cash and debt, a requirement that they report their business interests and income sources is clearly warranted. Making the investment officers and the comptroller subject to the financial gain and representation prohibitions (AS 39.50.090) ensures that the highest standard of conduct will continue to be maintained.

I urge your prompt and favorable action on this bill.

Sincerely,



Walter J. Hickel
Governor

ETHICS

A Handbook
for
Public Employees



State of Alaska

Code of Ethics

For Public Employees

State of Alaska
1986



Prepared by:

The Department of Law and The Office of Management and Budget

printed by G.D.



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INTRODUCTION

This pamphlet is designed to introduce State employees to AS 39.52, the *Alaska Executive Branch Ethics Act*. This guide is not, however, a substitute for reading the law and its regulations. State employees who have further questions should contact the "designated supervisor" in their departments.

The Code of Ethics becomes effective on January 1, 1987. The law, AS 39.52, applies to all "public officers," that is, *all current and former executive branch public employees* and members of statutorily created boards and commissions.

As you read this pamphlet, please keep the following definitions in mind:

Benefit - anything that furthers a person's financial interest or from which a person hopes to gain in any way.

Financial Interest - any property, ownership, management, professional, or private interest from which the employee or a member of the employee's immediate family expects or receives a financial benefit.

Personal Interest - the interest or involvement of an employee (or a family or household member) in any organization or political party from which a person or organization receives a benefit.

Immediate Family - spouse, blood relation up to and including the second degree of kindred (for example: parents, grandparents, children and grandchildren), and regular household members.

Designated Supervisor - for employees of a department, the commissioner or the commissioner's designee; for staff of boards or commissions, the executive director of the board or commission.

Agency - department, public corporations, the University of Alaska, and statutorily created boards and commissions.

Administrative Unit - a division or other official subcategory of an agency.

THE CODE OF ETHICS

SCOPE OF CODE (AS 39.52.110)

The Code of Ethics considers a public office to be a public trust. Independent pursuits are not discouraged so long as those pursuits are arranged so that employees do not benefit financially or personally from their actions as public employees. The Code of Ethics accepts that minor and inconsequential conflicts of interest are unavoidable. However, those conflicts of interest which are substantial and material are prohibited.

In reading about the Code of Ethics and considering the examples given, this standard for judgment should be kept in mind: *minor and inconsequential* versus *substantial and material*.

MISUSE OF OFFICIAL POSITION (AS 39.52.120)

Public employees may not use their positions for personal gain or to give unwarranted benefit or treatment to any person. Specifically, public employees may not use their official positions to secure employment or contracts, accept pay from anyone other than the State for performance of official duties, or take or withhold official action on a matter in which they have a personal or financial interest. Employees are also prohibited from using State time, equipment, property or facilities for their own personal or financial benefit. A supervisor may not coerce subordinates for his/her personal or financial benefit.



Jack thought he'd do a favor for his friend Brian by letting him know about the right-of-way that his department would be buying up for a new highway; after all, Brian was his best friend. Brian bought up property along the right-of-way, planning to make a bundle and retire to Hawaii.



Jenny uses the phone each day to call her kids at the babysitter. She also photocopied a medical insurance form.



Bob reads the Wall Street Journal at the office every morning and then spends half an hour on the phone with his stockbroker.



Russ is asked by his professional society to head a national committee. The chairmanship is a personal honor. Russ asks his secretary to type committee letters and reports.



Joan's live-in sweetie, Paul, has been out of work for months; now he needs to refinance his Veteran's loan. Joan knew that Paul was good for the loan, and she intended to see to it that Paul had no trouble. Joan let the loan examiner who worked for her know that there had better be no trouble with the refinancing.

IMPROPER GIFTS (AS 39.52.130)

Public employees may not solicit or accept gifts that benefit the employee's personal or financial interest if it can be reasonably inferred that the gift is intended to influence the employee's action or judgment. "Gifts" include money, items of value, services, loans, travel, entertainment, hospitality, and employment.

Even if a gift is acceptable, it may have to be reported. When any gift with a value in excess of \$50 is received by an employee whose action can affect the giver, the employee must report the gift to his/her designated supervisor within 30 days of receipt. *Forms are available from the designated supervisor for this purpose.*

Ethics Disclosure Form	
Notification of Receipt of Gift	
To: Designated Supervisor Subject: Notification of Acceptance with Excess Value (under Code 45) to recipient	
In accordance with AS 39.52.130(a), I am hereby providing notice of my receipt of a gift with a value in excess of \$50.00. The gift is: _____ _____ _____	
My estimate of its value is: \$ _____ received from: _____ The date it was received was: _____	
The following is a list of other gifts received by me within the previous year: _____ _____ _____ _____ _____	
Signature: _____ Date: _____	Signature: _____ Date: _____

This restriction on gifts does not apply to lawful campaign contributions.



The Little Theater presents Allen with complimentary season tickets. Allen is reviewing their grant request.



Alexander is negotiating a contract with the SBS Company. At noon, they invite him out for a quick lunch at a nearby greasy spoon.



Harry has been a State auditor for years; all that time, he has audited the AJAX books. One of the company's execs offers to let him stay at his condo in Maui for free.



John schedules a field trip to look at a company's mining operations. The company flies up to the site every Monday and offers John a free trip. John takes the trip but notifies his designated supervisor.



Tom works on the tax returns of a Fortune 500 company. There are certain difficulties with the returns. The company president is on the Harvard board. He suggests that if Tom ignores the difficulties, Tom's son will have no trouble getting into Harvard.



IMPROPER USE OR DISCLOSURE OF INFORMATION (AS 39.52.140)

No former or current public employee may use or disclose any information gained from State employment when that use or disclosure could result in a financial or personal benefit to the employee (or to a family or household member), unless that information has already been disseminated to the public.

No former or current employee may use or disclose confidential information acquired during employment.



Dave was typing the next to final draft of a new land use plan for the Valley. It is clear that a new industrial area is going to be developed. Dave and his Dad make land purchases in the heart of the new industrial zone.



The department's investment officer receives a call from a Wall Street consultant retained by the department. The consultant tells him that stock of the SYN company is sure to increase by at least ten points. The investment officer calls his own stockbroker to buy 1000 shares for himself.

IMPROPER INFLUENCE IN STATE GRANTS, CONTRACTS, LEASES OR LOANS (AS 39.52.150)

No public employee whose action or inaction can affect the award or administration of a State grant, contract, lease or loan may apply for, be a party to, receive, or have an interest in that State grant, contract, lease or loan. This prohibition also applies to the employee's family or household members.

However, employees (or family or household members) may apply for or be a party to a *competitively solicited* State grant, contract or lease, so long as they do not work for the administrative unit awarding or administering the grant, contract, or lease *and* so long as they do not take official action with respect to the award or administration of the grant, contract, or lease.

Also, a public employee (or family or household member) may apply for and receive a State loan that is generally available to the public and has fixed eligibility standards, so long as the employee does not take (or withhold) official action affecting the award or administration of the loan.

A public employee must report to a designated supervisor any personal or financial interest (or that of a family or household member) in a State grant, contract, lease or loan that is awarded or administered by the agency the public employee serves. *A form is available from the designated supervisor for this purpose.*



Hal administers contracts for his department. He hasn't seen his daughter for nearly ten years, so he figures that it doesn't matter when she bids for a contract that is being negotiated by his division.



Anne's daughter has been accepted at college and she is now applying for a loan from the Post Secondary Education Commission. Anne usually evaluates loan applications. She asks her designated supervisor to assign her colleague, Harry, to evaluate Anne's loan application. When her daughter gets the loan, Anne notifies her designated supervisor in writing of the loan.

IMPROPER REPRESENTATION (AS 39.52.160)

A public employee may not represent, advise, or assist a person or business in any matter being handled by the employee's administrative unit if that representation, advice, or assistance is for pay or if it benefits a personal or financial interest of the employee.

This prohibition does not apply to collective bargaining activities.



Richard works for the department's public information office and is also on the board of the local Audubon Society. The board decides to apply for a public education grant being offered by the department's public information office. They ask Richard to prepare a grant application and to put his name on it as the group's contact person. They figure that Richard knows all the ins and outs and will give them a better shot at the grant.



Chris has worked long and hard to form a certain nonprofit organization in her town. She is staff to the board of a State commission which is considering a grant to the organization. Chris feels it will be OK to present the grant application to the board because she isn't actually a member of the nonprofit organization.

OUTSIDE EMPLOYMENT (AS 39.52.170)

No public employee may work for (paid or unpaid) a person or organization other than the employee's own department, if that work is incompatible or in conflict with the proper discharge of official duties.

A public employee must report outside employment or service for which he or she is paid to the designated supervisor. Changes in paid outside employment or services should be reported as they occur. *A form is available from the designated supervisor for this purpose.*



Debby, a State cartographer, works on the weekends for a local ski resort as a member of the ski patrol. She reports this outside employment to the designated supervisor.



Larry is a computer programmer for his department. He has just finished a computer study recommending Macintoshes. In his spare time, he sells Apple computers.



RESTRICTION ON EMPLOYMENT AFTER LEAVING STATE SERVICE (AS 39.52.180)

For two years after leaving State service, a former public employee may not work on any matter in which the former employee had personally and substantially participated while employed by the former administrative unit. This prohibition applies to cases, proceedings, applications, and contracts but not to work on legislative measures or administrative regulations.

With the approval of the Attorney General, a Commissioner may waive this prohibition if a determination is made that the public interest is not jeopardized.

Former public employees may be paid by a State agency to work on any matter.



As a State employee, Andy did all the work on the road permits for the Red Dog mine. Cominco wants to hire him to work on the permits for the harbor. He accepts, so long as they don't ask him to do any more work on the road permits.

AIDING A VIOLATION PROHIBITED (AS 39.52.190)

Aiding another public officer to violate this chapter is prohibited.

DISCLOSURE PROCEDURES

NOTIFICATION OF POTENTIAL ETHICAL VIOLATION (AS 39.52.210)

When a public employee is involved in a situation which may be in violation of the Code of Ethics (AS 39.52.110-190), the employee must not take official action related to that situation and must immediately disclose the matter in writing to the designated supervisor. (*The designated supervisor has forms for this disclosure.*) The designated supervisor will provide a written determination of whether a violation exists or will exist, and the supervisor may reassign duties to avoid the violation (where feasible), direct the removal by the employee of the conflicting personal or financial interest, or find another solution.

ATTORNEY GENERAL'S ADVICE (AS 39.52.240-250)

In making determinations regarding the Code of Ethics, designated supervisors may request a written advisory opinion from the Attorney General. These opinions are confidential. Versions without identifying information are available to the public.

Former public employees may request a written opinion directly from the Attorney General on the applicability of the Code of Ethics.

REPORTS BY THIRD PARTIES (AS 39.52.230)

A third party may report a suspected violation of the Code of Ethics by a public officer in writing and under oath to the public officer's designated supervisor. The supervisor will give a copy to the employee and review the report to determine whether a violation may or does exist. If the supervisor determines a violation exists, the employee's duties may be reassigned (where feasible), the employee may be directed to remove the conflicting personal or financial interest, or another solution may be found.

COMPLAINTS, HEARINGS AND ENFORCEMENT

COMPLAINTS (AS 39.52.310-330)

Complaints about the conduct of a current or former public employee can be filed with the Attorney General by any person. Complaints must be written and signed under oath. The Attorney General may also initiate complaints from information provided by designated supervisors. A copy of the complaint will be sent to the public employee who is the subject of the complaint.

All complaints are reviewed by the Attorney General. (Alleged violations by the Governor, Lieutenant Governor or the Attorney General are handled by independent counsel appointed by the Personnel Board.) If the Attorney General determines that a complaint does not warrant investigation, the complainant and the employee will be notified of the dismissal.

The Attorney General may refer a complaint to the employee's designated supervisor for resolution.

After investigation, the Attorney General may dismiss a complaint for lack of probable cause to believe a violation occurred. The complainant and employee will be promptly notified of this decision.

The Attorney General may recommend action to prevent or correct a violation.

The Attorney General may file an accusation alleging a violation of the Code of Ethics.

CONFIDENTIALITY (AS 39.52.340)

Complaints and investigations prior to formal hearings are confidential. Violation of confidentiality is a Class A misdemeanor.

HEARINGS (AS 39.52.350-360)

An accusation by the Attorney General of an alleged violation may initiate a hearing. The time, place and other matters are determined by a hearing officer appointed by the Personnel Board. The parties to the hearing are the Attorney General, acting as prosecutor, and the accused public official, who can be represented by an attorney. Within 30 days of the conclusion of the hearing, the hearing officer files a report with the Personnel Board.

PERSONNEL BOARD ACTION (AS 39.52.370)

The hearing officer's report will be reviewed by the Personnel Board. The Personnel Board is responsible for determining whether a violation occurred and for imposing penalties. An appeal may be filed by the employee in the Superior Court.

PENALTIES (AS 39.52.410-460)

All penalties under this law are in addition to discipline under collective bargaining agreements.

The Personnel Board can order an employee in violation of the Code of Ethics to stop engaging in official actions related to the complaint, may order divestiture, establishment of a blind trust, restitution or forfeiture, and may recommend disciplinary action.

If a former employee is guilty of violating the Code of Ethics, the Personnel Board will issue a public statement about the case and will request the Attorney General to pursue any additional legal remedies.

A violation of the Code of Ethics by a public officer who is removable from office only by impeachment will be reported by the Personnel Board to the President of the Senate.

State grants, contracts and leases awarded in violation of the Code of Ethics are voidable.

Loans given in violation of the Code of Ethics may be made immediately payable.

Fees, gifts, or compensation received in violation of the Code of Ethics may be recovered by the Attorney General.

The Personnel Board may impose a fine of up to \$5,000 for violation of the Code of Ethics, and an employee may be required to pay twice the financial benefit received in violation of the Code of Ethics.

Criminal penalties are in addition to the civil penalties listed above.

For further information regarding the Code of Ethics,
Please contact:

The Department of Law
Box K, Juneau, Alaska 99811
465-3600