

ALASKA LEGISLATURE COMMITTEE FILES 1900 1900

4370

SSTA

SB 356

- SB 391

1219

2 AAC 50.470. HEARINGS. (a) If the commission decides that a hearing will be held, notice of hearing will be sent to the respondent by personal service or by certified mail, return receipt requested. If the respondent cannot be found after diligent effort, service will be made by publishing notice of the hearing in a newspaper of general circulation once a week for four weeks, the final notice appearing at least 30 days before the hearing.

(b) Notice of a hearing must be provided to all parties at least 30 days before a hearing. The time and place of the hearing will be set with due regard and consideration for the convenience of the parties, and the commission will consider a party's request for a change in the time or place of a hearing. The commission will, in its discretion, for any good cause and upon proper notice, change the time and place of a hearing.

(c) Repealed 1/4/86.

(d) The commission staff is responsible for presenting the facts, verified by investigation, which it has determined appear to constitute a violation of the law. In the course of the hearing, the staff will be given no special consideration, but will be considered as a party to the hearing.

(e) The only parties to the hearing will be the staff, representing the complainant or itself, and the respondent.

(f) A party has the right to present evidence and be represented by an attorney. Entities may be represented by an official within the entity, an authorized agent, counsel, or a combination of these.

(g) The rules of evidence are the same as in AS 44.62.460. In addition

(1) documentary evidence may be presented in the form of copies if the original is not readily available; upon request, the parties will be given the opportunity to compare the copy to the original;

(2) in the discretion of the hearing officer, nonparties may present a sworn statement; if such a statement is presented, all parties will be given an opportunity to challenge, cross-examine, or rebut;

(3) depositions or affidavits may be presented if a witness is unable to testify at a hearing.

(h) Repealed 1/4/86.

(i) Depositions must be taken according to AS 44.62.440(a).

(j) Before the hearing, upon request during regular business hours, the respondent will have access to read or copy at cost any information contained in the case file held by the staff, with the exception of internal memos and documents privileged under the attorney-client privilege.

(k) At the discretion of the hearing officer, all or part of the hearing may be conducted by telephone, audio or video teleconferencing, or other electronic means, provided the parties have an opportunity to participate in the hearing while it is taking place.

(l) The hearing will be recorded by tape recording or stenographic notes at the commission's expense. The recording will be maintained with the public file of the proceedings. The commission will not prepare a transcript unless such a requirement is imposed by law. If the hearing is open, and at the commission's discretion, any person may pay for additional recordings or for a transcript from the commission's recording. If a transcript is prepared by the commission, the respondent may have access to it for the purpose of duplication.

(m) A hearing will be open to the public except when the respondent requests a closed hearing and the hearing officer finds that it should be closed under AS 44.62.310. If the hearing is open but is conducted by telephone, audio or video teleconferencing, or other electronic means, the public notice will designate at least one public access place.

(n) Repealed 1/4/86.

(o) Repealed 1/4/86.

(p) Repealed 1/4/86.

(q) If the commission decides to forward a case to the attorney general's office for prosecution, the staff shall prepare and send to the attorney general's office a record comprised of

(1) a copy of the commission's hearing decision, including its findings of fact and conclusions of law;

(2) a verbatim transcript of the proceedings before the commission; and

(3) copies of all documentary evidence, memoranda, exhibits, correspondence, and other tangible evidence contained in the public file of the proceeding.

(r) The commission will, in its discretion, reconsider its decision in accordance with AS 44.62.340. A request for reconsideration must be filed within 10 days after the vote under (o) of this section has been taken, and must state specific grounds upon which reconsideration is requested. A decision will be reconsidered only if

(1) there was a substantial procedural error in the original proceeding;

(2) the commission acted without jurisdiction in the original proceeding;

(3) the original vote was based on fraud, misrepresentation, material mistake of fact or law; or

(4) new evidence has come to light.

(s) Contempt before the commission will be handled under AS 44.62.590.

(t) A commission member is disqualified from participation in a hearing if the member has a substantial financial relationship with the complainant or with the alleged violator. A commission member is disqualified from participation in a hearing if the member feels, and states on the public record, that he or she is unable to consider the complaint in an unbiased manner and reach a fair and impartial decision.

(u) A commission member has a conflict of interest if the member, a person in the member's immediate family, the member's employer, business, or business associate has a financial relationship with the complainant or the alleged violator or with an immediate family member, business, or business associate of the complainant or alleged violator. The commission member shall state publicly the nature of the conflict and a majority of the remaining members present may authorize the member to participate. Other relationships with the principals of the hearing, which may cause an appearance of impropriety or conflict, must be publicly disclosed by a member, and the member's participation is subject to approval by the majority of the remaining members present. In conflict cases, approval to participate will depend upon whether

(1) the financial relationship or interest is relatively insignificant; and

(2) the interest held by the member or the member's family, business, or business associate is similar to that possessed by a large class of persons; or

(3) the nonfinancial relationship is such that a reasonable person would believe the member capable of fair and impartial judgment. (Eff. 6/29/84, Register 90; am 1/4/86, Register 97)

Authority: AS 15.13.030(8); AS 15.13.030(10); AS 15.13.045; AS 15.13.120(d)
AS 24.45.021(b); AS 24.45.131; AS 39.50.050(b)

2 AAC 50.905. ADVISORY OPINIONS. (a) A person or group may request an advisory opinion concerning AS 15.13, AS 39.50, AS 24.45, or this chapter.

(b) Each advisory opinion request must describe a specific transaction or activity that the requesting person or group is presently engaged in, or intends to undertake in the future. Advisory opinion requests must include a complete description of all relevant facts. Requests posing a hypothetical situation, or regarding the activities of third parties, will not be considered by the commission staff.

(c) The commission staff shall review all requests for advisory opinions submitted under this section. If the staff determines a request is incomplete or does not qualify for consideration under (a) and (b) of this section, it shall notify the requesting person or group and specify the deficiencies in the request.

(d) Advisory opinion requests and advisory opinions are public records.

(e) The commission staff shall issue a proposed advisory opinion approving or disapproving of the activity, and may make other recommendations to the commission.

(f) The commission will review the proposed advisory opinion and will, in its discretion, review written or oral comments by any person, or any other relevant evidence. The commission will approve, disapprove, or modify the proposed advisory opinion. The commission will approve an advisory opinion by the affirmative vote of at least four members, or else the advisory opinion will be considered disapproved.

(g) An advisory opinion rendered by the Commission may be relied upon to the extent that commission staff may not commence a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, or 2 AAC 50.507(i) of

(1) any person involved in the specific transaction or activity with respect to which an advisory opinion approving of the activity was rendered.

(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which an advisory opinion was rendered.

(h) The commission will, in its discretion, reconsider an advisory opinion at any time upon the motion of a commissioner who voted with the majority that originally approved the opinion, and if the commission adopts the motion to reconsider by the affirmative vote of at least four members. Adoption of a motion to reconsider vacates the advisory opinion to which it relates. Actions taken in good faith reliance by the requesting party before they receive written notice of reconsideration may not be the subject of a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, or 2 AAC 50.507(i). (Eff. 1/4/86, Register 97)

Authority: A.S. 15.13.030

2 AAC 50.910. AVAILABILITY OF REPORTS FILED WITH THE COMMISSION. Except as provided under 2 AAC 50.351(d), copies of any report required to be filed with the commission may be obtained at cost. (Eff. 5/16/76, Register 58; am 1/4/86, Register 97)

Authority: AS 15.13.030(10); AS 15.13.040(5); AS 15.13.110(c);
AS 39.50.020(b); AS 39.50.050(c)

PROPOSED AMENDMENTS TO SB 356

- (1) At page 8, lines 25-29, amend subparagraph (1) to read:

(1) the full name, complete address, principal occupation, and employer of each individual [AND THE FULL NAME AND COMPLETE ADDRESS OF EACH OTHER PERSON OR POLITICAL INTEREST GROUP]; the full name, complete address and principal business activity of each person other than an individual; and the full name, complete address and principal area of interest of each political interest group from which contributions in the aggregate amount of \$250 or more were received, and the date and amount of the contributions;

- (2) At page 17, line 23, after "another." Add:

"Under this subsection, a contribution made by a corporation is not considered a contribution in the name of a shareholder of the corporation."

- (3) At page 37, line 11, after, "15.14.330," add, "AS 24.45 or AS 39.50"

- (4) At page 47, line 6-7, add a new section 12 to read:

* Sec. 12. AS 44.62.330 (a)(39) is amended to read:

(39) Alaska Public Offices Commission, except as provided in AS 15.14.290 - 15.14.380

AMENDMENTS TO SB 356 ADOPTED TO DATE (2/12/86)

(1) Page 4, line 6, after "commission." Add "The prohibitions against political activity by a member of the commission under (h) of this section apply to the executive director and employees of the commission.

(2) Page 6, lines 18-23, delete subsection (b) and replace it with the following

(b) The registration under (a) of this section must designate the office and the year of the election for which the campaign will be conducted.

(3) Page 10, line 11, change the date that final post-election reports must be filed in years following gubernatorial elections from January 16 to a date after the third Monday in January when the legislature convenes. (The drafters propose to change annual report dates and final report dates in all years from January 16 to January 31 in the interests of simplicity.)

(4) Prohibit contributions to candidates or to political interest groups in the form of loans in any amount (except for contributions in the form of loans made by the candidate or the candidate's immediate family):

-- At page 16, lines 5-6, add a subsection (e) to read:

(e) A person may not make a contribution in any amount to a candidate or political interest group in

the form of a loan or loan guarantee. This subsection does not prohibit

(1) a contribution in the form of a loan by a candidate, the candidate's spouse, parents or children to the candidate's campaign; or

(2) extensions of credit in the normal course of business to a political interest group, a candidate or candidate's campaign for goods or services provided in connection with a campaign by persons in the business of providing the type of goods or services for which the credit is extended.

-- At page 16, lines 23-24, add a subsection (d) to read:

(d) A political interest group may not make a contribution in any amount in the form of a loan or loan guarantee to a candidate or to a political interest group.

-- At page 9, line 2, page 9, lines 3-4, page 11, line 14, and page 11, line 16, delete "\$250 or more in the aggregate" and insert, "any amount".

-- At page 9, lines 10-11, and at page 11, lines 23-24, add a new subparagraph (D) to read, "the purpose of the loan;" Renumber remaining subparagraphs.

(5) Page 15, line 16, after "swear or affirm" add "to the best of my knowledge".

(6) At page 15, line 28 and page 16, line 12, change "\$1,000" to "\$2,000".

(7) At page 17, line 7, after "candidate" add ", campaign treasurer, deputy campaign treasurer"

--The same change will be made at page 17, line 29; page 21, line 6; and page 21, line 9.

(8) Page 46, line 2, after "Commission" add "executive director and employees of the commission"

2/10/86

PROPOSED AMENDMENTS TO SB 356 RE PENALTIES

(1) At page 23, line 14, change title of Article 5 to read, "VIOLATIONS, PENALTIES, AND PROCEDURES."

(2) Pages 23, line 15 through page 29, line 19, delete sections 230 - 250, replace with the following, and renumber remaining sections accordingly:

Sec. 15.14.230. CAMPAIGN FINANCING VIOLATIONS IN THE FIRST DEGREE. (a) If a person, with intent to avoid disclosure, fails to file a report of contributions or independent expenditures required to be filed 30 days or seven days before an election under AS 15.14.060(b) or AS 15.14.080(b), or within 24 hours after receiving a contribution or making an expenditure under AS 15.14.060(c) or 15.14.080(c), the person is subject to a fine of not less than \$100 nor more than \$300 for each day that the report is due but not filed up to a maximum of \$25,000 for each report.

(b) A person who, with intent to avoid disclosure, files a report of contributions or independent expenditures containing a false or misleading statement as to a contributor, contribution, loan or independent expenditure required to be included in a report under AS 15.14.060(a) or AS 15.14.080(a), is subject to

(1) a fine of not less than \$500 nor more than \$5,000 for each false or misleading statement; and

(2) a fine not to exceed twice the amount of the contribution or independent expenditure concerning which the false or misleading statement was made.

(d) A person who knowingly makes or accepts a contribution in excess of the \$2,000 limitation under AS 15.14.120 or AS 15.14.130 or in excess of the \$25,000 limitation under AS 15.14.130(b) is subject to

(1) a fine of not less than \$1,000 nor more than \$5,000; and

(2) a fine not to exceed twice the amount that the contribution exceeds the limitation.

(e) A person who knowingly makes or accepts a contribution in the form of cash in the aggregate during a year of more than \$100 in violation of AS 15.14.120(a), 15.14.130(a) or 15.14.140, is subject to a fine of not less than \$100 nor more than \$1,000 if the cash contribution is \$500 or less. If the cash contribution is \$500 or more, the commission may impose an additional fine not to exceed twice the amount of the cash contribution.

(f) A person who, with intent to avoid disclosure, makes or accepts a contribution made anonymously, in a fictitious name or in the name of another in violation of AS 15.14.160(a) or (c) is

subject to a fine of not less than \$500 nor more than \$5,000. If the amount of the contribution is \$500 or more, the commission may impose an additional fine not to exceed an amount equal to twice the amount of the contribution.

(g) A person who knowingly accepts a contribution obtained in violation of AS 15.56.025 through a threat of physical force, job discrimination or financial reprisals subject to a fine of not less than \$1,000 nor more than \$10,000.

(h) A person who intentionally solicits or knowingly accepts a contribution obtained from a public employee in a manner prohibited under AS 15.14.210(b) or (c) is subject to a fine of not less than \$500 nor more than \$5,000.

Sec. 15.14.050. CAMPAIGN FINANCING VIOLATIONS IN THE SECOND DEGREE. (a) A person who fails to file a report of contributions or independent expenditures required to be filed 30 days before an election, seven days before an election under AS 15.14.060(b) or 15.14.080(b), or within 24 hours after receiving a contribution or making an expenditure under AS 15.14.060(c) or 15.14.080(c), is subject to a fine of not less than \$25 nor more than \$100 per day for each day the report is due but not filed, up to a maximum fine of \$5,000 for each violation.

(b) A person who fails to file a report, registration or statement required to be filed under this chapter, other than a report described in (a) of this section, is subject to a fine of not less than \$10 nor more than \$100 per day for each day that the report, registration or statement is due but not filed, up to a maximum fine of \$3,000 for each report, registration or statement.

(c) A person who files a report of contributions or independent expenditures containing a false or misleading statement as to a contributor, contribution, loan or independent expenditure required to be included in a report under AS 15.14.060(a) or AS 15.14.080(a), is subject to

(1) a fine of not less than \$50 nor more than \$500 for each false or misleading statement; and

(2) a fine not to exceed the amount of the contribution or independent expenditure concerning which the false or misleading statement was made, if the contribution or independent expenditure is \$500 or more.

(d) A person who makes or accepts a contribution in excess of the \$2,000 limitation under AS 15.14.120 or AS 15.14.130 or in excess of the \$25,000 limitation under AS 15.14.130(b) is subject to

(1) a fine of not less than \$50 nor more than \$500; and

(2) a fine not to exceed the amount that the contribution exceeds the limitation.

(e) A person who makes or accepts a contribution in the form of cash in the aggregate during a year of more than \$100 in violation of AS 15.14.120(a), 15.14.130(a) or 15.14.140, is subject to a fine not to exceed the amount of the contribution.

(f) A person who fails to close a campaign account on or before the date required under AS 15.14.190(a) is subject to a fine of not less than \$25 nor more than \$100 per day for each day that the account should have been but was not closed, up to a maximum of \$2,000 for each violation.

(g) A person who fails to dispose of surplus funds on or before the date required under AS 15.14.200(b).

(h) A person is subject to a fine of not less than \$100 nor more than \$2,000 if the person

(1) solicits or accepts a contribution or makes an expenditure, other than a disposition of surplus funds, after the date that campaign accounts are required to be closed under AS 15.14.190;

(2) uses campaign funds for a purpose not permitted under AS 15.14.180;

(3) uses surplus funds for a purpose not permitted under AS 15.14.200;

(4) acts as a campaign officer and the name of the campaign officers has not been filed with the commission as the holder of the campaign office; or

(5) fails to include in a communication intended to influence the election of a candidate or the outcome of a ballot proposition or question the information required to be included under AS 15.14.220(a) or (b).

(3) Page 29, line 23 through page 30, line 22, delete section 270, "REMOVAL FROM OFFICE."

(4) At page 22, lines 12 - 16, delete subsection (a) (soliciting contributions by physical threats, job discrimination, financial reprisal) and add the following section to AS 15.56 (Election Offenses, Corrupt Practices, and Penalties):

Sec. 15.56.025. UNLAWFUL SOLICITATION OF CONTRIBUTIONS. (a) A person commits the crime of unlawful solicitation of campaign contributions if the person intentionally solicits a campaign contribution through a threat or physical force, job discrimination, or financial reprisal.

(b) Unlawful solicitation of campaign contributions is a Class C felony.

Alaska State Legislature

INTERIM OFFICE
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4714

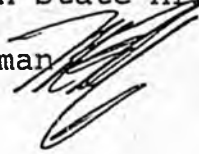


Senator Mitch Abood
CHAIRMAN

Senate Committee on State Affairs

MEMORANDUM

TO: Members of the Committee on State Affairs

FROM: Senator Mitch Abood, Chairman 

DATE: February 3, 1986

SUBJECT: APOC Regulations

This committee and its counsel, Mr. Gross & Ms. Burke, have been working on a comprehensive revision of the campaign financing laws since February of 1985. I might also add, that the APOC, Ms. Pittman and the Department of Law had been with us every step of the way.

In August 1985, we discovered that the APOC intended to make highly questionable deletions and changes to their regulations. Mr. Gross and I asked the APOC to postpone their new regs so that we would not be working at cross purposes with one another. The APOC refused our request.

On November 20, 1985, the Public Offices Commission held a meeting in Anchorage. I obtained a copy of the Commission's agenda, and the information packet put together by the Commission staff. Among the materials was a memorandum to Ms. Pittman from Mr. Monkman, from the Department of Law attached to a copy of the edited APOC regulations. "Edited" is probably the wrong word to use to describe these regs -- "ripped apart" is perhaps closer to truth.

The regulations were pitifully drafted; confusing and illogical. Most of the regulations had no statutory reason to exist. They were written by Mr. Johanson, an employee of the APOC, as a tool for selective enforcement involving two investigations which were ongoing at the time. One of these has since been terminated by a hearing officer.

Page 2

On November 25th, I wrote the APOC on behalf of the committee, notifying them of the committee's intent to exercise its authority by law as their standing committee. The law is clear -- it tells an agency to cease and desist in revising and repealing regulations until the standing committee has reviewed them to determine whether the regulations properly implemented legislative intent.

The APOC never responded to our letter. They simply ignored it.

On January 14th, I received a copy of the new APOC regulations from the Office of the Lt. Governor. They had become effective on January 4th.

It is ironic that a commission which preaches full public disclosure pushes through their regulations without legislative oversight. It is ironic that this commission which selectively subjects certain individuals to 'trial by press' rather than an examination of the facts, will not hesitate to give a litany of excuses for why they fail to obey their own laws.

The employees of the commission find the time to write and distribute press releases on such substantive issues as turning over the name of an individual to the Attorney General for prosecution for failure to pay a \$3.00 fine. However, they refuse to provide the Legislature with an annual report of their own activities as required by statute, and routinely neglect to notify complainants and respondents of commission hearings involving them, as required by their own regulations.

The Alaska Public Offices Commission was created to provide public disclosure and to assist candidates and private citizens in participating in the election process. They were not intended to become a political parole board.

In the campaign disclosure law, a candidate is held responsible for the actions of his or her campaign. The Public Offices Commission should be held equally responsible for the actions of its employees.

MEMORANDUM

State of Alaska

TO: Theda Pittman
Executive Director
Alaska Public Offices Commission
Department of Administration

DATE: January 30, 1986

FILE NO: 366-209-86

TELEPHONE NO: 465-3600

FROM: Harold M. Brown
Attorney General

SUBJECT: SB 356

By: Richard D. Monkman
Assistant Attorney General

You have requested that this office review SB 356, "An Act relating to election campaign financing." This bill is presently before the Senate State Affairs Committee. It is our understanding that a substitute for this bill may be prepared by the House State Affairs Committee, using SB 356 as a starting point.

There are several serious problems, and many minor areas of concern, with SB 356 in its present form. The bill is cleverly worded, with very complex interactions between different sections. As a result, many significant changes to present law are not readily apparent to the casual reader. We are still reviewing the bill and comparing it with present law. The following is, however, the most important of the issues we have identified from the Department of Law's perspective.

Enforcement and Penalties. SB 356 increases the penalties for violation of the disclosure laws. It also significantly decreases the probability that enforcement action will actually take place.

First, all violations which involve "knowing" or "intentional" violation of the disclosure laws are misdemeanors or felonies under SB 356. [AS 15.14.230; AS 15.14.240]. Once the Commission determines that "probable cause to believe a felony or misdemeanor had been committed" it must "promptly refer the matter ... to the attorney general." [AS 15.14.290(c)]. The Commission "may not take further action concerning the matter." [Id.].

As the Commission is well aware, the district attorney offices are swamped with criminal cases involving injury to persons and property. Disclosure cases are highly charged politically and involve relatively small amounts of money. Presently, disclosure cases are very low on any district attorney's list of priorities. There is no reason to believe

Theda Pittman, Executive Director
Alaska Public Offices Commission
File No.: 366-209-86

January 30, 1986
page 3

will require an additional full-time DA, a paralegal, and additional clerical help. 3/

More important from the public perspective will be the delay involved. A public figure charged with a crime will vigorously defend the case, using every means at hand to delay, postpone or defeat the charges. There will be charges of political motives behind every prosecution -- instead of defending against the staff of a bi-partisan, independent Commission, the candidates will be prosecuted by a District attorney responsible to the attorney general, who is appointed by the governor. Cries of connivance and persecution will obscure the issues; the intricacies of the criminal trial process will delay resolution of cases significantly.

In sum, SB 356 drastically limits the Commission's jurisdiction to investigate and administratively prosecute violations of the Campaign Disclosure Act. The administrative process of adjudicating complaints of campaign disclosure violations is swift and relatively inexpensive, and fully protects the rights of those involved to due process of law. In place of this process, SB 356 requires that all intentional violations of the disclosure laws be prosecuted by the Department of Law. This will result in fewer actions to enforce the law, greater delay in those cases filed, and an increasing politicization of the entire process. The end result is to significantly decrease the probability that violations of the disclosure law will be punished.

HMB:RDM:cck

cc: Art Peterson
Regulations Attorney
Department of Law/Juneau

3/ We will prepare a fiscal note concerning these costs. The best rough estimate we have now is about \$190,000. This does not include figures for investigative services of the State Troopers.

Theda Pittman, Executive Director
Alaska Public Offices Commission
File No.: 366-209-86

January 30, 1986
page 3

will require an additional full-time DA, a paralegal, and additional clerical help. 3/

More important from the public perspective will be the delay involved. A public figure charged with a crime will vigorously defend the case, using every means at hand to delay, postpone or defeat the charges. There will be charges of political motives behind every prosecution -- instead of defending against the staff of a bi-partisan, independent Commission, the candidates will be prosecuted by a District attorney responsible to the attorney general, who is appointed by the governor. Cries of connivance and persecution will obscure the issues; the intricacies of the criminal trial process will delay resolution of cases significantly.

In sum, SB 356 drastically limits the Commission's jurisdiction to investigate and administratively prosecute violations of the Campaign Disclosure Act. The administrative process of adjudicating complaints of campaign disclosure violations is swift and relatively inexpensive, and fully protects the rights of those involved to due process of law. In place of this process, SB 356 requires that all intentional violations of the disclosure laws be prosecuted by the Department of Law. This will result in fewer actions to enforce the law, greater delay in those cases filed, and an increasing politicization of the entire process. The end result is to significantly decrease the probability that violations of the disclosure law will be punished.

HMB:RDM:cck

cc: Art Peterson
Regulations Attorney
Department of Law/Juneau

3/ We will prepare a fiscal note concerning these costs. The best rough estimate we have now is about \$190,000. This does not include figures for investigative services of the State Troopers.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 3, 1986

SUBJECT: APOC regulations
(Work Order 14-1709)

TO: Senator Mitch Abood, Chair
Senate State Affairs Committee

FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

You have supplied me with material related to the adoption, repeal, and amendment of certain regulations of the Alaska Public Offices Commission effective January 4, 1986. It is my understanding that Senator Abood notified APOC on November 25, 1985 that the State Affairs Committee intended to review the proposed regulations. It is also my understanding that APOC did not respond to this letter or supply the committee with copies of the proposed regulations as they went through their various drafts. You have asked whether adoption of these regulations under these circumstances violates the law.

APOC is established in the Department of Administration under AS 15.13.020. Under Uniform Rule 20 of the Alaska State Legislature the State Affairs Committee has jurisdiction over the programs and activities of the Department of Administration. APOC is required to comply with the Administrative Procedure Act (AS 44.62) for purposes of adopting regulations. (AS 15.13.030(10)) Under AS 44.62.190(a)(7) at least 30 days before adoption, amendment, or repeal of a regulation, notice of the proposed action is to be

furnished to the standing committee of each house of the legislature having legislative jurisdiction over the subject matter treated by the regulation under the Uniform Rules of the Alaska State Legislature, together with a copy of the proposed regulation, amendment or order or repeal for the committee's use in conducting the review authorized by AS 24.05.182. . .

Senator Mitch Abood
Page 2
February 3, 1986

Under the facts as I understand them to be notice required under AS 44.62.190(a)(7) was not furnished to the Senate State Affairs Committee. Arguably, notice of the proposed action should have been provided to Senator Abood under AS 44.62.190(a)(2) and (a)(6) as well. It is my conclusion that APOC did not comply with the notice requirements of AS 44.62.190 when it adopted amended, and repealed certain regulations effective January 4, 1986.

It should be noted that failure to comply with AS 44.62.190(a) does not invalidate the regulatory actions taken by an agency. Subsection (c) specifically provides:

The failure to mail notice to a person as provided in this section does not invalidate an action taken by an agency under AS 44.62.180 - 44.62.290.

TBC:mkr
M2:130

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

BILL SHEFFIELD, GOVERNOR

REPLY TO:

- 610 C STREET, SUITE 211
ANCHORAGE, ALASKA 99501-3588
(907) 276-4176
- JUNEAU BRANCH OFFICE
POUCH CO
JUNEAU, ALASKA 99811-0222
(907) 485-4864

February 3, 1986 - Hand-Carried

The Honorable Mitch Abood
Senate State Affairs

Dear Senator Abood:

On Friday afternoon, Tammy conveyed to me your request for an itemized list of sections in SB 356 with which the Commission is concerned. In my telephone poll of Commission members last week, the questions raised by Mr. Monahan were a major concern. The Commissioners felt it was impractical to adopt provisions for felony and misdemeanor prosecutions without in turn providing resources for their enforcement.

Since SB 356 was the first time a contribution limitation was included in the Committee's proposals, I specifically asked the Commissioners their feelings about "\$2,000" and naming of contributors of "\$250 or more." There is no longer the support for these changes which existed prior to the 1982 and 1984 elections. Even members who would not personally object, believe that the rising costs of campaigns and increased public concern make passage of an increased limit inadvisable.

The proposal to change the threshold for naming contributors from "more than \$100" to "\$250 or less" has some support among the Commission members as deserving of more discussion. Others think it should be discarded. My sense is that a Commission position on that issue would depend on the other provisions in a bill under consideration.

Additionally, Commission members individually indicated they were opposed to the provisions which undermine the disclosure of those soliciting and collecting money, which require only pre-election expenditure reporting, and which require 24 Hour Reports only at the \$500 level.

While I expect the Commission's detailed review of SB 356 will add to the foregoing, most items have been raised earlier, either with the Committee at its October meeting or with Mr. Gross and Ms. Burke.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

Theda Pittman

Theda Pittman
Executive Director

cc: APOC Members
Marsha Hubbard

MEMORANDUM

State of Alaska

TO: Bruce Botelho
Deputy Commissioner, Taxation
Department of Revenue

DATE: December 17, 1985

FILE NO: 366-221-86

TELEPHONE NO: 465-3600

FROM: Harold M. Brown
Attorney General

SUBJECT: Political tax credit
payments to minors

By: Richard D. Monkman
Assistant Attorney General

You have requested our opinion on whether the Department of Revenue may deny claims for individual political contribution credits made by parents "on behalf" of minors as young as six months old. The answer is yes.

The individual tax credit may be claimed only for contributions to campaigns for elective office in Alaska (state or federal), for contributions to groups seeking to influence the outcome of a ballot proposition in Alaska, and for contributions to groups organized primarily for the purpose of influencing elections in Alaska. AS 43.20.013. Any contribution in these three categories would necessarily fall under the Campaign Disclosure Act, AS 15.13.010.

The disclosure statutes prohibit contributions made anonymously or in the name of another person. AS 15.13.-120(a)(4). Violation is a misdemeanor, punishable by imprisonment for up to a year and a fine of up to \$5,000. *Id.* Additionally, a campaign or group which accepted contributions made on behalf of another person is subject to civil fines. AS 15.13.125. The Alaska Public Offices Commission has, by regulation, provided:

* If a minor makes a contribution of money or anything of value given to the minor by a parent for that purpose, the parent has made a contribution in the name of another.

2 AAC 50.357(d).

A contribution made by a parent "on behalf" of a minor is presumptively in violation of the Campaign Disclosure Act, and would be an illegal contribution. The Department of Revenue may

* Note - effective date of new regulations was 1-4-86

Bruce Botelho, Deputy Commissioner
Department of Revenue
366-221-86

December 17, 1985
Page 2

not grant claims for tax credits based on illegal contributions, and thus these claims should be denied. */

The Audit Division's practice of responding to questions about contribution by minors by stating that (1) the minor must use "their own money," and (2) the minor must make the decision to contribute, uses the appropriate analysis. In determining whether contributions are made with the minor's "own money," the department might look to indicia such as the name on the checking account, the name on the receipt for the contribution, or whether the contribution was made with PFD money claimed by the parent.

The question of whether the minor made the decision to contribute, rather than the parent, is likely to be more difficult. You have asked whether the department "[m]ay deny claims made by persons under the age of eighteen" as a blanket rule. While administratively this would be the easiest course of action, AS 43.23.013 states that "a resident individual is entitled to a tax credit" for contributions and does not provide an age limitation. Reading this statute in harmony with the Campaign Disclosure Act leads us to conclude that the department could certainly require claims made by unemancipated minors to be supported by affidavit or other documentation sufficient to prove that the decision to contribute was the minor's, and not the parent's. A blanket ban would probably go too far.

HMB:RDM:cck

cc: Ervin Jones, Director
Administrative Services
Department of Revenue

Theda S. Pittman, Executive Director
Alaska Public Offices Commission
Anchorage

*/ In this regard, we note that parents of unemancipated minors must sign the minor's Permanent Fund Dividend application, and "may claim" the dividend "on behalf" of the minor. AS 43.23.-005(c); AS 43.23(d). A contribution using the minor's PFD money and made at the discretion of the parent would violate the Campaign Disclosure Act.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Administration	DIVISION Public Offices Commis.	BILL NUMBER SB 356	SPONSOR State Affairs
DEPARTMENT POSITION Does Not Support			
PREPARED BY Theda Pittman, Exec. Dir. APOC	DATE 1/28/86	COMMISSIONER'S SIGNATURE	DATE

SUMMARY

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUPS AFFECTED BY BILL
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

This is the culmination of contractual work performed by Gross & Burke under a contract let by Senate State Affairs last spring. The stated purpose was a comprehensive revision of AS 15.13, the Campaign Disclosure Law. The contractor recommended repeal of any limit on contributions to a candidate from persons. That proposal was finally rejected officially by the Committee only recently.

ANALYSIS OF BILL/PROGRAM EFFECTS

See attached position paper.

Any proposal for such extensive changes represents substantial work for the Commission in familiarizing itself with the changes, interpreting the new requirements, amending regulations as necessary, and preparing information/instructional materials for those who must comply. The numerous problem areas in the bill would undermine the Commission's efforts at effective enforcement.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

POSITION PAPER
SB 356

This legislation is a complete revision of the Campaign Disclosure Law, replacing AS 15.13 with a new chapter, AS 15.14. Major features include:

- increase to \$2,000 the allowable contribution to a candidate;
- limit to \$1,000 the allowable contribution to a political group other than a political party;
- limit to \$25,000 per year the allowable contributions by a political group other than a political party;
- specify that expenditure reporting by candidates is not due until after the election;
- raise threshold for disclosing contributor names from "more than \$100" to "\$250 or more;"
- require identifying information only for contributors who are individuals;
- establish felony level violations;
- require termination of candidate campaigns; and
- specify allowable uses of a campaign surplus.

These changes would affect approximately 200 state candidates, 350 municipal candidates in 24 municipalities, over 250 political groups, and their major contributors. The quantity and quality of campaign disclosure information available to the public would also be affected.

The most positive aspects of the Legislation are those which: clarify the registration requirements of candidates and groups; limit the activity of Political Action Committees; and those which specify the use of campaign funds, the termination of accounts, and the disposal of surplus funds.

Unfortunately, there are numerous provisions of the Legislation which are flawed. Examples of problem areas include a higher burden of proof and of criminal intent than those used elsewhere in Alaska law, contradictory provisions concerning the solicitation and receipt of contributions, and restrictive time limitations on investigations. The Department does not support SB 356 because of the numerous provisions which would hamper effective enforcement.


Exec. Dir., Public Offices Commission

1/30/86
Date


Commissioner Eleanor Andrews
Department of Administration

1/30/86
Date

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB 356
 Title : An act relating to election
campaign financing
 Sponsor : State Affairs
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Administration
 BRU : Alaska Public Offices Commis-
sion
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	153.0	160.0	95.0	95.0	95.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	153.0	160.0	95.0	95.0	95.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	153.0	160.0	95.0	95.0	95.0
FEDERAL FUNDS						
OTHER						
TOTAL	0	153.0	160.0	95.0	95.0	95.0

POSITIONS :	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

FY87-FY91: RSA with Dept. of Law for Attorney & Part-time Secretary,
 FY87 & FY88 Only: Contractural services for computer program adaptation and
 instruction materials/forms design and drafting.

Prepared by : Theda Pittman *Theda Pittman* Phone : 276-4176
 Division : Alaska Public Offices Commission Date : 1/30/86
 Approved by Commissioner : Eleanor Andrews *Eleanor Andrews* Date : _____
 Agency : Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

PROPOSED AMENDMENTS TO SB 356 RE PENALTIES

(1) At page 23, line 14, change title of Article 5 to read, "VIOLATIONS, PENALTIES, AND PROCEDURES."

(2) Pages 23, line 15 through page 29, line 19, delete sections 230 - 250, replace with the following, and renumber remaining sections accordingly:

Sec. 15.14.230. CAMPAIGN FINANCING VIOLATIONS IN THE FIRST DEGREE. (a) If a person, with intent to avoid disclosure, fails to file a report of contributions or independent expenditures required to be filed 30 days or seven days before an election under AS 15.14.060(b) or AS 15.14.080(b), or within 24 hours after receiving a contribution or making an expenditure under AS 15.14.060(c) or 15.14.080(c), the person is subject to a fine of not less than \$100 nor more than \$300 for each day that the report is due but not filed up to a maximum of \$25,000 for each report.

(b) A person who, with intent to avoid disclosure, files a report of contributions or independent expenditures containing a false or misleading statement as to a contributor, contribution, loan or independent expenditure required to be included in a report under AS 15.14.060(a) or AS 15.14.080(a), is subject to

(1) a fine of not less than \$500 nor more than \$5,000 for each false or misleading statement; and

(2) a fine not to exceed twice the amount of the contribution or independent expenditure concerning which the false or misleading statement was made.

(d) A person who knowingly makes or accepts a contribution in excess of the \$2,000 limitation under AS 15.14.120 or AS 15.14.130 or in excess of the \$25,000 limitation under AS 15.14.130(b) is subject to

(1) a fine of not less than \$1,000 nor more than \$5,000; and

(2) a fine not to exceed twice the amount that the contribution exceeds the limitation.

(e) A person who knowingly makes or accepts a contribution in the form of cash in the aggregate during a year of more than \$100 in violation of AS 15.14.120(a), 15.14.130(a) or 15.14.140, is subject to a fine of not less than \$100 nor more than \$1,000 if the cash contribution is \$500 or less. If the cash contribution is \$500 or more, the commission may impose an additional fine not to exceed twice the amount of the cash contribution.

(f) A person who, with intent to avoid disclosure, makes or accepts a contribution made anonymously, in a fictitious name or in the name of another in violation of AS 15.14.160(a) or (c) is

subject to a fine of not less than \$500 nor more than \$5,000. If the amount of the contribution is \$500 or more, the commission may impose an additional fine not to exceed an amount equal to twice the amount of the contribution.

(g) A person who knowingly accepts accepts a contribution obtained in violation of AS 15.56.025 through a threat of physical force, job discrimination or financial reprisals subject to a fine of not less than \$1,000 nor more than \$10,000.

(h) A person who intentionally solicits or knowingly accepts a contribution obtained from a public employee in a manner prohibited under AS 15.14.210(b) or (c) is subject to a fine of not less than \$500 nor more than \$5,000.

Sec. 15.14.050. CAMPAIGN FINANCING VIOLATIONS IN THE SECOND DEGREE. (a) A person who fails to file a report of contributions or independent expenditures required to be filed 30 days before an election, seven days before an election under AS 15.14.060(b) or 15.14.080(b), or within 24 hours after receiving a contribution or making an expenditure under AS 15.14.060(c) or 15.14.080(c), is subject to a fine of not less than \$25 nor more than \$100 per day for each day the report is due but not filed, up to a maximum fine of \$5,000 for each violation.

(b) A person who fails to file a report, registration or statement required to be filed under this chapter, other than a report described in (a) of this section, is subject to a fine of not less than \$10 nor more than \$100 per day for each day that the report, registration or statement is due but not filed, up to a maximum fine of \$3,000 for each report, registration or statement.

(c) A person who files a report of contributions or independent expenditures containing a false or misleading statement as to a contributor, contribution, loan or independent expenditure required to be included in a report under AS 15.14.060(a) or AS 15.14.080(a), is subject to

(1) a fine of not less than \$50 nor more than \$500 for each false or misleading statement; and

(2) a fine not to exceed the amount of the contribution or independent expenditure concerning which the false or misleading statement was made, if the contribution or independent expenditure is \$500 or more.

(d) A person who makes or accepts a contribution in excess of the \$2,000 limitation under AS 15.14.120 or AS 15.14.130 or in excess of the \$25,000 limitation under AS 15.14.130(b) is subject to

(1) a fine of not less than \$50 nor more than \$500; and

(2) a fine not to exceed the amount that the contribution exceeds the limitation.

(e) A person who makes or accepts a contribution in the form of cash in the aggregate during a year of more than \$100 in violation of AS 15.14.120(a), 15.14.130(a) or 15.14.140, is subject to a fine not to exceed the amount of the contribution.

(f) A person who fails to close a campaign account on or before the date required under AS 15.14.190(a) is subject to a fine of not less than \$25 nor more than \$100 per day for each day that the account should have been but was not closed, up to a maximum of \$2,000 for each violation.

(g) A person who fails to dispose of surplus funds on or before the date required under AS 15.14.200(b).

(h) A person is subject to a fine of not less than \$100 nor more than \$2,000 if the person

(1) solicits or accepts a contribution or makes an expenditure, other than a disposition of surplus funds, after the date that campaign accounts are required to be closed under AS 15.14.190;

(2) uses campaign funds for a purpose not permitted under AS 15.14.180;

(3) uses surplus funds for a purpose not permitted under AS 15.14.200;

(4) acts as a campaign officer and the name of the campaign officers has not been filed with the commission as the holder of the campaign office; or

(5) fails to include in a communication intended to influence the election of a candidate or the outcome of a ballot proposition or question the information required to be included under AS 15.14.220(a) or (b).

(3) Page 29, line 23 through page 30, line 22, delete section 270, "REMOVAL FROM OFFICE."

(4) At page 22, lines 12 - 16, delete subsection (a) (soliciting contributions by physical threats, job discrimination, financial reprisal) and add the following section to AS 15.56 (Election Offenses, Corrupt Practices, and Penalties):

Sec. 15.56.025. UNLAWFUL SOLICITATION OF CONTRIBUTIONS. (a) A person commits the crime of unlawful solicitation of campaign contributions if the person intentionally solicits a campaign contribution through a threat or physical force, job discrimination, or financial reprisal.

(b) Unlawful solicitation of campaign contributions is a Class C felony.



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/24/89
Date

S B

3 7 2

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 29, 1986

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to eligibility for service in the militia of the state. The bill amends AS 26.05.010(a) to remove from the statutes an age ceiling for eligibility in the Alaska State Militia. AS 26.05.010(a) currently states that "able-bodied citizens" between 17 and 59 years of age, with certain other qualifications, comprise the militia of the state.

The Alaska National Guard, the Alaska Naval Militia, and the Alaska State Militia (sometimes referred to as the Alaska State Guard) are all components of the organized "militia of the state." It is felt that many Alaskans beyond age 59 are capable of participation in the Alaska State Militia component of the militia. Rather than setting a special statutory age limit for that component, it is more appropriate to remove the 59-year age limit from the statute, and authorize the adjutant general to adopt regulations setting the appropriate maximum age for eligibility for the Alaska State Militia. The statutory age limits for the other components of the militia remain, although in slightly different form.

Section 2 of the bill merely amends AS 26.23.230(7) to assure consistency among the provisions, in two different AS chapters, pertaining to the unorganized militia.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No.: SB 372
 Title : Law Log #377-014-86

Sponsor : Governor
 Requestor : Military & Veterans Affairs
 Date of Request : January 20, 1986

FISCAL DETAIL

Agency Affected: Military & Veterans Affairs
 BRU: Alaska National Guard

Components: Office of the Adjutant General

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	

CAPITAL	-0-	-0-	-0-	-0-	-0-	
----------------	------------	------------	------------	------------	------------	--

REVENUE	-0-	-0-	-0-	-0-	-0-	
----------------	------------	------------	------------	------------	------------	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

This bill would extend the age limit from 60 years to 70 years for members of the Alaska State Militia which is manned by volunteers.

Prepared by: Richard L. Rountree
 Division: Administrative & Support Services

Phone: 465-4600
 Date: 21 January 1986

Approved by Commissioner: Edward G. Pagano
 Agency: Dept. of Military & Veterans Affairs

Date: 23 January 1986

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James A. Smith
Signature of Camera Operator

11/24/89
Date

S B

3 7 8

Please Note

Introduced: 1/31/86
Referred: State Affairs,
Judiciary and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 378

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act placing certain physicians employed by the
7 Department of Corrections in the exempt service; and
8 providing for an effective date."

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

10 * Section 1. AS 39.25.110(13) is amended to read:

11 (13) physicians licensed to practice in this state and employed
12 by the division of mental health and developmental disabilities,
13 Department of Health and Social Services, and physicians employed by
14 the Department of Corrections in connection with public programs
15 administered by the United States Department of Health and Human
16 Services;

17 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).

Waive - Tues morning Session



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/24/89
Date

S B

3 8 0

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 380

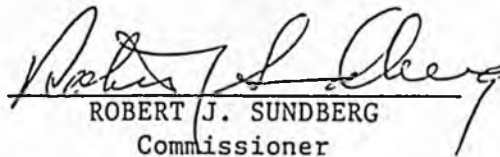
Support

February 10, 1986

SB 380 An Act relating to commercial vehicle financial responsibility.

The current requirements of liability insurance for motor carriers have made it very difficult and costly for many commercial vehicle owners to obtain insurance coverage. Insurance agents have reported the current limits do not conform to industry standard costs. Most insurance companies offer what is called Combined Single Limit coverage which combines both bodily injury and property damage under a single limit. Many agents cannot offer the existing required coverage of \$700,000.

A Combined Single Limit of \$500,00 coverage would probably be the minimum requirement sought by the Department through regulation.


ROBERT J. SUNDBERG
Commissioner

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SB-380
 Title : An Act relating to commercial
 vehicle financial responsibility...
 Sponsor : Rules Committee/Governor
 Requestor : Senate State Affairs
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Motor Vehicles
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : John H. Lucking, Director
 Division : Motor Vehicles

Phone : 269-5551
 Date : 2/6/86

Approved by Commissioner : [Signature]
 Agency : Public Safety

Date : 2/10/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 380

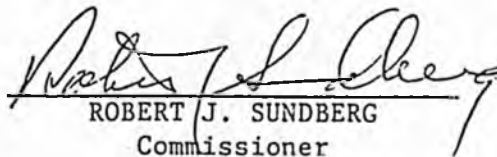
Support

February 10, 1986

SB 380 An Act relating to commercial vehicle financial responsibility.

The current requirements of liability insurance for motor carriers have made it very difficult and costly for many commercial vehicle owners to obtain insurance coverage. Insurance agents have reported the current limits do not conform to industry standard costs. Most insurance companies offer what is called Combined Single Limit coverage which combines both bodily injury and property damage under a single limit. Many agents cannot offer the existing required coverage of \$700,000.

A Combined Single Limit of \$500,00 coverage would probably be the minimum requirement sought by the Department through regulation.


ROBERT J. SUNDBERG
Commissioner

(B) a state or local government vehicle of more than 10,000 pounds unladen gross weight;

(C) a truck or bus of more than 10,000 pounds unladen gross weight; or

(D) a trailer of 5,000 pounds or more unladen gross weight attached to a vehicle described in (C) of this paragraph;

(2) "commercial purposes" means activities for which a person receives direct monetary compensation or activities for which a person receives no direct monetary compensation but are incidental to and done in furtherance of the person's primary business;

(3) "division" means the division of motor vehicles, Department of Public Safety. (§ 3 ch 104 SLA 1985)

Chapter 33. Commercial Motor Vehicle Financial Responsibility.

Section

10. Financial responsibility

Effective date of chapter. — Section effective June 13, 1985, in accordance with AS 01.10.070(c).

Sec. 28.33.010. Financial responsibility. (a) A person who carries passengers or freight for hire intrastate in a commercial motor vehicle or a person who carries freight in a motor vehicle for commercial purposes, or a person who rents or leases a motor vehicle for the use of another to carry freight shall procure and maintain security in the following minimum amounts:

- (1) \$200,000 for property damage in a single occurrence;
- (2) \$500,000 for bodily injury or death in a single occurrence.

(b) Evidence of security required under (a) of this section shall be filed with the department and must be

- (1) a policy or certificate of insurance issued by an insurer acceptable to the department; or
- (2) a bond of a surety company licensed to write surety bonds in the state; or
- (3) evidence accepted by the department, showing ability to self-insure; or
- (4) other security approved by the department.

(c) The department may authorize department personnel to enforce this section and may adopt procedural regulations necessary to implement this section.

(d) A pol
not be can
ment. This
endorseme
responsibil
measured f

(e) A per
misdemean
than \$1,000

(f) In thi
of whatever

- Article
- 2. Operating
- 3. Reckless ar

Article

- Section
- 31. Implied co

Sec. 28.1
while into:

Nyquil ar
cough medic
quors within
of that phras
conviction of
Lambert v. S
(File No. A-40
Request
breathalyzer
judge's findin
of driving whi
pal code, did
taking the
where he ne
attorney but
need an attor
ing the concl
needed an att
not because f
mitting to a
clearly error
judge should
tion. Anchor
No. 417 (Fil
(1984).

ENT § 28.33.010

re than 10,000 pounds

ounds unladen gross

gross weight attached

for which a person

sies for which a person

are incidental to and

ness;

hicles, Department of

hicle Financial

13, 1985, in accordance
70(c).

) A person who car-
a commercial motor
a motor vehicle for
ases a motor vehicle
ocure and maintain

urrence;

le occurrence.

this section shall be

ed by an insurer

surety bonds in the

ving ability to self-

ersonnel to enforce

tions necessary to

§ 28.35.030

MOTOR VEHICLES

§ 28.35.030

(d) A policy of insurance, surety bond, or other form of security may not be cancelled on less than 30 days' written notice to the department. This requirement must be clearly stated in the policy or endorsement for an insurance policy submitted as proof of financial responsibility under AS 42.30.225(a)(1). The 30-day notice period is measured from the date on which the departr receives notice.

(e) A person who violates (a) of this sect' s guilty of a class B misdemeanor and is punishable by a fine of no. less than \$500 or more than \$1,000.

(f) In this section "freight" means commodities, articles, and cargo, of whatever nature or value. (§ 4 ch 104 SLA 1985)

Chapter 35. Miscellaneous Provisions.

Article

2. Operating While Intoxicated; Implied Consent (§ 28.35.031)

3. Reckless and Negligent Driving (§ 28.35.045)

Article 2. Operating While Intoxicated; Implied Consent.

Section

31. Implied consent

Sec. 28.35.030. Operating a vehicle, aircraft or watercraft while intoxicated.

NOTES TO DECISIONS

Nyquil and terpin hydrate, two cough medicines, are intoxicating liquors within the common understanding of that phrase and can be the basis for a conviction of driving while intoxicated. *Lambert v. State*, Ct. App. Op. No. 441 (File No. A-403), 694 P.2d 791 (1985).

Request for counsel before breathalyzer test. — District court judge's finding that defendant, convicted of driving while intoxicated under municipal code, did not request counsel prior to taking the breathalyzer examination where he never asked to speak to an attorney but asked whether he might need an attorney, with testimony supporting the conclusion that he wondered if he needed an attorney in order to make bail, not because he wanted advice about submitting to a breathalyzer exam, was not clearly erroneous, and superior court judge should not have reversed the conviction. *Anchorage v. Erickson*, Ct. App. Op. No. 417 (File No. A-512), 690 P.2d 20 (1984).

Right to counsel before breathalyzer test.

It is only where the totality of the arrestee's words constitute a request, express or implied, for an opportunity to contract counsel for the purpose of discussing a breathalyzer examination that an opportunity to consult counsel must be provided prior to administration of the breathalyzer. Once the breathalyzer examination is completed or refused and videotaping finished, the suspect is entitled to the full use of the rights guaranteed by AS 12.25.150(b) and Criminal Rule 5(b). *Van Wormer v. State*, Ct. App. Op. No. 473 (File No. A-320), P.2d (1985), summarizing *Copelin v. State*, 659 P.2d 1206 (Alaska 1983), *Svedlund v. Anchorage*, 671 P.2d 378 (Alaska App. 1983), and *Anchorage v. Erickson*, 690 P.2d 20 (Alaska App. 1984).

Where the judge determined, based on the evidence, that the DWI defendant's statements regarding having somebody



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/24/89
Date

S B

3 0 9 1

Introduced: 4/2/86
Referred: State Affairs
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 391

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.

13 Sec. 39.52.010. DECLARATION OF POLICY. (a) It is declared (1)
14 that high moral and ethical standards among public officers in the
15 executive branch are essential to the conduct of free government; and
16 (2) that the legislature believes that a code of ethics for the guid-
17 ance of public officers will discourage those officers from acting
18 upon personal or financial interests in the performance of their
19 public responsibilities, will improve standards of public service, and
20 will promote and strengthen the faith and confidence of the people of
21 this state in their public officers. It is further declared that
22 holding public office or employment is a public trust and that as one
23 safeguard of that trust, the people require public officers to adhere
24 to a code of ethics.

25 (b) The legislature recognizes that it may be necessary for
26 public officers who may have potentially conflicting public respon-
27 sibilities to serve on state boards and commissions. The legislature
28 declares that it is the policy of the state that the holding of two or
29 more such offices does not constitute the holding of incompatible
S

COMMITTEE COPY

1 offices, unless expressly prohibited by the Alaska Constitution, this
2 chapter, or another statute.

3 ARTICLE 2. CODE OF ETHICS.

4 Sec. 39.52.110. SCOPE OF CODE. (a) The legislature reaffirms
5 that each public officer holds office as a public trust, and any
6 effort to benefit a personal or financial interest through official
7 action is a violation of that trust. This chapter, however, does not
8 prevent an officer from accepting other employment or following a pur-
9 suit that does not interfere with the full and faithful discharge of
10 the officer's public duties and responsibilities. The legislature
11 further recognizes that

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

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

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

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

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

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

29 (c) The attorney general, designated supervisors, hearing

1 officers, and the personnel board must be guided by this section when
2 issuing opinions and reaching decisions.

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

7 (b) A public officer may not

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

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

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

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

18 ~~(5) engage in a close economic association with a subordi-~~
19 ~~nate;~~

20 ~~(6) directly solicit a subordinate for the purpose of~~
21 ~~selling products or services; or~~ ^{of a substantial nature}

22 (7) attempt to benefit a personal or financial interest
23 through coercion of a subordinate.

24 Sec. 39.52.130. IMPROPER GIFTS OR BENEFITS. (a) A public
25 officer may not solicit, accept, or receive, directly or indirectly, a
26 gift or benefit, whether in the form of money, service, loan, travel,
27 entertainment, hospitality, employment, promise, or in any other form,
28 under circumstances in which it could reasonably be inferred that the
29 gift or benefit is intended to influence the performance of official

1 duties, actions, or judgment. Nothing in this subsection precludes
2 the acceptance of travel or hospitality given to a public officer to
3 aid or assist in the performance of official duties if the officer's
4 designated supervisor determines that acceptance does not interfere
5 with the full and faithful discharge of the officer's public duties
6 and responsibilities.

7 (b) Notice of the receipt by a public officer of a gift or
8 benefit with a value in excess of \$50, including the name of the giver
9 and a description of the gift or benefit and its approximate value,
10 must be provided to the designated supervisor within 30 days after the
11 date of its receipt if the public officer may take or withhold offi-
12 cial action that benefits the giver.

13 (c) In accordance with AS 39.52.240, a designated supervisor may
14 request guidance from the attorney general concerning whether accep-
15 tance of a particular gift or benefit is prohibited.

16 (d) The restrictions relating to gifts or benefits imposed by
17 this section do not apply to a campaign contribution to a candidate
18 for elective office if the contribution complies with laws and regu-
19 lations governing elections and campaign disclosure.

20 Sec. 39.52.140. IMPROPER USE OR DISCLOSURE OF INFORMATION. (a)
21 A current or former public officer may not disclose or use information
22 gained in the course of, or by reason of, the officer's official
23 duties that could in any way result in the receipt of any benefit for
24 the officer or an immediate family member, if the information has not
25 also been communicated to the public.

26 (b) A current or former public officer may not disclose or use,
27 without appropriate authorization, information acquired in the course
28 of official duties that is confidential by law.

29 Sec. 39.52.150. IMPROPER INFLUENCE IN STATE GRANTS, CONTRACTS,

1 LEASES, OR LOANS. (a) A public officer, or an immediate family
2 member, may not attempt to acquire, receive, apply for, be a party to,
3 or have a personal or financial interest in a state grant, contract,
4 lease, or loan if the public officer may take or withhold official
5 action that affects the award, execution, or administration of the
6 state grant, contract, lease, or loan.

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

10 (1) is employed by the administrative unit awarding the
11 grant, contract, or lease or is employed by the administrative unit
12 for which the grant, contract, or lease is let; or

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

15 (c) The prohibition in (a) of this section does not apply to a
16 state loan if

17 (1) the public officer does not take or withhold official
18 action that affects the award, execution, or administration of the
19 loan held by the officer, or an immediate family member;

20 (2) the loan is generally available to members of the
21 public; and

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

23 (d) A public officer shall report in writing to the designated
24 supervisor a personal or financial interest held by the officer, or an
25 immediate family member, in a state grant, contract, lease, or loan
26 that is awarded, executed, or administered by the agency the officer
27 serves.

28 Sec. 39.52.160. IMPROPER REPRESENTATION. (a) A public officer
29 may not represent, advise, or assist a person in any matter pending

1 before the administrative unit that the officer serves, if the rep-
2 resentation, advice, or assistance is


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

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

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

10 (c) This section does not preclude a non-salaried member of a
11 board or commission from representing, advising, or assisting in any
12 matter in which the member has a personal or financial interest reg-
13 ulated by the board or commission on which the member serves, except
14 that the member must act in accordance with AS 39.52.220.

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

20 (b) A public employee rendering services for compensation or
21  engaging in employment outside the employee's agency, shall quarterly
22 report the outside employment activities to the employee's designated
23 supervisor.

24 Sec. 39.52.180. RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE
25 SERVICE. (a) A public officer who leaves state service may not, for
26 two years after leaving state service, represent, advise, or assist a
27 person for compensation regarding a matter that was under considera-
28 tion by the administrative unit served by that public officer, and in
29 which the officer participated personally and substantially through

1 the exercise of official action. For the purposes of this subsection,
2 "matter" includes a case, proceeding, application, contract, or deter-
3 mination, but does not include the proposal or consideration of legis-
4 lative bills, resolutions and constitutional amendments, or other
5 legislative measures; or the proposal, consideration, or adoption of
6 administrative regulations.

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

10 (c) The head of an agency may waive application of (a) of this
11 section after determining that representation by a former public
12 officer is not adverse to the public interest. The waiver must be in
13 writing and a copy of the waiver must be provided to the attorney
14 general for approval or disapproval.

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

18 ARTICLE 3. DISCLOSURE AND ACTION TO PREVENT
19 VIOLATION OF CODE.

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

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

25 (2) immediately disclose the matter in writing to the
26 designated supervisor.

27 (b) A public employee's designated supervisor shall make a
28 written determination whether an employee's involvement violates
29 AS 39.52.110 -- 39.52.190. If the supervisor determines that a

1 violation could exist or will occur, the supervisor shall,

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

4 (2) direct the divestiture or removal by the employee of
5 the personal or financial interests that give rise to the potential
6 violation.

7 (c) In accordance with AS 39.52.240, a designated supervisor may
8 request guidance from the attorney general concerning whether a public
9 employee is involved in a matter that may result in a violation of
10 AS 39.52.110 -- 39.52.190.

11 Sec. 39.52.220. DECLARATION OF POTENTIAL VIOLATIONS BY MEMBERS
12 OF BOARDS OR COMMISSIONS. (a) A member of a board or commission who
13 is involved in a matter that may result in a violation of AS 39.52.110
14 -- 39.52.190 shall disclose the matter on the public record and in
15 writing to the designated supervisor. The supervisor shall determine
16 whether the member's involvement violates AS 39.52.110 -- 39.52.190.
17 If a member of the board or commission objects to the ruling of the
18 supervisor, or if the supervisor discloses an involvement requiring a
19 determination, the members present at a meeting, excluding the in-
20 volved member, shall vote on the matter. If the supervisor or a
21 majority of the members voting determine that a violation will exist
22 if the member continues to participate, the member shall refrain from
23 voting, deliberating, or participating in the matter.

24 (b) In accordance with AS 39.52.240, the designated supervisor
25 or the board or commission may request guidance from the attorney
26 general concerning whether a member of a board or commission is in-
27 volved in a matter that may result in a violation of AS 39.52.110 --
28 39.52.190.

29 Sec. 39.52.230. REPORTING OF POTENTIAL VIOLATIONS. A person may

1 report to a public officer's designated supervisor, under oath and in
2 writing, a potential violation of AS 39.52.110 -- 39.52.190 by the
3 public officer. The supervisor shall provide a copy of the report to
4 the officer who is the subject of the report, and shall review the
5 report to determine whether a violation may exist. The supervisor
6 shall act in accordance with AS 39.52.210 or 39.52.220 if the supervi-
7 sor determines that the matter may result in a violation of AS 39.52.-
8 110 -- 39.52.190.

9 Sec. 39.52.240. ADVISORY OPINIONS. (a) Upon the written re-
10 quest of a designated supervisor or a board or commission, the attor-
11 ney general may issue opinions interpreting this chapter. The re-
12 quester must supply any additional information requested by the attor-
13 ney general in order to issue the opinion. Within 60 days after
14 receiving a complete request, the attorney general shall issue an
15 advisory opinion on the question.

16 (b) The attorney general may offer oral advice if delay would
17 cause substantial inconvenience or detriment to the requesting party.

18 (c) The designated supervisor or a board or commission shall
19 make a written determination based on the advice of the attorney
20 general. If the advice of the attorney general provides more than one
21 way for a public officer to avoid or correct a problem found under
22 AS 39.52.110 -- 39.52.190, the designated supervisor or the board or
23 commission shall determine the alternative that is most appropriate
24 and advise the officer of any action required of the officer to avoid
25 or correct the problem.

26 (d) A public officer is not liable under this chapter for any
27 action carried out in accordance with a determination made under
28 AS 39.52.210 -- 39.52.240 if the officer fully disclosed all relevant
29 facts reasonably necessary to the determination.

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

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

6 (g) A request for advice made under this section is confiden-
7 tial.

8 (h) The attorney general shall publish ^{selected} the advisory opinions in
9 the Alaska Administrative Journal, with sufficient deletions to pre-
10 vent disclosure of the persons whose identities are confidential under
11 (g) of this section.

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

17 (b) A former public officer is not liable under this chapter for
18 any action carried out in accordance with the advice of the attorney
19 general issued under this section, if the public officer fully dis-
20 closed all relevant facts reasonably necessary to the issuance of the
21 advice.

22 Sec. 39.52.260. DESIGNATED SUPERVISOR'S REPORT AND ATTORNEY
23 GENERAL REVIEW. (a) A designated supervisor shall quarterly submit a
24 report to the attorney general which states the facts, circumstances,
25 and disposition of any disclosure made under AS 39.52.210 --
26 39.52.240.

27 (b) The attorney general shall review determinations reported
28 under this section. The attorney general may request additional
29 information from a supervisor concerning a specific disclosure and its

1 disposition.

2 (c) The report prepared under this section is confidential and
3 not available for public inspection unless formal proceedings under
4 AS 39.52.350 are initiated based on the report. If formal proceedings
5 are initiated, the relevant portions of the report are public docu-
6 ments open to inspection. The attorney general shall, however, make
7 available to the public an extract of the reports received under this
8 section, with sufficient deletions to prevent disclosure of a person's
9 identity.

10 ARTICLE 4. COMPLAINTS; HEARING PROCEDURES.

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

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

18 (c) If a complaint alleges a violation of AS 39.52.110 --
19 39.52.190 by the governor, lieutenant governor, or the attorney gener-
20 al, the matter shall be referred to the personnel board. The person-
21 nel board shall retain independent counsel who shall act in the place
22 of the attorney general under (d) -- (i) of this section, AS 39.52.320
23 -- 39.52.350, and AS 39.52.360(c) and (d).

24 (d) The attorney general shall review each complaint filed, to
25 determine whether it is properly completed and contains allegations
26 which, if true, would constitute conduct in violation of this chapter.
27 The attorney general may require the complainant to provide additional
28 information before accepting the complaint. If the attorney general
29 determines that the allegations in the complaint do not warrant an

1 investigation, the attorney general shall dismiss the complaint with
2 notice to the complainant and the subject of the complaint.

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

5 (f) If the attorney general accepts a complaint for investiga-
6 tion, the attorney general shall serve a copy of the complaint upon
7 the subject of the complaint, for a response. The attorney general
8 may require the subject to provide, within 20 days after service, full
9 and fair disclosure in writing of all facts and circumstances pertain-
10 ing to the alleged violation. Misrepresentation of a material fact in
11 a response to the attorney general is a violation of this chapter.
12 Failure to answer within the prescribed time, or within any additional
13 time period that may be granted in writing by the attorney general, is
14 considered an admission of the allegations in the complaint.

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

19 (h) A violation of this chapter may be investigated within two
20 years after discovery of the alleged violation.

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

25 Sec. 39.52.320. DISMISSAL BEFORE FORMAL PROCEEDINGS. If, after
26 investigation, it appears that there is no probable cause to believe
27 that a violation of this chapter has occurred, the attorney general
28 shall dismiss the complaint and prepare and file a confidential summa-
29 ry with the personnel board. The attorney general shall communicate

1 disposition of the matter promptly to the complainant and to the
2 subject of the complaint.

3 Sec. 39.52.330. CORRECTIVE OR PREVENTIVE ACTION. After deter-
4 mining that the conduct of the subject of a complaint does not warrant
5 a hearing under AS 39.52.360, the attorney general shall recommend
6 action to correct or prevent a violation of this chapter. The attor-
7 ney general shall communicate the recommended action to the complain-
8 ant and the subject of the complaint. The subject of the complaint
9 shall comply with the attorney general's recommendation.

10 Sec. 39.52.340. CONFIDENTIALITY. (a) Before the initiation of
11 formal proceedings under AS 39.52.350, information regarding an inves-
12 tigation conducted under this chapter, or obtained by the attorney
13 general during the investigation, is confidential. The attorney
14 general and all persons contacted during the course of an investiga-
15 tion shall maintain confidentiality regarding the existence of the
16 investigation. A person who violates this section is guilty of a
17 class A misdemeanor.

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

20 (c) The subject of the complaint may, in writing, waive the
21 confidentiality protection of this section.

22 Sec. 39.52.350. PROBABLE CAUSE FOR HEARING. (a) If the attor-
23 ney general determines that there is probable cause to believe that a
24 knowing violation of this chapter or a violation that cannot be cor-
25 rected under AS 39.52.330 has occurred, or that the subject of a com-
26 plaint failed to comply with a recommendation for corrective or pre-
27 ventive action, the attorney general shall initiate formal proceedings
28 by serving a copy of an accusation upon the subject of the accusation.
29 The accusation shall specifically set out the alleged violation.

1 After service, the accusation is a public document open to inspection.
2 Except as provided in AS 39.52.370(c), all subsequent proceedings are
3 open to the public.

4 (b) The subject of the accusation shall file an answer with the
5 attorney general within 20 days after service of the accusation, or at
6 a later time specified by the attorney general. If the subject of the
7 accusation fails to timely answer, the allegations are considered
8 admitted.

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

13 (d) If the subject of the accusation admits a violation of this
14 chapter, the attorney general shall refer the matter to the personnel
15 board to impose penalties under AS 39.52.410, 39.52.440, and 39.52.-
16 450, as appropriate.

17 Sec. 39.52.360. HEARINGS. (a) The hearing officer may convene
18 a pre-hearing conference to set a time and place for the hearing, and
19 for stipulation as to matters of fact and to simplify issues, identify
20 and schedule pre-hearing matters, and resolve other similar matters
21 before the hearing.

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

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

29 (d) The parties to a hearing are the attorney general and the

1 subject of the accusation. The subject of an accusation may be repre-
2 sented by counsel. Each party has an opportunity to be heard and
3 cross-examine witnesses, who shall testify under oath.

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

6 (f) Technical rules of evidence do not apply, but the hearing
7 officer's findings must be based upon reliable and relevant evidence.
8 All testimony and other evidence taken at the hearing must be recorded
9 and the evidence maintained. Copies of transcripts of the hearing
10 record are available to the subject of the accusation at the subject's
11 expense; however, upon request, a copy of the recording of the hearing
12 must be furnished without charge to the subject of the accusation.

13 (g) At the conclusion of the formal hearing, the hearing officer
14 may direct either or both parties to submit proposed findings of fact,
15 conclusions of law, and recommendation to be filed within 10 days
16 after the conclusion of the hearing.

17 (h) Within 30 days after the conclusion of a formal hearing, the
18 hearing officer shall serve a written report on the personnel board
19 and the parties, unless the personnel board grants an extension of
20 time. The report must contain the officer's findings of fact, conclu-
21 sions of law, and recommendation. The hearing officer shall submit
22 the record to the personnel board.

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

1 submission of briefs and oral argument before the board, if requested.

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

5 (c) The personnel board shall review each report submitted by a
6 hearing officer and shall either adopt or amend the findings of fact,
7 conclusions of law, and recommendation of the officer. Deliberations
8 of the personnel board must be conducted in sessions not open to the
9 public.

10 (d) If the personnel board determines that a violation occurred,
11 it may impose the penalties in AS 39.52.410, 39.52.440, and 39.52.450,
12 as appropriate. If the board determines that no violation occurred,
13 the board shall issue a written order of dismissal.

14 (e) The personnel board secretary shall promptly notify the
15 parties and the public officer's designated supervisor of the board's
16 action.

17 (f) The subject of the accusation may appeal the personnel
18 board's decision by filing an appeal in the superior court as provided
19 in the Alaska Rules of Appellate Procedure.

20 Sec. 39.52.380. SUBPOENAS. (a) As provided in AS 39.52.310(g),
21 39.52.360(b), and 39.52.370(b), the attorney general, independent
22 counsel retained under AS 39.52.310(c), a hearing officer, the subject
23 of an accusation, and the personnel board may summon witnesses and
24 require the production of records, books, and papers by the issuance
25 of subpoenas.

26 (b) Subpoenas must be served in the manner prescribed by AS 44.-
27 62.430 and Rule 45 of the Alaska Rules of Civil Procedure. Failure or
28 refusal to obey a subpoena issued under this chapter is punishable as
29 contempt in the manner provided by law and court rule. The superior

1 court may compel obedience to the subpoena in the same manner as
2 prescribed for obedience to a subpoena issued by the court.

3 Sec. 39.52.390. SERVICE. Service of an accusation must be
4 accomplished in accordance with Rule 4 of the Alaska Rules of Civil
5 Procedure. Service of any other pleading, motion, or other document
6 must be accomplished in accordance with Rule 5 of the Alaska Rules of
7 Civil Procedure.

8 ARTICLE 5. ENFORCEMENT; REMEDIES.

9 Sec. 39.52.410. VIOLATIONS; PENALTIES FOR MISCONDUCT. (a) If
10 the personnel board determines that a public employee has violated
11 this chapter, it (1) shall order the employee to stop engaging in any
12 official action related to the violation; (2) may order divestiture,
13 establishment of a blind trust, restitution, or forfeiture; and (3)
14 may recommend that the employee's agency take disciplinary action.

15 (b) If the personnel board determines that a non-salaried member
16 of a board or commission has violated this chapter, it (1) shall order
17 the member to refrain from voting, deliberating, or participating in
18 the matter; (2) may order restitution; and (3) may recommend to the
19 appropriate appointing authority that the member be removed from the
20 board or commission.

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

26 (d) If the personnel board finds a violation of this chapter by
27 a public officer removable from office only by impeachment, it shall
28 report the matter to the Senate, with its finding. The report must
29 contain a statement of the facts alleged to constitute the violation.

1 Sec. 39.52.420. DISCIPLINARY ACTION FOR VIOLATION. (a) In
2 addition to any other cause an agency may have to discipline a public
3 employee, an agency may reprimand, demote, suspend, discharge, or
4 otherwise subject an employee to agency disciplinary action commensu-
5 rate with the violations of this chapter. This section does not
6 prohibit the review of a disciplinary action in the manner prescribed
7 by an applicable collective bargaining agreement or personnel statute
8 or rule.

9 (b) An agency may initiate appropriate disciplinary action in
10 the absence of an accusation or during the pendency of a hearing or
11 personnel board action.

12 Sec. 39.52.430. ACTIONS VOIDABLE. (a) In addition to any other
13 penalty provided by law, a state grant, contract, or lease entered
14 into in violation of this chapter is voidable by the state. In a
15 determination under this section of whether to void a grant, contract,
16 or lease, the interests of third parties who may be damaged must be
17 taken into account. The attorney general shall give notice of intent
18 to void a state grant, contract, or lease under this section no later
19 than 60 days after the personnel board's determination of a violation
20 under this chapter.

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

24 (c) Any state action obtained in violation of this chapter is
25 voidable, except that the interests of third parties and the nature of
26 the violation must be taken into account. The attorney general may
27 pursue any other available legal and equitable remedies.

28 (d) The attorney general may recover any fee, compensation,
29 gift, or benefit received by a person as a result of a violation of

1 nothing in this chapter precludes a prosecution under an applicable
2 criminal statute nor prevents enforcement of any other state law that
3 imposes a stricter standard of ethical conduct on public officers.

4 (c) The provisions of this chapter are not subject to negotia-
5 tion by collective bargaining under AS 23.40 or AS 42.40.720 --
6 42.40.880.

7 Sec. 39.52.920. AGENCY POLICIES. Subject to the review and
8 approval of the attorney general, an agency may adopt a written policy
9 that

10 (1) in addition to the requirements of this chapter, limits
11 the extent to which a public officer in the agency or an administra-
12 tive unit of the agency may

13 (A) acquire a personal interest in an organization or
14 a financial interest in a business or undertaking that may bene-
15 fit from official action taken or withheld by the agency or unit;

16 (B) have a personal or financial interest in a state
17 grant, contract, lease, or loan administered by the agency or
18 unit; or

19 (C) accept a gift or benefit; or

20 (2) requires a public officer of the agency or unit to turn
21 over a gift to the agency or unit.

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

25 Sec. 39.52.940. CONSTRUCTION. This chapter must be liberally
26 construed to promote high standards of ethical conduct in state gov-
27 ernment.

28 Sec. 39.52.950. REGULATIONS. The attorney general may adopt
29 regulations under the Administrative Procedure Act necessary to

1 interpret and implement this chapter.

2 Sec. 39.52.960. DEFINITIONS. In this chapter, unless the con-
3 text requires otherwise,

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

7 (2) "agency" means a department, office of the governor, or
8 entity in the executive branch, including the University of Alaska,
9 the Alaska Railroad, public or quasi-public corporations, and boards
10 or commissions;

11 (3) "benefit" means anything that is to a person's advan-
12 tage or self-interest, or from which a person profits, regardless of
13 the financial gain, including any dividend, pension, salary, acqui-
14 sition, agreement to purchase, transfer of money, deposit, loan or
15 loan guarantee, promise to pay, grant, contract, lease, money, goods,
16 service, privilege, exemption, patronage, advantage, advancement, or
17 anything of value;

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

22 (5) "business" includes a corporation, company, firm,
23 partnership, sole proprietorship, trust or foundation, or any other
24 individual or entity carrying on a business, whether operated for
25 profit or non-profit;

26 (6) "child" includes a biological child, an adoptive child,
27 and a stepchild;

28 (7) "compensation" means any money, thing of value, or
29 economic benefit conferred on or received by a person in return for

1 services rendered or to be rendered by the person for another;

2 (8) "designated supervisor" or "supervisor" means

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

5 (B) the president of the University of Alaska, for
6 university employees;

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

9 (D) the attorney general, for the governor and lieu-
10 tenant governor;

11 (E) the executive director of a board or commission
12 for the staff of the board or commission;

13 (F) the chair or acting chair of the board or commis-
14 sion, for the members and the executive director of a board or
15 commission; and

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

18 (H) a public officer designated by a commissioner, the
19 university president, or the governor to act as the supervisor if
20 the name and position of the officer designated has been reported
21 to the attorney general;

22 (9) "financial interest" means

23 (A) an interest held by a public officer, an immediate
24 family member, or parent, which includes an involvement or owner-
25 ship of an interest in a business, including a property owner-
26 ship, or a professional or private relationship, that is a source
27 of income, or from which, or as a result of which, a person has
28 received or expects to receive a financial benefit;

29 (B) holding a position in a business, such as an

1 officer, director, trustee, partner, employee, or the like, or
2 holding a position of management;

3 (C) involvement, or ownership of an interest, in a
4 property or a business as specified by regulation of the attorney
5 general;

6 (10) "gain" includes actual or anticipated gain, benefit,
7 profit, or compensation, whether for oneself or for another person;

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

11 (12) "instrumentality of the state" means a state agency or
12 administrative unit, whether in the legislative, judicial, or execu-
13 tive branch, including such entities as the University of Alaska, the
14 Alaska Railroad, and any public or quasi-public corporations, boards,
15 or commissions; the term includes municipalities;

16 (13) "non-salaried member of a board or commission" means a
17 member of a board or commission who is not a public employee by virtue
18 of membership on a board or commission; receipt of per diem, nominal
19 compensation for attendance at meetings, and travel expense reimburse-
20 ment does not make a member of a board or commission a public employee
21 for purposes of this chapter;

22 (14) "official action" means a recommendation, decision,
23 approval, disapproval, vote, or other similar action, including inac-
24 tion, by a public officer;

25 (15) "organization" includes a group, association, society,
26 political party, or other entity made up of two or more persons,
27 whether operated for profit or non-profit;

28 (16) "parent" includes a biological parent, an adoptive
29 parent, and a step-parent of the public officer;

1 (17) "person" includes a natural person, a business, and an
2 organization;

3 (18) "personal interest" means

4 (A) an interest held or involvement by a public offi-
5 cer, or the officer's immediate family member or parent, includ-
6 ing membership, in any organization, whether fraternal, non-
7 profit, for profit, charitable, or political, from which, or as a
8 result of which, a person or organization receives a benefit;

9 (B) an involvement, as may be specified by the regu-
10 lations of the attorney general, in any organization;

11 (19) "personnel board" or "board" means the personnel board
12 established in AS 39.25.060;

13 (20) "public employee" or "employee" means a permanent,
14 probationary, temporary, provisional, or nonpermanent employee of an
15 agency, whether in the classified, partially exempt, or exempt ser-
16 vice;

17 (21) "public officer" or "officer" means

18 (A) a public employee; and

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

20 (22) "source of income" means an entity for which service is
21 performed for compensation or which is otherwise the origin of pay-
22 ment; if the person whose income is being reported is employed by
23 another, the employer is the source of income; if the person is self-
24 employed by means of a sole proprietorship, partnership, professional
25 corporation, or a corporation in which the person, the person's spouse
26 or child, or a combination of them, holds a controlling interest, the
27 "source" is the client or customer of the proprietorship, partnership,
28 or corporation; if the entity which is the origin of payment is not
29 the same as the client or customer for whom the service is performed,

1 both are considered the source.

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

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

6 * Sec. 3. AS 39.25.070 is amended to read:

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

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

12 (2) consider and act upon recommendations for the extension
13 of the partially exempt service and the classified service as provided
14 in AS 39.25.130;

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

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

21 (5) elect a chairman from its membership;

22 (6) have the power to administer oaths, subpoena witnesses,
23 and compel the production of books and papers pertinent to a hearing
24 authorized by this chapter;[.]

25 (7) employ staff members, who shall be in the classified
26 service;

27 (8) appoint, and review the findings, conclusions, and
28 recommendations of, hearing officers in accordance with AS 39.52.-
29 350(c), 39.52.360, and 39.52.370;

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

3 (10) impose the penalties described in AS 39.52.410, 39.52.-
4 440, and 39.52.450.

5 * Sec. 4. AS 42.40.710 is amended to read:

6 Sec. 42.40.710. CORPORATION EMPLOYEES. Employees of the Alaska
7 Railroad are employees of the corporation and not of the state. The
8 provisions of AS 39, except AS 39.52, do not apply to employees of the
9 corporation.

10 * Sec. 5. AS 44.62.175(a) is amended by adding a new paragraph to read:

11 (10) in accordance with AS 39.52.240(h), advisory opinions
12 of the attorney general.

13 * Sec. 6. The attorney general and the personnel board have no juris-
14 diction over an alleged violation of AS 39.52.110 -- 39.52.190 that oc-
15 curred before January 1, 1987, unless the violation continues after that
16 date.

17 * Sec. 7. An agency or administrative unit with a policy in effect on
18 July 1, 1986 related to the subject of AS 39.52.110 -- 39.52.190 shall, by
19 January 1, 1987, submit the policy to the attorney general for review as to
20 conformity with the provisions enacted in this Act, the attorney general's
21 suggestions for amendment, and the attorney general's necessary approval
22 under AS 39.52.920.

23 * Sec. 8. AS 39.52.010, 39.52.210 -- 39.52.260, and 39.52.910 --
24 39.52.960, enacted in sec. 1 of this Act, and secs. 2 -- 7 of this Act take
25 effect July 1, 1986.

26 * Sec. 9. AS 39.52.110 -- 39.52.190, and 39.52.310 -- 39.52.460, enact-
27 ed in sec. 1 of this Act, take effect January 1, 1987.

Introduced: 4/11/86
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE STATE AFFAIRS
COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 391

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.

13 Sec. 39.52.010. DECLARATION OF POLICY. (a) It is declared (1)
14 that high moral and ethical standards among public officers in the
15 executive branch are essential to the conduct of free government; and
16 (2) that the legislature believes that a code of ethics for the guid-
17 ance of public officers will discourage those officers from acting
18 upon personal or financial interests in the performance of their
19 public responsibilities, will improve standards of public service, and
20 will promote and strengthen the faith and confidence of the people of
21 this state in their public officers. It is further declared that
22 holding public office or employment is a public trust and that as one
23 safeguard of that trust, the people require public officers to adhere
24 to a code of ethics.

25 (b) The legislature declares that it is the policy of the state,
26 when a public employee is appointed to serve on a state board or
27 commission, that the holding of such offices does not constitute the
28 holding of incompatible offices unless expressly prohibited by the
29 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 finds that, so long as it does not interfere with the full and faith-
8 ful discharge of an officer's public duties and responsibilities, this
9 chapter does not prevent an officer from following other independent
10 pursuits. 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 inconsequen-
19 tial 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 must 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; or

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,
22 hospitality, employment, promise, or in any other form, that is a
23 benefit to the officer's personal or financial interests, under
24 circumstances in which it could reasonably be inferred that the gift
25 is intended to influence the performance of official duties, actions,
26 or judgment.

27 (b) Notice of the receipt by a public officer of a gift with a
28 value in excess of \$50, including the name of the giver and a descrip-
29 tion of the gift and its approximate value, must be provided to the

1 designated supervisor within 30 days after the date of its receipt if
2 the public officer may take or withhold official action that affects
3 the giver.

4 (c) In accordance with AS 39.52.240, a designated supervisor may
5 request guidance from the attorney general concerning whether accep-
6 tance of a particular gift is prohibited.

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

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

17 (b) A current or former public officer may not disclose or use,
18 without appropriate authorization, information acquired in the course
19 of official duties that is confidential by law.

20 Sec. 39.52.150. IMPROPER INFLUENCE IN STATE GRANTS, CONTRACTS,
21 LEASES, OR LOANS. (a) A public officer, or an immediate family
22 member, may not attempt to acquire, receive, apply for, be a party to,
23 or have a personal or financial interest in a state grant, contract,
24 lease, or loan if the public officer may take or withhold official
25 action that affects the award, execution, or administration of the
26 state grant, contract, lease, or loan.

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

1 (1) is employed by the administrative unit awarding the
2 grant, contract, or lease or is employed by the administrative unit
3 for which the grant, contract, or lease is let; or

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

6 (c) The prohibition in (a) of this section does not apply to a
7 state loan if

8 (1) the public officer does not take or withhold official
9 action that affects the award, execution, or administration of the
10 loan held by the officer, or an immediate family member;

11 (2) the loan is generally available to members of the
12 public; and

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

14 (d) A public officer shall report in writing to the designated
15 supervisor a personal or financial interest held by the officer, or an
16 immediate family member, in a state grant, contract, lease, or loan
17 that is awarded, executed, or administered by the agency the officer
18 serves.

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

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

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

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

1 (c) This section does not preclude a non-salaried member of a
2 board or commission from representing, advising, or assisting in any
3 matter in which the member has a personal or financial interest reg-
4 ulated by the board or commission on which the member serves, except
5 that the member must act in accordance with AS 39.52.220.

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

11 (b) A public employee rendering services for compensation, or
12 engaging in employment outside the employee's agency, shall report by
13 July 1 of each year the outside services or employment to the employ-
14 ee's designated supervisor. During the year, any change in an employ-
15 ee's outside service or employment activity must be reported to the
16 designated supervisor as it occurs.

17 Sec. 39.52.180. RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE
18 SERVICE. (a) A public officer who leaves state service may not, for
19 two years after leaving state service, represent, advise, or assist a
20 person for compensation regarding a matter that was under considera-
21 tion by the administrative unit served by that public officer, and in
22 which the officer participated personally and substantially through
23 the exercise of official action. For the purposes of this subsection,
24 "matter" includes a case, proceeding, application, contract, or deter-
25 mination, but does not include the proposal or consideration of legis-
26 lative bills, resolutions and constitutional amendments, or other
27 legislative measures; or the proposal, consideration, or adoption of
28 administrative regulations.

29 (b) Nothing in this section prohibits an agency from contracting