

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

5924 HOUSE LABOR & COMMERCE

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(7m) "Income" has the meaning given under section 61 of the internal revenue code.

(7s) "Internal revenue code" has the meaning given under s. 71.02(1)(a) and (2)(b).

(8) "Ministerial action" means an action that an individual performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to the exercise of the individual's own judgment as to the propriety of the action being taken.

(9) "Nominee" means any individual who is nominated by the governor for appointment to a state public office and whose nomination requires the advice and consent of the senate.

(10) "Official required to file" means:

(a) A member of the elections board.

(b) A member of a district board or district director of vocational, technical and adult education, or any individual occupying the position of assistant, associate or deputy district director of vocational, technical and adult education.

(c) A state public official identified under s. 20.923 except s. 20.923(5)(h).

(d) A state public official whose appointment to state public office requires the advice and consent of the senate, except a member of the board of directors of the Bradley center sports and entertainment corporation created under ch. 232.

NOTE: The treatment of s. 19.42(10)(d) took effect July 19, 1985.

(e) An individual appointed by the governor pursuant to s. 17.20(2) other than a trustee of any private higher educational institution receiving state appropriations.

(f) An auditor of the legislative audit bureau.

(g) The chief clerk and sergeant at arms of each house of the legislature.

(h) The members and employees of the Wisconsin housing and economic development authority, except clerical employees.

(i) A municipal judge.

(11) "Organization" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual or body politic.

(12) "Security" has the meaning given under s. 551.02(13), except that term does not include a certificate of deposit or a deposit in a mutual savings and loan association, mutual savings bank, credit union, or similar association organized under the laws of any state.

(13) "State public office" means:

(a) All positions to which individuals are regularly appointed by the governor, except the position of trustee of any private higher educational institution receiving state appropriations.

(b) The positions of associate and assistant vice presidents of the university of Wisconsin system and vice chancellors identified in s. 20.923(5).

(c) All positions identified under s. 20.923(2), (4), (6)(f) to (h) and (8) to (10), except clerical positions.

(d) A member of the pharmacy internship board.

(e) The chief clerk and sergeant at arms of each house of the legislature or a full-time, permanent employe occupying the position of auditor for the legislative audit bureau.

(f) A member of a district board or district director of vocational, technical and adult education, or any position designated as assistant, associate or deputy district director of vocational, technical and adult education.

(g) The members and employes of the Wisconsin housing and economic development authority, except clerical employes.

(h) A municipal judge.

(14) "State public official" means any individual holding a state public office.

19.43 Financial disclosure. (1) Each individual who in January of any year is an official required to file shall file a statement of economic interests with the board no later than April 30 of that year. The information contained on such statement shall be current as of December 31 of the preceding year.

(2) An official required to file shall file a statement of economic interests with the board as per the date he or she assumes office no later than 21 days following that date if the official has not previously filed a statement of economic interests with the board during that year.

(3) A nominee shall file a statement of economic interests with the board as per the date he or she was nominated within 21 days of being nominated unless the nominee has previously filed a statement of economic interests with the board during that year. Following the receipt of a nominee's statement of economic interests, the board shall forward copies of such statement to the members of the committee of the senate to which the nomination is referred.

(4) A candidate for state public office shall file a statement of economic interests with the board no later than the end of the 3rd day following the deadline for filing nomination papers for the office which the candidate seeks, or the end of the 3rd day following notification of nomination in the case of a write-in candidate or candidate appointed to fill a vacancy in nomination under s. 8.35(2)(a). The information contained on the statement shall be current as of December 31 of the year preceding the filing deadline. Before certifying the name of any candidate for state public office under s. 7.08(2)(a), the elections board shall ascertain whether that candidate has complied with this subsection. If not, the elections board may not certify the candidate's name for ballot placement.

(5) Each member of the investment board and each employe of the investment board identified in s. 20.923 shall complete and file with the ethics board a quarterly report of economic transactions no later than the last day of the month following the end of each calendar quarter during any portion of which he or she was a member of

the investment board. Such reports of economic transactions shall be in the form prescribed by the ethics board and shall identify the date and nature of any purchase, sale, put, call, option, lease, or creation, dissolution or modification of any economic interest made during the quarter for which the report is filed and disclosure of which would be required by s. 19.44 if a statement of economic interests were being filed.

(7) ~~In any case where~~ If an official required to file has failed fails to make a timely filing, the board shall ~~promptly thereafter notify~~ promptly provide notice of the delinquency to the state treasurer of such delinquency and to the chief executive of the department of which the official's office or position is a part, or to the clerk of the municipality of which the official's office is a part, or in the case of a justice, court of appeals judge or circuit judge, to the director of state courts. Upon such notification both the state treasurer and the department, municipality or director shall withhold all payments for compensation, reimbursement of expenses and other obligations to such the official until the statement of economic interests is filed board notifies the officers to whom notice of the delinquency was provided that the official has complied with this section.

NOTE: The treatment of s. 19.43(7) took effect July 20, 1985. 1985 Wisconsin Act 29.

(8) On its own motion or at the request of any individual who is required to file a statement of economic interests, the board may extend the time for filing or waive any filing requirement if the board determines that the literal application of the filing requirements of this subchapter would work an unreasonable hardship on that individual or that the extension of the time for filing or waiver is in the public interest. The board shall set forth in writing as a matter of public record its reason for the extension or waiver.

19.44 Form of statement. (1) Every statement of economic interests which is required to be filed under this subchapter shall be in the form prescribed by the board, and shall contain the following information:

(a) The identity of any organization with which the individual required to file is associated and the nature of his or her association with the organization, except that no identification need be made of:

1. Any organization which is described in section 170(c) of the internal revenue code.
2. Any organization which is organized and operated primarily to influence voting at an election including support for or opposition to an individual's present or future candidacy or to a present or future referendum.
3. Any nonprofit organization which is formed exclusively for social purposes and any nonprofit community service organization.
4. A trust.

(b) The identity of every organization or body politic in which the individual who is required to file or that individual's immediate family, severally or in the aggregate, owns, directly or indirectly, securities having a value of \$5,000 or more, the identity of such securities and their approximate value, except that no identification need be made of a security or issuer of a security when it is issued by any organization not doing business in this state or by any government or instrumentality or agency thereof,

or an authority or public corporation created and regulated by an act of such government, other than the state of Wisconsin, its instrumentalities, agencies and political subdivisions, or authorities or public corporations created and regulated by an act of the legislature.

(c) The name of any creditor to whom the individual who is required to file or such individual's immediate family, severally or in the aggregate, owes \$5,000 or more and the approximate amount owed.

(d) The real property located in this state in which the individual who is required to file or such individual's immediate family holds an interest, other than the principal residence of the individual or his or her immediate family, and the nature of the interest held. An individual's interest in real property does not include a proportional share of interests in real property if the individual's proportional share is less than 10% of the outstanding shares or is less than an equity value of \$5,000.

(e) The identity of each payer from which the individual who is required to file or a member of his or her immediate family received \$1,000 or more of his or her income for the preceding taxable year, except that if the individual who is required to file identifies the general nature of the business in which he or she or his or her immediate family is engaged, then no identification need be made of a decedent's estate or an individual, not acting as a representative of an organization, unless the individual is a lobbyist as defined in s. 13.62. In addition, no identification need be made of payers from which dividends or interest, compensation or reimbursement of expenses reported under s. 19.56, and political contributions reported under ch. 11 were received.

(f) If the individual who is required to file or a member of his or her immediate family received \$1,000 or more of his or her income for the preceding taxable year from a partnership, corporation electing to be taxed as a partnership under subchapter S of the federal internal revenue code or service corporation under s. 180.99 in which the individual or a member of his or her immediate family, severally or in the aggregate, has a 10% or greater interest, the identity of each payer from which the organization received \$1,000 or more of its income for its preceding taxable year, except that if the individual who is required to file identifies the general nature of the business in which he or she or his or her immediate family is engaged then no identification need be made of a decedent's estate or an individual, not acting as a representative of an organization, unless the individual is a lobbyist as defined in s. 13.62. In addition, no identification need be made of payers from which dividends or interest are received.

(g) The identity of each person from which the individual who is required to file received, directly or indirectly, any gift or gifts having an aggregate value of more than \$50 within the taxable year preceding the time of filing, except that the source of a gift need not be identified if the donor is the donee's parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, niece, nephew, spouse, fiance or fiancée.

(h) Lodging, transportation, money or other things of pecuniary value reportable under s. 19.56(2).

(2) Whenever a dollar amount is required to be reported pursuant to this section, it is sufficient to report whether the amount is not more than \$50,000, or more than \$50,000.

(3)(a) An individual is the owner of a trust and the trust's assets and obligations if he or she is the creator of the trust and has the power to revoke the trust without obtaining the consent of all of the beneficiaries of the trust.

(b) An individual who is eligible to receive income or other beneficial use of the principal of a trust is the owner of a proportional share of the principal in the proportion that the individual's beneficial interest in the trust bears to the total beneficial interests vested in all beneficiaries of the trust. A vested beneficial interest in a trust includes a vested reverter interest.

(4) Information which is required by this section shall be provided on the basis of the best knowledge, information and belief of the individual filing the statement.

19.45 Standards of conduct. (1) The legislature hereby reaffirms that a state public official holds his or her position as a public trust, and any effort to realize substantial personal gain through official conduct is a violation of that trust. This subchapter does not prevent any state public official from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of his or her duties to this state. The legislature further recognizes that in a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government; that citizens who serve as state public officials retain their rights as citizens to interests of a personal or economic nature; that standards of ethical conduct for state public officials need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are substantial and material; and that state public officials may need to engage in employment, professional or business activities, other than official duties, in order to support themselves or their families and to maintain a continuity of professional or business activity, or may need to maintain investments, which activities or investments do not conflict with the specific provisions of this subchapter.

(2) No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated.

(3) No person may offer or give to a state public official, directly or indirectly, and no state public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the state public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the state public official. This subsection does not prohibit a state public official from engaging in outside employment.

(4) No state public official may intentionally use or disclose information gained in the course of or by reason of his or her official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family, or for any other person if the information has not been communicated to the public or is not public information.

(5) No state public official may use or attempt to use his public position to influence or gain unlawful benefits, advantages or privileges for himself or others.

(6) No state public official, member of a state public official's immediate family, nor any organization with which the state public official or a member of the official's immediate family owns or controls at least 10% of the outstanding equity, voting rights, or outstanding indebtedness may enter into any contract or lease involving a payment or payments of more than \$3,000 within a 12-month period, in whole or in part derived from state funds unless the state public official has first made written disclosure of the nature and extent of such relationship or interest to the board and to the department acting for the state in regard to such contract or lease. Any contract or lease entered into in violation of this subsection may be voided by the state in an action commenced within 3 years of the date on which the ethics board, or the department or officer acting for the state in regard to the allocation of state funds from which such payment is derived, knew or should have known that a violation of this subsection had occurred. This subsection does not affect the application of s. 946.13.

(7)(a) No state public official who is identified in s. 20.923 may represent a person or organization for compensation before a department or any employe thereof, except:

1. In a contested case which involves a party other than the state with interests adverse to those represented by the state public official; or
2. At an open hearing at which a stenographic or other record is maintained; or
3. In matter that involves only ministerial action by the department; or
4. In a matter before the department of revenue or tax appeals commission that involves the representation of a client in connection with a tax matter.

(b) This subsection does not apply to representation by a state public official acting in his or her official capacity.

(8) Except in the case where the state public office formerly held was that of a legislator, legislative employe under s. 20.923(6)(f), (g) or (h), chief clerk of a house of the legislature, sergeant at arms of a house of the legislature or a permanent employe occupying the position of auditor for the legislative audit bureau:

(a) No former state public official, for 12 months following the date on which he or she ceases to be a state public official, may, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employe of the department with which he or she was associated as a state public official within 12 months prior to the date on which he or she ceased to be a state public official.

(b) No former state public official, for 12 months following the date on which he or she ceases to be a state public official, may, for compensation, on behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employe of a department in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding which was under the former official's responsibility as a state public official within 12 months prior to the date on which he or she ceased to be a state public official.

(c) No former state public official may, for compensation, act on behalf of any party other than the state in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding in which the former official participated personally and substantially as a state public official.

(9) The attorney general may not engage in the private practice of law during the period in which he or she holds that office. No justice of the supreme court and no judge of any court of record may engage in the private practice of law during the period in which he or she holds that office.

(9m) No state public official or state employe who is employed in a state position full-time at an annual salary in excess of the current salary for the office of legislator established under s. 20.923(2) may hold any other position from which he or she receives income from the state exceeding \$5,000 per year. No department may employ any individual in violation of this subsection. Every department shall annually check to assure that no employe of the department violates this subsection. Any employe who is found in violation of this subsection shall be required to accept a termination or reduction in salary sufficient to bring the employe into compliance. This provision does not apply to those state public officials or state employes who accept other state employment during a period they are not receiving a full-time salary.

(10) This section does not prohibit a legislator from making inquiries for information on behalf of a person or from representing a person before a department if he or she receives no compensation therefor beyond the salary and other compensation or reimbursement to which the legislator is entitled by law, except as authorized under sub. (7).

(11) The legislature recognizes that all state public officials and employes should be guided by a code of ethics and thus:

(a) The administrator of the division of merit recruitment and selection in the department of employment relations shall, with the board's advice, adopt rules to implement a code of ethics for classified and unclassified state employes except state public officials subject to this subchapter, unclassified personnel in the university of Wisconsin system and officers and employes of the judicial branch.

(b) The board of regents of the university of Wisconsin system shall establish a code of ethics for unclassified personnel in that system who are not subject to this subchapter.

(c) The supreme court shall promulgate a code of judicial ethics for officers and employes of the judiciary and candidates for judicial office which shall include financial disclosure requirements. All justices and judges shall, in addition to complying with this subchapter, adhere to the code of judicial ethics.

19.46 Action Upon Conflict. (1)(a) Any state public official who, in the discharge of his or her official duties, is involved or about to be involved in any matter that could result in a material conflict of interests on his or her part shall:

1. Prepare a written statement describing such matter and the nature of the possible conflict of interests; and

2. Deliver copies of the statement to the board, to his or her immediate superior, if any, and in the case of a legislator to the presiding officer of his or her house, in the case of a justice, to the supreme court, in the case of a judge of the court of appeals, to the chief judge of the court of appeals, or in the case of a circuit judge, to the chief judge of the judicial administrative district; and

3. In the case of an official who is not a legislator, justice or judge, take no further action in regard to such matter except in accordance with advice from the board under para. (c).

(b) Where the presiding officer of either house of the legislature receives a statement from a member of the house under para. (a)2, the officer shall cause such statement to be printed in the journal and, upon request of the legislator, shall excuse him or her from votes, deliberations and other actions in regard to such matter.

(c) If a state public official is not a legislator, a justice or a judge, the official's superior, if any, shall assign the matter to another employe who does not have a possible conflict of interests. If the official has no immediate superior, he or she shall be guided by written advice from the board in regard to the matter. The board shall promptly review the written statement submitted by an official who has no immediate superior, and on the basis thereof and such further investigation of the matter as the board deems advisable the board shall as promptly as practicable advise such official in writing as to the course of action he or she should follow in regard to the matter. The provisions of subs. (2) and (3) concerning advisory opinions of the board apply to advice given under this paragraph.

(d) If the state public official is a justice of the supreme court, he or she shall decline to participate in the deliberations or decision of the matter concerning which the conflict exists. If the state public official is the judge of a court of record, he or she shall refrain from participation in and request reassignment of the matter concerning which the conflict exists.

(e) A material conflict of interests on the part of a state public official is deemed to exist within the meaning of this section in regard to a matter in which he or she is involved, or is about to be involved in the discharge of his or her official duties, whenever:

1. The official's act or failure to act could reasonably be expected to produce or assist in producing a substantial benefit, directly or indirectly, for such official or his or her immediate family or an organization with which he or she is associated; or

2. The matter in question is one in which the official in his or her private capacity or a member of his or her immediate family or an organization with which he or she is associated has a substantial interest.

NOTE: Effective July 20, 1985 the title is amended and s. 19.46(1) is repealed and recreated to read:

19.46 Conflict of Interest Prohibited; Exception. (1) Except in accordance with the board's advice under sub. (2) and except as otherwise provided in sub. (3), no state public official may:

(a) Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.

(b) Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

(2) Any individual, either personally or on behalf of an organization or governmental body, may request of the board an advisory opinion regarding the propriety of any matter to which the person is or may become a party; and any appointing officer, with the consent of a prospective appointee, may request of the board an advisory opinion regarding the propriety of any matter to which the prospective appointee is or may become a party. The board shall review a request for an advisory opinion and may advise the person making the request. Advisory opinions and requests therefor shall be in writing. The board's deliberations and actions upon such requests shall be in meetings not open to the public. It is prima facie evidence of intent to comply with this subchapter when a person refers a matter to the board and abides by the board's advisory opinion. The board may authorize the executive director to act in its stead in instances where delay is of substantial inconvenience or detriment to the requesting party. No member or employe of the board may make public the identity of the individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion.

~~(3) A state public official may request the board to obtain an advisory opinion from the attorney general on the application of this subchapter to a given set of circumstances, real or hypothetical, or the board may request such an opinion on its own motion.~~

~~(4) (3) Nothing in this~~ This section prohibits does not prohibit a state public official from making decisions taking any action concerning the lawful payment of salaries, salary-related or employe benefits or reimbursement of actual and necessary expenses, or prohibit a state public official from taking official action with respect to any proposal to modify state law or the state administrative code.

NOTE: The treatment of s. 19.46(3) and (4) took effect July 20, 1985. 1985 Wisconsin Act 29.

19.47 Operation. (1) The office of the board shall be in Madison, but the board may, after proper public notice and in compliance with subch. IV, meet or exercise any or all of its powers at any other place in this state.

(2) The board shall appoint an executive director outside the classified service to serve at the pleasure of the board. The executive director shall appoint such other personnel as he or she requires to carry out the duties of the board. The executive director shall perform such duties as the board assigns to him or her in the administration of this subchapter.

(3) All members and employes of the board shall file statements of economic interests with the board.

(4) Any action by the board shall require the affirmative vote of 4 of its members.

(5) No later than September 1 of each year, the board shall report to the legislature and the governor concerning its actions in the preceding fiscal year. Such report shall contain the names and duties of all individuals employed by the board and a summary of its determinations and advisory opinions. The board shall make sufficient alterations in the summaries to prevent disclosing the identities of individuals or organizations involved in the decisions or opinions. The report shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as it deems desirable.

(6) The joint committee on legislative organization shall be advisory to the board on all matters relating to operation of the board.

19.48 Duties of the board. The board shall:

(1) Adopt such rules as may be necessary to carry out this subchapter. The board shall give prompt notice of the contents of its rules to state public officials who will be affected thereby.

(2) Prescribe and make available forms for use under this subchapter.

(3) Accept and file any information related to the purposes of this subchapter which is voluntarily supplied by any person in addition to the information required by this subchapter.

(4) Preserve the statements of economic interests filed with it for a period of 6 years from the date of receipt in such form, including microfilming, as will facilitate document retention, except that:

(a) Upon the expiration of 3 years after an individual ceases to be a state public official the board shall, unless the former state public official otherwise requests, destroy any statement of economic interests filed by him or her and any copies thereof in its possession.

(b) Upon the expiration of 3 years after any election at which a candidate for state public office was not elected, the board shall destroy any statements of economic interests filed by him or her as a candidate for state public office and any copies thereof in the board's possession, unless the individual continues to hold another position for which he or she is required to file a statement, or unless the individual otherwise requests.

(c) Upon the expiration of 3 years from the action of the senate upon a nomination for state public office at which the senate refused to consent to the appointment of the nominee, the board shall destroy any statements of economic interests filed by him or her as a nominee and any copies thereof in the board's possession, unless the individual continues to hold another position for which he or she is required to file a statement, or unless the nominee otherwise requests. This paragraph does not apply to any individual who is appointed to state public office under s. 17.20(2).

(5) Except as provided in s. 19.55(2)(c), make statements of economic interests filed with the board available for public inspection and copying during regular office hours and make copying facilities available at a charge not to exceed actual cost.

(6) Compile and maintain an index to all statements of economic interests currently on file with the board to facilitate public access to such statements of economic interests.

(7) Prepare and publish special reports and technical studies to further the purposes of this subchapter.

(8) Report the identity of any individual seeking to copy or obtain information from a statement of economic interests in writing to the individual who filed it, as soon as possible.

19.49 Complaints. (1) The board shall accept from any individual, either personally or on behalf of an organization or governmental body, a verified complaint in writing which states the name of any person alleged to have committed a violation of this subchapter and which sets forth the particulars thereof. The board shall forward to the accused within 10 days a copy of the complaint and a general statement of the applicable statutes with respect to such verified complaint. If the board determines that the verified complaint does not allege facts sufficient to constitute a violation of this subchapter, it shall dismiss the complaint and notify the complainant and the accused. If the board determines that the verified complaint alleges facts sufficient to constitute a violation of this subchapter, it may make an investigation with respect to any alleged violation. If the board determines that the verified complaint was brought for harassment purposes, the board shall so state.

(2) Any state public official may request the board to make an investigation of his or her own conduct or of allegations made by other persons as to his or her conduct. Such a request shall be made in writing and shall set forth in detail the reasons therefor.

(3) Following the receipt of a verified complaint or upon the receipt of other information, whether or not under oath, that provides a reasonable basis for the belief that a violation of this subchapter has been committed or that an investigation of a possible violation is warranted, the board may investigate the circumstances concerning the possible violation. Such investigation shall be initiated by a resolution of the board and shall state the nature and purpose of the investigation and the actions or activities to be investigated. No investigation of any person may be commenced until it has been authorized by the board and until the person who is the subject of the investigation has been notified of the investigation pursuant to sub. (4). If the board, during the course of an investigation, finds probable cause to believe that a violation of this subchapter has occurred, it may:

(a) If no verified complaint has been filed, make upon its motion a verified complaint, which shall be in writing, shall state the name of the person who is alleged to have committed a violation of this subchapter and shall set forth the particulars thereof. The board shall forward to the accused within 10 days a copy of the complaint, a general statement of the applicable statutes with respect to such verified complaint and a specific statement enumerating the source or sources of information upon which the complaint is based.

(b) If a verified complaint has been filed and the board finds probable cause to believe that a violation of this subchapter, other than one contained in the complaint, has occurred, it may amend the complaint, upon its own motion, to include such violations. If the complaint is so amended by the board, a copy of the amendment shall be sent to the person complained against within 48 hours.

(4) As soon as it becomes apparent to the executive director that there exists probable cause for the belief that a particular person has committed a violation of this subchapter, the executive director shall apply to the board for a resolution authorizing the investigation and, if secured, shall mail a copy of the resolution to the alleged violator together with a notice informing the alleged violator that such person is the subject of the investigation authorized by such resolution and a general statement of the applicable statutes with respect to such investigation. Service of the notice is complete upon mailing.

(5) No action may be taken on any complaint which is filed later than 3 years after a violation of this subchapter is alleged to have occurred.

19.50 Investigations. Pursuant to any investigation or hearing conducted under this subchapter, the board has the power:

(1) To require any person to submit in writing such reports and answers to questions relevant to the proceedings conducted under this subchapter as the board may prescribe, such submission to be made within such period and under oath or otherwise as the board may determine.

(2) To administer oaths and to require by subpoena issued by it the attendance and testimony of witnesses and the production of any documentary evidence relating to the investigation or hearing being conducted. Notwithstanding s. 885.01(4), the issuance of a subpoena requires action by the board in accordance with s. 19.47(4).

(3) To order testimony to be taken by deposition before any individual who is designated by the board and has the power to administer oaths, and, in such instances, to compel testimony and the production of evidence in the same manner as authorized by sub. (2).

(4) To pay witnesses the same fees and mileage as are paid in like circumstances by the courts of this state.

(5) To request and obtain from the department of revenue copies of state income tax returns and access to other appropriate information under s. 71.11(44)(c) regarding all persons who are the subject of such investigation.

19.51 Probable cause of violation. (1) At the conclusion of its investigation, the board shall, in preliminary written findings of fact and conclusions based thereon, make a determination of whether or not probable cause exists to believe that a violation of this subchapter has occurred. If the board determines that no probable cause exists, it shall immediately send written notice of such determination to the accused and to the party who made the complaint. If the board determines that there is probable cause for believing that a violation of this subchapter has been committed, its preliminary findings of fact and conclusions may contain:

(a) A recommendation for criminal prosecution which shall be referred to the district attorney in whose jurisdiction the alleged violation occurred, and, if the district attorney fails to commence a prosecution within 30 days, to the attorney general, who may then commence a prosecution; or

(b) An order setting a date for hearing before the board to determine whether a violation of this subchapter has occurred. Such order shall be served upon the accused. A hearing ordered under this paragraph shall be commenced within 30 days of the date it is ordered unless the accused petitions for and the board consents to a later date. Prior to any hearing ordered under this paragraph, the accused is entitled to full discovery rights including adverse examination of witnesses who will testify at the hearing at a reasonable time before the date of the hearing.

(2) The board shall inform the accused or his or her counsel of exculpatory evidence in its possession.

(3) If the board makes a recommendation for criminal prosecution under sub. (1), the district attorney to whom the recommendation is made shall, within 30 days of the receipt of such recommendation, make a decision whether to prosecute the party charged. The board shall give written notice of an referral under this subsection to the accused. The district attorney shall give written notice of the decision to the accused, the complainant and the board.

19.52 Hearing procedure. (1) Every hearing or rehearing under this subchapter shall be conducted in accordance with the requirements of ch. 227, except as otherwise expressly provided. During any investigation and during any hearing which is conducted to determine whether a violation of this subchapter has occurred, the person under investigation or the accused may be represented by counsel of his or her own choosing and the accused or his or her representative, if any, shall have an opportunity to challenge the sufficiency of any complaint which has been filed against him or her, to examine all documents and records obtained or prepared by the board in connection with the matter heard, to bring witnesses, to establish all pertinent facts and circumstances, to question or refute testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses, and shall otherwise be able to exercise fully any pretrial discovery procedure usually available in civil actions. During any hearing conducted by the board to determine whether a violation of this subchapter has occurred, all evidence including certified copies of records which the board considers shall be fully offered and made a part of the record in the proceedings. The accused or any other person under investigation shall be afforded adequate opportunity to rebut or offer countervailing evidence. Upon request of the accused, the board shall issue subpoenas to compel the attendance of necessary witnesses.

(2) Any person whose name is mentioned or who is otherwise identified during a hearing being conducted by the board and who, in the opinion of the board, may be adversely affected thereby, may, upon request of the person or a representative of the person or upon the request of any member, appear personally before the board and testify on his or her own behalf or have a representative appear to so testify, and the board may permit any other person to appear and to testify at hearing.

(3) The standards of evidence and the burden of proof applicable to criminal proceedings shall apply to hearing under this section.

(4) After the conclusion of its hearing the board shall as soon as practicable begin deliberations on the evidence presented at such hearing and shall then proceed to determine whether the accused has violated this subchapter. If a hearing examiner is appointed under s. 227.09(1) and a majority of the members of the board were not present at the hearing, the board shall not begin deliberations until after the proposed decision is served and opportunity is given for arguments.

(5) Notwithstanding s. 227.09(1), the board may appoint any qualified individual as a hearing examiner.

19.53 Findings of fact and conclusions; orders and recommendations. If the board determines that no violation of this subchapter has occurred, it shall immediately send written notice of such determination to the accused and to the party who made the complaint. If the board determines that a violation of this subchapter has occurred, its findings of fact and conclusions may contain one or more of the following orders or recommendations:

(1) In the case of a state public official in the unclassified service, a recommendation that the state public official be censured, suspended, or removed from office or employment. Such recommendation shall be made to the appropriate appointing authority who may censure, suspend, or take action to remove the official from office or employment.

(2) In the case of a legislator, a recommendation that the individual be censured, suspended, or removed from office. Such recommendation shall be made to the appropriate house.

(3) In the case of a justice or judge, a recommendation that the justice or judge be reprimanded, censured, suspended or removed from office. Such recommendation shall be sent to the supreme court and the presiding officer of each house of the legislature.

(4) In the case of a state public official liable to impeachment, a recommendation that the official be removed from office. Such recommendation shall be referred to the assembly.

(5) An order requiring the accused to conform his or her conduct to this subchapter.

(6) An order requiring the accused to forfeit not more than \$500 for each violation of this subchapter. The attorney general, when so requested by the board, shall institute proceedings to recover any forfeiture incurred under this section which is not paid by the person against whom it is assessed.

(7) Such other recommendation or order as may be necessary and appropriate and is consistent with the intent and purposes of this subchapter.

19.54 Rehearings. (1) After the service upon the accused by the board of any decision under s. 19.53 containing an order or recommendation, the accused may apply to the board for a rehearing with respect to any matter determined in such decision as provided in s. 227.12.

(2) An application for rehearing is governed by such general rules as the board may establish. Only one rehearing may be granted by the board. No order of the board becomes effective until 20 days after it is issued, or while an application for rehearing or a rehearing is pending, or until 10 days after such application for rehearing is either denied, expressly or by implication, or the board has announced its final determination on rehearing.

19.55 Public inspection of records. (1) Except as provided in sub. (2), all records in the possession of the board are open to public inspection at all reasonable times. The board shall require an individual wishing to examine a statement of economic interests or the list of persons who inspect any statements which are in the board's possession to identify himself or herself, and if the individual is representing another person, the person which he or she represents. Such identification may be provided in writing or in person. The board shall record and retain for at least 3 years information obtained by it pursuant to this subsection. No individual may use a fictitious name or address or fail to identify a principal in making any request for inspection.

(2) Notwithstanding s. 19.35, the following records in the board's possession are not open for public inspection:

(a) Records obtained in connection with a request for an advisory opinion other than summaries of advisory opinions that do not disclose the identity of individuals requesting such opinions or organizations on whose behalf they are requested. The board may however, make such records public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person is deemed to have waived the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the board in connection with the request for an advisory opinion.

(b) Records obtained or prepared by the board in connection with an investigation, except that the board shall permit inspection of records that are made public in the course of a hearing by the board to determine if a violation of this subchapter has occurred. Whenever the board refers such investigation and hearing records to a district attorney, they may be made public in the course of a prosecution initiated under this subchapter.

(c) Statements of economic interests and reports of economic transactions which are filed with the ethics board by members or employes of the investment board, except that the ethics board shall refer statements and reports filed by such individuals to the legislative audit bureau for its review, and except that a statement of economic interests filed by a member or employe of the investment board who is also an official required to file shall be open to public inspection.

19.56 Honorariums, fees and expenses. (1) Every state public official is encouraged to meet with clubs, conventions, special interest groups, political groups, school groups and other gatherings to discuss and to interpret legislative, administrative, executive, or judicial processes and proposals and issues initiated by or affecting a department.

(2)(a) Except as provided in par. (b), every official required to file who receives for a published work or for the presentation of a talk or participation in a meeting, any lodging, transportation, money or other thing with a combined pecuniary value exceeding \$50 excluding the value of food or beverage offered coincidentally with a talk or meeting shall, on his or her statement of economic interests, report the identity of every person from whom the official receives such lodging, transportation, money or other thing during his or her preceding taxable year, the circumstances under which it was received and the approximate value thereof.

(b) Notwithstanding par. (a), an official need not report on his or her statement of economic interests concerning any compensation, reimbursement or payment which:

1. The official returns to the payor within 30 days of receipt;
2. Is paid to the official by a person identified on the official's statement of economic interests under s. 19.44(1)(e) or (f) as a source of income;
3. The official can show by clear and convincing evidence was made for a purpose unrelated to the purposes specified in sub. (1) and unrelated to the duties or responsibilities of the official's position; or
4. The official has previously reported to the board as a matter of public record.

(3) Notwithstanding s. 19.45, a state public official may receive and retain reimbursement or payment of actual and reasonable expenses for a published work or for the presentation of a talk or participation in a meeting and may receive and retain reasonable compensation if the work is published or the activity is accomplished by the official without the use of the state's time, facilities, services or supplies not generally available to all citizens of this state and, in the case of an official not holding an elective office, outside the course of his or her official duties. If a state public official receives a payment not authorized by this subchapter, in cash or otherwise, for a published work or a talk or meeting, the official may not retain it. If practicable, the official shall deposit it with the department with which he or she is associated or if that is not practicable, shall return it or its equivalent to the payor or convey it to the state or to a charitable organization other than one with which he or she is associated.

19.58 Criminal penalties. (1) Any person who intentionally violates this subchapter or a code of ethics adopted or established under s. 19.45(1)(a) or (b) shall be fined not less than \$100 nor more than \$5,000 or imprisoned not more than one year in the county jail or both.

(2) The penalty under sub. (1) does not limit the power of either house of the legislature to discipline its own members or to impeach a public official, or limit the power of a department to discipline its state public officials or employes.

(3) In this section "intentionally" has the meaning given under s. 939.23.

19.59 Code of ethics for local government officials, employes and candidates. (1) Any county, city, village or town may adopt an ordinance establishing a code of ethics for public officials and employes of the county or municipality and candidates for county or municipal elective offices.

(2) An ordinance adopted under this section shall specify the positions to which it applies. The ordinance may apply to members of the immediate family of individuals who hold positions or who are candidates for positions covered by the ordinance.

(3) An ordinance adopted under this section may contain any of the following provisions:

(a) A requirement for public officials, employes and candidates to identify any of the economic interests specified in s. 19.44, but to no greater extent than is required under that section.

(b) A provision directing the county or municipal clerk to omit the name of any candidate from an election ballot who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.

(c) A provision directing the county or municipal treasurer to withhold the payment of salaries or expenses from any public official or employe who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.

(d) A provision vesting administration and civil enforcement of the ordinance with an ethics board appointed in a manner specified in the ordinance. A board created under this paragraph may issue subpoenas, administer oaths and investigate any violation of the ordinance on its own motion or upon complaint by any person. The ordinance may empower the board to issue opinions upon request. Notwithstanding s. 19.35, records of the board's opinions, opinion requests and investigations of violations of the ordinance may be closed in whole or in part to public inspection if the ordinance so provides.

(e) Provisions prescribing ethical standards of conduct and prohibiting conflicts of interest on the part of public officials and employes or former public officials and employes of the county and municipality, similar in scope to the provisions of s. 19.45, where applicable, but not more restrictive than the requirements of that section.

(f) A provision prescribing a forfeiture for violation of the ordinance in an amount not exceeding \$1,000 for each offense. A minimum forfeiture not exceeding \$100 for each offense may also be prescribed.

(4) This section may not be construed to limit the authority of a county, city, village or town to regulate the conduct of its officials and employes to the extent that it has authority to regulate that conduct under the constitution or other laws.

STATE PUBLIC OFFICES SUBJECT TO
THE WISCONSIN CODE OF ETHICS FOR PUBLIC OFFICIALS AND EMPLOYEES

(Reflecting 1985 Wisconsin Acts 1-29)
Current as of August 15, 1985

ADMINISTRATION, DEPARTMENT OF	AMERICAN INDIAN LANGUAGE & CULTURE
Secretary	EDUCATION BOARD
Deputy Secretary	Members
Executive Assistant	ARTS BOARD
Administrative Services,	Members
Administrator	Executive Secretary
Buildings and Grounds,	AUDIT COMMITTEE, JOINT LEGISLATIVE
Administrator	Members ¹
Emergency Government,	BADGER BOARD
Administrator	Members ¹
State Agency Services, Administrator	BANKING, OFFICE OF THE
State Energy, Administrator	COMMISSIONER OF
State Executive Budget & Planning,	Commissioner
Administrator	Deputy Commissioner
State Facilities Management,	Banking Review Board (5)
Administrator	Consumer Credit Review
State Finance & Program Management,	Board (5)
Administrator	BOUNDARY AREA COMMISSION,
Emergency Number Systems Board	MINNESOTA-WISCONSIN JOINT
Merit Award Board, State Employees	Members (5)
Data Processing, Council on ^{1,2}	Legislative Advisory
Printing, Council on	Committee ¹
Radioactive Waste Technical	Technical Advisory
Council ^{1,2}	Committee ²
ADMINISTRATIVE RULES, JOINT	BRADLEY CENTER SPORTS AND
COMMITTEE FOR REVIEW OF	ENTERTAINMENT CORPORATION
Members ¹	Directors ²
AGING AND LONG-TERM CARE,	BUILDING COMMISSION
BOARD ON	Members ¹
Members (7)	CANVASSERS, BOARD OF STATE
AGRICULTURE TRADE & CONSUMER	Members ¹
PROTECTION, DEPARTMENT OF	CAPITOL & EXECUTIVE RESIDENCE
Board (6)	BOARD, STATE
Secretary	Members ^{1,2}
Deputy Secretary	CHILD ABUSE & NEGLECT PREVENTION
Executive Assistant	BOA ¹
Administration, Administrator	Members
Agricultural Resource Management,	CLAIMS BOARD
Administrator	Members ^{1,2}
Animal Health, Administrator	COMMUNITY DEVELOPMENT FINANCE
Food, Administrator	AUTHORITY
Marketing, Administrator	Members ¹ (8)
Meat Inspection, Administrator	CONSERVATION CORPS BOARD,
Trade and Consumer Protection,	WISCONSIN
Administrator	Members
Fertilizer Research Council ^{1,2}	Executive Secretary

CREDIT UNIONS, OFFICE OF THE
 COMMISSIONER OF
 Commissioner
 Deputy Commissioner
 Credit Union Review Board (5)
 CRIMINAL JUSTICE, COUNCIL ON
 Members
 Executive Director
 DEBT MANAGEMENT, JOINT SURVEY
 COMMITTEE ON
 Members
 DEPOSITORY SELECTION BOARD
 Members
 DEVELOPMENT, DEPARTMENT OF
 Secretary
 Deputy Secretary
 Executive Assistant
 Economic and Community Development,
 Administrator
 Housing & Community Services,
 Administrator
 Policy Development,
 Administrator
 Support Services
 Tourism, Administrator
 Economic Adjustment, Council for
 Economic Development and Export,
 Council on²
 Economic & Community Development,
 Council on
 Tourism, Council on
 DEVELOPMENTAL DISABILITIES,
 COUNCIL ON
 Members²
 DISABILITY BOARD
 Members^{1,2}
 DOMESTIC ABUSE, COUNCIL ON
 Members² (9)
 EDUCATION COMMISSION OF THE STATES,
 WISCONSIN DELEGATES
 Members
 EDUCATIONAL APPROVAL BOARD
 Members
 EDUCATIONAL COMMUNICATIONS BOARD
 Members^{1,2}
 Executive Director
 Deputy Director
 Public Television,
 Council on
 ELECTIONS BOARD
 Members (8)
 Executive Secretary
 EMPLOYE OWNERSHIP BOARD
 Members^{1,2}

EMPLOYE TRUST FUNDS,
 DEPARTMENT OF
 Board¹
 Secretary
 Deputy Secretary
 Executive Assistant
 Group Insurance Board¹
 Teachers Retirement Board
 Wisconsin Retirement Board¹
 EMPLOYMENT RELATIONS
 COMMISSION
 Members (3)
 Executive Assistant
 EMPLOYMENT RELATIONS,
 DEPARTMENT OF
 Secretary
 Deputy Secretary
 Executive Assistant
 Affirmative Action, Administrator
 Classification and Compensation,
 Administrator
 Collective Bargaining,
 Administrator
 Merit Recruitment and Selection,
 Administrator
 Affirmative Action, Council on²
 EMPLOYMENT RELATIONS, JOINT
 COMMITTEE ON
 Members
 ETHICS BOARD
 Members (6)
 Executive Director
 FINANCE, JOINT COMMITTEE ON
 Members
 FOX RIVER MANAGEMENT
 COMMISSION
 Members (7)
 GOVERNOR, OFFICE OF THE
 Governor
 Executive Secretary
 Key Professional Staff
 Other Employees
 Alcohol & Other Drug Abuse,
 State Council on^{1,2}
 Alcohol & Other Drug Abuse,
 Citizens Council on
 Health Policy Council²
 Nonstatutory Committees created
 by Executive Order
 GREAT LAKES COMPACT COMMISSION
 Members
 GROUNDWATER COORDINATING
 COUNCIL
 Members²

HEALTH & SOCIAL SERVICES,
DEPARTMENT OF
Secretary
Deputy Secretary
Executive Assistant
Care and Treatment Facilities,
Administrator
Community Services,
Administrator
Corrections, Administrator
Health, Administrator
Management Services,
Administrator
Policy & Budget, Administrator
Vocational Rehabilitation,
Administrator
Parole Board, Chair
Controlled Substances Board¹
Pesticide Review Board¹
Hearing Impaired, Council for the
Mental Health, Council on
Radiation Protection Council^{1,2}

HEALTH CARE COVERAGE FOR THE
UNINSURED, COUNCIL ON
Members

HEALTH FACILITIES AUTHORITY,
WISCONSIN
Members (7)

HIGHER EDUCATIONAL AIDS BOARD
Members¹
Executive Secretary
Deputy Secretary

HISTORIC PRESERVATION
REVIEW BOARD
Members

HISTORIC SITES FOUNDATION, INC.
Directors² (1)

HISTORICAL SOCIETY
Curators^{1,2} (3)
Director
Associate Director
Historic Sites, Administrator
Museum, Administrator
Historical Markers Council¹

HOSPITAL RATE-SETTING
COMMISSION
Members (3)
Staff Director

HOSPITAL RATE-SETTING COUNCIL
Members

HOUSING AND ECONOMIC DEVELOPMENT
AUTHORITY, WISCONSIN
Members¹ (6)
Employees, nonclerical

INDUSTRY, LABOR & HUMAN RELATIONS,
DEPARTMENT OF
Secretary
Deputy Secretary
Executive Assistant
Administrative and Management Services,
Administrator
Apprenticeship and Training, Administrator
Employment & Training Services, Administrator
Equal Rights, Administrator
Job Service, Administrator
Safety & Buildings, Administrator
Worker's Compensation, Administrator
Employment & Training, Executive Director
Child Labor, Council on^{1,2}
Dwelling Code Council
Equal Rights Council
Historic Building Code Council¹
Migrant Labor, Council on

INLAND LAKES PROTECTION AND
REHABILITATION COUNCIL
Members² (4)

INSURANCE, OFFICE OF THE
COMMISSIONER OF
Commissioner
Deputy Commissioner

INVESTMENT & LOCAL IMPACT FUND BOARD
Members¹

INVESTMENT BOARD
Members^{1,2} (5)
Executive Director
Executive Assistant
Investment Directors

JUDGES
Supreme Court Justices (7)
Court of Appeals Judges (13)
Circuit Court Judges (198)
Municipal Judges
Law Librarian

JUDICIAL COMMISSION
Members^{1,2} (5)

JUDICIAL COUNCIL
Members^{1,2}
Executive Secretary

JUSTICE, DEPARTMENT OF
Attorney General
Deputy Attorney General
Executive Assistant
Administrative Services, Administrator
Law Enforcement Services, Administrator
Legal Services, Administrator
Crime Victims Compensation, Director

LABOR & INDUSTRY REVIEW COMMISSION
Members (3)

- LAKE MICHIGAN COMMERCIAL FISHING BOARD
Members
- LAKE SUPERIOR COMMERCIAL FISHING BOARD
Members
- LAND CONSERVATION BOARD
Members^{1,2} (2)
- LAW ENFORCEMENT STANDARDS BOARD
Members^{1,2}
- LEGISLATIVE AUDIT BUREAU
Director
Auditors
- LEGISLATIVE COUNCIL
Members¹
Executive Secretary
Expert Assistants
Law Revision Committee¹
Mining Committee^{1,2}
Native American Study Committee^{1,2}
- LEGISLATIVE FISCAL BUREAU
Director
Assistants and Analysts
- LEGISLATIVE ORGANIZATION, JOINT COMMITTEE ON
Members¹
- LEGISLATIVE REFERENCE BUREAU
Chief
- LEGISLATURE
Representatives
Senators
Chief Clerks (2)
Sergeants at Arms (2)
Non-Clerical Staff
- LIEUTENANT GOVERNOR, OFFICE OF THE
Lieutenant Governor
Administrative Assistant
- MEDICAL EDUCATION REVIEW COMMITTEE
Members^{1,2}
- MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMMISSION
Member
- MILITARY AFFAIRS, DEPARTMENT OF
Adjutant General
Deputies (2)
Aides-de-camp
- MISSISSIPPI RIVER PARKWAY COMMISSION
Secretary
- NATURAL RESOURCES, DEPARTMENT OF
Board (7)
Secretary
Deputy Secretary
Executive Assistant
Enforcement, Administrator
Environmental Standards, Administrator
Management Services, Administrator
Resource Management, Administrator
Air Pollution Control Council
Great Lakes Fish and Wildlife Resources Council²
- PERSONNEL BOARD
Members (5)
- PERSONNEL COMMISSION
Members (3)
- PESTICIDE ADVISORY COUNCIL
Members² (3)
- PHARMACY INTERNSHIP BOARD
Public Member^{1,2} (1)
Director
- POTATC INDUSTRY BOARD
Members^{1,2}
- PRISON INDUSTRIES BOARD
Members (9)
- PUBLIC DEFENDER BOARD
Members (9)
State Public Defender
Deputy
Appellate Division, Administrator
Trial Division, Administrator
- PUBLIC INSTRUCTION, DEPARTMENT OF
State Superintendent
Deputy State Superintendent
Executive Assistant
Handicapped Children and Pupil Services, Administrator
Instructional Services, Administrator
Library Services, Administrator
Management & Budget, Administrator
School Financial Resources and Management Services, Administrator
Business and Education Partnerships, Governor's Council on
Library & Network Development, Council on
- PUBLIC LANDS, COMMISSIONERS OF, BOARD OF
Members¹
- PUBLIC RECORDS AND FORMS BOARD
Members¹

PUBLIC SERVICE COMMISSION
 Members (3)
 Executive Assistant
 Accounts and Finance, Administrator
 Administrative Services, Administrator
 Engineering, Administrator
 Systems Planning, Environmental
 Review, and Consumer Analysis,
 Administrator
 Utility Rates, Administrator
 RADIOACTIVE WASTE REVIEW BOARD
 Members^{1,2}
 REGIONAL PLANNING COMMISSIONS
 Members^{1,2}
 REGULATION & LICENSING, DEPARTMENT OF
 Secretary
 Deputy Secretary
 Executive Assistant
 Administrative Services,
 Administrator
 Business Licensure and Registration,
 Administrator
 Health Professions & Nursing,
 Administrator
 Accounting Examining Board (7)
 Architects, Professional Engineers,
 Designers and Land Surveyors,
 Examining Board of (20)
 Barbers Examining Board (7)
 Bingo Control Board (5)
 Chiropractic Examining Board (6)
 Cosmetology Examining Board (9)
 Dentistry Examining Board (8)
 Funeral Directors Examining Board (6)
 Hearing Aid Dealers & Fitters
 Examining Board (7)
 Medical Examining Board (10)
 Nursing Home Administrators
 Examining Board (9)
 Nursing, Board of (9)
 Optometry Examining Board (7)
 Pharmacy Examining Board (7)
 Psychology Examining Board (6)
 Real Estate Board (7)
 Veterinary Examining Board (7)
 Physical Therapists Examining
 Council¹
 Physician's Assistants, Council on²
 Podiatrists Examining Council¹
 RETIREMENT RESEARCH COMMITTEE
 Members¹
 RETIREMENT SYSTEMS, JOINT SURVEY
 COMMITTEE ON
 Member^{1,2}

REVENUE, DEPARTMENT OF
 Secretary
 Deputy Secretary
 Executive Assistant
 Administrative Services, Administrator
 Research & Analysis, Administrator
 State and Local Finance, Administrator
 REVISOR OF STATUTES BUREAU
 Director
 SAVINGS & LOAN, OFFICE OF THE
 COMMISSIONER OF
 Commissioner
 Deputy Commissioner
 Savings & Loan Review Board (7)
 SECRETARY OF STATE, OFFICE OF THE
 Secretary of State
 Assistant Secretary of State
 SECURITIES, OFFICE OF THE COMMISSIONER OF
 Commissioner
 Deputy Commissioner
 SENTENCING COMMISSION
 Members
 Executive Director
 SNOWMOBILE RECREATIONAL COUNCIL
 Members (15)
 STATE FAIR PARK BOARD
 Members (5)
 State Fair Park Director
 STATE SUPPORTED PROGRAMS STUDY,
 JOINT LEGISLATIVE
 Members¹
 TAX APPEALS COMMISSION
 Members (5)
 TAX EXEMPTION, JOINT SURVEY
 COMMITTEE ON
 Members^{1,2}
 TECHNOLOGY DEVELOPMENT BOARD
 Members¹
 TRANSPORTATION PROJECTS COMMISSION
 Members¹
 TRANSPORTATION, DEPARTMENT OF
 Secretary
 Deputy Secretary
 Executive Assistant
 Motor Vehicles, Administrator
 Planning & Budget, Administrator
 State Patrol, Administrator
 Transportation Assistance, Administrator
 Transportation Districts, Administrator
 Transportation Facilities, Administrator
 Rustic Roads Board^{1,2}
 Aeronautics, Council on¹
 Highway Safety, Council on¹
 Traffic Law Enforcement, Council on¹

TRANSPORTATION, OFFICE OF THE
 COMMISSIONER OF
 Commissioner
 Deputy
 TREASURER, STATE, OFFICE OF THE
 State Treasurer
 Assistant State Treasurer
 UNIFORM LAWS, COMMISSION ON
 Members¹
 UNIVERSITY OF WISCONSIN SYSTEM
 Regents¹ (14)
 President
 Vice Presidents (5)
 Associate Vice Presidents (7)
 Assistant Vice Presidents (6)
 Eau Claire campus, Chancellor
 Eau Claire campus, Vice Chancellor
 Extension System, Chancellor
 Extension System, Vice Chancellor
 Green Bay campus, Chancellor
 Green Bay campus, Vice Chancellor
 La Crosse campus, Chancellor
 La Crosse campus, Vice Chancellor
 Madison campus Center for Health
 Sciences, Chancellor
 Madison campus Center for Health
 Sciences, Vice Chancellor
 Madison campus, Chancellor
 Madison campus, Vice Chancellor
 Milwaukee campus, Chancellor
 Milwaukee campus, Vice Chancellor
 Oshkosh campus, Chancellor
 Oshkosh campus, Vice Chancellor
 Parkside campus, Chancellor
 Parkside campus, Vice Chancellor
 Platteville campus, Chancellor
 Platteville campus, Vice Chancellor
 River Falls campus, Chancellor
 River Falls campus, Vice Chancellor

Stevens Point campus, Chancellor
 Stevens Point campus, Vice Chancellor
 Stout campus, Chancellor
 Stout campus, Vice Chancellor
 Superior campus, Chancellor
 Superior campus, Vice Chancellor
 Whitewater campus, Chancellor
 Whitewater campus, Vice Chancellor
 Laboratory of Hygiene Board^{1,2}
 VETERANS AFFAIRS, DEPARTMENT OF
 Board (7)
 Secretary
 Deputy Secretary
 Executive Assistant
 Loans, Administrator
 Veterans Services, Administrator
 VOCATIONAL, TECHNICAL & ADULT
 EDUCATION, BOARD OF
 Members¹ (9)
 Director
 Administration and Planning,
 Administrator
 Community & Manpower Education,
 Administrator
 Fire Service Training Programs,
 Council on²
 VOCATIONAL, TECHNICAL & ADULT
 EDUCATION, DISTRICT BOARDS
 Members (144)
 Directors (16)
 Deputy Directors
 Associate Directors
 Assistant Directors
 WASTE FACILITY SITING BOARD
 Members¹ (3)
 WATERWAYS COMMISSION, WISCONSIN
 Members (5)
 WOMEN'S COUNCIL
 Members^{1,2}

Bold type identifies a position an occupant of which must file a Statement of Economic Interests because of his or her holding that position.

In the case of a board or commission the number between parentheses identifies the number of officials filing Statements because of membership on that board or commission.

¹ This body includes either (1) some people who are members of this body by virtue of their holding some other public office which obliges them to file Statements of Economic Interests with the Ethics Board or (2) representatives designated by those people.

² One or more members of this body are not state public officials.

MINNESOTA SENATE

RESEARCH REPORT

SENATE COUNSEL & RESEARCH



Senate Counsel & Research

INTRODUCTION

It has become nearly impossible to open the newspaper or listen to the evening network news without encountering a report of a public official or government employee accused of official misconduct. The National Journal recently reported that almost every state and major city in the U.S. has confronted a scandal among its public officials in the past five years, and Justice Department figures show that federal prosecutions of corrupt state and local officials have doubled in the past decade. (1)

The concern over the conduct of public officials and employees is especially evident on the state level. In 1987 alone, legislatures in 22 states considered bills that would strengthen their state ethics laws. Two states -- New York and Virginia -- passed bills creating a code of ethics, and several other states were considering similar action at the beginning of 1988.

While the majority of the 50 states have at least some limited ethics laws dealing with the conduct of at least a small group of employees or officials, only about a dozen states have something comprehensive enough to be called a state code of ethics. This report is the result of an examination of those state codes of ethics (2), a study of model state ethics codes (3), conversations with state ethics commission officials, and a study of Minnesota's ethics laws (4).

This report outlines and summarizes what makes up a state code of ethics and looks at Minnesota's ethics laws in light of those same ingredients. The report also considers enforcement and penalties. It does not deal with campaign financing or lobbyist registration laws.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

MINNESOTA SENATE

RESEARCH REPORT

RESEARCH REPORT



Senate Counsel & Research

STATE ETHICS CODES
AND MINNESOTA'S ETHICS LAWS --
A COMPARISON

by

Jill M. Schultz
Legislative Analyst

Minnesota Senate
Senate Counsel and Research
John E. Post, Director

February 1988

I INTRODUCTION

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This report outlines and summarizes what makes up a state code of ethics and looks at Minnesota's ethics laws in light of those same ingredients. The report also considers enforcement and penalties. It does not deal with campaign financing or lobbyist registration laws.

AN ETHICS CODE: THE PARTS

The easiest way to understand a state code of ethics might be to break it down into three parts: conflict of interest, financial disclosure, and revolving door prohibitions; to examine each part, and to see who is affected by each part.

A brief index for this report looks like this:

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CONFLICT OF INTEREST

What

Conflict of interest provisions generally do the following:

1. Prohibit the acceptance of gifts and additional compensation;
2. Prohibit the solicitation of things of value;
3. Prohibit the use of confidential information for personal gain;
4. Restrict an employee's or an official's appearances before his or her own agency or other agencies on personal or private business;
5. Restrict an employee's or an official's outside business interests and employment, and official acts which would affect his or her financial interests; and
6. Restrict an employee's or official's business contracts with the state.

Who

It is a lot more difficult to generalize about who is covered by conflict of interest statutes since each of the states seems to take a slightly different approach. The core group that a number of states cover is elected and appointed state officials and employees. However, some states include more people, some include fewer.

Connecticut does not cover judges, but leaves the responsibility for their conduct to the state judicial review commission. Hawaii limits coverage of its lawmakers. Wisconsin, for the most part, covers just public officials, but charges the Department of Employment Relations with covering state employees and gives the University Board of Regents the responsibility for unclassified university employees.

Florida, Alabama, and Rhode Island extend their coverage to local officials and employees. Massachusetts goes even further. Its conflict of interest statutes affect appointed and elected state, county, and municipal officials; and full-time and part-time, paid and unpaid, state, county, and municipal employees.

FINANCIAL DISCLOSURE

What

Financial disclosure statements are filed annually and usually require the employee or public official to disclose the following information:

1. His or her total income and its source;
2. Amounts and sources of business income;
3. Location, description of, and sometimes value of real estate property holdings; and
4. Names of creditors to whom debts are owed over a given amount.

Some states also include:

5. Gifts received from non-relatives over a given amount;
6. Business titles, offices, or directorships held;
7. Securities held; and
8. A list of business clients from the previous year.

Most states also include the financial interests of the employee's or official's spouse in the reporting requirements and some also include the financial interests of dependent children.

Who

States' financial disclosure laws usually cover a smaller group of people than their conflict of interest statutes do. The filing of financial disclosure statements is usually required of candidates for statewide office, statewide officeholders, and state employees and public officials who are in policymaking positions or who have discretionary authority over the receipt or expenditure of state funds.

REVOLVING DOOR

What

Revolving door prohibitions are sometimes found within the body of conflict of interest statutes, but are actually restrictions on former employees and are being dealt with as a separate section in this report.

These post-employment restrictions are common even in states without a code of ethics. A 1980 study at St. Louis University School of Law revealed that 26 states had placed such restrictions on state executive branch employees. Last year alone, four states passed laws restricting the employment of public officials and/or employees after they leave public service.

Three provisions are commonly found in the revolving door statutes of states with ethics codes:

1. A former employee or official is banned from making an appearance before his or her former agency, usually for one year;
2. A former employee or official is prohibited from becoming involved in matters in which he or she participated personally and substantially as a state employee, sometimes permanently and sometimes for one year, and
3. A former employee or official is permanently prohibited from disclosing or using confidential information for personal gain, which he or she obtained as an employee.

Who

While some states apply their post-employment restrictions to the same group of employees and public officials covered by their conflict of interest statutes, this is not necessarily the case.

Connecticut covers both executive and legislative branch public officials and employees with its conflict of interest provisions, but applies post-employment restrictions only to its

executive branch. Likewise, Wisconsin exempts legislators and legislative employees from its revolving door law. Rhode Island, on the other hand, extends post-employment restrictions to both state and local employees and officials, and Massachusetts even extends one restriction to the partners of former employees or officials.

In addition to the provisions mentioned above, a number of states with ethics codes also have a narrow provision or two designed to get at a specific situation. For example, some states prohibit a public utilities commissioner from going to work for a utility directly after leaving public service. These states may also prohibit an employee who bids out state contracts from going directly to work for a firm to which he or she awarded a state contract.

OTHER PROVISIONS

Two other provisions are worth mentioning, even though they do not show up in all the state ethics codes. They are laws that prohibit nepotism and protect whistle blowers.

Some states have a section in their ethics codes that prohibits nepotism even though that was not the original intent when the language was drafted. Massachusetts' ethics code prohibits elected and appointed public officials from participating in matters in which their family members have a financial interest. Even though the special commission that drafted the law in 1962 said it was not intended to apply to nepotism, the Supreme Judicial Court of Massachusetts held in 1983 that it did. Ohio, Connecticut, Washington, and Wisconsin have a similar section in their ethics codes, and their officials feel that it can probably be interpreted in the same way.

A number of states also have whistle blower protection for employees who report violations to their superiors or their state ethics commission. In 1987, Hawaii passed a whistle blower protection act because employees were reluctant to report violations to the state ethics commission, and some who blew the whistle suffered retaliation. New York also recently strengthened its whistle blower protection law.

MINNESOTA'S ETHICS LAWS

A quick scan of the 50 states reveals that while about a dozen have a state code of ethics, many states have little or no ethics law. Minnesota falls somewhere in between, with a number of ethical conduct laws scattered throughout the statutes. The bulk of the state's ethics law can be found in the executive branch code of ethics (Minnesota Statutes, Sec. 43A.38). Another portion that affects public officials (Sec. 10A.07-10A.09) can be found in the state's ethics in government chapter. However that

chapter is primarily concerned with campaign financing and lobbyist disclosure law.

Minnesota's ethics laws fit under the three parts of a state ethics code identified earlier: conflict of interest, financial disclosure, and revolving door prohibitions. This portion of the report lists and summarizes Minnesota's laws under those three sections.

MINNESOTA -- CONFLICT OF INTEREST

Minnesota's conflict of interest laws are listed here under the six conflict of interest functions of a state ethics code identified earlier.

1. Gifts and additional compensation for official duties

Executive branch employees may not receive gifts or additional compensation for doing their work. The only gifts allowed are textbooks or gifts of "nominal value" which the Department of Employee Relations defines as "in name only." (Sec. 43A.38, Subd. 2)

Public officers or employees who request, receive, or agree to receive a benefit or reward with the understanding that it is to influence their job performance are guilty of bribery. (Sec. 609.42)

Public officers or employees may not intentionally ask for, receive, or agree to receive a fee or other compensation in excess of that allowed by law. (Sec. 609.45)

Executive branch employees may not offer, request, give, or receive money or valuables for any kind of appointment or promotion in the state civil service. (Sec. 43A.39, Subd. 1)

State employees and University of Minnesota employees involved in the state and university supply purchasing and contracting processes may not accept gifts, with several exceptions. (Sec. 15.43)

Potato inspectors may not receive additional payment. (Sec. 30.152)

Grain weighers and inspectors may not improperly perform their duties or accept money or other considerations to improperly perform their duties. (Sec. 17B.22)

Public officers or employees may not receive additional compensation from the contingent fund of an office or department. (Sec. 10.32)

2. Soliciting anything of value

Executive branch employees may not use their official positions to secure benefits, privileges, exemptions, or advantages for themselves, family members, or organizations with which they are associated. (Sec. 43A.38, Subd. 5) (5)

3. The use of confidential information for personal gain

Executive branch employees may not use confidential information for personal gain or become involved in outside activities or employment that would require them to disclose confidential information. (Sec. 43A.38, Subd. 3)

4. An employee's or an official's appearance before his or her own agency or other agencies

Executive branch employees may not appear before their own agency on someone else's behalf unless it is part of their job to do so. (Sec. 43A.38, Subd. 5)

Public officials who represent clients for a fee before any individual, board, commission, or agency with rulemaking authority must disclose that appearance to the State Ethical Practices Board within 14 days after the appearance. (Sec. 10A.08)

5. An employee's or official's outside business interests and employment, and official acts which would affect his or her financial interests

Executive branch employees may not accept employment or be a party to a contract that would affect their independence of judgment on the job. (Sec. 43A.38, Subd. 5)

Executive branch employees may not be employed by a business subject to their direct or indirect control, inspection, review, audit, or enforcement, nor perform an act other than official duties that will later be subject to their control, inspection, review, audit, or enforcement. (Sec. 43A.38, Subd. 6)

Public officials who would be required to take an official action that would substantially affect their own financial interests are required to disclose that conflict to the State Ethical Practices Board and to their immediate superior, or to the presiding officer of the Legislature, if they are lawmakers. If possible, the matter is then to be reassigned, or the official is to abstain from the action. (Sec. 10A.07)

Public Utilities Commission (PUC) members and professional employees are prohibited from having a significant interest in a public utility or regulated business. Employees of the Public Service Department may not participate in any decision or action of the PUC where they have any financial interest. Any professional employee of the commission or department must disclose any communication about future employment or benefits if received from a party involved with a commission proceeding. (Sec. 216A.035)

The Public Service Department commissioner must divest himself or herself within six months from any energy related business, including utility, coal, or petroleum suppliers or manufacturers of energy. (Provision was in Sec. 116J.07, but is now Sec. 216.07 with 1987 reorganization.)

Department of Commerce examiners may not examine a bank or financial institution in which they have a financial interest (Sec. 46.08); Department of Commerce examiners and officers may not have any interest in a financial institution other than a standard demand, trust, or savings account. (Sec. 46.09)

Public Safety or Revenue Department employees who work with liquor control functions may not have any interest in any manufacture, transportation, or sale of liquor. (Sec. 299A.02, Subd. 1)

Members and employees of the Minnesota Racing Commission may not have any interest in an entity that is licensed by or contracts with the Commission, nor may they have an interest in a race horse or bet on a race. (Sec. 240.28)

State grain inspectors, samplers, and weighers may not have any financial interest in any grain or grain product business or organization and may not be employed by any company that handles, stores, ships, purchases, or sells grain or grain products. (Sec. 17B.16)

Members of the Designer Selection Board may not have any financial interest in a designer or firm selected. (Sec. 16B.33)

6. An employee's business contracts with the state

As mentioned under the last section, executive branch employees may not be a party to a contract that will affect their independence of judgment. They also may not be involved in a private interest that directly competes with the state for the provision of services. (Sec. 43A.38, Subd.5)

Current state employees may not contract with another state agency to provide consultation services or professional or technical services. (Sec. 16B.17, Subd. 2)

Department of Transportation employees may not be directly or indirectly involved with any contract for road or bridge work or with any contract for the purchase, repair, or sale of road machinery, equipment, or supplies used. (Sec. 161.33)

MINNESOTA -- FINANCIAL DISCLOSURE

Minnesota's financial disclosure law (Sec. 10A.09) requires all public officials to file a statement of economic interest. Minnesota's disclosure requirements are less extensive than those of states with ethics codes. State officials and certain employees are required to disclose sources of earned income in excess of \$50 in any month, excluding benefits from retirement, insurance, social security, savings accounts, and alimony. They need not list amounts. They are also required to disclose securities held of which the official's share is worth \$2,500 or more and real property in Minnesota of which the official's share is worth in excess of \$2,500, excluding homestead property. The values of the securities and property are not to be disclosed. Finally, any Canadian or U.S. pari-mutuel horse racing interests of the filer or his or her immediate family members must be reported.

Those required to file financial disclosure statements in Minnesota include anyone who fits the statutory definition of "public official." (6)

MINNESOTA -- REVOLVING DOOR

Minnesota has three revolving door prohibitions:

No former commissioner or deputy commissioner may, within one year after leaving that position, appear or participate in proceedings of his or her former department or agency representing the interest of a private person. (Sec. 15.06, Subd. 9)

Neither a Public Utilities Commissioner nor a director or deputy director of the Public Service Department may accept employment or a contractual relationship with any entity subject to rate regulation by the commission for one year after job termination. (Sec. 216A.036)

Officers, judges, or employees of the Revenue Department or tax court may not represent a client with regard to any claim or proceeding pending in the department for one year following employment with the department. Similarly, these persons may never repre-

sent anyone with a claim or proceeding if they worked with that matter while employed by the department or tax court. (Sec. 271.18)

MINNESOTA -- OTHER PROVISIONS

Minnesota has no law against nepotism and just last year passed a whistle blower protection law. (Laws of Minnesota, Chapter 76; Minnesota Statutes 1987 Supplement, Sec. 181.931 to Sec. 181.935)

In addition to the types of laws usually included in a state ethics code, Minnesota also has some provisions for the proper use of state property in the workplace.

ENFORCEMENT AND PENALTIES

The enforcement of a state code of ethics is usually the responsibility of an ethics commission or board. Those commissions range from five to fifteen members who are appointed to terms ranging from four to six years. They are usually appointed by the governor, although some states also allow legislative leaders or selected constitutional officers to make some appointments.

In addition to responsibilities to issue advisory opinions and educational materials, most commissions are given the power to investigate, conduct audits, and subpoena witnesses. Most go through a two-step procedure when there is an allegation of an ethics code violation. First, the complaint is investigated to determine whether there is probable cause that a violation occurred. If it is determined there is probable cause, a hearing is scheduled to determine whether a violation occurred.

If it is determined that a violation occurred, some commissions must stop and turn their findings over to the proper authorities who have the power to issue civil and criminal penalties. Others can go ahead and issue a cease and desist order and/or levy a civil penalty.

Civil penalties vary somewhat, from not more than \$500 per violation in some states to not more than \$10,000 per violation in another state. Several states have civil penalties that range from about \$1,000 to \$2,000 maximum per violation. In addition, most states allow for civil suits for the state to reclaim any financial loss as a result of the ethics code violation. Some states may even sue for twice that amount. In states where a violation of the ethics code is a criminal violation, it usually is classified as a misdemeanor or gross misdemeanor. The maximum criminal penalty found in any of the state ethics codes examined was up to \$5,000 and three years in prison for bribery in Massachusetts, or up to \$3,000 and two years in prison for other Massachusetts code violations.

Finally, the ethics code violator may be disciplined by his or her supervisor with measures that include a demotion, suspension, removal from office, or impeachment, and in some states a cut in salary.

MINNESOTA -- ENFORCEMENT AND PENALTIES

The State Ethical Practices Board is responsible for investigating written complaints alleging violations of Chapter 10A, the ethics in government chapter, which includes those portions of interest to this report -- public officials' conflict of interest (Sec. 10A.07), representation disclosure (Sec. 10A.08), and financial disclosure (Sec. 10A.09).

The executive branch code of ethics (Sec. 43A.38) is found in the chapter of state law dealing with the Department of Employee Relations (DOER), and that department does its best to enforce it. However, the law does nothing to make it easy for DOER to enforce the ethics code; there is no clear procedure for handling violations. In fact DOER is not even included in the reporting process for a "substantial violation." (Sec. 43A.39, Subd.2)

A number of state ethics laws fall neither under the jurisdiction of the Ethical Practices Board nor DOER -- laws dealing with Public Service Department officials and PUC commissioners, Transportation Department employees, Commerce Department examiners and officers, Minnesota Racing Commission members and employees, Public Safety and Revenue Department employees, members of the Designer Selection Board, state grain inspectors, and state potato inspectors. While in some cases individual agencies may handle complaints of violations internally, a great deal of confusion exists over who is responsible for enforcing these laws.

The executive branch code of ethics does not list specific civil or criminal penalties, but says the violator will be subject to action "pursuant to Chapter 609," Minnesota's criminal code. That chapter says that any public officer or employee found guilty of misconduct may be sentenced to up to one year in prison and fined up to \$3,000. (Sec. 609.43)

A public official's failure to report or avoid a conflict of interest is not a crime and carries no penalty. (Sec. 10A.07 and Sec. 10A.34) Failure of a public official to report the representation of a client before a state agency carries a late filing fee of no more than \$100, accumulating at a rate of \$5 per day, and no criminal penalty. (Sec. 10A.08) A public official failing to file a financial disclosure statement is subject to the same late filing fee, but can also be charged with a misdemeanor. In addition, those public officials filing late who are not lawmakers or constitutional officers, can be suspended without pay by the Ethical Practices Board. (Sec. 10A.09)

With a few exceptions, a violation of one of the other state ethics laws scattered throughout statutes constitutes a misdemeanor or gross misdemeanor. Several exceptions worth noting are the post-employment restriction of PUC commissioners and the top two Public Service Department officials (Sec. 216A.036), bribery (Sec. 609.42), and paying a potato inspector additional money to do his or her job (Sec. 30.152). PUC commissioners and the Public Service Department officials face a civil penalty of up to \$10,000 per violation of the post-employment restriction, and those committing bribery are guilty of a felony punishable by up to 10 years in prison and a maximum \$20,000 fine, the largest penalty for any of the state's ethics laws. That same penalty is in place for anyone who pays a state potato inspector extra money for doing his or her job, because that constitutes bribery.

SUMMARY

Minnesota does not have a state code of ethics, but when its various ethics laws are considered as a whole, they contain the three elements of a state ethics code -- conflict of interest, financial disclosure, and revolving door prohibitions. The biggest difference between what Minnesota has in place and a state code of ethics is comprehensiveness and enforceability. While most state codes of ethics cover at least state employees and public officials, the majority of Minnesota's ethics laws cover only the executive branch. States with ethics codes usually have one agency -- such as an ethics commission -- to enforce their code. In Minnesota, the Ethical Practices Board and the Department of Employee Relations have been given responsibility for portions of the state's ethics law, but confusion exists over who is responsible for enforcing other portions. Finally, while state ethics commissions can usually rely on enforcement procedures set up for them in law, there is very little language providing for the enforcement of Minnesota's ethics laws.

ENDNOTES

1. National Journal, "Grass-Roots Graft"; August 1, 1987; pages 1962-1967.
2. This report involved close study of ethics codes in Alabama, Connecticut, Florida, Hawaii, Kansas, Massachusetts, Ohio, Oregon, Rhode Island, and Wisconsin. It also included the examination of ethics law in a number of other states.
3. This report involved the examination of model ethics legislation by the National Conference of State Legislatures, the Council of State Governments, and the National Municipal League.
4. In addition to study of the actual statutes, the report drew upon the work of Connie Nelson, Department of Employee Relations assistant to the commissioner, in "Code of Conduct for Executive Branch Employees in Minnesota: A summary of Applicable Laws and Rules," September 16, 1987.
5. The Department of Employee Relations says while there is a potential for this provision to be used to cover some cases of solicitation, it needs some clarification. It seems clear that it would cover a case where an employee asked for and secured a benefit or privilege for himself. But it is not clear that it would cover solicitation if the employee asks for something but does not receive it.
6. Minnesota state statutes define a public official in the following way:
 - (A) Member of the Legislature;
 - (B) Constitutional officer in the executive branch and the officer's chief administrative deputy;
 - (C) Member, chief administrative officer, or deputy chief administrative officer of a state board or commission that has at least one of the following powers: (1) the power to adopt, amend, or repeal rules, or (2) the power to adjudicate contested cases or appeals;
 - (D) Commissioner, deputy commissioner, or assistant commissioner of any state department as designated under section 15.01;
 - (E) Individual employed in the executive branch who is authorized to adopt, amend, or repeal rules or adjudicate contested cases;
 - (F) Executive director of the State Board of Investment;
 - (G) Executive director of the Indian Affairs Intertribal Board;
 - (H) Commissioner of the Iron Range Resources and Rehabilitation Board;

- (I) Director of Mediation Services;
- (J) Deputy of any official listed in clauses (E) to (I);
- (K) Judge of the Workers' Compensation Court of Appeals;
- (L) Administrative law judge or compensation judge in the state's Office of Administrative Hearings or hearing examiner in the Department of Jobs and Training;
- (M) Solicitor general or deputy, assistant, or special assistant attorney general;
- (N) Individual employed by the Legislature as Secretary of the Senate, Legislative Auditor, Chief Clerk of the House, Revisor of Statutes, or a researcher or an attorney in the Office of Senate Counsel and Research;
or
- (O) Member or chief administrative officer of the Metropolitan Council, Regional Transit Board, Metropolitan Transit Commission, Metropolitan Waste Control Commission, Metropolitan Parks and Open Spaces Commission, Metropolitan Airports Commission, or Metropolitan Sports Facilities Commission.

June 1985

CHAPTER 102. AND SECTION 25 .42 OF THE REVISED CODE

THE OHIO ETHICS LAW: CHAPTER 102.

Sec. 102.01 As used in Chapter 102 of the Revised Code

(A) "Compensation" means money, thing of value, or financial benefit. "Compensation" does not include reimbursement for actual and necessary expenses incurred in the performance of official duties.

(B) "Public official or employee" means any person who is elected or appointed to an office or is an employee of any public agency. "Public official or employee" does not include a person elected or appointed to the office of precinct ward or district committee member under section 3517.03 of the Revised Code, any presidential elector or delegate to a national convention. "Public official or employee" does not include a person who is a teacher, instructor, professor, or any other kind of educator whose position does not involve the performance of, or authority to perform, administrative or supervisory functions.

(C) "Public agency" means the general assembly, all courts, any department, division, institution, board, commission, authority, bureau, or other instrumentality of the state, a county, city, village, township, and the five state retirement systems, or any other governmental entity. "Public agency" does not include a department, division, institution, board, commission, authority, or other instrumentality of the state or a county, municipal corporation, township, or other governmental entity that functions exclusively for cultural, educational, historical, humanitarian, advisory, or research purposes, does not expend more than ten thousand dollars per calendar year, excluding salaries and wages of employees, and whose members are uncompensated.

(D) "Immediate family" means a spouse residing in the person's household and an dependent child.

(E) "Income" includes gross income as defined and used in the Internal Revenue Code of 1954, 68A Stat. [3] 26 U.S.C. 1, as now or hereafter amended, interest and dividends on obligations or securities of any state or of any political subdivision or authority thereof, and interest or dividends on obligations of any authority, commission, or instrumentality of the United States.

(F) "Appropriate ethics commission" means

(1) For matters relating to members of the general assembly, employees of the general assembly, and candidates for the office of member of the general assembly, the house or senate legislative ethics committee, depending on the house of which he is a member, by which he is employed, or for which he is a candidate, for employees of the legislative service commission, the senate legislative ethics committee.

(2) For matters relating to judicial officers and employees, and candidates for judicial office, the board of commissioners on grievances and discipline of the supreme court.

(3) For matters relating to all other persons, the Ohio ethics commission.

(G) "Anything of value" has the same meaning as provided in section 1.03 of the Revised Code.

Sec. 102.02

(A) Every person who is elected to or is a candidate for a state, county, or city office or the office of member of the United States congress, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office, and the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state, the chief executive officer of each state retirement system, all members of the board of commissioners on grievances and discipline of the supreme court, the ethics commission created under section 102.05 of the Revised Code, every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 of the Revised Code, and every other

public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section, excluding any person elected or appointed to the office of precinct, ward, or district committee member under Chapter 3517 of the Revised Code, presidential elector, delegate to a national convention, city exempted village, county, local, and joint vocational school district boards of education, village officials and employees, township officials and employees, any physician or psychiatrist paid a salary or wage in accordance with schedule (C) of section 124.15 of the Revised Code and whose primary duties do not require the exercise of administrative discretion, and any member of a board, commission, or bureau of any county or city who receives less than one thousand dollars per year for serving in such position, shall file with the appropriate ethics commission on a form prescribed by the commission a statement disclosing:

(1) The name of the person filing the statement and each member of his immediate family and all names under which the person or members of his immediate family does business;

(2) Identification of every source of income over five hundred dollars received during the preceding calendar year in his own name or by any other person for his use or benefit by the person filing the statement, and a brief description of the nature of the services for which the income was received. This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code. This division shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of that business or profession.

(3) The name of every corporation on file with the secretary of state which is incorporated in Ohio or holds a certificate of compliance authorizing it to do business in this state, trust, business trust, partnership, or association which transacts business in Ohio in which the person filing the statement or any other person for his use and benefit had during the preceding calendar year an investment of over one thousand dollars at fair market value as of the thirty-first day of December of the preceding calendar year, or the date of disposition, whichever is earlier, or in which the person holds any office or has a fiduciary relationship, and a description of the nature of the investment, office, or relationship. This division does not require disclosure of the name of any bank, savings and loan association, credit union, or building and loan association with which the person filing the statement has a deposit or a withdrawable share account.

(4) All fee simple and leasehold interests to which the person filing the statement holds legal title to or a beneficial interest in real property located within the state, excluding the person's residence and property used primarily for personal recreation.

(5) The names of all persons residing or transacting business in the state to whom the person filing the statement owes, in his own name or in the name of any other person, more than one thousand dollars. This division shall not be construed to require the disclosure of debts owed by the person resulting from the ordinary conduct of a business or profession or debts on the person's residence or real property used primarily for personal recreation, except that the superintendent of building and loan associations shall disclose the names of all state-chartered building and loan associations and of all service corporations subject to regulation under division (E) (2) of section 1151.34 of the Revised Code to whom the superintendent, in his own name or in the name of any other person, owes any money, and that the superintendent of banks and any deputy superintendent shall disclose the names of all state-chartered banks and all bank subsidiary corporations subject to regulation under section 1107.35 of the Revised Code to whom such superintendent or deputy superintendent owes any money.

(6) The names of all persons residing or transacting business in the state, other than a depository excluded under division (A) (3) of this section, who owes more than one thousand dollars to the person filing the statement, either in his own name or to any other person for his use or benefit. This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the

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under Chapter 3517 of the
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boards of education village
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use of administrative discretion
county, or city who receives
such position shall file with the
the commission a statement:

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family or of his immediate family does

over one thousand dollars received during
from any other person for his use or
description of the nature of the
shall not be construed to
disclosed under section 4732.12

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require a person filing the
statement to disclose the individual
business or profession

Secretary of state which is
authorizing it to do business in
which transacts business in
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over one thousand dollars at

the preceding calendar year or
the person holds any office or
title of the investment office or
the name of any bank savings
association with which the
the share account

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in his own name or to any
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section 4732.12 or 4732.15 of the

Revised Code or patients of persons certified under section 4731.14 of the Revised
Code nor the disclosure of debts owed to the person resulting from the ordinary conduct
of a business or profession

(7) The source of each gift of over five hundred dollars received by the person in his
own name or by any other person for his use or benefit during the preceding calendar
year except gifts received by will or by virtue of section 2105.06 of the Revised Code or
received from parents or grandparents or received by way of distribution from any inter
vivos or testamentary trust established by a spouse or an ancestor

A person who is a candidate for elective office shall file his statement no later than the
thirtieth day before the primary special or general election at which such candidacy is
to be voted on whichever election occurs sooner except a person who is a write-in
candidate shall file his statement no later than the twentieth day before the earliest
election at which such candidacy is to be voted on A person who holds elective office
shall file his statement on or before the fifteenth day of April of each year unless he is a
candidate for office A person who is appointed to fill a vacancy for an unexpired term in
an elective office shall file his statement within fifteen days after he qualifies for office
Other persons shall file an annual statement on or before the fifteenth day of April or if
appointed or employed after such date within ninety days after appointment or
employment No person shall be required to file more than one statement for any one
calendar year with the appropriate ethics commission

The appropriate ethics commission may for a good cause extend for a reasonable
time the deadline for filing a disclosure statement under this section

A statement filed under this section is subject to public inspection at locations
designated by the appropriate ethics commission except as otherwise provided in this
section

(B) The Ohio ethics commission the house and senate legislative ethics committees
and the board of commissioners on grievances and discipline of the supreme court may
using the rule-making procedures of Chapter 119 of the Revised Code require any
class of public officials or employees under its jurisdiction and not specifically excluded
by this section whose positions involve a substantial and material exercise of
administrative discretion in the formulation of public policy expenditure of public funds
enforcement of laws and rules of the state or a county or city or the execution of other
public trusts to file an annual statement on or before the fifteenth day of April under
division (A) of this section The appropriate ethics commission shall send the public
officials or employees written notice of the requirement by the fifteenth day of February
of each year the filing is required unless the public official or employee is appointed
after such date in which case the notice shall be sent within thirty days after
appointment and the filing shall be made not later than ninety days after appointment

Disclosure statements filed under this division with the Ohio ethics commission by
members of boards commissions or bureaus of the state for which no compensation is
received other than reasonable and necessary expenses shall be kept confidential The
Ohio ethics commission shall examine each disclosure statement required to be kept
confidential to determine whether a potential conflict of interest exists for the person who
filed the disclosure statement A potential conflict of interest exists if the private interests
of the person as indicated by his disclosure statement might interfere with the public
interests he is required to serve in the exercise of his authority and duties in his office or
position of employment If the commission determines that a potential conflict of interest
exists it shall notify the person who filed the disclosure statement and shall make the
portions of the disclosure statement that indicate a potential conflict of interest subject to
public inspection in the same manner as is provided for other disclosure statements Any
portion of the disclosure statement that the commission determines does not indicate a
potential conflict of interest shall be returned immediately to the person who filed the
statement

(C) No person shall knowingly fail to file a statement that is required by this section

(D) No person shall knowingly file a false statement that is required to be filed under
this section

Sec. 102.03

(A) No present or former public official or employee shall during his public employment or service or for twelve months thereafter represent a client or act in a representative capacity for any person on any matter in which he personally participated as a public official or employee through decision approval disapproval recommendation the rendering of advice investigation or other substantial exercise of administrative discretion For twenty-four months after the conclusion of his service a former commissioner or attorney examiner of the public utilities commission may not represent a public utility as defined in section 4905.02 of the Revised Code or act in a representative capacity on behalf of such a utility before any state board commission or agency As used in this division "matter" includes any case proceeding application determination issue or question but does not include the proposal consideration or enactment of statutes rules ordinances resolutions or charter or constitutional amendments As used in this division "represent" includes any formal or informal appearance before or any written or oral communication with any public agency on behalf of any person Nothing contained in this division shall prohibit during such period a former public official or employee from being retained or employed to represent assist or act in a representative capacity for the public agency by which he was employed or on which he served This division shall not be construed to prohibit the performance of ministerial functions including but not limited to the filing or amendment of tax returns applications for permits and licenses incorporation papers and other similar documents

(B) No present or former public official or employee shall disclose or use without appropriate authorization any information acquired by him in the course of his official duties which is confidential because of statutory provisions or which has been clearly designated to him as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary to the proper conduct of government business

(C) No public official or employee shall participate within the scope of his duties as a public official or employee except through ministerial functions as defined in division (A) of this section in any license or rate-making proceeding that directly affects the license or rates of any person partnership trust business trust corporation or association in which the public official or employee or his immediate family owns or controls more than five per cent No public official or employee shall participate within the scope of his duties as a public official or employee except through ministerial functions as defined in division (A) of this section in any license or rate-making proceeding that directly affects the license or rates of any person to whom the public official or employee or his immediate family or a partnership trust business trust corporation or association of which he or his immediate family owns or controls more than five per cent has sold goods or services totaling more than one thousand dollars during the preceding year unless the public official or employee has filed a written statement acknowledging such sale with the clerk or secretary of the public agency and the statement is entered in any public record of the agency's proceedings This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code or patients of persons certified under section 4731.14 of the Revised Code

(D) No public official or employee shall use or attempt to use his official position to secure anything of value for himself that would not ordinarily accrue to him in the performance of his official duties which thing is of such character as to manifest a substantial and improper influence upon him with respect to his duties

Sec. 102.04

(A) Except as provided in division (D) of this section no person elected or appointed to an office of or employed by the general assembly or any department division institution instrumentality board commission or bureau of the state excluding the courts shall receive or agree to receive directly or indirectly compensation other than from the agency with which he serves for any service rendered or to be rendered by him

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personally, in any case proceeding application or other matter that is before the general
assembly or any department, division, institution, instrumentality, board, commission, or
bureau of the state, excluding the courts.

(B) Except as provided in division (D) of this section, no person elected or appointed
to an office of or employed by the general assembly or any department, division, or
institution, instrumentality, board, commission, or bureau of the state, excluding the
courts, shall sell or agree to sell, except through competitive bidding, any goods or
services to the general assembly, or any department, division, institution, instrumentality,
board, commission, or bureau of the state, excluding the courts.

(C) Except as provided in division (D) of this section, no person who is elected or
appointed to an office of or employed by a county, township, municipal corporation, or
any other governmental entity, excluding the courts, shall receive or agree to receive,
directly or indirectly, compensation other than from the agency with which he serves for
any service rendered or to be rendered by him personally in any case proceeding
application or other matter which is before any agency, department, board, bureau,
commission, or other instrumentality, excluding the courts, of the entity of which he is an
officer or employee.

(D) A public official who is appointed to a nonelective office or a public employee
shall be exempted from division (A), (B), or (C) of this section if both of the following
apply:

(1) The agency to which the official or employee wants to sell the goods or services
or before which the matter that involves the rendering of his services is pending is an
agency other than the one with which he serves.

(2) Prior to rendering the personal services or selling or agreeing to sell the goods or
services, he files a statement with the appropriate ethics commission, with the public
agency with which he serves, and with the public agency before which the matter is
pending or that is purchasing or has agreed to purchase goods or services.

The required statement shall contain the official's or employee's name and home
address, the name and mailing address of the public agencies with which he serves and
before which the matter is pending or that is purchasing or has agreed to purchase
goods or services, and a brief description of the pending matter and of the personal
services to be rendered or a brief description of the goods or services to be purchased.
The statement shall also contain the public official's or employee's declaration that he
disqualifies himself for a period of two years from any participation as such public official
or employee in any matter involving any public official or employee of the agency, before
which the present matter is pending or to which goods or services are to be sold. The
two-year period shall run from the date of the most recently filed statement regarding the
agency before which the matter was pending or to which the goods or services were to
be sold. No person shall be required to file statements under this division with the same
public agency regarding a particular matter more than once in a calendar year.

(E) No public official or employee who files a statement or is required to file a
statement under division (D) of this section shall knowingly fail to disqualify himself from
any participation as a public official or employee of the agency with which he serves in
any matter involving any official or employee of an agency before which a matter for
which he rendered personal services was pending or of a public agency that purchased
or agreed to purchase goods or services.

(F) This section shall not be construed to prohibit the performance of ministerial
functions including, but not limited to, the filing or amendment of tax returns, applications
for permits and licenses, incorporation papers, and other documents.

Sec. 102.05

There is hereby created the Ohio ethics commission consisting of six members, three
of whom shall be members of each of the two major political parties, to be appointed by
the governor with the advice and consent of the senate. Within thirty days of the
effective date of this section, the governor shall make initial appointments to the
commission. Of the initial appointments made to the commission, one shall be for a term
ending one year after the effective date of this section, and the other appointments shall

be for terms ending two three four five and six years respectively after the effective date of this section. Thereafter terms of office shall be for six years each term ending on the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of his appointment until the end of the term for which he was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall hold office for the remainder of such term.

No person shall be appointed to the commission or shall continue to serve as a member of the commission who is subject to the provisions of section 102.02 of the Revised Code other than by reason of his appointment to the commission. Members shall serve without compensation but shall be reimbursed for expenses actually and necessarily incurred in the performance of their official duties.

The commission shall meet within two weeks after all members have been appointed at a time and place determined by the governor. At its first meeting the commission shall elect a chairman and such other officers as are necessary and shall adopt rules for its procedures. After the first meeting the commission shall meet at the call of the chairman or upon the written request of a majority of the members. A majority of the members of the commission constitutes a quorum. No action shall be taken by the commission without the concurrence of a majority of the members thereof.

The commission may appoint and fix the compensation of an executive director and such other technical professional and clerical employees as are necessary to carry out the duties of the commission.

The commission may appoint hearing examiners to conduct hearings pursuant to section 102.05 of the Revised Code. The hearing examiners have the same powers and authority, in conducting the hearings as is granted to the commission. Within thirty days after the hearing the hearing examiner shall submit to the commission a written report of his findings of fact and conclusions of law and a recommendation of the action to be taken by the commission. The recommendation of the hearing examiner may be approved modified or disapproved by the commission and no recommendation shall become the findings of the commission until so ordered by the commission. Such findings of the commission shall have the same effect as if the hearing had been conducted by the commission. Hearing examiners appointed pursuant to this section shall possess the qualifications the commission requires. Nothing contained in this section shall preclude the commission from appointing a member of the commission to serve as a hearing examiner.

Sec. 102.06

The appropriate ethics commission shall receive and may initiate complaints against persons subject to Chapter 102 of the Revised Code concerning conduct alleged to be in violation of this chapter. All complaints except those by the commission shall be by affidavit made on personal knowledge subject to the penalties of perjury. Complaints by the commission shall be by affidavit based upon reasonable cause to believe that a violation has occurred.

The commission shall investigate complaints and may investigate charges presented to it and may request further information including the specific amount of income from a source from any person filing with the commission a statement required by section 102.02 of the Revised Code if the information sought is directly relevant to a complaint or charges received by the commission pursuant to this section. Such information is confidential. The person so requested shall furnish the information to the commission unless within fifteen days from the date of the request the person files an action for declaratory judgment challenging the legitimacy of the request in the court of common pleas of the county of his residence of his place of employment or of Franklin county. The requested information need not be furnished to the commission during the pendency of the judicial proceedings. Proceedings of the commission in connection therewith shall be kept confidential except as otherwise provided by this section. Before the commission proceeds to take any formal action against a person who is the subject of an investigation based on charges presented to the commission a complaint shall be filed

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Sec. 102.07

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documents presented to the commission, house or senate legislative ethics committees or board of commissioners on grievances and discipline without the consent in writing of the appropriate ethics commission, unless such books, papers, or documents were presented at a public hearing, except as provided in section 102.06 of the Revised Code.

Sec. 102.08

The Ohio ethics commission, the board of commissioners on grievances and discipline of the supreme court, and the house and senate legislative ethics committees may recommend legislation relating to ethics, conflicts of interest, and financial disclosure and render advisory opinions with regard to questions concerning these matters for persons for whom it is the appropriate ethics commission. When the appropriate ethics commission renders an advisory opinion relating to a special set of circumstances involving ethics, conflicts of interest, or financial disclosure under Chapter 102 or section 2921.42 of the Revised Code, the person to whom the opinion was directed or who was similarly situated may reasonably rely upon such opinion and shall be immune from criminal prosecutions, civil suits, or actions for removal from his office or position of employment for a violation of Chapter 102 or section 2921.42 of the Revised Code based on facts and circumstances covered by the opinion, if the opinion states there is no violation of Chapter 102 or section 2921.42 of the Revised Code. The appropriate ethics commission shall provide a continuing program of education and information concerning the provisions of Chapter 102 and section 2921.42 of the Revised Code and other provisions of law pertaining to ethics, conflicts of interest, and financial disclosure.

Sec. 102.09

(A) The secretary of state and the county board of elections shall furnish to each candidate for elective office who is required to file a financial disclosure statement by section 102.02 of the Revised Code a financial disclosure form, and shall notify the appropriate ethics commission, within fifteen days of the name of the candidate, and of the subsequent withdrawal, disqualification, or death of the candidate. The candidate shall acknowledge receipt of the financial disclosure form in writing.

(B) The secretary of state and the county board of elections shall furnish to each person who is appointed to fill a vacancy for an unexpired term in an elective office and who is required to file a financial disclosure statement by section 102.02 of the Revised Code a financial disclosure form, and shall notify the appropriate ethics commission within fifteen days of being notified by the appointing authority of the name and position of the public official and the date of appointment. The person shall acknowledge receipt of the financial disclosure form in writing.

(C) The public agency or appointing authority that employs, appoints, or promotes any public official or employee who, as a result of such employment, appointment, or promotion, is required to file a financial disclosure statement by section 102.02 of the Revised Code shall, within fifteen days of the employment, appointment, or promotion, furnish the public official or employee with a financial disclosure form, and shall notify the appropriate ethics commission of the name and position of the public official or employee and the date of employment, appointment, or promotion. The public official or employee shall acknowledge receipt of the financial disclosure form in writing.

(D) The clerk of the senate and executive secretary of the house of representatives shall distribute to every member of his respective house prior to the first day of February a copy of the form for filing the financial disclosure statement under section 102.02 of the Revised Code. The member shall acknowledge his receipt in writing.

(E) Within fifteen days after any public official or employee begins the performance of his official duties, the public agency with which he serves or the appointing authority shall furnish him a copy of Chapter 102 and section 2921.42 of the Revised Code, and may furnish such other materials as the appropriate ethics commission prepares for distribution. The official or employee shall acknowledge their receipt in writing. The requirements of this division do not apply at the time of reappointment or reelection.

Sec. 102.10

No employee, officer, or board member of any of the five state retirement systems shall knowingly solicit or accept money or gifts from any person doing business with or

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state retirement systems son doing business with or

soliciting the business of any of the retirement systems No person doing business with or soliciting the business of a retirement system shall knowingly offer or give money or gifts to any employee officer or board member of any of the retirement systems

Sec. 102.99

(A) Whoever violates division (C) of section 102 02 of the Revised Code is guilty of a misdemeanor of the fourth degree

(B) Whoever violates division (D) of section 102 02 section 102 03 102 04 or 102 07 of the Revised Code is guilty of a misdemeanor of the first degree

(C) Whoever violates section 102 10 of the Revised Code is guilty of a misdemeanor of the fourth degree

Sec. 101.34

(A) There are hereby created a house legislative ethics committee and a senate legislative ethics committee to serve each house of the general assembly Each committee shall be composed of six members three each from the two major political parties and each member shall serve on each committee during his term as a member of that general assembly The members of each committee shall be appointed by the speaker of the house and the president of the senate and the minority leaders of each house A vacancy in either committee shall be filled for the unexpired term in the same manner as an original appointment The members of each committee shall meet and proceed to recommend an ethics code not later than thirty days after the first day of each session of the general assembly

(B) Each legislative ethics committee

(1) Shall recommend a code of ethics which is consistent with law to govern all members and employees of each respective house of the general assembly and all candidates for the office of member of such house

(2) May receive and hear any complaint which alleges a breach of any privilege of the appropriate house or misconduct of any member employee or candidate or any violation of the appropriate code of ethics

(3) May obtain information with respect to any complaint filed pursuant to this section and to that end may enforce the attendance and testimony of the witnesses and the production of books and papers

(4) May recommend whatever sanction is appropriate with respect to a particular member employee or candidate as will best maintain in the minds of the public a good opinion of the conduct and character of members and employees of the general assembly

(5) May recommend legislation to the general assembly relating to the conduct and ethics of members and employees of and candidates for the general assembly

(6) Shall act as an advisory body to the general assembly and to individual members candidates and employees on questions relating to possible conflicts of interest

(7) Shall provide for the proper forms on which the statement required pursuant to section 102 02 of the Revised Code shall be filed and instructions as to the filing of the statement

Reference:

Sec 1 03 Definition of "anything of value"

Sec 3 04 Governor may remove or suspend appointee

Sec 101 75 Resolution of disputes liability for false statement

Sec 124 34 Removal of public officials and employees

OFFENSES AGAINST JUSTICE AND PUBLIC ADMINISTRATION: CHAPTER 2921.

- 2921 01 Definitions
- 2921 02 Bribery
- 2921 03 Intimidation
- 2921 04 Intimidation of crime victim or witness
- 2921 11 Perjury
- 2921 12 Tampering with evidence
- 2921 13 Falsification
- 2921 21 Compounding a crime
- 2921 22 Failure to report a crime or knowledge of a death
- 2921 23 Failure to aid a law enforcement officer
- 2921 24 Disclosure of confidential information
- 2921 25 Disclosure of peace officer's home address
- 2921 31 Obstructing official business
- 2921 32 Obstructing justice
- 2921 33 Resisting arrest
- 2921 34 Escape
- 2921 35 Aiding escape or resistance to authority
- 2921 36 Illegal conveyance of weapons or prohibited items onto detention facility or institution
- 2921 37 Arrest powers of detention facility chief
- 2921 41 Theft in office; restitution; withholding of retirement benefits
- 2921 42 Having an unlawful interest in a public contract
- 2921 43 Soliciting or receiving improper compensation
- 2921 431 Soliciting improper contributions
- 2921 44 Dereliction of duty
- 2921 45 Interfering with civil rights
- 2921 51 Impersonating a peace officer or private policeman

Sec. 2921.01 As used in sections 2921 01 to 2921 45 of the Revised Code

(A) "Public official" means any elected or appointed officer, or employee or agent of the state or any political subdivision thereof, whether in a temporary or permanent capacity, and including without limitation legislators, judges, and law enforcement officers.

(B) "Public servant" means any of the following:

(1) Any public official.

(2) Any person performing ad hoc a governmental function, including without limitation a juror, member of a temporary commission, master, arbitrator, advisor, or consultant.

(3) A candidate for public office, whether or not he is elected or appointed to the office for which he is a candidate. A person is a candidate for purposes of this division if he has been nominated according to law for election or appointment to public office, or if he has filed a petition or petitions as required by law to have his name placed on the ballot in a primary, general, or special election, or if he campaigns as a write-in candidate in any primary, general, or special election.

(C) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this state, by virtue of which he directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.

(D) "Official proceeding" means any proceeding before a legislative, judicial, administrative, or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with an official proceeding.

INSTRUMENTATION: CHAPTER 2921.

(E) "Detention" means arrest or confinement in any facility for custody of persons charged with or convicted of crime or alleged or found to be delinquent or unruly or detention for extradition or deportation. Detention does not include supervision of probation or parole nor constraint incidental to release on bail.

(F) "Detention facility" means any place used for the confinement of a person charged with or convicted of crime or alleged or found to be delinquent or unruly.

Sec. 2921.42

(A) No public official shall knowingly do any of the following:

(1) Authorize, or employ the authority or influence of his office to secure authorization of any public contract in which he, a member of his family, or any of his business associates has an interest.

(2) Authorize, or employ the authority or influence of his office to secure the investment of public funds in any share, bond, mortgage, or other security with respect to which he, a member of his family, or any of his business associates either has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees.

(3) During his term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by him or by a legislative body, commission, or board of which he was a member at the time of authorization, and not let by competitive bidding or let by competitive bidding in which his is not the lowest and best bid.

(4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which he is connected.

(5) Have an interest in the profits or benefits of a public contract which is not let by competitive bidding when required by law and which involves more than one hundred fifty dollars.

(B) In the absence of bribery or a purpose to defraud, a public servant, member of his family, or any of his associates shall not be considered as having an interest in a public contract or the investment of public funds when all of the following apply:

(1) The interest of such person is limited to owning or controlling shares of the corporation or being a creditor of the corporation or other organization which is the contractor on the public contract involved or which is the issuer of the security in which public funds are invested.

(2) The shares owned or controlled by such person do not exceed five per cent of the outstanding shares of the corporation and the amount due such person as creditor does not exceed five per cent of the total indebtedness of the corporation or other organization.

(3) Such person, prior to the time the public contract is entered into, files with the political subdivision or governmental agency or instrumentality involved an affidavit giving his exact status in connection with the corporation or other organization.

(C) This section does not apply to a public contract in which a public servant, member of his family, or one of his business associates has an interest when all of the following apply:

(1) The subject of the public contract is necessary supplies or services for the political subdivision or governmental agency or instrumentality involved.

(2) The supplies or services are unobtainable elsewhere for the same or lower cost or are being furnished to the political subdivision or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public servant's becoming associated with the political subdivision or governmental agency or instrumentality involved.

(3) The treatment accorded the political subdivision or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions.

(4) The entire transaction is conducted at arm's length, with full knowledge by the political subdivision or governmental agency or instrumentality involved of the interest of the public servant, member of his family, or business associate, and the public servant.

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takes no part in the deliberations or decision of the political subdivision or governmental agency or instrumentality with respect to the public contract

(D) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of division (A) (1) or (2) of this section is a felony of the fourth degree. Violation of division (A) (3), (4), or (5) of this section is a misdemeanor of the first degree.

(E) As used in this section, "public contract" means any of the following:

(1) The purchase or acquisition, or a contract for the purchase or acquisition of property or services by or for the use of the state or any of its political subdivisions, or any agency or instrumentality of either.

(2) A contract for the design, construction, alteration, repair, or maintenance of any public property.

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Self insurance
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*Letter defining
policy returns
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1 IN THE HOUSE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing certain restrictions on certain
7 state employees before, during, and after state
8 service."

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

10 * Section 1. AS 39.52 is amended by adding a new section to read:

11 Sec. 39.52.175. RESTRICTIONS ON INSURANCE DIRECTOR. (a) A
12 person may not hold the position of director of the division of insur-
13 ance in the Department of Commerce and Economic Development if at any
14 time during the preceding year the person has owned stock or other
15 equity interest in an insurer.

16 (b) While holding the position, the director of the division of
17 insurance may not own stock or other equity interest in an insurer.

18 (c) For one year after leaving the position a former director of
19 the division of insurance may not own stock or other equity interest
20 in an insurer.

21 * Sec. 2. AS 39.90 is amended by adding a new section to read:

22 Sec. 39.90.030. RESTRICTION ON EMPLOYMENT AND CONTRACTS AFTER
23 LEAVING STATE SERVICE. (a) In addition to any other provision of
24 law, for one year after leaving state service, a public officer may
25 not be employed by or work under contract for a person who was awarded
26 a contract with the state during the officer's state service, if the
27 public officer was directly involved in the state's procurement proce-
28 dures that resulted in the contract. In this subsection, "public
29 officer" means

1 (1) an employee of a state agency; in this paragraph "state
2 agency" means a department, institution, board, commission, division,
3 authority, public corporation, or other administrative unit of the
4 executive, legislative, or judicial branch, and includes the Univer-
5 sity of Alaska and the Alaska State Housing Authority;

6 (2) a legislator; and

7 (3) a member of a state board or commission.

8 (b) A person who violates this section is subject to a civil
9 penalty not to exceed \$5,000 for each violation. A penalty imposed
10 under this section is in addition to and not instead of other penal-
11 ties that may be imposed according to law, including criminal penal-
12 ties.

13 * Sec. 3. APPLICATION. (a) AS 39.52.175(a), as enacted by sec. 1 of
14 this Act, applies to a person who assumes the position of director of the
15 division of insurance on or after the effective date of this Act.

16 (b) AS 39.52.175(c), as enacted by sec. 1 of this Act, applies to a
17 person who leaves the position of director of the division of insurance on
18 or after the effective date of this Act.

19 (c) AS 39.90.030, as enacted by sec. 2 of this Act, applies to public
20 officers who leave state service on or after the effective date of this
21 Act.

6-1043A
Cook
3/15/89

1 IN THE HOUSE

BY GRUENBERG

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act prohibiting certain former state officials
7 from becoming lobbyists for a period of time after
8 leaving state office."

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

10 * Section 1. AS 39.52.180 is amended by adding a new subsection to
11 read:

12 (d) A person may not become a lobbyist for at least two years
13 after leaving the state office if the person served as commissioner or
14 deputy commissioner of a department in the executive branch, or direc-
15 tor of a division within a department of the executive branch. For
16 purposes of this subsection, "lobbyist" has the meaning given in
17 AS 24.45.171.
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HOUSE COMMITTEE REPORT

(7)

Date Referred: January 31, 1990

FURTHER REFERRALS:

Date of Committee Action: 2/1/90

The LABOR & COMMERCE Committee considered:

HB 442

HOUSE BILL NO. 442

ALASKA TOURISM MARKETING COUNCIL

"An Act relating to the Alaska Tourism Marketing Council; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CS HB 442 (LHC) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS: _____
(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check Approp. column)

	Do Not Pass	No Rec	Amend
<i>Dr. A. ...</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Drew A. ...</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Mr. ...

 Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
 Title: Relating to the Alaska Tourism Marketing Council; and providing an effective date. BRU: Alaska Tourism Marketing Council
 Sponsor: House Spec. Comm. on Tourism Components: _____
 Requestor: House Spec. Comm. on Tourism

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Passage will not increase FY90 expenses.

Prepared by: Robert Miller, Executive Director

Phone: 563-2239

Division: Alaska Tourism Marketing Council

Date: January 26, 1990

Approved by Commissioner: 

Date: 1/26/90

Agency: Department of Commerce & Economic Development

Distribution (by preparer):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 24, 1990

FURTHER REFERRALS:
LABOR & COMMERCE

Date of Committee Action: _____

The House Special Committee on Tourism considered:

HB 442

HOUSE BILL NO. 442

ALASKA TOURISM MARKETING COUNCIL

"An Act relating to the Alaska Tourism Marketing Council; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CS HB 442 the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:
(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

[Handwritten signatures]

	Do Not Pass	No Rec	Amend

[Handwritten signature]
Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
 Title: Relating to the Alaska Tourism Marketing Council; and providing an effective date. BRU: Alaska Tourism Marketing Council
 Sponsor: House Spec. Comm. on Tourism Components: _____
 Requestor: House Spec. Comm. on Tourism

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Passage will not increase FY90 expenses.

Prepared by: Robert Miller, Executive Director
 Division: Alaska Tourism Marketing Council
 Approved by Commissioner: [Signature]
 Agency: Department of Commerce & Economic Development

Phone: 563-2239
 Date: January 26, 1990
 Date: 1/26/90

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

HB442

Mikes' Good Times Charters
191 E. Swanson Ave
Wasilla, Ak. 99687
(907) 376-7809

Attn: Ginger Baim and Chairman Dave Donley

Re: HB 442

Please read the following for the hearing Feb. 1, 1990:

As a small fishing charter business involved in the tourism for our state, we are concerned that the House Bill 442 will unfairly restrict the resources generated by the State Division of Tourism from availability of the small businesses, of which the state abounds.

The mailing lists should be state property and should be made available to any tourist oriented business requesting the lists for a nominal charge to cover the basic cost of providing the lists. No organization should be making money from the sale of those lists.

Thank you for your consideration.

Michael Janecek
Fishing Guide

Park Plaza Bldg.
191 E. Swanson Ave., Suite 102
Wasilla, Alaska 99687
(907) 376 5231



To: Labor and Commerce
From: Cindy Bettine, ABC Travel Time, Inc.
Attn: Ginger Baim and Chairman Dave Donley
Feb. 1, 1990

Barb Hunt, Rep. Larsons aid suggested I have you read the following into the record at the 3pm hearing on HB442.

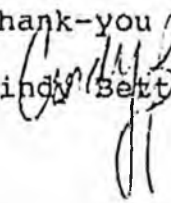
FOR THE HEARING

I do not agree with HB 442. The Alaska Visitors Association, the Tourism Marketing Council and the Division of Tourism have for years made the labels too expensive for the small tourism businesses to purchase.

Section 14 of HB 442 grants exclusive rights to a qualified trade association to sell tourism mailing list. I believe the mailing list should remain the property of the State of Alaska, and should be available at a rate similar to the voters registration list.

The tourism list should not be a vehicle for any organization to make money. It should remain the property of the State and used to promote tourism.

Thank-you for the opportunity to be heard.


Cindy Bettine, President

cc. Rep. Ron Larson
cc. Rep. Curt Menard

 *
 * DELIVER TO: LIOCBL5 *
 * *
 * ORIGINAL *
 * SENT: 01/29/90 TIME: 15:25 *
 * FROM: LTCCFBX *
 * SUBJECT: SC TOURISM;FL#1;HB442;1-29-90 *
 * PRINT DATE: 01/29/90 TIME: 15:25 *
 * *

T/C NO: 90-01-193

DATE: JANUARY 29, 1990
 SPONSOR: SPECIAL COMMITTEE ON TOURISM
 SUBJECT: HB 442: ALASKA TOURISM MARKETING COUNCIL
 MODERATOR: FRAN
 SITE: FAIRBANKS

PARTICIPANT LIST
 FINAL STATS

 TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. STAN STEPHENS			
2.			
3.			
4.			
5.			

 OBSERVED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			
2.			
3.			
4.			
5.			

TESTIFIED:
 UNABLE

 * DELIVER TO: LIOCBL5 *
 * ORIGINAL *
 * SENT: 01/29/90 TIME: 15:29 *
 * FROM: LIOCTOM *
 * SUBJECT: 90-01-193; PL; TOURISM; 1-29 *
 * PRINT DATE: 01/29/90 TIME: 15:29 *

TAC NO: 90-01-193
 DATE: JANUARY 29, 1990
 SPONSOR: SPECIAL COMMITTEE ON TOURISM
 SUBJECT: 90-01-193
 MODERATOR: TOM FILLIFANT
 SITE: ANCHORAGE

PARTICIPANT LIST

 TO TESTIFY:

1. BOB MILLER
2. CHARLES MCKEE

- ~~3. DENISE BELKOSKI~~
4. ALLAN LEMASTER
5. DON SMITH

 TO OBSERVE:

1. KAREN COWART
2. TINA LINGREN
4. JAMES WRIGHT

BACKUP NUMBER - 561-1199
 EMAIL ADDRESS - LIOCTOM

oral & written
testimony

Testimony to the House Special Committee on Tourism

January 29, 1991

Good afternoon. My name is Tom Garrett. I am President of the Juneau Convention & Visitors Bureau and I am testifying today on behalf of the Southeast Alaska Tourism Council in support of HB 442.

Tourism is big business in Southeast Alaska. 70% of all Alaskan pleasure visitors spend part of their trip in Southeast and when they leave, they have left behind \$74 million dollars. SATC was formed to increase independent visitation to our region and to increase the economic impact of tourism. The organization is the state's oldest and largest regional tourism marketing organization and its membership includes seven southeast Alaskan cities, 38 private sector marketing partners and 101 member businesses.

Each year, SATC spends more than \$450,000 promoting our region. We purchase an ad in the Vacation Planner. We produce a four-color brochure which we mail to potential visitors and we buy large quantities of labels based on responses to the ATMC advertising campaign.

A few years ago we had two ways of generating names of potential visitors: we advertised in consumer magazines and we purchased labels from the vacation planner list. GMA Research recently concluded a conversion study which looked at the efficacy of each method and the results were clear: it is much more efficient for us to mail to the

Testimony to the House Special Committee on Tourism, page 2

vacation planner respondents list than to try to generate our own names through consumer magazine advertising.

One ad in Sunset magazine cost \$65,667 and generated 6,429 potential visitors at a cost of \$10.21 per lead. By comparison, our ad in the Vacation Planner and the additional labels that we purchased came to \$59,400 and generated 173,845 potential visitors - a cost of \$.34 per lead.

Because of the efficiency of using the vacation planner list, we no longer do direct consumer advertising and are concentrating our resources on responding to people who have been pre-qualified by the cooperative marketing program.

These names have great value to us because they are pre-qualified and because access to the list is restricted to other participants in the cooperative marketing program. We know that the people who are on the receiving end will only be getting information about Alaskan travel opportunities.

-- We don't have to worry about designing our message to compete with British Columbia -- a place that has everything that we've got and is easier and cheaper to get to;

-- We don't have to worry about the possibility that our brochure will arrive on the same day that the "Celebrate France" and "Visit Hawaii" brochure arrives;

Testimony to the House Special Committee on Tourism, page 3

-- We don't have to worry that our message will be lost in a mind-boggling deluge of junk mail and bogus sweepstakes special offers.

SATC believes that the legislature should take any and all actions necessary to preserve the cooperative marketing program. During the first eleven years of its existence, the cooperative marketing program made Alaska the envy of the tourism world. Even today, there is only one other state in the union with a program similar to ours -- Hawaii.

However, the past two years have seen an increasing amount of energy directed just at keeping the program together. Instead of being proactive about promoting Alaska, we are being reactive about defending the cooperative marketing program.

HB442 addresses all of the poltergeists that have been threatening the continued existence of this program and the legislation does so in a clear and direct fashion.

One issue in this legislation deserves special comment -- the question of access to the vacation planner list and the public's right to know.

We believe that the intent of public disclosure laws was to protect the people of Alaska from its government. The law guarantees citizens an open door, or at least a window, into the workings of state government so that at no time will the state take any action affecting its citizens without their knowledge.

However, it was not the intent of the public disclosure law to give away the farm.

Testimony to the House Special Committee on Tourism, page 4

There are many instances when it is in the public interest for the state to protect our investment. When a state employee or contractor develops computer software, the results of that work become property of the state. Though the software was produced with public money, it is not distributed to the public for merely the cost of duplicating the tape because that would not be an accurate reflection of the value of this product.

Similarly, the names, addresses and demographic information collected on business reply cards are a product of the cooperative marketing program and that information should not be distributed merely because someone can afford the cost of duplicating the tape.

Millions of dollars are invested in image and response advertising for the sole purpose of generating qualified responses -- why would the state turn around and give that away?

And in considering the question of freedom of information, at what point do we draw the line? If the names are not a product of the cooperative marketing program but are public records, then what about the television ads themselves? Should I be able to request a copy for the price of dubbing a tape and then have the ability to use that ad for my own unrestricted commercial purposes?

You created the ATMC to direct the state's tourism marketing program and you also created a mechanism for making a partnership with private industry. The 21 members of this council have unanimously agreed that the labels are an integral part of the

Testimony to the House Special Committee on Tourism, page 5

cooperative marketing program and have asked you to adopt legislation which will lay these questions to rest once and for all.

SATC believes strongly that the vacation planner respondent list is a product of the cooperative marketing program and cannot be separated from it without the destruction of the entire program and the loss of a valuable public/private partnership.

We urge you to take quick action on HB442 and to pass it out of committee with a "Do Pass" recommendation so that we can get on with the business of promoting Alaska as a visitor destination.

Thank you.



Southeast Alaska Tourism Council

"representing Southeast Alaska and our Canadian neighbors"

P.O. Box 20710 Juneau, Alaska 99802-0710 (907) 586-4777 FAX: (907) 463-4961

January 25, 1990

The Honorable David Finkelstein
Chairman, House Special Committee on Tourism
Rm. 607, Court
PO Box V
Juneau, AK 99811

Dear Representative Finkelstein,

The Southeast Alaska Tourism Council supports the Alaska Tourism Marketing Council's resolution to protect names and other products of the Cooperative Tourism Marketing Program, just introduced. We further urge the administration and the legislature to proceed expeditiously with revisions as indicated by the resolution:

ATMC RESOLUTION TO PROTECT NAMES AND OTHER PRODUCTS OF COOPERATIVE TOURISM MARKETING PROGRAM

1. All information collected by the ATMC is a product of the cooperative marketing program;
2. All products of the cooperative marketing program are the property of the Council; and
3. Granting distribution rights to all products of the cooperative marketing program is the exclusive right of the Council.

This was passed unanimously January 24, 1990 in Juneau by the SATC Board Members. Your action on this matter would be most appreciated.

Sincerely,

Chip Waterbury
President

Original Sponsor(s): THE HOUSE SPECIAL COMMITTEE ON TOURISM

1 IN THE HOUSE

BY THE HOUSE SPECIAL COMMITTEE ON TOURISM

2 CS FOR HOUSE BILL NO. 442 (Tourism)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Tourism Marketing
7 Council; and providing for an effective date."

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

9 * Section 1. AS 44.33.705(c) is amended by adding a new paragraph to
10 read:

11 (1) notwithstanding AS 39.52, a board member who is a
12 member of the qualified trade association that has contracted with the
13 department under (b) of this section may vote or take action on a
14 matter that might benefit the trade association or members of the
15 trade association, including the issuance of contracts or the granting
16 of rights to the trade association.

17 * Sec. 2. AS 44.33.715(a) is amended to read:

18 (a) The board may

19 (1) adopt, alter, and use a corporate seal;

20 (2) prescribe, adopt, amend, and repeal bylaws relating to
21 the internal management and operations of the council [, INCLUDING THE
22 GRANTING OF DISTRIBUTION RIGHTS TO TOURISM MAILING LISTS];

23 (3) sue and be sued in the name of the council;

24 (4) enter into [ANY] agreements necessary to perform its
25 functions;

26 (5) cooperate with a public or private board, organization,
27 or agency engaged in work or activities similar to the work or act-
28 ivities of the council, including entering into contracts for joint
29 programs of tourism advertising and marketing;

1 (6) receive contributions of money;
2 (7) establish offices in the state and otherwise incur
3 expenses incidental to the performance of its duties;

4 (8) appear on behalf of the council before boards, commis-
5 sions, departments, or other agencies of municipal, state, or federal
6 government except as provided under (b) of this section;

7 (9) acquire, hold, lease, sell, or otherwise dispose of
8 property, but such property is limited to that which is necessary to
9 the administrative functioning of the council;

10 (10) appoint committees comprised of board and nonboard
11 members; the presiding officer of each committee shall be a board
12 member;

13 (11) prepare and implement plans for the promotion of
14 travel to and inside the state;

15 (12) sell, at fair market value, tourism advertising space
16 in publications and promotional materials developed by the council;
17 [AND]

18 (13) provide space to a qualified trade association in
19 publications and promotional materials developed by the council if the
20 trade association has contracted with the department under AS 44.33.-
21 705(b) and pays its pro rata share of the production costs for the
22 publication or promotional material; payment under this paragraph is
23 not part of the association's required contribution under AS 44.33.-
24 705(b); and

25 (14) grant exclusive rights to a qualified trade associa-
26 tion to sell tourism mailing lists developed by the council if the
27 trade association has contracted with the department under AS 44.33.-
28 705(b).

29 * Sec. 3. AS 44.33 is amended by adding a new section to read:

1 Sec. 44.33.723. INFORMATION AND DATA. Marketing information and
2 data generated by the council, including tourism mailing lists con-
3 taining consumer names, addresses, and demographic information, are
4 not public writings or records under AS 09.25.110 or 09.25.120.

5 * Sec. 4. AS 44.33 is amended by a new section to read:

6 Sec. 44.33.727. FUND TRANSFER AND REQUIRED CONTRIBUTION. All of
7 the funds obtained by the qualified trade association from the sale of
8 space in publications and promotional materials under AS 44.33.-
9 715(a)(13) and from the sale of tourism mailing lists under AS 44.33.-
10 715(a)(14) shall be transferred to the council for deposit in the
11 general fund. The association shall receive credit towards the satis-
12 faction of its required contribution under AS 44.33.705(b) in the
13 amount of the funds turned over to the council under this section.

14 * Sec. 5. This Act is retroactive to July 1, 1988.

15 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).
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HOUSE COMMITTEE REPORT

(7)
Date Referred: March 14, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 4/3/90

The LABOR & COMMERCE Committee considered:

SSHB 454

SS HOUSE BILL NO. 454

APPROP: AEA INTERTIES AND ENERGY PROJECTS

"An Act making special appropriations from the Railbelt energy fund to the Alaska Energy Authority for design and construction of energy projects in Alaska; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CSSHB 454 the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: L+C letter of intent

- | | |
|---|--|
| ATTACHES NEW FISCAL NOTE(s):
(Dept) | APPROVES PREVIOUS:
(Date/Dept) |
| <input type="checkbox"/> fiscal impact _____ | <input type="checkbox"/> fiscal note(s) _____ |
| <input type="checkbox"/> zero fiscal note _____ | <input type="checkbox"/> zero fiscal note(s) _____ |
| <input type="checkbox"/> zero with analysis _____ | <input type="checkbox"/> zero fn/analysis _____ |

SIGNING DO PASS:

Mr. [Signature]
[Signature]

SIGNING:
(Check approv. column)

	Do Not Pass	No Rec	Amend
<u>[Signature]</u> Collins ✓			
<u>[Signature]</u> Lemmon ✓			
<u>[Signature]</u> Boyer ✓			
<u>[Signature]</u> Doney ✓			

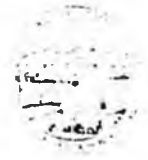
Walter Doney
Chairman's Signature

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



April 4, 1990

Letter of Intent
CS SS HB 454 (L&C)

It is the intent of the House Labor and Commerce Committee that the projects addressed in HB 454, along with all other projects which seek funding from the Railbelt Energy Fund, be addressed in the House Finance Committee. The House Labor and Commerce Committee neither affirms or denies support for the individual projects in HB 454 but seeks a forum where all the Railbelt projects can be heard as a collective package.

Representative Dave Donley, Chair
House Labor and Commerce Committee

dd/gbs90
b/hb454

DRAFT

HB454

D

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892

April 4, 1990

Letter of Intent
CS SS HB 454 (L&C)

It is the intent of the House Labor and Commerce Committee that the projects addressed in HB 454, along with all other projects which seek funding from the Railbelt Energy Fund, be addressed in the House Finance Committee. The House Labor and Commerce Committee neither affirms or denies support for the individual projects in HB 454 but seeks a forum where all the Railbelt projects can be heard as a collective package.

Representative Dave Donley, Chair
House Labor and Commerce Committee

dd/gbs90
b/hb454

1 payment as a grant under AS 37.05.316 to Chugach Electric Association for
2 the Bean Creek subdivision and Blakley subdivision electric line in Cooper
3 Landing.

4 ✓ * Sec. 5. The sum of \$30,000,000 and the interest earned on that sum
5 beginning on July 1, 1990, are appropriated from the Healy cogeneration
6 project reserve in the Railbelt energy fund (AS 37.05.530) in the general
7 fund to the Alaska Industrial Development and Export Authority for the
8 design and construction of the Healy cogeneration project.

9 * Sec. 6. The sum of \$25,000,000 is appropriated from the Railbelt
10 energy fund (AS 37.05.520) in the general fund to the Alaska Energy Author-
11 ity for placing underground the existing overhead electrical and other
12 overhead utility facilities located in communities in the Railbelt.

13 * Sec. 7. The appropriations made by this Act are for capital projects
14 and are subject to AS 37.25.020.

15 * Sec. 8. This Act takes effect July 1, 1990.
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6-1974H
Cramer
3/27/90

<u>Funding Information:</u>	General Fund \$105,365,000
	Other Funds -0-
	\$105,365,000

Original sponsor(s): REP. KUBINA, Davidson

1 IN THE HOUSE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 454 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making special appropriations from the Rail-

7 belt energy fund to the Alaska Energy Authority and

8 the Alaska Industrial Development and Export Authori-

9 ty for payment as grants and for design and construc-

10 tion of energy projects in Alaska; and providing for

11 an effective date."

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

13 * Section 1. FINDINGS AND INTENT. The legislature finds that the

14 Alaska Industrial Development and Export Authority has included the amount

15 of interest expected to be earned on the \$30,000,000 appropriated in sec. 5

16 of this Act when computing the financial feasibility of the Healy cogenera-

17 tion project. It is the intent of the legislature that the Department of

18 Revenue transfer the \$30,000,000 appropriated in sec. 5 of this Act to the

19 Alaska Industrial Development and Export Authority on July 1, 1990, or

20 immediately thereafter.

21 * Sec. 2. The sum of \$10,000,000 is appropriated from the Railbelt

22 energy fund (AS 37.05.520) in the general fund to the Alaska Energy Author-

23 ty for design and construction of the Seward intertie.

24 * Sec. 3. The sum of \$65,000,000 is appropriated from the Railbelt

25 energy fund (AS 37.05.520) in the general fund to the Alaska Energy Author-

26 ity for design and construction of the north portion of the Northeast

27 intertie.

28 * Sec. 4. The sum of \$365,000 is appropriated from the Railbelt energy

29 fund (AS 37.05.520) in the general fund to the Alaska Energy Authority for

1 payment as a grant under AS 37.05.316 to Chugach Electric Association for
2 the Bean Creek subdivision and Blakley subdivision electric line in Cooper
3 Landing.

4 * Sec. 5. The sum of \$30,000,000 and the interest earned on that sum
5 beginning on July 1, 1990, are appropriated from the Healy cogeneration
6 project reserve in the Railbelt energy fund (AS 37.05.530) in the general
7 fund to the Alaska Industrial Development and Export Authority for the
8 design and construction of the Healy cogeneration project.

9 * Sec. 6. The appropriations made by this Act are for capital projects
10 and are subject to AS 37.25.020.

11 * Sec. 7. This Act takes effect July 1, 1990.
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