

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 11/20/00 BY 3030-1/304

2971

HSA HB 577 - HB 597

2971

Funding:

The awards could be based upon the recurring annual savings (or a percentage of the recurring annual savings). Thus, the awards paid would be valued in terms of the annual benefits the State receives.

Summary:

Annual benefits = Annual Awards	
Awards -- Travel	\$42,000 or unknown
Publicity	<u>2,500</u>
	<u>\$44,500</u>

If not restricted to a target "pool of money," program costs could be enormous, especially if each award did not have to be justified on the basis of benefits received -- perhaps \$1,000,000 annually or more.

The bill should be more specific, even before planning award policies and procedures.

ems/1733



Alaska State Legislature

House of Representatives

PO BOX 2716
ANCHORAGE, ALASKA 99510
(907) 276-4506

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4939

REPRESENTATIVE JERRY WARD
DISTRICT 13

MEMBER FINANCE COMMITTEE
CHAIRMAN OF SUBCOMMITTEE ON
COMMERCE & ECONOMIC DEVELOPMENT
CHAIRMAN OF SUBCOMMITTEE ON LABOR
MEMBER OF SUBCOMMITTEE ON STATE LOANS

MEMORANDUM

DATE: March 8, 1964

TO: Representative Mitch Abood, Chairman
House State Affairs Committee

FROM: Representative Jerry Ward *JW*

RE: HB 577

In support of HB 577, I enclose the following materials:

1. House Research report 83-193 regarding Employee Incentive Systems.
2. Materials describing Federal Incentive System.
3. Materials describing California Incentive System.
4. News item describing Air Force Incentive System.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

September 13, 1983

MEMORANDUM

TO: Representative Jerry Ward
FROM: David Teal *Teal*
Legislative Analyst
RE: Employee Incentive Systems
Research Request 83-193

You asked this agency to provide information on the federal employee incentive plan. Rosalie Howse, of the federal Office of Personnel Management, sent a package of material describing the program. I have enclosed that material, as well as material received from other sources, with this memorandum. The information is summarized below.

The Federal Employee Incentive Awards Program

The Federal Incentive Awards Program was established by Congress in 1954. Although the incentive program is sometimes referred to as a suggestion system, the program offers other incentives in addition to cash awards for suggestions. Incentives such as presidential awards, merit pay increases and other monetary and honorary awards are granted through the program in recognition of sustained superior performance or special acts or services substantially beyond normal job requirements. These awards are described in the attached federal personnel manual; this memorandum focuses on awards for employee suggestions.¹

According to the attached report on the federal incentive awards program, public recognition of outstanding contributions by federal employees encourages other federal employees to perform in a similar manner. The government gains both tangible and intangible benefits from the program. Some employee ideas allow the government to direct staff, time, space and materials to other uses. Other ideas produce benefits that are less easy to measure, but which represent advancements in fields such as medical research, national security and environmental protection.

¹Appendix A of the personnel manual offers a summary of awards and the requirements for obtaining them.

Each federal agency is allowed to set its own scale of awards for suggestions. Appendix C of the attached federal personnel manual provides an award scale offered as guidance to agencies in determining the size of award to be granted. For contributions with tangible benefits, the scale suggests that the award be 10 percent of the first \$10,000 saved, 3% of the next \$90,000, and .5% of savings in excess of \$100,000, to a maximum cash award of \$35,000. All awards refer to savings realized during the first year a suggestion is implemented. Awards are to be based on tangible benefits when possible, and awards based on intangible benefits are to be comparable with awards granted for suggestions with measurable benefits. An honor award may be granted in addition to, or instead of, a cash award.

A suggestion must be constructive and be submitted in writing in order to be eligible for an award. A suggestion must generally be outside the job responsibilities of the person or persons who submit the suggestion, and cannot concern employee services or benefits, working conditions, housekeeping, routine safety practices or maintenance of building and grounds. Once an award is made, the suggestion becomes the property of the government.

The reports on the Federal Incentive Awards Program focus on financial aspects of the program. The 1981 report states that the \$54.4 million in cash awards paid in 1981 were associated with \$1.9 billion in measurable benefits, for an average return of \$36 in savings for every dollar awarded. Longer-term data show benefits of over \$12 for every dollar paid in awards.

State Employee Suggestion Systems

California also reported a ratio of about \$12 in benefits for every dollar awarded by the State Merit Award Board. Ms. Louise Williams, an assistant administrator of the program, sent a letter and attachments describing the California incentive system. Like the federal system, the California Merit Award Program is more than a suggestion system; the Board rewards employee acts of heroism and superior accomplishment. The material sent by California is attached.

The California program is run by a staff of five. California has about 160,000 state employees eligible for awards (managers are ineligible) and received over 3,000 suggestions during fiscal year 1982. Twelve percent of suggestions resulted in cash awards by the Merit Board in 1982. A five member board settles any disputes that arise.

Several other states have incentive systems. Nebraska is currently surveying all states to determine the range of incentive programs that exist. A copy of results of that survey will be sent to us when the review process is completed.

Representative Ward
September 13, 1983
Page 3

The National Association of Suggestion Systems (NASS) publishes a membership directory as part of its member services. I contacted that organization in an attempt to obtain a listing of states with incentive programs. They did not send a directory, but did send a package describing member services. The material sent by NASS is attached.

NASS has published a set of legal guidelines for establishing a suggestion system and also hosts seminars and conferences on the subject. Although the organization appears to be oriented toward serving the private sector, government agencies are encouraged to join.

* * *

I hope this memorandum is useful. I will forward the results of the Nebraska survey when we receive them. If you have further questions, please contact us.

DT

Attachments

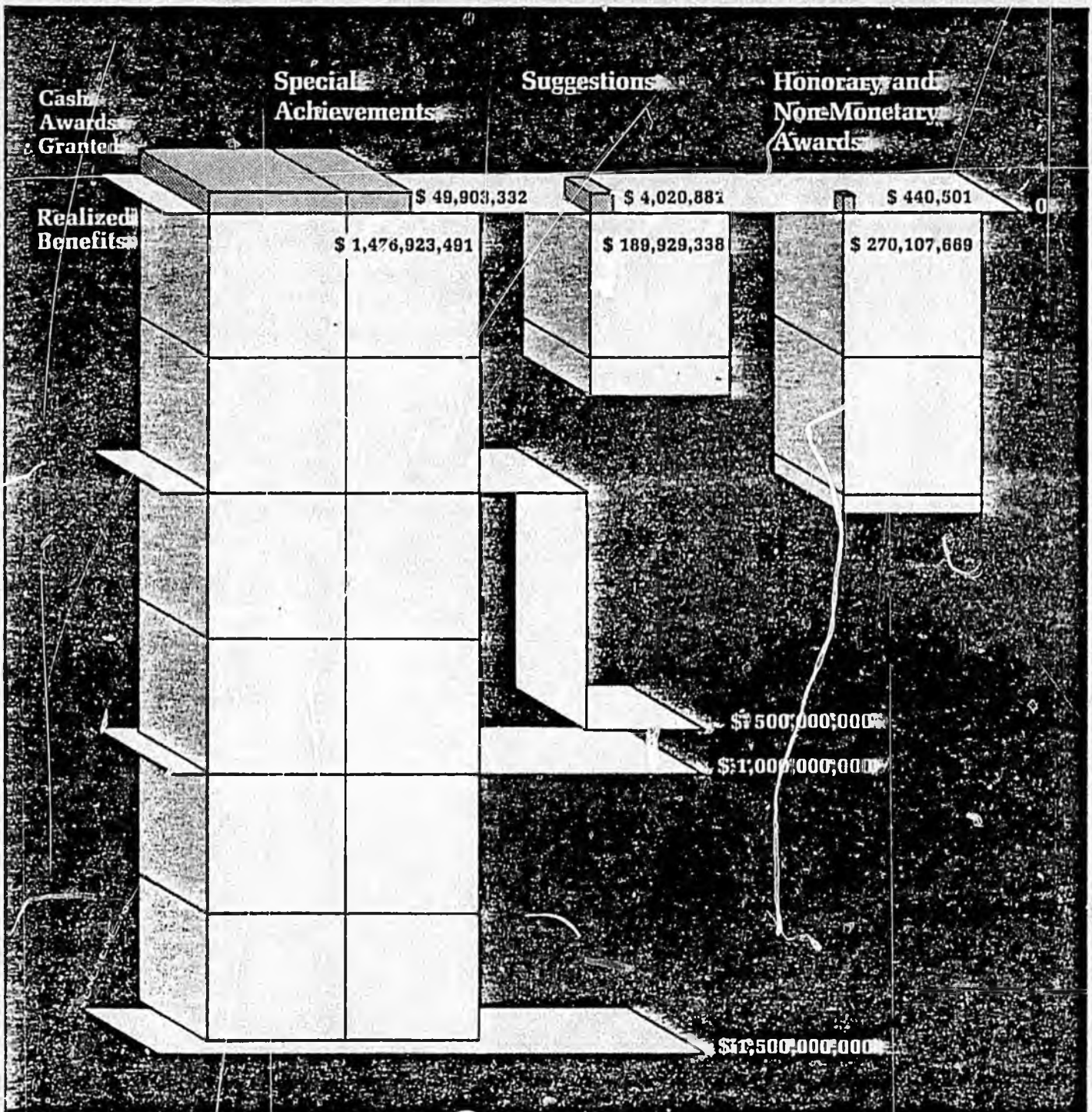
- Federal Office of Personnel Management
 - "Achievements" 1980 and 1981
 - Chapter 451, Federal Personnel Manual
 - New Incentive Awards Regulations
 - Fed Facts #1
- California Merit Awards Board
 - Administrative Manual
 - Code and Board of Control Rules
 - Financial Recapitulation
 - miscellaneous forms
- National Association of Suggestion Systems
 - Member Services Package

A. Benefit/Cost Data

Federal Investment in the Incentive Awards Program

These statistics indicate that about \$36 in tangible benefits are realized for each dollar of awards cost incurred. Benefits from suggestions continue, on the average, for more than three years.

Less than 1/10 of 1% of Federal payroll costs was paid in awards and provided recognition for one in nine employees through honorary awards, non-cash awards, or lump-sum cash awards.



Summary of Fiscal Year 1981 Statistical Results

(Figures in Parentheses Reflect Fiscal Year 1980 Results)

Suggestions

Ideas submitted by employees and adopted either in whole or partially by management.

Measurable Benefits	\$189,929,338 (\$146,296,989)	Average Benefits	\$4,803 (\$3,508)
Amount Paid in Awards.....	\$4,020,881 (\$3,921,223)	Average Award	\$137.23 (\$133.33)
Number Submitted	150,408 (160,855)	Participation Rate	5% (6.1)
Number Adopted	39,543 (41,733)	Adoption Rate	26.1 (27.2)
Benefit/Award Ratio		47.2:1	

Special Achievements

Recognition in the form of cash awards for sustained superior performance over a specified period, or for a special act or service.

Measurable Benefits	\$1,476,923,491 (\$405,984,266)	Average Benefits	\$10,321 (\$2,602)
Amount of Awards.....	\$49,903,332 (\$40,499,409)	Average Award	\$349.09 (\$332.05)
Number Granted	145,089 (156,058)*	Rate Per 100 Employees.....	5.6 (5.9)
Benefit/Award Ratio.....		29.5:1	

Honorary and Non-Monetary Awards

Recognition in the form of a medal, plaque, certificate or other item in recognition of significant employee accomplishments, or a certificate/letter of appreciation for a job well done.

Measurable Benefits	\$270,107,669	Number of Honor Awards Granted.....	17,427
Amount Paid in Cash Honoraria.....	\$440,501	Number of Non-Monetary Awards Granted....	38,922

Quality Step Increases

Recognition in the form of an additional within-grade increase granted to General Schedule employees for sustained superior performance.

Estimated First-Year Cost.....	\$34,131,956 (\$36,849,237)	Average First-Year Cost.....	\$624 (\$677)
Number Granted	54,657** (54,152)	Rate Per 100 Employees.....	3.9 (3.0)

*FY 1980 total includes honorary and non-monetary awards granted for performance contributions.

**Previous years' reporting has included Quality Increase equivalents granted to employees of the U.S. Postal Service. The number of QSI equivalents will no longer be counted in the Quality Increase data.

The Government will pay up to \$35,000 to any employee who proposes a suggestion, develops an invention, or makes a contribution beyond the expected scope of his or her job, which significantly reduces costs or improves Government operations or services. Employees can also earn honorary recognition such as a medal or personal letter from the President.

The Incentive Awards Program was established because the Government believes that employees who exceed job standards deserve special recognition. It's a program that benefits everyone—employees, taxpayers, and the Government. As an employee you may benefit through earning extra cash, being recognized by co-workers and supervisors, and having the satisfaction of knowing that your ideas and efforts are welcome and useful. Also, you have a better chance of getting ahead because these awards are part of promotion consideration. As a taxpayer you benefit through better Government at less cost. And the Government benefits through increased efficiency, lower costs, and a better motivated and more productive and responsive work force.

How to Earn an Award

You may earn awards for suggestions, inventions, or special achievements, as long as they benefit the Government and are outside your normal job responsibilities and standards. Awards may be paid to an individual employee or shared by a group.

For a Suggestion or Invention...

Employees who have had the most suggestions adopted tell us that the way to succeed is to be sure that your suggestion promises solid improvements such as saving time, materials, or paperwork; simplifying procedures or processes; or improving services. They recommend the following systematic approach:

- Concentrate on what you know best within your organization and work area
- Pick a situation that needs improvement
- Write it down
- Include all the facts (what—where—when—who—how)
- Analyze these facts (ask why?)
- Think up a variety of possible improvements

- Choose the best
- Persuade others it is an improvement by explaining the benefits.

If you need help with your idea, talk to your supervisor or your incentive awards officer. They will be glad to help you, or to arrange for someone else to do so. Your personnel office can tell you the name of the incentive awards officer for your organization.

For Performance...

Special achievement awards for exceptional accomplishments also are an important part of the program, and high-level performance or a significant achievement can earn you one.

Examples of the kind of performance that can earn special achievement awards are: exemplary performance or courageous handling of an emergency connected with official employment, or creative efforts that make important contributions to scientific research.

And, for employees in the General Schedule, continuing high-level performance of your job could earn you an additional pay increase.

How Cash Awards Are Calculated

When benefits to the Government can be measured in dollars—such as reduction in production time, staff-hours, supplies, equipment, and space—awards are based on money saved during the first year the improvement is in effect. When benefits to the Government can't be measured in dollars, the amount of award is determined by the importance of the program affected and the impact of the contribution on the mission of the organization.

If your contribution benefits other organizations beyond your own, your award may be increased proportionately.

These Are the Benefits

More than one out of four suggestions is adopted. The average suggestion award is \$133 and the average measurable benefit per adopted suggestion is \$3,506. In recent years, total measurable benefits from suggestions have averaged \$147 million a year. The highest award for a

suggestion was \$22,090, and for an invention, \$25,000.

Each year over 100,000 employees receive special achievement awards. The average cash award for a special achievement is \$22, and, in recent years, total measurable benefits from special achievement contributions have averaged \$228 million a year.

Combined results show that, each year, about one out of every eleven Federal employees receives an award for a suggestion, invention, or special achievement. And the American taxpayer and the Government realize about \$12 in benefits for every \$1 paid in awards to employees, as well as benefits that can't be measured, such as scientific achievements and improved service.

Thus, a modest investment in the awards program enables the Government to operate more efficiently—to do more, produce more, provide more services to the public with the same work force, redirect personnel and materiel to other priorities, and conserve resources.

Supervisors Have a Special Role

All supervisors are responsible for using the program to increase individual and organizational productivity. And, as a result of the Civil Service Reform Act, monetary recognition will be linked directly to job performance and results.

Supervisors at all levels should encourage constructive thinking by their employees, help get good ideas adopted, and recommend awards for adopted ideas and superior accomplishments. In doing so, they gain the respect and confidence of the people they supervise, and benefit from more efficient operations and better employee morale and employee-supervisor relations. This contributes to a well-run organization that reflects credit on the supervisor concerned. Specifically, you can:

- Take a few minutes regularly to talk with your employees about work problems and invite their ideas for better methods, lowered costs, and increased production
- Act promptly on suggestions you receive for consideration (you can answer most inquiries in three days, so why "sit" on potential savings?)
- Recommend awards or other recognition for

employee performance substantially beyond job standards and for special achievements by individuals or groups.

Two booklets to help you fulfill your Incentive Awards Program responsibilities are: For first-line supervisors—*A Supervisor's (15-Minute) Guide to the Federal Incentive Awards Program*, and for managers and executives—*Plain Talk About Employee Incentives—A Manager's Guide to the Federal Incentive Awards Program*. These may be obtained from your personnel office, or at a modest cost from the Government Printing Office.

It's Up to You

There are opportunities for improvement at all levels of Government. By using fully your skills and abilities, you can take advantage of these opportunities. Recent examples include people like the Federal Aviation Administration employee who, using extra initiative, assumed added job responsibilities, thus assuring flight safety; and the engineer who designed an inexpensive device to better drain condensed water from pressurized steam lines, saving the Navy \$10 million a year in reduced fuel consumption and repair costs.

As a Federal employee, you reap twofold benefits from the Incentive Awards Program—in rewards and recognition as a participant, and in better Government as a taxpayer. You can make specific and direct contributions to improve Government. The opportunity and challenge are yours!

FED FACTS Pamphlets

- FED FACTS 1 The Incentive Awards Program
- FED FACTS 2 Political Activity of Federal Employees
- FED FACTS 3 The Civil Service Retirement System
- FED FACTS 4 Financial Protection for Federal Employees
- FED FACTS 5 The Federal Merit Promotion Policy
- FED FACTS 6 Serving the Public The Extra Step
- FED FACTS 7 The Federal Wage System
- FED FACTS 8 Meeting Your Financial Obligations
- FED FACTS 9 Maternity Benefits for Federal Employees
- FED FACTS 11 Actions for Unacceptable Performance and Adverse Actions
- FED FACTS 12 The Displaced Employee Program
- FED FACTS 13 Reductions in Force in Federal Agencies
- FED FACTS 14 Reemployment (Restoration) Rights of Federal Employees Who Perform Duty in the Armed Services
- FED FACTS 15 Federal Labor Relations
- FED FACTS 16 Pay Under the General Schedule
- FED FACTS 17 The Cost of Living Allowance for Federal Employees
- FED FACTS 18 The Intergovernmental Mobility Program
- FED FACTS 19 How Your GS Job Is Classified
- FED FACTS 20 Merit System Principles and Prohibited Personnel Practices
- FED FACTS 22 Reduction in Force Benefits Guide



United States
Office of
Personnel
Management

FED FACTS

The Incentive Awards Program

1

Appendix

Criteria for Various Types of Recognition (See Subchapter 6 of this Chapter)

Type	Who May Receive	Nature of Contribution	Requirements Which Must Be Met	Description
Honor (Federal, Department, Agency or Bureau)	an individual or group ¹ , a former employee, or the estate of a deceased employee, provided the contribution was made while the person was a Government employee.	a suggestion, invention, special achievement, or other personal effort that contributed to efficiency, economy, or improved Government operations; or for clearly significant achievements in fostering equal employment opportunity, energy conservation, scientific research, improved communications with the public, public service, etc.	As contained in appropriate announcement inviting nominations or in Department and Agency regulations.	Usually takes the form of a medal, plaque, or certificate.
Special Achievement				
a) for sustained superior performance	an individual, ² a former employee, or the estate of a deceased employee, provided the performance took place while the person was a government employee.	superior performance of duties and responsibilities of the employee's assigned position, sustained over a significant period	<ul style="list-style-type: none"> •The employee's most recent performance appraisal must support the conclusion that overall performance substantially exceeds an acceptable level of competence so that, when viewed as a whole, the employee's performance is at a high level of quality, and, for employees covered by an appraisal system established under 5 CFR Part 430, performance of all critical elements must have been at least fully satisfactory. •Supervisors and managers must have demonstrated effective use of incentive awards to motivate their employees, and receptivity to and encouragement of employee suggestions, to the extent that they had opportunity. 	Cash Award. The amount normally is based on a percentage of the rate of basic pay. An honor award may be granted in addition to, or instead of, a cash award, if it better serves the purpose of matching the award to both the contribution and the employee.

Type	Who May Receive	Nature of Contribution	Requirements Which Must Be Met	Description
b) for special act or service	an individual or group, a former employee, or the estate of a deceased employee, provided the special act or service took place while the person was a Government employee.	performance which has exceeded job requirements as a one-time occurrence, for example, a particular project or assignment which involved overcoming unusual difficulties, performance of assigned duties with special effort or innovation that resulted in significant economies or other highly desirable benefits, creative efforts that made important contributions to science or research or exemplary or courageous handling of an emergency situation related to official employment.	<p>The contribution has been described in writing and submitted within locally-specified time limit (a current performance appraisal may be used, if it contains the required information).</p> <p>Provided that the contribution has been described in writing and submitted within any locally-specified time limit. Must be in the public interest and connected with or related to, official employment.</p>	Cash award from \$25 to \$35,000. The amount is in proportion to the benefits realized by the Government. When the award is for a group, all members of the group should share in the recognition. The amount may be shared equally or the total may be divided in proportion to the individual contributions to the group effort. However, the total amount of the award may not exceed the amount authorized for that type of contribution if it were being awarded to an individual. An exception may be made by an agency authorized official, if individual award amounts would be too small to be motivating. An honor award may be granted in addition to, or instead of, a cash award, if it better serves the purpose of matching the award to both the contribution and the employee.

<i>Type</i>	<i>Who May Receive</i>	<i>Nature of Contribution</i>	<i>Requirements Which Must Be Met</i>	<i>Description</i>
Quality Step Increase	an individual employee paid under the General Schedule (Does not include Merit Pay (GM) or Senior Executive Services (SES) personnel).	sustained high quality performance at a level that substantially exceeds an acceptable level of competence for a period of time sufficient to conclude that such a level is characteristic of the employee's performance and is expected to continue in the future.	<p>Provided:</p> <ul style="list-style-type: none"> •The recommendation is supported by the employee's most recent performance appraisal.¹ •Overall performance must have substantially exceeded an acceptable level of competence so that, when viewed as a whole, the employee's performance is at a high level of quality, and, for employees covered by an appraisal system established under 5 CFR Part 430, performance of all critical elements must have been at least fully satisfactory. •Performance must have been sustained at this level for a sufficient time that it is considered characteristic of the individual's performance and is, therefore, expected to continue in the future. •The employee has not received a quality-step increase during the past 52 weeks. •The employee is not at the top rate for the grade on the pay schedule. 	An additional within-grade increase which indefinitely raises the employee's rate of basic pay. An honor or cash award may be granted in addition to a quality step increase.

Type	Who May Receive	Nature of Contribution	Requirements Which Must Be Met	Description
Suggestion	an individual or group ¹ , a former employee or the estate of a deceased employee provided the contribution was made while the person was a government employee.	an adopted suggestion, whether adopted as submitted or in part, that directly contributes to economy or efficiency, or directly increases effectiveness of Government operations.	<p>Provided the suggestion:</p> <ul style="list-style-type: none"> •Is outside the suggester's job responsibilities or, if within them, so superior that it warrants special recognition. •Has been submitted in writing either before adoption or within any locally-specified time thereafter. •Does not concern employee services or benefits, working conditions, or house-keeping, (except for suggestions concerning improved use or conservation of energy resources which result in tangible benefits). 	Cash award from \$25 to \$35,000. The amount is in proportion to the benefits realized by the Government. An honor award may be granted in addition to, or instead of, a cash award, if it better serves the purpose of matching the recognition to both the contribution and the employee.

¹ Includes: (a) Senior Executives (SES, Non-SES, and Others) (b) Under separate authority, Merit Pay (GM) employees, for other than pay-for-performance related awards.

² Includes Senior Executives (SES, non-SES, and Others). Merit Pay (GM) employees are eligible for pay-for-performance related awards under separate authority—see agency regulations. Methods of processing awards, awards scales, criteria, and level of approval for awards vary. Check local regulations or contact your Incentive Awards Program Administrator for additional guidance.

³ If appraisal is more than 60 days old, a written statement of reasons for granting the recognition must accompany the appraisal.

Appendix C.

Determining Award Amounts

C-1. GENERAL

The following award scales are offered as guidance to agencies in making decisions on employee contributions (a suggestion, invention, superior perform-

ance of assigned job responsibilities, or a special act or service) that benefit the Government. Further guidance appears in subchapter 2, "Payment of Awards."

C-2. FOR SUGGESTIONS, INVENTIONS, AND SPECIAL ACTS OR SERVICES

Table 1a. Contributions With Tangible Benefits

<i>Estimated First-Year Benefits to Government</i>	<i>Amount of Award</i>
Up to \$10,000	10% of benefits
\$10,001-\$100,000	\$1,000 for the first \$10,000, plus 3% of benefits over \$10,000
\$100,001 or more	\$3,700 for the first \$100,000 plus .5% of benefits over \$100,000

Table 1b. Quick Guide for Calculating Awards Based on Tangible Benefits

Benefits	Award	Benefits	Award	Benefits	Award	Benefits	Award	Benefits	Award
Up to \$10,000	10%	50,000	2,200	90,000	3,400	170,000	4,050	1,800,000	12,200
11,000	1,030	51,000	2,230	91,000	3,430	175,000	4,075	1,900,000	12,700
12,000	1,060	52,000	2,260	92,000	3,460	180,000	4,100	2,000,000	13,200
13,000	1,090	53,000	2,290	93,000	3,490	185,000	4,125	2,100,000	13,700
14,000	1,120	54,000	2,320	94,000	3,520	190,000	4,150	2,200,000	14,200
15,000	1,150	55,000	2,350	95,000	3,550	195,000	4,175	2,300,000	14,700
16,000	1,180	56,000	2,380	96,000	3,580	200,000	4,200	2,400,000	15,200
17,000	1,210	57,000	2,410	97,000	3,610	225,000	4,325	2,500,000	15,700
18,000	1,240	58,000	2,440	98,000	3,640	250,000	4,450	2,600,000	16,200
19,000	1,270	59,000	2,470	99,000	3,670	275,000	4,575	2,700,000	16,700
20,000	1,300	60,000	2,500	100,000	3,700	300,000	4,700	2,800,000	17,200
21,000	1,330	61,000	2,530	101,000	3,705	325,000	4,825	2,900,000	17,700
22,000	1,360	62,000	2,560	102,000	3,710	350,000	4,950	3,000,000	18,200
23,000	1,390	63,000	2,590	103,000	3,715	375,000	5,075	3,100,000	18,700
24,000	1,420	64,000	2,620	104,000	3,720	400,000	5,200	3,200,000	19,200
25,000	1,450	65,000	2,650	105,000	3,725	425,000	5,325	3,300,000	19,700
26,000	1,480	66,000	2,680	106,000	3,730	450,000	5,450	3,400,000	20,200
27,000	1,510	67,000	2,710	107,000	3,735	475,000	5,575	3,500,000	20,700
28,000	1,540	68,000	2,740	108,000	3,740	500,000	5,700	3,600,000	21,200
29,000	1,570	69,000	2,770	109,000	3,745	550,000	5,950	3,700,000	21,700
30,000	1,600	70,000	2,800	110,000	3,750	600,000	6,200	3,800,000	22,200
31,000	1,630	71,000	2,830	111,000	3,755	650,000	6,450	3,900,000	22,700
32,000	1,660	72,000	2,860	112,000	3,760	700,000	6,700	4,000,000	23,200
33,000	1,690	73,000	2,890	113,000	3,765	750,000	6,950	4,100,000	23,700
34,000	1,720	74,000	2,920	114,000	3,770	800,000	7,200	4,200,000	24,200
35,000	1,750	75,000	2,950	115,000	3,775	850,000	7,450	4,300,000	24,700
36,000	1,780	76,000	2,980	116,000	3,780	900,000	7,700	4,360,000	25,000**
37,000	1,810	77,000	3,010	117,000	3,785	950,000	7,950		
38,000	1,840	78,000	3,040	118,000	3,790	1,000,000	8,200	* Awards over \$10,000 require the approval of the Office of Personnel Management.	
39,000	1,870	79,000	3,070	119,000	3,795	1,050,000	8,450		
40,000	1,900	80,000	3,100	120,000	3,800	1,100,000	8,700		
41,000	1,930	81,000	3,130	125,000	3,825	1,150,000	8,950		
42,000	1,960	82,000	3,160	130,000	3,850	1,200,000	9,200		
43,000	1,990	83,000	3,190	135,000	3,875	1,250,000	9,450		
44,000	2,020	84,000	3,220	140,000	3,900	1,300,000	9,700		
45,000	2,050	85,000	3,250	145,000	3,925	1,350,000	9,950		
46,000	2,080	86,000	3,280	150,000	3,950	1,400,000	10,200*		
47,000	2,110	87,000	3,310	155,000	3,975	1,500,000	10,700		
48,000	2,140	88,000	3,340	160,000	4,000	1,600,000	11,200	** Maximum award authorized by the Office of Personnel Management. A Presidential Award of up to \$10,000 may be paid in addition to the \$25,000.	
49,000	2,170	89,000	3,370	165,000	4,025	1,700,000	11,700		

Table 2. Scale of Awards Based on Intangible Benefits

Value of Benefit	Extent of Application			
	Limited	Extended	Broad	General
	Affects functions, mission, or personnel of one office, facility, installation, or an organizational element of a headquarters. Affects a small area of science or technology.	Affects functions, mission, or personnel of several offices, facilities, or installations. Affects an important area of science or technology.	Affects functions, mission, or personnel of an entire regional area of command. May be applicable to all of an independent agency or a large bureau. Affects a broad area of science or technology.	Affects functions, mission, or personnel of several regional areas or commands, or an entire department or large independent agency, or is in the public interest throughout the Nation or beyond.
MODERATE VALUE — Change or modification of an operating principle or procedure which has moderate value sufficient to meet the minimum standard for a cash award; an improvement of rather limited value of a product, activity, program, or service to the public.	\$25-100 (compare with \$250-1,000 tangible benefits)	\$100-250 (compare with \$250-1,000 tangible benefits)	\$250-500	\$500-1,000
SUBSTANTIAL VALUE — Substantial change or modification of an operating principle or procedure; an important improvement to the value of a product, activity, program, or service to the public.	\$100-250 (compare with \$1,000-2,500 tangible benefits)	\$250-500 (compare with \$2,500-5,000 tangible benefits)	\$500-1,000 (compare with \$1,000-2,500 tangible benefits)	\$1,000-2,500
HIGH VALUE —Complete revision of a basic principle or procedure; a highly significant improvement to the value of a product, major activity, or program, or service to the public.	\$250-500	\$500-1,000 (compare with \$5,000-10,000 tangible benefits)	\$1,000-2,500 (compare with \$10,000-50,000 tangible benefits)	\$2,500-5,000 (compare with \$25,000-100,000 tangible benefits)
EXCEPTIONAL VALUE — Initiation of a new principle or major procedure; a superior improvement to the quality of a critical product, activity, program, or service to the public.	\$500-1,000	\$1,000-2,500	\$2,500-5,000 (compare with \$50,000-100,000 tangible benefits)	\$5,000-10,000 (compare with \$100,000-1,000,000 tangible benefits)

(1) The minimum award for tangible benefits may be granted only when the benefits reach or exceed \$250 or an agency-determined minimum. The minimum award for intangible benefits should require a comparably high standard.

(2) Contributions recognized by cash awards based on intangible benefits must be comparable, in value to the Government, with those based on tangible ben-

efits. Comparisons are shown, in parenthesis, below the award amounts in table 2.

(3) When a contribution has both tangible benefits and intangible benefits, the amount of award is based on the total value of the contribution to the Government, i.e. a combination of the award amount based on tangible and the award amount based on intangible benefits.

C-3. FOR SUSTAINED SUPERIOR PERFORMANCE**Table 3. Special Achievement Awards for Sustained Superior Performance**

- Up to 15% of base salary -

An agency may establish a fixed percentage rate for all personnel covered under chapter 451, or a range of percentages. When a range is used, OPM suggests that the amount granted reflect the degree to which the individual employee's performance exceeded the standards of performance for the job. These awards must be based upon a current performance appraisal. The full amount for a sustained superior performance award may be granted only once in any 52-week period.

STATE MERIT AWARD BOARD

1115 11TH STREET
SACRAMENTO, CALIFORNIA 95814

(916) 324-0522/ATSS 454-0522



July 20, 1983

David Teal
Alaska Legislature
House Research Agency
Pouch Y
Juneau, Alaska 99811RECEIVED
AUG 02 1983

HOUSE RESEARCH AGENCY

Dear Mr. Teal:

You recently requested information about the State's Merit Award Program.

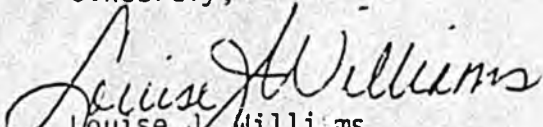
The program was established in 1950 to encourage employees to submit their ideas for improving procedures and reduce expenditures. Our office reviews all the new suggestions and refers all eligible ideas to the appropriate department for evaluation. Department reports are reviewed by staff of the Merit Award Board to ensure that a fair and impartial report has been prepared. Employees are notified of the decision of the department if adopted and the Merit Award Board recommends approval of an award. If a suggestion cannot be adopted, the employee receives a copy of the department's decision.

In addition to our suggestion program, we also recognize State employees for acts of heroism and for superior accomplishments. The awards for heroism are honorary, consisting of a certificate and a medal of valor which is presented by the Governor. This action is defined under a Special Act category as an extraordinary act of heroism by a State employee performed at great risk to his own safety or life in an effort to save human life. The Special Service category is defined as an act of heroism by a State employee performed at personal risk to save property. These awards are intended to be "prestige" awards and are made on a highly selective basis.

We have two categories for the Superior Accomplishment awards. One is the Sustained Superior Accomplishment which is defined as an act of superior job performance resulting in an exceptional contribution to the efficiency of State Government. The other is a Superior Accomplishment which is defined as an act which results in an outstanding and superior achievement of a non-recurring nature as an important contribution to science or research or improvement in an agency's operation. For your information, I am enclosing copies of the law; regulations; form letters; and application form; and the SAM which thoroughly explains our operation.

We believe this program is a vital program which has resulted in savings of millions of dollars for California, as well as improved operations. If I can provide any further information, please let me know.

Sincerely,



Louise J. Williams

Louise J. Williams
Assistant Merit Award Administrator

LJW:sm

RECAPITULATION OF AWARDS AND SAVINGS

MERIT AWARD BOARD

<u>FISCAL YEAR</u>	<u>SUGG. REC'D</u>	<u>NO. OF CERTS AWARDED</u>	<u>NO. OF CASH AWARDS</u>	<u>TOTAL AWARDS</u>	<u>AMT. OF CASH AWARDS</u>	<u>FIRST YEAR'S SAVINGS</u>	<u>ADOPT RATE %</u>
50/51	784	23	24	47	\$ 1,931	\$ 41,396	6.0
51/52	1,642	65	87	152	3,812	108,250	9.3
52/53	1,537	68	96	164	4,290	121,601	10.7
53/54	2,157	125	292	417	7,553	273,014	19.3
54/55	3,000	87	183	270	13,211	204,953	9.0
55/56	2,799	146	191	337	7,821	224,220	12.0
56/57	2,483	97	210	307	9,016	190,458	12.4
57/58	3,073	151	300	451	18,266	341,302	14.7
58/59	3,468	132	296	428	10,367	219,031	12.3
59/60	2,998	193	276	469	11,712	246,784	15.6
60/61	4,403	225	314	539	24,548	307,806	12.2
61/62	3,231	206	327	533	24,596	477,778	16.5
62/63	2,852	187	352	539	32,614	370,025	18.9
63/64	3,522	155	263	418	16,546	238,200	11.9
64/65	2,663	164	215	379	10,013	306,946	14.2
65/66	3,094	166	337	503	29,907	160,973	16.3
66/67	3,641	183	342	525	16,921	329,163	14.4
67/68	3,394	180	346	526	66,701	542,028	15.5
68/69	2,752	130	322	452	15,213	373,290	16.4
69/70	2,546	163	309	472	38,211	329,442	18.5
70/71	2,732	132	353	485	28,700	964,553	17.8
71/72	2,283	162	327	489	66,346	716,083	21.4
72/73	2,186	97	254	351	105,679	1,224,234	16.1
73/74	2,503	69	299	368	51,821	1,659,318	14.7
74/75	2,967	66	387	453	106,604	2,297,221	15.3
75/76	3,649	84	394	478	162,439	1,628,387	13.1
76/77*	3,413	44	406	450	139,493	1,647,230	13.2
77/78*	2,921	0	535	535	168,627	752,070	18.3
78/79	2,467	0	452	452	87,465	745,759	18.3
79/80	2,969	0	461	461	96,731	791,567	15.5
80/81	2,404	0	350	350	95,725	852,129	14.6
81/82	3,220	0	390	390	225,147	2,499,043	12.1
Total	89,753	3,500	9,690	13,190	1,697,930	21,184,254	14.6

* Refer to Schedule 1B 77/78 Legislative Report

GOVERNMENT CODE

Section 19823. The Department may make awards to current or retired state employees who:

- (a) Propose procedures or ideas which hereafter have been adopted and which will result in eliminating or reducing state expenditures or improving operations; provided, such proposals are placed in effect; or
- (b) Perform special acts or special services in the public interest; or
- (c) By their superior accomplishments, make exceptional contributions to the efficiency, economy or other improvement in the operations of the State Government.

Awards for superior accomplishments shall be made in accordance with procedures and standards established by the Department.

Any award made by the Department under the provisions of this section may be paid from the appropriation available to the state agency affected by the award.

The director may adopt rules and regulations to carry out the provisions of this section, and may appoint merit award boards made up of state officers, employees, or citizens to consider employee proposals, special acts, special services, or superior accomplishments, and to make recommendations to the department as to the merits of the proposals, special acts, special services, or superior accomplishments, and whether or not the proposals, special acts, special services, or superior accomplishments justify an award.

Any award granted under the provisions of this section shall be limited to three thousand dollars (\$3,000) unless a larger award is approved by concurrent resolution of the Legislature.

Any expenditures made or costs incurred heretofore or hereafter by the director for the purposes of this section may be paid from funds available for the support of the Department.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provision shall not become effective unless approved by the Legislature in the annual Budget Act.

EMPLOYEE SUGGESTION

STD 645 (2/79)

Please type or print with pen in black or dark blue ink only - Do not use pencil

NAME OF EMPLOYEE(S) (LAST, FIRST, MIDDLE INITIAL) <input type="checkbox"/> MISS <input type="checkbox"/> MRS. <input type="checkbox"/> MS. <input type="checkbox"/> MR.	DEPARTMENT (INCLUDE ADDRESS OF WORK LOCATION)	CIVIL SERVICE TITLE
		WORKING TITLE
RESIDENCE ADDRESS (NO., STREET)		PUBLIC NO.
(CITY	ZIP)	OFFICE PHONE () ATBS NO.

SUBJECT TITLE - DESCRIPTION IN A FEW WORDS

IF MORE SPACE NEEDED, ATTACH ADDITIONAL SHEETS

THE WAY IT IS NOW

THE WAY I SUGGEST IT SHOULD BE

ADVANTAGES OF MY IDEA

IN CONSIDERING MY SUGGESTION (CHECK ONE) <input type="checkbox"/> YOU MAY DISCLOSE MY NAME <input type="checkbox"/> DO NOT DISCLOSE MY NAME UNLESS SUGGESTION IS ADOPTED	The use by the State of California of my suggestion shall not form the basis of a further claim of any nature upon the State of California by me, my heirs or assigns.	SIGNATURE EACH SUGGESTER (NOT ACCEPTABLE IF UNSIGNED)	DATE
--	--	---	------

STATE ADMINISTRATIVE MANUAL

MERIT AWARD PROGRAM

(Continued)

THE STATE MERIT AWARD BOARD (New 12/74)

4702.2

Receiving and promptly referring to the agencies concerned with the subject matter all suggestions qualifying under Board of Control Rules and these guidelines.

Insuring prompt evaluation of suggestions by the agencies and keeping suggesters informed as to the progress of the evaluation.

Notifying suggesters of awards approved or reasons for nonadoption of their suggestions.

Distributing promotional information to Merit Award Coordinators and, occasionally, to all state employees.

THE STATE AGENCY (DEPARTMENT) HEAD (Revised and Renumbered from 4760 12/74)

4702.3

Each department head is responsible for:

Establishing an administrative atmosphere in which employees are free to offer constructive ideas for improvement.

Encouraging, through all management levels, the submission of constructive suggestions through the Merit Award Program.

Keeping abreast of Merit Award activity in his agency.

Participating, when possible, in the presentation of awards.

Appointing a Merit Award Coordinator who is authorized to represent the views of the agency to the Merit Award Board on suggestions and other awards, and for notifying the Merit Award Board as to the person so designated.

Insuring sufficient staff time is available for prompt and thorough evaluation of all suggestions affecting the agency.

THE MERIT AWARD COORDINATOR (Revised and Renumbered from 4762 12/74)

4702.4

Each Departmental Merit Award Coordinator is responsible for:

Insuring that all agency employees are informed about the program through orientation packets and meetings, publications, posters, and publicity about award recipients.

Insuring that suggestion forms are readily available to all employees at all times.

Interpreting the program policy and procedures for all agency personnel.

Insuring agency-wide distribution of posters, forms, or other promotional material received from the Merit Award Board.

Assigning qualified personnel to investigate and report upon suggestions referred by the Merit Award Board for evaluation.

Insuring that evaluations are factual, promptly made, courteously drafted, and represent the best interests of the agency and of the program.

Informing the head of the agency, periodically, of the status of the agency program; i.e., experience, successes, problems, and needs.

Coordinating the receipt and presentation, at suitable ceremonies, of award letters, certificates, and checks.

STATE ADMINISTRATIVE MANUAL

MERIT AWARD PROGRAM

THE SUGGESTION EVALUATOR (Revised and Renumbered from 4764 12/74)

4702.5

Each suggestion evaluator is responsible for:

Approaching the evaluation of suggestions with an open mind, insuring that the ultimate decision on the suggestion is in the best interests of the agency and the State.

Completing the evaluation as promptly as possible and keeping the agency Merit Award Coordinator apprised of the estimated date of completion where a delay is unavoidable.

Writing suggestion evaluations:

(a) with sufficient information on the adoption thereof and the benefits arising therefrom on which to calculate an appropriate award, or (b) with the reasons for nonadoption stated in a factual and impersonal format, keeping in mind that the employee is to be encouraged to submit other ideas. Suggesters will be furnished with a copy of nonadoption evaluations by the Board.

THE SUPERVISOR (Revised and Renumbered from 4763 12/74)

4702.6

Each supervisor is responsible for:

Encouraging employees to offer constructive suggestions through the Merit Award Program.

Assisting employees in the development and presentation of their suggestions.

Making suggestion forms available at all times.

Participating in award-presentation ceremonies with the employees supervised.

MERIT AWARD CALENDAR (Revised and Renumbered from 4701 12/74)

4703

Upon request by the Merit Award Coordinator, the Board will forward, seven days prior to the monthly meetings of the Board, either a full copy of the Board calendar or only that part which contains suggestions adopted by the agency. This will permit the agency to review the subject matter and to present views to the Board prior to or at the meeting on calendared matters. When receiving a full calendar, it also permits the agency to consider all adopted suggestions for application to its own operations.

The closing date for placing recommendations of approval or disapproval on the calendar of the Board is the 20th of the month. Recommendations received after the closing date will be delayed until the next regular meeting of the Board.

ELIGIBILITY FOR PARTICIPATION (Revised 1/79)

4704

Except as stated in Board of Control Rules, amended effective February 1, 1979, all State employees are eligible to participate in and submit suggestions through the Merit Award Program. Eligibility for awards is discussed in SAM Section 4711.

Temporary, casual and emergency employees may not submit suggestions for an award unless their suggestions are submitted while they are actually employed by the State.

Retired state employees may not submit suggestions for an award.

STATE ADMINISTRATIVE MANUAL

MERIT AWARD PROGRAM

ELIGIBILITY FOR AWARDS (Revised and Renumbered from 4710 12/74)

4711

Employee eligibility for awards offered by the Merit Award Program shall be measured in terms of assigned or expected job responsibilities.

It is the policy of the Board to make an award commensurate with the contribution of the employee to the results obtained from his efforts and his suggestion. A suggester is not precluded from a proportionate award in those situations where the solution adopted differs from that proposed in his suggestion.

When there is reason to believe that a suggestion is within the scope of the suggester's assigned duties, the employing agency will be asked to provide a copy of the duty statement showing the actual duties performed by the suggester at the time the suggestion was submitted to the Board.

Except as provided elsewhere in this chapter, a suggestion which describes a specific problem, offers a workable solution, and is intended to be of benefit to the operations of the State of California will be accepted for possible implementation. The idea need not be original with the suggester, but the Board will carefully weigh all facts and opinions where there is a dispute as to its origin before granting an award for the adopted suggestion.

UNACCEPTABLE SUGGESTIONS (Revised 1/79)

4712

The Board will not accept for evaluation suggestions which:

Involve personal grievances.

Recommend increased taxes or license fees.

Recommend additional revenues at the expense of a segment of taxpayers and which can be classified as unjust or inequitable.

Recommend a change in the pay or classification of a position or a class, or the establishment of new positions. This area is held to be the continuing responsibility of the agency and the State Personnel Board.

Recommend a "study", "survey", or "review" with the course of action to be taken in accordance with the findings.

CONDITIONAL ACCEPTABILITY (Revised and Renumbered from 4720-4731 12/74)

4713

The following types of suggestions may be accepted for evaluation and awards, subject to the conditions stated:

1. Implementation of organization and methods studies conducted by state agencies or private consultants, for five years after the original date of completion or submission of the report of such studies. Thereafter, the Board may consider such suggestions for an award but may use a reduced formula upon which to make the award.

(Continued)

STATE ADMINISTRATIVE MANUAL

MERIT AWARD PROGRAM

(Continued)

CONDITIONAL ACCEPTABILITY (Revised and Renumbered from 4720-4731 12/74)

4713

2. Increase penalties or assessments. An award may be made only when it is proven conclusively that the agency involved would suffer a monetary loss by the continuation of the lower, existing penalty or assessment.
3. Impose a penalty for the nonpayment of a fee or tax not previously assessed. An award may be made only when it is proven conclusively that such nonpayment either causes additional costs to the affected agency or affords the delinquent taxpayer an unfair advantage over other taxpayers.
4. Increase collection of monies legally due to the State. An award may be made to a suggester who is not normally responsible for such collection activity.
5. Impose a charge for state publications distributed to the general public without charge. An award will not be made for such a suggestion unless it is shown that the publication had been printed at the request of a special group, at the expense of the general taxpayers.
6. Transfer a function from the State to another governmental jurisdiction. An award for such a suggestion will be computed on the net savings to California taxpayers, i.e., the difference in costs of performing the function. Where net savings cannot be measured, a modified award may be made when it is clearly proven there are other benefits to the taxpayers by transferring the function.
7. Transfer funds between the State and its political subdivisions or between the State and the Federal Government. An award for such a suggestion will be computed on the net savings or income to California taxpayers. Where such net savings or income cannot be measured, a modified award may be made where it is clearly proven the benefits from such transfer is a marked improvement in procedures and benefits will inure to the taxpayers or the government of the State of California.

SUBMITTING SUGGESTIONS (Revised and Renumbered from 4761 12/74)

4720

Suggestions shall be submitted by the employee, on Merit Award Board Employee Suggestion Std. Form 645, directly to the Board by mail or messenger service.

Agencies will not require that their employees submit suggestions through agency channels nor screen them before they are presented to the Board.

The identity of the suggester will not be revealed to the evaluator during the initial evaluation if the suggester has checked "Do Not Disclose My Name", on the suggestion form. The identity will be revealed when the idea has been adopted, the suggester's job responsibility must be assessed in relation to the suggester and an award is indicated.

EVALUATING SUGGESTIONS (Revised and Renumbered from 4764 12/74)

4730

1. All suggestions accepted by the Merit Award Board as qualifying under acceptability standards will be referred immediately to one or more agencies having responsibility for the subject matter or application in their operations.
2. Sufficient copies of the suggestion and evaluation forms will be provided in accordance with the needs of the agency.
3. It is the responsibility of the agency to evaluate all suggestions referred to it within 30 days of receipt. Reasons for delays in the completion of the evaluation shall be reported to the Board. This will permit informing the suggester as to the status of his suggestion.

STATE ADMINISTRATIVE MANUAL

MERIT AWARD PROGRAM

(Continued)

EVALUATING SUGGESTIONS (Revised and Renumbered from 4764 12/74)

4730

4. Unreasonable delays in completing evaluations, without a prompt and sufficient explanation therefor shall be called to the attention of the agency head by the Board.
5. Agency suggestion evaluators are encouraged to discuss the suggestions with their authors on points which require further detail or explanation.
6. Evaluations prepared by the person having immediate responsibility for the subject matter shall be reviewed at least by his supervisor and by the designated agency suggestion coordinator.
7. The Board will forward to the suggester a copy of all tracers or letters regarding the status of a suggestion which has not been evaluated promptly or where additional data is required. Suggesters also will receive a copy of the evaluation which sets forth the reasons for nonadoptions. Therefore, it is incumbent on evaluators to couch such reports in factual terms, rather than personal ones.
8. The identity of the evaluator will not be disclosed to the suggester, as the position adopted is presumed to be that of the agency, rather than that of the evaluator.
9. The Board may request that agencies which reject a suggestion, for the reason it is under active consideration by the agency, support the position by copies of records, correspondence, reports, or other evidence satisfactory to the Board.
10. Suggestions requiring legislative action before they can be placed into effect will be referred to the agency concerned. Each agency receiving such a suggestion will include, in its evaluation report, a recommendation either for or against such legislative changes and will give the reasons for the position taken.

If an agency advises that necessary legislation will be introduced, the suggestion will be placed in a deferred consideration status until the end of the next session of the Legislature. The employee and the agency will be notified as to the action taken on the suggestion and there will be no further follow-up to the agency until final action has been taken on the legislation.

Each evaluation report containing a recommendation against the introduction of legislation will be reviewed by the Merit Award Board, at one of its regular meetings. The Board may refer the proposal for final decision to the affected Agency Secretary, or to the Department of Finance where appropriate.

The Merit Award Board will not sponsor any legislation without the specific approval of the Board of Control.

AWARDS (Revised 1/79)

4740

Awards shall be calculated in accordance with Board of Control rules, except as provided in the following formulae for suggestions achieving a one-time saving or based upon improved procedures or safety.

Whenever possible, awards shall be based on savings or earnings realized by the State in the first year following the date the suggestion is placed in effect.

If the net benefits realized or expected during the first year following implementation are not fairly representative, a different period of time may be substituted if, by so doing, a more representative benefit award will ensue. Significant costs of implementation of a suggestion may be deducted from the benefits realized but should be prorated over the expected life of the suggestion benefit.

STATE ADMINISTRATIVE MANUAL

MERIT AWARD PROGRAM

(Continued)
AWARDS (Revised 1/79)

4740

Agency Merit Award Coordinators are encouraged to recommend to the Board the amount of the cash award they feel is appropriate for an adopted suggestion. Amounts in excess of \$150 must bear the signed approval of management at least the equivalent of the chief administrative officer or a Deputy Director."

In recognition of the role of the State Legislature in the approval of awards exceeding \$1,000 listed in the annual concurrent resolution, as of February 1, 1979, it is the policy of the Merit Award Board not to recommend to the Board of Control awards exceeding monetary limits the Legislature has indicated, by its concurrent resolution, willingness to approve.

The judgment of the Merit Award Board and the Board of Control shall be final, except as to those awards included in the annual legislative concurrent resolution.

ONE-TIME AWARD SCALE (Revised 1/79)

4740.1

Under circumstances described in the applicable Rules and Regulations of the State board of Control, the Merit Award Board will recommend to the Board of Control an award not to exceed 5% of savings or increased revenues which are not annually reoccurring. It is not considered equitable to award employees 10% of one-time savings or increased revenue and a like percentage to employees achieving savings or increased revenue over a period of years.

IMPROVED PROCEDURES SCALE (Revised 1/79)

4740.2

"Improved procedures" are those which propose improvements in working conditions, changes in procedures, revision of forms, improvements in employee morale or health, etc., for which the monetary value cannot be determined readily.

In making recommendations to the Board of Control, the Merit Award Board will apply the following scale to calculate awards for adopted suggestions resulting in improved procedures:

<u>Degree or Nature of Benefit</u>	<u>Points</u>
EITHER	
1. Marked improvement in methods, forms, facilities, equipment, etc.	15
2. Moderate improvement in same	10
3. Minor improvement in same	5
OR	
4. Improved employee relations, working conditions, service to the public or public attitude	10
<u>Distribution of the Value</u>	
1. Statewide application and acceptance by at least one department	25
2. A majority of the facilities or employees of at least one department	20
3. Several operations or facilities or some of the employees	15
4. Single operation or facility	5

STATE ADMINISTRATIVE MANUAL

MERIT AWARD PROGRAM

IMPROVED SAFETY SCALE (Revised 1/79)

4740.3

"Improved safety" suggestions are those which propose improvements in practices or facilities to eliminate or reduce injury to state employees or to the public, and for which the monetary value cannot be determined readily.

In making recommendations to the Board of Control, the Merit Award Board will apply the following scale to calculate awards for adopted suggestions resulting in improved safety:

<u>Degree of Hazard</u>	<u>Points</u>
Included defects or lack of safeguards which ordinarily might have resulted in accidents causing:	
1. (Extreme) - a fatality or permanent injury and/or extensive property damage	25
2. (Major) - disabling injuries and/or heavy property damage	15
3. (Minor) - nondisabling injuries and/or slight property damage	10
 <u>Probability Before Improvement</u>	
1. Considerable exposure with probable occurrence of accident	20
2. Appreciable exposure with likely occurrence of accident	15
3. Slight exposure with possible occurrence of accident	10
 <u>Extent of Application</u>	
1. Departmentwide or statewide	25
2. Several locations	15
3. One office or area of operation	10
 <u>Effectiveness of Improvement</u>	
1. Eliminates the hazard or possibility of disabling injury, or extensive property damage	30
2. Appreciably limits the hazard or effects of the hazard	20
3. Slightly reduces the hazard	10
 <u>Bonus Points</u>	
Suggestion was directly responsible for full or substantial compliance with existing Safety Orders of the Division of Industrial Safety	10

AWARD SCALE

Points	Award
Below 40	None
40	\$25
45 - 60	\$30 - \$40
65 - 80	\$45 - \$75
85 - 100	\$80 - \$100

STATE ADMINISTRATIVE MANUAL

MERIT AWARD PROGRAM

SUPPLEMENTAL AND ADDITIONAL AWARDS (Revised and Renumbered from 4742, 4743 12/74)

4740.4

A preliminary award may be recommended for a suggestion upon its being placed in effect. The amount shall be calculated upon the net benefits expected during the first full year following its implementation, if the benefits can be reasonably calculated. If they cannot be reasonably calculated, a modest award may be granted with a review at the end of the year following implementation to ascertain the total net benefits. At that time, a supplemental award may be recommended, based on the benefits actually realized during the first year following implementation.

Additional awards, requiring legislative approval, will be calculated only after the adopted suggestion has been in effect for a full year, or is based upon an act or circumstance which is not subject to change during the first year following adoption and implementation.

AWARDS FOR SAME IDEA (Revised and Renumbered from 4743 12/74)

4740.5

When an idea has been adopted and an award has been granted therefor, any employee is eligible for further award consideration for a subsequent proposal which is a marked improvement over the original suggestion and effects further economies in time, material, or manpower. The change, improvement, or modification must be marked and easily recognizable as a distinct improvement over the original adopted proposal.

Whenever an agency adopts an employee suggestion, places it into effect, and the Merit Award Board authorizes an award, it then becomes incumbent upon top management to assure full complete utilization of the idea on an agency-wide basis. However, if a suggestion does not receive statewide or agency-wide acceptance and utilization within three years of the date of the original award, then the Board, in its discretion, may make a second award. In making its decision, the Board will consider the lapse of time since adoption of the original idea, whether the idea is a direct application or an adaptation, and the completeness of presentation of the idea.

PAYMENT OF AWARDS (Revised and Renumbered from 4748 12/74)

4740.6

Payment of merit awards will be made by submission of the Board of Control Certificate to the State Controller's District Disbursing Office which makes regular salary payments to the employees. Attached to the certificate will be Payroll Adjustment Notices, Std. Form 674, properly certified by the agency and identifying each employee and the position he holds. The Controller's Office will issue a payroll warrant in the net amount payable to the employee after deducting withholding tax. The amount of the award and the tax withheld will be included on the Withholding Statement, Form W-2, issued to the employee by the Controller's Office at the end of the calendar year.

Should the payment of these awards cause a shortage in the salary and wage category from which paid, a budget revision is required to transfer the amount of the awards from the category which derived savings from the suggestion. Should the award be payable from the appropriation of another agency or fund, the agency paying the award will bill the agency or fund benefiting from the award for the amount so paid.

STATE ADMINISTRATIVE MANUAL

MERIT AWARD PROGRAM

NONADOPTED SUGGESTIONS (Revised and Renumbered from 4749 12/74)

4750

A copy of the agency's evaluation, explaining the reasons for nonadoption, will be furnished to the suggester by the Board.

The Board will not grant an award in instances where a suggestion has not been adopted but subsequently put into effect as a result of an action which is not occasioned by, nor resulting from the suggestion, but is solely the result of: independent legislative enactment, requirement of the Federal or other governmental agency; Executive Order; or by recommendation of a legislative committee.

APPEAL AND RECONSIDERATION (Revised and Renumbered from 4750, 4751 12/74)

4750.1

An employee's rights to a suggestion will expire one year following the date of the Board's letter of rejection.

If an employee is dissatisfied with a rejection, he may ask for reconsideration of the previous decision provided he submits additional or supplemental information which was not covered in his original proposal or which points out an error in the evaluation report. Request for reconsideration or appeal will not be considered if the employee simply states, "I disagree with the report and conclusions of the agency", without giving additional reasons.

Such appeal or request for reconsideration may be renewed annually for a period not to exceed three (3) years from the date of the original rejection letter, provided he submits additional or supplemental information which was not covered in his original proposal or prior appeals.

If the suggestion is placed in effect during this three-year period, an employee may request an award for his suggestion, provided such request is filed within six (6) months of the date the idea was placed in effect.

The submission of a suggestion, or the refiling during the three years following its rejection, does not in itself assure that an employee automatically will be eligible for an award if the idea is adopted. In case of a dispute the Board may request evidence that such original submission, subsequent reconsideration requests or refilings, etc., either did, or did not, contribute to the post-rejection action in adopting the proposal.

SPECIAL ACTS AND SERVICES (Renumbered from 4770 12/74)

4760

"A Special Act" is defined as "an extraordinary act of heroism by a state employee extending far above and beyond the normal call of duty or service performed at great risk to his own safety or life in an effort to save human life."

"A Special Service" is defined as "an act of heroism by a state employee extending above and beyond the normal call of duty or service performed at personal risk to save property."

The awards granted for special acts and special services are intended to be "prestige" awards and will be made on a highly selective basis.

STATE ADMINISTRATIVE MANUAL

MERIT AWARD PROGRAM

RECOMMENDATION FOR AWARD (Renumbered from 4771 12/74)

4760.1

A recommendation for an award for a special act must be made on Special Act Award Recommendation MAB Form 277. A recommendation for an award for a special service must be made on Special Service Award Recommendation, MAB Form 277. The recommendation, in either instance, must include all pertinent factual information requested in the instructional portion of the applicable form. Forms may be obtained from the Merit Award Board.

It is necessary to explain the specific nature of the emergency, the unusual difficulties imposed by it and a description of the way the employee solved the problem or acted in the emergency. This explanation should clearly outline the manner and the extent to which the employee jeopardized his life or personal safety and indicate the extent to which the act surpassed normal job expectancy.

In order to afford prompt recognition for a special act or service, the award recommendation should be submitted immediately after the performance of the act. The immediate supervisor may initiate the recommendation for award, but it must be signed by the agency head.

HONORARY AWARDS (Renumbered from 4772 12/74)

4760.2

The awards for a special act or a special service are primarily honorary ones, each consisting of a certificate and a medal.

The medal for a special act is of 10-K gold and enamel embossed with laurel leaves, the name of "California" and an outline of the State with three beams of light radiating from a diamond star. Below, in raised gold, is the word, "Valor".

The medal for a special service is identical except that it does not contain a diamond.

PRESENTATION CEREMONIES (Revised 1/79)

4760.3

These awards will be presented at suitable ceremonies arranged and publicized by the employing department. The Merit Award Office will prepare the citations and certificates and will be available for advice and assistance on the ceremonies.

SUPERIOR ACCOMPLISHMENTS (New 1/75)

4780

A Superior Accomplishment is an act by an individual employee or group of employees which makes an exceptional contribution to the efficiency or economy of the State Government or an exceptional improvement in its operation. Such acts may be categorized as follows:

Superior Accomplishments of a Nonrecurring Nature

Acts which result in an outstanding and superior achievement of a nonrecurring nature such as an important contribution to science or research or improvement in an agency's operation. Unequaled personal efforts resulting in overcoming unusual difficulties or obstacles also may be recognized under this category.

Sustained Superior Accomplishments

The sustained act of superior job performance resulting in an exceptional contribution to the efficiency of State Government.

SUPERIOR ACCOMPLISHMENTS OF A NONRECURRING NATURE (New 1/75)

4781

The objective of this award is to give state departments the opportunity to recognize employees who have made significant contributions to the economy or efficiency of State Government and which are clearly beyond ordinary job expectations.

STATE ADMINISTRATIVE MANUAL
MERIT AWARD PROGRAM

DEFINITION (New 1/75) 4781.1

Superior Accomplishments of a nonrecurring nature may include, but are not limited to:

An important contribution to science, research or development.

Unequaled personal efforts in overcoming unusual difficulties or obstacles in the completion of a major project or task with substantial benefits to the State as a result thereof.

Completion of a major project or task in a significantly shorter period of time with substantial benefits to the State as a result thereof.

REQUIREMENTS (Revised and renumbered from 4781 and 4781.1 1/75) 4781.2

Recommendations for the award must include:

A clear and concise description of the achievement which forms the basis for the award.

Detail which conclusively proves, or measures, the benefits to the State as a direct result of the efforts of the nominee.

A statement as to the results which would have been considered acceptable but for the nominee's efforts.

Data clearly showing the degree to which the nominee unquestionably performed beyond normal job requirements and expectations.

Any other pertinent information; such as, amount of overtime, research done, dedication to the task, etc.

RECOMMENDATION (New 1/75) 4781.3

Submit the recommendation to the State Merit Award Board on Std. Form 278, obtained from the Merit Award Board.

Specify whether the nominee is recommended for the Silver Award or the Gold Award.

The recommendation must be signed by the agency or department head.

TIME (Revised and renumbered from 4781.2 1/75) 4781.4

Recommendations should be submitted to the State Merit Award Board as soon as is reasonable after the accomplishment to insure that the nominee receives prompt credit. All supporting data required by these sections, however, must accompany the recommendations.

AWARD (Revised 1/79) 4781.5

The primary award for a superior accomplishment of a nonrecurring nature is a certificate of commendation.

Two classifications of awards are available. The final judgment as to the appropriate award for the accomplishment is reserved for the State Merit Award Board.

Silver Award

The certificate is printed in silver and encased in a folder appropriate for presentation. An attractive, engraved desk set, with two silver pens, accompanies the certificate.

The Silver Award will be granted for those accomplishments which, in the judgment of the State Merit Award Board, fully meet all of the requirements of these sections.

STATE ADMINISTRATIVE MANUAL

MERIT AWARD PROGRAM

(Continued)
AWARD (Revised 1/79)

4781.5

Gold Award

The certificate is printed in gold and encased in a folder appropriate for presentation. An engraved gold wrist watch accompanies the certificate.

The Gold Award will be granted for those accomplishments which, in the judgment of the State Merit Award Board, not only meets all of the requirements of these sections but is of such outstanding degree that it merits recognition of the highest order.

COSTS (New 1/75)

4781.6

The purchase and engraving of the desk sets and watches will be arranged for by the State Merit Award Board. The invoices for these will be directed to the department or agency making the award.

PUBLICITY (New 1/75)

4781.7

It is essential that, wherever possible, the widest publicity be obtained for the award, with emphasis on the benefits obtained for the taxpayers. As no announcement of the granting of such an award will be made by the State Merit Award Board, the department or agency may select the appropriate time and media for release of the news.

SUSTAINED SUPERIOR ACCOMPLISHMENTS (New 1/75)

4782

The objective of the Sustained Superior Accomplishment Award is to give state departments the opportunity to recognize employees who have made a significant contribution to the department by virtue of their exceptional job performance, sustained over a period of not less than 24 months.

DEFINITION (New 1/75)

4782.1

The Sustained Superior Accomplishment Award is a management tool for recognizing sustained achievement on the job by state employees.

PROGRAM APPROVAL (New 1/75)

4782.2

Department directors who wish to participate in the program shall develop a Sustained Superior Accomplishment Award Program within their departments, which details an appropriate nomination process and applicable standards for nomination. A copy of the program will be filed with the State Merit Award Board prior to submission of nominations for the award. The board may make suggestions for changes in such programs to insure adherence to a statewide uniformity.

STANDARDS (New 1/75)

4782.3

The following constitute broad statewide standards for such program:

Awards must recognize sustained superior accomplishment significantly above normal job requirements, and not length of service, per se.

The departmental plan will set forth in detail the process by which performance will be measured so as to select those nominees who will receive the award.

ELIGIBILITY (Revised 1/79)

4782.4

An employee may be eligible for this award, other than: (1) an agency head, or (2) an elected constitutional officer.

An employee may not receive an additional award based upon sustained superior performance during a three-year period following the receipt of such an award.

STATE ADMINISTRATIVE MANUAL

MERIT AWARD PROGRAM

NUMBER OF NOMINATIONS (New 1/75) 4782.5

The following parameters establish the maximum number of award nominations which can be made by participating departments:

<u>Employee Population</u>	<u>Maximum Annual Nominations</u>
Less than 200	1
Over 200	1 per 200

This is a maximum standard. Departments may nominate fewer individuals as they see fit.

TIME FOR NOMINATION (New 1/75) 4782.6

Nominations will be submitted by March 1 of each year to the State Merit Award Board, on Std. Form 278.

DESCRIPTION OF ACCOMPLISHMENT (New 1/75) 4782.7

The nomination will contain a concise description of the nominee's accomplishments, summarizing how performance over the 24 months significantly exceeded normal job requirements.

EVALUATION (New 1/76) 4782.8

The Merit Award Board shall evaluate each recommendation for sustained superior accomplishment award, taking into consideration staff recommendations, the objectives of the program, and the terms of the department's program previously approved. For each such sustained superior accomplishment recommendation found eligible for an award the Merit Award Board shall formulate an official recommendation to the State Board of Control as to an authorized award.

AWARD (Renumbered from 4782.8 1/76) 4782.9

The award for Sustained Superior Accomplishment shall be \$150 payable by the employing department; approval of the State Board of Control is required. The department shall also provide a certificate.

SERVICE AWARDS (New 1/77) 4790

As authorized by Government Code Section 19259, any appointing power may present to an employee who has completed 25 or more years of state service a certificate, plaque or other memento. Certificates and mementos suitable for 25- and 40-year service awards are available from the Office of Procurement, Documents Section, Department of General Services.

(Continued)

SPECIFIC USES AND REQUIRED SUPPORTING DATA (Revised 5/79)

6232

D. Salary Savings Revision

Periodic revision of Estimated Salary Savings is required in order that this minus allotment reflect recent experience and current employment trends. Failure to review during the fiscal year could result in overdrawing the appropriation or Salaries and Wages category. At the beginning of each fiscal year a revision may be required to adjust salaries and wages allotments to the budget.

Failure to realize salary savings estimated results from two factors: (a) less turnover, and (b) shorter vacancies. Reduction in time lost through vacancies and time required to train new employees (both employee and supervisor) increases the effective manpower above that authorized in the Final Budget. If a review of savings from vacancies and additional turnover during the Current Year indicates a deficit, consideration must be given the following:

1. The need for all vacant positions should be thoroughly reviewed. If there is any doubt about the need for any position, it should be abolished with the understanding that it can be reestablished if and when the need becomes definite, consistent with the provision of Sections 20 and 31 of the Budget Act. If it is possible to postpone the filling of vacant positions which cannot be abolished, this should be done. Positions coming under the vacancy provisions of the Budget Act represent only a part of this problem.
2. Consideration should be given to possible delay in filling authorized new positions which have not been established.
3. Vacation relief, overlaps for lump sum payments or training, and temporary help should be held to a minimum.
4. Appointments should be at the minimum of the salary range.

Consideration will be given to funding of deficiencies in salary savings only when the agency demonstrates that necessary workload requirements cannot be fulfilled or definite policy items will be endangered if vacancies are enforced.

Unexpended balances of allotments for salaries and wages must be transferred to Estimated Salary Savings at the end of each quarter, season or other applicable period of availability. (See SAM Section 6212.) Transfers from Estimated Salary Savings for reclassification or additional positions will be permitted only when financing is shown to be on a sound basis. It is basically an agency's responsibility to control Salary and Wage expenditures so that the balance available in this category is adequate to meet all remaining payrolls.

E. Realization of Merit Award Board Suggestion Savings

Pursuant to Board of Control Rule 831(i) no award will be made in the event of savings of \$10,000 or more unless the affected department identifies such savings as reduced expenditures or increased revenue and submits documentation to the Board of Control specifying how savings recovery will be accomplished.

After board of Control action, such reports will be forwarded to the Department of Finance for realization of the savings. In general, the Department of Finance will request that the savings to be recovered be transferred to unallotted balances by use of a budget revision. Any number of Merit Award Board savings can be transferred on the same budget revision each year provided that the suggestion number and the amount of savings are identified on the form. Budget revisions will be used each year as long as the net amount after payment of the award to the suggestor varies from year to year. As soon as the amount becomes constant from year to year, a planning estimate adjustment will be initiated by the staff of the Department of Finance to reduce the level of support.

Air Force incentives fuel cost-saving ideas



Flightline

S. Sgt. Frank Singleton

Elmorendorf Air Force Base — Saving money in the Air Force is a hot topic. Spiraling costs, austere budgets and spending restraints from Congress have all combined to make money the most important factor in getting the military's mission accomplished.

Every time an F-15 flies overhead en route to a training area, each time a replacement part is purchased from a contractor, whenever a blue-suiter does his or her job, money is spent.

If you pay attention to the news, it must seem as if the government doesn't try very hard to get its money's worth out of a business deal. This just isn't the case. A civilian company can pass along the cost of a price increase, real or created, to the consumer. The Air Force, with a defense as its "product," can't very well do that.

For that reason, at least a half dozen programs exist in the Air Force bureaucracy to combat overpricing, waste of money and fraud.

Probably the most tangible of these programs

comes from the days during World War II, when every effort was needed to improve the speed and efficiency of government operations and conserve money, materials and people. Called the Suggestions Program, the plan offered cash incentives to employees who came up with a good idea. During two years of wartime operations the suggestion program saved more than \$100 million, not to mention the priceless savings in production time and manpower.

With military spending under the gun, the suggestion program has realized its full potential in the last couple of years. An idea as simple as Staff Sgt. William Woodward's rewriting of a technical manual to incorporate new procedures netted the Air Force \$123,073 in savings, eliminating contractor costs and giving the sergeant more than \$3,000 for his innovation.

"The statistics speak for themselves," said Nona Renn, the civilian manager of the Alaskan Air Command Suggestion Program. "Suggestions save money — money that can be put to use in some other areas."

With an F-15 costing more than \$20 million, a few suggestions can go a long way. In the second quarter of fiscal year 1983, the Air Force received 43,260 suggestions, adopted 7,200, doled out \$852,339 in cash awards, and saved more than \$44 million in just one quarter. In Alaska Air Command, 1,288 suggestions came in, and 253 were adopted, saving the Air Force \$797,219. Lots of money — your money, in fact.

Suggestions go through the channel, starting at

the working level and making their way up the chain. A person with an idea writes it on a form letter, sends it to his or her supervisor, who looks at the plan, determines its merit and forwards it to Renn.

Ideas aren't always accepted — people resist change. For that reason, safeguards in the system require the ranking manager of a particular section make the final decision, ultimately taking the responsibility for the suggestion.

Recently a sergeant in California had an idea rejected by co-workers and a supervisor, only to have it approved at Air Force headquarters. The idea, suggesting a change of a rocket motor fin to a non-corrosive metal, saved wear on the rocket to the tune of \$3,549,082. For five minutes of thought, the sergeant is \$20,950 richer.

We've all heard the story of the \$3 bolt the government purchases for \$55 or more. The Air Force program heartily endorsed by Secretary of Defense Caspar Weinberger, is called Zero Overpricing, and is designed to combat overcharges at the Air Force's expense.

If an item which usually costs a few dollars suddenly jumps to several hundred, Zero Overpricing prompts the Air Force to look for cheaper contractors and cheaper replacements. Criminal charges have resulted from the program's investigative process.

The Fraud, Waste and Abuse Program fits right in with Zero Overpricing, singling out questionable and suspicious situations such as overcharges,

computer error or an out-and-out attempted theft. Fraud cases amounting to \$13 million were closed in fiscal year 1980, compared to a budget of \$51 billion. An Air Force Hotline has been established locally and in Washington to weed out dishonesty or inadvertent waste — every call is investigated, and the identity of the caller is protected.

A program called Self Help enables Air Force members to make improvements in their duty sections, with management approval, for efficiency's sake. Since the expense of an outside contractor (or civil engineering) is eliminated, the section saves a large percentage of the cost by making improvements themselves.

Air Force Capital Investment Funds enable duty sections to make suggestions and procure items necessary for their jobs, the bottom line being increased efficiency or cost reduction. The idea must pay for itself in an allotted time period (according to the amount spent), thus saving money during peacetime and wartime, and reducing dependence on scarce resources. Already the Air Force Capital Investment Fund has used available money to pay for self-supporting programs, saving Elmendorf enough to buy three F-15s.

Those are just a few of the ways we're trying to save. The Air Force knows money is tight — we feel the crunch in reduced operating funds, and we all pay taxes too. And we're always open for "suggestions."

S. Sgt. Frank Singleton is in the public affairs division of the 21st Tactical Fighter Wing at Elmendorf Air Force Base.

H

B

5

7

8

HB 578

Alaska State Legislature



Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 7, 1984

FOR IMMEDIATE RELEASE
CONTACT: REP. JERRY WARD
465-4939

REP. WARD INTRODUCES BILL TO PROTECT STATE EMPLOYEES
WHO REVEAL STATE GOVERNMENT VIOLATIONS

JUNEAU - Rep. Jerry Ward has introduced a bill which would protect state employees who help reveal fraud, waste of funds or mismanagement in the state government.

Ward, R-Anchorage, also introduced legislation which would establish an employee "incentive plan" to reward employees for suggestions which improve the efficiency or economy of state operations.

Both bills are modeled after federal laws, which Ward said have proven to be highly successful nationwide.

Ward said House Bill 578 would "protect whistleblowers" who report violations of law, mismanagement, waste of funds, or abuse of authority.

"We need this law to help end the illegal activities that sometimes happen in the realm of state government," Ward said. "Sexual harrassment, embezzlement and like items must not go unreported. Unfortunately, many employees are afraid to

report these activities for fear of losing their jobs. I want all of our state employees to know that we'll protect them if they report these illegal activities."

Ward said House Bill 577 would establish an incentive plan which would reward state employees who help improve the efficiency or economy of state operations.

"We're not listening to the people who really know what's going on," Ward said. "Every state employee knows what is right and wrong with their department. But most are not coming forward as much as they could because they have no incentive to, and some have many good reasons not to.

"We have had some serious problems lately with morale in many departments and I'm confident that if these bills become law, those problems would have not escalated into such major fiascos.

"In a nutshell, both of these bills will encourage employees to enthusiastically improve the way the state government works," Ward said.

As an example for the need for this legislation, Ward cited a recent case where a tip from a state employee resulted in a legislative audit which disclosed that three airplanes were missing from the Department of Public Safety.

"An employee who puts his neck out on the line like this should be praised and deserves the protection of the government," Ward said. "However, in many similar cases, the employee ends up worrying about job security."

#



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

June 25, 1983

MEMORANDUM

TO: Representative Jerry Ward

FROM: Betty Barton ^{BB}
Legislative Analyst

RE: Employee Protection Laws
Research Request No. 83-163

You have asked for information about state and federal statutes that provide protection to employees who disclose information regarding an employer's violation of federal, state, or local laws. During the 1970s, there was growing public concern regarding the need for improved ethical and professional standards, including support for public disclosure of any unethical or illegal practices of governmental and private organizations. Individuals increasingly called for measures which would ensure the protection from reprisal of those employees, known as "whistle blowers," who publicly criticize their organizations for perceived wrongdoing.

Legal Background

American case law traditionally has provided some limited protections from administrative punishment to whistle blowers in public employment. According to a report prepared by the Congressional Research Service, the law generally was shaped in 1892 by Judge Wendell Holmes who ruled in McAuliffe v. Mayor of New Bedford (155 Mass. 216: 29 N.E. 519) that while there is a constitutional right to free speech, there is no constitutional right to public employment.¹ This position was modified in 1968 in Pickering v. Bd. of Ed. (391 U.S. 563) when the U.S. Supreme Court held that a public worker cannot be deprived of his or her constitutional rights as a condition of employment.

Some statutory protections are also found at the federal level. For example, federal employees may testify before Congress about the agencies in which they work. The right to petition Congress is established in 5 U.S.C. 7102; and 18 U.S.C. 1505 prohibits interfering with a worker who is giving testimony to Congress. However, the law does not extend to employees who disclose information to bodies other than Congress.

¹ Judith H. Parris, Government Division, Congressional Research Service, The Library of Congress, Major Issues System, " 'Whistle Blowers' in the Executive Branch," Issue Brief Number IB78006, January 26, 1978.

There are also several notable limitations placed on an employee's freedom to disclose information. Federal officials, for example, may not disclose classified data unless specifically authorized by the Freedom of Information Act or other U.S. statutes.

Federal Legislation Establishing Employee Protection

In 1978, Senate Bill 2640 was enacted.² This bill, which was the culmination of President Carter's Personnel Management Project, provided an extensive reorganization of the U.S. Civil Service Commission. Included in the bill was an employee protection provision; the primary purpose of which was to "safeguard employees, tenured and nontenured, who 'blew the whistle' on illegal or improper official conduct."

As the bill was initially introduced, it prohibited Civil Service employers from dispensing any sanctions against employees who publicly disclosed a violation of a law, rule, or regulation (assuming that the disclosure in itself did not constitute a violation of the law). The bill was subsequently broadened so that an employee would be protected in disclosing any information that reflected significant mismanagement, flagrant waste of funds; abuse of authority, or a substantial and specific danger to the health and safety of the public.³ The bill was also modified so that agencies would not be encouraged to establish unwarranted internal "rules or regulations" against disclosure. As amended, only those disclosures that are specifically exempted by statute, e.g., substantive data pertaining to national intelligence, are prohibited.

Under the statute, the head of each executive branch agency has responsibility for overseeing compliance with relevant civil service laws.

² Public Law 95-454. A copy of the statute is located in Appendix A.

³ According to the legislative history of the bill, the intent of Congress was to limit protection to specific and significant impairment of public safety. As an example, the legislative history states that a general criticism by an employee that the Environmental Protection Agency is inadequately protecting the environment would not be protected under the statute; however, an employee's disclosure regarding the unsafe design of the cooling system of a Nuclear Regulatory Commission reactor would presumably be protected.

State Legislation Protecting Whistle Blowers

Essentially, there are two approaches available for states in establishing protection for whistle blowers: 1) through administrative rules and procedures -- as exemplified in the federal statute -- and 2) through the courts.

Professional opinion is divided as to whether or not a state statute is necessary if an administrative approach is utilized. By some interpretations, administrative protections can be effectively established through executive orders or regulations. Several administrative mechanisms are available for processing whistle blowing grievances, including establishing an independent personnel board to review employee grievances and establishing an inspector general or ombudsman. In addition, the federal government and some states have considered establishing incentives for employees who produce innovative or noteworthy work as well as penalties for those responsible for inefficiency or unfavorable practices.

To establish remedies through the court system, there are also several available options that have been considered at both the state and federal level. Of these, the most commonly utilized approach is to provide for civil penalties against an agency when an employer has unduly retaliated against an employee. However, legislation can also be drafted to impose civil penalties on the individual who was responsible for the retaliation. Another option, which was presented for congressional consideration, is to establish a legal defense fund to be made available to employees with alleged grievances.

Colorado has enacted legislation that provides for protection through the administrative approach, while Michigan has established remedies through the courts.

Colorado State Employee Protection Law - Colorado enacted a whistleblower protection law in the fall of 1979.⁴ Included in the statute's legislative declaration is the following statement:

The general assembly...declares that employees of the state of Colorado are citizens first and have a right and a responsibility to behave as good citizens in our common efforts to provide sound management of governmental affairs. To help achieve [this and other objectives], the general assembly declares that state employees should be encouraged to disclose information on actions of state agencies that are not in the public interest and that legislation is needed to ensure that any employee making such disclosures shall not be subject to disciplinary measures or harassment by any public official.

⁴ A copy of the Colorado statute is in Appendix B.

Representative Ward

June 25, 1983

Page 4

As enacted, the statute prohibits a state employer or supervisor from initiating a disciplinary action against an employee due to his or her disclosure of information. However, protection does not extend to an employee who knowingly discloses false information or who discloses information that is legally required to be held confidential. Under the provisions of the statute, an employee "who wishes to disclose information" is obligated to "make a good faith effort" to provide the employer or the general assembly with the information to be disclosed prior to the time of its disclosure.

The law enables any employee in the state personnel system to file a written complaint with the state personnel board if an alleged retaliatory measure has been directed against him. If upon review the charges appear to have a reasonable basis, the state personnel director is required to notify the employer of the findings. The employer may then petition the board for a hearing on the matter.

If the board determines that a violation against an employee has occurred, the board is required to order compensation to the employee for any costs incurred in the proceeding. The board also is required to order relief including, but not limited to, reinstatement, back pay, restoration of any loss in credited service, and expungement of any damaging personnel records of the employee. If a specific employer or supervisor is found to have personally initiated the retaliation initiated against the employee, a description of the offense is to be placed within the employer's personnel records.

The administrative approach is generally established in order to provide a means of resolving disputes internally. Under the Colorado law, an employer or employee who is dissatisfied with the findings of the board may take the case to district court.

According to Marilyn Heckel, who administers the employee protection law in Colorado, the statute has been used infrequently since its enactment. Only three or four cases have been filed since the program's inception in 1979. While this may be attributable in part to an absence of complaints, Ms. Heckel observed that there are also some weaknesses in the statute that may be deterring employees from utilizing it.

Ms. Heckel noted that the most significant problem is that the review and hearing process is not timely. The first case filed under the law took almost three years for a determination to be made. The board ruled against the employee, and the employee then filed a complaint in the district court. The judge dismissed the case on a technicality. According to Ms. Heckel, the employee, who presumably believed enough in the legitimacy of his complaint to pursue it for three years, was left with no available recourse and abundant legal bills.

Ms. Heckel also noted that several provisions of the statute were drafted with overly broad potential applications. As an example, Ms. Heckel noted that there is no statute of limitations included within the law. Conceivably, an employee could choose to disclose information pertaining to a violation that occurred ten years ago.

According to Ms. Heckel, staff have discussed the need for revision of the law, but the need is viewed to be a relatively low priority.

Michigan Whistleblowers' Protection Act - No state law offers as extensive protection to employees as that afforded through the Michigan statute.⁵ Enacted in 1980, this law may apply to any employee, including individuals within both the public and private sectors of employment. Under the law's provisions, an employer shall not "discharge, threaten, or otherwise discriminate against an employee" for reporting a violation, or suspected violation, of a law, rule, or regulation.

Unlike the Colorado law, the Michigan statute establishes civil action for injunctive relief or damages in the county circuit court as the first measure of recourse for employees who have experienced an alleged violation. The burden of proof is placed on an employee to "show by clear and convincing evidence" that at the time of conflict with his employer, the employee was about to report a suspected violation.

The statute also establishes remedies to be ordered as the judge considers appropriate. In rendering a judgment, a court shall order the reinstatement of the employee, the payment in the employee's favor of back wages, full reinstatement of fringe benefits and seniority, actual damages, or any combination of these remedies. A court may also award the complainant all or a portion of the costs of litigation, including both attorney and witness fees.

According to Lee Schwartz, a legislative aide to Michigan Senator James Barcia who was instrumental in the law's enactment, a determination was made to use the court approach in order to make certain that employee protection was not used "frivolously" and would only be used for serious and significant cases.

Mr. Schwartz stated that there are have been 10 known cases filed since the law was passed. Of these, the majority have been filed against public agencies; however, several pertain to private sector employers. According to Mr. Schwartz, his office has found no means of evaluating the effectiveness of the law or determining the extent to which the statute is being utilized. All cases are initially filed within Michigan circuit courts, which have no available system of tracking specific categories of cases.

⁵ A copy of the Michigan statute is located in Appendix C.

Representative Ward
June 25, 1983
Page 6

The U.S. Supreme Court recently ruled on a naval case pertaining to whistle blowing. To date, our research sources have been unable to obtain detailed information regarding the implications of the decision. When we are provided this information, we will transmit it to your office.

We hope this information has assisted you. Please do not hesitate to contact us if you have additional research questions.

bb

Attachments

Attachment A:

Civil Service Reform Act of 1978
(excerpted portions pertaining to whistle blowing)

under an administrative interpretative regulation approved by the district court as reasonable and not challenged on appeal, it did not constitute "active duty" within the meaning of this section, defining who is a "preference eligible" veteran. *Hroussard v. U. S. Postal Service*, C.A.Tex.1982, 674 F.2d 1103.

§ 2100. Air traffic controller; Secretary

For the purpose of this title—

(1) "air traffic controller" or "controller" means an employee of the Department of Transportation or the Department of Defense who, as determined under regulations prescribed by the Secretary, is actively engaged in the separation and control of air traffic, or is the immediate supervisor of an employee actively engaged in the separation and control of air traffic, in an air traffic control facility; and

(2) "Secretary", when used in connection with "air traffic controller" or "controller", means the Secretary of Transportation with respect to controllers in the Department of Transportation, and the Secretary of Defense with respect to controllers in the Department of Defense.

As amended Pub.L. 96-347, § 1(a), Sept. 12, 1980, 94 Stat. 1150.

1980 Amendment. Pub.L. 96-347 substituted in section 2100 the words "controller; Secretary" for "controller" and in section 2101 the words "Secretary" for "Secretary of Defense" within the meaning of air traffic controller or controller and defined the term "Secretary" to mean Secretary of Transportation with respect to controllers in the Department of Transportation and Secretary of Defense with respect to controllers in the Department of Defense. Effective Date of 1980 Amendment. Section 3 of Pub.L. 96-347 provided that:

"This Act (amending sections 2100, 2307, 3381 to 3385, and 8335 of this title and enacting a provision set out as a note under section 8335 of this title) shall take effect on the later of—

"(1) October 1, 1980, or
 "(2) the ninetieth day after the date of the enactment of this Act [Sept. 12, 1980]."

Legislative History. For legislative history and purpose of Pub.L. 96-347, see 1080 U. S. Code Cong. and Adm. News, p. 2714.

CHAPTER 23—MERIT SYSTEM PRINCIPLES

Sec. 2301. Merit system principles.
 2302. Prohibited personnel practices.
 2303. Prohibited personnel practices in the Federal Bureau of Investigation.

Sec. 2301. Responsibility of the General Accounting Office.
 2305. Coordination with certain other provisions of law.

§ 2301. Merit system principles

(a) This section shall apply to—

- (1) an Executive agency;
- (2) the Administrative Office of the United States Courts; and
- (3) the Government Printing Office.

(b) Federal personnel management should be implemented consistent with the following merit system principles:

(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for exceptional performance.

(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

(5) The Federal work force should be used efficiently and effectively.

(6) Employees should be retained on the basis of the adequacy of their performance. Inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

(8) Employees should be—

(A) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and

(B) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences—

(A) a violation of any law, rule, or regulation, or

(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) In administering the provisions of this chapter—

(1) with respect to any agency (as defined in section 2302(a))

(2) (C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and

(2) with respect to any entity in the executive branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available, take any action, including the issuance of rules, regulations, or directives;

which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles.

Added Pub.L. 95-454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1113.

Effective Date. Section effective 90 days after Oct. 13, 1978, see section 907 of Pub.L. 95-454, set out as a note under section 1101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-454, see 324 U.S. Code Cong. and Adm. News, p. 272.

Cross References. Principles included in personnel management system of General Accounting Office, see section 732 of Title 31, Money and Finance.

Library References. Officers § 11, United States § 34, C.J.S. Officers and Public Employees § 49 to 51, 53 to 55, C.J.S. United States § 36, 37, 62 to 64.

Purpose. Primary purpose of this chapter was to safeguard employees, tenured and non-tenured, who "blew the whistle" on illegal or improper official conduct. *Wren v. Merit Systems Protection Bd.*, C.A.D.C. 1082, 681 F.2d 807.

§ 2302. Prohibited personnel practices

(a) (1) For the purpose of this title, "prohibited personnel practice" means any action described in subsection (b) of this section.

(2) For the purpose of this section—

(A) "personnel action" means—

- (i) an appointment;
- (ii) a promotion;
- (iii) an action under chapter 75 of this title or other disciplinary or corrective action;
- (iv) a detail, transfer, or reassignment;

(vii) a reemployment;

(viii) a performance evaluation under chapter 43 of this title;

(ix) a decision concerning pay, benefits, or awards, or concerning education or training if the education or training reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action described in this paragraph; and

(x) any other significant change in duties or responsibilities which is inconsistent with the employee's salary or grade with respect to an employee in, or applicant for, a covered position in an agency;

(B) "covered position" means any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include—

(i) a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

(ii) any position excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration.

(C) "agency" means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, but does not include—

(i) a Government corporation;

(ii) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or

(iii) the General Accounting Office.

(b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—

(1) discriminate for or against any employee or applicant for employment—

(A) on the basis of race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);

(B) on the basis of age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);

(C) on the basis of sex, as prohibited under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));

(D) on the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or

(E) on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation;

(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

(B) an evaluation of the character, loyalty, or suitability of

(3) coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

(4) deceive or willfully obstruct any person with respect to such person's right to compete for employment;

(5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

(6) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

(7) appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in section 2110

(a)(3) of this title) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in section 5110(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official;

(8) take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for—

(A) a disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(9) take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation;

(10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States; or

(11) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title.

This subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action

(c) The head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.

(d) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;

(3) under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;

(4) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), prohibiting discrimination on the basis of handicapping condition; or

(5) the provisions of any law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

Added Pub.L. 95-454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1114.

References in Text. Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), referred to in subsections (b) and (d), is classified to section 2000e-16 of Title 42, The Public Health and Welfare.

Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), referred to in subsections (b) and (d), are classified to sections 631 and 633a of Title 29, Labor.

Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), referred to in subsection (b) and (d), is classified to section 206(d) of Title 29.

Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), referred to in subsection (b) and (d), is classified to section 791 of Title 29.

The civil service laws, referred to in subsection (c), are set out in this title. See, particularly, section 3301 et seq. of this title.

Effective Date. Section effective 90 days after Oct. 13, 1978, see section 907 of Pub.L. 95-454, set out as a note under section 1101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-454, see 1078 U.S. Code Cong. and Adm. News, p. 2723.

Cross References. Personnel practices prohibited by personnel management system of General Accounting Office, see section 732 of Title 31, Money and Finance.

Index to Notes

Retaliation 1
 Right of action 8
 Standards 2
 Whistle-blowing protections Generally 3
 Disclosure of protected information 4

1. Retaliation

In proceeding concerning job demotion of employee of Veterans Administration, United States Merit Systems Protection

to prove by a preponderance of the evidence that the demotion was a reprisal for "whistleblowing." *Alley v. Veterans Adm'n. Medical Center*, C.A.8, 1082, 600 F.2d 151.

In case in which special counsel contended in effect that four deputy marshals' transfers to different duty stations were in retaliation for engaging in protected activities, Board, which upheld transfers of three deputies, had not violated principle to effect that knowledge of employees' protected activities on part of one with ultimate responsibility for a personnel action could support inference of retaliatory intent where Board had determined that those who effected the transfers had no knowledge of the protected activities and that those with knowledge had no effect. *Frazier v. Merit Systems Protection Bd.*, 1082, 672 F.2d 150, 217 U.S.App.D.C. 207.

2. Standards

To establish that agency action utilizing unapproved performance criteria was "based on" a prohibited personnel practice, petitioners would have to show that their performance, while falling the "unacceptable performance" standard, was satisfactory under other applicable statutory standards. *Darby v. Internal Revenue Service*, 1082, 672 F.2d 192, 217 U.S.App.D.C. 330.

3. Whistle-blowing protections—Generally

"Whistleblowing" provisions of this chapter work only as a defense to disciplinary action. *Martin v. Lauer*, C.A.10, C.1082, 680 F.2d 21.

4. Disclosure of protected information

In regard to a government employee deciding whether to "blow the whistle" on government fraud, waste, abuse or illegality, the legal question of whether disclosure is prohibited by law is of critical importance to the whistleblower, and he must be allowed to consult his attorney for an answer to that question absent some strong governmental interest in limiting such communications. *Martin*

3. Right of action

In enacting this section Congress did not take away from probationary employees their preexisting right to seek redress of constitutional violations in district court actions, and limit of statutory remedy provided probationary employees governing adverse personnel action based on "whistleblowing" does not preclude resort to independent action alleging violation of 1467a under U.S.C.A. Const. Amend. 1 in adverse personnel action based on criticism of agency practices and/or procedures. *Horrell v. U. S. In-*

tern. Communications Agency, C.A.D.C. 1082, 682 F.2d 941.

A purported whistleblower has no private right of action under this section prohibiting an official from taking adverse personnel action against an employee as reprisal for "whistleblowing" on official violations of law, waste and abuse of authority, and in case of probationary employee, the office of special counsel is the exclusive avenue of relief for alleged prohibited personnel practices under this section. *Id.*

§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

(a) Any employee of the Federal Bureau of Investigation who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau as a reprisal for a disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose) which the employee or applicant reasonably believes evidences—

- (1) a violation of any law, rule, or regulation, or
- (2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

For the purpose of this subsection, "personnel action" means any action described in clauses (1) through (x) of section 2302(a)(2)(A) of this title with respect to an employee in, or applicant for, a position in the Bureau (other than a position of a confidential, policy-determining, policy-making, or policy-advocating character).

(b) The Attorney General shall prescribe regulations to ensure that such a personnel action shall not be taken against an employee of the Bureau as a reprisal for any disclosure of information described in subsection (a) of this section.

(c) The President shall provide for the enforcement of this section in a manner consistent with the provisions of section 1206 of this title.

Added Pub.L. 95-454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1117.

Effective Date. Section effective 90 days after Oct. 13, 1978, see section 907 of Pub.L. 95-454, set out as a note under section 1101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-454, see 1078 U.S. Code Cong. and Adm. News, p. 2723.

§ 2304. Responsibility of the General Accounting Office

(a) If requested by either House of the Congress (or any committee thereof), or if considered necessary by the Comptroller General, the General Accounting Office shall conduct audits and reviews to ensure compliance with the laws, rules, and regulations governing employment in the executive branch and in the competitive service and to assess the effectiveness and soundness of Federal personnel management.

(b) The General Accounting Office shall prepare and submit an annual report to the President and the Congress on the activities of the Merit Systems Protection Board and the Office of Personnel Management. The report shall include a description of—

- (1) significant actions taken by the Board to carry out its functions under this title; and
- (2) significant actions of the Office of Personnel Management, including an analysis of whether or not the actions of the Office are in accord with merit system principles and free from prohibited personnel practices.

Added Pub.L. 95-454, Title I, § 101(a), Oct. 13, 1978, 92 Stat. 1118.

¹ So in original.

Effective Date. Section effective 90 days after Oct. 13, 1978, see section 907 of Pub.L. 95-454, set out as a note under section 1101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-454, see 1078 U.S. Code Cong. and Adm. News, p. 2723.

Attachment B:

Colorado Employee Protection Law

ie or until an examination
o.

63, § 26-2-2; L. 73, p. 426.

he termination of his self-chosen
er, to return to state employment
d all the rights and privileges
ave accrued if he had never left
an employment. State Civil Serv.
Fleming, 183 Colo. 71, 514 P.2d
cert. denied, 415 U.S. 977, 94 S.
.. Ed. 2d 873 (1974).

ment contingent upon returning
ter service. Reinstatement is con-
the employee returning to state
within one year after the period
ice or additional service imposed
: Civil Serv. Comm'n v. Fleming,
1, 514 P.2d 1135 (1973), cert.
J.S. 977, 94 S. Ct. 1564, 39 L. Ed.

guard. (1) The provisions
the payment by this state
the compensation of any
as provided in this part 3
ee retains his status after

ho was a member of the
med forces of the United
or compensation from the
rtes for a period of time
ceeding fifteen days.

1, § 26-2-3.

part 3 shall apply to any
n who entered the armed
ervice engaged in national

HOURS

ices in the executive and
l be and remain open for

business daily, except on Saturdays, Sundays, and legal holidays, from the hour of 8:30 a.m. until the hour of 5:00 p.m.; except that nothing in this section shall affect the validity of any act performed by either of said departments before or after the hours specified in this section.

(2) Notwithstanding the provisions of subsection (1) of this section, when a city or city and county and the suburban area within a ten-mile radius of the boundaries thereof have a population in excess of fifty thousand inhabitants, the offices of any executive department of the state government located therein may vary its business hours from those indicated in subsection (1) of this section whenever the executive director of the principal department, with the approval of the governor, determines that such adjustment of hours will help alleviate peak traffic conditions and provide a more even flow of traffic for the purpose of creating safer highway conditions.

(3) Written notice of the variance permitted under subsection (2) of this section shall be given to the local news media of such cities or cities and counties not less than two weeks preceding the effective date of such variance.

Source: R & RE, L. 72, p. 180, § 1; C.R.S. 1963, § 26-3-1.

24-50-402. Appointment by outgoing officers prohibited. No state, county, or city appointive office, the term of which expires on or after the time fixed by law for the qualification of the officer having the authority to make such appointment, shall be filled by the outgoing appointing officer.

Source: R & RE, L. 72, p. 180, § 1; C.R.S. 1963, § 26-3-2.

ARTICLE 50.5

State Employee Protection

24-50.5-101.	Legislative declaration.	24-50.5-105.	Civil action.
24-50.5-102.	Definitions.	24-50.5-106.	Notice to state auditor.
24-50.5-103.	Retaliation prohibited.	24-50.5-107.	Reports to general assembly and governor.
24-50.5-104.	Complaints by state personnel system employees.		

24-50.5-101. Legislative declaration. The general assembly hereby declares that the people of Colorado are entitled to information about the workings of state government in order to reduce the waste and mismanagement of public funds, to reduce abuses in government authority, and to prevent illegal and unethical practices. The general assembly further declares that employees of the state of Colorado are citizens first and have a right and a responsibility to behave as good citizens in our common efforts to provide sound management of governmental affairs. To help achieve these objectives, the general assembly declares that state employees should be encouraged to disclose information on actions of state agencies that are not in the public interest

and that legislation is needed to ensure that any employee making such disclosures shall not be subject to disciplinary measures or harassment by any public official.

Source: L. 79, p. 965, § 1.

24-50.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Disciplinary action" means any direct or indirect form of discipline or penalty, including, but not limited to, dismissal, demotion, transfer, reassignment, suspension, corrective action, reprimand, admonishment, unsatisfactory or below standard performance evaluation, reduction in force, or withholding of work, or the threat of any such discipline or penalty.

(2) "Disclosure of information" means the written provision of evidence to any person, or the testimony before any committee of the general assembly, regarding any action, policy, regulation, practice, or procedure, including, but not limited to, the waste of public funds, abuse of authority, or mismanagement of any state agency.

(3) "Employee" means any person employed by a state agency.

(4) "State agency" means any board, commission, department, division, section, or other agency of the executive, legislative, or judicial branch of state government.

(5) "Supervisor" means any board, commission, department head, division head, or other person who supervises or is responsible for the work of one or more employees.

Source: L. 79, p. 965, § 1.

24-50.5-103. Retaliation prohibited. (1) Except as provided in subsection (2) of this section, no appointing authority or supervisor shall initiate or administer any disciplinary action against an employee on account of the employee's disclosure of information. This section shall not apply to:

(a) An employee who discloses information that he knows to be false or who discloses information with disregard for the truth or falsity thereof;

(b) An employee who discloses information from public records which are closed to public inspection pursuant to section 24-72-204;

(c) An employee who discloses information which is confidential under any other provision of law.

(2) It shall be the obligation of an employee who wishes to disclose information under the protection of this article to make a good faith effort to provide to his supervisor or appointing authority or member of the general assembly the information to be disclosed prior to the time of its disclosure.

Source: L. 79, p. 966, § 1.

24-50.5-104. Complaints by state personnel system employees. (1) Any employee in the state personnel system may file a written complaint with the state personnel board alleging a violation of section 24-50.5-103 if the employee demonstrates that reasonable communication to his supervisor,

appointing authority, or member of the general assembly has occurred in regard to the alleged violation. The state personnel board shall cause an investigation of the charges to be made by the state personnel director. If the investigation establishes that there is a reasonable basis for the charges, the appointing authority or supervisor shall be given written notice thereof. Within ten days after he receives such notice, the appointing authority or supervisor may petition the board for a hearing on the matter, and the board shall grant such hearing.

(2) If the state personnel board after hearing determines that a violation of section 24-50.5-103 has occurred, or if the investigation establishes a reasonable basis for the charges and no hearing is requested, the board shall order the appropriate relief, including, but not limited to, reinstatement, back pay, restoration of lost service credit, and expungement of the records of the employee who disclosed information, and, in addition, the state personnel board shall order that the employee filing the complaint be reimbursed for any costs incurred in the proceeding. Such reimbursement shall be made out of moneys appropriated to the agency which employs such employee. Judicial review of any determination by the state personnel board under this subsection (2) may be had in accordance with section 24-4-106.

(3) It shall be a defense in any disciplinary proceeding against an employee under section 24-50-125 that such proceeding was initiated in violation of section 24-50.5-103, and the issue of the violation of section 24-50.5-103 shall be determined by the state personnel board as a part of the disciplinary proceeding.

(4) Whenever the state personnel board determines that an appointing authority or supervisor has violated section 24-50.5-103, it shall cause an entry to that effect to be made in the supervisor's personnel records.

Source: L. 79, p. 966, § 1.

24-50.5-105. Civil action. Any employee not in the state personnel system, or any employee in the state personnel system who has filed a complaint under section 24-50.5-104 (1) but no reasonable basis was found for the charges, may bring a civil action in the district court alleging a violation of section 24-50.5-103. If the employee prevails, the employee may recover damages, together with court costs, and the court may order such other relief as it deems appropriate.

Source: L. 79, p. 967, § 1.

24-50.5-106. Notice to state auditor. Whenever the state personnel board finds that a violation of section 24-50.5-103 involving the disclosure of information concerning waste of public funds or mismanagement of a state agency has occurred, it shall transmit a copy of the investigation report to the state auditor, who shall proceed in accordance with section 2-3-101 (3) (c), C.R.S., 1973.

Source: L. 79, p. 967, § 1.

24-50.5-107. Reports to general assembly and governor. The state personnel board shall report annually to the general assembly and the governor concerning the complaints filed, hearings held, and actions taken pursuant to this article.

Source: L. 79, p. 967, § 1.

PUBLIC EMPLOYEES' RETIREMENT SYSTEMS

ARTICLE 51

Public Employees' Retirement Systems

PART 1

STATE EMPLOYEES

24-51-101.	Definitions.
24-51-102.	Public employees' retirement association.
24-51-103.	Retirement board — officers — group life insurance.
24-51-104.	Members' contributions.
24-51-105.	State contributions.
24-51-106.	Retirement fund defined — state treasurer custodian — disbursements.
24-51-107.	Board to direct investments of retirement fund.
24-51-108.	Legal adviser.
24-51-109.	Refunds, when made — deferred retirement annuity.
24-51-110.	Members may be reinstated.
24-51-111.	Retirement for superannuation.
24-51-112.	Optional forms of annuities.
24-51-113.	Military service — waiver of payments — service credit.
24-51-114.	Colorado state patrol.
24-51-115.	Disability retirement — annuity.
24-51-116.	Medical examination for disability.
24-51-117.	Heirs to receive payment, when.
24-51-118.	Annuities to be paid monthly.
24-51-119.	Minimum contribution time — rights.
24-51-120.	Funds not subject to process.
24-51-121.	Insurance, banking laws not to apply.
24-51-122.	Gifts and bequests.

24-51-125.	Members remaining in public service — election of option.
24-51-126.	Colorado state university — U. S. department of agriculture employees.
24-51-127.	Division of wildlife and the division of parks and outdoor recreation.
24-51-128.	Members of the general assembly.
24-51-129.	Persons eligible.
24-51-130.	Applications.
24-51-131.	When emeritus retirement benefits commence.
24-51-132.	State employees' emeritus retirement fund — limitation on pension.
24-51-133.	Funds not subject to process.
24-51-134.	Retired state members — employment in position covered by association — when.
24-51-135.	Redetermination of benefits.
24-51-136.	Increase in public employees' benefits — stabilization fund — creation.
24-51-137.	Colorado association of school boards and high school activities association.
24-51-138.	Reserve fund credits.
24-51-138.5.	Fire and police pension association.
24-51-138.6.	Special districts association.
24-51-139.	Credited service in excess of twenty years prior to July 1, 1969.
24-51-140.	Prorating clause.
24-51-141.	District attorneys covered under public employees'

24-51-143.	Salary deductions.
24-51-144.	State payments.
24-51-145.	Retirement of district attorneys.
24-51-146.	Benefits not considered compensation or increase in emoluments.
24-51-147.	Effective date — retroactive application limited.

PART 2

PUBLIC EMPLOYEES

24-51-200.5.	Definitions.
24-51-201.	Extension of coverage.
24-51-202.	Exemption by state subdivisions.
24-51-203.	Exemption of present employees of covered subdivisions.
24-51-204.	Duties of public employers.
24-51-205.	Public employee deductions.
24-51-206.	Public employer payments.
24-51-207.	Municipal employees' reserve fund.
24-51-208.	School district employees' reserve fund.
24-51-209.	Administration and management.
24-51-210.	Retirement of municipal employee members.
24-51-211.	Retirement of school district employee members.
24-51-212.	Optional forms of annuities.
24-51-213.	Disability retirement — annuity.
24-51-214.	Medical examination for disability retirement.
24-51-215.	General provisions.
24-51-216.	Military service — waiver of payments — service credit.
24-51-217.	Heirs to receive amount due member.
24-51-218.	Annuities paid in installments.
24-51-219.	Funds not subject to process.
24-51-220.	Insurance and banking laws not to apply.
24-51-221.	May receive gifts and bequests.
24-51-222.	Rules and regulations.
24-51-223.	Retired school district members — employment in position covered by association — when.
24-51-224.	(Repealed).
24-51-225.	Redetermination of benefits.
24-51-226.	Regional library districts.
24-51-227.	City council or other governing authority of

24-51-229.	(Repealed).
------------	-------------

PART 3

COUNTY OR DISTRICT HEALTH DEPARTMENTS

24-51-301.	Coverage to employees of health departments — application.
24-51-302.	Disposition of funds.
24-51-303.	Employees in unorganized counties.

PART 4

HOUSING AUTHORITIES

24-51-401.	Housing authorities covered.
24-51-402.	Funds, how credited.

PART 5

SCHOOL EMPLOYEES

24-51-501.	Legislative declaration.
24-51-502.	School employees covered.
24-51-503.	Arrears in payments.
24-51-504.	Penalty for arrears.
24-51-505.	Reciprocity of retirement systems.

PART 6

JUDGES OF COURTS OF RECORD

24-51-601.	Courts covered under public employees' retirement association.
24-51-602.	Exemption for present judges.
24-51-603.	Salary deductions.
24-51-604.	State payments.
24-51-605.	Investment of judges' retirement fund.
24-51-606.	Administration and management.
24-51-607.	Retirement of judges.
24-51-608.	Optional forms of annuities.
24-51-609.	Disability retirement.
24-51-610.	Medical examination for retirement.
24-51-611.	Refunds — retention.
24-51-612.	Heirs to receive payments — when.
24-51-613.	Annuities paid monthly.
24-51-614.	Redetermination of benefits.

PART 7

PUBLIC EMPLOYEES' SOCIAL

Attachment C:

Michigan Whistle Blower Protection Act

(4) When a recommendation to an appointing authority is made by the board concerning an unclassified employee or appointee, the appointing authority shall take appropriate disciplinary action which may include dismissal.

P.A.1973, No. 196, § 5, Imd. Eff. Jan. 8, 1974.

Library References

States 67, 73.

C.J.S. States §§ 120, 121, 130 to 138, 140.

Notes of Decisions

In general 1
Closed sessions 2

behalf of the agency. Op.Atty.Gen.1980, No. 5640.

2. Closed sessions

1. In general
The son of a member of the barrier free design board may be employed by the board without violation of the ethical standards of § 15.341 et seq., although a member of the barrier free design board may not participate in any case in which his or her son appears on

The state board of ethics is subject to the Open Meetings Act, § 15.261, and when it meets in closed session for the protection of individual rights, it must comply with the provisions of said act, with respect to the calling and holding of the closed session. Op.Atty.Gen. 1980, No. 5760.

15.346 Rules

Sec. 6. The board may promulgate rules governing its own procedures pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. For a period of 1 year following the effective date of this act the board shall have full authority to exercise all of its functions in accordance with temporary rules of procedure promulgated by the board. Both the temporary and permanent rules of the board shall provide that:

(a) The board may request the attendance of any witness whose testimony, in the judgment of the board, will aid in the conduct of its investigations.

(b) A person appearing before the board shall submit either sworn or unsworn testimony as the board may decide and may at all times be represented and accompanied by counsel.

(c) A record of testimony taken before the board or a hearing officer designated by it shall be made in the manner prescribed by the board.

(d) The board may, when it appears necessary for the protection of individual rights, hold its meetings and hearings in private. All other meetings and hearings shall be open to the public.

P.A.1973, No. 196, § 6, Imd. Eff. Jan. 8, 1974.

Notes of Decisions

1. In general

Records and files concerning any dismissed complaint or terminated investigation by the state board of ethics may be suppressed to protect an individual's

privacy, but may only be disposed of by the state board of ethics in accordance with § 18.13c. Op.Atty.Gen. 1980, No. 5760.

15.347 Appropriation

Sec. 7. There is appropriated from the general fund of the state an amount necessary to implement this act but not to exceed \$10,000.00 for the fiscal year ending June 30, 1974.

P.A.1973, No. 196, § 7, Imd. Eff. Jan. 8, 1974.

Library References

States 131.

C.J.S. States §§ 230, 234 to 239.

15.348 Effect on other acts

Sec. 8. The provisions of this act shall not supersede the provisions of any other acts heretofore or hereinafter enacted and shall be interpreted and administered to the extent not inconsistent with other acts.

P.A.1973, No. 196, § 8, Imd. Eff. Jan. 8, 1974.

MCLA.

WHISTLEBLOWERS' PROTECTION ACT

Caption editorially supplied

Library References

M.L.P. Employment §§ 1, 23, 151.

M.L.P. State § 6.

P.A.1980, No. 469, Eff. March 31, 1981

AN ACT to provide protection to employees who report a violation or suspected violation of state, local, or federal law; to provide protection to employees who participate in hearings, investigations, legislative inquiries, or court actions; and to prescribe remedies and penalties.

The People of the State of Michigan enact:

15.361 Definitions

Sec. 1. As used in this act:

(a) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, ex-

press or implied. Employee includes a person employed by the state or a political subdivision of the state except state classified civil service.

(b) "Employer" means a person who has 1 or more employees. Employer includes an agent of an employer and the state or a political subdivision of the state.

(c) "Person" means an individual, sole proprietorship, partnership, corporation, association, or any other legal entity.

(d) "Public body" means all of the following:

(i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government.

(ii) An agency, board, commission, council, member, or employee of the legislative branch of state government.

(iii) A county, city, township, village, intercounty, intercity, or regional governing body, a council, school district, special district, or municipal corporation, or a board, department, commission, council, agency, or any member or employee thereof.

(iv) Any other body which is created by state or local authority or which is primarily funded by or through state or local authority, or any member or employee of that body.

(v) A law enforcement agency or any member or employee of a law enforcement agency.

(vi) The judiciary and any member or employee of the judiciary.

P.A.1980, No. 469, § 1, Eff. March 31, 1981.

15.362 Discharge of, threats to or discrimination against employee for reporting violations of law

Sec. 2. An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false, or because an employee is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action.

P.A.1980, No. 469, § 2, Eff. March 31, 1981.

624

Library References

Labor Relations ⇐7.

C.J.S. Labor Relations I 2 et seq.

15.363 Civil actions for injunctive relief or damages

Sec. 3. (1) A person who alleges a violation of this act may bring a civil action for appropriate injunctive relief, or actual damages, or both within 90 days after the occurrence of the alleged violation of this act.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has their principal place of business.

(3) As used in subsection (1), "damages" means damages for injury or loss caused by each violation of this act, including reasonable attorney fees.

(4) An employee shall show by clear and convincing evidence that they or a person acting on their behalf was about to report, verbally or in writing, a violation or a suspected violation of a law of this state, a political subdivision of this state, or the United States to a public body.

P.A.1980, No. 469, § 3, Eff. March 31, 1981.

Library References

Action ⇐3.

C.J.S. Actions § 9.

Injunction ⇐25.

C.J.S. Injunctions §§ 41, 42, 54.

15.364 Remedies ordered by court

Sec. 4. A court, in rendering a judgment in an action brought pursuant to this act, shall order, as the court considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, if the court determines that the award is appropriate.

P.A.1980, No. 469, § 4, Eff. March 31, 1981.

Library References

Officers ⇐70.

C.J.S. Officers and Public Employees
§§ 114 to 116, 221.

625

15.365 PUBLIC OFFICERS AND EMPLOYEES

15.365 Penalties for violations

Sec. 5. (1) A person who violates this act shall be liable for a civil fine of not more than \$500.00.

(2) A civil fine which is ordered pursuant to this act shall be submitted to the state treasurer for deposit in the general fund.

P.A.1980, No. 469, § 5, Eff. March 31, 1981.

Library References

Labor Relations ⇐1056.

C.J.S. Labor Relations § 1011.

15.366 Collective bargaining rights

Sec. 6. This act shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement.

P.A.1980, No. 469, § 6, Eff. March 31, 1981.

Library References

Labor Relations ⇐257.

C.J.S. Labor Relations §§ 239 to 250.

15.367 Compensation for employee participation in investigation, hearing or inquiry

Sec. 7. This act shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing or inquiry held by a public body in accordance with section 2¹ of this act.

P.A.1980, No. 469, § 7, Eff. March 31, 1981.

¹ Section 15.362.

15.368 Notices of employee protections and obligations

Sec. 8. An employer shall post notices and use other appropriate means to keep his or her employees informed of their protections and obligations under this act.

P.A.1980, No. 469, § 8, Eff. March 31, 1981.

Library References

Labor Relations ⇐7.

C.J.S. Labor Relations § 2 et seq.

15.369 Short title

Sec. 9. This act shall be known and may be cited as "the whistleblowers' protection act".

P.A.1980, No. 469, § 9, Eff. March 31, 1981.

POLITICAL ACTIVITIES

15.401

POLITICAL ACTIVITIES OF PUBLIC EMPLOYEES

Caption editorially supplied

Library References

M.L.P. State § 6.

P.A.1976, No. 169, Imd. Eff. June 25

AN ACT to regulate certain political activities by certain public employees; to prescribe the powers and duties of certain state agencies; and to provide penalties. Amended by P.A.1979, No. 15, § 1, Imd. Eff. May 24.

The People of the State of Michigan enact:

15.401 Public employee defined

Sec. 1. As used in this act, "public employee" means an employee of the state classified civil service, or an employee of a political subdivision of the state who is not an elected official.

P.A.1976, No. 169, § 1, Imd. Eff. June 25.

Library References

Elections ⇐311.

C.J.S. Elections § 324.

Notes of Decisions

In general 1
Civil service commission 2
Job performance 3
Public employees 3
Rules and regulations 6
Volunteers 4

ture to enact statute providing that employee of state classified civil service may engage in certain political activities. Id.

The Political Freedom Act was enacted to permit civil service employees and employees of political subdivisions of the state to engage in certain political activities. Council 11, Am. Federation of State, County and Municipal Emp. (AFSCME), AFL-CIO v. Michigan Civil Service Commission (1978) 274 N.W.2d 804, 87 Mich.App. 420, affirmed 292 N.W.2d 442, 408 Mich. 383.

State cannot require individual to relinquish rights guaranteed him or her by U.S.C.A.Const. Amend. 1 as a condition of public employment, and when political activities of public employee are unrelated to his or her job responsibilities, the employee must be treated as a member of the general public for purpose of adjudicating U.S.C.A.Const. Amend. rights. Id.

H B

5 8 6

STATE OF ALASKA

- Public Employees Retirement System
- Teachers' Retirement System
- Judicial Retirement System
- Elected Public Officers Retirement System
- National Guard Retirement System
- Territorial Retirement System
- Retirees' Voluntary Dental Vision Audio Plan
- Supplemental Benefits System
- Group Health Life Insurance Benefits
- Deferred Compensation Plan
- Public Employers Social Security Contributions

DEPARTMENT OF ADMINISTRATION
DIVISION OF RETIREMENT & BENEFITS
POUCH CR
JUNEAU, ALASKA 99811
(907) 465-4463

Bill Sheffield, Governor

January 24, 1984

Mr. Fred Brechan
P.O. Box 1275
Kodiak, AK 99615

Dear Mr. Brechan:

This is in reply to your request for information on claiming your nine prior years service as an elected official with Kodiak Island Borough and the Kodiak City Council before January of 1974.

At this time, the PERS statutes do not allow retroactive credit for service prior to January 1, 1981. This was possible if you had made your claim and paid the contributions prior to February 1, 1983. Unfortunately, you missed that deadline and prior elected official service is not currently creditable.

Sincerely,



Sue Palmer
Retirement Field Representative

SP/je
20/601/0123-01
Enclosure

Fred C. Brechan
BOX 1275
KODIAK, ALASKA 99615
(907) 486-3215

HB 580

December 23, 1983

State of Alaska
Dept. of Administration
Division of Retirement Benefits
Pouch CR
Juneau, Alaska 99811

Attention: Ms. Sue Palmer

Dear Ms. Palmer:

To answer your letter of December 19, 1983, I am not an elected official at present. I am interested in prior service. Enclosed are letters pertaining to my years of service in Borough and City government.

I served two three-year terms on the City Council and one three-year term on Kodiak Island Borough.

Sincerely yours,



Fred C. Brechan
SS#557-10-0239

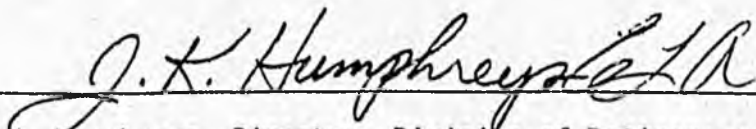
FCB:njm
Enclosure

Position Paper

HB 586

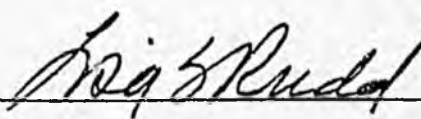
This bill would remove the deadline of February, 1983 for elected officials to claim credit for service as an elected official prior to January 1, 1981.

The Division of Retirement and Benefits publicized the original change in the law which made it possible to claim such service but it was not possible to identify and positively notify all members who were eligible to claim credit before the deadline. There are currently 20 eligible members who have applied for service after the current deadline and we estimate that there are an additional 20 eligible members who have not yet applied. The department supports this bill.



J.K. Humphreys, Director, Division of Retirement & Benefits

2/22/84
Date



Lisa Rudd, Commissioner, Department of Administration

2/22/84
Date

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

(Page 1 of 2)

REQUEST

Bill/Resolution No.: HB 586
Title: "An Act relating to PERS"

FISCAL DETAIL

Agency Affected: All State Agencies
Program Category Affected: PERS

Sponsor: Zharoff
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
Operating						
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	47.0	50.7	54.8	59.2	63.9
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	47.0	50.7	54.8	59.2	63.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund		42.5	45.9	49.6	53.5	57.8
Federal Funds		2.2	2.4	2.6	2.8	3.0
Other		2.3	2.4	2.6	2.9	3.1
Total		47.0	50.7	54.8	59.2	63.9

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys, Director *J.K. Humphreys* Phone: 465-4460
Division: Retirement & Benefits Date: 2-22-84

Approved by Commissioner: Lisa Rudd *LRR* Date: 2/22/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

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

House Bill 586
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

February 17, 1984

IV Analysis: Passage of this bill would remove the time limit for elected officials to claim service as an elected official prior to January 1, 1981 under the Public Employees' Retirement System (PERS). This bill would also impose a date when interest would begin accruing on the cost of that service.

There are currently 20 eligible members who have applied for service after the current deadline and we estimate that there are an additional 20 eligible members who have not yet applied. This is estimated to result in a .01% increase in the PERS employer contribution rate. The PERS state salaries are estimated to be \$469,898,512.00 for FY 85.

The present value of this benefit increase is \$1,260,00; this would produce a .1% decrease in the PERS funding ratio.

Position Paper

HB 586

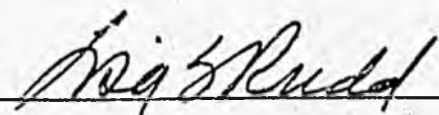
This bill would remove the deadline of February, 1983 for elected officials to claim credit for service as an elected official prior to January 1, 1981.

The Division of Retirement and Benefits publicized the original change in the law which made it possible to claim such service but it was not possible to identify and positively notify all members who were eligible to claim credit before the deadline. There are currently 20 eligible members who have applied for service after the current deadline and we estimate that there are an additional 20 eligible members who have not yet applied. The department supports this bill.



J. K. Humphreys, Director, Division of Retirement & Benefits

2/22/84
Date



Lisa Rudd, Commissioner, Department of Administration

2/22/84
Date

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

(Page 1 of 2)

REQUEST

Bill/Resolution No.: HB 586
Title: "An Act relating to PERS"

FISCAL DETAIL

Agency Affected: All State Agencies
Program Category Affected: PERS

Sponsor: Zharoff
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	47.0	50.7	54.8	59.2	63.9
200 Travel						
300 Contractual						
400 Supplies						
500 Equipmnet						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	47.0	50.7	54.8	59.2	63.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund	42.5	45.9	49.6	53.5	57.8
Federal Funds	2.2	2.4	2.6	2.8	3.0
Other	2.3	2.4	2.6	2.9	3.1
Total	47.0	50.7	54.8	59.2	63.9

POSITIONS:

Full-Time					
Part-Time					
Temporary					

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys, Director *J.K. Humphreys* Phone: 465-4460
Division: Retirement & Benefits Date: 2-22-84

Approved by Commissioner: Lisa Rudd *L.R.* Date: 2/22/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

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

House Bill 586
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

February 17, 1984

IV Analysis: Passage of this bill would remove the time limit for elected officials to claim service as an elected official prior to January 1, 1981 under the Public Employees' Retirement System (PERS). This bill would also impose a date when interest would begin accruing on the cost of that service.

There are currently 20 eligible members who have applied for service after the current deadline and we estimate that there are an additional 20 eligible members who have not yet applied. This is estimated to result in a .01% increase in the PERS employer contribution rate. The PERS state salaries are estimated to be \$469,898,512.00 for FY 85.

The present value of this benefit increase is \$1,260,00; this would produce a .1% decrease in the PERS funding ratio.

HB 580
Fred C. Brechan

BOX 1275
KODIAK, ALASKA 99615
(907) 486-3215

January 26, 1984

Mr. Fred Zharoff
State Representative for
13th District
Juneau, Alaska 99811

Dear Fred:

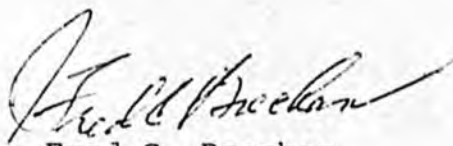
Enclosed is a copy of my most recent correspondence regarding the nine years service in Borough and City government.

I would have paid contributions and made my claim if I had ever been notified of my eligibility.

I feel that I am entitled to participate in the Public Employees Retirement program; or is this just a program for the chosen few.

I appreciate anything you can do in this regard.

Sincerely yours,



Fred C. Brechan

FCB:njm
Enclosures

HB

597

Questioned Ballot Oath and Affidavit

Name _____

Previous Name (if registered to vote under that name) _____

Residence Address _____

Mailing Address _____

Phone _____

Provide at least one of the following for identification:

Voter No. _____ S.S.N. _____

Birthdate _____

Dist. _____

Prec. _____

FOR OFFICIAL USE

Voter No. _____

Dist/Prec. _____

Not Microfiche _____

Not Card File _____

Not Research File _____

Not Pending File _____

Purged _____

Delete _____

C / NC

I do hereby certify that I am a citizen of the United States, am 18 years of age or older as of this election, am not a felon involving moral turpitude, am currently a qualified voter of the State of Alaska, or have been to the best of my knowledge a registered voter some time during the previous four years, and have not voted in any other manner at this election.

SIGNATURE OF VOTER

TO BE COMPLETED BY PERSON QUESTIONING BALLOT:

Reason:

1. Incorrect Polling Place _____

2. Unknown, Not Proper I.D. _____

3. Name not on precinct register. _____ Give any details _____

4. Suspect Qualifications: _____

_____ a. Not U.S. Citizen.

_____ b. Not 18 years of age.

_____ c. Convicted Felon: If yes, give date of restoration of civil rights. _____ If not in Alaska, give state _____

_____ d. Not resident of election district.

If #4d is checked, complete: Previous Residence _____

Length of time _____

Signature of person questioning ballot _____

If other than member of election board, provide:

Mailing Address _____

Phone Number _____

Introduced: 2/9/84
Referred: State Affairs and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 597

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the election laws of the state; and
7 providing for an effective date."

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

9 * Section 1. AS 15.05.030 is amended to read:

10 Sec. 15.05.030. LOSS AND RESTORATION OF VOTING RIGHTS. (a) A
11 person convicted of a crime that constitutes a felony involving moral
12 turpitude under state law may not vote in a state or a municipal
13 election from the date of the conviction through the date of the
14 restoration of voting rights under this section. The right to vote
15 withdrawn under this section is automatically restored upon the uncon-
16 ditional discharge of the person. However, before voting, the person
17 must register under AS 15.07.

18 (b) The commissioner of health and social services shall estab-
19 lish procedures by which a person unconditionally discharged is
20 advised of the restoration of voting rights withdrawn by a conviction
21 and of the voter registration requirements and procedures.

22 * Sec. 2. AS 15.07.135 is amended to read:

23 Sec. 15.07.135. CANCELLATION [SUSPENSION] OF REGISTRATION OF
24 CONVICTED PERSONS. The director shall make reasonable efforts to ob-
25 tain the names of persons convicted of a felony involving moral turpi-
26 tude. [THE DIRECTOR SHALL ALSO MAKE REASONABLE EFFORTS TO OBTAIN THE
27 NAMES OF PERSONS UNCONDITIONALLY DISCHARGED FROM CUSTODY.] The direc-
28 tor shall cancel [SUSPEND] the registration of a person convicted of a
29 felony involving moral turpitude. Upon presenting proof that [UNTIL]

1 the person is unconditionally discharged from custody, the person may
2 register. The director may also make reasonable efforts to verify the
3 unconditional discharge of persons applying for registration under
4 this section.

5 * Sec. 3. AS 15.07.160 is amended to read:

6 Sec. 15.07.160. UNLAWFUL ACTICN. (a) Except as provided in
7 AS 15.07.135, it [IT] is unlawful for a registration official to re-
8 fuse to register a person who is qualified to vote under provisions of
9 AS 15.05.010(1) -- (4).

10 (b) It is unlawful for a person to register who knows he is not
11 qualified to vote under provisions of AS 15.05.010(1) -- (4) or 15.-
12 05.030.

13 (c) (Repealed)

14 * Sec. 4. AS 15.15.198(b) [and AS 15.20.207(b)(2) are repealed.]

15 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
Bill/Resolution No.: HB 597
Title: amending the election
laws of the state
Sponsor: Rules
Requestor: Governor
Date of Request: 2/23/84

FISCAL DETAIL
Agency Affected: ELECTIONS
Program Category Affected: _____
BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		-0--				
200 TRAVEL		-0-				
300 CONTRACTUAL		-0-				
400 SUPPLIES		-0-				
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS		-0-				
800 MISCELLANEOUS		-0-				
TOTAL OPERATING		-0-				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis : HB 597 addresses small

Prepared By: T.P. Thoma, Information Officer Phone: 4611
Division: Elections Date: 2/23/84

Approved by Commissioner: [Signature] Date: 2/23/84
Agency: _____

Distribution (by Agency preparing fiscal note):

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

12/1/83

INTRODUCTION OF BILLS (House)

HB 596, (cont d)

- AS 35.27.020, "Art Requirements for Public Buildings and Facilities," in which subsec. (c) refers to "schools;" and
- AS 35.27.030, "Definitions," in which para. (2) refers to "schools."

Section 4 amends the definition of "department" in the chapter on art works in public buildings and facilities. AS 35.27.030(1). Reference to the school districts is added to the definition for the same reasons as mentioned in connection with sec. 3, above. The definition of "building" or "facility" in AS 35.27.030(2)(A)(1) is not being amended because there is no intent to delete the requirement for art work in public buildings -- just to make the responsibility for it clear in conjunction with ch. 92. SLA 1982.

Section 5 makes a similar amendment in the definition section -- AS 35.30.040 -- for the chapter on consistency with local government plans and ordinances.

These amendments do not include references to the court system because, although ch. 160, SLA 1980 transferred construction responsibility for court facilities from DOT/PF to the supreme court (see AS 22.05.025 and AS 35.05.010), sec. 3 of that Act, as amended by sec. 2, ch. 70, SLA 1982, terminates that transfer as of June 30, 1984.

Section 6 gives this bill an immediate effective date since these amendments simply seek to complete the job of the 1982 amendments.

I urge your favorable action to preserve the intent of ch. 52, SLA 1982 and eliminate, for the benefit of the public, cluttered, inconsistent provisions.

State Election Laws (amending) HOUSE BILL NO. 597, by the Rules Committee by Request of the Governor. Amends state election laws (see Governor's letter). Provides Act takes effect immediately.

Introduced February 9 and referred to State Affairs, Finance.

In his message transmitting the bill, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which amends or repeals several provisions of the state's election law.

Sections 1 and 2 of the bill remove from the division of elections the burden of identifying and automatically reinstating the voter registration of certain felons who have been unconditionally discharged. Instead of suspending the registration of a person convicted of a felony involving moral turpitude, the division will cancel the registration until the person provides proof of unconditional discharge. Section 3 of the bill amends AS 15.07.160, concerning unlawful acts, to conform to the changes made by secs. 1 and 2 of the bill.

Section 4 of the bill repeals AS 15.15.198(b), which allows to be counted certain questioned votes of voters whose names have been purged from the registration lists. As a result of the repeal, voters whose registrations have been cancelled under AS 15.07.130(b) will have to re-register in order to have their votes counted. Since AS 15.07.130(b) requires the division to mail a notice of imminent registration cancellation to the affected voter, and AS 15.07.125 requires the division to post the list of registered voters 40 days before an election, a voter has adequate opportunity to preserve his or her voting rights.

HB 597

Section 4 also repeals AS 15.20.207(b)(2), removing the requirement that, in order for a questioned ballot to be counted, the voter's certificate must be attested by an election official. This requirement prevents an otherwise valid ballot from being counted when the voter has complied with all procedures but a hurried election worker fails to countersign the voter's certificate.

Sincerely,

/s/ Bill Sheffield

Bill Sheffield
Governor"

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

PHONE (907) 586-6181

DATE: February 27, 1984

TO: House State Affairs Committee

FROM: Mary Lou Meiners
Director
Division of Elections

SUBJECT: HB 597, Canceling the Voter Registration of Some
Felons and Two Housekeeping Measures

HB 597 would place the burden of re-registering to vote on the ex-felon who can verify his unconditional discharge.

Present state law requires suspension of "felons convicted of crimes of moral turpitude." By the use of suspension, we feel that a special class of voter has been created. No other voter is "suspended."

With the enactment of HB 597, we could cancel the registration of these felons without use of a suspension file. This would clarify for not only this agency, but all agencies dealing with felons, that the obligation to re-register should be on the ex-felon. This would eliminate the uncertainty and misconception of the ex-felon that, even though his voting rights are restored, he is not "automatically" restored to the voter rolls.

The two other housekeeping measures are referenced in Section 4, Page 2, line 14.

The repeal of AS 15.15.198(b) would give us a strict, two year purge, as is defined in AS 15.07.130.

Under 15.15.198(b), each questioned ballot not found on the state voter rolls must be further researched to see if the voter was registered in the last 4 years, "the two most recent general elections."

House State Affairs
Page 2
February 27, 1984

If so, the vote is counted, although this voter was previously purged. The repeal of this section would enforce a two-year purge and speed up vote counting.

The last measure is the repeal of 15.20.207(b)(2):

Repeal would remove the statute which says that questioned ballots must be disqualified if the outside affidavit envelope is not signed by a voter official.

With this repeal, we would then count all questioned ballots of voters who are properly registered. These voters performed their duty and should not be disfranchised by an error on the part of an election worker who inadvertently neglected to sign the envelope.

MEMORANDUM

State of Alaska
DIRECTOR OF ELECTIONS

H3 547

TO: Hon. Terry Miller
Lieutenant Governor

DATE: November 7, 1980 NOV 10 1980

ATTN: Patty Ann Polley, Director
Division of Elections

FILE NO: J-66-001-81 DIRECTOR OF ELECTIONS
TELEPHONE NO: 465-3665

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Restoration of voting rights to convicted felons X-
voting rights

By: Laura L. Davis
Assistant Attorney General

You have requested that we respond to an inquiry by Akeela House of Anchorage regarding the scope of the disqualification of convicted felons from voting. We discuss the applicable provisions of the 1980 Election Code below. We will send copies of this memo and the attached information to Akeela House.

Attached is our memorandum dated August 14, 1968 on this subject. It provides background on the disqualification of convicted felons from voting in Alaska. The 1980 Election Code revised AS 15.05.030 to provide as follows:

LOSS AND RESTORATION OF VOTING RIGHTS. (a) A person convicted of a crime that constitutes a felony involving moral turpitude under state law may not vote in a state or municipal election from the date of his conviction through the date of the restoration of voting rights under this section. The right to vote withdrawn under this section is automatically restored upon the unconditional discharge of the person.

(b) The commissioner of health and social services shall establish procedures by which a person unconditionally discharged is advised of the restoration of voting rights withdrawn by a conviction. § 4, ch. 100, SLA 1980.

The new Election Code also amends AS 15.60.010 to include the following definitions of terms used in AS 15.05.030:

(8) "felony involving moral turpitude" includes those crimes which are immoral or wrong in themselves such as murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery; . . .

Patty Ann Polley, Director
Division of Elections

November 7, 1980
Page #2

(32) "unconditional discharge" means that a person is released from all disability arising under a conviction and sentence, including probation and parole. § 207, ch. 100, SLA 1980.

In our opinion, the new code has not changed the date upon which a voting disability or a felony conviction is imposed, but it has extended the disability to persons receiving suspended sentences. The disqualification attaches at the time of final judgment of conviction. A person is not disqualified from voting pending an appeal of a conviction. However, absent an appeal, a person who receives a suspended sentence, or a suspended imposition of sentence is disqualified until his or her unconditional discharge. Under the former law, such persons would not have been disqualified.

Under the new code, the definition of felony involving moral turpitude has been revised. The statutory definition mentions several specific crimes, and includes all crimes which are "immoral or wrong in themselves." The Criminal Division of the Department of Law in cooperation with the Division of Corrections of the Department of Health & Social Services, has developed a list of crimes contained in the revised Criminal Code which constitute the felonies involving moral turpitude. This list is attached for your guidance.

We hope that this answers your questions.

LLD/pjg

Enc.

cc w/enc.: Mike Dunham, Outreach Counselor
Akeela House - Anchorage

FELONIES INVOLVING MORAL TURPITUDE

Murder in the First Degree
Murder in the Second Degree
Manslaughter
Assault in the First Degree
Assault in the Second Degree
Kidnapping
Sexual Assault in the First Degree
Sexual Assault in the Second Degree
Sexual Assault in the Third Degree
Incest
Unlawful Exploitation of a Minor
Robbery in the First Degree
Robbery in the Second Degree
Extortion
Coercion
Theft in the First Degree
Theft in the Second Degree
Burglary in the First Degree
Burglary in the Second Degree
Arson in the First Degree
Arson in the Second Degree
Criminal Mischief in the First Degree
Criminal Mischief in the Second Degree
Forgery in the First Degree
Forgery in the Second Degree
Criminal Possession of a Forgery Device
Offering a False Instrument for Recording
Scheme to Defraud
Falsifying Business Records
Commercial Bribe Receiving
Commercial Bribery
Endangering the Welfare of a Minor
Bribery
Receiving a Bribe
Perjury
Perjury by Inconsistent Statements
Escape in the First Degree
Escape in the Second Degree
Promoting Contraband in the First Degree
Interference with Official Proceedings
Receiving a Bribe by a Witness or Juror
Jury Tampering
Misconduct by a Juror
Tampering with Physical Evidence
Hindering Prosecution in the First Degree
Terroristic Threatening
Riot
Criminal Possession of Explosives
Unlawful Furnishing of Explosives
Promoting Prostitution in the First Degree