

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988

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IN THE SENATE

BY HALFORD, FAIKS,
FISCHER AND FANNING

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 473

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the use of travel benefits earned through airline tickets paid for by the state."

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

* Section 1. AS 39.25 is amended by adding a new section to article 6 to read:

Sec. 39.25.185. USE OF TRAVEL BENEFITS. An individual who acquires travel benefits from the use of an airline ticket that was paid for by the state shall use the travel benefits during the individual's conduct of business for the state. In this section,

(1) "individual" means a person in the exempt service under AS 39.25.110 or in the partially exempt service under AS 39.25.120;

(2) "paid for by the state" includes state reimbursement of the individual for the expense of the ticket;

(3) "travel benefits" means airline tickets, airline discounts, and airline upgrades.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SB473
PUBLISH DATE: 2/16/88

FISCAL NOTE

REQUEST:

Revisor Date: _____ Agency Affected: Administration
Title: An Act relating to use by State
Employees of certain travel benefits BRU: Finance
Sponsor: Halford, Faiks, Fischer, Fanning Components: _____
Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See Attached Sheet

Prepared by: Keith Busch *[Signature]* Phone: 465-2240
Division: Finance Date: April 11, 1988

Approved by Commissioner: John M. Andrews *[Signature]* Date: 4/11/88
Agency: Department of Administration

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

Fiscal Note

CONTINUATION of FISCAL NOTE ANALYSIS

For SB 473

The Department of Administration position on this bill is neutral based upon the assumption that administration and enforcement of the bill will depend upon the individual state employee's honesty and there will be no central administration or enforcement of the program. Based upon this assumption the cost of implementing the bill is zero.

If this assumption is not correct, then significant costs will be incurred and reorganization of the state's travel procedures will have to be accomplished.

The benefits to be derived from this bill are affected by existing labor agreements.

IN THE SENATE

SENATE TRANSPORTATION

CS SENATE BILL NO. 473

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to crediting certain travel benefits to the state."

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

* Section 1. AS 39.25 is amended by adding a new section to article 6 to read:

Sec. 39.25.185 CREDITING TRAVEL BENEFITS. All airline travel by state employees for the benefit of the state, shall be originally purchased by the state.

Each Department or Division that issues Travel Requests shall apply to the airlines for a travel/credit card.

All airline travel shall be purchased through that travel/credit card issued by the airline. To that travel/credit card, there shall be a mileage incentive program.

All travel benefits earned or awarded to the travel/credit card purchased ticket, shall be credited to the travel account of the Department or Division purchasing the ticket, or to the general fund.

FREQUENT FLYER PROGRAMS

The airlines are unanimously opposed to the concept of any program which would accumulate mileage credits in one large account. This is easily understandable. The airlines prefer to limit the number of miles which can be accrued by one person in any way possible. If a State employee flies round trip to Anchorage, he/she gets credit for 1,140 miles. If a co-worker goes along and no matter who purchases the ticket, each employee gets credit for 1,140 miles. Each employee would need to fly an additional 3,860 miles to attain the first bonus upgrade. It would not be unusual for 25 State employees to fly to Anchorage on a given day. They would each earn 1,140 miles. If it were possible to accumulate mileage in one State account, the State would earn two first class upgrades, a free round-trip ticket, and one night's lodging at any Red Lion Inn. The airlines are opposed to this largesse.

All airlines are willing to make the same counter offer. They would be happy to issue each flyer a second frequent flyer account. The State flyer's address could be a State office which accumulated bonuses. All State-paid travel would earn mileage in the flyer's State account. All personally paid travel would earn mileage in the flyer's own account. The airlines would like that approach. Today, if a State employee flies 5,000 miles, some State paid, some personally paid, they earn a first class upgrade. If they had a State and personal account and they flew 2,500 miles State-paid travel and 2,500 miles of personal-paid travel, they would earn nothing.

There are three basic philosophies of frequent flyer bonuses:

Explanation of Frequent Flyer Programs

1. Let the employee earn them. They travel away from home--often during non-duty hours. They are exposed to jet lag, pressurization, and airline food. They earn it.
2. Let the State earn them. If State funds are paying for the travel, the State should accrue any benefits. The employee may be inconvenienced, but is part of the job.
3. Do not accrue them. They are a form of kickback and as such, should not be accepted.

We have recently been in contact with the Society of Travel Agents in Government and have been advised that no known governmental agency has a policy of accruing frequent flyer bonuses to an agency's benefit.

prospect's interest into buying intention and actual purchase. (3) Almost all marketing should seek to develop an ongoing relationship with the customer after the first sale, by encouraging additional purchases or continued loyalty.

Mail Marketing by Stan Rapp, chairman of Rapp & Collins, a direct-response advertising agency network, McGraw-Hill, 1221 Ave. of the Americas, New York 10020, \$19.95.

Direct mail patterns. Mailings that include fake checks or telegrams no longer impress most prospects. Re-

Did you know that...

... frequent-flyer coupons that employees turn over to their company save less than 1% on annual travel costs? More and more companies are no longer requiring employees to surrender frequent-flyer bonuses. Instead, they're concentrating on cutting travel abuse by enforcing policies that limit trips to the shortest possible route.

Travel Expense Management, Highway 38, Wall Township, NJ 07719, 24 issues, \$157/yr.

... original names for companies and products are getting more difficult to find? More than 185,000 US companies have the word *International* in their names and over 600 use the word *Integrated*. The total number of company and product names exceeds 250 million. An additional 1 million names are registered each year.

ABC Dial, Inc., corporate name and trademark consultants, 1051 Clinton St., Buffalo, NY 14206.

... on-the-job stop-smoking programs are more successful than community-based or other programs? A higher percentage of participants remains nonsmokers two years after finishing the program. Part of the positive reinforcement comes from a partial or total ban on smoking in the workplace.

Successful Meetings, 633 Third Ave., New York 10017, monthly, \$4/yr.

... stress-related disability claims cost companies *twice* as much as physical claims? The average compensation payment for mental disorders caused by stress is \$8,159, compared with \$4,245 for the average physical injury claim. Stress claims are also increasing. They now account for 15% of all disability claims. 1982: 11%.

Donald DeCarlo, counsel for the American Insurance Assn., New York, quoted in *Business Insurance*, 740 Rush St., Chicago 60611, weekly, \$52/yr.

Senator Rick Halford



Senate District 1
Chugiak, Eagle River, East Anchorage, Fort Richardson

Senate Finance Committee
Co-Chairman

April 10, 1988

MEMORANDUM

TO: Senate Transportation Committee Members
FROM: Senator Rick Halford, Co-Chairman
Senate Finance Committee
SUBJECT: SB 473 - State Travel Benefits

A handwritten signature in cursive script that reads "Rick Halford".

In the search for cost saving measures to the state, I believe it is important to look at all possibilities. Senate Bill 473 is an effort to help reduce state travel costs. If an individual earns a mileage award as a direct result of state travel, it seems only logical that he use the award on future state travel.

As an example, the Federal Government's current travel policy obligates federal employees to account for promotional materials given to them by an airline. When a federal employee receives promotional material, they are accepting it on behalf of the Government and as such must relinquish it to the Government.

Federal policy is so stringent that if a bonus ticket is received by an employee as a result of trips paid for by both appropriated funds while on official travel and personal funds, the bonus becomes the property of the Government. If a federal employee wishes to participate in a bonus program and retain the benefits from the program, they need to make certain that all trips included in the bonus program are paid from personal funds.

As you can see from Federal policy it is not unusual for a government entity to enact regulations based on private corporations promotional plans. I hope you will look favorably on this proposal and expedite it through the Senate Transportation Committee.

Proposed travel policy could save million dollars for state

By Debbie Reinwand 1986?
Times Writer

Mileage bonuses from airlines would no longer be credited to state employees' personal travel cards under a proposed policy change analysts say translates to a \$1 million annual savings for the state.

The general government panel of Gov. Steve Cowper's transition team is recommending that mileage accrued by employees traveling on the state's ticket be credited to the state.

"I know state employees who have gotten around-the-world tickets from mileage they earned while traveling for the state," said transition team member Richard Fineberg, who studied the issue.

"It doesn't seem right for the employee to get the perk when the state paid for the ticket. The state should get the perk," Fineberg said.

If the bonus miles were handed to the state instead of the worker, the credits could be used to purchase tickets for other employees.

"It seems like a small thing, but it's a policy matter and it translates into a savings for government," Fineberg said.

Negotiations with airlines flying throughout Alaska may be necessary to make sure the state receives the benefits, according to the transition document.

Currently, the state budgets about \$35 million for travel, with half going to pay for transportation and the other half covering employee per diem.

The transition panel pointed out that another \$1 million might be saved if state employees were reimbursed only for meals on the last day they travel on government business. Fineberg cited a recent example where he flew to Anchorage on Sunday, returned to Juneau on Tuesday, and received full per diem payments for all days he traveled, even though he did not have a hotel bill for the last day.

"The point is to not pay employees for lodging on the last day they travel, since they come home and spend the night in their own beds," he said.

To change that policy, the state will have to negotiate with the various unions representing state employees. According to the transition team's review, current contracts call for workers to be paid full per diem — which averages \$80 daily — for

each day they are on the road.

University of Alaska Budget Director Brian Rogers, who was on the transition panel, said his organization pays a reduced per diem rate on the last day of travel. "The university has always paid about \$31 on the final day of a business trip, because the worker doesn't have to pay hotel expenses that day. It makes sense and it saves money," said Rogers.

"We tried to look for all sorts of things that could result in savings, no matter how small," Fineberg said. "If you are very careful in your bookkeeping, you can eliminate a lot of needless costs."

State officials encountered a similar situation several years ago when airlines were offering cut-rate trips to Mexico for frequent fliers. At that time, Gov. Bill Sheffield warned workers not to take advantage of the program if they were traveling at state expense.

The transition panel that reviewed the changes to travel policies included Fineberg, newly appointed Department of Transportation deputy commissioner Bob Poe and Rogers.

c. Purpose(s) of travel. Each travel authorization and the associated travel voucher(s) (see 1-11.5q) shall specify clearly the purpose(s) of the travel. For uniformity in establishing travel purposes on authorizations, agencies should use travel purpose categories that conform to the extent possible to those listed in appendix 1-B.

d. Cost estimates. Travel authorizations shall include estimates of the cost of the travel. Both unlimited and limited open authorizations shall also include an estimate of the travel costs to be incurred over the period covered by the authorization. Agencies shall use these estimates to obligate the funds necessary to carry out that particular travel in order to improve travel budgetary controls. (For advance of funds for the estimated costs of travel, see 1-10.3.)

1-1.6. Instructions/guidelines for travelers.

a. Traveler's potential liability notice. Travelers are accountable for all transportation tickets, Government Transportation Requests (GTR's), or other transportation procurement documents received by them in connection with their official travel. Agencies shall provide written instructions to the traveler at the time an authorization is issued advising of agency administrative procedures for the control of and accountability for passenger transportation documents. If trips are canceled or itineraries changed after tickets (or GTR's) are issued to the traveler, the traveler is liable for the value of the tickets issued until all ticket coupons have been used for official travel purposes or all unused tickets or coupons are properly accounted for on the travel voucher. (See also 1-11.5c(1)). A statement to this effect shall be incorporated on the travel authorization, or issued as a "Notice to Traveler" and attached to the ticket or GTR when issued to the traveler. (See 1-2.5 for further provisions regarding unused passenger transportation documents.)

b. Promotional materials received in conjunction with official travel from common carriers, rental car companies, or other commercial sources. Employees are obligated to account for any gift, gratuity, or benefit received from private sources incident to the performance of official business (Comp. Gen. Decision B-199556, July 15, 1991). All promotional materials (e.g., bonus flights, reduced-fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, etc.) received by employees in conjunction with official travel or incident to the purchase of a ticket for official travel, or other services such as car rental, are due the Government and may not be retained by the employee. When an employee receives promotional material from any commercial source incident to official travel, the employee shall accept the material on behalf of the Federal Government and relinquish it to an appropriately designated agency official. The governing regulations regarding agency disposition of promotional material received by Federal employees are prescribed by the Administrator of General Services in 41 CFR 101-25.103-2.

GENERAL SERVICES ADMINISTRATION
WASHINGTON, D. C. 20415

August 23, 1983

FEDERAL PROPERTY MANAGEMENT REGULATIONS
AMENDMENT E- 254

TO: Heads of Federal agencies

SUBJECT: Change to Subchapter E--Supply and Procurement

1. Purpose. This amendment transmits changed pages to Subchapter E--Supply and Procurement.
2. Effective date. The regulation transmitted by this amendment is effective upon publication in the FEDERAL REGISTER.
3. Background. The FPMR is being amended to incorporate and codify existing policies regarding promotional materials (e.g., bonus flights, reduced-fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, etc.) received by Government employees in connection with official travel. This regulation incorporates Department of Treasury Fiscal Requirements Manual (TFRM) Bulletin 79-09 dated July 1, 1980.
4. Explanation of changes. Section 101-25.103 is recaptioned and revised to provide for the receipt and disposition of promotional materials received by Government employees.



GERALD P. CARMEN
Administrator of General Services

(Published in the Federal Register October 18, 1983, 48 FR 48231)

FILING INSTRUCTIONS

Remove pages

Table of contents i-ii
2501-2502
2502.1-2502.2

Insert pages

Same
Same
2502.1.1
Same

Attachment

CONTENTS OF SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-25—GENERAL

<p>Sec. 101-25.000 Scope of subchapter. 101-25.001 Scope of part.</p> <p style="text-align: center;">Subpart 101-25.1—General Policies</p> <p>101-25.100 Use of Government personal property and nonpersonal services.) 101-25.101 Criteria for determining method of supply. 101-25.101-1 General. 101-25.101-2 Supply through storage and issue. 101-25.101-3 Supply through consolidated purchase for direct delivery to use points. 101-25.101-4 Supply through indefinite quantity requirement contracts. 101-25.101-5 Supply through local purchase. 101-25.102 Exchange or sale of personal property for replacement purposes.</p> <p>101-25.103 Promotional materials, trading stamps, or bonus goods. 101-25.103-1 General. 101-25.103-2 Promotional material received in conjunction with official travel from transportation companies, rental car companies, or other commercial activities. 101-25.103-3 Trading stamps or bonus goods received from contractors 101-25.103-4 Disposition of promotional materials, trading stamps, or bonus goods.</p> <p>101-25.104 Acquisition of office furniture and office machines. 101-25.104-1 Redistribution, repair or rehabilitation. 101-25.104-2 [Reserved] 101-25.105 [Reserved] 101-25.106 Servicing of office machines. 101-25.107 Guidelines for requisitioning and proper use of consumable or low cost items. 101-25.108 Multiyear subscriptions for publications. 101-25.109 Laboratory and research equipment. 101-25.109-1 Identification of idle equipment. 101-25.109-2 Equipment pools. 101-25.110 Tire identification/registration program. 101-25.110-1 [Reserved] 101-25.110-2 Tires obtained through Federal Supply Schedules or regional term contracts. 101-25.110-3 Tires accompanying new motor vehicles. 101-25.110-4 Recordkeeping responsibilities. 101-25.111 Environmental impact policy. 101-25.112 Energy conservation policy. 101-25.113 Leasing of motor vehicles. § 101-25.114 Supply management surveys and assistance.</p>	<p style="text-align: center;">Subpart 101-25.2—Interagency Purchase Assignments</p> <p>101-25.201 General. 101-25.202 Factors to be used to determine assignment of purchase responsibility. 101-25.203 Centralized purchases by GSA. 101-25.204 Centralized purchases by designated executive agencies under authority delegated by the Administrator of General Services. 101-25.205 Arrangement for performance of purchasing functions other than centralized. 101-25.206 Independent purchases by executive agencies.</p> <p style="text-align: center;">Subpart 101-25.3—Use Standards</p> <p>101-25.301 General. 101-25.302 Office furniture, furnishings, and equipment. 101-25.302-1 Executive type office furniture and furnishings. 101-25.302-2 Filing cabinets. 101-25.302-3 Electric typewriters. 101-25.302-4 Figuring machines. 101-25.302-5 Carpeting. 101-25.302-6 Electronic office machines. 101-25.302-7 Draperies. 101-25.302-8 Contemporary steel office furniture. 101-25.303 Gasoline for use in motor vehicles. 101-25.304 Additional systems and equipment for passenger motor vehicles. 101-25.304-1 Selection guidelines. 101-25.304-2 Air-conditioning guidelines.</p> <p style="text-align: center;">Subpart 101-25.4—Replacement Standards</p> <p>101-25.401 General. 101-25.402 Motor vehicles. 101-25.403 Office machines. 101-25.404 Furniture. 101-25.404-1 Limitations. 101-25.405 Materials handling equipment.</p> <p style="text-align: center;">Subpart 101-25.5—Guidelines for Making Purchase or Lease Determinations</p> <p>101-25.500 Scope of subpart. 101-25.501 General. 101-25.501-1 Acquisition considerations. 101-25.501-2 Cost comparison methods. 101-25.501-3 Reviewing application of guidelines.</p> <p style="text-align: center;">Subparts 101-25.6—101-25.47 (Reserved)</p> <p style="text-align: center;">Subpart 101-25.48—Reports</p> <p>101-25.502 Methods of acquisition. 101-25.502-1 Purchase method. 101-25.502-2 Lease method. 101-25.503 Telecommunications equipment. 101-25.504 Office copying machines. 101-25.4800 Scope of subpart 101-25.4801 Supply Activity Report</p> <p style="text-align: center;">Subpart 101-25.49—Illustration of Forms</p> <p>101-25.4900 Scope of subpart. 101-25.4901 [Reserved] 101-25.4902 OSA forms.</p>
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PART 101-25 GENERAL

101-25.101-3

§ 101-25.000 Scope of subchapter.

This subchapter provides policies and guidelines pertaining to the general area of supply management designed to support the logistical programs of the Federal Government. It consists of Parts 101-25 through 101-34 and provides for applicability of coverage within each of these several parts.

§ 101-25.001 Scope of part.

This part provides policies and guidelines pertaining to subject matter in the general area of supply management which is not appropriate for coverage in other parts of this Subchapter E.

Subpart 101-25.1—General Policies

§ 101-25.100 Use of Government personal property and nonpersonal services.

Except in emergencies, Government personal property and nonpersonal services shall be used only for those purposes for which they were obtained or contracted for or other officially designated purposes. Emergency conditions are those threatening loss of life and property. As used in this section "nonpersonal services" means those contractual services, other than personal and professional services (as defined in 40 U.S.C. 472). This includes property and services on interagency loan as well as property leased by agencies. Agency heads shall ensure that the provisions of this § 101-25.100 are enforced to restrict the use of Government property/services to officially designated activities.

§ 101-25.101 Criteria for determining method of supply.

§ 101-25.101-1 General.

(a) This § 101-25.101 prescribes general criteria governing selection of the appropriate methods of supply to be utilized in meeting the planned requirements of the Government. It is directly applicable to executive agencies, and other Federal agencies are requested to observe these criteria in conducting their supply operations.

(b) As used in this § 101-25.101, the term "use point" means a storeroom or other redistribution point, where supplies, materials, or equipment representing more than a 30-day supply are maintained primarily for issue directly to consumers within the local area, as distinguished from storage points where supplies and equipment are issued to redistribution points.

§ 101-25.101-2 Supply through storage and issue.

The following criteria shall govern in determining whether an item can be most advantageously supplied through storage and issue to use points:

(a) The item shall be physically adaptable to storage and issue and of such a character that it is feasible to forecast overall requirements of the use points served with reasonable accuracy;

(b) Rate of use and frequency of ordering at use points shall be sufficient to warrant storage and issue;

(c) The rate of deterioration or obsolescence shall be sufficiently low to avoid unnecessary loss; and

(d) Conditions exist where any of the following factors require supply through storage and issue (except that dangerous commodities of high weight and density, or commodities highly susceptible to damage normally should not be considered for supply through storage and issue unless one or more of such factors are determined to be of overriding importance)—

(1) Where price advantage through bulk buying is sufficient to render storage and issue more economical, all costs, both direct and indirect, considered.

(2) Where close inspection or testing is necessary to secure quality, or where repetitive inspection and test of small lots are prohibitive from the standpoint of cost or potential urgency of need.

(3) Where advance purchase and storage are necessitated by long procurement leadtime.

(4) Where an item is of special manufacture or design and is not readily available from commercial sources.

(5) Where an adequate industry distribution system does not exist to assure availability at use point.

(6) Where volume purchases are necessary to secure timely deliveries and advantageous prices.

(7) Where market conditions are such that supply through storage and issue is required to assure adequate supply.

(8) Where stocking of supplies and equipment necessary for implementation of emergency plans is required for an indefinite period.

§ 101-25.101-3 Supply through consolidated purchase for direct delivery to use points.

The following criteria shall govern in determining whether an item can be

PART 101-25 GENERAL

101-25.101-3

most advantageously supplied through consolidated purchase for direct delivery to use points:

(a) The items shall be equipment or supply items of such a character that it is feasible to forecast requirements for delivery to specific use points; and

(b) Conditions exist where any of the following factors requires consolidated purchasing of such items for direct delivery to use points—

(1) Where greatest price advantage, both direct and indirect costs considered, is obtainable through large definite quantity purchasing.

(2) Where an item is of special manufacture or design and is not readily available from commercial sources.

(3) Where market conditions are such that central procurement is required to assure adequate supply.

(4) Where contracts for production quantities are necessary to secure timely deliveries and advantageous prices.

(5) Where the quantity is large enough to assure lowest transportation costs or, conversely, where transportation costs for small quantity redistribution are so excessive that it is not feasible to store and issue the items.

§ 101-25.101-4 Supply through indefinite quantity requirement contracts.

The following criteria shall govern in determining whether an item can be most advantageously supplied through the medium of indefinite quantity requirement contracts covering specific periods and providing for delivery to use points as needs arise:

(a) The item shall be such a character that—

(1) Handling on a storage and issue basis is not economically sound, under the criteria prescribed in § 101-25.101-2;

(2) Rate of use and frequency of ordering at use points is estimated to be sufficient to warrant the making of indefinite quantity requirement contracts;

(3) It is either not feasible to forecast definite requirements for delivery to specific use points, (as in the case of new items initially being introduced into a supply system), or no advantage accrues from doing so; and

(b) Industry distribution facilities are adequate properly to serve the use points involved; and

(c) Conditions exist where any of the following factors requires the maintaining of indefinite quantity requirements contracts—

(1) Advantage to the Government is greater than would be secured by definite quantity procurements by individual offices or agencies (the de-

termining consideration being one of overall economy to the Government, rather than one of direct comparison of unit prices of individual items obtainable through other methods of supply); or no known procurement economies would be effected but the requirements of offices or agencies can best be served by indefinite quantity requirements contracts.

(2) Acute competitive bidding problems exist because of highly technical matters which can best be met on a centralized contracting basis.

(3) The item is proprietary or so complex in design, function, or operation as to be noncompetitive and procurement can best be performed on a centralized contracting basis.

§ 101-25.101-5 Supply through local purchase.

The following criteria shall govern in determining whether an item should be supplied through local purchase:

(a) Urgency of need requires local purchase to assure prompt delivery;

(b) The items are perishable or subject to rapid deterioration which will not permit delay incident to shipment from distant points;

(c) The local purchase is within applicable limitation established by the agency head; or

(d) Local purchase will produce the greatest economy to the Government.

§ 101-25.102 Exchange or sale of personal property for replacement purposes.

Policies and methods governing executive agencies in exercising the authority granted under section 201(c) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(c)), are prescribed in Part 101-46.

§ 101-25.103 Promotional materials, trading stamps, or bonus goods.

§ 101-25.103-1 General.

Federal agencies in a position to receive promotional materials, trading stamps, or bonus goods shall establish internal procedures for the receipt and disposition of these gratuities in accordance with § 101-25.103. The procedures shall provide for a minimum of administrative and accounting controls.

§ 101-25.103-2 Promotional material received in conjunction with official travel from transportation companies, rental car companies, or other commercial activities.

SUBCHAPTER 101—25 SUPPLY AND PROCUREMENT

(a) All promotional materials (e.g., bonus flights, reduced-fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, etc.) received by employees in conjunction with official travel and based on the purchase of a ticket or other services (e.g. car rental) are properly considered to be due the Government and may not be retained by the employee. The Comptroller General of the United States has stated that employees are obligated to account for any gift, gratuity, or benefit received from private sources incident to the performance of official duties (see Comp. Gen. Decision B-199850, July 15, 1931). When an employee receives promotional material, the employee shall accept the material on behalf of the United States and relinquish it to an appropriate agency official.

(b) Promotional coupons that provide for future free or reduced costs of services (travel) should be integrated into the agency travel plans to maximize the benefits to the Government. The coupons should then be applied to the maximum extent possible; e.g., coast-to-coast or overseas travel, if permitted.

(c) Promotional coupons that carry a cash surrender value shall be redeemed immediately. The cash received from redeemed coupons or other cash compensation (i.e., denied boarding or cancellation of reservation by carriers, etc.) shall be deposited in accordance with Department of Treasury requirements, and credited to miscellaneous receipt account 1699, "Miscellaneous Dividends and Earnings, Not Otherwise Classified."

(d) Promotional materials that cannot be used by the receiving agency shall be disposed of in accordance with § 101-25.103-4.

§ 101-25.103-3 Trading stamps or bonus goods received from contractors.

When contracts contain a price reduction clause, any method (such as trading stamps or bonus goods) by which the price of a commodity or service is effectively reduced shall constitute a price reduction. Temporary or promotional price reductions are to be made available to contracting officers under the same terms and

conditions as to other customers. Procuring activities, however, rather than accept trading stamps and bonus goods, shall attempt to deduct the cost of such items from the contract price. If obtaining such a price reduction is not possible, the contracting officer shall document the contract file to that effect and dispose of the items as provided in § 101-25.103.4.

§ 101-25.103-4 Disposition of promotional materials, trading stamps, or bonus goods.

(a) Agencies shall, through the lowest appropriate activity, arrange for transfer of promotional materials, trading stamps, or bonus goods, without reimbursement in accordance with internal agency procedures to a nearby Federal hospital or similar institution operated, managed, or supervised by the Department of Defense (DOD) or the Veterans Administration (VA) when:

- (1) The contract does not contain a price reduction clause, or
- (2) The contractor refuses to grant a price reduction, and
- (3) It is deemed practical and in the best interest of the Government to accept such promotional items as a price reduction, and
- (4) The procuring or receiving agency has no practical use for the promotional items.

(b) Before transferring promotional materials, trading stamps, or bonus goods to the above Federal institutions, it must be determined that the proposed recipient is prepared to receive and use such items. If these items cannot be used by the receiving agency or a medical facility, they should be disposed of in accordance with 41 CFR 101-43, 44 and 45.

(NEXT PAGE IS 2502.1)

§ 101-25.104 Acquisition of office furniture and office machines.

Each executive agency shall make a determination as to whether the requirements of the agency can be met through the utilization of already owned items prior to the acquisition of new furniture or office machines. The acquisition of new items shall be limited to those requirements which are considered absolutely essential and shall not include upgrading to improve appearance, office decor, or status, or to satisfy the desire for the latest design or more expensive lines.

(a) Generally acquisition of additional furniture or office machines from any source will be authorized only under the following circumstances, limited to the least expensive lines which will meet the requirement (see § 101-26.408 of this chapter with respect to items such as typewriters under Federal Supply Schedule contracts), and the justification for the action shall be fully documented in the agency file:

(1) For essential requirements arising from quantitative increases in onboard employment which constitute the total requirement of any agency or major component thereof (e.g., bureau, service, office).

(2) For essential requirements arising from a need not related to onboard employment increases but which are determined necessary to avoid impairment of program efficiency.

(b) Each agency shall restrict replacement of furniture or office machines either to usable excess, rehabilitated, or the least expensive new lines available which will meet the requirement under the following circumstances, authority for which shall be fully documented in the agency file:

(1) Where the agency determines that the item is not economically repairable.

(2) Where reductions in office space occupancy are accomplished through use of more convenient or smaller size furniture and the space economies thus achieved offset the cost of the furniture to be acquired.

§ 101-25.104-1 Redistribution, repair, or rehabilitation.

Prior to the purchase of new office furniture and office machines, agencies shall fulfill needs insofar as practicable through redistribution, repair, or rehabilitation of already owned furniture and office machines. In furtherance of the use of rehabilitated furniture and office machines, agencies shall review inventories on a continuing basis to ascertain those items which can be economically rehabilitated and institute programs for their orderly repair and rehabilitation. All such items which are not required for immediate needs shall be reported as excess.

§ 101-25.104-2 (Reserved)

§ 101-25.105 (Reserved)

§ 101-25.106 Servicing of office machines.

(a) The determination as to whether office machines are to be serviced by use of annual maintenance contracts or per-call arrangements shall be made in each case after comparison of the relative cost affecting specific types of equipment in a particular location and consideration of the factors set forth in paragraph (b) of this section.

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(b) Prior to making the determination required by paragraph (a) of this section, consideration shall be given to:

- (1) Standard of performance required;
- (2) Degree of reliability needed;
- (3) Environmental factors; i.e., dusty surroundings or other unfavorable conditions;
- (4) Proximity to available repair facilities;
- (5) Past experience with service facility; i.e., reputation, performance record, quality of work, etc.;
- (6) Daily use (heavy or light) and operator's care of machine;
- (7) Age and performance record of machine;
- (8) Machine inventory in relation to operating needs; i.e., availability of reserve machine in case of breakdown;
- (9) Number of machines; including overall frequency of repairs required;
- (10) Security restrictions, if any; and
- (11) Other pertinent factors.

§ 101-25.107 Guidelines for requisitioning and proper use of consumable or low cost items.

Consumable and low value items in inventory (cupboard stocks are not considered inventory) are subject to accounting and inventory record controls in accordance with applicable provisions of law and the principles and standards prescribed by the General Accounting Office, 2 GAO 125. Normally, however, the systems of control for such property cease at the time of issuance from a warehouse or storeroom to the consumer.

(a) The guidelines set forth in this § 101-25.107 are considered minimum to assure proper use of consumable or low cost items by individuals, subsequent to issue from accountable records and termination of formal accountability. Consumable items, for the purpose of this section, are considered to include those items actually consumed in use (e.g., pads and pencils) and those items required in performance of duties but for which, primarily by reason of the low value involved, no formal accountability is maintained after issue, and are generally referred to as "expendable."

(b) Approval of requisitions for replenishment of cupboard storeroom stocks should be restricted to officials at a

responsible supervisory level to insure that supply requirements are justified on the basis of essentiality and quantity. Where requisitions are not required, such as in procuring items from GSA self-service stores, informal "shopping lists" should be approved at the same level.

(c) Adequate safeguards and controls should be established to assure that issues of expendable supplies are made for official use only. In appropriate situations, this will include identification of individuals to whom expendable supplies have been issued. Experience has indicated, also, that certain items of expendables should not be displayed either at seasonal periods of the year or on a permanent basis.

(d) The items listed below have from experience proven to be personally attractive and particularly susceptible to being used for other than official duties. Agencies should give special attention to these and any other consumable or low cost items when issues are excessive when compared with normal program needs.

- Attache cases
- Ball point pens and refills
- Brief cases
- Binders
- Carbon paper
- Dictionaries
- Felt tip markers
- Felt tip pens and refills
- File folders
- Letterex
- Letter openers
- Pads (paper)
- Paper clips
- Pencils
- Pencil sharpeners
- Portfolios (leather, plastic and writing pads)
- Rubber bands
- Rulers
- Scissors
- Spray paint and lacquer
- Staplers
- Staples
- Staple removers
- Tape dispensers
- Transparent tape
- Typewriter ribbons

§ 101-25.108 Multiyear subscriptions for publications.

Subscriptions for periodicals, newspapers, and other publications for which it is known in advance that a continuing requirement exists should be for multiple years rather than for a single year where such method is advantageous for the purpose of economy or otherwise. Where various bureaus or offices in the same agency are subscribing to the same publication, consideration shall be given to consolidating these requirements, to the extent practical, on an agency-wide basis and on a multiyear basis. Payment covering issues to be delivered during the entire subscription period may be made in advance from currently available appropriations (31 U.S.C. 530a)

Two statutes appearing in the section which lists the statutes and regulations applicable to postal employees have been repealed. Section 606 of Title 18, United States Code, which related to limitations on political contributions and purchases, was repealed by the Federal Election Campaign Act of 1971, as amended, Pub. L. 94-283, section 201(a), 49 Stat. 496 (1976). Section 1727 of Title 18, United States Code, which provided for a fine of not more than \$50 for postage accounting violations, was repealed by the Act of July 5, 1968, Pub. L. 90-383, section 1(a), 82 Stat. 292, so as to permit prosecution under the postal embezzlement statute, 18 U.S.C. 1711. Accordingly, references to the two repealed statutes are deleted, and the remaining statutes are appropriately renumbered.

Although 39 U.S.C. 410(a) exempts the Postal Service from the notice and comment requirements of the Administrative Procedure Act regarding proposed rule making (5 U.S.C. 553), the Postal Service ordinarily invites public comment on proposed changes to its regulations. Since, however, this rule makes no substantive change in the regulations, notice and an opportunity for the submission of comments in this case are deemed unnecessary.

Accordingly, 39 CFR Part 447 is amended as follows:

List of Subjects in 39 CFR Part 447

Conflict of interests, Government employees.

PART 447—CODE OF ETHICAL CONDUCT FOR POSTAL EMPLOYEES

§ 447.23 [Amended]

§ 447.51 [Amended]

1. In paragraph (j) of § 447.23 and paragraph (a) of § 447.51 remove "the Civil Service Commission" and insert in lieu thereof "the Office of Personnel Management".

§ 447.53 [Amended]

2. In § 447.53 remove from paragraph (a) "the U.S. Civil Service Commission" and insert in lieu thereof "the Office of Personnel Management".

3. Section 447.53 is revised to read as follows:

§ 447.53 Investigation and enforcement.

The Office of the Special Counsel and the Merit Systems Protection Board investigate and adjudicate allegations of prohibited activity in violation of the regulations of the Office of Personnel Management by Postal Service employees. For jurisdiction in such a case, see 5 CFR 733.301 and Parts 1250-

1254.

§ 447.62 [Amended]

4. In paragraph (d) and paragraph (e) of § 447.62 remove "PFS-25" and insert in lieu thereof "EAS-25".

§ 447.91 [Amended]

5. In § 447.91, amend paragraph (h) by removing "607, and 608" and inserting in lieu thereof "and 607"; remove paragraph (z); redesignate paragraphs (aa) through (jj) as paragraphs (z) through (ii); amend redesignated paragraph (hh) by removing "first-class mail" and inserting in lieu thereof "First-Class Mail".

(39 U.S.C. 401)

W. Allen Sanders,

Assistant General Counsel, Office of General Law and Administration.

(15 U.S.C. 2272, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 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flights, reduced fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, etc.) received by employees in connection with official travel and based on the purchase of a ticket or other services (e.g. car rental). These promotional materials are properly considered to be due the Government and may not be retained by the employee (see Comp. Gen. Decision D-199656, July 15, 1981). This regulation requires that when an employee receives promotional material, the employee shall accept the material on behalf of the United States and relinquish it to an appropriate agency official. The regulation provides guidelines for the disposition of promotional material and cash compensation.

EFFECTIVE DATE: October 18, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Sturdy, Policy Development and Analysis Division, Office of Transportation (700-557-1256).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. Accordingly a regulatory impact analysis is not required. Because the amendments made by this rule incorporate and codify existing policies and do not make substantive changes, the General Services Administration finds that a general notice of proposed rulemaking and public procedure thereon, and a delayed effective date are unnecessary. Because no notice of proposed rulemaking is required, this rule is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 6001 et seq.).

List of Subjects in 41 CFR Part 101-25

Energy conservation, Government property management, Reporting and recordkeeping requirements.

PART 101-25—[AMENDED]

1. The table of contents for Part 101-25 is amended by revising and adding the following entries:

- Sec.
- 101-25.103 Disposition of promotional materials, trading stamps, or bonus goods.
- 101-25.103-1 General.
- 101-25.103-2 Promotional material received in conjunction with official travel from transportation companies, rental car companies, or other commercial activities.
- 101-25.103-3 Trading stamps or bonus goods received from contractors.

Sec.

101-25.103-4 Disposition of promotional materials, trading stamps, or bonus goods.

2. Section 101-25.103 is revised and §§ 101-25.103-1 through 101-25.103-4 are added as follows:

§ 101-25.103 Promotional materials, trading stamps, or bonus goods.

§ 101-25.103-1 General.

Federal agencies in a position to receive promotional materials, trading stamps, or bonus goods shall establish internal procedures for the receipt and disposition of these gratuities in accordance with § 101-25.103. The procedures shall provide for a minimum of administrative and accounting controls.

§ 101-25.103-2 Promotional material received in conjunction with official travel from transportation companies, rental car companies, or other commercial activities.

(a) All promotional materials (e.g., bonus flights, reduced-fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, etc.) received by employees in conjunction with official travel and based on the purchase of a ticket or other services (e.g. car rental) are properly considered to be due the Government and may not be retained by the employee. The Comptroller General of the United States has stated that employees are obligated to account for any gift, gratuity, or benefit received from private sources incident to the performance of official duties (see Comp. Gen. Decision B-199656, July 15, 1981). When an employee receives promotional material, the employee shall accept the material on behalf of the United States and relinquish it to an appropriate agency official.

(b) Promotional coupons that provide for future free or reduced costs of services (travel) should be integrated into the agency travel plans to maximize the benefits to the Government. The coupons should then be applied to the maximum extent possible; e.g., coast-to-coast or overseas travel, if permitted.

(c) Promotional coupons that carry a cash surrender value shall be redeemed immediately. The cash received from redeemed coupons or other cash compensation (i.e., denied boarding or cancellation of reservation by carriers, etc.) shall be deposited in accordance with Department of Treasury requirements, and credited to miscellaneous receipt account 1099, "Miscellaneous Dividends and Earnings, Not Otherwise Classified."

(d) Promotional materials that cannot

be used by the receiving agency shall be disposed of in accordance with § 101-25.103-4.

§ 101-25.103-3 Trading stamps or bonus goods received from contractors.

When contracts contain a price reduction clause, any method (such as trading stamps or bonus goods) by which the price of a commodity or service is effectively reduced shall constitute a price reduction. Temporary or promotional price reductions are to be made available to contracting officers under the same terms and conditions as to other customers. Procuring activities, however, rather than accept trading stamps and bonus goods, shall attempt to deduct the cost of such items from the contract price. If obtaining such a price reduction is not possible, the contracting officer shall document the contract file to that effect and dispose of the items as provided in § 101-25.103-4.

§ 101-25.103-4 Disposition of promotional materials, trading stamps, or bonus goods.

(a) Agencies shall, through the lowest appropriate activity, arrange for transfer of promotional materials, trading stamps, or bonus goods, without reimbursement in accordance with internal agency procedures to a nearby Federal hospital or similar institution operated, managed, or supervised by the Department of Defense (DOD) or the Veterans Administration (VA) when

(1) The contract does not contain a price reduction clause, or

(2) The contractor refuses to grant a price reduction, and

(3) It is deemed practical and in the best interest of the Government to accept such promotional items as a price reduction, and

(4) The procuring or receiving agency has no practical use for the promotional items.

(b) Before transferring promotional materials, trading stamps, or bonus goods to the above Federal institutions, it must be determined that the proposed recipient is prepared to receive and use such items. If these items cannot be used by the receiving agency or a medical facility, they should be disposed of in accordance with 41 CFR 101-43.44 and 45.

(Sec. 205(c), 63 Stat. 590 (40 U.S.C. 460(c)(1))

Dated: August 22, 1983.

Gerald P. Carmona,

Administrator of General Services.

(78 Dec. 83-2011) (Rev. 10-17-82, 8-63-81)

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actual work at Chaco Canyon. Therefore, while the employees were assigned to that station, they were not away from a properly designated duty station, within the meaning of 5 U.S.C. § 5702 during the period covered by the vouchers.

Although the assignment may have involved the endurance of considerable physical hardship, employees' salaries may not be augmented by the incorrect designation of an official duty station. Based upon the employees' orders, the nature of their assignments and the actual duties performed, Chaco Canyon was their official duty station and since no duties were performed at Albuquerque, the agency had no discretion to designate it as their official duty station. Therefore, the payment of travel per diem was not authorized.

While it is unfortunate that the employing office erroneously determined that Albuquerque was the employees' official duty station, and represented to the employees that travel expenses would be paid, the United States is not bound by their unauthorized acts. *Matter of Peterson*, B-191039, June 16, 1978. Therefore, the suspended claims may not be paid, and the amounts previously paid on similar claims should be collected. Further, the usual charges for meals and lodgings furnished by the Government should be charged against these employees. However, waiver of the resulting debts may be considered as erroneous payments of pay or allowances (failure to deduct the cost of meals and lodgings furnished from pay otherwise due) under 5 U.S.C. § 5584.

[B-210717]

Travel Expenses—Air Travel—Bonuses, Gifts, etc.

The general rule is that a Federal employee is obligated to account for any gift, gratuity or benefit received from private sources incident to the performance of official duty. This rule applies to situations where an employee enters a promotional program sponsored by an airline, and, while traveling on official business, receives a discount as a result of entering that promotional program.

Travel Expenses—Air Travel—Bonuses, Gifts, etc.

A bonus ticket received by an employee as a result of trips paid by both appropriated funds while on official travel and personal funds is the property of the Government and must be turned in to the appropriate official of the Government. If employee wishes to participate in the bonus program and retain the benefits from the program, he should make certain that all trips included in the bonus program are paid from personal funds.

Travel Expenses—Air Travel—Bonuses, Gifts, etc.

An employee who enters a promotional program sponsored by airlines which includes free upgrade of service to first class, membership in clubs, and check-cashing privileges, does not have to turn in such benefits to the Government. The Government is unable to use such benefits, and there is no reason for employee not to use such benefits.

Travel Expenses—Air Travel—Bonuses, Gifts, etc.

A discount for future travel received by employee while on official travel, which is either non-transferable or carries an expiration date, still is property of the Govern-

ment and should not be given back to the employee for personal use even if it appears that the Government may have no use for the discount.

Matter of: Discount Coupons and Other Benefits Received in the Course of Official Travel, February 24, 1984:

The Per Diem Travel and Transportation Allowance Committee (PDTATAC) of the Department of Defense has requested our opinion concerning the proper disposition of promotional gifts received by employees while on official travel. PDTATAC Control No. 83-1. We hold that such promotional gifts are the property of the Government and that employees may not retain any gift or gratuity received in the course of official travel.

Factual and Legal Background

The request from the Committee states that airlines have instituted frequent-flyer programs which entitle a traveler, who accumulates points or miles on a particular airline, to bonus travel. The more points or miles the individual accumulates, the greater the bonus. Participation in these programs is not automatic and requires the traveler to submit an application. Some airlines charge a fee to enroll and, in addition to discounts on fares or bonus points, some airlines offer a free upgrade to first class service on certain flights.

The Committee has raised five questions concerning these airline programs. These questions will be answered individually below. However, the basic issue is whether the employee is entitled to keep any of these bonuses earned as a result of Government-paid travel.

The general rule is that a Federal employee is required to account for any gift, gratuity, or benefit received from private sources incident to the performance of official duty, and any payments tendered to the employee are viewed as having been received on behalf of the Government. *John B. Currier*, 59 Comp. Gen. 95 (1979); and B-148879, July 20 and August 28, 1970. Therefore, we have held that an employee may not retain any bonus or gift coupon or similar item of value received from a commercial air carrier on the basis of a purchase of an airline ticket to be used for official travel. B-199656, July 15, 1981. The rationale behind this rule is to prevent double reimbursement to the employee from the Government and a private source and to avoid a conflict of interest.

We note that the General Services Administration (GSA) has recently promulgated regulations in the area. See Federal Property Management Regulation (FPMR) § 101-25.103, 41 C.F.R. § 101-25.103, as amended, 48 Fed. Reg. 48,231, October 18, 1983. These regulations state that all promotional materials such as bonus flights, reduced-fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, received by an employee

in connection with official travel and based on the purchase of ticket, are properly considered to be due the Government and may not be retained by the employee. These regulations provide that promotional materials that provide for future free or reduced costs of travel should be integrated into the agency travel plans to maximize the benefits to the Government. Promotional materials that cannot be used by the agency shall be disposed of in accordance with 41 C.F.R. § 101-25.103-4.

Also, we note that the Office of Government Ethics by memorandum of November 16, 1983, to Designated Agency Ethics Officials, requested that employees be warned against making personal use of any travel promotional benefits received in connection with official travel.

Finally, we note that since participation in these programs is voluntary, an employee who wants to receive benefits for private use should make certain that the only trips credited to his bonus account are those paid from personal funds.

Specific Questions

Question 1. Since travel is arranged by the Government based on cost effectiveness, rather than on membership in one of these programs, traffic managers are unaware when a uniformed member or civilian employee has received a travel bonus. Should the burden be placed on the member or employee to turn in the bonus to the Government when participation on the airline promotion program is voluntary and the Government is without control?

Answer 1. The answer to the question is that it is the traveler's responsibility to return to the Government any discounts or benefits received as a result of official travel. See *Currier* and the GSA regulations, cited above. However, if the employee had to spend money to enter a program, as discussed above, the employee may submit a voucher which documents his out-of-pocket expenses spent to enter into the program. The Government should reimburse the employee's out-of-pocket expenses if those expenses are less than the discount received by the employee from the airlines. For example, if the employee spends \$25 to enter a program, and, as a result, the Government has received a benefit because his airline fare was reduced from \$400 to \$300 solely as a result of his entering the program, then the employee should be reimbursed for the cost of entering the program. Of course, the Government should only reimburse the employee up to the amount the employee pays to enter the program and only to the extent that the Government has received a benefit solely due to his entering that program.

Question 2. Most bonus travel requires more than one trip to be eligible. Some of those trips may be paid from personal funds. If a

free ticket is obtained from a combination of appropriated and personal funds, who does the ticket belong to?

Answer 2. Consistent with the regulations, above, our answer to this question is that the ticket (or certificate) is the property of the Government if part of the ticket was obtained through the use of appropriated funds while on official travel. This result prevents a conflict of interest from arising. See, generally, 5 C.F.R. §§ 735.201 *et seq.* The employee has an obligation to turn in the bonus ticket to the Government based on the general rule cited above. If the employee has used the bonus ticket for personal use, he must reimburse the value of the bonus ticket to the Government. See 63 Comp Gen. 233 (B-212236, dated today). Finally, as stated above, if the employee wishes to participate in the bonus program and retain the benefits from the program, he should make certain that all trips included in the bonus program are paid from personal funds.

Question 3. Besides travel bonuses, most programs provide other optional benefits, such as free upgrade to first class, membership in executive clubs, i.e., Delta's Crown Room Club, check-cashing privileges, etc., which have no value to the Government. Should such items be turned over to the Government if the value cannot be redeemed?

Answer 3. We do not believe that items such as free upgrade to first class, membership in executive clubs, and check-cashing privileges could be turned over to the Government. Obviously, such benefits could only be used by the employee and could not be used by the Government. Therefore, we see no reason that these items could or should be turned over to the Government. We also hold that the employee may use such benefits because denying the employee such benefits would serve no purpose.

Question 4. Travel bonuses are transferable in most cases; however, they may carry an expiration date. Although every attempt is made to take advantage of free travel opportunities, should the recipient of the bonus be denied its use if the Government is unable to use it within a reasonable time?

Answer 4. Even if the Government is unable to take advantage of free travel opportunities after every reasonable attempt, the bonus should not be returned to the employee. The reason for this is that the travel bonus never legally belonged to the employee. If a free flight for personal use was given to an employee by an agency, this would be tantamount to an illegal supplement of the employee's salary. In the case where the bonus is transferable, the employee who received the bonus as a result of official travel has no more legal right to this bonus than any other employee of the agency.

Question 5. Some items are non-transferable. One uniformed member was given a flight coupon worth \$200 as involuntary denied boarding compensation. Under Comptroller General decision 59 Comp. Gen. 95 (1979), the coupon was turned over to the

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Government; however, unless this particular traveler is given further travel orders, it will go unused. Should non-transferable travel bonuses be denied to the recipient if the Government is unable to use them?

Answer 5. If the items are not transferable such as the coupon here, then if it is necessary to send that employee on official travel the coupon would be available for such a purpose. If the coupon is returned to the employee for personal use and then the agency decides to send the employee on official travel the discount coupon will not be available. Therefore, the Government should retain the coupon even if it is unable to use it at this time.

This concludes the questions raised by the Committee. However, we note one situation which has also arisen lately, that is, the receipt of gifts of nominal value as a result of official travel. We note that the Government Ethics Regulation allows employees to keep promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value. See 5 C.F.R. § 735.202(b)(4) (1983). We see no reason why employees on official travel who receive such gifts should return them to the Government. Accordingly, employees may keep gifts which are of nominal intrinsic value.

[B-212236]

Travel Expenses—Air Travel—Bonuses, Gifts, etc.

An employee received and used a bonus ticket and a free hotel room for personal travel as a result of trips paid by both personal funds and Government funds. Such promotional gifts which were received because of travel paid by Government funds belong to the Government. The employee must pay the full value of the tickets and benefits received to the Government. Since this employee used these gifts prior to the issuance of guidance on the use of such materials, he may reduce his liability for repayment based on the percentage of travel paid by personal funds. Any future use of promotional gifts will result in liability for the full value of the bonus or gift. See 63 Comp. Gen 229 (B-210717, dated today).

Matter of: John D. McLaurin—Promotional Gifts Received as a Result of Official Travel, February 24, 1984:

Mr. Richard Mulberry, Inspector General, Department of the Interior, has requested a decision concerning a travel bonus consisting of two free first-class round-trip tickets and four free nights at a hotel received by an Interior employee, Mr. John D. McLaurin. The travel bonus was awarded by United Airlines under their Mileage Plus program and the mileage accumulated by Mr. McLaurin was primarily as a result of official travel. The first issue presented is whether Mr. McLaurin should reimburse the Government for the value of the bonus awards. The second issue is, assuming the Government is to be reimbursed, should the reimbursement be limited to reflect the percentage of private travel versus official travel used to obtain the award. We hold that Mr. McLaurin must reim-

burse the Government for the bonus awards based on the percentage of official travel used to obtain the award.

Mr. McLaurin registered in the United Airlines Mileage Plus program in October 1981. By February 1983, Mr. McLaurin had traveled over 75,000 miles, and under the program, he was entitled to two free first-class round-trip tickets, four free nights at a Westin hotel, and a 50 percent discount on an Avis rental car for the weekend. Mr. McLaurin used the free trip and free hotel for his own personal benefit. The record shows that Mr. McLaurin accumulated the mileage by both official (Government-paid) and private travel, but the record does not show the number of miles of each type of travel. However, it appears that the majority of the miles were accumulated on official travel.

LEGAL ANALYSIS

The general rule is that a Federal employee is required to account for any gift, gratuity, or benefit received from private sources incident to the performance of official duty and any payments tendered to the employee are viewed as having been received on behalf of the Government. *John B. Currier*, B-195946, 59 Comp. Gen. 95 (1979); B-148879, July 20 and August 28, 1970. Therefore, we have held that an employee may not retain any bonus or gift coupon or similar item of value received from a commercial air carrier on the basis of a purchase of an airline ticket to be used for official travel. B-199656, July 15, 1981.

The bonus ticket and free hotel received by Mr. McLaurin clearly fall within the purview of these decisions. The only distinction is that a small portion of the bonus ticket was earned by private travel. We do not believe the fact that a portion of the bonus ticket was earned by private travel changes the result that the portion of the ticket earned as a result of the official ticket belongs to the Government. See 63 Comp. Gen. 229 (B-210717, dated today). Therefore, in applying the decisions cited above, we conclude that the portion of the bonus ticket or gift earned as a result of official travel is viewed as having been received on behalf of the Government. Accordingly, since Mr. McLaurin used the bonus ticket and gift for private use, when it was primarily the property of the Government, Mr. McLaurin must reimburse to the Government the value of the bonus ticket and gifts which were property of the Government.

We also note that at the time of Mr. McLaurin's travel under United's Mileage Plus program, a frequent flyer could use the bonus tickets to the place of his choice and the bonus tickets were transferable. Therefore, under that program it is clear that the Government could have sent Mr. McLaurin or some other Government employee on a free flight and at a free hotel while on official travel. However, even if airline programs limit the transferability

of the bonus flight or restrict bonus flights to specific cities, any bonus earned as a result of official travel belongs to the Government and must be turned in to the appropriate agency official. See our decision of today, 63 Comp. Gen. 229, *supra*, and 41 C.F.R. Part 101-25 as amended, 48 Fed. Reg. 48213, October 18, 1983.

In accordance with the discussion above, the Department of the Interior should collect the full value of the bonus tickets plus the value of the hotel room from Mr. McLaurin. Mr. McLaurin may have this amount reduced by a percentage equal to the percentage of private travel used to obtain the award. However, the burden of proof is on Mr. McLaurin to produce the necessary evidence to show that the travel was paid from personal funds. See generally 4 C.F.R. § 31.7 (1983). If Mr. McLaurin can produce the necessary evidence, then the amount of his liability may be reduced by the appropriate percentage.

We are allowing Mr. McLaurin to reduce his liability because he used these bonus tickets prior to the issuance of the GSA regulations and our decision of today, 63 Comp. Gen. 229, which declare that these bonuses are the property of the Government. After the date of this decision, we hold that any future use of promotional material will result in the employee being liable to the Government for the full value of the bonuses or promotional gifts used.

[B-213528]

General Services Administration—Services to Other Agencies, etc.—Procurement—Defense Department—Applicability of DOD Procedures, Restrictions, etc.—Restrictions on Total Labor Surplus Area Set-Asides

No legal authority exists to extend a Department of Defense (DOD) appropriations restriction on total labor surplus area set-asides to a General Services Administration (GSA) purchase of pliers, even though DOD is the major user of the pliers, where GSA is purchasing the pliers with its own appropriations.

General Services Administration—Services to Other Agencies, etc.—Procurement—Defense Department—Applicability of DOD Procedures, Restrictions, etc.—Restrictions on Total Labor Surplus Area Set-Asides

Protest allegation that a DOD appropriations restriction was applied to a GSA procurement while another DOD appropriations restriction was not applied and, thus, the latter restriction should have been, is without merit where the terms of the solicitation indicate that neither restriction was applied to the procurement.

Matter of: Wilde Tool Co., Inc., February 28, 1984:

Wilde Tool Co., Inc. (Wilde), protests the total labor surplus area (LSA) set-aside of bid item No. 2 under invitation for bids (IFB) No. FEN-ED-A3134-A-10-28-83, issued by the General Services Administration (GSA) for pliers.

We deny the protest.

ADMINISTRATION AND GENERAL PROCEDURES

PART A: TRAVEL POLICY

U2000 GENERAL

Each Service will authorize only that travel necessary to accomplish the mission of the Government effectively and economically. Each Service will establish internal controls to ensure that only travel which is essential to the needs of the Government is authorized.

U2010 MEMBER'S RESPONSIBILITY

A. Obligation to Exercise Prudence. When traveling on official orders, the member is expected to exercise the same care and regard for expenses incurred as a prudent person would exercise when traveling at personal expense. The member should be aware of the Service's right to review claims and therefore, should maintain sufficient records to validate expenses incurred.

B. Obligation to Relinquish Promotional Items to the Government

1. General. A member is obligated to account for any gift, gratuity or benefit received from private sources when performing official travel. This includes promotional materials given to the member by airlines, rental car companies, and motels; for example, bonus flights reduced-fare coupons, cash, merchandise gifts, and credits toward free or reduced costs of future services or goods. When a member receives promotional material, the member is accepting it on behalf of the Government and must relinquish it in accordance with regulations of the Service concerned (Comp. Gen. B-199656, 15 July 1981; 63 Comp. Gen. 229 (1984)).

2. Promotional Items of Nominal Intrinsic Value and Benefits Received That The Government Cannot Use. The member may keep items of nominal intrinsic value (for example, pens, pencils or calendars), and they may participate in promo-

tional programs which will accrue personal benefits such as seat upgrades, membership in clubs, and check-cashing privileges (Comp. Gen. B-199656, 15 July 1981; 63 Comp. Gen. 229 (1984)).

3. Travel Bonuses Carrying Expiration Dates and Nontransferable Coupons. Members will relinquish travel bonuses carrying expiration dates, and nontransferable travel coupons, even if they cannot be used by the Government for future official travel (63 Comp. Gen. 229 (1984)).

4. Items Received Through Mixed Official and Personal Travel. Promotional items received by the member as a result of a mixture of travel paid for by the Government and from personal funds, are the property of the Government. If the member uses a bonus ticket for personal use, the member must reimburse the value of the bonus ticket to the Government (63 Comp. Gen. 229 (1984) and 63 Comp. Gen. 233 (1984)).

5. Voluntary Relinquishing of Seat. A member may keep payments received from a carrier for voluntarily vacating a seat on an overbooked flight and taking a later flight. However, no additional per diem may be paid as a result of the delay in the member's return. If the member incurs additional travel expenses as a result of voluntarily giving up the seat, beyond those which would normally have been incurred, such additional expenses are not the responsibility of the Government. If in contrast to the above, a member is involuntarily denied boarding on an overbooked flight, compensation for the denied seat is due to the Government. Therefore, if the airline pays the member for such denied boarding, the member must relinquish that payment to the Government. (59 Comp. Gen 203 (1980)).

6. Administrative Instructions. Each of the Services may issue regulations or instructions deemed necessary for the judicious administration of the provisions in this subparagraph.

Department of Transportation

Office of the Secretary

Washington, D.C.

ORDER

DOT 1500.8

4-3-82

ATTACHMENT "B"

SUBJECT: COMMON CARRIER PROMOTIONAL EFFORTS

1. **PURPOSE.** This Order is intended to provide guidance for the accountability and disposition of reduced fare coupons and other promotional gratuities proffered by common carriers incident to carriage while on official business.
2. **CANCELLATION.** DOT M 1500.27, Half-Fare Coupons and Other Common Carrier Promotional Efforts, of 9-28-79, is cancelled.
3. **REFERENCE.** Treasury Fiscal Requirements Manual Bulletin No. 79-09 (retention: upon notification) which contains guidance pertaining to discount/half-fare coupons and other carrier promotional efforts.
4. **BACKGROUND.** During recent years some air carriers have instituted promotional efforts involving the distribution of half-fare discount coupons, cash coupons, merchandise, gold nuggets, etc. Each of these amenities involves the furnishing of a service under a contractual arrangement between the Government and an air carrier. Any items given beyond the terms of the contract become the property of the Government. Receipt of these promotional items or payments should not be confused with prizes awarded to employees who enter carrier-sponsored contests open to the general public. Such prizes remain the property of employees according to a recent decision of the Comptroller General (B-199656, 7-15-81).
5. **RESPONSIBILITY OF TRAVELER.** Each traveler on official business during a carrier's promotional period is responsible for obtaining the promotion item and submitting it to the accounting office (with the travel voucher) or other designated point established to control and account for such items.
6. **DISPOSITION OF CASH.** Cash obtained from redeemable coupons should be turned over to the accounting office for deposit as a miscellaneous receipt to the Treasury. Handling of cash will be in accordance with DOT 2770.88, Collections - Receipt and Control, of 9-17-79.

DISTRIBUTION: All Secretarial Offices
All Operating Administrations

OPI: Office of
Financial
Management

7. DISPOSITION OF BONUS GOODS. For these purposes, bonus goods include any item of real or potential value to the Government received which is in addition to an item or service to be delivered under a contract or other agreement. Departmental personnel receiving merchandise given to travelers as bonus goods should follow procedures contained in 41 CFR 101-25.103. This regulation provides that such merchandise be forwarded to the nearest Government medical facility for its use. Merchandise received that is of no value to a medical facility should be disposed of or used in accordance with 41 CFR 101-43, 44 or 45.
8. DISPOSITION OF GOLD NUGGETS. Offices holding the half-ounce gold nuggets should package the items in accordance with postal regulations with an accompanying description of the total avoirdupois weight (oz.) and forward via registered mail to the following address:

Superintendent - U.S. Assay Office
Bureau of the Mint
32 Old Slip
New York, NY 10005

Upon receipt, the Assay Office will assume custody of the gold and determine the precise value. Proceeds from the gold will be deposited to miscellaneous receipts of the Treasury. Notification of receipt will be made to the forwarding activity by the Mint.

9. DISPOSITION OF COUPONS. Coupons in excess of the needs of a particular activity which provide for discounts on future travel should be redistributed within the operating administration to assure usage before expiration. If an operating administration estimates that it will have excess coupons at the coupon expiration date, the excess will be forwarded immediately via certified mail to the Office of the Assistant Secretary for Administration, M-80, for disposition.
10. RESPONSIBILITY OF ACCOUNTING OFFICE OR OTHER DESIGNATED CONTROL POINT. The office receiving coupons and other promotional items will establish adequate controls, including log-in and log-out procedures, to assure that the items are accounted for and used to the maximum to reduce official travel costs or otherwise appropriately handled in accord with this directive.
11. ADDITIONAL INFORMATION. Additional information and guidance will be furnished Departmental personnel as it becomes available. Questions concerning the availability and period of use of coupons may be directed to servicing travel office personnel or to the participating carriers.

FOR THE SECRETARY OF TRANSPORTATION



Karen S. Lee
For the Assistant Secretary
for Administration

MAR 25 1988

**DAWSON ST.
INVESTMENT
COMPANY**

907-279-5208 2152 DAWSON ST. ANCHORAGE, ALASKA 99503

March 21, 1988

Senator Lloyd Jones and members of the Senate Transportation Committee:

I'd like to make a few comments favoring S473 to deal with "Frequent Flyer" benefits.

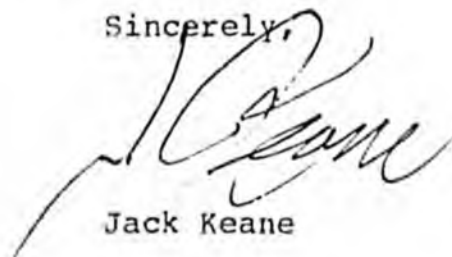
It is not appropriate for employees who have decision making powers over their "business travel" to personally benefit from those decisions. For public employees, both the potential for benefiting, and the appearance of that potential, would make it necessary to eliminate these benefits.

Recently, Alaska Airlines offered one free trip, anywhere they go, for two RT fares to L.A. This is a "kickback" in the range of 50% of the purchase. I've also noticed that state employees are always on the more expensive flights to Dillingham, likely because that airline has FF benefits. Would they stay overnite, because of this, when the other company could fly them back in the evening? In any other public purchasing this situation would not be tolerated, and it should not, in this area. It is infuriating to see their union come out with a claim that this is some deserved fringe benefit.

I think the airlines have arrangements for companies to buy blocks of tickets in company name, saving some money in the process. This whole area should be looked into as we attempt to economize.

Thanks for your consideration of this.

Sincerely,



Jack Keane



Alaska Public
Employees Association **APEA**

State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

MEMORANDUM

TO: Senator Lloyd Jones, Chairman
Senate Transportation Committee

FROM: Cherie Shelle *CS*

SUBJECT: SB 473

DATE: February 23, 1988

Senate Bill 473 would require state employees who acquire airline travel benefits as a result of travel on state business to use those benefits on other business related travel. APEA has reviewed this legislation and believe it raises the following concerns:

1. How would travel benefits acquired from personal travel be distinguished from business travel. Press reports indicate that employees would have two different airline benefits accounts, one for personal use and one for business use. The legislation does not address this issue and there is no requirement on the airline industry to issue two employee accounts to accommodate the State of Alaska.

2. Are employees required as a part of their state duties to participate in airline benefit programs? Could employee elect not to participate?

3. What happens to travel account benefits if an employee terminates? Under the current Alaska Airlines program it takes 25,000 miles to obtain a coach ticket. An employee, may terminate with 24,000 miles. Would those mileage benefits be lost?

4. Would an employee be required to cash in the award as soon as a coach fare is available or would the employee be allowed to save mileage benefits for a first class fare?

5. Would the employee be allowed to use travel benefits that

frequently accrue to family members as a result of the mileage account. An example would be half fare tickets for family members.

6. What disciplinary measures would be appropriate for using the travel benefits for personal use. What disciplinary measures would be appropriate for intentionally refusing to participate in travel benefits programs. What disciplinary measures would be appropriate for accidentally forgetting to collect travel benefits?

7. Would travel accounts be monitored so that all employees are treated equally?

8. AS 39.25.210 provides that violation of the Personnel Act is a misdemeanor. If the state does not have a way to monitor travel benefit activities it seems unfair to selectively enforce misdemeanor charges against employees which would result in termination.

9. How would any projected savings be reflected in departments' budgets?

Travel is for the benefit of the employer, not the employee. Most employees who travel are not overtime eligible and frequently travel on their own time. For a typical one day trip from Juneau to Anchorage, an employee may arrive at the airport a 6:00 a.m. (2 hours before the regular work day) and not arrive back in Juneau until 9:30 pm. (5 hours after the normal close of business). Thus in order to work 7 1/2 hours in Anchorage for the employer's convenience, the employee has donated 7 hours of his or her personal time which may have been spent with the employee's family or other personal endeavors. Extended business travel often cause the employee personal expense and hardship.

Travel incentive awards have been negotiated in collective bargaining agreements. The current supervisory agreement provides that bargaining unit members shall retain travel incentive awards resulting from travel on behalf of the employer. Similar language was also in the tentative agreement with the General Government unit. Travel incentive awards are an appropriate subject of bargaining rather than statute.

It is not good public policy to enact legislation based on a private corporations current promotional plans. Today's travel benefits may very well be gone tomorrow. APEA urges the committee not to pass this legislation.

cc: Senator Halford

SB

486

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "employment preference...Alaska
Marine Highway System"
Sponsor: Jones
Requestor: JONES

Agency Affected: DOT/PF - AMHS
BRU: Marine Operations
Components: Southeast and Southwest
Vessel Operations and Overhaul

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No additional costs are anticipated as a result of the proposed legislation.

Prepared by: George W. Davidson, System Director
Division: Alaska Marine Highway System

Phone: 465-3950
Date: 3/11/88

Approved by Commissioner: W. Reid Carter
Agency: Department of Transportation & Public Facilities

Date: 3/15/88

Distribution (by preparer):

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

While I was unable to attend the hearing on S.B. 486 I have read the draft of the March 22, 1988 hearing and the position papers associated with it. Having been associated with the matter of advancement on the vessels of the A'ES I would like to briefly present some comments, some questions for the Transportation Committee, and most importantly correct some obvious misinformation.

1. The system of advancement worked until the MEBA closed to close its enrollment due to the economic realities of the shipping industry in 1983. Prior to 1983 more than one third of the engineers with A'ES have climbed up through the ranks of the A'ES. Since 1983 the purpose of MEBA has been to maintain the A'ES jobs for the temporary and permanent employment of their National members. The legality of this book closure and issues of preference to National MEBA members over long term State of Alaska employees will be addressed in oral arguments before Superior Court Judge Craske on May 17, 1988. Contrary to the Department of Administration's Position Paper the challenge is anything but decided in court.

2. The Department of Administration's Position Paper also fails to understand the economic situation of the marine industry. The mates hired by the A'ES are almost exclusively produced through the unlicensed ranks of the A'ES. The marine engineers that are given limited membership in MEBA and those persons nationally that are available make incorrect the idea that the State of Alaska could not crew its vessels without outside MEBA engineers. Also if one were to consider the low turnover rate with licensed personnel one could conclude a willingness among this personnel to be considered state employees working under certain union representation and not the other way around.

3. S.B. 486 is necessary in order to provide guidelines regarding job advancement. Personal lobbying efforts by three individuals forced the State and MEBA to address a closed

enrollment policy which kept job advancement at near zero. The purpose of S.B. 486 is to address hiring as it effects the role of the State of Alaska as employer not the internal policies of a labor organization.

4. Under #247 of the record draft Mr Halteman is absolutely correct that no non-residents of Alaska have been hired in the engineering department of ANIS in the past two years. Mr O'Claray is also correct on this point (#088). The problem here is two fold a.) the criteria for residency and who determines it and b.) the policy of MEEA which grains preferred status to national members over State of Alaska resident employees.

The State makes no attempt to investigate or clearly spell out the statutory requirements of residency. Because National MEEA members may bring with them to the Juneau hiring hall seniority gained in MEEA hiring halls throughout the country they need only become 'Alaskans' to move to the head of the unpublished and unposted out of work list. All these 'Alaskans' need do is establish residency. Most of us know what that means when no investigation policy is provided by the employer. Thus when a permanent job becomes eminent the 'Alaskans' arrive.

5. Because there is no written policy regarding the operation of the local hiring hall it exists purely in the mind of the local MEEA representative Mr. O'Claray. Under #359 of the draft record he failed to explain that there is an entire group of National MEEA members that have bid rights and free transportation from Seattle ahead of the Group 2 Alaskans. Improperly discribed one couldn't understand why the Group 2 Alaskans don't get a percentage of the available work; the fact is Group 1 Alaskans including thirty day wanderers get the first jobs, the Group 2 National get the remaining jobs with the free travel incentive and no job goes much farther.

Alaska State Legislature

REPRESENTATIVE BILL HUDSON

P.O. BOX V
Juneau, Alaska
99811
(907)465-3744 or 4991

March 14, 1988

COMMITTEES
Transportation
HHS
Telecommunications
Fisheries
International Trade

Mr. George Danner
P.O. Box 210136
Auke Bay, Alaska 99821

Dear Mr. Danner: *GEORGE*

Enclosed are several copies of SB 486, relating to employment preferences for certain employees of the Alaska Marine Highway System. The legislation was introduced by the Senate Transportation Committee, and will be heard by that committee in the near future. Once you have had time to review the bill, you should make your written comments known to Senator Lloyd Jones who chairs the committee. It would, of course, be better if you could testify in person, but I'm sure he'd be very appreciative of your written comments.

The points you raised in your letter relate to the collective bargaining agreement, and it would be more appropriate for the Governor to respond to those issues. I have therefore made a copy of your letter available to Mr. Ray Price, Special Assistant to the Governor, who has agreed to contact you through the Ketchikan Marine Highway Office at the 225-6183/6266 numbers.

As a legislator, I cannot ethically become involved in the negotiating process. You must make your concerns known to your union representative and to the Governor.

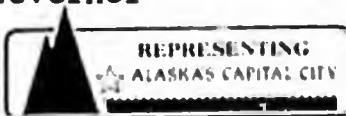
I hope you will take the time to review SB 486, discuss the legislation with your work mates, and then let me and Senator Jones know of any concerns, pro as well as con.

I am sorry to hear of your continued problems relating to your employment with the Alaska Marine Highway System, but I am confident Mr. Price will do what he can to help.

Respectfully,

Bill
Bill Hudson

cc: Mr. Ray Price, Special Assistant
Office of the Governor





Inlandboatmen's Union of the Pacific



MARINE DIVISION — INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION
NATIONAL OFFICE • 2700 FIRST AVENUE, ROOM 211 • SEATTLE, WASHINGTON 98121 • 448-9736

March 22, 1988

SENATE BILL 486

The Inlandboatmen's Union of the Pacific, Alaska Region supports SB 486.

The Union represents all unlicensed operating crew personnel working aboard vessels of the Alaska Marine Highway System.

Until 1983 provisions of SB 486 were recognized by the AMHS in practice and in collective bargaining agreements. In 1983, under provisions of the licensed engineer contract in place at the time, work opportunities for qualified unlicensed engine department employees, to work as licensed engineers, were essentially eliminated.

The AMHS attempted to address this issue during collective bargaining for a licensed engineer successor agreement beginning in 1985. The AMHS was only partially successful. Work opportunities for qualified unlicensed engine department employees have not been restored to recognized levels prior to 1983.

Licensed engine department work opportunities have improved for qualified unlicensed engine department employees, from 1985 to date, under the current licensed engineer contract. The following represents the amount of licensed engine department relief work provided qualified unlicensed engine department employees from 1983 thru 1987.

1983 -- 2%	1986 -- 24%
1984 -- 0%	1987 -- 44%
1985 -- 13.5%	

A breakdown of licensed engineer relief work for 1986 is provided. (Exhibit #1)

Assuming that the unlicensed work force is only capable of providing 50% of the licensed relief work available it would appear that the current system is working as of 1987.

REGIONAL OFFICES

PEGET SOUND
2700 FIRST AVE., RM 201
SEATTLE, WA 98121
441-5111

COLUMBIA RIVER
2435 N.W. FRONT
PORTLAND, OR 97209
228-6000

SAN FRANCISCO
801 ARMY ST., RM 208
SAN FRANCISCO, CA 94134
828-0536

HAWAII
1001 DILLINGHAM BLVD., No. 214
HONOLULU, HI 96817
847-0611

SOUTHERN CALIFORNIA
728 LAGOON AVE.
WILMINGTON, CA 90744
549-6730

ALASKA
P.O. BOX 6100
KETCHIKAN, AK 99901
225-6360

JUNEAU
2219 NO JORDAN AVE.
JUNEAU, AK 99801
749-0133

However, work opportunity restrictions could potentially revert to levels identified prior to 1987 depending on how licensed engineer dispatching is administered by the Marine Engineers Benevolent Association (MEBA), the organization that represents licensed engineers. The fact remains that the MEBA was successful in almost totally eliminating licensed engineer work opportunities to employees within the work force for a period of several years and the potential for greater restriction in future years remains.

The AMHS and the MEBA have previously indicated to the Union that qualified unlicensed employees have turned down relief licensed engineer assignments. The current system provides a considerable incentive to turn these assignments down because by accepting any assignment an employee goes to the bottom of the list for any future relief or permanent assignment. (Exhibit #2) SB 486 would allow current unlicensed employees to better define licensed career opportunities and allow the Union and the AMHS to expedite filling vacated unlicensed positions.

The Union does not view SB 486 as a restriction on the AMHS to hire the most qualified applicants for licensed positions. Based on past experience, the unlicensed work force has been able to supply approximately fifty percent (50%) of the Employer's licensed work force requirements. With SB 486 the AMHS would still have to satisfy a large percentage of their licensed employee requirements from other sources.

The Union has represented the unlicensed work force since the inception of the AMHS and feels qualified to state that the AMHS has benefited more from hiring licensed employees within the work force than from hiring licensed employees outside the work force.

Some of the advantages of providing relief and permanent licensed work to current qualified employees are as follows:

Ninety six percent (96%) of the unlicensed work force are Alaska residents. Providing licensed work within the work force means more work would be performed by residents than nonresidents.

Licensed engineers are flown round-trip out of State at the expense of the AMHS to receive temporary licensed engineer assignments when qualified licensed engineers are available within the work force.

Current employees are familiar with vessel operations, routes, navigable waters and machinery and are more immediately productive as a result.

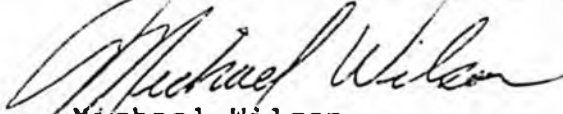
SB 486
March 22, 1988
Page 3

Incentive and career advancement is compromised when circumstances are such that a current qualified junior engineer with over three years working aboard vessels of the System is helping to "break in" a new licensed engineer that is probably a nonresident.

Normally the Union would not be supporting a bill that might best be left to the collective bargaining process. However, the AMHS has demonstrated a lack of ability to deal with this issue within that process to date.

Respectfully,

INLAND BOATMEN'S UNION OF THE PACIFIC

A handwritten signature in cursive script that reads "Michael Wilson".

Michael Wilson
Regional Director, Alaska Region

EXHIBIT #1

The following is a tally of relief Engineer work from Alaska Marine Hiway System crew lists from 1986. The names in the left column are the national MEBA members that were flown up from Seattle to work those positions. The names in the right hand column for each vessel are the long time system employees attempting to get Engineering advancement.

The total number of weeks available for relief work was 169. Of this, 129 or 76.33% went to the people from out of state. The Alaskans got 40 weeks or 23.66% of the work.

-1986-

VESSEL / DATE	NAME	GRADE	VESSEL / DATE	NAME	GRADE
<u>COLUMBIA</u>			<u>COLUMBIA</u>		
5- 19-86	Emery, Stewart	3/A	2/10/86	Ohmer, Lance	3/A
5-25-86	Owens, Ken	3/A	2/18/86	Larsen, John	3/A
5/25/86	Czuba, Frank	3/A	6/15/86	Ohmer, Lance	3/A
5/25/86	Ekholm, James	3/A	6/23/86	Deljudice, O'Neil	3/A
5/25/86	Medlin, Edwin	3/A			
6/8/86	Stewart, Don	3/A			
6/8/86	Medlin, Edwin	3/A			
6/15/86	Emery, Stewart	3/A			
6/23/86	" "	3/A			
6/30/86	Medlin, Edwin	3/A			
7/6/86	" "	3/A			
7/13/86	Emery, Stewart	3/A			
7/20/86	" "	3/A			
7/20/86	Czuba, Frank	3/A			
7/27/86	Medlin, Edwin	3/A			
8/3/86	Medlin, Edwin	3/A			
8/17/86	Emery, Stewart	3/A			
8/24/86	Medlin, Edwin	3/A			
9/1/86	" "	3/A			
9/1/86	Mckay, Charles	3/A			
9/1/86	Johnson, Darol	3/A			
9/7/86	Emery, Stewart	3/A			

MALASPINA

5/5/86	Grefsrud, Lee A	3/A
5/12/86	Van Hulle, Christene	3/A
5/21/86	" " "	3/A
7/1/86	Colleen, Richard	3/A
7/29/86	Jurgeleit, Jim	3/A
8/12/86	Rowe, Robert	3/A
9/30/86	Slater, william	3/A
9/30/86	Vandiver, John	3/A
12/1/86	Rowe, Robert	3/A

* Crew lists for the following weeks were missing; 2/25/86, 4/14/86, 4/21/86, 4/28/86, 8/19/86, 11/5/86 .

MALASPINA

3/23/86	Cade, Wes	3/A
7/8/86	Roberts, Steve	3/A
7/15/86	Roberts, Steve	3/A
7/22/86	Ohmer, Lance	3/A
10/22/86	McRoberts, Mike	3/A
12/16/86	Hammer, Ken	3/A

MATANUSKA

1/13/86	Sippo, Michal, G.	3/A
1/20/86	" "	3/A
2/3/86	Borgen, Al	3/A
3/10/86	" "	3/A
3/17/86	" "	3/A
3/24/86	" "	3/A
5/24/86	Jurgeleit, Jim	3/A
5/31/86	" "	3/A
6/21/86	" "	3/A
6/28/86	" "	3/A

MATANUSKA

1/27/86	Templeton, Pete	3/A
3/3/86	Cade, Wes	3/A
3/10/86	Hammer, Ken	3/A
5/24/86	Larson, John	3/A
5/31/86	" "	3/A
5/31/86	McRoberts, Mike	3/A
6/7/86	Hammer, Ken	3/A
6/7/86	Larson, John	3/A
7/5/86	Hammer, Ken	3/A

VESSEL / DATE	NAME	GRADE	VESSEL / DATE	NAME	GRADE
<u>MATANUSKA</u>					
-CONT-					
7/5/86	Vandiver, John	3/A			
7/11/86	Webber, John	3/A			
5/19/86	Mckay, Charles	3/A			
5/25/86	" "	3/A			
8/2/86	Bashiruddin, Aasim	3/A			
8/16/86	" "	3/A			

TAKU

1/8/86	Jovanovich, Steve	3/A
2/11/86	Jurgeleit, Jim	3/A
2/18/86	" "	3/A
5/6/86	Owens, Ken	3/A
5/13/86	" "	3/A
5/20/86	Stewart, Don	3/A
5/29/86	" "	3/A
6/17/86	Stewart, Don	3/A
6/24/86	" "	3/A
9/9/86	Jurgeleit, Jim	3/A
9/18/86	" "	3/A
9/24/86	" "-yard-	3/A
9/29/86	Stewart, Don	3/A
10/13/86	Owens, Ken (N)	3/A
11/3/86	Bashiruddin, A (N)	3/A
11/3/86	Nolan, William (N)	3/A
12/16/86	Ellis, Jeffery	3/A

*Crew lists for the following weeks were missing; 8/26/86, 10/20/86, 10/27/86. (N)= means NIGHTHAWK.

LECONTE

2/28/86	Borgen, Al	2/A
3/7/86	Vandiver, John	2/A
4/18/86	Vandiver, John	2/A
4/26/86	Owens, Ken	2/A
5/2/86	Vandiver, John	2/A
6/5/86	McCormac, Patric	2/A
6/19/86	McCormac, Patric	1/A
6/19/86	Owens, Ken	2/A
7/3/86	Tucker, Dan	2/A
11/10/86	Nolan, William (N)	2/A
11/19/86	" " (N)	2/A

*Crew list for the following week was missing; 4/4/86 .

TAKU

4/23/86	McRoberts, Mike	3/A
4/29/86	" "	3/A
7/15/86	Hammer, Ken	3/A
7/22/86	" "	3/A
8/2/86	McRoberts, Mike	3/A

LECONTE

2/14/86	McRoberts, Mike	2/A
2/21/86	" "	2/A
3/14/86	Danner, George	2/A
3/28/86	McRoberts, Mike	2/A

1986

VESSEL / DATE	NAME	GRADE
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VESSEL / DATE	NAME	GRADE
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AURORA

2/11/86	Trivich, Nicolas	2/A
2/18/86	" "	2/A
4/29/86	Stewart, Don	2/A
6/4/86	Owens, Ken	2/A
6/10/86	Vandiver, John	1/A
6/10/86	Owens, Ken	2/A
7/15/86	Stewart, Don	2/A
7/22/86	" "	2/A
8/12/86	McKay, Charles	2/A
9/9/86	Meucci, Ben	2/A
12/4/86	Sherman, Helen	2/A

AURORA

6/25/86	Ohmer, Lance	2/A
---------	--------------	-----

*Crew lists for the following weeks were missing; 1/28/86, 3/11/86, 3/26/86, 4/22/86, 7/8/86, 8/5/86, 9/2/86, 9/16/86, 10/14/86, 12/11/86, 12/18/86, 12/25/86 .

1986

VESSEL/
DATE NAME GRADEVESSEL/
Date NAME GRADEBARTLETT

3/31/86	Coulson, Louis	2/A
4/7/86	" "	2/A
4/14/86	" "	2/A
4/21/86	" "	2/A
4/28/86	" "	2/A
5/5/86	" "	2/A
5/12/86	" "	2/A
5/19/86	" "	2/A
5/26/86	" "	2/A
6/2/86	" "	2/A
6/9/86	" "	2/A
6/16/86	" "	2/A
6/23/86	" "	2/A
6/30/86	King, Ivan	2/A
7/7/86	" "	2/A
7/14/86	" "	2/A
7/21/86	" "	2/A
7/28/86	" "	2/A
8/4/86	" "	2/A
8/11/86	" "	2/A
8/18/86	" "	2/A
8/25/86	Vandiver, John	2/A
9/1/86	" "	2/A
9/8/86	" "	2/A

-NONE-

BARTLETTTUSTUMENA

2/18/86	Jovanovich, Steve	3/A
2/25/86	" "	3/A
3/3/86	" "	3/A
3/10/86	" "	3/A
3/17/86	" "	3/A
3/24/86	Nolan, William	3/A
4/1/86	" "	3/A
4/7/86	" "	3/A
4/14/86	" "	3/A
4/21/86	" "	3/A
4/28/86	" "	3/A
5/5/86	" "	3/A
5/12/86	" "	3/A
5/19/86	" "	3/A
5/26/86	" "	3/A
6/2/86	" "	3/A
6/9/86	" "	3/A
6/16/86	" "	3/A
6/23/86	" "	3/A

TUSTUMENA

1/6/86	Wright, Harold	3/A
1/13/86	" "	3/A
1/20/86	" "	3/A
1/27/86	" "	3/A
2/3/86	" "	3/A
7/7/86	Begley, Curt	3/A
7/14/86	" "	3/A
7/21/86	" "	3/A
7/28/86	" "	3/A
8/4/86	" "	3/A
8/11/86	" "	3/A

EXHIBIT #2

EXCERPT FROM A UNION LETTER TO AMHS PERSONNEL DATED MARCH 12, 1987 CONCERNING UNLICENSED ENGINE DEPARTMENT BID AWARDS TO CURRENT EMPLOYEES THAT ARE QUALIFIED TO WORK LICENSED ENGINE DEPARTMENT POSITIONS

The Employer assured the Union that several engine department employees, bidding on junior engineer positions, would be working in licensed engineer positions and should not, as a result, be awarded positions they would not work. The Union agreed. However, the Employer failed to identify the fact that the licensed engineer dispatching system can create a more favorable situation for permanent licensed engineer employment when relief assignments are refused.

Per our telecon Friday, March 6, 1987, this was brought to the Union's attention by one of the bid applicants passed over with the understanding that the applicant would be working licensed engineer positions. As the Union now understands the system, once a group A-1 Alaska listing is attained a licensed engineer goes to be bottom of the list, for future relief assignments or a permanent job bid, if he accepts any relief licensed engineer assignment. Under this method an incentive exists for employees to refuse relief licensed engineer assignments to maintain their position on the list or to move up the list in order to expedite career advancement opportunities with the AMHS.

The Employer should not inform the Union that certain employees will be working relief as licensed engineers when the Employer is involved in a dispatching system that, in many cases, prevents these employees from accepting such work in their own best interests. Also, this system would seem to defeat a desire for the most experienced engineers to fill permanent positions.

Understandably, employees involved are reluctant to give up their unlicensed bid awarded positions and should not be expected to do so. Therefore, pending an appropriate change in the system to address this problem, unlicensed engine department positions should not be considered vacated for bid purposes until such time that the employees involved can be regularly assigned as licensed engineers. Passed over bid applicants should be awarded the positions originally applied for as appropriate.

The Union strongly supports upward mobility and career advancement opportunities within the AMHS. Qualified unlicensed engine department employees should have every opportunity to work as licensed engineers.

LETTER OF AGREEMENT
between the
STATE OF ALASKA
and the
NATIONAL MARINE ENGINEERS' BENEFICIAL ASSOCIATION
DISTRICT #1, PACIFIC COAST DISTRICT

RE: HIRING PROCEDURES

The following understandings supplement the procedures set forth in Rule 3 of the 1985-1988 Agreement between the undersigned parties. No practices of either party shall interfere with the intended operation of the procedures set forth in the collective bargaining agreement or this Letter of Agreement:

1. To assure that the local hire preference expressed by Rules 3.01 and 3.02 is effective, The Union agrees that it will register every Alaskan resident applicant who is entitled to the preference established by Rule 3.02. The Union agrees to do so without delay, regardless of any policy or procedure which may be in effect for other applicants.

Applicants are considered in Group II status until they have fulfilled the minimum service and financial requirements lawfully applied by MEBA under its Constitution and Bylaws. Upon fulfilling these requirements, and notwithstanding any quotas or limitations in effect for other applicants, Alaskan resident applicants will immediately be granted Group I status for dispatch to this Employer under Rule 3.01.

2. Not later than sixty (60) days after the signing of this Letter of Agreement, the following employees of Alaska Marine Highway System, who the parties have determined meet the qualifications of Rule 3.02, may apply for registration with the MEBA by notifying the Employer and the Union that they wish this registration to be effective:

	<u>Registration Date</u>
1. Robert Seidman ✓	July 14, 1983
2. Harold Wright ✓	August 9, 1983
3. Peter Templeton ✓	November 10, 1983
—4. Kurt Begley	February 16, 1984
5. George Danner ✓	May 9, 1984
—6. Mike McRoberts	May 19, 1984
7. Wes Cade	June 14, 1984
—8. Steve Roberts	December 13, 1984
—9. Lance Olmer ✓	March 12, 1985
10. Ken Hammer	March 14, 1985
—11. John Larson —	March 15, 1985

EXHIBIT 4

LETTER OF AGREEMENT
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9. Lance Olmer	March 12, 1985
10. Ken Hammer	March 14, 1985
11. John Larson	March 15, 1985

EXHIBIT 4

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

ALASKA MARINE HIGHWAY SYSTEM
SUPPORT SERVICES

STEVE COWPER, GOVERNOR

P.O. BOX R
JUNEAU, ALASKA 99811-2505
PHONE: (907) 465-3950
TELEX: 45-312

Senate Bill 486

Senate Bill 486 would require the Alaska Marine Highway System to fill vacancies in licensed, entry level positions aboard its vessels with individuals who have worked for at least three years on a vessel operated by the system as long as that person holds a license for the vacant position and is currently an unlicensed employee.

While we share the goals of the legislation to promote the employment of Alaskan residents and provide a career path for employees who wish to move to licensed positions, we feel the arena within which to achieve these ends is the collective bargaining process. As such, it is important for management to maintain adequate flexibility to negotiate. By placing minimum demands in statute the opportunity to achieve agreement with organized labor is diminished.

By requiring three years employment with the System prior to employment in a licensed position, this legislation would impede the hiring of other Alaskans who have military or maritime academy credentials. Drawing on one source for all licensed positions would be a self-limiting exercise which would reduce the fleet's to access new thinking in the maritime industry. The ferry system is but one part of the maritime industry and to shut ourselves off through restrictive hiring practices would be detrimental in the long run.

In regard to the employment of resident Alaskans either from within or outside the Marine Highway System, the figures for the two-year period through December 1987 reflect our commitment to this practice.

In the employment of licensed deck personnel, the Port Captain looks within the unlicensed Deck Department first. During the last two years, nine employees were promoted. An additional four Alaskans residents with the required pilotage certificates were employed during this time period. One non-resident was employed on the TUSTUMENA during this time.

In the Engineering Department, no non-residents have been hired in the last two years. During this period, ten persons were hired, including six promoted from unlicensed engineer positions.

There are an additional eleven Alaskan residents available for dispatch to temporary licensed engineer jobs, of whom ten are from the unlicensed Engine Department.

In short, we feel a good job has been done in hiring Alaskans and promoting from within the System. Certainly, there are problems still to be addressed, and we are interested in hearing the testimony on the bill in order to gain an understanding of what changes may be needed.

POSITION PAPER
SB 486

- D.O.A.

This bill would create a seniority "promotion" system between Inlandboatmen's Union (IBU) employees and the Masters, Mates, and Pilots (MMP), or Marine Engineer Beneficial Association (MEBA) employees on vessels of the Alaska Marine Highway System. The promotion would first require that the IBU employee hold the proper license for the vacancy.

If the bill becomes law, it will place the State, as employer, squarely in the midst of an internal union matter. MEBA has closed its rolls to new members. Three IBU members on Alaska Marine Highway System vessels have unsuccessfully challenged MEBA in court. This bill would require MEBA to agree to a contract provision at odds with its internal nationwide procedures. While one can hope they would change their national procedures for the sake of a single employer, that is an unrealistic hope. More likely, MEBA would use all its economic weapons not to agree. In this situation, the employer would not have all its economic weapons available. There are insufficient marine engineers outside of MEBA for Alaska to staff its vessels. The Coast Guard will not allow operation without the proper member of licensed engine room personnel. Further, as employer, the State would be unable to compromise because the requirement would be in statute.

The Department of Administration opposes this bill because it would place the State in an untenable but entrenched collective bargaining position.

for Richard P. Tom Freuden
Bruce A. Cummings
Director
Division of Labor Relations

3/18/88
Date

J.M.A.
Commissioner John M. Andrews
Department of Administration

3/21/88
Date

1227
June 7, 1987
907 506040



MARINE ENGINEERS BENEFICIAL ASSOCIATION D-1, P.C.D., (MEBA) AFL-CIO

C.E. DeFRIES
President

CLYDE E. DODSON
Executive Vice President

MARIO C. WHITE
Secretary-Treasurer

R.F. Schamann, Vice President, Atlantic Coast

A.P. Sasso, Vice President, Gulf-Coast

C.S. O'Clary, Director of Legislative and Governmental Affairs

April 7, 1987

George Davidson, Director
Alaska Marine Highway System
Dept. of Transportation and Public Facilities
P.O. Box R
Juneau, Alaska 99811-2505

Dear Sir,

The following is provided your office as information relative to the operation of the Alaska Hire provisions in Rule 3 of the current labor agreement between the parties.

The Union implemented the provisions under Rule 3, Preferential Hiring, on August 5, 1985. From August 7, 1985 through December 1985 a total of 47 Engineer Officer dispatches were made to AMHS. Of these a total of 35 were Alaska Residents, or 74%. The remaining 12 were non-residents, for 26%. Estimated earnings of base pay followed the same percentages; 74% (\$112,000) to Alaskans and 26% (\$39,000) to non-residents. The one permanent job during this period was filled by an Alaskan.

During 1986 a total of 71 Engineer Officer dispatches were made to AMHS. Of these a total of 43 were Alaska Residents and the remaining 28 were to non-residents, 61% and 39% respectively. Estimated earnings of base pay were 89% (\$400,000) to Alaskans and 11% (\$50,000) to non-residents. Of the six permanent jobs called in 1986, all were filled by Alaskans.

From January 1987 through April 6, 1987 a total of 37 Engineer Officer dispatches were made to AMHS. Of these a total of 30 were to Alaska Residents, or 81%. The remaining 7 were to non-residents, for 19%. Estimated earnings of base pay were 74% (\$48,000) to Alaskans and 26% (\$17,000) to non-residents. The only permanent job called during this period was filled by an Alaskan.

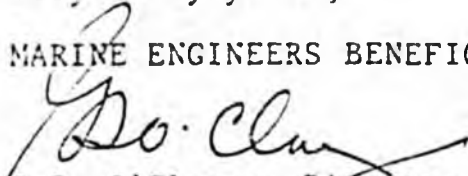
George Davidson
April 7, 1987
Page 2

In summary, the preferential hiring of Alaska Residents to AMHS in Engineer Officer positions has been successful as indicated from implementation of Rule 3, as intended by the parties under the labor agreement

Our office will continue to work with AMHS to insure the provisions of the Agreement are followed and will update your office periodically.

Very truly yours,

MARINE ENGINEERS BENEFICIAL ASSOCIATION



G.S. O'Claray, Director
Legislative and Governmental Affairs

GO:jln

March 21, 1988

Before the Senate Transportation Committee
Senate Bill No. 486

My name is George Danner III, I was born in Juneau and have been an employee of the AMHS since 1975.

Since 1982 the State has tried to include language in two contracts with the Marine Engineers Beneficial Association to allow AMHS employees advancement to licensed engineering positions.

My personal experience has only too graphically illustrated that the State attempts have failed. My experiences and the D.O.T.'s inability to control hiring of state employees are accurately exhibited in the litigation now pending before the Alaska Superior Court.

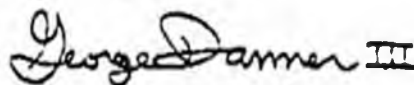
The litigation was precipitated by the AMHS's failure to enforce our rightful advancement and as written in the 1982 contract. This and other discriminatory policies continued in the 1985-88 contract.

Had the Dept of Transportation, and Labor Relations been more knowledgeable and less easily influenced about; (1) what they legally could have done for their employees. (2) How hiring halls should legally be operated. (3) had they enforced their legal responsibilities under Alaska Statutes, this committee meeting would not be required.

However for the last six years this particular policy guiding system has not worked well or fairly. Senate Bill No. 486 is necessary to correct the wrongs of the past, the problems that still exist now and to provide some clean and purposeful direction to return to the State of Alaska, its control of hiring policies for engineers in the ALASKA Marine Highway System.

I thank you for your time and attention and urge your support of Senate Bill No. 486.

Sincerely



George Danner III

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811
907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: All Members, Senate
Transportation Committee

FROM: Senator Lloyd Jones, Chairman
Senate Transportation Committee

DATE: 3/22/88

SUBJECT: SB 486

Senate Bill 486 attempts to answer an alleged problem with resident hire aboard our Alaska Marine Highway fleet. I have received many comments concerning upgrade and hiring into licensed positions on the Ferrys.

It is my intention, through hearing SB 486, to bring these problems before the committee and to determine whether or not this legislation is the appropriate response to this situation.

Senator Lloyd Jones
Alaska State Senate
P.O. Box V,
Juneau, Alaska 99811

Wylie Allen
P.O. Box 8362
Ketchikan, Alaska 99901

August 25, 1987

Dear Senator Jones.

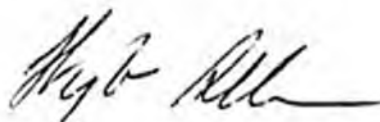
I am a purser on the Alaska Marine Highway, and have been asked to write a letter in support of the efforts of my fellow workers to upgrade their job responsibilities and opportunities for financial advancement.

As you already are aware, the State of Alaska has gone to a great deal of trouble, time, and expense to promote the idea of keeping jobs and the monies they generate within the Alaskan economy. There has also been a somewhat tame, grass roots effort to encourage the Japanese concept of "worker participation" on the ferry system. As a result of these efforts on the part of the state, plus the "harrassment" some of our crew members have experienced who live out of state to move to Alaska or suffer severe financial repercussions with their pay checks, it is difficult to understand why this same state body gives out of state workers (MEBA Engineers) PREFERENCE over employees who live here and already work for the AMHS (IBU engine staff). The IBU workers have the licenses, know the jobs, live in Alaska, and probably have a more vested loyalty to the ferries than a person who doesn't, and who only is waiting for a good off shore job to come along.

Perhaps if the state were more laissezfaire when it came to where people live, and where they spend their money, letters of this type need never be written. However, this is not the case, and the obvious hypocrisy and contradictions just reinforce the image of a bureaucracy which has no agenda, goals, or consistency of purpose.

I hope that your office and staff will be a willing participant in the efforts to solve this dilemma if not to a mutually satisfactory conclusion, than a least to clarify what now appears to be a confusing and arbitrary policy.

Sincerely,



Wylie Allen

- AMHS employee letter -

August 23, 1987
P O Box 34002
Juneau, Alaska 99803

Governor Steve Cowper
Office of the Governor
P O Box A
Juneau, Alaska 99811

Dear Governor Cowper:

I have been an employee of the Alaska Marine Highway System since 1978 and an Alaskan resident since 1977. I've found my employment for the AMHS to be both a rewarding occupation and a stimulating career.

I feel that the opportunity for advancement is the key to a rewarding career and for that reason I am concerned about a situation that exists in the procedures governing hire and promotion within the various departments of the AMHS. It appears a more efficient policy for the advancement of existing employees needs to be developed.

I myself am an Able Bodied Seaman sailing relief in the deck department and have every intention of upgrading to a position of licensed deck officer when my sea time requirements are met.

To my way of thinking, in-house promotion of existing employees who meet the requirements is the most efficient method of developing any system's personnel resources. This should be obvious for no other reason than the reduction of the time needed to train and orient new people in the most basic methods of operation that are unique to that system. In this case, each vessel's different problems and characteristics.

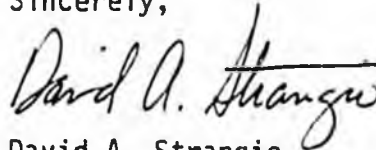
It appears that recently several new hires of junior officers in both deck and engine departments have come from outside the AMHS. Indeed, from outside the state. When this happens, the company (the state) loses twice. First, you have an employee earning a higher wage than an entry level salary being trained at an orientation level, and secondly, that employee's wages are being taken out of the state at a time when local hire and an ailing economy are very vocal issues.

- AMHS employee letter -

This condition could be remedied through contractual labor agreements or through simply instituting a system-wide hiring and promotion policy whereby existing employees with the necessary qualifications are given preference. The fact remains that the system itself is better served when its available resources are more efficiently utilized.

Please believe me when I say that any and all attention that you give to this matter will be noted and appreciated not only by the upwardly mobile and career minded employees that we should want to run our transportation systems, but ultimately by the taxpayers who pay all of our wages.

Sincerely,

A handwritten signature in cursive script that reads "David A. Strangio". The signature is written in dark ink and is positioned above the printed name.

David A. Strangio

cc: Rep. Bill Hudson
Rep. Ben Grussendorf
Rep. Bette Cato
Sen. Lloyd Jones

RECEIVED

OCT 28 1987

GOVERNOR'S OFFICE

Juneau, Alaska
October 26, 1987

CS# 87322 HDC 0004

Honorable Steve Cowper
Governor of Alaska
State Capitol
Juneau, Alaska

Dear Governor Cowper,

As a life long Alaskan, I would like to bring to your attention, and ask you a few questions about a subject of much conversation at my house for the last three and a half years.

It concerns my son, George Danner III, and his frustrating, exhaustive, and expensive efforts at career advancement in the engine room of the Alaska Marine Highway System, where he has worked for almost thirteen years.

Why has he had to fight the state tooth and nail for something the state contractually guaranteed him and others, beginning in 1982, but refused to enforce? Why did it take my son two years and ten months for him to finally advance to an engineering position, but only after several others from out of state and new to the ferry system were given positions?

Why has the state chosen to provide no more than lip service to this issue for this long? On one side of Fourth Street the state cries "local hire", while on the other side of the street it fights the long time Alaskans by hiding behind one of the wealthiest labor organizations in the U.S.--who obviously don't give a hoot about Alaska!

Perhaps you could relate to me why these policies and contracts continue, neither of which do I find economically sensible or explainable. Why won't the state take a stand and support people like my son? I think it should be apparent by now that he intends to see this issue through, and I hope that the state will wake up and face the issue. It is time!

Thank you for reading this, Mr. Cowper. I would appreciate any action by you on this matter, as my son has been talking about this for three and a half years now. and it would be nice if

(father)
- Constituents Letter -

he and I could start talking about something else.

I am

Respectfully,

George Danner Jr.
George Danner Jr.
F.O. Box 020-123
Juneau, Alaska 99802

c.c. Jim Duncan
Bill Hudson
Fran Ulmer
Dick Eliason
John Sund

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

P.O. BOX Z
JUNEAU, ALASKA 99811-2500
PHONE: (907) 465-3900

December 3, 1987

Mr. George Danner, Jr.
P. O. Box 020123
Juneau, AK 99802

Dear Mr. Danner:

Your letter of October 26 to Governor Cowper on local hire for the Alaska Marine Highway System (AMHS) has been referred to me.

It is this department's and AMHS policy to hire Alaskans first whenever possible, as well as promoting from within for deck and engine jobs. This policy has been reflected in contract language and the subject of considerable negotiation with the maritime unions. Current contract language in the three major marine employee bargaining units is the strongest it has ever been toward Alaska hire and promotion from within.

To illustrate this, the following is a list of all promotion and hiring into the licensed deck and engine departments in the past two years according to the AMHS personnel section.

For the past two years promotions from unlicensed deck to licensed deck were:

Pete McMahon

Phil Taylor
Fred Montez

These were the only individuals available from the unlicensed area that met the pilotage requirements. The Port Captain looks there first before hiring from outside AMHS.

In hiring from outside AMHS, Alaskans with the pilotage requirements were next:

Jane Favors
Richard Aldo

Wayne Carnes
Woolfgang Mikat
Harvey Knuth

One individual was hired from out of state:

Gregg Styrk

Comm. Hickey Hiring Practices

This individual was hired on a temporary basis as the only qualified person available for the M/V TUSTUMENA while in overhaul status, and now works on the same vessel on a regular basis.

The system for hiring licensed engineers is somewhat different from licensed deck officers since it involves a dispatch to assignment procedure. While this was strictly a function of a Seattle hiring hall in the past, last contract negotiations resulted in a local hiring hall and procedures to promote from the unlicensed engine department of AMHS.

Individuals on the Alaska resident lists available for dispatch to temporary jobs are:

* Steve Roberts	* O'Neil DelGudice
* Ken Hammer	* Lynn Daniels
* Ray Justice	* John Larsen
* Curt Begley	* Jim Jurgeleit
* Mike McRoberts	Fred Ross
* John Webb	

Licensed individuals who have obtained permanent jobs within the past two years are:

* Pete Templeton	* Alan Borgen
* Harold Wright	* George Danner
* Robert Seidman	* Lance Ohmer
Ken Owens	Jim Dolan
Bill Haskill	Tony Baxter

Of the above names, all are Alaskans and those marked * were promoted from the unlicensed engine department.

Since the new Marine Engineers Beneficial Association bargaining agreement provisions for hiring and dispatching were implemented in August of 1985, no non-Alaskan has been placed in a permanent engineer position. We recognize that the 30-day criteria to establish residency can be argued, but that is not within AMHS control.

I realize this may not dispel your concerns about your son's ability to upgrade into the licensed deck department. Since becoming Commissioner last March, I have held several meetings with affected AMHS personnel, AMHS management staff, and representatives from the Department of Law to discuss various concerns expressed by many about these problems, particularly those involving engine crew. I sincerely believe the intent and commitment is there with AMHS management to ensure this policy is implemented and that relevant

Mr. George Danner, Jr.

-3-

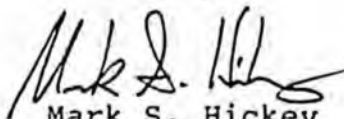
December 3, 1987

contract provisions are enforced. It appears that the current language and procedure may benefit from some adjustment. Accordingly, I have directed staff to review this question, particularly in relation to possible adjustments to pursue during upcoming contract negotiations.

I have received several letters like yours expressing concerns. I take these concerns seriously and am willing to pursue improvements when possible. In that regard, I need more specific information and proposals so that problems which are continuing can be identified and better addressed.

If you have any more specific information to offer, I would appreciate receiving it.

Sincerely,



Mark S. Hickey
Commissioner

cc: The Honorable Betty Cato
Alaska State Representative
The Honorable Jim Duncan
Alaska State Senator
The Honorable Dick Eliason
Alaska State Senator
The Honorable Ben Grussendorf
Alaska State Representative
The Honorable Bill Hudson
Alaska State Representative
The Honorable Lloyd Jones
Alaska State Senator
The Honorable Fran Ulmer
Alaska State Representative
The Honorable John Sund
Alaska State Representative
George W. Davidson, System Director
Alaska Marine Highway System
Susan Fleischhauer, Legislative Liaison
Keith Gerken, Deputy Commissioner, Operations

1985
 P.O.Box 210588
 Auke Bay, Ak.
 99821

789 -

I am writing this letter on behalf of eleven Alaskans, the victims of job descrimination which ironically has cost the state millions of dollars. I myself am a member of this group.

Specifically, I am speaking of the concessions the state gave to the M.E.B.A. [Marine Engineers Benificial Association, who represent engineers on the Alaska Marine Highway System] in their 1985-88 labor agreement. Regardless of assurances to the contrary, the affect has been costly. Qualified long time Alaskan engineers are still being passed over by out-of-state workers at an excessive cost to the state.

Prior administrations recognized the benefits of upgrading the experienced worker and wrote contracts with language favoring their advancement. Among these benefits are: reduced expense in training and breakin, enhanced safety, no inter-state travel expences and payroll retention and recirculation within Alaska.

It should also be pointed out these contracts stood the test of time concerning legality. The new language is not only loose but also changes the focus from experience to Residency with its dubious constitutional legality. We were assured when this contract was signed that it represented our best interests. We were also told the state would emphasize Alaska hire and dispatch and that enforcement would be pursued. The true effect has been just the contrary. Presently the M.E.B.A. enjoys total control of engineer hiring and dispatch with the following results.

Alaska Marine Highway System RELIEF engineer work							
HIRED FROM SEATTLE	APPROXIMATE WAGES	% OF WORK	AMHS UPGRADES VIA 3YR RULE	APPROXIMATE WAGES	% OF WORK		
1983	28	300,000 \$ *	98%	1	6,000 \$	2%	
1984	50	367,000 \$ *	100%	-0-	-0-	-0-	
1985	53	586,000 \$ *	86.5%	11	75,000 \$	13.5%	
1986	32	230,000 \$ *	75%	11	80,000 \$	25%	

* Does not include air fare to and from Seattle

A.M.H.S. PERMANENT JOB AWARDS
 TO M.E.B.A. MEMBERS TO AMHS UPGRADES

1983	-0-	-0-
1984	1*	-0-
1985	1*	-0-
1986	3*	3

* award proceedure questioned

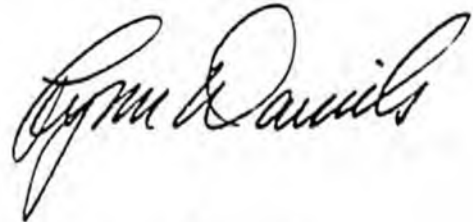
*Daniels ltr. -
 MEBA control of engineer hiring*

Although the local M.E.B.A. representative enjoys touting their "Alaska hiring hall" the facts show, that very little engineering work is going to Alaskans.

In light of the state's current fiscal crisis, this issue deserves immediate attention to address both the fiscal responsibility and fairness to the experienced Alaska Marine Highway System workers seeking career advancement.

I would appreciate your consideration on this matter and would welcome an opportunity to meet and further elaborate on the inequities of this labor contract.

Respectfully,

A handwritten signature in cursive script that reads "Lynn Daniels". The signature is fluid and elegant, with the first letters of "Lynn" and "Daniels" being capitalized and prominent.

Lynn Daniels

RULE 3. PREFERENTIAL HIRING AND USE OF INFORMATION

3.01 The Employer recognizes the Union as the normal source of obtaining new Engineer Officers. The Union recognizes the Employer's legitimate interest in local hire. Accordingly, when dispatching Engineers to the Employer, the Union will, in all instances, observe the following order of preference:

1. Group I Alaskan residents
2. Others in Group I
3. Group II Alaskan residents
4. Others in Group II

Within each of the above categories the order of dispatch shall be according to the date that the individual last registered with the Union (i.e., the individual with the earliest date and time is the first offered the dispatch from the appropriate group).

3.02 Recognizing the passenger-carrying capacity and unique operational requirements of the Employer's vessels, the Union agrees, at all times, to accept applications and immediately register for work those employees who have at least three (3) years experience in the engine rooms of the Employer's vessels, have the required license, possess a lifeboatman's certification and have been certified by the Port Engineer and a Chief Engineer of the Employer as being capable of safely taking over a watch as a licensed Engineer. Individuals who meet the above criteria and subsequently terminate their employment with the Alaska Marine Highway System, lose all rights in this subsection if such rights were gained solely as a result of Alaska Marine Highway System employment. The Employer will promptly notify the Union of such termination, and will furnish the Union a copy of the terminating Personnel Action form containing the pertinent information.

3.03 Due to geographic considerations, no Alaskan resident shall be required to physically be present in any Union hiring hall or facility in order to be eligible for dispatch to the Employer.

3.04 When called upon to do so, the Union agrees to furnish the Employer with qualified, competent and satisfactory personnel for any clas-

sification covered by this Agreement. The Employer retains the right to reject personnel referred for employment, including the right to reject a previously employed Engineer Officer for cause. Such rejection shall be subject to the grievance procedure.

3.05 In the event that the Union is not able to provide Engineer Officers on demand, the Employer may hire from other sources. The period of such hire may not exceed two (2) working weeks.

3.06 The Employer, in addition to its unrestricted right of selection of Chief and First Assistant Engineer, shall have the right to keep in continuous employment within its fleet any licensed Marine Engineer who desires to continue full-time employment with the Alaska Marine Highway System for assignment to any rating providing he or she continues to tender the dues uniformly required to maintain his or her membership in good standing in the Association. Continuous employment shall not be deemed to have been broken if the Engineer is on a mutually approved leave of absence.

3.07 It is recognized that the parties have a commitment to Affirmative Action where underutilization of individuals in particular sex and race/ethnicity categories is documented.

3.08 Preemployment physicals may be required by the Employer.

3.09 The Union agrees that all nonpublic personnel information provided to it by the Employer shall be used only for purposes related to the execution of the Agreement; and that the Union shall be responsible for the protection and security of information provided.

3.10 In the event that an Engineer Officer is denied employment or discharged for medical reasons and there is conflict between the Employer's medical doctor and the Association's medical examiner, the parties shall refer the matter to a third doctor mutually agreed upon by both parties whose decision shall be final and binding.

SPB

4497

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSSB 497
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act amending the penalty for the crime of criminal mischief."
Sponsor: Transportation Committee
Requestor: _____

Agency Affected: Department of Corrections
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This legislation should have minimal impact on the Department of Corrections.

Susan E. Knighton

Prepared by: Susan E. Knighton, Director
Division: Administrative Services

Phone: 465-3376
Date: 4-12-88

Approved by Commissioner: *Susan Humphrey Barnett*
Agency: Department of Corrections

Date: 4-12-88

Distribution (by preparer):

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

STATE OF ALASKA
1988 LEGISLATIVE SESSION

CSSB 497
BILL VERSION: (Transportation)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST: _____

APR 8 1988

Revision Date: April 8, 1988
Title: "An Act amending the penalty ...
involving theft...propelled vehicle."
Sponsor: Senate Transportation
Requestor: Senate Transportation

Agency Affected: Department of Law
BRU: Prosecution
Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director

Phone: 465-3672

Division: Administrative Services

Date: April 8, 1988

Approved by Commissioner: Richard I. Pegues / FOR / Grace Berg Schaible, Atty. Gen.

Date: April 8, 1988

Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 497 (Transportation)

The Transportation Committee substitute for SB 497 substantially revises this bill and adds a new subsection to AS 11.46 that imposes a minimum sentence for joyriding of a term of imprisonment of not less than 72 hours, a fine of not less than \$250, and restitution. These sentencing provisions will not have a fiscal impact on the Department of Law. The 72-hour minimum imprisonment term could, however, have an impact on the Department of Corrections.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act redefining the crime of motor vehicle theft ..."
Sponsor: Senate Transportation
Requestor: Senate Transportation

Agency Affected: Department of Law
BRU: Prosecution
Components: First, Second, Third and Fourth Judicial Districts

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: March 25, 1988
Approved by Commissioner: Richard I. Pegues / FOR /
Grace Berg) Schaible, Atty. Gen. Date: March 25, 1988
Agency: Department of Law

Distribution (by preparer):

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

Fiscal Note

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 497

This bill amends AS 11.46.482 and AS 11.46.484 in a manner that would raise the first-time offense of joy-riding from a class A misdemeanor to a class C felony. Because of the very brief period available to prepare this analysis, the department has not had sufficient time to thoroughly examine past case statistics to determine the exact number of offenses currently handled as misdemeanors that would require felony prosecution under this bill. Nonetheless, a conservative low number would probably be 200 such offenses a year, statewide.

This increase in felony caseload will require additional prosecutor time in preparing and presenting these cases to the grand jury. Because of the increased felony penalties, it is anticipated that the state will face a more vigorous defense also requiring additional prosecutor time. None of these increases, however, justifies staff additions at any specific locations, although the aggregate statewide increase will be equal to at least one prosecutor. In the case of juvenile offenders, juvenile court actions would require more formal proceedings and require additional prosecutor time. Moreover, a first-time juvenile offender convicted under the bill would have a felony record, although it is not uncommon for the complaining party to be the offender's parent in a complaint involving the family car.

To the extent that the department must make time available from its limited resources to prosecute first-time joy-riding offenses as felonies, the department must also exercise its discretion in directing these limited resources toward more serious crimes such as sexual and physical assault, robbery, sexual and physical abuse of minors, and homicide.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Administration
 Title: "An Act amending the penalty for the crime of criminal mischief. . ." BRU: Public Defender Agency
 Sponsor: Senate Transportation Committee Components: Third Judicial District
 Requestor: House Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	80.3	83.5	86.8	90.3	93.9
TRAVEL	0	5.0	5.2	5.4	5.6	5.8
CONTRACTUAL	0	5.0	5.2	5.4	5.6	5.8
SUPPLIES	0	1.5	1.6	1.7	1.8	1.9
EQUIPMENT	0	4.0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	95.8	95.5	99.3	103.3	107.4
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	95.8	95.5	99.3	103.3	107.4
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	95.8	95.5	99.3	103.3	107.4

POSITIONS:

FULL-TIME	0	1.0	1.0	1.0	1.0	1.0
PART-TIME	0	1.0	1.0	1.0	1.0	1.0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

(See attachment)

Prepared By: Dana Fabe, Public Defender Phone: 279-7541
 Division: Public Defender Agency Date: 4-26-88
 Approved by Commissioner: John M. Andrews Date: 4/28/88
 Agency: Department of Administration

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CS SB 497 (Transportation)

The Committee Substitute for this bill has reduced the mandatory minimum penalty for a first offense joyriding to 72 hours. Thus, the fiscal note for this bill has been reduced. However, it is still anticipated that imposition of a substantial mandatory minimum jail term for any first offense misdemeanor will result in additional trial work. A defendant who knows that he faces a sure period in jail regardless of whether he pleads guilty or goes to trial may elect to go to trial even if the chances of prevailing are slim. This comports with our experience on first offense drunk drivers. Imposition of the mandatory minimum 72 hour period has increased the number of drunk driving trials for first offenders.

Due to our anticipation that the majority of joyriding cases will occur in the Third Judicial District, comprised of Palmer, Anchorage, Kenai and Kodiak, an Attorney III and a one-half time Clerk/Typist III are requested to handle the increased workload for these cases.

CS SB 497

<u>Anchorage</u>	Attorney III	66.0	
	Clerk/Typist III $\frac{1}{2}$	14.3	
	Personal Services		80.3
	Travel (Third Judicial District)		5.0
	Contractual (Experts, Telephone, Space, etc.)		5.0
	Supplies (Office and Law Library)		1.5
	Equipment (one time)		4.0
	TOTAL		<u>95.8</u>

Position Title Clerk/Typist III		No. of Positions ;	Range/Step 8A	Barg. Unit GGU
Time Status PPT	Staff Months 6.0	Location Anchorage		Election District 92
Type of Expenditure		Amount		
1	2	3		
Salary	9,786			
Benefits	4,564			
Premium Pay				
Other				
Total Personal Services		14,350		
Travel				
Contractual				
Commodities		500		
Equipment		2,000		
Other				
Total Cost		16,850		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	16,850		
GF Program Receipts	1005			
Other				
		Justification		
		This bill would establish a 3-day minimum jail term for first offenders charged with misdemeanor joyriding. Virtually none of our joyriding cases go to trial at the present time. However, many persons with no prior criminal record who face a mandatory 3 days in jail will elect to go to trial. Jury trials are extremely time consuming in both preparation and execution. This part-time Clerk/Typist III would provide clerical and support services to the additional attorney and also assist the Palmer staff in meeting the support needs for the additional trials.		

**Request For
New Position**

Agency Dept. of Administration
 BRU Public Defender Agency
 Component Third Judicial District

FY 89

Page 3 of 4
 Revised Date: 1/22/88

Position Title Attorney III		No. of Positions 1	Range/Step 22A	Barg. Unit PX
Time Status PFT	Staff Months 12.0	Location Anchorage		Election District 92
Type of Expenditure		Justification		
1	2	3		
Salary	49,140	This bill would establish a 3-day minimum jail term for first offenders charged with misdemeanor joyriding. Virtually none of our joyriding cases go to trial at the present time. However, many persons with no prior criminal record who face a mandatory 3 days in jail will elect to go to trial. Jury trials are extremely time consuming in both preparation and execution. This additional burden will necessitate addition of an Attorney III who would cover Third Judicial District joyriding cases including Anchorage, Palmer, Kenai, Seward, Homer, Kodiak, Glennallen and smaller localities.		
Benefits	16,834			
Premium Pay				
Other				
Total Personal Services	65,974			
Travel		5,000		
Contractual		5,000		
Commodities		1,000		
Equipment		2,000		
Other				
Total Cost		78,974		
Funding Source for Total Cost				
Federal Receipts	1002			
G. R. Match	1003			
General Fund	1004	78,974		
GF Program Receipts	1005			
Other				

**Request For
New Position**

Agency Dept. of Administration
 BRU Public Defender Agency
 Component Third Judicial District

FY 89

Page 4 of 4
 Revised Date 4/22/88

STATE OF ALASKA
THE LEGISLATURE

HOUSE STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 10, 1988

SUBJECT: Draft CSSB 497 (Transportation)

TO: Senator Jack Coghill, Vice-Chair
Senate Transportation Committee

FROM: Jack Chenoweth
Legislative Counsel

The draft Committee Substitute provided Friday reduces the three page original bill to one page, chiefly by eliminating the distinction, made in the original bill, between "motor vehicles" and all other "propelled vehicles", including the related definitions that were offered for each of those terms. As revised, this legislation would apply to all propelled vehicles.

This bill keeps the distinction, found in current law, between felony joyriding (the crime of "criminal mischief in the second degree" for the first offense of joyriding in which property is damaged or reasonable expenses are incurred as a result of the loss of the use of the propelled vehicle in the amount of \$500 or more) and the misdemeanor joyriding (the crime of "criminal mischief in the third degree" for the first offense in which the damages and expenses associated with loss of the vehicle do not reach \$500.)

This committee substitute imposes a mandatory minimum sentence for the misdemeanor offense of joyriding only. Per committee instruction, the penalty incorporates the content of the penalty for first offense conviction of driving while intoxicated (AS 28.35.030(c)): imprisonment for a minimum of 72 hours; a fine of \$250; restitution for damages. The language of the DWI statute precluding suspension of imposition or execution of sentence or allowance of probation is adapted into the last sentence.

Senator Jack Coghill
Page 2
April 10, 1988

As Senator Abood has noted, though the bill draft suggests a "go to jail" approach, under AS 33.30.151 - 33.30.161 the "mandatory" sentence set out in this committee substitute may be served in a correctional restitution center.

Enclosure

JBC:bb
b4/120

Original sponsor: Transportation Committee

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 497 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the penalty for the crime of crimi-
7 nal mischief in the third degree involving the theft
8 of a propelled vehicle."

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

10 * Section 1. AS 11.46.484 is amended by adding a new subsection to
11 read:

12 (d) A person convicted under (a)(2) of this section whose con-
13 viction is not a felony under (c) of this section shall be sentenced
14 to a minimum term of imprisonment of not less than 72 hours and shall
15 pay a fine of not less than \$250 and restitution. The imposition or
16 execution of sentence may not be suspended and probation may not be
17 granted except on condition that the minimum imprisonment provided in
18 this subsection is served.
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29

5-2082L

Chenoweth
4/7/88

Original sponsor: Transportation Committee

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 497 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the penalty for the crime of crimi-
7 nal mischief in the third degree involving the theft
8 of a propelled vehicle."

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

10 * Section 1. AS 11.46.484 is amended by adding a new subsection to
11 read:

12 (d) A person convicted under (a)(2) of this section whose con-
13 viction is not a felony under (c) of this section shall be sentenced
14 to a minimum term of imprisonment of not less than 72 hours and shall
15 pay a fine of not less than \$250 and restitution.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
BUILDING ALASKA 99511
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 18, 1988

SUBJECT: Theft of motor vehicles
(Work order 5-2082 ~~X.B~~)

TO: Senator Lloyd Jones, Chair
Senate Transportation Committee
ATTN: Jim Lottsfeldt

FROM: Jack Chenoweth
Legislative Counsel

The work order specified "auto theft" and I have drafted on the assumption that "motor vehicles" is all you wanted to cover in this bill to increase penalties. As with most matters involving motor vehicles, things are generally tougher to accomplish than originally intended.

Your draft was a good attempt, and I endeavored to use it. Unfortunately, the criminal code uses the term "propelled vehicle," thereby picking up, in addition to motor vehicles, aircraft, watercraft, and a few other things. See AS 11.81.900(44). Moreover, there is no good working definition of "motor vehicle" in criminal law.

The net result is the draft enclosed. The first conviction of the theft of a motor vehicle is made a class C felony; for propelled vehicles that are not motor vehicles, the first conviction remains a class A misdemeanor, with subsequent convictions within seven years elevated to class C felonies.

I have redefined "propelled vehicle" to include "motor vehicles" and the other items specified. The definition of "motor vehicle" ties back to the definition used in the Motor Vehicle Code (AS 28).

If the draft or this memo prompts questions, please contact me.

Enclosure

JBC:gc
WKG2:61

5-2082B

Chenoweth
3/18/88

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act redefining the crime of motor vehicle theft
7 and increasing the penalty for that crime."

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

9 * Section 1. AS 11.46.482(a) is amended to read:

10 (a) A person commits the crime of criminal mischief in the
11 second degree if, having no right to do so or any reasonable ground to
12 believe the person has such a right,

13 (1) with intent to damage property of another, the person
14 damages property of another in an amount of \$500 or more;

15 (2) the person tampers with an oil or gas pipeline or
16 supporting facility or an airplane or helicopter with reckless disre-
17 gard for the risk of harm to or loss of the property;

18 (3) the person recklessly creates a risk of damage in an
19 amount exceeding \$100,000 to property of another by the use of widely
20 dangerous means; or

21 (4) the person drives, tows away, or takes

22 (A) the motor [PROPELLED] vehicle of another; or

23 (B) [AND] the propelled vehicle of another, other than
24 a motor vehicle, and the vehicle or any other property of another
25 is damaged or the owner incurs reasonable expenses as a result of
26 the loss of use of the vehicle in a total amount of \$500 or more.

27 * Sec. 2. AS 11.46.482 is amended by adding a new subsection to read:

28 (c) The court shall impose on a person convicted under (a)(4)(A)
29 of this section a fine of not less than \$200.