

S

B

2

4

8

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

Part 2 of 2 Pages

I. REQUEST

Bill/Resolution No. CS for SB 248 (SA)
 Title Equal Employment Opportunity in the Executive Branch
 Requested by Senator Fisher Date April 24, 1981

II. FISCAL DETAIL

Agency Affected All Departments and the Office of the Governor
 Program Category Affected All
 BRU, Program, or Subprogram(s) Affected All
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	-0-	565.5	610.7	659.6	712.4	769.4
200 TRAVEL	-0-	41.9	48.2	55.4	63.7	73.3
300 CONTRACTUAL	-0-	70.4	76.0	82.1	88.7	95.8
400 COMMODITIES	-0-	32.7	3.8	4.1	4.4	4.8
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	710.5	738.7	901.2	869.2	943.3

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	710.5	738.7	801.2	869.2	943.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	15	15	15	15	15
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

A. ASSUMPTION:

The fiscal detail is based on the assumption that CS SB 248 is signed into Law.

B. PROGRAM SUMMARY:

CS SB 248 Sec. 4 amends AS 44.17 to outline the EEO/AA program areas and responsibilities for the principal executive officer of each state department. Key elements include:

1. The preparing, adopting, and implementing an affirmative action plan;
2. the employing by each state department of an equal employment officer to

JH
(continued)
KH

IV. DATE April 27, 1981 PREPARED BY *QC* Kaye Hogan

AGENCY Division of Equal Employment Opportunity

Original: Legislative Finance PHONE 465-3570

cc: Budget and Management
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

Part 2 of 2 Parts

CS for SB 248 (continued)

superwise the development and implementation of the department's Affirmative Action program.

CS SB 248 will necessitate the addition of at least one equal employment officer in fourteen of the fifteen executive branch agencies. Funding for the program will be general funds and will be allocated as follows:

AGENCY	POSITION TITLE	100 PERSONNEL SVC.	200 TRAVEL	300 CONTRACTUAL	400 COMMODITIES	TOTAL
Governor's Off.	EEO II	35,317	1,951	4,550	2,178	43,996
Administration	EEO III	40,425	3,749	4,850	2,178	51,202
Law	EEO II	35,317	1,951	4,550	2,178	43,996
Revenue	EEO III	40,425	3,749	4,850	2,178	51,202
Education	EEO II	35,317	1,951	4,550	2,178	43,996
Health & Social Services	EEO III	40,425	3,749	4,850	2,178	51,202
Health & Social Services	EEO II	35,317	1,951	4,550	2,178	43,996
Labor	EEO III	40,425	3,749	4,850	2,178	51,202
Commerce & Economic Dev.	EEO II	35,317	1,951	4,550	2,178	43,996
Military Affairs	EEO II	35,317	1,951	4,550	2,178	43,996
Natural Resources	EEO III	40,425	3,749	4,850	2,178	51,202
Fish & Game	EEO III	40,425	3,749	4,850	2,178	51,202
Public Safety	EEO III	40,425	3,749	4,850	2,178	51,202
Environmental Conservation	EEO II	35,317	1,951	4,550	2,178	43,996
Community & Regional Affairs	EEO II	35,317	1,951	4,550	2,178	43,996
TOTALS		565,511	41,851	70,350	32,670	710,382

The travel funds are necessary for the equal employment officers to implement program activities in their agencies statewide. Contractual services include telephones, printing, office space, etc. Commodities are for desk top supplies such as pencils, pens, paper, etc. and major office items under \$500.00 such as desks, chairs, calculators, bookcases, etc.

C. COMPUTATIONS:

This fiscal note was prepared by line item - no formula was used.

1	POSITION TITLE Equal Employment Officer III (7 positions)			RANGE/STEP 18-A	BARG. UNIT. K	LOCATION Juneau	GOV	APPROV	DISAPP
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 4	FORM 12	PAGE/LINE	LEG	
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:			
	1	2	3						
4	PERSONAL SERVICES: SALARY	\$2,640	\$31,680						
5	BENEFITS	15.79%	5,003						
6	FICA	6.13%	1,942						
7	HEALTH INS.	\$ 150/mo	1,800						
8	TOTAL PERSONAL SERVICES	01	\$40,425						
9	TRAVEL	02	3,749						
10	CONTRACTUAL	03	4,850						
11	COMMODITIES	04	2,178						
12	EQUIPMENT	05							
13	OTHER								
14	TOTAL COST		\$51,202						
	CODE	FUNDING SOURCE							
15		FED RCPTS 1002							
16		GF MATCH 1003							
17		GEN. FUND 1004		\$51,202					
18		I-A RCPTS 1005							
19		PGM RCPTS 1028							
20		OTHER							
21	CONTINUATION								
22	ADDITION	XXX	FOR BEM USE ONLY						
4A KEY NUMBER _____ COLUMN NO. _____									

This position is necessary to supervise the development and implementation of the Department Affirmative Action Plan and Program. Duties will include:

1. Preparation and implementation of the affirmative action plan and program which identifies problems, establishes goals and time tables and sets forth remedies;
2. monitoring the agencies program to ensure that actions are implemented to correct or eliminate discriminatory practices and conditions; and,
3. preparing reports, statistical analysis, and evaluating program progress.

NOTE: See page 2 of part 2 for allocation of this class to specific agencies.

AGENCY Department of Revenue PROGRAM ALL

BRU ALL

COMPONENT ALL

13 REQUEST FOR NEW POSITION.

1	POSITION TITLE Equal Employment Officer II (8 positions)			RANGE/STEP 16-A	BARG. UNIT. K	LOCATION Juneau	GOV	APPROV	DISAPP					
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12 PAGE/LINE	LEG.							
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:								
	1	2	3											
4	PERSONAL SERVICES: SALARY \$2,291		\$27,492		<p>This position is necessary to supervise the development and implementation of the Department Affirmative Action Plan and Program. Duties will include:</p> <ol style="list-style-type: none"> 1. Preparation and implementation of the affirmative action plan and program which identifies problems, establishes goals and time tables and sets forth remedies; 2. monitoring the agencies' to ensure that actions are implemented to correct or eliminate discriminatory practices and conditions; and, 3. preparing reports, statistical analysis, and evaluating program progress. <p>NOTE: See page 2 of part 2 for allocation of this class to specific agencies.</p>									
5	BENEFITS 15.79%		4,340											
6	FICA 6.13%		1,685											
7	HEALTH INS. \$ 150/mo.		1,800											
8	TOTAL PERSONAL SERVICES		01	\$35,317										
9	TRAVEL		02	1,951										
10	CONTRACTUAL		03	4,550										
11	COMMODITIES		04	2,178										
12	EQUIPMENT		05											
13	OTHER													
14	TOTAL COST			\$43,996										
15	CODE	FUNDING SOURCE												
16		FED RCPTS. 1002												
17		GF MATCH. 1003												
18		GEN. FUND 1004			\$43,996									
19		I-A RCPTS. 1005												
20		PGM RCPTS 1028												
21		OTHER												
21	CONTINUATION		FOR B&M USE ONLY											
22	ADDITION	XXX												
4A KEY NUMBER _____ COLUMN NO. _____														

AGENCY Office of the Governor PROGRAM ALL

BRU ALL

COMPONENT ALL

13 REQUEST FOR NEW POSITION.

FY 82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE
Part 1 of 2 Parts

I. REQUEST

Bill/Resolution No. CS for SB 248 (SA)
 Title Equal Employment Opportunity in the Executive Branch
 Requested by Senator Fisher Date April 24, 1981

II. FISCAL DETAIL

Agency Affected Department of Administration
 Program Category Affected Labor Services / General Government
 BRU, Program, or Subprogram(s) Affected Equal Employment Opportunity / Admin. Serv. WP-AS
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	-0-	295.9	319.6	345.2	372.8	402.6
200 TRAVEL	-0-	29.2	33.6	38.6	44.4	51.1
300 CONTRACTUAL	-0-	38.1	41.1	44.4	48.0	51.8
400 COMMODITIES	-0-	16.2	2.2	2.4	2.6	2.8
500 EQUIPMENT	-0-	10.8	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	390.2	396.5	430.6	467.8	508.3

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	-0-	390.2	396.5	430.6	467.8	508.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	-0-	8	8	8	8	8
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

A. ASSUMPTIONS:

The fiscal detail is based on the assumption that CS SB 248 is signed into law.

B. PROGRAM SUMMARY:

SB 248 outlines program areas for the Division of Equal Employment Opportunity. Key elements include:

- Administration of the Equal Employment Opportunity and Affirmative Action programs in the executive branch of Alaska state government;
- Development and implementation of standards and procedures for agency affirmative action plans and programs;

(continued)

IV. DATE April 27, 1981 PREPARED BY Kaye Hogan
 AGENCY Division of Equal Employment Opportunity
 PHONE 465-3572
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

Part 1 of 2 Parts

CS for SB 248 (continued)

3. Develop procedures to identify and eliminate discriminatory selection and promotion practices and artificial practices not justified by business necessity, and develop and implement procedures to determine and resolve issues related to affirmative action plans;
4. Review and monitoring of affirmative action plans, programs, and employment system practices for compliance with equal employment opportunity laws and regulations;
5. Provide training in anti-discrimination laws and regulations to managers, supervisors, and employees; and,
6. Prepare annual affirmative action plan and report.

SB 248 will necessitate the addition of the following eight (8) positions:

- | | |
|---|------------------------------------|
| 1. Three Equal Employment Officer III's | 3. One Training Specialist |
| 2. Three Equal Employment Officer II's | 4. One Correspondence Secretary II |

Funds for travel will be necessary for technical assistance to departments and to provide training in locations where a majority of state employees are located. Contractual services include telephone, printing, office space, etc. Commodities include small desk top items such as pencils, pens, paper, etc. and major items under \$500.00 such as desks, chairs, calculators, bookcases, tables, etc.

Funding for the program will be general fund and will be allocated as follows:

<u>EXPENDITURES</u>	<u>EEO</u>	<u>ADMIN. SERVICES</u>
100	270.5	25.4
200	29.2	0
300	34.1	4.0
400	15.2	1.0
500	0	10.8
TOTAL	349.0	41.2

C. COMPUTATIONS:

This fiscal note was prepared by line item - no formula was used.

1	POSITION TITLE Equal Employment Officer III			RANGE/STEP 18-A	BARG. UNIT. K	LOCATION Juneau	GOV	APPROV	DISAPP
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12 PAGE/LINE	LEG		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY	\$2,640	\$31,680
5	BENEFITS	15.79%	5,003
6	FICA	6.13%	1,942
7	HEALTH INS.	\$ 150/mo	1,800
8	TOTAL PERSONAL SERVICES	01	\$40,425
9	TRAVEL	02	3,749
10	CONTRACTUAL	03	4,850
11	COMMODITIES	04	2,178
12	EQUIPMENT	05	
13	OTHER		
14	TOTAL COST		\$51,202

JUSTIFICATION:

This position is necessary to supervise the development and implementation of the Department Affirmative Action Plan and Program. Duties will include:

1. Preparation and implementation of the affirmative action plan and program which identifies problems, establishes goals and time tables and sets forth remedies;
2. monitoring the agencies program to ensure that actions are implemented to correct or eliminate discriminatory practices and conditions; and,
3. preparing reports, statistical analysis, and evaluating program progress.

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	\$51,202
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	

21	CONTINUATION		FOR B&M USE ONLY
22	ADDITION	XXX	

AA KEY NUMBER _____ COLUMN NO. _____

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

13 REQUEST FOR NEW POSITION.

Page 1 of 8

REVISED DATE _____

FY 82

1	POSITION TITLE Equal Employment Officer III			RANGE/STEP 18-A	BARG. UNIT. K	LOCATION Juneau	GOV	APPROV	DISAPP
2	TYPE OF POSITION PFT	STAFF MONTHS. 12	RP No.	PCN No.	PRIORITY 2	FORM 12 PAGE/LINE	LEG		
3	TYPE OF EXPENDITURE		AMOUNT		JUSTIFICATION: This position is necessary to supervise the development and implementation of the Department Affirmative Action Plan and Program. Duties will include: <ol style="list-style-type: none"> 1. Preparation and implementation of the affirmative action plan and program which identifies problems, establishes goals and time tables and sets forth remedies; 2. monitoring the agencies program to ensure that actions are implemented to correct or eliminate discriminatory practices and conditions; and, 3. preparing reports, statistical analysis, and evaluating program progress. 				
	1	2	3						
4	PERSONAL SERVICES: SALARY	\$2,640	\$31,680						
5	BENEFITS	15.79%	5,003						
6	FICA	6.13%	1,942						
7	HEALTH INS.	\$ 150/mo	1,800						
8	TOTAL PERSONAL SERVICES	01	\$40,425						
9	TRAVEL	02	3,749						
10	CONTRACTUAL	03	4,850						
11	COMMODITIES	04	2,178						
12	EQUIPMENT	05							
13	OTHER								
14	TOTAL COST		\$51,202						
	CODE	FUNDING SOURCE							
15		FED RCPTS.	1002						
16		GF MATCH.	1003						
17		GEN. FUND	1004	\$51,202					
18		I-A RCPTS.	1005						
19		PGM RCPTS	1028						
20		OTHER							
21	CONTINUATION								
22	ADDITIC N	XXX	FOR B&M USE ONLY						
4A. KEY NUMBER				COLUMN NO.					

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

13 REQUEST FOR NEW POSITION.

Page 2 of 8

REVISED DATE _____

FY 82

1	POSITION TITLE Equal Employment Officer III			RANGE/STEP 18-A	BAP3. UNIT. K	LOCATION Anchorage	GOV	APPROV	DISAPP
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 3	FORM 12	PAGE/LINE	LEG	
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:			
	1	2	3						
4	PERSONAL SERVICES: SALARY	\$2,640	\$31,680						
5	BENEFITS	15.79%	5,003						
6	FICA	6.13%	1,942						
7	HEALTH INS.	\$ 150/mo	1,800						
8	TOTAL PERSONAL SERVICES	01	\$40,425						
9	TRAVEL	02	3,749						
10	CONTRACTUAL	03	4,850						
11	COMMODITIES	04	2,178						
12	EQUIPMENT	05							
13	OTHER								
14	TOTAL COST		\$51,202						
	CODE	FUNDING SOURCE							
15		FED RCPTS.	1002						
16		GF MATCH.	1003						
17		GEN. FUND	1004	\$51,202					
18		I-A RCPTS.	1005						
19		PGM RCPTS	1028						
20		OTHER							
21	CONTINUATION								
22	ADDITION	XXX		FOR B&M USE ONLY					
4A KEY NUMBER				COLUMN NO.					

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

13 REQUEST FOR NEW POSITION.

Page 3 of 8

REVISED DATE _____

FY 82

1	POSITION TITLE Equal Employment Officer II	RANGE/STEP 16-A	BARG. UNIT. K	LOCATION Juneau	GOV	APPROV	DIBAPP				
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 4	FORM 12	PAGE/LINE				
3	TYPE OF EXPENDITURE	AMOUNT		JUSTIFICATION:							
	1	2	3								
4	PERSONAL SERVICES: SALARY	\$2,291	\$27,492	<p>This position is necessary to supervise the development and implementation of the Department Affirmative Action Plan and Program. Duties will include:</p> <ol style="list-style-type: none"> 1. Preparation and implementation of the affirmative action plan and program which identifies problems, establishes goals and time tables and sets forth remedies; 2. monitoring the agencies' to ensure that actions are implemented to correct or eliminate discriminatory practices and conditions; and, 3. preparing reports, statistical analysis, and evaluating program progress. 							
5	BENEFITS	15.79%	4,340								
6	FICA	6.13%	1,685								
7	HEALTH INS.	\$ 150/mo.	1,800								
8	TOTAL PERSONAL SERVICES	01	\$35,317								
9	TRAVEL	02	1,951								
10	CONTRACTUAL	03	4,550								
11	COMMODITIES	04	2,178								
12	EQUIPMENT	05									
13	OTHER										
14	TOTAL COST		\$43,996								
	CODE	FUNDING SOURCE									
15		FED RCPTS. 1002									
16		GF MATCH. 1003									
17		GEN. FUND 1004		\$43,996							
18		I-A RCPTS. 1005									
19		PGM RCPTS 1028									
20		OTHER									
21	CONTINUATION			FOR B&M USE ONLY							
22	ADDITION	XXX									
4A	BY NUMBER	COLUMN NO.									

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

13 REQUEST FOR NEW
POSITION.

Page 4 of 8

REVISED
DATE _____

FY 82

1	POSITION TITLE Equal Employment Officer II			RANGE/STEP 16-A	BARG. UNIT. K	LOCATION Juneau	GOV	APPROV	DISAPP					
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 5	FORM 12	PAGE/LINE	LEG						
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:								
	1	2	3											
4	PERSONAL SERVICES:				<p>This position is necessary to supervise the development and implementation of the Department Affirmative Action Plan and Program. Duties will include:</p> <ol style="list-style-type: none"> 1. Preparation and implementation of the affirmative action plan and program which identifies problems, establishes goals and time tables and sets forth remedies; 2. monitoring the agencies' to ensure that actions are implemented to correct or eliminate discriminatory practices and conditions; and, 3. preparing reports, statistical analysis, and evaluating program progress. 									
5	SALARY	\$2,291	\$27,492											
6	BENEFITS	15.79%	4,340											
7	FICA	6.13%	1,685											
8	HEALTH INS.	\$ 150/mo.	1,800											
9	TOTAL PERSONAL SERVICES	01	\$35,317											
10	TRAVEL	02	1,951											
11	CONTRACTUAL	03	4,550											
12	COMMODITIES	04	2,178											
13	EQUIPMENT	05												
14	OTHER													
15	TOTAL COST		\$43,996											
15	CODE	FUNDING SOURCE												
16		FED RCPTS. 1002												
17		GF MATCH. 1003												
18		GEN. FUND 1004		\$43,996										
19		I-A RCPTS. 1005												
20		PGM RCPTS 1028												
21		OTHER												
21	CONTINUATION		FOR B&M USE ONLY											
22	ADDITION	XXX												
7A KEY NUMBER _____ COLUMN NO. _____														

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

13 REQUEST FOR NEW POSITION.

FY 82

1	POSITION TITLE Equal Employment Officer II				RANGE/STEP 16-A	BARG. UNIT. K	LOCATION Anchorage	GOV	APPROV	DISAPP						
2	TYPE OF POSITION PFT	STAFF MONTHS. 12	RP No.	PCN No.	PRIORITY 6	FORM 12	PAGE/LINE	LRG								
3	TYPE OF EXPENDITURE				AMOUNT		JUSTIFICATION:									
	1	2	3													
4	PERSONAL SERVICES:				<p>This position is necessary to supervise the development and implementation of the Department Affirmative Action Plan and Program. Duties will include:</p> <ol style="list-style-type: none"> 1. Preparation and implementation of the affirmative action plan and program which identifies problems, establishes goals and time tables and sets forth remedies; 2. monitoring the agencies' to ensure that actions are implemented to correct or eliminate discriminatory practices and conditions; and, 3. preparing reports, statistical analysis, and evaluating program progress. 											
	SALARY	\$2,291		\$27,492												
5	BENEFITS	15.79%		4,340												
6	FICA	6.13%		1,685												
7	HEALTH INS.	\$ 150/mo.		1,800												
8	TOTAL PERSONAL SERVICES		01	\$35,317												
9	TRAVEL		02	1,951												
10	CONTRACTUAL		03	4,550												
11	COMMODITIES		04	2,178												
12	EQUIPMENT		05													
13	OTHER															
14	TOTAL COST			\$43,996												
	CODE	FUNDING SOURCE														
15		FED RCPTS. 1002														
16		GF MATCH. 1003														
17		GEN. FUND 1004		\$43,996												
18		I-A RCPTS. 1005														
19		PGM RCPTS 1028														
20		OTHER														
21	CONTINUATION				FOR B&M USE ONLY											
22	ADDITION	XXX														
4A KEY NUMBER				COLUMN NO.												

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

13 REQUEST FOR NEW POSITION.

Page 6 of 8

REVISED DATE _____

FY 82

1	POSITION TITLE Training Specialist				RANGE/STEP 19-A	BARG. UNIT. K	LOCATION Juneau	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONT. IS 12	RP No.	PCIN No.	PRIORITY 7	FORM 12	PAGE/LINE	LEG.		
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION: Passage of SB 248 Sec. 39.28.020(7) will require the addition of 1 Training Specialist position. The Training Specialist will have the responsibility for: <ol style="list-style-type: none"> 1. Accessing the training needs of departments of the Executive Branch; 2. Developing and preparing seminars, workshops, bulletins, pamphlets, etc. to address the training needs identified through accessments or requests from departments; 3. Instruct/facilitate and coordinate training; and, 4. Follow-up on training to assure that it is effective. 				
	1	2	3							
4	PERSONAL SERVICES:									
	SALARY	\$2,837	\$34,044							
5	BENEFITS	15.79%	5,376							
6	FICA	6.13%	2,087							
7	HEALTH INS.	\$ 150/mo.	1,800							
8	TOTAL PERSONAL SERVICES	01	\$43,307							
9	TRAVEL	02	12,137							
10	CONTRACTUAL	03	5,850							
11	COMMODITIES	04	2,178							
12	EQUIPMENT	05								
13	OTHER									
14	TOTAL COST		\$63,472							
	CODE	FUNDING SOURCE								
15		FED RCPTS.	1002							
16		GF MATCH.	1003							
17		GEN. FUND	1004	\$63,472						
18		I-A RCPTS.	1005							
19		PGM RCPTS	1028							
20		OTHER								
21	CONTINUATION		FOR B&M USE ONLY							
22	ADDITION	X								
4A	KEY NUMBER	COLUMN NO.								

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

13 REQUEST FOR NEW POSITION.

Page 7 of 8

REVISED DATE _____

FY 82

1	POSITION TITLE Correspondence Secretary II			RANGE/STEP 10-B	BARG. UNIT. G	LOCATION Juneau	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 8	FORM 12	PAGE/LINE	LEG.	

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES:		
	SALARY	\$1,613	\$19,356
5	BENEFITS	15.79%	3,056
6	FICA	6.13%	1,187
7	HEALTH INS.	\$ 150/mo	1,800
8	TOTAL PERSONAL SERVICES	01	\$25,399
9	TRAVEL	02	
10	CONTRACTUAL	03	4,000
11	COMMODITIES	04	1,000
12	EQUIPMENT	05	10,800
13	OTHER		
14	TOTAL COST		\$41,199

JUSTIFICATION:

This position will be necessary to provide typing support for EEO Division staffing increase.

The position will type documents, reports, plans, letters, memos, etc. on sophisticated word processing equipment.

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	\$41,199
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	

21 CONTINUATION

22 ADDITION **FOR B&M USE ONLY**

4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Administrative Services

COMPONENT WP/AS

13 REQUEST FOR NEW POSITION.

FY 82

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SB 248
 Title An Act relating to equal employment opportunity in the executive branch.
 Requested by Senator Fischer Date March 20, 1981

II. FISCAL DETAIL
 Agency Affected Department of Administration
 Program Category Affected General Government
 BRU, Program, or Subprogram(s) Affected Equal Employment Opportunity/Admin. Svcs: WP-AS
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	255.5	275.9	298.0	321.8	347.5
200 TRAVEL	0	22.0	24.6	27.6	30.9	34.6
300 CONTRACTUAL	0	62.5	67.5	72.9	78.7	85.0
400 COMMODITIES	0	11.1	2.3	2.5	2.7	2.9
500 EQUIPMENT	0	10.8	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	361.9	370.3	401.0	434.1	470.0

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	0	361.9	370.3	401.0	434.1	470.0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	0	7	7	7	7	7
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

A. ASSUMPTIONS:

The fiscal detail is based on the assumption that SB 248 is signed into law.

B. PROGRAM SUMMARY:

SB 248 outlines program areas for the Division of Equal Employment. Key elements include:

- Administration of the Equal Employment Opportunity and Affirmative Action programs in the executive branch of Alaska state government;
- Development and implementation of standards and procedures for agency affirmative action plans and programs;

(continued on next page)

IV. DATE March 20, 1981 PREPARED BY Kave Hogan
 AGENCY Division of Equal Employment Opportunity
 PHONE 465-3571

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) Senator Ferguson
 Keith Specking
 33-001 (Rev. 12/80)

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

SB 248 (continued)

3. Review and monitoring of affirmative action plans, programs, and employment system practices for compliance with equal employment opportunity laws and regulations;
4. Enforcement of equal employment opportunity and affirmative action; and,
5. Provide training in anti-discrimination laws and regulations to managers, supervisors, and employees.

SB 248 will necessitate the addition of the following seven (7) positions:

1. Three Equal Employment Officer II's
2. Two Investigator III's
3. One Training Specialist
4. One Correspondence Secretary II

Funds for travel will be necessary for investigations and to provide training in locations where a majority of state employees are located. Contractual services include telephone, printing, office space, etc. Commodities include small desk top items such as pencils, pens, paper, etc. and major items under \$500.00 such as desks, chairs, calculators, bookcases, tables, etc.

Funding for the program will be general fund and will be allocated as follows:

<u>EXPENDITURES</u>	<u>EEO</u>	<u>ADMIN. SERVICES</u>
100	230.1	25.4
200	22.0	0
300	58.5	4.0
400	10.1	1.0
500	0	10.8
TOTAL	320.7	41.2

C. COMPUTATIONS:

This fiscal note was prepared by line item - no formula was used.

1	POSITION TITLE Equal Employment Officer II			RANGE/STEP 16 A	BARG. UNIT. Confid.	LOCATION Juneau	GOV.	APPROV.	DISAPP.						
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 1	FORM 12 PAGE/LINE	LEG.								
3	TYPE OF EXPENDITURE			JUSTIFICATION:											
	1	2	3												
4	PERSONAL SERVICES:			<p>These 3 positions will be necessary to implement the department affirmative action plan and program provisions of SB 248.</p> <p>Each of these positions will have the responsibility for 3 executive branch agencies. Their duties will include but not be limited to:</p> <ol style="list-style-type: none"> Providing technical assistance to the agencies in preparation and implementation of affirmative action plans and programs which identify problems, establish goals and time tables, and set forth remedies; Monitor agency programs to ensure that actions are implemented in order that all personnel practices, terms and conditions are non-discriminatory; Assist agencies in evaluating their programs and plans and monitor work force statistics. 											
5	SALARY	2291	27,492												
6	BENEFITS	.1579	4340												
7	FICA	.0613	1685												
8	HEALTH INS.	150/mo.	1800												
9	TOTAL PERSONAL SERVICES	01	35,317												
10	TRAVEL	02	795												
11	CONTRACTUAL	03	4,333												
12	COMMODITIES	04	1,598												
13	EQUIPMENT	05													
14	OTHER														
15	TOTAL COST		42,043												
15	CODE	FUNDING SOURCE													
16		FED RCPTS. 1002													
17		GF MATCH. 1003													
18		GEN. FUND 1004		42,043											
19		I-A RCPTS. 1005													
20		PGM RCPTS 1006													
21		OTHER													
21	CONTINUATION		FOR B&M USE ONLY												
22	ADDITION	X													
4A KEY NUMBER _____ COLUMN NO. _____															

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

13 REQUEST FOR NEW POSITION.

FY 82

1	POSITION TITLE Equal Employment Officer II				RANGE/STEP 16 A	BARG. UNIT. Confid.	LOCATION Juneau	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 2	FORM 12	PAGE/LINE	LEG.		
3	TYPE OF EXPENDITURE			AMOUNT	JUSTIFICATION: These 3 positions will be necessary to implement the department affirmative action plan and program provisions of SB 248. Each of these positions will have the responsibility for 3 executive branch agencies. Their duties will include but not be limited to: 1. Providing technical assistance to the agencies in preparation and implementation of affirmative action plans and programs which identify problems, establish goals and time tables, and set forth remedies; 2. Monitor agency programs to ensure that actions are implemented in order that all personnel practices, terms and conditions are non-discriminatory; 3. Assist agencies in evaluating their programs and plans and monitor work force statistics.					
	1	2	3							
4	PERSONAL SERVICES:									
	SALARY	2291	27,492							
5	BENEFITS	.1579	4,340							
6	FICA	.0613	1,685							
7	HEALTH INS.	150/mo.	1,800							
8	TOTAL PERSONAL SERVICES		35,317							
9	TRAVEL		795							
10	CONTRACTUAL		4,333							
11	COMMODITIES		1,598							
12	EQUIPMENT									
13	OTHER									
14	TOTAL COST		42,043							
	CODE	FUNDING SOURCE								
15		FED RCPTS. 1002								
16		GF MATCH. 1003								
17		GEN. FUND 1004		42,043						
18		I-A RCPTS. 1005								
19		PGM RCPTS 1006								
20		OTHER								
21	CONTINUATION									
22	ADDITION	X		FOR B&M USE ONLY						
4A	KEY NUMBER		COLUMN NO.							

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

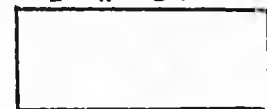
COMPONENT Equal Employment Opportunity

Page 2 of 6

REVISED DATE _____

13 REQUEST FOR NEW POSITION.

FY 82



1	POSITION TITLE Equal Employment Officer II			RANGE/STEP 16 A	BARG. UNIT. Confid.	LOCATION Juneau	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS.	RP No.	PCN No.	PRIORITY 3	FORM 12 PAGE/LINE	LEG.		
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:			
	1	2	3						
4	PERSONAL SERVICES:								
	SALARY	2291	27,492						
5	BENEFITS	.1579	4,340						
6	FICA	.0613	1,685						
7	HEALTH INS.	150/mo.	1,800						
8	TOTAL PERSONAL SERVICES	01	35,317						
9	TRAVEL	02	795						
10	CONTRACTUAL	03	4,333						
11	COMMODITIES	04	1,598						
12	EQUIPMENT	05							
13	OTHER								
14	TOTAL COST		42,043						
	CODE	FUNDING SOURCE							
15		FED RCPTS. 1002							
16		GF MATCH. 1003							
17		GEN. FUND 1001		42,043					
18		I-A RCPTS. 1005							
19		PGM RCPTS 1002							
20		OTHER							
21	CONTINUATION								
22	ADDITION	X		FOR B&M USE ONLY					
4A	KEY NUMBER			COLUMN NO.					

These 3 positions will be necessary to implement the department affirmative action plan and program provisions of SB 248.

Each of these positions will have the responsibility for 3 executive branch agencies. Their duties will include but not be limited to:

1. Providing technical assistance to the agencies in preparation and implementation of affirmative action plans and programs which identify problems, establish goals and time tables, and set forth remedies;
2. Monitor agency programs to ensure that actions are implemented in order that all personnel practices, terms and conditions are non-discriminatory;
3. Assist agencies in evaluating their programs and plans and monitor work force statistics.

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

13 REQUEST FOR NEW
POSITION.

1	POSITION TITLE Investigator III			RANGE/STEP 18 A	BARG. UNIT. Confid.	LOCATION Juneau	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS	RP No.	PCN No.	PRIORITY 4	FORM 12 PAGE/LINE	LEG.		
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:			
	1	2	3						
4	PERSONAL SERVICES:								
	SALARY	2640	31,680						
5	BENEFITS	.1579	5.003						
6	FICA	.0613	1,942						
7	HEALTH INS.	150/mo.	1,800						
8	TOTAL PERSONAL SERVICES	01	40,425						
9	TRAVEL	02	3,749						
10	CONTRACTUAL	02	4,833						
11	COMMODITIES	04	1,862						
12	EQUIPMENT	05							
13	OTHER								
14	TOTAL COST		50,869						
	CODE	FUNDING SOURCE							
15		FED RCPTS. 1002							
16		GF MATCH. 1003							
17		GEN. FUND 1001		50,869					
18		I-A RCPTS. 1005							
19		PGM RCPTS 1002							
20		OTHER							
21	CONTINUATION								
22	ADDITION	XX	FOR E&M USE ONLY						
AA KEY NUMBER				COLUMN NO.					

Sec. 39.28.020(6) which gives the Division of Equal Employment Opportunity enforcement powers will require the addition of 2 investigator positions. These positions will:

1. Investigate charges alleging violations of affirmative action standards and procedures;
2. Collect and prepare evidence for the legal enforcement of affirmative action standards and procedures;
3. Interview and take statements from those alleging non-compliance and witnesses;
4. Analyze and evaluate evidence and assist legal counsel with complex or unusual problems relating to investigation and substantiation of the charge;
5. Appear as an expert witness for the prosecution in legal proceedings.

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

FY 82

13 REQUEST FOR NEW POSITION.



1	POSITION TITLE Investigator III			RANGE/STEP 18 A	BARG. UNIT. Confid.	LOCATION Juneau	GOV	APPROV.	DISAPP.						
2	TYPE OF POSITION PFT	STAFF MONTHS	RP No.	PCN No.	PRIORITY 5	FORM 12 PAGE/LINE	LEG.								
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:									
	1	2	3												
4	PERSONAL SERVICES:			<p>Sec. 39.28.020(5) which gives the Division of Equal Employment Opportunity enforcement powers will require the addition of 2 investigator positions. These positions will:</p> <ol style="list-style-type: none"> 1. Investigate charges alleging violations of affirmative action standards and procedures; 2. Collect and prepare evidence for the legal enforcement of affirmative action standards and procedures; 3. Interview and take statements from those alleging non-compliance and witnesses; 4. Analyze and evaluate evidence and assist legal counsel with complex or unusual problems relating to investigation and substantiation of the charge; 5. Appear as an expert witness for the prosecution in legal proceedings. 											
5	SALARY	2640	31,680												
6	BENEFITS	.1579	5,003												
7	FICA	.0613	1,942												
8	HEALTH INS.	150/mo.	1,800												
9	TOTAL PERSONAL SERVICES		40,425												
10	TRAVEL		3,749												
11	CONTRACTUAL		4,833												
12	COMMODITIES		1,862												
13	EQUIPMENT														
14	OTHER														
15	TOTAL COST		50,869												
16	CODE	FUNDING SOURCE													
17		FED RCPTS. 1001													
18		GF MATCH. 1002													
19		GEN. FUND 1003		50,869											
20		I-A RCPTS. 1004													
21		PGM RCPTS 1005													
22		OTHER													
21	CONTINUATION			FOR B&M USE ONLY											
22	ADDITION	X													
7A	KEY NUMBER	COLUMN NO.													

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

13 REQUEST FOR NEW POSITION.

Page 5 of 6

REVISED DATE _____

FY 82

1	POSITION TITLE Training Specialist			RANGE/STEP 19 A	BARG. UNIT. Confid.	LOCATION Juneau	GOV	APPROV	DISAPP
2	TYPE OF POSITION PFT	STAFF MONTHS	RP No.	PCN No.	PRIORITY 6	FORM 12 PAGE/LINE	LEG		
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:			
	1		2		3				
4	PERSONAL SERVICES:					<p>Passage of SB 248 Sec. 39.28.020.(7) will require the addition of 1 Training Specialist position. The Training Specialist will have the responsibility for:</p> <ol style="list-style-type: none"> 1. Accessing the training needs of departments of the Executive Branch; 2. Developing and preparing seminars, workshops, bulletins, pamphlets, etc. to address the training needs identified through assessments or requests from departments; 3. Instruct/facilitate and coordinate training; 4. Follow-up on training to assure that it is effective. 			
5	SALARY	2837	34,044						
6	BENEFITS	.1579	5,376						
7	FICA	.0613	2,087						
8	HEALTH INS.	150/mo.	1,800						
9	TOTAL PERSONAL SERVICES	01	43,307						
10	TRAVEL	02	12,137						
11	CONTRACTUAL	03	5,835						
12	COMMODITIES	04	1,598						
13	EQUIPMENT	05							
14	OTHER								
15	TOTAL COST		62,877						
15	CODE	FUNDING SOURCE							
16		FED RCPTS. 1002							
17		GF MATCH. 1000							
18		GEN. FUND 1001		62,877					
19		I-A RCPTS 1003							
20		PGM RCPTS 1004							
21		OTHER							
21	CONTINUATION								
22	ADDITION	X	FOR B&M USE ONLY						
AA KEY NUMBER		COLUMN NO.							

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

FY 82

13 REQUEST FOR NEW POSITION.

Page 6 of 6

REVISED DATE _____



1	POSITION TITLE Correspondence Secretary II	RANGE/STEP 10B	BARG. UNIT. G	LOCATION Juneau	GOV	APPROV	DI. APT
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY 7	FORM 12	PAGE/LINE

TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES:		
SALARY	1,613	19,356
BENEFITS	1572	3,056
FICA	.0613	1,187
HEALTH INS.	150/mo.	1,800
TOTAL PERSONAL SERVICES	01	25,399
TRAVEL	02	-0-
CONTRACTUAL	03	4,000
COMMODITIES	04	1,000
EQUIPMENT	05	10,800
OTHER		
TOTAL COST		41,199

JUSTIFICATION:

This position will be necessary to provide typing support for EEO Division staffing increase.

The position will type documents, reports, plans, letters, memos, etc. on sophisticated word processing equipment.

CODE	FUNDING SOURCE	
15	FED RCPTS. 1002	
16	GF MATCH. 1003	
17	GEN. FUND 1004	41,199
18	I-A RCPTS. 1005	
19	PGM RCPTS 1028	
20	OTHER	

21	CONTINUATION		FOR B&M USE ONLY
22	ADDITION	X	

4A. KEY NUMBER _____ COLUMN NO. _____

AGENCY Administration PROGRAM Labor Services

BRU Equal Employment Opportunity

COMPONENT Equal Employment Opportunity

13 REQUEST FOR NEW POSITION.

FY 82

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

PETER C. ROBERTSON
3829 N. WOODROW STREET
ARLINGTON, VA 22207
(703) KEG-9287

SB 248

TO: Niel Thomas
Executive Director
Human Rights Commission

DATE: March 19, 1981

FILE NO:

TELEPHONE NO:

FROM: Peter C. Robertson

SUBJECT: Program of Affirmative
Action in Alaska State
Government Employment

INTRODUCTORY:

At your request, and pursuant to contract number ASCHR-PS-21, I attended a meeting of the Alaskan State Commission for Human Rights in Anchorage, Alaska on Friday, January 16, 1981 together with members of the agency Senior Staff, Attorney General Wilson Condon, and Assistant Attorney General Carolyn Jones. Among the issues discussed was the nature and extent of potential employment discrimination in Alaska State government and the appropriate role of the Human Rights Commission in working with other government agencies and officials to deal with that discrimination.

As I perceived it, the goal of all those present was to find a responsible way to identify potential systemic discrimination in State government employment and to develop a program for the elimination of such potential discrimination voluntarily rather than through an enforcement mechanism involving either the action of the Alaskan Human Rights Commission under State law or potential law suits by private parties and/or the Federal government. At the conclusion of the meeting you asked that I prepare a memo outlining my thoughts on the discussion and possible ideas for a program to implement these goals. The material outlined below responds to that request. It should not be read as a rigid specific action plan but rather as a list of my thoughts concerning the potential elements that might be in such a plan together with some background material that leads me to those thoughts.

Before presenting my outline there is one overriding thought I wish to express. I was consistently impressed throughout my entire visit with the ability and high-level of commitment of all of the Alaska State officials with whom I had the pleasure and opportunity to meet. The State is particularly fortunate in having a group of Commissioners such as those who serve on the State Commission for Human Rights. Those Commissioners are, in turn, fortunate in having a highly skilled and dedicated staff including yourself, your attorney, and the group of managers with whom I met.

Without in any way detracting from these statements I would particularly single out Attorney General Condon, and Assistant Attorney General Jones who serves both him and your Commission. The office of Attorney General in the 50 states is confronted with an extremely delicate law enforcement/ political/managerial problem. As the chief law enforcement official for the State the Attorney General has an obligation to see that the laws are effectively administered and enforced. Your State Human Rights Law specifically assigns to him the responsibility that he assist your agency in enforcing the laws prohibiting discrimination. At the same time, as counsel for State agencies in their capacity as employers he has an obligation to defend them if and when they are the subject of legal proceedings. This extremely difficult role which requires a major effort to balance apparently conflicting obligations is one that many Attorneys General don't even understand much less handle in a responsible fashion. I was extremely impressed with the extent to which your Attorney General not only understood the sensitivity of his dual role but also was prepared to deal with it by providing State government agencies in their capacity as employers with responsible advice on the nature of the obligations they confront in complying with anti-discrimination law, yet at the same time standing ready to defend them should an adversary proceeding arise. I consider his understanding of the problem and his willingness to devote both his own personal energies and the resources of his Assistant Attorney General to its solution to be one of the most significant assets which the State of Alaska has at this time.

I. BACKGROUND OF THE PROBLEM:

The background of this issue involves the evolving legal definition of employment discrimination, the failure of most employers to understand the definition, and the unique problems which are confronted in achieving voluntary compliance within the context of the State government:

A. Nature of Discrimination:

When Title VII of the Civil Rights Act of 1964 was first passed, employment discrimination was perceived by most human beings and by the legal system pretty much as it was then defined in the average dictionary. Discrimination was a synonym for bias, bigotry or prejudice. Discrimination involved deliberate or intentional acts subjectively motivated by an evil state of mind against Blacks, Natives, Indians, Chicanos, or women. The Federal administrative agency assigned to enforce the law (EEOC) quickly understood that the underlying statistical problems which had led to the passage of anti-discrimination

legislation (the gap in the unemployment rate, the gap in occupational distribution, and the gap in wage rates between minorities and women and their counterparts) would simply not yield to a law enforcement strategy that focused only on identifying and eliminating bias. Based upon a careful analysis of the legislative history, EEOC rapidly developed a "systemic" definition of discrimination which looked initially at those elements in the employers' practices which had an adverse impact on minorities and women (contributing to the statistics outlined above) and then shifted the burden of proof to the employer to justify the business necessity of those practices. In short, systemic discrimination was said to exist if an employment practice had an adverse impact and could not be justified by business necessity. The business necessity justification focuses on two elements:

- does the practice with the adverse impact contribute to the safe and efficient operation of the business, and
- does the employer have a responsible alternative practice that would equally well achieve the business purpose advanced with a lesser adverse racial, sex or national origin impact?

In this context remedies sought by EEOC and enforced by the courts rapidly shifted from isolated actions designed to "make whole" individual victims of bias. In addition the courts identified systems with an adverse impact that could not be justified and required employers to eliminate them and substitute new systems that would both eliminate adverse impact and serve the employers' legitimate business (or "operational") needs.

B. Employer Perception of this Change:

One of the most serious problems that confronted agencies in obtaining voluntary compliance with anti-discrimination law was the fact that most employers failed to perceive the nature of the change in the legal standard. This phenomenon was pointed out by committees in both Houses of Congress in 1972 when they reviewed the 1964 voluntary conciliation mechanism which had originally been established for Title VII. Both Houses of Congress advanced the hypothesis that the voluntary conciliation mechanism had failed primarily because the average employer lacked the "technical perception" to recognize that

its system was discriminatory. This led to a fundamental disagreement with the government officials attempting to achieve voluntary compliance and the resulting impact led Congress to give EEOC enforcement power, in a sense, to provide some muscle which would encourage the employers to begin thinking systemically.

C. Status of Voluntary Remedies Under Federal Law:

The evolution of federal law provides a broad and strong platform for responsible voluntary affirmative action including action of a race- sex- or national origin-conscious nature. That evolution has the following elements:

1.) Definition of Discrimination:

In the case of Griggs v. Duke Power the Supreme Court adopted the view that an employment practice which "operates to exclude" minorities and women¹ is illegal unless it could be demonstrated to meet the business necessity standard.

2.) Alternate Practices and Remedies:

In Moody v. Albamarle Paper Company the Supreme Court held that the business necessity justification required an employer not only to justify the practice but to deal with the possibility that there were alternate practices available

1 In actuality Griggs was a "Black" case, but the principle was later extended to women in the Dothard case as extending to all protected race, sex, ethnic and religious groups under Title VII.

which have a lesser adverse impact.² Moody also imposed strong backpay remedies and gave as one policy reason for doing so that the relatively certain prospect of remedies would become a catalyst to inspire employers to voluntary compliance.

-
- 2 There is some dispute under Federal law as to precisely where the burden of proof rests on the issue of identifying alternatives. For example, in Moody the Supreme Court stated that even if an employer demonstrates that a test is valid it is still open to the charging party to show the availability of a suitable alternative practice. This has led to a dispute between government enforcement agencies and employers as to where the burden lies, with some government enforcement agencies saying that the employer has a burden to demonstrate the absence of an alternative and some employers stating that the government has the full obligation to show the availability of the alternative. The government somewhat straddled this burden of proof issue in the Uniform Guidelines on Employee Selection Procedures where it stated the principle that if there were alternatives available the employer had to use them and imposed upon an employer a burden of seeking out such alternatives as part of any validation study. It appears that this dispute is irrelevant under the Alaska Law because, consistent with the holding of your State Supreme Court in the Wondzell case it appears that you have adopted a somewhat broader interpretation than the federal uniform guideline. I refer, of course, to the language in proposed section 910(c) of your new regulations which section holds, in relevant part that:

(c) In employment it is a defense to a complaint of unlawful discrimination to establish by clear and convincing evidence that a distinction prohibited by A.S. 18.80.220(a)(1) is required by business necessity or the reasonable demands of the position. "Business necessity" or "reasonable demands of the position" means that the distinction is necessary to the safe and efficient operation of the business; the business purpose is sufficiently compelling to override any discriminatory impact; the challenged business practice efficiently carries out the business purpose it is alleged to serve, and there is no available or acceptable policy or practice which would better accomplish the business purpose advanced to accomplish it equally well with less discriminatory impact on the complainant.

3.) Voluntary Compliance and Affirmative Action:

In the Weber case the Supreme Court noted that the incentive towards the voluntary compliance which it anticipated in Moody had, in fact, begun to bear fruit and that employers had begun to develop a fairly wide range of remedies including numerical remedies of a race-, sex-, ethnic or national origin conscious nature³. In the Weber case the employer had changed the system by which employees entered into craft jobs (by eliminating a previous experience requirement and substituting an in-house training program) and had provided for a voluntary numerical remedy of a race-conscious nature (50% of the training positions were to be opened for Black employees even if this required entry into the training program out of seniority order). The Supreme Court held that the new system was not prohibited by Title VII because the voluntary action mirrored the purposes of Title VII, it did not unnecessarily trammel the rights of White workers, it did not provide absolute preference for Blacks, and it was temporary.

The Supreme Court specifically suggested that an employer confronted with the problems which the Kaiser Aluminum Company perceived could either deal with those problems by waiting for court or administrative enforcement or it could deal with them by methods of its own choosing within the framework of "traditional management prerogatives". Obviously the Court saw a policy preference for voluntary action. (Incidentally, even though we did not discuss the Weber case during the meeting in your office, the language which the Supreme Court used in the last several paragraphs of Weber parallel the statements made by Attorney General Condon during our meeting, in which he pointed out the advantage to his clients (state government agencies in their employing capacity), of developing their own changes without having remedies imposed upon them by an enforcement process).

3 While Weber dealt only with private employment and with race-conscious voluntary action, its reasoning clearly would apply to the wide range of groups covered by Title VII and to all employers including governmental.

D. APPLICATIONS OF THESE THOUGHTS TO STATE GOVERNMENT AS AN EMPLOYER:

Several additional comments are appropriate as the above outline of principles are applied to state government in its capacity as an employer:

1.) Same principles apply:

When Congress extended Title VII to cover government (federal, state and local) as an employer in 1972 both Houses of Congress made legislative history that the laws were to be interpreted to prohibit discrimination in state government in the same fashion as had already been accomplished in the private sector. Both Houses in their committee reports pointed out that government employment had the same kind of systemic discrimination problems that had been found to exist in the private sector.

While most of the discussion of specific employment discrimination focused on the Federal government and the quotations which I am outlining below were directed at the practices of the Federal government there was language elsewhere in the reports suggesting that the same employment discrimination problems existed in state government and that the same legal principles should apply in dealing with them.

The report of the House Committee on education and labor directed the attention of the Federal government to "its own practices and procedures which themselves may raise questions of systemic discrimination". The same report stated that it was important for those who administered the government's personnel systems to gain "expertise in recognizing and isolating the various forms of discrimination which exist in the system" (emphasis added) and the report stated, further, that discrimination in employment was no longer "a problem of malicious intent on the part of individuals" but required, instead, an examination of:

"Civil Service selection and promotion requirements [which are] replete with artificial selection and promotion requirements which place a premium on paper credentials which frequently prove of questionable value as a means of predicting actual job performance."

In similar language, the Senate Committee on Labor and Public Welfare (Legislative History, pp. 423-425) said that the evolving definition of discrimination should be applied to government employment practices and that it was important to note that "discrimination is institutional, rather than merely a matter of bad faith".

The Committee paralleled the House Committee language and urged the development of expertise "in recognizing and isolating the various forms of discrimination which exist in the system". It directed the Civil Service Commission to deal with "the various forms of systemic discrimination in the system." It questioned the assumption "that employment discrimination in the Federal government is solely a matter of malicious intent on the part of individuals" and specifically picked up the technical perception language that it had earlier applied to the private sector by noting:

"Civil service selection and promotion techniques and requirements are replete with artificial requirements that place a premium on paper credentials. Similar requirements in the private sectors of business have often proven of questionable value in predicting job performance and have often resulted in perpetuating existing patterns of discrimination (see e.g., Griggs v. Duke Power, supra, note 1)."

The Committee urged:

"A thorough reexamination of [the Federal government's] entire testing and qualification program to ensure that the standards enunciated in the Griggs case are fully met."

It urged the development of "remedies...to correct systemic discrimination...".

In terms of substantive standards to be applied to all areas of new jurisdiction, including the Federal government as an employer, the section-by-section analysis of the Conference Committee report said (Legislative History, p. 1894) that:

"In any area where the law does not address itself, or any areas where a specific contrary intention is not indicated, it was assumed that the present case law as developed by the courts would continue to govern the applicability and construction of Title VII." (Emphasis added)

The Supreme Court, incidentally, has also spoken to this issue since the passage of the 1972 Act, when it said in Morton v. Mancari, (1974) that:

"In general...the substantive anti-discrimination law embraced in Title VII was carried over [by the 1972 Act] and applied to the Federal government."

This, then, is the context in which Congress decided to extend the jurisdiction of Title VII to cover federal, state and local governments as employers.

2. Problems of Voluntary Compliance in State Government:

During our meeting Attorney General Condon and others pointed out that one of the problems of achieving voluntary compliance in state government was the misplaced perception on the part of most state government managers that if they had eliminated bias, bigotry and prejudice from their employment practices they were in compliance. As I understood the conversation it was generally accepted that many managers and department heads in state government in Alaska were unaware of the changing legal technology which held them responsible for their employment systems and practices which might have an adverse impact and be unjustifiable by the business necessity standard. The situation in Alaska is by no means unique. We have already pointed out (see p. 3, paragraph B above) that voluntary compliance by private employers (prior to 1972) was often not forthcoming because those employers, their personnel managers and their attorneys, lacked the "technical perception" to understand systemic discrimination and to recognize that their own employment systems were potentially discriminatory. In the same committee reports Congress pointed out that this

lack of an appropriate technical perception of systemic discrimination which had dogged the footsteps of private employers could also be attributed to governmental employers.

While the committee reports in commenting on a governmental lack of technical perception concerning systemic discrimination were directed primarily to the federal government in its capacity as an employer it is clear from the context that Congress believed the same problem, as already identified during our discussion in Anchorage, could be attributed to State government managers, attorneys, and personnel officials. Thus, I believe, if any program of voluntary compliance to eliminate potential systemic discrimination is to be successful in the State of Alaska it must specifically address the technical perception of Alaskan State government managers and department heads and assist them in understanding the present State of the law and in understanding what we came to call during our meeting the "no fault" approach. This should lead them to understand that by adopting and implementing voluntary remedies, they are in no way conceding that they have been "bad" or "blameworthy" in the past.

3.) Unique Problems of State Government:

Having suggested that the nature of systemic discrimination and the problems of the managerial technical perception in state government parallel those previously identified in the private sector, it is important to recognize that there is one particularly unique aspect of the state government situation which must be dealt with if a voluntary compliance program is to be effective. This unique element flows primarily from the fact that state government employment systems are established, in part, by the state statutes establishing state civil service or merit systems. A second element contributing to the unique problems which confronts state government is the political context within which a manager operates when he perceives a potential violation (or simply wants to avoid one) and takes voluntary action to change his practices. Because of these issues I believe that a state government voluntary affirmative action program will not work unless the chief legal officer of the state provides strong

support to state government managers and attorneys on two issues:

- that a state government civil service system mandating an employment system with an adverse impact is potentially illegal as a matter of federal and state law if it cannot be justified, and that a state government manager has the authority to modify that system to the minimal extent necessary to avoid a potential violation of federal law⁴.

- that a state government official has the authority to negotiate a voluntary conciliation settlement in the context of a specific complaint including, where appropriate, backpay.

4 There is a precedent for a state attorney general to proceed in this fashion. For example, in the early days of Title VII private employers were the target of complaints filed by females who were not hired and they defended on the ground that state "protective" laws prohibited the employment of women in certain positions (for example those working in excess of certain hours or requiring the lifting of certain weights). After a number of federal district courts had held that state protective laws mandating such exclusionary employment practices violated Title VII and were superceded thereby, attorneys general in other states began to issue attorney general opinions to state industrial commissions and similar agencies advising them that it was inappropriate to consider enforcing such state protective legislation. I believe a wide range of federal district and appellate court decisions establishing a principle that state civil service statutes are suspended to the extent necessary to provide compliance with Title VII would provide a basis for a state attorney general opinion advising state government that it could take these steps voluntarily without waiting for a lawsuit. As I understand it, there is a precedent for this in the State of Alaska in the form of an attorney general letter issued in December, 1964 advising the Human Rights Commission that the U.S. Constitution precluded a personnel rule then in effect limiting state employment to American citizens.

E. MANAGERIAL SYSTEM:

Effective voluntary compliance with federal anti-discrimination legislation through the mechanism of an affirmative action compliance plan requires the development of a managerial system. The suggestion in the Weber case that an employer with a potential violation can come into compliance either through a lawsuit or through means of its own choosing consistent with traditional management prerogatives has been mirrored in a wide range of court cases and federal regulations. For example, the Uniform Guidelines on Employee Selection Procedures adopted by five federal agencies and specifically applicable to the employment practices of state and local government advances the principle that an employment practice with an adverse impact can be dealt with by a state government employer either by attempting to justify the business necessity for the practice or by modifying the practice to eliminate its adverse impact. If the elimination of adverse impact over a three year period would, for example, require the hiring of 100 additional individuals, many private employers have found that the most effective way to reduce their potential liability is to treat the process of hiring those 100 additional employees as a managerial rather than an employment discrimination problem. In the same fashion that a company with a manufacturing reject rate of 10%, which desired to reduce the rate to 4% over three years would establish a managerial reporting system for each of its production lines on a monthly basis designed to assure that they were moving toward that goal, so have employers established managerial and reporting systems to assign goals to each manager to determine on a monthly, quarterly (or other appropriate) basis the extent to which each manager had contributed to the goal. An effective managerial system to achieve this would have, to the minimum, three elements, stages or levels:

- the enunciation by top management of the specific goal and the time by which it was to be achieved (reduce reject rate in three years; hire 100 minorities and women in three years etc.) and a requirement that each operating division establish a plan for meeting its portion of a goal and establish a system for reviewing the extent to which each individual manager contributed to the goal.

- the establishment of an operating plan for each operating division.
- the establishment of a performance review system designed to establish the obligations of each individual manager in terms of compliance including, but not limited to, a statement in the job description and performance requirements for each managerial position of the managerial responsibility⁵.

II. THE ALASKAN SITUATION:

Clearly the climate and situation in the State of Alaska is receptive to the development of a significant, responsible and effective affirmative action program for achieving voluntary compliance in state government. There is a good and comprehensive law on the books, and it has been interpreted effectively by the State Supreme Court to be at least as broad as Title VII of the Civil Rights Act of 1964.

III. SOME GENERAL BACKGROUND INFORMATION FROM OTHER STATES:

Before outlining some specific thoughts about an Alaskan program it is useful to outline some random thoughts about developments elsewhere:

A. Michigan -- A Coordinating Council:

Many states have recognized that an effective state program for dealing with discrimination in state government will require the coordination of the state enforcement agency, the state personnel system, the attorney general's office, and the governor's office. One state that has taken a leadership role in this regard is the State of Michigan.

-
5. See, for example, provisions of the Civil Service Reform Act in the federal government which mandated the establishment of a performance appraisal system for all senior managers and specifically mandated that one of the elements each agency must include in the performance appraisal system is the extent to which those managers implement equal employment opportunity and the affirmative action requirements.

Specifically, Governor William G. Milliken has issued an Executive Order establishing a Michigan Equal Employment Opportunity Council with the Lieutenant Governor as Chairman and as members of the Directors of the Human Rights and Civil Service Commissions and the Attorney General. A copy of Guidelines and other publications issued by this Council is attached to this memorandum as an appendix.

B. Importance of a One-to-One Relationship in Review System:

Many states have adopted a requirement either by statute or executive order that all state agencies prepare an affirmative action plan. It is my perception that those states in which the planning process has been the most effective in achieving real change have been the states in which there has been the kind of coordination outlined in Michigan, above, and the states in which someone responsible for managing and overseeing the affirmative action process or responsible for providing legal advice to top managerial officials in state government has developed a one-to-one working relationship with the chief department heads in state government and has specifically worked with them in implementing a voluntary compliance program. For example, the State of Connecticut requires an affirmative action plan from each agency and requires the submission of that plan to the State Commission on Human Rights and Responsibilities. Each state agency head then meets for a one-to-one review of the plan with the Executive Director of the State Commission.

C. Court Approval of State Voluntary Remedies:

Several State Supreme Courts have given approval to the voluntary remedial approach, including a race or sex conscious requirement, in state government. For example:

-- In Price v. Civil Service Commission, Sacramento County, 21 FEP cases 1512 (January 25, 1980) the California Supreme Court dealt with the question of whether:

"A governmental entity may voluntarily adopt a race-conscious, affirmative action hiring program of limited duration to alleviate an underrepresentation of minor-

ity employees which the entity finds is attributable to its own past discriminatory practices."

The Court was dealing with a "minority preference appointment" rule adopted by the Civil Service Commission of Sacramento County in 1974 after the Commission had held hearings in an attempt to ascertain the reasons for underrepresentation of minorities and women and had determined that its "traditional Civil Service procedures" contained a variety of "significant, although apparently inadvertent, discriminatory features." Under the terms of the rule, if the county Civil Service Commission found "after a public hearing" that the underrepresentation of minority personnel in the particular classification was caused by "discriminatory employment practices" and that it was feasible to ameliorate such underrepresentation "by requiring that minority persons on an eligible list be appointed on a preferential basis" the commission can order that minority personnel be appointed to the classification involved in accordance with an alternating ratio until a specified number of minority persons had been hired.

The California State Supreme Court found that the application of this rule to the position of Attorney I in the District Attorney's office in such a fashion that appointments to that position "shall be made on the basis of an alternating ratio of 2:1 so that at least one minority person is appointed for every two non-minority persons" and that such a ratio should be applied "only until the percentage of the minorities in the classes of Attorney I and Attorney II in the District Attorney's office is 8 percent," was legitimate, and that the county was authorized to adopt such a program to overcome the effects of past discrimination and that in so doing it did not violate the anti-discrimination provisions of Title VII of the Federal Civil Rights Act or the comparable anti-discrimination provisions of the Sacramento County Charter and the state Fair Employment Practices Act.

It is interesting to note that this opinion was written by the same court which earlier wrote the Bakke opinion which is often cited by state government officials as making race or sex conscious affirmative action programs inappropriate

and illegal in state government employment. Instead of focusing on the Bakke opinion, the Price court draws extensively on the United States Supreme Court opinion in the case of United Steelworkers v. Weber, 443 U.S. 193, 20 FEP Cases 1.

- In Lindsay v. City of Seattle, 12 FEP Cases 1440 (1976), the Washington State Supreme Court approved a race-conscious affirmative action plan. The City had surveyed its own employment practices and had determined that there was a risk that they might be found in violation of anti-discrimination requirements and had adopted a series of policies and procedures to avoid that risk. Specifically, the Mayor had adopted an affirmative action program by Executive Order; the City Council had adopted an ordinance with provisions designed to "achieve equality of city employment opportunities for members of minority races;" the Engineering Department had adopted a departmental policy statement which established as a goal the achievement of ratios of minority employment "comparable to the ratios of...minorities in the Seattle community"; and the Civil Service Commission had adopted a "selective certification" amendment to the traditional "rule - of - five" used to certify qualified eligibles for a vacancy.

Under the selective certification rule a department head subject to approval by The Directors of the Civil Service Commission and the Department of Human Rights could request the certification of a qualified minority below the top five on the list when such action was believed necessary to avoid a violation of anti-discrimination laws. The State Supreme Court sustained the rule as a written and as applied to the detriment of a white engineer whose ranking was higher than a black who was certified and hired.

The Court, pointing out the potential liability faced by the city in a potential Title VII suit based on the adverse impact and lack of validity of its existing procedures, and pointing to the Title VII preference for voluntary compliance said that the procedure did not violate either state or federal law.

- In Chmill c. City of Pittsburgh, 22 FEP cases 742 (1980) the Pennsylvania Supreme Court sustained a "dual certification procedure" used by

the City of Pittsburgh pursuant to which its Civil Service Commission certified ten whites and ten blacks for positions in the fire department based upon their passing a physical ability test and without regard to their rank on an earlier written test whose validity was in doubt and which had adverse impact on blacks.

The Sacramento action was completely voluntary; the Seattle action appears to have been adopted voluntarily but after earlier federal law suits; and the Pittsburgh action was taken in a context where there was an outstanding consent decree in an earlier Federal suit. All three States speak of the strong Federal and State policy in favor of voluntary compliance and make it clear that such action can include race-conscious steps. An Alaska Attorney General Opinion (May 20, 1976) contained similar reasoning when it approved an Interim Relief Agreement in which the Divisions of Alaska State Troopers and Fish and Wildlife Protection of the Department of Public Safety agreed to the appointment of one-third of commissioned officer openings with otherwise qualified minority and/or female applicants. The opinion pointed out that there are situations which "necessitate the consideration of the race and sex of otherwise qualified applicants."

D. Midwest Intergovernmental Equal Employment Opportunity Coordinating Committee:

One of the leading organizations in developing new and imaginative approaches by state government to the affirmative action issue has been M.I.E.E.O.C. Recently, this organization has obtained from the Bureau of Intergovernmental Personnel Programs a grant to hold a meeting of all the state level affirmative action officials to share their expertise in the development of responsible state government affirmative action programs.

E. Detroit Meeting:

The meeting described in the previous paragraph will be hosted by the Governor and Personnel Director of the State of Michigan and will be held in Detroit at the Hotel Pontchartrain on April 9-12, 1981. Attach-

ment 3 contains some of the material on this conference.

IV. SPECIFIC IDEAS FOR AN AFFIRMATIVE ACTION PROGRAM IN ALASKA IN STATE GOVERNMENT:

Outlined below are a number of thoughts about elements that might be included in your thinking as you begin the process of developing a program for affirmative action in Alaska state government:

A. Announcement of program by the Governor:

The first step would be a written document by the Governor announcing (either by Executive Order or otherwise) a statewide affirmative action program for employment in Alaska state government. The tone of this document would be to establish the effective implementation of the program as a managerial rather than a human rights problem. The initial focus of such an order from the Governor should contain a strong statement of his commitment the goals of equal employment opportunity in affirmative action. However, unlike most traditional statements which stop at that point, it should specifically point out that private employers have recognized that "real commitment" involves the commitment of resources and the development of a managerial system to achieve those goals and it should indicate that his order is design to start the process of allocating those resources and developing that management system.

Obviously if the foundation for the program can include the adoption by the legislature of the principles which I have mentioned here, that would be preferable. First it gives greater support to the program in the eyes of operating department heads and first line managers who will be called upon to implement it. In addition, should the program be challenged in court it is more likely to be sustained if it is passed by the legislature and based upon legislative findings. (See, for example, the discussion of legislative findings in Klutznick v. Fullilove, ___ U.S. ___.)

B. The Managerial System:

At a minimum a good managerial system in state government should have a number of elements all of which would be identified (in outline form) by the Governor in his initial announcement, or in a statement imple-

menting the statute, should you choose the legislative route. Starting from the top down the layers in such a managerial system would be:

- The order itself which establishes the system and its goals.
- An affirmative action planning process which is part of the Governor's recently imposed management by objectives system.
- The development of annual affirmative action plans with specific measureable goals and the development of a review system (perhaps involving the interagency group recommended below).
- The implementation of this entire system at a level of the individual manager by establishing elements in the performance review criteria and the job descriptions of all state managers dealing with their effective contribution to the implementation of the management EEO plans. (This is now required in the Federal government.)
- The Governor's initial order might indicate that he has specifically directed the state Department of Administration to start the process of amending all the existing managerial job descriptions to include EEO elements.

The Executive Order would recognize the difficulties of developing such an effective system of voluntary compliance within state government, given the fact that it occurs within the context of the state civil service laws. He would indicate that he has directed the Commissioner of the Department of Administration and the state Attorney General to develop guidelines for state government agencies in achieving voluntary compliance. Eventually, there should then be an exchange of letters which lead to a series of Attorney General's opinions in which agencies are advised that it is legal under state law for them to take action to modify their employment systems in order to implement an affirmative action plan. These would expand upon the opinion of May 20, 1976, which dealt with a situation in which there had been a Human Rights Commission staff finding of discrimination to indicate that similar steps can be taken voluntarily based upon a self-audit as suggested in the EEOC

Affirmative Action Guidelines and the opinions of the United States Supreme Court in the Moody and Weber cases. Later the Attorney General may want to issue an opinion concerning the power of an agency to conciliate an individual or systemic case including back-pay.

C. Interagency Coordinating Committee:

Either as part of the Executive Order or in some other fashion the Governor might want to consider establishing our Interagency Coordinating Committee paralleling that now existing in Michigan.

However, serious consideration should be given to the membership and functions of such a council in light of the appropriate duties of the various agencies and officials who might constitute its membership. For example, the Human Rights Commission which is charged by state law with investigating complaints alleging discrimination in employment by state government agencies clearly would not want to be involved in the process of approving individual agency affirmative action plans because it may later have to make decisions on cases in which the plan and/or the results of its implementation are offered by a state agency as a defense to a charge by a female or minority. While the Human Rights Commission will want to avoid dealing with approving specific plans in advance, it would be appropriate for it to be involved in the process of establishing the policies and principles of such plans. It could for example issue principles similar to those contained in the EEOC Affirmative Action Guidelines and indicate the nature of Affirmative Action which employers can take and avoid a risk of so-called reverse discrimination charges. It would be appropriate for it to consult with other state agencies in preparing such policies as EEOC now does under Executive Order 12067.

E. Initiation (or "Kick-off") of this Program:

I believe that serious consideration should be given to a general management meeting of all Commissioners and division directors at which the governor would announce and present his Executive Order; the Attorney General would discuss the problem he perceives as chief law enforcement official for the state; the Commissioner of the Department of Administration would indicate the way which his department will assist in voluntary modification of employment systems and practices so that agencies could know that, if

they undertook voluntary compliance action they will not be opposed by the Division of Personnel; and the director of the Human Rights Commission would discuss, in a non-threatening fashion, pending compliance activities and the hope of the Commission to avoid a compliance-oriented approach wherever possible. The goals of such a meeting would be primarily to:

- communicate an appropriate "no fault" "technical perception" of employment discrimination so that employers understand their obligation to identify their present problems and systems which may have contributed to discrimination and understand that voluntary action they may take is not an admission that those responsible for the previous system were "bad" people.
- establish the state's approach to this matter as a managerial approach designed to solve a managerial problem with responsible managerial techniques.

F. Detailed Training for Managers and Assistant Attorneys General:

An effective kick-off meeting suggested in the previous paragraph should probably be attended only by Commissioners, division directors, and staffs of the Human Rights Commission, attorney general's office, and Personnel and EEO divisions. In terms of its approach to the law it should be general rather than specific and be designed along the "perception" issue rather than the specific detailed requirements of the implementation of a program. This will leave several gaps which might be filled by follow-up meetings:

- a detailed longer training session for the assistant attorneys general who will, as part of the follow-up stage, be responsible for advising the specific departments and agencies to which they are assigned. The session should probably begin with an overall introduction by the attorney general and the director of the Human Rights Commission with specific detailed training to be conducted by the two assistant attorneys general assigned respectively to the Department of Administration and the Human Rights Commission.
- A series of follow-up meetings within each department or groups of small agencies should be held with all managers and supervisors to deal with the "technical perception" issue outlined

above. At each of these meetings the format would involve a presentation by the head of the agency in question followed by those specific assistant attorneys general assigned to that department plus such other additional people as may be appropriate to achieve the dual goals outlined above.

G. Follow-Up:

To the extent that it has not been achieved at this point, the Governor should issue either in letter or executive order form the instructions to the attorney general and the Department of Administration suggested in paragraph B above. He should have designated an appropriate agency to develop standards and procedures for the management of equal employment opportunity plans and the directive should have issued from that agency to each of the agencies with a format and deadline for the plans and establishing a planning process.

This interagency committee will be responsible for developing a set of instructions which will be transmitted to agencies. Presumably they will, in turn, develop their Management Equal Employment Opportunity Plans (MEEOP) and their "Equal Employment Opportunity Management Plans (EMAPS). I would think that the Governor's executive order or implementing instructions should establish the Human Rights Commission as the final authority on substantive standards but should establish the Department of Administration as the final authority for the "approval" of specific departmental plans. If complaints are ultimately filed alleging that the agencies are still discriminating it will be the Human Rights Commission which must adjudicate these complaints. While it is appropriate for it to be involved in enunciating in advance the policies it believes should be applicable to those plans and by which it will, in turn, adjudicate such complaints, I believe it would be totally inappropriate for it to be involved in the specific approval process of a plan in connection with which it might later have to make a decision in a quasi-judicial fashion. Further, if this matter is being approached, as this memo recommends, as a managerial problem then it is appropriate that the Department of Administration as the chief management arm of the Governor be responsible for managing the voluntary compliance process of the state in its capacity as an employer/ manager.

V. CONCLUSION:

As I suggested in the introduction, the purpose of this outline is to present a number of elements which I believe should be included in your thinking as you attempt to develop an affirmative action plan and an affirmative action management process for the State of Alaska. It is not a rigid specific item plan although it is organized in such a format that it could be adapted to those purposes rapidly. The key throughout is to focus on several goals:

- Using the existing managerial strengths and expertise of state government managers in context of the pre-existing management by objectives system which your governor has established.
- developing in those managers the appropriate "technical perception" of systemic discrimination so that they may put that managerial expertise to work on this "new" managerial problem.
- establishing and providing sufficient resources to effectively implement a state equal employment opportunity management process government-wide and specific equal employment opportunity management plans in each state agency.
- providing support, advice, guidance and assistance to agencies in developing those plans from the personnel arm of state government (Office of the Administration) and from the legal arm of state government (attorney general).

As I also stated, above, my perception of existing capability in commitment of Alaskan State government lead me to be extremely optimistic as to your potential for success. While no one can guarantee immunity from complaints or lawsuits one can take responsible managerial action to substantially reduce the risk of such suits being filed and (if filed) the risk of a substantial loss by the state.



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Senator Fischer, Chairman
Senate State Affairs

FROM: Senator Ferguson *EF*

DATE: March 31, 1982

SUBJECT: SB 248

I am proposing the following amendments to SB 248.

1. Page 2, Delete subsection 6 and insert new subsection 6 to read:

"(6) implement standards by which performance evaluations of supervisors reflect their compliance with affirmative action plans and objectives including the granting or denial of merit increases."

2. Page 4, Delete subsection 1 and insert new subsection 1 to read:

"(1) 'affirmative action plan' means a set of achievable goals within reasonable time frames for each department to fully employ minority people and women at all pay grades consistent with their availability and includes an assessment of current utilization and availability with specific results-oriented procedures to identify and eliminate artificial or customary practices which operate to exclude minority people and women where not justified by operational necessity."

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C

JUNEAU, ALASKA 99811

465-2200

March 24, 1981

Honorable Vic Fischer
Senate State Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

The Department of Administration is, for several reasons, unable to support Senate Bill No. 248 requiring legal enforcement of affirmative action plans and programs within the Executive Branch by the Division of Equal Employment Opportunity (EEO).

The Office of Equal Employment Opportunity was established by Governor Egan in 1972 to: advise and provide guidance to the Executive Branch in matters pertaining to discrimination in employment and affirmative action; to assist agencies of the Executive Branch to implement plans and programs which identify systems or practices with exclusionary impact on minorities and women or which perpetrate effects of previous discrimination; to take voluntary affirmative actions in relation to identified problems; and by so doing, assure compliance in order to alleviate as much as possible the legal remedies required in conciliation on agreements or by the courts when discrimination is found.

First, Senate Bill No. 248 would, in our opinion, create an antagonistic atmosphere between the Division of Equal Employment Opportunity and the agencies they advise by placing the Division in an adversarial role and thereby severely limiting efforts of the Executive Branch to voluntarily eliminate discriminatory practices and systems which may exist.

Second, there is, as you are aware, already an independent agency of the State which has statutory responsibility for pursuing enforcement actions against the Executive Branch (i.e., the Alaska State Commission for Human Rights). The Commission is also responsible for pursuing enforcement actions against all employers in the State, both public and private.

Third, while Senate Bill No. 248 addresses EEO responsibilities in the Executive Branch, it wholly ignores those same responsibilities in the Judicial and legislative branches over which we have no control.

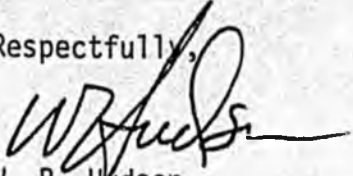
Honorable Vic Fischer
Senate State Affairs Committee
Page 2

March 24, 1981

Fourth, Senate Bill No. 248 will not allow the flexibility necessary to management in the rapidly changing field of Equal Employment Opportunity because it places into law functions of the Division which would then require a lengthy process to change or modify.

Although we are totally committed to affirmative action and equal employment opportunity, we believe that there are sufficient complaint and enforcement avenues (e.g., Human Rights Commission, Ombudsman, U. S. Equal Employment Opportunity Commission, U. S. Office of Federal Contract Compliance, U. S. Office of Revenue Sharing and employee labor organizations) available. We would prefer to direct the efforts of the Division of Equal Employment Opportunity to those preventative measures which will minimize any need for enforcement actions within the Executive Branch.

Respectfully,



W. R. Hudson
Commissioner

WRH/mjc

CC: Honorable Frank Ferguson
Keith Specking
Judy Crondahl
Aaron Isaacs

MEMORANDUM

State of Alaska

TO: The Cabinet

DATE: March 26, 1981

FILE NO:

TELEPHONE NO: 465-3500

FROM: Jay S. Hammond
Governor

SUBJECT: Affirmative Action
Plan/EEO

I have approved a new procedure to be employed within the Executive Branch in order to more fully implement my policy of Equal Employment Opportunity/Affirmative Action. This procedure, which will be issued by the Division of Personnel, will allow you to execute your affirmative action plans once they are approved by the Director of Equal Employment Opportunity. We have extensively discussed the problem of executing our good intent in connection with EEO/AAP at the Cabinet level. The procedure is an important positive step to make certain my policy is implemented throughout State government. You will note that the procedure allows us to rectify any underutilization by race and/or sex based on merit and ability.

I expect this procedure to be implemented when a condition of underutilization exists for any job classification. In order for this procedure to be successful, the full cooperation of the Cabinet -- as well as your line managers -- is necessary. I am, therefore, relying on the Cabinet to implement this procedure in good faith.

cc: Lt. Governor Miller

MEMORANDUM

PERSONNEL MEMORANDUM 81-1
TO: All Personnel Officers

DATE: March 25, 1981

FILE NO:

TELEPHONE NO: 465-4430

FROM: *Bruce Cummings*
Bruce Cummings
Director
Division of Personnel
Department of Administration

SUBJECT: Use of Personnel Rules
5 02.4 and 5 02.5 for
Affirmative Action Program

Affirmative action necessitates every reasonable effort to employ in state government qualified persons of each race and sex at least in proportion to their availability in the relevant job markets. To the extent that we fail to meet that goal, so-called underutilization of persons by race or sex may exist. Personnel Rules 5 02.4 and 5 02.5 permit hiring from other than the top five ranked available candidates "when unique or unusual circumstances are recorded by the appointing authority." Correcting underutilization of employees of racial or sexual groups may constitute "unique and unusual circumstances," and therefore, the authority of that rule can be used to correct underutilization which has been documented by an employing agency in its approved affirmative action plan and by the Division of Equal Employment Opportunity (EEO).

Accordingly, beginning immediately and until any underutilization is corrected, the following procedures apply:

- (1) When an executive agency determines that it employs fewer members of a racial or sexual class, or both, in a job classification within a specific job group (e.g., entry professional, mid-level professional, senior professional, etc.), than the proportionate number of qualified persons of that racial or sexual class in the relevant job market without a racially or sexually neutral explanation, that class is considered to be underutilized. Until more reliable data have been developed, employing agencies and EEO will use the data used in preparing affirmative action plans to determine the numbers of qualified persons of each race and sex available in relevant job markets and to determine whether and to what extent underutilization exists.
- (2) Each time an agency fills a vacant position in a job group where underutilization has been documented in the agency's approved affirmative action plan, the agency can and should request discretionary authorization to appoint from below the top five ranked available candidates under the provisions of Personnel Rules 5 02.4 and 5 02.5 by submitting a memorandum to the director of EEO requesting authorization to correct the

underutilization. The request must specify the job classification to be filled in the job group in which underutilization has occurred and the racial or sexual group, or both, which are underutilized. The latter specification may be simply for "any minority." The request should be accompanied by supporting data. The formal Request for Certification (02-254), with Section A fully completed, must be attached to the request to the director of EEO. In the space provided for special requests, the agency is to enter "Affirmative Action" examining option, and specify the racial or sexual class or classes underutilized in the job group, or specify "any minority." An example is attached.

- (3) If the director of EEO finds that the agency determination of underutilization has been documented, he shall note his concurrence and forward the agency request for certification under these procedures to the director of personnel.
- (4) The Division of Personnel shall then issue a certification of eligibles for the agency's consideration from which the agency may:
 - (a) select from among the top five available eligibles, or
 - (b) select from among the top five available eligibles from the underutilized minority or racial or sexual group.
- (5) An agency is not required to appoint a candidate from an underutilized racial or sexual group. The appointing authority, on the basis of all relevant factors, which may include the need for the state government's workforce to be composed of qualified persons of each race and sex in proportion to their number in the relevant job markets, is expected to hire on the basis of ability.

Under these procedures, no applicant is to be denied employment solely on the basis of race or sex, and none is to be hired solely on that basis. Rather, these procedures are designed to correct, so long as it may exist, any underutilization of racial or sexual groups which may have resulted from pre-existing selection procedures or from their misapplication. These procedures may be utilized only where underutilization is documented by an agency's affirmative action plan and not otherwise. When documented underutilization of a class has been corrected, these procedures no longer apply.

Ultimately, affirmative action and the merit system are two sides of the same coin. Both demand that employment and promotion decisions be made on the basis of ability. Where recruiting, selection, and promotion practices result in underutilization of racial or sexual groups in comparison to the number of qualified persons of each race or sex in the relevant labor market, those practices must be corrected. These procedures will help, but they are not a solution to the overall problem. That solution will take more time. While we work on that solution, we will use these procedures.

We anticipate that there will be occasions when eligible lists will not have sufficient numbers of candidates in requested classes for adequate consideration. In such cases, the Divisions of Equal Employment Opportunity and Personnel are prepared to assist in recruitment efforts.

In order to be able to determine underutilization in your agency -- and therefore to use these procedures -- it is imperative that your Affirmative Action Plan be completed, approved by the Division of EEO, and maintained in a current status. In the absence of such a plan, we have no data on which to make determinations and will return your requests without action.

If you or members of your staff have any questions regarding these procedures, please contact the director of personnel at 465-4430.

BAC/n1
Attachment
C3/B



NATIONAL ORGANIZATION FOR WOMEN

Anchorage Chapter

P.O. Box 1722
Anchorage, Alaska 99510

March 24, 1981

Senator Vic Fisher
Senate Staff
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Senator Fisher:

On behalf of the Anchorage Chapter of the National Organization for Women, I wish to comment on Senate Bill No. 193, Senate Bill No. 104, and Senate Bill No. 248.

Senate Bill No. 193 entitled: "An Act amending the State Personnel Act (AS 39.25); and providing for an effective date."

A proposed amendment, change in language page 14, line 22,

...after the word age,... strike "or",

...insert "marital status, changes in marital status,"

...continue with "handicap,"

...insert "or any other non-merit reason."

Proposed language would be (line 21) "...discrimination due to race, sex, color, religion, national origin, age, marital status, change in marital status, handicap, or any other non-merit reason." These changes would strengthen this non-discrimination statement. Employment status should not be inhibited by a persons marital situation or other reasons not effecting their work performance.

Senate Bill No. 248 is a good bill and will strengthen equal employment opportunities for both women and minorities within the executive branch. This bill has our support.

Senate Bill No. 104 is unacceptable. Historically veteran's preference legislation has proven to have a negative impact on women in the job market. The variation in numbers of women who qualify for veteran's benefits as compared to the numbers of men is an inhibiting factor to equal employment opportunities for women.

Your consideration of these comments is appreciated.

Sincerely,

Madeline G. Holdorf
President

cc: Labor Committee
Anchorage Chapter, National
Organization for Women

Anch Times 3-29-81

Miller questions hiring

The state's personnel system has effectively denied Alaskans equal access to state jobs, Lt. Gov. Terry Miller said Saturday.

Speaking to the Alaska Black Caucus, Miller called the personnel system "a system that has over-credentialed positions and allows state administrators too often to use arbitrary methods to fill state positions."

(Related story, page B-9)

"While these practices discriminate against Alaskans of every circumstance, they impact women and minorities most severely. The results are obvious. In a recently published list of top-paid state employees, few were women and even fewer were minorities."

Miller said he wasn't condemning the efforts of the Division of Personnel but rather questioning the progress the state has made in promoting and hiring women and minorities.

He proposed a regular, thorough review of state hiring practices and said Gov. Jay Hammond will propose a hiring policy designed to ensure more Alaskans have an opportunity for state employment.

The policy, Miller said, would require the Division of Personnel to provide state employers with the names of the top five women applicants for a job and the top five minority applicants. Those would be in addition to the top five applications currently given to the employers.

"This will reduce the dependence of the actual state employer on what are too often arbitrary decisions by the Division of Personnel — based too often only on resumes and the ability to take tests," he said.

"It will enlarge the pool of Alaskans that will be interviewed for state jobs."