

**HOUSE**  
**COMMITTEE REPORT**

(11)  
Date referred: 4/25/86

FURTHER REFERRALS:

(Judiciary waived)

DATE: 5-6-86

The FINANCE Committee has considered CSSB 367(Fin)am

"An Act relating to Alaskan resident employment preference; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with HCS CSSB 367(L+C)  same title  
 new title

and recommends DO PASS

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note 332.5 4/23/86
  - zero fiscal note

SIGNING DO PASS:

Albert P. Linder  
John P. ...  
Mike ...  
...  
Ronald ...  
...  
...  
...  
...  
...

SIGNING OTHER RECOMMENDATIONS:

Steve King: No Recommendation  
\_\_\_\_\_  
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Albert P. Linder  
Chairman

**STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE**

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. HCS CSSB 367(L&C)  
 Title: "An Act relating to Alaskan  
 resident employment preference..."  
 Sponsor: Faiks, Josephson, Sturgulewski...  
 Requestor: House Labor & Commerce  
 Date of Request: 4/14/86

**FISCAL DETAIL**

Agency Affected: Labor  
 BRU: Administration Services  
 Components: Special Services

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		133.6	133.6	133.6	133.6	133.6
TRAVEL		0	0	0	0	0
CONTRACTUAL		193.7	203.8	241.9	240.8	246.9
SUPPLIES		1.2	1.2	1.3	1.3	1.4
EQUIPMENT		4.0	.8	.9	.9	1.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>332.5</b>	<b>339.4</b>	<b>377.7</b>	<b>376.6</b>	<b>382.9</b>

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

GENERAL FUND	0	332.5	339.4	377.7	376.6	382.9
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>332.5</b>	<b>339.4</b>	<b>377.7</b>	<b>376.6</b>	<b>382.9</b>

**POSITIONS :**

FULL-TIME		3	3	3	3	3
PART-TIME		1	1	1	1	1
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by: Judy G. Knight, Director Phone: 465-2720  
 Division: Administrative Services Date: 4-23-86

Approved by Commissioner: Jim Robison Date: 4-23-86  
 Agency: Labor

Distribution (by Agency preparing fiscal note):

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

CONTINUATION OF FISCAL NOTE ANALYSIS  
 FOR BILL/RESOLUTION NO. HCS CSSB 367(L&C)

SUMMARY OF NONPERSONAL SERVICES COSTS

	FY 87	FY 88	FY 89	FY 90	FY 91
Travel	0	0	0	0	0
Key Entry	20,000.00	40,000.00	62,000.00	64,000.00	66,000.00
DP Operations	116,000.00	131,000.00	146,000.00	149,000.00	152,000.00
DP Applications	29,500.00	4,250.00	4,400.00	4,600.00	4,800.00
Printing	4,500.00	4,500.00	4,500.00	4,700.00	5,000.00
Long Distance Phone Service	12,000.00	12,500.00	13,000.00	6,000.00	6,200.00
Equipment Lease	8,300.00	8,300.00	8,700.00	9,000.00	9,400.00
Equipment Maintenance	300.00	300.00	300.00	300.00	300.00
Training, shipping, & Misc.	2,900.00	2,400.00	2,400.00	2,600.00	2,600.00
<b>Total Contractual</b>	<b>193,700.00</b>	<b>283,750.00</b>	<b>341,900.00</b>	<b>340,800.00</b>	<b>346,900.00</b>
Supplies	1,200.00	1,200.00	1,300.00	1,300.00	1,400.00
Equipment (desk, chair, software)	4,000.00	300.00	900.00	900.00	1,000.00

A detailed description of costs and activities follows.

CONTINUATION OF FISCAL NOTE ANALYSIS  
Bill/Resolution No. HCS CSSR 367(1&C)

This legislation was carefully drafted to maximize its chances in any future court challenge which resulted in a complex set of area designations and determinations of resident preferences that are based on objective statistics. To make the determinations and designations specified in this legislation will require this department to collect and analyze extensive occupational information by area resident status. Our assumptions are as follows:

1. An annual report designating underemployment areas would be completed by January 31 of each year beginning in 1987.
2. On-going collection of occupational titles would be required from employers, and extensive computer matching would be necessary to determine residency status.
3. The collection of occupational titles from firms will be phased in over a three year period. Industries identified as having the highest dollar payments to nonresidents in 1984 would be targeted first:

First Year - construction, oil and gas mining, and food processing;

Second Year - all first year industries plus business services, local government, miscellaneous services, eating and drinking places, air transportation, and state government and;

Third Year - all industries.

4. In addition to the occupational information, reporting of the residency status by industry and area would be necessary.
5. All minority and female demographic and economic information will be derived from the decennial census. If more frequent updates of this information are required additional questions would have to be added to the Permanent Fund Dividend application and resources increased.
6. Information to make the determinations of Sec. 36.10.150 (b) will be developed as follows:

Nature of the work - The Standard Industrial Classification (SIC) coding will be used for all information related to the employers' type of business. This will hold down costs and permit aggregate comparisons.

Classification of workers - Nationally accepted occupational classification coding will be used for all information related to individuals' occupations.

Availability of eligible residents - Our analysis will consider registered applicants in Job Service, employment, job turnover, unemployment and training program completers by occupation.

Willingness of eligible residents to perform the work - This will be done in two stages:

- a) Estimates of eligible and available residents within each economic region will be evaluated relative to the projected employment for relevant occupations.
  - b) all occurrences where the department is unable to assist an employer to place a qualified resident will be recorded as to the specific occupation and area. Subsequent cases will not require resident placement in that occupation and area until sufficient data exists to indicate that qualified residents are available.
7. Resident hire legislation requires comprehensive statistical support of the displacement of residents by nonresident workers, and the resulting social effects.
8. Extensive mainframe data processing costs will be required. No one computer file has all of the information necessary for the analysis required by this legislation. Records of several files have to be matched together by Social Security Number (SSN), and information on occupational titles and Certified Payrolls entered and edited.

#### Computer Files

UI wage items - Currently consists of about 2 million records. The number of records grows with increases in employment. Contains an employer number, and wages earned by quarter for each employee subject to UI coverage.

The occupational title of each employee is a critical new variable will be collected beginning in FY 87. This will be essential to analyze the displacement of residents. Collection of this information will be phased in over a three year period, meaning that processing volumes will increase sharply in both the second and third years with smaller increases in FY 90 and FY 91.

ES-202 - Over 15,000 records contain an employer number, and the employer's industry and area.

Permanent Fund Dividend (PFD) - Consists of nearly one half million records each year. Two years of PFD files are required to match against other files to identify residents. While the files overlap for most residents the second year of PFD data is necessary to identify new residents, and the first identifies those residents who either left Alaska or died prior to filing for the second year.

Beginning with the 1986 PFD data additional processing will be necessary to identify:

- a) the area of residence within Alaska.
- b) the labor force status of residents, eg. self-employed, federal, UI covered, or long term unemployed.

Labor force status - Developed from a match of the PFD and UI wage item files, this database of over one quarter million records will be used to estimate:

- a) Characteristics of Alaska's resident labor force who did not work under UI coverage in the most current year.
- b) The number of Alaska residents who worked under UI coverage who chose not to include their Social Security Number (SSN) on their PFD application (SSN has not been required since 1984).

UI Benefit - Identify about 700,000 claims for UI benefits each year. Records contain the amount paid by week, an employer number, and the occupation of the claimant.

Labor Supply - A new database necessary to permit the department to make the determinations required of the amount of work that must be performed by eligible qualified residents. Detail will be contained on the area and occupation of eligible qualified residents.

Social Impact - Another new database which will contain information on social problems that can be correlated to unemployment. This is necessary for the determinations of qualifying areas.

Labor shortage occupations - This new database will contain all occupations, by economic region, that have been identified as having inadequate numbers of eligible residents available for placement.

Quality control look up tables - Data will be rigorously edited to insure quality control. Computer tables containing the names and associated codes of areas, and occupations will be developed, maintained, and utilized to edit other files.

The most extensive use will occur as occupational titles are converted to numeric codes. All acceptable spellings of occupational titles, and their associated occupational codes, will be constantly updated for each detailed industry group.

Analytical files - Several files will be created from the computerized matching of characteristics from the same individuals, or firms, found in multiple files described above. Where practical these files are down loaded to microcomputers for more extensive editing, analysis, and formatting. This holds down costs, allows efficient analytical extractions and tests, and permits fast preparation into the final camera ready required reports.

#### Key Entry

Entry of occupational titles - This additional field will be added to all UI wage item reports from employers. As detailed in item #3 reporting from industries will be phased in. Costs are estimated to be \$20,000 in FY 87, \$40,000 in FY 88, and \$62,000 in FY 89. Increases in FY 90 and FY 91 are anticipated due to inflation and a greater number of firms.

#### Data Processing Applications Development (Programming)

Programming costs include: modification of programs used last year (\$2,000); development of new applications in FY 87 (\$25,500); and system maintenance, and analytical extractions (\$2,000) in all years. Estimated total programming costs are \$29,500 for FY 87 (983 hours @ \$30 per hour including all benefits and overhead), dropping to \$4,250 (142 hours @ \$30 per hour) in FY 88, and experiencing small inflationary costs in FY 90 and FY 91. The following new applications will be developed in FY 87:

- a) Extraction of ZIP codes from the 1986 PFD files, subsequent reallocation to census areas and economic regions, and writing of the geographic codes to other files (\$2,500).
- b) Development of a labor supply database, with all coding converted to Standard Occupational Classification (SOC) codes (\$5,000).
- c) Development of a social impact database (\$5,000).
- d) Creation of the labor force status database by extracting type of work information from the 1986 PFD files and matching against the UI wage items and ES-202 files (\$3,000).
- e) Creation of a labor shortage occupations database (\$1,000).
- f) Conversion of occupational titles to SOC codes (\$5,000).
- g) Matching of SOC codes to SSN and area of residence (\$4,000).

DP Operations (computer costs on DOL mainframe)

Primary processing will be done on the DOL computer. Costs are allocated to projects based upon use, in conformance with federal and state accounting requirements. Microcomputers will be used for analysis when possible to minimize costs. Mainframe data processing costs for the first year are estimated below:

- a) Match 1985 UI wage file to 1985 PFD = \$9,000
- b) Match 1985 UI wage file to 1986 PFD = \$9,000
- c) Merge the two files created in (a) and (b) = \$2,000  
The processing listed in items (a), (b), and (c) are necessary to identify workers as to their Alaska residency. Costs are based upon similar work done early in FY 86.
- d) Identify residency by Census Area = \$15,000 - This legislation requires specification of residency by Alaska's 23 Census Areas. The 1986 (and subsequent years') PFD files will be processed to extract ZIP codes. These in turn will be converted to Census Area and written to the file created from item (c).
- e) Determine the residency status, by Census Area, of workers who received UI benefits = \$5,000 - The UI benefit file will be matched to the files created in items (d) and (e), and subsequently processed to create in a file identifying the occupation, industry, and resident status of workers who received UI benefits.
- f) Labor supply database processing = \$9,000 - This legislation mandates that "The commissioner of labor shall determine the amount of work that must be performed under this section by eligible qualified residents" [Sec 36.10.150 (b)]. This database will be analyzed to assess the numbers of eligible qualified residents relative to the expected employment within each economic region.
- g) Social impact database processing = \$12,000 - After determining which social variables are available to our department that data will be extracted and converted to standardized coding. Extensive extractions of this database will be performed to indicate the correlation of unemployment to other social ills.

- h) Labor force status processing = \$4,000 - Described earlier under computer files this database will permit us to answer questions anticipated in future court challenges of this legislation.
- i) Conversion of occupational titles to numeric codes = \$30,000 - A critical facet of this legislation is identification of the displacement of Alaskans by nonresidents. In past court challenges to resident hire the State was not able to prove that unemployed residents had the same skills as employed residents.

To answer this question requires the identification of all workers by occupation by employer, those occupational titles will then be converted to Standard Occupational Classification (SOC) codes. Editing will be extensive and assisted interactively by staff who will be constantly updating the occupational titles which are acceptable for each industry, and matching those titles to the correct SOC codes.

About 250,000 occupational titles will be collected and edited in FY 87. This will increase to over 600,000 in FY 88, and over 1,000,000 in FY 89 as additional industries are phased in. Costs per record for this conversion will be higher than matching of other files because of the large character field which will be compared.

Both staff and processing costs per record are expected to be highest when new, or uniquely spelled, occupational titles are encountered for the first time. For this reason costs are expected to increase at a rate smaller than the increase in the number of occupational titles processed. Estimated processing costs are \$30,000 in FY 87, \$40,000 in FY 88, and \$50,000 in FY 89.

- j) Matching SOC codes to other files = \$9,000 - SOC codes will be matched to the files created in items (d), (e), (g), and if possible (h). Costs will increase in later years as the number of occupational titles collected increase (FY 88 \$12,000, and FY 89 \$15,000).

k) Analytical extracts = \$12,000 - Extraction of files will be done for three purposes:

- a) Large scale quality control edits.
- b) Sorting and grouping of data into special combinations such as Census Area as required to make the determinations specified in this legislation.
- c) To download to microcomputers for further editing, analysis, and reformatting.

Costs will increase in subsequent years as the number of records processed (especially with occupational titles) increase (FY 88 \$15,000, and FY 89 \$16,000).

9. Printing costs for the annual report are estimated at \$4,500 the first year with inflationary increases in FY 90 and FY 91. This is based upon an assumption of 1,500 copies at \$3 each.
10. Long distance phone calls will be done on a daily basis to verify the accuracy of occupational titles. The greatest number of calls will occur in the first year that an industry is surveyed. After the first three years the costs would drop.

Additional calls will be necessary each year to address the annual report requirement to determine "methods to increase resident hire." High nonresident employment by occupation, industry, and/or area will be identified in our statistical work. Calls will be made to follow up on the reasons for the high nonresident employment and solutions to increase resident hiring will be sought.

11. Equipment lease and maintenance is associated with the acquisition of three microcomputers, peripherals and communications to the DOL mainframe. Our experience in producing the resident hire report NonResidents Working In Alaska indicated that:

- a) Microcomputers saved about eight months in the preparation of the report. This was due to a combination of faster analysis, easier formatting, more efficient editing of both data and text, and camera ready output.
- b) Edits on the microcomputer were cheaper and more immediate.
- c) Errors were not introduced from the reentry of information.

These factors will be even more important in preparing the determinations and information required by this legislation because it is much more complex than our earlier study.

Position Title <b>Statistical Clerk</b>			No. of Positions <b>1</b>	Range/Step <b>10B</b>	Harg. U/1/1/1	Gov. <b>Leg.</b>	Approv.	Disapp.																																															
Time Status <b>PFT</b>	Staff Months <b>12.0</b>	RP Number	Location <b>Juneau</b>		Election District <b>4</b>	Leg.																																																	
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Type of Expenditure</th> <th>1</th> <th>2</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td></td> <td>23,580</td> <td></td> </tr> <tr> <td>Benefits</td> <td></td> <td>8,458</td> <td></td> </tr> <tr> <td>Premium Pay</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td></td> <td></td> </tr> <tr> <td><b>Total Personal Services</b></td> <td></td> <td></td> <td>32,038</td> </tr> <tr> <td>Travel</td> <td></td> <td></td> <td>0</td> </tr> <tr> <td>Contractual</td> <td></td> <td></td> <td>3,600</td> </tr> <tr> <td>Commodities</td> <td></td> <td></td> <td>365</td> </tr> <tr> <td>Equipment</td> <td></td> <td></td> <td>1,300</td> </tr> <tr> <td>Other</td> <td></td> <td></td> <td></td> </tr> <tr> <td><b>Total Cost</b></td> <td></td> <td></td> <td>37,303</td> </tr> </tbody> </table>			Type of Expenditure	1	2	3	Salary		23,580		Benefits		8,458		Premium Pay				Other				<b>Total Personal Services</b>			32,038	Travel			0	Contractual			3,600	Commodities			365	Equipment			1,300	Other				<b>Total Cost</b>			37,303	<b>Justification</b> This position will work on the quality control of occupational titles which would be submitted by employers each quarter. Specifically, the duties would be: <ol style="list-style-type: none"> <li>1. Review detailed edit listings.</li> <li>2. Update edit data files.</li> <li>3. Call employers for clarification when necessary.</li> <li>4. Correct occupational titles.</li> <li>5. Prepare computer summaries of results.</li> </ol> Contractual costs for this position include phone, training, and other miscellaneous items.				
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## Request For New Position

Agency Labor  
 BRU Administrative Services  
 Component Special Services

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Revised Date \_\_\_\_\_

**FY 87**

Position Title <b>Labor Economist III</b>			No. of Positions 1	Range/Step 18B	Barg. Unit GGU	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12.0	RP Number	Location Juneau		Election District	Leg.		
Type of Expenditure			Justification					
1	2	Amount 3	This position will have primary responsibility for the analysis of data, the preparation of the annual resident hire report, and the determination of the amount of work required in underemployed areas. Specifically, the duties would include:					
Salary	40,188		1) Coordinate the collection and monitor the validity of relevant resident hire related statistics from other agencies.					
Benefits	12,283		2) Coordinate the updating and crossmatching of resident hire related data files with the analyst programmer.					
Premium Pay			3) Develop, collect and analyze data that are required to determine the amount of work to be done by nonresidents in underemployed areas.					
Other			4) Supervise the statistical technician who will collect new data for the determination of work by nonresidents, and develop the occupational code conversion program.					
Total Personal Services		52,471	5) Analyze microcomputer resident hire data bases to generate resident hire related tables and reports.					
Travel		0	6) Supervise the Statistical Clerk that will prepare the basic resident hire data tables for the report.					
Contractual		3,600	Contractual services costs include equipment lease, training, and other miscellaneous items.					
Commodities		365						
Equipment		1,400						
Other								
Total Cost		57,836						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004	57,836					
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
For B&M Use Only Key Number _____								

**Request For  
New Position**

Agency Labor  
 DRU Administrative Services  
 Component Special Services

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 Revised Date \_\_\_\_\_

**FY 87**

Position Title <b>Labor Economist II</b>		No. of Positions	Range/Step <b>16B</b>	Barg. Unit <b>GGU</b>	Gov.	Approv.	Disapp.
Time Status <b>PPT</b>	Staff Months <b>3</b>	RP Number	Location <b>Juneau</b>		Election District	Leg.	
Justification							
This part-time position will be necessary to help the Labor Economist III analyze and compile data for the annual resident hire report. This position will work for three months prior to the report deadline.							
Specific duties include:							
1) Conduct exploratory data analysis of economic information that illustrates the effect of the nonresident worker in the Alaska economy; show the degree of displacement of residents by nonresidents.							
2) Use a microcomputer to prepare graphs tables and narrative that result from the exploratory data analysis.							
Contractual services include miscellaneous phone, training and equipment lease cost.							
Type of Expenditure		Amount					
1		2		3			
Salary		8,412					
Benefits		4,965					
Premium Pay							
Other							
Total Personal Services		13,377					
Travel							
Contractual		900					
Commodities		100					
Equipment		0					
Other							
Total Cost		14,377					
Receipt Code		Funding Source					
		Federal Receipts 1002					
		G. F. Match 1003					
		General Funds 1004		14,377			
		I-A Receipts 1005					
		Program Receipts 1028					
		CIP Receipts 1061					
		Other					
For B&M Use Only							
Key Number _____							

**Request For  
New Position**

Agency Labor  
 BRU Administrative Services  
 Component Special Services

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 Revised Date

**FY 87**

Position Title		Statistical Technician I		No. of Positions	Range	Step	Range	Gov.	Approv.	Disapp.
Time Status	PFT	Staff Months	12	RP Number						
				Location	Juneau		Election District	Leg.		
Justification										
This position will have primary responsibility for assisting the Labor Economist III with the collection, and formulation of data for the resident hire report and for the determination of the amount of work to be done by nonresidents. This position will be heavily involved in the quality control of data collected. Specifically, the duties would include:										
1) Collect and edit data to be used to analyze labor supply, and labor shortage of Alaska workers; collect and edit data on social variables to be correlated to the impact of unemployment.										
2) Create and use quality control look up tables to ensure all data are properly coded; this includes industry, occupation, and area codes.										
3) Use the microcomputer to load information into spreadsheets to show the occupational displacement of residents by nonresidents.										
4) Prepare and update tables of economic information by resident status.										
Contractual services costs include phone, equipment lease, training, etc.										
Type of Expenditure				Amount						
1		2		3						
Salary		26,592								
Benefits		9,152								
Premium Pay										
Other										
Total Personal Services				35,744						
Travel										
Contractual				3,600						
Commodities				365						
Equipment				1,300						
Other										
Total Cost				41,009						
Receipt Code		Funding Source								
		Federal Receipts 1002								
		G. E. Match 1003								
		General Funds 1004		41,009						
		I-A Receipts 1005								
		Program Receipts 1028								
		CIP Receipts 1061								
		Other								
For D&M Use Only										
Key Number _____										

**Request For  
New Position**

Agency Labor  
 BRU Administrative Services  
 Component Special Services

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 Revised Date

**FY 87**

# Alaska State Legislature

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4931

DISTRICT 10  
BOX 111038  
ANCHORAGE, ALASKA 99511  
(907) 349-2192



CHAIRMAN  
Special Committee on  
Telecommunications

MEMBER  
Labor and Commerce  
State Affairs  
Finance—Subcommittee Administration

Representative H. A. "Red" Boucher

## M E M O R A N D U M

To: Members of House Finance Committee  
From: Representative H.A. "Red" Boucher  
Date: May 5, 1986  
Subject: Sectional Analysis of House CS for CS for SB 367  
(L&C)

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Section 1 sets out the legislature's purpose for the bill.

Section 2 (AS 36.10.005) adds several subsections to the findings of fact that already exist in statute concerning the need for resident preference in employment. Subsection (c) adds two reasonable findings of fact related to unemployment insurance coverage; Subsection (d) adds additional findings related to higher unemployment in Alaska in general and lack of opportunity for employment in rural areas in particular.

Section 3 (AS 36.10.070) deals with unavailability of preferred workers by requiring the employer to work with the Department of Labor to hire residents who are eligible, and if residents can't be obtained, only then may the DOL approve hiring of residents or nonresidents who are not eligible for preference.

Section 4 (AS 36.10.075) gives the commissioner of labor authority to adopt regulations to maximize resident hire.

Section 5 (AS 36.10) has new sections added to it, including:

**RESIDENT HIRE REPORT (AS 36.10.130).** An annual report shall be submitted on the status of resident and nonresident employment in the state.

**ELIGIBILITY FOR PREFERENCE (AS 36.10.140).** At a great administrative savings to the Department of Labor, a self-certification for employment preference will be developed by regulation, to be organized along lines similar to the permanent fund dividend program.

(a) Besides self-certification and residency, in order to be eligible for a preference an applicant has to additionally fall under at least one of the four categories listed: 1) is receiving unemployment benefits; 2) is not working and is registered; 3) is underemployed or marginally employed; OR has completed a job training program. Employers and labor organizations will be responsible responsible for certifying that their workers or members are eligible under the above criteria, and the Department of Labor may assist them in verifying eligibility of applicants.

DETERMINATION OF ZONE OF UNDEREMPLOYMENT (AS 36.10.150). Establishes a resident hiring preference for economic regions of the state.

(a) The determination of the zone or zones to be used for preference is given to the commissioner, and may include the entire state as whole, or sub-regions such as the 23 census areas or the 6 economic regions of the state, for two year periods following each such determination. Preference will be determined on a craft-by-craft or occupational basis.

(b) Standards are set forth by which the commissioner makes a determination of what should be the appropriate % at which the eligible resident preference is enforced.

(c) Criteria are set which an economic region must meet to be considered a zone of underemployment by the commissioner.

PREFERENCE FOR RESIDENTS OF ECONOMICALLY DISTRESSED ZONES (AS 36.10.160). (a) Establishes a hiring preference for economically distressed zones of the state. The preference requires that 50% of the employment on a project wholly or partially sited within the zone must be performed by residents of the zone. Subsection (b) sets out the criteria that a zone must meet to be considered an economically distressed zone, which are different than for zones of underemployment.

PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINORITY RESIDENTS (AS 36.10.170). (a) Establishes a preference for economically disadvantaged minority residents of a zone. The preference requires that 25% of the employment on a project wholly or partially sited within the area be performed by qualified minority residents within the area. Subsection (b) sets out the criteria that must be met in order to establish that the minority(s) of the zone are economically disadvantaged. Subsection (c) defines who is considered a member of a minority.

PREFERENCE FOR ECONOMICALLY DISADVANTAGED FEMALE RESIDENTS (AS 36.10.175). (a) Establishes a preference for economically disadvantaged female residents of a zone. The preference requires that 25% of the employment on a project wholly or partially sited within the area be performed by qualified

minority residents within the area. Subsection (b) sets out the criteria that must be met in order to establish that the female residents of the zone are economically disadvantaged.

PROJECTS SUBJECT TO PREFERENCE (AS 36.10.180). Defines the scope of projects to which the preferences under AS 36.10.150-175 apply. Subsection (a) applies the preference to the same kinds of projects now covered by AS 36.10.010, and includes public construction projects at the municipal and state levels, with all boards, corporations and any other units of government created by or under the jurisdiction of all three branches of government, if state money or any state grant is involved. Subsection (b) establishes that the preferences established under AS 44.33.285 for residents of an area affected by an economic disaster supersede the preferences under sections 36.10.150 and 36.10.100. In Subsection (c) the commissioner is given the authority to define the geographic boundaries of a zone receiving preference.

REPORTING PROVISIONS (AS 36.10.190). An employer shall comply with all reporting activity required by the commissioner. All information collected on individual persons is confidential, but for purposes of this chapter government departments may share confidential information (which of course still remains confidential) except where prohibited by law.

CRIMINAL PENALTIES (AS 36.10.200). A person is subject to criminal prosecution for perjury if the certification of eligibility is falsified. In the case of an applicant, all future rights to eligibility for employment preference may be taken away.

CIVIL PENALTIES (36.10.210). After a hearing by the Department of Labor, a person may be subject to civil penalties in addition to any criminal penalties with regards to certification for eligibility. In the case of an applicant, this penalty will not exceed \$400; but for an employer, the penalties shall be more severe, and on a case by case basis.

EFFECT OF JUDICIAL DECISIONS (AS 36.10.900). This is consistent with the general state severability clause at AS 01.10.030 and requires that if a portion of the chapter is held invalid, then the rest of the chapter remains in force.

DEFINITIONS (AS 36.10.990). The terms "qualified" and "zone" are defined.

Section 6 (AS 36.95.010). The term resident is defined in accord with existing statute in AS 01.10.055.

Section 7 (AS 37.05.315). State grants to municipalities for public works projects are included in this Chapter.

Section 8 (AS 37.05.316). State grants to any other recipient of a public works project must comply with the requirements of this Chapter.

Section 9 (AS 37.05.317). State grants awarded for public works projects by the Department of Community and Regional Affairs under contract must comply with the provisions of this Chapter.

Section 10 applies the Act to contracts entered on or after the effective date of the Act, unless the contract already has a provision in it requiring compliance with resident hire laws that take effect at any time during the term of the contract.

Section 11 (AS 36.95.010(4) & (5) are repealed. These are the old definitions in the Act for "qualified" and for "resident", which this bill supersedes.

Section 12 indicates that the Act takes effect immediately.

## Anchorage Daily News



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## A return to reason on local hiring

At last, a measure of sanity has returned to the legislature's work on local hiring measures. Until recently, the political popularity of the cause had lead legislators to reach far beyond constitutional (and sometimes even common sense) bounds as they tried to reserve in-state jobs for in-state residents. But now the Senate has passed a bill that better reflects the constraints the U.S. Constitution imposes on resident hiring efforts.

The key is that the measure settles for much more limited resident hiring goals.

It aims the local hiring preference only at unemployed workers, and only for state and locally funded public works projects. The preference would only apply to 50 percent of the project's jobs or a level set by the state labor commissioner, down from 95 percent in Alaska's recently overturned local hiring law. The state could invoke the preference only where non-resident hiring is causing serious social and economic harm.

Supporters hope officials can make a case that all of Alaska suffers such harm. If so, a local-hiring preference could apply statewide.

The Senate version squarely addresses legal standards set out in recent court cases. The key question is whether Alaska can show that widespread hiring of non-residents causes enough economic harm to justify measures limiting their rights to seek work here.

That is a fine line, and the courts may draw it short of the local hiring preference Alaska legislators now seek. But a measure that probes the fine line is a welcome change from past efforts, which reached so far they were soundly rejected by the courts.

Rep. Red Boucher, the legislature's most tireless champion of local hiring, has helped the House speed up its work on the issue by backing the Senate measure over similar bills he introduced. He's right: the Senate's local hiring bill is worth a try.

# Alaska State Legislature

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CHAIRMAN  
Special Committee on  
Telecommunications

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MEMBER  
Labor and Commerce  
State Affairs  
Finance—Subcommittee Administration

Representative H. A. "Red" Boucher

## MEMORANDUM

To: House Finance Committee Members

From: Representative H.A. "Red" Boucher

Date: May 5, 1986

Subject: Comparison of House CS for CSSB 367 (L & C) with CS for SS for HB 466 (Finance) (latest versions of both bills)

On April 21, lengthy meetings were held by a Sub-Committee of the House Labor and Commerce Committee to amend CSSB 367 Finance (am). The Subcommittee decided to bring this bill into conformance with CS for SSHB 466 (Finance) which the House Finance Committee and a Sub-Committee of Finance had already worked on extensively. This House L&C Subcommittee version was then adopted by the House L&C Committee on April 24, and is the one before you, that is, House CS for CSSB 367 (L & C).

First then, for the sake of simplicity, the House L & C Subcommittee chose to delete all of the language from CSSB 367 Finance (am), and replace it with the language of CS for SSHB 466 (Finance), because this version of HB 466 represented all of the latest work that had been done on either bill up to that point in time.

Second, while CSSB 367 Finance (am) was on the Senate floor, Senator Josephson offered three amendments to it. Two of those amendments covered changes that had already been made in SSHB 466 (Finance), so the change made above already covered those amendments (as well as numerous other small changes that had not been covered by the Josephson amendments).

The Subcommittee then adopted Josephson's amendment #2 to CSSB 367 Finance (am) --see Senate Journal, April 11, page 2 316-- as it was the only remaining substantive difference between the two bills, having been offered from the Senate floor on April 14. This amendment (with the page and line locations where they are located currently in House CS for CSSB 367-L&C) is as follows:

page 3, line 20

Delete "are" and insert "were"

Insert after "preference" the phrase "at the time of hiring" (a later amendment in the House L & C CS also inserted the word "eligible")

page 4, line 3

Insert after the word "preference" the word "in hiring"

page 4, line 7

Insert after the word "residents" the phrase "who are eligible for an employment preference under this section by qualified residents who are eligible for an employment preference under AS 36.10.140."

page 4, lines 5-6 and  
page 5, lines 3-4 and  
page 5, line 23-24 and  
page 6, line 23-24;

Insert after the word "zone." the following sentence:

"The preference applies on a craft-by-craft or occupational basis."

page 5, line 1-2  
page 5, line 21  
page 6, line 21

Insert after the word "preference"  
the words "in hiring."

Thirdly, the House L & C Subcommittee then added the following additional new language, not seen before in any version of either bill:

page 3, line 21

Insert after (c) new sections (d) and (e) that shall read as follows:

(d) A labor organization that dispatch members for work on a public works project under a collective bargaining agreement shall certify that persons dispatched as residents to meet a preference were eligible for the preference at the time of dispatch.

(e) An employer or labor organization may request assistance from the Department of Labor in verifying the eligibility of an applicant for a hiring preference under this chapter.

page 7, lines 11-20

(1) (work performed)--under a contract for construction, repair, preliminary surveys, engineering studies, consulting, maintenance work, or any other retention of services necessary to complete a given project that is let by the state or an agency of the state, a department, office, state board, commission, public corporation, or any other organizational unit of or created under the executive, legislative, or judicial branch of state government, including the University of Alaska, and the Alaska Railroad Corporation, or by a political subdivision of the state, including a regional school board with respect to an educational facility under AS 14.11.020;

This entire section was re-written to combine two separate sections of an earlier version of HB 466 into one section for this version of SB 367.

All subsequent sections were renumbered.

page 7, line 27

The following section was added in as (5)

(5) on any other public works project or construction project that is funded in whole or in part by state money.

page 9, line 25-26

The following definition was deleted:

(1) "available" means physically present at the place of hire at the time requested by the employer;

The subsequent definitions were re-numbered.

page 10, line 25

Combine the old sections 11 and 12 into one section, as both are repealers.

page 10, line 25

The old Section 13 was completely deleted. This Section dealt with various procedures to follow if the Department of Law decided to appeal the Francis decision to a higher court. The deadline date for submission has now passed, so the whole section becomes irrelevant.

page 10, line 26

Because Section 13 was dropped, this section was re-numbered and re-worded so that the entire bill has one immediate effective date, rather than a separate effective date which had been in the old Section 13.

Offered: 3/20/86  
Referred: Judiciary

Original sponsors: Faiks, Josephson,  
Sturgulewski and V.Fischer

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

2

CS FOR SENATE BILL NO. 367 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to Alaskan resident employment  
7 preference; and providing for an effective date."

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

9 \* Section 1. PURPOSE. The legislature recognizes that the state has a  
10 significant unemployment problem. This Act is intended to better fulfill  
11 the state's duty of loyalty to its citizens, reduce unemployment among  
12 residents of the state, remedy social harms resulting from chronic unem-  
13 ployment, and assist economically and socially disadvantaged residents. If  
14 the courts find that a portion of AS 36.10 is unconstitutional, the public  
15 interest requires that the remaining portions be implemented as fully as  
16 possible.

17 \* Sec. 2. AS 36.10.005 is amended by adding new subsections to read:

18 (c) The legislature further finds that the ratio of employees on  
19 a certified payroll who did not apply for or were refused a permanent  
20 fund dividend under AS 43.23 to employees who were found eligible to  
21 receive a dividend is a reasonable but not exclusive indicator of the  
22 ratio of nonresident to resident employees on a public works project.

23 (d) When determining the ratio of nonresident to resident em-  
24 ployees working on a public works project, the commissioner may con-  
25 sider information gathered from on-site surveys of public works proj-  
26 ects including individual interviews, questionnaires, examination of  
27 the state of registration of vehicles owned or operated by employees,  
28 and other information acquired from inspection of certified payrolls.

29 (e) The legislature finds that the following factors are

1 reasonable but not exclusive indicators of the ratio of nonresident to  
2 resident employees in the state:

3 (1) the ratio of applicants for unemployment insurance who  
4 list out-of-state residences to applicants who list residences in the  
5 state;

6 (2) the ratio of employees who are subject to unemployment  
7 insurance coverage and who did not apply for or were denied a perma-  
8 nent fund dividend to employees who were found eligible for a divi-  
9 dend.

10 (f) The legislature finds that

11 (1) the number of state residents who are unable to find  
12 work is considerably higher than is reflected by unemployment rates  
13 based on nationally accepted measures;

14 (2) many rural state residents who wish to work do not seek  
15 employment as frequently as necessary to meet federal definitions of  
16 unemployment because of continuing lack of employment opportunities in  
17 rural areas of the state.

18 \* Sec. 3. AS 36.10.070 is repealed and reenacted to read:

19 Sec. 36.10.070. UNAVAILABILITY OF PREFERRED WORKERS. (a) An  
20 employer subject to hiring requirements under this chapter may request  
21 the Department of Labor to assist in locating qualified, eligible  
22 employees. After receiving a request for assistance, the department  
23 shall refer qualified, eligible, available residents to the employer  
24 to fill the employer's hiring needs. The employer shall cooperate  
25 with the department.

26 (b) If the department is unable to refer a sufficient number of  
27 qualified, eligible, available residents able to perform the work, the  
28 commissioner of labor may approve the hiring of residents who are not  
29 eligible for preference and nonresidents for the balance of the

1 request.

2 \* Sec. 4. AS 36.10.075 is amended by adding a new subsection to read:

3 (b) The commissioner of labor shall adopt regulations to encour-  
4 age and require the hiring of residents to the maximum extent permit-  
5 ted by law.

6 \* Sec. 5. AS 36.10 is amended by adding new sections to read:

7 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and  
8 the commissioner of labor shall report biennially to the legislature  
9 and the governor on the status of employment in the state, the effect  
10 of nonresident employment on the employment of residents in the state,  
11 and methods to increase resident hire. The report shall be submitted  
12 by January 31 of the first session of a legislature.

13 Sec. 36.10.140. ELIGIBILITY FOR PREFERENCE. (a) A person is  
14 eligible for an employment preference under this chapter if the person  
15 registers as required by the Department of Labor, is a resident, and

16 (1) is receiving unemployment benefits under AS 23.20 or  
17 would be eligible to receive benefits but has exhausted them;

18 (2) is not working and has registered to find work with a  
19 public or private employment agency or a local hiring hall;

20 (3) is underemployed or marginally employed as defined by  
21 the department; or

22 (4) has completed a job-training program approved by the  
23 department and is either not employed or is engaged in employment that  
24 does not use the skills acquired in the job-training program.

25 (b) An employer subject to a resident hiring requirement under  
26 this chapter shall certify that persons employed as residents under  
27 the preference are eligible for the preference.

28 Sec. 36.10.150. DETERMINATION OF UNDEREMPLOYED AREA. (a)  
29 Immediately following a determination by the commissioner of labor

1 that an economic region of the state is an underemployed area or that  
2 the state as a whole is an underemployed area, and for the next two  
3 years after the determination, qualified residents of the area who are  
4 eligible under AS 36.10.140 shall be given preference for work on each  
5 project under AS 36.10.180 that is wholly or partially sited within  
6 the area.

7 (b) The commissioner shall determine that an economic region of  
8 the state or the state as a whole is an underemployed area if the  
9 commissioner finds that

10 (1) the rate of unemployment within the area is substan-  
11 tially higher than the national rate of unemployment;

12 (2) a substantial number of residents in the area desire  
13 work in occupations that would be employed on a public works project;

14 (3) the lack of employment opportunities in the area has  
15 contributed to social or economic problems in the area; and

16 (4) employment of workers who are not residents is a pecu-  
17 liar source of the unemployment of residents of the area.

18 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-  
19 TRESSED AREAS. (a) Immediately following a determination by the  
20 commissioner that an economic region of the state is an economically  
21 distressed area, and for the next two years after the determination,  
22 qualified residents of the area who are eligible under AS 36.10.140  
23 shall be given preference for at least 50 percent of employment on  
24 each project under AS 36.10.180 that is wholly or partially sited  
25 within the economically distressed area. The preference applies to  
26 worker hours on a craft-by-craft basis.

27 (b) The commissioner shall determine that an area is an econom-  
28 ically distressed area if the commissioner finds that

29 (1) the unemployment rate in the area exceeds the national

1 rate of unemployment by at least five percentage points;

2 (2) the lack of employment opportunities in the area has  
3 contributed to social or economic problems in the area; and

4 (3) employment of workers who are not residents is a pecu-  
5 liar source of unemployment of residents of the area.

6 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-  
7 ITY RESIDENTS. (a) Immediately following a determination by the  
8 commissioner that the minority residents of an economic region are  
9 economically disadvantaged, and for the next two years after the  
10 determination, qualified minority residents of the area who are eligi-  
11 ble under AS 36.10.140 shall be given preference for at least 25  
12 percent of employment on each project under AS 36.10.180 that is  
13 wholly or partially sited within the area. The preference applies to  
14 worker hours on a craft-by-craft basis.

15 (b) The commissioner shall determine that minority residents of  
16 an area are economically disadvantaged if the commissioner finds that

17 (1) the civilian minority population of the area exceeds  
18 the average civilian minority population for the state;

19 (2) either the percent of unemployment of civilian minority  
20 residents of the area is at least two times the percent of unemploy-  
21 ment of nonminority residents of the area or the civilian minority  
22 population of the area has suffered past economic discrimination;

23 (3) the economic disadvantage of civilian minority resi-  
24 dents of the area has contributed to social or economic problems in  
25 the area;

26 (4) employment of workers who are not residents is a pecu-  
27 liar source of unemployment of civilian minority residents of the  
28 area.

29 (c) In this section, a person is considered to be a member of a

1 minority if the person is black but not of Hispanic origin, Hispanic,  
2 Asian or Pacific Islander, American Indian or Alaskan Native, as those  
3 terms are defined by the Equal Employment Opportunity Commission.

4 Sec. 36.10.180. PROJECTS SUBJECT TO PREFERENCE. (a) The pref-  
5 erences established in AS 36.10.150 - 36.10.170 apply to

6 (1) the performance of contracts let by a municipality for  
7 construction, repair, preliminary surveys, engineering studies, con-  
8 sulting, maintenance work, or any other retention of services neces-  
9 sary to complete a given project;

10 (2) a construction project that is partly or wholly funded  
11 by state money if the state or an agency of the state, a department,  
12 office, agency, state board, commission, regional school board with  
13 respect to an educational facility under AS 14.11.020, public corpo-  
14 ration, or other organizational unit of or created under the execu-  
15 tive, legislative or judicial branch of state government, including  
16 the University of Alaska and the Alaska Railroad Corporation, is a  
17 signatory to the construction contract;

18 (3) work performed on a public works project under a grant  
19 to a municipality under AS 37.05.315;

20 (4) work performed on a public works project under a grant  
21 to a named recipient under AS 37.05.316; and

22 (5) work performed on a public works project under a grant  
23 to an unincorporated community under AS 37.05.317.

24 (b) If the governor has declared an area to be an area impacted  
25 by an economic disaster under AS 44.33.285, then the preference for  
26 residents of the area established under AS 44.33.285 - 44.33.310  
27 supercedes the preference under AS 36.10.150 and 36.10.160 for con-  
28 tracts awarded by the state.

29 (c) The commissioner shall define the boundaries of an economic

1 region or an area within which a preference applies.

2 Sec. 36.10.190. PENALTIES. (a) A person who makes a false  
3 sworn statement in connection with a certification of eligibility for  
4 an employment preference under this chapter is subject to criminal  
5 prosecution for perjury as provided in AS 11.56.200.

6 (b) A person who makes an unsworn falsification, with the intent  
7 to mislead a public servant in the performance of a duty, in connec-  
8 tion with a certification of eligibility for an employment preference  
9 under this chapter, is subject to criminal prosecution as provided in  
10 AS 11.56.210.

11 (c) In addition to criminal penalties imposed by state law, if a  
12 person is convicted of a crime in connection with a false statement  
13 made in a certification required under AS 36.10.140, and the convic-  
14 tion is not reversed, that person shall forfeit all future rights to  
15 eligibility for an employment preference under this chapter.

16 Sec. 36.10.900. EFFECT OF JUDICIAL DECISIONS. If a provision of  
17 this chapter, or the application of a provision to a person or circum-  
18 stance, is held invalid, the remainder of this chapter and the appli-  
19 cation to other persons or circumstances shall not be affected by the  
20 holding. The remainder shall be enforced to the greatest extent  
21 constitutionally permissible under the constitutions of the United  
22 States and the State of Alaska.

23 Sec. 36.10.990. DEFINITION. In this chapter "qualified" means  
24 possesses the requisite education, training, skills, or experience to  
25 perform the work.

26 \* Sec. 6. AS 36.95.010 is amended by adding new paragraphs to read:

27 (9) "craft" means a recognized construction trade;

28 (10) "resident" means a person who establishes residency  
29 under AS 01.10.055.

1 \* Sec. 7. AS 37.05.315 is amended by adding a new subsection to read:

2 (e) The Department of Labor shall require a municipality awarded  
3 a grant for a public works project under (a) of this section to comply  
4 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-  
5 ment generated by the grant.

6 \* Sec. 8. AS 37.05.316 is amended by adding a new subsection to read:

7 (b) The Department of Labor shall require a recipient awarded a  
8 grant for a public works project under (a) of this section to comply  
9 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-  
10 ment generated by the grant.

11 \* Sec. 9. AS 37.05.317 is amended by adding a new subsection to read:

12 (b) The Department of Labor shall require the qualified incor-  
13 porated entity awarded a grant or agents or contractors with whom the  
14 Department of Community and Regional Affairs contracts under (a) of  
15 this section to comply with the requirements of AS 36.10.150 - 36.10.-  
16 170 for employment generated by the grant or contract if the grant or  
17 contract is for a public works project.

18 \* Sec. 10. The provisions of this Act do not apply to a contract en-  
19 tered into before the effective date of this Act unless the contract in-  
20 cludes a provision requiring compliance with laws regarding the hiring of  
21 Alaska residents that take effect during the term of the contract.

22 \* Sec. 11. AS 36.95.010(4) and (5) are repealed.

23 \* Sec. 12. AS 36.10.010 is repealed.

24 \* Sec. 13. Section 12 of this Act takes effect April 17, 1986, or im-  
25 mediately, in accordance with AS 01.10.070(c), whichever is later, if the  
26 final decision of the Alaska Supreme Court in Robison v. Francis, File No.  
27 S-493, Opinion No. 3011, January 17, 1986, is not submitted for review to  
28 the United States Supreme Court. If the decision is submitted for review  
29 but the United States Supreme Court declines to accept review, then sec. 12

1 of this Act takes effect on the date of the order of the United States  
2 Supreme Court declining to accept review. If the United States Supreme  
3 Court accepts review, then sec. 12 of this Act takes effect on the date of  
4 a final decision of the United States Supreme Court affirming the decision  
5 of the Alaska Supreme Court.

6 \* Sec. 14. Sections 1 - 11 of this Act take effect immediately in  
7 accordance with AS 01.10.070(c).

Introduced: 1/29/86  
Referred: Labor and Commerce  
and Judiciary

BY FAIKS, JOSEPHSON,  
STURGULEWSKI AND V.FISCHER

1 IN THE SENATE

2 SENATE BILL NO. 367

2

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to Alaskan resident employment  
7 preference; and providing for an effective date."

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

9 \* Section 1. PURPOSE. The legislature recognizes that the state has a  
10 significant unemployment problem. This Act is intended to better fulfill  
11 the state's duty of loyalty to its citizens, reduce unemployment among  
12 residents of the state, and assist economically and socially disadvantaged  
13 residents. If the courts find that a portion of AS 36.10 is unconstitu-  
14 tional, the public interest requires that the remaining portions be imple-  
15 mented as fully as possible.

16 \* Sec. 2. AS 36.10.005 is amended by adding new subsections to read:

17 (c) The legislature further finds that the following factors are  
18 adequate but not exclusive indicators of the ratio on a public works  
19 project of nonresident to resident employees:

20 (1) the ratio between the employees on a certified payroll  
21 who did not apply for or were refused a permanent fund dividend under  
22 AS 43.23 to those employees who were found eligible to receive a  
23 dividend;

24 (2) the ratio between employees on a certified payroll who  
25 are registered to vote in a state other than Alaska to those who are  
26 registered to vote in Alaska;

27 (d) The commissioner may consider information gathered from site  
28 surveys of construction projects including individual interviews,  
29 comparison of the state in which vehicles owned or operated by

1 employees are registered, and other information acquired from inspec-  
2 tion of certified payrolls when determining the ratio of nonresident  
3 to resident employees working on a public works project.

4 (e) The legislature finds that the following factors are reascn-  
5 able indicators of the ratio of nonresident to resident employees in  
6 the state:

7 (1) the ratio between applicants for unemployment insurance  
8 claims who list an out-of-state residence compared to those applicants  
9 who list residences in the state;

10 (2) the ratio between applicants for unemployment compen-  
11 sation who did not apply for or were denied a permanent fund dividend  
12 to those applicants who were found eligible for a dividend.

13 (f) The legislature finds that

14 (1) the actual rate of unemployment among residents of the  
15 state is considerably higher than is reflected by unemployment rates  
16 based on nationally accepted measures;

17 (2) rural areas in the state have proportionately more  
18 resident workers who are unemployed but who are not reflected in the  
19 unemployment rates based on nationally accepted measures than do  
20 nonrural areas of the state;

21 (3) many unemployed rural state residents do not seek  
22 employment as frequently as necessary to fit federal definitions of  
23 unemployment because of continuing lack of employment opportunities in  
24 rural areas of the state.

25 (g) The legislature further finds that given the expense and  
26 difficulty of gathering and preparing information on unemployment for  
27 the state, it is reasonable, absent substantial evidence to the con-  
28 trary, for the commissioner of labor to rely on information and pro-  
29 jections to indicate trends and to implement remedies to unemployment

1        problems based on those trends.

2        \* Sec. 3. AS 36.10 is amended by adding new sections to read:

3                Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and  
4        the commissioner of labor shall report annually to the legislature and  
5        the governor on the status of unemployment in the state, the effect of  
6        nonresident employment on unemployment in the state, and methods to  
7        increase resident hire. The report shall be submitted at least 30  
8        days before the first day of the legislative session.

9                Sec. 36.10.140. REGISTRATION REQUIRED. To be eligible for an  
10       employment preference under this chapter, a person must register with  
11       the Department of Labor or with a local hiring hall.

12                Sec. 36.10.150. DETERMINATION OF UNDEREMPLOYED AREA. (a)  
13       During the three fiscal years following a calendar year in which the  
14       commissioner of labor determines that an economic region of the state  
15       is an underemployed area or that the state as a whole is an underem-  
16       ployed area, at least 95 percent of the worker hours on a craft-by-  
17       craft basis shall be performed by residents of the area on each public  
18       works project under AS 36.10.180 that is wholly or partially sited  
19       within the area.

20                (b) The commissioner shall determine that an economic region of  
21       the state or the state as a whole is an underemployed area if the  
22       commissioner finds that

23                        (1) the rate of unemployment within the area is higher than  
24       the national rate of unemployment;

25                        (2) there is substantial unemployment in the area among  
26       persons seeking work in occupations that would be employed on a public  
27       works project; and

28                        (3) employment of workers who are not residents of the area  
29       is a contributing cause of the unemployment of residents of the area.

1           Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-  
2 TRESSED AREAS. (a) During the three fiscal years following a calen-  
3 dar year in which the commissioner determines that a census area,  
4 census subarea, or an economic region of the state is an economically  
5 distressed area, at least 50 percent of employment on each project  
6 under AS 36.10.190 that is wholly or partially sited within the eco-  
7 nomically distressed area shall consist of residents of the area. The  
8 50 percent preference applies to worker hours on a craft-by-craft  
9 basis.

10           (b) The commissioner shall determine that an area is an econom-  
11 ically distressed area if the commissioner finds that

12                 (1) the average annual family income of residents of the  
13 area is below the adjusted poverty guidelines of the federal Depart-  
14 ment of Health and Human Services or that the unemployment rate in the  
15 area exceeds the national rate of unemployment by at least five per-  
16 centage points; and

17                 (2) employment of workers who are not residents of the area  
18 is a contributing cause of unemployment of residents of the area.

19           Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-  
20 ITY RESIDENTS. (a) During the three fiscal years following a calen-  
21 dar year in which the commissioner determines that the minority resi-  
22 dents of a census area or census subarea are economically disadvan-  
23 taged, at least 25 percent of employment on each project under AS 36.-  
24 10.180 that is wholly or partially sited within the census area or  
25 census subarea shall consist of minority residents of the area. The  
26 25 percent preference applies to worker hours on a craft-by-craft  
27 basis.

28           (b) The commissioner shall determine that minority residents of  
29 a census area are economically disadvantaged if the commissioner finds

1 that

2 (1) the minority population of the census area exceeds the  
3 average minority population for the state;

4 (2) the percent of unemployment of minority residents of  
5 the area is at least two times the percent of unemployment of non-  
6 minority residents of the area; and

7 (3) employment of workers who are not residents of the area  
8 is a contributing cause of unemployment of minority residents of the  
9 area.

10 (c) In this section, a person is considered a member of a minor-  
11 ity if the person is a member of a racial or ethnic minority group  
12 recognized by the federal Bureau of the Census.

13 Sec. 36.10.180. SCOPE OF PREFERENCE. (a) The preferences  
14 established in AS 36.10.150 - 36.10.170 apply to

15 (1) the performance of contracts let by a municipality for  
16 construction, repair, preliminary surveys, engineering studies, con-  
17 sulting, maintenance work, or any other retention of services neces-  
18 sary to complete a given project; and

19 (2) a construction project that is partly or wholly funded  
20 by state money and to which the state or an agency of the state, a  
21 department, office, agency, state board, commission, regional school  
22 board with respect to an educational facility under AS 14.11.020,  
23 public corporation, or other organizational unit of or created under  
24 the executive, legislative or judicial branch of state government,  
25 including the University of Alaska, is a signatory to the construction  
26 contract.

27 (b) If the governor has declared an area to be an area effected  
28 by an economic disaster under AS 44.33.285, then the preference for  
29 residents of the area established under AS 44.33.285 - 44.33.310

1 supercedes the preference under AS 36.10.150 and 36.10.160 for con-  
2 tracts awarded by the state.

3 Sec. 36.10.900. EFFECT OF JUDICIAL DECISIONS. If a provision of  
4 this chapter, or the application of a provision to a person or circum-  
5 stance, is held invalid, the remainder of this chapter and the appli-  
6 cation to other persons or circumstances shall not be affected by the  
7 holding. The remainder shall be enforced to the greatest extent  
8 constitutionally permissible under the constitutions of the United  
9 States and the State of Alaska.

10 \* Sec. 4. The provisions of this Act do not apply to a contract entered  
11 into before the effective date of this Act.

12 \* Sec. 5. AS 36.10.010 is repealed.

13 \* Sec. 6. This Act takes effect February 16, 1986 or immediately, in  
14 accordance with AS 01.10.070(c), whichever is later, if the final decision  
15 of the Alaska Supreme Court in Robison v. Francis, File No. S-493. Opinion  
16 No. 3011, January 17, 1986, is not submitted for review to the United  
17 States Supreme Court. If the decision is submitted for review but the  
18 United States Supreme Court declines to accept review, then this Act takes  
19 effect on the date of the order of the United States Supreme Court declin-  
20 ing to accept review. If the United States Supreme Court accepts review,  
21 then this Act takes effect on the date of a final decision of the United  
22 States Supreme Court affirming the decision of the Alaska Supreme Court.

Offered: 4/4/86  
Referred: Finance

Original sponsors: Faiks, Josephson,  
Sturgulewski and V.Fischer

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 367 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to Alaskan resident employment  
7 preference; and providing for an effective date."

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

9 \* Section 1. PURPOSE. The legislature recognizes that the state has a  
10 significant unemployment problem. This Act is intended to better fulfill  
11 the state's duty of loyalty to its citizens, reduce unemployment among  
12 residents of the state, remedy social harms resulting from chronic unem-  
13 ployment, and assist economically and socially disadvantaged residents. If  
14 the courts find that a portion of AS 36.10 is unconstitutional, the public  
15 interest requires that the remaining portions be implemented as fully as  
16 possible.

17 \* Sec. 2. AS 36.10.005 is amended by adding new subsections to read:

18 (c) The legislature further finds that the ratio of employees on  
19 a certified payroll who did not apply for or were refused a permanent  
20 fund dividend under AS 43.23 to employees who were found eligible to  
21 receive a dividend is a reasonable but not exclusive indicator of the  
22 ratio of nonresident to resident employees on a public works project.

23 (d) When determining the ratio of nonresident to resident em-  
24 ployees working on a public works project, the commissioner may con-  
25 sider information gathered from on-site surveys of public works proj-  
26 ects including individual interviews, questionnaires, examination of  
27 the state of registration of vehicles owned or operated by employees,  
28 and other information acquired from inspection of certified payrolls.

29 (e) The legislature finds that the following factors are

1 reasonable but not exclusive indicators of the ratio of nonresident to  
2 resident employees in the state:

3 (1) the ratio of applicants for unemployment insurance who  
4 list out-of-state residences to applicants who list residences in the  
5 state;

6 (2) the ratio of employees who are subject to unemployment  
7 insurance coverage and who did not apply for or were denied a perma-  
8 nent fund dividend to employees who were found eligible for a divi-  
9 dend.

10 (f) The legislature finds that

11 (1) the number of state residents who are unable to find  
12 work is considerably higher than is reflected by unemployment rates  
13 based on nationally accepted measures;

14 (2) many rural state residents who wish to work do not seek  
15 employment as frequently as necessary to meet federal definitions of  
16 unemployment because of continuing lack of employment opportunities in  
17 rural areas of the state.

18 \* Sec. 3. AS 36.10.070 is repealed and reenacted to read:

19 Sec. 36.10.070. UNAVAILABILITY OF PREFERRED WORKERS. (a) An  
20 employer subject to hiring requirements under this chapter may request  
21 the Department of Labor to assist in locating qualified, eligible  
22 employees. After receiving a request for assistance, the department  
23 shall refer qualified, eligible, available residents to the employer  
24 to fill the employer's hiring needs. The employer shall cooperate  
25 with the department.

26 (b) If the department is unable to refer a sufficient number of  
27 qualified, eligible, available residents able to perform the work, the  
28 commissioner of labor may approve the hiring of residents who are not  
29 eligible for preference and nonresidents for the balance of the

1 request.

2 \* Sec. 4. AS 36.10.075 is amended by adding a new subsection to read:

3 (b) The commissioner of labor shall adopt regulations to encour-  
4 age and require the hiring of residents to the maximum extent permit-  
5 ted by law.

6 \* Sec. 5. AS 36.10 is amended by adding new sections to read:

7 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and  
8 the commissioner of labor shall report annually to the legislature and  
9 the governor on the status of employment in the state, the effect of  
10 nonresident employment on the employment of residents in the state,  
11 and methods to increase resident hire. The report shall be submitted  
12 by January 31 of each year.

13 Sec. 36.10.140. ELIGIBILITY FOR PREFERENCE. (a) A person is  
14 eligible for an employment preference under this chapter if the person  
15 certifies eligibility as required by the Department of Labor, is a  
16 resident, and

17 (1) is receiving unemployment benefits under AS 23.20 or  
18 would be eligible to receive benefits but has exhausted them;

19 (2) is not working and has registered to find work with a  
20 public or private employment agency or a local hiring hall;

21 (3) is underemployed or marginally employed as defined by  
22 the department; or

23 (4) has completed a job-training program approved by the  
24 department and is either not employed or is engaged in employment that  
25 does not use the skills acquired in the job-training program.

26 (b) An employer subject to a resident hiring requirement under  
27 this chapter shall certify that persons employed as residents under  
28 the preference are eligible for the preference.

29 Sec. 36.10.150. DETERMINATION OF UNDEREMPLOYED AREA. (a)

1 Immediately following a determination by the commissioner of labor  
2 that an economic region of the state is an underemployed area or that  
3 the state as a whole is an underemployed area, and for the next two  
4 fiscal years after the determination, qualified residents of the area  
5 who are eligible under AS 36.10.140 shall be given preference for work  
6 on each project under AS 36.10.180 that is wholly or partially sited  
7 within the area.

8 (b) The commissioner of labor shall determine the amount of work  
9 that must be performed under this section by eligible qualified resi-  
10 dents. In making this determination, the commissioner shall consider  
11 the nature of the work, the classification of workers, availability of  
12 eligible residents, and the willingness of eligible residents to  
13 perform the work.

14 (c) The commissioner shall determine that an economic region of  
15 the state or the state as a whole is an underemployed area if the  
16 commissioner finds that

17 (1) the rate of unemployment within the area is substan-  
18 tially higher than the national rate of unemployment;

19 (2) a substantial number of residents in the area desire  
20 work in occupations that would be employed on a public works project;

21 (3) the lack of employment opportunities in the area has  
22 substantially contributed to serious social or economic problems in  
23 the area; and

24 (4) employment of workers who are not residents is a pecu-  
25 liar source of the unemployment of residents of the area.

26 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-  
27 TRESSED AREAS. (a) Immediately following a determination by the  
28 commissioner that an economic region of the state is an economically  
29 distressed area, and for the next two fiscal years after the

1 determination, qualified residents of the area who are eligible under  
2 AS 36.10.140 shall be given preference for at least 50 percent of  
3 employment on each project under AS 36.10.180 that is wholly or par-  
4 tially sited within the economically distressed area.

5 (b) The commissioner shall determine that an area is an econom-  
6 ically distressed area if the commissioner finds that

7 (1) the per capita income of residents is less than 90  
8 percent of the per capita income of the United States as a whole, or  
9 the unemployment rate in the area exceeds the national rate of unem-  
10 ployment by at least five percentage points;

11 (2) the lack of employment opportunities in the area has  
12 substantially contributed to serious social or economic problems in  
13 the area; and

14 (3) employment of workers who are not residents is a pecu-  
15 liar source of unemployment of residents of the area.

16 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-  
17 ITY RESIDENTS. (a) Immediately following a determination by the  
18 commissioner that the female or minority residents of an economic  
19 region are economically disadvantaged, and for the next two fiscal  
20 years after the determination, qualified female or minority residents  
21 of the area who are eligible under AS 36.10.140 shall be given prefer-  
22 ence for at least 25 percent of employment on each project under  
23 AS 36.10.180 that is wholly or partially sited within the area.

24 (b) The commissioner shall determine that the female or minority  
25 residents of an area are economically disadvantaged if the commission-  
26 er finds that

27 (1) the female or civilian minority population of the area  
28 exceeds the average female or civilian minority population for the  
29 state;

1 determination, qualified residents of the area who are eligible under  
2 AS 36.10.140 shall be given preference for at least 50 percent of  
3 employment on each project under AS 36.10.180 that is wholly or par-  
4 tially sited within the economically distressed area.

5 (b) The commissioner shall determine that an area is an econom-  
6 ically distressed area if the commissioner finds that

7 (1) the per capita income of residents is less than 90  
8 percent of the per capita income of the United States as a whole, or  
9 the unemployment rate in the area exceeds the national rate of unem-  
10 ployment by at least five percentage points;

11 (2) the lack of employment opportunities in the area has  
12 substantially contributed to serious social or economic problems in  
13 the area; and

14 (3) employment of workers who are not residents is a pecu-  
15 liar source of unemployment of residents of the area.

16 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-  
17 ITY RESIDENTS. (a) Immediately following a determination by the  
18 commissioner that the female or minority residents of an economic  
19 region are economically disadvantaged, and for the next two fiscal  
20 years after the determination, qualified female or minority residents  
21 of the area who are eligible under AS 36.10.140 shall be given prefer-  
22 ence for at least 25 percent of employment on each project under  
23 AS 36.10.180 that is wholly or partially sited within the area.

24 (b) The commissioner shall determine that the female or minority  
25 residents of an area are economically disadvantaged if the commission-  
26 er finds that

27 (1) the female or civilian minority population of the area  
28 exceeds the average female or civilian minority population for the  
29 state;

1           (2) either the percent of unemployment of female or civil-  
2           ian minority residents of the area is at least two times the percent  
3           of unemployment of male or nonminority residents of the area or the  
4           female or civilian minority population of the area has suffered past  
5           economic discrimination;

6           (3) the economic disadvantage of female or civilian minor-  
7           ity residents of the area has substantially contributed to serious  
8           social or economic problems in the area; and

9           (4) employment of workers who are not residents is a pecu-  
10          liar source of unemployment of female or civilian minority residents  
11          of the area.

12          (c) In this section, a person is considered to be a member of a  
13          minority if the person is a non-Hispanic black, Hispanic, Asian or  
14          Pacific Islander, American Indian or Alaskan Native, as those terms  
15          are defined by the Equal Employment Opportunity Commission.

16          Sec. 36.10.180. PROJECTS SUBJECT TO PREFERENCE. (a) The pref-  
17          erences established in AS 36.10.150 - 36.10.170 apply to

18          (1) the performance of contracts let by a municipality for  
19          construction, repair, preliminary surveys, engineering studies, con-  
20          sulting, maintenance work, or any other retention of services neces-  
21          sary to complete a given project;

22          (2) a construction project that is partly or wholly funded  
23          by state money if the state or an agency of the state, a department,  
24          office, agency, state board, commission, regional school board with  
25          respect to an educational facility under AS 14.11.020, public corpo-  
26          ration, or other organizational unit of or created under the execu-  
27          tive, legislative or judicial branch of state government, including  
28          the University of Alaska and the Alaska Railroad Corporation, is a  
29          signatory to the construction contract;

1           (3) work performed on a public works project under a grant  
2 to a municipality under AS 37.05.315;

3           (4) work performed on a public works project under a grant  
4 to a named recipient under AS 37.05.316; and

5           (5) work performed on a public works project under a grant  
6 to an unincorporated community under AS 37.05.317.

7           (b) If the governor has declared an area to be an area impacted  
8 by an economic disaster under AS 44.33.285, then the preference for  
9 residents of the area established under AS 44.33.285 - 44.33.310  
10 supercedes the preference under AS 36.10.150 and 36.10.160 for con-  
11 tracts awarded by the state.

12           (c) The commissioner shall define the boundaries of an economic  
13 region or an area within which a preference applies.

14           Sec. 36.10.190. REPORTING PROVISIONS. An employer obligated to  
15 meet resident hire requirements under this chapter shall comply with  
16 the reporting provisions that the commissioner of labor determines are  
17 reasonably necessary to carry out this chapter. Except for statis-  
18 tical data, all information regarding specific employees is confiden-  
19 tial and may not be released by the Department of Labor.

20           Sec. 36.10.200. CRIMINAL PENALTIES. (a) A person who makes a  
21 false sworn statement in connection with a certification of eligibil-  
22 ity for an employment preference under this chapter is subject to  
23 criminal prosecution for perjury as provided in AS 11.56.200.

24           (b) A person who makes an unsworn falsification, with the intent  
25 to mislead a public servant in the performance of a duty, in connec-  
26 tion with a certification of eligibility for an employment preference  
27 under this chapter, is subject to criminal prosecution as provided in  
28 AS 11.56.210.

29           (c) In addition to criminal penalties imposed by state law, if a

1 person is convicted of a crime in connection with a false statement  
2 made in a certification required under AS 36.10.140, and the convic-  
3 tion is not reversed, that person shall forfeit all future rights to  
4 eligibility for an employment preference under this chapter.

5 Sec. 36.10.210. CIVIL PENALTIES. (a) In addition to any crimi-  
6 nal penalties imposed, after a hearing the department may impose a  
7 civil penalty on a person who, in connection with certification of  
8 eligibility for an employment preference under this chapter,

9 (1) made a false sworn statement; or

10 (2) made an unsworn falsification with intent to mislead a  
11 public servant in the performance of a duty.

12 (b) The amount of the civil penalty under (a) of this section  
13 for a person who falsely certifies that the person is eligible for an  
14 employment preference under this chapter is not more than \$400 for  
15 each false certification. The person also forfeits all future rights  
16 to eligibility for an employment preference under this chapter.

17 (c) The amount of the civil penalty under (a) of this section  
18 for an employer who falsely certifies that employees are residents  
19 eligible for a preference under this chapter is not more than \$2,000  
20 for each of the first five false certifications. The penalty for the  
21 sixth false certification made by an employer and for each false  
22 certification thereafter is at least \$2,000 and not more than \$4,000.

23 Sec. 36.10.900. EFFECT OF JUDICIAL DECISIONS. If a provision of  
24 this chapter, or the application of a provision to a person or circum-  
25 stance, is held invalid, the remainder of this chapter and the appli-  
26 cation to other persons or circumstances shall not be affected by the  
27 holding. The remainder shall be enforced to the greatest extent  
28 constitutionally permissible under the constitutions of the Unite  
29 States and the State of Alaska.

1           Sec. 36.10.990. DEFINITIONS. In this chapter

2           (1) "available" means physically present at the place of  
3 hire at the time requested by the employer;

4           (2) "qualified" means possesses the requisite education,  
5 training, skills, or experience to perform the work.

6 \* Sec. 6. AS 36.95.010 is amended by adding a new paragraph to read:

7           (9) "resident" means a person who establishes residency  
8 under AS 01.10.055.

9 \* Sec. 7. AS 37.05.315 is amended by adding a new subsection to read:

10          (e) The Department of Labor shall require a municipality awarded  
11 a grant for a public works project under (a) of this section to comply  
12 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-  
13 ment generated by the grant.

14 \* Sec. 8. AS 37.05.316 is amended by adding a new subsection to read:

15          (b) The Department of Labor shall require a recipient awarded a  
16 grant for a public works project under (a) of this section to comply  
17 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-  
18 ment generated by the grant.

19 \* Sec. 9. AS 37.0 .317 is amended by adding a new subsection to read:

20          (b) The Department of Labor shall require the qualified incor-  
21 porated entity awarded a grant or agents or contractors with whom the  
22 Department of Community and Regional Affairs contracts under (a) of  
23 this section to comply with the requirements of AS 36.10.150 - 36.10.  
24 170 for employment generated by the grant or contract if the grant or  
25 contract is for a public works project.

26 \* Sec. 10. The provisions of this Act do not apply to a contract en-  
27 tered into before the effective date of this Act unless the contract in-  
28 cludes a provision requiring compliance with laws regarding the hiring of  
29 Alaska residents that take effect during the term of the contract.

1       \* Sec. 11. AS 36.95.010(4) and (5) are repealed.  
2       \* Sec. 12. AS 36.10.010 is repealed.  
3       \* Sec. 13. Section 12 of this Act takes effect April 17, 1986, or  
4 immediately, in accordance with AS 01.10.070(c), whichever is later, if the  
5 final decision of the Alaska Supreme Court in Robison v. Francis, File No.  
6 S-493, Opinion No. 3011, January 17, 1986, is not submitted for review to  
7 the United States Supreme Court. If the decision is submitted for review  
8 but the United States Supreme Court declines to accept review, then sec. 12  
9 of this Act takes effect on the date of the order of the United States  
10 Supreme Court declining to accept review. If the United States Supreme  
11 Court accepts review, then sec. 12 of this Act takes effect on the date of  
12 a final decision of the United States Supreme Court affirming the decision  
13 of the Alaska Supreme Court.  
14       \* Sec. 14. Sections 1 - 11 of this Act take effect immediately in  
15 accordance with AS 01.10.070(c).

Offered: 4/10/86  
Referred: Rules

Original sponsors: Faiks, Josephson,  
Sturgulewski and V. Fischer

1 IN THE SENATE BY THE FINANCE COMMITTEE  
2 CS FOR SENATE BILL NO. 367 (Finance)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to Alaskan resident employment  
7 preference; and providing for an effective date."

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

9 \* Section 1. PURPOSE. The legislature recognizes that the state has a  
10 significant unemployment problem. This Act is intended to better fulfill  
11 the state's duty of loyalty to its citizens, reduce unemployment among  
12 residents of the state, remedy social harms resulting from chronic unem-  
13 ployment, and assist economically and socially disadvantaged residents. If  
14 the courts find that a portion of AS 36.10 is unconstitutional, the public  
15 interest requires that the remaining portions be implemented as fully as  
16 possible.

17 \* Sec. 2. AS 36.10.005 is amended by adding new subsections to read:

18 (c) The legislature further finds that the ratio of employees on  
19 a certified payroll who did not apply for or were refused a permanent  
20 fund dividend under AS 43.23 to employees who were found eligible to  
21 receive a dividend is a reasonable but not exclusive indicator of the  
22 ratio of nonresident to resident employees on a public works project.

23 (d) When determining the ratio of nonresident to resident em-  
24 ployees working on a public works project, the commissioner may con-  
25 sider information gathered from on-site surveys of public works proj-  
26 ects including individual interviews, questionnaires, examination of  
27 the state of registration of vehicles owned or operated by employees,  
28 and other information acquired from inspection of certified payrolls.

29 (e) The legislature finds that the following factors are

1 reasonable but not exclusive indicators of the ratio of nonresident to  
2 resident employees in the state:

3 (1) the ratio of applicants for unemployment insurance who  
4 list out-of-state residences to applicants who list residences in the  
5 state;

6 (2) the ratio of employees who are subject to unemployment  
7 insurance coverage and who did not apply for or were denied a perma-  
8 nent fund dividend to employees who were found eligible for a divi-  
9 dend.

10 (f) The legislature finds that

11 (1) the number of state residents who are unable to find  
12 work is considerably higher than is reflected by unemployment rates  
13 based on nationally accepted measures;

14 (2) many rural state residents who wish to work do not seek  
15 employment as frequently as necessary to meet federal definitions of  
16 unemployment because of continuing lack of employment opportunities in  
17 rural areas of the state.

18 \* Sec. 3. AS 36.10.070 is repealed and reenacted to read:

19 Sec. 36.10.070. UNAVAILABILITY OF PREFERRED WORKERS. (a) An  
20 employer subject to hiring requirements under this chapter may request  
21 the Department of Labor to assist in locating qualified, eligible  
22 employees. After receiving a request for assistance, the department  
23 shall refer qualified, eligible, available residents to the employer  
24 to fill the employer's hiring needs. The employer shall cooperate  
25 with the department.

26 (b) If the department is unable to refer a sufficient number of  
27 qualified, eligible, available residents able to perform the work, the  
28 commissioner of labor may approve the hiring of residents who are not  
29 eligible for preference and nonresidents for the balance of the

1 request.

2 \* Sec. 4. AS 36.10.075 is amended by adding a new subsection to read:

3 (b) The commissioner of labor shall adopt regulations to encour-  
4 age and require the hiring of residents to the maximum extent permit-  
5 ted by law.

6 \* Sec. 5. AS 36.10 is amended by adding new sections to read:

7 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and  
8 the commissioner of labor shall report annually to the legislature and  
9 the governor on the status of employment in the state, the effect of  
10 nonresident employment on the employment of residents in the state,  
11 and methods to increase resident hire. The report shall be submitted  
12 by January 31 of each year.

13 Sec. 36.10.140. ELIGIBILITY FOR PREFERENCE. (a) A person is  
14 eligible for an employment preference under this chapter if the person  
15 certifies eligibility as required by the Department of Labor, is a  
16 resident, and

17 (1) is receiving unemployment benefits under AS 23.20 or  
18 would be eligible to receive benefits but has exhausted them;

19 (2) is not working and has registered to find work with a  
20 public or private employment agency or a local hiring hall;

21 (3) is underemployed or marginally employed as defined by  
22 the department; or

23 (4) has completed a job-training program approved by the  
24 department and is either not employed or is engaged in employment that  
25 does not use the skills acquired in the job-training program.

26 (b) An employer subject to a resident hiring requirement under  
27 this chapter shall certify that persons employed as residents under  
28 the preference are eligible for the preference.

29 Sec. 36.10.150. DETERMINATION OF UNDEREMPLOYED AREA. (a)

1 Immediately following a determination by the commissioner of labor  
2 that an economic region of the state is an underemployed area or that  
3 the state as a whole is an underemployed area, and for the next two  
4 fiscal years after the determination, qualified residents of the area  
5 who are eligible under AS 36.10.140 shall be given preference for work  
6 on each project under AS 36.10.180 that is wholly or partially sited  
7 within the area.

8 (b) The commissioner of labor shall determine the amount of work  
9 that must be performed under this section by eligible qualified resi-  
10 dents. In making this determination, the commissioner shall consider  
11 the nature of the work, the classification of workers, availability of  
12 eligible residents, and the willingness of eligible residents to  
13 perform the work.

14 (c) The commissioner shall determine that an economic region of  
15 the state or the state as a whole is an underemployed area if the  
16 commissioner finds that

17 (1) the rate of unemployment within the area is substan-  
18 tially higher than the national rate of unemployment;

19 (2) a substantial number of residents in the area have  
20 experience or training in occupations that would be employed on a  
21 public works project;

22 (3) the lack of employment opportunities in the area has  
23 substantially contributed to serious social or economic problems in  
24 the area; and

25 (4) employment of workers who are not residents is a pecu-  
26 liar source of the unemployment of residents of the area.

27 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-  
28 TRESSED AREAS. (a) Immediately following a determination by the  
29 commissioner that an economic region of the state is an economically

1 distressed area, and for the next two fiscal years after the determi-  
2 nation, qualified residents of the area who are eligible under AS 36.-  
3 10.140 shall be given preference for at least 50 percent of employment  
4 on each project under AS 36.10.180 that is wholly or partially sited  
5 within the economically distressed area.

6 (b) The commissioner shall determine that an area is an econom-  
7 ically distressed area if the commissioner finds that

8 (1) the per capita income of residents is less than 90  
9 percent of the per capita income of the United States as a whole, or  
10 the unemployment rate in the area exceeds the national rate of unem-  
11 ployment by at least five percentage points;

12 (2) the lack of employment opportunities in the area has  
13 substantially contributed to serious social or economic problems in  
14 the area; and

15 (3) employment of workers who are not residents is a pecu-  
16 liar source of unemployment of residents of the area.

17 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-  
18 ITY RESIDENTS. (a) Immediately following a determination by the  
19 commissioner that the female or minority residents of an economic  
20 region are economically disadvantaged, and for the next two fiscal  
21 years after the determination, qualified female or minority residents  
22 of the area who are eligible under AS 36.10.140 shall be given prefer-  
23 ence for at least 25 percent of employment on each project under  
24 AS 36.10.180 that is wholly or partially sited within the area.

25 (b) The commissioner shall determine that the female or minority  
26 residents of an area are economically disadvantaged if the commission-  
27 er finds that

28 (1) the female or civilian minority population of the area  
29 exceeds the average female or civilian minority population for the

1 state;

2 (2) either the percent of unemployment of female or civil-  
3 ian minority residents of the area is at least two times the percent  
4 of unemployment of male or nonminority residents of the area or the  
5 female or civilian minority population of the area has suffered past  
6 economic discrimination;

7 (3) the economic disadvantage of female or civilian minor-  
8 ity residents of the area has substantially contributed to serious  
9 social or economic problems in the area; and

10 (4) employment of workers who are not residents is a pecu-  
11 liar source of unemployment of female or civilian minority residents  
12 of the area.

13 (c) In this section, a person is considered to be a member of a  
14 minority if the person is a non-Hispanic black, Hispanic, Asian or  
15 Pacific Islander, American Indian or Alaskan Native, as those terms  
16 are defined by the Equal Employment Opportunity Commission.

17 Sec. 36.10.180. PROJECTS SUBJECT TO PREFERENCE. (a) The pref-  
18 erences established in AS 36.10.150 - 36.10.170 apply to

19 (1) the performance of contracts let by a municipality for  
20 construction, repair, preliminary surveys, engineering studies, con-  
21 sulting, maintenance work, or any other retention of services neces-  
22 sary to complete a given project;

23 (2) a construction project that is partly or wholly funded  
24 by state money if the state or an agency of the state, a department,  
25 office, agency, state board, commission, regional school board with  
26 respect to an educational facility under AS 14.11.020, public corpo-  
27 ration, or other organizational unit of or created under the execu-  
28 tive, legislative or judicial branch of state government, including  
29 the University of Alaska and the Alaska Railroad Corporation, is a

1           signatory to the construction contract;

2                   (3) work performed on a public works project under a grant  
3           to a municipality under AS 37.05.315;

4                   (4) work performed on a public works project under a grant  
5           to a named recipient under AS 37.05.316; and

6                   (5) work performed on a public works project under a grant  
7           to an unincorporated community under AS 37.05.317.

8           (b) If the governor has declared an area to be an area impacted  
9           by an economic disaster under AS 44.33.285, then the preference for  
10          residents of the area established under AS 44.33.285 - 44.33.310  
11          supercedes the preference under AS 36.10.150 and 36.10.160 for con-  
12          tracts awarded by the state.

13          (c) The commissioner shall define the boundaries of an economic  
14          region or an area within which a preference applies.

15          Sec. 36.10.190. REPORTING PROVISIONS. An employer obligated to  
16          meet resident hire requirements under this chapter shall comply with  
17          the reporting provisions that the commissioner of labor determines are  
18          reasonably necessary to carry out this chapter. Except for statis-  
19          tical data, all information regarding specific employees is confiden-  
20          tial and may not be released by the Department of Labor. However,  
21          confidential employee information may be shared between departments  
22          for purposes of this chapter.

23          Sec. 36.10.200. CRIMINAL PENALTIES. (a) A person who makes a  
24          false sworn statement in connection with a certification of eligibil-  
25          ity for an employment preference under this chapter is subject to  
26          criminal prosecution for perjury as provided in AS 11.56.200.

27          (b) A person who makes an unsworn falsification, with the intent  
28          to mislead a public servant in the performance of a duty, in connec-  
29          tion with a certification of eligibility for an employment preference

1 under this chapter, is subject to criminal prosecution as provided in  
2 AS 11.56.210.

3 (c) In addition to criminal penalties imposed by state law, if a  
4 person is convicted of a crime in connection with a false statement  
5 made in a certification required under AS 36.10.140, and the convic-  
6 tion is not reversed, that person shall forfeit all future rights to  
7 eligibility for an employment preference under this chapter.

8 Sec. 36.10.210. CIVIL PENALTIES. (a) In addition to any crimi-  
9 nal penalties imposed, after a hearing the department may impose a  
10 civil penalty on a person who, in connection with certification of  
11 eligibility for an employment preference under this chapter,

12 (1) made a false sworn statement; or

13 (2) made an unsworn falsification with intent to mislead a  
14 public servant in the performance of a duty.

15 (b) The amount of the civil penalty under (a) of this section  
16 for a person who falsely certifies that the person is eligible for an  
17 employment preference under this chapter is not more than \$400 for  
18 each false certification. The person also forfeits all future rights  
19 to eligibility for an employment preference under this chapter.

20 (c) The amount of the civil penalty under (a) of this section  
21 for an employer who falsely certifies that employees are residents  
22 eligible for a preference under this chapter is not more than \$2,000  
23 for each of the first five false certifications. The penalty for the  
24 sixth false certification made by an employer and for each false  
25 certification thereafter is at least \$2,000 and not more than \$4,000.

26 Sec. 36.10.900. EFFECT OF JUDICIAL DECISIONS. If a provision of  
27 this chapter, or the application of a provision to a person or circum-  
28 stance, is held invalid, the remainder of this chapter and the appli-  
29 cation to other persons or circumstances shall not be affected by the

1 holding. The remainder shall be enforced to the greatest extent  
2 constitutionally permissible under the constitutions of the United  
3 States and the State of Alaska.

4 Sec. 36.10.990. DEFINITIONS. In this chapter

5 (1) "available" means physically present at the place of  
6 hire at the time requested by the employer;

7 (2) "qualified" means possesses the requisite education,  
8 training, skills, or experience to perform the work.

9 \* Sec. 6. AS 36.95.010 is amended by adding a new paragraph to read:

10 (9) "resident" means a person who establishes residency  
11 under AS 01.10.055.

12 \* Sec. 7. AS 37.05.315 is amended by adding a new subsection to read:

13 (e) The Department of Labor shall require a municipality awarded  
14 a grant for a public works project under (a) of this section to comply  
15 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-  
16 ment generated by the grant.

17 \* Sec. 8. AS 37.05.316 is amended by adding a new subsection to read:

18 (b) The Department of Labor shall require a recipient awarded a  
19 grant for a public works project under (a) of this section to comply  
20 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-  
21 ment generated by the grant.

22 \* Sec. 9. AS 37.05.317 is amended by adding a new subsection to read:

23 (b) The Department of Labor shall require the qualified incor-  
24 porated entity awarded a grant or agents or contractors with whom the  
25 Department of Community and Regional Affairs contracts under (a) of  
26 this section to comply with the requirements of AS 36.10.150 - 36.10.-  
27 170 for employment generated by the grant or contract if the grant or  
28 contract is for a public works project.

29 \* Sec. 10. The provisions of this Act do not apply to a contract

1 entered into before the effective date of this Act unless the contract in-  
2 cludes a provision requiring compliance with laws regarding the hiring of  
3 Alaska residents that take effect during the term of the contract.

4 \* Sec. 11. AS 36.95.010(4) and (5) are repealed.

5 \* Sec. 12. AS 36.10.010 is repealed.

6 \* Sec. 13. Section 12 of this Act takes effect April 17, 1986, or  
7 immediately, in accordance with AS 01.10.070(c), whichever is later, if the  
8 final decision of the Alaska Supreme Court in Robison v. Francis, File No.  
9 S-493, Opinion No. 3011, January 17, 1986, is not submitted for review to  
10 the United States Supreme Court. If the decision is submitted for review  
11 but the United States Supreme Court declines to accept review, then sec. 12  
12 of this Act takes effect on the date of the order of the United States  
13 Supreme Court declining to accept review. If the United States Supreme  
14 Court accepts review, then sec. 12 of this Act takes effect on the date of  
15 a final decision of the United States Supreme Court affirming the decision  
16 of the Alaska Supreme Court.

17 \* Sec. 14. Sections 1 - 11 of this Act take effect immediately in  
18 accordance with AS 01.10.070(c).

Offered: 4/10/86  
Referred: Rules

Original sponsors: Faiks, Josephson,  
Sturgulewski and V.Fischer

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 367 (Finance) am  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Alaskan resident employment  
7 preference; and providing for an effective date."

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

9 \* Section 1. PURPOSE. The legislature recognizes that the state has a  
10 significant unemployment problem. This Act is intended to better fulfill  
11 the state's duty of loyalty to its citizens, reduce unemployment among  
12 residents of the state, remedy social harms resulting from chronic unem-  
13 ployment, and assist economically and socially disadvantaged residents. If  
14 the courts find that a portion of AS 36.10 is unconstitutional, the public  
15 interest requires that the remaining portions be implemented as fully as  
16 possible.

17 \* Sec. 2. AS 36.10.005 is amended by adding new subsections to read:

18 (c) The legislature finds that the following factors are reason-  
19 able but not exclusive indicators of the ratio of nonresident to  
20 resident employees in the state:

21 (1) the ratio of applicants for unemployment insurance who  
22 list out-of-state residences to applicants who list residences in the  
23 state;

24 (2) the ratio of employees who are subject to unemployment  
25 insurance coverage and who did not apply for or were denied a perma-  
26 nent fund dividend to employees who were found eligible for a divi-  
27 dend.

28 (d) The legislature finds that

29 (1) the number of state residents who are unable to find

1 work is considerably higher than is reflected by unemployment rates  
2 based on nationally accepted measures;

3 (2) many rural state residents who wish to work do not seek  
4 employment as frequently as necessary to meet federal definitions of  
5 unemployment because of continuing lack of employment opportunities in  
6 rural areas of the state.

7 \* Sec. 3. AS 36.10.070 is repealed and reenacted to read:

8 Sec. 36.10.070. UNAVAILABILITY OF PREFERRED WORKERS. (a) An  
9 employer subject to hiring requirements under this chapter may request  
10 the Department of Labor to assist in locating qualified, eligible  
11 employees. After receiving a request for assistance, the department  
12 shall refer qualified, eligible, available residents to the employer  
13 to fill the employer's hiring needs. The employer shall cooperate  
14 with the department.

15 (b) If the department is unable to refer a sufficient number of  
16 qualified, eligible, available residents able to perform the work, the  
17 commissioner of labor may approve the hiring of residents who are not  
18 eligible for preference and nonresidents for the balance of the re-  
19 quest.

20 \* Sec. 4. AS 36.10.075 is amended by adding a new subsection to read:

21 (b) The commissioner of labor shall adopt regulations to encour-  
22 age and require the hiring of residents to the maximum extent permit-  
23 ted by law.

24 \* Sec. 5. AS 36.10 is amended by adding new sections to read:

25 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and  
26 the commissioner of labor shall report annually to the legislature and  
27 the governor on the status of employment in the state, the effect of  
28 nonresident employment on the employment of residents in the state,  
29 and methods to increase resident hire. The report shall be submitted

1 by January 31 of each year.

2 Sec. 36.10.140. ELIGIBILITY FOR PREFERENCE. (a) A person is  
3 eligible for an employment preference under this chapter if the person  
4 certifies eligibility as required by the Department of Labor, is a  
5 resident, and

6 (1) is receiving unemployment benefits under AS 23.20 or  
7 would be eligible to receive benefits but has exhausted them;

8 (2) is not working and has registered to find work with a  
9 public or private employment agency or a local hiring hall;

10 (3) is underemployed or marginally employed as defined by  
11 the department; or

12 (4) has completed a job-training program approved by the  
13 department and is either not employed or is engaged in employment that  
14 does not use the skills acquired in the job-training program.

15 (b) An employer subject to a resident hiring requirement under  
16 this chapter shall certify that persons employed as residents under  
17 the preference were eligible for the preference at the time of hire.

18 Sec. 36.10.150. DETERMINATION OF UNDEREMPLOYED AREA. (a)  
19 Immediately following a determination by the commissioner of labor  
20 that an economic region of the state is an underemployed area or that  
21 the state as a whole is an underemployed area, and for the next two  
22 fiscal years after the determination, qualified residents of the area  
23 who are eligible under AS 36.10.140 shall be given preference in  
24 hiring for work on each project under AS 36.10.180 that is wholly or  
25 partially sited within the area.

26 (b) The commissioner of labor shall determine the amount of work  
27 that must be performed under this section by qualified residents who  
28 were eligible for an employment preference under this chapter at the  
29 time of hiring. In making this determination, the commissioner shall

1 consider the nature of the work, the classification of workers,  
2 availability of eligible residents, who were eligible for an employ-  
3 ment preference under this chapter at the time of hiring and the  
4 willingness of eligible residents to perform the work.

5 (c) The commissioner shall determine that an economic region of  
6 the state or the state as a whole is an underemployed area if the  
7 commissioner finds that

8 (1) the rate of unemployment within the area is substan-  
9 tially higher than the national rate of unemployment;

10 (2) a substantial number of residents in the area have  
11 experience or training in occupations that would be employed on a  
12 public works project;

13 (3) the lack of employment opportunities in the area has  
14 substantially contributed to serious social or economic problems in  
15 the area; and

16 (4) employment of workers who are not residents is a pecu-  
17 liar source of the unemployment of residents of the area.

18 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-  
19 TRESSED AREAS. (a) Immediately following a determination by the  
20 commissioner that an economic region of the state is an economically  
21 distressed area, and for the next two fiscal years after the determi-  
22 nation, qualified residents of the area who are eligible under AS 36.-  
23 10.140 shall be given preference in hiring for at least 50 percent of  
24 employment on each project under AS 36.10.180 that is wholly or par-  
25 tially sited within the economically distressed area.

26 (b) The commissioner shall determine that an area is an econom-  
27 ically distressed area if the commissioner finds that

28 (1) the per capita income of residents is less than 90  
29 percent of the per capita income of the United States as a whole, or

1 the unemployment rate in the area exceeds the national rate of unem-  
2 ployment by at least five percentage points;

3 (2) the lack of employment opportunities in the area has  
4 substantially contributed to serious social or economic problems in  
5 the area; and

6 (3) employment of workers who are not residents is a pecu-  
7 liar source of unemployment of residents of the area.

8 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-  
9 ITY RESIDENTS. (a) Immediately following a determination by the  
10 commissioner that the minority residents of a zone are economically  
11 disadvantaged, and for the next two fiscal years after the determina-  
12 tion, qualified minority residents of the zone who are eligible under  
13 AS 36.10.140 shall be given preference in hiring for at least 25  
14 percent of employment on each project under AS 36.10.180 that is  
15 wholly or partially sited within the zone.

16 (b) The commissioner shall determine that the minority residents  
17 of a zone are economically disadvantaged if the commissioner finds  
18 that

19 (1) the percentage of civilian minority residents in the  
20 zone exceeds the percentage of civilian minority residents in the  
21 state;

22 (2) either the percent of unemployment of civilian minority  
23 residents of the zone is at least two times the percent of unemploy-  
24 ment of nonminority residents of the zone or the civilian minority  
25 population of the zone has suffered past economic discrimination;

26 (3) the economic disadvantage of civilian minority resi-  
27 dents of the zone has substantially contributed to serious social or  
28 economic problems in the zone; and

29 (4) employment of workers who are not residents is a

1 peculiar source of unemployment of civilian minority residents of the  
2 zone.

3 (c) In this section, a person is considered to be a member of a  
4 minority if the person is Hispanic, Asian or Pacific Islander,  
5 American Indian or Alaska Native, or Black as those terms are defined  
6 by the Equal Employment Opportunity Commission.

7 Sec. 36.10.175. PREFERENCE FOR ECONOMICALLY DISADVANTAGED FEMALE  
8 RESIDENTS. (a) Immediately following a determination by the commis-  
9 sioner that the female residents of a zone are economically disad-  
10 vantaged, and for the next two fiscal years after the determination,  
11 qualified female residents of the zone who are eligible under AS 36.-  
12 10.140 shall be given preference for at least 25 percent of employment  
13 on each project under AS 36.10.180 that is wholly or partially sited  
14 within the zone.

15 (b) The commissioner shall determine that the female residents  
16 of a zone are economically disadvantaged if the commissioner finds  
17 that

18 (1) either the percent of unemployment of female residents  
19 of the zone is at least two times the percent of unemployment of male  
20 residents of the zone or the female population of the zone has suf-  
21 fered past economic discrimination;

22 (2) the economic disadvantage of female residents of the  
23 zone has substantially contributed to serious social or economic  
24 problems in the zone; and

25 (3) employment of workers who are not residents is a pecu-  
26 liar source of unemployment of female residents of the zone.

27 Sec. 36.10.180. PROJECTS SUBJECT TO PREFERENCE. (a) The pref-  
28 erences established in AS 36.10.150 - 36.10.170 apply to

29 (1) the performance of contracts let by a municipality for

1 construction, repair, preliminary surveys, engineering studies, con-  
2 sulting, maintenance work, or any other retention of services neces-  
3 sary to complete a given project;

4 (2) a construction project that is partly or wholly funded  
5 by state money if the state or an agency of the state, a department,  
6 office, agency, state board, commission, regional school board with  
7 respect to an educational facility under AS 14.11.020, public corpo-  
8 ration, or other organizational unit of or created under the execu-  
9 tive, legislative or judicial branch of state government, including  
10 the University of Alaska and the Alaska Railroad Corporation, is a  
11 signatory to the construction contract,

12 (3) work performed on a public works project under a grant  
13 to a municipality under AS 37.05.315;

14 (4) work performed on a public works project under a grant  
15 to a named recipient under AS 37.05.316; and

16 (5) work performed on a public works project under a grant  
17 to an unincorporated community under AS 37.05.317.

18 (b) If the governor has declared an area to be an area impacted  
19 by an economic disaster under AS 44.33.285, then the preference for  
20 residents of the area established under AS 44.33.285 - 44.33.310  
21 supercedes the preference under AS 36.10.150 and 36.10.160 for con-  
22 tracts awarded by the state.

23 (c) The commissioner shall define the boundaries of an economic  
24 region or an area within which a preference applies.

25 Sec. 36.10.190. REPORTING PROVISIONS. An employer obligated to  
26 meet resident hire requirements under this chapter shall comply with  
27 the reporting provisions that the commissioner of labor determines are  
28 reasonably necessary to carry out this chapter. Except for statis-  
29 tical data, all information regarding specific employees is

1 confidential and may not be released by the Department of Labor.  
2 However, confidential employee information may be shared between  
3 departments for purposes of this chapter.

4 Sec. 36.10.200. CRIMINAL PENALTIES. (a) A person who makes a  
5 false sworn statement in connection with a certification of eligibil-  
6 ity for an employment preference under this chapter is subject to  
7 criminal prosecution for perjury as provided in AS 11.56.200.

8 (b) A person who makes an unsworn falsification, with the intent  
9 to mislead a public servant in the performance of a duty, in connec-  
10 tion with a certification of eligibility for an employment preference  
11 under this chapter, is subject to criminal prosecution as provided in  
12 AS 11.56.210.

13 (c) In addition to criminal penalties imposed by state law, if a  
14 person is convicted of a crime in connection with a false statement  
15 made in a certification required under AS 36.10.140, and the convic-  
16 tion is not reversed, that person shall forfeit all future rights to  
17 eligibility for an employment preference under this chapter.

18 Sec. 36.10.210. CIVIL PENALTIES. (a) In addition to any crimi-  
19 nal penalties imposed, after a hearing the department may impose a  
20 civil penalty on a person who, in connection with certification of  
21 eligibility for an employment preference under this chapter,

22 (1) made a false sworn statement; or

23 (2) made an unsworn falsification with intent to mislead a  
24 public servant in the performance of a duty.

25 (b) The amount of the civil penalty under (a) of this section  
26 for a person who falsely certifies that the person is eligible for an  
27 employment preference under this chapter is not more than \$400 for  
28 each false certification. The person also forfeits all future rights  
29 to eligibility for an employment preference under this chapter.

1 (c) The amount of the civil penalty under (a) of this section  
2 for an employer who falsely certifies that employees are residents  
3 eligible for a preference under this chapter is not more than \$2,000  
4 for each of the first five false certifications. The penalty for the  
5 sixth false certification made by an employer and for each false  
6 certification thereafter is at least \$2,000 and not more than \$4,000.

7 Sec. 36.10.900. EFFECT OF JUDICIAL DECISIONS. If a provision of  
8 this chapter, or the application of a provision to a person or circum-  
9 stance, is held invalid, the remainder of this chapter and the appli-  
10 cation to other persons or circumstances shall not be affected by the  
11 holding. The remainder shall be enforced to the greatest extent  
12 constitutionally permissible under the constitutions of the United  
13 States and the State of Alaska.

14 Sec. 36.10.990. DEFINITIONS. In this chapter

15 (1) "available" means physically present at the place of  
16 hire at the time requested by the employer;

17 (2) "qualified" means possesses the requisite education,  
18 training, skills, or experience to perform the work.

19 \* Sec. 6. AS 36.95.010 is amended by adding a new paragraph to read:

20 (9) "resident" means a person who establishes residency  
21 under AS 01.10.055.

22 \* Sec. 7. AS 37.05.315 is amended by adding a new subsection to read:

23 (e) The Department of Labor shall require a municipality awarded  
24 a grant for a public works project under (a) of this section to comply  
25 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-  
26 ment generated by the grant.

27 \* Sec. 8. AS 37.05.316 is amended by adding a new subsection to read:

28 (b) The Department of Labor shall require a recipient awarded a  
29 grant for a public works project under (a) of this section to comply

1 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-  
2 ment generated by the grant.

3 \* Sec. 9. AS 37.05.317 is amended by adding a new subsection to read:

4 (b) The Department of Labor shall require the qualified incor-  
5 porated entity awarded a grant or agents or contractors with whom the  
6 Department of Community and Regional Affairs contracts under (a) of  
7 this section to comply with the requirements of AS 36.10.150 - 36.10.-  
8 170 for employment generated by the grant or contract if the grant or  
9 contract is for a public works project.

10 \* Sec. 10. The provisions of this Act do not apply to a contract en-  
11 tered into before the effective date of this Act unless the contract in-  
12 cludes a provision requiring compliance with laws regarding the hiring of  
13 Alaska residents that take effect during the term of the contract.

14 \* Sec. 11. AS 36.95.010(4) and (5) are repealed.

15 \* Sec. 12. AS 36.10.010 is repealed.

16 \* Sec. 13. Section 12 of this Act takes effect April 17, 1986, or  
17 immediately, in accordance with AS 01.10.070(c), whichever is later, if the  
18 final decision of the Alaska Supreme Court in Robison v. Francis, File No.  
19 S-493, Opinion No. 3011, January 17, 1986, is not submitted for review to  
20 the United States Supreme Court. If the decision is submitted for review  
21 but the United States Supreme Court declines to accept review, then sec. 12  
22 of this Act takes effect on the date of the order of the United States  
23 Supreme Court declining to accept review. If the United States Supreme  
24 Court accepts review, then sec. 12 of this Act takes effect on the date of  
25 a final decision of the United States Supreme Court affirming the decision  
26 of the Alaska Supreme Court.

27 \* Sec. 14. Sections 1 - 11 of this Act take effect immediately in  
28 accordance with AS 01.10.070(c).

Offered: 4/25/86  
Referred: Judiciary and  
Finance

Original sponsors: Faiks, Josephson,  
Sturgulewski, et al

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 367 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Alaskan resident employment  
7 preference; and providing for an effective date."

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

9 \* Section 1. PURPOSE. The legislature recognizes that the state has a  
10 significant unemployment problem. This Act is intended to better fulfill  
11 the state's duty of loyalty to its citizens, reduce unemployment among  
12 residents of the state, remedy social harms resulting from chronic unem-  
13 ployment, and assist economically and socially disadvantaged residents. If  
14 the courts find that a portion of AS 36.10 is unconstitutional, the public  
15 interest requires that the remaining portions be implemented as fully as  
16 possible.

17 \* Sec. 2. AS 36.10.005 is amended by adding new subsections to read:

18 (c) The legislature finds that the following factors are reason-  
19 able but not exclusive indicators of the ratio of nonresident to  
20 resident employees in the state:

21 (1) the ratio of applicants for unemployment insurance who  
22 list out-of-state residences to applicants who list residences in the  
23 state;

24 (2) the ratio of employees who are subject to unemployment  
25 insurance coverage and who did not apply for or were denied a perma-  
26 nent fund dividend to employees who were found eligible for a divi-  
27 dend.

28 (d) The legislature finds that

29 (1) the number of state residents who are unable to find

1 work is considerably higher than is reflected by unemployment rates  
2 based on nationally accepted measures;

3 (2) many rural state residents who wish to work do not seek  
4 employment as frequently as necessary to meet federal definitions of  
5 unemployment because of continuing lack of employment opportunities in  
6 rural areas of the state.

7 \* Sec. 3. AS 36.10.070 is repealed and reenacted to read:

8 Sec. 36.10.070. UNAVAILABILITY OF PREFERRED WORKERS. (a) An  
9 employer subject to hiring requirements under this chapter may request  
10 the Department of Labor to assist in locating qualified, eligible  
11 employees. After receiving a request for assistance, the department  
12 shall refer qualified, eligible, available residents to the employer  
13 to fill the employer's hiring needs. The employer shall cooperate  
14 with the department.

15 (b) If the department is unable to refer a sufficient number of  
16 qualified, eligible, available residents able to perform the work, the  
17 commissioner of labor may approve the hiring of residents who are not  
18 eligible for preference and nonresidents for the balance of the re-  
19 quest.

20 \* Sec. 4. AS 36.10.075 is amended by adding a new subsection to read:

21 (b) The commissioner of labor shall adopt regulations to encour-  
22 age and require the hiring of residents to the maximum extent permit-  
23 ted by law.

24 \* Sec. 5. AS 36.10 is amended by adding new sections to read:

25 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and  
26 the commissioner of labor shall report annually to the legislature and  
27 the governor on the status of employment in the state, the effect of  
28 nonresident employment on the employment of residents in the state,  
29 and methods to increase resident hire. The report shall be submitted

1 by January 31 of each year.

2 Sec. 36.10.140. ELIGIBILITY FOR PREFERENCE. (a) A person is  
3 eligible for an employment preference under this chapter if the person  
4 certifies eligibility as required by the Department of Labor, is a  
5 resident, and

6 (1) is receiving unemployment benefits under AS 23.20 or  
7 would be eligible to receive benefits but has exhausted them;

8 (2) is not working and has registered to find work with a  
9 public or private employment agency or a local hiring hall;

10 (3) is underemployed or marginally employed as defined by  
11 the department; or

12 (4) has completed a job-training program approved by the  
13 department and is either not employed or is engaged in employment that  
14 does not use the skills acquired in the job-training program.

15 (b) In approving job-training programs under (a) of this sec-  
16 tion, the department shall use information and findings from other  
17 state and federal agencies as much as possible.

18 (c) An employer subject to a resident hiring requirement under  
19 this chapter shall certify that persons employed as residents under  
20 the preference were eligible for the preference at the time of hiring.

21 (d) A labor organization that dispatches members for work on a  
22 public works project under a collective bargaining agreement shall  
23 certify that persons dispatched as residents to meet a preference were  
24 eligible for the preference at the time of dispatch.

25 (e) An employer or labor organization may request assistance from  
26 the Department of Labor in verifying the eligibility of an applicant  
27 for a hiring preference under this chapter.

28 Sec. 36.10.150. DETERMINATION OF ZONE OF UNDEREMPLOYMENT. (a)  
29 Immediately following a determination by the commissioner of labor

1 that a zone of underemployment exists, and for the next two fiscal  
2 years after the determination, qualified residents of the zone who are  
3 eligible under AS 36.10.140 shall be given preference in hiring for  
4 work on each project under AS 36.10.180 that is wholly or partially  
5 sited within the zone. The preference applies on a craft-by-craft or  
6 occupational basis.

7 (b) The commissioner of labor shall determine the amount of work  
8 that must be performed under this section by qualified residents who  
9 are eligible for an employment preference under AS 36.10.140. In  
10 making this determination, the commissioner shall consider the nature  
11 of the work, the classification of workers, availability of eligible  
12 residents, and the willingness of eligible residents to perform the  
13 work.

14 (c) The commissioner shall determine that a zone of underemploy-  
15 ment exists if the commissioner finds that

16 (1) the rate of unemployment within the zone is substan-  
17 tially higher than the national rate of unemployment;

18 (2) a substantial number of residents in the zone have  
19 experience or training in occupations that would be employed on a  
20 public works project;

21 (3) the lack of employment opportunities in the zone has  
22 substantially contributed to serious social or economic problems in  
23 the zone; and

24 (4) employment of workers who are not residents is a pecu-  
25 liar source of the unemployment of residents of the zone.

26 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-  
27 TRESSED ZONES. (a) Immediately following a determination by the  
28 commissioner that an economically distressed zone exists, and for the  
29 next two fiscal years after the determination, qualified residents of

1 the zone who are eligible under AS 36.10.140 shall be given preference  
2 in hiring for at least 50 percent of employment on each project under  
3 AS 36.10.180 that is wholly or partially sited within the zone. The  
4 preference applies on a craft-by-craft or occupational basis.

5 (b) The commissioner shall determine that an economically dis-  
6 tressed zone exists if the commissioner finds that

7 (1) the per capita income of residents of the zone is less  
8 than 90 percent of the per capita income of the United States as a  
9 whole, or the unemployment rate in the zone exceeds the national rate  
10 of unemployment by at least five percentage points;

11 (2) the lack of employment opportunities in the zone has  
12 substantially contributed to serious social or economic problems in  
13 the zone; and

14 (3) employment of workers who are not residents is a pecu-  
15 liar source of unemployment of residents of the zone.

16 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-  
17 ITY RESIDENTS. (a) Immediately following a determination by the  
18 commissioner that the minority residents of a zone are economically  
19 disadvantaged, and for the next two fiscal years after the determina-  
20 tion, qualified minority residents of the zone who are eligible under  
21 AS 36.10.140 shall be given preference in hiring for at least 25  
22 percent of employment on each project under AS 36.10.180 that is  
23 wholly or partially sited within the zone. The preference applies on  
24 a craft-by-craft or occupational basis.

25 (b) The commissioner shall determine that the minority residents  
26 of a zone are economically disadvantaged if the commissioner finds  
27 that

28 (1) the percentage of civilian minority residents in the  
29 zone exceeds the percentage of civilian minority residents in the

1 state;

2 (2) either the percent of unemployment of civilian minority  
3 residents of the zone is at least two times the percent of unemploy-  
4 ment of nonminority residents of the zone or the civilian minority  
5 population of the zone has suffered past economic discrimination;

6 (3) the economic disadvantage of civilian minority resi-  
7 dents of the zone has substantially contributed to serious social or  
8 economic problems in the zone; and

9 (4) employment of workers who are not residents is a pecu-  
10 liar source of unemployment of civilian minority residents of the  
11 zone.

12 (c) In this section, a person is considered to be a member of a  
13 minority if the person is Hispanic, Asian or Pacific Islander, Ameri-  
14 can Indian or Alaskan Native, or Black as those terms are defined by  
15 the Equal Employment Opportunity Commission.

16 Sec. 36.10.175. PREFERENCE FOR ECONOMICALLY DISADVANTAGED FEMALE  
17 RESIDENTS. (a) Immediately following a determination by the commis-  
18 sioner that the female residents of a zone are economically disadvan-  
19 tagged, and for the next two fiscal years after the determination,  
20 qualified female residents of the zone who are eligible under AS 36.-  
21 10.140 shall be given preference in hiring for at least 25 percent of  
22 employment on each project under AS 36.10.180 that is wholly or par-  
23 tially sited within the zone. The preference applies on a craft-by-  
24 craft or occupational basis.

25 (b) The commissioner shall determine that the female residents  
26 of a zone are economically disadvantaged if the commissioner finds  
27 that

28 (1) either the percent of unemployment of female residents  
29 of the zone is at least two times the percent of unemployment of male

1 residents of the zone or the female population of the zone has suf-  
2 fered past economic discrimination;

3 (2) the economic disadvantage of female residents of the  
4 zone has substantially contributed to serious social or economic prob-  
5 lems in the zone; and

6 (3) employment of workers who are not residents is a pecu-  
7 liar source of unemployment of female residents of the zone.

8 Sec. 36.10.180. PROJECTS SUBJECT TO PREFERENCE. (a) The pref-  
9 erences established in AS 36.10.150 - 36.10.175 apply to work per-  
10 formed

11 (1) under a contract for construction, repair, preliminary  
12 surveys, engineering studies, consulting, maintenance work, or any  
13 other retention of services necessary to complete a given project that  
14 is let by the state or an agency of the state, a department, office,  
15 state board, commission, public corporation, or other organizational  
16 unit of or created under the executive, legislative or judicial branch  
17 of state government, including the University of Alaska and the Alaska  
18 Railroad Corporation, or by a political subdivision of the state  
19 including a regional school board with respect to an educational  
20 facility under AS 14.11.020;

21 (2) on a public works project under a grant to a municipali-  
22 ty under AS 37.05.315;

23 (3) on a public works project under a grant to a named  
24 recipient under AS 37.05.316;

25 (4) on a public works project under a grant to an unincor-  
26 porated community under AS 37.05.317; and

27 (5) on any other public works project or construction  
28 project that is funded in whole or in part by state money.

29 (b) If the governor has declared an area to be an area impacted

1 by an economic disaster under AS 44.33.285, then the preference for  
2 residents of the area established under AS 44.33.285 - 44.33.310  
3 supersedes the preference under AS 36.10.150 - 36.10.175 for contracts  
4 awarded by the state.

5 (c) The commissioner shall define the boundaries of a zone  
6 within which a preference applies.

7 Sec. 36.10.190. REPORTING PROVISIONS. An employer obligated to  
8 meet resident hire requirements under this chapter shall comply with  
9 the reporting provisions that the commissioner of labor determines are  
10 reasonably necessary to carry out this chapter. Except for statisti-  
11 cal data, all information regarding specific employees is confiden-  
12 tial and may not be released by the Department of Labor. However,  
13 confidential employee information may be shared between departments  
14 for purposes of this chapter.

15 Sec. 36.10.200. CRIMINAL PENALTIES. (a) A person who makes a  
16 false sworn statement in connection with a certification of eligibil-  
17 ity for an employment preference under this chapter is subject to  
18 criminal prosecution for perjury as provided in AS 11.56.200.

19 (b) A person who makes an unsworn falsification, with the intent  
20 to mislead a public servant in the performance of a duty, in connec-  
21 tion with a certification of eligibility for an employment preference  
22 under this chapter, is subject to criminal prosecution as provided in  
23 AS 11.56.210.

24 (c) In addition to criminal penalties imposed by state law, if a  
25 person is convicted of a crime in connection with a false statement  
26 made in a certification required under AS 36.10.140, and the convic-  
27 tion is not reversed, that person shall forfeit all future rights to  
28 eligibility for an employment preference under this chapter.

29 Sec. 36.10.210. CIVIL PENALTIES. (a) In addition to any

1 criminal penalties imposed, after a hearing the department may impose  
2 a civil penalty on a person who, in connection with certification of  
3 eligibility for an employment preference under this chapter,

4 (1) made a false sworn statement; or

5 (2) made an unsworn falsification with intent to mislead a  
6 public servant in the performance of a duty.

7 (b) The amount of the civil penalty under (a) of this section  
8 for a person who falsely certifies that the person is eligible for an  
9 employment preference under this chapter is not more than \$400 for  
10 each false certification. The person also forfeits all future rights  
11 to eligibility for an employment preference under this chapter.

12 (c) The amount of the civil penalty under (a) of this section  
13 for an employer who falsely certifies that employees are residents  
14 eligible for a preference under this chapter is not more than \$2,000  
15 for each of the first five false certifications. The penalty for the  
16 sixth false certification made by an employer and for each false  
17 certification thereafter is at least \$2,000 and not more than \$4,000.

18 Sec. 36.10.900. EFFECT OF JUDICIAL DECISIONS. If a provision of  
19 this chapter, or the application of a provision to a person or circum-  
20 stance, is held invalid, the remainder of this chapter and the appli-  
21 cation to other persons or circumstances shall not be affected by the  
22 holding. The remainder shall be enforced to the greatest extent  
23 constitutionally permissible under the constitutions of the United  
24 States and the State of Alaska.

25 Sec. 36.10.990. DEFINITIONS. In this chapter

26 (1) "qualified" means possesses the requisite education,  
27 training, skills, or experience to perform the work;

28 (2) "zone" includes a census area in the state, an economic  
29 region of the state, and the state as a whole.

1 \* Sec. 6. AS 36.95.010 is amended by adding a new paragraph to read:  
2 (9) "resident" means a person who establishes residency  
3 under AS 01.10.055.

4 \* Sec. 7. AS 37.05.315 is amended by adding a new subsection to read:  
5 (e) The Department of Labor shall require a municipality awarded  
6 a grant for a public works project under (a) of this section to comply  
7 with the hiring preferences under AS 36.10.150 - 36.10.175 for employ-  
8 ment generated by the grant.

9 \* Sec. 8. AS 37.05.316 is amended by adding a new subsection to read:  
10 (b) The Department of Labor shall require a recipient awarded a  
11 grant for a public works project under (a) of this section to comply  
12 with the hiring preferences under AS 36.10.150 - 36.10.175 for employ-  
13 ment generated by the grant.

14 \* Sec. 9. AS 37.05.317 is amended by adding a new subsection to read:  
15 (b) The Department of Labor shall require the qualified incor-  
16 porated entity awarded a grant or agents or contractors with whom the  
17 Department of Community and Regional Affairs contracts under (a) of  
18 this section to comply with the requirements of AS 36.10.150 - 36.10.-  
19 175 for employment generated by the grant or contract if the grant or  
20 contract is for a public works project.

21 \* Sec. 10. The provisions of this Act do not apply to a contract en-  
22 tered into before the effective date of this Act unless the contract in-  
23 cludes a provision requiring compliance with laws regarding the hiring of  
24 Alaska residents that take effect during the term of the contract.

25 \* Sec. 11. AS 36.10.010 and AS 36.95.010(4) and (5) are repealed.

26 \* Sec. 12. This Act takes effect immediately in accordance with AS 01.-  
27 10.070(c).