

COMMITTEE REPORT  
SENATE

FURTHER:

4/4/86

Date 4/10/86

Mr. President

The Committee on FINANCE considered SB 367  
relating to Alaskan resident employment preference; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 367 (Finance)
- new title
- same title and recommends Do Pass
- and attached a "LETTER OF INTENT" 2  NEW FISCAL NOTES
- reports it back without recommendation DOL 3/17/86 331.9
- recommends referral to \_\_\_\_\_ Committee DOL 3/14/86 161.3

MEMBERS SIGNING  
DO PASS

[Signature]  
Paul Frank  
[Signature]  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

Rich Halford NO REC  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Co-Chairman [Signature]  
 Chairman [Signature]  
 Chairman recommendation do pass

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date : 3/17/86

REQUEST

Bill/Resolution No. : CSSB 367 (Fin)  
Title : "An Act relative to Alaskan  
resident employment preference..."

Sponsor : Faiks, Josephson, et. al.  
Requestor : Labor and Commerce  
Date of Request : 3/14/86

FISCAL DETAIL

Agency Affected : Labor  
B.U. : Administrative Services

Components : Special Services

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		108.5	108.5	108.5	108.5	108.5
TRAVEL						
CONTRACTUAL		219.2	225.5	246.2	242.5	251.2
SUPPLIES		1.2	1.2	1.3	1.3	1.4
EQUIPMENT		4.0	.8	.9	.9	1.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	331.9	336.0	356.9	353.2	362.1

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		331.0	336.0	356.9	353.2	362.1
FEDERAL FUNDS						
OTHER						
TOTAL	0	331.9	336.0	356.9	353.2	362.1

POSITIONS :

FULL-TIME	0	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : *Judy G. Knight*  
Judy G. Knight, Director  
Division : Administrative Services  
Phone : 465-2720  
Date : 3/17/86

Approved by Commissioner : *Jim Robison*  
Jim Robison  
Agency : Labor  
Date : 3/17/86

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. CSSB 367 (L&C)

This legislation requires a biennial report that designates eligible areas. Determination that "employment of workers who are not residents is a peculiar source of the unemployment of residents of the area" will require this department to collect extensive occupational information by resident status. Two statistical clerks and one Labor Economist II would complete the report. Request for New Position forms are attached which explain position duties and costs.

The contractual services costs are detailed as follows:

<u>Description</u>	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>	<u>FY 90</u>	<u>FY 91</u>
Key Entry	\$ 40.0	\$ 60.0	\$ 62.0	\$ 64.0	\$ 66.0
DP operations	120.0	135.0	150.0	153.0	156.0
DP applications	30.0	4.5	4.7	4.9	5.1
Printing	4.5	2.0	4.5	2.1	5.0
Phone (Toll service)	12.0	12.5	13.0	6.0	6.2
Equipment lease	8.0	8.3	8.7	9.0	9.4
Equipment maintenance	.8	.8	.9	.9	.9
Training, snipping, & misc.	2.9	2.4	2.4	2.6	2.6
	<u>\$218.2</u>	<u>\$225.5</u>	<u>\$246.2</u>	<u>\$242.5</u>	<u>\$251.2</u>

The following assumptions were made in preparing this fiscal note:

1. An annual report designating underemployment areas would be completed by January 31 of the first session of each legislature 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. Beginning in 1988, occupational displacement information would be highlighted requiring continuation of both the existing occupational information budget levels, and the additional information on occupational titles.

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 367

4. 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.

5. In addition to the occupational information, reporting of the residency status by industry and area would be necessary.
6. All minority demographic and economic information, except that required from contractors on state funded construction projects, will be derived from the decennial census. No costs are included for this in this fiscal note.
7. Work would begin on the first report July 1, 1986.

Position Title <b>Labor Economist II</b>		No. of Positions <b>1</b>	Range/Step <b>16A</b>	Base Unit <b>GGU</b>	Gov.	Approv.	Unapp.
Time Status <b>PFT</b>	Staff Months <b>12.0</b>	RP Number	Location <b>Juneau</b>		Election District	Leg.	
Justification							
This position will have primary responsibility for the analysis of data and preparation of the annual resident hire report. Specifically the duties would include:							
<ol style="list-style-type: none"> <li>1. Coordinate the collection and monitor the validity of relevant resident hire related statistics from other agencies including the Department of Revenue and the Division of Labor Standards and Safety.</li> <li>2. Coordinate the updating and crossmatching of resident hire related data files on the mainframe computer with the analyst programmer.</li> <li>3. Analyze microcomputer resident hire data bases to generate resident hire related tables and reports. The reports will include data relating to occupational displacement of nonresidents by census area and other related economic statistics associated with issue of resident hire.</li> <li>4. Supervise the Statistical Clerk that will prepare the basic resident hire data tables for the report.</li> <li>5. Prepare the annual resident hire report.</li> </ol>							
Contractual services costs include phone, training, and other miscellaneous items.							
Type of Expenditure		Amount					
1	2	3					
Salary	33,660						
Benefits	10,779						
Premium Pay							
Other							
Total Personal Services		44,439					
Travel		0					
Contractual		1,000					
Commodities		500					
Equipment		2,000					
Other							
Total Cost		47,939					
Project Code	Funding Source						
	Federal Receipts	1002					
	G. F. Match	1003					
	General Funds	1004	47,939				
	I-A Receipts	1005					
	Program Receipts	1028					
	CHP Receipts	1061					
	Other						
For B&M Use Only							
Key Number							

Request For  
New Position

Agency Labor  
 BRU Administrative Services  
 Component Special Services

Page 1 of 2  
 Revised Date

FY 87

Position Title <b>Statistical Clerk</b>			No. of Positions <b>2</b>	Range/Step <b>8B</b>	Bag. Unit <b>GGU</b>	Govt. <b></b>	Approved <b></b>	Utapp <b></b>																																																											
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**Request For  
New Position**

Agency Labor  
 BRU Administrative Services  
 Component Special Services

Page 2 of 2  
 Revised Date

**FY 87**

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : CSSB 367 (Fin)  
 Title : "An Act relating to Alaskan  
 resident employment preference.."  
 Sponsor : Faiks, Josephson, et. al.  
 Requestor : Labor and Commerce  
 Date of Request : 3/14/86

**FISCAL DETAIL**

Agency Affected : Labor  
 BRU : Labor Standards & Safety  
 Components : Wage & Hour

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		114.8	101.7	105.8	110.0	114.4
SUPPLIES						
EQUIPMENT		46.5	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>161.3</b>	<b>101.7</b>	<b>105.8</b>	<b>110.0</b>	<b>114.4</b>

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

GENERAL FUND	0	161.3	101.7	105.8	110.0	114.4
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>161.3</b>	<b>101.7</b>	<b>105.8</b>	<b>110.0</b>	<b>114.4</b>

**POSITIONS :**

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

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

Prepared by : *MB* Bob Bacolas, Director Phone : 465-4870  
 Division : Labor Standards & Safety Date : 3/14/86  
 Approved by Commissioner : *MB* Jim Robison Date : 3/14/86  
 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. CS for SB 367 (LGC)

Currently the Division of Labor Standards and Safety (LS&S) receive weekly certified payroll documents for all public construction projects as required in AS 36. Under this bill the department will use the public construction certified payroll forms as source documents to determine the legal domicile of persons employed on public construction projects. In certain cases the department will also be scrutinizing the ethnic makeup of the employees to determine the utilization of minorities.

These certified payroll documents are now collected and summarized manually by the Division of Labor Standards and Safety. This fiscal note will fund the automation of the certified payroll documents. This will allow a more timely determination of residency status of persons employed on public construction projects. This automation will also assist in providing a list of employees with incomplete or questionable data. The existing investigative staff will then resolve the questionable items through personal contact with employees and employers.

Reports will be developed for the Research and Analysis Section to allow the staff to do crossmatch reviews with other data sources (e.g. Permanent Fund Dividend).

Specific costs are as follows:

## Contractual Services

Professional fees for data entry	80.0
DP Applications/programming development (one time only \$17.0)	20.0
DP Support (misc. chargeback)	3.0
DP Telecommunications	.8
Communications (phone and postage)	5.0
Equipment repair and maintenance	5.0
Other miscellaneous	1.0
	<u>114.8</u>

## Equipment (one time only)

4 workstations	21.6
3 printers	5.4
3 modems	15.0
75 Mega byte disk pack	1.5
Telecommunication software	3.0
	<u>46.5</u>

Total 161.3

A contract for data entry services will be required for entry of all payroll records into the new automated system.

Equipment upgrades and improved telecommunication links between Juneau, Fairbanks and Anchorage will allow online review and audit of certified payroll data in each location. The equipment will be a one time purchase. Other cost are projected to future years at 4% inflation.

Cramer  
4/9/86

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. 0.180 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 residence  
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  
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).

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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 annual 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           (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 United  
29 States and the State of Alaska.

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:

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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 37.05.317 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: 3/20/86  
Referred: Judiciary

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

1 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

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 preference; and providing for an effective date."

7

8

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

9

\* Section 1. PURPOSE. The legislature recognizes that the state has a significant unemployment problem. This Act is intended to better fulfill the state's duty of loyalty to its citizens, reduce unemployment among residents of the state, remedy social harms resulting from chronic unemployment, and assist economically and socially disadvantaged residents. If the courts find that a portion of AS 36.10 is unconstitutional, the public interest requires that the remaining portions be implemented as fully as 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 a certified payroll who did not apply for or were refused a permanent fund dividend under AS 43.23 to employees who were found eligible to receive a dividend is a reasonable but not exclusive indicator of the ratio of nonresident to resident employees on a public works project.

23

(d) When determining the ratio of nonresident to resident employees working on a public works project, the commissioner may consider information gathered from on-site surveys of public works projects including individual interviews, questionnaires, examination of the state of registration of vehicles owned or operated by employees, 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

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 inspection  
2 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 reasonable  
5 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 compensation who did not  
11 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 contrary,  
28 for the commissioner of labor to rely on information and projections  
29 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 36.10.180 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.

COMMITTEE REPORT

SENATE

FURTHER:

*Finance*

3/20/86

Date

*4/2/86*

Mr. President

The Committee on JUDICIARY considered SB 367

~~relating to~~ Alaskan resident employment preference; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

do pass

do pass with attached amendment(s)

replace with/or adopt CS for SB 367 (JUDICIARY)

new title

same title and recommends

and attached a "LETTER OF INTENT"

NEW FISCAL NOTE

reports it back without recommendation

recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*Gene Miller*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

*Ziegler - N/R; aren't we attempting to do indirectly that which we cannot do directly?*  
*Tom Kelly - No Rec*  
\_\_\_\_\_  
\_\_\_\_\_

*Mark Bodery*  
\_\_\_\_\_  
Chairman

*do Pass*  
\_\_\_\_\_  
Chairman recommendation

COMMITTEE REPORT  
SENATE

FURTHER: Judiciary

1/29/86

Date 19 MARCH 86

Mr. President

The Committee on Labor & Commerce considered SB 367  
relating to Alaskan resident employment preference; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 367 (LC)
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

<sup>3</sup> [Signature] no rec.  
\_\_\_\_\_  
<sup>2</sup> Bill Ray DO NOT PASS  
IN PRESENT FORM  
\_\_\_\_\_  
  
<sup>1</sup> [Signature]  
Chairman  
Do Pass  
Chairman recommendation