

HB

2094

Chairman's Information:

- 1) HB 294: "An act relating to preferential hire of Alaskans; and providing for an effective date"
 - a) Introduced: Boucher + 33 other House members
 - b) Co-Sponsors:
- 2) INTENT: This bill establishes a state policy which provides for an employment preference for state residents on projects funded with public monies.

Under the Privileges and Immunities Clause of the US Constitution, a state must show a compelling reason for giving an employment preference to state residents. This legislation contains 18 "Legislative Findings" in an effort to withstand Constitutional challenges.

FISCAL NOTE: Fiscal Note: 0

NOTE:

- 3) ADDITIONAL REFERRALS: Finance
- 4) PUBLIC HEARINGS:
 - a) Sponsor:
 - b) Public witnesses:
- 5) BILL ACTION:
 - a) Hold in committee?
 - b) Assign to sub committee for further review?
 - c) Move from Committee?
 - d) close public hearings?
- 6) COMMITTEE ACTION:
 - a) amendments?
 - b) CS adoption?

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 3

REQUEST

Bill/Resolution No.: HB 294
 Title: "An Act relating to preferential hire of Alaskans..."
 Sponsor: Boucher, Davis et al.
 Requestor: House Finance
 Date of Request: 4/16/85

FISCAL DETAIL

Agency Arrected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Labor Standards & Safety Wage & Hour Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		90.6	93.8	97.1	100.5	104.0
200 TRAVEL		10.0	10.6	11.2	11.9	12.6
300 CONTRACTUAL		11.2	11.9	12.6	13.4	14.2
400 SUPPLIES		1.0	1.1	1.2	1.3	1.4
500 EQUIPMENT		3.2	0	0	0	0
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	116.0	117.4	122.1	127.1	132.2

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		116.0	117.4	122.1	127.1	132.2
FEDERAL FUNDS						
OTHER						
TOTAL	0	116.0	117.4	122.1	127.1	132.2

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This fiscal note assumes an effective date of July 1, 1985.

Prepared By: Robert J. Bacolas, Sr.
 Division: Labor Standards & Safety

Phone: 465-4870
 Date: 4/16/85

Approved by Commissioner: Jim Robison
 Agency: Labor

Date: 4/16/85

Distribution (by Agency preparing fiscal note):

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

Fiscal note

1.	POSITION TITLE Wage & Hour Investigator I		STAFF MONTHS 12	RP NUMBER	PCH NUMBER	DISCONT.
2.	TYPE OF POSITION PFT	ADDITION	RP NUMBER	PCH NUMBER	DISCONT.	
3.	COMPENSATION LEVEL	ADDITION	RP NUMBER	PCH NUMBER	DISCONT.	
4.	TYPE OF EXPENDITURE	ADDITION	RP NUMBER	PCH NUMBER	DISCONT.	
5.	PERSONAL SERVICES		2			
6.	Salary		37,356			
7.	Benefits		6,016			
8.	Supplemental Benefits		2,290			
9.	Fixed Benefits		2,630			
10.	TOTAL PERSONAL SERVICES					48,292
11.	Travel					5,000
12.	Contractual					5,600
13.	Commodities					500
14.	Equipment					1,600
15.	Other					
	TOTAL COST					60,992

JUSTIFICATION

The position will inspect public co. construction job sites for compliance with residency preference provisions of AS 36. This position would obtain and audit certified payroll records for public construction projects to determine compliance with resident employment preference.

The travel expense is for travel costs to construction sites around the state. Contractual and commodities are average per employee costs. The equipment costs would be one-time items.

RECEIPT CODE	FUNDING SOURCE
16.	Federal Receipts 1002
17.	G.F. Match 1003
18.	General Funds 1004
19.	I-A Receipts 1005
20.	Program Receipts 1028
21.	Other
	60,992

FOR BGM USE ONLY
KEY NUMBER

AGENCY Labor PROGRAM Public Protection HB 294

BRU Labor Standards & Safety Page 3 of 3

COMPONENT Wage & Hour Administration LEG: F

FY 86

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

3/29

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 294
 Title: "An Act relating to preferential hire of Alaskans..."
 Sponsor: Boucher, Davis et al.
 Requestor: House Labor & Commerce
 Date of Request: 3/18/85

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Labor Standards & Safety Wage & Hour Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert J. Bacolas, Sr. Phone 465-4870
 Division: Labor Standards & Safety Date: 3/19/85
 Approved by Commissioner: Jim Robison Date: 3/19/85
 Agency: Labor

Distribution (by Agency preparing fiscal note):

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

Bill No. House Bill No. 294

Date April 25, 1985

Title "An Act relating to preferential hire of Alaskans; and providing for an effective date."

Contact: Robert Landau
465-2700
Eileen Plate
465-2700

Since 1982, one of the Department's highest priorities has been the enforcement of preferential hiring of Alaska residents on state-funded public works projects, pursuant to AS 36.10.010. In late 1983, however, the state's resident hire law was challenged on constitutional grounds and resulted in a Superior Court decision that the law was unconstitutional. That decision is now on appeal to the Alaska Supreme Court.

One of the Superior Court's key findings was that there was insufficient evidence to show that the in-migration of non-residents was displacing qualified and available Alaska residents from public works employment. By explicitly setting forth the legislative findings underlying the resident hire law, House Bill No. 294 would provide a more solid foundation from which to defend the principle of Alaska hire. The Department of Labor, therefore, strongly endorses the comprehensive legislative findings contained in the bill.

In response to concerns that the Department's resident hire enforcement capability should be enhanced, a fiscal note has been prepared to provide funding for two additional enforcement staff.

The Department of Labor supports House Bill No. 294.

APPROVED:



Jim Robison, Commissioner
Department of Labor

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 22, 1985

SUBJECT: Term "royalty" as used in HB 294
TO: Representative Red Boucher
FROM: Billy G. Berrier
Director
Division of Legal Services

*give to
Committee
in Senate
w/ ~~HB~~ 294*

At the request of Representative Cotten, he, Dave Donely and I met to discuss the appropriateness of use of the term "royalty" in findings 15 and 16 of Sec. 36.10.005 of House Bill 294. I was requested to furnish you my comments.

Royalty has a fixed meaning in the oil industry. It is the landowners share of production free of expenses of production. (Handbook of Oil Industry Terms and Phrases - Lagenkamp, PPC Books 1977 and Manual of Oil and Gas Terms, Williams and Meyers, Matthew Bender 1981) A copy of these references is enclosed.

In finding 15 the term is properly used and emphasizes the use of money derived from the ownership interest in land of the state rather than from traditional governmental sources of revenue for traditional governmental functions. This distinction may be relevant and material in determining the market participant status of the state in many instances.

Finding 16 however is factually in error. It is clear that the term there is not intended to be limited to the landowners royalty but was intended to include all natural resource income. This is an incorrect useage of the term "royalty". I would suggest that on page 2, line 24 the term "these royalties" be deleted and the term "natural resources income" be substituted.

BGB:csh
c4/006

CC:Representative Cotten
Dave Donely

ROUSTABOUT

A production employee who works on a lease or around a drilling rig doing manual labor.

ROYALTY

See Landowner royalty

ROYALTY, COMPENSATORY

Payments to royalty owners as compensation for loss of income which they may suffer due to the failure of the operator to develop a lease property.

ROYALTY, FIXED-RATE

Royalty calculated on the basis of a fixed rate per unit of production, without regard for the actual proceeds from the sale of the production.

ROYALTY, GUARANTEED

The minimum amount of royalty income a royalty owner is to receive under the lease agreement, regardless of his share of actual proceeds from the sale of the lease's production.

ROYALTY, LANDOWNER'S

A share of the gross production of the oil and gas on a property by the landowner without bearing any of the cost of producing the oil or gas. In the usual landowner's royalty is one-eighth of gross production.

ROYALTY OIL

Oil owned by the government, federal, state or local.

ROYALTY, SHUT-IN

Payment to royalty owners under the terms of a mineral lease which either the operator or lessee to defer production from a well which is shut in due to lack of a market or pipeline connection.

RUN

A transfer of crude oil from a stock tank on a production lease to a production gathering system, for transportation to the buyer's facilities; run from a tank into a pipeline for delivery to a purchaser.

RUNNING THE TOOLS

Putting the drill pipe, with the bit attached, into the hole in preparation for drilling.

RUN TICKET

A record of the oil run from a lease tank into a connecting pipeline. The ticket is made out in triplicate by the gauger and witnessed by the lease owner's representative, usually the pumper. The run ticket, an invoice of oil delivered, shows opening and closing gauge, API gravity, and test.

ature, tank temperature, and BS&W. The operator purchases a copy to the pumper and one for the purchaser.

RUPTURE DISK

A thin, metal plug or membrane in a fitting on a pipe which blows out or ruptures when the pressure exceeds a predetermined safety plug. See Soft plug.

S

SADDLE

A clamp, fitted with a gasket, for stopping the flow of oil or gas or splits in a pipeline; a device for making temporary repairs to a pipe and is used to clamp around the curve of the pipe and is used to clamp around the pipe and extend through the pipe.

SADDLE BEARING

A broad, heavy bearing located on top of the SAE walking beam on a cable tool drilling rig or an SAE.

SAE

Society of Automotive Engineers

SAE NUMBER

A classification of lubricating oils in terms of viscosity established by the Society of Automotive Engineers. See SAE number.

SAFETY VALVE

See Relief valve

SALT BED STORAGE

Thick formations or underground layers of salt in a well or leached out with super-heated water for the production of salt products, e.g., heating oils, butane, propane, and ethane.

SALT DOME

A subsurface mound or dome of salt. Two types are recognized: the piercement and non-piercement. The piercement dome pierces upward into the formations above them. The non-piercement domes are produced by local thickening of salt layers. The overlying formations to form an anticline.

Roughneck

A driller's helper and general worker on a drilling rig.

Round trip

The process of removing drill pipe, replacing the bit, and returning the drill column to the hole. See *Buster Gardner Drilling Co. v. Associated Oil & Gas Exploration, Inc.*, 214 So.2d 267 at 271, 32 O.&G.R. 169 at 176 (La. App. 1968), *writ refused*, 253 La. 59, 216 So. 2d 306 (1968).

Roustabout

A common laborer around a drilling or producing well.

ROV

See RANGE OF VALUES METHOD.

Royalty

(1) The landowner's share of production, free of expenses of production.

(2) A share of production, free of expenses of production, e.g., an OVERRIDING ROYALTY (*q.v.*) of $\frac{1}{8}$ of the $\frac{7}{8}$ working interest.

The landowner's royalty is frequently $\frac{1}{8}$ th production, but it may be any other fractional share of production (or, as is typical in California, the royalty may be expressed as a percentage of production rather than a fractional share of production). In some parts of the industry, anything larger than a $\frac{1}{8}$ th royalty may be called an OVERRIDING ROYALTY (*q.v.*) in practice, even though it goes to the landowner. Thus a $\frac{1}{6}$ th royalty may be called "an $\frac{1}{8}$ th royalty and a $\frac{1}{24}$ th override."

Royalty may be payable in kind (that is, the royalty owner is entitled to a share of the oil or gas as produced), or it may be payable in money (that is, the royalty owner is to be paid in money for the value or market price of his share of the product). The former type of royalty gives its owner in some states, e.g., Texas, a corporeal interest, whereas the latter type of royalty may give rise only to a debtor-creditor relationship after production between the operator and the royalty owner. For other differences in the legal consequences of the two types of royalty clause, see TREATISE § 659.1. Cancellation of the lease is

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). The former type of royalty
 a corporeal interest, whereas
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 onsequences of the two types
 . Cancellation of the lease is

normally not an available remedy for non-payment of royalty. See
 TREATISE § 656.3.

Although the royalty is not subject to costs of production, usually
 it is subject to costs incurred after production, e.g., production or
 gathering taxes, costs of treatment of the product to render it marketa-
 ble, costs of transportation to market. Occasionally a lease provides
 that the royalty payable to the lessor shall be a larger or smaller
 fractional interest depending on the volume of production. A royalty
 is freely assignable.

The term royalty may be used in a more general or loose sense in
 some instances as covering all returns from a claimed interest in oil
 and gas. See Denio v. City of Huntington Beach, 22 Cal.2d 580, 140
 P.2d 392, 149 A.L.R. 320 (1943).

In United States v. 525 Co., 342 F.2d 759, 22 O.&G.R. 483 (5th Cir.
 1965), the court said that the term "royalty" as used with respect to
 oil and gas matters, refers to the landowner's royalty, and not to oil
 payments.

Royalty, as used in connection with mineral leases, is defined by
 Article 213 of the Louisiana Mineral Code (R.S. 31:213) as:

"any interest in production, or its value, from or attributable to
 land subject to a mineral lease, that is deliverable or payable to
 the lessor or others entitled to share therein. Such interests in
 production or its value are 'royalty,' whether created by the lease
 or by separate instrument, if they comprise a part of the negotiat-
 ed agreement resulting in execution of the lease. 'Royalty' also
 includes sums payable to the lessor that are classified by the lease
 as constructive production."

As the Comment to this article indicates, the statutory definitions of
 bonus and royalty are intended to be complementary. Thus if a
 production payment is created at the time of the execution of a lease,
 it will be characterized as royalty (and hence payable to those persons
 entitled to share in royalty) if the production payment is payable from
 the property being leased, whereas it will be characterized as bonus
 (and hence payable to those persons entitled to share in bonus) if the
 production payment is granted by the lessee out of another producing
 lease.

"Generally, then, under subparagraphs (1) and (2) of Article
 213, any interest in production or its value from or attributable
 to a lease granted by the holder of an executive right would be
 royalty and not bonus, even though it might be termed in the
 documentation as an overriding royalty or a production payment

taken out of the working interest. Coupled with the provisions concerning executive rights, this means that one holding an executive interest cannot, by the device of calling an interest in production an overriding royalty rather than a lessor's royalty, deprive the holder of a mineral royalty or other nonexecutive interest of the right to share in production."

See TREATISE § 339.4.

Bonus is distinguished from "royalties" as that term is used in the Small Business Corporation Act in *Swank & Son, Inc. v. United States*, 362 F.Supp. 897, 46 O.&G.R. 291 (D. Mont. 1973).

The term "royalty" as used in a contract under which royalty was promised for services was held to include "advance royalty" received by the promisor which was recoverable from subsequent production, if any. *Rouse v. McDonough*, 622 P.2d 106, — O.&G.R. — (Col. App. 1980).

The definition in this MANUAL was cited in *Whitehall Oil Co. v. Eckart*, 197 So.2d 664, 26 O.&G.R. 778 (La. App. 1966), *rev'd nom.* *Gardner v. Boagni*, 252 La. 30, 209 So.2d 11, 29 O.&G.R. 22 (1968).

See also, ACCRUED ROYALTY; ACREAGE BASED ROYALTY; ADDITIONAL ROYALTY; ADVANCE ROYALTY; APPORTIONMENT; BASE ROYALTY; BONUS ROYALTY; CASH SUBSTITUTE ROYALTY; CASING HEAD GAS ROYALTY; COMPENSATORY ROYALTY; DEFERRED ROYALTY; DISCOVERY ROYALTY; DIVISION ORDER; DRILL SITE ROYALTY; EXCESS ROYALTY; FARMERS' OIL; FEE ROYALTY; FINANCIAL TERM ROYALTY; FREE GAS CLAUSE; GAS ROYALTY; GROSS ROYALTY; LANDOWNER ROYALTY; LESSOR'S ROYALTY; LIEU ROYALTY; MINERAL ROYALTY; MINIMUM ROYALTY; NET PROFITS ROYALTY; NET ROYALTY; NON-PARTICIPATING ROYALTY; OFFSET ROYALTY; OIL ROYALTY; OPEN-END GAS ROYALTY CLAUSE; OVERRIDING ROYALTY; PARTICIPATING ROYALTY; PASS-THROUGH ROYALTY; PERPETUAL NON-PARTICIPATING ROYALTY; PREFERRED NET ROYALTY; PRODUCTS ROYALTY CLAUSE; PROGRESSIVE INCREMENTAL ROYALTY; REDUCTION OF ROYALTIES; RENT ROYALTY; ROYALTY BONUS; ROYALTY IN KIND; ROYALTY OIL OR GAS; ROYALTY REDUCTION; ROYALTY SURCHARGE; SLIDING SCALE ROYALTY; STEP SCALE ROYALTY; SUBSTITUTE ROYALTY; SUSPENDED ROYALTY; TAPERED ROYALTY; TERM MINERAL OR ROYALTY INTEREST; UNACCRUED ROYALTY; VARIABLE ROYALTY.

ANNOTATED

Royalty acre

A full lease royalty tract leased for a term of or of a 1/16 royalty. TREATISE § 320.3 (1942); *Inslee v.*

For further dis

Royalty apportion

A lease clause providing for the owners of interests in this TREATISE, the *Huie, Woodward*, 1972), suggests that as an *entirety clause*.

Royalty based

See ACREAGE

Royalty bidding

Competitive bidding by a person offering to bid free of expenses to

See also, LEASING

Royalty bonus

A term occasionally used to describe a payment reserved to the lessor in excess of the royalty. See *Griffith v. Texas* (1956); *State Nat. Bank*, 509, 143 S.W.2d 707, 143 S.W.2d 643 (Tex. App. 1944), *reversed*, 20 Tex. App. 6-10.

See also, BONUS

Alaska State Legislature

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JUNEAU, ALASKA 99811
(907) 465-4931

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BOX 111038
ANCHORAGE, ALASKA 99511
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CHAIRMAN
Special Committee on
Telecommunications

MEMBER
Labor and Commerce
State Affairs
Finance—Subcommittee Administration

Representative H. A. "Red" Boucher

MEMORANDUM

DATE: April 16, 1985
TO: Representative Red Boucher
FROM: Dave Donley
SUBJECT: Staff Analysis of HB294, Alaska Hire Legislation for Public Works Projects

HB 294 - An act relating to preferential hire of Alaskans: and providing for an effective date.

Section 1. AS 36.10.005 Legislative Findings
AS 36.10.006 Statement of Purpose
AS 36.10.007 State Policy
Section 2. Making section 1 retroactive to July 16, 1983
Section 3. Immediate Effective Date

SECTION 1.

AS 36.10.005 LEGISLATIVE FINDINGS

A section on "legislative findings" is created under the state's Resident Hire on Public Works law, AS 36.10. The 18 findings address factors that make Alaska unique and assert that: these factors have contributed to the high rate of unemployment among Alaskan residents; that the state spends most of its royalty oil earnings on government and public works projects; that the construction industry accounts for a substantial amount of available employment; that Alaskan workers receive a greater amount of unemployment benefits than in other states; and that the state has an obligation to reduce unemployment among its resident construction workers through projects funded by state royalty oil monies.

Backup

Under the Privileges and Immunities Clause of the U.S. Constitution, a state must show a compelling reason for giving an employment preference to residents. If a resident hire law is challenged in a court of law, sufficient evidence to show that the in-migration of non-residents is displacing qualified and available Alaska residents from public works employment is necessary. By explicitly setting forth the legislative findings underlying the Alaska hire law, a more solid foundation will be provided from which to defend the principals of that law.

AS 36.10.006 STATEMENT OF PURPOSE

In 1983 the legislature amended the existing Resident Hire on Public Works law (AS 36.10.010) in response to problems and concerns identified by the The Legislative Findings (the findings of fact) for the purpose of (1) reducing the level of unemployment among residents and (2) ensuring that qualified resident workers do not remain unemployed while non-resident workers are employed on state public works projects. There are three subsections to the statement of purpose. The first is the most specific and all-inclusive. The second and third subsections are less specific and address each purpose individually. Because we do not know how specific a "statement of purpose" must be to be upheld in a court of law, the purposes are broken out this way to allow the courts, if necessary, to establish how specific the statement needs to be.

AS 36.10.007 STATE POLICY

It is the policy of the state that, for projects funded with public monies, an employment preference will be given to Alaska residents.

SECTION 2.

Makes the act retroactive to July 13, 1983. On this date the present Resident Preference on Public Works Projects law (AS 36.10.010-.020) was enacted. This section makes it clear that (as is well supported by the record) the findings of fact are accurate for 1983 as well as for the present and that statements of purpose and policy are those of the legislature when AS 36.10.010 was amended in 1983.

SECTION 3.

Makes the act effective immediately.

STATE OF ALASKA

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

P.O. BOX 1149
JUNEAU, ALASKA 99802
PHONE: (907) 465-2700

April 12, 1985

The Honorable H.A. "Red" Boucher
Alaska State Legislature
House of Representatives
Pouch V
Juneau, AK 99811

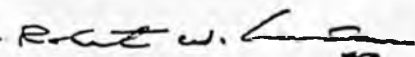
Dear Representative Boucher:

Re: House Bill No. 295

Enclosed is a breakdown of the Department of Labor's \$100,000 fiscal note attached to HB 295.

If you have questions concerning any of the specific budget items, please contact Chuck Caldwell in the Department's Research and Analysis section at 465-4500.

Very truly yours,


Robert W. Landau
Deputy Commissioner

Enclosure

Alaska Department of Labor

Budget Detail for Continuing Research
on Local Hire Related Issues

HB 295

<u>PERSONAL SERVICES</u>	
Labor Economist II (6 Mo.)	21,400
Statistical Tech. I (4 Mo.)	11,100
Total Personal Services	32,500
<u>TRAVEL</u>	
Juneau-Anchorage (4 trips) *	1,800
Per Diem (8 3/4 days)	700
Total Travel	2,500
<u>CONTRACTUAL</u>	
Data Entry **	33,000
Printing	2,000
Programming	6,000
Data Processing Operations	20,000
Maint., Postage, Phone, Misc.	3,000
Total Contractual	64,000
<u>COMMODITIES</u>	
Office supplies	1,000
Total Commodities	1,000
<u>TOTAL</u>	<u>100,000</u>

* Meetings with the State's legal counsel.

** Costs or HB 295 relate to data entry of the 1984 Certified Payrolls of State funded construction.

FISCAL NOTE ANALYSIS

THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE
BILL/RESOLUTION NO.: HB 295
TITLE: "An Act making special appropriation for study of unemployment"
AGENCY AFFECTED: Department of Labor

This bill makes a special appropriation to the Alaska Department of Labor to study the affect of employment of nonresidents on unemployment . among residents of Alaska and other issues related to Alaska hire.

Assumptions:

1. The Alaska Department of Labor will assign a Labor Economist II for six months and a Statistical Technician I for four months to research and provide this information.
2. Approximately one third of the funds will be used to key enter Alaska's certified payrolls from state funded construction projects.
3. \$26,000 will be spent to complete crossmatches of the workers on the certified payroll with wage items on the unemployment insurance wage file, the unemployment insurance claimant file and permanent rund dividend recipients.
5. The project will begin immediately after the effective date of this legislation with a written summary to be presented to the Alaska Legislature by the first day of the next session.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 295
 Title: "An Act making special appropriation for study of unemployment"
 Sponsor: Boucher et. al.
 Requestor: House Labor & Commerce
 Date of Request: 4/10/85

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Commissioner's Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		100.0				
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	100.0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		100.0				
FEDERAL FUNDS						
OTHER						
TOTAL	0	100.0	0	0	0	0

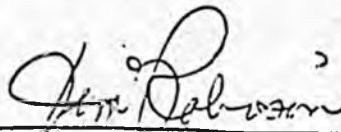
POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

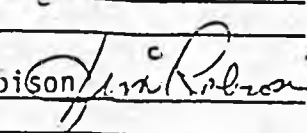
See Attached

Prepared By: Jim Robison
 Division: Commissioner



Phone: 465-2700
 Date: 4/10/85

Approved by Commissioner: Jim Robison
 Agency: Labor



Date: 4/10/85

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget

REVISED
Bill No. House Bill No. 294

Title "An Act relating to preferential hire of Alaskans; and providing for an effective date."

DaC March 28, 1985

Contact: Robert Landau
465-2700
Eileen Plate
465-2700

Since 1982, one of the Department's highest priorities has been the enforcement of preferential hiring of Alaska residents on state-funded public works projects, pursuant to AS 36.10.010. In late 1983, however, the state's resident hire law was challenged on constitutional grounds and resulted in a Superior Court decision that the law was unconstitutional. That decision is now on appeal to the Alaska Supreme Court.

One of the Superior Court's key findings was that there was insufficient evidence to show that the in-migration of non-residents was displacing qualified and available Alaska residents from public works employment. By explicitly setting forth the legislative findings underlying the resident hire law, House Bill No. 294 would provide a more solid foundation from which to defend the principle of Alaska hire. The Department of Labor, therefore, strongly endorses the comprehensive legislative findings contained in the bill.

The Department of Labor supports House Bill No. 294. It will not have a fiscal impact on the department.

APPROVED:



Jim Robison, Commissioner
Department of Labor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 294
 Title: "An Act relating to preferential hire of Alaskans..."
 Sponsor: Boucher, Davis et al.
 Requestor: House Labor & Commerce
 Date of Request: 3/18/85

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Labor Standards & Safety Wage & Hour Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
900 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert J. Bacolas, Sr.
 Division: Labor Standards & Safety

Phone 465-4870

Date: 3/19/85

Approved by Commissioner: Jim Robison
 Agency: Labor

Date: 3/19/85

Distribution (by Agency preparing fiscal note):

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

LEGISLATIVE FINDINGS

ATTACHMENTS

COMMENTS

(1) because of its unique climate and its distance from contiguous states, the state has historically suffered from unique social, seasonal, geographic, and economic conditions that result in an unstable economy;

The degree of economic instability is documented here. Determination as to which factors were most significant in causing this instability will require additional study.

Comparing total monag icultural wage and salary employment between Alaska and the U.S. shows a much higher seasonal fluctuation in Alaska (as indicated by both the monthly percentages of the respective annual averages, and the standard deviation of that relationship).

Longer term economic instability is not as evident in the 1970-1984 data. This is probably because of the stabilizing effects of relatively high per capita State expenditures in the past several years.

(2) the unstable economy is a hardship on the residents of the state and is aggravated by the large numbers of seasonal and transient nonresident workers;

The legislative members are probably in the best position to comment on the hardships experienced by their constituents.

Recently the Alaska Dept. of Labor, Research and Analysis section did a computer cross match of the social security numbers of individuals who worked at any time in 1984 (under the coverage of Unemployment Insurance), with the social security numbers of Permanent Fund dividend recipients.

This is the first time Alaska has had objective data to infer nonresident employment patterns. More work is planned to further analyze the relationships between residency and the receipt or nonreceipt of a Permanent Fund dividend.

(3) the rate of unemployment among residents of the state is one of the highest in the nation;

Alaska's unemployment rate relative rank varies from year to year. In 1984 Alaska's annual average unemployment rate was tied for the fifth highest in the country; in 1983 it was sixteenth. Since our current time series began in 1976 Alaska's annual average unemployment rate has always been above that of the total nation.

(4) the state has one of the highest ratios of nonresident to resident workers in the nation;

The recent computer match (see attachment 2) indicates that Alaska has a high percentage of nonresident workers. Unfortunately no similar data exists for other states. Comparing the nonagricultural wage and salary employment by place of residence (from the 1980 census) to its closest equivalent by place of work does indicate that Alaska has a higher than average level of nonresident employment.

Alaska ranks second in the percentage of benefits paid to workers who collect outside the state (interstate benefits).

LEGISLATIVE FINDINGS

ATTACHMENTS

COMMENTS

Future possibilities for research into this question are possibly working cooperatively with the U.S. Bureau of Labor Statistics.

(5) the state has a compelling interest in reducing the level of unemployment among its residents;

7

In addition to the individual's economic and social hardship attributed to unemployment there were \$83,807,759 in benefits paid to unemployed workers, which were funded by Alaska's UI employer and employee taxes. Reducing the level of unemployment would correspondingly reduce the expenditure level.

(6) the construction industry in the state accounts for a substantial percentage of the available employment;

8, 9

Alaska's construction employment consistently accounts for a larger percentage of its total employment than the national average for the same time period.

(7) construction workers receive a greater percentage of all unemployment benefits paid by the state than is typical of other states;

10

Alaska's construction workers receive a large portion of total Unemployment Insurance benefit payments (as indicated in attachment 10). Unfortunately similar data is not published in a single source for other states. This data can be acquired directly from most states at a later time.

(8) historically, the rate of unemployment in the construction industry in the state is higher than the rate of unemployment in other industries in the state;

11, 12

Alaska's unemployment rate by industry has only been available since October 1982 (1981 data), and then only for the annual average. In all three years it has been available construction's unemployment rate has been the highest of any Alaska industry for which the U.S. Bureau of Labor Statistics has had sufficient sample to publish.

(9) it is appropriate for the state to consider the welfare of its residents when it funds construction activity;

none

This is a policy, not an economic issue.

(10) it is in the public interest for the state to allocate public funds for capital projects in order to reduce unemployment among its resident construction workers;

none

Economic impacts of spending alternatives can be made (such as the article by Scott Goldsmith of the Institute of Social and Economic Research in September 1984), but determination of what is in the public interest remains a policy issue.

LEGISLATIVE FINDINGS

ATTACHMENTS

COMMENTS

- | | | |
|---|------|---|
| (11) in-migration of nonresident construction workers contributes to or causes the high unemployment rate among resident construction workers because nonresident workers compete with residents for the limited number of available construction jobs; | 2 | The recent computer match of Permanent Fund dividend recipients to workers covered by Unemployment Insurance in 1984 supports this finding, but additional computer matching and analysis is necessary to: |
| a) cross check duration in the state, as indicated by the quarters in which workers either worked or claimed UI benefits, to receipt or nonreceipt of a Permanent Fund dividend; and | | a) cross check duration in the state, as indicated by the quarters in which workers either worked or claimed UI benefits, to receipt or nonreceipt of a Permanent Fund dividend; and |
| b) match UI claims for both interstate (see Finding 44 by Judge Johnstone in the Francis, v. Robison case) and intrastate claimants against the file of Permanent Fund dividend recipients. | | b) match UI claims for both interstate (see Finding 44 by Judge Johnstone in the Francis, v. Robison case) and intrastate claimants against the file of Permanent Fund dividend recipients. |
| (12) nonresident workers displace a substantial number of qualified, available, and unemployed Alaska workers on jobs on state funded public works projects; | 2 | The Research and Analysis section of the Alaska Dept. of Labor does not yet tabulate state funded public works data separately from all other construction. However, when other units of this department have enforced the residency requirements of Title 36 employers are nearly always able to find unemployed, qualified residents. James N. Francis was replaced by a resident when his employer reacted to Department of Labor enforcement. |
| (13) the state has a special interest in seeing that the benefits of state construction spending accrue to its residents; | none | Inferring from the entire construction industry's high percentage of nonrecipients (of Permanent Fund dividends) this seems likely. Additional research to isolate state funded construction would be useful in any future defense of Title 36 residency provisions. |
| (14) the natural resources of land owned by the state belong to the citizens of the state; | none | Again determination of the state's interest is a policy issue. |
| (15) Alaskans have chosen to use the majority of the royalties derived from the state's natural resources to fund state government; | none | Economic theory does indicate that money spent locally has a multiplier effect as a portion is spent in subsequent iterations. Nonresident construction workers probably spend less locally than residents would. |
| (16) the natural resources of land owned by the state belong to the citizens of the state; | none | This is a legal and/or policy issue. |
| (17) Alaskans have chosen to use the majority of the royalties derived from the state's natural resources to fund state government; | none | This data is not collected by our department. Defer verification to the Office of Management and Budget. |

LEGISLATIVE FINDINGS

ATTACHMENTS

COMMENTS

(16) the vast majority of the state's revenue is derived from these royalties rather than from other forms of taxation;

none

Data from the Department of Revenue indicates that this has been true since 1976.

(17) because the state has no personal income tax or sales tax, nonresident workers use services provided by the state but do not contribute fairly to the costs of those services;

none

The logic of the next finding supports this finding.

(18) Alaskans, more than the residents of other states, suffer economically when nonresidents displace qualified residents since resident workers contribute local taxes as well as their share of the royalties from natural resources.

none

The economic suffering of Alaskans, displaced by nonresidents, is more than that of the residents of other states, primarily because of the higher cost of living in this state.

The Bureau of Labor Statistics Urban Family Budget for 1981 (the last year that it was estimated), indicated that the lower and intermediate budgets for a four-person family were the highest of any city surveyed (150% and 126% of the national average respectively).



Official Business

Alaska State Legislature

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

DATE: March 14, 1985
TO: All Representatives
FROM: Representative H.A. "Red" Housher
SUBJECT: Alaska Hire Legislation

On Friday, March 15, I will be introducing two pieces of legislation that deal with the subject of Alaska Hire. The Department of Labor has endorsed both pieces of legislation and Representative Davis, prime sponsor of HB 266, another Alaska Hire bill, has agreed to cosponsor this version of the legislation. I would like to invite you to cosponsor either or both of the two attached bills.

The first bill adds legislative finding of fact and purpose to the current Alaska Hire law (AS 36.10.010). This law is currently in effect but has been challenged in the pending Alaska Supreme Court case of Francis V Robinson.

The additions proposed by this bill were drafted in cooperation with the Department of Labor and incorporate case law established since the 1983 adoption of the Alaska Hire Law. The most notable case law being a recent decision by the Wyoming Supreme Court which upheld a local hire law similar to Alaska's.

The second bill makes a special appropriation of \$100,000 to the Department of Labor to study how the state may provide preference to Alaskan workers.

Both bills have been endorsed by the Department of Labor as providing the necessary factual foundation to support a resident hire preference under current legal standards. The study would allow the Department to assemble information currently not available to support future state action to ensure that Alaskans receive preference for jobs in Alaska

For your background I am attaching a memorandum on this subject. Representative Gruenberg has allowed Dave Donley of his staff to assist me on this matter. For more information contact Dave Donley at 465-4986. If you are interested in cosponsoring either or both of these bills, contact Linda Hanger in my office at 465-4931.



Official Business

Alaska State Legislature

BACKGROUND

Pouch V
State Capitol
Juneau, Alaska 998

The history of preferential hire for residents of Alaska has been turbulent, with the first Alaska hire law being adopted in 1960. Over the years, the 1960 law was enforced with varying degrees of enthusiasm. In 1972 an effort was made to obtain employment for Alaskans on the construction of the Trans-Alaska Pipeline by the adoption of the "Local Hire Under State Leases Law." The 1972 law required that Alaska residents be employed in preference to non-residents in all construction involving oil and gas development. However, in 1978, in Hicklin V. Orbeck, the U.S. Supreme Court struck down the 1972 law as being contrary to the Privileges and Immunities clause of the U.S. Constitution. Even though the 1972 law was struck down, the 1960 law was not challenged and remained in effect, though unenforced, until 1983.

In 1983, in response to public desire for an enforceable Alaska hire law and new legal developments, the Alaska legislature amended the 1960 law. The 1983 act, currently in effect, requires 95% Alaska hire on most construction projects funded by State or local dollars.

In 1984, the 1983 act was challenged in Francis v. Robison. On May 23, 1984, Superior Court Judge Johnston ruled that the law was in violation of the privileges and immunities clause of the U.S. Constitution. By request of the State of Alaska, the Alaska Supreme Court stayed Judge Johnston's action until the State could appeal the decision.

The case is currently on appeal before the Alaska Supreme Court and a decision is expected in the later half of 1985.

In January of this year, the Supreme Court of Wyoming upheld a Wyoming Hire law that is even stronger than our current Alaska Hire law. The Wyoming law requires 100% Wyoming hire, not just 95%, on public construction projects. The Wyoming Supreme Court overruled a lower Wyoming court which found, as Judge Johnston found for the Alaska Hire law, that the Wyoming law violated the privileges and immunities clause of the U.S. Constitution.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P.O. BOX 1149
JUNEAU, ALASKA 99802
PHONE: (907) 465-2700

March 15, 1985

The Honorable Red Boucher
House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Boucher:

I have reviewed your draft legislation pertaining to preferential hire of Alaskans and making a special appropriation to the Department of Labor for study of unemployment in Alaska and other issues related to Alaska hire.

As you know, since 1982, one of the Department's highest priorities has been the enforcement of preferential hiring of Alaska residents on state-funded public works projects, pursuant to AS 36.10.010. In late 1983, however, the state's resident hire law was challenged on constitutional grounds and resulted in a Superior Court decision that the law was unconstitutional. That decision is now on appeal to the Alaska Supreme Court.

One of the Superior Court's key findings was that there was insufficient evidence to show that the in-migration of non-residents was displacing qualified and available Alaska residents from public works employment. By explicitly setting forth the legislative findings underlying the resident hire law, the draft bill would provide a more solid foundation from which to defend the principle of Alaska hire. The Department of Labor, therefore, strongly endorses the comprehensive legislative findings contained in the draft legislation.

I note that section 2 of the draft bill proposes a retroactive effective date for the provisions of section 1. The Department has no problem with the retroactive date per se. However, the legality of the retroactive effective date could play a major role in determining the constitutionality of section 1 as a whole should a legal challenge to the section arise in the future. Therefore, a careful legal review may be in order to assure that the provisions of section 1 do fall within the legal parameters of the types of provisions which can be retroactive.

The department also strongly endorses the proposal to fund a study of unemployment and resident hire in Alaska. The basic purpose of the study would be to collect and organize specific information on the impact of nonresidents on employment in Alaska. Currently, such information is not available in a form that would meet the current legal

ployment offices and request the names of other available laborers. Every person required to employ Wyoming laborers shall inform the nearest state employment office of his employment needs. If the state employment office certifies that the person's need for laborers cannot be filled from those listed as of the date the information is filed, then the person may employ other than Wyoming laborers."

On September 22, 1983, the Converse County prosecuting attorney charged Roger Antonich, general superintendent of Westates Construction Company, with violating § 16-6-203, supra. The information alleged that Antonich fired a Wyoming worker from a public-school construction project in order to hire out-of-state workers. The county court judge dismissed the charge on the ground that § 16-6-203, supra, violates the privileges and immunities clause of the federal constitution. The court relied on *Hicklin v. Orbeck*, 437 U.S. 518, 98 S.Ct. 2482, 57 L.Ed.2d 397 (1978), and recent cases from other jurisdictions in which the courts have invalidated statutory preferences for local workers. After examining these and similar opinions, we conclude that certain distinguishing features in Wyoming's Preference Act sufficiently limit its scope so as to satisfy the demands of the privileges-and-immunities clause.

PRIVILEGES-AND-IMMUNITIES CLAUSE ANALYSIS

An examination of a state enactment to determine its validity under the privileges-and-immunities clause involves a two-step analysis. [First, the reviewing court must determine whether the statute burdens a fundamental right or activity, since only those "privileges" and "immunities" which bear upon the concept of interstate harmony fall within the scope and purpose of the clause. *United Building and Construction Trades Council of Camden County and Vicinity v. Mayor and Council of the City of Camden*, ___ U.S. ___, ___ S.Ct. ___, 79 L.Ed.2d 249, 258-259 (1984); *Baldwin v. Fish and Game Commission of Montana*, 436 U.S. 371, 383-388, 98 S.Ct. 1852, 56 L.Ed.2d 354 (1978); *Toomer v. Witsell*, 334 U.S. 385, 395-396, 68 S.Ct. 1156, 92 L.Ed. 1460 (1948). [Second, the court must examine the reasons for the discriminatory treatment to determine their validity and their relation to the degree of discrimination imposed by the statute. This portion of the test was developed by the United States Supreme Court in *Toomer v. Witsell*, supra:

"Like many other constitutional provisions, the privileges and immunities clause is not an absolute. It does bar discrimination against citizens of other States where there is no substantial reason for the discrimination beyond the mere fact that they are citizens of

Construction Trades Council of Camden County and Vicinity v. Mayor and Council of the City of Camden, supra; Hicklin v. Orbeck, supra. We turn, therefore, to an examination of the relationship between this legitimate reason underlying the Wyoming Preference Act and the discrimination mandated against nonresidents.

Enactments to alleviate high unemployment levels through the hiring of residents in preference to nonresidents generally have swept too broadly to survive challenges brought under the privileges-and-immunities clause. The prime example of such legislation is the "Alaska Hire" Act at issue in Hicklin v. Orbeck, supra. That Act required the employment of qualified Alaska residents in preference to nonresidents for positions associated with

"* * * all oil and gas leases, easements or right-of-way permits for oil or gas pipeline purposes, unitization agreements, or any renegotiation of any of the preceding to which the state is a party * * *." 437 U.S. at 520, n.2.

The United States Supreme Court cited three bases for holding that the discrimination imposed by this statute failed to bear a close relation to the problem of high unemployment in Alaska. First, the state had made no showing that nonresidents were a peculiar source of widespread unemployment.. Rather than the influx of nonresidents looking for work, the major cause of unemployment appeared to be the inadequate education and training and the geographical remoteness of many jobless residents--particularly the Eskimo and Indian residents. 437 U.S. at 526-527. Secondly, the Court determined that Alaska Hire did not narrowly address the problem of unemployment, since the Act simply preferred all residents, regardless of their employment status, education or training. 437 U.S. at 527. Finally, the Supreme Court observed that the discriminatory effect of Alaska Hire extended well beyond those activities in which the state held a substantial proprietary interest:

* * * In sum, the Act is an attempt to force virtually all businesses that benefit in some way from the economic ripple effect of Alaska's decision to develop its oil and gas resources to bias their employment practices in favor of the State's residents. We believe that Alaska's ownership of the oil and gas that is the subject matter of Alaska Hire simply constitutes insufficient justification for the pervasive discrimination against nonresidents that the Act mandates." 437 U.S. at 531.

A number of state courts have adopted the foregoing rationale in invalidating enactments which grant an employment preference to local workers. Laborers Local Union No. 374 v. Felton Construc-

"Every inquiry under the Privileges and Immunities Clause 'must . . . be conducted with due regard for the principle that the states should have considerable leeway in analyzing local evils and in prescribing appropriate cures.' *Toomer v. Witsell*, 334 U.S. 385, 396, 92 L.Ed. 1460, 68 S.Ct. 1156 (1948). This caution is particularly appropriate when a government body is merely setting conditions on the expenditure of funds it controls." 79 L.Ed.2d at 261.

The Wyoming statute at issue in the present case requires merely that governmental funds, allocated to public-works projects, be used to hire qualified, available residents in preference to nonresidents. The statute does not effect the sort of wide-ranging discriminatory treatment fatal to *Alaska Hire in Hicklin v. Orbeck*, *supra*. Since the Wyoming Preference Act limits its discriminatory effect to government-created jobs, it presents minimal affront to the privileges and immunities of noncitizens. *United Building and Construction Trades Council of Camden Count, and Vicinity v. Mayor and Council of the City of Camden*, *supra*.

We hold that the Wyoming Preference Act does not violate the privileges-and-immunities clause of the federal constitution, notwithstanding the Act's infringement upon a recognized fundamental right. The Act narrowly addresses the goal of reduced unemployment among the state's taxpayers by preferring available, qualified residents for government-funded positions. Since the degree of discrimination bears a close relation to the state's valid reasons for discriminatory treatment, we affirm the Act's validity under the test established in *Toomer v. Witsell*, *supra*, and refined in subsequent cases.

Although not determinative of our decision here, we recently held in *Galesburg Construction Company, Inc. of Wyoming v. Board of Trustees of Memorial Hospital of Converse County, Wyo.*; 641 P.2d 745 (1982), that Wyoming's preference for resident bidders on public-works contracts, § 9-8-302, W.S.1977, does not violate the equal-protection provisions of the state and federal constitutions. Our result in the instant case, upholding Wyoming's preference for resident workers on public-works projects, harmonizes with our decision in *Galesburg Construction Company, Inc. of Wyoming v. Board of Trustees of Memorial Hospital of Converse County*, *supra*.

The bill of exceptions is sustained.

only in the sense that it limits benefits generated by a state program to those who fund the state treasury and whom the State was created to serve. * * * Such policies, while perhaps 'protectionist' in a loose sense, reflect the essential and patently unobjectionable purpose of state government--to serve the citizens of the State."

Conceding that the Court there was dealing with the application of the Commerce Clause, because of the mutually reinforcing relationship between the two clauses, I find that concept applicable in this instance with respect to the Privileges and Immunities Clause.

It cannot be held objectionable for a sovereign state to adopt legislation which provides in essence that to the extent possible public works contracts benefit the citizens of the state whose contributions to the public treasury fund those projects. A state should not be foreclosed by the invocation of the Constitution of the United States of America from loyalty to interests of its own citizens. So long as a statute is narrowly drawn to protect only the right of the state to contract as it sees fit with respect to expenditures for public works projects which it owns and which it funds, I am satisfied that as a matter of law such a statute does not offend the Privileges and Immunities Clause found in Art. IV, § 2 of the Constitution of the United States of America. This, of course, makes it unnecessary for the court to pursue the remand technique invoked in *United Building and Construction Trades Council of Camden County and Vicinity v. Mayor and Council of the City of Camden*, supra.

I would agree that the bill of exceptions should be sustained for the foregoing reasons.