

SB

271

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
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## Senate Committee on Resources

M E M O R A N D U M

February 27, 1986

TO: All Members  
Senate Resources Committee

FR: Staff <sup>H</sup> Senate Resources Committee

RE: SSSB 271 "An Act requiring resident hire on  
certain natural resource projects  
on state land"

Supplemental information packet

CSSB 271 (L & C) that was before the Senate Resources Committee last year has been replaced with SSSB 271. Recent Supreme Court action in Robison v. Francis invalidated state local hire preferences and cited several reasons for this action. The sponsor substitute addresses these concerns and attempts to strengthen earlier versions of the bill. The sponsor substitute also incorporates findings from the Department of Labor study, "Nonresidents Working in Alaska" dated January 17, 1986.

A new sectional analysis has been prepared by the Legislative Affairs Agency and is included in the packet.

### Enclosures:

Sectional Analysis SSSB 271  
Letter - February 12 with press release from  
Senator Josephson  
Letter - January 22 from Senator Josephson

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907-465-1300

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 17, 1986

SUBJECT: Sectional Analysis of SSSB 271 (Resident hire under certain leases and agreements on state lands)

TO: Senator Joe Josephson

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

You have requested a sectional analysis of SSSB 271.

Section 1 adds a chapter to the Public Lands title.

Sec. 38.45.010 declares that the state policy for development of natural resources includes providing employment opportunities in natural resource development projects to qualified residents.

Sec. 38.45.020 makes legislative findings about unemployment in the state and the need for a resident employment preference, and incorporates the findings made as AS 36.10.005 by ch. 69 SLA 1985 and Department of Labor's recent report.

Sec. 38.45.030 limits eligibility for a hiring preference under the chapter to residents who are unemployed, underemployed or marginally employed, or have completed a job training program..

Sec. 38.45.040 requires employers (defined in Sec. 38.45.100) to meet the resident hiring requirements established by the commissioner of labor. Subsection (b) directs the commissioner of labor to determine the amount of work subject to the resident hiring preference.

Subsection (c) establishes a 50% preference for residents of areas determined by the commissioner of labor to be economically distressed. Subsection (d) sets out the standards

for economically distressed areas, based on average annual family income, and requires a finding that employment of workers who are not residents of the area contributes to the unemployment of area residents.

Subsection (e) establishes that the preference under AS 44.33.285 for residents of an area impacted by an economic disaster supercedes the preference under the rest of the section.

Subsection (f) directs the commissioner of natural resources to incorporate into leases, unitizations agreements and renegotiations of leases or agreements provisions requiring compliance with the chapter and authorizing penalties under Sec. 38.45.080.

Subsection (g) requires the Department of Labor to assist employers to find qualified residents who are seeking employment. It also permits the department to approve the hiring of residents not eligible for preference and nonresidents if there are insufficient eligible, qualified, available residents.

Sec. 38.45.050 requires employers who are subject to the chapter to report to the commissioner of labor as the commissioner requires.

Sec. 38.45.060 applies the chapter to all natural resource projects on state land and directs the Department of Labor to determine the resident hiring preference for each project, limited to employment directly for an employer.

Sec. 38.45.070(a) directs the Department of Labor and the Department of Natural Resources to adopt regulations including regulations to prohibit discrimination against qualified residents in employment. The Administrative Procedure Act applies except as provided in subsection (b).

Subsection (b) states that the employer is the judge of the work qualifications of applicants. An applicant for employment who has been rejected or an employee who has been terminated may appeal to the Department of Labor. Under subsection (c), if the Department of Labor finds that an employer has willfully failed to comply with the chapter, the commissioner may certify the finding to the Department of Natural Resources.

Senator Joe Josephson  
February 17, 1986  
Page 3

Sec. 38.45.080 sets out penalties. Under subsection (a), the Department of Labor may require an employer who rejects a qualified applicant or terminates a qualified employee in violation of the chapter to pay the applicant or employee three times the amount of wages lost. The decision may be appealed to the superior court.

Subsection (b) permits the Department of Natural Resources to impose a variety of penalties on an employer certified by the Department of Labor to be in willful noncompliance with the chapter. Subsection (c) limits how the penalties apply to some lessees.

Sec. 38.45.090 permits either department to seek injunctive relief against a person who fails to comply with the chapter. The Department of Natural Resources may seek injunctive relief to enforce penalties.

Sec. 38.45.100 defines "employer," "natural resource project on state land," "qualified resident," and "resident."

Section 2 limits application of the chapter to leases, contracts, and agreements entered into after the effective date of the Act and also applies the Act to leases, contracts, and agreements entered before the effective date if a renegotiation leads to a major change to the duties of a party.

Section 3 is an immediate effective date.

If I may be of further assistance, please advise.

TBC:mkr  
M3:041



Official Business

# Alaska State Legislature

## Senate

FRANK

FEB 12 1986

Pouch V  
State Capitol  
Juneau, Alaska 99811

February 12, 1986

The Honorable Arliss Sturgulewski  
Alaska State Senate  
P.O. Box V  
Juneau, Alaska 99811

Dear Arliss:

Thank you for co-sponsoring SSSB 271 which would establish local hire preferences for natural resource projects on state lands.

The enclosed press release describes some of the differences between SSSB 271 and the law invalidated in Robison v. Francis, and some of the reasons why I believe our proposal would survive constitutional challenge.

Some of the co-sponsors have expressed interest in making improvements in the bill, and I welcome any future suggestions as SSSB 271 receives committee consideration.

I thought that the enclosed press release might be helpful to you and your staff, or be a useful reference in your file, in case you receive comments, public opinion messages, or questions from constituents.

The next hearing is scheduled in Senate Resources Committee on February 28. I look forward to working with you in the effort to enact new local hire legislation in 1986.

With best wishes, I am

Sincerely,

A handwritten signature in cursive script, appearing to read "Joe P. Joselson".

Joe P. Joselson  
State Senator

JPJ:rak  
Enclosure



Official Business

# Alaska State Legislature

## Senate

Pouch V  
State Capitol  
Juneau, Alaska 99811

FOR IMMEDIATE RELEASE  
February 11, 1986

### SPONSOR SUBSTITUTE FOR SB 271

JUNEAU, AK -- Senator Joe P. Josephson (D - Anchorage) and 13 co-sponsors today introduced a revised version of Senate Bill 271, which would reapply state local hire requirements to natural resource projects on state land.

"The original version of SB 271 has been revised, in order to address constitutional issues raised in recent court decisions", Senator Josephson said. "We believe that the rewritten bill has a good chance of withstanding court scrutiny."

The Supreme Court of Alaska, in the Robison v. Francis decision, struck down a local hire law passed by the Legislature in 1983.

"The 1983 law that the Court invalidated was different from the revised SB 271 in several respects", Senator Josephson said. "First, in that law the legislature imposed mandatory percentages of Alaska workers in the work place. In the new SB 271, the Commissioner of Labor is granted

(more)

discretion to determine how many Alaskans must be employed, on a project basis, in the light of unemployment levels, the availability of Alaska workers, and other factors.

"Second, the old law sought to give all qualified Alaska workers a job preference. The new bill is targeted towards employing unemployed and underemployed Alaskans, and those who have completed job training programs.

"Third, the invalidated statute made no reference to economically distressed areas of the state, while the new bill seeks to alleviate that distress particularly.

"Fourth, the old law contained findings of fact that proved to be inadequate grounds, in constitutional terms, for a local hire preference. The new bill rests upon data now available that shows the extent of nonresident hire as a source of economic and social ills that beset Alaska society today.

"Fifth, the old law dealt with all public works projects, but SB 271 affects hiring practices for operations on state lands only.

"SB 271 represents the most careful, thoughtful, but determined response that I believe the legislature could adopt in the light of Robison v. Francis. The co-sponsors and I are determined to pursue every lawful avenue in the

(more)

interest of employing qualified Alaskans", Senator Josephson concluded.

In 1985, the Senate Labor and Commerce Committee approved the earlier version of SB 271. The new version is scheduled for a public hearing on February 28 in the Senate Resources Committee. Co-sponsors of SB 271 are: Senators Kerttula, V. Fischer, Zharoff, Bennett, Rodey, Eliason, Ferguson, Sackett, Ray, Coghill, Ziegler, Fahrenkamp, and Sturgulewski.

For further information contact:

Senator Joe Josephson or David Finkelstein  
465-4525



Official Business

# Alaska State Legislature

JAN 22 1986

## Senate

Pouch V  
State Capitol  
Juneau, Alaska 99811

January 22, 1986

The Honorable Arliss Sturgulewski  
Chairman  
Senate Resources Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Sturgulewski:

I appreciate your interest in further consideration of CSSB 271, requiring resident hire on certain natural resource projects on state land. CSSB 271 is presently assigned to the Resources Committee.

You have asked me for my views regarding the implications of the January 17, 1986, decision of the Supreme Court of the State of Alaska in Robison v. Francis.

In that case, the Court held that Alaska's local hire law, AS 36.10.010, requiring that work on public work projects be performed almost entirely by Alaska residents, violates the privileges and immunities clause of article IV, sec. 2, of the Constitution of the United States.

The effects of Robison v. Francis on pending legislation are not altogether clear to me. In that case, the trial court made a finding of fact, which the Supreme Court accepted, that

"There is not sufficient evidence to support a finding that nonresident construction workers are a peculiar source of unemployment in the construction industry in Alaska any more than they would be in any other state. The only inference that can be drawn from the record is that nonresident construction workers come to Alaska to work during peak construction periods of time, during which there are more jobs available and less unemployment resulting."

Since it was the State's obligation to demonstrate on the record, by a preponderance of the evidence, that "nonresident construction workers are a peculiar source of unemployment in the construction industry in Alaska", and since that obligation was not met at the trial level, the statute necessarily failed to pass constitutional muster.

The opinion in Robison v. Francis includes a general discussion of the issue of state local hire legislation under the privileges and immunities clause. A fair reading of the opinion suggests strongly that the Supreme Court concludes that the very goal of reducing resident unemployment by "discrimination" against nonresidents is constitutionally impermissible per se, at least in the absence of a showing of economic or social "collapse" such as that shown in the Camden, New Jersey, case (United Building and Trades Council of Camden County and Vicinity vs. Mayor and Council of the City of Camden).

On the other hand, since the requisite factual record was not made, the opinion can also be read as mere dicta (i.e., a philosophical commentary by the Court not necessary to the decision itself, and therefore not considered as guiding judicial precedent).

Areas of uncertainty about the treatment that would be afforded CSSB 271, if enacted, include the following:

1. The invalidated AS 36.10.010 related to state and local construction work; CSSB 271 relates to certain activities on state lands. The scope of AS 36.10.010 is broader and more pervasive than the scope of CSSB 271. The "pervasiveness and intensity" of "the discrimination mandated" informs the degree of judicial deference to the state's status as a market participant acting in a proprietary, rather than a regulatory, role. Thus, the level of judicial scrutiny may be lower under the pending CSSB 271 than was true as to AS 36.10.010. Unlike the invalidated enactment, SB 271 sets no numerical goals or percentages, but instead provides for the determination of resident work goals by the Commissioner of Labor based on the nature of the work, classification of workers, the availability of residents and the willingness of workers to perform the work.

2. It is not clear that the Court gave any consideration to Chapter 69, SLA 1985, which attempted to make retroactive factual findings concerning unemployment conditions in the state. These findings may aid legislation adopted after 1985.

The Honorable Arliss Sturgulewski  
January 22, 1986  
Page Three

3. The State's ability to make a factual showing is helped substantially by the publication of the Department of Labor report, Nonresidents Working in Alaska, which measured the economic impact of nonresidents on Alaska's economy during calendar year 1984. I also believe we should consider having similar studies performed on an annual basis.

4. As the Supreme Court noted, and as I have stated in support of SB 271, "The preferential hire statute involved in Hicklin was struck down because, among other reasons, the statute was too broad." SB 271 is limited to activities on state property, in contrast to the statute invalidated in Hicklin.

5. Legislative committees are finding that chronic unemployment breeds certain severe social problems such as alcoholism and domestic violence. These findings should be incorporated into a revised version of CSSB 271.

My recommendations for further action on CSSB 271 include the following:

1. Incorporate findings from Chapter 69, SLA 1985, and from the report entitled Nonresidents Working in Alaska. For example, the report found that approximately 71,000 (!) nonresident workers earned \$677 million here in 1984 and constituted 22 percent of all employees.

2. Structure the bill in terms of goal-setting targeted for help to the unemployed, the underemployed, and recent graduates of job-training programs.

3. Include, as noted above, a specific finding linking chronic alcoholism and domestic violence to chronic unemployment, based on data now available to the Senate. Senator Vic Fischer, a member of your committee, is working on this important part of our research.

I am requesting that the Legal Services Division of the Legislative Affairs Agency incorporate these suggestions in a revised draft, and I will be pleased to work with you and members of the Committee's staff to incorporate as well any suggestions you may have that would strengthen the legislation and be compatible with its basic goals and objectives.

The Honorable Arliss Sturgulewski  
January 22, 1986  
Page Four

I am hopeful that the revisions will be ready for consideration soon, and that through the public hearing process and our colleagues on the Committee can assist in developing a measure that will help alleviate unemployment among resident Alaskans and the attendant economic and social ills.

With best wishes, I am

Sincerely,



Joe P. Josephson  
State Senator

JPJ:rak

cc: Senator Jalmar Kerttula  
Senator Victor Fischer  
Senator Fred Zha. off

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
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## Senate Committee on Resources

M E M O R A N D U M

April 15, 1986  
REVISED

TO: All Members  
Senate Resources Committee

RE: CSSSSB 271 (Resources) "An Act requiring resident hire on certain natural resources projects on state land; and providing for an effective date"

### SUMMARY OF LEGISLATION

CSSSSB 271 (Resources) would establish an employment preference for Alaska residents under certain conditions. Because a blanket policy requiring Alaska resident hire has been held unconstitutional, it was necessary to target a preference to specific projects and specific employees. SB 271 is directed at establishing an employment preference on natural resource projects on state land with the rationale that the state is a participant in the contract and can require that certain conditions be met in the lease of state natural resources.

The employment preference extends only to specific areas as designated by the commissioner of labor. These areas can be: census areas, of which there are 23 in Alaska; economic regions, of which there are six in Alaska; or the state as a whole. There are two types of employment preference areas. One is an underemployed area, and the second is an economically distressed area. The commissioner of labor must be able to substantiate the designation of these areas for an employment preference through extensive data collection and analysis.

An employment preference can be granted by the commissioner of labor only to specific employees who are unemployed, registered to find work, underemployed, or have completed job training programs but are not using that skill.

The determination of an underemployed area would provide that an employment preference be given to specific Alaska residents as identified above. The commissioner of labor shall determine the amount of work that must be performed by preferred employees only after investigation and study.

In a determination of an economically distressed area, the employment preference would be granted to at least 50 percent of the qualified residents of that area.

The Department of Natural Resources shall include in all its contracts for oil and gas, leasable minerals, or timber resources, language to carry out the requirement of this chapter.

SB 271 also requires reporting by employers, but all specific employee data must be kept confidential.

The Department of Labor may conduct investigations and hearings to determine compliance with this chapter. If the commissioner of labor finds wilful non-compliance, the commissioner may impose a penalty of \$5,000 or 5 percent of any state contract, lease, or agreement price, whichever is less, for the first offense; \$10,000 or 10 percent of any state contract, lease, or agreement price, whichever is less, for the second or subsequent violations, or require that a qualified eligible employee who was rejected in violation of this chapter be compensated the amount of wages that should have been paid.

There also are penalties for false statements made by any person claiming an employment preference.

The original version of SB 271 had a much broader requirement for resident hire but probably would have run into constitutional problems. CSSSB 271 (Resources) is much more focused regarding who is eligible for the employment preference, and the preference is restricted to specific areas of the state.

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
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(907) 485-4007

## Senate Committee on Resources

M E M O R A N D U M

April 15, 1986  
REVISED

TO: All Members  
Senate Resources Committee

FROM: Staff, Senate Resources Committee

RE: CSSSSB 271 (Resources) "An Act requiring resident hire on certain natural resources projects on state land; and providing for an effective date"

### SECTIONAL ANALYSIS

- Section 1 Establishes new chapter 38.45 Resident Employment Preference Under State Leases.
- 38.45.010 Declares that state policy is to maximize benefits to people from development of natural resources, and these benefits include employment opportunities.
- 38.45.020 States the problems associated with unemployment and the need for more data to accurately reflect level of nonresident hire.
- 38.45.030 States that Department of Labor will assist employers in finding qualified workers and, if unable to find sufficient number of resident workers, the Department of Labor may approve of hiring of nonresidents.

- 38.45.040 States that employer has final decision on hiring.
- 38.45.050 States that commissioner of labor shall adopt regulations under Administrative Procedure Act.
- 38.45.060 Requires attorney general and commissioner of labor to report annually to legislature and governor on status of employment in state.
- 38.45.070 Establishes eligibility for a resident employment preference. A person must certify to the Department of Labor that they meet one of the following criteria:
- a) is receiving unemployment benefits or has exhausted them;
  - b) is not working and has registered to find work with a public or private employment agency or a local hiring hall;
  - c) is underemployed or marginally employed as defined by Department of Labor; or
  - d) has completed job training program but is not employed or using those skills;
- 38.45.080 Sets forth criteria for the determination of an underemployed area. After the commissioner of labor has determined an underemployed area, and for two years following, the employment preference will be in effect. In an underemployed area, the commission of labor shall determine the amount of work to be performed by eligible qualified residents. An underemployed area may be a census area, an economic region, or the state as a whole if the following criteria are met:
- a) the unemployment rate is substantially higher than the national rate;
  - b) a substantial number of residents in the area have experience or training;
  - c) the lack of employment opportunities has contributed to serious economic and social problems; and
  - d) employment of nonresidents is a peculiar source of the unemployment of residents

- 38.45.090 Provides a preference for residents of an economically distressed area. The commissioner of labor shall determine an economically distressed area, and for two years the resident preference will apply. In an economically distressed area, 50 percent of the employment on each natural resources project on state land shall be given to eligible qualified residents of the area. An economically distressed area must meet the following criteria:
- a) per capita income is less than 90 percent of U.S. per capita income or the unemployment rate is at least 5 percent higher than national rate;
  - b) lack of employment opportunity has contributed substantially to serious social and economic problems; and
  - c) nonresident workers are a peculiar source of unemployment of residents
- 38.45.100 States that the commissioner of natural resources shall incorporate into each contract provisions requiring compliance with resident preference regulations.
- 38.45.110 Requires employees to comply with reporting requirements established by commissioner of labor. All specific employee data is to be kept confidential.
- 38.45.120 Provides for hearings by the Department of Labor to determine if an employer has complied with this chapter, and penalties for violations. Hearings will be in accord with Administrative Procedure Act. Penalties may include: payment to employee for wages lost; a fine of \$5,000 or 5 percent of contract price, whichever is less, for a first violation; or a fine of \$10,000 or 10 percent of contract price, whichever is less, for a second or subsequent violation of this chapter.
- 38.45.130 Provides for penalties for any person who makes false statements regarding their eligibility for a preference.

38.45.200 States that this chapter is applicable to all natural resource projects on state lands.

38.45.250 Provides definitions for "available," "employer," "natural resource project on state land," "qualified resident," "resident," and "state land."

Section 2 States that act applies to all contracts after effective date.

Section 3 Provides for immediate effective date.

Original sponsors: Josephson, Kerttula,  
V.Fischer, et al

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 271 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring resident hire on certain natural  
7 resource projects on state land; and providing for an  
8 effective date."

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

10 \* Section 1. AS 38 is amended by adding a new chapter to read:

11 CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

12 Sec. 38.45.010. STATE POLICY. It is the policy of the state to  
13 develop its natural resources to provide the maximum benefit to the  
14 people of the state as required by the Constitution of the State of  
15 Alaska. These benefits include employment opportunities in natural  
16 resource development projects for residents qualified for the employ-  
17 ment, as well as receipt of state revenue from the development.

18 Sec. 38.45.020. LEGISLATIVE FINDINGS. The legislature finds:

19 (1) the findings made in AS 36.10.005 continue to accurately  
20 ly describe the social, economic, and employment situation in the  
21 state;

22 (2) chronic unemployment can breed severe social problems  
23 including alcoholism and domestic violence;

24 (3) the findings of the Department of Labor of the State of  
25 Alaska in its report entitled "Nonresidents Working in Alaska; A  
26 Special Study to Measure the Economic Impact of Nonresidents on  
27 Alaska's Economy During Calendar Year 1984" support the need for a  
28 resident hiring preference;

29 (4) there is a need for timely, accurate information on the

1 number of nonresident and resident workers in industries in the state;

2 (5) the state has a continuing interest in determining  
3 whether indirect benefits, including employment opportunities, from  
4 state expenditures, natural resource projects, and agreements concern-  
5 ing the state's natural resources accrue to residents of the state or  
6 to nonresidents;

7 (6) a major factor in the unemployment problem is the  
8 failure of some employers engaged in the exploration, development, and  
9 production of natural resources on state land, and under leases or  
10 other agreements granted or permitted by the state, to employ state  
11 residents;

12 (7) whereas at an earlier stage of the state's history it  
13 was asserted that high unemployment in the state was due to cultural  
14 and geographical migration barriers, the state now has many residents  
15 who are qualified, trained, and available for employment in the explo-  
16 ration, development, production, and extraction of natural resources  
17 on state land;

18 (8) the state has made significant investments in training  
19 programs and vocational education to help furnish industry with qual-  
20 ified residents able to work in the development, exploration, produc-  
21 tion, and extraction of natural resource products on state land;

22 (9) the state's investment in these training and education  
23 programs will be of little avail unless state residents receive em-  
24 ployment opportunities in natural resource projects on state land;

25 (10) employment of nonresidents displaces qualified resi-  
26 dents from work in the development, exploration, production, and  
27 extraction of natural resource products on state land; therefore, the  
28 number of nonresidents hired for work on state land in the develop-  
29 ment, exploration, production, and extraction of state resources is a

1 peculiar source of the unemployment problem now besetting the state;

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

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

9 Sec. 38.45.030. UNAVAILABILITY OF PREFERRED WORKERS. (a) An  
10 employer subject to hiring requirements under this chapter may request  
11 the Department of Labor to assist in locating qualified, eligible  
12 employees. After receiving a request for assistance, the department  
13 shall refer qualified, eligible, available residents to the employer  
14 to fill the employer's hiring needs.

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

20 Sec. 38.45.040. EMPLOYEE QUALIFICATIONS. An employer shall  
21 determine and judge the work qualifications of applicants for employ-  
22 ment.

23 Sec. 38.45.050. REGULATIONS. The commissioner of labor shall  
24 adopt regulations in accordance with AS 44.62 (Administrative Proce-  
25 dure Act) to implement this chapter and encourage and require the  
26 hiring of residents to the maximum extent permitted by law.

27 Sec. 38.45.060. RESIDENT HIRE REPORT. The attorney general and  
28 the commissioner of labor shall report annually to the legislature and  
29 the governor on the status of employment in the state, the effect of

1 nonresident employment on the employment of residents in the state,  
2 and methods to increase resident hire. The report shall be submitted  
3 by January 31 of each year.

4 Sec. 38.45.070. ELIGIBILITY FOR PREFERENCE. (a) A person is  
5 eligible for an employment preference under this chapter if the person  
6 certifies eligibility as required by the Department of Labor, is a  
7 resident, and

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

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

12 (3) is underemployed or marginally employed as defined by  
13 the department; or

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

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

20 Sec. 38.45.080. DETERMINATION OF UNDEREMPLOYED AREA. (a)  
21 Immediately following a determination by the commissioner of labor  
22 that a census area, economic region, or the state as a whole is an  
23 underemployed area and for the next two fiscal years after the deter-  
24 mination, qualified residents who are eligible under AS 38.45.070  
25 shall be given preference in hiring for work on each natural resource  
26 project on state land that is wholly or partially sited within the  
27 area.

28 (b) The commissioner of labor shall determine the amount of work  
29 that must be performed under this chapter by qualified residents who

1 were eligible for an employment preference under this chapter at the  
2 time of hiring. In making this determination, the commissioner shall  
3 consider the nature of the work, the classification of workers, avail-  
4 ability of eligible residents, and the willingness of eligible resi-  
5 dents to perform the work.

6 (c) The commissioner shall determine that a census area, econo-  
7 mic region, or the state as a whole is an underemployed area if the  
8 commissioner finds that

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

11 (2) a substantial number of residents in the area have  
12 experience or training in occupations that would be employed on a  
13 natural resource project on state land;

14 (3) the lack of employment opportunities in the area has  
15 contributed to serious 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 (d) The commissioner shall define the boundaries of a census  
19 area or economic region within which a preference applies. In choos-  
20 ing whether to apply a preference to a census area, economic region,  
21 or the state as a whole, the commissioner shall apply the preference  
22 to the smallest unit that will adequately address the problems identi-  
23 fied by the findings.

24 Sec. 38.45.090. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-  
25 TRESSED AREAS. (a) Immediately following a determination by the  
26 commissioner that a census area or economic region of the state is an  
27 economically distressed area, and for the next two fiscal years after  
28 the determination, qualified residents of the area who are eligible  
29 under AS 38.45.070 shall be given preference in hiring for at least 50

1 percent of employment on each natural resource project on state land  
2 that is wholly or partially sited within the economically distressed  
3 area.

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

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

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

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

15 (c) If the governor has declared an area to be an area affected  
16 by an economic disaster under AS 44.33.285, then the preference for  
17 residents of the area established under AS 44.33.285 - 44.33.310  
18 supersedes the preference under this section.

19 (d) The commissioner shall define the boundaries of a census  
20 area or economic region in which a preference applies. In choosing  
21 whether to apply a preference to a census area or economic region,  
22 the commissioner shall apply the preference to the smallest unit that  
23 will adequately address the problems identified by the findings.

24 Sec. 38.45.100. INCORPORATION INTO CONTRACTS. (a) In order to  
25 create, protect, and preserve the right of eligible qualified resi-  
26 dents to employment in natural resource projects on state land, the  
27 commissioner of natural resources shall incorporate into each con-  
28 tract, lease, unitization agreement, or renegotiation of a contract,  
29 lease or unitization agreement, provisions requiring compliance with

1 this chapter, regulations adopted under this chapter, and all later  
2 amendments to this chapter or the regulations, and authorizing pen-  
3 alties under AS 38.45.120 for failure to comply.

4 (b) The commissioner shall incorporate into each contract,  
5 lease, unitization agreement, or renegotiation a requirement that the  
6 contractor or lessee include in each contract with contractors or  
7 subcontractors who will be operating on state land a provision requir-  
8 ing compliance with this chapter, later amendments of this chapter,  
9 regulations adopted under this chapter, and authorizing penalties  
10 under AS 38.45.120.

11 Sec. 38.45.110. REPORTING PROVISIONS. An employer obligated to  
12 meet resident hiring requirements under this chapter shall comply with  
13 the reporting provisions that the commissioner of labor determines are  
14 reasonably necessary to carry out this chapter. Except for statis-  
15 tical data, information concerning specific employees is confidential  
16 and may not be released to the public by the department. However,  
17 confidential employee information may be shared between departments  
18 for purposes of this chapter.

19 Sec. 38.45.120. CIVIL PENALTY. (a) The Department of Labor may  
20 conduct investigations and hearings to determine compliance with this  
21 chapter. After a hearing, if the commissioner of labor finds that an  
22 employer has wilfully failed to comply with this chapter, the commis-  
23 sioner may impose a civil penalty in the amount of

24 (1) the lesser of \$5,000 or five percent of the compensa-  
25 tion to the state under the project, lease, or agreement for the first  
26 rejection of a qualified eligible applicant or other violation of this  
27 chapter;

28 (2) the lesser of \$10,000 or 10 percent of the compensation  
29 to the state under the project, lease, or agreement for the second and

1 each subsequent rejection or other violation of this chapter.

2 (b) In addition to the imposition of other penalties under this  
3 section, if the Department of Labor finds that an employer has wil-  
4 fully rejected a qualified eligible applicant or terminated a quali-  
5 fied eligible employee in violation of this chapter, the department  
6 may require the employer to pay the person the amount of wages the  
7 person lost and may require additional amounts to reimburse the person  
8 for actual expenses incurred as a result of the wrongful action.

9 (c) The commissioner may impose the penalties under this section  
10 on an employer only if the employer itself has failed to comply with  
11 this chapter, later amendments of this chapter, or regulations adopted  
12 under this chapter, or if the employer has failed to incorporate into  
13 its contracts the provision required under AS 38.45.100(b).

14 (d) The Department of Labor, in addition to the imposition of  
15 penalties under this section, may seek injunctive relief against a  
16 person who is not in compliance with this chapter and to enforce  
17 penalties imposed under this section.

18 Sec. 38.45.130. PENALTIES FOR APPLICANTS AND EMPLOYERS. (a) A  
19 person who makes a false sworn statement in connection with a certi-  
20 fication of eligibility for an employment preference under this chap-  
21 ter is subject to criminal prosecution for perjury as provided in  
22 AS 11.56.200.

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

28 (c) In addition to criminal penalties imposed by state law, if a  
29 person is convicted of a crime in connection with a false statement

1 made in a certification required under AS 38.45.060, and the convic-  
2 tion is not reversed, that person shall forfeit all future rights to  
3 eligibility for an employment preference under this chapter.

4 Sec. 38.45.200. APPLICABILITY OF CHAPTER. This chapter applies  
5 to all natural resource projects on state land. The preference app-  
6 lies only to employment that is performed directly for an employer.

7 Sec. 38.45.250. DEFINITIONS. In this chapter

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

10 (2) "employer" means a person other than the state who is a  
11 party to a contract, lease, or unitization agreement for a natural  
12 resource project on state land and the person's affiliate, principal,  
13 subsidiary, contractor, or subcontractor if the activity of the affil-  
14 iate, principal, subsidiary, contractor, or subcontractor is performed  
15 on state land;

16 (3) "natural resource project on state land" means a pro-  
17 ject authorized by a contract, lease, unitization agreement, or a  
18 renegotiation of a contract, lease, or unitization agreement for  
19 exploration, development, extraction or production of oil and gas,  
20 leasable mineral, or timber resources if the state is a party to the  
21 contract, lease or unitization agreement and the project is performed  
22 in whole or in part on state land;

23 (4) "qualified resident" means a resident who possesses the  
24 requisite education, training, skills, or experience to perform the  
25 work;

26 (5) "resident" means a person who establishes residency  
27 under AS 01.10.055;

28 (6) "state land" means all land, including shore, tide, and  
29 submerged land, belonging to or acquired by the state.

1 \* Sec. 2. AS 38.45, enacted in sec. 1 of this Act, applies to a lease,  
2 unitization agreement, or contract for the development of oil and gas,  
3 leasable mineral, or timber resources entered into on or after the effec-  
4 tive date of this Act and to a renegotiation of the lease, unitization  
5 agreement, or contract. AS 38.45 applies to the renegotiation on or after  
6 the effective date of this Act of a lease, unitization agreement, or con-  
7 tract entered into before the effective date of this Act if the renegotia-  
8 tion results in a major change in the duties of a party.

9 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
10 10.070(c).

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



P. O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4907

## Senate Committee on Resources

MEMORANDUM

April <sup>15</sup> 3, 1986  
Revised

TO: All Members  
Senate Resources Committee

FROM: Staff, Senate Resources Committee

RE: CSSSSB 271 (Resources) An Act requiring resident hire on certain natural resource projects on state land; and providing for an effective date"

### SECTIONAL ANALYSIS

- Section 1 Establishes new chapter 38.45 Resident Employment Preference Under State Leases.
- 38.45.010 Declares that state policy is to maximize benefits to people from development of natural resources and these benefits include employment opportunities.
- 38.45.020 States the problems associated with unemployment and the need for more data to accurately reflect level of nonresident hire.
- 38.45.030 States that Department of Labor will assist employers in finding qualified workers and, if unable to find sufficient number of resident workers, the Department of Labor may approve of hiring of nonresidents.

<sup>45</sup>  
38.45.035  
.040 States that employer has final decision on hiring.

<sup>050</sup>  
38.45.040 States that commissioner of labor shall adopt regulations under Administrative Procedures Act.

<sup>060</sup>  
38.45.050 Requires attorney general and commissioner of labor to report annually to legislature and governor on status of employment in state.

<sup>070</sup>  
38.45.060 Establishes eligibility for a resident employment preference. A person must certify to the Department of Labor that they meet one of the following criteria:

- a) is receiving unemployment benefits or has exhausted them
- b) is not working and has registered to find work with a public or private employment agency or a local hiring hall
- c) is underemployed or marginally employed as defined by Department of Labor
- d) has completed job training program but is not employed or using those skills

<sup>080</sup>  
38.45.070 Sets forth criteria for the determination of an underemployed area. After the commissioner of labor has determined an underemployed area, and for two years following, the employment preference will be in effect. In an underemployed area, the commissioner of labor shall determine the amount of work to be performed by eligible qualified residents. An underemployed area may be a census area, an economic region, or the state as a whole if the following criteria are met:

- a) the unemployment rate is substantially higher than the national rate
- b) a substantial number of residents in the area have experience or training
- c) the lack of employment opportunities has contributed to serious economic and social problems, and
- d) employment of nonresidents is a peculiar source of the unemployment of residents

38.45.080<sup>090</sup>

Provides a preference for residents of an economically distressed area. The commissioner of labor shall determine an economically distressed area, and for two years the resident preference will apply. In an economically distressed area, 50 percent of the employment on each natural resources project on state land shall be given to eligible qualified residents of the area. An economically distressed area must meet the following criteria:

- a) per capita income is less than 90 percent of U.S. per capita income or the unemployment rate is at least 5 percent higher than national rate
- b) lack of employment opportunity has contributed substantially to serious social and economic problems, and
- c) nonresident workers are a peculiar source of unemployment of residents

38.45.090<sup>100</sup>

States that the commissioner of natural resources shall incorporate into each contract provisions requiring compliance with resident preference regulations.

38.45.100<sup>110</sup>

Requires employees to comply with reporting requirements established by commissioner of labor. All specific employee data is to be kept confidential.

38.45.100<sup>120</sup>

Provides for hearings <sup>AND PENALTIES FOR VIOLATIONS.</sup> by the Department of Labor to determine if an employer has complied with this chapter. ~~A request for a hearing may be brought by an employee who has been rejected or terminated and a person not entitled to the preference has been hired. The commissioner shall review the request and may hold a hearing. If the commissioner of labor finds wilful intent on the part of the employer, the commissioner may certify the finding to the Department of Natural Resources.~~

~~HEARINGS - THIS WILL~~  
 HEARINGS WILL BE IN ACCORD WITH ADMINISTRATIVE PROCEDURES ACT. PENALTIES MAY INCLUDE PAYMENT TO EMPLOYEE FOR WAGES LOST, A FINE OF \$5000.00 OR 5% OF CONTRACT PRICE WHICHEVER IS LESS FOR 1ST VIOLATION AND A FINE OF \$10,000 OR 10% OF CONTRACT PRICE WHICHEVER IS LESS FOR 2ND OR SUBSEQUENT VIOLATIONS OF THIS CHAPTER.

38.45.120 Provides penalties for the employer that has wilfully rejected or terminated an eligible qualified employee. If found in violation of this chapter, the employer may be required to pay the amount of lost wages to the employee and any actual expenses incurred as a result of the wrongful action by the employer. Either party may appeal to the Superior Court.

If the Department of Natural Resources finds after its investigation that there was wilful noncompliance, the Department may impose:

- a) an increase in rent not to exceed \$100,000
- b) removal from eligibility for state contracts for a period not to exceed three years
- c) a noncompliance payment not to exceed \$200,000

38.45.130 Provides for penalties for any person who makes false statements regarding their eligibility for a preference.

38.45.200 States that this chapter is applicable to all natural resource projects on state lands.

38.45.250 Provides definitions for "available," "employer," "natural resource project on state land," "qualified resident," "resident," and "state land."

Section 2 States that act applies to all contracts after effective date.

Section 3 Provides for immediate effective date.

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



P. O. BOX V  
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(907) 485-4907

## Senate Committee on Resources

MEMORANDUM

April 8<sup>15</sup>, 1986

REVISED

TO: All Members  
Senate Resources Committee

FROM: Staff <sup>H</sup> Senate Resources Committee

RE: CSSSSB 271 (Resources) "An Act requiring resident hire on certain natural resources projects on state land; and providing for an effective date"

### SUMMARY OF LEGISLATION

CSSSSB 271 (Resources) would establish an employment preference for Alaska residents under certain conditions. Because a blanket policy requiring Alaska resident hire has been held unconstitutional, it was necessary to target a preference to specific projects and specific employees. SB 271 is directed at establishing an employment preference on natural resource projects on state land with the rationale that the state is a participant in the contract and can require that certain conditions be met in the lease of state natural resources.

The employment preference extends only to specific areas as designated by the commissioner of labor. These areas can be: census areas, of which there are 23 in Alaska; economic regions, of which there are six in Alaska; or the state as a whole. There are two types of employment preference areas. One is an underemployed area, and the second is an economically distressed area. The commissioner of labor must be able to substantiate the designation of these areas for an employment preference through extensive data collection and analysis.

INSERT

The Dept of Labor may conduct investigations and hearings to determine compliance with this chapter. If the Commissioner of Labor finds willful non-compliance the commission may impose a ~~penalty~~ penalty of \$5,000 or 5% of ~~the~~ any state contract, ~~or~~ <sup>less</sup> ~~or~~ agreement price whichever is less for the first offense; \$10,000 or 10% of any state contract, ~~less~~ <sup>or</sup> agreement price whichever is less for the second or subsequent violation or require ~~that the amount of wages lost to be~~ ~~an employee be paid.~~ ~~that ~~an~~ ~~so~~ ~~a~~ ~~qualified~~~~ <sup>eligible</sup> that a qualified eligible employee who was rejected in violation of this chapter be paid the amount of wages they would have received.

An employment preference can be granted by the commissioner of labor only to specific employees who are unemployed, registered to find work, underemployed or have completed job training programs but are not using that skill.

The determination of an underemployed area would provide that an employment preference be given to specific Alaska residents as identified above. The commissioner of labor shall determine the amount of work that must be performed by preferred employees only after investigation and study.

In a determination of an economically distressed area, the employment preference would be granted to at least 50 percent of the qualified residents of that area.

The Department of Natural Resources shall include in all its contracts for oil and gas, leasable minerals or timber resources language to carry out the requirement of this chapter.

SB 271 also requires reporting by employers, but all specific employee data must be kept confidential.

*insert*

If a person not entitled to a preference is hired in a position for which an eligible applicant was rejected, the rejected applicant may request a hearing before the commissioner of labor. The commissioner may hold a hearing. If the Department of Labor finds wilful intent not to comply on the part of the employer, the department may require the employer to reimburse the employee for lost wages. Either party may appeal to the Superior Court.

If wilful noncompliance is found by the Department of Labor, then the Department of Labor shall notify the Department of Natural Resources. The Department of Natural Resources may hold hearings and conducts its own investigation. If the Department of Natural Resources finds wilful noncompliance, it may impose any of the following penalties: 1) increase the rent or other compensation to a maximum of \$100,000; 2) remove the eligibility of the employer to state contracts for a period not to exceed three years; or 3) require a noncompliance payment not to exceed \$200,000. Item number three is designed to apply to subcontractors or affiliates.

There also are penalties for false statements made by any person claiming an employment preference.

The original version of SB 271 had a much broader requirement for resident hire but probably would have run into constitutional problems. CSSSB 271 (Resources) is much more focused regarding who is eligible for the employment preference, and the preference is restricted to specific areas of the state.

# Alaska State Legislature

ARLISS STURGULEVSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



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JUNEAU, ALASKA 99811  
(907) 465-4907

## Senate Committee on Resources

MEMORANDUM

May 6, 1985

TO: All Members  
Senate Resources Committee

FROM: Staff *TH*  
Senate Resources Committee

RE: CSSB 271 (L&C) "An Act requiring resident hire on certain natural resource projects on state land; and providing for an effective date."

CSSB 271 (L&C) would establish as state policy that employment opportunities in natural resource development projects be provided to the maximum benefit for qualified Alaska residents.

The Commissioner of Labor shall establish resident hiring requirements for natural resources development projects on state land. Employers covered by this bill must also comply with reporting provisions as determined by the commissioner. Penalties are established for employers failing to comply with this chapter.

SB 271 originally applied only to oil and gas development but was extended to all natural resource projects in the Senate Labor and Commerce Committee.

The Attorney General's office has raised some questions concerning the constitutionality of this bill (see attached letter) in its original form. The CS and the proposed amendments are designed to respond to those concerns.

A fiscal note prepared by the Department of Labor and updated to include CSSB 271 (L&C) shows a FY 86 cost of \$177,600. (see attached)

### Enclosures:

1. CSSB 271 Sectional Analysis by Senate Labor and Commerce
2. Fiscal note by Department of Labor
3. Letter from Attorney General, Department of Law
4. Letter and testimony from IBEW in support of bill
5. Testimony from SOHIO objecting to SB 271



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### CSSB 271: Sectional Analysis

MEMORANDUM

#### Section 1) Adds a new chapter:

- 38.45.010: Declares that the state policy for development of natural resources includes providing employment opportunities in natural resource development projects.
- 38.45.020: Legislative Findings: references findings about unemployment in the state, investments the state has made in training programs to develop a qualified work force, the social burdens which result from resident workers being displaced by non residents, and the need for a resident employment preference.
- 38.45.030: a) employers of natural resource development projects on state lands shall meet the resident hiring requirements established by the commissioner of labor, and may not discriminate against qualified residents for employment.
- b) the commissioner of labor shall determine the amount of work that must be performed by residents on a natural resource development project on state land. Commissioner shall consider employment factors, and require an employer to make a "maximum feasible effort" to hire qualified residents for jobs on state lands.
- c) Commissioner of DNR shall incorporate into each lease, unitization agreement, or renegotiation lease, provisions requiring compliance with this chapter and authorizing penalties for non compliance.
- d) Employers subject to resident hiring requirements may request the Dept of Labor to assist in locating qualified residents. If the department is unable to refer a sufficient number of qualified residents, it may approve the hiring of nonresidents for the balance of the request.
- 38.45.040: employers obligated to meet hiring requirements under this chapter shall comply with reporting requirements deemed necessary by the commissioner of Labor.

38.45.050: This chapter applies to all natural resource projects on state land, and the Dept of Labor will determine the extent of the resident hire preference for each project. Resident preference applies only to work performed directly for an employer.

38.45.060: a) Both DOL and DNR shall adopt regs for this chapter. DOL shall adopt regs prohibiting discrimination against qualified residents for resource development projects on state land. These regs are subject to the Administrative Procedures Act except as provided in (b).

(b) An employer shall judge the work qualifications of an applicant, however an applicant who has been rejected or terminated may, within 30 days, request a hearing before DOL to determine whether the employer violated the provisions of this chapter. DOL shall hold a hearing within 20 days of receipt of the request unless the employee requests a longer period of time. The administrative procedures act does not apply to this section.

(c) DOL may conduct investigations and hearings to determine compliance with this chapter. If they determine an employer has "wilfully" failed to comply, the commissioner may certify that finding to DNR.

38.45.070: PENALTIES: If DOL finds that an employer has rejected or terminated a qualified employee in violation of this chapter, the department may require the employer to pay 3 times the lost wages to the employee and may require additional amounts if the employee's actual expenses incurred exceed the triple wages assessed. Either party may appeal the decision to the superior court.

Upon certification of noncompliance by DOL, DNR may investigate and conduct hearings. If DNR determines "wilful" noncompliance, they may impose the following penalties:

- 1) increase the compensation received by the state thru a lease or agreement by a factor of no more than 10; not to exceed \$100,000
- 2) require all or a portion of the project to cease;
- 3) remove the eligibility for contracting with the state or it's political subdivisions for a period not to exceed three years; or
- 4) require a noncompliance payment in liquidated damages to the State. Damages may be in an amount equal to 7.5 times the amount of required hours not worked times the "going wage" for the job.

38.45.080: In addition to the penalties imposed, DOL and DNR may seek an injunction for noncompliance with this chapter. DNR may seek an injunction to enforce penalties imposed.

38.45.090: Definitions:

- 1) "employer" is a person, other than the state, who is a party to a lease agreement for a resource development project on state land. This definition includes an affiliate, principal, subsidiary, contractor, or subcontractor if the activity is performed on state land.
- 2) "natural resource project on state land" is a contract, lease, unitization agreement, or renegotiation of such leases for the development of oil and gas, timber, and mineral resources on state land.
- 3) "qualified resident" is defined as a resident who has the necessary training or skills to perform the work.
- 4) "resident" is defined as a person who has been in the state for 30 days prior to entering into a contract for employment on a natural resource development project on state land, and who shows the intention to permanently reside in the state.

Section 2) Chapter applies to a lease, a unitization agreement, or a renegotiated lease or agreement for the development of O&G, timber, or minerals, after the effective date of this act. This chapter also applies to the renegotiation of an agreement entered into before the effective date of this act, if the renegotiation results in a major change to the duties of the parties.

Section 3) Immediate effective date.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: CS SB 271 (L&C)  
 Title: "An act requiring resident hire on nat. resource proj. st. lands  
 Sponsor: Josephson, et. al.  
 Requestor: senate resources  
 Date of Request: 4/30/85

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
<b>OPERATING</b>						
100 PERSONAL SERVICES		111.9	115.8	239.1	247.5	256.1
200 TRAVEL		17.0	18.0	50.3	53.3	56.5
300 CONTRACTUAL		31.9	28.5	59.9	63.5	67.3
400 SUPPLIES		2.0	2.1	3.9	4.1	4.4
500 EQUIPMENT		14.8	0	5.4	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>177.6</b>	<b>164.4</b>	<b>358.6</b>	<b>368.4</b>	<b>384.3</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		177.6	164.4	358.6	368.4	384.3
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>177.6</b>	<b>164.4</b>	<b>358.6</b>	<b>368.4</b>	<b>384.3</b>

POSITIONS:

FULL-TIME		3	3	6	6	6
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert J. Bacolas, Sr. Phone: 465-4870  
 Division: Labor Standards & Safety Date: 4/30/85  
 Approved by Commissioner: Jim Robison Date: 4/30/85  
 Agency: Labor

Distribution (by Agency preparing fiscal note):

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

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA  
 THE FOURTEENTH LEGISLATURE  
 BILL/RESOLUTION NO.: CS SB 271 (L&C)  
 TITLE: "An Act requiring resident hire under certain natural resource projects on state lands"  
 AGENCY AFFECTED: Department of Labor

In order to carry out the duties of this bill the Department of Labor would require the following resources:

FYs 86 and 87

Two Wage and Hour Investigators I and one Clerk Typist III would be required to carry out the monitoring activities. Costs associated with these positions are detailed on the attached new position request forms.

In addition to these costs, there would be a one time expense of \$15,000 for computer equipment and software to capture residency information.

FYs 88 and beyond

The Prudhoe and Kuparuk unit agreements will possibly be renegotiated this year at which time these leases would be covered by the provisions of this bill. An additional Wage and Hour Investigator and two Wage and Hour Technicians will be required. The costs associated with these positions is summarized below:

	W&H Tech. Anchorage	W&H Tech. Anchorage	W&H Invest. I Fairbanks
Personal Service	34.4	34.4	50.3
Travel	0	0	15.6
Contractual	9.4	9.4	10.9
Commodities	.6	.6	.6
Equipment	<u>1.8</u>	<u>1.8</u>	<u>1.8</u>
	46.2	46.2	79.2

Also, an additional \$15,000 in travel expense would be incurred by existing positions for travel to the North Slope.

Assumptions

- 1) The major unitization agreements (Prudhoe Bay and Kuparuk) will not be covered by this bill until FY 88 when the agreements are renegotiated.
- 2) Inflation will be 3.5% for personal service and 6% for non personal service items.

1	Position Title	Wage & Hour Investigator I	Range/Step	16A	Barg. Unit	GGU	Form 12 Page/Line	GOV.	APPROV.	DISAPP.			
2	Type of Position	PFT	Staff Months	12	RP Number		PCN Number		BRU Priority	Location	Election District	LEG.	

3	CONTINUATION LEVEL		ADDITION	
4	Type of Expenditure			Amount
	PERSONAL SERVICES			
5	Salary		2	32,424
6	Benefits			5,401
7	Supplemental Benefits			1,987
8	Fixed Benefits			2,735
9	TOTAL PERSONAL SERVICES		01	42,547
10	Travel		02	8,500
11	Contractual		03	9,490
12	Commodities		04	500
13	Equipment		05	1,600
14	Other			
15	TOTAL COST			62,637

**JUSTIFICATION**

This position would monitor new or re-negotiated oil and gas leases and other natural resources projects on state land to ensure compliance with resident hire laws.

The position would interact with the Department of Natural Resources and industry contacts to establish an effective monitoring procedure.

Travel costs are to establish monitoring procedures and for monitoring compliance with resident hire law. Contractual costs include rent, \$3,600; indirect \$3,890; and other average expenses of \$2,000. Commodities of \$500 and one-time equipment costs of \$1,600 are also included.

	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	
			62,637

For M&B Use Only  
 1A Key Number \_\_\_\_\_

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

FY 86

Page 1 of 3  
 Revised Date \_\_\_\_\_

LEG:F:

1	Position Title Wage & Hour Investigator I			Range/Step 16A	Barg. Unit GGU	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
2	Type of Position PFT	Staff Months 12	RP Number	PCN Number	BRU Priority	Location Anchorage	Election District	LEG.	
3	CONTINUATION LEVEL			ADDITION		JUSTIFICATION			
4	Type of Expenditure		Amount		<p>This position would monitor new or re-negotiated oil and gas leases and other natural resources projects on state land to ensure compliance with resident hire laws.</p> <p>The position would interact with the Department of Natural Resources and industry contacts to establish an effective monitoring procedure.</p> <p>Travel costs are to establish monitoring procedures and for monitoring compliance with resident hire law. Contractual costs include rent, \$3,600; indirect \$3,890; and other average expenses of \$2,000. Commodities of \$500 and one-time equipment costs of \$1,600 are also included.</p>				
5	PERSONAL SERVICES								
5	Salary		2	32,424					
6	Benefits			5,401					
7	Supplemental Benefits			1,987					
8	Fixed Benefits			2,735					
9	TOTAL PERSONAL SERVICES		01	42,547					
10	Travel		02	8,500					
11	Contractual		03	9,490					
12	Commodities		04	500					
13	Equipment		05	1,600					
14	Other								
15	TOTAL COST			62,637					
16	RECEIPT CODE	FUNDING SOURCE							
17		Federal Receipts	1002						
18		G.F. Match	1003						
19		General Funds	1004	62,637					
20		I-A Receipts	1005						
21		Program Receipts	1028						
21		Other							
For M&B Use Only									
1A Key Number _____									

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

FY 86

Page 2 of 3

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

LEG:F:

1	Position Title Clerk Typist III	Range/Step 8A	Barg. Unit GGU	Form 12 Page/Line	GOV.	PROV.	DISAPP.
2	Type of Position PFT	Staff Months 12	RP Number	PCN Number	BRU Priority	Location	Election District
3	CONTINUATION LEVEL		ADDITION		JUSTIFICATION		
4	Type of Expenditure			Amount			

	1	2	3
	PERSONAL SERVICES		
5	Salary	19,572	
6	Benefits	3,261	
7	Supplemental Benefits	1,200	
8	Fixed Benefits	2,735	
9	TOTAL PERSONAL SERVICES	01	26,768
10	Travel	02	0
11	Contractual	03	7,948
12	Commodities	04	1,000
13	Equipment	05	1,600
14	Other		
15	TOTAL COST		37,316

This clerical position would provide typing, filing, and data entry under the provisions of this bill.

Contractual costs include rent, \$3,600; indirect \$2,348, and other average expenses of \$2,000. Commodities of \$1,000 and one-time equipment costs of \$1,600 are also included.

RECEIPT CODE	FUNDING SOURCE	Amount
16	Federal Receipts 1002	
17	G.F. Match 1003	
18	General Funds 1004	37,316
19	I-A Receipts 1005	
20	Program Receipts 1028	
21	Other	

For M&B Use Only  
1A Key Number \_\_\_\_\_

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

FY 86

Page 3 of 3  
Revised Date \_\_\_\_\_

LEG:F:

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

April 16, 1985

The Honorable Fred Zharoff  
Chairman, Senate Labor and  
Commerce Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: SB 271: Resident Hire  
Under Oil and Gas Leases

Dear Senator Zharoff:

I am responding to a request from a member of your staff for our comments regarding SB 271, which deals with resident hire under certain oil and gas leases. Unfortunately, I will be in Anchorage at the time of your committee's scheduled hearing on this bill. However, if any questions arise during the course of that hearing, I would certainly be happy to respond to them upon my return early next week.

As you probably know, the Alaska Legislature first enacted a resident hire law with respect to state oil and gas leases in 1972. That law, AS 38.40, was enforced by the Department of Labor throughout the period of construction of the Trans-Alaska Pipeline, but was ultimately held unconstitutional by the United States Supreme Court in the case of Hicklin v. Orbeck, 437 U.S. 518 (1978). SB 271 appears to be an attempt to craft a resident hire requirement for employment activity on state oil and gas leases, etc., which would satisfy the concerns of the U.S. Supreme Court in Hicklin.

~~enacted by the bill, which would...~~  
~~...scope of the bill, which would...~~  
~~...employment activity on state oil and gas leases, etc., which would...~~  
case.

In Hicklin, the U.S. Supreme Court found essentially three separate problems with "Alaska Hire":

- 1) The court did not believe that the justifications advanced by the State in favor of the resident preference were adequate. At the time the legislature adopted AS 38.40, it did not have before it an adequate factual basis to validate its determination that state

Dept. of Law response

intervention in the job market in the form of an employment preference for residents was necessary.

2) Even if the State could have adequately justified imposing a resident hire requirement on certain employers, the broad sweep of AS 38.40 in applying to any employer who benefited in some manner from the "economic ripple effect of Alaska's decision to develop its oil and gas resources" simply went too far, in the Court's view. As the Court pointed out, "Alaska hire extends to employers who have no connection whatsoever with the State's oil and gas, perform no work on state land, have no contractual relationship with the State, and receive no payment from the State." Hicklin, at 530.

3) Even if the State could have justified imposing a resident hire requirement, and even if it only applied to an employer who had a direct relationship with the State (i.e. by contract or by working on State-owned land) the scope of the preference as it applied to individual residents was still too broad. In this regard, the court noted that "Alaska Hire simply grants all Alaskans, regardless of their employment status, education, or training, a flat employment preference for all jobs covered by the Act. . . . If Alaska is to attempt to ease its unemployment problem by forcing employers within the State to discriminate against non-residents -- again, a policy which may present serious constitutional questions -- the means by which it does so must be closely tailored to aid the unemployed the Act is intended to benefit." Hicklin, at 527-528.

While SB 271 does address some of the concerns raised in Hicklin, it appears to leave some of them unresolved:

1) Although the bill sets out a broader and more comprehensive set of legislative findings (AS 38.45.020), I am not aware that any factual studies or other kinds of inquiries have been conducted which would provide a firm basis for these findings. If they do exist, they should be presented during the course of the legislature's consideration of the bill and made a part of the legislative record. In that regard, I understand there is a proposal under active consideration in the House (HB 295) which would appropriate \$100,000 to the Department of Labor for just such a study.

The Honorable Fred Zharoff  
Chairman, Senate Labor and  
Commerce Committee

April 16, 1985  
Page 3

2) The bill does seem to address the problem in Hicklin of applying the resident hire requirement to too broad a range of employers. Under the bill, only employers engaged in activity on state lands would be subject to the law.

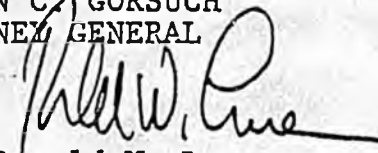
3) The bill does not address the problem in Hicklin of giving all state residents an employment preference, whether or not they are unemployed, or underemployed. In this regard, creating "employment target groups" comprised of unemployed residents, chronically underemployed residents, and training-qualified residents should respond to those concerns in Hicklin.

If I can provide any further background or assistance, please do not hesitate to contact me.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:

  
Ronald W. Lorensen  
Deputy Attorney General

RWL:vrh

cc: Honorable Joe Josephson  
Senator

Honorable Red Boucher  
Representative

Honorable Marco Pignalberi  
Representative

# International Brotherhood

# of Electrical Workers

TELEPHONE  
(907) 272-6571  
TELEX 25-250

J. J. "JACK" HULL  
BUSINESS MANAGER • FINANCIAL SECRETARY



2702 DENALI STREET  
ANCHORAGE, ALASKA 99503

ERIC WORTHINGTON  
PRESIDENT

Local 1547

April 23, 1985

The Honorable Senator Zharoff  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Dear Senator Zharoff:

Thank you very much for the opportunity to speak before the Senate Labor and Commerce Committee regarding SB 271 on April 17, 1985.

In order to help facilitate the hearing process, I shortened my presentation before you. However, I have enclosed my complete written testimony and a copy for each member of the Senate Labor and Commerce Committee.

If you need any further statistics or other information from our organization, please contact me or Jack Hull, the Business Manager, and we will be sure to assist you in any way we can.

Sincerely,

Dixie Lee Hudish  
Industrial Relations Officer

Enclosure

cc:

Senator Sackett ✓  
Senator Ray  
Senator Eliason  
Senator Bennett  
Senator Josephson  
Senator Kertulla  
Senator V. Fischer  
Representative Pignalberi  
Representative Cotten  
Representative Davis  
Representative Phillips  
Representative Hurley  
Representative Navarre  
Representative Goll  
Representative Sund

DLH/eb

PUBLIC TESTIMONY

ON

SB 271

SENATOR V. FISCHER

April 17, 1985

Mr. Chairman, members of the Senate Labor and Commerce Committee:

My name is Dixie Hudish, Industrial Relations Officer for the International Brotherhood of Electrical Workers (IBEW), Local No. 1547, 2702 Denali Street, Anchorage, Alaska 99503. I am speaking on behalf of Jack Hull, Business Manager, of the IBEW.

First of all I would like to thank those legislators who have worked so diligently on this proposed Bill that the IBEW wholeheartedly supports SB 271.

The IBEW is most concerned with out of state firms who are awarded bids for construction and bringing their own workers from out of state.

Presently, in our Fairbanks office, where jobs are dispatched out for slope work, we have approximately 200 residents in all four classifications (Communication, Wireman, Lineman and Apprentice)

out of work. We have only 100 members (local residents) working on the slope at this time. Compared to 600 residents last year who are on Book I. Local resident members who have lived in Alaska one year and have worked a certain number of hours (2,080 hours within the past four years) in the trade are dispatched first from Book I.

We have better than 32% Alaska natives in the Apprenticeship program at Fairbanks. These apprentices are from Barrow, Nome, Kotzebue, Galena, Tanana and Fort Yukon. Yet there are 40 apprentice wireman and 120 wireman out of work from the Fairbanks dispatch area.

We have 12% Alaska Natives in the Apprenticeship program in Anchorage and there are presently 70 apprentices out of work (34 wireman, 24 lineman, and 12 communication). Most of these Alaska Native apprentices are from the Bethel area.

We know that a majority of our local people are losing their jobs, primarily from out of state firms who are hiring their own people and bringing them up here to work on the slope.

I would like to mention several oil field firms who are doing just that:

1. GSL Oil Field Service - A firm out of Corpus Christi, Texas, who is working out of the Prudhoe Bay Hotel. They have up to 50-60 workers, mostly out of state, presently hired as maintenance road crews.
2. Pingo Oil Field Service - They hire maintenance people and are of state.
3. North Oilfield Service - Out of state people.
4. Udelhoven Oil Field Service - A good portion of their workers are out of state and work at Kapuruk.

These oil field services are mostly subcontracted by either ARCO or SOHIO.

VECO is another large firm who hires a lot of out of state workers.

The IBEW has not dispatched any non-resident since September 1984.

Out of approximately 300 total electricians working on the slope we can fairly say 200 are not local people. The situation

appears not to be getting any better for our local workers, but worse.

We have approximately 300 local people out of work from the Anchorage Dispatch office. This is a very large amount of our members unemployed. Many of these members, I am sure are drawing unemployment.

We have seen many situations where outside firms are awarded contracts only to hire people from outside. Case in point is the Irby Construction Company from Jackson, Mississippi, who received the contract to build the Inter-tie line between Fairbanks and Anchorage. You might say one-half of the line was built by out of state people.

I could continue on with more examples, but I feel I have painted a big enough picture for all of you to realize the situation our local resident members are up against. One only needs to come up on a flight out of Los Angeles, etc. to verify the number of out of state workers heading for the North Slope. The IBEW feels this bill would favorably help the economic picture of Alaska. The oil and gas industry needs to be more responsive to the needs of resident hire and this bill would provide just that.



# LABORERS INTERNATIONAL UNION OF NORTH AMERICA

LOCAL NUMBER 942

OFFICES: 315 BARNETTE ST., FAIRBANKS, ALASKA 99701 PHONE (907) 456-4584  
369 S. FRANKLIN STREET, JUNEAU, ALASKA 99801 PHONE (907) 586-2860

WILLIE LEWIS  
President

JOE J. THOMAS  
Business Manager and  
Secretary-Treas.

JUNEAU OFFICE  
JAMES R. WAKEFIELD  
Assistant  
Business Manager

members unemployed Many of these members are in the process of being reemployed.

The following is a breakdown of people dispatched to work through Laborers Local #942 between January 1984 and April 10, 1985.

Total Dispatched	-	4278
Residents	-	3923
Nonresidents	-	355
92% Resident Hire		

Total dispatched from Fairbanks hall for work at Prudhoe Bay.

Total	-	1833
Residents	-	1620
Nonresidents	-	213*
88% Resident Hire		

\*Better than 90% of this figure was name requests by Employer.

Total dispatched from Fairbanks hall for all work other than Prudhoe Bay.

Total	-	2030
Residents	-	1896
Nonresidents	-	134
93% Resident Hire		

Total dispatched from Juneau and Ketchikan halls (includes all of South-eastern Alaska.)

Total	-	415
Residents	-	407
Nonresidents	-	8*
98% Resident Hire		

\*All eight were name requests by Employers as foremen or individuals with special skills.

Total dispatched by all three Local #942 Hiring Halls (Fairbanks, Juneau, Ketchikan) for work other than Prudhoe Bay.

Total	-	2445
Residents	-	2303
Nonresidents	-	142
94% Resident Hire		

MR. CHAIRMAN AND MEMBERS OF THE SENATE LABOR AND COMMERCE. MY NAME IS CHARLIE ELDER AND I AM AN EMPLOYEE OF SOHIO AS AN EXECUTIVE CONSULTANT FOR OUR INTEREST IN ALASKA.

MY PURPOSE TODAY IS TO LAY ON THE TABLE SOHIO'S OBJECTIONS AND COMMENTS ON SENATE BILL 271, AND I WILL ATTEMPT TO BE BRIEF. I WILL BE GLAD TO HAVE QUESTIONS AT ANY TIME DURING MY COMMENTS. AND, OF COURSE, IT WILL BE OPEN SEASON AT THE CONCLUSION OF MY REMARKS. I WILL COMMENT TODAY ON A NUMBER OF PROVISIONS OF SB271, BUT OVERRIDING ALL OF THE LATER STATEMENTS IS THE FACT THAT THIS BILL GREATLY ERODES OUR RIGHT TO MANAGE. THIS IS AN INHERENT RIGHT AND ABSOLUTELY NECESSARY IF WE ARE TO DO THE BEST JOB IN THE INTEREST OF OUR COMPANY, EMPLOYEES, AND STOCKHOLDERS. IN VIEW OF THE STAKE THE STATE OF ALASKA HAS IN OUR PERFORMANCE, SUCCESSES AND FAILURES, THE LACK OF MANAGEMENT CONTROL, I BELIEVE, WILL FAR OUTWEIGH THE PROVISIONS OF THIS BILL AND SHOULD BE A FACTOR IN YOUR DELIBERATIONS. THE "RIGHT TO MANAGE" IS UNIVERSALLY RECOGNIZED AND IN MY NEARLY 40 YEARS WITH SOHIO I HAVE NEVER SIGNED A CONTRACT (AND THERE HAVE BEEN MANY) WITH A UNION OR A NONUNION CONTRACTOR WHICH DID NOT CONTAIN REFERENCE TO MANAGEMENT RIGHTS AS FOLLOWS:

#### MANAGEMENT RIGHTS

SOHIO RETAINS FULL AND EXCLUSIVE AUTHORITY FOR THE MANAGEMENT OF ITS OPERATION. SOHIO RETAINS THE RIGHT TO DIRECT THE WORKING FORCE, INCLUDING THE HIRING, PROMOTIONS,

TRANSFERS, DISCIPLINE OR DISCHARGE OF EMPLOYEES: THE SELECTION OF FOREMAN; THE ASSIGNMENT OF OVERTIME WORK AND THE DETERMINATION OF WHEN IT SHALL BE WORKED. NO RULES, CUSTOMS, OR PRACTICES WHICH LIMITS OUR PRODUCTIVITY, EFFICIENCY OR THE INDIVIDUAL AND/OR JOINT WORKING EFFORTS OF EMPLOYEES SHALL BE PERMITTED.

SB271 REMOVES FROM SOHIO A LARGE PORTION OF THESE MANAGEMENT RIGHTS AND WE BELIEVE IN THE OVERALL IT WILL WORK TO THE DETRIMENT OF THE STATE. NONE OF THE FOREGOING SHOULD BE INTERPRETED THAT SOHIO WILL NOT CONTINUE ITS GOOD FAITH EFFORT TO HAVE ALASKANS IN THE JOBS WITHOUT A LEGISLATIVE REQUIREMENT TO DO SO.

THE FOREGOING IS OUR BASIC OBJECTION, BUT WE HAVE THE FOLLOWING ADDITIONAL QUESTIONS AND COMMENTS:

- I. IF THE BILL IS UNCONSTITUTIONAL WE WILL ALL FIND OUT LATER, BUT PASSING THIS QUESTION FOR THE MOMENT, IT APPEARS THE BILL IS PUNITIVE IN NATURE OR PERHAPS THE KINDEST THING THAT COULD BE SAID IS THAT IT'S GROSSLY UNFAIR IN THAT ITS APPLICATION IS LIMITED TO THE OIL INDUSTRY AND ITS SUPPORT CONTRACTORS - NOT MENTIONING OUR OTHER INDUSTRIES UTILIZING MUCH HIGHER PERCENTAGES OF NONRESIDENTS.

AN ALASKAN DOL ANALYSIS UPDATED TO MARCH 31, 1985 CONTINUES AS FOLLOWS NONRESIDENT EMPLOYMENT IN BUSINESSES AND INDUSTRIES IN THE STATE.

- A. FOOD PROCESSING (75% NONRESIDENTS).
- B. EATING AND DRINKING PLACES (51%).
- C. MINING OTHER THAN OIL AND GAS (48%).
- D. LOGGING AND LUMBER (48%)
- E. CONSTRUCTION (45%).
- F. HOTELS (44%).
- G. BUSINESS SERVICES (44%).
- H. FISHERIES ?
- I. TOURISM ?

THE OIL INDUSTRY DOES NOT EVEN MAKE THE SCOREBOARD. BY WHAT LOGIC ARE THESE BUSINESSES EXCLUDED FROM SB 271? THIS INFORMATION FLIES IN THE FACE OF LEGISLATIVE FINDINGS (2).

- 2. LEGISLATIVE FINDINGS (4) (5) REFERS TO THE INVESTMENT BY THE STATE IN TRAINING PROGRAMS. WHILE I AM NOT FAMILIAR WITH ANY SPECIFIC TRAINING PROGRAMS CONDUCTED FOR THE PRIVATE SECTOR, WE APPRECIATE AND COMMEND THE STATE FOR THEIR SUPPORT OF VOCATIONAL EDUCATION. SOHIO HAS MADE SUBSTANTIAL USE OF THESE FACILITIES TO TRAIN ALASKAN WORKERS. WE HAVE PAID TUITION OF \$125,000 OVER THE LAST FIVE YEARS TO THE VOC-ED FACILITIES AND HAVE ALSO AWARDED SCHOLARSHIPS AMOUNTING TO \$38,000 TO GRADUATES THROUGHOUT THE STATE FOR ATTENDANCE AT OTHER INSTITUTIONS. WE DO NOT BELIEVE THE STATE'S INVESTMENTS HAVE BEEN OF LITTLE AVAIL.

3. SECTION 38.45.030 RESIDENT HIRE PASSES THE RESPONSIBILITY OF PREPARING REGULATIONS AND ADMINISTERING PROVISIONS OF THE BILL TO THE COMMISSIONER OF LABOR AND THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES.

THE COMMISSIONER OF LABOR IS CHARGED WITH 17 DISTRICT RESPONSIBILITIES, INCLUDING THE ASSESSMENT PENALTIES, WHICH I WILL NOT REPEAT.

THE COMMISSIONER OF DNR HAS THE RESPONSIBILITY TO STUDY AND EVALUATE DOL CERTIFICATION, INVESTIGATION AND HOLD HERINGS, - AND, IF WILLFULL NONCOMPLIANCE IS DETERMINED THE COMMISSIONER CAN IMPOSE SEVERE PENALTIES.

IN ADDITION, DOL OR DNR MAY SEEK INJUNCTIVE RELIEF AGAINST A PERSON WHO IS NOT IN COMPLIANCE.

4. INsofar AS THE EMPLOYER IS CONCERNED HE MUST, IN THE INTEREST OF GOOD BUSINESS, CONSIDER AND MAKE A JUDGMENT ON AT LEAST ELEVEN ISSUES, MOST OF WHICH ENCROACH ON HIS RIGHT TO MANAGE.
5. INsofar AS THE STATE IS CONCERNED SB271 CERTAINLY DOES NOT ENCOURAGE INVESTMENT IN OIL DEVELOPMENT, AND IT COULD PREVENT THE LOWEST COST DEVELOPMENT WHICH MAY BE NECESSARY FOR FOR THE MARGINAL FIELDS WE EXPECT TO BE WORKING WITH.

IF PASSED, SB271 WILL CERTAINLY RESULT IN HIGHER ADMINISTRATIVE COSTS IF ALL OF THE PROVISIONS ARE CARRIED OUT. I AM CURIOUS AS TO WHETHER OR NOT THIS POINT HAS BEEN CONSIDERED.

THE STATE WILL ACQUIRE A BILL THAT IS BASICALLY UNINFORCEABLE, AND ASSURES THE CERTAINTY OF MANY LAWSUITS FILED BY INDIVIDUALS, THE INDUSTRY AND ITS ASSOCIATED CONTRACTORS.

6. FINALLY, IT'S COUNTERPRODUCTIVE TO THE STATE POLICY  
- CONTAINED N SECTION 38.45.010.

THIS CONCLUDES MY PREPARED REMARKS.

BEEN CONSIDERED.

THE STATE WILL ACQUIRE A BILL THAT IS BASICALLY

NON-PROFITABLE, AND AS FAR AS THE COMPLETION OF THE BILL IS CONCERNED, THE STATE WILL BE RESPONSIBLE FOR THE ASSOCIATED COSTS.

FINALLY, IT'S COUNTERPRODUCTIVE TO THE STATE POLICY

2

Bill No.

Committee Substitute for Senate Bill  
No. 271 (L&C)

Date May 7, 1985

Title

"An Act requiring resident hire on certain  
natural resource projects on state land;  
and providing for an effective date."

Contact:

Robert W. Landau  
465-2700  
Eileen Plate  
465-2700

This bill establishes a resident hire preference for all employment on natural resource projects on state land.

Under the bill, the Department of Labor would be primarily responsible for:  
(1) establishing resident hire requirements for each project; (2) referring qualified residents who are seeking employment; (3) establishing and monitoring employer reporting requirements; (4) conducting investigations and holding hearings to determine compliance with resident hire requirements; (5) seeking monetary penalties and/or injunctive relief for noncompliance; and (6) promulgating requirements for natural resource projects on state land.

Because of the beneficial impact of resident hiring on the workforce and the economy in general, the department strongly endorses the principle that qualified Alaska residents should be given employment preference on natural resource projects on state land. This is consistent with the view that a state is entitled to give preference to its own citizens in the development of the state's natural resources.

Although the Department supports Committee Substitute for Senate Bill 271, we would recommend additional amendments, as follows:

1. Add a new section to provide that the hiring preference be extended only to unemployed or underemployed persons or to persons who have completed a job-training program.

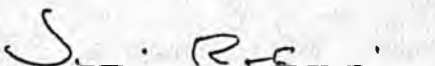
This would enhance the constitutional defensibility of this bill inasmuch as it would then directly focus on the unemployment problems set out in the legislative findings section of the bill (38.45.020).

2. Amend Sec. 38.45.060(b) to provide the Department some flexibility in the appeal process. As written, this section would require the Department to hold a hearing every time one is requested.

The Department would prefer to institute a "review" process and only hold hearings as appropriate.

Attached are line-by-line amendments which would incorporate the Department's recommendations.

APPROVED:

  
Jim Robison, Commissioner  
Department of Labor

**POSITION PAPER/Department of Labor**

Department of Labor  
Proposed Amendments to  
Committee Substitute for Senate Bill 271 (L&C)

- ✓ 1. Add a new Section 38.45.030 to read:

Sec. 38.45.030. ELIGIBILITY FOR PREFERENCE. (a) The Department of Labor shall certify a person as eligible for a hiring preference under this chapter if the person is a resident, and

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

(2) is unemployed and has registered with a public or private employment agency;

(3) is underemployed or marginally employed as determined by regulations adopted by the department; or

(4) has completed a job-training program approved by the department.

Note: Present Sections 38.45.030-38.45.100 would need to be renumbered, as well as any statutory references included in the Sections.

- ✓ 2. Insert the term "eligible," before the term "qual-" in line 25 on page 3.
- ✓ 3. Insert the term "eligible," before the term "qualified" in lines 12 and 13 and before the term "residents" on line 15 of page 4.
- ✓ 4. Amend line 16 on page 4 to read:  
"approve the hiring of residents who are not eligible for preference or nonresidents for the balance of the request."
- ✓ 5. Amend line 7 on page 5 to read:  
30 days after the rejection or termination, request a review by
- ✓ 6. Change the word "shall" in line 10 of page 5 to "may"

**EXXON** COMPANY, U.S.A.

POUCH 0601 - ANCHORAGE, ALASKA 99502-0601 (907) 501-5331

ALASKA OPERATIONS  
WESTERN DIVISIONRICHARD H. WEAVER  
OPERATIONS MANAGER

May 8, 1985

Senator Arliss Sturgulewski  
Alaska State Legislature  
Pouch V (MS 8100)  
Juneau, Alaska 99811

Dear Senator Sturgulewski:

Exxon has certain serious concerns with Senate Bill 271.

First, I would point out that Exxon supports the concept and practice of local hire, and has traditionally employed a high percentage of local residents (as defined by the statutes) in its operations. Since 1980, 93% of new hires into our Alaska Operations have been local hires with a trend toward an even higher percentage since 1981. To the best of our knowledge, other oil companies follow similar practices.

Our concerns arise from the very findings which purport to justify the passage of the bill. We believe the findings of the legislation incorrectly identify a primary contributing factor to unemployment in the state to be the failure of the resource extraction industry to employ state residents. This finding is not based upon fact. I believe that your committee will find, upon review of Alaska's employment statewide, that the performance of oil companies with respect to local hire is among the best in Alaska's private sector.

I would urge your committee to conduct careful review of the proposed legislation to determine the immediate and future impact of the proposed law. I would specifically urge you to address:

- o Whether there is in fact need for legislative action in this area.
- o Whether there is basis for passage of a bill directed at one industry. The present bill is, in our view, discriminatory toward the oil and gas industry without justification. Industries that likely have much higher non-resident hire ratios, such as fishing and tourism, are not addressed in the bill.
- o Whether this bill will create unacceptable administrative and associated financial burdens for the state and industry. The fiscal impact of implementing this bill does not seem to have been considered.

- o The potential for bureaucratic abuse.

Specific provisions of the bill which will in our view create the problems just addressed are:

- o Sec. 38.45.030 Resident Hire Requirements

- (b) This subsection does not incorporate objective legislative standards for the determination by the Commissioner of Labor of the amount of work that must be performed by qualified residents. It imposes substantial burdens on lessees to familiarize the Commissioner with the nature of work to be performed in exploring for and developing natural resources from state lands; this effort would require a detailed review of each job to be filled. Despite this imposition, there is no express provision for administrative review of the Commissioner's decision.
- (c) This subsection could result in the imposition of new lease or unit requirements on parties to existing leases or units on account of later amendments to this chapter or the regulations.
- (d) This subsection imposes specific recruiting methods and further requires employers to obtain permission from the Commissioner of Labor for each non-resident hire. This requirement could result in significant delays in the exploration and development of state leases.

- o Sec. 38.45.040 Reporting Provisions

This section could result in onerous reporting burdens.

- o Sec. 38.45.060 Regulations and Hearings

- (b) This subsection imposes the requirement that every rejected applicant or terminated employee is entitled to a hearing upon request. This requirement will result in hearings of frivolous claims. Further, this subsection creates the unwarranted inference that each failure to hire a resident or termination of a resident has a discriminatory purpose.
- (c) This subsection authorizes the Department of Labor to carry on burdensome investigations and hearings without probable cause to believe that a violation has occurred or that the employer is not in compliance with this chapter.

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MAY 8 1985

Page 3

o Sec. 38.45.070 Penalties

The penalties provided by this provision are far in excess of the types of penalties imposed for other types of employment discrimination. Many of the penalties, such as increased rents, are unrelated to the actions which gave rise to the proceeding. Subsection (c) would require leases to renegotiate all existing contracts for services, labor, or materials in order to insert provisions on Alaska hire.

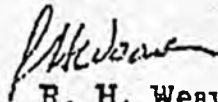
o Sec. 38.45.090(2) Definition

This definition expands the scope of the meaning of "natural resource project on state land" far beyond its ordinary meaning. It appears to require Alaska hire for all contracts and activities related to lease exploration and development, including consulting agreements and construction contracts for work to be done outside the state, lease and unit administration, negotiation of unit agreements, and other activities which may not normally be performed in Alaska. This broad applicability was held to be unconstitutional in Hicklin v. Orbeck, 437 U.S. 518 (1978).

May I also direct your attention to the administrative burdens and costs which the bill would impose on the state of Alaska and the companies that carry out resource development. The Departments of Labor and Natural Resources will have extensive new responsibilities to fulfill, and they will be required to expend considerable financial and human resources in order to carry out the letter and intent of the law.

In conclusion, let me reaffirm that Exxon has been and will continue to be supportive of the practice of local hire. We urge the Committee not to move this bill until it has had time to carefully consider the potential impacts of the bill, the burdens it will place on both the State and the affected industries, and its very constitutionality.

Very truly yours,



R. H. Weaver

RHW/427/dag

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



POUCH V  
JUNEAU, ALASKA. 99811  
(907) 465-4807

## Senate Committee on Resources

MEMORANDUM

May 6, 1985

TO: All Members  
Senate Resources Committee

FROM: Staff *JH*  
Senate Resources Committee

RE: CSSB 271 (L&C) "An Act requiring resident hire on certain natural resource projects on state land; and providing for an effective date."

CSSB 271 (L&C) would establish as state policy that employment opportunities in natural resource development projects be provided to the maximum benefit for qualified Alaska residents.

The Commissioner of Labor shall establish resident hiring requirements for natural resources development projects on state land. Employers covered by this bill must also comply with reporting provisions as determined by the commissioner. Penalties are established for employers failing to comply with this chapter.

SB 271 originally applied only to oil and gas development but was extended to all natural resource projects in the Senate Labor and Commerce Committee.

The Attorney General's office has raised some questions concerning the constitutionality of this bill (see attached letter) in its original form. The CS and the proposed amendments are designed to respond to those concerns.

A fiscal note prepared by the Department of Labor and updated to include CSSB 271 (L&C) shows a FY 86 cost of \$177,600. (see attached)

### Enclosures:

1. CSSB 271 Sectional Analysis by Senate Labor and Commerce
2. Fiscal note by Department of Labor
3. Letter from Attorney General, Department of Law
4. Letter and testimony from IBEW in support of bill
5. Testimony from SOHIO objecting to SB 271



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

CSSB 271: Sectional Analysis

Section 1) Adds a new chapter:

38.45.010: Declares that the state policy for development of natural resources includes providing employment opportunities in natural resource development projects.

38.45.020: Legislative Findings: references findings about unemployment in the state, investments the state has made in training programs to develop a qualified work force, the social burdens which result from resident workers being displaced by non residents, and the need for a resident employment preference.

38.45.030: a) employers of natural resource development projects on state lands shall meet the resident hiring requirements established by the commissioner of labor, and may not discriminate against qualified residents for employment.

b) the commissioner of labor shall determine the amount of work that must be performed by residents on a natural resource development project on state land. Commissioner shall consider employment factors, and require an employer to make a "maximum feasible effort" to hire qualified residents for jobs on state lands.

c) Commissioner of DNR shall incorporate into each lease, unitization agreement, or renegotiation lease, provisions requiring compliance with this chapter and authorizing penalties for non compliance.

d) Employers subject to resident hiring requirements may request the Dept of Labor to assist in locating qualified residents. If the department is unable to refer a sufficient number of qualified residents, it may approve the hiring of nonresidents for the balance of the request.

38.45.040: employers obligated to meet hiring requirements under this chapter shall comply with reporting requirements deemed necessary by the commissioner of Labor.

38.45.050: This chapter applies to all natural resource projects on state land, and the Dept of Labor will determine the extent of the resident hire preference for each project. Resident preference applies only to work performed directly for an employer.

38.45.060: a) Both DOL and DNR shall adopt regs for this chapter. DOL shall adopt regs prohibiting discrimination against qualified residents for resource development projects on state land. These regs are subject to the Administrative Procedures Act except as provided in (b).

(b) An employer shall judge the work qualifications of an applicant, however an applicant who has been rejected or terminated may, within 30 days, request a hearing before DOL to determine whether the employer violated the provisions of this chapter. DOL shall hold a hearing within 20 days of receipt of the request unless the employee requests a longer period of time. The administrative procedures act does not apply to this section.

(c) DOL may conduct investigations and hearings to determine compliance with this chapter. If they determine an employer has "wilfully" failed to comply, the commissioner may certify that finding to DNR.

38.45.070: PENALTIES: If DOL finds that an employer has rejected or terminated a qualified employee in violation of this chapter, the department may require the employer to pay 3 times the lost wages to the employee and may require additional amounts if the employee's actual expenses incurred exceed the triple wages assessed. Either party may appeal the decision to the superior court.

Upon certification of noncompliance by DOL, DNR may investigate and conduct hearings. If DNR determines "wilful" noncompliance, they may impose the following penalties:

- 1) increase the compensation received by the state thru a lease or agreement by a factor of no more than 10; not to exceed \$100,000
- 2) require all or a portion of the project to cease;
- 3) remove the eligibility for contracting with the state or it's political subdivisions for a period not to exceed three years; or
- 4) require a noncompliance payment in liquidated damages to the State. Damages may be in an amount equal to 7.5 times the amount of required hours not worked times the "going wage" for the job.

38.45.080: In addition to the penalties imposed, DOL and DNR may seek an injunction for noncompliance with this chapter. DNR may seek an injunction to enforce penalties imposed.

38.45.090: Definitions:

- 1) "employer" is a person, other than the state, who is a party to a lease agreement for a resource development project on state land. This definition includes an affiliate, principal, subsidiary, contractor, or subcontractor if the activity is performed on state land.
- 2) "natural resource project on state land" is a contract, lease, unitization agreement, or renegotiation of such leases for the development of oil and gas, timber, and mineral resources on state land.
- 3) "qualified resident" is defined as a resident who has the necessary training or skills to perform the work.
- 4) "resident" is defined as a person who has been in the state for 30 days prior to entering into a contract for employment on a natural resource development project on state land, and who shows the intention to permanently reside in the state.

Section 2) Chapter applies to a lease, a unitization agreement, or a renegotiated lease or agreement for the development of O&G, timber, or minerals, after the effective date of this act. This chapter also applies to the renegotiation of an agreement entered into before the effective date of this act, if the renegotiation results in a major change to the duties of the parties.

Section 3) Immediate effective date.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: CS SB 271 (L&C)  
 Title: "An act requiring resident hire on nat. resource proj. st. lands"  
 Sponsor: Josephson, et. al.  
 Requestor: Senate Resources  
 Date of Request: 4/30/85

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
<b>OPERATING</b>						
100 PERSONAL SERVICES		111.9	115.8	239.1	247.5	256.1
200 TRAVEL		17.0	18.0	50.3	53.3	56.5
300 CONTRACTUAL		31.9	28.5	59.9	63.5	67.3
400 SUPPLIES		2.0	2.1	3.9	4.1	4.4
500 EQUIPMENT		14.8	0	5.4	0	0
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
300 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>177.6</b>	<b>164.4</b>	<b>358.6</b>	<b>368.4</b>	<b>384.3</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		177.6	164.4	358.6	368.4	384.3
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>177.6</b>	<b>164.4</b>	<b>358.6</b>	<b>368.4</b>	<b>384.3</b>

POSITIONS:

FULL-TIME		3	3	6	6	6
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert J. Bacolas, Sr. Phone: 465-4870  
 Division: Labor Standards & Safety Date: 4/30/85

Approved by Commissioner: Jim Robison Date: 4/30/85  
 Agency: Labor

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

## FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA  
THE FOURTEENTH LEGISLATURE  
BILL/RESOLUTION NO.: CS SB 271 (L&C)  
TITLE: "An Act requiring resident hire under certain natural resource  
projects on state lands"  
AGENCY AFFECTED: Department of Labor

In order to carry out the duties of this bill the Department of Labor would require the following resources:

### FYs 86 and 87

Two Wage and Hour Investigators I and one Clerk Typist III would be required to carry out the monitoring activities. Costs associated with these positions are detailed on the attached new position request forms.

In addition to these costs, there would be a one time expense of \$15,000 for computer equipment and software to capture residency information.

### FYs 88 and beyond

The Prudhoe and Kuparuk unit agreements will possibly be renegotiated this year at which time these leases would be covered by the provisions of this bill. An additional Wage and Hour Investigator and two Wage and Hour Technicians will be required. The costs associated with these positions is summarized below:

	W&H Tech. Anchorage	W&H Tech. Anchorage	W&H Invest. I Fairbanks
Personal Service	34.4	34.4	50.3
Travel	0	0	15.6
Contractual	9.4	9.4	10.9
Commodities	.6	.6	.6
Equipment	<u>1.8</u>	<u>1.8</u>	<u>1.8</u>
	46.2	46.2	79.2

Also, an additional \$15,000 in travel expense would be incurred by existing positions for travel to the North Slope.

### Assumptions

- 1) The major unitization agreements (Prudhoe Bay and Kuparuk) will not be covered by this bill until FY 88 when the agreements are renegotiated.
- 2) Inflation will be 3.5% for personal service and 6% for non personal service items.

Position Title Wage & Hour Investigator I				Range/Step 16A	Barg. Unit GGU	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
Type of Position PFT	Staff Months 12	RP Number	PCN Number	BRU Priority	Location Anchorage	Election District	LEG.		

CONTINUATION LEVEL	ADDITION	Amount
Type of Expenditure		
PERSONAL SERVICES		
Salary	32,424	
Benefits	5,401	
Supplemental Benefits	1,987	
Fixed Benefits	2,735	
TOTAL PERSONAL SERVICES	01	42,547
Travel	02	8,500
Contractual	03	9,490
Commodities	04	500
Equipment	05	1,600
Other		
TOTAL COST		62,637

**JUSTIFICATION**

This position would monitor new or re-negotiated oil and gas leases and other natural resources projects on state land to ensure compliance with resident hire laws.

The position would interact with the Department of Natural Resources and industry contacts to establish an effective monitoring procedure.

Travel costs are to establish monitoring procedures and for monitoring compliance with resident hire law. Contractual costs include rent, \$3,600; indirect \$3,890; and other average expenses of \$2,000. Commodities of \$500 and one-time equipment costs of \$1,600 are also included.

RECEIPT CODE	FUNDING SOURCE	Amount
	Federal Receipts 1002	
	G.F. Match 1003	
	General Funds 1004	62,637
	I-A Receipts 1005	
	Program Receipts 1028	
	Other	

For I&B Use Only  
 A Key Number \_\_\_\_\_

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

FY 86

Page 1 of 3  
 Revised Date

LEG:F:

1	Position Title Wage & Hour Investigator I	Range/Step 16A	Barg. Unit GGU	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
2	Type of Position PFT	Staff Months 12	RP Number	PCN Number	BRU Priority	Location Anchorage	Election District LEG.

CONTINUATION LEVEL		ADDITION	
Type of Expenditure			Amount
	1	2	3
<b>PERSONAL SERVICES</b>			
5 Salary		32,424	
6 Benefits		5,401	
7 Supplemental Benefits		1,987	
8 Fixed Benefits		2,735	
9 <b>TOTAL PERSONAL SERVICES</b>	01		42,547
0 Travel	02		8,500
1 Contractual	03		9,490
2 Commodities	04		500
3 Equipment	05		1,600
4 Other			
5 <b>TOTAL COST</b>			62,637

**JUSTIFICATION**

This position would monitor new or re-negotiated oil and gas leases and other natural resources projects on state land to ensure compliance with resident hire laws.

The position would interact with the Department of Natural Resources and industry contacts to establish an effective monitoring procedure.

Travel costs are to establish monitoring procedures and for monitoring compliance with resident hire law. Contractual costs include rent, \$3,600; indirect \$3,890; and other average expenses of \$2,000. Commodities of \$500 and one-time equipment costs of \$1,600 are also included.

RECEIPT CODE	FUNDING SOURCE		
6	Federal Receipts	1002	
7	G.F. Match	1003	
8	General Funds	1004	62,637
9	I-A Receipts	1005	
0	Program Receipts	1028	
1	Other		

or M&B Use Only  
A Key Number \_\_\_\_\_

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

FY 86

Page	2	of	3
Revised Date _____			

LEG:F:

Position Title Clerk Typist III	Range/Step 8A	Barg. Unit GGU	Form 12 Page/Line	GOV.	APPROV.	DISAPP.
Type of Position PFT	Staff Months 12	RP Number	PCN Number	BRU Priority	Location Anchorage	Election District LEG.

CONTINUATION LEVEL	ADDITION	
Type of Expenditure		Amount
1	2	3
<b>PERSONAL SERVICES</b>		
Salary	19,572	
Benefits	3,261	
Supplemental Benefits	1,200	
Fixed Benefits	2,735	
<b>TOTAL PERSONAL SERVICES</b>	01	26,768
Travel	02	0
Contractual	03	7,948
Commodities	04	1,000
Equipment	05	1,600
Other		
<b>TOTAL COST</b>		37,316

**JUSTIFICATION**

This clerical position would provide typing, filing, and data entry under the provisions of this bill.

Contractual costs include rent, \$3,600; indirect \$2,348, and other average expenses of \$2,000. Commodities of \$1,000 and one-time equipment costs of \$1,600 are also included.

RECEIPT CODE	FUNDING SOURCE	
	Federal Receipts	1002
	G.F. Match	1003
	General Funds	1004
	I-A Receipts	1005
	Program Receipts	1028
	Other	
		37,316

For M&B Use Only  
 A Key Number \_\_\_\_\_

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

FY 86

Page	3	of	3
Revised Date			

LEG:F:

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF LAW

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

April 16, 1985

The Honorable Fred Zharoff  
Chairman, Senate Labor and  
Commerce Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: SB 271: Resident Hire  
Under Oil and Gas Leases

Dear Senator Zharoff:

I am responding to a request from a member of your staff for our comments regarding SB 271, which deals with resident hire under certain oil and gas leases. Unfortunately, I will be in Anchorage at the time of your committee's scheduled hearing on this bill. However, if any questions arise during the course of that hearing, I would certainly be happy to respond to them upon my return early next week.

As you probably know, the Alaska Legislature first enacted a resident hire law in respect to state oil and gas leases in 1972. That law, AS 38.40, was enforced by the Department of Labor throughout the period of construction of the Trans-Alaska Pipeline, but was ultimately held unconstitutional by the United States Supreme Court in the case of Hicklin v. Orbeck, 437 U.S. 518 (1978). SB 271 appears to be an attempt to craft a resident hire requirement for employment activity on state oil and gas leases, which would satisfy the concerns of the U.S. Supreme Court in Hicklin. However, the new preference established by the bill may still be found by the courts to exceed the permissible scope of a state's ability to establish employment preferences for residents, consistent with the Hicklin case.

In Hicklin, the U.S. Supreme Court found essentially three separate problems with "Alaska Hire":

- 1) The court did not believe that the justifications advanced by the State in favor of the resident preference were adequate. At the time the legislature adopted AS 38.40, it did not have before it an adequate factual basis to validate its determination that state

Dept. of Law response

intervention in the job market in the form of an employment preference for residents was necessary.

2) Even if the State could have adequately justified imposing a resident hire requirement on certain employers, the broad sweep of AS 38.40 in applying to any employer who benefited in some manner from the "economic ripple effect of Alaska's decision to develop its oil and gas resources" simply went too far, in the Court's view. As the Court pointed out, "Alaska hire extends to employers who have no connection whatsoever with the State's oil and gas, perform no work on state land, have no contractual relationship with the State, and receive no payment from the State." Hicklin, at 530.

3) Even if the State could have justified imposing a resident hire requirement, and even if it only applied to an employer who had a direct relationship with the State (i.e. by contract or by working on State-owned land) the scope of the preference as it applied to individual residents was still too broad. In this regard, the court noted that "Alaska Hire simply grants all Alaskans, regardless of their employment status, education, or training, a flat employment preference for all jobs covered by the Act. . . . If Alaska is to attempt to ease its unemployment problem by forcing employers within the State to discriminate against non-residents -- again, a policy which may present serious constitutional questions -- the means by which it does so must be closely tailored to aid the unemployed the Act is intended to benefit." Hicklin, at 527-528.

While SB 271 does address some of the concerns raised in Hicklin, it appears to leave some of them unresolved:

1) Although the bill sets out a broader and more comprehensive set of legislative findings (AS 38.45.020), I am not aware that any factual studies or other kinds of inquiries have been conducted which would provide a firm basis for these findings. If they do exist, they should be presented during the course of the legislature's consideration of the bill and made a part of the legislative record. In that regard, I understand there is a proposal under active consideration in the House (HB 295) which would appropriate \$100,000 to the Department of Labor for just such a study.

The Honorable Fred Zharoff  
Chairman, Senate Labor and  
Commerce Committee

April 16, 1985  
Page 3

2) The bill does seem to address the problem in Hicklin of applying the resident hire requirement to too broad a range of employers. Under the bill, only employers engaged in activity on state lands would be subject to the law.

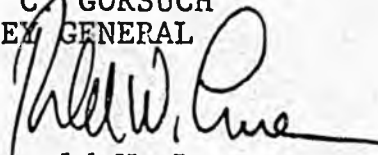
3) The bill does not address the problem in Hicklin of giving all state residents an employment preference, whether or not they are unemployed or underemployed. In this regard, creating "employment target groups" comprised of unemployed residents, chronically underemployed residents, and training-qualified residents should respond to those concerns in Hicklin.

If I can provide any further background or assistance, please do not hesitate to contact me.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:

  
Ronald W. Lorensen  
Deputy Attorney General

RWL:vrh

cc: Honorable Joe Josephson  
Senator

Honorable Red Boucher  
Representative

Honorable Marco Pignalberi  
Representative

# International Brotherhood

# of Electrical Workers

TELEPHONE  
(907) 272-6571  
TELEX 25-250

J. J. "JACK" HULL  
BUSINESS MANAGER • FINANCIAL SECRETARY



2702 DENALI STREET  
ANCHORAGE, ALASKA 99503

ERIC WORTHINGTON  
PRESIDENT

Local 1547



April 23, 1985

The Honorable Senator Zharoff  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Dear Senator Zharoff:

Thank you very much for the opportunity to speak before the Senate Labor and Commerce Committee regarding SB 271 on April 17, 1985.

In order to help facilitate the hearing process, I shortened my presentation before you. However, I have enclosed my complete written testimony and a copy for each member of the Senate Labor and Commerce Committee.

If you need any further statistics or other information from our organization, please contact me or Jack Hull, the Business Manager, and we will be sure to assist you in any way we can.

Sincerely,

Dixie Lee Hudish  
Industrial Relations Officer

Enclosure

cc:

Senator Sackett ✓  
Senator Ray  
Senator Eliason  
Senator Bennett  
Senator Josephson  
Senator Kertulla  
Senator V. Fischer  
Representative Pignalberi  
Representative Cotten  
Representative Davis  
Representative Phillips  
Representative Hurley  
Representative Navarre  
Representative Goll  
Representative Sund

DLH/eb

PUBLIC TESTIMONY

ON

SB 271

April 17, 1985

Mr. Chairman, members of the Senate Labor and Commerce Committee:

My name is Dixie Hudish, Industrial Relations Officer for the International Brotherhood of Electrical Workers (IBEW), Local No. 1547, 2702 Denali Street, Anchorage, Alaska 99503. I am speaking on behalf of Jack Hull, Business Manager, of the IBEW.

First of all I would like to thank those legislators who have worked so diligently on this proposed Bill that the IBEW wholeheartedly supports SB 271.

The IBEW is most concerned with out of state firms who are awarded bids for construction and bringing their own workers from out of state.

Presently, in our Fairbanks office, where jobs are dispatched out for slope work, we have approximately 200 residents in all four classifications (Communication, Wireman, Lineman and Apprentice)

out of work. We have only 100 members (local residents) working on the slope at this time. Compared to 600 residents last year who are on Book I. Local resident members who have lived in Alaska one year and have worked a certain number of hours (2,080 hours within the past four years) in the trade are dispatched first from Book I.

We have better than 32% Alaska natives in the Apprenticeship program at Fairbanks. These apprentices are from Barrow, Nome, Kotzebue, Galena, Tanana and Fort Yukon. Yet there are 40 apprentice wireman and 120 wireman out of work from the Fairbanks dispatch area.

We have 12% Alaska Natives in the Apprenticeship program in Anchorage and there are presently 70 apprentices out of work (34 wireman, 24 lineman, and 12 communication). Most of these Alaska Native apprentices are from the Bethel area.

We know that a majority of our local people are losing their jobs, primarily from out of state firms who are hiring their own people and bringing them up here to work on the slope.

I would like to mention several oil field firms who are doing just that:

1. GSL Oil Field Service - A firm out of Corpus Christi, Texas, who is working out of the Prudhoe Bay Hotel. They have up to 50-60 workers, mostly out of state, presently hired as maintenance road crews.
2. Pingo Oil Field Service - They hire maintenance people and are of state.
3. North Oilfield Service - Out of state people.
4. Udelhoven Oil Field Service - A good portion of their workers are out of state and work at Kapuruk.

These oil field services are mostly subcontracted by either ARCO or SOHIO.

VECO is another large firm who hires a lot of out of state workers.

The IBEW has not dispatched any non-resident since September 1984.

Out of approximately 300 total electricians working on the slope -- we can fairly say 200 are not local people. The situation

appears not to be getting any better for our local workers, but worse.

We have approximately 300 local people out of work from the Anchorage Dispatch office. This is a very large amount of our members unemployed. Many of these members, I am sure are drawing unemployment.

We have seen many situations where outside firms are awarded contracts only to hire people from outside. Case in point is the Irby Construction Company from Jackson, Mississippi, who received the contract to build the Inter-tie line between Fairbanks and Anchorage. You might say one-half of the line was built by out of state people.

I could continue on with more examples, but I feel I have painted a big enough picture for all of you to realize the situation our local resident members are up against. One only needs to come up on a flight out of Los Angeles, etc. to verify the number of out of state workers heading for the North Slope. The IBEW feels this bill would favorably help the economic picture of Alaska. The oil and gas industry needs to be more responsive to the needs of resident hire and this bill would provide just that.



# LABORERS INTERNATIONAL UNION OF NORTH AMERICA

LOCAL NUMBER 942

OFFICES: 315 BARNETTE ST., FAIRBANKS, ALASKA 99701 PHONE (907) 456-4584  
369 S. FRANKLIN STREET, JUNEAU, ALASKA 99801 PHONE (907) 586-2860

WILLIE LEWIS  
President

JOE J. THOMAS  
Business Manager and  
Secretary-Treas.

JUNEAU OFFICE  
JAMES R. WAKEFIELD  
Assistant  
Business Manager

The following is a breakdown of people dispatched to work through Laborers Local #942 between January 1984 and April 10, 1985.

Total Dispatched - 4278  
Residents - 3923  
Nonresidents - 355  
92% Resident Hire

Total dispatched from Fairbanks hall for work at Prudhoe Bay.

Total - 1833  
Residents - 1620  
Nonresidents - 213\*  
88% Resident Hire

\*Better than 90% of this figure was name requests by Employer.

Total dispatched from Fairbanks hall for all work other than Prudhoe Bay.

Total - 2030  
Residents - 1896  
Nonresidents - 134  
93% Resident Hire

Total dispatched from Juneau and Ketchikan halls (includes all of South-eastern Alaska.)

Total - 415  
Residents - 407  
Nonresidents - 8\*  
98% Resident Hire

\*All eight were name requests by Employers as foremen or individuals with special skills.

Total dispatched by all three Local #942 Hiring Halls (Fairbanks, Juneau, Ketchikan) for work other than Prudhoe Bay.

Total - 2445  
Residents - 2303  
Nonresidents - 142  
94% Resident Hire

MR. CHAIRMAN AND MEMBERS OF THE SENATE LABOR AND COMMERCE. MY NAME IS CHARLIE ELDER AND I AM AN EMPLOYEE OF SOHIO AS AN EXECUTIVE CONSULTANT FOR OUR INTEREST IN ALASKA.

MY PURPOSE TODAY IS TO LAY ON THE TABLE SOHIO'S OBJECTIONS AND COMMENTS ON SENATE BILL 271, AND I WILL ATTEMPT TO BE BRIEF. I WILL BE GLAD TO HAVE QUESTIONS AT ANY TIME DURING MY COMMENTS. AND, OF COURSE, IT WILL BE OPEN SEASON AT THE CONCLUSION OF MY REMARKS. I WILL COMMENT TODAY ON A NUMBER OF PROVISIONS OF SB271, BUT OVERRIDING ALL OF THE LATER STATEMENTS IS THE FACT THAT THIS BILL GREATLY ERODES OUR RIGHT TO MANAGE. THIS IS AN INHERENT RIGHT AND ABSOLUTELY NECESSARY IF WE ARE TO DO THE BEST JOB IN THE INTEREST OF OUR COMPANY, EMPLOYEES, AND STOCKHOLDERS. IN VIEW OF THE STAKE THE STATE OF ALASKA HAS IN OUR PERFORMANCE, SUCCESSES AND FAILURES, THE LACK OF MANAGEMENT CONTROL, I BELIEVE, WILL FAR OUTWEIGH THE PROVISIONS OF THIS BILL AND SHOULD BE A FACTOR IN YOUR DELIBERATIONS. THE "RIGHT TO MANAGE" IS UNIVERSALLY RECOGNIZED AND IN MY NEARLY 40 YEARS WITH SOHIO I HAVE NEVER SIGNED A CONTRACT (AND THERE HAVE BEEN MANY) WITH A UNION OR A NONUNION CONTRACTOR WHICH DID NOT CONTAIN REFERENCE TO MANAGEMENT RIGHTS AS FOLLOWS:

MANAGEMENT RIGHTS

SOHIO RETAINS FULL AND EXCLUSIVE AUTHORITY FOR THE MANAGEMENT OF ITS OPERATION. SOHIO RETAINS THE RIGHT TO DIRECT THE WORKING FORCE, INCLUDING THE HIRING, PROMOTIONS,

TRANSFERS, DISCIPLINE OR DISCHARGE OF EMPLOYEES: THE SELECTION OF FOREMAN; THE ASSIGNMENT OF OVERTIME WORK AND THE DETERMINATION OF WHEN IT SHALL BE WORKED. NO RULES, CUSTOMS, OR PRACTICES WHICH LIMITS OUR PRODUCTIVITY, EFFICIENCY OR THE INDIVIDUAL AND/OR JOINT WORKING EFFORTS OF EMPLOYEES SHALL BE PERMITTED.

SB271 REMOVES FROM SOHIO A LARGE PORTION OF THESE MANAGEMENT RIGHTS AND WE BELIEVE IN THE OVERALL IT WILL WORK TO THE DETRIMENT OF THE STATE. NONE OF THE FOREGOING SHOULD BE INTERPRETED THAT SOHIO WILL NOT CONTINUE ITS GOOD FAITH EFFORT TO HAVE ALASKANS IN THE JOBS WITHOUT A LEGISLATIVE REQUIREMENT TO DO SO.

THE FOREGOING IS OUR BASIC OBJECTION, BUT WE HAVE THE FOLLOWING ADDITIONAL QUESTIONS AND COMMENTS:

- I. IF THE BILL IS UNCONSTITUTIONAL WE WILL ALL FIND OUT LATER, BUT PASSING THIS QUESTION FOR THE MOMENT, IT APPEARS THE BILL IS PUNITIVE IN NATURE OR PERHAPS THE KINDEST THING THAT COULD BE SAID IS THAT IT'S GROSSLY UNFAIR IN THAT ITS APPLICATION IS LIMITED TO THE OIL INDUSTRY AND ITS SUPPORT CONTRACTORS - NOT MENTIONING OUR OTHER INDUSTRIES UTILIZING MUCH HIGHER PERCENTAGES OF NONRESIDENTS.

AN ALASKAN DOL ANALYSIS UPDATED TO MARCH 31, 1985 CONTINUES AS FOLLOWS NONRESIDENT EMPLOYMENT IN BUSINESSES AND INDUSTRIES IN THE STATE.

- A. FOOD PROCESSING (75% NONRESIDENTS).
- B. EATING AND DRINKING PLACES (51%).
- C. MINING OTHER THAN OIL AND GAS (48%).
- D. LOGGING AND LUMBER (48%)
- E. CONSTRUCTION (45%).
- F. HOTELS (44%).
- G. BUSINESS SERVICES (44%).
- H. FISHERIES ?
- I. TOURISM ?

THE OIL INDUSTRY DOES NOT EVEN MAKE THE SCOREBOARD. BY WHAT LOGIC ARE THESE BUSINESSES EXCLUDED FROM SB 271? THIS INFORMATION FLIES IN THE FACE OF LEGISLATIVE FINDINGS (2).

2. LEGISLATIVE FINDINGS (4) (5) REFERS TO THE INVESTMENT BY THE STATE IN TRAINING PROGRAMS. WHILE I AM NOT FAMILIAR WITH ANY SPECIFIC TRAINING PROGRAMS CONDUCTED FOR THE PRIVATE SECTOR, WE APPRECIATE AND COMMEND THE STATE FOR THEIR SUPPORT OF VOCATIONAL EDUCATION. SOHIO HAS MADE SUBSTANTIAL USE OF THESE FACILITIES TO TRAIN ALASKAN WORKERS. WE HAVE PAID TUITION OF \$125,000 OVER THE LAST FIVE YEARS TO THE VOC-ED FACILITIES AND HAVE ALSO AWARDED SCHOLARSHIPS AMOUNTING TO \$38,000 TO GRADUATES THROUGHOUT THE STATE FOR ATTENDANCE AT OTHER INSTITUTIONS. WE DO NOT BELIEVE THE STATE'S INVESTMENTS H. BEEN OF LITTLE AVAIL.

3. SECTION 38.45.030 RESIDENT HIRE PASSES THE RESPONSIBILITY OF PREPARING REGULATIONS AND ADMINISTERING PROVISIONS OF THE BILL TO THE COMMISSIONER OF LABOR AND THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES.

THE COMMISSIONER OF LABOR IS CHARGED WITH 17 DISTRICT RESPONSIBILITIES, INCLUDING THE ASSESSMENT PENALTIES, WHICH I WILL NOT REPEAT.

THE COMMISSIONER OF DNR HAS THE RESPONSIBILITY TO STUDY AND EVALUATE DOL CERTIFICATION, INVESTIGATION AND HOLD HEARINGS, AND, IF WILLFULL NONCOMPLIANCE IS DETERMINED THE COMMISSIONER CAN IMPOSE SEVERE PENALTIES.

IN ADDITION, DOL OR DNR MAY SEEK INJUNCTIVE RELIEF AGAINST A PERSON WHO IS NOT IN COMPLIANCE.

4. INsofar AS THE EMPLOYER IS CONCERNED HE MUST, IN THE INTEREST OF GOOD BUSINESS, CONSIDER AND MAKE A JUDGMENT ON AT LEAST ELEVEN ISSUES, MOST OF WHICH ENCROACH ON HIS RIGHT TO MANAGE.
5. INsofar AS THE STATE IS CONCERNED SB271 CERTAINLY DOES NOT ENCOURAGE INVESTMENT IN OIL DEVELOPMENT, AND IT COULD PREVENT THE LOWEST COST DEVELOPMENT WHICH MAY BE NECESSARY FOR FOR THE MARGINAL FIELDS WE EXPECT TO BE WORKING WITH.

IF PASSED, SB271 WILL CERTAINLY RESULT IN HIGHER ADMINISTRATIVE COSTS IF ALL OF THE PROVISIONS ARE CARRIED OUT. I AM CURIOUS AS TO WHETHER OR NOT THIS POINT HAS BEEN CONSIDERED.

THE STATE WILL ACQUIRE A BILL THAT IS BASICALLY UNINFORCEABLE, AND ASSURES THE CERTAINTY OF MANY LAWSUITS FILED BY INDIVIDUALS, THE INDUSTRY AND ITS ASSOCIATED CONTRACTORS.

6. FINALLY, IT'S COUNTERPRODUCTIVE TO THE STATE POLICY  
- CONTAINED IN SECTION 38.45.010.

THIS CONCLUDES MY PREPARED REMARKS.

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

Original sponsors: Faiks, Josephson,  
Sturgulewski, et al

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

28 (d) The legislature finds that

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

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

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

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

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

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

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

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

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

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

1 by January 31 of each year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (1) the percentage of civilian minority residents in the

1 zone exceeds the percentage of civilian minority residents in the  
2 state;

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

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

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

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

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

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

29 (1) either the percent of unemployment of female residents

1 of the zone is at least two times the percent of unemployment of male  
2 residents of the zone or the female population of the zone has suf-  
3 fered past economic discrimination;

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

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

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

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

22 (2) on a public works project under a grant to a municipal-  
23 ity under AS 37.05.315;

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

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

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

1 (b) If the governor has declared an area to be an area impacted  
2 by an economic disaster under AS 44.33.285, then the preference for  
3 residents of the area established under AS 44.33.285 - 44.33.310  
4 supersedes the preference under AS 36.10.150 - 36.10.175 for contracts  
5 awarded by the state.

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

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

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

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

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

29 (1) made a false sworn statement; or

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

3 (b) The amount of the civil penalty under (a) of this section  
4 for a person who falsely certifies that the person is eligible for an  
5 employment preference under this chapter is not more than \$400 for  
6 each false certification.

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

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

20 Sec. 36.10.990. DEFINITIONS. In this chapter

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

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

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

26 (9) "resident" means a person who establishes residency  
27 under AS 01.10.055.

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

29 (e) The Department of Labor shall require a municipality awarded

1 a grant for a public works project under (a) of this section to comply  
2 with the hiring preferences under AS 36.10.150 - 36.10.175 for employ-  
3 ment generated by the grant.

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

5 (b) The Department of Labor shall require a recipient awarded a  
6 grant for a public works project under (a) of this section to comply  
7 with the hiring preferences under AS 36.10.150 - 36.10.175 for employ-  
8 ment generated by the grant.

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

10 (b) The Department of Labor shall require the qualified incor-  
11 porated entity awarded a grant or agents or contractors with whom the  
12 Department of Community and Regional Affairs contracts under (a) of  
13 this section to comply with the requirements of AS 36.10.150 - 36.10.-  
14 175 for employment generated by the grant or contract if the grant or  
15 contract is for a public works project.

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

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

21 \* Sec. 12. This Act takes effect immediately in accordance with AS 01.-  
22 10.070(c).

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

Revision Date : 4/3/86

**REQUEST**

Bill/Resolution No. : CSSS SB 271 (Resources)  
 Title : "An Act requiring resident hire  
 on certain natural resources projects.."  
 Sponsor : Josephson, Kerttula, et al.  
 Requestor : Resources  
 Date of Request : 4/2/86

**FISCAL DETAIL**

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

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		113.9	231.4	231.4	231.4	231.4
TRAVEL		17.0	47.7	49.6	51.6	53.7
CONTRACTUAL		21.0	12.2	12.7	13.2	13.7
SUPPLIES		2.0	3.6	3.7	3.8	3.9
EQUIPMENT		4.8	4.8	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>158.7</b>	<b>299.7</b>	<b>297.4</b>	<b>300.0</b>	<b>302.7</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND	0	158.7	299.7	297.4	300.0	302.7
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>158.7</b>	<b>299.7</b>	<b>297.4</b>	<b>300.0</b>	<b>302.7</b>

**POSITIONS :**

FULL-TIME	0	3	6	6	6	6
PART-TIME						
TEMPORARY						

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

Prepared by : *Robert J. Bacolas Sr.* Phone : 465-4870  
 Division : Labor Standards & Safety Date : 4/3/86  
 Approved by Commissioner : *Jim Robison* Date : 4/3/86  
 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. CSSS SB 271

In order to carry out the monitoring activities, investigations, and hearings required of this bill the Department of Labor would need the following resources:

## FY 87

Two Wage and Hour Investigator I's and one Clerk-Typist III would be required. Costs and duties associated with these positions are detailed on the attached Request for New Position forms.

In addition to these costs, these would be a one time expense of \$15,000 to develop software and lease equipment to capture residency information.

## FY 88 and beyond

Major Prudhoe and Kuparuk unitization agreements are due to be renegotiated in FY 88. At that time the agreements will be covered by the provisions of this bill. An additional Wage and Hour Investigator located in Fairbanks and two Wage and Hour Technicians will be required. Costs associated with these positions are summarized below:

	<u>W&amp;H Tech. Anchorage</u>	<u>W&amp;H Tech. Anchorage</u>	<u>W&amp;H Invest. I Fairbanks</u>
Personal Service	33.6	33.6	50.3
Travel	0	0	15.0
Contractual	2.0	2.0	2.0
Commodities	.5	.5	.5
Equipment	1.6	1.6	1.6
	<u>37.7</u>	<u>37.7</u>	<u>69.4</u>

Also, an additional \$15,000 in travel expense would be incurred by existing positions for travel to the North Slope.

## Assumptions

1. The major unitization agreements (Prudhoe Bay and Kuparuk) will not be covered by this bill until FY 88 when the agreements are renegotiated.
2. Inflation on non-personal services items would be 4% per year.

Position Title <b>Wage and Hour Investigator I</b>			No. of Positions <b>2</b>	Range/Step <b>15A</b>	Barg. Unit <b>GGU</b>	Gov.	Approv.	Disapp.
Time Status <b>PFT</b>	Staff Months <b>12</b>	RP Number	Location <b>Anchorage</b>	Election District	Leg.			
Type of Expenditure			Justification					
Amount			<p>These positions would monitor new or re-negotiated oil and gas leases and other natural resources projects on state land to ensure compliance with resident hire laws. They would also hold hearings when requested.</p> <p>The positions would interact with the Department of Natural Resources and industry contacts to establish an effective monitoring procedure.</p> <p>Travel costs are to establish monitoring procedures and for monitoring compliance with resident hire laws.</p> <p>Contractual and commodity costs are average per position costs. The equipment costs are for desks, chairs, cabinets, etc., and are one-time costs.</p>					
1	2	3						
Salary	67,320							
Benefits	20,196							
Premium Pay								
Other								
Total Personal Services		87,516						
Travel		17,000						
Contractual		4,000						
Commodities		1,000						
Equipment		3,200						
Other								
Total Cost		112,716						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004	112,716					
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
For B&M Use Only								
Key Number _____								

**Request For  
New Position**

Agency Labor  
 BRU Labor Standards and Safety  
 Component Wage and Hour

Page 1 of 2  
 Revised Date \_\_\_\_\_

**FY 87**

Position Title <b>Clerk Typist III</b>			No. of Positions <b>1</b>	Range/Step <b>8A</b>	Barg. Unit <b>GGI</b>	Gov.	Approv.	Disapp.
Time Status <b>PFT</b>	Staff Months <b>12</b>	RP Number	Location <b>Anchorage</b>		Election District	Leg.		
Justification								
This position would provide typing, filing and data entry under the provisions of this bill.								
Contractual and commodities costs are average per employee costs. The equipment costs are for a desk, chair, cabinets, etc., and are a one-time item.								
Type of Expenditure			Amount					
1	2	3						
Salary	<b>20,316</b>							
Benefits	<b>6,095</b>							
Premium Pay								
Other								
Total Personal Services		<b>26,411</b>						
Travel		<b>-0-</b>						
Contractual		<b>2,000</b>						
Commodities		<b>1,000</b>						
Equipment		<b>1,600</b>						
Other								
Total Cost		<b>31,011</b>						
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004 <b>31,011</b>					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
For B&M Use Only Key Number _____								

**Request For  
New Position**

Agency Labor  
 BRU Labor Standards and Safety  
 Component Wage and Hour

Page 2 of 2  
 Revised Date \_\_\_\_\_

**FY 87**

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

Revision Date : 4/3/86

**REQUEST**

Bill/Resolution No. : CSSSSB 271 (Resources)  
 Title : "An Act requiring resident hire  
 on certain natural resources projects..."

Sponsor : Josephson, Kerttula, et al  
 Requestor : Resources  
 Date of Request ; 4/2/86

**FISCAL DETAIL**

Agency Affected : Labor  
 BRU : 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		133.6	133.6	133.6	133.6	133.6
TRAVEL		0	0	0	0	0
CONTRACTUAL		193.7	204.0	242.2	241.1	247.2
SUPPLIES		1.2	1.2	1.3	1.3	1.4
EQUIPMENT		4.0	.8	.9	.9	1.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>332.5</b>	<b>339.6</b>	<b>378.0</b>	<b>376.9</b>	<b>383.2</b>

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

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

**FUNDING : (Thousands of Dollars)**

GENERAL FUND	0	332.5	339.6	378.0	376.9	383.2
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>332.5</b>	<b>339.6</b>	<b>378.0</b>	<b>376.9</b>	<b>383.2</b>

**POSITIONS :**

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

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

Prepared by : *Brim Budy for* Judy Knight, Director Phone : 465-2720  
 Division : Administrative Services Date : 4/03/86

Approved by Commissioner *Jim Robison* Jim Robison Date : 4/03/86  
 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  
Bill/Resolution No. CSSSSB 271 (Resources)

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

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

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

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

Third Year all industries.

4. In addition to the occupational information, reporting of the residency status by industry and area would be necessary.
5. Information to make the determinations of Sec. 38.45.070 (b) will be developed as follows:

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

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

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

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

- a) Estimates of eligible and available residents within each economic region will be evaluated relative to the projected employment for relevant occupations.
  - b) all occurrences where the Department is unable to assist an employer to place a qualified resident will be recorded as to the specific occupation and area. Subsequent cases will not require resident placement in that occupation and area until sufficient data exists to indicate that qualified residents are available.
6. Resident hire legislation requires comprehensive statistical support of the displacement of residents by nonresident workers, and the resulting social effects.
  7. Extensive mainframe data processing costs will be required. No one computer file has all of the information necessary for the analysis required by this legislation. Records of several files, with as many as 2 million records (UI wage items), have to be matched together by Social Security Number (SSN), and information on occupational titles and Certified Payrolls entered and edited.

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

Programming costs include: modification of programs used last year (\$2,000); development of new applications in FY 87 (\$25,500); and system maintenance, and analytical extractions (\$2,000) in all years. Estimated total programming costs are \$29,500 for FY 87 (983 hours @ \$30 per hour including all benefits and overhead), dropping to \$4,500 (150 hours @ \$30 per hour) in FY 88, and experiencing small inflationary costs in later years.

Primary processing will be done on the DOL computer. Costs are allocated to projects based upon use, in conformance with federal and state accounting requirements. Total data processing operations costs are estimated at \$116,000 in FY 87. Primarily due to the phase in of additional industries' occupational titles costs will increase to \$131,000 in FY 88, \$146,000 in FY 89, \$149,000 in FY 90, and \$152,000 in FY 91.

Microcomputers will be used for analysis and editing when possible to minimize costs.

8. Printing costs for the annual report are estimated at \$4,500 the first year with inflationary increases in FY 90 and FY 91. This is based upon an assumption of 1,500 copies at \$3 each.

9. Long distance phone calls will be done on a daily basis to verify the accuracy of occupational titles. The greatest number of calls will occur in the first year that an industry is surveyed. After the first three years the costs would drop.

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

10. As currently drafted the statistical and analytical requirements of Senate Bill 271 closely parallel that of House Bill 466, and its Senate complement 367. If both pieces of legislation are enacted our fiscal note for House Bill 466 would also cover all of our costs for Senate Bill 271.

Summary of  
Nonpersonal Services by Year

	FY 87	FY 88	FY 89	FY 90	FY 91
Travel	0	0	0	0	0
Key Entry	20,000	40,000	62,000	64,000	66,000
DP Operations	116,000	131,000	146,000	149,000	152,000
DP Applications	29,500	4,500	4,700	4,900	5,100
Printing	4,500	4,500	4,500	4,700	5,000
Long Distance Phone Service	12,000	12,500	13,000	6,000	6,200
Equipment Lease	8,000	8,300	8,700	9,000	9,400
Equipment Maintenance	800	800	900	900	900
Training, shipping, & Misc.	2,900	2,400	2,400	2,600	2,600
<b>Total Contractual</b>	<b>193,700</b>	<b>204,000</b>	<b>242,200</b>	<b>241,100</b>	<b>247,200</b>
Supplies	1,200	1,200	1,300	1,300	1,400
Equipment(desk,chair,software)	4,000	800	900	900	1,000



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

**Request For  
New Position**

Agency Labor  
 BRU Administrative Services  
 Component Special Services

Page 6 of 8  
 Revised Date

**FY 87**

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

**Request For  
New Position**

Agency Labor  
 BRU Administrative Services  
 Component Special Services

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

**FY 87**

Position Title <b>Statistical Clerk</b>			No. of Positions <b>1</b>	Range/Step <b>108</b>	Barg. Unit <b>GAU</b>	Gov. <input type="checkbox"/>	Approv. <input type="checkbox"/>	Disapp. <input type="checkbox"/>	
Time Status <b>PFT</b>	Staff Months <b>12.0</b>	RP Number	Location <b>Juneau</b>	Election District <b>4</b>	Leg. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Type of Expenditure			Justification						
		Amount	<p>This position will work on the quality control of occupational titles which would be submitted by employers each quarter. Specifically, the duties would be:</p> <ol style="list-style-type: none"> <li>1. Review detailed edit listings.</li> <li>2. Update edit data files.</li> <li>3. Call employers for clarification when necessary.</li> <li>4. Correct occupational titles.</li> <li>5. Prepare computer summaries of results.</li> </ol> <p>Contractual costs for this position include phone, training, and other miscellaneous items.</p>						
<b>1</b>	<b>2</b>	<b>3</b>							
Salary	23,580								
Benefits	8,458								
Premium Pay									
Other									
Total Personal Services		32,038							
Travel		0							
Contractual		3,600							
Commodities		365							
Equipment		1,300							
Other									
Total Cost		37,303							
Receipt Code	Funding Source								
	Federal Receipts	1002							
	G. F. Match	1003							
	General Funds	1004							37,303
	I-A Receipts	1005							
	Program Receipts	1028							
	CIP Receipts	1061							
	Other								
For B&M Use Only									
Key Number									

**Request For  
New Position**

Agency Labor  
 BRU Administrative Services  
 Component Special Services

Page 8 of 8  
 Revised Date

**FY 87**

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

Revision Date: 4/3/86

**REQUEST**

Bill/Resolution No.: CSSS SB 271 (Resources)  
 Title: "An Act requiring resident hire on certain natural resources projects.."

Sponsor: Josephson, Kerttula, et al.

Requestor: Resources

Date of Request: 4/2/86

**FISCAL DETAIL**

Agency Affected: Labor  
 BRU: Labor Standards and Safety

Components: Wage and Hour

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		113.9	231.4	231.4	231.4	231.4
TRAVEL		17.0	47.7	49.6	51.6	53.7
CONTRACTUAL		21.0	12.2	12.7	13.2	13.7
SUPPLIES		2.0	3.6	3.7	3.8	3.9
EQUIPMENT		4.8	4.8	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>158.7</b>	<b>299.7</b>	<b>297.4</b>	<b>300.0</b>	<b>302.7</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND	0	158.7	299.7	297.4	300.0	302.7
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>158.7</b>	<b>299.7</b>	<b>297.4</b>	<b>300.0</b>	<b>302.7</b>

**POSITIONS :**

FULL-TIME	0	3	6	6	6	6
PART-TIME						
TEMPORARY						

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

Prepared by: Robert J. Bacolas Sr. Phone: 465-4870  
 Division: Labor Standards & Safety Date: 4/3/86

Approved by Commissioner: Jim Robison Date: 4/3/86  
 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. CSSS SB 271

In order to carry out the monitoring activities, investigations, and hearings required of this bill the Department of Labor would need the following resources:

## FY 87

Two Wage and Hour Investigator I's and one Clerk-Typist III would be required. Costs and duties associated with these positions are detailed on the attached Request for New Position forms.

In addition to these costs, these would be a one time expense of \$15,000 to develop software and lease equipment to capture residency information.

## FY 88 and beyond

Major Prudhoe and Kuparuk unitization agreements are due to be renegotiated in FY 88. At that time the agreements will be covered by the provisions of this bill. An additional Wage and Hour Investigator located in Fairbanks and two Wage and Hour Technicians will be required. Costs associated with these positions are summarized below:

	<u>W&amp;H Tech. Anchorage</u>	<u>W&amp;H Tech. Anchorage</u>	<u>W&amp;H Invest. I Fairbanks</u>
Personal Service	33.6	33.6	50.3
Travel	0	0	15.0
Contractual	2.0	2.0	2.0
Commodities	.5	.5	.5
Equipment	<u>1.6</u>	<u>1.6</u>	<u>1.6</u>
	37.7	37.7	69.4

Also, an additional \$15,000 in travel expense would be incurred by existing positions for travel to the North Slope.

## Assumptions

1. The major unitization agreements (Prudhoe Bay and Kuparuk) will not be covered by this bill until FY 88 when the agreements are renegotiated.
2. Inflation on non-personal services items would be 4% per year.

Position Title Wage and Hour Investigator I			No. of Positions 2	Range/Step 15A	Barg. Unit GGU	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location Anchorage		Election District	Leg.		
Type of Expenditure			Justification					
Amount			<p>These positions would monitor new or re-negotiated oil and gas leases and other natural resources projects on state land to ensure compliance with resident hire laws. They would also hold hearings when requested.</p> <p>The positions would interact with the Department of Natural Resources and industry contacts to establish an effective monitoring procedure.</p> <p>Travel costs are to establish monitoring procedures and for monitoring compliance with resident hire laws.</p> <p>Contractual and commodity costs are average per position costs. The equipment costs are for desks, chairs, cabinets, etc., and are one-time costs.</p>					
1	2	3						
Salary	67,320							
Benefits	20,196							
Premium Pay								
Other								
Total Personal Services		37,516						
Travel		17,000						
Contractual		4,000						
Commodities		1,000						
Equipment		3,200						
Other								
Total Cost		112,716						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		112,716					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only								
Key Number								

Request For  
New Position

Agency Labor  
BRU Labor Standards and Safety  
Component Wage and Hour

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Revised Date

FY 87

Position Title <b>Clerk Typist III</b>			No. of Positions <b>1</b>	Range/Step <b>8A</b>	Barg. Unit <b>GGU</b>	Gov.:	Approv.	Disapp.
Time Status <b>PFT</b>	Staff Months <b>12</b>	RP Number	Location <b>Anchorage</b>		Election District	Leg.		
Justification								
Type of Expenditure			Amount					
1	2	3						
Salary	<b>20,316</b>							
Benefits	<b>6,095</b>							
Premium Pay								
Other								
Total Personal Services		<b>26,411</b>						
Travel		<b>-0-</b>						
Contractual		<b>2,000</b>						
Commodities		<b>1,000</b>						
Equipment		<b>1,600</b>						
Other								
Total Cost		<b>31,011</b>						
Receipt Code		Funding Source						
		Federal Receipts 1002						
		G. F. Match 1003						
		General Funds 1004 <b>31,011</b>						
		I-A Receipts 1005						
		Program Receipts 1028						
		CIP Receipts 1061						
		Other						
For B&M Use Only Key Number _____								

This position would provide typing, filing, and data entry under the provisions of this bill.

Contractual and commodities costs are average per employee costs. The equipment costs are for a desk, chair, cabinets, etc., and are a one-time item.

**Request For  
New Position**

Agency Labor  
 BRU Labor Standards and Safety  
 Component Wage and Hour

Page 2 of 2  
 Revised Date \_\_\_\_\_

**FY 87**

# Local hire laws continue to push constitutional limits

**D**espite frequent setbacks in federal and state courts, state and local legislators — not just in Alaska, but around the country — continue their struggle to produce local hire laws that will meet constitutional requirements.

The United States Supreme Court ruled in 1978 that the Alaska Hire Act was unconstitutional because its broad terms discriminated too heavily against non-resident workers. The state legislature responded by enacting the present Local Hire law, which limits the coverage of the residency requirement to state-funded projects. In 1984, however, an Anchorage Superior Court judge ruled that the Local Hire law still did not meet constitutional requirements.

The Alaska Supreme Court is currently considering the Superior Court's decision on appeal. The high court had permitted the state to enforce the Local Hire law until the court reached its decision, but the court revoked that authority in July.

The Alaska legislature amended the Local Hire law this past session in an attempt to solve the constitutional problems that were identified by the Superior Court. It is unknown whether these amendments will do the job. Proponents of local hire legislation do find some cause for hope in a recent Wyoming Supreme Court decision that ruled that a Wyoming law, similar to Alaska's Local Hire law, was constitutional.

Another legislative means of favoring Alaska residents is the Alaska Bidder Preference Act. This law gives resident bidders a 5 percent advantage in competing for certain state contracts.

Although this law may be subject to the same constitutional problems that have plagued Local Hire, no one has, as yet, successfully challenged the Alaska Bidder Preference statute. Nonetheless, the legislature amended the act during the last session to improve the law's chances of withstanding a constitutional challenge if one arises.

Local governments also have made attempts to give their residents preference in hiring. The Fairbanks Assembly recently approved a resolution supporting local hire for its contracts. Municipal ordinances requiring local hire will be



## Legal notes

Dick McCann

subject to the same constitutional requirements imposed on state legislation and may be ruled unconstitutional if they are not carefully drafted.

As another option, the legislature might also consider taxing out-of-state residents who work in Alaska. Many other cities and states have attempted to institute such "commuter taxes" and failed. In instances where the tax on non-residents is offset by taxes on residents, which demonstrates that non-residents are paying no more than their fair share, some local hire plans have succeeded.

Can the legislature produce a Local Hire law that will work? It can be done, but the state will have to convince the courts that there is a substantial unemployment problem in Alaska, that non-residents are a peculiar source of that problem, and that resident hiring requirements (the Local Hire law) are closely tailored to remedy that problem. The legislature's latest Local Hire amendments might be enough to satisfy these requirements.

The Local Hire amendments, as well as the Alaska Bidder Preference amendments, articulate policy reasons for favoring Alaska residents. Legislators hope that these new provisions will increase the chances that the Local Hire law will pass judicial scrutiny. We may have to wait a long time to find out whether the legislature's efforts were successful.

Even if the Alaska Supreme Court decides that the Local Hire statute is unconstitutional, that decision will not give us a definitive ruling on the constitutionality of the amended statute.

*Dick McCann has been a practicing attorney for 15 years and is managing partner of Perkins Coie's Anchorage office.*

# Local hire laws continue to push constitutional limits

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## Legal notes

Dick McCann

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*Dick McCann has been a practicing attorney for 15 years and is managing partner of Perkins Cole's Anchorage office.*



# THE ALLIANCE

P.O. Box 100100 / Anchorage, Alaska 99510 / (907) 582-0100

Senator Arliss Sturgulewski  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

May 3, 1985

Dear Senator Sturgulewski:

This morning, the directors of the Alaska Support Industry Alliance unanimously adopted the attached resolution in support of the practice and concept of "local hire".

As you will find, the resolution notes that job opportunities exist in all industries operating in Alaska, including government, and that qualified Alaska residents should be given preference in filling those openings. The statement of policy also emphasizes that incentives to encourage public and private sector employers to reach out to qualified Alaska residents would create a positive business climate which, in turn, will serve to give momentum to additional economic development opportunities.

As your committee deliberates the committee substitute for Senate Bill number 271, we encourage you to incorporate these policy concepts into the final version. Meanwhile, we offer the following observations on the bill you will have before the committee next Wednesday.

1. Sec. 38.45.020 (1) & (2) find that the Alaska economy has historically been "unstable". On the contrary, the Alaska economy has been rather vigorous, growing at an annual rate of 6.5 percent over the past 15 years. Although it has slowed somewhat during the decade of the 80s, it must be remembered that the base is substantially larger and that an annual growth rate of 6.0 percent still must be considered vigorous. Moreover, since the lion's share of the Alaska economy is comprised of government and mining (the petroleum industry in particular) perceptions that Alaska's economy is "unstable" ought to be reconsidered.
2. Subsection (9) of that section points to a "trend towards hiring nonresidents". We have tried to develop some data which might substantiate this statement but have not yet been able to do so. Indeed the State Department of Labor cannot provide verification of the statement at this time either. Our impression of the trend is away from the historic requirement to look for qualified

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## Alaska Support Industry Alliance

---

... for responsible economic development

Milton Byrd - President  
Frontier Companies of Alaska

Ann Curtis - Vice President  
Crowley Maritime

Charles F. Becker - Vice President  
Brown & Root, Inc.

William D. Bennett - Secretary  
Perkins, Cole, Stone,  
Olson & Williams

Val Molyneux - Treasurer  
Veco, Inc.

Bill Bettes - Director  
Pingo Corporation

Randy Goodrich - Director  
Executive Travel Service

Roger Haxby - Director  
Waukeaha Alaska Corporation

Joe Mathis - Director  
Universal Services, Inc.

Walt Rafterman - Director  
Pacifi Industrial Company

Jack Thompson - Director  
Air Van Lines, Inc.

William F. Webb - Director  
Arctic Hosts, Inc.

Senator Sturgulewski  
Page two  
May 3, 1985

help outside Alaska. Although leakage in the economy still does occur, the accelerated pace of import substitution coupled with an average increase of 13,500 new jobs per year over the past four years would seem to point toward a reversal of the trend to go "outside" for qualified employees. From a practical perspective, it is uneconomic to do so.

3. Subsection (11) of Sec. 38.45.020 appears to be a warning directed at Alaska employers that if state residents are not given employment opportunities, the tax code might be used as a tool for penalizing those employers. We are sure that state policies favoring a stable level of taxation are based on solid concepts of economic development principles as opposed to the interpretation which some might give to the manner in which this finding is stated.
4. In general, we would encourage you and members of your committee to accentuate the positive aspects of the Alaska economy and to eliminate some of the more onerous tonalities contained in the draft bill.
5. Sec. 38.45.030, as written, implies state imposed quotas and determinations which might prove to be in conflict with federal EEO statutes and/or constitutionally indefensible.
6. Sec. 38.45.050. The committee might want to discuss the applicability of the bill to recipients of state loans for business development.
7. Sec. 38.45.070. We would hope the committee would devote considerable time to an analysis of the negative consequences stemming from enactment of penalties as severe as those are which are set forth in this section. Shutting down business operations, blacklisting, fines which appear to punish rather than to elicit compliance, are not, in our opinion, conducive to fostering a positive business climate in Alaska.
8. Finally, as we indicated earlier, all Alaskan employers need to be aware of the benefits attendant to employment of Alaska residents. Sec. 38.45.090 (2) singles out the oil and gas, mineral and timber industries, along with their support industry network.

Thank you for the opportunity to present our perspective on this important issue.

Sincerely,

*William Webb*

William Webb  
President

Enclosure

WW/bs



# THE ALLIANCE

P.O. Box 100100 / Anchorage, Alaska 99510 / (907) 562-0100

## RESOLUTION IN SUPPORT OF THE PRACTICE AND CONCEPT OF "LOCAL HIRE"

WHEREAS, consistently high levels of unemployment have been endemic in Alaska's socioeconomic history, and

WHEREAS, these structural and cyclical dislocations have been substantially ameliorated through the economic development initiatives which have occurred over the past two decades, and

WHEREAS, despite these major impacts on the Alaska labor force, unacceptable levels of unemployment remain, and

WHEREAS, immediate and future prospects for economic development opportunities exist in . . .

- \* the petroleum industry, as it refocuses its attention towards the promise off Alaska's coastline;
- \* the hard-rock mining industry, as world-scale operations lay at the threshold of development;
- \* the visitor industry, a happy product of sophistication in the transportation, services and trade industries, as campaigns continue to spur increases in the number of tourists choosing Alaska as a destination;
- \* the fishing industry, as new concepts in surimi production and marketing open up the enormous potential attendant to bottomfish harvesting and as "fish and chips" diplomacy prods profitability of Alaskan joint ventures;
- \* the finance, insurance and real estate industries, as our population continues to expand and more people choose to invest in opportunities in Alaska rather than "Outside"; and

WHEREAS, it is economically and sociologically prudent that qualified Alaska residents in search of employment should be given preference for jobs in these industries and others.

---

### Alaska Support Industry Alliance

... for responsible economic development

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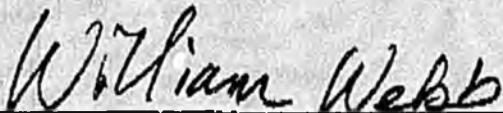
William F. Webb - Director  
Arctic Hosts, Inc.

THE ALLIANCE

NOW THEREFORE BE IT RESOLVED, that the Alaska Support Industry Alliance hereby supports the practice and concept of providing employment preference to qualified Alaska residents.

BE IT FURTHER RESOLVED, that the Alliance calls upon the leaders of Alaska's prime industries and their support network of industries and government, to institute practices and policies which are designed to achieve this objective.

BE IT FURTHER RESOLVED, that the Alliance does hereby call upon the leaders of government in Alaska to develop incentives to facilitate local hire practices and which, in the process, serve to create a positive business climate in the state which will also generate added opportunities for Alaska and Alaskans.



William Webb, President



Chuck Becker, Vice President

This third day of May, Nineteen Hundred and Eighty-Five.

ALASKA SUPPORT INDUSTRY ALLIANCE

RESOLUTION #3

1985

IN SUPPORT OF THE PRACTICE AND CONCEPT OF "LOCAL HIRE"

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- \* the hard-rock mining industry, as world-scale operations lay at the threshold of development;
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- \* the fishing industry, as new concepts in surimi production and marketing open up the enormous potential attendant to bottomfish harvesting and as "fish and chips" diplomacy prods profitability of Alaskan joint ventures;
- \* the finance, insurance and real estate industries, as our population continues to expand and more choose to invest in opportunities in Alaska rather than "Outside"; and

WHEREAS, it is economically and sociologically prudent that, <sup>QUALIFIED</sup> Alaska residents in search of employment should be given the first right of refusal on jobs in these industries <sup>AND OTHERS</sup>.

NOW THEREFORE BE IT RESOLVED, that the Alaska Support Industry Alliance hereby supports the practice and concept of providing employment preference to <sup>QUALIFIED</sup> Alaska residents.

BE IT FURTHER RESOLVED, that the Alliance calls upon the leaders of Alaska's prime industries and their support network of industries, to institute practices and policies which are designed to achieve this objective.

BE IT FURTHER RESOLVED, that the Alliance does hereby call upon the leaders of government in Alaska to develop incentives to facilitate local hire practices and which, in the process, serve to create a positive business climate in the state which will also serve to generate added opportunities for Alaska and Alaskans.

ALASKA SUPPORT INDUSTRY ALLIANCE

RESOLUTION #3

1985

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1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 367 (L&C)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act requiring resident hire on certain natural  
7 resource projects on state land; and providing for an  
8 effective date."

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

10 \* Section 1. AS 38 is amended by adding a new chapter to read:

11 CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

12 Sec. 38.45.010. STATE POLICY. It is the policy of the state to  
13 develop its natural resources to provide the maximum benefit to the  
14 people of the state as required by the Constitution of the State of  
15 Alaska. These benefits include employment opportunities in natural  
16 resource development projects for residents qualified for the employ-  
17 ment, as well as receipt of state revenue from the development.

18 Sec. 38.45.020. LEGISLATIVE FINDINGS. The legislature finds:

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

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

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

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

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

3 (6) a major factor of increasing importance in the unem-  
4 ployment problem is the failure of employers engaged in the explora-  
5 tion, development, and production of natural resources on state land,  
6 and under leases or other agreements granted or permitted by the  
7 state, to employ state residents;

8 (7) whereas at an earlier stage of the state's history it  
9 was asserted that high unemployment in the state was due to cultural  
10 and geographical migration barriers, the state now has many residents  
11 who are qualified, trained, and available for employment in the explo-  
12 ration, development, production, and extraction of natural resources  
13 on state land, but who are not presently employed because an increas-  
14 ing amount of the work they are qualified to perform is being per-  
15 formed on state land by nonresidents;

16 (8) the state has made significant investments in training  
17 programs and vocational education to help furnish industry with qual-  
18 ified residents able to work in the development, exploration, produc-  
19 tion, and extraction of natural resource products on state land;

20 (9) unless the trend towards hiring nonresidents is re-  
21 versed, the state's investment in these training and education pro-  
22 grams will be of little avail, the state policy of maximizing benefits  
23 from natural resource development will be thwarted, and the state will  
24 suffer the burdens wrought by increasing demands for public assistance  
25 and other state services from unemployed residents and their families;

26 (10) employment of nonresidents displaces qualified resi-  
27 dents from work in the development, exploration, production, and  
28 extraction of natural resource products on state land and from work in  
29 service occupations on state land that directly support the

1 development, exploration, and production activities; therefore, the  
2 growing number of nonresidents hired for work on state land, in the  
3 development, exploration, production, and extraction of state re-  
4 sources, is a peculiar source of the unemployment evil now besetting  
5 the state;

6 (11) state policies favoring stable levels of taxation have  
7 been predicated upon assurances from the natural resource industries  
8 that state residents would receive employment opportunities in the  
9 exploration, development, and production of natural resources from  
10 state-owned land, but data show that these assurances, and the expect-  
11 tations they created, are not being fulfilled.

12 Sec. 38.45.030. ELIGIBILITY FOR PREFERENCE. (a) The Department  
13 of Labor shall certify a person as eligible for a hiring preference  
14 under this chapter if the person applies on a form provided by the  
15 department, 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 unemployed and has registered with a public or  
19 private employment agency;

20 (3) is underemployed or marginally employed as determined  
21 by regulations adopted by the department; or

22 (4) has completed a job-training program approved by the  
23 department.

24 Sec. 38.45.040. RESIDENT HIRE REQUIREMENTS. (a) An employer  
25 shall meet the resident hiring requirements established by the commis-  
26 sioner of labor under this section on a natural resource project on  
27 state land that is subject to a hiring preference under AS 38.45.060.  
28 An employer may not discriminate against qualified residents in em-  
29 ployment on a natural resource project on state land.

1 (b) The commissioner of labor shall determine the amount of work  
2 that must be performed under this chapter by eligible qualified resi-  
3 dents on a natural resource project on state land. In making this  
4 determination, the commissioner shall consider the nature of the work,  
5 the classification of workers, availability of eligible residents, and  
6 the willingness of eligible residents to perform the work. The com-  
7 missioner shall require an employer to make the maximum feasible  
8 effort to hire eligible qualified residents for jobs on state land.

9 (c) In order to create, protect, and preserve the right of  
10 eligible qualified residents to employment in natural resource proj-  
11 ects on state land, the commissioner of natural resources shall incor-  
12 porate into each lease, unitization agreement, or renegotiation of a  
13 lease or agreement, provisions requiring compliance with this chapter,  
14 regulations adopted under this chapter, and all later amendments to  
15 this chapter or the regulations, and authorizing penalties under  
16 AS 38.45.080 for failure to comply. The commissioner shall incorpo-  
17 rate into each lease, agreement, or renegotiation a requirement that  
18 the lessee include in each contract under the lease or agreement with  
19 contractors or subcontractors who will be operating on state land a  
20 provision requiring compliance with this chapter, later amendments of  
21 this chapter, regulations adopted under this chapter, and authorizing  
22 penalties under AS 38.45.080.

23 (d) An employer subject to resident hiring requirements under  
24 this chapter may request the Department of Labor to assist in locating  
25 eligible, qualified, available employees. After receiving a request  
26 for assistance, the department shall refer eligible, qualified, avail-  
27 able residents to the employer to fill the employer's hiring needs.  
28 If the department is unable to refer a sufficient number of eligible  
29 residents, it may approve the hiring of residents who are not eligible

1 for preference and nonresidents for the balance of the request.

2 Sec. 38.45.050. REPORTING PROVISIONS. An employer obligated to  
3 meet resident hiring requirements under this chapter shall comply with  
4 the reporting provisions that the commissioner of labor determines are  
5 reasonably necessary to carry out this chapter.

6 Sec. 38.45.060. APPLICABILITY OF CHAPTER. This chapter applies  
7 to all natural resource projects on state land. The Department of  
8 Labor shall determine the extent of the resident hiring preference for  
9 each project under AS 38.45.040. The preference applies only to  
10 employment that is performed directly for an employer.

11 Sec. 38.45.070. REGULATIONS AND HEARINGS. (a) The Department  
12 of Labor and the Department of Natural Resources shall adopt regula-  
13 tions to implement this chapter. The Department of Labor shall adopt  
14 regulations prohibiting discrimination against qualified residents in  
15 employment on a natural resource project on state land. Regulations  
16 and proceedings under this chapter are subject to the Administrative  
17 Procedure Act (AS 44.62) except as provided in (b) of this section.

18 (b) An employer shall determine and judge the work qualifica-  
19 tions of applicants for employment. An applicant who has been reject-  
20 ed or an employee who has been terminated from employment may, within  
21 30 days after the rejection or termination, request a hearing before  
22 the Department of Labor to determine whether the employer violated  
23 this chapter in denying the application or terminating the employment.  
24 The Department of Labor shall hold a hearing on the question within 20  
25 days of receipt of the request unless the applicant or employee re-  
26 quests a longer period of time.

27 (c) The Department of Labor may conduct investigations and  
28 hearings to determine compliance with this chapter. If the commis-  
29 sioner of labor finds that an employer has wilfully failed to comply

1 with this chapter, the commissioner may certify the finding to the  
2 Department of Natural Resources.

3 Sec. 38.45.080. PENALTIES. (a) If the Department of Labor  
4 finds that an employer has rejected a qualified applicant or term-  
5 inated a qualified employee from employment in violation of this  
6 chapter, the department may require the employer to pay the person  
7 three times the amount of wages the person lost and may require addi-  
8 tional amounts if the person's actual expenses incurred as a result of  
9 the wrongful action exceeded the triple wages assessed. Either party  
10 may appeal the department's decision under this section to the su-  
11 perior court. The court may hear the appeal de novo.

12 (b) The Department of Natural Resources, upon certification of  
13 noncompliance by the Department of Labor under AS 38.45.070, may  
14 investigate and conduct hearings. If it finds wilful noncompliance,  
15 the department may impose on the employer any of the following pen-  
16 alties:

17 (1) increase the rent or other forms of compensation re-  
18 ceived by the state under the project lease or agreement by a factor  
19 of no more than 10; the increase may not exceed \$100,000;

20 (2) require that all or a portion of project operations  
21 cease;

22 (3) remove, for an appropriate period of time not to exceed  
23 three years, the eligibility of the employer to contract with the  
24 state or any of its political subdivisions; or

25 (4) require a noncompliance payment in liquidated damages  
26 to the state in an amount equal to seven and one-half times the number  
27 of hours required but not worked by eligible qualified residents  
28 multiplied by the going wage or salary rate for the particular job or  
29 activity involved.

1 (c) The commissioner may impose the penalties under (b)(1) and  
2 (2) of this section on a lessee only if the lessee itself has failed  
3 to comply with this chapter or incorporate into the contract with the  
4 violator a provision requiring compliance with this chapter.

5 Sec. 38.45.090. INJUNCTIVE RELIEF. The Department of Labor or  
6 the Department of Natural Resources, in addition to the imposition of  
7 penalties under AS 38.45.080, may seek injunctive relief against a  
8 person who is not in compliance with this chapter; the Department of  
9 Natural Resources may seek injunctive relief to enforce penalties  
10 imposed under AS 38.45.080.

11 Sec. 38.45.100. DEFINITIONS. In this chapter

12 (1) "employer" means a person other than the state who is a  
13 party to a lease or agreement for a natural resource project on state  
14 land and includes the person's affiliate, principal, subsidiary,  
15 contractor, or subcontractor if the activity of the affiliate, princi-  
16 pal, subsidiary, contractor, or subcontractor is performed on state  
17 land;

18 (2) "natural resource project on state land" means a con-  
19 tract, lease, unitization agreement, or a renegotiation of a contract,  
20 lease, or agreement for exploration, development, extraction or pro-  
21 duction of oil and gas, mineral, or timber resources if the state is a  
22 party to the contract, lease or agreement and the project is performed  
23 in whole or in part on state land;

24 (3) "qualified resident" means a resident who possesses the  
25 requisite education, training, skills, or experience to perform the  
26 work;

27 (4) "resident" means a person who

28 (A) except for military service, has been physically  
29 present in the state for a period of 30 days immediately before

1 the time the person enters into a contract of employment on a  
2 natural resource project on state land; and

3 (B) shows by all attending circumstances the intention  
4 to permanently reside in this state.  
5

6 \* Sec. 2. This chapter applies to a lease, unitization agreement, or  
7 contract for the development of oil and gas, mineral, or timber resources  
8 entered into on or after the effective date of this Act and to a  
9 renegotiation of the lease, agreement, or contract. This chapter applies  
10 to the renegotiation on or after the effective date of this Act of a lease,  
11 agreement, or contract entered into before the effective date of this Act  
12 if the renegotiation results in a major change to the duties of a party.

13 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
14 10.070(c).  
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REPRESENTATIVE MARCO A. PIGNALBERI

TESTIMONY

HB 367 RESIDENT HIRE ON OIL & GAS LEASES

House Labor & Commerce Committee

May 2, 1985

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Representative Marco A. Pignalberi  
Testimony HB 367  
House Labor & Commerce Committee  
May 2, 1985

HB 367/SB 271 Companion Bills

HB 367 is the companion bill to SB 271.

Since the Senate Resources Committee has already conducted a public hearing on SB 271, a number of constructive amendments have been prepared following testimony by the affected state agencies, business firms, labor organizations and interested individuals. These suggested amendments have been duplicated for your consideration as a Committee Substitute for HB 367.

Introduced: 4/11/85  
Referred: Labor & Commerce,  
Judiciary and Finance

BY PIGNALBERI, COTTEN,  
DAVIS, PHILLIPS, HURLEY,  
NAVARRE, GOLL AND SUND

1 IN THE HOUSE

2

HOUSE BILL NO. 367

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act requiring resident hire under certain oil and

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gas leases and unitization agreements on state land;

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HB 367

1 exploration, development, and production of oil and gas on state land,  
2 but who are not presently employed because an increasing amount of the  
3 work they are qualified to perform is being performed on state land by  
4 nonresidents;

5 (4) the state has made significant investments in training  
6 programs and vocational education to help furnish industry with qual-  
7 ified residents able to work in the development, exploration, and  
8 production of oil and gas products on state land;

9 (5) unless the trend towards hiring nonresidents is re-  
10 versed, the state's investment in these training and education pro-  
11 grams will be of little avail, the state policy of maximizing benefits  
12 from natural resource development will be thwarted, and the state will  
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14 and other state services from unemployed residents and their families;

15 (6) employment of nonresidents displaces qualified resi-  
16 dents from work in the development, exploration and production of oil  
17 and gas products on state land and from work in service occupations on  
18 state land that directly support the development, exploration, and  
19 production activities; therefore, the growing number of nonresidents  
20 hired for work on state land, in the development, exploration, and  
21 production of state resources, is a peculiar source of the unemploy-  
22 ment evil now besetting the state;

23 (7) state policies favoring stable levels of taxation have  
24 been predicated upon assurances from the oil and gas industry that  
25 state residents would receive employment opportunities in the explora-  
26 tion, development, and production of oil and gas from state-owned  
27 land, but data show that these assurances, and the expectations they  
28 created, are not being fulfilled.

29 Sec. 38.45.030. RESIDENT HIRE. (a) An employer shall meet the

1 resident hiring requirements established by the commissioner of labor  
2 under this section on an oil and gas project on state lands that is  
3 subject to a hiring preference under AS 38.45.050. An employer may  
4 not discriminate against qualified residents in employment on an oil  
5 and gas project on state land.

6 (b) The commissioner of labor shall determine the amount of work  
7 that must be performed under this chapter by qualified residents on an  
8 oil and gas project on state land. In making this determination, the  
9 commissioner shall consider the nature of the work, the classification  
10 of workers, availability of residents, and the willingness of resi-  
11 dents to perform the work. The commissioner shall require an employer  
12 to make the maximum feasible effort to hire qualified residents for  
13 jobs on state land.

14 (c) In order to create, protect, and preserve the right of qual-  
15 ified residents to employment in oil and gas projects on state land,  
16 the commissioner of natural resources shall incorporate into each  
17 lease, unitization agreement, or renegotiation of a lease or agree-  
18 ment, provisions requiring compliance with this chapter and authoriz-  
19 ing penalties under AS 38.45.070 for failure to comply.

20 (d) The Department of Labor shall maintain a file of the names  
21 of qualified residents seeking employment on an oil and gas project on  
22 state land. The department shall make the file available to an em-  
23 ployer and to an employment or dispatching agency, union, or other  
24 similar entity.

25 Sec. 38.45.040. REPORTING PROVISIONS. An employer obligated to  
26 meet resident hiring requirements under this chapter shall comply with  
27 the reporting provisions that the commissioner of labor determines are  
28 reasonably necessary to carry out this chapter.

29 Sec. 38.45.050. APPLICABILITY OF CHAPTER. (a) The Department

1 of Labor shall determine by regulation the minimum monetary value for  
2 projects subject to the resident hiring preference under this chapter.  
3 In determining the minimum value, the department shall compare the  
4 benefit that enures to state residents with administrative and en-  
5 forcement costs.

6 (b) An employer shall submit to the department evidence of the  
7 monetary value of an oil and gas project on state land. The depart-  
8 ment shall determine whether the project is subject to a hiring pref-  
9 erence. If the project is subject to a hiring preference, the depart-  
10 ment shall determine the extent of the preference under AS 38.45.030.  
11 The preference applies only to employment that is performed directly  
12 for an employer. The department shall ensure that projects or activ-  
13 ities within projects are not artificially divided to prevent coverage  
14 under this chapter. If the department finds evidence of artificial  
15 division, the burden is on the employer to show that the division is  
16 not artificial.

17 Sec. 38.45.060. REGULATIONS AND HEARINGS. (a) The Department  
18 of Labor and the Department of Natural Resources shall adopt regula-  
19 tions to implement this chapter. The Department of Labor shall adopt  
20 regulations prohibiting discrimination against qualified residents in  
21 employment on an oil and gas project on state land. Regulations and  
22 proceedings under this chapter are subject to the Administrative  
23 Procedure Act (AS 44.62) except as provided in (b) of this section.

24 (b) An employer shall determine and judge the work qualifica-  
25 tions of applicants for employment. An applicant who has been reject-  
26 ed or an employee who has been terminated from employment may request  
27 a hearing before the Department of Labor to determine whether the  
28 employer violated this chapter in denying the application or terminat-  
29 ing the employment. The Department of Labor shall hold a hearing on

1 the question within 10 days of receipt of the request unless the  
2 applicant or employee requests a longer period of time.

3 (c) The Department of Labor may conduct investigations and  
4 hearings to determine compliance with this chapter. If the commis-  
5 sioner of labor finds that an employer has wilfully failed to comply  
6 with this chapter, the commissioner may certify the finding to the  
7 Department of Natural Resources.

8 Sec. 38.45.070. PENALTIES. (a) If the Department of Labor  
9 finds that an employer has rejected a qualified applicant or term-  
10 inated a qualified employee from employment in violation of this  
11 chapter, the department may require the employer to pay the person  
12 three times the amount of wages the person lost and may require addi-  
13 tional amounts if the person's actual expenses incurred as a result of  
14 the wrongful action exceeded the triple wages assessed. Either party  
15 may appeal the department's decision under this section to the su-  
16 perior court. The court shall hear the appeal de novo.

17 (b) The Department of Natural Resources, upon certification of  
18 noncompliance by the Department of Labor, under AS 38.45.060, may  
19 investigate and conduct hearings. If it finds wilful noncompliance,  
20 the department may impose on the employer any of the following pen-  
21 alties, as appropriate:

22 (1) increase the rent or other forms of compensation re-  
23 ceived by the state under the project lease or agreement by a factor  
24 of no more than 10; the increase may not exceed \$100,000;

25 (2) require that all or a portion of project operations  
26 cease;

27 (3) remove, for an appropriate period of time not to exceed  
28 \_\_\_ years, the ability of the employer to contract with the state or  
29 any of its political subdivisions; or

1           (4) require a noncompliance payment in liquidated damages  
2 to the state in an amount equal to seven and one-half times the number  
3 of hours required but not worked by qualified residents, times the  
4 going wage or salary rate for the particular job or activity involved.

5           Sec. 38.45.080. INJUNCTIVE RELIEF. The Department of Labor or  
6 the Department of Natural Resources, in addition to the imposition of  
7 penalties under AS 38.45.070, may seek injunctive relief against a  
8 person who is not in compliance with this chapter; the Department of  
9 Natural Resources may seek injunctive relief to enforce penalties  
10 imposed under AS 38.45.070.

11          Sec. 38.45.090. DEFINITIONS. In this chapter

12           (1) "employer" means a person other than the state who is a  
13 party to a lease or agreement for an oil and gas project on state land  
14 and includes the person's affiliate, principal, subsidiary, contrac-  
15 tor, or subcontractor if the activity of the affiliate, principal,  
16 subsidiary, contractor, or subcontractor is performed on state land;

17           (2) "oil and gas project on state land" means an oil and  
18 gas lease, a unitization agreement, or any renegotiation of a lease or  
19 agreement if the state is a party to the lease or agreement and the  
20 project is performed in whole or in part on state land;

21           (3) "resident" means a person who

22           (A) except for military service, has been physically  
23 present in the state for a period of 30 days immediately before  
24 the time the person enters into a contract of employment on an  
25 oil and gas project on state land; and

26           (B) shows by all attending circumstances the intention  
27 to permanently reside in this state.

28          \* Sec. 2. This chapter applies to an oil and gas lease, a unitization  
29 agreement, or a renegotiation of a lease or agreement entered into on or

1 after the effective date of this Act.

2 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
3 10.070(c).

BACKGROUND STATEMENT

Representative Marco A. Fignalberi  
Testimony HB 367  
House Labor & Commerce Committee  
May 2, 1985

BACKGROUND

The State Legislature enacted a resident hire law applicable to oil and gas leases on state lands in 1972. This law was enforced by the Department of Labor throughout the period of construction of the Trans-Alaska Oil Pipeline. A court case (Hicklin v. Orbeck) which eventually was decided by the United States Supreme Court, found the state's local hire law to be unconstitutional. HB 367 would re-establish a state policy for resident hire preference for all employment on oil and gas projects having leases on state land.

There were a number of issues raised in the court arguments, and the Court's opinion addressed various standards which were deficient. The essence of the decision was that the Supreme Court struck down the law because its scope was too broad.

The scope of the preference in HB 367 is much narrower than the previous statute. It is unlike the earlier law which applied to all state oil and gas leases, easements, or right-of-way permits for oil and gas pipelines and unitization agreements. The previous law also extended to other employers who had no direct connection to the state's oil and gas, who performed no work on state land, had no contractual relationship with the state and received no payment from the state.

Rep. Marco Pignalberi  
Testimony HB 367  
May 2, 1985

HB 367 clearly identifies the definition of "employer" as being limited to that area of activity where work is being performed on oil and gas leases contained on state lands. Other details of the bill are contained in the sectional analysis which follows.

## BACKGROUND AND PURPOSE

During the course of preparation for a resolution (HCR20) introduced earlier in the year on the subject of local hire, I discovered a number of things about our Alaskan economy, our Alaskan workforce, and our ill-defined and uncoordinated state policy on resident hire.

There are a number of factors involved in our local economy and in the problems we face in attempts to maximize full benefits for our state's residents in employment. Every member of this Committee has heard the statement that Alaska ranks among the top in severity of unemployment. I was shocked to learn the extent of that severity.

During last year (calendar 1984) Alaska had the fifth highest unemployment in the country! In the past twelve months, Alaska has averaged 10.5% unemployment. That means there were approximately 40,000 Alaskans out of work for at least a part of the year.

Don't you think it seems strange that in a state with the largest amount of construction activity in both the public and private sector, a state where the per capita budget is the highest in the nation, a state that has the second or third fastest growing economy in the country....such a state should have the fifth highest unemployment in the country?

One of the things I learned in studying the local hire/resident-nonresident hiring issue was the secondary impact on our economy caused by out-of-state workers drawing unemployment insurance payments from the Alaska Trust Fund.

In 1983 \$21 million in unemployment insurance payments went to people living in other states. Last year, 1984, the amount of payments to outside workers increased to \$22 million. This is a direct drain of money from our local economy. This is especially bothersome in the oil and gas industry because this industry has the highest weekly unemployment insurance benefit payment of all industries.

The purpose of HB 367 is to clearly establish a positive policy whereby local hire is the first priority for all employment activity in the state. Residents of Alaska can and will receive priority preference in employment practices. Passage of this bill will be another step in implementing this policy.

SECTIONAL ANALYSIS

Representative Marco A. Pignalberi  
Testimony HB 367  
House Labor & Commerce Committee  
May 2, 1985

## SECTIONAL ANALYSIS

### Section 1

adds a new Chapter (AS 38.45) with nine subsections titled:

38.45.010	State Policy
38.45.020	Legislative Findings
38.45.030	Resident Hire
38.45.040	Reporting Provisions
38.45.050	Applicability of Chapter
38.45.060	Regulations and Hearings
38.45.070	Penalties
38.45.080	Injunctive Relief
38.45.090	Definitions

#### Subsections 010 and 020 State Policy and Legislative Findings

These sections state that the policy for development is to provide benefit to Alaskan residents, and enumerates seven legislative findings about unemployment and the need for a resident employment preference.

#### Subsection 030 Resident Hire

This section contains four parts which, a) requires employers to meet certain hiring requirements, b) directs the Commissioner of Labor to make a determination of the amount of work subject to a hiring preference, c) directs the Commissioner of Natural Resources to incorporate into leases and other contracts, provisions requiring compliance, and d) directs the Commissioner of Labor to maintain a file of names of qualified residents seeking employment.

Subsection 040 Reporting Provisions

This section requires employers to report to the Commissioner of Labor whatever provisions the Commissioner determines are necessary.

Subsection 050 Applicability of Chapter

This section requires an employer to submit evidence of the value of an oil and gas project, and directs the Commissioner of Labor to determine the minimum value of projects subject to the hiring preference.

Subsection 060 Regulations and Hearings

This section directs the Departments of Labor and Natural Resources to adopt regulations to prohibit discrimination in employment against residents. The Department of Labor is authorized to conduct investigations and hearings to determine compliance.

Subsection 070 Penalties

This Section establishes the penalties for noncompliance. These penalties include payment to a terminated employee or rejected applicant of three times the amount of wages lost. The decision may be appealed to the Superior Court. The Department of Natural Resources is also empowered to impose any of four penalties:

- 1) increase the rent or other compensation from the project lease by a factor of 10, up to an amount of \$100,000;
- 2) require that a project cease operations;
- 3) restrict, for a period of time, the ability of a firm to contract with the state or any municipality;
- 4) require payment to the state an amount equal to seven and one half times the number of hours not worked by residents times the going wage or salary rate for a particular job.

Sectional Analysis  
HB 367  
May 2, 1985

Subsection 080 Injunctive Relief

Permits the Departments of Labor and Natural Resources to seek injunctive relief, and further permits DNR to seek injunctive relief to enforce penalties.

Subsection 090 Definitions

Definitions listed in this section include:

"employer"  
"resident"  
"oil and gas project on state land"

Section 2

This section identifies the application of this chapter shall be for:

- 1) an oil and gas lease
- 2) a unitization agreement
- 3) a renegotiation of a lease or agreement

Section 3

The effective date of this Act will be immediately upon enactment

POSITION PAPERS

Bill No. House Bill No. 367

Date April 30, 1985

Title "An Act requiring resident hire under certain oil and gas leases and unitization agreements on state land; and providing for an effective date."

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

House Bill 367 would establish a resident hire preference for all employment on oil and gas projects on state land:

Under the bill, the Department of Labor would be primarily responsible for: (1) establishing resident hire requirements for each oil and gas project on state land; (2) maintaining and making available a list of qualified residents seeking employment on oil and gas projects; (3) establishing and monitoring employer reporting requirements; (4) conducting investigations and holding hearings to determine compliance with resident hire requirements; (5) seeking monetary penalties and/or injunctive relief for noncompliance; and (6) promulgating requirements for oil and gas projects on state land.

Because of the beneficial impact of resident hiring on the workforce and the economy in general, the Department strongly endorses the principle that qualified Alaska residents should be given employment preference on natural resource projects on state land. This is consistent with the view that a state is entitled to give preference to its own citizens in the development of the state's natural resources.

Although the Department supports House Bill 367, the bill as presently drafted would have a significant fiscal impact. We believe this impact could be reduced through the following refinement to the bill:

Because of the substantial cost involved in establishing and maintaining a comprehensive list of all qualified residents for oil and gas employment, AS 38.45.030(d) should be amended to require that, upon the receipt of an employer job order for oil and gas employment, the Department will then screen its applicant pool for qualified residents and make the appropriate referrals. It would be very costly to maintain an updated list of all qualified residents interested in oil and gas employment.

In addition, making such a list available to employment agencies, unions, and other entities would run afoul of both state and federal confidentiality laws. Once such an "official" list of qualified applicants is circulated, the potential for abuse of that list is enormous. In its place, the Department recommends a job order/referral system similar to what is currently done on public construction projects.

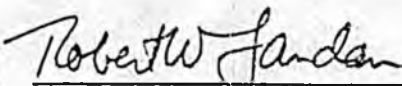
The Department also recommends additional amendments as follows:

1. Additional legislative findings be added to Sec. 38.45.020 to emphasize the particular problems caused by non-resident hire in Alaska.
2. The scope of the bill be expanded to include mineral and timber resource projects in addition to oil and gas leases.

3. An additional provision be added to Sec. 38.45.030(c) to require that companies, who contract with contractors or subcontractors who operate on state land, incorporate, in any contract entered into after the effective date of the bill, a provision requiring the contractor or subcontractor to comply with the provisions of chapter 38.45.
4. The monetary threshold under 38.45.050(b) be eliminated, making the Department responsible for establishing resident hire requirements for each covered project.
5. In Sec. 38.45.060(b), specify that applicants who have been rejected or employees who have been terminated from employment have 30 days to request a hearing, and that the Department be given 20 days, instead of 10, to hold a hearing after a request is received. This will allow the Department sufficient time to investigate a complaint and prepare for a hearing.
6. Under 38.45.070(b)(3), the maximum period for debarment from public construction projects be established as three years for violating companies.
7. A new subsection be added to 38.45.070 to specify that the penalties of having to pay increased rent or having to cease operations could apply only if the employer in violation is a lessee under lease of a state agency, or is a subsidiary or affiliate of the lessee. For example, these penalties would not be applied when a company is in compliance with this chapter, but a contractor or subcontractor is not unless the company has failed to incorporate, in any contract with the violator entered into after the effective date of this chapter, a provision requiring the contractor or subcontractor to comply with the provisions of this chapter.
8. A definition of "qualified resident" be included in 38.45.090.
9. Clarification be made in Sec. 2 of the bill that only those renegotiations of contracts that involve major changes to duties of the parties will require incorporation of the resident hire provisions.

Attached are line-by-line amendments which would incorporate the Department's recommendations.

APPROVED:

  
for Jim Robison, Commissioner  
Department of Labor

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

APR 29 1985

## DEPARTMENT OF NATURAL RESOURCES

POUCH M  
JUNEAU, ALASKA 99811  
PHONE: 907-465-2400

OFFICE OF THE COMMISSIONER

April 26, 1985

The Honorable Mike Navarre  
Alaska State House  
Pouch V  
Juneau, AK 99811

Dear Representative Navarre:

The Department of Natural Resources defers to the Department of Labor and the Department of Law concerning the constitutionality and applicability of House Bill No. 367. We would, however, point out some of the difficulties that may be incurred when implementing this legislation.

Determining whether a project is subject to local hire requirements could be a problem in cases where part of an oil and gas development project is a shore based facility on a state land lease; or where part of a project is on an oil and gas lease held by another company; or where part of a project is on federal or private land. The regulations developed to implement HB 367 could probably define more specifically the application of local hire requirements under these situations.

To avoid possible difficulties associated with requiring the incorporation of a local hire clause when minor changes are made in existing leases or unit agreements, we suggest the following changes to line 17, page 3: Add the word "new" before the word "unitization" and replace "renegotiation" with "major change". I have enclosed information related to unit agreements to clarify the need for these changes.

As you may know, there have been a number of different resident hire stipulations included in state oil and gas leases over the last decade, and several of the most recent are presented below:

In 1980, the stipulation read:

Lessees shall comply with all valid and applicable laws and regulations with regard to the hiring of Alaska residents. Lessee will not discriminate against Alaska residents, as prohibited by applicable laws and regulations of the State of Alaska. Lessee will furnish the Alaska Department of Labor a quarterly

April 26, 1985

report regarding the employment of Alaska residents on the leased area in compliance with regulations adopted by the Commissioner of Labor.

In 1982, the provision was revised to read:

The lessee is encouraged to hire Alaska residents to perform work done by or for it within the State of Alaska in connection with this lease to the extent that residents are available, willing and qualified. The lessee must submit to the Director, DMEM, a program detailing the affirmative steps it will take to recruit and hire Alaska residents and the statistical indicators it will use to document the program's success. The lessee will submit these statistics annually to the Director, DMEM.

The currently used term eliminates the reporting requirement, at the request of the Department of Labor.

The lessee is encouraged to hire and employ Alaska residents and companies, to the extent that they are available and qualified, for work performed on the leased area.

Lease terms relating to the provisions in HB 367 could be inserted in oil and gas leases and agreements by existing staff and monitoring and enforcement activities could also be completed by existing staff.

If we may provide additional information about this bill or local hire requirements, please let me know.

Sincerely,



Esther C. Wunnicke  
Commissioner

cc: House Labor and Commerce  
Committee members  
Sponsors

# MEMORANDUM

# State of Alaska

Department of Natural Resources  
Division of Oil and Gas

TO: Fred Vreeman, NRO

DATE: April 16, 1985

FILE NO: 4-509.2

TELEPHONE NO: 276-2653

FROM:   
Kate Fortney, Unit Manager

SUBJECT: Renegotiation of Unit  
Agreements

Following is a summary of the various types of unitization activities in which the State might be construed to have the ability to negotiate or renegotiate unit agreement terms. A table listing the unitization activities for the past two years for the existing State units is also attached. If you need any further information, please advise.

## SUMMARY OF UNITIZATION ACTIVITIES

1. Approval of a Unit: the creation of a voluntary unit out of separate oil and gas leases is approved pursuant to AS 38.05.180(p)&(q), AS 31.05.110, and 11 AAC 83.301 -- 11 AAC 83.395. The State has the authority to renegotiate rental, royalty, minimum royalty, drilling, and producing terms under AS 38.05.180(p) and the unitization clauses of the various leases.
2. Amendment of a Unit Agreement: bilateral amendment of the unitization contract originally approved by the State at the time of unitization. In most cases, the State does not have any control over the direction of an amendment to a unit agreement, although we can negotiate amendment (or addition) of terms we feel are important in return for amendment of other terms the unit operator wants or proposes. For example, a number of units have requested approval of amendments to their unit agreements postponing the formation of a participating area until 90 days prior to production (a change from their original terms requiring a participating area within five years of certification of a well as capable of production in paying quantities).
3. Expansion of a Unit: expansion of the unit area of an existing unit to include additional leases. We can renegotiate rental, royalty, minimum royalty, drilling, and producing terms of certain leases at the time of expansion of a unit; however, to date we have only been able to make the renegotiated terms applicable to the leases to be added to the unit. It's all a game of negotiation; if the entire unit wants the new leases to be added to the unit badly enough, we could probably make the renegotiated terms stick to the entire unit. So far, we haven't had a strong enough case to cause the terms to be added to the entire units; with the upcoming expansion of Prudhoe Bay Unit to encompass the leases in the Lisburne reservoir, we may have such a case (especially since the AOGCC Field Rules for that reservoir dictate that no production from the Lisburne may occur until the unit has been expanded to include all of the Lisburne leases).

4. Contraction of a Unit: units are required to be contracted to essentially their productive acreage within a specified time after the commencement of production. It is doubtful whether we have the ability to induce the amendment of any unit agreement terms at that time, as the language of the unit agreement usually just calls for contraction down to the participating area. Possibly we might have some room for negotiation if the working interest owners want a larger area than we feel is absolutely justified by the geology, but probably not.
5. Approval of Plans of Exploration/Development: each unit is required to present a plan of exploration or development pursuant to 11 AAC 83.341 -- 11 AAC 83.343. The State is more or less obliged to approve such plan if it meets the terms of those regulations.
6. Extension of Unit Agreement: the State has the authority to approve an extension of a unit if it has not discovered oil or gas in paying quantities by the time the original unit agreement expires (usually five years from the unit's initial approval). This happens very rarely.
7. Change in Unit Operator: the State must approve any change in the Unit Operator of a Unit. It is possible that we could tie our approval to a concurrent amendment of the unit agreement, but I think we would be on shaky grounds.
8. Misc. Approvals: the State receives many requests for approvals of miscellaneous activities that do not fall under any of the above categories (e.g. deferral of required unit work commitments, extension of time to comply with unit agreement or plan of development terms, negotiation and construction of emergency storage and field cost settlements for productive units, etc.) It is possible that we could negotiate the addition of a resident hire term as a condition of approval of certain of these approvals.

2257A

cc: Kay Brown  
Jim Eason  
Bill Van Dyke  
Pam Rogers  
Renel Hall

PUBLIC TESTIMONY

ON

SB 271

April 17, 1985

Mr. Chairman, members of the Senate Labor and Commerce Committee:

My name is Dixie Hudish, Industrial Relations Officer for the International Brotherhood of Electrical Workers (IBEW), Local No. 1547, 2702 Denali Street, Anchorage, Alaska 99503. I am speaking on behalf of Jack Hull, Business Manager, of the IBEW.

First of all I would like to thank those legislators who have worked so diligently on this proposed Bill that the IBEW wholeheartedly supports SB 271.

The IBEW is most concerned with out of state firms who are awarded bids for construction and bringing their own workers from out of state.

Presently, in our Fairbanks office, where jobs are dispatched out for slope work, we have approximately 200 residents in all four classifications (Communication, Wireman, Lineman and Apprentice)

out of work. We have only 100 members (local residents) working on the slope at this time. Compared to 600 residents last year who are on Book I. Local resident members who have lived in Alaska one year and have worked a certain number of hours (2,080 hours within the past four years) in the trade are dispatched first from Book I.

We have better than 32% Alaska natives in the Apprenticeship program at Fairbanks. These apprentices are from Barrow, Nome, Kotzebue, Galena, Tanana and Fort Yukon. Yet there are 40 apprentice wireman and 120 wireman out of work from the Fairbanks dispatch area.

We have 12% Alaska Natives in the Apprenticeship program in Anchorage and there are presently 70 apprentices out of work (34 wireman, 24 lineman, and 12 communication). Most of these Alaska Native apprentices are from the Bethel area.

We know that a majority of our local people are losing their jobs, primarily from out of state firms who are hiring their own people and bringing them up here to work on the slope.

I would like to mention several oil field firms who are doing just that:

1. GSL Oil Field Service - A firm out of Corpus Christi, Texas, who is working out of the Prudhoe Bay Hotel. They have up to 50-60 workers, mostly out of state, presently hired as maintenance road crews.
2. Pingo Oil Field Service - They hire maintenance people and are of state.
3. North Oilfield Service - Out of state people.
4. Udelhoven Oil Field Service - A good portion of their workers are out of state and work at Kapuruk.

These oil field services are mostly subcontracted by either ARCO or SOHIO.

VECO is another large firm who hires a lot of out of state workers.

The IBEW has not dispatched any non-resident since September 1984.

Out of approximately 300 total electricians working on the slope -- we can fairly say 200 are not local people. The situation

appears not to be getting any better for our local workers, but worse.

We have approximately 300 local people out of work from the Anchorage Dispatch office. This is a very large amount of our members unemployed. Many of these members, I am sure are drawing unemployment.

We have seen many situations where outside firms are awarded contracts only to hire people from outside. Case in point is the Irby Construction Company from Jackson, Mississippi, who received the contract to build the Inter-tie line between Fairbanks and Anchorage. You might say one-half of the line was built by out of state people.

I could continue on with more examples, but I feel I have painted a big enough picture for all of you to realize the situation our local resident members are up against. One only needs to come up on a flight out of Los Angeles, etc. to verify the number of out of state workers heading for the North Slope. The IBEW feels this bill would favorably help the economic picture of Alaska. The oil and gas industry needs to be more responsive to the needs of resident hire and this bill would provide just that.

STATE OF ALASKA  
THE LEGISLATURE

APR 10 1985

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 10, 1985

SUBJECT: Resident employment preference under  
oil and gas leases or agreements on  
state lands (Work Order No. 14-1068)

TO: Representative Marco Pignalberi

FROM: Teresa B. Cramer *ABC*  
Legislative Counsel

Enclosed is the bill you requested. The bill raises constitutional issues. Under Hicklin v. Orbeck, 437 U.S. 518, 57 L.Ed. 2d 397, 98 S.Ct. 2482 (1978), the United States Supreme Court struck down a previous Alaska Hire law because its scope was too broad. The court held that state ownership of the oil and gas was insufficient under the Privileges and Immunities Clause to justify the statute's discrimination against nonresidents.

The scope of the preference in the statute struck down by the Court was broader than the preference in this bill. It applied to all state oil and gas leases, easements, or right-of-way permits for oil and gas pipelines and unitization agreements. The Court noted that it extended to employers who had no direct connection to the state's oil and gas, who performed no work on state land, had no contractual relationship with the state and received no payment from the state.

Whether the nexus between the state and the employers covered by this bill falls within the permitted ambit of state activity under the Privileges and Immunities Clause is not clear. The definition of "employer" in the bill is limited to require that the work be performed on state land and therefore meets at least one of the Hicklin standards. However, in Hicklin the Court also noted that even if a state may require private employers to practice a resident hiring preference to alleviate an unemployment problem, and even if a showing was made that nonresidents were a

'peculiar source of the evil,' nonetheless the Alaska Hire law would have been unconstitutional because its discrimination against nonresidents did not bear a substantial relationship to the 'evil' that nonresidents represented, since the preference applied to all Alaskans, not merely those who were unemployed. 437 U.S. at 528.

The Court may accept some modification of this doctrine. In United Building & Construction Trades Council v. Camden, 104 S.Ct. 1020, 79 L.Ed. 2d 249 (1984), labor organizations challenged a municipal ordinance giving city residents preference for 40% of the jobs on city construction projects. The ordinance did not limit the preference to unemployed residents nor did the Court raise that issue in its opinion. The Court remanded the case for development of a factual record establishing the grounds for the preference and supporting the remedy.

As United Bldg. & Construction makes clear, it is crucial to the survival of any resident preference legislation that an adequate legislative record be built showing clearly the facts establishing the cause of the problem and supporting the effectiveness of the preference as a remedy.

There is an additional issue over whether the connection between the state and the contractors under these oil and gas leases and agreements is sufficient to qualify the state as a market participant rather than a market regulator under White v. Massachusetts Council of Construction Employers, Inc., 460 U.S. 204, 103 S.Ct. 1042, 75 L.Ed.2d 1 (1983). In White, the Court held that the Commerce Clause established no barrier to a city employment preference on construction projects financed or administered by the City of Boston. However, in a footnote, the Court noted that

there are some limits on a state or local government's ability to impose restrictions that reach beyond the immediate parties with which the government transacts business. Cf. Hicklin v. Orbeck, 437 U.S. 518, 529-531 (1978). We find it unnecessary in this case to define those limits with precision, except to say that we think the Commerce Clause does not require the city to stop at the boundary of formal privity of contract. In this case, the mayor's executive order covers a discrete, identifiable class of economic activity in which the city is a major participant. Everyone affected by

Representative Marco Pignalberi  
April 10, 1985  
Page 3

the order is, in a substantial if informal sense,  
'working for the city.' 51 LW at 4213.

If I may be of further assistance, please advise.

TBC:cjb  
J13/077

SUGGESTED AMENDMENTS

Representative Marco A. Pignalberi  
SUGGESTED AMENDMENTS  
HB 367  
May 2, 1985

SUGGESTED AMENDMENTS

Following are the amendments suggested by the Department of Labor. These changes were made following their testimony before the Senate Resources Committee. I've included a comparison between the amendments and the original section language.

Subsection 020 Legislative Findings

New language was inserted strengthening the legislative findings about unemployment, and additional factual information was included to support the findings.

Subsection 030 Resident Hire

subsection (a)

changes an "oil and gas project" to "natural resource project". This wording is incorporated throughout the bill. This has the effect of broadening the scope of application to include more than just oil and gas projects. Under the new language, resident hiring preferences can also be enforced against any employer engaged in projects in the mining and forestry industries.

subsection (c)

strengthens language directing the Commissioner of Natural Resources to incorporate into leases and agreements a compliance provision for contractors or subcontractors who will be operating on state land.

subsection (d)

relieves the Department of Labor of the responsibility for maintaining a list of names of residents seeking employment. A further change is that an employer now "requests" of the Department of Labor to "assist in locating resident employees".

Subsection 050 Applicability of Chapter

Recommended changes in this subsection remove the minimum value determination for projects subject to the hiring preference provisions. All natural resource projects are now subject to the provisions of this chapter if the Commissioner of Labor so determines. The Commissioner is authorized to "determine the extent of the resident hiring preference for each project".

Subsection 060 Regulations and Hearings

subsection (b)

The suggested change establishes the number of days (30) for a rejected applicant or terminated employee to request a hearing to determine whether an employer violated a provision of this chapter. A second change increases from 10 days to 20 the time within which the Department of Labor shall hold a hearing on the complaint.

Subsection 070 Penalties

adds a new subsection 4(c) which allows the Commissioner of Natural Resources to increase the rental or other compensation from a lease, or to require the project to cease operation on a lease if the lessee itself has failed to comply or failed to incorporate into the contract with the violator a provision requiring compliance.

Rep. Marco Pignalberi  
SUGGESTED AMENDMENTS  
HB 367  
MAY 2, 1985

Subsection 090 Definitions

additional definitions for:  
"natural resource project"  
"qualified resident"

SECTION 2

Adds new language enabling the provisions of this Act to be retroactive. Renegotiated leases, agreements or contracts entered into before the effective date of this Act may come under the preference provisions of this chapter is it "results in a major change to the duties of a party".

Department of Labor  
Proposed Amendments to  
House Bill 367

1. Amend Sec. 38.45.020 by adding four additional findings, as follows:
  1. because of its unique climate and its distance from the contiguous states, the state has historically suffered from unique social, seasonal, geographic, and economic conditions that result in an unstable economy;
  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;
  3. the state has one of the highest ratios of nonresident to resident workers in the nation;
  4. the state has a compelling interest in reducing the level of unemployment among its residents;
2. Amend line 1 on page 2 to read:

"exploration, development, production, and extraction of natural resources on state land,"
3. Amend line 8 on page 2 to read:

"production, and extraction of natural resources on state land;"
4. Amend lines 16 and 17 on page 2 to read:

"dents from work in the development, exploration, production and extraction of natural resource products on state land and from work in service occupations on"
5. Amend lines 20 and 21 on page 2 to read:

"hired for work on state land, in the development, exploration, production, and extraction of state resources, is a peculiar source of the unemploy-"
6. Amend line 24 on page 2 to read:

"been predicated upon assurances from the natural resource industries that"
7. Amend line 26 on page 2 to read:

"tion, development, and production of natural resources from state-owned"
8. Amend line 2 on page 3 to read:

"under this section on a natural resource project on state land that is"

9. Amend lines 4 and 5 on page 3 to read:

"not discriminate against qualified residents in employment on a natural resource project on state land."

10. Amend line 8 on page 3 to read:

"natural resource project on state land. In making this determination, the"

11. Amend line 15 on page 3 to read:

"ified residents to employment in natural resource projects on state land,"

12. Amend lines 18 thru 24 on page 3 to read:

"ment, provisions requiring compliance with this chapter, regulations adopted under this chapter, and all later amendments to this chapter or the regulations, and authorizing penalties under AS 38.45.070 for failure to comply. The commissioner shall incorporate into each lease, agreement, or renegotiation a requirement that the lessee include a provision requiring compliance with this chapter, later amendments of this chapter, regulations adopted under this chapter and authorizing penalties under AS 38.45.070 in a contract under the lease or agreement with contractors or subcontractors who will be operating on state land.

(d) An employer subject to resident hiring requirements under this chapter may request the Department of Labor to assist in locating qualified available resident employees. After receiving a request for assistance, the department shall refer qualified available residents to the employer to fill the employer's hiring needs. If the department is unable to refer a sufficient number of residents, it may approve the hiring of nonresidents for the balance of the request."

13. Amend Sec. 38.45.050, beginning on line 29 of page 3 and continuing thru line 16 of page 4 to read:

"Sec. 38.45.050. APPLICABILITY OF CHAPTER. This chapter applies to all natural resource projects on state land. The Department of Labor shall determine the extent of the resident hiring preference for each project under AS 38.45.030. The preference applies only to employment that is performed directly for an employer."

14. Amend line 21 on page 4 to read:

"employment on a natural resource project on state land. Regulations and"

15. Amend line 26 on page 4 to read:

"ed or an employee who has been terminated from employment may, within 30 days after the rejection or termination, request"

15. Amend line 1 on page 5 to read:

"the question within 20 days of receipt of the request unless the"

17. Amend line 28 on page 5 to read:

"three years, the eligibility of the employer to contract with the state or"

18. Amend Sec. 38.45.070 by adding a new subsection to read:

"(c) The commissioner may impose the penalties under (b)(1) and (2) of this section on a lessee only if the lessee itself has failed to comply with this chapter or incorporate into the contract with the violator a provision requiring compliance with this chapter."

19. Amend line 13 on page 6 to read:

"party to a lease or agreement for a natural resource project on state land"

20. Amend AS 38.45.090(2), lines 17 thru 20 on page 6, to read:

"(2) "natural resource project on state land" means a contract, lease, unitization agreement, or a renegotiation of a contract, lease, or agreement for exploration, development, extraction or production of oil and gas, mineral, or timber resources if the state is a party to the contract, lease or agreement and the project is performed in whole or in part on state land;"

21. Amend Sec. 38.45.090 by adding a new definition to read:

"qualified resident" means a resident who possesses the requisite education, training, skills, or experience to perform the work;

22. Amend line 25 on page 6 to read:

"natural resource project on state land; and"

23. Amend Sec. 2, beginning on line 28 on page 6 and continuing thru line 1 on page 7, to read:

"Sec. 2. This chapter applies to a lease, unitization agreement, or contract for the development of oil and gas, or mineral or timber resources entered into after the effective date of this Act and to a renegotiation of the lease, agreement or contract. This chapter applies to the renegotiation after the effective date of this Act of a lease, agreement, or contract entered into before the effective date of this Act if the renegotiation results in a major change to the duties of a party."

CS FOR HOUSE BILL NO. 367 (L&C)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act requiring resident hire on certain natural resource projects on state land; and providing for an effective date."

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

\* Section 1. AS 38 is amended by adding a new chapter to read:

CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

Sec. 38.45.010. STATE POLICY. It is the policy of the state to develop its natural resources to provide the maximum benefit to the people of the state as required by the Constitution of the State of Alaska. These benefits include employment opportunities in natural resource development projects for residents qualified for the employment, as well as receipt of state revenue from the development.

Sec. 38.45.020. LEGISLATIVE FINDINGS. The legislature finds:

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

(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;

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

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

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

3  
4 (6) a major factor of increasing importance in the unem-  
5 ployment problem is the failure of employers engaged in the explora-  
6 tion, development, and production of natural resources on state land,  
7 and under leases or other agreements granted or permitted by the  
8 state, to employ state residents;

9 (7) whereas at an earlier stage of the state's history it  
10 was asserted that high unemployment in the state was due to cultural  
11 and geographical migration barriers, the state now has many residents  
12 who are qualified, trained, and available for employment in the explo-  
13 ration, development, production, and extraction of natural resources  
14 on state land, but who are not presently employed because an increas-  
15 ing amount of the work they are qualified to perform is being per-  
16 formed on state land by nonresidents;

17 (8) the state has made significant investments in training  
18 programs and vocational education to help furnish industry with qual-  
19 ified residents able to work in the development, exploration, produc-  
20 tion, and extraction of natural resource products on state land;

21 (9) unless the trend towards hiring nonresidents is re-  
22 versed, the state's investment in these training and education pro-  
23 grams will be of little avail, the state policy of maximizing benefits  
24 from natural resource development will be thwarted, and the state will  
25 suffer the burdens wrought by increasing demands for public assistance  
26 and other state services from unemployed residents and their families;

27 (10) employment of nonresidents displaces qualified resi-  
28 dents from work in the development, exploration, production, and  
29 extraction of natural resource products on state land and from work in  
service occupations on state land that directly support the

1 development, exploration, and production activities; therefore, the  
2 growing number of nonresidents hired for work on state land, in the  
3 development, exploration, production, and extraction of state re-  
4 sources, is a peculiar source of the unemployment evil now besetting  
5 the state;

6 (11) state policies favoring stable levels of taxation have  
7 been predicated upon assurances from the natural resource industries  
8 that state residents would receive employment opportunities in the  
9 exploration, development, and production of natural resources from  
10 state-owned land, but data show that these assurances, and the expect-  
11 tations they created, are not being fulfilled.

12 Sec. 38.45.030. RESIDENT HIRE REQUIREMENTS. (a) An employer  
13 shall meet the resident hiring requirements established by the commis-  
14 sioner of labor under this section on a natural resource project on  
15 state land that is subject to a hiring preference under AS 38.45.050.  
16 An employer may not discriminate against qualified residents in em-  
17 ployment on a natural resource project on state land.

18 (b) The commissioner of labor shall determine the amount of work  
19 that must be performed under this chapter by qualified residents on a  
20 natural resource project on state land. In making this determination,  
21 the commissioner shall consider the nature of the work, the classi-  
22 fication of workers, availability of residents, and the willingness of  
23 residents to perform the work. The commissioner shall require an  
24 employer to make the maximum feasible effort to hire qualified resi-  
25 dents for jobs on state land.

26 (c) In order to create, protect, and preserve the right of qual-  
27 ified residents to employment in natural resource projects on state  
28 land, the commissioner of natural resources shall incorporate into  
29 each lease, unitization agreement, or renegotiation of a lease or

1 agreement, provisions requiring compliance with this chapter, regula-  
2 tions adopted under this chapter, and all later amendments to this  
3 chapter or the regulations, and authorizing penalties under AS 38.45.-  
4  
5 for failure to comply. The commissioner shall incorporate into  
6 each lease, agreement, or renegotiation a requirement that the lessee  
7 include a provision requiring compliance with this chapter, later  
8 amendments of this chapter, regulations adopted under this chapter and  
9 authorizing penalties under AS 38.45.070 in a contract under the lease  
10 or agreement with contractors or subcontractors who will be operating  
11 on state land.

12 (d) An employer subject to resident hiring requirements under  
13 this chapter may request the Department of Labor to assist in locating  
14 qualified available resident employees. After receiving a request for  
15 assistance, the department shall refer qualified available residents  
16 to the employer to fill the employer's hiring needs. If the depart-  
17 ment is unable to refer a sufficient number of residents, it may  
18 approve the hiring of nonresidents for the balance of the request.

19 Sec. 38.45.040. REPORTING PROVISIONS. An employer obligated to  
20 meet resident hiring requirements under this chapter shall comply with  
21 the reporting provisions that the commissioner of labor determines are  
22 reasonably necessary to carry out this chapter.

23 Sec. 38.45.050. APPLICABILITY OF CHAPTER. This chapter applies  
24 to all natural resource projects on state land. The Department of  
25 Labor shall determine the extent of the resident hiring preference for  
26 each project under AS 38.45.030. The preference applies only to  
27 employment that is performed directly for an employer.

28 Sec. 38.45.060. REGULATIONS AND HEARINGS. (a) The Department  
29 of Labor and the Department of Natural Resources shall adopt regula-  
tions to implement this chapter. The Department of Labor shall adopt

1 regulations prohibiting discrimination against qualified residents in  
2 employment on a natural resource project on state land. Regulations  
3 and proceedings under this chapter are subject to the Administrative  
4 Procedure Act (AS 44.62) except as provided in (b) of this section.

5 (b) An employer shall determine and judge the work qualifica-  
6 tions of applicants for employment. An applicant who has been reject-  
7 ed or an employee who has been terminated from employment may, within  
8 30 days after the rejection or termination, request a hearing before  
9 the Department of Labor to determine whether the employer violated  
10 this chapter in denying the application or terminating the employment.  
11 The Department of Labor shall hold a hearing on the question within 20  
12 days of receipt of the request unless the applicant or employee re-  
13 quests a longer period of time.

14 (c) The Department of Labor may conduct investigations and  
15 hearings to determine compliance with this chapter. If the commis-  
16 sioner of labor finds that an employer has wilfully failed to comply  
17 with this chapter, the commissioner may certify the finding to the  
18 Department of Natural Resources.

19 Sec. 38.45.070. PENALTIES. (a) If the Department of Labor  
20 finds that an employer has rejected a qualified applicant or term-  
21 inated a qualified employee from employment in violation of this  
22 chapter, the department may require the employer to pay the person  
23 three times the amount of wages the person lost and may require addi-  
24 tional amounts if the person's actual expenses incurred as a result of  
25 the wrongful action exceeded the triple wages assessed. Either party  
26 may appeal the department's decision under this section to the su-  
27 perior court. The court may hear the appeal de novo.

28 (b) The Department of Natural Resources, upon certification of  
29 noncompliance by the Department of Labor under AS 38.45.060, may

1 investigate and conduct hearings. If it finds wilful noncompliance,  
2 the department may impose on the employer any of the following pen-  
3 alties:

4 (1) increase the rent or other forms of compensation re-  
5 ceived by the state under the project lease or agreement by a factor  
6 of no more than 10; the increase may not exceed \$100,000;

7 (2) require that all or a portion of project operations  
8 cease;

9 (3) remove, for an appropriate period of time not to exceed  
10 three years, the eligibility of the employer to contract with the  
11 state or any of its political subdivisions; or

12 (4) require a noncompliance payment in liquidated damages  
13 to the state in an amount equal to seven and one-half times the number  
14 of hours required but not worked by qualified residents multiplied by  
15 the going wage or salary rate for the particular job or activity  
16 involved.

17 (c) The commissioner may impose the penalties under (b)(1) and  
18 (2) of this section on a lessee only if the lessee itself has failed  
19 to comply with this chapter or incorporate into the contract with the  
20 violator a provision requiring compliance with this chapter.

21 Sec. 38.45.080. INJUNCTIVE RELIEF. The Department of Labor or  
22 the Department of Natural Resources, in addition to the imposition of  
23 penalties under AS 38.45.070, may seek injunctive relief against a  
24 person who is not in compliance with this chapter; the Department of  
25 Natural Resources may seek injunctive relief to enforce penalties  
26 imposed under AS 38.45.070.

27 Sec. 38.45.090. DEFINITIONS. In this chapter

28 (1) "employer" means a person other than the state who is a  
29 party to a lease or agreement for a natural resource project on state

1 land and includes the person's affiliate, principal, subsidiary,  
2 contractor, or subcontractor if the activity of the affiliate, princi-  
3 pal, subsidiary, contractor, or subcontractor is performed on state  
4 land;

5 (2) "natural resource project on state land" means a con-  
6 tract, lease, unitization agreement, or a renegotiation of a contract,  
7 lease, or agreement for exploration, development, extraction or pro-  
8 duction of oil and gas, mineral, or timber resources if the state is a  
9 party to the contract, lease or agreement and the project is performed  
10 in whole or in part on state land;

11 (3) "qualified resident" means a resident who possesses the  
12 requisite education, training, skills, or experience to perform the  
13 work;

14 (4) "resident" means a person who

15 (A) except for military service, has been physically  
16 present in the state for a period of 30 days immediately before  
17 the time the person enters into a contract of employment on a  
18 natural resource project on state land; and

19 (B) shows by all attending circumstances the intention  
20 to permanently reside in this state.

21 \* Sec. 2. This chapter applies to a lease, unitization agreement, or  
22 contract for the development of oil and gas, or mineral or timber resources  
23 entered into after the effective date of this Act and to a renegotiation of  
24 the lease, agreement or contract. This chapter applies to the renegotia-  
25 tion after the effective date of this Act of a lease, agreement, or con-  
26 tract entered into before the effective date of this Act if the renegotia-  
27 tion results in a major change to the duties of a party.

28 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
29 10.070(c).

FISCAL NOTES

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: CS HB 367 (L&C)  
 Title: "An act requiring resident hire on nat. resource proj. st. lands  
 Sponsor: Pignalberi, et. al.  
 Requestor: House Labor & Commerce  
 Date of Request: 4/30/85

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
<b>OPERATING</b>						
100 PERSONAL SERVICES		111.9	115.8	239.1	247.5	256.1
200 TRAVEL		17.0	18.0	50.3	53.3	56.5
300 CONTRACTUAL		31.9	28.5	59.9	63.5	67.3
400 SUPPLIES		2.0	2.1	3.9	4.1	4.4
500 EQUIPMENT		14.8	0	5.4	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>177.6</b>	<b>164.4</b>	<b>358.6</b>	<b>368.4</b>	<b>384.3</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		177.6	164.4	358.6	368.4	384.3
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>177.6</b>	<b>164.4</b>	<b>358.6</b>	<b>368.4</b>	<b>384.3</b>

POSITIONS:

FULL-TIME		3	3	6	6	6
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

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

Phone: 465-4870  
 Date: 4/30/85

Approved by Commissioner: Jim Robison  
 Agency: Labor

Date: 4/30/85

Distribution (by Agency preparing fiscal note):

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

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA  
THE FOURTEENTH LEGISLATURE  
BILL/RESOLUTION NO.: CS HB 367 (L&C)  
TITLE: "An Act requiring resident hire under certain natural resource  
projects on state lands"  
AGENCY AFFECTED: Department of Labor

In order to carry out the duties of this bill the Department of Labor would require the following resources:

FYs 86 and 87

Two Wage and Hour Investigators I and one Clerk Typist III would be required to carry out the monitoring activities. Costs associated with these positions are detailed on the attached new position request forms.

In addition to these costs, there would be a one time expense of \$15,000 for computer equipment and software to capture residency information.

FYs 88 and beyond

The Prudhoe and Kuparuk unit agreements will possibly be renegotiated this year at which time these leases would be covered by the provisions of this bill. An additional Wage and Hour Investigator and two Wage and Hour Technicians will be required. The costs associated with these positions is summarized below:

	W&H Tech. Anchorage	W&H Tech. Anchorage	W&H Invest. I Fairbanks
Personal Service	34.4	34.4	50.3
Travel	0	0	15.6
Contractual	9.4	9.4	10.9
Commodities	.6	.6	.6
Equipment	<u>1.8</u>	<u>1.8</u>	<u>1.8</u>
	46.2	46.2	79.2

Also, an additional \$15,000 in travel expense would be incurred by existing positions for travel to the North Slope.

Assumptions

- 1) The major unitization agreements (Prudhoe Bay and Kuparuk) will not be covered by this bill until FY 88 when the agreements are renegotiated.
- 2) Inflation will be 3.5% for personal service and 6% for non personal service items.

CONTINUATION LEVEL	ADDITION	Amount
Type of Expenditure		
PERSONAL SERVICES		
Salary	32,424	
Benefits	5,401	
Supplemental Benefits	1,987	
Fixed Benefits	2,735	
TOTAL PERSONAL SERVICES	42,547	
Travel	8,500	
Cont. actual	9,490	
Commodities	500	
Equipment	1,600	
Other		
TOTAL COST	62,637	

JUSTIFICATION

This position would monitor new or re-negotiated oil and gas leases and other natural resources projects on state land to ensure compliance with resident hire laws.

The position would interact with the Department of Natural Resources and industry contacts to establish an effective monitoring procedure.

Travel costs are to establish monitoring procedures and for monitoring compliance with resident hire law. Contractual costs include rent, \$3,600; indirect \$3,890; and other average expenses of \$2,000. Commodities of \$500 and one-time equipment costs of \$1,600 are also included.

RECEIPT CODE	FUNDING SOURCE	Amount
	Federal Receipts 1002	
	G.F. Match 1003	
	General Funds 1004	62,637
	I-A Receipts 1005	
	Program Receipts 1028	
	Other	

or M&B Use Only  
A Key Number \_\_\_\_\_

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

FY 86

Page 1 of 3  
Revised Date

LEG:F:

1	Position Title Wage & Hour Investigator I	Range/Step 16A	Barg. Unit GGU	Form 12 Page/Line	GOV.	REV.	DISAPP.
2	Type of Position PFT	Staff Months 12	RP Number	PCN Number	BRU Priority	Location Anchorage	Election District LEG.

CONTINUATION LEVEL		ADDITION	
Type of Expenditure			Amount
<b>PERSONAL SERVICES</b>			
Salary		32,424	
Benefits		5,401	
Supplemental Benefits		1,987	
Fixed Benefits		2,735	
<b>TOTAL PERSONAL SERVICES</b>	01		42,547
Travel	02		8,500
Contractual	03		9,490
Commodities	04		500
Equipment	05		1,600
Other			
<b>TOTAL COST</b>			62,637

**JUSTIFICATION**

This position would monitor new or re-negotiated oil and gas leases and other natural resources projects on state land to ensure compliance with resident hire laws.

The position would interact with the Department of Natural Resources and industry contacts to establish an effective monitoring procedure.

Travel costs are to establish monitoring procedures and for monitoring compliance with resident hire law. Contractual costs include rent, \$3,600; indirect \$3,890; and other average expenses of \$2,000. Commodities of \$500 and one-time equipment costs of \$1,600 are also included.

RECEIPT CODE	FUNDING SOURCE	
	Federal Receipts	1002
	G.F. Match	1003
	General Funds	1004
	I-A Receipts	1005
	Program Receipts	1028
	Other	
		62,637

For M&B Use Only  
 1A Key Number \_\_\_\_\_

**13 REQUEST FOR NEW POSITION**

AGENCY Department of Labor

PROGRAM Worker Protection

BRU Labor Standards & Safety

COMPONENT Wage & Hour Administration

**FY 86**

Page	2	of	3
Revised Date			

LEG:F:

Type of Position	Staff Months	RP Number	PCN Number
PFT	12		
CONTINUATION LEVEL		ADDITION	
Type of Expenditure			Amount
PERSONAL SERVICES			
Salary		19,572	
Benefits		3,261	
Supplemental Benefits		1,200	
Fixed Benefits		2,735	
TOTAL PERSONAL SERVICES		01	26,768
Travel		02	0
Contractual		03	7,948
Commodities		04	1,000
Equipment		05	1,600
Other			
TOTAL COST			37,316

JUSTIFICATION

This clerical position would provide typing, filing, and data entry under the provisions of this bill.

Contractual costs include rent, \$3,600; indirect \$2,348, and other average expenses of \$2,000. Commodities of \$1,000 and one-time equipment costs of \$1,600 are also included.

RECEIPT CODE	FUNDING SOURCE	Amount
	Federal Receipts 1002	
	G.F. Match 1003	
	General Funds 1004	37,316
	I-A Receipts 1005	
	Program Receipts 1028	
	Other	

For M&B Use Only  
 1A Key Number \_\_\_\_\_

13 REQUEST FOR NEW POSITION

AGENCY Department of Labor  
 PROGRAM Worker Protection  
 BRU Labor Standards & Safety  
 COMPONENT Wage & Hour Administration

FY 86

Page 3 of 3  
 Revised Date

LEG:F:

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

APR 29 1985

**REQUEST**

Bill/Resolution No.: HB 367  
 Title: Resident Hire Under Oil and Gas Leases on State Land  
 Sponsor: Pignalberi, Cotten, Davis  
 Requestor: House Labor & Commerce  
 Date of Request: 4/25/85

**FISCAL DETAIL**

Agency Affected: Natural Resources  
 Program Category Affected: NRMEC  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_

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

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

**FUNDING: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared By: Carol Wilson Phone: 465-2400  
 Division: Commissioner's Office Date: 4/25/85  
 Approved by Commissioner: Arno D Arnold, Deputy Date: 4/25/85  
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

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

7/1/84

# CITY OF FORT YUKON

INCORPORATED 1959

Post Office Box 269

Telephone (907) 662-2479 or 2379

Fort Yukon, Alaska 99740

December 30, 1985

Senator Arliss Sturgulewski,  
Alaska State Legislature,  
Pouch V,  
Juneau, Alaska 99811

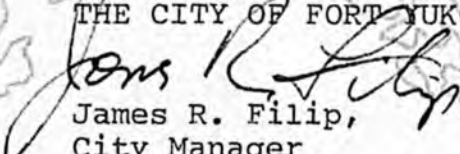
Dear Senator Sturgulewski:

On behalf of Mayor Carroll and the members of the Fort Yukon City Council, I am pleased to send you a copy of Resolution No. 85-15 which calls attention to the need for preferential hire for Alaskans.

During the coming session you will be involved in many issues of importance to the residents of the state, but none may be more important than those which create jobs, and which provide the means for those jobs to be occupied by qualified Alaskans.

Thank you for your consideration.

Sincerely,  
THE CITY OF FORT YUKON

  
James R. Filip,  
City Manager

# CITY OF FORT YUKON

INCORPORATED 1959

Post Office Box 269

Fort Yukon, Alaska 99740

Telephone (907) 662-2479 or 2379

## RESOLUTION NO. 85-15

### A RESOLUTION URGING THE ALASKA LEGISLATURE TO ENACT LEGISLATION GIVING PREFERENTIAL HIRE TO ALASKANS

WHEREAS, Alaskan communities have traditionally experienced serious economic problems compounded by seasonal periods of high unemployment among their residents, and

WHEREAS, these problems are made more severe when nonresident employees are allowed to take jobs which add to higher levels of unemployment among residents of the state, and

WHEREAS, total employment is not now currently sufficient to allow for the immigration of workers without adversely affecting the chances of employment for resident Alaskans in search of work,  
Arctic Circle

NOW, THEREFORE, BE IT RESOLVED that the Alaska legislature is called upon to recognize the importance of taking prompt action to seek a constitutionally fair method to provide for the preferential employment of Alaskans in public construction projects.

Adopted this 10th day of December, 1985.

/s/ Richard C. Carroll  
Richard C. Carroll,  
Mayor

ATTEST

Susan E. Salmon  
Susan E. Salmon,  
City Clerk-Treasurer

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

April 16, 1985 RECEIVED

APR 18

Josephson,

The Honorable Fred Zharoff  
Chairman, Senate Labor and  
Commerce Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: SB 271: Resident Hire  
Under Oil and Gas Leases

Dear Senator Zharoff:

I am responding to a request from a member of your staff for our comments regarding SB 271, which deals with resident hire under certain oil and gas leases. Unfortunately, I will be in Anchorage at the time of your committee's scheduled hearing on this bill. However, if any questions arise during the course of that hearing, I would certainly be happy to respond to them upon my return early next week.

As you probably know, the Alaska Legislature first enacted a resident hire law with respect to state oil and gas leases in 1972. That law, AS 38.40, was enforced by the Department of Labor throughout the period of construction of the Trans-Alaska Pipeline, but was ultimately held unconstitutional by the United States Supreme Court in the case of Hicklin v. Orbeck, 437 U.S. 518 (1978). SB 271 appears to be an attempt to craft a resident hire requirement for employment activity on state oil and gas leases, etc., which would satisfy the concerns of the U.S. Supreme Court in Hicklin. However, the new preference established by the bill may still be found by the courts to exceed the permissible scope of a state's ability to establish employment preferences for residents, consistent with the Hicklin case.

In Hicklin, the U.S. Supreme Court found essentially three separate problems with "Alaska Hire":

- 1) The court did not believe that the justifications advanced by the State in favor of the resident preference were adequate. At the time the legislature adopted AS 38.40, it did not have before it an adequate factual basis to validate its determination that state

intervention in the job market in the form of an employment preference for residents was necessary.

2) Even if the State could have adequately justified imposing a resident hire requirement on certain employers, the broad sweep of AS 38.40 in applying to any employer who benefited in some manner from the "economic ripple effect of Alaska's decision to develop its oil and gas resources" simply went too far, in the Court's view. As the Court pointed out, "Alaska hire extends to employers who have no connection whatsoever with the State's oil and gas, perform no work on state land, have no contractual relationship with the State, and receive no payment from the State." Hicklin, at 530.

3) Even if the State could have justified imposing a resident hire requirement, and even if it only applied to an employer who had a direct relationship with the State (i.e. by contract or by working on State-owned land) the scope of the preference as it applied to individual residents was still too broad. In this regard, the court noted that "Alaska Hire simply grants all Alaskans, regardless of their employment status, education, or training, a flat employment preference for all jobs covered by the Act. . . . If Alaska is to attempt to ease its unemployment problem by forcing employers within the State to discriminate against non-residents -- again, a policy which may present serious constitutional questions -- the means by which it does so must be closely tailored to aid the unemployed the Act is intended to benefit." Hicklin, at 527-528.

While SB 271 does address some of the concerns raised in Hicklin, it appears to leave some of them unresolved:

1) Although the bill sets out a broader and more comprehensive set of legislative findings (AS 38.45.020), I am not aware that any factual studies or other kinds of inquiries have been conducted which would provide a firm basis for these findings. If they do exist, they should be presented during the course of the legislature's consideration of the bill and made a part of the legislative record. In that regard, I understand there is a proposal under active consideration in the House (HB 295) which would appropriate \$100,000 to the Department of Labor for just such a study.

The Honorable Fred Zharoff  
Chairman, Senate Labor and  
Commerce Committee

April 16, 1985  
Page 3

2) The bill does seem to address the problem in Hicklin of applying the resident hire requirement to too broad a range of employers. Under the bill, only employers engaged in activity on state lands would be subject to the law.

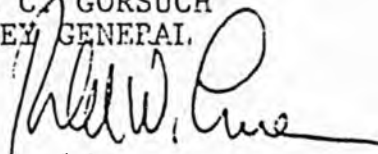
3) The bill does not address the problem in Hicklin of giving all state residents an employment preference, whether or not they are unemployed or underemployed. In this regard, creating "employment target groups" comprised of unemployed residents, chronically underemployed residents, and training-qualified residents should respond to those concerns in Hicklin.

If I can provide any further background or assistance, please do not hesitate to contact me.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:

  
Ronald W. Lorensen  
Deputy Attorney General

RWL:vrb

cc: Honorable Joe Josephson  
Senator

Honorable Red Boucher  
Representative

Honorable Marco Pignalberi  
Representative

A R C O A L A S K A

E M P L O Y E E S

EMPLOYEE CLASSIFICATION	TOTAL	ALASKA Number	ADDRESS Percent
Professional	1,006	1,002	99.6
Field Technician	769	746	97.0
Salaries Non-Exempt	333	332	99.7
Other	13	13	100.0
TOTAL	2,121	2,093	98.7

**Contractor Employees in ARCO Operations Support**

	<u>Alaskans</u>		<u>Natives</u>	
	<u>Number Employed</u>	<u>Percent of Workforce</u>	<u>Number Employed</u>	<u>Percent of Workforce</u>
Materials Handling	154	96%	3	2%
Catering	119	77%	43	28%
Maintenance	284	58%	16	3%
Security	65	74%	1	1%

Exhibit 1A  
**ARCO ALASKA CONSTRUCTION CONTRACTS**  
 1983 to Present  
 (Awards Greater than One Million Dollars)

<u>PRUDHOE/LISBURNE</u>	<u>NO. OF CONTRACTS</u>	<u>%</u>	<u>CONTRACT VALUE (\$Millions)</u>	<u>%</u>
Alaska Contractors	77	97%	\$397.9	97%
Non-Alaska Contractors	<u>2</u>	<u>3</u>	<u>10.9</u>	<u>3</u>
Total	79	100%	\$408.8	100%
Union	48	61%	\$316.5	77%
Non-Union	<u>31</u>	<u>39</u>	<u>92.3</u>	<u>23</u>
Total	79	100%	\$408.8	100%
 <u>KUPARUK</u>				
Alaska Contractors	44	92%	\$328.9	95%
Non-Alaska Contractors	<u>4</u>	<u>8</u>	<u>18.3</u>	<u>5</u>
Total	48	100%	\$347.2	100%
Union	40	83%	\$322.1	93%
Non-Union	<u>8</u>	<u>17</u>	<u>25.1</u>	<u>7</u>
Total	48	100%	\$347.2	100%
 <u>COMBINED PRUDHOE/ LISBURNE AND KUPARUK</u>				
Alaska Contractors	121	95%	\$726.8	96%
Non-Alaska Contractors	<u>6</u>	<u>5</u>	<u>29.2</u>	<u>4</u>
Total	127	100%	\$756.0	100%
Union	88	69%	\$638.6	84%
Non-Union	<u>39</u>	<u>31</u>	<u>117.4</u>	<u>16</u>
Total	127	100%	\$756.0	100%

# ALASKA HIRE SURVEY

(ARCO Alaska Construction Contracts)

CONTRACTOR	ALASKA				NON-ALASKA CRAFT/STAFF	TOTAL CRAFT/STAFF
	CRAFT		STAFF			
	NON-NATIVE	NATIVE	NON-NATIVE	NATIVE		
A (U)	58	5	17	4	12	96
B (U)	20	0	5	0	0	25
C (U)	100	8	37	2	20	167
D (U)	36	1	7	0	13	57
E (U)	21	1	15	1	6	44
F (U)	1049	56	32	0	246	1383
<b>SUBTOTAL</b>	<b>1284</b>	<b>71</b>	<b>113</b>	<b>7</b>	<b>297</b>	<b>1772</b>
G (NU)	140	6	11	0	54	211
H (NU)	79	12	2	6	30	129
I (NU)	0	0	40	4	0	44
J (NU)	0	0	4	0	13	17
K (NU)*	7	4	3	0	6	20
L (NU)	17	2	1	0	6	26
<b>SUBTOTAL</b>	<b>243</b>	<b>24</b>	<b>61</b>	<b>10</b>	<b>109</b>	<b>447</b>
<b>TOTAL</b>	<b>1527</b>	<b>95</b>	<b>174</b>	<b>17</b>	<b>406</b>	<b>2219</b>

\* NON-ALASKA CONTRACTOR

12/4/85	CRAFT/STAFF
UNION	80%
NON-UNION	20%
<b>TOTAL SURVEY</b>	<b>100%</b>

12/4/85	ALASKA CRAFT/STAFF	NON-ALASKA CRAFT/STAFF
UNION	83%	17%
NON-UNION	76%	24%
<b>TOTAL</b>	<b>82%</b>	<b>18%</b>
<b>SURVEY AVERAGE</b>	<b>82%</b>	<b>18%</b>

12/4/85	NON-NATIVE	NATIVE
UNION	95%	5%
NON-UNION	90%	10%
<b>ALASKA</b>	<b>94%</b>	<b>6%</b>
<b>SURVEY AVERAGE</b>	<b>94%</b>	<b>6%</b>

Exhibit 1C  
CONTRACTOR L (NU)  
Alaska Experience since 1983

<u>CLIENT</u>	<u>PEAK MANPOWER</u>	<u>LOCAL HIRE RATIO</u>
ARCO-Kuparuk Interconnect	182	67%
ARCO-SIP	15	85%
ARCO-COTU I	22	92%
Haliburton Revamp	25	100%
Misc. Casual Labor	6	100%
Marathon Steelhead Platform (Future 1986 Work)	200	90% (Goal)
CONOCO-Maintenance	70	90%
ARCO-Electrical Maintenance	10	90%



December 24, 1985



The attached letter was sent to the following  
Representatives:

Marco A. Pignalberi  
Fritz Pettyjohn  
Walt Furnace  
Virginia Collins  
Randy Phillips  
Drue Pearce  
Alyce Hanley

RECEIVED

DEC 26 1985

DAVID A. HEATWOLE

*sent per [unclear] [unclear] [unclear]*  
*[unclear] [unclear] [unclear]*  
*[unclear] [unclear] [unclear]*



ARCO Alaska, Inc.  
Post Office Box 100360  
Anchorage, Alaska 99510  
Telephone 907 265 6511

Harold C. Heinze  
President

December 23, 1985

The Honorable Marco Pignalberi  
Alaska State Legislature  
Pouch V  
State Capitol  
Juneau, Alaska 99811

Dear Representative Pignalberi:

I appreciate your letter of December 5 expressing your concerns about oil taxation and Alaska hire. Your continued opposition to additional oil taxes is essential to preserving Alaska's economy and jobs.

ARCO Alaska has long supported the concept of Alaska hire. We believe that oil development should be of benefit to all Alaskans. Examples of our commitment are the facts that we are headquartered in Anchorage and that the Department of Labor has reported over 98% of our 2200 employees are Alaska residents.

I accept your suggestion of trying to improve our contractor achievement. I have asked my key managers to review our contracting practices with regard to Alaska hire and search for new approaches. As an immediate step we are re-communicating our concern to contractors, and informing them we intend to publish their commitment to hiring Alaskans in our bid award press releases. I am pleased that the recipient of our last two maintenance contract awards, VECO and Peak, committed themselves to 90-95% Alaska hire (see attachments). We are hopeful these successful bid awards noting Alaska hire percentages will encourage other contractors bidding on our jobs to increase their level of Alaska hire. We recognize that our unionized contractors, whom are very important to us, have less flexibility in meeting our goals (attached letter).

A quick review of ARCO's drilling operations indicates that we currently utilize 8 of the 9 existing Alaska drilling contractors. These drilling contractors report Alaska hire percentages varying between 50% and 90%. We will explore ways to see what improvements may be possible.

*WJ*  
*BW*  
*Kevin*  
*Beckey*  
*+ file with*  
*Local hire*  
*bullet -*  

---

*H*



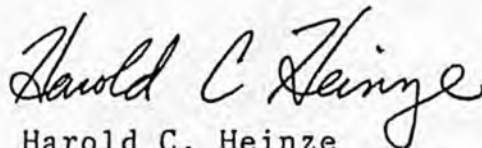
Honorable Marco A. Pignalberi  
Page 2  
December 23, 1985

If "Alaska hire" becomes an essential item of the legislative agenda, I would urge your support of an incentive approach, rather than the punitive/regulatory style of earlier proposals. The idea of tax credits to employers of Alaskans seems the most effective and workable of various suggestions.

You can be assured that ARCO Alaska will work even harder with our contractors to encourage and aid improvements in their Alaska and local hire. We intend to publicize their commitment and correct the misinformation that appears to exist.

Thank you for expressing your concerns. As we formulate other new approaches, I would like to discuss them with you.

Sincerely,



Harold C. Heinze

cc:

J. W. Bass, Kuparuk Project Manager  
H. P. Foster, Jr. , Vice-President, Engineering  
J. W. Hart, Prudhoe Operations Manager  
M. L. Hazelwood, Vice-President, Finance, Planning  
& Control  
D. A. Heatwole, Vice President, External Affairs  
R. H. Murtland, Contracts Formation & Admin. Manager  
L. R. Nunn, Alaska Construction Manager  
B. L. Odom, Sr. Vice President, Operations  
R. A. Ruedrich, Drilling Manager  
J. D. Weeks, Kuparuk Operations Manager

## Arco awards contracts

Associated Press

Two Anchorage companies have won multimillion-dollar contracts from Arco Alaska Inc. for construction work on the North Slope.

The oil company announced Monday that Veco Inc. has received a contract for more than \$5 million. Veco will provide warehousing and material control service to support the Prudhoe Bay and Lisburne oil fields. Arco said Veco has promised that more than 90 percent of its employees on the job will be

Alaskans and more than 8 percent will be Alaska natives.

The other company, Peak Maintenance and Equipment Co., won a contract to maintain construction equipment and facilities used in putting together the new Lisburne oil field. Arco said the contract value could go over \$10 million, depending on the level of construction activity next year. Arco said Peak has pledged a goal of hiring more than 95 percent Alaska residents and more than 15 percent Alaska natives.

## Arco awards contracts for North Slope services

Arco Alaska Inc. has awarded a new contract and extended another contract — together totaling \$16 million — to Universal Services Inc. International for catering and housekeeping services on the North Slope.

Under the new contract, Universal Services, an independent contractor based in Anchorage, will begin work for Prudhoe Bay and Lisburne projects Jan. 1. Universal expects to hire locally 90 percent of its workforce.

The award could exceed \$10 million, Arco said, depending on the size of the camp population.

The award was made on the basis of competitive bidding, Arco said.

Additionally, Universal's contract for catering services for Arco's construction camp at the Kuparuk River oil field has been extended another year.

The \$6 million contract will provide jobs for 30 to 40 Universal workers.



AK CONST. MGR

McDONALD INDUSTRIES ALASKA, INC.

7260 Homer Drive  
Anchorage, Alaska 99518  
(907) 344-9662

DEC 15 '85

December 12, 1985

<input checked="" type="checkbox"/> Bus. Mgr.	<input type="checkbox"/> Primary
<input type="checkbox"/> Engrng Mgr.	<input type="checkbox"/> File
<input checked="" type="checkbox"/> FCIL	<input type="checkbox"/> Pls Handle
<input checked="" type="checkbox"/> HCH	<input type="checkbox"/> Pls Discuss
<input checked="" type="checkbox"/> DAH	<input checked="" type="checkbox"/> I.D.

Mr. Lee Nunn  
ARCO Alaska, Inc.  
700 "G" Street  
Anchorage, Alaska 99510

RECEIVED

DEC 17 1985

HAROLD C. HEINZE

Dear Lee:

I would like you to consider this as my personal assurance to you of our commitment to Alaska hire on the Peak Maintenance work and all our business operations in Alaska.

As you may know, McDonald Industries Alaska is an Alaska corporation and employs only Alaska residents in its retail equipment activities. McDonald Industries Alaska has been in the equipment business in Alaska over 15 years and now employs over 80 full time Alaska resident employees. Although McDonald Industries Alaska, Peak Maintenance, Summit Equipment, and Brooks Range Supply are our primary businesses in Alaska, with assets in excess of \$30 million, we are also affiliated with other large Alaska resident employe such as Spenard Builders Supply, Pelican Seafoods, Royal Highway Tours, and Sundance Cruises. Moreover, our growth trends are favorably oriented toward a continuing investment in the State.

The joint venture partnership of McDonald Industries Alaska and Cook Inlet Region Inc. have competed for equipment maintenance contracts with ARCO which resulted in significant Alaska hire. For example, the Peak Maintenance contract at Kuparuk is over 90% Alaska residents and the Summit Equipment contract at Prudhoe Bay is over 85% Alaska residents. These percentages do not include the Anchorage home office staff and general manager who are all Alaska residents.

Peak Maintenance will increase the Alaska resident employment above 95% of the workforce on the upcoming equipment and facilities maintenance contract at Prudhoe Bay. This will be accomplished because there is more flexibility in hiring under the non-union makeup of Peak Maintenance as contrasted with the current contract, where hiring control is limited by dispatching from the union.

As delineated in the Peak Maintenance proposal, our Alaska hire program will aggressively reach out to specifically include employment of North Slope Borough residents, our partner Cook Inlet Region Inc.'s family of shareholders, and then other available Alaskans. The management of Peak Maintenance, in addition to the management of the related Alaska companies mentioned earlier, will meet its responsibility to Alaskan employees and Alaska employment.

I would be glad to visit with you to discuss our Alaska hire policy and record further, or to answer any questions you may have on this important issue.

Sincerely,

*Kirby McDonald*  
Kirby McDonald

# MEMORANDUM JM

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL AND GAS

TO: Esther C. Hunnicke  
Commissioner

State of Alaska

DATE: October 31, 1985

FILE NO:

TELEPHONE NO: 561-2020

FROM: Kay Brown  
Director

SUBJECT: Local Hire

Local hire provisions in various forms have been included as part of competitive and non-competitive oil and gas leases since the early 1970's. The issue increased in importance in the 1980's, and the Division of Oil and Gas has spent many hours and dollars trying to encourage the hiring of Alaska residents as part of the development of the state's oil and gas resources.

The earliest versions of the local hire provision merely required the lessee to submit a quarterly employment report to the Commissioner of the Department of Labor. The provision was expanded prior to the 1979 Joint Beaufort Sea Sale to require the lessee to comply with "... all valid and applicable laws and regulations with regard to the hiring of Alaska residents." The provision was amended to "encourage" lessees to hire Alaskans for Sale 33, held in May 1981. The requirement was further revised for Sales 36 (May 1982) and 34 (September 1982) to require the lessee to submit an annual statistical and hiring program report to the division. Our staff then forwarded the reports to the Department of Labor for use in their educational program planning. This arrangement was abandoned in early 1985 at the request of the Department of Labor, as well as at the urging of some lessees. Labor determined that it had no use for the reports.

The most recent (and strongest) local/preferential hire language is found in the Chevron and Tesoro royalty oil contracts, and the contract being negotiated with Petro Star. The provision says, "Purchaser agrees to hire and employ Alaska residents and Alaska companies ..." A clause is included to cover the possibility that the provision may be found to be unconstitutional, as follows, "Purchaser agrees to hire and employ Alaska residents and Alaska companies to the extent such preferential hiring is determined to be constitutional." A copy of this language is attached.

At the request of Governor Sheffield's staff, DO&G staff have attempted to devise additional innovative local hire recommendations. Some of these programs are not in our area of expertise and, if worthy, should be referred to the appropriate agency for further consideration. Our ideas are summarized and discussed below.

Commissioner Esther C. Wunnicke

Page 2

October 31, 1985

LOCAL HIRE IDEAS:

1. Include the negotiated royalty contract language as a provision of the oil and gas lease form and unit agreement form. This would be the easiest and least costly option to administer since it requires no enforcement. However, it is not clear whether the provision is constitutional or whether the provision would prove effective.
2. Provide tax incentives to companies that employ Alaska residents. The state might have to extend this kind of tax break to ALL companies doing business in Alaska, and might have to reinstitute the state income tax to make up the subsequent loss in revenues.
3. Allow more activities (seismic exploration, exploratory drilling) to take place year-round. This action could help foster a more stable Alaska work force instead of tending to favor the short-term importation of outside workers for lower wages. Environmental trade-offs must be considered. We would still want to enforce appropriate mitigating measures and to encourage development of new technology.
4. Require persons holding DNR leases, permits or contracts to pay prevailing wages for the area. This would make the jobs more attractive to Alaskans. The determination of the prevailing wage and enforcement of the provision in an area could be difficult and time-consuming.
5. Make oil industry training programs more accessible to more Alaskans.
6. Amend AS 38.05.180 to allow for "local hire" incentive credits. We envision a program similar to the exploration incentive credits program. This option would create greater administrative burdens for DO&G and would require further cost/benefit analysis before the decision to implement it is made.

PROBLEMS WITH ALL LOCAL HIRE PROVISIONS:

Local hire provisions could devalue oil and gas leases if bidders believe they may have to pay costs associated with a court challenge of the local hire lease provision.

Strong local hire laws and lease terms will tend to favor the hiring of Alaska union members, who apparently are paid considerably more than the Outsiders currently being hired by subcontractors in the oil industry. Thus, compliance with a strong local hire law would increase operating expenses and reduce the net profits received by the state on net profit leases such as those at Seal Island and Endicott.

Commissioner Esther C. Wunnicke

Page 3

October 31, 1985

Strong local hire provisions could devalue leases to the extent that such clauses increase lessees' labor costs.

If local hire provisions end up in court and the state loses, the state will not be able to recoup the lower bonuses paid initially because of local hire requirements in the leases.

Inexperienced workers on exploratory rigs could create the potential for environmental and safety hazards. This could increase potential for oil spills and similar problems in areas such as the Beaufort Sea.

If effective, a strong local hire provision would severely restrict the ability of employers to hire workers at competitive wage rates. This is apparently the reason that local hire has strong union support. The union's ability to exercise market power over wage rates would be greatly enhanced by the enforcement of local hire provisions.

High wage rates, relative to the "lower 48," have been an important factor retarding (non-petroleum) economic growth in Alaska. Unless higher wages are accompanied by higher productivity, they just increase the cost of doing business relative to other states. This higher cost retards the growth of both export markets and local industries. Economic growth and diversification would be inhibited. Policies that increase the cost of doing business in Alaska reduce employment opportunities. This outcome would be contrary to state policy which encourages growth and diversification.

Enforcing strong local hire provisions on state funded projects just means the projects will cost more; the economic benefits will not be enhanced. When the oil dollars begin to decline dramatically, wage levels in the public and non-petroleum private sectors must substantially decline if Alaska's economy is to diversify and grow.

The cost of enforcing local hire provisions must be considered in determining whether the enactment of such provisions will truly benefit the state. Local hire provisions are worthless without adequate monitoring and enforcement. This would require additional staff and funds in the Department of Labor and in any other department that is involved with local hire.

Attachment

KO/04910

ARTICLE XVI

PREFERENTIAL HIRING

Purchaser agrees to hire and employ Alaska residents and Alaska companies to the extent they are available, willing and qualified for all work performed in Alaska under or in connection with this Agreement, including but not limited to construction and operation of facilities to refine or otherwise use the Royalty Oil. As used in this Agreement "Alaska resident" means an individual who has resided in the State for one year at the time of hiring or employment and "Alaska companies" means those companies who are incorporated in the State of Alaska or whose principal place of business is in Alaska. Seller acknowledges that under the arrangements initially contemplated under this Agreement, Purchaser Chevron will not be performing work in Alaska under or in connection with this Agreement.

If this provision is determined to be unconstitutional by a court of competent jurisdiction, then Purchaser agrees to hire and employ Alaska residents and Alaska companies to the extent such preferential hiring is determined to be constitutional.

**EXXON** COMPANY, U.S.A.

POUCH 8801 • ANCHORAGE, ALASKA 99502-0601 (907) 561-5331

ALASKA OPERATIONS  
WESTERN DIVISIONRICHARD H. WEAVER  
OPERATIONS MANAGER

May 8, 1985

Senator Arliss Sturgulewski  
Alaska State Legislature  
Pouch V (MS 8100)  
Juneau, Alaska 99811

Dear Senator Sturgulewski:

Exxon has certain serious concerns with Senate Bill 271.

First, I would point out that Exxon supports the concept and practice of local hire, and has traditionally employed a high percentage of local residents (as defined by the statutes) in its operations. Since 1980, 93% of new hires into our Alaska Operations have been local hires with a trend toward an even higher percentage since 1981. To the best of our knowledge, other oil companies follow similar practices.

Our concerns arise from the very findings which purport to justify the passage of the bill. We believe the findings of the legislation incorrectly identify a primary contributing factor to unemployment in the state to be the failure of the resource extraction industry to employ state residents. This finding is not based upon fact. I believe that your committee will find, upon review of Alaska's employment statewide, that the performance of oil companies with respect to local hire is among the best in Alaska's private sector.

I would urge your committee to conduct careful review of the proposed legislation to determine the immediate and future impact of the proposed law. I would specifically urge you to address:

- o Whether there is in fact need for legislative action in this area.
- o Whether there is basis for passage of a bill directed at one industry. The present bill is, in our view, discriminatory toward the oil and gas industry without justification. Industries that likely have much higher non-resident hire ratios, such as fishing and tourism, are not addressed in the bill.
- o Whether this bill will create unacceptable administrative and associated financial burdens for the state and industry. The fiscal impact of implementing this bill does not seem to have been considered.

- o The potential for bureaucratic abuse.

Specific provisions of the bill which will in our view create the problems just addressed are:

- o Sec. 38.45.030 Resident Hire Requirements

- (b) This subsection does not incorporate objective legislative standards for the determination by the Commissioner of Labor of the amount of work that must be performed by qualified residents. It imposes substantial burdens on lessees to familiarize the Commissioner with the nature of work to be performed in exploring for and developing natural resources from state lands; this effort would require a detailed review of each job to be filled. Despite this imposition, there is no express provision for administrative review of the Commissioner's decision.

- (c) This subsection could result in the imposition of new lease or unit requirements on parties to existing leases or units on account of later amendments to this chapter or the regulations.

- (d) This subsection imposes specific recruiting methods and further requires employers to obtain permission from the Commissioner of Labor for each non-resident hire. This requirement could result in significant delays in the exploration and development of state leases.

- o Sec. 38.45.040 Reporting Provisions

This section could result in onerous reporting burdens.

- o Sec. 38.45.060 Regulations and Hearings

- (b) This subsection imposes the requirement that every rejected applicant or terminated employee is entitled to a hearing upon request. This requirement will result in hearings of frivolous claims. Further, this subsection creates the unwarranted inference that each failure to hire a resident or termination of a resident has a discriminatory purpose.

- (c) This subsection authorizes the Department of Labor to carry on burdensome investigations and hearings without probable cause to believe that a violation has occurred or that the employer is not in compliance with this chapter.

o Sec. 38.45.070 Penalties

The penalties provided by this provision are far in excess of the types of penalties imposed for other types of employment discrimination. Many of the penalties, such as increased rents, are unrelated to the actions which gave rise to the proceeding. Subsection (c) would require leasees to renegotiate all existing contracts for services, labor, or materials in order to insert provisions on Alaska hire.

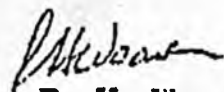
o Sec. 38.45.090(2) Definition

This definition expands the scope of the meaning of "natural resource project on state land" far beyond its ordinary meaning. It appears to require Alaska hire for all contracts and activities related to lease exploration and development, including consulting agreements and construction contracts for work to be done outside the state, lease and unit administration, negotiation of unit agreements, and other activities which may not normally be performed in Alaska. This broad applicability was held to be unconstitutional in Hicklin v. Orbeck, 437 U.S. 518 (1978).

May I also direct your attention to the administrative burdens and costs which the bill would impose on the state of Alaska and the companies that carry out resource development. The Departments of Labor and Natural Resources will have extensive new responsibilities to fulfill, and they will be required to expend considerable financial and human resources in order to carry out the letter and intent of the law.

In conclusion, let me reaffirm that Exxon has been and will continue to be supportive of the practice of local hire. We urge the Committee not to move this bill until it has had time to carefully consider the potential impacts of the bill, the burdens it will place on both the State and the affected industries, and its very constitutionality.

Very truly yours,

  
R. H. Weaver

RHW/427/dag

SOHIO ALASKA PETROLEUM COMPANY  
CONTRACTING ACTIVITIES

*Frank  
Horn  
Kovaltchuk*

◦ CONTRACT COMMITMENTS

	1984-1985 (\$MM)		<u>Total</u>
	<u>Alaskan Contractors</u> *	<u>Outside Contractors</u>	
Drilling	235 (99%)	3 ( 1%)	238
Production/Operations	167 (99%)	2 ( 1%)	169
Construction	330 (80%)	83 (20%)	413
Engineering/Administrative	<u>17 (11%)</u>	<u>132 (89%)</u>	<u>149</u>
TOTAL	749 (77%)	220 (23%)	969

\* Alaskan Contractors are defined as those contractors operating in Alaska who have established significant assets/resources and continue to re-invest earnings in the State.

◦ ALASKAN CONTRACTOR/RESIDENT HIRE INFORMATION

◦ DRILLING

All rig contracts awarded over the last three years have been committed to contractors with long established Alaskan operations. Four drilling rig contracts to meet Prudhoe Bay Unit requirements for the next two years are currently active on the North Slope. Contractors report rig crews comprising over 90% Alaskan residents. The two major rig contracts for the Endicott Field have commitments from the Contractors to utilize 100% Alaskan resident crews. Overall these six rig contracts represented future expenditures in excess of \$200MM. In addition, Sohio is presently soliciting bids from Alaskan firms for a workover rig. All bidders have been advised that Alaskan hire plans will be a significant factor in the evaluation of the proposals.

Well Service Contracts (wirelining, cementing, logging, etc.) totaled over \$100MM during 1984-1985. With the exception of cementing services, all contractors report over 95% Alaskan resident hire. An implementation plan has been developed to improve the resident hire performance of our cementing contractors.

° PRODUCTION/OPERATIONS

Statistics noted above demonstrate that Production/Operations oriented services (labor, maintenance, catering, security, etc.) have been awarded to asset-based Alaskan firms, many in conjunction with joint ventures among Alaskan Native corporation at Sohio's urging.

Future requirements over the next two years will be handled utilizing several multi-year contracts. Current bid exercises strongly encourage the use of Alaskan resident hire (See Attachment A) and bidders are advised that it will be a significant factor in the evaluation of their proposals. Additionally, local hire clauses are being included in the actual Contract (See Attachment B) and contractors are required to periodically report results.

° CONSTRUCTION

Essentially all construction contracts awarded to date for Prudhoe Bay Unit work employed union contractors in conjunction with the Prudhoe Bay Project Labor Agreements. Hiring practices among all contractors have been as required by union call-out practices.

For 1986-1987, Sohio has committed to award 700,000 manhours of Prudhoe Bay construction to two union contractors in conjunction with the sale of Sohio Construction Company. Both contractors have strong Native corporation associations through joint ventures or partnerships.

The balance of the projected Prudhoe Bay manhours (beyond 700,000) will be bid on a merit-shop basis with provisions in the Bidding Documents to encourage Alaskan-hire policies among contractors. Contractors will be required to report results on a regular basis.

On Endicott, all contracts continue to be bid on a merit shop basis. To date, Contractors report that 87% of all employees are Alaskan residents. Additionally, work bid and awarded in conjunction with North Slope module installation and pipelines will contain similar clauses to those shown on Attachments A and B regarding local hire.

° ENGINEERING/ADMINISTRATIVE SERVICES

Engineering services in the past have been performed predominately in the Lower 48 based on the availability of resources and economics. In the future Sohio intends to perform more local engineering.

3. Bidding Conditions

In addition to examination of the Bid Documents, each prospective bidder shall make whatever other arrangements are necessary to become fully informed regarding all existing and expected conditions and matters which might in any way affect the cost or the performance of the work. Any failure to fully investigate such conditions and matters shall not relieve the bidder from responsibility for estimating properly the difficulty or cost of successfully performing the work.

4. Bidder's Modification and Withdrawal of Bids

A bidder may, by written request without prejudice to itself, modify or withdraw its Bid provided that the request is received by Sohio prior to the Bid Due Date at the address to which bids were to be submitted. Provided further, that in case of a telegraph request, a written confirmation thereof over the authorized signature of the bidder be received by Sohio at the address to which original bids were to be submitted within three (3) calendar days after the Bid Due Date. Following withdrawal of its Bid, the bidder may submit a new Bid, providing it is resubmitted prior to the Bid Due Date.

5. Award of Contract

The successful bidder will be notified of the award of the work in writing and will be expected to properly and promptly execute a contract, the form of which will incorporate the format as attached hereto as Sample Contract. The execution of the contract by the awardee shall take place not later than ten (10) days after receipt of said contract, but in any event prior to the commencement of the work. Additionally, the Contractor will be required to submit the certificates of insurance at the time the contract is executed. Failure of the Contractor to execute the contract and submit the above insurance certificates will cause Sohio to suffer damage, the amount of which is difficult, if not impossible, to ascertain, and Sohio shall therefore be entitled to declare a material breach of the contract by such Contractor, and to award the contract to another bidder in accordance with the provisions of the contract documents.

6. North Slope Labor Utilization

Sohio Alaska Petroleum Company is committed to the use of local residents of the North Slope whenever possible. Therefore, the contractor shall prepare and submit a detailed narrative describing how Alaskan and, more specifically, North Slope resident labor would be recruited and employed. Your response to this clause is considered important and as such will be a factor in the evaluation of your proposal.

17. Direct Wage

Contractor shall not change the direct wage paid to its employees provided hereunder, nor the billable rates, without prior written consent of Operator's Administrative Representative via Amendment to this Agreement.

18. Local Hire

Sohio Alaska Petroleum Company is committed to the use of local residents of Alaska, and more specifically the North Slope, whenever possible. Therefore, Contractor shall make every reasonable effort to recruit and employ North Slope resident labor under this Agreement. If North Slope residents are not available, Contractor will nevertheless make every effort to provide employees who are Alaskan residents. Contractor will be required to report, on a periodic basis, the results of these efforts.

II. COMPENSATION

As total consideration for all work performed and for services rendered hereunder, Contractor agrees to invoice Operator and Operator agrees to pay Contractor in accordance with the following:

1. Payment Schedule

All work performed and/or services rendered hereunder shall be in accordance with the Rate Schedule set forth in Attachment 6 hereto.

NO PAYMENT SHALL BE MADE FOR ANY SERVICES RENDERED WHERE SAID SERVICES ARE NOT SPECIFICALLY INCLUDED IN ATTACHMENT 6.

2. Limitation of Cost

Nothing in this Agreement shall obligate Contractor to take any action which will cause the amount for which Operator will be obligated hereunder to exceed the sum of \$\_\_\_\_\_ and Operator shall not be obligated to pay Contractor on account of any services furnished hereunder any amount in excess of such sum provided, however, that this sum may be increased by Operator solely at its discretion by amending this Agreement. Contractor shall advise Operator in writing when costs incurred under this Agreement are equal to 75% of the aforementioned sum.



# THE ALLIANCE

P.O. Box 100100 / Anchorage, Alaska 99510 / (907) 562-0100

MAY 07 1985

Senator Arliss Sturgulewski  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

May 3, 1985

Dear Senator Sturgulewski:

This morning, the directors of the Alaska Support Industry Alliance unanimously adopted the attached resolution in support of the practice and concept of "local hire".

As you will find, the resolution notes that job opportunities exist in all industries operating in Alaska, including government, and that qualified Alaska residents should be given preference in filling those openings. The statement of policy also emphasizes that incentives to encourage public and private sector employers to reach out to qualified Alaska residents would create a positive business climate which, in turn, will serve to give momentum to additional economic development opportunities.

As your committee deliberates the committee substitute for Senate Bill number 271, we encourage you to incorporate these policy concepts into the final version. Meanwhile, we offer the following observations on the bill you will have before the committee next Wednesday.

1. Sec. 38.45.020 (1) & (2) find that the Alaska economy has historically been "unstable". On the contrary, the Alaska economy has been rather vigorous, growing at an annual rate of 6.5 percent over the past 15 years. Although it has slowed somewhat during the decade of the 80s, it must be remembered that the base is substantially larger and that an annual growth rate of 6.0 percent still must be considered vigorous. Moreover, since the lion's share of the Alaska economy is comprised of government and mining (the petroleum industry in particular) perceptions that Alaska's economy is "unstable" ought to be reconsidered.
2. Subsection (9) of that section points to a "trend towards hiring nonresidents". We have tried to develop some data which might substantiate this statement but have not yet been able to do so. Indeed the State Department of Labor cannot provide verification of the statement at this time either. Our impression of the trend is away from the historic requirement to look for qualified

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## Alaska Support Industry Alliance

... for responsible economic development

Milton Byrd - President  
Frontier Companies of Alaska

Ann Curtis - Vice President  
Crowley Maritime

Charles F. Becker - Vice President  
Brown & Root, Inc.

William D. Bennett - Secretary  
Perkins, Cole, Stone,  
Olsen & Williams

Val Molyneux - Treasurer  
Veco, Inc.

Bill Bettes - Director  
Pingo Corporation

Randy Goodrich - Director  
Executive Travel Service

Roger Haxby - Director  
Waukesha Alaska Corporation

Joe Mathis - Director  
Universal Services, Inc.

Walt Ratterman - Director  
Pacific Industrial Company

Jack Thompson - Director  
Air Van Lines, Inc.

William F. Webb - Director  
Arctic Hosts, Inc.

Senator Sturgulewski  
Page two  
May 3, 1985

help outside Alaska. Although leakage in the economy still does occur, the accelerated pace of import substitution coupled with an average increase of 13,500 new jobs per year over the past four years would seem to point toward a reversal of the trend to go "outside" for qualified employees. From a practical perspective, it is uneconomic to do so.

3. Subsection (11) of Sec. 38.45.020 appears to be a warning directed at Alaska employers that if state residents are not given employment opportunities, the tax code might be used as a tool for penalizing those employers. We are sure that state policies favoring a stable level of taxation are based on solid concepts of economic development principles as opposed to the interpretation which some might give to the manner in which this finding is stated.
4. In general, we would encourage you and members of your committee to accentuate the positive aspects of the Alaska economy and to eliminate some of the more onerous tonalities contained in the draft bill.
5. Sec. 38.45.030, as written, implies state imposed quotas and determinations which might prove to be in conflict with federal EEO statutes and/or constitutionally indefensible.
6. Sec. 38.45.050. The committee might want to discuss the applicability of the bill to recipients of state loans for business development.
7. Sec. 38.45.070. We would hope the committee would devote considerable time to an analysis of the negative consequences stemming from enactment of penalties as severe as those are which are set forth in this section. Shutting down business operations, blacklisting, fines which appear to punish rather than to elicit compliance, are not, in our opinion, conducive to fostering a positive business climate in Alaska.
8. Finally, as we indicated earlier, all Alaskan employers need to be aware of the benefits attendant to employment of Alaska residents. Sec. 38.45.090 (2) singles out the oil and gas, mineral and timber industries, along with their support industry network.

Thank you for the opportunity to present our perspective on this important issue.

Sincerely,

*William Webb*

William Webb  
President

Enclosure

WW/bs



# THE ALLIANCE

P.O. Box 100100 / Anchorage, Alaska 99510 / (907) 562-0100

## RESOLUTION IN SUPPORT OF THE PRACTICE AND CONCEPT OF "LOCAL HIRE"

WHEREAS, consistently high levels of unemployment have been endemic in Alaska's socioeconomic history, and

WHEREAS, these structural and cyclical dislocations have been substantially ameliorated through the economic development initiatives which have occurred over the past two decades, and

WHEREAS, despite these major impacts on the Alaska labor force, unacceptable levels of unemployment remain, and

WHEREAS, immediate and future prospects for economic development opportunities exist in . . .

- \* the petroleum industry, as it refocuses its attention towards the promise off Alaska's coastline;
- \* the hard-rock mining industry, as world-scale operations lay at the threshold of development;
- \* the visitor industry, a happy product of sophistication in the transportation, services and trade industries, as campaigns continue to spur increases in the number of tourists choosing Alaska as a destination;
- \* the fishing industry, as new concepts in surimi production and marketing open up the enormous potential attendant to bottomfish harvesting and as "fish and chips" diplomacy prods profitability of Alaskan joint ventures;
- \* the finance, insurance and real estate industries, as our population continues to expand and more people choose to invest in opportunities in Alaska rather than "Outside"; and

WHEREAS, it is economically and sociologically prudent that qualified Alaska residents in search of employment should be given preference for jobs in these industries and others.

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### Alaska Support Industry Alliance

... for responsible economic development

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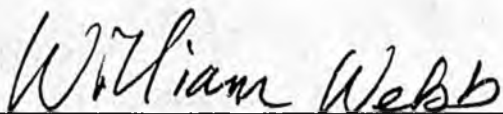
William F. Webb — Director  
Arctic Hosts, Inc.

THE ALLIANCE

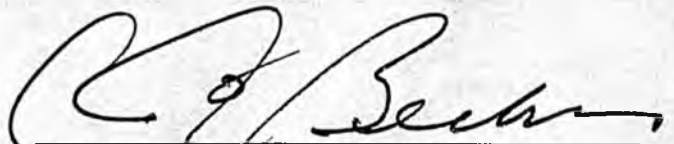
NOW THEREFORE BE IT RESOLVED, that the Alaska Support Industry Alliance hereby supports the practice and concept of providing employment preference to qualified Alaska residents.

BE IT FURTHER RESOLVED, that the Alliance calls upon the leaders of Alaska's prime industries and their support network of industries and government, to institute practices and policies which are designed to achieve this objective.

BE IT FURTHER RESOLVED, that the Alliance does hereby call upon the leaders of government in Alaska to develop incentives to facilitate local hire practices and which, in the process, serve to create a positive business climate in the state which will also generate added opportunities for Alaska and Alaskans.



William Webb, President



Chuck Becker, Vice President

This third day of May, Nineteen Hundred and Eighty-Five.

Bill No.

Committee Substitute for Senate Bill  
No. 271 (L&C)

Date May 7, 1985

Title

"An Act requiring resident hire on certain  
natural resource projects on state land;  
and providing for an effective date."

Contact:

Robert W. Landau  
465-2700  
Eileen Plate  
465-2700

This bill establishes a resident hire preference for all employment on natural resource projects on state land.

Under the bill, the Department of Labor would be primarily responsible for:  
(1) establishing resident hire requirements for each project; (2) referring qualified residents who are seeking employment; (3) establishing and monitoring employer reporting requirements; (4) conducting investigations and holding hearings to determine compliance with resident hire requirements; (5) seeking monetary penalties and/or injunctive relief for noncompliance; and (6) promulgating requirements for natural resource projects on state land.

Because of the beneficial impact of resident hiring on the workforce and the economy in general, the department strongly endorses the principle that qualified Alaska residents should be given employment preference on natural resource projects on state land. This is consistent with the view that a state is entitled to give preference to its own citizens in the development of the state's natural resources.

Although the Department supports Committee Substitute for Senate Bill 271, we would recommend additional amendments, as follows:

1. Add a new section to provide that the hiring preference be extended only to unemployed or underemployed persons or to persons who have completed a job-training program.

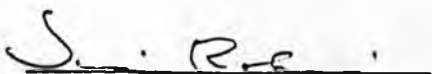
This would enhance the constitutional defensibility of this bill inasmuch as it would then directly focus on the unemployment problems set out in the legislative findings section of the bill (38.45.020).

2. Amend Sec. 38.45.060(b) to provide the Department some flexibility in the appeal process. As written, this section would require the Department to hold a hearing every time one is requested.

The Department would prefer to institute a "review" process and only hold hearings as appropriate.

Attached are line-by-line amendments which would incorporate the Department's recommendations.

APPROVED:

  
Jim Robison, Commissioner  
Department of Labor

**POSITION PAPER/**Department of Labor

Department of Labor  
Proposed Amendments to  
Committee Substitute for Senate Bill 271 (L&C)

1. Add a new Section 38.45.030 to read:

Sec. 38.45.030. ELIGIBILITY FOR PREFERENCE. (a) The Department of Labor shall certify a person as eligible for a hiring preference under this chapter if the person is a resident, and

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

(2) is unemployed and has registered with a public or private employment agency;

(3) is underemployed or marginally employed as determined by regulations adopted by the department; or

(4) has completed a job-training program approved by the department.

Note: Present Sections 38.45.030-38.45.100 would need to be renumbered, as well as any statutory references included in the Sections.

2. Insert the term "eligible," before the term "qual-" in line 25 on page 3.
3. Insert the term "eligible," before the term "qualified" in lines 12 and 13 and before the term "residents" on line 15 of page 4.
4. Amend line 16 on page 4 to read:  
  
"approve the hiring of residents who are not eligible for preference or nonresidents for the balance of the request."
5. Amend line 7 on page 5 to read:  
  
30 days after the rejection or termination, request a review by
6. Change the word "shall" in line 10 of page 5 to "may"

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

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

April 23, 1985

The Honorable Joe Josephson  
Alaska State Senate  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Re: Senate Bill 271

Dear Senator Josephson:

In response to your request for elaboration on our position paper on Senate Bill 271, the Department of Labor proposes the following amendments to the bill:

1) AS 38.45.030(d) should be amended to read: "An employer subject to the resident hiring requirements under this chapter may request the Department of Labor to assist in locating qualified and available residents. Upon receipt of such request, the Department shall refer an appropriate number of qualified and available residents. If the Department is unable to refer a qualified and available resident, it may approve the hiring of a nonresident."

2) AS 38.45.050(a) and (b) should be combined into a single section to read: "The resident hiring preference in this chapter applies to all oil and gas projects on state land. The Department of Labor shall determine the extent of the preference under AS 38.45.030. The preference applies only to employment that is performed directly for an employer."

After further evaluation of the fiscal and legal impact of Senate Bill 271, we believe that having the Department of Labor establish resident hire requirements for each covered project would serve to more closely tailor the preference requirements to the underlying statutory purposes. In addition, since the Department would establish individual hiring requirements tailored to each oil and gas project on state land, we do not believe there should be any minimum monetary threshold to trigger the hiring preference. We also think that the cost of establishing such a threshold through a lengthy cost-benefit analysis by regulation outweighs any benefit to be gained from such a procedure.

3) AS 38.45.060(b) would require the Department of Labor to hold a hearing within 10 days of receipt of a request from any person rejected or terminated from oil and gas employment. Because of the time

April 23, 1985

necessary to investigate a complaint and prepare for a hearing, as well as the due process considerations involved, it may be unrealistic to impose a 10-day hearing requirement. The Department recommends a 20-day period as a more realistic and reasonable timeframe.

4) With respect to AS 38.45.070(b)(3), the Department recommends that employers who willfully fail to comply with resident hire requirements on oil and gas projects on state land be barred from state and local contracts for a period of at least three (3) years. We suggest language similar to AS 36.10.090 which establishes a 3-year debarment period for resident hire violations on public construction projects.

5) Because of the constitutional requirement that a resident preference law must be "closely tailored" to address the underlying legislative purposes, the Department recommends that the definition of "resident" in AS 38.45.090(3) be expanded into the term "qualified and available resident." New subsections (C) and (D) would be added to AS 38.45.090(3) to read as follows:

"(C) possesses the requisite work qualifications, as evidenced by education, training, skills or experience; and  
(D) is either unemployed or underemployed."

We appreciate the opportunity to comment on this important piece of legislation. Please let us know if we can be of further assistance.

Sincerely,

  
for Jim Robison  
Commissioner

cc: Michael Thill  
Senate Labor Commerce Committee

~~Bill No.~~ Senate Bill No. 271

Date April 16, 1985

Title "An Act requiring resident hire under certain oil and gas leases and unitization agreements on state land; and providing for an effective date."

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

Senate Bill 271 would establish a resident hire preference for all employment on oil and gas projects on state land.

Under the bill, the Department of Labor would be primarily responsible for: (1) establishing resident hire requirements for each oil and gas project on state land; (2) maintaining and making available a list of qualified residents seeking employment on oil and gas projects; (3) establishing and monitoring employer reporting requirements; (4) conducting investigations and holding hearings to determine compliance with resident hire requirements; (5) seeking monetary penalties and/or injunctive relief for noncompliance; and (6) promulgating requirements for oil and gas projects on state land.

Because of the beneficial impact of resident hiring on the workforce and the economy in general, the Department strongly endorses the principle that qualified Alaska residents should be given employment preference on oil and gas projects on state land. This is consistent with the view that a state is entitled to give preference to its own citizens in the development of the state's natural resources.

Although the Department supports SB 271, the bill as presently drafted would have a significant fiscal impact. We believe this impact could be reduced through the following refinements to the language of the bill:

- 1) Because of the substantial cost involved in establishing and maintaining a comprehensive list of all qualified residents for oil and gas employment, AS 38.45.030(d) should be amended to require that, upon the receipt of an employer job order for oil and gas employment, the Department will then screen its applicant pool for qualified residents and make the appropriate referrals. It would be very costly to maintain an updated list of all qualified residents interested in oil and gas employment.

In addition, making such a list available to employment agencies, unions, and other entities would run afoul of both state and federal confidentiality laws. Once such an "official" list of qualified applicants is circulated, the potential for abuse of that list is enormous. In its place, the Department recommends a job order/referral system similar to what is currently done on public construction projects.

- 2) Rather than require the Commissioner of Labor to evaluate each oil and gas project on state land and establish resident hire requirements for that project, AS 38.45.030 should simply require that Alaska residents be employed on all oil and gas projects on state

land where they are available and qualified. Where employers are unable to find available and qualified residents, the Department could then issue a "waiver" for the employment of a nonresident (as it currently does with public construction employment). This approach would shift the burden of a project labor evaluation onto the employer (who is normally in a better position to make the evaluation) and would preserve the Department's resources for supplying qualified resident applicants and, if none are available, for issuing the necessary waivers.

- 3) Under AS 38.45.050, certain cost savings could be achieved by statutorily establishing a minimum monetary value threshold for covered oil and gas projects rather than requiring the Department to engage in a complex cost-benefit analysis through the administrative regulations process.

Approved:



Jim Robison  
Commissioner

## 1. The Legislative Findings:

- a) The simple statement is, the Legislative Findings are faulty and do not support the proposed Legislation.
- b) Finding (2), i.e., chronic unemployment breeds severe social problems, including alcoholism and domestic violence. It is a point which is hard to argue against; however, whether we like it or not, it is worth noting that long term employment on the North Slope has caused the same social problems.
- c) Finding (3) accurately describes the Department of Labor report, but it should be noted that this report covers all business and industry in the State of Alaska to develop support for the need for resident hiring preference. The report in no way deals with the availability of willing and unemployed workers in specific skills.
- d) Finding (4) simply is not correct and the numbers could be developed to discredit this finding.
- e) Finding (5) is still very much opened to question. For example, Dave Rasley, of the Operating Engineers told me a couple of months ago that if he had to furnish five qualified side-boom operators on that day, he could not do it. The same situation applies to high pressure pipeline welders. Reliable data in respect to willing and qualified workers in skills required in the industry has, to the best of my knowledge, not been developed. And, as mentioned earlier, certainly is not a part of the recent study by the Department of Labor.
- f) Findings (6 and 7) are eye wash, which again are not significant in the question being considered. The industry has made substantial use of the voc-ed facilities, and furthermore, at least Sohio has made substantial donations of equipment to voc-ed training in the state.

These points can easily be confirmed by the people in the administration working with vocational education. I would suggest, in this respect, that contact be made with Jerry Hiley and/or Karen Ryals in the Department of Education. I believe they will agree facilities are being used as funded.

- g) Finding (8) again, cannot be supported by facts--where is the proof?
- h) Finding (9) is another complete fabrication--at least in respect to Sohio. I am not aware and I doubt that any other company in the industry gave such assurances.

- i) In summary, we are left with what might be considered one valid legislative finding, i.e., (2) which hardly supports eight or nine pages of legislation.
2. In respect to eligibility for preference; since the key element to determine residency is intent to stay in the state, we have an impossible determination to make; and furthermore, any forced commitment in this respect violates all kinds of freedom acts.

Section (3) refers to under-employed or marginally-employed as an eligibility preference, but will be determined under regulations adopted by DOL and once again, is purely subjective judgment which would be open to challenge, and there is no doubt in my mind that challenge will come.

3. Section 38.45.040 (a) states "an employer may not discriminate against qualified residents in employment on a natural resource project on state land." This flies in the face of the (c), (d) and (e) provisions which were added.
4. Section 38.45.040 (b), is of course, our management right argument. This turns to the Commissioner of Labor, decisions which must be made by the employer.
5. Provision (f), starting at the bottom of page 4, is completely redundant since I have never known a contract to be issued by Sohio which does not require the contractor to be in compliance with all state and federal laws and regulations, nor have I ever been aware of a contract of any nature, whether in the oil business or otherwise, which does not carry this provision.
6. Provision (g) is once again, a subjective matter, which in the first instance, is the responsibility of DOL to find and to screen qualified residents in needed skills who are willing to work the employer's hiring need.

Considered in total, this paragraph means that a non-union employer could request from the Department of Labor a skill and qualification which is only available from a union hall. This means if that individual from the union hall will not accept the work and working conditions offered by the non-union contractor, a non-resident can fill the job. I'm sure this point is not well understood or publicized by those promoting local hire.

7. The balance of the Act involving penalties, et cetera, makes the appeal procedure an open invitation to literally hundreds of individual lawsuits which could be filed for a number of reasons. Of course, the penalties are excessive in respect to the intent of the law and would result in automatic court challenge by employers.

8. Other Considerations

- a) What are the provisions of AS 36.10.005 relating specifically to employment for natural resources on state land; are there any other similar statutes dealing with other than natural resources?
- b) What information does the State have in respect to Alaskan residents who have worked outside of Alaska for brief or extended periods while maintaining residency in Alaska?
- c) How many unions have "pass-through" provisions?
- d) What is the status of an employee who has lived and worked in Alaska for a number of years and made a personal choice to move out of the state while maintaining his job in Alaska, but at the same time registering to vote (for example) in his new domicile?
- e) What federal laws currently in effect are being violated by the provision of this Act?

MAY 07 1985

C. R. Elder, Jr.  
2042 Crataegus  
Anchorage, Alaska 99508

May 1, 1985  
CC-1386

Senator Arliss Sturgulewski  
Pouch V  
Juneau, Alaska 99811

Dear Arliss:

I am sending this personal letter to some legislators that I consider friends and more than acquaintances. The only connection to Sohio is my many years of dealing as an officer of the corporation with its top management and Board of Directors on budget matters. From this experience I am familiar with the factors involved in their thought process as they approach a final approved annual operating and capital budget--and therein lies my concern.

What I am about to say is not new to you, but often is listened to with tongue in cheek because of the perception of the credibility of the "Big Oil", which when surveyed, alternately falls just above or just below the credibility of a used car salesman.

Many of us in the industry have a problem understanding a reason for this reputation--perhaps its a throwback to the Rockefeller days, and subsequent gyrations of a few irresponsible so-called members of the oil industry--unfortunately the rest of us in the industry must live under their shadow.

It is for this reason I am laying my personal credibility on the line when I express some very specific concerns as an Alaskan citizen who has an interest for the state's welfare far beyond that of just an "Oil Johnnie".

The top management of an oil company each year finds themselves in a position you will recognize, i.e., far greater request for budget funds than the amount of discretionary money available. This situation exists even in the largest companies.

There is no automatic allocation to departments or business segments and the primary factors considered for approval of a capital project are (1) its compatibility and compliance to the Corporation long range goals and objectives, (2) the rate of return on the investment proposed, and (3) an analysis of the risk associated with the project over both the long and short term.

In the analysis of the risk associated with the capital investment is consideration of the political climate and stability of the state involved in respect to taxation, regulation, and discriminatory legislation. This was an early problem in Alaska, and has reappeared in this session in the form of separate accounting and the proposed Alaska hire Bill. There also seems to be an attitude of the state to maintain its "standard of living" by the consideration of even other forms of taxation and control.

Insofar as exploration and production is concerned, we from Alaska will have to compete for funds not only from our other businesses, but also for capital projects of other production activities in the Lower 48 such as the Gulf Coast, the Anadarko Basin in Kansas, Oklahoma, and the Rocky Mt. Overthrust (to identify only a few areas of our competition for capital funds). A press release dealing with our recent discoveries in the Gulf of Mexico is attached to give you a feel of areas which will require substantial expenditures, perhaps at our expense, if the corporate management feels a lesser political risk in these areas.

The action of the legislature and the administration can greatly impact the analysis of risk for a project, and in view of the prospects in the Lower 48, we in Alaska may find our ability for project approval greatly diminished--particularly as we move to the "marginal" fields which are extremely sensitive to both capital and operating cost, and in and of themselves carry a high factor of risk--al la Mukluk.

Sohio has never supported the unrealistic position that if the state does not treat us right, we will take our marbles and go home. The development which has already occurred will keep us in Alaska for many years, but we also must continue a healthy exploration and development program in the state.

In summary our ability to compete for Sohio's capital and operating funds truly lies in your hands to a greater degree than you may realize.

Thanks for your time in wading through this letter--but I am scared.

Sincerely,



Charrie Elder

sv

Attachment

cc: Governor Sheffield

P. S. I have also attached the press release concerning Sohio's first quarter earnings.

FOR IMMEDIATE RELEASE

**SOHIO  
PETROLEUM  
COMPANY**

Contact: Richard Wheatley  
(713) 552-8817

Houston, Texas, April 25, 1985 -- Sohio Petroleum Company today announced plans to develop an oil and natural gas discovery on its East Breaks Block 165 lease in the Gulf of Mexico, about 100 miles south of Galveston, Tex.

"Three exploration wells have been completed to date, and the third exploration well confirmed the discovery to be commercial," said Sohio Petroleum Company President David D. Lybarger.

Lybarger said a 40-well drilling and production platform, designed for installation in about 860 feet of water, has been ordered from McDermott Inc. "The platform is scheduled for installation in 1986, and production should begin in early 1987," Lybarger said.

Initial production facilities are designed for up to 20,000 barrels of oil per day and 50 million cubic feet of gas per day.

Sohio plans future exploration drilling from the platform to test additional fault segments.

The discovery well, in 960 feet of water, was drilled in mid-1984 to a total depth of 12,386 feet. It recovered oil and gas from wireline formation tests of several intervals.

- more -

SPC - East Breaks Block - 2.

A second well, located southeast of the first well in 996 feet of water, reached a total depth of 11,828 feet and was successful in finding oil and gas in zones similar to those encountered in the discovery well.

A drillstem test of an interval at about 11,400 feet in the second well flowed at a rate of 3,500 barrels of oil per day and 4.5 million cubic feet of gas per day on a 22/64-inch choke with a flowing tubing pressure of 3,850 psi. The oil has a gravity of 33.7-degrees API.

The third well, drilled at a location northeast of the discovery in about 870 feet of water, was recently completed. It was not production tested, but logs and wireline tests confirmed the productive zones.

East Breaks Block 165, a 100 percent Sohio-owned block, was purchased in the August 1983 federal Outer Continental Shelf lease sale for a high bid of \$14,125,000.

Sohio currently has working interest in five offshore production platforms in the Gulf of Mexico, of which it operates two.

Sohio Petroleum Company is the wholly-owned exploration and production subsidiary of The Standard Oil Company (Ohio).

##

0864c



THE STANDARD OIL COMPANY (OHIO)  
Midland Building  
Cleveland, Ohio 44115  
(216) 575-5548 - John Andes  
(216) 575-3796 - Randy Walthius

For Immediate Release

NEWS

CLEVELAND, OHIO, April 25, 1985 -- Alton W. Whitehouse, Chairman of The Standard Oil Company (Ohio), today reported first quarter 1985 earnings of \$343 million, a decrease of 10 percent from the \$381 million earned in the same period last year. First quarter net income per share, however, decreased only 5 percent to \$1.46 from \$1.54 last year because of fewer shares outstanding as a result of the company's purchases of 12 million shares of its common stock since January 1, 1984.

"Lower petroleum prices and the continued margin squeeze for refined petroleum products, a 34 percent increase in exploration expenses, and higher Prudhoe Bay field production expenses were the primary factors contributing to the earnings decline," Whitehouse said. "In addition, higher net interest expenses and lower earnings from coal operations primarily due to decreased demand adversely affected the quarter. However, partially offsetting these declines were higher crude oil sales volumes due to the conclusion of the redetermination payback period and better results in our industrial products business," he said.

"Petroleum prices began to recover late in the first quarter and profit margins began to improve. The improvement is continuing this month," Whitehouse added.

-more-

## 1985 First Quarter Earnings - 2.

Petroleum Activities

Operating income (income before interest and income taxes) from oil and gas exploration and production activities decreased to \$716 million for the first quarter of 1985 from \$740 million for the same period last year. This decrease was due primarily to the January 1 price reductions for Alaskan crude oil and higher exploration expenses and production costs, partially offset by higher sales volumes of Alaskan crude oil. Exploration expenses increased to \$175 million from \$131 million last year due primarily to higher dry hole costs and lease amortization.

Net production of Alaskan crude oil increased to 685,000 barrels per day during this year's first quarter from 584,500 barrels per day last year, due primarily to the conclusion of the redetermination underlift payback period on the Prudhoe Bay field and higher production from the Kuparuk field. However, additional Prudhoe production triggered the resumption of payments to British Petroleum for its ongoing net profits royalty interest in the Prudhoe Bay field. In addition, Lower 48 production increased 3,500 barrels per day to 19,800 barrels per day. This increase, largely from the Gulf of Mexico, is the first in many years.

Operating income from refining and marketing activities declined to \$52 million from \$64 million last year as depressed petroleum product prices, particularly during January and February, lowered refined product margins. Earnings for

1985 First Quarter Earnings - 3.

the first quarter of 1985 include income from two months of operations of the Southeastern refining and marketing properties acquired from Gulf Oil Corporation on February 1, 1985.

Non-Petroleum Activities

	Operating Income (Loss) (Millions of Dollars) .....First Quarter.....	
	<u>1985</u>	<u>1984</u>
Coal	\$ 1	\$ 21
Metals Mining	(40)	(45)
Chemicals	(3)	(2)
Industrial Products	9	(8)

Coal operating income for the first quarter of 1985 declined because of lower sales volumes due to decreased demand and higher unit production costs.

Metals mining losses of \$45 million in the first quarter of 1984 decreased to \$40 million in the 1985 first quarter as lower copper production costs more than offset lower sales prices. However, continuing losses that result from adverse market conditions, high labor costs, and antiquated facilities at the Utah Copper Division have caused the company to suspend these operations indefinitely. The suspension process will be carried out over the next four months. Engineering studies of facilities that would increase efficiency and lower costs at the Utah Copper Division are continuing.

1985 First Quarter Earnings - 4.

Chemicals losses increased slightly due to lower industrial chemicals earnings and start-up costs at the benzene plant which more than offset improved nitrogen chemicals results. The retail agricultural chemicals business lost \$6 million before it was sold in the first quarter of 1985, an amount equal to the loss in the first quarter of 1984.

Industrial products operations continued to improve as the processed minerals sector experienced strong sales of titanium dioxide slag. Industrial products results include expenses to develop new technology and products of \$10 million in the first quarter of 1985 and \$9 million in the first quarter of 1984.

Net interest expense for the first quarter of 1985 increased to \$80 million from \$53 million in last year's first quarter due to higher borrowings and lower capitalized interest.

Capital expenditures for the first quarter of 1985 were \$769 million, including \$315 million for refining and marketing properties acquired from Gulf Oil Corporation. Capital expenditures for the first quarter of 1984 were \$503 million.

#

## Highlights

	Three Months Ended March 31	
	1985	1984
<b>Financial highlights (millions of dollars)</b>		
Revenues	\$ 3,198	2,897
Total tax expense	\$ 712	677
Net income	\$ 343	381
Per share of common stock		
Net income	\$ 1.46	1.54
Cash dividends	\$ .70	.65
Average number of common and equivalent shares outstanding (millions)	235	247
Cash provided from operations	\$ 777	893
Capital expenditures	\$ 769	503
<b>Operating statistics</b>		
Crude oil and natural gas liquids produced (net) - barrels per day		
Alaska	685,000	584,500
Lower 48 states	19,800	16,300
	<u>704,800</u>	<u>600,800</u>
Average sales price - per barrel of crude oil		
Alaska	\$ 26.53	27.62
Lower 48 states	\$ 27.33	29.35
Produced natural gas sold (net) - thousands of cubic feet per day	99,100	97,800
Average sales price - per thousand cubic feet	\$ 2.36	2.41
Refinery runs - barrels per day*	509,100	379,800
Refined petroleum products sold - barrels per day*	535,900	391,700
Coal sold - thousands of tons	3,300	3,600
Produced copper sold - thousands of tons	62	97

\* Certain Gulf Oil Corporation refining and marketing operations were acquired on February 1, 1985 and are included since that date.

Business Segment Data  
(Millions of Dollars)

	Three Months Ended March 31	
	1985	1984
<b>Revenues</b>		
Petroleum	\$ 2,602	2,219
Coal	106	125
Metals mining	85	151
Chemicals	119	137
Industrial products	272	263
Corporate and other	14	2
	<u>\$ 3,198</u>	<u>2,897</u>
<b>Income before interest and income taxes</b>		
Petroleum		
Exploration and production	\$ 715	740
Refining and marketing	52	64
	<u>768</u>	<u>804</u>
Coal	1	21
Metals mining	(40)	(45)
Chemicals	(3)	(2)
Industrial products	9	(8)
Corporate and other	(33)	(36)
	<u>\$ 702</u>	<u>734</u>
<b>Capital expenditures</b>		
Petroleum		
Exploration and production	\$ 336	365
Refining and marketing	335*	9
	<u>671</u>	<u>374</u>
Coal	10	7
Metals mining	29	47
Chemicals	1	28
Industrial products	30	10
Corporate and other	28	37
	<u>\$ 769</u>	<u>503</u>

\* Includes \$315 million of properties from the acquisition of certain Gulf Oil Corporation operations.

# Alaska State Legislature

FEB 27 1986

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



CHAIRMAN  
Special Committee on  
Telecommunications

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

MEMBER  
Labor and Commerce  
State Affairs  
Finance—Subcommittee Administration

## Representative H. A. "Red" Boucher

To: Arliss Sturgulewski, Chairman  
Senate Resources

From: Representative H.A. "Red" Boucher  
Senator Jan Faiks *Red*

Date: February 26, 1986

Subject: Hearings on HB 466 and SB 367

You have no doubt heard about the recent Alaskan Supreme Court decision which struck down the Alaska resident hire law in the Francis case. HB 466 and SB 367, in the opinion of the Attorney General's Office, respond directly to the major objections the Court raised in regards to the current law.

We have been further advised that in order for a new Alaska resident preferential hire law to be put in place and be constitutionally defensible, it is not enough that we show there is high unemployment in Alaska. We have to obtain findings that show unemployment can lead to a host of social problems, such as alcoholism, suicide, poverty, violent crimes, broken homes and families, even insolvency and bankruptcy. Even more importantly, we need to obtain testimony that focuses on outsiders as being a "significant contributing cause" of unemployment in Alaska, and on some other constitutional aspects as well.

We are further caught in a bind of trying to balance the problem of getting a new piece of legislation in place by the end of this session (which has to go through 4 to 6 Committees), against the problem of trying to obtain as much public testimony as possible for the record (so that we can demonstrate to any future court that we did indeed consider the constitutional problems raised).

We thus need to obtain both written (statements, publications, statistics) and spoken input on this issue of resident hire, and attempt in teleconferenced hearings to balance input from expert witnesses with input from private citizens chronicling their individual problems. We would appreciate it very much if you could attempt to strike this balance if your Committee is one of those holding hearings on these two bills.

A lot of the written and published material that is referred to by expert witnesses will not be obtainable until weeks later. We would like to therefore also request your indulgence in entering these various documents into the Committee hearing record as they come in and catch up to the Committee they are in, as they will be extremely critical in providing the basis for any future court cases on resident hire. This may even entail additional public teleconference hearings.

We respectfully request that we be allowed to work with your Committee towards meeting the above goals as the hearings on these bills progress.



Official Business

# Alaska State Legislature

## Senate

JAN 22 1986

Pouch V  
State Capitol  
Juneau, Alaska 99811

January 22, 1986

The Honorable Arliss Sturgulewski  
Chairman  
Senate Resources Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Sturgulewski:

I appreciate your interest in further consideration of CSSB 271, requiring resident hire on certain natural resource projects on state land. CSSB 271 is presently assigned to the Resources Committee.

You have asked me for my views regarding the implications of the January 17, 1986, decision of the Supreme Court of the State of Alaska in Robison v. Francis.

In that case, the Court held that Alaska's local hire law, AS 36.10.010, requiring that work on public work projects be performed almost entirely by Alaska residents, violates the privileges and immunities clause of article IV, sec. 2, of the Constitution of the United States.

The effects of Robison v. Francis on pending legislation are not altogether clear to me. In that case, the trial court made a finding of fact, which the Supreme Court accepted, that

"There is not sufficient evidence to support a finding that nonresident construction workers are a peculiar source of unemployment in the construction industry in Alaska any more than they would be in any other state. The only inference that can be drawn from the record is that nonresident construction workers come to Alaska to work during peak construction periods of time, during which there are more jobs available and less unemployment resulting."

Since it was the State's obligation to demonstrate on the record, by a preponderance of the evidence, that "nonresident construction workers are a peculiar source of unemployment in the construction industry in Alaska", and since that obligation was not met at the trial level, the statute necessarily failed to pass constitutional muster.

The opinion in Robison v. Francis includes a general discussion of the issue of state local hire legislation under the privileges and immunities clause. A fair reading of the opinion suggests strongly that the Supreme Court concludes that the very goal of reducing resident unemployment by "discrimination" against nonresidents is constitutionally impermissible per se, at least in the absence of a showing of economic or social "collapse" such as that shown in the Camden, New Jersey, case (United Building and Trades Council of Camden County and Vicinity vs. Mayor and Council of the City of Camden).

On the other hand, since the requisite factual record was not made, the opinion can also be read as mere dicta (i.e., a philosophical commentary by the Court not necessary to the decision itself, and therefore not considered as guiding judicial precedent).

Areas of uncertainty about the treatment that would be afforded CSSB 271, if enacted, include the following:

1. The invalidated AS 36.10.010 related to state and local construction work; CSSB 271 relates to certain activities on state lands. The scope of AS 36.10.010 is broader and more pervasive than the scope of CSSB 271. The "pervasiveness and intensity" of "the discrimination mandated" informs the degree of judicial deference to the state's status as a market participant acting in a proprietary, rather than a regulatory, role. Thus, the level of judicial scrutiny may be lower under the pending CSSB 271 than was true as to AS 36.10.010. Unlike the invalidated enactment, SB 271 sets no numerical goals or percentages, but instead provides for the determination of resident work goals by the Commissioner of Labor based on the nature of the work, classification of workers, the availability of residents and the willingness of workers to perform the work.

2. It is not clear that the Court gave any consideration to Chapter 69, SLA 1985, which attempted to make retroactive factual findings concerning unemployment conditions in the state. These findings may aid legislation adopted after 1985.

The Honorable Arliss Sturgulewski  
January 22, 1986  
Page Three

3. The State's ability to make a factual showing is helped substantially by the publication of the Department of Labor report, Nonresidents Working in Alaska, which measured the economic impact of nonresidents on Alaska's economy during calendar year 1984. I also believe we should consider having similar studies performed on an annual basis.

4. As the Supreme Court noted, and as I have stated in support of SB 271, "The preferential hire statute involved in Hicklin was struck down because, among other reasons, the statute was too broad." SB 271 is limited to activities on state property, in contrast to the statute invalidated in Hicklin.

5. Legislative committees are finding that chronic unemployment breeds certain severe social problems such as alcoholism and domestic violence. These findings should be incorporated into a revised version of CSSB 271.

My recommendations for further action on CSSB 271 include the following:

1. Incorporate findings from Chapter 69, SLA 1985, and from the report entitled Nonresidents Working in Alaska. For example, the report found that approximately 71,000 (!) nonresident workers earned \$677 million here in 1984 and constituted 22 percent of all employees.

2. Structure the bill in terms of goal-setting targeted for help to the unemployed, the underemployed, and recent graduates of job-training programs.

3. Include, as noted above, a specific finding linking chronic alcoholism and domestic violence to chronic unemployment, based on data now available to the Senate. Senator Vic Fischer, a member of your committee, is working on this important part of our research.

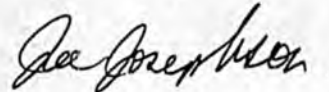
I am requesting that the Legal Services Division of the Legislative Affairs Agency incorporate these suggestions in a revised draft, and I will be pleased to work with you and members of the Committee's staff to incorporate as well any suggestions you may have that would strengthen the legislation and be compatible with its basic goals and objectives.

The Honorable Arliss Sturgulewski  
January 22, 1986  
Page Four

I am hopeful that the revisions will be ready for consideration soon, and that through the public hearing process, you and our colleagues on the Committee can assist in developing a measure that will help alleviate unemployment among resident Alaskans and the attendant economic and social ills.

With best wishes, I am

Sincerely,



Joe P. Josephson  
State Senator

JPJ:rak

cc: Senator Jalmar Kerttula  
Senator Victor Fischer  
Senator Fred Zharoff

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M  
JUNEAU, ALASKA 99811  
PHONE: 907-485-2400

FEB 28 1986

February 27, 1986

The Honorable Arliss Sturgulewski  
Chair, Senate Resources Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Senator Sturgulewski:

As you know, the Department of Natural Resources supports the concept of resident hire and has included stipulations encouraging resident hire in leases for State oil, gas and minerals.

The Sponsor Substitute for Senate Bill 271 would require the Department to incorporate into each new contract, lease, unitization agreement or renegotiation for a contract, lease or agreement for a timber, oil, gas or mineral project on State land, provisions related to compliance with this bill. We defer to the Department of Law concerning the constitutionality and enforceability of this bill and to the Department of Labor concerning the feasibility of developing the necessary employment and resident hire information.

For clarification, we would suggest that a definition of State land be added to Section 38.45.100. DEFINITIONS, as follows:

- (5) "state land" means all land, including shore, tide and submerged land, belonging to or acquired by the state.

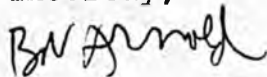
We would also suggest that you consider whether permits for prospecting or other miscellaneous land uses are or should be included in the definition of a natural resource project on State land. The Department issues permits for geophysical exploration, mineral prospecting, and other land use activities.

The Hon. Arliss Sturgulewski -2-

February 27, 1986

We would be pleased to work with members of the Committee concerning our suggested changes to this bill. If we may provide additional information or assistance, please let me know.

Sincerely,



f Esther C. Wunnicke  
Commissioner

cc: Senate Resources Committee  
Bill Sponsors

NOTICE: This opinion is subject to final correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

JAMES ROBISON, Commissioner of )  
Labor; ROBERT BACOLAS, Director, )  
Division of Labor Standards and )  
Safety; DONALD WILSON, Deputy )  
Director of the Division of Labor )  
Standards and Safety; JAMES R. )  
CARR, Supervisor of the Wage and )  
Hour Administration; the )  
DEPARTMENT OF LABOR OF THE STATE )  
OF ALASKA, and the STATE OF )  
ALASKA, and the INTERNATIONAL )  
ASSOCIATION OF BRIDGE, STRUCTURAL )  
AND ORNAMENTAL IRONWORKERS, )  
LOCAL 751, )

Appellants, )

v. )

JAMES N. FRANCIS, )

Appellee. )

---

INTERNATIONAL ASSOCIATION OF )  
BRIDGE, STRUCTURAL AND ORNAMENTAL )  
IRONWORKERS, LOCAL 751, )

Appellant, )

v. )

JAMES N. FRANCIS, )

Appellee. )

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File No. S-493

O P I N I O N

[No. 3011 - January 17, 1986]

File No. S-510

JAMES N. FRANCIS,

Appellant,

v.

JAMES ROBISON, Commissioner of Labor; ROBERT BACOLAS, Director, Division of Labor Standards and Safety; DONALD WILSON, Deputy Director of the Division of Labor Standards and Safety; JAMES R. CARR, Supervisor of the Wage and Hour Administration; the DEPARTMENT OF LABOR OF THE STATE OF ALASKA, and the STATE OF ALASKA, and the INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL AND ORNAMENTAL IRONWORKERS, LOCAL 751,

Appellees.

File No. S-552

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Karl S. Johnstone, Judge.

Appearances: Jan Hart DeYoung, Assistant Attorney General, Anchorage, and Norman C. Gorsuch, Attorney General, Juneau, for State of Alaska, Department of Labor, James Robison, Robert Bacolas, Donald Wilson, and James C. Carr. Allison E. Mendel, Jermain, Dunnagan & Owens, Anchorage, for International Association of Bridge, Structural and Ornamental Ironworkers, Local 751. Ron Zobel, Anchorage, for James N. Francis.

Before: Rabinowitz, Chief Justice, Burke, Matthews, Compton, and Moore, Justices.

MATTHEWS, Justice.  
BURKE, Justice, concurring.

We hold in this case that Alaska's local hire law, AS 36.10.010,<sup>1</sup> which requires that work on public construction

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1. AS 36.10.010 provides:

(a) In the performance of contracts let by a municipality for construction, repair, preliminary surveys, engineering studies, consulting, maintenance work or any other retention of services necessary to complete any given project, 95 percent residents shall be employed where they are available and qualified. If 10 or fewer persons are employed under the contract, then 90 percent residents shall be employed where they are available and qualified. In all cases of public works projects, preference shall be given to residents. In an area which has been designated as an area impacted by an economic disaster, residents of that area shall be given employment preference as provided in AS 44.33.290, followed by other residents of the state.

(b) When a construction project is partly or wholly funded by state money and the state or an agency of the state, a department, office, agency, state board, commission, regional school board with respect to an educational facility under AS 14.11.020, public corporation or other organizational unit of or created under the executive, legislative or judicial branch of state government, including the University of Alaska, is a signatory to the construction contract, the contract shall require that the worker hours on a craft-by-craft basis shall be performed at least 95 percent by bona fide state residents. If 10 or fewer persons are employed under the contract, then 90 percent residents shall be employed where they are available and qualified. In an area which has been designated as an area impacted by an economic disaster, residents of that area shall be given employment preference as

(Footnote Continued)

projects be performed almost entirely by Alaska residents, violates the privileges and immunities clause of article IV, § 2 of the United States Constitution.

### I. FACTUAL AND PROCEDURAL SETTING

James Francis, a Montana resident, was employed in 1983 as an ironworker by Regan Steel & Supply, a sub-contractor on a North Pole High School project. When the Department of Labor discovered that Regan Steel had a work force of more than five percent non-residents on the project, it sent an enforcement notice to the company. As a result, the company discharged Francis.

Francis sued the state and various state officials,<sup>2</sup> seeking a declaration that the local hire law is unconstitutional under the privileges and immunities and the equal protection clauses of the United States Constitution and under the equal rights clause of the Alaska Constitution. In addition, injunctive relief and damages under 42 U.S.C. § 1983 were sought.

Following a non-jury trial, the superior court entered a partial final judgment declaring that the statute violated the

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(Footnote Continued)

provided in AS 44.33.290, followed by other residents of the state.

2. The International Association of Bridge, Structural and Ornamental Ironworkers, Local 751 intervened as a defendant.

privileges and immunities clause. In support of its decision, the court filed detailed findings of fact, including the following:

Between April, 1980, and July, 1982, the population of Alaska has grown by nearly fifteen percent (15%).

The population of Alaska has increased in the recent past more rapidly than at any other time in its history, and the State is growing more rapidly than other states in the union.

Property values in Alaska have been increasing over the last five years.

Alaska is not a depressed area as that term is used in the economics profession.

All sectors of the Alaska economy are expanding and Alaska has experienced very rapid economic growth since 1980.

Employment in Alaska in 1983 was at record levels, and the rate of increase was the best since the days of the Alaska Pipeline in 1974-1975.

In 1983, the construction industry was the strongest sector in the state's economy, and it has had the greatest impact on the Alaska economy since the Alaska Pipeline years.

The construction industry in Alaska was exceptionally strong in both the public and private sectors during 1983.

The major factor affecting the level of employment in Alaska in the construction industry is climatic changes as a result of extreme temperature differentials in the winter and summer months. Construction declines to substantially lower levels during the winter months, and increases, peaking out in August and September, during the latter summer months. During the peak periods of construction activity, the state experiences its lowest rate of unemployment.

The expenditure of state funds are a major factor affecting the level of employment in Alaska generally, and the construction industry in particular. The state expenditure for public works projects accounts for approximately sixty to seventy percent (60% to 70%) or more of the total annual construction dollar outlay within the state.

Private investment has a lesser effect on the level of construction activity from year to year in the State of Alaska, and such effect, from time to time, is affected by interest rates.

Unemployment is substantially greater in the rural areas than in the urban areas. The unemployment rate in Anchorage is less than the national average, while in the rural areas it is greater than the national average and greater than the average within the State of Alaska.

The construction activity is greater within the urban area than within the rural areas. Unemployment is less within the urban areas than within the rural areas.

Rural Alaskans lack the training that urban Alaskans have access to in construction work.

In-migration in the State of Alaska is a factor affecting unemployment in the construction industry in Alaska.

Reasonable inferences from the evidence support a finding that most of the job seekers coming to Alaska intend to become residents upon their entry into the state, thus contributing to the rapid population growth within the state.

- \* There is not sufficient evidence to support a finding that nonresident construction workers are a peculiar source of unemployment in the construction industry in Alaska any more than they would be in any other state. The only inference that can be drawn from the record is that nonresident construction workers come to Alaska to work during peak construction

periods of time, during which there are more jobs available and less unemployment resulting.

Among the court's conclusions of law were:

\* The right to obtain employment in any state is a fundamental right and is a privilege which shall be immune from any burden unless the State of Alaska can show a legitimate purpose for such burden. In this case, the State has failed to establish by a preponderance of the evidence such a legitimate purpose.

The defendants and intervenor have failed to prove by a preponderance of the evidence that nonresident construction workers constitute a peculiar source of unemployment in the State of Alaska.

Serious factors affecting unemployment within the State of Alaska are the extreme climatic conditions, the change in the legislative appropriation for public works construction projects, the extreme rapid growth of population experienced by Alaska, and the wildly fluctuating interest rates which have a direct effect on the private sector construction spending.

Statistics over the last several years demonstrate that Alaska's unemployment rate has increased at a rate lesser than the nationwide average. Whereas Alaska's unemployment rate for several years was substantially greater than the nationwide rate, it now stands much closer to the national average, further supporting the conclusion that nonresident employment is not a serious factor in the unemployment rate in Alaska.

The State and the intervenor have failed to prove by a preponderance of the evidence that there is a substantial reason to discriminate against employment of citizens of other states on public works construction projects within the State of Alaska.

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The State and intervenor have failed to prove by a preponderance of the evidence that the preference granted Alaska residents is closely tailored to alleviate unemployment in the construction industry in the State of Alaska.

## II. PURPOSE OF THE PRIVILEGES AND IMMUNITIES CLAUSE

The privileges and immunities clause of section 2, article IV of the United States Constitution provides:

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.<sup>3</sup>

The primary purpose of this clause is to prevent state from enacting measures which discriminate against non-residents for reasons of economic protectionism. Supreme Court of New Hampshire v. Piper, \_\_\_ U.S. \_\_\_, 53 U.S.L.W. 4238, 4240 n.18 (1985). Historically, it was meant to:

[h]elp fuse into one Nation a collection of independent, sovereign States. It was designed to insure to a citizen of State A who ventures into State B the same privileges which the citizens of State B enjoy. For protection of such equality the citizen of State A was not to be restricted to the uncertain remedies afforded by diplomatic processes and official retaliation. "Indeed, without some provision of the kind removing from the citizens of each State the disabilities of alienage in the other States, and giving them equality of privilege with citizens of those States, the Republic would have

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3. The terms "citizen" and "resident" are essentially interchangeable for the purpose of review under the privileges and immunities clause. Hicklin v. Orbeck, 437 U.S. 518, 524, 57 L.Ed.2d 397, 403, n.8 (1978).

constituted little more than a league of States; it would not have constituted the Union which now exists."

In line with this underlying purpose, it was long ago decided that one of the privileges which the clause guarantees to citizens of State A is that of doing business in State B on terms of substantial equality with the citizens of that State.

Toomer v. Witsell, 334 U.S. 385, 395-96, 92 L.Ed. 1460, 1471 (1948) (footnote omitted, citations omitted). In brief, the clause was meant "to prevent discrimination against non-residents, to further the concept of federalism, and to create a national economic unit." Sheley v. Alaska Bar Association, 520 P.2d 640, 642 (Alaska 1980) (citations omitted).

### III. FRAMEWORK FOR ANALYSIS OF PRIVILEGES AND IMMUNITIES CLAIMS

#### A. Nature of the Right.

The privileges and immunities clause does not protect non-residents against all forms of discrimination. Its reach is limited to "fundamental rights" - rights involving "basic and essential activities, interference with which would frustrate the purposes of the formation of the union." Baldwin v. Montana Fish and Game Commission, 436 U.S. 371, 387, 56 L.Ed.2d 354, 367-68 (1978).

#### B. Substantial Justification.

If the threshold fundamental rights requirement is met, discrimination is only permitted where there is a subst

reason which justifies it. Toomer, 334 U.S. at 396, 92 L.Ed. at 1471. "No 'substantial reason' will be found absent some showing that nonresidents are 'a peculiar source of the evil' which the state's action is meant to remedy." Noll v. Alaska Bar Association, 649 P.2d 241, 243 (Alaska 1982) quoting Hicklin v. Orbeck, 437 U.S. 518, 526-27, 57 L.Ed.2d 397, 405 (1978).

C. Close Relationship Between Perceived Problem and Statutory Solution.

Moreover, the presence of a substantial reason for discrimination does not alone suffice. The means employed by the challenged statute must be closely related to the interests served by the statute. Toomer, 334 U.S. at 396, 92 L.Ed. at 1471; Hicklin, 437 U.S. at 527, 57 L.Ed.2d at 405. "In deciding whether the discrimination bears a close or substantial relationship to the state's objective . . . the availability of less restrictive means" is relevant. New Hampshire v. Piper, \_\_\_\_ U.S. at \_\_\_\_, 53 U.S.L.W. at 4241.

D. Market Regulator - Market Participant Distinction.

This method of analysis applies both when the state is acting as a sovereign - a market regulator - and as an owner - a market participant.<sup>4</sup> United Building & Construction Trades v.

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4. When the state acts as an employer, a lender, a landlord, a buyer, a seller, or an owner of natural resources, it may be regarded as a market participant and for some purposes will be treated differently than when it acts solely as a

(Footnote Continued)

Mayor and Council of the City of Camden, \_\_\_ U.S. \_\_\_ 79 L.Ed.2d 249, 259-61 (1984); Hicklin, 437 U.S. at 528-29, 57 L.Ed.2d at 406. However, more leeway is granted the state in its perception of "local evils and in prescribing appropriate cures" when it is acting in a proprietary capacity, as where it "is merely setting conditions on the expenditures of funds it controls." Camden, \_\_\_ U.S. at \_\_\_, 79 L.Ed.2d at 261 (citations omitted).

This analytical framework, except for the deference given to the state as a market participant, is quite similar to what has come to be called the level of intermediate scrutiny under the federal equal protection clause. Classifications may be made only for "important" purposes, and the means used to accomplish them must be "fairly and substantially related" to the achievement of those purposes. State v. Ostrosky, 667 P.2d 1184, 1192 (Alaska 1983) (citations omitted).<sup>5</sup>

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(Footnote Continued)

sovereign body regulating the conduct of others within its jurisdiction. See generally Wells and Hellerstein, The Governmental Proprietary Distinction in Constitutional Law, 66 Va. L. Rev. 1073 (1980).

5. The coverage of the two clauses is overlapping but not identical. The privileges and immunities clause does not apply to corporations, or to aliens, while the equal protection clause does, and the equal protection clause applies to many classifications, while the privileges and immunities clause applies only to those based on residence. L. Tribe, American Constitutional Law § 6-33 at 411-12. Alienage classifications involving non-U.S. citizens are subject to at least an intermediate level of review under federal equal protection doctrine. Tribe, supra § 16-31 at 1089-90; Sugarman v. Dougall,

(Footnote Continued)

The amount of deference due a state when acting as a market participant is not clear from federal cases. The state suggests, and we believe, that a variable standard must be employed. Thus, where the discrimination is far-reaching and exclusive in nature, and extends to the fringes of the state's proprietary interests, the state is entitled to little deference. On the other hand, where the discrimination is narrow in scope and involves a direct relationship between the state and affected individuals, greater deference is called for.

The "Alaska Hire" statute struck down in Hicklin, which covered all employment which was the "result" of state oil and gas leases, which excluded all non-residents from employment so long as qualified Alaskans were available, and which required private employers to discriminate, including those who had no direct dealings with the state, is an example of a case in which the proprietary interest of the state was entitled to little or no deference. An example where more leeway is due might be a case in which a state law requires residency as a qualification for important non-elective public offices. Cf. Sugarman v. Dougall, 413 U.S. 634, 647-49, 37 L.Ed.2d 853, 862-64 (1973).

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(Footnote Continued)

413 U.S. 634, 642, 37 L.Ed.2d 853, 860 (1973). The removal of the "disabilities of alienage" in the sense of discrimination based on residency in another state of the United States is central to the privileges and immunities clause. Paul v. Virginia, 75 U.S. 168, 180, 19 L.Ed. 357, 360 (1868).

#### IV. ANALYSIS

##### A. The Nature of the Right.

For purposes of privileges and immunities analysis employment in the construction industry must be considered to be a fundamental right entitled to the protection of the privileges and immunities clause. That conclusion was implied in Hicklin, 437 U.S. at 524-25, 57 L.Ed.2d at 404 (1978) and was made explicit in Camden, \_\_\_ U.S. at \_\_\_, 79 L.Ed.2d at 260-61.

##### B. The State's Justification.

The justification proffered for the discrimination inherent in the local hire law is Alaska's historically high unemployment rate. For each year between 1970 and 1983, except 1975, unemployment in Alaska was higher than the national average.<sup>6</sup>

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6. A table prepared by the state's expert witness shows the following:

Unemployment Rates U.S., Alaska 1970 - 1983		
	U.S.	Alaska
1970	4.9%	7.1%
1971	5.9	8.3
1972	5.6	8.3
1973	4.9	8.5
1974	5.6	7.9
1975	8.5	6.9
1976	7.7	8.5
1977	7.0	9.3
1978	6.0	11.0
1979	5.8	9.3

(Footnote Continued)

Unemployment in the construction industry is a substantial factor in the overall rate of unemployment. Non-resident construction workers contribute to unemployment in the construction industry because, according to the state, they "take jobs which otherwise would go to Alaskan residents. As such non-resident construction workers are a peculiar source of the unemployment problem in Alaska because they take those construction jobs which otherwise could be filled by unemployed Alaskans." In essence, the state's justification for the local hire law is that it tends to reduce unemployment in Alaska by eliminating non-residents from public works construction projects.

C. Degree of Deference Due The State As A Market Participant.

The scope of the discrimination mandated by the local hire law is extensive. All municipal projects and all projects funded by the state, in whole or in part, are covered. This amounts to some 60 to 70% of all commercial construction in the state. As to those projects covered by the law, non-residents are almost entirely excluded. For example, on Francis's construction crew of 26 workers, 25 of them had to be residents. For crews of fewer than 10 workers all non-residents are

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(Footnote Continued)

1980	7.1	9.6
1981	7.1	9.2
1982	9.7	10.0
1983	9.6	10.4

excluded. The statute applies to subcontractors who have no direct contractual relationship with the state, and it seeks to pressure private employers to discriminate in their hiring practices. However, it is limited to employment on public works projects, and as such does not extend, as did the Alaska Hire Act struck down in Hicklin, to activity in which the state has no proprietary interest.

The pervasiveness and intensity of the discrimination mandated by the act indicate that review should be conducted untempered by consideration of the state's status as a market participant in public works projects. The fact that the act does not extend to activities in which the state's proprietary interest is lacking, taken alone, would suggest a less rigorous standard of review. However, this cannot be conclusive in light of the scope and magnitude of the discrimination. On balance we conclude that review approaching that of the intermediate level of scrutiny is called for.

D. Substantiality Of The Justification As A Factual Matter.

There is no doubt that Alaska has an unemployment rate which is higher than the national average and that this constitutes a serious problem. What is lacking is a showing that non-residents are a "peculiar source of the evil" of unemployment. This is in the first instance a factual question. Camden,

\_\_\_\_ U.S. at \_\_\_\_\_, 79 L.Ed.2d at 262; Hicklin, 437 U.S. at 526-27, 57 L.Ed.2d at 405.

The trial court found that "there is not sufficient evidence to support a finding that non-resident construction workers are a peculiar source of unemployment in the construction industry in Alaska anymore than they would be in any other state." Instead, the trial court detailed other causes of unemployment in the construction industry, including climatic extremes, the absence of construction activities in rural areas, and the lack of training prevalent among rural Alaskans. These findings, which are similar to those noted by the United States Supreme Court in Hicklin, 437 U.S. at 526-27, 57 L.Ed.2d at 405, are supported by the record.<sup>7</sup> As such they are not clearly erroneous and may not be disturbed on appeal. Civil Rule 52(a).

E. Substantiality Of The Justification As A Matter Of Law.

As noted, the purpose of the local hire law is to exclude non-residents from public construction jobs so that more jobs will be available to Alaskans. In our view this is not a permissible justification for discrimination under the privileges

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7. In State v. Wylie, 516 P.2d 142 (1973), we struck on equal protection grounds a statute giving a preference in state employment to persons who had resided in the state for one year. We referred to evidence "which indicates that the state's unemployment problems stem from inadequate education and vocational training and from insufficient job opportunities in remote areas of the state." Id. at 149 (footnote omitted).

and immunities clause. To state the same conclusion in conventional privileges and immunities terms, the justification is not "substantial."

A related point recently was made by the United States Supreme Court in New Hampshire v. Piper, \_\_\_ U.S. at \_\_\_, 53 U.S.L.W. at 4241 n.18. One reason suggested for New Hampshire's law prohibiting non-resident lawyers from becoming members of the bar was the protection of its own lawyers from professional competition. The court dismissed this suggestion: "[T]his reason is not 'substantial'". The privileges and immunities clause was designed primarily to prevent such economic protectionism."

Discrimination for the purpose of benefiting local residents economically was recognized by us as improper in Lynden Transport, Inc. v. State, 532 P.2d 700 (Alaska 1975) which involved a statute granting grandfather rights to resident trucking companies but not to non-resident trucking companies. We struck down the statute stating:

A discrimination between residents and non-residents based solely on the object of assisting the one class over the other economically can not be upheld under either the privileges and immunities or equal protection clauses. . . .

Benefiting economic interests of residents over non-residents is not a purpose which may constitutionally vindicate legislation. . . .

Id. at 710-11.

Other authorities which suggest that a state may not discriminate against non-residents in order to benefit residents economically include:

- Hicklin, 437 U.S. at 526, 57 L.Ed.2d at 405. The court observed that for a state to attempt to eliminate its unemployment problem by requiring private employers within the state to discriminate against non-residents was a policy which was "at least dubious."

- Toomer v. Witsell, 334 U.S. 385, 92 L.Ed. 1460 (1948). South Carolina was precluded from excluding non-resident shrimp fishermen in order to create a commercial monopoly which benefited resident fishermen.

- Ward v. Maryland, 12 Wall 418, 20 L.Ed. 449 (1871). Maryland was precluded from discriminating against non-resident salesmen so that resident merchants might reap greater economic benefits.

- Metropolitan Life Insurance Co. v. Ward, \_\_\_ U.S. \_\_\_, 105 S. Ct. 1676 (1985). The Court struck an Alabama law discriminating against out-of-state insurance companies as violative of the equal protection clause. The purpose of the law was to promote domestic industry. The Court held that this purpose was not a legitimate justification for discriminatory treatment: "[P]romotion of domestic business within a state, by discriminating against foreign corporations that wish to compete by doing

business there, is not a legitimate state purpose." \_\_\_\_\_ U.S. at \_\_\_\_\_, 105 S.Ct. at 1683.<sup>8</sup>

These cases reflect the view that our constitution protects non-residents from economic discrimination so that our nation can function as an economic unit. Justice Brennan expressed this theme in his concurring opinion in Allied Stores of Ohio v. Bowers, 358 U.S. 522, 533, 3 L.Ed.2d 480, 488 (1959) cited with approval by the Court in Metropolitan Life, \_\_\_\_\_ U.S. at \_\_\_\_\_, 105 S.Ct. at 1682, stating:

Wheeling [Steel Corp v. Glander 337 U.S. 562] teaches that a distinction which burdens . . . nonresidents but not . . . residents is outside the constitutional pale. But this is not because no rational ground can be conceived for a classification which

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8. This case was decided on equal protection rather than privileges and immunities grounds. The difference, however, is not significant in the present context because the method of analysis is similar and the privileges and immunities clause provides non-resident individuals with more stringent protection against economic discrimination than does the equal protection clause in cases where the basis for the challenged classification is non-residence. L. Tribe, American Constitutional Law § 6-33, at 411-12.

In United Building and Trades Council of Camden County and Vicinity v. Mayor and Council of the City of Camden, \_\_\_\_\_ U.S. \_\_\_\_\_, 79 L.Ed.2d 249 (1984), the United States Supreme Court neither rejected nor approved a city program involving discrimination against non-city residents on public works projects. That case is discussed more fully on pages 24 through 25, infra. The fact that the program was not rejected in the face of a justification of grave economic and social ills may mean that local or state governments may foster discrimination in order to stave off an economic or social collapse, a goal broader than, but related to, that of benefiting local residents economically.

discriminates against nonresidents solely because they are nonresidents: could not such a ground be found in the State's benign and beneficent desire to favor its own residents, to increase their prosperity at the expense of outlanders, to protect them from, and give them an advantage over, "foreign" competition? These bases of legislative distinction are adopted in the national policies of too many countries, including from time to time our own, to say that, absolutely considered, they are arbitrary or irrational. The proper analysis, it seems to me is that Wheeling applied the Equal Protection Clause to give effect to its role to protect our federalism by denying Ohio the power constitutionally to discriminate in favor of its own residents against the residents of other state members of our federation.

Restricting entry by non-residents into a job market will make more positions available to residents. It is not difficult to make a case to a sympathetic legislature, whose members are accountable only to residents, that residents are deserving of protection because some of them are unemployed. But the universality of this condition is itself a reason why it is impermissible as a justification in privileges and immunities analysis. If every state could exclude or severely limit non-resident workers because some of its residents were unemployed our country would be "little more than a league of states" rather than "the Union which now exists." Paul v. Virginia, 75 U.S. 168, 180, 19 L.Ed. 357, 360 (1869). Such a result would run strongly counter to the policy of national economic unity on which the privileges and immunities clause is based. The result would not be much better if the power to exclude non-resident

workers were limited to those states with above average unemployment. Many states fit that category and many of the others, no doubt, have particular industries in which a case for protection can be made.

F. Relationship Between the Statute and its Purpose.

The preferential hire statute involved in Hicklin was struck down because, among other reasons, the statute was too broad. It applied not only to unemployed residents or residents enrolled in job training programs, but to all residents whether employed or unemployed, well trained or poorly trained. The Court observed that less restrictive alternatives were available:

A highly skilled and educated resident who has never been unemployed is entitled to precisely the same preferential treatment as the unskilled, habitually unemployed Arctic Eskimo enrolled in a job-training program. If Alaska is to attempt to ease its unemployment problem by forcing employers within the state to discriminate against non-residents - again, a policy which may present serious constitutional questions - the means by which it does so must be more closely tailored to aid the unemployed the Act is intended to benefit. Even if a statute granting an employment preference to unemployed residents or to residents enrolled in job-training programs might be permissible, Alaska hire's across-the-board grant of a job preference to all Alaskan residents clearly is not.

Hicklin, 437 U.S. at 527-28, 57 L.Ed.2d at 406.

By giving preferential treatment to residents who do not need it, the present statute suffers from the same vice as that struck down by the United States Supreme Court in Hicklin.<sup>9</sup>

V. PRIOR DECISIONS CONCERNING PREFERENTIAL HIRE STATUTES

In general, preferential hire systems have not fared well in the courts. The leading case is Hicklin, where the United States Supreme Court struck down the Alaska Hire statute.

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9. We made similar observations in State v. Wylie, 516 P.2d 142, 149 (Alaska 1973) (one year residency preference in state employment violates equal protection):

It does not appear, however, that the employment preference furthers the purpose of reducing unemployment except by deterring the in-migration of persons from other states. The personnel rules in question do not increase the number of available state employment opportunities, but simply limit the universe of persons who may compete for them. To the extent that the personnel rules "lower unemployment" by fencing out competition from other states, the rules impermissibly discriminate against persons who have recently traveled to the state. . . . The personnel rules creating an employment preference are poorly "tailored" to achieve the objective of lower state unemployment. There are certainly available to the state other means for lower unemployment which impose a lesser burden on the constitutionally protected right to interstate travel.

We suggested in a footnote to this statement that "[j]ob training programs, for example, may reduce unemployment without imposing a burden on the right of interstate travel." Id., n.14.

Following Hicklin, the courts of several states have held preferential hire statutes concerning state public works invalid on privileges and immunities grounds. Massachusetts Council of Construction Employers, Inc. v. Mavor of Boston, 425 N.E.2d 346 (Mass. 1981) rev'd on other grounds, White v. Massachusetts Council of Construction Employers, 460 U.S. 204, 75 L.Ed.2d 1 (1983); Neshaminy Constructors, Inc. v. Krause, 437 A.2d 733 (N.J. Super. Ct. Ch. Div. 1981), aff'd 453 A.2d 1359 (N.J. Super. Ct. App. Div. 1982); Salla v. County of Monroe, 399 N.E.2d 909, 423 N.Y.S. 2d 878 (N.Y. 1979), cert. denied, 446 U.S. 909, 64 L.Ed.2d 262 (1980); Laborers Local Union No. 374 v. Felton Construction Co., 654 P.2d 67 (Wash. 1982).

The Supreme Court of Wyoming took a different view in Wyoming v. Antonich, 694 P.2d 60 (Wyo. 1984). It rejected a privileges and immunities challenge to a statute giving an employment preference to Wyoming residents on public works projects. In doing so it relied heavily on the recent case of United Building & Construction Trades Council of Camden County and Vicinity v. Mayor and Council of the City of Camden, \_\_\_ U.S. \_\_\_, 79 L.Ed.2d 249 (1984).<sup>10</sup>

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10. Camden involved a municipal ordinance of the City of Camden, New Jersey, which established as a "goal" with which contractors must make a good faith effort to comply that at least forty percent of the employees of contractors and subcontractors working on city construction projects be Camden residents. The

(Footnote Continued)

We do not read Camden as casting much new light on the present case. The primary issue in Camden, and certainly the most controversial, was whether a municipal ordinance which discriminated against in-state residents as well as out-of-state residents was subject to privileges and immunities scrutiny. Id. at \_\_\_\_\_, 79 L.Ed.2d at 262 (Blackmun, J., dissenting). The Court did not rule on the question of whether the discrimination was justified by conditions in Camden, or whether the remedy contained in the ordinance was sufficiently closely directed to curing those conditions. It would thus be unwarranted to conclude that the Court approved of Camden's system of discrimination.

Furthermore, the differences between the local hire act here and the ordinance in Camden are noteworthy. As the findings of the trial court indicate, the Alaskan economy is a dynamic and

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(Footnote Continued)

New Jersey Supreme Court had sustained the ordinance against a privilege and immunities challenge because it was not aimed primarily at out of state residents; instead it discriminated against all non-residents of the city, regardless of their state of residence. 443 A.2d 148 (N.J. 1982). The United States Supreme Court reversed the New Jersey court on this point, and went on to hold that a non-resident's interest in public works employment was "fundamental," thus subject to protection under the privilege and immunities clause. \_\_\_\_\_ U.S. at \_\_\_\_\_, 79 L.Ed.2d at 259-61. The City also contended that the ordinance was justified in order to cure high unemployment and arrest a sharp decline in population. The Court found it impossible to evaluate these justifications as no trial had been held. The case was therefore remanded to the New Jersey courts for further action. \_\_\_\_\_ U.S. at \_\_\_\_\_, 79 L.Ed.2d at 261-62.

growing one, property values are increasing, and Alaska's population is expanding rapidly. In contrast, in Camden the city claimed that it was in a condition of decay, with property values eroding, population sharply declining, and unemployment "spiraling." Id. at \_\_\_\_, 79 L.Ed.2d at 261. While Alaska's unemployment is chronically high due in large part to unique conditions in rural areas, the economy of the state does not seem remotely comparable to the picture of "grave economic and social ills" suggested in Camden. In addition, it appears that the discrimination effected by the Alaska statute is greater than that in Camden. Public works account for the majority of commercial construction activity in Alaska. While the opinion does not indicate whether the same is true in Camden, the exclusion mandated by our statute - 90% to 100% resident workers required - is far more absolute than that in the Camden ordinance. As presented to the Court, the ordinance contained only a goal, not a requirement, that 40% of workers on public works construction projects be residents. For these reasons, unlike the Wyoming Supreme Court in Antonich, we do not regard Camden as precedent supporting approval of our local hire law.

One other case is instructive. It is Sugarman v. Dougall, 413 U.S. 634, 37 L.Ed.2d 853 (1973), which involved a New York statute which precluded non-citizens of the United

States from holding competitive civil service positions.<sup>11</sup> The court held the statute invalid under the equal protection clause of the 14th Amendment.<sup>12</sup> One justification offered for the statute was an economic benefits theory which is similar to the reduction in unemployment rationale, and is relevant to the factor of market participation as well.<sup>13</sup> The argument was that the state had a "special public interest" in confining public employment to its citizens, based on its interest in using state resources for the advancement and profit of members of the state. Id. at 643-44, 37 L.Ed.2d at 860-61. The Court rejected this argument, finding that it was rooted in the discredited concept that constitutional rights turn on whether a government benefit is characterized as a "right" or "privilege." Id.

In the final section of the Sugarman opinion the Court suggested the kinds of discriminatory practices against aliens

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11. The competitive class included all positions for which it was practicable to determine merit and fitness by a competitive examination and included "nearly the full range of the work tasks, that is, all the way from the menial to the policy making." 413 U.S. at 640, 37 L.Ed.2d at 858.

12. See Tribe, supra n.8.

13. In a case following Sugarman, C.D.R. Enterprises v. Board of Education of the City of New York, 412 F. Supp. 1164 (1967), summarily aff'd sub nom. Lefkowitz v. C.D.R. Enterprises Limited, 429 U.S. 1031, 50 L.Ed.2d 742 (1977), the reduction in unemployment rationale was expressly rejected as insufficient as a justification for discrimination against resident aliens and U.S. citizens who had not been residents of New York for at least 12 months.

which are permissible. Id. at 646-50, 37 L.Ed.2d 862-64. The Court did not distinguish between alienage in the non-state resident or non-United States citizen senses, and referred to authorities which concerned alienage only of non-state residents. The Court noted that alienage could be a bar to public employment if the statute was based on legitimate state interests relating "to qualifications for a particular position or to the characteristics of the employee."<sup>14</sup> Id. at 646-47, 37 L.Ed.2d at 862.

Sugarman lends support to the conclusion we have reached in the present case for two reasons. The first is that

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14. The Court also stated that "in an appropriately defined class of positions" citizenship could be required as a qualification for office.

"[E]ach state has the power to prescribe the qualifications of its officers and the manner in which they shall be chosen." Such power inheres in the State by virtue of its obligation, already noted above, "to preserve the basic conception of a political community." And this power and responsibility of the State applies, not only to the qualifications of voters, but also to persons holding state elective or important nonelective executive, legislative, and judicial positions, for officers who participate directly in the formulation, execution, or review of broad public policy perform functions that go to the heart of representative government. There . . . is "where citizenship bears some rational relationship to the special demands of the particular position."

Id. at 647, 37 L.Ed.2d at 862-63 (citations omitted).

it rejects the argument that the state's interest in restricting the resources of the state for the advancement and profit of the members of the state entitles the state to discriminate regarding the employment of aliens. The second is that it suggests that the state may restrict the employment of aliens only for reasons which are much narrower than those used in the present case.

#### VI. MISCELLANEOUS ISSUES

The appellees also argue that Francis lacks standing because he did not prove that he was dismissed because he was a non-resident. The evidence on this point, although circumstantial, is adequate to sustain the trial court's finding that Francis lost his job because he was not a resident. The appellees also argue that Francis is a resident in fact. This point is frivolous. Not only does the evidence support a finding of non-residency, the state admitted non-residency in its answer. Appellees further contend that Francis lacks standing because injunctive relief will do him no good. This point, too, is frivolous, for it ignores his claim for damages and for declaratory relief.

In view of our decision, it is unnecessary to address Francis's further arguments that the local hire statute violates the equal rights clause of article I, section 1 of the Alaska Constitution and the equal protection and privileges and

immunities clauses of the Fourteenth Amendment to the United States Constitution.

#### VII. CONCLUSION

Our federal constitution contains a number of provisions designed to protect legally those who lack the power or influence to protect themselves politically. It also manifests a strong commitment to free trade and an aversion to economic protectionism. The privileges and immunities clause combines both of these themes and the local hire act is in substantial conflict with them. For the reasons stated we AFFIRM the judgment of the superior court declaring that the act violates the privileges and immunities clause of article IV, § 2 of the United States Constitution.

BURKE, Justice, concurring.

I concur in the determination that Alaska's "local hire" law<sup>1</sup> violates the Privileges and Immunities Clause of the Constitution of the United States,<sup>2</sup> for the reasons stated in the opinion of the court, authored by Justice Matthews. In my judgment, however, we should decide this case on an independent ground. Thus, as Francis urges us to do in one of his alternative arguments, I would hold the local hire law invalid upon the ground that it violates the clear and unambiguous language of article I, section 1 of the Alaska Constitution.<sup>3</sup>

When called upon to determine the constitutionality of an Alaska statute under both the state and federal constitutions, it is my belief that this court should consider first the requirements of the Alaska Constitution. Shafer v. Vest, 680 P.2d 1169, 1172 (Alaska 1984) (Burke, C.J., concurring). Although this approach has been criticized by some, it is the one favored by a number of respected judges and legal commentators, whose reasons appear far more persuasive to me than do those of the persons in the opposite camp. See R.F. Utter, Freedom and

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1. AS 36.10.

2. U.S. Const. art. IV, § 2.

3. Article I, section 1 of the Alaska Constitution provides, in part, "that all persons are equal and entitled to equal rights, opportunities, and protection under the law."

Diversity in the Federal System: Perspectives on State Constitutions and the Washington Declaration of Rights, 7 U. Puget Sound L. Rev. 491 (1984). In any event, it is the approach that I would employ in the case at bar, for the following reasons.

A decision by this court that the local hire law violates the Alaska Constitution would bring this case to an immediate end, since it has long been held that it is beyond the power of the United States Supreme Court to review a state court's interpretation of its state constitution, "as long as the state ground is independent of any federal ground and is adequate to support the judgment." Id. at 505, citing Michigan v. Long, 463 U.S. 1032, 77 L.Ed.2d 1201, 103 S.Ct. 3469 (1983) and Fox Film Corp. v. Miller, 296 U.S. 207, 80 L.Ed. 158, 56 S.Ct. 183 (1935). The majority opinion, however, leaves the final result still uncertain.

Given the understandable popularity of local hire measures in Alaska, it is a foregone conclusion that state officials will be under considerable pressure to seek review of our determination of the federal question by the final arbiter of such disputes, the United States Supreme Court. Should the advocates of local hire prevail in that forum, it will still be necessary for this court to decide whether the present statute

violates the Alaska Constitution. Thus, the ultimate outcome could remain unsettled until there is a second decision by this court. Rather than expose the parties and the people of this state to such uncertainty, and the added cost of future litigation, I think we should decide this critical issue of state law here and now.

Another reason for us to examine the requirements of the Alaska Constitution is the almost certain fact that the state legislature will be asked to enact new local hire legislation, after the announcement of our decision. The main difficulty that the legislature faces, as I see it, is the clear and unambiguous statement contained in our state constitution, "that all persons are equal and entitled to equal rights [and] opportunities." Alaska Const. art. I, § 1 (emphasis added). The fact that it may be possible to draft a statute that would satisfy the requirement of the United States Constitution does not mean that the same statute will pass muster under this or some other provision of the Alaska Constitution. It is important, I think, to make this clear to the people of this state and their elected representatives.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 17, 1986

SUBJECT: Sectional Analysis of SSSB 271 (Resident hire under certain leases and agreements on state lands)

TO: Senator Joe Josephson

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

You have requested a sectional analysis of SSSB 271.

Section 1 adds a chapter to the Public Lands title.

Sec. 38.45.010 declares that the state policy for development of natural resources includes providing employment opportunities in natural resource development projects to qualified residents.

Sec. 38.45.020 makes legislative findings about unemployment in the state and the need for a resident employment preference, and incorporates the findings made as AS 36.10.005 by ch. 69 SLA 1985 and Department of Labor's recent report.

Sec. 38.45.030 limits eligibility for a hiring preference under the chapter to residents who are unemployed, underemployed or marginally employed, or have completed a job training program..

Sec. 38.45.040 requires employers (defined in Sec. 38.45.100) to meet the resident hiring requirements established by the commissioner of labor. Subsection (b) directs the commissioner of labor to determine the amount of work subject to the resident hiring preference.

Subsection (c) establishes a 50% preference for residents of areas determined by the commissioner of labor to be economically distressed. Subsection (d) sets out the standards

for economically distressed areas, based on average annual family income, and requires a finding that employment of workers who are not residents of the area contributes to the unemployment of area residents.

Subsection (e) establishes that the preference under AS 44.33.285 for residents of an area impacted by an economic disaster supercedes the preference under the rest of the section.

Subsection (f) directs the commissioner of natural resources to incorporate into leases, unitizations agreements and renegotiations of leases or agreements provisions requiring compliance with the chapter and authorizing penalties under Sec. 38.45.080.

Subsection (g) requires the Department of Labor to assist employers to find qualified residents who are seeking employment. It also permits the department to approve the hiring of residents not eligible for preference and nonresidents if there are insufficient eligible, qualified, available residents.

Sec. 38.45.050 requires employers who are subject to the chapter to report to the commissioner of labor as the commissioner requires.

Sec. 38.45.060 applies the chapter to all natural resource projects on state land and directs the Department of Labor to determine the resident hiring preference for each project, limited to employment directly for an employer.

Sec. 38.45.070(a) directs the Department of Labor and the Department of Natural Resources to adopt regulations including regulations to prohibit discrimination against qualified residents in employment. The Administrative Procedure Act applies except as provided in subsection (b).

Subsection (b) states that the employer is the judge of the work qualifications of applicants. An applicant for employment who has been rejected or an employee who has been terminated may appeal to the Department of Labor. Under subsection (c), if the Department of Labor finds that an employer has willfully failed to comply with the chapter, the commissioner may certify the finding to the Department of Natural Resources.

Senator Joe Josephson  
February 17, 1986  
Page 3

Sec. 38.45.080 sets out penalties. Under subsection (a), the Department of Labor may require an employer who rejects a qualified applicant or terminates a qualified employee in violation of the chapter to pay the applicant or employee three times the amount of wages lost. The decision may be appealed to the superior court.

Subsection (b) permits the Department of Natural Resources to impose a variety of penalties on an employer certified by the Department of Labor to be in willful noncompliance with the chapter. Subsection (c) limits how the penalties apply to some lessees.

Sec. 38.45.090 permits either department to seek injunctive relief against a person who fails to comply with the chapter. The Department of Natural Resources may seek injunctive relief to enforce penalties.

Sec. 38.45.100 defines "employer," "natural resource project on state land," "qualified resident," and "resident."

Section 2 limits application of the chapter to leases, contracts, and agreements entered into after the effective date of the Act and also applies the Act to leases, contracts, and agreements entered before the effective date if a renegotiation leads to a major change to the duties of a party.

Section 3 is an immediate effective date.

If I may be of further assistance, please advise.

TBC:mkr  
M3:041

Table III-3  
Labor Force by State  
(In Thousands)  
1984

	Civilian Labor Force	Employment	Unemployment Number	Unemployment Rate
United States	111,550	100,834	10,717	9.6
Northeast	23,958	22,321	1,638	6.8
New England	6,555	6,237	319	4.9
Connecticut	1,672	1,595	77	4.6
Maine	552	518	34	6.1
Massachusetts	3,051	2,906	145	4.8
New Hampshire	520	498	22	4.3
Rhode Island	490	464	26	5.3
Vermont	269	255	14	5.2
Middle Atlantic	17,403	16,084	1,319	7.6
New Jersey	3,829	3,593	236	6.2
New York	8,089	7,505	584	7.2
Pennsylvania	5,487	4,988	499	9.1
North Central	28,777	26,354	2,423	8.4
East North Central	20,083	18,201	1,882	9.4
Illinois	5,604	5,093	511	9.1
Indiana	2,627	2,401	226	8.6
Michigan	4,359	3,971	488	11.2
Ohio	5,099	4,618	481	9.4
Wisconsin	2,394	2,198	176	7.3
West North Central	8,694	8,152	542	6.2
Iowa	1,417	1,317	100	7.0
Kansas	1,197	1,134	63	5.2
Minnesota	2,229	2,088	141	6.3
Missouri	2,379	2,207	172	7.2
Nebraska	798	763	35	4.4
North Dakota	327	310	17	5.1
South Dakota	346	331	15	4.3
South	38,046	35,293	2,754	7.2
South Atlantic	18,853	17,627	1,226	6.5
Delaware	308	289	19	6.2
District of Columbia	320	291	29	9.0
Florida	5,099	4,777	322	6.3
Georgia	2,760	2,594	166	6.0
Maryland	2,244	2,123	121	5.4
North Carolina	3,033	2,828	205	6.7
South Carolina	1,480	1,375	105	7.1
Virginia	2,841	2,698	143	5.0
West Virginia	769	653	116	15.0
East South Central	6,807	6,141	666	9.8
Alabama	1,794	1,594	200	11.1
Kentucky	1,717	1,557	160	9.3
Mississippi	1,074	958	116	10.8
Tennessee	2,223	2,033	190	8.6
West South Central	7,386	6,525	862	11.7
Arkansas	1,052	952	100	9.5
Louisiana	2,746	2,446	300	10.9
Oklahoma	1,009	909	100	10.0
Texas	2,685	2,218	467	17.4

Table III-3  
 Labor Force by State  
 (In Thousands)  
 1984  
 (Continued)

	Civilian Labor Force	Employment	Unemployment Number	Unemployment Rate
West	22,721	21,000	1,721	7.6
Mountain	6,111	5,732	379	6.2
Arizona	1,433	1,362	71	5.0
Colorado	1,707	1,611	96	5.6
Idaho	464	431	33	7.2
Montana	405	375	30	7.4
Nevada	496	457	39	7.8
New Mexico	628	581	47	7.5
Utah	721	674	47	6.5
Wyoming	254	238	16	6.3
Pacific	16,610	15,268	1,342	8.1
Alaska	245	220	25	10.2
California	12,503	11,362	972	7.8
Hawaii	473	446	27	5.6
Oregon	1,336	1,211	125	9.4
Washington	2,054	1,860	194	9.5

Source: U.S. Department of Labor, Bureau of Labor Statistics.

**Table III-6  
Labor Force By Region and Census Area**

	Labor Force			Unemployment			Rate			Employment		
	1980	1981	1982	1980	1981	1982	1980	1981	1982	1980	1981	1982
Alaska Statewide	188000	196000	211000	18000	18000	21000	9.6	9.2	10.0	170000	178000	190000
Anchorage-MatSu Region	92529	98208	108564	7275	7147	8615	7.9	7.3	7.9	85254	91061	99949
Anchorage Borough	83203	89393	98303	5850	5946	7202	7.0	6.7	7.3	77353	83447	91101
MatSu Borough	9326	8816	10261	1425	1201	1413	15.3	13.6	13.8	7901	7615	8848
Gulf Coast Region	21894	21815	23236	2767	2647	3257	12.6	12.1	14.0	19127	19168	19979
Kenai Peninsula Bor.	12934	13215	14283	1835	1738	2177	14.2	13.2	15.2	11099	11477	12106
Kodiak Island Borough	4838	4962	5308	475	482	604	9.8	9.7	11.4	4363	4480	4704
Valdez-Cordova	4122	3639	3645	457	427	476	11.1	11.7	13.1	3665	3212	3169
Interior Region	27637	28815	31077	3244 <sup>1</sup>	3113	3761	11.7	10.8	12.1	24393	25702	27316
Fairbanks North Star Borough	21949	23163	25141	2450	2446	3077	11.2	10.6	12.2	19499	20717	22064
Southeast Fairbanks	2362	2427	2546	312	273	287	13.2	11.2	11.3	2050	2154	2259
Yukon-Koyukuk	3326	3225	3391	482	394	398	14.5	12.2	11.7	2844	2831	2993
Northern Region	5997	6912	7458	845	798	792	14.1	11.5	10.6	5152	6114	6666
Kobuk	1918	2113	2377	319	278	276	16.6	13.2	11.6	1599	1835	2101
Nome	2542	2824	3117	378	331	327	14.9	11.7	10.5	2164	2493	2790
North Slope Borough	1538	1976	1965	148	190	189	9.6	9.6	9.6	1390	1786	1776
Southeast Region	29881	30077	30345	2698	3216	3450	9.0	10.7	11.4	27183	26861	26895
Haines Borough	986	952	937	137	125	134	13.9	13.1	14.3	849	827	803
Juneau Borough	10631	10569	11242	763	778	928	7.2	7.4	8.3	9868	9791	10314
Ketchikan Gateway Borough	6289	6891	6661	571	839	817	9.1	12.2	12.3	5716	6052	5844
Prince of Wales-Outer Ketchikan	2198	2310	2245	267	378	376	12.1	16.4	16.7	1931	1932	1869
Sitka Borough	4267	3963	4012	324	359	490	7.6	9.1	12.2	3943	3604	3522
Skagway-Yakutat-Angoon	2009	1825	1802	252	255	242	12.5	14.0	13.4	1757	1570	1560
Wrangell-Petersburg	3500	3568	3447	384	483	463	11.0	13.5	13.4	3116	3085	2984
Southwest Region	10063	10174	10319	1172	1079	1125	11.6	10.6	10.9	8891	9095	9194
Aleutian Islands	2560	2605	2564	190	165	178	7.4	6.3	6.9	2370	2440	2386
Bethel	3951	4016	4093	595	559	528	15.1	13.9	12.9	3356	3457	3565
Bristol Bay Borough	377	413	407	43	41	48	11.4	9.9	11.8	334	372	359
Dillingham	1545	1485	1563	137	125	133	8.9	8.4	8.5	1408	1360	1430
Wade Hampton	1629	1655	1693	206	189	238	12.6	11.4	14.1	1423	1466	1455

Table III-6  
Labor Force by Region and Census Area  
(Continued)

	Labor Force		Unemployment		Rate		Employment	
	1983	1984	1983	1984	1983	1984	1983	1984
Alaska Statewide	234000	245000	24000	25000	10.3	10.2	210000	220000
Anchorage-MatSu Region	122510	130147	9825	10635	8.0	8.2	112685	119512
Anchorage Borough	109626	116442	8035	8695	7.3	7.5	101591	107747
MatSu Borough	12883	13706	1790	1940	13.9	14.2	11093	11766
Gulf Coast Region	25380	26277	3486	3370	13.7	12.8	21894	22907
Kenai Peninsula Borough	15756	16262	2395	2283	15.2	14.0	13361	13979
Kodiak Island Borough	5731	5985	559	574	9.8	9.6	5172	5411
Valdez-Cordova	3893	4030	532	513	13.7	12.7	3361	3517
Interior Region	34944	36621	4685	4857	13.4	13.3	30259	31764
Fairbanks North Star Borough	28282	29643	3835	3980	13.6	13.4	24447	25663
Southeast Fairbanks	2812	2920	350	335	12.4	11.5	2462	2585
Yukon-Koyukuk	3850	4058	500	541	13.0	13.3	3350	3517
Northern Region	8142	8233	929	969	11.4	11.8	7213	7264
Kobuk	2600	2639	337	360	13.0	13.6	2263	2279
Nome	3420	3458	401	418	11.7	12.1	3019	3040
North Slope Borough	2121	2135	191	191	9.0	8.9	1930	1944
Southeast Region	32278	32711	3968	4127	12.3	12.6	28310	28584
Haines Borough	1063	1038	172	138	16.2	13.3	891	900
Juneau Borough	12075	12274	1117	1210	9.3	9.9	10958	11064
Ketchikan Gateway Borough	6822	7144	817	1081	12.0	15.1	6005	6063
Prince of Wales-Outer Ketchikan	2497	2448	457	388	18.3	15.8	2040	2060
Sitka Borough	4052	4054	437	404	10.8	10.0	3615	3650
Skagway-Yakutat-Angoon	2121	2010	429	302	20.2	15.0	1692	1708
Wrangell-Petersburg	3649	3743	540	604	14.8	16.1	3109	3139
Southwest Region	10747	11012	1108	1043	10.3	9.5	9639	9969
Aleutian Islands	2583	2636	168	138	6.5	5.2	2415	2498
Bethel	4245	4354	521	502	12.3	11.5	3724	3852
Bristol Bay Borough	419	432	40	40	9.5	9.3	379	392
Dillingham	1729	1803	131	151	7.6	8.4	1598	1652
Wade Hampton	1771	1787	248	212	14.0	11.9	1523	1575

Federal guidelines require the use of unrounded labor force data, adjusted to be consistent with the Current Population Survey (CPS) in formulas used to allocate federal funds. Comparisons between different time periods are not as meaningful as other time series published by the Alaska Department of Labor, because Alaska's CPS sample size is inadequate to accurately indicate monthly changes in level. The sampling errors are random in nature, meaning that the unemployment rates, in any given month, are as likely to be high as frequently as they are low. The official definitions of unemployment, currently in place, exclude anyone who has made no attempt to find work in the four week period up to and including the week that includes the twelfth of each month. Most economists feel that Alaska's bush localities have proportionately more of these discouraged workers.

Table IX-8  
Personal Income by Census Division  
1983

	Total Personal Income (in Millions of Dollars)	Per Capita Income (Dollars)	Per Capita Income % of National Average	% Change of Total Personal Income from 1982
Alaska	\$8,243	\$17,225	147	10 0
U.S.	2,734,464	11,687	100	6 2
Aleutian Islands	120	15,067	129	8 0
Anchorage	4,017	19,020	163	10 9
Angoon	8	9,933	85	3 3
Barrow-North Slope	103	21,084	180	12 8
Bethel	105	9,666	83	14 1
Bristol Bay Borough	22	17,422	149	8 9
Bristol Bay	52	11,118	95	15 9
Cordova-McCarthy	38	15,027	129	3 4
Fairbanks	1,238	19,198	164	9 2
Haines	29	14,144	121	10 0
Juneau	473	20,127	172	9 5
Kenai-Cook Inlet	408	14,814	127	7 8
Ketchikan	228	17,786	152	7 2
Kobuk	56	10,716	92	6 1
Kodiak	169	16,050	137	11 5
Kuskokwim	22	7,413	63	15 2
Matanuska-Susitna	360	13,395	115	14 3
Nome	86	11,779	101	13 3
Outer Ketchikan	20	11,967	102	17 3
Prince of Wales	41	12,949	111	6 8
Seward	54	15,809	135	6 6
Sitka	122	15,269	131	1 5
Skagway-Yakutat	44	15,336	131	12 9
Southeast Fairbanks	65	11,001	94	7 2
Upper Yukon	22	12,229	105	6 0
Valdez-Chitina-Whittier	113	17,222	147	0 2
Wade Hampton	32	6,017	51	5 0
Wrangell-Petersburg	116	17,252	148	10 3
Yukon-Koyukuk	80	13,982	120	7 9

Source: U.S. Department of Commerce, Bureau of Economic Analysis.

Note: These personal income figures are not directly comparable to those contained in Table IX-9

Census Division	Updated on 18-Mar-86	1983 Per Capita Income	Percent of U.S.	Rank
Barrow - North Slope		21,084	180.4	1
Juneau		20,127	172.2	2
Fairbanks Northstar		19,198	164.3	3
Anchorage		19,020	162.7	4
Ketchikan		17,786	152.2	5
Bristol Bay Borough		17,422	149.1	6
Wrangell - Petersburg		17,252	147.6	7
Valdez - Chitina - Whittier		17,222	147.4	8
Kodiak		16,050	137.3	9
Seward		15,809	135.3	10
Skagway - Yakutat		15,336	131.2	11
Sitka		15,269	130.6	12
Aleutian Islands		15,067	128.9	13
Cordova McCarthy		15,027	128.6	14
Kenai - Cook Inlet		14,814	126.8	15
Haines		14,144	121.0	16
Yukon - Koyukuk		13,982	119.6	17
Matanuska - Susitna		13,395	114.6	18
Prince of Wales		12,949	110.8	19
Upper Yukon		12,229	104.6	20
Outer Ketchikan		11,967	102.4	21
Nome		11,779	100.8	22
Bristol Bay		11,118	95.1	23
Southeast Fairbanks		11,001	94.1	24
Kobuk		10,716	91.7	25
Angoon		9,933	85.0	26
Bethel		9,666	82.7	27
Kuskokwim		7,413	63.4	28
Wade Hampton		6,017	51.5	29
Alaska		17,225	147.4	
U.S.		11,687	100.0	

Source: U.S. Dept. of Commerce, Bureau of Economic Analysis  
Formatted by Alaska Dept. of Labor, Research and Analysis

Note: Data is on the 1970 Census Divisions. It will be revised  
by BEA to Census Areas in the future.

Table I-1  
Conversion of 1980 Census Areas to Corresponding 1970 Census Divisions

2-Digit Code	1980 Census Areas	Corresponding 1970 Census Divisions
<b>Northern Region</b>		
01	North Slope Borough	Barrow-North Slope
02	Kobuk	Kobuk
03	Nome	Nome
<b>Interior Region</b>		
04	Yukon-Koyukuk	Yukon-Koyukuk + (part) Kuskokwim + (part) Upper Yukon
05	Fairbanks Borough	Fairbanks Borough
06	Southeast Fairbanks	Southeast Fairbanks + (part) Upper Yukon
<b>Southwest Region</b>		
07	Wade Hampton	Wade Hampton
08	Bethel	Bethel + (part) Kuskokwim
09	Dillingham	Bristol Bay Division
10	Bristol Bay Borough	Bristol Bay Borough
11	Aleutian Islands	Aleutian Islands
<b>Anchorage Region</b>		
12	Matanuska-Susitna Borough	Matanuska-Susitna Borough
13	Anchorage Borough	Anchorage Borough
<b>Gulf Coast Region</b>		
14	Kenai Peninsula Borough	Kenai-Cook Inlet + Seward
15	Kodiak Island Borough	Kodiak Island Borough
16	Valdez-Cordova	Cordova-McCarthy + Valdez-Chitina-Whittier
<b>Southeast Region</b>		
17	Skagway-Yakutat-Angoon	Skagway-Yakutat + Angoon
18	Haines Borough	Haines Borough
19	Juneau Borough	Juneau Borough
20	Sitka Borough	Sitka Borough
21	Wrangell-Petersburg	Wrangell-Petersburg
22	Prince of Wales-Outer Ketchikan	Prince of Wales-Outer Ketchikan
23	Ketchikan Borough	Ketchikan Borough

*Extracted from "Alaska Planning Information"*

MEMORANDUM

April 8, 1986

TO: Arliss Sturgulewski  
Frank Homan

FROM: Bill Bennett

RE: Comments Concerning CSSSSE 271 (RES)

As promised, I hereby submit my own comments concerning the above proposed legislation.

1. As you have noted, the proposal will have little impact upon the broad general issue of "outside hire." By its terms, it will only apply to a very small segment of the Alaskan economy. This is particularly true since it affects only prospective leases.

2. The costs of implementing and enforcing this legislation will necessarily be substantial. The guaranteed litigation, either through the administration hearing process and/or court proceedings, will by themselves cost the State far more than the projected \$500,000. I further question what costs have been attributed, if any, to the undertakings required of the Department of Labor and Department of Natural Resources to define the various economic zones and to assist employers in securing "preference employees."

3. With respect to Section 38.45.030, I submit that these provisions, as well as those with respect to the hearing process should a claim be made that a non-preferenced employee was hired, necessarily will require that the Department of Labor and/or the courts to determine whether an individual applicant was or was not qualified for employment. The language of Section 38.45.035 is therefore fundamentally flawed and misleading. Without language that provides that the employer is the sole and absolute judge of whether an individual is qualified, any employer determination in this regard must necessarily be subject to administrative or judicial second guessing.

Memo to Arliss Sturgulewski  
April 4, 1986  
Page 2

4. By the terms of Section 38.45.030 and the remainder of the bill, the bill requires an employer to hire minimally qualified applicants even though the employer may have applicants who are far more qualified but do not enjoy a preference.

5. Section 38.45.060 requires an individual to be eligible for preference to, among other things, certify his/her eligibility. As a practical matter, I wonder whether this will work to the detriment of those in bush communities who are less likely to meet the requirements of the legislation. The section further allows an individual to be registered at a "local" hiring hall. The term local is not defined and certainly means many different things depending on the given union. For example, I believe (although I may be mistaken) that one or more unions include their Seattle hiring hall as part of the Alaska district.

6. Section 38.45.060(b) requires that an employer shall certify that persons employed under a preference are eligible for the preference. No attorney in his or her right mind would ever counsel an employer to so certify. The language is sufficiently broad to imply that an employer must conduct its own investigation and leaves an employer who fails to properly certify, for whatever reason, subject, at a very minimum, to an intensive investigation by the Department of Labor and/or the Department of Natural Resources.

7. Sections 38.45.070 and .080 seem to create two different "preference areas." It is unclear why there is a necessity for two different areas and each section gives the Commissioner of Labor virtually unfettered discretion to determine not only what those areas are to be but also what criteria will be relied upon to determine those areas.

8. The terms of Sections .070 and .080 ensure that an employer will be required to hire employees based upon determinations made by the Commissioner of Labor rather than upon the sound business needs made by the needs of an individual project. If I read Section 38.45.070(a) and (b) together correctly, it appears that the preference for underemployed areas extends only to that amount of work which the Commissioner of Labor determines shall be covered. Conversely, under .080, the preference for economically distressed areas appears to be "at least 50% of employment." I therefore conclude that in each instance, a substantial amount of work will not be covered by the preference. (This may be an incorrect reading, however, since 38.45.070(a) by itself suggests that the preference applies to all work.)

Memo to Arliss Sturgulewski  
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9. Under Section 38.45.070(c) the term substantial for Sections (1) and (2) are undefined as they apply to the national rate of unemployment or the number of residents in a given area. Once again, this gives virtually no guidance to the Commissioner of Labor or to any business trying in good faith to comply with the State's requirements.

10. Section 38.45.100 does maintain confidentiality of material, but that confidentiality is suspect when the information gathered can be shared between State departments. I believe that this "sharing of information" is unnecessary and should be eliminated.

11. Section 38.45.110 provides two different methods by which an employer can be subjected to the Department of Labor's hearing process. Section .110(a) provides that such hearings may be held upon complaint by a rejected or terminated employee. Alternatively, under Section .110(b) the Department of Labor can conduct its own investigations upon its own motion. There does not appear to be any statute of limitation applicable to this latter proceeding, nor any threshold finding required of the Department of Labor before such investigations and hearings are initiated. In both proceedings, there is a substantial cost which any employer will incur, regardless of whether there is or is not a violation of any local hire provision.

12. Others have spoken at length with respect to the penalty provisions of this bill. They are simply not in keeping with any attempt to create a bill which will encourage local hire.

13. Under the terms of this legislation, I wonder whether a party holding a lease from the State is responsible for any sublessee's conduct. Specifically, can a sublessee's failure to follow the terms of this local hire provision cause a lessee with the State to be subject to the penalties set forth herein?

14. If the desire is to create a truly meaningful local hire law and to meet the needs of all of the citizens of the State of Alaska, I suggest that this bill is doomed to failure. As you pointed out, it applies to only prospective leases. Accordingly, even for the very few that it would ultimately effect, its provisions would not be felt for many years hence. It is a cumbersome and unnecessary piece of anti-business legislation. Instead of encouraging local hire, it will only encourage fraud. The bill does not address, for example, the very real problem of those who are hired as local residents and

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then choose subsequently to leave the State. Before any legislation is adopted, there must be solid statistical data upon which the Legislature can rely. I submit that that data has not yet been obtained. By separate memo I will submit my thoughts on legislation which I believe can be applied fairly and uniformly to all Alaskan employers and which will not run afoul of constitutional prohibitions.

Thank you for the opportunity to outline some of my concerns.

*W.D. Bennett*  
W.D.B.

/cac

# FRONTIER COMPANIES OF ALASKA INC.



April 8, 1986

Members of the 14th Legislature  
of the State of Alaska  
Sponsors of Senate Bill No. 271  
Senate Members, of the Resources Committee  
Juneau, AK

Dear Members of the 14th Legislature:

Frontier Companies of Alaska, Inc. offers this testimony before the Senate Resources Committee to assist its members in concluding that Senate Bill No. 271 should receive a "do not pass" recommendation. This testimony comes from more than merely one member of The Alliance. It emanates from your constituents - Alaskans within the Frontier Group of companies, representing six Alaskan companies with offices in Anchorage, Fairbanks and the North Slope Borough.

The Frontier Group of companies are composed of people, in excess of 2,000 during a normal working year. The majority of these Frontier employees are Alaskans, union and non-union; blue collar and white collar; men and women representing every social strata -- none of whom to our knowledge support bills such as Senate Bill No. 271.

The terms of Senate Bill No. 271 establish it not as a resident hire bill but a preferential resident hire bill. It would allow the unemployed, underemployed or marginally employed resident to effectively displace residents active in the work place, who may have long established work histories with Alaskan employers. Indeed, a worst case scenario under the terms of this Bill would allow a non-Alaskan resident to move to an underemployed or economically distressed area, as designated by the Commissioner of Labor, qualify as a resident and gain an employment preference over long time Alaskan workers.

The establishment of the so-called underemployed or economically distressed areas is left to the discretion of one person - the Commissioner of Labor. This award of discretionary power, with no checks or balances articulated within SB 271 is equivalent to the Governor's constitutionally granted power to declare disaster areas in response to devastating natural phenomena. This is undoubtedly the most substantial grant of power to an appointed official in state government, with the Commissioner subject to no penalty for abuse of power.

P.O. Box 101616 • Anchorage, Alaska 99510 • Telephone 907-349-5944 • 6700 Arctic Spur Road

Pioneer Oil Field Services, Inc. / Frontier Transportation Company / Frontier Equipment Company / Frontier Rock & Sand, Inc. / Alaska General Construction Company

Members of the 14th Legislature  
of the State of Alaska  
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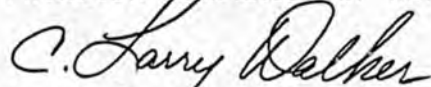
On the contrary, the civil and criminal penalties for both potential employee and employer alike would suggest that the Frontier Companies, its employees and other Alaskans have at some point been branded as the enemy of the Legislative body. Yet, it is we who have hired Alaskan residents for 30 years and confined our operations to the State of Alaska. The criminal penalties for noncompliance would be adjudicated at a level just below murder. The civil penalties make the pursuit of work prohibitive, whether or not actual violation occurs, because the assessment of risk involved will require additional insurance coverage that most likely will be unattainable.

The charge that all Legislators accept upon election is to represent the opinions of its constituents and be advocates in the transformation of those opinions into government action. Implicit within that charge is the requirement that government leaders remain in contact with their constituents and not be persuaded to implement law such as SB 271 that is inarticulate in its drafting, medieval in its punishment, contradictory in its content, unfair and expensive in its administration, and ultimately self-defeating. Notwithstanding the fact that the declining tax dollars which all concerned are attempting to protect and enhance, would be invested in the determination of the constitutionality of a law that is doomed to join its predecessors as unconstitutional. The approach that should be pursued by Legislators and will continue to encourage employment of Alaskan residents is the implementation of incentive-based means.

SB 271 has become one more candidate in a continuing unsuccessful attempt at passage of legislation for politics sake. Based on our beliefs -- the beliefs of your constituents -- we submit it is bad politics and potentially bad law and should receive a do not pass recommendation in your committee report.

Respectfully submitted,

FRONTIER COMPANIES OF ALASKA, INC.



C. Larry Walker  
President

CLW/gj



# THE ALLIANCE

P.O. Box 100100 / Anchorage, Alaska 99510 / (907) 562-0100

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Crowley Maritime Corporation

Chuck Becker — Vice President  
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Olsen & Williams

Val Molyneux — Treasurer  
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Bill Bettes — Director  
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Milton Byrd — Director  
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Tom Dow — Director  
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Craig Duncan — Director  
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Randy Goodrich — Director  
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Calista Construction

Patrick Rumley — Director  
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Rainier Bank of Alaska

Jack Thompson — Director  
Air Van Lines, Inc.

Larry Walker — Director  
Frontier Companies of Alaska

Michelle Fleming  
Executive Director

Kathie Tuttle  
Administrative Assistant

TESTIMONY

OF  
THE

ALASKA SUPPORT - INDUSTRY ALLIANCE

ON

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL No.271

Presented

by

Chuck Becker  
Vice President for  
Policy

Before the

SENATE RESOURCES COMMITTEE  
ALASKA STATE LEGISLATURE

April 9, 1986

**Alaska Support Industry Alliance**

... for responsible economic development

Goodafternoon. My name is Chuck Becker. I am before you today representing the Alaska Support-Industry Alliance. The Alliance, as many of you know, is a coalition of some 250 businesses throughout Alaska which provide equipment, supplies and services, directly and indirectly, to Alaska's petroleum and mining industries.

Members of the Alliance are practitioners and supporters of local hire. In a letter to this Committee through Chairman Sturgulewski dated May 3, 1985, nearly a year ago, we transmitted a copy of a resolution in support of local hire adopted by our members and have subsequently followed up again with a revised resolution approved by Alliance members earlier this year vigorously supportive of the concept of local hire. I would appreciate your indulgence while I refresh your memory on our position:

"The unemployed Alaskan represents a serious social and economic problem to the state which must be solved. Employment strategies targeted at the jobless must be devised and implemented cooperatively by government and industry working toward this common goal. Alaskans who are ready, willing and able to work must be given that opportunity."

Legislation which would employ mandates and sanctions designed to force Alaska businesses to hire Alaskans as a method to solve the problem of unemployment is counterproductive. Typically such an approach has been found to be an assault on the fundamental laws of our nation. Alaskans demand a more thoughtful approach towards resolution of the unemployment problem from its leaders of government; an approach which seeks resolution by creating an environment designed to generate new and expanded business opportunities.

"A vibrant economy is the best local hire policy."

"The entire Alaska business community must learn of the already existing incentives to hire an Alaskan worker. The spirit of independence, of self-sufficiency and of self-motivation pervades the Alaskan workforce unlike any other. An employer cannot put a better worker to work than an Alaskan."

"The Alliance recommends an effort be launched by government and business, in a spirit of cooperation, to solve the problem of unemployment in Alaska and to promote the realities associated with the assertion... Hire Alaskans; it's good business!"

Many of you have Alliance bumper stickers bearing that motto posted in your offices. We are pleased you concur.

In our communication with this Committee last year, we also took the opportunity to offer what we hoped would be constructive criticism of last year's version of SB 271. We encouraged you to accentuate positive aspects and to eliminate some of the more onerous tonalities contained in the draft bill. We asked you to consider the constitutional defensibility of the bill and to examine its impact on Equal Employment Opportunity statutes. We urged that the committee devote time to an analysis of the negative consequences stemming from enactment of penalties as severe as those set forth - shutting down business operations, blacklisting, fines which appear to punish rather than elicit compliance. We suggested that this body work to foster a positive business climate in Alaska and pointed out that SB 271 as drafted would fail to achieve that end.

In three separate work sessions beginning last Thursday and continuing through Friday, as many as 35 and as few as 10 representatives of firms affiliated with the Alliance reviewed and analyzed the efforts

of the legislature to try to achieve meaningful initiatives on local hire as one way to solve Alaska's growing unemployment problem. Please understand that these men and women are working day and night trying to keep their businesses afloat during this exceptionally difficult economic decline touching each of us.

Without exception, members of the Alliance have concluded that organizationally and individually, we must oppose all bills trying to legislate local hire which have been introduced to date. SB 463 which some have rather crudely termed the "spread-eagle-at-the-airport bill", makes the local hire initiative a laughing stock among Alaskans and our fellow Americans in the Lower 48. SB 271 which would make it a class B felony to try to pass for an Alaskan while searching for a job to feed a man or woman's family can only be described as a Catch 22 with draconian sanctions. Bills using state funds as an incentive for local hire cannot be considered as huge chunks are taken out of the budgets of our educational systems. And bills over in the other body such as HB 466, cleverly crafted to only gently violate the constitution , are equally unacceptable.

One of our members remarked, "If the Statue of Liberty was standing in Cook Inlet, she'd have a tear in her eye".

We have heard that there are those who are pleased that the bill would impact only 3-5 percent of all employees in Alaska - does that make it all right to violate the constitutionally protected rights of those persons or those firms who are targeted by the bill?

Another businessman looked at the bill before us today and said rightly that it would generate the "Blue/Grey syndrome" in Alaska. That it would pit Alaskan against Alaskan.

That any citizen of the United States should be provided with a certificate from the state or federal government granting that person a disproportionate

advantage in employment opportunities, based not on merit or qualifications, patently violates the equal rights and equal opportunities constitutionally guaranteed to all Americans. A state registration program handing out green cards which would grant such a preference cannot be condoned.

Can you picture the state, in its misguided local hire attempts, deny preference to a handicapped Vietnam era veteran from Texas trying to find a job so he can feed his family?

The effort to be politically responsive to constituents during this election year has distorted the local hire quest. History teaches us that misdirection often springs from a zealous pursuit of a worthy goal. From religious zeal sprang the Inquisition and from local hire has sprung SB 463, 271 and HB 466.

Bizarre developments have taken place. Can this state afford a so called "hot line" to Prudhoe Bay so workers can call in their gripes to the Labor Department? Perhaps the cook served veal instead of steak and lobster. Perhaps \$50,000 a year plus room and board isn't enough. Do you suppose the state will extend the same courtesies to the employees of canneries in Bristol Bay during the salmon run?

How about HJR 465. Although not a product of this legislature, the bill is law. It requires that each contract awarded by the Dept. of Defense during FY'86 for construction work in Alaska include a provision mandating that the contractor employ Alaska residents. It goes on to say, however, that a worker dispatched by a union should be considered a resident of Alaska. That provision was put into law as a sop to Representatives Aucoin and Dix who were worried that job hunters from their state seeking employment in Alaska might not be able to work this summer if true Alaskans had to be hired.

SB 271 is, on top of all else, an administrative nightmare, conservatively estimated to cost the state a half million dollars. One Labor Department official

who asked not to be identified, said the cost is more like \$1 million. Whatever it might cost the state, Alaskan employers would quickly outspend that amount in administrative expenditures and legal fees.

One cannot help but wonder what our government in Alaska would be like today if, 30 years ago, a local hire policy had been in effect at Sears & Roebuck.

SECTIONAL ANALYSIS OF CS FOR SPONSOR SUBSTITUTE OF SB 271

submitted by  
the

ALASKA SUPPORT-INDUSTRY ALLIANCE

Chapter 45

Sec. 38.45.010 No Comment

Sec. 38.45.020

\* It would be well to review AS 36.10.005 to assure that the legislative findings are underpinned with irrefutable facts substantiating the conclusions drawn.

Sec. 38.45.030

\* "...may request the Dept. of Labor to assist in locating qualified, eligible employees" (sic). Persons to be referred by the Department will not be "employees", they will be persons seeking employment. Given the rapidity with which project mobilization is required in the construction industry, if not also in the timber and mining industries, it would appear that the Department is under no constraints of time in which to comply with the request of an employer. Moreover, since 87 percent of the Alaska Job Service budget originates from the federal government, state law allowing Job Service to discriminate among qualified applicants seeking employment based on length of residency in the state, is apt to result in the loss of federal support for this important public service.

Sec. 38.45.035

\* It is unclear if the state shall be a participant in the process which allows an employer to determine and judge work qualifications of applicants for employment. Additionally, are employers allowed the management prerogatives typically available throughout the United States, which allow for ranking candidates for employment based upon experience and quality of skill level of the applicant. Would Alaska employers be required by law to hire an Alaska resident who is demonstrably less experienced and less skilled than a non-resident candidate for the same position?

Sec. 38.45.040

\* No Comment

Sec. 38.45.050

\* A curious role for the state Attorney General.

Sec. 38.45.060

\* Preference is provided to certain persons for employment opportunities yet it is not incumbent upon the preferred person to actively seek employment with employers obligated to employ such persons.

\* To receive an employment preference under this section, Alaska residents may register with a "local hiring hall". The term, "local hiring hall" is undefined. Moreover it would appear that the intent of the bill would require open shop contractors to recruit out of union hiring halls.

\* If a person is collecting unemployment and an employer offers that person a job at a lower rate of pay than the person had been receiving while employed, the applicant is able to turn down the job offered under current law and would also be able to trigger the hearing and investigatory processes of the State Department of Labor as defined in this chapter.

An employee who declines an offer of a job which pays reasonable wages should not be able to file a complaint against the employer.

\* It might be construed that an employer may be held in violation of this law if he or she were to employ non-resident relatives and family friends. This is an employer prerogative which must be retained by all Alaskan employers and constitutes a long standing tradition which has facilitated the development of Alaska.

\* Firms with operations in Alaska which also operate outside of Alaska, either on a regional, national or international basis, would not be permitted to transfer into Alaska personnel of those firms which might be required in the Alaska operation.

\* No exception is provided in the proposal which exempts key personnel from the residency requirements, e.g. supervisors, managers, lead men, etc.

\* Requiring an employer to certify that persons employed under this proposal as residents under the preference are, in fact, eligible for the preference, exposes each employer to the criminal sanctions attendant to the bill in the event an error is made by the employer. To what extent should an employer be required to investigate an applicant who shows up with a preference card given to him or her by the State of Alaska? To what extent must an employer investigate the assertions of prospective employees as to Alaska resident status?

Sec. 38.45.070 - 38.45.080

\* Three designations of areas are developed - "Underemployed Areas", "Economically Distressed Areas" and Economic Disaster Areas". The proposal provides no reasonable guidance to the Commissioner as to the use of these designations. The Commissioner is, in fact, imbued with powers which should remain the sole prerogative of the Chief

Executive. Administrative abuse of powers granted under these sections is a potential among which is the opportunity to gerrymander areas to disadvantage certain operations. In fact, this section might be construed as to allow individual projects to be singled out for designation under one of the categories.

Are exceptions allowed to the "preference" referred to in these sections?

Since point-of-hire often differs from the actual work area, might an employer be required to open employment offices in remote site locations?

\* A firm with a number of projects throughout the state might conceivably be required to implement different criteria for each project.

\* A work crew employed by a firm could be precluded from being transferred from job site to job site of the employer.

\* Affirmative Action Plans of Alaskan employers would be made invalid as this bill is proposed, to the detriment of minorities who have progressed under state and federal civil rights provisions of law.

\* It is conceivable that an employer with a project in an area designated by the Commissioner as "economically distressed" could be required to lay off 50 percent of his or her workforce to facilitate employment of those persons seeking employment with that employer who hold a preference under this chapter.

\* A 30 year employee living in Kenai with his or her family could, as the law is proposed, be displaced by a "30 day wonder" with marginal skill levels.

\* These sections could result in bitter competition for employment among Alaskans with the law, as proposed, favoring the unemployed over the gainfully employed Alaskan.

Sec. 38.45.090

\* This section requires "lease holders" to bear responsibility for the employment practices of contractors and subcontractors. It might be held under this arrangement that a "joint employer" relationship has been established leading to enormous legal complications. Moreover, a leaseholder can be assessed a fine upwards to \$100,000 for actions of a completely independent contractor. The liability insurance premiums required to indemnify and hold harmless leaseholders could conceivably force subcontractors into bankruptcy.

Sec. 38.45.100

\* This section fails to contain sufficient safeguards to assure protection of privacy of Alaskans and confidentiality of trade secrets of Alaskan businesses. If this chapter is to have criminal sanctions in it at all, those sanctions must be aimed at state employees who might divulge confidential information. Under no circumstances whatever, should confidential information be shared between departments. When the State of Alaska gets into the business of keeping computer files on Alaska residents and Alaska companies and shares that information among Departments, the rights of individual privacy, so jealously pursued and guarded by all Alaskans are grievously threatened.

Sec. 38.45.110

\* Granting a 30 day period in which to file a complaint under this chapter, to an employee allows that employee to "lay in the weeds" until the 29th day in order to maximize exposure to the employer. Given the exceptionally generous financial settlements available to aggrieved persons under this proposal, it can be expected that such action might be contemplated by those individuals.

\* Seniority systems established by employers in Alaska would be negated.

\* Employer prerogative of termination for cause is not exempt from liability under this proposal.

\* This section invites abuse of Alaskan employers. Any person who applies for employment with an employer subject to the provisions of this chapter, who is turned down by that employer, is free to call upon the powers of the State Department of Labor to conduct investigations and to convene a hearing on the alleged grievance. It has been pointed out that even an employer with a 100 percent Alaska hire record would be subject to such harassment. The time and legal expense spent in defense of impeccable hiring practices could conceivably drive businesses into bankruptcy. Under the best of interpretations given to this chapter, it in no way is conducive to attracting investment in Alaska - investment so critically needed today to create jobs for Alaskans.

\* Some members of the Alliance encourage applicants to remain in continued touch with their employment personnel if those job seekers are in the market for employment. These talent banks are kept current by visits from prospective employees who typically sign registers which designate interest and availability. This practice would be quickly abandoned if SB 271 were to become law, forclosing employment opportunities to Alaska residents or, at least, making it substantially more difficult for Alaska residents to obtain employment.

\* Subsection (b) of 38.45.110 stands alone, granting enormous investigatory powers to the Department of Labor without building into the law safeguards protecting employer rights.

Sec. 38.45.120 - Sec. 38.45.130

\* These sections simply defy logic. That those companies and businesses which have contributed the most to creating the best paying jobs for Alaskans in the state & developing opportunities for all sectors of the Alaska economy, should be subjected to such draconian criminal penalties is unconscionable. These sections make this proposal one of the most anti-business pieces of legislation ever developed in recent memory of any legislative body in the United States.

\* An employer caught in the "Catch 22" concepts embodied in this bill could end up paying wages and damages to persons who simply requested employment with his or her firm.

\* Leaseholders held to be without fault in actions of their contractors and subcontractors could end up with a penalty of \$100,000.

\* Up to \$200,000 in penalties can be assessed against Alaska employers for each incident developed in this "damned if you do and damned if you don't" bill.

\* Employers can be blacklisted in Alaska for three years.

\* Major projects critical to the economic development and fiscal welfare of Alaska can be shut down without due process.

\* An applicant seeking employment in order to feed and shelter his family can be found guilty of claiming to be an Alaskan if he or she acts before the 30 day waiting period. If convicted, that person would be subject to criminal prosecution and penalties just short of first degree murder, sexual assault and kidnapping. A murderer or rapist can only be fined up to \$75,000 - the non-Alaskan job seeker, a father trying to provide for his kids or a mother trying to provide for hers, can be fined \$50,000. The rapist or murderer could get thrown into prison for 20 years - that father or mother looking for a job in Alaska can get a 10 year sentence.

Sec. 38.45.200

\* Singling out the infant mining industry and the troubled petroleum and timber industries along with their subcontractors as targets of this onerous bill is clever but clearly unwise and not in the best interests of the State of Alaska.

Sec. 38.45.250

\* As one of the most widely recognized violators of the concepts embodied in local hire and local purchase, the authors of the bill again would exempt the state from coverage under this chapter.

\* As the bill is now written, a "qualified resident" not to be turned down by Alaskan employers for a job, can be a dope addict or an unreformed alcoholic or any other person who lacks ability for interpersonal relationships.

\* Alaskans in search of work in communities other than his or her place of residence, would have to establish residency in another community where job opportunities are available for a 30 day period before being eligible for employment under this bill. The Big Delta resident looking for work in Fairbanks would have to give up his or her home in Big Delta in order to get a job under this act.

A resident of Seattle could displace a man from Kodiak working on a timber project in Southeast if that Seattle resident moved into an apartment in Ketchikan, waited 30 days and then went to the State to get his green card giving him job preference over the Alaskan.

### Principles to be Incorporated into Local Hire Bill

- \* Each "finding of fact" must be supported with conclusive documentary evidence.
- \* Legislation must be designed so as to be obviously directed at the problem of unemployment in Alaska.
- \* Focus of legislation must be on all industry sectors in Alaska, including all three levels of government.
- \* Bill should include a provision directing the State Department of Labor to conduct, or to contract for, a survey of the problem of unemployment in Alaska, including the extent of underemployment and "marginal employment", with particular emphasis on structural problems and a clear deliniation of cyclical and seasonal unemployment.
- \* Bill should provide for a comprehensive analysis and publication of the data consistent with safeguards for confidentiality.
- \* Legal protection of the confidentiality of all data collected assuring maximum protection of the privacy of the individual and trade secrets of Alaska businesses, must be incorporated.
- \* A promotional effort analogous to that developed by and for the visitor industry aimed at "marketing" the Alaskan worker should be provided for.
- \* A provision for a public/private partnership for job training and skills development.
- \* All provisions must not be in violation of federal and state legal frameworks.



LOCAL HIRE IN ALASKA:

NEW PROPOSALS AND INITIATIVES

ALASKA HIRE TASK FORCE

FEBRUARY 1986

INTRODUCTION

After the Alaska Supreme Court issued a ruling that effectively prevented Alaska's resident employment preference law on public construction projects from being enforced, a task force was established by Governor Sheffield in October 1985 to examine the issue of local hire in Alaska and to develop specific options and alternatives for maximizing and promoting Alaska hire. The task force was composed of representatives of various state agencies and its efforts were coordinated and organized by Department of Labor Deputy Commissioner Bob Landau.

This report consists of summary descriptions of the proposals, ideas, and initiatives regarding local hire received by the Department of Labor from many state agencies and from sources outside of state government. Each state department was requested to examine its own programs, statutes, and regulations to determine whether they could be modified or amended to promote the use of Alaskan businesses, products, and workers. Because of this broad perspective, the proposals described in this report are wide-ranging in nature and approach the issue of local hire from many different directions. Some of the proposals are relatively narrow in focus, while others involve significant economic, political, or legal considerations. The report is intended primarily for policy makers as a reference source of new ideas and initiatives on local hire; it is not intended to describe local hire programs which are already in effect and ongoing, such as the voluntary compliance, contractor licensing, and non-resident vehicle inspection programs.

Each proposal in this report consists of the following elements: 1) an identification of the source of the proposal; 2) the name and telephone number of the appropriate contact person (who may not necessarily be related to the source of the proposal); 3) a summary of the proposal, including as much relevant information as was made available to the task force; 4) a general explanation of how the proposal would be implemented, including whether new legislation or regulations would be required; 5) a general description of the estimated cost or fiscal impact of the proposal; and 6) a brief overview of any anticipated legal or constitutional problems.

It is the hope of the task force that this report will be a useful reference source and decision-making tool in the formulation of policies and remedies on the issue of local hire in Alaska.

1. Comprehensive Minority Business Enterprise Program

Source: Department of Administration  
Contact: Michael McMullen, 465-2200

Summary of Proposal: A comprehensive minority business enterprise (MBE) program could be developed to apply to all non-construction contracting, including professional services contracts. Currently, only the Department of Transportation and Public Facilities (DOT/PF) administers a minority business enterprise and women's business enterprise program, but this program has been limited to DOT/PF's construction contracts. A statewide MBE program would track similar federal programs that typically set aside ten percent of all covered work for minority contractors. Such set-asides would increase the number of bids awarded to small minority firms in Alaska, increasing the likelihood that Alaskan workers (especially minority Alaskans) would provide the goods or services.

Implementation: A comprehensive MBE program could be implemented either through legislation or by an executive order, and would also require amendments to the state's purchasing and contracting regulations. Unfortunately, the Department of Administration's efforts to develop a strong MBE program have been stalled by the failure of anticipated federal funds to be provided. Once adequate funding is obtained, it is estimated that it would take approximately one year to develop the necessary components for a comprehensive MBE program.

Costs: To develop a comprehensive MBE program, the Department of Administration had anticipated federal funding in the amount of \$150,000, together with matching funds from the Department of Commerce and Economic Development. Once the program is in operation, state contracting agencies would incur administrative costs for monitoring compliance and conducting any necessary enforcement activity.

Legal Considerations: Set-asides for minority business enterprises exist in many states and have been found to be constitutional by the U.S. Supreme Court in Fullilove v. Klutznick, 448 U.S. 448 (1980). To be legally defensible, however, any legislation or executive order authorizing minority business set-asides should contain factually supported findings establishing past discrimination or high unemployment among minorities in Alaska.

2. Forest Products Preference

Source: Department of Commerce & Economic Development,  
Office of Forest Products  
Contact: Thyes Shaub, 465-2094

Summary of Proposal: This proposal contemplates that research be done on the ability of the Alaska timber products industry to supply in-state markets. If such research shows that Alaska timber products can competitively supply in-state markets, then a four-step plan would be undertaken to implement the existing preference for Alaska wood products contained in AS 36.15.010-.020. Although this statute has been in existence since at least 1949, it has never been implemented or enforced.

Implementation: The first phase of this project would involve research by the Department of Commerce and Economic Development's Office of Forest Products. If the research yields positive results, regulations would be drafted to implement and enforce the statutory preference for Alaska timber products. It is not anticipated that additional legislation would be required.

Costs: The Department of Commerce and Economic Development has asked for a \$20,000 increment in its FY 87 budget to begin research on this project. Additional costs would be incurred in the subsequent implementation and enforcement of the timber products preference.

Legal Considerations: This proposal raises constitutional questions similar to those described in Proposal No. 30 ("Buy Alaskan" Legislation).

3. Loan Program Incentives

Source: Department of Commerce & Economic Development,  
Division of Investments  
Contact: Paul Arnoldt, 465-2510

Summary of Proposal: In its various loan programs, Department of Commerce and Economic Development could offer economic incentives to applicants who agree to use Alaskan businesses or products. For example, the Department could offer a 1 percent reduction from standard interest rates on its boat building loans where the applicant agrees to use an Alaskan boat builder. Since there are very few Alaskan boat builders, this would create an additional incentive for new builders and would likely result in increased employment opportunities for Alaskans.

Implementation: This proposal could be implemented under current statutes, but would require a change to existing regulations.

Costs: Administrative impact would be minimal. Fiscal impact to the State would be a reduced amount of interest collected on the affected loans. No other significant impacts are anticipated.

Legal Considerations: This proposal raises constitutional questions similar to those described in Proposal No. 30 ("Buy Alaskan" Legislation).

4. Economic Disaster Regulations

Source: Goldberg Report on Rural Unemployment (Sept. 1984)  
Contact: Bob Landau, 465-2700

Summary of Proposal: Under current Alaska law, AS 44.33 authorizes both a local contractor preference and a local hire preference in any area of the State proclaimed by the Governor to be an economic disaster area. In order to qualify as an "economic disaster area," it must be shown that the annual income to workers in the designated area has dropped below the average annual income for workers in that area over a 10-year period, and that the drop in income is of such magnitude that the average family income of all residents in the designated area is below the federal poverty income threshold. Once an area has been proclaimed as an economic disaster area, residents of the area may be given first preference in hiring on state-awarded contracts, and qualified local contractors may also be preferred in state contracting.

Although this legislation was first enacted in 1976, the Department of Commerce and Economic Development has never adopted regulations to implement the program. Even though this legislation does not provide a broad-based solution to the local hire problem, it does offer a limited and narrowly-focused remedy for extreme or emergency situations. It would be advisable to have implementing regulations in place in the event an area of the State is impacted by economic catastrophe.

Implementation: Pursuant to AS 44.33.305, the Department of Commerce and Economic Development, in consultation with the Department of Labor, would adopt implementing regulations. It is also likely that the statute itself may need some re-drafting to avoid any constitutional overbreadth problems.

Costs: The principal cost involved would be the time and effort to promulgate implementing regulations and make appropriate income determinations under the statute.

Legal Considerations: The present economic disaster statute could probably withstand constitutional challenge. The primary concerns would be the Privileges and Immunities clause and the Alaska Equal Protection clause; however, the discrimination against nonresidents occurs under such

limited emergency circumstances that the statute would likely be upheld. The statute would be more defensible if it were amended to limit the hiring preference to unemployed residents in the area impacted by economic disaster.

Other Considerations: There is presently a bill under active consideration by the Legislature (HB 466) which contains a hiring preference on public construction projects for residents of an area impacted by economic disaster. The formula for triggering the hiring preference in HB 466 is similar to AS 44.33, although the preference itself would be limited to 50 percent of workers on the project and would be administered by the Department of Labor instead of the Department of Commerce and Economic Development.

5. Capital Project Grant Programs

Source: Department of Community & Regional Affairs,  
Division of Municipal & Regional Assistance  
Contact: Michael Cushing, 465-4700

Summary of Proposal: Certain state programs which provide for capital project grants could introduce stipulations or incentives which require or encourage local hire and local purchase. The Department of Community and Regional Affairs operates several such programs, including the Rural Development Assistance Program and the Bulk Fuel Storage Facility Grant Program. For the most part, the relatively small size of these grants has discouraged significant participation by nonresident labor. Somewhat more often, however, project materials and equipment are purchased outside of Alaska. In any grant project where local materials or products are available at reasonable prices, grant provisions should favor the use of local items. Specific (named-recipient) legislative grants to unincorporated communities (administered by DCRA) and incorporated communities (administered by the Department of Administration) could also include grant provisions that promote local hire and local purchase.

In addition to the more obvious concerns about the constitutionality of local hire and local purchase grant provisions, attempts to formulate such provisions should recognize the basic unmet needs and limited administrative capacities of many smaller Alaskan communities. Provisions for local hire and local purchase should not have the effect of precluding access to needed basic community improvements.

Implementation: The various state agencies which administer capital grant programs, as well as the Office of Management and Budget, would convene and establish uniform capital project grant provisions (incentives and/or requirements) directed at achieving the desired effects on local hire and local purchase. These agencies would be assisted by the Departments of Labor and Law to ensure that the provisions, and any necessary implementing regulations, were legally satisfactory. Some form of participation by legislative members or staff would be necessary with regard to incorporation of such measures into designated legislative grant provisions.

**Costs:** No significant administrative costs. Impact on the grant recipients and contractors would be a function of the actual terms of the grant provisions (e.g., what percentage above outside prices, if any, would be considered "reasonable" local prices?).

**Legal Considerations:** This proposal raises constitutional questions similar to those described in Proposals No. 30 and No. 32.

6. Employment Services and Incentives for Teachers

Source: National Education Association  
Contact: Robert Manners, 586-3090

Summary of Proposal: It has been a common practice for certain school districts, especially in rural areas, to recruit new teachers from outside Alaska. There is a substantial number of qualified and certificated Alaskans who want to teach but do not have adequate information or counseling on jobs which may be available. The development of improved employment information and placement services for teachers, available to all teachers and school districts in the state, would tend to promote the hiring of qualified Alaskan teachers first.

In addition, the state might develop an incentive program to encourage teachers to teach in rural areas of the state, together with similar incentives to encourage rural Alaskans to pursue careers in public education. Such a program could also include disincentives or penalties for school districts that recruit teachers from outside Alaska before exhaustively searching for qualified and available teachers from within the state.

Implementation: The Department of Education, in conjunction with the University of Alaska and the Department of Labor, could establish a data base consisting of all certificated teachers in Alaska and make appropriate referrals to school districts as teacher positions become available. The Department of Education could also develop the incentive programs described above as part of its allocation of funds to the school districts in the state. Until specific programs are developed, it is unknown whether any statutory or regulatory changes would be required.

Costs: Difficult to estimate until specific programs are developed.

Legal Considerations: The legality of this proposal would depend on how the above programs are structured and whether there would be any direct discriminatory impact on nonresident teachers. Assuming the programs are limited to providing employment information or referral services to all school districts and teachers that apply, there should be no constitutional problem.

7. Depressed Area Legislation

Source: Goldberg Report on Rural Unemployment (Sept. 1984)  
Contact: Bob Landau, 465-2700

Summary of Proposal: After the U.S. Supreme Court declared the old Alaska Hire law unconstitutional in Hicklin v. Orbeck, a bill (HB 316) was introduced in 1979 to provide a resident employment preference without the defects identified in the Hicklin decision. The mechanism proposed was superficially similar in structure to, but substantially broader in application than, the economic disaster law described in Proposal No. 4. HB 316 was never enacted, despite the substantial effort to tailor it to the requirements of the Hicklin decision, possibly because the bill resulted in a rather complex scheme.

HB 316 essentially proposed an employment preference for Alaska residents on State contracts in depressed areas. A "depressed area" was defined as a borough, city, village or labor area in which less than 50 percent of the population aged 18-64 was employed, or where the unemployment rate was 9 percent or more. In an effort to avoid constitutional problems, a provision was included which would enable areas in other state to qualify as depressed areas if their average insured unemployment rate exceeded 7.5 percent. To further preserve the constitutionality of the bill, the employment preference would only be extended to residents of depressed areas who were either unemployed or marginally employed.

As originally introduced, HB 316 applied to all employment resulting from a State loan, oil or gas lease, easement, right-of-way permit, or unitization agreement to which the state was a party and which was executed or renegotiated after the effective date of the bill, as long as the employment activity took place within Alaska. The bill was later revised to apply only to covered employment within a depressed area rather than anywhere within the state.

Enactment of HB 316 or a similar bill today would affect a large part of the state, since there are many areas which have an unemployment rate above 9 percent. One possible variation of this proposal would be to trigger the resident hire preference whenever the unemployment rate of an area exceeds the national average, rather than tie it to a fixed percentage.

Implementation: In January 1986, a new resident hire preference bill (HB 466) was introduced in the Legislature and is currently under active consideration. Among other things, HB 466 would create a local hire preference in "underemployed" areas of the state whenever the unemployment rate of that area is substantially higher than the natural average due to the lack of employment opportunities and the displacement of local workers by nonresidents. The preference mechanism in HB 466 is substantially similar to that contained in this proposal.

Costs: There would be a significant impact on the Department of Labor in the administration and enforcement of a new hiring preference for "underemployed" areas of the state. The Department would have to conduct ongoing research to determine whether any areas of the state qualify as "depressed" or "underemployed" areas, whether the employment of nonresidents has been a peculiar source of unemployment within the area, and whether specific job applicants are eligible for the hiring preference.

Legal Considerations: With some fine tuning, this proposal might be able to withstand judicial review. The principal concerns would be to factually demonstrate the impact of nonresidents on an area and to limit the preference only to those unemployed residents of a depressed area.

8. Licensing of Construction Workers

Source: International Brotherhood of Electrical Workers  
Contact: Bob Bacolas, 465-4870 or Don Wilson, 264-2452

Summary of Proposal: Construction has been one of the industries hardest hit by the influx of nonresident workers displacing qualified Alaskans. Among the construction trades and crafts, only plumbers and electricians are required to be licensed by the State of Alaska. Such licensing has not only promoted safety and competency but has also helped to curtail the flow of nonresident workers in those two crafts. Licensing could be expanded to cover laborers, carpenters, heavy equipment operators, welders, painters, and other classes of workers in the construction industry.

Because licensing normally involves the taking of an examination covering local codes and work conditions, it would be more difficult for unlicensed nonresident workers to travel to and from Alaska to work for short periods of time. In addition, expanded licensing within the construction industry would provide an identifiable labor force qualified to perform work within the construction industry.

Implementation: Expanded licensing of construction crafts and trades would require amendments to Alaska's occupational licensing statutes. After the enactment of such legislation, a comprehensive set of regulations would be necessary to properly administer the new licensing categories. The most appropriate agency to administer and enforce construction craft licensing would appear to be the Department of Labor since it already is responsible for the licensing of plumbers and electricians, or, alternatively, the Department of Commerce and Economic Development, which is responsible for other occupational licensing.

Costs: Regardless of which state agency is selected to administer and enforce construction craft licensing, there would be additional costs for both field personnel and administrative staff. Costs would be comparable to those currently expended by the Departments of Commerce and Labor in their administration of existing licensing laws.

Legal Considerations: Assuming that construction craft licensing is based on the grounds of safety and minimum competency, and that the licensing requirements are equally applied to all regardless of residency, there should be no constitutional problems.

9. Regulation of Subcontracting Practices

Source: International Brotherhood of Electrical Workers  
Contact: Bob Landau, 465-2700

Summary of Proposal: On many construction projects, bid shopping (also known as "bid chiselling") is a common practice. Bid shopping is the practice of using the lowest bid already received by a general or prime contractor to pressure other subcontractors into submitting even lower bids. Bid shopping has been regarded as unethical, even illegal, because it tends to break down local wages and working conditions by making it necessary for a subcontractor to seek out the lowest priced employees, regardless of their residency.

The State of California, for example, has in place a comprehensive statutory scheme regulating subletting and subcontracting on public construction projects. Bidders on these projects must identify all subcontractors by name when they submit their bids or become liable for statutory and contractual penalties. In addition, each subcontractor on a public construction project is required to submit a performance and payment bond if so requested by the prime contractor.

Implementation: Regulation of subcontracting practices on public works projects would require new legislation and regulations. The proposed procurement bill drafted by the Senate Select Committee (SB 341) addresses this issue and requires subcontractors to be identified and licensed when the initial bids are submitted.

Costs: Some administrative costs would be incurred by state contracting agencies in the process of administering, monitoring, and enforcing compliance with the new subcontracting requirements.

Legal Considerations: No legal problems foreseen. Regulation of subcontracting practices may also have a positive effect on compliance with the state's prevailing wage requirements on public construction projects (AS 36.05).

10. Job Service Coordination with Alaska Native Organizations

Source: Department of Labor, Division of Employment Security

Contact: Jack Shay or Ed Musslewhite, 465-2712

Summary of Proposal: The Division of Employment Security could strengthen its recruitment and job placement activities in rural areas by entering into cooperative agreements with certain Alaska Native entities, including non-profit organizations and regional and village Native corporations. These Native organizations can assist in reaching certain areas and populations of the state more effectively than the Division's existing Job Service network. Bringing more rural Alaska Natives into the Job Service system would enhance their training and employment opportunities.

Implementation: This approach could be implemented through cooperative agreements between the Division of Employment Security and selected Native groups. No legislation or regulations would be required.

Costs: Fiscal impact would be expected to be relatively slight. Some costs may be incurred in funding outreach and recruitment activities by the cooperating Native organizations.

Legal Considerations: No problems foreseen.

11. Expansion of Job Service Network

Source: Department of Labor, Division of Employment  
Security

Contact: Jack Shay or Ed Musslewhite, 465-2712

Summary of Proposal: The Department of Labor could expand its network of regional Job Service offices to serve selected locations during seasonal peak hiring periods. For example, the Department recently opened summer offices in Eagle River and Naknek on a pilot program basis, with considerable success. In 1986, the Department plans to place a seasonal interviewer in Cordova during peak hiring periods. Past experience has shown that the more accessible Job Service offices are to both employers and job seekers, the more likely it will be that Alaskans are referred for employment and subsequently hired.

Implementation: No legislation or regulations required.

Costs: Estimated \$10,000 to \$15,000 for proposed expansion of temporary offices.

Legal Considerations: No problems foreseen.

12. Publicity and Advertising Campaign

Source: Department of Labor

Contact: Bob Bacolas, 465-4870 or Don Wilson, 264-2452

Summary of Proposal: The Department of Labor could coordinate a promotional campaign to publicize the positive aspects of hiring residents and the resulting beneficial impact on the state's economy. The Department could also more widely advertise its various employment services available to employers and job seekers, particularly in smaller communities. In addition, state contracts and grant forms could be revised to explicitly encourage the hiring of Alaskans and the use of the Job Service network to locate qualified Alaskans. Finally, the Department could publicize on a regular basis the names of those persons or companies hiring nonresident workers on public construction projects, based on its ongoing audits of weekly certified payrolls on such projects. Such publicity could bring about positive public pressure on contractors to use local workers.

Implementation: No legislation or regulations required. Publicity and advertising could take the form of press releases, direct mail, radio and TV spots, newspaper advertising, and coordination with existing organizations such as Alaskans First. State forms and contracts could be amended to include appropriate local hire language.

Costs: Fiscal impact would be variable, depending on the medium and frequency of publicity or advertising.

Legal Considerations: The only apparent legal concern relates to possible disclosure of confidential information obtained from employers and employees. Disclosure of such information could possibly violate applicable confidentiality provisions, depending on the manner in which the information was released.

13. Regulation of Illegal Aliens Working in Alaska

Source: Department of Labor

Contact: Bob Landau, 465-2700 or Bob Bacolas, 465-4870

Summary of Proposal: Employment opportunities in Alaska have been negatively affected by the increasing employment of illegal aliens. Certain state agencies that conduct substantial on-site inspections, such as the Department of Labor, have routinely made complaints and referrals to the U.S. Immigration and Naturalization Service (INS) regarding illegal aliens. The state could strengthen its working relationship with the INS to more effectively monitor illegal alien hire and conduct prompt enforcement. Specific areas and industries within the state could be targeted for monitoring and inspection based on past experience. This proposal envisions a closer, better coordinated federal-state effort to determine the dimensions of the problem and to explore available remedies, including the feasibility of state legislation directly regulating the employment of illegal aliens.

Implementation: A working group would be established, consisting of representatives from various state agencies impacted by the presence of illegal aliens, such as the Departments of Labor, Public Safety, Commerce and Economic Development, and Fish and Game. Representatives of the INS and other appropriate federal, state or local agencies would also be included. The primary task of the working group would be to develop a more efficient and coordinated approach to the problem of illegal alien employment. This group could also consider the legality and feasibility of direct state regulations of the employment of illegal aliens.

Costs: The establishment of a federal-state working group on illegal alien employment would not involve significant costs and could likely be funded within existing budgets. Actual state legislation and enforcement against illegal alien employment, however, would involve significant additional cost for both administrative and field personnel.

Legal Considerations: Although the federal government has primary jurisdiction in immigration matters, recent court decisions such as DeCanas v. Bica, 424 U.S. 351 (1976), have permitted state regulation of the employment of illegal aliens where it can be shown that such employment would have an adverse effect on lawful resident workers and where the state legislation does not conflict with applicable federal laws. The creation of a federal-state working group on illegal alien employment in Alaska would not give rise to any legal problems.

14. Use of Alaska Public Broadcasting System

Source: Department of Labor, Division of Employment  
Security

Contact: Jack Shay or Ed Musslewhite, 465-2712

Summary of Proposal: The Employment Security Division's Job Service network could use the Alaska Public Broadcasting System during its current "off" time to list all available job openings. Since the state is already subsidizing the public broadcasting system, this would be a cost-effective way to alert a larger number of Alaskans to available job opportunities. In keeping with current Job Service regulations, specific employers would not be identified; interested job applicants would be referred to their nearest Job Service local office.

Implementation: Job Service regulations may require minor changes.

Costs: This approach would involve little or no cost.

Legal Considerations: No problems foreseen.

15. Foreign Fisheries Observer Program

Source: Department of Labor, Division of Employment  
Security

Contact: Willard Dunham, 224-5276

Summary of Proposal: Since 1973, U.S. biologists have been on board foreign fishing vessels within the 200-mile limit to observe and record the catches brought aboard. This information allows the National Marine Fisheries Service (NMFS) to monitor each foreign nation's progress toward its yearly quota, to evaluate the status of stocks of target species, and to assist in determining reasonable quotas for future years.

There are approximately 500 observers who are employed during the summer months in the Northwest fisheries area, but very few if any of these are Alaskans. The basic problem appears to be that the NMFS has subcontracted the recruitment and training portion of its observer program to a private contractor in Seattle and to the Universities of Washington and Oregon. Consequently, virtually all of the observers who are recruited and trained for the program come from outside Alaska. Minimum qualifications for the observer positions are U.S. citizenship, good health, and a Bachelor's degree, preferably in fisheries or biological sciences. Although the observer program provides only temporary employment, many of the observers are able to use their experience to gain permanent employment within the fishing industry, academia, or with the NMFS.

The state could take various steps as described below to gain entry into the Foreign Fisheries Observer Program for qualified Alaskans.

Implementation: The critical element of gaining entry into the observer program would be to obtain approval for an Alaskan subcontractor to handle recruitment and training in Alaska. The appropriate lead agency for this purpose would appear to be the University of Alaska's Institute for Marine Sciences, with support from the Alaska Vocational Technical Education Center, the Departments of Fish and Game, Commerce and Economic Development, Labor, and the City of Seward. Discussions have already been initiated to seek Alaskan subcontractor status but the effort may require a broader base of support, including the Governor, the Legislature, and the Congressional delegation. It does not appear that any changes to state laws or regulations would be required.

Costs: The recruitment and training costs for the Foreign Fisheries Observer Program have been largely subsidized by the federal government through the NMFS, therefore minimal state funding should be required.

Legal Considerations: No legal problems foreseen.

Other Considerations: A bill introduced during the 1985 legislative session (HB 355) would establish a domestic observer program, similar to the federal program, for all fishing vessels required to be registered in Alaska. This bill is under active consideration in the House.

16. Resident Hire on Natural Resource Projects (SB 271)

Source: Senator Joe Josephson  
Contact: Bob Landau, 465-2700

Summary of Proposal: Senate Bill 271, originally introduced during the 1985 session, establishes resident hire requirements for all employment on all natural resource projects on state land. "Natural resource projects on state land" are defined to include all new or renegotiated oil and gas, timber, and mineral leases, contracts and agreements, where the project is to be performed in whole or part on state land.

The current version of the bill was drafted by the Senate Labor and Commerce Committee. The bill is currently pending before the Senate Resources Committee. An identical version of the bill was introduced in the House (HB 367).

Implementation: Both the Department of Labor and the Department of Natural Resources would have responsibilities under the bill. Labor would establish resident hire requirements for each project, refer qualified residents for work, monitor employer reporting requirements, and certify employer noncompliance. In the event of employer noncompliance, Natural Resources would conduct an investigation and could impose monetary and other penalties on the employer in violation.

Costs: The Department of Labor's current fiscal note is \$164,000 for FY 87 and \$358,000 for FY 88 (the year that many leases and unitization agreements come up for renegotiation). The fiscal impact on the Department of Natural Resources is unknown.

Legal Considerations: This bill faces several constitutional hurdles, but they may not be insurmountable. First, the findings on which the bill is premised must be factually documented to show the negative impact of nonresidents in natural resource industries. Second, the bill as currently drafted is overbroad - the resident hire preference must be more closely tied to remedying unemployment within natural resource industries in Alaska. The preference should also be limited to chronically unemployed or underemployed Alaskans or graduates of State job training programs.

17. Expansion of Youth Employment Program

Source: Department of Natural Resources  
Contact: Bob Arnold, 465-2400

Summary of Proposal: The State Park Youth Employment Program provides summer jobs for youths between the ages of 15 and 23. The program provides a temporary work force to assist in trail building, erosion control, and facility maintenance projects that cannot be done by permanent staff. Generally, young people hired for this program are living in Alaska at the time of hire, but Alaska residency is not a requirement. The program could be expanded to provide greater job opportunities for Alaska's young people, particularly in smaller communities.

Implementation: Expansion of the youth employment program could be accomplished administratively, assuming additional funding is provided.

Costs: Expansion of the program would require additional funding in proportion to the number of additional youths to be employed.

Legal Considerations: Expansion of the existing program would not present any legal problems as long as Alaska residency was not required as a condition of enrollment.

18. Federal Land and Water Conservation Grants

Source: Department of Natural Resources  
Contact: Bob Arnold, 465-2400

Summary of Proposal: The federal government administers grants to state and local recipients under the Federal Land and Water Conservation Fund. In 1983, on a one-time basis, federal grants from this Fund were channeled through the Small Business Administration (SBA). The SBA's role in the grant process was to determine which small businesses in Alaska were available to provide services to the grant recipients. Eligible businesses were then required to be used to provide contractual services, commodities, and equipment necessary to perform the grant. This provision was known as the "Jobs Bill" and its purpose was to stimulate local hire.

Currently, federal Land and Water Conservation Fund grants are reviewed by DNR's Division of Parks and Outdoor Recreation. The State could petition our Congressional delegation to reintroduce a "Jobs Bill" provision into the above federal grant program. The Alaska Legislature might also be requested to include a similar provision in selected state grants.

Implementation: This proposal would be implemented administratively through the Department of Natural Resources.

Costs: The principal costs involved would be for DNR or another appropriate agency to establish and maintain a list of eligible small businesses in Alaska which could provide goods or services to the grant recipient.

Legal Considerations: A federal program that requires resident hire is probably constitutional even though the program is administered by the state. The major constitutional barrier to state resident employment preferences is the privileges and immunities clause of the U.S. Constitution, but this clause does not apply to the federal government. In addition, it appears that this program would also survive scrutiny under the state or federal equal protection clauses, assuming there can be established a rational basis for a resident hiring preference.

19. Resident Hire Stipulations in Oil and Gas Leases

Source: Department of Natural Resources  
Contact: Kay Brown, 561-2020

Summary of Proposal: This proposal would include certain Alaska hire provisions as stipulated conditions of state oil and gas leases and unit agreements. Under such provisions, Alaska residents and Alaska companies would be employed to the extent that they are available and qualified for work performed in Alaska under the lease. Alaska residency would be defined as a minimum of one year in the state at the time of hiring or employment. Alaska companies are those incorporated in Alaska or whose principal place of business is in Alaska.

Implementation: The resident hire stipulations would be incorporated into state oil and gas leases and negotiated royalty contracts. Similar provisions have already been included in recent royalty contracts.

Costs: Certain administrative costs would be incurred by the state, probably the Department of Labor, in connection with verifying the residency of persons employed and companies hired to perform work under oil and gas leases. Some of this cost, however, could be absorbed by the Department of Labor's current resident hire program.

Legal Considerations: Although the proposed resident hire stipulations in oil and gas leases would not be as broad in scope as those struck down in Hicklin v. Orbeck, 437 U.S. 518 (1978), there are still significant constitutional issues. In the event of a legal challenge, a factual foundation would be necessary to show that nonresidents are displacing residents in the oil and gas industry and are having a detrimental effect on the Alaska economy. In addition, the hiring preference should be limited to unemployed or underemployed Alaskans only. Finally, the one-year durational residency requirement would raise an equal protection issue; a durational residency requirement of up to 30 days, however, would likely be upheld.

20. Year-round Exploratory Activities

Source: Department of Natural Resources  
Contact: Kay Brown, 561-2020

Summary of Proposal: The state could allow certain natural resource exploration activities, such as seismic exploration and exploratory drilling, to take place on a year-round basis. This change could help foster a more stable Alaska work force instead of tending to favor the short-term importation of outside workers for lower wages. The precise impact on local hire, however, is uncertain, depending on how the oil industry reacts to such a change.

Implementation: This proposal can be implemented administratively, but would require the coordinated involvement of several departments, including Natural Resources, Environmental Conservation, Fish and Game, and Labor, to monitor year-round activities.

Costs: There are potentially increased environmental and safety hazards in allowing year-round exploratory activities. The enforcement staffs of the Departments of Labor and Environmental Conservation may require additional funding to perform adequate year-round monitoring of these hazards. In addition, the Departments of Natural Resources and Fish and Game would also incur increased monitoring costs.

Legal Considerations: No problems foreseen.

21. Prevailing Wages on Oil and Gas Lease Work

Source: Department of Natural Resources  
Contact: Don Wilson, 264-2452

Summary of Proposal: Companies performing work on state oil and gas leases or contracts would be required to pay prevailing wages for the area in which the work is performed. This would tend to equalize labor costs for lease holders and provide a disincentive to hire nonresidents for lower wages. Recent statistics compiled by the Department of Labor indicate that on publicly-funded construction projects where prevailing wages are required to be paid, the percentage of nonresident workers has been extremely low.

Implementation: The state's current prevailing wage requirements apply only on public construction projects under contract for a state agency or political subdivision of the state. This proposal would require legislation to extend the existing prevailing wage laws and regulations to include oil and gas work on state land.

Costs: The Department of Labor would incur additional administrative costs in surveying the oil and gas industry to establish prevailing wage rates for job classifications not currently covered. There would also be additional costs for on-site field inspections at remote job sites. Another possible fiscal impact is reduced bidding on oil and gas leases due to lease holders having to pay higher labor costs.

Legal Considerations: If properly drafted, this proposal could probably withstand a constitutional challenge. The most serious concern would be with the Commerce Clause; oil and gas is so critical to the national economy that state regulatory burdens may be closely examined. However, the proposal is so similar to the current Davis-Bacon requirements that it would likely be upheld.

22. Oil Industry Training Programs

Source: Department of Natural Resources

Contact: Kay Brown, 561-2020 or Ed Musslewhite, 465-2712

Summary of Proposal: Many oil industry training programs are currently conducted outside the state, making it difficult for Alaskans to qualify for oil and gas jobs. The state could survey the extent of existing oil industry training programs within Alaska to determine whether these are adequate and sufficient for the employment of Alaskans. The state could also explore the feasibility of requiring as a condition of oil and gas leases that such training programs be made more accessible to Alaskans, either by providing the training programs within the state or by sending Alaskans to such programs outside the state.

Implementation: Considerable research would have to be conducted on the adequacy of existing training programs. The most appropriate agencies to conduct such an effort would appear to be the Departments of Labor and Education. In addition, the Departments of Natural Resources and Law could explore the feasibility of requiring training in Alaska as a condition of oil and gas leases and contracts.

Costs: Research and surveying costs could probably be absorbed within existing budgets. If lack of training is identified as a problem in Alaska, some costs would be incurred in providing additional training programs or low-interest loans for training applicants. Moreover, if oil and gas lease holders can be required to make training more accessible to Alaskans, it is likely that these increased costs would be reflected in their bids.

Legal Considerations: A requirement to train Alaskans or to offer training in Alaska would raise constitutional issues ranging from due process to privileges and immunities and equal protection. Some federal programs, however, have successfully required training as a condition or term of a grant or construction contract. Absent facts demonstrating that nonresidents are causing significant displacement of Alaskans in the oil industry and that the lack of trained residents is an important element of such displacement, it appears unlikely that the state could validly impose a requirement to train state residents. On the other hand, a financial incentive in oil and gas lease or contract to train locally, that does single out residents, may be permissible.

23. Resident Hire Incentive Credits

Source: Department of Natural Resources  
Contact: Kay Brown, 561-2020

Summary of Proposal: The oil and gas leasing statute, AS 38.05.180, could be amended to allow for "resident hire" incentive credits, similar to the existing exploration incentive credits program. Without further analysis, it is unknown how receptive the industry would be to such an idea and whether oil companies would take advantage of it.

Implementation: This proposal would require legislative amendments to AS 38.05. Prior to such amendments, however, a complete cost-benefit analysis should be done before any decision to implement the proposal is made. The Department of Revenue would also have to assess the revenue impact of the proposal.

Costs: In general, the State's share of oil and gas royalties would be expected to decline if such credits are provided, unless the State's overall share of such royalties is increased across the board.

Legal Considerations: Significant constitutional issues as described in Proposals No. 24 and 25.

24. Graduated Corporate Tax Rates

Source: Department of Revenue  
 Contact: Mark Graber or Carl Meyer, 465-2320

Summary of Proposal: The state's corporate tax rate structure could be explicitly tied to compliance with local hire goals. Corporations maintaining a work force of 90 percent or more of available and qualified residents would be subject to the current graduated tax rates now ranging from 1 percent to 9.4 percent. Corporations with lower percentages of resident employees would be taxed at increased rates, as follows:

<u>Percent Alaska Residents Employed</u>	<u>Tax rates</u>
80 to 90%	1.2 to 9.6%
70 to 80%	1.4 to 9.8%
60 to 70%	1.6 to 10.0%
50 to 60%	1.8 to 10.2%
Below 50%	2.0 to 10.4%

The Department of Labor would be responsible for certifying the percentage of available and qualified residents employed by each taxable corporation on an annual basis.

Implementation: This proposal would require amendments to the current corporate tax laws, and would probably require implementing regulations as well.

Costs: There would be a significant fiscal impact on the Department of Labor, which would be the agency responsible for determining the residency of every person employed by a company subject to the state's corporate tax. Some of this could be accomplished through a computer cross-match of Permanent Fund Dividend recipients with unemployment insurance (UI) data. However, in many cases residency would have to be verified manually through other means, such as a residency questionnaire and/or personal interviews. There may also be some costs associated with appeals of Labor's residency determinations.

The tax impact of this proposal on corporations is unknown in the absence of resident hire statistics for each corporation. However, in theory there would be a net revenue gain, since companies with lower resident hire percentages would be taxed at a higher rate.

Legal Considerations: This approach raises questions under the commerce clause of the U.S. Constitution and possibly also under the equal protection clause. Under the commerce clause, if the statute discriminates against interstate commerce, either on its face or in its effect, it may be held invalid. In this case, while the proposal appears to treat interstate and intrastate businesses equally on its face, it may be deemed to have an unequal effect on interstate commerce and might thus be struck down as protectionist legislation. See Delta Air Lines, Inc., v. Dept. of Revenue, 455 So. 2d 317 (Fla. 1984).

With respect to equal protection analysis, the proposal would also face constitutional difficulties. The Alaska Supreme Court has indicated in several cases that "benefiting economic interests of residents over nonresidents is not a purpose which may constitutionally vindicate discriminatory legislation. . ." Lynden Transport, Inc. v. State, 532 P. 2d 700, 711 (Alaska 1975).

In addition to the constitutional concerns, there is a potential conflict between the disclosure required under this proposal and the existing UI confidentiality law in AS 23.20.110. Also, the definition of "resident" is taken from AS 43.23.095(7) in the Permanent Fund Dividend statutes; a more appropriate and legally defensible definition is found in AS 01.10.055.

25. Adjustment of Investment Tax Credit

Source: Department of Revenue  
Contact: Mark Graber or Carl Meyer, 465-2320

Summary of Proposal: Special incentive investment tax credits for certain qualifying investments would be allowed to companies in certain targeted industries that maintain an employment level of 90 percent or more Alaska residents. The targeted industries include mining, gas processing, fish processing, and timber processing. If a company initially qualifies for the investment tax credit but then falls below the required 90 percent resident level, it would be required to recapture (pay back) the credit previously taken. Those companies that do not meet the 90 percent local hire requirements would still be permitted to qualify for the "regular investment credit" currently provided in AS 43.20.036(b). As with the corporate tax proposal, the Department of Labor would be responsible for determining residency for each corporation applying for the special incentive investment tax credit.

Implementation: This proposal would require amendments to the existing investment tax laws, and probably the underlying regulations as well.

Costs: Similar to corporate tax proposal, except that residency determinations would only have to be made for those corporations applying for the special investment tax credit.

Legal Considerations: This proposal raises similar legal issues to those described in Proposal No. 24.

26. Bidder Prequalification on State Construction Projects

Source: Department of Transportation and Public Facilities  
Contact: Loren Rasmussen, 465-2951

Summary of Proposal: On specific public construction projects awarded by the Department of Transportation and Public Facilities, all bidders could be required to be prequalified. Prequalification would mean that potential bidders, before they could be issued bid packages, would have to meet specific criteria which could include previous experience in the type of work under Alaskan conditions and knowledge of the local environment. Most Alaskan contractors would have no problem in meeting such requirements because of their knowledge of local conditions and use of a local work force. Outside contractors, on the other hand, could be excluded from bidding on state construction work unless they could show adequate familiarity and experience with the Alaskan environment.

Implementation: Prequalification of bidders would not require any changes to state statutes or regulations but would require changes to specific project specifications and subsequent staff review of bidder applications.

Costs: Prequalification of bidders would involve additional administrative costs associated with reviewing bidder applications and determining prequalification status. There might also be some delay in advertising projects due to the prequalification process. In addition, potential bidders may incur additional time and cost for the preparation and submission of prequalification material. It is difficult to precisely determine these costs but they should be minimal. Another potential cost resulting from prequalification might be an increased total cost of a project due to the elimination of a potential low bidder for failure to meet the prequalification criteria, but this cost is highly speculative.

Legal Considerations: No significant problems foreseen. However, the criteria established for prequalification should be linked as closely as possible to project requirements rather than to the residency of the potential bidder.

27. Solicitation of Construction Bids Only in Alaska

Source: Department of Transportation and Public Facilities  
Contact: Loren Rasmussen, 465-2951

Summary of Proposal: At present, it is the policy of the Department of Transportation and Public Facilities to seek bids on major construction projects by advertising as widely as possible including out-of-state. The advertised plans and specifications on such projects are typically furnished to plan centers in Seattle and Portland. To enhance the likelihood of Alaskan firms and workers obtaining these construction contracts, DOT/PF could restrict its advertising to Alaska media sources only.

Implementation: This proposal could be implemented without changing any statutes or regulations but would require a modification to DOT/PF internal policies and procedures.

Costs: This approach would slightly decrease DOT/PF's advertising costs. However, there might be an increased total project cost on any projects where a potential low bidder from outside the state is eliminated by the curtailment of out-of-state advertising. Such increased cost, of course, is highly speculative.

Legal Considerations: No problems foreseen.

28. Require Prime Contractors to Publicize Labor and Subcontract Needs on Public Construction Projects

Source: Department of Transportation and Public Facilities  
Contact: Loren Rasmussen, 465-2951

Summary of Proposal: The Department of Transportation and Public Facilities could require contractors, as a contract obligation, to identify and publicize through the media, unions, the state's Job Service network and other channels, the type and number of labor crafts and subcontract work in the area where work is to be performed. This would give local residents and employment authorities specific knowledge of job opportunities on public construction projects.

Implementation: Requiring prime contractors to publicize labor and subcontract opportunities would not involve any changes to statutes or regulations but could be accomplished through modification to present DOT/PF standards specifications.

Costs: The cost to DOT/PF of administering such a contract requirement would be minimal. However, there would be a more significant cost to prime contractors. If the cost of meeting the publication requirement is assumed to average approximately \$500 for each project, then with about 200 projects performed annually by DOT/PF, the total cost to prime contractors would be approximately \$100,000.

Legal Considerations: No problems foreseen.

29. Use of Unique Alaska Materials or State-furnished Materials

Source: Department of Transportation and Public Facilities  
Contact: Loren Rasmussen, 465-2951

Summary of Proposal: On specific projects such as Pioneer Homes, schools, or state office buildings, where it may be desirable to exhibit Alaskan heritage or historical features, the Department of Transportation and Public Facilities could require the design consultants in the actual design to use unique Alaska materials such as quarry rock, marble, lumber or wood work decorations. This would tend to enhance local employment and business opportunities.

A variation of this approach would be to have DOT/PF purchase Alaskan materials or products in advance of bidding and include such items as state-furnished materials in a public works contract. Examples include highway culvert markers, certain Alaskan wood products, and other frequently used construction materials. In essence, DOT/PF would stockpile frequently used construction materials and then furnish them as needed on particular construction projects.

Implementation: Either of the above approaches could be implemented administratively by including them as requirements in the applicable bid specifications and construction contracts.

Costs: Additional administrative costs to DOT/PF should be minimal. If DOT/PF is to stockpile certain frequently used materials, costs would depend on the items and amounts that are selected. The effect on overall project costs would depend on the additional cost incurred by contractors in having to locate and purchase specific Alaska construction materials.

Legal Considerations: No problems foreseen.

30. "Buy Alaskan" Legislation

Source: Department of Transportation and Public Facilities  
Contact: Loren Rasmussen, 465-2951

Summary of Proposal: "Buy Alaskan" legislation could be enacted, providing a bidder's preference on publicly-funded construction projects for those bidders who agree to use designated Alaskan materials or products. The extent of the preference would be determined by the "value added in Alaska" of the material or product in question. Alaskan industries which would particularly benefit from such legislation include the wood and concrete products industries. If successful on public construction projects, "Buy Alaskan" requirements could be extended to all state contracts.

Implementation: This proposal would require new legislation and implementing regulations. Each state agency and political subdivision awarding a construction contract would be responsible for the administration and enforcement of the "Buy Alaskan" requirements. In addition, an appropriate state agency would be designated to develop standards for classifying Alaska products and materials triggering the bidder's preference.

Costs: Overall project costs are difficult to estimate but may be higher depending on the increased costs to contractors of locating and purchasing Alaska materials. There would also be certain administrative monitoring and enforcement costs for affected contracting agencies.

Legal Considerations: This approach raises commerce clause and equal protection issues. Other states have enacted similar legislation, but there is very little case law on their constitutionality. A "Buy Alaskan" requirement on public construction projects would probably pass legal muster under the "market participant" exception to the commerce clause. Equal protection analysis, however, could be more troublesome to the extent that such a scheme is analogized to the Alaska bidder's preference, which at least two members of the Alaska Supreme Court believe is unconstitutional. An additional legal problem is that many federal grants prohibit discriminatory purchasing or hiring specifications; a "Buy Alaskan" statute, therefore, could not be applied where it conflicted with federal law.

31. Local Fabrication of Construction Materials

Source: Department of Transportation and Public Facilities  
Contact: Loren Rasmussen, 465-2951

Summary of Proposal: On certain Department of Transportation and Public Facilities construction projects involving the fabrication of materials, the project specifications could be written to require contractors to perform such fabrication in Alaska. Examples of fabricated materials include concrete walls, beams, pipes, manholes, catch basins, drains, septic tanks, and wood products such as cabinetry and millwork. Requiring local fabrication would enhance both business opportunities and employment for Alaskans.

Implementation: Local fabrication requirements could be inserted in selected state contracts. Also, the current contracting approach of allowing contractors to substitute like products on materials would have to be changed.

Costs: There may be some additional administrative cost to DOT/PF for added inspection duties. The change in overall project costs would depend on the increased cost to contractors, if any, of fabricating construction materials locally.

Legal Considerations: This approach raises constitutional issues similar to Proposal No. 30.

32. Prequalification of Local Labor Force

Source: Department of Transportation and Public Facilities  
Contact: Loren Rasmussen, 465-2951

Summary of Proposal: Through an appropriate state agency or by a supportive service contract, lists of qualified resident construction workers in various Alaska communities could be developed and maintained. The lists could be furnished with the bid proposals which are sent to prospective bidders. Successful bidders would be encouraged to hire construction labor from the established lists.

Implementation: This proposal could be implemented administratively without any changes to state statutes or regulations. The development of accurate lists of qualified Alaskan construction workers would involve computer cross-matching to verify residency as well as each worker's qualifications. The Department of Labor's Job Service network has many of the resources to assist in this process.

Cost: There would be administrative costs incurred in compiling the lists, verifying residency and qualifications, and keeping the lists current by region. It is estimated that such costs would run at least \$50,000 to \$100,000 per year.

Legal Considerations: No constitutional problem if contractors are merely "encouraged" to hire off the lists. However, if contractors are required to hire off the lists, constitutional issues would arise similar to those identified in the recent Alaska Supreme Court decision striking down Alaska's resident hire preference law.

Also, in the event that the Department of Labor's Job Service offices are assigned the responsibility of maintaining such worker lists, there may be a potential conflict with federal regulatory requirements which generally prohibit any type of discrimination in job referrals on the basis of state residence. There may also be a potential conflict with state confidentiality laws, which protect information received by DOL from employers and job applicants in the course of administering the Job Service program.

33. Expanded Bidder Preference

Source: Department of Transportation and Public Facilities  
Contact: Loren Rasmussen, 465-2951

Summary of Proposal: The present bidder preference law, AS 37.05.230(7), could be revised to eliminate the exclusion of DOT/PF projects over \$5,000. DOT/PF could then apply the Alaska bidder preference on virtually all state-funded construction projects, increasing the likelihood that Alaska contractors and Alaska workers will be employed on those projects. In addition, the current bidder preference statute could be tightened up to ensure that only bona fide Alaskan contractors would be entitled to the preference.

Implementation: The proposed state procurement code (SB 341) retains the current exclusion of bidder preference on Department of Transportation and Public Facilities projects over \$5000; this provision would have to be deleted.

Costs: The expansion of the bidder preference statute might increase total project costs to the extent that potential low bidders from outside Alaska might not be awarded the contract.

Legal Considerations: The Alaska bidder preference law is probably valid under the "market participant" exception to the commerce clause, but runs into serious trouble with the equal protection clause of the Alaska Constitution. At least two members of the Alaska Supreme Court have already indicated their belief that the current bidder preference law violates the Alaska equal protection clause.

Other Considerations: Since a high percentage of DOT/PF projects are federally funded, and federal regulations prohibit discrimination on the basis of residence, the Alaska bidders preference could not be applied on those projects. In addition, on entirely state-funded projects, the number of successful out-of-state bidders has been very low, so that the net effect of such a statutory change may be more symbolic than real.

34. Administrative Order Regarding Alaska Hire

Source: Department of Law  
Contact: Ron Lorensen, 465-3600

Summary of Proposal: Through an administrative order from the Governor, contractors on public construction projects could be required to explicitly comply with Alaska hire requirements now in effect or subsequently enacted by the Legislature. Such an administrative order could also apply to state grants for construction work or to work performed under state oil and gas leases or unit agreements.

Implementation: This proposal would require the issuance of an administrative order by the Governor, and would not require additional legislation.

Costs: There would be virtually no cost associated with this proposal.

Legal Considerations: As long as the proposed administrative order merely secures compliance with present or future legislation and does not independently impose local hiring requirements, it would probably avoid any constitutional problems.

35. Management Program for Public Land Managers

Source: U.S. Department of the Interior  
Contact: Bob Landau, 465-2700

Summary of Proposal: The University of Alaska, in conjunction with various agencies within the U.S. Department of the Interior, could develop an undergraduate and graduate management program for public interest lands management. Such a program would enable Alaskan students to have much better employment prospects as public interest lands managers for either the state or federal government. The program would train future park, refuge and other state or federal public land managers directly in Alaska. The University of Alaska currently administers a land management as well as a planning program, but these have not been specifically focused in the area of public interest lands management.

Implementation: Discussions have been underway for some time between Department of the Interior officials and land management faculty at the University. There is a strong desire by the University to develop this specialized program soon. This proposal does not appear to require any legislative or regulatory action.

Costs: The only cost involved would be the minimal administrative cost to the University of developing a more specialized management program and recruiting qualified resident undergraduate and graduate students.

Legal Considerations: The Alaska National Interests Lands Conservation Act (ANILCA) specifically allows a local hiring preference for federal land management positions in Alaska, provided the talent base is available, willing and competitive with national applicants. No constitutional problems are foreseen.

36. Linked Deposit Small Business Loan Program

Source: Department of Commerce and Economic Development  
Contact: Paul Fletcher, 465-2018

Summary of Proposal: In an effort to stimulate small business growth and local employment, the state could create a reduced-rate loan program for eligible small businesses. Eligible businesses would include those headquartered in the state, operating exclusively in the state, employing less than 50 employees, a majority of whom are state residents. Small businesses owned at least 51 percent by veterans or rural residents would be entitled to an additional interest rate discount.

Implementation: New legislation would be required to implement this proposal. Draft legislation has already been prepared by the Department of Commerce and Economic Development. Under the draft legislation, the Department of Revenue would place certificates of deposit with eligible leading institutes at up to 4 percent below current market rates. The lending institutions would then loan those funds to eligible small businesses at up to 3 percent below the current borrowing rates or, in the case of veteran- or rural-owned small businesses, 4 percent below current rates. The program would be limited to \$50 million in loans and would be jointly administered by the Departments of Revenue and Commerce and Economic Development.

Cost: By placing up to \$50 million in linked deposits at up to 4 percent below prevailing rates, the state would forego a significant amount of investment income it might otherwise earn. Administrative costs of the program would be expected to be minimal.

Legal Considerations: This proposal raises similar issues to those described in Proposal No. 24.

**DEPARTMENT OF LAW**

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

February 28, 1986

The Honorable Arliss Sturgulewski  
Chairman, Senate Resources Committee  
Alaska State Legislature  
P. O. Box V  
Juneau, AK 99811

Re: SSSB 271, relating to  
certain natural resource  
projects on state land

Dear Senator Sturgulewski:

I am responding to your request of February 25, 1986 for our comments regarding SSSB 271, relating to employment preferences on certain natural resource projects on state land.

As you know, the Alaska Supreme Court recently issued its decision in Francis v. Robison, holding the state's resident employment preference on public construction projects (AS 36.10.010) invalid under the privileges and immunities clause of the U.S. Constitution. In its decision, the court identified two fundamental problems with the existing law:

1. In the court's view, unemployment among residents, even where it is the result of non-residents being hired in Alaska, is not a permissible justification for a resident hire clause. The court considers this to be impermissible economic discrimination. Before a resident preference can be upheld, there must be a substantial justification beyond the fact that Alaskans are unemployed. The court suggests (but does not decide) that a preference implemented "in order to stave off an economic or social collapse" might be permissible.

2. The scope of the preference provided by AS 36.10.010 was too broad, since it was available to Alaskans who already had jobs as well as to unemployed Alaskans.

While the provisions of SSSB 271 do address the second of these problems by extending the preference to certain "target groups" of Alaska residents (e.g. unemployed or underemployed

persons), I am concerned that it does not adequately deal with the first problem. Under the bill, the general employment preference established by proposed AS 38.45.040(b) applies whether or not it can be shown that unemployment among residents, which is caused by the hiring of non-residents, has led or threatens to lead to adverse social or economic consequences for the state or an area of the state. Also, the bill appears to provide the preference for any kind of employment activity on state land. Other than in the area of construction, there is probably not presently sufficient factual information available to support extending the preference to other employment sectors. I would recommend that both of these deficiencies be addressed.

With respect to technical changes that might improve the bill, I would offer two suggestions:

1. Under the bill as currently drafted, the special preference for economically distressed areas created by proposed AS 38.45.040(c) (p.4,1.7) is effective "during the three fiscal years following a determination by the commissioner of labor..." A literal reading of this language leads to the result that the preference will only take effect on July 1 of a particular year (the beginning of the first fiscal year following the commissioner's determination), even if the commissioner made his or her determination months earlier. Unless this result is intended, the language should be revised to make it clear that the preference takes effect immediately following a determination by the commissioner and remains in effect until the end of the third full fiscal year after that determination. Also, I would suggest reducing the period of applicability of the preference from three to two years, unless strong justification for such a long period of applicability is provided in the bill or in the legislative record.

2. Proposed AS 38.45.070(a) requires that all hearings other than those conducted by the Department of Labor under subsec. (b) are subject to the Administrative Procedure Act (AS 44.62). As the bill is presently drafted, this would mean that investigative hearings conducted by the Department of Labor under subsec. (c) would be subject to the APA. The APA procedure can be unnecessarily formal and cumbersome, particularly for hearings that are primarily investigative in nature. I would recommend that the bill be

The Honorable Arliss Sturgulewski  
Chairman, Senate Resources Committee

February 28, 1986  
Page 3

revised to exclude Department of Labor hearings under subsec. (c) from APA coverage, as well.

3. Proposed AS 38.45.100, setting out applicable definitions, contains some potentially unclear provisions:

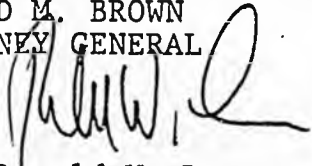
(a) The definition of "employer" can be read as applying only to persons (including affiliates, principals, contractors, etc) who are actually a party to a natural resource lease or agreement. I doubt this is the intended scope of the definition. I think this interpretation can be avoided by deleting the word "includes" on p.8, l.5 of the bill.

(b) "Natural resource project on state land" is defined as being a contract, lease, etc. This is at least confusing since "project" usually contemplates some kind of activity, whereas a "contract" or a "lease" is just a piece of paper with words on it. I would suggest adopting separate definitions for "natural resource lease or agreement" and "project" ("or natural resource project") and then using these terms, as applicable, in the bill.

I will plan to attend your committee's scheduled hearing on SSSB 271, Friday afternoon, February 28 in order to be available should you or any committee member have any further questions.

Sincerely yours,

HAROLD M. BROWN  
ATTORNEY GENERAL

By:   
Ronald W. Lorensen  
Deputy Attorney General

RWL/glg  
cc: The Honorable Joe Josephson  
Alaska State Legislature

Honorable Jim Robison, Commissioner  
Department of Labor

Terry Cramer, Attorney  
Legislative Affairs Agency

my "anonymous" source has asked that I put in my own words these 4 features of a local hire law which will probably survive court scrutiny:

- ① Application: state & local government contracts which are to be carried out in distressed areas of the state. Distressed may be defined by some agency based on definite criteria, especially a high rate of unemployment.
- ② Preference should be given to unemployed Alaskans with a definition of unemployed that assures that a worker is truly out of a job. A worker who has recently quit so that he/she may be employed on this project should be excluded.

3. Preference may be given to residents who are graduates of government supported job training programs.

4. <sup>implicit</sup> Not all positions should <sup>will</sup> be guaranteed local hire preference. A contractor should be able to hire a substantial number of non-preferred employees - resident & non-res.

contractor  
or non-res.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 4, 1986



SUBJECT: Comparison of SSSB 271 and SSHB 466  
Resident hiring preference legislation

TO: Senator Joe Josephson

FROM: Teresa B. Cramer *ABC*  
Legislative Counsel

You have requested that I compare and contrast SSSB 271 and SSHB 466, two of the bills establishing a hiring preference for state residents. You have also requested that I discuss the constitutional issues that arise under this type of legislation.

Both bills create hiring preferences for targeted groups of state residents. The preference in SSSB 271 applies to natural resource projects on state land. The preferences in SSHB 466 apply to public construction projects and also certain public works projects that receive state grants.

PURPOSE STATEMENTS. Both bills begin with a purpose or policy statement. The policy articulated in Sec. 38.45.010 of SSSB 271 is to develop state natural resources to provide the maximum benefit, including employment opportunities for state residents. The purpose statement in Section 1 of SSHB 466 identifies the state's unemployment problem as causing social harms that the legislation is intended to reduce.

FINDINGS. SSSB 271 makes findings to support the need for the resident employment preference and to demonstrate the harm caused by nonresident employment. SSHB 466 makes findings concerning the methods that the commissioner of labor may use to determine levels of unemployment in the state.

ELIGIBILITY FOR PREFERENCE. Each bill uses almost identical language to limit eligibility for the employment preference to the unemployed, underemployed or marginally employed, and to graduates of job training programs. (Compare SSHB 466,

*oil & gas  
minerals  
timber  
wherever state  
has contractual  
arrangement*

Sec. 36.10.140 with SSSB 271, Sec. 38.45.030.) SSHB 466 limits the preference for this last group to a resident who "has completed a job-training program approved by the department and is either not employed or is engaged in employment that does not use the skills acquired in the job-training program. (Emphasis Added)

RESIDENT HIRE REQUIREMENTS. The two bills differ in when a resident hiring preference is required. Section 38.45.040 of SSSB 271 gives the commissioner of labor authority to require an employer (which is a term defined in the bill) to hire residents for work on a natural resource project on state land (also a defined term). The commissioner of labor decides on a project-by-project basis what resident hiring requirements will be imposed on an employer. The commissioner is directed to consider "the nature of the work, the classification of workers, availability of eligible residents, and the willingness of eligible residents to perform the work. The preference is to be the "maximum feasible effort" that an employer could be required to make. (See Sec. 38.45.040(a) and (b).)

SSHB 466 imposes a hiring preference in three situations, depending on the circumstances that the commissioner of labor finds. Sec. 36.10.150 creates a preference for residents of underemployed areas. An underemployed area exists when an economic region of the state or the state as a whole suffers from substantial unemployment as defined in subsection (b). Before imposing the hiring preference, the commissioner must find that the lack of employment opportunities contributes to social or economic problems in the area and that employment of workers who are not residents of the area is a peculiar source of the unemployment of residents of the area.

The House Bill creates two other kinds of preferences. Sec. 36.10.160 creates a preference for residents of economically distressed areas. This preference is also found in SSSB 271 at Sec. 38.05.040(c) and (d). It applies to areas in which the average annual family income is below the adjusted poverty guidelines. The findings concerning lack of employment opportunities and the effect of nonresident employment on resident employment are identical to those required under Sec. 36.10.150.

The third preference in SSHB 466 is for economically disadvantaged minority residents. The section requires findings

concerning the unemployment of minority residents and the same findings as in the other preferences concerning the lack of employment opportunities and the effect of nonresident employment on unemployment of minority residents of the area.

SCOPE OF PREFERENCES. In SSSB 271, the commissioner of labor is directed to impose the maximum local hiring preference feasible. The preference becomes part of the lease, contract or agreement concerning the natural resource project. The preferences under SSHB 466 apply to a stated percentage of the workforce. Sec. 36.10.150 requires that the entire workforce be area residents for a project in an underemployed area, if there are sufficient eligible qualified residents of the area to do the work. For an economically distressed area, 50 percent of the workforce must be area residents. For minority preference, 25 percent must be minority residents of the area.

PROJECTS SUBJECT TO THE PREFERENCE. SSSB 271 applies the preference to "natural resource projects on state land." The bill defines the term. The preference is also limited to application where the employment is performed directly for an employer. Sec. 38.45.060.

SSHB 466 applies to public construction projects, and to certain state grant programs as set out in Sec. 36.10.180.

PENALTIES. SSSB 271 sets up an extensive list of penalties and remedies, including injunctive relief, that the state may seek for violation of a contract term requiring resident hire. There is nothing similar in SSHB 466.

OTHER DIFFERENCES. There are differences in the administrative matters the two bills address. SSSB 271 involves both the department of labor and the department of natural resources in its administration. SSHB 466 repeals the existing AS 36.10.010, preference on public construction contracts, found unconstitutional in Francis v. Robison, P2d, Alaska Supreme Court Opinion No. 3011, January 17, 1986.

The constitutional issues raised by these two bills center on whether the state's need to remedy a harm to its citizens is sufficiently strong to justify impairing the rights of nonresidents to have the same privileges and immunities that citizens of Alaska have.

Senator Joe Josephson  
Page 4  
March 4, 1986

Both bills limit the preferences to residents who are not now working, to most directly aid the groups who need the assistance given by resident hire legislation.

SSHB 466 requires, for each of the three preferences, that the commissioner find that the lack of employment opportunities in the area has contributed to social or economic problems, and that employment of nonresidents is a peculiar source of the unemployment of residents. SSSB 271 does not contain similar language. The requirement derives from constitutional standards, that to justify infringing a nonresident's privileges and immunities, the nonresident must be shown to constitute a "peculiar source of the evil at which the statute is aimed." United Building and Construction Trades Council v. Camden, and therefore aids the constitutionality of the bill.

However, in Sec. 36.10.150, SSHB 466 applies an absolute preference to work in an underemployed area. The scope of this preference - which would exclude all nonresidents from employment if there were residents to take the jobs - is probably too extensive to survive constitutional scrutiny. In Francis v. Robison, the Alaska Supreme Court considered the extensiveness of the scope of discrimination under AS 36.10.010, which granted a 95 percent preference to Alaskans, in finding the statute unconstitutional.

The major hurdle that either bill would have to surmount to survive a constitutional challenge is identifying the employment of nonresidents as the cause of the unemployment of residents. In both Hicklin v. Orbeck, decided in 1976, and in Francis, decided this year, the ultimate court decision turned on a finding that the facts presented did not establish that nonresidents were causing unemployment of Alaskans. Instead, in Francis the court found that

There is not sufficient evidence to support a finding that nonresident construction workers are a peculiar source of unemployment in the construction industry in Alaska any more than they would be in any other state. The only inference that can be drawn from the record is that nonresident construction workers come to Alaska to work during peak construction periods of time, during which there are more jobs available and less unemployment resulting.

If I may be of further assistance, please advise.  
TC:mkr  
m3/111

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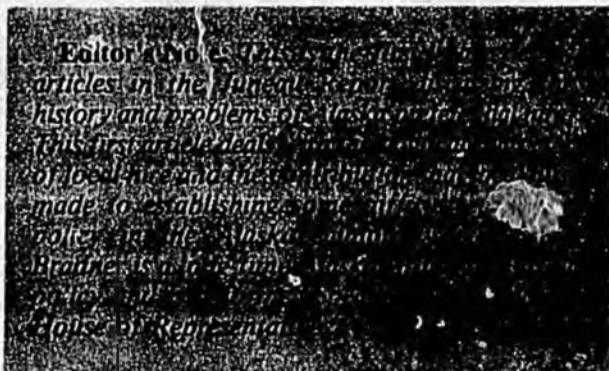
# BUREAU REPORT

of employees June 1988

## A Recurring Issue:

# Local hire means different things to many Alaskans

By Mike Bradner



Fueled by Alaska's natural geographic, political, and economic isolation, local hire has been historically, still is, and perhaps always will be, a recurrent political theme in this expansive north country.

### The Many 'Local Hires:'

Local hire and Alaska preference issues have swept across Alaska from time-to-time, and have taken many different forms.

- **In employment**, local hire can mean actual jobs, hiring Alaskans for Alaskan jobs, but it can also mean hiring Fairbanksans for Fairbanks jobs, Kenai residents for Kenai jobs, and North Slope people for North Slope jobs.

- **In the fishing industry**, local hire can mean preference for Alaska fishermen in obtaining permits and licenses, in getting loans, in getting preference over foreigners to fish stocks (groundfish), in getting foreigners out of the Alaska fishery (Americanization issue), and preference for Alaska shorebased fish processing over non-resident floating processors.

- **In the timber industry**, local hire means local processing of timber, or prohibiting shipment of 'round logs' from the state. The logs must have primary processing before export.

- **In labor unions**, members tend to see union membership as 'more local,' while non-union workers are viewed as more likely to be non-resident. In other

*Continued on page 4*

Local hire, Alaska resident hire, Alaska preference, Alaska for Alaskans, bid preference, loan preference, residency forgiveness . . . all equate with political motherhood, apple pie, sugar and spice and everything nice. They have the appearance of 'things good and just.' These are the issues of the political 'white knight,' fully decked out on his white horse in shining battle armor, lance raised, and with battle flags flying.

What we're talking about here is a 'gut level' issue. The issue is simply stated, has emotional appeal, and also generally has merit. The fact that once beyond the rhetoric, the issue is exceeding complex is quite another question. The 'gut level' feeling that goes with these issues is perhaps best expressed in the familiar term 'local hire,' which might be further translated into an all encompassing term — 'Alaskanization.'

Business:

3

by Sohio Alaska Petroleum of its employees. Opinions not necessarily reflect the inquiries should go to Bob PC Government Affairs,

# *tightening, oil price decline*

# *14th Alaska Legislature*

# Alaska State Legislature

Advisory Council Members  
Senator Bennett, Chairman  
Senator Kerttula  
Senator Abood  
Senator Sackett



Pouch V  
State Capitol  
Juneau, Alaska 99811  
Phone: (907) 465-3114

## SENATE ADVISORY COUNCIL

### MEMORANDUM

TO: Senator Sturgulewski  
FROM: Carol R. Berryhill *CRB*  
Research Assistant  
DATE: September 9, 1985  
RE: Local Hire in Other States

Per your request, I contacted the National Conference of State Legislatures (NCSL) regarding local hire law in other states. The attached document is the only document they located in the area of preferential hiring. It is a report prepared by the State of Minnesota; however, there is a fifty state survey at the end of it. If you wish a copy of any of the statutes cited in the survey, please contact me.

NCSL is going to continue monitoring local hire issues in other states, specifically in the oil & gas industry. As I receive material from them or find something that may be of interest to you, I will forward a copy.

Attachment:

AUG 8 1985

HOUSE RESEARCH

06530

Research Report

## State Domestic Preference Laws

This report analyzes state laws that require state agencies to give preference to home-state businesses in the awarding of state construction or purchasing contracts.

Emily Shapiro, Legislative Analyst

October 1983

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## INTRODUCTION

In 1983, the Minnesota Legislature enacted a number of laws aimed at encouraging economic growth and job creation in the state. Among these was a law requiring state agencies to give preference to resident contractors in the awarding of state construction contracts, and to Minnesota and American manufacturers in the procuring of goods and materials.

Following the 1983 session, the House Research Department undertook a research project to develop information on domestic preference laws in Minnesota and in other states. Specifically, the project involved a review of the available literature and public policy arguments on the subject of domestic preference laws, and a survey and analysis of the provisions of domestic preference laws in the various states.

The results of this research project are presented in this Research Report in three parts.

- o The first part identifies and describes different types of domestic preference laws, and summarizes the basic public policy arguments for and against the enactment of such laws.
- o The second part discusses in detail the provisions of the Buy Minnesota law.
- o The last part consists of a table summarizing the provisions of domestic preference laws in other states, together with an analysis of the type and frequency of preference schemes employed in other states.

## I. DOMESTIC PREFERENCE LAWS: DEFINITIONS AND RATIONALES

A. Definitions

A domestic preference law is a law which either requires or encourages state agencies to purchase goods from or enter into public works contracts with residents of the home state.

The preference is accomplished in various ways, depending upon the particular scheme adopted by the state. The following list defines the most common types of state preference laws:

"First among equals" general preference law: A law which requires the state agency to give preference to any in-state supplier whose bid is the same or substantially the same as that of any out-of-state supplier. Under such a statutory scheme, the domestic supplier is, in effect, "first among equals" to receive state contract awards.

Percentage differential preference law: A law which requires the state agency to award a contract to a domestic supplier whose bid, though higher than that of a nonresident supplier, is within a certain range permitted by law--typically 5%. Such "percentage differential" preference laws give domestic suppliers an explicit financial advantage over nonresident suppliers.

Domestic labor preference law: A law which requires state agencies awarding public works or construction contracts to give preference to businesses that are either located in the state or that promise to employ mainly domestic laborers on the project. These "domestic labor" laws range from those which merely require that domestic firms be given a preference to those that allow only the use of domestic laborers on state construction and public works projects.

Retaliatory preference law: A law which requires state agencies to give domestic suppliers preference when they bid against suppliers from states that have domestic preference laws. The amount of preference given by the retaliatory law is identical to that of the state against which the retaliation is directed. Thus, a retaliatory preference law is activated only by the existence of a preference law elsewhere and only when a supplier who enjoys the protection of a preference law at home seeks to do state business in the retaliating state.

Specific commodity preference law: A law which requires state agencies to give preference to purchasing specific domestic commodities that constitute an important part of the state's economy, such as agricultural or forestry products or indigenous minerals.

### B. Pro and Con Arguments

The following policy arguments are commonly made in support of the enactment of domestic preference laws:

- o State government, when acting as a market participant, has an obligation to favor its own citizens in order to further the state's general welfare.
- o Even if it costs more money to enter into a contract with a domestic business instead of an out-of-state business, this short-term loss will be more than offset by long-term gains in the state's improved economy and employment rate, resulting in more dollars added to the state's tax base and fewer dollars spent for unemployment compensation and welfare programs.
- o Domestic preference laws serve to correct the competitive disadvantage that local small businesses suffer at the hands of large national and international businesses and, therefore, enhance rather than hinder the free enterprise system.

In contrast, opponents of domestic preference laws commonly argue that such laws should not be enacted for the following reasons:

- o Domestic preference laws prevent suppliers from bidding on an equal basis, thereby inhibiting competition and limiting the ability of the state and its taxpayers to procure the best possible goods and services for the lowest possible price.
- o Domestic preference laws, by themselves, do not have a measurable long-term impact on the state's economy; only a nation-wide economic recovery can truly bolster the state's economy by helping to create jobs, increase tax revenues and reduce unemployment and welfare costs.
- o The enactment of a domestic preference law by one state causes other states to retaliate by passing their own protectionist legislation, resulting in the restriction of interstate trade, reduced markets for goods and services and, ultimately, lost profits for domestic businesses. Protectionist legislation, therefore, not only makes little economic sense; it makes little political sense in a nation founded on principles of economic cooperation and free trade.

## II. LAWS 1983, CHAPTER 336: THE "BUY MINNESOTA" LAW

In 1983, the Minnesota Legislature enacted Laws 1983, chapter 336, known colloquially as the "Buy Minnesota" law. Chapter 336 may be characterized both as a "percentage differential" and a "domestic labor" preference law, because it uses both of these statutory schemes simultaneously to achieve its objective.

Specifically, chapter 336 consists of two main sections: the first deals with state construction and public works projects and the second with state procurement of products and materials.

- o Section 1 requires state agencies to award to Minnesota residents all construction and public works contracts for which competitive bidding is not required by law. Generally, these contracts consist of projects costing \$5,000 or less. If competitive bids are required by law, the state agency must give Minnesota residents a 10% preference; that is, the contract must be awarded to a Minnesota resident unless the resident's bid exceeds the bid of a nonresident by more than 10%. Furthermore, successful resident bidders must employ domestic labor wherever possible, and may not subcontract more than 20% of the work covered by the contract to nonresident subcontractors. To qualify as a resident under the Buy Minnesota law, an individual, partnership or association must have resided in this state for at least one year immediately prior to bidding on the state contract. A corporate bidder must have been incorporated in Minnesota and either been in existence for at least a year or have its principal place of business in this state.
  
- o Section 2 of Chapter 336 requires state agencies who award procurement contracts to give products and materials that are manufactured in Minnesota or in the United States a 10% preference. In other words, the state agency must purchase Minnesota or American-made products and materials even if their price is up to 10% higher than that of foreign-made products or materials of similar quality.

Because the provisions of Chapter 336 were considered by the legislature to be experimental, a two year "sunset" provision was included in the bill. Therefore, unless the legislature acts to extend the provisions of the "Buy Minnesota" law prior to its "sunset" date, the law will be repealed on June 30, 1985.

## III. OTHER STATE DOMESTIC PREFERENCE LAWS

In order to determine the number and scope of domestic preference laws in the remainder of the country, the House Research Department conducted a survey of state statutes in all 50 states and the District of Columbia.

The survey revealed that of the 51 jurisdictions surveyed, 41, about 80%, have one or more of the five domestic preference schemes described in Part 1 of this report. The table beginning on page 7 describes in greater detail the domestic preference schemes adopted by these 41 states.

The breakdown of domestic preference schemes by type is as follows:

"First among equals"	20
Percentage differential	14
Retaliatory preference	12
Domestic labor	22
Specific commodities	11

While no state has adopted all five preference schemes, more than half of them (25), including Minnesota, utilize two or more of the schemes at once to realize their domestic preference objectives.

Of the 12 states which have retaliatory preference laws, three also have percentage differential preferences, seven prefer their own domestic laborers, six have "first among equals" preference laws, and one gives preference to specific domestic commodities. It would appear, therefore, that a state which retaliates against another on account of the other state's domestic preference law may not simply be reacting defensively, but, rather, may itself be using the same type of system to protect its own domestic products and labor.

This research shows that domestic preference laws of one variety or another are fairly common nationwide. Domestic preference laws appear to be well-established state policy. However, from a practical standpoint, the domestic preference laws adopted in many of the states are largely symbolic. For example, many states have only a "first among equals" preference law; meaning that domestic residents or laborers only receive a preference when all aspects of their bids or employment, including price and quality, are equal to nonresident bids.

Additionally, in a number of states, the term "resident" is loosely defined to include anyone who has a place of business in the state. In such states, any business which sells goods or services there on a regular basis would qualify as a resident, even if its employees and facilities are located elsewhere. It is difficult, therefore, to compare such states' preference laws to those of other states, where the definition of "resident" is very narrow.

## STATE DOMESTIC PREFERENCE LAWS

	GENERAL	% DIFFERENTIAL	RETALIATION	LABOR	SPECIFIC COMMODITIES
ALABAMA	Preference to state vendors of commodities produced in-state (§§41-16-27; 41-16-57)				
ALASKA	Preference to state producer/dealers (§36.20.010)	5% preference over non-resident (§37.05.230)		95% domestic employment (§30.10.010)	Domestic forestry products preferred in public projects 36.15.010
ARIZONA		5% preference for materials produced/mfgd. in-state (§34-242)			
ARKANSAS		5% preference on bids for purchases (§14-293) 2-3% preference for building contractors (§14-614) 3% preference allowed in county purchases (§17-1605)			
CALIFORNIA	Preference to supplies mfgd. in-state (Gov. 4331)	5% preference (Gov. 4334)			
COLORADO	Domestic preference (§8-18-101)			80% domestic employment (§8-17-101)	
CONNECTICUT				Preference to state laborers (§31-52a)	

## STATE DOMESTIC PREFERENCE LAWS

	GENERAL	% DIFFERENTIAL	RETALIATION	LABOR	SPECIFIC COMMODITIES
DELAWARE				Preference to state labor on public works contracts (§29-6913)	
FLORIDA	Preference to domestic industries in public building contracts (§255.04) Preference to commodities mfgd. in-state (§287.082)				Domestic lumber & timber preferred (§255.20)
GEORGIA	Preference to domestic materials, supplies, equipment & agricultural products (§50-5-61: 40-19-54)				Domestic forestry products preferred in construction contracts (§50-5-63: 91-1101)
HAWAII		3-10% preference depending on how much of product's value is attributable to domestic labor (§103-43)		Mechanic/laborer on public work must be state citizen (§103-57)	
IDAHO			Retaliatory preference for state contractors on public works (§67-2348)	95% domestic employment (§44-1001)	
ILLINOIS			Retaliatory preference for resident bidders (127 §132.6)	Preference for state residents on public works projects (48 §269 et seq.)	

IOWA	Preference for products grown and coal produced in Iowa (\$73.1)		Domestic labor preferred in construction of public works (\$73.3)	Coal (\$73.1)
KANSAS	Preference to in-state bidders (\$75-3740)		Retaliation permitted (\$75-3740(a))	
KENTUCKY				
LOUISIANA	Preference for supplies, materials or equipment produced/offered by LA citizens (\$38:2184) Preference to firms doing business in LA (\$38:2253)	5% preference for products produced, grown or harvested in LA (\$38:2251)	Retaliation permitted (\$38:2225) excludes contracts for construction, maintenance or repair of highways and streets (\$39:1595.1)	
MAINE		Preference for in-state producers of food 1980-5% diff. 1981-4% diff. 1982-3% diff. (\$7.202)	Domestic labor preferred on public works (\$26.1301)	Food (\$7.202)
MARYLAND			2% retaliatory preference permitted (21§8-301)	
MASSACHUSETTS	Preference for supplies & materials mfgd./sold in MA (Ch.7 §22(17))		Preference to citizens in public works employment (\$149.26)	

## STATE DOMESTIC PREFERENCE LAWS

	GENERAL	% DIFFERENTIAL	RETALIATION	LABOR	SPECIFIC COMMODITIES
MICHIGAN				Contractor must employ minimum 50% residents on state building contracts (§18:13)	
MINNESOTA		10% differential for Minnesota and American products (§16.0721); 10% differential for Minnesota residents in award of construction contracts (§16.072) repealed on 7/1/85	Retaliatory preference to resident bidders on public contracts (16.365)	Domestic labor must be used wherever possible; 80% of subcontractors must be Minnesota residents; repealed on 7/1/85 (§16.072)	
MISSISSIPPI	State products must be used in public works projects (§31-5-23) Preference for state commodities (§31-7-15) and resident contractors (§31-7-47)		Retaliatory preference to resident contractors in public works (31-7-47)	Resident labor used on public works projects (§31-5-17)	Paint, varnish & lacquer containing tung oil, ester gum or modified resin, & turpentine produced in-state to be used on public works projects (§31-5-23)
MISSOURI	Preference given to domestic products purchased by the state (§34.070); Cities & towns (§71.140); Counties (§50.750); and Townships (§65.400).			Preference to domestic labor in construction/ repair of public buildings (§8.280)	Preference for domestic coal (§34.808) and products of domestic mines, quarries & forests (§8.280)

MONTANA	3% preference given to domestic commodities in state procurement (§18-1-102(2))	Preference for domestic labor in public works projects (§18-2-403)
NEBRASKA	Retaliatory preference for resident bidders (§73-101.01)	
NEVADA	Preference given first to resident bidders; second, to domestic products and third, to resident dealers (§333.300)	Citizens given preference for employment on public works projects (§338.130)
NEW HAMPSHIRE		
NEW JERSEY		
NEW MEXICO	5% preference for resident businesses and mfgs. in purchasing (§13-1-21)	Preference for state contractors in construction/repair of public buildings; must subcontract to domestic residents whenever practicable (§13-4-1)
NEW YORK		

## STATE DOMESTIC PREFERENCE LAWS

	GENERAL	% DIFFERENTIAL	RETALIATION	LABOR	SPECIFIC COMMODITIES
NORTH CAROLINA	Preference for state products, citizens, and articles mfgd. by state agencies (§143-59)				
NORTH DAKOTA	Material produced in-state given preference for use in public buildings (§48-02-10)		Retaliatory preference to state bidders/sellers in purchasing (§44-08-01)	Preference for domestic labor (§43-07-20)	
OHIO					
OKLAHOMA	Preference for state labor & materials in construction/repair of state institutions (61§10)	5% domestic preference (61§103.1)	Retaliatory preference to domestic contractors on public works (61 §103.1)	Preference for State contractors (61§103.1)	
OREGON	Goods/services mfgd/produced in-state preferred in public contracts (§279.021)				
PENNSYLVANIA					
RHODE ISLAND	Domestic foodstuffs preferred when purchased by state institutions (§37-2-5)				

SOUTH CAROLINA	State products preferred; 2% preference for procurements under \$2.5 million; 1% preference for procurements over \$2.5 million (\$11-35-1520)	
SOUTH DAKOTA	Retaliatory preference in contracts for public works, improvements or purchases. (§5-19-3)	Contractor cannot subcontract more than 20% of work to non-resident subcontractor (§5-19-5) Domestic labor preferred (§5-19-6)
TENN.		Preference to in-state meat producers (§12-3-121 & 122; §12-2-809 & 810)
TEXAS		
UTAH		
VERMONT		Agricultural products given preference if grown/produced in-state (6§4601)
VIRGINIA	Preference for domestic products & firms in case of tie bid (§11-47(A))	Retaliatory preference allowed for resident contractors (§11-47(B))

STATE DOMESTIC PREFERENCE LAWS

	GENERAL	% DIFFERENTIAL	RETALIATION	LABOR	SPECIFIC COMMODITIES
WASHINGTON				Public works: 95% domestic labor required if 40 or fewer persons employed; 90% if more than 40 persons employed (§39,16.005)	
WASHINGTON D.C.					
WEST VIRGINIA		2% preference for resident vendors in purchase of commodities (§5A-3-44)			Domestic aluminum, glass, & steel products must be used in public works contracts to \$50,000; 20% to 30% differential permitted (§5-19-2)
WISCONSIN	Preference for materials, supplies, equipment & contractual services of state producers, distributors, suppliers & retailers (§16.75)				
WYOMING	Preference for state labor & materials generally (§9-8-304)	5% preference allowed for resident construction contract bids (§9-8-305) State commodities prices (§9-8-305) and domestic materials used in public works projects (§9-8-307)		Resident laborers must be employed on public works projects whenever possible; not more than 20% of subcontractors may be nonresidents (§9-8-303; 304)	

# STATE OF ALASKA

## HUMAN RIGHTS COMMISSION

MAR 24 1986  
BILL STEFFIELD, GOVERNOR

March 20, 1986

AGENCY HEADQUARTERS  
800 A STREET, SUITE 202  
ANCHORAGE, ALASKA 99501-3628  
PHONE: (907) 276-7474

NORTHERN REGION  
675 SEVENTH AVENUE, STA H  
FAIRBANKS, ALASKA 99701  
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SOUTHCENTRAL REGION  
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SOUTHEASTERN REGION  
P.O. BOX 4H  
314 GOLDSTEIN BUILDING  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3560

The Honorable Arliss Sturgulewski, Member  
Alaska State Senate  
P. O. Box V  
Juneau, AK 99811

Dear Senator Sturfulewski:

The attached Alaska State Commission for Human Rights Resolution No. 86-02 was adopted by the Commission at its Annual Meeting on March 14, 1986, in Juneau, Alaska.

Because of your concern for Alaskans who are economically deprived due to high rates of unemployment in certain areas of the state, I am furnishing you with a copy of this Resolution. Resolution 86-02 outlines the position of the Human Rights Commission on Sponsor Substitute for House Bill 466.

If the Commission can be of any assistance to you in your efforts to alleviate the problems of economically deprived Alaskans, please let me know.

Sincerely,



Morgan P. Solomon  
Vice-Chairperson

MPS/sc

Attachment

ALASKA STATE COMMISSION FOR HUMAN RIGHTS

RESOLUTION NO. 86-02

WHEREAS, the Alaska State Commission for Human Rights has been entrusted with the responsibility to consider complaints of discrimination, to study discrimination problems in this State, and to assess Alaska's progress toward equal employment opportunity; and

WHEREAS, many of the complaints made to the Commission have been complaints about discrimination in employment; and

WHEREAS, in carrying out its responsibilities the Commission has become aware of the problems that minority Alaskans and Alaskans who live in economically distressed areas have had in finding jobs; and

WHEREAS, these problems are severe and will become worse if the Alaskan economy's present slowdown continues; and

WHEREAS, governmental protection for Alaska residents' employment opportunities raises complex legal questions, which have led to a court decision striking down Alaska's resident employment preference laws; and

WHEREAS, if the problems that minority Alaskans and Alaskans who live in economically distressed areas are to be solved, Alaska needs a new local hire law; and

WHEREAS, Sponsor Substitute for House Bill No. 466, now pending in the Alaska Legislature, would provide special preferences for qualified residents of underemployed areas, economically distressed areas, and for economically disadvantaged minority residents of Alaska; and

WHEREAS, there is not discrimination in Sponsor Substitute for House Bill No. 466, and nothing which undercuts the principle of equal employment opportunity;

NOW, THEREFORE, BE IT RESOLVED BY THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS:

That the Commission endorses the approach to Alaska resident employment preference contained in Sponsor Substitute for House Bill No. 466; and

That the Commission urges the Alaska Legislature to pass a resident employment preference bill before the end of this session and urges the Governor of Alaska to sign and enforce it, so that the employment problems faced by minority Alaskans and Alaskans who live in economically distressed areas will receive the governmental attention they require.

DATED at Juneau, Alaska, this 14th day of March 1986



---

Morgan P. Solomon, Vice-Chairperson



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

February 1, 1985

MEMORANDUM

TO: Representative Andre Marrou

FROM: Jay Livey  
Legislative Analyst *JL*

RE: Definition of Statewide Residency Requirements  
Research Request 85-137

You asked that we research the feasibility of Alaska adopting a uniform definition of residency; one that could be used for all State programs and in all instances. While establishing a single standard is possible, it could have a significant impact on several State programs.

The authority for establishing residency requirements is generally found in either statute or the constitution. Statutes and their implementing regulations contain residency requirements that pertain to local government officials and legislatively established programs, while constitutionally established residency requirements apply to the offices of the governor, and lieutenant governor and to legislators (7, 7 and 3 years, respectively).

Alaska Statute 01.10.055 states that a person establishes residency in Alaska by "being physically present in the State with the intent to remain in the State indefinitely and to make a home in the State." The statute goes on to say that the person demonstrates a desire to remain in the State by "maintaining a principal place of abode in the State for at least 30 days or for a longer period, if a longer period is required by law or regulation." Therefore, the requirement that is typically known as the residency requirement is not technically to establish residence, but to establish the intent to remain in the state. The courts have recognized physical presence as one legitimate test to determine this intent.

However, the proof of intent to remain in the state imposes a burden on citizens if it denies or postpones certain rights while intent is tested. The United States Supreme Court has ruled that some programs are so basic or the rights involved are so fundamental that the State may impose only the shortest residential period necessary to determine intent. This is the rationale used by the courts to declare 30-day residency requirements to be the maximum allowed for voting registration and the receipt of welfare benefits and medical care.

Representative Marrou  
February 1, 1985  
Page Two

Therefore, state residency requirements for some State programs or activities must be established as no longer than 30 days. If all other programs and activities that require residency conform to a single standard, the standard would have to be limited to 30 days. The State currently requires a minimum of one year's residency to qualify for in-state hunting and fishing licenses, longevity bonuses, and several loan programs. The permanent fund dividend program has a 6-month residency requirement. It is difficult to predict the exact impact of a shorter residency requirement on the State loan programs, but it seems likely that if more people are eligible to apply, there will be more demand for loans. Two programs that would be dramatically affected by reducing their current residency requirements are the student loan program and the permanent fund dividend program.

Currently, the student loan program has a two year residency requirement that has been successfully defended in court. According to Kerry Romesburg, Executive Director of the Commission on Postsecondary Education, a 30-day residency requirement would completely overwhelm the program. Students could come to Alaska in the summer for a month, apply for a loan, go home and the loan proceeds would be sent directly to their school. According to Mr. Romesburg, because the Alaska student loan program is more generous than most other loans that are available programs, out-of-state students would be motivated to take advantage of the program.

Mr. Romesburg also notes that although the court upheld the two-year residency requirement for student loans, it rejected other tests of intent to stay that were proposed by the State. Therefore, Mr. Romesburg points out that it would be difficult for the State to devise other tests (such as Alaska voting registration or drivers license) to screen applicants based on their intent to stay in the state.

The permanent fund dividend program requires applicants to live in the state for six months prior to submission of the application. In addition, the fund requires information such as voter registration, drivers license and property ownership to corroborate applicants' intent to stay in the state. However, representatives of the permanent fund dividend program maintain that these indications of intent to stay would not necessarily prohibit an individual from staying in the state 30 days, filing an application, leaving the State and receiving the check at an Alaska address. Sherry Pence, of the permanent fund dividend program, noted that it would be very difficult for the program to prohibit people that do not intend to stay in the state from receiving a check.

There are other programs in the state that would not be affected as dramatically as the two discussed above, generally because they would not be as heavily used by the public. We have concentrated on the

Representative Marrou  
February 1, 1985  
Page Three

student loan program and permanent fund dividend program because they seem to have the potential for experiencing the greatest impact.

It should be noted that we have not addressed the constitutional residency requirements for the offices of the governor, lieutenant governor and legislators. Reducing these requirements would have to be accomplished through constitutional change.

I hope that this information is helpful. If you require additional research, please contact us.

JL

# STATE OF ALASKA

## DEPARTMENT OF LABOR

### Research and Analysis

BILL SHEFFIELD, GOVERNOR

BOX 25501  
JUNEAU, ALASKA 99802-5501  
PHONE: 465-4500

September 18, 1985

Mr. Frank Homan  
Office of Senator Sturgulewski  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Homan:

Attached per your request are: 1) our response to the 18 legislative findings of House Bill 294, and 2) six pages of tables which show the results of our preliminary computer matches done in March.

The computer matching, by social security number, of unemployment insurance wage items with Alaska Permanent Fund Dividend recipients permitted insight into the relationships of nonresident hire by industry, an area never before available. An explanation of the matching is contained in attachment 2 of our response to the HB-294 legislative findings.

More extensive computer matching, incorporating additional files and analysis, will be done this fall. A complete report is scheduled to be available near the beginning of the next legislative session.

The lead article in the attached August issue of the ALASKA ECONOMIC TRENDS discusses resident hire issues and provides additional information. A copy of our publication directory has also been included in case you wish to be added to any of our mailing lists.

I have forwarded your request to be placed on the distribution list for the weekly resident hire progress report to our Commissioner's office. They will also send you the previous reports.

Sincerely,



Chuck Caldwell, Chief  
Research and Analysis

Enclosures:

## LEGISLATIVE FINDINGS

## ATTACHMENTS

## COMMENTS

Alaska Department of Labor  
 Research & Analysis  
 P.O. Box 25501  
 Juneau, Alaska 99802-5501

(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;

1

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 nonagricultural 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;

1. 2

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;

3. 4

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;

2. 5, 6, 7

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

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.

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.

(13) the state has a special interest in seeing that the benefits of state construction spending accrue to its residents;

none

Again determination of the state's interest is a policy issue.

Economic theory does indicate that money spent locally has a multiplier effect as a portion is respent in subsequent iterations. Nonresident construction workers probably spend less locally than residents would.

(14) 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.

(15) 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).

Updated on  
31-Mar-85

Employment in Thousands

	Alaska Total	% of Annual Average	% Annual Growth	U.S. Total	% of Annual Average	% Annual Growth
JAN1970	02.3	08.4		70,104	98.9	
FEB	03.3	09.5		70,208	99.1	
MAR	05.9	92.3		70,658	99.7	
APRIL	08.5	95.1		70,972	100.1	
MAY	93.9	100.9		70,995	100.2	
JUNE	101.9	109.5		71,636	101.1	
JULY	104.9	112.7		70,873	100.0	
AUGUST	104.6	112.4		70,775	99.9	
SEPT	99.4	106.8		71,134	100.4	
OCTOBER	93.9	100.9		70,899	100.0	
NOVEMBER	89.9	96.6		70,059	100.0	
DECEMBER	88.2	94.8		71,436	100.8	
Annual Av.	93.1	100.0	NA	70,079	100.0	NA
JAN1971	86.4	88.4		69,799	98.0	
FEB	86.6	88.6		69,720	97.9	
MAR	87.7	89.7		70,004	98.4	
APRIL	91.0	93.1		70,672	99.2	
MAY	96.4	98.6		71,165	99.9	
JUNE	103.4	105.7		71,879	100.9	
JULY	109.6	112.1		71,066	99.8	
AUGUST	109.0	111.5		71,173	99.9	
SEPT	106.3	108.7		71,809	100.8	
OCTOBER	102.1	104.4		72,056	101.2	
NOVEMBER	98.9	101.1		72,357	101.6	
DECEMBER	96.0	98.2		72,755	102.2	
Annual Av.	97.8	100.0	5.1	71,211	100.0	0.5
JAN1972	91.1	88.0		71,359	96.9	
FEB	91.7	88.6		71,546	97.1	
MAR	93.2	90.1		72,138	97.9	
APRIL	96.9	93.6		72,770	98.8	
MAY	102.2	98.8		73,402	99.6	
JUNE	108.7	105.0		74,383	101.0	
JULY	115.5	111.6		73,377	99.6	
AUGUST	115.7	111.8		73,929	100.3	
SEPT	110.7	107.0		74,491	101.1	
OCTOBER	107.5	103.9		75,169	102.0	
NOVEMBER	105.5	101.9		75,581	102.6	
DECEMBER	103.1	99.6		75,955	103.1	
Annual Av.	103.5	100.0	5.8	73,675	100.0	3.5
JAN1973	98.6	89.7		74,491	97.0	
FEB	98.9	90.0		74,869	97.5	
MAR	101.3	92.1		75,422	98.2	
APRIL	104.5	95.1		76,008	99.0	
MAY	109.4	99.5		76,591	99.7	
JUNE	114.0	103.7		77,508	100.9	
JULY	120.4	109.5		76,560	99.7	
AUGUST	122.6	111.5		76,971	100.2	
SEPT	118.8	108.1		77,562	101.0	
OCTOBER	114.0	103.7		78,185	101.0	
NOVEMBER	109.7	99.8		78,587	102.3	
DECEMBER	107.1	97.4		78,715	102.5	
Annual Av.	109.9	100.0	6.2	76,790	100.0	4.2

Updated on  
31-Mar-85

Employment in Thousands

	Alaska Total	% of Annual Average	% Annual Growth	U.S. Total	% of Annual Average	% Annual Growth
JAN1974	102.6	80.3		76,922	98.3	
FEB	104.7	81.9		77,039	98.4	
MAR	108.5	84.9		77,362	98.8	
APRIL	117.8	92.2		77,911	99.5	
MAY	126.5	99.0		78,513	100.3	
JUNE	133.5	104.4		79,210	101.2	
JULY	139.7	109.3		78,311	100.1	
AUGUST	144.7	113.2		78,459	100.2	
SEPT	144.0	112.6		78,959	100.9	
OCTOBER	139.8	109.4		79,258	101.3	
NOVEMBER	136.9	107.1		78,937	100.9	
DECEMBER	135.3	105.8		78,205	100.0	
Annual Av.	127.8	100.0	16.3	78,265	100.0	1.9
JAN1975	130.3	80.5		76,066	98.9	
FEB	136.0	84.0		75,641	98.4	
MAR	143.0	88.3		75,686	98.4	
APRIL	155.0	95.8		76,018	98.9	
MAY	161.9	100.0		76,649	99.7	
JUNE	169.1	104.5		77,143	100.3	
JULY	173.9	107.4		76,466	99.4	
AUGUST	182.0	112.4		76,993	100.1	
SEPT	181.2	111.9		77,602	100.9	
OCTOBER	177.2	109.5		78,158	101.6	
NOVEMBER	169.5	104.7		78,312	101.8	
DECEMBER	163.4	100.9		78,000	101.4	
Annual Av.	161.9	100.0	26.6	76,055	100.0	-1.8
JAN1976	149.9	87.3		77,252	97.3	
FEB	155.7	90.7		77,482	97.6	
MAR	162.7	94.8		78,092	98.4	
APRIL	169.1	98.5		78,919	99.4	
MAY	177.5	103.4		79,414	100.0	
JUNE	184.4	107.4		80,043	100.8	
JULY	190.2	110.8		79,272	99.9	
AUGUST	194.1	113.0		79,537	100.2	
SEPT	189.2	110.2		80,244	101.1	
OCTOBER	171.2	99.7		80,479	101.4	
NOVEMBER	162.3	94.5		80,839	101.8	
DECEMBER	154.2	89.8		81,016	102.1	
Annual Av.	171.7	100.0	6.1	79,382	100.0	3.2
JAN1977	151.2	92.6		79,427	96.3	
FEB	153.8	94.2		79,636	96.6	
MAR	157.5	96.4		80,493	97.6	
APRIL	162.5	99.5		81,418	98.7	
MAY	167.2	102.4		82,252	99.7	
JUNE	173.3	106.1		83,210	100.9	
JULY	171.0	104.7		82,551	100.1	
AUGUST	171.1	104.9		82,845	100.5	
SEPT	171.3	104.9		83,798	101.6	
OCTOBER	165.3	101.2		84,298	102.2	
NOVEMBER	159.6	97.7		84,744	102.8	
DECEMBER	156.0	95.5		84,980	103.0	
Annual Av.	163.3	100.0	-4.9	82,471	100.0	3.9

Updated on  
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Employment in Thousands

	Alaska Total	% of Annual Average	% Annual Growth	U.S. Total	% of Annual Average	% Annual Growth
JAN1978	151.9	92.9		83,318	96.1	
FEB	153.4	93.8		83,614	96.4	
MAR	155.9	95.4		84,607	97.6	
APRIL	159.6	97.6		85,910	99.1	
MAY	165.3	101.1		86,715	100.0	
JUNE	170.8	104.5		87,701	101.2	
JULY	169.5	103.7		86,872	100.2	
AUGUST	173.9	106.4		87,174	100.5	
SEPT	173.8	106.3		87,801	101.3	
OCTOBER	167.1	102.2		88,417	102.0	
NOVEMBER	162.1	99.2		88,965	102.6	
DECEMBER	158.3	96.8		89,272	103.0	
Annual Av.	163.5	100.0	0.1	86,697	100.0	5.1
JAN1979	154.0	92.3		87,514	97.4	
FEB	154.6	92.6		87,751	97.7	
MAR	158.4	94.9		88,654	98.7	
APRIL	162.4	97.3		89,193	99.3	
MAY	169.1	101.3		90,012	100.2	
JUNE	174.4	104.5		90,857	101.2	
JULY	178.8	107.1		89,869	100.1	
AUGUST	179.8	107.7		89,969	100.2	
SEPT	176.6	105.8		90,521	100.8	
OCTOBER	170.1	101.9		91,000	101.3	
NOVEMBER	164.5	98.5		91,204	101.5	
DECEMBER	160.5	96.1		91,335	101.7	
Annual Av.	166.9	100.0	2.1	89,823	100.0	3.6
JAN1980	153.5	90.6		89,553	99.1	
FEB	156.2	92.2		89,691	99.2	
MAR	159.3	94.0		90,253	99.8	
APRIL	166.6	98.3		90,603	100.2	
MAY	172.9	102.1		90,623	100.2	
JUNE	176.3	104.1		90,778	100.4	
JULY	181.1	106.3		89,436	98.9	
AUGUST	182.6	107.8		89,723	99.2	
SEPT	178.2	105.2		90,390	100.0	
OCTOBER	174.0	102.7		90,985	100.6	
NOVEMBER	168.5	99.5		91,329	101.0	
DECEMBER	163.9	96.7		91,513	101.2	
Annual Av.	169.4	100.0	1.5	90,406	100.0	0.6
JAN1981	162.6	87.4		89,688	98.4	
FEB	166.0	89.2		89,833	98.5	
MAR	171.1	91.9		90,371	99.1	
APRIL	180.1	96.8		91,027	99.9	
MAY	185.4	99.6		91,514	100.4	
JUNE	191.6	102.9		92,158	101.1	
JULY	204.2	109.7		91,237	100.1	
AUGUST	203.2	109.2		91,238	100.1	
SEPT	200.5	107.7		91,739	100.6	
OCTOBER	194.7	104.6		91,913	100.8	
NOVEMBER	188.8	101.4		91,745	100.6	
DECEMBER	185.2	99.5		91,414	100.3	
Annual Av.	186.1	100.0	9.9	91,156	100.0	0.8

Updated on  
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	Employment in Thousands					
	Alaska Total	% of Annual Average	% Annual Growth	U.S. Total	% of Annual Average	% Annual Growth
JAN1982	177.1	88.4		89,104	99.6	
FEB	181.2	90.4		89,273	99.7	
MAR	185.0	92.3		89,566	100.0	
APRIL	193.5	96.6		89,878	100.3	
MAY	198.9	99.3		90,361	100.9	
JUNE	207.3	103.5		90,554	101.1	
JULY	219.4	109.5		89,221	99.6	
AUGUST	220.7	110.1		89,091	99.5	
SEPT	217.7	108.7		89,516	99.9	
OCTOBER	207.2	103.4		89,484	99.9	
NOVEMBER	199.6	99.6		89,381	99.8	
DECEMBER	196.8	98.2		89,203	99.7	
Annual Av.	200.4	100.0	7.7	89,566	100.0	-1.7
JAN1983	190.5	88.9		87,590	97.2	
FEB	194.0	90.5		87,598	97.2	
MAR	198.3	92.5		88,208	97.9	
APRIL	206.0	96.1		89,064	98.8	
MAY	213.2	99.5		89,921	99.8	
JUNE	222.8	104.0		90,738	100.7	
JULY	232.3	108.4		90,112	100.0	
AUGUST	234.2	109.3		89,842	99.7	
SEPT	232.0	108.3		91,485	101.5	
OCTOBER	221.4	103.3		92,049	102.1	
NOVEMBER	215.7	100.7		92,406	102.5	
DECEMBER	211.1	98.5		92,645	102.8	
Annual Av.	214.3	100.0	6.9	90,138	100.0	0.6
JAN1984	203.7	90.5		91,065	96.7	
FEB	206.9	92.0		91,612	97.3	
MAR	211.9	94.2		92,234	98.0	
APRIL	217.7	96.0		93,229	99.0	
MAY	226.7	100.0		94,164	100.0	
JUNE	233.5	103.8		95,003	100.9	
JULY	241.2	107.2		94,239	100.1	
AUGUST	243.5	108.2		94,500	100.4	
SEPT	239.8	106.6		95,358	101.3	
OCTOBER	230.8	102.6		95,902	101.9	
NOVEMBER	224.2	99.6		96,260	102.2	
DECEMBER	220.1	97.8		96,308	102.3	
Annual Av.	225.0	100.0	5.0	94,156	100.0	4.5
JAN1985	215.3	NA	NA	94,575	NA	NA
1970-1984 Standard Deviation	42.2	7.5	7.2	7,777	1.5	2.2
1970-1984 Average	157.0	NA	6.7	82,767	NA	2.1
Standard Deviation Divided by Average	0.269	NA	1.073	0.094	NA	1.048

### Description of Computer Match (March 1985)

Social Security numbers (SSN's) from all persons who received a 1984 Permanent Fund check were matched against the SSN's of anyone who worked for wages under the coverage of Alaska's Unemployment Insurance (UI) system at any time in 1984.

To qualify for a Permanent Fund dividend people had to reside in Alaska during the period from October 1, 1983 till March 31, 1984.

Alaska's UI system maintains wage records for nearly all employment, with the major exceptions being: federal, most fish harvesting, and the self-employed.

The initial computer match was tabulated for employees, and wages by industry and by area.

The match does not provide a perfect definition of residency since people who intend to stay in Alaska have arrived since the October 1, 1983 cutoff to qualify for the Permanent Fund dividend.

An analysis of Federal Internal Revenue System migration data indicated that 12.9% of Alaskans who filed Federal income tax returns for 1983 were not residents of the state in 1982. That compares to a rate of 14.1% the previous year. Extrapolating those two migration rates to cover the 15 month period of October 1983-December 1984 yields a range of about 16-18%.

Additionally some people, who would qualify, do not choose to file for the Permanent Fund dividend. I speculate that this amounts to no more than 2% of the eligible population. Combining the two factors of migration and failure to file for the Permanent Fund dividend yields a base line residency adjustment of just under 20%. Unfortunately IRS migration data is not available by industry and people can be assumed to migrate to some industries at more or less than this adjustment.

### Summary of Results

Overall 36% of the unduplicated count of U.I. covered employees did not receive a Permanent Fund dividend check. The 1984 U.I. covered wages were nearly \$1.3 billion. Adjusting for residency and for people who did not choose to file for the dividend would result in nonresident wages of approximately \$575 million. A later computer match in July (pending our receipt of general funds associated with HB 295) can be expected to show somewhat higher wage totals due to late reporting of delinquent firms.

Industries showing a rate of "nonrecipients" (of the Permanent Fund dividend) significantly in excess of 20%, for the "Total 1984", can be expected to have a correspondingly high level of nonresident employment. In Alaska these industries are:

- 1) Food Processing (75%)
- 2) Eating and Drinking Places (51%)
- 3) Mining other than oil and gas (48%) [especially for metals]
- 4) Logging and Lumber (48%)
- 5) Construction (45%)
- 6) Hotels (44%)
- 7) Business Services (44%)

The composition of the industrial mix seems to have been a major factor (this will be more extensively tested in future months). Southeast's had a relatively low percentage of nonrecipients (of the Permanent Fund who received UI covered wages) because it has a high percentage of government workers, and that industry is predominately resident. Alaska's six economic regions had the following percentages of nonrecipients:

- 1) Southwest (47%)
- 2) Gulf Coast (42%)
- 3) Northern (38%)
- 4) Anchorage-Matsu (35%)
- 5) Interior (34%)
- 6) Southeast (30%)

Nonrecipients had an average annual wage less than half that of the recipients. This is probably due to working in fewer quarters of the year (this can be tested).

Future computer matches, funded by HB 295, would be designed to accurately answer questions raised in a legal review of resident hire case.

Table 2. Employment status of the civilian noninstitutional population 16 years of age and over by State, 1983-84 annual averages

(Numbers in thousands)

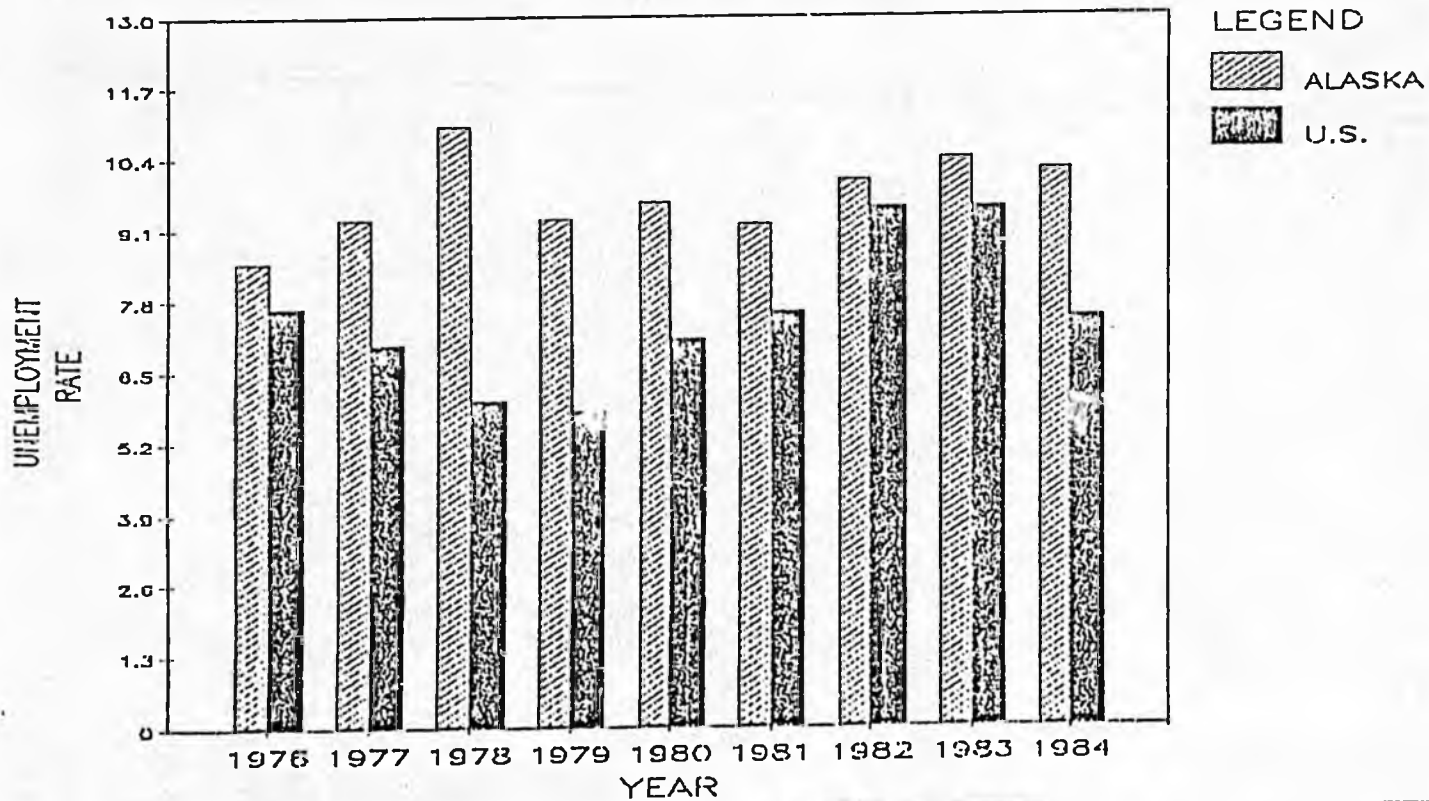
State	Population		Civilian labor force		Employed		Unemployed		Unemployment rate		Error range for 1984 <sup>1/</sup>
	1983	1984	1983	1984	1983	1984	1983	1984	1983	1984	
	Alabama.....	2,911	2,942	1,758	1,794	1,518	1,594	240	200	13.7	
Alaska.....	320	333	234	245	210	220	24	25	10.3	10.7	9.7--11.5
Arizona.....	2,189	2,255	1,386	1,433	1,240	1,361	126	71	9.1	5.0	2.7--9.7
Arkansas.....	1,718	1,740	1,028	1,045	924	951	104	93	10.1	9.0	7.5--12.9
California.....	18,707	18,999	12,269	12,503	11,084	11,532	1,185	972	9.7	7.8	7.5--10.1
Colorado.....	2,314	2,345	1,668	1,707	1,558	1,610	111	96	6.6	5.6	2.0--9.3
Connecticut.....	2,432	2,453	1,612	1,672	1,515	1,551	97	77	6.0	4.6	2.0--9.2
Delaware.....	454	462	296	308	273	289	24	19	5.1	6.2	5.4--5.6
District of Columbia.....	483	481	320	320	282	291	37	29	11.7	9.0	8.1--13.0
Florida.....	8,391	9,598	4,932	5,099	4,508	4,777	424	322	8.6	6.3	5.8--9.4
Georgia.....	4,159	4,238	2,685	2,760	2,484	2,594	201	166	7.5	6.0	5.7--8.2
Hawaii.....	707	722	472	473	442	446	30	27	6.5	5.6	2.0--9.3
Idaho.....	690	702	459	464	413	431	45	33	6.8	7.2	6.7--7.1
Illinois.....	8,578	8,613	5,594	5,604	4,954	5,003	640	511	11.4	9.1	8.4--12.4
Indiana.....	4,057	4,088	2,578	2,627	2,292	2,400	286	226	11.1	8.6	7.0--13.7
Iowa.....	2,140	2,169	1,421	1,417	1,305	1,319	116	100	8.1	7.0	6.1--9.0
Kansas.....	1,784	1,797	1,186	1,197	1,114	1,135	72	52	6.1	5.2	4.2--7.0
Kentucky.....	2,721	2,735	1,701	1,717	1,502	1,556	199	160	11.7	9.3	8.3--13.1
Louisiana.....	3,163	3,179	1,913	1,940	1,688	1,745	225	194	11.8	10.0	9.2--13.4
Maine.....	954	967	537	552	499	518	49	34	6.0	6.1	5.7--6.5
Maryland.....	3,248	3,290	2,203	2,244	2,051	2,123	152	121	6.9	5.4	2.3--9.0
Massachusetts.....	4,473	4,517	2,978	3,051	2,773	2,906	205	145	6.9	4.9	2.4--9.2
Michigan.....	6,721	6,762	4,287	4,359	3,679	3,871	609	488	14.2	11.2	10.6--11.8
Minnesota.....	3,086	3,108	2,176	2,229	1,999	2,088	177	141	8.2	6.7	5.4--9.7
Mississippi.....	1,826	1,840	1,044	1,074	929	959	114	116	12.6	10.9	9.8--13.0
Missouri.....	3,729	3,766	2,347	2,379	2,115	2,207	232	172	6.0	7.2	6.4--7.6
Montana.....	597	603	396	405	361	376	35	30	5.8	7.4	6.4--8.4
Nebraska.....	1,174	1,183	797	798	744	763	45	35	5.7	4.4	3.7--5.2
Nevada.....	671	685	486	496	438	457	48	39	6.8	7.8	6.0--9.7
New Hampshire.....	721	737	500	520	473	498	27	22	5.4	4.7	3.7--5.9
New Jersey.....	5,779	5,840	3,673	3,729	3,395	3,502	278	234	7.8	6.2	5.7--6.7
New Mexico.....	992	1,012	609	628	547	582	62	47	10.1	7.5	5.4--9.4
New York.....	13,547	13,633	9,051	9,089	7,363	7,505	688	584	8.6	7.2	6.5--9.4
North Carolina.....	4,490	4,573	2,935	3,033	2,674	2,829	261	205	6.9	6.7	5.0--8.4
North Dakota.....	487	499	319	327	301	311	18	17	5.6	5.1	4.3--5.9
Ohio.....	8,075	8,056	5,100	5,099	4,479	4,619	621	481	12.7	9.4	8.9--13.0
Oklahoma.....	2,415	2,413	1,552	1,548	1,412	1,439	140	109	9.0	7.0	6.7--9.7
Oregon.....	2,098	2,026	1,341	1,336	1,196	1,210	145	125	10.8	9.4	10.3
Pennsylvania.....	9,178	9,211	5,505	5,487	4,856	4,988	650	490	11.8	9.1	8.4--12.6
Rhode Island.....	736	742	475	490	435	464	39	26	5.3	5.3	4.4--6.0
South Carolina.....	2,341	2,377	1,470	1,480	1,323	1,374	148	105	10.0	7.1	6.3--7.9
South Dakota.....	504	510	334	346	316	331	18	15	5.4	4.7	3.4--6.0
Tennessee.....	3,506	3,546	2,181	2,223	1,971	2,033	210	190	11.5	8.6	7.7--11.4
Texas.....	11,277	11,443	7,637	7,853	7,027	7,297	610	446	8.0	5.9	5.3--6.7
Utah.....	1,049	1,075	694	721	670	674	64	47	6.2	6.5	5.4--7.4
Vermont.....	397	396	245	269	247	255	18	16	6.0	5.2	4.5--6.9
Virginia.....	4,082	4,158	2,722	2,841	2,557	2,688	165	143	6.1	5.0	4.2--6.2
Washington.....	3,187	3,230	2,068	2,054	1,878	1,859	221	194	11.2	9.5	8.5--12.5
West Virginia.....	1,471	1,470	771	769	637	653	139	116	19.0	15.0	13.0--16.1
Wisconsin.....	3,541	3,542	2,426	2,394	2,172	2,218	253	176	10.4	7.3	6.4--8.7
Wyoming.....	353	369	263	254	241	238	22	16	6.4	6.2	5.4--7.1
Puerto Rico <sup>2/</sup> .....	2,251	2,273	942	958	722	759	220	198	23.4	20.7	(3)

<sup>1/</sup> Error ranges are shown at the 90-percent confidence level.

<sup>2/</sup> Not available.

<sup>3/</sup> The source of this data is the Employment Security Agency of Puerto Rico.

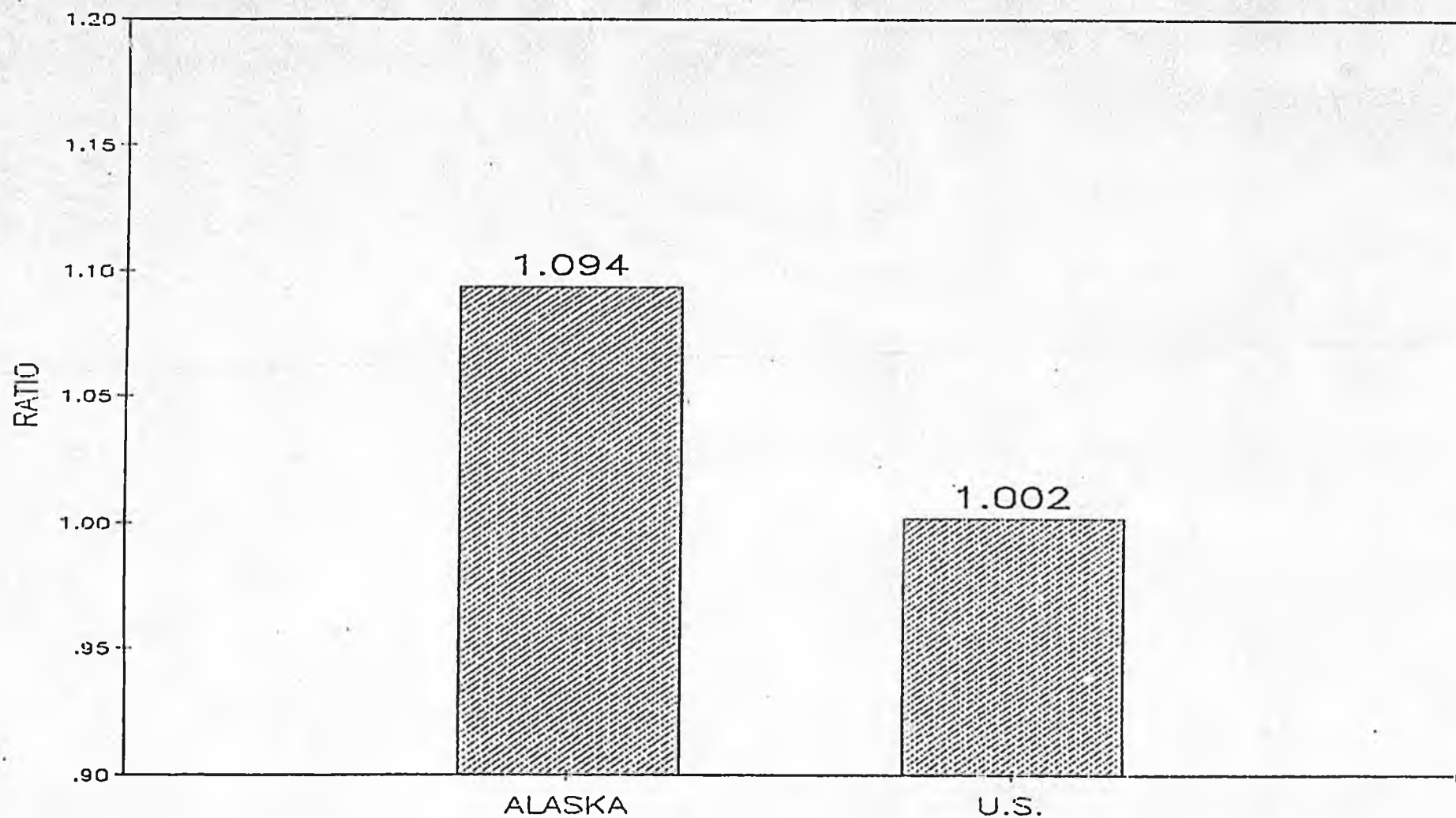
### UNEMPLOYMENT RATE ALASKA AND U.S. 1976-1984



ALASKA AND U.S. WAGE AND SALARY EMPLOYMENT  
 FROM THE APRIL 1980 U.S. CENSUS VS. THAT REPORTED  
 BY THE U.S. BUREAU OF LABOR STATISTICS  
 AND THE ALASKA DEPARTMENT OF LABOR

Updated on 30-Mar-85	ALASKA	U.S.
U.S. CENSUS APRIL, 1980:	ALASKA	U.S.
NONAG. WAGE & SALARY EMPLOYMENT BY PLACE OF RESIDENCE	152,279	90,462,005
BLS & AK. DEPT OF LABOR APRIL, 1980		
NONAG. WAGE & SALARY EMPLOYMENT BY PLACE OF WORK	166,600	90,603,000
RATIO OF NONAG. WAGE & SALARY EMPLOYMENT BY PLACE OF WORK RELATIVE TO PLACE OF RESIDENCE	1.094	1.002

Ratio of Nonag. Wage & Salary  
Employment by Place of Work  
Relative to Place of Residence



Updated on  
30-Mar-85

Calendar Year 1983

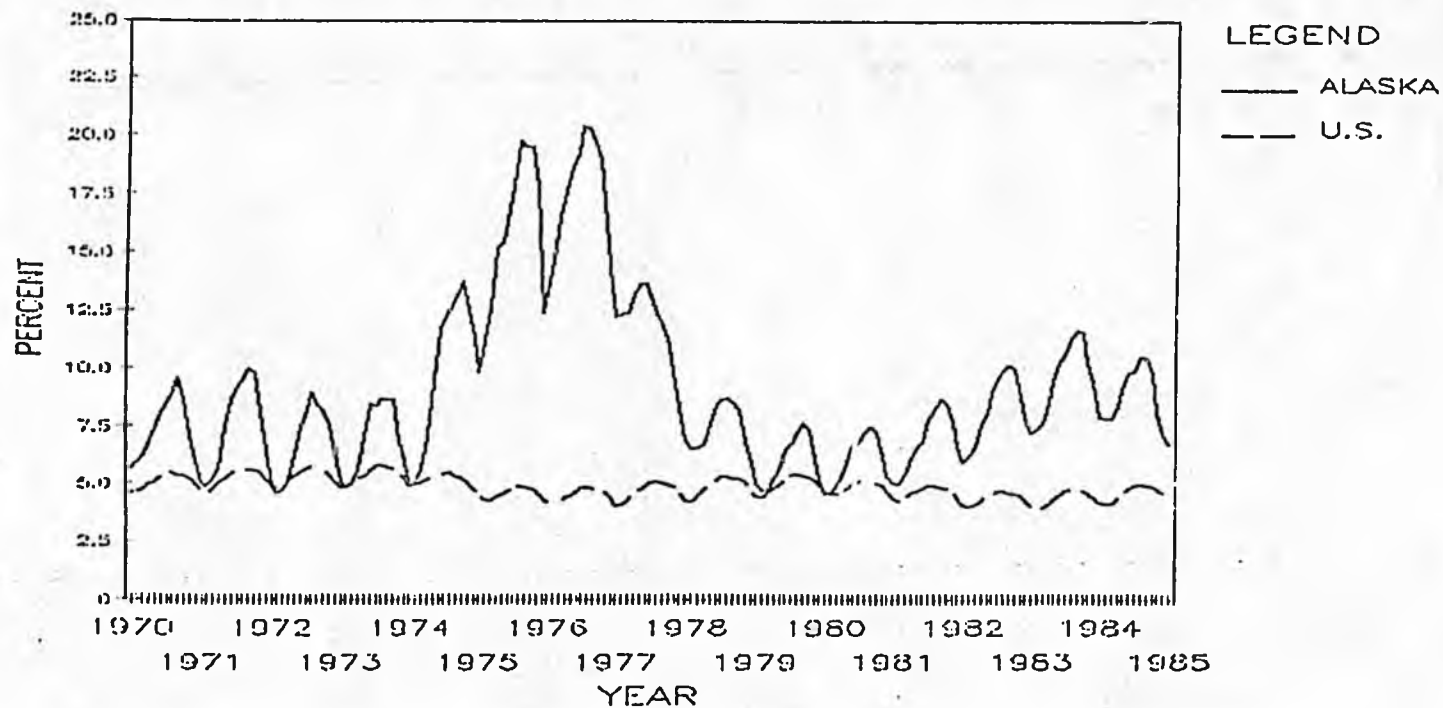
7

State UI	Interstate Benefits Paid	Total Benefits Paid	Percent of Total	Rank
U.S.	943,427,951	19,548,703,799	4.60%	1
WYOMING	19,498,761	68,333,966	22.20%	2
ALASKA	20,592,928	83,807,759	19.72%	3
SOUTH DAKOTA	2,694,440	15,788,313	14.58%	4
D.C.	13,539,575	83,387,077	13.97%	5
NEVADA	14,873,363	92,778,595	13.02%	6
DELAWARE	4,841,505	30,502,456	13.70%	7
NORTH DAKOTA	6,837,440	55,485,776	10.97%	8
KANSAS	19,829,760	165,894,893	10.68%	9
LOUISIANA	69,506,835	622,681,127	10.04%	10
OKLAHOMA	23,006,733	218,543,432	9.55%	11
VIRGIN ISLANDS	824,397	8,128,992	9.21%	12
NEW MEXICO	7,284,654	79,699,465	8.37%	13
TEXAS	82,887,259	937,790,221	8.12%	14
NEBRASKA	5,464,118	63,827,068	7.89%	15
COLORADO	20,157,543	236,172,013	7.86%	16
NEW HAMPSHIRE	3,201,569	38,406,240	7.69%	17
OREGON	21,405,556	265,293,635	7.47%	18
ARIZONA	10,233,812	129,028,525	7.35%	19
MISSISSIPPI	10,277,059	134,332,974	7.11%	20
VIRGINIA	12,200,996	173,661,041	6.57%	21
UTAH	7,000,374	102,967,351	6.37%	22
HAWAII	4,309,570	66,019,524	6.13%	23
FLORIDA	18,970,467	305,324,725	5.85%	24
CONNECTICUT	13,617,279	237,386,951	5.43%	25
MISSOURI	13,220,711	233,905,596	5.35%	26
WASHINGTON	28,100,077	497,962,473	5.34%	27
VERMONT	2,117,700	39,278,366	5.12%	28
MARYLAND	13,998,717	261,744,496	5.08%	29
IDAHO	3,783,694	74,453,339	4.84%	30
MONTANA	3,202,794	63,459,236	4.80%	31
ARKANSA	5,787,795	118,207,766	4.67%	32
NEW JERSEY	34,184,300	700,577,898	4.65%	33
MAINE	3,123,419	70,036,164	4.27%	34
RHODE ISLAND	3,647,876	88,821,754	3.94%	35
TENNESSEE	9,941,265	242,747,578	3.93%	36
NEW YORK	47,811,975	1,180,802,619	3.89%	37
GEORGIA	9,248,137	238,135,832	3.74%	38
WEST VIRGINIA	10,312,990	273,983,920	3.63%	39
ILLINOIS	53,881,464	1,464,727,415	3.55%	40
KENTUCKY	9,410,343	264,558,118	3.43%	41
NORTH CAROLINA	10,690,245	310,772,492	3.33%	42
PENNSYLVANIA	59,052,023	1,730,607,475	3.30%	43
OHIO	34,917,072	1,034,085,733	3.27%	44
MASSACHUSETTS	15,231,459	455,923,505	3.23%	45
INDIANA	9,536,576	289,485,696	3.19%	46
SOUTH CAROLINA	4,792,288	156,656,770	2.97%	47
CALIFORNIA	94,910,727	3,215,134,090	2.87%	48
IOWA	6,045,718	230,456,114	2.79%	49
MINNESOTA	9,572,816	333,905,143	2.79%	50
ALABAMA	4,048,717	191,947,044	2.47%	51
PUERTO RICO	1,545,019	65,818,773	2.29%	52
MICHIGAN	18,965,579	977,241,449	1.90%	53
WISCONSIN	7,593,624	520,124,026	1.44%	54

1994

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CONSTRUCTION EMPLOYMENT AS A PERCENT  
OF TOTAL EMPLOYMENT  
ALASKA AND U.S.  
1970-1985



Updated on  
30-Mar-85

Employment in Thousands

	Alaska Total	Alaska Const.	U.S. Total	U.S. Const. AK	Const./ Total	Const./ U.S. Total
JAN1970	82.3	4.6	70,104	3,213	5.59%	4.58%
FEB	83.3	4.9	70,208	3,240	5.80%	4.61%
MAR	85.9	5.3	70,658	3,336	6.17%	4.72%
APRIL	88.5	5.9	70,972	3,483	6.67%	4.91%
MAY	83.9	6.9	70,995	3,556	7.35%	5.01%
JUNE	101.9	8.2	71,636	3,738	8.05%	5.22%
JULY	104.9	8.9	70,873	3,824	8.48%	5.40%
AUGUST	104.6	9.2	70,775	3,876	8.80%	5.48%
SEPT	99.4	9.5	71,134	3,783	9.56%	5.32%
OCTOBER	93.9	8.1	70,899	3,772	8.63%	5.32%
NOVEMBER	89.9	6.4	70,859	3,693	7.12%	5.21%
DECEMBER	88.2	5.2	71,436	3,547	5.90%	4.97%
JAN1971	86.4	4.3	69,799	3,227	4.98%	4.62%
FEB	86.6	4.2	69,720	3,159	4.85%	4.53%
MAR	87.7	4.5	70,004	3,308	5.13%	4.72%
APRIL	91.0	5.1	70,672	3,540	5.60%	5.01%
MAY	96.4	7.2	71,165	3,674	7.47%	5.16%
JUNE	103.4	8.9	71,879	3,865	8.61%	5.38%
JULY	109.6	10.1	71,066	3,959	9.22%	5.57%
AUGUST	109.0	10.3	71,173	4,012	9.45%	5.64%
SEPT	106.3	10.6	71,809	3,989	9.97%	5.56%
OCTOBER	102.1	10.0	71,056	4,021	9.79%	5.58%
NOVEMBER	98.9	8.0	72,357	3,965	8.09%	5.48%
DECEMBER	96.0	6.2	72,755	3,723	6.46%	5.12%
JAN1972	91.1	4.4	71,359	3,405	4.83%	4.88%
FEB	91.7	4.2	71,546	3,412	4.58%	4.77%
MAR	93.2	4.4	72,138	3,553	4.72%	4.93%
APRIL	96.9	5.0	72,770	3,723	5.16%	5.12%
MAY	102.2	6.4	73,402	3,883	6.26%	5.29%
JUNE	108.7	8.1	74,383	4,076	7.45%	5.48%
JULY	115.5	9.4	73,277	4,103	8.14%	5.59%
AUGUST	115.7	10.3	73,929	4,211	8.90%	5.70%
SEPT	110.7	9.3	74,491	4,175	8.40%	5.60%
OCTOBER	107.5	8.7	75,169	4,194	8.09%	5.58%
NOVEMBER	105.5	7.9	75,581	4,061	7.49%	5.37%
DECEMBER	103.1	6.5	75,955	3,794	6.30%	5.00%
JAN1973	98.6	5.0	74,491	3,564	5.07%	4.78%
FEB	98.9	4.8	74,869	3,601	4.85%	4.81%
MAR	101.3	5.1	75,422	3,718	5.03%	4.93%
APRIL	104.5	5.8	76,008	3,882	5.55%	5.11%
MAY	109.4	7.7	76,591	4,063	7.04%	5.30%
JUNE	114.0	9.6	77,508	4,295	8.42%	5.54%
JULY	120.4	10.0	76,568	4,394	8.31%	5.74%
AUGUST	122.6	10.6	76,971	4,458	8.65%	5.79%
SEPT	118.8	10.2	77,562	4,416	8.59%	5.69%
OCTOBER	114.0	9.8	78,185	4,389	8.60%	5.61%
NOVEMBER	109.7	7.5	78,507	4,286	6.84%	5.45%
DECEMBER	107.1	6.4	78,715	4,101	5.98%	5.21%

Updated on  
30-Mar-85

Employment in Thousands

	Alaska Total	Alaska Const.	U.S. Total	U.S. Const.	Const./ AK Total	Const./ U.S. Total
JAN1974	102.6	5.2	76,922	3,753	5.07%	4.89%
FEB	104.7	5.3	77,039	3,793	5.06%	4.92%
MAR	108.5	6.1	77,362	3,878	5.62%	5.01%
APRIL	117.8	8.3	77,911	3,993	7.05%	5.13%
MAY	126.5	11.9	78,513	4,122	9.41%	5.25%
JUNE	133.5	15.6	79,210	4,233	11.69%	5.34%
JULY	139.7	16.9	78,311	4,197	12.10%	5.36%
AUGUST	144.7	18.2	78,459	4,278	12.58%	5.45%
SEPT	144.0	18.8	78,959	4,195	13.06%	5.30%
OCTOBER	139.8	19.2	79,258	4,124	13.73%	5.20%
NOVEMBER	136.9	17.1	78,937	3,958	12.49%	5.01%
DECEMBER	135.3	15.3	78,295	3,722	11.31%	4.75%
JAN1975	130.3	12.8	76,066	3,392	9.82%	4.46%
FEB	136.0	15.2	75,641	3,239	11.18%	4.28%
MAR	143.0	18.0	75,686	3,235	12.59%	4.27%
APRIL	155.0	23.5	75,018	3,328	15.16%	4.38%
MAY	161.9	24.9	76,649	3,470	15.30%	4.53%
JUNE	169.1	28.5	77,143	3,601	16.85%	4.67%
JULY	173.9	30.9	76,466	3,651	17.77%	4.77%
AUGUST	182.0	35.9	76,993	3,759	19.73%	4.88%
SEPT	181.2	35.3	77,602	3,745	19.48%	4.83%
OCTOBER	177.2	34.5	78,158	3,733	19.47%	4.78%
NOVEMBER	169.5	30.1	78,312	3,648	17.76%	4.66%
DECEMBER	163.4	20.3	78,000	3,400	12.42%	4.36%
JAN1976	149.9	19.9	77,252	3,234	13.28%	4.19%
FEB	155.7	22.8	77,482	3,186	14.64%	4.11%
MAR	162.7	26.8	78,092	3,276	16.47%	4.20%
APRIL	169.1	29.8	78,919	3,453	17.52%	4.38%
MAY	177.5	33.0	79,414	3,569	19.77%	4.49%
JUNE	184.4	35.4	80,043	3,710	21.25%	4.64%
JULY	190.2	38.7	79,272	3,783	22.43%	4.77%
AUGUST	194.1	39.4	79,537	3,846	20.30%	4.84%
SEPT	189.2	37.2	80,244	3,802	19.66%	4.74%
OCTOBER	171.2	32.4	80,479	3,787	18.93%	4.71%
NOVEMBER	162.3	26.4	80,839	3,723	16.27%	4.61%
DECEMBER	154.2	20.9	81,016	3,538	13.55%	4.37%
JAN1977	151.2	18.0	79,427	3,192	12.24%	4.02%
FEB	153.0	18.9	79,636	3,248	12.29%	4.08%
MAR	157.5	19.5	80,493	3,430	12.38%	4.26%
APRIL	162.5	21.5	81,418	3,673	13.23%	4.51%
MAY	167.2	22.8	82,252	3,855	13.64%	4.69%
JUNE	173.3	23.6	83,210	4,051	13.62%	4.87%
JULY	171.0	22.4	82,551	4,151	13.10%	5.03%
AUGUST	171.4	21.2	82,845	4,211	12.37%	5.08%
SEPT	171.3	20.2	83,798	4,186	11.79%	5.00%
OCTOBER	165.3	18.1	84,298	4,173	10.95%	4.95%
NOVEMBER	159.6	14.9	84,744	4,101	9.34%	4.84%
DECEMBER	156.0	12.9	84,980	3,939	8.27%	4.64%

Updated on  
30-Mar-85

Employment in Thousands

	Alaska Total	Alaska Const.	U.S. Total	U.S. Const. AK	Const./ Total	Const./ U.S. Total
JAN1978	151.9	10.5	83,318	3,555	6.91%	4.27%
FEB	153.4	10.0	83,614	3,518	6.52%	4.21%
MAR	155.9	10.2	84,607	3,733	6.54%	4.41%
APRIL	159.6	10.7	85,910	4,068	6.70%	4.74%
MAY	165.3	12.6	86,715	4,229	7.62%	4.88%
JUNE	170.8	14.4	87,701	4,473	8.43%	5.10%
JULY	169.5	14.6	86,872	4,579	8.61%	5.27%
AUGUST	173.9	15.1	87,174	4,632	8.68%	5.31%
SEPT	173.8	14.8	87,801	4,578	8.52%	5.21%
OCTOBER	167.1	13.6	88,417	4,585	8.14%	5.19%
NOVEMBER	152.1	11.1	88,965	4,495	6.85%	5.05%
DECEMBER	158.3	9.3	89,272	4,302	5.87%	4.82%
JAN1979	154.0	7.7	87,514	3,888	5.00%	4.44%
FEB	154.6	7.2	87,751	3,835	4.66%	4.37%
MAR	158.4	7.5	88,654	4,093	4.73%	4.62%
APRIL	162.4	8.5	89,193	4,261	5.23%	4.78%
MAY	169.1	9.7	90,012	4,489	5.74%	4.99%
JUNE	174.4	11.3	90,857	4,691	6.48%	5.16%
JULY	178.8	12.0	89,869	4,791	6.71%	5.37%
AUGUST	179.8	12.9	89,969	4,836	7.17%	5.38%
SEPT	176.6	13.4	90,521	4,770	7.59%	5.27%
OCTOBER	170.1	12.4	91,000	4,754	7.29%	5.22%
NOVEMBER	164.5	10.0	91,204	4,655	6.08%	5.10%
DECEMBER	160.5	8.3	91,335	4,488	5.17%	4.91%
JAN1980	153.5	6.9	89,553	4,141	4.57%	4.62%
FEB	156.2	7.2	89,691	4,050	4.61%	4.52%
MAR	159.3	7.8	90,253	4,087	4.90%	4.53%
APRIL	156.6	9.0	90,603	4,204	5.10%	4.64%
MAY	172.9	10.7	90,623	4,348	6.19%	4.80%
JUNE	176.3	11.7	90,778	4,464	6.64%	4.92%
JULY	181.1	12.4	89,436	4,505	6.85%	5.04%
AUGUST	182.6	13.2	89,723	4,563	7.23%	5.09%
SEPT	178.2	13.3	90,390	4,538	7.46%	5.02%
OCTOBER	174.0	12.4	90,985	4,540	7.13%	4.99%
NOVEMBER	168.5	10.4	91,329	4,444	6.17%	4.87%
DECEMBER	163.9	8.7	91,513	4,270	5.31%	4.67%
JAN1981	162.6	8.1	89,588	3,885	4.98%	4.33%
FEB	166.0	8.2	89,877	3,795	4.94%	4.22%
MAR	171.1	9.2	90,371	3,934	5.38%	4.35%
APRIL	190.1	11.0	91,027	4,137	6.11%	4.54%
MAY	195.4	12.3	91,514	4,248	6.53%	4.64%
JUNE	191.6	13.1	92,158	4,366	6.84%	4.71%
JULY	204.2	15.9	91,237	4,437	7.79%	4.86%
AUGUST	203.2	15.6	91,238	4,451	8.17%	4.88%
SEPT	200.5	17.3	91,179	4,387	8.63%	4.78%
OCTOBER	194.7	16.4	91,513	4,359	8.42%	4.74%
NOVEMBER	188.8	14.5	91,745	4,237	7.68%	4.62%
DECEMBER	185.2	12.2	91,414	4,022	6.59%	4.40%

Updated on  
30-Mar-85

Employment in Thousands

	Alaska		U.S.		Const./	Const./
	Total	Const.	Total	Const.	AK Total	U.S. Total
JAN1982	177.1	10.4	89,104	3,581	5.87%	4.02%
FEB	181.2	11.2	89,273	3,565	6.18%	3.99%
MAR	185.0	12.2	89,566	3,638	6.59%	4.06%
APRIL	193.5	14.6	89,878	3,794	7.55%	4.22%
MAY	198.9	16.0	90,361	3,987	8.04%	4.41%
JUNE	207.3	18.6	90,554	4,080	8.97%	4.51%
JULY	219.4	20.8	89,221	4,137	9.48%	4.64%
AUGUST	220.7	21.9	89,091	4,151	9.92%	4.66%
SEPT	217.7	22.1	89,516	4,100	10.15%	4.58%
OCTOBER	207.2	20.5	89,484	4,060	9.94%	4.54%
NOVEMBER	199.6	17.4	89,381	3,976	8.72%	4.45%
DECEMBER	196.8	15.5	89,283	3,791	7.88%	4.25%
JAN1983	190.5	13.7	87,590	3,539	7.19%	4.04%
FEB	194.0	14.3	87,598	3,397	7.37%	3.88%
MAR	198.3	15.1	88,208	3,469	7.61%	3.93%
APRIL	206.0	17.5	89,064	3,650	8.50%	4.10%
MAY	213.2	20.2	89,921	3,861	9.47%	4.29%
JUNE	222.8	22.8	90,738	4,065	10.23%	4.48%
JULY	232.3	24.7	90,112	4,185	10.63%	4.64%
AUGUST	234.2	26.4	89,842	4,269	11.27%	4.75%
SEPT	232.0	27.0	91,485	4,273	11.64%	4.67%
OCTOBER	221.4	25.6	92,049	4,285	11.56%	4.66%
NOVEMBER	215.7	22.1	92,406	4,231	10.25%	4.58%
DECEMBER	211.1	19.8	92,645	4,050	9.30%	4.37%
JAN1984	203.7	16.0	91,065	3,779	7.85%	4.15%
FEB	206.9	16.2	91,612	3,774	7.83%	4.12%
MAR	211.9	16.6	92,234	3,794	7.83%	4.11%
APRIL	217.7	18.2	93,229	4,059	8.36%	4.35%
MAY	226.7	20.6	94,164	4,299	9.09%	4.57%
JUNE	233.5	22.9	95,003	4,517	9.76%	4.75%
JULY	241.2	23.8	94,239	4,622	9.87%	4.90%
AUGUST	243.5	25.6	94,500	4,670	10.51%	4.94%
SEPT	239.8	25.1	95,358	4,654	10.47%	4.88%
OCTOBER	230.8	22.6	95,902	4,645	9.79%	4.84%
NOVEMBER	224.2	18.1	96,260	4,567	8.07%	4.74%
DECEMBER	220.1	15.7	96,308	4,412	7.13%	4.58%
JAN1985	215.3	14.4	94,575	4,124	6.69%	4.36%

Updated on  
31-Mar-85

Regular U.I. Benefit Payments to Persons Attached to Construction, and Total

Year	Intrastate			Interstate			Total		
	Payments to Construction	Payments to Total	%	Payments to Construction	Payments to Total	%	Payments to Construction	Payments to Total	%
1,970	4,290,306	10,702,194	40.1	85,623	473,603	18.1	4,375,929	11,181,797	39.1
1,971	4,788,340	12,533,223	38.2	133,631	788,827	16.9	4,921,971	13,322,115	36.9
1,972	5,157,312	12,552,421	40.7	849,955	3,404,658	24.9	6,006,478	16,067,079	37.4
1,973	5,590,444	14,163,575	39.5	1,161,761	4,277,737	27.2	6,752,205	18,441,312	36.6
1,974	5,153,842	17,717,471	29.0	1,347,754	5,538,612	24.3	7,541,506	23,255,083	32.4
1,975	6,670,313	19,630,929	34.0	2,922,217	9,329,016	30.3	9,492,530	29,959,974	32.8
1,976	14,729,321	33,733,115	43.6	9,672,179	19,768,155	49.0	24,408,500	53,555,313	45.6
1,977	25,451,510	46,950,563	54.2	21,826,955	35,459,744	61.7	47,278,465	82,410,327	57.4
1,978	22,280,693	49,051,941	45.4	10,538,466	22,412,678	47.2	32,819,159	71,474,619	46.0
1,979	13,113,635	39,585,556	33.1	3,620,106	14,039,779	25.8	16,733,742	53,624,676	31.2
1,980	9,971,666	37,299,401	26.7	1,977,591	11,684,405	16.9	11,949,257	48,983,806	24.4
1,981	13,027,762	52,340,435	24.9	2,162,493	14,922,271	14.5	15,190,255	67,262,705	22.6
1,982	15,410,956	59,787,350	25.8	2,900,934	16,787,511	17.3	18,311,892	76,574,901	23.9
1,983	20,376,987	64,574,011	31.6	4,766,597	20,817,660	22.9	25,143,584	85,391,871	29.4

Updated on  
31-Mar-85

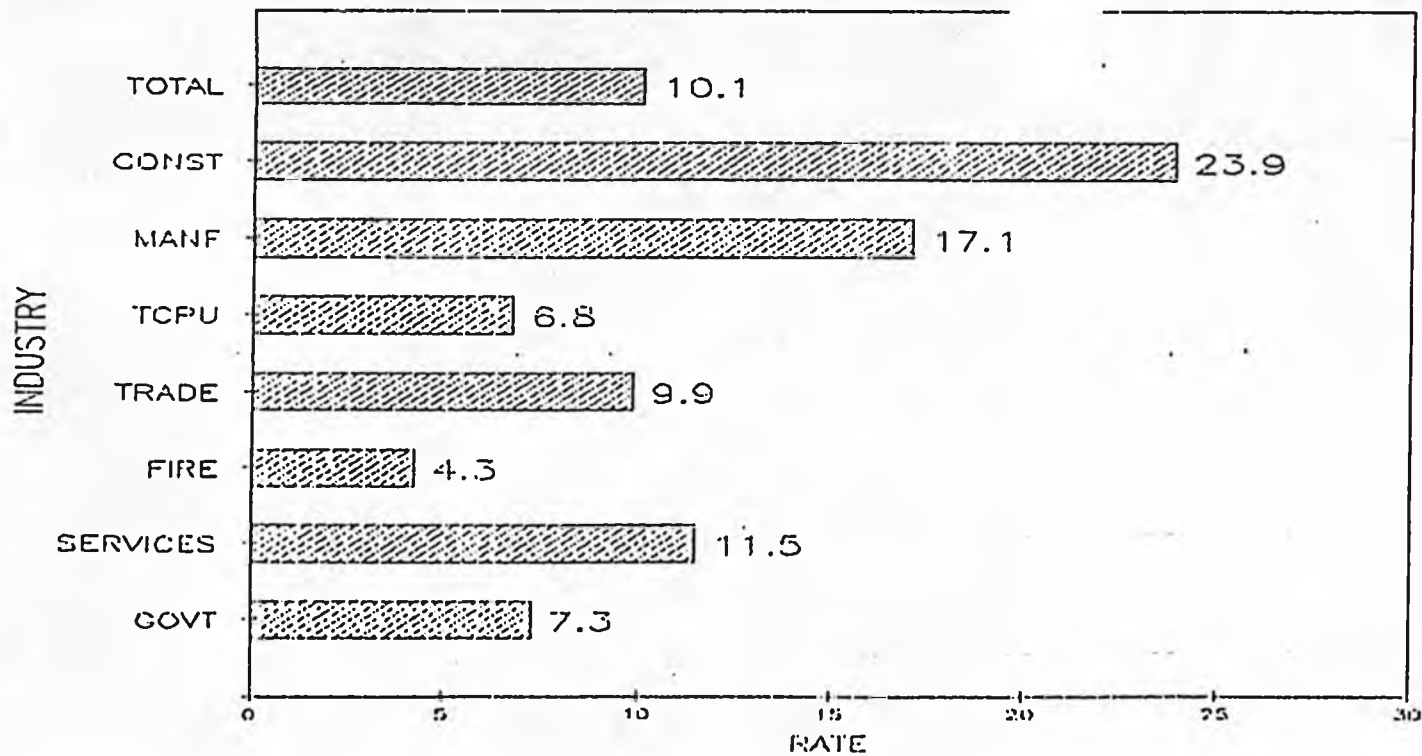
Regular U. I. Benefit Payments to Persons Attached to Construction, and Total

Year	Intrastate			Interstate			Total		
	Payments to Construction	Payments to Total	%	Payments to Construction	Payments to Total	%	Payments to Construction	Payments to Total	%
1, 970	4, 290, 306	10, 703, 194	40.1	85, 823	473, 603	18.1	4, 375, 929	11, 181, 797	39.1
1, 971	4, 788, 340	12, 533, 220	38.2	133, 631	789, 807	16.9	4, 921, 971	13, 322, 115	36.9
1, 972	5, 157, 512	12, 882, 421	40.7	848, 955	3, 404, 858	24.9	6, 006, 478	16, 067, 079	37.4
1, 973	5, 590, 444	14, 163, 575	39.5	1, 161, 761	4, 277, 737	27.2	6, 752, 205	18, 441, 312	36.6
1, 974	6, 193, 842	17, 717, 471	35.0	1, 347, 754	5, 538, 812	24.3	7, 541, 506	23, 255, 083	32.4
1, 975	6, 670, 313	19, 630, 928	34.0	2, 822, 217	9, 328, 046	30.3	9, 492, 530	29, 958, 974	31.6
1, 976	14, 729, 321	33, 738, 115	43.6	9, 679, 179	19, 768, 195	49.0	24, 408, 500	53, 506, 313	45.6
1, 977	25, 451, 510	46, 950, 553	54.2	21, 886, 955	35, 459, 744	61.7	47, 338, 465	82, 410, 327	57.4
1, 978	22, 230, 693	49, 061, 941	45.4	10, 538, 466	22, 412, 678	47.2	32, 769, 159	71, 474, 619	46.0
1, 979	13, 113, 636	39, 585, 656	33.1	3, 620, 106	14, 038, 778	25.8	16, 733, 742	53, 624, 676	31.2
1, 980	9, 971, 666	37, 299, 401	25.7	1, 077, 591	11, 634, 405	16.9	11, 949, 257	48, 983, 806	24.4
1, 981	13, 027, 762	52, 340, 435	24.9	2, 162, 493	14, 922, 271	14.5	15, 190, 255	67, 262, 705	22.6
1, 982	15, 410, 958	59, 787, 350	25.8	2, 900, 934	16, 787, 511	17.3	18, 311, 892	76, 574, 901	23.9
1, 983	20, 376, 987	64, 574, 011	31.6	4, 766, 597	20, 817, 660	22.9	25, 143, 584	85, 391, 671	29.4

Updated on Alaska Unemployment Rate by Industry  
31-Mar-85

Industry	1981	1982	1983
Total	8.8	9.5	10.1
Construction	21.5	24.1	23.9
Manufacturing	17.1	18.5	17.1
Trans., Comm., & Utilities	7.0	5.3	6.8
Trade	8.8	9.4	9.9
Finance	NA	6.7	4.3
Service	8.8	10.1	11.5
Government	6.4	5.4	7.3

ALASKA UNEMPLOYMENT, RATE  
BY INDUSTRY  
1983 ANNUAL AVERAGE



Alaska Department of Labor, Research and Analysis Section  
 1984 U.I. Covered Employees of 1984 Permanent Fund  
 Recipients and Nonrecipients by Economic Region and Census Area  
 Last Updated on 26-Mar

	1st Qtr.		2nd Qtr.		3rd Qtr.		4th Qtr.		Total 1984											
	Recipients	Nonrecip %	Recipients	Nonrecip %	Recipients	Nonrecip %	Recipients	Nonrecip %	Recipients	Nonrecip %										
Alaska Statewide	193,213	76%	61,582	24%	198,449	74%	68,760	26%	206,276	70%	90,295	30%	201,045	69%	89,134	31%	229,954	64%	129,253	36%
Anchorage-Matsu Region	98,441	76%	30,515	24%	100,816	75%	33,758	25%	102,661	71%	41,288	29%	99,896	70%	41,881	30%	114,735	65%	62,119	35%
Anchorage Borough	93,235	76%	29,233	24%	95,261	75%	32,200	25%	96,745	71%	39,052	29%	94,087	70%	39,667	30%	108,019	65%	58,859	35%
Matsu-Borough	5,206	80%	1,282	20%	5,555	78%	1,558	22%	5,916	73%	2,236	27%	5,809	72%	2,214	28%	6,716	67%	3,260	33%
Gulf Coast Region	14,462	75%	4,813	25%	15,379	70%	6,491	30%	16,643	62%	10,056	38%	15,990	63%	9,468	37%	18,545	58%	13,168	42%
Kenai Peninsula Borough	8,833	80%	2,190	20%	9,541	74%	3,324	26%	10,393	67%	5,022	33%	10,089	68%	4,826	32%	11,447	64%	6,449	36%
Kodiak Island Borough	3,399	67%	1,654	33%	3,468	62%	2,101	38%	3,519	53%	3,093	47%	3,378	54%	2,856	46%	4,151	50%	4,162	50%
Valdez-Cordova	2,230	70%	959	30%	2,370	69%	1,066	31%	2,731	58%	1,941	42%	2,523	59%	1,786	41%	2,947	54%	2,557	46%
Interior Region	25,612	77%	7,736	23%	26,291	75%	8,595	25%	27,847	71%	11,117	29%	27,479	71%	11,159	29%	31,042	66%	15,923	34%
Fairbanks North Star Borough	22,448	76%	6,957	24%	22,824	75%	7,680	25%	24,076	71%	9,952	29%	23,922	70%	10,037	30%	26,759	65%	14,296	35%
Southeast Fairbanks	716	78%			789	75%	267	25%	869	72%	346	28%	839	71%	340	29%	1,014	67%	502	33%
Yukon-Koyukuk	2,448	81%			2,678	81%	648	19%	2,902	78%	819	22%	2,718	78%	782	22%	3,269	74%	1,125	26%
Northern Region	11,697	67%	5,711	33%	11,580	68%	5,500	32%	11,951	67%	5,926	33%	11,767	68%	5,576	32%	13,839	62%	8,497	38%
Kobuk	1,633	83%			1,731	84%	328	16%	1,947	82%	427	18%	1,972	82%	443	18%	2,241	79%	597	21%
Nome	2,313	82%			2,218	81%	525	19%	2,511	76%	776	24%	2,606	77%	780	23%	3,068	74%	1,076	26%
North Slope Borough	7,751	61%	4,942	39%	7,631	62%	4,647	38%	7,493	61%	4,723	39%	7,189	62%	4,353	38%	8,530	56%	6,824	44%
Southeast Region	33,408	81%	8,041	19%	34,323	80%	8,808	20%	35,615	75%	11,712	25%	34,696	76%	11,220	24%	38,595	70%	16,542	30%
Haines Borough	605	76%	194	24%	678	75%	226	25%	708	71%	289	29%	677	72%	265	28%	781	67%	392	33%
Juneau Borough	20,190	86%	3,306	14%	20,730	85%	3,723	15%	21,364	83%	4,379	17%	21,069	83%	4,245	17%	22,546	78%	6,376	22%
Ketchikan Gateway Borough	5,010	78%	1,373	22%	5,028	76%	1,561	24%	5,180	73%	1,916	27%	5,010	74%	1,788	26%	5,813	67%	2,806	33%
Prince of Wales Outer Ketchikan	1,505	72%	591	28%	1,510	67%	731	33%	1,741	63%	1,032	37%	1,611	63%	946	37%	1,885	58%	1,350	42%
Sitka Borough	2,731	82%	616	18%	2,839	81%	689	19%	2,936	77%	893	23%	2,825	77%	863	23%	3,336	72%	1,270	28%
Skagway-Yakutat-Angoon	1,136	67%	548	33%	1,243	61%	790	39%	1,282	53%	1,138	47%	1,171	53%	1,041	47%	1,485	51%	1,427	49%
Wrangell-Petersburg	2,231	61%	1,415	39%	2,295	68%	1,097	32%	2,404	54%	2,065	46%	2,333	53%	2,072	47%	2,749	48%	2,921	52%
Southwest Region	8,486	69%	3,742	31%	8,882	66%	4,516	34%	10,092	55%	8,280	45%	9,673	55%	7,520	45%	11,675	53%	10,465	47%
Aleutian Islands	1,349	41%	1,954	59%	1,343	40%	2,054	60%	1,517	31%	3,407	69%	1,401	30%	3,307	70%	1,679	27%	4,472	73%
Bethel	3,933	81%	901	19%	4,171	81%	981	19%	4,432	78%	1,273	22%	4,378	77%	1,273	23%	5,310	74%	1,861	26%
Bristol Bay Borough	520	73%	193	27%	589	64%	326	36%	762	37%	1,291	63%	650	35%	1,216	65%	796	37%	1,382	63%
Dillingham	1,400	73%	512	27%	1,456	61%	946	39%	1,755	46%	2,034	54%	1,563	47%	1,868	53%	2,063	47%	2,366	53%
Wade Hampton	1,284	88%	182	12%	1,323	86%	209	14%	1,626	86%	275	14%	1,581	86%	256	14%	1,827	83%	384	17%
Geographic Area Unknown	1,107	54%	954	46%	1,178	52%	1,092	48%	1,467	43%	1,916	57%	1,544	45%	1,910	55%	1,523	37%	2,539	63%

Source: Alaska Department of Labor, Research and Analysis

Alaska Department of Labor, Research and Analysis Section  
 1984 U.I. Total Covered Wages of 1984 Permanent Fund  
 Recipients and Nonrecipients by Area & Subarea

Last Updated on 26-Mar-85

	January-March				April-June				July-September				October-December				Total 1984			
	Recipients Wages	%	Nonrecip Wages	%	Recipients Wages	%	Nonrecip Wages	%	Recipients Wages	%	Nonrecip Wages	%	Recipients Wages	%	Nonrecip Wages	%	Recipients Wages	%	Nonrecip Wages	%
Alaska Statewide	1,146,900,808	81%	275,680,398	19%	1,196,477,906	81%	280,637,271	19%	1,209,231,399	76%	374,994,806	24%	1,203,026,621	77%	363,867,258	23%	4,755,636,734	79%	1,295,179,733	21%
Anchorage-Matsu Region	575,773,453	83%	115,026,198	17%	601,663,715	83%	122,586,939	17%	598,051,672	80%	153,208,686	20%	604,601,661	79%	159,077,623	21%	2,380,090,501	81%	549,899,446	19%
Anchorage Borough	551,780,985	83%	111,296,025	17%	573,390,188	83%	117,897,482	17%	572,021,131	80%	146,545,318	20%	576,629,094	79%	152,129,388	21%	2,273,821,398	81%	527,868,213	19%
Matsu-Borough	23,992,468	87%	3,730,173	13%	28,273,527	86%	4,689,457	14%	26,030,541	80%	6,663,368	20%	27,972,567	80%	6,948,235	20%	106,269,103	83%	22,031,233	17%
Gulf Coast Region	74,019,058	80%	18,172,521	20%	80,950,488	79%	21,033,381	21%	82,632,994	71%	33,718,222	29%	83,747,491	71%	30,948,431	27%	321,350,039	76%	103,872,555	24%
Kenai Peninsula Borough	49,034,458	82%	10,432,505	18%	54,753,898	81%	12,441,811	19%	55,095,156	75%	18,587,308	25%	58,282,612	76%	18,440,481	24%	217,166,124	78%	59,902,105	22%
Kodiak Island Borough	14,950,659	78%	5,826,608	28%	14,829,110	71%	6,078,908	29%	15,961,992	63%	9,525,739	37%	14,030,488	63%	8,348,436	37%	59,772,249	67%	29,779,691	33%
Valdez-Cordova	10,033,941	84%	1,913,408	16%	11,367,480	82%	2,512,662	18%	11,575,846	67%	5,605,175	33%	11,434,399	73%	4,159,514	27%	44,411,666	76%	14,190,759	24%
Interior Region	153,978,204	81%	36,381,049	19%	163,387,788	82%	36,268,531	18%	176,476,127	78%	49,342,507	22%	163,149,865	78%	46,144,083	22%	656,991,984	80%	168,136,170	20%
Fairbanks North Star Borough	137,460,499	81%	32,547,594	19%	146,027,953	82%	32,364,201	18%	158,765,267	78%	44,278,975	22%	145,625,639	78%	41,356,261	22%	587,873,358	80%	150,547,031	20%
Southeast Fairbanks	2,743,402	86%	445,810	14%	2,841,873	65%	506,475	15%	2,886,194	79%	751,554	21%	3,233,658	78%	894,099	22%	11,705,133	82%	2,597,938	18%
Yukon-Koyukuk	13,774,303	80%	3,387,645	20%	14,517,955	81%	3,397,855	19%	14,824,666	77%	4,311,978	23%	14,290,568	79%	3,893,723	21%	57,407,493	79%	14,991,201	21%
Northern Region	98,544,637	62%	61,325,979	38%	94,127,493	65%	51,378,995	35%	88,715,219	64%	50,591,761	36%	93,793,227	66%	48,746,283	34%	375,180,576	64%	212,043,018	36%
Kobuk	6,878,949	81%	1,571,061	19%	7,252,077	82%	1,627,224	18%	6,827,100	76%	2,119,673	24%	7,892,047	80%	2,024,461	20%	28,850,173	80%	7,342,419	20%
Nome	8,934,698	84%	1,753,240	16%	9,019,195	83%	1,902,673	17%	9,125,900	72%	3,567,264	28%	10,010,890	75%	3,367,259	25%	37,090,683	78%	10,590,436	22%
North Slope Borough	82,730,990	59%	58,001,678	41%	77,856,221	62%	47,849,098	38%	72,762,219	62%	44,904,824	38%	75,890,290	64%	43,354,563	36%	309,239,720	61%	194,110,163	39%
Southeast Region	202,851,159	88%	27,691,029	12%	212,605,506	87%	31,470,777	13%	218,198,447	83%	44,188,423	17%	210,695,294	85%	38,053,817	15%	844,350,406	86%	141,404,046	14%
Haines Borough	2,509,150	79%	683,339	21%	3,161,786	76%	991,507	24%	3,065,870	72%	1,202,185	28%	2,645,580	76%	842,817	24%	11,582,386	75%	3,719,848	25%
Juneau Borough	142,972,719	91%	14,210,667	9%	147,755,176	91%	14,907,767	9%	154,286,895	90%	17,793,766	10%	149,916,814	90%	17,463,636	10%	594,931,604	90%	64,375,836	10%
Ketchikan Gateway Borough	25,229,533	84%	4,843,680	16%	26,758,007	83%	5,638,382	17%	23,952,648	76%	7,427,349	24%	24,141,206	79%	6,368,164	21%	100,081,394	80%	24,277,575	20%
Prince of Wales Outer Ketchikan	5,581,943	76%	1,727,293	24%	6,823,587	73%	2,462,498	27%	7,520,512	66%	3,914,457	34%	6,612,490	66%	3,375,503	34%	26,538,532	70%	11,479,757	30%
Sitka Borough	13,902,195	87%	2,042,213	13%	13,738,516	87%	2,119,382	13%	14,317,303	82%	3,238,393	18%	13,870,909	83%	2,887,401	17%	55,828,923	84%	10,287,389	16%
Skagway-Yakutat-Angoon	3,902,498	72%	1,547,638	28%	4,840,219	67%	2,376,742	33%	4,534,613	54%	3,807,778	46%	4,314,857	59%	3,046,517	41%	17,592,187	62%	10,778,675	38%
Wrangell-Petersburg	8,753,121	77%	2,636,193	23%	9,528,215	76%	2,974,499	24%	10,520,606	64%	6,804,495	39%	9,193,438	69%	4,069,779	31%	37,995,380	70%	16,484,566	30%
Southwest Region	33,685,049	74%	11,834,270	26%	34,722,363	73%	12,890,366	27%	33,712,650	51%	32,586,439	49%	37,105,175	54%	31,253,172	46%	139,225,227	61%	88,564,247	39%
Aleutian Islands	6,239,078	54%	5,312,249	46%	6,866,318	53%	6,016,767	47%	7,531,819	35%	13,919,729	65%	6,999,884	35%	13,288,758	65%	27,637,099	42%	38,537,503	58%
Bethel	14,804,763	82%	3,168,160	18%	16,146,625	83%	3,232,074	17%	13,363,893	76%	4,224,705	24%	15,500,419	79%	4,094,563	21%	59,815,700	80%	14,719,500	20%
Bristol Bay Borough	2,289,232	77%	694,281	23%	2,577,226	73%	954,409	27%	2,940,150	34%	5,669,178	66%	2,865,893	35%	5,368,071	65%	10,672,501	46%	12,685,939	54%
Dillingham	5,927,109	74%	2,123,450	26%	5,501,274	71%	2,224,031	29%	5,676,749	41%	8,098,727	59%	6,395,168	45%	7,710,681	55%	23,500,300	54%	20,156,889	46%
Wade Hampton	4,424,867	89%	536,130	11%	3,630,920	89%	463,085	11%	4,200,039	86%	674,100	14%	5,343,811	87%	791,099	13%	17,593,637	88%	2,464,414	12%
Geographic Area Unknown	8,049,248	61%	5,249,352	39%	9,020,553	64%	5,008,282	36%	11,444,290	50%	11,358,768	50%	9,933,900	51%	9,643,849	49%	38,447,991	55%	31,260,251	45%

Source: Alaska Department of Labor, Research and Analysis

Alaska Department of Labor, Research and Analysis Section  
 1984 U. I. Average Covered Wages of 1984 Permanent Fund  
 Recipients and Nonrecipients by Area & Subarea

Last Updated on 26-Mar

	1st Qtr.			2nd Qtr.			3rd Qtr.			4th Qtr.			Total 1984		
	Recipients Av Wages	Nonrecip Av Wages	% of Recip	Recipients Av Wages	Nonrecip Av Wages	% of Recip	Recipients Av Wages	Nonrecip Av Wages	% of Recip	Recipients Av Wages	Nonrecip Av Wages	% of Recip	Recipients Av Wages	Nonrecip Av Wages	% of Recip
Alaska Statewide	5,936	4,477	75%	6,029	4,081	68%	5,862	4,153	71%	5,984	4,082	68%	20,681	10,021	48%
Anchorage-Matsu Region	5,849	3,769	64%	5,968	3,631	61%	5,826	3,711	64%	6,052	3,798	63%	20,744	8,852	43%
Anchorage Borough	5,918	3,807	64%	6,019	3,661	61%	5,913	3,753	63%	6,129	3,835	63%	21,050	8,968	43%
Matsu-Borough	4,609	2,910	63%	5,090	3,010	59%	4,400	2,980	68%	4,815	3,138	65%	15,823	6,758	43%
Gulf Coast Region	5,118	3,776	74%	5,264	3,240	62%	4,965	3,353	68%	5,237	3,269	62%	17,328	7,888	46%
Kenai Peninsula Borough	5,551	4,764	86%	5,739	3,743	65%	5,301	3,701	70%	5,777	3,821	66%	18,971	9,289	49%
Kodiak Island Borough	4,399	3,523	80%	4,276	2,893	68%	3,336	3,080	68%	4,153	2,923	70%	14,399	7,155	50%
Valdez-Cordova	4,500	1,975	44%	4,796	2,357	49%	4,239	2,888	68%	4,532	2,329	51%	15,070	5,550	37%
Interior Region	6,012	4,703	78%	6,215	4,220	68%	6,337	4,438	70%	5,937	4,135	70%	21,165	10,559	50%
Fairbanks North Star Borough	6,124	4,678	76%	6,398	4,214	66%	6,594	4,449	67%	6,088	4,120	68%	21,969	10,531	48%
Southeast Fairbanks	3,832	2,196	57%	3,602	1,897	53%	3,321	2,172	65%	3,854	2,630	68%	11,544	5,175	45%
Yukon-Koyukuk	5,627	5,881	105%	5,421	5,244	97%	5,108	5,265	103%	5,258	4,979	95%	17,561	13,326	76%
Northern Region	8,425	10,608	126%	8,128	9,342	115%	7,423	8,537	115%	7,971	8,742	110%	27,110	7,955	92%
Kobuk	4,212	4,746	113%	4,177	4,961	118%	3,506	4,964	142%	4,002	4,570	114%	12,874	12,299	96%
Nome	3,863	3,451	89%	4,060	3,624	89%	3,634	4,597	126%	3,841	4,317	112%	12,090	9,842	81%
North Slope Borough	10,674	11,736	110%	10,203	10,297	101%	9,711	9,508	98%	10,556	9,960	94%	36,253	28,445	78%
Southeast Region	6,072	3,444	57%	6,194	3,573	58%	6,127	3,773	62%	6,073	3,392	56%	21,877	8,548	39%
Haines Borough	4,147	3,522	85%	4,663	4,387	94%	4,330	4,160	96%	3,908	3,180	81%	14,574	9,489	65%
Juneau Borough	7,081	4,298	61%	7,128	4,004	56%	7,222	4,063	56%	7,116	4,114	58%	26,387	10,097	38%
Ketchikan Gateway Borough	5,036	3,528	70%	5,322	3,612	68%	4,624	3,876	84%	4,819	3,562	74%	17,217	8,652	50%
Prince of Wales Outer Ketchikan	3,709	2,923	79%	4,519	3,369	75%	4,320	3,793	88%	4,105	3,568	87%	14,079	8,504	60%
Sitka Borough	5,091	3,315	65%	4,839	3,117	64%	4,876	3,626	74%	4,910	3,346	68%	16,735	8,100	48%
Skagway-Yakutat-Angoon	3,435	2,824	82%	3,894	3,009	77%	3,537	3,346	95%	3,685	2,927	79%	11,847	7,553	64%
Wrangell-Petersburg	3,923	1,866	48%	4,152	2,711	65%	4,376	3,295	75%	3,941	1,964	50%	13,822	5,644	41%
Southwest Region	3,969	3,163	80%	3,909	2,854	73%	3,341	3,936	118%	3,836	3,946	103%	11,925	8,463	71%
Aleutian Islands	4,625	2,719	59%	5,113	2,929	57%	4,965	4,086	82%	4,996	4,018	80%	16,460	8,618	52%
Bethel	3,764	3,516	93%	3,871	3,295	85%	3,015	3,319	110%	3,541	2,216	91%	11,265	7,909	70%
Bristol Bay Borough	4,402	3,597	82%	4,376	2,928	67%	3,858	4,391	114%	4,403	4,415	100%	13,408	9,179	68%
Dillingham	4,234	4,147	98%	3,778	2,351	62%	3,235	3,982	123%	3,546	4,128	107%	11,391	8,519	75%
Wade Hampton	3,446	2,946	85%	2,744	2,216	81%	2,583	2,451	95%	3,380	3,090	91%	9,633	6,418	67%
Geographic Area Unknown	7,271	5,502	76%	7,658	4,586	60%	7,801	5,928	76%	6,434	5,049	78%	25,245	12,312	49%

Source: Alaska Department of Labor, Research and Analysis

Alaska Department of Labor, Research and Analysis section  
1984 U.I. Covered Employees by 1984 Permanent Fund  
Recipients and Nonrecipients, by Statewide Industry

Industry Cluster by Standard Industrial Classification (SIC)	January-March		April-June		July-September		October-December		Total 1984											
	Recipients	Nonrecip	Recipients	Nonrecip	Recipients	Nonrecip	Recipients	Nonrecip	Recipients	Nonrecip										
Mining	7,529	73%	2,720	27%	7,906	72%	3,103	28%	7,915	69%	3,531	31%	7,810	69%	3,436	31%	8,136	64%	4,600	36%
Oil & Gas	7,024	74%	2,480	26%	7,310	73%	2,760	27%	7,232	71%	3,018	29%	7,156	71%	2,942	29%	7,464	65%	3,981	35%
Other Mining	505	68%	240	32%	596	63%	343	37%	603	57%	513	43%	654	57%	494	43%	672	52%	619	48%
Construction	22,156	64%	12,295	36%	21,625	65%	11,601	35%	23,292	62%	14,247	38%	22,339	62%	13,447	38%	26,688	55%	21,905	45%
Manufacturing	7,947	58%	5,804	42%	9,138	54%	7,889	46%	11,408	42%	15,831	58%	10,056	40%	14,774	60%	11,126	37%	18,808	63%
Food	2,750	40%	4,106	60%	3,772	39%	5,968	61%	5,843	31%	13,299	69%	4,721	28%	12,230	72%	5,139	25%	15,301	75%
Logging and Lumber	1,458	64%	819	36%	1,475	62%	906	38%	1,615	57%	1,202	43%	1,502	58%	1,083	42%	1,688	52%	1,582	48%
Other Manufacturing	3,739	81%	879	19%	3,891	79%	1,015	21%	3,950	75%	1,330	25%	3,833	72%	1,461	28%	4,299	69%	1,925	31%
Transportation, Comm & Utilities:	17,937	79%	4,808	21%	18,635	78%	5,217	22%	19,193	76%	5,921	24%	18,890	76%	5,897	24%	20,029	71%	8,319	29%
Transportation	11,706	77%	3,514	23%	12,309	76%	3,985	24%	12,784	74%	4,518	26%	12,544	74%	4,495	26%	13,324	68%	6,373	32%
Communications & Utilities	6,231	83%	1,294	17%	6,326	84%	1,232	16%	6,409	82%	1,403	18%	6,346	82%	1,402	18%	6,705	78%	1,946	22%
Trade	42,575	73%	15,680	27%	43,720	71%	18,025	29%	44,092	66%	22,248	34%	42,873	65%	22,731	35%	52,418	60%	34,429	40%
Wholesale	7,728	81%	1,866	19%	8,057	78%	2,222	22%	8,162	74%	2,820	26%	7,843	74%	2,759	26%	8,764	69%	3,865	31%
Retail	34,647	72%	13,814	28%	35,663	69%	15,803	31%	35,930	65%	19,428	35%	35,030	64%	19,972	36%	43,654	59%	30,564	41%
Eating & Drinking Places	11,814	63%	6,921	37%	12,199	60%	8,126	40%	12,258	55%	10,135	45%	11,616	54%	10,021	46%	15,511	49%	16,002	51%
Other Retail	23,033	77%	6,893	23%	23,464	75%	7,677	25%	23,672	72%	9,293	28%	23,414	70%	9,951	30%	28,143	66%	14,562	34%
Finance, Insurance & Real Estate:	10,933	82%	2,348	18%	11,120	81%	2,672	19%	11,422	78%	3,191	22%	10,965	77%	3,271	23%	12,520	74%	4,509	26%
Services & Unclassified	59,472	80%	15,166	20%	60,344	78%	17,059	22%	60,892	74%	21,344	26%	60,291	74%	21,714	26%	70,445	69%	31,666	31%
Hotels	4,202	70%	1,769	30%	4,679	67%	2,333	33%	4,869	61%	3,072	39%	4,431	61%	2,871	39%	5,434	56%	4,208	44%
Business Services	7,521	68%	3,557	32%	7,452	66%	3,764	34%	7,049	62%	4,412	38%	7,091	61%	4,597	39%	9,144	56%	7,055	44%
Health	7,893	84%	1,492	16%	7,965	82%	1,716	18%	8,129	79%	2,107	21%	7,942	78%	2,180	22%	8,700	74%	2,985	26%
Education	20,997	89%	2,501	11%	20,631	90%	2,408	10%	20,039	87%	3,108	13%	20,656	86%	3,454	14%	23,396	83%	4,707	17%
Other Services & Unclassified	26,380	74%	9,404	26%	27,069	72%	10,600	28%	27,855	68%	13,057	32%	27,262	67%	13,209	33%	32,915	62%	19,766	38%
Public Administration	24,192	90%	2,596	10%	25,237	90%	2,743	10%	27,270	89%	3,366	11%	27,238	89%	3,435	11%	27,770	86%	4,372	14%
Agriculture	542	72%	207	28%	789	62%	475	38%	900	57%	672	43%	760	57%	564	43%	875	52%	798	48%
TOTAL	193,283	76%	61,624	24%	198,514	74%	68,784	26%	206,384	70%	90,351	30%	201,222	69%	89,269	31%	230,007	64%	129,406	36%

Source: Alaska Department of Labor, Research and Analysis Section

Note: Data differs from industry groupings commonly published by this Department.  
Time did not permit the isolation of government from other industries.  
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are reflected to the last industry worked in each quarter. Some distortion,  
though usually small, can occur in the average wages due to employees moving  
from one industry to another.

Federal employees are not included in this data source.

Alaska Department of Labor, Research and Analysis section  
 1984 U.I. Total Covered Wages by 1984 Permanent Fund  
 Recipients and Nonrecipients, by Statewide Industry

Industry Cluster by Standard Industrial Classification (SIC)	January-March				April-June				July-September				October-December				Total 1984			
	Recipients Wages	%	Nonrecip Wages	%	Recipients Wages	%	Nonrecip Wages	%	Recipients Wages	%	Nonrecip Wages	%	Recipients Wages	%	Nonrecip Wages	%	Recipients Wages	%	Nonrecip Wages	%
Mining	98,894,495	78%	27,167,143	22%	95,593,729	77%	28,089,377	23%	102,316,442	75%	34,649,181	25%	105,217,464	73%	38,863,145	27%	402,022,130	76%	128,768,846	24%
Oil & Gas	94,333,364	79%	25,750,432	21%	90,548,591	78%	26,280,812	22%	96,186,328	76%	30,682,190	24%	99,696,043	74%	35,805,242	26%	380,764,326	76%	118,518,676	24%
Other Mining	4,561,131	76%	1,416,711	24%	5,045,138	74%	1,808,565	26%	6,130,114	61%	3,966,991	39%	5,521,421	64%	3,057,903	36%	21,257,804	67%	10,250,170	33%
Construction	145,334,581	62%	87,444,070	38%	148,088,799	66%	74,825,680	34%	173,211,870	65%	92,113,362	35%	143,724,684	65%	76,875,758	35%	610,359,934	65%	331,258,870	35%
Manufacturing	38,862,771	73%	14,125,418	27%	46,576,026	70%	20,282,734	30%	53,934,816	49%	26,084,559	51%	44,036,122	48%	23,063,812	52%	183,409,735	57%	137,556,523	43%
Food	7,456,601	51%	7,147,178	49%	10,303,152	46%	12,049,149	54%	18,640,257	29%	44,873,460	71%	12,233,622	25%	36,665,301	75%	48,633,632	33%	100,735,088	67%
Logging and Lumber	7,777,737	69%	3,438,663	31%	9,878,494	69%	4,440,411	31%	10,673,170	63%	6,207,336	37%	9,070,931	64%	5,193,496	36%	37,400,332	66%	19,279,906	34%
Other Manufacturing	23,628,433	87%	3,539,577	13%	26,394,380	87%	3,793,174	13%	24,621,389	83%	5,003,763	17%	22,731,569	81%	5,205,015	19%	97,375,771	85%	17,541,529	15%
Transportation, Comm & Utilities	137,402,938	82%	29,955,636	18%	140,832,545	83%	29,847,189	17%	150,172,652	81%	36,098,370	19%	143,378,626	81%	33,649,696	19%	571,786,761	82%	129,550,891	18%
Transportation	77,732,283	80%	19,218,953	20%	82,830,116	81%	19,907,617	19%	85,834,897	78%	24,353,521	22%	83,099,521	79%	22,332,326	21%	323,496,817	79%	85,812,417	21%
Communications & Utilities	59,670,655	85%	10,736,683	15%	58,002,429	85%	9,939,572	15%	64,337,755	85%	11,744,849	15%	60,279,105	84%	11,317,370	16%	242,289,944	85%	43,738,474	15%
Trade	171,602,978	83%	35,790,194	17%	170,389,166	82%	38,666,494	18%	178,391,947	78%	49,597,030	22%	175,429,117	77%	53,350,617	23%	695,813,208	80%	177,404,335	20%
Wholesale	52,487,932	85%	9,011,987	15%	53,425,413	84%	9,942,239	16%	55,370,940	81%	12,866,023	19%	54,816,822	80%	13,536,547	20%	216,101,107	83%	45,356,796	17%
Retail	119,115,046	82%	26,778,207	18%	116,963,753	80%	28,724,255	20%	123,021,007	77%	36,731,007	23%	120,612,295	75%	39,814,070	25%	479,712,101	78%	132,047,539	22%
Eating & Drinking Places	26,717,551	74%	9,610,775	26%	27,033,181	71%	11,003,996	29%	28,389,922	66%	14,441,570	34%	27,426,298	65%	14,640,583	35%	109,566,952	69%	49,696,924	31%
Other Retail	92,397,495	84%	17,167,432	16%	89,930,572	84%	17,720,259	16%	94,611,085	81%	22,289,437	19%	93,185,997	75%	25,173,487	21%	370,145,149	82%	82,350,615	18%
Finance, Insurance & Real Estate	61,482,041	87%	9,557,771	13%	60,091,427	86%	9,951,224	14%	60,894,231	84%	11,955,716	16%	61,214,350	82%	13,625,447	18%	243,682,049	84%	45,090,158	16%
Services & Unclassified	314,103,664	85%	56,036,219	15%	343,199,862	85%	61,789,631	15%	287,682,640	80%	72,874,180	20%	327,521,247	81%	79,127,202	19%	1,272,507,413	83%	269,827,232	17%
Hotels	10,867,526	78%	3,136,530	22%	11,437,248	76%	3,545,204	24%	12,669,334	69%	5,763,580	31%	11,623,153	69%	5,158,332	31%	46,597,261	73%	17,603,646	27%
Business Services	33,922,252	72%	13,065,399	28%	33,265,768	72%	12,801,302	28%	32,000,608	71%	13,119,656	29%	32,654,116	70%	13,750,086	30%	131,842,714	71%	52,736,443	29%
Health	44,289,632	87%	6,631,254	13%	46,540,820	85%	8,162,568	15%	45,326,043	82%	10,014,660	18%	45,031,131	80%	10,959,018	20%	181,187,111	84%	35,767,500	16%
Education	135,473,112	92%	11,271,196	8%	162,491,349	93%	12,409,920	7%	101,039,207	89%	12,000,773	11%	142,110,749	89%	17,203,204	11%	541,114,117	91%	52,805,093	9%
Other Services & Unclassified	123,473,394	78%	34,997,239	22%	122,730,445	77%	37,671,939	23%	128,648,056	74%	45,095,167	26%	128,756,214	74%	45,806,648	26%	503,608,109	75%	163,570,993	25%
Public Administration	177,287,055	92%	15,111,040	8%	189,056,613	92%	16,026,878	8%	199,452,055	91%	20,048,956	9%	199,748,192	91%	19,631,386	9%	765,543,915	92%	70,818,260	8%
Agriculture	2,104,403	78%	600,427	22%	2,725,648	70%	1,191,657	30%	3,273,896	62%	2,016,111	38%	2,842,568	62%	1,724,445	38%	10,946,515	66%	5,532,640	34%
TOTAL	11,147,074,926	81%	275,787,918	19%	11,196,553,815	81%	280,670,664	19%	11,209,330,549	76%	375,437,465	24%	11,203,112,370	77%	363,911,508	23%	4,756,071,660	79%	1,295,807,755	21%

Source: Alaska Department of Labor, Research and Analysis Section.

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Alaska Department of Labor, Research and Analysis section  
 1984 U.I. Average Covered Wages by 1984 Permanent Fund  
 Recipients and Nonrecipients, by Statewide Industry

Industry Cluster by Standard Industrial Classification (SIC)	January-March			April-June			July-September			October-December			Total 1984		
	Recipients		Nonrecip	Recipients		Nonrecip	Recipients		Nonrecip	Recipients		Nonrecip	Recipients		Nonrecip
	Av Wages	Av Wages	Recip	Av Wages	Av Wages	Recip	Av Wages	Av Wages	Recip	Av Wages	Av Wages	Recip	Av Wages	Av Wages	Recip
Mining	13,135	9,988	76%	12,091	9,052	75%	12,927	9,813	76%	13,472	11,311	84%	49,413	27,993	57%
Oil & Gas	13,430	10,383	77%	12,387	9,522	77%	13,300	10,166	76%	13,932	12,170	87%	51,013	29,771	58%
Other Mining	9,032	5,903	65%	8,465	5,273	62%	8,975	7,733	86%	8,443	6,190	73%	31,634	16,559	52%
Construction	6,560	7,112	108%	6,848	6,450	94%	7,437	6,465	87%	6,437	5,717	89%	22,870	15,123	66%
Manufacturing	4,890	2,434	50%	5,097	2,571	50%	4,728	3,543	75%	4,379	3,186	73%	16,485	7,314	44%
Food	2,711	1,741	64%	2,731	2,019	74%	3,190	3,374	106%	2,591	2,938	116%	9,464	6,584	70%
Lumber and Lumber	5,335	4,199	79%	6,697	4,901	73%	6,609	5,164	78%	6,039	4,795	79%	22,157	12,187	55%
Other Manufacturing	6,319	4,027	64%	6,783	3,737	55%	6,233	3,762	60%	5,930	3,563	60%	22,651	9,112	40%
Transportation, Comm & Utilities	7,660	6,230	81%	7,557	5,721	76%	7,824	6,097	78%	7,590	5,706	75%	28,548	15,573	55%
Transportation	6,640	5,469	82%	6,729	4,996	74%	6,714	5,390	80%	6,625	4,968	75%	24,730	13,465	54%
Communications & Utilities	9,576	8,297	87%	9,169	8,068	88%	10,039	8,371	83%	9,499	8,072	85%	36,136	22,476	62%
Trade	4,031	2,283	57%	3,897	2,145	55%	4,046	2,229	55%	4,092	2,347	57%	13,274	5,153	39%
Wholesale	6,792	4,830	71%	6,631	4,474	67%	6,784	4,562	67%	6,989	4,906	70%	24,658	11,735	48%
Retail	3,418	1,938	57%	3,280	1,818	55%	3,424	1,891	55%	3,443	1,993	58%	10,989	4,320	39%
Eating & Drinking Places	2,262	1,389	61%	2,216	1,354	61%	2,316	1,425	62%	2,361	1,461	62%	7,064	3,106	44%
Other Retail	4,012	2,491	62%	3,833	2,308	60%	3,958	2,399	60%	3,980	2,530	64%	13,152	5,655	43%
Finance, Insurance & Real Estate	5,624	4,071	72%	5,404	3,724	69%	5,331	3,747	70%	5,533	4,166	75%	19,463	10,000	51%
Services & Unclassified	5,282	3,695	70%	5,687	3,622	64%	4,724	3,414	72%	5,432	3,644	67%	18,064	8,521	47%
Hotels	2,586	1,773	69%	2,444	1,520	62%	2,602	1,876	72%	2,623	1,797	68%	8,575	4,183	49%
Business Services	4,510	3,673	81%	4,464	3,401	76%	4,540	2,974	65%	4,605	2,991	65%	14,418	7,475	52%
Health	5,611	4,445	79%	5,843	4,751	81%	5,576	4,753	85%	5,670	5,027	89%	20,826	11,992	58%
Education	6,452	4,507	70%	7,876	5,154	65%	5,042	3,861	77%	6,880	4,981	72%	23,129	11,235	49%
Other Services & Unclassified	4,681	3,722	80%	4,534	3,554	78%	4,618	3,454	75%	4,723	3,468	73%	15,300	8,275	54%
Public Administration	7,328	5,821	79%	7,491	5,843	78%	7,314	5,956	81%	7,333	5,715	78%	27,567	16,198	59%
Agriculture	3,883	2,901	75%	3,455	2,509	73%	3,638	3,000	82%	3,740	3,058	82%	12,510	6,933	55%
TOTAL	5,935	4,475	75%	6,028	4,080	68%	5,860	4,155	71%	5,379	4,077	66%	20,678	10,014	48%

Source: Alaska Department of Labor, Research and Analysis Section

Note: Data differs from industry groupings commonly published by this Department.  
 Time did not permit the isolation of government from other industries.  
 For example education contains: state, local, and private education.

Employee count, as shown, will always be higher than an employment count.  
 For example if 6 different people each worked 2 months the employee count would  
 = 6, but the annual average employment would = 1.

Total 1984 employees is an unduplicated count of people, using their social  
 Security number, and counts them once by their last industry worked. Wages  
 are reflected to the last industry worked in each quarter. Some distortion,  
 though usually small, can occur in the average wages due to employees moving  
 from one industry to another.

Federal employees are not included in this data source.