

SB

201

SENATE COMMITTEE REPORT

FURTHER:

3/31/87

DATE TURNED INTO OFFICE 5/5/87

Mr. President:

FINANCE Committee considered SB 201

local agricultural and fisheries product preference.

and recommended:

<sup>adopt</sup> replace with CS FOR SB 201 (sa) )  same title  
 or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)

new  updated or  previous  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*[Handwritten signatures]*  
Rich Veltz (DO PASS)  
Walter Kuntz

*[Handwritten signature]* DO PASS  
Chairman signature and recommendation

Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: CS SB 201 SA  
Publish Date: 3-31

REQUEST \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act related to local  
agricultural and fisheries product  
preference  
Sponsor: Josephson et al.  
Requestor: \_\_\_\_\_

Agency Affected: Department of Administration  
BRU: General Services & Supply

Components: Purchasing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
<b>OPERATING</b>						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

It is not possible to determine the fiscal impact of reduced competition and potentially higher prices caused by this bill.

Prepared By: Robert J. Link *[Signature]* Phone: 465-2250  
Division: General Services & Supply Date: March 26, 1987

Approved by Commissioner: Garrey Peska *[Signature]* Date: 3/27/87  
Agency: Department of Administration

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary

Original sponsors: Josephson, Szymanski,  
Fahrenkamp, et al.

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 201 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the local agricultural and fish-  
7 eries product preference; and providing for an effec-  
8 tive date."

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

10 \* Section 1. AS 36.15.050 is amended to read:

11 Sec. 36.15.050. USE OF LOCAL AGRICULTURAL AND FISHERIES PRODUCTS  
12 REQUIRED IN PURCHASES WITH STATE MONEY. (a) When agricultural prod-  
13 ucts are purchased using state money, only agricultural products  
14 harvested in this state shall be purchased whenever [COMPETITIVELY]  
15 priced no more than seven percent above products harvested outside the  
16 state, available, and of like quality compared with agricultural  
17 products harvested outside the state.

18 (b) When fisheries products are purchased using state money,  
19 only fisheries products harvested or processed within the jurisdiction  
20 of the state shall be purchased whenever [COMPETITIVELY] priced no  
21 more than seven percent above products harvested or processed outside  
22 the jurisdiction of the state, available, and of like quality compared  
23 with fisheries products harvested or processed outside the jurisdic-  
24 tion of the state.

25 (c) In [AS USED IN] this section,

26 (1) "agricultural products" includes timber and lumber  
27 harvested in the state and products manufactured in the state from  
28 timber and lumber that has been harvested in the state;

29 (2) "state money" includes state reimbursement to

1 municipalities and school districts for school or related construc-  
2 tion, foundation funding for education, municipal assistance, revenue  
3 sharing, and state funds for capital projects.

4 \* Sec. 2. AS 36.15.050 is amended by adding new subsections to read:

5 (d) A solicitation for the purchase of agricultural or fisheries  
6 products shall specify the requirement that products harvested in the  
7 state shall be used where possible. If state money is used to pur-  
8 chase agricultural or fisheries products harvested outside the state,  
9 the officer responsible for the purchase shall certify in writing the  
10 reasons that products harvested in the state were not purchased.

11 (e) If a contractor fails to comply with this section, the  
12 purchasing agency shall withhold the state money until the contractor  
13 complies. If a municipality or a school district fails to comply with  
14 this section, the department responsible for disbursing the state  
15 money to the municipality or school district shall withhold the money  
16 until the municipality or school district complies.

17 (f) An interested party, as defined in AS 36.30.699, may seek  
18 administrative or judicial review of the award of a contract in vio-  
19 lation of this section.

20 (g) Compliance with this section is not required if an exception  
21 to this section is mandated for participation in a federal program.

22 \* Sec. 3. AS 36.30.336 is amended to read:

23 Sec. 36.30.336. APPLICATION. Notwithstanding other provisions  
24 of this chapter, AS 36.30.322 - 36.30.338 apply to all procurements  
25 subject to this chapter [AS 36.30], except as provided in AS 36.15.-  
26 050, AS 36.30.170(b) and 36.30.322(b).

27 \* Sec. 4. Section 3 of this Act takes effect on the effective date of  
28 sec. 2, ch. 106, SLA 1986.



Official Business

# Alaska State Legislature

## Senate

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: Senate Finance Committee

FROM: Senator Joe Josephson *JJ*

DATE: May 5, 1987

RE: Senate Bill 201, relating to the local agricultural and fisheries product preference

Earlier this year, fourteen co-sponsors and I introduced Senate Bill 201 to strengthen our existing preference for Alaskan agricultural and fisheries products. Under the provisions of SB 201:

- a 7% price preference is given to fisheries and agricultural products, including timber, which are purchased by municipalities and school districts using state money. (AS 36.30.322, which we enacted last year, will apply this 7% preference to direct purchasing by the State, effective July 1, 1987.)
- purchasing officers are required to certify their decisions in writing when they fail to purchase Alaskan agricultural or fisheries products;
- funds are allowed to be withheld from a contractor by the public purchasing agency until the contractor complies with these preference provisions;
- Alaskan suppliers are able to request an administrative or judicial review of a purchasing decision.

Thank you for your consideration of SB 201.

5/5/87

Referred: State Affairs  
& Finance

BY JOSEPHSON, SZYMANSKI, FAHRENKAMP,  
STURGULEWSKI, UEHLING, KELLY, KERTTULA,  
DUNCAN, JONES, ABOOD, RODEY, FAIKS,  
ZHAROFF, BENNETT, ELIASON AND HALFORD

1 IN THE SENATE

2

SENATE BILL NO. 201

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the local agricultural and fish-  
7 eries product preference."

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

9 \* Section 1. AS 36.15.050(a) is amended to read:

10 (a) When agricultural products are purchased using state money,  
11 including state grants to a municipality or school district, only  
12 agricultural products harvested in this state shall be purchased  
13 whenever [COMPETITIVELY] priced no more than seven percent above  
14 products harvested outside the state, available, and of like quality  
15 compared with agricultural products harvested outside the state.

16 \* Sec. 2. AS 36.15.050(b) is amended to read:

17 (b) When fisheries products are purchased using state money,  
18 including state grants to a municipality or school district, only  
19 fisheries products harvested or processed within the jurisdiction of  
20 the state shall be purchased whenever [COMPETITIVELY] priced no more  
21 than seven percent above products harvested or processed outside the  
22 jurisdiction of the state, available, and of like quality compared  
23 with fisheries products harvested or processed outside the jurisdic-  
24 tion of the state.

25 \* Sec. 3. AS 36.15.050 is amended by adding new subsections to read:

26 (d) A solicitation for the purchase of agricultural or fisheries  
27 products shall specify the requirement that products harvested in the  
28 state shall be used where possible. If state money, including grants  
29 to a municipality or a school district, is used to purchase agri-

1 cultural or fisheries products harvested outside the state, the  
2 officer responsible for the purchase shall certify in writing the  
3 reasons that products harvested in the state were not purchased.

4 (e) If a contractor fails to comply with this section, the  
5 purchasing agency may withhold funds until the contractor complies.  
6 An interested party, as defined in AS 36.30.699, may seek adminis-  
7 trative or judicial review of the award of a contract in violation of  
8 this section.

9 \* Sec. 4. AS 36.30.336 is amended to read:

10 Sec. 36.30.336. APPLICATION. Notwithstanding other provisions  
11 of this chapter, AS 36.30.322 - 36.30.338 apply to all procurements  
12 subject to this chapter [AS 36.30], except as provided in AS 36.15.-  
13 050, AS 36.30.170(b) and 36.30.322(b).

POSITION PAPER  
SB 201

The bill provides that when State funds, including State grants to a municipality or school district, are used to purchase agricultural products, only products harvested in the state may be purchased when they are priced at no more than 7% more than other products and they are available and of like quality.

The bill also provides that when State funds, including State grants to a municipality or school district, are used to purchase fisheries products, only products harvested or processed within the jurisdiction of the state may be purchased when they are priced at no more than 7% more than other products and they are available and of like quality.

The bill requires that solicitations for agricultural or fisheries products contain the requirement that products harvested in Alaska will be used where possible and that the purchasing officer must certify, in writing, the reasons why Alaskan products were not purchased. If a contractor fails to comply with this section the purchaser may withhold funds until the contractor complies. An interested party may seek administrative or judicial review of a contract awarded in violation of this section.

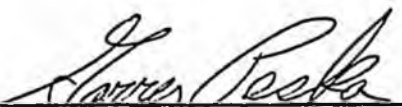
The Department of Administration is unable to calculate the fiscal impact passage of this legislation would have upon municipalities. The requirement to include municipal grants would have an insignificant affect on the cost to the department administering the grant program. It is likely some of the smaller communities receiving municipal grants would have difficulty providing the administrative review required by Section 3(e). The department supports inclusion of municipal grants in legislation relating to the local agricultural and fisheries product preference.

Procedures would be developed and put in place which provide a means for State agencies to monitor contracts for compliance.

The Department of Administration is neutral on this bill.

  
\_\_\_\_\_  
Robert J. Link, Director  
Division of General Services & Supply

3/29/87  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Commissioner Garrey Peska  
Department of Administration

3/27/87  
\_\_\_\_\_  
Date

Effective date of article. — Section 2, title April 24, 1986, in accordance with AS ch. 16, SLA 1986, makes this article effective 01.01.1987 (rel).

**Sec. 36.15.050. Use of local agricultural and fisheries products required in purchases with state money.** (a) When agricultural products are purchased using state money, only agricultural products harvested in this state shall be purchased whenever competitively priced, available, and of like quality compared with agricultural products harvested outside the state.

(b) When fisheries products are purchased using state money, only fisheries products harvested or processed within the jurisdiction of the state shall be purchased whenever competitively priced, available, and of like quality compared with fisheries products harvested or processed outside the jurisdiction of the state.

(c) As used in this section, "agricultural products" includes timber and lumber harvested in the state and products manufactured in the state from timber and lumber that has been harvested in the state. (§ 1 ch 16 SLA 1986)

Revisor's notes. — Enacted as AS 36.16.020. Renumbered in 1986.

**Sec. 36.15.060. Insertion of clause in calls for bids and in contracts.** A clause containing the substance of the relevant subsection of AS 36.15.050 shall be inserted in all calls for bids and in all contracts awarded that involve agricultural or fisheries products. (§ 1 ch 16 SLA 1986)

Revisor's notes. — Enacted as AS 36.16.020. Renumbered in 1986.

## Chapter 20. Purchases and Supplies.

**Sec. 36.20.010. Preference of producers or dealers in Alaska.** [Repealed, § 67 ch 106 SLA 1986, effective July 1, 1987.]

## Chapter 25. Contractors' Bonds.

**Sec. 36.25.020. Rights of persons furnishing labor or material.**

### NOTES TO DECISIONS

Recovery subject to AS 09.18.151. — *Smith v. Tyonck Timber, Inc.*, Sup. Ct. Op. No. 2413 (File Nos. 7170, 7250, 6801, 6111, 12d 110 (1984).

Recovery under this section is subject to, and not independent of, the express penalty of AS 09.18.151, which prohibits those contractors who fail to duly register from suing on the contracts in which they are unlawfully engaged. State ex rel (1984).

## Chapter 30. State Procurement Code.

### Article

1. Organization of State Procurement (§§ 36.30.005 — 36.30.050)
2. Competitive Sealed Bidding (§§ 36.30.100 — 36.30.190)
3. Competitive Sealed Proposals (§§ 36.30.200 — 36.30.270)
4. Other Procurement Methods (§§ 36.30.300 — 36.30.320)
5. Preference for Alaska Products (§§ 36.30.322 — 36.30.338)
6. Contract Formation and Modification (§§ 36.30.340 — 36.30.450)
7. Procurement Records and Reports (§§ 36.30.500 — 36.30.540)
8. Legal and Contractual Remedies (§§ 36.30.580 — 36.30.690)
9. Intergovernmental Relations (§§ 36.30.700 — 36.30.790)
10. General Provisions (§§ 36.30.850 — 36.30.995)

**Cross references.** — For statement of legislative purpose in enacting this chapter, see sec. 1, ch. 106, SLA 1986, in the Temporary and Special Acts.

**Editor's notes.** — Section 65, ch. 106, SLA 1986, provides: "REPORT. By December 1, 1988, the commissioner of administration and the commissioner of transportation and public facilities shall report to the legislature concerning pro-

urement by state agencies during the fiscal year 1989. The report must include (1) the records prepared under AS 36.30.540,

(2) recommendations for changes in AS 36.30 or other laws based on implementation of AS 36.30 in those 12 months, and

(3) a description of any matters that involved litigation concerning AS 36.30 during those 12 months."

### Article 1. Organization of State Procurement.

#### Section

05. Centralization of procurement authority
10. Chief procurement officer
15. Executive branch agencies
20. Legislature
30. Court system

#### Section

40. Procurement regulations
50. Lists of contractors
60. Specifications
70. Supply management
80. Leases

(c) The procurement officer shall report to the commissioner of commerce and economic development each contractor penalized under (a) of this section. The commissioner of commerce and economic development shall maintain a list of contractors determined not to be responsible bidders under (b) of this section. (§ 2 ch 106 SLA 1986)

**Sec. 36.30.332. Classification of Alaska products [Effective July 1, 1987].** (a) The commissioner of commerce and economic development shall adopt regulations establishing the value added in the state for materials and supplies produced or manufactured in the state that are used in a state procurement and shall publish a list of the products annually. A supplier may request inclusion of its product on the appropriate list.

(b) Materials and supplies with value added in the state that are

- (1) more than 25 percent and less than 50 percent of the manufacturer's quoted price is a Class I product;
- (2) 50 percent or more and less than 75 percent of the manufacturer's quoted price is a Class II product; and
- (3) 75 percent or more of a manufacturer's quoted price is a Class III product.

(c) In a bid or proposal evaluation a

- (1) Class I product is given a three percent preference;
- (2) Class II product is given a five percent preference; and
- (3) Class III product is given a seven percent preference. (§ 2 ch 106 SLA 1986)

**Sec. 36.30.334. Identification of Alaska products [Effective July 1, 1987].** An agency may identify specific Alaska products for use in making a procurement. (§ 2 ch 106 SLA 1986)

**Sec. 36.30.336. Application [Effective July 1, 1987].** Notwithstanding other provisions of this chapter, AS 36.30.322 — 36.30.338 apply to all procurements subject to AS 36.30, except as provided in AS 36.30.170(b) and 36.30.322(b). (§ 2 ch 106 SLA 1986)

**Sec. 36.30.338. Definitions [Effective July 1, 1987].** In AS 36.30.322 — 36.30.338

(1) "Alaska product" means a product produced or manufactured in the state if the value added in the state is not less than 25 percent of the quoted price of the manufacturer;

(2) "produced or manufactured" means processing, developing, or making an item into a new item with a distinct character and use through the application within the state of materials, labor, skill, or other services;

(3) "product" means materials or supplies but does not include gravel and asphalt. (§ 2 ch 106 SLA 1986)

Reviser's notes: Reorganized in 1986 to alphabetize the defined terms.

## Article 6. Contract Formation and Modification.

Section	Section
340. Review and approval by the Attorney General	390. Multi-term contracts
350. Bid cancellation, rejection	400. Cost or pricing data
360. Determination of responsibility	410. Right to inspect plant
362. Determination to award a contract to a nonresident	420. Right to audit record
365. Notice of intent to award a contract	430. Standard modifications to contracts
370. Types of contracts	460. Modification of standard contract
380. Approval of accounting system	470. Fiscal responsibility
	480. Cost principal regulations

Effective date of article. — Section 69, ch. 106, SLA 1986, makes this article effective July 1, 1987.

**Sec. 36.30.340. Review and approval by the Attorney General [Effective July 1, 1987].** If a contract contains a term that is in conflict with a state standard form contract term or if a standard term is deleted or modified by a term that is not standard, the contract must be reviewed by the Attorney General and approved as to form (§ 2 ch 106 SLA 1986)

**Sec. 36.30.350. Bid cancellation, rejection [Effective July 1, 1987].** An invitation to bid, a request for proposals, or other solicitation may be cancelled or any or all bids or proposals may be rejected in whole or in part or the date for opening bids or proposals may be delayed when it is in the best interests of the state in accordance with regulations adopted by the commissioner. The reasons for cancellation, rejection, or delay in opening bids or proposals shall be made part of the contract file. (§ 2 ch 106 SLA 1986)

**Sec. 36.30.360. Determination of responsibility [Effective July 1, 1987].** (a) A written determination of responsibility of a bidder or offeror shall be made by the procurement officer in accordance with regulations adopted by the commissioner. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility is grounds for a determination of nonresponsibility with respect to the bidder or offeror.

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 3/25/87 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

\*\*FISCAL NOTE(S) ATTACHED 1 \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

3/19/87

DATE TURNED INTO OFFICE 3/31/87

Mr. President:

STATE AFFAIRS

Committee considered

SB 201

local agricultural and fisheries product preference.

and recommended:

replace with CS SB 201 (STATE AFFAIRS)  same title  
 attached amendment(s) and  new title

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Rich Clark (DO PASS)

Joe Peterson - DO PASS

Joe Fisher "

Sen. Matt Hunt  
Chairman signature and recommendation

Committee Backup Attached