

HB

300

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 300

Revision Date: _____ Department Affected: Administration
 Title: Fixing a Study to Determine BRU: General Services
which State Produced Goods & Services... Component: Purchasing
 Sponsor: Choquette
 Requestor: _____ COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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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-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

This bill will have no fiscal impact on our activities.

Prepared By: Robert J. Link *Robert J. Link* Phone: 465-2250
 Division: General Services Date: 4/30/91

Approved by Commissioner: *Walter Keller* Date: 5/7/91
 Agency: _____

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CONTROLLING
THE DEMAND FOR TAXES
THROUGH
COMPETITIVE INCENTIVES

SEE page 10

Presented to the
NATIONAL ORIENTATION CONFERENCE
for
NEW STATE LEGISLATORS

By: Wendell Cox and Jean Love

THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL
Washington, D.C.
December 1, 1990

PEOPLE ARE CONCERNED ABOUT TAXES

"The American people want public services, but they don't want to pay for them." This is the common refrain of inside-the-beltway commentators. A different reality exists beyond the beltway, which is that the American people perceive that taxes are high enough and government is spending more than is needed to provide public services. More than three-quarters of the American people believe that governments waste much of their tax money. <1>

State legislators and other elected officials are faced with difficult choices. The demand for public services is great. That much the Washington commentators have understood. At the same time, the supply of taxes is limited. The conventional wisdom is that there are but two approaches to balance government budgets when spending exceeds taxation: reduce services or increase taxes. There is a third way: use tax money more efficiently. This is a simple strategy known by every household and every business: when you can't increase income, you decrease expenses.

More efficient government has been discussed for years. But despite growing public indignation at government waste, despite genuine intentions by many elected officials, little real progress has been made. Attempts at removing government inefficiency and waste have failed not because there is little potential to make government more efficient, but because the incentives that face public managers and employees are skewed toward higher spending.

What follows is an analysis of the incentives that drives higher public spending, and proposals to redesign spending incentives to favor lower levels of taxation. This analysis does not propose that government do less (that is a different debate) — indeed implementation of the proposed strategies could permit government to do more. Finally, it is important to understand that the analysis is not a criticism of government, of public managers, of public employees, or of public employee unions; it is a criticism of the incentives that drive the decisions and activities of government.

STATE LEGISLATURES HAVE A PIVOTAL ROLE IN TAXATION

State legislators are integral to the process of making government more efficient. All governments in the United States except for the federal government are creations of the states. Each municipally, county or parish, school district and special district operates subject the powers and responsibilities conferred upon it by the corresponding state government. The ability of state and local government units to tax and spend is under the control of state legislators.

State legislators often express the view that they should provide maximum flexibility for local governments and exercise little control over the spending decisions of local governments. And while the level of government closest to the people should have great latitude to respond to the

interests of its taxpayers, there is also an appropriate oversight role for state legislatures. When local governments get into financial trouble, they have one place to go — to the state legislature. The present situation in Pennsylvania is a case in point, with the city of Philadelphia seeking a state bail out to avoid insolvency. The inability of Philadelphia to live within its means has become an issue in the state capital. There has even been the specter of federalizing state tax policy with a federal attempt to coerce the Pennsylvania legislature into establishing a new tax for a particular public service. <2>

State legislators have an important interest in efficient spending at both the state and local level, then because in the final analysis it will be the states that will pay. And the stakes have been raised considerably by the attempted federalization of state tax policy referred to above. If state legislatures do not ensure that local spending is kept under control, state bail outs and even federal mandates may follow.

The incentives that drive state and local spending higher are getting stronger. The fundamental question for state legislators may be stated two ways:

1. Shall state and local governments be permitted to spend more than necessary to delivery any public service?
2. Shall state and local governments be permitted to ignore alternatives for providing the same level and quality of public services for less?

HIGHER TAXES DO NOT MEAN MORE SERVICE

Taxes as a Panacea

Strong special interest groups that seek greater public revenues for themselves and their constituents have concentrated the political debate on ways to raise new taxes. Focusing on issues of fairness and compassion, they have diverted attention from the performance and cost-effectiveness of public programs. If the proponents of higher government spending are to be believed, then taxes are a panacea. The answer to every problem is more money. ✓

But taxes are not a panacea. All taxes are paid by households and businesses, so economic growth depends upon the strength of the private sector. As taxes consume a higher percentage of income, society becomes weaker economically. This lesson has been painful to Argentina and Eastern Europe where the high percentage of income consumed by government has sapped initiative and reduced living standards. Taxes always reduce the amount of money that would be used in the private sector to increase production and to boost the Gross National Product. Taxes always reduce the size of the economic pie. Therefore, there is no justification for higher than necessary public expenditures. There is no valid reason for U.S. competitiveness in world markets to be impaired or for Americans to have lower standards of living because of government inefficiency.

The stronger the private sector, the greater is the ability of government to provide public services. The taxation issue is not only about what government should do or should not do. It is also about whether the functions of government should be performed at the lowest possible cost. As presently structured in the United States, governments routinely spend more than necessary to perform their functions. It should be clear by now that not even the most generous state legislatures can match the ability of the public sector to spend money.

Government's fundamental problem is not funding, it is spending. The fundamental issue is not about finding new taxes for government, it is about controlling the demand for taxes through the efficient use of public resources. It is time to cast the public debate in these terms.

The Fallacy of Judging Results by Spending

Seeking higher subsidies, public agencies compare their level of public subsidies to that of more highly subsidized agencies to demonstrate the short-sightedness of their elected officials and the selfishness of the taxpayers in their catchment area. Spending interests fund or publish studies that compare spending levels of various public programs, taxing districts, states, and countries to determine the effectiveness and performance of public programs. Following the logic of these arguments, that higher government spending is equivalent to superior output, we could determine that students in Salt Lake City are not as knowledgeable as students in the inner city of Detroit or that Japanese students receive an education that is inferior to that of students in Egypt. Likewise, we might surmise that Americans have an inadequate diet while Ethiopians are over-fed or that the streets of Stockholm are less safe than the streets of Newark.

Obviously, there is no reliable correlation between higher spending and superior results. Nor can we infer from the data that the citizens or elected officials of Salt Lake City or Japan are less compassionate, more selfish, or care less for the education of their children than citizens of Detroit or Egypt.

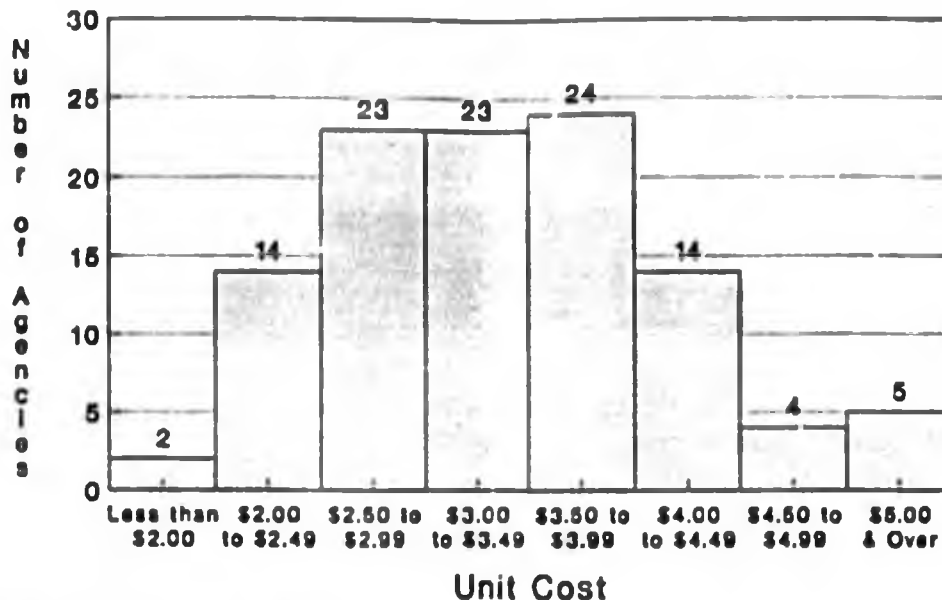
The Public Spending Corollary to "Parkinson's Law"

Growing evidence demonstrates that there need be little if any correlation between the amount of tax money spent on a public service and the amount or quality of that public service.

These points are illustrated by an analysis of costs at 109 U.S. public transit agencies. The analysis showed that unit costs (costs per mile) vary significantly between public transit agencies. (Chart: "Variation in Unit Costs for a Public Service") The most expensive public transit agencies spend more than double that of the most efficient public transit agencies in cost per mile. Further, the analysis shows that cost increases vary greatly (costs per mile increased in a range of from 35 percent to more than 100 percent -- inflation was 54 percent). These differences cannot be explained by geographical differences or by differences in service quality.

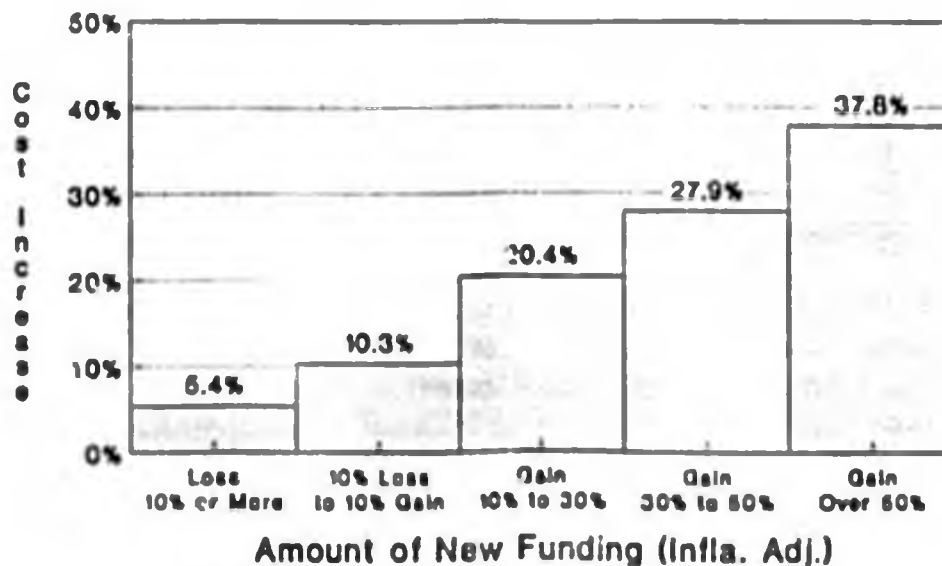
There was, however, a relationship between new revenue available to the public transit agency and the extent of the cost increase. Generally, from 1979 to 1988 the higher the increase in

VARIATION IN UNIT COSTS FOR A PUBLIC SERVICE



Sample of 109 U.S. Public Transit Agencies: Bus Cost per Mile: 1988

PUBLIC UNIT COST INCREASES COMPARED TO INCREASES IN FUNDING (1979-1988: Inflation Adjusted)



Sample of 109 U.S. Public Transit Agencies: Bus Costs & Revenue

revenues, the greater the cost increases. (Chart: "Public Unit Cost Increases Compared to Increases in Funding")

-Of the 82 agencies that received an increase in funding (inflation adjusted), only six kept their costs within inflation.

-Of the 27 agencies that received a decrease in funding, nine kept their costs within inflation. Seven of the nine had revenue increases of less than ten percent.

Two conclusions are drawn from this analysis.

1. That public agency costs are not fixed --- that some governments perform the same services as others for less.
2. That unit cost increases tend to be higher where the increase in funding is higher.

In 1955, C. Northcote Parkinson proposed "Parkinson's Law" --- that work in a bureaucracy tend to expand to fill the available time.<3> Parkinson noted that, even when public service levels remained stable, the size of the bureaucracy increased. The research on public transit suggests that even where service does not increase, unit costs tend to increase. The cost behavior of public agencies implies a public spending Corollary to Parkinson's law:

"Unit costs of public services tend to increase to consume the available funding."

Higher Taxes Generate Higher Unit Costs

Studies in education and elsewhere echo the dynamic identified in public transit.<4> New public funding does not necessarily result in higher levels of public service. A large percentage of the rising costs of public services is consumed by greater than inflationary cost increases. Even in the absence of new government services, there is an increasing demand for taxes, because the costs of existing services tend to rise inordinately.

The amount of money spent by a jurisdiction on a public service may be more a reflection of the political strength of spending interests than it is a reflection of the commitment and compassion of the citizens and their elected officials. The test of a public service is the quantity and quality of the service provided, not the amount spent on the service. /

The American consumer does not believe that the "Excedrin" purchased at the airport gift shop is a more effective pain reliever than the "Excedrin" purchased at "K-Mart." And an increasing majority of the American taxpayers no longer believes that higher taxes necessarily result in more or better services. We must change the political debate from an emphasis on input --- what is spent --- to an emphasis on outcome --- what return is obtained for the tax funding. It is time to wean ourselves from the myth that public spending equates to public results.

PUBLIC SECTOR INCENTIVES REWARD HIGHER SPENDING

Having dismissed the proposition public spending is a reliable standard for evaluating public services, it is appropriate to review the incentives facing the public sector — incentives that reward higher spending.

Competition, Monopoly, and Performance

The fundamental flaw in public sector incentives is that the cost control induced by competition is absent.

Competition in the marketplace improves performance and keeps costs down. This economic principle is based upon human nature. On the other hand, monopoly is characterized by higher prices and limited production. As a result, government has routinely limited the creation or the effect of monopoly in the private sector.

Once upon a time, some economic theorists believed that the problems of monopoly were problems of ownership — that only private monopolies were harmful, while public monopolies were virtuous, because they would replace the profit motive with a public service motive. Experience has shown this view to be near-sighted. As a group, the people who manage and operate public services are no more virtuous than the people who manage and operate private businesses.

Some functions of public agencies are subjected to the competitive market. Nearly all governments require that goods and services purchased from outside the public agency be done so in a competitive process. But competition does not routinely extend to the largest element of public expenditure, labor costs (wages and benefits), and costs are rising rapidly. Higher labor costs are occurring in three ways:

1. Higher employee compensation (wages and benefits).
2. Larger staffs.
3. Diminishing productivity, often due to overly restrictive work rules.

Incentives in the Public Sector

Public services are managed and produced by people. Just like all of us, government workers want higher standards of living. Accordingly, government employees gear their work toward incentives and away from penalties. Human nature operates as surely in government as it does outside government.

Incentives, however, are different in government than they are outside government.

For example an individual, family, or company must make economic choices and live within its income. Efficient spending produces a better life, because more can be purchased with available income. In the short-term, the economic situation can be improved only by efficient allocation of financial resources. Except in the most protected industries, the losses that result from wasteful, inefficient spending are not borne by others. The rewards in the private sector are tied to obtaining the most value for the amount of available money.

A government manager, however, faces a different set of incentives. Government management salaries are highly correlated to the size of the manager's staff and budget. If a public manager under spends the budget or utilizes workers more productively, the manager will be penalized with a smaller budget and staff (in relative terms) in following years, and the manager's salary and career progression will be hampered. Alternatively, the economic losses that result from wasteful, inefficient spending can be passed on to others — the taxpayers. In the public sector, then, managers are rewarded for inefficiency with higher funding, increased staffing, and enhanced career prospects. The rewards in government are tied to higher spending and the search for higher revenue.

The Incentives Facing Management

The interests of public managers and employees are consistent with greater spending and the growth of government. The direct and concentrated interests of public managers and employees have been very effective against the far more diffuse interests of the taxpayers. A public manager or employee can experience an immediate and substantial increase in compensation merely from responding to the incentives of government. And because public employees have greater knowledge of and greater access to government, the cost of manipulating the political process is less and the reward is far greater for public employees than for the taxpayer. The more numerous taxpayers rarely notice the increased tax that occurs from a single increase in public expenditures. But taxpayers have begun to notice the accumulation of such increases, and the present public concern with taxation is such an effect. The declining trust of government by taxpayers has been illustrated in surveys and in the most recent elections.

Public sector decision making is much different than competitive decision making.

In the competitive market, companies make decisions based upon consumer preferences. Consumers know the price per unit of the company's products, and consumers have the freedom to purchase from the competition or not at all if price exceeds the value of the product. A good decision on the part of the company will improve the firm financially, while a bad decision will lose it money or even cause it to fail. The company cannot extract funding from customers who have not purchased its products. No amount of rationalization or excuses can eliminate the judgement of consumers with respect to the company's products. As a result, administrative staff size tends to be lean, with the greatest effort committed to developing and marketing the products of the company. Armies of administrative staff would only burden a company in a competitive market and hasten its failure.

In the public sector, taxpayers do not know the price per unit of an agency's individual products. Because government services are produced by monopolies, taxpayers do not have the freedom to purchase from the competition, and they have no meaningful comparisons by which to judge value. As a result, taxpayers have little power to exert meaningful influence over government efficiency. The resulting lack of market discipline and the right of government to tax combines to encourage larger administrative staffs. The inability of taxpayers and their elected officials to measure value allows the public sector to rationalize or excuse any perceived inefficiencies and to pass the cost of these and other failings on to the taxpayer. As a result, public sector decision making is administrative. Public administrators prepare administrative justifications for their proposals at the expense of the taxpayers. If the approved programs fail or require more funding than was anticipated, rationalizations and justifications are provided to demonstrate how the shortcomings resulted from circumstances that could not have been foreseen or — more often — from inadequate funding. Thus, in the public sector, armies of administrators assist the public agency in increasing its budget still further. Too much of taxpayers' money is used to lobby state legislatures and the U.S. Congress to provide even more funding. And, in many states, the administrative staff and resources of the state legislature are modest in comparison to the publicly funded spending advocates employed by large public agencies.

The Incentives Facing Public Employees

The incentives facing public employee unions also encourage higher than necessary spending. This is not a criticism of public employee unions, it is rather a criticism of the spending incentives. These incentives have permitted public employee unions to increase costs through bloated staffing and steadily growing budgets.

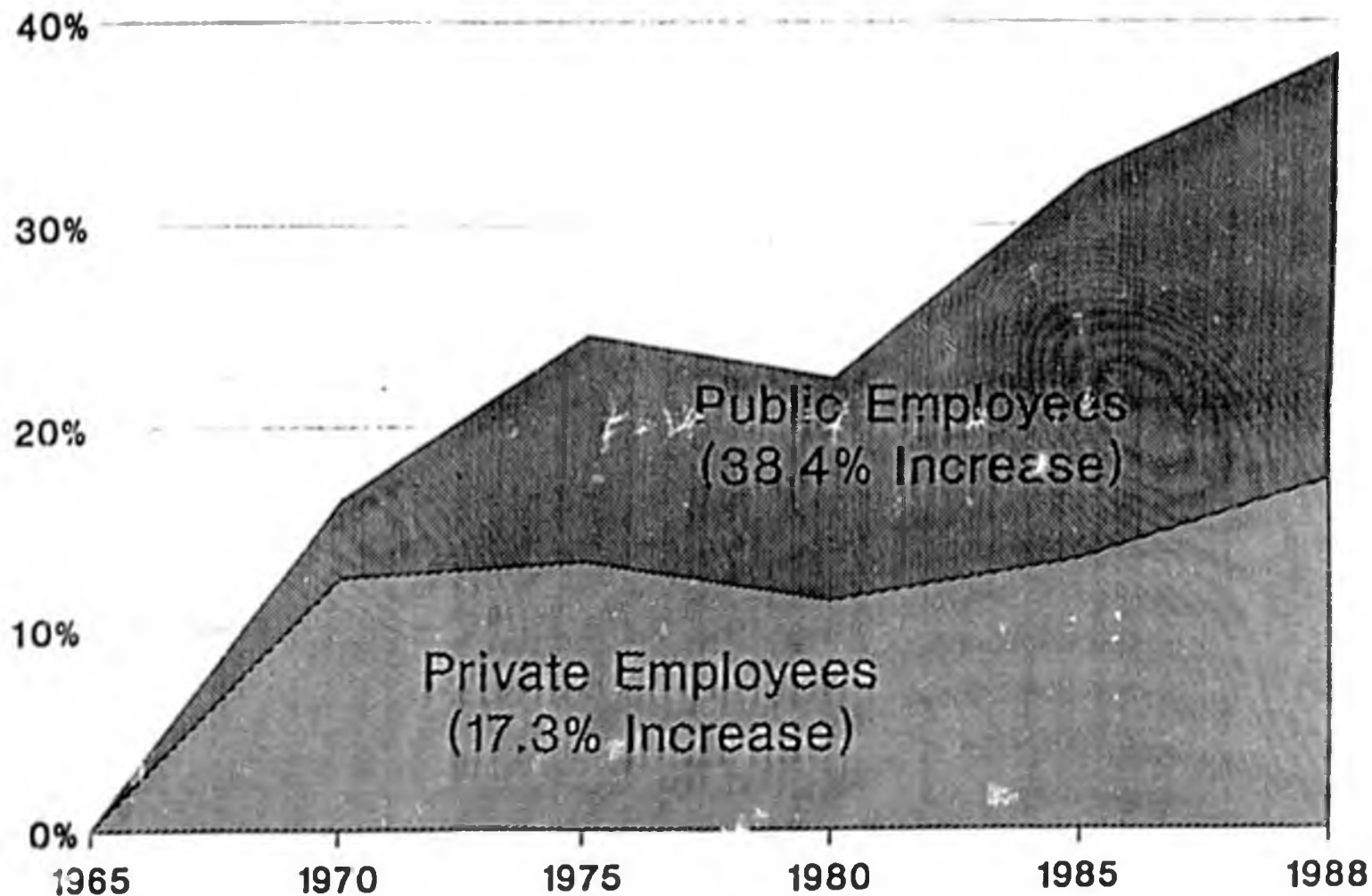
The effect of labor unions on unit cost differs between competitive or monopoly providers. Labor unions can increase employee income in concentrated industries — industries that are oligopolistic or monopolistic — but unions are unable to increase employee compensation above the market rate in competitive industries. It should be noted that collective bargaining processes may impose monopoly conditions on competitive industries where government has intervened and where employers and unions have engaged in "pattern bargaining."

Labor unions can increase employee compensation to above the market rate in monopolies and concentrated industries, because there is no competition for labor rates, and because costs can always be passed on to the consumer. The higher income won by labor unions in monopolies is not taken from owners or managers, it is taken from the consumers, who are denied the lower prices that would occur in a competitive industry. Since most of the wages in this country are set by the competitive market, the effect of unions in a monopoly are unfair to the majority of US consumers.

In competitive industries, however, firms must ensure that their costs do not rise above those of their competitors, or they will lose their customers to less costly producers. As a result, competitive industries must keep their labor costs under control. Labor unions are incapable of

CHANGE IN ANNUAL EMPLOYEE COMPENSATION

From 1965 Adjusted for Inflation



Includes Fringe Benefits

taking more than they can get. Excessive increases in pay in competitive industries comes from the share of the owner and will eventually result in the failure of the firm.

Labor union officials talk of "living wages," inferring that wages set in a competitive society are unfair. They infer that union labor is somehow virtuous compared to non-union labor. But this is a simplistic, discriminatory, and dangerous view. The real wages (inflation adjusted) of employees in a society are set by the competitive market. To the extent that some employees are paid more, because their particular employment market is noncompetitive, employees in competitive firms — the vast majority of Americans — will be paid less. Would-be employees will not be paid at all, because funds that would have created economic growth and employment are being diverted to pay for higher than market wages to those in the monopoly industries.

Some societies have attempted to negate the principles of economics by intervening in the market to increase the wages of all. Those societies have invariably failed, because government is incapable of raising real wages for all employees. Government can raise all wages only by creating the hyper-inflation that destroys both domestic and export markets. This is the story of the failures of interventionist policies — from the Soviet Union to Eastern Europe to Brazil and Argentina.

Government services are monopolies. And public employee unions predictably and rightly seek the greatest benefit for their members. Public employee unions seek whatever portion of new tax funding they can obtain and make large political contributions in an effort to influence higher spending on labor. Without a competitive environment, there is little to constrain public employee unions from obtaining extraordinary increases in wages and fringe benefits. And, as public employee unions have become stronger, they have been able to obtain exceptional increases.

The compensation of public employees has been rising at a faster rate than compensation of non-government employees. In 1965, the average private employee was paid slightly more than the average public employee. In 1988, the average public employee was paid more than 10 percent more than the average private employee. (Chart: "Change In Annual Employee Compensation") In some cases, public employees are paid up to double that received by unionized workers doing the same work in the private sector. The growing strength of the public employee unions is likely to result in the creation of more "monopoly wage premiums."

Should public employees be paid more than the employees doing the same or similar work in the competitive market? Obviously, the answer is "no" — government should do no more for public employees than it is prepared to do for private employees. Bank clerks, nurses, and other private employees should not be relegated to second class citizenship by virtue of government policies that favor public employees. Government cannot increase the real earnings of public employees without taking from private employees. And government cannot raise the wages of all without destroying the economy in the process. Equal opportunity and fairness requires that public employees be no more favored by government than private employees. The compensation of employees performing public functions should be subject to the competitive market as it is with

private employees. The net effect of unions in monopolies including government has been higher compensation for their workers in exchange for a lower standard of living for the majority of other Americans.

In the competitive market, labor unions have incentives to seek economic gains for their members, but that incentive is tempered by the necessity for the firm to remain profitable in a competitive market, otherwise the members will be without income. In government, where there is no competition, there is no effective limitation to the incentive of unions except the limitation of public budgets. Even the countervailing force exerted by management is absent in government as more expensive labor settlements lead to higher compensation for managers (in some cases the managers themselves are union members). And the accessibility of complete financial information (an important safeguard in a free society) gives the public employee unions more reliable monetary targets for collective bargaining -- a practice some have called "treasure hunting." <5>

The Never Ending Funding Crisis

So the incentives in government are structured such that the demand for higher taxes is self-perpetuating. Managers are rewarded for spending more, and public employee unions are able to obtain inordinately increased compensation.

No amount of internal reform will solve the problem. Prior attempts to solve the problem have spawned innumerable committees, citizen review boards, endless meetings, countless hours spent on zero-based budgeting, management-by-objectives, and five year plans, and all the while there is a mad dash at the end of the fiscal year to spend funds to ensure funding increases for the following year. Efforts at reform and accountability have only increased the size of government. The problem is not management, nor can the problem be solved by management. Efficient management cannot be legislated, nor can legislation eliminate regulatory or bureaucratic capture -- bureaucratic behavior is driven by incentives. Laws may dissuade outright fraud, but they are ineffective against steadily rising unit costs.

Higher taxes can themselves fuel the demand for even higher taxes. Clearly, until the incentives change, the demand for new taxes will only increase.

There are alternatives -- tax limitation and subjecting public services to competitive incentives.

Alternatives for Limiting Taxation

Tax limitations have been imposed in some states, and rejected in others. Certainly, tax limitations are an important ingredient of any strategy to control taxation. But there are disadvantages:

-The spending interests will portray even the most modest tax limitation in "doomsday" terms. This will often attract even business and other interests that usually oppose higher taxes.

-If passed, public agencies will often respond with the tactic of "firemen first" --- in which the most essential, the most compassionate, the most visible services are cut first in an effort to obtain additional public revenues and to convince the electorate of its imprudence and selfishness in passing the measure.

Public services may also be subjected to competitive incentives. This approach, called competitive contracting, reduces the demand for taxation by bringing spending under control. It can be used as an alternative to tax limitation or as a supplement. Competitive contracting makes tax limitation more effective. Because it is cost efficient, it allows for higher levels of public service even in the presence of a tax limitation measure.

THE SOLUTION: COMPETITIVE CONTRACTING

Competitive contracting has been used for decades by private and public organizations to ensure that goods and services of a defined quantity and quality are produced for the lowest possible cost. Each good or service made or consumed by the organization is studied to determine if the same quality of good or service can be purchased from the outside less expensively than it can be produced internally.

Competitive contracting is the provision of a public service through a competitively awarded contract. The public agency chooses what services to competitively contract and chooses the private providers from which it purchases the services. Competitive contracting involves a synthesis of public and private roles. The public sector decides what services should be competitively contracted and what specifications should apply to the service. The competitive market responds to the invitation of the public agency, and one or more producer is selected to provide a specific service for a period of time. The public sector retains policy control over the service, while the competitive market produces the service under public scrutiny.

How Competitive Contracting Works

Under competitive contracting the public agency produces service itself when it is less expensive to do so; when service produced by the public agency is more expensive, the service is "bought" from contractors. There are five basic steps in the process:

1. The public agency seeks competitive proposals to deliver a specific quality and quantity of service for a defined period of time.
2. The public agency may submit its own cost proposal, capturing all attributable costs, and subject to the same terms and conditions that apply to private proposals.

3. A contract is awarded to the lowest responsible and responsive public or private proposer who demonstrates an ability to provide the same quality and quantity of public service at a cost lower than that of the public agency.

4. Contractors, public or private, that fail to provide the service as specified are financially penalized or replaced.

5. New competitive proposals are sought in sufficient time to award a new contract for service commencing at the expiration of the contract. New competitive proposals are sought regardless of whether the incumbent contractor is a private company or the public agency itself.

Competitive contracting does not necessarily result in private operation of public services. It merely requires that the public service be provided according to the specifications of the public agency for the lowest possible cost. Competitive contracting removes the present bias toward in-house public service provision and replaces it with a results oriented approach in which the lowest cost qualifying proposer, public or private, operates the service.

Public Agencies May Participate

The public agency can submit a proposal to continue to operate the service. There is, however, a potential for the public agency treating itself more favorably in such a procurement than it does the private proposers. Both in the U.S. and Great Britain public agencies have submitted "low-ball" bids that are below their actual cost with the result that costs are made up ("cross-subsidized") from other public services so that the total cost to users and taxpayers is the same as before, or higher. Other public agencies have compiled internal costs for comparison after opening the private proposals. It is not surprising that public agencies have typically won such skewed procurements.

Because of these abuses, some public agencies have taken important steps to ensure the objectivity of the procurement process — requiring the submittal of the public proposal at the same time and according to the same terms that apply to private proposers. They have also required that the evaluation of proposals exclude any personnel who have been involved in preparing the public proposal, or who would stand to gain by providing the service in-house (conflict of interest).

Competitive Contracting Saves Money

Competitive contracting reduces public costs in three ways:

1. Lower costs through provision of service at no more than the competitive rate (the "going" rate).

2. Lower costs through the "ripple effect" as public agencies improve their cost performance in response to the competitive environment.

3. Lower net costs as a result of tax revenues paid by private contractors on the public services they operate.

Lower Costs: Competitive contracting lowers public costs. Cost savings of 15 to 30 percent are frequent, with occasional savings of up to 50 percent. Touche Ross reports cost savings in 98 percent of cases with savings more than 40 percent in some cases.<7> Net cost savings are higher still, because these figures do not include the taxes and government fees paid by private companies and from which public agencies are exempt. The taxes paid by private contractors may be as much as 15 percent of the contract value.

The Ripple Effect: Competitive contracting not only results in lower costs for the public services competitively contracted, it also induces improved internal public cost performance. This "ripple effect" has been identified in various public services, including solid waste collection, public transit, fire protection, and other services. Public employee unions have negotiated competitive wage and benefit packages in response to competitive contracting. As a city of Phoenix public administrator put it:

"Our people are in a competitive mode. We have cut our costs way back because we have learned from the experience of private contractors. We have the unions convinced about the need to improve productivity."<8>

Principles of Competitive Contracting

There are two fundamental principles of competitive contracting of public services:

1. The public agency should retain full policy control, determining which services are purchased, establishing quality and safety standards, administering contracts, and monitoring service performance.

2. The public agency should foster a competitive market.

The maintenance of a competitive market is crucial to the success of competitive contracting. Private monopoly should not be tolerated any more than public monopoly. Fostering a competitive market requires:

-Wide participation and full disclosure of information, so that all potential interested proposers have sufficient information to submit a proposal if they desire.

-Limitation of contract duration (usually no more than five years including renewal options).

-Limitation of contract size, so that smaller companies have an opportunity to participate.

EXTENT OF COMPETITIVE CONTRACTING BY LOCAL GOVERNMENTS

	Percent Competitively Contracting
Public Service	
Administration	36
Airport	11
Building and Grounds	43
Child or Day Care	5
Data Processing	31
Elderly or Disabled	12
Fleet or Vehicle Maintenance	21
Hospitals & Health Care	16
Housing or Shelters	5
Parking Lots or Garages	7
Public Safety or Corrections	7
Public Transit: Disabled & Elderly	70
Public Transit: Non-specialized	8
Recreation, Parks, Conventions	19
School Bus	30
Solid Waste Collection or Disposal	59
Streets and Roads	29
Traffic Signals or Street Lighting	32
Utilities	10
Vehicle Towing or Storage	45

Sources: Touche Ross (1987), USDOT Urban Mass Transportation Administration (1988), School Bus Fleet Magazine (1988), Wendell Cox Consultancy (1990)

-Cost control through a requirement for fixed price proposals, and prohibition of price negotiation after contract execution.

-No public agency specification of labor arrangements except compliance with state and federal law.

-The public agency should compete in the process under the same terms as the private proposers and should include all attributable costs.

Competitive contracting saves money not because the private sector is superior to the public sector; competitive contracting saves money because competition induces lower costs than monopoly. Services provided by private contractors are as fully public services as the same services provided by public agencies themselves, because the public agency remains in complete control.

The Extent of Competitive Contracting

Competitive contracting is being used by governments of various ideological persuasions around the world. The Conservative government of Great Britain requires that certain public services be competitively contracted. Socialist governments in Sweden and New Zealand have implemented competitive contracting programs. A wide range of municipal services are competitively contracted in Canada.

Competitive contracting is expanding in the United States. An overwhelming percentage of municipal governments competitively contract for some services — more than 90 percent according to one study.<9> The extent of competitive contracting by type of public service is illustrated in the Table "Extent of Competitive Contracting by Local Governments." Despite its broad use, there is potential for a substantial increase in the use of competitive contracting.

Supplier Markets for Public Services

Private supplier markets are ready, willing and able to provide public services under contract. And if government were to commit to competitively contract for other services, the supplier markets would develop.

Some functions, of course, should not be contracted. The fundamental function of government is legislation and policy. These functions can only be performed appropriately by government itself.

Opposition with a Vested Interest

Opposition to competitive contracting can be expected from those profiting from the present monopoly incentives. These are the public administrators (though not all) and public employee unions. The strongest opposition comes from the public employee unions, which fully understand

that they can obtain more lucrative contracts with government in a non-competitive environment than they would if they were subject to the same restraints as the majority of Americans, who work in the private sector. Public employee unions are so convinced of the cost reducing potential of competitive contracting that they have opposed legislation that would require comparison of public and competitive costs just as adamantly as they have opposed mandatory competitive contracting legislation.

Public employee unions have attempted to portray competitive contracting as being anti-union. But contractor employees have the same rights to organize as other employees. And a large percentage of private contractors have already been organized by unions.

Public employees can be protected by phasing in competitive contracting through the use of attrition and special voluntary separation incentive programs (early retirement incentives, voluntary separation bonuses, etc.). In addition, successful contractors can be encouraged to offer employment to qualified personnel (though the private contractor will probably require fewer employees). Some displacement of public employees might occur -- and every individual case is regrettable from a personal standpoint. But there is no justification for protecting public employees as a special class to which privileges are granted beyond those that government could reasonably grant to other employees.

Implementing Competitive Contracting

Various legislative approaches have already been implemented, with success. The most direct approach is to require that government agencies within the state subject some of their public services to competitive contracting.

Colorado: The first mandatory competitive contracting legislation in the United States was authored by ALEC member Senator Terry Considine (1988).^{<10>} This legislation required the Denver public transit agency to competitively contract 20 percent of its services over a two year period. The legislatively required performance audit has just been released, reporting the following results:^{<11>}

- Short term cost savings of 18 percent -- even after paying idled employees for not working (the Act contained a layoff prohibition).

- Long term sustainable savings of 27 percent.

Great Britain: Parliament requires local governments and school districts to competitively contract for refuse collection, custodial services, food services, grounds maintenance vehicle maintenance, public transit and school bus service.^{<12>} The local governments may compete for the services themselves, but their proposals must meet the requirements imposed upon the private proposers. The results have been:^{<13>}

- Cost savings of 22 percent when contracts are awarded to the private sector.

-Cost reductions of 17 percent when contracts are awarded to in-house departments.

There have been other important initiatives:

Arizona: A bill that would have required competitive contracting of virtually any public service was passed by the Arizona legislature in 1990,<14> but was vetoed by the Governor. The bill, authored by ALEC member Representative Robert Burns would have required a competitive contracting process initiated by a bona fide expression of interest by a capable company. The private company would file a "petition of interest," demonstrating its ability to provide the service and expressing its interest. The public agency would issue a request for proposals to all interested organizations after certification of the "petition of interest." The "petition of interest" approach is unique, in that it would require competitive contracting only where the competitive market demonstrates both sufficient capability and interest in a particular public service.

ALEC Model legislation: The American Legislative Exchange Council has published model legislation requiring competitive contracting of school bus service and public transit service.<15>

Additional legislative initiatives such as these will be required if the demand for taxation is to be controlled. Competitive contracting replaces the monopoly incentives of the public sector with competitive incentives. This will permit taxpayers and their elected officials will be able to determine value (benefit v. cost) and allow allocation of scarce tax dollars. The U.S. cannot be competitive on world markets, cannot maintain the present high standards of living, and cannot continue to provide quality public services in the presence of government programs that cost more than necessary.

CONTROLLING THE DEMAND FOR TAXES

Americans want public services, but they do not want to pay for wasteful government.

Taxes always reduce the amount of money that would have been used by the private sector to increase production, which fuels the Gross National Product and increases overall standards of living.

While many government services are needed, there is no justification for government to waste money through inefficiency.

Incentives for public sector management and employees fuel higher government spending, so real (inflation-adjusted) costs rise even in the absence of new public programs.

Government has a spending problem not a funding problem.

To solve the spending problem, government must change the monopoly incentives that cause the problem.

FOOTNOTES

- <1> For example, see Michael Prowse, "An Anxious Nation on the Couch," Financial Times, November 19, 1990.
- <2> Proposed amendment to the Transportation Appropriations bill of 1990. The most infringing provisions were softened in the final bill.
- <3> The Economist, November 19, 1955.
- <4> For example, see Eric A Hanushek, "The Impact of Differential Expenditures on School Performance," Educational Researcher, May 1989.
- <5> Llewellyn M. Toulman, "The Treasure Hunt: Budget Search Behavior by Public Employee Unions." Public Administration Review, April 1988.
- <6> City of Phoenix, Southeastern Ohio Regional Transit Authority (Cincinnati), Bi-State Development Agency (St. Louis) and the Suburban Mobility Authority for Regional Transportation (Detroit).
- <7> Touche Ross, Privatization in America: An Opinion Survey of City and County Governments on their Use of Privatization and their Infrastructure Needs, 1987.
- <8> Ron Jenson, quoted in Peter A. Holmes, "Taking Public Services Private." Nation's Business, August 1985.
- <9> Touche-Ross
- <10> Colorado Senate Bill #164: 1988.
- <11> KMPG Peat Marwick in Association with Mundle & Associates, Inc.: Performance Audit of Privatization of RTD Services, November 1990.
- <12> Local Government Act of 1988 and the Transport Act of 1985.
- <13> The Tender Traps, ASI Research Ltd. (1990)
- <14> Arizona House Bill #2507: 1990.
- <15> The Source Book of American State Legislation: 1988-1989 and The Source Book of American State Legislation: 1990-1991 (the latter to be published)
- <16> Supreme Court of Pennsylvania, Ridley Arms Inc. v. Township of Ridley, 1987.

Rep. Choquette's proposed amendments to CS HB 300 (State Affairs):

page 1, line 12: after "reducing the quality or quantity"
insert ", or increase the delivery time"

page 1, line 14: strike "Second Session of the Seventeenth"
and replace with "First Session of the
Eighteenth"

page 2, line 2: strike "June 30, 1992" and replace with
"June 30, 1993."

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 24, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/11/92

The STATE AFFAIRS Committee considered:

HB 300

HOUSE BILL NO. 300

APPROP: STUDY PRIVATIZING STATE SERVICES

"An Act making a special appropriation to the Alaska Legislative Council for a study to determine which goods and services provided by state agencies can be provided by the private sector under an award after completion of a competitive sealed bidding or proposal process; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 300 (SM) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>David Anderson</i>	<input checked="" type="checkbox"/>	<i>Eugene A. Kubera</i>		<input checked="" type="checkbox"/>	
<i>Tom Weber</i>	<input type="checkbox"/>	<i>Tom Weber</i>		<input checked="" type="checkbox"/>	
<i>Mike Miller</i>	<input checked="" type="checkbox"/>	<i>E. Boye</i>		<input type="checkbox"/>	
		<i>M. Shumaker</i>		<input type="checkbox"/>	

Eugene A. Kubera
CHAIRMAN'S SIGNATURE

**CS FOR HOUSE BILL NO. 300 (STATE AFFAIRS)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 SEVENTEENTH LEGISLATURE - FIRST SESSION**

BY THE HOUSE STATE AFFAIRS COMMITTEE.

Offered:

Referred:

Funding Information:	General Fund	\$125,000
	Other Funds	<u>-0-</u>
		\$125,000

Sponsor(s): REPRESENTATIVE CHOQUETTE

A BILL

FOR AN ACT ENTITLED

1 "An Act making a special appropriation to the Alaska Legislative Council for a study to
 2 determine which goods and services provided by or to state agencies can be provided by
 3 the private sector under an award after completion of a competitive sealed bidding or
 4 proposal process; and providing for an effective date."

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

6 • Section 1. The sum of \$125,000 is appropriated from the general fund to the Alaska Legislative
 7 Council to pay for a study to be performed by private individuals or entities to determine which goods
 8 and services provided by or to the agencies of the executive, legislative, and judicial branches of the
 9 state, including the University of Alaska, the Alaska Railroad Corporation, the Alaska Housing Finance
 10 Corporation, the Alaska State Housing Authority, and all other quasi-public entities, can be provided by
 11 the private sector under an award after completion of a competitive sealed bid or proposal process in
 12 which state agencies may compete, without reducing the quality or the quantity of the goods or services
 13 being provided. It is the intent of the legislature that the completed study be submitted to the legislature
 14 on or before the first day of the Second Session of the Seventeenth Alaska State Legislature and that the

- 1 legislature hold hearings on the completed study.
- 2 • Sec. 2. The appropriation made by this Act lapses June 30, 1992.
- 3 • Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature
House of Representatives



INTERIM

3111 C Street
Anchorage, Alaska 99503
(907) 561-2032

SESSION

PO Box V
Juneau, Alaska 99811
(907) 465-2095

Representative Dave Choquette

M E M O R A N D U M

DATE: January 27, 1992

TO: Rep. Gene Kubina, Chairman
House State Affairs Committee

FROM: Rep. Dave Choquette *DC*

RE: HB 300, "An Act making a special appropriation to the Alaska Legislative Council for a study to determine which goods and services provided by state agencies can be provided by the private sector under an award after completion of a competitive sealed bidding or proposal process, and providing for an effective date."

I would appreciate your scheduling HB 300 for consideration by the House State Affairs Committee at the Committee's earliest convenience.

I've attached a copy of a May 3, 1991 Memo to you which summarizes the bill and my rationale for introducing it. In addition, I've attached a zero fiscal note from the Department of Administration.

Josh Fink is my staff assistant assigned to this legislation. If I can provide any additional information, please have your staff contact Josh at x2995.

Your timely consideration is appreciated.



An Act

SENATE BILL 90-8.

BY SENATORS Pascoe, Meiklejohn, Owens, Schaffer, and Allison;
also REPRESENTATIVES D. Williams, Owen, Gillis, Grant, and
Shoemaker.

CONCERNING THE USE OF PRIVATE BUSINESS TO PROVIDE PUBLIC
TRANSPORTATION WITHIN THE REGIONAL TRANSPORTATION
DISTRICT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 32-9-119.5 (2) (a), (2) (d) (X), (3) (c), (3) (d), and (3) (e), Colorado Revised Statutes, as amended, are amended to read:

32-9-119.5. Competition to provide bus service within the regional transportation district. (2) (a) The district shall implement a system whereby at least twenty percent of the bus service determined by the district to be in the public interest shall be provided by qualified private businesses pursuant to competitively bid NEGOTIATED contracts.

(d) (X) An initial term of ~~one-year~~ UP TO THREE YEARS, with options for the provider to extend the contract for ~~four~~ A TOTAL OF UP TO FIVE years, unless the district and the provider shall mutually agree to a lesser initial term or extension; and

(3) (c) Each individual request for proposals shall reflect the district's determination as to the appropriate size for each such request in order to maximize the number of qualified bidders PROVIDERS SUBMITTING PROPOSALS without causing undue operating inefficiencies.

(d) Any qualified provider may respond to any request for proposals. The district shall ensure that disadvantaged business enterprises, as defined in part 23 of title 49 of the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

code of federal regulations, as amended, have the greatest possible opportunity to respond. Any response shall be timely if received by the district within ninety--days--of THE TIME SPECIFIED IN its request for proposals, WHICH SHALL NOT EXCEED NINETY DAYS NOR BE LESS THAN FORTY-FIVE DAYS. Each response shall specify the least subsidy COST TO THE DISTRICT required by the bidder PROVIDER SUBMITTING THE PROPOSAL to provide the services described in the request for proposals. If it determines the public interest requires such, the district retains the right to enter into noncompetitively awarded contracts on an interim basis for the time needed to implement the request for proposal process.

(e) With respect to each request for proposals, the district shall award the contract to the TECHNICALLY qualified provider whose responsive bid PROPOSAL offers the lowest cost to the district; except that no one provider shall receive contracts covering more than fifty percent of the vehicle hours subject to such requests, and, with respect to awards made after January 1, 1994, the district shall accept no bid PROPOSAL from a bidder PROVIDER providing fifty percent or more of the vehicle hours contracted by the district. Each contract shall be effective not later than ninety days after its award. If the district determines that no responsive bids PROPOSALS are received for a request for proposals or that the bids PROPOSALS submitted would not be in the best interest of the district to accept, the district may solicit new bids PROPOSALS for such--request--for--proposals THE DESIGNATED SERVICE in accordance with the provisions of this section.

SECTION 2. Safety clause. The general assembly hereby

finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Ted L. Strickland

Ted L. Strickland
PRESIDENT OF
THE SENATE

Carl B. Bledsoe

Carl B. Bledsoe
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan M. Albi

Joan M. Albi
SECRETARY OF
THE SENATE

Lee C. Bahych

Lee C. Bahych
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED April 9, 1990 at 8:09 am.

Roy Romer

Roy Romer
GOVERNOR OF THE STATE OF COLORADO

State of Arizona
House of Representatives
Thirty-ninth Legislature
Second Regular Session
1990

HOUSE BILL 2507

AN ACT

RELATING TO STATE GOVERNMENT; PRESCRIBING PRIVATE ENTERPRISE REVIEW BOARD MEMBERSHIP; PRESCRIBING ADDITIONAL POWERS AND DUTIES OF THE PRIVATE ENTERPRISE REVIEW BOARD RELATING TO PRIVATIZATION OF PUBLIC GOODS AND SERVICES; PRESCRIBING REQUIREMENTS AND PROCEDURES RELATING TO PRIVATIZATION PROPOSALS AND THE EVALUATION PROCESS TO DETERMINE WHETHER A PUBLIC GOOD OR SERVICE MAY BE BETTER PROVIDED BY PRIVATE INDUSTRY; MAKING TECHNICAL CHANGES TO INCLUDE DISTRICTS WHEN REFERRING TO COMMUNITY COLLEGES; MAKING CONFORMING CHANGES; PRESCRIBING DEFINITIONS; PRESCRIBING PRIVATIZATION BY POLITICAL SUBDIVISIONS; PRESCRIBING INITIAL IMPLEMENTATION; AMENDING SECTIONS 41-2752, 41-2753 AND 41-2754, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 25, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2, AND MAKING AN APPROPRIATION.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-2752, Arizona Revised Statutes, is amended to
3 read:
4 41-2752. State competition with private enterprise
5 prohibited; exceptions
6 A. A state agency shall not engage in the manufacturing,
7 processing, sale, offering for sale, rental, leasing, delivery,
8 dispensing, distributing or advertising of goods or services to the public
9 which are also offered by private enterprise unless specifically
10 authorized by law other than administrative law and executive orders.
11 B. A state agency shall not offer or provide goods or services to
12 the public for or through another state agency or a local agency,
13 including by intergovernmental or interagency agreement, in violation of
14 this section or section 41-2753.
15 C. Except as otherwise provided in section 41-2754, subsection H-
16 G, the restrictions on activities which compete with private enterprise
17 contained in this section do not apply to:
18 1. The development, operation and management of state parks,
19 historical monuments and hiking or equestrian trails.
20 2. Correctional industries established and operated by the state
21 department of corrections providing the prices charged for products sold

1 by the correctional industries are not less than the actual cost of
2 producing and marketing the product plus a reasonable allowance for
3 overhead and administrative costs.

4 3. The Arizona office of tourism.

5 4. The Arizona highways magazine, operated by the department of
6 transportation.

7 5. Printing and distributing information to the public if the
8 agency is otherwise authorized to do so, and printing or copying public
9 records or other material relating to the public agency's public business
10 and recovering through fees and charges the costs of such printing,
11 copying and distribution.

12 6. The department of public safety.

13 7. The construction, maintenance and operation of state
14 transportation facilities.

15 D. The restrictions on activities which compete with private
16 enterprise contained in subsection A of this section do not apply to
17 community colleges COLLEGE DISTRICTS and universities under the
18 jurisdiction of a state governing board.

19 Sec. 2. Section 41-2753, Arizona Revised Statutes, is amended to
20 read:

21 41-2753. Competition with private enterprise by community
22 college districts and universities:
23 limitations: rules: complaints

24 A. Community colleges COLLEGE DISTRICTS and universities under the
25 jurisdiction of a state governing board shall not, unless specifically
26 authorized by statute:

27 1. Provide to persons other than students, faculty, staff and
28 invited guests goods, services or facilities that are practically
29 available from private enterprise, unless the provision of the goods,
30 service or facility offers a valuable educational or research experience
31 for students as a part of their education or fulfills the public service
32 mission of the community college DISTRICT or university. This paragraph
33 does not apply to sponsoring or providing facilities for recreational,
34 cultural and athletic events or to facilities providing food services and
35 sales.

36 2. Enter competitive bidding for rendering any goods or services
37 unless a clear educational or research advantage would accrue to this
38 state by the community college DISTRICT or university rendering the goods
39 or services. Any such bid shall fairly and fully allocate all direct and
40 indirect costs unless the funding agency or sources provide for or require
41 all bidders to use a specific procedure or formula for allocating costs.

42 3. Provide to students, faculty, staff or invited guests goods,
43 services or facilities that are practically available from private
44 enterprise except as authorized by the state governing board.

45 4. Provide goods, services or facilities for or through another
46 state agency or a local agency, including by intergovernmental or
47 interagency agreement, which, if provided directly by the contractor,
48 would be in violation of this section or section 41-2752.

1 B. The state governing board may adopt and implement rules to
2 provide for the disposal by sale of products and by-products which are an
3 integral part of research or instruction conducted by ~~community colleges~~
4 COLLEGE DISTRICTS and universities under its jurisdiction if the products
5 and by-products are not sold to a retailer or sold at retail to the public
6 by the particular community college DISTRICT or university unless the sale
7 is an integral part of the particular research project or instructional
8 program or there is no other practical way of disposing by sale of the
9 products or by-products, and if the products or by-products are sold at
10 their market value.

11 C. The state governing board shall adopt and implement rules to:

12 1. Regulate ~~community college~~ DISTRICT and university competition
13 with private enterprise and ensure compliance with this section.

14 2. Regulate use of community college and university facilities by
15 students, faculty, staff, invited guests and the general public.

16 3. Provide procedures for promptly hearing and resolving complaints
17 lodged under this article relating to ~~community colleges~~ COLLEGE DISTRICTS
18 and state universities under the jurisdiction of the state governing
19 board. Such procedures shall include provisions for an expedited hearing
20 process if it is determined the alleged competition may cause severe
21 financial hardship on the person filing the complaint.

22 D. Any person aggrieved by a violation of this section may file a
23 complaint with the state governing board. The state governing board shall
24 transmit a copy of a complaint received pursuant to this subsection to the
25 private enterprise review board. The state governing board shall hear
26 complaints made pursuant to this section within sixty days and shall
27 render its decision within thirty days after the hearing. A person does
28 not have standing to challenge violations of this section in the courts of
29 this state until the person has first made a complaint to the board and
30 has received the board's decision.

31 E. This section does not apply to:

32 1. The Arizona health sciences center operated by the university of
33 Arizona, except in those cases in which the health sciences center
34 provides prosthetic or medical devices, or services related to such
35 devices, and a surgical or medical procedure is not involved in the
36 application of the device.

37 2. The provision of free medical services or equipment to indigents
38 in association with a community service health program.

39 3. Public service radio and television stations licensed to the
40 state governing boards or to ~~community colleges~~ COLLEGE DISTRICTS and
41 universities under their jurisdiction.

42 4. Skill centers operated by the ~~community college~~ districts.

43 F. The exceptions to the restrictions on ~~community college~~ DISTRICT
44 and university competition with private enterprise in subsections A, B and
45 E of this section are subject to review by the private enterprise review
46 board in accordance with section 41-2754, subsection H- G.

47 Sec. 3. Section 41-2754, Arizona Revised Statutes, is amended to
48 read:

1 41-2754. Private enterprise review board; members; terms;
2 compensation; duties; staff; judicial review;
3 definitions

4 A. A private enterprise review board is established composed of the
5 following members:

6 1. The chief executive or administrative officer of one state
7 agency who is appointed by the governor.

8 2. One member who is appointed by the state board of directors for
9 community colleges.

10 3. One member who is appointed by the Arizona board of regents.

11 4. Six members who are engaged in private enterprise, at least
12 three of whom represent the small business community. The speaker of the
13 house of representatives, the president of the senate and the governor
14 shall each appoint two members, and of the two appointed by each at least
15 one shall be a representative of the small business community.

16 5. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR AND WHO REPRESENTS
17 LABOR.

18 ~~5-~~ 6. Two advisory members from the house of representatives who
19 are appointed by the speaker of the house of representatives, one of whom
20 shall be a member of the house appropriations committee.

21 ~~6-~~ 7. Two advisory members from the senate who are appointed by
22 the president of the senate, one of whom shall be a member of the senate
23 appropriations committee.

24 B. Terms of appointment to the board are for two years unless an
25 advisory member or the chief executive or administrative officer of a
26 state agency ceases to hold such office. In that case, the appointing
27 officer shall appoint a replacement member for the remainder of the
28 unexpired term.

29 C. Members of the board in subsection A, paragraph 4 of this
30 section are not eligible to receive compensation but are eligible for
31 reimbursement of expenses pursuant to title 38, chapter 4, article 2.

32 D. The board shall:

33 1. Select a chairman from among its members.

34 2. Meet at least four times each year at the state capitol and hold
35 additional hearings as may be necessary on the call of the chairman.

36 3. Receive written complaints of violations of the provisions of
37 this article.

38 4. Transmit complaints received under paragraph 3 of this
39 subsection to the state agency, university or community college DISTRICT
40 alleged to be in violation.

41 5. Hold public hearings on complaints and determine whether the
42 STATE agency, university or community college DISTRICT is in violation of
43 the provisions of this article.

44 6. Within sixty days after receiving the STATE agency's response,
45 issue a written report of its findings to the complainant.

46 7. Transmit a complete report of each meeting to the legislature
47 and the governor including recommendations to remedy violations of

1 prohibitions on competition with private enterprise and findings on
2 necessary exceptions to the prohibitions.

3 E. The private enterprise review board may receive, but shall not
4 consider, a complaint relating to a university or community college
5 DISTRICT until the complaint has been filed with the state governing board
6 under section 41-2743, subsection D and the state governing board has
7 rendered a decision.

8 F. The STATE agency, university or community college DISTRICT shall
9 respond to the board in writing within forty-five days after receipt of a
10 complaint transmitted under subsection D, paragraph 4 of this section and
11 shall either deny or concur with the complaint and indicate any necessary
12 and contemplated remedial measures. When a specific complaint concerning
13 section 41-2753, subsection A, paragraph 1 is received by the board
14 regarding the providing of goods, services or facilities as a valuable
15 educational or research experience for its students or to fulfill its
16 public service mission, a community college DISTRICT or university shall
17 file with the response to the private enterprise review board either a
18 written description of what it believes is the valuable educational or
19 research experience for its students or a written description of the
20 public service mission, as applicable.

21 ~~G. The board may evaluate and review opportunities to contract with~~
22 ~~private enterprise that are deemed to be in the public interest. The~~
23 ~~public agencies, offering services subject to review shall be involved as~~
24 ~~participants in the evaluation process.~~

25 ~~The board may hold public hearings as a part of its evaluation process and~~
26 ~~shall report its recommendations to the legislature and the governor.~~

27 H. G. The board may evaluate and review all state agency
28 exemptions and exceptions to the restrictions on competition with private
29 enterprise in this article and may determine that any function or
30 functions of a state agency, university or community college DISTRICT are
31 or could be made a violation of this article. The board shall report its
32 findings and recommendations to the legislature and the governor.

33 ~~H.~~ H. At the request of the board, the department of commerce
34 shall provide such staff support as is necessary to carry out its duties
35 pursuant to this section AND ARTICLE 2 OF THIS CHAPTER. The auditor
36 general shall provide performance audit information relating to state
37 agency, university and community college DISTRICT budgets and functions
38 that the auditor general has available without additional contact with
39 state agencies through the legislative review of agencies pursuant to
40 chapter 20 of this title.

41 ~~I.~~ I. Notwithstanding the provisions for relief prescribed by this
42 article and except as provided by section 41-2753, subsection D, any
43 aggrieved person may elect to directly seek judicial relief including
44 relief under the provisions of section 12-2030.

45 ~~J.~~ J. For the purposes of this section, "advisory member" means a
46 member who gives advice to the other members of the private enterprise
47 review board at meetings of the board but who is not eligible to vote, is

1 not a member for purposes of determining whether a quorum is present and
2 is not eligible to receive compensation.

3 Sec. 4. Title 41, chapter 25, Arizona Revised Statutes, is amended
4 by adding article 2, to read:

5 ARTICLE 2. PRIVATIZATION OF PUBLIC GOODS AND SERVICES
6 41-2771. Additional powers and duties of the private
7 enterprise review board

8 A. IN ADDITION TO ITS DUTIES UNDER ARTICLE 1 OF THIS CHAPTER, THE
9 PRIVATE ENTERPRISE REVIEW BOARD SHALL:

10 1. DETERMINE THROUGH A MAKE OR BUY ANALYSIS WHICH FUNCTIONS OF
11 STATE AGENCIES, COMMUNITY COLLEGE DISTRICTS, AND UNIVERSITIES MAY BE MORE
12 EFFICIENTLY PERFORMED AT LESS EXPENSE BY CONTRACTING OUT CERTAIN FUNCTIONS
13 WITH PRIVATE ENTERPRISE. THE STATE AGENCIES, COMMUNITY COLLEGE DISTRICTS
14 OR UNIVERSITIES OFFERING SERVICES OR GOODS SUBJECT TO REVIEW SHALL BE
15 INVOLVED AS PARTICIPANTS IN THE EVALUATION PROCESS.

16 2. FORWARD TO THE APPROPRIATE STATE AGENCY, COMMUNITY COLLEGE
17 DISTRICT OR UNIVERSITY ANY RECOMMENDATION THAT THE STATE AGENCY, COMMUNITY
18 COLLEGE DISTRICT OR UNIVERSITY CONTRACT WITH PRIVATE INDUSTRY FOR THE
19 PROVISION OF A GOOD OR SERVICE, BASED ON A MAKE OR BUY ANALYSIS CONDUCTED
20 BY THE BOARD.

21 3. DETERMINE WHETHER THE STATE AGENCIES, COMMUNITY COLLEGE
22 DISTRICTS AND UNIVERSITIES HAVE IMPLEMENTED ITS RECOMMENDATIONS.

23 4. SUBMIT AN ANNUAL REPORT OF ITS RECOMMENDATIONS TO THE GOVERNOR,
24 THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
25 REPRESENTATIVES ON OR BEFORE DECEMBER 31.

26 B. IF THE BOARD'S RECOMMENDATIONS REQUIRE ENABLING LEGISLATION, THE
27 BOARD, THE AFFECTED STATE AGENCY, COMMUNITY COLLEGE DISTRICT OR UNIVERSITY
28 MAY PRESENT A REQUEST FOR ENABLING LEGISLATION TO THE LEGISLATURE IN THE
29 NEXT REGULAR LEGISLATIVE SESSION.

30 C. THE BOARD MAY HOLD PUBLIC HEARINGS AS PART OF ITS EVALUATION
31 PROCESS TO DETERMINE WHICH PUBLIC GOODS AND SERVICES MAY BE BETTER
32 PROVIDED BY PRIVATE INDUSTRY. ANY PUBLIC HEARINGS SHALL BE LIMITED TO
33 TESTIMONY ON THE FEASIBILITY OF CONTRACTING WITH PRIVATE INDUSTRY TO
34 PROVIDE THE GOOD OR SERVICE. ANY PERSON MAY PRESENT TESTIMONY AT A PUBLIC
35 HEARING. THE BOARD SHALL NOT DISCLOSE AT A PUBLIC HEARING ANY INFORMATION
36 DERIVED FROM A PETITION OF INTEREST WITHOUT THE CONSENT OF THE PRIVATE
37 COMPANY THAT SUBMITTED THE PETITION.

38 41-2772. Petitions of interest: request for proposals:
39 make or buy analysis: contract award:
40 definitions

41 A. THE BOARD SHALL CAUSE TO BE PUBLISHED TWICE ANNUALLY IN A SINGLE
42 NEWSPAPER OR IN MULTIPLE NEWSPAPERS WITHIN THIS STATE WITH AN ACCUMULATED
43 GENERAL CIRCULATION OF AT LEAST FIFTY THOUSAND SUBSCRIBERS A PUBLIC NOTICE
44 INVITING PRIVATE COMPANIES TO SUBMIT PETITIONS OF INTEREST. EACH PUBLIC
45 NOTICE SHALL NOT BE LESS THAN SIX NOR MORE THAN TEN DAYS APART, SHALL
46 INCLUDE THE DEADLINE FOR FILING A PETITION OF INTEREST AND SHALL DESCRIBE
47 THE CONTENT REQUIRED IN A PETITION OF INTEREST. THE BOARD MAY CAUSE TO BE
48 PUBLISHED SUCH ADDITIONAL NOTICES AS IT DEEMS APPROPRIATE.

1 B. EACH PETITION OF INTEREST SUBMITTED BY A PRIVATE COMPANY SHALL
2 INCLUDE:

3 1. A DESCRIPTION OF THE PUBLIC GOOD OR SERVICE THAT THE COMPANY
4 WOULD LIKE TO PROVIDE, AND THE IDENTIFICATION OF THE STATE AGENCY,
5 COMMUNITY COLLEGE DISTRICT OR UNIVERSITY FOR WHICH THE COMPANY WOULD LIKE
6 TO PROVIDE THE GOOD OR SERVICE.

7 2. A STATEMENT THAT THE COMPANY BELIEVES THAT IT CAN PROVIDE THE
8 SAME GOOD OR SERVICE, UNDER CONTRACT WITH THE STATE AGENCY, COMMUNITY
9 COLLEGE DISTRICT OR UNIVERSITY, FOR A LOWER COST THAN THE PRESENT COST.
10 THIS STATEMENT SHALL INCLUDE THE COMPANY'S ANNUAL PRICE TO PROVIDE THE
11 GOOD OR SERVICE AS WELL AS COMPLETE AND CURRENT COST OR PRICING DATA.

12 3. A DESCRIPTION OF THE COMPANY'S FINANCIAL CAPACITY TO PROVIDE THE
13 GOOD OR SERVICE.

14 4. A DESCRIPTION OF THE COMPANY'S TECHNICAL ABILITY TO PRODUCE THE
15 GOOD OR SERVICE, ESPECIALLY EVIDENCED BY IDENTICAL, SIMILAR OR RELEVANT
16 GOODS OR SERVICES PROVIDED BY THE COMPANY.

17 C. NO COMPANY, SUBSIDIARY OF A COMPANY, PARENT OF A COMPANY OR
18 COMPANY RELATED TO A COMPANY HOLDING A CONTRACT TO MANAGE THE AFFECTED
19 STATE AGENCY, COMMUNITY COLLEGE DISTRICT OR UNIVERSITY IS QUALIFIED TO
20 SUBMIT A PETITION OR TO BE AWARDED ANY CONTRACT TO PROVIDE GOODS OR
21 SERVICES FOR THAT STATE AGENCY, COMMUNITY COLLEGE DISTRICT OR UNIVERSITY.

22 D. WITHIN A REASONABLE PERIOD OF TIME THE BOARD SHALL DETERMINE
23 WHETHER THERE IS SUFFICIENT REASON TO BELIEVE THAT THE PRIVATE COMPANY HAS
24 THE FINANCIAL AND TECHNICAL ABILITY TO PROVIDE THE GOOD OR SERVICE AT A
25 LOWER COST THAN UNDER THE CURRENT SYSTEM WHERE THE GOOD OR SERVICE IS
26 PROVIDED BY PUBLIC EMPLOYEES. THE BOARD MAY MAKE ONE OF TWO FINDINGS:

27 1. IF THE BOARD DETERMINES THAT THE COMPANY HAS INSUFFICIENT
28 FINANCIAL AND TECHNICAL ABILITY TO PROVIDE THE GOOD OR SERVICE, THE BOARD
29 SHALL ISSUE A WRITTEN DENIAL OF THE PETITION AND STATE ITS JUSTIFICATION
30 FOR ITS DETERMINATION. NO PERSON SHALL DERIVE A CAUSE OF ACTION BASED ON
31 ANY DENIAL OF A PETITION.

32 2. IF THE BOARD DETERMINES THAT THE COMPANY HAS SUFFICIENT
33 FINANCIAL AND TECHNICAL ABILITY TO PROVIDE THE GOOD OR SERVICE, THE BOARD
34 SHALL PROCEED TO CONDUCT A MAKE OR BUY ANALYSIS CONCERNING THE GOOD OR
35 SERVICE. THE BOARD SHALL NOTIFY THE PETITIONER AND THE AFFECTED STATE
36 AGENCY, COMMUNITY COLLEGE DISTRICT OR UNIVERSITY THAT AN ANALYSIS HAS BEEN
37 SCHEDULED.

38 E. THE BOARD SHALL PERFORM THE MAKE OR BUY ANALYSIS THROUGH AN
39 ANALYSIS OF ANY PETITIONS OF INTEREST SUBMITTED BY PRIVATE COMPANIES AND
40 THE AFFECTED STATE AGENCY'S, COMMUNITY COLLEGE DISTRICT'S OR UNIVERSITY'S
41 COSTS FOR PROVIDING THE GOOD OR SERVICE.

42 F. THE AFFECTED STATE AGENCY, COMMUNITY COLLEGE DISTRICT OR
43 UNIVERSITY SHALL SUBMIT A CURRENT SCHEDULE OF ITS INTERNAL COSTS OF
44 PRODUCING THE GOOD OR SERVICE AND SHALL SUBMIT ITS OWN PROPOSAL, SUBJECT
45 TO THE FOLLOWING:

46 1. THE STATE AGENCY, COMMUNITY COLLEGE DISTRICT OR UNIVERSITY SHALL
47 SUBMIT A SEALED PROPOSAL AFTER NOTIFICATION FROM THE BOARD THAT A MAKE OR
48 BUY ANALYSIS WILL BE CONDUCTED.

1 2. THE STATE AGENCY'S, COMMUNITY COLLEGE DISTRICT'S OR UNIVERSITY'S
2 PROPOSAL PRICE SHALL NOT BE LESS THAN ITS ATTRIBUTABLE FULLY ALLOCATED
3 COST FOR THE GOOD OR SERVICE, ITS PROPOSAL PRICE SHALL NOT BE BASED ON
4 PART-TIME LABOR PROVISIONS OR OTHER LESS COSTLY LABOR PROVISIONS TO A
5 GREATER PERCENTAGE THAN THESE PROVISIONS ARE EMPLOYED IN COMPARABLE
6 PROVISIONS WITHIN IT AND ITS PROPOSAL PRICE SHALL BE CONSISTENT WITH
7 CURRENTLY ADOPTED BUDGETS AND FINANCIAL PLANS.

8 G. THE BOARD SHALL NOT DISCLOSE ANY INFORMATION DERIVED FROM
9 PETITIONS SUBMITTED BY COMPETING OFFERORS. A PETITION OF INTEREST SHALL
10 NOT BE A PUBLIC RECORD UNTIL ONE OF THE FOLLOWING OCCURS:

11 1. THE DIRECTOR OR HEAD OF THE AFFECTED STATE AGENCY, COMMUNITY
12 COLLEGE DISTRICT OR UNIVERSITY HAS ISSUED A WRITTEN RESPONSE TO THE BOARD
13 REJECTING THE BOARD'S RECOMMENDATION.

14 2. THE DIRECTOR OR HEAD OF THE AFFECTED STATE AGENCY, COMMUNITY
15 COLLEGE DISTRICT OR UNIVERSITY HAS ISSUED A WRITTEN RESPONSE TO THE BOARD
16 ACCEPTING THE BOARD'S RECOMMENDATION, AND A CONTRACT HAS BEEN AWARDED

17 H. AFTER THE BOARD COMPLETES THE MAKE OR BUY ANALYSIS, IT SHALL
18 MAKE A FORMAL RECOMMENDATION TO THE DIRECTOR OR HEAD OF THE AFFECTED STATE
19 AGENCY, COMMUNITY COLLEGE DISTRICT OR UNIVERSITY. THE RECOMMENDATION
20 SHALL STATE THE BOARD'S FINDINGS WITH RESPECT TO THE MAKE OR BUY ANALYSIS
21 AND SHALL REQUEST THAT THE BOARD'S RECOMMENDATION BE IMPLEMENTED.

22 I. THE DIRECTOR OR HEAD OF THE AFFECTED STATE AGENCY, COMMUNITY
23 COLLEGE DISTRICT OR UNIVERSITY SHALL REVIEW THE RECOMMENDATION AND RESPOND
24 IN WRITING TO THE BOARD WITHIN SIXTY DAYS AFTER RECEIVING THE BOARD'S
25 RECOMMENDATION. IF THE DIRECTOR OR HEAD OF THE AFFECTED STATE AGENCY,
26 COMMUNITY COLLEGE DISTRICT OR UNIVERSITY ACCEPTS THE BOARD'S
27 RECOMMENDATION, HE SHALL NOTIFY THE BOARD AND THE DEPARTMENT OF
28 ADMINISTRATION. THE PROCUREMENT SHALL BE CONDUCTED IN ACCORDANCE WITH
29 CHAPTER 23 OF THIS TITLE IN THE CASE OF A STATE AGENCY OR UNIVERSITY. IN
30 THE CASE OF A COMMUNITY COLLEGE DISTRICT, THE PROCUREMENT SHALL BE
31 CONDUCTED IN ACCORDANCE WITH APPLICABLE LAW. PRIVATE COMPANIES WHO
32 SUBMITTED PETITIONS OF INTEREST PURSUANT TO SUBSECTION C OF THIS SECTION
33 SHALL BE GIVEN AN OPPORTUNITY TO SUBMIT A BID OR PROPOSAL ON THE CONTRACT.

34 J. A DECISION BY THE DIRECTOR OR HEAD OF THE AFFECTED STATE AGENCY,
35 COMMUNITY COLLEGE DISTRICT OR UNIVERSITY TO REJECT THE BOARD'S
36 RECOMMENDATION SHALL INCLUDE A STATEMENT OF THE REASONS FOR THE REJECTION
37 AND ANY DATA USED IN MAKING THE DECISION TO REJECT THE RECOMMENDATION. NO
38 PERSON SHALL DERIVE A CAUSE OF ACTION BASED ON ANY REJECTION OF THE
39 BOARD'S RECOMMENDATION.

40 K. EACH AFFECTED STATE AGENCY, COMMUNITY COLLEGE DISTRICT OR
41 UNIVERSITY MAY MAKE CAPITAL FACILITIES AVAILABLE FOR OPERATION UNDER
42 CONTRACTS AWARDED TO PRIVATE COMPANIES SUBJECT TO THE SUPERVISION OF THE
43 STATE AGENCY, COMMUNITY COLLEGE DISTRICT OR UNIVERSITY.

44 L. FOR PURPOSES OF THIS SECTION:

45 1. "MAKE OR BUY ANALYSIS" MEANS AN ANALYSIS IN WHICH THE COSTS OF
46 INTERNAL PRODUCTION OF A GOOD OR SERVICE ARE COMPARED WITH THE COSTS OF
47 PRODUCTION BY OUTSIDE COMPANIES. THE PROCESS ASSUMES THE COMPARISON OF

1 THE TRUE COSTS OF PUBLIC AND PRIVATE PRODUCTION METHODS THAT RESULT IN
2 COMPARABLE PUBLIC GOODS OR SERVICES.

3 2. "PETITION OF INTEREST" MEANS THE DOCUMENT PROVIDED BY A PRIVATE
4 COMPANY WHICH EXPRESSES AN INTEREST IN PROVIDING A PUBLIC GOOD OR SERVICE
5 THAT IS CURRENTLY PROVIDED BY PUBLIC EMPLOYEES.

6 3. "PUBLIC GOODS OR SERVICES" MEANS ANY PRODUCT OR SERVICE PRODUCED
7 BY A STATE AGENCY, COMMUNITY COLLEGE DISTRICT OR UNIVERSITY UNDER ITS
8 PUBLIC AUTHORITY AND ANY PRODUCT OR SERVICE SUPPORTIVE OF OR ANCILLARY TO
9 ITS FUNCTIONS.

10 41-2773. Privatization by political subdivisions

11 NOTWITHSTANDING ANY OTHER LAW, ALL POLITICAL SUBDIVISIONS OF THIS
12 STATE SHALL ANNUALLY EVALUATE AND REVIEW OPPORTUNITIES TO CONTRACT WITH
13 PRIVATE COMPANIES WHEN DEEMED TO BE IN THE PUBLIC INTEREST. FOR THE
14 PURPOSES OF THIS SECTION, "POLITICAL SUBDIVISION" MEANS ALL COUNTIES,
15 TOWNS AND CITIES, INCLUDING CHARTER CITIES.

16 Sec. 5. Initial implementation

17 The board shall cause the initial public notice required pursuant to
18 section 41-2772, subsection A, to be published no later than June 30,
19 1991. In addition to this published notice, the board, in conjunction
20 with the state purchasing office of the department of administration,
21 shall mail an announcement inviting petitions of interest to all persons
22 on the prospective bidder's list maintained by the state purchasing
23 administrator. The announcements shall be mailed no later than January
24 30, 1991 and shall contain at least the same information contained in the
25 notices published pursuant to section 41-2772, subsection A. The board is
26 not required to, but may in its sole discretion, mail such announcements
27 in subsequent years.

28 Sec. 6. Appropriation

29 The sum of one hundred thirty-five thousand seven hundred dollars is
30 appropriated from the state general fund in the following proportions:

31 1. Ninety-four thousand dollars to the department of commerce for
32 the purposes of employing personnel to hear and evaluate proposals to
33 provide public goods and services submitted by private enterprises.

34 2. Forty-one thousand seven hundred dollars to the department of
35 administration for the purposes of employing personnel to compile and
36 maintain a list of persons engaged in private enterprise who are
37 interested in submitting bids to provide public goods or services to state
38 agencies and to evaluate bids submitted by persons engaged in private
39 enterprise.

NFIB Alaska

National Federation of
Independent Business

POSITION PAPER

OF

NATIONAL FEDERATION OF INDEPENDENT BUSINESS
(NFIB/ALASKA)

TO THE

ON

HB 300

AN ACT MAKING A SPECIAL APPROPRIATION TO THE ALASKA
LEGISLATIVE COUNCIL FOR A STUDY TO DETERMINE WHICH
GOODS AND SERVICES PROVIDED BY STATE AGENCIES CAN BE
PROVIDED BY THE PRIVATE SECTOR UNDER AWARD AFTER
COMPLETION OF A COMPETITIVE SEALED BIDDING OR
PROPOSAL PROCESS.

State Office
9159 Skywood Lane
Juneau, AK 99801
(907) 789-4278



The Guardian of
Small Business

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS RESA JERREL, AND I REPRESENT THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS - NFIB/ALASKA.

NFIB/ALASKA IS COMPRISED OF 3,240 SMALL AND INDEPENDENT BUSINESS OWNERS. THE LEGISLATIVE AGENDA OF NFIB/ALASKA IS DETERMINED BY OUR BALLOT. THE BALLOT IS OUR ANNUAL POLL OF OUR MEMBERSHIP ON A SERIES OF ISSUES DEEMED CRITICAL TO SMALL BUSINESS. A MAJORITY VOTE, OF THE MEMBERS IN RESPONSE TO THE POLL, SETS OUR POLICY AND POSITION ON LEGISLATIVE ISSUES. WE THEN SHARE THE RESULTS OF OUR POLL WITH THE LEGISLATURE AND ADMINISTRATION. THERE IS NOT ENOUGH SPACE ON THE ANNUAL POLL TO PLACE EVERY POSSIBLE ISSUE TO OUR MEMBERSHIP. THEREFORE, WE ALSO USE THE THREE PREVIOUS YEARS BALLOT RESULTS AS GUIDANCE ON ISSUES.

THE FOLLOWING IS THE RESULT OF THE 1991 NFIB/ALASKA BALLOT QUESTION REGARDING CREATING A TASK FORCE ON UNFAIR COMPETITION:

SHOULD THE LEGISLATURE ESTABLISH A PRIVATE ENTERPRISE PRESERVATION TASK FORCE IN ORDER TO STUDY AND RECOMMEND LEGISLATION TO LIMIT COMPETITION WITH PRIVATE BUSINESS BY STATE AND LOCAL GOVERNMENT?

YES 67% NO 23% UNDECIDED 10%

THE FOLLOWING IS THE RESULT OF THE 1988 NFIB/ALASKA BALLOT QUESTION REGARDING UNFAIR COMPETITION:

SHOULD LEGISLATION BE ENACTED TO RESTRICT THE COMMERCIAL ACTIVITIES OF GOVERNMENT ENTITIES SO THEY ARE NOT PERMITTED TO COMPETE WITH EXISTING PRIVATE ENTERPRISES?

YES 78% NO 12% UNDECIDED 10%

WE ARE ENCOURAGED BY THE INTRODUCTION OF HB 300. SMALL BUSINESSES IN ALASKA FACES COMPETITION FROM STATE AND LOCAL GOVERNMENT AGENCIES IN A WIDE VARIETY OF COMMERCIAL ACTIVITIES. MANY SMALL BUSINESS SUCH AS PRINTING FIRMS, GIFT SHOPS, VIDEOTAPE OUTLETS, DAY-CARE CENTERS, SERVICE STATIONS, LABORATORIES, MEDICAL

PAGE: 2

CARE PROVIDERS, PHARMACIES, ARCHITECTURE AND ENGINEERING FIRMS AND OTHERS FACE COMPETITION FROM STATE AND LOCAL GOVERNMENT.

WE RECEIVE NUMEROUS COMPLAINTS FROM OUR MEMBERS ABOUT GOVERNMENT COMPETITION. BUT, NO ONE HAS COLLECTED A SPECIFIC LIST OF THE TYPES OF BUSINESSES THE STATE IS ENGAGED IN, THAT CAN BE PROVIDED BY THE PRIVATE SECTOR. HB 300 WILL ACCOMPLISH THIS EXAMINATION OF THE ISSUE.

THIS IS A MAJOR ISSUE NATIONWIDE. ATTACHED IS A COPY OF THE MODEL STATE UNFAIR COMPETITION BILL DEVELOPED BY THE BUSINESS COALITION FOR FAIR COMPETITION. ALSO, ATTACHED ARE THE LAWS ARIZONA AND COLORADO HAVE PASSED AND SEVERAL ARTICLES ON THE ISSUE.

THANK YOU FOR THE OPPORTUNITY TO TESTIFY IN FAVOR OF THIS VERY IMPORTANT BILL.



House State Affairs Committee

Representative Gene Kubina, Chair

DATE: May 8, 1991

PLACE: Capitol, Rm 102

SUBJECT OF MEETING:
HB 300

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
<i>Russ Jurel</i>	<i>NFIB</i>	<i>9159 Skywood</i>	<i>99801</i>	<i>89-4278</i>		<input checked="" type="radio"/> Y	<input type="radio"/> N	<i>HB 300</i>
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
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