

HB324

# SENATE FINANCE COMMITTEE REPORT

DATE: 5/9/92

FURTHER:

DATE TURNED INTO OFFICE: 5/16/92

The Finance Committee considered CS FOR HOUSE BILL NO. 324 (FINANCE)

"An Act relating to state procurement preferences for persons with a disability, for persons who hire persons with a disability, and for employment programs for persons with a disability; and providing for an effective date."

and recommends:

[ ] replace with \_\_\_\_\_ CS \_\_\_\_\_ (FINANCE)  
or  adopt previous S CS HB 324 (STA)  
[ ] attaches amendment(s)

[ ] same title  
[ ] new title  
[ ] technical title change (HB only)

[ ] adopts \_\_\_\_\_ Letter of Intent

[ ] further referral to the \_\_\_\_\_

do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

**NEW FISCAL NOTES:** Dept/Date

[ ] zero fiscal notes \_\_\_\_\_

[ ] fiscal notes \_\_\_\_\_

[ ] appropriation--no fiscal note

**PREVIOUS FISCAL NOTES:** Dept/Date

[ ] zero fiscal notes DOA 4-17-92

[ ] fiscal notes \_\_\_\_\_

**DO PASS:**

John Duncan  
Earl Adams  
Sublette  
DO PASS

Co-Chair: Signature/Recommendation

**OTHER RECOMMENDATIONS:**

Tom Hill  
Do Pass

Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. SCS CSHB 324 (STA)

REPORTED OUT OF  
SFC 5-11-92

Revision Date: April 15, 1992  
Title: An Act relating to state procurement preferences for persons with . . . .  
Sponsor: Ellis  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: General Services  
Component: Purchasing

COMPONENT SERIAL NO. 

6	0		
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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 FUND SOURCE:	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 FUND SOURCE:	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.)  
See attached.

Prepared by: Anne McCord, Director  
Division: General Services

Phone: 465-2250  
Date: April 15, 1992

Approved by Commissioner: Nancy Bear Usera  
Agency: Administration

Date: 4/17/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. SCS CSHB 324 (STA)

Analysis:

The fiscal impact of this bill to agency expenditures depends upon the number of bidders who would qualify for the preference and the instances when they bid on a State solicitation.

Since the 1988 adoption of AS 36.30.170 there have been no bids awarded to employment programs as a result of the existing 10 percent preference over nonresident bidders.

The likelihood of fiscal impact to all agency expenditures from section 3 (e) and (f) (10 percent preference for bidders with a disability or bidders employing the disabled) may be greater since there may be more bidders qualifying. It is not possible to determine the potential cost impact to agency expenditures.

This bill will have a negligible fiscal impact to the division's purchasing activities.

NEW BILL IN  
COMMITTEE 5-9-92

SENATE CS FOR CS FOR HOUSE BILL NO. 324 (STATE AFFAIRS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/10/92  
Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES ELLIS, Brown, Bruckman, Choquette, Koponen

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state procurement preferences for persons with a disability, for persons  
2 who hire persons with a disability, and for employment programs for persons with a  
3 disability; and providing for an effective date."

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

5 \* Section 1. AS 36.30.170(a) is amended to read:

6 (a) Except as provided in (b) - (h) [(b), (c), AND (d)] of this section, the procurement  
7 officer shall award a contract based on the solicited bids with reasonable promptness by written  
8 notice to the lowest responsible and responsive bidder whose bid conforms in all material  
9 respects to the requirements and criteria set out in the invitation to bid.

10 \* Sec. 2. AS 36.30.170(c) is amended to read:

11 (c) Except as otherwise provided under (e) or (f) of this section, if [IF] a bidder  
12 qualifies under (b) of this section as an Alaska bidder, is offering services through an  
13 employment program, and is the lowest responsible and responsive bidder with a bid that is not  
14 more than 15 [10] percent higher than the lowest bid [OF A NONRESIDENT], the procurement

1 officer shall award the contract to that bidder. This subsection does not give a bidder who  
2 would otherwise qualify for a preference under this subsection a preference over another  
3 bidder who would otherwise qualify for a preference under this subsection.

4 \* Sec. 3. AS 36.30.170 is amended by adding new subsections to read:

5 (e) If a bidder qualifies under (b) of this section as an Alaska bidder, is a sole  
6 proprietorship owned by an individual who is a person with a disability, and is the lowest  
7 responsible and responsive bidder with a bid that is not more than 10 percent higher than the  
8 lowest bid, the procurement officer shall award the contract to that bidder. This subsection does  
9 not give a bidder who would otherwise qualify for a preference under this subsection a preference  
10 over another bidder who would otherwise qualify for a preference under this subsection or (f) of  
11 this section.

12 (f) If a bidder qualifies under (b) of this section as an Alaska bidder, if 50 percent or  
13 more of the bidder's employees at the time the bid is submitted are persons with a disability, and  
14 if the bidder is the lowest responsible and responsive bidder with a bid that is not more than 10  
15 percent higher than the lowest bid, the procurement officer shall award the contract to that bidder.  
16 The contract must contain a promise by the bidder that the percentage of the bidder's employees  
17 who are persons with a disability will remain at 50 percent or more during the contract term.  
18 This subsection does not give a bidder who would otherwise qualify for a preference under this  
19 subsection a preference over another bidder who would otherwise qualify for a preference under  
20 this subsection or (e) of this section.

21 (g) The division of vocational rehabilitation in the Department of Education shall add to  
22 its current list of qualified employment programs a list of individuals who qualify as persons with  
23 a disability under (e) of this section and of persons who qualify under (f) of this section as  
24 employers with 50 percent or more of their employees being persons with disabilities. A person  
25 must be on this list at the time the bid is opened in order to qualify for a preference under (e)  
26 or (f) of this section.

27 (h) A preference under (c), (e), or (f) of this section is in addition to any other preference  
28 for which the bidder qualifies, including the preference under (b) of this section; however, a  
29 bidder may not receive a preference under both (e) and (f) of this subsection for the same  
30 contract.

31 (i) In this section, "person with a disability" means an individual

1 (1) who has a severe physical or mental disability that seriously limits one or  
2 more functional capacities in terms of employability; in this paragraph, "functional capacities"  
3 means mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or  
4 work skills;

5 (2) whose physical or mental disability

6 (A) results from amputation, arthritis, autism, blindness, burn injury,  
7 cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia,  
8 hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness,  
9 multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders,  
10 paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning  
11 disability, or end stage renal disease; in this subparagraph, "neurological disorders"  
12 include stroke and epilepsy; or

13 (B) is a disability or combination of disabilities that are not identified in  
14 (A) of this paragraph and that are determined on the basis of an evaluation of  
15 rehabilitation potential to cause substantial functional limitation comparable to a disability  
16 identified in (A) of this paragraph; and

17 (3) whose vocational rehabilitation can be expected to require multiple vocational  
18 rehabilitation services over an extended period of time.

19 \* Sec. 4. AS 36.30.250(b) is amended to read:

20 (b) In determining whether a proposal is advantageous to the state, the procurement  
21 officer shall take into account, in accordance with regulations of the commissioner, whether the  
22 offeror qualifies as an Alaska bidder under AS 36.30.170(b), [OR] is offering the service of an  
23 employment program, or qualifies for a preference under AS 36.30.170(e) or (f).

24 \* Sec. 5. AS 36.30.900 is amended to read:

25 Sec. 36.30.900. PRODUCT PREFERENCES. This chapter does not modify  
26 AS 36.15.010 and 36.15.020 regarding preference for Alaska forest products, or AS 36.15.050  
27 and 36.15.060 regarding preference for Alaska agricultural and fisheries products, except as  
28 provided in AS 36.30.170(b), [AND] (c), and (e) - (h), and 36.30.339.

29 \* Sec. 6. This Act applies to procurements that begin on or after the effective date of this Act.

30 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

3111 C STREET, SUITE 455  
ANCHORAGE, ALASKA 99503  
(907) 561-7628

WHILE IN SESSION  
P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 485-3704

# ALASKA STATE HOUSE



CHAIR  
RULES COMMITTEE

JUDICIARY

SPECIAL COMMITTEE ON INTERNATIONAL  
TRADE & TOURISM

LEGISLATIVE COUNCIL

REPRESENTATIVE JOHNNY ELLIS

## **SPONSOR STATEMENT**

### **CSHB 324 Business Incentives for Hiring People with Disabilities**

The purpose of this bill is to promote active business involvement between the State of Alaska and people experiencing a disability. CSHB 324 amends Alaska's procurement statutes (AS 36.30) to make three changes in favor of people with disabilities. The changes apply to the process of bidding on state contracts to provide services such as printing and janitorial services.

1. Increase the current procurement preference for employment programs (nonprofits that train people with disabilities for work) from 10 percent to 15 percent.
2. Creates a 10 percent preference for a business that employs more than 50 percent of its workforce with people who experience a disability.
3. Creates a 10 percent preference for a business that is owned by a person with a disability.

### **REASONS TO SUPPORT CSHB 324**

**1. Improves quality of life for people who experience disabilities.** — Having a job increases a person's independence and ability for self-support.

**2. Saves the State money.** — State grant dollars to employment programs to provide residential support are decreased and sometimes eliminated, due to the fact that people are working, earning wages, and living on their own.

Over the last three years, ASETS in Anchorage has served 20 people on wait lists who experience development disabilities. Assuming an average annual service cost of \$8,000 to \$10,000 per person, they have saved the state Division of Mental Health and Developmental Disabilities at least \$320,000

**3. People with Disabilities are not being hired** — An ISER Report shows that over 3,500 Alaskans who experience disabilities are waiting for jobs or job training. There is only one for-profit business owned by a person with a disability in Alaska and zero for-profit businesses that employ people with disabilities as their main workforce.



The original bill has been amended throughout the committee process to produce Senate CS for CS for HB 324 (State Affairs). Amendments adopted include changing the definition of a person with a disability so that the definition is more work-related. It narrows the definition of a business owned by a person with a disability to make sure that the business is a sole proprietorship. And it prevents a business owner who experiences a disability, and who hires more than 50 percent of his or her workforce with people who experience a disability, from qualifying for two procurement preferences in this bill (page 2, sections e and f).

**The Department of Administration has submitted a zero fiscal note.**

The Americans with Disabilities Act (ADA) of 1990 took effect on Jan. 26, 1992. This mandates the elimination of discrimination against persons with disabilities — a right many Alaskans have been fighting to achieve for years. The purpose of CSHB 324 is to give an added incentive for businesses to hire people with disabilities.

It is time to get rid of the perceptions and attitudes that keep businesses from hiring people with disabilities. People who want to work should have the opportunity to contribute to the workforce. Having a job increases a person's independence and ability for self support and decreases reliance on public funds.

**CSHB 324 IS SUPPORTED BY:**

Access Alaska  
Supportive Service Enterprises  
Alaska State Department of Education, Division of Vocational Rehabilitation  
Lifequest Comprehensive Mental Health Services  
Kodiak Area Native Association  
Alaska Specialized Education and Training Services  
Work Force Development Agency  
REACH Employment Program  
Frontier Training Center  
Fairbanks Resource Agency

Thank you for your consideration of CSHB 324.

# STATE OF ALASKA

## DEPARTMENT OF EDUCATION

### DIVISION OF VOCATIONAL REHABILITATION

WALTER J. HICKEL, GOVERNOR

CENTRAL OFFICE  
801 WEST 10TH STREET, SUITE 200  
JUNEAU, ALASKA 99811-1894  
PHONE: (907) 465-2814  
FAX: (907) 465-2856  
TTD: (907) 465-2440

March 10, 1992

Representative Johnny Ellis  
Alaska State Legislature  
Juneau, Alaska 99801

Re: House Bill No. 324  
Certification of People With Disabilities

Dear Representative Ellis,

At your request I present the following recommendations for the three qualified bidder areas covered by HB 324.

1. Employment Programs For Persons With Disabilities:

It is recommended that the current system for certifying employment programs remain unchanged.

This system, within the Division of Vocational Rehabilitation, certifies qualified employment programs throughout the state. These employment programs are developed to employ people who meet the definition of severely disabled.

The division updates the employment program list on an ongoing basis and supplies a copy to General Services and Supply.

2. Determining Which Persons With A Disability Are Eligible:

It is recommended that, in order for a person to qualify as a "person with a disability" they must present medical evidence to the Division of Vocational Rehabilitation to substantiate their claim. The Division of Vocational Rehabilitation considers that evidence in determining whether or not they can be certified.

The definition contained in the Bill (Sec. 3(g)(1) and (2) is very appropriate and adequate.

Certifying a person with a disability for this

section will require medical documentation. Generally a person who meets this definition will have extensive medical records available that can be presented to the division for use in certification. The cost of medical records would be the responsibility of the person seeking certification.

It is recommended that an individual who has a rating of at least 50% disabled by the Veterans Administration be automatically considered severely disabled and, therefore, eligible for certification by the division.

3. Determining Which Programs Are Eligible For Participation Under The Law:

It is recommended that, in order for a program to be eligible for participation that program must be either:

- a) employ certified individuals in a sheltered environment such as a workshop, enclave or small work crew, or
- b) have at least one-half of their employees certified as severely disabled by the Division of Vocational Rehabilitation.

This section would require the same documentation as outlined in the section above.

We hope that this bill will provide employment opportunities for persons with disabilities who would not otherwise have equal access to state contracts.

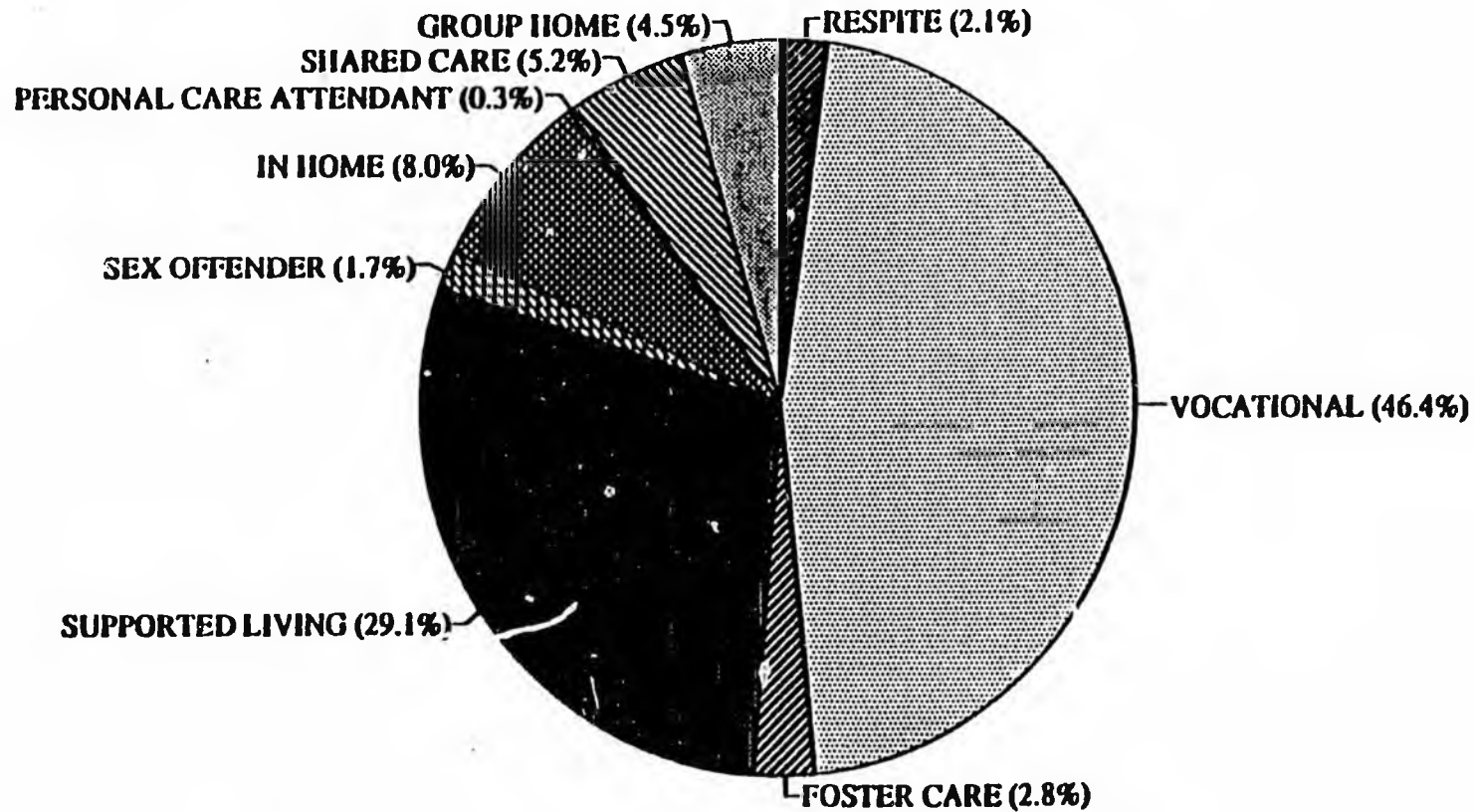
Historically most programs of this type employ persons with disabilities in a controlled settings with individual supervision of each employee.

Statistically, the division places a very small number of clients into self-employment. I personally don't foresee this bill opening the flood gates for the majority of business owners to receive an advantage in bidding.

Sincerely,

  
Stan Ridgeway  
Deputy Director

# **DEVELOPMENTAL DISABILITIES APPLICANT SERVICE REQUESTS**



WALTER J. HICKEL, GOVL

**DEPARTMENT OF EDUCATION**

**DIVISION OF VOCATIONAL REHABILITATION**

CENTRAL OFFICE  
P.O. BOX F  
JUNEAU, ALASKA 99811-0581  
PHONE: (907) 485-2814  
FAX: (907) 485-2818  
TTD: (907) 485-2440

February 5, 1992

Representative Johnny Ellis  
Alaska State Legislature  
Room 204, Capitol  
P.O. Box V  
Juneau, Alaska, 99811

Re: House Bill No. 324

Dear Representative Ellis:


Thank you for asking the division to respond to your bill allowing preference for qualified work programs and Alaskan business owners who are, or employ, people with disabilities.

Over the last several years there has been a shift in philosophy related to work programs which are owned by or employ persons with disabilities. The shift is away from what have been traditionally known as "sheltered workshops" to community based placements. Because of this shift your bill, as written, would provide incentives for sheltered workshops, supported employment programs and businesses which are either owned by or provide employment to persons with disabilities.

The division endorses H.B. 324 which allows bidder preference for a wide range of employment options for Alaskans with disabilities.

As you know, the Division of Vocational Rehabilitation has the responsibility of identifying qualified employment programs throughout the state. We offer our assistance to the Chief Procurement Officer to further identify bidders who meet the definition as outlined in this bill.

Sincerely,



Stan Ridgeway for  
Keith J. Anderson, Director  
Division of Vocational Rehabilitation



## Frontier Training Center

P.O. Box 2110

Soldotna, Ak. 99669

(907) 262-6331

March 25, 1991

Representative Johnny Ellis  
State Capitol  
Juneau, Ak.  
99801-1182

Dear Sir,

I fully support your legislative efforts in working towards passage of CSHB 324. Frontier Training Center is an employment center for persons with Developmental Disabilities. The abilities for disabled people to attain vocational placement in the community would be greatly enhanced by the passage of this bill.

Employment Centers work on integrating the disabled into the community with meaningful employment opportunities. This often means having supports such as Vocational Trainers, transportation to and from the work sites where no public transportation exists, Job Coaches and other supports. These are costs that other businesses do not have to factor into a competitive bid. These additional costs sometimes result in not receiving competitive contract awards. CSHB 324 would help to rectify these cost differentials and empower Employment Centers to provide employment opportunities.

CSHB 324 could provide additional deferral of those overhead costs necessary to provide vocational work opportunities to persons with disabilities. Any additional costs in providing these supports is more than offset by making a person with disabilities into tax paying citizens in their community of meaningful tie.

Employment Centers can provide a competitive product at the same time that they ensure that these special members of society are allowed to vocationally integrate into their communities. Your bill would allow for greater access into the community by providing individualized economic opportunities.

Cordially yours,

Rick A. Roaska  
Vocational Program Director



A United Way Agency

# ASETS\*

\*Alaska Specialized Education and Training Services, Inc.  
A Non-profit Alaskan Corporation

2330 Nichols Street  
Anchorage, AK 99508-3495  
(907) 278-8617

Karen Ward, Ed.D.  
Executive Director

3/24/92

Representative Johnny Ellis  
State Capitol, Room 204  
Juneau, Alaska 99801-1182

Dear Representative Ellis:

This letter is to express our support of HB324 (State procurement preferences for people with a disability). This bill will benefit Employment Programs such as ASETS and encourage the private sector to hire people with disabilities. It also provides an incentive for Title I of the Americans with Disabilities Act.

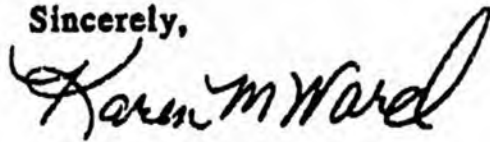
The private sector is under the false perception that state funded employment programs are unfair competition. It is important to note that state grants from Health and Social Service are not used to subsidize commercial operations. These grants are used to provide additional staff and resources to train and support people with developmental and psychiatric disabilities in employment. In other words, grants pay for the extraordinary training expenses associated with the population. All expenses related to the production of goods and services which create jobs for persons with disabilities served through our programs are solely supported by income generated through contracts. In other words, all equipment, wages (including production supervisors), transportation, raw materials, expendable supplies, and administrative overhead are paid from the contract. If expensive equipment is needed, we go to the bank and take out a loan

The importance of HB324 is that it will benefit people with disabilities. First, it means wages. ASETS has several labor contracts with the state and federal government as well as the private sector. Over the last 6 years we have expanded our services through contract labor with the state and federal government. The collective wages earned by the consumers in our program has increased from \$174,502 (1986) to \$596,933 (1991). These dollars are spent in

Alaska! If one assumes that every dollar spent in Alaska has an economic impact of 7 times, the economic impact of our program last year was \$4,178,531. Secondly, Employment Programs manage labor (commercial) contracts like any other business person. That is, we try to be efficient enough to have income exceed expenses. This excess is then used to support our program. Over the last 3 years we have served 20 individuals who experience developmental disabilities who were on state service waiting lists. Assuming an average annual service cost of \$8,000 - \$10,000 per person, we have saved the state Division of Mental Health and Developmental Disabilities at least \$320,000.

We look forward to HB324 becoming law. Please feel free to contact me should you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Karen M. Ward". The signature is written in black ink and is positioned below the word "Sincerely,".

Karen Ward, Ed.D.  
Executive Director

**FRA FRA**

Gary Roth, President  
 Paul Robinson, Vice-President  
 Nancy Dodge, Treasurer  
 Jim Morius, Secretary  
 Emily F. Ennis, Executive Director

**FAIRBANKS RESOURCE AGENCY**

805 AIRPORT ROAD • FAIRBANKS, ALASKA 99701 • (907)456-8901 • FAX 452-5171

March 27, 1992

Representative Johnny Ellis  
 State Capitol Building  
 Juneau Alaska 99801 1182

Compliments of  
 Representative Johnny Ellis

Dear Representative Ellis:

As an employment program serving over seventy individuals experiencing a disability, Fairbanks Resource Agency (FRA) supports CSHB 324 as an effective means of promoting work opportunities for people with disabilities.

FRA currently provides vocational training and employment to persons with disabilities through state contracts for janitorial services. These contracts have provided challenging and steady work as well as respectable paychecks for individuals who are striving to improve the quality of their lives. As important, these jobs also offer an opportunity to prove that employees who experience severe disabilities are reliable, conscientious and able to perform their jobs, at acceptable, and in many cases, above average standards. The opportunity to demonstrate ability on these jobs enhances the status and promotes the dignity of all persons who experience a disability.

Through increasing the current procurement preference for employment programs non-profits like FRA will have a better chance to be successful bidders on state contracts, thus putting additional individuals with disabilities to work. Those who would argue against the procurement preference must remember that our costs of doing business are often higher and may include increased training and supervision costs, as well as increased time and number of employees needed to complete the work to standard. The procurement preference assists an employment program in providing a competitive and realistic bid.

Rep Johnny Ellis  
Juneau Alaska  
March 27, 1992  
Page 2

Over the past twenty-five years, FRA has seen the difference that employment makes in the lives of people who experience a disability. A job provides identity; it provides dignity, it provides the means to independence. Recently I heard a young man who works on a janitorial crew at a state building say with pride in his voice, "Tomorrow my counselor is going to help me do my income tax, I may owe some more money." Those of us who bemoan tax time should take a moment to reflect on this young man's statement. Through the opportunity to work, he has moved from dependency on state assistance to a position as a proved, productive and contributing member of our community. There are many other Alaskans who want the chance to change their position, too. They want the chance to work and to contribute.

While the Americans with Disabilities Act (ADA) now stands before us as this century's most significant piece of legislation on behalf of people with disabilities, it will only be as powerful as the individuals, communities and states who stand behind it and support it through legislation and activity such as CSHB 324 provides. In supporting CSHB 324, I thank you again for your efforts on behalf of people with disabilities in Alaska.

Sincerely,

  
Emily F Ennis  
Executive Director

EFE/njm