

LEG. FINANCE - BILLS 1979 - 1980 1053

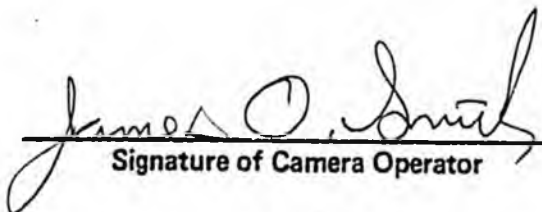
HB 153 thru HB 155



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Signature of Camera Operator


Date

STATE OF ALASKA

HB 153

THE LEGISLATURE

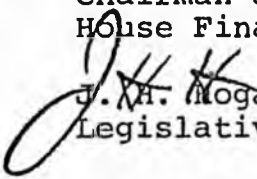
BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

February 9, 1979

MEMORANDUM

TO: Chairman and Members
House Finance Committee

FROM:  J. H. Mogan, Director
Legislative Finance Division

SUBJECT: JBC Concept - Points in Favor

Two years ago at the beginning of the legislative session, Senators John Sackett and Frank Ferguson and Representative Steve Cowper went to Denver, Colorado to observe the workings of Colorado's joint budget committee. They were impressed by the committee and its operation. However, on a one or two day visit, it was difficult to really grasp the full picture of the committee operation. That is what made the recently published book, "Budgeting is the Answer," such an important find. Joe Shoemaker was for twelve years a member of the Colorado Senate. During most of that time he served as a member of the joint budget committee and at least once he served as its chairman.

Senator Shoemaker's book gives a fairly detailed picture of JBC methods and highlights many system advantages as seen from the viewpoint of a legislator. I would recommend for your reading Chapters 1 through 9 and 16 through 22. But, as a summary, Chapter 22 lists what Shoemaker sees as the major reasons for the success of the JBC. (see pages 128 and 129, enclosed)

Using a "subcommittee" of the Budget & Audit Committee, SB 120 and HB 153 would establish a structure similar to the Colorado JBC. The advantages of such a structure would be:

1. A small cohesive committee of knowledgeable, hardworking members could do a better job for the legislature on a truly legislative budget.
2. Better staff direction. If Legislative Finance were to work for a single committee on the budget, the staff could anticipate committee needs better than under the existing three/four committee structure.

3. Better budget product. Colorado's JBC traditionally produces a well-thought-out and carefully-tied-together legislative budget. They do this by virtue of being better organized, better informed, and better equipped for fiscal decision making.
4. Compliance with legislative intent is vastly improved under a JBC structure. When the administration knows the legislature is well organized and determined to follow through on intent compliance, compliance improves.
5. If we honestly look at Alaska's existing legislative budget operation, we really have a "JBC" now. Alaska uses a six member conference committee to actually write the final budget. (See attached listing of appropriation conference committee size for other states) If we recognize and accept that fact and establish that "conference committee" on a year-round basis, Alaska could vastly improve the quality of the legislative budget traditionally produced from the Free Conference Committee.

JHH:pw

Enclosure

to appropriate and, therefore, it follows that the Legislature has the duty to budget appropriations.

There are four tangible (legislated) reasons and five intangible (based on experience) reasons why the JBC has been successful.

Tangible:

1. JBC members know what the *goals and objectives* of the Committee are. They're defined by statute, clear and concise — but looked at each year, year after year, as any goals and objectives should be.

2. The statute gives the JBC the *authority* to do what it does, and the Legislature can take away that authority any time it chooses. But until the statute is changed, there is no doubt that the JBC has the legal authority to recommend appropriations after any number of hearings it chooses to hold. *Nobody* else has this authority — nor should they, unless indecision and then chaos is desired, which always results when dual authority is present.

3. The JBC has been legislated and funded to hire a *staff*, not a big staff, but one of adequate size. The quality of the staff, not the quantity, makes the difference. Decision makers have to have sound ideas proposed by others and people who can ferret out facts and suggest incisive questions. The JBC staff has provided this capability.

4. The JBC is small. The statute sets the size, and, in this case, "Small is Beautiful." The JBC works successfully because no one can hide. Everyone must work and vote. The quickest way to destroy the effectiveness of the JBC would be to increase the number of members. Then no one would be responsible, and, consequently, there would be no reason to succeed. No one would know the difference.

Intangible:

1. The JBC asks for priorities from those requesting money. The Committee sets its own priorities. It knows it can't do everything, but what it does, it must do well. Otherwise, there would be no success story.

2. Work is the only four-letter word the Committee knows.

Those who can't work because of other obligations, or who won't work because they don't believe in it, cannot serve effectively on the JBC. It also takes sensible people to make laws work. The JBC has been blessed with sensible people — representative of the diverse interests of Colorado.

3. Thus, the JBC's source of strength is its six members with differing views who *debate* in the open the specifics, the issues and the policies inherent in funding or not funding.

4. Decisions are made by publicly recorded votes. The decisions aren't always the ultimate, but a decision on a request is better than no decision; and the process from hearings to figure setting leaves little to interpretation.

Finally, the JBC has an incentive to do the BEST BUDGETING within the State's resources. And it has the mechanism to accomplish it. The JBC knows that BUDGETING IS THE ANSWER to making government work.

I have found that the following maxim works wonders if you believe budgeting is the answer:

Ask them "Why?"
 Make them prove it.
 Make somebody do it.
 Don't be soft-hearted
 on the first (or
 second) hearing.
 They'll be back.
 Remember, PERFORMANCE
 is the name of the game.
 Think it. Legislate it.
 No more money unless
 you get it.

If legislatures wish to use the power of the purse strings to make their state governments work for the benefit of all their citizens, they may. And as the individual legislators take the job of budgeting seriously, they will find that the generalities usually associated with identifying them as "conservative" or "liberal" will diminish. Why? Because, they will have learned how to have a heart and they will now know how important it is to count.

APPROPRIATIONS AND REVENUE CONFERENCE COMMITTEES

State or other jurisdiction	Free conference	Limited conference	Size		All conferees are also on appropriations cmte.		Bills seldom or never go to conferences
			House	Senate	Yes	No	
Alabama.....	..*	..*	3	3	..*	..*	..*
Alaska.....	..*	..*	3	3	..*	..*	..*
Arizona.....	..*	..*	..*	..*	..*	..*	..*
Arkansas.....	..*	..*	..*	..*	..*	..*	..*
California.....	..*	..*	3	3	..*	..*	..*
Colorado.....	..*	..*	3	3	..*	..*	..*
Connecticut.....	..*	..*	..*	..*	..*	..*	..*
Delaware.....	..*	..*	7	7	..*	..*	..*
Florida.....	..*	..*	7	7	..*	..*	..*
Georgia.....	..*	..*	3	3	..*	..*	..*
Hawaii.....	..*	..*	Varies	Varies	..*	..*	..*
Idaho.....	..*	..*	..*	..*	..*	..*	..*
Illinois.....	..*	..*	5	5	..*	..*	..*
Indiana.....	..*	..*	2	2	..*	..*	..*
Iowa.....	..*	..*	5	5	..*	..*	..*
Kansas.....	..*	..*	3	3	..*	..*	..*
Kentucky.....	..*	..*	..*	..*	..*	..*	..*
Louisiana.....	..*	..*	3	3	..*	..*	..*
Maine.....	..*	..*	..*	..*	..*	..*	..*
Maryland.....	..*	..*	3	3	..*	..*	..*
Massachusetts.....	..*	..*	3	3	..*(a)	..*	..*
Michigan.....	..*	..*	3	3	..*	..*	..*
Minnesota.....	..*	..*	3	3	..*	..*	..*
Mississippi.....	..*	..*	3	3	..*	..*	..*
Missouri.....	..*	..*	5	5	..*	..*	..*
Montana.....	..*	..*	3	3	..*	..*	..*
Nebraska.....	..*	..*	..*	Unicameral	..*	..*	..*
Nevada.....	..*	..*	..*	..*	..*	..*	..*
New Hampshire.....	..*	..*	5	3	..*	..*	..*
New Jersey.....	..*	..*	..*	..*	..*	..*	..*
New Mexico.....	..*	..*	3	3	..*	..*	..*
New York.....	..*	..*	..*	..*	..*	..*	..*
North Carolina.....	..*	..*	15	11	..*	..*	..*
North Dakota.....	..*	..*	3	3	..*	..*	..*
Ohio.....	..*	..*	3	3	..*	..*	..*
Oklahoma.....	..*	..*	15	15	..*	..*	..*
Oregon.....	..*	..*	2	2	..*	..*	..*(b)
Pennsylvania.....	..*	..*	3	3	..*	..*	..*
Rhode Island.....	..*	..*	..*	..*	..*	..*	..*
South Carolina.....	..*(c)	..*	3	3	..*	..*	..*
South Dakota.....	..*	..*	3	3	..*	..*	..*
Tennessee.....	..*	..*	11	11	..*	..*	..*
Texas.....	..*	..*	5	5	..*	..*	..*
Utah.....	..*	..*	..*	..*	..*	..*	..*
Vermont.....	..*	..*	3	3	..*	..*	..*
Virginia.....	..*	..*	3	3	..*	..*	..*
Washington.....	..*	..*	3	3	..*	..*	..*
West Virginia.....	..*	..*	5	5	..*	..*	..*
Wisconsin.....	..*	..*	3	3	..*	..*	..*
Wyoming.....	..*	..*	..*	..*	..*	..*	..*
American Samoa.....	..*	..*	Varies	Varies	..*	..*	..*
Guam.....	..*	..*	..*	Unicameral	..*	..*	..*
Puerto Rico.....	..*	..*	5	5	N.A.	N.A.	..*
Virgin Islands.....	..*	..*	..*	Unicameral	..*	..*	..*

N.A.—Not available.

(a) Usually, but not always.

(b) Appropriations, seldom; revenue bills, more often.

(c) Both houses must, by 2/3 vote, give free conference powers when differences cannot be resolved.

COMMITTEE REPORT

HOUSE

FURTHER:

February 3, 1979

Date: _____

Mr. Speaker:

The Committee on FINANCE has had HB 153

"An Act relating to the Legislative Budget and Audit Committee; establishing a joint budget subcommittee; eff. date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

Introduced: 2/8/79
Referred: Finance

6257
Clev. Smith

1 IN THE HOUSE

BY MEEKINS AND DUNCAN

2 HOUSE BILL NO. 153

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Legislative Budget and Audit
7 Committee; establishing a joint budget subcommittee;
8 and providing for an effective date."

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

10 * Section 1. AS 24.20.161 is amended to read:

11 Sec. 24.20.161. MEMBERSHIP. The Legislative Budget and Audit Com-
12 mittee is composed of 10 members: (1) the chairmen of the senate and
13 house finance committees; (2) one majority and one minority member
14 selected from each of the senate and house finance committees and
15 appointed by the president of the senate and speaker of the house,
16 respectively; and (3) two [THREE] members appointed from each house by
17 the respective presiding officer. [THE CHAIRMAN OF THE FINANCE COMMIT-
18 TEE MAY CHOOSE NOT TO SERVE ON THE COMMITTEE. IF THIS OCCURS, THE
19 PRESIDING OFFICER OF THE APPROPRIATE HOUSE SHALL APPOINT A REPLACEMENT
20 FROM THE FINANCE COMMITTEE. THE MEMBERSHIP FROM EACH HOUSE SHALL IN-
21 CLUDE AT LEAST ONE MEMBER FROM EACH OF THE TWO MAJOR POLITICAL PARTIES.]
22 The committee shall select its own chairman.

23 * Sec. 2. AS 24.20 is amended by adding a new section to read:

24 Sec. 24.20.195. JOINT BUDGET COMMITTEE. (a) The Joint Budget
25 Committee is established as a permanent interim subcommittee of the
26 Legislative Budget and Audit Committee. The subcommittee is composed of
27 the six members of the finance committee serving on the Legislative
28 Budget and Audit Committee in accordance with AS 24.20.161(1) and (2).

29 (b) The Joint Budget Committee shall

COMMITTEE COPY

1 (1) review state revenue projections and make recommendations
2 concerning revenues to the legislature, as provided in the Executive
3 Budget Act (AS 37.07); and

4 (2) review requests for state agency annual program appro-
5 priations and supplemental appropriations, and make recommendations on
6 these requests to the legislature in the format of an appropriation
7 bill, accompanied by the documentation for appropriation bills prepared
8 by the legislative finance division.

9 * Sec. 3. AS 37.07.070 is amended to read:

10 Sec. 37.07.070. LEGISLATIVE REVIEW. The legislature shall con-
11 sider the governor's proposed comprehensive operating and capital im-
12 provements programs and financial plans, evaluate alternatives to the
13 plans, make program selections among the various alternatives and deter-
14 mine, subject to available revenues, the level of funding required to
15 support authorized state services. During each regular session of the
16 legislature, legislative review of the plans shall be accomplished
17 according to the following schedule:

18 (1) By the 45th legislative day, the legislature shall have
19 established by concurrent resolution the total amount of state general
20 funds that shall be available for appropriation for the budget year and
21 the tentative allocation of the funds among program categories in both
22 the operating and capital budgets. The resolution shall be introduced
23 by the Joint Budget Committee [FINANCE COMMITTEE OF THE HOUSE IN WHICH
24 THE GENERAL APPROPRIATIONS BILL WAS INTRODUCED].

25 (2) By the 90th legislative day, the house in which the
26 general appropriations bill was introduced by the governor shall have
27 calendared for second reading a version of the general appropriations
28 bill as reported by the Joint Budget Committee. The bill shall be
29 supported with documentation to explain the proposed appropriations and

1 related statements of intent. In addition, a list of other appropria-
2 tions or measures with fiscal implications pending before the legisla-
3 ture shall be included with the documentation for the calendared bill.

4 * Sec. 4. AS 24.20.201(b) is repealed.

5 * Sec. 5. This Act takes effect January 1, 1981.
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ALASKA STATE LEGISLATURE

EVENTH Legislature FIRST... Session

HOUSEBILL..... NO. 153...

By MEEKINS AND DUNCAN.....

An Act relating to the Legislative Budget and Audit Committee; establishing a joint budget subcommittee; and providing for an effective date."

oint budget subcommittee

Introduced in the House ..2-8....., 19..79

HISTORY IN THE HOUSE

19 79	Read first time and referred to Committee on Finance																												
Feb 7 8	Reported back with recommendation that																												
	Read second time and																												
	Read third time and																												
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HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor by Governor
	Filed with Lt. Governor
	Chapter No.

Introduced: 2/8/79
Referred: Finance

1 IN THE HOUSE

BY MEEKINS AND DUNCAN

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CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Introduced: 2/8/79
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STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

February 9, 1979

M E M O R A N D U M

TO: Chairman and Members
House Finance Committee

FROM: *J.H.H.*
J.H.H. Hogan, Director
Legislative Finance Division

SUBJECT: SB 120/HB 153 - Fiscal Note

The concept of a joint budget committee as established under both SB 120 and HB 153 would require no additional staff or expense for Legislative Finance.

Some additional funds might eventually be added to the committee budget if the subcommittee as formed planned a very heavy interim meeting schedule. If a heavy meeting schedule were not envisioned, I believe the subcommittee could function efficiently within the existing budget proposed for the committee.

At any rate, with a 1981 effective date, no additional funding will be required for the next two fiscal years.

JHH:pw



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

3/8/90
Date

(11)

COMMITTEE REPORT

HOUSE

1/30/80

FURTHER:

Date: 3/27/80

Mr. Speaker:

The Committee on FINANCE has had HB 154

"An Act relating to creditable service under the teachers' retirement system for territorial employment; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass [] do not pass
- [] do pass with attached amendments(s)
- [] replace with CS for _____ [] same title [] new title
- and recommends _____
- [] AND attaches a "Letter of Intent" [] New Fiscal Note
- [] reports it back without ^{individual} recommendation (Dated 2/14/79)
- [] referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

[Signature]

[Signature]

[Signature]

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

[Signature] - No Rec.

[Signature] - No Rec.

[Signature] - No Rec.

[Signature] - No Rec.

[Signature] - Do not Rec.

[Signature]
CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. House Bill 154
 Title Inclusion of Certain Territorial Employees in the TRS
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Administration - Division of Retirement and Benefits
 Program Category Affected Retirement and Benefits (TRS)
 BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-02
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 TRS STATE MATCH		23.1	23.1	25.1	23.1	23.1
100 BENEFITS		5.3	5.3	5.3	5.3	5.3
TOTAL		28.4	28.4	28.4	28.4	28.4

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND		28.4	28.4	28.4	28.4	28.4
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME						
PART TIME						
TEMPORARY						

- III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
- AS 14.25.220(5) already allows service as a teacher in a public school within the territory to be counted as membership service (TRS).
 - AS 39.35.360(a) already allows service as an employee of the territory to be counted as credited service (PERS).
 - HB 154 would allow non-teaching service to be credited in the TRS.
 - It is estimated, based upon information provided last year (SB 377), that 12-15 employees would qualify for benefits.
 - Estimate FY 80 covered TRS payroll to be \$231,000,000.
 - Increase in combined TRS State Match and employer contribution rate would be .02%.
 - The total present day value of the benefits provided under this bill amounts to \$414,356, or an average of \$27,624 per teacher. These benefits will be funded with level payments of \$28,400 per year for the next 30 years, resulting in a total cash outlay by the State of \$852,000.
 - Cost breakout as attached.

IV. DATE 2/14/79 PREPARED BY Paul B. Arnoldt, Director
 AGENCY Division of Retirement & Benefits
 PHONE 465-4460

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) Representative Duncan
 Office of the Governor (Keith Specking)

ATTACHMENT

Bill/Resolution No. HB 154

ASSUMPTIONS:

- 1. Estimated FY80 Payroll (Total System) = \$231,000,000
- 2. State Contribution Rate to Fund Bill = .01%
- 3. State TRS Matching Rate to Fund Bill = .01%
- 4. School District Rate to Fund Bill = .01%

COST ANALYSIS:

<u>Employer</u>	<u>Payroll</u>		<u>Rate</u>	<u>Cost</u>	<u>Appropriation</u>
1. Department of Education	\$ 6,000,000	X	.01%	\$ 600	To Their Budget
2. University of Alaska	\$ 47,000,000	X	.01%	\$ 4,700	To Their Budget
				<u>\$ 5,300</u>	
3. State TRS Matching	\$231,000,000	X	.01%	\$23,100	To TRS Match
4. State TRS Regular Budget:					
Personal Services				\$ -0-	To Personal Service
Travel				\$ -0-	To Travel
Contractual				\$ -0-	To Contractual
Commodities				\$ -0-	To Commodities
Equipment				<u>\$ -0-</u>	To Equipment
				<u>\$28,400</u>	
5. All School Districts	\$178,000,000	X	.01%	<u>\$17,800</u>	
				<u>\$46,200</u>	

REMARKS:

Introduced: 2/8/79
Referred: State Affairs and
Finance

1 IN THE HOUSE

BY DUNCAN

2 HOUSE BILL NO. 154

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to creditable service under the
7 teachers' retirement system for territorial employment;
8 and providing for an effective date."

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

10 * Section 1. AS 14.25 is amended by adding a new section to read:

11 Sec. 14.25.105. CREDIT FOR SERVICE AS AN EMPLOYEE OF THE TERRITORY
12 OF ALASKA. (a) A teacher who completes 15 years of membership service
13 under this chapter may elect to receive creditable service for employ-
14 ment rendered to the Territory of Alaska before January 3, 1959, regard-
15 less of the office, department, division or agency of the territory in
16 which he was employed. Creditable service allowed under this section
17 may not exceed five years.

18 (b) A teacher may not be credited with service under this section
19 if credit for service as an employee of the Territory of Alaska was
20 granted for the same period under the public employees' retirement
21 system (AS 39.35).

22 (c) A teacher who elects service credit under this section for
23 prior service to the Territory of Alaska shall make a retroactive con-
24 tribution under this system for the period of territorial employment
25 following June 30, 1955.

26 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
27 070(c).

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. House Bill 154
 Title Inclusion of Certain Territorial Employees in the TRS
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Administration - Division of Retirement and Benefits
 Program Category Affected Retirement and Benefits (TRS)
 BRU, Program, or Subprogram(s) Affected 02-96-B-01-01-02
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
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600 LAND & STRUCTURES						
700 TRS STATE MATCH		23.1	23.1	25.1	23.1	23.1
100 BENEFITS		5.3	5.3	5.3	5.3	5.3
TOTAL		28.4	28.4	28.4	28.4	28.4

FUNDING (Thousands of Dollars)

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GENERAL FUND		28.4	28.4	28.4	28.4	28.4
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

- AS 14.25.220(5) already allows service as a teacher in a public school within the territory to be counted as membership service (TRS).
- AS 39.35.360(a) already allows service as an employee of the territory to be counted as credited service (PERS).
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- The total present day value of the benefits provided under this bill amounts to \$414,356, or an average of \$27,624 per teacher. These benefits will be funded with level payments of \$28,400 per year for the next 30 years, resulting in a total cash outlay by the State of \$852,000.
- Cost breakout as attached.

IV. DATE 7/1/79 PREPARED BY Paul B. Arnoldt, Director
 AGENCY Division of Retirement & Benefits
 PHONE 465-4460

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) Representative Duncan
 Office of the Governor (Keith Specking)

ATTACHMENT

Bill/Resolution No. HB 154

ASSUMPTIONS:

- 1. Estimated FY80 Payroll (Total System) = \$231,000,000
- 2. State Contribution Rate to Fund Bill = .01%
- 3. State TRS Matching Rate to Fund Bill = .01%
- 4. School District Rate to Fund Bill = .01%

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<u>Employer</u>	<u>Payroll</u>		<u>Rate</u>	<u>Cost</u>	<u>Appropriation</u>
1. Department of Education	\$ 6,000,000	X	.01%	\$ 600	To Their Budget
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				<u>\$ 5,300</u>	
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				<u>\$28,400</u>	
5. All School Districts	\$178,000,000	X	.01%	\$17,800	
				<u>\$46,200</u>	

REMARKS:

Introduced: 2/8/79
Referred: State Affairs and
Finance

1 IN THE HOUSE

BY DUNCAN

2 HOUSE BILL NO. 154

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to creditable service under the
7 teachers' retirement system for territorial employment;
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13 under this chapter may elect to receive creditable service for employ-
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15 less of the office, department, division or agency of the territory in
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17 may not exceed five years.

18 (b) A teacher may not be credited with service under this section
19 if credit for service as an employee of the Territory of Alaska was
20 granted for the same period under the public employees' retirement
21 system (AS 39.35).

22 (c) A teacher who elects service credit under this section for
23 prior service to the Territory of Alaska shall make a retroactive con-
24 tribution under this system for the period of territorial employment
25 following June 30, 1955.

26 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
27 070(c).

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RECORDS CERTIFICATION



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James O. Smith
Signature of Camera Operator

3/8/90
Date

COMMITTEE REPORT HOUSE

FURTHER:

February 8, 1979

Date: 3-14-79

Mr. Speaker:

The Committee on FINANCE has had HB 155

"An Act relating to competitive bidding under the Fiscal Procedures Act."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^{Finance} CS for HB 155 same title
 new title
and ~~recommends~~ reports it back without recommendation.
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

Meekins

Rogers

H. [unclear]

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

McKinnon - No Rec

Smith - No Rec

~~_____~~

H. [unclear] - No Rec

Montgomery - No Rec

Freeman - No Rec

Meekins
CHAIRMAN

Original sponsors: Meekins and Phillips

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 155

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to competitive bidding under the Fis-
7 cal Procedures Act."

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

9 * Section 1. AS 37.05.230(1)(B) is repealed and re-enacted to read:

10 (B) a bid shall be awarded to an Alaska bidder if his
11 bid is not more than 15 per cent higher than the bid of the lowest
12 nonresident bidder and the Alaska bidder is an Alaska manufacturer
13 of the supplies, materials, or equipment to be purchased; and

14 * Sec. 2. AS 37.05.230(7) is amended to read:

15 (7) the provisions of (1)(B) of this section [RELATIVE TO AN
16 "ALASKA BIDDER"] do not apply to contracts for construction or repair
17 [ESTIMATED TO EXCEED \$5,000, OF EITHER THE DEPARTMENT OF TRANSPORTATION
18 AND PUBLIC FACILITIES WHICH ARE AUTHORIZED UNDER AS 35.15, OR THE
19 DEPARTMENT OF HIGHWAYS, WHICH ARE AUTHORIZED UNDER AS 19.10].

20 * Sec. 3. AS 37.05.230 is amended by adding a new paragraph to read:

21 (9) the provisions of (1)(B) of this section do not apply to
22 purchases and contracts involving federal money received by the state if
23 the application of a bidding preference would violate federal law or
24 program guidelines.

25 * Sec. 4. AS 37.05.320 is amended by adding a new paragraph to read:

26 (5) "Alaska manufacturer" means a person engaged in a busi-
27 ness activity in the state by which he, through labor, art, or skill,
28 transforms raw or partially finished materials into some kind of article
29 of trade; and includes a corporation or partnership engaged in such

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activity

(A) whose majority interest is beneficially owned by residents of the state, and

(B) a majority of whose owners are residents of the state.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 155
Title competitive bidding under fiscal procedures act.
Requested by House Finance Committee Date 3/27/79

II. FISCAL DETAIL

Agency Affected All
Program Category Affected All
Budget Request Unit(s) Affected All

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		Ø				

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND		Ø				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME		Ø				
PART TIME		Ø				
TEMPORARY		Ø				

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

In recommending its Committee Substitute, it was the intention of the House Finance Committee that any cost increase attributable to this bill be absorbed within the budget appropriations to the various state agencies. The actual cost increase for goods and services effected by the Legislation is not predictable. The real effect of the Legislation will be an improvement to the Alaskan business economy, and perhaps a slightly reduced level of state agency purchases of goods and services, since goods and services will cost slightly more; but it was the Committee's feeling that the assistance to Alaskan businesses was more important than the slight increase in the cost of goods and services to state agencies.

IV. DATE 3/27/79

PREPARED BY Russ Meekins, Chairman
AGENCY House Finance Committee
PHONE: 465-3795

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

A M E N D M E N T

Offered in the FINANCE COMMITTEE

By Meekins

TO: HOUSE BILL NO. 155

Page 1, line 28 - page 2, line 4:

Delete sec. 3 and insert the following in its place.

* Sec. 3. AS 37.05.230(7) is amended to read:

(7) The provisions of (1)(B) and (1)(D) of this section [RELATIVE TO AN "ALASKA BIDDER"] do not apply to contracts for construction and repairs [ESTIMATED TO EXCEED \$5,000, OF EITHER THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, WHICH ARE AUTHORIZED UNDER AS 35.15, OR THE DEPARTMENT OF HIGHWAYS, WHICH ARE AUTHORIZED UNDER AS 19.10].

Buy Alaskan Committee

4604 BUSINESS PARK BLVD.
ANCHORAGE, ALASKA 99503

Representative Russ Meekins
Pouch V
Juneau, Alaska 99811

Subject: Alaska Statutes; Article 4. Uniform Purchasing.

The enclosure represents a legislative change proposal to Article 4 in support of the Buy Alaskan Committee position of placing a more reasonable share of Alaska State procurement with Alaska businesses.

The proposal embodies simple wording changes consistent with the existing statute as well as the repeal of the Alaska bidder preference portion of the statute.

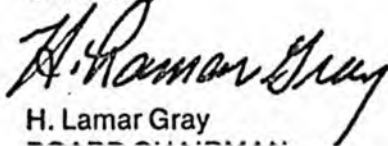
In effect, the changes herein proposed would allow Alaska bidders an exclusive opportunity for Alaska State supply requirements when known competition exists within Alaska among registered Alaska bidders. When no known supplier exists, the Department of Administration has the authority to advertise solicitations for state requirements to non-Alaska bidders.

The Buy Alaskan Committee requests that you review our proposal and evaluate the feasibility of this approach as an effort to bring about a more equitable position for Alaska vendors as regards state procurement requirements.

Your response as well as those forthcoming from other cooperating legislators will be utilized by our group to construct an actual bill that we will submit to the legislature during this session.

We greatly appreciate your interest in this matter.

Sincerely,



H. Lamar Gray
BOARD CHAIRMAN

BOARD MEMBERS
Lanny Edgeman
Gene Yonkins
Dan Hynish

ALASKAN

Sec. 37,05.230 Competitive bids. In the manner provided in this chapter and rules and regulations established under it:

(1) a contract for construction and repairs, or a purchase of and contract for supplies, materials, equipment, and contractual services must be based on competitive bids (ADVERTISED TO ALASKA BIDDERS); an award shall be made to the lowest responsible bidder after advertising for bids, except that (A) Repealed by sec. 2 ch 92 SLA 1967; (B) (this portion to be repealed) (A BID SHALL BE AWARDED TO AN ALASKA BIDDER IF HIS BID IS NOT MORE THAN FIVE PER CENT HIGHER THAN THE LOWEST NONRESIDENT BIDDER'S); (AND) (C) competitive bids need not be required (i) for contractual services where no competition exists; (ii) for sales involving fair trade items; (iii) (WHEN,) in (THE) (A DECLARED EMERGENCY) (JUDGMENT OF THE PURCHASING AGENT) food, clothing, or medical supplies, or materials for use in laboratory and experimental studies may be purchased otherwise to the best advantage of the state; (iv) where rates are fixed by law or ordinance; (v) for items traded in on like items; or (vi) for professional services; (AND (D) BIDS MAY BE ADVERTISED TO NON-ALASKA BIDDERS WHEN IT IS KNOWN THAT NO PROSPECTIVE ALASKA BIDDER EXISTS)

(2) if the amount of the contractual services, purchase, or sale is estimated to exceed \$2500 sealed bids shall be solicited, when practicable, by publication in a newspaper calculated to reach prospective (ALASKA) bidders and by posting notices in public places within the area where the work is to be performed or material furnished and in addition the department may also designate a trade journal for publication; the department shall also solicit bids by sending notices by mail to all active prospective (ALASKA) bidders known to it and all bids shall be sealed when received, and shall be opened in public at the hour stated in the notice; the department may negotiate directly if it finds that it is in the best interest of the state;

(3) no change

(4) no change

(5) an "Alaska bidder," for the purpose of bid awards under (1) (AND (1) (D)) of this section is a person who

(A) holds a current Alaska business license,

(B) submits a bid for goods or services under the name as appearing on his current Alaska business license,

(C) has maintained a place of business within the state for a period of six months immediately preceding the date of his bid.

KEY:

1. Bracketed, capitalized and underlined are changes to be added to the statute.
2. Bracketed and capitalized to be deleted or repealed from the statute.

Original sponsors: Meekins and Phillips

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 155

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to competitive bidding under the Fis-
7 cal Procedures Act."

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

9 * Section 1. AS 37.05.230(1)(B) is repealed and re-enacted to read:

10 (B) a bid shall be awarded to an Alaska bidder if his
11 bid is not more than 15 per cent higher than the bid of the lowest
12 nonresident bidder and the Alaska bidder is an Alaska manufacturer
13 of the supplies, materials, or equipment to be purchased; and

14 * Sec. 2. AS 37.05.230(7) is amended to read:

15 (7) the provisions of (1)(B) of this section [RELATIVE TO AN
16 "ALASKA BIDDER"] do not apply to contracts for construction or repair
17 [ESTIMATED TO EXCEED \$5,000, OF EITHER THE DEPARTMENT OF TRANSPORTATION
18 AND PUBLIC FACILITIES WHICH ARE AUTHORIZED UNDER AS 35.15, OR THE
19 DEPARTMENT OF HIGHWAYS, WHICH ARE AUTHORIZED UNDER AS 19.10].

20 * Sec. 3. AS 37.05.230 is amended by adding a new paragraph to read:

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22 purchases and contracts involving federal money received by the state if
23 the application of a bidding preference would violate federal law or
24 program guidelines.

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26 (5) "Alaska manufacturer" means a person engaged in a busi-
27 ness activity in the state by which he, through labor, art, or skill,
28 transforms raw or partially finished materials into some kind of article
29 of trade; and includes a corporation or partnership engaged in such

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activity

(A) whose majority interest is beneficially owned by residents of the state, and

(B) a majority of whose owners are residents of the state.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 155
 Title competitive bidding under fiscal procedures act.
 Requested by House Finance Committee Date 3/27/79

II. FISCAL DETAIL

Agency Affected All
 Program Category Affected All
 Budget Request Unit(s) Affected All

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		0				

FUNDING (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		0				
PART TIME		0				
TEMPORARY		0				

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

In recommending its Committee Substitute, it was the intention of the House Finance Committee that any cost increase attributable to this bill be absorbed within the budget appropriations to the various state agencies. The actual cost increase for goods and services effected by the Legislation is not predictable. The real effect of the Legislation will be an improvement to the Alaskan business economy, and perhaps a slightly reduced level of state agency purchases of goods and services, since goods and services will cost slightly more; but it was the Committee's feeling that the assistance to Alaskan businesses was more important than the slight increase in the cost of goods and services to state agencies.

IV. DATE 3/27/79 PREPARED BY Russ Meekins, Chairman
 AGENCY House Finance Committee
 PHONE 465-3795
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Introduced: 2/8/79
Referred: Finance

1 IN THE HOUSE

BY MEEKINS AND PHILLIPS

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10 (B) bids shall be awarded to Alaska bidders in accor-
11 dance with the following considerations:

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13 than the lowest nonresident bidder's and the Alaska bidder is
14 an Alaska manufacturer of the supplies, materials, or equip-
15 ment to be purchased;

16 (ii) if his bid is not more than 10 per cent higher
17 than the lowest nonresident bidder's; and

18 * Sec. 2. AS 37.05.230(1) is amended by adding a new subparagraph to
19 read:

20 (D) a bid shall be awarded to a nonresident bidder if
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22 (i) lower than any Alaska bidder's, including pre-
23 ferences under this paragraph, if any; or

24 (ii) not more than five per cent higher than the
25 lowest nonresident's, he does a substantial portion of his
26 business in the state, and a substantial portion of his total
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28 * Sec. 3. AS 37.05.230(7) is amended to read:

29 (7) the provisions of this section relative to an "Alaska

Original sponsors: Meekins and Phillips

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ELEVENTH LEGISLATURE - FIRST SESSION

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CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Introduced: 2/8/79
Referred: Finance

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[ESTIMATED TO EXCEED \$5,000, OF EITHER THE DEPARTMENT OF TRANSPORTATION

18

AND PUBLIC FACILITIES WHICH ARE AUTHORIZED UNDER AS 35.15, OR THE

19

DEPARTMENT OF HIGHWAYS, WHICH ARE AUTHORIZED UNDER AS 19.10].

20

* Sec. 3. AS 37.05.230 is amended by adding a new paragraph to read:

21

(9) the provisions of (1)(B) of this section do not apply to

22

purchases and contracts involving federal money received by the state if

23

the application of a bidding preference would violate federal law or

24

program guidelines.

25

* Sec. 4. AS 37.05.320 is amended by adding a new paragraph to read:

26

(5) "Alaska manufacturer" means a person engaged in a busi-

27

ness activity in the state by which he, through labor, art, or skill,

28

transforms raw or partially finished materials into some kind of article

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of trade; and includes a corporation or partnership engaged in such

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activity

(A) whose majority interest is beneficially owned by residents of the state, and

(B) a majority of whose owners are residents of the state.

Original sponsors: Meekins and Phillips

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 155

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to competitive bidding under the Fiscal Procedures Act."

7

8

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

9

* Section 1. AS 37.05.230(1)(B) is repealed and re-enacted to read:

10

(B) a bid shall be awarded to an Alaska bidder if his

11

bid is not more than 15 per cent higher than the bid of the lowest nonresident bidder and the Alaska bidder is an Alaska manufacturer of the supplies, materials, or equipment to be purchased; and

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14

* Sec. 2. AS 37.05.230(7) is amended to read:

15

(7) the provisions of (1)(B) of this section [RELATIVE TO AN

16

"ALASKA BIDDER"] do not apply to contracts for construction or repair

17

[ESTIMATED TO EXCEED \$5,000, OF EITHER THE DEPARTMENT OF TRANSPORTATION

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20 * Sec. 3. AS 37.05.230 is amended by adding a new paragraph to read:

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24 program guidelines.

25 * Sec. 4. AS 37.05.320 is amended by adding a new paragraph to read:

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27 ness activity in the state by which he, through labor, art, or skill,
28 transforms raw or partially finished materials into some kind of article
29 of trade; and includes a corporation or partnership engaged in such

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activity

(A) whose majority interest is beneficially owned by residents of the state, and

(B) a majority of whose owners are residents of the state.

A M E N D M E N T

Offered in the FINANCE COMMITTEE

By Meekins

TO: HOUSE BILL NO. 155

Page 1, line 28 - page 2, line 4:

Delete sec. 3 and insert the following in its place.

* Sec. 3. AS 37.05.230(7) is amended to read:

(7) The provisions of (1)(B) and (1)(D) of this section [RELATIVE TO AN "ALASKA FIDDER"] do not apply to contracts for construction and repairs [ESTIMATED TO EXCEED \$5,000, OF EITHER THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, WHICH ARE AUTHORIZED UNDER AS 35.15, OR THE DEPARTMENT OF HIGHWAYS, WHICH ARE AUTHORIZED UNDER AS 19.10].

A M E N D M E N T

Offered in the FINANCE COMMITTEE

By Meekins

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THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H. B. 155 (Meekins & Phillips)
 Title "An Act Relating to Competitive Bidding Under Fiscal Procedures Act"
 Requested by Jay Hogan - Legislative Finance Date February 9, 1979

II. FISCAL DETAIL

Agency Affected All
 Program Category Affected All
 BRU, Program, or Subprogram(s) Affected All

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		34,000	36,040	38,202	40,494	42,924
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES		400	424	449	476	504
500 EQUIPMENT		2,200				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
*Additional Costs for Goods & Services		2,703,000	2,865,180	3,037,091	3,219,316	3,412,475
TOTAL		2,739,600	2,901,644	3,075,742	3,260,386	3,455,903

FUNDING (Thousands of Dollars)

GENERAL FUND	**	2,739,600	2,901,644	3,075,742	3,260,286	3,455,903
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
* The funds will come from several sources therefore, impossible to determine exact distribution						

POSITIONS

FULL TIME		2	2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

More so than other proposed bills before the Legislature, this legislation is difficult to evaluate in terms of administration and fiscal impact. The best possible evaluation is, at best, an educated guess.

IV. DATE

2/28/79

PREPARED BY
 AGENCY
 PHONE

Richard C. Bradley
DIVISION GENERAL SERVICES & SUPPLY
465-2250

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

HB 155

We can say, without qualification, this bill will be difficult to administer. Determining such things as; "Substantial portions of business", "Substantial number of employees", "Alaska Manufacturer", "Majority interest", "Majority of owners" etc. will, obviously, impact the procurement function, therefore, we anticipate adding two (2) clerical positions (one Anchorage & one Juneau) with related position costs.

As to agency impact, we cannot quantify the additional costs although we do know they will definitely be more.

- * The National Association of Purchasing Officials has estimated nationally that an increase in a bidders preference would raise the cost of doing business proportionately with the increase in the preference. If their assumption is correct, then based on the FY 78 figures, the total cost of a 10% preference could be as high as \$2,702,659 ($27,026,589 \times 10\% = 2,702,659$).

Nothing in this fiscal analysis addresses potential loss of Federal funds due to restraint of trade or interstate commerce.

For informational purposes, we submit the following:

REPORT TOTAL DOLLARS ON PO'S AND CA'S
JULY 1, 1977 - JUNE 30, 1978

PURCHASE ORDERS

IN STATE	\$7,938,898.83
OUTSIDE STATE	\$5,115,022.96

CONTRACT AWARDS

IN STATE	\$8,855,596.66
OUTSIDE STATE	\$5,117,070.15

TOTAL

IN STATE	\$16,794,485.49	62%
OUTSIDE STATE	\$10,232,093.11	38%
GRAND TOTAL	\$27,026,588.60	
AK BIDDERS PREFERENCE	\$55,039.18	

From a purely professional purchasing standpoint, vendor preferences are not conducive to good purchasing practices nor in the purchasing body's best interest. We are sympathetic to the idea of stimulating in-State business, however, we do not believe this to be the correct vehicle.

The problem is one that requires an in-depth review of the whole State economic picture. A vendor preference is a weak and easy approach to the problem, but cannot, in itself, solve it. It is little more than a token gesture of appeasement to a select few. Competition is the backbone of our "American Way". To reduce or eliminate it adversely affects the very heart of our socio-economic system.



State of Wisconsin \ DEPARTMENT OF ADMINISTRATION

Lee Sherman Dreyfus
Governor

Kenneth E. Lindner
Secretary

1 WEST WILSON STREET
MADISON, WISCONSIN 53702

February 20, 1979

Gerald L. White
Sr. Purchasing Agent
Division of General Services & Supply
Department of Administration
State of Alaska
Pouch C - Juneau, AK 99811

Dear Mr. White:

Enclosed is a photocopy of the responses of 40 states to the survey questionnaire Purchasing by the States, 5th Edition, indicating the status of in-state preference laws as of June 30, 1977. I do not believe that the situation has changed greatly since then and you may find this information helpful in your survey. As of the time that the document was published, State of Alaska had not responded to the survey although Dick has substantively furnished information.

The State of Wisconsin, like 38 other states has the "tie breaker" type of preference, i.e., everything being equal, award is made to the in-state bidder. This is not invoked very often as we do not have many identical bid transactions (and when we do, we report them to the U.S. Attorney General and the State Attorney General!)

I am also enclosing a photocopy of an article from Governmental Purchasing, February 1978, which marshalls some familiar arguments about in-state preference. I appreciate that Alaska and Hawaii have marketing and distribution problems not shared by the contiguous 48 but I think it is reasonable to assume that both states wind up paying more than they would without an in-state preference percentage. If I remember correctly, the Alaska law clearly identifies legislative intent to subsidize which is considerably more above board than other in-state preference legislation.

Sincerely,

John Short
Assistant Administrator
GSA Division

Enclosure

cc: Homer Foerster, CPPO, President, NASPO

STATE OF ALASKA

JAY S. HALLECK, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF GENERAL SERVICES AND SUPPLY

*16TH FLOOR, STATE OFFICE BLDG.
POUCH C - JUNEAU 95811*

February 13, 1979

John E. Short
Assistant Administrator
General Services Administration Div.
Department of Administration
One West Wilson St., Room 119
Madison, WI 53702

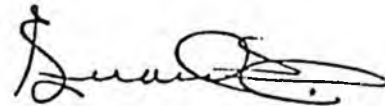
Dear Mr. Short:

The Alaska State Legislature is looking into in-state bidders preference for Alaska. At the present time, the State of Alaska has a 5% in-state preference, however, there is a possibility this may be increased.

We would appreciate by return mail information on whether or not your state has an in-state preference and, if so, what are the limits and/or guidelines?

We will be happy to provide a recap of our inquiry if so desired. Your early reply would be appreciated.

Sincerely,



Gerald L. White
Sr. Purchasing Agent

Preference Is Not Preferred

By John Short

"I realize it's probably a lost cause because I don't even have the support of the manufacturers on this," the author of a bill to give businessmen an in-state preference in getting contracts for state and municipal purchases told the Wisconsin Assembly Tourism and Economic Development Committee at a recent hearing on the legislation.

The author was the only person to back the bill which would have required that Wisconsin firms be given a chance to match low bids received on state and municipal purchase contracts from out-of-state bidders. Opposition came not only from the Wisconsin Association of Manufacturers and Commerce, but also from the Printing Industries of Wisconsin, the major graphic arts trade association, the Milwaukee Association of Purchasing Management and concerned public purchasers from the state and local units of government.

Not all preferential legislation meets with opposition. A dozen states have overt in-state preference laws. Many municipalities have ordinances requiring them to extend a local preference. Some states and local units of government practice preference as a matter of policy rather than law.

The surface appeal of some type of preferential treatment of in-state vendors or in-state manufactured products is quite compelling to state legislatures. A buy-

John Short, a native of Wisconsin, is an administrator in the Wisconsin State Department of Administration. He served as Director of the State Bureau of Purchases and Services for ten years, and is currently chairman of the National Association of State Purchasing Officials' Committee on Research. He is co-chairman of NASPO Liaison Committee to the Coordinating Committee on a Model Procurement Code. A self-proclaimed refugee from the University of Wisconsin's School of Journalism, Short brings a wealth of purchasing experience to his discussion of in-state preference procurement policy.

locally policy has a similar appeal to municipal and county government. Closer examination shows that such a policy has many disadvantages with adverse effects both on government and the firms that the policy purports to assist. As the Milwaukee Chapter of NAPM pointed out at the legislative hearing, the intended goal of increasing business for Wisconsin firms was certainly a laudable goal, but in their opinion the bill would not result in good legislation for the people of Wisconsin nor create any more business for Wisconsin firms in the long run.

"Preferential treatment on bids is entirely contrary to good purchasing practice, subsidizes in-state firms, restricts competitive bidding, discourages out-of-state vendors from bidding, invites collusion among in-state vendors, and results in denying taxpayers the best quality at the lowest price," William Mohaupt, President of The Wisconsin Association of Public Purchasers and Purchasing Administrator for Milwaukee County told the Assembly Committee.

William J. Beam, Purchasing Agent of the Milwaukee Area Technical College, advised the Committee that these shelter type laws would not stand up in the market place and would die quickly when put to the test in the business world. He said public purchasers spend a lot of valuable time in research of the best product to perform the function. They would be very naive to think that they had a local corner on the market of the best products available and would soon shrivel in isolation.

In March 1975 The Council of State Governments published *State and Local Government Purchasing*, an indepth study of public purchasing with findings that preference is arguably unconstitutional as a barrier to interstate commerce; preference is in direct conflict with the principles of competition and precludes the purchaser from obtaining the best competitive price; and potential sources of supply are reduced.

The National Association of State Purchasing Officials, an affiliate of The Council of State Governments, has been concerned with the issue of in-state preference since the beginning of the Association in the late 1940's. NASPO has adopted resolutions expressing its opposition to in-state preference on a half dozen occasions.

NASPO has also closely monitored the status of in-state preference legislation. In 1970 the NASPO Committee on Competition in Governmental Purchasing conducted an indepth survey of in-state preference policy and practice. A summary of that survey, with an update from data collected for preparation of *Purchasing By the States, Fifth Edition*, June 1977, follows:

	1970		1977*	
	Yes	No	Yes	No
1. Overt In-state Preference	12	31	12 ¹	32
2. Percentage Advantage to In-state Bidders				
3%	2		3	
5%	6		4	
10%	2		3	
3. "Tie-Breaker" In-state Preference in case of tie bids only	38	10	39	5
4. Reciprocity	7		9	

*1977 Data from *Purchasing By the States, Fifth Edition*, June 1977 Draft
 (1) Idaho reports preference in Printing only.

There has been no change in the number of overt in-state preference laws. In fact, most of these laws date back 40 to 50 years. The states do report a growing number of efforts at the introduction of in-state preference laws.

The majority of states have the provision, usually statutorily imposed, that in case of tie bids preference will be given to an in-state bidder. While this is clearly "in-state preference" such "tie-breaker" awards impact neither the cost to the state nor freedom of competition. As one state purchasing official puts it, "It beats flipping a coin".

Just who is an "in-state" bidder is a definition troublesome to many states. There is no question with manufacturers, processors, wholesalers, distributors or retailers owned and operated solely within the given state, but most states indicate that they also accept any business with a branch office or warehouse in-state and a substantial number accept any vendor with a bona fide mailing address in-state.

In the early 1960's only two states had reciprocity laws, i.e. applying sanctions only against vendors from states which had in-state preference acts. The 1970 survey identified 7 such states and by 1977 there are 9 which have statute law of reciprocity and a number of

"Legislators find surface appeal in the concept of preferential treatment for local vendors."

others which follow the practice administratively.

The thoughtful public purchasers recognize a dual concern in administering their purchasing programs. They are charged with the purchase of materials, supplies, equipment and contractual services at the lowest possible cost consistent with utility. At the same time they have an obligation to enlarge the competitive climate and to see to it that there is nothing which would

be an impediment to local or in-state firms from flourishing in that competitive environment. Public purchasers also recognize that these two concerns may at times seem to be in conflict; they need not be.

The Wisconsin State Bureau of Purchases and Services suggests a resolution of this conflict in a "white paper" on the subject of in-state preference prepared over ten years ago to have a document ready to respond to the issue at any time. The paper has been updated a number of times and was the basis for information provided the Assembly Committee at the recent hearing.

The paper points out that public purchasers know the essence of private enterprise is free competition and only through full and free competition can free markets, free entry into business, and opportunities for the expression and growth of personal initiative and individual judgment be assured. Such competition and resulting economic well-being cannot be realized unless the actual and potential capacity of local and in-state business is encouraged and developed. The paper suggests the emphasis should be on appropriate measures taken *before* going to bid rather than imposing an artificial restraint on competition at time of award.

The public purchaser wants to treat all prospective bidders equally. There are operational patterns which can be followed to give a little more equality to in-state and local bidders.

Generic specifications are preferable, but it is impossible with the myriad requirements of governmental

"Preferential treatment on bids is entirely contrary to good purchasing practices..."

(continued on page 34)

Preference Is Not Preferred

(continued from page 23)

purchasing to avoid the judicious use of the "brand name or equal" specification for many purchases. Products of in-state or local manufacturers should be specified whenever possible and first if more than one brand name is used.

When generic specifications are used, they are derived in part from specification meetings with manufacturers. Local and in-state manufacturers in the field should always be parties to spec meetings. While generic specifications cannot be restrictive, they should be framed with an awareness of the potentials for local production. To service a contract, particularly to meet the specified delivery, a contractor is usually required to maintain an extensive inventory. Geographical considerations call for nearby warehousing and in some problem situations this can be spelled out as mandatory in the procedural specifications of the solicitation for bids.

Freight is part of the contractor's selling cost and local vendors have a built-in advantage when bids call for delivery f.o.b. destination.

Frequently the element of service is important, either in installation or in maintenance, and if service is identified as a criterion in award at the time the solicitation of bids goes out, it certainly can weigh heavily

"Preferential treatment invites collusion among in-state vendors..."

in the decision process. Finally, in-state or local vendors should be reminded that they enjoy a natural geographic advantage in sales engineering.

Valid support of in-state and local vendors is better accomplished in the construction of technical and procedural specifications rather than in an arbitrary award of bids.

In-state and local preference is inequitable because it results in part of the tax dollar being spent in subsidy instead of value. Sound governmental purchasing equates with the concept of best value procurement: i.e. award to the lowest responsible bidder meeting the specifications. The mission of the public purchaser is to conserve public funds and to spend one penny more for whatever reason is not doing that job.

The public purchaser acts in agency for his state, county, municipality or school district and for the taxpayers. This is a stewardship of critical responsibility. Implicit in this stewardship is a grant of discretion and any infringement results in proportionately poorer purchasing performance. The purchasing agent who has his market place artificially constrained can not exercise the ingenuity and initiative which are the hallmarks of the professional public purchaser.

Job Opportunities

(Continued from page 27)

view of the company's personnel practices, recent hiring and termination trends, application flow, etc. The purpose of the plant inspection is to determine what may be the reasons for the company's minority and female employment pattern. Such a follow-up may also be conducted by mail.

Subsequent to the follow-up action, Commission staff will review the information gathered and decide on a course of action. Such a course may be to monitor the company's statistical patterns in the future, or to consider the company as an equal opportunity employer and do nothing further. Or, it may be deemed necessary to offer the company the opportunity to enter into a Conciliation Agreement: a legally binding document committing the company to take certain affirmative steps and to meet hiring and promotional goals and timetables for minority and female employees.

Should a company decline to enter into a Conciliation Agreement, or enter into it and later be in violation of it, a Public Hearing may be held before a panel of the

Commission. A possible outcome of such a hearing is a determination that the company is not an equal opportunity employer, and a recommendation issued to the Procurement Department and the participating agencies that the company not be accepted or retained as a bidder.

To date, implementation has been hampered by lack of sufficient staff. The computerization, however, will change that. It will enable City officials to pinpoint employment imbalances rapidly through a variety of break downs of data, typically, by plant size, industry, or geographic locations. Another by product will be categorization of companies by zipcode which will permit use of less expensive mail service at a saving of several thousand dollars per mailing.

Once employment imbalances are located from the computerized data, staff analysts will work with managements to draw up corrective programs aimed at increasing and upgrading numbers of minority and female workers. Firms failing to comply will lose Commission certification.

Funds for the computerization are being provided under a one-year \$134,000 Federal grant coming through the Area Manpower and Training Council. The money will pay an eleven-member temporary staff which will effect the computerization using existing keypunch machinery.

The Philadelphia Plan is just one technique of the Commission on Human Relations in a larger effort whose ultimate goal is an employment climate that is fairer to all citizens.

"Bidders wanting to supply everything from paper clips to heating oil must demonstrate non-discriminatory hiring practices."

(28)

	A		B		G		D		E		F		G		H
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	
ALABAMA	x		x		x		x		x				x		No
ALASKA		x	5%		x		x		x		x		x		NO
ARIZONA		x	5%		x		x				x		x		*
ARKANSAS	x		5%		x		x		x		x		x		**
CALIFORNIA		x	x												
COLORADO	x		x		x		x		x		x		x		
CONNECTICUT	x		x		x		x		x		x		x		
DELAWARE															
FLORIDA	x		x		x		x		x		x		x		No items
GEORGIA	x		x		x		x		x		x		x		No
HAWAII		x	3/5/10%		x		x		x		x		x		
IDAHO	x		10%		x								x	x	Printing
ILLINOIS		x	x		x		x		x		x		x		No
INDIANA															
IOWA	x		x												
KANSAS	x		x		x		x		x		x		x		No
KENTUCKY		x	x												No preference
LOUISIANA	x		3%		x		x		x		x		x		No
MAINE	x		x		x		x		x		x		x		
MARYLAND	x		x		x		x		x				x		
MASSACHUSETTS	x		5%		x								x		
MICHIGAN	x		x		x		x								
MINNESOTA	x		x		x		x		x						
MISSISSIPPI	x		x		x		x		x		x		x		No
MISSOURI	x		x		x								x		
MONTANA	x		3%		x		x		x		x		x		
NEBRASKA	x		x		x										
NEVADA															
NEW HAMPSHIRE	x		x		x		x		x		x		x		
NEW JERSEY															
NEW MEXICO															
NEW YORK		x	10%		x				x		x		x		
NORTH CAROLINA	x								x						
NORTH DAKOTA	x		x		x				x				x		***
OHIO															
OKLAHOMA	x		3%		x						x		x		****
OREGON	x		x		x		x								
PENNSYLVANIA		x	x		x		x		x		x		x		No
RHODE ISLAND	x		x		x		x		x						
SOUTH CAROLINA	x		x		x		x		x		x		x		
SOUTH DAKOTA	x				x		x						x		
TENNESSEE															
TEXAS	x		x		x		x								
UTAH															
VERMONT	x														
VIRGINIA	x														
WASHINGTON		x	x		x		x		x		x		x		*****
WEST VIRGINIA															
WISCONSIN	x		x		x		x		x		x		x		No
WYOMING			5%		x		x		x		x		x		

* Public works construction only
 ** Except printing & office supplies
 *** If State has a preference against us we
 we take same preference against them
 **** If produced, manufactured, or grown in
 Oklahoma
 ***** Items manufactured by rehabilitation
 workshops

A-Tie bids only?
 B-Percentage?
 C-By statute?
 D-Mandatory?
 E-Discretionary?
 F-Request of in-state bidder?
 G-All items?
 H-Specific?

TRM. CONFERENCE NATIONAL ASSOC. STATE PURCHASING OFFICIALS" OCT. 1978

IV. ENERGY

WHEREAS many member states are involved in an Energy Efficient Procurement Program; and

WHEREAS the National Governors' Association's Task Force on Energy Conservation Through Procurement Survey revealed a need for some medium of information exchange; and

WHEREAS there is currently no energy related format wherein such information can be exchanged; and

WHEREAS high cost and austere budgeting presently inhibit creation of an organization to develop such exchange;

NOW THEREFORE BE IT RESOLVED that:

- 1) The National Association of State Purchasing Officials encourages the several Regional Conferences to coordinate and promote energy related purchasing information to be debated and exchanged; and
- 2) The Association's Executive Committee is hereby directed to, at their next regular meeting, appoint a Chairman from within each active region whose responsibility shall be to disseminate this information to purchasing personnel who have energy conservation responsibilities within the region; and
- 3) The Association encourages the Chairman to activate a committee selected from personnel of other regional states to assist in the planning; and
- 4) The Association encourages the continuance of these activities on a regular basis.

V. PURCHASING PREFERENCE

WHEREAS the National Association of State Purchasing Officials consistently supports the competitive sealed bidding process as the most effective vehicle for obtaining quality products at the lowest evaluated costs; and

WHEREAS the National Association of State Purchasing Officials encourages an opportunity for all suppliers to compete for state business on an equal basis; and

WHEREAS the application of preferences in awarding public contracts restricts suppliers from bidding on an equal basis and thereby inhibits competition;

NOW THEREFORE BE IT RESOLVED that the National Association of State Purchasing Officials is opposed to the use of preferences in awarding state contracts.

responsive, and "technical irregularities" which may be waived. Seldom, however, are there guidelines for making this distinction. Predominant here are impartiality and legal considerations. Any deviation which gives a bidder an unfair advantage over his competitors must not be waived during the evaluation process. Other seemingly insignificant "irregularities" could present legal problems later (e.g., bids being undated or improperly executed). Consequently, written guidelines must cover this area to assure fair treatment based on the consistent application of established policies.

Payment Discounts

Most States take cash discounts or discounts for prompt payment into consideration when evaluating bids. This practice is proper so long as the IFB states that discounts will be considered, and the government's payment cycle reasonably assures that the discount will be earned. Because of the slow processing of invoices, however, many state and local governments frequently cannot meet suppliers' prompt payment terms. Nonetheless, they may still take the discounts. This procedure is clearly improper and should be discontinued. Purchasing officials must assure the public that the only discount terms that will be considered are those that the government can expect to meet. This procedure will encourage suppliers to bid realistically and will ensure that when discounts are a determining factor, they will be earned and thus substantiate that the successful bidder was, in fact, the low bidder.

Preference



Many state and local governments have laws or policies that require giving preference to local or in-state products or bidders. While there may be variations in preference provisions, the intent is always the same: to favor in-state or local bidders. Even where it is not provided by law, preference to local bidders is given by many local governments and perhaps a few States as a matter of practice.

The percent preference always gives local bidders a definite advantage, as illustrated below.

Bidder	Bid price	Preference		Price on which award is based
		%	Amount	
A	\$10,000	5%	\$500	\$9,500
B	\$9,850	\$9,850
C	\$9,675	\$9,675

Bidder A, the local bidder, submitted the highest bid but, because of a 5 percent preference, was given the award at a price of \$10,000.

Eleven States still have statutes which provide from 1½ to 10 percent preference to in-state bidders. Some of the reasons presented are that increased tax revenues are generated by doing business within the jurisdiction, that new jobs are created, and that businesses are encouraged to locate within the jurisdiction. Without addressing the relative merits of these assumptions, the dangers and disadvantages of this type of preference greatly outweigh any advantages.

From a legal viewpoint, preference is arguably unconstitutional as a barrier to interstate commerce. Another view shows that preference is in direct conflict with the principles of competition and precludes the purchaser from obtaining the best competitive price. Many bidders who otherwise would be interested are discouraged from competing and potential sources of supply are reduced. Preferred bidders feel more secure and have less incentive to submit their best prices when a free competitive market is absent. The result is higher costs to the taxpayer. For example, a survey made several years ago by a National Association of State Purchasing Officials committee showed that prices usually were increased by the amount of the preference percentages, and eventually by more than this amount.

As a form of retaliation, some States apply a reciprocal preference, whereby out-of-state bidders are penalized by the amount of preference they are given in their home States. One State is prevented by law from doing business with suppliers whose home States employ in-state preference, and its decision several years ago to enforce this statute caused several States to repeal their preference laws and practices. All of these conditions support the conclusion that preference provisions and practices should be eliminated from public purchasing. Governing bodies and Legislatures must recognize that preference is promoted by business and special interest groups, that the net effect is costly, and that efforts to establish or maintain preference need to be resisted.

Where preference is used only without "loss or sacrifice in price or quality," that is, where all other factors are equal, it can be defended as reasonable and acceptable. This is a common and valid practice used by some States to break tie bids.

Before leaving this subject, a few words are needed on the subject of "Buy America," which relates to U.S.-foreign trade, and gives preferences to U.S. products and firms over foreign firms. Under various pressures, several state governments have attempted to adopt Buy America principles either by law or by practice. Such attempts have only resulted in problems, legal debate, and rulings of unconstitutionality when brought before the courts. Since Chief Justice Marshall, foreign trade policy has been declared the province exclusively of the federal government. State statutes and policies, there-