

LEG. FINANCE - BILLS 1985 - 1986 2247
SB 367 - CSSB 367 2247

COMMITTEE REPORT
SENATE

FURTHER:

4/4/86

Date 4/10/86

Mr. President

The Committee on FINANCE considered SB 367
relating to Alaskan resident employment preference; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 367 (Finance)
- new title
- same title and recommends Do Pass
- and attached a "LETTER OF INTENT" 2 NEW FISCAL NOTES
- reports it back without recommendation DOL 3/17/86 331.9
- recommends referral to _____ Committee DOL 3/14/86 161.3

MEMBERS SIGNING
DO PASS

[Signature]
Paul Frank
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

Rich Halford NO REC

Co-Chairman [Signature]
 Chairman [Signature]
 Chairman recommendation do pass

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : 3/17/86

REQUEST

Bill/Resolution No. : CSSB 367 (Fin)
Title : "An Act relative to Alaskan
resident employment preference..."

Sponsor : Faiks, Josephson, et. al.
Requestor : Labor and Commerce
Date of Request : 3/14/86

FISCAL DETAIL

Agency Affected : Labor
B.U. : Administrative Services

Components : Special Services

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		108.5	108.5	108.5	108.5	108.5
TRAVEL						
CONTRACTUAL		219.2	225.5	246.2	242.5	251.2
SUPPLIES		1.2	1.2	1.3	1.3	1.4
EQUIPMENT		4.0	.8	.9	.9	1.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	331.9	336.0	356.9	353.2	362.1

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		331.0	336.0	356.9	353.2	362.1
FEDERAL FUNDS						
OTHER						
TOTAL	0	331.9	336.0	356.9	353.2	362.1

POSITIONS :

FULL-TIME	0	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : *Judy G. Knight*
Judy G. Knight, Director
Division : Administrative Services
Phone : 465-2720
Date : 3/17/86

Approved by Commissioner : *Jim Robison*
Jim Robison
Agency : Labor
Date : 3/17/86

Distribution (by Agency preparing fiscal note):

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

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 367 (L&C)

This legislation requires a biennial report that designates eligible areas. Determination that "employment of workers who are not residents is a peculiar source of the unemployment of residents of the area" will require this department to collect extensive occupational information by resident status. Two statistical clerks and one Labor Economist II would complete the report. Request for New Position forms are attached which explain position duties and costs.

The contractual services costs are detailed as follows:

<u>Description</u>	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>	<u>FY 90</u>	<u>FY 91</u>
Key Entry	\$ 40.0	\$ 60.0	\$ 62.0	\$ 64.0	\$ 66.0
DP operations	120.0	135.0	150.0	153.0	156.0
DP applications	30.0	4.5	4.7	4.9	5.1
Printing	4.5	2.0	4.5	2.1	5.0
Phone (Toll service)	12.0	12.5	13.0	6.0	6.2
Equipment lease	8.0	8.3	8.7	9.0	9.4
Equipment maintenance	.8	.8	.9	.9	.9
Training, snipping, & misc.	2.9	2.4	2.4	2.6	2.6
	<u>\$218.2</u>	<u>\$225.5</u>	<u>\$246.2</u>	<u>\$242.5</u>	<u>\$251.2</u>

The following assumptions were made in preparing this fiscal note:

1. An annual report designating underemployment areas would be completed by January 31 of the first session of each legislature year beginning in 1987.
2. On-going collection of occupational titles would be required from employers, and extensive computer matching would be necessary to determine residency status.
3. Beginning in 1988, occupational displacement information would be highlighted requiring continuation of both the existing occupational information budget levels, and the additional information on occupational titles.

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 367

4. The collection of occupational titles from firms will be phased in over a three year period. Industries identified as having the highest dollar payments to nonresidents in 1984 would be targeted first:

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

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

Third Year - all industries.

5. In addition to the occupational information, reporting of the residency status by industry and area would be necessary.
6. All minority demographic and economic information, except that required from contractors on state funded construction projects, will be derived from the decennial census. No costs are included for this in this fiscal note.
7. Work would begin on the first report July 1, 1986.

Position Title Labor Economist II			No. of Positions 1	Range/Step 16A	Base Unit GGU	Gov.	Approv.	Unapp.
Time Status PFT	Staff Months 12.0	RP Number	Location Juneau		Election District	Leg.		
Justification								
This position will have primary responsibility for the analysis of data and preparation of the annual resident hire report. Specifically the duties would include:								
<ol style="list-style-type: none"> 1. Coordinate the collection and monitor the validity of relevant resident hire related statistics from other agencies including the Department of Revenue and the Division of Labor Standards and Safety. 2. Coordinate the updating and crossmatching of resident hire related data files on the mainframe computer with the analyst programmer. 3. Analyze microcomputer resident hire data bases to generate resident hire related tables and reports. The reports will include data relating to occupational displacement of nonresidents by census area and other related economic statistics associated with issue of resident hire. 4. Supervise the Statistical Clerk that will prepare the basic resident hire data tables for the report. 5. Prepare the annual resident hire report. 								
Contractual services costs include phone, training, and other miscellaneous items.								
Type of Expenditure			Amount					
1	2	3						
Salary	33,660							
Benefits	10,779							
Premium Pay								
Other								
Total Personal Services		44,439						
Travel		0						
Contractual		1,000						
Commodities		500						
Equipment		2,000						
Other								
Total Cost		47,939						
Project Code			Funding Source					
			Federal Receipts		1002			
			G. F. Match		1003			
			General Funds		1004		47,939	
			I-A Receipts		1005			
			Program Receipts		1028			
			CIP Receipts		1061			
			Other					
For B&M Use Only								
Key Number								

Request For
New Position

Agency Labor
 BRU Administrative Services
 Component Special Services

Page 1 of 2
 Revised Date

FY 87

Position Title Statistical Clerk			No. of Positions 2	Range/Step 8B	Bag. Unit GGU	Govt. Leg.	Apprv. 	Utapp. 																																																											
Time Status PFT	Staff Months 12.0	RP Number 	Location Juneau		Election District 																																																														
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>1</th> <th>2</th> <th>Amount</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td></td> <td>47,160</td> <td></td> <td></td> </tr> <tr> <td>Benefits</td> <td></td> <td>16,914</td> <td></td> <td></td> </tr> <tr> <td>Premium Pay</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Cost</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="3">Total Personal Services</td> <td></td> <td>64,074</td> </tr> <tr> <td>Travel</td> <td></td> <td></td> <td></td> <td>0</td> </tr> <tr> <td>Contractual</td> <td></td> <td></td> <td></td> <td>2,700</td> </tr> <tr> <td>Commodities</td> <td></td> <td></td> <td></td> <td>700</td> </tr> <tr> <td>Equipment</td> <td></td> <td></td> <td></td> <td>2,000</td> </tr> <tr> <td>Other</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="3">Total Cost</td> <td></td> <td>69,474</td> </tr> </tbody> </table>			Type of Expenditure	1	2	Amount	3	Salary		47,160			Benefits		16,914			Premium Pay					Cost					Total Personal Services				64,074	Travel				0	Contractual				2,700	Commodities				700	Equipment				2,000	Other					Total Cost				69,474	Justification One position will support a labor economist to prepare an annual report on the effect of nonresident employment on Alaskans. Secondly this position would assist on the quality control of occupational titles which would be submitted by employers each quarter. Specifically the duties would be: <ol style="list-style-type: none"> 1. Update tables of economic information by resident status. 2. Load information into spreadsheets to show occupational displacement of residents by nonresidents. 3. Assist in the quality control of the occupational displacement of results by nonresident workers. 				
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Funding Code	Funding Source	Amount																																																																	
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**Request For
New Position**

Agency Labor
 BRU Administrative Services
 Component Special Services

Page 2 of 2
 Revised Date

FY 87

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSSB 367 (Fin)
 Title : "An Act relating to Alaskan
 resident employment preference.."
 Sponsor : Faiks, Josephson, et. al.
 Requestor : Labor and Commerce
 Date of Request : 3/14/86

FISCAL DETAIL

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

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		114.8	101.7	105.8	110.0	114.4
SUPPLIES						
EQUIPMENT		46.5	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	161.3	101.7	105.8	110.0	114.4

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	0	161.3	101.7	105.8	110.0	114.4
FEDERAL FUNDS						
OTHER						
TOTAL	0	161.3	101.7	105.8	110.0	114.4

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Prepared by : *MB* Bob Bacolas, Director Phone : 465-4870
 Division : Labor Standards & Safety Date : 3/14/86
 Approved by Commissioner : *MB* Jim Robison Date : 3/14/86
 Agency : Labor

Distribution (by Agency preparing fiscal note) :

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CS for SB 367 (LGC)

Currently the Division of Labor Standards and Safety (LS&S) receive weekly certified payroll documents for all public construction projects as required in AS 36. Under this bill the department will use the public construction certified payroll forms as source documents to determine the legal domicile of persons employed on public construction projects. In certain cases the department will also be scrutinizing the ethnic makeup of the employees to determine the utilization of minorities.

These certified payroll documents are now collected and summarized manually by the Division of Labor Standards and Safety. This fiscal note will fund the automation of the certified payroll documents. This will allow a more timely determination of residency status of persons employed on public construction projects. This automation will also assist in providing a list of employees with incomplete or questionable data. The existing investigative staff will then resolve the questionable items through personal contact with employees and employers.

Reports will be developed for the Research and Analysis Section to allow the staff to do crossmatch reviews with other data sources (e.g. Permanent Fund Dividend).

Specific costs are as follows:

Contractual Services

Professional fees for data entry	80.0
DP Applications/programming development (one time only \$17.0)	20.0
DP Support (misc. chargeback)	3.0
DP Telecommunications	.8
Communications (phone and postage)	5.0
Equipment repair and maintenance	5.0
Other miscellaneous	1.0
	<u>114.8</u>

Equipment (one time only)

4 workstations	21.6
3 printers	5.4
3 modems	15.0
75 Mega byte disk pack	1.5
Telecommunication software	<u>3.0</u>
	46.5

Total 161.3

A contract for data entry services will be required for entry of all payroll records into the new automated system.

Equipment upgrades and improved telecommunication links between Juneau, Fairbanks and Anchorage will allow online review and audit of certified payroll data in each location. The equipment will be a one time purchase. Other cost are projected to future years at 4% inflation.

Cramer
4/9/86

Original sponsors: Faiks, Josephson,
Sturgulewski and V.Fischer

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 367 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

18 (c) The legislature further finds that the ratio of employees on
19 a certified payroll who did not apply for or were refused a permanent
20 fund dividend under AS 43.23 to employees who were found eligible to
21 receive a dividend is a reasonable but not exclusive indicator of the
22 ratio of nonresident to resident employees on a public works project.

23 (d) When determining the ratio of nonresident to resident em-
24 ployees working on a public works project, the commissioner may con-
25 sider information gathered from on-site surveys of public works proj-
26 ects including individual interviews, questionnaires, examination of
27 the state of registration of vehicles owned or operated by employees,
28 and other information acquired from inspection of certified payrolls.

29 (e) The legislature finds that the following factors are

1 reasonable but not exclusive indicators of the ratio of nonresident to
2 resident employees in the state:

3 (1) the ratio of applicants for unemployment insurance who
4 list out-of-state residences to applicants who list residences in the
5 state;

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

10 (f) The legislature finds that

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

14 (2) many rural state residents who wish to work do not seek
15 employment as frequently as necessary to meet federal definitions of
16 unemployment because of continuing lack of employment opportunities in
17 rural areas of the state.

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

19 Sec. 36.10.070. UNAVAILABILITY OF PREFERRED WORKERS. (a) An
20 employer subject to hiring requirements under this chapter may request
21 the Department of Labor to assist in locating qualified, eligible
22 employees. After receiving a request for assistance, the department
23 shall refer qualified, eligible, available residents to the employer
24 to fill the employer's hiring needs. The employer shall cooperate
25 with the department.

26 (b) If the department is unable to refer a sufficient number of
27 qualified, eligible, available residents able to perform the work, the
28 commissioner of labor may approve the hiring of residents who are not
29 eligible for preference and nonresidents for the balance of the

1 request.

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

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

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

7 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and
8 the commissioner of labor shall report annually to the legislature and
9 the governor on the status of employment in the state, the effect of
10 nonresident employment on the employment of residents in the state,
11 and methods to increase resident hire. The report shall be submitted
12 by January 31 of each year.

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

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

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

21 (3) is underemployed or marginally employed as defined by
22 the department; or

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

26 (b) An employer subject to a resident hiring requirement under
27 this chapter shall certify that persons employed as residents under
28 the preference are eligible for the preference.

29 Sec. 36.10.150. DETERMINATION OF UNDEREMPLOYED AREA. (a)

1 Immediately following a determination by the commissioner of labor
2 that an economic region of the state is an underemployed area or that
3 the state as a whole is an underemployed area, and for the next two
4 fiscal years after the determination, qualified residents of the area
5 who are eligible under AS 36.10.140 shall be given preference for work
6 on each project under AS 36.10.180 that is wholly or partially sited
7 within the area.

8 (b) The commissioner of labor shall determine the amount of work
9 that must be performed under this section by eligible qualified resi-
10 dents. In making this determination, the commissioner shall consider
11 the nature of the work, the classification of workers, availability of
12 eligible residents, and the willingness of eligible residents to
13 perform the work.

14 (c) The commissioner shall determine that an economic region of
15 the state or the state as a whole is an underemployed area if the
16 commissioner finds that

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

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

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

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

27 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-
28 TRESSED AREAS. (a) Immediately following a determination by the
29 commissioner that an economic region of the state is an economically

1 distressed area, and for the next two fiscal years after the determi-
2 nation, qualified residents of the area who are eligible under AS 36.-
3 10.140 shall be given preference for at least 50 percent of employment
4 on each project under AS 36. 0.180 that is wholly or partially sited
5 within the economically distressed area.

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

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

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

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

17 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-
18 ITY RESIDENTS. (a) Immediately following a determination by the
19 commissioner that the female or minority residents of an economic
20 region are economically disadvantaged, and for the next two fiscal
21 years after the determination, qualified female or minority residents
22 of the area who are eligible under AS 36.10.140 shall be given prefer-
23 ence for at least 25 percent of employment on each project under
24 AS 36.10.180 that is wholly or partially sited within the area.

25 (b) The commissioner shall determine that the female or minority
26 residents of an area are economically disadvantaged if the commission-
27 er finds that

28 (1) the female or civilian minority population of the area
29 exceeds the average female or civilian minority population for the

1 state;

2 (2) either the percent of unemployment of female or civil-
3 ian minority residents of the area is at least two times the percent
4 of unemployment of male or nonminority residents of the area or the
5 female or civilian minority population of the area has suffered past
6 economic discrimination;

7 (3) the economic disadvantage of female or civilian minor-
8 ity residents of the area has substantially contributed to serious
9 social or economic problems in the area; and

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

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

17 Sec. 36.10.180. PROJECTS SUBJECT TO PREFERENCE. (a) The pref-
18 erences established in AS 36.10.150 - 36.10.170 apply to

19 (1) the performance of contracts let by a municipality for
20 construction, repair, preliminary surveys, engineering studies, con-
21 sulting, maintenance work, or any other retention of services neces-
22 sary to complete a given project;

23 (2) a construction project that is partly or wholly funded
24 by state money if the state or an agency of the state, a department,
25 office, agency, state board, commission, regional school board with
26 respect to an educational facility under AS 14.11.020, public corpo-
27 ration, or other organizational unit of or created under the execu-
28 tive, legislative or judicial branch of state government, including
29 the University of Alaska and the Alaska Railroad Corporation, is a

1 signatory to the construction contract;

2 (3) work performed on a public works project under a grant
3 to a municipality under AS 37.05.315;

4 (4) work performed on a public works project under a grant
5 to a named recipient under AS 37.05.316; and

6 (5) work performed on a public works project under a grant
7 to an unincorporated community under AS 37.05.317.

8 (b) If the governor has declared an area to be an area impacted
9 by an economic disaster under AS 44.33.285, then the preference for
10 residents of the area established under AS 44.33.285 - 44.33.310
11 supercedes the preference under AS 36.10.150 and 36.10.160 for con-
12 tracts awarded by the state.

13 (c) The commissioner shall define the boundaries of an economic
14 region or an area within which a preference applies.

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

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

27 (b) A person who makes an unsworn falsification, with the intent
28 to mislead a public servant in the performance of a duty, in connec-
29 tion with a certification of eligibility for an employment preference

1 under this chapter, is subject to criminal prosecution as provided in
2 AS 11.56.210.

3 (c) In addition to criminal penalties imposed by state law, if a
4 person is convicted of a crime in connection with a false statement
5 made in a certification required under AS 36.10.140, and the convic-
6 tion is not reversed, that person shall forfeit all future rights to
7 eligibility for an employment preference under this chapter.

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

12 (1) made a false sworn statement; or

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

15 (b) The amount of the civil penalty under (a) of this section
16 for a person who falsely certifies that the person is eligible for an
17 employment preference under this chapter is not more than \$400 for
18 each false certification. The person also forfeits all future rights
19 to eligibility for an employment preference under this chapter.

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

26 Sec. 36.10.900. EFFECT OF JUDICIAL DECISIONS. If a provision of
27 this chapter, or the application of a provision to a person or circum-
28 stance, is held invalid, the remainder of this chapter and the appli-
29 cation to other persons or circumstances shall not be affected by the

1 holding. The remainder shall be enforced to the greatest extent
2 constitutionally permissible under the constitutions of the United
3 States and the State of Alaska.

4 Sec. 36.10.990. DEFINITIONS. In this chapter

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

7 (2) "qualified" means possesses the requisite education
8 training, skills, or experience to perform the work.

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

10 (9) "resident" means a person who establishes residence
11 under AS 01.10.055.

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

13 (e) The Department of Labor shall require a municipality awarded
14 a grant for a public works project under (a) of this section to comply
15 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-
16 ment generated by the grant.

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

18 (b) The Department of Labor shall require a recipient awarded
19 grant for a public works project under (a) of this section to comply
20 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-
21 ment generated by the grant.

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

23 (b) The Department of Labor shall require the qualified incor-
24 porated entity awarded a grant or agents or contractors with whom the
25 Department of Community and Regional Affairs contracts under (a) of
26 this section to comply with the requirements of AS 36.10.150 - 36.10.-
27 170 for employment generated by the grant or contract if the grant or
28 contract is for a public works project.

29 * Sec. 10. The provisions of this Act do not apply to a contract

1 entered into before the effective date of this Act unless the contract in-
2 cludes a provision requiring compliance with laws regarding the hiring of
3 Alaska residents that take effect during the term of the contract.

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

5 * Sec. 12. AS 36.10.010 is repealed.

6 * Sec. 13. Section 12 of this Act takes effect April 17, 1986, or
7 immediately, in accordance with AS 01.10.070(c), whichever is later, if the
8 final decision of the Alaska Supreme Court in Robison v. Francis, File No.
9 S-493, Opinion No. 3011, January 17, 1986, is not submitted for review to
10 the United States Supreme Court. If the decision is submitted for review
11 but the United States Supreme Court declines to accept review, then sec. 12
12 of this Act takes effect on the date of the order of the United States
13 Supreme Court declining to accept review. If the United States Supreme
14 Court accepts review, then sec. 12 of this Act takes effect on the date of
15 a final decision of the United States Supreme Court affirming the decision
16 of the Alaska Supreme Court.

17 * Sec. 14. Sections 1 - 11 of this Act take effect immediately in
18 accordance with AS 01.10.070(c).

Offered: 4/4/86
Referred: Finance

Original sponsors: Faiks, Josephson,
Sturgulewski and V.Fischer

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 CS FOR SENATE BILL NO. 367 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

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

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

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

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

18 (c) The legislature further finds that the ratio of employees on
19 a certified payroll who did not apply for or were refused a permanent
20 fund dividend under AS 43.23 to employees who were found eligible to
21 receive a dividend is a reasonable but not exclusive indicator of the
22 ratio of nonresident to resident employees on a public works project.

23 (d) When determining the ratio of nonresident to resident em-
24 ployees working on a public works project, the commissioner may con-
25 sider information gathered from on-site surveys of public works proj-
26 ects including individual interviews, questionnaires, examination of
27 the state of registration of vehicles owned or operated by employees,
28 and other information acquired from inspection of certified payrolls.

29 (e) The legislature finds that the following factors are

1 reasonable but not exclusive indicators of the ratio of nonresident to
2 resident employees in the state:

3 (1) the ratio of applicants for unemployment insurance who
4 list out-of-state residences to applicants who list residences in the
5 state;

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

10 (f) The legislature finds that

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

14 (2) many rural state residents who wish to work do not seek
15 employment as frequently as necessary to meet federal definitions of
16 unemployment because of continuing lack of employment opportunities in
17 rural areas of the state.

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

19 Sec. 36.10.070. UNAVAILABILITY OF PREFERRED WORKERS. (a) An
20 employer subject to hiring requirements under this chapter may request
21 the Department of Labor to assist in locating qualified, eligible
22 employees. After receiving a request for assistance, the department
23 shall refer qualified, eligible, available residents to the employer
24 to fill the employer's hiring needs. The employer shall cooperate
25 with the department.

26 (b) If the department is unable to refer a sufficient number of
27 qualified, eligible, available residents able to perform the work, the
28 commissioner of labor may approve the hiring of residents who are not
29 eligible for preference and nonresidents for the balance of the

1 request.

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

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

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

7 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and
8 the commissioner of labor shall report annual to the legislature and
9 the governor on the status of employment in the state, the effect of
10 nonresident employment on the employment of residents in the state,
11 and methods to increase resident hire. The report shall be submitted
12 by January 31 of each year.

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

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

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

21 (3) is underemployed or marginally employed as defined by
22 the department; or

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

26 (b) An employer subject to a resident hiring requirement under
27 this chapter shall certify that persons employed as residents under
28 the preference are eligible for the preference.

29 Sec. 36.10.150. DETERMINATION OF UNDEREMPLOYED AREA. (a)

1 Immediately following a determination by the commissioner of labor
2 that an economic region of the state is an underemployed area or that
3 the state as a whole is an underemployed area, and for the next two
4 fiscal years after the determination, qualified residents of the area
5 who are eligible under AS 36.10.140 shall be given preference for work
6 on each project under AS 36.10.180 that is wholly or partially sited
7 within the area.

8 (b) The commissioner of labor shall determine the amount of work
9 that must be performed under this section by eligible qualified resi-
10 dents. In making this determination, the commissioner shall consider
11 the nature of the work, the classification of workers, availability of
12 eligible residents, and the willingness of eligible residents to
13 perform the work.

14 (c) The commissioner shall determine that an economic region of
15 the state or the state as a whole is an underemployed area if the
16 commissioner finds that

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

19 (2) a substantial number of residents in the area desire
20 work in occupations that would be employed on a public works project;

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

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

26 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-
27 TRESSED AREAS. (a) Immediately following a determination by the
28 commissioner that an economic region of the state is an economically
29 distressed area, and for the next two fiscal years after the

1 determination, qualified residents of the area who are eligible under
2 AS 36.10.140 shall be given preference for at least 50 percent of
3 employment on each project under AS 36.10.180 that is wholly or par-
4 tially sited within the economically distressed area.

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

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

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

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

16 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-
17 ITY RESIDENTS. (a) Immediately following a determination by the
18 commissioner that the female or minority residents of an economic
19 region are economically disadvantaged, and for the next two fiscal
20 years after the determination, qualified female or minority residents
21 of the area who are eligible under AS 36.10.140 shall be given prefer-
22 ence for at least 25 percent of employment on each project under
23 AS 36.10.180 that is wholly or partially sited within the area.

24 (b) The commissioner shall determine that the female or minority
25 residents of an area are economically disadvantaged if the commission-
26 er finds that

27 (1) the female or civilian minority population of the area
28 exceeds the average female or civilian minority population for the
29 state;

1 (2) either the percent of unemployment of female or civil-
2 ian minority residents of the area is at least two times the percent
3 of unemployment of male or nonminority residents of the area or the
4 female or civilian minority population of the area has suffered past
5 economic discrimination;

6 (3) the economic disadvantage of female or civilian minor-
7 ity residents of the area has substantially contributed to serious
8 social or economic problems in the area; and

9 (4) employment of workers who are not residents is a pecu-
10 liar source of unemployment of female or civilian minority residents
11 of the area.

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

16 Sec. 36.10.180. PROJECTS SUBJECT TO PREFERENCE. (a) The pref-
17 erences established in AS 36.10.150 - 36.10.170 apply to

18 (1) the performance of contracts let by a municipality for
19 construction, repair, preliminary surveys, engineering studies, con-
20 sulting, maintenance work, or any other retention of services neces-
21 sary to complete a given project;

22 (2) a construction project that is partly or wholly funded
23 by state money if the state or an agency of the state, a department,
24 office, agency, state board, commission, regional school board with
25 respect to an educational facility under AS 14.11.020, public corpo-
26 ration, or other organizational unit of or created under the execu-
27 tive, legislative or judicial branch of state government, including
28 the University of Alaska and the Alaska Railroad Corporation, is a
29 signatory to the construction contract;

1 (3) work performed on a public works project under a grant
2 to a municipality under AS 37.05.315;

3 (4) work performed on a public works project under a grant
4 to a named recipient under AS 37.05.316; and

5 (5) work performed on a public works project under a grant
6 to an unincorporated community under AS 37.05.317.

7 (b) If the governor has declared an area to be an area impacted
8 by an economic disaster under AS 44.33.285, then the preference for
9 residents of the area established under AS 44.33.285 - 44.33.310
10 supercedes the preference under AS 36.10.150 and 36.10.160 for con-
11 tracts awarded by the state.

12 (c) The commissioner shall define the boundaries of an economic
13 region or an area within which a preference applies.

14 Sec. 36.10.190. REPORTING PROVISIONS. An employer obligated to
15 meet resident hire requirements under this chapter shall comply with
16 the reporting provisions that the commissioner of labor determines are
17 reasonably necessary to carry out this chapter. Except for statis-
18 tical data, all information regarding specific employees is confiden-
19 tial and may not be released by the Department of Labor.

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

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

29 (c) In addition to criminal penalties imposed by state law, if a

1 person is convicted of a crime in connection with a false statement
2 made in a certification required under AS 36.10.140, and the convic-
3 tion is not reversed, that person shall forfeit all future rights to
4 eligibility for an employment preference under this chapter.

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

9 (1) made a false sworn statement; or

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

12 (b) The amount of the civil penalty under (a) of this section
13 for a person who falsely certifies that the person is eligible for an
14 employment preference under this chapter is not more than \$400 for
15 each false certification. The person also forfeits all future rights
16 to eligibility for an employment preference under this chapter.

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

23 Sec. 36.10.900. EFFECT OF JUDICIAL DECISIONS. If a provision of
24 this chapter, or the application of a provision to a person or circum-
25 stance, is held invalid, the remainder of this chapter and the appli-
26 cation to other persons or circumstances shall not be affected by the
27 holding. The remainder shall be enforced to the greatest extent
28 constitutionally permissible under the constitutions of the United
29 States and the State of Alaska.

Sec. 36.10.990. DEFINITIONS. In this chapter

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

4 (2) "qualified" means possesses the requisite education,
5 training, skills, or experience to perform the work.

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

7 (9) "resident" means a person who establishes residency
8 under AS 01.10.055.

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

10 (e) The Department of Labor shall require a municipality awarded
11 a grant for a public works project under (a) of this section to comply
12 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-
13 ment generated by the grant.

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

15 (b) The Department of Labor shall require a recipient awarded a
16 grant for a public works project under (a) of this section to comply
17 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-
18 ment generated by the grant.

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

20 (b) The Department of Labor shall require the qualified incor-
21 porated entity awarded a grant or agents or contractors with whom the
22 Department of Community and Regional Affairs contracts under (a) of
23 this section to comply with the requirements of AS 36.10.150 - 36.10.-
24 170 for employment generated by the grant or contract if the grant or
25 contract is for a public works project.

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

1 * Sec. 11. AS 36.95.010(4) and (5) are repealed.

2 * Sec. 12. AS 36.10.010 is repealed.

3 * Sec. 13. Section 12 of this Act takes effect April 17, 1986, or
4 immediately, in accordance with AS 01.10.070(c), whichever is later, if the
5 final decision of the Alaska Supreme Court in Robison v. Francis, File No.
6 S-493, Opinion No. 3011, January 17, 1986, is not submitted for review to
7 the United States Supreme Court. If the decision is submitted for review
8 but the United States Supreme Court declines to accept review, then sec. 12
9 of this Act takes effect on the date of the order of the United States
10 Supreme Court declining to accept review. If the United States Supreme
11 Court accepts review, then sec. 12 of this Act takes effect on the date of
12 a final decision of the United States Supreme Court affirming the decision
13 of the Alaska Supreme Court.

14 * Sec. 14. Sections 1 - 11 of this Act take effect immediately in
15 accordance with AS 01.10.070(c).

Offered: 3/20/86
Referred: Judiciary

Original sponsors: Faiks, Josephson,
Sturgulewski and V. Fischer

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2

CS FOR SENATE BILL NO. 367 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

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

7

8

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

9

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

17

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

18

(c) The legislature further finds that the ratio of employees on a certified payroll who did not apply for or were refused a permanent fund dividend under AS 43.23 to employees who were found eligible to receive a dividend is a reasonable but not exclusive indicator of the ratio of nonresident to resident employees on a public works project.

23

(d) When determining the ratio of nonresident to resident employees working on a public works project, the commissioner may consider information gathered from on-site surveys of public works projects including individual interviews, questionnaires, examination of the state of registration of vehicles owned or operated by employees, and other information acquired from inspection of certified payrolls.

29

(e) The legislature finds that the following factors are

1 reasonable but not exclusive indicators of the ratio of nonresident to
2 resident employees in the state:

3 (1) the ratio of applicants for unemployment insurance who
4 list out-of-state residences to applicants who list residences in the
5 state;

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

10 (f) The legislature finds that

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

14 (2) many rural state residents who wish to work do not seek
15 employment as frequently as necessary to meet federal definitions of
16 unemployment because of continuing lack of employment opportunities in
17 rural areas of the state.

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

19 Sec. 36.10.070. UNAVAILABILITY OF PREFERRED WORKERS. (a) An
20 employer subject to hiring requirements under this chapter may request
21 the Department of Labor to assist in locating qualified, eligible
22 employees. After receiving a request for assistance, the department
23 shall refer qualified, eligible, available residents to the employer
24 to fill the employer's hiring needs. The employer shall cooperate
25 with the department.

26 (b) If the department is unable to refer a sufficient number of
27 qualified, eligible, available residents able to perform the work, the
28 commissioner of labor may approve the hiring of residents who are not
29 eligible for preference and nonresidents for the balance of the

1 request.

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

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

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

7 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and
8 the commissioner of labor shall report biennially to the legislature
9 and the governor on the status of employment in the state, the effect
10 of nonresident employment on the employment of residents in the state,
11 and methods to increase resident hire. The report shall be submitted
12 by January 31 of the first session of a legislature.

13 Sec. 36.10.140. ELIGIBILITY FOR PREFERENCE. (a) A person is
14 eligible for an employment preference under this chapter if the person
15 registers as required by the Department of Labor, is a resident, and

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

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

20 (3) is underemployed or marginally employed as defined by
21 the department; or

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

25 (b) An employer subject to a resident hiring requirement under
26 this chapter shall certify that persons employed as residents under
27 the preference are eligible for the preference.

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

1 that an economic region of the state is an underemployed area or that
2 the state as a whole is an underemployed area, and for the next two
3 years after the determination, qualified residents of the area who are
4 eligible under AS 36.10.140 shall be given preference for work on each
5 project under AS 36.10.180 that is wholly or partially sited within
6 the area.

7 (b) The commissioner shall determine that an economic region of
8 the state or the state as a whole is an underemployed area if the
9 commissioner finds that

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

12 (2) a substantial number of residents in the area desire
13 work in occupations that would be employed on a public works project;

14 (3) the lack of employment opportunities in the area has
15 contributed to social or economic problems in the area; and

16 (4) employment of workers who are not residents is a pecu-
17 liar source of the unemployment of residents of the area.

18 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-
19 TRESSED AREAS. (a) Immediately following a determination by the
20 commissioner that an economic region of the state is an economically
21 distressed area, and for the next two years after the determination,
22 qualified residents of the area who are eligible under AS 36.10.140
23 shall be given preference for at least 50 percent of employment on
24 each project under AS 36.10.180 that is wholly or partially sited
25 within the economically distressed area. The preference applies to
26 worker hours on a craft-by-craft basis.

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

29 (1) the unemployment rate in the area exceeds the national

1 rate of unemployment by at least five percentage points;

2 (2) the lack of employment opportunities in the area has
3 contributed to social or economic problems in the area; and

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

6 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-
7 ITY RESIDENTS. (a) Immediately following a determination by the
8 commissioner that the minority residents of an economic region are
9 economically disadvantaged, and for the next two years after the
10 determination, qualified minority residents of the area who are eligi-
11 ble under AS 36.10.140 shall be given preference for at least 25
12 percent of employment on each project under AS 36.10.180 that is
13 wholly or partially sited within the area. The preference applies to
14 worker hours on a craft-by-craft basis.

15 (b) The commissioner shall determine that minority residents of
16 an area are economically disadvantaged if the commissioner finds that

17 (1) the civilian minority population of the area exceeds
18 the average civilian minority population for the state;

19 (2) either the percent of unemployment of civilian minority
20 residents of the area is at least two times the percent of unemploy-
21 ment of nonminority residents of the area or the civilian minority
22 population of the area has suffered past economic discrimination;

23 (3) the economic disadvantage of civilian minority resi-
24 dents of the area has contributed to social or economic problems in
25 the area;

26 (4) employment of workers who are not residents is a pecu-
27 liar source of unemployment of civilian minority residents of the
28 area.

29 (c) In this section, a person is considered to be a member of a

1 minority if the person is black but not of Hispanic origin, Hispanic,
2 Asian or Pacific Islander, American Indian or Alaskan Native, as those
3 terms are defined by the Equal Employment Opportunity Commission.

4 Sec. 36.10.180. PROJECTS SUBJECT TO PREFERENCE. (a) The pref-
5 erences established in AS 36.10.150 - 36.10.170 apply to

6 (1) the performance of contracts let by a municipality for
7 construction, repair, preliminary surveys, engineering studies, con-
8 sulting, maintenance work, or any other retention of services neces-
9 sary to complete a given project;

10 (2) a construction project that is partly or wholly funded
11 by state money if the state or an agency of the state, a department,
12 office, agency, state board, commission, regional school board with
13 respect to an educational facility under AS 14.11.020, public corpo-
14 ration, or other organizational unit of or created under the execu-
15 tive, legislative or judicial branch of state government, including
16 the University of Alaska and the Alaska Railroad Corporation, is a
17 signatory to the construction contract;

18 (3) work performed on a public works project under a grant
19 to a municipality under AS 37.05.315;

20 (4) work performed on a public works project under a grant
21 to a named recipient under AS 37.05.316; and

22 (5) work performed on a public works project under a grant
23 to an unincorporated community under AS 37.05.317.

24 (b) If the governor has declared an area to be an area impacted
25 by an economic disaster under AS 44.33.285, then the preference for
26 residents of the area established under AS 44.33.285 - 44.33.310
27 supercedes the preference under AS 36.10.150 and 36.10.160 for con-
28 tracts awarded by the state.

29 (c) The commissioner shall define the boundaries of an economic

1 region or an area within which a preference applies.

2 Sec. 36.10.190. PENALTIES. (a) A person who makes a false
3 sworn statement in connection with a certification of eligibility for
4 an employment preference under this chapter is subject to criminal
5 prosecution for perjury as provided in AS 11.56.200.

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

11 (c) In addition to criminal penalties imposed by state law, if a
12 person is convicted of a crime in connection with a false statement
13 made in a certification required under AS 36.10.140, and the convic-
14 tion is not reversed, that person shall forfeit all future rights to
15 eligibility for an employment preference under this chapter.

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

23 Sec. 36.10.990. DEFINITION. In this chapter "qualified" means
24 possesses the requisite education, training, skills, or experience to
25 perform the work.

26 * Sec. 6. AS 36.95.010 is amended by adding new paragraphs to read:

27 (9) "craft" means a recognized construction trade;

28 (10) "resident" means a person who establishes residency
29 under AS 01.10.055.

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

2 (e) The Department of Labor shall require a municipality awarded
3 a grant for a public works project under (a) of this section to comply
4 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-
5 ment generated by the grant.

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

7 (b) The Department of Labor shall require a recipient awarded a
8 grant for a public works project under (a) of this section to comply
9 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-
10 ment generated by the grant.

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

12 (b) The Department of Labor shall require the qualified incor-
13 porated entity awarded a grant or agents or contractors with whom the
14 Department of Community and Regional Affairs contracts under (a) of
15 this section to comply with the requirements of AS 36.10.150 - 36.10.-
16 170 for employment generated by the grant or contract if the grant or
17 contract is for a public works project.

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

22 * Sec. 11. AS 36.95.010(4) and (5) are repealed.

23 * Sec. 12. AS 36.10.010 is repealed.

24 * Sec. 13. Section 12 of this Act takes effect April 17, 1986, or im-
25 mediately, in accordance with AS 01.10.070(c), whichever is later, if the
26 final decision of the Alaska Supreme Court in Robison v. Francis, File No.
27 S-493, Opinion No. 3011, January 17, 1986, is not submitted for review to
28 the United States Supreme Court. If the decision is submitted for review
29 but the United States Supreme Court declines to accept review, then sec. 12

1 of this Act takes effect on the date of the order of the United States
2 Supreme Court declining to accept review. If the United States Supreme
3 Court accepts review, then sec. 12 of this Act takes effect on the date of
4 a final decision of the United States Supreme Court affirming the decision
5 of the Alaska Supreme Court.

6 * Sec. 14. Sections 1 - 11 of this Act take effect immediately in
7 accordance with AS 01.10.070(c).

Introduced: 1/29/86
Referred: Labor and Commerce
and Judiciary

BY FAIKS, JOSEPHSON,
STURGULEWSKI AND V.FISCHER

1 IN THE SENATE

2 SENATE BILL NO. 367

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

9 * Section 1. PURPOSE. The legislature recognizes that the state has a
10 significant unemployment problem. This Act is intended to better fulfill
11 the state's duty of loyalty to its citizens, reduce unemployment among
12 residents of the state, and assist economically and socially disadvantaged
13 residents. If the courts find that a portion of AS 36.10 is unconstitu-
14 tional, the public interest requires that the remaining portions be imple-
15 mented as fully as possible.

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

17 (c) The legislature further finds that the following factors are
18 adequate but not exclusive indicators of the ratio on a public works
19 project of nonresident to resident employees:

20 (1) the ratio between the employees on a certified payroll
21 who did not apply for or were refused a permanent fund dividend under
22 AS 43.23 to those employees who were found eligible to receive a
23 dividend;

24 (2) the ratio between employees on a certified payroll who
25 are registered to vote in a state other than Alaska to those who are
26 registered to vote in Alaska;

27 (d) The commissioner may consider information gathered from site
28 surveys of construction projects including individual interviews,
29 comparison of the state in which vehicles owned or operated by

1 employees are registered, and other information acquired from inspection
2 of certified payrolls when determining the ratio of nonresident
3 to resident employees working on a public works project.

4 (e) The legislature finds that the following factors are reasonable
5 indicators of the ratio of nonresident to resident employees in
6 the state:

7 (1) the ratio between applicants for unemployment insurance
8 claims who list an out-of-state residence compared to those applicants
9 who list residences in the state;

10 (2) the ratio between applicants for unemployment compensation who did not
11 apply for or were denied a permanent fund dividend
12 to those applicants who were found eligible for a dividend.

13 (f) The legislature finds that

14 (1) the actual rate of unemployment among residents of the
15 state is considerably higher than is reflected by unemployment rates
16 based on nationally accepted measures;

17 (2) rural areas in the state have proportionately more
18 resident workers who are unemployed but who are not reflected in the
19 unemployment rates based on nationally accepted measures than do
20 nonrural areas of the state;

21 (3) many unemployed rural state residents do not seek
22 employment as frequently as necessary to fit federal definitions of
23 unemployment because of continuing lack of employment opportunities in
24 rural areas of the state.

25 (g) The legislature further finds that given the expense and
26 difficulty of gathering and preparing information on unemployment for
27 the state, it is reasonable, absent substantial evidence to the con-
28 trary, for the commissioner of labor to rely on information and pro-
29 jections to indicate trends and to implement remedies to unemployment

1 problems based on those trends.

2 * Sec. 3. AS 36.10 is amended by adding new sections to read:

3 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and
4 the commissioner of labor shall report annually to the legislature and
5 the governor on the status of unemployment in the state, the effect of
6 nonresident employment on unemployment in the state, and methods to
7 increase resident hire. The report shall be submitted at least 30
8 days before the first day of the legislative session.

9 Sec. 36.10.140. REGISTRATION REQUIRED. To be eligible for an
10 employment preference under this chapter, a person must register with
11 the Department of Labor or with a local hiring hall.

12 Sec. 36.10.150. DETERMINATION OF UNDEREMPLOYED AREA. (a)
13 During the three fiscal years following a calendar year in which the
14 commissioner of labor determines that an economic region of the state
15 is an underemployed area or that the state as a whole is an underem-
16 ployed area, at least 95 percent of the worker hours on a craft-by-
17 craft basis shall be performed by residents of the area on each public
18 works project under AS 36.10.180 that is wholly or partially sited
19 within the area.

20 (b) The commissioner shall determine that an economic region of
21 the state or the state as a whole is an underemployed area if the
22 commissioner finds that

23 (1) the rate of unemployment within the area is higher than
24 the national rate of unemployment;

25 (2) there is substantial unemployment in the area among
26 persons seeking work in occupations that would be employed on a public
27 works project; and

28 (3) employment of workers who are not residents of the area
29 is a contributing cause of the unemployment of residents of the area.

1 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-
2 TRESSED AREAS. (a) During the three fiscal years following a calen-
3 dar year in which the commissioner determines that a census area,
4 census subarea, or an economic region of the state is an economically
5 distressed area, at least 50 percent of employment on each project
6 under AS 36.10.180 that is wholly or partially sited within the eco-
7 nomically distressed area shall consist of residents of the area. The
8 50 percent preference applies to worker hours on a craft-by-craft
9 basis.

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

12 (1) the average annual family income of residents of the
13 area is below the adjusted poverty guidelines of the federal Depart-
14 ment of Health and Human Services or that the unemployment rate in the
15 area exceeds the national rate of unemployment by at least five per-
16 centage points; and

17 (2) employment of workers who are not residents of the area
18 is a contributing cause of unemployment of residents of the area.

19 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-
20 ITY RESIDENTS. (a) During the three fiscal years following a calen-
21 dar year in which the commissioner determines that the minority resi-
22 dents of a census area or census subarea are economically disadvan-
23 taged, at least 25 percent of employment on each project under AS 36.-
24 10.180 that is wholly or partially sited within the census area or
25 census subarea shall consist of minority residents of the area. The
26 25 percent preference applies to worker hours on a craft-by-craft
27 basis.

28 (b) The commissioner shall determine that minority residents of
29 a census area are economically disadvantaged if the commissioner finds

1 that

2 (1) the minority population of the census area exceeds the
3 average minority population for the state;

4 (2) the percent of unemployment of minority residents of
5 the area is at least two times the percent of unemployment of non-
6 minority residents of the area; and

7 (3) employment of workers who are not residents of the area
8 is a contributing cause of unemployment of minority residents of the
9 area.

10 (c) In this section, a person is considered a member of a minor-
11 ity if the person is a member of a racial or ethnic minority group
12 recognized by the federal Bureau of the Census.

13 Sec. 36.10.180. SCOPE OF PREFERENCE. (a) The preferences
14 established in AS 36.10.150 - 36.10.170 apply to

15 (1) the performance of contracts let by a municipality for
16 construction, repair, preliminary surveys, engineering studies, con-
17 sulting, maintenance work, or any other retention of services neces-
18 sary to complete a given project; and

19 (2) a construction project that is partly or wholly funded
20 by state money and to which the state or an agency of the state, a
21 department, office, agency, state board, commission, regional school
22 board with respect to an educational facility under AS 14.11.020,
23 public corporation, or other organizational unit of or created under
24 the executive, legislative or judicial branch of state government,
25 including the University of Alaska, is a signatory to the construction
26 contract.

27 (b) If the governor has declared an area to be an area effected
28 by an economic disaster under AS 44.33.285, then the preference for
29 residents of the area established under AS 44.33.285 - 44.33.310

1 supercedes the preference under AS 36.10.150 and 36.10.160 for con-
2 tracts awarded by the state.

3 Sec. 36.10.900. EFFECT OF JUDICIAL DECISIONS. If a provision of
4 this chapter, or the application of a provision to a person or circum-
5 stance, is held invalid, the remainder of this chapter and the appli-
6 cation to other persons or circumstances shall not be affected by the
7 holding. The remainder shall be enforced to the greatest extent
8 constitutionally permissible under the constitutions of the United
9 States and the State of Alaska.

10 * Sec. 4. The provisions of this Act do not apply to a contract entered
11 into before the effective date of this Act.

12 * Sec. 5. AS 36.10.010 is repealed.

13 * Sec. 6. This Act takes effect February 16, 1986 or immediately, in
14 accordance with AS 01.10.070(c), whichever is later, if the final decision
15 of the Alaska Supreme Court in Robison v. Francis, File No. S-493, Opinion
16 No. 3011, January 17, 1986, is not submitted for review to the United
17 States Supreme Court. If the decision is submitted for review but the
18 United States Supreme Court declines to accept review, then this Act takes
19 effect on the date of the order of the United States Supreme Court declin-
20 ing to accept review. If the United States Supreme Court accepts review,
21 then this Act takes effect on the date of a final decision of the United
22 States Supreme Court affirming the decision of the Alaska Supreme Court.

COMMITTEE REPORT

SENATE

FURTHER:

Finance

3/20/86

Date

4/2/86

Mr. President

The Committee on JUDICIARY considered SB 367

~~relating to~~ Alaskan resident employment preference; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 367 (JUDICIARY)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

Gene Miller

MEMBERS HAVING
OTHER RECOMMENDATIONS

Ziegler - N/R; aren't we attempting to do indirectly that which we cannot do directly?
Tom Kelly - No Rec

Pat Rodey

Chairman

Do Pass

Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER: Judiciary

1/29/86

Date 19 MARCH 86

Mr. President

The Committee on Labor & Commerce considered SB 367
relating to Alaskan resident employment preference; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 367 (LC)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

³ [Signature] no rec.
² Bill Ray DO NOT PASS
IN PRESENT FORM

¹ [Signature]
Chairman
Do Pass
Chairman recommendation

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

Revision Date : _____

REQUEST

Bill/Resolution No. HCS CSSB 367(L&C)
 Title: "An Act relating to Alaskan
 resident employment preference..."
 Sponsor: Faiks, Josephson, Sturgulewski...
 Requestor: House Labor & Commerce
 Date of Request: 4/14/86

FISCAL DETAIL

Agency Affected: Labor
 BRU: Administration Services
 Components: Special Services

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		133.6	133.6	133.6	133.6	133.6
TRAVEL		0	0	0	0	0
CONTRACTUAL		193.7	203.8	241.9	240.8	246.9
SUPPLIES		1.2	1.2	1.3	1.3	1.4
EQUIPMENT		4.0	.8	.9	.9	1.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	332.5	339.4	377.7	376.6	382.9

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

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

FUNDING : (Thousands of Dollars)

GENERAL FUND	0	332.5	339.4	377.7	376.6	382.9
FEDERAL FUNDS						
OTHER						
TOTAL	0	332.5	339.4	377.7	376.6	382.9

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Prepared by: Judy G. Knight
 Division: Administrative Services

Phone: 465-2720
 Date: 4-23-86

Approved by Commissioner: Jim Robison
 Agency: Labor

Date: 4-23-86

Distribution (by Agency preparing fiscal note):

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

CONTINUATION OF FISCAL NOTE ANALYSIS
 FOR BILL/RESOLUTION NO. HCS CSSB 367(L&C)

SUMMARY OF NONPERSONAL SERVICES COSTS

	FY 87	FY 88	FY 89	FY 90	FY 91
Travel	0	0	0	0	0
Key Entry	20,000.00	40,000.00	62,000.00	64,000.00	66,000.00
DP Operations	116,000.00	131,000.00	146,000.00	149,000.00	152,000.00
DP Applications	29,500.00	4,250.00	4,400.00	4,600.00	4,800.00
Printing	4,500.00	4,500.00	4,500.00	4,700.00	5,000.00
Long Distance Phone Service	12,000.00	12,500.00	13,000.00	6,000.00	6,200.00
Equipment Lease	8,300.00	8,300.00	8,700.00	9,000.00	9,400.00
Equipment Maintenance	300.00	300.00	300.00	300.00	300.00
Training, shipping, & Misc.	2,900.00	2,400.00	2,400.00	2,600.00	2,600.00
Total Contractual	193,700.00	283,750.00	341,900.00	340,800.00	346,900.00
Supplies	1,200.00	1,200.00	1,300.00	1,300.00	1,400.00
Equipment (desk, chair, software)	4,000.00	300.00	900.00	900.00	1,000.00

A detailed description of costs and activities follows.

CONTINUATION OF FISCAL NOTE ANALYSIS
Bill/Resolution No. HCS CSSR 367(1&C)

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

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

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

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

Third Year - all industries.

4. In addition to the occupational information, reporting of the residency status by industry and area would be necessary.
5. All minority and female demographic and economic information will be derived from the decennial census. If more frequent updates of this information are required additional questions would have to be added to the Permanent Fund Dividend application and resources increased.
6. Information to make the determinations of Sec. 36.10.150 (b) will be developed as follows:

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

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

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

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

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

Computer Files

UI wage items - Currently consists of about 2 million records. The number of records grows with increases in employment. Contains an employer number, and wages earned by quarter for each employee subject to UI coverage.

The occupational title of each employee is a critical new variable will be collected beginning in FY 87. This will be essential to analyze the displacement of residents. Collection of this information will be phased in over a three year period, meaning that processing volumes will increase sharply in both the second and third years with smaller increases in FY 90 and FY 91.

ES-202 - Over 15,000 records contain an employer number, and the employer's industry and area.

Permanent Fund Dividend (PFD) - Consists of nearly one half million records each year. Two years of PFD files are required to match against other files to identify residents. While the files overlap for most residents the second year of PFD data is necessary to identify new residents, and the first identifies those residents who either left Alaska or died prior to filing for the second year.

Beginning with the 1986 PFD data additional processing will be necessary to identify:

- a) the area of residence within Alaska.
- b) the labor force status of residents, eg. self-employed, federal, UI covered, or long term unemployed.

Labor force status - Developed from a match of the PFD and UI wage item files, this database of over one quarter million records will be used to estimate:

- a) Characteristics of Alaska's resident labor force who did not work under UI coverage in the most current year.
- b) The number of Alaska residents who worked under UI coverage who chose not to include their Social Security Number (SSN) on their PFD application (SSN has not been required since 1984).

UI Benefit - Identify about 700,000 claims for UI benefits each year. Records contain the amount paid by week, an employer number, and the occupation of the claimant.

Labor Supply - A new database necessary to permit the department to make the determinations required of the amount of work that must be performed by eligible qualified residents. Detail will be contained on the area and occupation of eligible qualified residents.

Social Impact - Another new database which will contain information on social problems that can be correlated to unemployment. This is necessary for the determinations of qualifying areas.

Labor shortage occupations - This new database will contain all occupations, by economic region, that have been identified as having inadequate numbers of eligible residents available for placement.

Quality control look up tables - Data will be rigorously edited to insure quality control. Computer tables containing the names and associated codes of areas, and occupations will be developed, maintained, and utilized to edit other files.

The most extensive use will occur as occupational titles are converted to numeric codes. All acceptable spellings of occupational titles, and their associated occupational codes, will be constantly updated for each detailed industry group.

Analytical files - Several files will be created from the computerized matching of characteristics from the same individuals, or firms, found in multiple files described above. Where practical these files are down loaded to microcomputers for more extensive editing, analysis, and formatting. This holds down costs, allows efficient analytical extractions and tests, and permits fast preparation into the final camera ready required reports.

Key Entry

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

Data Processing Applications Development (Programming)

Programming costs include: modification of programs used last year (\$2,000); development of new applications in FY 87 (\$25,500); and system maintenance, and analytical extractions (\$2,000) in all years. Estimated total programming costs are \$29,500 for FY 87 (983 hours @ \$30 per hour including all benefits and overhead), dropping to \$4,250 (142 hours @ \$30 per hour) in FY 88, and experiencing small inflationary costs in FY 90 and FY 91. The following new applications will be developed in FY 87:

- a) Extraction of ZIP codes from the 1986 PFD files, subsequent reallocation to census areas and economic regions, and writing of the geographic codes to other files (\$2,500).
- b) Development of a labor supply database, with all coding converted to Standard Occupational Classification (SOC) codes (\$5,000).
- c) Development of a social impact database (\$5,000).
- d) Creation of the labor force status database by extracting type of work information from the 1986 PFD files and matching against the UI wage items and ES-202 files (\$3,000).
- e) Creation of a labor shortage occupations database (\$1,000).
- f) Conversion of occupational titles to SOC codes (\$5,000).
- g) Matching of SOC codes to SSN and area of residence (\$4,000).

DP Operations (computer costs on DOL mainframe)

Primary processing will be done on the DOL computer. Costs are allocated to projects based upon use, in conformance with federal and state accounting requirements. Microcomputers will be used for analysis when possible to minimize costs. Mainframe data processing costs for the first year are estimated below:

- a) Match 1985 UI wage file to 1985 PFD = \$9,000
- b) Match 1985 UI wage file to 1986 PFD = \$9,000
- c) Merge the two files created in (a) and (b) = \$2,000
The processing listed in items (a), (b), and (c) are necessary to identify workers as to their Alaska residency. Costs are based upon similar work done early in FY 86.
- d) Identify residency by Census Area = \$15,000 - This legislation requires specification of residency by Alaska's 23 Census Areas. The 1986 (and subsequent years') PFD files will be processed to extract ZIP codes. These in turn will be converted to Census Area and written to the file created from item (c).
- e) Determine the residency status, by Census Area, of workers who received UI benefits = \$5,000 - The UI benefit file will be matched to the files created in items (d) and (e), and subsequently processed to create in a file identifying the occupation, industry, and resident status of workers who received UI benefits.
- f) Labor supply database processing = \$9,000 - This legislation mandates that "The commissioner of labor shall determine the amount of work that must be performed under this section by eligible qualified residents" [Sec 36.10.150 (b)]. This database will be analyzed to assess the numbers of eligible qualified residents relative to the expected employment within each economic region.
- g) Social impact database processing = \$12,000 - After determining which social variables are available to our department that data will be extracted and converted to standardized coding. Extensive extractions of this database will be performed to indicate the correlation of unemployment to other social ills.

- h) Labor force status processing = \$4,000 - Described earlier under computer files this database will permit us to answer questions anticipated in future court challenges of this legislation.
- i) Conversion of occupational titles to numeric codes = \$30,000 - A critical facet of this legislation is identification of the displacement of Alaskans by nonresidents. In past court challenges to resident hire the State was not able to prove that unemployed residents had the same skills as employed residents.

To answer this question requires the identification of all workers by occupation by employer, those occupational titles will then be converted to Standard Occupational Classification (SOC) codes. Editing will be extensive and assisted interactively by staff who will be constantly updating the occupational titles which are acceptable for each industry, and matching those titles to the correct SOC codes.

About 250,000 occupational titles will be collected and edited in FY 87. This will increase to over 600,000 in FY 88, and over 1,000,000 in FY 89 as additional industries are phased in. Costs per record for this conversion will be higher than matching of other files because of the large character field which will be compared.

Both staff and processing costs per record are expected to be highest when new, or uniquely spelled, occupational titles are encountered for the first time. For this reason costs are expected to increase at a rate smaller than the increase in the number of occupational titles processed. Estimated processing costs are \$30,000 in FY 87, \$40,000 in FY 88, and \$50,000 in FY 89.

- j) Matching SOC codes to other files = \$9,000 - SOC codes will be matched to the files created in items (d), (e), (g), and if possible (h). Costs will increase in later years as the number of occupational titles collected increase (FY 88 \$12,000, and FY 89 \$15,000).

k) Analytical extracts = \$12,000 - Extraction of files will be done for three purposes:

- a) Large scale quality control edits.
- b) Sorting and grouping of data into special combinations such as Census Area as required to make the determinations specified in this legislation.
- c) To download to microcomputers for further editing, analysis, and reformatting.

Costs will increase in subsequent years as the number of records processed (especially with occupational titles) increase (FY 88 \$15,000, and FY 89 \$16,000).

- 9. Printing costs for the annual report are estimated at \$4,500 the first year with inflationary increases in FY 90 and FY 91. This is based upon an assumption of 1,500 copies at \$3 each.
- 10. Long distance phone calls will be done on a daily basis to verify the accuracy of occupational titles. The greatest number of calls will occur in the first year that an industry is surveyed. After the first three years the costs would drop.

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

- 11. Equipment lease and maintenance is associated with the acquisition of three microcomputers, peripherals and communications to the DOL mainframe. Our experience in producing the resident hire report NonResidents Working In Alaska indicated that:

- a) Microcomputers saved about eight months in the preparation of the report. This was due to a combination of faster analysis, easier formatting, more efficient editing of both data and text, and camera ready output.
- b) Edits on the microcomputer were cheaper and more immediate.
- c) Errors were not introduced from the reentry of information.

These factors will be even more important in preparing the determinations and information required by this legislation because it is much more complex than our earlier study.

Position Title Statistical Clerk			No. of Positions 1	Range/Step 10B	Harg. U/1/1/1	Gov. <input type="checkbox"/>	Approv. <input type="checkbox"/>	Disapp. <input type="checkbox"/>																																							
Time Status PFT	Staff Months 12.0	RP Number	Location Juneau		Election District 4	Leg. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																																							
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Type of Expenditure</th> <th>1</th> <th>2</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td></td> <td>23,580</td> <td rowspan="5" style="background-color: #cccccc;"></td> </tr> <tr> <td>Benefits</td> <td></td> <td>8,458</td> </tr> <tr> <td>Premium Pay</td> <td></td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td></td> <td>32,038</td> </tr> <tr> <td>Travel</td> <td></td> <td>0</td> <td rowspan="5" style="background-color: #cccccc;"></td> </tr> <tr> <td>Contractual</td> <td></td> <td>3,600</td> </tr> <tr> <td>Commodities</td> <td></td> <td>365</td> </tr> <tr> <td>Equipment</td> <td></td> <td>1,300</td> </tr> <tr> <td>Other</td> <td></td> <td></td> </tr> <tr> <td>Total Cost</td> <td></td> <td>37,303</td> <td></td> </tr> </tbody> </table>			Type of Expenditure	1	2	3	Salary		23,580		Benefits		8,458	Premium Pay			Other			Total Personal Services		32,038	Travel		0		Contractual		3,600	Commodities		365	Equipment		1,300	Other			Total Cost		37,303		Justification This position will work on the quality control of occupational titles which would be submitted by employers each quarter. Specifically, the duties would be: <ol style="list-style-type: none"> 1. Review detailed edit listings. 2. Update edit data files. 3. Call employers for clarification when necessary. 4. Correct occupational titles. 5. Prepare computer summaries of results. <p>Contractual costs for this position include phone, training, and other miscellaneous items.</p>				
Type of Expenditure	1	2	3																																												
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Request For New Position

Agency Labor
 BRU Administrative Services
 Component Special Services

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 Revised Date _____

FY 87

Position Title Labor Economist III			No. of Positions 1	Range/Step 18B	Barg. Unit GGU	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12.0	RP Number	Location Juneau		Election District	Leg.		
Type of Expenditure			Justification					
1	2	Amount 3	This position will have primary responsibility for the analysis of data, the preparation of the annual resident hire report, and the determination of the amount of work required in underemployed areas. Specifically, the duties would include:					
Salary	40,188		1) Coordinate the collection and monitor the validity of relevant resident hire related statistics from other agencies.					
Benefits	12,283		2) Coordinate the updating and crossmatching of resident hire related data files with the analyst programmer.					
Premium Pay			3) Develop, collect and analyze data that are required to determine the amount of work to be done by nonresidents in underemployed areas.					
Other			4) Supervise the statistical technician who will collect new data for the determination of work by nonresidents, and develop the occupational code conversion program.					
Total Personal Services		52,471	5) Analyze microcomputer resident hire data bases to generate resident hire related tables and reports.					
Travel		0	6) Supervise the Statistical Clerk that will prepare the basic resident hire data tables for the report.					
Contractual		3,600	Contractual services costs include equipment lease, training, and other miscellaneous items.					
Commodities		365						
Equipment		1,400						
Other								
Total Cost		57,836						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004	57,836					
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
For B&M Use Only Key Number								

**Request For
New Position**

Agency Labor
 DRU Administrative Services
 Component Special Services

Page 11 of 13
 Revised Date _____

FY 87

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

**Request For
New Position**

Agency Labor
 BRU Administrative Services
 Component Special Services

Page 12 of 13
 Revised Date

FY 87

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

**Request For
New Position**

Agency Labor
 BRU Administrative Services
 Component Special Services

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 Revised Date

FY 87

Alaska State Legislature

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CHAIRMAN
Special Committee on
Telecommunications

MEMBER
Labor and Commerce
State Affairs
Finance—Subcommittee Administration

Representative H. A. "Red" Boucher

MEMORANDUM

To: Members of House Finance Committee

From: Representative H.A. "Red" Boucher

Date: May 5, 1986

Subject: Sectional Analysis of House CS for CS for SB 367
(L&C)

Section 1 sets out the legislature's purpose for the bill.

Section 2 (AS 36.10.005) adds several subsections to the findings of fact that already exist in statute concerning the need for resident preference in employment. Subsection (c) adds two reasonable findings of fact related to unemployment insurance coverage; Subsection (d) adds additional findings related to higher unemployment in Alaska in general and lack of opportunity for employment in rural areas in particular.

Section 3 (AS 36.10.070) deals with unavailability of preferred workers by requiring the employer to work with the Department of Labor to hire residents who are eligible, and if residents can't be obtained, only then may the DOL approve hiring of residents or nonresidents who are not eligible for preference.

Section 4 (AS 36.10.075) gives the commissioner of labor authority to adopt regulations to maximize resident hire.

Section 5 (AS 36.10) has new sections added to it, including:

RESIDENT HIRE REPORT (AS 36.10.130). An annual report shall be submitted on the status of resident and nonresident employment in the state.

ELIGIBILITY FOR PREFERENCE (AS 36.10.140). At a great administrative savings to the Department of Labor, a self-certification for employment preference will be developed by regulation, to be organized along lines similar to the permanent fund dividend program.

(a) Besides self-certification and residency, in order to be eligible for a preference an applicant has to additionally fall under at least one of the four categories listed: 1) is receiving unemployment benefits; 2) is not working and is registered; 3) is underemployed or marginally employed; OR has completed a job training program. Employers and labor organizations will be responsible responsible for certifying that their workers or members are eligible under the above criteria, and the Department of Labor may assist them in verifying eligibility of applicants.

DETERMINATION OF ZONE OF UNDEREMPLOYMENT (AS 36.10.150). Establishes a resident hiring preference for economic regions of the state.

(a) The determination of the zone or zones to be used for preference is given to the commissioner, and may include the entire state as whole, or sub-regions such as the 23 census areas or the 6 economic regions of the state, for two year periods following each such determination. Preference will be determined on a craft-by-craft or occupational basis.

(b) Standards are set forth by which the commissioner makes a determination of what should be the appropriate % at which the eligible resident preference is enforced.

(c) Criteria are set which an economic region must meet to be considered a zone of underemployment by the commissioner.

PREFERENCE FOR RESIDENTS OF ECONOMICALLY DISTRESSED ZONES (AS 36.10.160). (a) Establishes a hiring preference for economically distressed zones of the state. The preference requires that 50% of the employment on a project wholly or partially sited within the zone must be performed by residents of the zone. Subsection (b) sets out the criteria that a zone must meet to be considered an economically distressed zone, which are different than for zones of underemployment.

PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINORITY RESIDENTS (AS 36.10.170). (a) Establishes a preference for economically disadvantaged minority residents of a zone. The preference requires that 25% of the employment on a project wholly or partially sited within the area be performed by qualified minority residents within the area. Subsection (b) sets out the criteria that must be met in order to establish that the minority(s) of the zone are economically disadvantaged. Subsection (c) defines who is considered a member of a minority.

PREFERENCE FOR ECONOMICALLY DISADVANTAGED FEMALE RESIDENTS (AS 36.10.175). (a) Establishes a preference for economically disadvantaged female residents of a zone. The preference requires that 25% of the employment on a project wholly or partially sited within the area be performed by qualified

minority residents within the area. Subsection (b) sets out the criteria that must be met in order to establish that the female residents of the zone are economically disadvantaged.

PROJECTS SUBJECT TO PREFERENCE (AS 36.10.180). Defines the scope of projects to which the preferences under AS 36.10.150-175 apply. Subsection (a) applies the preference to the same kinds of projects now covered by AS 36.10.010, and includes public construction projects at the municipal and state levels, with all boards, corporations and any other units of government created by or under the jurisdiction of all three branches of government, if state money or any state grant is involved. Subsection (b) establishes that the preferences established under AS 44.33.285 for residents of an area affected by an economic disaster supersede the preferences under sections 36.10.150 and 36.10.100. In Subsection (c) the commissioner is given the authority to define the geographic boundaries of a zone receiving preference.

REPORTING PROVISIONS (AS 36.10.190). An employer shall comply with all reporting activity required by the commissioner. All information collected on individual persons is confidential, but for purposes of this chapter government departments may share confidential information (which of course still remains confidential) except where prohibited by law.

CRIMINAL PENALTIES (AS 36.10.200). A person is subject to criminal prosecution for perjury if the certification of eligibility is falsified. In the case of an applicant, all future rights to eligibility for employment preference may be taken away.

CIVIL PENALTIES (36.10.210). After a hearing by the Department of Labor, a person may be subject to civil penalties in addition to any criminal penalties with regards to certification for eligibility. In the case of an applicant, this penalty will not exceed \$400; but for an employer, the penalties shall be more severe, and on a case by case basis.

EFFECT OF JUDICIAL DECISIONS (AS 36.10.900). This is consistent with the general state severability clause at AS 01.10.030 and requires that if a portion of the chapter is held invalid, then the rest of the chapter remains in force.

DEFINITIONS (AS 36.10.990). The terms "qualified" and "zone" are defined.

Section 6 (AS 36.95.010). The term resident is defined in accord with existing statute in AS 01.10.055.

Section 7 (AS 37.05.315). State grants to municipalities for public works projects are included in this Chapter.

Section 8 (AS 37.05.316). State grants to any other recipient of a public works project must comply with the requirements of this Chapter.

Section 9 (AS 37.05.317). State grants awarded for public works projects by the Department of Community and Regional Affairs under contract must comply with the provisions of this Chapter.

Section 10 applies the Act to contracts entered on or after the effective date of the Act, unless the contract already has a provision in it requiring compliance with resident hire laws that take effect at any time during the term of the contract.

Section 11 (AS 36.95.010(4) & (5) are repealed. These are the old definitions in the Act for "qualified" and for "resident", which this bill supersedes.

Section 12 indicates that the Act takes effect immediately.

Anchorage Daily News



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Katherine Fanning, Editor and Publisher, 1971 to 1983

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A return to reason on local hiring

At last, a measure of sanity has returned to the legislature's work on local hiring measures. Until recently, the political popularity of the cause had lead legislators to reach far beyond constitutional (and sometimes even common sense) bounds as they tried to reserve in-state jobs for in-state residents. But now the Senate has passed a bill that better reflects the constraints the U.S. Constitution imposes on resident hiring efforts.

The key is that the measure settles for much more limited resident hiring goals.

It aims the local hiring preference only at unemployed workers, and only for state and locally funded public works projects. The preference would only apply to 50 percent of the project's jobs or a level set by the state labor commissioner, down from 95 percent in Alaska's recently overturned local hiring law. The state could invoke the preference only where non-resident hiring is causing serious social and economic harm.

Supporters hope officials can make a case that all of Alaska suffers such harm. If so, a local-hiring preference could apply statewide.

The Senate version squarely addresses legal standards set out in recent court cases. The key question is whether Alaska can show that widespread hiring of non-residents causes enough economic harm to justify measures limiting their rights to seek work here.

That is a fine line, and the courts may draw it short of the local hiring preference Alaska legislators now seek. But a measure that probes the fine line is a welcome change from past efforts, which reached so far they were soundly rejected by the courts.

Rep. Red Boucher, the legislature's most tireless champion of local hiring, has helped the House speed up its work on the issue by backing the Senate measure over similar bills he introduced. He's right: the Senate's local hiring bill is worth a try.

Alaska State Legislature

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CHAIRMAN
Special Committee on
Telecommunications

MEMBER
Labor and Commerce
State Affairs
Finance—Subcommittee Administration

Representative H. A. "Red" Boucher

M E M O R A N D U M

To: House Finance Committee Members

From: Representative H.A. "Red" Boucher

Date: May 5, 1986

Subject: Comparison of House CS for CSSB 367 (L & C) with
CS for SS for HB 466 (Finance) (latest versions of
both bills)

On April 21, lengthy meetings were held by a Sub-Committee of the House Labor and Commerce Committee to amend CSSB 367 Finance (am). The Subcommittee decided to bring this bill into conformance with CS for SSHB 466 (Finance) which the House Finance Committee and a Sub-Committee of Finance had already worked on extensively. This House L&C Subcommittee version was then adopted by the House L&C Committee on April 24, and is the one before you, that is, House CS for CSSB 367 (L & C).

First then, for the sake of simplicity, the House L & C Subcommittee chose to delete all of the language from CSSB 367 Finance (am), and replace it with the language of CS for SSHB 466 (Finance), because this version of HB 466 represented all of the latest work that had been done on either bill up to that point in time.

Second, while CSSB 367 Finance (am) was on the Senate floor, Senator Josephson offered three amendments to it. Two of those amendments covered changes that had already been made in SSHB 466 (Finance), so the change made above already covered those amendments (as well as numerous other small changes that had not been covered by the Josephson amendments).

The Subcommittee then adopted Josephson's amendment #2 to CSSB 367 Finance (am) --see Senate Journal, April 11, page 2 316-- as it was the only remaining substantive difference between the two bills, having been offered from the Senate floor on April 14. This amendment (with the page and line locations where they are located currently in House CS for CSSB 367-L&C) is as follows:

page 3, line 20

Delete "are" and insert "were"

Insert after "preference" the phrase "at the time of hiring" (a later amendment in the House L & C CS also inserted the word "eligible")

page 4, line 3

Insert after the word "preference" the word "in hiring"

page 4, line 7

Insert after the word "residents" the phrase "who are eligible for an employment preference under this section by qualified residents who are eligible for an employment preference under AS 36.10.140."

page 4, lines 5-6 and
page 5, lines 3-4 and
page 5, line 23-24 and
page 6, line 23-24;

Insert after the word "zone." the following sentence:

"The preference applies on a craft-by-craft or occupational basis."

page 5, line 1-2
page 5, line 21
page 6, line 21

Insert after the word "preference"
the words "in hiring."

Thirdly, the House L & C Subcommittee then added the following additional new language, not seen before in any version of either bill:

page 3, line 21

Insert after (c) new sections (d) and (e) that shall read as follows:

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

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

page 7, lines 11-20

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

This entire section was re-written to combine two separate sections of an earlier version of HB 466 into one section for this version of SB 367.

All subsequent sections were renumbered.

page 7, line 27

The following section was added in as (5)

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

page 9, line 25-26

The following definition was deleted:

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

The subsequent definitions were re-numbered.

page 10, line 25

Combine the old sections 11 and 12 into one section, as both are repealers.

page 10, line 25

The old Section 13 was completely deleted. This Section dealt with various procedures to follow if the Department of Law decided to appeal the Francis decision to a higher court. The deadline date for submission has now passed, so the whole section becomes irrelevant.

page 10, line 26

Because Section 13 was dropped, this section was re-numbered and re-worded so that the entire bill has one immediate effective date, rather than a separate effective date which had been in the old Section 13.

Offered: 3/20/86
Referred: Judiciary

Original sponsors: Faiks, Josephson,
Sturgulewski and V.Fischer

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2

CS FOR SENATE BILL NO. 367 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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

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

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

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

18 (c) The legislature further finds that the ratio of employees on
19 a certified payroll who did not apply for or were refused a permanent
20 fund dividend under AS 43.23 to employees who were found eligible to
21 receive a dividend is a reasonable but not exclusive indicator of the
22 ratio of nonresident to resident employees on a public works project.

23 (d) When determining the ratio of nonresident to resident em-
24 ployees working on a public works project, the commissioner may con-
25 sider information gathered from on-site surveys of public works proj-
26 ects including individual interviews, questionnaires, examination of
27 the state of registration of vehicles owned or operated by employees,
28 and other information acquired from inspection of certified payrolls.

29 (e) The legislature finds that the following factors are

1 reasonable but not exclusive indicators of the ratio of nonresident to
2 resident employees in the state:

3 (1) the ratio of applicants for unemployment insurance who
4 list out-of-state residences to applicants who list residences in the
5 state;

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

10 (f) The legislature finds that

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

14 (2) many rural state residents who wish to work do not seek
15 employment as frequently as necessary to meet federal definitions of
16 unemployment because of continuing lack of employment opportunities in
17 rural areas of the state.

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

19 Sec. 36.10.070. UNAVAILABILITY OF PREFERRED WORKERS. (a) An
20 employer subject to hiring requirements under this chapter may request
21 the Department of Labor to assist in locating qualified, eligible
22 employees. After receiving a request for assistance, the department
23 shall refer qualified, eligible, available residents to the employer
24 to fill the employer's hiring needs. The employer shall cooperate
25 with the department.

26 (b) If the department is unable to refer a sufficient number of
27 qualified, eligible, available residents able to perform the work, the
28 commissioner of labor may approve the hiring of residents who are not
29 eligible for preference and nonresidents for the balance of the

1 request.

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

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

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

7 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and
8 the commissioner of labor shall report biennially to the legislature
9 and the governor on the status of employment in the state, the effect
10 of nonresident employment on the employment of residents in the state,
11 and methods to increase resident hire. The report shall be submitted
12 by January 31 of the first session of a legislature.

13 Sec. 36.10.140. ELIGIBILITY FOR PREFERENCE. (a) A person is
14 eligible for an employment preference under this chapter if the person
15 registers as required by the Department of Labor, is a resident, and

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

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

20 (3) is underemployed or marginally employed as defined by
21 the department; or

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

25 (b) An employer subject to a resident hiring requirement under
26 this chapter shall certify that persons employed as residents under
27 the preference are eligible for the preference.

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

1 that an economic region of the state is an underemployed area or that
2 the state as a whole is an underemployed area, and for the next two
3 years after the determination, qualified residents of the area who are
4 eligible under AS 36.10.140 shall be given preference for work on each
5 project under AS 36.10.180 that is wholly or partially sited within
6 the area.

7 (b) The commissioner shall determine that an economic region of
8 the state or the state as a whole is an underemployed area if the
9 commissioner finds that

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

12 (2) a substantial number of residents in the area desire
13 work in occupations that would be employed on a public works project;

14 (3) the lack of employment opportunities in the area has
15 contributed to social or economic problems in the area; and

16 (4) employment of workers who are not residents is a pecu-
17 liar source of the unemployment of residents of the area.

18 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-
19 TRESSED AREAS. (a) Immediately following a determination by the
20 commissioner that an economic region of the state is an economically
21 distressed area, and for the next two years after the determination,
22 qualified residents of the area who are eligible under AS 36.10.140
23 shall be given preference for at least 50 percent of employment on
24 each project under AS 36.10.180 that is wholly or partially sited
25 within the economically distressed area. The preference applies to
26 worker hours on a craft-by-craft basis.

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

29 (1) the unemployment rate in the area exceeds the national

1 rate of unemployment by at least five percentage points;

2 (2) the lack of employment opportunities in the area has
3 contributed to social or economic problems in the area; and

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

6 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-
7 ITY RESIDENTS. (a) Immediately following a determination by the
8 commissioner that the minority residents of an economic region are
9 economically disadvantaged, and for the next two years after the
10 determination, qualified minority residents of the area who are eligi-
11 ble under AS 36.10.140 shall be given preference for at least 25
12 percent of employment on each project under AS 36.10.180 that is
13 wholly or partially sited within the area. The preference applies to
14 worker hours on a craft-by-craft basis.

15 (b) The commissioner shall determine that minority residents of
16 an area are economically disadvantaged if the commissioner finds that

17 (1) the civilian minority population of the area exceeds
18 the average civilian minority population for the state;

19 (2) either the percent of unemployment of civilian minority
20 residents of the area is at least two times the percent of unemploy-
21 ment of nonminority residents of the area or the civilian minority
22 population of the area has suffered past economic discrimination;

23 (3) the economic disadvantage of civilian minority resi-
24 dents of the area has contributed to social or economic problems in
25 the area;

26 (4) employment of workers who are not residents is a pecu-
27 liar source of unemployment of civilian minority residents of the
28 area.

29 (c) In this section, a person is considered to be a member of a

1 minority if the person is black but not of Hispanic origin, Hispanic,
2 Asian or Pacific Islander, American Indian or Alaskan Native, as those
3 terms are defined by the Equal Employment Opportunity Commission.

4 Sec. 36.10.180. PROJECTS SUBJECT TO PREFERENCE. (a) The pref-
5 erences established in AS 36.10.150 - 36.10.170 apply to

6 (1) the performance of contracts let by a municipality for
7 construction, repair, preliminary surveys, engineering studies, con-
8 sulting, maintenance work, or any other retention of services neces-
9 sary to complete a given project;

10 (2) a construction project that is partly or wholly funded
11 by state money if the state or an agency of the state, a department,
12 office, agency, state board, commission, regional school board with
13 respect to an educational facility under AS 14.11.020, public corpo-
14 ration, or other organizational unit of or created under the execu-
15 tive, legislative or judicial branch of state government, including
16 the University of Alaska and the Alaska Railroad Corporation, is a
17 signatory to the construction contract;

18 (3) work performed on a public works project under a grant
19 to a municipality under AS 37.05.315;

20 (4) work performed on a public works project under a grant
21 to a named recipient under AS 37.05.316; and

22 (5) work performed on a public works project under a grant
23 to an unincorporated community under AS 37.05.317.

24 (b) If the governor has declared an area to be an area impacted
25 by an economic disaster under AS 44.33.285, then the preference for
26 residents of the area established under AS 44.33.285 - 44.33.310
27 supercedes the preference under AS 36.10.150 and 36.10.160 for con-
28 tracts awarded by the state.

29 (c) The commissioner shall define the boundaries of an economic

1 region or an area within which a preference applies.

2 Sec. 36.10.190. PENALTIES. (a) A person who makes a false
3 sworn statement in connection with a certification of eligibility for
4 an employment preference under this chapter is subject to criminal
5 prosecution for perjury as provided in AS 11.56.200.

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

11 (c) In addition to criminal penalties imposed by state law, if a
12 person is convicted of a crime in connection with a false statement
13 made in a certification required under AS 36.10.140, and the convic-
14 tion is not reversed, that person shall forfeit all future rights to
15 eligibility for an employment preference under this chapter.

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

23 Sec. 36.10.990. DEFINITION. In this chapter "qualified" means
24 possesses the requisite education, training, skills, or experience to
25 perform the work.

26 * Sec. 6. AS 36.95.010 is amended by adding new paragraphs to read:

27 (9) "craft" means a recognized construction trade;

28 (10) "resident" means a person who establishes residency
29 under AS 01.10.055.

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

2 (e) The Department of Labor shall require a municipality awarded
3 a grant for a public works project under (a) of this section to comply
4 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-
5 ment generated by the grant.

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

7 (b) The Department of Labor shall require a recipient awarded a
8 grant for a public works project under (a) of this section to comply
9 with the hiring preferences under AS 36.10.150 - 36.10.170 for employ-
10 ment generated by the grant.

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

12 (b) The Department of Labor shall require the qualified incor-
13 porated entity awarded a grant or agents or contractors with whom the
14 Department of Community and Regional Affairs contracts under (a) of
15 this section to comply with the requirements of AS 36.10.150 - 36.10.-
16 170 for employment generated by the grant or contract if the grant or
17 contract is for a public works project.

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

22 * Sec. 11. AS 36.95.010(4) and (5) are repealed.

23 * Sec. 12. AS 36.10.010 is repealed.

24 * Sec. 13. Section 12 of this Act takes effect April 17, 1986, or im-
25 mediately, in accordance with AS 01.10.070(c), whichever is later, if the
26 final decision of the Alaska Supreme Court in Robison v. Francis, File No.
27 S-493, Opinion No. 3011, January 17, 1986, is not submitted for review to
28 the United States Supreme Court. If the decision is submitted for review
29 but the United States Supreme Court declines to accept review, then sec. 12

1 of this Act takes effect on the date of the order of the United States
2 Supreme Court declining to accept review. If the United States Supreme
3 Court accepts review, then sec. 12 of this Act takes effect on the date of
4 a final decision of the United States Supreme Court affirming the decision
5 of the Alaska Supreme Court.

6 * Sec. 14. Sections 1 - 11 of this Act take effect immediately in
7 accordance with AS 01.10.070(c).

Introduced: 1/29/86
Referred: Labor and Commerce
and Judiciary

BY FAIKS, JOSEPHSON,
STURGULEWSKI AND V.FISCHER

1 IN THE SENATE

2 SENATE BILL NO. 367

2

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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

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

9 * Section 1. PURPOSE. The legislature recognizes that the state has a
10 significant unemployment problem. This Act is intended to better fulfill
11 the state's duty of loyalty to its citizens, reduce unemployment among
12 residents of the state, and assist economically and socially disadvantaged
13 residents. If the courts find that a portion of AS 36.10 is unconstitu-
14 tional, the public interest requires that the remaining portions be imple-
15 mented as fully as possible.

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

17 (c) The legislature further finds that the following factors are
18 adequate but not exclusive indicators of the ratio on a public works
19 project of nonresident to resident employees:

20 (1) the ratio between the employees on a certified payroll
21 who did not apply for or were refused a permanent fund dividend under
22 AS 43.23 to those employees who were found eligible to receive a
23 dividend;

24 (2) the ratio between employees on a certified payroll who
25 are registered to vote in a state other than Alaska to those who are
26 registered to vote in Alaska;

27 (d) The commissioner may consider information gathered from site
28 surveys of construction projects including individual interviews,
29 comparison of the state in which vehicles owned or operated by

1 employees are registered, and other information acquired from inspec-
2 tion of certified payrolls when determining the ratio of nonresident
3 to resident employees working on a public works project.

4 (e) The legislature finds that the following factors are reascn-
5 able indicators of the ratio of nonresident to resident employees in
6 the state:

7 (1) the ratio between applicants for unemployment insurance
8 claims who list an out-of-state residence compared to those applicants
9 who list residences in the state;

10 (2) the ratio between applicants for unemployment compen-
11 sation who did not apply for or were denied a permanent fund dividend
12 to those applicants who were found eligible for a dividend.

13 (f) The legislature finds that

14 (1) the actual rate of unemployment among residents of the
15 state is considerably higher than is reflected by unemployment rates
16 based on nationally accepted measures;

17 (2) rural areas in the state have proportionately more
18 resident workers who are unemployed but who are not reflected in the
19 unemployment rates based on nationally accepted measures than do
20 nonrural areas of the state;

21 (3) many unemployed rural state residents do not seek
22 employment as frequently as necessary to fit federal definitions of
23 unemployment because of continuing lack of employment opportunities in
24 rural areas of the state.

25 (g) The legislature further finds that given the expense and
26 difficulty of gathering and preparing information on unemployment for
27 the state, it is reasonable, absent substantial evidence to the con-
28 trary, for the commissioner of labor to rely on information and pro-
29 jections to indicate trends and to implement remedies to unemployment

1 problems based on those trends.

2 * Sec. 3. AS 36.10 is amended by adding new sections to read:

3 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and
4 the commissioner of labor shall report annually to the legislature and
5 the governor on the status of unemployment in the state, the effect of
6 nonresident employment on unemployment in the state, and methods to
7 increase resident hire. The report shall be submitted at least 30
8 days before the first day of the legislative session.

9 Sec. 36.10.140. REGISTRATION REQUIRED. To be eligible for an
10 employment preference under this chapter, a person must register with
11 the Department of Labor or with a local hiring hall.

12 Sec. 36.10.150. DETERMINATION OF UNDEREMPLOYED AREA. (a)
13 During the three fiscal years following a calendar year in which the
14 commissioner of labor determines that an economic region of the state
15 is an underemployed area or that the state as a whole is an underem-
16 ployed area, at least 95 percent of the worker hours on a craft-by-
17 craft basis shall be performed by residents of the area on each public
18 works project under AS 36.10.180 that is wholly or partially sited
19 within the area.

20 (b) The commissioner shall determine that an economic region of
21 the state or the state as a whole is an underemployed area if the
22 commissioner finds that

23 (1) the rate of unemployment within the area is higher than
24 the national rate of unemployment;

25 (2) there is substantial unemployment in the area among
26 persons seeking work in occupations that would be employed on a public
27 works project; and

28 (3) employment of workers who are not residents of the area
29 is a contributing cause of the unemployment of residents of the area.

1 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-
2 TRESSED AREAS. (a) During the three fiscal years following a calen-
3 dar year in which the commissioner determines that a census area,
4 census subarea, or an economic region of the state is an economically
5 distressed area, at least 50 percent of employment on each project
6 under AS 36.10.190 that is wholly or partially sited within the eco-
7 nomically distressed area shall consist of residents of the area. The
8 50 percent preference applies to worker hours on a craft-by-craft
9 basis.

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

12 (1) the average annual family income of residents of the
13 area is below the adjusted poverty guidelines of the federal Depart-
14 ment of Health and Human Services or that the unemployment rate in the
15 area exceeds the national rate of unemployment by at least five per-
16 centage points; and

17 (2) employment of workers who are not residents of the area
18 is a contributing cause of unemployment of residents of the area.

19 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-
20 ITY RESIDENTS. (a) During the three fiscal years following a calen-
21 dar year in which the commissioner determines that the minority resi-
22 dents of a census area or census subarea are economically disadvan-
23 taged, at least 25 percent of employment on each project under AS 36.-
24 10.180 that is wholly or partially sited within the census area or
25 census subarea shall consist of minority residents of the area. The
26 25 percent preference applies to worker hours on a craft-by-craft
27 basis.

28 (b) The commissioner shall determine that minority residents of
29 a census area are economically disadvantaged if the commissioner finds

1 that

2 (1) the minority population of the census area exceeds the
3 average minority population for the state;

4 (2) the percent of unemployment of minority residents of
5 the area is at least two times the percent of unemployment of non-
6 minority residents of the area; and

7 (3) employment of workers who are not residents of the area
8 is a contributing cause of unemployment of minority residents of the
9 area.

10 (c) In this section, a person is considered a member of a minor-
11 ity if the person is a member of a racial or ethnic minority group
12 recognized by the federal Bureau of the Census.

13 Sec. 36.10.180. SCOPE OF PREFERENCE. (a) The preferences
14 established in AS 36.10.150 - 36.10.170 apply to

15 (1) the performance of contracts let by a municipality for
16 construction, repair, preliminary surveys, engineering studies, con-
17 sulting, maintenance work, or any other retention of services neces-
18 sary to complete a given project; and

19 (2) a construction project that is partly or wholly funded
20 by state money and to which the state or an agency of the state, a
21 department, office, agency, state board, commission, regional school
22 board with respect to an educational facility under AS 14.11.020,
23 public corporation, or other organizational unit of or created under
24 the executive, legislative or judicial branch of state government,
25 including the University of Alaska, is a signatory to the construction
26 contract.

27 (b) If the governor has declared an area to be an area effected
28 by an economic disaster under AS 44.33.285, then the preference for
29 residents of the area established under AS 44.33.285 - 44.33.310