

LEG. FINANCE - BILLS 1985 - 1986 2405

SSHB 466

2405

HOUSE
COMMITTEE REPORT

(11)

Date referred: 4/1/86

FURTHER REFERRALS:

DATE: 4-11-86

The FINANCE Committee has considered SSHB 466

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

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation ^{SS}
- replace with CS¹ HB 466 (Fin) same title
- new title

and recommends DO PASS

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note 4-10-86 332.5
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Robert L. Loh

John H. ...

Maria ... Alaskan's First

Ronald J. ...

Kate ...

A. ...

Miss ...

Gene ...

[Signature]

Robert L. Loh
Chairman

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

Revision Date : 4/10/86

REQUEST

Bill/Resolution No. : CSSS HB 466(Fin)
 Title : "An Act relating to Alaskan
 resident employment preference..."
 Sponsor : Boucher, Szymanski, et. al.
 Requestor : House Finance
 Date of Request : 4/8/86

FISCAL DETAIL

Agency Affected : Labor
 BRU : 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		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	0	.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, Director Phone : 465-2720
 Division : Administrative Services Date : 4/10/86
 Approved by Commissioner : Jim Robison Date : 4/10/86
 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. CSSS HB 466 (Fin)

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	4,300.00
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	8,000.00	8,300.00	8,700.00	9,000.00	9,400.00
Equipment Maintenance	800.00	800.00	900.00	900.00	900.00
Training, shipping, & Misc.	2,900.00	2,400.00	2,400.00	2,600.00	2,600.00
Total Contractual	193,700.00	203,750.00	241,900.00	240,800.00	246,900.00
Supplies	1,200.00	1,200.00	1,300.00	1,300.00	1,400.00
Equipment (desk, chair, software)	4,000.00	800.00	900.00	900.00	1,000.00

A detailed description of costs and activities follows.

CONTINUATION OF FISCAL NOTE ANALYSIS
Bill/Resolution No. CSSS HB 466(Fin)

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) is 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 the 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: 108	Barg. Unit: GAU	Gov.:	Approv.:	Disapp.:
Time Status: PFT	Staff Months: 12.0	RP Number:	Location: Juneau	Election District: 4		Leg.:		
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. 								
Contractual costs for this position include phone, training, and other miscellaneous items.								
Type of Expenditure			Amount					
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		
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004			37,303		
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
<div style="border: 1px solid black; padding: 5px; width: fit-content;"> For B&M Use Only Key Number _____ </div>								

**Request For
New Position**

Agency Labor
BRU Administrative Services
Component Special Services

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FY 87

Position Title Labor Economist III			No. of Positions 1	Range/Step 18B	Dist. Unit CCU	Gov.:	Approv.:	Disapp.:																																						
Time Status PFT	Staff Months 12.0	RP Number	Location Juneau		Election District	Leg.:																																								
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Type of Expenditure</th> <th>2</th> <th>Amount</th> </tr> <tr> <th>1</th> <th></th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td>40,188</td> <td></td> </tr> <tr> <td>Benefits</td> <td>12,283</td> <td></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>52,471</td> </tr> <tr> <td>Travel</td> <td></td> <td>0</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>1,400</td> </tr> <tr> <td>Other</td> <td></td> <td></td> </tr> <tr> <td>Total Cost</td> <td></td> <td>57,836</td> </tr> </tbody> </table>			Type of Expenditure	2	Amount	1		3	Salary	40,188		Benefits	12,283		Premium Pay			Other			Total Personal Services		52,471	Travel		0	Contractual		3,600	Commodities		365	Equipment		1,400	Other			Total Cost		57,836	Justification 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: 1) Coordinate the collection and monitor the validity of relevant resident hire related statistics from other agencies. 2) Coordinate the updating and crossmatching of resident hire related data files with the analyst programmer. 3) Develop, collect and analyze data that are required to determine the amount of work to be done by nonresidents in underemployed areas. 4) Supervise the statistical technician who will collect new data for the determination of work by nonresidents, and develop the occupational code conversion program. 5) Analyze microcomputer resident hire data bases to generate resident hire related tables and reports. 6) Supervise the Statistical Clerk that will prepare the basic resident hire data tables for the report. Contractual services costs include equipment lease, training, and other miscellaneous items.				
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Request For
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Position Title Labor Economist II			No. of Positions	Range/Step 16B	Barg. Unit GGU	Gov. Leg.	Approv.	Disapp.
Time Status PPT	Staff Months 3	RP Number	Location Juneau		Election District			
Justification								
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.								
Specific duties include:								
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.								
2) Use a microcomputer to prepare graphs tables and narrative that result from the exploratory data analysis.								
Contractual services include miscellaneous phone, training and equipment lease cost.								
Type of Expenditure			Amount					
I			2			3		
Salary			8,412					
Benefits			4,965					
Premium Pay								
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
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Agency Labor
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Position Title Statistical Technician I			No. of Positions	Range 12B	Range 12B	Gov.	Appov.	Disapp.	
Time Status PFT	Start Months 12	RP Number	Location Juneau		Election District	Leg.			
Type of Expenditure			Justification						
		Amount	<p>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:</p> <ol style="list-style-type: none"> 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. <p>Contractual services costs include phone, equipment lease, training, etc.</p>						
1	2	3							
Salary	26,592								
Benefit	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	1007							
	G. F. 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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FY 87

Original sponsors: Roucher, Szymanski,
Gruenberg, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 466 (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 finds that the following factors are reason-
19 able but not exclusive indicators of the ratio of nonresident to
20 resident employees in the state:

21 (1) the ratio of applicants for unemployment insurance who
22 list out-of-state residences to applicants who list residences in the
23 state;

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

28 (d) The legislature finds that

29 (1) the number of state residents who are unable to find

1 work is considerably higher than is reflected by unemployment rates
2 based on nationally accepted measures;

3 (2) many rural state residents who wish to work do not seek
4 employment as frequently as necessary to meet federal definitions of
5 unemployment because of continuing lack of employment opportunities in
6 rural areas of the state.

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

8 Sec. 36.10.070. UNAVAILABILITY OF PREFERRED WORKERS. (a) An
9 employer subject to hiring requirements under this chapter may request
10 the Department of Labor to assist in locating qualified, eligible
11 employees. After receiving a request for assistance, the department
12 shall refer qualified, eligible, available residents to the employer
13 to fill the employer's hiring needs. The employer shall cooperate
14 with the department.

15 (b) If the department is unable to refer a sufficient number of
16 qualified, eligible, available residents able to perform the work, the
17 commissioner of labor may approve the hiring of residents who are not
18 eligible for preference and nonresidents for the balance of the re-
19 quest.

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

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

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

25 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and
26 the commissioner of labor shall report annually to the legislature and
27 the governor on the status of employment in the state, the effect of
28 nonresident employment on the employment of residents in the state,
29 and methods to increase resident hire. The report shall be submitted

1 by January 31 of each year.

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

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

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

10 (3) is underemployed or marginally employed as defined by
11 the department; or

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

15 (b) In approving job-training programs under (a) of this sec-
16 tion, the department shall use information and findings from other
17 state and federal agencies as much as possible.

18 (c) An employer subject to a resident hiring requirement under
19 this chapter shall certify that persons employed as residents under
20 the preference are eligible for the preference.

21 Sec. 36.10.150. DETERMINATION OF ZONE OF UNDEREMPLOYMENT. (a)
22 Immediately following a determination by the commissioner of labor
23 that a zone of underemployment exists, and for the next two fiscal
24 years after the determination, qualified residents of the zone who are
25 eligible under AS 36.10.140 shall be given preference for work on each
26 project under AS 36.10.130 that is wholly or partially sited within
27 the zone.

28 (b) The commissioner of labor shall determine the amount of work
29 that must be performed under this section by eligible qualified

1 residents. In making this determination, the commissioner shall
2 consider the nature of the work, the classification of workers, avail-
3 ability of eligible residents, and the willingness of eligible resi-
4 dents to perform the work.

5 (c) The commissioner shall determine that a zone of underemploy-
6 ment exists if the commissioner finds that

7 (1) the rate of unemployment within the zone is
8 substantially higher than the national rate of unemployment;

9 (2) a substantial number of residents in the zone have
10 experience or training in occupations that would be employed on a
11 public works project;

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

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

17 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-
18 TRESSED ZONES. (a) Immediately following a determination by the
19 commissioner that an economically distressed zone exists, and for the
20 next two fiscal years after the determination, qualified residents of
21 the zone who are eligible under AS 36.10.140 shall be given preference
22 for at least 50 percent of employment on each project under AS 36.10.-
23 180 that is wholly or partially sited within the zone.

24 (b) The commissioner shall determine that an economically dis-
25 tressed zone exists if the commissioner finds that

26 (1) the per capita income of residents of the zone is less
27 than 90 percent of the per capita income of the United States as a
28 whole, or the unemployment rate in the zone exceeds the national rate
29 of unemployment by at least five percentage points;

1 (2) the lack of employment opportunities in the zone has
2 substantially contributed to serious social or economic problems in
3 the zone; and

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

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 a zone are economically
9 disadvantaged, and for the next two fiscal years after the determina-
10 tion, qualified minority residents of the zone who are eligible under
11 AS 36.10.140 shall be given preference for at least 25 percent of
12 employment on each project under AS 36.10.180 that is wholly or par-
13 tially sited within the zone.

14 (b) The commissioner shall determine that the minority residents
15 of a zone are economically disadvantaged if the commissioner finds
16 that

17 (1) the percentage of civilian minority residents in the
18 zone exceeds the percentage of civilian minority residents in the
19 state;

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

24 (3) the economic disadvantage of civilian minority resi-
25 dents of the zone has substantially contributed to serious social or
26 economic problems in the zone; and

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

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

Sec. 36.10.175. PREFERENCE FOR ECONOMICALLY DISADVANTAGED FEMALE RESIDENTS. (a) Immediately following a determination by the commissioner that the female residents of a zone are economically disadvantaged, and for the next two fiscal years after the determination, qualified female residents of the zone who are eligible under AS 36.10.140 shall be given preference for at least 25 percent of employment on each project under AS 36.10.180 that is wholly or partially sited within the zone.

(b) The commissioner shall determine that the female residents of a zone are economically disadvantaged if the commissioner finds that

(1) either the percent of unemployment of female residents of the zone is at least two times the percent of unemployment of male residents of the zone or the female population of the zone has suffered past economic discrimination;

(2) the economic disadvantage of female residents of the zone has substantially contributed to serious social or economic problems in the zone; and

(3) employment of workers who are not residents is a peculiar source of unemployment of female residents of the zone.

Sec. 36.10.180. PROJECTS SUBJECT TO PREFERENCE. (a) The preferences established in AS 36.10.150 - 36.10.175 apply to

(1) the performance of contracts let by a municipality for construction, repair, preliminary surveys, engineering studies, consulting, maintenance work, or any other retention of services

1 necessary to complete a given project;

2 (2) a construction project that is partly or wholly funded
3 by state money if the state or an agency of the state, a department,
4 office, agency, state board, commission, regional school board with
5 respect to an educational facility under AS 14.11.020, public corpo-
6 ration, or other organizational unit of or created under the execu-
7 tive, legislative or judicial branch of state government, including
8 the University of Alaska and the Alaska Railroad Corporation, is a
9 signatory to the construction contract;

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

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

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

16 (b) If the governor has declared an area to be an area impacted
17 by an economic disaster under AS 44.33.285, then the preference for
18 residents of the area established under AS 44.33.285 - 44.33.310
19 supersedes the preference under AS 36.10.150 - 36.10.175 for contracts
20 awarded by the state.

21 (c) The commissioner shall define the boundaries of a zone
22 within which a preference applies.

23 Sec. 36.10.190. REPORTING PROVISIONS. An employer obligated to
24 meet resident hire requirements under this chapter shall comply with
25 the reporting provisions that the commissioner of labor determines are
26 reasonably necessary to carry out this chapter. Except for statis-
27 tical data, all information regarding specific employees is confiden-
28 tial and may not be released by the Department of Labor. However,
29 confidential employee information may be shared between departments

for purposes of this chapter.

Sec. 35.10.200. CRIMINAL PENALTIES. (a) A person who makes a false sworn statement in connection with a certification of eligibility for an employment preference under this chapter is subject to criminal prosecution for perjury as provided in AS 11.55.200.

(b) A person who makes an unsworn falsification, with the intent to mislead a public servant in the performance of a duty, in connection with a certification of eligibility for an employment preference under this chapter, is subject to criminal prosecution as provided in AS 11.55.210.

(c) In addition to criminal penalties imposed by state law, if a person is convicted of a crime in connection with a false statement made in a certification required under AS 35.10.140, and the conviction is not reversed, that person shall forfeit all future rights to eligibility for an employment preference under this chapter.

Sec. 35.10.210. CIVIL PENALTIES. (a) In addition to any criminal penalties imposed, after a hearing the department may impose a civil penalty on a person who, in connection with certification of eligibility for an employment preference under this chapter,

(1) made a false sworn statement; or

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

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

(c) The amount of the civil penalty under (a) of this section for an employer who falsely certifies that employees are residents

1 eligible for a preference under this chapter is not more than \$2,000
2 for each of the first five false certifications. The penalty for the
3 sixth false certification made by an employer and for each false
4 certification thereafter is at least \$2,000 and not more than \$4,000.

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

12 Sec. 36.10.900. DEFINITIONS. In this chapter

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

15 (2) "qualified" means possesses the requisite education,
16 training, skills, or experience to perform the work;

17 (3) "zone" includes a census area in the state, an economic
18 region of the state, and the state as a whole.

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

20 (9) "resident" means a person who establishes residency
21 under AS 01.10.055.

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

23 (a) The Department of Labor shall require a municipality awarded
24 a grant for a public works project under (a) of this section to comply
25 with the hiring preferences under AS 36.10.150 - 36.10.175 for employ-
26 ment generated by the grant.

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

28 (b) The Department of Labor shall require a recipient awarded a
29 grant for a public works project under (a) of this section to comply

with the hiring preferences under AS 36.10.150 - 36.10.175 for employment generated by the grant.

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

(b) The Department of Labor shall require the qualified incorporated entity awarded a grant or agents or contractors with whom the Department of Community and Regional Affairs contracts under (a) of this section to comply with the requirements of AS 36.10.150 - 36.10.175 for employment generated by the grant or contract if the grant or contract is for a public works project.

* Sec. 10. The provisions of this Act do not apply to a contract entered into before the effective date of this Act unless the contract includes a provision requiring compliance with laws regarding the hiring of Alaska residents that take effect during the term of the contract.

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

* Sec. 12. AS 36.10.010 is repealed.

* Sec. 13. Section 13 of this Act takes effect April 17, 1986, or immediately, in accordance with AS 01.10.070(c), whichever is later, if the final decision of the Alaska Supreme Court in Robinson v. Francis, File No. S-493, Opinion No. 3011, January 17, 1985, is not submitted for review to the United States Supreme Court. If the decision is submitted for review but the United States Supreme Court declines to accept review, then sec. 12 of this Act takes effect on the date of the order of the United States Supreme Court declining to accept review. If the United States Supreme Court accepts review, then sec. 13 of this Act takes effect on the date of a final decision of the United States Supreme Court affirming the decision of the Alaska Supreme Court.

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

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 4/3/86

REQUEST

Bill/Resolution No. : CS SS HB 466 (Jud.)
 Title : "An Act relating to Alaskan
 resident employment preference..."
 Sponsor : Boucher, Szymanski, et. al
 Requestor : Judiciary
 Date of Request : 3/18/86

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						
REVENUE						

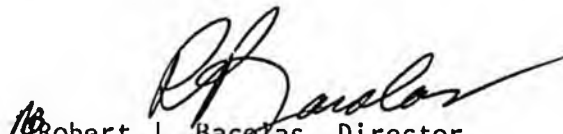
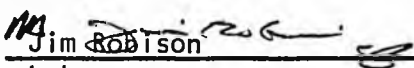
FUNDING : (Thousands of Dollars)

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 :  Robert J. Bacos, Director Phone : 465-4870
 Division : Labor Standards & Safety Date : 4/3/86
 Approved by Commissioner :  Jim Robinson Date : 4/3/86
 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. CSSS HB 466 (Jud.)

Currently the Division of Labor Standards and Safety (LS&S) receives 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. The data base that is developed will also be used by the Administrative Services Division in preparing the annual report on resident hire as required under this bill. In certain cases the department will also be scrutinizing the ethnic makeup of the employees to determine the utilization of minorities.

A summary of costs is 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
Telecommunications software	3.0
	<u>46.5</u>

Total	161.3
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Detailed descriptions of each item are as follows:

CONTRACTUAL SERVICES

Professional fees for data entry (80.0): This cost is based on discussions with the contractor whom operates the Anchorage DP Center for the Department of Administration. It is envisioned that this contractor would input through data entry into the state mainframe all information on certified payrolls for public construction projects. This information includes names, SSNs, domiciles, job class, hours worked, wages and benefits earned, deductions taken, net wages paid, and the project against which the employee is charged.

DP applications/programming development (20.0): The 20.0 is to be used to develop a computer program against which the certified payroll key punch information would be compared to identify the project, its location, the contracting agency and all other vital data to include the prime contractor, the subcontractor and all required employee data.

DP operations (3.): These are annual recurring costs which occur when an outside data system is accessed.

DP telecommunications (.8): These are communication costs other than regular phone charges associated with the cost of remote or outstationed offices accessing the division CPU.

Communications (5.0): These are routine costs for phone service, toll calls, and postage and mailing associated with the day-to-day operations.

Equipment Repair & Maintenance (5.0): This cost is related to repair, maintenance and maintenance agreements for equipment requested as part of the fiscal note.

Other miscellaneous (1.0): Includes some freight costs and risk management.

EQUIPMENT

Four (4) work stations (21.6): These stations are computer terminal/word processing items. There are two for the Anchorage Regional Office and one (1) each for the Fairbanks and Juneau Regional Offices. These work stations would provide the required audit of certified payroll data in each location.

Three (3) printers (5.4): These printers are for use with the work stations above. One each will be placed in the Fairbanks, Juneau and Anchorage offices.

Three (3) modems (15.0): These modems are required for use with the work stations and telecommunications package for access of the state mainframe through the VS 65 CPU. One each for Anchorage, Fairbanks, and Juneau.

75 megabyte disk pack (1.5): This item provides additional programming space within the VS 65 CPU. Such programs would give additional memory capability to use in tracking persons in the residency self-certification, identifying and tracking employers who continually hire outside the resident work force, and identify geographical areas subject to economic impacts that would require 25 percent minority hire.

Telecommunications software (3.0): This is the final item required to allow outstationed offices to communicate with the state mainframe, VS 65 CPU, and with each other.

The equipment will be a one-time purchase.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: 4/2/86

REQUEST

Bill/Resolution No.: CSSSHB 466 (Jud.)
 Title: "An Act relating to Alaskan
 resident employment preference..."
 Sponsor: Boucher, Szymanski, et. al.
 Requestor: Judiciary Committee
 Date of Request: 3/27/86

FISCAL DETAIL

Agency Affected: Labor
 BRU: 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		133.6	133.6	133.6	133.6	133.6
TRAVEL		0	0	0	0	0
CONTRACTUAL		218.2	228.0	246.2	245.1	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	357.0	363.6	382.0	380.9	387.2

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	0	357.0	363.6	382.0	380.9	387.2
FEDERAL FUNDS						
OTHER						
TOTAL	0	357.0	363.6	382.0	380.9	387.2

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

See attached.

Prepared by: *Judy Knight* Judy Knight, Director Phone: 465-2720
 Division: Administrative Services Division Date: 4/2/86
 Approved by Commissioner: *Jim Robison* Jim Robison Date: 4/2/86
 Agency: Labor

Distribution (by Agency preparing fiscal note):

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

Summary of
Nonpersonal Services by Year

	FY 87	FY 88	FY 89	FY 90	FY 91
Travel	0	0	0	0	0
Key Entry	40,000	60,000	62,000	64,000	66,000
DP Operations	120,000	135,000	150,000	153,000	156,000
DP Applications	30,000	4,500	4,700	4,900	5,100
Printing	4,500	4,500	4,500	4,700	5,000
Long Distance Phone Service	12,000	12,500	13,000	6,000	6,200
Equipment Lease	8,000	8,300	8,700	9,000	9,400
Equipment Maintenance	800	800	900	900	900
Training, shipping, & Misc.	2,900	2,400	2,400	2,600	2,600
Total Contractual	218,200	228,000	246,200	245,100	251,200
Supplies	1,200	1,200	1,300	1,300	1,400
Equipment (desk, chair, software)	4,000	800	900	900	1,000

CONTINUATION OF FISCAL NOTE ANALYSIS
Bill/Resolution No. CSSS HB 466 (JUD)

This legislation was carefully drafted to maximize its chances in any future court challenge. This 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, except that required from contractors on state funded construction projects, 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:

- 1) identify the area of residence within Alaska; and
- 2) 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:

- 1) characteristics of Alaska's resident labor force who did not work under UI coverage in the most current year; and
- 2) 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.

Certified Payrolls A sample of about 40,000 individual weekly payroll records will be built for each of the first two years, after which more complete data will be extracted from a computer system developed by the Labor Standards and Safety Division. This is the only source of data regarding State funded construction.

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 Certified Payroll Information \$20,000 in each of the first two years will be necessary to enter data from manual files. In subsequent years this data should be available from an automated Certified Payroll system.

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 (\$2,500); 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 \$30,000 for FY 87 (1,000 hours @ \$30 per hour including all benefits and overhead), dropping to \$4,500 (150 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 employed in State funded Construction = \$4,000 Certified Payrolls would be matched to the file created by item (d) to create a new file.
- f) 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.
- g) 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.

h) 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.

i) 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.

j) Conversion of occupational titles to numeric codes = \$30,000 A critical facet of this legislation is the 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.

k) 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).

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

- 1) large scale quality control edits;

2) sorting and grouping of data into special combinations such as Census Area as required to make the determinations specified in this legislation; and

3) 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 \$14,000, 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.

Additionally we will utilize microcomputers in the interactive editing of the occupational titles. The superior response time of the microcomputers will permit us to do this large task with fewer staff than would be required by using a mainframe computer only.

12. Each new staff will require training in the use of computers, and the economists will need statistical training (estimated cost \$1,700). Other miscellaneous costs will include research materials and the shipping costs of microcomputers and furniture.

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4931

DISTRICT 10
BOX 111038
ANCHORAGE, ALASKA 99511
(907) 349-2192



CHAIRMAN
Special Committee on
Telecommunications

MEMBER
Labor and Commerce
State Affairs
Finance—Subcommittee Administration

Representative H. A. "Red" Boucher

MEMORANDUM

To: House Finance Committee Members

From: Representative H.A. "Red" Boucher

Date: April 4, 1986

Subject: Sectional Analysis of CS for SSHB 466 (Judiciary)

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) finds that using the permanent fund dividend list is a reasonable indicator to distinguish residents from nonresidents. Subsection (d) permits the commissioner to consider information gathered from the job site. Subsection (e) addresses methods as to how to determine the ratio between residents and nonresidents working in the state as a whole. Subsection (f) addresses the need for resident preferences, including higher unemployment rates, and lack of opportunity in rural areas.

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 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). This new section was added to the bill to replace a whole section on registration for employment preference that had been in the

bill. At a greater savings to the DOL, a self-certification for employment preference has been included, to be conducted along lines similar to the permanent fund dividend program. Besides self-certification and residency, an applicant has to additionally fall under 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. The employer is responsible for certifying that their workers are eligible under the above criteria.

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

(a) The determination of the area is given to the commissioner, and can include the entire state as whole.

(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 an underemployed area.

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

PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINORITY RESIDENTS (AS 36.10.170). Establishes a preference for economically disadvantaged minority or female residents. The preference requires that 25% of the employment on a project wholly or partially sited within the area be performed by qualified female or minority residents within the area (the 25% applies separately to minorities and to females, making a potential total of 50%). Subsection (b) sets the criteria for preference. Subsection (c) defines who is considered a member of a minority.

PROJECTS SUBJECT TO PREFERENCE (AS 36.10.180). Defines the scope of projects to which the preferences under AS 36.10.150-170 apply. Subsection (a) applies the preference to the same kinds of projects now covered by AS 36.10.010, and include public construction projects at the municipal and state levels or if state money or a 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 36.10.160. The commissioner shall define the geographic boundaries of an area 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.

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

CIVIL PENALTIES (36.10.210). After a hearing by the DOL, 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 individual, 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 "available" and "qualified" 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 Act.

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

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 Act.

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 (AS 36.10.010) is repealed. This is the current law which spells out employment preference, which would be superseded by this Act.

Section 13 makes section 12 of this Act (repealing the current employment preference provision) take effect in accordance with various possible outcomes relating to the Robison v. Francis decision and it's appeal.

Section 14 has an immediate effective date for sections 1-11 of the bill.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LABOR

P.O. BOX 1149
JUNEAU, ALASKA 99802
PHONE: (907) 465-2700

OFFICE OF THE COMMISSIONER

April 3, 1986

The Honorable Al Adams
Chairman
House Finance Committee
P.O. Box V
Juneau, AK 99811

Re: CSSSHB 466

Dear Representative Adams:

We have reviewed the Committee Substitute for House Bill 466 that emerged from the House Judiciary Committee. While virtually all of the Department of Labor's concerns have been addressed in the bill, we would further recommend the following minor amendments and clarifications:

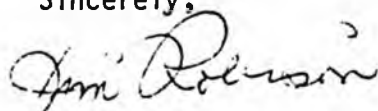
1. In proposed Sec. 36.10.150(c)(2), replace the words "desire work" with "have experience or training." This language change would clarify that the Department's statistical efforts would focus primarily on whether residents of an area are actually experienced or trained for public works employment rather than whether they subjectively "desire" such work. This amendment would also correspond more closely to the definition of "qualified" contained in proposed Sec. 36.10.990(2).
2. To avoid confusion in proposed Sec. 36.10.170(c), the phrase "black but not of Hispanic origin" should be placed at the end of the list of minority groups, just before the phrase ". . . as those terms are defined by the Equal Employment Opportunity Commission."

April 3, 1986

3. In proposed Sec. 36.10.190, an additional sentence should be added as follows: "However, confidential employee information may be shared between departments for purposes of this chapter." This change would permit the Department of Labor to cross-match employee information with specific data bases in other departments to determine Alaska residency, such as the Department of Revenue's Permanent Fund Dividend data base.

We do not believe that the above changes would have any impact on the Department's fiscal note.

Sincerely,



Jim Robison
Commissioner

cc: House Finance Committee Members
Representative Boucher



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

ADMINISTRATIVE ORDER NO. 88

Pursuant to my authority as Governor under article III of the Alaska Constitution, I find and direct as follows:

1. The historical and continuing high rate of unemployment among Alaska residents poses serious social and economic consequences that are chronic in nature. These consequences include, but are certainly not limited to, high rates of alcoholism, poverty, broken families, violent crimes, and personal and commercial insolvencies and bankruptcies.

2. A significant and contributing factor to this high rate of unemployment, particularly in certain industries such as construction, is the hiring by employers of non-resident workers, even though resident workers are available and qualified to perform the work.

3. The Alaska Supreme Court's recent decision in Francis v. Robison, No. 3011, January 17, 1986, held the state's present resident hire law (AS 36.10) to be unconstitutional and placed significant limitations on the state's ability to provide for resident hiring preferences.

4. The Alaska Legislature is presently considering a number of bills that would provide for certain hiring preferences for Alaska residents or targeted groups of Alaska residents. However, these measures might not be enacted and take effect until late in the Spring of 1986.

5. A number of state-funded public works projects will be put out to bid and may be awarded before the effective date of any new legislation that might be enacted to provide for certain hiring preferences for Alaska residents.

6. In order to maximize the coverage and benefits of any new resident hire legislation that might be adopted, it is in the public interest to ensure that all state-funded public works construction projects awarded and after the date of this administrative order and before the effective date of any resident hire legislation that might be enacted incorporate a provision securing the contractors' agreement and commitment to comply with any applicable resident hire

legislation that might subsequently take effect during the term of the contract.

7. Consequently, I direct that language that provides substantially as follows be included in any public works bid document issued or public works contract awarded by any state agency in the executive branch after the date of this order and before the effective date of any applicable resident hire legislation that might be enacted:

Contractor shall comply with all applicable and valid laws and regulations regarding the hiring of Alaska residents now in effect or that might subsequently take effect during the term of this contract. In order to ensure that contractor's subcontractors will comply with all applicable laws and regulations regarding the hiring of Alaska residents now in effect or that might subsequently take effect, contractor shall include in its contracts with subcontractors under this contract language that is substantially the same as the first sentence of this provision.

8. I also direct that language that provides substantially as follows be included in any grant to a municipality under AS 37.05.315 for public works, any grant to a named recipient under AS 37.05.316 for public works, and any grant to an unincorporated municipality under AS 37.05.317 for public works that is made after the date of this order and before the effective date of any applicable resident hire legislation that might be enacted:

In carrying out the provisions of this grant, grantee shall comply with all applicable and valid laws and regulations regarding the hiring of Alaska residents now in effect or that might subsequently take effect during the term of this grant. Grantee shall require its contractors for the public works carried out under this grant to comply with all applicable laws and regulations regarding the hiring of Alaska residents now in effect or that might subsequently take effect during the term of this grant. Grantee shall also

require its contractors for the public works carried out under this grant to require their subcontractors to comply with all applicable laws and regulations regarding the hiring of Alaska residents now in effect or that might subsequently take effect during the term of this grant.

This Order takes effect immediately.

DATED at Juneau, Alaska, this 17th day of February, 1986.



Bill Sheffield
Governor

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4931

DISTRICT 10
BOX 111038
ANCHORAGE, ALASKA 99511
(907) 349-2192



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

DATE: January 27, 1986
TO: Representative H.A. "Red" Boucher
FROM: Dave Donley, Attorney at Law
SUBJECT: HB 466 (a bill creating an Alaskan worker employment preference) and the effect of the recent Alaska Supreme Court decision on Alaska Hire (Francis v. Robinson)

GENERAL COMMENTS

Alaskans have been forced to wait almost two years for our Supreme Court to decide the constitutionality of AS 36.10.010 which provided a preference to Alaska residents on 95% of the jobs on public works projects.

Unfortunately, the Supreme Court's decision in Francis v. Robison finding AS 36.10.010 unconstitutional provided almost nothing new in the form of guidance to lawmakers. The court ignored both legislators' request for advice and last year's legislative action (HB 294) without explanation.

SSHB 466 addresses virtually every concern identified by the court's majority decision in Francis.

Nothing in this area of constitutional law is an absolute but these proposals are the best yet and are clearly legally superior to any resident hire law that has ever been tested or for that matter, even adopted, in the nation.

ANALYSIS OF THE IMPACT OF FRANCIS v. ROBISON ON HB 466

- I. The Supreme Court accepted without comment the Superior Court's findings of fact.
 - A. Testimony on HB 294 (1985) and HCR 20 (1985) clearly contradicts these 1984 findings by the Superior Court.
 - B. The decision ignores existence of HB 294 -- makes no comment at all on its significance and effect or lack of it.

C. HB 294's backup and the recent DOL study appear to provide part of the factual basis the court says is necessary in the Francis decision. Additional findings based on evidence of social ills caused by resident unemployment need to be included in HB 466.

D. Additionally HB 466 adds new findings (page 1, sec. 2) which are designed to assist and guide the Commissioner of Labor and reviewing courts in making future fact findings.

E. Sec. 2 of HB 466 also helps identify the special employment problems of rural Alaska.

II. Resident preference law must have a substantial reason which justifies it.

A. Reason for any state mandated employment preference for residents can not be only to provide an economic advantage for residents over non-residents. Reason must be to correct a social ill or ills that result from resident unemployment.

B. The Francis decision requires "some showing that nonresidents are 'a peculiar source of evil' which state action is meant to remedy," and the Supreme Court finds this evidence lacking in the Superior Court's findings of fact.

C. The Supreme Court used the "clearly erroneous" standard for review of facts established by Superior Court. This very high standard of review prevented modification of these fact findings which, given newly available data, appear very erroneous.

D. HB 466 incorporates the "peculiar source of evil" standard as a threshold finding that must be made by Commissioner of Labor before any preference for residents goes into effect.

E. The new DOL study, HB 294 (1985), new findings of fact in HB 466 (sec.2), together with evidence of resulting social ills from resident unemployment, will create a new constitutional fact basis for the resident employment preference in HB 466.

F. Legislative public hearings are needed to carefully document evidence by testimony of specific examples of non-residents displacing residents and resulting social ills.

III. The means employed by the challenged statute must be closely related to the interests served by the statute.

A. In deciding whether discrimination bears a close or substantial relationship to the state's objective . . . the availability of less restrictive means is relevant.

B. This means the justification for legislation must not be just to give Alaskans jobs before outsiders. The reason for legislation

must be something else other than to benefit residents economically.

C. The U.S. Supreme Court, in it's Camden decision recognized one possible justification for resident employment preference is to stave off grave economic and social ills.

D. High unemployment alone is not enough: HB 466 answers this issue through findings of fact (sec. 2) but possibly needs strengthening to address the strong emphasis on this concern by the court by making clear that the purpose of the legislation is to address articulated economic or social ill(s).

E. "Closely related" means the State needs to limit preference to those Alaskans who really need it.

F. HB 466 limits these preferences by requiring those Alaskans who desire a preference to register as unemployed, underemployed or as recently completing job training. HB 466 also adopts a method to target unemployment preference to those geographical areas and social groups who need it the most: preference for residents of economically distressed areas; and preference for economically disadvantaged minority residents.

IV. Market Regulator vs. Market Participant Distinction

A. More leeway is granted states in their perception of "local evils and in prescribing appropriate cures" when they are acting in a proprietary capacity, where they are merely setting conditions on the expenditures of funds they control.

B. The Alaska Supreme Court in Francis adopts a sliding scale as to amount of deference appropriate to the state as a market participant. Little deference is appropriate when state action (discrimination against non-residents) is far reaching and greater deference is appropriate when state action is narrow in focus.

C. This implies that percentages or the scope of preferences may be important. HB 466 handles this by incorporating Rep. Gruenberg's proposal for a "judicial decisions effect" savings clause.

D. This distinction also implies that it is important to separate contracts where the state is a signatory vs. others. HB 466 does this by including separate severable sections to cover expenditures by grantees and subcontractors.

V. Level of Scrutiny: "Low, intermediate and high"

An "intermediate level" of scrutiny is adopted under the facts found by the Superior Court in Francis. At this intermediate level of scrutiny classification/discrimination in favor of residents may be made only for "important" purposes and the

means used to accomplish them must be "fairly and substantially related" to achievement of those purposes.

VI. Miscellaneous

- A. Distinguishes the U.S. Supreme Court's Camden decision -- Alaska economy growing while New Jersey's was not.
- B. Disagrees with Wyoming's Supreme Court's Antonich decision reasoning which upheld Wyoming's resident preference law.
- C. The Court says Alaskan unemployment is a rural and not an urban problem (HB 466 takes this into account in economic distressed area preference and disadvantaged minority preference.)

VII. The Concurring Opinion by Justice Burke ...

- A. Justice Burke's solo concurring opinion cites the Alaska Constitution, Art. I, Sec. 1: "that all persons are equal and entitled to equal rights, opportunities, and protection under the law" as prohibiting a resident employment preference.
- B. If necessary an amendment to the Alaskan Constitution can be designed to answer this concern.

CONCLUSIONS

- 1) The Francis case decision offers some guidance to preparation of a new Alaska Hire law but not directly -- it must be carefully extracted from implication, logic and reasoning.
- 2) HB 466 already directly addresses almost every fault the court found with the old law. With some careful fine tuning, HB 466 can cover every concern of the court except that raised by the concurring opinion regarding the Alaska Constitution.
- 3) A careful legislative process is needed to do this form of legislation correctly. Findings of fact must be substantiated on the record by testimony and/or evidence.
- 4) Additional severable sections may be added to HB 466 to cover jobs on state-owned lands based on the courts reasoning.

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 26, 1986

The Honorable M. Mike Miller
Chairman of House Judiciary Committee
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Dear Representative Miller:

Re: SSHB 466

I am responding to a request from Hayden Kaden of your staff for our comments regarding SSHB 466, relating to Alaskan resident employment preference.

As you know, the Alaska Supreme Court recently issued its decision in Francis v. Robison, holding the state's resident employment preference on public construction projects (AS 36.10.010) invalid under the privileges and immunities clause of the U.S. Constitution. In its decision, the court identified two fundamental problems with the existing law:

1. In the court's view, unemployment among residents, even where it is the result of non-residents being hired in Alaska, is not a permissible justification for a resident hire preference under the privileges and immunities clause. The court considers this to be impermissible economic discrimination. Before a resident preference can be upheld, there must be a substantial justification beyond the fact that Alaskans are unemployed. The court suggests (but does not decide) that a preference implemented "in order to stave off an economic or social collapse" might be permissible.

2. The scope of the preference provided by AS 36.10.010 was too broad, since it was available to Alaskans who already had jobs as well as to unemployed Alaskans.

The provisions of SSHB 466 address both of these problems. Under the bill, the employment preference would only go into effect after the Commissioner of Labor has made certain findings regarding the social or economic effects of unemployment among Alaska residents. Also, the preference would only extend to certain "target groups" of Alaska residents (e.g. unemployed or underemployed persons). Creation of a constitutionally valid resident employment preference remains an elusive goal for Alaska. While there are no certainties in this area of the law, I do feel that this bill is defensible and stands a reasonable chance of being upheld if challenged in the courts.

With respect to technical changes that might improve the bill, I would offer two suggestions:

1. Under the bill as currently drafted, the preferences created by proposed AS 36.10.150-170 are effective "during the two fiscal years following a determination by the commissioner of labor...". A literal reading of this language leads to the result that a preference will only take effect on July 1 of a particular year (the beginning of the first fiscal year following the commissioner's determination), even if the commissioner made his or her determination months earlier. Unless this result is intended, the language of secs. 150(a), 160(a), and 170(a) should be revised to make it clear that the preference takes effect immediately following a determination by the commissioner and remains in effect until the end of the second full fiscal year after that determination.

2. The language of sec. 10 (p. 7, 1.29), dealing with the contracts to which the bill would apply, should be revised in light of Governor Sheffield's Administrative Order 88. I would suggest adding language along the following line to the end of the sentence: "and to contracts entered into before the effective date of this Act if the contract includes a provision requiring compliance with laws regarding the hiring of Alaska residents that might take effect during the term of the contract."

I will plan to attend your committee's scheduled hearing on SSHB 466, Wednesday afternoon, February 26, in order

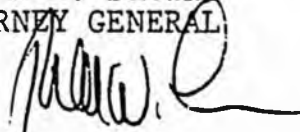
The Honorable M. Mike Miller
Chairman of House Judiciary Committee

February 26, 1986
Page 3

to be available should you or any committee member have any further questions.

Sincerely,

HAROLD M. BROWN
ATTORNEY GENERAL



By: Ronald W. Lorensen
Deputy Attorney General

RWL/me

cc: The Honorable Red Boucher
Alaska State Legislature

The Honorable Jim Robison
Commissioner
Department of Labor

Arthur H. Peterson
Assistant Attorney General
Legislation/Regulations Section

Terry Cramer
Legislative Legal Counsel
Legislative Affairs Agency .

BILL SHEFFIELD, GOVERNOR

HUMAN RIGHTS COMMISSION

✓ AGENCY HEADQUARTERS
800 A STREET, SUITE 202
ANCHORAGE, ALASKA 99501-3628
PHONE: (907) 276-7474

☐ NORTHERN REGION
675 SEVENTH AVENUE, STA H
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1561

☐ SOUTHCENTRAL REGION
800 A STREET, SUITE 204
ANCHORAGE, ALASKA 99501-3628
PHONE: (907) 274-4692

☐ SOUTHEASTERN REGION
P.O. BOX 44
314 GOLDSTEIN BUILDING
JUNEAU, ALASKA 99811
PHONE: (907) 465-3560

March 20, 1986

The Honorable H. A. "Red" Boucher, Member
Alaska State House of Representatives
P. O. Box V
Juneau, AK 99811

Dear Representative Boucher:

The attached Alaska State Commission for Human Rights Resolution No. 86-02 was adopted by the Commission at its Annual Meeting on March 14, 1986, in Juneau, Alaska.

Because of your concern for Alaskans who are economically deprived due to high rates of unemployment in certain areas of the state, I am furnishing you with a copy of this Resolution. Resolution 86-02 outlines the position of the Human Rights Commission on Sponsor Substitute for House Bill 466.

If the Commission can be of any assistance to you in your efforts to alleviate the problems of economically deprived Alaskans, please let me know.

Sincerely,



Morgan P. Solomon
Vice-Chairperson

MPS/sc

Attachment

ALASKA STATE COMMISSION FOR HUMAN RIGHTS

RESOLUTION NO. 86-02

WHEREAS, the Alaska State Commission for Human Rights has been entrusted with the responsibility to consider complaints of discrimination, to study discrimination problems in this State, and to assess Alaska's progress toward equal employment opportunity; and

WHEREAS, many of the complaints made to the Commission have been complaints about discrimination in employment; and

WHEREAS, in carrying out its responsibilities the Commission has become aware of the problems that minority Alaskans and Alaskans who live in economically distressed areas have had in finding jobs; and

WHEREAS, these problems are severe and will become worse if the Alaskan economy's present slowdown continues; and

WHEREAS, governmental protection for Alaska residents' employment opportunities raises complex legal questions, which have led to a court decision striking down Alaska's resident employment preference laws; and

WHEREAS, if the problems that minority Alaskans and Alaskans who live in economically distressed areas are to be solved, Alaska needs a new local hire law; and

WHEREAS, Sponsor Substitute for House Bill No. 466, now pending in the Alaska Legislature, would provide special preferences for qualified residents of underemployed areas, economically distressed areas, and for economically disadvantaged minority residents of Alaska; and

WHEREAS, there is not discrimination in Sponsor Substitute for House Bill No. 466, and nothing which undercuts the principle of equal employment opportunity;

Alaska Native Health Board

1135 W. 5th AVENUE SUITE 2 ANCHORAGE ALASKA 99515

Handwritten signature

Reference #A86-0304

March 3, 1986

Representative Albert P. Adams
Alaska State Legislature
Pouch V (MS3100)
Juneau, Alaska 99811

Dear Representative Adams:

Please consider the following thoughts as you consider the local hire legislation. I think it may sometimes be wise to take a step back and examine what is in front of us. Will this legislation set into motion long term solutions to our societal decay?

Our Native societies were and are being assaulted by change at all levels. Therefore, the solutions to our societal problems will not be achieved focusing on one spectrum. Solutions must be systematic and integrated. Cornell University, for example, initiated the Vicos Project in South America. The project focused on the Vicos, one of Peru's most unproductive and highly dependent manor systems. By combining economic development with education, the people were transformed into a productive and self-governing community. Today, the group owns their land and have managed to escape servitude that they thought was their destiny by some divine plan. This and other successful projects can be replicated among our Alaska Native groups.

We can begin by having a select group of Native people--people who have a vested interest in becoming less dependent--gather all the data to ascertain what underlying themes can be used in our villages. This would not only save our limited funds, it would prevent us from reinventing the wheel.

Alaska Natives have attempted to break into the job market with miserable success. Thus, it should be of no surprise to see evidence of the rage that permeates our people. This rage is directed at self in suicides, to loved ones in family violence and, finally, alcohol gives detrimental and temporary relief from

AKUTIAK PRIMITIVE HEALTH ASSOCIATION
BRISTOL BAY AREA HEALTH CORPORATION
KOTIKVIALET NATIVE ASSOCIATION
UPPER RIVER NATIVE ASSOCIATION

FOURAS AREA NATIVE ASSOCIATION
NANUKUVA ASSOCIATION
THE NORTH PACIFIC RIM
NORTH SLOPE & POLAR HEALTH CORP.

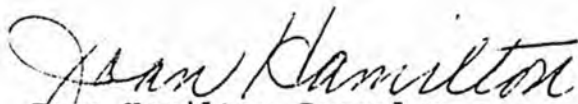
NORTON SOUND HEALTH CENTER
SOUTHEAST ALASKA REGIONAL HEALTH CENTER
TANANA ORTHOPEDIC CENTER
YUKON-KUSKOKWIM HEALTH CENTER

Representative Albert P. Adams
Page Two

the psychological torments of perceived hopelessness. As in most indigenous people, our men are the most displaced victims. The current outrage over outside hiring practices is the macrocosm of the microcosm. If someone influential had listened sooner, millions of dollars would have been saved and there would be no need for this legislation.

Very respectfully yours,

ALASKA NATIVE HEALTH BOARD, INC.


Joan Hamilton Canelos
Substance Abuse Coordinator

JHC/ljh

Enclosure

Alaska Native Health Board

1135 W. 8th AVENUE, SUITE 2, ANCHORAGE, ALASKA 99501

PHONE (907) 276-8989

Reference #A86-0229

February 27, 1986

Mr. Roger L. Poppe
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Mr. Poppe:

This is in response to your letter of February 14, 1986. Thank you for your interest in obtaining more information linking unemployment with social issues. I sincerely hope the following observations will help to meet your goals.

"The economic disadvantage of civilian minority residents of the area has contributed to social or economic problems in the area;" (See 36.10.170 (b) (3) of SSHB 466, an Act relating to Alaskan resident employment preference).

Last summer, I escorted the officials of the American Psychiatric Association on a tour of Alaska. We spanned the regions in and around Kotzebue, Nome, Dillingham, Sitka and Hoonah. We were impressed with their initial and subsequent observations. One suggestion was the development of employment opportunities for the villagers. They cited research has shown employed people are less likely to cause social problems.

Traditionally, every able person contributed to the well being of the whole village. Older men and women taught the young the skills of survival and living in harmony. The able sheltered, protected and fed their families. Every villager had a function, and was needed. Social problems which brought disharmony were dealt with immediately and harshly (Kacakuq, Alakanuk).

When Alaska Natives met outsiders, survival was a full time occupation. In order to lure Natives from this work, goods were used to entice them to do chores for Anglo-Europeans. The Natives learned to develop a taste for the goods. (At first tea, coffee, flour, sugar and ammunition. Today the goods cover everything from shelter to food.) Thus, a new consuming group was born.

The consumers almost denuded the land of natural resources to obtain a supply (i.e., muskrat and mink). Today villagers must travel further to subsist and get tradable goods.

Natives have and continue to take advantage of opportunities to attain marketable skills. They went thousands of miles from their families and friends to learn. When the training was completed, little did they know apprenticeship and jobs would elude them. Historically, most opportunities have been denied Alaska Natives due to a combination of:

- *racial prejudice which results in lowered expectations and under-estimating the skills and abilities of minorities competing in a Western system;

- *lowered expectations by teachers and professors in schools and universities. In a multinational setting like Hawaii, "minority" Japanese, Chinese, Filipino and Hawaiians are expected to perform well -- they do. In Alaska, often Natives are assumed by their teachers to be mediocre and the result is sadly predictable. Only 4% of the Natives attain college degrees (Sackett, 1985)--most of these men and women were educated by private schools or Mt. Edgecumbe.

- *established hiring practices (i.e. licensing) which perpetuate white - dominated positions in education and professional fields.

- *language barrier. When a minority does not speak perfect English, he is immediately typecast as inferior. The fact that English is a second language is ignored; (i.e. my grandmother can engage in stimulating discussion on everything from meteorology to ecology--it pains me to hear a non-speaker talk to her as if she were an uneducatable mentally retarded person.)

- *legitimate cultural differences in behavior are not recognized. Interviewers (often Anglo) misinterpret interviewees (Natives) methods of expression are misinterpreted and misunderstood (i.e., in some villages, eye contact is considered extremely rude.)

- *avenues of employment are not available in a village. Thus, opportunities are denied Natives who choose to remain in the village. Relocating to a jobsite (i.e. a city) is not simple. If a Native moves to a city for employment, he often forfeits a critical support system of life-long friends and relatives. This system is imperative for a balanced life (Alberts, 1980). The Native is caught in a double bind. If he returns to his natural support system, he often has no job: if he moves into a city, he has no support system. (Relocate an urbanite to a village and have him live as most villagers and see what happens).

Generation after generation of people see themselves as failures. Even to this day, Natives continue to learn trades and the jobs still elude most of them--hopelessness sets in on the older generation, yet the young take a turn at the elusive dream of a job.

This is an issue I have a keen personal and professional interest in. If you would like to gather additional insights, I shall be available to meet with you.

Respectfully yours,

Joan Hamilton Canelas
Joan Hamilton Canelas
Substance Abuse Coordinator

cc: Bush Caucus ✓

Offered: 4/1/86
Referred: Finance

Original sponsors: Boucher, Szymanski,
Gruenberg, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 466 (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 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 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 black but not of Hispanic origin, Hispanic,
14 Asian or Pacific Islander, American Indian or Alaskan Native, as those
15 terms 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.

1 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).

Introduced: 2/14/86
Referred: Labor & Commerce
Judiciary and Finance

BY PIGNALBERI, COTTEN,
DAVIS, PHILLIPS, HURLEY,
NAVARRE, GOLL, SUND, FURNACE

1 IN THE HOUSE

2

SPONSOR SUBSTITUTE FOR HOUSE 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 requiring resident hire on certain natural
7 resource projects on state land; and providing for an
8 effective date."

9

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

10

* Section 1. AS 38 is amended by adding a new chapter to read:

11

CHAPTER 45. RESIDENT EMPLOYMENT PREFERENCE UNDER STATE LEASES.

12

Sec. 38.45.010. STATE POLICY. It is the policy of the state to
13 develop its natural resources to provide the maximum benefit to the
14 people of the state as required by the Constitution of the State of
15 Alaska. These benefits include employment opportunities in natural
16 resource development projects for residents qualified for the employ-
17 ment, as well as receipt of state revenue from the development.

18

Sec. 38.45.020. LEGISLATIVE FINDINGS. The legislature finds:

19

(1) the findings made in AS 36.10.005 continue to accurately
20 describe the social, economic, and employment situation in the
21 state and specifically apply to employment on natural resources pro-
22 jects on state land;

23

(2) chronic unemployment breeds severe social problems
24 including alcoholism and domestic violence;

25

(3) the findings of the Department of Labor of the State of
26 Alaska in its report entitled "Nonresidents Working in Alaska; A
27 Special Study to Measure the Economic Impact of Nonresidents on
28 Alaska's Economy During Calendar Year 1984" support the need for a
29 resident hiring preference;

1 development, exploration, production, and extraction of state re-
2 sources, is a peculiar source of the unemployment evil now besetting
3 the state;

4 (9) state policies favoring stable levels of taxation have
5 been predicated upon assurances from the natural resource industries
6 that state residents would receive employment opportunities in the
7 exploration, development, and production of natural resources from
8 state-owned land, but data show that these assurances, and the expect-
9 ations they created, are not being fulfilled.

10 Sec. 38.45.030. ELIGIBILITY FOR PREFERENCE. (a) The Department
11 of Labor shall certify a person as eligible for a hiring preference
12 under this chapter if the person applies on a form provided by the
13 department, is a resident, and

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

16 (2) is not working and has registered with a public or
17 private employment agency or a local hiring hall;

18 (3) is underemployed or marginally employed as determined
19 under regulations adopted by the department; or

20 (4) has completed a job-training program approved by the
21 department.

22 Sec. 38.45.040. RESIDENT HIRE REQUIREMENTS. (a) An employer
23 shall meet the resident hiring requirements established by the commis-
24 sioner of labor under this section on a natural resource project on
25 state land that is subject to a hiring preference under AS 38.45.060.
26 An employer may not discriminate against qualified residents in em-
27 ployment on a natural resource project on state land.

28 (b) The commissioner of labor shall determine the amount of work
29 that must be performed under this chapter by eligible qualified

1 eligible qualified residents to employment in natural resource proj-
2 ects on state land, the commissioner of natural resources shall incor-
3 porate into each lease, unitization agreement, or renegotiation of a
4 lease or agreement, provisions requiring compliance with this chapter,
5 regulations adopted under this chapter, and all later amendments to
6 this chapter or the regulations, and authorizing penalties under
7 AS 38.45.080 for failure to comply. The commissioner shall incorpo-
8 rate into each lease, agreement, or renegotiation a requirement that
9 the lessee include in each contract under the lease or agreement with
10 contractors or subcontractors who will be operating on state land a
11 provision requiring compliance with this chapter, later amendments of
12 this chapter, regulations adopted under this chapter, and authorizing
13 penalties under AS 38.45.080.

14 (g) An employer subject to resident hiring requirements under
15 this chapter may request the Department of Labor to assist in locating
16 eligible, qualified, available employees. After receiving a request
17 for assistance, the department shall refer eligible, qualified, avail-
18 able residents to the employer to fill the employer's hiring needs.
19 If the department is unable to refer a sufficient number of eligible
20 residents, it may approve the hiring of residents who are not eligible
21 for preference and nonresidents for the balance of the request.

22 Sec. 38.45.050. REPORTING PROVISIONS. An employer obligated to
23 meet resident hiring requirements under this chapter shall comply with
24 the reporting provisions that the commissioner of labor determines are
25 reasonably necessary to carry out this chapter.

26 Sec. 38.45.060. APPLICABILITY OF CHAPTER. This chapter applies
27 to all natural resource projects on state land. The Department of
28 Labor shall determine the extent of the resident hiring preference for
29 each project under AS 38.45.040. The preference applies only to

1 may appeal the department's decision under this section to the su-
2 perior court. The court may hear the appeal de novo.

3 (b) The Department of Natural Resources, upon certification of
4 noncompliance by the Department of Labor under AS 38.45.070, may
5 investigate and conduct hearings. If it finds wilful noncompliance,
6 the department may impose on the employer any of the following pen-
7 alties:

8 (1) increase the rent or other forms of compensation re-
9 ceived by the state under the project lease or agreement by a factor
10 of no more than 10; the increase may not exceed \$100,000;

11 (2) require that all or a portion of project operations
12 cease;

13 (3) remove, for an appropriate period of time not to exceed
14 three years, the eligibility of the employer to contract with the
15 state or any of its political subdivisions; or

16 (4) require a noncompliance payment in liquidated damages
17 to the state in an amount equal to seven and one-half times the number
18 of hours required but not worked by eligible qualified residents
19 multiplied by the going wage or salary rate for the particular job or
20 activity involved.

21 (c) The commissioner may impose the penalties under (b)(1) and
22 (2) of this section on a lessee only if the lessee itself has failed
23 to comply with this chapter or incorporate into the contract with the
24 violation a provision requiring compliance with this chapter.

25 Sec. 38.45.090. INJUNCTIVE RELIEF. The Department of Labor or
26 the Department of Natural Resources, in addition to the imposition of
27 penalties under AS 38.45.080, may seek injunctive relief against a
28 person who is not in compliance with this chapter. The Department of
29 Natural Resources may seek injunctive relief to enforce penalties

1 this Act of a lease, agreement, or contract entered into before the effec-
2 tive date of this Act if the renegotiation results in a major change to the
3 duties of a party.

4 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
5 10.070(c).

Introduced: 2/7/86
Referred: Labor & Commerce
Judiciary and Finance

BY BOUCHER, SZYMANSKI, GRUENBERG,
PIGNALBERI, HURLEY, MARROU, SUNN,
GRUSSENDORF, TAYLOR, KOPONEN, DAVIS,
POURCHOT, THOMPSON AND NAVARRE

1 IN THE HOUSE

2

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 466

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 between the
19 employees on a certified payroll who did not apply for or were refused
20 a permanent fund dividend under AS 43.23 to those employees who were
21 found eligible to receive a dividend is an adequate but not exclusive
22 indicator of the ratio on a project of nonresident to resident em-
23 ployees.

24 (d) The commissioner may consider information gathered from site
25 surveys of construction projects including individual interviews,
26 questionnaires, comparison of the state in which vehicles owned or
27 operated by employees are registered, and other information acquired
28 from inspection of certified payrolls when determining the ratio of
29 nonresident to resident employees working on a public works project.

1 (e) The legislature finds that the following factors may be
2 reasonable but are not exclusive indicators of the ratio of nonresi-
3 dent to resident employees in the state:

4 (1) the ratio between applicants for unemployment insurance
5 claims who list an out-of-state residence and those applicants who
6 list residences in the state;

7 (2) the ratio between employees who are subject to unem-
8 ployment insurance coverage and who did not apply for or were denied a
9 permanent fund dividend and those employees who were found eligible
10 for a dividend.

11 (f) The legislature finds that

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

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

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

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

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

1 eligible for preference and nonresidents for the balance of the re-
2 quest.

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

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

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

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

14 Sec. 36.10.140. ELIGIBILITY FOR PREFERENCE. (a) To be eligible
15 for an employment preference under this chapter, a person must regis-
16 ter as a resident as required by the Department of Labor. The depart-
17 ment may permit registration through a local hiring hall.

18 (b) The Department of Labor shall certify a person as eligible
19 for a hiring preference under this chapter if the person registers
20 under (a) of this section, is a resident, and

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

23 (2) is not employed and has registered to find work with a
24 public or private employment agency or a local hiring hall;

25 (3) is underemployed or marginally employed as determined
26 under regulations adopted by the department; or

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

1 Sec. 36.10.150. DETERMINATION OF UNDEREMPLOYED AREA. (a)
2 During the two fiscal years following a determination by the commis-
3 sioner of labor that an economic region of the state is an underem-
4 ployed area or that the state as a whole is an underemployed area,
5 qualified residents of the area who are eligible under AS 36.10.140
6 shall be given preference for work on each project under AS 36.10.180
7 that is wholly or partially sited within the area.

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

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

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

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

17 (4) employment of workers who are not residents of the area
18 is a peculiar source of the unemployment of residents of the area.

19 Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-
20 TRESSED AREAS. (a) During the two fiscal years following a deter-
21 mination by the commissioner that an economic region of the state is
22 an economically distressed area, qualified residents of the area who
23 are eligible under AS 36.10.140 shall be given preference for at least
24 50 percent of employment on each project under AS 36.10.180 that is
25 wholly or partially sited within the economically distressed area.
26 The preference applies to 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 average annual family income of residents of the

1 area is below the adjusted poverty guidelines of the federal Depart-
2 ment of Health and Human Services or that the unemployment rate in the
3 area exceeds the national rate of unemployment by at least five per-
4 centage points;

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

7 (3) employment of workers who are not residents of the area
8 is a peculiar source of unemployment of residents of the area.

9 Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-
10 ITY RESIDENTS. (a) During the two fiscal years following a deter-
11 mination by the commissioner that the minority residents of an eco-
12 nomic region are economically disadvantaged, qualified minority resi-
13 dents of the area who are eligible under AS 36.10.140 shall be given
14 preference for at least 25 percent of employment on each project under
15 AS 36.10.180 that is wholly or partially sited within the area. The
16 preference applies to worker hours on a craft-by-craft basis.

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

19 (1) the civilian minority population of the area exceeds
20 the average civilian minority population for the state;

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

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

28 (4) employment of workers who are not residents of the area
29 is a peculiar source of unemployment of civilian minority residents of