

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

CSHB 45, HB 51, HB 53 *Leg. Files* 219

CSHB

45

SENATE COMMITTEE REPORT

FURTHER

DATE TURNED INTO OFFICE 5/5/88

4/30/88

Mr. President:

FINANCE Committee considered CSHB 45 (FIN) am

Alaska business bidder preference, an Alaska products preference, and to procurement involving state money; efd

and recommended

replace with 5 CS CSHB 45 (FIN)) same title
 or adopt CS) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous
505 (FIN)] zero fiscal impact 55.0

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

No Rec. With/Kenn

[Signature]
Chairman signature and recommendation

Committee Backup attached

SB 356

Original sponsors: Donley, Grussendorf,
Gruenberg, et al.

Finance
BY THE ~~LABOR AND~~
COMMERCE COMMITTEE

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 45 (L&C) *Finance*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to an Alaska business bidder prefer-
7 ence, an Alaska products preference, and to procure-
8 ment involving state money; and providing for an
9 effective date."

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

11 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that due
12 to the state's noncontiguous geographic location and unique climate, busi-
13 ness dealings with non-Alaskan firms produce administrative expenses not
14 commonly incurred in business dealings with resident businesses.

15 (b) The purpose of the Alaska business bidder preference when the
16 state acts as a market participant is to reduce state administrative costs,
17 strengthen the state's tax and revenue base, encourage local industry,
18 reduce the social ills created by unemployment and an unstable economy, and
19 to strengthen and stabilize the state's economy.

20 * Sec. 2. AS 36.15.050(e) is amended to read:

21 (e) An interested party [, AS DEFINED IN AS 36.30.699,] may seek
22 administrative or judicial review of the award of a contract in viola-
23 tion of this section and may recover damages and seek other remedies
24 provided by law for the violation of this section, except that the
25 party may not recover lost profits.

26 * Sec. 3. AS 36.15.050(g) is amended to read:

27 (g) In this section,

28 (1) "agricultural products" includes, but is not limited
29 to, dairy products, timber and lumber harvested in the state and

SB 356
W. J. ...
R

1 products manufactured in the state from timber and lumber that has
2 been harvested in the state;

3 (2) "interested party" has the meaning given in AS 36.30.-
4 699;

5 (3) "state money" includes state grants and reimbursement
6 to municipalities, [AND] school districts, and other entities for
7 school or related construction, foundation funding for education,
8 municipal assistance, revenue sharing, and state funds for capital
9 projects. *Municipal Code*

10 * Sec. 4. AS 36.30.170(b) is repealed and reenacted to read:

11 (b) When awarding a contract based on solicited bids, the pro-
12 curement officer shall determine the lowest responsible and responsive
13 bidder after applying the preference applicable to the bid under
14 AS 36.30.322 - 36.30.338 and after applying the following preference
15 to the bid of each Alaska bidder:

16 (1) one percent, when the lowest nonresident bidder's bid
17 is \$10,000,000 or more;

18 (2) two percent, when the lowest nonresident bidder's bid
19 is more than \$500,000 and less than \$10,000,000;

20 (3) five percent, when the lowest nonresident bidder's bid
21 is more than \$100,000 and \$500,000 or less; or

22 (4) 10 percent, when the lowest nonresident bidder's bid is
23 \$100,000 or less.

24 * Sec. 5. AS 36.30.170(c) is amended to read:

25 (c) Notwithstanding (b) of this section, if [IF] a bidder qual-
26 ifies under (e) [(b)] of this section as an Alaska bidder, is offering
27 services through an employment program as defined under AS 36.30.-
28 100(c), and is the lowest responsible and responsive bidder after
29 receiving a 10 percent preference [WITH A BID THAT IS NOT MORE THAN 10

1 PERCENT HIGHER THAN THE LOWEST BID OF A NONRESIDENT], the procurement
2 officer shall award the contract to that bidder.

3 * Sec. 6. AS 36.30.170 is amended by adding a new subsection to read:

4 (e) In this section, "Alaska bidder" means a person who

5 (1) holds a current Alaska business license;

6 (2) does more than \$1,000,000 worth of annual business in
7 the state or performs more than 50 percent of the person's annual
8 business in the state, whichever is less;

9 (3) has maintained a permanent place of business in the
10 state staffed by the bidder or an employee of the bidder for a period
11 of six months immediately preceding the date of the bid;

12 (4) submits a bid for goods or services under the name that
13 appears on the person's current Alaska business license;

14 (5) is incorporated or qualified to do business under the
15 laws of the state, is a sole proprietorship and the proprietor is a
16 resident of the state, or is a partnership and all partners are resi-
17 dents of the state;

18 (6) if a joint venture, is composed entirely of persons who
19 qualify under (1) - (5) of this subsection; and

20 (7) is an Alaska domestic insurer, if the contract is
21 insurance-related and the procurement is based on solicited bids.

22 * Sec. 7. AS 36.30.250(b) is amended to read:

23 (b) In determining whether a proposal is advantageous to the
24 state, the procurement officer shall take into account, in accordance
25 with regulations of the commissioner, whether the offeror qualifies as
26 an Alaska bidder under AS 36.30.170(e) [AS 36.30.170(b)] or is offer-
27 ing the services of an employment program as defined in AS 36.30.-
28 100(c).

29 ~~* Sec. 8. AS 36.30.850(e) is amended to read:~~

WH unanimous.

1 ~~(e) AS 36.30.170 and 36.30.322 36.30.338 apply [APPLIES] to~~
2 ~~all [INSURANCE] contracts involving state money, including state~~
3 ~~grants and reimbursement to municipalities, school districts, and~~
4 ~~other entities for school or related construction, foundation funding~~
5 ~~for education, municipal assistance, revenue sharing, and state funds~~
6 ~~for capital projects.~~

7 * Sec. 9. AS 36.30 is amended by adding a new section to read:

8 Sec. 36.30.895. COMBINATION OF PREFERENCES. In the evaluation
9 of a bid or proposal, if a contractor qualifies for an Alaska bidder
10 preference under AS 36.30.170(b) or (c) and is also entitled to an
11 Alaska products preference under AS 36.30.328 for a contract, the
12 procurement officer shall for the purpose of evaluation decrease the
13 bid or proposal price by the total of the two applicable percentage
14 preferences.

15 * Sec. 10. AS 36.30.900 is amended to read:

16 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter
17 does not modify AS 36.15.010 and 36.15.020 regarding preference for
18 Alaska forest products, or AS 36.15.050 and 36.15.060, regarding
19 preference for Alaska agricultural and fisheries products [, EXCEPT AS
20 PROVIDED IN AS 36.30.170(b) AND (c)].

21 * Sec. 11. AS 36.30.170(d) is repealed.

22 * Sec. 12. This Act takes effect January 1, 1989.

STATE OF ALASKA
1988 LEGISLATIVE SESSIONBILL VERSION: SCSCSHB 45 (Fin)
PUBLISH DATE: HOUSE 3/9/88

REQUEST: FISCAL NOTE

Revision Date:
Title: An Act Relating to an Alaska Business
Bidder Preference
Sponsor: Donley & Gruessendorf
Requestor: AdamsAgency Affected: DOT&PF
BRU: Engineering & Operations Stds.
Design & Construction Stds
Components:

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0-	0	0	0	0	0
TRAVEL	0	2.0	0	0	0	0
CONTRACTURAL	0	3.0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	5.0	0	0	0	0

CAPITAL	0	50.0	50.0	50.0	50.0	50.0
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REVENUE	0	0	0	0	0	0
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FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUND	0	55.0	50.0	50.0	50.0	50.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	55.0	50.0	50.0	50.0	50.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Loren L. Rasmussen
Division: Engineering & Operations Standards
Approved by Commissioner: Mark S. Hickey
Agency: Department of Transportation and Public Facilities

Phone: 465-2960

Date: 3-7-88

Date: 3-7-88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

An Act Relating to an Alaska Business Bidder Preference

The bill was analyzed considering only State funded projects administered directly by DOT&PF. The preference could not be applied to any Federally assisted projects.

This analysis was based on contracts awarded during the 1987 calendar year (approximately \$17,000,000). Based on 1987 bid results, approximately 10% of the contracts could be non-residents. The additional cost (i.e. fiscal impact) would be as follows.:

Contract Range	Total contracts	Assume 10% Awards	Additional Costs
1 to 100,000	495,079	49,508 @ 10%	4,951
100,000 to 500,000	3,694,612	369,461 @ 5%	18,473
500,000 to 10,000,000	13,503,237	1,350,324 @ 2%	27,006
10,000,000	0	@ 1%	<u>0</u>
			50,430

Assuming State funded CIP is in the same level as last year the impact would be approximately \$50,000. This is the figures used in the fiscal note.

There would be some additional administrative cost associated with the preference. These include updating the Alaska Administrative Code, DOT&PF procedures and the impact on individual bid openings in determining the low bidder. For appropriate public input it is assumed that two public hearings will be required. The estimated total cost is \$5,000 and would be a one time only cost. The estimated cost of each hearing is \$1,000 for travel and \$500 for advertising, printing, etc. In addition \$2,000 is estimated for review by the Attorney General's Office.

The above analysis was based on the DOT&PF's very low volume year for construction. If there was a substantial increase in future years, this would obviously impact the costs.

For example, if the awards were \$50,000,000 annually and the range of out of state bidders was from 2% to 10%, the costs could vary from \$28,000 to \$140,000, as the following analysis shows:

\$50,000,000 in Contracts
10% Out of State Contractors

Contract Range	Total Contracts	Assume 10% Award	Additional Costs
1 to 100,000-(5%)(50,000,000)	= 2,500,000	250,000 @ 10%	25,000
100,000 to 500,000-(20%)(50,000,000)	= 10,000,000	1,000,000 @ 5%	50,000
500,000 to 10,000,000-(55%)(50,000,000)	= 27,500,000	2,750,000 @ 2%	55,000
10,000,000 + -(20%)(50,000,000)	= 10,000,000	1,000,000 @ 1%	<u>10,000</u>
			\$140,000

\$50,000,000 In Contracts
2 % Out of State Contractors

Contract Range	Total Contracts	Assume 10% Award	Additional Costs
1 to 100,000-(5%)(50,000,000)	= 2,500,000	50,000 @ 10%	5,000
100,000 to 500,000-(20%)(50,000,000)	= 10,000,000	200,000 @ 5%	10,000
500,000 to 10,000,000-(55%)(50,000,000)	= 27,500,000	550,000 @ 2%	11,000
10,000,000 + -(20%)(50,000,000)	= 10,000,000	200,000 @ 1%	<u>2,000</u>
			\$28,000

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 6, 1988

SUBJECT: Changes to and constitutional ramifications of
SCS CSHB 45(Finance)

TO: Senator John Binkley, Co-Chair
Senate Finance Committee

FROM: Theresa L. Bannister *TB*
Legislative Counsel

This memo accompanies the draft that you requested for
SCS CSHB 45(Finance).

In addition to the change you initially requested (deleting
the section dealing with AS 36.30.850(e)), I have added
language to adjust your bill to HCS CSSB 356(Fin) which has
passed the legislature. The main changes are to secs. 2, 5,
13, 14, and 15. Please review them to determine if they are
consistent with your intent.

Please be aware that the Alaska bidder preference provisions
of the draft raise federal and state constitutional ques-
tions. These questions are not raised initially by any
change that you have requested in this CS. The problems are
based on the federal privileges and immunities clause of the
federal constitution and on the equal protection clauses of
the state and federal constitutions. Since you are probably
very much aware of the nature of these problems, I will not
discuss them further in this memo. However, if you wish
additional information, please advise.

If I may be of further assistance, please advise.

Enclosure

TLB:bb
b5/105

5-0307T
Bannister
5/6/88

Original sponsors: Donley, Grussendorf,
Gruenberg, et al.

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 45 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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8 ment involving state money; and providing for an
9 effective date."

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12 to the state's noncontiguous geographic location and unique climate, busi-
13 ness dealings with non-Alaskan firms produce administrative expenses not
14 commonly incurred in business dealings with resident businesses.

15 (b) The purpose of the Alaska business bidder preference when the
16 state acts as a market participant is to reduce state administrative costs,
17 strengthen the state's tax and revenue base, encourage local industry,
18 reduce the social ills created by unemployment and an unstable economy, and
19 to strengthen and stabilize the state's economy.

20 * Sec. 2. AS 29.71.040(h), as added by sec. 2 of HCS CSSB 356(Fin),
21 Second Session of the Fifteenth Alaska State Legislature, is amended to
22 read:

23 (h) In this section,

24 (1) "agricultural products" includes dairy products, timber
25 and lumber, and products manufactured from timber and lumber;

26 (2) "state money" includes state grants and reimbursement
27 to municipalities for school or related construction, foundation
28 funding for education, municipal assistance, revenue sharing, and
29 state funds for capital projects.

1 * Sec. 3. AS 36.15.050(e) is amended to read:

2 (e) An interested party [, AS DEFINED IN AS 36.30.699,] may seek
3 administrative or judicial review of the award of a contract in viola-
4 tion of this section and may recover damages and seek other remedies
5 provided by law for the violation of this section, except that the
6 party may not recover lost profits.

7 * Sec. 4. AS 36.15.050(g) is amended to read:

8 (g) In this section,

9 (1) "agricultural products" includes, but is not limited
10 to, dairy products, timber and lumber harvested in the state and
11 products manufactured in the state from timber and lumber that has
12 been harvested in the state;

13 (2) "interested party" has the meaning given in AS 36.30.-
14 699;

15 (3) "state money" includes state grants and reimbursement
16 to municipalities, [AND] school districts, and other entities for
17 school or related construction, foundation funding for education,
18 municipal assistance, revenue sharing, and state funds for capital
19 projects.

20 * Sec. 5. AS 36.15.050(g), as amended by sec. 7 of HCS CSSB 356(Fin),
21 Second Session of the Fifteenth Alaska State Legislature, is amended to
22 read:

23 (g) In this section,

24 (1) "agricultural products" includes dairy products, timber
25 and lumber, and products manufactured in the state from timber and
26 lumber;

27 (2) "interested party" has the meaning given in AS 36.30.-
28 699;

29 (3) "school district" includes a regional educational

1 attendance area established under AS 14.08;

2 (4) [(3)] "state money" includes state grants and reim-
3 bursement to school districts and other entities for school or related
4 construction, foundation funding for education, municipal assistance,
5 revenue sharing, and state funds for capital projects; in this para-
6 graph, "other entities" does not include municipalities.

7 * Sec. 6. AS 36.30.170(b) is repealed and reenacted to read:

8 (b) When awarding a contract based on solicited bids, the pro-
9 curement officer shall determine the lowest responsible and responsive
10 bidder after applying the preference applicable to the bid under
11 AS 36.30.322 - 36.30.338 and after applying the following preference
12 to the bid of each Alaska bidder:

13 (1) one percent, when the lowest nonresident bidder's bid
14 is \$10,000,000 or more;

15 (2) two percent, when the lowest nonresident bidder's bid
16 is more than \$500,000 and less than \$10,000,000;

17 (3) five percent, when the lowest nonresident bidder's bid
18 is more than \$100,000 and \$500,000 or less; or

19 (4) 10 percent, when the lowest nonresident bidder's bid is
20 \$100,000 or less.

21 * Sec. 7. AS 36.30.170(c) is amended to read:

22 (c) Notwithstanding (b) of this section, if [IF] a bidder qual-
23 ifies under (e) [(b)] of this section as an Alaska bidder, is offering
24 services through an employment program as defined under AS 36.30.-
25 100(c), and is the lowest responsible and responsive bidder after
26 receiving a 10 percent preference [WITH A BID THAT IS NOT MORE THAN 10
27 PERCENT HIGHER THAN THE LOWEST BID OF A NONRESIDENT], the procurement
28 officer shall award the contract to that bidder.

29 * Sec. 8. AS 36.30.170 is amended by adding a new subsection to read:

1 (e) In this section, "Alaska bidder" means a person who

2 (1) holds a current Alaska business license;

3 (2) does more than \$1,000,000 worth of annual business in
4 the state or performs more than 50 percent of the person's annual
5 business in the state, whichever is less;

6 (3) has maintained a permanent place of business in the
7 state staffed by the bidder or an employee of the bidder for a period
8 of six months immediately preceding the date of the bid;

9 (4) submits a bid for goods or services under the name that
10 appears on the person's current Alaska business license;

11 (5) is incorporated or qualified to do business under the
12 laws of the state, is a sole proprietorship and the proprietor is a
13 resident of the state, or is a partnership and all partners are resi-
14 dents of the state;

15 (6) if a joint venture, is composed entirely of persons who
16 qualify under (1) - (5) of this subsection; and

17 (7) is an Alaska domestic insurer, if the contract is
18 insurance-related and the procurement is based on solicited bids.

19 * Sec. 9. AS 36.30.250(b) is amended to read:

20 (b) In determining whether a proposal is advantageous to the
21 state, the procurement officer shall take into account, in accordance
22 with regulations of the commissioner, whether the offeror qualifies as
23 an Alaska bidder under AS 36.30.170(e) [AS 36.30.170(b)] or is offer-
24 ing the services of an employment program as defined in AS 36.30.-
25 100(c).

26 * Sec. 10. AS 36.30 is amended by adding a new section to read:

27 Sec. 36.30.895. COMBINATION OF PREFERENCES. In the evaluation
28 of a bid or proposal, if a contractor qualifies for an Alaska bidder
29 preference under AS 36.30.170(b) or (c) and is also entitled to an

1 Alaska products preference under AS 36.30.328 for a contract, the
 2 procurement officer shall for the purpose of evaluation decrease the
 3 bid or proposal price by the total of the two applicable percentage
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5 * Sec. 11. AS 36.30.900 is amended to read:

6 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter
 7 does not modify AS 36.15.010 and 36.15.020 regarding preference for
 8 Alaska forest products, or AS 36.15.050 and 36.15.060, regarding
 9 preference for Alaska agricultural and fisheries products [, EXCEPT AS
 10 PROVIDED IN AS 36.30.170(b) AND (c)].

11 * Sec. 12. AS 36.30.170(d) is repealed.

12 * Sec. 13. Sections 2 and 5 of this Act take effect January 1, 1989, if
 13 HCS CSSB 356(Finance), the Second Session of the Fifteenth Alaska State
 14 Legislature, becomes law.

15 * Sec. 14. Section 4 of this Act takes effect January 1, 1989, if
 16 HCS CSSB 356(Finance), the Second Session of the Fifteenth Alaska State
 17 Legislature, does not become law.

18 * Sec. 15. Sections 1, 3, and 6 -12 of this Act take effect January 1,
 19 1989.

5/5/88
with 3
~~_____~~
withdrawn

Amendment to SCS CS HB 45 (L&C)

BY: Hensley

Page 3, Line 3

Add new subsection:

(d) Notwithstanding (b) of this section, if a bidder qualifies under (f) as an Alaskan bidder and is also a resident of a distressed economic zone (AS 36.10.160), and is the lowest responsible and responsive bidder offering services in that zone after receiving a 10 percent preference, the procurement officer shall award the contract to that bidder.

reletter remaining subsections accordingly

page 3, line 26 insert after "under"

AS 36.30.170(d)

and change AS 36.30.170(e) to

AS 36.30.170(f)

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

April 29, 1988

Position Paper

RE: CS HB 45 (Fin) am

ORIGINAL SPONSORS: Donley, Grussendorf, Gruenberg, et. al.

Program Effects:

This bill would extend Alaska preference provisions in law by expanding the coverage of existing preferences for certain Alaska products and Alaska bidders.

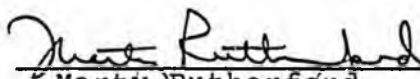
Comments:

While the department supports the concept of encouraging the purchase of Alaska products and use of Alaska businesses, it is also concerned that the expanded coverage, particularly as provided in Section 8, may have negative consequences to municipalities across the state, particularly the smaller, less sophisticated ones. The negative effects include the following:

- increased costs for services and products subject to the bidder preference at a time when municipalities are suffering from significant financial distress;
- increased administrative costs to properly monitor and administer contracts subject to the new requirements;
- legal liability of a municipality resulting from even the unintentional failure to observe new conditions placed upon the use of state funds which previously had not been restricted in this manner.

CS HB45 (Fin) am
April 29, 1988
Page Two

When the legislature adopted the Municipal Code revision in 1985, the intent was to give municipalities a greater degree of self-government and to reduce state regulation and conditions placed upon municipalities. This intent was seen to be consistent with the constitutional mandate to " provide for maximum local self-government . . ." (Article X, Section 1) It is the department's position that bidder preference issues are more appropriately covered at the local level where requirements may be crafted to meet local needs and benefit local residents. Further, those municipalities which have adopted local preference ordinances of their own may now be subject to an additional hardship with the addition of these preference requirements on top of local requirements.



Marty Rutherford

Acting Deputy Commissioner

Original sponsors: Donley, Grussendorf,
Gruenberg, et al.

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18 reduce the social ills created by unemployment and an unstable economy, and
19 to strengthen and stabilize the state's economy.

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10 (b) The procurement officer shall award a contract based on
11 solicited bids to the lowest responsible and responsive Alaska bidder
12 if the bid, after receiving a preference applicable to the bid under
13 AS 36.30.322 - 36.30.338, is not more than

14 (1) one percent higher than the lowest nonresident bidder's
15 and the contract is \$10,000,000 or more;

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17 and the contract is more than \$500,000 and less than \$10,000,000;

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19 der's and the contract is more than \$100,000 and \$500,000 or less; or

20 (4) 10 percent higher than the lowest nonresident bidder's
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23 (c) Notwithstanding (b) of this section, if [IF] a bidder qual-
24 ifies under (e) [(b)] of this section as an Alaska bidder, is offering
25 services through an employment program as defined under AS 36.30.-
26 100(c), and is the lowest responsible and responsive bidder with a bid
27 that is not more than 10 percent higher than the lowest bid of a
28 nonresident, the procurement officer shall award the contract to that
29 bidder.

1 * Sec. 6. AS 36.30.170 is amended by adding a new subsection to read:

2 (e) In this section, "Alaska bidder" means a person who

3 (1) holds a current Alaska business license;

4 (2) does more than \$1,000,000 worth of annual business in
5 the state or performs more than 50 percent of the person's annual
6 business in the state, whichever is less;

7 (3) has maintained a permanent place of business in the
8 state staffed by the bidder or an employee of the bidder for a period
9 of six months immediately preceding the date of the bid;

10 (4) submits a bid for goods or services under the name that
11 appears on the person's current Alaska business license;

12 (5) is incorporated or qualified to do business under the
13 laws of the state, is a sole proprietorship and the proprietor is a
14 resident of the state, or is a partnership and all partners are resi-
15 dents of the state;

16 (6) if a joint venture, is composed entirely of persons who
17 qualify under (1) - (5) of this subsection; and

18 (7) is an Alaska domestic insurer, if the contract is
19 insurance-related and the procurement is based on solicited bids.

20 * Sec. 7. AS 36.30.250(b) is amended to read:

21 (b) In determining whether a proposal is advantageous to the
22 state, the procurement officer shall take into account, in accordance
23 with regulations of the commissioner, whether the offeror qualifies as
24 an Alaska bidder under AS 36.30.170(e) [AS 36.30.170(b)] or is offer-
25 ing the services of an employment program as defined in AS 36.30.-
26 100(c).

27 * Sec. 8. AS 36.30.850(e) is amended to read:

28 (e) AS 36.30.170 and 36.30.322 - 36.30.338 apply [APPLIES] to
29 all [INSURANCE] contracts involving state money, including state

1 grants and reimbursement to municipalities, school districts, and
2 other entities for school or related construction, foundation funding
3 for education, municipal assistance, revenue sharing, and state funds
4 for capital projects.

5 * Sec. 9. AS 36.30 is amended by adding a new section to read:

6 Sec. 36.30.895. COMBINATION OF PREFERENCES. In the evaluation
7 of a bid or proposal, if a contractor qualifies as an Alaska bidder
8 under AS 36.30.170(e) and is also entitled to an Alaska products
9 preference under AS 36.30.328 for a contract, the procurement officer
10 shall decrease the bid or proposal price by the total of the two
11 applicable percentages.

12 * Sec. 10. AS 36.30.900 is amended to read:

13 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter
14 does not modify AS 36.15.010 and 36.15.020 regarding preference for
15 Alaska forest products, or AS 36.15.050 and 36.15.060, regarding
16 preference for Alaska agricultural and fisheries products [, EXCEPT AS
17 PROVIDED IN AS 36.30.170(b) AND (c)].

18 * Sec. 11. AS 36.30.170(d) is repealed.

19 * Sec. 12. This Act takes effect January 1 of the calendar year that
20 follows the calendar year in which the voters of the state ratify the state
21 constitutional amendment contained in the version of HJR 18 that is passed
22 by the Fifteenth Alaska State Legislature.



RECEIVED MAY 3

1988
**Alaska State Legislature
House of Representatives**

REPRESENTATIVE DRUE PEARCE
DISTRICT 9, SEAT A
MINORITY WHIP

3111 C STREET, SUITE 150
ANCHORAGE, ALASKA 99503
(907) 561-2038

WHILE IN JUNEAU:
POST OFFICE BOX V
JUNEAU, ALASKA 99811
(907) 465-4993

MEMBER
RESOURCES COMMITTEE
TRANSPORTATION COMMITTEE
COMMERCE AND ECONOMIC DEVELOPMENT
BUDGET SUBCOMMITTEE

MEMORANDUM

TO: Senator Rick Halford
Co-Chairman, Senate Finance Committee

FROM: Representative Drue Pearce *Pearce*

DATE: May 3, 1988

SUBJECT: HCR 45 - "Relating to encouraging private industry to hire state residents and to contract with local businesses."

HCR 45 passed the House today on a vote of 39-1. One amendment was presented which failed. It was reconsidered the same day with an identical vote.

This resolution encourages private industry to hire state residents and to contract with local businesses. It was designed to be non-punitive. In order to produce the desired result of increased hire of Alaskans, it proposes that the Commissioner of Labor embark upon a public awareness campaign.

The Department of Labor testified in House Labor and Commerce that it strongly favors this resolution. The proposed program would begin on January 1, 1988 and would include trade show presentations, newspaper, radio and television advertising. In addition, public service announcements provided by radio and television stations (usually in non-prime time) would be fully utilized.

I believe it is imperative that foreign, domestic, and nonresident business owners and operators understand clearly that Alaska has a skilled workforce -- ready, willing, and able to work. The current practice of the Department of Labor is to work with businesses on a one-on-one, reactive basis. HCR 45 encourages the Department to be proactive.

I will appreciate your help in seeing that this resolution moves quickly and smoothly through the Senate Finance. Because of my position as a member of the House Minority, I have been unable to move anything through the House in four years! I need to have at least one thing pass this year.


Many thanks. I will be available if you have questions.

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

TO: Senator Tim Kelly, Chair
Members of the Senate Labor and Commerce Committee

FROM: Scott A. Burgess, Executive Director 

DATE: April 29, 1988

SUBJECT: HB 45 - Alaska Bidder and Product Preferences

The AML opposes CS for HB 45 (Finance) and any proposed CS which includes municipalities in the requirements to give preferences. While the AML supports local hire and Alaska products, it cannot support a state mandate that potentially increases the cost of doing business. The AML requests that the bill not pass or that the language including municipalities be deleted. As introduced, HB 45 did not apply to municipalities.

Municipalities have suffered significant reductions in federal and state financial assistance while at the same time they have experienced population growth and increased responsibilities i.e. costs. Federal and state governments have told municipalities to do more with less and yet this proposed legislation could potentially increase the cost of products and services from one percent to seventeen percent or higher, not including the cost of administration and potential liability.

Alaska municipalities support local hire, local businesses and local products. To that end, several municipalities have local preferences for purchases and hiring within the municipality. These true "local" hire ordinances have more successfully withstood court challenges nationwide than state preferences. In addition, they benefit the specific municipality more than general Alaska preferences. A product purchased or contractor hired from one municipality does not do another Alaskan community as much good as when that product or contractor is purchased or hired locally. The proposed legislation provides for no exclusion or credit for local preferences.

Another major problem is the cumulative nature of the preferences. The existing preferences and the ones added and extended by HB 45 would be cumulative! It is unclear but, presumably, these preferences would also be added to local preferences. These provisions could result in significantly higher costs. At some point, the benefits of Alaska hire or preferences exceed the benefits of providing services and products at the lowest cost to the taxpayer, and competition in the free marketplace.

Senate Labor and Commerce Committee re HB 45
April 29, 1988
Page 2

The legislation also extends preferences to municipal entitlement monies and capital funds which have traditionally been disbursed to municipalities without "strings" to be spent by communities on locally-determined priorities. The legislation also will result in more complicated purchasing procedures and adds liability language for not granting the preferences.

Again, under the provisions for maximum local control in the Alaska Constitution and the potential for increased costs for municipalities in the face of declining federal and state assistance, the AML opposes CSHB 45 (Finance) and, specifically, its expansion of preferences and their application to municipalities. Thank you.



Dept. of Transportation & Public Facilities

POSITION PAPER

BILL NO: CS HB 45 (Finance)

TITLE: An Act Relating to an Alaska Business
Bidder

W. Hickey
APPROVED: Mark S. Hickey
Commissioner
DATE: March 7, 1988

House Bill 45 amends the procurement bill (which became effective January 1, 1988) to provide for a preference for an Alaska business in award on contracts. The preference is 1) 1% for contracts over \$10,000,000 2) 2% for contracts over \$500,000 but less than \$10,000,000 3) 5% for contracts over \$100,000 but less than \$500,000 4) 10% for contracts under \$100,000.

It appears that the Alaska bidder qualifications as written could be discriminatory toward any newly created Alaska firms desiring to bid on State projects. A new firm would first have to have a permanent place of business in the State for at least six months preceding the date of the bid. Then the bidder would have to have done more than \$1,000,000 worth of annual business or perform more than 50 percent of his or her annual business in Alaska, whichever is less. Taken literally, a new firm would have to be in business in Alaska for a period of at least one year before qualifying as an Alaska bidder.

The proposed revisions in HB 45 can be awkward to put into practice and can lead to delays in determining the low bidder.

We would propose to amend CS HB 45 (Finance), Sec. 3, AS 36.30.170(b) to read:

(b) The procurement officer shall award a contract based on solicited bids to the lowest responsive and responsible bidder after an Alaska bidder preference and an Alaska products preference as described in AS 36.30.222 -- 36.30.388 have been applied. The Alaska bidder preference shall be as follows:

1. one percent for the Alaska bidder's if the contract is \$10,000,000 or more;
2. two percent for the Alaska bidder's if the contract is more than \$500,000 and less than \$10,000,000;
3. five percent for the Alaska bidder's if the contract is more than \$100,000 and \$500,000 or less; or
4. ten percent for the Alaska bidder's if the contract is \$100,000 or less.

With this proposed amendment, at a bid opening, the apparent low bidder could be determined and announced easily and quickly. The language is compatible with the present procurement code.

We would prefer an Alaska bidder preference process that was included in the bid specifications and not be left to the bidders to determine. We would be willing to work with the Attorney General's office to propose some specific language.

SENATE COMMITTEE REPORT

FURTHER

FINANCE

4/22/88

DATE TURNED INTO OFFICE _____

Mr. President:

LABOR AND COMMERCE Committee considered CSHB 45 (FIN) am

Alaska business bidder preference, an Alaska products preference, and to procurement involving state money; efd

and recommended

[X] replace with [S CS] CS HB (Lic)) [X] same title
[] or adopt _____) [] new title

[] attached amendment(s) and *reports it back with*
for a majority "no rec"

[] do pass

[] do not pass

[X] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [X] attached or [] adopted fiscal note(s)

[] new [] updated or [] previous

[] zero [X] fiscal impact

MEMBERS SIGNING DO PASS

2 Mike Spivey

OTHER RECOMMENDATIONS

1 McKelvin no rec.
1 Saburong no rec.

1 Tim Kelly - No Rec
Chairman signature and recommendation

HB

51

HOUSE COMMITTEE REPORT

(11)

Date referred: 2/20/87

FURTHER REFERRALS:

DATE: 3/8/88

The Finance Committee has considered HB 51

"An Act relating to Alaska high school achievement scholarships; and providing for an effective date."

RECOMMENDS:

- replace with CS HB51 (Fin.) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

WALLIS Key Wallis

BROWN Kay Brown

DAVIS Mike Davis

SIGNING OTHER RECOMMENDATIONS:

ADAMS Al Adams

POURCHOT Pat Pourchot NO REC

LARSON Ronald W. Larson No Rec

SWACK-HAMMER Ed Swack no rec

BOYER Mark Boyer

RIEGER Steve Rieger No Recommendation

FRANK Frank

Al Adams
Chairman's signature

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB51 (Fin)
PUBLISH DATE: 3-7-88

FISCAL NOTE

REQUEST:

Revision Date: 3-7-88
Title: Alaska Achievement Scholarships
Sponsor: Koponen
Requestor: House Finance

Agency Affected: Education
BRU: Postsecondary Education
Commission
Components: General Admin.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES			15.0	15.4	15.9	16.4
TRAVEL						
CONTRACTUAL			4.0	4.0	4.1	4.3
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS			243.0	486.0	729.0	972.0
MISCELLANEOUS						
TOTAL OPERATING	N.A.	N.A.	262.0	505.4	749.0	992.7

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND			262.0	505.0	749.0	992.7
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME			1.0	1.0	1.0	1.0
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(See attached)

Prepared by: Kerry D. Romesburg, Executive Director Phone: 465-2854
Division: Alaska Commission on Postsecondary Education Date: 3-4-88

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

MAR 4 1988

LEGISLATIVE FINANCE

CSHB51 (Fin)

Analysis of Fiscal Impact

A. Assumptions

1. House election district will be defined as the district itself, that is 27 districts, rather than the number of representatives (40).
2. Existing personnel would absorb the bulk of the start-up workload, with only a part-time clerk needed to handle all mailing and distribution, disbursement of scholarship award warrants, and required state accounting.
3. Awards will be for four years of undergraduate study and students will receive scholarships each year.

B. Explanations

1. Personnel expenses are for 1.0 half-time clerk at Range 9.
2. Contractual are for printing costs for brochures to be distributed to high schools and for application forms.

Original sponsor: Koponen

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 51 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Alaska high school achievement
7 scholarships; and providing for an effective date."

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

9 * Section 1. AS 14.43 is amended by adding new sections to read:

10 ARTICLE 8A. ALASKA HIGH SCHOOL ACHIEVEMENT SCHOLARSHIPS.

11 Sec. 14.43.800. PURPOSE AND AMOUNT OF SCHOLARSHIPS. (a) There
12 is created the Alaska high school achievement scholarship program to
13 assist students across the state who have made significant achieve-
14 ments in high school in academic, athletic, or creative endeavors to
15 meet the costs of an Alaska college education. A scholarship awarded
16 under this program may be used to cover the costs of college books,
17 tuition and required fees, room and board, and transportation. A
18 scholarship may be used only while the recipient is attending a post-
19 secondary educational institution located within the state.

20 (b) Subject to appropriations for the purpose, a scholarship may
21 be up to \$3,000 for each academic year for a period of up to four
22 years.

23 Sec. 14.43.805. DISTRIBUTION OF SCHOLARSHIPS. (a) Three Alaska
24 high school achievement scholarships shall be awarded each fiscal year
25 to graduating high school students in each election district of the
26 house of representatives, to be distributed as follows:

27 (1) one to the student achieving highest academic honors in
28 each district;

29 (2) one to the student achieving highest athletic honors in

1 Olympic sports or Arctic Winter Games in each district; and

2 (3) one to the student achieving highest creative honors in
3 art, music, literature, drama, or other creative endeavors in each
4 district.

5 (b) The winners of the scholarships and the amounts shall be
6 determined by the Board of Education based on the recommendations of
7 the faculty of each high school in the state.

8 Sec. 14.43.810. SCHOLARSHIPS IN ADDITION TO OTHER SCHOLARSHIPS.
9 An Alaska high school achievement scholarship is supplemental and in
10 addition to any other scholarship or loan that the recipient may re-
11 ceive.

12 Sec. 14.43.815. SCHOLARSHIP FUND. The Alaska high school
13 achievement scholarship fund is established in the Department of
14 Education and consists of money appropriated for that purpose. Money
15 from the fund shall be used for scholarships awarded under AS 14.43.-
16 800.

17 * Sec. 2. This Act takes effect July 1, 1989.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : HB-51
Publish Date : _____

Revision Date: _____
Title: ...high school achievement
scholarships...
Sponsor: Representative Koponen
Requestor: House HESS

Agency Affected: Education
BRU: Executive Administration
Components: Boards & Commissions

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		44.7	22.4	22.4	22.4	22.4
TRAVEL		12.0	12.0	12.0	12.0	12.0
CONTRACTUAL		5.0	5.0	5.0	5.0	5.0
SUPPLIES		1.0	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS		648.0	1,296.0	1,944.0	2,592.0	2,592.0
MISCELLANEOUS						
TOTAL OPERATING		710.7	1,336.4	1,984.4	2,632.4	2,632.4

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		710.7	1,336.4	1,984.4	2,632.4	2,632.4
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached page.

Prepared by: Steve Hole *Steve Hole*
Division: Commissioner's Office

Phone: 465-2800
Date: February 13, 1987

Approved by Commissioner: Marshall L. Lind
Agency: Education

Date: February 13, 1987

Distribution (by preparer):

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

HESS

Analysis:

Personal Services: One Range 17, Grant Administrator for FY 88, half time after the first year.

Travel: Two Special Meetings of the State Board of Education at 6.0 each.

Contractual: Telephone, Postage, Printing

Supplies: Stationery, Stock for applications

Grants: 27 election districts X 6 scholarships X \$4.0 = \$648.0 per year.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB51 (Fin)
PUBLISH DATE: 3-7-88

FISCAL NOTE

REQUEST:

Revision Date: 3-7-88
Title: Alaska Achievement Scholarships
Sponsor: Koponen
Requestor: House Finance

Agency Affected: Education
BRU: Postsecondary Education
Commission
Components: General Admin.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES			15.0	15.4	15.9	16.4
TRAVEL						
CONTRACTUAL			4.0	4.0	4.1	4.3
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS			243.0	486.0	729.0	972.0
MISCELLANEOUS						
TOTAL OPERATING	N.A.	N.A.	262.0	505.4	749.0	992.7

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND			262.0	505.0	749.0	992.7
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME			1.0	1.0	1.0	1.0
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(See attached)

Prepared by: Kerry D. Romesburg, Executive Director Phone: 465-2854
Division: Alaska Commission on Postsecondary Education Date: 3-4-88

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):

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

CSHB51 (Fin)

Analysis of Fiscal Impact

A. Assumptions

1. House election district will be defined as the district itself, that is 27 districts, rather than the number of representatives (40).
2. Existing personnel would absorb the bulk of the start-up workload, with only a part-time clerk needed to handle all mailing and distribution, disbursement of scholarship award warrants, and required state accounting.
3. Awards will be for four years of undergraduate study and students will receive scholarships each year.

B. Explanations

1. Personnel expenses are for 1.0 half-time clerk at Range 9.
2. Contractual are for printing costs for brochures to be distributed to high schools and for application forms.

Original sponsor: Koponen

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 51 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Alaska high school achievement
7 scholarships; and providing for an effective date."

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

9 * Section 1. AS 14.43 is amended by adding new sections to read:

10 ARTICLE 8A. ALASKA HIGH SCHOOL ACHIEVEMENT SCHOLARSHIPS.

11 Sec. 14.43.800. PURPOSE AND AMOUNT OF SCHOLARSHIPS. (a) There
12 is created the Alaska high school achievement scholarship program to
13 assist students across the state who have made significant achieve-
14 ments in high school in academic, athletic, or creative endeavors to
15 meet the costs of an Alaska college education. A scholarship awarded
16 under this program may be used to cover the costs of college books,
17 tuition and required fees, room and board, and transportation. A
18 scholarship may be used only while the recipient is attending a post-
19 secondary educational institution located within the state.

20 (b) Subject to appropriations for the purpose, a scholarship may
21 be up to ^[4,000] \$3,000 for each academic year for a period of up to four
22 years.

23 Sec. 14.43.805. DISTRIBUTION OF SCHOLARSHIPS. (a) ^[Six] Three Alaska
24 high school achievement scholarships shall be awarded each fiscal year
25 to graduating high school students in each election district of the
26 house of representatives, to be distributed as follows:

27 (1) one to the ^[male + female] student achieving highest academic honors in
28 each district;

29 (2) one to the ^[male + female] student achieving highest athletic honors in

1 Olympic sports or Arctic Winter Games in each district; and

2 (3) one to the ^[MALE + FEMALE] student achieving highest creative honors in
3 art, music, literature, drama, or other creative endeavors in each
4 district.

5 (b) The winners of the scholarships and the amounts shall be
6 determined by the Board of Education based on the recommendations of
7 the faculty of each high school in the state.

8 Sec. 14.43.810. SCHOLARSHIPS IN ADDITION TO OTHER SCHOLARSHIPS.
9 An Alaska high school achievement scholarship is supplemental and in
10 addition to any other scholarship or loan that the recipient may re-
11 ceive.

12 Sec. 14.43.815. SCHOLARSHIP FUND. The Alaska high school
13 achievement scholarship fund is established in the Department of
14 Education and consists of money appropriated for that purpose. Money
15 from the fund shall be used for scholarships awarded under AS 14.43.-
16 800.

17 * Sec. 2. This Act takes effect July 1, ^[1987] 1989.

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

542 4th Avenue, Suite C
Fairbanks, Alaska 99701
(907) 456-8161

POSITION PAPER

HB 51 "An Act relating to Alaska high school achievement scholarships"

House Bill 51 creates the Alaska High School Achievement Scholarship program to award postsecondary scholarships to Alaskan students who make significant academic, athletic or creative achievements in high school. The purpose of this bill is to encourage Alaska high school students to excel, and to offer our most promising students a significant incentive to attend an Alaskan college or university.

This bill offers pupils from every geographic area of Alaska an opportunity to participate in this program. If enacted this legislation would award a \$3000 scholarship to each of three high school seniors in each House District. The awards are made in three categories of achievement: academic achievement, athletic honors in Olympic and Arctic Winter Game Sports and creative honors.

This scholarship program is not meant to replace the existing student loan program, but to complement it. The Alaska student loans require repayment, are available to all Alaskans, and can be used to attend any approved institution anywhere. The Alaska High School Achievement scholarships are a more specialized form of financial aid based on merit. They consist of outright grants to be used exclusively within Alaska. A student receiving a grant could apply for an Alaska student loan as well to cover additional expenses. The loan amount would be reduced by the \$3000 scholarship.

The current cost of attending the University of Alaska and living on campus is approximately \$4000. The balance would have to come from family funds, work, or other grants or loans. This scholarship program is in line with recent national efforts to emphasize quality in education and scholarship achievement. Studies have shown that tuition grants are more effective in encouraging new students to attend higher education institutions than other forms of financial aid.

The Achievement Scholarship program will benefit the state in many ways. Our most promising young people will have a clear opportunity and incentive to attend college in Alaska. The Olympic sports award, which includes basketball as well as winter sports, will help create a continuing Alaskan participation in this international arena. College graduates tend to find their first job and remain in the areas where they attend school. Alaska postsecondary institutions will benefit from the attendance of talented Alaskans. Finally, Alaska dollars will stay in Alaska turning over many times in our economy.



NATIONAL MERIT SCHOLARSHIP CORPORATION

One American Plaza, 1560 Sherman Avenue, Evanston, Illinois 60201 (312) 866-5100

CP

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Executive Director, National Association
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MAR 11

March 2, 1987

RECEIVED

MAR 5 1987

GOVERNOR'S OFFICE

The Honorable Steve Cowper
Governor of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Cowper:

National Merit Scholarship Corporation (NMSC) is aware that a number of states currently are considering legislation to establish a scholarship program based on academic performance, rather than economic need. While we strongly encourage such efforts, we are concerned about any use of the words "Merit Scholarship" or "Achievement Scholarship" in the name of such a program, or in the names of awards to be offered. By reason of our extensive use, NMSC obtained exclusive rights to these names which have been recognized through federal registrations issued to us many years ago by the United States Patent and Trademark Office. NMSC's exclusive rights in these names enable the public to distinguish the corporation's scholarship programs from those of others and prevent confusion which could work to the detriment of our programs.

As you may know, NMSC is an independently supported nonprofit corporation that conducts two competitions in which each year some 7,500 scholarships for college are awarded to high school seniors throughout the 50 states. The National Merit Scholarship Program is the largest private scholarship program and probably the largest competition of any kind in the United States; since it was established in 1955, some 25 million high school students have entered the program and over 96,000 have won Merit Scholarships worth more than \$287 million. The National Achievement Scholarship Program for Outstanding Negro Students is the premier scholarship program for black students; since it began in 1964, over 11,000 Achievement Scholarships worth more than \$33 million have been awarded.

Public recognition of NMSC's programs has been a key to the corporation's ability to draw a yearly participation of more than 1.2 million students from some 19,000 secondary schools, and to attract strong financial support from over 650 organizations in the private sector. As a result of the widespread success of our programs, the nation's colleges and universities, secondary schools, the public, and scholarship sponsors have identified the names "Merit Scholarship" and "Achievement Scholarship" with the prestigious awards NMSC offers.

The Honorable Steve Cowper
March 2, 1987
Page 2

Similarity in the names of NMSC scholarship programs and other programs could result in at least two problems. First, Merit Scholarships and Achievement Scholarships currently are supported by grants to NMSC from over 450 corporate sponsors and more than 200 colleges and universities; we fear that confusion between state programs and NMSC programs would lead many of our current and potential sponsors to believe that our scholarships are supported by government funds and, therefore, that their private contributions are unnecessary. Second, administrators of secondary schools and students to whom they provide guidance could become confused, and students might inadvertently enter only one program, thereby losing an opportunity for recognition and financial aid in the other.

In the past, several states have proposed and a few have enacted legislation creating a scholarship program using the name "Merit Scholarship." When we have received advance knowledge that such legislation was being proposed, we have contacted state officials concerning NMSC's rights to the name and the proposed legislation has been changed. In the few instances where legislation using the name "Merit Scholarship" has been enacted and signed by the governor before we learned about it, we have been able to convince the appropriate parties of our legal rights in the name, and the state has changed the name of its program by subsequent legislation.

In 1985, the United States Congress also addressed these concerns. Congress had adopted the "Federal Merit Scholarship Program" in 1984, as part of the Higher Education Act. The program was designed to spur high school students to excel in their secondary school studies in the hope of receiving a scholarship for college. Shortly after its enactment, the Congress recognized that the program's name could cause confusion and result in an unanticipated problem of impeding our corporation's efforts to raise funds for scholarships. Because it was not the intent of Congress to cause any difficulty for NMSC, they readily agreed to change the federal program's name. Accordingly, Public Law 99-145, enacted on November 8, 1985, amended Section 419 of the Higher Education Act and renamed the federal program the "Robert C. Byrd Honors Scholarship Program," in recognition of the sponsor of the initial legislation.

In light of these precedents and NMSC's legal rights to the names "Merit Scholarship" and "Achievement Scholarship," neither of these names should be used in any scholarship program established by your state. If you would like any additional information, we would be pleased to provide it.

Very truly yours,



M. Elizabeth Jacka
President

ALASKA COMMISSION ON POSTSECONDARY EDUCATION

POUCH FP
 JUNEAU, ALASKA 99811
 PHONE: (907) 465-2854

M E M O R A N D U M

TO: The Honorable Niilo Koponen
 Alaska House of Representatives

FROM: Kerry D. Romesburg, Executive Director
 Alaska Commission on Postsecondary Education

SUBJECT: Alaska High School Achievement Scholarship Program

DATE: February 17, 1987

I have reviewed HB 51, establishing the Alaska high school achievement scholarship program and find the whole concept exciting. Hopefully, in this tight money era, we will still be able to address a few innovative programs.

The fiscal impact of the scholarships themselves are dependent upon two factors. First, how house election district is defined, and second, the percentage of scholarship recipients actually accepting and using the scholarship in Alaska. Hence, I would guess the fiscal demand for grants would be:

No. Districts	FY 88		FY 89		FY 90	
	High	Low	High	Low	High	Low
40	\$960,000	\$720,000	\$1,920,000	\$1,440,000	\$2,880,000	\$2,160,000
27	\$648,000	\$486,000	\$1,296,000	\$ 972,000	\$1,944,000	\$1,458,000
	FY 91		FY 92			
	High	Low	High	Low		
	\$3,840,000	\$2,880,000	\$3,840,000	\$2,880,000		
	\$2,592,000	\$1,944,000	\$3,248,000	\$2,430,000		

As you can see, there is quite a variation in fiscal impact dependent upon these two factors.

I understand the Department of Education is preparing the formal fiscal note for the bill, but I wished to point out the possible variance in funding level.

AMENDMENT # 1
HB 51

Page 2, line 14 - insert, Commission on Postsecondary Education of the and between the words "the" and "Department". The sentence will then read:

"The Alaska high school achievement scholarship fund is established in the Commission on Postsecondary Education of the Department of Education and consists of money appropriated for that purpose."

P.O. Box 1264
Kenai, Alaska 99611
February 17, 1987

Representative Niilo Koponen
P.O. Box V
Juneau, Alaska 99811

Dear Representative Koponen

May I compliment you upon your effort to provide Alaska high school achievement scholarships. There is at least one problem with HB 51 as now proposed.

Line 14 after academics, athletics, please ammend to follow with vocational, and then add creative endeavors. My reasoning is that the largest per-centage of students in this school district are vocationally orientated rather than academically orientated. If you do not have a specified vocational scholarship but lump such talents in with the creative endeavors, there will be a continual competition that the art, music, drama, etc. will usually win.

Because there is a lack of postsecondary schools to meet the needs of the students in medicine, design, metals, and so on, it is possible that the last year or two of the class needs could not be met within the State of Alaska. Will there be consideration given to that problem?

Line 23 would be ammended to eight rather than six Alaska high school achievement scholarships.

Page 2, Line 3 would be ammended to "one each to the male and female student achieving highest vocational education honors in each district; and

Representative Niilo Koponen
February 17, 1987--page 2

The present (3) on page 2 would then become (4) and succeeding lines would be renumbered.

I am forwarding copies of this letter to the Senators and to the Representatives that serve voters who are within the Kenai Peninsula School District. It is my hope that they will discuss, and support this concept. Over 70% of the students in the Homer area are vocationally orientated and it is about time that the time, effort and soul that goes into vocational studies be rewarded.

When you start your car, drive upon the highways, depend upon the traffic lights, ride the elevator, turn the taps on to draw your bath, turn the light switch, heat your dinner and shelter in your home then you are using the results of the skills that should be equally honored with the academic, athletic and creative endeavors.

A scholarship is more than money, though that is important. By recognizing excellence in study and effort we honor the student. Vocational education students are every bit as worthy and it is about time the State of Alaska put such students right in with the academic, athletic and creative.

Thank you, I remain
yours truly

Joan Bennett Schrader

OK KENAI

cc: Senators Paul A. Fischer
Jalmar W. Merttula
Mike Szymanski

Representatives Lette Cato
Mike Navarre
C. E. Swackhammer
Jim Sawacki ✓

K.P.S.D. Voc.Ed. Advisory Committee
C.L.U.W.

Introduced: 1/19/87
Referred: Health, Education &
Social Services and Finance

1 IN THE HOUSE

BY KOPONEN

2

HOUSE BILL NO. 51

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to Alaska high school achievement
7 scholarships; and providing for an effective date."

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

9 * Section 1. AS 14.43 is amended by adding new sections to read:

10 ARTICLE 8. ALASKA HIGH SCHOOL ACHIEVEMENT SCHOLARSHIPS.

11 Sec. 14.43.710. PURPOSE AND AMOUNT OF SCHOLARSHIPS. (a) There
12 is created the Alaska high school achievement scholarship program to
13 assist students across the state who have made significant achieve-
14 ments in high school in academic, athletic, and creative endeavors to
15 meet the costs of a college education. A scholarship awarded under
16 this program may be used to cover the costs of college books, tuition
17 and required fees, room and board, and transportation. A scholarship
18 may be used only while the recipient is attending a postsecondary
19 educational institution located within the state.

20 (b) Subject to appropriations for the purpose, a scholarship may
21 be up to \$4,000 for each academic year for a period of up to four
22 years.

23 Sec. 14.43.720. DISTRIBUTION OF SCHOLARSHIPS. (a) Six Alaska
24 high school achievement scholarships shall be awarded each academic
25 year to graduating high school students in each election district of
26 the house of representatives, to be distributed as follows:

27 (1) one each to the male and female student achieving
28 highest academic honors in each district;

29 (2) one each to the male and female student achieving

1 highest athletic honors in Olympic sports or Arctic Winter Games in
2 each district; and

3 (3) one each to the male and female student achieving
4 highest creative honors in art, music, literature, drama, or other
5 creative endeavors in each district.

6 (b) The winners of the scholarships and the amounts shall be
7 determined by the Board of Education based on the recommendations of
8 the faculty of each high school in the state.

9 Sec. 14.43.730. SCHOLARSHIPS IN ADDITION TO OTHER SCHOLARSHIPS.
10 An Alaska high school achievement scholarship is supplemental and in
11 addition to any other scholarship or loan that the recipient may re-
12 ceive.

13 Sec. 14.43.740. SCHOLARSHIP FUND. The Alaska high school
14 achievement scholarship fund is established in the Department of
15 Education and consists of money appropriated for that purpose. Money
16 from the fund shall be used for scholarships awarded under AS 14.43.-
17 710.

18 * Sec. 2. This Act takes effect July 1, 1987.

HB

53

HOUSE COMMITTEE REPORT

(11)

Date referred: 2/25/87

FURTHER REFERRALS:

DATE: 3-10-87

The Finance Committee has considered HB 53

"An Act relating to penalties for violation of workplace safety laws."

RECOMMENDS:

- replace with CS HB 53 (JUDICIARY) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published 1/30/87
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

ADAMS [Signature]

SWACK [Signature]

GOLL [Signature]

BROWN [Signature]

DAVIS [Signature]

SIGNING OTHER RECOMMENDATIONS:

Pourchot [Signature] no rec

LARSON [Signature] No Rec.

BOYER [Signature] -NO rec.

RIEGER [Signature] No Recommendation

FRANK [Signature] no Rec.

[Signature]

Chairman's signature

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : CSHB 53 (Jud)

Publish Date : _____

Revision Date: _____

Agency Affected: Labor

Title: "An Act relating to penalties for violation of workplace safety laws"

BRU: Occupational Safety and Health

Sponsor: Koponen and Goll

Components: Occupational Safety and Health

Requestor: House Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL		3.2	1.7			
CONTRACTUAL		60.0	27.5			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	63.2	29.2	0	0	0

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

REVENUE	0	242.9	132.0	91.1	91.1	91.1
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FUNDING: (Thousands of Dollars)

GENERAL FUND		31.6	14.6			
FEDERAL FUNDS		31.6	14.6			
OTHER						
TOTAL	0	63.2	29.2	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(see attached)

Prepared by: AS Tom Stuart, Director *AS Stuart* Phone: 465-4870

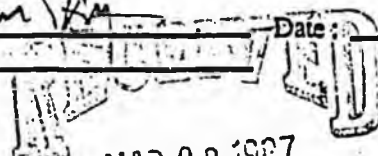
Division: Labor Standards and Safety Date: 02/24/87

Approved by Commissioner: AS Jim Sampson *AS Sampson* Date: 02/24/87

Agency: Labor

Distribution (by preparer):

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



LEGISLATIVE FINANCE

CSHB 53 (Jud)

Fiscal Note Analysis
For Committee Substitute for House Bill 53 (JUD)

Committee Substitute for House Bill 53 increases penalties for violations of workplace safety and health laws and is viewed as an effective deterrent to such violations. However, it is anticipated that a two-year period will be required for the deterrent effects of the increased penalties to be fully realized. Until the deterrent effect is fully realized, it is projected that the increased penalties will result in increased contests which will temporarily result in increased expenditures. Likewise, it is expected that revenues from penalties will initially increase and then decline as the deterrent effect materializes.

The increased costs are:

Contractual:

In FY 88 an additional \$45,000 will be required for legal costs for services provided by the Department of Law in connection with contested citations, and collection of penalties. This amount will decrease in FY 89 as the increased deterrent effect of the increased penalties is realized, and by FY 90, contests will have returned to present levels.

In FY 88, an additional \$10,000 in hearing officer costs will also be incurred for the OSHA Review Board which decides contested cases. As with the Department of Law costs, this fiscal note anticipates a decline in the caseload in FY 89, and a return to present levels in FY 90.

A one-time cost of \$5,000 is also included for mailing a notice to all employers in the state to inform them of the increased penalties.

Travel:

In FY 88, an additional \$3,200 in per diem costs will be incurred for the three-member OSHA Review Board which decides contested cases. The Board will meet an additional 8 days to hear the additional cases. These costs would likewise decrease in FY 89 and dissipate in FY 90.

Following are the specific workload assumptions used in projecting costs and revenues:

1. Increased penalties will take effect July 1, 1987;
2. In FY 88, there will be a 25% reduction in the number of serious violations and the number of serious citations. In FY 89 and FY 90, there will be further reductions of 35% and 20%, respectively. After FY 90, further reductions are not anticipated.

	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>	<u>FY 90</u>
Number of Serious violations	250	190	125	100
Number of Serious citations	165	125	80	65

(Serious citations average $1\frac{1}{2}$ serious violations each. Therefore, the number of citations issued is less than the number of serious violations.)

3. 40% of the Serious citations issued by the Department will be contested. (This is the present contest rate for citations with penalties of \$500 or more.)

	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>	<u>FY 90</u>
Number of Contested citations	25	50	32	25

Additional Revenues:

The increased revenues are projected upon increases in penalties as follows:

Type of of Violation	FY 87		FY 88		FY 89		FY 90	
	Violations	Penalties	Violations	Penalties	Violations	Penalties	Violations	Penalties
Repeat	30	\$10,700	20	\$71,400	10	\$35,700	5	\$17,850
Serious	250	45,000	190	342,000	125	225,000	100	180,000
Failure to Abate	1	300	1	3,000	0	0	0	0
Willful	0	0	1	15,000	0	0	0	0
Proposed Penalties		\$56,000		\$431,400		\$260,700		\$197,850
Less penalty reduction as a result of negotiated settlements and uncollect- ible penalties		(\$18,480)		(\$151,000)		(\$91,200)		(\$69,200)
Less Current Revenues		(37,520)		(37,520)		(37,520)		(37,520)
Additional Revenues		0		\$242,880		\$131,980		\$91,130

ALASKA STATE CHAMBER OF COMMERCE

TESTIMONY REGARDING HB 53
HOUSE FINANCE COMMITTEE
MARCH 10, 1987

MR. CHAIRMAN, MY NAME IS GEORGE KRUSZ. I AM PRESIDENT OF THE ALASKA STATE CHAMBER OF COMMERCE, ALASKA'S LARGEST BUSINESS FEDERATION WITH APPROXIMATELY 1000 MEMBERS IN ALASKA AND THE LOWER 48.

OUR OPPOSITION TO HB 53 IS BASED ON THE SIMPLE PREMISE THAT IT IS AN UNNECESSARY PIECE OF LEGISLATION, PARTICULARLY IN TIMES OF ECONOMIC DIFFICULTY. THE MESSAGE PASSAGE OF HB 53 WOULD SEND TO A STRUGGLING BUSINESS COMMUNITY IS THAT THE STATE IS MORE INTERESTED IN MAKING IT DIFFICULT TO REMAIN IN BUSINESS RATHER THAN DOING EVERYTHING POSSIBLE TO ENCOURAGE BUSINESS DEVELOPMENT.

LET ME GIVE AN EXAMPLE. ACCORDING TO THE ALASKA CHAPTER OF THE ASSOCIATED GENERAL CONTRACTORS, FROM OCTOBER OF 1985 TO DECEMBER 1986, THE HIGHEST PENALTY ASSESSED FOR A "SERIOUS" VIOLATION WAS \$800, APPARENTLY FOR A HARD HAT VIOLATION. BY INCREASING THE MAXIMUM PENALTY TO \$10,000 FROM EXISTING \$1,000, THE POTENTIAL PENALTY FOR THE SAME HARD HAT VIOLATION WOULD INCREASE TO \$8,000, A RATHER SERIOUS SUM.

MR. CHAIRMAN, FROM THE STATISTICS I HAVE SEEN, THERE HARDLY SEEMS TO BE AN EPIDEMIC OF SAFETY VIOLATIONS. IF THERE WERE, I'M CERTAIN WE WOULD FEEL DIFFERENTLY ABOUT THIS LEGISLATION. HOWEVER, THERE MAY BE JUSTIFICATION FOR MODEST INFLATIONARY INCREASES IN VIEW OF THE LENGTH OF TIME SINCE THE EXISTING LEGISLATION WAS ADOPTED.

I ALSO WISH TO ADDRESS A CONCEPT EXPRESSED DURING EARLIER HEARINGS ON THIS BILL -- THAT INCREASING PENALTIES WOULD SERVE AS A DETERENT TO BUSINESSES THAT SLACK SAFETY STANDARDS AS A MEANS OF CUTTING COSTS DURING TOUGH TIMES. IN THE FIRST PLACE, I KNOW OF NO BUSINESSMAN WHO WOULD EVER THINK OF SUCH A STRATEGY. SECONDLY, EVEN IF HE DID, THE POTENTIAL COST INCREASE OF LIABILITY INSURANCE SUCH A STRATEGY WOULD BRING ABOUT WOULD CERTAINLY CAUSE THE PERSON NOT TO CUT COSTS IN SUCH A MANNER.

IN CLOSING, MR. CHAIRMAN, I WISH TO CALL TO THE COMMITTEE'S ATTENTION THAT THE COST TO EMPLOYERS OF WORKER'S COMPENSATION HAS RISEN AN AVERAGE OF 14% THIS YEAR, FOR THE CONSTRUCTION INDUSTRY THE INCREASE IS 25-30%. THIS APPARENTLY IS UNAVOIDABLE.

HB 53 HAS THE POTENTIAL ALSO OF INCREASING COSTS FOR VIRTUALLY EVERY BUSINESS IN THE STATE. WE FEEL THAT IN VIEW OF OUR STATE'S PRIVATE SECTOR SAFETY STANDARDS RECORD, THERE IS NO JUSTIFICATION FOR INCREASING PENALTIES TO THE DEGREE PROPOSED IN HB 53.

THANK YOU.

March 10, 1987

House Finance Committee

Testimony

HB 53 - Relating to violations of workplace safety laws.

THANK YOU MR. CHAIRMAN, FOR THE RECORD, I AM RESA JERREL, I REPRESENT THE ALASKA CHAPTER, ASSOCIATED GENERAL CONTRACTORS OF AMERICA (A.G.C.) AND OUR APPROXIMATE 700 MEMBER FIRMS.

WHILE AGC-ALASKA IS A STRONG ADVOCATE FOR SAFETY IN THE WORK-PLACE WE ARE HERE TODAY TO TESTIFY IN OPPOSITION TO HB 53 FOR THE FOLLOWING REASONS.

1. THE MAXIMUM PENALTY ASSESSED IN A 15 MONTH PERIOD (OCTOBER 1, 1985 TO JANUARY 31, 1987) ON A CONSTRUCTION FIRM WAS \$800. THIS DEMONSTRATES AN UNDERUTILIZATION OF THE EXISTING FINE STRUCTURE - NOT A NEED FOR HIGHER FINES. BY THE WAY, THIS \$800.00 PENALTY WAS FOR A VIOLATION OF THE SAFETY STANDARD THAT STATES: "EMPLOYEES WORKING IN AREAS WHERE THERE IS A DANGER OF HEAD INJURY FROM IMPACT, OR FROM FALLING OR FLYING OBJECTS, FROM ELECTRICAL SHOCK AND BURNS, SHALL BE PROTECTED BY PROTECTIVE HELMETS" - HARD HATS.
2. ACCORDING TO THE DIVISION OF OCCUPATIONAL LICENSING "DIRECTORY OF LICENSED CONTRACTORS

- GENERAL AND SPECIALTY" THERE IS A TOTAL OF 7,571 LICENSED CONTRACTORS IN THE STATE. ACCORDING TO A COMPUTER RUN, FROM THE DEPARTMENT OF LABOR, OF SERIOUS PENALTIES IMPOSED ON CONTRACTORS FROM OCTOBER 1, 1985 TO JANUARY 31, 1987 (15 MONTHS) THERE WAS A TOTAL OF 260 PENALTIES IMPOSED --- THERE WERE NO \$1,000 PENALTIES --- AND THE HIGHEST PENALTY WAS THE \$800.00 PENALTY I MENTIONED IN NUMBER ONE, ABOVE, FOR THE HELMET OR HARD HAT VIOLATION.

3. INADVERTENCE OR CARELESSNESS BY EMPLOYEES ARE MAJOR CAUSES OF ACCIDENTS IN THE CONSTRUCTION INDUSTRY, YET IT IS ONLY THE EMPLOYER THAT IS CITED FOR THE VIOLATIONS. INCREASING THE PENALTIES WILL NOT ACT AS A DETERRENT TO EMPLOYEES UNAFFECTED BY THE HIGHER FINES.
4. IN MOST CASES, THE FINE LEVEL PROPOSED IS HIGHER THAN ANY OTHER STATE'S.
5. THERE IS NO EVIDENCE INDICATING THAT HIGHER OSHA FINES BRING ABOUT FEWER ON THE JOB INJURIES.

IN CLOSING, MR. CHAIRMAN, WE BELIEVE THE PROPOSED PENALTIES ARE EXCESSIVE. UNDER CURRENT LAW THE DEPARTMENT HAS THE AUTHORITY FOR HIGHER PENALTIES --- AND EVEN HIGHER PENALTIES IN THE CASE OF REPEAT AND WILLFUL VIOLATIONS. ADDITIONALLY,

THEY HAVE A VERY EFFECTIVE TOOL TO CONTROL WORKPALCE SAFETY, THIS IS THEIR ABILITY TO SHUT DOWN A JOB SITE, WHERE THERE IS AN IMMINENT DANGER. A SHUT DOWN OF A JOB SITE IS EXTREMELY EXPENSIVE.

WE BELIEVE THIS LEGISLATION SHOULD BE CLOSELY SCRUTINIZED AND THE FOLLOWING QUESTIONS SHOULD BE ANSWERED ABOUT THIS LEGISLATION:

- IS THERE ANY PROOF THAT RAISING THE PENALTIES IS A DETERRENT TO VIOLATIONS AND INCREASES SAFETY IN THE WORKPLACE?
- HOW DO THE PROPOSED PENALTIES COMPARE WITH PENALTIES OF OTHER STATES?
- HAS ANY STATE RAISED THEIR PENALTIES TO A COMPARABLE AMOUNT?

HAS THIS BEEN A DETERRENT TO VIOLATIONS OF WORKPLACE SAFETY LAWS?

HAS THAT STATE EXPERIENCED AN INCREASE IN APPEALS OF THE PENALTIES? IF SO, BY HOW MUCH?

THANK YOU, MR. CHAIRMAN, FOR YOUR TIME AND ATTENTION.

Bill No. Committee Substitute for
House Bill No. 53 (Judiciary)

Date February 26, 1987

Title "An Act relating to violations
of workplace safety laws."

Contact: Eileen Plate
465-2700

Richard Arab
465-4856

Under Committee Substitute for House Bill 53, the penalties assessed by the Department of Labor for violations of Alaska's Occupational Safety and Health law and regulations would be increased.

Specifically, the provisions of this bill:

- (1) increase the maximum penalty for a willful or repeat violation from \$10,000 to \$25,000;
- (2) establish a \$1000 minimum penalty for a serious violation; and increase the maximum penalty for a serious or failure to abate violation from \$1,000 to \$10,000;
- (3) increase the maximum penalty for a non-serious violation from \$1,000 to \$5,000;
- (4) increase the maximum penalty for a willful or repeat violation which results in the death of a worker from \$10,000 to \$150,000; and increase from \$20,000 to \$500,000 the maximum penalty for a second conviction of a willful or repeat violation causing death;
- (5) increase from \$10,000 to \$25,000 the maximum penalty for falsifying or otherwise misrepresenting occupational safety and health records or documents; and
- (6) increase the maximum penalty for a violation of occupational safety and health posting requirements from \$1,000 to \$2,000.

The penalties in effect have not been increased since Alaska's occupational safety and health law was initially enacted in 1973.

More important than providing for an overdue inflationary increase in the penalty system, however, the increased penalties would serve as an effective deterrent to workplace safety and health violations. This, of course, will translate into safer workplaces, and a reduced risk of injury and illness to Alaska's workers.

An increased emphasis on worker safety and health is particularly important in times of economic decline, such as are presently being experienced. When cost-saving measures are implemented by employers during recessionary periods, equipment maintenance and replacement are diminished, and the need to increase worker productivity often results in unsafe "shortcuts" that would not be


POSITION PAPER/Department of Labor

February 26, 1987

taken or even considered in more prosperous times. The deterrent effect of increased penalties would, therefore, assure that implementation of cost-saving measures by Alaska business is not at the expense of or to the detriment of the safety and health of Alaska's workers.

The Department of Labor supports the increased penalties for violations of Alaska's occupational safety and health law and regulations as provided in this bill.

APPROVED:



Jim Sampson, Commissioner
Department of Labor

Comparison of Alaska and U.S. Injury/Illness Rate* by Industry Type
1980 - 1984

	1980		1981		1982		1983		1984	
	Alaska U.S.	% Above U.S. Average	Alaska U.S.	% Above U.S. Average	Alaska U.S.	% Above U.S. Average	Alaska U.S.	% Above U.S. Average	Alaska U.S.	% Above U.S. Average
Oil and Gas Production	$\frac{12.4}{13.4}$	-7%	$\frac{15.8}{14.1}$	12%	$\frac{15.3}{12.1}$	26%	$\frac{11.8}{9.8}$	20%	$\frac{10.6}{11.8}$	-10%
Construction	$\frac{16.5}{15.7}$	5%	$\frac{17.2}{15.1}$	14%	$\frac{19.4}{14.6}$	33%	$\frac{17.6}{14.8}$	19%	$\frac{16.9}{15.5}$	9%
Seafood Processing Canned	$\frac{21.4}{20.2}$	6%	$\frac{19.9}{22.4}$	-11%	$\frac{18.6}{17.8}$	5%	$\frac{21.4}{17.1}$	25%	$\frac{25.0}{-}$	-
Seafood Processing Frozen	$\frac{31.7}{19.4}$	63%	$\frac{24.6}{18.6}$	32%	$\frac{21.8}{17.1}$	28%	$\frac{32.9}{17.9}$	84%	$\frac{26.1}{17.3}$	51%
Lumber	$\frac{32.5}{18.6}$	75%	$\frac{26.8}{17.6}$	52%	$\frac{26.9}{16.9}$	59%	$\frac{31.2}{18.3}$	70%	$\frac{43.0}{19.6}$	119%
Transportation	$\frac{12.2}{9.4}$	30%	$\frac{11.6}{9.0}$	29%	$\frac{10.7}{8.5}$	26%	$\frac{11.4}{8.2}$	39%	$\frac{12.1}{8.8}$	38%
Wholesale Trade	$\frac{10.9}{8.2}$	33%	$\frac{9.8}{7.7}$	27%	$\frac{9.6}{7.1}$	35%	$\frac{12.3}{7.0}$	76%	$\frac{11.7}{7.2}$	62%
Retail Trade	$\frac{6.8}{7.1}$	-4%	$\frac{7.4}{7.1}$	4%	$\frac{9.3}{7.2}$	29%	$\frac{9.6}{7.3}$	31%	$\frac{9.5}{7.5}$	27%
Services	$\frac{4.3}{5.2}$	-17%	$\frac{4.3}{5.0}$	-14%	$\frac{4.4}{4.9}$	-10%	$\frac{4.7}{5.1}$	-8%	$\frac{5.1}{5.2}$	-2%

* per 100 full-time workers

Sample of Penalty Structure

Other-than-Serious:¹

Number of Employees ²	Present Penalty	Penalty under CSHB 53
3	\$60	\$300
50	\$240	\$1,200
200	\$300	\$1,500

Serious:

Number of Employees	Present Penalty	Penalty under CSHB 53
3	\$60	\$1,000
13	\$240	\$2,400
65	\$450	\$4,500
300	\$550	\$5,500

Repeated Violations:³

Number of Employees	Present Penalty	Penalty under CSHB 53
3	\$120	\$1,200
13	\$480	\$4,800
65	\$900	\$9,000
200	\$1,100	\$11,000

Willful Violations:

Number of Employees	Present Penalty	Penalty under CSHB 53
3	\$1,800	\$18,000
50	\$2,400	\$24,000
100	\$5,000	\$25,000

¹It is the department's current policy not to assess a penalty for "other" violations unless 10 or more violations are found at the worksite.

²Each example for a certain number of employees is assuming a different set of circumstances from actual case files.

³If the violation is repeated a second time, the original penalty is multiplied by four and if it is repeated a third time the original penalty is multiplied by 10.

Failure to Abate Violation:⁴

Number of Employees	Present Penalty	Penalty under CSHB 53
3	\$450	\$4,500
13	\$750	\$7,500
65	\$1,050	\$10,500
300	\$1,350	\$13,500

Posting Violations:

	Present Penalty	Penalty under CSHB 53
Failure to post the "Safety and Health Protection on the Job" poster	\$60-\$100	\$300-\$500
Failure to post the "Annual Summary of Occupational Injuries and Illnesses" form	\$100-\$200	\$500-\$1000
Failure to post a citation issued by the Department of Labor	\$250-\$500	\$1,250-\$2,500
Failure to post the "Right-to-Know" poster	\$60-\$100	\$300-\$500

Criminal Willful:⁵

Present Penalty	Penalty under HB 53
\$10,000	\$150,000

⁴Note the maximum penalty under HB 53 for each day a violation is uncorrected is \$10,000. In calculating these penalties it is assumed that the violation was uncorrected for 5 days.

⁵The department has never issued a criminal willful violation; however, if such a violation was found, the department would ask for the maximum penalty allowed under the law.

Method of Penalty Adjustment

I. Non-Serious and Serious Violations

- A. Adjustment for gravity of violation¹ The Gravity Based Penalty results from an up to 90% reduction of starting penalty calculated using the following formula:

$$\% \text{ Reduction} = \left[\frac{\text{Severity Factor} + \text{Probability Factor}}{2} \right] \times 10 = 0-90\%$$

Gravity Based Penalty = % reduction x starting penalty of \$10,000
or
\$ 5,000

Gravity Based Penalty for a Serious Violation = \$1,000-\$10,000

Gravity Based Penalty for a Non-Serious Violation = \$ 500-\$ 5,000

- B. The Gravity Based Penalty is then reduced by as much as 80% for:

1. Size of business (# of employees) = up to 40% reduction
2. Good Faith = up to 30% reduction
3. No Prior History of Violations = up to 10% reduction

Range of Final Adjusted Penalty for Serious = \$1,000-\$10,000
Non-Serious = \$ 100-\$ 5,000

¹ Severity Factor: The severity of the injury or illness that could result from the hazard on a scale of 1-10.

1 - 3 Injury or illness not resulting in hospitalization or temporary reversible illness requiring minor treatment.

7 - 10 Injuries including permanent disability or chronic, irreversible illness or death.

Probability Factor: The probability that the injury or illness would occur due to the hazard on a scale of 1-10 taking into consideration number of workers exposed, frequency or duration or exposure, employee proximity, working conditions such as lighting.

II. Failure to Abate

Gravity Based Penalty = \$1,000-\$10,000

Maximum adjustment for: size 40%
good faith 30%
history 10%
\$ 200-\$2,000/per day

No adjustment for: size
good faith
History \$1,000-\$10,000/per day

III. Posting Violations

Current penalties for posting set by Federal OSHA by policy x 5

Posters [\$ 60-\$100] x 5 = \$300-\$500

Injury/Illness
List for that [\$100-\$200] x 5 = \$500-\$1,000
Worksite

Failure to Post
A Citation [\$250-\$500] x 5 = \$1,250-\$2,500
Issued by DOL

IV. Repeated Violations

Original Serious : \$1,000-\$10,000 x 2 First Repeat \$ 2,000-\$20,000
Violations x 4 Second Repeat \$ 4,000-\$25,000
x 10 Third Repeat \$10,000-\$25,000

V. Willful Violations: Penalty for willful violations = Gravity Based
Penalty x 10

\$1,000-\$10,000 x 10 = \$10,000-\$25,000

EXAMPLES OF VIOLATIONS

1. Serious Violation: Unguarded saw used once a month
- | | <u>INITIAL AND
ADJUSTED PENALTY</u> |
|--|---|
| Initial Penalty | \$10,000 |
| Gravity Based Penalty reduced 90% for low probability/severity | \$ <u>9,000-</u> |
| Final Penalty | \$ 1,000 |
2. Serious Violation: Trench not shored in unstable ground
- | | |
|--|-----------|
| Initial Penalty | \$10,000 |
| No Reduction for Gravity Based Penalty | |
| Probability of collapse high, 0% adjustment | |
| Severity is high = death | |
| Final Penalty | \$10,000 |
| <u>Minimum adjustment for size, good faith, & history = 0%</u> | \$10,000 |
| >100 employees = 0% reduction for size | |
| Poor overall safety of worksite = 0% for good faith | |
| History of multiple, previous, uncorrected violations = 0% for history | |
| Final Penalty | \$10,000 |
| <u>Maximum adjustment for size, good faith & history = 80%</u> | \$ 2,000- |
| <10 employees | |
| Overall safety conditions of the rest of the worksite is good | |
| No previous history of violation | |
3. Non-Serious Violation: failure to monitor asbestos level in air
- | | |
|---|-------------------|
| Initial Penalty | \$ 5,000 |
| Gravity Based Penalty = | 90% reduction 500 |
| (does not directly cause death, injury or illness) | |
| <10 employees = | 40% reduction |
| Overall safety conditions = | 30% reduction |
| (inadequate effort to protect/incorrect respirators in use) | |
| New employer, no previous violations = | 10% reduction |
| | 80% reduction |
| $\$500 \times .80 = \400 | |
| $\$500 - \$400 = \$100$ Final Penalty | |
4. Repeated Violations
- | | | | |
|-------------------------------------|------|---------------|-------------------|
| Original Serious : \$1,000-\$10,000 | x 2 | First Repeat | \$ 2,000-\$20,000 |
| Violations | x 4 | Second Repeat | \$ 4,000-\$25,000 |
| | x 10 | Third Repeat | \$10,000-\$25,000 |
5. Willful Violations: Penalty for willful violations = Gravity Based Penalty x 10 \$1,000-\$10,000 x 10 = \$10,000-\$25,000

Alaska State Legislature
Representative Niilo Koponen

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POSITION PAPER

HB 53 - "AN ACT RELATING TO PENALTIES FOR VIOLATIONS TO
WORK-PLACE SAFETY LAWS"

This legislation would reinforce the legislative intent in AS 18.60.010, which states that the legislature finds that "...personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, the people of the state in terms of loss of production, wage loss, medical expenses and disability compensation payments." The health and safety of every Alaskan worker should be a first priority in any work-place.

Alaska is ranked third in the country for having the highest occupational injury and illness rates. It is therefore necessary to undertake a program to reduce the incidence of work-related accidents and health hazards in the state. My decision to strengthen the work-place safety laws resulted from past discussions with laborers, and research into case examples of the asbestos problems and other work-place accidents that have occurred within Alaska. These incidents include the Clear A.F.B. case, where avoidable microwave exposure causing severe injury to six workers resulted in a \$420 fine.

This legislation parallels actions taken by the Washington State Legislature last year (1986) by increasing penalties for serious work-place violations. For example, under current Alaska Statute the penalty for a serious work-place safety violation is a maximum fine of \$1,000. This penalty is then adjusted downward by the Occupational Safety and Health Administration (OSHA), taking into consideration factors such as the size of the employee's business, good faith of the employer and any previous history of violations. The adjusted average fine for a serious violation is \$175.00. This penalty structure, which has not been adjusted for the past 17 years, is not an effective deterrent to serious hazards.

HB 53 would increase the maximum fine to \$25,000. With the application of the adjustment formula this is expected to increase the average fine to \$4,375. The possibility of more severe fines should encourage companies to pay more attention to worker safety. In Washington, an equivalent violation now carries a maximum fine of \$50,000.

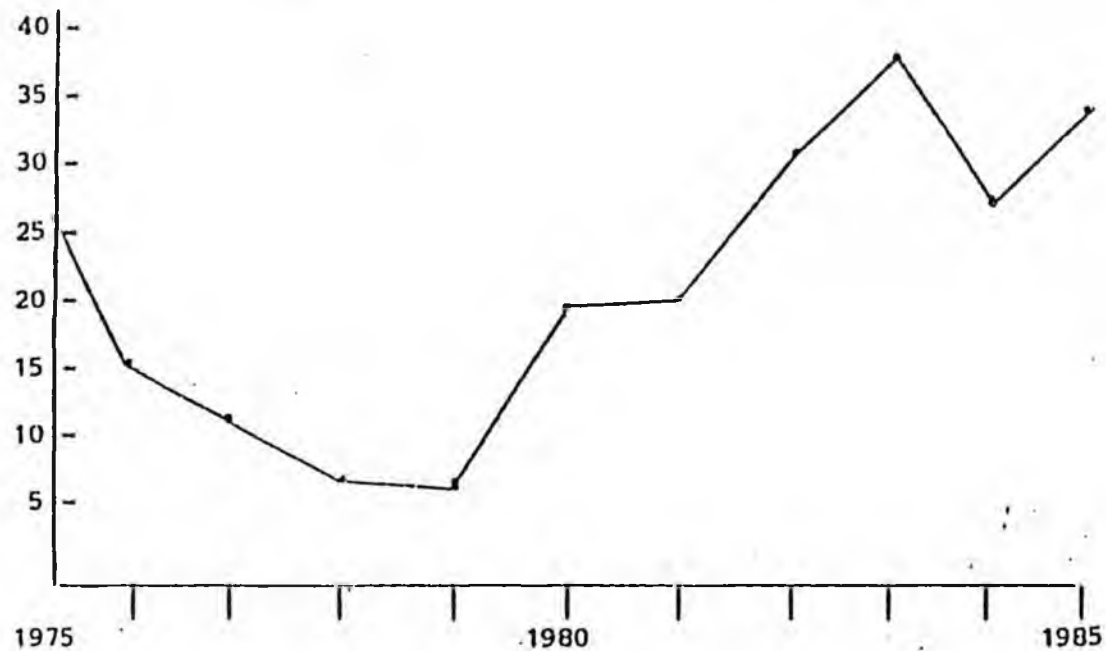
There is no reason why an employer can not abide by the standards that the federal and state statutes have established. There is a

common-law duty to provide a safe work-site that affects whomever supplies and controls that work-site. This duty protects all people on the site and not just the employees. (AS18.60.075.)

HB 53 is a deterrent intended to encourage businesses to conform to work-place safety laws and regulations. The main purpose of this legislation is to remind employers of their responsibility to prevent accidents. An increase in fines is one way of making sure that safety in the work-place is a top priority. Employees and the public need this protection. If an employer complies with required statutes and standards, then there should be no worry of being fined. Small fines are not effective enough to make changes occur.

It is the sponsor's earnest hope that greater compliance will result in a decrease in the number of fines levied. Collected fines levied will be deposited into the general fund which can be used to offset the temporary administrative costs that the Department of Labor will have until the new fines are promulgated.

Alaska Injury and Illness Rate
Percentage Above National Average



Alaskan versus National Incidence Rates By Year

	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>
Alaska	11.5	10.7	10.4	10.0	10.1	10.4	10.0	10.3	10.6	10.3	10.7
U.S.	9.1	9.2	9.3	9.4	9.5	8.7	8.3	7.7	7.6	8.0	7.9
Percentage Above National Average	26.0	16.3	11.8	6.3	6.3	19.5	20.4	33.7	39.4	28.0	35.0

Alaska State Legislature
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March 9, 1987

Representative Al Adams
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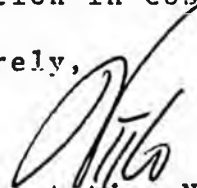
Dear Al:

Alaska ranks third nationwide in preventable occupational injury and illness rates. In the last five years, Kotzebue, Barrow and the areas in between (Senate District L) workers suffered 17 amputations, 19 chemical burns, 43 other burns, 19 concussions, and 333 contusions or crushing injuries to cite just a few of the many categories of injury.

Fines for repeat and serious offenders - including those whose action or inaction can cause a second fatality - have been limited to \$1000 since Alaska took control of OSHA 17 years ago. Factors such as company size and "good faith" are used to scale down fines so the average fine for a serious offense is \$175.00. Alaska's industrial accident rate fell from the time we took over OSHA until 1982. It has risen steadily since. Perhaps inflation has made the fine schedule less meaningful. Paying the fine penalty may be cheaper than correcting the hazard. The rate of injuries also impacts our workers compensations system, raising premium costs for all employers, even the law abiding ones.

We need the deterrent that these fines represent. Only those who violate the law will pay. Other businesses should see a reduction in costs as workers compensation premiums go down.

Sincerely,



Representative Niilo Koponen
NK/SP

OSHA fines put low value on life

'Petty cash' penalties follow investigations of fatalities

By Arlee C. Green

What is a worker's life worth?

It depends on whom you ask, but workers agree that you shouldn't ask the Occupational Safety & Health Administration. Its price is often under \$1,000—a "petty cash" fine.

OSHA recently reported that in 1985 there were 3,750 job-related fatalities in the 280,000 workplaces it surveyed. The federal job safety agency's responsibilities extend to more than 5 million workplaces across the country.

The fines meted out in worker deaths relate only to the infractions involved, such

as unsafe wiring or lack of a machine guard. There's no connection between the fine for a safety violation and the death of a worker because of that violation. Further, OSHA is limited by law in the size of fine it can assess—\$1,000 for a serious violation and \$10,000 for a willful violation.

OSHA does not keep separate statistics on fines assessed in worker deaths, but in figures it provided to a House hearing, OSHA said that in 1983 it conducted investigations of 1,376 accidents where either a worker was killed or more than four workers were hospitalized. From that, it found 2,073 violations—1,022 that were

serious, 30 willful, 26 repeat and 995 other than serious. The fines assessed for those violations totaled \$589,422—an average of about \$284 per violation and only 40 percent of the legal limit it could have assessed.

The Reagan Administration early on attempted to get OSHA "off the backs" of employers and off the shop floor. It slashed funding and the size of the agency's inspection force, but kept inspections figures artificially high by doing only "safety records checks" at many workplaces.

- A rise in worker deaths, along with

Continued on Page 3

Continued from Page 1

labor and public pressure, brought in focus the possibility that employers were not keeping accurate safety records. OSHA eventually found widespread recordkeeping problems and in a highly publicized action in 1986, OSHA assessed a record \$1.37-million penalty against Union Carbide Corp. for 221 safety violations, including 129 willful record-keeping violations each assessed at the \$10,000 maximum. The company is now trying to get the fine reduced before it pays.

In contrast, Virginia's job safety agency recently called for a \$900 fine against Avtex Fibers Inc. of Front Royal, Va., for a death resulting from a serious safety violation. The firm, whose 1,300 employees are represented by Clothing & Textile Workers Local 371-T, was also told to enforce a regularly scheduled maintenance program

on the type of equipment involved in the accident.

Worker deaths continue in part because federal and state government funding cut-backs for job safety programs. At the federal level, the number of OSHA inspectors has dropped severely under the Reagan Administration. The fiscal year 1988 budget request submitted in January seeks a \$15-million increase—which would return its budget to the level of the Carter Administration funding.

Paper tiger

In addition, federal OSHA has set a pattern of inspecting just job safety records rather than doing wall-to-wall inspections. When it does issue citations, it usually groups several violations under one citation. Companies often get their fines reduced or wiped out following a consultation with OSHA officials or on appeal to the Occupational Safety & Health Review Commission.

In the Avtex case, Charles Samborsky, head of the plant's acid-recovery department, was killed last Nov. 11 after he was sucked into a pressurized tank that imploded while he was attempting to make repairs.

Avtex was cited by Virginia OSHA under the general duty clause requiring employers to maintain a workplace free from hazards. Samborsky's death was one of three at the plant in a five-week period.

Robert Kent was killed when a bale of pulp fell on his forklift. He reportedly had stuck his head through the protection cage bars. In the third accident, supervisor Clarence Conard died when overcome by fumes. He reportedly was not wearing a

safety harness or a fresh air mask when the accident occurred.

Herbert Easton, business agent of the ACTWU local, said that since the accidents the company has held safety meetings with union members and has accepted "some of our ideas on improving safety. I feel the plant is now doing its part."

Easton, who sat in on meetings between Virginia OSHA and company officials, said he doubted citations would be issued against Avtex in the other worker deaths.

OSHA can and does on occasion refer its worker death findings to federal prosecutors for possible criminal prosecution.

And in Chicago two years ago, a Cook County court handed down 25-year murder sentences to three executives of Film Recovery Inc. for the death of a worker exposed to open vats of cyanide.

Ongoing investigation

OSHA has since referred to the U.S. attorney's office for possible criminal prosecution its investigation of a fatal accident that occurred Apr. 23, 1985, involving Kenny Construction Co. Inc. of Wheeling, Ill., a suburb of Chicago.

There, a foreman died of asphyxiation after he and another worker were lowered in a cage into an unventilated 20-foot shaft. The worker and three others, members of Laborers Local 2, were felled by a lack of oxygen in the subsequent rescue attempt, but all survived.

In that case, OSHA cited Kenny Construction with several serious and willful violations, and noted the firm "has an extensive history of similar violations of OSHA safety standards." The company has appealed those citations to the OSHRC.

OSHA-CIO NEWS Sat, Feb 7 1987

November 1986

FATALITY RATES From RLS-OSH Survey

Bureau of Labor Statistics calculates a fatality rate for private sector firms employing more than 10 workers. The rate has a base of 100,000 full-time workers and is computed (estimated number of fatalities x 200,000,000)/hours worked. If we use the fatalities estimated by the OSH survey for Alaska and follow the same formula we get comparable statistics. An important point is that the fatalities estimated by the survey equal about half of those reported to Workers' Compensation. Fatality rate is therefore underestimated.

	<u>U.S.</u>	<u>Alaska</u>
1974	9.8	
1975	9.4	
1976	7.9	
1977	9.1	
1978	8.2	
1979	8.6	
1980	7.7	
1981	7.6	
1982	7.4	
1983	5.6	15.3
1984	6.4	14.7
1985		16.1

ILLNESS RATES From BLS-OSH Survey

The annual survey computed its incidence rates using a base of 100 full-time workers (using the formula [number of cases x 200,000]/hours worked). In its last release of data for 1984, the Bureau of Labor Statistics computed an illness rate using a base of 10,000 workers (number of cases x 20,000,000)/hours worked. This was done to make the illness statistic more meaningful. We can compute comparative data for Alaska.

Illness Rates Using a Base of 10,000 workers:

	<u>U.S.</u>	<u>Alaska</u>
1983		28.8
1984	18.4	21.4
1985		28.7

Incidence rates of Recordable Occupational Injuries and Illnesses
Comparison of all States - Private Sector
1983 and 1984 Ranked by 1984 rates

USA	1983	1984
USA	7.6	8.0
Maine	11.0	13.2
Oregon	9.8	10.6
Alaska	10.3	10.3
Vermont	9.2	10.0
Hawaii	10.6	10.0
Washington	9.7	9.9
Oklahoma	8.9	9.8
Arizona	9.3	9.5
California	9.1	9.3
Utah	8.5	9.2
Nevada	9.0	9.0
Florida	8.7	8.9
Nebraska	8.4	8.8
New Mexico	7.8	8.7
Wyoming	7.9	8.6
Tennessee	7.9	8.6
Montana		8.5
Rhode Island	8.3	8.4
Alabama	7.9	8.3
Kentucky	7.6	8.3
Connecticut	8.0	8.3
Iowa	7.8	8.1
Mississippi		8.0
Arkansas	8.1	8.0
Missouri	7.5	8.0
Louisiana	7.4	7.9
Maryland	7.6	7.8
Minnesota	7.3	7.7
Kansas		7.7

FIGURE 1-10a
Estimated OSHA Recordable Cases
Private Sector Alaska and U.S.
1972-1984

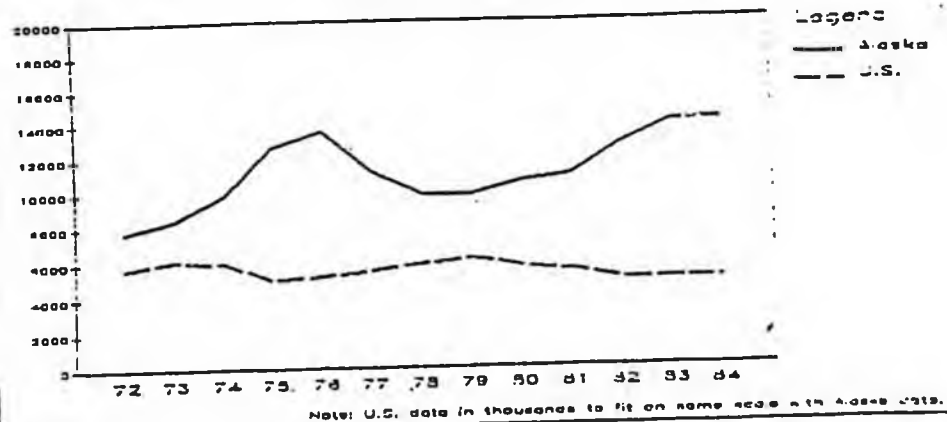
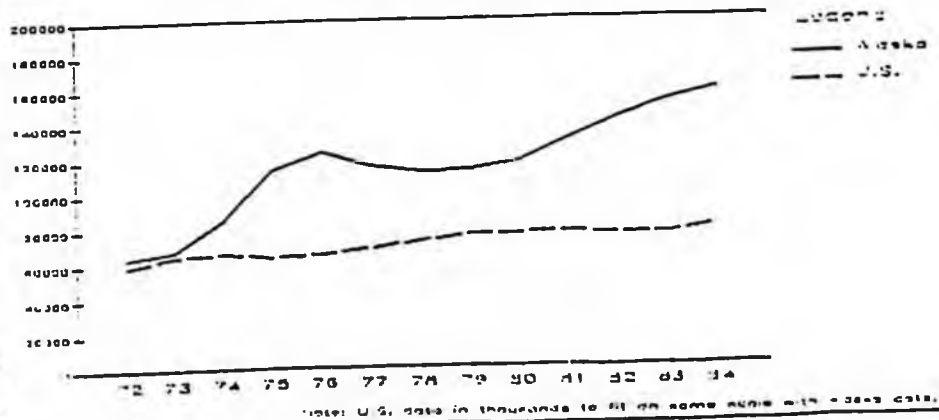


FIGURE 1-10b
Annual Average Employment
Private Sector Alaska and U.S.
1972-1984



Definition of a Serious Violation:

A serious violation is considered to exist if the violation creates in the place of employment a substantial probability of death or serious physical harm. However, a serious violation is not considered to exist if the employer did not, and could not with the exercise of reasonable intelligence, know of the presence of the violation. AS 18.60.095(b)

Sample of Penalty Structure

Other-than-Serious:¹

Number of Employees ²	Present Penalty	Penalty under CSHB 53 (JUD)
3	\$60	\$300
50	\$240	\$1,200
200	\$300	\$1,500

Serious:

Number of Employees	Present Penalty	Penalty under CSHB 53 (JUD)
3	\$60	\$1,000
13	\$240	\$2,400
65	\$450	\$4,500
300	\$550	\$5,500

Repeated Violations:³

Number of Employees	Present Penalty	Penalty under CSHB 53 (JUD)
3	\$120	\$1,200
13	\$480	\$4,800
65	\$900	\$9,000
200	\$1,100	\$11,000

Willful Violations:

Number of Employees	Present Penalty	Penalty under CSHB 53 (JUD)
3	\$1,800	\$18,000
50	\$2,400	\$24,000
100	\$5,000	\$25,000

¹It is the department's current policy not to assess a penalty for "other" violations unless 10 or more violations are found at the worksite.

²Each example for a certain number of employees is assuming a different set of circumstances from actual case files.

³If the violation is repeated a second time, the original penalty is multiplied by four and if it is repeated a third time the original penalty is multiplied by 10.

Failure to Abate Violation:⁴

Number of Employees	Present Penalty	Penalty under CSHB 53 (JUD)
3	\$450	\$4,500
13	\$750	\$7,500
65	\$1,050	\$10,500
300	\$1,350	\$13,500

Posting Violations:

	Present Penalty	Penalty under CSHB 53 (JUD)
Failure to post the "Safety and Health Protection on the Job" poster	\$50-\$100	\$120-\$200
Failure to post the "Annual Summary of Occupational Injuries and Illnesses" form	\$100-\$200	\$200-\$400
Failure to post a citation issued by the Department of Labor	\$250-\$500	\$500-\$1,000
Failure to post the "Right-to-Know" poster	\$60-\$100	\$120-\$200

Criminal Willful:⁵

Present Penalty	Penalty under CSHB 53 (JUD)
\$10,000	\$150,000

⁴Note the maximum penalty under HB 53 for each day a violation is uncorrected is \$10,000. In calculating these penalties it is assumed that the violation was uncorrected for 5 days.

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or
\$ 5,000

Gravity Based Penalty for a Serious Violation = \$1,000-\$10,000

Gravity Based Penalty for a Non-Serious Violation = \$ 500-\$ 5,000

- B. The Gravity Based Penalty is then reduced by as much as 80% for:

1. Size of business (# of employees) = up to 40% reduction
2. Good Faith = up to 30% reduction
3. No Prior History of Violations = up to 10% reduction

Range of Final Adjusted Penalty for Serious = \$1,000-\$10,000
Non-Serious = \$ 100-\$ 5,000

¹ Severity Factor: The severity of the injury or illness that could result from the hazard on a scale of 1-10.

1 - 3 Injury or illness not resulting in hospitalization or temporary reversible illness requiring minor treatment.

7 - 10 Injuries including permanent disability or chronic, irreversible illness or death.

Probability Factor: The probability that the injury or illness would occur due to the hazard on a scale of 1-10 taking into consideration number of workers exposed, frequency or duration or exposure, employee proximity, working conditions such as lighting.

II. Failure to Abate

Gravity Based Penalty = \$1,000-\$10,000

Maximum adjustment for: size 40%
good faith 30%
history 10%
\$ 200-\$2,000/per day

No adjustment for: size
good faith
History
\$1,000-\$10,000/per day

III. Posting Violations

Current penalties for posting set by Federal OSHA by policy x 5

Posters [\$ 60-\$100] x 2 = \$120-\$200

Injury/Illness
List for that [\$100-\$200] x 2 = \$200-\$400
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A Citation [\$250-\$500] x 2 = \$500-\$1,000
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Original Serious : \$1,000-\$10,000 x 2 First Repeat \$ 2,000-\$20,000
Violations x 4 Second Repeat \$ 4,000-\$25,000
x 10 Third Repeat \$10,000-\$25,000

V. Willful Violations: Penalty for willful violations = Gravity Based
Penalty x 10
\$1,000-\$10,000 x 10 = \$10,000-\$25,000

EXAMPLES OF VIOLATIONS

1. Serious Violation: Unguarded saw used once a month

INITIAL AND
ADJUSTED PENALTY

Initial Penalty	\$10,000
Gravity Based Penalty reduced 90% for low probability/severity	\$ <u>9,000-</u>
Final Penalty	\$ 1,000

2. Serious Violation: Trench not shored in unstable ground

Initial Penalty	\$10,000
No Reduction for Gravity Based Penalty	
Probability of collapse high, 0% adjustment	
Severity is high = death	
Final Penalty	\$10,000

<u>Minimum adjustment for size, good faith, & history = 0%</u>	\$10,000
>100 employees = 0% reduction for size	
Poor overall safety of worksite = 0% for good faith	
History of multiple, previous, uncorrected violations = 0% for history	
Final Penalty	\$10,000

<u>Maximum adjustment for size, good faith & history = 80%</u>	\$ 2,000-
<10 employees	
Overall safety conditions of the rest of the worksite is good	
No previous history of violation	

3. Non-Serious Violation: failure to monitor asbestos level in air

Initial Penalty	\$ 5,000
Gravity Based Penalty =	90% reduction 500
(does not directly cause death, injury or illness)	
<10 employees =	40% reduction
Overall safety conditions =	30% reduction
(inadequate effort to protect/incorrect respirators in use)	
New employer, no previous violations =	10% reduction
	80% reduction

\$500 x .80 = \$400
\$500 - \$400 = \$100 Final Penalty

4. Repeated Violations

Original Serious : \$1,000-\$10,000	x 2	First Repeat	\$ 2,000-\$20,000
Violations		x 4	Second Repeat \$ 4,000-\$25,000
		x 10	Third Repeat \$10,000-\$25,000

5. Willful Violations: Penalty for willful violations = Gravity Based
Penalty x 10 \$1,000-\$10,000 x 10 = \$10,000-\$25,000

D

Incidence rates of Recordable Occupational Injuries and Illnesses
 Comparison of all States - Private Sector
 1983 to 1984

	1983	1984
USA	7.6	8.0
Maine	11.0	13.2
Oregon	9.8	10.5
Alaska	10.6	10.3
Vermont	9.2	10.0
Hawaii	10.6	10.0
Washington	9.7	9.3
Oklahoma	9.9	9.3
Arizona	9.2	9.3
California	9.1	9.2
Utah	9.5	9.2
Nevada	9.0	9.0
Florida	9.7	9.9
Nebraska	9.4	9.3
New Mexico	7.2	8.7
Tennessee	7.9	8.6
Wyoming	7.2	8.9
Montana		8.5
Rhode Island	9.2	8.4
Connecticut	9.0	9.9
Alabama	7.3	8.3
Kentucky	7.6	8.3
Iowa	7.2	8.1
Arkansas	8.1	8.0
Mississippi		8.0
Missouri	7.5	8.0
Louisiana	7.4	7.9
Maryland	7.6	7.8
Minnesota	7.2	7.7
Kansas		7.7
Indiana	7.3	7.7
Virginia	7.0	7.3
Michigan	8.2	7.8
North Carolina	8.3	7.9
West Virginia	8.7	7.2
South Carolina	8.7	8.9
Delaware	8.0	8.6
Puerto Rico	4.8	5.0
American Samoa	2.5	3.0
Guam	2.7	2.3
Virgin Islands	2.3	2.4
Texas		
Illinois		
New Hampshire		
New Jersey		
Wisconsin		
Massachusetts		
Idaho		
Georgia		
Ohio		
South Dakota		
North Dakota		
Colorado		
Wyoming		
Montana		

TABLE 1-5
Incidence Rates of Lost Workday Cases (Injuries and Illnesses)
Industry Data Time Series, Alaska 1976 to 1985

Industry 1/	SIC Code 2/	Incidence Rate for Lost Workday Cases (per 100 workers)									
		1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
TOTAL PRIVATE AND PUBLIC SECTOR	11/..	5.0	4.7	4.6	4.6	4.7	4.3	4.4	4.5	4.3	4.5
TOTAL PRIVATE SECTOR		5.3	5.0	5.0	5.0	5.3	4.8	4.9	4.9	4.5	4.9
MINING		5.9	6.1	8.3	7.3	6.2	6.4	6.1	4.6	4.2	4.0
Oil and Gas Extraction	13	6.5	6.0	3.5	7.0	6.2	6.3	5.2	4.6	4.2	4.1
Petroleum & Gas Production	131	-	-	3.7	2.2	1.2	1.2	1.3	1.3	1.2	0.7
Oil & Gas Field Services	138	-	-	12.4	11.7	12.1	11.7	11.5	8.3	8.5	7.9
CONSTRUCTION		7.5	7.3	8.5	7.5	7.0	7.8	8.4	3.1	7.0	8.3
General Building Contractors	15	7.2	6.5	7.2	5.3	6.0	10.8	9.3	11.4	3.1	8.1
Residential Buildings	152	3.5	6.5	7.7	3.8	6.7	9.7	8.6	9.8	3.0	3.5
Nonresidential Buildings	154	9.3	6.8	7.1	6.9	5.2	12.2	9.8	13.1	10.0	7.5
Heavy Construction Contractors	16	7.4	7.4	8.8	9.1	7.5	6.6	8.8	6.7	6.4	7.9
Highway and Street Construction	161	7.8	13.1	4.4	11.4	7.9	3.4	10.8	3.2	7.5	11.1
Heavy Construction, except Hwy	162	7.3	3.6	11.0	7.6	7.3	5.7	7.6	9.0	3.0	3.6
Special Trade Contractors	17	8.3	7.5	7.3	7.5	7.1	7.4	7.4	7.2	3.5	3.9
Plumbing, Heating & Air Condit.	171	10.3	6.6	5.3	5.5	5.1	7.4	6.6	11.3	9.3	3.9
Electrical Work	173	4.8	3.8	6.0	6.2	3.2	6.3	5.5	4.9	4.1	3.3
Misc. Special Trade Contractors	179	10.9	5.5	-	3.9	7.2	8.6	3.0	4.9	3.5	3.9
MANUFACTURING		9.7	10.9	10.3	11.3	11.8	9.6	9.5	10.0	10.3	12.0
Food and Kindred Products	20	8.6	10.7	10.1	11.8	12.3	9.0	10.0	11.0	9.9	12.6
Misc. Food Prep. & Kindred Prod.	209	9.3	10.5	10.2	11.9	12.3	8.9	10.3	11.1	10.1	12.6
Canned & Cured Fish & Seafoods	2091	6.3	7.2	8.7	10.9	11.7	6.3	7.6	5.9	3.9	11.7
Fresh/Froz. Pkgd. Fish & Seafoods	2092	2.6	11.9	12.3	13.1	12.9	10.4	11.6	12.7	12.5	13.5
Lumber & Wood Prod. except Furniture	24	22.1	21.1	17.1	17.0	18.8	17.6	17.3	17.7	18.9	19.0
Logging Camps & Contractors	241	23.3	23.5	20.1	20.7	20.4	16.9	19.3	21.6	23.6	33.3
Printing, Publishing & Allied Ind.	27	1.3	-	-	-	1.7	2.0	2.3	3.1	4.3	3.9
TRANSPORTATION AND PUBLIC UTILITIES		6.3	7.1	6.3	6.5	7.0	6.4	6.1	3.0	3.4	3.1
Local & Interurban Passenger Transit	41	1.0	-	-	2.2	1.4	1.9	2.9	3.7	3.1	3.3
Trucking and Warehousing	42	11.6	10.3	16.1	11.4	13.0	10.3	7.3	9.3	10.1	11.3
Trucking, Local and Long Distance	421	11.6	10.6	17.2	12.2	13.2	10.5	3.1	3.3	3.3	11.3
Water Transportation	44	10.6	3.3	2.3	2.9	11.3	10.4	3.0	3.3	3.3	3.3
Transportation by Air	45	5.6	2.4	2.5	3.5	3.3	8.0	3.0	7.2	3.3	3.3
Communication	48	1.4	2.5	1.3	4.1	5.3	4.8	4.9	4.5	3.3	3.3
Electric, Gas and Sanitary Services	49	4.9	5.5	5.6	5.1	6.0	4.9	5.9	3.7	3.5	3.7
WHOLESALE & RETAIL TRADE		3.8	3.6	3.4	3.4	3.7	3.5	4.3	4.7	4.1	4.4
WHOLESALE TRADE		3.2	4.7	4.4	5.6	5.3	5.0	3.7	6.0	6.0	5.5
Durable Goods	50	2.9	3.8	4.8	5.7	3.3	3.3	2.1	3.5	3.9	3.9
Nondurable Goods	51	3.6	6.4	3.7	5.4	2.0	7.7	6.5	10.2	7.4	7.2
RETAIL TRADE		4.0	3.2	3.0	2.8	3.2	3.1	4.4	4.3	3.9	4.3
Building Materials & Garden Supplies	52	6.0	4.5	4.3	3.1	5.0	3.3	7.0	7.3	7.2	6.5
Lumber & Blog Materials	521	-	-	-	-	-	-	7.9	11.4	13.7	7.3
General Merchandise Stores	53	2.6	2.6	2.3	2.2	2.3	2.8	3.6	5.3	3.6	3.3
Food Stores	54	5.7	4.0	4.1	3.3	4.3	2.8	5.9	4.8	4.6	4.1
Auto Dealers and Service Stations	55	2.8	3.3	4.8	3.8	4.5	5.0	4.5	5.1	4.5	4.9
Apparel and Accessory Stores	56	0.8	1.2	1.9	1.2	0.6	0.5	0.7	0.3	0.6	0.3
Furniture, Home Furnishings	57	-	-	-	-	-	-	2.6	1.1	1.1	0.3
Eating and Drinking Places	58	5.3	4.9	2.9	3.4	3.7	2.8	3.1	4.2	3.1	3.9
Miscellaneous Retail	59	2.3	0.7	1.7	1.2	1.3	2.4	2.0	2.1	2.3	2.0
FINANCE, INSURANCE, REAL ESTATE		0.6	0.3	0.4	0.6	0.7	0.6	0.4	0.8	0.7	0.9
Banking	60	3.9	1.3	0.8	0.7	1.0	0.9	0.5	1.8	0.9	1.1
Credit Agencies	61	-	-	-	-	-	-	0.6	0.5	0.5	0.3
Insurance	63	-	1.2	0.1	-	-	-	-	-	-	1.0
Real Estate	65	0.8	-	-	-	1.3	0.8	0.3	0.6	0.6	1.0
Holding & Other Investment Offices	67	0.6	0.1	0.1	1.3	-	0.9	0.7	1.2	-	1.0
SERVICES		1.4	2.0	2.0	2.4	2.4	2.3	2.3	2.3	2.0	2.1
Hotel and Other Lodging Places	70	2.8	3.5	4.8	3.4	3.4	3.3	3.6	3.6	3.0	3.1
Personal Services	72	-	1.0	3.6	0.7	0.7	0.7	0.7	0.7	0.7	0.7
Laundry Services	73	2.4	0.8	1.5	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Automotive Services	75	-	-	-	-	-	-	-	-	-	-
Health Services	80	1.5	2.5	2.4	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Legal Services	81	0.1	-	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Postal Services	83	1.5	1.2	2.4	1.5	1.5	1.5	1.5	1.5	1.5	1.5
Administrative Organizations	84	0.1	0.1	0.9	1.1	1.1	1.1	1.1	1.1	1.1	1.1
Other Services	89	0.7	0.2	1.0	1.2	1.2	1.2	1.2	1.2	1.2	1.2
STATE AND LOCAL GOVERNMENT		1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
STATE GOVERNMENT		1.7	1.9	1.9	1.4	1.3	1.3	1.3	1.3	1.3	1.3
LOCAL GOVERNMENT		0.7	0.8	0.7	0.2	0.7	0.7	0.7	0.7	0.7	0.7

1/20 continued on end of section.
2/20 Data not available.

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Industrial Hygiene

DEPARTMENT OF
HEALTH AND HUMAN SERVICES
PUBLIC HEALTH SERVICE

INVESTIGATION OF OCCUPATIONAL
EXPOSURE TO PENTACHLOROPENOL
BETHEL, ALASKA
AUGUST, 1984

BY
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