

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 86/2

2599 HLC SB 525 - SCR 18 2559

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST	HCS	FISCAL DETAIL
Bill/Resolution No.: <u>CSSB 525</u>	Agency Affected: <u>Labor</u>	
Title: <u>"An Act relating to Unemployment Insurance. . ."</u>	Program Category Affected: <u>Social Services</u>	
Sponsor: <u>Sen. Labor & Commerce</u>	BRU, Program or Subprogram(s) Affected: <u>Employment Security, Unemployment Insurance</u>	
Requestor: <u>House Labor & Commerce</u>		
Date of Request: <u>5/14/84</u>		

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES	33.7	89.8	93.9	97.2	102.6	108.4
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	16.9	57.3	50.1	53.1	56.3	59.7
400 SUPPLIES	1.0	2.8	3.0	3.2	3.4	3.6
500 EQUIPMENT		5.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	600.0	2,000.0	2,100.0	2,100.0	2,100.0	2,100.0
800 MISCELLANEOUS						
TOTAL OPERATING	651.6	2,154.9	2,247.0	2,253.5	2,262.3	2,271.7
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	651.6	2,154.9	2,247.0	2,253.5	2,262.3	2,271.7
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	651.6	2,154.9	2,247.0	2,253.5	2,262.3	2,271.7

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: John W. Shay, Jr. Phone: 465-2712

Division: Employment Security Division Date: _____

Approved by Commissioner: Robert W. Sandan Date: 5/15/84

Agency: Labor

LEG:B:14

Distribution (by Agency preparing fiscal note):

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

12/1/83

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
 THIRTEENTH LEGISLATURE
 BILL/RESOLUTION NO: HCS CSSB 525 (L&C)
 TITLE: "An Act relating to Unemployment Insurance."
 AGENCY AFFECTED: Department of Labor
 Page 2

This bill would require the Department of Labor to pay unemployment insurance benefits to qualifying persons between school terms. Two costs would be associated with this bill, the actual costs of the benefits paid and the administrative costs to run the program.

The estimated benefits to be paid in Fiscal Year 1985 are calculated as follows:

Number of Eligible Claimants	\$ 1,400
Average Weekly Benefit Amount	x 135
	<u>\$ 189,000</u>
Average Length of Claim	x 10 wks
	<u>\$1,890,000</u>
Adjustment for Increase in Average Weekly Benefit Amount from \$135 to \$150	+ 110,000
Total Benefits Fiscal Year 1985	\$2,000,000

The estimated benefits to be paid in fiscal years 1986 - 1989 are as follows:

Number of Eligible Claimants	\$ 1,400
Average Weekly Benefit Amount	x 150
	<u>\$ 210,000</u>
Average Length of Claim	x 10 wks
Total	\$2,100,000

Administration costs to run this program would include the salaries of eight seasonal Unemployment Insurance Specialist I's for four months each. Contractual and Supply costs associated with these positions would include postage and forms, as well as normal expenses. One-time expenses would include \$10,000 in Contractual in Fiscal Year 1985 to complete automation of the claims processing function, and \$5,000 in Fiscal Year 1985 to purchase equipment for this function.

In preparing the cost estimate for benefits to be paid the following assumptions were made:

1. An effective date of May 22, 1984.
2. The average weekly benefit amount would increase from \$135 to \$150 on October 1, 1984.
3. No increase in claims would be seen from Fiscal Year 1985 - 1989.
4. There would be no further increase in benefit amount from Fiscal Year 1985 - 1989.

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE
BILL/RESOLUTION NO: HCS CSSB 525 (L&C)
TITLE: "An Act relating to Unemployment Insurance."
AGENCY AFFECTED: Department of Labor
Page 3

In preparing the cost estimates for administrative costs the following assumptions were made:

1. An effective date of May 22, 1984.
2. An annual inflation rate of six percent.

LEG:B:14

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST
Bill/Resolution No.: CS5B 525 (En)
Title: "An Act relating to
Unemployment Insurance"
Sponsor: Senate Labor/Commerce
Requestor: Senate Finance
Date of Request: April 25, 1984

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		169.1	463.3	518.6	522.4	526.6
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CL. INS						
800 MISCELLANEOUS						
TOTAL OPERATING		169.1	463.3	518.6	522.4	526.6
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		126.8	347.5	389.0	391.8	395.0
FEDERAL FUNDS		11.8	32.4	36.3	36.6	36.9
OTHER		30.5	83.4	93.3	94.0	94.7
TOTAL		169.1	463.3	518.6	522.4	526.6

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Personal Service benefits would increase for all agencies based on the projected increase in unemployment insurance paid to ex-state employees and seasonal employees.

ANALYSIS: Attach a separate page for analysis

Prepared By: John W. Shay Phone: 465-2712
Division: Employment Security Division Date: 4/25/84
Approved by Commissioner: John Robinson Date: 4/25/84
Agency: Labor

LEG:A:4
Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

ALL
12/1/83

The following assumptions were made in preparing the forecasted costs:

1. State employment will continue to increase through FY 1986. Thereafter, state employment will level off with consolidation of administrative jobs and belt tightening being offset by jobs based on increased population.
2. There is no wage increase for calendar year 1984. The wages through FY 1986 reflect the recent agreement with APEA. A 5 percent yearly increase continues throughout the remainder of the forecast period.
3. As provided in this bill, the maximum weekly benefit amount paid for unemployment insurance claims will increase from \$156 to \$188, effective October 1, 1984.

As a result, the State of Alaska would be required to pay more in its personal service benefit costs for unemployment insurance. The total amount of the increased costs (which would affect all Departments in the State) is projected from past experience and a computerized modeling technique. The estimated increase in the average payment using this method is 12.7%. This increase would not occur immediately in FY '85, because claimants are paid for an entire year at the rates in effect when they first claim benefits. The total effect of the increase would not be felt until FY '87.

BILL ANALYSIS

Section 1. This is a "housekeeping" amendment which would make a technical change to the training and building fund provision so that unobligated money in the training and building fund could be held an additional 30 days past the end of the fiscal year. The law currently requires that any unobligated money over \$100,000 in the training and building fund must lapse to the unemployment trust fund on the last day of the fiscal year. This money is obligated in appropriations bills prior to the end of the fiscal year, but the bills are often not signed until after the end of the fiscal year. The money is therefore not technically obligated until after the money has already lapsed back to the unemployment trust fund. The proposed amendment solves this "accounting" problem by holding the money in the training and building fund until the appropriation is signed.

Sections 2 and 3. The Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248) amended the Federal Unemployment Tax Act (FUTA) to increase the gross FUTA tax on employers from 3.5 percent to 6.2 percent. It also increased the additional credit against the FUTA tax for contributions to a state unemployment fund from 2.7 percent to 5.4 percent. These amendments are effective January 1, 1985. Because of the language of the FUTA, all employers in the state cannot be guaranteed the full FUTA credit of 5.4 percent unless the state law includes a maximum (standard) state tax rate of at least 5.4 percent.

Section 2 of the bill amends AS 23.20.170 to enact a standard rate of 5.4 percent. Rates below 5.4 percent would continue to be granted under AS 23.20.290.

Section 3 of the bill amends AS 23.20.290 by adding a 21st rate class comprised of employers with the highest quarterly decline quotients whose cumulative payroll is .01 percent of the total payroll in the state. This small minority of employers would receive a rate not less than 5.4 percent. The FUTA requires that the 5.4 percent rate be actually assessed at least one employer in the state, in order for all employers in the state to be guaranteed the maximum additional FUTA credit of 5.4 percent. This amendment meets the requirements of the FUTA with the least distortion to the present rate structure.

Section 4. This section amends AS 23.20.290(e) to include interest earned on the unemployment trust fund in the benefit cost rate computation. Unemployment tax contributions are computed as a percentage of the benefit cost rate, under a formula designed to recover all outlays from the fund. Interest earnings are not currently shown as income to the fund. Unless corrected, this will continue to cause higher than necessary taxes.

Section 5. This section complements the amendment made to AS 23.20.290(e) under sec. 4 of the bill. It amends AS 23.20.290(f) to provide for a negative fund solvency adjustment (in effect, a fund solvency credit) when the unemployment trust fund reaches a certain level of adequacy, defined as a reserve rate (ratio of fund balance to total state wages) of at least 3.3 percent.

Section 6. This section amends the benefit schedule in AS 23.20.350(d) to provide a maximum UI weekly benefit amount of \$188, not counting dependents allowance. This will provide approximately 60 percent of claimants with replacement of 50 percent of their average weekly wages. Federal benefit adequacy guidelines suggest that a state's benefit schedule should provide 50 percent wage replacement for at least 80 percent of claimants. However, Alaska's liberal eligibility provisions make application of the federal guidelines too costly. The benefit schedule was amended in 1980 to provide a maximum weekly benefit of \$150. This schedule replaced 50 percent of wages for approximately two-thirds of claimants, but wage inflation since 1980 has steadily eroded this level of wage replacement. Although a small increase of \$6 was approved in 1982, only about 56 percent of claimants receive 50 percent wage replacement under the current schedule. The proposed schedule would increase costs to the trust fund by about 12.7 percent.

Sections 7 and 8. These two sections would change the requirements for the receipt of dependents allowance. The amendments do not change the amount of the allowance.

Under the current statute, an individual claiming dependents allowance must certify (and be able to prove) that he or she is providing more than 50 percent of the dependents' support. The dependents must be claimed when the claimant first files for benefits, and the number of dependents cannot be changed during the benefit year unless the claimant acquires an additional dependent by birth or adoption. These two features of the present law -- the "primary support" requirement and the requirement that dependents must be claimed at the beginning of the benefit year -- are not necessary for the administration of the dependents provision, and they may frustrate its purpose.

In households where both parents work, the children are jointly supported. However, under the "primary support" requirement only one parent may claim dependents in the household, even though the other parent may be providing a larger percentage of his or her wages for support of the children. The proposed changes would pay dependents allowance to either parent having physical custody of the child. The same dependent could not be claimed by both parents, but a parent could claim any dependents in the household which are not being claimed by the other parent. The "primary support" requirement has been retained as an alternative, so that a non-custodial parent may qualify for the dependents allowance. In other words, "dependent" has been redefined to mean one who is either in the physical custody of the claimant or dependent on the claimant for more than 50 percent of support. However, to claim a dependent over 18 years of age the claimant would still be required to show primary support, the same as in the current law.

The proposed changes would also allow a claimant to add dependents (up to a limit of three) for any reason while drawing regular benefits during his benefit year. For example, a claimant whose wife is claiming their two children would not be able to claim the children when he first files his claim. However, he would be able to claim the children after his wife's benefit year ends, for the remainder of his own benefit year. Under the current law, this claimant would be unable to claim the dependents for his entire benefit year.

Section 9. This section establishes an interim benefits program to pay benefits to employees of educational institutions who would have their regular unemployment benefits reduced or denied under the changes proposed in sec. 11 of this bill. Section 11 adds a new subsection (h) to AS 23.20.381 to disqualify employees

other than instructional, research, and administrative employees during the period between academic years or terms. This change is required in all state laws by Public Law 98-21. The interim benefits program would pay these employees the difference between their regular amount and the amount they would receive under AS 23.20.381(h). The administrative and benefit costs of interim benefits must be financed from the general fund, because financing the benefits from the unemployment trust fund would constitute noncompliance with Public Law 98-21.

Section 10. This section amends AS 23.20.362(c) by adding severance and termination payments to the list of income which is deducted from UI benefits. Under the provision as it now stands, wages in lieu of dismissal notice and payments for accrued vacation, sick leave, and holidays are deducted dollar for dollar from UI benefits payable. These payments are treated differently from regular wage payments, which are deducted under AS 23.20.360 at the rate of \$.75 for every \$1 earned for the week in excess of \$50. The vacation, sick, and holiday pay, and wages in lieu of notice, unlike regular wage payments, do not show any new attachment to the labor market, but are paid on for these payments is justifiable on the basis that unemployment insurance should not be paid for a week if the claimant is already receiving a "wage replacement" for that week based on his previous work. However, because of the language of the provision, "severance" and "termination" pay are not deductible, even though the rationale for deducting them is the same as for the other "wage replacement" payments.

Section 11. AS 23.20.381(e) currently disqualifies an individual working in an instructional, research, or principal administrative capacity in an educational institution, during the period between two academic years or terms, or during a period of paid sabbatical leave. This provision is required in all state laws for conformity with Sec. 3304 (a)(6)(A) of the Federal Unemployment Tax Act (FUTA).

The FUTA has now been amended by Public Law 98-21 to extend the disqualification to:

1. All employees of educational institutions.
2. Employees of "educational service agencies" serving in educational institutions.
3. Any established vacation period or holiday recess.

These changes are required in all state laws to avoid denial of certification for the FUTA tax offset credit and administrative grants.

Section 12. Section 202 of the Federal State Extended Unemployment Compensation Act previously required the indefinite disqualification of an extended benefit claimant who did not actively engage in seeking work, regardless of the reason the claimant did not seek work. This requirement has been relaxed by P.L. 98-21. A state is now permitted to apply regular state able and available provisions if the extended benefit claimant failed to seek work because he was hospitalized or on jury duty. This is entirely optional, but we recommend enactment of conforming legislation to take advantage of the relaxation of federal requirements.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST	HCS	FISCAL DETAIL
Bill/Resolution No.:	CSSB 525 (L&C)	Agency Affected: Labor
Title:	"An Act relating to Unemployment Insurance"	Program Category Affected: Social Services
Sponsor:	Senate Labor/Commerce	BRU, Program or Subprogram(s) Affected:
Requestor:	House Labor & Commerce	Employment Security, Unemployment Insurance
Date of Request:	May 14, 1984	

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		5.0				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	5.0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
GENERAL FUND						
FEDERAL FUNDS		5.0				
OTHER						
TOTAL	0	5.0	0	0	0	0

POSITIONS:

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Federal funds will be requested to fund reprogramming of automated programs.
[125 hours x \$40 per hour.]

ANALYSIS: Attach a separate page for analysis

Prepared By: John W. Shay, Jr. Phone: 465-2712
 Division: Employment Security Division Date: 5/14/84
 Approved by Commissioner: Robert W. Jendron Date: 5/14/84
Jim Robison
 Agency: Labor

LEG:A:5
 Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST HCS for FISCAL DETAIL
 Bill/Resolution No.: CSSB 525 (L&C) Agency Affected: All
 Title: "An Act relating to Unemployment Insurance" Program Category Affected: All
 Sponsor: Senate Labor/Commerce BRU, Program or Subprogram(s) Affected:
 Requestor: House Labor & Commerce All
 Date of Request: May 14, 1984

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		169.1	463.3	518.6	522.4	526.6
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
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POSITIONS:

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SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Personal Service benefits would increase for all agencies based on the projected increase in unemployment insurance paid to ex-state employees and seasonal employees.

ANALYSIS: Attach a separate page for analysis

Prepared By: John W. Shay, Jr. Phone: 465-2712
 Division: Employment Security Division Date: 5/14/84
 Approved by Commissioner: Robert W. Jundt Date: 5/14/84
 Agency: Labor for Jim Robison

LEG:A:4
 Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

BILL ANALYSIS

Section 1. This is a "housekeeping" amendment which would make a technical change to the training and building fund provision so that unobligated money in the training and building fund could be held an additional 30 days past the end of the fiscal year. The law currently requires that any unobligated money over \$100,000 in the training and building fund must lapse to the unemployment trust fund on the last day of the fiscal year. This money is obligated in appropriations bills prior to the end of the fiscal year, but the bills are often not signed until after the end of the fiscal year. The money is therefore not technically obligated after the money has already lapsed back to the unemployment fund. The proposed amendment solves this "accounting" problem by holding the money in the training and building fund until the appropriation is signed.

Sections 2 and 3. The Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248) amended the Federal Unemployment Tax Act (FUTA) to increase the gross FUTA tax on employers from 3.5 percent to 6.2 percent. It also increased the additional credit against the FUTA tax for contributions to a state unemployment fund from 2.7 percent to 5.4 percent. These amendments are effective January 1, 1985. Because of the language of the FUTA, all employers in the state cannot be guaranteed the full FUTA credit of 5.4 percent unless the state law includes a maximum (standard) state tax rate of at least 5.4 percent.

Section 2 of the bill amends AS 23.20.170 to enact a standard rate of 5.4 percent. Rates below 5.4 percent would continue to be granted under AS 23.20.290.

Section 3 of the bill amends AS 23.20.290 by adding a 21st rate class comprised of employers with the highest quarterly decline quotients whose cumulative payroll is .01 percent of the total payroll in the state. This small minority of employers would receive a rate not less than 5.4 percent. The FUTA requires that the 5.4 percent rate be actually assessed at least one employer in the state, in order for all employers in the state to be guaranteed the maximum additional FUTA credit of 5.4 percent. This amendment meets the requirements of the FUTA with the least distortion to the present rate structure.

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Section 5. This section complements the amendment made to AS 23.20.290(e) under sec. 4 of the bill. It amends AS 23.20.290(f) to provide for a negative fund solvency adjustment (in effect, a fund solvency credit) when the unemployment trust fund reaches a certain level of adequacy, defined as a reserve rate (ratio of fund balance to total state wages) of at least 3.3 percent.

Section 6. This section amends the benefit schedule in AS 23.20.350(d) to provide a maximum UI weekly benefit amount of \$188, not counting dependents allowance. This will provide approximately 60 percent of claimants with replacement of 50 percent of their average weekly wages. Federal benefit adequacy guidelines suggest that a state's benefit schedule should provide 50 percent wage replacement for at least 80 percent of claimants. However, Alaska's liberal eligibility provisions make application of the federal guidelines too costly. The benefit schedule was amended in 1980 to provide a maximum weekly benefit of \$150. This schedule replaced 50 percent of wages for approximately two-thirds of claimants, but wage inflation since 1980 has steadily eroded this level of wage replacement. Although a small increase of \$6 was approved in 1982, only about 56 percent of claimants receive 50 percent wage replacement under the current schedule. The proposed schedule would increase costs to the trust fund by about 12.7 percent.

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In households where both parents work, the children are jointly supported. However, under the "primary support" requirement only one parent may claim dependents in the household, even though the other parent may be providing a larger percentage of his or her wages for support of the children. The proposed changes would pay dependents allowance to either parent having physical custody of the child. The same dependent could not be claimed by both parents, but a parent could claim any dependents in the household which are not being claimed by the other parent. The "primary support" requirement has been retained as an alternative, so that a non-custodial parent may qualify for the dependents allowance. In other words, "dependent" has been redefined to mean one who is either in the physical custody of the claimant or dependent on the claimant for more than 50 percent of support. However, to claim a dependent over 18 years of age the claimant would still be required to show primary support, the same as in the current law.

The proposed changes would also allow a claimant to add dependents (up to a limit of three) for any reason while drawing regular benefits during his benefit year. For example, a claimant whose wife is claiming their two children would not be able to claim the children when he first files his claim. However, he would be able to claim the children after his wife's benefit year ends, for the remainder of his own benefit year. Under the current law, this claimant would be unable to claim the dependents for his entire benefit year.

Section 9. This section establishes an interim benefits program to pay benefits to employees of educational institutions who would have their regular unemployment benefits reduced or denied under the changes proposed in sec. 11 of this bill. Section 11 adds a new subsection (h) to AS 23.20.381 to disqualify employees

other than instructional, research, and administrative employees during the period between academic years or terms. This change is required in all state laws by Public Law 98-21. The interim benefits program would pay these employees the difference between their regular amount and the amount they would receive under AS 23.20.381(h). The administrative and benefit costs of interim benefits must be financed from the general fund, because financing the benefits from the unemployment trust fund would constitute noncompliance with Public Law 98-21.

Section 10. This section amends AS 23.20.362(c) by adding severance and termination payments to the list of income which is deducted from UI benefits. Under the provision as it now stands, wages in lieu of dismissal notice and payments for accrued vacation, sick leave, and holidays are deducted dollar for dollar from UI benefits payable. These payments are treated differently from regular wage payments, which are deducted under AS 23.20.360 at the rate of \$.75 for every \$1 earned for the week in excess of \$50. The vacation, sick, and holiday pay, and wages in lieu of notice, unlike regular wage payments, do not show any new attachment to the labor market, but are paid on for these payments is justifiable on the basis that unemployment insurance should not be paid for a week if the claimant is already receiving a "wage replacement" for that week based on his previous work. However, because of the language of the provision, "severance" and "termination" pay are not deductible, even though the rationale for deducting them is the same as for the other "wage replacement" payments.

Section 11. AS 23.20.381(e) currently disqualifies an individual working in an instructional, research, or principal administrative capacity in an educational institution, during the period between two academic years or terms, or during a period of paid sabbatical leave. This provision is required in all state laws for conformity with Sec. 3304 (a)(6)(A) of the Federal Unemployment Tax Act (FUTA).

The FUTA has now been amended by Public Law 98-21 to extend the disqualification to:

1. All employees of educational institutions.
2. Employees of "educational service agencies" serving in educational institutions.
3. Any established vacation period or holiday recess.

These changes are required in all state laws to avoid denial of certification for the FUTA tax offset credit and administrative grants.

Section 12. Section 202 of the Federal State Extended Unemployment Compensation Act previously required the indefinite disqualification of an extended benefit claimant who did not actively engage in seeking work, regardless of the reason the claimant did not seek work. This requirement has been relaxed by P.L. 98-21. A state is now permitted to apply regular state able and available provisions if the extended benefit claimant failed to seek work because he was hospitalized or on jury duty. This is entirely optional, but we recommend enactment of conforming legislation to take advantage of the relaxation of federal requirements.

Section 13. This amendment to AS 23.20.505 addresses circumstances under which workers on "R and R" might qualify as "unemployed" and thus be potentially eligible for benefits under the Act. Under current Sec. 505 a person is "unemployed" for a week in which he performs no service and receives no wages. This allows potential abuse by individuals who are fully employed but receive "R and R" for a week (or more) as part of their regular work schedule. For example, an individual may work 60 hours per week for two weeks and then receive a week off. This "two weeks on, one week off" schedule may continue indefinitely. This individual is technically unemployed under Sec. 505 during his week off. But we do not believe it is correct to pay benefits when the employment relationship has not been severed and the individual is actually fully employed, i.e., working an average of at least 40 hours per week.

Section 14. AS 23.20.526(a) was amended in 1982 by adding paragraph (22) to exclude from UI coverage certain corporate officers who control at least 25 percent of corporate stock. Subparagraph (D) of paragraph (22) specifies that the corporate officer must agree to noncoverage. The U.S. Department of Labor now believes that subparagraph (D) constitutes a waiver of benefit rights. This raises an issue of conformity with Sec. 303(a)(1) of the Social Security Act, which is interpreted as forbidding any waiver, assignment, pledge, or encumbrance of a right to unemployment compensation. (Such a waiver would also be contrary to AS 23.20.395).

This conformity issue could result in the withholding of administrative grants to Alaska. The proposed repeal of subparagraph (D) would remove the "waiver", resulting in an outright exclusion of coverage for these corporate officers and resolving the conformity problem.

MAY 15, 1984

TO: JOHN
FROM: KEN
RE: L & C COMMITTEE HEARINGS (OPENING REMARKS)

THERE ARE FOUR BILLS ON SCHEDULED TO BE HEARD IN COMMITTEE TODAY. BECAUSE OF THE COMPLEXITY OF THE FIRST BILL TO COME BEFORE THE COMMITTEE, WE MAY NOT BE ABLE TO HEAR ALL THIS LEGISLATION TODAY. IF WE ARE NOT FINISHED WITH THIS LEGISLATION TODAY, IT IS MY INTENTION TO RECESS UNTIL TOMORROW MORNING AT 8:15. WE WILL CONTINUE THE PROCESS UNTIL THE COMMITTEE HAS COMPLETED THE WORK NECESSARY ON THESE BILLS.

THE FIRST PIECE OF LEGISLATION TO HEARD IS SB 525, "AN ACT RELATING TO UNEMPLOYMENT INSURANCE." THE MAIN PURPOSE OF THIS BILL IS TO BRING THE STATES UNEMPLOYMENT INSURANCE LAWS IN TO CONFORMITY WITH FEDERAL LAWS. IT ALSO WOULD INCREASE WEEKLY UNEMPLOYMENT BENEFITS AND CALLS FOR A NEW METHOD OF CALCULATING THE UNEMPLOYMENT TAX THAT EMPLOYERS PAY. THAT IS JUST A BRIEF OUTLINE FOR A VERY COMPLEX BILL. I WOULD NOW ASK THE DEPARTMENT OF LABOR TO COME FORWARD TO GO THROUGH THIS BILL WITH THE COMMITTEE.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST HCS FISCAL DETAIL
 Bill/Resolution No.: CSSB 525 Agency Affected: Labor
 Title: "An Act relating to Unemployment Insurance. . ."
 Program Category Affected: Social Services
 Sponsor: Sen. Labor & Commerce BRU, Program or Subprogram(s) Affected:
 Requestor: House Labor & Commerce Employment Security, Unemployment
 Date of Request: 5/14/84 Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	33.7	89.8	93.9	97.2	102.6	108.4
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	16.9	57.3	50.1	53.1	56.3	59.7
400 SUPPLIES	1.0	2.8	3.0	3.2	3.4	3.5
500 EQUIPMENT		5.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	600.0	2,000.0	2,100.0	2,100.0	2,100.0	2,100.0
800 MISCELLANEOUS						
TOTAL OPERATING	651.6	2,154.9	2,247.0	2,253.5	2,262.3	2,271.7
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	651.6	2,154.9	2,247.0	2,253.5	2,262.3	2,271.7
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	651.6	2,154.9	2,247.0	2,253.5	2,262.3	2,271.7

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: John W. Shay, Jr. Phone: 465-2712
 Division: Employment Security Division Date: _____
 Approved by Commissioner: Robert W. Jandani
Jim Robison Date: 5/15/84
 Agency: Labor

LEG:B:14

Distribution (by Agency preparing fiscal note):

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

12/1/83

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE

BILL/RESOLUTION NO: HCS CSSB 525 (L&C)

TITLE: "An Act relating to Unemployment Insurance."

AGENCY AFFECTED: Department of Labor

Page 2

This bill would require the Department of Labor to pay unemployment insurance benefits to qualifying persons between school terms. Two costs would be associated with this bill, the actual costs of the benefits paid and the administrative costs to run the program.

The estimated benefits to be paid in Fiscal Year 1985 are calculated as follows:

Number of Eligible Claimants	\$ 1,400
Average Weekly Benefit Amount	x 135
	\$ 189,000
Average Length of Claim	x 10 wks
	\$1,890,000
Adjustment for Increase in Average Weekly Benefit Amount from \$135 to \$150	+ 110,000
	\$2,000,000

The estimated benefits to be paid in fiscal years 1986 - 1989 are as follows:

Number of Eligible Claimants	\$ 1,400
Average Weekly Benefit Amount	x 150
	\$ 210,000
Average Length of Claim	x 10 wks
	\$2,100,000

Administration costs to run this program would include the salaries of eight seasonal Unemployment Insurance Specialist I's for four months each. Contractual and Supply costs associated with these positions would include postage and forms, as well as normal expenses. One-time expenses would include \$10,000 in Contractual in Fiscal Year 1985 to complete automation of the claims processing function, and \$5,000 in Fiscal Year 1985 to purchase equipment for this function.

In preparing the cost estimate for benefits to be paid the following assumptions were made:

1. An effective date of May 22, 1984.
2. The average weekly benefit amount would increase from \$135 to \$150 on October 1, 1984.
3. No increase in claims would be seen from Fiscal Year 1985 - 1989.
4. There would be no further increase in benefit amount from Fiscal Year 1985 - 1989.

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE
BILL/RESOLUTION NO: HCS CSSB 525 (L&C)
TITLE: "An Act relating to Unemployment Insurance."
AGENCY AFFECTED: Department of Labor
Page 3

In preparing the cost estimates for administrative costs the following assumptions were made:

1. An effective date of May 22, 1984.
2. An annual inflation rate of six percent.

LEG:B:14

Charges made to School Districts for UI Benefits Paid to Claimants

QTR. ENDING
June 83

QTR. ENDING
Sept 83

Galena City S.D. (503320)	\$14,017.97	7,756.31
St Mary's S.D. (512311)	3,912.71	2,644.08
Bering Strait SD (512320)	20,890.95	51,440.85
Juneau City SD (980340)	11,018.35	18,776.48
Yukon-Koyukuk S.D. (513962)	18,672.47	19,608.47
Fbks North Star (521230)	46,016.65	146,143.02
Tanana City School D. (566942)	10.83	2,5057.76
Craig City S.D. (980153)	5,912.90	4,496.86
Haines Borough SD (980170)	3,695.59	2,246.12
Hydaburg City S.D. (980188)	3,889.60	8,753.42
Kodiak Is. S.D. (980706)	8,060.21	16,330.98
Dillingham City SD (980714)	4,239.41	3,244.52
MatSu Borough Schools (980722)	17,244.09	20,141.01
Lower Kuskokwim SD (980765)	42,973.94	102,619.12
North Slope Boro SD (980773)	24,624.21	30,363.07
KusPuk SD (980838)	7,031.04	17,643.37
Chatkham SD (980846)	8,978.84	14,122.12
Railbelt SD (980854)	3,565.60	6,565.92
Lake & Penn S.D. (980870)	11,005.12	13,971.85
Valdez City Schools (980889)	7,477.83	7,179.50
Iditarod Area SD (980897)	10,397.34	7,985.14
Yakutat City S.D. (980900)	2,524.15	5,962.14
Pribilof S.D. (980927)	568.35	41.92
Bristol Bay Boro SD (980021)	939.61	103.26
Anch School D. (980013)	124,840.65	480,900.63
Kenai Penn SD (980200)	41,569.25	105,753.15
Ketchikan Borough SD (980226)	1,197.05	7,445.95

Nenana City Pub Schools (980269)	2138.08	2339.34
Petersburg SD (980277)	565.03	337.44
Skagway City SD (980285)	1081.97	7331.24
Southwest Region Schools (980293)	2719.56	115.86
Wrangell Public Schools (980307)	4009.11	9091.81
Lower Yukon S.D. (980356)	29478.11	41223.13
Nome Public Schools (980366)	1448.67	1973.08
Hoonah Pub Schools (980374)	3236.71	5923.92
Copper River S.D. (980382)	7418.24	4011.55
NW Arctic SD. (980412)	26,398.27	79,681.70
AK Gateway Schools (980439)	8,012.10	5428.92
Annette Island S.D. (980453)	4458.38	18,270.47
Delta/Greely SD (980480)	6565.55	14,420.96
Sitka Boro SD (980498)	491.01	6163.03
Southeast Is. SD (980501)	4431.46	7047.85
Kake City SD		975.97
Alutian Reg. Sch. S. (980447)		1309.55

June 30, 1983

Sept 30, 198

Totals. \$536,727.15 \$1,309,963.14

GRAND TOTAL [#] 1,846,690.29

Section 13. This amendment to AS 23.20.505 addresses circumstances under which workers on "R and R" might qualify as "unemployed" and thus be potentially eligible for benefits under the Act. Under current Sec. 505 a person is "unemployed" for a week in which he performs no service and receives no wages. This allows potential abuse by individuals who are fully employed but receive "R and R" for a week (or more) as part of their regular work schedule. For example, an individual may work 60 hours per week for two weeks and then receive a week off. This "two weeks on, one week off" schedule may continue indefinitely. This individual is technically unemployed under Sec. 505 during his week off. But we do not believe it is correct to pay benefits when the employment relationship has not been severed and the individual is actually fully employed, i.e., working an average of at least 40 hours per week.

Section 14. AS 23.20.526(a) was amended in 1982 by adding paragraph (22) to exclude from UI coverage certain corporate officers who control at least 25 percent of corporate stock. Subparagraph (D) of paragraph (22) specifies that the corporate officer must agree to noncoverage. The U.S. Department of Labor now believes that subparagraph (D) constitutes a waiver of benefit rights. This raises an issue of conformity with Sec. 303(a)(1) of the Social Security Act, which is interpreted as forbidding any waiver, assignment, pledge, or encumbrance of a right to unemployment compensation. (Such a waiver would also be contrary to AS 23.20.395).

This conformity issue could result in the withholding of administrative grants to Alaska. The proposed repeal of subparagraph (D) would remove the "waiver", resulting in an outright exclusion of coverage for these corporate officers and resolving the conformity problem.

S B

532

3AAC26.070. Standards for Prompt, Fair and Equitable Settlements Applicable to All Insurers. (a) An insurer or a person designated by the insurer to act on its behalf involved in the settlement of a claim must, within 15 days or the time frame specified in the insurance contract, after receiving a properly executed proof of loss or other evidence of loss acceptable to the

insurer from a first party claimant, advise the claimant of the acceptance or denial of the claim.

(b) A claim denial must be in writing and a copy of the capability of reproducing its text must be included in the claim file.---

(c) A claim denial based on a specific policy provision, condition or exclusion must include, in the written denial, reference to that specific provision, condition, or exclusion.

(d) If an insurer or a person designated by the insurer to act on its behalf needs more time to determine whether the claim of a first party claimant should be accepted or denied, notification must be given to the first party claimant within 15 working days after the receipt of the proof of loss giving the reason more time is needed. 45 days from the date of the initial notification and every 45 days thereafter while the investigation remains incomplete, written notification must be provided to the claimant stating the reason additional time is necessary to complete the investigation.

(e) An insurer or a person designated by the insurer to act on its behalf may not fail to settle a claim for first party claimant on the grounds that responsibility for payment should be assumed by others, except as may be expressly provided otherwise by the provisions of the insurance policy issued by the insurer.

(f) If negotiations for settlement of a claim continues directly with a claimant who is neither an attorney nor represented by an attorney to a point in time when the claimant's rights may be affected by a statute of limitations or a policy time limit, written notification must be provided to the claimant stating that the time limit may be expiring and may affect the claimant's rights. Notice must be given to first party claimants not less than 30 days before, and to third party claimants not less than 60 days before, the date on which the insurer believes the time limit may expire.

(g) A statement may not be made that indicates the rights of a third party claimant may be impaired if a form or release is not completed within a given period of time, unless the statement is given for the purpose of notifying the third party claimant of the provision of a relevant statute of limitation.

(h) If an insurer has a reasonable basis, supported by specific information available for inspection by the division of insurance, for suspecting that a first party claimant has fraudulently caused or contributed to the loss, the insurer is relieved from the requirements of this section. However, the insurer must, within a reasonable time for full investigation and after receipt of a properly executed proof of loss, advise the claimant of the acceptance or denial of the claim. (Eff. / / , Reg.)

Authority: AS21.06.090
AS21.36.125
AS21.36.350

Sec. 43.20.031. Taxable income of residents; deductions; exemptions. (a) [Repealed, § 10 ch 1 SSSLA 1980.]

(b) [Repealed, § 10 ch 1 SSSLA 1980.]

(c) In computing the tax under this chapter, the taxpayer is not allowed to deduct any taxes based on or measured by net income.

(d) Banks and savings and loan associations chartered by the federal government or the state are exempt from income tax under this chapter.

(e) An affiliated group of corporations may make or the commissioner may require them to make a consolidated return for the taxable year in place of separate returns. For purposes of calculating the amount of tax payable by the group under a consolidated filing, 26 U.S.C. 1501 — 1552 (Internal Revenue Code), as amended, apply.

(f) [Repealed, § 10 ch 1 SSSLA 1980.]

(g) [Repealed, § 10 ch 1 SSSLA 1980.]

(h) [Repealed, § 10 ch 1 SSSLA 1980.]

(i) A corporation which is a member of a group of unitary corporations which collectively has income from business activity taxable both inside and outside the state, or income from other sources both inside and outside the state, shall determine its income from sources in this state by use of the combined method of accounting. (§ 5 ch 70 SLA 1975; am §§ 3 — 5 ch 125 SLA 1976; am § 8 ch 73 SLA 1977; am § 6 ch 133 SLA 1977; am § 1 ch 8 SLA 1978; am § 235 ch 100 SLA 1980; am §§ 14 — 17 ch 113 SLA 1980; am § 10 ch 1 SSSLA 1980; am § 9 ch 2 SSSLA 1980)

Cross references. — For legislative history and purpose of the third and fourth 1980 amendments, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, and Temporary and Special Acts; for disclosure of contributions, see AS 24.45.121; for exemption for permanent fund dividends, see AS 43.23.090.

The second and fourth 1980 amendments affected subsections (a) and (h) repealed by the third 1980 amendment, deleted "or combined" following "make a consolidated" in the first sentence of subsection (e), and added subsection (i).

The third 1980 amendment repealed subsections (a), (b), (d), (g), and (h).

Sec. 43.20.033. Taxable income of fiduciary. [Repealed, § 10 ch 1 SLA 1980.]

Sec. 43.20.035. Taxable income of nonresidents and part-year residents. [Repealed, § 10 ch 1 SSSLA 1980.]

Sec. 43.20.036. Federal tax deductions and credits. (a) For purposes of calculating the income tax payable under this chapter, the taxpayer may not apply as a credit against his tax liability the foreign tax credit allowed as to federal taxes under 26 U.S.C. 33 (Internal Revenue Code).

(b) For purposes of calculating the income tax payable under this chapter, the taxpayer may apply as a credit against tax liability the

license. 1960 Op. Att'y Gen., No. 27.

AS 43.70.110 and this section make no provision for the exemption from the license requirement of a religious corporation which is doing business. 1960 Op. Att'y Gen., No. 25.

A religious corporation receiving rents from the renting of an apartment or apartments must obtain an Alaska business license as a condition precedent to

engaging in such business. 1960 Op. Att'y Gen., No. 25.

The state may revoke the license of a collection agency which does not have a proper bond on file with the tax commission. 1960 Op. Att'y Gen., No. 27.

A guide to a workable procedure for license revocation is found in chapter 2 of the Alaska Administrative Procedure Act. 1960 Op. Att'y Gen., No. 27.

NOTES TO DECISIONS

A license confers no right of property. *Thiinket Packing Co. v. Harris & Co.*, 5 Alaska 471 (1916).

It merely authorizes the holder to carry on a certain business, but does not grant to the holder any place of business, any more than the issuance of a saloon license grants to the holder a building in which to conduct a saloon, or the issuance of a mercantile license, a building in which to conduct a store. *Columbia Salmon Co. v.*

Berg, 5 Alaska 538 (1916).

Purpose of tax. — Although this section requires a license for the "privilege" of engaging in a business in Alaska, this language does not render it invalid nor destroy the legislative intent that the purpose of the tax is to raise revenue, and not to regulate any business. *Territory of Alaska v. Journal Printing Co.*, 15 Alaska 676, 135 F. Supp. 169 (D. Alaska 1955).

Sec. 43.70.030. Levy and computation of license fee. (a) The license fee for each business is \$25.

(b) The license fee for each national bank and state bank, trust company and savings and loan association is seven percent of its net income. Net income means the taxable income of each taxpayer before net operating loss deduction and special deductions, computed as required under the Internal Revenue Code of the United States and includes all other income, including income from federal, state or municipal obligations. Each of these taxpayers required to make a return under the provisions of the Internal Revenue Code shall at the same time file with the department a return setting out the amount of tax due under this chapter, and other information for the purpose of carrying out the provisions of this chapter which the department requires. Each of these taxpayers shall also at the same time file a true and correct copy of the tax return which it has filed with the Internal Revenue Service. A taxpayer filing under this subsection shall use the same tax year as the taxpayer uses for federal income tax purposes. Any approved extension of time to file the taxpayer's federal income tax return automatically extends the time for filing under this chapter. Any agreement which a taxpayer enters into with the Internal Revenue Service which extends the statute of limitations for any federal income tax return will apply to returns filed under this chapter. The department may, in its discretion, grant an extension of time to file or an extension of the statute of limitations independent of federal action. Every taxpayer shall notify the department in writing, within 90 days, of any alteration in, or modification of its federal income tax return and

of a recomputation of tax or determination of deficiency. For purposes of applying the statute of limitations, this notification constitutes a separate return, and failure to file this notification will have the same effect as the failure to file a return under this title.

(c) The license for the privilege of taking orders through use of catalogs and by mail order offices in the state is the same as set out in this chapter for business generally.

(d) The fee of \$25 applies to all of the provisions of this section, and shall accompany the application. The balance is due and payable on the last day of the taxpayer's tax year and shall be paid before the 15th day of the third month following the end of the tax year, except that the time for filing the return may be extended as provided in (b) of this section. To enable accurate determination of the balance of the tax due at the end of each year, each person to whom this chapter applies shall keep records, give statements under oath, and make returns which the department requires. Returns are made under penalty of perjury. (§ 5 ch 43 SLA 1949; am § 1 ch 128 SLA 1955; am § 1 ch 101 SLA 1960; am § 1 ch 68 SLA 1973; am § 1 ch 50 SLA 1975; am § 3 ch 144 SLA 1978)

NOTES TO DECISIONS

Tax imposed on state obligations and bonds. — To the extent that all federal obligations are subject to the business license tax, including those obligations afforded a specific tax exemption by Congress, subsection (b) of this section must equally impose the tax on state obligations and bonds, which are otherwise tax exempt pursuant to specific state tax exemptions, in order to avoid any unlawful discrimination against federal securities. *National Bank v. State, Dep't of Revenue, Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).*

The legislature intended to define the term "net income" broadly for business license tax calculation purposes. *National Bank v. State, Dep't of Revenue Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).*

The "all other income" category in subsection (b) is interpreted as an attempt by the legislature to reach those types of income, such as bond interest, which are not otherwise subject to federal income taxation. *National Bank v. State, Dep't of Revenue, Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).*

Alaska State Housing Authority and Alaska Housing Finance Corporation bonds are not "state obligations" for purposes of subsection (b) of this section.

National Bank v. State, Dep't of Revenue, Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).

Alaska State Housing Authority and Alaska Housing Finance Corporation bond interest falls within the meaning of the phrase "all other income" in subsection (b) of this section and is to be considered as "net income" of the banks for purposes of determining their business license tax liability pursuant to subsection (b). *National Bank v. State, Dep't of Revenue, Sup. Ct. Op. No. 2480 (File No. 5482), 642 P.2d 811 (1982).*

The purpose of excluding "insurance businesses" from the coverage of subsection (a) by virtue of the definition in AS 43.70.110(1) is apparently to avoid taxing these businesses twice, since insurers are subject to a premiums tax imposed by AS 21.09.210. *Northern Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).*

Adjusters. — Because adjusters are not "insurers" subject to the premiums tax, they should not be viewed as "insurance businesses" exempt from the general license tax. *Northern Adjusters, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2332 (File No. 5128), 627 P.2d 205 (1981).*



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

sh 532

March 21, 1984

The Honorable Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to amend AS 43, the Revenue and Taxation Code, by repealing AS 43.20.031(d) and AS 43.70.030(b).

This bill repeals AS 43.20.031(d), which exempts banks and savings and loan associations from taxation under AS 43.20, the corporate income tax chapter. It also repeals AS 43.70.030(b), which taxes banks, trust companies, and savings and loan associations under AS 43.70, the Business License Act.

Currently, banks and savings and loan associations are specifically exempted from the corporate income tax under AS 43.20 because of federal restrictions which required states to tax national banks and savings and loan associations separately from other corporations. Those federal restrictions no longer exist. Therefore, we may now tax banks under AS 43.20 along with all other corporate taxpayers, and that is what this bill will accomplish.

Sincerely,


Bill Sheffield
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST

Bill/Resolution No: _____
 Title: State taxation of national banks
 Sponsor: Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Department of Revenue
 Program Category Affected: Collection and Management
 BRU, Program of Subprogram(s) Affected: Audit Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	-	-	-	-	-	-
<u>CAPITAL</u>	-	-	-	-	-	-
<u>REVENUE</u>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<u>TOTAL</u>	-	-	-	-	-	-

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis.

Prepared By: Maureen O'Brien
 Division: Audit Division

Phone: 465-2320

Date: March 20, 1984

Approved by Commissioner: R. H. Hertz
 Agency: Revenue

Date: 3/20/84

Distribution (by Agency preparing fiscal note):

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

Currently banks are required to file returns and pay tax under a statute separate from all other corporations (AS 43.70). This results in significant administrative and legal problems. The Department of Revenue therefore recommends that banks be taxed under the same income tax statutes as other corporations (AS 43.20).

Although state and municipal interest is currently taxable under AS 43.70 and would not be subject to tax under AS 43.20, we estimate that requiring banks to file under AS 43.20 rather than AS 43.70 will result in no loss of revenue to the State. The Department's position is that under IRC sec. 265(2), which is adopted by reference in AS 43.20.021(a), no deduction is allowed for expenses and interest incurred or continued to purchase or carry obligations the interest on which is exempt from tax. This includes not only expenses and interest related to tax exempt state and municipal interest income, but also expenses and interest related to tax exempt U.S. interest income. Therefore, the total amount of nondeductible expenses under AS 43.20 will be close to the amount of nontaxable income.

S B

546

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB546
Title: Auto Service Corps.

FISCAL DETAIL

Agency Affected: Commerce & Econ Dev
Program Category Affected: Public Protection

Sponsor: Labor & Commerce
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected: _____
Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: John M. George, Deputy Director Phone: 465-2515
Division: Insurance Date: 5/3/84

Approved by Commissioner: Richard A. Lyon Date: 5/3/84
Agency: Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

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

12/1/83

SCR

18

M E M O R A N D U M

DATE: 7 March 1984
TO: Representative Rick Uehling
FROM: John Geary
RE: SCR 18

You requested that I research SCR 18, a Senate resolution by Sen. Vic Fischer to encourage Small Businesses in the State of Alaska.

The bottomline is to create a task force to assess state policy in contracting, local hire, and small business advocacy and to recommend measures that will promote, assist and assure that small business get a fair shake in state funded construction projects.

The Governor is requested to appoint the Attorney General to recommend measures available to the state to make sure the said small businesses get a reasonable portion of the state-funded construction projects.

SCR 18

Alaska State Legislature

Representative John Ringstad
District 20-B
P.O. Box 1848
Fairbanks, Alaska 99707
(907) 456-8336



While in Juneau
Pouch V
Juneau, Alaska 99611
(907) 465-4998

House of Representatives

February 22, 1984

TO: Representative John Cowdery
FROM: Representative John Ringstad
RE: NFIB, (National Federation of Independent Business)

A handwritten signature in dark ink, appearing to be "JR", is written over the "FROM:" line of the header.

Attached, please find a copy of a letter from the NFIB, and a copy of their 1983 State Ballot survey results on various issues for your information. Gary L. Jenkins, Director of Governmental Relations/Alaska, (NFIB), will be in touch with you on these issues in the near future.

JCR/atb



NFIB® National Federation
of Independent Business

The Guardian of Small Business

February 13, 1984

The Honorable John Ringstad
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Ringstad:

Small business continues to be the largest generator of new jobs in the United States, however, the number of jobs which are created often are significantly effected by state legislative actions. To ensure that legislators have the benefit of knowing how existing law and proposed legislation affects small business, the National Federation of Independent Business has been working with, not only the Alaska Legislature, but state legislatures nationwide for several years.

In Alaska, NFIB currently has a membership in excess of 3,600 which means that we usually represent a significant majority of the retail and service businesses in each city in Alaska. Each year we send a ballot to all of our members requesting their input on issues of current interest in Alaska. This ballot permits each member to express their feelings on these issues and gives me direction regarding which issues should be pursued legislatively. I do not take a position on an issue for NFIB unless the members have voted on it and a majority favor the position being taken.

Enclosed for your information is a copy of our 1983 State Ballot showing the vote of the membership on the various issues. The issues which received strong support are ones which I will be discussing with legislators during this and subsequent legislative sessions.

If I can provide you any additional information on NFIB or if you would like to know our position on a particular issue, feel free to contact me.

Very truly yours,

Gary L. Jenkins, Director
Governmental Relations/Alaska

NFIB/ALASKA
Legislative Office
P.O. Box 194
Auke Bay, AK 99821
907/586-4100

Dear NFIB Member:

This Ballot is solicited by NFIB Research and Education Foundation to gather information pertaining to small business issues in your state.

Your answers are valuable and will enhance the survey.

Please return the entire Ballot. Thank you. _

Very truly yours,

John E. Sloan, Jr., President
NFIB Research and Education Foundation

GENERAL BUSINESS

Interest Rates

1. Should interest rate ceilings be repealed on: (vote on each)

- a. Bank loans of \$25,000 or less

32%	Favor	60%	Oppose	8%	Undecided
1		2		3	11
- b. Savings and loan association loans of \$25,000 or less

34%	Favor	58%	Oppose	8%	Undecided
1		2		3	11
- c. Retail installment contracts

36%	Favor	54%	Oppose	10%	Undecided
1		2		3	11
- d. Retail open-ended charge accounts

34%	Favor	56%	Oppose	10%	Undecided
1		2		3	14
- e. Credit card revolving accounts

33%	Favor	58%	Oppose	9%	Undecided
1		2		3	15
- f. State chartered credit unions

35%	Favor	55%	Oppose	10%	Undecided
1		2		3	16
- g. Small loan finance company loans of \$10,000 or less

33%	Favor	58%	Oppose	9%	Undecided
1		2		3	11

BACKGROUND: HB 246, presently in the Senate Labor and Commerce Committee proposes to remove all limitations on all types of credit in Alaska. The measure would permit each financial institution and all businesses extending credit to charge whatever interest rate they wish, subject only to competition of the marketplace and negotiation with each individual customer.

Current law limits banks and savings and loan associations to a maximum interest rate of 5% over the federal discount rate in effect at the time of the loan on any loan of \$25,000 or less. There are no interest rate limitations on loans in excess of \$25,000. During the past few months, the federal discount rate has been 8.5%, thereby setting the maximum allowable interest rate at 13.5%.

A retail business selling merchandise on a retail installment contract is presently limited to a maximum interest rate of 10% per year on the first \$1,000 of credit extended, and 8% on credit in excess of \$1,000. However, for retail businesses as well as credit card companies extending open-ended revolving charge accounts, the maximum interest rate is 18% per year on the first \$1,000 of credit extended and the federal discount rate plus 5% on credit in excess of \$1,000. A state chartered credit union is presently limited to 15% or 5% over the federal discount rate, whichever is higher on loans of any amount. Small loan finance companies can now levy a maximum interest rate of 36% per year on the first \$850 of credit extended and 24% on credit up to \$10,000.

Proponents of the removal of all interest rate limitations argue that many financial institutions and businesses lost money on their credit transactions during the period of very high interest rates and, further, the limits are no longer necessary. If the limitations were removed, the marketplace, i.e., competition for the financing, would set the rates at reasonable levels in line with the risks inherent in the particular credit transaction.

Opponents argue that Alaska does not have a well developed marketplace and there are many communities where no competition exists either for banking or retail credit. The removal of all limits would permit the charging of unreasonably high rates. Further, it has also been pointed out that in the case of consumer loans and small business loans under \$25,000, the marketplace seems to react very slowly when interest rates are falling in general. For example during the first few months in 1983 in California, where there are no interest rate limitations, interest rates being charged on small loans by banks were running at 20% to 25%, while rates in Alaska were about 14%.

Interest Rates

2. Should interest rates on balances of \$1,000 or less that are limited to a maximum, such as the 18% for business credit or credit card companies, be modified so the maximum rate could be increased with the federal discount rate, once the federal discount rate reached a pre-set level?
- | | | | | | |
|-----|-------|-----|--------|----|-----------|
| 39% | Favor | 52% | Oppose | 9% | Undecided |
| 1 | | 2 | | 3 | 18 |

BACKGROUND: Proponents of this concept feel that businesses extending financing and credit should not be so limited in the rates they charge that they lose money; therefore, the limitations should be allowed to rise when interest rates are generally high. It has been proposed that the maximum rate on accounts with balances of \$1,000 or less be set at 18%, or 6% over the federal discount rate, whichever is higher.

Opponents argue that the federal discount rate does not necessarily indicate the cost of funds to financial institutions or businesses. A variety of other factors affect the cost of funds to a particular entity. They argue, therefore, that it is more appropriate to remove all limitations and let market conditions establish the rates.

Bad Check Penalties

3. Do you favor or oppose increased civil and/or criminal penalties as an effective deterrent to the writing of bad checks?

$\frac{95\%}{1}$ Favor $\frac{4\%}{2}$ Oppose $\frac{1\%}{3}$ Undecided $\frac{1\%}{19}$

BACKGROUND: It is well established that bad checks are a problem that every business must deal with to some degree. However, the question has been raised whether the laws of Alaska are presently adequate to deal with the problem. It has been suggested that either or both the civil or criminal penalties should be made stronger to attempt to reduce the impact of this problem.

Bad Check Civil Penalties

4. Should legislation be adopted to require that bad-check writers repay not only the face value of the check and any court costs incurred by the receiver but also civil damages of \$100 (minimum) or triple the amount of the check?

$\frac{86\%}{1}$ Favor $\frac{10\%}{2}$ Oppose $\frac{4\%}{3}$ Undecided $\frac{10\%}{19}$

BACKGROUND: Law enforcement officials frequently do not pursue those who write bad checks for small amounts. Thus, the only deterrent to writing a bad check is the receiver's (merchant) collection efforts. Checks written for small amounts, which together may represent a deep cut in a business's profit, frequently cost more to collect than they are worth.

If the merchant was allowed to collect from the bad-check writer a minimum of \$100 or triple the amount of the check as damages, in addition to the base value of the check and any court costs incurred, there would be a real incentive for the merchant to collect and a deterrent to bad-check writing.

Check Information

5. Should financial institutions be required to number checks on new accounts beginning at #101 and display on the face of the check the month and year the account was opened?

$\frac{41\%}{1}$ Favor $\frac{49\%}{2}$ Oppose $\frac{10\%}{3}$ Undecided $\frac{11\%}{21}$

5A. Should banks be allowed to disclose to merchants the bank account information of those who issue checks which are returned because of insufficient funds? Such information might include account status, current address, phone number, and history of returned checks.

$\frac{66\%}{1}$ Favor $\frac{33\%}{2}$ Oppose $\frac{1\%}{3}$ Undecided $\frac{11\%}{21}$

BACKGROUND: In the United States, approximately 400,000 worthless checks are written every day. Eighty percent of those checking accounts are six months old or less. Numerical listing and date of account opening would alert merchants to new accounts and to take care in deciding whether to accept those checks. Additionally, several states have given financial institutions permission to disclose account information to either law enforcement officials or merchants who receive a worthless check.

Opponents of the numbering system believe it would create problems for individuals and businesses who for continuity purposes want to continue to number checks from where the old account left off.

LABOR

Mandatory Overtime Wages

6. Should existing law be repealed which requires a business with four or more employees to pay overtime to an employee who works more than 8 hours in one day, but does not work over 40 hours per week?

$\frac{73\%}{1}$ Favor $\frac{24\%}{2}$ Oppose $\frac{3\%}{3}$ Undecided $\frac{11\%}{21}$

BACKGROUND: Most small businesses require that a particular job be accomplished within a certain period. This may require an employee to work more than 8 hours on a particular day. However, the employee is given time off on other days of the week so as not to work more than 40 hours that particular week. Proponents of a change

say that law is particularly unfair to smaller businesses whose workload is heavy at certain times and slack on other days of the week. This flexibility of worker time should not impose an additional financial burden on smaller businesses.

Opponents to changing the law argue that employees working more than 8 hours in any one day should be given extra compensation in the form of overtime pay, whether they worked voluntarily or were required to do so by their employer. They feel daily overtime pay should be independent of the requirement to pay overtime to an employee who works more than 40 hours a week.

GOVERNMENT

Permanent Fund Income

7. Should the unused portion of the income from the Permanent Fund not allocated to the Dividend Program be authorized for the following?

a. The Longevity Bonus Program for the elderly

$\frac{41\%}{1}$ Favor $\frac{51\%}{2}$ Oppose $\frac{8\%}{3}$ Undecided $\frac{14\%}{24}$

Municipal Assistance Program

$\frac{24\%}{1}$ Favor $\frac{66\%}{2}$ Oppose $\frac{10\%}{3}$ Undecided $\frac{11\%}{21}$

BACKGROUND: During the 1983 Legislative Session bills were introduced which would require that part of the income of the Permanent Fund be held to finance the Longevity Bonus program and/or finance the municipal revenue sharing program. In the past, funding for such programs has been from the state's General Fund.

Proponents of using the income from the Permanent Fund to provide funds for these programs contend that this would not violate the intent of the Permanent Fund financing activities to benefit the maximum number of residents of the state. They argue that programs like the municipal assistance program are helping all communities of the state directly and thus benefit the residents of the various communities indirectly by reducing local taxation and providing needed services.

Opponents argue that the Legislature is merely looking for new sources to fund the expensive programs they have created the past few years which they do

not want reduced in levels of funding, now that General Fund revenues are declining. Obviously, the most enticing source for funds is the Permanent Fund. They strongly argue that the income of the Permanent Fund should be kept for the original purposes established when the program was created and not used to fund other programs of the Legislature. They state that the Legislature should be required to fund all programs of the state from General Fund revenues or from revenues other than the Permanent Fund.

Government Competition

8. Does the State of Alaska maintain operations which are in direct competition with your business?

29%₁ YES 56%₄ NO 15%₃ DON'T KNOW ₂₆

BACKGROUND: Past Alaska State Ballots have asked whether the state should desist from activities which directly compete with private enterprise. The membership has always strongly supported this concept. However, the question has been raised about how much competition there actually is. This question is intended to determine the present level of competition by state agencies.

Answer "Yes" only if you are specifically aware of significant areas of state competition in your type of business. Answer "No" if you are reasonably certain that the state does not compete with your business. If you "don't know", please so indicate. If you are aware of specific areas of competition, please list them in the Comments section of this Ballot.

Interest Payment On Overdue Bills

9. Do you favor or oppose legislation to require local governments to pay interest on their unpaid bills after 30 days?

92%₁ Favor 5%₂ Oppose 3%₃ Undecided ₂₇

BACKGROUND: During 1983, legislation was nearly enacted which would mandate state agencies to pay interest on bills not paid within 30 days of receipt of invoice. It has been suggested that the prior legislation should have been applicable to local governments as well as state agencies. The problem of local governments not paying bills on time should be addressed in future legislation.

Opponents of prompt pay say that local governments frequently need to have extended periods to pay their bills and should not be penalized with interest that amounts to taxpayer dollars.

Equal Access to Justice

10. Should the state enact legislation authorizing courts to require state agencies to reimburse reasonable attorney fees and court costs to small businesses who prevail over an agency in civil actions relating to alleged violations of governmental regulations?

96%₁ Favor 2%₂ Oppose 2%₃ Undecided ₂₄

BACKGROUND: Aggressive agency regulatory enforcement frequently result in what is considered unwarranted fines and citations. The intent of the proposed act is to remedy the imbalance of power and legal resources between government and small businesses by giving small business the means to challenge if their position is justified.

Proponents of this legislation believe that making agencies responsible for attorney fees and court costs will discourage unnecessary actions against small businesses and reduce bureaucratic interference with business. Costs and fees would be reimbursed from the agency's operating budget if the courts finds an agency acted unreasonably in pressing a claim or punitive action against a small business.

Opponents say such legislation will unduly tie the hands of regulators. (Please use the Comment section to cite instances where you paid a fine in order to avoid the cost of litigation.)

COMMENTS: _____

NFIB

**National Federation
of Independent Business**

Research and Education Foundation
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Official Business

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

February 28, 1984

To: Rep. John Cowdery, Chair, and Members
House Labor and Commerce Committee

From: Senator Vic Fischer

Re: SCR 18 - relating to small business development

During the 1982 interim, the Senate State Affairs Committee conducted an investigation into the effects of state contracting procedures on small, minority and female owned businesses in Alaska.

In the course of that study, and through subsequent testimony before recent committee hearings on small business development in Alaska, it's become apparent that problems facing minorities and women are basically the same as those facing all small Alaska-owned businesses.

Besides the obvious problems associated with high costs, extreme weather, lack of infrastructure, and vast distances, small businesses face major problems in dealing with the state, particularly on state funded construction projects.

The state has no comprehensive policy of support and advocacy for small business development. We don't even have a working definition of "small" business that realistically reflects the kind of "mom and pop" operations most of us think of when we think of "small".

State construction projects are contracted in a manner that, often as not, preclude any Alaska-owned business from successful bidding, at least as a prime contractor. That leaves Alaskans in the position of competing for sub-contracts, usually with a large "outside" prime.

Lack of technical assistance, inability to secure adequate bonding, credit or financing, and an impossibly tight cash flow, makes successful competition for a sub-contract extremely difficult for small local businesses. Meanwhile the concrete continues to be poured and Alaskans continue to stand in the cold while someone else reaps the benefits of state funded construction projects.

It will take a push from both the legislative and executive branch to end this policy of "benign neglect" and take an active lead in assuring that small Alaska-owned businesses benefit from state capitol projects. I believe SCR 18 is a step in that direction.

SCR 18 asks the Governor to address these concerns through several measures including appointing a task force to assess state policy in contracting, local hire, and small business advocacy and to recommend measures that will:

- emphasize and promote small business development and maintenance
- assist in securing adequate sources of bonding, credit, and loans for small, Alaska-owned businesses
- specify, modify and contract state-funded construction projects in a manner to assure a reasonable portion of the work is performed by small, Alaska-owned businesses

Further, SCR 1 asks the Governor to direct the Attorney General to investigate and recommend measures available to the state to assure that a reasonable portion of state-funded construction and procurement dollars be contracted through small Alaska-owned businesses, consistent with provisions of the United States and state of Alaska's constitution.

Encouraging small business development in Alaska is the single most effective thing the state can do to provide for new industry and a stable economic base, opportunities for future growth to Alaska's young people, a diversified economy, and jobs for Alaskans.

More than that, the state benefits greatly from local businesses with strong community, family, and cultural commitments to Alaska. That business community, with proper nurturing, can maintain and strengthen the overall economy, mobilize the states full productive capacity, and preserve and expand the competition basic to our free enterprise system.

SCR 18 passed the Senate unanimously earlier this session. I hope it finds such favor in the House and appreciate your consideration of the bill in committee.

/gb

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



DRAFT

Senate State Affairs Committee 1982 interim report

EFFECTS OF STATE CONTRACTING PROCEDURES ON SMALL AND MINORITY-OWNED ALASKAN BUSINESSES

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Senate State Affairs Committee
1982 Interim Report

EFFECTS OF STATE CONTRACTING PROCEDURES ON
SMALL AND MINORITY-OWNED ALASKAN BUSINESSES

During the 1982 interim, the Senate State Affairs committee investigated the effects of state construction contracting procedures on small and minority-owned business in Alaska. This is a report on that effort.

Specifically, the committee examined an interagency agreement between the state Department of Transportation and Public Facilities (DOTPF) and the Alaska State Commission on Human Rights (ASCHR) affecting minority owned businesses contracting with the state.

The following report includes a review of that agreement, description of development and transmittal of a polling questionnaire, an analysis of the results, and recommendations based on suggestions and information received during the course of administering the questionnaire.

ASCHR/DOTPF AGREEMENT

In 1980 the ASCHR entered into an agreement with DOTPF to increase participation of minority owned businesses in contracting for state funded capital projects.

DOTPF agreed to take affirmative action in insuring minority owned business had an equitable chance to successfully bid state funded projects. Included in the agreement were provisions requiring that DOTPF:

- create the position of Minority Business Enterprise officer in DOTPF
- Prepare and distribute a policy and procedure memorandum outlining the scope and authority of the MBE officer
- charge the MBE officer with responsibility for developing and implementing an affirmative action plan
- identify and certify MBE's
- require successful prime contract bidders to submit proof of having contacted MBE's as subcontractors (when they intend to subcontract) for information and to solicit bids
- be responsible for notifying and informing minority owned businesses of contracting bids and procedures
- establish, print, maintain, update and distribute a MBE directory

DOTPF and ASCHR also agreed on goals for assuring a reasonable percent of total state construction dollars were contracted to minority owned businesses. Those goals required that 7.5% of total construction dollars for projects under \$100,000, not subject to competitive bid, to be contracted through MBE's in FY 1981 (the first year of the agreement), 11.5% in FY 1982, and 15% in FY 1983. Identical percentage goals were agreed upon for total subcontracting dollars on wholly state funded construction projects.

These goals were not considered quotas, and terms of the agreement provided that justified failure by DOTPF to meet these goals would not be considered to be a breach of the agreement.

The agreement further required that ASCHR actively monitor DOTPF's compliance and required DOTPF to provide adequate and accurate records to enable the Commission to document their compliance.

This agreement represented final resolution of a complaint originally filed with the Commission in December, 1978. After several months of negotiations between agencies, it was finalized and went into effect for the first time in 1980.

By June of 1982, a guest editorial in the Anchorage Times by E. Louis Overstreet, charged that DOTPF had not complied with the agreement. He based this charge on an "unreleased report" that "documents the failure of DOTPF to live up to the provision of an agreement it entered into with the Alaska Human Right commission in February 1980".

Shortly after that editorial appeared, a constituent delivered a copy of the ASHRC file charging DOTPF with non-compliance to the Senate State Affairs Committee. That constituent requested the committee to review the effectiveness of the agreement in increasing minority business participation and to find out why the ASCHR was "suppressing" a report of non-compliance under the "cover" of confidentiality.

The committee formally requested a compliance report from the ASCHR. ASCHR, however, was statutorily prevented from meeting the committee's request due to terms of the agreement with DOTPF* and restrictions under state law (AS 18.80.115).

The ASCHR subsequently filed an action in superior court charging DOTPF with non-compliance on October 14, 1982. However, until they had exhausted conciliation efforts, and met the time provisions for filing and rebuttal laid out in the agreement, they were prevented from disclosing any information about DOTPF's compliance or non-compliance.

* Part III, paragraph 4, of the agreement states: "Whether or not a breach of this agreement has occurred shall be determined by the superior court. Prior to filing an action seeking any such determination by the superior court, the parties agree to maintain strict confidentiality regarding any alleged breach and any conciliation efforts".

Because of the confidentiality restrictions, the committee was unable to enlist the help of the Commission or the Department in determining compliance with and effectiveness of the agreement. At the time they were asked to investigate, it was impossible to predict whether there had been compliance, how long conciliation efforts may take or, indeed, if they were being pursued at all.

The Committee met the same restriction and frustration the minority business community faced when asking for swift and affirmative state action in increasing opportunities to participate in state funded construction projects. In addition, as the committee of oversight, Senate State Affairs was vitally interested in how seriously state agencies complied with agreements made with the Commission.

In order to independently determine the effectiveness of this agreement, the committee prepared and distributed a questionnaire to prime and subcontractors relating to state construction contract award procedures, specifically as they apply to minority owned businesses and the DOTPF/ASCHR agreement.

Following is a description of that questionnaire, an analysis of the results, and recommendations based on suggestions and information received during the course of administering the questionnaire.

QUESTIONNAIRE DESCRIPTION AND METHOD

Two questionnaires were prepared by Committee staff with help from minority businesses, DOTPF's Minority Business Enterprises officer, the Minority Business Assistance Center, and the ASCHR Systemic Discrimination Unit. One was directed to prime contractors, the other to minority owned businesses eligible to subcontract a DOTPF project. (Copies of questionnaire are attached).

Committee staff obtained a list of bid applicants for DOTPF construction projects from 1980 to 1982 and were able to compile a mailing list from that information. When it could be determined, only successful bidders for DOTPF contracts were sent prime contractor questionnaire.

A mailing list for minority owned business was compiled from a directory provided by DOTPF's Minority Business Enterprise officer, the Minority Business Assistance Center, and other constituent sources. Each was sent a Minority Business Enterprise questionnaire.

In addition to returned questionnaires, some recipients phoned or wrote to the committee to provide additional comments or suggestions regarding state contracting procedures and small or minority owned businesses. Copies of that correspondence is available on request.

The two questionnaires covered a time period from June of 1980 through June of 1982 (the same time period as ASCHR's affirmative action agreement with DOTPF), and limited themselves to state funded construction projects.

Besides specific contracting information, contractors were also asked to provide suggestions and recommendations for legislation (or no legislation), to address the philosophical and public policy considerations of minority business set aside programs, and, in some cases, to provide business and personal history (residency, years in business, etc.)

Each questionnaire was accompanied by a Senate State Affairs Committee cover letter explaining the purpose of oversight on the DOTPF/ASCHR agreement. The committee requested return of the questionnaires within two weeks of transmittal and enclosed a self-addressed, stamped envelope in an attempt to increase timely participation in the polling process.

STATISTICAL ANALYSIS OF QUESTIONNAIRES

Prime Contractor Questionnaire:

- 436 questionnaires mailed, 49 returned = 11.2% return rate
- nearly half the respondents claimed to have been a successful DOTPF contractor during the time period covered.
- 20% claimed not to be aware of the MBE Directory, 25% didn't use the directory to locate sub-contractor, and nearly half said they "maintained their own list" for locating sub-contractors.
- significant number of respondents were not aware that a MBE contact form was required as part of a DOTPF bid package.
- 36% of respondents said they have never been contracted by DOTPF regarding minority owned businesses and state contracting.
- most prime contractors felt DOTPF was making a serious effort in assuring MBE's adequate opportunity to bid state construction contracts.
- 20 % of prime contractors said they were philosophically opposed to minority owned set aside or advocacy programs and that current MBE programs should be eliminated.
- 18% of respondents felt no legislative action was necessary.

Subcontractor Questionnaire:

- 450 mailed out, 58 returned = 12.9% return rate
- 79% of the respondents were certified as MBE's (12 in 1982, 17 in 1981, 11 in 1980)

- Over half the respondents indicated no awareness of MBE officer services
- over half claimed never to have received bid information from DOTPF.
- 28% of respondents had subcontracted on DOTPF projects.
- 33% of respondents claimed to have been contacted by prime contractors
- 67% of respondents claimed never to have been contacted by prime contractors
- of the successfully bid contracts, most were less than \$100,000.
- less than half of the respondents knew about the MBE contact form requirement.
- a majority of likely construction project bidders said they had problems getting bonding and credit.
- over half the respondents businesses have been operating in Alaska for over 3 years with half of those over five years.
- over half the respondents have lived in Alaska over 10 years with over half of them having lived here more than 20 years.

The general questions in the minority business questionnaire addressed and identified problems preventing small Alaskan owned businesses from successfully bidding on state funded construction contracts. A discussion of those problems follows.

PROBLEMS IDENTIFIED

In the last ten years, billions of dollars have been allocated for state funded construction contracts. The sudden explosion of construction, coupled with the size and scope of many projects, has placed small and minority owned Alaskan businesses at a tremendous disadvantage in successfully bidding for contracts.

Besides the "normal" problems with Alaskan-based businesses (high cost of labor and transportation, vast distances, little infrastructure etc.), small and minority owned businesses face special problems.

Minority owned businesses are usually small businesses (under \$1 million dollars in gross revenues per fiscal year) and are often unable to get bonding, loans or credit, for large-scale contracts. In

addition, they are often unaware of bidding procedures or notices, and are out of the mainstream of the contracting "network".

A brief review of DOTPF construction contract awards from 1978 through 1982 illustrates the problem well. While nearly 50% of the awards are in amounts under \$1 million dollars, they represent less than a third of total contract dollars. The vast majority of total construction dollars go to a relative handful of contracts over \$1 million dollars.

Most large-scale construction projects are awarded to out-of-state contractors. Even the existing state statute giving a bidders preference to Alaskan-based business, is not sufficient to overcome the competitive edge large, national or international companies have in bidding state funded construction contracts.

Since most of these prime contractors tend to subcontract to other "outside" companies, small and minority owned Alaskan businesses are excluded from taking advantage of the massive input of state dollars into capital projects.

The executive branch has attempted to address this issue through the ASCHR/DOTPF agreement but, so far, has been unable to insure that a reasonable portion of state funded construction dollars remain in Alaska through contracting with small and minority owned businesses.

LEGISLATIVE RECOMMENDATIONS

Specific statutes need addressed by the legislature, to assure a reasonable opportunity for Alaskan owned small businesses to participate in the current flood of state funded construction projects.

Following are recommendation for legislation based on information obtained from the questionnaires:

1. Establish an Alaska Small Business Administration under the Department of Commerce and Economic Development (DCED), modeled after the federal program that would: a) define small businesses for the purpose of this administration, b) provide a source of credit and bonding for Alaska based small businesses, c) promote and advocate for small business development and maintenance in Alaska.
2. Create a statewide office of minority business enterprises in the Department of Commerce and Economic Development, to aide, advocate and support small, minority owned businesses in Alaska.
3. Define "small" Alaskan-based businesses to realistically reflect the average assets and capabilities of existing contractors. Defining "small" as a business having under \$2 million dollars in gross revenues for the year preceeding application for certification under an Alaskan small business administration, appears, from the questionnaire, to be a reasonable definition for Alaska.

4. Give adequate bidder preference to Alaska-based businesses that are small and/or minority owned. The current 5% bidders preference should be raised to a 15% preference to small, Alaskan based businesses. The 15% preference should require that the low bidder receive the contract if they re-submit a bid within 10% of the next lowest bid submitted.
5. Require prime contractors and joint ventures to award no less than 50% of total subcontract dollars to small or minority owned Alaskan businesses identified and certified by the Department of Commerce and Economic Development.
6. Include women, Viet Nam veterans and other economically disadvantaged classes of Alaskans in minority status for the purpose of these contracting considerations.
7. Require that no less than 30% of state funded construction contracts be awarded in amounts under \$1 million dollars with half of those in amounts under \$250,000.
8. Pass a legislative resolution calling upon the Governor to create a task force to address state policy in contracting, local hire, and small business advocacy. Require that the executive, judicial, and legislative branch, as well as other working Alaskans, are included in the task force to assure full representation.*
9. Require surety bonders to keep adequate records to document why businesses are denied credit or bonding.

* Court decisions on the jurisdiction and authority of states to limit employment and contracting opportunities to residents or "protected" classes of citizens have been many and varied. A U.S. supreme court decision, issued in February 1983, upheld a Boston Mayor's Executive Order requiring that 50% of wages paid on city funded or administered construction projects be limited to Boston residents.

Based on the findings of that decision, Senate Bill 174, was introduced in the Alaska legislature on March 10, 1983, by Senator Joe Josephson. SB 174 requires that, when a construction project is wholly funded by state money and the state or an agency of the state is signatory to the contract, worker hours on a craft-by-craft basis must be performed at least 50% by bona fide state residents.

SB 174 adopts the specific language of the U.S. Supreme Court decision and replaces AS 36.10.010 in an attempt to strengthen Alaska hire preference laws to meet anticipated court challenges.

While not directly affecting small and minority business contracting, it appears that the Boston decision puts Alaska "back in the residency business". Alaska's authority to grant bidder preferences to resident owned small businesses, for instance, is strengthened by the supreme courts decision.



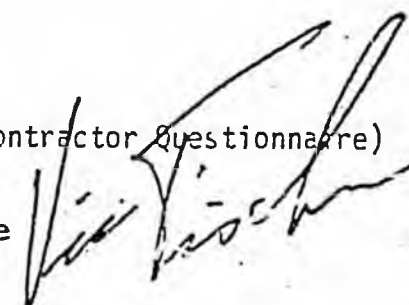
Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chairman • 1024 W. 6th Ave., Suite 204 C,
Anchorage, Alaska 99501
(907) 278-3654

Official Business

To: Alaskan Contractors (Prime Contractor Questionnaire)
From: Senator Vic Fischer, Chair
Senate State Affairs Committee
Date: September 29, 1982
Re: Minority business contracting



In the last five years, massive amounts of public dollars have gone to the State Department of Transportation and Public Facilities (DOTPF) for statewide construction projects.

It is the intent of the legislature that all Alaskan businesses are assured an equal chance to bid on and participate in state funded capital projects.

In order to assure this, the State Human Rights Commission entered into an agreement with DOTPF in June of 1980 to increase participation of minority owned small businesses in state construction contracting.

As the committee of oversight for the Human Rights Commission, the Senate State Affairs Committee is vitally interested in how seriously state agencies comply with agreements made with the Commission. We cannot determine this without your help.

The enclosed questionnaire was prepared by the Committee to help determine just how effective that agreement has been. Direct information from you is the only way to verify or refute the success of this agreement. Your response will be greatly appreciated.

The scope of this questionnaire includes contracts and sub-contracts involving minority owned businesses from June 1980 to June 1982. It does not include female owned businesses nor projects paid through federal, municipal or private funds.

The purpose of the agreement is to help, not hinder, your efforts to include small minority owned businesses in subcontracting procedures. We need to know if you think it has been successful and where you feel the system could be improved.

Please return this questionnaire by ²²October 15 to Senator Vic Fischer, Chair, Senate State Affairs Committee, 1024 W 6th Avenue, Suite 204-C, Anchorage, Alaska 99501. We have enclosed a self-addressed, stamped envelope for your convenience. For further information call Ginger Baim, in my office, at 278-3654.

COMPANY NAME: _____

ADDRESS: _____

PHONE: _____

1. Did you submit a bid on any contracts for DOTPF projects from June 1980 through June 1982? _____ Yes _____ No.

2. Have you subcontracted any work for DOTPF from June 1980 to June 1982? _____ Yes _____ No.

List firms you have subcontracted with on DOTPF projects from June 1980 to June 1982.

1. _____ 4. _____

2. _____ 5. _____

3. _____ 6. _____

(Please list additional firms on space provided at the end of this questionnaire.)

3. Are you aware of the MBE Directory prepared by DOTPF's Office of Minority Business Enterprises (OMBE) _____ Yes _____ No.

4. When did you become aware of this directory? _____

5. Did you refer to the MBE Directory when looking for subcontractors? _____ Yes _____ No.

6. Is the MBE Directory adequate for your needs? _____ Yes _____ No.
What would you like done to improve its usefulness to you?

7. How else do you contact MBE's? _____

Do you maintain your own list? _____ Yes _____ No.

8. Are you familiar with the MBE contact form provided by DOTPF? _____ Yes _____ No.



Senate Committee on State Affairs

Vic Fischer, Chairman • 1024 W. 6th Ave., Suite 204 C,
Anchorage, Alaska 99501
(907) 278-3654

Official Business

SUBCONTRACTOR QUESTIONNAIRE

To: Minority Business subcontractors

From: Senator Vic Fischer, Chair
Senate State Affairs Committee

Date: September 29, 1982

Re: MBE contracting on state funded projects.

In June of 1980 the state Human Rights Commission entered into an agreement with the Department of Transportation and Public Facilities (DOTPF) to increase participation of minority owned businesses in contracting for state funded capital projects.

As the committee of oversight on the Human Rights Commission, the Senate State Affairs Committee is vitally interested in how seriously state agencies comply with agreements made with the Commission. We cannot do this without your help.

The enclosed questionnaire was prepared by the Committee to help determine just how effective this agreement has been. Direct information from you is the only way to verify or refute information about compliance with that agreement.

The purpose of the agreement was to help, not hinder, efforts to include small minority owned businesses in subcontracting procedures. We need to know if you think it has been successful and where you feel the system could be improved.

Please return this questionnaire by October 15 to: Senator Vic Fischer, Chair, Senate State Affairs Committee, 1024 W 6th Avenue, Suite 204-C, Anchorage, Alaska 99501. We have enclosed a self-addressed, stamped envelope for your convenience. For further information call Ginger Baim, in my office, at 278-3654.

COMPANY NAME: _____

ADDRESS: _____

PHONE: _____

1. List the date your business was certified as a minority or female owned business by the state Department of Transportation and Public Facilities (DOTPF), Office of Minority Business Enterprises (OMBE).

2. What services are you aware of being performed by DOTPF's OMBE.

1. _____

2. _____

3. _____

3. How many times during the last year has your firm received information on contracting activity from DOTPF? _____
Was that information presented in a timely and understandable manner to you? _____ Yes _____ No. (Space is provided at the end of this questionnaire for additional comments).

4. Have you contacted DOTPF on your own? _____ Yes _____ No

If yes, under what circumstances, for what purpose, when etc.

5. Did you contract on a DOTPF project from June 1980 through June 1982?
_____ Yes _____ No. If yes, was DOTPF or the prime contractor aware that you are a minority owned business? _____ Yes _____ No.

6. List all prime contractors that have requested subcontract bids from your firm from June 1980 through June 1982.

1. _____ 3. _____

2. _____ 4. _____

5. _____ 6. _____

(List additional firms on space provided at end of questionnaire)

7. List the jobs you have performed on DOTPF projects and their contract value amount.

	Contracts	Amounts	Year
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____

(Use additional space at end of questionnaire if necessary)

8. Are you aware that DOTPF cannot approve a subcontract until a MBE has been contacted and a completed contact form submitted? Yes No.

9. Are you aware of any subcontracts approved by DOTPF that did not contain the required MBE contact form? Yes No

10. Is obtaining bonding a problem? Yes No

11. Is getting lines of credit at local financial institutions a problem? Yes No Comments?

12. How long have you been in business? _____

13. How long have you lived in Alaska? _____

14. What do you feel are the major obstacles to your company's success in Alaska?

15. What would you like to see the legislature do to address the problem of minority business access to state contracting jobs, particularly through DOTPF?

Any other comments: _____

Name and Phone number of person filling out questionnaire:

MARCH 8, 1984

TO: JOHN
FROM: KEN
RE: SCR 18

IF THE GOVERNOR WERE TO IMPLEMENT THE REQUEST MADE IN THIS RESOLUTION, A STATE TASK FORCE WOULD BE APPOINTED, ITS PURPOSE WOULD BE TO PROMOTE SMALL BUSINESS DEVELOPMENT AND MAINTENANCE IN ALASKA.

SMALL BUSINESSES OPERATING IN ALASKA TODAY ARE PLAGUED BY A NUMBER PROBLEMS. I BELIEVE THE INTENTION OF THIS RESOLUTION IS TO SEEK THE ADMINISTRATIONS ASSISTANCE IN ESTABLISHING POLICY THAT WILL AIDE AND PROMOTE SMALL BUSINESS IN ALASKA.

QUESTIONS:

1. IN A REPORT FROM THE SENATE STATE AFFAIRS COMMITTEE IT WAS RECOMMENDED THAT THE LEGISLATURE ADDRESS SOME NEEDED STATUTE CHANGES THAT WOULD HELP SMALL BUSINESS. CAN YOU PERHAPS DEFINE THOSE REGULATIONS AND UPDATE THE STATUS OF ANY LEGISLATION THAT MIGHT AMEND THEM ?

2. HOW HAS THE DEPARTMENT OF COMMERCE REACTED TO THE SUGGESTION OF ESTABLISHING AN ALASKA SMALL BUSINESS ADMINISTRATION ?

3. HOW MUCH MONEY DO YOU THINK IT WOULD COST TO OPERATE THE OFFICES OF THE SMALL BUSINESS ADMINISTRATION AND THE MINORITY BUSINESS ENTERPRISES ?

4. HOW WOULD YOU DEFINE SMALL BUSINESS ?

5. HAS THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES IMPROVED ITS CONTRACTING RECORD SINCE THE SENATE STATE AFFAIRS RELEASED ITS REPORT ?

6. WHY DO YOU THINK THERE WAS SUCH A LOW NUMBER OF RESPONSES TO THE COMMITTEE'S QUESTIONNAIRE ?