

5/5/90

SB 15

**(Public School
Employees
Right to
Strike)**

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AGENCY
MAY 5, 1990

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 5, 1990

SUBJECT: HCS CSSB 15 (Rules) (Public School Employee
Collective Bargaining)

TO: Representative Ben Grussendorf
Chair, House Rules Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of the above-referenced bill.

Section 1 suspends the operation of a series of statutes that address collective bargaining by public school employees.

AS 14.16.050 and 14.16.070 address collective bargaining by employees of the state boarding school. Under AS 14.16.050, teachers are placed under Title 14 bargaining.

AS 14.20.550 - 14.20.590 are the Title 14 provisions for public school employee collective bargaining.

AS 23.40.200(c) places public school employees ⁱⁿ ~~from~~ the class (a)(2) of PERA.

AS 23.40.250(6) defines "public employee" in PERA to exclude public school employees. AS 23.40.250(7) defines "public employer" in PERA. Its inclusion in this list is a drafting oversight and unnecessary but harmless.

The operation of these statutes is suspended to permit the operation of paragraphs (1) and (2).

Under paragraph (1), PERA applies to public school employees. School superintendents remain excluded, as they are excluded from Title 14 bargaining.

Repesenatative Ben Grussendorf

Page 2

May 5, 1990

Under paragraph (2), public school employees are members of the class in (a)(3). This is the class of employees with the right to strike.

Subsection (b) requires advisory arbitration before public school employees may engage in a strike. Subsection (c) prohibits a public school from opting out of the requirements of this bill.

Sec. 2 of the bill repeals the provisions of sec. 1 two years after the provisions take effect.

Sec. 3 is an immediate effective date.

If I may be of further assistance, please advise.

TBC:gc
G14/'68

JAN 23 1990

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
707 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 23, 1990

SUBJECT: Sectional Analysis of CSSB 15 (Fin) am
(Public school employee collective bargaining)

TO: Representative Lyman Hoffman
Co-chairman, House Finance Committee

FROM: Teresa B. Cramer *BC*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Sections 1 and 2 conform the state boarding school statutes to the change made by the rest of the bill, giving public school employees, including employees of the state boarding school, collective bargaining rights under the Public Employment Relations Act (PERA).

Sec. 3 removes "public school and other educational institutional" employees from the list of employees in class (a)(2) in PERA. Class (a)(2) employees have a limited right to strike. The Committee Substitute contains an error. By repealing the words "and other educational institution" employees, the bill affects the bargaining rights of employees of the University of Alaska. It is my understanding that SB 15 has never been intended to address University labor relations. It would be consistent with my understanding of the intent to change the first sentence in section 3 to read:

The class in (a)(2) of this section is composed of public utility, snow removal, sanitation, [AND PUBLIC SCHOOL] and [OTHER] educational institution employees other than employees of public schools.

Representative Lyman Hoffman
Page 2
January 23, 1990

Note that school district employees are now specifically excluded from the definition of "employee" in AS 23.40.250, and therefore, public school employees do not now bargain under PERA. Section 5 of the bill amends this definition.

Sec. 4 clarifies that the monetary terms of collective bargaining agreements between school districts or regional educational attendance areas and their employees are not subject to approval by the state legislature.

Sec. 5 amends the definition of "public employee" in PERA to remove the exclusion of teachers or noncertificated employees of school districts.

Sec. 6 amends the definition of "public employer" in PERA to specifically include school districts and regional educational attendance areas. The section also makes a technical change, substituting "municipality" for "town, city, borough" to conform to current drafting usage.

Sec. 7 adds a definition of "regional educational attendance area" to PERA.

Sec. 8 notifies readers that the bill does not affect bargaining agreements and recognitions of bargaining units that are in existence on the effective date of the Act.

Sec. 9 repeals the statutes that currently create teacher negotiations with school districts under AS 14.

Sec. 10 is an immediate effective date clause.

If I may be of further assistance, please advise.

TBC:pl
WKP1/032

Recent Legislative History on Arbitration

1987-88	15th Legislature	HB 130 - Died in House Finance SB 40 - Died in Senate State Affairs HB 170 - Passed for Non-certified > See original version which was changed in House Finance
1986	14th Legislature	Second Session; CSHB 130 - Died in Senate State Affairs
1985	14th Legislature	First Session, CSHB 130, passed House (29-10)
1984	13th Legislature	Second Session, CSSB 78, passed Senate (15-4)
1983	13th Legislature	First Session,
1982	12th Legislature	Second Session, CSSHB174, passed Senate (14-6) CSSB 668, passed Senate (14-6) HCSCSSB 668, died in House Finance
1981	12th Legislature	First Session, SB 126, in Senate Rules HB 163, failed on reconsideration in the House (20-20) after passing (21-17-2)

Governor Hammonds' Blue Ribbon Commission recommends the concept of Arbitration.

1980	11th Legislature	Second Session, HB 487, died in the House SB 376, died in the Senate
1979	11th Legislature	First Session

1977

Teachers Assn.

Bill No. Senate Bill 15
Title "An Act relating to public school employees collective bargaining agreements; and providing for an effective date."

Date February 14, 1989
Contact: Eileen Plate
465-2700

This legislation extends to noncertificated school employees the right to bargain collectively. Presently only certified employees have this right.

Under this bill, the Department of Labor would become the labor relations agency for 55 separate school districts (including REAA's) involving approximately 4,600 noncertificated employees and 7,500 certificated employees. The department would be responsible for:

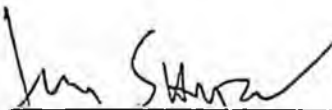
- investigating representation petitions;
- determining appropriate units for the purpose of collective bargaining;
- conducting elections;
- monitoring the resolution of unfair labor practices;
- conducting preliminary hearings; and
- monitoring the mediation and arbitration of disputed issues subsequent to impasse during collective bargaining negotiations.

Four school districts are presently organized or have a collective bargaining agreement with a union or an association. These are Fairbanks, Kenai, Juneau and Anchorage.

The department supports the concept of extending collective bargaining to this group of public employees.

The department's fiscal note is attached.

APPROVED:



~~Jim Sampson, Commissioner~~
Department of Labor

POSITION PAPER/Department of Labor

SB 15: Labor Relations Under PERA

UNFAIR LABOR PRACTICES (ULP)

Sec. 23.40.110. Unfair labor practices. (a) A public employer or an agent of a public employer may not

(1) interfere, restrain or coerce an employee in the exercise of the employee's rights guaranteed in AS 23.40.080;

(2) dominate or interfere with the formation, existence or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint or given testimony under AS 23.40.070—23.40.260;

(5) refuse to bargain collectively in good faith with an organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(b) Nothing in this chapter prohibits a public employer from making an agreement with an organization to require as a condition of employment

(1) membership in the organization which represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agency for the expense of representing the members of the bargaining unit.

(c) A labor or employee organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in AS 23.40.080, or

(B) a public employer in the selection of the employer's representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with a public employer, if it has been designated in accordance with the provisions of AS 23.40.070—23.40.260 as the exclusive representative of employees in an appropriate unit.

(2 ch 113 SLA 1972)

Applied in Hafing v. Inlandboatman's Union. Sup. Ct. Op. No. 1743 (File No. 3438), 585 P. 2d 870 (1978).

AASB

1990
LEGISLATIVE
POSITIONS



Association of
Alaska School Boards

GENERAL SUBJECT: GOVERNANCE

ISSUE: RIGHT-TO-STRIKE (SB 15)

RESOLUTION INTENT:

AASB would reluctantly submit to granting educational employees the right to strike.

STATEMENT OF REASONS:

The Senate Finance Committee (1989) in CSSB15(Fin) provided two options for handling labor relations in school districts: granting employees the right to strike or binding arbitration.

AASB vehemently opposes the intrusion of a third person deciding policy for locally elected officials, and thereby continues to adamantly oppose the concept of binding arbitration.

The Senate Finance Committee also concluded that binding arbitration is not good public policy, and decided to address the issue of "finality" by granting the right to strike to school district employees. Due to that decision AASB reluctantly submits to the right to strike as a means of putting the finality issue to rest.

GENERAL SUBJECT: GOVERNANCE

ISSUE: BINDING ARBITRATION

RESOLUTION INTENT:

AASB opposes any legislation that would include binding arbitration as a final step in collective bargaining.

STATEMENT OF REASONS:

Binding arbitration allows a third party to determine salaries of district employees (the largest component of district budgets) and essentially removes the basic element of local control from this critical management prerogative. Because an arbitrator's focus is only on salaries and conditions of employment, an arbitration decision will not take into consideration the financial impact on the total educational program. Consequently, a decision made with a narrow scope of focus may have far reaching negative effects for students.

The current process used in collective bargaining has resulted in substantially improved employment conditions and salaries for Alaska teachers without harmful disruptions caused by strikes or unrealistic financial constraints on the educational program imposed by arbitrary third party decisions. Collective bargaining history in Alaskan education has been successful and supports maintaining the status quo.

PRIORITY SCHOOL BOARD ISSUES FOR 1990

Association of Alaska School Boards

RIGHT TO STRIKE/BINDING ARBITRATION

AASB opposes any legislation that would include binding arbitration as a final step in collective bargaining. However, if the Legislature feels it is necessary to pass either binding arbitration or the right to strike, AASB would reluctantly submit to granting educational employees the right to strike as the less objectionable of the two options.

EDUCATION ENDOWMENT

AASB gives its full support to the concept of a constitutional amendment which would create an educational endowment fund to be used for public elementary and secondary education. AASB supports efforts in the Senate that would place the endowment on the 1990 general election ballot.

INCREASED FOUNDATION FUNDING

AASB supports legislation increasing the foundation formula aimed at restoring the 10% reduction districts suffered in FY87. The lack of an increase in the foundation formula in 4 years, plus inflation, increasing depreciation and the expanding role of schools has resulted in a dangerously low maintenance of funding standard.

AT-RISK YOUTH

AASB supports funding by the State of Alaska to allow development and testing of early detection methods and student evaluation strategies that will lead to effective programs and services for at-risk youth.

EARLY CHILDHOOD EDUCATION

AASB encourages an optional early childhood education program be developed by the Department of Education, and that DOE develop certification requirements that would result in qualified educators with a firm foundation of knowledge in early childhood education.

SCHOOL FUNDING

(Single/Dual Sites & Area Cost Differential)

AASB supports efforts to appropriately revise the elementary and secondary funding formula in an effort to mitigate the negative impact of the formula on many school districts.

SCHOOL CONSTRUCTION DEBT RETIREMENT

AASB calls upon the Legislature to fully honor all past commitments for bonded indebtedness reimbursement. AASB calls upon the Legislature to pass a school construction debt retirement bill for future programs that insures fairness and equity to all regions of Alaska.

TEACHER TENURE

AASB encourages the Legislature to amend AS 14.20.150 (a) and (b) by increasing the probationary requirement for tenure from two years to four years.

TENURED STAFF REDUCTION WHEN REVENUES DECLINE

AASB promotes legislation which would allow districts to reduce tenured certificated personnel due to reductions in funding.

STAFF REDUCTION DUE TO CHANGING PROGRAM NEEDS

AASB supports necessary legislation to allow districts to change staffing levels based on the district's program needs.

ACCESS TO CRIMINAL RECORDS

AASB supports a proposed amendment to House Bill 52 making it a requirement of the Department of Education to request and receive records on all convictions involving violence or sexual abuse crimes, a felony or a crime, or other violation involving controlled substances for any person who has supervisory or disciplining authority over minors.

SEXUAL ABUSE OF A STUDENT

AASB supports legislation making sexual contact with a student 16 years of age or older by a school district employee or volunteer a felony offense.

SEXUAL MISCONDUCT BY EDUCATORS (Certification)

AASB supports legislation which would require the Department of Education to request all records on convictions involving any sex crimes for a person initially seeking certification in the State of Alaska.

SUPPORT FOR RECRIMINALIZATION OF MARIJUANA

AASB encourages and supports legislative action to make possession of marijuana at least a misdemeanor.

JOINT COMMITTEE ON SCHOOL PERFORMANCE

AASB welcomes the increased attention to education by the Joint Committee on School Performance, and requests to participate actively in their deliberations as the designated educational leaders of Alaska.

STUDENT STATEWIDE TESTING

AASB calls upon the Department of Education to modify the existing regulation to mandate compliance with "Standards for Educational and Psychological Tests" which assure appropriate testing and reporting procedures.

MANDATORY BOROUGH FORMATION

AASB opposes mandatory formation of boroughs, especially as it pertains to House Bill 1-borough incorporation and annexation.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Public school employees in the
Public Employment Relations Act
Sponsor: House Finance
Requestor: House Finance

Agency Affected: Education
BRU: K-12 Support
Components: Foundation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Marv Hakala Phone: 465-2800
Division: Commissioner's Office Date: 2/5/90

Approved by Commissioner: William G. Demmert Date: 2/5/90
Agency: Education

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

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 15 (FIN) am

PUBLISH DATE: H-2-6-90

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: "An Act including public school employees in the Public Employment Relations Act..." BRU: Labor Standards & Safety
 Sponsor: Duncan, Zharoff, et al. Components: Wage & Hour
 Requestor: House Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	64.4	64.4	64.4	64.4	64.4	64.4
TRAVEL	12.5	12.5	12.5	12.5	12.5	12.5
CONTRACTUAL	25.0	25.0	25.0	25.0	23.0	25.0
SUPPLIES	0.7	0.7	0.7	0.7	0.7	0.7
EQUIPMENT	2.4	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	105.0	102.6	102.6	102.6	102.6	102.6

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	105.0	102.6	102.6	102.6	102.6	102.6
FEDERAL FUNDS						
OTHER						
TOTAL	105.0	102.6	102.6	102.6	102.6	102.6

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Note: There is no fiscal impact in FY 90.

Prepared by: Tom Stuart, Director Phone: 264-2452
 Division: Labor Standards & Safety Date: 2/5/90
 Approved by Commissioner: Jim Sampson Date: 2/5/90
 Agency: Department of Labor

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

**Fiscal Note Analysis
for
"An Act including public school employees..."**

Under this bill, the Department of Labor will act as the Labor Relations Agency for all school districts in the state and be responsible for investigation of representation petitions, determination of appropriate units for collective bargaining purposes, monitoring elections and holding representation hearings.

Additionally, upon expiration of the contracts of the certificated employees who currently are covered for collective bargaining under Title 14 "Compiled School Law," a number of challenges to the representation by current employee unions can be expected. Such challenge activity, which includes investigation of petitions and all the other functions of organization, would also have to be handled by the agency. This activity is currently administered by the school boards affected.

One wage & hour investigator, located in Anchorage, will be required to conduct the investigations, monitor the elections, and hold informal hearings. In addition, one part-time clerical position will be required to provide technical support for the investigator.

In addition to the costs associated with the wage & hour investigator and clerical support position, there would be additional costs for legal support (\$10.0) and printing (\$1.5).

Assuming a July 1, 1990 effective date, line item costs for FY 91 would be as follows:

Personal Services	\$64.4
Travel	12.5
Contractual Svcs.	25.0
Commodities	.7
Equipment	<u>2.4</u>
	105.0

Of these costs, only the equipment cost of \$2.4 would be a one-time item.

Position Title Wage & Hour Investigator II			No. of Positions 1	Range/Step 18A	Barg. Unit GGU
Time Status PFI	Staff Months 12		Location Anchorage		Election District
Type of Expenditure			Justification		
		Amount	<p>This position will conduct investigations and informal hearings of unfair labor practice complaints filed with this agency. The position will be responsible for monitoring school district representation elections and assisting school districts in complying with state and federal labor relations laws. The investigator will travel extensively throughout the state performing these investigations, hearings, and monitoring functions.</p> <p>Contractual and commodity costs are average per-employee costs. Equipment would be a one-time expense for desk, chair, cabinets, etc.</p>		
1	2	3			
Salary	\$37,356				
Benefits	13,735				
Premium Pay					
Other					
Total Personal Services		\$51,091			
Travel		12,500			
Contractual		9,282			
Commodities		350			
Equipment		1,200			
Other					
Total Cost		\$74,423			
Funding Source for Total Cost					
Federal Receipts	1002				
G. P. Match	1003				
General Fund	1004	\$74,423			
GF Program Receipts	1005				
Other					

**Request For
New Position**

Agency Labor
 BRU Labor Standards & Safety
 Component Wage & Hour

Page 3 of 4

Revised Date

FY 90

Position Title Clerk Typist III		No. of Positions 1	Range/Step 8A	Barg. Unit GGU
Time Status PPT	Staff Months 6	Location Anchorage		Election District
Type of Expenditure		Amount		
1	2	3		
Salary	\$9,786			
Benefits	3,534			
Premium Pay				
Other				
Total Personal Services		\$13,320		
Travel		0		
Contractual		4,253		
Commodities		350		
Equipment		1,200		
Other				
Total Cost		\$19,123		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	\$19,123		
GF Program Receipts	1005			
Other				
Justification				
<p>This position will provide clerical support (typing, answering telephone, mail handling, etc.) for the wage & hour investigator.</p> <p>Contractual and commodity costs are average per-employee costs. Equipment would be a one-time expense for desk, chair cabinets, etc.</p>				

**Request For
New Position**

Agency Labor
 BRU Labor Standards & Safety
 Component Wage & Hour

Page 4 of 4
 Revised Date

FY 90

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 14, 1990

FURTHER REFERRALS:

Date of Committee Action: 5-5-90

The RULES Committee considered:

CSSB 15 (FINANCE) am

CS SENATE BILL NO. 15 (Fin) am NEGOTIATIONS BY PUBLIC SCHOOL EMPLOYEES

"An Act including public school employees in the Public Employment Relations Act as class (a)(3) employees entitled to a right to strike; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with HCS CS SB 15 (Rules) [] the same title
[] have attached amendment(s) [X] a new title
[X] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
[] zero fiscal note _____
[] zero with analysis _____

- [X] fiscal note(s) Labor 2-6-90
[X] zero fiscal note(s) Ed. 2-6-90
[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>Richard P. ...</u>		X	
<u>Terry ...</u>		X	
<u>John ...</u>		X	

Ben ...
Chairman's Signature

Original sponsor(s): SEN. DUNCAN, Zharoff, Kerttula, Fahrenkamp, Kelly, Sturgulewski, Pourchot, Rodey, Szymanski

1 IN THE SENATE

BY THE RULES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 15 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act including, for two years, public school
7 employees in the Public Employment Relations Act as
8 class (a)(3) employees entitled to a right to strike;
9 requiring advisory arbitration before public school
10 employees exercise the right to strike; and providing
11 for an effective date."

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

13 * Section 1. (a) Notwithstanding AS 14.16.050, 14.16.070, AS 14.20.-
14 550 - 14.20.590, AS 23.40.200(c), and 23.40.250(6) and (7),

15 (1) AS 23.40.070 - 23.40.260 apply to employment relations
16 between certificated and noncertificated employees, other than superinten-
17 dents of schools, and municipal school districts, regional educational
18 attendance areas, and the state boarding school; and

19 (2) certificated and noncertificated employees, other than
20 superintendents of schools, of a municipal school district, regional educa-
21 tional attendance area, or the state boarding school are members of the
22 class in (a)(3) of AS 23.40.200.

23 (b) However, if an impasse or deadlock is reached in collective
24 bargaining negotiations between a municipal school district, a regional
25 educational attendance area, or the state boarding school and its employ-
26 ees, the parties shall submit to advisory arbitration before the employees
27 may engage in a strike.

28 (c) Section 4, ch. 113, SLA 1972 does not apply to this section.

29 * Sec. 2. Section 1 of this Act is repealed on the date two years after

1 the effective date of this Act.

2 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).
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Representative Ben Grussendorf, Chair House Rules Committee

DATE: 5-5-90

PLACE: Speaker's Chambers

SUBJECT OF MEETING:
SB; negotiations of school teacher contracts

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Terry Cramer	LAA Legal Services			465-2480		Y	N	SB 15
Jim Sampson	Dept. of Labor			465-2700		Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	