

LEG. FINANCE - BILLS 1985 - 1986 2344

SSH B 128 - HB 130

2344



HOUSE  
COMMITTEE REPORT

4/18

(7)

Date referred: 3/26/86

FURTHER REFERRALS:

FINANCE

DATE: \_\_\_\_\_

The JUDICIARY Committee has considered SSHB 128

"An Act relating to the interim management of mental health trust land; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS SSB 128 (JUD)  same title
- new title

and recommends do pass

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
Chairman

HOUSE

COMMITTEE REPORT

3/26

JUDICIARY

(7)

Date referred: 2/17/86

FURTHER REFERRALS: FINANCE

DATE: March 25, 1986

The RESOURCES Committee has considered SSHB 128

"An Act relating to the interim management of mental health trust land; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS for SSHB 128 (Resources)  same title
- new title

and recommends No recommendation

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

*sup 102*

*Sunsite in 1988, there is no further fiscal impact beyond per Dept Nat Rec. Do Not Mention Journal*

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Shultz

*Dink Shultz*

Gato

*Bette Gato*

Wallis

*F. Kay Wallis*

*Wendell Pearce* NO REC

*David W. Thompson* NO REC

*Albert H. Herrmann* No Rec.

*John Sund*

*Dink Shultz*  
Co-Chairman Shultz

*Bradley*

Offered: 4/18/86  
Referred: Finance

Original sponsors: Pignalberi, Gruenberg,  
Boucher, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 12. (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to the interim management of mental  
7 health trust land; and providing for an effective  
8 date."

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

10 \* Section 1. INTERIM MENTAL HEALTH TRUST LAND COMMISSION ESTABLISHED.

11 (a) The interim mental health trust land commission is established in the  
12 Department of Natural Resources.

13 (b) The commission established under (a) of this section consists of  
14 five members, including the commissioner of natural resources and the  
15 commissioner of health and social services and three members appointed by  
16 the governor as follows:

17 (1) a member representing the plaintiffs, appointed by the  
18 governor from a list of three names submitted to the governor by the plain-  
19 tiffs in State v. Weiss, 706 P.2d 681 (Alaska 1985);

20 (2) a member representing the intervenors, appointed by the  
21 governor from a list of three names submitted to the governor by the inter-  
22 veners in State v. Weiss; and

23 (3) a member representing the Governor's Mental Health Advisory  
24 Council, appointed by the governor from a list of three names submitted to  
25 the governor by the Governor's Mental Health Advisory Council.

26 (c) The members of the commission shall elect a presiding officer. A  
27 majority of the commission constitutes a quorum. The affirmative vote of  
28 three members is required to take official action. A vacancy does not  
29 impair the power of the remaining members to exercise the powers of the

1 commission. A member of the commission may designate an individual to  
2 represent the member at a meeting of the commission. An individual des-  
3 ignated under this subsection may vote and has all the powers of a member.

4 (d) Members of the commission serve without compensation but are  
5 entitled to per diem and travel expenses authorized by law for other boards  
6 under AS 39.20.180.

7 (e) The commission may employ an executive director and staff to  
8 assist it in fulfilling its responsibilities under this Act. The executive  
9 director of the commission is in the exempt service under AS 39.25.110.

10 \* Sec. 2. RESPONSIBILITIES OF THE COMMISSIONER OF NATURAL RESOURCES AND  
11 THE COMMISSION. (a) The commissioner of natural resources shall inventory  
12 and catalog the mental health trust land, shall audit each transaction  
13 involving land that has been part of the mental health trust land, and  
14 shall determine the status of mental health trust land under procedures and  
15 guidelines established by the commissioner of natural resources as directed  
16 by the commission.

17 (b) As directed by the commission, the commissioner of natural re-  
18 sources shall retain appraisers to appraise land that was part of the  
19 mental health trust. The commissioner shall provide the appraisers with  
20 written procedures and instructions that have been adopted by the commis-  
21 sion.

22 (c) The commissioner of natural resources shall manage the mental  
23 health trust land as a public trust under P.L. 84-830, 70 Stat. 709, under  
24 the direction of the commission. The commissioner of natural resources may  
25 not sell, lease, or exchange mental health trust land or an interest in the  
26 mental health trust land without the prior approval of the commission. The  
27 commissioner of natural resources shall sell, lease, and exchange mental  
28 health trust land as directed by the commission. The commissioner of  
29 natural resources may transfer trust land to the federal government under

1 AS 38.05.035(L)(9) without the approval of the commission. The commis-  
2 sioner of natural resources shall advise the commission of an intention to  
3 transfer any trust land to the federal government and, after the transfer,  
4 shall make every effort to ensure that the federal government will transfer  
5 to the state trust land of equal value. In managing the trust and the  
6 trust land the commission and the commissioner shall be guided by the  
7 principles established for the Board of Trustees of the Alaska Permanent  
8 Fund Corporation under AS 37.13.120(a).

9 (d) The income from the management of the mental health trust land  
10 shall be deposited in a special trust account in the general fund of the  
11 state and may be appropriated by the legislature only for the support of  
12 the mental health program in the state.

13 \* Sec. 3. RESPONSIBILITIES OF THE COMMISSIONER OF HEALTH AND SOCIAL  
14 SERVICES AND THE COMMISSION. The commissioner of health and social ser-  
15 vices, as directed by the commission, shall

16 (1) select auditors to audit the state's mental health program;

17 (2) establish the procedures and guidelines to guide the audi-  
18 tors selected under this subsection;

19 (3) propose the guidelines and procedures to be used in de-  
20 termining a range of expenditures for mental health programs necessary to  
21 comply with the state's comprehensive mental health plan.

22 \* Sec. 4. ADDITIONAL RESPONSIBILITIES OF THE COMMISSION. The commis-  
23 sion shall report to the legislature on February 1 of each year on matters  
24 of concern to it including recommendations for amendment of laws relating  
25 to the management of the mental health trust, the mental health trust land,  
26 and the mental health program of the state.

27 \* Sec. 5. DEFINITION. In secs. 1 - 4 of this Act "commission" means  
28 the interim mental health trust land commission established in sec. 1 of  
29 this Act.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

\* Sec. 6. Sections 1 - 5 of this Act are repealed July 1, 1988.

\* Sec. 7. This Act takes effect immediately in accordance with AS 01.-  
10.070(c).

Offered: 3/26/86  
Referred: Judiciary and  
Finance

(Fin) Note  
Sup 102

Bradley

Original sponsors: Pignalberi, Gruenberg,  
Boucher, et al

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 128 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "A Act relating to the interim management of mental  
7 health trust land; and providing for an effective  
8 date."

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

10 \* Section 1. The legislature finds that

11 (1) the Congress granted 1,000,000 acres of land to the Terri-  
12 tory of Alaska to be administered as a public trust for the necessary  
13 expenses of the support of mental health in the territory;

14 (2) the land authorized to be granted to the Territory of Alaska  
15 has been selected by the territory and since statehood by the state and  
16 most of the 1,000,000 acres has been conveyed to the state;

17 (3) the Alaska Supreme Court ruled in State v. Weiss, 706 P.2d  
18 681 (Alaska 1985) that the legislation redesignating mental health trust  
19 land as general grant land had actually breached the trust established by  
20 Congress and the court ordered the trust reconstituted;

21 (4) there is presently no statutory authority providing for the  
22 management of the mental health trust land as trust land, Weiss et al. v.  
23 State, 4 FA 82 2208 CIV;

24 (5) the Alaska Mental Health Association as the original sponsor  
25 of the litigation regarding the management of the mental health trust land,  
26 more recently participating as intervenor in the litigation, and the plain-  
27 tiffs have performed and continue to perform an important public function  
28 in their efforts to reconstitute the mental health trust land and to pro-  
29 vide for the proper management of the trust land;

1 (6) there is an immediate need for funds to facilitate the  
2 reconstruction of the trust land and to conclude the litigation over the  
3 status of the mental health trust land; and

4 (7) there is an immediate need for the interim management of the  
5 trust land as a public trust.

6 \* Sec. 2. INTERIM MENTAL HEALTH TRUST LAND COMMISSION ESTABLISHED. (a)  
7 The interim mental health trust land commission is established in the  
8 Department of Natural Resources.

9 (b) The commission established under (a) of this section consists of  
10 five members, including the commissioner of natural resources and the  
11 commissioner of health and social services, or their designees, and three  
12 members appointed by the governor as follows:

13 (1) a member representing the plaintiffs, appointed by the  
14 governor from a list of three names submitted to the governor by the plain-  
15 tiffs in State v. Weiss, 706 P.2d 681 (Alaska 1985);

16 (2) a member representing the intervenors, appointed by the  
17 governor from a list of three names submitted to the governor by the inter-  
18 venors in State v. Weiss, 706 P.2d 681 (Alaska 1985); and

19 (3) a member representing the Governor's Mental Health Advisory  
20 Council, appointed by the governor from a list of three names submitted to  
21 the governor by the Governor's Mental Health Advisory Council.

22 (c) The members of the commission shall elect a presiding officer. A  
23 majority of the commission constitutes a quorum. The affirmative vote of  
24 three members is required to take official action. A vacancy does not  
25 impair the power of the remaining members to exercise the powers of the  
26 commission.

27 (d) Members of the commission serve without compensation but are  
28 entitled to per diem and travel expenses authorized by law for other boards  
29 under AS 39.20.130.

1 (e) The commission shall meet at least once a month.

2 (f) The commission may employ an executive director and staff to  
3 assist it in fulfilling its responsibilities under this Act.

4 \* Sec. 3. RESPONSIBILITIES OF THE COMMISSIONER OF NATURAL RESOURCES AND  
5 THE COMMISSION. (a) The commissioner of natural resources inventory and  
6 catalog the mental health trust land of the state, shall audit each land  
7 transaction involving land that has been part of the mental health trust  
8 land of the state, and determine the status of mental health trust land on  
9 the effective date of this Act under procedures and guidelines established  
10 by the commissioner of natural resources with the approval of the commis-  
11 sion. In the exercise of the commission's responsibilities under this  
12 section, the commission may review the records of the Department of Natural  
13 Resources.

14 (b) The commissioner of natural resources shall, with the approval of  
15 the commission, retain an appraiser to appraise all or a portion of land  
16 that, at any time, was part of the mental health trust land of the state.  
17 The commissioner shall provide the appraiser conducting the appraisal with  
18 written procedures and instructions that have been approved by the commis-  
19 sion.

20 (c) The commissioner of natural resources is responsible for the  
21 management of the mental health land of the state as a public trust under  
22 P.L. 84-830, 70 Stat. 709, under the direction of the commission. The  
23 commission may contract with the plaintiffs or the intervenors for the  
24 performance of functions assigned to it. The commissioner of natural  
25 resources may not sell, lease, or exchange mental health trust land of the  
26 state or an interest in the mental health trust land of the state without  
27 the prior approval of the commission. The commissioner of natural re-  
28 sources shall sell, lease, and exchange mental health trust land of the  
29 state as directed by the commission. In managing the trust and the trust

1 land the commission and the commissioner shall seek to maximize the income  
2 earned and received by the trust consistent with a trustee's obligation to  
3 protect and perpetuate the trust.

4 (d) The proceeds from the management of the mental health trust land  
5 of the state shall be deposited in a special trust account in the general  
6 fund of the state and may be appropriated by the legislature for the sup-  
7 port of the mental health program in the state.

8 \* Sec. 4. RESPONSIBILITIES OF THE COMMISSIONER OF HEALTH AND SOCIAL  
9 SERVICES AND THE COMMISSION. (a) The commissioner of health and social  
10 services, with the approval of the commission, shall

11 (1) select an independent auditor to audit the state's mental  
12 health program;

13 (2) establish the procedures and guidelines to guide the auditor  
14 selected under this subsection;

15 (3) propose the guidelines and procedures to be used in de-  
16 termining a range of expenditures for mental health programs necessary to  
17 comply with the state's comprehensive mental health plan.

18 (b) The commission may review the records of the Department of Health  
19 and Social Services that involve mental health expenditures under the  
20 state's comprehensive mental health plan.

21 \* Sec. 5. ADDITIONAL RESPONSIBILITIES OF THE COMMISSION. The commis-  
22 sion shall make an annual report to the legislature on matters of concern  
23 to it including recommendations of the commission for amendment of the laws  
24 relating the management of mental health trust, the mental health trust  
25 land, and the mental health program of the state.

26 \* Sec. 6. DEFINITION. In secs. 2 - 5 of this Act "commission" means  
27 the interim mental health trust land commission established in sec. 2 of  
28 this Act.

29 \* Sec. 7. Sections 1 - 6 of this Act are repealed July 1, 1988.

1 \* Sec. 8. This Act takes effect immediately in accordance with AS 01.-  
2 10.070(c).  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

*Brodey*

Introduced: 2/17/86  
Referred: Resources,  
Judiciary and Finance

BY PIGNALBERI, GRUENBERG,  
BOUCHER, JENKINS, KOPONEN,  
SZYMANSKI, M.M. MILLER AND  
GOLI.

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 128  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the interim management of mental  
7 health trust land; and providing for an effective  
8 date."

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

10 \* Section 1. The legislature finds that

11 (1) the Congress granted 1,000,000 acres of land to the Terri-  
12 tory of Alaska to be administered as a public trust for the necessary  
13 expenses of the support of mental health in the territory;

14 (2) the land authorized to be granted to the Territory of Alaska  
15 has been selected by the territory and since statehood by the state and  
16 most of the 1,000,000 acres has been conveyed to the state;

17 (3) the Alaska Supreme Court ruled in State v. Weiss, 706 P.2d  
18 681 (Alaska 1985) that the legislation redesignating mental health trust  
19 land as general grant land had actually breached the trust established by  
20 Congress and the court ordered the trust reconstituted;

21 (4) there is presently no statutory authority providing for the  
22 interim management of the mental health trust land as trust land, Weiss et  
23 al. v. State, 4FA 82 2208 CIV;

24 (5) the Alaska Mental Health Association as the original sponsor  
25 of the litigation regarding the management of the mental health trust land,  
26 more recently participating as intervenor in the litigation, and the plain-  
27 tiffs have performed and continue to perform an important public function  
28 in their efforts to reconstitute the mental health land and to provide for  
29 the proper management of the trust;

COMMITTEE COPY

1 (6) there is an immediate need for funds to facilitate the  
2 reconstruction of the trust and to conclude the litigation over the status  
3 of the mental health land; and

4 (7) there is an immediate need for the interim management of the  
5 land as a public trust.

6 \* Sec. 2. INTERIM MENTAL HEALTH TRUST LAND COMMISSION ESTABLISHED. (a)  
7 The interim mental health trust land commission is established.

8 (b) The members of the commission established under (a) of this  
9 section include the commissioner of revenue and the commissioner of health  
10 and social services, or their designees, and three members appointed by the  
11 governor as follows:

12 (1) one member nominated by the plaintiffs;

13 (2) one member nominated by the intervenors; and

14 (3) one member nominated by the Governor's Mental Health Ad-  
15 visory Council.

16 (c) The members of the commission shall elect a presiding officer. A  
17 majority of the commission constitutes a quorum. The affirmative vote of  
18 three members is required to take official action. A vacancy does not  
19 impair the power of the remaining members to exercise the powers of the  
20 commission.

21 (d) Members of the commission who are not members of the commission  
22 ex officio are in the exempt service and are entitled to a monthly salary  
23 equal to Step C, Range 26 of the salary schedule in AS 39.27.011(a) for  
24 Juneau, Alaska.

25 \* Sec. 3. RESPONSIBILITIES OF THE COMMISSION. (a) The commission  
26 shall inventory and catalog the mental health trust land of the state,  
27 shall audit each land transaction involving the mental health trust land of  
28 the state, and determine the status of mental health trust land on the  
29 effective date of this Act. In the exercise of the commission's

1 responsibilities under this section, the commission may review the records  
2 of the Department of Natural Resources.

3 (b) The commission is responsible for the management of the mental  
4 health land of the state as a public trust under P.L. 84-830, 70 Stat. 709.  
5 The commission may contract with the plaintiffs or the intervenors for the  
6 performance of functions assigned to it. The commissioner of natural  
7 resources may not transfer, sell, lease, or exchange mental health trust  
8 land of the state or an interest in the mental health trust land of the  
9 state without the approval of the commission and the concurrence of counsel  
10 for both the plaintiffs and intervenors, or approval by the court. The  
11 commission shall seek to provide sufficient funds for the support of the  
12 mental health program of the state from the management of its mental health  
13 trust land.

14 (c) The proceeds from the management of the mental health trust land  
15 of the state shall be deposited in a special trust account in the general  
16 fund of the state and may be appropriated by the legislature for the  
17 support of the mental health program in the state.

18 (d) The commission shall make an annual report to the legislature on  
19 matters of concern to it including recommendations of the commission for  
20 amendment of the laws relating the management of the mental health trust  
21 land of the state.

22 \* Sec. 4. DEFINITION. In secs. 2 and 3 of this Act "commission" means  
23 the interim mental health trust land commission established in sec. 2 of  
24 this Act.

25 \* Sec. 5. Sections 1 - 4 of this Act are repealed July 1, 1988.

26 \* Sec. 6. This Act takes effect immediately in accordance with AS 01.-  
27 10.070(c).

*Handwritten notes:*  
 4/26  
 5/1/86

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

**REQUEST** Page 1 of 4

Bill/Resolution No. : CSSSHB 128 (Res)  
 Title : Interim Mental Health Land Management Commission  
 Sponsor : Signalberi  
 Requestor House Resources  
 Date of Request : 2-24-86

Revision Date : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : DMP  
 BRU : Land/Water Mgmt.  
 Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		198.4	160.6			
TRAVEL		25.0	24			
CONTRACTUAL		302.0	17.8			
SUPPLIES		4.6	1.4			
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>531.9</b>	<b>203.8</b>			

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

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

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>531.9</b>	<b>203.8</b>			

**POSITIONS :**

FULL-TIME		5	4			
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

See Attached

Prepared by : Mike Vediner Phone : 465-2400  
 Division : Commissioner's Office Date : \_\_\_\_\_  
 Approved by Commissioner : Wm D Arnold Date : 3/24/86  
 Agency : Department of Natural Resources

Distribution (by Agency preparing fiscal note):

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

Department of Natural Resources

3-24-86

CSSSHB 128(Res) Page 2 of 4  
Fiscal Note Addendum

Analysis

Several detailed reports, audits, and appraisals would be required under this bill, and indeed are required under the Supreme Court decision in Weiss v. Alaska, as interpreted by the Attorney General's Office. No funding is included for contracting with the plaintiffs and intervenors in the case.

FY 87

1. Account for all funds or land received from conveyances and exchanges made between July 19, 1978 and October 4, 1985. Estimated costs: \$40,800.

We estimate that 4,650 cases (2,370 land conveyances, 1,370 mining claims, 390 rights-of-way, 275 land leases, 25 timber or material sales, 110 oil and gas or coal leases, and 110 miscellaneous cases) will have to be audited to determine the amount received and/or appraised. Land discounts will have to be accounted for during this process. This process will take a Natural Resource Officer I approximately one year (37.8 personal services; 1.0 travel; 1.5 contractual; 0.5 commodities).

2. Identify and appraise all less than fair market value conveyances and encumbrances. Estimated costs: \$304,800.

These appraisals will be performed contractually. However, the department must prepare reports and maps containing information about each parcel before the contract can be let. We also note that these appraisals cover only those mental health parcels that are no longer in trust status. The approximately 700,000 acres in trust status are not to be appraised. If section 3(b) of the bill intends that all mental health land be appraised, then the cost will be \$1,206,100.

The reports and maps must take approximately 1,100 parcels into consideration. We expect this project to take a single Natural Resource Officer I three months to complete. Additionally, the project will need funding for supplies and contractual clerical services (9.5 personal services; .5 contractual; .2 commodities).

The appraisals are expected to cost \$294,600. We project that approximately 820 parcels totalling 268,000 acres will need appraisals at an estimated cost of \$215,000. In

addition, approximately 276 leases must be reappraised at five-year intervals (the Legislature created a first term of 25 years during which time rents cannot be raised). The approximate cost of these lease reappraisals is \$79,600.

In meeting the court stipulated appraisal for mental health land values as of July 19, 1978, the department used an Opinion of Value Panel approach which has subsequently caused the plaintiffs and intervenors much concern. Using this approach here, the estimate for appraisals reduces to \$28,000.

3. Provide management oversight of all transactions and account for funds received from mental health lands.  
Estimated costs: \$142,700.

Statewide trust management oversight can be provided by a Natural Resource Manager II with support from a Natural Resource Officer I. That manager would be expected to review a large number of transactions, with research assistance from a subordinate, to ensure that the trust is not breached. It is expected that the manager will also provide the necessary coordination between the department and the plaintiffs, and will be required to travel.

Accounting functions can be broken into two parts: ongoing accounting services, and an independent audit. An accounting Technician I will be needed to receive and separately process that portion of the approximately \$1.5 billion taken in by DNR annually that should be assigned to the mental health accounts.

Line items in this total are: 124.0 personal services; 6.0 travel; 11.3 contractual; and, 1.4 commodities.

4. Provide administrative support to the commission.  
Estimated costs: \$53,600.

The department would need to provide administrative support to the commission which includes arranging meetings, preparing briefing packets, documenting meeting results, and clerical support. The Natural Resource Officer I listed in item 3 above could assist with the details of action review and a Clerk Typist III would be needed to assist with typing and organization of meetings. Contractual monies would cover duplication costs, phone charges, postage, etc. Travel and per diem funding is for meetings of the commission. Commodities money is to cover routine supplies and maps (27.1 personal services; 18.0 travel; 6.0 contractual; 2.5 commodities).

FY 88

All anticipated court ordered reports will be completed in FY 87. Therefore, FY 88 costs will be substantially reduced. Support for the commission will include 3 months of an NRO I, the clerk typist III, and similar support costs (36.6 personal services; 18.0 travel; 6.5 contractual; 2.7 commodities).

The department would continue to provide the oversight function described in item 3 for FY 87 with costs of 124.0 personal services, 6.0 travel, 11.3 contractual, and 1.4 commodities.

ALASKA STATE LEGISLATURE

14th Legislature SECOND Session

SPONSOR SUBSTITUTE

HOUSE BILL..... NO. 128..

By ..PIGNALBERI, GRUEBERG.....  
BOUCHER, JENKINS, KOPONEN,  
SZYMANSKI, M.F. MILLER, GOLL

"An Act relating to the interim management of mental health trust land; and providing for an effective date."

mental health land.

Introduced in the House ..2/17..., 19. 86

HISTORY IN THE HOUSE

19 86	Read first time and referred to Committee on
Feb 17	RESOURCES, JURISDICTION AND FINANCE Reported back with recommendation that
	Read second time and
	Read third time and
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reconsideration
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reported correctly engrossed
	Signed by Speaker
	Sent to Senate
	CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19	Read first time and referred to Committee on
	Reported back with recommendation that
	Read second time and
	Read third time and
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reconsideration
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reported correctly engrossed
	Signed by President
	Returned to House
	SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor ..... by Governor
	Filed with Lt. Governor
	Chapter No. ....

Offered: 4/18/86  
Referred: Finance

Original sponsors: Pignalberi, Gruenberg,  
Boucher, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 128 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to the interim management of mental  
7 health trust land; and providing for an effective  
8 date."

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

10 \* Section 1. INTERIM MENTAL HEALTH TRUST LAND COMMISSION ESTABLISHED.

11 (a) The interim mental health trust land commission is established in the  
12 Department of Natural Resources.

13 (b) The commission established under (a) of this section consists of  
14 five members, including the commissioner of natural resources and the  
15 commissioner of health and social services and three members appointed by  
16 the governor as follows:

17 (1) a member representing the plaintiffs, appointed by the  
18 governor from a list of three names submitted to the governor by the plain-  
19 tiffs in State v. Weiss, 706 P.2d 681 (Alaska 1985);

20 (2) a member representing the intervenors, appointed by the  
21 governor from a list of three names submitted to the governor by the inter-  
22 venors in State v. Weiss; and

23 (3) a member representing the Governor's Mental Health Advisory  
24 Council, appointed by the governor from a list of three names submitted to  
25 the governor by the Governor's Mental Health Advisory Council.

26 (c) The members of the commission shall elect a presiding officer. A  
27 majority of the commission constitutes a quorum. The affirmative vote of  
28 three members is required to take official action. A vacancy does not  
29 impair the power of the remaining members to exercise the powers of the

1 commission. A member of the commission may designate an individual to  
2 represent the member at a meeting of the commission. An individual des-  
3 ignated under this subsection may vote and has all the powers of a member.

4 (d) Members of the commission serve without compensation but are  
5 entitled to per diem and travel expenses authorized by law for other boards  
6 under AS 39.20.180.

7 (e) The commission may employ an executive director and staff to  
8 assist it in fulfilling its responsibilities under this Act. The executive  
9 director of the commission is in the exempt service under AS 39.25.110.

10 \* Sec. 2. RESPONSIBILITIES OF THE COMMISSIONER OF NATURAL RESOURCES AND  
11 THE COMMISSION. (a) The commissioner of natural resources shall inventory  
12 and catalog the mental health trust land, shall audit each transaction  
13 involving land that has been part of the mental health trust land, and  
14 shall determine the status of mental health trust land under procedures and  
15 guidelines established by the commissioner of natural resources as directed  
16 by the commission.

17 (b) As directed by the commission, the commissioner of natural re-  
18 sources shall retain appraisers to appraise land that was part of the  
19 mental health trust. The commissioner shall provide the appraisers with  
20 written procedures and instructions that have been adopted by the commis-  
21 sion.

22 (c) The commissioner of natural resources shall manage the mental  
23 health trust land as a public trust under P.L. 84-830, 70 Stat. 709, under  
24 the direction of the commission. The commissioner of natural resources may  
25 not sell, lease, or exchange mental health trust land or an interest in the  
26 mental health trust land without the prior approval of the commission. The  
27 commissioner of natural resources shall sell, lease, and exchange mental  
28 health trust land as directed by the commission. The commissioner of  
29 natural resources may transfer trust land to the federal government under

1 AS 38.05.035(b)(9) without the approval of the commission. The commis-  
2 sioner of natural resources shall advise the commission of an intention to  
3 transfer any trust land to the federal government and, after the transfer,  
4 shall make every effort to ensure that the federal government will transfer  
5 to the state trust land of equal value. In managing the trust and the  
6 trust land the commission and the commissioner shall be guided by the  
7 principles established for the Board of Trustees of the Alaska Permanent  
8 Fund Corporation under AS 37.13.120(a).

9 (d) The income from the management of the mental health trust land  
10 shall be deposited in a special trust account in the general fund of the  
11 state and may be appropriated by the legislature only for the support of  
12 the mental health program in the state.

13 \* Sec. 3. RESPONSIBILITIES OF THE COMMISSIONER OF HEALTH AND SOCIAL  
14 SERVICES AND THE COMMISSION. The commissioner of health and social ser-  
15 vices, as directed by the commission, shall

16 (1) select auditors to audit the state's mental health program;  
17 (2) establish the procedures and guidelines to guide the audi-  
18 tors selected under this subsection;

19 (3) propose the guidelines and procedures to be used in de-  
20 termining a range of expenditures for mental health programs necessary to  
21 comply with the state's comprehensive mental health plan.

22 \* Sec. 4. ADDITIONAL RESPONSIBILITIES OF THE COMMISSION. The commis-  
23 sion shall report to the legislature on February 1 of each year on matters  
24 of concern to it including recommendations for amendment of laws relating  
25 to the management of the mental health trust, the mental health trust land,  
26 and the mental health program of the state.

27 \* Sec. 5. DEFINITION. In secs. 1 - 4 of this Act "commission" means  
28 the interim mental health trust land commission established in sec. 1 of  
29 this Act.

- 1 \* Sec. 6. Sections 1 - 5 of this Act are repealed July 1, 1988.
- 2 \* Sec. 7. This Act takes effect immediately in accordance with AS 01.-
- 3 10.070(c).

Offered: 3/26/86  
Referred: Judiciary and  
Finance

Originators: Pignalberi, Gruenberg,  
Boucher, et al

1 IN THE HOUSE BY THE RESOURCES COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 128 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the interim management of mental  
7 health trust land; and providing for an effective  
8 date."

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

10 \* Section 1. The legislature finds that

11 (1) the Congress granted 1,000,000 acres of land to the Terri-  
12 tory of Alaska to be administered as a public trust for the necessary  
13 expenses of the support of mental health in the territory;

14 (2) the land authorized to be granted to the Territory of Alaska  
15 has been selected by the territory and since statehood by the state and  
16 most of the 1,000,000 acres has been conveyed to the state;

17 (3) the Alaska Supreme Court ruled in State v. Weiss, 706 P.2d  
18 681 (Alaska 1985) that the legislation redesignating mental health trust  
19 land as general grant land had actually breached the trust established by  
20 Congress and the court ordered the trust reconstituted;

21 (4) there is presently no statutory authority providing for the  
22 management of the mental health trust land as trust land, Weiss et al. v.  
23 State, 4 FA 82 2208 CIV;

24 (5) the Alaska Mental Health Association as the original sponsor  
25 of the litigation regarding the management of the mental health trust land,  
26 more recently participating as intervenor in the litigation, and the plain-  
27 tiffs have performed and continue to perform an important public function  
28 in their efforts to reconstitute the mental health trust land and to pro-  
29 vide for the proper management of the trust land;

1           (6) there is an immediate need for funds to facilitate the  
2 reconstruction of the trust land and to conclude the litigation over the  
3 status of the mental health trust land; and

4           (7) there is an immediate need for the interim management of the  
5 trust land as a public trust.

6       \* Sec. 2. INTERIM MENTAL HEALTH TRUST LAND COMMISSION ESTABLISHED. (a)  
7 The interim mental health trust land commission is established in the  
8 Department of Natural Resources.

9           (b) The commission established under (a) of this section consists of  
10 five members, including the commissioner of natural resources and the  
11 commissioner of health and social services, or their designees, and three  
12 members appointed by the governor as follows:

13           (1) a member representing the plaintiffs, appointed by the  
14 governor from a list of three names submitted to the governor by the plain-  
15 tiffs in State v. Weiss, 706 P.2d 681 (Alaska 1985);

16           (2) a member representing the intervenors, appointed by the  
17 governor from a list of three names submitted to the governor by the inter-  
18 venors in State v. Weiss, 706 P.2d 681 (Alaska 1985); and

19           (3) a member representing the Governor's Mental Health Advisory  
20 Council, appointed by the governor from a list of three names submitted to  
21 the governor by the Governor's Mental Health Advisory Council.

22           (c) The members of the commission shall elect a presiding officer. A  
23 majority of the commission constitutes a quorum. The affirmative vote of  
24 three members is required to take official action. A vacancy does not  
25 impair the power of the remaining members to exercise the powers of the  
26 commission.

27           (d) Members of the commission serve without compensation but are  
28 entitled to per diem and travel expenses authorized by law for other boards  
29 under AS 39.20.180.

1 (e) The commission shall meet at least once a month.

2 (f) The commission may employ an executive director and staff to  
3 assist it in fulfilling its responsibilities under this Act.

4 \* Sec. 3. RESPONSIBILITIES OF THE COMMISSIONER OF NATURAL RESOURCES AND  
5 THE COMMISSION. (a) The commissioner of natural resources inventory and  
6 catalog the mental health trust land of the state, shall audit each land  
7 transaction involving land that has been part of the mental health trust  
8 land of the state, and determine the status of mental health trust land on  
9 the effective date of this Act under procedures and guidelines established  
10 by the commissioner of natural resources with the approval of the commis-  
11 sion. In the exercise of the commission's responsibilities under this  
12 section, the commission may review the records of the Department of Natural  
13 Resources.

14 (b) The commissioner of natural resources shall, with the approval of  
15 the commission, retain an appraiser to appraise all or a portion of land  
16 that, at any time, was part of the mental health trust land of the state.  
17 The commissioner shall provide the appraiser conducting the appraisal with  
18 written procedures and instructions that have been approved by the commis-  
19 sion.

20 (c) The commissioner of natural resources is responsible for the  
21 management of the mental health land of the state as a public trust under  
22 P.L. 84-830, 70 Stat. 709, under the direction of the commission. The  
23 commission may contract with the plaintiffs or the intervenors for the  
24 performance of functions assigned to it. The commissioner of natural  
25 resources may not sell, lease, or exchange mental health trust land of the  
26 state or an interest in the mental health trust land of the state without  
27 the prior approval of the commission. The commissioner of natural re-  
28 sources shall sell, lease, and exchange mental health trust land of the  
29 state as directed by the commission. In managing the trust and the trust

1 land the commission and the commissioner shall seek to maximize the income  
2 earned and received by the trust consistent with a trustee's obligation to  
3 protect and perpetuate the trust.

4 (d) The proceeds from the management of the mental health trust land  
5 of the state shall be deposited in a special trust account in the general  
6 fund of the state and may be appropriated by the legislature for the sup-  
7 port of the mental health program in the state.

8 \* Sec. 4. RESPONSIBILITIES OF THE COMMISSIONER OF HEALTH AND SOCIAL  
9 SERVICES AND THE COMMISSION. (a) The commissioner of health and social  
10 services, with the approval of the commission, shall

11 (1) select an independent auditor to audit the state's mental  
12 health program;

13 (2) establish the procedures and guidelines to guide the auditor  
14 selected under this subsection;

15 (3) propose the guidelines and procedures to be used in de-  
16 termining a range of expenditures for mental health programs necessary to  
17 comply with the state's comprehensive mental health plan.

18 (b) The commission may review the records of the Department of Health  
19 and Social Services that involve mental health expenditures under the  
20 state's comprehensive mental health plan.

21 \* Sec. 5. ADDITIONAL RESPONSIBILITIES OF THE COMMISSION. The commis-  
22 sion shall make an annual report to the legislature on matters of concern  
23 to it including recommendations of the commission for amendment of the laws  
24 relating the management of mental health trust, the mental health trust  
25 land, and the mental health program of the state.

26 \* Sec. 6. DEFINITION. In secs. 2 - 5 of this Act "commission" means  
27 the interim mental health trust land commission established in sec. 2 of  
28 this Act.

29 \* Sec. 7. Sections 1 - 6 of this Act are repealed July 1, 1988.

1 \* Sec. 8. This Act takes effect immediately in accordance with AS 01.-  
2 10.070(c).

Introduced: 2/17/86  
Referred: Resources,  
Judiciary and Finance

BY PIGNALBERI, GRUENBERG,  
BOUCHER, JENKINS, KOPONEN,  
SZYMANSKI, M.M. MILLER AND  
GOLL

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 128

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the interim management of mental  
7 health trust land; and providing for an effective  
8 date."

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

10 \* Section 1. The legislature finds that

11 (1) the Congress granted 1,000,000 acres of land to the Terri-  
12 tory of Alaska to be administered as a public trust for the necessary  
13 expenses of the support of mental health in the territory;

14 (2) the land authorized to be granted to the Territory of Alaska  
15 has been selected by the territory and since statehood by the state and  
16 most of the 1,000,000 acres has been conveyed to the state;

17 (3) the Alaska Supreme Court ruled in State v. Weiss, 706 P.2d  
18 681 (Alaska 1985) that the legislation redesignating mental health trust  
19 land as general grant land had actually breached the trust established by  
20 Congress and the court ordered the trust reconstituted;

21 (4) there is presently no statutory authority providing for the  
22 interim management of the mental health trust land as trust land, Weiss et  
23 al. v. State, 4FA 82 2208 CIV;

24 (5) the Alaska Mental Health Association as the original sponsor  
25 of the litigation regarding the management of the mental health trust land,  
26 more recently participating as intervenor in the litigation, and the plain-  
27 tiffs have performed and continue to perform an important public function  
28 in their efforts to reconstitute the mental health land and to provide for  
29 the proper management of the trust;

1           (6) there is an immediate need for funds to facilitate the  
2 reconstruction of the trust and to conclude the litigation over the status  
3 of the mental health land; and

4           (7) there is an immediate need for the interim management of the  
5 land as a public trust.

6       \* Sec. 2. INTERIM MENTAL HEALTH TRUST LAND COMMISSION ESTABLISHED. (a)  
7 The interim mental health trust land commission is established.

8       (b) The members of the commission established under (a) of this  
9 section include the commissioner of revenue and the commissioner of health  
10 and social services, or their designees, and three members appointed by the  
11 governor as follows:

12           (1) one member nominated by the plaintiffs;

13           (2) one member nominated by the intervenors; and

14           (3) one member nominated by the Governor's Mental Health Ad-  
15 visory Council.

16       (c) The members of the commission shall elect a presiding officer. A  
17 majority of the commission constitutes a quorum. The affirmative vote of  
18 three members is required to take official action. A vacancy does not  
19 impair the power of the remaining members to exercise the powers of the  
20 commission.

21       (d) Members of the commission who are not members of the commission  
22 ex officio are in the exempt service and are entitled to a monthly salary  
23 equal to Step C, Range 26 of the salary schedule in AS 39.27.011(a) for  
24 Juneau, Alaska.

25       \* Sec. 3. RESPONSIBILITIES OF THE COMMISSION. (a) The commission  
26 shall inventory and catalog the mental health trust land of the state,  
27 shall audit each land transaction involving the mental health trust land of  
28 the state, and determine the status of mental health trust land on the  
29 effective date of this Act. In the exercise of the commission's

1 responsibilities under this section, the commission may review the records  
2 of the Department of Natural Resources.

3 (b) The commission is responsible for the management of the mental  
4 health land of the state as a public trust under P.L. 84-830, 70 Stat. 709.  
5 The commission may contract with the plaintiffs or the intervenors for the  
6 performance of functions assigned to it. The commissioner of natural  
7 resources may not transfer, sell, lease, or exchange mental health trust  
8 land of the state or an interest in the mental health trust land of the  
9 state without the approval of the commission and the concurrence of counsel  
10 for both the plaintiffs and intervenors, or approval by the court. The  
11 commission shall seek to provide sufficient funds for the support of the  
12 mental health program of the state from the management of its mental health  
13 trust land.

14 (c) The proceeds from the management of the mental health trust land  
15 of the state shall be deposited in a special trust account in the general  
16 fund of the state and may be appropriated by the legislature for the  
17 support of the mental health program in the state.

18 (d) The commission shall make an annual report to the legislature on  
19 matters of concern to it including recommendations of the commission for  
20 amendment of the laws relating the management of the mental health trust  
21 land of the state.

22 \* Sec. 4. DEFINITION. In secs. 2 and 3 of this Act "commission" means  
23 the interim mental health trust land commission established in sec. 2 of  
24 this Act.

25 \* Sec. 5. Sections 1 - 4 of this Act are repealed July 1, 1988.

26 \* Sec. 6. This Act takes effect immediately in accordance with AS 01.-  
27 10.070(c).

Introduced: 2/17/86  
Referred: Resources,  
Judiciary and Finance

BY PIGNALBERI, GRUENBERG,  
BOUCHER, JENKINS, KOPONEN,  
SZYMANSKI, M.M. MILLER AND  
GOLL

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 128

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the interim management of mental  
7 health trust land; and providing for an effective  
8 date."

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

10 \* Section 1. The legislature finds that

11 (1) the Congress granted 1,000,000 acres of land to the Terri-  
12 tory of Alaska to be administered as a public trust for the necessary  
13 expenses of the support of mental health in the territory;

14 (2) the land authorized to be granted to the Territory of Alaska  
15 has been selected by the territory and since statehood by the state and  
16 most of the 1,000,000 acres has been conveyed to the state;

17 (3) the Alaska Supreme Court ruled in State v. Weiss, 706 P.2d  
18 681 (Alaska 1985) that the legislation redesignating mental health trust  
19 land as general grant land had actually breached the trust established by  
20 Congress and the court ordered the trust reconstituted;

21 (4) there is presently no statutory authority providing for the  
22 interim management of the mental health trust land as trust land, Weiss et  
23 al. v. State, 4FA 82 2208 CIV;

24 (5) the Alaska Mental Health Association as the original sponsor  
25 of the litigation regarding the management of the mental health trust land,  
26 more recently participating as intervenor in the litigation, and the plain-  
27 tiffs have performed and continue to perform an important public function  
28 in their efforts to reconstitute the mental health land and to provide for  
29 the proper management of the trust;

1           (6) there is an immediate need for funds to facilitate the  
2 reconstruction of the trust and to conclude the litigation over the status  
3 of the mental health land; and

4           (7) there is an immediate need for the interim management of the  
5 land as a public trust.

6       \* Sec. 2. INTERIM MENTAL HEALTH TRUST LAND COMMISSION ESTABLISHED. (a)  
7 The interim mental health trust land commission is established.

8       (l) The members of the commission established under (a) of this  
9 section include the commissioner of revenue and the commissioner of health  
10 and social services, or their designees, and three members appointed by the  
11 governor as follows:

12           (1) one member nominated by the plaintiffs;

13           (2) one member nominated by the intervenors; and

14           (3) one member nominated by the Governor's Mental Health Ad-  
15 visory Council.

16       (c) The members of the commission shall elect a presiding officer. A  
17 majority of the commission constitutes a quorum. The affirmative vote of  
18 three members is required to take official action. A vacancy does not  
19 impair the power of the remaining members to exercise the powers of the  
20 commission.

21       (d) Members of the commission who are not members of the commission  
22 ex officio are in the exempt service and are entitled to a monthly salary  
23 equal to Step C, Range 26 of the salary schedule in AS 39.27.011(a) for  
24 Juneau, Alaska.

25       \* Sec. 3. RESPONSIBILITIES OF THE COMMISSION. (a) The commission  
26 shall inventory and catalog the mental health trust land of the state,  
27 shall audit each land transaction involving the mental health trust land of  
28 the state, and determine the status of mental health trust land on the  
29 effective date of this Act. In the exercise of the commission's

1 responsibilities under this section, the commission may review the records  
2 of the Department of Natural Resources.

3 (b) The commission is responsible for the management of the mental  
4 health land of the state as a public trust under P.L. 84-830, 70 Stat. 709.  
5 The commission may contract with the plaintiffs or the intervenors for the  
6 performance of functions assigned to it. The commissioner of natural  
7 resources may not transfer, sell, lease, or exchange mental health trust  
8 land of the state or an interest in the mental health trust land of the  
9 state without the approval of the commission and the concurrence of counsel  
10 for both the plaintiffs and intervenors, or approval by the court. The  
11 commission shall seek to provide sufficient funds for the support of the  
12 mental health program of the state from the management of its mental health  
13 trust land.

14 (c) The proceeds from the management of the mental health trust land  
15 of the state shall be deposited in a special trust account in the general  
16 fund of the state and may be appropriated by the legislature for the  
17 support of the mental health program in the state.

18 (d) The commission shall make an annual report to the legislature on  
19 matters of concern to it including recommendations of the commission for  
20 amendment of the laws relating the management of the mental health trust  
21 land of the state.

22 \* Sec. 4. DEFINITION. In secs. 2 and 3 of this Act "commission" means  
23 the interim mental health trust land commission established in sec. 2 of  
24 this Act.

25 \* Sec. 5. Sections 1 - 4 of this Act are repealed July 1, 1988.

26 \* Sec. 6. This Act takes effect immediately in accordance with AS 01.-  
27 10.070(c).



Offered: 4/15/85  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE  
2  
3 CS FOR HOUSE BILL NO. 130 (HESS)  
4 IN THE LEGISLATURE OF THE STATE OF ALASKA  
5 FOURTEENTH LEGISLATURE FIRST SESSION  
6 A BILL  
7 For an Act entitled: "An Act relating to educational employees' collective  
8 bargaining agreements; and providing for an effective  
9 date."  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
11 \* Section 1. AS 14.20 is amended by adding a new section to article 6  
12 to read:  
13 Sec. 14.20.540. DECLARATION OF POLICY. The legislature finds  
14 that public school employees are entitled to participate in formulat-  
15 ing decisions that pertain to their employment and to the fulfillment  
16 of their professional duties. Effective and responsive administration  
17 of public schools is most readily obtained through the negotiation of  
18 labor agreements that incorporate both managerial and employee per-  
19 spectives. The legislature further finds that providing for harmoni-  
20 ous and cooperative relations between school boards and employee orga-  
21 nizations will promote public education in the state. Accordingly,  
22 the legislature declares that it is in the best interests of the state  
23 to guarantee educational employees the opportunity to form employee  
24 organizations and to negotiate with respect to the terms of their  
25 employment.  
26 \* Sec. 2. AS 14.20.550 is repealed and reenacted to read:  
27 Sec. 14.20.550. NEGOTIATION BETWEEN SCHOOL BOARDS AND EMPLOYEES.  
28 (a) A school board and an employee bargaining organization shall  
29 negotiate in good faith on matters pertaining to employment and the  
fulfillment of professional duties.

1 (b) In this section, "negotiate in good faith" means the perfor-  
2 mance of mutual obligations of the parties to meet at reasonable times  
3 and to participate actively, indicating a present intention to reach  
4 agreement, or to negotiate an agreement or a question arising under  
5 the agreement, and at the request of either party to execute a written  
6 contract incorporating any agreement reached. However, the require-  
7 ment to negotiate in good faith may not be interpreted to compel  
8 either party to agree to a proposal or to make a concession.

9 \* Sec. 3. AS 14.20.555(a) is amended to read:

10 (a) Negotiations between the [CERTIFICATED] employees of the  
11 regional educational attendance areas and the respective regional  
12 school boards shall be conducted by one team representing all the  
13 [CERTIFICATED] employees [, ONE TEAM REPRESENTING ALL THE CERTIFICATED  
14 ADMINISTRATIVE PERSONNEL IF THEY HAVE JOINED TOGETHER TO NEGOTIATE  
15 INDEPENDENTLY AS PROVIDED IN AS 14.20.560(f),] and one team represent-  
16 ing all the participating regional school boards. In addition, if  
17 administrative personnel or noncertificated employees have joined  
18 together to negotiate independently as provided in AS 14.20.560(f), a  
19 team representing the independent employee organizations shall partic-  
20 ipate in the negotiations.

21 \* Sec. 4. AS 14.20.560 is repealed and reenacted to read:

22 Sec. 14.20.560. NEGOTIATING UNIT. (a) In order to assure to  
23 employees the fullest freedom in exercising the rights provided under  
24 AS 14.20.540 - 14.20.610, the agency shall decide in each case the  
25 unit appropriate for the purposes of negotiation, based on such fac-  
26 tors as community of interest, wages, hours, and other working con-  
27 ditions of the employees involved, the history of negotiating, and the  
28 desires of the employees. Negotiating units must be as large as is  
29 reasonable. The agency shall avoid unnecessary fragmenting of the

1 units.

2 (b) Upon petition for certification by 30 percent of the employ-  
3 ees in a proposed negotiating unit, and if the agency has reasonable  
4 cause to believe that a question of representation exists, the agency  
5 shall provide for an appropriate hearing after reasonable notice. If  
6 the agency finds that there is a question of representation, the  
7 agency shall direct an election by secret ballot to determine whether,  
8 or by which organization, the employees desire to be represented, and  
9 shall certify the results of the election. The parties may agree to  
10 waive a hearing for the purpose of a consent election, voluntary  
11 certification of an employee bargaining organization in accordance  
12 with the regulations of the agency, or an election in a negotiating  
13 unit agreed upon by the parties. The agency shall determine the  
14 persons eligible to vote in an election and shall adopt regulations  
15 governing the election. In an election in which none of the choices  
16 on the ballot receives a majority of the votes cast, the agency shall  
17 conduct a runoff election. The ballot in the runoff election must  
18 provide for selection between the two choices receiving the largest  
19 and the second largest number of valid votes cast in the election.  
20 The agency shall certify an organization that receives the majority of  
21 the votes cast in the election as the exclusive representative of all  
22 the employees in the negotiating unit.

23 (c) An election may not be held in a negotiating unit or in a  
24 subdivision of a negotiating unit if a valid election has been held  
25 within the preceding 12 months.

26 (d) The parties may agree to recognize an employee bargaining  
27 organization as the exclusive representative.

28 (e) The agency may direct an election in a negotiating unit in  
29 which there is in force a valid collective bargaining agreement only

1 during the 90-day period preceding the expiration date of the agree-  
2 ment. However, an agreement may not bar an election upon petition of  
3 persons in the negotiating unit but not parties to the agreement if  
4 more than three years have elapsed since the execution of the agree-  
5 ment or the last timely renewal, whichever was later.

6 (f) Noncertificated employees or certificated administrative  
7 personnel may choose by secret ballot to negotiate independently of  
8 other personnel. If noncertificated employees or certificated admin-  
9 istrative personnel seek to negotiate independently of other certifi-  
10 cated employees, the agency shall review the submitted representation  
11 petition and, if 30 percent of the employees in a proper negotiating  
12 unit sign the petition, the agency shall conduct a representation  
13 election.

14 \* Sec. 5. AS 14.20 is amended by adding a new section to read:

15 Sec. 14.20.565. NEGOTIATION MEETINGS. (a) A school board  
16 shall, upon the written request of an employee bargaining organiza-  
17 tion, meet with the representative of the organization within 20 days  
18 after the request, at a time and place to be agreed upon. In the same  
19 manner, representatives of an employee bargaining organization shall  
20 meet with a school board or its representatives within 20 days after  
21 receiving a written request.

22 (b) Notwithstanding AS 44.62.310, the parties may agree to hold  
23 a negotiation meeting in executive session, but the parties shall make  
24 all final agreements at a public meeting of the school board.

25 \* Sec. 6. AS 14.20.570(a) is amended to read:

26 (a) Upon [THE] written request for mediation by an employee bar-  
27 gaining organization [AGENCY] or a school board, and upon certifica-  
28 tion by the requesting party that the parties cannot agree on an  
29 independent private mediator and that good faith negotiations have

1 terminated in an impasse, the following procedure must be followed  
2 [OCCURS]:

3 (1) Within seven days after [OF] the certification, the  
4 requesting party shall ask the United States Federal Mediation and  
5 Conciliation Service to serve as the agency to resolve the dispute.  
6 The requesting party shall notify the agency that the parties have  
7 requested a mediator.

8 (2) The mediator shall chair all mediation meetings between  
9 the disputing parties and attempt to resolve the differences between  
10 the disputing parties and reach common acceptance of terms and condi-  
11 tions or other items in dispute wherever possible.

12 (3) [WITHIN 30 DAYS OF THE INITIAL MEETING OF THE PARTIES  
13 TO THE DISPUTE THE MEDIATOR SHALL HAVE REDUCED ALL THE AGREED TERMS,  
14 CONDITIONS AND OTHER ITEMS TO A WRITTEN CONTRACT. IF MUTUALLY AGREED  
15 THE PERIOD FOR REPORTING THE CONTRACT TO BOTH PARTIES MAY BE EXTENDED.

16 (4)] Each party to the dispute may select a team [OF NOT  
17 MORE THAN FIVE PERSONS] to present the evidence, thinking, and posi-  
18 tion of the group they represent [,] to the mediator.

19 \* Sec. 7. AS 14.20.580 is repealed and reenacted to read:

20 Sec. 14.20.580. CONTINUED IMPASSE. The mediator shall notify  
21 the agency when the parties jointly agree, or when the mediator inde-  
22 pendently determines, that further mediation would not promote resolu-  
23 tion of the dispute. Following mediation, the parties shall observe a  
24 10-day cooling-off period.

25 \* Sec. 8. AS 14.20 is amended by adding a new section to read:

26 Sec. 14.20.585. ARBITRATION. (a) If the agency is notified  
27 under AS 14.20.580 that further mediation will not promote resolution  
28 of the dispute, the parties shall submit to last-best-offer mediated  
29 arbitration. A collective bargaining agreement between a school board

1 and an employee bargaining organization must include a procedure to  
2 promptly select an arbitrator. If the parties are unable to agree on  
3 a procedure for the selection of an arbitrator, the agency shall  
4 direct the parties to use the services of and comply with the proce-  
5 dures of the United States Federal Mediation and Conciliation Service  
6 or the American Arbitration Association in the selection of an arbi-  
7 trator.

8 (b) In last-best-offer mediated arbitration under this section,  
9 each party shall submit a final offer on each issue in dispute. Each  
10 party shall submit to the arbitrator oral or written evidence in sup-  
11 port of its position, and must be given an opportunity to respond to  
12 the presentation of evidence by the other party. The arbitrator may  
13 propose compromises to points in dispute. At the request of either  
14 party, or on the motion of the arbitrator, the arbitrator may conduct  
15 a public meeting for the purpose of allowing the parties to present  
16 and explain their positions and final offers. The arbitrator shall  
17 allow each party to revise its last best offer before final submission  
18 to the arbitrator for decision.

19 (c) When making the decision, the arbitrator shall consider

20 (1) the history of negotiations between the parties before  
21 entering arbitration;

22 (2) the public interest and financial abilities of the  
23 school district;

24 (3) the interest and welfare of the employee group;

25 (4) changes in the cost of living;

26 (5) the existing employment conditions of the employee  
27 group compared with those of similar groups; and

28 (6) the salaries, fringe benefits, and other conditions of  
29 employment prevailing in the state labor market.

1 (d) For each issue, the arbitrator shall adopt without modifica-  
2 tion the last best offer presented by one of the parties. The arbi-  
3 trator shall issue a final and binding decision not more than 10 days  
4 after the parties have presented their last best offers.

5 (e) The parties shall share the cost of the arbitrator equally.

6 (f) Within 30 days after receipt of a final decision in an  
7 arbitration, a party to the arbitration may file a motion in the  
8 superior court for the judicial district in which the school district  
9 is located to vacate or modify the decision. The court, after hear-  
10 ing, may vacate or modify the decision if the substantial rights of a  
11 party have been prejudiced because

12 (1) the decision violates constitutional or statutory law;

13 (2) the decision exceeds the statutory authority of the  
14 arbitrator;

15 (3) the procedure in the arbitration was unlawful;

16 (4) the proceeding is affected by other error of law;

17 (5) the decision is clearly erroneous in view of the reli-  
18 able, probative and substantial evidence on the whole record; or

19 (6) the decision is arbitrary, capricious, or characterized  
20 by abuse of discretion or clearly unwarranted exercise of discretion.

21 \* Sec. 9. AS 14.20.590 is amended to read:

22 Sec. 14.20.590. GRIEVANCE PROCEDURES. Negotiations agreements  
23 must [EXECUTED AFTER JULY 1, 1975, SHALL] define "grievances" and  
24 provide for grievance procedures [FOR THE CERTIFICATED STAFF]. The  
25 grievance procedures must [SHALL] provide that the final step in the  
26 procedure is [SHALL BE] binding arbitration. The negotiations agree-  
27 ment must [SHALL] provide a method for the selection of an arbitrator  
28 to resolve grievances.

29 \* Sec. 10. AS 14.20.600 is amended to read:

1           Sec. 14.20.600. INDIVIDUAL RIGHTS [CASES]. Nothing in AS 14.-  
2           20.540 - 14.20.615 [AS 14.20.550 - 14.20.590] prohibits an employee  
3           from addressing a school board, as an individual, through the regular  
4           procedures of the school board for hearing individual cases.

5           \* Sec. 11. AS 14.20.600 is amended by adding a new subsection to read:

6           (b) The agency may adopt regulations setting out procedures  
7           consistent with the purposes of AS 14.20.540 - 14.20.615 to safeguard  
8           the rights of nonassociation of employees having bona fide religious  
9           convictions.

10          \* Sec. 12. AS 14.20 is amended by adding new sections to read:

11           Sec. 14.20.605. EDUCATIONAL EMPLOYEES LABOR RELATIONS AGENCY.

12           (a) There is established in the Department of Administration an  
13           educational employees labor relations agency that consists of three  
14           members appointed by the governor and confirmed by the legislature  
15           meeting in joint session. Members serve for terms of three years.  
16           Members serve at the pleasure of the governor. The governor shall  
17           appoint as members one representative of management, one representa-  
18           tive of organized labor, and one public member. The members repre-  
19           senting management and organized labor must have knowledge and exper-  
20           ience in educational employment issues.

21           (b) Members of the agency receive no compensation for their  
22           services, but are entitled to per diem and travel expenses authorized  
23           for boards and commissions under AS 39.20.180.

24           (c) The agency may employ staff to implement the provisions of  
25           AS 14.20.540 - 14.20.615.

26           Sec. 14.20.606. POWER TO IMPLEMENT NEGOTIATIONS. (a) The  
27           agency shall perform the functions described in AS 23.40.120 - 23.40.-  
28           180 to carry out the provisions of AS 14.20.540 - 14.20.615.

29           (b) The prohibition of unfair labor practices, as described in

1 AS 23.40.110, applies to a school board and an employee bargaining  
2 organization.

3 \* Sec. 13. AS 14.20.610 is amended to read:

4 Sec. 14.20.610. LEGAL RESPONSIBILITIES OF BOARDS. Nothing in  
5 AS 14.20.540 - 14.20.615 [AS 14.20.550 - 14.20.600] may be construed  
6 as an abrogation or delegation of the legal responsibilities, powers,  
7 and duties of the school board, including its right to make final  
8 decisions on educational policies.

9 \* Sec. 14. AS 14.20 is amended by adding a new section to article 6 to  
10 read:

11 Sec. 14.20.615. DEFINITION. In AS 14.20.540 - 14.20.615  
12 "agency" means the educational employees labor relations agency.

13 \* Sec. 15. Notwithstanding AS 14.20.605 enacted by sec. 12 of this Act,  
14 one initial member of the educational employees labor relations agency  
15 shall serve a term of one year and one initial member shall serve a term of  
16 two years.

17 \* Sec. 16. This Act does not modify or terminate a negotiating unit or  
18 agreement in existence on the effective date of this Act.

19 \* Sec. 17. This Act takes effect immediately in accordance with AS 01.-  
20 10.070(c).

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

Page 1 of 3

**REQUEST**

Bill/Resolution No.: CSHB 130 (HESS)  
 Title: Educational Employees'  
 Collective Bargaining  
 Sponsor: Governor Bill Sheffield  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Administration  
 Program Category Affected: \_\_\_\_\_  
 Independent Operations  
 BRU, Program or Subprogram(s) Affected:  
 New--Educational Employees Labor Relations Agency

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	68.3	72.4	76.7	81.3	86.2
300 CONTRACTUAL	-0-	90.2	95.6	101.3	107.4	113.8
400 SUPPLIES	-0-	1.0	1.1	1.2	1.3	1.4
500 EQUIPMENT	-0-	5.0	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	164.5	169.1	179.2	190.0	201.4

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	-0-	164.5	169.1	179.2	190.0	201.4
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	164.5	169.1	179.2	190.0	201.4

**POSITIONS:**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS: (Attach a separate page if necessary)**

Prepared By: William J. Gibbons, Director  
 Division: Labor Relations

Phone: 465-4404

Date: March 29, 1985

Approved by Commissioner: Lisa Rudd  
 Agency: Department of Administration

Date: 4/1/85

**Distribution (by Agency preparing fiscal note):**

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

COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 130 (L&C)  
FISCAL NOTE ANALYSIS

Educational Employees' Collective Bargaining  
Prepared by Division of Labor Relations  
Department of Administration  
March 29, 1985

This bill establishes an Educational Employees' Labor Relations Agency (EELRA) to administer the revised teachers' collective bargaining act. The effect of the revisions is to extend the privileges of the collective bargaining process to all noncertificated educational employees, and to add finality to the bargaining process now authorized for teachers by Title 14.

The three-member EELRA, with the advice and assistance of a professional on contract (probably an attorney), will investigate matters brought before it, hold hearings, resolve Unfair Labor Practice Complaints and conduct elections. The office will be in Anchorage, where a full-time clerk typist (on contract) will provide technical and clerical support.

Since both EELRA staff members will be on contract, the costs of their services are allocated to Contractual Services (\$76,200).

Rental charges for office space are estimated at \$6,000, based on a General Services and Supply quotation of typical Anchorage office space costs. The balance of Contractual Services (\$18,000) is reserved for other administrative costs such as telephone charges, office equipment rentals, duplicating materials, and equipment maintenance agreements.

The allotment for travel (\$68,300) permits a total of 91 individual trips of three days each to various school districts throughout Alaska. This assumes a total of 26 hearings per year which will require travel. For 13 of the hearings a group of four is expected to travel (the three EELRA members plus the attorney). Only three people are expected to travel for the remaining 13 trips (two of the EELRA members--a quorum--plus the attorney). An average cost of \$750 per individual trip in transportation and per diem expenses is assumed.

The budget for office supplies (paper, pens, typewriter ribbons, etc.) is \$1.0. A one-time equipment expense of \$5.0 is included for the initial purchase of office furniture and equipment (desks, chairs, file cabinets).

COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 130 (L&C)  
FISCAL NOTE ANALYSIS

Educational Employees' Collective Bargaining  
Prepared by Division of Labor Relations  
Department of Administration  
March 29, 1985

For future years' expenses, the following assumptions have been used:

1. An inflation rate of 6.0% per annum.
2. No significant change in the work load from FY 86 levels.

POSITION PAPER  
CSHB 130 (L&C)

Collective Bargaining Between School Boards and Their Employees

The Committee Substitute for House bill 130 contains the following elements which the Department of Administration thinks are essential to meet the needs of educational collective bargaining:

1. The policy regarding public employment collective bargaining as stated by the Legislature in the Policy Declaration of AS 23.40 will protect the inherent right of elected public officials to manage, balanced against the employees' inherent right to participate in the development of the rules used to manage.
2. The need to continue the integrity of a separate Educational Title in the Alaska Statutes, where the needs of school district employees and school boards can be recognized.
3. The right of all school district employees to organize into representative groups of their own choosing, and to have a bilateral resolution to the collective bargaining process that will be overseen by an Educational Labor Relations Agency.


In addressing specific provisions of the bill, the Department of Administration finds itself in agreement with:

1. The establishment of an Educational Labor Relations Board composed of three members. The Board will hear unfair labor practice complaints, determine appropriate bargaining units, and conduct elections.
2. Clarifying the right of non-certificated educational employees to organize, thus making them equal to their counterparts in State service. This is looked upon by the Administration as an important step toward equitability in the law.

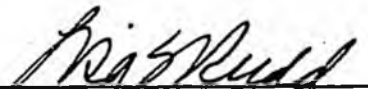
3. The establishment of a series of steps beyond impasse to bring bargaining to a conclusion by providing for mediated arbitration which is designed to spur both parties to seek compromise as quickly as possible.

The Department of Administration recommends that the bill be amended to authorize teleconferencing of EELRA hearings where all interested parties agree. Teleconferencing some hearings will reduce the EELRA's funding requirements, and will enable them to conduct more hearings within allotted funds.

For the reasons outlined above, the Department of Administration supports CSHB 130 (L&C).

  
\_\_\_\_\_  
William J. Gibbons  
Director  
Division of Labor Relations  
Department of Administration

Date: 3/5/85

  
\_\_\_\_\_  
Commissioner Lisa Rudd  
Department of Administration

Date: 4/1/85

# MEMORANDUM

# State of Alaska

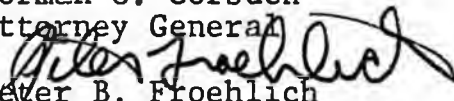
TO: Louann Cutler  
Professional Assistant  
House Finance Committee

DATE: April 25, 1985

FILE NO: 377-132-85

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch  
Attorney General

By:   
Peter B. Froehlich  
Assistant Attorney General  
Legislation/Regulations Section

SUBJECT: Suggested teleconferencing addition to CSHB 130 (HESS) on educational employee labor relations

In order to ensure that the new educational employees labor relations agency under CSHB 130 (HESS) could use teleconferencing to the same extent as could agencies covered by the Administrative Procedure Act under CSHB 140 (R1s), we suggest that a new statutory section be added to sec. 12 of the bill.

Page 9, line 3, insert:

Sec. 14.20.608. TELECONFERENCING. (a) The educational employees labor relations agency may use teleconferencing for the benefit or convenience of the parties, the public, or the agency, in connection with any proceeding or act authorized under this chapter, so long as all statutory and constitutional rights of the parties are either waived or adequately protected.

(b) Teleconferencing may be used to establish quorums, to receive public input, and to facilitate the participation of parties.

(c) In this section, "teleconferencing" means information exchange by audio or video medium.

Please let me know if I can answer any questions about this suggestion.

PBF:md

cc: Karen Clarke  
Division of Labor Relations  
Dept. of Administration

Sioux Plummer, Director  
Division of Teleconference Services  
Dept. of Administration

Arthur H. Peterson  
Assistant Attorney General  
Legislation/Regulations Section

# MEMORANDUM

# State of Alaska

TO: Louann Cutler  
Professional Assistant  
House Finance Committee

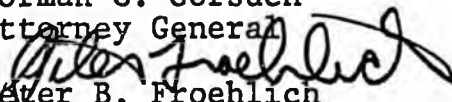
DATE: April 25, 1985

FILE NO: 377-132-85

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch  
Attorney General

SUBJECT: Suggested teleconferencing addition to CSHB 130(HESS) on educational employee labor relations

By:   
Peter B. Froehlich  
Assistant Attorney General  
Legislation/Regulations Section

In order to ensure that the new educational employees labor relations agency under CSHB 130(HESS) could use teleconferencing to the same extent as could agencies covered by the Administrative Procedure Act under CSHB 140(Rls), we suggest that a new statutory section be added to sec. 12 of the bill.

Page 9, line 3, insert:

Sec. 14.20.608. TELECONFERENCING. (a) The educational employees labor relations agency may use teleconferencing for the benefit or convenience of the parties, the public, or the agency, in connection with any proceeding or act authorized under this chapter, so long as all statutory and constitutional rights of the parties are either waived or adequately protected.

(b) Teleconferencing may be used to establish quorums, to receive public input, and to facilitate the participation of parties.

(c) In this section, "teleconferencing" means information exchange by audio or video medium.

Please let me know if I can answer any questions about this suggestion.

PBF:md

cc: Karen Clarke  
Division of Labor Relations  
Dept. of Administration

Sioux Plummer, Director  
Division of Teleconference Services  
Dept. of Administration

Arthur H. Peterson  
Assistant Attorney General  
Legislation/Regulations Section

# MEMORANDUM

# State of Alaska

TO: Louann Cutler  
Professional Assistant  
House Finance Committee

DATE: April 25, 1985

FILE NO: 377-132-85

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch  
Attorney General

By: *Peter B. Froehlich*  
Peter B. Froehlich  
Assistant Attorney General  
Legislation/Regulations Section

SUBJECT: Suggested teleconferencing addition to CSHB 130(HESS) on educational employee labor relations

In order to ensure that the new educational employees labor relations agency under CSHB 130(HESS) could use teleconferencing to the same extent as could agencies covered by the Administrative Procedure Act under CSHB 140(RIs), we suggest that a new statutory section be added to sec. 12 of the bill.

Page 9, line 3, insert:

Sec. 14.20.608. TELECONFERENCING. (a) The educational employees labor relations agency may use teleconferencing for the benefit or convenience of the parties, the public, or the agency, in connection with any proceeding or act authorized under this chapter, so long as all statutory and constitutional rights of the parties are either waived or adequately protected.

(b) Teleconferencing may be used to establish quorums, to receive public input, and to facilitate the participation of parties.

(c) In this section, "teleconferencing" means information exchange by audio or video medium.

Please let me know if I can answer any questions about this suggestion.

PBF:md

cc: Karen Clarke  
Division of Labor Relations  
Dept. of Administration

Sioux Plummer, Director  
Division of Teleconference Services  
Dept. of Administration

Arthur H. Peterson  
Assistant Attorney General  
Legislation/Regulations Section

## STATE OF ALASKA -- BUDGET UNIT SUMMARY

16:53

4/24/85

AGENCY: DEPARTMENT OF ADMINISTRATION  
CATEGORY: GENERAL GOVERNMENT

PROGRAM: LABOR RELATIONS AGENCY

COMPONENT DESCRIPTION	FY85 ATH	FY85 SUP	ADJ BASE	REQUEST	GOVERNOR	GOV.AMD.	HOUSE	SENATE	C. C.	BILLS	LEG.REC
LABOR RELATIONS AGENCY	87.0		87.0	101.8	101.8	101.8	87.0				
** TOTAL	87.0		87.0	101.8	101.8	101.8	87.0				
** CHANGE VERSUS FY85 ATH				17.0%	17.0%	17.0%		-100.0%	-100.0%		
OBJECT DESCRIPTION											
TRAVEL	9.1		9.1	9.1	9.1	9.1	9.1				
CONTRACTUAL	75.9		75.9	90.7	90.7	90.7	75.9				
COMMODITIES	2.0		2.0	2.0	2.0	2.0	2.0				
FUNDING SUMMARY											
GENERAL FUND	87.0		87.0	101.8	101.8	101.8	87.0				
** GENERAL FUND CHANGE VS. FY85 ATH				17.0%	17.0%	17.0%		-100.0%	-100.0%		

AGENCY: DEPARTMENT OF ADMINISTRATION  
 CATEGORY: GENERAL GOVERNMENT

PROGRAM: LABOR RELATIONS AGENCY  
 SUB-PROGRAM: LABOR RELATIONS AGENCY

## ----- F I S C A L Y E A R 1 9 8 6 -----

EXPENDITURES & FUNDING	(01) FY84 ACT	(02) FY85 ATH	(03) FY85 RP	(04) FY85 SUP	(05) ADJ BASE	(06) REQUEST	(07) GOVERNOR	(08) GOV.AMD.	(09) HOUSE	(10) SENATE	(11) C. C.	(12) BILLS	(13) LEG.
01 PERS. SERV.													
02 TRAVEL	5.4	9.1			9.1	9.1	9.1	9.1	9.1				
03 CONTRACTUAL	90.4	75.9			75.9	90.7	90.7	90.7	75.9				
04 COMMODITIES	.8	2.0			2.0	2.0	2.0	2.0	2.0				
05 EQUIPMENT													
06 LANDS/BLDGS													
07 GRANTS, CLMS													
08 MISC.													
** TOTAL EXPEND	96.6	87.0			87.0	101.8	101.8	101.8	87.0				
09 I-A TRANSFER													
1004 GEN FUND	96.6	87.0			87.0	101.8	101.8	101.8	87.0				
15 FULL TIME													
16 PART TIME													
17 TEMPORARY													
18 STAFF MONTHS													

SECTION ANALYSIS  
CSHB 130 (HESS)

An Act relating to Public School Employees Collective Bargaining

Section 1: Declaration of Policy; adds a new section AS 14.20.540 establishing that public school employees have a right to participate in formulating decisions pertaining to their employment, that such will provide cooperative and harmonious relationships and promote public education in the State.

Section 2: Repeals and reenacts AS 14.20.550 to define good faith bargaining.

Section 3: Amends AS 14.20.555 to make optional coordinated employee negotiations available to administrative certificated personnel and to classified employees.

Section 4: Repeals and reenacts AS 14.20.560 to establish guidelines for the Educational Employees Labor Relations Agency regarding who will be in a particular bargaining unit.

Section 5: Negotiation Meetings: Adds a new section AS 14.20.565, which establishes that negotiations will commence within 20 days of a request by either party and that all final agreements must be made at a public meeting of the school board.

Section 6: Amends AS 14.20.570 (A) to more clearly define the access to and utilization of the mediation procedure.

Section 7: Repeals and reenacts AS 14.20.580 to provide for a 10 day cooling off period in the event that mediation is unsuccessful in resolving the dispute.

Section 8: Arbitration: Amends by adding a new section, AS 14.20.585 which provides for last best offer mediated arbitration. It further provides that the parties attempt to agree on a procedure to select the arbitrator. If they are unable to agree the EELRA shall direct the parties to utilize the services and procedures of the Federal Mediation and Conciliation Service or the American Arbitration Association.

The arbitrator will receive the last best offer on each issue in dispute of each party; provide for argument, evidence, and testimony; may conduct a public hearing; and shall select the final offer on each issue of one of the parties as a binding determination.

Establishes criteria to be considered by an arbitrator in making a final decision.

Provides for court review of an arbitrator's decision.

The costs of the arbitrator are equally shared by the parties.

Section 9: Amends AS 14.20.590 to include all public school employees in the requirement that all collective bargaining agreements must contain a provision providing for a grievance procedure ending in arbitration.

Section 10: Provides for an employee's right, as an individual, to address a school board.

Section 11: Amends AS 14.20.600 to provide for bona fide religious objection to collective bargaining agreements containing provision for payment of a service fee to reimburse the exclusive bargaining agent for the expenses of representation.

Section 12: Adds a new section, AS 14.20.605, establishing an Educational Employees Labor Relation Agency which is responsible for the administration of the law.

Adds a new section, AS 14.20.606 which provides that the EELRA shall have responsibility to adjudicate unfair labor practices and incorporates, by reference, AS 23.40.120 - 180. Defines and prohibits unfair labor practices and incorporates by reference, AS 23.40.110.

Section 13: Legal Responsibilities of Boards: Amends AS 14.20.610 to clarify authority of a school board to make final decisions on educational policies.

Section 14: Defines "agency" as the educational employee labor relations agency.

Section 15: Provides for staggered terms of the agency members by making one initial term one year and a second initial term two years in duration.

Section 16: Provides grandparent protection to current recognized negotiating units and collective bargaining agreements in existence on the effective date of the Act.

Section 17: Effective date clause: immediate.



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

## ANCHORAGE REGIONAL OFFICE

1411 W 33RD  
ANCHORAGE, ALASKA 99503  
(907) 274-0536

## JUNEAU OFFICE

147 S. FRANKLIN #207  
JUNEAU, ALASKA 99801  
(907) 586-3090

## FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
(907) 456-4435

## House Bill 130

RE: Educational Employees Collective Bargaining  
Amends AS 14.20.550 - 610

### NEA-ALASKA

### CONCEPT OUTLINE

- \* Provides all school district employees the right to organize and negotiate.
- \* Establishes an Educational Employees Labor Relations Agency to administer the law.
- \* Continues to utilize mediation through the Federal Mediation and Conciliation Service.
- \* Provides for final offer arbitration on the issues not resolved in mediation. The arbitrator shall have authority to mediate an agreement before making a final decision.
- \* Provides a public hearing before selection of a final offer by the arbitrator.
- \* Provides for the selection of the arbitrator and for the costs of arbitration to be shared by the parties.
- \* Defines and prohibits unfair labor practices.

HB 130 CS (HESS)

ALASKA:

HB 130 amends the current bargaining law for certificated employees of school districts by providing:

- 1) issue by issue last best offer mediated arbitration
- 2) statutory right of classified school employees to bargain
- 3) establish an educational employees labor relations board to address bargaining unit determination and unfair labor practices.

NEED FOR THE AMENDMENTS:

The current school employee negotiations law, AS 14.20.550-610, fails every reasonable test of equity and effective bilateral decision making.

House Bill 130

- \* The right of all school employees to organize and participate in matters pertaining to negotiations does not have adequate statutory protection. Classified employees currently do not have the statutory right to bargain as do other public employees. Addressed in Section 1
- \* Advisory arbitration does not achieve finality in the bargaining process. (Right now there are still three districts that have not yet settled the contract for 1984-85) The Alaska Supreme Court has ruled that the Anchorage teacher's strike of 1979 was illegal. Section 8
- \* There is no administrative procedure for resolution of alleged unfair labor practices. Section 12

SCOPE OF BARGAINING: This is addressed in the current bargaining statute with the language,

"Section 14.20.550. NEGOTIATION BETWEEN SCHOOL BOARDS AND EMPLOYEES. A school board and an employee bargaining organization shall negotiate in good faith on matters pertaining to employment and the fulfillment of professional duties."

HB 130 does not amend this language.

This language was interpreted by the Alaska Supreme Court in 1977. There has been no further litigation regarding scope since 1977. Both parties have lived with the list of non-negotiable and negotiable items of the Kenai Decision (attached).

Any amendment to the scope language would invite litigation because it would "undo" Kenai. HB 130 further provides that:

\* Section 13 AS 14.20.610 is amended to read:

Sec. 14.20.610. LEGAL RESPONSIBILITIES OF BOARDS. Nothing in AS 14.20.540 - 14.20.615 [AS 14.20.550 - 14.20.600] may be construed as an abrogation or delegation of the legal responsibilities, powers, and duties of the school board, including its right to make final decisions on educational policies.

This language is intended to reinforce the court standard applied in the Kenai Decision; i.e. educational policy is the prerogative of the school board.

L85:19



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

## ANCHORAGE REGIONAL OFFICE

1411 W. 33RD  
ANCHORAGE, ALASKA 99503  
(907) 274-0536

## JUNEAU OFFICE

147 S. FRANKLIN #207  
JUNEAU, ALASKA 99801  
(907) 586-3090

## FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
(907) 456-4435

April 1, 1985

TO: Representative Al Adams, Chair  
Members of the Finance Committee

RE: CSHB 130 (HESS)

"An Act relating to educational employees' collective bargaining agreements; and providing for an effective date."

NEA-Alaska strongly supports and urges passage of CSHB 130 (HESS).

It brings much needed reform to the current teacher negotiations law and provides an effective means of getting to finality in the negotiations process through issue by issue, last best offer, mediated arbitration.

This bill has spent several weeks in the Labor and Commerce Committee, and the HESS Committee. The members of these Committees heard many hours of testimony, questioned and probed the components of the bill. From our perspective, the bill in its present form represents compromise. We feel that both sides were given full opportunity to advocate their positions and we believe the bill, if passed as is, would rectify the essential deficiencies of the current bargaining law.

We urge you to move the bill without further amendment.

Attached please find additional information which we hope will be useful to the Committee.

Thank you for your consideration of this crucial legislation.

Respectfully submitted:

Gayle Pierce  
President

L85:05

Attachments

**Article 6. Negotiation and Mediation.**

**Sections**

- 550. Negotiation with Certificated Employees
- 555. Optional Coordinated Employee Negotiations
- 560. Teachers bargaining groups
- 570. Mediation board
- 580. Duties of mediations board
- 590. Grievance procedures
- 600. Individual cases
- 610. Legal responsibilities of boards

**Sec. 14.20.550. Negotiation with Certificated Employees.** Each city, borough and regional school board, shall negotiate with its certificated employees in good faith on matters pertaining to their employment and the fulfillment of their professional duties. (Sec. 1 ch 18 SLA 1970; am Sec. 3 ch 71 SLA 1972; am Sec. 21 ch 124 SLA 1975)

**Sec. 14.20.555. Optional Coordinated Employee Negotiations.** (a) Negotiations between the certificated employees of the regional educational attendance areas and the respective regional school boards shall be conducted by one team representing all the certificated employees, one team representing all the certificated administrative personnel if they have joined together to negotiate independently as provided in sec. 560(f) of this chapter, and one team representing all the participating regional school boards.

(b) Each team may consist of as many members as there are regional school boards. Each board is entitled to one member on the team. However, each negotiating team shall consist of not less than five members.

(c) A regional educational attendance area board may by resolution choose to conduct its own negotiations in accordance with sec. 550 of this chapter.

(Sec. 22 ch 124 SLA 1975)

**Sec. 14.20.560. Teachers' bargaining groups.** (a) When a majority of the certificated employees in a school district have designated an educational organization of their own choosing to bargain for them, the organization shall be recognized by the school board as the bargaining agent for all the certificated staff, except superintendents of schools. The membership of any such recognized educational organization shall be composed principally of those employed in the teaching profession in Alaska.

(b) The organization representing a majority of the certificated employees of a school district shall, upon the request of the school board, submit an affidavit verifying that it does represent a majority of the certificated employees. Recognition of the employee bargaining agency by a school board is valid for one year or a term agreed upon by the two parties to an agreement, unless a majority of certified staff votes to request the termination of recognition of the employee bargaining agency. The school board is entitled to an affidavit of membership from the employee bargaining agency once each year.

(c) Upon the request of 25 percent of the certificated employees in a district, the school board shall hold, within 20 days, an election by secret ballot of all the certificated employees in order to determine their choice of a bargaining agency. The results of this election are binding for one year.

(d) A school board shall, upon the written request of the employee bargaining organization, meet with the representative of the organization within 20 days of the request at a time and place to be mutually agreed upon. In the same manner, representatives of an employee bargaining organization are required to meet with a school board or its representatives within 20 days after receiving a written request. The school board and the employee organization may not select more than five representatives each to negotiate for them.

(e) The negotiating meeting may be held in executive session upon mutual agreement of both parties, but all final agreements shall be made at a public meeting of the school board.

(7) Nothing in this section shall be construed to prevent certificated administrative personnel groups, including principals and assistant principals, from having the right to negotiate independently of the other certificated personnel if they choose to do so as the result of a secret ballot. (Sec. 1 ch 18 SLA 1970; am Sec. 1 ch 43 SLA 1971)

**Sec. 14.20.570. Mediation.** (a) Upon the written request for mediation by an employee bargaining agency or a school board, and upon certification by the requesting party that the parties cannot agree on an independent private mediator and that good faith negotiations have terminated in an impasse, the following occurs:

(1) Within seven days of the certification the requesting party shall ask the United States Federal Mediation and Conciliation Service to serve as the agency to resolve the dispute.

(2) The mediator shall chair all mediation meetings between the disputing parties and attempt to resolve the differences between the disputing parties and reach common acceptance of terms and conditions or other items in dispute wherever possible.

(3) Within 30 days of the initial meeting of the parties to the dispute the mediator shall have reduced all the agreed terms, conditions and other items to a written contract. If mutually agreed the period for reporting the contract to both parties may be extended.

(4) Each party to the dispute may select a team of not more than five persons to present the evidence, thinking and position of the group they represent, to the mediator.

(b) If the mediation meetings are held during the school day, teachers representing an employee bargaining agency shall be released from classroom or other assigned duties without penalty or loss of pay.

**Sec. 14.20.580. The Mediation Report.** (a) Within 10 days each party to the dispute shall accept or reject in total the mediation report.

(b) If rejected by either party, the mediator shall have an additional five days to review the objections and prepare a final report.

(c) If the final report is rejected by either side, the governor may appoint an advisory arbitrator to review the issues and make recommendations for solution. (Sec. 1 ch 18 SLA 1970; am Sec. 2 ch 201 SLA 1975)

**Sec. 14.20.590. Grievance Procedures.** Negotiations agreements executed after the effective date of this Act shall define "grievances" and provide for grievance procedures for the certificated staff. The grievance procedures shall provide that the final step in the procedure shall be binding arbitration. The negotiations agreement shall provide a method for the selection of an arbitrator. (Sec. 1 ch 18 SLA 1970; am Sec. 3 ch 201 SLA 1975)

**Sec. 14.20.600. Individual cases.** Nothing in secs. 550-590 of this chapter prohibits an employee from addressing a school board, as an individual, through the regular procedures of the school board for hearing individual cases. (Sec. 1 ch 18 SLA 1970)

**Sec. 14.20.610. Legal responsibilities of boards.** Nothing in secs. 550-600 of this chapter may be construed as an abrogation or delegation of the legal responsibilities, powers, and duties of the school board including its right to make final decisions on policies. (Sec. 1 ch 18 SLA 1970)

**EDUCATION**

**4 AAC 80.010  
4 AAC 80.040**

**CHAPTER 80.  
ADVISORY ARBITRATION: TEACHER  
NEGOTIATIONS**

**Section**

- 10. Purpose**
- 20. Request for appointment of advisory arbitrator**
- 30. Appointment of advisory arbitrator**
- 40. Arbitrator's report**

**4 AAC 80.010. PURPOSE.** The purpose of this chapter is to set out the conditions upon which the governor will exercise his discretion to appoint an advisory arbitrator in certificated staff/school board negotiations under AS 14.20.580(c) and the procedures that will be followed in making the appointment. (Eff. 6/17/77, Reg. 62)

Authority: AS 14.20.580(c)

**4 AAC 80.020. REQUEST FOR APPOINTMENT OF ADVISORY ARBITRATOR.** (a) The bargaining representative for the certificated staff or the school board or both may request the governor to appoint an advisory arbitrator. Verbal requests for an advisory arbitrator must be followed by letter or telegram within five days.

(b) A request for an advisory arbitrator must contain the following:

(1) a statement, verified by the party not making the request, that the final report of a mediator, as provided for in AS 14.20.580(b), has been rejected by either or both parties to the negotiation process;

(2) a statement of how any expenses incurred by the advisory arbitrator will be funded by the parties; and

(3) a written nomination of up to three candidates for appointment as advisory arbitrator who are mutually acceptable to both parties in negotiations and who are willing to serve as advisory arbitrator, if appointed. If the parties cannot agree on any candidates for appointment as advisory arbitrator, the request must contain a statement that both parties will accept the appointment of an advisory arbitrator from the American Arbitration Association.

(c) A request for an advisory arbitrator may not contain any statement or description of the issues involved in the negotiations impasse. (Eff. 6/17/77, Reg. 62)

Authority: AS 14.20.580(c)

**4 AAC 80.030. APPOINTMENT OF ADVISORY ARBITRATOR.** (a) If the governor decides to exercise his discretion under AS 14.20.580(c), an advisory arbitrator will be appointed within 10 days of receipt of a request for an advisory arbitrator which conforms with the requirements of sec. 20 of this chapter. Notification of the appointment will be provided to both parties to the negotiations by the office of the governor.

(b) Following the notification of appointment to the parties, all communications related to the advisory arbitration of the issues at impasse must take place between the parties and the arbitrator. Attempts on the part of either party to discuss or otherwise communicate with the office of the governor with respect to the issues will not be acknowledged.

(c) If the governor decides not to exercise his discretion to appoint an advisory arbitrator under AS 14.20.580(c), both parties to the negotiations will be so advised within 10 days of receipt of the request for an advisory arbitrator. (Eff. 6/17/77, Reg. 62)

Authority: AS 14.20.580(c)

**4 AAC 80.040. ARBITRATOR'S REPORT.** At the conclusion of their arbitration duties, advisory arbitrators shall submit a summary of their activities and recommendations, along with a copy of their report, to the parties and to the office of the governor. (Eff. 6/17/77, Reg. 62)

Authority: AS 14.20.580(c)

NEGOTIABLE AND NON-NEGOTIABLE

according to

The ALASKA SUPREME COURT

Those items which are non-negotiable are as follows:

- 1. Relief from Non-Professional Chores
- 2. Class Size and Teacher Load
- 3. Ombudsman
- 4. Evaluation of Administrators
- 5. Teacher Aides
- 6. Para-Professionals
- 7. PTR Formula
- 8. Specialists
- 9. Calendar

Those items which are negotiable are:

- 1. Recognition
- 2. Negotiation Procedures
- 3. Grievance Procedures
- 4. Salary Schedule Conditions
- 5. Salary Schedule
- 6. Automatic Cost of Living
- 7. Extra Curricular and Extra Duty
- 8. Extended Contract
- 9. Additional Educational Employment
- 10. Life Insurance
- 11. Health Insurance
- 12. Liability Insurance
- 13. Automobile Allowance
- 14. Tuition/In-Service Workshops
- 15. Reimbursement for Physical Examinations
- 16. Sabbatical Leave
- 17. Career Development
- 18. Administrative Leave
- 19. Personal Leave
- 20. Sick Leave and Bereavement
- 21. Personal and Sick Leave for Half-Time Employees

- 22. Unpaid Leave of Absence
- 23. Maternity Leave
- 24. Political Leave
- 25. Duty-Free Lunch
- 26. Teacher Preparation Periods
- 27. Monthly Planning Time
- 28. In-Service Days
- 29. Discretionary Materials
- 30. Personnel Files
- 31. Teacher Transfer
- 32. Teacher Retention
- 33. Job Openings
- 34. Reduction of Staff
- 35. Teacher Contracts
- 36. Association Rights and Privileges
  - (a) Information
  - (b) Release Time for Meetings
  - (c) Use of School Buildings
  - (d) Use of School Equipment
  - (e) Supplies
  - (f) Mail Facilities
  - (g) Subcontracting
  - (h) Non jeopardy
  - (i) Exclusive Rights
  - (j) KPEA Professional Leave
  - (k) Dues Deduction/Continuing Membership
  - (l) Other Deductions
  - (m) Conformity to Law
  - (n) School Board Agenda
  - (o) Preliminary Draft of Budget
- 37. Agreement Print-up and Dissemination
- 38. Duration of Contract

Overview of the States  
SCHOOL EMPLOYEE BARGAINING

Bargaining is prohibited by law in three states.

North Carolina, Texas, Virginia

There is no bargaining statute in 13 states.

Arizona, Arkansas, Colorado, Georgia, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, South Carolina, Utah, West Virginia, Wyoming

One state has meet and confer by statute.

Alabama

There is a bargaining statute for school employees in the other 33 states and the District of Columbia.

<u>States</u>	<u>Finality provisions by statute</u>
Alaska:	Supreme Court - no right to strike
Connecticut:	last best offer issue by issue arbitration
Dist. of Columbia:	conventional arbitration
Hawaii:	limited right to strike
Illinois:	limited right to strike
Iowa:	last best offer issue by issue
Massachusetts:	conventional arbitration
Minnesota:	conventional arbitration
Montana:	conventional arbitration
Nebraska:	conventional arbitration
New York:	conventional arbitration
Ohio:	limited right to strike
Oregon:	limited right to strike
Pennsylvania:	limited right to strike
Rhode Island:	conventional arbitration
Wisconsin:	last best offer package

- 18 strike not prohibited
- 5 limited right to strike provided
- 7 conventional arbitration
- 2 issue by issue last best offer arbitration
- 1 package last best offer

4/85

LAST BEST OFFER BINDING ARBITRATION IN OTHER STATES

IOWA: A bargaining law was enacted in 1974. The first implementation of arbitration occurred in 1976 because of the effective date. The mechanism for finality is last best offer issue by issue mediated arbitration.

The law is a comprehensive public employees law.

RECORD WITH ARBITRATION:

---

Each year since 1976 statistics have been nearly constant:

- \* Approximately 420 K-12 units bargaining annually
- \* Approximately 300 settled voluntarily - 71%
- \* Approximately 100 settled after impasse and/or before arbitration - 24%
- \* Approximately 20 settled by arbitration (17 in 83-84) - 5%

There is no special pattern that is revealed by districts going to arbitration.

---

SETTLEMENTS: From 1976 to 1983 voluntary settlements were consistently higher for monetary items. In the last two years, settlements are comparable. The first 100 districts to settle voluntarily establish the standard statewide with slight variations depending on comparability with districts in proximity.

SCOPE OF BARGAINING: Iowa has a list of items that are bargainable and a management rights section with a list.

Since 1976 there have been approximately 2,000 disputes between management and labor regarding the interpretation of the scope list vs. the management rights list of the law.

There have been ten state Supreme Court cases and there are more cases pending at this time. A very high level of litigation over these sections continues.

The rule of the court has been that for a subject to be a mandatory subject of bargaining an item must be listed in the law and, where language in the scope and management rights sections are in apparent conflict, the negotiability of an item should be construed narrowly. The court has found, however, that procedures subject to bargaining should be construed broadly.

It is expected that the Iowa legislature will enact amendments to the law this year. The amendments will add to the negotiability list "discipline and discharge" and will direct the court to give listed items their conventional definition, not to construe them narrowly in view of the management rights section.

WISCONSIN:

Finality was enacted in 1977. The first implementation of arbitration occurred in 1978.

The mechanism for settlement is last best offer package mediated arbitration.

Prior to the adoption of the law, finality was by strike.

In Wisconsin, like Iowa, all public employees are covered by the same law.

RECORD WITH ARBITRATION

---

As part of the 1977 act, the Legislative Council was directed to make periodic reports regarding the effects of the law. A review was completed in 1984 and is currently being updated.

The 1984 review concluded that: In six years ....

- \* Total number of contracts negotiated 5,520
- \* Those settled voluntarily prior to impasse 2,983 - 54%
- \* Settlement after impasse and before arbitration 2,113 - 39%
- \* Settlements by arbitration 424 - 7%

There is no special pattern revealed by units going to arbitration.

---

SETTLEMENTS: The statistics reveal that throughout the six years of the law, voluntary settlements are consistently higher than arbitrated settlements on monetary items.

For settlements in 1983-84: The percent increase in base salaries in voluntary settlements was 6%. For a Master's in the tenth year the increase was 6.4%.

The percent increase in arbitrated settlements in base salaries was 5.6%. For a Master's in the tenth year the increase was 5.7%.

SCOPE OF BARGAINING: The Wisconsin legislation of 1977 did not amend scope which was broadly defined in existing statute as "wages, hours and conditions of employment". Although this language was litigated before 1977, there has been little litigation regarding scope in recent years with only one case, in 1980, going to the Court of Appeals.

CONNECTICUT:

Finality was enacted in 1979. Contracts for 1980-81 were the first bargained under the new provisions. The 1979 law amended the existing bargaining statute for certificated school personnel by providing binding arbitration. The mechanism for settlement is last best offer issue by issue arbitration. In Connecticut the arbitrator does not mediate. Prior to the enactment of binding arbitration, the Connecticut law had advisory arbitration as a process. Connecticut had a major strike in 1978.

In Connecticut the bargaining law is for teachers and administrators. Classified school employees and other public employees are covered under a separate law providing the statutory right to bargain and finality with binding arbitration.

RECORD WITH ARBITRATION

<u>Contracts For</u>	<u>Total</u>	<u>Settled at Table</u>	<u>Mediation</u>	<u>Arbitration</u>
1980-81	78	15	25	38
1981-82	78	28	27	23
1982-83	90	30	31	29
1983-84	89	16	36	37
1984-85	90	30	39	23
* 1985-86	90	22	42	26

All contracts to be bargained for the 1985-86 school year were completed in March of this year.

Totals:

- \* 517 contracts bargained
- \* 141 settled at the table - 27%
- \* 200 settled in mediation - 39%
- \* 176 settled in arbitration - 34%

Before the law, mediation was successful in only 10% to 15% of the cases that went to mediation.

After the law, mediation has been successful in 53% of the cases taken.

In Connecticut, two factors account for the relatively high percentage of bargaining situations ending in arbitration as compared to Iowa and Wisconsin.

- 1) In Connecticut, a town government can challenge a voluntary settlement but not an arbitration award. So many times, although the two parties agree without the assistance of a mediator or an arbitrator, they go to arbitration to protect their agreement.
- 2) In Connecticut, the arbitrator can not mediate, so more awards are written even though by the time the parties submit the last best offer they are virtually in agreement and the award in fact reflects a voluntary settlement.

SETTLEMENTS: Throughout the six years, voluntary settlements on monetary issues have been generally higher by a percent or 2 than the arbitrated settlements. Each year the first 15 voluntary settlements tend to set the pattern that all other settlements will follow.

The over-all impact of the binding arbitration provision has been to induce more meaningful bargaining before impasse and in mediation than occurred before the law was amended in 1979.

SCOPE OF BARGAINING: The Connecticut legislation did not amend the scope of what was bargainable or arbitrable. The language in Connecticut is "to negotiate with respect to salaries and other conditions of employment". This language was enacted in 1965 and was interpreted by the Connecticut Supreme Court in 1970 in a decision that listed negotiable and non-negotiable items (as did the Alaska Supreme Court in the Kenai case in 1977). Scope has not been an issue since 1970 in Connecticut. Both parties have abided by the 1970 court decision.

L85:18

PUBLIC OPINION IN ALASKA

Further, the public supports interest arbitration for teachers.

- Between 1979 and 1981 Senator Colletta, Representative Phillips, and Senator Kelly found constituent support for interest arbitration ranging from 67% to over 80%.
- In early 1983, a supermarket survey of nearly 5,000 shoppers in ten communities around the state found over 90% in support of arbitration for teachers.
- The 1983 Hellenthal Survey, commissioned by the Anchorage School District, reinforces the need for arbitration with a favorable response slightly in excess of 80%.
- In April of 1985 a supermarket survey of shoppers in ten communities again found over 90% in support of arbitration for teachers.

The question on the April 1985 survey was:

"Should teacher negotiation disputes be settled through - strike, or arbitration?"

L85:17

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 25, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that relates to the collective bargaining privileges of educational employees throughout the state.

Other than employees of the University of Alaska, noncertificated educational employees in the state do not at present enjoy an effective opportunity to participate in the establishment of the terms and conditions of their employment through the collective bargaining process. As sec. 1 of the bill provides, the policy embodied in this bill is to extend to noncertificated educational employees the fundamental privileges of the collective bargaining process, an essential process now available to certificated employees and most other public employees.

The bill amends AS 14 to establish a comprehensive collective bargaining process to be implemented under the auspices of a newly-established educational employees labor relations agency. In large part, the proposed procedures are identical to procedures established under the Public Employment Relations Act (PERA), AS 23.40.070 -- 23.40.260. To assure continuity and consistency in public employment matters, the membership of the educational employees labor relations agency includes the three current members of the state personnel board, who will serve in their new capacity along with two additional gubernatorial appointees.

Once employees exercise their privilege to form employee organizations, sec. 2 of the bill would require school boards to engage in collective bargaining with respect to the terms of employment. If the parties are not able to reach agreement, sec. 6 requires the parties to use the services of a mediator in an attempt to informally resolve the bargaining impasse. If mediation is unsuccessful, the


parties must observe a 10-day cooling-off period (sec. 7).

In the typical instance where the collective bargaining process reaches an impasse, employees are authorized to engage in a strike. Where educational employees are involved, however, the consequences of a strike pose unique and, in my view, unacceptable burdens to local communities. For that reason, the bill proposes that in the event of an impasse, the parties must resolve the impasse through binding arbitration. Under arbitration, each party must submit its last best offer to the arbitrator, and the arbitrator must decide which offer, in its entirety, is preferable. The "last best offer" form of arbitration is essential to the balance struck by this bill, because it provides a practical assurance that the parties will state realistic positions and, as importantly, that all parties will have an incentive to resolve their differences through bargaining, not arbitration.

I add that the purposes of this legislation could, in the alternative, be obtained through amendment of the Public Employment Relations Act (PERA; AS 23.40). While there are benefits to each of the possible legislative alternatives, I concluded that the policy consideration raised in defining the collective bargaining prerogatives of educational employees are sufficiently unique to merit a separate statutory scheme. Of course, I would be pleased to consider a bill that includes educational employees under PERA if that is the legislature's preference.

This bill provides a workable procedure which enables educational employees to enjoy the privileges of the collective bargaining process in a fashion which does not intrude upon the autonomy of local school boards.

Sincerely,



Bill Sheffield  
Governor

# State of Alaska

## COMMITTEES

HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES  
(Co-Chairman)  
HOUSE JUDICIARY  
HOUSE COMMUNITY AND  
REGIONAL AFFAIRS



*Lorna*

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4968

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

**Representative Max F. Gruenberg, Jr.**  
**District 11**  
**Spenard, Upper Midtown Anchorage**

April 18, 1985

Chairman Al Adams  
House Finance Committee  
Pouch V  
Room C-505  
Juneau, AK 99811

RE: HB 130, letter of Superintendent Fred Pomeroy

Dear Chairman Adams:

Unfortunately, I did not review the enclosed letter from Superintendent Pomeroy until after the HESS Committee had considered HB 130. Thus, I was unable to distribute the letter to the members of the committee when we deliberated on the bill.

I am therefore requesting that your staff distribute the letter to your committee members, so that they may consider Mr. Pomeroy's suggestions.

Thank you for your courtesy in this matter.

Cordially,

A handwritten signature in dark ink, appearing to read "MFG".

Max F. Gruenberg, Jr.

MFG/ke  
Encls.

# KENAI PENINSULA BOROUGH SCHOOL DISTRICT

148 North Binkley Street

Soldotna, AK 99669

Phone 907/262-5846

April 3, 1985

Representative Max Gruenberg  
Pouch V  
Juneau, Ak. 99811

Dear Representative Gruenberg:

I am corresponding with you in regard to Committee Substitute for HB 130(L and C).

The Kenai Peninsula Borough School District Board of Education is unequivocally opposed to any form of binding arbitration. The reason is quite simple. The Board of Education believes that it is the duly elected representative of the public, charged with the responsibility to deal with its employees in a fair and equitable manner.

The record in Alaska will show that there is only one instance where a strike has resulted involving school employees. Therefore, it would appear that the current provision of advisory arbitration, as set forth in statute, has served the school employees in Alaska quite well. The Board of Education does not believe it is necessary to involve a third party in the process to make binding decisions when the current procedure has been quite effective.

I would like to make the following observations regarding the proposed legislation as contained in the committee substitute:

Section 2 would mandate collective bargaining between Boards of Education and all groups of employees. Once again, it appears that the (meet and confer) arrangement which has existed between Classified Employees and Boards of Education has functioned quite well. To mandate collective bargaining where such an arrangement may not be desired by either party, employer or employee, seems an unnecessary effort on the part of the State of Alaska.

Section 3, sub-section C of the bill draft indicates that "When making the decision, the arbitrator shall consider" a number of stipulations. I would suggest that "shall consider" be replaced "shall rule based upon". It seems that if an arbitrator is going to be dealing in these areas he should not only consider but rule based upon the identified stipulations.

Section 3, sub-section F relates to provisions whereby an arbitrators ruling may be challenged in Superior Court. It appears that the statements contained in this sub-section are extremely vague. I would suggest in Item 7 which would indicate that the Superior Court "may vacate the arbitrators rulings if the rulings violate the stipulations set forth in sub-section C of Section 3."

Section 9 relates to grievance procedures. It appears to me that it must be made clear, in this section, that the grievance

procedure only applies to alleged violations of the negotiated agreement between the employer and the employee. The grievance procedure cannot relate to alleged violations of Board of Education policy.

Section 12 deals with the creation of an "Educational Employees Labor Relations Agency." I find it difficult to see the wisdom in creating another State Agency when the legislature is struggling with reductions in the budgets of existing agencies.

In conclusion, we would encourage your opposition to passage of this legislation. If it appears that this bill must move out of the HESS committee, I would appreciate your consideration to the comments in this correspondence.

Sincerely,

*Fred Pomeroy*

Fred Pomeroy  
Superintendent

FP/dar

# State of Alaska

## COMMITTEES

HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES  
(Co-Chairman)  
HOUSE JUDICIARY  
HOUSE COMMUNITY AND  
REGIONAL AFFAIRS



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4968

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spennard, Upper Midtown Anchorage

April 18, 1985

Fred Pomeroy, Superintendent  
Kenai Peninsula Borough School District  
148 North Binkley Street  
Soldotna, AK 99669

Dear Mr. Pomeroy:

Thank you very much for your letter of April 3 regarding House Bill 130. This legislation was taken up by the House HESS Committee and passed out on Thursday, April 11, 1985. I am enclosing a copy of the HESS Committee substitute. The bill will next go to the House Finance Committee.

My position has consistently been to support binding arbitration. I therefore voted for the HESS Committee substitute. I believe it is important to finalize the collective bargaining process. I must apologize to you because, although I received your letter approximately Monday, April 8 after I returned from Anchorage, due to the press of other business (evening committee meetings, etc.), I did not get a chance to review the letter until the evening of April 11, after the HESS Committee had passed the bill out.

Because you suggested specific amendments, I would have taken specific steps to distribute your letter to all members of the HESS Committee when we considered the bill. Thus they, too, would have had the benefit of your suggestions. I would have done this, although I do not agree with many of your suggestions. I want to be completely fair to you, however.

For this reason, I am forwarding your letter, with the enclosed letter, to Chairman Al Adams of the House Finance Committee, so that he may distribute it to the members of his committee for their consideration. I trust this will be satisfactory.

Once again, thank you very much for writing.

Cordially,

A handwritten signature in cursive script, appearing to read "Max F. Gruenberg, Jr.".

Max F. Gruenberg, Jr.

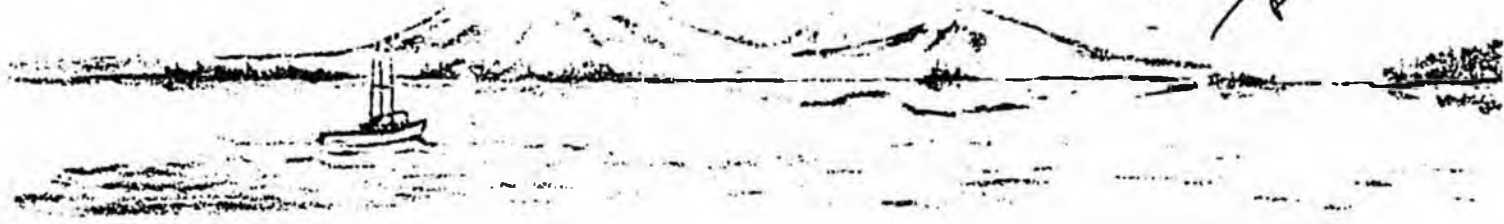
MFG/ke

cc: Rep. Al Adams

# SITKA SCHOOL DISTRICT

ACCREDITED BY THE NORTHWEST ASSOCIATION OF SECONDARY SCHOOLS & COLLEGES

*Low*  
~~\_\_\_\_\_~~  
FYI



P.O. BOX 179 SITKA, ALASKA 99835

February 14, 1985

The Honorable Bill Sheffield  
Governor of Alaska, Juneau  
Pouch "A" (MS0101)  
Juneau, Alaska 99811

Dear Governor Sheffield:

I have enclosed a copy of a speech that the Honorable Coleman Young gave to the Michigan legislature.

Coleman Young was a former Senator in the Michigan legislature before he was elected Mayor of Detroit. I think the speech is very apropos in light of HB130 that you have had introduced into the Alaska house regarding binding arbitration.

~~Coleman Young was always strongly backed by labor as a Senator.~~ He pushed hard and succeeded in getting mandatory binding arbitration (Act312) into Michigan law. Now, as you read his speech, remember that he is black, a Democrat, labor backed and a long-time Mayor of Detroit.

I hear him saying over and over that we must preserve collective bargaining and I agree with that premise. He also repeatedly warns that binding arbitration is destroying collective bargaining and I have had enough background in Michigan to agree with that point as well.

Address of Mayor Coleman A. Young to Legislative Forum on New Directions  
for Public Employee Labor Relations - LANSING, MICHIGAN - Dec 4, 1979

"What's Wrong with Public Employee Labor Relations in Michigan?"

MAYOR YOUNG  
WAS ONE OF THE  
PRIME SPONSORS  
OF ACT 312 WHEN  
HE WAS IN  
THE LEGISLATURE.

I have been asked to come before you today and tell you what I think is wrong with public employee labor relations in Michigan. Most of you are experts on public employee labor relations and so you already know what's wrong. There are some greater problems and there are some lesser problems. I'm going to discuss the problems that have had the most serious affect on the City of Detroit.

The number one problem is, of course, compulsory arbitration. When Act 312 was first passed, most of us sincerely hoped it would be a success. It was a new idea and we felt it was certainly worth a try. After all, no one wants police or fire strikes or strikes by any other employees for that matter. The Romney Committee recommended trying it, several noted arbitration experts recommended trying it -- and so we voted to try it. I say "we" because I was a member of the State Senate at the time, and I voted for it too. We now know that compulsory arbitration has been a failure. Slowly, inexorably, compulsory interest

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

# SITKA SCHOOL DISTRICT

ACCREDITED BY THE NORTHWEST ASSOCIATION OF SECONDARY SCHOOLS & COLLEGES

*Low*  
*[Signature]*  
*F4I*



P.O. BOX 179 SITKA, ALASKA 99835

February 14, 1985

The Honorable Bill Sheffield  
Governor of Alaska, Juneau  
Pouch "A" (MS0101)  
Juneau, Alaska 99811

Dear Governor Sheffield:

I have enclosed a copy of a speech that the Honorable Coleman Young gave to the Michigan legislature.

Coleman Young was a former Senator in the Michigan legislature before he was elected Mayor of Detroit. I think the speech is very appropo in light of HB130 that you have had introduced into the Alaska house regarding binding arbitration.

Coleman Young was always strongly backed by labor as a Senator. He pushed hard and succeeded in getting mandatory binding arbitration (Act312) into Michigan law. Now, as you read his speech, remember that he is black, a Democrat, labor backed and a long-time Mayor of Det.oit.

I hear him saying over and over that we must preserve collective bargaining and I agree with that premise. He also repeatedly warns that binding arbitration is destroying collective bargaining and I have had enough background in Michigan to agree with that point as well.

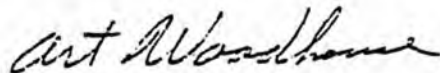
Governor Sheffield  
February 14, 1985  
Page 2

SITKA SCHOOL DISTRICT

I hope you will consider calling him after you have digested his comments, because I am sure he can draw you a better picture of the impact that HB130 will have on the Alaskan economy than anything I can tell you as Superintendent of the Sitka School District.

I hope you will take the time to read over his remarks. Thank you.

Respectfully,



Art Woodhouse  
Superintendent

AW/sh

encs.

cc: ✓ Legislators  
State Board of Education