

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1407 HESS SB 650 - SB 668 1987

evening and night. Interview children in institutions, preferably in groups. Explain the purpose of your visit, and have some specific questions prepared, but allow the discussion to take a "rap session" form if the children, or youth, lead it there.

IV. Boards: Send a copy of the licensing report to the board of directors (of organizations) and offer to meet with them. Go whenever invited. You may wish to request a meeting with the board, through the director. When a director is uncooperative, and there are serious program issues, approach the board directly. Discussions with boards generally are not interviews per se. Open discussion about your findings, and the relationship to rules generally is the primary focus. It is helpful to know the chairman—to keep communication lines open. Try to meet with the board at least every other year.

V. Consultation and information sharing: There are many ways you can be helpful to providers, some examples are:

1. Maintain a supply of informational literature on various subjects to hand out when relevant.
2. If you know a provider who can be helpful to another, mention it and suggest that direct contact be made.
3. Because of your own background experience and your knowledge of providers you regulate, you quite naturally become a reservoir of useful information; share that information when appropriate—but always as *information*, not directives.
4. Keep communication lines open with provider organizations.

VI. General principles in communicating regarding licensing:

1. If you are new, or the provider is, it is better to say too little than too much. Don't feel compelled to comment about everything in sight.
2. Be careful in your use of humor until you know the other person well. Your "authority" tends to carry into all your statements.

3. *NEVER* jest about negative licensing actions. (any more than you would jest about the performance rating of a subordinate).

4. Be a good listener; sometimes you learn more by allowing a person to tell his story in his own way, than by interrogation.

5. Use only as much authority as you need for the situation. Over-playing your authority weakens your role, and damages working relationships.

6. Your investigations and interviews must not be disruptive to the program. Arrange your activities to be as unobtrusive as possible, e.g., interview children between activities, or during their free time rather than during their scheduled activities.

7. Enforcement powers are directly related to the law and rules; surveillance powers are much broader because you may need to explore an area to determine whether or not it is rule related.

8. Allow your sixth sense to operate; if something doesn't add up, or "feel" right, check it out.

9. Be careful how you use information given in confidence, especially by not putting the person who gave it to you in jeopardy. Generally, strategies for how to handle it should be developed with your supervisor.

10. Do not share negative information about one provider with another.

11. For a variety of reasons it is virtually impossible to do an effective licensing job without also giving consultation. *ALWAYS* be sure the distinction is clear.

12. Nearly all business is done verbally, but nothing is official until it is put in writing.

13. In all but the most extreme cases, include some positive comments in your licensing report. They probably are deserved and will lend credibility to the report, as well as make it more functionally useful.

14. Be yourself: remember that you are a human being, as well as the person you are interviewing.

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

April 1, 1982

House H.E.S.S. Committee

SECTIONAL ANALYSIS OF SB 650

PURPOSE: This is an amendment of the statutes dealing with licensure of facilities, including administration, programs, and physical plants, which care for children or dependent adults. Two additional features are added - 1) waivers, which are currently covered by regulation and 2) provisions for a temporary license during a period in which a potential licensee is upgrading for licensure. The most important aspect of this bill is the change of licensing period from one year to two. The department plans to adopt regulations requiring "critical checks" to ensure adequate protection for dependents during the interim periods.

- Sec. 1: Replaces "boarding home, foster home, group home, or institution" with "facility". Standards for operation shift from a departmental responsibility to statutory mandate.

Replaces section .050 with (b). Changes the license period from one year to two. The concept of a conditional waiver is introduced in (c). Non-transferrability is transferred from the former section (b) of .040 to (d) of the re-write.

Revocation or modification procedures formerly found in .050 are now found in (e) of .040. Notice time requirements remain unchanged.

- Sec. 2: A new section is added allowing a provisional license to be issued to a new facility or a facility which is temporarily in non-compliance with regulations if the facility submits a plan for conformity to the department. The provisional license is for a specified time period, which may not exceed one year from the issuance date.
- Sec. 3: Adds another definition to that section of the chapter which describes "facility" broadly.
- Sec. 4: The former AS 47.35.050 has been incorporated within the re-write of .040 as noted earlier. Therefore, this section repeals the former paragraph.
- Sec. 5: Immediate effective date.

700

DOCUMENT NO. 57-82

February 22, 1982

The Honorable Charles H. Parr
Senator
Alaska State Legislature
Pouch, V
Juneau, Alaska 9911

Dear Senator Parr:

This is in follow-up to our discussion on Senate Bill No. 650 relating to biennial licensing of foster homes and residential facilities for children and dependent adults and for child day care facilities. I was pleased that you expressed an interest in our licensing program and am writing at the request of John R. Pugh, Director of the Division. The purpose of this letter is to provide you with additional information on the nature of the licensing process and the loads that our community care licensing specialists carry.

The intent of the licensing program is to provide equal protection and opportunity to children and dependent adults who must spend part of the day away from their families or who must live apart from their families. Licensing establishes a floor of quality which must be enforced equally ensuring a basic level of care and protection, adequate programs, and opportunity for development. The rights of those regulated include the right to notice of the requirements, notice of non-compliance and reasonable time limits for corrections, receiving information on how to achieve correction, and access to administrative hearings and court decisions. The Division also offers substantial technical assistance to new programs and to programs that have experienced difficulties following licensure.

The licensing process is relatively lengthy. In some communities there are monthly or semi-monthly meetings to familiarize potential applicants with licensing requirements and procedures. An applicant then submits an application form and supporting documents which may include a report of a tuberculosis test, references, occasionally a report of a physical examination, and authorization to conduct a criminal history check. In home-sized facilities the applicant is then visited by a licensing specialist who inspects the home and discusses the applicant's plans to meet the nutrition, health, and developmental needs of persons in care, handling emergencies, methods of dealing with parents in family day care and agency expectations in foster homes. For the larger facilities the specialist also requests inspections by appropriate safety and environmental health authorities.

John R. Pugh

700

The on-site program assessment is more complex. It necessitates interviews with the operator, staff, residents, and children, when appropriate. File reviews are also conducted to assess whether staff meet personnel qualifications and if children's records are in order. Generally, within 60 days of receipt of an application and after the study and inspection to verify compliance with standards, a license is issued. There are no fees for a State license. To better facilitate understanding of what is entailed in the process, enclosed are three sample licensing studies. We had no samples of day care studies available in the office, so the blank standard-by-standard evaluation forms are enclosed for reference. The Alaska Children's Services emergency shelter study is considered an exemplary study. Day care studies generally contain very little narrative in comparison to the studies for residential facilities and child foster homes.

Licensing studies are performed largely by community care specialists located in the Division's six regional offices. A few are performed by Division field office staff and approved public and private agency staff for child foster homes. As I mentioned to you in our conversation following the hearing last week, the number of facilities does not properly reflect the community care licensing specialists' load. In January, 1982, there were 1,156 licensed facilities with a capacity of 8,943. The hand tables that I mentioned to you from our Southcentral Regional office have arrived and I think the percentages reflected can appropriately be applied statewide. The turnover rate of new facilities coming on and facilities closing is 50% of the total facilities over a one year period. The number of licenses that will require an age or capacity amendment during one year is 25%. Two-thirds (2/3) of the facilities are provisionally licensed first and then converted to annual licensure. In addition, 64 waiver requests were processed during 1981 and 134 complaint/allegations were investigated. A load of 50 facilities per specialist is as high as is considered appropriate, given the turnover rate, the necessity to provide technical assistance, process amendments and waivers, and investigate complaints. In the Northern Region, the Southern Region, and the Southeast Region, specialists are carrying a facility load which is double what is considered acceptable to be able to ensure adequate protection to persons in care.

Specialists also provide professional consultation to facilities and agencies to upgrade the quality of services. Because of their unique position of knowledge about community facilities, they also serve as referral resources to families, social service staff, and others in selecting an appropriate facility for an individual child or adult and in stimulating related community support services for facilities and agencies.

We are pleased to have this opportunity to share additional information with you. You are correct that our review of facilities was similar to the review conducted by an environmental health inspector, we would

be able to carry a much larger facility load for each specialist. We have simplified the process by providing a checklist system. If we simply handed out regulations and applications, and went through the checklist, we would be seeing far fewer applicants achieve licensure. Instead we have assisted applicants, particularly where no service or limited services exists, to help them through the process. It has seemed to be the most appropriate approach where services are not well established.

Senator Fischer asked a question regarding terminology. In the definition of a "facility" on Line 26, Page 2, of Senate Bill No. 650, we did intentionally omit "boarding homes" from the list of facility types. A boarding home is another term for a child foster home and is referenced in the foster home definition section of the statute. Listing it again under the definition of a "facility" was considered duplicative and unnecessary.

I hope this information is useful to you in your final deliberations and decision regarding Senate Bill No. 650. I plan to attend the Monday afternoon, 3:00 p.m. session and will be available to answer any additional questions you may have at that time.

Sincerely,



Patricia J. Monroe
Community Care Licensing
Coordinator

Enclosures

PM:kk

COMMUNITY CARE FACILITY LICENSING

The Intent of the licensing program is to provide equal protection and opportunity to children and dependent adults who must spend part of the day away from their families or who must live apart from their families. Licensing establishes a floor of quality which must be enforced equally ensuring a basic level of care and protection, adequate programs, and opportunity for development. The rights of these regulated include the right to notice of the requirements, notice of non-compliances and reasonable time limits for corrections, receiving information on how to achieve correction, and access to administrative hearings and court decisions. The Division also offers substantial technical assistance to new programs and to programs that have experienced difficulties following licensure.

The licensing process is relatively lengthy. In some communities there are monthly or semi-monthly meetings to familiarize potential applicants with licensing requirements and procedures. An applicant then submits an application form and supporting documents which may include a report of a tuberculosis test, references, occasionally a report of a physical examination, and authorization to conduct a criminal history check. In home-sized facilities the applicant is then visited by a licensing specialist who inspects the home and discusses the applicants plans to meet the nutrition, health, and developmental needs of persons in care, handling emergencies, methods of dealing with parents in family day care and agency expectations in foster homes. For the larger facilities the specialist also requests inspections by appropriate fire safety and environmental health authorities.

The on-site program assessment is more complex. It necessitates interviews with the operator, staff, residents, and children, when appropriate. File reviews are also conducted to assess whether staff meet personnel qualifications and if children's records are in order. Generally, within 60 days of receipt of an application and after the study and inspection to verify compliance with standards, a license is issued. There are no fees for a State license.

Licensing studies are performed largely by community care specialists located in the Division's six regional offices. A few are performed by Division field office staff and approved public and private agency staff for child foster homes. The number of facilities per specialist does not properly reflect the community care licensing specialists' load. In January, 1982, there were 1,156 licensed facilities with a capacity of 3,943. The turnover rate of new facilities coming on (opening ??) and facilities closing is 50% of the total facilities over a one year period. The number of licenses that will require an age or capacity amendment during one year is 25%. Two-thirds (2/3) of the facilities are provisionally licensed first and then converted to annual licensure. In addition, 64 waiver requests were processed during 1981 and 134 complaint/allegations were investigated. A load of 50 facilities per specialist is as high as is considered appropriate, given the turnover rate, the necessity to provide technical assistance, process amendments and waivers, and investigate complaints. In the Northern Region, the Southern Region, and the Southeast Region, specialists are carrying a facility load which is double what is considered acceptable to be able to ensure adequate protection to persons in care.

Specialists also provide professional consultation to facilities and agencies to upgrade the quality of services. Because of their unique position of knowledge about community facilities, they also serve as referral resources to families, social service staff, and others in selecting an appropriate facility for an individual child or adult and in stimulating related community support services for facilities and agencies.

POSITION PAPER

SENATE BILL NO. 650

"An Act relating to licensing of foster homes, group homes, nurseries, and institutions; and providing for an effective date."

AMENDING LICENSING PRACTICES

This Bill would amend Chapter 35 in Title 47 of the Alaska Statutes governing the licensing of non-medical facilities in Alaska, including day care centers and family day care homes for children, and foster homes and residential facilities for children or dependent adults. The three proposed changes are: 1) amending licensing practices to provide for biennial rather than annual licensing; 2) authorizing waiver of Department regulatory standards when appropriate; and 3) establishing the parameters for provisional licensing.

INCREASED RESPONSIBILITY

The need for this amendment stems from a substantial increase in workload under this statute resulting both from efforts by the Department to fully implement the statute and from added responsibilities established by legislation without the authorization of additional staff. Thirteen (13) Community Care Licensing Specialists in seven (7) locations provide licensing for over 1,100 Alaskan facilities.

IMPLEMENTATION OF THE STATUTE

Though the Licensing Statute dates back to 1951, full implementation is still in process. The licensing of child placement agencies authorized in 1967 has not been implemented. In 1982 up to thirty (30) child placement agencies will be added to specialist's licensing assignments. The statutory requirement that the Department supervise licensed facilities also had not been adequately implemented. A statewide complaint investigation procedure was implemented in the Fall of 1980 to correct this deficiency, with the result that the Department has been able to correct very serious situations, including:

- physical and sexual abuse to children in care
- fire and sanitation hazards
- food of limited nutritional value or no food being served
- mishandling of medication
- negligent supervision
- humiliating treatment of minority groups
- operation without a license

While the new complaint investigation procedure has required much staff time, it is considered the most important consumer protection provided under the statute aside of licensing new programs.

NEW LEGISLATION

Two (2) bills have been signed into law in recent years which have added to the number of facilities falling under the authority of the licensing statute without accompanying authorization for additional staff needed to review these programs against standards. Licensing of facilities for dependent adults was added by the Legislature in 1977. In 1981 thirty-nine (39) adult residential care facilities were licensed using existing staff and the recruitment, and licensure for twenty (20)

adult foster homes will begin in February, 1982. The First Session of the Twelfth Legislature passed Senate CS for CS for House Bill No. 508 creating a child care grant program for day care centers, family day care homes, and pre-schools to be administered by the Department of Community and Regional Affairs. Programs applying for a grant must comply with licensing standards as a condition of funding. Of the two thousand five hundred (2,500) family day care homes and one hundred fifty (150) pre-schools exempt from the licensing statute, a substantial number may be attracted to apply in order to obtain a grant. The positions requested for the licensing reviews under this new legislation were not authorized by the Legislature. To prevent an excessive number of applications for licensing, the Department of Community and Regional Affairs has agreed not to publicize the new grant program until corrective licensing legislation could be achieved.

BIENNIAL LICENSING

The proposed change to biennial rather than annual licensing in Section 040(a) and (b) of the Bill offers a reasonable solution to the unmet need for additional staff. Performing annual reviews is currently absorbing a significant percentage of staff time. Changing to a mandatory review every two years would reduce that pressure, allowing staff to concentrate on new and marginal programs. Monitoring visits may still occur more frequently than every two years, but the full mandatory licensing reviews would only occur on a biennial basis. Biennial licensing is sound practice. Michigan and Texas, considered to have two of the finest licensing programs in the nation, have biennial licensing.

WAIVERS, PROVISIONAL LICENSES, AND OTHER CHANGES

Other minor but important changes are proposed.

Section 040 has been retitled, "LICENSING."

The former provisions of paragraph 040(a) have been retained in paragraph 040(a) of the amendment.

The Department is authorized to grant waivers in paragraph (c). A waiver provision is in the Department regulations for each facility type. Granting of waivers is treated as a serious matter conducted by a waiver committee within the Department. Authority for this process should be contained in the statute.

The provisions of paragraph 040(d) were formerly in paragraph 040(b) and have been clarified to prohibit transfer of a license to a different owner or to a different facility.

Revocation has been moved to paragraph 040(e), formerly in Section 050, with no change except that the Department will be required to give written notice when a license has been modified to provisional status.

Section 47.35.055 contains new statutory language. Provisional licensing has always been a practical and necessary practice in Alaska, but policy has varied. The language contained in this section establishes criteria for the issuance of provisional licenses and limits the maximum duration of a provisional license to two

POSITION PAPER

SENATE BILL NO. 650

PAGE 3

years. Provisional licenses would be issued to all new facilities and to facilities which are temporarily unable to conform to licensing requirements. New facilities would be issued a biennial license after the Department has inspected the facility and determined that standards are being met.

The term "facility" has been used and defined to prevent the need for repeated listings of each type of facility involved.

RECOMMENDATION

Licensing is intended to reduce predictable risk to children and dependent adults, and also to provide support services to those giving the care. A sound licensing program ensures a standard level of service below which programs are not allowed to operate. In recent years license expirations due to licensing staff overloads have increased to an unacceptable level. Passage of this Bill is essential to prevent further erosion of Alaska's licensing program and, thereby, preventing increased risk to children and dependent adults, liability to the State, and a widespread decrease in the quality of care.

RECOMMENDED BY: John R. Pugh
John R. Pugh, Director
Division of Family and
Youth Services

DATE: 11/25/82

APPROVED BY: Helen D. Beirne
Helen D. Beirne
Commissioner

DATE: 1/26/82

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
 Program Category Affected _____
 BRU, Program, Or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Senate Bill No. 650 has no fiscal impact on the Department of Health and Social Services.

IV. DATE 1/25/82 PREPARED BY John R. Pugh John R. Pugh, Director
 AGENCY Division of Family and Youth Services
 Original: Legislative Finance PHONE 465-3170
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

COMMUNITY CARE LICENSING SPECIALIST FACILITY LOADS

STATEWIDE

<u>Month</u>	<u>Year</u>	<u>Facilities</u>	<u>Capacity</u>
January	1977	895	5,646
	1978	Unknown	Unknown
	1979	Unknown	Unknown
January	1980	1,039	7,042
January	1981	1,055	7,557
January	1982	1,150	8,943

Turnover rate of facilities closing and opening in one year - 50%
 License amendments age capacity in one year - 25%
 Facilities in provision status prior to conversion to annual license - 66 2/3%
 Waivers in one year - 5%

Specialist loads listed below do not include the turnover rate, license amendments, and provisional licensing.

SOUTHCENTRAL REGION

<u>Month</u>	<u>Year</u>	<u>Facilities</u>	<u>Capacity</u>
January	1980	471	
January	1981	523	
January	1982	586	5,206

Specialist loads - Seven (7) Specialists

161 Family Day Care Homes Anchorage (152), Wasilla (9); Region Total 178
 60 Day Care Centers
 21 Residential Child Care Facilities
 25 Adult Residential Care Facilities
 126 Child Foster Homes Anchorage (83), Wasilla (43); Region Total 302
393 56.14 Facilities/Specialist

NOTE: 58% of the State's licensed capacity is in Anchorage. 51% of the facilities.

Complaint Investigations - Anchorage, 1981

22 FDC Licensed
 18 FDC Not Licensed
 29 DCC
 5 RCCF
 13 CFH
 5 ARCF
92

NWRO

One (1) Specialist

1980	92 Facilities
1981	50 Facilities
1982	41 Facilities

1	FDC
2	DCC
2	RCCF
1	ARCF
35	CFH (15) Outside of Nome
<u>41/Specialist</u>	

No complaint investigation reports received for 1981.

SERO

One (1) Specialist (NOTE: Using 1/2 time Social Worker II for family day care licensing. Worker also has a full case load.)

1980	108
1981	103
1982	135

16	DCC
60	FDC
4	RCCF
47	CFH (7) Outside of Juneau
1	ARCF
<u>128/Specialist</u>	

No complaint investigation reports received for 1981.

WRO

One (1) Specialist

1980	125 Facilities
1981	106 Facilities
1982	71 Facilities

0	FDC
0	DCC (2 City Licensed)
58	CFH (6) Outside of Bethel
3	RCCF
2	ARCF
<u>63/Specialist</u>	

No complaint investigation reports received for 1981.

NRO

Two (2) Specialists

1980	132 Facilities
1981	194 Facilities
1982	228 Facilities

79	FDC
22	DCC (1) City Licensed
76	CFH (121) Region Total
4	RCCF
2	ARCF
<u>183</u>	<u>91.51/Specialist</u>

Complaint Investigations for Fairbanks, 1981

9	FDC
7	CFH
13	DCC
<u>29</u>	Total

SRO

One (1) Specialist

1980	66 Facilities
1981	83 Facilities
1982	95 Facilities

7	DCC
30	FDC
3	RCCF
1	ARCF
54	FH
<u>95</u>	<u>Specialist</u>



ALASKA FOSTER PARENTS ASSOCIATION

Box 865:

Anchorage, Alaska 99508

Dec. 11, 1981



Our association is calling on you for assistance. You have been willing in the past and we hope you will try now.

Three times in the past two years the Division of Family and Youth Services, for whom many of us care for children, has attempted to move our foster care licensing workers from the social services District office. There have been logical, if minor reasons for this change. There are major reasons for this not happening.

With those workers in the same office children are placed in better homes the first time around, thus avoiding multiple placements. This "foster home bounce" is extremely damaging to children as I'm sure you can imagine. The licensing workers also provide support and trouble shooting for foster parents as they go about the "business" of foster care. The social workers have neither the time or the sensitivity to do this. Without it foster parents quit. The state loses experienced homes and must recruit continuously. And the children must be moved and moved..

On the two prior occasions we have conveyed our feelings and reasons to D.F.Y.S., ourselves and with the help of childrens advocates such as yourself. And always they have found a way to return the licensing workers to the social service office-- to better serve foster children. We seem to continue to battle this issue however.

We feel very strongly about this issue. Foster Parents are volunteers who work 24 hours a day to provide care for those children in the custody of the State of Alaska. We have nothing personally to gain here, except to see children better served.

We will appreciate your looking into this matter and hope that we can work together to make sure that our state system is always looking out for the "best interests" of our children.

Respectfully,

Ann M. Spohnholz
President, A.F.P.A.

345-2248

S

B

6

6

8

COMMITTEE REPORT

5/29

HOUSE

FURTHER: Finance

(5)

5/20/82

Date: _____

Mr. Speaker:

The Committee on Loss has had CSSB 668(R1s) am

"An Act relating to public employees subject to collective bargaining."

under consideration and reports it back as follows:

[] do pass [] do not pass

do pass with attached amendments(s)

[] replace with CS for _____ [] same title [] new title

and recommends it reduce

[] AND attaches a "Letter of Intent" [] New Fiscal Note

[] reports it back without recommendation

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

LETTER OF INTENT

CS FOR SENATE BILL NO. 668 (R1s)

It is the intent of the Legislature that school boards and their respective teacher groups may enter into agreements on any matter of interest to the two parties if they so choose; however, it is understood that neither party is compelled to negotiate those items listed as non-negotiable in the Kenai Peninsula Borough School District V. Kenai Peninsula Education Association, 572 P 2d 416 (Alaska.1977).

Neither section 13 of CS FOR SENATE BILL 668 (Rules) (amending AS 23.40.250(1)) nor the bill in total is intended to diminish or restrict the list of non-negotiable items in the above referenced case.

Adopted by the Senate as a Senate Letter of Intent - May 18, 1982



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB 668
FY 11/1/82

January 19, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill providing for the resolution of impasses in public employee collective bargaining. The bill provides for public participation in the process of impasse resolution through an arbitration board which includes four members of the public who reside in various areas of the state. I expect that this method of impasse resolution will ensure that the terms and conditions of public employment are more consistent with the terms and conditions generally prevailing throughout the state. The bill applies to all public employers who have not elected to opt out of the Public Employment Relations Act (PERA) (AS 23.040.070 -- 23.40.260).

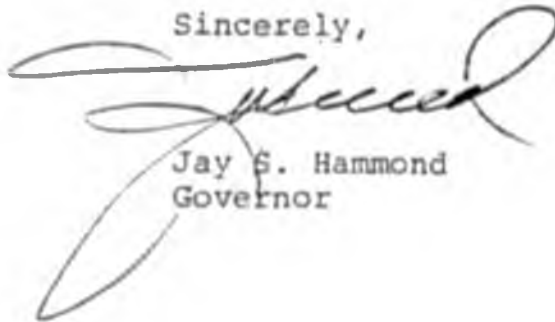
Amended AS 23.40.200 (sec. 1 of the bill) provides that when a public employer and an employee organization reach an impasse in bargaining, the parties shall submit to fact-finding. Under new AS 23.40.201 (sec. 2 of the bill), a neutral person will be selected by the parties to conduct the fact-finding. The factfinder will conduct an investigation and submit recommendations to the parties after considering certain factors. The parties will discuss the factfinder's report and attempt to reach an agreement. If there is still an impasse after fact-finding is employed, AS 23.40.200 provides that the dispute will be submitted to an arbitration board, appointed by the Labor Relations Agency, which consists of one professional arbitrator and four public members chosen from a standing panel (AS 23.40.202 in sec. 2 of the bill). The arbitration board will choose between the final proposal of each party.

Under AS 23.40.202, the standing panel will include persons with substantial length of Alaskan residence, who have broad and varied personal experience in human affairs, and who are not employed in a position requiring participation in labor-management relations. The panel will include residents of each state judicial district. Each arbitration board chosen from the panel for state employee impasses will include residents of at least three of the four state judicial districts.

Under AS 23.40.202(d), the public members of the board will be compensated with per diem and travel allowance applicable to all state boards and commissions. The professional arbitrator will be paid a reasonable fee for such professional services. These expenses will be shared by the parties.

Section 3 of the bill repeals AS 23.40.040, which allowed bargaining with ferry system personnel before the enactment of the Public Employment Relations Act (PERA). The decision in IBU v. Hafling, 585 P.2d 870 (Alaska 1978), held that the PERA applies to ferry personnel. That decision made AS 23.40.040 redundant and unnecessary.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jay S. Hammond".

Jay S. Hammond
Governor

Section Analysis

CS SB 668 (Rules) am

Section 1: Provides that noncompliance with the provisions of the Public Employees Relations Act may also be a reason for the dismissal of a teacher.

Section 2-7: Amends Chapter 20 of the Title 14 to apply only to certificated administrator employees of the school districts.

This bill moves certificated teachers from Chapter 20 of Title 14 to the Public Employees Relations Act, (PERA) 23.40.070 - 23.40.260, for purposes of negotiations.

Section 8: Amends 14.20.610 to clarify that the inclusion of teachers under PERA does not diminish the rights and responsibilities of school boards on matters attendant to policy.

Section 9: Amends 23.40.200(b) - "essential service" employees to include emergency services employees of the Department of Military Affairs in class (1) under PERA. (Arbitration, no right to strike.) Provides for fact finding as a method to settle the dispute before the parties submit the issues to arbitration.

Section 10: Amends 23.40.200(c) to include teachers under class (2) of PERA - limited right to strike; school board may seek an injunction; if the strike is enjoined then the dispute to be submitted to fact finding as a method to settle the issues before submitting them to arbitration.

Section 11: No substantive change but references the new Panel arbitration procedure.

Section 12: Adds a new section, 23.40.202 which provides that a school board may, by majority vote, have the question of prohibition of teacher strikes placed before the voters in the next general election through the municipal governing body or director of elections in the case of REAA's.

If the question is approved by the voters, teachers are then placed in class (1) with access to fact finding and arbitration.

Adds a new section, 23.40.206: Fact Finding, which provides that a neutral, independent person, selected by the parties, shall review the issues, evidence, and facts and make recommendations for resolution of the dispute.

Adds a new section, 23.40.208 Arbitration, which is a change from the previous single person conventional arbitration to panel arbitration. This procedure to be used only after mediation and fact finding have been exhausted.

For State employees, the panel will consist of one professional arbitrator and four residents of the State representing at least three of the four judicial districts.

For teachers, the panel will consist of one professional arbitrator and two residents of the school district.

The panel will be restricted in its decision to the final offer of the organization or the final offer of the public employer.

Section 13: ~~Adds a new subsection to 23.40.210 which provides for Legislative response to an agreement covering State employees within 60 days of convening of a regular legislative session.~~

Section 14: Amends 23.40.250(1) the definition of "collective bargaining" to mandate that the permissible scope of bargaining for teachers under PERA not be changed and to be exactly as currently stated in Title 14.

Section 15: Amends 23.40.250(5) to exclude administrative employees of school boards.

Section 16: Amends 23.40.250(6) to change the definition of "public employers" to include a "city, borough, or regional school board".

Section 17: Amends 23.40.250 to add definitions of "district" and "teacher".

Section 18: Repeals 23.40.040 which allows the Commissioner of Public Works to enter into collective bargaining agreements with the employees of the Division of Marine Transportation.

Section 19: Requires school boards to apply the PERA to teachers.

Section 20: "Grandfathers" all collective bargaining agreements, collective bargaining units, and exclusive bargaining representatives in effect on the effective date of this act.

RECOMMENDATIONS OF THE
GOVERNOR'S BLUE RIBBON COMMISSION
IN CERTIFIED STAFF-SCHOOL BOARD NEGOTIATIONS

November 1980

TABLE OF CONTENTS

Membership of the Blue Ribbon Commission - - - - -	i
Preface- - - - -	ii
Summary of Findings and Recommendations- - - - -	1
Background - - - - -	2
Commission Activities- - - - -	3
Findings - - - - -	5
Recommendations of the Commission as a whole - - - -	6

Attachments:

Majority Report Presented by Parent Members

Minority Report Presented by the Association
of Alaska School Boards and the Alaska
Council of School Administrators

Minority Report Presented by NEA-Alaska and
Alaska Federation of Teachers

BLUE RIBBON COMMISSION

PARENTS:

CHAIRPERSON

Frank Austin
3839 Apollo Drive
Anchorage, AK 99504
333-1483 (h)
271-5287 (w)

Sue Linford
745 W. 13th
Anchorage, AK 99501
272-3973/276-2151
272-3972 (message)

Rose Rybachek
P.O. Box 73069
Fairbanks, AK 99707
488-6453 (h)

Beth Mitchell
3181 Nowell Avenue
Juneau, AK 99801
586-6309 (h)
586-6031 (w)

Liz Ali
3726 El Camino
Juneau, AK 99801
789-9042

REPRESENTATIVES FROM GROUPS:

Bob Manners
NEA-Alaska
147 S. Franklin St.
Juneau, AK 99801
586-3090 (w)

Cliff Hartman
Alaska Council of School
Administrators
1433 West 13th
Anchorage, AK 99501
279-8176

Bob Greene
Association of Alaska
School Boards
204 N. Franklin St.
Juneau, AK 99801
586-1083 (w)

Ralph McGrath, President
Alaska Community Colleges
Alaska Federation of Teachers
2533 Providence Drive
Anchorage, AK 99504
263-1680 (w)
333-0001 (h)

LEGISLATORS (non-voting):

The Honorable Jim Duncan
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811
465-3818

The Honorable Don Bennett
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811
465-3714/465-3871

STAFF (non-voting):

Carole Burger
Special Assistant to the Governor
Pouch A
Juneau, AK 99811
465-3500

Karen Perdue
Office of the Lt. Governor
Pouch AA
Juneau, AK 99811
465-3520

PREFACE

On April 10, 1980 Governor Jay S. Hammond established a Blue Ribbon Commission of eleven members to bring the education community together to explore viable alternatives to impasse. In his letter to the Commission members, the Governor stated, "I believe this process can help avoid devisiveness that ultimately hurts Alaskans and especially our students." The Commission was charged with the following responsibilities:

- a. Study the most recent situations where impasse was reached in negotiations between school boards and certified staff.
- b. Evaluate the statutory and practicable procedures taken to resolve such impasses.
- c. Make recommendations to change or continue the laws, rules, regulations or procedures which affect the resolution of impasse situations.

This report and the recommendations are made in the spirit of helpfulness. The Commission hopes that these recommendations can help to avoid devisiveness and assist in ensuring that all Alaskan students receive a quality education.

The Commission wishes to express its appreciation to all of those that provided aid and assistance in the carrying out of its duties.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

Findings

1. It was generally agreed that the collective bargaining process, as it is currently designed in the statute that provides for negotiations between certificated employees and school administrations, is too long.
2. Article 6 (Sec. 14.20.550-610) Negotiations and Mediations, is vague and ambiguous.
3. Article 6, as currently written, does not address this policy question of how the negotiations process should affect the student and the general public.

Recommendations

1. The Teacher Bargaining Law should include the following: A Policy Statement, Employees' Rights Statement, and a Management Rights Statement.
2. The Teacher Bargaining Law should provide for an Administrative Agency to assist in the implementation of the statute.
3. The Teacher Bargaining Law should identify the steps in the negotiations process and provide clear time lines to guide the negotiations process.
4. The Teacher Bargaining Law should provide for finality on matters of salary and benefits.
5. The Teacher Bargaining Law should address strikes and lock-outs as they relate to the collective bargaining process at the elementary and secondary school levels.

BACKGROUND

Alaska Statute Sec. 14.20.550-610 (Article 6 Negotiations and Mediations) provides for each city, borough and regional school board and its certificated employees to negotiate in good faith on matters pertaining to their employment and the fulfillment of their professional duties.

In reviewing the most recent history of negotiations under Article 6, we find an increasing number of negotiations not resolved at the beginning of the school year, cases having exhausted the impasse procedures to no avail, school districts and employee organizations seeking court resolution to problems related to the collective bargaining process, and a work stoppage in a major school district, all resulting from what appears to be inadequacies in the collective bargaining process.

These problem areas have led to concern at all levels and led to the call for the Governor to establish a commission to review the matter and determine if there are recommendations that might be implemented that would enhance the potential for agreement between the negotiating parties.

The issue is considered critical since prolonged negotiations and work stoppages have the potential of creating problems that affect the education process long after the situation has been resolved.

COMMISSION ACTIVITIES

Commission activities included review of various documents relating to the subject and attendance, by parent and legislative members, at a conference sponsored by the American Arbitration Association. The Commission held seven meetings which were divided between the communities of Juneau, Fairbanks and Anchorage to provide the general public and persons involved in the education process to attend and participate in the Commission's deliberations. A more specific description of Commission activities includes the following:

Survey Questionnaire

The Commission prepared and distributed a questionnaire designed to gather additional information on issues that were surfacing as major problem areas. A copy of the questionnaire is included in the attachments to this report. The questionnaire was distributed through the following groups and organizations: NEA-Alaska, Association of Alaska School Boards, Alaska Council of School Administrators, Alaska Federation of Teachers (AFT), Anchorage Chamber of Commerce, Alaska Congress of Parents and Teachers (State PTA), and the Rural Alaska Community Action Program. While the Commission was disappointed at the size of the return received (25 in all), the results were tabulated and used by the Commission. A tabulation summary is also included as an attachment. The responses indicated that an overwhelming majority of those responding felt that the process was taking too long and a simple majority felt that the process was not working effectively.

Parent Members Conduct Interviews

Parent members of the Commission conducted interviews with persons who had been involved in negotiations in school districts where impasse had previously occurred. Members of both negotiating teams were interviewed. Interviews were conducted in Anchorage, Mat-Su, Juneau and the Delta/Greely School Districts. No interviews were conducted in districts where the process was at the impasse step at the time of the interviews. These interviews helped the Commission gain additional information on the problem areas identified in the survey questionnaire.

Presentations by Individuals Involved in the Labor Relations Process

During the Commission meetings, presentations were received from the following individuals:

Robert D. Helsby, Director, Public Employees Relations Service. Dr. Helsby commented on studies that he had directed in Pennsylvania and New York. He also reviewed his activities as head of the New York State Labor Relations Agency. Dr. Helsby also provided the Commissioners with a paper on community involvement in the "Interest Arbitration" process.

Henry Nichols, Commissioner, U.S. Federal Mediation and Conciliation Service (US-FMCS). Commissioner Nichols described the mediation process and how the (US-FMCS) office assisted in the negotiations process described in Article 6.

Joe Kennan, Anchorage arbitrator. Mr. Kennan met with the Commission to discuss his participation in the mediation-arbitration process.

Bryce Stallard, Superintendent, Fairbanks North Star Borough School District. Dr. Stallard met with the Commission to describe the Nebraska Industrial Relations Commission. Dr. Stallard also shared with the Commission some of his experience derived from working with the Nebraska Commission.

Ron Henry, member, Alaska Labor Relations Agency. Mr. Henry discussed the duties of the Labor Relations Agency established to administer the Public Employees Relations Act (AS 23.40.070-260).

Review of Statutes and Documents from other Jurisdictions

The Commission reviewed and compared statutes from a number of states where collective bargaining in the public sector exists. Among those reviewed were statutes from New York, Iowa, Connecticut, California, and Indiana. Other documents reviewed included: The Public Employment Relations Services Review and Evaluation Team Report prepared for the Governor of Pennsylvania, Alaska Supreme Court decisions on various cases relating to collective bargaining under Article 6 and the Mandatory/Non-Mandatory Subjects of Negotiations Report prepared by the Public Employment Relations Board of New York. The review of these documents and statutes provided the Commission with background information on how other jurisdictions were dealing with the problem areas noted in the findings.

FINDINGS

As a result of the activities previously described, the following findings were developed:

1. Length of negotiating process - The Commission was informed that the negotiations process may take a year or more to conclude. The Commission was also advised that these lengthy negotiations may have a detrimental affect on the education process, including the students and the community. A major contributing factor to the length of the negotiating process appears to be the lack of clear time lines in the existing statute.
2. The current Teacher Bargaining Law is vague and ambiguous - A number of individuals indicated that they did not feel that the existing statute worked effectively because it is vague and ambiguous. The lack of a clear policy statement, and statements describing both management and employee rights appear to contribute to the ineffectiveness. At present, the statute does not define what is or is not a negotiable item, or deal with work stoppages or unfair labor practices.
3. Impact of the collective bargaining process on students - The current statute does not indicate how the collective bargaining process relates to the quality of education and the welfare of students. In some instances, it does not appear that the quality of education and the welfare of the students have been considered when the negotiations process reached impasse or later steps.
4. Disputes - At present, the negotiating parties must use the court system to adjudicate problems or disputes that arise during the negotiations process. The existing statute provides no means for resolving disputes between the parties involved. Use of the court may prolong the process.
5. Finality Step - The lack of a definitive finality step contributes to the length of the negotiations process. When parties proceed beyond the impasse step, the lack of a well-defined finality procedure contributes to the length of the negotiations process and leads to uncertainty for teachers, administrators, students, and the community.

RECOMMENDATIONS

We recommend that the Teacher Bargaining Law be revised as follows:

1. The law should include a Policy Statement. The Policy Statement should describe:
 - a. The legislative intent of the law.
 - b. The need to protect the interests of the students and the general public as represented by the school board.
 - c. Rights of employees to organize for the purpose of collective bargaining.
 - d. Rights of employee organizations to negotiate and enter into agreements.
 - e. The best agreement as one that is mutually agreed to by the parties.

2. The law should include an Employee Rights Statement. The Employee Rights Statement should describe:
 - a. The employee's right to form, join or assist their employee organizations.
 - b. Rights of employee organizations to participate in the collective bargaining process.
 - c. The financial relationship between non-members and the employee organizations.

3. The law should include a Management Rights Statement. The Management Rights Statement should describe the school board's right to:
 - a. Determine standards of educational services.
 - b. Select employees.
 - c. Direct the work of its employees.
 - d. Take disciplinary action.
 - e. Discharge employees as provided by law.

- f. Determine the programs in the district.
 - g. Exercise powers and duties granted to them by law.
4. The law should provide for an Administrative Agency or Commission to implement the statute by providing assistance to the parties. It should also provide for the option of a paid staff.
 5. The law should be revised to clarify the steps in the negotiations process by adding time lines, with the option of extending by mutual agreement, for beginning and completing specific steps within the bargaining process.
 6. The law should clearly address strikes and lock-outs as they relate to the collective bargaining process at the elementary and secondary school levels.
 7. The law should provide for a culminating procedure in a collective bargaining agreement.
 8. It is recommended that conflicts in the statute, which may develop from the suggested amendments, be eliminated.
 9. A sunset provision should be established to review the changes which are implemented.
 10. To meet the above-stated recommendations, the following reports prepared by the Commission members representing the respective groups are provided to the Governor.

REVIEW OF SURVEY RESPONSE

1. Does the current negotiations process work? Why/Why not?

	<u>Yes</u>	<u>No</u>
Total Response	10	15
Community College	5	8

2. Does the current negotiations process take too long?

	<u>Yes</u>	<u>No</u>
Total Response	24	1
Community College	13	0

3. What are the components most significantly affecting final resolution to the negotiation process?

4. What is your perception of the effectiveness of third party intervention?

	<u>Good</u>	<u>No Good</u>	<u>In-between</u>
Total Response	11	10	4
Community College	8	3	2

5. Are there other options to agreement which would be fair and equitable to both parties? If yes, explain.

MAJORITY REPORT PRESENTED BY
THE PARENT MEMBERS

PARENT MEMBERS' RECOMMENDED PROCEDURES
FOR AMENDING ARTICLE 6

This attachment contains specific suggestions developed by the parent members of the Commission to implement the recommendations developed by the full Commission. The attachment is also designed to address several key concerns that have been expressed by various Commission members. These concerns are:

Public Education

The public education system is currently under considerable pressure for a variety of reasons. We find an increasing number of families choosing to opt-out of the public education system. We feel that collective bargaining, at the elementary and secondary school level, should be organized and conducted in a manner that will enhance the educational opportunity of the students, and thereby not contribute to the problems affecting public education.

Work Stoppages

The attached Amendment #4 describes the parents' recommendation for dealing with the practices that result in work stoppages resulting from the collective bargaining process. We have recommended prohibiting such practices due to a deep concern about their potential impact on students at the secondary and elementary school levels. We feel their potential impact on student to teacher relations, student to student relations, and other school/community relations extend far beyond the duration of the work stoppage. In most instances, we feel that the impact on the various relationships are negative.

Specific Negotiation Steps and Time Frames

The attached Amendments #6-#8 outline a statutory requirement and path for parties to follow in the negotiations process. We believe the addition of these steps and time frames will further enhance the effort and force the parties to reach an agreement.

Arbitration Options

The attached Amendment #9 describes several options to what is described as conventional arbitration procedures. During Commission deliberations, several alternatives were presented involving use of local groups of 3 to 7 persons as an arbitration panel. The parent group does not object to use of the conventional

arbitration method, but strongly supports the inclusion of options that provide for community involvement if the parties choose to use it.

Amending Article 6

The entire attachment is designed around the amendment of Article 6 as opposed to developing a new statute or revising the Alaska Public Employment Relations Act (PERA). The revision of PERA was discussed on several occasions. These revisions would have to include:

- a. Certificated teaching staff as a category of employees.
- b. Classify this category in terms of strike or no strike.
- c. Modified binding arbitration and other options.
- d. Specified steps and time frames in the negotiations process.
- e. A method for possible community involvement.
- f. An agency that would:
 1. be more than volunteer
 2. have some staff
 3. keep a file of available mediators
 4. operate under the Governor rather than the Department of Labor or Department of Education

To make these revisions would complicate a working, functioning law that adequately deals with a certain category of public employees.

ATTACHMENT 1

Amendment 1

Article 6 should be amended by addition of a Policy Statement. This Statement should state:

1. The policy of the Legislature to promote harmonious and cooperative relations between city, borough and regional school boards and their certificated employees.
2. Recognize that the policy is to protect the interests of students and the public by assuring orderly and effective operation of the public schools.
3. Recognize the right of employees to organize for the purpose of collective bargaining.
4. Employee organizations have the right to negotiate with and enter into written agreements with employers on matters of wages, hours and other terms and conditions of employment.
5. That the best agreement is one reached by the parties involved in negotiations without outside interference or assistance; it is the aim of Article 6 to aid in the settlement.

Amendment 2

Article 6 should be amended by addition of an Employee Rights Statement. This Statement should state:

1. Employees shall have the right to form or join, or to refrain from forming or joining, employee organizations.
2. Employee organizations have the right to participate in collective bargaining with boards of education through representatives of their own choosing.
3. Employees have the right to bargain for the purpose of establishing, maintaining or improving terms and conditions of employment.

Amendment 3

Article 6 should be amended by addition of a Management Rights Statement. This Statement should state:

The right of a school board to:

1. Determine the standards of service to be offered.
2. Recruit and select staff.
3. Direct its employees in their work.
4. Take disciplinary action.
5. Relieve its employees from duty as provided by law or other legitimate reasons.
6. Initiate, prepare, certify, and administer its budget.
7. Exercise all powers and duties granted to the school board by law.

Amendment 4

Article 6 should be amended by the addition of a Public Rights Statement. This statement should state:

The Alaskan public includes:

1. Students who are required by law to attend school.
2. Alaskan citizens who are required to monetarily support public schools.

Therefore, the Alaskan public has the right to orderly and uninterrupted operation and functioning of public schools. To protect this right, work stoppages shall be prohibited under this law.

Amendment 5

Article 6 should be amended by the addition of an Educational Employee Relations Commission, hereinafter called EERC. This Commission should be established as:

1. Three members appointed by the Governor and approved by the Legislature.
2. No more than two of the members shall be from one political party.

3. The chairman of the Commission shall be appointed by the Governor for a 6 year term.
4. All members shall be appointed for 6 year staggered terms.
5. A member may be removed from office due to non-functioning.
6. All staff costs for the Commission shall be borne by the State.
7. The Commission shall administer Article 6. Its duties shall include, but are not limited to:
 - a. Act as an appeal board in disputes arising from certification of employee organizations.
 - b. Determination of the occurrence of and remedy for unfair labor practices.
 - c. Determine the extent of negotiable and non-negotiable items when disputes arise.
 - d. Maintain a current file of mediators.
 - e. Provide statistical data relating to salaries, wages, benefits and employment practices to the negotiating parties, mediators, fact-finders and arbitrators.
 - f. Conduct such hearings and inquiries as are deemed necessary to carry out the functions of the Commission.
 - g. The Commission shall promulgate rules and regulations necessary to effectively carry out the purposes of this chapter.

When the EERC is developing its regulations, these are some of the ideas for community involvement that the parent members would like to see considered.

The Commission may recommend the following to the negotiators:

1. Establishment of a local committee to perform such duties as:
 - a. observe negotiations
 - b. publicize proposals and/or progress in negotiations

- c. act as liaison between EERC and negotiators
- d. conduct public hearings

Suggested selection of committee: An equal number of members from the community at large, chosen by each party, plus a chairman selected by the committee.

2. The parties may be requested to undergo a period of intense negotiations with or without release time.
3. The parties may be requested to undergo a period of intense mediation. This would include both parties, plus a mediator, selected by the EERC. The mediation expenses would be paid for by both parties jointly.
4. The EERC shall cause public hearings to be held whenever they feel that such public hearings will be beneficial toward both parties reaching agreement.

Amendment 6

Article 6 shall be amended by the following steps of negotiations:

Step 1

Initial negotiations should begin by November 1. STEP 1 NEGOTIATIONS MUST BE CONCLUDED WITH BOTH PARTIES REACHING AGREEMENT BY JANUARY 15, OR THE EERC SHALL DEEM THAT THE NEGOTIATIONS HAVE REACHED IMPASSE, AND STEP 2 GOES INTO EFFECT.

Amendment 7

Step 2

The EERC shall transmit a list of 5 mediators to the parties. If the parties cannot agree upon a mediator to be used, the following method shall prevail. Each party shall strike the name of one mediator. The final name remaining shall be the mediator.

- A. Mediation shall not exceed a 10 day period.
- B. If agreement has not been reached by the end of the 10 day period, the mediator shall prepare a list of unsettled items for publication in the affected community, and Step 3 shall be in effect.

Amendment 8

Step 3

The mediator in the negotiations shall become a fact-finder with both parties (sharing the cost). A period of 15 days shall be allowed for fact-finding, and a written report must be given to both parties within 10 days of the end of the fact-finding period. If agreement is not reached 15 days after receipt of the fact-finder's report, a public hearing shall be held under the auspices of the EERC. No later than May 15 the parties shall have determined final step procedures, which will be either Step 4 Optional, or Step 4 Statutory.

Amendment 9

Step 4 Optional

A local option which could include, but not limited to:

1. Conventional
2. Last offer
 - a. Issue by issue
 - b. Package
 - c. Three choice arbitration - last offers of parties or fact-finder's recommendations
3. Separation of economic vs. non-economic issues. Economic handled one way; non-economic another.
4. Tri-partite arbitration panel - one member by each party, chairman by two advocate members.
5. Single arbitrator selected by parties
6. Public referendum

Step 4 Statutory

1. The EERC will direct the selection of a local tri-partite panel to act as arbitrator. This panel shall be composed of one member selected by each party, with the two advocates selecting the chairman. If agreement cannot be reached in the matter of the chairman selection, the EERC shall appoint the chairman.

2. The items remaining for negotiations shall be limited to salary and benefits.
3. By May 30, the tri-partite panel shall have selected from the last best offer of each party, plus the fact-finder's report.
4. The arbitration award would be binding unless either or both parties appealed the decision to the EERC, which would establish a local appeals panel. This panel could be:
 - a. the original local panel
 - b. a local panel organized along the lines of the local panel
 - c. the legislative body in the area

This panel is an appellate group to determine the merits of the award of the tri-partite panel. The decision of the panel will be final and binding on both parties.

ALL STEPS WILL BE COMPLETED BY JUNE 30.

Amendment 10

Article 6 should be amended by the following Sunset provision: These revisions shall be reviewed after a period of 5 years.

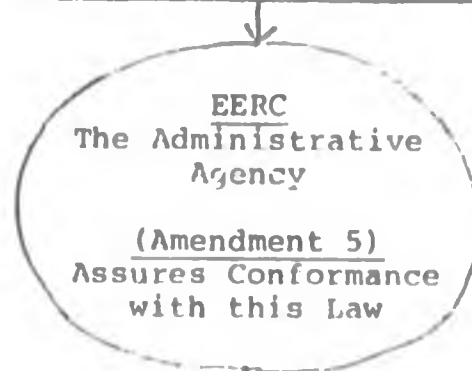
NOTE: THE COMMISSION NEEDS STATUTORY LANGUAGE TO GIVE IT LEGAL ENFORCEMENT PRIVILEGES, as in PERA Secs. 23.40.120, 23.40.130, 23.40.140, 23.40.150, 23.40.160, 23.40.170, 23.40.180...but as it pertains to this statute.

FLOW CHART

Amendments and Recommended Operational System

Article 6

1. Policy Statement
(Amendment 1)
2. Employee Rights
(Amendment 2)
3. Management Rights
(Amendment 3)
4. Public Rights
(Amendment 4)



BEGIN PROCESS

is
Step 1
Community
Committee
Involved
?

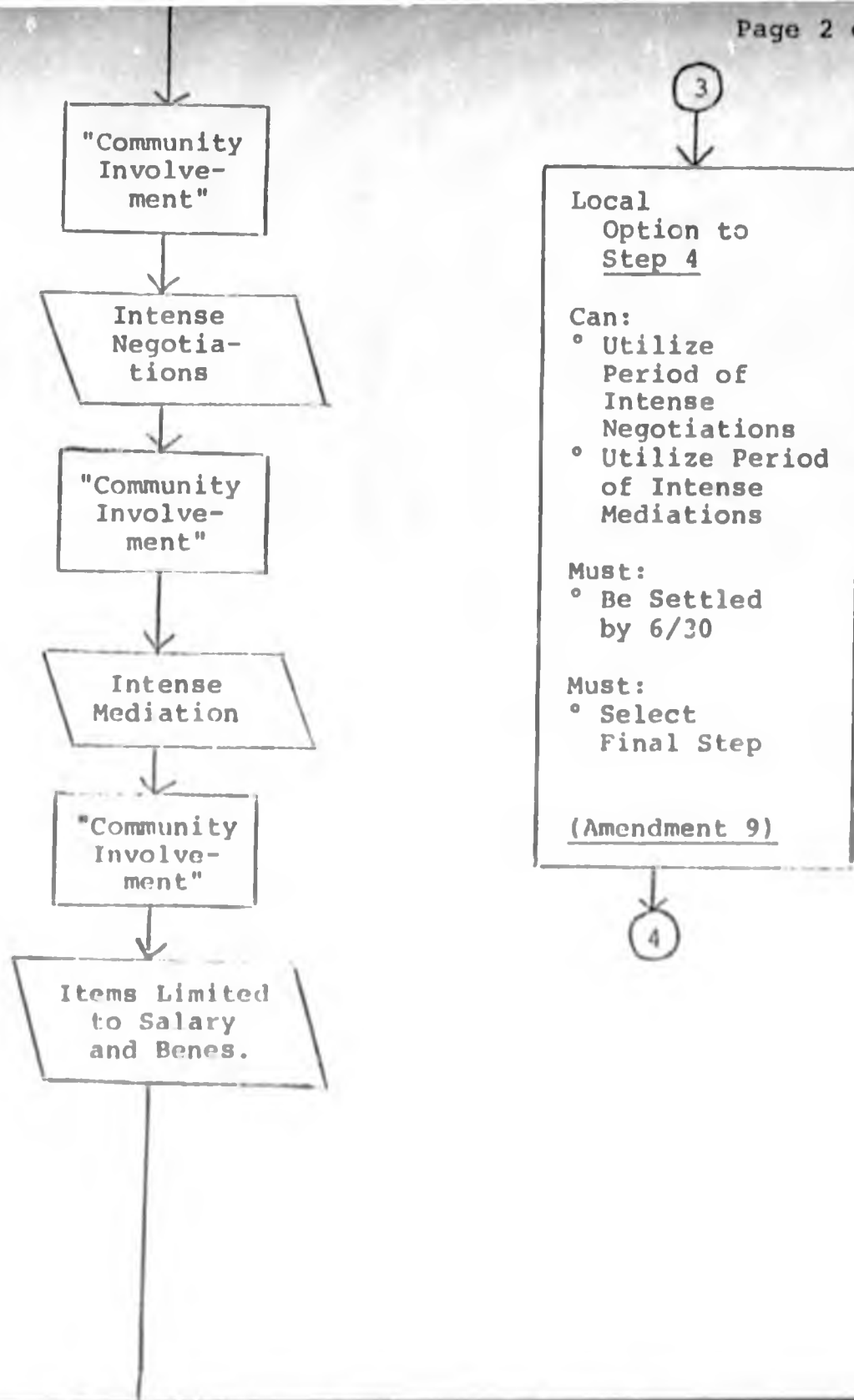
Yes

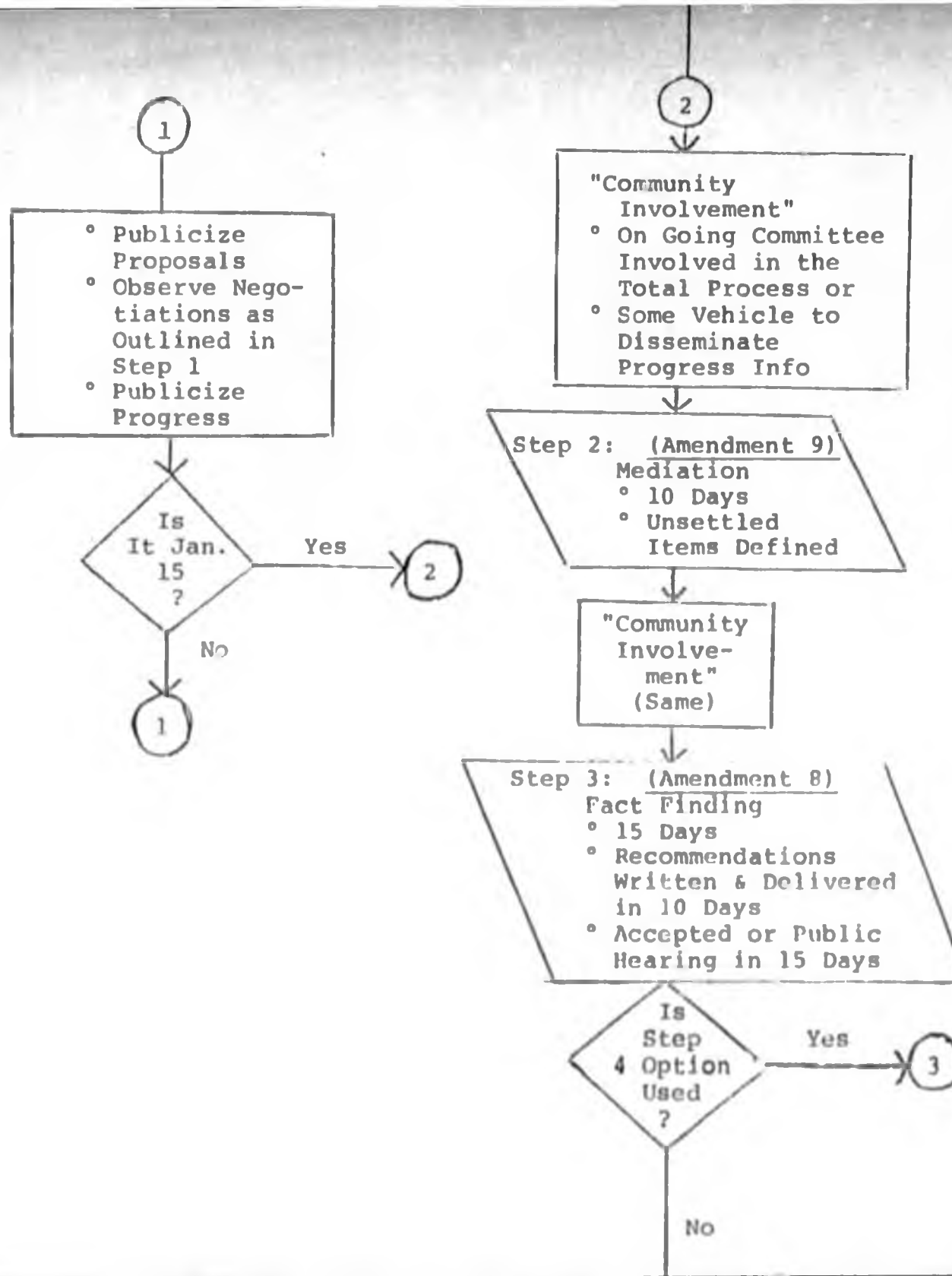
1

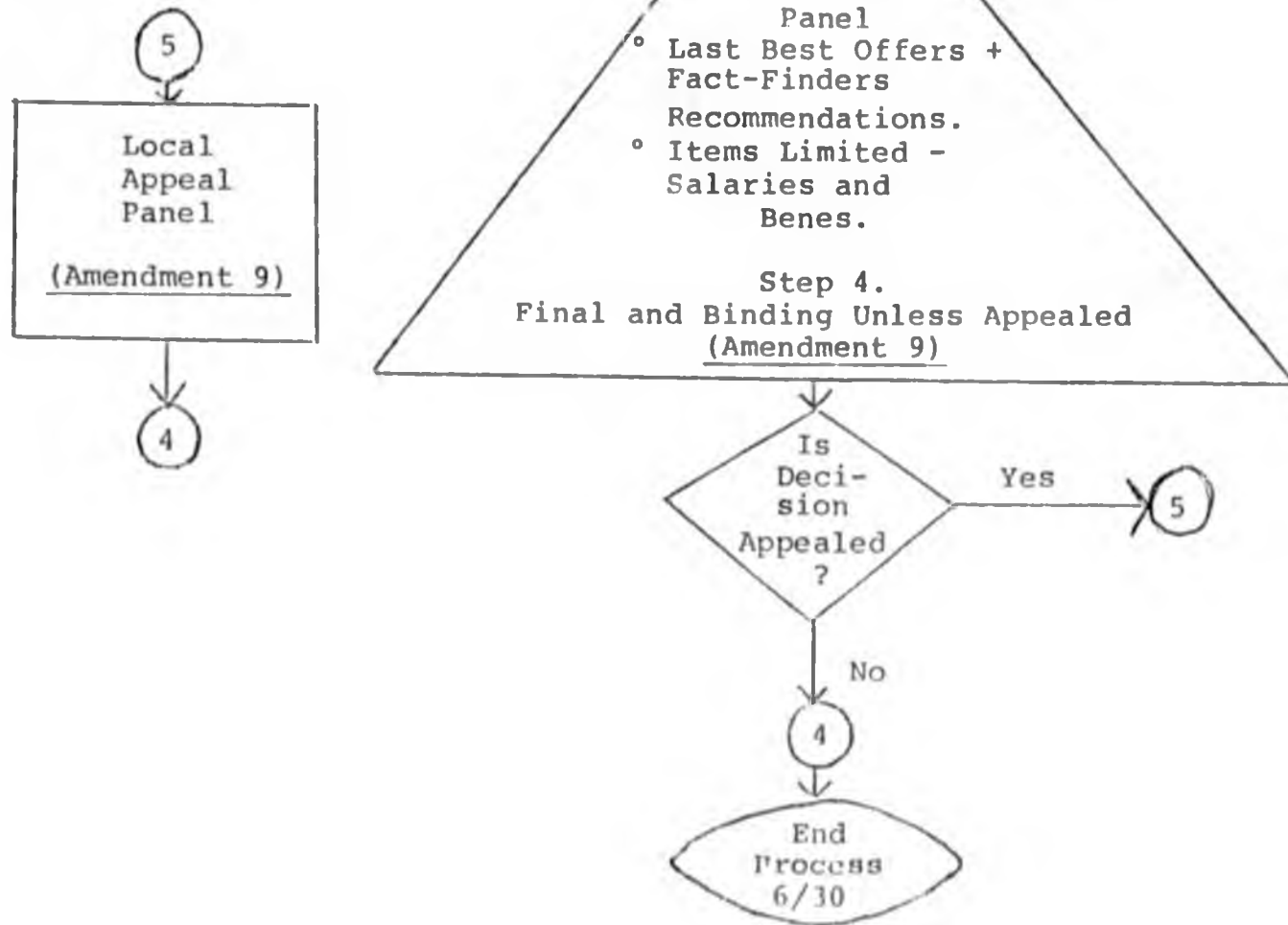
No

Step 1 (Amendment 6)
Initial Negotiations
• Begins 11/1
• Ends 1/15
*

*NOTE: Local option: Can include a period of intense negotiations or be limited to this period, but will be declared at impasse 1/15 if not settled.







MINORITY REPORT PRESENTED BY
THE ASSOCIATION OF ALASKA SCHOOL BOARDS AND
THE ALASKA COUNCIL OF SCHOOL ADMINISTRATORS



ASSOCIATION OF ALASKA SCHOOL BOARDS

SUITE 2, 204 NORTH PRINCELLIN STREET • JUNEAU, ALASKA 99801 • PHONE 586-1001

RECOMMENDATIONS MADE BY THE
ASSOCIATION OF ALASKA SCHOOL BOARDS
REGARDING AMENDING ALASKA'S TEACHER BARGAINING LAW

Herewith are submitted recommendations made by the Association of Alaska School Boards as a member participating in the deliberations conducted by the Governor's Blue Ribbon Commission dealing with this topic. The Association's concerns and sentiments parallel to some degree those submitted by the parent delegation to the Commission. They are:

PUBLIC EDUCATION

AASB is concerned about the pressures currently being placed upon the public educational system in the State of Alaska and feel that school boards across the State want to be able to respond to these pressures in a positive manner. School boards feel that while there is a need for the collective bargaining process in the public education system, this process should not be allowed to impact the rights of students and the public to an orderly, uninterrupted and quality educational program. School boards should not be placed in a position whereby the collective bargaining process has an impact upon the daily education of children.

WORK STOPPAGES

Alaska's elected school boards universally would agree with the parent members of the Commission that work stoppages relating to the collective bargaining process have a negative impact upon the educational process for children of the State, and that this negative impact carries on long after the settlement of the labor dispute. While AASB shares this concern, our position on dealing with the matter and considering the fact that work stoppages are principally a labor strategy limited to the more urban areas of the State,

is somewhat in variance with the position taken by the parent group. AASB's position is that there should be a prohibition of work stoppages and job actions of any kind and that the remedy for disputes lies in a more defined and structured process for negotiations. AASB is unalterably opposed to third party intervention on a mandatory basis.

AMENDING ARTICLE 6

AASB is totally supportive of the parent group in their recommendation that any modification of our teacher bargaining statute should be in the form of modifications to the existing statutes (Article 6) as opposed to any effort to modify the Alaska Public Employees Relations Act (PERA).

ATTACHMENT

AMENDMENT 1

AASB agrees with the parent group that there should be included in Article 6 a statement of legislative intent. AASB concurs with the parent-recommended content with some additional clarifying language included. AASB proposes legislative intent should include:

1. That it is the policy intent of the Legislature to promote harmonious and cooperative relations between city, borough and regional school boards and their certificated employees.
2. Recognize that it is the legislative intent to protect the interests of the students and the public as represented by the duly elected school boards of the respective areas by assuring orderly, effective and uninterrupted operation of the public education program for the children of the State.
3. Recognize the rights of employees to organize for the purpose of collective bargaining.
4. Employee organizations have the right to negotiate with and enter into written agreements with employers on matters of wages, hours, time off, fringe benefits and other matters of economic benefit.
5. That the best agreement is one reached by the parties involved in negotiations without outside interference or assistance.

AMENDMENT 2

AASB concurs with the parent group in the inclusion of an employee rights provision in Article 6 and herewith proposes the parent-proposed language with clarifying modifications. AASB proposes a provision to include:

1. Employees shall have the right to form, join or assist, or refrain from joining, forming or assisting, employee organizations.
2. Employee organizations have the right to participate in collective bargaining with boards of education through representatives of their own choosing.

3. Employees have the right to bargain for the purpose of negotiating for wages, hours, time off, and other terms affecting their economic benefit.

AMENDMENT 3

AASB feels that the language proposed by the parent group, while substantially in accord with the position of AASB, is not specific enough to protect management rights. AASB therefore suggests legislative language which is verbatim from the Iowa State Statutes dealing with teacher negotiations. AASB proposes language which would include:

This right of the school board to include, but not be limited to:

School boards shall have, in addition to all powers, duties, and rights established by constitutional provision, statute, ordinance, to:

1. Direct the work of its certificated employees.
2. Hire, promote, demote, transfer, assign, and retain certificated employees within the school district.
3. Suspend or discharge certificated employees for proper cause.
4. Maintain the efficiency of the operation of the school district.
5. Relieve certificated employees from employment because of lack of enrollment, loss of revenue, discontinuance of a job function, or other legitimate reason.
6. Determine and implement methods, means, assignments, and personnel by which the school board shall conduct the district operations.
7. Take such actions as may be necessary to carry out the mission of the school district.
8. Initiate, prepare, certify, and administer the school district budget.
9. Exercise all powers and duties granted to the school board by law.

AMENDMENT 4

AASB is in accord with the position taken by the parent group regarding a proposal to change Article 6. AASB proposes language which is essentially the same as the parent group but has some modifications which are of a technical nature. AASB proposes language in Article 6 which would include:

The Alaskan public includes:

1. Students who are required by law to attend school.
2. Alaskan citizens who are required to monetarily support the public schools.

Therefore, the Alaskan public has a right to orderly and uninterrupted operation and functioning of the public schools. To protect this right, work stoppages or job actions of any kind shall be prohibited under this law.

AMENDMENT 5

Alaska school boards generally support the Blue Ribbon parent group regarding the creation of an Educational Employee Relations Commission under the Office of the Governor. AASB is in concurrence with the parent group in their recommendation as to the makeup and appointment procedures.

AASB agrees with the parent group in that the function of the Commission should be to administer the statute. AASB, in that light, herewith submits proposed language which differs from the parent group only to the extent that AASB emphasizes the administration of the statute when it addresses the duties and functions of the EERC Commission proposed. AASB proposes language that would include:

1. Act as an appeal board in disputes arising from certification of employee organizations as bargaining agents.
2. Interpret Alaska Statute (Article 6) to determine the occurrence of and remedy for unfair labor practices.
3. Interpret the statute to determine the extent of negotiable and non-negotiable items when disputes arise.
4. Maintain a current file of mediators.

5. Provide statistical data relating to salaries, wages, benefits, and other matters of economic benefit to the negotiating parties, mediators, fact-finders and other interested parties of interest, including members of the public.
6. Conduct hearings and inquiries as are deemed necessary to carry out the function of the Commission.
7. The Commission shall promulgate rules and regulations necessary to effectively carry out the purposes of this chapter.

AMENDMENT 6

AASB is in complete agreement with the parent group on initial time lines for negotiations, and see this as one step that would facilitate the collective bargaining process and potentially eliminate ultimate impasse problems usually encountered under the present statute every fall.

AMENDMENT 7

AASB is in complete agreement with the parent group on the provision for mediation, if a negotiated settlement is not reached prior to January 15 of the negotiation's year.

AMENDMENT 8

AASB is only in partial agreement with the recommendation of the parent group in a proposed Step 3, and only to the extent that AASB cannot support an involuntary use of an outside third party intervening decision-maker. AASB does support third party intervention if that third party intervener is a local legislative body, and if the issues presented to that body are strictly financial in nature, and the obligation to fund the decision is also passed on to the third party intervener.

AASB proposes a modified Amendment 8 which would include:

The mediator in the negotiations shall become a fact-finder with both parties sharing the cost. A period of 15 days shall be allowed for fact-finding, and a written report must be given to both parties within 10 days of the end of the fact-finding period. If agreement is not reached within 15 days after receipt of the fact-finder's report, a public hearing shall be conducted under the auspices of the EERC. No later than May 15, the parties shall determine final step procedures which may be either Step 4 Optional or Step 4 Mandatory.

Step 4 Optional

The parties of interest may voluntarily agree to third party intervention in a form acceptable to the parties.

The options available to the parties under this section would include, but not be limited to:

1. Last Best Offer
 - a. Issue by issue
 - b. Package
 - c. Fact-finder's recommendation
2. Separation of economic items from non-economic items in the manner in which they are handled.
3. Public Referendum
4. Utilize local legislative body as third party intervener.

Step 4 Mandatory

The EERC will provide mediation service with special authority for the mediator to convene the parties, determine the manner in which the negotiations are to be conducted, and have authority to require intensive bargaining until such time as an agreement is reached. If a negotiated settlement is not reached under these provisions before June 15, further negotiations shall be limited exclusively to salary and fringe benefit items which were included in the fact-finder's report.

As a final item, AASB is in support of the parent group recommendation for a sunset provision in the proposed Article 6 revision providing for an automatic review of these provisions in 5 years.

MINORITY REPORT PRESENTED BY
NEA-ALASKA AND
ALASKA FEDERATION OF TEACHERS

NEA/AFT Recommendations to Effect Resolution of Certified Teacher Bargaining Law Problems Through Revision of Alaska Statutes 23.40, the Alaska Public Employment Act (P.E.P.A.)

The Alaska Federation of Teachers and NEA-Alaska do concur with other members of the Blue Ribbon Commission in their identification of the major issues confronting labor and management in school district collective bargaining, and we commend our fellow members for their serious efforts to find a solution to the complex problems facing this Commission. There is a mutually recognized need to address the matters of a policy statement on collective bargaining; employee/employer rights, authority of a labor relations agency; scope of bargaining; right to strike; and finality through binding arbitration.

NEA-Alaska and AFT, however, regard the most viable solution to these issues to be the inclusion of teachers under the present Alaska Public Employee Relations Act (P.E.R.A.) as amended (see attached). It is our conclusion that such an inclusion would meet the concerns expressed by students, parents, teachers, and administrators and insure the constitutional rights of teachers as school district employees.

Our response is basic and straightforward. We question the need to establish new agencies, new procedures, and expend additional state funds when in fact an existing state agency charged with those responsibilities already exists. We believe that interjecting such a random and sweeping approach as proposed in other commission member proposals will not lead to an orderly timely or final resolution of labor management problems. We believe that such complicated mechanisms as proposed would likely exacerbate the situation. We strongly support and endorse the findings calling for the establishment of a viable labor relations agency, however, we submit that a strengthened existing agency with public sector experience, the State Labor Relations Agency (S.L.R.A.), can accomplish this mutual objective.

The need for a clearly defined state policy regarding teacher collective bargaining is unquestioned. In the absence of such a policy, only chaotic, unbalanced power by either labor or management can prevail. We are in agreement that a policy statement is essential. We find it to be consistent with, and already incorporated into, P.E.R.A.

We are in agreement that there needs to be an Employee Rights statement; however, we disagree that this Commission has the expertise to define them. It was evident that the teacher, administration, board and parent members could only agree to disagree on what those rights were. We find the clearest deliniation of these rights to be incorporated in P.E.R.A. We believe that the correct interpretation of those rights should rest with a professional disinterested agency, specifically the S.L.R.A.

We support findings relative to the role of a labor relations agency adjudicating unfair labor practice charges. The AFT and NEA-Alaska representatives believe, however, that the Agency's authority should extend to enforcement of the provisions included in any statute on collective bargaining for school employees. Resolution of grievances and interpretations of the terms of a collectively bargained agreement should only be subject to a negotiated grievance procedure.

RECOMMENDATIONS TO THE GOVERNORS
TASK FORCE
ON AS 14.20.550--14.20.610

Teacher Bargaining Law

As representatives of NEA and AFT on the Blue Ribbon Commission our recommendations are that the best options for constructive and positive revision to the current teacher bargaining law lie within the current Alaska Statute known as the Public Employment Relations Act (PERA). This Act most effectively addresses the issues and problems attendant to teacher bargaining.

In its eight years of existence this law has proven to be an effective vehicle for public employees and employers to negotiate on hours, wages, and terms and conditions of employment. Slight modifications and revisions can be made to effectively handle the somewhat unique differences in public school bargaining.

Therefore, our approach is to comment, where appropriate, on each of the Sections of PERA.

§ 23.40.070

ALASKA STATUTES

§ 23.40.070

Article 2. Public Employment Relations Act.

Section	Section
70. Declaration of policy	190. Mediation
80. Rights of public employees	200. Arbitration
90. Collective bargaining unit	210. Agreement
100. Representatives and elections	215. Funding
110. Unfair labor practices	220. Labor of employee organization dues and employee benefits, deduction and authorization
120. Investigation and conciliation of complaints	230. Assistance by Department of Labor
130. Complaint and accusation	240. Effect on certain units, representatives and agreements
140. Orders and decisions	250. Definitions
150. Enforcement by injunction	260. Short title
160. Power to investigate and compel testimony	
170. Regulations	
180. Penalty for violation of order or decision	

Editor's note.—Section 4, ch. 113, SLA 1972, provides: "This Act is applicable to organized boroughs and political subdivisions of the state, home rule or otherwise, unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply."

The teacher representatives are in full agreement that the best agreement is one reached without outside interference or assistance. We do find, however, that availability of external sources (labor relations agency, mediators, arbitrators, legislators and judges) serve in various ways, as catalysts to promote resolution and finality. When their roles, as defined in P.E.R.A., are understood they enhance the likelihood of internal resolution. Their power to issue cease and desist orders, determine findings of bad faith, finalize terms and conditions, enjoin, or refuse to fund are reasons enough for the parties to reach agreement without outside intervention.

We believe that the right to strike is essential to a "good faith" bargaining process. We recommend, however, that the parties be provided an option to waive their right to strike and proceed directly to binding arbitration. We emphasize the workers' right to legal and limited economic sanction. It should be clear to all Commission members, as evidenced in Anchorage last Fall, that teachers have the power to strike and will exercise, or may be forced to exercise, that prerogative. Our intent is to legitimize, through P.E.R.A., the legality of taking such action only after all other avenues have failed. We believe that the P.E.R.A. act has sufficient safeguards to assure that such measures would not occur for unrealistic or transient reasons. An agency empowered with the right to deny such a request, conduct hearings and monitor an election on this matter are guaranteed means to that end. We therefore believe that teachers should be incorporated in the category of class 2 employees with the right to a legal, limited strike.

Sec. 23.40.070. Declaration of policy. The legislature finds that joint decision-making is the modern way of administering government. If public employees have been granted the right to share in the decision-making process affecting wages and working conditions, they have become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly, government is made more effective. The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to harness and direct the energies of public employees eager to have a voice in determining their conditions of work, to provide a rational method for dealing with disputes and work stoppages, to strengthen the merit principle where civil service is in effect and to maintain a favorable political and social environment. The legislature declares that it is the public policy of the state to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government. These policies are to be effectuated by

(1) recognizing the right of public employees to organize for the purpose of collective bargaining;

(2) requiring public employers to negotiate with and enter into written agreements with employee organizations on matters of wages, hours, and other terms and conditions of employment;

(3) maintaining merit-system principles among public employees. (§ 2 ch 113 SLA 1972)

It is essential that there be a legislative statement of commitment to the principles of collective bargaining and this section is appropriate for same.

Sec. 23.40.080. Rights of public employees. Public employees may self-organize and form, join or assist an organization to bargain collectively through representatives of their own choosing, and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. (§ 2 ch 113 SLA 1972)

Appropriate as is.

Sec. 23.40.090. Collective bargaining unit. The labor relations agency shall decide in each case, in order to assure to employees the fullest freedom in exercising the rights guaranteed by §§ 70—260 of this chapter, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmentation shall be avoided. (§ 2 ch 113 SLA 1972)



MINORITY REPORT PRESENTED BY
NEA-ALASKA AND ALASKA FEDERATION OF TEACHERS
NEA - ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

- Robert C. Manners
Executive Secretary
Juneau Office
- Robert C. Cooksey
Deputy Executive Secretary
Juneau Office
- James D. Alter
Field Staff
Juneau Office
- Charles L. O'Connell
Deputy Executive Secretary
Anchorage Office
- Dianne Anderson
Field Staff
Anchorage Office
- Steve Pulkkinen
Field Staff
Anchorage Office
- Mary Ann Eninger
Deputy Executive Secretary
Fairbanks Office

JUNEAU OFFICE
147 SOUTH FRANKLIN #707
JUNEAU ALASKA 99801
PHONE (907) 586-3090

ANCHORAGE REGIONAL OFFICE
1411 WEST 33rd
ANCHORAGE, ALASKA 99503
PHONE (907) 274-0536

FAIRBANKS REGIONAL OFFICE
825 COLLEGE ROAD
FAIRBANKS, ALASKA 99701
PHONE (907) 456-4435

December 4, 1980

Frank Austin
3839 Apollo Drive
Anchorage, Alaska 99504

Dear Frank:

This letter represents the thinking conclusions and recommendations of NEA and AFT as participants on the Governor's Blue Ribbon Commission on Certified Staff-School Board negotiations.

It is our understanding that the attached, along with this letter, will be incorporated into and as a part of the composite report/recommendations which are forwarded to the Governor for his consideration.

We basically concur with the substance and content of:

- 'Blue Ribbon Commission' page 1
- 'Preface' pages ii and iii
- 'Executive Summary of Findings and Recommendations' page 1, 2
- 'Background' page 3
- 'Commission Activities' page 4 - 6
- 'Findings' page 7, 8
- 'Recommendations' pages 9, 10

which were reviewed and revised at our last meeting on November 24, 25, 1980.

Our intent is that this letter and the attached which is entitled "NEA/AFT Recommendations to Effect Resolution of Certified Teacher Bargaining Law Problems Through Revision of Alaska Statutes 23.40, the Alaska Public Employment Act (P.E.R.A.)" be incorporated and included as a part of the report/recommendations to the Governor commencing with page 11

Thank you for your work as chairperson of the commission and for your attention to this matter. We look forward to receiving a final and complete copy of the Commission Report and attachments as soon as it is available.

Sincerely,

Robert Manners
Executive Secretary
NEA/Alaska

Sincerely,

Ralph McGrath
Alaska Federation of Teachers

cc: Betty Dillman

100 - Representatives and Elections

This section is most appropriate since it relieves local school boards from responsibility for decisions outside their experience and which may have a high potential for litigation. The presence of a Labor Relations Board having responsibility in their area insures a logical and orderly process in assuming the opportunity for fair representation.

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

(1) interfere, restrain or coerce an employee in the exercise of his rights guaranteed in § 80 of this chapter;

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

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

(4) discharge or discriminate against an employee because he has signed or filed an affidavit, petition or complaint or given testimony under §§ 70—260 of this chapter;

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

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

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

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

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

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in § 80 of this chapter, or

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

(2) refuse to bargain collectively in good faith with a public employer, if it has been designated in accordance with the provisions of §§ 70—260 of this chapter as the exclusive representative of employees in an appropriate unit. (§ 2 ch 113 SLA 1972)

110

This section is extremely important in that it defines the concept of fair/unfair labor practices, the rights of both parties regarding same, obligations of both parties, and again, most importantly, an orderly procedure relative to resolution of same. This can only help in removing some of the personal attitudinal conflicts as well as reducing unnecessary time frames and costly court procedures.

Sec. 23.40.120. Investigation and conciliation of complaints. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by § 110 of this chapter, or a written accusation that a person subject to §§ 70—260 of this chapter has engaged in a prohibited practice, is filed with the labor relations agency, it shall investigate the complaint or accusation. If it determines after the preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding. (§ 2 ch 113 SLA 1972)

Sec. 23.40.130. Complaint and accusation. If the labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with §§ 70—260 of this chapter, or, before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62). (§ 2 ch 113 SLA 1972)

Sec. 23.40.140 Orders and decisions. If the labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the labor relations agency shall issue and serve on the person an order or decision requiring him to cease and desist from the prohibited practice and to take affirmative action which will carry out the provisions of §§ 70—260 of this chapter. If the labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation. (§ 2 ch 113 SLA 1972)

Sec. 23.40.150. Enforcement by injunction. The labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the labor relations agency. Upon a showing by the labor relations agency that the person has engaged or is about to engage in the practice, an injunction, restraining order, or other order which is appropriate may be granted by the court and shall be without bond. (§ 2 ch 113 SLA 1972)

Sec. 23.40.160. Power to investigate and compel testimony. (a) For the purpose of the investigations, proceedings, or hearings which the labor relations agency considers necessary to carry out the provisions of §§ 70—260 of this chapter, the labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under §§ 70—260 of this chapter, the superior court in the district in which the person resides or is found may, upon application by the labor relations agency, issue an order requiring him to comply with the subpoena. (§ 2 ch 113 SLA 1972)

Sec. 23.40.170. Regulations. The labor relations agency may adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the provisions of §§ 70—260 of this chapter. (§ 2 ch 113 SLA 1972)

Sec. 23.40.180. Penalty for violation of order or decision. A person who violates a provision of an order or decision of the labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than \$500. (§ 2 ch 113 SLA 1972)

This is one of the more critical areas of considerations.

.170 - Investigation and Conciliation of Complaints

.130 - Complaint and Accusations

.140 - Orders and Decision

.150 - Enforcement by Injunctions

.160 - Power to Investigate and Compel Testimony

.170 - Regulation

.180 - Penalty for Violation of Order or Decision

These sections all outline the duties and responsibilities of the Labor Relations Agency to enforce effective collective bargaining and all are essential to effective implementation of any bargaining law. The presence of these sections insures that both parties to collective bargaining can participate as equal partners in the process.

Sec. 23.40.190. Mediation. If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, a deadlock exists between a public employer and an organization, the labor relations agency may appoint a competent, impartial, disinterested person to act as mediator in any dispute either on its own initiative or on the request of one of the parties to the dispute. The parties may also select a mediator by agreement or mutual consent. It is the function of the mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the labor relations agency has any power of compulsion in mediation proceedings. (§ 2 ch 113 SLA 1972)

.190 - Mediation

Intervention by a competent, impartial, disinterested professional serves as a catalyst in assisting both parties to clarify and resolve differences.

Sec. 23.40.200. Arbitration. (a) For purposes of this section, public employees are employed to perform services in one of the three following classes:

- (1) those services which may not be given up for even the shortest period of time;
- (2) those services which may be interrupted for a limited period but not for an indefinite period of time; and
- (3) those services in which work stoppages may be sustained for extended periods without serious effects on the public.

(b) The class in (a)(1) of this section is composed of police and fire protection employees, jail, prison and other correctional institution employees, and hospital employees. Employees in this class may not engage in strikes. Upon a showing by a public employer or the labor relations agency that employees in this class are engaging or about to engage in a strike, an injunction, restraining order, or other order which may be appropriate shall be granted by the superior court in the judicial district in which the strike is occurring or is about to occur. If an impasse or deadlock is reached in collective bargaining between the public employer and employees in this class, and mediation has been utilized without resolving the deadlock, the parties shall submit to arbitration to be carried out under AS 09.13.030.

(c) The class in (a)(2) of this section is composed of public utility, snow removal, sanitation and (public school and other educational institution employees). Employees in this class may engage in a strike after mediation, subject to the voting requirement of

(d) of this section, for a limited time. The limit is determined by the interests of the health, safety or welfare of the public. The public employer or the labor relations agency may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public but also the extent to which employee organizations and public employers have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(d) The class in (a) (3) of this section includes all other public employees who are not included in the classes in (a) (1) or (a) (2) of this section. Employees in this class may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(e) Notwithstanding the provisions of (b), (c) and (d) of this section, the employees with the concurrence of the employer may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

(f) The parties to a collective bargaining agreement may provide in the agreement a contract for arbitration to be conducted solely according to the Uniform Arbitration Act (AS 09.43) if the Act is incorporated into the agreement or contract by reference. (§ 2 ch 113 SLA 1972)

.200 - Arbitration

Public school teachers naturally fit into the (a) (2) "limited period" category.

Add a new subsection:

.205 - Mediation/Arbitration

In that the Commission has received evidence and testimony that mediation/arbitration has proven to be an effective means of negotiations dispute settlement, it is our recommendation that such a process be provided as an alternative to either party, to be determined at the outset of negotiations.

(a) The parties to a collective bargaining agreement may provide in the agreement a contract for mediation/arbitration to be conducted according to procedures set forth therein.

(b) In the initial round of negotiations under this Act, either party may request the other party to enter into a mediation/arbitration agreement as an alternative to the dispute settlement procedures contained herein. If either party declines such an agreement the party making the request for mediation/arbitration may petition the Labor Relations Board for a final and binding determination on the issue.

Sec. 23.40.210. Agreement. Upon the completion of negotiations between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it will remain in effect, not to exceed three years. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency. (§ 2 ch 113 SLA 1972)

Appropriate as is.

Sec. 23.40.215. Funding. The monetary terms of any agreement entered into under the Public Employment Relations Act are subject to funding through legislative appropriation. (§ 2 ch 113 SLA 1972)

Appropriate as is.

Sec. 23.40.220. Labor or employee organization dues and employee benefits, deduction and authorization. Upon written authorization of a public employee within a bargaining unit, the public employer shall deduct from the payroll of the public employee the monthly amount of dues, fees and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative (§ 2 ch 113 SLA 1972)

Appropriate as is.

Sec. 23.40.225. Exemption from Public Employment Relations Act. Notwithstanding the provisions of § 220 of this chapter, a collective bargaining settlement reached, or agreement entered into, under § 210 of this chapter that incorporates union security provisions, including but not limited to a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the labor relations agency, the agency shall declare the employee exempt from becoming a member of a labor organization or employee association. The employee shall pay an amount of money equivalent to regular union or association dues, initiation fees, and assessments to the union or association. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving union or association shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor or employee organization. The union or association shall submit proof of contribution to the labor relations agency. (§ 1 ch 85 SLA 1976)

Cross reference. — As to applicability of this article to ferry personnel, see note following article 2 analysis.

Effective date. — Section 3, ch. 85, SLA 1976, makes this section effective May 27, 1976, in accordance with AS 01.10.070.

Editor's note. — Section 2, ch. 85, SLA 1976, effective May 27, 1976, provides: "If

any portion of AS 23.40.225 is declared unconstitutional or void by a court of competent jurisdiction then that entire section is void."

Applied in *Halling v. Inland Boatmen's Union*, Sup Ct Op No 17-361, No 3129, 661 P.2d 970 (1978).

Appropriate as is.

Sec. 23.10.230. Assistance by Department of Labor. When state employees are involved, the Department of Labor shall, if requested by the personnel board, and if there is no objection by the organization involved, assist the personnel board on matters such as, but not limited to, conducting elections and investigating unfair labor practices. (§ 2 ch 113 SLA 1972)

Editorial change is needed on line 12. Insert after employees, and public school employees.

Sec. 23.10.240. Effect on certain units, representatives and agreements. Nothing in this chapter terminates or modifies a collective bargaining unit, recognition of exclusive bargaining representative, or collective bargaining agreement if the unit, recognition, or agreement is in effect on September 5, 1972. (§ 2 ch 113 SLA 1972)

Appropriate as is.

Sec. 23.10.250. Definitions. In §§ 70—260 of this chapter, unless the context otherwise requires:

(1) "collective bargaining" means the performance of the mutual obligation of the public employer or its designated representative and the representative of the employees to meet at reasonable times, including meetings in the course of the budget-making process and negotiate in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession.

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in §§ 70—260 of this chapter;

(3) "labor relations agency" means the state personnel board with regard to the state and employers of the state, and means the Department of Labor with regard to all other public employees and all other public employers.

(4) "organization" means a labor or employee organization of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment;

(5) "public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials or teachers or noncertificated employees of school districts;

(6) "public employer" means the state or a political subdivision of the state, including without limitation, a town, city, borough, district, board of regents, public and quasi-public corporation, housing authority or other authority established by law, and a person designated by the public employer to act in its interest in dealing with public employees;

(7) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of a public employer. (§ 2 ch 113 SLA 1972)

Sec. 23.10.260. Short title. Sections 70—260 of this chapter may be cited as the Public Employment Relations Act. (§ 2 ch 113 SLA 1972)

.250 - Definitions

Regarding 1 1 and 2 - Appropriate as is.

Regarding 1 3 - "Labor Relations Agency" shall mean a three-person Board, of which at least the Chairperson shall be a full-time employee of the State of Alaska.

Regarding 1 4 - Appropriate as is.

Regarding 1 5 - "Public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials.

Regarding 1 6 and 7 - Appropriate as is.

Regarding 1 8 - Regarding sub-section 190 - Mediation - "Reasonable Period" means the Labor Relations Board shall consider the academic year, calendar year, fiscal year, and budget making process in determining the appropriateness of intervention by mediation into a potential collective bargaining dispute.

Regarding Scope of negotiations or negotiability:

It is our feeling and recommendation that such determinations are more appropriately a matter for the Labor Relations Board using criteria, guidelines and case law such as had evolved from the National Labor Relations Board.

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for Senate Bill 668 (RLS) am

Title "An Act relating to public employees collective bargaining"

Requested by House HESS Committee

Date May 20, 1982

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Wage and Hour

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86 ¹	FY 87
100 PERSONAL SERVICES		87.0	95.7	105.3	115.8	127.4
200 TRAVEL		22.9	25.2	27.7	30.5	33.5
300 CONTRACTUAL		43.0	47.3	52.0	57.2	63.0
400 COMMODITIES		3.5	3.9	4.2	4.7	5.2
500 EQUIPMENT		2.6	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	159.0	172.1	189.2	208.2	229.1

FUNDING (Thousands of Dollars)

GENERAL FUND	0	159.0	172.1	189.2	208.2	229.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		2.0	2.0	2.0	2.0	2.0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section IID)

This fiscal note includes all amounts on the original fiscal note for SB 668 and CS for SB 668 (HESS).

Other states which have enacted PERA type laws that cover teachers have advised us that during the first few years the laws were in effect, management or employee representatives of 50% of the affected school districts filed unfair labor practice charges each year which resulted in hearings before the labor relations agency. The average hearing lasted six hours (or one day).

Assuming that the contracts of approximately 36 of Alaska's 52 school districts come up for renegotiation each year and that our experience would be comparable to that of other states, we can expect that 13 of the school districts will generate unfair labor practice charges requiring hearing before the labor relations agency. (Continued)

IV. DATE Nov 21 1982 PREPARED BY Judy Knight for
ALJ AGENCY Labor
 Original: Legislative Finance PHONE 465-2720
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

The Legislature of the State of Alaska
Twelfth Legislature
Fiscal Note
Bill/Resolution No. CS SB 668 (RLS) am

III. Analysis (Continuation)

In addition to the charges associated with the two Wage and Hour Investigators are costs to contract for a hearing officer on 13 occasions (\$9,750) and court reporting services including transcripts (\$5,325), plus printing (\$1,600) and legal costs (\$6,000). A total of \$5,600 has been included in travel for the hearing officer's transportation and per diem (10 trips of 2 days each = $(400 + 80 [2]) 10 = 5,600$).

Assumes an inflation rate of 10% per annum.

Assumes an effective date of July 1, 1982.

1	POSITION TITLE Wage and Hour Investigator II			RANGE/STEP 18A	ORG. UNIT. G	LOCATION Anchorage	GOV. GOV.	APPROV. 	INDAPP. 						
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. CSSR 668(RLS)	PCN No. Not assigned	PRIORITY 	FORM 12 	PAGE/LINE 	LEG. 							
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:									
	1	2	3												
4	PERSONAL SERVICES:			<p>This position will conduct investigations and informal hearings of unfair labor practices complaints filed with this agency. The Investigator will travel extensively throughout the state performing these investigations and hearings.</p> <p>Personal Services calculations are based on the salary schedule effective 3/16/82.</p> <p>Travel funds allow for 12 - 4 day trips costing an average of \$400 @ for transportation and per diem of \$320 (4 days X \$80)</p> <p>Contractual services costs are comprised of telephone charges, equipment rent, word processing costs, management services support of \$3,900, and \$3,200 for space rent.</p> <p>The equipment costs for a desk, file, recorder, transcriber, partitions, and bookcase are one-time charges.</p>											
5	SALARY 2838/month		34,056												
6	BENEFITS 1592		5,422												
7	SBS		2,088												
8	FIXED BENEFITS		1,920												
9	TOTAL PERSONAL SERVICES		43,486												
10	TRAVEL		8,640												
11	CONTRACTUAL		10,150												
12	COMMODITIES		1,750												
13	EQUIPMENT		1,300												
14	OTHER														
15	TOTAL COST		65,326												
15	RECEIPT CODE	FUNDING SOURCE													
16		FED RCPTS 1002													
17		GF MATCH 1003													
18	100	GEN FUND 1004		65,326											
19		I-A RCPTS 1005													
20		PCM RCPTS 1008													
21		OTHER													
21	CONTINUATION		FOR B&M USE ONLY												
22	ADDITION														
4A	KEY NUMBER			COLUMN NO											

AGENCY Labor PROGRAM Worker Protection

BHU Wage and Hour Administration

COMPONENT Wage and Hour Administration

13 REQUEST FOR NEW POSITION.

FY 83

1	POSITION TITLE Wage and Hour Investigator II			RANGE/STEP 18A	BARG. UNIT. G	LOCATION Anchorage	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. CSSB 668(RLS)	PCN No. Not assigned	PRIORITY	FORM 12	PAGE/LINE	LTD	

3 TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES:		
4	SALARY 2838/month	34,056
5	BENEFITS .1592	5,422
6	SBS	2,088
7	FIXED BENEFITS	1,920
8	TOTAL PERSONAL SERVICES 01	43,486
9	TRAVEL 02	8,640
10	CONTRACTUAL 03	10,150
11	COMMODITIES 04	1,250
12	EQUIPMENT 05	1,300
13	OTHER	
14	TOTAL COST	65,326

JUSTIFICATION:
 This position will conduct investigations and informal hearings of unfair labor practices complaints filed with this agency. The Investigator will travel extensively throughout the state performing these investigations and hearings.
 Personal Services calculations are based on the salary schedule effective 3/16/82.
 Travel funds allow for 12 - 4 day trips costing an average of \$400 @ for transportation and per diem of \$320 (4 days X \$80)
 Contractual services costs are comprised of telephone charges, equipment rent, word processing costs, management services support of \$3,900, and \$3,200 for space rent.
 The equipment costs for a desk, file, recorder, transcriber, partitions, and bookcase are one-time charges.

RECEIPT CODE	FUNDING SOURCE	
15	FED RCPTS 1002	
16	GF MATCH 1001	
17	100 GEN FUND 1001	65,326
18	I-A RCPTS 1005	
19	PGM RCPTS 1024	
20	OTHER	

21	CONTINUATION	FOR B&M USE ONLY
22	ADDITION	

4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor PROGRAM Worker Protection

BRU Wage and Hour Administration

COMPONENT Wage and Hour Administration

13 REQUEST FOR NEW POSITION.

FY 83

Page 2 of 2 REVISED DATE _____

Suggested House to C
CS

Original sponsor: Rules/Governor Offered: 5/18/82

(Jeff Barry will
fastify)

SPONSOR IN THE SENATE BY THE RULES COMMITTEE BILL
HCS for CS FOR SENATE BILL NO. 668 (Rules) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION
A BILL RELATING TO

For an Act entitled: "An Act relating to public employees subject to collective bargaining."

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

- * Section 1. AS 14.20.170(a)(3) is amended to read: (3) substantial noncompliance with the school laws of the state, the provisions of AS 23.40.070 - 23.40.260, the regulations or bylaws of the department, the bylaws of the district, or the written rules of the superintendent.
- * Sec. 2. AS 14.20.550 is repealed.
- * Sec. 3. AS 14.20.555(a) is repealed.
- * Sec. 4. AS 14.20.560 is repealed.
- * Sec. 5. AS 14.20.570(b) is repealed.
- * Sec. 6. AS 14.20.590 is repealed.
- * Sec. 7. DELETE
- * Sec. 8. ^{45 23} ~~AS 14.20.610~~ is amended to read: Sec. 14.20.610. LEGAL RESPONSIBILITIES OF BOARDS. Nothing in AS 14.20.550 - 14.20.600 or in AS 23.40.070 - 23.40.260 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. 9. AS 23.40.200(b) is amended to read: (b) The class in (a)(1) of this section is composed of police and fire protection employees, jail, prison and other correctional institution employees, :AND: hospital employees, and emergency services employees of the Department of Military Affairs. Employees in this class may not engage in strikes. Upon a showing by a public employer, :OR: the labor relations agency, or a school board for teachers included in the class under this subsection, that employees in this class are engaging or about to engage in a strike, an injunction, restraining order, or other order which may be appropriate shall be granted by the superior court in the judicial district in which the strike is occurring or is about to occur. If an impasse or deadlock is reached in collective bargaining between the public employer and employees in this class, and mediation has been utilized without resolving the deadlock, the parties shall submit to arbitration under AS 23.40.208.:ARBITRATION TO BE CARRIED OUT UNDER AS 09.43.030:.

* Sec. 10. AS 23.40.200(c) is amended to read: (c) The class in (a)(2) of this section is composed of public utility, snow removal, and sanitation employees and public school and other educational institution employees, including teachers except teachers included in the class in (b) of this section by a majority of voters under AS 23.40.202. Employees in this class may engage in a strike after mediation, subject to the voting requirement of (d) of this section, for a limited time. The limit is determined by the interests of the health, safety or welfare of the public. The public employer :OR: the labor relations agency, or, if teachers are engaging in a strike, the school board may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public but also the extent

to which employee organizations and public employers have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to arbitration under AS 23.40.208. [ARBITRATION TO BE CARRIED OUT UNDER AS 09.43.030]

* Sec. 11. AS 23.40.200(e) is amended to read: (e) Notwithstanding the provisions of (b), (c) and (d) of this section, the employees with the concurrence of the employer may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration under AS 23.40.208.

* Sec. 12. AS 23.40 is amended by adding new sections to read: Sec. 23.40.202. LOCAL OPTION FOR DETERMINING THE CLASSIFICATION OF TEACHERS. (a) The following question, if approved by a majority of the members of a school board, shall be placed before the voters of the school district in accordance with (b) of this section: "Shall teachers employed by the (name of school district) be subject to AS 23.40.200(f), prohibiting certain public employees from engaging in a strike? Yes : : No : ;"

(b) If a school board approves the question under (a) of this section, the local governing body of the municipality, or the director of elections if the board is a regional school board, shall place the question set out in (a) of this section on a separate ballot at the next regular election held in the municipality or regional educational attendance area. The local governing body shall conduct the election in accordance with the election ordinance of the municipality. The director of elections shall conduct the election in the general manner prescribed by AS 14.08.071 and the Alaska Election Code (AS 15).

(c) If a majority of voters voting on the question vote "yes" on the question set out in (a) of this section, teachers in that school district shall be included in the class under AS 23.40.700(b) and removed from the class under AS 23.40.700(c).

Sec. 23.40.206. FACT-FINDING. DELETE

23.40.208. ARBITRATION. (a) When an organization and a public employer are unable to reach an agreement after mediation and an impasse exists, arbitration shall be conducted before an arbitration panel. The arbitration panel shall be selected as follows: The employee organization and the Public Employer shall each name a representative to the arbitration panel within two (2) working days of reaching impasse. The two (2) individuals so selected will then name a mutually acceptable third member to the arbitration panel, who shall act as Chairman. In the event that the first two (2) members of the arbitration panel are unable to agree upon a third member within three (3) working days, the parties shall select an arbitrator by the striking method from a permanent list of Alaska arbitrators previously supplied by the American Arbitration Association. This third member will be selected within five (5) working days after the failure to agree on a mutually agreeable third member. The panel will continue in session until a decision has been reached. The panel will render its decision within five (5) working days upon conclusion of the presentation unless the time is extended by the agreement of the parties.

(b) The decision of the arbitration panel will be final and binding upon both parties and shall be implemented within five (5) working days after the decision has been reached, unless waived by mutual agreement for extension of time.

(c) Expenses of the independent arbitrator shall be borne by the Public Employer.

(d) The arbitration panel shall have no authority to add, alter, delete or modify any provision of law or applicable Alaska Supreme Court decision. In the event any section or provision of the decision of the arbitration panel be declared or held to be invalid or illegal by a Court of competent jurisdiction, only the

part, section, provision, or the entire agreement so held or declared invalid or illegal shall forthwith cease to be of further force and effect, and in such event either party may, upon not less than thirty (30) days written notice to the other, have the right to open negotiations for the substitution of a new section, sections, or agreement, consistent with the decision of the Court.

* Sec. 13. DELETE

* Sec. 14. DELETE

* Sec. 15. AS 23.40.250(5) is amended to read: (5) "public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials. [OR ADMINISTRATIVE EMPLOYEES OF SCHOOL BOARDS, TEACHERS OR NON CERTIFICATED EMPLOYEES OF SCHOOL DISTRICTS]:

* Sec. 16. AS 23.40.250(6) is amended to read: (6) "public employer" means the state or a political subdivision of the state, including without limitation, a :TOWN,: city, borough, district, board of regents, city, borough, or regional school board, public and quasi-public corporation, housing authority or other authority established by law, and a person designated by the public employer to act in its interest in dealing with public employees;

* Sec. 17. AS 23.40.250 is amended by adding new paragraphs to read: (8) "district" means a district as defined by AS 14.12.010; (9) "teacher" means a person employed by a school board who serves in a teaching or counseling capacity and is required to be certificated in order to hold the position.

* Sec. 18. DELETE

* Sec. 19. (a) A school board, including a regional educational

attendance area school board, may not reject having the provisions of the Public Employment Relations Act apply to its relations with its employees.

(b) The provisions of sec. 4, ch. 113, SLA 1972 do not apply to allow organized boroughs and other political subdivisions of the state, home rule or otherwise, to reject

having the provisions of the Public Employment Relations Act apply to its relation with those school employees of the municipality included under the provisions of that Act.

* Sec. 20. Nothing in this Act terminates or modifies a collective bargaining unit, recognition of exclusive bargaining representative, or collective bargaining agreement if the unit, recognition, or agreement is in effect on the effective date of this Act.



Official Business

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Pouch V
State Capitol
Juneau, Alaska 99811

House HEJS

May 29, 1982
9:00 am

Agenda

CSSB 668(R1s) am

An Act relating to public employees
collective bargaining

AMENDMENT TO CSSB 668 (RIs) am

Page 3, Line 19

Delete the word "grievances" and replace with:

"grievances as any misapplication or misinterpretation of
the terms and conditions of the negotiated agreement."

AMENDMENT TO CSSB 668 (RIs) am

Page 4, Line 5

Delete (.) after the word "policies" and add:

1. Directing the work of its certificated and other employees;
2. Hiring, promoting, demoting, transferring, a signing, and retaining employees within the district;
3. Suspending or discharging employees for proper cause;
4. Maintaining the efficiency of the operation of the school district;
5. Relieving employees from employment because of lack of enrollment, loss of revenue, discontinuance of a job function, or other legitimate reason;
6. Determining and implementing methods, means, assignments and personnel by which the school board shall conduct the district operations;
7. Taking such actions as may be necessary to carry out the mission of the school district;
8. Initiating, preparing, certifying, and administering the school district budget;
9. Exercising all powers and duties granted to the school board by law.

AMENDMENT TO CSSB 668 (RIs) am

Page 7, Line 7 and 8

Delete "other terms and conditions of employment" and

Add: time off