

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990  
6084 HOUSE RULES 8672

4/88



Official Business

# Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V  
Juneau, Alaska 99811

Phone:  
(907) 465-3764  
465-3765

## HOUSE RULES COMMITTEE MEETING

CAPITOL, ROOM 208

TUESDAY, APRIL 10, 1990

### AGENDA:

#### CS FOR HOUSE BILL NO. 124 (Finance)

"An Act relating to the sale of merchandise by the Department of Fish and Game, to sport fishing, trapping, and hunting licenses, to big game tags, to personal use salmon dip net fishing permits, to fur dealer, taxidermy, fish farming, and game farming licenses, and to duplicate licenses and tags; relating to the definition of resident in fish and game laws; relating to use of revenue from sport fishing, trapping, and hunting licenses and tags; relating to the involuntary transfer of limited entry and interim-use permits; and providing for an effective date."

### I N D E X

- I. A M E N D M E N T - (CHANGES CONTAINED IN CSHB 124(RULES))
- II. PROPOSED VERSION CSHB 124(RULES)
- III. CSHB 124(FINANCE)
- IV. CSHB 124(RESOURCES)
- V. FISCAL NOTE CSHB 124(FIN)

A M E N D M E N T

CONTAINED IN CSHB 124 (Rules)

Page 1, line 10:

"aquatic farming" was inserted in lieu of "fish farm: g"

Page 1, lines 15 - 16:

"entry permits" was inserted in lieu of "limited entry and interim-use permits"

Page 4, line 5:

"Aquatic [FISH]" was inserted in lieu of "Fish"

"triennial [BIENNIAL]" was inserted in lieu of "biennial"

Page 6, lines 21 - 23:

A new sentence

"An involuntary transfer of an entry permit in a manner inconsistent with this chapter and the regulations of the commission is void."

was inserted in lieu of

"An entry permit or an interim-use permit involuntarily transferred by operation of federal law is void."

**II.**  
go0379hP  
Utermohle  
4/9/90

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 124 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the sale of merchandise by the  
7 Department of Fish and Game, to sport fishing, trap-  
8 ping, and hunting licenses, to big game tags, to  
9 personal use salmon dip net fishing permits, to fur  
10 dealer, taxidermy, aquatic farming, and game farming  
11 licenses, and to duplicate licenses and tags; relat-  
12 ing to the definition of resident in fish and game  
13 laws; relating to use of revenue from sport fishing,  
14 trapping, and hunting licenses and tags; relating to  
15 the involuntary transfer of entry permits; and  
16 providing for an effective date."

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

18 \* Section 1. AS 16.05.050 is amended by adding a new paragraph to read:

19 (18) to authorize the production and sale of merchandise  
20 bearing designs, labels, or words associating the merchandise with the  
21 department; the merchandise may include posters, buttons, clothing,  
22 calendars, and glassware.

23 \* Sec. 2. AS 16.05.053 is amended by adding a new subsection to read:

24 (b) The commissioner of administration shall separately account  
25 for money collected under AS 16.05.050(18) that the department de-  
26 posits in the general fund. The annual estimated balance in the  
27 account may be appropriated by the legislature to the fish and game  
28 fund.

29 \* Sec. 3. AS 16.05.130 is amended by adding a new subsection to read:

1 (d) Revenue from the sale of general hunting, trapping, and  
 2 fishing licenses and tags together with the federal matching funds  
 3 from Pittman - Robertson, Dingell - Johnson/Wallop - Breaux programs  
 4 shall be used in strict accordance with federal guidelines to specif-  
 5 ically benefit purchasers of general hunting, trapping, and fishing  
 6 licenses.

7 \* Sec. 4. AS 16.05.340(a)(1) is amended to read:

8 (1) Resident sport fishing license.....\$15 [\$10]

9 \* Sec. 5. AS 16.05.340(a)(2) is amended to read:

10 (2) Resident

11 (A) small game hunting license.....15 [12]

12 (B) hunting license for both big and small game....25

13 "Big game" means those species listed in (a)(15) of this section.

14 \* Sec. 6. AS 16.05.340(a)(3) is amended to read:

15 (3) Resident hunting and trapping license.....40 [22]

16 \* Sec. 7. AS 16.05.340(a)(4) is amended to read:

17 (4) Resident trapping license.....15 [10]

18 \* Sec. 8. AS 16.05.340(a)(5) is amended to read:

19 (5) Resident hunting and sport fishing license.....35 [22]

20 \* Sec. 9. AS 16.05.340(a)(6) is amended to read:

21 (6) Resident hunting, trapping, and sport fishing license  
 22 ..... 45 [32]

23 However, the fee is 25 cents for an applicant who is the head of a  
 24 family or a dependent member of that family, or who is solely self-  
 25 supporting, upon proof presented by the applicant that the applicant

26 (A) is obtaining or has obtained assistance during the  
 27 preceding six months under any state or federal welfare program  
 28 to aid the indigent, or

29 (B) has an annual family gross income of less than

\$5,600 for the year preceding application.

\* Sec. 10. AS 16.05.340(a)(7) is amended to read:

(7) Nonresident special sport fishing license -- valid for the period inscribed on the license

- (A) For 14-day license.....\$30 [\$20]
- (B) For three-day license .....15
- (C) For one-day license.....10

\* Sec. 11. AS 16.05.340(a)(8) is amended to read:

(8) Nonresident sport fishing license.....50 [36]

\* Sec. 12. AS 16.05.340(a)(9) is amended to read:

(9) Nonresident hunting license.....85 [60]

\* Sec. 13. AS 16.05.340(a)(10) is amended to read:

(10) Nonresident hunting and sport fishing license.....135 [96]

A nonresident may not take a big game animal without previously purchasing a numbered, nontransferable, appropriate tag, issued under (15) of this subsection. The tag must be affixed to the animal immediately upon capture and must remain affixed until the animal is prepared for storage, consumed, or exported. A tag issued but not used for an animal may be used to satisfy the tagging requirement for an animal of any other species for which the tag fee is of equal or less value.

\* Sec. 14. AS 16.05.340(a)(11) is amended to read:

(11) Nonresident hunting and trapping license....\$250 [\$200]

\* Sec. 15. AS 16.05.340(a)(12) is amended to read:

- (12) Fur dealers:
  - (A) Resident fur dealer biennial license.....150 [100]
  - (B) Nonresident fur dealer biennial license..500 [400]

\* Sec. 16. AS 16.05.340(a)(13) is amended to read:

(13) Taxidermists:

(A) Resident taxidermy biennial license.....200 [150]

(B) Nonresident taxidermy biennial license...500 [400]

\* Sec. 17. AS 16.05.340(a)(14) is amended to read:

(14) Aquatic [FISH] farming triennial [BIENNIAL]

license.....400 [200]

\* Sec. 18. AS 16.05.340(a)(15) is amended to read:

(15) Nonresident big game tags:

(A) Bear, black, each.....225 [200]

(B) [REPEALED.]

(C)] Bear, brown or grizzly, each.....500 [350]

(D) BEAR, POLAR, EACH.....500]

(C) [(E)] Bison, each.....450 [350]

(D) [(F)] Caribou, each.....325 [300]

(E) [(G)] Deer, each.....150 [135]

(F) [(H)] Elk, each.....300 [250]

(G) [(I)] Goat, each.....300 [250]

(H) [(J)] Moose, each.....400 [300]

(I) [(K)] Sheep, each.....425 [400]

(L) WALRUS, EACH .....500]

(J) [(M)] Wolf, each.....175 [150]

(K) [(N)] Wolverine, each.....175 [150]

(L) [(O)] Musk oxen, each.....1,100

\* Sec. 19. AS 16.05.340(a)(18) is amended to read:

(18) Game farming:

(A) Game mammal or game reptile farming biennial license.....\$250 [200]

(B) Game bird farming biennial license.....50 [20]

\* Sec. 20. AS 16.05.340(a) is amended by adding new paragraphs to read:

1 (19) Nonresident small game hunting license.....20

2 (20) Nonresident alien hunting license.....300

3 A nonresident alien may not take a big game animal without previously  
4 purchasing a numbered, nontransferable, appropriate tag, issued under  
5 (21) of this subsection. The tag must be affixed to the animal immed-  
6 iately upon capture and must remain affixed until the animal is pre-  
7 pared for storage, consumed, or exported. A tag issued but not used  
8 for an animal may be used to satisfy the tagging requirement for an  
9 animal of any other species for which the tag fee is of equal or less  
10 value.

11 (21) Nonresident alien big game tags:

12 (A) Bear, black, each.....300

13 (B) Bear, brown or grizzly, each.....650

14 (C) Bison, each.....650

15 (D) Caribou, each.....425

16 (E) Deer, each.....200

17 (F) Elk, each.....400

18 (G) Goat, each.....400

19 (H) Moose, each.....500

20 (I) Musk oxen, each.....1,500

21 (J) Sheep, each.....550

22 (K) Wolf, each.....250

23 (L) Wolverine, each.....250

24 (22) Personal use salmon dip net fishing permit.....10

25 \* Sec. 21. AS 16.05.340(c) is amended to read:

26 (c) The commissioner may issue a duplicate license or a dupli-  
27 cate tag as a replacement for a license or tag issued under (a) of  
28 this section. A fee of \$5 [\$2] shall be charged for each duplicate  
29 license or tag and the duplicate license or tag may [SHALL] not be

1 issued unless the commissioner or a delegate is satisfied that the  
2 original has been lost or destroyed. This subsection does not apply  
3 to a 25-cent license issued under (a)(6) of this section.

4 \* Sec. 22. AS 16.05.940(25) is amended to read:

5 (25) "resident" means a person who for the preceding 12  
6 consecutive months has maintained a permanent place of abode in the  
7 state and who has continually maintained a voting residence in the  
8 state; and in the case of a partnership, association, joint stock  
9 company, trust, or corporation, "resident" means one that has its main  
10 office or headquarters in the state; however, a member of the military  
11 service who has been stationed in the state for the preceding 12  
12 consecutive months is a resident for the purposes of this paragraph,  
13 and the dependent of a resident member of the military service, who  
14 has been living in the state for the preceding year is a resident for  
15 the purposes of this paragraph; [,] and a person who is an alien but  
16 who for one year has maintained a permanent place of abode in the  
17 state is a resident for the purposes of this paragraph;

18 \* Sec. 23. AS 16.43.170(a) is amended to read:

19 (a) Except as provided in AS 16.10.333 - 16.10.338 and in  
20 AS 44.81.230 - 44.81.250, entry permits and interim-use permits are  
21 transferable only through the commission as provided in this section  
22 and AS 16.43.180 and under regulations adopted by the commission. An  
23 involuntary transfer of an entry permit in a manner inconsistent with  
24 this chapter and the regulations of the commission is void.

25 \* Sec. 24. This Act takes effect July 1, 1990. *91 moved by*

26 *Cottar, under ed. code.*

V

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to sport fishing and hunting licenses. . ."  
 Sponsor: Rules  
 Requestor: Governor

Agency Affected: Fish and Game  
 BRU: Wildlife Conservation, Sport Fish, Administration  
 Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
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REVENUE	1013.0	3839.3	3850.0	3850.0	3850.0	3850.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER Fish & Game	1013.0	3839.3	3850.0	3850.0	3850.0	3850.0
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No FY 90 impact.

Prepared by: Beverly Reaume *Beverly Reaume* Phone: 465-4120  
 Division: Administration Date: 3/22/90

Approved by Commissioner: *[Signature]* Date: 3 27 90  
 Agency: Fish & Game

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

• ASSUMPTIONS FOR LICENSE FEE FISCAL NOTE

RESIDENT	1989 ACTUALS	% JAN-JUN	ANNUAL VALUE AT CURRENT FEE	ANNUAL VALUE AT INCREASED FEE	FY91 INCREASE (PARTIAL YEAR)	FY92 INCREASE
HUNT	23189	42.1%	278268	549725	114246	271457
HUNT/TRAP	1516	62.4%	33352	60640	17015	27280
TRAP	1032	52.6%	10320	15480	2716	5160
SF/HUNT/TRAP	6363	52.6%	203616	286335	43510	82719
SF/HUNT	43548	42.0%	958056	1524180	237772	566124
FISH	115332	41.7%	1153320	1729980	240372	576660
FISH FARM	1	0	200	400	0	200
FUR DEALER	45	48.6%	4500	6750	1093	2250
TAXIDERMIST	51	75.0%	7650	10200	1913	2550
GAME BIRD FARM	4	100.0%	80	200	120	120
DIP NET FISHING				155000	65100	155000
NONRESIDENT						
HUNT	8543	15.1%	512580	726155	32276	213575
HUNT/TRAP	35	15.1%	7000	8750	264	1750
FUR DEALER	1	0.0%	400	500	0	100
TAXIDERMIST	4	66.7%	1600	2000	267	400
ALIEN HUNT	-	15.1%	-	90000	13590	90000
ALIEN TAGS	-	15.1%	-	162100	24477	162100
TAGS	-	14.4%	2936580	3413600	68691	477020
FISH	23338	23.7%	840168	1166900	77337	326732
FISH 14 DAY	63760	7.8%	1275200	1912800	49458	637600
FISH 3 DAY	64143	9.5%	641430	721609	7605	80179
FISH 1 DAY	0	9.5%	0	160358	15209	160358
TOTALS			8964320	12703661	1013030	3839341
DIVISION OF WILDLIFE CONSERVATION					397270	1498807
SPORT FISH DIVISION					615760	2340534

\* .25 LICENSES AND DUPLICATES WERE LEFT OUT OF THESE CALCULATIONS  
ASSUME THERE WILL BE 15500 DIP NET LICENSES SOLD

**5/1/90**

**HB 408,  
HB 457**

**(Appropriation  
Budget  
Reserve)**

## **CS For House Bill 408 (Rules)**

**"An Act making special appropriations to the budget reserve fund."**

### **Section 1**

Deletes old section 1 and replaces it with a section that would appropriate litigation settlements not otherwise appropriated to the permanent fund under art. IX , sec. 15, of the constitution or the public school trust fund under AS 37.14.150 to the budget reserve fund (AS 37.05.540)

### **Section 2**

Deletes old section 2 and replaces with immediate effective date

### **Section 3**

Deleted

6-1890E  
Utermohle  
4/2/90

Original sponsor(s): REP. M. DAVIS, Ulmer, Boyer, Koponen

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 408 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the budget  
7 reserve fund; and providing for an effective date."

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

9 \* Section 1. That portion of the money received by the state or or  
10 after the effective date of this Act as a result of the termination,  
11 through settlement or otherwise, of an administrative proceeding or litiga-  
12 tion involving mineral lease rentals, royalties, royalty sale proceeds, or  
13 federal mineral revenue sharing payments or bonuses that is not dedicated  
14 to the permanent fund under art. IX, sec. 15, Constitution of the State of  
15 Alaska, or to the public school trust fund under AS 37.14.150 is appropri-  
16 ated to the budget reserve fund (AS 37.05.540).

17 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).  
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**5/1/90**

**HB 408,  
HB 457**

**(Appropriation  
Budget  
Reserve)**

Original sponsor(s): Finance Committee

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO, 457 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the budget  
7 reserve fund."

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

9 \* Section 1. The sum designated as the "general fund balance available  
10 for appropriation" in the annual financial report prepared by the Depart-  
11 ment of Administration under AS 37.05.210(2) for fiscal year 1991 is appro-  
12 priated to the budget reserve fund (AS 37.05.540) on November 1, 1991.

## **CS For House Bill 457 (Finance)**

**"An Act making special appropriations to the budget reserve fund."**

### **Section 1**

This section would appropriate the general fund balance as stated in the state's annual financial report for fiscal year 1990 into the budget reserve fund on November 1, 1990.

*(The statutory deadline for the annual financial report is October 31. November 1 is the date the balance would be available for appropriation.)*

### **Section 2**

This section appropriates litigation settlements not otherwise appropriated to the permanent fund under art. IX, sec. 15, of the constitution or the public school trust fund under AS 37.14.150 to the budget reserve fund (AS 37.05.540)

**5/5/90**

**SB 15**

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

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AGENCY  
MAY 5, 1990

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 5, 1990

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

TO: Representative Ben Grussendorf  
Chair, House Rules Committee

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

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

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

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

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

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

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

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

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

Repesenatative Ben Grussendorf

Page 2

May 5, 1990

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

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

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

Sec. 3 is an immediate effective date.

If I may be of further assistance, please advise.

TBC:gc  
G14/'68

JAN 23 1990

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 23, 1990

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

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

FROM: Teresa B. Cramer *BC*  
Legislative Counsel

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

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

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

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

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

Representative Lyman Hoffman  
Page 2  
January 23, 1990

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

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

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

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

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

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

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

Sec. 10 is an immediate effective date clause.

If I may be of further assistance, please advise.

TBC:pl  
WKP1/032

## Recent Legislative History on Arbitration

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

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

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

1977

*Teachers Assn.*

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

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

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

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

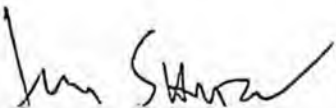
- investigating representation petitions;
- determining appropriate units for the purpose of collective bargaining;
- conducting elections;
- monitoring the resolution of unfair labor practices;
- conducting preliminary hearings; and
- monitoring the mediation and arbitration of disputed issues subsequent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

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

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

The department's fiscal note is attached.

APPROVED:



~~Jim Sampson, Commissioner~~  
Department of Labor

**POSITION PAPER/**Department of Labor

## SB 15: Labor Relations Under PERA

### UNFAIR LABOR PRACTICES (ULP)

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

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

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

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

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

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

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

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

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

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

(1) restrain or coerce

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

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

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

(2 ch 113 SLA 1972)

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

AASB

1990  
LEGISLATIVE  
POSITIONS



Association of  
Alaska School Boards

GENERAL SUBJECT: GOVERNANCE

ISSUE: RIGHT-TO-STRIKE (SB 15)

RESOLUTION INTENT:

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

STATEMENT OF REASONS:

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

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

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

GENERAL SUBJECT: GOVERNANCE

ISSUE: BINDING ARBITRATION

RESOLUTION INTENT:

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

STATEMENT OF REASONS:

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

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

# PRIORITY SCHOOL BOARD ISSUES FOR 1990

*Association of Alaska School Boards*

## **RIGHT TO STRIKE/BINDING ARBITRATION**

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

## **EDUCATION ENDOWMENT**

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

## **INCREASED FOUNDATION FUNDING**

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

## **AT-RISK YOUTH**

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

## **EARLY CHILDHOOD EDUCATION**

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

## **SCHOOL FUNDING**

(Single/Dual Sites & Area Cost Differential)

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

## **SCHOOL CONSTRUCTION DEBT RETIREMENT**

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

## **TEACHER TENURE**

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

## **TENURED STAFF REDUCTION WHEN REVENUES DECLINE**

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

## **STAFF REDUCTION DUE TO CHANGING PROGRAM NEEDS**

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

## **ACCESS TO CRIMINAL RECORDS**

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

## **SEXUAL ABUSE OF A STUDENT**

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

## **SEXUAL MISCONDUCT BY EDUCATORS (Certification)**

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

## **SUPPORT FOR RECRIMINALIZATION OF MARIJUANA**

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

## **JOINT COMMITTEE ON SCHOOL PERFORMANCE**

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

## **STUDENT STATEWIDE TESTING**

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

## **MANDATORY BOROUGH FORMATION**

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

FISCAL NOTE

REQUEST:

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

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

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

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

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

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 15 (FIN) am

PUBLISH DATE: H-2-6-90

FISCAL NOTE

REQUEST:

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Note: There is no fiscal impact in FY 90.

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

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

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

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

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

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

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

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

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

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

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

**Request For  
New Position**

Agency Labor  
 BRU Labor Standards & Safety  
 Component Wage & Hour

Page 3 of 4

Revised Date

**FY 90**

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

**Request For  
New Position**

Agency Labor  
 BRU Labor Standards & Safety  
 Component Wage & Hour

Page 4 of 4  
 Revised Date

**FY 90**

# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 14, 1990

FURTHER REFERRALS:

Date of Committee Action: 5-5-90

The RULES Committee considered:

CSSB 15 (FINANCE) am

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

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

**RECOMMENDATIONS:**

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

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact \_\_\_\_\_
- zero fiscal note \_\_\_\_\_
- zero with analysis \_\_\_\_\_

- fiscal note(s) Labor 2-6-90
- zero fiscal note(s) Ed. 2-6-90
- zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

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**SIGNING:**

(Check approp. column)

	Do Not Pass	No Rec	Amend
<i>[Signature]</i>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>		

*[Signature]*  
Chairman's Signature

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

1 IN THE SENATE

BY THE RULES COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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



# Representative Ben Grussendorf, Chair House Rules Committee

DATE: 5-5-90

PLACE: Speaker's Chambers

SUBJECT OF MEETING:

SB; negotiations of school teacher contracts

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

# **CORRECTION**

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

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

1 IN THE SENATE

BY THE RULES COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act including, for two years, public school  
7 employees in the Public Employment Relations Act as  
8 class (a)(3) employees entitled to a right to strike;  
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18 attendance areas, and the state boarding school; and

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24 bargaining negotiations between a municipal school district, a regional  
25 educational attendance area, or the state boarding school and its employ-  
26 ees, the parties shall submit to advisory arbitration before the employees  
27 may engage in a strike.

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

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

1 the effective date of this Act.

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

DATE: 5-5-90

PLACE: Speaker's Chambers

SUBJECT OF MEETING:  
SB; negotiations of school teacher contracts

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

**7/7/90**

**HJR 99  
(Subsistence)**

ROLL CALL HOUSE RULES MEETING 7/7/90

- MARTIN 3:04 PM.
- TAYLOR
- LARSON
- DAVIDSON N
- KUBINA
- DONLEY
- GRUSSENDORF

REMARKS:

~~REMARKS~~ MARTIN

DAVIDSON

T151 218 → TOM KOESTER (AST. ATT. AT LAW)

312 → <sup>C.M.</sup>MARTIN 3 QUESTIONS TO T.K.

497 → <sup>C.M.</sup>TAYLOR STATEMENT/QUESTIONS

638 → <sup>C.M.</sup>NAVARRE QUESTIONS

T152 003 → MARTIN → M.N. QUESTIONS

056 → DAVIDSON →

114 → TAYLOR → ~~STATEMENT~~

252 → NAVARRE → INQUIRY OF COURT DEC.

344 → MARTIN

S.M.L.O

444 → M. DAVIS.

TISZ 489 → HOFFMAN

TISZ 520 → M.DAVIS

TISZ 560 → TAYLOR AMENDMENT

TISZ 615 → 620 VOTE ON AM#1 PASSED

TISZ 625 → MARTIN

TISZ 669 → TAYLOR AMENDMENT

684 → 690 VOTE ON AM#2 FAILED 2-4

692-696 MOVING BILL OUT COM. PASSE 4-2

-697- TISZ

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

JAC 99

July 6, 1990

The Honorable Sam Cotten  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. II, sec. 9, and art. III, secs. 17 and 18, of the Alaska Constitution, I am transmitting a joint resolution that would (1) amend the Alaska Constitution to authorize the legislature to give Alaska residents a preference for subsistence uses of fish and wildlife based on community or area characteristics, need, customary and traditional use, direct dependence, local residence, or availability of alternative resources; (2) validate, ratify, and reinstate the provisions of current state statutes relating to subsistence that have been held unconstitutional by the Alaska Supreme Court in McDowell v. State, 785 P.2d 1 (Alaska 1989); and (3) make the subsistence amendment effective immediately upon certification by the lieutenant governor of the results of the election at which the amendment will be put before the people. The resolution incorporates a number of the ideas that have surfaced during this special session of the legislature, including the notion that the authorization for subsistence preference should be consistent with the Declaration of Rights in art. I of the Alaska Constitution.

In 1978, the Alaska legislature recognized that subsistence -- i.e., the taking of fish and wildlife for personal consumption and use -- should have a preference over sport and commercial uses of fish and wildlife. In Title VIII of the Alaska National Interest Land Conservation Act (ANILCA), P.L. 96 -- 487, 94 Stat. 2371, 2422 (1980), the United States Congress established a priority for rural residents on federal land, and provided that the priority would be implemented by the secretaries of interior and agriculture unless the state enacted laws of general applicability affording the same priority. In 1982, the Board of Fisheries and Board of Game jointly adopted regulations establishing a subsistence preference for rural residents. In the 1982 general election, the voters of the state overwhelmingly supported that subsistence preference by

defeating an initiative that would have repealed state subsistence laws. Finally, in 1986, the legislature established a subsistence preference for rural residents in state statutes.

Although it has been both state and federal policy for more than a decade, the Alaska Supreme Court held in the McDowell case that a subsistence preference for rural residents violates the Alaska Constitution. In subsequent proceedings in that case, the superior court recently ruled that the preference for subsistence uses over sport and commercial uses remains a part of state law, but only those individual Alaskans with a prior history of subsistence use are eligible to participate.

This puts the state in an intolerable position. Under existing state law, as interpreted by the court, only a select few Alaskans will be eligible to participate in subsistence, and they will have a preference over all other Alaskans. Determining who the lucky few are will be incredibly intrusive and burdensome to the residents of rural villages -- those Alaskans who everyone agrees are most reliant on the resources. It will require a substantial and expensive state bureaucracy.

In many ways, however, it will not substantially change the pre-McDowell allocation of fish and wildlife as a practical matter, except on the Kenai Peninsula with respect to salmon. The superior court ruled that the "tier two" criteria used to further allocate subsistence resources among qualifying subsistence users, including the local residency component, is constitutionally valid. As a consequence, when game resources are insufficient to supply the needs of all subsistence users (as is the case with the Nelchina caribou herd), local residents will still have a preference. In other areas of the state, subsistence seasons for local residents are, in most cases, the same as the general hunting seasons in which all Alaskans may participate. On the Kenai Peninsula, on the other hand, those with a history of customary and traditional subsistence uses of salmon will have a statutory preference over commercial and sport users, potentially resulting in a dramatic reallocation of those resources in that area.

On federal land, in the meantime, the federal government will take over management of fish and wildlife to the extent necessary to give rural residents a subsistence preference, as required by ANILCA. This dual management regime will prove awkward at best; at worst, it could seriously jeopardize the sustained yield of fish and wildlife because of the difficulty of coordinating between two sets of managers with two different mandates.

In my view, any advantages that might result from the status quo are greatly outweighed by the disadvantages of (1) the burdensome and intrusive (and expensive) administrative process that will have to be established, (2) federal management on federal land, and (3) the potentially dramatic reallocation of fish on the Kenai Peninsula. The subsistence constitutional amendment I am proposing will reestablish the pre-McDowell state policy of granting rural residents a subsistence preference and enable the state to retain management of fish and wildlife statewide. Most importantly, passage of the resolution will leave the final decision on this important issue to the people of the state, the ones most directly affected by it.

Section 1 of the joint resolution would add a new section to art. VIII of the Alaska Constitution ("natural resources") to authorize subsistence preferences based on community or area characteristics, need, customary and traditional use, direct dependence, local residence, or availability of alternative resources. This would give the legislature clear constitutional authority to pass laws that are consistent with the provisions of ANILCA.

There clearly is some tension between the explicit reference to the Declaration of Rights, which provides in part that "all persons are equal and entitled to equal rights, opportunities, and protection under the law," and the proposed subsistence constitutional provision authorizing the legislature to establish subsistence preferences based on specified criteria. The first says that all persons have equal rights; the second says the legislature may grant preferences.

The Declaration of Rights, however, has never been interpreted literally as guaranteeing absolutely equal rights to all Alaskans. If it did, we could not limit the right to vote to those over 18 years of age while those 17 or younger cannot vote. We could not prohibit unqualified individuals from practicing medicine. In other words, the Declaration of Rights in the Alaska Constitution is not absolute.

The fact that there will be some tension between the two concepts accordingly does not mean that they are inconsistent and that the court will be required to determine which principle supersedes the other. Instead,

It is an undisputed maxim of constitutional construction that different provisions of the document shall be read so as to avoid conflict whenever possible. Thus, "[w]henver

possible, all provisions should be given effect, and each interpreted in light of the others, so as to reconcile them, if possible, and to render none nugatory."

Abrams v. State, 534 P.2d 91, 95 (Alaska 1975) (citation omitted). Stated another way, "[i]t is a well accepted principle of judicial construction that, whenever reasonably possible, every provision of the Constitution should be given meaning and effect, and related provisions should be harmonized." Park v. State, 528 P.2d 785, 786-87 (Alaska 1974) (citations omitted).

The court accordingly would have to examine any statute establishing a subsistence preference in light of both constitutional provisions. While the proposed subsistence amendment clearly would authorize subsistence preferences on one or more of the bases specified, see State v. Ostrosky, 667 P.2d 1184, 1189 (Alaska 1983), the legislature could not establish any preference it wanted just because it employed one of the permissible criteria. At a minimum, the court would still "require that the legislation be based on a legitimate public purpose and that the classification 'be reasonable, not arbitrary, and . . . rest upon some ground of difference having a fair and substantial relation to the object of the legislation . . .'" Ostrosky, 667 P.2d at 1193, quoting Isakson v. Rickey, 550 P.2d 359, 362 (Alaska 1976). In Isakson, the court called this the "rational basis test." Id.

If passed by the voters, then, the subsistence constitutional amendment in sec. 1 of this resolution will amend the Alaska Constitution to allow for subsistence preferences for hunting and fishing, as long as the preferences established are rationally related to the purpose for which they are established. This clearly would include the preference for rural residents invalidated in McDowell v. State, 785 P.2d 1 (Alaska 1989).

Section 2 of the joint resolution validates, ratifies, and reinstates those provisions of the state's subsistence laws held invalid as a result of the McDowell decision. Case law from this and other jurisdictions makes clear that an amendment will have retroactive effect if such an intent is clearly expressed, as here. See, e.g., Matthews v. Quinton, 362 P.2d 932, 938-39 (Alaska 1961). By ratifying and reinstating the provisions of the 1986 law that are consistent with federal law, the state would be back in the same position it was in before the McDowell decision, but with the certainty that the provisions of the state's subsistence laws are constitutional under the Alaska Constitution.

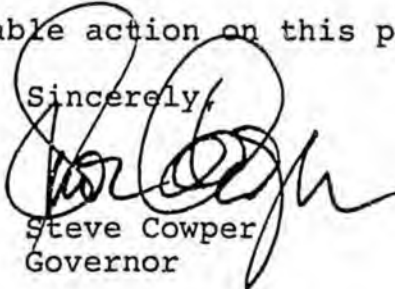
Section 3 of the joint resolution would add a new section to art. XV of the Alaska Constitution ("transitional measures"), providing that the subsistence amendment to art. VIII proposed in sec. 1 of the joint resolution becomes effective immediately upon certification of the election returns by the lieutenant governor, and not the normal 30 days after that certification as provided in art. XIII, sec. 1. The sooner the amendment becomes effective, the sooner the state will be able to take the management of fish and wildlife on federal land back from the federal government.

Section 4 of the joint resolution is, essentially, standard language directing the lieutenant governor to place the proposed constitutional amendments, including the statement of effect, before the voters in a single ballot proposition at the next general election.

The subsistence constitutional amendment that I am proposing would give constitutional authorization for a number of subsistence preferences. It would reestablish the rural subsistence preference from the 1986 law and, in doing so, retain state management of fish and wildlife throughout the state. Most importantly, it will enable the people of the state -- those most affected -- to make their will known through their vote at the general election this year.

I urge your prompt and favorable action on this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name below.

Steve Cowper  
Governor

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE JOINT RESOLUTION NO. 99

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SPECIAL SESSION

5 Proposing amendments to the Constitution  
6 of the State of Alaska relating to  
7 subsistence uses of fish and wildlife by  
8 Alaska residents in order to retain  
9 management of those resources by the  
10 State of Alaska; and providing for an  
11 effective date.

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

13 \* Section 1. Article VIII, Constitution of the State of Alaska, is  
14 amended by adding a new section to read:

15 SECTION 19. SUBSISTENCE USES OF FISH AND WILDLIFE. Consistent  
16 with the sustained yield principle and the Declaration of Rights  
17 (Article I of this Constitution), the legislature may grant a pref-  
18 erence to and among Alaska residents in the taking of fish and wild-  
19 life for subsistence uses on the basis of community or area charac-  
20 teristics, need, customary and traditional use, direct dependence,  
21 local residence, or the availability of alternative resources.

22 \* Sec. 2. In addition to authorizing the legislature to enact laws  
23 granting a preference for subsistence uses, the amendment proposed in sec.  
24 1 of this resolution (1) validates, ratifies, and reinstates state subsis-  
25 tence laws, including the definitions and subsistence preference for rural  
26 residents in ch. 52, SLA 1986, that are consistent with federal laws  
27 relating to subsistence uses, and (2) enables the state to retain manage-  
28 ment of fish and wildlife on federal land.

29 \* Sec. 3. Article XV, Constitution of the State of Alaska is amended by

1 adding a new section to read:

2 SECTION 29. EFFECTIVE DATE OF SUBSISTENCE AMENDMENT. Section 19  
3 of Article VIII, regarding a subsistence preference, takes effect  
4 immediately upon certification of the election returns by the  
5 lieutenant governor.

6 \* Sec. 4. The amendments proposed in secs. 1 and 3 of this resolution,  
7 and the effect of the amendment proposed in sec. 1 of this resolution, as  
8 set out in sec. 2 of this resolution, shall be placed before the voters of  
9 the state as one ballot proposition at the next general election in con-  
10 formity with art. XIII, sec. 1, Constitution of the State of Alaska, and  
11 the election laws of the state.

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# Representative Ben Grussendorf, Chair House Rules Committee

DATE: July 7, 1990

PLACE: House Fin Cmt.

SUBJECT OF MEETING:  
HJR 99

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
<u>Hudson Eperly</u>	<u>Self</u>	<u>P.O. Box 34358 JUNO</u>	<u>99803</u>	<u>789-5659</u>	<u>/</u>	<input checked="" type="radio"/>	<input type="radio"/>	<u>HJR 99</u>
<u>Charles Edwards</u>	<u>TCAS</u>	<u>P.O. Box 211 Barrow</u>		<u>411</u> <u>DS2</u>		<input checked="" type="radio"/>	<input type="radio"/>	<u>"</u>
<u>DON MITCHELL</u>	<u>ADEN</u>	<u>411 W. 4th</u>				<input checked="" type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
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						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: Subsistence  
Sponsor: \_\_\_\_\_  
Requestor: \_\_\_\_\_

Agency Affected: Dept. Fish/Game  
BRU: Subsistence  
Components: Subsistence

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

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

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-			
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>			

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by: \_\_\_\_\_ Phone: \_\_\_\_\_

Division: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by Commissioner: *Robert A. Quinn* Date: 7/6/90

Agency: \_\_\_\_\_

Distribution (by preparer):

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

**FISCAL NOTE**

**REQUEST:**

Revision Date: 7/6/90  
Title: Constit. Amendment re:  
Subsistence  
Sponsor: Rules/Governor  
Requestor: \_\_\_\_\_

Agency Affected: Office of Governor  
BRU: Division of Elections  
Components: \_\_\_\_\_

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

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

CAPITAL						
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REVENUE						
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**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by: [Signature]  
Division: \_\_\_\_\_

Phone: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved by Commissioner: [Signature]  
Agency: \_\_\_\_\_

Date: 7/6/90

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