

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8696 HOUSE LABOR & COMMERCE

HR 12 - Supporting the Collective Bargaining Agreement Between the University of Alaska and the Alaska Community Colleges' Federation of Teachers

Reference 1 UA/ACCFT Arbitration Award - April 14, 1995

"The University of Alaska prevails with regard to the issues of Program Assessment, Financial Exigency and Campus Governance; the Union prevails with regard to the issue of Compensation. Therefore, the University shall pay the bargaining unit members the pay increase provided by the collective bargaining agreement."

Reference 2 UA/ACCFT Collective Bargaining Agreement

Article 7.1 Salaries

- A. Faculty Members shall be compensated in a manner consistent with the provisions of Regents Policy and University Regulation 04.05.01 - 03 in effect as of the date of this Agreement, except that any compensation increases shall be subject to legislative appropriations in accordance with the provisions of As. 23.40.215 and shall be requested separately from compensation increases requested for other employees of the University. (emphasis added)
- B. The University agrees to request the same level of salary increase for Faculty Members as is requested of the Legislature for other University employees. If the University grants other University employees salary increases but does not receive an appropriation to fund salary increases for Faculty Members at the same level, the University agrees to submit to the Legislature at the beginning of the next regular session following the increase for University employees an amount necessary to permit Faculty Members to receive a salary increase of the same level received by University employees.

Article 12.5 Legislative Appropriations

- A. No legislative appropriation requested by the University, with regard to funding this Agreement, shall be made without prior discussion with the Union pursuant to Article 11. The University shall give adequate notice to the Union of such requests as to provide reasonable response time from the Union. The University shall request and actively support full funding of this Agreement.
- B. It is agreed by and between the parties that any provision of this Agreement requiring legislative action to permit its implementation, by amendment of law or by providing additional funds therefore, shall not become effective until the appropriate legislative body has given approval. (emphasis added)

Reference 3 AS 23.40.215 - State Employee Collective Bargaining Law

Sec. 23.40.215 Funding and legislative approval.

(a) The monetary terms of any agreement entered into under AS 23.40.070-23.40-260 are subject to funding through legislative appropriation.

(b) The Department of Administration shall submit the monetary terms of an agreement to the legislature within 10 legislative days after the agreement of the parties, if is in session, or within 10 legislative days after the convening of the next regular session. The legislature shall advise the parties by concurrent resolution if it approves or disapproves of the monetary terms within 60 legislative days after the agreement is submitted to the legislature. The approval of the monetary terms of an agreement under this subsection is a nonbinding, advisory expression of legislative intent. If within 60 legislative days after the agreement is submitted the legislature advises the parties by concurrent resolution that it disapproves the monetary terms of the agreement, the parties may resume negotiations.

NOTES TO DECISIONS

Monetary terms of agreement are not effective until funds are appropriated by legislature. Each year the monetary terms of a collective bargaining agreement are subject to independent legislative approval. *Public Employees Local 71 v. State*, 775 P.2d 1062 (Alaska 1989).

Applied in *Haffling v. Inlandboatmen's Union* 585 P 2nd 870 (Alaska 1978)

Cited in *Warwick v. State ex rel Chance*, 548 P 2d 384 (Alaska 1976)

Reference 4 Legislative Legal Services - Terry Cramer - Feb. 6, 1995

Last paragraph:

"If there were a monetary term of a contract that required a separate appropriation, unrelated to other budget items, then, given the language in AS 23.40.215, that monetary term would be considered to have failed unless the legislature made an appropriation for that purpose. However, I believe that this is an unlikely factual situation. The safer course for the legislature, if it wishes to disapprove a monetary term, is to state its disapproval specifically."

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 12, 1996

FURTHER REFERRALS: Labor and Commerce

Date of Committee Action: 3/21/96

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HR 12

HOUSE RESOLUTION NO. 12

UNIV. COLLECTIVE BARGAINING CONTRACT

Supporting the collective bargaining agreement between the University of Alaska and the Alaska Community Colleges' Federation of Teachers.

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) University

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

| SIGNING WITH RECOMMENDATIONS | DP | DNP | NR | AM |
|------------------------------|-------------------------------------|-----|-------------------------------------|----|
| <i>Nancy Kalkreuth</i> | | | <input checked="" type="checkbox"/> | |
| <i>Carla Buehler</i> | | | <input checked="" type="checkbox"/> | |
| <i>Carol Kalsensson</i> | <input checked="" type="checkbox"/> | | | |
| <i>Tom Buehler</i> | <input checked="" type="checkbox"/> | | | |
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CHAIR'S SIGNATURE *Carla Buehler*

March 13, 1996

Kathrin W. Greenough
414 3rd Street
Juneau, Alaska 99801

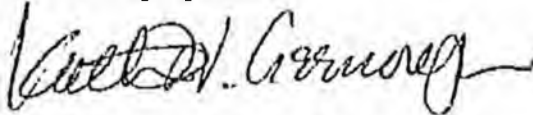
Cynthia Toohey
Health Education and Social Services Committee
State Capitor (MS3100)
Juneau, Alaska 99811-1182

Dear House HESS and Labor Committee Members:

I am writing to urge you to support House Resolution 12. I am a member of the bargaining unit for the ACCFT University of Alaska Southeast faculty. Please don't be bamboozled by the University's attempt to get the legislature to reject the appropriation for the 3% raise which is owed for this year and next years compensation. As you also know this was a legally abritrated settlement which the University has refused to pay.

Please support House Resolution 12 which will hold the University accountable.

Sincerely yours,



Kathrin W. Greenough

cc: Cynthia Toohey
Con Bunde
Al Vezey
Gary Davis
Norman Rokeberg
Tom Brice
Caren Robinson

Pete Kott
Brian Porter
Beverly Masek
Kim Elton
Gene Kubina

University Of Alaska Faculty
Kodiak Campus
 Urging Your Support for
 House Resolution 12

The UA faculty members listed below ask your support for House Resolution 12 because the University of Alaska has failed to honor its contractual obligations to us.

Your YES vote on HR 12 will send a message to the University's administration that it is expected to honor their contractual obligations just like other state agencies. Our 1992 Collective Bargaining Agreement was approved by the University's Board of Regents, and the Legislature, and was fully funded. However, the University has chosen to not to honor all of the terms of the contract during the past 2 years. We teachers have honored our obligations under the contract and believe the University should honor its obligations as well. We hope you agree that contractual obligations should be honored -- even by the University.

Reasons for supporting HR 12

- ✓ Arbitrator's ruling: This cost of living increase was awarded to teachers as part of a binding arbitration decision. The University has refused to comply with this binding ruling.
- ✓ University knew consequences: Grave concerns are raised when a governmental agency chooses not to honor provisions of a negotiated contract for no valid reason. We believe that the University was fully aware of the consequences of their decision not to comply with the contract back in 1994. The University has dealt with contract labor law for 20 years and is well aware of what it can and cannot do. The University claims to have tried to comply, but insists that it is the Legislature that has prevented it from honoring the Contract. The facts however, show that the University's administration has not actively tried to comply with terms of the contract and is compounding the problem by wasting University personnel time and increasingly scarce state funds on needless lawsuits and attorneys' fees.
- ✓ Existing personnel services contracts are funded by Legislature: We understand that the Legislature funds existing contracts and the provisions of those contracts as part of the Personnel Services budget for each governmental agency. The University is claiming that the Legislature must provide funding for each part of the ACCFT contract each year. This line of reasoning does not hold water. For example, the Legislature funds the University's instructional budget and the University then decides how to expend those funds to satisfy its mission. Passage of HR 12 will help clarify that the Legislature funded our existing contract as part of the University's FY95 Personnel Services budget.
- ✓ Benefits of passing HR 12: The sooner HR 12 is passed, the sooner the University's administration will recognize that it must comply with our Collective Bargaining Agreement and should stop needlessly wasting State of Alaska and University resources.

Please Vote YES on HR 12.

March 19, 1996

Dear House LABOR Committee Member

Please support House Resolution 12. I ask for your yes vote on behalf of myself and the ten other full time faculty on the Sitka Campus, as well as all faculty represented by the ACCFT.

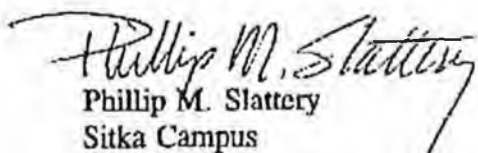
I would like to let you know that the faculty on my campus work tirelessly on behalf of their students and their University. They more than live up to their side of the contract they have had with the University of Alaska since 1992. I am sorry I cannot say as much for the University's effort to live up to its side of the contract for our faculty members. In 1992 they reluctantly committed to a contract that followed Board of Regents Policy for all U.A. faculty. A year later they suspended compensation policies for faculty and it took an arbitrator to tell them that they still needed to follow the contract they signed with ACCFT represented faculty.

During the 1995 legislative session the University did not act quickly enough to get bills considered for funding contracted pay raises for FY 95 and FY 96. The legislature closed its session without hearings on the University's FY 95 and FY 96 contract cost legislation. Now the University claims it will not request FY 95 contract funding, because with the Legislatures failure to fund the FY 95 request the University has no responsibility for contracted raises.

Please encourage the University of Alaska to manifest integrity, at least to the level of living up to contracts it signs with employees by voting yes on House Resolution 12.

Thank you for your time.

Sincerely,


Phillip M. Slattery
Sitka Campus

March 17, 1993

Pete Kott, Chair
Labor & Commerce Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Legislator Kott:

We urge you to **support House Resolution # 12**. A **YES** vote will send a message to the University Administration, that they are expected to honor contractual obligations made with the Alaska Community Colleges' Federation of Teachers (ACCFT.) This contract was approved by the Board of Regents and the Legislature in 1992.

For the past two years, the University has chosen not to honor all the terms and conditions of this contract. The fact that we are in litigation because the University has failed to comply with an arbitrator's binding decision, supports our allegation that the University has not actively tried to comply with the terms of this contract and they have chosen to waste University personnel time and State funds on lawsuits and attorney fees. We believe that the University was fully aware of the consequences of their decision not to comply with the contract back in 1994.

As ACCFT members, we have honored our contractual obligations with the University; and believe that the University should honor its obligation. The passage of HR #12 will help clarify that the Legislature funds existing contracts as part of the regular budget for state agencies; and therefore, will show support of continuation of this contract.

The support of the Labor & Commerce Committee is needed now. Thank you for your support.

Prince William Sound Community College Faculty

*This Resolution passed
out of the HESS Committee
without objection. We will
appreciate your support on
the Labor & Commerce Committee
PWSCC Faculty*

March 18, 1996

Representative Cynthia Toohey
Co-Chair, HESS Committee
Alaska State Legislature
State Capitol (MS3100)
Juneau, AK 99801-1182

Dear Representative Toohey:

This week Legislative hearings on House Resolution 12 are scheduled. I urge you to vote in favor of House Resolution 12.

The faculty represented by the ACCFT were entitled to the 3 percent increase as per the terms of their last contract in 1992. Also, an arbitrator ruled that under the contract, members of the collective bargaining unit were entitled to a three percent salary increase.

We accepted the contract in good faith, and a contract should be honored; not just tossed aside. Please support House Resolution 12.

Sincerely,

Gloria Hensel, Instructor UAA
Mat-Su Campus
HC01, Box 6208
Palmer, AK 99645

Please copy this message for all members of the HESS Committee.

1996 3 18 10:00

March 18, 1996

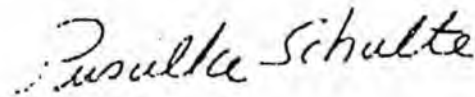
Cynthia Toohey, Co-Chair
Con Bunde, Co-Chair
House HESS Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear HESS Committee Members:

The University of Alaska-Southeast, Ketchikan Campus, faculty are urging you to support *House Resolution 12*. We are teaching faculty of the University of Alaska and are greatly concerned about the University's failure to live up to its contractual agreement with us.

Please note that the small number of signatures on the petition represents the total number of full-time faculty (in a non-visiting status) on our campus. We have experienced a fifty percent drop in full-time faculty on the Ketchikan Campus since the restructuring that eliminated the community college system. We urgently need your support in encouraging the University of Alaska to live up to its contractual agreement.

Sincerely,



Priscilla Schulte
Professor
Anthropology-Sociology

**University Of Alaska Anchorage Faculty
Urging Your Support for
House Resolution 12**

| <u>Signature</u> | <u>Department</u> |
|---------------------------|------------------------|
| <i>J. Hennessy</i> | Auto Diesel Technology |
| <i>Roy Noble</i> | Electronics Technology |
| <i>Alan P. ...</i> | E.T. |
| <i>H. Shattler</i> | Speech, Communication |
| <i>McFarland</i> | Physics |
| <i>Burton J. Hill</i> | E.V. |
| <i>Gene Johnson</i> | Technology/Voc Ed |
| <i>Jim Chittenden</i> | Welding Tech |
| <i>Robert McCaulley</i> | Welding Tech |
| <i>Edward R. Kniskern</i> | Sociology |
| <i>Elin E. ...</i> | Chemistry |
| <i>Eugene ...</i> | English |
| <i>Inne Paek</i> | Biology |
| <i>May Morley</i> | A.D.T. |
| <i>Dr. ...</i> | BA |
| <i>Devin Owens</i> | A.L.C. |
| <i>Archael Turner</i> | Advising & Counseling |
| <i>Foni ...</i> | Developmental Ed |
| <i>Ron Crawford</i> | Hist/Geography |

**University Of Alaska Anchorage Faculty
Urging Your Support for
House Resolution 12**

| <u>Signature</u> | <u>Department</u> |
|---|----------------------|
| Gerald H. [Signature] | CCVS |
| Robert [Signature] | CAS - English |
| Debrah [Signature] | CCVE |
| Ray [Signature] | JOE |
| Harold [Signature] | SPCH COMM |
| Paul [Signature] | CAS |
| Alvin [Signature] | CAS - English |
| Constance C. [Signature] | CAS - English |
| Art [Signature] | MATH |
| John [Signature] | CCVE |
| Paul [Signature] | CCVE |
| [Signature] | |
| [Signature] | Speech Communication |
| [Signature] | FST - CCVE |
| [Signature] J. Forney Ing th | FST - CCVE |
| [Signature] | FST - CCVE |
| [Signature] | ADT - CCVE |
| [Signature] | CCVS - Dental |
| [Signature] | English |

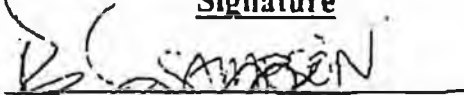
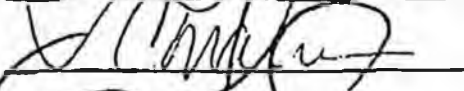
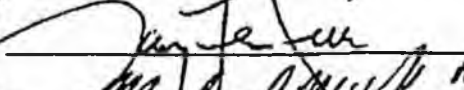
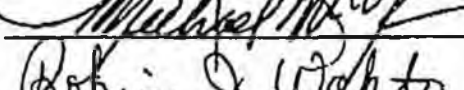
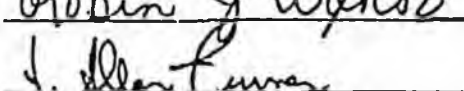
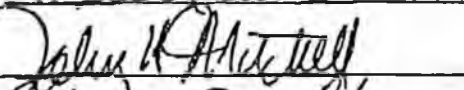
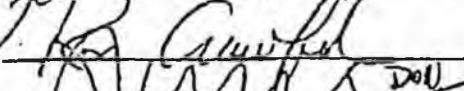
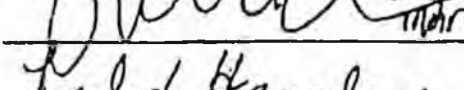
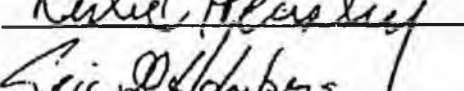
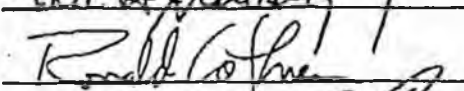

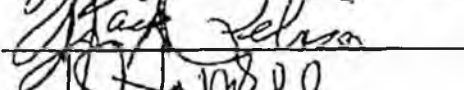
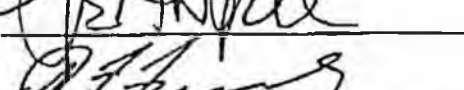
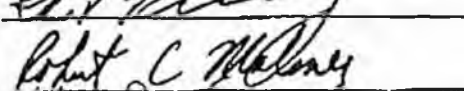

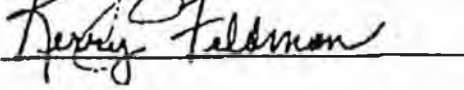



**University Of Alaska Anchorage Faculty
Urging Your Support for
House Resolution 12**

| <u>Signature</u> | <u>Department</u> |
|--|-----------------------------------|
| <u>Shawnaku A. Whitney</u> | <u>Speech Communication</u> |
| <u>Robert A. Johnson</u> | <u>Aviation Tech</u> |
| <u>William [unclear]</u> | <u>Psychology</u> |
| <u>Joseph F. Connor</u> | <u>Speech Comm, CAS</u> |
| <u>Robert W. Kuchner</u> | <u>Philosophy</u> |
| <u>Nancy K. Bush</u> | <u>Dental Programs</u> |
| <u>Andy J. Zimmerman</u> | <u>Dental Programs</u> |
| <u>Ronald W. Haney</u> | <u>AVIATION TECH</u> |
| <u>Charles Wade</u> | <u>Business Education</u> |
| _____ <u>Ernesta Bensch</u> | <u>Developmental Ed/Adult Ed.</u> |
| <u>Curt Smith</u> | <u>Tech.</u> |
| <u>Henry [unclear]</u> | <u>Vocational Education</u> |
| <u>Lawrence J. Weiss</u> | <u>Sociology</u> |
| <u>Cherie L. Shroder</u> | <u>Business</u> |
| <u>Rob. K. Seiler</u> | <u>Foodservice Tech</u> |
| <u>Ralph Mc Hatt</u> | <u>History, CAS</u> |
| <u>Tom M. Fisher</u> | <u>Automotive Tech.</u> |
| <u>Sarah J. Hill Sarah Kirk</u> | <u>Developmental Ed / CCE</u> |
| <u>[unclear]</u> | <u>Dev. Ed / CCE</u> |

**University Of Alaska Anchorage Faculty
Urging Your Support for
House Resolution 12**

| <u>Signature</u> | <u>Department</u> |
|-------------------------------------|--|
| <u>Linda Lee</u> | <u>CCCE/Dev Ed</u> |
| <u>Cristinette A. Janklen Jones</u> | <u>MSc/Student Services</u> |
| <u>Brian Williams</u> | <u>Electronics</u> |
| <u>Paul D. Ryan</u> | <u>Electronics</u> |
| <u>Mike Buesch</u> | <u>ELECTRONICS</u> |
| <u>Nancy Lee Overpeck</u> | <u>Dietetics and Nutrition</u> |
| <u>John F. Rolston</u> | <u>PHILOSOPHY</u> |
| <u>Judy A. Peters</u> | <u>Nursing</u> |
| <u>Patricia Arjona</u> | <u>Nursing</u> |
| <u>Carla M. Rogan</u> | <u>Nursing</u> |
| <u>Robert McCoy</u> | <u>Mathematics</u> |
| <u>Rena Mitchell</u> | <u>Advising & Counseling</u> |
| <u>Deborah K. K. K.</u> | <u>Advising & Counseling</u> |
| <u>Roy S. Cook</u> | <u>Advising & Counseling</u> |
| <u>Becky Patterson</u> | <u>English</u> |
| <u>Jal. Bastien</u> | <u>Journals & Public Communication</u> |
| <u>Catherine Thorne</u> | <u>Nursing</u> |
| <u>Patricia Wild</u> | <u>Nursing</u> |
| <u>Wally Stephens</u> | <u>Nursing</u> |
| <u>Col. Brown</u> | <u>History</u> |

University Of Alaska Anchorage Faculty
Urging Your Support for
House Resolution 12

| <u>Signature</u> | <u>Department</u> |
|--|-------------------------|
|  | NURSING |
|  | Human Services |
|  | BUSINESS |
|  <small>MIKE MCKEE</small> | Human Services |
|  | Medical Assisting |
|  | School of Education |
|  | Mathematical Sciences |
|  | HISTORY / GEOGRAPHY |
|  <small>DOUG MOHR</small> | HISTORY |
|  | Chemistry |
|  | Chemistry |
|  | Geomatics |
|  | Economics |
|  | Arts |
|  | JUSTICE |
|  | Sch of Business - ACCTG |
|  | Sch of Business - Acctg |
|  | " |
|  | Anthropology |

University Of Alaska ^{KUSKOKWIM} Campus Faculty
 Urging Your Support for
 House Resolution 12

Signature

Department

| <u>Signature</u> | <u>Department</u> |
|--------------------|--------------------------|
| Joe Muge | Business Technologies |
| Aleash Schmeckbach | Adult Basic Education |
| Clinton Mark | C.A.L.L. PROJECT |
| Charles Wade | Business Education |
| Kathy Hansen | Adult Basic Education |
| Nancy H. Ayagush | Box 1504, Bethel - GS/PS |
| Deborah K. Bay | English |
| David Norcross | Health Technologies |
| Quinn R. Gaudin | Health Technologies |
| Sophie D. Barnes | Yupik Language Center |
| Don F. Albert | " " " |
| Steve Chamberlain | Humanities |
| Don D. Lee | Library |
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FAX TRANSMITTAL SHEET

March 19, 1996

To: Representative Con Bunde**From: Dayne L. Clark**
Faculty Representative
Kenai Peninsula College**Subject: Support for House Resolution # 12**

First, we would like to encourage you to support HR 12 because we want to continue to be the most productive faculty, offering programs to meet Alaska's educational needs and keeping Alaskans competitive.

Second, we believe the passage of HR 12 will encourage the University to honor its contractual obligations that it agreed to in 1992 and not allow the University to claim it is not accountable because the University Administration chose not to honor the contract in a timely manner.

Third, a YES vote will send a message to the University to stop wasting time and money on legal fees to try and get rid of the Union that represents the most productive faculty and also the group that strongly supports the Community College Mission which the University has recently stated it plans to eliminate.

Attached is a fairly detailed explanation as to why we believe it is important that HR 12 be sent to the floor with a due pass recommendation.

Thank you for your support and consideration.



Dayne L. Clark
Faculty Representative

Attachment: 3 pages

FAX TRANSMITTAL SHEET

March 15, 1996

To: House HESS Committee**From: Faculty at Kenai Peninsula College****Subject: Please Support House Resolution # 12 for the following reasons.**

We want to continue to be the most productive faculty, offering programs to meet Alaska's educational needs and keeping Alaskans competitive. A yes vote will help us do just that. Please consider your vote carefully, we believe there is more associated with HR 12 than just a failure to abide by the terms of the contract. The breach of contract covered by HR 12 is indicative of many changes that the University Administration is trying to implement, which the majority of the faculty believe will significantly affect the University's ability to deliver stable and quality educational programs or training in the future. The faculty are the experts in their area of instruction, not the administration. Yet the administration wants the power to change programs and implement new programs at will and apparently without input from the experts, the faculty. Education is not a manufacturing process to be reengineered at the whim of administrators, but a process that should evolve from a stable faculty, that enjoys academic freedom, to ensure that the programs provide quality education and freedom of thought that promotes a free society.

University promised to continue Community College Mission. We believe that the University is trying to use smoking mirrors to cover up their conscious disregard of Alaska Contract Labor law and their efforts to silence the Union group that keeps reminding the University and the Legislature, that the University promised the Legislature back in 1987 that they would continue the Community College Mission if the Legislature would just trust them and allow the University to merge the Community Colleges into the University system. Now in February, 1996, a Provost of the University stated we are going to eliminate the Community College mission, just when it is becoming even more important that Alaskan citizens be able to take advantage of short educational programs that will enable them to remain competitive and employable. (This is one of the main parts of the community college mission.)

A YES vote on HR 12, will send a message to the University to quit wasting the State's money trying to get rid of the Union that represents the most productive instructional faculty. Over the last three years the University has continued to try to get rid of the Union that represents the most productive instructional faculty by doing the following:

1. Hiring faculty members who teach less than four classes per semester, just to keep teachers out of the ACCFT Union, when everyone including the University claims it is trying to increase productivity.
2. Choosing to breach a negotiated and arbitrated contract by not abiding by the terms. This wastes needless time and decreases everyone's productivity, instead of trying to increase it, simply because the University chose not to follow the terms of the contract to which they agreed in 1992. Thus, teachers and administrators are wasting time trying to resolve breaches of contracts, instead of being able to focus 100% of their efforts on programs and students.

3. By doing program reviews on predominately vocational programs taught by Union faculty and using evaluation standards that many non-vocational course offerings could not even begin to meet, because the non-vocational courses usually do not develop employment skills and knowledge with which a student can use to get a job. (There was supposed to be a review of the non-vocational programs this year, but many of those programs and course offerings cannot meet the standards required of the vocational programs, so we are apparently not going to do any more program reviews.)
4. We were told in February that University has decided to do away with the Community College Mission and the University has apparently decided it cannot support many of the vocational programs. (Which happen to be taught by Union faculty members and are also taught at rural campuses.)
5. The University has stated that it plans to implement 3 to 5 year contracts for the faculty. How can a faculty experience academic freedom when they have to continually be worried about whether some administrator likes them and will renew their contract for another 3 to 5 years.

Existing Personal Services Contracts are Funded by Legislature - It is our understanding that the Legislature funds all prior existing contracts and the provisions of those contracts as part of the Personal Services Budget for each governmental agency. The University is basically claiming that the Legislature must provide funding for each part of the ACCFT contract yearly. This does not seem to hold water. The Legislature just funds the University's instructional budget and then the University decides how to spend the instructional budget. The passage of HR 12 will help clarify that the Legislature funds existing contracts as part of the regular Personal Services Budget for State Agencies.

The University Breaches the ACCFT Contract and the Arbitrator Ruled the University Shall Follow the Contract. These actions of the University did not deal with interpretation of language within the contract, but with the University unilaterally choosing to modify the terms of the contract. Alaskan labor law has already established that you cannot unilaterally change the terms of a contract. First, the University chose not to honor the COLA clause in the contract. Second, they chose not to abide by the contract and request funding from the legislature. These are specific breaches of contract that are specifically within the control of the University. However, the University is once again trying to use *smoking mirrors* to make us believe that it was beyond the University's ability to deal with and thus should not be held accountable. We believe that choosing not to abide by the terms of a contract were within the University's control and believe a Judge will agree. To not agree, we believe the Judge has to rewrite contract labor law. The last time the University chose not to honor the ACCFT contract it cost the State of Alaska over \$3 million and this does not include the more than \$.5 million spent on attorney fees by the University.

University knew consequences of choice to not honor contract. We believe that the University was fully aware of the consequences of their decision not to comply with the contract back in 1994. The University has dealt with contract labor law for 20 years and is well aware of what it can and cannot do. The University claims that they have tried to comply, but it is the Legislature that has prevented the University from complying. We believe the facts show University Administration has not actively tried to comply with the terms of the contract and their choice to not comply is compounding the problem and wasting University personnel time and

State funds on needless lawsuits and attorney's fees. And as mentioned previously, the last time the University chose to ignore the ACCFT contract, it cost State of Alaska over \$3 million.

Actions or lack of Action by the University will impact programs needed by the students. We are concerned that the University of Alaska's decision to not honor the ACCFT contract in a timely and responsible manner will force the University to use funds needed for programs to pay for the breach of contract.

Not Passing HR 12 would reward University for choosing not to honor the terms of a contract. While some Legislators are rightly concerned about allowing the University to benefit and get additional funding by not submitting its request in a timely manner, we are the other hand are concerned, that a governmental agency will benefit because it is not required to honor the terms of the contract because they were negligent and did not submit funding requests in a timely manner as required by Alaska Law and the ACCFT contract.

We believe the Legislature has the ability to make sure that governmental agencies operate within the law. We believe that the legislature needs to make sure that governmental agencies abide by legal contracts and Alaska Law. Passing HR 12 will send a message to the University that they are expected to honor their contractual obligations and will not benefit from not honoring the terms of their contracts.

The Benefits of Your Yes Vote for House Resolution # 12. The sooner HR 12 is passed, the sooner the University Administration will recognize the need to comply with the ACCFT contract and this will stop wasting the States resources, the Legislatures time and the University's Funding. Then we can focus 110% of our efforts on teaching, increasing instructional productivity and offering quality educational programs to keep Alaskans competitive. All of this will help to ensure we remain a free society and country.

Thank you for your time and interest in hearing our concerns about fairness and the future of education in Alaska.

The Kenai Peninsula College Faculty
Sent by Faculty Campus Representative, Dayne L. Clark
907-262-0349 wk. 907-262-3541 hm.

282 S. Hoyt
Anchorage, AK 99508

March 19, 1996

Representative Con Bunde, Co-Chair
Representative Cynthia Toohey, Co-Chair
House Health, Education, and Social Services
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801

Dear Representatives Bunde and Toohey;

I am writing this letter seeking your support for the passage of House Resolution No. 12. For many years, as University of Alaska's administrators have come and gone, one thing has remained constant: the University's disregard for union contracts and for state labor law. This disregard has historically been very costly, but unfortunately, not directly to the University.

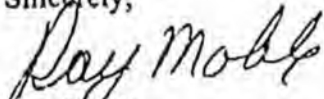
In the past when the University has lost an arbitration award or a court ruling, it did not result in any modification of the behavior of the University or of any of its administrators. The University simply went before the legislature and requested the funds required to meet the award or ruling.

The University continues its disregard for legal contracts as demonstrated in the April 14, 1995 ruling by Arbitrator William L. Corbett.

I believe passage of House resolution No. 12 would send a very strong message to the University of Alaska that they must, both now and in the future, adhere to the conditions of legal contracts, and that they must deal with collective bargaining units in a fair, professional manner. Such a change in behavior would lead to a great reduction in the number, if not the entire elimination of, what has been till now, numerous grievances, arbitration awards, and lawsuits

Thank you for your consideration on this matter. Please share this with your members.

Sincerely,


Ray Noble

Facsimile Cover Sheet

Tuesday, March 19, 1996

To: House HESS Committee Members

Con Bunde, Co-Chair
Al Vezey
Norman Rokeberg
Caren Robinson

Cynthia Toohey, Co-Chair
Gary Davis
Tom Brice

From: Ralph McGrath, President
Alaska Community Colleges' Federation of Teachers

Phone: (907) 562-2660
Fax: (907) 786-4095

Please provide the following additional information to all House HESS Committee members for the ACCFT University of Alaska, Anchorage testimony on HR12 scheduled for Tuesday, March 19 at 3:00 PM.

Pages including this cover page:

2 pages

GARY K. KRONQUEST11C 02 Box 7853
Palmer, Ak. 99645Fax 746-3746
Home Phone 907-746-3746
Email gkk@mirland.com

March 19, 1996

HESS COMMITTEE

| | |
|--------------------------|--------------|
| Cynthia Toohey, Co Chair | Fax 465-2317 |
| Con Bunde, Co Chair | Fax 465-3817 |
| Al Vezey, Member | Fax 465-3258 |
| Gary Davis, Member | Fax 465-3835 |
| Norman Rokeberg, Member | Fax 465-2040 |
| Tom Brice, Member | Fax 465-2294 |
| Caren Robinson, Member | Fax 465-2108 |

Subject: Please Support House Resolution #12 for the following reasons.

Reasons to Support - I urge you to support House Resolution #12 because the University has failed to honor its contractual obligations. A yes vote will send a message to the University Administration that they are expected to honor their contractual obligations just like other State agencies. Our 1992 Contract was approved by the Regents and the Legislature and was fully funded. However, the University has chosen not to honor all of the terms of the contract the last 2 years. We have honored our contractual obligations with the University and believe the University should honor its obligations. We hope you agree that contractual obligations should be honored.

University knew consequences of choice to not honor contract - It raises grave concern ~~that the University has dealt with~~ agency chooses not to honor a negotiated contract for no valid reason. I believe that the University was fully aware of the consequences of their decision not to comply with the contract back in 1994. ~~The University has dealt with~~ contract labor law for 20 years and is well aware of what it can and cannot do. The University claims that they have tried to comply, but it is the Legislature that has prevented the University from complying. We believe the facts show University Administration has not actively tried to comply with the terms of the contract and their choice to not comply is compounding the problem and wasting University personnel time and State funds on needless lawsuits and attorney's fees.

Existing Personal Services contracts Funded by Legislature - It is my understanding that the Legislature funds all prior existing contracts and the provisions of those contracts as part of the Personal Services Budget for each governmental agency. The University is basically claiming that the Legislature must provide funding for each part of the ACCFT contract yearly. This does not seem to hold water. The Legislature just funds the University's instructional budget and then the University decides how they spend the instructional budget. The passage of HR 12 will help clarify that the Legislature funds existing contracts as part of the regular Personal Services Budget for State Agencies.

The sooner House Resolution #12 is passed, the sooner the University Administration will recognize the need to comply with the contract and this will stop wasting the States resources and the University's Funding.

Thanking you in advance for your Support.

Sincerely,



Gary K. Kronquest, Assistant Professor

Heating and Refrigeration, Matanuska Susitna Community College

March 21, 1996

To: HESS Committee

From: Eric Leegard , ACCFT Campus Rep for Juneau, 465-8778
PO Box 32806, Juneau, Ak. 99801

I'm here seeking your support for HR 12. I'm the Juneau campus representative for the ACCFT and have been so for the majority of my 18 1/2 year tenure at the University. I was not here when the Community College teachers voted to Unionize and were willing to walk the picket line for the right to have the opportunity to Bargain for their working conditions. One of the first things I ran across when I did come to work for Juneau Douglas Community College was difficulty in purchasing item from local vendors. The institution had the reputation of no-pay, slow-pay. I understand the driving force for unionizing in the first place was because paychecks were inconsistent, and once received, they occasionally bounced. Teachers putting their collective foot down was required to get the institution to clean up its act.

The non-represented faculty, or all those not in the community college unit, have finally been driven to the point where they also are ready to stand up for what they believe to be fair and just treatment. This group is a completely different breed of cat. To many of them a socratic seminar is enjoyment in its highest form. Having to stand together on any item, especially one as lowly as pay and working condition has to be the ultimate insult. 61% of these instructors have signed interest cards so they have the right to vote yes or no on forming a union.

The University has chosen to play cat-and-mouse with these faculty and has found a way to delay their vote to organize, which is a PERA right, by forcing an unprecedented hearing by the SLRB. The delaying tactic will probably mean that the vote may not come this year.

What has this got to do with HR 12. The only hope we empl yees have in receiving what we consider fair, just, and consistent treatment is the law. And, just because the law exists doesn't mean it will be followed. ACCFT is a state wide organization of teachers who have a right to the protection of Alaska law. After being unilaterally told that we didn't exist and having an arbitrators award saying we did, it took this legislative body and its purse strings to make the University follow the law. It cost the state millions of extra dollars.

We presently have an employment contract with the University, and agreed to by this legislative body. This contract states in article 7:

"Article 7.1 Salaries

A. Faculty Members shall be compensated in a manner consistent with the provisions of Regents Policy and University Regulation 04.05.01-03 in effect as of the date of this Agreement..."

FAX# (907) 465-2137

3910 McMahon Avenue
Anchorage, AK 99516

March 16, 1996

Representative Cynthia Toohey
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Subject: House Resolution 12

Dear Representative Toohey:

A contract is a contract is a contract! The Legislature last year never rejected ACCFT's 3% negotiated cost of living raise that the University negotiated with ACCFT on the last contract. The Legislature simply took no action on the issue. The Legislature's lawyer has written an opinion that unless the Legislature specifically rejects funding for a contract, the unit must pay it out of their personnel services allotment. The University has misled the public regarding this issue and is legally bound to pay that 3%.

House Resolution 12 is now before the HESS Committee, of which you are co-chair. If the University were a good-faith partner in education, HR 12 should never have been necessary. At this point, however, the Legislature is going to have to rescue the University's reputation, despite their kicking and screaming, by passing HR 12.

By supporting HR 12, you show your support for good faith bargaining in Alaska. Please use your influence and vote to secure ACCFT members what they bargained for in good faith.

Sincerely,



Barbara Mishler

PLEASE COPY THIS LETTER FOR ALL MEMBERS OF THE HESS COMMITTEE AND ALL MEMBERS OF THE LABOR AND COMMERCE COMMITTEE.

WR

MAR 13 1996

March 14, 1996

Representative Cynthia Toohey
Co-Chair HESS Committee
Alaska State Legislature

FAX NO: 1-907-465-2137

Dear Representative Toohey:

Please support **HOUSE RESOLUTION 12** encouraging the University of Alaska to honor its contracts with faculty. Those of us teaching under a collective bargaining agreement have not received past salary increases while our colleagues have. Three increases have been bargained for, upheld in arbitration, and at least one has been funded by the legislature, yet the University refuses to pay. My salary is under the national average for similarly situated faculty.

Sincerely,



Robert E. Congdon, JD
Professor, Business Law and Paralegal Studies
University of Alaska Anchorage

MAR 17 1996

March 17, 1996

Cynthia Toohey, Co-Chair
HESS Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Legislator Toohey:

We urge you to support House Resolution # 12. A **Yes** vote will send a message to the University Administration, that they are expected to honor contractual obligations made with the Alaska Community Colleges' Federation of Teachers (ACCFT.) This contract was approved by the Board of Regents and the Legislature in 1992.

For the past two years, the University has chosen not to honor all the terms and conditions of this contract. The fact that we are in litigation because the University has failed to comply with an arbitrator's binding decision, supports our allegation that the University has not actively tried to comply with the terms of this contract and they have chosen to waste University personnel time and State funds on lawsuits and attorney fees. We believe that the University was fully aware of the consequences of their decision not to comply with the contract back in 1994.

As ACCFT members, we have honored our contractual obligations with the University; and believe that the University should honor its obligation. The passage of HR #12 will help clarify that the Legislature funds existing contracts as part of the regular budget for state agencies; and therefore, will show support of continuation of this contract.

The support of the HESS Committee is needed now. Thank you for your support.

Prince William Sound Community College Faculty

FAX COVER PAGE--3 pages total

DATE: March 15, 1996

TO: Representative Cynthia Toohey and
Representative Con Bunde

Co-Chairs of HESS COMMITTEE

FROM: Kodiak College Faculty
University of Alaska Anchorage

RE: HOUSE RESOLUTION 12

**Request---(Please copy this for all members of the
HESS COMMITTEE...Thank you.)**

Attached are reasons for supporting HR 12.

**Also attached are the signatures of all our faculty at
Kodiak College urging your support for HR 12.**

University Of Alaska Faculty
Kodiak Campus
Urging Your Support for
House Resolution 12

The UA faculty members listed below ask your support for House Resolution 12 because the University of Alaska has failed to honor its contractual obligations to us.

Your YES vote on HR 12 will send a message to the University's administration that it is expected to honor their contractual obligations just like other state agencies. Our 1992 Collective Bargaining Agreement was approved by the University's Board of Regents, and the Legislature, and was fully funded. However, the University has chosen to not to honor all of the terms of the contract during the past 2 years. We teachers have honored our obligations under the contract and believe the University should honor its obligations as well. We hope you agree that contractual obligations should be honored - even by the University.

Reasons for supporting HR 12

- ✓ Arbitrator's ruling: This cost of living increase was awarded to teachers as part of a binding arbitration decision. The University has refused to comply with this binding ruling.
- ✓ University knew consequences. Grave concerns are raised when a governmental agency chooses not to honor provisions of a negotiated contract for no valid reason. We believe that the University was fully aware of the consequences of their decision not to comply with the contract back in 1994. The University has dealt with contract labor law for 20 years and is well aware of what it can and cannot do. The University claims to have tried to comply, but insists that it is the Legislature that has prevented it from honoring the Contract. The facts however, show that the University's administration has not actively tried to comply with terms of the contract and is compounding the problem by wasting University personnel time and increasingly scarce state funds on needless lawsuits and attorneys' fees.
- ✓ Existing personnel services contracts are funded by Legislature: We understand that the Legislature funds existing contracts and the provisions of those contracts as part of the Personnel Services budget for each governmental agency. The University is claiming that the Legislature must provide funding for each part of the ACCFT contract each year. This line of reasoning does not hold water. For example, the Legislature funds the University's instructional budget and the University then decides how to expend those funds to satisfy its mission. Passage of HR 12 will help clarify that the Legislature funded our existing contract as part of the University's FY95 Personnel Services budget.
- ✓ Benefits of passing HR 12: The sooner HR 12 is passed, the sooner the University's administration will recognize that it must comply with our Collective Bargaining Agreement and should stop needlessly wasting State of Alaska and University resources.

Please Vote YES on HR 12.

Ronald and Marjorie Illingworth
3046 Taxi Lane C
North Pole, AK 99705
907-488-0446

Wednesday, March 13, 1996

Cynthia Toohey
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Representative Toohey:

I am writing you to urge your full and active support of House Resolution No. 12: a resolution supporting the collective bargaining agreement between the University of Alaska and the Alaska Community Colleges' Federation of Teachers (ACCFT).

While the resolution speaks for itself, a few words are in order. The University continues to use the Legislature as a cash cow capable of bailing them out of any predicament. I'm sure your knowledge of recent funding requests will bear this out. This is another example of the University having made an agreement, subsequently deciding not to honor it, finding themselves on the losing end of yet another externally imposed arbitration, and once again, coming to you to provide the funds to pay for their mistakes. It is time that the Legislature held the University accountable for their actions and their failures.

I am not asking that the Legislature provide additional funding to the University. Instead, this resolution simply states that the House of Representatives holds the University responsible for paying the arbitrator's award. This is funding which should have come from previously appropriated University personnel funds. I believe that it is time for the Legislature to wean the University from its continued reliance on the Legislature as their very own bank. Make them pay this award. It is not that great for any single unit within the University.

I urge you to support this resolution and to encourage your fellow legislators to support it as well. I also urge you to pass this resolution out of committee and to bring it to the floor of the House where it can be affirmed by your fellow legislators. Your support of this resolution will be appreciated.

Ronald D. Illingworth,
Ass't Professor
University of Alaska Fairbanks
Interior-Aleutians Campus



federation of teachers

Eric Leegard, Juneau Campus Rep., University of Alaska Southeast,
11120 Glacier Highway, Juneau, Alaska 99801, (907) 465-8778

Representative Cynthia Toohy
Alaska State Legislature, Co-chair, HESS Committee
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

March 13, 1996

MAR 13 1996

Subj: Support for HR 12

Please find attached, support for House Resolution 12 from our ACCFT members on the Juneau campus.

The University unilaterally opted to drop its 3% COLA policy, and has stalled the negotiations on its effect. The University is obligated to continue contractual obligations until a successor contract is negotiated according to the arbitration findings of William Corbett, April 14, 1995. It is clear the University is playing the legislature with ACCFT funding.

Wages for bargaining unit members are a known cost. It logically should be in the University's Personal Services budget. The University refuses to include this figure as part of the ongoing operating costs in the budget, then requests the Legislature for supplemental money as if ACCFT somehow costs extra.

Very Respectfully,

Eric Leegard

alaska community colleges'

University Of Alaska Faculty
JUNEAU Campus
Urging Your Support for
House Resolution 12

The UA faculty members listed below ask your support for House Resolution 12 because the University of Alaska has failed to honor its contractual obligations to us.

Your YES vote on HR 12 will send a message to the University's administration that it is expected to honor their contractual obligations just like other state agencies. Our 1992 Collective Bargaining Agreement was approved by the University's Board of Regents, and the Legislature, and was fully funded. However, the University has chosen to not to honor all of the terms of the contract during the past 2 years. We teachers have honored our obligations under the contract and believe the University should honor its obligations as well. We hope you agree that contractual obligations should be honored -- even by the University.

Reasons for supporting HR 12

- ✓ Arbitrator's ruling: This cost of living increase was awarded to teachers as part of a binding arbitration decision. The University has refused to comply with this binding ruling.
- ✓ University knew consequences: Grave concerns are raised when a governmental agency chooses not to honor provisions of a negotiated contract for no valid reason. We believe that the University was fully aware of the consequences of their decision not to comply with the contract back in 1994. The University has dealt with contract labor law for 20 years and is well aware of what it can and cannot do. The University claims to have tried to comply, but insists that it is the Legislature that has prevented it from honoring the Contract. The facts however, show that the University's administration has not actively tried to comply with terms of the contract and is compounding the problem by wasting University personnel time and increasingly scarce state funds on needless lawsuits and attorneys' fees.
- ✓ Existing personnel services contracts are funded by Legislature: We understand that the Legislature funds existing contracts and the provisions of those contracts as part of the Personnel Services budget for each governmental agency. The University is claiming that the Legislature must provide funding for each part of the ACCFT contract each year. This line of reasoning does not hold water. For example, the Legislature funds the University's instructional budget and the University then decides how to expend those funds to satisfy its mission. Passage of HR 12 will help clarify that the Legislature funded our existing contract as part of the University's FY95 Personnel Services budget.
- ✓ Benefits of passing HR 12: The sooner HR 12 is passed, the sooner the University's administration will recognize that it must comply with our Collective Bargaining Agreement and should stop needlessly wasting State of Alaska and University resources.

Please Vote YES on HR 12.

Jerah Chadwick, Associate Professor/Coordinator
University of Alaska Fairbanks
College of Rural Alaska
Interior-Aleutians Campus
Aleutian/Pribilof Regional Center
P.O. Box 248
Unalaska, AK 99685
3-13-1996

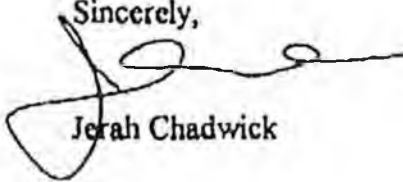
Cynthia Toohey, Co-Chair
House Health, Education and Social Services Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Representative Toohey:

Attached is a petition bearing my signature and urging you to support House Resolution Number 12. As the holder of the only faculty position in the Aleutian region, union or non, I also request that you distribute this letter and petition to members of your committee.

I very much appreciate your support of me and my fellow faculty around the state.

Sincerely,



Jerah Chadwick



Federation of teachers

2533 providence anchorage alaska 99508-4670 1907 562-2160

alaska community colleges' union fed of teachers, local 2404, america fed. of labor — congress of industrial organizations

HOUSE RESOLUTION 12

- On May 8, 1992 the Collective Bargaining Agreement between the University of Alaska and the ACCFT was approved by the University Board of Regents. Its terms provided that "Faculty Members shall be compensated in a manner consistent with Provisions of Regents Policy and University Regulation 04.05.01-03 in effect as of the date of this Agreement, except that any compensation increases shall be subject to legislative appropriation in accordance with the provisions of AS 23.40.215 and shall be requested separately from compensation increases requested for other employees of the University" (attachment #1).
- In June, 1993 the Board of Regents suspended the above policy and deprived ACCFT faculty members of their bargained Agreement. This action caused the ACCFT to file a grievance under provisions of the Agreement and take the case to final and binding arbitration as provided by the Agreement.
- Arbitration of this case was opposed and delayed by the University but the case was finally heard in January, 1995. The arbitration decision and award was released on April 14, 1995 toward the end of last years legislative session and after the Governor's deadline for submission of FY95 supplemental. The arbitrator's decision and award is clear: " . . . the Union prevails with regard to the issue of Compensation. Therefore, the University shall pay the bargaining unit members the pay increase provided by the collective agreement." (attachment #2).
- On April 26 the University requested that OMB submit legislation to fund the FY 95 supplemental and the FY 96 costs. Interestingly in this communication the University claimed that: ". . . the arbitration decision said that the University erred when it did not request funds to cover the compensation increases called for in the contract" (attachment #3). Nowhere in the decision does the Arbitrator make such a reference or statement. Subsequently, we were told by the University that further discussions on its request were continued with House Finance Chair Mark Hanley and efforts to include their request in HB178 (the "slow track supplemental") were unsuccessful (attachment #4). To our knowledge no subsequent action to submit legislation or conduct hearings occurred and the legislative session ended shortly thereafter.
- By June the University was to claim that their request for funds had been made ". . . but the legislature rejected the request" for the FY 95 supplemental and that the University would seek in the next legislative session only the FY 96 amount as a supplemental (attachment #5).

- In August the University's preparation for the FY97 Budget Request explained that funding to cover FY 95 and FY 96 costs of the ACCFT contract "was requested during the 1995 legislative session but was not approved by the legislature" and therefore the University would only resubmit the FY 96 portion of these costs as an FY 96 supplemental. The same document goes on to say that this increment "does not include funding to cover the FY 97 costs of the ACCFT contract because that agreement is being re negotiated and the FY 97 impact is unknown at this time. This increment will be revised to include these costs when better information is available" (attachment #6).
- In November the University submitted its FY 96 supplemental request to OMB. The University position regarding faculty members entitlement states that "As you know, funding to cover the FY 95 and FY96 costs of these contracts was requested during the 1995 legislative session . . . but was not approved by the legislature". Later a very different remark is made by the University stating that the request was one that ". . . the legislature did not act upon . . ." (attachment #7). It should be clear that the ACCFT Agreement is not a newly negotiated contract but rather one whose terms were approved by the Board of Regents and the Legislature in 1992 and continues in place today.
- We have reviewed last year's memorandum from the Division of Legal Services to the House Finance Committee (attachment #8) and believe that its points are appropriate. Had the University followed the terms of the Agreement, the Arbitration award or P.E.R.A our situation would not be before you or be at issue.

1

ARTICLE 7

Salaries and Benefits

7.1 Salaries

- A. Faculty Members shall be compensated in a manner consistent with the provisions of Regents Policy and University Regulation 04.05.01 - 03 in effect as of the date of this Agreement, except that any compensation increases shall be subject to legislative appropriation in accordance with the provisions of AS 23.40.215 and shall be requested separately from compensation increases requested for other employees of the University.

2

WILLIAM L. GORBETT, ARBITRATOR

IN THE MATTER OF THE ARBITRATION)
 BETWEEN:)
)
 ALASKA COMMUNITY COLLEGES')
 FEDERATION OF TEACHERS,)
 LOCAL 2404,)
)
 THE UNION,)
)
 AND)
)
 UNIVERSITY OF ALASKA,)
)
 THE UNIVERSITY/EMPLOYER.)

DECISION AND AWARD

Appearances:

For the Union:

William K. Jermain
 Jermain, Dunnagan & Owens, P.C.
 3000 A Street, Suite 300
 Anchorage, AK 99503

For the Employer:

Thomas P. Owens Jr.
 Owens & Turner, P.C.
 1500 W. 33rd Avenue, #200
 Anchorage, AK 99503

The arbitration hearing in this matter was held during a portion of the week of January 9-14, 1995, in Anchorage, Alaska. The parties stipulated to the jurisdiction of the arbitrator, presented evidence, argument, and agreed to file post-hearing briefs. Timely briefs were received from both parties.

carried forward.

The collective agreement recognizes that while the Regents may change the system of governance, the only limitation is that the new system of governance may not conflict with the prior system. Only if the new system of governance is incompatible or irreconcilable with the old, is there a conflict. Because the only real difference between the two systems of governance is the way information is carried forward, the new policy is not incompatible or irreconcilable with the old.

C. Compensation

Article 7.1 of the collective agreement states that "Faculty Members shall be compensated in a manner consistent with the provisions of Regents Policy and University Regulation 04.05.01 - 03 in effect as of the date of this Agreement." It is undisputed that, on the date the collective agreement was reached, Regents' policies 04.05.01 - 03 provided for an annual three percent (3%) raise.

At their June 3-4, 1993 meeting, the Regents suspended policy 04.05.01(B). Thereafter, on August 20, 1993, the Regents suspended indefinitely all the provisions of policy 04.05 concerning annual pay increases, including the three percent (3%) pay increase.

It is undisputed that the Union was aware of this Board action. However, this change in policy did not have any direct impact on unit members until July 1994 when the three percent (3%) pay increase became due and owing and was not paid. In

August 1993 the only faculty affected by the change in policy were those not within the bargaining unit.

The Union did not file a grievance protesting the failure of bargaining unit faculty to receive the pay raise until July 8, 1994. The contract grievance procedure requires that any grievance must be filed "within thirty (30) days from the time the aggrieved became aware or reasonably should have become aware of the event which gave rise to the alleged grievance."

The University argued that the grievance was untimely because it was filed approximately a year after the Board announced its suspension of the three percent (3%) pay raise policy.

The Union argued that its grievance was timely. It asserted that there was good reason why it waited until July 1994 to file the grievance, and that the thirty (30) day contract grievance period did not commence to run until the change in the Board policy "affected" the bargaining unit members, i.e. July 1, 1994, when they did not receive the pay raise provided for in their collective agreement.

The Union persuasively argued that at the time the Regents suspended policy 04.05, the effect was to merely suspend the pay raises for non-bargaining unit faculty. As for bargaining unit members, their collective agreement provided that they were entitled to the 3% pay increase effective in July 1994. Thus, the August 1993 suspension of the policy did not negate the University's obligation under the collective agreement to pay the

bargaining unit members a three percent (3%) pay increase.

At some time after the August 1993 suspension of the policy and before July 1, 1994, when the contract pay increase for bargaining unit members was to be paid, it became apparent to the Union that the Board intended to repudiate its pay increase obligation under the collective agreement. However, it is not clear when the Union first became aware that the University was not going to abide with the collective agreement and pay the unit members the 3% pay increase.

The parties correctly state the issue as whether the effective date of the action that gave raise to grievance occurred in August 1993 or on July 1, 1994.

As recognized by Elkouri and Elkouri, "It has been held that doubts as to the interpretation of contractual time limits or as to whether they have been met should be resolved against forfeiture of the right to process the grievance." See Elkouri and Elkouri, How Arbitration Works, 4th ed., p. 914. The authors also acknowledge that arbitrators have held that the date on which a contractual time limitation for filing a grievance commences is the date on which the "effect" of the employer's decision is felt rather than the date the decision is announced. Id. at 196, citing numerous cases. They state "[a] party sometimes announces its intention to do a given act but does not do or culminate that act until a later date." "Similarly, a party may do an act whose adverse effect upon another does not result until a later date." In such cases, it is the latter date

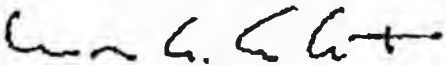
from which the time limitation for filing a grievance commences to run. Id.

Apart from this authority, in the instant case the Union has presented a reasonable explanation regarding why it waited to file the grievance. At the time the Board announced its decision not to pay the three percent (3%) increase, the Union reasonably believed that the decision would not affect the bargaining unit employees because their entitlement to a wage increase was governed by the collective agreement. The entitlement of the bargaining unit to that raise did not occur for some twelve months hence. Given this situation, it is reasonable that the Union did not file a grievance in August 1993.

AWARD

The University of Alaska prevails with regard to the issues of Program Assessment, Financial Exigency and Campus Governance; the Union prevails with regard to the issue of Compensation. Therefore, the University shall pay the bargaining unit members the pay increase provided by the collective agreement.¹²

DATED this 14th day of April, 1995.


William L. Corbett, Arbitrator

¹² Jurisdiction is retained for 60 days.

35 07 39 Fax 207 463 3934 U OF A
Fax to 602-207 7320 1 3-28-95 3:51 PM 9074745140 207 463 3934

#3

Marylou D. Burton
Director
Statewide Budget Development
110 B Bermanich Building
P.O. Box 755380
Fairbanks, Alaska 99775-2380
907 474-5140
907 474-5140 FAX



University of Alaska
Statewide System of Higher Education

DATE: April 26, 1995
TO: Annalee McConnell, Director
Office of Management and Budget
FROM: *MB* Marylou D. Burton, Director
Statewide Budget Development
SUBJECT: New Legislation - Collective Bargaining Agreement

The University of Alaska requests that the Governor introduce legislation on its behalf to fund the monetary provisions of the collective bargaining agreement between the University of Alaska and the Alaska Community College Federation of Teachers (ACCFT). This is the result of an arbitration decision which said that the University erred when it did not request funds to cover the compensation increases called for in the contract. Accordingly, we are hereby requesting funds to cover a 3% increase for FY95 (retroactive to July 1, 1994) and a 3% increase for FY96, per the terms of the collective bargaining agreement.

The general fund impact of this agreement for FY95 is \$495,700 (\$506,906 total funds) and for FY96 is \$1,006,272 (\$1,029,019 total funds). This was calculated based on salaries and benefits as budgeted in PACS.

A cost worksheet is attached. Also attached is suggested language for the legislation. Please let me know if I can provide any further information.

Post-It brand fax transmittal memo 7871 # of pages 2

| | |
|-------------------|------------------------|
| To <i>Wendy R</i> | From <i>SLD BUDGET</i> |
| Co. | Co. |
| Dept. | Phone # |
| Fax # | Fax # |

STATE OF ALASKA

4

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF BUDGET REVIEW

May 1, 1995

The Honorable Mark Hanley
The Honorable Richard Foster
Co-Chairs, House Finance Committee
State Capitol
Juneau, AK 99801-1182

Dear Co-Chairs Hanley and Foster:

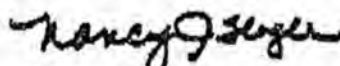
As you may be aware, additional judgments and claims have been finalized since the passage of HB137, the FY95 supplemental legislation. We were instructed by the Finance Committee to bring forward these requests when final actions had been taken. I would like to present those claims for inclusion in either HB 178 (the "slow track" supplemental), HB 268 (the capital budget), or another similar piece of legislation.

Included with those supplemental claims are several prior year overexpenditures that require legislative ratification. The Office of Management and Budget, Division of Audit and Management Services, is looking at established controls to determine if these situations have been remedied or to recommend appropriate controls to alleviate future irregularities.

Also, I have attached recommendations for amendments to existing appropriations.

Thank you for your assistance.

Sincerely,



Nancy J. Slagle
Director

#5

P. 12

FAX NO. 9077861055

UNIVERSITY OF ALASKA STATEWIDE SYSTEM

volume 4
number 4
june 1995

University of Alaska Statewide System

UA's FY96 Operating Budget Gets Reduced by 1.2%

The legislature approved a general fund operating budget of \$167.4 million for the university for FY96, which represents a reduction of \$2,047.8 million or 1.2% from the FY95 general fund authorization.

The administration proposed, and the regents approved, prorating the reduction among the four major administrative units on the basis of FY95 general fund levels, resulting in the following assessments:

| | |
|-----------|-------------|
| UAA | (\$ 730.7) |
| UAF | (\$1,009.5) |
| UAS | (\$ 163.5) |
| Statewide | (\$ 144.1) |

The impact of this reduction, when considered in combination with increases in tuition/fee revenues and allocations for certain non-ordinary costs, is illustrated

FY96 Reduction/Reallocation Impacts (General Funds and Tuition/Fees Only, in \$000s)

| | <u>UAA</u> | <u>UAF</u> | <u>UAS</u> | <u>SW</u> | <u>Total</u> |
|---|------------|------------|------------|-----------|--------------|
| FY95: | | | | | |
| GF Authorization | 60,448.2 | 83,513.9 | 13,529.5 | 11,917.9 | 169,409.5 |
| Tuition/Fees (projected) | 25,333.6 | 14,725.1 | 3,869.5 | 0.0 | 43,928.1 |
| Total FY95 GF & Tuition/Fees | 85,781.8 | 98,239.0 | 17,399.0 | 11,917.9 | 213,327.7 |
| FY96: | | | | | |
| FY95 GF Authorization | 60,448.2 | 83,513.9 | 13,529.5 | 11,917.9 | 169,409.5 |
| Less 1.21% unallocated reduction prorated based on FY95 GF Authorized | (730.7) | (1,009.5) | (163.5) | (144.1) | (2,047.8) |
| FY96 GF Authorization | 59,717.5 | 82,504.4 | 13,366.0 | 11,773.8 | 167,361.7 |
| Tuition/Fees (projected) | 27,388.3 | 15,948.7 | 4,174.0 | 0.0 | 47,511.0 |
| Total FY96 GF & Tuition/Fees | 87,105.8 | 98,453.1 | 17,540.0 | 11,773.8 | 214,872.7 |
| % Change FY96 over/(under) FY95 GF & Tuition/Fees | 1.5% | 0.2% | 0.8% | (1.2%) | 0.1% |

MAR-18-96 MON 15:17

University Will Seek Supplemental Funds for Collective Bargaining Unit Agreements

The legislature did not approve funds to cover the monetary terms of either the new Classified Employees Association (CEA) contract or the ongoing Alaska Community College Federation of Teachers (ACCFT) contract.

Funding to cover the FY95 and FY96 costs of the CEA contract was included in HB 305, but

neither this bill nor similar bills for state labor contracts were approved. The university will resubmit the FY96 portion of these costs (\$367,000 general fund) as an FY96 supplemental.

As a result of an arbitration decision late in the session, the university also requested funding to cover a 3% increase for ACCFT

members in FY95 and FY96. The governor's office forwarded only the FY95 supplemental portion of this request to the legislature because the deadline for FY96 submissions had passed, but the legislature rejected the request. The university will resubmit the FY96 portion of these costs (\$610,600 general fund) as an FY96 supplemental.

Joe Hayes Named New Student Regent

Praising his work in student government as well as the classroom, Governor Tony Knowles named ASUAF President Joe L. Hayes, Jr. to a two-year term as student representative to the Board of Regents of the University of Alaska.

#6

University of Alaska
Statewide Programs and Services

FY97 Budget Request

TABLE OF CONTENTS

Introduction.....1

FY97 Operating Budget Request Summary:
 Statewide Programs and Services.....3
 Systemwide.....4

FY97 Capital Budget Request Summary.....5

FY97 Operating Budget Request:
 Statewide Programs and Services.....6
 Systemwide.....8

FY97 Capital Budget Request.....12

University of Alaska
 Statewide Programs and Services
 FY97 Budget Request

FY97 Operating Budget Request

| | <u>General Fund</u> | <u>Non General Fund</u> |
|---|-------------------------|-----------------------------|
| <u>Systemwide Increments</u> | | |
| 1. Implementation of Performance Based Salary Schedules | \$2,900.0 | \$ 0.0 |

Since FY93 the university has been undergoing a rigorous examination of its compensation policies and practices, ranging from an evaluation of its staff benefits packages to a comparison of staff and faculty salaries with comparable salaries in other sectors and institutions. As a result of this effort, staff benefit costs have in fact decreased and the university has realized some savings in that area. The comparison and reevaluation of staff and faculty salaries, however, has been more problematic. University pay practices have been very inconsistent, and while some employees were paid more than what may be considered normal, many were also paid significantly less. As a result of these findings, the university developed a staff salary schedule that provides for an orderly and equitable career path but which also imposes maximum salaries for any given level. The Board of Regents adopted this policy in FY95 and it will be fully implemented in FY97. Similarly a faculty compensation plan is expected to be adopted in FY96 and fully implemented in FY97.

Both of these salary plans are expected to be more cost efficient than past practices in which all employees were granted increases "across the board". Moreover, a comparison of certain benchmark positions with comparable positions in state agencies indicates that the university staff hourly salary schedule is not only lower than state hourly salary schedules currently in use, but lower than those put forth in legislation during the 1995 session. The salary plans do come at a cost, however. And while the university strongly believes that employees are entitled to fair and equitable pay it also recognizes that it cannot continually absorb these costs while still maintaining existing personnel and services. This increment requests \$2,900.0 to help offset the costs of implementing the new salary schedules and to ensure that the university can continue to attract and keep top quality employees.

| | |
|--|----------|
| 2. <u>Salary Increases for Collective Bargaining Units</u> | \$ 402.6 |
|--|----------|

The university has collective bargaining agreements with the University of Alaska Classified Employees Association

University of Alaska
 Statewide Programs and Services
 FY97 Budget Request

General
Fund

Non General
Fund

W (CEA) and the Alaska Community College Federation of Teachers (ACCFT). The monetary provisions of both agreements are, by the terms of the contracts, subject to legislative appropriation. Funding to cover the FY95 and FY96 costs of these contracts was requested during the 1995 legislative session but was not approved by the legislature. The university will resubmit the FY96 portion of these costs as an FY96 supplemental.]

This increment requests funding to cover the FY97 costs of the CEA contract, which was newly established in late FY95 and with the exception of the monetary provisions is now in effect. FY97 costs result from the movement of CEA employees along the new salary schedule and are based on the assumption that the FY96 supplemental is funded as requested. An adjustment to the FY96 base is included in the calculations.

W This increment as shown does not include funding to cover the FY97 costs of the ACCFT contract because that agreement is being renegotiated and the FY97 fiscal impact is unknown at this time. This increment will be revised to include these costs when better information is available.]

3. Networks and Telecommunications Support \$ 500.0 \$1,000.0

The demand for information access from university users is increasing dramatically. Expanded networking capability is essential to avoid overloads, transmission delays, and the restriction or exclusion of new technologies. To help meet this demand the university is upgrading the network from an analog low bandwidth environment to a digital and increased bandwidth infrastructure. Equipment is also being installed which will provide the university for the first time with critical management information needed to effectively monitor network use and determine how the network costs will be allocated among the university system. This increment requests \$500.0 in general funds for the increased network costs associated with these enhancements, which will provide multi-media capabilities to support distance delivery, administrative and academic requests, telemedicine and research requests for access to the existing infrastructure. This increment also includes \$1,000.0 in university receipt authority for video and audio-conferencing, internet access and other services provided to K-12 schools, state agencies, the legislature and other groups outside of the university.

#7

Marylou Burton
 Director
 Statewide Budget Development
 211 B Burroughs Building
 P.O. Box 55590
 Fairbanks, Alaska 99705-5590
 (907) 457-4200
 (907) 457-4200 FAX



University of Alaska
 Statewide System of Higher Education

November 17, 1995

TO: Nancy Slagle, Director
 Division of Budget Review
 Office of Management and Budget
 Office of the Governor

FROM: *ynbs* Marylou Burton, Director
 Statewide Budget Development

SUBJECT: FY96 Supplemental Request

The University of Alaska requests supplemental funding to cover FY96 salary increases for the University of Alaska Classified Employees Association (CEA) and the Alaska Community College Federation of Teachers (ACCFT). As you know, funding to cover the FY95 and FY96 costs of these contracts was requested during the 1995 legislative session but was not approved by the legislature. We are asking that the FY96 costs be resubmitted to the 1996 legislature as a supplemental request.

The CEA contract was newly established in late FY95 and with the exception of the monetary provisions is now in effect. Those provisions, which under AS 23.40.215(a) and the terms of the agreement are not effective without separate legislative action, have three basic elements. First, they provide for a one-time payment of \$600 to each CEA member employed at the date of the signing. Second, they provide for certain one-time costs related to implementing the new contract. Third, they establish a grade/step wage schedule for CEA positions similar to the wage schedules used by the state and non-unionized university employees. This schedule ensures an orderly and equitable method of compensation, and results in an average FY96 salary increase for CEA employees of approximately 1.5%. Note that CEA employees have received no salary increases since FY93.

The total FY96 general fund impact of fully implementing the CEA contract is \$455,565 (\$462,279 total funds). Funding to cover the FY97 incremental cost of the contract (\$390,471 general funds, \$396,226 total funds) is being requested as part of the university's FY97 operating budget.

The ACCFT contract was re-established in FY92 and is currently being renegotiated. At the time the existing contract was executed, Board of Regents policy provided for an annual 3% increase for non-union employees. The ACCFT contract incorporates this policy by stating that ACCFT members shall be compensated in a manner consistent with the policy, subject to legislative appropriation. The Board suspended this policy in 1994 and in FY95 the university granted no salary increases to either unionized or non-unionized employees. ACCFT challenged this suspension and in April 1995 received an arbitration ruling that the university erred in not requesting funds to cover

Nancy Slagie

2

11/17/95

the costs of a 3% salary increase for ACCFT employees. In response to this ruling, the university requested funding to cover FY95 and FY96 salary increases. The Governor forwarded the FY95 portion of this request as part of his late session "additional judgments and claims" package, but the legislature did not act upon it. We are resubmitting the FY96 portion of these costs as an FY96 supplemental request.

The total FY96 general fund impact of implementing a 3% salary increase for ACCFT employees is \$473,039 (\$506,422 total funds). No FY97 incremental funds are being requested at this time pending renegotiation of the contract.

Cost worksheets documenting both requests are attached. Please let me know if I can provide further information.

Attachments

8

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

907) 463-2867 or 463-2450
FAX, 907) 463-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 6, 1995

SUBJECT: Legislative action with respect to the monetary terms of collective bargaining contracts

TO: Representative Mark Hanley, Co-chair
House Finance Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked for an explanation of the legislature's powers with respect to the monetary terms of a collective bargaining contract for state employees.

Short answer: If the legislature states in legislation that it declines to fund the monetary terms, the terms do not take effect. If the legislature appropriates money that can, under the terms of the appropriation, be used to fund the monetary terms of the contract, then the terms do take effect whether or not the legislature states that it intends them to.

Discussion

1. The legislature may decline to fund the monetary terms of a collective bargaining contract.

Under AS 23.40.215(a), the monetary terms of a collective bargaining contract "are subject to funding through legislative appropriation." This language has been held to mean that if the legislature declines to fund a contract term, the monetary terms of the contract do not take effect. Public Employees Local 71 v. State, 775 P.2d 1062 (Alaska 1989).⁴ In 1984, the state and Local 71 entered into a three-year collective bargaining contract. The contract did not call for a salary increase for the first year. In 1985, the legislature appropriated sufficient money to fund the negotiated pay increase for the second year but also adopted a resolution indicating that it would not fund the monetary terms in the following year. In 1986, the

⁴ In the Local 71 case, the court relied on the terms of the statute in reaching this result but also suggested that the state constitution would require the result. (In a footnote in Municipality of Anchorage v. Anchorage Police Dept. Employees Ass'n, P.2d . (Alaska Supreme Court Opinion No. 3893, October 23, 1992), the Supreme Court disapproved this suggestion. (See footnote 28, page 28 of the slip opinion.) The Anchorage Police Dept. case involved consideration of a municipal collective bargaining contract entered into under a municipal ordinance rather than the state statute.

Representative Mark Hanley
February 6, 1995
Page 2

legislature refused to fund the third-year salary increase, stating in the operating budget that failure to adopt a separate appropriation item for the pay raise constituted rejection of the monetary terms of the collective bargaining agreements in accordance with AS 23.40.215.² The court held that under AS 23.40.215 the monetary terms for the third year did not take effect, and stated

it is clear that the monetary terms of a collective bargaining agreement are not effective until the funds are appropriated by the legislature. Each year the monetary terms of a collective bargaining agreement are subject to independent legislative approval."

Id. at 1064. (Footnote omitted.)

From the holding in Local 71, it is clear that if the legislature states in the operating budget that it is declining to appropriate money to implement a contract term, the monetary terms do not become part of the contract.

2. Disapproval of the monetary terms by resolution is probably not effective by itself to invalidate the monetary terms of the contracts.

You have asked about the effect of AS 23.40.215(b) which reads:

The Department of Administration shall submit the monetary terms of an agreement to the legislature within 10 legislative days after the agreement of the parties, if the legislature is in session, or within 10 legislative days after the convening of the next regular session. The legislature shall advise the parties by concurrent resolution if it approves or disapproves of the monetary terms within 60 legislative days after the agreement is submitted to the legislature. The approval of the monetary terms of an agreement under this subsection is a nonbinding, advisory expression of legislative intent. If within 60 legislative days after the agreement is submitted the legislature advises the parties by concurrent resolution that it disapproves the monetary terms of the agreement, the parties may resume negotiations.

This subsection addresses one method by which the legislature can indicate to the executive branch and employee unions its response to the monetary terms of a collective bargaining

²The section read, in full:

Failure of the legislature to adopt a separate appropriation item for the pay raise constitutes rejection of the monetary terms of the collective bargaining agreements in accordance with AS 23.40.215. Money appropriated for personal services in this Act may not be used for implementation of the negotiated pay raise. Negotiation of future collective bargaining agreements will consider the definition of merit pay as recommended by the joint special committee on state employee compensation established under House Concurrent Resolution 47.

Representative Mark Hanley
February 6, 1995
Page 3

contract. The subsection states that a resolution adopted by the legislature approving the contracts is "a nonbinding, advisory expression of legislative intent." Under this language the legislature is not bound by a resolution approving the monetary terms: the legislature may subsequently (but in the same legislative session) decline to fund the monetary terms.

The statute is silent about what happens if the legislature adopts a concurrent resolution disapproving the monetary terms but then appropriates money for personal services without, in the appropriation bill, limiting the use of the appropriation. In my opinion, in that case, the appropriation serves as "funding through legislative appropriation" and the monetary terms take effect.

Under the state's constitutional system, a bill is subject to procedural requirements that a concurrent resolution is not subject to, and, unlike a resolution, a bill is subject to veto by the governor. Under State v. A.L.I.V.E. Voluntary, 606 P.2d 769, 773, (Alaska 1980), when the legislature wishes to act in an advisory capacity, it may do so by resolution. When it intends its action to have a binding effect on people outside the legislature, it may do so only by following the enactment procedures for bills. A resolution disapproving the monetary terms of a collective bargaining contract serves to advise the parties of the legislature's intention with regard to funding. The resolution cannot take the place of a bill. If there is subsequent action to appropriate money for personal services without prohibiting the state from spending the money to implement the monetary terms of a collective bargaining contract, the resolution must give way to the bill and the monetary terms take effect.

3. Failure to adopt a resolution either approving or disapproving monetary terms within the 60-day period set by statute.

The provisions in AS 23.40.215(b) suggest that the legislature must adopt a resolution within 60 days of submission of the monetary terms to the legislature. The statute is not clear as to what happens if the legislature fails to meet the 60-day deadline. The requirement for funding by the legislature in subsection (a) does not state that if the legislature fails to act within a 60-day period, the money is considered to have been appropriated. And, since a resolution can only be viewed as a nonbinding statement, failure to make such a statement should not be given more weight than the making of the statement would hold. Therefore, I believe that the 60-day time period should be viewed as a goal, not a legal requirement. Failure to adopt a resolution within the 60 days does not preclude the legislature from acting later.

4. What happens if the legislature does nothing?

This situation is less likely to occur than may appear at first glance. By definition, monetary terms of a contract require that the state spend money to implement them. (See

Representative Mark Hanley,
February 6, 1995
Page 4

AS 23.40.250(4).) Before the state may spend money, the legislature must appropriate it. Therefore, it is probable that the legislature will act on some aspect of a monetary term of a state employee contract, as part of a general budget item, even though the legislature has not specifically addressed the particular contract term. For example, as happened in the facts in the Local 71 case, a collective bargaining contract may call for a salary increase. By appropriating money for personal services for positions in that bargaining unit, the legislature is acting on that contract term. Unless the legislature also states its disapproval of the salary increase, the increase will take effect, even if the amount appropriated is insufficient to fully fund all of the positions in the department at the increased salary levels. The agency to which the money was appropriated must make other reductions (perhaps by reducing the number of its employees) in order to live within its budget but must comply with the contract terms.

If there were a monetary term of a contract that required a separate appropriation, unrelated to other budget items, then, given the language in AS 23.40.215, that monetary term would be considered to have failed unless the legislature made an appropriation for that purpose. However, I believe that this is an unlikely factual situation. The safer course for the legislature, if it wishes to disapprove a monetary term, is to state its disapproval specifically.

Please let me know if I can be of further assistance.

TC:pl
95-031.plm

P. O. Box 844
Bethel, AK 99559-0844

March 13, 1996

George:
Hold for later
use when we get
the bill.
7/2/19

Representative Pete Knott, Chair
House Labor and Commerce Committee
Alaska State Legislature
State Capital (MS 3100)
Juneau, AK 99801-1182

Dear Representative Knott,

I am writing in support of House Resolution No. 12. I am also writing to you as a citizen concerned with the behavior of the University of Alaska. This concern is like parental concern for a wayward child.

Surely, our state University, charged with the education of our youth, should be a model for the values that we believe build individual character and a great state: honesty, truthfulness, integrity, trust, fairness, etc.

Surely, we long for an Alaskan environment where a person's word is their bond, where an agreement can be done with a handshake, where words are not a semantic game, where contracts are honored, and where litigation is the exception rather than the rule.

The problem is simple:

My statewide union, the Alaska Community Colleges' Federation of Teachers, has a contract with the University of Alaska. The provisions of this contract continue until a successor contract is agreed upon by both parties.

The contract, accepted by the faculty and signed by all parties on May 8, 1992, relied, in part, on a Board of Regents' policy that provided a 3 percent annual raise for all faculty.

7.1 Salaries

- a. *Faculty Members shall be compensated in a manner consistent with the provisions of Regents Policy and Regulation 04.05.01 - 03 in effect as of the date of this Agreement . . .*

More than a year later, August 1993, the Board suspended this policy, *but did not renegotiate this change* with the Union. The University then refused to honor its contractual obligation and did not pay the 3 percent for FY 95.

The Union and the University entered into binding arbitration over this point. The arbitrator, agreed upon by both parties, found in favor of the Union: the three percent was to be paid by the University.

It is undisputed that, on the date the collective agreement was reached, Regents' policy 04.05.01 - 03 provided for an annual three percent (3%) raise . . . thus the August 1993 suspension of the policy did not negate the University's obligation under the collective bargaining agreement to pay the bargaining unit members a three (3) percent pay increase . . . the Union prevails with regard to the issue of compensation. Therefore the University shall pay the bargaining unit members the pay increase provided by the collective agreement. William L. Corbett, Arbitrator, April 14, 1995

The University came to Juneau last year, during the last days of the session, a tin cup in hand, asking, ever so softly, for the legislature to pay for the FY 95 and the FY96 3 percent raise, as a result of the broken contract and lost arbitrated award. While the legislature had already funded the University's budget, it did not hold hearings or vote "yea" or "nay" on the University's request for additional money to pay the FY95 and FY96 raise.

Now, in a loud voice, the University explains to all that the legislature, by not taking any action, positive or negative, has in fact exercised a new type of legislative "pocket veto."

If a parent tells a child, "Here is your allowance. If you are naughty, you will have to pay for your mischief out of your allowance." The child then breaks a neighbor's window on purpose. Is the child relieved of his or her obligation if the parent does not respond to the child's demand that the parent pay for the broken window?

Is this how government and contract law works? "We, the University, asked, and the legislature did not answer. Therefore the legislature said--according to our psychic knowledge--NO, not YES. Therefore we, the University, do not have to honor our contract or the arbitrator's decision."

Your Legislative Division of Legal Services disagrees:

If the legislature appropriates money that can, under the terms of the appropriation, be used to fund the monetary terms of the contract, then the terms of the contract do take effect whether or not the legislature states that it intends them to.

The solution is simple:

Make the child take responsibility for his action. Tell the University to honor her contract, to honor the binding arbitration, to pay the 3% obligation for FY95 and FY96 out of University funds.

Be careful, for the child will say, "But we always go to Daddy and Mommy when we need extra money." Remember the last time the University broke a window on purpose? Remember when they said, during the 1987 reorganization, that the community college faculty Union did not exist anymore? Remember that the arbitrator, agreed upon by both parties, found in favor of the Union. And the child ran down to Juneau and asked, and received, four million dollars to pay for their illegal behavior.

Don't we deserve a higher standard of conduct? Please, do the right thing and support House Resolution No. 12.

Sincerely yours,

Joli Brian Morgan —
Joli Brian Morgan

cc: House Labor & Commerce Committee Members:
Representative Norman Rokeberg, Vice Chair
Representative Brian Poter
Representative Beverly Masek
Representative Kim Elton
Representative Gene Kubina
Senator Lyman Hoffman
Representative Ivan Ivan

To: Mr. Pete Kott

From: Gregory T. Davis

Re: Pending Budget Legislation/Same Sex Marriage

Dear Mr. Kott,

The first item I would like to express my thoughts on is the legislation now being discussed concerning the Alaska State budget proposals. I strongly disagree with the idea of using the States Permanent Dividend Fund to support any funding for special interests such as public broadcasting or the Council of Performing Arts. I also believe the State will not benefit by imposing an income tax. The priority should be as Rep. Kohring stated: "Police, schools and roadwork take priority over cultural funding, which the state can do without". The Alaska State Government must balance its' budget and stop funding Gov Knowles special interest groups. If these programs can't stand on their own merit then they should be cut. Now is not the time to fund public broadcasting or Arts, as these in no way solve the budget dilemma. Rising crime rates and lowering SAT school scores are what need to be addressed, not cultural funding.

Secondly, I am adamantly opposed to the recognition of same sex marriages. This is not only a moral and ethical abomination, if allowed to legally take place will ultimately ruin America. Experts believe it will create a crisis in the health care industry and allow the continued attack on the family morals, that are the basis for our countries existence!

I urge you, as a Representative of Eagle River, to do everything you can to oppose frivolous budget expenditures and also oppose the recognition of other states same sex marriages.

Sincerely,

Gregory T. Davis

Alaska Airlines Pilot
Captain USAF Reserves
8812 Dome Circle
Eagle River, AK 99577

March 25, 1996

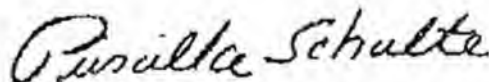
Pete Kott
House Labor & Commerce Committee
Alaska State Legislature
State Capitol, Room 432
Juneau, AK 99801

Dear Mr. Kott:

The University of Alaska-Southeast, Ketchikan Campus, faculty are urging you to support **House Resolution 12**. We are teaching faculty of the University of Alaska and are greatly concerned about the University's failure to live up to its contractual agreement with us.

Please note that the small number of signatures on the petition represents the total number of full-time faculty (in a non-visiting status) on our campus. We have experienced a fifty percent drop in full-time faculty on the Ketchikan Campus since the restructuring that eliminated the community college system. We urgently need your support in encouraging the University of Alaska to live up to its contractual agreement.

Sincerely,



Priscilla Schulte
Professor
Anthropology-Sociology

DATE: MARCH 25, 1996

TO: REPRESENTATIVE PETE KOTT

**FROM: KODIAK COLLEGE FACULTY
UAA**

RE: HOUSE RESOLUTION 12

Please vote for House Resolution 12. The University reneged on our contract, violated its own Regents' Policies, ignored the ruling of an arbitrator in binding arbitration and is blaming the legislature for failure to fund. The University should be held accountable--it has a contractual obligation to ACCFT Faculty and is reneging on that obligation. HR 12 tells the University to meet its obligation to us.

THANK YOU.

G

March 22, 1996

Representative Pete Kott
State Capitol
Juneau AK 99801

Dear Representative Kott:

I hope you will support House Resolution 12 requiring the University of Alaska to pay its faculty their contracted salaries. This is not a new contract coming to you for funding. It has been in effect for years. The University unilaterally ceased abiding by the contract provision for annual 3% salary increases three years ago. When this went to binding arbitration, the arbitrator's decision was that this unilateral action violated the contract and labor law.

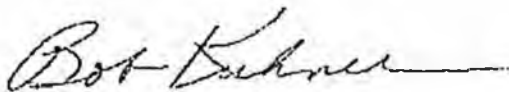
The University by then had used this portion of its budget for other purposes -- like paying lawyers to fight the decision. Since it no longer had the money and didn't even bother to budget it the following year, it went to the Legislature for a special appropriation. You did not act on their request. You didn't say no to our contract. That had been originally fully funded. The existing contract didn't require approval nor special new appropriations. It should have been part of the University's regularly submitted budget -- under personal services.

All you were saying to the University's special request was no to new money for the University.

House Resolution 12 says -- It is the University's obligation to pay its faculty according to its own contract from its own budget.

Tell the University administration to abide by the law. Every organization has to honor its contracts. A service provided under a contract should be paid. The service has been provided.

Sincerely,



Bob Kuhner
Professor of Philosophy
University of Alaska Anchorage
(907) 786-1693

6

March 15, 1996

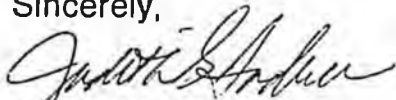
Representative Peter Kott
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Representative Kott:

Please lend your support to House Resolution 12, urging the University of Alaska to honor its contract obligations with the Federation of Teachers Local 2404 in the matter of a 3% salary increase. I cannot speak for all union members, but my salary currently does not match the national average for professors in my area. I have taught as a visiting professor for the past seven years at the University of Alaska Southeast in a position that was determined to be union-covered when the ACCFT was reinstated. I have been offered a tenure-track position beginning in the fall of 1996. The salary for this position represents the new tenure-track hire rate for my department minus the 3% negotiated pay increase. In order for me to be paid equitably with other new tenure track faculty in my department, the 3% increase that has already been negotiated must be paid. It is a frustrating position to be in for both myself and the dean who must determine my salary under a negotiated contract that to date has not been honored.

I ask that you give this Resolution your careful consideration. Thank you.

Sincerely,



Judith G. Andree
5985 Lund Street
Juneau, Alaska 99801

STEPHEN S. HENNESSY
780 EAST ROSEWOOD DR.
WASILLA, AK 99654
907-376-2264
E-MAIL: AFSSH@ACAD2.ALASKA.EDU

MARCH 25, 1996

House Labor & Commerce Committee.

REF: House Resolution #12

AS A MEMBER OF THE UNIVERSITY OF ALASKA FACULTY FOR THE PAST SIX YEARS, I AM WRITING TO ASK FOR YOUR SUPPORT OF H.R. 12 WHICH IS BEFORE YOU FOR CONSIDERATION.

THOSE OF US IN THE CLASSROOMS AT UAA NEED THE LEGISLATURE TO SEND A STRONG MESSAGE THROUGH HOUSE RESOLUTION #12 TO THE UNIVERSITY ADMINISTRATION. THIS IS THE MESSAGE OF "EXPECTATIONS OF FAIRNESS" AND PERFORMING ON "ONE'S WORD."

THE UNIVERSITY MUST PERFORM ON ITS CONTRACTUAL OBLIGATIONS OR THE INSTITUTION MAY FIND THE TALENT OF ITS FACULTY MOVING ELSEWHERE.

THANK YOU FOR YOUR CONSIDERATION,
Stephen S. Hennessy

25 Mar 96
PO Box 883
Dillingham, AK 99576

Representative Pete Kott, Chair
House Labor & Commerce Committee
Alaska State Legislature
State Capital (MS 3100)
Juneau, AK 99801-1182

Dear Representative Kott and other Labor and Commerce Committee Members:

When I enter into a legal agreement I am bound by fiscal law *and my word* to keep that agreement. I am sure that you and the other Committee members feel the same way. Apparently the University of Alaska does not see things so simply or ethically.

They entered into a legal contract with the Alaska Community College Federation of Teachers, an agreement all parties signed on May 8, 1992. Part of that agreement called for a 3 percent annual raise for all faculty. The University then refused to honor its contractual obligation; they did not pay the 3 percent for FY 95. The arbitrator in the case stated that the University must pay it. So far the University has refused to do what you and I would do: *pay for legal agreements we signed.*

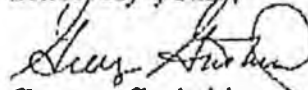
If the University does not wish to pay for faculty raises, then they should do like the rest of us: *negotiate.* Not sign and then renege.

But that's a future consideration. Right now we're talking about the past: about people who do not keep their word.

It's sad that we must ask the legislature to impel supposedly honorable University administrators to do the right thing, but that is what has become necessary.

I am therefore asking for your support for House Resolution No. 12, which seeks to impel the University to honor its contractual obligation.

Sincerely yours,



George Guthridge
Assoc. Professor

Handwritten mark

BIG LAKE SUSITNA VETERINARY HOSPITAL

PO. BOX 520682
MILE 51 PARKS HIGHWAY
BIG LAKE, ALASKA 99552
TELEPHONE: (907) 802-9292

March 22, 1996

Representative Pete Kott
Chairman of Labor & Commerce
State Capital
Juneau, Alaska 99801-1182

Dear Representative Kott,

This letter is to give formal support for HB 432.

We feel the wording changes are in line with improved veterinary services and improved public service.

Your assistance on this bill is very much appreciated.

Sincerely,

James B. Leach III, DVM



FAX TRANSMITTAL SHEET

March 24, 1996

To: Representative Pete Kott

From: Faculty at Kenai Peninsula College

Subject: Please Support House Resolution # 12 for the following reasons.

First, we want to continue to be the most productive faculty, offering programs to meet Alaska's educational needs and keeping Alaskans competitive. A yes vote will help us do just that.

Second, Arbitrator Ruled University shall comply with 1992 Contract - We believe the passage of HR 12 will encourage the University to honor its contractual obligations that it agreed to in 1992 and not allow the University to claim it is not accountable because the University Administration chose not to honor the terms of the contract in a responsible manner and tried to unilaterally change the contract. (The arbitrator ruled the University violated the contract.)

Third, a YES vote on HR 12, will send a message to the University to quit wasting the States money trying to get rid of the Union that represents the most productive instructional faculty. Over the last three years the University has continued to try and get rid of the ACCFT Union, even though we are the most productive, by doing the following:

- 1. Hiring faculty members who teach less than four classes per semester, just to keep teachers out of the ACCFT Union, when everyone including the University claims they are trying to increase productivity.**
- 2. Choosing to breach a negotiated and arbitrated contract, by not honoring the terms the University agreed to in 1992. Thus, teachers and administrators are wasting time and funds trying to resolve breaches of contracts, instead of being able to focus 100% of their efforts on programs and students.**

Benefits of HR 12 - With the passage of HR 12, both faculty and administration can focus 110% of our efforts on teaching, increasing instructional productivity and offering quality educational programs to keep Alaskans competitive

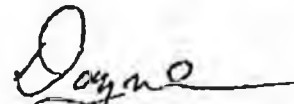
Attached is a fairly detailed explanation as to why we believe it is important that HR 12 be sent to the floor with a due pass recommendation.

Thank you for your time and interest in hearing our concerns about fairness and the future of education in Alaska.

The Kenai Peninsula College Faculty

Sent by Faculty Campus Representative, Dayne L. Clark

907-262-0349 wk. 907-262-3541 hm.



FAX TRANSMITTAL SHEET

March 24, 1996

To: House Labor & Commerce Committee**From: Faculty at Kenai Peninsula College****Subject: Please Support House Resolution # 12 for the following reasons.**

We want to continue to be the most productive faculty, offering programs to meet Alaska's educational needs and keeping Alaskans competitive. A yes vote will help us do just that. Please consider your vote carefully, we believe there is more associated with HR 12 than just a failure to abide by the terms of the contract. The breach of contract covered by HR 12 is indicative of many changes that the University Administration is trying to arbitrarily make, which the majority of the faculty believe will significantly affect the University's ability to deliver stable and quality educational programs or training in the future. The faculty are the experts in their area of instruction, not the administration. Yet the administration wants the power to change programs and implement new programs at will and apparently without input from the experts, the faculty. Education is not a manufacturing process to be reengineered at the whim of administrators, but a process that should evolve from a stable faculty, that enjoys academic freedom, to ensure that the programs provide quality education and freedom of thought that promotes a free society. When only one group has total control over education, freedom of thought diminishes and so does a free society.

The University Breaches the ACCFT Contract and the Arbitrator Ruled the University Shall Follow the Contract. These actions of the University did not deal with interpretation of language within the contract, but with the University unilaterally choosing to modify the terms of the contract. Alaskan labor law has already established that you cannot unilaterally change the terms of a contract. First, the University chose not to honor the COLA clause in the contract. Second, they chose not to abide by the contract and request funding from the legislature. These are specific breaches of contract that are specifically within the control of the University. However, the University is once again trying to use *smoking mirrors* to make us believe that it was beyond the University's ability to deal with and thus should not be held accountable. We believe that choosing not to abide by the terms of a contract were within the University's control and believe a Judge will agree. To not agree, we believe the Judge has to rewrite contract labor law. The last time the University chose not to honor the ACCFT contract it cost the State of Alaska over \$3 million and this does not include the more than \$.5 million spent on attorney fees by the University.

University knew consequences of choice to not honor contract. We believe that the University was fully aware of the consequences of their decision not to comply with the contract back in 1994. The University has dealt with contract labor law for 20 years and is well aware of what it can and cannot do. The University claims that they have tried to comply, but it is the Legislature that has prevented the University from complying. We believe the facts show University Administration has not actively tried to comply with the terms of the contract and their choice to not comply is compounding the problem and wasting University personnel time and State funds on needless lawsuits and attorney's fees. And as mentioned previously, the last time the University chose to ignore the ACCFT contract, it cost State of Alaska over \$3 million.

A YES vote on HR 12, will send a message to the University to quit wasting the States money trying to get rid of the Union that represents the most productive instructional faculty. Over the last three years the University has continued to try to get rid of the Union that represents the most productive instructional faculty by doing the following:

1. Firing faculty members who teach less than four classes per semester, just to keep teachers out of the ACCFT Union, when everyone including the University claims it is trying to increase productivity.
2. Choosing to breach a negotiated and arbitrated contract by not abiding by the terms. This wastes needless time and decreases every one's productivity, instead of trying to increase it, simply because the University chose not to follow the terms of the contract to which they agreed in 1992. Thus, teachers and administrators are wasting time trying to resolve breaches of contracts, instead of being able to focus 100% of their efforts on programs and students.
3. By doing program reviews on predominately vocational programs taught by Union faculty and using evaluation standards that many non-vocational course offerings could not even begin to meet, because the non-vocational courses usually do not develop employment skills and knowledge with which a student can use to get a job. (There was supposed to be a review of the non-vocational programs this year, but many of those programs and course offerings cannot meet the standards required of the vocational programs, so we are apparently not going to do any more program reviews.)
4. We were told in February that University has decided to do away with the Community College Mission and the University has apparently decided it cannot support many of the vocational programs. (Which happen to be taught by Union faculty members and are also taught at rural campuses.)
5. The University has stated that it plans to implement 3 to 5 year contracts for the faculty. How can a faculty experience academic freedom when they have to continually be worried about whether some administrator likes them and will renew their contract for another 3 to 5 years.

Existing University Personal Services Contracts are Funded by Legislature - It is our understanding that the Legislature funds all prior existing contracts and the provisions of those contracts as part of the Personal Services Budget for the University. The University is basically claiming that the Legislature must provide funding for each part of the ACCFT contract yearly. This does not seem to hold water. The Legislature just funds the University's instructional budget and then the University decides how to spend the instructional budget. The University has already promised to give the non-represented faculty a 2% pay increase effective January 1, 1996. The passage of HR 12 will help clarify that the Legislature funds existing contracts as part of the regular Personal Services Budget for the University and the University then decides how it is to be spent.

Actions or lack of Action by the University will impact programs needed by the students. We are concerned that the University of Alaska's decision to not honor the ACCFT contract in a timely and responsible manner will force the University to use funds needed for programs to pay for the breach of contract.

Not Passing HR 12 would reward University for choosing not to honor the terms of a contract. While some Legislators are rightly concerned about allowing the University to benefit and get additional funding by not submitting its request in a timely manner, we are the other hand are concerned, that a governmental agency will benefit because it is not required to honor the terms of the contract because they were negligent and did not submit funding requests in a timely manner as required by Alaska Law and the ACCFT contract.

We believe the Legislature has the ability to make sure that governmental agencies operate within the law. We believe that the legislature needs to make sure that governmental agencies abide by legal contracts and Alaska Law. Passing HR 12 will send a message to the University that they are expected to honor their contractual obligations and will not benefit from not honoring the terms of their contracts.

University promised to continue Community College Mission. We believe that the University is trying to use *smoking mirrors* to cover up their conscious disregard of Alaska Contract Labor law and their efforts to silence the Union group that keeps reminding the University and the Legislature, that the University promised the Legislature back in 1987 that they would continue the Community College Mission if the Legislature would just trust them and allow the University to merge the Community Colleges into the University system. Now in February, 1996, a Provost of the University stated we are going to eliminate the Community College mission, just when it is becoming even more important that Alaskan citizens be able to take advantage of short educational programs that will enable them to remain competitive and employable. (This is one of the main parts of the community college mission.)

The Benefits of Your Yes Vote for House Resolution # 12. The sooner HR 12 is passed, the sooner the University Administration will recognize the need to comply with the ACCFT contract and this will stop wasting the States resources, the Legislatures time and the University's Funding. Then we can focus 110% of our efforts on teaching, increasing instructional productivity and offering quality educational programs to keep Alaskans competitive. All of this will help to ensure we remain a free society and country.

Thank you for your time and interest in hearing our concerns about fairness and the future of education in Alaska.

The Kenai Peninsula College Faculty

Sent by Faculty Campus Representative, Dayne L. Clark

907-262-0349 wk. 907-262-3541 hm.



University Of Alaska Faculty SITKA Campus
Urging Your Support for
House Resolution 12

| <u>Signature</u> | <u>Department</u> |
|---------------------|-------------------|
| Phillip M. Statters | Counseling |
| Arlo Liberty | HIM |
| Maureen R. Dawson | History |
| Linda S. Halton | ART |
| Marnie Chapman | LIFE SCIENCES |
| Naomi Tschir | Math |
| Eusie Feero | Blz |
| John H. Carnegie | Env. Tech. |
| Fattie Leland | BLS |
| Nichelle Winger | Journalism |
| B. Murphy | English |
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FAX TRANSMITTAL SHEET

March 24, 1996

To: House Labor & Commerce Committee**From: Faculty at Kenai Peninsula College****Subject: Please Support House Resolution # 12 for the following reasons.**

First, we want to continue to be the most productive faculty, offering programs to meet Alaska's educational needs and keeping Alaskans competitive. A yes vote will help us do just that.

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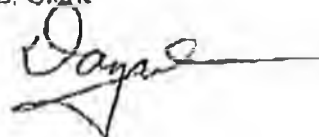
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Thank you for your time and interest in hearing our concerns about fairness and the future of education in Alaska.

The Kenai Peninsula College Faculty

Sent by Faculty Campus Representative, Dayne L. Clark

907-262-0349 wk. 907-262-3541 hm.



2
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3-24

Facsimile Cover Sheet

To: Representative Pete Kott
House Labor & Commerce Committee

Fax: 465-2819

From: Carl Frasure
Professor of History
University of Alaska Anchorage

Phone: (907) 786-1640

March 22, 1996

Representative Pete Kott
State Capitol
Juneau AK 99801

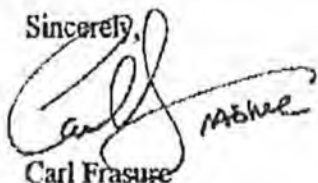
Dear Representative Kott:

House Resolution 12 is about honor. The University signed a contract and the legislature approved that contract. After the fact the University arbitrarily decided to violate the contract and not provide ACCFT members an annual 3% salary increase pursuant to Board of Regents Policy and the terms of the Agreement. The issue was arbitrated consistent with the contract resulting in a reversal of the University's position and in support of the Union.

The University Regents ignored the result and failed to act properly under the Agreement. Union members have gone without their entitled annual increase for two years. We now turn to the legislature in the hope that you will compel the University to honor its word.

Thank you in advance for your prompt and favorable response to this simple question.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carl Frasure".

Carl Frasure
Professor of History
Attorney at Law

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 28, 1996
VIA HAND-DELIVERY

Hon. Carl Moses, Chair
Rules Committee
Alaska House of Representatives
Room 204, State Capitol
Juneau, AK 99811

Re: CSHR 12 (L&C)

Dear Representative Moses:

We have recently reviewed the House Labor and Commerce Committee substitute for House Resolution No. 12 (CSHR 12) concerning an arbitrator's decision regarding the terms of a collective bargaining agreement between the University of Alaska (University) and the Alaska Federation of Teachers Local 2404 (ACCFT).

We understand that HR 12 will not have the force of law, nor do we anticipate that it will contribute to the legislative history of any bill, but we thought you might want to be informed of two important points: that the matter is in litigation, and that the resolution is based upon an incorrect legal premise.

ACCFT has filed suit against the University and the State claiming that the University must pay a salary increase made after an arbitration even though the legislature failed to appropriate money for the raise called for by the award. ACCFT vs. University of Alaska and State of Alaska, Case No. 3AN-95-7283 Civil (3rd Jud. Distr., Alaska Super., filed August 28, 1995) The defendants take the position that under AS 23.40.215(b), the raises could not be paid without legislatively appropriated funding. This matter, the matter which the resolution purports to address, is being actively litigated, along with a similar case involving the University's Classified Employees Association (UACEA). In essence, the resolution takes a position in the litigation in support of ACCFT.

Further, the resolution may be inconsistent with case law concerning the legislature's exercise of its power to appropriate with respect to collective bargaining agreements. Under the Alaska Public Employment Relations Act (PERA), as consistently and

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

*George
File w/ packet
4-1
P*

To: Hon. Carl Moses, Chair, House Rules
Re: CSHR 12 (L&C)

March 28, 1996
Page 2

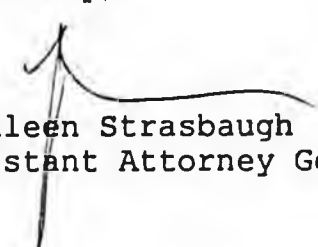
specifically construed by the Alaska Supreme and Superior Courts, monetary terms of a collective bargaining agreement are not effective or enforceable until the legislature appropriates money to fund those terms. Public Safety Employees Association v. State, 895 P.2d 981 (Alaska), aff'd on reh'g, 902 P.2d 1335 (Alaska 1995); Public Employees' Local 71 v. State, 775 P.2d at 1063-4; Alaska Pub. Employees' Assn. v. State, No. 1JU-79-538 CIV and Public Employees' Local 71, AFL-CIO v. State, No. 1JU-79-983 Civ (consolidated) (1st Distr., Alaska Super., Dec. 24, 1979); Alaska Tri-Trades Pub. Serv. Council v. State, C.A. No. 75-6831 E. (3rd Distr., Alaska Super., 1975). This is true for original contracts, second and third year raises of three year contracts and monetary terms of contracts awarded by arbitrators, as in the ACCFT case.

Alaska Statute 23.40.215(a) specifically provides that "[t]he monetary terms of any agreement entered into under the Public Employees Relations Act are subject to funding through legislative appropriation." The resolution suggests that the University should pay these raises without an appropriation, a result contrary to AS 23.40.215(a). See Public Safety Employees Association, 895 P.2d at 987 and 987 n. 7. Indeed, the resolution may be injurious to the state's position in the litigation.

We appreciate your considering this legal advice. If you wish our assistance on technical amendments, please contact me at 465-3600.

Thank you.

Sincerely,



Kathleen Strasbaugh
Assistant Attorney General

SB

25

FISCAL NOTE

STATE OF ALASKA

BILL NO. SB25

1995 LEGISLATIVE SESSION

Revision Date: Original Dept Affected: Natural Resources
 Title: An Act repealing vegetable dealer BRU: Agricultural Development
censing and regulation Component: Agricultural Development
 Sponsor: Senator Donlev and Ellis
 Requestor: _____ Component Serial No. 455

| Expenditures/Revenues | (Thousands of Dollars) | | | | | |
|----------------------------------|------------------------|-------|-------|-------|-------|-------|
| OPERATING EXPENDITURES | -Y96 | -Y97 | -Y98 | -Y99 | -Y00 | -Y01 |
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CHANGE IN REVENUES (1004) | (0.1) | (0.1) | (0.1) | (0.1) | (0.1) | (0.1) |

| FUND SOURCE | (Thousands of Dollars) | | | | | |
|--------------------------|------------------------|-----|-----|-----|-----|-----|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY95) cost: \$ None

| POSITIONS | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: (Attach a separate page if necessary)

AS 03.57 requires approximately 1 day of clerical time and 3-4 hours of professional time per year and generates approximately \$100-\$150/year in fees, which are deposited into the unrestricted general fund.

There is no appreciable impact to the Division of Agriculture with implementation of this legislation.

Prepared by: John W. Cramer, Director *John W. Cramer* Phone: 745-7200
 Division: Agriculture Date: 23-Jan-95
 Approved by Commissioner: John W. Cramer, to Mr. Rutherford, Act. Comm. Date: 1/23/95
 Agency: Natural Resources

SENATE BILL NO. 25

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY SENATOR DONLEY

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act repealing vegetable dealer licensing and regulation."

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

3 * Section 1. AS 03.57 is repealed.

Chapter 57. Vegetables of Alaska Origin.

Section

- 01 License required
- 02 Bond required

Section

- 01 Unfair trade practices
- 02 Definitions

Sec. 03.57.010. License required. (a) A person may not engage in business as a dealer in vegetables without a license.

(b) The fee for the license is \$25. The director of the division of agriculture of the Department of Natural Resources shall grant a license to each person who pays the fee.

(c) The license shall be posted at the dealer's place of business. (§ 1 ch 74 SLA 1967)

Sec. 03.57.020. Bond required. Each dealer is required to obtain and file with the director of the division of agriculture of the Department of Natural Resources a bond in the amount of \$5,000. The bond shall be conditioned on the faithful performance of the legal duties of the dealer as set out in this chapter and the payment for vegetables purchased by the dealer. The bond is payable to the person injured to the extent of the damages. The aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the amount of the bond. The surety may cancel the bond upon giving 30 days' notice in writing to the director and thereafter shall be relieved of any liability for a breach of condition occurring after the effective date of cancellation. (§ 1 ch 74 SLA 1967)

Sec. 03.57.030. Unfair trade practices. (a) It is a breach of a dealer's legal duties to engage in the following unfair trade practices:

(1) failure to pay within 30 days after receipt of vegetables unless otherwise agreed upon at time of purchase in accordance with a contract or agreed purchase price;

(2) failure to account truly and accurately for all vegetables handled as a broker or on consignment or joint account;

(3) rejection without reasonable cause of vegetables purchased or contracted to be handled on consignment;

(4) dumping, discarding, or destroying vegetables on consignment without reasonable cause, or reinspection by the director or an agent;

(5) failure to deliver in accordance with the terms of a contract, without reasonable cause;

(6) discriminating or deceptive practices in weighing or counting vegetables bought or sold;

(7) misrepresentation of the grade, quantity, condition, weight, count, or state of origin of vegetables.

(b) A dealer shall keep accurate records of all transactions. The records shall be retained for 18 months and subject to examination by the director. (§ 1 ch 74 SLA 1967)

Sec. 03.57.040. Definitions. In this chapter

(1) "broker" means a person engaged in the business of negotiating sales and purchases of vegetables on behalf of the seller or the purchaser;

(2) "dealer" means a person engaged in the business of buying or selling vegetables in intrastate, interstate, or foreign commerce, except

(A) producers selling vegetables of their own raising;

(B) retailers; and

(C) a frozen food broker who acts as an independent agent negotiating sales for the vendor and whose only sales of perishable agriculture commodities consist of frozen vegetables;

(3) "vegetables" means fresh vegetables of Alaska origin, including vegetables packed in ice. (§ 1 ch 74 SLA 1967)

Revisor's notes. — This section was reorganized in 1983 to alphabetize the defined terms.



SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

SB 25
REPEALING VEGETABLE DEALER LICENSING
SPONSOR STATEMENT

SB 25 repeals Chapter 57 of Title 3 of the Alaska Statutes which requires individuals who sell vegetables to purchase a \$25.00 license in addition to a business license.

There is no enforcement of Chapter 57. There are also no health or safety regulations that would be negatively impacted by the repeal of this law.

SB 25 has a zero fiscal note from the Department of Natural Resources.

SB 25 received all due pass votes in the Labor and Commerce Committee and was waived through the Senate Finance Committee.

It is not a necessary function or priority of state government to regulate and enforce private contracts.

Chapter 57 of Title 3 of the Alaska Statutes is an unnecessary use of state government time and energy.

DD/aa

TONY KNOWLES, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FAX: (907) 465-3886

3601 C STREET, SUITE 1210
ANCHORAGE, ALASKA 99503-5921
PHONE: (907) 762-2483
FAX: (907) 562-4871

March 10, 1995

The Honorable Dave Donley
Alaska State Legislature
State Capitol Building (Mail Stop 3100)
Juneau, AK 99801-1182

Dear Senator Donley:

The Department of Natural Resources Division of Agriculture has not taken a position on the repeal of Chapter 03.57 by Senate Bill 25, nor is it proposing an increase in the bond requirements. We do note that the vegetable growers and the Mat Su Chapter of the Alaska Farm Bureau have proposed considerable changes to the current statute dealing with vegetable dealer licensing and bonding.

There are currently five vegetable dealers with bonds on file at the Division of Agriculture. We are aware that there are a number of growers who feel the \$5,000 bond is too low to offer them any viable protection from a potential produce dealer bankruptcy.

We would like to point out that during an average week there is approximately \$58,000 of local produce in the marketing channels. This is over \$230,000 per month. Some high volume months, such as August, will have nearly \$400,000 of local product in market channels. As you can see, growers do have some exposure that may justify their concerns.


The Division of Agriculture indicates there is little fiscal impact upon their operations imposed by handling the licensing and bond notification required by Chapter 57. However, some producers and wholesale dealers have indicated that they feel it is important to maintain some stability and security in the market place for local vegetable production.

The Honorable Dave Donley
March 10, 1995
Page Two

It should also be noted that any of the affected dealers buying produce from outside growers must be licensed under the federal Perishable Agricultural Commodities Act for interstate commerce.

I appreciate your taking the time to contact us.

Sincerely,



John Shively
Commissioner

cc: Marty Rutherford, Deputy Commissioner
John Cramer, Director, Division of Agriculture

**CARR
GOTTSTEIN** FOODS CO.

LEGAL DEPARTME

Michael Moxness, General Coun

February 10, 1995

Senator Tim Kelly
State Capitol
Room 101
Juneau, Alaska 99801-1182

VIA FAX 465-3756

Re: Support of SB 25

Dear Senator Kelly:

I am writing to urge your support for SB 25, a bill intended to repeal AS 03.57. As I am sure you know, AS 03.57 requires that any party wishing to purchase vegetables on a wholesale level first obtain a bond. More importantly, the law then defines the failure to pay for your vegetables as an Unfair Trade Practice. This declaration makes a failure to pay for vegetables a violation of the Alaska Unfair Trade Practices Act. The enforcement of that act is by action of the state attorney's general office.

To be quite frank, the current law does not hurt Carrs one bit. We always pay our bills, and if we did not, we have 36 stores in the state of Alaska against which a disappointed seller could execute. Our financial size permits us to get small bonds like this size for free. We are also strong supporters of Alaska agriculture. Our aggressive promotion of Alaska-grown produce has won us governors' awards.

The only reason we got involved here is that we take the most recent legislature's pronouncement of fiscal conservatism seriously. When you require a bond, someone has to track compliance. Someone has to chase down violators. When you declare a private breach of contract to be an unfair trade practice, a state attorney has to get involved, even if only to ultimately reject the case.

Then you might ask why the state should pay to enforce one kind of private sale contract. We at Carrs have to write off tens of thousands of dollars of bad debts a year, yet no attorney general will come to our aid. In fact, the Anchorage and Fairbanks attorney generals' offices are so swamped that we often cannot get them to prosecute shoplifters! Why is one state attorney too busy to prosecute thieves, but another is spending time enforcing a private contract to sell vegetables?