

**HOUSE BILL NO. 465**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE IVAN

Introduced: 2/2/96

Referred: Health, Education and Social Services

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to employment of teachers and school administrators and to  
2 public school collective bargaining."

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

4 \* **Section 1.** AS 14.20.145 is amended to read:

5           Sec. 14.20.145. AUTOMATIC REEMPLOYMENT. If notification of  
6 nonretention is not given according to AS 14.20.140, and if the teacher is not laid  
7 off under AS 14.20.177, a teacher is entitled to be reemployed in the same district for  
8 the following school year on the contract terms the teacher and the employer may  
9 agree upon, or, if no terms are agreed upon, the provisions of the previous contract are  
10 continued for the following school year, subject to AS 14.20.158. Except as provided  
11 in AS 14.20.177(e), the [THE] right to automatic reemployment under [BE  
12 REEMPLOYED ACCORDING TO] this section expires if the teacher does not accept  
13 reemployment within 30 days after the date on which the teacher receives a contract  
14 of reemployment. A teacher who is on family leave under AS 23.10.500 - 23.10.550

1 must comply with the 30-day deadline in this section to retain the teacher's  
2 reemployment rights under this section.

3 \* **Sec. 2.** AS 14.20.147(b) is amended to read:

4 (b) When a school operated by a federal agency is transferred to or absorbed  
5 into a new or existing school district, the teachers shall also be transferred if mutually  
6 agreed by the teacher or teachers and the school board of the new or existing district.  
7 A teacher transferred from a federal agency school **that** [, WHICH] does not have an  
8 official salary schedule or teacher tenure in the same manner as a public school district  
9 in the state [,] shall be placed on a position on the salary schedule of the absorbing  
10 district; the salary may not be less than the teacher would have received in the federal  
11 agency school. If the teacher taught **three** [TWO] or more years in the federal agency  
12 school and, at the time of transfer, had a valid Alaska teaching certificate, that teacher  
13 shall be placed on tenure in the absorbing district.

14 \* **Sec. 3.** AS 14.20 is amended by adding a new section to read:

15 Sec. 14.20.149. TEACHER EVALUATION. (a) A school board shall adopt  
16 by July 1, 1997, a teacher evaluation system for evaluation and improvement of the  
17 performance of the district's teachers. The evaluation system does not apply to the  
18 district's superintendent. The evaluation system must include

19 (1) evaluation criteria based on professional performance standards;  
20 (2) an annual observation and evaluation of each teacher in the district;  
21 (3) an opportunity for students, parents, community members, and  
22 administrators to provide information on the performance of the teacher who is the  
23 subject of the evaluation; and

24 (4) peer review of the teacher.

25 (b) A school board shall consider information from students, parents,  
26 community members, classroom teachers, and administrators in the design and periodic  
27 review of the district's teacher evaluation system.

28 (c) A person may not conduct an evaluation under this section until the person  
29 has completed training in the use of the school district's teacher evaluation system.

30 (d) A school district shall provide a tenured teacher whose performance is  
31 found after evaluation to be less than acceptable with a plan of improvement. The

1 plan of improvement must address ways in which the tenured teacher's performance  
2 can be improved and shall last for no more than one year. If, at the conclusion of the  
3 plan of improvement, the tenured teacher's performance is again evaluated to be less  
4 than acceptable, the district may nonretain the teacher under AS 14.20.175(b)(1).

5 (e) A teacher whose performance is found to be incompetent is not entitled to  
6 a plan of improvement under this section and shall be immediately dismissed under  
7 AS 14.20.170(a).

8 (f) An administrator's individual contract with the school district must provide  
9 that the administrator's failure to carry out duties concerning evaluations under this  
10 section is grounds for dismissal.

11 \* **Sec. 4.** AS 14.20.150 is amended to read:

12 Sec. 14.20.150. ACQUISITION OF TENURE RIGHTS. (a) A teacher  
13 acquires tenure rights in a district when the teacher

14 (1) possesses a standard teaching certificate; **and**

15 (2) has been employed as a teacher in the same district continuously  
16 for **three** [TWO] full school years and is reemployed for the school year immediately  
17 following the **three** [TWO] full school years.

18 (b) The tenure rights acquired under (a) of this section become effective on the  
19 first day the teacher performs teaching services in the district during the school year  
20 immediately following the **three** [TWO] full school years.

21 \* **Sec. 5.** AS 14.20.155(a) is amended to read:

22 (a) **Except as otherwise provided in this chapter, a** [A] teacher who has  
23 acquired tenure rights has the right to employment within the district during continuous  
24 service.

25 \* **Sec. 6.** AS 14.20.160 is amended to read:

26 Sec. 14.20.160. LOSS OF TENURE RIGHTS. Tenure rights are lost when the  
27 teacher's employment in the district is interrupted or terminated. **However, a teacher**  
28 **on layoff status does not lose tenure rights during the period of layoff except as**  
29 **provided under AS 14.20.177.**

30 \* **Sec. 7.** AS 14.20.175(b) is amended to read:

31 (b) A teacher who has acquired tenure rights is subject to nonretention for the

1 following school year only for the following causes:

2 (1) **failure, after imposition of a plan of improvement, to receive an**  
3 **evaluation of at least acceptable performance under the teacher evaluation system**  
4 **under AS 14.20.149** [INCOMPETENCY, WHICH IS DEFINED AS THE INABILITY  
5 OR THE UNINTENTIONAL OR INTENTIONAL FAILURE TO PERFORM THE  
6 TEACHER'S CUSTOMARY TEACHING DUTIES IN A SATISFACTORY  
7 MANNER];

8 (2) immorality, which is defined as the commission of an act that,  
9 under the laws of the state, constitutes a crime involving moral turpitude; **or**

10 (3) substantial noncompliance with the school laws of the state, the  
11 regulations or bylaws of the department, the bylaws of the district, or the written rules  
12 of the superintendent [; OR

13 (4) A NECESSARY REDUCTION OF STAFF OCCASIONED BY A  
14 DECREASE IN SCHOOL ATTENDANCE].

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

16 Sec. 14.20.177. REDUCTIONS IN FORCE. (a) A school district may  
17 implement a layoff plan under this section if it is necessary for the district to reduce  
18 the number of tenured teachers because

19 (1) school attendance in the district has decreased;

20 (2) the school board has determined that there will be a decrease of at  
21 least two percent in per pupil revenue for the next school year over the per pupil  
22 revenue available in the current school year;

23 (3) the school board has determined that the district revenue averaged  
24 over the past five school years has failed to keep pace, for the same period, with  
25 inflation or the cost of changes in the requirements imposed on the district by state and  
26 federal law; or

27 (4) the school board has determined that the district is not able to meet  
28 its financial obligations with available revenue.

29 (b) Before a school district lays off any tenured teacher, the school board shall  
30 adopt a layoff plan. The plan must identify academic and other programs that the  
31 district intends to maintain in implementing the layoff plan. The plan must also

1 include procedures for layoff and recall of tenured teachers consistent with this section.

2 (c) Except as provided in this subsection, a school district may place a tenured  
3 teacher on layoff status only after the district has given notice of nonretention to all  
4 nontenured teachers. However, a school district may retain a nontenured teacher and  
5 place on layoff status a tenured teacher if there is no tenured teacher in the district  
6 who is qualified to replace the nontenured teacher.

7 (d) For purposes of this section, a tenured teacher is considered qualified for  
8 a position if the position is in

9 (1) grades K - 5 and the teacher has an elementary endorsement; or

10 (2) grades 6 - 12 and the teacher has an endorsement for each subject  
11 area in which the teacher filling the position will spend at least 40 percent of the  
12 teacher's time or the teacher can show evidence of acceptable teaching experience in  
13 the subject.

14 (e) For a period of three years after layoff, a teacher is on layoff status and is  
15 entitled to a hiring preference in the district where the teacher had been employed.  
16 The hiring preference applies only to vacant teaching positions for which the teacher  
17 is qualified. If a teacher is offered a teaching position under this subsection and the  
18 teacher declines the offer or fails to accept it within 30 days, the teacher is no longer  
19 considered to be on layoff status and is no longer entitled to a hiring preference under  
20 this section unless the teacher declines the offer because the teacher is contractually  
21 obligated to provide professional services to another private or public educational  
22 program in this state.

23 (f) Notwithstanding any provision of AS 23.40, the terms of a collective  
24 bargaining agreement entered into between a school district and a bargaining  
25 organization representing teachers on or after the effective date of this section may not  
26 be inconsistent with the provisions of this section.

27 (g) A teacher on layoff status is not entitled to be reemployed under  
28 AS 14.20.145 and does not accrue leave. However, layoff status does not constitute  
29 a break in service for retaining tenure rights and accrued sick leave.

30 (h) In this section, "school district" or "district" means a city or borough  
31 school district or a regional educational attendance area.

1 \* **Sec. 9.** AS 14.20.180 is repealed and reenacted to read:

2           Sec. 14.20.180. PROCEDURES UPON NOTICE OF DISMISSAL OR  
3 NONRETENTION. (a) Before a teacher is dismissed, the employer shall give the  
4 teacher written notice of the proposed dismissal and a pretermination hearing. A  
5 pretermination hearing under this section must comport with the minimum  
6 requirements of due process, including an explanation of the employer's evidence and  
7 basis for the proposed dismissal and an opportunity for the teacher to respond. If,  
8 following a pretermination hearing, an employer determines that dismissal is  
9 appropriate, the provisions of (b) and (c) of this section apply.

10           (b) An employer shall provide written notice, including a statement of cause  
11 and a complete bill of particulars, of a decision

12                       (1) after a pretermination hearing under (a) of this section, to dismiss  
13 a teacher; and

14                       (2) to nonretain a tenured teacher; the notice of nonretention must  
15 comply with AS 14.20.140(a).

16           (c) Within 15 days after receipt of a decision of dismissal or nonretention  
17 under (b) of this section, a teacher may notify the employer in writing that the teacher  
18 is requesting a hearing before the school board. Upon receipt of a request for a  
19 hearing, the employer shall immediately schedule a hearing and notify the teacher in  
20 writing of the date, time, and place of the hearing. The teacher may elect to have  
21 either a public or a private hearing, and to have the hearing under oath or affirmation.  
22 The parties have a right to be represented by counsel and to cross-examine witnesses.  
23 The teacher has the right to subpoena a person who has made statements that are used  
24 as a basis for the employer's decision to dismiss or nonretain. A written transcript,  
25 tape, or similar recording of the proceedings shall be kept. A copy of the recording  
26 shall be furnished to the teacher, for cost, upon request of the teacher. A decision of  
27 the school board requires a majority vote of the membership, by roll call. The board's  
28 decision shall be in writing and must contain specific findings of fact and conclusions  
29 of law. A copy of the decision shall be furnished to the teacher within 10 days after  
30 the date of the decision. If the school board sustains the dismissal or nonretention, the  
31 teacher is entitled to mandatory advisory arbitration conducted by a neutral third party.

1 If, after arbitration, the decision of the school board remains unfavorable to the  
2 teacher, the teacher may appeal the decision to the superior court, in accordance with  
3 applicable rules of court, for a judicial review based on the record.

4 \* **Sec. 10.** AS 23.40 is amended by adding a new section to read:

5 Sec. 23.40.235. PUBLIC INVOLVEMENT IN SCHOOL DISTRICT  
6 NEGOTIATIONS. Before beginning bargaining, the school board of a city or borough  
7 school district or a regional educational attendance area shall provide opportunities for  
8 public comment on the issues to be addressed in the collective bargaining process.  
9 Initial proposals, last-best-offer proposals, tentative agreements before ratification, and  
10 final agreements reached by the parties are public documents and are subject to  
11 inspection and copying under AS 09.25.110 - 09.25.140.

12 \* **Sec. 11.** AS 14.20.205 is repealed.

13 \* **Sec. 12.** APPLICABILITY TO INDIVIDUALS. The amendments to AS 14.20.147(b)  
14 and 14.20.150, made by secs. 2 and 4 of this Act, apply only to an individual

15 (1) first hired as a teacher by a school district or regional educational  
16 attendance area, including Mt. Edgecumbe High School, on or after the effective date of this  
17 Act; and

18 (2) rehired as a teacher by a school district or regional educational attendance  
19 area, including Mt. Edgecumbe High School, on or after the effective date of this Act and  
20 following an interruption in continuous service that resulted in

21 (A) a loss of tenure rights under AS 14.20.160, as that section appeared  
22 on the day before the effective date of this Act; or

23 (B) failure to acquire tenure rights under AS 14.20.150, as that section  
24 appeared on the day before the effective date of this Act.

25 \* **Sec. 13.** APPLICABILITY TO CONTRACTS. (a) Nothing in this Act affects a  
26 collective bargaining agreement in effect on the effective date of this Act.

27 (b) AS 14.20.149(f), enacted by sec. 3 of this Act, does not apply to a contract  
28 between an employer and a school administrator in effect on the effective date of this Act.