

S B

2 3 0

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 230

Sponsor: FERGUSON

Date referred to committee: 3/13/85

Synopsis completed:

Fiscal note:

Further referrals: FINANCE

CONTACTS:

✓ Ferguson 4923

✓ Don McKinnon, Admin

✓ Gayle Pearce, NEA 6-3090

Steve Hole, DOE

4766 Roanne Duncan - notify
of hearing

nce with the
tendent may
consecutive
966)

an offer of a
v. Anchorage
Sup. Ct. Op. No.
1995 (1966).
School Bd. v.
1216 (File No.

as within duties
be assigned to,
acts in respect of
must qualify.

teacher who
wing school
etention by
postmarked

s not to be
l notify the
ore the last
n or before
5 ch 98 SLA

nan. Sup. Ct.
491 P.2d 157

nder statutes
.R2d 751.

Sec. 14.20.145. Automatic re-employment. If notification of nonretention is not given according to AS 14.20.140 a teacher is entitled to be re-employed in the same district for the following school year on the contract terms the teacher and the employer may agree upon, or if no terms are agreed upon, the provisions of the previous contract are continued for the following school year, subject to AS 14.20.158. The right to be reemployed according to this section expires if the teacher does not accept reemployment within 30 days after the date on which the teacher receives a contract of reemployment. (§ 16 ch 98 SLA 1966)

Editor's notes. — The revisor of statutes, pursuant to AS 01.05.031 and § 4, ch.

58, SLA 1982, substituted "a" for "his" in the second sentence.

NOTES TO DECISIONS

The purpose of tenure laws is to give job security to experienced teachers and to ensure that they will not be discharged for inadequate reasons. *Redman v. Department of Educ., Sup. Ct. Op. No. 1009* (File Nos. 1802, 1822), 519 P.2d 760 (1974).

This section seeks to achieve this result by treating an improperly nonretained teacher as if the teacher had been retained, with no prejudice to result from the fact of nonretention. *Redman v. Department of Educ., Sup. Ct. Op. No. 1009* (File Nos. 1802, 1822), 519 P.2d 760 (1974).

The effect of this section is to give an improperly nonretained teacher the enforceable right to a written contract of employment for the next school year containing provisions like those in the teacher's contract for the preceding year. *Redman v. Department of Educ., Sup. Ct. Op. No. 1009* (File Nos. 1802, 1822), 519 P.2d 760 (1974).

This section does not automatically continue a teacher's prior contract in the event proper notice of nonretention is not given. *Redman v. Department of Educ., Sup. Ct. Op. No. 1009* (File Nos. 1802, 1822), 519 P.2d 760 (1974).

The language requiring that the provisions of the previous contract are to be continued for the following school year is intended to protect the teacher's legitimate expectation of continued employment on terms no less favorable than those previously enjoyed. It is not meant to require each term of the previous contract to be continued unchanged where the result would be to unreasonably penalize either the teacher or the employer. *Redman v. Department of Educ., Sup. Ct. Op. No. 1009* (File Nos. 1802, 1822), 519 P.2d 760 (1974).

No action for damages may be based on prior, expired contract. — Where the employer has refused to tender the teacher a new contract, the teacher may enforce the teacher's statutory right to be given a new contract and may then sue for breach of that contract, but an action for damages cannot be based upon a prior contract that has expired. *Redman v. Department of Educ., Sup. Ct. Op. No. 1009* (File Nos. 1802, 1822), 519 P.2d 760 (1974).

Quoted in *State v. Redman, Sup. Ct. Op. No. 755* (File No. 1431), 491 P.2d 157 (1971).

Sec. 14.20.147. Transfer of attendance area or federal agency school; absorption. — (a) When an attendance area is transferred from a currently operating district to, or absorbed into, a new or existing school district, the teachers for the attendance area also shall be transferred unless otherwise mutually agreed by the teachers or teachers and the chief school administrator of the new district. Accumulated or earned benefits, including but not limited to, seniority, salary level, tenure, leave, and retirement, accompany the teacher who is transferred.

sferred to or
rs shall also
ers and the
sferred from
ry schedule
strict in the
dule of the
cher would
ught two or
ansfer, had
placed on

district, a
llowed the
eacher has
lished dis-
other type
ce with AS

tic Regional
Alaska Pub.
up. Ct. Op.
2), 591 P.2d

When a
sition for
s moving
20 miles
therwise
or of the

Power of
cher from
. 103 ALR

teacher

(2) has been employed as a teacher in the same district continuously for two full school years and is reemployed for the school year immediately following the two full school years.

(b) The tenure rights acquired under (a) of this section become effective on the first day the teacher performs teaching services in the district during the school year immediately following the two full school years. (§ 1 ch 92 SLA 1960; am § 17 ch 98 SLA 1966)

Editor's notes. — The revisor of statutes, pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982, substituted "the teacher"

for "his" in the introductory language of subsection (a).

NOTES TO DECISIONS

Purpose of tenure laws. — Tenure laws are intended to give job security to experienced teachers and to ensure that they will not be discharged for inadequate reasons. State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

A system of tenure has as its objective the retention of able personnel after they have undergone an adequate period of probation with the concomitant result that more talented personnel will be attracted to enter the teaching profession. State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

The law does not require that teachers shall teach every day, or every hour of every day. State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

The supreme court fails to find any provision of Alaska statutes concerning education which requires, or to perceive of any persuasive policy reasons why, a

teacher must work full days throughout the school year in order to attain tenure rights. No legislative intent to exclude a teacher who works less than full days is manifest from a study of the applicable statutes. State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

Duties regular and substantial enough to afford intelligent evaluation are sufficient. — When a teacher's duties are regular and substantial enough to afford intelligent evaluation, there is little in the way of persuasive policy considerations for excluding such service from the ambit of Alaska tenure laws. State v. Redman, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

Cited in Skagway City School Bd. v. Davis, Sup. Ct. Op. No. 1216 (File No. 2265), 543 P.2d 218 (1975); Crisp v. Kenai Peninsula Borough School Dist., Sup. Ct. Op. No. 1771 (File No. 3318), 587 P.2d 1168 (1978).

Collateral references. — What amounts to waiver of status or rights under teachers' tenure statute. 145 ALR 1078.

Construction and effect of tenure provi-

sions of contract or statute governing employment of faculty member by college or university. 66 ALR3d 1018.

Who is "teacher" for purposes of tenure statute. 94 ALR3d 141.

Sec. 14.20.155. Effect of tenure rights. (a) A teacher who has acquired tenure rights has the right to employment within the district during continuous service.

(b) A teacher who has acquired tenure rights may agree to a new contract at any time. However, if the teacher fails to agree to a new contract, the provisions of the previous contract are continued subject to AS 14.20.158. (§ 18 ch 98 SLA 1966)

file SB 230

March 25, 1986

Honorable Bill Sheffield, Governor
State of Alaska
Pouch
Juneau, AK 99811

Dear Governor Sheffield:

The Board of Directors of the Association of Alaska School Boards recognizes the seriousness of the situation facing the state caused by the revenue shortfall. Because the education of Alaska's children is almost wholly dependent upon financial support from the state and because school board members are charged with the responsibility of insuring that those education dollars are spent in a responsible and efficient manner, we would like to share with you some proposals that would help minimize the impact of the budget crisis and not create additional cost to the state.

Please keep in mind that our primary concern is to maintain, to the greatest extent possible, the quality of the education program that Alaska has been able to offer the children of the state. For many years we have been able to demonstrate to our counterparts in other states that Alaska has made education a priority by the level of support it has given to its educational system.

We recognize that the quality of the program hinges on the strengths of the teachers in the classroom and we value the dedication of those teachers we have selected to entrust our children to. However, during critical times such as this school boards, in their desire to maintain a quality program, need the flexibility to make staffing decisions to provide the best possible education. Students, above all else, are our main priority. With that commitment firmly in mind we offer the following proposals:

- * We propose that the legislature enact early retirement initiatives in the Teacher Retirement System.
- * We propose that there be a serious examination of the continuing contract law which prohibits school districts from reducing salaries.
- * We propose the expeditious passage of ^{S.B.} H.B. 230 which would provide school boards with the ability to lay off certificated staff in the event of reduction of funding.
- * We propose a temporary emergency moratorium on continuing contracts and the notification date of March 15.
- * We propose a temporary emergency moratorium on statutes requiring municipal school districts to submit their budgets to their municipal governments by April 1.
- * We propose the expeditious passage of H.B. 520 which would put a cap on the bonded indebtedness of the state for school construction.

Page 2

The AASB Board of Directors recognizes that in school districts, as in state government, there are going to be no "easy" solutions to the problems we are facing. Making budget cuts is always going to be a painful process when we are talking about the magnitude of decreased revenues that is impacting the state. We understand that the educational community must look to itself to make the necessary adjustments, but in order to make those adjustments we must have the ability to manage our school districts in a way that will serve our students best.

We are committed to cooperating with you, the legislature and our communities to devise acceptable solutions. We would appreciate your immediate and serious consideration of these proposals, and ask for your support in our efforts.

Sincerely,

Association of Alaska School Boards
Board of Directors

Robert Nick, President

PROPOSED BY SCHOOL ADMINISTRATORS:

#1

Sec. 14.20.170. DISMISSAL. (a) A teacher, including a teacher who has acquired tenure rights, may be dismissed at any time only for the following causes:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner.

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

(3) substantial noncompliance with the school laws of the state, the regulations or bylaws of the department, the bylaws of the district, or the written rules of the superintendent.

(4) a necessary reduction of staff occasioned by a decrease in school attendance or by anticipated loss or reduction of funds.

RATIONALE:

Section 6 of SB 230 would allow for nonretention of tenured teachers for the following school year if a reduction of staff is necessary due to an anticipated loss or reduction of funds.

The amendment would apply this same provision to the dismissal of both tenured and non-tenured teachers. Dismissal can occur at any time throughout the school year and results in a broken contract; nonretention occurs at the end of the school year and results in contract nonrenewal.

Nontenured teachers can be nonretained for any reason.

#2

page 3, line 17

(c) Notwithstanding AS 14.20.140, AS 14.20.145, and AS 14.20.155 a school board may choose not to re-employ an employee under AS 14.20.170(a) and AS 14.20.175(b) regardless of the length of service or tenure of that employee.

RATIONALE:

Would relieve the district of the requirement to notify teacher of nonretention by March 16 of a particular year, thus allowing staff reductions to occur when budgets are confirmed.

Sec. 14.20.158. Continued contract provisions. Continuation of the provisions of a teacher's contract according to secs. 145 or 155 of this chapter does not

(1) affect the alteration of the teacher's salary in accordance with the salary schedule prescribed by state law, or in accordance with a local salary schedule applicable to all teachers in the district and adopted by bylaws;

(2) limit the right of the employer to assign the teacher to any teaching, administrative, or counseling position for which the teacher is qualified; or

(3) limit the right of the employer to assign the teacher, as is reasonably necessary, to any school in the district. (Sec. 19 ch 98 SLA 1966)

Sec. 14.20.160. Loss of tenure rights. Tenure rights are lost when the teacher's employment in the district is interrupted or terminated, or when the teacher reaches the age of 65. (Sec. 1 ch 92 SLA 1960; am Sec. 1 ch 104 SLA 1965; am Sec. 20 ch 98 SLA 1966)

Sec. 14.20.165. Restoration of tenure rights. A teacher who held tenure rights and who was retired due to disability under AS 14.25.130, but whose disability (1) has been removed, and the removal of that disability is certified by a competent physician following a physical or mental examination, or (2) has been compensated for by rehabilitation or other appropriate restorative education or training, and that rehabilitation or restoration to health has been certified by the division of vocational rehabilitation of the Department of Education, shall be restored to full tenure rights in the district from which he was retired, at such time as an opening for which he is qualified becomes available. (Sec. 1 ch 71 SLA 1975)

Sec. 14.20.170. Dismissal. (a) A teacher, including a teacher who has acquired tenure rights, may be dismissed at any time only for the following causes:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner.

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

(3) substantial noncompliance with the school laws of the state, the regulations or bylaws of the department, the bylaws of the district, or the written rules of the superintendent.

(b) A teacher may be suspended temporarily with regular compensation during a period of investigation to determine whether or not cause exists for the issuance of a notification of dismissal according to sec. 180 of this chapter. (Sec. 2 ch 92 SLA 1960; am Sec. 21 ch 98 SLA 1966; am Sec. 1, 2 ch 104 SLA 1966)

Sec. 14.20.175. Nonretention. (a) A teacher who has not acquired tenure rights is subject to nonretention for the school year following the expiration of his contract for any cause which the employer determines to be adequate. However, at his request, the teacher is entitled to a written statement of the cause for his nonretention. The boards of city and borough school districts and regional educational attendance areas shall provide by regulation or bylaw a procedure under which a nonretained teacher may, at his request, be heard informally by the board.

(b) A teacher who has acquired tenure rights is subject to nonretention for the following school year only for the following causes:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner.

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

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

(4) a necessary reduction of staff occasioned by a decrease in school attendance.

(Sec. 22 ch 98 SLA 1966; am Sec. 1 ch 11 SLA 1968; am Sec. 13 ch 46 SLA 1970; am Sec. 15 ch 124 SLA 1975)

school year to employees regularly qualified in accordance with the regulations of the department. The contract for a superintendent may be for more than one school year but may not exceed three consecutive school years. (§ 1 ch 92 SLA 1960; am § 14 ch 98 SLA 1966)

NOTES TO DECISIONS

Authority of school district to employ teachers. — A school district has no authority to employ teachers except as prescribed by statute and regulation. *Spicer v. Anchorage Independent School Dist.*, Sup. Ct. Op. No. 325 (File No. 576), 410 P.2d 995 (1966).

Letter from superintendent of

schools held not to be an offer of a contract. — See *Spicer v. Anchorage Independent School Dist.*, Sup. Ct. Op. No. 325 (File No. 576), 410 P.2d 995 (1966).

Cited in *Skagway City School Bd. v. Davis*, Sup. Ct. Op. No. 1216 (File No. 2265), 543 P.2d 218 (1975).

Collateral references. — Duty of teacher to perform services other than those which pertain to instruction. 38 ALR 1414.

Instruction in physical education or

coaching of athletic sports as within duties assumed by, or that may be assigned to, teacher, or among the subjects in respect of which teacher applicants must qualify. 119 ALR 819.

Sec. 14.20.140. Notification of nonretention. (a) If a teacher who has acquired tenure rights is not to be retained for the following school year, the employer shall notify the teacher of the nonretention by writing, delivered before March 16, or by registered mail postmarked before March 16.

(b) If a teacher who has not acquired tenure rights is not to be retained for the following school year the employer shall notify the teacher of the nonretention by writing delivered on or before the last day of the school term or by registered mail postmarked on or before the last day of the school term. (§ 1 ch 92 SLA 1960; am § 15 ch 98 SLA 1966)

NOTES TO DECISIONS

Notice of nonretention sufficient. — See *Griffin v. Galena City School Dist.*, Sup. Ct. Op. No. 2469 (File No. 5388), 640 P.2d 829 (1982).

Quoted in *State v. Redman*, Sup. Ct. Op. No. 755 (File No. 1431), 491 P.2d 157 (1971).

Collateral references. — Notice of intention to discharge teacher, or not to

renew contract, sufficiency under statutes requiring such notice. 92 ALR2d 751.

Sec. 1 nonreten entitled t year on t upon, or contract 14.20.158 if the tea date on w ch 98 SLA

Editor's utes, pursua

The purp job security t ensure that inadequate ment of Educ Nos. 1802, 1

This sect result by nonretained been retained from the fact Department 1009 (File No. 1974).

The effect improperly enforceable r employment taining prov teacher's con: *Redman v. D. Op. No. 1009 P.2d 760 (197*

This sectio continue a t the event pro not given. *Educ.*, Sup. (1802, 1822), 5

Sec. 14. school; ab from a cur existing sch be transfer teachers an mulated or salary level is transferr

NEA

analyze district contracts - what RIF procedures?

Original sponsor: Ferguson

Refer handle in contract negotiations.

allow waive date for purpose of lack of release of "Protest" by you?

Cramer 4/25/85

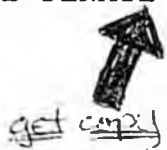
Mike Scott - don't have enough money to meet your obligations. Searcher contract

BB Sheen - Mar. 15 date unless bill meaning less language

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

1 IN THE SENATE ^{says will be recent Supreme Ct. decision has said nonretention is negotiable}

CS FOR SENATE BILL NO. 230 (HESS)



IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to education."

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

* Section 1. AS 14.20 is amended by adding a new section to read:

covered already in both reg. covers both teachers + admin. states evaluation

Sec. 14.20.135. TEACHER EVALUATIONS. (a) The superintendent of each school district shall evaluate the performance of each of the district's teachers at least annually. Standards for evaluations must be measurable and relevant to the duties of the teacher. The superintendent may delegate responsibility for evaluations to the appropriate school administrator.

(b) The teacher who is the subject of an evaluation may review the evaluation and comment upon it.

(c) The formal evaluation and the notes, comments, and other information used in its preparation are not a matter of public record and shall be kept confidential.

(d) An evaluation may not be used in a proceeding to determine the decertification, dismissal, or nonretention of a teacher unless it was prepared in a timely manner. A teacher may not be decertified, dismissed, or nonretained for failure to correct an educational deficiency unless the educational deficiency was identified in an evaluation and the teacher had adequate time after receiving the evaluation to correct the deficiency before the decertification, dismissal, or nonretention.

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

(b) When a school operated by a federal agency is transferred to

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

13 * Sec. 3. AS 14.20.150 is amended to read:

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

- 16 (1) possesses a standard teaching certificate; ~~CCCC~~
- 17 (2) has been employed as a teacher in the same district

18 continuously for three [TWO] full school years and is reemployed for
 19 the school year immediately following the three [TWO] full school
 20 years.

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

25 * Sec. 4. AS 14.20 is amended by adding a new section to read:

26 Sec. 14.20.173. PERMANENT REDUCTIONS IN WORK FORCE. (a) If
 27 there is a reduction in state aid to schools because of declining or
 28 limited state revenue, school boards may need to reduce the number of
 29 employees in order to balance their budgets.

No jurisdiction for this section

1
2
3
(b) When a school board reduces the number of teachers it employs, the school board shall reduce the budget allocated for administrative personnel and for consultants by a percentage that equals or exceeds the percentage by which the allocation for teachers' salaries and benefits was reduced as a result of the reduction in teaching staff. However, the commissioner may reduce or eliminate the required reduction to the allocation for administrative personnel and consultants if the reduction would substantially impair the functioning of the school district.

(c) Notwithstanding AS 14.20.155, a school board may choose to nonretain an employee under AS 14.20.175(b) regardless of the length of service or tenure of that employee. However, in reducing the number of certificated employees in the school district, a school board may not nonretain a tenured employee for the following year if the board is retaining a nontenured employee in a position for which the tenured employee is available and qualified.

* Sec. 5. AS 14.20.175(b) is amended to read:

(b) A teacher who has acquired tenure rights is subject to nonretention for the following school year only for the following causes:

(1) incompetency, which is defined as the inability or the unintentional or intentional failure to perform the teacher's customary teaching duties in a satisfactory manner;

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

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

It won't necessarily be aware of the picture. (It would be aware of local contribution.)

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

(4) a necessary reduction of staff occasioned by a decrease in school attendance or by anticipated loss or reduction of funds certified by the commissioner as likely to occur.

* Sec. 6. A teacher who has acquired tenure rights on the effective date of this Act retains those rights notwithstanding the amendments made by this Act.

* Sec. 7. When a school board reduces the numbers of its employees, it shall comply with the provisions of any agreement negotiated with its employees regarding the layoff.

* Sec. 8. Nothing in this Act terminates or modifies a collective bargaining agreement in effect on the effective date of this Act.

*Steve Hale:
State Board supports bill.
Leaves much open to regulatory interpretation - "anticipated loss"*



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

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

JUNEAU OFFICE

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

FAIRBANKS REGIONAL OFFICE

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

Jean Krause, President

Pam McCarl
Vice President
2115 Sorbus Way
Anchorage, Alaska 99508

Susan Siltham
NEA Director
P.O. Box 80913, College Station
Fairbanks, Alaska 99708

Ron Metzger
Region I Director
Box 546
Juneau, Alaska 99802

Phil Myerchin
Region I Director
717 Canyon Road
Ketchikan, Alaska 99901

Teresa Mallander
Region II Director
P.O. Box 874335
Wasilla, Alaska 99687

John Rusyniak
Region II Director
Box 12
Central, Alaska 99730

Don Oberg
Region III Director
Box 1084
Kenai, Alaska 99611

Myra Poage
Region IV Director
Box 973
Nome, Alaska 99752

Jean Robb
Region IV Director
Box 193
Kolzebue, Alaska 99752

Paris Finley
Region IV Director
c/o Box 1015
Bethel, Alaska 99559

Mary Lou Brent
Region V Director
Box 80074
Fairbanks, Alaska 99708

Carol Merritt
Region V Director
Box 60475
Fairbanks, Alaska 99706

Loretta Christie
Region VI Director
2220 Yorkshire Lane
Anchorage, Alaska 99504

Carol Comeau
Region VI Director
13632 Jarvi Drive
Anchorage, Alaska 99515

Dave Schwantes
Region VI Director
8148 E. 4th Avenue
Anchorage, Alaska 99504

Peg Stout
Region VI Director
6208 E. 34th Avenue
Anchorage, Alaska 99504

Sallye Werner
Region VI Director
7841 Talisman
Anchorage, Alaska 99516

April 8, 1986

TO: Senator Bettye Fahrenkamp, Chair
Members of Senate HESS Committee

FROM: Jean Krause, NEA-Alaska President

RE: SB 230, "An Act relating to education" Testimony

NEA-Alaska is sensitive to the implications of the projected revenue shortfalls on state, borough, municipal and school budgets, but we are also cognizant of Alaska's constitutional mandate to provide public education. It also needs to be pointed out that formal education primarily occurs in the interaction between student and classroom teacher.

Our review of SB 230 has evoked a number of general and specific concerns that will be addressed in this testimony. First we want to speak to the heart of the bill, namely giving a school district the power to reduce permanently its teaching staff by not re-employing teachers who have attained tenure rights if the district experiences or anticipates a reduction of funds. Although indications have been made that this language may be changed to provide for lay-off status as opposed to permanent reduction in force and to read insufficient revenue as opposed to actual or anticipated reduction in revenue we would continue to have extremely serious questions about the intent and implementation of these provisions as well as the need for them.

HOW MUCH OF A REDUCTION IN FUNDS WILL A SCHOOL BOARD HAVE TO EXPERIENCE IN ORDER TO PERMANENTLY REDUCE THE NUMBERS OF TENURED TEACHERS OR TO PLACE THEM ON "LAY-OFF STATUS"?

WHERE IS THE JUSTIFICATION TO PROVIDE SUCH A POWER ON THE BASIS OF ANTICIPATED LOSS OF FUNDS WHICH AMOUNTS TO THE POWER TO FIRE TENURED TEACHERS AT WILL?

REDUCTION IN REVENUE NEEDS TO BE DEFINED:

- * gross figure?
- * per pupil figure?
- * real dollars?
- * will inflation be taken into consideration?

INSUFFICIENT REVENUE NEEDS TO BE DEFINED:

- * insufficient relative to what?

WHO DETERMINES THAT AN INSUFFICIENT AMOUNT OF REVENUE EXISTS?

WHAT BUDGET SHORTFALL FIGURE PREDICTION WILL BE USED TO TRIGGER A RIF? HOW WILL WE KNOW WHAT FIGURE IS THE REAL FIGURE?

* Juneau's experience this spring is a good illustration of the difficulty

- two months ago a \$200,000 shortfall was predicted
- one month ago a \$697,000 shortfall was predicted
- last week the shortfall was predicted to be between \$200,000 and \$400,000.

HOW WILL THE COMMUNITY BE ASSURED THAT DIRECT INSTRUCTION OF STUDENTS IS THE PRIORITY WHEN DISCUSSIONS ABOUT FINANCES ARE OR CAN BE HELD IN EXECUTIVE SESSION OF THE SCHOOL BOARD?

WHAT SAFEGUARDS WOULD THERE BE TO PREVENT OR AT LEAST MINIMIZE THE POTENTIAL OF HAVING TEACHERS RIFed OR FIRED FOR POLITICAL OR ARBITRARY OR CAPRICIOUS REASONS RATHER THAN A FINANCIAL EXIGENCY?

WHY ARE SCHOOL BOARDS AND THEIR ADMINISTRATORS NOT ENGAGED IN AN INTENSIVE LOBBYING CAMPAIGN FOR EDUCATIONAL FUNDING IF THEY BELIEVE THEIR FINANCIAL PICTURE IS SO GRIM THAT THEY NEED THE POWER TO RELEASE TENURED TEACHERS?

NEA-Alaska is not convinced that school district budgets are so tightly drawn that reducing the teaching staff is a necessary solution to their need to have a balanced budget. Nor are we convinced that the state and the districts have engaged in a meaningful dialogue about options that could be used to fund educational programs. Finally, we are not persuaded that the need to lay off or RIF tenured teachers exists beyond the normal impact of attrition through retirements and resignation or through the power the boards already have to non-retain non-tenured teachers. There appears to be no hard data from specific school districts on the impact of a reduction of state funding, if such a reduction actually occurs.

Nevertheless, we have been trying to accommodate the school boards' need to develop statutory language that would allow them to reduce the certificated staff for financial reasons in our discussions with Senator Abood about HB 130. In those discussions the Alaska Association of School Boards representative indicated that reductions in the tenured teaching force on the basis of financial need was a need that had to be addressed if binding arbitration in teacher negotiations were to be addressed. When we indicated a willingness to try to find language that would accommodate such a need, other issues were put on the table for "compromise" in its place and SB 230 soon became calendared.

The AASB has the attainment of statutory language allowing them to RIF tenured as a priority issue. NEA-Alaska has the attainment of statutory language establishing bargaining finality through binding arbitration as its priority issue. We are in the process of trying to accommodate the priority issue of the AASB - we must have AASB accommodation on our priority issue.

We believe that the discussion about this core issue of SB 230 should continue in the context of Senator Abood's discussions about compromises between NEA-Alaska and AASB regarding HB 130. In those discussions we have introduced the following conditions relative to RIF of tenured teachers:

- * the school districts have an obligation to prove that it has a financial exigency of sufficient magnitude to justify this RIF;
- * the procedure by which such a RIF is to be implemented is to be negotiated by the local school district and teacher bargaining agent, negotiations subject to binding arbitration;
- * the RIF would be subject to the negotiated grievance procedure.

We also believe that the State Board of Education should be the agent that determines whether or not a school district has a financial exigency and that the SBOE makes that determination by a motion taken after examination of an Educational Impact Statement filed with them by the local school authorities. The Educational Impact Statement must be a matter of public record in a format that shall be developed by the Department of Education. The Educational Impact Statement format shall include at least the following information:

1. The applying district's previous five year revenue and expenditure history, including carry-over funds and funds reimbursed to the municipal or borough government at the end of the fiscal years.
2. An explanation of what the district's revenue is insufficient to accomplish in terms of specific programs or functions.
3. The dollar savings to the district for each reduced position;
4. A list of each person to be affected by the action, his/her position, years employed with the district and educational preparation ... and, if the person is a teacher the subject(s) and/or grade level(s) that he/she is teaching.
5. The impact of the reduction on the remaining personnel, with regard to teachers this will include the affect on actual class sizes and numbers of preparations in an academic day.
6. The revisions that the district will be implementing in its performance expectations and evaluation of personnel who will have increased work loads/class sizes as a result of the RIF.
7. The impact of the reduction on the instructional program and the direct delivery of instruction to students.
8. The specific non-personnel cuts made by the district and the dollar savings for each cut.

9. The specific non-certificated personnel cuts made by the district and the dollar savings for each cut.
10. The amount of money the district has budgeted for each of the following:
 - a. out-of-district travel
 - b. school board compensation and perquisites;
 - c. extra-curricular activities (broken into athletic and non-athletic categories);
 - d. consultant contracts, travel and expenses;
 - e. lobbyist contracts, travel and expenses;
 - f. bonuses;
 - g. contingency funds;
 - h. administrator salaries; benefits and perquisites by position (Superintendent to Assistant Principals, Coordinators, Directors, etc.);
 - i. swimming pool(s) costs in terms of maintenance and operation (including personnel costs);
 - j. vehicle purchases and maintenance (including airplanes);
 - k. interest earnings (off capital money from state, carry-over funds, etc.).
 - l. specific dollar amounts the district pays in membership fees, dues, etc.

Finally, because giving school districts this power could have such dramatic effects on the classroom and direct delivery of instruction to students, we propose that ALL discussion, information, options and decisions by the school board members on reduction in force for financial reasons take place in public session, the provisions of AS 44.62.310, Administrative Procedure Act, notwithstanding.

In conclusion we ask that the Senate HESS discussion of the provisions of SB 230 include our need to have statutory language providing finality in bargaining through binding arbitration, or that the discussion remain in Senate State Affairs with the discussion of HB 130.

JKS:50

Introduced: 3/13/85
Referred: Health, Education & Social Services
and Finance

1 IN THE SENATE

BY FERGUSON

2

SENATE BILL NO. 230

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to education."

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

8 * Section 1. AS 14.17.225 is amended by adding a new subsection to
9 read:

10 (g) The legislature shall advise the Department of Education
11 each year of the amount it expects to appropriate to the public school
12 foundation program for the first fiscal year beginning more than one
13 year later. The department shall advise school boards of the legisla-
14 ture's authorization.

15 * Sec. 2. AS 14.20 is amended by adding a new section to read:

16 Sec. 14.20.135. TEACHER EVALUATIONS. (a) The superintendent of
17 each school district shall evaluate the performance of each of the
18 district's teachers annually. Standards for evaluations must be
19 measurable and relevant to the duties of the teacher. The superinten-
20 dent may delegate responsibility for evaluations to the appropriate
21 school administrator.

22 (b) The teacher who is the subject of an evaluation may review
23 the evaluation and comment upon it.

24 (c) The formal evaluation and the notes, comments, and other
25 information used in its preparation are not a matter of public record
26 and shall be kept confidential.

27 (d) An evaluation may not be used in a proceeding to determine
28 the decertification, dismissal, or nonretention of a teacher unless it
29 was prepared in a timely manner. A teacher may not be decertified,

1 dismissed, or nonretained for failure to correct an educational defi-
2 ciency unless the educational deficiency was identified in an evalua-
3 tion and the teacher had adequate time after receiving the evaluation
4 to correct the deficiency before the decertification, dismissal, or
5 nonretention.

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

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

20 * Sec. 4. AS 14.20.150 is amended to read:

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

23 (1) possesses a standard teaching certificate;

24 (2) has been employed as a teacher in the same district
25 continuously for three [TWO] full school years and is reemployed for
26 the school year immediately following the three [TWO] full school
27 years.

28 (b) The tenure rights acquired under (a) of this section become
29 effective on the first day the teacher performs teaching services in

1 the district during the school year immediately following the three
2 [TWO] full school years.

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

4 Sec. 14.20.173. PERMANENT REDUCTIONS IN WORK FORCE. (a) De-
5 clining oil revenues are causing a reduction in state aid to schools.
6 Because of this reduction, school boards may need to reduce the number
7 of employees in order to balance their budgets.

8 (b) When a school board reduces the number of teachers it em-
9 ploys, the school board shall reduce the budget allocated for adminis-
10 trative personnel and for consultants by a percentage that equals or
11 exceeds the percentage by which the allocation for teachers' salaries
12 and benefits was reduced as a result of the reduction in teaching
13 staff. However, the commissioner may reduce or eliminate the required
14 reduction to the allocation for administrative personnel and consul-
15 tants if the reduction would substantially impair the functioning of
16 the school district.

17 (c) Notwithstanding AS 14.20.155, a school board may choose not
18 to re-employ an employee under AS 14.20.175(b) regardless of the
19 length of service or tenure of that employee.

20 * Sec. 6. AS 14.20.175(b) is amended to read:

21 (b) A teacher who has acquired tenure rights is subject to
22 nonretention for the following school year only for the following
23 causes:

24 (1) incompetency, which is defined as the inability or the
25 unintentional or intentional failure to perform the teacher's custom-
26 ary teaching duties in a satisfactory manner;

27 (2) immorality, which is defined as the commission of an
28 act which, under the laws of the state, constitutes a crime involving
29 moral turpitude;

1 (3) substantial noncompliance with the school laws of the
2 state, the regulations or bylaws of the department, the bylaws of the
3 district, or the written rules of the superintendent; or

4 (4) a necessary reduction of staff occasioned by a decrease
5 in school attendance or by anticipated loss or reduction of funds.

6 * Sec. 7. A teacher who has acquired tenure rights on the effective
7 date of this Act retains those rights notwithstanding the amendments made
8 by this Act.

9 * Sec. 8. When a school board reduces the numbers of its employees, it
10 shall comply with the provisions of any agreement negotiated with its
11 employees regarding the layoff.

12 * Sec. 9. Nothing in this Act terminates or modifies a collective
13 bargaining agreement in effect on the effective date of this Act.

housing that will be constructed by the local agency or individual for that purpose. (§ 2 ch 124 SLA 1975; am § 2 ch 57 SLA 1976; am § 1 ch 147 SLA 1978; am § 4 ch 92 SLA 1982; am § 1 ch 105 SLA 1983)

Effect of amendments. — The 1983 amendment added paragraph (10).

NOTES TO DECISIONS

Board's power to make personnel rules. — Implicit in paragraph (4) of this section is a regional school board's power to make personnel rules comparable to those which the state personnel act im-

poses on public employees subject to its coverage. *Meiners v. Bering Strait School Dist.*, Sup. Ct. Op. No. 2857 (File Nos. S-125, S-140), 687 P.2d 287 (1984).

Sec. 14.08.111. Duties. A regional school board shall:

- (1) provide, during the school term of each year, an educational program for each school age child who is a resident of the district;
- (2) develop a philosophy of education, principles and goals for its schools;
- (3) employ a chief school administrator and approve the employment of the professional administrators, teachers and noncertificated personnel necessary to operate its schools;
- (4) establish the salaries to be paid its employees;
- (5) designate the employees authorized to direct disbursements from the school funds of the board;
- (6) submit the reports prescribed for all school districts;
- (7) provide for an annual audit in accordance with AS 14.14.050;
- (8) provide custodial services and routine maintenance of school buildings and facilities;
- (9) establish procedures for the review and selection of all textbooks and instructional materials before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060; and
- (10) provide prospective employees with information relating to the availability and cost of housing in rural areas to which they might be assigned, and, when possible, assist them in locating housing; however, nothing in this paragraph requires a regional school board to provide teacher housing, whether owned, leased or rented or otherwise provided by the regional educational attendance area, nor does it require the board to engage in a subsidy program of any kind with respect to teacher housing. (§ 2 ch 124 SLA 1975; am § 2 ch 17 SLA 1981; am § 2 ch 105 SLA 1983)

73 SLA 1985;

section and "do
re the borough"
es" and deleted
number of mem-
ol board shall be
er prescribed by
d of the subsec-

chool board
isions of this
the assembly
ass boroughs

assembly and
orough voters
d
500 pupils or

AS 29.20.300(b)"
ragraph (1) sub-
ugh" and made a
nge; and deleted
ragraph (2).

chools.

ry 1, 1986].
management
the district, or
obtain a bond
oney that may
d \$50,000. The
thful disburse-
to the official
ie clerk of the

school board. This section does not apply to an officer who has been bonded under AS 29.20.610. (§ 1 ch 98 SLA 1966; am § 21 ch 53 SLA 1973; am § 29 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment, effective January 1, 1986, substituted "beginning of the section and substituted "AS 29.20.610" for "AS 29.23.520" at the deleted "of" following "custody" near the end of the section.

Sec. 14.14.050. Annual audit. (a) The school board in each school district shall, before October 1 of each year, provide for an audit of all school accounts for the school year ending the preceding June 30. To make the audit the school board shall contract with a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the district. One certified copy of the audit shall be filed with the commissioner and one certified copy shall be posted in a public place at the principal administrative office of the district.

(b) The audit shall conform in form to requirements established by the commissioner. The commissioner shall withhold all payments of state funds after November 15 to a school district which fails to file a certified copy of the audit with the department.

(c) The commissioner may provide for a reaudit or an audit check in a school district if in the commissioner's judgment it is necessary to substantiate the reported expenditures.

(d) [Effective January 1, 1986] The school board shall not make the audit if an audit that satisfies the requirements of this section and that is filed and posted as required by this section is made according to AS 29.35.110. (§ 1 ch 98 SLA 1966; am § 22 ch 53 SLA 1973; am § 30 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment, effective January 1, 1986, in subsection (d) substituted "that" for "which" in two places and "AS 29.35.110" for "AS 29.48.220" and made a minor punctuation change.

Sec. 14.14.090. Additional duties. In addition to other duties, a school board shall

(1) determine and disburse the total amount to be made available for compensation of all school employees and administrative officers;

(2) provide for, during the school term of each year, an educational program for each school age child who is a resident of the district;

(3) withhold the salary for the last month of service of a teacher or administrator until the teacher or administrator has submitted all summaries, statistics, and reports which the school board may require by bylaws;

(4) transmit, when required by the assembly or council but not more often than once a month, a summary report and statement of money expended;

(5) keep the minutes of meetings and a record of all proceedings of the school board in a pertinent form;

(6) keep the records and files of the school board open to inspection by the public at the principal administrative office of the district during reasonable business hours;

(7) establish procedures for the review and selection of all textbooks and instructional materials before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060;

(8) provide prospective employees with information relating to the availability and cost of housing in rural areas to which they might be assigned, and, when possible, assist them in locating housing; however, nothing in this paragraph requires a school district to provide teacher housing, whether district owned, leased, rented or through other means, nor does it require a school board to engage in a subsidy program of any kind regarding teacher housing. (§ 1 ch 98 SLA 1966; am § 3 ch 17 SLA 1981; am § 3 ch 105 SLA 1983)

Effect of amendments. — The amendment added paragraph (8).

Chapter 17. Public School Foundation Program.

Article

2. Preparation of Public School Foundation Budget (§§ 14.17.080, 14.17.140)
4. General Provisions (§ 14.17.225)

Cross references. — For applicability of this chapter to state aid for regional educational attendance areas formed under sec. 2, ch. 66, SLA 1985, see sec. 3, ch. 66, SLA 1985 in the Temporary and Special Acts.

Article 1. State Aid to Local School Districts.

Sec. 14.17.021. Basic state aid.

Editor's notes. — The operation of AS 14.17.021(a) is suspended from July 1, 1985 through June 30, 1986 by § 1, ch. 75, SLA 1985. See §§ 2 — 4, ch. 75, SLA 1985, Temporary and Special Acts, for provisions operative during the period of suspension.

14.20.510

missioner" in
on (b), and, in
d "executive
ecutive secre-

orts. — For
SB 126), see

Procedure
s to regu-
5 ch 9 SLA

teaching
standards

unds, the
ession in
uding, if
LA 1966;

shall be
98 SLA

ords

§ 14.20.550

Negotiation

EDUCATION

§ 14.20.550

Legislative history reports. — For report on ch. 18, SLA 1970 (HB 391 am S), see 1970 Senate Journal, p. 296.

Opinions of attorney general. — While these provisions waive the state's sovereign immunity and that of its political subdivisions from having to bargain collectively with teachers in the public schools, they do not address, expressly or

even impliedly, any right to strike on the part of teachers of school districts. May 19, 1977. Op. Att'y Gen.

Teachers of school districts do not presently have the right to strike because the state has not waived its or its political subdivisions' immunity from strikes by teachers. May 19, 1977. Op. Att'y Gen.

Collateral references. — 48A Am. Jur. 2d Labor and Labor Relations, §§ 1727 — 1775.

51A C.J.S. Labor Relations, § 402.
Right of school authorities to make membership or nonmembership in teachers' association or other organization

a condition of employment as a teacher. 72 ALR 1225.

Bargainable or negotiable issues in state public employment labor relations. 84 ALR3d 242.

Union security arrangements in state public employment. 95 ALR3d 1102.

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

NOTES TO DECISIONS

Constitutionality. — This section and AS 14.20.610 state two goals which apparently conflict, but since the supreme court construes this section fairly narrowly, it finds no constitutional infirmity in this section and AS 14.20.610. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n*, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Requirements of section. — This section merely requires a school board to negotiate with a union. It does not require a board to accept any particular proposal a union might offer. It does not require, and probably does not permit, a board to delegate to a union the sole power to make any decision. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n*, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

As to matters which affect educational policy and are, therefore, not negotiable, there are, nevertheless

implicit in the Alaska Statutes the intention that the school boards meet and confer with the unions. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n*, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Negotiable items. — Salaries, fringe benefits, the number of hours worked, and the amount of leave are negotiable. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n*, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

The salary of teachers is a proper subject of collective bargaining under Alaska's statutes. *Rouse v. Anchorage School Dist.*, Sup. Ct. Op. No. 2106 (File No. 4715), 613 P.2d 263 (1980).

Nonnegotiable items. — Such items as (1) relief from nonprofessional chores, (2) elementary planning time, (3) paraprofessional tutors, (4) teacher specialists, (5) teacher's aides, (6) class size, (7) pupil-teacher ratio, (8) a teacher

ombudsman, (9) teacher evaluation of administrators, (10) school calendar, (11) selection of instructional materials, (12) the use of secondary department heads, (13) secondary teacher preparation and planning time, and (14) teacher representation on school board advisory committees are, under the existing statutory language, nonnegotiable. Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File

Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).

Dismissal of complaint held proper. — Change in teachers' salaries brought about by contract renegotiation did not abuse any "vested" rights entitled to judicial protection, and dismissal of the complaint for failure to state a claim for which relief could be granted was proper. Rouse v. Anchorage School Dist., Sup. Ct. Op. No. 2106 (File No. 4715), 613 P.2d 267 (1980).

Sec. 14.20.555. Optional coordinated employee negotiations.

(a) Negotiations between the certificated employees of the regional educational attendance areas and the respective regional school boards shall be conducted by one team representing all the certificated employees, one team representing all the certificated administrative personnel if they have joined together to negotiate independently as provided in AS 14.20.560(f), and one team representing all the participating regional school boards.

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

(c) A regional educational attendance area board may by resolution choose to conduct its own negotiations in accordance with AS 14.20.550. (§ 22 ch 124 S A 1975)

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

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

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

int held proper. salaries brought negotiation did not ts entitled to judi- nissal of the com- a claim for which as proper. Rouse . Sup. Ct. Op. No. P.2d 263 (1980).

negotiations. the regional school boards certificated ministrative nedly as ing all the

are regi nal i the team. s than five

resolution with AS

meetings employees in n of their ecognized ated staff, any such cipally of

rtificated ie school majority rgaining ed upon ied staff ee bar- f mem-

yees in tion by ermine on are

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

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

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

NOTES TO DECISIONS

Negotiable items. — The salary of teachers is a proper subject of collective bargaining under Alaska's statutes. Rouse v. Anchorage School Dist., Sup. Ct. Op. No. 2106 (File No. 4715), 613 P.2d 263 (1980).

Dismissal of complaint held proper. — Change in teachers' salaries brought about by contract renegotiation did not abuse any "vested" rights entitled to judicial protection, and dismissal of the complaint for failure to state a claim for which relief could be granted was proper. Rouse v. Anchorage School Dist., Sup. Ct. Op. No. 2106 (File No. 4715), 613 P.2d 263 (1980).

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

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

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

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

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

(b) If the mediation meetings are held during the school day, teachers representing an employee bargaining agency shall be released from classroom or other assigned duties without penalty or loss of pay. (§ 1 ch 18 SLA 1970; am § 1 ch 201 SLA 1975)

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

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

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

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

Sec. 14.20.600. Individual cases. Nothing in AS 14.20.550 — 14.20.590 prohibits an employee from addressing a school board, as an individual, through the regular procedures of the school board for hearing individual cases. (§ 1 ch 18 SLA 1970)

Sec. 14.20.610. Legal responsibilities of boards. Nothing in AS 14.20.550 — 14.20.600 may be construed as an abrogation or delegation of the legal responsibilities, powers, and duties of the school board including its right to make final decisions on policies. (§ 1 ch 18 SLA 1970)

NOTES TO DECISIONS

Constitutionality. — AS 14.20.550 and this section state two goals which apparently conflict, but since the supreme court construes AS 14.20.550 fairly narrowly, it finds no constitutional infirmity in AS 14.20.550 and this section. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).*

As to matters which affect educational policy and are, therefore, not negotiable, there is nevertheless implicit in the Alaska Statutes the intention that the school boards meet and confer with the unions. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).*

Negotiable items. — Salaries, fringe benefits, the number of hours worked, and the amount of leave time are negotiable. *Kenai Peninsula Borough School Dist. v. Kenai Peninsula Educ. Ass'n, Sup. Ct. Op. No. 1537 (File Nos. 2470, 2492, 2563), 572 P.2d 416 (1977).*

Nonnegotiable items. — Such items as (1) relief from nonprofessional chores, (2) elementary planning time, (3) paraprofessional tutors, (4) teacher specialists, (5) teacher's aides, (6) class size, (7) pupil-teacher ratio, (8) a teacher ombudsman, (9) teacher evaluation of administrators, (10) school calendar, (11) selection of instructional materials, (12) the use of secondary department heads, (13) secondary teacher preparation and planning time, and (14) teacher rep-

20.610

1 day,
leased
of pay.

s each
report.
tional

r may
ecom-
1975)

ments
de for
proce-
ding
or the
1975)

50 —
as an
d for

n AS
lega-
board
SLA

ringe
l, and
able.
st. v.
Op.
572

ns ns
, (2)
pro-
, (5)
, (7)
cher
1 of
(11)
(12)
ads,
ar d
rep-

§ 14.20.620

EDUCATION

§ 14.20.630

resentation on school board advisory com-
mittees are, under the existing statutory
language, nonnegotiable. Kenai Peninsula
Borough School Dist. v. Kenai Peninsula

Educ. Ass'n, Sup. Ct. Op. No. 1537 (File
Nos. 2470, 2492, 2563), 572 P.2d 416
(1977).

Article 7. Interstate Agreement on Qualification of Educational Personnel.

Section

- 620. Entry into agreement
- 630. Terms and provisions of agreement
- 640. Designated state official to make
contracts

Section

- 650. Filing and publishing of contracts

Sec. 14.20.620. Entry into agreement. The interstate Agreement on Qualification of Educational Personnel is enacted into law and entered into in behalf of the State of Alaska with all other states and jurisdictions legally joining in it in a form substantially as contained in AS 14.20.630. (§ 1 ch 83 SLA 1970)

Sec. 14.20.630. Terms and provisions of agreement. The terms and provisions of the agreement referred to in AS 14.20.620 are as follows:

INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL.

ARTICLE I. PURPOSE, FINDINGS, AND POLICY.

(1) The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

(2) The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence,

Offered: 5/7/86
Referred: Rules

Original sponsor: Finance Committee

file SB 230

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 CS FOR SENATE BILL NO. 484 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to reduction of personnel in public
7 education because of revenue decreases; and providing
8 for an effective date."

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

10 * Section 1. FINDINGS. The legislature finds that

11 (1) quality education requires adequate staffing of schools;

12 (2) quality of education is of the highest importance for the
13 future of Alaska's children and of the state itself;

14 (3) the interaction between pupil and teacher is a most impor-
15 tant part of a child's learning; and

16 (4) strong instructional leadership is a characteristic of
17 effective schools.

18 * Sec. 2. POLICY. The legislature declares that it is state policy to
19 promote the quality of the public education instruction program and that to
20 do so requires adequate classroom staffing in public schools.

21 * Sec. 3. AS 14.20.175(b) is amended to read:

22 (b) A teacher who has acquired tenure rights is subject to
23 nonretention for the following school year only for the following
24 causes:

25 (1) incompetency, which is defined as the inability or the
26 unintentional or intentional failure to perform the teacher's
27 customary teaching duties in a satisfactory manner;

28 (2) immorality, which is defined as the commission of an
29 act which, under the laws of the state, constitutes a crime involving

1 moral turpitude;

2 (3) substantial noncompliance with the school laws of the
3 state, the regulations or bylaws of the department, the bylaws of the
4 district, or the written rules of the superintendent; or

5 (4) a necessary reduction of staff occasioned by a decrease
6 in school attendance or if a reduction is necessary because funding
7 from all sources for the school district is less than the amount the
8 district received from all sources in fiscal year 1986.

9 * Sec. 4. AS 14.20 is amended by adding new sections to read:

10 Sec. 14.20.177. LIMITATIONS ON REDUCING PERSONNEL. (a) When
11 faced with a reduction in state revenue, a school board shall reduce
12 personnel only after determining that it is necessary and consistent
13 with educational policy and good management. The school board shall
14 consider reducing a proportionate ratio of classified support staff,
15 certificated support staff, instructional staff and appropriate non-
16 personnel expenditures at the same time. **When reducing its staff, the**
17 **school board shall consider the financial resources of all persons**
18 **within a group subject to layoff under (b) of this section before**
19 **deciding which individuals in the group to lay off. In addition, the**
20 **school board shall consider whether or not individuals in the group**
21 **subject to lay off under (b) of this section could have qualified**
22 **under AS 14.43.125 or 14.43.650 or obtained a loan after qualifying**
23 **under AS 14.43.125 or 14.43.650 before deciding which individuals in**
24 **the group to lay off.**

*Ferguson's
teacher-
scholar-
ship loan
language*

25 (b) To the extent consistent with educational policy and good
26 management, layoffs shall be made in the following order:

27 (1) the offering of early retirement incentives;

28 (2) noncertified and certified support personnel and
29 administrators;

1 (3) classroom teachers; and

2 (4) the granting of long-term leaves without pay but with
3 full return and seniority rights.

4 (c) In determining layoffs, a school district shall comply with
5 certified employee or other collective bargaining agreements that
6 address the issue.

7 (d) Notwithstanding AS 44.62.310, a discussion or presentation
8 of information or options by a school board on the question of em-
9 ployee layoffs or furloughs under this section, including preliminary
10 discussions, presentations and decisions shall take place in a public
11 meeting of the school board.

12 (e) A school board seeking to reduce its staff shall authorize a
13 personnel reduction committee consisting of representatives which
14 proportionately represent each of the employee groups to meet with the
15 school district administration. The committee shall prepare a plan to
16 implement the reduction in force consistent with the fiscal parameters
17 established by the board. The school board shall either approve the
18 plan prepared by the committee or send the plan back, along with
19 specific recommendations for reconsiderations by the committee. If
20 the committee fails to submit a second plan within 10 days that is
21 acceptable to the board, the board shall prepare and implement a plan
22 of its own.

23 Sec. 14.20.178. TEACHERS IN LAYOFF STATUS. (a) A school board
24 shall give a teacher at least 30 days' notice before placing the
25 teacher on layoff status. A teacher, including a teacher who has
26 acquired tenure rights, may be placed on layoff status only when a
27 reduction in staff has been made necessary

28 (1) by a decrease in school attendance; or

29 (2) because funding from all sources for the school

1 district is less than the amount the district received from all
2 sources in fiscal year 1986.

3 (b) A teacher on layoff status does not accrue sick leave. Time
4 spent on layoff status does not count toward the acquisition of tenure
5 rights. However, layoff status does not constitute a break in service
6 for

- 7 (1) determining eligibility for tenure;
- 8 (2) retaining acquired tenure rights;
- 9 (3) retaining accrued sick leave.

10 (c) When a teaching position becomes available in a district
11 that has teachers on layoff status, the district may not fill the
12 position with a teacher who is not on layoff status until the position
13 has been offered to each teacher on layoff status who is qualified for
14 the position. A teacher on layoff status who refuses two offers of
15 employment from the district under this subsection loses

- 16 (1) reemployment rights under this section;
- 17 (2) accrued sick leave;
- 18 (3) any tenure rights acquired before layoff.

19 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HESS 4-25-85 1:45pm

*prepared
by Sen HESS*

Sectional Analysis for SB 230

- Section 1 Provides for the legislature to annually advise the Department of Education of the amount it expects to appropriate to the school foundation program for the following fiscal year.
- Section 2 Establishes a procedure for annual teacher performance evaluations.
- Section 3 and 4 Extends the basis for acquiring teacher tenure rights from two years of employment to three.
- Section 5 Requires that any reduction in the number of teachers be matched by a like reduction in administrative personnel and consultants.
- Section 6 Allows nonretention of tenured teachers (i.e., contract non-renewal) in the event of an anticipated loss or reduction of funds. Current statute allows for nonretention of tenured teachers in the event of incompetency, immorality, noncompliance with laws or regulations, or a necessary reduction of staff occasioned by a decrease in school attendance. Nontenured teachers can be nonretained for any reason.
- Section 7 Clarifies that the rights of currently tenured teachers will be unaffected by the provisions of this act.
- Section 8 Requires that staff reductions comply with provisions of existing negotiated agreements.
- Section 9 Clarifies that existing collective bargaining agreements will be unaffected by this act.

SB 168, Rights of deaf, blind and disabled persons.

SB 168 would amend AS 09.02.010, qualifications of jurors, to clarify that a person is not unqualified to act as a juror solely because of deafness, blindness or physical immobility. It would also require that services of an interpreter for a deaf juror be paid by the court, and that the state, its political subdivisions, and the University make available and pay for interpreters for deaf persons seeking access to their services.

SB 168 would also amend AS 18.06.040, interference with the use of a public facility by the blind or physically disabled, to include as punishable interference the use of facilities by deaf persons.

The Human Rights Commission has statutory authority to investigate and prescribe remedies to eliminate discrimination based on conditions such as race, religion, and marital status in the areas of civil rights, employment, housing, and financial practices. SB 186 would include deafness, blindness, and physical and mental disabilities as an inappropriate basis for discrimination, and provide a definition for disability.

SB 230, Relating to education.

SB 230 is a response to an anticipated reduction in the amount of state funding available for schools, and the reduction in district staffs that this may necessitate. Tenured teachers could be "nonretained" (i.e. contracts not renewed) in the event of an anticipated loss of funds, and a reduction in the number of teachers would be matched by a reduction in administrative personnel. The basis for acquiring tenure would be extended from two years to three.

The bill also provides for the legislature to annually advise the Department of Education of the amount it expects to appropriate to the school foundation program for the following fiscal year.

A sectional analysis is attached. The Association of School Administrators will propose an amendment (attached) that would allow for dismissal of teachers in the event of an anticipated loss of funds.

HB 215, State assistance for community health aide programs.

CSHB 215 (Fin) would provide financial assistance to nonprofit health organizations for training and supervising of community health aides. Historically, the community health aide program has been sponsored and funded by the federal Indian Health Service. Since FY 82, selected health corporations have received state grants through direct legislative appropriation. HB 215 would establish an equitable funding formula,

SB 230

ALASKA STATE SENATE

JOE P. JOSEPHSON
DISTRICT H — ANCHORAGE
1526 F STREET
ANCHORAGE, ALASKA 99501
(907) 277-4419

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4525



COMMITTEES
BUDGET & AUDIT
HEALTH, EDUCATION & SOCIAL SERVICES
RULES
TRANSPORTATION
SENATE CHAIR, ANCHORAGE CAUCUS

OFFICE OF MINORITY WHIP

TO: Senator Frank Ferguson
FROM: Senator Joe P. Josephson
DATE: April 12, 1985

A handwritten signature in dark ink, appearing to be "Joe P. Josephson", written over the "FROM" line of the letterhead.

I am attaching some suggestions for revisions to Senate Bill 230. A redraft of SB 230 incorporating these suggestions would not necessarily permit me to support the bill, frankly, but I think they would go far to remove some of the deeper objections from teachers and others.

In summary, I recommend for your consideration:

1. The deletion of section 1. Rationale: districts could not safely rely on non-binding advice from a legislature. One legislature can't b'nd another, especially in the even-numbered election years. Testimony from school administrators indicated this would not be very helpful in any event.
2. On line 18, p. 1, insert "at least", after "teachers".
3. Delete, in sec. 5: "Declining oil revenues are causing a reduction in state aid to schools." Whether declining oil revenues cause a reduction in state aid is an issue still to be addressed. It is a statement of policy that would eliminate considering other options, e.g., additional revenues, vouchsafing education from the effects of "cuts". If necessary, insert instead: "From time to time, state revenues may decline, affecting the ability of the state to provide aid to schools at previous levels."
4. Strike out, in section 5, line 6: "Because of this reduction". Insert in lieu: "In such an event, by reason of which a reduction in state aid to schools occurs,"
5. Section 5(c). Frank, this subsection seems to contradict the radio report this morning, in which you were quoted as saying that seniority would be involved in deciding whom to lay off. You might want to check this.

6. General comment: There is a lack of definition of what a "reduction" is. Is it a gross figure for the district? Is it a per pupil figure? Is it in real dollars, taking inflation into account? I think this needs additional work to determine your intention.

7. Page 4, line 5: Existing language would allow a tenured teacher to be fired, even if a reduction-in-force could be accomplished, even if necessary, by nonretaining a non-tenured teacher. This seems hardly fair. I recommend inserting after "funds" the phrase "certified by the commissioner as likely to occur, where the necessary staff reduction requires a decrease in staff larger than the number of non-tenured teachers available for nonretention."

✓ This language also avoids the situation where the local school board reads a magazine article about the price of oil, and concludes that prices are going down, and hence there will be less state revenues, even though that may not be the expectation of the government in Juneau or the revenue forecasters here. It thus avoids using your bill for sheer retaliation or mischief.

Introduced: 3/13/85
Referred: Health, Education & Social Services
and Finance

1 IN THE SENATE

BY FERGUSON

2

CS SENATE BILL NO. 230 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to education."

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

8

* ~~Section 1. AS 14.17.225 is amended by adding a new subsection to read:~~

10

~~(g) The legislature shall advise the Department of Education~~

11

~~each year of the amount it ex. to appropriate to the public school~~

12

~~foundation program for the first fiscal year beginning more than one~~

13

~~year later. The department shall advise school boards of the legisla-~~

14

~~ture's authorization.~~

15

* Sec. 2. AS 14.20 is amended by adding a new section to read:

16

Sec. 14.20.135. TEACHER EVALUATIONS. (a) The superintendent of

17

each school district shall evaluate the performance of each of the

18

district's teachers ^{at least} annually. Standards for evaluations must be

19

measurable and relevant to the duties of the teacher. The superinten-

20

dent may delegate responsibility for evaluations to the appropriate

21

school administrator.

22

(b) The teacher who is the subject of an evaluation may review

23

the evaluation and comment upon it.

24

(c) The formal evaluation and the notes, comments, and other

25

information used in its preparation are not a matter of public record

26

and shall be kept confidential.

27

(d) An evaluation may not be used in a proceeding to determine

28

the decertification, dismissal, or nonretention of a teacher unless it

29

was prepared in a timely manner. A teacher may not be decertified,

1 dismissed, or nonretained for failure to correct an educational defi-
2 ciency unless the educational deficiency was identified in an evalua-
3 tion and the teacher had adequate time after receiving the evaluation
4 to correct the deficiency before the decertification, dismissal, or
5 nonretention.

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

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

20 * Sec. 4. AS 14.20.150 is amended to read:

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

23 (1) possesses a standard teaching certificate;

24 (2) has been employed as a teacher in the same district
25 continuously for three [TWO] full school years and is reemployed for
26 the school year immediately following the three [TWO] full school
27 years.

28 (b) The tenure rights acquired under (a) of this section become
29 effective on the first day the teacher performs teaching services in

Insert:

From time to time, state revenues may decline, affecting the ability of the state to provide aid to schools at previous levels. In such an event, by reason of which a reduction in state aid to schools ~~at previous levels~~ occurs,



1 the district during the school year immediately following the three
2 [TWO] full school years.

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

4 Sec. 14.20.173. PERMANENT REDUCTIONS IN WORK FORCE. (a) ~~De-~~
5 ~~clining oil revenues are causing a reduction in state aid to schools.~~
6 ~~Because of this reduction,~~ school boards may need to reduce the number
7 of employees in order to balance their budgets.

8 (b) When a school board reduces the number of teachers it em-
9 ploys, the school board shall reduce the budget allocated for adminis-
10 trative personnel and for consultants by a percentage that equals or
11 exceeds the percentage by which the allocation for teachers' salaries
12 and benefits was reduced as a result of the reduction in teaching
13 staff. However, the commissioner may reduce or eliminate the required
14 reduction to the allocation for administrative personnel and consul-
15 tants if the reduction would substantially impair the functioning of
16 the school district.

17 ~~(c) Notwithstanding AS 14.20.155, a school board may choose not~~
18 ~~to re-employ an employee under AS 14.20.175(b) regardless of the~~
19 ~~length of service or tenure of that employee.~~

20 * Sec. 6. AS 14.20.175(b) is amended to read:

21 (b) A teacher who has acquired tenure rights is subject to
22 nonretention for the following school year only for the following
23 causes:

24 (1) incompetency, which is defined as the inability or the
25 unintentional or intentional failure to perform the teacher's custom-
26 ary teaching duties in a satisfactory manner;

27 (2) immorality, which is defined as the commission of an
28 act which, under the laws of the state, constitutes a crime involving
29 moral turpitude;

Ferry, by
deleting this
section do
we affect the
district's
ability to non-retain
under
AS 14.20.175(b)(4)?
Sandra

1 (3) substantial noncompliance with the school laws of the
2 state, the regulations or bylaws of the department, the bylaws of the
3 district, or the written rules of the superintendent; or

4 (4) a necessary reduction of staff occasioned by a decrease
5 in school attendance ~~or by anticipated loss or reduction of funds.~~

6 * Sec. 7. A teacher who has acquired tenure rights on the effective
7 date of this Act retains those rights notwithstanding the amendments made
8 by this Act.

9 * Sec. 8. When a school board reduces the numbers of its employees, it
10 shall comply with the provisions of any agreement negotiated with its
11 employees regarding the layoff.

12 * Sec. 9. Nothing in this Act terminates or modifies a collective
13 bargaining agreement in effect on the effective date of this Act.

certified by the commissioner as likely to occur,
where the necessary staff reduction requires a
decrease in staff larger than the number of
non-tenured teachers available for nonretention.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3534
(907) 465-3835

Senate Committee on Health, Education and Social Services

MEMORANDUM

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, April 25, 1985

DATE: April 24, 1985

On Thursday, April 23, at 1:30 pm in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear the following bills:

SB 230, Relating to education.

SB 230 received a preliminary hearing by the committee on April 11. In short, the bill would allow tenured teachers to be "nonretained" in the event of an anticipated loss of funds.

A draft committee substitute has been prepared that would:

- 1) delete the requirement that the Legislature annually advise the Department of the amount it expects to appropriate to the foundation program in subsequent years,
- 2) delete the statement that declining oil revenues are causing a reduction in state aid to schools, and
- 3) provide that tenured teachers be "nonretained" only after non-tenured teachers have been released.

A legal opinion on how currently tenured teachers would be affected by the non-retention provisions added in SB 230 will be forthcoming.

SB 230 (FERGUSON) TEACHER TENURE

H.E.S.S. COMMITTEE SUBSTITUTE:

1. DELETE REQUIREMENT THAT LEGISLATURE ADVISE DEPT. OF HOW MUCH IT WILL APPROPRIATE FOR SCHOOL FUNDING FOLLOWING YEAR.
2. DELETE STATEMENT THAT DECLINING OIL REVENUES ARE CAUSING REDUCTION IN STATE AID TO SCHOOLS.
3. PROVIDE THAT TENURED TEACHERS BE "NONRETAINED" ONLY AFTER NON-TENURED TEACHERS HAVE BEEN RELEASED.

SCHOOL ADMINSTRATORS WOULD STILL LIKE TO BE ABLE TO DISMISS (BREAK CONTRACTS) TENURED AND NON-TENURED TEACHERS MID-YEAR IF THERE IS A REDUCTION IN FUNDS.

STILL CONCERN ABOUT HOW "REDUCTION IN FUNDS" IS MEASURED:

- STATE FUNDS ONLY? WHAT IS REDUCTION IN LOCAL CONTRIBUTION?
- HOW GREAT DOES REDUCTION HAVE TO BE? \$100?
- WHAT IS AN "ANTICIPATED" LOSS OF FUNDS? WHAT IF YOU ANTICIPATE WRONG?

LEGAL OPINION ON APPLICABILITY OF THIS NEW PROVISION TO CURRENTLY TENURED TEACHERS. HAS BEEN PREPARED.

Testimony to Senate H&SS
on SB 230

From: Robert Nick, Chairman, Lower Kuskokwim School District Board
and present chairman of the Alaska School Board Association

Date: April 3, 1986

I would like to praise Senator Ferguson for his foresight in introducing SB 230 last year and encourage the passage of this legislation in amended form as provided by Mr. Green of the Alaska School Board Association.

The value of this legislation is particularly obvious at a time when both the legislature and administration are finding it necessary to reduce school district funding due to a very significant reduction in state revenue. SB 230 should be viewed as a management tool that will provide school boards with at least a little flexibility in determining how to live with reduced funds.

By far the largest component of every school district budget is salaries and benefits for certified staff. That specific percentage for each district will be provided to the committee by the School Board Association. For the most part, the balance of school district funds are used for relatively fixed costs such as heating oil, maintenance of facilities, and supplies. Obviously, the very nature of these costs would suggest the implausibility of making extreme spending reductions in this area. Significant reductions (and five to eight percent, as has been discussed, is very significant) will have to come in the form of lower personnel costs. In most cases, that will mean more students per classroom and fewer teachers.

Without this legislation, school districts with a scarcity of non-tenured teachers will have very little flexibility in determining how to reduce costs. Under present law, tenured teachers can only be released due to decreases in enrollment, incompetency, immorality, or substantial noncompliance with state or local laws. If school boards do not have monetary reduction added to that list, our hands will be tied. We will not be able to accurately reflect the will of our local communities in our educational programs.

In passing SB 230, you will be cushioning the blow of reduced state funding for education.

Thank you.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: APR 11 1985

REQUEST
Bill/Resolution No.: SB-230
Title: education

FISCAL DETAIL
Agency Affected: Education
Program Category Affected: _____

Sponsor: Ferguson
Requestor: Senate HESS
Date of Request: 4-10-85

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The bill has no fiscal impact on this Department.

Prepared By: Steve Holo  Phone: 2800
Division: Commissioner's Office Date: 4-10-85

Approved by Commissioner: Harold Reynolds, Jr. Date: 4-10-85
Agency: Education

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor ✓
Office of Management and Budget
Impacted Agency(ies)

7/1/84

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



Sando
P. O. BOX V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3762

Senate Committee on Health, Education and Social Services

M E M O R A N D U M

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, April 8, 1986

DATE: April 4, 1986

On Tuesday, April 8, 1986 from 1:30-3:30 p.m. in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear the following bills:

SB 230 An Act relating to education

SB 230 is a response to an anticipated reduction in the amount of state funding available for schools, and the reduction in teaching staff that this may necessitate. As originally drafted, SB 230 would have allowed tenured teachers to be "nonretained" (contracts not renewed) in the event of a loss of funds. Hearings were held on the bill in the HESS committee last year, but no action was taken.

This year the committee has been asked to consider a "lay off" status under which tenured and nontenured teachers could be laid off upon 30 days notice if district revenues were "insufficient." Lay-off status would not constitute a break in service for purposes of determining tenure or retaining accrued sick leave, and would include rehire rights. It is intended that lay off procedures would be negotiated by the teachers and school board in each district. According to the Alaska School Board Association, contracts in a number of districts currently contain "reduction in force" provisions.

Current statute allows school boards to dismiss (mid-contract) any teacher for incompetency, immorality, or noncompliance with school laws; to nonretain (at end of contract term) nontenured teachers for any reason; and to nonretain tenured teachers for incompetency, immorality, noncompliance with school laws, or a decrease in school attendance.

A legal opinion addressing the effect of statutory amendments on currently tenured teachers is attached.

SB 371 An Act amending the controlled substance schedules

Current statute requires that if the Federal Drug Enforcement Agency (DEA) adds controlled substances to its schedule, legislation should be introduced to include those substances under Alaska law. SB 371 would add 26 substances that have recently been controlled by the DEA and remove two that have been decontrolled. The list includes several so-called "designer drugs" which are chemical analogs of previously controlled substances.

Including these substances under state law would enable our law enforcement agencies to enforce their use.

SB 472 An Act relating to the interim management of the mental health trust

On April 4, 1986 the committee considered this bill in draft form. Attached are a sectional analysis and amendments proposed by the Department of Natural Resources and the Alaska Alliance for the Mentally Ill.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 25, 1985

SUBJECT: Teacher tenure rights (CSSB 230 (HESS))
TO: Senator Bettye Fahrenkamp
Chairman, HESS Committee
FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked for an opinion about the effect of section 6 of CSSB 230 (HESS) which states

A teacher who has acquired tenure rights on the effective date of this Act retains those rights notwithstanding the amendments made by this Act.

Section 6 sets out in the bill the general law that the legislature may not amend or repeal tenure rights already earned. Therefore the sections of the bill that increase the number of years to be served to earn tenure and that change the grounds for nonretaining a tenured teacher apply only to teachers who are nontenured on the effective date of the Act.

The statutes relating to tenure rights state in part

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

(1) possesses a standard teaching certificate;

(2) has been employed as a teacher in the same district continuously for two full school years and is reemployed for the school year immediately following the two full school years.

(b) The tenure rights acquired under (a) of this section become effective on the first day the teacher

performs teaching services in the district during the school year immediately following the two full school years.

Sec. 14.20.155. EFFECT OF TENURE RIGHTS. (a) A teacher who has acquired tenure rights has the right to employment within the district during continuous service.

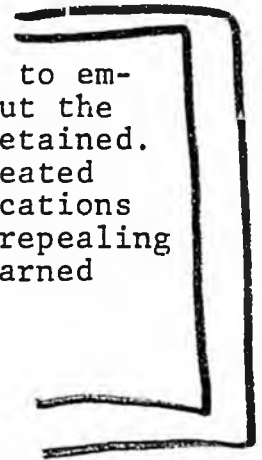
AS 14.20.175. NONRETENTION. . . . (b) A teacher who has acquired tenure rights is subject to nonretention for the following school year only for the following causes:

- (1) incompetency . . . ;
- (2) immorality . . . ;
- (3) substantial noncompliance with the school laws of the state, the regulations or bylaws of the department, the bylaws of the district, or the written rules of the superintendent; or
- (4) a necessary reduction of staff occasioned by a decrease in school attendance.

AS 14.20.155 guarantees a tenured teacher the right to employment in the district and AS 14.20.175(b) sets out the only grounds on which a tenured teacher may be nonretained. Since the legislature in enacting these sections created contractual rights for teachers who met the qualifications for tenure, the legislature may not by amending or repealing the statute deprive the teachers who have already earned tenure of the rights they earned.

If I may be of further assistance, please advise.

TBC:ojb
J14/039



proposal

School Bd.
Assoc.

SB 230

AS 14.20.175 is amended to read:

(4) repealed. ~~_____~~
~~_____~~

AS 14.20 is amended by adding a section to read:

AS 14.20.176. Reduction in Force. (a) A teacher, including a teacher who has acquired tenure, may be placed on lay-off status at any time only when a reduction of staff has been made necessary by

(A) a decrease in school attendance; or

(B) insufficient revenue. ~~_____~~

(b) A teacher must be given 30 days notice prior to being placed on lay-off status.

(c) Lay-off status does not constitute a break in service for purposes of

(1) determining eligibility for tenure;

(2) retaining acquired tenure rights;

(3) retaining accrued sick leave.

A teacher on lay-off status does not accrue sick leave, and time spent on lay-off status does not count toward the acquisition of tenure.

(d) When a teaching position becomes available in the district, a teacher on lay-off status shall be returned to the teaching position for which the teacher is qualified before a teacher new to the district is employed.

(e) A teacher on lay-off status loses the right to re-employment under (d) of this section if the teacher refuses an offer of employment by the district made under (d) of this section.

(f) A teacher who refuses an offer of employment made under (d) of this section loses accrued sick leave and any tenure rights accrued prior to lay-off.

Immediate effective date.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



P O BOX V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3762

Senate Committee on Health, Education and Social Services

Not adopted

DRAFT LETTER OF INTENT FOR CSSB 230 (HESS), AN ACT RELATING TO EDUCATION

CSSB 230 (HESS) allows school districts to lay off tenured and nontenured teachers should the local school board determine that district revenues are not sufficient to pay teacher salaries. It is the intent of the Senate Committee on Health, Education and Social Services in enacting SB 230 that lay off procedures be negotiated by the teachers and school board in each district, and that prior to any lay off decision the local school board thoroughly review other cost saving measures.

The committee recognizes that classroom teachers are the heart of our public education system, and intends that reductions in teaching staff be made only as absolutely necessary. Specifically, it is the committee's intent that the following factors be considered prior to any lay off decisions:

1. The salaries of all district personnel.
2. The ratio of administrative personnel to certified personnel.
3. The ratio of classified personnel to certified personnel.
4. Other district personnel expenditures, such as for consultants and school board members.
5. Nonpersonnel expenditures, such as for travel, equipment purchases, and membership dues.

from NEA

Bob & Bob

*From: Jean, the
Worshipful thinker*

SOME THOUGHTS ON RIF SECTION OF SB230 (IF IT STARTS TO MOVE)

1986

*IN ORDER TO RIF TENURED TEACHERS BECAUSE OF REDUCTION IN REVENUE, A SCHOOL DISTRICT MUST OBTAIN A WAIVER FROM THE SBOE BY MEETING ALL OF THE FOLLOWING STANDARDS:

1. A PROGRAMMATIC IMPACT STATEMENT MUST BE FILED WITH THE DOE;
2. THE DISTRICT MUST HAVE RIFFED
 - A. CLASSIFIED PERSONNEL 2:1 BASIS WITH TENURED TEACHERS
 - B. ADMINISTRATIVE PERSONNEL 2:1 BASIS WITH TENURED TEACHERS
3. THE DISTRICT MUST HAVE TERMINATED ALL CONSULTANT AND LOBBYIST CONTRACTS AND IS PROHIBITED FROM LETTING NEW ONES AS LONG AS THE RIF IS IN EFFECT.
4. THE DISTRICT MAY NOT PAY DUES TO AASB FOR THE DURATION OF THE RIF.
5. THE DISTRICT MAY NOT HAVE CONTRACT STIPULATIONS REQUIRING IT TO PAY DUES TO ADMINISTRATOR ORGANIZATIONS.
6. THE DISTRICT MAY NOT PARTICIPATE IN INTERMURAL ACTIVITIES OR ATHLETICS FOR THE DURATION OF THE RIF.
7. THE DISTRICT MAY NOT GRANT BONUSES TO ANY PERSONNEL FOR THE DURATION OF THE RIF (~~OR MAY NOT HAVE GRANTED SUCH BONUSES FOR A 3 YEAR PERIOD PRIOR TO THE RIF~~).
8. NO DISTRICT PERSONNEL MAY BE EARNING \$100,000 OR MORE (INCLUDING BENEFITS) PER YEAR.
9. THE DISTRICT MAY NOT APPLY FOR A 55% WAIVER, NOR MAY IT BE GRANTED ONE.
10. THE DISTRICT MUST ELIMINATE SCHOOL BOARD MEMBERS' COMPENSATION FOR THE DURATION OF THE RIF.
11. THE DISTRICT MAY NOT HAVE AN UNEXPENDED FUND BALANCE.
12. THE DISTRICT MUST HAVE A NEGOTIATED RIF CLAUSE WITH THE LOCAL TEACHERS' ASSOCIATION.

13. No non-tenured faculty



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

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

JUNEAU OFFICE

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

FAIRBANKS REGIONAL OFFICE

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

March 24, 1986

TO: Senator Mitch Abood

FROM: Bob Manners

RE: Binding Arbitration Procedure

The Issue:

You have asked for a specific proposal for a compromise on the positions of NEA-Alaska and the Alaska Association of School Boards (AASB) on the issue of HB 130. In other words, what changes must be made to AS 14.20.550-610 to provide an acceptable means to achieve finality; closure; a timely conclusion to the teacher negotiations process.

Discussion:

I conclude from the fact of the 20 March 1986 AASB proposal that the concept of arbitration is acceptable and that our collective efforts are now focused on the definition of a process of arbitration.

Short of unilateral determination by either party, in labor relations some form of an arbitration is the only technique to assure that there will be finality in the process.

Arbitration is generally defined by two procedures: Conventional arbitration in which the arbitrator or panel of arbitrators assumes the latitude to make whatever award is appropriate based on documentation, data, information and testimony. In last best offer arbitration the arbitrator or panel of arbitrators, again based on the information before it, is restricted to a choice of either of the last best offers of the parties.

In this LBO technique, the parties establish the parameters for the arbitrator and by virtue of the risk associated with having to accept the position of the other party, significantly enhance the probability that they will reach agreement absent the necessity for an arbitration decision.

While the strike is traditionally a labor tactic, it does not assure the probability of settlement of a dispute. In the public sector strikes are both less effective and acceptable. The public interest generally precludes strikes by police, fire, and hospital employees, and increasingly, teachers; in favor of an arbitration procedure for the dispute resolution.

CSHB 130 (HESS) am: The basic components in the proposed legislation are:

- * Gives non-certificated employees the right to organize and negotiate their terms and conditions of employment.
- * Defines and precludes unfair labor practices (ULP) by employers and employee organizations.
- * Defines procedures for bargaining unit determination.
- * Establishes an Agency to generally administer the law, adjudicate ULP's and make final determination on bargaining unit questions.
- * Establishes timelines for negotiations, mediation, and arbitration.
- * Provides for last best offer arbitration if necessary.
- * Requires that the arbitrator be an Alaska resident.
- * Provides for a public hearing during arbitration.
- * Establishes criteria to guide the arbitrator.
- * Provides for judicial review of an arbitration award.
- * Reserves for school boards all of their rights and responsibilities under the law.

Proposal to modify CSHB 130 (HESS) am:

- Give non-certificated employees the right to organize and negotiate
 - Define and preclude unfair labor practices
 - Define procedures for bargaining unit determination
 - Eliminate the State agency and make disputes on ULP's, bargaining unit question and negotiability subject to the current grievance procedures
 - Establish realistic timelines
 - Provide for last best offer arbitration if necessary, but limit the arbitrator to making an award for one year only
 - Provide for a public hearing during arbitration
 - Establish criteria to guide the arbitrator
 - Provide for judicial review of an arbitration award
 - Reserve for school boards all of their rights and responsibilities under law, including the integrity of the "Kenai" decision.
 - Define reduction in force (RIF) procedures under AS 14.08.111 and 14.14.090 subject to financial exigency and:
 - separate from any question of tenure
 - ~~subject to negotiation and local grievance procedures~~
 - ~~based upon demonstrable financial need.~~
- Provision that a school board, by resolution in a public meeting, may put before the registered voters of the school district in the next general election the question of suspending the arbitration provision in lieu of the right of teachers to strike not subject to permanent re- placement in the event of a strike. The local school board shall reconsider such a resolution before the subsequent round of negotiation.

- Incorporate the AASB suggestion for a contract continuation provision if a successor agreement is not reached on the date a contract expires. This is a good suggestion in that it provides for stability in the relationship between teachers and school boards.

Rationale:

The above modifications streamline and simplify the proposals in CSHB 130 (HESS) am. They effectively address the question of local autonomy in that the registered voters in a school district have an opportunity to participate in the selection of the dispute settlement mechanism. They address the highest priority of the AASB in defining a reduction in force for financial exigency procedure.

Discussion: In our discussions, on more than one occasion, the Senator has cautioned us that we cannot solve all of the issues during this Session and has suggested that we focus on the major differences and commit to each other our continuing efforts in the next Legislative Session to other issues as they develop. NEA-Alaska agrees with this approach.

It is difficult to articulate a compromise proposal for CSHB 130 (HESS) am when faced with "another problem, more problems, other problems, and a biggie" as put forward by the AASB in their 20 March 1986 position statement.

The primary issues are finality in negotiations and the right of non-certificated employees to negotiate. We have also attempted to address the primary AASB issue of reduction in force.

In our discussions in the next Session NEA-Alaska would like to include the following:

- penalties on School Boards for violations of the open meetings law
- liability provisions for arbitrary and capricious conduct
- minimum levels of expenditure for instructional program
- class size as it pertains to quality of program.
- clearly requires that all financial/budget discussions occur in open session of the school board.
- define the components of financial exigency subject to approval by the State Board of Education.

Thank you for your consideration of this compromise proposal.



NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE

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

JUNEAU OFFICE

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

FAIRBANKS REGIONAL OFFICE

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

April 9, 1986

Senator Jan Faiks
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Handwritten note:
No. in funding question
the reduction

Dear Senator Faiks:

Consistent with our discussion and your request of various NEA-Alaska members during the Fly-In, the attached information pertains to priorities in the event a school district must make substantial cuts in its operating budget.

We have also proposed the concept of requiring an Educational Impact Statement (EIS) to be approved by the State Board of Education or perhaps Legislative Budget and Audit before a local school board could move into any of the provisions of Section 3 in the attached.

Jean Krause, Bob Cooksey or I are available to discuss this with you at any time.

Sincerely,

Handwritten signature:
Robert Manners
Executive Secretary

B6:54

Attachment

C: Don Schulz, President
Anchorage Education Association

Handwritten note:
Jan - Priority in negotiations through arbitration (HB130) continues to be our highest priority. Let's discuss it some more!
Handwritten signature:

SECTION 1

It is the public policy of this state to promote public education and ensure the preservation of the quality of the instruction program, which includes the provision of adequate staffing of the public schools.

SECTION 2

Any public school district faced with a reduction of its operating budget as a result of a reduction in foundation support below FY '86 levels shall be empowered to reduce its expenditures with regard to extracurricular programs, physical facilities and personnel; provided no employees of the district may be laid off until the district has exhausted all appropriate other means of dealing with the problem, including, but not limited to:

- A. Full utilization of all operating and capital budget carry-over funds;
- B. Delaying all capital improvements;
- C. Changing existing programmatic priorities within the budget, such as eliminating extracurricular activities, consultant/lobby contracts, out of district/state travel, membership dues, fees and assessments, and implementing no new programs;
- D. Selling assets of the district;
- E. Exhausting the district's revenue raising capacity; and
- F. Attrition resulting from:
 - I. the offering of early retirement incentives,
 - II. the offering of sabbatical leaves at half-pay, and
 - III. the granting of long-term leaves without pay but with full return and seniority rights.

SECTION 3

In the event that the procedures contained in Section (2) of this bill do not sufficiently reduce the expenditures of a school district to permit it to maintain its staff at current levels, the district may lay off employees. Such layoffs shall be implemented in the following order:

- I. non-essential non-certificated employees;
- II. short-term and long-term substitutes and part-time certificated employees, including part-time certificated administrators;
- III. certificated administrators;
- IV. non-certificated employees,
- V. full-time nontenured certificated employees,
- VI. full-time tenured certificated employees.

For purposes of this statute, "certificated employees" does not include administrators.

SECTION 4

- A. In any public school district in which a collective bargaining agreement is in effect, any reduction in personnel necessitated by a reduction in operating funds from the state to that district as described in this bill shall follow the procedure covering layoffs of employaes contained in the collective bargaining agreement, provided such procedure is consistent with the terms of this bill. Any decision by a school district to lay off employees pursuant to this bill shall be subject to the grievance procedures contained in the collective bargaining agreement;
- B. In a public school district with a collective bargaining agreement that does not provide procedures for layoffs, before the district begins layoffs pursuant to this bill, it must negotiate with the exclusive bargaining representative of the employees a procedure governing layoffs that is consistent with this bill. The decision to layoff employees implemented pursuant to that procedure shall be subject to the grievance procedures contained in the collective bargaining agreement;
- C. in a public school district in which no collective bargaining agreement is in effect, before any employee may be laid off under the provisions of this bill, that employee shall be given notice of the decision to lay him or her off and that decision shall be subject to judicial review.

SECTION 5

All discussion, information, and options by a school board relative to the layoff or furlough of any employees under provisions of this legislation shall take place in public sessions of the school board, notwithstanding the provisions of AS 44.62.310, before final decisions are made.

SECTION 6

This bill is a temporary measure to deal with a short-term financial exigency and should not be interpreted as permanently altering the provisions of Title 14 of the Alaska Statutes.

*In Gov. v. C
Office re C
Settlement Bly
on HB 130*

- RE: Package on:
1. HB 130
 2. Reduction in Force; Lay-off; Furlough
 3. Reinstatement; (Alaska Hire)

1. HB 130: - amend CSHB 130 (HESS) am

- make arbitration award good for only one year
- establish more realistic timelines
- Eliminate the State Agency and make disputes regarding bargaining unit questions and unfair labor practices subject to the grievance procedure. (expedited)
- Provide that a school board, by resolution with voter ratification, can suspend the interest arbitration of HB 130 for the legal right to strike (employees not subject to permanent replacement).

2. Add a new Section; AS 14.20.177 (and repeal 14.20.175(b)(4))
Lay-off (Furlough) and Reinstatement

- * A school district faced with reduction of its operating budget as a result of foundation support below FY '86 levels or a decrease in school attendance may lay-off or furlough employees subject to the following:
- * The district must exhaust all appropriate other means of dealing with the problem, including, but not limited to:
 - A. Full utilization of all operating and capital budget carry-over funds;
 - B. Delaying all capital improvements;
 - C. Changing existing programmatic priorities within the budget, such as eliminating extracurricular activities, consultant/lobby contracts, out of district/state travel, membership dues, fees and assessments, and implementing no new programs;
 - D. Selling assets of the district;
 - E. Exhausting the district's revenue raising capacity; and
 - F. Attrition resulting from:
 - I. the offering of early retirement incentives,
 - II. the offering of sabbatical leaves at half-pay, and
 - III. the granting of long-term leaves without pay but with full return and seniority rights.

* In the event these procedures do not sufficiently reduce the expenditures of a school district to permit it to maintain its staff at current levels, the district may lay off employees. Such layoffs shall be implemented in the following order:

- I. non-essential non-certificated employees;
- II. short-term and long-term substitutes and part-time certificated employees, including part-time certificated administrators;
- III. certificated administrators;
- IV. non-certificated employees,
- V. full-time nontenured certificated employees,
- VI. full-time tenured certificated employees.

* For purposes of this statute, "certificated employees" does not include administrators.

* In any public school district in which a collective bargaining agreement is in effect, any reduction in personnel necessitated by a reduction in operating funds from the state to that district as described in this bill shall follow the procedure covering layoffs of employees contained in the collective bargaining agreement, provided such procedure is consistent with the terms of this bill. Any decision by a school district to lay off employees pursuant to this bill shall be subject to the grievance procedures contained in the collective bargaining agreement;

* In a public school district with a collective bargaining agreement that does not provide procedures for layoffs, before the district begins layoffs pursuant to this bill, it must negotiate with the exclusive bargaining representative of the employees a procedure governing layoffs that is consistent with this bill. The decision to layoff employees implemented pursuant to that procedure shall be subject to the grievance procedures contained in the collective bargaining agreement;

* In a public school district in which no collective bargaining agreement is in effect, before any employee may be laid off under the provisions of this bill, that employee shall be given notice of the decision to lay him or her off and that decision shall be subject to judicial review.

* A lay-off or furlough is not an interruption of the continuous service necessary to attain or retain retirement or tenure rights according to sections 150, 155, or 160 of this chapter. However, the time spent on lay-off or furlough may not be counted in determining when a teacher has sufficient service to enable him to acquire retirement or tenure rights.

3. Reinstatement (Alaska Hire): Possibly AS 36.10.010 could be expanded or included as a part of new section in AS 14.20.177.

* When a District reinstates or creates new positions having previously placed employees on lay-off or furlough:

* District to first recall in reverse order from its own list of employees on lay-off or furlough.

* If a District exhausts or depletes its own lay-off/furlough list, it must then recall from a master, statewide list in reverse order of lay-off/furlough.

* Said list to be maintained by:

NEA-Alaska or
Department of Labor or
Department of Education or
Other

* If lists referenced above are depleted/exhausted then District can hire from outside.

B6:55

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HESS 4-8-86 1:43 pm
4-11-85 1:36 pm