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April 20, 1990

TO: Senator Jan Falks, Chair, and members of the Senate Judiciary Committee.

FROM: Bob Manners, Executive Secretary

RE: SB 549; "An Act relating to renewal of a teacher's or administrator's certificate; and providing for an effective date"

NEA-Alaska strongly supports and urges your favorable action on SB 549. We are very appreciative of the willingness of legislators to correct the many problems that have resulted from one portion of the new statute requiring the fingerprinting of teachers.

The original intent of HB 52 was to provide background checks for certification for initial hires and to make the Department of Education, through the Certification Division, the responsible party for such action.

When a person is initially hired and/or licensed to teach in the State of Alaska they must answer in writing the question: "Have you ever been convicted of a felony?" The new legislation serves to validate the answer to that question and is perhaps its most important function.

When the bill was extended to all practicing teachers the logistical problems became enormous, but even more importantly the purpose becomes much more cloudy.

NEA-Alaska is very concerned about the unworkability of the new statute and the varied problems that teachers throughout the state are encountering, but we also believe that you need to address the substantive issues as follows:

Are the protections currently in place regarding the screening of convicted felons from the teaching profession adequate to protect Alaska's youth?

We believe that the answer is yes. Even without fingerprinting each of Alaska's practicing teachers, school districts under AS 12.62.065, are defined as an interested party and authorized to access criminal background information on persons they employ.

Does the fingerprinting of all Alaska's currently practicing teachers enhance the safety factor or accomplish the public interest intent of the legislation?

We believe that it is very unlikely. Even if you take the view that there are convicted felons who have lied on their initial certification application, and employment application, and slipped into Alaska to teach school, the methodology of the fingerprinting on such a massive scale throughout the state indicates that there are no guarantees of the viability of the prints themselves. (We are attempting to kill a mouse with an elephant gun--with a high degree of likelihood that we are going to miss the mouse!)

Finally, it must be asked if the cost and burden of this fingerprint screening is appropriately placed?

When initially being licensed to practice in the state an applicant is forewarned about what the requirements for that license are and given a choice about whether or not to meet those requirements and pay the costs. That choice is somewhat different for those individuals who are currently practicing and there has traditionally been resistance to increasing the requirements, costs, and burdens to recertify. Given the nature of fingerprinting, and the implication that one might be a convicted felon, that resistance is only intensified.

Because Section 4 of HB 52 created the most unworkable part of the legislation, because the public interest is otherwise protected, and because the fingerprinting of all of Alaska's teaching force is likely to produce little if anything in the way of enhancing public interest, we urge you to support the repeal of Section 4 of HB 52.

Thank you for your consideration of our position.

Effect of amendments. — The 1985 amendment substituted "under AS 12.30" for ", including the right to arrest the de-
fendant as provided in AS 12.30.020" and "by law" for "therein."

Chapter 62. Criminal Justice Information Systems Security and Privacy.

Section

35. Access to certain crime information

70. Definitions

Sec. 12.62.035. Access to certain crime information. (a) Notwithstanding any other provision of law, an interested person as defined in (e) of this section may request from the commission records of all convictions involving contributing to the delinquency of a minor and any sex crimes of a person who holds or applies for a position in which the person has or would have supervisory or disciplinary power over a minor. The commission shall authorize the disclosure of the information to the requesting interested person and shall provide a copy of the information to the person who is the subject of the request.

(b) A request for records under (a) of this section shall include within it the fingerprints of the person who is the subject of the request and any other data specified in regulations adopted by the commission. The request shall be on a form approved by the commission, and the commission may charge a fee to be paid by the requesting interested person for the actual cost of processing the request. The commission shall destroy an application within six months after the requested information is sent to the requesting interested person and the person who is the subject of the request.

(c) The commission shall adopt regulations to implement the provisions of this section.

(d) If an individual is denied employment as a result of the disclosure of inaccurate or incomplete records under this section, an action may be brought against the state. No other action may be brought against the state, or an agency or employee of the state, as a result of disclosing or failing to disclose criminal justice information.

(e) As used in this section

(1) "contributing to the delinquency of a minor" means a conviction for a violation or attempted violations of AS 11.51.130(a)(1), (3), or (5); former AS 11.40.130; or the laws of another jurisdiction if the offense would have been a crime in this state under AS 11.51.130(a)(1), (3), or (5) or former AS 11.40.130 if committed in the state;

(2) "interested person" means a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person, that employs or solicits the employment of a person to serve with or without compensation in a position in which the person has or would have supervisory or disciplinary power over a minor;

(3) "sex crime" means a conviction for a violation or attempted violation of AS 11.41.410 — 11.41.470, AS 11.61.110(a)(7), or AS 11.66.100 — 11.66.130; former AS 11.15.120, 11.15.134, or 11.15.160; former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 — 11.40.420; or the laws of another jurisdiction if the offense would have been a crime in this state under one of the sections listed in this paragraph if committed in the state. (§ 2 ch 66 SLA 1983; am § 44 ch 6 SLA 1984)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

Sec. 12.62.070. Definitions. In this chapter

(1) "commission" means the Governor's Commission on the Administration of Justice established under AS 44.19.110 — 44.19.122;

(2) "criminal justice information" means information concerning an individual in a criminal justice information system and indexed under the individual's name, or retrievable by reference to the individual by name or otherwise and which is collected or stored in a criminal justice information system;

(3) "criminal justice information system" means a system, including the equipment, facilities, procedures, agreements, and organizations related to the system funded in whole or in part by the Law Enforcement Assistance Administration, for the collection, processing, or dissemination of criminal justice information;

(4) "intelligence information" means information concerning the background, activities or associations of an individual or group collected or obtained by a law-enforcement agency for preventive, precautionary or general investigative purposes not directly connected with the investigation of a specific crime which has been committed nor with the apprehension of a specific person in connection with the commission of a particular crime;

(5) "interstate systems" means agreements, arrangements and systems for the interstate transmission and exchange of criminal justice information, but does not include record keeping systems in the state maintained or controlled by a state or local agency, or a group of agencies, even if the agency receives information through, or otherwise participates in, systems for the interstate exchange of criminal justice information;

(6) "law enforcement" means any activity relating to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control or reduce crime or to apprehend criminals, activities of criminal prosecution, courts, public defender, corrections, probation or parole authorities;

(7) "law enforcement agency" means a public agency which performs as one of its principal functions activities pertaining to law

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: Renewal of Teachers' or BRU: DPS Statewide Support
Administrators' Certificates
 Sponsor: HESS Committee Component: AK Criminal Records & ID
 Requestor: Senate Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

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

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: M.J. Clemens
 Division: Administrative Services

Phone: 465-4336
 Date: 4/25/90

Approved by Commissioner: S.A.H. for Arthur English
 Agency: Department of Public Safety

Date: 4-26-90
 Page 1 of 2

This bill repeals Section 4 of HB 52, which passed earlier this session (Chapter 7, SLA 1990). The effect of this is that the Department of Education would no longer be required to request criminal history records checks of persons applying to renew an Alaska teacher's certificate. DOE estimates that there are approximately 2,000 applications for recertification a year.

The fiscal note which accompanied HB 52 (not yet "authorized") allocated 55.4 in inter-agency receipts to DPS. These receipts are to come from fees paid by the applicants, and will be used to fund one full-time and one part-time Clerk IV to process the criminal history records checks. The 55.4 figure was based on an estimated 4,000 records checks a year (2,000 initial and 2,000 renewals).

Based on the number of certification applications now being received by DOE, it appears that the original estimate of the number of applications for initial certification was too low. It now appears that there will be 3,000 to 4,000 of these a year. In addition, we are finding that it takes longer than initially estimated to perform the research necessary to report only those convictions allowed to be reported. Records from other states show the charge for which a person was convicted, but generally do not indicate whether the charge is a felony or misdemeanor. This requires that DPS staff contact the other state to find out if the conviction was for a felony or a misdemeanor under that state's laws at the time.

Because the estimates of the number of applications for initial certification and required research time was too low, passage of SB 549 would leave DPS at "status quo"--processing approximately 4,000 additional fingerprint cards and criminal history records checks a year.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Renewal of a teacher's or
administrator's certificate
 Sponsor: Senate HESS
 Requestor: Senate Judiciary

Agency Affected: Education
 BRU: Education Finance and
Support Services
 Components: District Support
Teacher Certification Unit

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by: Mary Hakala
 Division: Commissioner's Office
 Approved by Commissioner: William G. Denmert
 Agency: Education

Phone: 465-2800
 Date: 4/25/90
 Date: 4/25/90

Distribution (by preparer):

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

DEPARTMENT OF EDUCATION
April 26, 1990

FISCAL NOTE ANALYSIS

SB 549: Renewal of a teacher's or administrator's certificate

Although the number of background checks processed by the Department of Education would be reduced by enactment of SB 549, program receipt authorization is necessary. This cost is reflected in the two fiscal notes submitted by the Department of Education for HB 52 (Chapter 7, SLA 90). Since these two fiscal notes assume program receipt revenues generated by applicant fees, any excess in budgeted authority will be restricted; only those revenues realized will be available for expenditure in implementing Chapter 7, SLA 90. Therefore the Department is not submitting any revision to these fiscal notes at this time.