

HB

217

CS FOR HOUSE BILL NO. 217(HES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE IVAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to teacher tenure, teacher layoff and rehire rights, and to
2 review of decisions of school boards concerning teachers."

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

4 * Section 1. AS 14.20.147(b) is amended to read:

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

1 * Sec. 2. AS 14.20.150 is amended to read:

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

4 (1) possesses a standard teaching certificate;

5 (2) has been employed as a teacher in the same district continuously
6 for four [TWO] full school years and is reemployed for the school year immediately
7 following the four [TWO] full school years; and

8 (3) has been evaluated and recommended for tenure under (c) of
9 this section.

10 (b) The tenure rights acquired under (a) of this section become effective on the
11 first day the teacher performs teaching services in the district during the school year
12 immediately following the four [TWO] full school years.

13 * Sec. 3. AS 14.20.150 is amended by adding a new subsection to read:

14 (c) The superintendent or the superintendent's designee shall annually evaluate
15 the performance of each teacher in the district who has not earned tenure. In addition,
16 for three of the four years before a tenure decision is made, each untenured teacher
17 shall be evaluated by a peer review committee appointed by the superintendent. The
18 superintendent shall appoint three teachers to a peer review committee unless the
19 superintendent determines that, given the number of untenured teachers compared to
20 the number of teachers available to serve on peer review committees, a committee
21 should be composed of two teachers. A peer review committee shall submit its
22 evaluation in writing to the superintendent and to the nontenured teacher. The
23 evaluation by the peer review committee is advisory only. The superintendent shall
24 recommend whether a teacher should be granted tenure.

25 * Sec. 4. AS 14.20.160 is amended to read:

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

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

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

1 following school year only for the following causes:

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

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

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

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

12 * Sec. 6. AS 14.25 is amended by adding a new section to read:

13 Sec. 14.20.177. LAYOFFS. (a) A school district may place a teacher who has
14 acquired tenure rights on layoff status but only if it is necessary for the district to
15 reduce the number of teachers because of a decrease in school attendance or because
16 of a substantial decrease in school district revenue.

17 (b) For a period of three years after layoff, a teacher is on layoff status and
18 is entitled to a hiring preference in the district or regional educational attendance area
19 where the teacher had been employed. The hiring preference applies only to vacant
20 teaching positions for which the teacher is qualified. If a teacher is offered a teaching
21 position under this subsection and the teacher declines the offer, the teacher is no
22 longer considered to be on layoff status and is no longer entitled to a hiring preference
23 under this section.

24 (c) In making layoff and rehire decisions under this section, a school district
25 may lay off or fail to rehire a secondary school teacher who has more seniority than
26 a primary school teacher in order to give preference to a teacher skilled in teaching at
27 the primary school level. The district may also give preference to a secondary school
28 teacher over a primary school teacher with more seniority in order to preserve
29 secondary school programs.

30 (d) Notwithstanding any provision of AS 23.40, the terms of a collective
31 bargaining agreement entered into between a school district or regional educational

1 attendance area and a bargaining organization representing teachers on or after the
2 effective date of this section may not be inconsistent with the provisions of this
3 section.

4 (e) A teacher on layoff status is not entitled to be reemployed under
5 AS 14.20.145 and does not accrue leave. Time spent on layoff status does not count
6 toward the acquisition of tenure rights. However, layoff status does not constitute a
7 break in service for

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

11 * Sec. 7. AS 14.20.205 is amended to read:

12 Sec. 14.20.205. JUDICIAL REVIEW. If a school board reaches a decision
13 unfavorable to a teacher, the teacher is entitled to mandatory, advisory arbitration
14 conducted by a neutral third party and, if the decision of the school board
15 remains unfavorable to the teacher, to judicial review based on the record [A DE
16 NOVO TRIAL] in the superior court. However, a teacher who has not attained tenure
17 rights is not entitled to arbitration or judicial review under [ACCORDING TO] this
18 section.

19 * Sec. 8. The amendments made by this Act apply to teachers first hired by a school
20 district on or after the effective date of this Act.

FISCAL NOTE

BILL NO. HB 217

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____

Title: Employment Rights of Teachers

Department Affected: Education

BRU: Executive Administration

Component: Commissioner's Office

Sponsor: Representative Ivan

Requester: (H) HESS Committee

COMPONENT SERIAL NO. 185

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 95	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL	5.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	1.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	6.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

(Thousands of Dollars)

FUNDING	FY 95	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF	6.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	6.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

House Bill 217 permits school districts to place a tenured teacher on layoff status if it is necessary to reduce the number of teachers because of a decrease in attendance or revenue, or to better meet the academic program needs of the district. The department is required to adopt regulations to establish: procedures for the lay off of tenured teachers; the length of time the teacher retains rehire rights; and, the circumstances under which a teacher may lose rehire rights after a layoff. The adoption of these regulations will require travel and advertising costs.

The final section of HB 217 states if a school board reaches a decision unfavorable to a teacher, the teacher is entitled to judicial review based on the record instead of a de novo trial. This provision may result in considerable savings to the local school districts.

Prepared by: Sheila Peterson, Special Assistant

Division: Commissioner's Office

Approved by Commissioner: 

Agency: Education

Phone: 465-2803

Date: March 6, 1995

Signature: Mike Maher

Date: March 6, 1995

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 1, 1995

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 4/13/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 217

HOUSE BILL NO. 217

EMPLOYMENT RIGHTS OF TEACHERS

"An Act relating to employment of teachers."

recommends it be replaced with the following committee substitute CS HB 217 (HES) the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) Education

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>Carol Robinson</i>				✓

CHAIR'S SIGNATURE

[Signature]

Alaska State House of Representatives House District 39

Session
Alaska State Capital
Juneau, Alaska 99801-1182
Phone: (907) 465-4942



Interim
P.O. Box 137
Akiak, Alaska 99552
Phone: (907) 765-7526

Representative Ivan M. Ivan

SPONSOR STATEMENT - HOUSE BILL 217

I introduced House Bill 217 to allow our school districts some flexibility when dealing with rising enrollments and increased costs associated with our educational system. Should we, the legislature, decide not to increase educational funding, I believe policy questions such as the one proposed in House Bill 217 need to be addressed.

House Bill 217 would allow school districts to lay off teachers who have acquired tenure rights, but only if the school district finds it necessary to reduce the number of teachers due to declining enrollment, declining revenues or to better meet the academic program needs of the district. The bill also increases tenure from two to five years and removes the costly trial de novo portion of our statutes which allows a school district employee who, if not satisfied with a district led investigation, to go to the court system to begin an entirely new trial. The district's investigation, most often, must be recreated. The bill eliminates the de novo portion when the district investigation has met standards acceptable to the court. The deletion of the trial de novo provides our educators the same protections as provided to other state employees.

9-LS0821VK ✓
Cramer
4/6/95

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IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

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1 attendance area and a bargaining organization representing teachers on or after the
2 effective date of this section may not be inconsistent with the provisions of this
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14 conducted by a neutral third party and, if the decision of the school board
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16 NOVO TRIAL] in the superior court. However, a teacher who has not attained tenure
17 rights is not entitled to arbitration or judicial review under [ACCORDING TO] this
18 section.

19 * Sec. 8. The amendments made by this Act apply to teachers first hired by a school
20 district on or after the effective date of this Act.

Alaska State House of Representatives
House District 39



Session
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Representative Ivan M. Ivan

SECTIONAL ANALYSIS - HOUSE BILL 217

The following is a sectional analysis of House Bill 217:

Section 1: Amends AS 14.20.147(b), Transfer or absorption of attendance area or federal agency school. Changes tenure from two to five years for those teachers who taught in a school operated by a federal agency and has transferred to or is absorbed into a new or existing school district.

Section 2: Amends AS 14.20.150, Acquisition of tenure rights. Changes tenure from two to five years.

Section 3: Amends AS 14.20.160, Loss of tenure rights. Clarifies that a teacher on layoff status does not lose tenure rights during the layoff period except as provided by regulations adopted under the new layoff sections defined under Section 5 of House Bill 217.

Section 4: Amends AS 14.20.175(b), Non retention. Removes subsection (b)(4) which allows non retention of a teacher due to a decrease in school attendance.

Section 5: Amends AS 14.25, Teachers' Retirement by adding a new section. This new section provides for layoff of a tenured teacher when there is a decrease in school attendance or school revenues or to better meet the academic program needs of the district. Instructs the department to adopt regulations to establish procedures under which a district may layoff tenured teachers, the length of time that a teacher retains hire rights after a layoff, the circumstances under which a teacher may lose rehire rights after a layoff and other provisions.

Section 6: Amends AS 14.20.205, Judicial review. Eliminates a de novo trial whenever a school district reaches an unfavorable decision to a teacher. This section adds language which allows judicial review of the decision based on the previously established record.

Section 7: States that the changes made by this bill apply to teachers first hired on or after the effective date of the bill.

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510

(907) 586-1083 • Fax (907) 586-2995

POSITION PAPER

TENURE ACQUISITION

For public school educators

The Association of Alaska School Boards recommends to the Legislature that AS 14.20.150 (a) and (b) be amended to require five years of probation to obtain tenure in the school systems of the State of Alaska.

The quality of teaching is important in the development of strong educational programs for our children. Within a two year time frame, which is in current statute, school districts must evaluate teachers, help improve their skills, and determine whether or not to retain them. Two years is simply insufficient time to comprehensively evaluate teachers and allow for their successful improvement.

With districts under increased pressure to reduce administrative costs, not only will there be fewer administrators to conduct teacher evaluations but with an added workload, administrators will be under greater pressure to evaluate and determine whether or not to retain a teacher, and will have much less time to develop the skills of a potentially good teacher.

Extending tenure acquisition would allow districts time to provide a comprehensive plan for improvement which would help strengthen and develop the employee's teaching skills. With five years, new teachers would have the opportunity to grow in an environment conducive to professional development rather than under the pressure of deadlines of notice of non-retention.

3/95

ASSOCIATION OF ALASKA SCHOOL BOARDS

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TENURE ACQUISITION MAJOR ISSUES & KEY POINTS

School districts have shared their concerns about how difficult it is to conduct sound evaluations of their teachers within the current two year period of time in which teachers can be awarded tenure.

INSUFFICIENT TIME FOR EVALUATION

1. FAIRNESS TO TEACHERS

- Two years is too short for meaningful evaluation and improvement.
- Forces the non-retention question of a non-tenured teacher rather than encouraging a district to work with the individual to develop their potential talent.

2. FAIRNESS TO KIDS

- Forces a district to tenure marginal teachers who later may prove unsatisfactory.
- To tenure marginal teachers who can't or won't improve—cheats kids.

3. ADMINISTRATIVE WORKLOAD

- Budget cuts force remaining administrators to take on more responsibilities, and makes less time available for quality teacher evaluations.

FIVE-YEAR TENURE WILL

1. Grant sufficient time to evaluate non-tenured staff by moving from two to five years.
2. Not add increased costs to the districts to implement.
3. Not mandate increased statutory requirements on local school districts.
4. Grant sufficient time for professional improvement.

FIVE YEAR TENURE SERVES THE NEEDS OF SCHOOL DISTRICTS, TEACHERS, AND ULTIMATELY CHILDREN.



1995 CORE RESOLUTION

95-22

ACQUISITION OF TEACHER TENURE

WHEREAS, the quality of teaching is important in the development of strong educational programs in the State; and,

WHEREAS, two years is often insufficient time for a teacher new to a school district to develop professionally and successfully; and

WHEREAS, two years is often not long enough to adequately evaluate the capability of a teacher prior to granting tenure; and

WHEREAS, the two year tenure restricts school boards' abilities to manage for quality education;

NOW THEREFORE BE IT RESOLVED that the Association of Alaska School Boards recommends to the Legislature that AS 14.20.150 (a) and (b) be amended to require five years of probation to obtain tenure in the school systems of the State of Alaska—applicable to teachers hired after the effective date of the act.

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POSITION PAPER

NONRETENTION REVISION

LAYOFF PROVISIONS DUE TO FISCAL CIRCUMSTANCES

The Association of Alaska School Boards supports amending AS 14.20.175 (b) to layoff tenured staff for budgetary and fiscal reasons.

If reductions in the work force are required in Alaska's schools due to fiscal circumstances, layoff provisions must allow the educational program needs of our youth, and not tenure, to be the primary determining factor.

Current law allows nonretention of tenured staff for reasons of: (1) incompetence, (2) immorality, (3) substantial noncompliance, and (4) a decrease in enrollment. Schools may NOT layoff tenured employees due to funding shortfalls (not associated with declining enrollments).

AASB supports legislation for layoff that addresses fiscal circumstances with rehire provisions to accommodate district program needs.

AASB believes program needs of students should drive the staffing patterns of schools. Current law leaves schools in a position of having to make program cuts and fill the remaining positions with teachers who may be less qualified but are guaranteed employment because of tenure. It often places teachers in grade levels or subject areas for which they have insufficient preparation. Legislation should direct the State Board of Education to adopt subject area endorsements to improve the quality of instruction.

3/95

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An Educational Perspective Support for Non-retention in the Event of a Reduction in Revenue

Under current law, even if a reduction in revenue to a school district necessitates programmatic cutbacks, including reductions in the number of certificated teaching positions, tenured teachers cannot be non-retained for the following school year unless one of the four categories set forth in A.S. 14.20.175 can be proven. Basically, those categories are incompetency, immorality, substantial non-compliance, and a reduction in force required by a decrease in school attendance.

Apparently, the rationale for protecting tenured teachers—even in the face of funding reductions—appears to be that reductions in the number of certificated teachers can be accomplished by attrition and/or the non-retention of non-tenured teachers.

However, that argument is not logical, reasonable, or appropriate when viewed from an educational perspective. Some examples will prove that point:

1. As a result of decreased funding, a school district is required to reduce some music/art elective high school courses. A third year teacher in the district, hired to teach music, and with no prior experience teaching English, is reassigned to teach high school English while an exceptional first year teacher, heavily recruited because of his or her prior teaching experience in English and/or education background in English, must be non-retained.
2. A disproportionate number of the district's non-tenured (first and second year) teachers are special ed. Because the tenured teacher ranks are protected from non-retention because of decreased funding in the absence of decreased enrollment, non-retentions must come from the non-tenured staff. Cutbacks in the number of special ed teachers jeopardizes the district's ability to comply with the Individualized Educational Plan (IEP) requirements of state and federal law.
3. Because more Alaska Natives are graduating from the University of Alaska, a school district has hired most of its Alaska Native teachers over the past two years. Those Alaska Native teachers will be non-retained.
4. A large influx of non-English speaking students has required a district to hire many English-as-a-Second-Language (ESL) teachers over the past two years. Those teachers must now be non-retained.
5. The district has expended substantial money over the past two years recruiting well-qualified chemistry and physics teachers. Those teachers are non-tenured, and must be non-retained.
6. A ten year physical education teacher who has never taught high school math is reassigned to teach high school math.

In all of these examples, staffing decisions are being made on the basis of whether a teacher is tenured or non-tenured. Those decisions are not being made on what is in the best educational interests of students.

When revenues decline, a school board must ultimately make budgetary decisions regarding the allocation of resources. Unfortunately, under A.S. 14.20.175(b), a school board acts with the proverbial one hand tied behind its back. Decisions regarding the allocation of human resources are not based upon who is the best, brightest, most competent, most energetic, most qualified, and most effective teacher, but rather on whether someone has taught for only one or two years in the district as opposed to having taught for three, four or more years.



1995 CORE RESOLUTION

95-23

TENURED STAFF REDUCTION WHEN REVENUES DECLINE

WHEREAS, school districts are faced with budget reductions not associated with declining enrollments; and,

WHEREAS, certificated staff may be non-retained due to incompetency, immorality, non-compliance with school law, and declining enrollments, but not due to declining revenues; and,

WHEREAS, this often places teachers in grade levels or subject areas for which they have insufficient preparation; and,

WHEREAS, districts, in order to deal with declining revenues, need the authority to reduce staff due to a lack of funds; and

WHEREAS, nonretention provisions in current statute address performance criteria, with the exception of declining enrollment;

NOW THEREFORE BE IT RESOLVED that the Association of Alaska School Boards supports amending AS 14.20.175(b) to separate declining enrollments and fiscal or budgetary circumstances from performance criteria when faced with staff reductions;

BE IT FURTHER RESOLVED that the Association of Alaska School Boards will draft legislation for layoff that addresses fiscal circumstances with rehire provisions to accommodate district program needs.

Passed by the General Membership at the
41st Annual AASB Conference, Nov. 15, 1994



1995 CORE RESOLUTION

95-24

STAFF REDUCTION DUE TO CHANGING PROGRAM NEEDS

WHEREAS, School Boards are specifically charged with the responsibility for determining the program needs of their particular districts; and,

WHEREAS, existing tenure laws do not allow for staff reduction because of changing program needs; and,

WHEREAS, changing program needs often force districts to place teachers in grade levels or subject areas for which they have insufficient preparation; and,

WHEREAS, school boards need to be able to make the decision to change staffing levels based on the district's program needs;

NOW THEREFORE BE IT RESOLVED that the Association of Alaska School Boards promotes necessary legislation to allow districts to change staffing levels based on the district's program needs.

Passed by the General Membership at the
41st Annual AASB Conference, Nov. 15, 1994



1995 CORE RESOLUTION

95-25

**SUBJECT AREA ENDORSEMENT IN THE
CERTIFICATION PROCESS**

WHEREAS, subject area endorsements gained through the teacher certification process are indicators of a teacher's potential competency; and,

WHEREAS, the Association of Alaska School Boards desires an optimal educational environment for its students by hiring the best qualified teachers that are available to us; and,

WHEREAS, the Association of Alaska School Boards recognizes that endorsements can demonstrate basic knowledge and skills;

WHEREAS, the public wants assurances that the people in the classroom are qualified and competent;

NOW THEREFORE, BE IT RESOLVED that the Association of Alaska School Boards desires the Alaska Department of Education to require subject area endorsements or multiple endorsements of initial applicants for teacher certification.

BE IT FURTHER RESOLVED that such endorsements be required of all applicants for certificate renewal, unless such requirement was met at the time of initial certification.

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510

(907) 586-1083 • Fax (907) 586-2995

POSITION PAPER

DE NOVO TRIALS

JUDICIAL REVIEW OF DECISIONS OF SCHOOL BOARDS
RELATING TO NON-RETENTION OR DISMISSAL OF TEACHERS

Under AS 14.20.205 JUDICIAL REVIEW a school district is obligated to submit to a trial de novo (a new trial) if a decision by the school board is unfavorable to a teacher, and the teacher appeals the decision by the board to non-retain or dismiss them. This is an extraordinary standard that has not been extended to any other group of employees.

When a teacher appeals the findings of a district hearing, the school district must repeat the process again before the court, usually at a much later date, and incur the financial cost once again.

AASB views this requirement to be both duplicative and extremely costly. The history of de novo trials in various school districts has established a pattern of unnecessary legal expenses. In addition, de novo law has a substantial chilling effect on school districts, due to costs, when deciding whether or not to attempt the dismissal of a tenured teacher.

The judicial review of dismissal proceedings should be treated no differently than other State agencies. Review should be "on the record" pursuant to the Administrative Procedures Act. This would provide an opportunity for the superior court to review the established record of the local hearing.

Furthermore, a teacher will still be able to appeal a school board's decision to the superior court.

3/95

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510
(907) 586-1083 • Fax (907) 586-2995

DE NOVO TRIALS SAMPLE COSTS

On March 22, 1994 the House HESS Committee took testimony from representatives of five school districts in support of legislation affecting de novo trials. School officials offered testimony on seven recent cases of non-retention—total cost \$721,453.

NORTH SLOPE BOROUGH SCHOOL DISTRICT

Tom Everitt, Director of Personnel

Example 1: A teacher was terminated for striking a child. The board incurred costs of \$126,000 in addition to hearing costs for the "de novo" trial.

Example 2: A tenured teacher was terminated for incompetence. As in the first example, the teacher requested and received a hearing. The legal fees for the district attorney and hearing officer were substantial. The preparation for the trial and settlement negotiations involved another \$29,000 in legal fees. In addition, the district's insurance company paid the ex-teacher \$59,500 as a settlement to avoid the legal expenses of a trial.

Total legal expense to the district: \$217,500.

FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT

Barbara M. Martin, Assistant Superintendent

Example 1: A case is currently being appealed to the Alaska Supreme Court by a terminated employee. Hearing costs in this case were \$44,512 and the trial costs to date are \$38,095, for a total of \$82,607.

Example 2: Another case is scheduled for trial in superior court in January 1995. Hearing costs in this case were \$82,920 and the trial costs to date are \$30,010, for a total of \$112,930.

Total combined costs to the district: \$195,537.

ANCHORAGE SCHOOL DISTRICT

Larry Wiget, Director of Government

In a recent case in Anchorage the district spent roughly \$20,000 to prevail before a hearing officer. It was forced to expend an additional \$100,000 to achieve the same result in the Superior court.

Total cost to the district: \$120,000.

KENAI PENINSULA BOROUGH SCHOOL DISTRICT

Richard Swarner, Executive Director of Business Management

Kenai has recently gone through a trial de novo for the non-retention of a tenured teacher and the district's legal costs were \$74,000. This is an exorbitant, but normal, price to pay for an employee who's performance is not satisfactory.

Total cost to the district: \$74,000.

SITKA SCHOOL DISTRICT

John Holst, Superintendent

In a recent termination case in the Sitka School District the district paid \$39,963. This included the original hearing before the board. At that point an attorney and legal firm was appointed by our insurance carrier and handled the case from that point on. The cost of the de novo trial was \$ 50,386 and the cost associated with the appeal to the Supreme Court was another \$ 42,067. Since this case has been remanded to Superior Court, we do not know at this time what the cost will be to process the next step.

Total cost to the district: \$114,416.



**1995 CORE RESOLUTION
95-2
ELIMINATE TRIAL DE NOVO**

WHEREAS, the current system of tenured teacher non-renewal and dismissal in Alaska is inefficient and costly for all parties when compared with similar processes in other states; and

WHEREAS, the current system of tenured teacher non-renewal and dismissal in Alaska requires a school district to complete a trial de novo following a similar hearing process by a hearing officer;

WHEREAS, the school trial de novo doubles the cost to the school district for teacher non-renewal or dismissal; and

WHEREAS, school districts have generally used independent hearing officers who utilize an approved process similar to a courtroom situation; and

WHEREAS, in overturning a Superior Court ruling against trial de novo the Supreme Court of Alaska stated the resolution to the process must be remedied by the Legislature;

NOW THEREFORE BE IT RESOLVED that the Association of Alaska School Boards will promote legislation to adjust the current system of tenured teacher non-renewal and dismissal in order to eliminate the trial de novo when the hearing officer has met standards acceptable to the court.

Post-It™ brand fax transmittal memo 7671

of pages > 2

To	Tom Wright	From	AASB
		Co.	

GOVERNANCE

(95-2) **ELIMINATE TRIAL DE NOVO** The current system of tenured teacher non-renewal and dismissal in Alaska is inefficient and costly for all parties. AASB would like to see elimination of the duplicative and costly "Trial De Novo" for school employees who, if not satisfied with a district led investigation, go to the state court system to begin an entirely new trial. The district's investigation, most often, must be re-created. School boards simply want to eliminate the trial de novo when the district investigation has met standards acceptable to the court.

(95-4) **STRIKE NOTIFICATION** Concerned that school employees may walk off their jobs without adequate notice, school boards are asking for a 24-hour notification period before employees strike schools so that the safety of school children would not be compromised.

(95-5) **MANDATED SCHOOL CONSOLIDATION** AASB continues to engage in cooperative and shared service opportunities to run schools efficiently, but is opposed to MANDATED school consolidation, as it may not serve the best educational interests of children and will significantly reduce local control for a majority of school districts in Alaska.

(95-6) **MANDATED BOROUGH FORMATION** Some communities and school districts have considered it viable to consolidate, and have done so through their own volition as a local decision. The concept of cooperation and shared services as an alternative to mandated consolidation ensures local autonomy and decision making are preserved. A MANDATORY borough act reverses a decades long trend toward increased local responsibility and control, and thus AASB continues to oppose mandatory formation of boroughs.

PERSONNEL

Reforming tenure laws was the top priority in the area of personnel.

(95-22) **ACQUISITION OF TEACHER TENURE** Two years is often insufficient time for a teacher new to a school district to develop professionally and successfully. AASB recommends teacher tenure acquisition to be extended to five years of probation before obtaining tenure. Boards agree to make this change applicable to teachers hired after the effective date of the new law.

(95-23) **TENURED STAFF REDUCTION WHEN REVENUES DECLINE** School districts are faced with budget reductions not always associated with declining enrollments. Certified staff may be non retained due to incompetency, immorality, non compliance, and declining enrollments, but not due to declining revenues. This often results in the placement of teachers in grade levels or teaching subjects for which they have insufficient preparation. Schools need the authority to reduce staff due to declining revenues.

(95-24) **STAFF REDUCTION DUE TO CHANGING PROGRAM NEEDS** A similar situation to the above is that school boards are specifically charged with the responsibility for determining the program needs of their particular districts, but existing tenure laws do now allow for staff reduction because of changing program needs. Again, this often forces districts to place teachers in grade levels or subject areas for which they have insufficient preparation. School boards need to be able to put children first, and make the decision to change staffing levels based on the district's educational needs.

EDUCATION PROGRAMS/OTHER

(95-28) **DISTANCE DELIVERED EDUCATION** AASB has long championed the use of distance delivered education, and urges the Alaska Department of Education to expand its distance delivery programs with the input of local districts and use of existing facilities whenever possible.

(95-30) **YEAR-ROUND EDUCATION** AASB would like to work with the State of Alaska in a statewide effort to encourage the Department of Education to develop a formula that provides for the additional funding necessary to operate year-round schools in the very near future. Year-round education is a viable alternative to the 180 school year calendar. Ultimately, it is cost effective and would save the cost of building new schools. The education advantages for children are well documented.

(95-52) **SCHOOL CHOICE / CHARTER SCHOOLS** While AASB adamantly opposes public funding for private schools, it strongly supports exploration of different means of organizing and managing schools that lead to improvement in the education of all Alaska youth, including non-mandated charter schools under contract with local school boards.

(95-54) **STANDARDS, ASSESSMENT AND TEACHER PREPARATION** AASB welcomes reform efforts in Alaska, and supports changes in setting standards and assessments for children and significant changes in teacher preparation to assure that high standards of professionalism will be promoted, recognized and rewarded.

(95-57) **BOARDING HOME PROGRAM** Many students in small village high schools now desire the educational and extra-curricular opportunities found at larger, centralized high school sites. AASB supports the State Boarding Home Program expanding to provide funds for students to enable them to attend high school at centralized sites within a school district without regard to availability of programs in their village community.

Sec. 14.20.147

TRANSFER OR ABSORPTION OF ATTENDANCE AREA OR FEDERAL AGENCY SCHOOL

(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 teacher 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.

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

(c) On the first day of service in the absorbing school district, a teacher transferred from a federal agency school shall be allowed the actual number of days of accumulated sick leave that the teacher has earned while teaching in the state. Consistent with the established district policy the absorbing district may allow credit for any other type of leave. Credit for retirement shall be allowed in accordance with AS 14.25.060.

History -

(Sec. 1 ch 53 SLA 1972; am Sec. 1 ch 150 SLA 1975)

Decisions -

Back pay is not a benefit for the purpose of subsection (a) of this section. - Aleutian Region R.E.A.A. v. Wolansky, 630 P.2d 529 (Alaska 1981).

Quoted in Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, 591 P.2d 1292 (Alaska 1979), overruled on other grounds, Alaska Com. Fishing & Agric. Bank v. O/S Alaska Coast, 715 P.2d 707 (Alaska 1986).

Stated in Parliment v. Yukon Flats Sch. Dist., 760 P.2d 513 (Alaska 1988).

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.

History -

(Sec. 1 ch 92 SLA 1960; am Sec. 17 ch 98 SLA 1966)

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, 491 P.2d 157 (Alaska 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, 491 P.2d 157 (Alaska 1971).

The law does not require that teachers shall teach every day, - or
every hour of every day. State v. Redman, 491 P.2d 157 (Alaska 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, 491 P.2d 157 (Alaska 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, 491 P.2d 157 (Alaska 1971).

"Sequential fractions" regulation, - adopted by the department of
education for the purpose of protecting teachers who had taught in a
particular school district for various fractions of the school year and
entitling teachers who had taught for periods totaling more than the
equivalent of two regular school terms to tenure, conflicted with the
unambiguous language of this section. Fairbanks N. Star Borough Sch. Dist. v.
NEA-Alaska, Inc., 817 P.2d 923 (Alaska 1991).

Use of the word "full" in this section indicates the legislature's intent
to preclude a teacher from counting a portion of a year toward the two-year

probationary period required for tenure. Fairbanks N. Star Borough Sch. Dist. v. NEA-Alaska, Inc., 817 P.2d 923 (Alaska 1991).

Cited in Skagway City Sch. Bd. v. Davis, 543 P.2d 218 (Alaska 1975); Crisp v. Kenai Peninsula Borough Sch. Dist., 587 P.2d 1168 (Alaska 1978).
Collateral Refs -

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

Construction and effect of tenure provisions 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. 14.20.160

LOSS OF TENURE RIGHTS.

Tenure rights are lost when the teacher's employment in the district is interrupted or terminated.

History -

(Sec. 1 ch 92 SLA 1960; am Sec. 1 ch 104 SLA 1965; am Sec. 20 ch 98 SLA 1966; am Sec. 22 ch 37 SLA 1986)

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 the teacher's contract for any cause that the employer determines to be adequate. However, at the teacher's request, the teacher is entitled to a written statement of the cause for 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 request and receive an informal hearing 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 that, 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.

History -

(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)

Decisions -

Section exceeds federal constitutional requirements. - This section, in requiring a statement of cause and an opportunity to be heard, exceeds federal constitutional requirements. *Shatting v. Dillingham City Sch. Dist.*, 617 P.2d 9 (Alaska 1980).

Discretion of school boards. - 4 AAC 19.010, which provides that formal evaluations shall serve as a method for gathering data relevant to subsequent employment status decisions pertaining to the person evaluated, cannot operate to limit the broad discretion that was intentionally given to local school boards by the legislature, and a school board's decision not to renew the contract of a nontenured teacher may be "for any cause which the employer determines to be adequate." *Shatting v. Dillingham City Sch. Dist.*, 617 P.2d 9 (Alaska 1980).

Despite the broad language of subsection (a), the board's discretion is subject to certain limitations; for example, a school board may not deny continued employment to a teacher because of the teacher's exercise of first amendment rights, nor may a school board deny continued employment

to a teacher if to do so would deprive the teacher of other rights that are guaranteed by constitution or statute. *Shatting v. Dillingham City Sch. Dist.*, 617 P.2d 9 (Alaska 1980).

Rights of nonretained, nontenured teachers are limited. - The rights of a nontenured teacher who is simply not retained at the end of his period of employment are relatively limited. A non-

retained, nontenured teacher has no constitutionally protected interest in public employment. *Gorder v. Matanuska-Susitna Borough Sch. Dist.*, 513 P.2d 1094 (Alaska 1973); *Shatting v. Dillingham City Sch. Dist.*, 617 P.2d 9 (Alaska 1980).

Probationary employees who are otherwise lawfully discharged cannot obtain permanent status through grievance procedures - which do not purport to modify the statutory provisions concerning tenure and termination of employees. *Gorder v. Matanuska-Susitna Borough Sch. Dist.*, 513 P.2d 1094 (Alaska 1973).

The grievance procedure may be of value to a nontenured teacher - in attempting to persuade the hiring authority that he should be retained. The process might on occasion bring forth evidence and argument by which the termination of the nontenured teacher might be reconsidered. *Gorder v. Matanuska-Susitna Borough Sch. Dist.*, 513 P.2d 1094 (Alaska 1973).

But any such results and action would be a matter within the discretion of the hiring authority, - and thereby a matter of grace rather than legal right. *Gorder v. Matanuska-Susitna Borough Sch. Dist.*, 513 P.2d 1094 (Alaska 1973).

Nonretention of tenured teacher for substantial noncompliance with district regulations affirmed. - See *Fisher v. Fairbanks N. Star Borough Sch. Dist.*, 704 P.2d 213 (Alaska 1985).

Submission of alleged breach of collective bargaining agreement to arbitration. - Where procedures concerning the nonretention of teachers are negotiated by a school district and a teachers' union and are included within a collective bargaining agreement, a nontenured teacher who is not retained by the school district can submit an alleged breach of the collective bargaining agreement to arbitration, though the arbitrator's latitude in fashioning an appropriate remedy is restricted by the language of subsection (a). *Jones v. Wrangell Sch. Dist.*, 696 P.2d 677 (Alaska 1985).

Quoted in *Matanuska-Susitna Borough v. Lum*, 538 P.2d 994 (Alaska 1975); *Jerrel v. Kenai Peninsula Borough Sch. Dist.*, 567 P.2d 760 (Alaska 1977).

Collateral Refs -

Right to dismiss public school teacher on ground that services are no longer needed. 100 ALR2d 1141.

Sec. 14.20.205

JUDICIAL REVIEW.

If a school board reaches a decision unfavorable to a teacher, the teacher is entitled to a de novo trial in the superior court. However, a teacher who has not attained tenure rights is not entitled to judicial review according to this section.

History -

(Sec. 24 ch 98 SLA 1966; am Sec. 1 ch 148 SLA 1966; am Sec. 4 ch 11 SLA 1968; am Sec. 18 ch 124 SLA 1975)

Decisions -

This section, granting a trial de novo to teachers, does not violate the separation of powers. - *Matanuska-Susitna Borough v. Lum*, 538 P.2d 994 (Alaska 1975).

On its face, this section bears no relation to the general provisions governing judicial appeals, - which is covered by Title 22. *Matanuska-Susitna Borough v. Lum*, 538 P.2d 994 (Alaska 1975).

AS 22.10.020 does not supersede this section. - AS 22.10.020, which provided in Sec. 17(1), ch. 50, SLA 1959, that "All hearings on appeal from any final order or judgment of a subordinate court or administrative agency shall be on the record unless the superior court, in its discretion, shall grant a trial de novo, in whole or in part," does not supersede this section, which expressly mandates de novo reviews for tenured teachers.

Matanuska-Susitna Borough v. Lum, 538 P.2d 994 (Alaska 1975).

In reenacting AS 22.10.020 in 1970 the legislature has not unequivocally expressed any intent to deny tenured teachers de novo review nor was the reenactment part of a comprehensive revision.

Matanuska-Susitna Borough v. Lum, 538 P.2d 994 (Alaska 1975).

Since this section and AS 22.10.020 are not irreconcilably conflicting, but can be intelligently read as conterminous expressions of a general rule and an exception to it, nothing in the edicts of statutory construction requires us to find that this section has been rendered inoperative by the reenactment of AS 22.10.020. *Matanuska-Susitna Borough v. Lum*, 538 P.2d 994 (Alaska 1975).

A policy factor militating in favor of a full application of this section - is that a tenured teacher against whose favor a decision has been reached is faced with the loss of a very important right: his source of income. In this connection, it is not necessary to indulge in such classificatory labels as "vested right" or "property right," for it is enough that the right be recognized as important for it to act as a guide to decision in the interpretation of this section. *Matanuska-Susitna Borough v. Lum*, 538 P.2d 994 (Alaska 1975).

De novo trial required, not mere appellate review. - The superior court erred in making the teacher choose between a de novo trial and an appellate

review of the record. The statute provides tenured teachers the right to a de novo trial, and makes no mention of other available levels of review. Further, the de novo requirement is not satisfied by a de novo mere review on the evidence presented in the administrative hearing. *Linstad v. Sitka Sch. Dist.*, 863 P.2d 838 (1993).

Bill of particulars requirement. - The bill of particulars provision of AS 14.20.180 operates as a limitation on the scope of the de novo trial guaranteed by this section. Thus, a school district may not deviate from the original bill of particulars and show other grounds during a de novo review. *Linstad v. Sitka Sch. Dist.*, 863 P.2d 838 (1993).

Rights of nonretained, nontenured teachers are limited. - The rights of a nontenured teacher who is simply not retained at the end of his period of employment are relatively limited because such a teacher has no constitutionally protected interest in public employment. *Gorder v. Matanuska-Susitna Borough Sch. Dist.*, 513 P.2d 1094 (Alaska 1973).

Probationary employees who are otherwise lawfully discharged cannot obtain permanent status through grievance procedures - which do not purport to modify the statutory provisions concerning tenure and termination of employees. *Gorder v. Matanuska-Susitna Borough Sch. Dist.*, 513 P.2d 1094 (Alaska 1973).

The grievance procedure may be of value to a nontenured teacher - in attempting to persuade the hiring authority that he should be retained. The process might on occasion bring forth evidence and argument by which the termination of the nontenured teacher might be reconsidered. *Gorder v. Matanuska-Susitna Borough Sch. Dist.*, 513 P.2d 1094 (Alaska 1973).

But any such results and action would be a matter within the discretion of the hiring authority, - and thereby a matter of grace rather than legal right. *Gorder v. Matanuska-Susitna Borough Sch. Dist.*, 513 P.2d 1094 (Alaska 1973).

Right of nontenured teacher to judicial review. - While this section does not extend the tenured teacher's right to a trial de novo to a nontenured teacher, neither does it preclude a more limited form of judicial review of the school board decision; therefore a nontenured teacher has a right to judicial review, on the record, of a school board's nonretention, and although a review on the record is all that is required, in its discretion the superior court may grant a trial de novo. *Shatting v. Dillingham City Sch. Dist.*, 617 P.2d 9 (Alaska 1980).

Courts granted fact-finding role. - While courts normally feel constrained to defer to the fact-finding role which the legislature has given to a particular agency, no such constraint logically should exist where the legislature itself has granted the courts a fact-finding role in their review of administrative action. This section seemingly does just that, for it expressly grants a tenured teacher a "trial de novo" following an unfavorable school

board decision. *Matanuska-Susitna Borough v. Lum*, 538 P.2d 994 (Alaska 1975).

When time for appeal begins to run. - In light of the provision in AS 14.20.180(c) that the final decision of the school board must be "written and contain specific findings of fact and conclusions of law," the time for appeal from the board's determination did not begin to run until the written decision was mailed or delivered to the teacher. *Jerrel v. Kenai Peninsula Borough Sch. Dist.*, 567 P.2d 760 (Alaska 1977).

Applied in *Renfroe v. Green*, 626 P.2d 1068 (Alaska 1980); *Jones v. Wrangell Sch. Dist.*, 696 P.2d 677 (Alaska 1985).

Quoted in *Sjong v. State, Dep't of Revenue*, 622 P.2d 967 (Alaska 1981); *Fedpac Int'l, Inc. v. State*, 646 P.2d 240 (Alaska 1982); *Fisher v. Fairbanks N. Star Borough Sch. Dist.*, 704 P.2d 213 (Alaska 1985).

Ralph Tronrud

Legislative Liason -SkagwaySchool Board District
P O Box 523
Skagway, Alaska 99840

Rep. Cynthia Toohey

Co-chair HESS Committee
Juneau, Alaska 99801

March 16, 1995

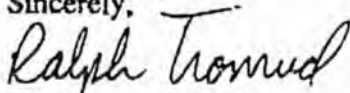
Dear Rep. Toohey;

I am writing this letter in support of House Bill 217. Next to funding levels, the provisions contained in this bill are the most important items (tools) that school boards need in order to continue to manage districts.

During my tenure on the local school board here in Skagway, we have been adversely impacted by each of the aspects of this bill. Should you require specific information I would be more than willing to oblige.

On behalf of the children of Skagway, and the State of Alaska I urge your timely passage of HB 217.

Sincerely,



Ralph Tronrud



P.O.Box 157 Hoonah, Alaska 99829 (907) 945-3611 Fax (907) 945-3614

March 15, 1995

Representative Cynthia Toohey
House of Representatives
State Capital Room 104
Juneau, AK 99801-1182

RE: HB 217 Teacher Tenure and Layoff

Dear Representative Toohey:

We would like to voice our support of HB 217, a key cost containment bill. We believe that extension of tenure acquisition rights from two to five years will only enable school districts across the State to provide better education for all students. We also concur with AASB and the Legislative Majority that providing the layoff due to fiscal circumstances or due to program needs is an important piece of this legislation.

The fact that this bill would ultimately result in subject area endorsements could only serve to heighten the quality of teaching. This is a bill that has been a long time coming and has gone through many changes. However, as it stands now, it could only benefit us and we pledge our full support.

Sincerely,

Virgie L. Fryrear

Dr. Virgie L. Fryrear
Superintendent

Leona Lindoff

Ms. Leona Lindoff
Board Secretary/Treasurer

Mary A. Peterson
Mrs. Mary A. Peterson
Board of Education President

Terrence P. Barry

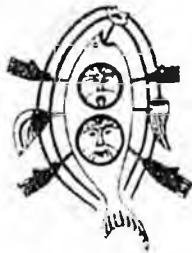
Mr. Terrence P. Barry
Board Member

Jacqueline Y. Dick
Mrs. Jacqueline Y. Dick
Board Vice President

Grace Hillman

Ms. Grace Hillman
Board Member

VLF/db



KASHUNAMIUT SCHOOL DISTRICT

985 KSD Way
Chevak, Alaska 99563
(907) 858-7713 FAX (907) 858-7328

March 13, 1995

Honorable Cynthia Toohey
Alaska House of Representatives
State Capitol Mail Stop 3101
Juneau, AK 99801-1182

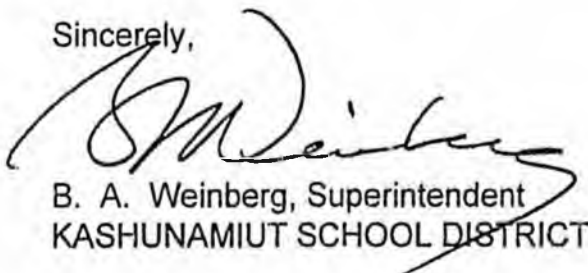
Re: HB 217

Dear Representative Toohey:

I urge your support of HB 217, "An Act relating to employment of teachers." Although tenure is recognized as an appropriate state policy, balance is required so that school districts can carry out their mission of providing cost-effective education for Alaska's children and youth. The ability to comply with our public mandate is being jeopardized in an era when state aid to school districts is constantly eroded by inflation and the demands on districts are constantly increased. School boards and administrators must have reasonable cost containment tools if they are to be expected to accomplish the demands that the public places upon them.

Enactment of HB 217 would be a step in the right direction. It would give school districts some much-needed management flexibility, while teachers would retain ample protection against arbitrary treatment. In short, this bill provides an appropriate balancing of certain interests, the benefits of which accrue to the direct consumers of public education as well as to the public at large.

Sincerely,



B. A. Weinberg, Superintendent
KASHUNAMIUT SCHOOL DISTRICT



Alaska State Legislature

Please enter into the record my testimony to the HOUSE HESS
committee name

committee on HB 226 dated 04/06/95
bill/subject

Thank you for allowing me the opportunity to vocalize my opinion. I would like to start by saying that I am very much against this bill being passed into law.

The government is acting unresponsibly by trying to pass this law. If this law passes, all it is going to do is promote people to stop having AIDS tests. A person will be less likely of having a test if they fear that they can be sued. Also, if the public at large does not ask the person they are sleeping with whether or not they are positive or negative or chooses to have unsafe sex, then, they are obviously too immature to be having sex.

There is also a double standard in the government, how can the legislators ask people to do what they are not asking big business to do,

Signed: MR. Utter
Testifier

(next page)

Representing (Optional)

1285 Ballaine Rd

Address

• - FBKS AK

99709

which is to be publically disclose information. I could go and buy a six pack of Coors and not know that the profits are going to help the Contras, who were killing many people, and I would not know that I was helping support this cause. However, you would expect a person with AIDS to disclose to the state and other people they are positive.

Finally, if this law does pass, are we the concerned citizens of this state, and other states who have had friends and family die from AIDS, going to be able to sue groups like the American Red Cross, the United States Government and individuals like Ronald Reagan and George Bush, who actively let this plague take hold in the United States because the groups of people that were affected by the plague, deserved to die and were not a part of society that was wholesome and good. I am of course talking about, gays, Haitian hemophiliacs, and drug users. Now that the plague threatens heterosexuals you the legislators are trying to close the banddoor after the horses have escaped

THANK YOU

BRIEFLY - CHANGES BETWEEN THE ORIGINAL AND THE CS

Section 1 and Section 2. Changes tenure from two to four years.

Section 3. Adds nontenured teacher evaluation annually by a superintendent. Also adds a peer evaluation for 3 out of the 4 years.

Section 4. This is the original bill's Section 3.

Section 5. This is the original bill's Section 4.

Section 6. Changes Section 5 of the original bill on layoffs. It sets out the conditions under which layoffs may happen. (It no longer requires the State Board to set those out in regulation.)

Section 7. Adds mandatory, advisory arbitration and judicial review, (removes de novo trial - same as in the original bill).

Section 8. Remains the same.

A M E N D M E N T #1

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROBINSON

TO: CSHB 217() "K" Version, dated 4/6/95

1 Page 1, line 12:

2 Delete "four"

3 Insert "three"

4 Page 2, line 6:

5 Delete "four"

6 Insert "three"

7 Page 2, line 7:

8 Delete "four"

9 Insert "three"

10 Page 2, line 12:

11 Delete "four"

12 Insert "three"

13 Page 2, line 16:

14 Delete "three of the four"

15 Insert "two of the three"

16 Page 2, line 22, after "superintendent":

17 Insert "and to the nontenured teacher"

#4

AMENDMENT #2

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROBINSON

TO: CSHB 217(), "K" Version, dated 4/6/95

1 Page 3, line 12, through page 4, line 3:

2 Delete all material and insert:

3 ** Sec. 6. AS 14.20 is amended by adding a new section to read:

4 Sec. 14.20.177. LAYOFFS AND REHIRE. (a) A tenured or nontenured
5 teacher is subject to layoff for the next fiscal year if the school district has

6 (1) an unanticipated financial exigency that interferes with the normal
7 operations of the school district and that cannot be resolved through other reasonable
8 and usual budgetary processes, including normal staff attrition, reduction of
9 unnecessary expenditures, and administrative layoffs; or

10 (2) a decrease in school attendance that makes a reduction in staff
11 necessary.

12 (b) A neutral third party selected by mutual agreement between the school
13 district and the bargaining organization representing teachers must verify the
14 unanticipated financial exigency or the need to reduce staff because of a decrease in
15 school attendance before the school district may lay off teachers.

16 (c) A school district shall notify tenured teachers of a layoff no later than
17 March 15th of the fiscal year preceding the year of layoff. Layoffs shall occur in
18 reverse order of seniority of employment within the district.

19 (d) A school district and the bargaining organization representing teachers
20 shall negotiate a provision concerning the rehire or recall rights of teachers who have
21 been laid off under this section before the district lays off teachers under this section.

22 (e) A teacher who is laid off under this section has recall rights based on
23 seniority for five years after the date of layoff. A school district may not employ a
24 new teacher so long as there are laid off teachers on the recall list."

1 Reletter the following subsection accordingly.

AMENDMENT #3

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROBINSON

TO: CSHB 217(), "K" Version, dated 4/6/95

1 Page 1, lines 1 - 2:

2 Delete "to review of decisions of school boards concerning teachers"

3 Insert "teacher arbitration rights"

4 Page 4, lines 11 - 18:

5 Delete all material.

6 Insert new bill sections to read:

7 **** Sec. 7.** AS 14.20.180(b) is amended to read:

8 (b) The tenured teacher may, within 15 days immediately following receipt
 9 of the notification, notify the employer in writing that arbitration under
 10 AS 09.43.010 - 09.43.180 [A HEARING BEFORE THE SCHOOL BOARD] is
 11 requested. The tenured teacher may require in the notification that the arbitration
 12 hearing be either public or private [AND THAT THE HEARING BE UNDER OATH
 13 OR AFFIRMATION. THE NOTIFICATION MAY ALSO REQUIRE THAT THE
 14 RIGHT OF CROSS-EXAMINATION BE PROVIDED AND THAT THE TENURED
 15 TEACHER BE REPRESENTED BY COUNSEL AND HAVE THE RIGHT TO
 16 SUBPOENA A PERSON WHO HAS MADE ALLEGATIONS THAT ARE USED
 17 AS A BASIS FOR THE DECISION OF THE EMPLOYER].

18 *** Sec. 8.** AS 14.20.180(c) is amended to read:

19 (c) Upon receipt of the notification requesting an arbitration [A] hearing, the
 20 employer and the employee shall immediately arrange for a hearing [, AND SHALL
 21 NOTIFY THE TENURED TEACHER OR ADMINISTRATOR IN WRITING OF
 22 THE DATE, TIME, AND PLACE OF THE HEARING. A WRITTEN
 23 TRANSCRIPT, TAPE, OR SIMILAR RECORDING OF THE PROCEEDINGS
 24 SHALL BE KEPT. TRANSCRIBED COPIES SHALL BE FURNISHED TO THE

1 TENURED TEACHER FOR COST UPON REQUEST OF THE TENURED
2 TEACHER. A FINAL DECISION OF THE SCHOOL BOARD REQUIRES A
3 MAJORITY VOTE OF THE MEMBERSHIP. THE VOTE SHALL BE BY ROLL
4 CALL. THE FINAL DECISION SHALL BE WRITTEN AND CONTAIN SPECIFIC
5 FINDINGS OF FACT AND CONCLUSIONS OF LAW.] A written notification of
6 the arbitration decision shall be furnished to the tenured teacher and the employer
7 within 10 days after [OF] the date of the decision. Either party may apply to the
8 court to confirm, vacate, modify, or correct the arbitration decision in
9 accordance with AS 09.43.110 - 09.43.130.

10 * Sec. 9. AS 14.20.205 is repealed and reenacted to read:

11 Sec. 14.20.205. JUDICIAL REVIEW. Judicial review of a decision or award
12 in arbitration under AS 14.20.180 shall be as provided in AS 09.43.010 - 09.43.180."

13 Renumber the following bill section accordingly.



NEA-ALASKA

Affiliated with the National Education Association

NEA-Alaska Survey of the States

State	Required for Tenure - Years
Alabama	3 Years + R*
Alaska	2 Years - R*
Arizona	3 Years + R*
Arkansas	3 Years + R*
California	2 Years + R*
Connecticut	3 Years
Delaware	3 Years
Florida	Professional Services Contract (PSC) Teacher - 3 Years
	Continuing Contract (CC) Teacher - 3 Years
Georgia	3 Years - R*
Hawaii	2 Years + R*
Idaho	3 Years - R*
Illinois	2 Years
Indiana	5 Years + R*
Iowa	2 Years
Kansas	3 Years + R*
Kentucky	4 Years - R*
Louisiana	3 Years
Maine	2 Years
Maryland	2 Years or Less
Massachusetts	3 Years
Michigan	4 Yrs. after 6/11/93 2 Yrs. before 6/11/93
Minnesota	3 Years
Mississippi	Not Specified
Missouri	5 Years + R*
Montana	3 Years + R*
Nebraska	3 Years
Nevada	1st year probation 2nd year of probation is optional
New Hampshire	3 Years
New Jersey	3 Years + R*
New Mexico	3 Years

*(R = Must return to begin the next school year.)

New York	3 Years
North Carolina	3 Years + R*
North Dakota	Not Specified
Ohio	3 Years + R*
Oklahoma	3 Years
Oregon	3 Years + R*
Pennsylvania	2 Years
Rhode Island	3 Years
South Carolina	3 Years
South Dakota	2 Years + R*
Tennessee	3 Years + R*
Texas	3 Years
Utah	Not Specified
Vermont	Continuing Contract
Virginia	3 Years + R*
Washington	Continuing Contract
	2 years in 1st job;
	1 year in school
	district if 2 years
	previously served
	in another school
	in state
West Virginia	3 Years
Wisconsin	3 Years + R*
Wyoming	3 Years + R*

*(R = Must return to begin the next school year.)



Alaska State Legislature
 House of Representatives
 COMMITTEE ON HEALTH, EDUCATION
 AND SOCIAL SERVICES

DATE: APR 13 1995

PLACE: Capitol Room 106

SUBJECT OF MEETING:
 HB 217: Employment Rights
 of Teachers

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Carl Rose	AASIS	316 W 11th ST Juneau	99801		6-1088	<input checked="" type="checkbox"/> Y	N HB 217
Vernon Marshall	NEA-AK	114 2nd ST Juneau			586 3090	<input type="checkbox"/> Y	N
						Y	N
						Y	N
						Y	N
						Y	N
						Y	N
						Y	N
						Y	N
						Y	N



Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

DATE: 3/29/95

PLACE: Capitol Room 106

SUBJECT OF MEETING:

HB 217
work session

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
DR Roger D. Jarvis	INFORMATION FOR PURPOSES	3MSS/DPE, 21570 Lemon Av. ELEMENTARY AFB, AK 99506			552-2120	Y N	
Stewart Johnson	"	State Board of Ed.				Y N	
Shirley Hill Haway	"	DPE				Y N	
CARL ROSE	AASB	316 W 11th ST Juneau 99801		6-1083		Y N	HB 217
Steve McPhetres	At Council of Educators	326 4th 501 SW 99801		6-9702		Y N	
Heather Flynn	SELF	918 R St Anch 99501 801 W 10 Street, Suite 200 Juneau, AK 99801		272-5342	279-9581	Y N	
Sheila Peterson	observe	Juneau, AK 99801		463-3863	465-4203	Y N	
Robert G. Heston		630 W 4th Ave #303 Anchorage 99501		274-4001	257-5601	Y N	
CLAUDIA DOUGLAS	NEA-ALASKA	114 SECOND, JUNEAU		586-3090		Y N	
Janet Marshall	NEA AK	" " "		"		Y N	TENURE
Nike Williams	DUPD PURPOSES	Box 126, AKIAK, AK 99852		765-7444		Y N	217



Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

DATE: 3/29/95

PLACE: Capitol Room 106

SUBJECT OF MEETING:

HB 217
work session

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
ED GILLEY	ADAK	PSC-486 Box-1234 FPO AP 96506	96506	592-3188 -3239	592-3188	<input checked="" type="radio"/>	<input type="radio"/>	HB-217A
Cory Caldwell	ADAK	3541 Hartwood PL ANCHORAGE, AK 99504	99504	337-2491	337-2491	<input type="radio"/>	<input checked="" type="radio"/>	
MARY Ann Eiminger	St Brd	2120 Cushman Seward AK 99701		485-2877	452-7733	<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	