

SB

132

DRAFT

Department of Education

Professional Excellence Committee* (drafters of the HB 398/SB 204 legislation)

Meeting Recommendations for Rep. Ivan Ivan, relating to strengthening the bill language of HB 465

Meeting held on February 25, 1996, from 3 to 6 pm, in Commissioner's conference room

*only part of the committee membership was able to participate: Stowell Johnstone, Mike Williams, Debbie Ossiander, Sally Kookesh, John Pugh, Suzie Cary, Karen Cooke, Claudia Douglas (early departure to board a plane), Lee Wilson, and Tony Harduar
Norm Wooten was added as a committee participant at the 2/25/96 meeting.

Issue: Teacher Evaluation Section Recommendations (sec. 3)

- needs to specify that the evaluation system's professional performance standards are the standards outlined in DOE regulation or at least based on, or consistent with, the standards outlined in regulation

HB 465 requires local school boards adopt a professional assessment/evaluation system:

- bill does not require board to file a copy with DOE, but if possible, add that it will be filed with DOE so the agency can be a resource for school districts
- with regard to (a) the evaluation/professional assessment system:
 - (a) must include special consideration for teachers new to the profession;
 - replace (3) with "utilization, by the evaluating principal, of information from a variety of sources, including student, parent, community members and peers" [remove (4)]
- (c) add language that cites need for staff to be trained about the evaluation system prior to being evaluated by it
- reference to (a) 2 and (d): HB 465 requires at least annual observation and evaluation for teachers. Revise with provision that tenured (CES) teachers who demonstrate professional standards could be evaluated every 3 years. After first sentence of (d), the duration of the plan for improvement is vague--provide more specificity: "...and shall last for no more than one year from the beginning date of the plan of improvement."
- remove (e); not consistent with current practice
- modify (f) with "An administrator's individual contract with the school district must provide that the administrator's failure to carry out duties concerning evaluations under this section shall be evidence of less than acceptable performance and will result in issuance of a plan of improvement."

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Issue: Reasons for Non-retention/Dismissal (sec. 7)

Dismissal

HB 465 replaces incompetency & its definition with the concept of not receiving an evaluation of acceptable performance. Consider replacing the punitive language of "imposition" of a plan of improvement to reflect "implementation" of a plan of improvement.

Issue: Probationary Status (sec. 4)

(Relating to Teacher Tenure)

recommend use of terminology "probationary" & "continuing employment status (or CES)" instead of "non-tenured" & "tenured"
provides provision for CES on 1st day of teaching in 4th year (must be rehired before 10/15)

Issue: Layoff (sec. 8)

Recommend the following changes:

teacher layoff for 2 reasons:

1) decrease in school attendance; 2) financial emergency: prefer "a significant demonstrated reduction in per-pupil expenditures due to a decrease in revenue from one year to the next" over current language in HB 465 which is "a 2% decrease in per pupil revenue for the next school over the per pupil revenue available in the current school year." Replace (2); (3); (4) in HB 465 with HB 398 language.

the "layoff plan":

- prefer allowing districts to determine "qualified" for purposes of layoff and recall
if must specify, define "qualified" teacher as one holding the appropriate endorsement:
replace p. 5, lines 7-13 with (d) For purposes of this section, a tenured teacher is considered qualified for a position if they have the appropriate endorsement. (1) insert language that would allow provision for district to apply for a waiver from appropriate endorsement (the district may want to exempt the multi-grade small rural schools with a few teachers may want to have the ability to apply for a waiver).
- allow districts to determine academic/other program needs as factors in the plan
- no number of years required to give hiring preference to teachers laid off

Note: HB 465 gives the prerogative to the school board to put layoff provisions into board policy or into the collective bargaining agreement. HB 398 requires the school board to put layoff provisions into the collective bargaining agreement if one exists.

DRAFT

Issue: Dismissal (sec. 9)

HB 398 contained a 3 step process, which removes the de novo trial provision:

- 1) oral or written notice
- 2) pretermination hearing* (due process) for CES/probationary teacher before dismissal:
(pretermination hearing for the CES teacher before nonretention)
- 3) 3 options for teacher to pursue (for dismissed CES/probationary teacher and nonretained CES):
 - 1) post-termination hearing before school board and an opportunity to appeal the board's decision to superior court for a judicial review based on the record
 - 2) follow bargained for grievance procedures contained in a collective bargaining agreement
 - 3) file an original action in superior court

*note: HB 398 would allow districts to take teachers off pay status during the pendency of a board hearing or judicial proceeding if a pre-termination hearing, meeting the requirements of due process, had been provided. Under current practice, districts keep a teacher on pay status through the board hearing, effectively treating the board hearing as the constitutionally required pre-termination hearing.

HB 465 contains a 4 step process, which removes the de novo trial provision:

- 1) written notice
- 2) pretermination hearing (due process) for CES/probationary teacher before dismissal.
(pretermination hearing for the CES teacher before nonretention)
- 3) termination hearing before school board (HB 398's post-termination hearing) for dismissed CES/probationary teacher and nonretained CES teacher
- 4) 2 options for teacher to pursue:
 - 1) mandatory advisory arbitration
 - 2) appeal the board's decision/arbitration to superior court for a review on the record

The committee members discussed a variety of improvements to HB 465 from the various perspectives represented by the committee:

School Boards: noted that mandatory advisory arbitration is a costly step and another layer of bureaucracy

School Administrators: Lee Wilson suggested insertion in sec. 9 (b) "The dismissal shall be effective when issued." This would allow districts to take teachers off pay status during the pendency of a board hearing or judicial proceeding.

Teachers: have previously expressed concern, in the NEA sectional analysis of HB 465, that tenured teachers have no "truly independent third-party review" (no teachers were present when discussed).

Alaska State Legislature

Sen. Lyda Green, Chairman
Sen. Loren Leman, Vice-Chairman
Sen. Mike Miller
Sen. Johnny Ellis
Sen. Judith Salo



State Capitol
Room 423
Juneau, Alaska 99801-1182
907-465-3762

Senate Committee on Health, Education and Social Services

CS SB 132 Judicial Review: Teacher Tenure Decisions

Main Components

I Authorizes a teacher on layoff status to be automatically reemployed in the same school district for the following school year as long as they are not given a notice of nonretention or refuse an offer of reemployment within 30 days of the contract offer.

II Establishes an evaluation system and an improvement of performance plan for district's teachers. The system will include:

- (A) evaluation criteria based on professional performance standards;
- (B) an annual observation and evaluation of each teacher in the district;
- (C) an opportunity for students, parents, community members and administrators to provide evaluation information on the teacher's performance; and
- (D) peer review of the teacher.

A tenured teacher whose performance is found after the evaluation process to be less than acceptable must be provided a plan of improvement by the district. This plan must address ways in which the tenured teacher's performance can be improved and shall last for no more than one year. If at the conclusion of the plan of improvement, the tenured teacher's performance is again found to be less than acceptable, the district may nonretain the teacher.

Failure of an administrator to carry out duties concerning evaluations are grounds for dismissal.

III Changes the acquisition of tenure rights from two to three years. A teacher gains tenure rights on the first day the teacher performs teaching services in the district during the school year immediately following three full school years.

IV Deletes incompetence as a reason for nonretention and replaces it with failure to receive an evaluation of at least acceptable performance in the evaluation system after the completion of the plan of improvement.

V Adds a new section to AS 14.20 to allow a school district to implement a layoff plan when:

- (A) there is a decrease in school attendance in the district;
- (B) the school board has determined that there will be a decrease of at least two percent in per pupil revenue for the next school year;
- (C) the school board has determined the average district revenue over the past five years has failed to keep pace with inflation or the cost of changes in the requirements imposed on the district by state and federal law; or
- (D) the school board has determined that the district is not able to meet its financial obligations with available revenue.

Requires school boards to adopt a layoff plan before a school district can layoff a tenured teacher. The plan must identify academic and other programs that the district intends to maintain in implementing the layoff plan.

Requires school district to first layoff all nontenured teachers before placing a tenured teacher on layoff unless there is no tenured teacher in the district who is qualified to replaced the nontenured teacher.

Provides tenured teachers on layoff a rehire preference for a period of three years in the district where the teacher had been employed.

VI Eliminates a trial de novo whenever a school district reaches an unfavorable decision to a teacher. Requires an employer to provide a predetermination hearing before a teacher is dismissed. A teacher may appeal the decision in front of the school board. If the board sustains the nonretention, the teacher is entitled to mandatory advisory arbitration conducted by a neutral third party. If, after arbitration, the decision of the school board remains unfavorable to the teacher, the teacher may appeal the decision to the superior court, based upon the established record in previous proceedings.

VII Requires school boards of city or borough school district to provide opportunities for public comment on the issue to be address in the collective bargaining process.

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

SECTIONAL ANALYSIS - House Bill 465

Section 1: Amends AS 14.20.145, Automatic Reemployment. States that if a teacher is not given a notice of nonretention and is not laid off under the new provisions of AS 14.20.177 (Section 8 of this bill), the teacher is entitled to be reemployed in the same school district for the following school year. Should the teacher not accept reemployment within thirty days of the contract offer, this section would not be applicable. If a teacher is in lay off status and is working in another school district and is contractually obligated to provide services to another educational program within the state, then this section does not apply.

Section 2: Amends AS 14.20.147(b), Transfer or Absorption of Attendance Area or Federal Agency School. Changes tenure from two to three 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 3: Adds a new section to AS 14.20, Teachers and School Officials. This section establishes an evaluation system and improvement of performance plan for a district's teachers. The system is to include:

- (1) evaluation criteria based on professional performance standards;
- (2) an annual observation and evaluation of each teacher in the district;
- (3) an opportunity for students, parents, community members and administrators to provide evaluation information on the teacher's performance; and
- (4) peer review of the teacher.

The school board will consider information from students, parents, community members, classroom teachers and administrators in the design and periodic review of the evaluation system.

Before an evaluation can be conducted, the evaluator has to complete training in the use of the district's teacher evaluation system.

A tenured teacher whose performance is found after evaluation to be less than acceptable must be provided a plan of improvement which must address ways the tenured teacher's performance can be improved. This plan is to last for no more than one year. If, at the conclusion of the plan of improvement, the teacher's performance is again evaluated at less than acceptable, the district may nonretain the teacher.

An administrator who fails to carry out duties concerning evaluations may be dismissed.

Section 4: Amends AS 14.20.150, Acquisition of Tenure Rights. Changes acquisition of tenure from two to three years. The teacher gains tenure on the first day the teacher performs teaching services in the district during the school year immediately following three full school years.

Section 5: Amends AS 14.20.155(a), Effect of tenure rights. States that a teacher who has acquired tenure has the right to employment within the district with the exceptions noted in AS 14.20.

Section 6: 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 AS 14.20.177 (Section 8 of this bill).

Section 7: Amends AS 14.20.175(b), Nonretention. Deletes incompetence as a reason for nonretention and replaces it with failure to receive an evaluation of at least acceptable performance in the evaluation system after the implementation of the plan of improvement.

Section 8: Adds a new section to AS 14.20, Teachers and School Officials. This new section provides for layoff of a tenured teacher when there is a decrease in school attendance, the school board has determined there will be a decrease of at least two percent in per pupil revenue for the next school year over the per pupil revenue available in the current school year, the district revenue has failed to keep pace with inflation or the cost of changes in the requirements imposed on the district by state or federal law or the school board is not able to meet its financial obligations with available revenue.

Before a school district lays off any tenured teacher, a lay off plan must be adopted which must include academic and other programs that the district intends to maintain in implementation of the plan. This

section also establishes standards for qualifications in which a school district may retain a nontenured teacher if there is no tenured teacher in the district to replace the nontenured teacher. Procedures addressing 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 are provided under this section. In the event a teacher is offered a teaching position in another school district while on layoff status, the teacher may remain on the layoff list for retention within the school district where tenure was acquired.

Section 9: Repeals and reenacts AS 14.20.80, Procedures upon notice of dismissal or nonretention. Eliminates a de novo trial whenever a school district reaches an unfavorable decision to a teacher. The new section allows a tenured teacher, following written notice of the proposed dismissal, a pretermination hearing. This section describes the pretermination process.

After the pretermination hearing or notice of nonretention of a tenured teacher, procedures and time lines, under which the school district must comply, are established. If the school board decision is sustained, the teacher is entitled to mandatory advisory arbitration to be conducted by a neutral third party. If the decision of the school board remains unfavorable to the teacher, the teacher may appeal to the superior court. Judicial review will be based on the already established record in previous proceedings.

Section 10: Adds a new section to AS 23.40, Labor Organizations. Prior to beginning bargaining, this section states the school board will provide opportunities for public comment on issues to be addressed in the collective bargaining process. Initial proposals, tentative proposals, tentative agreements before ratification and final agreements reached by the parties are public documents.

Section 11: Repeals AS 14.20.205, Judicial review. Elimination of the trial de novo.

Section 12: The amendments in sections 2 and 4 of this bill apply only to;

- (1) individuals hired as a teacher on or after the effective date of the bill;
- (2) rehired teachers on or after the effective date of the bill and following an interruption in continuous service that resulted in a loss of tenure rights or failure to acquire tenure rights.

Alaska State House of Representatives House District 39

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



Interim
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Akiak, Alaska 99552
Phone: (907) 765-7526

Representative Ivan M. Ivan

SPONSOR STATEMENT - House Bill 465

I introduced House Bill 465 to allow our school districts a degree of flexibility when dealing with increased costs associated with our educational system.

House Bill 465 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 or declining revenues. Qualifications for rehire purposes are also established in this bill.

The bill also increases tenure from two to three 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 deletion of the trial de novo provides our educators the same protections as provided to other state employees. New procedures for appealing a decision to dismiss or nonretain a tenured teacher are established in House Bill 465. The record established during the various hearings will be available for use if a suit is filed in superior court.

An extensive evaluation system and an improvement of performance plan is included in House Bill 465. The evaluation system can be used for nonretention purposes. Should a tenured or nontenured teacher receive a less than acceptable evaluation, a plan of improvement would be imposed. If, after imposition of the plan of improvement, the teacher receives another less than acceptable evaluation, the teacher is subject to nonretention.

Sections 2 and 4 of House Bill 465 apply only to those teachers who are hired after the bill is signed into law. The remaining sections of the bill dealing with loss of tenure rights, evaluations, layoff and rehire and elimination of trial de novo go into effect after the bill is signed and will have an effect on all teachers.



ALASKA COUNCIL OF SCHOOL ADMINISTRATORS

124 Fourth St., Suite 404, Anchorage, AK 99501-1101 • (907) 586-9702 • (800) 478-9702 • FAX (907) 586-5879

HB 465

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

Proposed substitute language:

#1:

Page 2, line 15: Sec. 14.20.149. TEACHER EVALUATION. (a) A school board shall adopt by July 1, 1997, a certificated employee's evaluation system for evaluation and improvement of the performance of the district's teachers. The evaluation system shall cover all certificated persons employed by the district. The evaluation system does not apply to the district superintendent.

Page 3, line 8: (f) An administrator's evaluation shall reflect a plan for improvement due to a failure to carry out duties concerning evaluation under this section. If, at the conclusion of the plan of improvement, the administrator's performance again indicates this failure, the district may nonretain this administrator.

OR

#2: Leave Page 2, line 15 language as is but amend Page 3, line 8 (f).

Page 3, line 8: (f) An administrator who fails to carry out duties concerning evaluation under this section may be placed on a plan of improvement. The plan of improvement shall last no longer than one year. If, at the conclusion of the plan of improvement, the administrator continues to show failure in this area, the district may find this violation grounds for dismissal.

TONY KNOWLES, GOVERNOR

DEPARTMENT OF EDUCATION
OFFICE OF THE COMMISSIONER

*GOLDBELT PLACE
801 WEST 10TH STREET, SUITE 200
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February 13, 1996

The Honorable Ivan Ivan
Alaska State Legislature
State Capitol, Room 503
Juneau, AK 99801-1182

Dear Representative Ivan:

I respectfully request your consideration to work with me in developing more consensus on your legislation, House Bill 465.

I agree with you that all of these issues need legislative attention: lengthening a teacher's probationary period, improving the teacher evaluation process, increasing public information in collective bargaining, eliminating trial de novo, and increasing the school district's ability to determine how and when teachers are laid off. But I believe a bill amending these items needs to be crafted carefully with the best information and the broadest consensus.

HB 465, as presently constructed, requires insufficient reason for a school district to declare a financial emergency for the purposes of laying off teachers. School revenues have not kept up with inflation for many years and the prospect for them doing so in the near future is dim.

In addition, the HB 465 provision for immediate dismissal of incompetent teachers without opportunity for a plan for improving the teacher's performance needs further work.

I am willing to cooperate with you to refine these and other potential issues contained in HB 465. I know others are, too. Together we can cooperatively resolve these potentially divisive issues.

Sincerely,



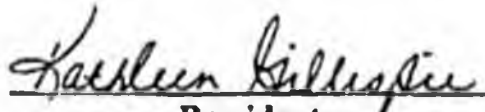
Shirley J. Holloway, Ph.D.
Commissioner

Acquisition of Teacher Tenure

Adopted by the General Membership of the Anchorage Council of PTAs
March 6, 1995

- Whereas: The Objects of the National PTA include, "to secure adequate laws for the care and protection of children and youth" and "to develop between educators and the general public such united efforts as will secure for all children and youth the highest advantages in physical, mental, social and spiritual education"; and
- Whereas: The quality of teaching is important in the development of strong educational programs in the State; and
- Whereas: Currently available data indicates 32 states require at least 3 years teaching experience in order to qualify for tenure and 7 states offer no tenure at all; and
- Whereas: Two years is often insufficient time for new teachers to develop professionally and successfully in an environment free of the pressures of non-retention notice deadline; and
- Whereas: Two years is often not long enough to comprehensively evaluate the capability of a teacher prior to granting tenure; and
- Whereas: School districts are under increased pressure to reduce costs resulting in fewer supervisors conducting quality teacher evaluations; and
- Whereas: The Association of Alaska School Boards has passed Core Resolution 95-22 supporting changes to State law requiring five full years probation before obtaining tenure; therefore, be it
- Resolved: That the Anchorage Council of PTAs recommends to the Legislature that AS 14.20.150 (a) and (b) be amended to require a minimum of five full school years of employment as a teacher to obtain tenure in the school systems of the State of Alaska (applicable to teachers first hired on or after the effective date of the act).

Adopted this 6th day of March, 1995 by the General Membership


President

Public Disclosure of Public School Employer-Employee Negotiations

Whereas, The National PTA through its mission and the United States Department of Education through Goals 2000, Educate America Act support parents having a meaningful voice in all aspects of school governance; and

Whereas, The National PTA Position Statement, *Teacher Negotiations, Sanctions, and Strikes*, encourages PTAs to provide, in the negotiation period, "a full public hearing of the issues for the purpose of dispelling confusion and developing intelligent, informed public opinion"; and

Whereas, several states have enacted legislation to provide for public notification and a reasonable time for public comment prior to the beginning of and during formal negotiations between school districts and bargaining units; and

Whereas, school boards are the community/public representative in contract negotiations with bargaining units working within the school district; and

CONTINUED

Whereas, ground rules set by the bargaining unit and the school board can preclude public notification of issues prior to the commencement of formal contract negotiations and the negotiated agreement amends school board policy; therefore, be it

Resolved, that the National PTA and its constituent bodies support ground rules in collective bargaining that provide for public disclosure and reasonable time for public comment of all issues being considered between the bargaining group and the school board; and, therefore, be it further

Resolved, that the National PTA and its constituent bodies actively seek and support changes to state legislation and regulations which allow for public disclosure and a reasonable time for public comment of all issues being considered between the bargaining group and the school board through collective bargaining.

April 18, 1995

Senator Lyda Green
Juneau, Alaska
FAX: 465-3805

Attention: Portia

Dear Senator Green:

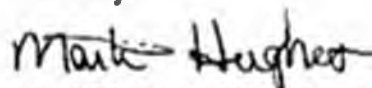
As followup to my conversation with Portia today, here are two resolutions the general membership of the Anchorage Council of PTAs has passed this year. These resolutions are forwarded to you for use as supporting documentation for your CSSB 132.

Our resolution for "Acquisition of Teacher Tenure" supports a probationary period of a minimum of 5 years before tenure is granted. Increasing the probation period will not only allow principals adequate time to do a comprehensive evaluation of nontenured teachers, but will also allow added time to provide sufficient support for improvement and development of the employee's teaching skills. Additionally, the Executive Board of the Anchorage Council supports three resolutions of the Association of Alaska School Boards: #95-22, Acquisition of Teacher Tenure; #95-23 Tenured Staff Reduction when Revenues Decline; and 95-24, Staff Reduction Due to Changing Program Needs.

Our resolution for "Public Disclosure of Public School Employer-Employee Negotiations" supports legislation requiring public disclosure and allowing for a reasonable time for public comment on all issues being considered between the school board and the bargaining group. We recognize such a 'sunshine law' will play an important part in promoting parent involvement in our schools.

The Anchorage Council of PTAs is comprised of 63 PTAs, which collectively represent thousands of parents and guardians of children in the Anchorage bowl area. We appreciate the opportunity to share these resolutions with you. If you should have any questions, please contact me at 345-8337.

Sincerely,



Marti Hughes, Vice President, Legislation
Anchorage Council of PTAs

and Fairbanks News-Miner reported how the legislator-lobbyist couple has pushed the same causes. Eldon and Wendy Mulder defended their activities, saying they had no conflicts of interest. Rep. Mulder said he keeps his legislative activities independent of his wife's business.

Rep. Mulder, an Anchorage Republican, refused to be interviewed Monday. "Forget it," he said, and then walked off.

Please see Page B-4, MULDER

Prop. 4 targets teen smokers

Higher tax on tobacco sought

By JAY BLUCHER
Daily News reporter

Perhaps you've seen the red-and-white signs sprouting up around town, urging you to "Save Kids From Tobacco: Vote Yes on Proposition 4."



■ **YOURHEALTH:** In Alaska, 5 percent of female high-school seniors and 18 percent of male seniors chew tobacco. **F-1**

products to 15 percent.

In its first year, the tobacco tax would reduce property taxes an estimated \$2.9 million — a \$20 tax break on a \$100,000 home in Anchorage.

The vote on this proposition is advisory only, meaning it does not bind the Anchorage Assembly to enact the tax increase. The assembly also could choose a different tax rate.

Please see Page B-3, PROP. 4

New name for his birthday

Nadir Kokayi Tehuti Nosakhere, right, receives a medicine bag from Maisha "I" during his renaming Sunday. The bag contains symbolic items to give the renamed Gregory Poullard spiritual strength and help him on his journey through life. The ceremony took place on his 21st birthday and symbolized his coming of age. The name change is a legal one. Standing behind is Kaleem, right, and Marquita Nuriddin, elders in Anchorage's African-American community.

Anchorage Daily News April 11, 1995

Teachers flunk rewritten education bill

The Associated Press

JUNEAU — Anchorage school teachers Kimberly Homme and Mary Beth Shaddy went to Juneau to lobby for full state funding of schools. Before their trip was over, they were scrambling to protect what they consider basic teacher rights.

Homme and Shaddy watched the Senate Health, Education and Social Services Committee approve Senate Bill 132, a bill that started out changing the way fired teachers can appeal their dismissals.

Friday, the committee added provisions requiring five years at the job for a

teacher to earn tenure instead of two, making it easier for school districts to lay off teachers, and requiring that school district contract negotiations be open to the public.

The bill also allows school districts to cut their costs by offering a retirement incentive program for older, higher-paid teachers.

"It's a real teacher-bashing bill," Homme said.

Humbug, says committee chairwoman Sen. Lyda Green, R-Wasilla. She refused to respond to the teacher-bashing label.

"This is an education bill designed to improve education," she said.

The trip by Homme, a teacher at Gruening Middle School in Eagle River, and Shaddy, an English teacher at Diamond High School, was paid for by the Anchorage teachers union.

The teachers came to argue for Gov. Tony Knowles' version of a school budget, which would provide \$18 million more in state aid for public schools than Republican legislative leaders are willing to

Please see Page B-4, TEACHERS

School board OKs boundary changes

By ROSEMARY SHINOHARA
Daily News reporter

The Anchorage School Board on Monday approved new boundaries for Williwaw and Wonder Park Elementary schools in adjoining East Anchorage neighborhoods that will require only a handful of students to change schools.

However, the boundary changes will do nothing to relieve one nearby crowded school — Fairview Elementary.

School board president Debbie Ossianer said she is disappointed the task forces studying various boundary changes haven't taken Fairview's future into account. Parents there may not have another opportunity any time soon to do something about the crowding, she warned.

But Fairview parents say they'll take their chances on getting a new school or

Please see Page B-4, BOUNDARY



BILL ROTH / Anchorage Daily News
Mark Sterling Bell in court Monday

Eastside stabbing a puzzle to police

By TRACY BARBOUR
Daily News reporter

Anchorage police are puzzled by why a man stabbed an Eastside woman to death on Sunday, but neighbors of the victim say they are not surprised it happened.

Mark Sterling Bell, 39, was arraigned Monday on charges he killed Shirley Peck at the house they shared near Lane Street and Seventh Avenue. Bell had only been living with Peck for about two weeks, neighbors said.

Bell attacked Peck, 26, for no apparent reason, witnesses told police Sunday. She was sitting at the dining room table with two other roommates and a guest when Bell went into the kitchen and came out

Please see Page B-4, BELL

Derry Merkel not Joe DiMaggio is Anchorage's Mister Coffee

Wendy Foster is a lobbyist aide to Rep. Richard Foster, D-Nome and the bill's prime sponsor. Now she is a lobbyist for the city of Nome, which is paying her \$18,000, and Nome Joint Utilities, which is paying her \$20,000.

Fairview residents consider Denali Elementary School, which is closer to downtown, to still be in their neighborhood. But Denali is home to an alternative Montessori program that draws from

or later this spring boundaries for new schools to open in the fall of 1996 in Mountain View, Turnagain and Sand Lake.

The board talked about new Sand Lake school boundaries Monday, but decided to

portable buildings are used to handle overflow students at other schools.

The board asked administrators to take another look at elementary school boundaries in South Anchorage, and make recommendations next month.

Board suspends East High freshman

The Anchorage School Board on Monday night voted 4-2 to suspend East High freshman Luke Monyer, 15, until the end of this school year. Monyer, who had been suspended since February, would have to undergo a forensic evaluation before being readmitted.

East High officials had recommended Monyer be expelled altogether for brandishing or firing a BB gun at some students walking home from school near his house. Monyer denied firing it, but the students passing by believed he did shoot BBs at them.

Monyer's family hired a lawyer and appealed the recommendation for expulsion, saying the punishment was too severe and also the school lacked authority over what happens at a person's house. The Monyers could appeal the school board decision to court.

TEACHERS: Senate panel gets F for rewritten bill

Continued from Page B-1

spend.

They ended up objecting to the major rewrite of the teacher firings bill and the swiftness with which the committee sent it on.

"All these issues were in different bills," Homme said. "Each of these issues

need a whole public process."

"I had questions and the questions were not answered," Shaddy said.

The bill will be considered in the Judiciary Committee and the Finance Committee this week as the measure appears on a fast track toward a vote by the full Senate.

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PUBLIC NOTICE

Reminder

Business Property Assessment Returns

The filing deadline for the 1995 Business Property Assessment Returns is April 15, 1995.

- Rental Unit Furniture and Fixtures
- Office Furniture and Equipment
- Store, Restaurant, and Warehouse Equipment
- Data Processing Equipment
- Construction and Manufacturing Equipment



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HC 31 Box 5248-A
Wasilla, AK 99654-9704
April 21, 1995

Senator Lyda Green
c/o State Capitol Bldg.
Juneau, AK 99801-1182

Dear Senator Green,

I thank you and your staff for sending me the work draft of CSSB 132. I have given it a quick read this morning and I think it is a fair bill.

Please consider reducing teacher tenure by one or two years. I understand that the intention of the bill is to lengthen teacher tenure procedures, but I'd like you to consider the following:

Many districts hire after the first days of school on purpose so that in actuality it takes a teacher 3 school years plus one day to attain tenure. I speak from experience as this is how I was hired with the Anchorage School District. It is a practice I'm sure administrators will not admit to but it happens regularly. Many positions are known to be needed before the first day of school, but hires are not made until after to prevent tenure as long as possible. In essence, your bill as currently written, will take most teachers 6 years plus one day to attain tenure. Are any other professionals required such lengthy probation periods? Is this the intent? If not, I'd suggest a revision of the number of years or at the least, an incentive clause for districts to hire before the beginning of school. Even legislators who pass public law do not have such a probation period.

I'm not crazy about the extended tenure idea. I remember my three years before tenure as pure hell. You are vulnerable to an incredible amount of administration manipulation so that you can attain tenure.

The idea of a 30 minute duty-free lunch is nice but unless you are tenured, it is a joke. Many club activities take place during this time which require teacher sponsors in attendance. Inside recess days when every one eats lunch in their rooms in the crowded schools requires teacher attendance in the classroom. Recess duty volunteers in the halls are not proper supervision of children in classrooms in a free play situation. I never left my class alone during those times. I was concerned about safety issues. I am glad to see the 30 minute duty free clause, but I am concerned about how it will be enforced and what grievance procedures there are. I'm assuming that grievance procedures are hammered out between union and district in your mind.

Please, may I kiss the ground you walk on?! Thank you for deleting lines 3-5 on page 4 Section 5b 3 and 4! (or (4) a necessary reduction of

staff occasioned by a decrease in school attendance). This would give districts an incredible amount of power to manipulate teachers, tenure and benefit issues. There are satisfactory transfer options available.

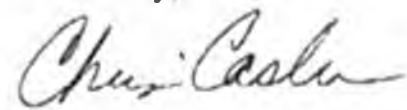
In Section 7, why waste time with mandatory, non-binding arbitration? It has been my observation in contract negotiations of the past is that this only delays outcomes like the last teacher's strike. Either side can say "Hey, I don't like the arbitrator's report." And you are back where you started, at an Impass. Either make mandatory arbitration binding or don't waste time with it. It serves little useful purpose in resolution of conflict and wastes an incredible amount of time and energy which could be more productive. There is no incentive to resolve conflict before arbitration for either side. Either go to judicial review or make arbitration binding. This is one area of waste that can be cut.

Please explain Section 13. I fail to see why the penalty to teachers for re-hire if they take a retirement package. Doesn't the district keep track of who they retire, non retain, etc.? Where is their responsibility in this? This section and the related Section 6 lines confuse me. The retired person takes all the responsibility. Perhaps districts should be penalized for re-hiring. Maybe there was never a need for retirement in the first place.

Well, these are a few issues that you can consider as you continue to shape this bill. Please let me know if they were helpful.

Thank you for your time. I know you are extremely busy.

Sincerely,



Chris Casler

376-3739

(phone + fax)



FROM: *Bill or Chris Casler*
 HC 31 Box 5248-A Wasilla, AK 99654-9704
 PH (1-907) 376-3739 FAX (1-907) 376-9377

TO: *Lyda Green*
LOCATION: *Juneau*
FAX NO.: *465-3805*
NO. OF PGS. *3* (INCLUDING COVER)

ADDITIONAL NOTES:

Re: CSSB 132



famous as the ubiquitous scourges of rural residents during Alaska's

The measure is House Bill 239.

Police arrest suspect in Lacey Street burglary

Staff report

Police arrested Sheldon L. Alexander, 24, on a felony burglary charge in connection with a break-in at a doctor's office on Lacey Street reported at 5:30 a.m. Sunday.

DWI arrests

The following people were arrested on a charge of driving while intoxicated:

• Clay H. Johnson, 43, at 10 p.m. Saturday at Cushman Street and the Richardson Highway.

• John Michael Couch, 38, of Fairbanks, at 11 p.m. Saturday in the Geist Road area after he allegedly fled troopers, lost control of his pickup and drove off the road. Troopers said they tried to stop him at the corner of Fairbanks Street for reckless driving.

• Athena Meyers, 23, at 3 a.m. Sunday on College Road and the Steese Highway.

• Brian F. Obeirne, 22, at 3:20 a.m.

Police reports

Sunday on Eighth Avenue after Fairbanks Police stopped him for allegedly speeding and weaving on Lacey Street.

• Fidel Castro, 33, of Fairbanks, at 3:20 a.m. Monday on Airport Way.

• James T. McGuire IV, 24, early Monday in North Pole after he was allegedly seen sleeping at the wheel while stopped at a railroad crossing.

Domestic assault

Troopers arrested John Dudas, 31, and Gayla Lawrence, 34, at 3:15 a.m. Monday on domestic assault charges at a Badger Road home.

Cowles Street burglary

A Cowles Street resident told police she came home after being gone two days to find her door kicked in and two telephones missing.



James Storlie, 13, gives his buddy Ira Poe, 13, a ride on his bike along Fairwell Avenue Monday after school. Both boys attend Tanana Middle School.

Brenda Gibson/News-Miner

When a Fairbanks police officer pulled the Nissan over, both Loyd and Brown hopped out and ran.

The three other police officers on duty and Alaska State Troopers sought the help of witnesses and within 20 minutes found Loyd in the Vista Travel agency building at the corner of Cushman Street and Gaffney Road.

They found Brown a few minutes later and a couple blocks away.

Fairbanks police had not completed a report of the incident Monday evening.

The amount of the forged check was unavailable.

Loyd was also wanted on an Anchorage warrant.

Anyone who may have witnessed any part of the incident is asked to telephone the Fairbanks Police at 459-6500.

Teachers: education bill is 'teacher-bashing'

The Associated Press

JUNEAU—Anchorage school teachers Kimberly Homme and Mary Beth Shaddy were in Juneau to lobby for full state funding of schools. Before it was over, they were scrambling to protect what they consider basic teacher rights.

Homme and Shaddy watched the Senate Health, Education and Social Services Committee approve Senate Bill 132, a bill that started out changing the way fired teachers can appeal their dismissals.

But on Friday, the committee added provisions requiring five years at the job for a teacher to earn tenure instead of two, making it easier for school districts to lay off teachers, and requiring that school district contract negotiations be open to the public.

The bill also allows school districts to cut their costs by offering a retirement incentive program for older, higher-paid teachers.

"It's a real teacher-bashing bill," Homme said.

Humbug, says Committee Chairwoman Sen. Lyda Green, R-Wasilla. She refused to respond to the teacher-bashing label. "This is an education bill designed to improve education," she said.

The trip by Homme, a teacher at Gruening Middle School in Eagle River, and Shaddy, an English teacher at Dimond High School, was paid for by the Anchorage teachers union.

The teachers came to argue for Gov. Tony Knowles' version of a school budget, which would provide \$18 million more in state aid for public schools than Republican legislative

leaders are willing to spend.

They ended up objecting to the major rewrite of the teacher firings bill and the swiftness with which the committee sent it on.

"All these issues were in different bills," Homme said. "Each of these issues need a whole public process."

"I had questions and the questions were not answered," Shaddy said.

The bill will be considered in the Judiciary Committee and the Finance Committee this week as the measure appears on a fast pace toward a vote by the full Senate.

Green said senators want to get priority bills to the House this week so that the other chamber has adequate time to deal with them after the Easter break.

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Juneau, company officials examine opening backside of Douglas Island

'Moving Wall' exhibit announced

Staff report

50 CENTS
Volume 84, No. 85

JUNEAU EMPIRE

MONDAY
April 10, 1995

'The Voice of Alaska's Capital City'

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JUNEAU, ALASKA

14 PAGES, 2 SECTIONS

COLUMN ONE

A Quick Look At The News



■ Dole in the running
Senate Majority Leader Bob Dole made his intent to run for president official today. Dole launched his third presidential campaign in Topeka, Kan., by

Teachers criticize new tenure bill

By DAN JOLING

THE JUNEAU EMPIRE

Anchorage school teachers Kimberly Homme and Mary Beth Shaddy were in Juneau on Friday to lobby for full state funding of schools. By the end of the day, they were scrambling to protect what they consider basic teacher rights.

Homme and Shaddy watched the Senate Health, Education and Social Services Committee approve Senate Bill 132, a bill that

started out changing the way fired teachers can appeal their dismissals. But on Friday, the committee added provisions requiring five years at the job for a teacher to earn tenure instead of two, making it easier for school districts to lay off teachers, and requiring that school district contract negotiations be open to the public.

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"I had questions and the questions were not answered," Shaddy said.

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Please see Bill, back page

West side story

City, Goldbelt



Man dies in crash

Jeep skids on black ice along

State highway chief shares concerns Bill...

THE ASSOCIATED PRESS

ANCHORAGE — The man Gov. Tony Knowles put in charge of state highways says he is more concerned about taking care of the roads he's got than building new ones.

"I don't really have to build new roads," said Joe Perkins, commissioner of the Department of Transportation and Public Facilities. "They are so dollar-intensive that they cut you out of other projects."

Perkins said he has committed his department to listen more to local opinion, and that he's a fan of alternate transportation from ferries to foot paths.

Perkins also said he's a realist. "We are not going to be able to do what a lot of these people want."

The Transportation Department sought \$134.5 million in state funds for next year to pay for operations and maintenance at this year's level, Perkins said. But the Legislature is looking to cut that by \$6

million.

Maintenance is already his biggest headache, he said.

"This year we will be required to cut services, and it is very difficult because our basic job is to provide services."

Federal transportation money pays about 90 percent of the cost of highway and airport construction. State money pays to take care of them once they're built.

So when state funds get cut, he said, the workers eliminated are "people out plowing snow and patching potholes."

When Knowles hired him in January, Perkins told The Associated Press he would be sensitive to environmental concerns.

Environmentalists and transportation activists at the time said they knew little about him. Opinions are starting to surface now.

"I think he is committed to an effective public process, and he is committed to a functional highway system," said Cheryl Richardson

of the Alaska Transportation Coalition, a citizens group that has been one of the department's consistent critics.

"Most of all, they have agreed to meet with us. They have not said, 'Get out of my face,'" she said.

The Dalton Highway to Prudhoe Bay "is one of the biggest challenges we have," Perkins said. "We don't have any idea what the usage will be this summer." The road, where travelers formerly had to have permits to travel the northern reaches, is open to unrestricted travel as a result of a court ruling.

Perkins said the state plans only to keep up with routine maintenance on the gravel road, monitor the level of traffic and tell people what they are getting into as they drive north toward the Brooks Range.

He said that plans from the Hickel administration for a road to McGrath have been put on hold.

Accident...

Continued from Page 1 that had spilled from the Jeep, Fergusson said.

Bob Etheridge, Edwards' supervisor, said this morning news of the accident has hit everyone at the university hard. Edwards had worked there for about six years.

"He has a heart as big around as a desk," Etheridge said. "He

helped everybody. I don't know anybody that would say a bad thing about him. He was as good as they come.

"He was a good, honest person — a hard worker. He was a good friend. He never asked anything of anybody and was always willing to give. He was just a good man."

Sue Oliva, who works in the university's personnel department,

said Edwards "definitely had friends with everybody he came in contact with."

Etheridge said Edwards, who was also in charge of snow removal for the university, was on his way to work.

He said Edwards has a mother and brother living in Portland, Ore., and a sister who lives elsewhere in Oregon.

Trout...

Continued from Page 1

whirling disease is the culprit — especially those whose livelihoods depend on the revered rivers.

Gary Evans, who spends 150-200 days a year guiding fishers on the

Trout Unlimited has lashed out at Colorado, calling it "cavalier" for continuing to stock infected fish in certain waters. State officials are reviewing the practice

Bill...

Continued from Page 1

them after the Easter break.

Her bill is not moving too fast and the issues have had enough public discussion, she said. Green said the issues are the same as when she had children in school more than 25 years.

"These are the same issues that ticked people off then. These have been discussed, what is it, ad nauseum," Green said.

Friday's hearing was the bill's first and only appearance before the Health, Education and Social Services Committee.

The chairman of the Juneau Education Association's political action committee said teachers like parts of the bill.

"Teachers are certainly interested in the RIP (retirement incentive program) aspect of it," said Clay Good, an oceanography and biology teacher at the high school. He said Juneau teachers also like the idea of negotiating contracts in public.

But the link with retirement incentives does not make the rest of the bill acceptable, Good said.

The language on layoffs must be more tightly defined, he said. "It's so loosely defined that it invites abuse," Good said.

Homme called the amended measure a "Christmas tree" bill.

Mites...

Continued from Page 1

almost everywhere. According to "MicroAliens: Dazzling Journeys with an Electron Microscope," mites live on the hair of your upper lip and probably your eyelashes and ears.

Mites live on mountain tops and others at ocean depths. One type survives freezing in ice and another lives in hot springs.

Among the ornaments on the tree:

- New teachers would be required to work five years instead of two to obtain tenure. It would apply only to teachers hired after the bill becomes law.

- School districts would be allowed to lay off teachers for two new reasons: a decrease in school revenues or "to better meet the academic needs of the district."

- All contract negotiations would be open to the public.

- School districts could offer a retirement incentive program to long-term, expensive teachers as a means of saving money.

- After a school board decision that did not favor a tenured teacher, the teacher would no longer be entitled to "trial de novo" in state Superior Court, a trial allowing the teacher to introduce new evidence that had not been before the board. The scope of judicial review would be the same as an appeal of a decision by an administrative agency.

Green said the provisions were added to deal with "great frustrations" of the public. Often the needs of a school district change, she said, and school boards do not have the means to deal with the changes.

For example, districts may have a tenured, specialized high school teacher and need an elementary teacher, Green said. The new law would give districts the

means to make changes without having to deal with a union grievance.

As for opening contract talks to the public, Green said parent organizations are frustrated by decisions that come out of teacher contracts. That could be relieved if they knew the discussion that led to the decisions.

The five-year tenure requirement also is in response to public concerns. "Tenure is the issue that keeps the public very upset with teachers," Green said. People believe the length of employment of professionals paid with public money should be decided on merit and performance, she said.

Knowles already has introduced a retirement incentive plan for state and municipal employees and school teachers, but lawmakers appear reluctant to approve the measure. "One of the things that came up was to divide that one out," Green said.

Homme said bills that "bash" teachers are taking away attention from the main question for education: adequately financing schools. She said the committee did not seem interested in public testimony Friday.

"There was no interest in fixing the problems with this bill," Homme said.

"It really made no difference what we had to say," Shaddy said.

against pollen by injecting them with small amounts of pollen substances over a long period of time.

Kimberly's first attempt at dealing with her allergy was to get a special pillow and mattress to keep mites out. Her parents sprayed the carpet in her bedroom with a chemical to kill dust mites and washed her bedding weekly. Her stuffed animals were sent to the deep freeze so the cold could kill any mites on them.

Alaska State Legislature

Sen. Lyda Green, Chairman
Sen. Loren Leman, Vice-Chairman
Sen. Mike Miller
Sen. Johnny Ellis
Sen. Judith Salo



State Capitol
Room 123
Juneau, Alaska 99801-1182
907-465-3762

Senate Committee on Health, Education and Social Services

MEMORANDUM

TO: Senator Rick Halford, Co-Chairman
Senate Finance Committee

FROM: Senator Lyda Green, Chairman *Lyda Green*
Senate Committee on Health, Education and Social Services

DATE: April 10, 1995

RE: Hearing Request for SB 132

Please schedule SB 132 for a hearing in the Senate Finance Committee at the earliest convenience of the Chairman.

Thank you for your consideration. If you need additional information, please contact me or Portia in my office at 3762.

Alaska State Legislature

Sen. Lyda Green, Chairman
Sen. Loren Leman, Vice-Chairman
Sen. Mike Miller
Sen. John N. Peltola
Sen. Judith Salo



State Capitol
Room 123
Juneau, Alaska 99801-1182
907-465-3702

Senate Committee on Health, Education and Social Services

CSSB 132 (HES) SPONSOR STATEMENT

In the Legislature's continuing effort to improve the state's educational system and ensure the best educational opportunities for Alaska's children, we have introduced SB 132, an act reforming public education to make the academic needs of students the top priority.

SB 132 gives local school districts and school boards the flexibility necessary to make decisions that are in the best interest of the student and the academic program of the district.

SB 132 also provides equity and fairness among public employees, levels the playing field among providers of education and eliminates duplicative and costly procedures. SB 132 will:

- * Change tenure from two to five years (similar to other public employees);
- * Allow for the layoff of tenured teachers, without the loss of tenure rights, in the event of a decrease in school attendance, loss of revenue or to better meet the academic needs of the district;
- * Delete trial de novo requirement when the district has met standards acceptable to the court (this saves both time and money and provides our educators with the same protections provided to other public employees);
- * Require bargaining sessions be open to the public;
- * Provide an early retirement incentive program (RIP) for teachers and school district employees.

I ask for your support of the important educational reforms in SB 132.

ASSOCIATION OF ALASKA SCHOOL BOARDS

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

(907) 586-1083 • Fax (907) 586-2995

POSITION PAPER

IN SUPPORT OF SB 132 TEACHER EMPLOYMENT PROVISIONS

SECTIONAL ANALYSIS

The Association of Alaska School Boards supports SB 132, An Act relating to employment of teachers. This bill addresses a number of long-standing issues that are supported by resolutions passed by the membership of the Association of Alaska School Boards.

Section 1. This is a technical amendment bringing federal agency school law into compliance with Section 2 of SB 132. Section 1 specifically amends AS 14.20.147(b), changing tenure from two to five years for 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. AASB supports this amendment.

Section 2. Amends AS 14.20.150 by changing teacher tenure acquisition from 2 years to five years. AASB has long supported this change as necessary to develop and retain quality educators in our schools. The current two year tenure time frame allows insufficient time to comprehensively evaluate teachers and allow for their successful improvement. With five years, new teachers would have the opportunity to grow in an environment conducive to professional development rather than under pressure of non-retention notice deadlines.

Section 3. Amends AS 14.20.160 protects teachers' tenure rights during a layoff period as provided for in this bill. AASB supports legislation for layoff with rehire provisions to accommodate district program needs.

Section 4. Deletes subsection AS 14.20.175(b)(4) which allows nonretention of a teacher due to a decrease in school attendance. Section 5 of SB 132 replaces this section. AASB supports this amendment.

Section 5. Amends AS 14.25 by adding a new section that 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. This section also instructs the Department of Education to adopt regulations to establish layoff procedures and rehire rights. AASB supports the amendment for the following reasons:

If reductions in the work force are required in Alaska's schools due to fiscal circumstances, layoff provisions must allow for the educational program needs of our youth. 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 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. AASB further supports the adoption of subject area endorsements by the Department of Education to (1) improve classroom instruction, (2) strengthen the workforce based on pursuit of multiple endorsements, and (3) enhance employment security based on increased qualifications. Rehire provisions should recognize qualifications (subject area endorsement). Tenure and seniority should not serve as the primary factors for rehire.

Section 6. Amends AS 14.20.205 by eliminating 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.

AASB views de novo trials as both duplicative and extremely costly, and favors its elimination. When a teacher appeals the findings of a district to nonretain, the school district must repeat the process again before the court, usually at a much later date, and incur the financial costs once again. It is not uncommon for total costs to reach over \$100,000 per case. This cost has a substantial chilling effect on school districts when deciding whether or not to attempt the dismissal of a tenured teacher.

Judicial review of dismissal proceedings should be treated no differently than other state agencies. Judicial 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. Finally, a teacher will still be able to appeal a school board's decision to the superior court.

Section 7. Requires mandatory open bargaining. AASB supports this amendment.

Section 8-17. The purpose of sections 8-17 are to make a retirement incentive plan (RIP) temporarily available to school districts. AASB supports this RIP approach.

Section 18. This section is a protection for tenured teachers. It "grandfathers" in all current tenured teachers by stating that the changes made by this bill in sections 1-6 apply only to teachers first hired on or after the effective date of the bill.

9-LS0838\G ✓
Cramer
4/6/95

C.S FOR SENATE BILL NO. 132(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to teacher tenure, teacher layoff and rehire rights, review of
2 decisions of school boards concerning teachers, and to a retirement incentive
3 program for employees of school districts and regional educational attendance
4 areas; and providing for an effective date."

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

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

7 (b) When a school operated by a federal agency is transferred to or absorbed
8 into a new or existing school district, the teachers shall also be transferred if mutually
9 agreed by the teacher or teachers and the school board of the new or existing district.

10 A teacher transferred from a federal agency school that [, WHICH] does not have an
11 official salary schedule or teacher tenure in the same manner as a public school district
12 in the state [,] shall be placed on a position on the salary schedule of the absorbing
13 district; the salary may not be less than the teacher would have received in the federal
14 agency school. If the teacher taught five [TWO] or more years in the federal agency

1 school and, at the time of transfer, had a valid Alaska teaching certificate, that teacher
2 shall be placed on tenure in the absorbing district.

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

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

6 (1) possesses a standard teaching certificate;

7 (2) has been employed as a teacher in the same district continuously
8 for five [TWO] full school years and is reemployed for the school year immediately
9 following the five [TWO] full school years.

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 five [TWO] full school years.

13 * Sec. 3. AS 14.20.160 is amended to read:

14 Sec. 14.20.160. LOSS OF TENURE RIGHTS. Tenure rights are lost when the
15 teacher's employment in the district is interrupted or terminated. However, a teacher
16 on layoff status does not lose tenure rights during the period of layoff except as
17 provided by regulation adopted under AS 14.20.177.

18 * Sec. 4. AS 14.20.175(b) is amended to read:

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

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

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

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

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

31 * Sec. 5. AS 14.25 is amended by adding a new section to read:

1 Sec. 14.20.177. LAYOFFS. (a) A school district may place a teacher who has
2 acquired tenure rights on layoff status but only if it is necessary for the district to
3 reduce the number of teachers

4 (1) because of a decrease in school attendance or school district
5 revenue; or

6 (2) to better meet the academic program needs of the district.

7 (b) The department shall adopt regulations to establish

8 (1) procedures under which a district may lay off tenured teachers;

9 (2) the length of time that a teacher retains rehire rights after a layoff;

10 (3) the circumstances under which a teacher may lose rehire rights after
11 a layoff; and

12 (4) other provisions to implement this section.

13 * Sec. 6. AS 14.20.205 is amended to read:

14 Sec. 14.20.205. JUDICIAL REVIEW. If a school board reaches a decision
15 unfavorable to a tenured teacher, the tenured teacher is entitled to appeal the
16 decision to [A DE NOVO TRIAL IN] the superior court. The scope of judicial
17 review shall be the same as an appeal from a decision of an administrative agency
18 under AS 44.62 (Administrative Procedure Act). A [HOWEVER, A] teacher who
19 is not tenured [HAS NOT ATTAINED TENURE RIGHTS] is not entitled to judicial
20 review under [ACCORDING TO] this section.

21 * Sec. 7. AS 23.40 is amended by adding a new section to read:

22 Sec. 23.40.185. SCHOOL DISTRICT NEGOTIATIONS OPEN TO THE
23 PUBLIC. Negotiations between a school district or regional educational attendance
24 area and a bargaining organization representing its employees shall be conducted at
25 meetings that are open to the public.

26 * Sec. 8. FINDINGS AND PURPOSE OF RETIREMENT INCENTIVE PROGRAM.

27 Many school districts are facing the need to restructure their operations and their work forces
28 in order to reduce expenditures and balance budgets. Retirement incentives is a management
29 tool that has been used extensively by the private sector, the federal government, and other
30 state and local governments across the country. The purpose of secs. 8 - 17 of this Act is to
31 make that management tool temporarily available to school districts of the state. Sections 8 -

1 17 of this Act will enable school districts to be more efficient and cost-effective by
2 eliminating certain non-essential positions, and producing a net reduction in personnel costs.

3 * Sec. 9. RETIREMENT INCENTIVE PROGRAM. (a) A school district may adopt a
4 retirement incentive plan under secs. 10 and 11 of this Act and designate categories of
5 employees eligible to participate in the plan. A school district need not extend the incentive
6 plan to all employees who would otherwise be eligible, but may choose to extend the plan
7 only to employees

8 (1) in specific budget or administrative components of the school district;

9 (2) in specific job classifications;

10 (3) in specific geographic locations; or

11 (4) on the basis of any combination of factors set out in (1) - (3) of this
12 subsection.

13 (b) An employee is eligible to participate in a retirement incentive plan under secs. 8 -
14 17 of this Act only if

15 (1) the employee is a vested member of the public employees' retirement
16 system or the teachers' retirement system;

17 (2) the employee will be qualified to retire under AS 14.25.110 or
18 AS 39.35.370 after receipt of the credit described in (f) of this section;

19 (3) the savings to the school district in personal services costs for the
20 employee's position will exceed the costs to the school district for that position within three
21 years after the employee is appointed to retirement.

22 (c) A school district shall file its proposed retirement incentive plan with the
23 commissioner of administration. The commissioner shall approve the plan if the plan meets
24 the requirements of secs. 8 - 17 of this Act. A proposed plan filed under this section must

25 (1) identify job classifications of employees, and specific budget or
26 administrative components, eligible to participate in the plan;

27 (2) include a reimbursement agreement that

28 (A) requires the school district, for each employee who retires under
29 the plan, to reimburse the appropriate retirement system, within three years after the
30 end of the fiscal year in which the employee is appointed to retirement, in an amount
31 equal to

1 (i) the actuarial equivalent of the difference between the benefits
2 the participant receives after the addition of the credit under (f) of this section
3 and the amount the participant would have received without the credit, less the
4 amount the participant has paid on the indebtedness determined under (d) or (e)
5 of this section; and

6 (ii) an appropriate share of the administrative costs of the
7 program; and

8 (B) provides that contributions from the school district under this
9 section take priority over other obligations of the employer to the maximum extent
10 permitted by law.

11 (d) A member of the teachers' retirement system who participates in an approved
12 retirement incentive plan under secs. 8 - 17 of this Act is indebted to that system for an
13 amount calculated under this subsection. The indebtedness is 25.95 percent of the member's
14 actual compensation for the school year in which the member terminates employment, or the
15 calculated school year compensation for a member who works less than the entire school year.
16 An outstanding indebtedness at the time a member is appointed to retirement under an
17 approved retirement incentive plan requires an actuarial adjustment to the benefits payable to
18 that member.

19 (e) A member of the public employees' retirement system who participates in an
20 approved retirement incentive plan under secs. 8 - 17 of this Act is indebted to that system
21 for an amount calculated under this subsection. The indebtedness is 20-1/4 percent of the
22 member's actual annual compensation for the year in which the member terminates
23 employment, or the calculated annual compensation for a member who works fewer than 12
24 months. An outstanding indebtedness at the time a member is appointed to retirement under
25 an approved retirement incentive plan requires an actuarial adjustment to the benefits payable
26 to that member.

27 (f) An employee who participates in an approved retirement incentive plan under
28 secs. 8 - 17 of this Act receives a credit of three years. The three years shall be applied in
29 the following order until exhausted:

30 (1) to meet the age or service required for eligibility for normal retirement
31 under AS 14.25.110 or AS 39.35.370, as appropriate;

1 (2) to meet the age required for early retirement under AS 14.25.110 or
2 AS 39.35.370, as appropriate;

3 (3) to reduce the actuarial adjustment required for early retirement under
4 AS 14.25.110 or AS 39.35.370, as appropriate;

5 (4) as years of credited service for calculating retirement benefits.

6 * **Sec. 10. AUTHORIZATION FOR RETIREMENT INCENTIVE FOR SCHOOL**
7 **DISTRICT EMPLOYEES IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM.** (a)
8 The school board of a school district that has elected to participate in the public employees'
9 retirement system under AS 39.35.550 - 39.35.650 may adopt, and file with the commissioner
10 of administration for approval, a proposed retirement incentive plan for its employees. A plan
11 adopted under this section must provide that the application period for participation in the
12 retirement incentive plan is December 31, 1995 through June 30, 1996.

13 (b) The commissioner of administration may not accept the application of an employee
14 to participate in an approved retirement incentive plan adopted under this section unless the
15 employee will be appointed to retirement on or before February 1, 1997. In a plan adopted
16 under this section, a school board may set an earlier date by which an employee must be
17 appointed to retirement in order to participate in the plan.

18 * **Sec. 11. AUTHORIZATION FOR RETIREMENT INCENTIVE FOR SCHOOL**
19 **DISTRICT EMPLOYEES IN THE TEACHERS' RETIREMENT SYSTEM.** (a) A school
20 board may adopt, and file with the commissioner of administration for approval, a proposed
21 retirement incentive plan for employees of the school district who are members of the
22 teachers' retirement system. A plan adopted under this section must provide that the
23 application period for participation in the retirement incentive plan is June 30, 1995 through
24 December 31, 1995.

25 (b) The commissioner of administration may not accept the application of an employee
26 to participate in an approved retirement incentive plan adopted under this section unless the
27 employee will be appointed to retirement on or before August 1, 1996. The school board, in
28 a plan adopted under this section, may set an earlier date by which an employee must be
29 appointed to retirement in order to participate in the plan.

30 * **Sec. 12. RECOVERY OF EMPLOYER DELINQUENCIES.** To recover a delinquency
31 owed by a school district under an agreement entered into under sec. 9(c)(2) of this Act, the

1 Department of Administration may

2 (1) direct that the amount of the delinquency or a lesser amount be withheld
3 from any money payable to the school district by a state department or agency and that the
4 amount withheld be credited to the delinquency; and

5 (2) bring an action against the school district.

6 * Sec. 13. REEMPLOYMENT INDEBTEDNESS; PROHIBITION ON
7 REEMPLOYMENT. (a) If an individual is reemployed as a member of the public employees'
8 retirement system under AS 39.35, the teachers' retirement system under AS 14.25, the judicial
9 retirement system under AS 22.25, or the optional university retirement program under
10 AS 14.40.661 - 14.40.799 after appointment to retirement under secs. 8 - 17 of this Act, that
11 individual forfeits the incentive credit received under sec. 9(f) of this Act and is indebted to
12 the system under which the individual took retirement. The indebtedness is 110 percent of
13 the amount the individual received as a result of participation in a retirement incentive plan
14 under secs. 8 - 17 of this Act and to which the individual would not otherwise have been
15 entitled, including the cost of health insurance. The amount that the individual has paid under
16 sec. 9(d) or (e) of this Act will be applied as a credit toward the reemployment indebtedness.
17 Interest on the reemployment indebtedness accrues from the date of reemployment until the
18 date that the individual either is appointed to retirement and accepts an actuarial adjustment
19 to the individual's future benefits or repays the indebtedness in full. The rate of interest is that
20 established by regulation for the public employees' retirement system by the public employees'
21 retirement board and for the teachers' retirement system by the teachers' retirement board.

22 (b) An individual who was appointed to retirement under secs. 8 - 17 of this Act may
23 not be employed by, or enter into a contract for personal services with, a state agency or the
24 University of Alaska within the three years after the date of appointment to retirement, except
25 that

26 (1) the University of Alaska may enter into a personal services contract with
27 the individual for teaching or research; and

28 (2) the individual may accept employment with the legislature during a
29 legislative session if the employment is on an hourly basis and does not entitle the individual
30 to receive retirement, health, or leave benefits.

31 (c) Notwithstanding the prohibition in (b) of this section, a state agency or the

1 University of Alaska may enter into a personal services contract with an individual who was
2 appointed to retirement under secs. 8 - 17 of this Act if the Board of Regents, for the
3 University of Alaska, or the commissioner of administration, for a state agency, determines
4 that there is a compelling reason to do so because of the individual's specialized or extensive
5 experience that relates to a particular program or project of the state agency or university.

6 * Sec. 14. OFFICE OF MANAGEMENT AND BUDGET. (a) The office of management
7 and budget shall submit to the legislature annual reports on the retirement incentive program
8 under secs. 8 - 17 of this Act beginning January 15, 1997, and continuing through January 15,
9 1999, and shall submit a final report January 15, 2000. Each report must provide the
10 information necessary for the legislature to evaluate the effectiveness of the program in
11 achieving its objectives. The report must include information on the designated employee
12 categories under the incentive program, including the cost of each incentive program per
13 participant, the cost to the school district, the cost to the employee, the number of positions
14 deleted or left vacant, and the projected or actual net savings over the three-year period.

15 * Sec. 15. PROGRAM CHANGES. An individual employee does not have a vested or
16 contractual right to a benefit under secs. 8 - 17 of this Act until an agreement is executed with
17 the commissioner of administration that specifically authorizes that employee to participate
18 in the retirement incentive program under secs. 8 - 17 of this Act. The legislature reserves
19 the right to change any aspect of the retirement incentive program as it relates to employees
20 for whom participation agreements have not yet been executed with the commissioner of
21 administration.

22 * Sec. 16. REGULATIONS. The commissioner of administration may adopt regulations
23 under AS 44.62 (Administrative Procedure Act) to implement and interpret secs. 8 - 17 of this
24 Act.

25 * Sec. 17. DEFINITIONS. (a) Unless provided otherwise in secs. 8 - 17 of this Act, the
26 definitions set out in AS 14.25.220 apply to provisions in secs. 8 - 13 of this Act that relate
27 to the teachers' retirement system and members of the teachers' retirement system.

28 (b) Unless provided otherwise in secs. 8 - 17 of this Act, the definitions set out in
29 AS 39.35.680 apply to provisions in secs. 8 - 13 of this Act that relate to the public
30 employees' retirement system and members of the public employees' retirement system.

31 (c) In secs. 8 - 17 of this Act,

1 (1) "office of management and budget" means the office of management and
2 budget in the Office of the Governor;

3 (2) "public employees' retirement system" means the Public Employees'
4 Retirement System of Alaska (AS 39.35);

5 (3) "school district" means a city or borough school district or a regional
6 educational attendance area;

7 (4) "teachers' retirement system" means the Teachers' Retirement System of
8 Alaska (AS 14.25).

9 * Sec. 18. The amendments made by secs. 1 - 6 of this Act apply to teachers first hired
10 by a school district on or after the effective date of this Act.

11 * Sec. 19. Section 9 of this Act is repealed July 1, 1999.

12 * Sec. 20. Sections 10 and 11 of this Act are repealed July 1, 1997.

13 * Sec. 21. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 132

Revision Date: _____

Department Affected: Education

Title: Judicial Review of Decisions of School Boards

BRU: Executive Administration

Sponsor: Senate HESS Committee

Component: Commissioner's Office

Requester: Senate HESS Committee

COMPONENT SERIAL NO. 185

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF March						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	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.)

Senate Bill 132 amends the section of law dealing with judicial review of decisions unfavorable to tenured teachers. De novo trials are replaced with an appeal of the decision to the superior court, the scope of the review to be the same as an appeal from a decision under the Administrative Procedure Act. This legislation will have no fiscal impact on the department. However, this provision may result in considerable savings to the local school districts.

Prepared by: Sheila Peterson, Special Assistant Phone: 465-2803
 Division: Commissioner's Office Date: April 5, 1995
 Approved by Commissioner: Shirley Holloway, Ph.D.
 Agency: Education Date: _____

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further (3137) 330 information call the Governor's Legislative Office

Alaska State Legislature

Sen. Lyda Green, Chairman
Sen. Loren Leman, Vice-Chairman
Sen. Mike Miller
Sen. Johnny Ellis
Sen. Judith Salo



State Capitol
Room 123
Juneau, Alaska 99801-1182
907-485-3762

Senate Committee on Health, Education and Social Services

SB 132 SPONSOR STATEMENT

SB 132 was introduced to provide equity and fairness among government employees and to reduce unnecessary, duplicative and costly procedures.

Under current law, AS 14.20.205, a school district is obligated to submit to a trial de novo (new trial) if the decision of a 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 entire process before the court; this is both duplicative and extremely costly.

SB 132 makes the judicial review of dismissal proceedings the same as those for other state agencies. The review will be on the record pursuant to the Administrative Procedures Act. This will provide an opportunity for the superior court to review the established record of the local hearing.

SB 132 deletes the trial de novo when the district has met standards acceptable to the court. This legislation saves both time and money and provides our educators with the same protections provided to other employees.

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!

1/25/95

ASSOCIATION OF ALASKA SCHOOL BOARDS

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

To: The Honorable Con Bunde, Co-Chair, HESS
The Honorable Cynthia Toohey, Co-Chair HESS

From: Carl F. N. Rose, Executive Director AASB

Date: March 30, 1994

Re: HB 521 – An act relating to judicial review of decisions of school boards relating to non-retention or dismissal of teachers

The Association of Alaska School Boards SUPPORTS the passage of HB521.

On March 22, 1994 the H. HESS committee took testimony from representatives of five different school districts in support of HB521. During testimony on HB521, five school districts offered testimony on seven particular cases of non-retention –the preliminary costs of which total \$721,453.

NORTH SLOPE BOROUGH SCHOOL DISTRICT

Tom Everitt, Director of personnel, gave us two examples:

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 our attorney and the hearing officer were substantial. The preparation for the trial and settlement negotiations involved another \$29,000 in legal fees. In addition our 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, offered written testimony in support of HB521 and cited two examples:

Example 1: The case is currently being appealed by the terminated employee to the Alaska Supreme court. 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: The case is scheduled for trial in superior court in January 1995. Hearing costs in this case were \$82,920 and the trail costs to date are \$30,010, for a total of \$112,930.

Total cost to the district \$ 195,537.

ANCHORAGE SCHOOL DISTRICT

Larry Wiget, Director of Government Relations, offered testimony in support of HB521 and gave one example:

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 Business Management, testified in favor of HB521 and offered a recent example:

Kenai has recently gone through a trial de novo for the non-retention of a tenured teacher and the districts legal costs were \$74,000. This is an exorbitant, but normal, price to pay for an employee who's performance is not satisfactory. If HB521 had been in place, our legal fees for the judicial review would have been \$ 20,000 to \$ 25,000 instead of \$74,000.

Total cost to the district \$ 74,000.

SITKA SCHOOL DISTRICT

John Holst, Superintendent, testified in favor of HB521 and offered the following comments:

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 RESOLUTIONS

SUBJECT AREA: GOVERNANCE

95-1

BINDING ARBITRATION

WHEREAS, binding arbitration removes decision making from locally elected school boards and puts it in the hands of an outside entity; and

WHEREAS, binding arbitration allows a third party to determine the salaries, benefits and conditions of school district employees who bargain collectively; and

WHEREAS, it is the elected school board's responsibility to weigh the consequences of decisions concerning fiscal management of school resources;

NOW THEREFORE BE IT RESOLVED that the Association of Alaska School Boards opposes any legislative remedy which includes binding arbitration as the final step in collective bargaining.

SUBJECT AREA: GOVERNANCE

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.

SUBJECT AREA: GOVERNANCE

95-3

DISTRIBUTION OF INTEREST EARNED ON ALLOCATED FUNDS FOR SCHOOLS

WHEREAS, educational funds appropriated by State and local governments are appropriated for the purpose of public education; and,

WHEREAS, the efforts of local school districts should be to provide sound planning for future educational needs; and,

WHEREAS, State educational funds directed for school districts have been retained by certain municipalities under centralized treasuries; and,

WHEREAS, some municipalities retain fund balances on school budget moneys, and interest accrued on school funds are sometimes held by the municipalities;

NOW THEREFORE BE IT RESOLVED that all designated funds directed to school districts, including interest earnings related thereto, must go to school districts without penalty.

BE IT FURTHER RESOLVED that all interest on school district funds must accrue to the school district.

BE IT FURTHER RESOLVED that a centralized treasury can only be implemented upon mutual consent of the municipality and the school district.

RATIONALE: As it is unclear how interest on school funds is to be distributed, this action will make certain all moneys allocated and earned for schools is used to benefit children. Now it is possible for money to be used for things other than education.

ASSOCIATION OF ALASKA SCHOOL BOARDS

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

To: The Honorable Con Bunde, Co-Chair, HESS
The Honorable Cynthia Toohey, Co-Chair, HESS
Members of the HESS Committee

From: Carl F. N. Rose, Executive Director, AASB

Date: March 22, 1994

Re: HB521: An act relating to judicial review of decisions of
school boards relating to non-retention or dismissal of
teachers

The Association of Alaska School Boards supports the passage of HB521.

Under AS14.20.205 Judicial Review: a school district is obligated to submit to a trial de novo (a new trial) if a decision of 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. 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. We feel that, by simply adding a new trial, does not improve the due process protection for an employee.

HB521 will provide an opportunity for the superior court to review the established record of the local hearing. With HB521 a teacher will still be able to appeal a school board's decision to the superior court.

The question is, "Has the school board provided a fair and impartial hearing?" If the school board's action is in question, the superior court should review the record of the hearing to ascertain that judgement. If not, there is no need for a new trial.

MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT
125 West Evergreen
Palmer, Alaska 99645
(907)746-9224 FAX 745-0667

Human Resources Department

Senator Lyda Green
State Capitol
Juneau, Alaska 99801-1182

2/16/95

Re: House Bill 521

Dear Senator Green:

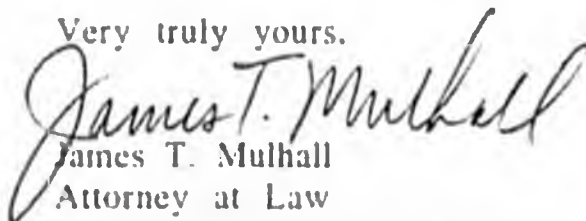
I have been asked by your office to comment on the impact of proposed House Bill 521 relating to judicial review of non-retention or dismissal decisions on tenured teachers.

The review process afforded by the Administrative Procedure Act is primarily a review of the record of proceedings at the agency, or, in this case, the school board level, for appropriate jurisdiction, fairness, and abuse of discretion. See AS 44.62.570 (b). Independent judgment can still be exercised by the court, and in appropriate cases a hearing de novo may be granted. AS 44.62.570 (c) and (d). The Administrative Procedure Act was developed to avoid very costly and lengthy de novo Superior Court hearings on matters where state agencies, and under the proposed amendment school boards, are vested with discretion and expertise in matters within their legal authority.

The proposed amendment to AS 14.20.205 is a good one. The revised statute should make the judicial review process more efficient and less costly, without restricting the availability of a de novo hearing in appropriate cases.

The District appreciates your interest and the opportunity to comment on this proposed legislation.

Very truly yours,


James T. Mulhall

Attorney at Law
Director of Human Resources

c: Norm Palenske, Superintendent

FEB 23 1995

Ralph Tronrud

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

Senator Lyda Green
Chair, Senate HESS Committee
Juneau, Alaska 99801

March 16, 1995

Dear Senator Green:

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

FAX 983-3210

FAX

OFFICE OF THE SUPERINTENDENT

TO: Sen. Lyda Green
AGENCY: Chair, Senate HESS Committee
FROM: Gordon E. Castanza, Superintendent
DATE: March 11, 1995
SENT BY:

FAX NUMBER: 907-465-3805
PAGES: 1
TIME: 3:39 PM

This document is being sent on a Ricoh Rapicom 230 Facsimile machine. If any of the document pages are illegible or if you do not receive a complete package, please contact the Chatham School District (907-788-3302) and inform them immediately.

Dear Sen. Green:

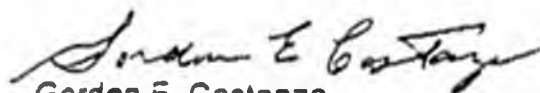
Representative Ivan Ivan introduced HE217. This is a school district cost containment bill. When the bill comes before your committee, I would like to ask for your support of it.

As a Superintendent of Schools I fully support the intentions of this bill. It will provide for layoff of tenured and non-tenured teaching staff for financial and funding reasons. In the face of budget shortfalls, the only teachers left are the most expensive tenured teachers. This situation denies the school children of an endorsed area trained teacher in many instances. Under the current law school districts are forced to retain tenured teachers who might be required to teach out of their area of expertise.

I also support the increase the time for teachers to acquire tenure status from 2 to 5 years. Given the present state of labor law, it is impossible to comply with all the twists and turns of guaranteeing a teacher due process without extensive administrative time devoted to teacher remediation, staff development, and personnel counseling. The nature of teaching has changed considerably in the past 10 years and each school district has its own culture and practices to which the new teacher needs to be accustomed. Withholding tenure status for 5 years gives administration the time to invest in a new teacher.

Thank you for your attention. I look forward to learning of the progress of this bill.

Sincerely,



Gordon E. Castanza,
Superintendent

CHATHAM SCHOOL DISTRICT

P.O. BOX 108, Angoon, Alaska 99820

Phone: 907-788-3302

Fax: 907-788-3252

Angoon • Cube Cove • Effa Cove • Gustavus • Hoban Bay • Klukwan • Tenakee Springs



KASHUNAMIUT SCHOOL DISTRICT

985 KSD Way
Chevak, Alaska 99563
(907) 858-7713 FAX (907) 858-7329

March 13, 1995

Honorable Lyda Green
Alaska State Senate
State Capitol Mail Stop 3101
Juneau, AK 99801-1182

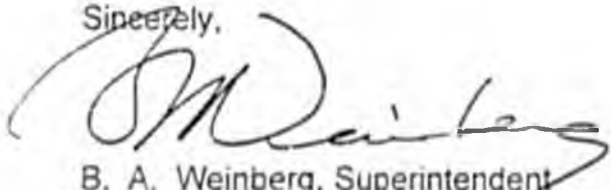
Re: HB 217

Dear Senator Green:

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

MAR 16 1995

Laying Siege to Seniority

Faced with dismal school performance and tight budgets, politicians are renegeing on the idea of teacher tenure

By SAMALLIE BOSTON

Tenure for 2.3 million public school teachers, one of the sacred cows in American education, is under attack. For decades, thanks to strong union contracts and ingrained notions of academic freedom, underpaid schoolteachers could at least console themselves with the fact that they were pretty well assured of job security for life. But after years of dismal school performance, and under the strictures of shrinking budgets, legislators are suddenly renegeing on the deal. "Professionalism and tenure are antithetical," says Chester Finn Jr., a former Assistant Secretary of Education and a proponent of free-market solutions to educational problems. "Teachers can't have it both ways."

In Massachusetts first-term Republican Governor William Weld and Democrats in the state legislature are mounting a frontal assault against tenure. Weld wants to allow school principals free rein to make hiring and firing decisions without reference to tenure or job seniority. Weld is also calling for teachers to be recertified every five years after taking competency tests. "This isn't anti-teacher," says Weld. "It's anti-slob teacher."

Kentucky has already moved against tenure as part of sweeping school-reform legislation enacted there last year. Individual schools are held accountable for improving student performance. If an institution fails to achieve results over a two-year period, a team of educators will be able to lift tenure and fire anyone on the school staff regardless of previous job guarantees.

The anti-tenure drive has inspired fierce opposition from the National Education Association, the nation's largest teachers' union. "I don't ever want it to be cheap to lay off an incompetent teacher," says N.E.A. president Keith Geiger. "But I don't want it to be impossible, either." He stresses that tenure was never meant to be a lifetime sinecure but was intended as a guarantee against dismissal without just cause. Says Albert Shanker, president of the American Federation of Teachers:

"An elected politician can't say, 'I'm going to fire you because you didn't support me in the last election.'"

Teachers call tenure a red herring raised by politicians to avoid dealing with the real problems plaguing American public education, like poor curriculums and overcrowded classrooms. Shanker argues that tenure is strongly rooted in countries



At a Kentucky school: Job security hinges on student performance

routinely cited for their superior educational systems, like Japan and Germany. The issue, says Shanker, is not job security but the ethos in countries that prize educational achievement. "Mothers and fathers in those societies know there are serious consequences for not doing well at school," he says. "In Germany, if a student doesn't pass a national exam, he can't go to college. Not here."

The problem is that the job security that makes sense in theory has become a nightmare in practice. The process for removing an incompetent teacher is often long and expensive, due largely to the numerous hearings and appeals required. Part of the difficulty is that the probationary period before tenure is granted, a mere three years in most states, is too short. Also, administrators generally do a poor job of

scrutinizing tenure candidates. Henry Bumpser, superintendent of New Trier Township High School in Winnetka, Ill., estimates that it can take more than three years from the time a tenured teacher is judged incompetent by a principal until that teacher has exhausted the appeal process.

What are the alternatives? The most qualified—and the toughest—judges of classroom competence are usually other teachers. Thus one of the most interesting programs for evaluating classroom performance is one established by the Toledo Federation of Teachers 11 years ago, which has been copied in 15 other communities around the country. Each year more

than a dozen of the best Toledo teachers leave the classroom to work full-time as mentors for new teachers and to intervene with veterans experiencing problems.

"We had been constantly locked up in long and damaging struggles with management over dismissing teachers," recalls Toledo Federation of Teachers president Dal Lawrence, who created the program. "Now that pretty much has disappeared." When teacher competence is called into question, 90% of the complaints are triggered by other teachers, not by parents or administrators. "Teachers don't want to work next door to an incompetent colleague," says Lawrence.

Some opponents of tenure argue that the collective-bargaining process is

the root problem. Peter Greer, on leave as dean of Boston University's School of Education and now acting superintendent of schools in Chelsea, Mass., the troubled system that the university agreed to manage two years ago, says the "tyranny" of collective bargaining *derails* any school

reform effort. Greer is currently being sued by Chelsea teachers for hiring four untenured teachers over tenured ones for a program to prevent high school dropouts.

"This is not the Salvation Army," snaps crusty B.U. president John Silber, arguing that the need is for results. At a time when schools are being challenged to improve education or make room for private-sector solutions, the need to reward excellence and punish mediocrity is likely to call for more in the classroom as much as outside it.

Teachers call tenure a red herring raised to avoid real problems in public education, like poor curriculums and overcrowded classrooms

MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT
125 West Evergreen
Palmer, Alaska 99645
(907)746-9224 FAX 745-0667

Human Resources Department

Senator Lyda Green
State Capitol
Juneau, Alaska 99801-1182

2/16/95

Re: House Bill 521

Dear Senator Green:

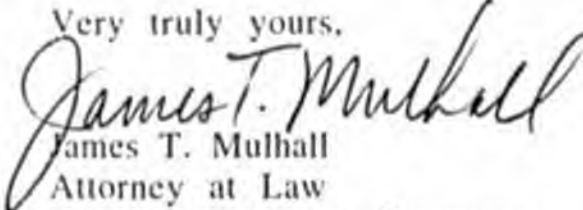
I have been asked by your office to comment on the impact of proposed House Bill 521 relating to judicial review of non-retention or dismissal decisions on tenured teachers.

The review process afforded by the Administrative Procedure Act is primarily a review of the record of proceedings at the agency, or, in this case, the school board level, for appropriate jurisdiction, fairness, and abuse of discretion. See AS 44.62.570 (b). Independent judgment can still be exercised by the court, and in appropriate cases a hearing de novo may be granted. AS 44.62.570 (c) and(d). The Administrative Procedure Act was developed to avoid very costly and lengthy de novo Superior Court hearings on matters where state agencies, and under the proposed amendment school boards, are vested with discretion and expertise in matters within their legal authority.

The proposed amendment to AS 14.20.205 is a good one. The revised statute should make the judicial review process more efficient and less costly, without restricting the availability of a de novo hearing in appropriate cases.

The District appreciates your interest and the opportunity to comment on this proposed legislation.

Very truly yours,


James T. Mulhall
Attorney at Law
Director of Human Resources

c: Norm Palenske, Superintendent

FEB 23 1995

Chatham School District

MR. GORDON E. CASTANZA
DISTRICT SUPERINTENDENT



BOARD OF EDUCATION

MR. WALLY FRANK SR.
MR. EDWARD GAMBLE SR.
MS. SALLY KOCKESH
MS. LOIS NIAON
MR. BRUCE TEDTSEN

PO BOX 109

ANGOON, ALASKA 99820

PHONE 788-3302 or 788-3682

FAA 788-3252

March 8, 1995

The Honorable Jerry Mackie
House of Representatives
Alaska State Capitol, #404
Juneau, Alaska 99801-1182

Dear Representative Mackie:

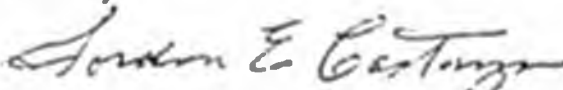
I was in your office on Monday, February 27 with members of the Chatham School District School Board. At that time you handed me a copy of a retirement incentive program bill you were planning to introduce. You asked me if I would work up some numbers for you demonstrating the economic effects of such a bill on the Chatham School District. The following pages are copies of worksheets that show those effects.

The CSD would have 6 teachers who would be eligible for early retirement. The possible savings to CSD would be \$101,169.82.

The CSD would have 6 classified employees who would be eligible for early retirement. The possible savings to CSD would be \$27,663.29.

If I can be of any further assistance to you, please let me know. I wish you success in the passage of this bill.

Sincerely,


Gordon E. Castanza,
Superintendent

114,270

SB 137

House intro. 3/20 - Ref. St Aff, L.C., Fin.
HESS, St. Aff, Fin

—SCHOOLS—

ANGOON

CUBE COVE

ELFIN COVE

GUSTAVUS

NOBART BAY

KLUKWAN

TENAKEE

**CHATHAM SCHOOL DISTRICT
TEACHERS ELIGIBLE FOR EARLY RETIREMENT**

NAME	FY95 SALARY	WORKERS' COMP. 0.62%	FICA		TRS 12.00%	TOTAL SALARY PLUS BENEFITS
			Class. 7.65%	Certif. 1.45%		
Andrews, Margaret	\$51,570.00	\$319.73	\$747.77	\$6,188.40	\$58,825.90	
Hull, C. Sherene	\$48,316.00	\$299.56	\$700.58	\$5,797.92	\$55,114.06	
Jensen, George	\$47,750.00	\$296.05	\$692.38	\$5,730.00	\$54,468.43	
Langley, Monte	\$55,555.00	\$344.44	\$805.55	\$6,666.60	\$63,371.59	
Phillips, Carol	\$47,750.00	\$296.05	\$692.38	\$5,730.00	\$54,468.43	
White, Katy	\$47,750.00	\$296.05	\$692.38	\$5,730.00	\$54,468.43	
TOTALS	\$298,691.00	\$1,851.88	\$4,331.02	\$35,842.92	\$340,716.82	

**CHATHAM SCHOOL DISTRICT
COST OF TEACHERS HIRED TO REPLACE THOSE ELGIBLE FOR EARLY RETIREMENT**

NAME	FY95 SALARY	WORKERS' COMP. 0.62%	FICA		TRS 12.00%	TOTAL SALARY PLUS BENEFITS
			Class. 7.65%	Certif. 1.45%		
Teacher A	\$35,000.00	\$217.00	\$507.50	\$4,200.00	\$39,924.50	
Teacher B	\$35,000.00	\$217.00	\$507.50	\$4,200.00	\$39,924.50	
Teacher C	\$35,000.00	\$217.00	\$507.50	\$4,200.00	\$39,924.50	
Teacher D	\$35,000.00	\$217.00	\$507.50	\$4,200.00	\$39,924.50	
Teacher E	\$35,000.00	\$217.00	\$507.50	\$4,200.00	\$39,924.50	
Teacher F	\$35,000.00	\$217.00	\$507.50	\$4,200.00	\$39,924.50	
TOTALS	\$210,000.00	\$1,302.00	\$3,045.00	\$25,200.00	\$239,547.00	
TOTAL SAVINGS	\$88,691.00	\$549.88	\$1,286.02	\$10,642.92	\$101,169.82	

**CHATHAM SCHOOL DISTRICT
CLASSIFIED EMPLOYEES ELIGIBLE FOR EARLY RETIREMENT**

NAME	FY95 SALARY	WORKERS' COMP. 0.62%	FICA		PERS 11.23%	TOTAL SALARY PLUS BENEFITS
			Class. 7.65%	Certif. 1.45%		
Howard, Theresa	\$17,775.40	\$110.21	\$1,359.82	\$1,996.18	\$21,241.60	
Guanzon, Gordon	\$16,650.00	\$103.23	\$1,273.73	\$1,869.80	\$19,896.75	
Williams, Peggy	\$10,904.00	\$67.60	\$834.16	\$1,224.52	\$13,030.28	
Williams, Kelly	\$17,484.00	\$108.40	\$1,337.53	\$1,963.45	\$20,893.38	
Demmert, Gertrude	\$9,776.00	\$60.61	\$747.86	\$1,097.84	\$11,682.32	
Frank, Liz	\$11,280.00	\$69.94	\$862.92	\$1,266.74	\$13,479.60	
TOTALS	\$83,869.40	\$519.99	\$6,416.01	\$9,418.53	\$100,223.93	

CHATHAM SCHOOL DISTRICT
COST OF CLASS. EMPL. HIRED TO REPLACE THOSE ELGIBLE FOR EARLY RETIREMENT

NAME	FY95 SALARY	WORKERS' COMP. 0.62%	FICA		PERS 11.23%	TOTAL SALARY PLUS BENEFITS
			Class. 7.65%	Certif. 1.45%		
Classified A	\$13,188.20	\$81.77	\$1,008.90		\$1,481.03	\$15,759.90
Classified B	\$12,000.00	\$74.40	\$918.00		\$1,347.60	\$14,340.00
Classified C	\$7,896.00	\$48.96	\$604.04		\$886.72	\$9,435.72
Classified D	\$11,844.00	\$73.43	\$906.07		\$1,330.08	\$14,153.58
Classified E	\$7,896.00	\$48.96	\$604.04		\$886.72	\$9,435.72
Classified F	\$7,896.00	\$48.96	\$604.04		\$886.72	\$9,435.72
TOTALS	\$60,720.20	\$376.47	\$4,645.10		\$6,818.88	\$72,560.64
TOTAL SAVINGS	\$23,149.20	\$143.53	\$6,416.01		\$2,599.66	\$27,663.29