

HB

85

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: April 23, 1999

FURTHER REFERRALS:

Date of Committee Action: 5/5/99

The FINANCE Committee considered:

HB 85

HOUSE BILL NO. 85

TEACHERS' LICENSES, DISCIPLINE & ETHICS

"An Act relating to licensure and professional discipline of members of the teaching profession and providing for related penalties; relating to grounds for dismissal of a teacher; relating to the Professional Teaching Practices Commission; relating to limited immunity for procedures under the Educator Ethics Act; making conforming amendments; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 85 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) DOE, 2/10/99

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Gene Therriault</u> Therriault			X	
<u>Don Bunde</u> Bunde			✓	
<u>Vic Kohring</u> Kohring	X			
<u>Alvin Austerman</u> Austerman			X	
<u>John Davies</u> DAVIES			X	
<u>Ben Grussendorf</u> Grussendorf			X	
<u>Carl E. Moses</u> Moses			X	
<u>John A. Davis</u> Davis			X	
<u>William Williams</u> Williams			X	
<u>John Foster</u> Foster			X	

CHAIR'S SIGNATURE

Gene Therriault

FISCAL NOTE

No: 1

Bill Version: HB 85

(H) Publish Date: 2/10/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Education</u>
Title <u>Professional Teaching Practices Commission</u>	BRU <u>Commissions and Boards</u>
name change to <u>Educator Ethics Commission</u>	Component <u>Professional Teaching Practices</u>
Sponsor <u>Rules Committee</u>	<u>Commission</u>
Requester <u>Governor</u>	Component Serial No. <u>190</u>

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Any fees collected from imposed fines will be deposited into the General Fund.

Prepared by <u>Sanna Green</u> Sanna Green, Executive Director	Phone <u>269-6579</u>
Division <u>Professional Teaching Practices Commission</u>	Date/Time <u>1/22/99 11:33 AM</u>
Approved by Commissioner <u>[Signature]</u> Shirley Holloway, PhD., Commissioner	Date <u>1/25/99</u>
Agency <u>Education</u>	

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5/5/99

Adopted

Amendment \

CSHB 85 (JUD)

Representative John Davies

INSERT the word "person's"

Page 7, line 19 (4) impose limitations or conditions on the **person's**
practice of the teaching profession;

TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 85
P O Box 110001
Juneau, Alaska 99811-0001
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February 8, 1999

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear ^{Brian} Speaker Porter:

Quality education for all Alaska children remains a focus and ongoing effort of my Administration. This bill I transmit today enhances the state's ability to protect students and the integrity of educators by strengthening, streamlining and consolidating licensure and discipline provisions for members of the teaching profession.

The bill incorporates the direction from the Board of Education to change a teacher "certificate" to a "license." The name of the "Professional Teaching Practices Commission" would be changed to "Educator Ethics Commission," to shorten the name and more accurately reflect the commission's functions.

Among the bill's numerous provisions are new sections governing applications and denial of applications for teaching licenses. The current regulatory provision requiring criminal history background checks for applicants would be strengthened and placed in statute. The bill would also compile, for the first time, the grounds for denial of an application or for putting conditions on a teaching license.

The bill expands the range of available disciplinary sanctions beyond suspension or license revocation, tracking powers currently available to occupational licensing boards, such as being able to summarily suspend a license if the educator poses a clear and immediate danger. The commission also would gain the authority to impose a civil fine against a person who is regulated by state law, but is not required to hold a license. The bill contains provisions that would preclude a person whose license is suspended or revoked from employment as a member of the teaching profession, even if the position does not require a license.

The Honorable Brian Porter
February 8, 1999
Page 2

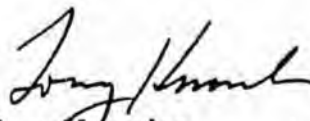
The bill also would streamline current law by consolidating regulatory and statutory grounds for discipline into one statutory provision; allowing reciprocal discipline of an educator who was disciplined in another jurisdiction; and clarifying the procedure for revoking the license of a person convicted of certain sex crimes. In addition, the bill adds misrepresentation of a material fact on an employment application as a ground for discipline.

In rewriting the procedures and requirements for reinstatement of a suspended or revoked license, the bill would expand from one year to five years the waiting period for reinstatement.

Finally, the bill contains new provisions to protect the confidentiality of minors and of investigatory files, and provides immunity from liability for persons who participate in good faith in certain investigations and proceedings of the commission or the Department of Education.

This bill represents a thorough effort on the part of the Department of Education and Professional Teaching Practices Commission to ensure Alaska educators are of high quality and integrity. I urge your prompt and favorable action on this measure.

Sincerely,


Tony Knowles
Governor

5-4-99 pm

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"An Act relating to licensure and professional discipline of members of the teaching profession and providing for related penalties; relating to grounds for dismissal of a teacher; relating to the Professional Teaching Practices Commission; relating to limited immunity for procedures under the Educator Ethics Act; making conforming amendments; and providing for an effective date."

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

<p>08 * Section 1. AS 14.20.020(a) is amended to read: 09 (a) Except as provided in <u>AS 14.20.029</u> [(f) OF THIS SECTION], the 10 department shall issue a <u>license</u> [TEACHER CERTIFICATE] to every person who 11 meets the requirements in (b), (c), and (h) of this section.</p>	<p>TECHNICAL CONFORMING CHANGE "CERTIFICATE" TO "LICENSE"</p>
<p>12 * Sec. 2. AS 14.20 is amended by adding a new section to read: 13 Sec. 14.20.022. Criminal history background check. (a) The department <i>Page 2</i> 01 shall require an applicant for a license to submit two legible copies of the applicant's 02 fingerprints to be used by the Department of Public Safety and the Federal Bureau of 03 Investigation for a criminal history background check, including searches 04 (1) of the applicant's criminal history record information, as that term 05 is defined in AS 12.62.900; and 06 (2) for any findings of not guilty by reason of insanity. 07 (b) The department may not issue a license to an applicant until the 08 Department of Public Safety and the Federal Bureau of Investigation have reported 09 back to the department on the criminal history background of the applicant and the 10 department has reviewed the reports to determine whether grounds exist for denial of 11 a license under AS 14.20.029. However, if the applicant meets the requirements of 12 AS 14.20.020, the department may issue a temporary teacher permit that is valid only 13 until the department has reviewed the criminal history background reports received 14 under this section and has notified the applicant that the license is issued or denied 15 under AS 14.20.029. The department may establish fees for a temporary teacher 16 permit in the manner provided in AS 14.20.020(c) for licenses. 17 (c) The provisions of (a) and (b) of this section apply to renewal of a license 18 if 19 (1) a criminal history background check has not been previously 20 conducted on the licensee under this chapter; 21 (2) at any time during the previous license period, the licensee was not 22 employed in a position requiring a license; or 23 (3) the licensee resided out of state for a portion of the previous license 24 period.</p>	<p>NEW: CREATE STATUTORY AUTHORITY FOR MANDATORY CRIMINAL RECORDS CHECK - STRENGTHENS CURRENT AUTHORITY FOUND IN REGULATION - 4 AAC 12.010(b)(4) AND AS 12.62.160(b)(10)(INTERESTED PERSON) (b) PROCEDURE (c) REQUIRED CHECK AT LICENSE RENEWAL IN CERTAIN CIRCUMSTANCES</p>
<p>25 * Sec. 3. AS 14.20 is amended by adding a new section to read: 26 Sec. 14.20.029. Grounds for denial of or conditions on a license. (a) The 27 department shall deny issuance or renewal of a license to a person</p>	<p>NEW SECTION - COMPILATION OF BASES FOR DENIAL (a) MANDATORY</p>

28 (1) who does not meet the requirements of AS 14.20.020;
29 (2) who has been convicted of a crime, or an attempt, solicitation, or
30 conspiracy to commit a crime, or found not guilty by reason of insanity of committing
31 a crime, involving a minor under AS 11.41.410 - 11.41.460 or a law or ordinance in

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01 another jurisdiction with elements similar to an offense described in this paragraph;
02 (3) whose license is revoked or suspended under this title unless that
03 person's license or eligibility to apply for a new license has been reinstated under
04 AS 14.20.378.

05 (b) The department may deny issuance or renewal of a license to an applicant

06 (1) whose criminal history is determined by the department to be
07 materially inconsistent with statements made in the person's application;

08 (2) who, while under investigation for an allegation suggesting unfitness
09 to teach, has surrendered to a licensing agency an authorization to teach if the
10 authorization has not been reinstated or a new authorization issued in that jurisdiction;

11 (3) whose authorization to teach was revoked or suspended in another
12 jurisdiction on grounds that would constitute grounds for denial of a license under this
13 section;

14 (4) for the same reasons that disciplinary sanctions may be imposed
15 under AS 14.20.372; or

16 (5) who has failed to meet or otherwise comply with a condition
17 imposed by the department or the Educator Ethics Commission under (e) of this
18 section or by the Educator Ethics Commission under AS 14.20.375(c).

19 (c) The department may suspend processing of an application for a license
20 until the applicant has demonstrated that the applicant is not the subject of an
21 unresolved

22 (1) criminal proceeding relating to suitability for licensing under this
23 section; or

24 (2) disciplinary proceeding by a licensing agency on grounds that
25 would constitute grounds for denial of a license under this section.

26 (d) The department, or the Educator Ethics Commission, after hearing and
27 decision under AS 14.20.460(4), may impose conditions or restrictions on a license
28 issued or renewed under AS 14.20.010 - 14.20.040 if

29 (1) the applicant is physically or mentally incapable of performing
30 some, but not all, of the functions of the teaching profession;

31 (2) a licensing agency has

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01 (A) disciplined the applicant, including canceling, revoking,
02 suspending, conditioning, or restricting the applicant's authorization to teach;

03 (B) denied the applicant an authorization to teach; or

04 (C) accepted the surrender of the applicant's authorization to
05 teach while that person was under investigation; or

(1) - TECHNICAL
(2) - MOVED FROM AS 14.20.010(f)

(3) - TECHNICAL

(b) PERMISSIVE

(1) - NEW: CONCEALED CRIMINAL HISTORY

(2) - NEW: SURRENDERED OTHER STATE

(3) - NEW: REVOKED OR SUSPENDED IN OTHER
STATE

(4) - FROM 4 AAC 12.010(l)

(5) - NEW: FAILURE TO COMPLY WITH
IMPOSED CONDITION

(c) NEW- SUSPEND PROCESSING PENDING
CRIMINAL OR DISCIPLINE PROCEEDING

(d) NEW - ALLOW LICENSURE WITH CONDITIONS
OR LIMITS

<p>06 (3) the conditions or restrictions will otherwise protect the physical and 07 mental well-being of students.</p> <p>08 (e) In the department's decision under (b) of this section, or the Educator 09 Ethics Commission's decision under AS 14.20.460(4), denying issuance or renewal of 10 a license, the department or the commission, respectively, may place conditions on the 11 person's reapplication for a license. A person who has been denied issuance or 12 renewal of a license under (b) of this section or under AS 14.20.460(4) may not 13 reapply for licensure sooner than one year after the denial unless a shorter time period 14 for reapplication has been ordered by the department or by the Educator Ethics 15 Commission in the decision denying the license. When reapplying for licensure, the 16 person must include with the application evidence that since the denial a change of 17 circumstance has occurred that supports licensure.</p> <p>18 (f) The department's denial of a license under (a) of this section is final and 19 reviewable in accordance with AS 44.62.560 and 44.62.570. An applicant may appeal 20 to the Educator Ethics Commission the denial of a license under (b) of this section, or 21 conditions or restrictions placed on a license under (d) of this section. The 22 commission's decision on the appeal is final and reviewable in accordance with 23 AS 44.62.560 and 44.62.570.</p> <p>24 (g) The department shall report a final decision denying a license under (a)(2) 25 or (b) of this section, or placing conditions or restrictions on a license under (d) of this 26 section, to any national clearinghouse that maintains records of professional discipline 27 against members of the teaching profession.</p>	<p>(e) NEW - RESTRICTIONS ON REAPPLICATION AFTER DENIAL</p> <p>(f) NEW - CODIFY PROCEDURE FOR APPEAL OF DENIAL</p> <p>(g) NEW- CODIFY REPORTING</p>
<p>28 * Sec. 4. AS 14.20.040 is amended to read: 29 Sec. 14.20.040. Applicability of the Administrative Procedure Act. <u>Except</u> 30 <u>where a different procedure is provided in AS 14.20.029, the provisions of</u> 31 AS 44.62 (Administrative Procedure Act) <u>apply</u> [APPLIES] to all proceedings under <i>Page 5</i> 01 AS 14.20.029 [AS 14.20.030, AND REVOCATIONS AND SUSPENSIONS ARE 02 FINAL AND REVIEWABLE IN ACCORDANCE WITH AS 44.62.560 - 44.62.570].</p>	<p>NEW: MAKES APA APPLICABLE TO REVIEW OF DENIAL (APPLICATION OF APA TO DISCIPLINARY ACTION ALREADY IN AS 14.20.475)</p>
<p>03 * Sec. 5. AS 14.20.170(a) is amended to read: 04 (a) A teacher, including a teacher who has acquired tenure rights, may be 05 dismissed at any time only for the following causes: 06 (1) <u>a ground for discipline listed in AS 14.20.372(a)(1) - (5)</u> 07 [INCOMPETENCY, WHICH IS DEFINED AS THE INABILITY OR THE 08 UNINTENTIONAL OR INTENTIONAL FAILURE TO PERFORM THE TEACHER'S 09 CUSTOMARY TEACHING DUTIES IN A SATISFACTORY MANNER; 10 (2) IMMORALITY, WHICH IS DEFINED AS THE COMMISSION 11 OF AN ACT THAT, UNDER THE LAWS OF THE STATE, CONSTITUTES A 12 CRIME INVOLVING MORAL TURPITUDE]; or 13 (2) [(3)] substantial noncompliance with the [SCHOOL LAWS OF THE 14 STATE, THE REGULATIONS OR BYLAWS OF THE DEPARTMENT, THE] 15 bylaws of the district [,] or the written rules of the superintendent.</p>	<p>FOR SCHOOL DISTRICT ACTION, CROSS-REFERENCE AS 14.20.372 RATHER THAN REPEATING</p>

16 * Sec. 6. AS 14.20 is amended by adding new sections to read:
17 Sec. 14.20.372. **Grounds for discipline.** (a) The commissioner or the
18 Educator Ethics Commission may take disciplinary action as provided in AS 14.20.375
19 regarding a member of the teaching profession for the following reasons:
20 (1) incompetency, which is defined as the inability or the unintentional
21 or intentional failure to perform the teacher's customary teaching duties in a
22 satisfactory manner;
23 (2) immorality, which is defined as the commission of an act that,
24 under the laws of the state, constitutes a crime involving moral turpitude;
25 (3) substantial noncompliance with the school laws of the state or the
26 regulations of the department;
27 (4) upon a determination by the commission that there has been a
28 violation of ethical or professional standards set by the commission under
29 AS 14.20.460;
30 (5) deceit, fraud, misrepresentation, or a wilful omission of material
31 information in applying for issuance or renewal of a license or in applying for

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01 employment as a member of the teaching profession;
02 (6) breach of a contract by departing a public school teaching position
03 without the consent of the district or regional educational attendance area unless the
04 departure is necessitated by a medical or other emergency and consent is unreasonably
05 withheld;
06 (7) discipline, including cancellation, revocation, or suspension of,
07 conditions or restrictions on, or refusal to renew a teaching authorization imposed on
08 the member of the teaching profession by a licensing agency for any ground other than
09 failure to pay a fee;
10 (8) surrender of a license, or a substantially similar authorization to
11 teach, in any jurisdiction while an investigation or disciplinary proceeding was ongoing
12 for any ground other than failure to pay a fee; or
13 (9) failure to meet or otherwise comply with a condition, limitation, or
14 restriction imposed by the department under AS 14.20.029(d) or by the commission
15 under AS 14.20.029(d) or 14.20.375(b).
16 (b) Upon receipt of a judgment of conviction, the department shall, effective
17 immediately, revoke the license of a person who has been convicted of a crime, or an
18 attempt, solicitation, or conspiracy to commit a crime, or found not guilty by reason
19 of insanity of committing a crime, involving a minor under AS 11.41.410 - 11.41.460
20 or a law or ordinance in another jurisdiction with elements similar to an offense
21 described in this subsection. The person's eligibility to apply for a new license may
22 not be reinstated under AS 14.20.378 or AS 44.62.550; however, if the judgment of
23 conviction is reversed on appeal and the person is otherwise eligible for licensure, the
24 department shall reinstate the person's license. Unless the person's license is
25 reinstated by the department as provided in this subsection, a person whose license has

MOVES AS 14.20.030 TO EDUCATOR ETHICS ACT

- (1) SAME AS AS 1420.030(a)(1)
- (2) SAME AS AS 1420.030(a)(2)
- (3) SAME AS AS 1420.030(a)(3)
- (4) - SAME AS AS 1420.030(a)(4) W/
TECHNICAL CONFORMING CHANGES
- (5) - FROM 4 AAC 12.010(k)

- (6) MODIFIED FROM 4 AAC 18.010(d) AND AS
14.20.030(a)(4)

- (7) NEW: RECIPROCAL DISCIPLINE

- (8) NEW: RECIPROCAL DISCIPLINE UPON
SURRENDER

- (9) NEW: FAILURE TO COMPLY WITH IMPOSED
CONDITION

- (b) FROM AS 14.20.030(b) - MADE AUTOMATIC;
PRECLUDES EMPLOYMENT IN TEACHING
PROFESSION, INCLUDING UNLICENSED
EMPLOYMENT

26 been revoked under this subsection may not be employed as a member of the teaching
27 profession regardless of whether that employment requires a license.

28 (c) In a disciplinary proceeding instituted under this section, a certified copy
29 of a judgment of conviction is conclusive evidence that the named person committed
30 the offense regardless of whether the conviction resulted from a plea of nolo
31 contendere.

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01 (d) In a disciplinary proceeding involving grounds described in (a)(7) or (8)
02 of this section, the admissions of a member of the teaching profession in a settlement
03 document accepted by a licensing agency, or in the final findings of fact, conclusions
04 of law, and order of the licensing agency that canceled, revoked, suspended, refused
05 the renewal, or accepted surrender of the authorization to teach, is conclusive evidence
06 that the person committed the described conduct and of the disciplinary action
07 imposed.

08 **Sec. 14.20.375. Disciplinary actions.** (a) If the department files an
09 accusation while a person is licensed under this chapter, the commissioner may revoke
10 or suspend the person's license if the commissioner finds grounds for discipline under
11 AS 14.20.372.

12 (b) If the commission's executive director files an accusation while a person
13 is licensed under this chapter and the commission finds grounds for discipline under
14 AS 14.20.372, the commission may take the following disciplinary actions, singly or
15 in combination as appropriate to the finding of grounds for discipline:

16 (1) revoke a license;

17 (2) suspend a license;

18 (3) censure or reprimand;

19 (4) impose limitations or conditions on the practice of the teaching
20 profession;

21 (5) suspend imposition of an order of suspension or revocation during
22 a period in which the member of the teaching profession is complying with conditions
23 of probation set by the commission; conditions of probation may include requirements
24 that the person

25 (A) comply with the applicable requirements of this chapter and
26 regulations adopted under it;

27 (B) report regularly to the commission on matters relating to the
28 probation;

29 (C) limit practice of the teaching profession as ordered by the
30 commission;

31 (D) undertake and continue professional education as ordered

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01 by the commission until a satisfactory degree of skill has been attained in the
02 areas determined to need improvement;

03 (E) submit to peer review as ordered by the commission;

(c) NEW: PROOF OF CONVICTION

(d) NEW: PROOF OF RECIPROCAL DISCIPLINE

NEW SECTION COMPILES AND EXPANDS
ALLOWABLE DISCIPLINE

(a) COMMISSIONER DISCIPLINE

(b) EDUCATOR ETHICS COMM'N DISCIPLINE

(1) FROM AS14.20.470(a)(4)

(2) FROM AS14.20.470(a)(4)

(3) MODIFIED FROM AS14.20.470(a)(3)

(4) NEW: CONDITIONS OR LIMITATIONS

(5) NEW: PROBATION

04 (F) fulfill other conditions ordered by the commission, including
05 payment of restitution and civil fines, participation in evaluations by
06 professionals for substance abuse, mental health problems, or medical
07 problems, and completion of treatment or counseling programs.
08 (c) A member of the teaching profession may not surrender a license issued
09 under this chapter without approval of the commission. A surrendered license may not
10 be reinstated. If a surrender is approved, the commission may place conditions on the
11 person's ability to later apply for a new license.
12 (d) The commission may summarily suspend a license before a final hearing
13 is held on an accusation filed under (b) of this section or during an appeal if the
14 commission finds that the member of the teaching profession poses a clear and
15 immediate danger to public health and safety. The person is entitled to a hearing
16 before the commission to appeal the summary suspension within seven days after the
17 order of suspension is issued. The person may appeal an adverse decision of the
18 commission on an appeal of a summary suspension to the superior court under
19 AS 44.62.560. If the commission summarily suspends a license under this subsection
20 before a final hearing on the accusation, the commission shall act expeditiously to
21 conduct the hearing on the accusation. A person whose license has been summarily
22 suspended under this subsection may not be employed as a member of the teaching
23 profession, regardless of whether the employment requires a license, while the license
24 is under summary suspension.
25 (e) At the teacher's request, the commission or the commissioner shall stay the
26 proceedings on an accusation under this section if the teacher has requested a hearing
27 before the school board or invoked grievance procedures under AS 14.20.180 from a
28 dismissal or nonretention decision based on the same allegations as those made in the
29 accusation. A stay under this subsection does not preclude the commission from
30 summarily suspending a license under (d) of this section. The proceedings on an
31 accusation are stayed until a final decision on the nonretention or dismissal is reached

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01 under AS 14.20.180. The commission or commissioner shall give deference to, but
02 is not bound by, a final decision under AS 14.20.180. The commission or
03 commissioner shall state good cause for rejecting a finding of fact made in a final
04 decision under AS 14.20.180. The commission or commissioner may supplement the
05 record with additional evidence on whether there are grounds for discipline under
06 AS 14.20.372 and what discipline may be appropriate under this section.
07 (f) Notwithstanding other provisions of this section, the commission may not
08 impose discipline on a member of the teaching profession's license to act as an
09 administrator unless the commissioner concurs in the commission's decision.
10 (g) If a person was a member of the teaching profession but was not required
11 to be licensed under this chapter at the time of the conduct that is grounds for
12 discipline, the commission may warn, censure, reprimand, or order a civil fine not to
13 exceed \$5,000 against the person if the commission finds grounds for discipline under

(c) CODIFY: LIMIT ON SURRENDER OF LICENSE

(d) NEW: SUMMARY SUSPENSION OF LICENSE

(e) NEW: STAY OF PROCEEDINGS DURING SCHOOL DISTRICT TERMINATION PROCEEDING; WEIGHT GIVEN TO SCHOOL DISTRICT DETERMINATION

(f) MOVED FROM AS 14.20.470(a)(4)

(g) MOVED FROM AS 14.20.470(a)(3) AND AMPLIFIED; CIVIL FINE ADDED

14 AS 14.20.372. Nothing in this subsection prevents the commission from denying or
15 conditioning licensure, or imposing other applicable discipline, under this chapter for
16 a person disciplined under this subsection.

17 (h) The commissioner or the commission, as appropriate, shall notify the other
18 of a disciplinary action, including commission approval of surrender of a license, taken
19 under this section or under AS 14.20.372(b). The commission shall report the
20 disciplinary action to any national clearinghouse that maintains records of professional
21 discipline against members of the teaching profession and, if the person who was
22 disciplined is employed as a member of the teaching profession, shall notify the
23 disciplined person's employer of the disciplinary action.

24 (i) If a person's license is suspended or revoked under (a) or (b) of this
25 section, that person may not be employed as a member of the teaching profession,
26 regardless of whether the employment requires a license, until the person's license or
27 eligibility to apply for a new license has been reinstated under AS 14.20.378 and any
28 required license has been obtained. A person whose license was surrendered under (c)
29 of this section may not be employed as a member of the teaching profession,
30 regardless of whether the employment requires a license, until the person obtains a
31 new license.

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01 **Sec. 14.20.378. Reinstatement after suspension or revocation.** (a)
02 Notwithstanding the provisions of AS 44.62.330 and 44.62.550, and except for a
03 revocation under AS 14.20.372(b) or a summary suspension under AS 14.20.375(d),
04 this section governs reinstatement for a license that has been suspended or revoked
05 under this title.

06 (b) A license that has been suspended for one year or less and that has not
07 lapsed is automatically reinstated at the end of the period of suspension unless the
08 commission finds that the holder of that license has failed to fully comply with the
09 terms and conditions of the commission's or commissioner's order suspending the
10 license.

11 (c) A person whose license has been suspended for more than one year but has
12 not lapsed may petition the commission as provided in (e) of this section for
13 reinstatement of the license.

14 (d) A person whose license was revoked or whose license was suspended and
15 has lapsed may petition the commission as provided in (e) of this section for
16 reinstatement of eligibility to apply for a new license. For a revoked license, eligibility
17 to apply for a new license may not be reinstated sooner than five years after the
18 effective date of the revocation.

19 (e) At least 60 days before the desired date of reinstatement, the person
20 seeking reinstatement under this section shall file a petition with the commission
21 stating

22 (1) that the person has met the terms and conditions of the
23 commission's or commissioner's order suspending or revoking the license; and

(h) CODIFY: REPORTING

(i) NEW: PRECLUDES EMPLOYMENT IN TEACHING
PROFESSION, INCLUDING UNLICENSED
EMPLOYMENT, WHILE LICENSE SUSPENDED,
REVOKED, SURRENDERED

NEW: PROCEDURES FOR REINSTATEMENT
(SUPERCEDES AS 44.62.550 - 1 YEAR)

(b) ≤ 1 YEAR - AUTOMATIC

(c) > 1 YR - PETITION

(d) REVOKED - NO SOONER THAN 5 YEARS

(e) PROCEDURE

<p>24 (2) the scope and content of employment performed by the person 25 during the period of suspension or revocation and the names and addresses of all 26 employers during that period.</p> <p>27 (f) If the commissioner or the executive director of the commission opposes 28 a petition for reinstatement under (e) of this section or if the commission finds that a 29 hearing would be helpful to determine whether reinstatement is appropriate, the 30 commission shall conduct a hearing. The petitioner for reinstatement has the burden 31 of proving that</p> <p><i>Page 11</i></p> <p>01 (1) the petitioner is qualified and suitable for licensing under this 02 chapter;</p> <p>03 (2) the petitioner has met the terms and conditions of the commission's 04 or commissioner's order suspending or revoking the license; and</p> <p>05 (3) if the petitioner is licensed under this chapter, the public will be 06 protected and the integrity of the teaching profession will be maintained.</p> <p>07 (g) If a license or eligibility to apply for a new license is reinstated under this 08 section, the commission, for the same reasons for which conditions or restrictions may 09 be imposed under AS 14.20.029(d), may impose conditions or restrictions on the 10 reinstated license or on any new license for which application is made following 11 reinstatement. The commission shall notify the department of any condition or 12 restriction imposed under this subsection.</p> <p>13 (h) A person who has been denied reinstatement under this section may not 14 file a new petition for reinstatement sooner than two years after the denial unless a 15 shorter time is allowed by the commission in its decision denying the reinstatement. 16 The person must include with the new petition evidence that, since the previous denial 17 by the commission, a change of circumstances has occurred that supports 18 reinstatement.</p>	<p>(f) HEARING</p> <p>(g) CONDITIONAL LICENSURE</p> <p>(h) RESTRICTION ON FILING NEW PETITION AFTER A PETITION IS DENIED</p>
<p>19 * Sec. 7. AS 14.20.380 is amended to read: 20 Sec. 14.20.380. Creation of a commission. There is a commission of 21 professional educators known as the Educator Ethics [PROFESSIONAL TEACHING 22 PRACTICES] Commission.</p>	<p>TECHNICAL</p>
<p>23 * Sec. 8. AS 14.20.410(b) is amended to read: 24 (b) The lists shall be submitted to the executive director of the commission, 25 [COMMISSIONER] who shall submit them as a group to the governor's office.</p>	<p>SIMPLIFY</p>
<p>26 * Sec. 9. AS 14.20.460 is amended to read: 27 Sec. 14.20.460. Duties of commission. The commission shall 28 (1) adopt standards of ethical and professional performance for the 29 teaching profession and other [ESTABLISH PROCEDURES, AND ADOPT] 30 regulations under AS 44.62 (Administrative Procedure Act) to interpret or 31 implement the purposes of AS 14.20.370 - 14.20.510;</p> <p><i>Page 12</i></p> <p>01 (2) conduct investigations and hearings on grounds for discipline</p>	<p>(1) COMBINE FROM AS14.20.450 AND SIMPLIFY</p>

<p>02 alleged <u>under AS 14.20.372</u> [VIOLATIONS OF ETHICAL OR PROFESSIONAL 03 TEACHING PERFORMANCE, CONTRACTUAL OBLIGATIONS, AND 04 PROFESSIONAL TEACHING MISCONDUCT]; 05 (3) review the regulations of the department as they relate to <u>licensure</u> 06 [TEACHER CERTIFICATION] and recommend necessary changes; <u>and</u> 07 (4) <u>conduct a hearing and issue a decision in an appeal under</u> 08 <u>AS 14.20.029(f)</u> [REVIEW THE DECISIONS OF THE DEPARTMENT REGARDING 09 THE ISSUANCE OR DENIAL OF CERTIFICATES AND IN ITS DISCRETION 10 RECOMMEND REVERSAL OF DECISIONS].</p>	<p>(2) TECHNICAL CONFORMING CHANGES (3) TECHNICAL (4) CODIFY CURRENT PRACTICE</p>
<p>11 * Sec. 10. AS 14.20.470 is amended to read: 12 Sec. 14.20.470. Powers of commission. (a) The commission may 13 (1) study proposals <u>regarding standards of ethical and professional</u> 14 <u>performance for members of the teaching profession</u> developed by regular 15 committees of any existing professional organization whose members are within the 16 teaching profession; 17 (2) subpoena witnesses, place them under oath, and maintain written 18 records; 19 (3) <u>take disciplinary action under AS 14.20.372 and 14.20.375</u> 20 <u>regarding a member</u> [WARN OR REPRIMAND MEMBERS] of the teaching 21 profession [IF IN THE JUDGMENT OF THE COMMISSION SUCH ACTION IS 22 WARRANTED]; 23 (4) [SUSPEND OR REVOKE THE CERTIFICATE OF A MEMBER 24 OF THE TEACHING PROFESSION FOR ONE OF THE REASONS SET OUT IN 25 AS 14.20.030 EXCEPT THAT IN THE CASE OF AN ADMINISTRATOR, THE 26 COMMISSIONER MUST CONCUR; 27 (5) make any recommendation to the board or to school boards that 28 will promote an improvement in the teaching profession; 29 (5) [(5)] request assistance through any of the investigative processes 30 of a <u>school board, school superintendent, or</u> any existing professional teaching 31 organizations when analyzing charges of breach of ethical or professional teaching <i>Page 13</i> 01 practices; 02 (6) [(7)] appoint an executive <u>director</u> [SECRETARY], delegate those 03 <u>investigative and other</u> [MINISTERIAL] functions, <u>except its power to propose and</u> 04 <u>adopt regulations and its power to take action under AS 14.20.372, 14.20.375,</u> 05 <u>14.20.378, and 14.20.460(4),</u> to the executive <u>director</u> [SECRETARY] as the 06 commission may decide, and set the executive <u>director's</u> [SECRETARY'S] 07 compensation with a starting salary not exceeding range 26, step B, of the pay plan for 08 state employees in AS 39.27.011(a). 09 (b) A decision issued by the commission [WITH THE APPROVAL OF THE 10 COMMISSIONER] under <u>AS 14.20.372, 14.20.375, or 14.20.378</u> [(a)(4) OF THIS 11 SECTION] is final <u>and reviewable in accordance with AS 44.62.560 and 44.62.570</u></p>	<p>CLARIFY MOVED TO AS14.20.375 TECHNICAL CONFORMING CHANGES; ADMINISTRATOR DISCIPLINE MOVED TO AS 14.20.375(e). ADD ASSISTANCE FROM SCHOOL DISTRICTS RENAME POSITION; CLARIFY DELEGATION TECHNICAL CONFORMING CHANGES</p>

<p>12 * Sec. 11. AS 14.20.475 is amended to read: 13 Sec. 14.20.475. Applicability of the Administrative Procedure Act. <u>Except</u> 14 <u>where a different procedure is provided in AS 14.20.370 - 14.20.510, the</u> 15 <u>provisions of AS 44.62 (Administrative Procedure Act) apply [APPLIES] to</u> 16 <u>[REGULATIONS AND] proceedings under AS 14.20.370 - 14.20.510.</u></p>	<p>EXCEPTIONS TO APA (E.G. SUMMARY SUSPENSION; REINSTATEMENT) REGULATIONS - MOVED TO AS 14.20.460(1)</p>
<p>17 * Sec. 12. AS 14.20.475 is amended by adding a new subsection to read: 18 (b) In addition to the options available under AS 44.62.500, the commission 19 may adopt a hearing officer's proposed findings of fact in their entirety and increase 20 or change the proposed disciplinary action authorized under AS 14.20.375 against the 21 person.</p>	<p>NEW: ALLOWS INCREASED OR CHANGED DISCIPLINE AS OPTION, BASED ON HEARING OFFICER'S FACTUAL FINDINGS</p>
<p>22 * Sec. 13. AS 14.20 is amended by adding new sections to read: 23 Sec. 14.20.476. Confidential information. (a) Information obtained by the 24 commission or the department in the course of an investigation under this chapter is 25 confidential and may not be produced for inspection or copying by any person, nor 26 may its contents be disclosed to any person, except 27 (1) by order of a court of competent jurisdiction, issued for good cause 28 shown and upon the conditions that the court imposes; 29 (2) to the attorney general of this state or the attorney general's 30 designee; 31 (3) as reasonable and necessary in the enforcement of AS 14.20.372, <i>Page 14</i> 01 including investigation of a matter, presentation to a court, or use in an administrative 02 proceeding under this chapter; 03 (4) in response to a request for discovery from the respondent in an 04 administrative proceeding under this chapter; or 05 (5) to licensing agency and law enforcement officials of any 06 jurisdiction. 07 (b) All references to a minor in an administrative proceeding and in all 08 documents available to the public shall be by initials or some similar method that 09 maintains the confidentiality of the minor's identity. If a minor is called to testify as 10 a witness, the commission or the commissioner, as applicable, may close that portion 11 of the hearing to the general public if it is in the minor's best interests to do so and 12 may determine who may be present while the minor is testifying. A transcript of the 13 proceeding shall refer to a minor by initials or some similar method that maintains the 14 confidentiality of the minor's identity. 15 Sec. 14.20.478. Limitation of liability. An action may not be brought for 16 damages resulting from 17 (1) a report or complaint made in good faith to the commission or the 18 department by a person, or participation by a person in an investigation or hearing by 19 the commission or the department under this chapter; or 20 (2) a person's good faith performance of a duty, function, or action 21 required under this chapter as a member of the commission.</p>	<p>NEW: CONFIDENTIALITY OF INVESTIGATIVE FILE</p> <p>WHEN DISCLOSABLE</p> <p>REFERENCES TO MINORS</p> <p>NEW: LIMITS ON LIABILITY</p>

<p>22 * Sec. 14. AS 14.20.510 is amended to read: 23 Sec. 14.20.510. Short title. AS 14.20.370 - 14.20.510 shall be known as the 24 Educator Ethics [PROFESSIONAL TEACHING PRACTICES] Act.</p>	<p>TECHNICAL CONFORMING CHANGES</p>
<p>25 * Sec. 15. AS 14.20 is amended by adding a new section to read: 26 Article 5A. Penalties. 27 Sec. 14.20.520. Penalties. (a) A person who is not licensed under this 28 chapter and who is employed as a teacher in violation of AS 14.20.010 or is employed 29 as a member of the teaching profession in violation of AS 14.20.372 or 14.20.375 is 30 guilty of a class B misdemeanor. 31 (b) In addition to a penalty imposed under (a) of this section, if a person who Page 15 01 is not licensed under this chapter and who is employed as a teacher in violation of 02 AS 14.20.010, or is employed as a member of the teaching profession in violation of 03 AS 14.20.372 or 14.20.375, the department or the commission may assess a civil fine 04 in an amount set by the department by regulation for each day the person was in 05 violation. A civil fine may be assessed under this subsection regardless of whether a 06 penalty under (a) of this section has been imposed. A civil fine assessed under this 07 subsection may be appealed in the manner provided for appeals in AS 44.62 08 (Administrative Procedure Act).</p>	<p>NEW: PENALTIES FOR TEACHING W/O REQUIRED LICENSE AND UNAUTHORIZED EMPLOYMENT IN TEACHING PROFESSION</p> <p>(a) CRIMINAL</p> <p>(b) CIVIL</p>
<p>09 * Sec. 16. AS 14.20 is amended by adding a new section to read: 10 Article 8. General Provisions. 11 Sec. 14.20.990. Definitions. In AS 14.20.010 - 14.20.520, unless the context 12 otherwise indicates, 13 (1) "commission" means the Educator Ethics Commission created in 14 AS 14.20.380; 15 (2) "license" means a license issued by the department under 16 AS 14.20.020 or 14.20.025; 17 (3) "licensing agency" means the agency or entity in another state or 18 other jurisdiction that has the duty to authorize a person to act as a member of the 19 teaching profession in that jurisdiction, or the power to revoke, suspend, or place other 20 sanctions on the authorization to teach of a member of the teaching profession in that 21 jurisdiction; 22 (4) "member of the teaching profession" means a person described in 23 AS 14.20.370.</p>	<p>NEW: DEFINITIONS SECTION FOR AS 14.20</p>
<p>24 * Sec. 17. AS 14.25.220(26) is amended to read: 25 (26) "outside service" means service for full years as defined by 26 (43)(A)(x) and (43)(B)(xi) of this section 27 (A) as a certificated <u>or licensed</u> full-time elementary or 28 secondary teacher or a certificated <u>or licensed</u> person in a full-time position 29 requiring a teaching certificate <u>or license</u> as a condition of employment in an 30 out-of-state public school within the United States, or in a school outside the</p>	<p>TECHNICAL CONFORMING CHANGES</p>

<p>31 United States supported by funds of the United States; Page 16 01 (B) as a certificated <u>or licensed</u> full-time elementary or 02 secondary teacher or a certificated <u>or licensed</u> person in a full-time position 03 requiring a teaching certificate <u>or license</u> as a condition of employment in an 04 approved or accredited nonpublic school within the United States, or in a 05 school outside the United States supported by funds of the United States; 06 (C) in a full-time position requiring academic standing in an 07 out-of-state institution of higher learning accredited by a nationally recognized 08 accrediting agency as listed in the Education Directory - Colleges and 09 Universities by the National Center for Education Statistics; 10 (D) as a full-time teacher in an approved or accredited 11 nonpublic institution of higher learning in Alaska; 12 * Sec. 18. AS 14.30.255 is amended to read: 13 Sec. 14.30.255. Administrator qualifications. A person may not be employed 14 as an administrator of a program of special education and related services unless that 15 person possesses a <u>valid license under AS 14.20 authorizing employment as an</u> 16 <u>administrator</u> [ADMINISTRATIVE CERTIFICATE] and, in addition, such training 17 as the department may require by regulation. 18 * Sec. 19. AS 44.62.330(a)(42) is amended to read: 19 (42) <u>except where a different procedure is provided in AS 14.20.029</u> 20 <u>or 14.20.370 - 14.20.510</u>, the Department of Education and the Educator Ethics 21 [PROFESSIONAL TEACHING PRACTICES] Commission with regard to proceedings 22 [TO REVOKE OR SUSPEND A TEACHER'S CERTIFICATE] under <u>AS 14.20.029</u> 23 <u>and 14.20.370 - 14.20.510</u> [AS 14.20.030 - 14.20.040 AND AS 14.20.470(a)(4)];</p>	
<p>24 * Sec. 20. AS 14.20.020(f), 14.20.030, and 14.20.450 are repealed.</p>	<p>MOVED</p>
<p>25 * Sec. 21. REVISOR'S CHANGES. The revisor of statutes is requested to make the 26 following changes in the specified statutes: 27 (1) change "Professional Teaching Practices Commission" to "Educator Ethics 28 Commission" in AS 14.20.020(c) and (e); AS 39.25.120(c)(9)(B); and AS 47.17.020(f); 29 (2) change "certification" to "licensure" in the heading of art. 1 of AS 14.20 30 and in AS 14.20.020; 31 (3) change "Article 5. Professional Teaching Practices Act" to "Article 5. Page 17 01 Educator Ethics Act" in the heading of art. 5 of AS 14.20; 02 (4) change "certificate," "teacher certificate," and "teaching certificate" to 03 "license" in AS 14.20.010, 14.20.020, 14.20.025, 14.20.027, 14.20.147(b), 14.20.149(c), 04 14.20.150, and 14.20.177; 05 (5) change "certificates" to "licenses" in AS 14.20.020 and 14.20.500; 06 (6) change "limited teacher certificate" to "limited license" in AS 14.20.025 07 and 14.20.027; 08 (7) change "certificated" to "licensed" in AS 14.03.290(6); AS 14.14.107;</p>	<p>TECHNICAL CONFORMING CHANGES</p>

<p>09 AS 14.16.050(a)(3)(E); AS 14.18.060; AS 14.20.149, 14.20.150, 14.20.350, 14.20.370; 10 AS 14.25.220(8) and (40)(A); AS 14.30.010(b)(1); AS 23.10.530(c); AS 39.25.110(6) and (7), 11 and 39.25.160(e)(6) and (7); 12 (8) change "noncertificated" to "unlicensed" in AS 14.08.111(3); 13 AS 23.20.354(b); AS 39.25.110(6), and 39.25.160(e)(6); 14 (9) change "teacher certificate" to "teacher license" in AS 14.25.045, 15 14.25.047; AS 14.30.250; AS 14.43.148(h)(1)(A)(iii); and AS 25.27.244(s)(2)(A)(iii); 16 (10) change "teacher's certificate" to "teacher's license" in AS 14.43.148(g); 17 (11) change "teaching certificate" to "teaching license" in AS 14.25.220(8) and 18 (40)(A).</p>	
<p>19 * Sec. 22. TRANSITION: COMMISSION MEMBERSHIP. A person who is a member 20 of the Professional Teaching Practices Commission on June 30, 1999, continues to serve on 21 the commission, renamed as the Educator Ethics Commission by this Act, until the member's 22 term on the commission expires under the terms of the member's appointment. 23 * Sec. 23. TRANSITION: REGULATIONS. Notwithstanding sec. 25 of this Act, the 24 Department of Education and the Professional Teaching Practices Commission may proceed 25 to adopt regulations necessary to interpret or implement this Act. The regulations take effect 26 under AS 44.62 (Administrative Procedure Act), but not before July 1, 1999.</p>	<p>TRANSITION: MEMBERSHIP AND STARTING REGULATION PROCESS</p>
<p>27 * Sec. 24. Section 23 of this Act takes effect immediately under AS 01.10.070(c). 28 * Sec. 25. Except as provided in sec. 24 of this Act, this Act takes effect July 1, 1999.</p>	<p>EFFECTIVE DATE</p>

From: Mary Ellen Beardsley
To: Chrystal Smith, Deborah Behr, Joan Kasson
Date: Mon, May 3, 1999 3:37 PM
Subject: SB 162 & 163

Interestingly enough SB 162 did not cause as much concern as SB 163. Senator Donnelly was apposed to section 2 of SB 163 which deals with notice requirements to beneficiaries. Neither bill passed out of the committee due to lack of a forum. May take it up again on WEDNESDAY. Some attorneys are going to try to propose an amendment to take care of Donnelly's concerns. And they may call him as well. That is all I have to report.

From: Chrystal Smith
To: John Baker
Subject: Re: SB 140; end of session

last scheduled day is May 19. Thanks for the update --

>>> John Baker 05/03 3:33 PM >>>

Chrystal: Before I forget, I testified this morning, at DNR's request, on SB 140. The thrust of my testimony was that, in order to construe the legislation to avoid constitutional problems, the courts would likely require DNR to continue to engage in a process that looks very much like the current planning and classification process. Therefore, if the intent of the bill is to achieve significant cost/efficiency savings, it is unlikely to achieve that result. Can you remind me - when is that last day of the (regular) session?

STATE OF ALASKA

DEPARTMENT OF EDUCATION

Professional Teaching Practices Commission

Tony Knowles, Governor

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Mary Lou Madden, Vice-Chair

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Steve Beardsley

Christine Dart

Linda Connelly

Patricia Clifty

Georgia Cast

May 3, 1999

The Honorable Gene Therriault
The Honorable Eldon Mulder
Co-Chair, House Finance Committee
State Capitol
Juneau, AK 99801-2197

HB 85, teacher licensing and discipline

Dear Representatives Therriault and Mulder:

I am writing in support of HB 85. This bill enhances the state's ability to protect students and the integrity of educators by strengthening, streamlining, and consolidating licensure and discipline provisions for members of the teaching profession.

The bill incorporates the direction from the Board of Education to change a teacher "certificate" to a "license." The name of the "Professional Teaching Practices Commission" would be changed to "Educator Ethics Commission," to shorten the name and more accurately reflect the commission's functions.

Among the bill's provisions are new sections governing applications and denial of applications for teaching licenses. The current regulatory provision requiring criminal history background checks for applicants would be strengthened and placed in statute. The bill would also compile, for the first time, the grounds for denial of an application or for putting conditions on a teaching license.

The bill expands the range of available disciplinary sanctions beyond suspension or license revocation, tracking powers currently available to occupational licensing boards, such as being able to summarily suspend a license if the educator poses a clear and immediate danger. The commission also would gain the authority to impose a civil fine against a person who is regulated by state law, but is not required to hold a license. The bill contains provisions that would preclude a person whose license is suspended or revoked from employment as a member of the teacher profession, even if the position does not require a license.

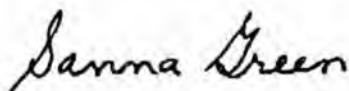
The bill also would streamline current law by consolidating regulatory and statutory grounds for discipline into one statutory provision; allowing reciprocal discipline of an educator who was disciplined in another jurisdiction; and clarifying the procedure for revoking the license of a

person convicted of certain sex crimes. In addition, the bill adds misrepresentation of a material fact on an employment application as a ground for discipline.

In rewriting the procedures and requirements for reinstatement of a suspended or revoked license, the bill would expand from one year to five years the waiting period for reinstatement. Finally, the bill contains new provisions to protect the confidentiality of minors and of investigatory files, and provides immunity from liability for persons who participate in good faith in certain investigations and proceedings of the commission or the Department of Education. My communications with the Alaska Association of School Administrators and the Association of Alaska School Boards indicate that they both support the bill.

Teresa Williams, in the Department of Law, is separately providing a sectional analysis of the bill. Both she and I will be available to testify at your hearing on the bill.

Sincerely,



Sanna Green
Executive Director

cc: Beth Lape, Department of Education Legislative