

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5264 SHES SB 226 - SB 231 836

specialists and subspecialist physicians. Clinical training is broad based in school clinics, private optometric and ophthalmological offices, hospital residencies, health maintenance organizations, public health and military hospital clinics, Indian health services, community teaching hospitals, and multidisciplinary community health clinics. Alaskan optometrists are also required to attend a minimum of 48 hours of certified continuing education every 4 years. Optometrists offer a sound knowledge base, excellence in training and advanced diagnostic skills that will benefit the people of Alaska if Senate Bill No. 226 becomes statute.

As with optometric drug legislation in other states, Senate Bill No. 226 provides for optometry board regulation and examination for certification of properly trained optometrists. The board will also require satisfactory completion of continuing education requirements for renewal of the endorsement to use pharmaceutical agents. This bill will not allow "grandfathering" of presently licensed optometrists. Each optometrist will be required to provide evidence of having received the required training and demonstrate competence in order to be certified to use diagnostic pharmaceutical agents.

The compromise that was reached between optometry and ophthalmology is a significant position change of our

Legislative Committee. We agreed to exclude the use of prescription drugs for the treatment of eye disease, even though fourteen states currently have legislation that allows optometrists to manage certain eye diseases with drugs. Because of this change in our position regarding treatment of eye disease, we feel we excluded 80 percent of our original goal which was to allow the Alaskan optometrist to practice at the full level of his or her current training. In fairness to the Alaska Association of Ophthalmology, I am certain they also feel that Senate bill No. 226 is a major concession on their part. After all, Senate Bill No. 226 represents the first successful attempt of our two somewhat polarized groups to negotiate on the matter of optometrists using drugs.

I congratulate Senator Fischer for recommending the negotiating process, the ophthalmologists who were involved in the process, our Legislative Committee of optometrists and this great nation that allows for constructive negotiations as one method to settle disputes.

Because of the desire from both organized optometry and ophthalmology in the State of Alaska to pass Senate Bill No. 226, I ask and pray that you, the Senate HESS Committee, as well as your legislative colleagues in the Senate and House, will seek immediate passage of the bill as written. Delay of

this legislation past the 1987 session of the 15th Alaska Legislature may repolarize our groups and make further compromise difficult.

Thank you for listening to my statement of support for Senate Bill No. 226.

Respectfully,

Lynn J. Coon, O.D.

December 1, 1986

Dear State Legislator,

The profession of optometry is undergoing a significant expansion in the scope of services that it can offer to patients. On the national level forty-eight states now have laws that allow optometrists to utilize diagnostic pharmaceutical agents to evaluate the eye, and twelve of these states allow optometrists to treat eye conditions with therapeutic drugs.

Alaska is one of the two remaining states without a law that allows optometrists to utilize pharmaceutical agents. Yet Alaskan optometrists are among the best trained in the nation. The majority of optometrists in Alaska have successfully completed a competency based 104 hour university course on management of eye disease.

The people of Alaska would greatly benefit from expansion of the scope of optometry. Please take a few minutes to study the next few pages. The expansion of optometric services would allow Alaskans to enjoy better eye care at a lower cost.

I. Need

- A. OD's are the best distributed trained eye care professionals in rural Alaska. Alaska currently has 51 ~~to~~ optometrists distributed in 13 towns and cities across the state. Several optometrists provide services to remote villages and towns such that optometric care is accessible and available to all Alaskans. Several optometrists in Alaska are employed by the Federal government and serve large segments of the armed forces and native populations.
- B. Better quality care: OD's are better trained than any of the primary health practitioners who must provide therapeutic eye care due to limited access to ophthalmological care.
- C. Increased access and availability to care is also a benefit in that the ability to get care quickly reduces discomfort and suffering, reduces extra travel time and cost, and reduces delayed care due to referrals to remote specialists.
- D. Controlling costs: therapeutic primary eye care by optometrists reduces unnecessary referral and maximizes primary level practitioner's training and skills. Optometrists entering into this area would produce competition in the eye care market - a natural way of controlling cost escalation suffered

by all of health care. Non-surgical health professionals are traditionally less costly to the public due to lower training costs and therefore lower charges.

II. Education

- A. Optometrists in Alaska are the only primary level practitioner with education equal and exceeding peers but is severely limited by medical (ophthalmology) license monopoly. For years optometrists have been statutorily required to diagnose properly and have done an effective job. Diagnosis is the most important job and responsibility in therapeutic eye care and now with our training in pharmacology and disease management, OD's are ready to serve their patients primary care needs totally!
- B. The modern optometrist has attended an accredited school or college of optometry for four years with 80% of all optometry students having four years of pre-optometric college education and a bachelor's degree. The intensive education that the optometric student receives includes 156 hours of pharmacology, which is equal to or greater than all other health care professions using therapeutic pharmaceuticals. Systemic disease and eye disease education are comprehensive and cover complete diagnosis of all eye disease (primary and complicated.) The courses are more concentrated on ocular pharmacology than any other health care profession including medicine. The courses do not train OD's to treat systemic disease but rather to recognize it and understand the ocular manifestations. Emergency medical care is taught relating to ocular drugs in first aid, antidotes, shock, seizure, and CPR.

Eye disease education taught at schools and colleges of optometry is the most intense comprehensive course of any health professional school teaching the difference between diseases (differential diagnosis), proper ocular disease management including disease resistance, complications, probable therapeutic response, referral and need for timely course of treatment. These subjects are taught by highly qualified experts including optometrists board certified ophthalmologists and subspecialist ophthalmologists.

- C. Continuing education: Alaskan optometrists are required to attend a minimum of 48 hours of certified continuing education every 4 years. This education is oriented towards primary care with diagnosis, therapy, and management of eye disease a major

component. It has been competency based and has included a 104 hour university course on management of eye disease that a majority of Alaskan optometrists attended.

- D. Today's optometric pharmacology education is equal to or in excess of that offered to medical, dental, osteopathic, or podiatric students and each of those professions use pharmaceuticals without statutory limitations. Remember, optometry's pharmacology education is equal or superior to all others in ocular and systemic eye related pharmacology.
- E. Optometric education and competencies are dramatically superior to many general physicians in therapeutic eye care, yet general MD's treat a lot of eye disease in Alaska due to access problems with ophthalmology. Optometrists offer a sound fundamental knowledge base, excellence in training and advanced instrumentation not found in a non-specialized medical practice.

III. Safety

- A. Optometrists in the 47 of the "lower 48" have used diagnostic pharmaceutical agents for 15 years without serious incidence of toxic reactions, improper use or misuse. Most public health authorities agree on substantial benefits from optometric use of pharmaceutical agents.
- B. Optometrists in twelve states now use therapeutic agents without serious incidence of problems.
- C. As with all optometric diagnostic drug legislation, all therapeutic legislation passed to date (and proposed legislation) requires stiff education and training requirements before certification to begin use of therapeutic agents. The mandatory education is extensive, competency based and clinically oriented.
- D. Professional conservatism protects patients and doctors: no reasonable doctor would be such a maverick as to tackle something beyond his/her competency for the glory or the fee in today's climate of malpractice oriented patients, attorney's and risks. Furthermore, optometry's track record of safety in diagnosis and therapeutic management is as much a product of conservatism as it is a product of competency.
- E. Finally, there is no mystique about therapeutic care. It's provided daily by people with little or no training in eye care including teachers, nurses,

physicians assistants, military personnel (in some cases, non-medical) and patients themselves in self-care.

Alaskan Optometry merely wants to update the definition of optometry to reflect present day training in the area of therapeutic care of eye disease relating to eye care practiced at the primary level - the level of first contact services or the gatekeeper for the patient into the health care system.

WHY ALASKA SHOULD SUPPORT LEGISLATION ALLOWING OPTOMETRISTS
TO FULLY UTILIZE THEIR TRAINING INCLUDING USING
PHARMACEUTICAL AGENTS

Optometry is an independent health care profession that specializes in comprehensive vision care.

- A. Education: The modern optometrist has attended an accredited school or college of optometry for four years with 80% of all optometry students having four years of pre-optometric college education and a bachelor's degree. The intensive education that the optometric student receives includes 156 hours of pharmacology, which is equal to or greater than all other health care professions using therapeutic pharmaceuticals. Systemic disease and eye disease education are comprehensive and cover complete diagnosis of all eye disease (primary and complicated).
- B. Distribution: Alaska currently has 51 optometrists distributed in 13 towns and cities across the state. Several optometrists provide services to remote villages and towns such that optometric care is accessible and available to all Alaskans. Several optometrists in Alaska are employed by the Federal government and serve large segments of the armed forces and native populations.
- C. Continuing education: Alaskan optometrists are required to attend a minimum of 48 hours of certified continuing education every 4 years. This education is oriented towards primary care with diagnosis, therapy, and management of eye disease a major component. It has been competency based and has included a 104 hour university course on management of eye disease that a majority of the Alaska optometrists attended.
- D. National trends: In 48 states optometrists presently utilize diagnostic drugs. In 12 states optometrists use both diagnostic and therapeutic drugs. Alaska is one of the two remaining states without a drug law allowing optometrists to utilize pharmaceutical agents.
- E. Safety: Optometrists in 12 states are utilizing therapeutic agents with the same success enjoyed by patients of physicians, dentists, osteopaths, bush health aids and others who now use these agents. Most public health authorities agree on substantial benefits from optometric use of pharmaceutical agents. Optometrists have employed therapeutic drugs in West Virginia for 10 years without reported incidence of abuse or negligence. Optometrists have proved convincingly that the public is treated in a safe and effective manner.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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- C. Continuing education: Alaskan optometrists are required to attend a minimum of 48 hours of certified continuing education every 4 years. This education is oriented towards primary care with diagnosis, therapy, and management of eye disease a major component. It has been competency based and has included a 164 hour university course on management of eye disease that a majority of the Alaska optometrists attended.
- D. National trends: In 48 states optometrists presently utilize diagnostic drugs. In 12 states optometrists use both diagnostic and therapeutic drugs. Alaska is one of the two remaining states without a drug law allowing optometrists to utilize pharmaceutical agents.
- E. Safety: Optometrists in 12 states are utilizing therapeutic agents with the same success enjoyed by patients of physicians, dentists, osteopaths, bush health aids and others who now use these agents. Most public health authorities agree on substantial benefits from optometric use of pharmaceutical agents. Optometrists have employed therapeutic drugs in West Virginia for 10 years without reported incidence of abuse or negligence. Optometrists have proved convincingly that the public is treated in a safe and effective manner.

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**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: SB 229
Publish Date:

Revision Date:
Title: An act relating to sexual
abuse of children

Agency Affected: Alaska Court System
BRU: Trial Courts

Sponsor: Duncan
Requestor: Senate HESS

Components:

EXPENDITURES/REVENUES:		(Thousands of Dollars)					
	OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL
REVENUE

FUNDING:		(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:							
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Karla Forsythe, General Counsel
Division: Alaska Court System

Phone: 264-8228
Date: 4-24-87

Approved by: *Stephanie J. Cole*
Stephanie J. Cole, Deputy Director
Agency: Alaska Court System

Date: 4-24-87

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management & Budget
 - Impacted Agency(ies)
 - Senate Secretary

SB

230

A M E N D M E N T

Offered in the HESS COMMITTEE

By Fischer

TO: SB 230

Page 2, line 15, after "in":

Insert "the previous"

After "year":

Delete "1987"

A M E N D M E N T

Offered in the HESS COMMITTEE

By Fischer

TO: SB 230

Page 1, after line 27:

Insert a new bill section to read:

"* Sec. 4. AS 14.20.140 is repealed and reenacted to read:

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

(b) If a teacher who has not acquired tenure rights is not to be retained for the following school year, the employer shall notify the teacher of the nonretention by writing, delivered on or before the last day of the school term, or by registered mail postmarked on or before the last day of the school term."

Renumber following bill section accordingly.

Page 2, after line 15:

Insert a new bill section to read:

"* Sec. 6. AS 14.20.175(b) is repealed and reenacted to read:

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

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

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

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

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

Renumber following bill section accordingly.

Page 4, after line 11:

Insert a new bill section to read:

"* Sec. 8. AS 14.20.177 and 14.20.178(a) are repealed."

Renumber following bill section accordingly.

Page 4, line 12:

Delete "This Act takes"

Insert "Sections 1 - 3, 5, and 7 of this Act take"

Page 4, after line 12:

Insert a new bill section to read:

"* Sec. 10. Sections 4, 6, and 8 of this Act take effect June 1, 1990."

1 IN THE SENATE

BY FAIKS

2 SENATE BILL NO. 230

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

11 * Section 1. FINDINGS. The legislature finds that

- 12 (1) quality education requires adequate staffing of schools;
13 (2) quality of education is of the highest importance for the
14 future of Alaska's children and of the state itself;
15 (3) the interaction between pupil and teacher is a most impor-
16 tant part of a child's learning; and
17 (4) strong instructional leadership is a characteristic of
18 effective schools.

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

22 * Sec. 3. AS 14.20.140 is repealed and reenacted to read:

23 Sec. 14.20.140. NOTIFICATION OF NONRETENTION. If a teacher,
24 whether tenured or nontenured, is not to be retained for the following
25 school year, the employer shall notify the teacher of the nonretention
26 by writing, delivered on or before June 15 or by registered mail
27 postmarked on or before June 15. (*From March 15/81*)

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

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

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

6 (2) immorality, which is defined as the commission of an
7 act that [WHICH], under the laws of the state, constitutes a crime
8 involving moral turpitude;

9 (3) substantial noncompliance with the school laws of the
10 state, the regulations or bylaws of the department, the bylaws of the
11 district, or the written rules of the superintendent; or *#(anticipated)*

12 (4) a necessary reduction of staff occasioned by a decrease
13 in school attendance or if a reduction is necessary because anticipat-
14 ed funding from the (state) ^{→ local funding} for the school district is less than the
15 amount the district received from the state in fiscal year 1987.

16 * Sec. 5. AS 14.20 is amended by adding new sections to read:

17 Sec. 14.20.177. LIMITATIONS ON REDUCING TEACHING STAFFS. (a)
18 When faced with a reduction in state revenue, a school board shall
19 reduce its teaching staff only after determining that it is necessary
20 and consistent with educational policy and good management. The
21 school board shall ~~consider~~ reducing an appropriate ratio of classi-
22 fied support staff, certificated administrative staff, and appropriate
23 nonpersonnel expenditures at the same time. *before that*

24 (b) In determining layoffs, a school district shall comply with
25 collective bargaining agreements that address the issue. If the
26 agreement does not address the issue, then the district shall refer
27 the issue to the personnel reduction committee under (d) of this
28 section.

29 *#(delete)* (c) Notwithstanding AS 44.62.310, a discussion or presentation

1 of information or options by a school board on the question of em-
2 ployee layoffs or furloughs under this section, including prelimina
3 discussions, presentations, and decisions, shall take place in a
4 public meeting of the school board.

5 # (delete) (d) If no collective bargaining agreement exists that addresses
6 staff reduction, then a school board seeking to reduce its staff shall
7 authorize a personnel reduction committee consisting of representa-
8 tives from each of the employee groups to meet with the school board.
9 The committee shall prepare a plan to implement the reduction in force
10 consistent with the policies of this section. The school board shall
11 implement the plan prepared by the committee without amendment.
12 However, if the committee fails to agree on a plan within 45 days
13 after the school board authorized the committee to act, the school
14 board shall prepare and implement a plan.

15 Sec. 14.20.178. TEACHERS ON LAYOFF STATUS. (a) A school board
16 shall give a teacher at least 30 days' notice before placing the
17 teacher on layoff status. A teacher, including a teacher who has
18 acquired tenure rights, may be placed on layoff status only when a
19 reduction in staff has been made necessary

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

21 (2) because anticipated funding from the state for the
22 school district is less than the amount the district received from the
23 state in fiscal year 1987.

24 (b) A teacher on layoff status does not accrue leave. Time
25 spent on layoff status does not count toward the acquisition of tenure
26 rights. However, layoff status does not constitute a break in service
27 for

28 (1) determining eligibility for tenure;

29 (2) retaining acquired tenure rights;

1 (3) retaining accrued sick leave.

2 (c) When a teaching position becomes available in a district
3 that has teachers on layoff status, the district may not fill the
4 position with a teacher who is not on layoff status until the position
5 has been offered to each teacher in the district who is on layoff
6 status and has the particular skills required to perform the duties of
7 the position. A teacher on layoff status who refuses two offers of
8 employment from the district under this subsection loses

9 (1) reemployment rights under this section;

10 (2) accrued sick leave;

11 (3) tenure rights acquired before layoff.

12 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

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16 1. # deadline Jan 15 (ok)
17 2. Lay of Tenured Teachers
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NEA-ALASKA

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April 13, 1987

TO: Senator Paul Fischer and Members of the Senate HESS Committee
FROM: Jean Krause, President, NEA-Alaska

RE: Senate Bill 230

It should come as a surprise to no one that NEA Alaska is opposed to the changes to AS 14.20.140, 14.20.175(b) and the new sections proposed as amendments to 14.20 that are outlined in SB 230. We believe that the changes described in this proposal are detrimental to the best interests of Alaska's system of public education because they strike at the very heart of education and that is the teaching force. Teachers have been and are trying to cope with very large increases in the numbers of students assigned per classroom, with the contraction in programs, services, specialized personnel, and supplies available to their students and to themselves, as well as with the additional non-instructional duties that they must perform as a result of the reduction in classified personnel. Additionally, Alaska's public schools are experiencing the loss of great numbers of experienced, highly skilled and educated teachers who are choosing to retire; this "brain drain" will have enough impact on our education system without having tenured teachers turned out of positions as well. This piece of legislation has every potential of needlessly exacerbating these problems and creating new problems.

The Legislative Findings, stated in Section 1 of the bill, indicate a Legislative desire to have "adequate staffing" so that the interaction between pupil and teacher can be maximized since that interaction is so important to learning; yet the amendments give local school authorities broad authority to get rid of teachers before making any other budget adjustments. *Great harm could result if the State decreases its funding for education by even the smallest amount.*

The broad authority to get rid of teachers can be found on Page 2, lines 17 - 23 which read:

Sec. 14.20.177 LIMITATIONS ON REDUCING TEACHING STAFFS. (a) when faced with a reduction in State revenue, a school board shall reduce its teaching staff only after determining that it is necessary and consistent with educational policy and good management. The school board shall consider reducing an appropriate ratio of classified support staff, certificated administrative staff, and appropriate nonpersonnel expenditures at the same time.

We are compelled to point out that (a) having to consider something is not the same as having to do it, and (b) there are a number of options currently available to school boards to reduce their teaching staffs for the ensuing year including retirement incentives, unpaid and sabbatical leaves of absence, and job sharing.

Additionally we are not alone in saying that there are some serious questions regarding management practices in quite a number of school districts, e.g.:

Declaration of bankruptcy by the Copper River School district

Continuing accumulations of unrestricted fund balances while class sizes continue to grow and programs are eliminated

Sharp increases in administrative personnel and costs in the past decade

Instances of budget figure manipulations

Notification by the Juneau School district of potential non-retention to some 38 classroom teachers (based on projections of student enrollment) while not one administrator is so notified - and with the district having knowledge of at least 20 retirements

Existence of independent administrative and business operations by very small school districts that are in close proximity to one another

The language this bill proposes to amend was enacted in the 1960's when the State's economy was much less secure than it is presently. The legislators who debated and enacted this language were quite cognizant of the historic boom-and-bust cycle of Alaska's economy, yet they had the wisdom to see the benefits accrued from a stable teaching force in the schools. They also took the view that if the students were enrolled the teachers should be there to teach them - even if that meant sacrifices in other areas of the budget. We believe that view is sound and should remain unaltered in statute.

It seems to us that it would be far more productive to pool our energies to work for a constitutional amendment that would allow one legislature to bind another for purposes of establishing State funding for school districts one year in advance of the budget year.

NEA-Alaska section analysis of SB 230 "An Act relating to notification of nonretention of teachers and to reduction of personnel in public education because of anticipated revenue decreases; and providing for an effective date."

SECTION 1. FINDINGS AND SECTION 2. POLICY:

***We agree with the findings and policy sections; however:**

- > The terms "adequate staffing" (line 12) and "adequate classroom staffing" (Line 21) need to be defined.**
- > Subsection (3) (lines 15-16) needs to be highlighted and specifically clarified to mean smaller class sizes are essential for optimum interaction to occur between pupil and teacher.**

SECTION 3. NOTIFICATION OF NONRETENTION:

*** June 15 is an impossibly late notification date. If school districts are going to meet their program needs by redeploying their teaching staffs, the teachers need to know so they can begin the process of preparing themselves; with few exceptions universities and colleges have spring dates for matriculation into their summer school programs. It is also too late to begin the process of searching and applying for a teaching position in another district whether in or out of state, and therefore, practically guarantees that the person will be unemployed as a teacher for the following school year. March 15 is a realistic notification date and should be retained.**

SECTION 4. AS 14.20.175 (b) Page 2 (lines 12-15) adds language that allows a district to non-retain tenured staff if the district anticipates the State will reduce its funding below the FY 87 level.

*** We note an inconsistency with the anticipation language in Section 3 that sets out June 15 as the notification date. June 15 falls well beyond the Legislature's adjournment date, so State funding figures will be known well in advance of the notification date.**

*** SB 119 and HB 126 both establish the instructional unit rather than the Average Daily Membership (ADM) as the State's funding mechanism for public schools.**

*** Clear definition is needed regarding what is meant by funding from the state and what is meant by less. There are several ways the language in lines 14-15 could be interpreted:**

- > The State actually reduces the funding for an instructional unit**
- > The State maintains the instructional unit funding at FY87 levels but the DOE prorates State funding in a different manner than the year before**
- > The State refuses to fund a special project/grant the district had in FY87**
- > The State refuses to fund special programs that affect students in all districts (e.g. Close-Up)**
- > A funding reduction resulting from a decrease in student attendance**

*** This language is incredibly open-ended in that it would allow a district to non-retain tenured teachers if the State funding for a district were to be decreased by even a fraction of a cent from the FY87 level. In our view only a financial exigency of defined proportions that can be clearly**

documented and proven to an impartial third party would be sufficient to trigger such a draconian action.

SECTION 5. ADDING A NEW SECTION TO AS 14.20...14.20.177 LIMITATIONS ON REDUCING TEACHING STAFFS

(a)

- * The language in this section constitutes no limitation what-so-ever.
 - > There is no requirement that the reduction in funding constitute an exigency
 - > What is the definition of necessary (line 19)?
 - > The words only after determining that it is necessary and consistent with educational policy and good management (Lines 19-20) confer broad power that is not subject to scrutiny by an independent and impartial third party
 - > Lines 20-23: The school board shall consider reducing an appropriate ratio of classified support staff, certificated administrative staff, and appropriate nonpersonnel expenditures at the same time. There is no requirement that the school board first reduce expenditures in these areas before they reach directly into the classroom. There is no indication that the classroom teacher should be a priority in a school board's budget decisions which seems contrary to the Findings in section 1.
- * In line 18 (Page 2) the use of the word shall is directive and probably was intended to read "may".

(b) If the bargained agreement does not address the issue of reduction in force, then it should immediately become a matter of negotiation between the district and the Bargaining Unit - and subject to binding arbitration if impasse occurs over the language

(c) Given the reduction of personnel and programs that has already occurred and is continuing in many school districts, and given the interest of the public in the financial decisions about their public schools AS 44.62.310 should be amended to have all discussions, presentations, written records, and work papers about the finances of a school district as well as the budget, regardless of its state of preparation or finality, *conducted in a public meeting of the school board and available to the public upon request.*

(d) Refer to comments in Subsection C.

SEC. 14.20.178 TEACHERS ON LAYOFF STATUS (Page 3 beginning Line 15)

This section creates a whole new category of teacher - one who is on lay-off status -and this section has the effect of also creating at least two new subcategories of teachers, i.e. those who are tenured and laid-off, and those who are non-tenured and laid off.

The whole question of whether or not a reduction in staff has been made necessary based on a reduction in State funding over FY 87 is one that must be subject to review through the negotiated grievance procedure including the right to binding arbitration.

Subsection (c) raises many questions. For example, what does and has the particular skills required to perform the duties of the position (Page 4 Lines

6 and 7) mean? Under the provisions of current statute a person who holds a current Type A certificate is qualified to teach any subject k-12. Is the intent to insure that a district does not offer a person with only a Type D certificate a position that requires a Type A certificate, or a person with only a Type A certificate a position requiring also a Type B certificate? Also, does this subsection require a district to make good faith efforts to redeploy its certificated staff before it offers positions? And, is the district free to break up teaching couples by offering a position to one in one site and a position to the other in a distant part of the district?

- * This Section is inconsistent with Section 3 of the bill.
- * Lay-off and recall before the school year begins could adversely effect health insurance/dental coverages.
- * Recall list should be at least two years.
- * "Two offers" may be gamesmanship for some school boards.
- * More emphasis should be placed on redeployment of staff and the utilization of normal attrition.

SECTION 6. EFFECTIVE DATE

The immediate effective date has the effect of retroactively negating rights certificated people enjoy under statute.

JK16/dI

ASSOCIATION OF ALASKA SCHOOL BOARDS

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

April 28, 1987

The Honorable Paul Fischer, Chairman
Senate HESS Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fischer,

As we discussed earlier, I would like to submit some comments and proposed revised language relative to S.B. 230 for consideration by the Senate HESS Committee.

First of all, S.B. 230 could be considered a potpourri of attempts at a solution to one common problem; that being that local school districts cannot reduce their tenured teacher work force at any time and their non-tenured work force at certain times of the year.

S.B. 230 is a sincere attempt to provide relief to local school districts, yet the bill is flawed by ambiguous language.

If there is a serious effort by this legislature to alleviate the obvious problem, then S.B. 230 can be modified to both alleviate some of the concerns of teachers in the matter of tenure and the concerns of school boards in their need for a legal layoff provision.

Let me first critique the existing language of S.B. 230 and then make some recommendations.

Sec. 3 and 4 deal with the surplus of tenured and non-tenured teachers through the process of non-retention. The changing of the tenured teacher notification date from March 15 to June 15 is an attempt to get more realistically in line with budget deliberations. This change is obviously creating a lot of anxiety in the ranks of tenured teachers.

SUGGESTION: If, in section 4, on line 12, we can speak to an ANTICIPATED drop in enrollment or anticipated loss of revenue, the June 15 date could be accommodated. Our problem is that labor takes the position that the drop in enrollment has to be an ACTUAL drop before the enrollment clause can be implemented. We can only assume that the drop in revenue language proposal will run into the same obstacle.

LIMITATIONS: Having attempted an improvement on the language of sections 3 and 4, the committee needs to understand that modifying the non-retention language of the Alaska Statutes is less than an ideal approach to solving the problem of surplus staff. The reason for this is that the non-retention option is only available to school boards for a "window" period of time in the Spring of each year. This option is closed when the annual contract is offered to the teacher, usually in May or June. Judge Carpeneti, in September, 1987, ruled that teachers could not be laid off once the teaching contract was issued.

Section 5 on page two of the bill creates a new section entitled LIMITATIONS ON REDUCING TEACHING STAFFS. This nomenclature is technically flawed and will create confusion with other staff reduction language now in statute and in collective bargaining asgreements. AASB will recommend the exclusive use of the term LAYOFF to describe temporary staff reduction.

AASB will also recommend elimination of any reference to committee action dealing with school board policy decisions. We will, however, suggest maintaining the use of the bargaining process to determine layoff procedure.

There are a variety of reasons why AASB would like to expend its energies on avenues of solution to the surplus staff problem other than advancing means of non-retaining teachers. The first being that when teachers are non-retained, they lose benefits that boards would not like to see them lose. We do not want to penalize good teachers for getting into the economic difficulties of the board through no fault of the teacher.

AASB would like to concentrate on creating a legal means of laying off surplus teachers and at the same time creating some degree of job and benefit security for laid off teachers. Toward that end, AASB would like to submit for consideration by the committee, substitute language for S.B. 230.

Attached is recommended language for a CS for SB230.

Your consideration of our proposal will be greatly appreciated.

If AASB's proposal is considered by the Senate HESS Committee, AASB would respectfully ask that a letter of intent be included addressing the fact that FY 87 budgetary figures may not correspond with FY 88 figures to the extent that TRS funds are included in the state foundation support in FY 88.

Respectfully

A handwritten signature in black ink, appearing to read "Robert C. Greene", with a long horizontal flourish extending to the right.

Robert C. Greene
Executive Director

ASSOCIATION OF ALASKA SCHOOL BOARDS

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PROPOSED LAYOFF LANGUAGE FOR SB 230

Sec. 1. AS 14.20 is amended by adding new sections to read:

Sec. 14.20.177. LIMITATIONS ON TEACHER LAYOFF. (a) When faced with a reduction of revenue from all sources, a school board shall layoff members of its teaching staff, either tenured or non-tenured, at any time of the year, only after determining that it is necessary and consistent with educational policy and good management. The school board shall consider reducing an appropriate number of classified support staff, certificated administrative staff, and appropriate non-personnel expenditures at the same time.

(b) In determining layoffs, a school district shall comply with collective bargaining agreements that address the issue. If the agreement does not address the issue, then the district may implement a layoff procedure by policy.

(c) Notwithstanding AS 44.62.310, a discussion or presentation of information or options available to the school board on the question of teacher layoffs under this section, including preliminary discussions, presentations and decisions, shall take place in a public meeting of the board.

Sec. 14.20.178. TEACHERS ON LAYOFF STATUS. (a) A school board may layoff a teacher, either tenured or non-tenured at any time during the year, however the board shall give a teacher at least 30 days notice before placing the teacher on layoff status. A teacher, including a teacher who has acquired tenure rights, may be placed on layoff status only when a layoff in staff has been made necessary

- (1) by a decrease in school attendance
- (2) because anticipated funding from all sources will be less than was available to the district during the prior fiscal year.

(b) A teacher on layoff status does not accrue leave. Time spent on layoff status does not count toward the acquisition of tenure rights. Layoff status, however, does not constitute a break in service for

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

(c) When a teaching vacancy becomes available in a district that has teachers on layoff status, the district shall not fill the vacancy with a teacher not employed by the district until the position has been offered to each teacher in the district who is on layoff status and has the particular skills as defined by the Department of Education required to perform the duties of the position. A teacher on layoff status who refuses an offer of employment from the district under this subsection loses

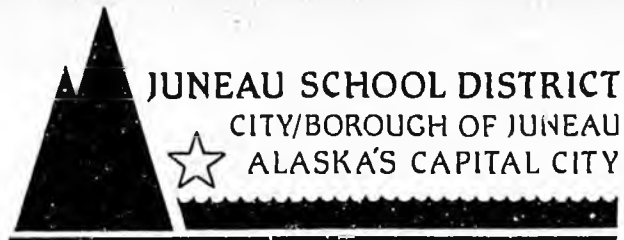
- (1) reemployment rights under this section;
- (2) All other benefits normally lost occasioned by a break in service.

(d) Nothing in this section shall limit the right of the school board to non-retain tenured and non-tenured teachers under the provisions of A.S. 14.20.175.

Sec. 2. This act takes effect immediately under AS 01.10.170(c).

CONCEPTS RELATIVE TO STATUTORY CHANGES RE RIF/LAY-OFF

1. Requirement that district notify bargaining agent(s) of contemplated need to RIF/LAY-OFF, provide bargaining agent(s) with all pertinent and attendant data re same, meet with bargaining agents individually/collectively to discuss and explore all options short of RIF/LAY-OFF.
2. Definition of financial exigency; and establish financial exigency as enabling to consider possible RIF/LAY-OFF.
3. Requirement that district make public declaration and proof of financial exigency.
4. Requirement that district prepare for public distribution a Program Impact Statement relative to specific program and employee retrenchment needs.
5. List and define a number of cost saving measures which must be acted upon with efforts made toward implementation before any actual RIF/LAY-OFF.
6. Requirement that district negotiate and include in the collective bargaining agreement an appropriate RIF procedure with each bargaining unit before an implementation of RIF/LAY-OFF.
7. Establish timelines for # 1 - 6.
8. Subsequent to determination that there will be RIF/LAY-OFF, but before implementation, requirement that the district will negotiate on the IMPACT of the RIF/LAY-OFF on the RIF'g employees and on the survivors.
9. Establish that there will be finality in the negotiations law through last best offer arbitration and that non-certificated employees have the right to organize and negotiate their terms and conditions of employment.
10. Other statutory needs:
 - * Amend the APA to require that all budget deliberations, discussions, and decisions be done in public session and require that all work papers and related materials be available and a part of the public record.
 - * Establish that the RIF/LAY-OFF decision is grievable under the collective bargaining agreement.
 - * Define RIF/LAY-OFF as an unpaid leave of absence.
 - * Establish that RIF/LAY-OFF does not adversely impact basic statutory rights such as tenure, accrued leave and that it is not an interruption of the accrual of tenure.
 - * Require that the definition of seniority be district-wide and that recall be minimally based on certification.
 - * Establish that the minimum time for a recall list be at least two years and 90 days into a third year.
 - * Consider the establishment of a state-wide recall list; minimum of five years of status.
 - * Establish that if a district fails to utilize the recall procedure they incur full liability for that person's salary and benefits.
 - * Establish that any district which files for bankruptcy protection by the courts immediately becomes a state-operated school for no less than six months and until the Department is satisfied that they can responsibly manage their fiscal affairs.



10014 Crazy Horse Dr., Juneau, AK 99801 • (907) 586-2303

TO: Members, Senate HESS Committee

FROM: Elaine M. Hopson
Personnel Director

DATE: April 24, 1987

SUBJECT: Senate Bill 230

My purpose today is to speak in support of SB 230. I will speak to it on the points of timelines, allowable reasons for layoff, administrative layoffs and responsibility to teachers.

The findings section of this document, as Senator Faiks so admirably stated by Senator Faiks, is the heart of this bill and I, even as an administrator, would go so far as to say number 3 is the most important. Children in our schools learn based on their interaction between pupil and teacher. Proponents and opponents could all agree on those findings and those goals for our educational system. How to implement the activities which will realize those findings and goals is the question.

Timelines

The time for notification of nonretention would be changed from March 15 to June 15. I heartily support this time change. The Juneau School District has been forced to layoff 38 teachers this year, 22 tenured and 16 non-tenured. According to statute, we had until the last day of school to layoff the non-tenured and the tenured had to be notified by March 15; however, according to our negotiated agreement, we could not layoff the tenured while non-tenured remained. Therefore, we have been forced to disrupt the lives of 38 families, some of whom we seriously think we may eventually be able to hire back. Our non-tenured teachers were laid off for financial reasons; our tenured due to a projected decrease in enrollment. Had we been able to wait until June 15, we would have had more information pertaining to enrollment and financial resources. We might have avoided some of the trauma we were forced to inflict on these families.

Reasons for Layoff

At the present time, we are only allowed to layoff tenured teachers if there is a decrease in enrollment. With declining resources such as they are, it is certainly possible that we may be faced in the future with

not sufficient to pay the teachers we have on staff. Currently 76% of our budget goes to certificated personnel expenses, so it is not reasonable to greatly reduce expenditures through non-personnel cuts. In addition, many non-personnel expenses are not negotiable; i.e., oil, electricity, telephone, etc. Therefore, it is necessary that we have some flexibility when dealing with the major portion of our budget, personnel.

I would like to suggest some changes to Section 4, on page 2, line 12. I would add the word "anticipated" before the word decrease. In addition, I believe line 15, which makes the amount received from the state in 1987, the baseline from which we judge a decline in revenue be changed. It would seem more reasonable to state that a decline in revenue would be "less than the amount the district received the previous year" or to even put in a definite percentage decrease.

Administrative Layoffs

The issue was brought up Monday regarding adding a requirement that administrators be laid off proportionately to teachers. In some districts this may be necessary. In others, administrators are being laid off as revenues decrease. We decreased one Assistant Superintendent last year and three half-time coordinators in special education, a half time bilingual director, .5 computer director and the Federal Programs Director. We anticipate that additional administrative layoffs may occur this year; the teachers were laid off early because of the March 15 deadline; that constraint is not placed on us regarding the administrators. We have at least two administrators retiring, one going on leave, and have notified several others of possible reassignments, so we are looking at all options.

Responsibility

The opinion is out there that we are playing games with our teachers and want to layoff a large number so we can do all kinds of things with their lives. This is not true for two definite, important reasons: one, the collective bargaining agreement under which we operate does not allow that kind of behavior, and secondly, we don't want to do that. The Juneau School District's negotiated agreement with our teachers does not allow us to use layoffs as a time for game playing. The layoffs occur based solely on seniority and the rehires are based on layoff dates. In other districts there are modifications to a seniority layoff system including consideration of program areas.

We have hired good teachers whom we want to keep. During the past three years we have not hired any teacher we did not want to keep on the staff or who has been nonretained for a reason other than a reduction in force. We pride ourselves on an outstanding program which is totally dependent upon the quantity and quality of our teaching staff.

In Section 5 (c), line 29, the possibility arises to interpret the language to allow many, if not all, personnel decisions to be discussed in open, public session. I feel the open meetings statutes provide adequate coverage of this issue. I would like to see this section deleted.

I also think section (d) beginning with line 5, will present many problems, although not for the Juneau Schools; our collective bargaining agreement covers all lay-offs or reduction in force (RIF). For smaller districts, however, or districts not having coverage, this section really puts the pressure on and is very beneficial to the employee's position. The establishment of such a committee could work to the disadvantage of both the collective bargaining process and the district. I believe this section should be deleted.

Section 14.20.178 of the proposed legislation is also covered in our negotiated agreement. Our teachers are given several options which include taking up to two years Leave Without Pay. Our teachers are dropped from the rehire list only if they refuse a position for which they are qualified. One refusal should be all that is allowed so I would ask that in page 4, the word "two" be changed to "one." We have 62 on our rehire list now and two refusals could allow the list to last for years.

This brings us full circle to the findings Senator Faiks so aptly enumerated. We want those very same things in our educational system and I feel we can best provide them through the passage of this legislation. The June 15 date allows us to make more accurate projections prior to having to lay people off and the option of laying people off because of decreased money is a necessary practical consideration during these difficult financial times.

Thank you for allowing me the opportunity to present our viewpoint.

April 16, 1987

Re: HB 130 & HB 199

*Prop-S
Lay-off*

Use CS HB 130 (HESS) as the basic document, as is; incorporate the intent from Sec. 3 of HB 199 as revised below.

1. Add a new Sec. 14 and or additional Sec. to CS HB 130 (HESS) and renumber the current Sec. 14 & 15 accordingly at the end of this bill.
2. New Sec. 14;
 Repeal current statute 14.20.175 (b) (4)
 Add new section to statute; 14.20.176; LAY-OFF
 - (a) A teacher may be placed on Lay-off status when a necessary reduction in staff is occasioned by:
 - (1) a decrease in school attendance
 - (2) a financial exigency; notice of layoff shall be given no less than ninety (90) days before the effective date of layoff.
 - (b) When a district determines the possible need to Lay-off employees (a) (1) or (2) above the district shall notify the bargaining agent(s) of this pending determination, provide them with all pertinent data, and meet with the bargaining agent(s) to discuss and explore all options short of actual lay-off.
 - (c) The district shall prepare for public distribution a PROGRAM IMPACT STATEMENT which shall specifically outline the proposed program and staff retrenchment plans, including possible options to staff retrenchment.
 - (d) If the Lay-off is for reasons shown in (a) (2) of this section, the district shall attempt to implement all possible cost saving measures before the lay-off of any employees. The department shall prescribe regulations relative to the implementation of this section.
3. Amend 14.20.207 by adding a new section to definition:
 - (7) a "financial exigency" is a demonstratively bona fide, imminent financial crisis which threatens the viability of the school district and which cannot be adequately alleviated by means other than a reduction in the employment force.
4. Amend 14.20.550 by adding at the end of the current paragraph; "including but not limited to provisions pertaining to reduction in the work force when the district contemplates the need for Lay-off as provided for in 14.20.176."

???-question whether the above is needed since the Kenai decision makes RIF a negotiable issue; however, there may be a need to reinforce the obligation vis a vis Lay-off.

5. Amend 14.20.550 by adding a new paragraph:

(b) In the event of Lay-off under 14.20. 6, the district shall negotiate with the recognized bargaining agent(s) on the impact of the Lay-off decision.

???-the obligation to negotiate the "impact" of policy decisions vis a vis lay-off has been established through litigation in other states; do we need enabling legislation or can we rely on other jurisdictions and/or a common law principle?

6. Amend 44.62.310 by adding a sub-paragraph to (b):

(1) All school district budget deliberations and discussions shall be done in public session and all work papers and related materials shall be available to the public and a part of the public record.

7. Amend 14.20 590 to provide that any decision by the district to Lay-off employees under 14.20.176 is subject to review under the grievance procedure.

8. Amend 14.20.207 by adding a new section to definitions:

(8) a "Lay-off" is defined as an unpaid leave of absence and a person who is in lay-off status shall stay on the recall list of the school district for no less than two (2) years and ninety (90) days.

9. Amend by adding a new section 14.20.177; RIGHTS OF EMPLOYEES RELATIVE TO LAY-OFF STATUS:

District-wide seniority shall be the basic criteria in determining order of lay-off and order of recall.

Lay-off status does not adversely alter accrued benefits such as tenure and leave and does not constitute a break in service for determining eligibility for tenure, retaining acquired tenure rights, and retaining accrued benefits under the Teachers' Retirement System (14.25)

10. Amend by adding a new section 14.20.178; DISTRICT RESPONSIBILITY:

If a district fails to offer an employee on lay-off status the opportunity to return to a vacancy or open position for which that person is certificated while that person is on lay-off status as provided for in 14.20.207 (8), the district shall pay the employee the salary and benefits due for remainder of the lay-off period.

11. Amend 14.070.020, Duties of the Department, by adding two new paragraphs:

(15) The department shall maintain a state-wide recall list for employees who have been laid-off by districts under the provisions of 14.20.176. An employee's name shall be kept on this list for five (5) years or until re-employed, whichever is shorter.

If a district has an opening or vacancy and has exhausted their own local recall list, said position may be claimed by a laid-off person on the state-wide recall list.

(16) If a school district files for bankruptcy protection by the courts, the department shall assume full responsibility for the operation of that district for no less than six (6) months and until the department is satisfied that the district is capable of responsible management of their fiscal affairs.

ASSOCIATION OF ALASKA SCHOOL BOARDS

111 W. 4th St • Juneau, Alaska 99801-1510 • (907) 586-1083

TESTIMONY ON SENATE BILL 230

Association of Alaska School Boards

Testimony

The Association of Alaska School Boards would like to present testimony in favor of passage of Senate Bill 230, which would essentially give school boards the flexibility necessary to manage their school districts to the best advantage of their students.

A main point to keep in mind is that school boards are made up of responsible, conscientious individuals who are elected to represent the public's interest in schools, and as such they are entirely accountable for their actions to the people who elect them. Their major motivation is to see that the best possible education is delivered to students in the most effective and efficient manner possible. They recognize that this cannot occur unless their schools are staffed adequately. It would be counterproductive to their mission to see the numbers of their teaching staff unnecessarily reduced.

In recent years school districts around the state have enjoyed a comfortable level of funding, allowing them to staff their districts with the highest quality classroom teachers, education specialists and administrators and to pay those employees very well, particularly in comparison to other states. However, the current state budget picture has caused school boards to take actions to cut their school budgets rather severely.

When Governor Sheffield announced the 10% budget cut for schools in July 1986, AASB surveyed school districts to determine what kind of cuts that would mean in school districts. The results of that survey were compiled in September and are included with this testimony. (Exhibit "A")

Fifty-six percent of the school districts responded. Many districts indicated that they would look to budget reserves to make up the loss in funding, then planned to cut such things as travel, supplies, equipment, and food service. Many districts were looking at a reduction in the level of personnel in all categories: classified, teachers and administration. Many indicated that they had already begun to reduce personnel in all categories through attrition, by not filling positions that had become vacant.

When it appeared that further cuts might become necessary, AASB again surveyed districts to get a more exact idea of what those cuts might mean in terms of reductions in staff. The December 1986 summary of that survey is also included here (Exhibit "B"). By this time, districts had been able to more clearly assess their staffing situation. The overall result was that districts planned to reduce classified employees in large numbers (from 3% to 100%, depending on the district), administrators by significant numbers (2% to 67%), and teachers by the smallest percentage (5% to 38%). Instances where administrators were not being cut were usually districts with only 1 or 2 administrators for the district, such as Bristol Bay or Chugach School District.

Most districts have opted to curtail or eliminate such things as fine arts programs, elective courses, extracurricular activities, food service and building maintenance, before considering staff reductions. Those type cuts do not carry large savings, however. Salaries and benefits represent the major portion of the school budget.

Since most school boards do not negotiate with their classified staff or administrators, they have been able to effect reductions in those payrolls by asking for voluntary cuts or by making arbitrary salary reductions. Any reductions in teachers salaries must be made by negotiations and those reductions have been hard to come by. The teachers union position is that school districts are not really experiencing any serious budget reductions and that there is not a need for either layoffs or pay cuts.

This leaves school boards in the position of only being able to effect nominal cuts in their school budgets. They can cut classified and administrative positions and salaries, programs, extracurricular expenses, and maintenance. They have already made many of these cuts. But they are unable to make sound management decisions about staffing because current state laws do not allow them to cut tenured teaching staff in times of decreased funding.

Statutes currently allow for the non-retention of a tenured teacher only for reasons of incompetency, immorality, noncompliance with school laws and regulations, and staff reduction caused by decrease in attendance. Both school boards and teachers' unions recognize the need for layoff provisions, however, as is evidenced by the fact that almost 80% of the negotiated contracts in the state have clauses providing for a layoff procedure (See Exhibit "C"). It should be noted that in twelve districts, decrease in funding has been agreed to by the union as adequate reason for layoff. Because of the Superior Court decision of last fall, those layoff clauses are unenforceable.

It is fairly apparent that cutting the number of teachers is the last choice a school board will make. But they need the latitude to make that management decision, if they are to be fiscally responsible while maintaining a balanced educational program. Since teacher layoff is recognized by both school boards and teachers as an unfortunate necessity in certain circumstances, it seems reasonable that this bill could be passed in a form to provide reasonable protection for teachers and management flexibility for school boards. It is already established that layoff procedures are an appropriate item for negotiations, so further protections for teachers could be secured through that process.

Several school boards have established layoff procedures in district policy. Policy setting is also an open public process which would give teachers an avenue for input into developing appropriate procedures.

School boards are in the unenviable position of having to make difficult and unpopular decisions. No one wants to see his favorite program or activity cut back. No one wants to see his paycheck cut. No one wants to be unemployed. Unfortunately, given the current funding picture, some of these things are going to have to occur.

If an artist has to re-work a painting, he considers the entire picture and how the various elements work together. He does not decide to repaint the picture leaving everything that is blue or red untouched. School boards will be able to make far better decisions if they are able to consider the entire school district picture, and not parts of it in isolation. Senate Bill 230 will allow them to look at the education picture in its entirety, and to re-work that picture so that it maintains its balance and function.

ASSOCIATION OF ALASKA SCHOOL BOARDS

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EXHIBIT "A"

AASB BUDGET CUT SURVEY

September 29, 1986

On July 25 AASB sent a survey out to school districts asking what measures districts were considering or implementing in order to achieve budget cuts necessitated by the 10% cut in state funding to schools.

A report of the 25 initial responses was issued to districts on August 19. The report attached here is an update as of September 29, showing responses from 31 school districts. The new responses included here don't significantly change the pattern of cuts that districts reported earlier. Personnel cuts are mostly occurring through attrition - vacant positions are being eliminated or left unfilled. Other frequently mentioned cuts are in the area of travel, supplies and equipment and in-service costs.

ASSOCIATION OF ALASKA SCHOOL BOARDS
SURVEY ON BUDGET CUTS
September 1986

DISTRICT	PERSONNEL CUTS			WHEN	OTHER ACTIONS CONSIDERED
	Classified	Teachers	Administration		
Alaska Gateway	N	N	N		Reduce classified hours; cut travel, RSVP
Aleutian Region	N	Y	N	By September	Attrition, cut equipment, reduce all categor
Anchorage	N	N	N	By Aug. 18	Freeze hiring - See list for other actions
Annette	Y	Y	Y	Spring 86	Non-retained tchrs - See detailed list
Bristol Bay	Y	Y	N		Leave vacant positions unfilled - See list
Chatham	N	N	N		Utilize fund balance, limit materials purch.
Chugach	N	Y	Y	Immediately	Leave vacant positions unfilled - See list
Craig	Y	N	N	By Sept. 25	Reduce travel, supplies, equipment, texts
Delta Greely	Y	Y	Y		Cut classified, reclassify pos.; pay cuts
Dillingham	Y	Y	N	FY 87 & 88	Use carryover - See attached list
Copper River	N	N	N		Pay cuts
Galena	N	N	N		See attached list
Hydaburg	N	N	N		Negotiate salary cuts
Iditarod	Y	Y	Y	Now	Transfers, leave positions vacant, see list
Kake	Y	Y	Y	May 86	Re-assign teachers, see detailed list
Kenai	Y	Y	Y	By Aug. 19	Transfers, leave positions vacant, see list
King Cove	N	Y	N	Already done	Reduce tchr sal \$5000, reduce travel, raise
Klawock	Y	Y	N	By Aug. 20	Leave positions vacant, see list
Lake & Peninsula	Y	Y	Y	Already done	Lv. pos. vacant; cut art & music, sports, lu
Mat-Su	Y	Y	Y	By Aug. 18	Eliminate vacant positions, see list
Nome	Y	Y	Y		Leave vacant positions unfilled - see list
Northwest Arctic	Y	Y	Y	By Aug. 5	Layoff admin. & classified, lv. tchr pos vac
Petersburg	N	N	N		Use Reserve, don't replace resign & retirem.
Railbelt	Y	Y	Y		Staff cuts-attrition, use reserves, pay cuts
Sitka	Y	N	N	By October	Reduce carryover; elim. cap.imprv.; cut hour
Southeast Island	N	N	N		Negotiate salary & benefit reduction
Southwest Region	N	Y	Y	Now	Leave vacant positions unfilled, see list
Tanana	N	N	Y	Mid-Aug	Negotiate job classification; cut travel
Unalaska	Y	Y	N	Early Sept.	Cut support staff; see list
Valdez	N	N	N		Leave vac positions unfilled, close 1 school
Yukon Flats	Y	N	N	Immediately	Eliminate food service - see list
	55%	58%	42%		

ASSOCIATION OF ALASKA SCHOOL BOARDS
SURVEY ON BUDGET CUTS
August 1986

BUDGET CUTTING ACTIONS - TAKEN OR UNDER CONSIDERATION

ALASKA GATEWAY

The District plans to cut back classified employee hours. Other areas being considered for cuts are travel, RSVP, eliminate the reserve fund, with closer attention to energy conservation and telephone costs.

ALEUTIAN REGION

Number of teachers was cut prior to the school year. Attrition accounted for the cuts, with the non-retention of non-tenured teachers last spring and resignations of other teachers. Classified staff has already been cut and equipment purchases have been cut to zero. Nearly all other categories have been cut to some extent to balance the budget.

ANCHORAGE

The Board has directed administration to find the money without layoffs. We have frozen all hiring, eliminated 75 vacant positions, increased the pupil/teacher ratio, eliminated contractual services, reduced supplies, materials and equipment accounts to the bare minimum, halted all facility renovation except for life safety, and eliminated extra and temporary help.

A detailed process has been developed for determining cuts.

ANNETTE ISLAND

The district non-retained 9 FTE teachers in Spring, 1986.

A comprehensive listing of potential reductions was generated by Administration, Board of Education, employees and community members, then ranked from easiest to most difficult to implement. Generally, instructional program was preserved and support functions reduced.

Program changes allowed several classified and teaching positions to be eliminated. Travel expenses were reduced, a non-refundable band fee per student was established, lunch prices increased and swimming pool closed after school hours. Staff was directed to carry out fund raising to support some school activities. Inter-scholastic competition was eliminated for:

Cheerleading	Gymnastics
Pep Club	Wrestling
Cross Country	Volleyball
Track	

District contribution to Community Ed was reduced by 50%, purchase of teaching supplies and equipment was reduced by 20%.

BRISTOL BAY

Vacant positions left unfilled have allowed the district to avoid layoffs.

1. Cut back on all travel - by 25% at this point
2. All equipment not already ordered has been cancelled
3. Maintenance projects not already started have been put on hold
4. Student activity in-district transportation has been discontinued and will be responsibility of parents
5. All out-of-district consultants for in-service have been cancelled

CHATHAM

Spending embargo on material, supplies and equipment. Will not hire additional people unless enrollment dictates. Will utilize fund balance to meet obligations of the budget.

CHUGACH

Cutting in-service activities
Freezing salaries (classified & certificated) at FY86 levels
Freezing purchasing
Limiting travel, especially charters

CRAIG

Classified personnel who have resigned will not be replaced; custodial staff will be cut by 25%. Other actions considered include reduction in travel, teaching supplies, textbooks, office supplies and equipment. Expenditures will be scrutinized to determine those that will have the least effect on the education of Craig's children.

DELTA GREELY

Budget Reduction Committee has been formed to begin meeting in August. May cut Central Office classified positions and re-classify some positions at lower pay rate. May request all staff members to return to the district the 3% pay increase granted for this year.

AASB SURVEY
BUDGET CUTTING ACTIONS
Page 3

DILLINGHAM

Reduce classified positions and fringe benefits; reduce athletics, staff and student travel, extra pay, library services, inservice, guidance services. Reduce expenditures for professional services, stipends, supplies, media and equipment in all areas of general and special instruction. Reduce expenditures in Business/Superintendent's Office

COPPER RIVER

Currently in the midst of negotiations - the district intends to start the school year by paying the teachers at the level of the board's last offer, which represents a 5% decrease in pay.

GALENA

1. All interest will be credited to the operating budget with the exception of interest on the district's scholarship fund.
2. Substitute budget will be cut by eliminating all but 22 days of administrative leave.
3. In-service budget will be cut completely.
4. The board will use its contingency fund, which has been part of its operating budget for a number of years.
5. Elimination of annual 4th Grade trip.
6. Elimination of cross-country and track & field.
7. Remaining fire insurance fund will be transferred to operating budget.
8. Remaining funds needed will come from the Sidney Huntington Scholarship Fund.

HYDABURG

1. Re-open negotiations for salaries only
2. If all else fails, unilateral cut in pay

IDITAROD

Vacant positions have been left unfilled. Some vacancies resulted from resignation or retirement. District has cut student activities, curriculum development and support services and reduced all school budgets for supplies, books and maintenance. Lunch program has been reduced to 6 month service or no program at all at some sites. Salary and benefit concessions will be sought in current negotiations.

KAKE

Teachers will be re-assigned, resulting in greater class load. Administration responsibilities shifted so that everyone has more work; same with classified personnel. Other considerations:

- Cut out board travel to national convention
- Cut out equipment purchases
- Reduce student activity travel
- Reduce substitute teacher pay
- Eliminate Community Education program
- Eliminate elementary music and Spanish programs

KENAI

Personnel cuts will be made by transferring staff and not filling vacancies. Reductions in the following:

- Custodial and maintenance supplies
- Transportation budget
- Food service subsidies
- Fuel, electricity
- Field trips
- Temporary salaries
- Repair and maintenance budgets
- Instructional media
- Professional services
- Travel out-of-district and mileage allowances
- Some fringe benefits

District may initiate salary freezes

KING COVE

Teachers salaries have been reduced by \$5000 per step on the salary scale. There will be an increase in charges for hot lunch, yearbooks, user fees for school use. There will also be a reduction in all travel. The district anticipates more cuts in teachers and classified staff.

KLAWOCK

- Reduction in classified by seniority and hour reductions
- Reduction in certificated staff by not filling vacancies
- Alternative calendar
- Salary freeze and re-opening of negotiations
- Use of free and/or in-district personnel for in-service

LAKE & PENINSULA

Many personnel cuts have already been effected; classified positions will continue to be cut throughout the year. Current openings will not be filled; art and music programs will be eliminated; one administrative position will be cut and classified employees will be reduced. Lunch programs have been eliminated at four schools. Other actions considered: elimination of competitive sports, reduction of inservice cost.

MAT-SU

Attempts to get wage and benefit reductions from union unsuccessful so far.

1. Unfilled positions eliminated
2. Classified positions reduced
3. Other funds restricted in expenditures
4. Develop process to involve public in budget cutting

NOME

Vacant positions left unfilled. Reduce utility costs as a result of recent energy upgrade projects. Reduce travel, equipment, supplies, instructional materials, activities. Also under consideration: elimination of all student activities, closing schools to many of community school programs requiring heat and lights during normal set-back periods. Elimination of lunch program and further school programs and classes.

NORTHWEST ARCTIC

Additional positions that have been budgeted for will not be filled. Layoff of classified staff and administrators.

PETERSBURG

1. Use reserve
2. No replacements for positions left vacant by resignations and retirements
3. Major cuts to discretionary portion of budget

RAILBELT

Personnel cuts have been made by attrition so far. District will use carryover funds first, then if necessary, across-the-board salary/wage cuts.

SITKA

The School Board consulted with a committee of community members, district employees and administrators, to develop a priority list of budget cuts. The final list approved by the Board included reducing budget carryover to equal 3% of the maintenance & operation budget, eliminating all capital improvements, cutting classified positions, reducing substitutes' wages and reducing funds for a number of other areas such as summer school, extracurricular activities, and foreign language development.

SOUTHEAST ISLAND

The district has recently completed successful negotiations for a reduction in teacher salary and benefits.

SOUTHWEST REGION

Vacant positions are left unfilled. Reduce planned expenditures for supplies and oil, postponing to 1987-88 budget the impact of funding reduction.

TANANA

Plan to cut back an administrative position to teaching position, and reduce travel. Will do force account on a fire/safety code upgrade and use savings to pay salaries.

UNALASKA

Balance out support and certificated cuts as much as possible. Look at program cuts rather than seniority. Cut all support staff as we can possibly afford. Other considerations:

1. Cut school lunch program entirely
2. Cut grant programs (Migrant Ed, Title I) that involve large outlay of cash flow and take a lot of time for reimbursement
3. Cut athletics to one-third

VALDEZ

Vacant positions have not been filled, eliminating several classified and certificated employees. One elementary school may be closed.

AASB SURVEY
BUDGET CUTTING ACTIONS
Page 7

YUKON FLATS

Eliminate food service. May also consider reduction of:

1. Travel
2. Evening use of facilities
3. Board meetings by audioconference
4. Student activities
5. Board meeting fees
6. Vocation dormitory program
7. Special contracts

ASSOCIATION OF ALASKA SCHOOL BOARDS

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

EXHIBIT "B"

AASB 15% BUDGET CUT SURVEY

December 4, 1986

Attached is a report on the results of the survey sent to school superintendents on October 10, asking what the impact would be to their districts in terms of staff cuts, program and maintenance if the state should cut school funding by another 15%. A total of 46 districts responded to the survey, representing 84% of all districts.

The percentage figures on the staffing cuts are approximate, since they were calculated on estimated cuts against FY86 total staffing figures. The FY86 figures were the only ones we have available at present.

The summary of district comments include only those comments that reflect a statement of specific action in terms of elimination of specific programs or positions. The most common items targeted for elimination were:

- Fine arts programs
- Elective courses (high school and junior high)
- Extra curricular activities
- Library programs
- Physical education
- Counselors
- Aides
- School nurses
- Food service
- Community education activities
- Building maintenance other than on an emergency basis

A large number of districts also responded in terms of reducing the scope of existing activities or programs, and many reported a major increase in class size would occur.

ANTICIPATED STAFF CUTS NECESSITATED BY 15% BUDGET CUT
SURVEY RESULTS

December 1986

DISTRICT	Clsfd #	Tching #	Admin #	Clsfd %	Tching %	Admin %
Adak	9		1	64		17
Aleutian Region		2	1		5	25
Anchorage	150-225	175-235	5-15	10-15	6-9	4-11
Annette Island	2	2	1	9	6	25
Bristol Bay	2	4		11	17	
Chatham	3	4	1	9	12	25
Chugach		2			15	
Copper River	25.5	6		100	14	
Cordova	6		1	29		33
Craig	2	4	1	21	21	33
Dillingham	2	10	.5	6	22	5
Fairbanks	58	130	15	13	14	24
Galena	3.5		2	29		67
Haines	1.5	5		13	13	
Hydaburg	1	2		9	17	
Juneau	18	40	3	9	13	14
Kake	1	4	1	5	16	20
Kashunamiut	2			(Not Avail)		
Kenai	52	91	7	15	15	14
Ketchikan	6	20	2	7	12	15
King Cove	2	1		27	7	
Klawock	5	4	.5	67	22	25
Kodiak	20	20	5	17	13	24
Lake & Peninsula	15	8	2	30	16	20
Lower Yukon	19			14		
Mat-Su	50	80	1	14	14	2
Nenana	3	3	.5	23	15	13
Nome	7	10	1	17	16	17
North Slope	3	10	2	(Not Avail)	7	11
Northwest Arctic	20	10	5	11	7	19
Pelican	1	1.5	.25	29	23	25
Petersburg	5	3		33	7	
Pribilof	1	1	.5	6	7	17
Railbelt	2	4	1	9	12	14
Sitka	15	9	1	22	8	9
Skagway	No room left to cut anymore staff and still keep school open					
Southeast Island	15	10	2	(Not Avail)	19	40
Southwest Region	10	6	3	10	9	17
Tanana	2	1		(Not Avail)	10	
Unalaska	1	6		29	38	
Valdez	6	4		9	6	
Wrangell	4	6	1	30	17	33
Yakutat	.75	4	.25	5	22	8
Yukon Flats	2	4	2	3	9	13
Yupiit	5	2	2	(Not Available-----)		
Yukon Koyukuk	5	5	2	7	8	11
STATEWIDE RANGE:	560-635	714-773	74-84	3-100%	5-38%	2-67%

AASB 15% BUDGET CUT SURVEY
December 1986

Summary of District Comments

ANCHORAGE

See Attachment A for extensive comments regarding impact on program.

BRISTOL BAY

Program would be reduced to basic education only; art, remedial programs, and pre-school would be eliminated.

CHATHAM

Elimination of R.S.V.P, Close-up, correspondence study options, and community schools programs.

COPPER RIVER

Elementary classes would have to be combined (Grades 1&2, 3&4, etc.)
Elimination of all elective courses, closure of some schools, placement of students on correspondence study.

Work on the new high school would be stopped; there would be no maintenance program.

CRAIG

Elimination of Hot Lunch, Counseling, elective classes for jr. & sr. high, music and art, library. Principal's position would also be eliminated.

GALENA

Elimination of music and physical education program.

HAINES

Close swimming pool, closure of a school, no new textbooks or library books purchased. No maintenance program.

KETCHIKAN

Elimination of swimming, elementary library, art, physical education and counseling programs.

KING COVE

Elimination of food service, teacher housing.

KLAWOCK

Elimination of all aides.

KODIAK

Elimination of elementary music and physical education program, secondary counselors, elective classes and activities. Also, elimination of school lunch program, school nurse; no preventative maintenance program.

LAKE & PENINSULA

Elimination of lunch program, all inservice, library operations. Early school closure. No preventative maintenance program. Even with these cuts it might be impossible to operate without a deficit.

LOWER YUKON

"We would have to go to church more often since prayer would have to be included in our plans."

MAT-SU

Elimination of remedial, swimming, home school, all extra curricular activities, counseling, elementary physical education and music program.

NENANA

Elimination of activities, hot lunch, community schools, high school counseling.

NOME

Elimination of hot lunch, athletics, community schools. Classes would be combined. No preventative maintenance.

NORTHWEST ARCTIC

Elimination of food service, vocational education, fine arts programs. Cut in capital expenditures would result in fire & life safety code violations, and leaky roofs.

PELICAN

Elimination of all travel; no preventative maintenance.

PETERSBURG

Elimination of any summer maintenance on buildings. Class size would increase to 30 students per class.

RAILBELT

Elimination of districtwide counseling and health nurse; no preventative maintenance.

SKAGWAY

Cannot cut any further, only recourse is to cut length of school year by 15%.

TANANA

Elimination of food service; unable to continue Chapter I, bilingual, migrant ed programs because of lack of administrative support. Elimination of adult education and community ed activities.

UNALASKA

Eliminations of all fine arts.

VALDEZ

Elimination of all elective classes except vocational; building maintenance for health, life, safety reasons only.

YUKON FLATS

Eliminate high school elective course, extra curricular activities. Maintenance for emergency situations only.

15% Cut Survey - District Comment Summary
December 1986
Page 4

YUPIIT

Eliminate all aides other than those funded by grants. Eliminate hot lunch subsidy and preventative maintenance program.

YUKON-KOYUKUK

Eliminate all inservice training, all student travel and extra curricular activities, music and art programs, district-wide academic competition. Elimination of maintenance travel budgets, supply and equipment accounts. Maintenance would be limited to emergencies only.

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

RESPONSE TO AASB SURVEY
RE: IMPACT OF FURTHER BUDGET CUTS

Section 2. Program

Elementary Education

A 15% reduction in Elementary Education in the Anchorage School District would be \$10,200,000. This is the equivalent cost of 210 elementary teachers. The overall impact would be to eliminate all physical education and music teachers, raise the class size average by 3-5 students per class, essentially eliminate all equipment and substantially reduce supply funds.

Secondary Education

A 15% reduction in the Secondary Education budget would be approximately \$9,500,000. This would equate in dollars to the loss of 185 teachers. Eliminating this many teachers would not be possible while at the same time maintaining a basic academic program. Therefore, other programs such as activities, counselors, teacher aides, librarians, etc. would have to be eliminated and/or reduced. Supply and equipment has already been reduced to a minimum so even if the remaining amount were cut there would be very little saved.

Special Education

A 15% reduction in Special Education in the Anchorage School District would be \$3,775,000. This is the equivalent cost of 79 teachers. This would reduce the number of Special Education Teachers and Teacher Aides as well as greatly reduce the number of related service personnel such as Occupational Therapists, Physical Therapists, School Psychologists and Speech Language Specialists. Referrals would be processed more slowly, waiting lists for Special Education services would be created, summer school programs eliminated and vocational programs greatly reduced. Maintenance of fiscal effort would be impossible resulting in the loss of approximately \$800,000 in federal money thus causing an additional reduction of services. Compliance with PL 94-142 and state regulations would be very difficult resulting in an increase in costly due process hearings.

Other Areas of Concern

A 15% reduction in Curriculum and Instructional Services would mean reduced extra curricular activities, reduced staff training for instructional improvement, and reduced specialized assistance for remedial and gifted students. It would put limitations on adopted instructional materials and supplemental materials and reduce curriculum review and renewal resulting in less current programs, techniques and materials.

ASSOCIATION OF ALASKA SCHOOL BOARDS

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Exhibit "C"

Reduction in Force

An analysis of all negotiated teacher contracts regarding reduction in force provisions showed the following:

SUMMARY

RIF PROVISIONS:

- 40 Districts have RIF language in negotiated agreement
- 4 Districts have RIF language in district policy
- 11 Districts have no RIF provisions in contract or policy

CAUSE:

- 18 Districts have RIF provisions which do not specify cause
- 20 Districts have RIF provisions which specify decrease in enrollment as cause
- 12 Districts have RIF provisions which specify decrease in funding as cause
- 11 Districts have RIF provisions which specify reduction or elimination of program as cause

NOTIFICATION REQUIREMENTS

- 7 Districts have specific time requirements for notifying teachers or the teachers' association of RIF plans
- 37 Districts have no reference to notification requirements in their RIF provisions

Senator Halford said that there are a lot of administrators in the state for the number of teachers. He would like tougher language to require districts to reduce administrative staff before classroom staff. Senator Faiks said she tried that last year and had problems with the principals. From '75 to '85 in Alaska, the number of students has increased 13%, the number of teachers has increased 42%, the number of administrators has increased 95%, the teachers' salaries have increased 128%, and the SAT scores have gone down 2%. In Anchorage, the number of administrators has increased 300% from '75 to '85.

Number 289

Senator Halford said something should be done in that area. He would like the bill to read that the school board shall reduce an equivalent ratio of classified support staff, certified administrative staff, and appropriate nonpersonnel expenditures before reducing classroom staff. Teachers should be the cut last. However, he was not sure if this should be done in law or in regulations. Senator Kerttula said, however, principals and superintendents become Department of Education administrators. Senator Faiks noted that the law should not disrupt any layoff system that is in place.

Number 315

Alaska State Legislature

PRESIDENT
907-465-3755

APR 08 1987

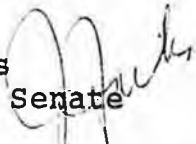
JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

April 6, 1987

MEMORANDUM

TO: Senator Paul Fischer, Chairman
Senate Health, Education and Social Services
Committee

FROM: Senator Jan Faiks 
President of the Senate

SUBJECT: Background on Senate Bill 230
An Act relating to notification of nonretention
of teachers and to reduction of personnel in
public education because of anticipated revenue
decreases

Senate Bill 230 has been referred to your committee for consideration.

The purpose of this bill is to provide for the notification of nonretention of teachers and the reduction of personnel in public education because of anticipated revenue decreases.

Specifically, this bill proposes the following:

Section 1. FINDINGS. Quality education is contingent upon adequate school staffing and is of the highest importance for the future of Alaska and its children. The student-teacher relationship is vital to a child's education and strong instructional leadership is characteristic of effective schools.

Section 2. POLICY. Quality public education depends on adequate classroom staffing in public schools.

OUT OF SESSION

6060 YUKON DRIVE ANCHORAGE, ALASKA 99516 907-274-6611



Section 3. NOTIFICATION OF NONRETENTION. Repeals and reenacts AS 14.20.140. This section of the bill extends the time period within which an employer must notify a teacher of nonretention from March 16 to June 15.

Section 4. NONRETENTION. Amends AS 14.20.175(b) by providing that a tenured teacher is subject to nonretention if a reduction of staff is necessary due to a reduction in anticipated funding.

Section 5. Adds two new sections to AS 14.20.

Sec. 14.20.177. LIMITATIONS ON REDUCING TEACHING STAFFS.

(a) A school board must determine that a reduction in teaching staff is necessary and consistent with educational policy and good management, when faced with a reduction in state revenue.

(b) A school district shall comply with collective bargaining agreements that address the issue of layoffs.

(c) The question of employee layoffs or furloughs shall take place in a public meeting of the school board.

(d) In lieu of a collective bargaining agreement that addresses staff reduction, a school board shall authorize a personnel reduction committee consisting of a representative from each of the employee groups to meet with the school board. The committee shall prepare a plan to implement the reduction.

Sec. 14.20.178 TEACHERS ON LAYOFF STATUS.

(a) A teacher must be given at least 30 days notice before being placed on layoff status. Layoffs may occur only when reduction in staff is made necessary due to a decrease in enrollment or an anticipated reduction of funding from the state.

(b) A teacher on layoff status does not accrue leave, but does retain all accrued sick leave and acquired tenure rights. Layoff status does not constitute a break in service for the purposes of determining eligibility for tenure.

(c) Upon the availability of a teaching position in a district that has teachers on layoff status, the district must first offer the position to each teacher in the district who is on layoff status. If a teacher on layoff status refuses two offers of employment, then she/he loses reemployment rights, accrued sick leave, and tenure rights acquired before layoff.

Section 6. EFFECTIVE DATE. This act takes effect immediately under AS 01.10.070(c).

I would appreciate the committee's consideration of this legislation at its earliest convenience. Should you need any additional information, please let me know.

Thank you.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SB-230

Publish Date : _____

Revision Date: _____

Agency Affected : Education

Title : ...nonretention of teachers...

BRU : _____

Sponsor : Senator Jan Faiks

Components : _____

Requestor : Senate HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by : Steve Hole
Division : Commissioner's Office

Phone : 465-2800
Date : April 7, 1987

Approved by Commissioner : William G. Demmert
Agency : Education

Date : April 7, 1987

- Distribution (by preparer) :
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impact Agency(ies)
 - Senate Secretary

SB

231

Original sponsors: Halford, Jones,
Duncan, et al.

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 231 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to sexual abuse of a minor."

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

8 * Section 1. AS 11.41.434(a) is amended to read:

9 (a) An offender commits the crime of sexual abuse of a minor in
10 the first degree if ^{14/15} [*spiritually/physically/mentally*]

11 (1) being 16 years of age or older, the offender engages in
12 sexual penetration with a person who is under 13 years of age or aids,
13 induces, causes, or encourages a person who is under 13 years of age
14 to engage in sexual penetration with another person; or

15 (2) being 18 years of age or older, the offender engages in
16 sexual penetration with a person who is under 18 years of age and who

17 (A) is entrusted to the offender's care by authority
18 of law; [OR]

19 (B) is the offender's son or daughter, including an
20 illegitimate or adopted child, or a stepchild; or

21 (C) at the time of the offense, is residing as a
22 member of a social unit in the same household with the offender
23 and is under the authority of the offender.

24 * Sec. 2. AS 11.41.436(a) is amended to read:

25 (a) An offender commits the crime of sexual abuse of a minor in
26 the second degree if

27 (1) being 16 years of age or older, the offender engages in
28 sexual penetration with a person who is under 13 years of age and
29 at least three years younger than the offender, or aids, induces,

1 causes or encourages a person who is 13, 14, or 15 years of age and at
2 least three years younger than the offender to engage in sexual pene-
3 tration with another person;

4 (2) being 16 years of age or older, the offender engages in
5 sexual contact with a person who is under 13 years of age or aids,
6 induces, causes, or encourages a person under 13 years of age to
7 engage in sexual contact with another person;

8 (3) being 18 years of age or older, the offender engages in
9 sexual contact with a person who is under 18 years of age and who

10 (A) is entrusted to the offender's care by authority
11 of law; [OR]

12 (B) is the offender's son or daughter, including an
13 illegitimate or adopted child, or a stepchild; or

14 (C) at the time of the offense, is residing as a
15 member of a social unit in the same household with the offender
16 and is under the authority of the offender; or

17 (4) being 16 years of age or older, the offender aids,
18 induces, causes, or encourages a person who is under 16 years of age
19 to engage in conduct described in AS 11.41.455(a)(2) - 15 .
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American Civil Liberties Union

Alaska Civil Liberties Union - Legislative Committee-217 Second St. #204-Juneau, Alaska 99801

April 22, 1987

APR 23 1987

Senator Paul Fischer
Senate Health, Education and Social Services
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: SB 231

Dear Senator Fischer:

The Alaska Civil Liberties Union would like to express its concern with the language of SB 231, now under consideration by the HESS Committee. While we do not oppose the concept of the bill, if we understand it correctly, we believe that the language does not accomplish the intent, and are also concerned that the amendment may be unconstitutionally vague.

We assume that the intent of the bill is to prevent sexual contact or penetration in the situation where the victim may be particularly vulnerable because of a family-type relationship of trust. Such a relationship may exist, for example, in the situation where a man and woman live together as a stable family unit without getting married, and one of them has a child. Clearly, the situation of sexual contact between one of the adults and the child would be comparable to the other situations addressed in the same section, and would fall within the intent of the statute.

However, here is another quite common situation to consider. Suppose that a household has two children, an eighteen year old girl and seventeen year old boy. A seventeen year old friend of the boy comes to stay with the family for a month in the summer, and has a sexual relationship with the eighteen year old girl. There is nothing criminal about such a relationship under present law. Would the daughter be punishable under the amendment? The answer depends on the meaning of the phrase "residing as a member of a social unit in the same household". Change the hypothetical a little bit to suppose that the visiting boy stays for the summer, or for a school semester. At what point does the liason become criminal? When are the boy and girl "residing together as a social unit".

The "void for vagueness" doctrine requires that a criminal statute be sufficiently specific to give notice of what is prohibited. We believe, based on the examples cited above, that the amendment does not give adequate notice unless further definition is given to the "social unit" and "residing" concepts. It is also quite clear that the cited examples do not involve violation of a relationship of special trust, as do the other sections of the statute, and we doubt whether the sponsors intend to criminalize conduct under those circumstances.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul H. Grant". The signature is fluid and cursive, with a large initial "P" and "G".

Paul H. Grant
ACLU Legislative Committee

cc: Senator Rick Halford
Don Clocksin (for Anchorage distribution)
Marian Butcher

SB 231 -- Sexual Abuse of a Minor

This bill was introduced at the request of STAR (Standing Together Against Rape) of Anchorage.

Purpose:

Its purpose is to correct a loophole in the sentencing of parents and parent figures who sexually abuse a child. Currently, a father or stepfather who sexually abuses his daughter under 18 is guilty of an unclassified felony offense. But the abusing live-in boyfriend of the child's mother is guilty of only a Class B felony.

Frequently a child is encouraged to accept a live-in partner as a substitute parent. The child is vulnerable to the influence and control of the parent figure.

The presence or absence of a marriage certificate should not change the length of sentence for sexual assault of a minor.

Suggested added language:

At the suggestion of Public Defender Dana Fabe, I would request an addition to the bill. The bill's language states that "at the time of the offense (the minor child) is residing as a member of a social unit in the same household with the offender." Dana Fabe suggests adding "...and the offender has authority over the minor child." The Department of Law, which helped with technical aspects of the wording of the bill, concurs with that language.

Fiscal notes:

The bill has zero fiscal notes.

Support for the bill:

The bill with the suggested added language is supported by:

STAR

The Child Advocacy Network (81 agencies and 110 individuals statewide)
The Municipality of Anchorage Dept of Health and Human Services
The Anchorage Police Dept and APD Employees Assn legislative committee
The Alaska Association of Chiefs of Police
The Alaska Women's Lobby
The Department of Health and Social Services
The Department of Public Safety
The Alaska Network on Domestic Violence and Sexual Assault has not officially met to discuss this bill but strongly supports it in concept.

The law:

The law concerning sexual abuse of a minor differs from that concerning sexual assault. Under AS 11.41.410, it is sexual assault in the first degree to sexually penetrate another person of any age without the victim's consent.

But consent does not apply if the victim is a minor child (under the age of 18). In the case of minor children, the law looks at the age of the victim and the relationship between victim and offender.

The relationship between victim and offender: If the offender is the victim's legal parent or guardian, sexual penetration of a child under 18 (the offender's son or daughter, including an illegitimate or adopted child, or a step child) is an unclassified felony. AS 11.41.434(a) and (b).

If the offender is not the victim's legal parent (or guardian), sexual penetration of a child between the ages of 13 and 15 is a Class B felony and sexual penetration of a child 16 and 17 is not a crime at all. AS 11.41.436(a)(1).

Penalties:

Under current law, first degree sexual abuse of a minor by a legal parent is an unclassified felony. It is a presumptive sentence, with no probation. The sentence for the first conviction is 8 years. For the second conviction it is 15 years. Imprisonment cannot exceed 30 years. AS 12.55.125(i).

Under current law, sexual penetration of a child ages 13-15 by someone who is not legally the child's parent is a Class B felony. It is a presumptive sentence upon the second conviction. The presumptive sentence for a second conviction is 4 years. For a third conviction it is 6 years. Imprisonment may not exceed 10 years. AS 12.55.125(d).

SEXUAL ABUSE OF A MINOR

<u>Victim's age:</u>	under 13	under 18	13-15	16-17
<u>Act:</u>	sexual penetratn	sexual penetratn	sexual penetratn	sexual penetratn
<u>Relationship:</u>	_____	legal parent	_____	_____
<u>Offense:</u>	unclassified	unclassified	B felony	Not a crime
<u>Statute:</u>	11.41.434	11.41.434	11.41.436	



**STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS**

DEPARTMENT Health & Social Services	DIVISION Family & Youth Services	BILL NUMBER SB 231	SPONSOR Senator Halford, et. al.
DEPARTMENT POSITION The Department of Health and Social Services supports this legislation.			
PREPARED BY Yvonne Chase, Director, DFYS	DATE 4/22/87	COMMISSIONER'S SIGNATURE <i>Marge M. Munson</i>	DATE 4/22/87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Council on Domestic Violence and Sexual Assault Department of Law	CONSTITUENT GROUP(S) AFFECTED BY BILL
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

To make clear the applications of AS 11.41.434 to adult offenders residing in the same household as the victim, whether or not the offender has responsibility for the child's care or is related to the child.

ANALYSIS OF BILL/PROGRAM EFFECTS

The change would eliminate a possible loophole in the current statute by clarifying that an offender, if living in the same social unit, need not be related to nor responsible for the care of the victim, in order to be convicted of sexual abuse of a minor.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: SB 231
Publish Date: 4-8-87

Revision Date: _____

Agency Affected: Dept. of Corrections
BRU: _____

Title: "An Act related to sexual
abuse of a minor"

Sponsor: Halford, Jones, Duncan

Components: _____

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This legislation should have minimal impact on the Department of Corrections.

Prepared by: Susan E. Knighton, Research Analyst IV
Division: Statewide Programs

Phone: 465-3376
Date: 4-21-87

Approved by Commissioner: Susan Humphrey-Barnett
Agency: Department of Corrections

Date: 4-21-87

Distribution (by preparer):

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

BILL NO: SB 231

DATE: April 10, 1987

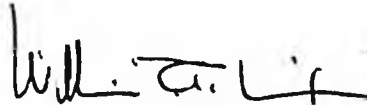
TITLE: An Act relating to sexual
abuse of a minor

CONTACT: Barbara Miklos
Executive Director
Council on Domestic
Violence & Sexual
Assault

DEPARTMENT OF
PUBLIC SAFETY

The Council on Domestic Violence and Sexual Assault supports the concept of SB 231 which adds a provision to the sexual abuse of a minor statutes to include an offense against a victim who is residing as a member of a social unit in the same household with the offender. Such a relationship is not covered in statutes describing first and second degree sexual abuse of a minor, yet a notable number of minors are sexually assaulted by live-in partners of the parent who are recognized by the child as a parental or authoritative figure. In many instances, encouragement is given to accept live-in partners as surrogate parents and to comply with any parental authority which may be extended. In essence this "sets up" a child to yield to an adult who is not the legally-recognized custodian, but who is in a position to exert a great degree of control and influence. Therefore, the child is vulnerable to this authority and should be specifically protected in statute.

The language in Section 11.41.434(a)(2)(C) is too broad because it could include consensual sexual penetration of a 15-year-old by a 19-year-old. Also the Council feels that the word illegitimate in Section (B) should be replaced with a term with less stigma on the child. It could read "a child born out of wedlock".



William R. Nix
Acting Commissioner

RESERVED

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: SB 231

Publish Date: _____

Revision Date: _____

Agency Affected: Public Safety

Title: An Act relating to sexual
abuse of a minor

BRU: Council on Domestic

Violence & Sexual Assault

Sponsor: Halford, Jones, etc.

Components: _____

Requestor: Senate HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Barbara Miklos, Executive Director
Division: Council on Domestic Violence & Sexual Assault

Phone: 465-4356

Date: 4-10-87

Approved by Commissioner: [Signature]
Agency: Public Safety

Date: 4/13/87

Distribution (by preparer):

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

JMK
4/17/87

BM

[Signature]

POSITION PAPER

SB 231

The Alaska Public Defender Agency and the Office of Public Advocacy are totally reactive agencies which provide representation to indigent persons when appointed by the court. These agencies do not make policy nor do they initiate litigation. Only proposed legislation with fiscal or program ramifications for these agencies can be said to have a direct agency impact. Thus, the Public Defender Agency and Office of Public Advocacy submit position papers for legislation which will affect these agencies fiscally or programatically or will require these agencies to litigate constitutional issues raised by the legislation.

Fiscal impact: X None See attached fiscal note _____

Program impact: _____ None See analysis below X

Constitutional impact: _____ None See analysis below X

This bill is apparently designed to expand the offense of sexual abuse of a minor in the first degree to include persons who have authority over a child in the household but are not legally related to that child. Unfortunately, this bill is drafted so broadly that it could apply to a number of situations which may not merit the eight-year presumptive term for a first offender of this offense.

Specifically, the bill would allow conviction of an eighteen year old exchange student who has a romantic relationship with the seventeen year old daughter of the family with whom he is living. If sexual penetration including digital penetration were to occur, that eighteen year old would be subject to prosecution and conviction with an eight-year presumptive term. Similarly, if two adults with teenage children were to begin to live together, and the teenagers, age eighteen and seventeen were to have a romantic relationship which involved any sexual penetration, the eighteen year old could be convicted of this offense.

Since the apparent goal of this legislation is to make culpable persons in a quasi-stepparent relationship with a child victim, regardless of whether that adult is married to the victim's parent or guardian, the statute should be framed more specifically to target that population.

Based on the information above, the Alaska Public Defender Agency and the Office of Public Advocacy oppose this bill.

Dana Fabe
Dana Fabe, Director
Public Defender Agency

2/10/87
Date

Brant McGee

Brant McGee, Director
Office of Public Advocacy

Date 4/10/87

Garrey Peska
Commissioner Garrey Peska
Department of Administration

Date 4/13/87

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version : SB 231
Publish Date : _____

REQUEST:
Revision Date: April 10, 1987
Title: "An Act relating to sexual
abuse of a minor"
Sponsor: Sen. Halford
Requestor: Senate Judiciary

Agency Affected: Department of Administration
BRU: Public Defender Agency
Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Dana Fabe, Public Defender
Division: Public Defender Agency

Phone: 279-7541
Date: April 10, 1987

Approved by Commissioner: Garrey Peska
Agency: Department of Administration

Date: 4/13/87

Distribution (by preparer):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version : SB 231
Publish Date : 4/2/87

REQUEST: _____
Revision Date: 4/10/87
Title: "An Act relating to sexual abuse of a minor..."
Sponsor: Halford, Jones, et.al.
Requestor: Senate Judiciary

Agency Affected: Administration
BRU: Office of Public Advocacy
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: 4/10/87

Approved by Commissioner: Garrey Peska
Agency: Department of Administration

Date: 4/13/87

Distribution (by preparer):

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