

1 IN THE SENATE

BY SENATOR COGHILL

2

SENATE BILL NO. 78

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIRST LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act creating a State Department of Edu-  
7 cation and a State Board of Education; pres-  
8 cribing the duties and powers of said depart-  
9 ment and board; repealing Secs. 37-2-1,  
10 through and including 37-2-4, ACLA 1949,  
11 repealing Sec. 37-2-5, ACLA 1949 as amended  
12 by Ch. 34, SLA 1951, Ch. 55, SLA 1953, and  
13 Ch. 70, SLA 1955, repealing Secs. 37-2-6 and  
14 37-2-7, ACLA 1949, repealing Sec. 37-2-8,  
15 ACLA 1949 as amended by Ch. 72, SLA 1951,  
16 Ch. 62, SLA 1955, Ch. 51, SLA 1957, Ch. 88,  
17 SLA 1957, and Ch. 16, SLA 1957, repealing  
18 Secs. 37-2-9 and 37-2-10, ACLA 1949, repeal-  
19 ing Sec. 37-2-21, ACLA 1949 as amended by  
20 Ch. 120, SLA 1951, repealing Secs. 37-2-22  
21 through and including Sec. 37-2-26, ACLA  
22 1949, repealing Secs. 37-2-28 and 37-2-29,  
23 ACLA 1949; and providing for an effective  
24 date."

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

26 Section 1. DEPARTMENT OF EDUCATION CREATED. In order to  
27 carry out the provisions of Article VII, Section 1 of the Consti-  
28 tution of the State of Alaska, there is hereby created a depart-  
29 ment of education to be known as the Alaska Department of Education.

1 The Alaska Department of Education shall be made up of the  
2 State Board of Education and the Commissioner of Education with  
3 such professional and non-professional staff members, appointed  
4 and compensated in accordance with Alaska law, as are deemed nec-  
5 essary to carry out the functions of the Department.

6 Sec. 2. STATE BOARD OF EDUCATION: CREATION: MEMBERS: APPOINT-  
7 MENT AND TERMS: VACANCIES: REMOVAL. There is hereby created a  
8 board to be known as the Alaska State Board of Education which is  
9 established under the constitutional authority set forth in Article  
10 III, Section 26 of the Constitution of the State of Alaska. The  
11 State Board of Education shall have the powers and duties herein-  
12 after set forth.

13 The State Board of Education shall be composed of five (5)  
14 persons having a general knowledge of and interest in public edu-  
15 cation. Prospective members shall be nominated by the Association  
16 of Alaska School Boards in a manner to be determined by the officers  
17 and directors of the Association, but with the following condi-  
18 tions:

19 (1) Two or more nominees are to be submitted from each  
20 of the four (4) major Senate districts (Southeastern, Southcentral,  
21 Central, and Northwestern) as those districts are set forth in  
22 Article XIV, Section 2 of the Constitution for the State of Alaska,  
23 and two (2) or more nominees submitted from at-large.

24 (2) The nominees must be citizens of the United States,  
25 at least thirty (30) years of age, residents of Alaska and of the  
26 area to be represented continuously for at least three (3) years  
27 preceding the nomination.

28 (3) Nominees shall not be engaged as professional  
29 educators.

1 (4) Nominations are not to be based on political  
2 affiliations.

3 (5) At least three (3) of the nominees shall be resi-  
4 dents of an area outside an incorporated school district.

5 The Governor of Alaska shall officially request the nomina-  
6 tions for the Board from the Association of Alaska School Boards  
7 and shall stipulate the dates when nominations are due. Upon  
8 receipt of the nominations the Governor shall determine the name  
9 of the person he desires to appoint from each district and at-  
10 large and shall submit these names to the Legislature for confirma-  
11 tion.

12 The term of office of each Board member shall be six (6)  
13 years, commencing on April 1 of the year in which appointed and  
14 until their successors are appointed and qualified. All appoint-  
15 ments shall be subject to confirmation by a majority of the mem-  
16 bers of the Legislature in joint session assembled and shall be  
17 made in accordance with any other applicable Alaska statutes.

18 The terms of the first members appointed to the State Board  
19 of Education shall expire as follows: One member on March 31,  
20 1961; Two members on March 31, 1963; and two members on March 31,  
21 1965, with the designation of those whose terms expire on the  
22 various dates to be determined by the Governor.

23 No member of the State Board of Education may serve more than  
24 two (2) terms. If a vacancy shall occur by reason of death, a  
25 change of residence from the district from which appointed, or  
26 from Alaska, or for failure to attend two (2) consecutive meetings  
27 of the Board, the Governor shall call for nominations from the  
28 Association of Alaska School Boards and from the nominees shall make  
29 an appointment to fill the unexpired term, subject to confirmation

1 by the Legislature, and to serve on an interim basis until such  
2 time as the Legislature is in session to consider the appoint-  
3 ment.

4 The Governor may remove any Board member for conviction of  
5 a felony or a misdemeanor involving moral turpitude, or mental or  
6 physical disability to perform the duties of the office, or  
7 malfeasance or misfeasance in office, upon making known to such  
8 member in writing the charges against him and upon giving him an  
9 opportunity to be heard in person and represented by counsel in  
10 his own defense, upon not less than thirty (30) days notice.

11 Sec. 3. MEETINGS OF THE BOARD AND NOTICE THEREOF; QUORUM:  
12 VOTING. The initial meeting of the first State Board of Education  
13 shall be held at the call of the Governor between April 1, 1959 and  
14 April 15, 1959. At such initial meeting the members of the Board  
15 shall elect a president and vice-president who shall serve for  
16 two (2) year terms.

17 Thereafter, the Board shall meet two (2) times each year  
18 with one such meeting to be called during a regular session of  
19 the Legislature and at the same place as the Legislature is meet-  
20 ing, and the other such meeting place to be as designated by the  
21 president of the Board.

22 Special meetings of the Board shall be called by the Com-  
23 missioner of Education at the written request of a majority of the  
24 members of the Board or may be called by the Governor on his own  
25 initiative at such places in Alaska as may be designated in the  
26 call for the special meeting.

27 Written or telegraphic notices of all regular and special  
28 meetings of the Board of Education shall be given to each member  
29 thereof at his last known address at least fifteen (15) days prior

1 to the date of such meeting. The regular meetings of the Board  
2 shall last not to exceed fifteen (15) days and a special meeting  
3 shall last not to exceed five (5) days.

4 Three (3) members shall constitute a quorum but a less number  
5 may adjourn from day to day for a period not exceeding ten (10)  
6 days; provided, however, that no action may be taken or resolution  
7 or motion adopted by the Board unless at least three (3) affirma-  
8 tive votes are in favor of it.

9 Sec. 4. COMPENSATION AND EXPENSES OF MEMBERS. From and after  
10 the effective date of this Act, the following provisions relating  
11 to transportation and per diem shall govern exclusively and shall  
12 supersede all other provisions of the law:

13 (1) With respect to transportation, such member shall  
14 be entitled to the use of Alaska Transportation Requests or to be  
15 reimbursed for expenses of transportation to the same extent and  
16 in the same manner as provided for Alaska officials and employees  
17 by law.

18 (2) With respect to reimbursement for other expenses,  
19 such members shall be entitled to per diem and compensation, the  
20 combination of which shall be at the rate of Forty Dollars (\$40.00)  
21 for each day or portion thereof spent on official business incident  
22 to his duties as such member, including necessary travel time.

23 Sec. 5. POWERS AND DUTIES. The Board of Education shall  
24 have the necessary and implied powers to exercise the following  
25 duties:

26 (1) The Board shall serve as the regulatory, supervisory,  
27 and leadership board for the school system of Alaska and in carry-  
28 ing out these functions shall exercise the following powers:

29 (a). To appoint a Commissioner of Education,

1 subject to the approval of the Governor, as provided  
2 in Article III, Section 26 of the Constitution of the  
3 State of Alaska. The appointment shall be for a term  
4 of five (5) years. The Commissioner shall be the Execu-  
5 tive Officer and Secretary of the Board.

6 No person shall be qualified for the office  
7 of Commissioner if he is not a citizen of the United  
8 States, at least thirty (30) years of age, and a pro-  
9 fessional educator who is qualified for the highest  
10 Alaska administrative credential. He shall be chosen  
11 upon merit according to qualifications prescribed by  
12 the Board of Education and because of his fitness to  
13 propose and execute beneficial educational programs for  
14 the school system of Alaska.

15 The Commissioner may be removed by the Board  
16 for immorality, misconduct in office, insubordination,  
17 incompetency, or willful neglect of duty, upon making  
18 known to him in writing the charges against him and  
19 upon giving him an opportunity to be heard in person  
20 and represented by counsel in his own defense, upon not  
21 less than thirty (30) days notification.

22 If the Governor shall determine that the Board  
23 should take action to notify the Commissioner of intent  
24 to remove him from office, the Governor shall call a  
25 special meeting of the Board at which the Board shall  
26 show cause why the Commissioner should not be given  
27 notification of removal.

28 The Commissioner of Education shall be pro-  
29 vided with necessary office space and facilities to be

1 located at the capital of Alaska, and the Board of  
2 Education shall also establish such branch or field  
3 offices as it deems necessary.

4 The Commissioner, before entering upon the  
5 duties of his office, shall take and subscribe to an  
6 oath to faithfully discharge the duties of his office,  
7 which oath shall be filed according to law.

8 The Commissioner may travel outside Alaska  
9 with the consent of the Board of Education in accordance  
10 with provisions of law for travel of all Alaska officials.

11 The powers and duties of the Commissioner  
12 shall be set forth by the Board and shall include but  
13 not be limited to the following:

14 1. He shall require such reports from  
15 the schools in Alaska at such times and in such manner  
16 as he deems necessary.

17 2. He shall keep in his office all  
18 records, books and papers pertaining to the office,  
19 including a complete statistical record of all matters  
20 pertaining to the educational interests of Alaska.

21 3. He shall recommend to the Board of  
22 Education minimum courses of study for the Schools of  
23 Alaska.

24 4. He shall prepare and publish such  
25 bulletins or pamphlets relating to phases of educational  
26 work as he may deem necessary.

27 5. He shall, in conjunction with the  
28 Alaska Health Department; prescribe such rules and  
29 regulations not inconsistent with the laws of Alaska

1 as may be needed to secure thorough sanitary conditions  
2 in the schools throughout Alaska.

3 6. He shall hold or arrange the holding  
4 of teachers' conferences for the teachers of Alaska.

5 7. He shall inspect and accredit the  
6 schools of Alaska.

7 8. He shall see that the school laws  
8 of Alaska and the regulations of the Board of Education  
9 are faithfully executed.

10 9. Upon termination of his appointment  
11 and removal from office, he shall deliver to his successor  
12 all records of whatever kind which belong to his office  
13 or which may have been received by him for the use of  
14 his office.

15 (b) To adopt rules and regulations not incon-  
16 sistent with the law for its own government, for the  
17 government of all employees and appointees of the Board,  
18 and for the regulation and supervision of the schools  
19 in Alaska.

20 (c) To establish and enforce educational  
21 standards for the elementary, junior high and high  
22 school grades and through the Department of Education,  
23 provide educational leadership and act in a consultant  
24 and advisory capacity to local school boards and schools.

25 (d) To review the budget request as prepared  
26 by the Commissioner of Education in accordance with  
27 appropriate Alaska law and the regulations of the Board  
28 and to recommend a budget to the Budget Director and  
29 Office of Governor.

1 (e) To supervise the allotment and expendi-  
2 ture of funds appropriated by the Legislature in accor-  
3 dance with Alaska law and to audit all such expenditures  
4 made.

5 (f) To sit as a court of appeal in all edu-  
6 cational controversies and to delegate to the Commissioner  
7 of Education the duty of executing all orders decreed.  
8 Questions of law may be appealed to the appropriate court  
9 in accordance and in substantial compliance with the  
10 applicable rules and procedures.

11 (g) To continuously study the educational  
12 conditions and needs of the schools of Alaska and recom-  
13 mend plans for the improvement thereof.

14 (h) To prescribe the basic courses of study  
15 to be taught in all schools including private and  
16 denominational schools in Alaska.

17 (i) To promote the equalization of educa-  
18 tional opportunity among all youth of Alaska.

19 (j) To accept Federal funds offered under  
20 conditions compatible with Alaska educational policy as  
21 established by the Legislature and the Board and to be  
22 responsible for rules and regulations governing the use  
23 of such funds for educational purposes within Alaska.

24 (k) To prescribe the rules and regulations  
25 for the certification of teachers and the issuance of  
26 credentials to administrators and to establish minimum  
27 standards for such certification and credentials, which  
28 standards shall in no event be less than the minimum  
29 prescribed by law.

1 (l) To provide for citizenship night schools  
2 when and where deemed expedient.

3 (m) To determine the amount to be paid by  
4 the Department of Education from funds appropriated for  
5 that purpose for the tuition of pupils from areas outside  
6 school districts in attendance at district schools.

7 (n) Upon affirmative vote in writing from the  
8 majority of all its members and during the last six (6)  
9 months of any year for which monies may have been appro-  
10 priated, to transfer funds available for the support of  
11 schools from an item or items in which a surplus will  
12 apparently occur to an item or items pertaining to the  
13 support of schools where there may be a deficiency,  
14 provided that official notification of such transfers  
15 must be made in writing to the appropriate state agency.

16 (o) In all cases where the approval of the  
17 Board of Education of any act of the Commissioner of  
18 Education is necessary to make such act legal or valid,  
19 such function of the Board may be by them delegated to  
20 the Commissioner to be executed on behalf of the Board  
21 during the time it is not in session.

22 (p) The Board shall have the authority to  
23 approve acts of the Commissioner in writing or by  
24 telegram.

25 (q) The Board may acquire and transfer such  
26 personal and real property as it deems proper and necessary.

27 (r) Whenever the average daily membership in  
28 a school district shall drop below seven (7) students for  
29 a period of two (2) months, the Board may, after giving

1 three (3) months notice, withhold any further payments  
2 thereafter of Alaska funds to such district until such  
3 time as the average daily membership reaches the necessary  
4 level.

5 (s) To provide for the transportation of pupils  
6 who reside distances from established schools and in  
7 order to accomplish that purpose, to:

8 1. Require school districts to enter  
9 into contracts with the Board of Education of the State  
10 of Alaska for the administration, supervision, operation  
11 or sub-contracting of the operation of transportation  
12 systems for students to and from the schools within  
13 their respective service area; provided, however, that  
14 said district shall receive reimbursement from the State  
15 of Alaska for the operation of such transportation system  
16 on a unit cost basis which will be determined by the  
17 Board.

18 2. Require all school districts, trans-  
19 portation contractors and other recipients of State  
20 transportation funds to submit an annual report to  
21 the Board of Education, which report shall include a  
22 financial statement and such other operational data as  
23 is directed by the Board of Education.

24 3. Permit school districts to establish  
25 supplementary systems of student transportation for those  
26 students who are ineligible to utilize transportation  
27 facilities paid for by the State of Alaska; to permit  
28 said districts to charge fares or fees for such supple-  
29 mentary transportation systems and also to utilize local tax

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funds to pay, in part or in whole, the cost of such supplementary systems.

(2) The State Board of Education shall serve as the administrative school board for the operation of all schools outside incorporated districts and is hereby charged with the administration of these schools and given full power and authority to:

(a) Establish rules and regulations for the conduct of such schools.

(b) Establish, discontinue, or combine such schools.

(c) To construct, purchase, build, or rent the necessary school houses or school rooms and maintain and equip the same.

(d) To acquire real property from or transfer real property to Federal agencies, Alaska agencies, or Alaska political subdivisions.

(e) Provide for the sale or other disposition of abandoned or obsolete school buildings or other school property.

(f) To delegate to the Commissioner of Education the responsibility for the actual administration of the schools outside incorporated districts and to require that he perform any and all acts necessary for the operation of these schools including the submission of budget requests to the Board for transmittal to the Office of Governor, the employment of teachers and other necessary school personnel, and the provision of necessary equipment, supplies and materials for the

1 school operation.

2 (g) It is intended that the State  
3 Board of Education will carry out any necessary  
4 duties in order to secure the efficient and econo-  
5 mical operation of schools outside districts.

6 (h) The Board of Education shall have  
7 the authority to discontinue the operation and  
8 maintenance of schools and to create new school  
9 districts in the following manner: The Board of  
10 Education is hereby instructed to discontinue the  
11 operation and maintenance of any school in any  
12 unincorporated town, village, or settlement when  
13 the average daily membership thereof reaches one  
14 hundred (100) students and the Board finds the  
15 community is able to provide local school support  
16 in accordance with Alaska law. Before making  
17 determination of ability to support a school,  
18 the Board shall request the Alaska Rural Develop-  
19 ment Board, or any other appropriate state  
20 agency, to make an economic survey of the area  
21 to determine potential taxable property evalu-  
22 ations and other sources of revenue for local  
23 school support. In the event that the Alaska  
24 Rural Development Board or other state agency  
25 cannot conduct such survey, the Board of Edu-  
26 cation may cause such survey to be made and  
27 the cost to be paid from the appropriation  
28 for support of schools outside districts.  
29 Such survey shall be instituted no later than

1 November 1 of any school year and be completed no  
2 later than January 1 of the following year. The Board  
3 of Education shall then determine that the local com-  
4 munity is able to provide necessary local school support;  
5 the Board, at any time before March 1 of any school  
6 year, shall cause to be posted, on the main door of  
7 the school and two other places in the community,  
8 written notice that the State of Alaska will discon-  
9 tinue the operation and maintenance of the school on  
10 a day certain and that the local populace will be given  
11 an opportunity, within thirty days after the posting  
12 of said notice, to take the necessary steps prepara-  
13 tory to forming an appropriate school district. If  
14 a representative local committee is formed it shall  
15 request legal assistance in initiating action towards  
16 incorporation from the office of the Attorney General,  
17 such initial legal assistance shall be provided. Upon  
18 failure of the local populace to take such steps within  
19 the prescribed time limit, the Board of Education shall  
20 order the establishment of an incorporated school  
21 district in that community, set the boundaries therefor  
22 and issue an order providing for an election so that  
23 the qualified voters of the proposed school district  
24 may choose a board of five (5) directors. At any time  
25 within twenty (20) days after the issuance of the said  
26 order of the Board, any resident of the proposed dis-  
27 trict may petition the appropriate state court for  
28 review of said order. If the court is satisfied that  
29 the Board's determination is based upon reasonable

1 grounds, the court shall thereupon enter an appropriate  
2 decree confirming the order of the Board, otherwise  
3 it may set aside said order.

4 1. The general powers of the school  
5 board and all other provisions pertaining to the forma-  
6 tion of an incorporated school district shall be  
7 applicable to school districts formed pursuant to  
8 this section.

9 2. When a school district is formed  
10 under the provisions of this section the school board of  
11 the district may request the Department of Taxation to  
12 furnish initial assistance in setting up a property  
13 valuation and assessment roll and the initial tax levy  
14 and the Department of Taxation shall furnish such  
15 initial assistance.

16 3. Alaska shall provide the following  
17 financial assistance to school districts formed pur-  
18 suant to this section:

19 a. For the first two fiscal  
20 years of operation commencing on the July 1  
21 following the March 1 on which notification  
22 of intent to discontinue operation is given,  
23 the Department shall pay from funds available  
24 for support of district schools, one hundred  
25 per cent (100%) of the approved budget as set  
26 up according to law and approved by the Com-  
27 missioner of Education. Local expenditures  
28 above this approved budget may be made by the  
29 local school board but shall be paid for with

1 local funds;

2 b. For the third fiscal year  
3 of operation, Alaska shall pay ninety per cent  
4 (90%) of the approved budget; and

5 c. For the fourth fiscal year  
6 of operation and for each and every fiscal  
7 year thereafter, the school district shall  
8 replace in the appropriate school reimburse-  
9 ment group in accordance with then existing  
10 law.

11 4. The Board of Education shall have  
12 the authority to convey, at no cost, the existing school  
13 structures and facilities, including personal property,  
14 in the community to the new school district formed  
15 pursuant to this section.

16 (3) The State Board of Education shall serve as the  
17 State Board of Vocational Education and in such capacity is auth-  
18 orized to carry out any and all acts necessary to comply with the  
19 Federal Vocational Acts and their administration and having all  
20 necessary powers to cooperate with the Office of Education in the  
21 administration of these Acts as set forth in Section 5, Public  
22 Law 347, 64th Congress - USCA 16.

23 As a State Board of Vocational Education, the Board  
24 shall also serve to fulfill the requirements of Federal law for  
25 the administration of vocational rehabilitation within the State  
26 of Alaska.

27 The Commissioner of Education shall be the Executive  
28 Officer of the State Board of Vocational Education.

29 (4) The State Board of Education shall serve as the

1 Board for the Alaska Teachers' Retirement System and shall promul-  
2 gate necessary rules and regulations to carry out the provisions  
3 of the Teachers' Retirement Act. The Commissioner of Education  
4 shall be the Director of the Teachers' Retirement System.

5 Sec. 6. REPEALER. The following laws are hereby repealed:  
6 Secs. 37-2-1 through and including 37-2-4, ACLA 1949; Sec. 37-2-5,  
7 ACLA 1949 as amended by Ch. 34, SLA 1951, Ch. 55, SLA 1953, and  
8 Ch. 70, SLA 1955; Secs. 37-2-6 and 37-2-7, ACLA 1949; Sec. 37-2-8,  
9 ACLA 1949 as amended by Ch. 72, SLA 1951, Ch. 62, SLA 1955, Ch. 16,  
10 SLA 1957, Ch. 51, SLA 1957 and Ch. 88, SLA 1957; Secs. 37-2-9 and  
11 37-2-10, ACLA 1949; Sec. 37-2-21, ACLA 1949 as amended by Ch. 120,  
12 SLA 1951; Secs. 37-2-22 through and including Sec. 37-2-26, ACLA  
13 1949; and Secs. 37-2-28 and 37-2-29, ACLA 1949.

14 Sec. 7. EFFECTIVE DATE. This Act shall take effect imme-  
15 diately upon its passage and approval or upon its becoming law  
16 without such approval.

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