

S B

182

SENATE COMMITTEE REPORT

(b)

FIRST COMMITTEE OF REFERRAL

6-0827E

Date of 5-DAY NOTICE 3/2/89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

C&RA ✓
FIN

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 3/7/89

2/17/89

Mr. President:

HESS

Committee considered

SB 182

state Board of Education

and recommended:

replace with CS SB 182 (HESS) same title

attached amendment(s) and *+ majority do pass* new title

_____ letter of intent adopted

do pass

do not pass

no recommendation

DFN

individual recommendations

further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

1 Lloyd Jones

2 Al Adams - No Rec

1 Tim Kelly

1 James Owen

1 Paul Griffin (No Pass)
Chairman signature and recommendation

Committee backup attached

SENATE (HESS) REPORT

SENATE COMMITTEE REPORT

FURTHER

FIN

DATE TURNED INTO OFFICE 4-07-89

3/8/89

Mr. President:

C&RA

Committee considered

SB 182

state Board of Education

and recommended

reports it back without recommendations

- replace with _____ CS _____) same title
- or adopt _____ CS _____) new title
- attached amendment(s) and technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

previous FIN

FISCAL NOTE(S) zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

cancel - no rec
1 [Signature] No Rec.
1 [Signature] no rec
1 [Signature] No Rec

1 [Signature] - No Rec
 Chairman signature and recommendation

Committee Backup attached

SENATE (C+RA) REPORT

STATE OF ALASKA

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

GOLDBELT PLACE
801 WEST 10TH STREET
P.O. BOX F
JUNEAU, ALASKA 99811-0500

April 25, 1990

The Honorable Paul Fischer
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

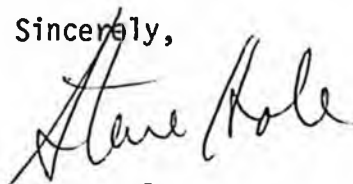
Dear Senator Fischer:

Information has recently come to the attention of the Department of Education regarding the effect of SB 182, relating to the composition of the State Board of Education. The military has informed the Department that enactment of SB 182 would disqualify any commissioned officer from serving as military representative on the State Board of Education, since the military considers this a civilian office and officers are not allowed to hold civilian offices.

The Board feels it critical that the military have the option of recommending officers of the highest ranking possible to serve on the Board. For this reason the State Board of Education now opposes SB 182 in its present form. We will continue to work with your staff to try to craft a bill which affords the student member of the Board voting status without jeopardizing the eligibility of the commissioned officer corps.

Please contact me if you have any questions regarding this change in policy.

Sincerely,



Steve Hole
Deputy Commissioner

cc: The Honorable Johnny Ellis
House HESS Committee Chairman

The Honorable Ron Larson
House Finance Committee Co-Chairman

The Honorable Ben Grussendorf
House Rules Committee Chairman

Members, State Board of Education

Alaska State Legislature

Senator Paul Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269



State Senate

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3791

M E M O R A N D U M

4/6/89

TO: Senator Rick Uehling and Senator John Binkley,
Co-Chairmen, Senate Finance Committee.

From: Senator Paul Fischer

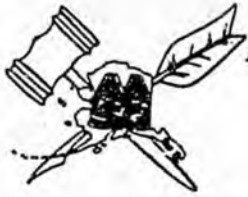
RE: SB 182 Increase the size of the Alaska State Board of
Education.

SB 182 if enacted into law, would increase the size of the Alaska State Board of Education. This bill would allow for the voting membership of both a student and military member on the board.

This bill has the support of the Alaska Association of School Governments, and the State Board of Education has twice voted unanimously to support legislation putting a voting Student and Military member on the board.

I urge your favorable consideration of this bill, and respectfully request that it be considered for a hearing.

Thank you.



Alaska Association of School Governments

**A RESOLUTION BY THE
ALASKA ASSOCIATION OF SCHOOL GOVERNMENTS
IN SUPPORT OF A VOTING STUDENT MEMBER ON THE
STATE BOARD OF EDUCATION**

WHEREAS, current Alaska statute stipulates that a student member of the Alaska Association of School Governments serve on the Alaska State Board of Education in an advisory capacity; and,

WHEREAS, past experience has shown that the student advisory members possess sufficient levels of maturity and competence to handle the responsibility of voting; and,

WHEREAS, policies effected by the Alaska State Board of Education have a large and direct impact on the student population; and,

WHEREAS, students are aware of problems and situations in the educational system that adults may not immediately be cognizant of; and,

WHEREAS, other states, including California, Massachusetts, and Maryland, have had favorable results with having a voting student member on their State Boards of Education; and,

WHEREAS, the State Board of Education has twice voted unanimously to support legislation putting a voting Student and Military member on the Board;

THEREFORE, BE IT RESOLVED, that the Alaska Association of School Governments supports and encourages legislation (i.e. Senate Bill 182) to increase the size of the Alaska State Board of Education by a member, establishing the Student Advisory Member as a full voting member.



STEVE COWPER, GOVERNOR

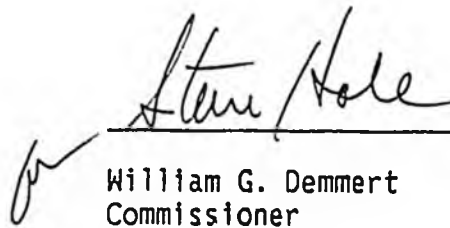
DEPARTMENT OF EDUCATION

GOLDBELT PLACE
801 WEST 10TH STREET
P.O. BOX F
JUNEAU, ALASKA 99811-0500

Position Paper on SB 182

First Session
16th Alaska Legislature

The State Board of Education and the Department of Education support SB 182 relating to membership of the State Board of Education.



William G. Demmert
Commissioner

3-6-89
Date

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Relating to the State Board of
Education
 Sponsor: Fischer
 Requestor: Senate HESS

Agency Affected: Education
 BRU: Executive Administration
 Components: Executive Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Mary Hakala
 Division: Commissioner

Will Demmert
 Vice

Phone: 465-2800
 Date: 3/3/89

Approved by Commissioner Will
 Agency: Educa

Date: 3/3/89

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

DEPARTMENT OF EDUCATION

(Mail Stop 0500)

	Phone	Office Address	Mailing Address
STATE BOARD OF EDUCATION			
Barney Gottstein President	561-1944		6411 E Street Anchorage 99501
MEMBERS			
John Chenoweth, Juneau		Catherine Herrnsteen, Kodiak	
Sue Wilken, Fairbanks		Don Gray, Fairbanks	
Raychelle Daniel, Tuntutuliak - (Student Rep.)		Janie Leask, Anchorage	
Gerald Mitchell (Military Rep.)		Cora Sakeagak, Barrow	
Rosemary Hagevig Executive Assistant	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
EXECUTIVE ADMINISTRATION			
Office of the Commissioner			
William G. Demmert Commissioner	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Steve Hole Deputy Commissioner	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Mary Hakala Special Assistant	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Edna MacLean Rural and Native Education	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Tammy Northrup Executive Secretary	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Vickie McMillan Administrative Assistant	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Harry Gamble Public Information	465-2821	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Kay Schilz Personnel Officer	465-2880	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Administrative Services			
Brenda O'Donnell Finance Officer	465-2875	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Steve Messing Supply Officer	465-2852	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Adult and Vocational Education			
Karen Ryals Administrator	465-4685	Goldbelt Bldg. 1st Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Education Finance and Support Services			
Jerald Mikesell Director	465-2865	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Bob Davis Administrative Officer	465-2875	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500



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

OFFICIAL BUSINESS

POUCHV
JUNEAU, AK 99811
465-3759

DRAFT

DRAFT

DRAFT

LETTER OF INTENT
TO
HB 424
BY THE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

It is the intent of the House Health, Education and Social Services Committee that the governor consider the state Board of Education's traditional method of selecting student and military members when making appointments.

The student and military members are currently appointed through a two tiered selection process. The Alaska Association of Student Governments (AASG) and the Commanding General each submit a list of three candidates for appointment. The state Board of Education then interviews the finalists and selects the representative members.

Rep. Niilo Koponen, Co-Chair
House HESS Committee

Rep. Johnny Ellis, Co-Chair
House HESS Committee

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701-4679

February 11, 1988

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600

465-3603

Honorable Johnny Ellis
Honorable Niilo E. Koponen
Co-chairmen
House Health, Education, and
Social Services Committee
Alaska State House
P.O. Box V
Juneau, Alaska 99811

Re: Potential constitutional
problem with HB 424 (State
Board of Education members)

Dear Co-chairmen Ellis and Koponen:

House Bill 424 would amend the statutes governing the State Board of Education to provide that the member representing military reservation schools and the student member would be full voting members of the board, rather than mere advisory members, as they are under present board bylaws. While that may be a laudable goal, we believe the bill may have a constitutional problem.

Section 3 of the bill would amend AS 14.03.085(b) to provide that the representative of the military reservation schools and the student member "shall be appointed from a list of nominees proposed by the board and submitted to the governor." We believe that provision would be an infringement on the executive power of appointment under art. III, § 26, Alaska Constitution. That section provides:

When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the

Honorable Johnny Ellis and
Honorable Niilo E. Koponen
Re: HB 424 (State Board of Education)

February 11, 1988
Page 2

appointment shall be subject to the approval of the governor.

Section 25 c art. III is similar with respect to other department heads, providing for appointment by the governor subject to confirmation by a joint session of the legislature. At issue is whether the legislature may impose additional restrictions on the governor's appointment power, limiting the governor to appointment from a list of nominees submitted by some other entity, in this case the incumbent State Board of Education.

In Bradner v. Hammond, 553 P.2d 1 (Alaska 1976), in considering whether the legislature could by statute make other executive branch officers subject to legislative confirmation, or whether art. III, §§ 25 and 26, describe the outer limits of the legislature's confirmation authority, the Alaska Supreme Court held that legislative confirmation is not a distinct legislative power, but rather is a specific attribute of the appointment power of the executive. It held that sections 25 and 26 "mark the full reach of the delegated, or shared, appointive function to Alaska's legislative branch of government."

We believe the courts would reach a similar result in determining whether the legislature can impose by statute a requirement that the governor's appointments to a board that is "at the head of a principal department or a regulatory or quasi-judicial agency" be made from a list of nominees submitted by some other entity. Because the appointment power is an executive power and the only role constitutionally delegated to the legislature is that of confirmation, the doctrine of separation of powers leads us to conclude that the legislature does not have the constitutional authority to require that the governor make appointments to those bodies from a list of nominees submitted by some other entity. Any statute imposing such a requirement is likely to be struck down by the courts as an unconstitutional legislative infringement on the executive appointment power.

For the above reasons, we recommend that HB 424 be amended to remove the sentence beginning on page 1, line 28. AS 14.07.085(a) would still require that the governor consider recommendations made by recognized educational associations in the state, but would not require that the appointment be made from lists of nominees submitted by those organizations. Please

Honorable Johnny Ellis and
Honorable Niilo E. Koponen
Re: HB 424 (State Board of Education)

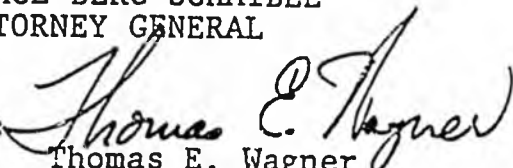
February 11, 1988
Page 3

contact me if you have questions regarding my comments on this matter.

Sincerely,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By:


Thomas E. Wagner
Assistant Attorney General

TEW:jal

cc: Arthur H. Peterson
Bob Evans

1 IN THE SENATE

BY EDUCATION

2 SENATE BILL NO. 4

3
4 IN THE LEGISLATURE OF ALASKA GIRLS STATE

5 A Bill for an Act entitled: "An Act relating to the change in membership status
6 and voting rights of the student member on the
7 State Board of Education; and providing for an eff
8 ive date."

BE IT ENACTED BY THE LEGISLATURE OF BOYS' STATE.

9 *Section 1. AS 14.07.075 is amended to read:

10 Creation. There is created at the head of the Department of Education
11 a Board of Education consisting of nine [seven] members. (1 ch 96 SIA 1967)

12 * Section 2. AS 14.07.085 is amended to read:

13 Appointment of members. (a) The nine [seven] members of the board, no
14 more than five [four] of whom shall be members of the same political party
15 as the governor, shall be appointed by the legislature in joint session
16 In appointing board members, the governor shall consider recommendations
17 made by recognized educational associations in the state.

18 (b) One member shall be appointed from each of the four judicial districts
19 and three from the state at large with at least one member representing
20 regional educational attendance areas. One student member shall be
21 appointed from the state at large who, during his/her term of office
22 is currently enrolled in any Alaska high school. The governor shall
23 appoint the student member only upon the endorsement of the student
24 by the Alaska Association of School Governments (A.A.S.G.) and the
25 State Board of Education currently instated. One military member

*Section 2. This Act takes effect on _____

Signed by: HOUSE SPEAKER Jerry Cadenin

CHIEF CLERK Linda Dunkel

SENATE PRESIDENT Jennifer Brunner

SECRETARY Linda Cooper

GOVERNOR Kelly Curtis

Date: 11 JUNE 87

1 shall be appointed from the state at large who, during his term of office,
2 is currently stationed at any military base within the state of Alaska.
3 The governor shall appoint the military member only upon the endorsement
4 of the military joint command and the State Board of Education.

5 (c) The members are entitled to the expenses, travel, and per diem
6 allowances provided by law.

7 (d) A member may act and receive compensation from the date of ap-
8 pointment until confirmation or rejection by the legislature. (1 ch 96
9 SLA 1967)

10 *Section 3. AS 14.07.095. is amended to read:

11 Term of office. The members of the board, with the exception of the
12 student member, shall be appointed for overlapping five-year terms com-
13 mencing February 1 of the year of appointment. A member appointed to
14 fill a vacancy serves for the unexpired term of the member whose vacancy
15 is filled. A vacancy occurring during a term of office is filled in the
16 same manner as the original appointment. The student member shall be
17 appointed for one, one year term commencing on the first August meeting
18 of the board and terminating at the end of the first June meeting of the
19 board. (1 ch 96 SLA 1967)

20 *Section 4. AS 14.07.105. is amended to read:

21 Quorum and chairman. (a) Five [Four] members constitute a quorum.

22 (b) The board shall designate one member of the board as the chair-
23 man who serves as chairman of the board at the pleasure of the board.
24 (1 ch 96 SLA 1967)

25 *Section 5. AS 14.07.110. is amended to read:

26 Removal. Members of the board serve at the pleasure of the governor
27 with exception of the military and student member. The military and/or
28 student members may be removed upon request of the governor and ma-
29 jority vote of the board. (1 ch 96 SLA 1967)

30 *Section 6. AS 39.05.100. is amended to read:

31 Qualifications for appointment. (a) A person appointed to a board or
32 commission of the state government, with the exception of a student ap-
33 pointee, shall be and have been before the last general election, (1) a

1 registered voter in the state, if the appointment is made at large or (2)
2 a registered voter from the judicial district, if the appointment is made
3 from a specific judicial district.

4 (b) A member of a board or commission of the state government who ceases
5 to reside in the state during the member's term terminates membership on the
6 board or commission. For the purposes of this section, the acceptance of
7 employment outside the state for a six-month period or longer, or physical
8 absence from the state for one year or longer, or registration as a voter in
9 a voting precinct outside the state is considered as discontinuing residence
10 in the state. (ch 64 SLA 1955; am ch 167 SLA 1957)

11 *Section 7. AS 44.19.130. is amended to read:

12 Appointment to boards and commissions. (a) Notwithstanding AS 39.03.110
13 or a provision of law relating to age, the governor may appoint any resident
14 of Alaska to a board or commission if recommended by the commission.

15 (b) A young person recommended by the commission may be appointed to
16 boards or commissions with or without special qualifications for membership
17 if the proposed nominee, except for age, meets the required qualifications
18 as set by law.

19 (c) An individual appointed to a board or commission under this section
20 is entitled to the rights, privileges, and responsibilities of other mem-
21 bers, and the appointment is subject to confirmation by the legislature
22 when required by law. No additional seat on a board or commission is cre-
23 ated by virtue of AS 44.19.123--44.19.130. (ch 171 SLA 1971)

Deola
Read in the
Tell me what H says
FEB 5 1988

MEMORANDUM

February 5, 1988

SUBJECT: House Bill 424, relating to the composition
of the State Board of Education

TO: Representative Johnny Ellis

FROM: Jack Chenoweth *JC*

May I submit the enclosed for addition to the record as the House considers the above-captioned bill.

The author of the letter served five years as the advisory military representative on the State Board of Education, concluding his service this past summer due to his reassignment to a Florida Air Force Base.

Enclosure



DEPARTMENT OF THE AIR FORCE
AIR FORCE SYSTEMS COMMAND REGIONAL HOSPITAL EGLIN (AFSC)
EGLIN AIR FORCE BASE, FLORIDA 32542-5300

22 Jan 88


Dear State Board Members,

Recently, I was asked to proffer an opinion regarding the military advisor position on the State Board of Education. Specifically, the question was raised whether the military advisor should be a voting member or remain in an advisory capacity. As in most things, I do have an opinion'

Evaluating my own role and overall effectiveness for the last five years as a non-voting advisory member is better left to your judgement. However, I certainly came to one conclusion, and that was in regard to the student member. I watched four young adults spend their time and energy, often to the detriment of their grades, and certainly for the most part not a lot of fun, dedicate themselves to the issues as tenaciously as any of the more senior members. The question is then, why shouldn't they vote, assuming the political climate is right for such a change? I respected their opinions but sometimes wondered if those opinions were brushed aside because they did not have the weight of a valid vote. I suspect that I am correct. Not when the issues were relatively innocuous but when they became more emotional and heated. And as they did, shorter attention was paid to either advisory members comments. This is certainly not to be condemnatory, but merely a philosophical observation, I believe, of human nature.

Should the military member vote? As with all the board members, the time I spent on Board duties impacted on my private and professional life. Should my time spent be any less 'important' than theirs? The implication being that if the advisory member was not present, it certainly did not affect the legal status of the board. The question was raised by legal counsel in 1983, although ignored, whether advisory members could even sit in executive session. Somewhat demeaning wouldn't you think? The military in the State of Alaska I suspect, approaches fifteen percent of the total population or even better. Although I never really thought of myself as 'representing' only the military of Alaska, it is certainly viewed that way by many others and presumed that we could act on matters that impacted the military member or their families. I believe that is a sizeable responsibility and should be honored with a valid vote.

The real danger is for the advisory member to lose interest and is probably more critical for the military member than the student, due to the normal tenure of one year for the student. If your comments are not taken seriously, if it does not really matter if you are present or not, and if you come and go rather more frequently than the regular member it is easy to not take any issue too seriously. Whether this happens to others I cannot say, but it did on occasion happen to me. I would not have lasted with the first board because of the closed attitude they appeared to have toward the advisory members. The second board was about one-half of the present members, and was much, much more open and easier to work with. The present board? Only the current advisory members can say. I say they should vote, why not ask them?


ROGER K. STROSNIDER, Colonel, USAF, DC
Base Dental Surgeon

STATE OF ALASKA
THE LEGISLATURE

FOUCH Y - STATE CAPITOL
SUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 7, 1988

SUBJECT: Draft bill relating to the membership of
the Board of Education (W.O. 5-1565 A)

TO: Representative Johnny Ellis, Jr.

FROM: George Utermohle *GU*
Legislative Counsel

Enclosed is a bill enlarging the State Board of Education by adding two members - a military reservation school representative and a student member.

Under the bill as drafted, the military reservation school representative must be a registered Alaska voter. Military personnel frequently retain their residence in another state while they are stationed in Alaska. As a result, a large body of potentially interested, and otherwise qualified persons will be disqualified from serving on the board. The registered voter requirement for the military reservation school representative can be waived, if you want to exempt this person from the requirement.

For your information, the current military reservation school liaison to the board is not a registered voter in Alaska according to the Division of Elections.

Enclosure

GU:bb
WKB1/24

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

JAN 25 1988
POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
207 465 3800

MEMORANDUM

January 25, 1988

SUBJECT: Appointment of Members of the State
Board of Education (W.O. 5-1565)

TO: Representative Johnny Ellis

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is in response to the question of whether the State Board of Education could appoint the student and military members of the board, subject to the approval of the Governor.

The authority to appoint the members of a board that is at the head of a principal department lies exclusively with the Governor under Article III, Section 26 of the Alaska Constitution.

When a board or commission is at the head of a principal department or regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. . . Art. III, Sec. 26 (in part)

The State Board of Education is at the head of the Department of Education, a principal department of state government. The Governor has the exclusive authority to appoint the members of the board. The Governor's authority to appoint members of the board cannot be limited by a statute that forces the Governor to appoint a specific individual. The proposal to allow the State Board of Education to select the student and military members of the board subject to the approval of the Governor would result in an invasion of the Governor's authority to appoint. Even though the Governor could reject the person selected by the board, and thus retain the ultimate control over who is appointed to the board, the fact that the Governor could only accept or reject the person would defeat the intent of

Representative Johnny Ellis
Page 2
January 25, 1988

the constitution that the Governor have exclusive authority to appoint members of the board. A law delegating responsibility for appointments of certain members of the State Board of Education to the board would be subject to constitutional challenge.

The Alaska Supreme Court strictly construes the Alaska Constitution in regard to the power of the Governor to make executive appointments. In Bradner v. Hammond, 553 P.2d 1 (Alaska, 1976), the court found that the Legislature's only powers to "meddle" in appointments by the Governor were limited to those powers expressly mentioned in the constitution. The Legislature could not extend its powers by enacting a statute. Given the court's position that the Legislature cannot extend its power over the Governor's appointments by statute, it is unlikely that the court would allow the Legislature to dilute the Governor's authority to make appointments by requiring the Governor to accept or reject appointments made by the State Board of Education.

A process whereby the Governor would select the student and military members of the board from a list of nominees prepared by the board is less offensive to the Governor's authority than the proposal discussed above. However, this process could become suspect if the Governor must select appointees from the list, because the Governor's authority and discretion would be limited. If the Governor is allowed to appoint the student and military members from this list of nominees, rather than required to appoint from the list, there would not be an unconstitutional invasion of the Governor's authority. The Governor would retain full authority and discretion to appoint whomever the Governor desired.

If I can provide further discussion of this issue, please contact me.

GU:bb
WKB1/095

A M E N D M E N T

OFFERED IN THE SENATE

BY FISCHER

TC: CSSB 182(HESS)

Page 1, line 6:

Delete "relating to the state Board of Education"

Insert "increasing the membership of the state Board of Education to nine members, specifying qualifications, representation, and terms of office for board members, and establishing a quorum for board action"

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Relating to the State Board of Education
 Sponsor: Senate HESS
 Requestor: Senate HESS

Agency Affected: Education
 BRU: Executive Administration
 Components: Executive Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Mary Hakala Phone: 465-2800
 Division: Commissioner's Office Date: 3/7/89
 Approved by Commissioner: William G. Demmert Date: 3/7/89
 Agency: Education

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Alaska State Legislature



State Senate

Senator Paul Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3791

M E M O R A N D U M

April 24, 1989

TO: Representative Johnny Ellis Chairman, House Health,
Education and Social Services Committee.

From: Senator Paul Fischer

RE: SB 182 Enlarge the Voting Membership of the State Board
of Education.

Senate Bill 182 has passed the Senate and is now in your committee. This bill enlarges the voting membership of the State Board of Education. Currently, the student member and the military member are in an advisory capacity with the board. Both the military and student member attend all meetings, and attend executive sessions. Since they already attend the meetings, this bill does not add any additional fiscal impact on the department. To put it simply, this bill grants voting rights to the student and military members who currently attend all meetings.

The State Board of Education has twice voted in support of this bill. Also, the bill has the support of the Alaska Association of School Governments. This bill received bipartisan support on the floor of the Senate and was passed by a vote of 17 - 0.

I urge your favorable consideration of this bill, and respectfully request that it be considered for a hearing.

Thank you.

Alaska State Legislature



State Senate

Senator Paul Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3791

M E M O R A N D U M

3/24/89

TO: Senator Al Adams, Chairman, Senate Community and
Regional Affairs Committee.

From: Senator Paul Fischer

RE: SB 182 Increase the size of the Alaska State Board of
Education.

SB 182 if enacted into law, would increase the size of the
Alaska State Board of Education. This bill would allow for
the voting membership of both a student and military member on
the board.

This bill has the support of the Alaska Association of School
Governments, and the State Board of Education has twice voted
unanimously to support legislation putting a voting Student and
Military member on the board.

I urge your favorable consideration of this bill, and
respectfully request that it be considered for a hearing.

Thank you.

Alaska State Legislature

Senator Paul Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269



State Senate

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3791

M E M O R A N D U M

4/6/89

TO: Senator Rick Uehling and Senator John Binkley,
Co-Chairmen, Senate Finance Committee.

From: Senator Paul Fischer

RE: SB 182 Increase the size of the Alaska State Board of
Education.

SB 182 if enacted into law, would increase the size of the Alaska State Board of Education. This bill would allow for the voting membership of both a student and military member on the board.

This bill has the support of the Alaska Association of School Governments, and the State Board of Education has twice voted unanimously to support legislation putting a voting Student and Military member on the board.

I urge your favorable consideration of this bill, and respectfully request that it be considered for a hearing.

Thank you.



Alaska Association of School Governments

**A RESOLUTION BY THE
ALASKA ASSOCIATION OF SCHOOL GOVERNMENTS
IN SUPPORT OF A VOTING STUDENT MEMBER ON THE
STATE BOARD OF EDUCATION**

WHEREAS, current Alaska statute stipulates that a student member of the Alaska Association of School Governments serve on the Alaska State Board of Education in an advisory capacity; and,

WHEREAS, past experience has shown that the student advisory members possess sufficient levels of maturity and competence to handle the responsibility of voting; and,

WHEREAS, policies effected by the Alaska State Board of Education have a large and direct impact on the student population; and,

WHEREAS, students are aware of problems and situations in the educational system that adults may not immediately be cognizant of; and,

WHEREAS, other states, including California, Massachusetts, and Maryland, have had favorable results with having a voting student member on their State Boards of Education; and,

WHEREAS, the State Board of Education has twice voted unanimously to support legislation putting a voting Student and Military member on the Board;

THEREFORE, BE IT RESOLVED, that the Alaska Association of School Governments supports and encourages legislation (i.e. Senate Bill 182) to increase the size of the Alaska State Board of Education by a member, establishing the Student Advisory Member as a full voting member.



FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Relating to the State Board of
Education
 Sponsor: Fischer
 Requestor: Senate HESS

Agency Affected: Education
 BRU: Executive Administration
 Components: Executive Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Mary Hakala
 Division: Commissioner's Office
 Approved by Commissioner: William G. Demmert
 Agency: Education

Phone: 465-2800
 Date: 3/3/89
 Date: 3/3/89

Distribution (by preparer):
 Legislative Finance
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STATE OF ALASKA

DEPARTMENT OF EDUCATION

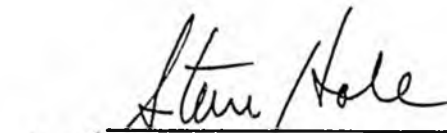
STEVE COWPER, GOVERNOR

GOLDBELT PLACE
801 WEST 10TH STREET
P.O. BOX F
JUNEAU, ALASKA 99811-0500

Position Paper on SB 182

First Session
16th Alaska Legislature

The State Board of Education and the Department of Education support SB 182 relating to membership of the State Board of Education.



William G. Demmert
Commissioner

3-6-89

Date

DEPARTMENT OF EDUCATION

(Mail Stop 0500)

	Phone	Office Address	Mailing Address
STATE BOARD OF EDUCATION			
Barney Gottstein President	561-1944		6411 A Street Anchorage 99501
MEMBERS			
John Chenoweth, Juneau		Catherine Harrnsteen, Kodiak	
Sue Wilken, Fairbanks		Don Gray, Fairbanks	
Raychelle Daniel, Tuntutuliak - (Student Rep.)		Janie Leask, Anchorage	
Gerald Mitchell (Military Rep.)		Cora Sakeagak, Barrow	
Rosemary Hagevig Executive Assistant	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
EXECUTIVE ADMINISTRATION			
Office of the Commissioner			
William G. Demmert Commissioner	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Steve Hole Deputy Commissioner	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Mary Hakala Special Assistant	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Edna MacLean Rural and Native Education	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Tammy Norrtrup Executive Secretary	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Vickie McMillan Administrative Assistant	465-2800	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Harry Gamble Public Information	465-2821	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Kay Schilz Personnel Officer	465-2880	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Administrative Services			
Brenda O'Donnell Finance Officer	465-2875	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Steve Messing Supply Officer	465-2852	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Adult and Vocational Education			
Karen Ryals Administrator	465-4685	Goldbelt Bldg. 1st Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Education Finance and Support Services			
Jerald Mikesell Director	465-2865	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500
Bob Davis Administrative Officer	465-2875	Goldbelt Bldg. 2nd Fl. 801 W. 10th St.	P.O. Box F Juneau 99811-0500

Original sponsor: Fischer

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 182 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the state Board of Education."

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

8 * Section 1. AS 14.07.075 is amended to read:

9 Sec. 14.07.075. CREATION. There is created at the head of the
10 Department of Education a Board of Education consisting of nine [SEV-
11 EN] members.

12 * Sec. 2. AS 14.07.085(a) is amended to read:

13 (a) The nine [SEVEN] members of the board [, NO MORE THAN FOUR
14 OF WHOM SHALL BE MEMBERS OF THE SAME POLITICAL PARTY AS THE GOVERNOR,]
15 shall be appointed by the governor, subject to confirmation by a
16 majority of the members of the legislature in joint session. Not more
17 than four of the seven members of the board appointed to a term of
18 five years or to fill a vacancy in a term of five years may be from
19 the same political party as the governor. In appointing board mem-
20 bers, the governor shall consider recommendations made by recognized
21 educational associations in the state.

22 * Sec. 3. AS 14.07.085(b) is amended to read:

23 (b) One member shall be appointed from each of the four judicial
24 districts and five [THREE] from the state at large. At [WITH AT]
25 least one member shall represent [REPRESENTING] regional educational
26 attendance areas and at least one member shall represent military
27 reservation schools. One member shall be a student in a public high
28 school in the state. The representative of the military reservation
29 schools and the student member may be reappointed for successive

1 terms, if they remain qualified for appointment to the board.

2 * Sec. 4. AS 14.07.095 is amended to read:

3 Sec. 14.07.095. TERM OF OFFICE. Except for the representative
4 of the military reservation schools and the student member, who shall
5 be appointed for one-year terms, the [THE] members of the board shall
6 be appointed for overlapping five-year terms. The terms of members
7 commence [COMMENCING] February 1 of the year of appointment. A member
8 appointed to fill a vacancy serves for the unexpired term of the
9 member whose vacancy is filled. A vacancy occurring during a term of
10 office is filled in the same manner as the original appointment.

11 * Sec. 5. AS 14.07.105(a) is amended to read:

12 (a) Five [FOUR] members constitute a quorum.

13 * Sec. 6. AS 39.05.100(a) is amended to read:

14 (a) A person appointed to a board or commission of the state
15 government shall be and have been before the last general election,
16 (1) a registered voter in the state, if the appointment is made at
17 large or (2) a registered voter from the judicial district, if the
18 appointment is made from a specific judicial district. The student
19 member of the Board of Education appointed under AS 14.07.085, the
20 student member of the Board of Regents of the University of Alaska
21 appointed under AS 14.40.150(b), and the student member of the Alaska
22 Commission on Postsecondary Education appointed under AS 14.42.015(e)
23 are exempt from the requirement of this subsection if the member was
24 not old enough to be a registered voter in the last general election.

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26

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29

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Relating to the State Board of Education
 Sponsor: Senate HESS
 Requestor: Senate HESS

Agency Affected: Education
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CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Mary Hakala Phone: 465-2800
 Division: Commissioner's Office Date: 3/7/89
 Approved by Commissioner: William G. Demmert Date: 3/7/89
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Distribution (by preparer):
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