

HB

217

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ANCHORAGE, ALASKA 98503
(907) 561-7628

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3704

ALASKA STATE HOUSE



CHAIR
RULES COMMITTEE

JUDICIARY

SPECIAL COMMITTEE ON INTERNATIONAL
TRADE & TOURISM

LEGISLATIVE COUNCIL

REPRESENTATIVE JOHNNY ELLIS

MEMORANDUM

TO: Members of HESS Committee
FROM: Representative Johnny Ellis *JE*
RE: Sectional Analysis on HB217
DATE: April 4, 1991

House Bill 217 changes the law regarding the composition, terms and removal of the members of the State Board of Education. This legislation will help to insulate state education policy from political partisanship and will provide for better continuity in the making of educational policy.

Section 1 of this bill changes the law so that the Governor may not stack the Board entirely with members of the same political party regardless of the Governor's own political party. Clearly, the intent of the existing law was to achieve a balance on the Board so that a broader group of interests can participate in educational policy making. This section protects against the abuse of this intent.

Section 2 of the bill changes the terms of state Board members from five to four years. This section works to integrate Board turnover more logically with the four year terms of the Governor.

Section 3 changes the law so that Board members may be removed only for neglect of duty or misconduct in office, and would no longer serve simply at the pleasure of the Governor. There are several other boards and commissions whose members may only be removed for cause, as allowed under article III, section 26 of the State Constitution.



Section 4 reestablishes the overlapping terms of Board members. This section fits with sections 2 and 3 to provide for a more orderly transition between Board members.

The combined effect of sections 2, 3 and 4 is to provide for continuity between the Board members appointed by one Governor and the Board members appointed by the succeeding Governor. Under this scheme a new Governor would: 1) immediately appoint two Board members, 2) by the end of the first year could appoint two more members (thus having made a majority of the appointments), and, 3) by the end of his or her term could replace the entire Board membership. Thus, the Governor retains significant control while allowing for some continuity in educational policy making.

Thank you for your consideration of HB217.

**SAMPLING OF
STATE BOARDS & COMMISSIONS
upon which
MEMBERS MAY ONLY BE REMOVED FOR CAUSE**

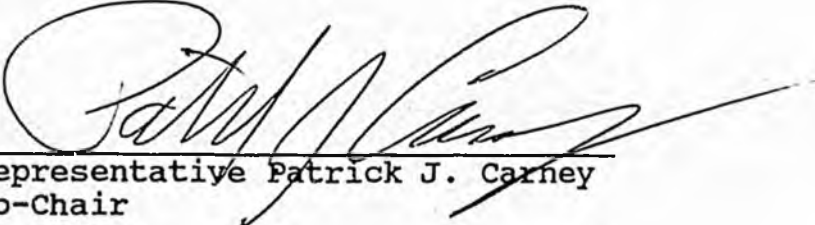
<u>BOARD OR COMMISSION</u>	<u>AUTHORITY</u>
Public Broadcasting Commission	44.21.258 (a)
Public Utilities Commission	42.05.030
Labor Relations Agency	23.05.360 (c)
Personnel Board	39.25.060 (c)
Mental Health Board	47.30.663 (c)
Commercial Fisheries Entry Commission	16.43.020
Board of Forestry	41.17.041
Science & Technology Foundation	37.17.040 (a)
Citizens Advisory Commission on Federal Areas	41.37.050
Profesional Teaching Practice Commission	14.20.430
Violent Crimes Compensation Board	18.67.020
Occupational Safety & Health Review Board	18.60.057 (b)

April 5, 1991

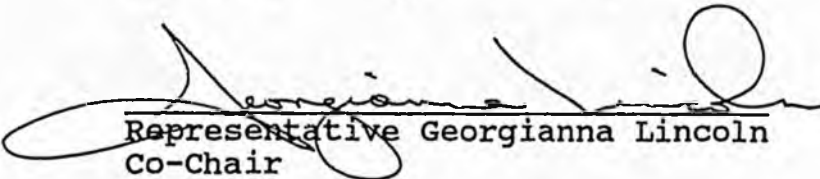
by the House Health, Education and Social Services
Committee.

LETTER OF INTENT
FOR
CSHB 217 (HES)

It is the intent of the Legislature in passing CSHB 217 (HES) that at least one appointee to the State Board of Education be a teacher who holds a teaching certificate issued by the State of Alaska.



Representative Patrick J. Carney
Co-Chair



Representative Georgianna Lincoln
Co-Chair

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 13, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: _____

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 217

HOUSE BILL NO. 217

STATE BOARD OF EDUCATION MEMBERS

"An Act relating to the state Board of Education."

RECOMMENDATIONS:

be replaced with CSHB 217 (HES) the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Cheri Davis	✓				
Mary Miller	✓				
Mark Barber	X				
Betty Davis	✓				
J. E. Bayales	✓				
Demetrius	✓				
Patricia Cas	X				

Patricia Cas
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 217

Revision Date: _____ Department Affected: Office of the Governor
 Title: "An Act relating to the state Board of Education." BRU: Executive Operations
 Component: Executive Office
 Sponsor: Representatives Ellis, Gruenberg, et al.
 Requestor: Representative Ellis COMPONENT SERIAL NO.

6			
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
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	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)
 HB 217 would not have fiscal impact on the Office of the Governor.

Prepared By: Michael A. Nizich, Director *Man* Phone: 465-3616
 Division: Division of Administrative Services Date: 3/27/91
 Approved by Commissioner: D. Max Hodel, Chief of Staff *[Signature]*
 Agency: Office of the Governor Date: 3/27/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 217

Revision Date: _____ Department Affected: Education
 Title: State Board of Education BRU: Executive Administration
 Component: State Board of Education
 Sponsor: Ellis
 Requestor: House HESS COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Mary Hakala Phone: 465-2800
 Division: Commissioner's Office Date: 3/29/91
 Approved by Commissioner: Steve Hole, Acting Commissioner
 Agency: Education Date: 3/29/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska State Constitution

Supervision

in joint session, these orders become effective at a date thereafter to be designated by the governor.

SECTION 24. Each principal department shall be under the supervision of the governor.

Department Heads

SECTION 25. The head of each principal department shall be a single executive unless otherwise provided by law. He shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and shall serve at the pleasure of the governor, except as otherwise provided in this article with respect to the Secretary of State. The heads of all principal departments shall be citizens of the United States.

(The Sixth Legislature's Senate Joint Resolution No. 2 "changing the name of the secretary of state to lieutenant governor" in sixteen sections of the Alaska Constitution, approved by the voters August 25, 1970, inadvertently omitted express amendment of this section.)

Boards and Commissions

SECTION 26. 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 appointment shall be subject to the approval of the governor.

Recess Appointments

SECTION 27. The governor may make appointments to fill vacancies occurring during a recess of the legislature, in offices requiring confirmation by the legislature. The duration of such appointments shall be prescribed by law.

ARTICLE IV

THE JUDICIARY

Judicial Power and Jurisdiction

SECTION 1. The judicial power of the State is vested in a supreme court, a superior court and the courts established by the legislature. The jurisdic-

Sec. 14.07.070. Withholding state funds. State funds may not be paid to a school district or teacher who fails to comply with the school laws of the state or with the regulations adopted by the department. (§ 1 ch 98 SLA 1966)

Article 2. State Board of Education.

Section

- 75. Creation
- 85. Appointment of members
- 95. Term of office
- 105. Quorum and chair
- 115. Removal
- 125. Meetings

Section

- 135. Legal assistance
- 145. Commissioner of education
- 150. Budget and fiscal authority
- 155. Partisan candidacy prohibited
- 160. Bylaws
- 170. Additional powers of board

Collateral references. — 68 Am. Jur. 2d Schools, §§ 5-7, 37-55;
78 C.J.S. Schools and School Districts, §§ 83-91.

Modern status of doctrine of sovereign immunity as applied to public schools and institutions of higher learning. 33 ALR3d 703.

Sec. 14.07.075. Creation. There is created at the head of the Department of Education a Board of Education consisting of seven members. (§ 1 ch 96 SLA 1967)

NOTES TO DECISIONS

Stated in *Hootch v. Alaska State-Operated School Sys.*, Sup. Ct. Op. No. 1154 (File No. 2157), 536 P.2d 793 (1975); *Tunley v. Municipality of Anchorage*

School Dist., Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Sec. 14.07.080. Creation and term of office. [Repealed, § 14 ch 96 1967.]

Sec. 14.07.085. Appointment of members. (a) The seven members of the board, no more than four of whom shall be members of the same political party as the governor, shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. In appointing board members, the governor shall consider recommendations made by recognized educational associations in the state.

(b) One member shall be appointed from each of the four judicial districts and three from the state at large with at least one member representing regional educational attendance areas.

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

(d) A member appointed until 96 SLA 1967)

Revisor's notes. — AS 14.07.085(b) to "schools" was changed. Additional attendance areas form to ch. 124, SLA

Sec. 14.07.090. SLA 1967.]

Sec. 14.07.095 appointed for over the year of appointment for the unexpired term occurring on the original app

Sec. 14.07.100

Sec. 14.07.105 a quorum.
(b) The board person who served (§ 1 ch 96 SLA

Sec. 14.07.110 96 SLA 1967.]

Sec. 14.07.115 sure of the gov

Sec. 14.07.120 SLA 1967.]

Sec. 14.07.125 Meetings may be held of the board. Meetings of members of the 1967)

(d) A member may act and receive compensation from the date of appointment until confirmation or rejection by the legislature. (§ 1 ch 96 SLA 1967)

Revisor's notes. — The reference in AS 14.07.085(b) to "state operated rural schools" was changed to "regional educational attendance areas" in 1978 to conform to ch. 124, SLA 1975.

Cross references. — For further qualifications of members of Board of Education, see AS 39.05.065.

Sec. 14.07.090. Appointment of members. [Repealed, § 14 ch 96 SLA 1967.]

Sec. 14.07.095. Term of office. The members of the board shall be appointed for overlapping five-year terms commencing February 1 of the year of appointment. A member appointed to fill a vacancy serves for the unexpired term of the member whose vacancy is filled. A vacancy occurring during a term of office is filled in the same manner as the original appointment. (§ 1 ch 96 SLA 1967)

Sec. 14.07.100. Executive officer. [Repealed, § 14 ch 96 SLA 1967.]

Sec. 14.07.105. Quorum and chair. (a) Four members constitute a quorum.

(b) The board shall designate one member of the board as the chairperson who serves as chair of the board at the pleasure of the board. (§ 1 ch 96 SLA 1967)

Sec. 14.07.110. Appointment of commissioner. [Repealed, § 14 ch 96 SLA 1967.]

Sec. 14.07.115. Removal. Members of the board serve at the pleasure of the governor. (§ 1 ch 96 SLA 1967)

Sec. 14.07.120. Term of office and vacancy. [Repealed, § 14 ch 96 SLA 1967.]

Sec. 14.07.125. Meetings. The board shall meet at least quarterly. Meetings may be called by the chair or by a majority of the members of the board. Meetings shall be held in Juneau unless a majority of the members of the board changes the place of a meeting. (§ 1 ch 96 SLA 1967)

REVISION DATE: 1/15/91

BOARD: EDUCATION, BOARD OF

BOARD IDENTIFICATION NUMBER: 29

TITLE: Board of Education

DEPT: Department of Education

AUTHORITY: AS 14.07.075, AS 14.35.020, AS 23.15.010

STATUS: ACTIVE

REQUIREMENTS: LEGISLATIVE CONFIRMATION AND FINANCIAL DISCLOSURE

PROHIBITIONS: No member may be a candidate for partisan political office while serving; no more than 4 shall be of the same political party as the Governor.

TERM: 5 years; except student representative serves for a 1-year term and military representative not to exceed a 3-year term.

DESCRIPTION: 7 members appointed by Governor: with consideration of recommendations made by recognized educational associations in the state; 1 representing each judicial district; 3 at-large; at least 1 representing regional educational attendance areas; board designates chair; serve at pleasure of Governor. (Non-voting advisory members include: student representative nominated by the Board of Directors of the Alaska Association of Student Governments and selected by the board; and military representative nominated by the ranking General of the Alaska Command and selected by the board.)

SPECIAL FACTS: Quorum - 4 members. Serve at the pleasure of the Governor.

FUNCTION: Heads, Dept. of Education; appoints Commissioner with Governor's approval; adopts bylaws and budget for management of the Department; administers the program of vocational education and is designated as the Board of Vocational Rehabilitation.

COMPENSATION: Standard travel/per diem.

MEETINGS: At least quarterly; held in Juneau unless board changes location; official meetings 10-11 times per year; committee meetings 5-10 days per year; total 30 days maximum.

*FOR FURTHER INFORMATION CONTACT: Commissioner, Dept. of Education, Box F, Juneau, AK 99811 PHONE: 465-2800
(Revised 1/14/91)

EDUCATION

MEMBER	APPT	REAAPT	REAPPT	TERM
Michael Angaiak 4113 Willy's Lane Fairbanks 99709 Student Rep/Non-Voting	90/06/00	0/00/00	0/00/00	90/06/01
Kathryn Cuddy 1900 Stanford Drive Anchorage 99508 Public-at-Large	91/01/07	0/00/00	0/00/00	95/01/31
Matthew Kenney 5-450A "I" Street Eldendorf AFB 99506 Military Rep./Non-Voting	88/12/05	0/00/00	0/00/00	90/12/05
Joe Montgomery 1048 Beech Lane Anchorage 99501 Public/3rd JD	91/01/07	0/00/00	0/00/00	93/01/31
June Nelson Box 158 Kotzebue 99752 Public/2nd JD	91/01/07	0/00/00	0/00/00	94/01/31
Patricia Norheim P.O. Box 642 Petersburg 99833 Public/1st JD	91/01/07	0/00/00	0/00/00	92/01/31
Jack Phelps P.O. Box 628 Talkeetna 99676 Public at Large	91/01/07	0/00/00	0/00/00	94/01/31
Robert Walp 804 P Street, No. 4 Anchorage 99501-3252 Public at Large	91/01/07	0/00/00	0/00/00	95/01/31
Andy Warwick 3200 Riverview Drive Fairbanks 99709 Public/4th JD	91/01/07	0/00/00	0/00/00	93/01/31