

**ALASKA STATE LEGISLATURE  
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES  
STANDING COMMITTEE**

April 21, 2001  
11:22 a.m.

**MEMBERS PRESENT**

Representative Fred Dyson, Chair  
Representative Peggy Wilson, Vice Chair  
Representative John Coghill  
Representative Gary Stevens  
Representative Vic Kohring  
Representative Sharon Cissna  
Representative Reggie Joule

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 173

"An Act relating to establishing a screening, tracking, and intervention program related to the hearing ability of newborns and infants; providing an exemption to licensure as an audiologist for certain persons performing hearing screening tests; relating to insurance coverage for newborn and infant hearing screening; and providing for an effective date."

- MOVED CSHB 173(HES) OUT OF COMMITTEE

HOUSE BILL NO. 85

"An Act relating to conduct directed at a school employee as an aggravating factor for criminal sentencing purposes."

- MOVED HB 85 OUT OF COMMITTEE

HOUSE BILL NO. 71

"An Act relating to the education of children with disabilities and of gifted children; relating to the Governor's Council on Disabilities and Special Education; making conforming amendments; and providing for an effective date."

- MOVED CSHB 71(HES) OUT OF COMMITTEE

HOUSE BILL NO. 112

"An Act relating to information and services available to pregnant women and other persons; and ensuring informed consent before an abortion may be performed, except in cases of medical emergency."

- HEARD AND HELD

**PREVIOUS ACTION**

BILL: HB 173

SHORT TITLE: SCREENING NEWBORNS FOR HEARING ABILITY

SPONSOR(S): REPRESENTATIVE(S) JOULE

Jrn-Date	Jrn-Page		Action
03/12/01	0542	(H)	READ THE FIRST TIME - REFERRALS
03/12/01	0542	(H)	HES, FIN
03/13/01	0579	(H)	COSPONSOR(S): SCALZI
03/30/01	0794	(H)	COSPONSOR(S): KERTTULA
04/17/01	1021	(H)	COSPONSOR(S): MORGAN
04/17/01		(H)	HES AT 3:00 PM CAPITOL 106
04/17/01		(H)	Heard & Held MINUTE(HES)
04/18/01	1052	(H)	COSPONSOR(S): STEVENS
04/19/01		(H)	HES AT 3:00 PM CAPITOL 106
04/19/01		(H)	Scheduled But Not Heard
04/21/01		(H)	HES AT 11:00 AM CAPITOL 106

BILL: HB 85

SHORT TITLE: AGGRAVATING FACTORS IN SENTENCING

SPONSOR(S): REPRESENTATIVE(S) COGHILL

Jrn-Date	Jrn-Page		Action
01/22/01	0143	(H)	READ THE FIRST TIME - REFERRALS
01/22/01	0143	(H)	EDU, HES, JUD
02/14/01	0328	(H)	COSPONSOR(S): DYSON
04/11/01		(H)	EDU AT 8:00 AM CAPITOL 106
04/11/01		(H)	Moved Out of Committee -- Location Change -- MINUTE(EDU)
04/12/01	0986	(H)	EDU RPT 4DP 1NR
04/12/01	0987	(H)	DP: PORTER, GREEN, GUESS, BUNDE;
04/12/01	0987	(H)	NR: JOULE
04/12/01	0987	(H)	FN1: ZERO(COR)
04/12/01	0987	(H)	FN2: ZERO(LAW)

04/17/01 1021 (H) COSPONSOR(S): GUESS  
04/21/01 (H) HES AT 11:00 AM CAPITOL 106

BILL: HB 71

SHORT TITLE: EDUC. OF DISABLED OR GIFTED CHILDREN

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
01/17/01	0112	(H)	READ THE FIRST TIME - REFERRALS
01/17/01	0112	(H)	EDU, HES, FIN
01/17/01	0112	(H)	FN 1: ZERO(EED)
01/17/01	0112	(H)	GOVERNOR'S TRANSMITTAL LETTER
02/07/01		(H)	EDU AT 8:00 AM CAPITOL 106
02/07/01		(H)	Heard & Held
02/07/01		(H)	MINUTE(EDU)
03/14/01		(H)	EDU AT 8:00 AM CAPITOL 106
03/14/01		(H)	Heard & Held
03/14/01		(H)	MINUTE(EDU)
04/04/01		(H)	EDU AT 8:00 AM HOUSE FINANCE 519
04/04/01		(H)	Scheduled But Not Heard
04/11/01		(H)	EDU AT 8:00 AM CAPITOL 106
04/11/01		(H)	Moved CSHB 71(EDU) Out of Committee -- Location Change
04/11/01		(H)	MINUTE(EDU)
04/17/01	1014	(H)	EDU RPT CS(EDU) NT 2DP 1DNP 1NR 1AM
04/17/01	1014	(H)	DP: JOULE, GUESS; DNP: PORTER;
04/17/01	1014	(H)	NR: BUNDE; AM: GREEN
04/17/01	1014	(H)	FN1: ZERO(EED)
04/21/01		(H)	HES AT 11:00 AM CAPITOL 106

BILL: HB 112

SHORT TITLE: ABORTION: INFORMED CONSENT; INFORMATION

SPONSOR(S): REPRESENTATIVE(S) COGHILL

Jrn-Date	Jrn-Page		Action
02/05/01	0241	(H)	READ THE FIRST TIME - REFERRALS
02/05/01	0241	(H)	HES, JUD, FIN
02/05/01	0241	(H)	REFERRED TO HES
03/08/01		(H)	HES AT 3:00 PM CAPITOL 106
03/08/01		(H)	Heard & Held
03/08/01		(H)	MINUTE(HES)
03/09/01	0529	(H)	COSPONSOR(S): KOHRING

04/17/01	(H)	HES AT 3:00 PM CAPITOL 106
04/17/01	(H)	<Bill Postponed to 4/19/01>
04/19/01	(H)	HES AT 3:00 PM CAPITOL 106
04/19/01	(H)	Scheduled But Not Heard
04/21/01	(H)	HES AT 11:00 AM CAPITOL 106

**WITNESS REGISTER**

RICHARD BLOCK  
 Christian Science Committee Publication of Alaska  
 360 West Benson  
 Anchorage, Alaska 99503  
 POSITION STATEMENT: Testified on HB 173.

CHRISTINE HESS, Staff  
 to Representative Reggie Joule  
 Alaska State Legislature  
 Capitol Building, Room 405  
 Juneau, Alaska 99801  
 POSITION STATEMENT: Testified on behalf of the sponsor of HB 173.

VERNON MARSHALL, Executive Director  
 National Education Association-Alaska  
 114 2nd Street  
 Juneau, Alaska 99811  
 POSITION STATEMENT: Testified on HB 85.

BRUCE JOHNSON, Deputy Commissioner of Education  
 Office of the Commissioner  
 Department of Education and Early Development  
 801 West 10th Street  
 Juneau, Alaska 99801  
 POSITION STATEMENT: Testified on HB 71.

GREG MALONEY, Director  
 Special Education  
 Department of Education and Early Development  
 801 West 10th Street  
 Juneau, Alaska 99501  
 POSITION STATEMENT: Testified on HB 71.

SID HEIDERSDORF, Alaskans for Life  
 PO Box 658  
 Juneau, Alaska 99811  
 POSITION STATEMENT: Testified on HB 112.

COLLEEN MURPHY, M.D., Obstetrician-Gynecologist  
3260 Providence Drive  
Anchorage, Alaska 99508  
POSITION STATEMENT: Testified on HB 112.

**ACTION NARRATIVE**

TAPE 01-48, SIDE A  
Number 0001

CHAIR FRED DYSON called the House Health, Education and Social Services Standing Committee meeting to order at 11:22 a.m. Members present at the call to order were Representatives Dyson, Wilson, Kohring, Cissna, and Joule. Representatives Coghill and Stevens joined the meeting as it was in progress.

HB 173-SCREENING NEWBORNS FOR HEARING ABILITY

CHAIR DYSON announced that the first order of business would be HOUSE BILL NO. 173, "An Act relating to establishing a screening, tracking, and intervention program related to the hearing ability of newborns and infants; providing an exemption to licensure as an audiologist for certain persons performing hearing screening tests; relating to insurance coverage for newborn and infant hearing screening; and providing for an effective date."

Number 0230

RICHARD BLOCK, Christian Science Committee Publication of Alaska, testified via teleconference on HB 173. He said he is speaking on behalf of those people who, as a matter of practice and religious commitment, rely exclusively on prayer for healing. To those people, the notion that they or their children would be subjected to a physical exam is something that they would find not consistent with their faith. He stated that throughout the history of Alaska, the Alaska State Legislature has recognized this legitimate concern and has provided accommodations. He said [the Christian Science Committee Publication of Alaska] would ask, if it is the intent of the legislature to adopt this public policy of generally requiring hearing screening, that they continue the practice of recognizing the special concerns of people who rely on prayer for healing, and exempt them from this requirement.

MR. BLOCK pointed out that there is a federal law that encourages this, but which also contains a provision by Congress

that recognizes the concerns of those who rely on prayer for healing. He stated that the language he proposes essentially parallels that in the congressional Act.

CHAIR DYSON asked Mr. Block if his religion rejects screening, since nothing in the bill has to do with healing.

MR. BLOCK responded that [Christian Scientists] fundamentally do object [to the screening], because they start from the premise of man's perfection and have been successful in asserting that. They do not choose to start their new children's lives by looking for things that are wrong.

CHAIR DYSON stated that he understands that part of the motivation [behind HB 173] is that detecting hearing loss with newborn children is quite difficult to do. He added that children whose hearing loss is not corrected, either through intervention or prayer, will have profound learning disabilities and perhaps socialization ones.

Number 0587

CHRISTINE HESS, Staff to Representative Reggie Joule, Alaska State Legislature, explained that page 5, subsection (f), provides an exemption from the testing on the grounds that the procedures conflict with the religious tenets and practices of the parent.

REPRESENTATIVE CISSNA stated:

This sort of brings to mind for me [that] ... over time we've begun to be more sensitive about the words we use. We say hearing "loss," and in a way this may be a hearing "difference." And what we're really talking about is how we teach. I'm sure that [Mr. Block's] membership is not opposed to education, and really this is education.

Number 0717

[There was a motion to report HB 173 out of committee, but it was withdrawn in order to take up an amendment.

REPRESENTATIVE JOULE made a motion to adopt Amendment 1, which read [original punctuation and capitalization provided]:

Page 5, subsection (g), lines 14-18

**DELETE**

There being no objection, Amendment 1 was adopted.

REPRESENTATIVE WILSON moved to report HB 173, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 173(HES) moved from the House Health, Education and Social Services Standing Committee.

HB 85-AGGRAVATING FACTORS IN SENTENCING

CHAIR DYSON announced that the next order of business would be HOUSE BILL NO. 85, "An Act relating to conduct directed at a school employee as an aggravating factor for criminal sentencing purposes."

Number 0880

REPRESENTATIVE COGHILL stated, as sponsor of HB 85, that this would amend the state statutes by allowing a judge to increase penalties for assaults on school employees. He said this was brought to him by NEA (National Education Association).

REPRESENTATIVE WILSON asked where else in statute it says a judge [can increase penalties for assaults].

REPRESENTATIVE COGHILL responded that this falls under the aggravator section, and is 1 of 30 items that are described as aggravating factors.

Number 0985

VERNON MARSHALL, Executive Director, National Education Association-Alaska (NEA-Alaska), came forth and stated that NEA-Alaska appreciates that the legislature is taking steps to make schools safe. He said [NEA-Alaska] thinks this is a step toward establishing a standard, recognizing that it is a serious issue when anyone assaults a school employee while that employee is performing his or her duties. He added that the bill gives the court an opportunity to consider the aggravator when adjusting the sentence.

REPRESENTATIVE COGHILL read to the committee [AS] 12.55.155(b):

(b) Sentence increments and decrements under this section shall be based on the totality of the aggravating and mitigating factors set out in (c) and (d) of this section.

He then read subsection (30 of HB 85:

(30) the defendant knowingly directed the conduct constituting the offense at a school employee during or because of the exercise of official duties.

REPRESENTATIVE COGHILL explained that the primary task is to allow this to be an aggravator if there is an egregious attack.

Number 1198

REPRESENTATIVE CISSNA stated:

As a state, in the benchmark of social health indicators, we don't fare too well in some categories. And we're third ... in incarceration. ... Although I'm totally in favor of raising the status of teachers as a group that really desperately [needs] to be respected as those [who] are guiding the course of our children's future, at the very same time I hope that in all of these things ... we don't limit the possibilities for alternative sentencing, for alternative ways of grappling with changing our status of being third in incarceration.

CAROL COMEAU, Superintendent, Anchorage School District (ASD), stated that [ASD] is very supportive of this because it is allowing for the discretion of a judge.

Number 1296

REPRESENTATIVE JOULE moved to report HB 85 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 85 moved from the House Health, Education and Social Services Standing Committee.

HB 71-EDUC. OF DISABLED OR GIFTED CHILDREN

CHAIR DYSON announced that the next order of business would be HOUSE BILL NO. 71, "An Act relating to the education of children with disabilities and of gifted children; relating to the Governor's Council on Disabilities and Special Education; making

conforming amendments; and providing for an effective date."  
[Before the committee was CSHB 71(EDU).]

Number 1373

CHAIR DYSON stated that his recollection is that there have been special-education provisions for kids with disabilities and, concurrently, for gifted and talented (GT) children that have been intermingled in the code. He stated that the federal government does not recognize GT as a part of the special provisions made for kids with disabilities, and has objected to their being mixed in [Alaska's] code or in the funding. The federal government has directed [the Department of Education and Early Development] to disentangle them so that the [federal government] is clear that the money provided for children with disabilities is not commingled with the gifted and talented program. He asked if he was right [in saying this].

BRUCE JOHNSON, Deputy Commissioner of Education, Office of the Commissioner, Department of Education and Early Development (EED), stated that he was correct. He clarified that the federal government was never concerned about the commingling of the statutes or regulation, but was very concerned with [the EED] using money earmarked for children with disabilities for children with the exceptionality of giftedness. Therefore, [the EED] stopped doing that. He stated that last year there was a discussion about whether the federal government would withhold money if this is not corrected. [The EED] did get a signal from [the federal government] that no money would be withheld, and there is no reading that the IDEA (Individuals with Disabilities Education Act) 97 dollars that come to [Alaska] are in jeopardy for next year. He stated that in March, the State Board [of Education] adopted regulations that are in compliance with IDEA 97, and [the EED] is trying to show substantial compliance wherever possible.

MR. JOHNSON added that the bill has been improved this year on both sides of the equation: the part of the bill that serves children with disabilities as well as the part that serves children with the exceptionality of giftedness. He stated that [the EED] did this through a deliberate process with constituents, starting with those who are most concerned about children with disabilities. There was a two-day meeting facilitated by an outside expert, and there were agreements over the disagreements that had arisen during testimony last year. On the GT side, [constituents] feel very strongly that they want to be included under the umbrella of "exceptional children."

Number 1585

MR. JOHNSON explained that when [the EED] developed its legislation, it was split into two sections: one dealing specifically with children with disabilities, the other with the exceptionality of giftedness. He stated that in the bill last year there was children-with-disability language that was pretty much as it is today. On the GT side, since the state has not been receiving any money to monitor or provide technical services for GT students, [the EED] elected to require that districts serve children with that exceptionality, but for all procedures and rules around that to be determined district by district. He stated that this was not well received; therefore, [the EED] has now taken a different approach, which has a modest fiscal note, to provide a half-time person for technical oversight. The districts would then be monitored on how well they were doing with GT students.

MR. JOHNSON stated that [the EED] did not include transportation as a related service for this population because [the EED] has heard a lot about the escalating cost of transportation, and thought the legislature should take proactive measures if it wants to provide transportation for this population. He added that there previously was not a clause on mediation; however, there is with [this bill].

CHAIR DYSON asked if, by and large, the gifted-and-talented parent advocacy groups are now comfortable that this is in separate sections of the bill and no longer commingled.

MR. JOHNSON responded that he wouldn't say that they are comfortable, but they have recognized that there are some advantages to doing this. They ultimately feel that, given the way [the bill] was crafted, it was a reasonable approach. He clarified that [GT] is still under the broad umbrella of exceptional children, but was a separate section within that statute.

CHAIR DYSON asked what the vote was in the House Special Committee on Education (HEDU).

REPRESENTATIVE JOULE asked if Mr. Johnson, prior to answering Chair Dyson's question, could speak to the amendments that were made in HEDU.

Number 1805

MR. JOHNSON responded that the three amendments on the GT side involved the least restrictive environment. He stated that [HEDU] voted to delete "least restrictive environment" from the bill, as was recommended by [the EED].

REPRESENTATIVE JOULE stated that since there was an objection to the amendment there was a vote, which carried the amendment 4-2.

CHAIR DYSON stated that [in HEDU] there were two "do passes," one "do not pass," one "amend," and one "no recommendation" [for CSHB 71(EDU)].

Number 1938

REPRESENTATIVE COGHILL stated that one of the things he struggles with in this bill is that the language, except with what was amended, pretty much mirrors the IDEA language. He asked if one could construe that there is a civil right that is being protected. He also stated that with IDEA, inclusion is being forced, whereas with the GT, exclusion is being forced. He remarked that he finds this contradictory and would like some discussion on it.

GREG MALONEY, Director, Special Education, Department of Education and Early Development, responded that in terms of how GT and IDEA 97 interact, there is no federal requirement for the gifted. Therefore, it was decided that both gifted [students] and kids with disabilities would be served under "exceptional children" on the state level. The current statute, he said, is for the education of exceptional children. He stated that in making that decision to clarify which special education and gifted requirements are state mandates, the federal government is most concerned with how [the EED] clearly outlines what are federal requirements when servicing kids with disabilities, and that federal funds are not used to support gifted education.

MR. MALONEY stated that because "exceptional children" was used for both gifted and special education, "least restrictive environment" was put in. Under IDEA 97, least restrictive environment means that kids with disabilities are included in their regular classroom with their same-age peers to the degree appropriate in order to provide an appropriate education. That language was also put in for the gifted. He said there was a concern that if that language were in there for the gifted, then that would be taken to mean that there could not be "pullout" programs or separate programs for GT. He remarked that [the

EED] understood that as meaning it would be up to each IEP (Individual Education Plan) team to make that determination. However, there was strong feedback from the GT community about the least restrictive environment. Since it is a state mandate, there was nothing that was federally required to be maintained for "least restrictive environment" for gifted education. He noted that this could never be done for the children-with-disabilities piece. The idea is not inclusion but [for GT students to be] involved in the regular classroom to the maximum degree appropriate.

REPRESENTATIVE COGHILL remarked that this is why he thinks this legislature should take this up as two separate issues. He stated that he is going to suggest that the question be divided, since one is a federal mandate and the other is a state option.

Number 2077

MR. MALONEY clarified that the language chosen for the regulations also clarifies the gifted requirements from the federally mandated special-education requirements. He added that this is also how it is represented in the current bill. There are two components: the special-education component and GT.

REPRESENTATIVE WILSON asked if this was why the change from "exceptional children" to "children with disabilities" took place.

MR. MALONEY answered yes.

REPRESENTATIVE WILSON asked where in the bill the division occurs.

MR. MALONEY stated that it occurs on page 13, line 19 [in CSHB 71(EDU)].

Number 2158

REPRESENTATIVE CISSNA stated:

I personally think that although this is not a federally mandated section of how we're providing services to our children, at the very same time I've known lots of Mensa folks - people with extraordinary mental ability - and know that most of them [didn't] attain what they could have attained. ... It was

because of the way that we didn't provide services in schools. ... I would hope [that] if we're going attain what we can in this state, that we strive for excellence all the way through so that we can really do what we need to do in this state - and that's rise above and really compete out there. ... We're not going to be able to do [that] unless we serve all of our children.

MR. MALONEY responded that there is a 30-year history in [Alaska] of providing gifted educational services. He stated that there is also a very strong feeling in the gifted community about the importance of those services. He said he thinks the difficulty for [the EED] has been that it has had the obligation to oversee those programs but has not had specific funding enabling it to do that.

REPRESENTATIVE JOULE stated that regardless of what direction [the committee] is going, he thinks it needs to be stated that there is another bill moving through the legislature - the charter schools bill - whereby potentially there could be a school within a school or a charter school strictly for gifted and talented students. He added that he also fears if [the committee] does not move this along, the GT part could get buried.

Number 2267

REPRESENTATIVE COGHILL asked, if these issues were separated and gifted and talented were taken out, whether districts could arrange for a GT [program].

MR. MALONEY responded that, in theory, districts could voluntarily choose to provide gifted services. However, there would be two concerns if this were left to the discretion of districts: whether the districts would choose to do so, and the consistency of services. He stated that there has been a clear message throughout the history of providing gifted service that some oversight from the state is appropriate, because then it allows for those services to be provided and for there to be some consistency, external to the district, in providing those services.

REPRESENTATIVE COGHILL remarked that the answer, then, is yes, [the districts] could. He remarked that this language is so close to what is installed on a federal level for civil rights that he is concerned it would create a problem in the civil

rights area. He asked Mr. Maloney if he anticipates any discussion on that.

MR. MALONEY replied that in the 30-year history there has been more confusion in terms of how gifted services are applied, because there has been some overlap of services. When the language was together under "exceptional children," there were times when it was not clear to districts and/or parents what applied to gifted and what applied to special education - it took a fine reading of the regulations to get that. He explained that in separating this, he thinks it clarifies what the special-education and the gifted regulations are that need to be followed. He said that there are some procedural safeguards that apply to both; however, there are more protections under the federal law in relation to due process. He added that there has been very little litigation based on civil rights issues.

TAPE 01-48, SIDE B

REPRESENTATIVE COGHILL responded that without regard to the litigation issue, he thinks that starting with due process hearings and setting up frameworks of that type allows [the issue of civil rights] to be in that discussion.

Number 2360

REPRESENTATIVE WILSON asked whether there already is a due process in place for all children.

MR. MALONEY answered that there is a local administrative complaint procedure through the school boards.

REPRESENTATIVE WILSON asked if gifted children, then, already have [a due process procedure] in place, as do all other students.

MR. MALONEY responded that they already have the due process procedures. He clarified that this is not a new piece for gifted students.

REPRESENTATIVE WILSON asked what is being added or taken away that is not already available.

MR. MALONEY responded that in terms of GT, the major proposed change was to remove transportation reimbursement for gifted kids. However, that was returned to the bill in HEDU. He

explained that this bill clarifies that some of the things that are federally mandated do not apply to gifted kids. He stated that at times this has been misinterpreted to mean that what is appropriate for kids with disabilities is appropriate for kids who are gifted. The strategy was to try to separate the two in order to clear up the confusion and to make sure that federal funds were not being used inappropriately for gifted kids.

Number 2279

REPRESENTATIVE WILSON stated that her concern is that every child should have the same opportunity in learning. She said it is federally mandated to separate the children with disabilities; however, she feels that the [other children] should have the same rights. She added that she has a problem with giving some children more rights than others.

MR. MALONEY responded that he thinks members of the gifted community would say that there are also kids who have high abilities and have needs that are different from those of kids within the range of what may be considered traditional or normal. These are the kids who meet certain gifted criteria, who may have high cognitive scores, and who may have exceptional talents in some areas that the regular curriculum is not addressing. The concern that comes up, he stated, is that if this doesn't happen, then -much like what happens with children with disabilities - children won't be challenged, and they may experience a high dropout rate. They will get frustrated, and they may not do well in school, and.

REPRESENTATIVE WILSON asked if [students are already being challenged].

MR. MALONEY replied that in speaking for the gifted community, he thinks that - just as for kids with disabilities - the regular curriculum may not meet their needs. Therefore, it would require specific special services for the kids who are at a higher level in terms of cognitive ability.

REPRESENTATIVE WILSON stated that she agrees with what Mr. Maloney is saying, but there already are classes that do that. She said she is concerned with putting more demands on the schools. She asked what other states are doing in these same situations.

MR. MALONEY responded that he doesn't have specific data on programs and how they relate in each state; however, this is a

topic that most states have to deal with. He said Alaska is not alone in struggling with how to provide appropriate services for the entire range of kids. He added that most districts do have accelerated programs; however, in terms of the constant feedback from the gifted program, these are kids who require categorically different services in order to demonstrate appropriate achievement.

Number 2131

CHAIR DYSON stated that regardless of what [the committee does], each district still gets 20 percent more for the GT, learning disabled, and vocational programs. Therefore, there is no change in funding.

MR. MALONEY stated that Chair Dyson was correct. He noted that bilingual education is the one other program under the block grant. He added that special education has the most specific requirements; therefore, that funding has the most specific uses.

Number 2089

REPRESENTATIVE CISSNA asked if she was correct is stating that each district gets a share for special education, but that the districts themselves determine how the money is spent. She stated that friends of hers who are teaching in the Bush are extremely concerned because even though their district received the money, it was being spent in other ways. She reiterated that people she has known who have exceptional abilities have not achieved what they could have achieved.

MR. MALONEY responded that when the state provides the 20 percent block grant, which is based on total enrollment of students, there are no specific amounts or percentages that have to be spent on GT. He clarified that nothing addresses funding [in the bill].

REPRESENTATIVE JOULE stated that under the block grant it's not only rural schools that may have a problem with how the money is spent. He asked if it is fair to say that in the more urban areas the money heavily goes to one or two of the [block grant] categories, such as special education, bilingual education in the rural schools, or vocational education.

Number 1896

MR. MALONEY replied that the message he has gotten from superintendents and special education directors is that that is the case. He said one reason is that special education has the most legalistic and specified requirements. The challenge, then, is if a student has an IEP for a disability, it has to be implemented. If it is not [implemented], parent, have the right to challenge that. He noted that there is a similar right for the gifted, but in practice there has not been the same level of scrutiny provided through parents or others on the gifted program as there has been federally and statewide in terms of the special education requirements. Kids who have disabilities have expensive-educational programs; therefore, more funds tend to go toward those students.

CHAIR DYSON stated that Representative Coghill has an amendment in the form of a committee substitute that would take gifted and talented out of [the current bill]. He said it is his sense that the rest of the debate should just be on that. He asked if it is fair to say that [the EED] has changed the regulations to separate GT, and is now asking [the legislature] to change the statutes to fit the regulations.

MR. MALONEY answered yes. He clarified that even though the discussion focuses on GT, there are some specific pieces related to special education that are also in this bill.

CHAIR DYSON remarked that he didn't mean to downgrade the importance of what [the EED] has done. He asked, if [the committee] does not pass this bill, whether [the EED] will have regulations that are out of conformity with the law.

MR. MALONEY responded that the regulations that were adopted are in conformity with the current law.

CHAIR DYSON stated that [the committee] wouldn't have to do anything, then.

MR. MALONEY clarified that if [the committee] did nothing, the federal funding for this year would not be in jeopardy. The regulations address the changes that [the EED] is wanting to make; however, they do not take away the need to change the statute.

CHAIR DYSON asked whether the federal government is not satisfied with its being changed in regulation, and is requiring that it be changed in law.

MR. MALONEY answered yes, that [the federal government] is requiring [the EED] to move toward that. He added that the federal government has not been completely clear in its message to [the EED].

CHAIR DYSON asked Mr. Maloney [what year the money would be in jeopardy].

MR. MALONEY replied that it is the money that would arrive on July 1, 2001.

CHAIR DYSON asked, "If we did nothing now and did this 12 months from now, we could still save your bacon?"

MR. MALONEY stated that that is his understanding.

Number 1720

REPRESENTATIVE COGHILL made a motion to adopt the proposed committee substitute (CS) for HB 71, version 22-GH1010\F, Ford, 4/20/01, as a work draft.

REPRESENTATIVE CISSNA objected for the purpose of discussion.

REPRESENTATIVE COGHILL explained that the gifted and talented section is taken out of [the proposed CS].

REPRESENTATIVE WILSON stated that the way the original bill is written, it provides unfunded mandates at the local level to the schools. She said she thinks this needs to be discussed more and that she agrees with Representative Coghill.

CHAIR DYSON stated that this certainly is a mandate and limits local decisions; however, it can be argued that it is not unfunded because there is 20 percent more money for every district to cover the four categories. He added that if a district does not have children considered to be GT or bilingual students, [the district] would have the same pot of money that could be put toward kids with disabilities or vocational programs.

MR. MALONEY stated that he agrees with Chair Dyson. He clarified that the unfunded part is more at the state level for the oversight of gifted programs.

Number 1565

REPRESENTATIVE JOULE asked, if this were to be separate, whether the issue of transportation would remain unfunded.

MR. MALONEY stated that transportation is not part of the block grant; therefore, if the gifted and talented section is taken out, the transportation reimbursement would also be removed.

REPRESENTATIVE CISSNA asked if passing the proposed CS or the original bill would eliminate the ability to have transportation for the gifted.

MR. MALONEY responded that the version of the bill that came out of the House Special Committee on Education put back transportation for GT. If gifted and talented is not part of the districts' mandate, then there would be no reimbursement for gifted kids because there wouldn't be a gifted program.

REPRESENTATIVE CISSNA stated that she understands that [with this bill there is] the lack of a federal mandate, that the transportation issue is needed, and that the oversight is needed. She asked how many positions there are that cover special education.

MR. MALONEY stated that currently there are three program managers, in addition to himself, who provide direct oversight for special education in the state. He clarified that this would [offer] an additional half-time position.

REPRESENTATIVE CISSNA remarked that her concern is that every child has special needs and every child needs to be taught differently. She stated that a half-time position doesn't seem like very much.

Number 1372

REPRESENTATIVE WILSON asked, if a gifted and talented child is in a school with other kids and the parents want him or her to go to a different school, which is charter school, whether his or her transportation would be paid for under this bill. She also asked, if there were another child whose parents wanted him or her to go to a different school, but he or she wasn't GT, whether that child's transportation wouldn't be paid for.

MR. MALONEY responded that, for example, in Anchorage there is a gifted program whereby kids from other sites are brought to a central location. He added that it is not necessarily parents' choice. There would be an identification process through which

kids would be determined eligible, and then transportation would be set up as part of the kids' educational program. He clarified that if a child is not in a gifted program, his or her transportation would not be paid for.

REPRESENTATIVE CISSNA asked if this would also apply to a special education child who did not have an IEP, but who wanted to go to a different school.

MR. MALONEY answered that she was correct: that child's reimbursement would not be provided for through the department.

Number 1160

A roll call vote was taken. Representatives Coghill, Stevens, Kohring, Wilson, and Dyson voted for adopting the proposed CS as a work draft. Representatives Cissna and Joule voted against it. Therefore, proposed CSHB 71 was before the committee by a vote of 5-2.

REPRESENTATIVE WILSON asked if everything for children with disabilities is the same, in the proposed CS, as it was in the original bill.

REPRESENTATIVE COGHILL responded that it is primarily the same.

CHAIR DYSON remarked that a profound change has been adopted; he said he feels he owes it to Mr. Maloney to allow him to speak to it.

MR. MALONEY responded that his experience with the gifted community is that this is a group of people who feel passionately about the requirement that children have for these services, and that they will have a strong reaction to this [change]. Their concern will be, he said, that the state has not shown the level of support that they believe is needed for their students. He added that this is a group of parents who are well organized, and who will make clear their concern with this particular legislative move.

Number 1064

CHAIR DYSON stated his position:

We're talking about what is a public responsibility. Certainly, for me, when considering this debate, I have to go back to our foundational documents and say,

"You know what constitutional authority and federal and state [authority] we have for taking the public's dollars to spend them on groups of populations." And certainly, in my view, there is a hierarchy of those things. Kids with disabilities have a far greater, in my view, claim upon the taxpayer's dollars to help them deal with the disabilities.

REPRESENTATIVE STEVENS stated that he appreciates the proposed CS, but there is an implied plan to move ahead with dealing with GT [students] in the future. He asked if this is Chair Dyson's intention.

CHAIR DYSON pledged to this committee that anything that comes forward will receive a fair hearing. He added that he agrees with Representative Cissna that exceptional kids should not be left out of the public education process, and need to be provided with all the education opportunities specially tailored to their particular needs that are possible.

Number 0891

REPRESENTATIVE CISSNA stated that it is a constitutional requirement for students to be provided with the education that they need. She said she thinks it is a defensible argument that it becomes a handicap when gifted students [are not addressed].

REPRESENTATIVE JOULE remarked that he does not have a problem supporting the bill as amended; however, he is very disappointed that it has been separated out. He stated that, like special education, gifted and talented crosses all socioeconomic lines. He stated that these aren't certain classes of kids; therefore, the parents of gifted and talented of kids and the parents of special-education kids are probably equal taxpayers.

REPRESENTATIVE WILSON stated:

This is not an easy decision, but ... if we as legislators were fully funding schools the way they should be funded, there would be extra money to do a lot of extra things. ... That's one of my big concerns; it's another mandate that we would be putting on. And I'm not saying that it's not needed and it's not important - it is; it's very important. And those kids that are gifted and talented have every right to learn up to their ability, if the sky's the

limit. But, unfortunately, we're not funding the schools adequately at this time.

REPRESENTATIVE COGHILL remarked that this move is in no way meant to disparage children in special-needs education. However, [in response to] the issue that [Representative Joule] raised that it doesn't have socioeconomic boundaries, he said it still stratifies an educational community, and he is always cautious about doing that. He added that this is fashioned after the IDEA, which is a civil rights issue, and he does not think it is wise to mirror that language. Finally, he said he thinks IEPs are good for all students.

[A roll call vote for moving the bill was taken; however, a motion to move the bill had never been stated.]

Number 0454

REPRESENTATIVE COGHILL moved to report CS for HB 71, version 22-GH1010\F, Ford, 4/20/01 out of committee with individual recommendations and the accompanying fiscal note(s).

REPRESENTATIVE CISSNA objected.

A roll call vote was taken. Representatives Coghill, Stevens, Kohring, Joule, Wilson, and Dyson voted in favor of moving the bill. Representative Cissna voted against it. Therefore, CSHB 71(HES) moved from the House Health, Education and Social Services Standing Committee by a vote of 6-1.

HB 112-ABORTION: INFORMED CONSENT; INFORMATION

CHAIR DYSON announced that the last order of business would be HOUSE BILL NO. 112, "An Act relating to information and services available to pregnant women and other persons; and ensuring informed consent before an abortion may be performed, except in cases of medical emergency."

Number 0218

SID HEIDERSDORF, Alaskans for Life, came forth and stated that [Alaskans for Life] supports HB 112 and recognizes that this does not restrict or limit abortion in any way. He said there is the objection of those opposed to this proposed legislation of, "Why single out abortion for special requirements?" He remarked that one of the ways to answer that is to ask, "Why is

abortion the only invasive medical procedure for which people are not adequately informed?" He stated:

It is well known that abortion counseling is a sham. The generic consent forms do not address the issue of the child in the womb. Many of them do not address specific problems associated with the abortion procedure. We are not talking about a tonsillectomy or some simple, little, innocent procedure; we're talking about a procedure which takes the life of a child and, consequently can years later lead to pain, regret, depression, [and] guilt. The main problem associated with that would be young girls who are not properly informed and they discover after the fact what it was that they really did. ... This is what leads to an awful lot of the post-abortion syndrome that is seen in our country today.

It really is a sad commentary that we even have to discuss whether or not we should provide adequate information - complete information - for a woman contemplating an abortion. And I think that it's an indication of just how far askew we've gone in our society in the efforts to protect abortion in the eyes of many people. You will hear claims that women are already adequately informed. If that's the case, then there should be no objection to this legislation. However, anyone who's talked to women who've had abortions very quickly [discovers] that informed consent is not at all a practice in abortion.

TAPE 01-49, SIDE A

SID HEIDERSDORF continued, stating:

... [This legislation] is for those who are not adequately informed. If there are some that are adequately informed, that's good. But I will bet you that when people claim that they're adequately informed, the one central issue of abortion [that] will be ignored, or is ignored, ... has to do with the baby. And the baby is the reason that abortion is the issue it is. The baby is the reason that women suffer after the fact, in terms of the psychological impact. I think it is absolutely a necessity for the woman to be told about the gestational age and the development

of the baby in order for anyone to claim that [she] is adequately informed.

Number 0099

SID HEIDERSDORF read responses from a past director of four abortion clinics in Texas, who had been asked what type of counseling was offered at the clinics:

In the clinics I was involved in, we didn't do any real counseling. We answered the questions the women asked and tried not to rock the boat. We did not discuss any alternatives to abortion unless the women forced us to. Each woman asks two questions: Is it a baby? Our response: No, it is a product of conception, blood clot, or glob of tissue. The second question: Will it hurt? [Our response]: No, you will feel a slight cramping sensation. Most women have had the cramps and lived through them, so women think the procedure must not be too painful. The counselor does try to determine the reason the woman wants the abortion, not so much to help as to use the fear to reinforce the abortion decision.

SID HEIDERSDORF stated that it is almost as if people who are opposed to this legislation will believe the whole abortion edifice will collapse if a woman changes her mind when she gets the adequate information. He remarked that the present definition in the legislation of "informed consent" talks about a voluntary and knowing decision to undergo a specific procedure or treatment, based on the following information such as the description of the proposed treatment or procedure, or reasonably foreseeable complications. He remarked that it seems to him that no one can claim to be informed if this does not include the gestational age and the stage of development. He said he thinks that should be added to this definition of informed consent, because that is the crux of the problem.

SID HEIDERSDORF summarized by stating that when it comes to the cost, he doesn't think the Department of Health & Social Services should have to spend a lot of money on developing a document.

Number 0363

COLLEEN MURPHY, M.D., Obstetrician-Gynecologist, testified via teleconference. She stated that counter to the testimony

provided by Mr. Heidersdorf, informed consent does occur. She said she has been working with the Alaska State Medical Association on a number of legislative bills and there is concern around the identification of a single surgical procedure requiring such elaborate detail. She noted that she is currently reviewing her medical malpractice providers, which clearly ask about the issue of termination of pregnancy and the provision of informed consent. She added that her current estimates range from \$30,000 to \$50,000 a year to provide obstetrician-gynecologist services in Alaska. The medical malpractice situation in the U.S. and the Medical Legal Fund currently treat medical providers very well. She stated that she does not think it is necessary for the committee to continue its efforts to improve informed consent.

CHAIR DYSON asked if the Alaska [State] Medical Association has any standard procedures that delineate the information a surgeon or a physician is supposed to give to a patient.

DR. MURPHY responded that that is basically determined by [the doctor's] specialty organization. The American College of Obstetrician-Gynecologist does have information on informed consent that doctors are advised to follow. Likewise, she said, the Medical Insurance Exchange in California also has information on informed consent.

Number 0604

REPRESENTATIVE CISSNA said she would like to know what is required and what is said in the consent.

DR. MURPHY stated that providers in every specialty are patient-orientated, and that is why [most] take on this profession. She added that in providing informed consent for this particular procedure, each patient is asked if she has considered the multiple options about continuing the pregnancy.

[HB 112 was held over.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 1:09 p.m.