

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

5/25/83

Date:

2-9-84

Mr. Speaker:

The Committee on FINANCE has had HB 104

"An Act relating to the education of exceptional children; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 194 (Fin) same title
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
3-7-84
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Albert H. Cook

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Albert H. Cook

CHAIRMAN

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: March 7, 1984

REQUEST

Bill/Resolution No.: CSHB-194(Fin)
Title: ...exceptional children...

Sponsor: Governor
Requestor: House Finance
Date of Request: 3-7-84

FISCAL DETAIL

Agency Affected: Education
Program Category Affected: Elementary and Secondary Education
BRU, Program or Subprogram(s) Affected: Exceptional Children, Foundation Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS: N/A

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The bill has no fiscal impact on this department.

ANALYSIS: Attach a separate page for analysis

Prepared By: Steve Hole *[Signature]* Phone: 465-2800
Division: Commissioner's Office Date: 3-7-84

Approved by Commissioner: Harold Reynolds *[Signature]* Date: 3-7-84
Agency: Education

Distribution (by Agency preparing fiscal note):

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

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 194 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the education of exceptional
7 children; and providing for an effective date."

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

9 * Section 1. AS 14.30.180 is amended to read:

10 Sec. 14.30.180. PURPOSE. It is the purpose of AS 14.30.180 -
11 14.30.350 to provide an appropriate public [COMPETENT] education [SER-
12 VICES] for [THE] exceptional children in the state who are at least
13 three years of age but less than 22 years of age [AND FOR WHICH THE
14 REGULAR SCHOOL FACILITIES ARE INADEQUATE OR NOT AVAILABLE].

15 * Sec. 2. AS 14.30.186(a) is amended to read:

16 (a) A borough or city school district shall provide [FOR] spe-
17 cial education and related services for exceptional children [REPRE-
18 SENTED BY NOT LESS THAN FIVE CHILDREN] residing in the district.

19 * Sec. 3. AS 14.30.186(b) is amended to read:

20 (b) The board of a regional educational attendance area shall
21 provide [FOR] special education and related services in a school in
22 the area for exceptional children [REPRESENTED BY NOT LESS THAN FIVE
23 CHILDREN] residing in the area served by the school.

24 * Sec. 4. AS 14.30.191 is repealed and reenacted to read:

25 Sec. 14.30.191. EDUCATIONAL EVALUATION AND PLACEMENT. (a) A
26 school district shall obtain the consent of the child's parent or
27 guardian before an initial evaluation or placement in a program of
28 special education and related services.

29 (b) After initial placement in a program of special education

1 and related services and not less than once every three years for as
2 long as the child is assigned to the program, an exceptional child
3 shall receive an educational evaluation for the identification and
4 classification of exceptional children.

5 (c) Before a school district initiates or refuses a change in a
6 child's placement or program, the district shall notify the child's
7 parent or guardian.

8 (d) Upon completion of the evaluation and before placement, the
9 school district shall provide to the parent or guardian of each excep-
10 tional child an opportunity for consultation about the evaluation. A
11 consultation must be available after each reevaluation of the condi-
12 tion and placement of the exceptional child.

13 (e) A parent may obtain an independent educational evaluation at
14 the expense of the school district if the parent disagrees with an
15 evaluation obtained by the school district. The school district may
16 initiate a hearing to show that its evaluation is appropriate. If the
17 hearing officer determines that the evaluation is appropriate, the
18 school district may not be required to pay for the independent educa-
19 tional evaluation.

20 (f) If the parent or guardian obtains an independent educational
21 evaluation at private expense, the results of the evaluation

22 (1) must be considered by the school district in a decision
23 made with respect to the provision of an appropriate public education
24 to the child;

25 (2) may be presented as evidence at a hearing regarding the
26 child.

27 (g) If a hearing officer requests an independent educational
28 evaluation as part of a hearing, the school district shall pay for the
29 evaluation.

1 * Sec. 5. AS 14.30 is amended by adding a new section to read:

2 Sec. 14.30.195. HEARINGS. (a) The department shall by regula-
3 tion provide for administrative hearings to be conducted under AS 14.-
4 30.180 - 14.30.350.

5 (b) The agency conducting a hearing under this section may issue
6 subpoenas under AS 44.62.430 and may petition the superior court for
7 adjudications of contempt under AS 44.62.590.

8 * Sec. 6. AS 14.30.231 is amended to read:

9 Sec. 14.30.231. ADVISORY COMMITTEE. The Governor's Council for
10 the Handicapped and Gifted established under AS 47.80 shall serve as
11 [THE COMMISSIONER OF EDUCATION AND THE COMMISSIONER OF HEALTH AND SO-
12 CIAL SERVICES SHALL ESTABLISH] an advisory committee, the function of
13 which is to provide information and guidance for the development of
14 appropriate [SPECIAL EDUCATION] programs of special education and re-
15 lated services for exceptional children. [MEMBERSHIP OF THE ADVISORY
16 COMMITTEE SHALL INCLUDE, BUT IS NOT LIMITED TO, PERSONS REPRESENTING
17 LOCAL EDUCATION AGENCIES, STATE AGENCIES, PARENT GROUPS AND ORGANIZA-
18 TIONS CONCERNED WITH PROGRAMS AND SERVICES FOR EXCEPTIONAL CHILDREN.]

19 * Sec. 7. AS 14.30.250 is amended to read:

20 Sec. 14.30.250. TEACHER QUALIFICATIONS. A [NO] person may not
21 [SHALL] be employed as a teacher of [TO TEACH A CLASS FOR] exceptional
22 children unless that person possesses a valid teacher certificate [,]
23 and, in addition, such training as the department may require by regu-
24 lation.

25 * Sec. 8. AS 14.30 is amended by adding a new section to read:

26 Sec. 14.30.255. ADMINISTRATOR QUALIFICATIONS. A person may not
27 be employed as an administrator of a program of special education and
28 related services unless that person possesses a valid administrative
29 certificate and, in addition, such training as the department may

1 require by regulation.

2 * Sec. 9. AS 14.30.270 is amended to read:

3 Sec. 14.30.270. SUBSTITUTES. AS 14.30.250 does not prohibit the
4 employment of a person, otherwise qualified to serve as a substitute
5 teacher, to serve as a substitute teacher of [A CLASS FOR] exceptional
6 children.

7 * Sec. 10. AS 14.30 is amended by adding new sections to read:

8 Sec. 14.30.272. PROCEDURAL SAFEGUARDS. A school district shall
9 inform the parent or guardian of an exceptional child of the right to
10 review the child's educational record, to review evaluation tests and
11 procedures, to refuse to permit evaluation or a change in the child's
12 educational placement, to be informed of the results of evaluation, to
13 obtain an independent evaluation, to request an impartial hearing, and
14 to give consent or deny access to others to the child's educational
15 record.

16 Sec. 14.30.274. IDENTIFICATION OF EXCEPTIONAL CHILDREN. Each
17 school district shall establish and implement written procedures to
18 ensure that all exceptional children under the age of 22 who reside in
19 the district are identified and located for the purpose of estab-
20 lishing their need for special education and related services.

21 Sec. 14.30.276. LEAST RESTRICTIVE ENVIRONMENT. Each school
22 district shall ensure that to the maximum extent appropriate, excep-
23 tional children, including children in public or private institutions
24 or other care facilities, are educated with children who are not
25 exceptional and that special classes, separate schooling or other
26 removal of exceptional children from the regular educational environ-
27 ment occurs only when the nature or severity of the child's exception-
28 ality is such that education in regular classes with the use of supple-
29 mentary aids and services cannot be achieved satisfactorily.

1 Sec. 14.30.278. INDIVIDUALIZED EDUCATION PROGRAM. (a) The
2 individualized education program for each exceptional child shall
3 include

4 (1) a statement of the child's present levels of education-
5 al performance;

6 (2) a statement of annual goals, including short term
7 instructional objectives;

8 (3) a statement of the specific special education and
9 related services to be provided to the child, and the extent to which
10 the child will be able to participate in regular educational programs;

11 (4) the projected dates for initiation of services and the
12 anticipated duration of the services;

13 (5) appropriate objective criteria and evaluation proce-
14 dures and schedules for determining, on at least an annual basis,
15 whether the short term instructional objectives are being achieved.

16 (b) Each meeting concerning an exceptional child shall include

17 (1) a representative of the school district, other than the
18 child's teacher, who is qualified to provide or supervise the pro-
19 vision of special education;

20 (2) the child's teacher;

21 (3) at least one of the child's parents or guardians;

22 (4) the child, when appropriate;

23 (5) other individuals selected by the parent, guardian, or
24 school district.

25 * Sec. 11. AS 14.30.285(b) is repealed and reenacted to read:

26 (b) An identified exceptional child may be sent to an educa-
27 tional program or residential school outside the child's school dis-
28 trict if the child resides in a school district where an appropriate
29 educational program cannot reasonably be made available and in the

1 department determines that provision of special education and related
2 services in another educational program or residential school is
3 appropriate. If the school district and the department approve the
4 enrollment of the exceptional child in another educational program or
5 residential school outside the child's school district and the child
6 is enrolled, the child's education expenses shall be paid as follows:

7 (1) the sending school district shall pay the receiving
8 district, program, or school an amount of money equal to the sending
9 district's local cost-per-pupil rate;

10 (2) the department shall pay the remainder of the annual
11 cost of the child's education above that provided for in (1) of this
12 subsection.

13 * Sec. 12. AS 14.30.285(d) is amended to read:

14 (d) For the purposes of this section a child's education ex-
15 penses are limited to the actual cost of necessary care, transporta-
16 tion, and special education and related services [INSTRUCTION], in-
17 cluding room and board [, WHILE ATTENDING THE DESIGNATED INSTITUTION].

18 * Sec. 13. AS 14.30.285 is amended by adding a new subsection to read:

19 (g) The withholding of consent by a parent or guardian or de-
20 partmental approval for the transfer of an exceptional child under
21 this section does not relieve a school district of the obligation to
22 provide special education and related services to an exceptional child
23 under AS 14.30.186.

24 * Sec. 14. AS 14.30.305 is amended to read:

25 Sec. 14.30.305. STATE SUPPORT OF PROGRAMS FOR CHILDREN HOSPI-
26 TALIZED OR CONFINED TO THEIR HOMES. [SPECIAL INSTRUCTIONAL SERVICES
27 FOR EXCEPTIONAL CHILDREN WHO ARE HOSPITALIZED OR CONFINED TO THEIR
28 HOMES MAY BE PROVIDED BY A SCHOOL DISTRICT.] A child who is hospi-

29 talized or confined to home and who receives at least 10 hours of

1 special education and related services [INSTRUCTION] per week may be
2 counted as a pupil in average daily membership when computing state
3 support under the public school foundation program.

4 * Sec. 15. AS 14.30 is amended by adding new sections to read:

5 Sec. 14.30.315. STATE SUPPORT OF PROGRAMS FOR GIFTED CHILDREN.

6 (a) To be eligible for state support under the public school founda-
7 tion program, special education and related services for gifted chil-
8 dren must be provided in a program which has been approved in advance
9 by the department.

10 (b) Nothing in this section prohibits the department from re-
11 quiring approval of programs of special education and related services
12 for other categories of exceptional children.

13 Sec. 14.30.325. SURROGATE PARENTS. (a) The department may by
14 regulation provide for the appointment of surrogate parents to repre-
15 sent exceptional children in matters relating to the provision of an
16 appropriate public education.

17 (b) A surrogate parent is not liable for civil damages as a re-
18 sult of an act or omission committed in the surrogate parent's offi-
19 cial capacity, except that a surrogate parent may be liable for civil
20 damages as a result of gross negligence or intentional misconduct.

21 * Sec. 16. AS 14.30 is amended by adding a new section to read:

22 Sec. 14.30.335. ELIGIBILITY FOR FEDERAL FUNDS. Notwithstanding
23 any other provision of AS 14.30.180 - 14.30.350, the department may do
24 all things necessary to qualify for federal funds that are available
25 to the state for the education of exceptional children.

26 * Sec. 17. AS 14.30.347 is amended to read:

27 Sec. 14.30.347. TRANSPORTATION OF EXCEPTIONAL CHILDREN. When
28 transportation is required to be provided as related [PART OF SPECIAL]
29 services, exceptional children shall be carried with other children,

1 except when the nature of their physical or mental handicaps is such
2 that it is in the best interest of the exceptional children, as de-
3 termined by the school district, that they be transported separately.
4 State reimbursement for transportation of exceptional children shall
5 be as provided for transportation of all other pupils except that eli-
6 gibility for reimbursement shall not be subject to restriction based
7 on the minimum distance between the school and the residence of the
8 exceptional child.

9 * Sec. 18. AS 14.30.350 is repealed and reenacted to read:

10 Sec. 14.30.350. DEFINITIONS. In AS 14.30.180 - 14.30.350,

11 (1) "appropriate education" means personalized instruction
12 with sufficient support services to permit a child to benefit educa-
13 tionally from the instruction;

14 (2) "consent" is only obtained if the parent or guardian
15 has been fully informed of all information relevant to the object of
16 the consent;

17 (3) "department" means the Department of Education;

18 (4) "exceptional children" means children who differ marked-
19 ly from their peers to the degree that special facilities, equipment,
20 or methods are required to make their educational program effective;
21 these children may be identified in the following categories:

22 (A) "deaf" children exhibit a hearing impairment
23 that hinders the children's ability to process linguistic infor-
24 mation through hearing, with or without amplification, and that
25 adversely affects educational performance;

26 (B) "deaf-blind" children exhibit concomitant hear-
27 ing and visual impairments, the combination of which causes such
28 severe communication and other developmental and educational
29 problems that they cannot be accommodated in a special education

1 program solely for deaf or blind children;

2 (C) "gifted" children exhibit outstanding intellect,
3 ability, or creative talent as determined in accordance with reg-
4 ulations of the department;

5 (D) "hard-of-hearing" children exhibit a hearing im-
6 pairment, whether permanent or fluctuating, that adversely af-
7 fects educational performance but that is not within the meaning
8 of (A) of this paragraph;

9 (E) "learning disabled" children exhibit a disorder
10 in one or more of the basic psychological processes involved in
11 understanding or in using language, spoken or written, that may
12 manifest itself in an imperfect ability to listen, think, speak,
13 read, write, spell, or do mathematical calculations; the term in-
14 cludes such conditions as perceptual handicaps, brain injury,
15 minimal brain disfunction, dyslexia, and developmental aphasia;
16 this category does not include children who have learning prob-
17 lems that are primarily the result of visual, hearing, or motor
18 handicaps, of mental retardation, of emotional disturbance, or of
19 environmental, cultural, or economic disadvantage;

20 (F) "mentally retarded" children score two or more
21 standard deviations below the national norm on an individual
22 standardized test of intelligence and exhibit deficits in adap-
23 tive behavior manifested during the developmental period, that
24 adversely affect the children's educational performance;

25 (G) "multihandicapped" children exhibit two or more
26 of the conditions described in (A), (B), (D) - (F) and (H) - (L)
27 of this paragraph, the combination of which causes such severe
28 educational problems that they cannot be accommodated in a spe-
29 cial education program for any one of the conditions;

1 (H) "orthopedically impaired" children exhibit a se-
2 vere orthopedic impairment, including impairments caused by con-
3 genital anomaly, disease, or other causes, that adversely affects
4 educational performance;

5 (I) "other health-impaired" children exhibit an au-
6 tistic condition that is manifested by severe communication and
7 other developmental and educational problems or exhibit limited
8 strength, vitality, or alertness due to chronic or acute health
9 problems such as heart condition, tuberculosis, rheumatic fever,
10 nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead
11 poisoning, leukemia, or diabetes, that adversely affects educa-
12 tional performance;

13 (J) "seriously emotionally disturbed" children ex-
14 hibit one or more of the following characteristics over a long
15 period of time and to a marked degree, that adversely affects
16 educational performance: (i) an inability to learn that cannot
17 be explained by intellectual, sensory, or health factors; (ii) an
18 inability to build or maintain satisfactory interpersonal rela-
19 tionships with peers and teachers; (iii) inappropriate types of
20 behavior or feelings under normal circumstances; (iv) a general
21 pervasive mood of unhappiness or depression; or (v) a tendency to
22 develop physical symptoms or fears associated with personal or
23 school problems; the term includes children who are schizophrenic
24 but does not include children who are only socially maladjusted;

25 (K) "speech-impaired" children exhibit a communica-
26 tion disorder, such as stuttering, impaired articulation, a lan-
27 guage impairment, or a voice impairment, that adversely affects
28 educational performance;

29 (L) "visually handicapped" children exhibit a visual

1 impairment that, even with correction, adversely affects educa-
2 tional performance;

3 (5) "related services" means transportation and develop-
4 mental, corrective, and other supportive services required to assist a
5 handicapped or gifted child to benefit from special education and
6 includes but is not limited to speech pathology and audiology, psycho-
7 logical services, physical and occupational therapy, recreation,
8 counseling services, and medical services for diagnostic or evaluation
9 purposes; the term also includes school health services, school social
10 work services, and parent counseling and training;

11 (6) "special education" means specially designed instruc-
12 tion, at no cost to the parent, to meet the unique needs of a handi-
13 capped child, including classroom instruction, instruction in physical
14 education, home instruction, and instruction in hospitals and insti-
15 tutions;

16 (A) the term includes speech pathology, or any other
17 related service, if the service consists of specially designed
18 instruction, at no cost to the parents, to meet the unique needs
19 of a handicapped child, and is considered "special education"
20 rather than a "related service" under state standards;

21 (B) the term also includes vocational education if it
22 consists of specially designed instruction, at no cost to the
23 parents, to meet the unique needs of a handicapped child;

24 (C) in this paragraph

25 (i) "at no cost" means that all specially de-
26 signed instruction is provided without charge but does not
27 preclude incidental fees that are normally charged to non-
28 handicapped students or their parents as a part of the
29 regular education program;

1 (ii) "physical education" means the development of
2 physical and motor fitness, fundamental motor skills and
3 patterns, skills in aquatics, dance, and individual and
4 group games, and sports (including intramural and lifetime
5 sports); the term includes special physical education,
6 adapted physical education, movement education, and motor
7 development;

8 (iii) "vocational education" means organized educa-
9 tional programs that are directly related to the preparation
10 of individuals for paid or unpaid employment, or for addi-
11 tional preparation for a career requiring other than a
12 baccalaureate or advanced degree;

13 (7) "school district" means a borough school district, a
14 city school district, or a regional educational attendance area.

15 * Sec. 19. AS 14.30.186(c) and (d), 14.30.260, 14.30.280, 14.30.285(c),
16 and 14.30.330 are repealed.

17 * Sec. 20. This Act takes effect July 1, 1984.
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SECTIONAL ANALYSIS CS HB 194 (Finance)
March 8, 1984 (Revised)

- Section 1 Makes changes in conformity with federal requirements that free public educational services be provided to exceptional persons in need of them through their twenty-first year, and that those services be appropriate to the actual student needs.
- Sections 2-3 Make changes in conformity with federal requirements.
- Section 4 Sets out the federally required process for determining the needs and program placement respecting exceptional children.
- Section 5 Sets out the process for resolving disputes which arise from the requirements imposed by this chapter.
- Section 6 Establishes the pre-existing Governor's Council for the Handicapped and Gifted as the federally required state advisory council on matters associated with programs for exceptional children.
- Section 7 Language clean-up.
- Section 8 New statutory requirement. Although already required by regulations adopted under the authority expressly granted by sec. 14.30.250, this section would require that persons employed as school district directors of special education programs possess appropriate training in education administration.
- Section 9 Clarifies requirements for a substitute teacher of exceptional children.
- Section 10 Sec. 272 sets out the specific rights granted to parents of exceptional children by federal law. Sec. 274 sets out the federal requirements respecting the affirmative action required of school districts to locate and arrange for services for exceptional children. Sec. 276 sets out the federal requirements generally associated with the concept of mainstreaming, or making sure that exceptional children are treated and served as non-exceptional children to the maximum extent practicable. Sec. 278 sets out the process and content required of individualized education program plans for exceptional children.

- Section 11 Clarifies and cleans up the requirements and process for transferring exceptional children to schools or programs outside their school districts of residence.
- Section 12 Clarifies the scope of services considered necessary for the child's program.
- Section 13 Makes it clear that disagreement over the transfer of an exceptional child does not eliminate the school district's obligation to provide services to the student.
- Section 14 Clarifies the meaning of the section which deals with services provided to hospital or home bound exceptional children.
- Section 15 Sec. 14.30.315 makes clear that state aid for programs for gifted students is conditioned upon prior state approval of those programs. Sec. 325 largely restates the existing federal requirements on the subject.
- Section 16 Sec. 14.30.335 would give the department the authority to alter requirements imposed upon school district programs for exceptional children in conformity with changes in the federal law which may occur from time to time.
- Section 17 Clarification.
- Section 18 Would adopt the existing federal definitions of all of the listed items except (3), (4)(C) and (7).
- Section 19 Would repeal various sections replaced or made unnecessary by this Act.
- Section 20 Effective date.

MSG 84-00022064 PRTY 1 03/07/84 17:35:34 ORIG: LA09 IN= 0004. OUT= 0131
FROM: SHIRLEE ANÇ LIO TO: POMS/JUNEAU INFO
TARGET: LJHK SUBJ: P.O.M.

TO: REPRESENTATIVES ADAMS, BETTISWORTH, FRITZ, FURNACE,
GRUSSENDORF, MARTIN, WARD, HURLBERT, LINDAUER, DUNCAN AND
ZHAROFF

FROM: DAVID MALTMAN, EXECUTIVE DIRECTOR
P.A.D.D.
325 EAST THIRD, SECOND FLOOR
ANCHORAGE, AK 99501 (H) 274-3658

TELEGRAM TO FOLLOW--OUR SUPPORT OF HB 194, WHICH WE ORIGINALLY
OPPOSED--WORKED IT OUT WITH D.O.E. AND PARENTS OF HANDICAPPED
CHILDREN. PLEASE PASS OUT OF COMMITTEE FRIDAY.

TELEGRAM

ALASCOM, INC.

PHONE: 586-5006

JUNEAU, AK 99802

02533 NL ANCHORAGE ALASKA 50 03-07 0426P AST

PMS REP AL ADAMS ATTN LUANN CUTLER 465-3706

POUCH U

0778

JUNEAU AK 99811

WE NOW SUPPORT COMMITTEE SUBSTITUTE FOR HOUSE BILL 194 AND
URGE YOU TO PASS IT OUT OF COMMITTEE. DOE WORKED WITH US
ON CHANGES TO STRENGTHEN PARENTAL INVOLVEMENT AND A SURE
DO PROCESS RIGHTS. BILL TO BE PRESENTED TO COMMITTEE
FRIDAY 3-9. NO FISCAL NOTE. THANK YOU.

PADD/DAVID MALTMAN

325 EAST 3RD SECOND FLOOR

ANCHORAGE AK 99501

1984 MAR 7 PM 8 34

TELEGRAM

ALASCOM, INC.
PHONE: 586-5006
JUNEAU, AK 99802

12

02004 POM ANCHORAGE AK 15 03-07 915A AST

PMS REP AL ADAMS ATTN LUANN CUTLER

POUCH V

JUNEAU AK

HOUSE BILL 194 (HESS) IS NOW ACCEPTABLE WITH CORRECT
REVISIONS.

DEE NIELSEN ALASKA GOVERNOR/COUNCIL FOR EXCEPTIONAL CHILDREN

4228 JAMES DR

ANCHORAGE AK 99504

1984 MAR 7 AM 9 51

HB 194

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB - 194
 Title An Act relating to the education of exceptional children; and...
 Requested by House HESS Date 2/18/83

II. FISCAL DETAIL
 Agency Affected Department of Education
 Program Category Affected Elementary and Secondary Education
 BRU, Program, Or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY '83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
OPERATING						
CAPITAL						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact on this department.

IV. DATE 2/18/83 PREPARED BY Steve Hole *Steve Hole*
 AGENCY Education
 Original: Legislative Finance PHONE 465-2865
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/82)

Offered: 5/25/83
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 194 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the education of exceptional
7 children; and providing for an effective date."

7

8

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

9

* Section 1. AS 14.30.020 is amended to read:

10

Sec. 14.30.020. VIOLATION. A person violating AS 14.30.010 or

11

AS 14.30.337 is guilty of a misdemeanor and upon conviction is punish-

12

able by a fine of not less than \$50 nor more than \$200, plus the cost

13

of prosecution, and may be imprisoned until the fine and costs are

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paid or until the convicted person has served one day for every \$2 of

15

the fine and costs, at which time the fine and costs are automatically

16

discharged. Each unlawful absence is a violation and if an absence is

17

extensive there is a new violation each time five consecutive days of

18

the absence elapse. The court may suspend sentence, stay or postpone

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enforcement of execution, or release from custody a person found

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guilty upon the conditions which are in the best interests of the

21

child. In any event, at the expiration of the school year, the person

22

shall be released and discharged from all penalties provided by this

23

section.

24

* Sec. 2. AS 14.30.030 is amended to read:

25

Sec. 14.30.030. REPORT OF VIOLATIONS AND PROCEDURES. The chief

26

administrative officer of a district or state-operated school shall

27

report all apparent violations of AS 14.30.010 or AS 14.30.337 to the

28

governing body of the district. The governing body shall, on receiv-

29

ing the report or on the complaint of any person, provide for a full

1 and impartial investigation of all charges of violation. In private
2 or federal schools, the chief administrative officer shall make a full
3 and impartial investigation of all apparent violations. If it rea-
4 sonably appears upon investigation that a person has violated AS 14.-
5 30.010 or AS 14.30.337, the governing body of a district or state-
6 operated school, or the chief administrative officer of a private or
7 federal school, shall make and file with the district court a com-
8 plaint against the person, charging the violation. The judge or mag-
9 istrate may issue a warrant for the arrest of the person and may act
10 upon the complaint.

11 * Sec. 3. AS 14.30.050 is amended to read:

12 Sec. 14.30.050. TRUANT OFFICERS. (a) If it is not practical
13 for an existing law enforcement agency to enforce AS 14.30.010 or
14 AS 14.30.337, the governing body of the school district or the Bureau
15 of Indian Affairs may appoint the necessary truant officers to enforce
16 AS 14.30.010 or AS 14.30.337. The state shall not contribute to the
17 expenses of an officer appointed by the Bureau of Indian Affairs.

18 (b) A truant officer may arrest and bring before any district
19 court judge or magistrate, a person violating AS 14.30.010 or AS 14.-
20 30.337 upon a warrant issued by the district court judge or magis-
21 trate.

22 * Sec. 4. AS 14.30.180 is amended to read:

23 Sec. 14.30.180. PURPOSE. It is the purpose of AS 14.30.180 -
24 14.30.350 to provide an appropriate public [COMPETENT] education [SER-
25 VICES] for [THE] exceptional children in the state who are at least
26 three years of age [AND FOR WHOM THE REGULAR SCHOOL FACILITIES ARE IN-
27 ADEQUATE OR NOT AVAILABLE].

28 * Sec. 5. AS 14.30.186(a) is amended to read:

29 (a) A borough or city school district shall provide [FOR]

1 special education and related services for exceptional children [REP-
2 RESENTED BY NOT LESS THAN FIVE CHILDREN] residing in the district.

3 * Sec. 6. AS 14.30.186(b) is amended to read:

4 (b) The board of a regional educational attendance area shall
5 provide [FOR] special education and related services in a school in
6 the area for exceptional children [REPRESENTED BY NOT LESS THAN FIVE
7 CHILDREN] residing in the area served by the school.

8 * Sec. 7. AS 14.30.191 is repealed and reenacted to read:

9 Sec. 14.30.191. EDUCATIONAL EVALUATION. (a) Before placement
10 in a program of special education and related services and not less
11 than once every three years for as long as the child is assigned to
12 the program, an exceptional child shall receive an educational eval-
13 uation for the identification and classification of exceptional chil-
14 dren.

15 (b) Before completion of the evaluation and before placement,
16 the school district shall provide to the parent or guardian of each
17 exceptional child an opportunity for consultation about the evalua-
18 tion. A consultation shall be available after each reevaluation of
19 the condition and placement of the exceptional child.

20 (c) If a parent or guardian believes that the educational eval-
21 uation of the child is in error, the parent or guardian may request an
22 independent evaluation of the child. If a substantial discrepancy
23 exists between the educational evaluation of the school district and
24 the independent evaluation, and if the parent or guardian so requests,
25 a hearing shall be held before a hearing officer in order to resolve
26 the discrepancy between evaluations and to determine the appropriate
27 educational program for the exceptional child.

28 (d) The department, after consultation with the Department of
29 Health and Social Services shall by regulation establish, or require

1 school districts to establish, standards and procedures for the iden-
2 tification and classification of exceptional children.

3 * Sec. 8. AS 14.30 is amended by adding a new section to read:

4 Sec. 14.30.195. HEARINGS. (a) The department shall by regula-
5 tion provide for administrative hearings to be conducted under AS 14.-
6 30.180 - 14.30.350.

7 (b) The agency conducting a hearing under this section may issue
8 subpoenas under AS 44.62.430 and may petition the superior court for
9 adjudications of contempt under AS 44.62.590.

10 * Sec. 9. AS 14.30.231 is amended to read:

11 Sec. 14.30.231. ADVISORY COMMITTEE. The Governor's Council for
12 the Handicapped and Gifted established under AS 47.80 shall serve as
13 [THE COMMISSIONER OF EDUCATION AND THE COMMISSIONER OF HEALTH AND SO-
14 CIAL SERVICES SHALL ESTABLISH] an advisory committee, the function of
15 which is to provide information and guidance for the development of
16 appropriate [SPECIAL EDUCATION] programs of special education and re-
17 lated services for exceptional children. [MEMBERSHIP OF THE ADVISORY
18 COMMITTEE SHALL INCLUDE, BUT IS NOT LIMITED TO, PERSONS REPRESENTING
19 LOCAL EDUCATION AGENCIES, STATE AGENCIES, PARENT GROUPS AND ORGANIZA-
20 TIONS CONCERNED WITH PROGRAMS AND SERVICES FOR EXCEPTIONAL CHILDREN.]

21 * Sec. 10. AS 14.30.250 is amended to read:

22 Sec. 14.30.250. TEACHER QUALIFICATIONS. A [NO] person may not
23 [SHALL] be employed as a teacher of [TO TEACH A CLASS FOR] exceptional
24 children unless that person possesses a valid teacher certificate [,]
25 and, in addition, such training as the department may require by regu-
26 lation.

27 * Sec. 11. AS 14.30 is amended by adding a new section to read:

28 Sec. 14.30.255. ADMINISTRATOR QUALIFICATIONS. A person may not
29 be employed as an administrator of a program of special education and

1 related services unless that person possesses a valid administrative
2 certificate and, in addition, such training as the department may re-
3 quire by regulation.

4 * Sec. 12. AS 14.30.270 is amended to read:

5 Sec. 14.30.270. SUBSTITUTES. AS 14.30.250 does not prohibit the
6 employment of a person, otherwise qualified to serve as a substitute
7 teacher, to serve as a substitute teacher of [A CLASS FOR] exceptional
8 children.

9 * Sec. 13. AS 14.30.285(b) is amended to read:

10 (b) An [THE] identified exceptional child may be sent to a
11 school or institution outside the child's school district [ANOTHER
12 SCHOOL DISTRICT OR IN-STATE EDUCATIONAL PROGRAM] if the child resides
13 in a district or school attendance area where an appropriate educa-
14 tional program [ADEQUATE PROGRAM OF EDUCATION FOR AN EXCEPTIONAL
15 CHILD] is not available and if the department [COMMISSIONER] deter-
16 mines that provision of special education and related services in
17 another school or institution is appropriate [ANOTHER SCHOOL DISTRICT
18 OR IN-STATE EDUCATIONAL PROGRAM IS ADEQUATE TO MEET THE NEEDS OF THE
19 CHILD]. If the school district approves the enrollment of the excep-
20 tional child in another school district or [IN-STATE] institution and
21 the child is enrolled, the child's education expenses shall be paid as
22 follows:

23 (1) the sending school district shall pay the receiving
24 district or institution an amount of money equal to the sending dis-
25 trict's local cost-per-pupil rate;

26 (2) the department shall pay the remainder of the annual
27 cost of the child's education above that provided for in (1) of this
28 subsection.

29 * Sec. 14. AS 14.30.285(d) is amended to read:

1 (d) For the purposes of this section a child's education ex-
2 penses are limited to the actual cost of necessary care, transporta-
3 tion, and special education and related services [INSTRUCTION], in-
4 cluding room and board [, WHILE ATTENDING THE DESIGNATED INSTITUTION].

5 * Sec. 15. AS 14.30.285 is amended by adding a new subsection to read:

6 (g) The withholding of parental consent or departmental approval
7 for the transfer of an exceptional child under this section does not
8 relieve a school district or a regional educational attendance area of
9 the obligation to provide special education and related services to an
10 exceptional child under AS 14.30.186.

11 * Sec. 16. AS 14.30.305 is amended to read:

12 Sec. 14.30.305. STATE SUPPORT OF PROGRAMS FOR CHILDREN HOSPI-
13 TALIZED OR CONFINED TO THEIR HOMES. [SPECIAL INSTRUCTIONAL SERVICES
14 FOR EXCEPTIONAL CHILDREN WHO ARE HOSPITALIZED OR CONFINED TO THEIR
15 HOMES MAY BE PROVIDED BY A SCHOOL DISTRICT.] A child who is hospi-

16 talized or confined to home and who receives at least 10 hours of spe-
17 cial education and related services [INSTRUCTION] per week may be
18 counted as a pupil in average daily membership when computing state
19 support under the public school foundation program.

20 * Sec. 17. AS 14.30 is amended by adding new sections to read:

21 Sec. 14.30.315. STATE SUPPORT OF PROGRAMS FOR GIFTED CHILDREN.

22 (a) To be eligible for state support under the public school founda-
23 tion program, special education and related services for gifted chil-
24 dren must be provided in a program which has been approved in advance
25 by the department.

26 (b) Nothing in this section prohibits the department from re-
27 quiring approval of programs of special education and related services
28 for other categories of exceptional children.

29 Sec. 14.30.325. SURROGATE PARENTS. (a) The department may by

1 regulation provide for the appointment of surrogate parents to repre-
2 sent exceptional children in matters relating to the provision of an
3 appropriate public education.

4 (b) A surrogate parent is not liable for civil damages as a re-
5 sult of an act or omission committed in the surrogate parent's offi-
6 cial capacity, except that a surrogate parent may be liable for civil
7 damages as a result of gross negligence or intentional misconduct.

8 * Sec. 18. AS 14.30 is amended by adding new sections to read:

9 Sec. 14.30.335. ELIGIBILITY FOR FEDERAL FUNDS. Notwithstanding
10 any other provision of AS 14.30.180 - 14.30.350, the department may do
11 all things necessary to qualify for federal funds that are available
12 to the state for the education of exceptional children.

13 Sec. 14.30.337. ATTENDANCE REQUIRED. The parent or guardian of
14 an exceptional child shall ensure that the child attends a program of
15 special education and related services provided under AS 14.30.180 -
16 14.30.350 unless the parent or guardian demonstrates to the satisfac-
17 tion of the school district that the child is receiving an appropriate
18 education.

19 * Sec. 19. AS 14.30.347 is amended to read:

20 Sec. 14.30.347. TRANSPORTATION OF EXCEPTIONAL CHILDREN. When
21 transportation is required to be provided as related [PART OF SPECIAL]
22 services, exceptional children shall be carried with other children,
23 except when the nature of their physical or mental handicaps is such
24 that it is in the best interest of the exceptional children, as de-
25 termined by the school district, that they be transported separately.
26 State reimbursement for transportation of exceptional children shall
27 be as provided for transportation of all other pupils except that eli-
28 gibility for reimbursement shall not be subject to restriction based
29 on the minimum distance between the school and the residence of the

1 exceptional child.

2 * Sec. 20. AS 14.30.350 is repealed and reenacted to read:

3 Sec. 14.30.350. DEFINITIONS. In AS 14.30.180 - 14.30.350,

4 (1) "department" means the Department of Education;

5 (2) "exceptional children" means children who differ marked-
6 ly from their peers to the degree that special facilities, equipment,
7 or methods are required to make their educational program effective;
8 these children may be identified in the following categories:

9 (A) "deaf" children exhibit a hearing impairment
10 that hinders the child's ability to process linguistic informa-
11 tion through hearing, with or without amplification, and that ad-
12 versely affects educational performance;

13 (B) "deaf-blind" children exhibit concomitant hear-
14 ing and visual impairments, the combination of which causes such
15 severe communication and other developmental and educational
16 problems that they cannot be accommodated in a special education
17 program solely for deaf or blind children;

18 (C) "gifted" children exhibit outstanding intellect,
19 ability, or creative talent as determined in accordance with reg-
20 ulations of the department;

21 (D) "hard of hearing" children exhibit a hearing im-
22 pairment, whether permanent or fluctuating, that adversely af-
23 fects educational performance but that is not within the meaning
24 of (A) of this paragraph;

25 (E) "learning disabled" children exhibit a disorder
26 in one or more of the basic psychological processes involved in
27 understanding or in using language, spoken or written, that may
28 manifest itself in an imperfect ability to listen, think, speak,
29 read, write, spell, or do mathematical calculations; the term

1 includes such conditions as perceptual handicaps, brain injury,
2 minimal brain disfunction, dyslexia, and developmental aphasia;
3 this category does not include children who have learning prob-
4 lems that are primarily the result of visual, hearing, or motor
5 handicaps, of mental retardation, of emotional disturbance, or of
6 environmental, cultural, or economic disadvantage;

7 (F) "mentally retarded" children score two or more
8 standard deviations below the national norm on an individual
9 standardized test of intelligence and exhibit deficits in adap-
10 tive behavior manifested during the developmental period, that
11 adversely affect the child's educational performance;

12 (G) "multihandicapped" children exhibit two or more
13 of the conditions described in (A), (B), (D) - (F) and (H) - (L)
14 of this paragraph, the combination of which causes such severe
15 educational problems that they cannot be accommodated in a spe-
16 cial education program for any one of the conditions;

17 (H) "orthopedically impaired" children exhibit a se-
18 vere orthopedic impairment, including impairments caused by con-
19 genital anomaly, disease, or other causes, that adversely affects
20 educational performance;

21 (I) "other health impaired" children exhibit an au-
22 tistic condition that is manifested by severe communication and
23 other developmental and educational problems or exhibit limited
24 strength, vitality, or alertness due to chronic or acute health
25 problems such as heart condition, tuberculosis, rheumatic fever,
26 nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead
27 poisoning, leukemia, or diabetes, that adversely affects educa-
28 tional performance;

29 (J) "seriously emotionally disturbed" children

1 exhibit one or more of the following characteristics over a long
2 period of time and to a marked degree, that adversely affects
3 educational performance: (i) an inability to learn that cannot
4 be explained by intellectual, sensory, or health factors; (ii) an
5 inability to build or maintain satisfactory interpersonal rela-
6 tionships with peers and teachers; (iii) inappropriate types of
7 behavior or feelings under normal circumstances; (iv) a genera'
8 pervasive mood of unhappiness or depression; or (v) a tendency to
9 develop physical symptoms or fears associated with personal or
10 school problems; the term includes children who are schizophrenic
11 but does not include children who are only socially maladjusted;

12 (K) "speech impaired" children exhibit a communica-
13 tion disorder, such as stuttering, impaired articulation, a lan-
14 guage impairment, or a voice impairment, that adversely affects
15 educational performance;

16 (L) "visually handicapped" children exhibit a visual
17 impairment that, even with correction, adversely affects educa-
18 tional performance;

19 (3) "related services" means transportation and develop-
20 mental, corrective, and other supportive services required to assist a
21 handicapped or gifted child to benefit from special education, and in-
22 cludes but is not limited to speech pathology and audiology, psycho-
23 logical services, physical and occupational therapy, counseling ser-
24 vices, and medical services for diagnostic or evaluation purposes;

25 (4) "special education" means specially designed instruc-
26 tion to meet the unique needs of a handicapped or gifted child, and
27 includes but is not limited to classroom instruction, instruction in
28 physical education, instruction in vocational education, home instruc-
29 tion, instruction in a hospital or institution, and summer school;

1 (5) "school district" means a borough school district, a
2 city school district, or a regional educational attendance area.

3 * Sec. 21. AS 14.30.186(c) and (d), 14.30.260, 14.30.280, 14.30.330,
4 and 14.30.340 are repealed.

5 * Sec. 22. This Act takes effect July 1, 1983.

Introduced: 2/11/83
Referred: Health, Education &
Social Services and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 194

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the education of exceptional
7 children; and providing for an effective date."

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

9 * Section 1. AS 14.30.180 is amended to read:

10 Sec. 14.30.180. PURPOSE. It is the purpose of AS 14.30.180 --
11 14.30.350 to provide an appropriate public [COMPETENT] education [SER-
12 VICES] for [THE] exceptional children in the state who are at least
13 three years of age [AND FOR WHOM THE REGULAR SCHOOL FACILITIES ARE
14 INADEQUATE OR NOT AVAILABLE].

15 * Sec. 2. AS 14.30.186(a) is amended to read:

16 (a) A borough or city school district shall provide [FOR] spe-
17 cial education and related services for exceptional children [REPRE-
18 SENTED BY NOT LESS THAN FIVE CHILDREN] residing in the district.

19 * Sec. 3. AS 14.30.186(b) is amended to read:

20 (b) The board of a regional educational attendance area shall
21 provide [FOR] special education and related services in a school in
22 the area for exceptional children [REPRESENTED BY NOT LESS THAN FIVE
23 CHILDREN] residing in the area served by the school.

24 * Sec. 4. AS 14.30.191(a) is amended to read:

25 Sec. 14.30.191. EDUCATIONAL EVALUATION [ASSESSMENT]. (a) Be-
26 fore placement in a [SPECIAL EDUCATION] program of special education
27 and related services and not less than once every three years [A YEAR]
28 for as long as the child is assigned to the [A SPECIAL EDUCATION] pro-
29 gram, an exceptional child shall receive an educational evaluation

1 [ASSESSMENT] for the identification and classification of exceptional
2 children [THE LEARNING, MENTAL AND PHYSICAL STATUS OF THE CHILD].

3 * Sec. 5. AS 14.30.191(c) is amended to read:

4 (c) If a parent or guardian believes that the educational eval-
5 uation [ASSESSMENT] of the child is in error, the parent or guardian
6 may request an independent [EXAMINATION AND] evaluation of the child.
7 If a substantial discrepancy exists between the educational evaluation
8 [ASSESSMENT] of the school district and the independent evaluation,
9 and if the parent or guardian so requests, a hearing shall be held
10 before a hearing officer in order to resolve the discrepancy between
11 evaluations and to determine the appropriate educational program
12 [PLACEMENT] for the exceptional child. [THE DEPARTMENT OF EDUCATION
13 SHALL ADOPT REGULATIONS FOR THE CONDUCT OF HEARINGS AUTHORIZED BY THIS
14 SECTION AND FOR THE APPOINTMENT AND QUALIFICATIONS OF THE HEARING OF-
15 FICER. REGULATIONS ADOPTED AND PROCEEDINGS CONDUCTED UNDER THIS SEC-
16 TION ARE SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT.]

17 * Sec. 6. AS 14.30.191(d) is amended to read:

18 (d) The department [DEPARTMENT OF EDUCATION AND THE DEPARTMENT
19 OF HEALTH AND SOCIAL SERVICES] shall [COOPERATIVELY ESTABLISH] by
20 regulation establish, or require school districts to establish, [DIAG-
21 NOSTIC] standards and procedures for the identification and clas-
22 sification of [THE LEARNING, MENTAL AND PHYSICAL STATUS OF] exception-
23 al children. [STANDARDS RELATING TO SPECIAL EDUCATION PROGRAMS, INDI-
24 VIDUAL OR GENERAL, SHALL REMAIN THE RESPONSIBILITY OF THE DEPARTMENT
25 OF EDUCATION IN CONJUNCTION WITH THE LOCAL EDUCATION AGENCY.]

26 * Sec. 7. AS 14.30 is amended by adding a new section to read:

27 Sec. 14.30.195. HEARINGS. (a) The department shall by regu-
28 lation provide for administrative hearings to be conducted under
29 AS 14.30.180 -- 14.30.350.

1 (b) The agency conducting a hearing under this section may issue
2 subpoenas under AS 44.62.430 and may petition the superior court for
3 adjudications of contempt under AS 44.62.590.

4 * Sec. 8. AS 14.30.231 is amended to read:

5 Sec. 14.30.231. ADVISORY COMMITTEE. The Governor's Council for
6 the Handicapped and Gifted established under AS 47.80 shall serve as
7 [THE COMMISSIONER OF EDUCATION AND THE COMMISSIONER OF HEALTH AND SO-
8 CIAL SERVICES SHALL ESTABLISH] an advisory committee, the function of
9 which is to provide information and guidance for the development of
10 appropriate [SPECIAL EDUCATION] programs of special education and
11 related services for exceptional children. [MEMBERSHIP OF THE ADVISO-
12 RY COMMITTEE SHALL INCLUDE, BUT IS NOT LIMITED TO, PERSONS REPRESENT-
13 ING LOCAL EDUCATION AGENCIES, STATE AGENCIES, PARENT GROUPS AND ORGA-
14 NIZATIONS CONCERNED WITH PROGRAMS AND SERVICES FOR EXCEPTIONAL CHIL-
15 DREN.]

16 * Sec. 9. AS 14.30.250 is amended to read:

17 Sec. 14.30.250. TEACHER QUALIFICATIONS. No person may [SHALL]
18 be employed as a teacher of. [TO TEACH A CLASS FOR] exceptional chil-
19 dren unless that person possesses a valid teacher certificate[,] and,
20 in addition, such training as the department may require by regula-
21 tion.

22 * Sec. 10. AS 14.30 is amended by adding a new section to read:

23 Sec. 14.30.255. ADMINISTRATOR QUALIFICATIONS. No person may be
24 employed as an administrator of a program of special education and
25 related services unless that person possesses a valid administrative
26 certificate and, in addition, such training as the department may re-
27 quire by regulation.

28 * Sec. 11. AS 14.30.270 is amended to read:

29 Sec. 14.30.270. SUBSTITUTES. AS 14.30.250 does not prohibit the

1 employment of a person, otherwise qualified to serve as a substitute
2 teacher, to serve as a substitute teacher of [A CLASS FOR] exceptional
3 children.

4 * Sec. 12. AS 14.30.285(b) is amended to read:

5 (b) An [THE] identified exceptional child may be sent to a
6 school or institution outside his school district [ANOTHER SCHOOL
7 DISTRICT OR IN-STATE EDUCATIONAL PROGRAM] if the child resides in a
8 district or school attendance area where an appropriate educational
9 program [ADEQUATE PROGRAM OF EDUCATION FOR AN EXCEPTIONAL CHILD] is
10 not available and if the department [COMMISSIONER] determines that
11 special education and related services available in another school or
12 institution are appropriate [ANOTHER SCHOOL DISTRICT OR IN-STATE
13 EDUCATIONAL PROGRAM IS ADEQUATE TO MEET THE NEEDS OF THE CHILD]. If
14 the school district approves the enrollment of the exceptional child
15 in another school district or [IN-STATE] institution and the child is
16 enrolled, the sending school district shall pay the child's education
17 expenses. [SHALL BE PAID AS FOLLOWS:

18 (1) THE SENDING SCHOOL DISTRICT SHALL PAY THE RECEIVING
19 DISTRICT OR INSTITUTION AN AMOUNT OF MONEY EQUAL TO THE SENDING DIS-
20 TRICT'S LOCAL COST-PER-PUPIL RATE;

21 (2) THE DEPARTMENT SHALL PAY THE REMAINDER OF THE ANNUAL
22 COST OF THE CHILD'S EDUCATION ABOVE THAT PROVIDED FOR IN (1) OF THIS
23 SUBSECTION.]

24 * Sec. 13. AS 14.30.285(d) is amended to read:

25 (d) For the purposes of this section a child's education ex-
26 penses are limited to the actual cost of necessary care, transporta-
27 tion, and special education and related services [INSTRUCTION], in-
28 cluding room and board [, WHILE ATTENDING THE DESIGNATED INSTITUTION].

29 * Sec. 14. AS 14.30.305 is amended to read:

1 Sec. 14.30.305. STATE SUPPORT OF PROGRAMS FOR CHILDREN HOSPI-
2 TALIZED OR CONFINED TO THEIR HOMES. [SPECIAL INSTRUCTIONAL SERVICES
3 FOR EXCEPTIONAL CHILDREN WHO ARE HOSPITALIZED OR CONFINED TO THEIR
4 HOMES MAY BE PROVIDED BY A SCHOOL DISTRICT.] A child who is hospi-

5 talized or confined to his home and who receives at least 10 hours of
6 special education and related services [INSTRUCTION] per week may be
7 counted as a pupil in average daily membership when computing state
8 support under the public school foundation program.

9 * Sec. 15. AS 14.30 is amended by adding a new section to read:

10 Sec. 14.30.315. STATE SUPPORT OF PROGRAMS FOR GIFTED CHILDREN.

11 (a) To be eligible for state support under the public school founda-
12 tion program, special education and related services for gifted chil-
13 dren must be provided in a program which has been approved in advance
14 by the department.

15 (b) State support under the public school foundation program for
16 special education and related services for gifted children is avail-
17 able for not more than five percent of the average daily membership of
18 the district or educational attendance area.

19 (c) Nothing in this section prohibits the department from
20 requiring approval of programs of special education and related ser-
21 vices for other categories of exceptional children.

22 * Sec. 16. AS 14.30 is amended by adding a new section to read:

23 Sec. 14.30.325. SURROGATE PARENTS. (a) The department may by
24 regulation provide for the appointment of surrogate parents to repre-
25 sent exceptional children in matters relating to the provision of an
26 appropriate public education.

27 (b) A surrogate parent is not liable for civil damages as a re-
28 sult of an act or omission committed in his or her official capacity,
29 except that a surrogate parent may be liable for civil damages as a

1 result of gross negligence or intentional misconduct.

2 * Sec. 17. AS 14.30 is amended by adding a new section to read:

3 Sec. 14.30.335. ELIGIBILITY FOR FEDERAL FUNDS. Notwithstanding
4 any other provision of AS 14.30.180 -- 14.30.350, the department may
5 do all things necessary to qualify for federal funds which are avail-
6 able to the state for the education of exceptional children.

7 * Sec. 18. AS 14.30.340 is amended to read:

8 Sec. 14.30.340. WHEN NOT REQUIRED TO ENROLL. No handicapped
9 child may be required to enroll in a [SPECIAL EDUCATION] program of
10 special education and related services if the parent or guardian of
11 the child demonstrates [CERTIFIES TO THE SATISFACTION OF THE SCHOOL
12 BOARD OF THE PUBLIC SCHOOL SYSTEM WHERE THE CHILD RESIDES] that the
13 child is receiving an appropriate education [ADEQUATE EDUCATIONAL AD-
14 VANTAGES. A CHILD SHALL BE EXCUSED FROM THE COMPULSORY EDUCATION RE-
15 QUIREMENTS IF A PHYSICIAN CERTIFIES IN WRITING THAT THE CHILD'S BODI-
16 LY, MENTAL OR EMOTIONAL CONDITION DOES NOT PERMIT ATTENDANCE AT
17 SCHOOL].

18 * Sec. 19. AS 14.30.350 is repealed and reenacted to read:

19 Sec. 14.30.350. DEFINITIONS. In AS 14.30.180 -- 14.30.350,

20 (1) "department" means the Department of Education;

21 (2) "exceptional children" means children who differ marked-
22 ly from their peers to the degree that special facilities, equipment,
23 or methods are required to make their educational program effective;
24 these children may be identified in the following categories:

25 (A) "deaf" children exhibit a hearing impairment
26 which hinders the child's ability to process linguistic informa-
27 tion through hearing, with or without amplification, and which
28 adversely affects educational performance;

29 (B) "deaf-blind" children exhibit concomitant

1 hearing and visual impairments, the combination of which causes
2 such severe communication and other developmental and educational
3 problems that they cannot be accommodated in a special education
4 program solely for deaf or blind children;

5 (C) "gifted" children exhibit outstanding intellect,
6 ability, or creative talent as determined in accordance with reg-
7 ulations of the department;

8 (D) "hard of hearing" children exhibit a hearing
9 impairment, whether permanent or fluctuating, which adversely
10 affects educational performance but which is not within the mean-
11 ing of (A) of this paragraph;

12 (E) "learning disabled" children exhibit a disorder
13 in one or more of the basic psychological processes involved in
14 understanding or in using language, spoken or written, which may
15 manifest itself in an imperfect ability to listen, think, speak,
16 read, write, spell, or do mathematical calculations; the term
17 includes such conditions as perceptual handicaps, brain injury,
18 minimal brain disfunction, dyslexia, and developmental aphasia;
19 this category does not include children who have learning prob-
20 lems which are primarily the result of visual, hearing, or motor
21 handicaps, of mental retardation, of emotional disturbance, or of
22 environmental, cultural, or economic disadvantage;

23 (F) "mentally retarded" children score two or more
24 standard deviations below the national norm on an individual
25 standarized test of intelligence and exhibit deficits in adaptive
26 behavior manifested during the developmental period, which ad-
27 versely affect the child's educational performance;

28 (G) "multihandicapped" children exhibit two or more
29 of the conditions described in (A), (B), (D) -- (F) and (H) --

1 (L) of this paragraph, the combination of which causes such se-
2 vere educational problems that they cannot be accommodated in a
3 special education program for any one of the conditions;

4 (H) "orthopedically impaired" children exhibit a
5 severe orthopedic impairment, including impairments caused by
6 congenital anomaly, disease, or other causes, which adversely
7 affects educational performance;

8 (I) "other health impaired" children exhibit an au-
9 tistic condition which is manifested by severe communication and
10 other developmental and educational problems or exhibit limited
11 strength, vitality, or alertness due to chronic or acute health
12 problems such as heart condition, tuberculosis, rheumatic fever,
13 nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead
14 poisoning, leukemia, or diabetes, which adversely affects educa-
15 tional performance;

16 (J) "seriously emotionally disturbed" children ex-
17 hibit one or more of the following characteristics over a long
18 period of time and to a marked degree, which adversely affects
19 educational performance: (i) an inability to learn which cannot
20 be explained by intellectual, sensory, or health factors; (ii) an
21 inability to build or maintain satisfactory interpersonal rela-
22 tionships with peers and teachers; (iii) inappropriate types of
23 behavior or feelings under normal circumstances; (iv) a general
24 pervasive mood of unhappiness or depression; or (v) a tendency to
25 develop physical symptoms or fears associated with personal or
26 school problems; the term includes children who are schizophrenic
27 but does not include children who are socially maladjusted, un-
28 less it is determined that they are seriously emotionally dis-
29 turbed;

1 (K) "speech impaired" children exhibit a communica-
2 tion disorder, such as stuttering, impaired articulation, a lan-
3 guage impairment, or a voice impairment, which adversely affects
4 educational performance;

5 (L) "visually handicapped" children exhibit a visual
6 impairment which, even with correction, adversely affects educa-
7 tional performance;

8 (3) "related services" means transportation and develop-
9 mental, corrective, and other supportive services as are required to
10 assist a handicapped or gifted child to benefit from special educa-
11 tion, and includes but is not limited to speech pathology and
12 audiology, psychological services, physical and occupational therapy,
13 counseling services, and medical services for diagnostic or evaluation
14 purposes;

15 (4) "special education" means specially designed instruc-
16 tion to meet the unique needs of a handicapped or gifted child, and
17 includes but is not limited to classroom instruction, instruction in
18 physical education, instruction in vocational education, home instruc-
19 tion, instruction in a hospital or institution, and summer school;

20 (5) "school district" means a borough school district, a
21 city school district, and a regional educational attendance area.

22 * Sec. 20. AS 14.30.186(c) and (d), 14.30.191(b), 14.30.260, 14.30.280,
23 14.30.330, and 14.30.347 are repealed.

24 * Sec. 21. This Act takes effect July 1, 1983.