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FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 335

Revision Date: _____ Department Affected: Department of Education
 Title: "An Act relating to the GCH&G and the definition of 'dev. disabled'." BRU: _____
 Sponsor: Senator Duncan Component: _____
 Requestor: _____ COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

This would have no measurable fiscal impact.

Prepared By: Margaret Lowe, M.Ed., Ed.S. Phone: 465-3370
 Division: Mental Health & Developmental Disabilities Date: January 21, 1992
 Approved by Commissioner: *Theodore A. Mala* Theodore A. Mala, MD, MPH
 Agency: Health & Social Services Date: 1-21-92



Alaska State Legislature

SENATOR JIM DUNCAN

P. O. BOX V JUNEAU, ALASKA 99811-3100
(907) 465-4766

COMMITTEES:
VICE CHAIR -
FINANCE
VICE CHAIR -
STATE AFFAIRS
RULES
BUDGET & AUDIT
ETHICS REFORM

DATE: January 21, 1992

TO: Senator Arliss Sturgulewski
Senate Health, Education, & Social Services
Committee

FROM: Senator Jim Duncan

SUBJECT: Senate Bill No. 335, an Act relating to the
Governor's Council for the Handicapped and Gifted
and the definition of "developmentally disabled".

Thank you for scheduling a hearing for SB 335, which allows the physically handicapped equal access to state benefits.

A similar measure, Senate Bill 52, was vetoed by Governor Hickel in 1991 despite supportive departmental position papers and testimony in various committees. The Governor apparently objected to a provision allowing the Council to appoint its executive director which was necessary to comply with federal guidelines and qualify for federal funding. The same provision appears in the Mental Health Lands Trust settlement, Chapter 66/91.

Senate Bill 335 again changes the state definition of developmental disability to conform to the federal definition. The current state definition prohibits aid to severely physically handicapped individuals who require many of the identical services as mentally disabled persons who currently qualify for state assistance. This bill will allow the state to provide them with such benefits as respite care, day care, homemaker, and community living services to both the physically and mentally disabled.

The membership on the Council increases from 23 to 26 members, in SB 335, to allow for composition changes required by federal law, which will allow the Council to serve as the Interagency Coordinating Committee for the 1986 Federal Education and Handicapped Act Amendments. With this bill, the Council will be charged with planning for the needs of children from birth to three years in addition to their current planning mandate for older individuals. At the request of the Council, the legislation also changes the name of the agency to the Council on Disabilities and Special Education to more accurately reflect its responsibilities.

I urge your support for this legislation.

Attachments

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

January 20, 1992

SUBJECT: Sectional Analysis (SB 335)

TO: Senator Jim Duncan

FROM: Terri Lauterbach 
Legislative Counsel

Sec. 1. Renames the council and provides that the council is the interagency coordinating council (ICC) for purposes of federal laws relating to the handicapped or gifted.

Sec. 2. Increases the number of members on the council and refers to the federal requirements for the membership.

Sec. 3. Makes technical amendments to clean up previous references to federal laws and to add references to ICC laws.

Sec. 4. Amends the definition of "person with a developmental disability" to make the state's definition correspond to the federal definition of the term.

Sec. 5. Repeals laws about the membership of the council that are made obsolete by the amendments made in sec. 2 of the bill.

Sec. 6. Relates to the name change of the council.

TML:pl
92-025.plm

A M E N D M E N T #1

OFFERED IN THE SENATE

BY SENATOR DUNCAN

TO: SB 335

Page 1, line 11:

Delete "handicapped or"

Insert "[HANDICAPPED OR]"

After "gifted":

Insert "or experiencing a disability"

Page 1, lines 12 - 13:

Delete "the"

Insert "persons who are [THE HANDICAPPED OR]"

Page 1, line 13, after "gifted":

Insert "or experiencing a disability"

Page 2, line 9:

Delete "handicapped"

Insert "disabled [HANDICAPPED]"

Page 2, line 11:

Delete "handicapped"

Insert "disabled [HANDICAPPED]"

Page 2, line 15:

Delete "handicapped"

Insert "disabled [HANDICAPPED]"

Page 2, line 18:

Delete "handicapped"

Insert "disabled [HANDICAPPED]"

Page 2, line 27:

Delete "with handicaps"

Insert "who are experiencing disabilities [WITH HANDICAPS]"

Page 3, line 4:

Delete "handicapped"

Insert "disabled [HANDICAPPED]"

Page 3, line 12:

Delete "handicapped"

Insert "disabled [HANDICAPPED]"

Page 3, line 23:

Delete "has"

Insert "is experiencing"

SENATE BILL 335

"An Act relating to the Governor's Council for the Handicapped and Gifted and the definition of 'developmentally disabled'."

Section Four of this Act repeals AS 47.80.900 (7). In so doing, the state definition of developmental disabilities is changed to the current federal definition.

At the time of passage, AS 47.80.900 (7) coincided with the Federal definition. Subsequent to its passage, the federal definition changed. Adoption of the federal definition would allow individuals in need of service who currently fall through the service delivery system cracks, to receive the help they need.

Statistically, it would appear that the individuals' requesting services would be increased by about 700. However, current research shows that states which have adopted the Federal definition have not experienced the increase in applications for service that would be expected statistically. They have, however, experienced requests for services which differ from services they have traditionally offered; for example, providing programs designed specially for persons with physical disabilities as opposed to mental disabilities.

Persons made eligible by this bill would be added to the applicant file which currently exists for developmentally disabled individuals requesting services.

The following incidence statistics were provided by the Governor's Council for the Handicapped and Gifted were derived by the use of a complex formula.

The statistical incidence of individuals experiencing a developmental disability under the state definition is 7,067. The known population seeking or receiving services at this time is 2,110. This equals 29.8% of the population.

POSITION PAPER

STATE OF ALASKA ★ DEPARTMENT OF HEALTH & SOCIAL SERVICES

Department of Health and Social Services
Position Paper -- SB 335
Page 2

Statistically the federal definition would increase the overall population to 9,427. Using the same 29.8% request for services rate, this would mean 2,809 persons would need services. This is an increase of 699 individuals.

The Department supports passage of SB 335.

Margaret R. Lowe

Margaret Lowe, M.Ed., Ed.S.
Director
Division of Mental Health &
Developmental Disabilities

DATE:

1/21/92

Theodore A. Mala

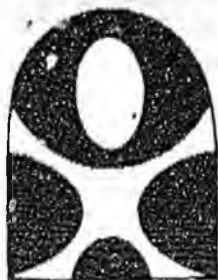
Theodore A. Mala, MD, MPH
Commissioner

DATE:

21 Jan '92

*approx 200 in waiting list
11 services are being
provided. not totally
uncovered. Many are
Voc. serv.*

PP-92-2



WALTER J. HICKEL / GOVERNOR
State of Alaska

GOVERNOR'S COUNCIL FOR THE HANDICAPPED AND GIFTED

DH&SS Commissioner's Office • P.O. Box 240249 • Anchorage, Alaska 99524-0249 • Phone (907) 561-5335

MEMORANDUM

DATE: December 6, 1991

TO: Roxanne Stewart, Legislative Assistant
Senator Jim Duncan

FROM: David Maltman, Executive Director
Governor's Council for the Handicapped and Gifted

RE: Re - Write of SB 52

Thank you for discussing the proposed changes to SB 52. The Council is pleased to have Senator Duncan's support. We all know how important his efforts are in seeing this legislation pass again.

For the coming session, Jim Shine of Juneau has been selected as our Legislative Liaison. Mr. Shine and Mary Cattanach, the Council's Chair, will be meeting on December 17th to review your earlier memos and provide me further direction in responding to you.

Realizing that you must meet a deadline to see that a bill is prefilled, let me respond to Jack Chanoweth's memo dated May 24, 1991. It is likely that Jim and Mary will have other suggestions that can be submitted later.

To combine boards created by different federal and state laws, the Council acts as a board for 4 government operations. Each law demands a particular category of membership on the Council.

For your review, I have attached a chart which identifies the law and its requirement for membership. The criterion for the Interagency Coordinating Committee for PL 99 - 457 (ICC) are listed too. Hopefully, the chart reflects how the Council could meet an expanded mandate to become the ICC by adding only 3 posts. A current list of members is also enclosed.

A major factor in figuring the number of council members is that the authorizing statute demands that at least half of all members be consumers (people with developmental disabilities or their parents or guardians). Should the requirements to become the ICC raise the number of provider positions, the a corresponding increase in positions for consumers must be made.

Although it is common for appointees to fulfill more than one category of membership, we believe it will be necessary to add positions for at least one parent of a 3 to 6 year old, a private provider of early intervention services, and a state legislator (see #3 of Jack's memo). At this point, these categories are not specifically referenced in the state law.

(1) At this point, there are at least 4 but not more than 7 positions available for parents. It is our experience that at least 2 of these positions could be filled by parents of 3 to 6 year olds.

(2) The Department of Education which holds two positions on the Council administers programs for 3 to 6 year olds. In the Division of Mental Health and Developmental Disabilities Mike Renfro oversees a range of developmental services to this population. However, a specific post is needed for the private provider. The Deputy Commissioner of the Department of Health and Social Services sits on the Council and that position is accountable for payment of services to these children.

(4) The requirement for a representative of higher education responsible for personnel preparation in the areas such as teaching, nursing, psychology, or social work is already in place and the position is filled.

In regards to other matters in Jack's memo, it would be an improvement to reflect the appropriate U. S. Code in the bill. Often federal laws are passed which replace the laws specified in state statute. A citation to the U. S. Code would allow a timely reference to changes and deletions of federal law.

Should this bill pass and the Council become the ICC, it would be useful for this new duty to be reflected in the Council's authorizing statute A.S. 47.80.090.

The Council begs to make a new request of Senator Duncan. Would he consider changing the Council's name wherever it appears in statute to the Governor's Council on Disabilities and Special Education?

After January 1, 1992 our address will be 2330 Nichols Street, Anchorage, Alaska 99508. Our new telephone number will be 272 2500. Please let me know if you need more information or assistance.

Again, thank you for your help with this matter. Have a very pleasant holiday season. It will be great to work with you in the coming session..

	P.L. 101-496 DD Planning Council	A.S. 47.80 All Disabilities & Special Education	P.L. 94-142 Special Education Advisory Council	P.L. 99-457 Interagency Coord- inating Council	A.S. 14.30 Special Education Services Agency
TOTAL NUMBER		18-23		15	
APPOINTED BY:	Governor	Governor		Governor	Governor's Council for H/G.
OTHER MAJOR POINT		*must comply with P.L. 100-146 & P.L. 100-142 as amended.		P.L. 99-457 is an amendment to P.L. 94-142.	
CONSUMERS	50%	At least 1/3			
	<p>Claussen Kell Nelson Wingfield</p> <p>1/3 of 50% must be primary consumers with d.d.</p>	<p>Parents of or guardians of handicapped individuals</p>		<p>For federal reporting purposes we can have the list of 15 people on the Council who comprise the ICC and asterisk the rest as ex-officio for ICC purposes; ask the Governor to do this by letter or Executive Order if necessary.</p>	<p>Shall serve as the governing board for SESA</p>
	<p>Locke Walters Weaver Yamanoto</p> <p>1/3 parents or guardians.</p>				
	<p>Allely Trumble</p> <p>1/3 of 50% must be immediate relatives or guardians of persons with mentally impairing d.d. with at least one of these an immediate relative or guardian of an institutionalized or previously institutionalized d.d. person.</p>			<p>3 parents of handicapped children aged 3 to 6.</p>	
	<p>Beck</p>				
PROVIDERS	<p>Reps of principal state agencies providing services including: Voc Rehab. Sp.Ed. Older Americans Medicaid D.D.</p> <p>[Have had Public Health, C & RA, Medicaid directly represented: changes with need & administration]</p> <p>[Deputy commissioners can represent any/all of these not individually represented]</p>	<p>At least 1/3 to handicapped or gifted persons</p> <p>Cattanach Anderson Rich Hole Saylor Renfro Gore</p>	<p>State education officials</p> <p>Rich Hole</p>	<p>3 public or private providers or payors of early intervention services; reps of each of the agencies...</p> <p>Rich Hole Saylor Renfro</p> <p>Would need to add Public Health or arrange with Commissioner's Representative.</p>	
	<p>Anderson Rich Gore Saylor Renfro</p>				
OTHER	<p>Higher education using UAP</p> <p>Protections & advocacy agency</p> <p>Local agencies</p> <p>Non-governmental entities concerned with services (HOME, Inc., ADD, AAD, ASPD, etc. Very Special Arts, etc.)</p>	<p>Teachers (Barrett)</p> <p>Local education officials (Locke - School Board) or administrators (Watson)</p> <p>Public-at-large (Walters) [post-sec. commission]</p>	<p>Teachers (Barrett)</p>	<p>One person involved in personnel prep. (Lally)</p> <p>One representative from the State Legislature</p> <p>Others selected by the Governor</p>	
	<p>Lally</p> <p>Van Brocklin</p> <p>Beck Claussen Allely</p>				

FEDERAL DEFINITION:

- "The term 'developmental disability' means a severe, chronic disability of a person which—
- (A) is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - (B) is manifested before the person attains age twenty-two;
 - (C) is likely to continue indefinitely;
 - (D) results in substantial functional limitations in three or more of the following areas of major life activity:
 - (i) self-care,
 - (ii) receptive and expressive language,
 - (iii) learning,
 - (iv) mobility,
 - (v) self-direction,
 - (vi) capacity for independent living, and
 - (vii) economic self-sufficiency; and
 - (E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

PL 95-602, Section 102(7)

STATE DEFINITION:

A Developmental Disability is a Disability which:

- (A) is attributable to:
 - (i) mental retardation, cerebral palsy, epilepsy, or autism;
 - (ii) any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to impairment resulting from mental retardation; or
 - (iii) dyslexia resulting from a disability described in (i) or (ii) of this subparagraph, and
- (B) constitutes a substantial handicap to the person's ability to function normally in society.

and

(3) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan."

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended--

(1) in subsection (a)--

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof and inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)--

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs (3), (4), (5) and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)--

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$200,000; and

"(ii) to any other State may not be less than the greater of \$350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds \$65,000,000, the allotment under paragraph (1) for such fiscal year--

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic