

HB

235

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/22/93

FURTHER:

DATE TURNED INTO OFFICE: 5-3-93

The Finance Committee considered CS FOR HOUSE BILL NO. 235(FIN)

"An Act relating to educational programs and services for children with disabilities and other exceptional children and to persons with a handicap; and providing for an effective date."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous 3 CS CS HB 235 (HES)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DOE	3-19-93	0	
DOA (OPA)	4-22-93	0	

Appropriation No Fiscal Note

DO PASS:

John P. ...
George ...
Bob ...

OTHER RECOMMENDATIONS:

1. *John P. ... DO PASS*
 Co-Chair Signature/Recommendation

2. *...*
 Co-Chair Signature/Recommendation

FISCAL NOTE

No. 1
 Bill Version: CSHB 235 (HES)
 (H) Publish Date: 3/24/93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act relating to educational programs and services for children with disabilities and other exceptional children
 Sponsor: Representative Con Bunde
 Requestor: Representative Con Bunde

Department Affected: Education
 BRU: Educational Program Support
 Component: Special and Supplemental Services

COMPONENT SERIAL NO. _____ 166

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts				Changes in <u>SCS CSHB 235 (STR)</u> have no fiscal impact. This fiscal note is appropriate. 4-19-93 <u>[Signature]</u> date Comte Aide (initial)
1003 GF Match				
1004 GF				
1005 GF/Program Receipts				
1006 GF/MHTIA				
Other				
TOTAL	0	0	0	Changes in <u>SCS CSHB 235 (HES)</u> have no fiscal impact. This fiscal note is appropriate. 4/22/93 <u>[Signature]</u> date Comte Aide (initial)

POSITIONS:

FULL-TIME	0	0	0	4/22/93 <u>[Signature]</u> date Comte Aide (initial)
PART-TIME				
TEMPORARY				

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.) At present, Alaska's State Plan for fiscal years FY 92-94 under Part B of the Individuals with Disabilities Education Act has conditional approval by the U.S. Department of Education and is contingent upon federal acceptance of changes to Alaska statutes and regulations making them consistent with Part B requirements. HB 235 provides for federal acceptance. If HB 235 fails to become law, the state may lose \$8,344,517 in federal funds. See attached sheets for additional information

Prepared by: Mike Maher Phone: 465-2803
 Division: Commissioner's Office Date: 3/19/93
 Approved by Commissioner: [Signature] Jerry Covey
 Agency: Education Date: 3-19-93

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House Bill 235 provides for compliance with federal statutes under Part B of the Individuals with Disabilities Education Act by amending Alaska statutes to make them consistent with Part B requirements. Failure to pass HB 235 could result in the loss of both dollars and services provided by the department and the school districts to educate children with disabilities.

If Alaska does not meet the terms of the conditional approval of its State Plan, the Federal Office of Special Education Programs could withhold our Part B funds and PL 89-313 funds in the amount of 8.3 million dollars. This would result in the loss of 3.8 FTE special education program managers at the department which now has 4.0 FTE. It also would result in the loss of 1.0 FTE Clerk Typist III and 1.3 FTE Grant Managers in special education which now has 1.0 FTE Clerk Typist III and 2.0 FTE Grant Managers.

In addition, there would be no money to pay for department-sponsored special education state-wide professional training opportunities, technical assistance to school districts, and special projects such as preparation and printing of the Alaska Special Education Handbook and booklets regarding parent rights.

Failure to pass HB 235 could result in the loss of 6.9 million dollars, of the 8.3 million dollars Alaska receives, in direct grants to school districts based on submitted child counts of children with disabilities. The following three pages show how the federal dollars would be allocated for FY 94 based on the December 1992 child count and the FY 93 per pupil amount.

Title VI-B		
5,148,324	Total Allocation From USDOE	
1,235,598	Administrative funds for DOE and discretionary projects	
3,912,726	Total Allocation to LEAs based on formula (child count)	
280.582735	Per Pupil Amount	
	Dec. 92	Projected
	Child	FY 94
	Count	Allocation
056 Aleutian East	62	17,396
005 Anchorage	6,021	1,689,389
012 Cordova	72	20,202
000 Denali	10	2,806
015 Dillingham	75	21,044
016 Fairbanks	1,713	480,638
022 Juneau	781	219,135
024 Kenai	1,490	418,068
025 Ketchikan	318	89,225
028 Kodiak	401	112,514
030 Lake & Pen	43	12,065
033 Matsu	1,426	400,111
035 Nome	100	28,058
036 North Slope	163	45,735
037 NW Arctic	289	81,088
039 Petersburg	106	29,742
042 Sitka	219	61,448
048 Valdez	95	26,655
049 Wrangell	81	22,727
Subtotal	13,465	3,778,047
017 Galena	20	5,612
034 Nenana	34	9,540
053 Tanana	20	5,612
Subtotal	74	20,763
008 Bristol Bay	41	11,504
013 Craig	55	15,432
018 Haines	45	12,626
019 Hoonah	55	15,432
020 Hydaburg	15	4,209
023 Kake	45	12,626
027 Klawock	42	11,784
038 Pelican	13	3,648
046 St. Marys	24	6,734
043 Skagway	11	3,086
047 Unalaska	32	8,979
050 Yakutat	28	7,856
155 SERRC	406	113,917
Total	13,945	3,912,726

Pre School		
1,043,491	Total Allocation from USDOE	
208,698	Administrative funds for DOE and discretionary projects	
834,793	Total Allocation to LEAs based on formula (child count)	
560.2636	Per pupil allocation	
	Dec-92	Projected
	Child	FY94
	Count	Allocation
005 Anchorage	623	349,044
016 Fairbanks	205	114,854
022 Juneau	104	58,267
024 Kenai	131	73,395
025 Ketchikan	49	27,453
028 Kodiak	40	22,411
030 Lake & Pen	14	7,844
033 Mat Su	140	78,437
000 Nenana	2	1,121
036 North Slope	14	7,844
037 NW Arctic	18	10,085
038 Pelican		0
042 Sitka	35	19,609
Subtotal	1,375	770,362
039 Petersburg	7	3,922
048 Valdez	15	8,404
Subtotal	22	12,326
056 Aleutian East	5	2,801
008 Bristol Bay	0	0
012 Cordova	12	6,723
013 Craig	8	4,482
015 Dillingham	13	7,283
017 Galena	1	560
018 Haines	6	3,362
019 Hoonah	10	5,603
020 Hydaburg	0	0
023 Kake	7	3,922
027 Klawock	4	2,241
035 Nome	1	560
046 St. Marys	2	1,121
043 Skagway	1	560
053 Tanana	3	1,681
047 Unalaska	2	1,121
049 Wrangell	10	5,603
050 Yakutat	8	4,482
155 SERRC	93	52,105
Total	1,490	834,793

P.L. 89-313 DISTRICT		
PROJECT APPLICATIONS		
FY 94 ESTIMATE	\$2,152,702	State total
	\$629.08	per child
	Count 12/92	FY 94 Allocation Estimate
REAA		
Adak	80	\$50,326
Alaska gateway	78	\$49,068
Aleutian	7	\$4,404
Anchorage OnBase	245	\$154,124
Annette Island	77	\$48,439
Bering St.	268	\$168,593
Chatham	62	\$39,003
Chugach	13	\$8,178
Copper River	76	\$47,810
Delta	152	\$95,620
Fairbanks OnBase	255	\$160,415
Hess	558	\$351,025
Iditarod	70	\$44,035
Kashunamuit	30	\$18,872
Kuspuk	93	\$58,504
Lake & Pen	0	\$0
Lower Kuskokwim	429	\$269,874
Lower Yukon	254	\$159,786
Pribilof	34	\$21,389
Raiibet	0	\$0
Southeast Is	66	\$41,519
Southwest Region	82	\$51,584
Yukon Flats	50	\$31,454
Yukon Koyukuk	118	\$74,231
Yupit	79	\$49,697
Mt Edgecumbe	5	\$3,145
total	3181	\$2,001,084
LEA		
Aleutian East	2	\$1,258
Denali	32	\$20,130
Fairbanks, LEA	88	\$55,359
Haines	7	\$4,404
Lake & Peninsula	42	\$28,421
Met-Su	48	\$30,196
Nome	21	\$13,211
NW Arctic	0	\$0
Petersburg	0	\$0
Wrangell	1	\$629
total	241	\$151,608
GRAND TOTAL	3422	\$2,152,702
NOTE: Based on FY 93 Allocation and FY 94 Child Count		

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 2
Bill Version: SCSCSHB 235 (HES)
(S) Publish Date: 4-22-93

Revision Date: _____ Dept. Affected: Administration
Title: "An Act relating to educational programs and services for children with disabilities..." BRU: Office of Public Advocacy
Component: Office of Public Advocacy
Sponsor: Bunde
Requestor: _____ COMPONENT SERIAL NO. 43

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (attach a separate page if necessary.)

It is not possible to calculate the Office of Public Advocacy's costs in implementing this bill as the number of cases that will be generated is unknown and we have no experience in estimating the cost per case.

Prepared By: Brant McGee, Public Advocate Phone: 274-1684
Division: Office of Public Advocacy Date: _____

Approved by Commissioner: Nancy Bear Usura Date: 4/22/93
Agency: Department of Administration

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Back-up

Senate CS for CS for House Bill No. 235 (HES)
Sectional Analysis

"An Act relating to educational programs and services for children with disabilities and other exceptional children and to persons with a handicap; and providing for an effective date."

- Sec. 1. Indicates that AS 14.30.180 - 14.30.350 are intended to allow procedures and actions necessary to comply with the requirements of federal law, Individuals with Disabilities Education Act (IDEA).
- Sec. 2. Clarifies special education services for an exceptional child. An exceptional child educated under AS 14.30.010(b) may not be compelled to receive special education services.
- Sec. 3. Deletes the term "guardian" as this word is included in the definition of a parent, AS 14.30.350 (11).
- Sec. 4. Deletes the term "guardian" as this word is included in the definition of a parent, AS 14.30.350 (11).
- Sec. 5. Deletes the term "guardian" as this word is included in the definition of a parent, AS 14.30.350 (11).
- Sec. 6. Outlines that a parent may obtain an independent educational evaluation by choosing a person from a list provided by the district or by a person selected by agreement between the parent and the school district.
- Sec. 7. Deletes the term "guardian" as this word is included in the definition of a parent, AS 14.30.350 (11).
- Sec. 8. Clarifies two separate hearing processes -- an informal or formal due process hearing involving a parent and a school district and an appeal hearing to the department.

A school district may appoint an impartial hearing officer to conduct a hearing to determine whether a child should receive special education services if a parent refuses to consent or does not respond in 30 days. Also, if a parent disagrees with the district's placement or program for a child, a parent may request a hearing.

A hearing officer must be approved in writing by the parent unless the parent has been offered and has rejected three different hearing officers.

The appointed hearing officer shall conduct an informal prehearing settlement conference and attempt to resolve the disagreement between the parent and the school district.

A hearing officer's decision is binding, unless the decision is appealed. A parent or a school district may appeal a hearing officer's decision under this section to the Department of Education.

A child may not be compelled to receive special education services until the appeal process is completed.

The department shall maintain a list of qualified hearing officers who have been qualified for a period not to exceed five years through a training program.

- Sec. 9. Clarifies that appeal hearings shall be based on the record of the impartial hearing officer's decisions and that the hearings shall comply with all requirements necessary for participation in federal grant-in-aid programs.
- Sec. 10. After the department renders its decision, a parent or the school district may appeal the decision to the appropriate court. A parent who appeals to the court and who is an "indigent person" may be provided with a court appoint attorney at public expense.
- Sec. 11. Clarifies that consent granted by a parent may be withdrawn.
- Sec. 12. Clarifies the school district's responsibility to inform the parent of the right to appeal a hearing officer's decision and the right of a parent to obtain an independent evaluation by choosing a person from a list provided by the district or by a person selected by agreement between the parent and the school district.
- Sec. 13. Grants the department the authority to establish, by regulations, impartial procedures for a school district to follow for hearings under AS 14.30.193.
- Sec. 14. Deletes the term "guardian" as this word is included in the definition of a parent, AS 14.30.350 (11).
- Sec. 15. Adds a new subsection to clarify that each school district shall develop an individualized education program for every exceptional child who receives services under AS 14.30.180 - 14.30.350.
- Sec. 16. States clearly that the district must obtain consent from the child's parent before a child may be transferred to a school outside the district in which the child resides.
- Sec. 17. Deletes the term "guardian" as this word is included in the definition of a parent, AS 1.430.350 (11).

- Sec. 18. Requires the school district to make available special education and related services to an exceptional child even if the child is taught at home, at a private school, or in a hospital. This section reflects current practice.
- Sec. 19. Replaces the phrase "handicaps" with "disabilities" to match federal terminology.
- Sec. 20. Conforms the definition of "consent" to the required federal components. Consent means the parent has been fully informed and voluntarily agrees.
- Sec. 21. Simplifies the definition of "exceptional children".
- Sec. 22. Includes "rehabilitation counseling" as a related service provided under special education as mandated by the federal re-authorization of PL 94-142.
- Sec. 23. Replaces the term "handicapped child" with the defined term "exceptional children".
- Sec. 24. Defines "children with disabilities", "educational records", "gifted children", "individualized education program team" and "parent".

Two new disability categories are included - autism and traumatic brain injury. The definition of "educational records" is required by the U.S. Department of Education. Actual current practice is mirrored in the phrase "individualized education program team".
- Sec. 25. Clarifies that the office of public advocacy shall provide legal representation to indigent parents under AS 14.30.195(e).
- Sec. 26. Establishes June 30, 1993, as the effective date of the legislation.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF EDUCATION

GOLDBELT PLACE
801 WEST 10TH STREET, SUITE 200
JUNEAU, ALASKA 99801-1894

OFFICE OF THE COMMISSIONER

April 23, 1993

The Honorable Drue Pearce
Senate Finance Committee, Co-Chair
State Capitol, Room 508
Juneau, AK 99801

Dear Senator Pearce:

I respectfully request a hearing before the Senate Finance Committee to consider HB 235, "An Act relating to education programs and services for children with disabilities and other exceptional children and to persons with a handicap."

This legislation amends existing statutes relating to the education programs for exceptional children. As you know, educational programs for children with disabilities receive substantial money from the federal government. Receipt of federal money is contingent upon compliance with the federal requirements. Five statutory changes in this bill are necessary to keep Alaska in compliance with the recent changes to the federal requirements.

The following sections of HB 235 address the changes required by the U.S. Department of Education:

Section 8. Alaska statutes presently allow a school district to initiate a due process hearing only to prove that its evaluation of a child is correct. Federal statutes permit a school district or a parent to initiate a hearing on all hearable topics. This section will allow a school district to initiate a hearing for the same reasons a parent initiates a hearing.

Section 11 and Section 20. The U.S. Department of Education has specified that the definition of consent must contain the required federal components as presented in these sections.

Section 22. The re-authorization of P.L. 94-142, now named Individuals with Disabilities Education Act (*IDEA*), includes rehabilitation counseling as a related service.

Section 24. Two new categories of children with disabilities were mandated by *IDEA*, autism and traumatic brain injury. The definition of "educational records" listed in this section is also required by the U.S. Department of Education.

Letter, Senator Pearce
April 23, 1993
Page 2

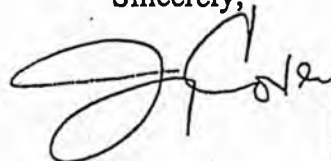
At present, Alaska's State Plan for FY 1992-94 under Part B of *IDEA* has conditional approval by the U.S. Department of Education and is contingent upon federal acceptance of changes to Alaska statutes. If Alaska does not meet the terms of the conditional approval, the Federal Office of Special Education has indicated that it is highly probable that Part B and PL 89-313 funds in the amount of \$8,344,517 for FY 94 will be withheld. This would result in the loss of \$1,444,296 in administrative and discretionary funds, and \$6,900,221 in direct grants to school districts.

Loss of the administrative and discretionary funds will eliminate the Department of Education's ability to provide statewide leadership to and supervision of programs for children with disabilities throughout the state. It also will eliminate funds for program development activities, technical assistance to districts and training and support for parents.

Loss of direct grants to the school districts will seriously limit a district's ability to provide a variety of special education and related services such as speech therapy, occupational and physical therapy to children, diagnostic services, staff development and parent training and support.

Passage of HB 235 will address the compliance issue raised by the Federal Office of Special Education and will ensure additional resources to meet the needs of Alaska's children with disabilities. Thank you very much for your support on this matter.

Sincerely,

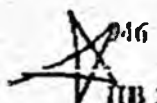
A handwritten signature in black ink, appearing to read "Jerry Covey". The signature is fluid and cursive, with a large initial "J" and "C".

Jerry Covey
Commissioner

cc: Senator Steve Frank

Post-It™ brand fax transmittal memo 7671		# of pages >	
To	Billy Miles	From	Shilo
On	Sen. Finance	Co.	DOE
Dept.		Phone #	2803
Fax #	3872	Fax #	4156

At the request of Patty Swanson,
Rep. Bunde's office, I am
providing you with information on the
House vote on HB235, as well as the
Senate Committee recommendations. Please
let me know if I can be of
further help. THANKS!!!



HB 235

The following was read the second time:

HOUSE BILL NO. 235

"An Act relating to educational programs and services for children with disabilities and other exceptional children and to persons with a handicap; and providing for an effective date."

with the:	Journal Page
HES RPT CS(HES) 1DP 7NR	758
-ZERO FISCAL NOTE (DOE) 3/24/93	758
FIN RPT CS(FIN) 2DP 6NR	851
-PREVIOUS ZERO FN (DOE) 3/24/93	852

Representative Phillips moved and asked unanimous consent that the following committee substitute be adopted in lieu of the original bill:

CS FOR HOUSE BILL NO. 235(FIN)
(same title)

There being no objection, it was so ordered.

Representative Phillips moved and asked unanimous consent that CSHB 235(FIN) be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 235(FIN) was read the third time.

The question being: "Shall CSHB 235(FIN) pass the House?" The roll was taken with the following result:

CSHB 235(FIN)
Third Reading
Final Passage

YEAS: 38 NAYS: 1 EXCUSED: 1 ABSENT: 0

HB 235

Yeas: Barnes, Brown, Bunde, Davidson, Davies, B.Davis, G.Davis, Finkelstein, Foster, Green, Grussendorf, Hanley, Hoffman, Hudson, James, Kolt, Larson, Mackie, MacLean, Martin, Menard, Moses, Mulder, Navarre, Nicholia, Nordlund, Olberg, Parnell, Phillips, Porter, Sanders, Sitton, Theriault, Toohey, Ulmer, Vezey, Williams, Willis

Nays: Carney

Excused: Brice

And so, CSHB 235(FIN) passed the House.

Representative Phillips moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

Representative B.Davis gave notice of reconsideration of her vote on CSHB 235(FIN).

LEGISLATIVE CITATIONS

Representative Phillips moved and asked unanimous consent that the House approve the citations on the calendar. There being no objection, the following citations were approved and sent to enrolling:

Honoring - Anchorage Convention & Visitors Bureau, Alaska School Business Partnership Program

By Representatives Hanley, Toohey, Brown, B.Davis, G.Davis, Green, James, Kolt, Mackie, MacLean, Menard, Mulder, Navarre, Nicholia, Parnell, Phillips, Ulmer, Willis

Honoring - Diamond Alumni Foundation, Alaska School Business Partnership Program

By Representatives Hanley, Parnell, B.Davis, G.Davis, James, Mackie, Menard, Mulder, Navarre, Nicholia, Nordlund, Phillips, Toohey, Willis

Honoring - John F. Franklin

By Representatives Barnes, Brown, B.Davis, Green, Grussendorf, Menard, Mulder, Nicholia, Nordlund, Parnell, Phillips, Porter, Toohey, Willis

SENATE JOURNAL

1568

April 20, 1993

SB 189

Zero fiscal note published today from Department of Health and Social Services.

SENATE BILL NO. 189 was referred to the Health, Education and Social Services Committee.

HB 221

The Community and Regional Affairs Committee considered HOUSE BILL NO. 221 "An Act relating to workers' compensation for volunteer ambulance attendants, police officers, and fire fighters; and providing for an effective date." Signing do pass: Senator Phillips, Chair, Senators Taylor, Zharoff, Leman.

Previous House zero fiscal notes.

HOUSE BILL NO. 221 was referred to the Labor and Commerce Committee.

HB 235

The State Affairs Committee considered CS FOR HOUSE BILL NO. 235(FIN) "An Act relating to educational programs and services for children with disabilities and other exceptional children and to persons with a handicap; and providing for an effective date" and recommended it be replaced with

SENATE CS FOR CS FOR HOUSE BILL
NO. 235(STA)

Signing do pass with zero fiscal note: Senator Leman, Chair.
Signing no recommendation: Senators Taylor, Miller.

Previous House zero fiscal note applies to the Senate Committee Substitute.

CS FOR HOUSE BILL NO. 235(FIN) was referred to the Health, Education and Social Services Committee.

SENATE JOURNAL

April 20, 1993

1569

SB 106

The Rules Committee considered SENATE BILL NO. 106 "An Act authorizing power transmission interties between Anchorage and the Kenai Peninsula, between Healy and Fairbanks, and between the Swan Lake and Tyee Lake hydroelectric projects, and approving the design and construction costs of the interties; and providing for an effective date." Signing to calendar: Senator Jacko, Chair, Senators Halford, Rieger, Little.

SENATE BILL NO. 106 is on today's calendar.

SB 126

The Rules Committee considered SENATE BILL NO. 126 "An Act making special appropriations for design and construction of power transmission interties between Anchorage and the Kenai Peninsula, between Healy and Fairbanks, and between the Swan Lake and Tyee Lake hydroelectric projects; and providing for an effective date" and recommended it be replaced with

CS FOR SENATE BILL NO. 126(RLS), entitled:
"An Act making special appropriations to fund the energy authority revolving fund; making special appropriations for design and construction of power transmission interties between Anchorage and the Kenai Peninsula, between Healy and Fairbanks, between the Swan Lake and Tyee Lake hydroelectric projects, and between Sutton and Glennallen; making special appropriations for energy project assistance, repair, improvements, acquisition, and development and for renewal and replacement funds at facilities owned by the Alaska Energy Authority; and providing for an effective date."

Signing to calendar: Senator Jacko, Chair, Senators Rieger, Halford, Little.

SENATE BILL NO. 126 is on today's calendar.

SB 7

Forthcoming Senate Finance Committee Letter of Intent (page 1641):

Letter of Intent
for
CSSB 7(Fin)

It is the intent of the Legislature that municipalities and school districts receive debt reimbursement for school construction and major rehabilitation projects from the school construction grant fund. The Legislature does not intend the fund to be used for normal, preventative, or routine maintenance activities.

It is further the Legislature's intent that municipalities and school districts ensure the proper maintenance and upkeep of their schools and classroom facilities through use of operating funds appropriated annually through the foundation funding formula.

Forthcoming fiscal note for the committee substitute published today from Department of Education.

HB 59

The State Affairs Committee considered CS FOR HOUSE BILL NO. 59(MLV) "An Act making a special appropriation to the Department of Natural Resources for refunds to certain veterans who purchased state land and for reimbursement to the University of Alaska for the veterans' land discount applied to land transferred to the University of Alaska; and providing for an effective date." Signing do pass: Senator Leman, Chair, Senator Taylor. Signing no recommendation: Senator Miller.

Previous House zero fiscal note.

CS FOR HOUSE BILL NO. 59(MLV) was referred to the Resources Committee.

April 22, 1993

HB 148

The State Affairs Committee considered HOUSE BILL NO. 148 "An Act exempting the University of Alaska from the administrative adjudication provisions of the Administrative Procedure Act; and providing for an effective date." Signing do pass with a Senate State Affairs Committee Letter of Intent: Senator Leman, Chair, Senators Taylor, Miller.

Letter of Intent
for
House Bill No. 148

It is the intent of the Senate State Affairs Committee that upon passage of HB 148, the University implement the draft grievance policy distributed to employees for review on March 22, 1993. It is the understanding of the Legislature that this policy will be used as an interim policy only until the University of Alaska Board of Regents, with the advice and recommendations from the University of Alaska General Assembly, adopts a successor grievance policy.

It is further the intent of the Legislature that the University of Alaska Board of Regents reach final approval of a successor policy by June 13, 1993.

Previous House zero fiscal note.

HOUSE BILL NO. 148 was referred to the Rules Committee.

HB 235

The Health, Education and Social Services Committee considered CS FOR HOUSE BILL NO. 235(FIN) "An Act relating to educational programs and services for children with disabilities and other exceptional children and to persons with a handicap; and providing for an effective date" and recommended it be replaced with

SENATE CS FOR CS FOR HOUSE BILL
NO. 235(HES)

HB 235

Signing no recommendation: Senator Rieger, Chair, Senators Miller, Salo, Sharp. Signing to amend: Senator Leman.

Zero fiscal note for the Senate committee substitute published today from Department of Administration. Previous House zero fiscal note applies to the Senate committee substitute.

CS FOR HOUSE BILL NO. 235(FIN) was referred to the Finance Committee.

SB 7

The Rules Committee considered SENATE BILL NO. 7 "An Act relating to reimbursement of school construction debt; and providing for an effective date." Signing to calendar: Senator Jacko, Chair, Senators Halford, Rieger. Signing no recommendation: Senator Little.

SENATE BILL NO. 7 is on today's calendar.

SB 60

The Rules Committee considered SENATE BILL NO. 60 "An Act making appropriations for construction and major maintenance of schools; and providing for an effective date." Signing to calendar: Senator Jacko, Chair, Senator Rieger. Signing no recommendation: Senators Little, Halford.

SENATE BILL NO. 60 is on today's calendar.

HB 279

The Rules Committee considered CS FOR HOUSE BILL NO. 279(L&C) "An Act extending the termination date of the Alaska Public Utilities Commission to June 30, 1994." Signing to calendar and do pass: Senator Jacko, Chair, Senators Rieger, Halford. Signing no recommendation: Senator Little.

Previous House zero fiscal note.

CS FOR HOUSE BILL NO. 279(L&C) is on today's calendar.

HB 279

Nays: Sharp

and so, CS FOR HOUSE BILL NO. 279(L&C) passed the Senate.

CS FOR HOUSE BILL NO. 279(L&C) was signed by the President and Secretary and returned to the House.

THIRD READING OF SENATE BILLS**SB 45**

CS FOR SENATE BILL NO. 45(RLS) was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 45(RLS) "An Act relating to persons under 21 years of age; relating to programs for runaway minors; providing for designation of shelters for runaway minors; relating to the detention and incarceration of minors; and providing for an effective date" pass the Senate?" The roll was taken with the following result:

CSSB 45(RLS)

Third Reading - Final Passage

YEAS: 12 NAYS: 8 EXCUSED: 0 ABSENT: 0

Yeas: Donley, Frank, Halford, Jacko, Kelly, Leman, Miller, Pearce, Phillips, Rieger, Sharp, Taylor

Nays: Adams, Duncan, Ellis, Kerttula, Lincoln, Little, Salo, Zharoff

and so, CS FOR SENATE BILL NO. 45(RLS) passed the Senate.

Senator Taylor moved the effective date clause failed.

The question being: "Shall the effective date clause be adopted?" The roll was taken with the following result:

CSSB 45(RLS)

Effective Date

MEMORANDUM

State of Alaska

Department of Law

TO: Sheila Peterson
Legislative Liaison
Department of Education


DATE: March 22, 1993

FILE NO.:

TEL. NO.: 465-3603

SUBJECT: HB 235

FROM:


Jan Gregg Levy
Assistant Attorney General
Human Services-Juneau

You have asked us whether we read 34 C.F.R. §§ 300.504 - 506 to require the state to provide for a district-initiated hearing procedure when a parent refuses to consent to evaluation of a child for special education. HB 235 would provide such a procedure in section 8. It is our opinion that a procedure must be provided.

The regulations deal with two types of states: those that require consent before a handicapped child is evaluated and those that do not require consent. Alaska law requires that a district "obtain the consent of the child's parent or guardian before an initial evaluation or placement in a program of special education and related services." AS 14.30.191. Thus, we deal with the portions of the regulations addressing our type of state.

34 C.F.R. § 300.506 states "[a] parent or a public educational agency may initiate a hearing on any of the matters described in § 300.504(a)(1) and (2)." (Emphasis added.) The matters described therein include initiation of evaluation and educational placement. Thus, the law clearly permits the state to initiate a hearing on the issue of whether an evaluation should take place. An administrative law judge (ALJ) came to the same conclusion in an Iowa case involving parental refusal to consent to a district's request to evaluate a student. The ALJ held that "[t]he authority to grant to educational agencies through hearings, over the objection of parents, permission to conduct individual education evaluations is established clearly by federal regulations." 16 EHLR 1166 (1990).

Section 300.504(c) addresses what procedures are to be used for the hearings. Where, as in Alaska, parental consent is required before evaluation, the regulation establishes that "[s]tate procedures govern the public agency in overriding a parent's refusal to consent." (Where parental consent is not required and a state agency wishes to initiate a hearing, the hearing procedures set out in the regulations govern.)

Sheila Peterson
Department of Education

March 22, 1993
Page 2

The problem, of course, is that currently there are no state procedures for a district-initiated hearing, although there is a procedure for a parent-initiated hearing. It is our view that the regulations as a whole clearly contemplate that states provide such a procedure. Without the procedure, § 300.506, permitting a public educational agency to initiate a hearing, would be meaningless.

HB 235, section 8, operates to fill the void that currently exists. It is not the only procedure that would satisfy the regulations, but it is a procedure that is consistent with the procedures for other administrative hearings in the state, and appears to provide safeguards to all parties involved, including a right of appeal.

I am attaching a copy of the July 1, 1991, regulations, as the copy you faxed us was from an earlier edition. The comment to § 300.506 mentions that a number of states have found mediation a successful step to have available prior to a formal hearing. Formal hearings tend to set up adversarial relationships that make it difficult for parties to work with each other in the future. To the extent that such tension can be avoided, it probably serves the educational interests of the child. I bring it to your attention as a possible compromise in the event that the differing views on this section necessitate a reworking of the bill as proposed.

Please feel free to call if we can be of further assistance.

JGL:jal:bap

Attachment

(2) May be presented as evidence at a hearing under this subpart regarding that child.

(d) *Requests for evaluations by hearing officers.* If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(e) *Agency criteria.* Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the public agency uses when it initiates an evaluation.

(Authority: 20 U.S.C. 1415(b)(1)(A))

§ 300.504 Prior notice; parent consent.

(a) *Notice.* Written notice that meets the requirements of § 300.505 must be given to the parents of a child with a disability a reasonable time before the public agency—

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(b) *Consent; procedures if a parent refuses consent.* (1) Parental consent must be obtained before—

(i) Conducting a preplacement evaluation; and

(ii) Initial placement of a child with a disability in a program providing special education and related services.

(2) If State law requires parental consent before a child with a disability is evaluated or initially provided special education and related services, State procedures govern the public agency in overriding a parent's refusal to consent.

(3) If there is no State law requiring consent before a child with a disability is evaluated or initially provided special education and related services, the public agency may use the hearing procedures in §§ 300.506–300.508 to determine if the child may be evaluated or initially provided special education and related services without parental consent. If it does so and the hearing officer upholds the agency, the agency may evaluate or initially provide special education and related services to the child without the parent's consent, subject to the parent's rights under §§ 300.510–300.513.

(c) *Additional State consent requirements.* In addition to the parental consent requirements described in paragraph (b) of this section, a State may require parental consent for other

services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.

(d) *Limitation.* A public agency may not require parental consent as a condition of any benefit to the parent or the child except for the service or activity for which consent is required under paragraphs (b) or (c) of this section.

(Authority: 20 U.S.C. 1415(b)(1)(C), (D); 1412(2), (8))

Note 1: Any changes in a child's special education program after the initial placement are not subject to the parental consent requirements in paragraph (b)(1) of this section, but are subject to the prior notice requirement in paragraph (a) of this section and the IEP requirements of §§ 300.340–300.350.

Note 2: Paragraph (b)(2) of this section means that if State law requires parental consent before evaluation or before special education and related services are initially provided, and the parent refuses (or otherwise withholds) consent, State procedures, such as obtaining a court order authorizing the public agency to conduct the evaluation or provide the education and related services, must be followed.

If, however, there is no legal requirement for consent outside of these regulations, the public agency may use the due process procedures in §§ 300.506–300.508 to obtain a decision to allow the evaluation or services without parental consent. The agency must notify the parent of its actions, and the parent has appeal rights as well as rights at the hearing itself.

Note 3: If a State adopts a consent requirement in addition to those described in paragraph (b) of this section and consent is refused, paragraph (d) of this section requires that the public agency must nevertheless provide the services and activities that are not in dispute. For example, if a State requires parental consent to the provision of all services identified in an IEP and the parent refuses to consent to physical therapy services included in the IEP, the agency is not relieved of its obligation to implement those portions of the IEP to which the parent consents.

If the parent refuses to consent and the public agency determines that the service or activity in dispute is necessary to provide FAPE to the child, paragraph (c) of this section requires that the agency must implement its procedures to override the refusal. This section does not preclude the agency from reconsidering its proposal if it believes that circumstances warrant.

§ 300.505 Content of notice.

(a) The notice under § 300.504 must include—

(1) A full explanation of all of the procedural safeguards available to the

parents under § 300.500, §§ 300.502–300.515, and §§ 300.562–300.569;

(2) A description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected;

(3) A description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposal or refusal; and

(4) A description of any other factors that are relevant to the agency's proposal or refusal.

(b) The notice must be—

(1) Written in language understandable to the general public; and

(2) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(c) If the native language or other mode of communication of the parent is not a written language, the SEA or LEA shall take steps to ensure—

(1) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(2) That the parent understands the content of the notice; and

(3) That there is written evidence that the requirements in paragraphs (c)(1) and (2) of this section have been met.

(Authority: 20 U.S.C. 1415(b)(1)(D))

§ 300.506 Impartial due process hearing.

(a) A parent or a public educational agency may initiate a hearing on any of the matters described in § 300.504(a)(1) and (2).

(b) The hearing must be conducted by the SEA or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the SEA.

(c) The public agency shall inform the parent of any free or low-cost legal and other relevant services available in the area if—

(1) The parent requests the information; or

(2) The parent or the agency initiates a hearing under this section.

(Authority: 20 U.S.C. 1415(b)(2))

Note: Many States have pointed to the success of using mediation as an intervening step prior to conducting a formal due process hearing. Although the process of mediation is not required by the statute or these regulations, an agency may wish to suggest mediation in disputes concerning the identification, evaluation, and educational placement of children with disabilities, and

the provision of FAPE to those children. Mediations have been conducted by members of SEAs or LEA personnel who were not previously involved in the particular case. In many cases, mediation leads to resolution of differences between parents and agencies without the development of an adversarial relationship and with minimal emotional stress. However, mediation may not be used to deny or delay a parent's rights under §§ 300.500-300.515.

§ 300.507 Impartial hearing officer.

(a) A hearing may not be conducted—

(1) By a person who is an employee of a public agency that is involved in the education or care of the child; or

(2) By any person having a personal or professional interest that would conflict with his or her objectivity in the hearing.

(b) A person who otherwise qualifies to conduct a hearing under paragraph (a) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

(c) Each public agency shall keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

(Authority: 20 U.S.C. 1414(b)(2))

§ 300.508 Hearing rights.

(a) Any party to a hearing has the right to:

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities.

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses.

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing.

(4) Obtain a written or electronic verbatim record of the hearing.

(5) Obtain written findings of fact and decisions. The public agency, after deleting any personally identifiable information, shall—

(i) Transmit those findings and decisions to the State advisory panel established under § 300.650; and

(ii) Make those findings and decisions available to the public.

(b) Parents involved in hearings must be given the right to—

(1) Have the child who is the subject of the hearing present; and

(2) Open the hearing to the public.

(Authority: 20 U.S.C. 1415(d))

§ 300.509 Hearing decision; appeal.

A decision made in a hearing conducted under § 300.506 is final,

unless a party to the hearing appeals the decision under § 300.510 or § 300.511.

(Authority: 20 U.S.C. 1415(c))

§ 300.510 Administrative appeal; impartial review.

(a) If the hearing is conducted by a public agency other than the SEA, any party aggrieved by the findings and decision in the hearing may appeal to the SEA.

(b) If there is an appeal, the SEA shall conduct an impartial review of the hearing. The official conducting the review shall:

(1) Examine the entire hearing record.

(2) Ensure that the procedures at the hearing were consistent with the requirements of due process.

(3) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in 300.508 apply.

(4) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official.

(5) Make an independent decision on completion of the review.

(6) Give a copy of written findings and the decision to the parties.

(c) The SEA, after deleting any personally identifiable information, shall—

(1) Transmit the findings and decisions referred to in paragraph (b)(6) of this section to the State advisory panel established under § 300.650; and

(2) Make those findings and decisions available to the public.

(d) The decision made by the reviewing official is final unless a party brings a civil action under § 300.511.

(Authority: 20 U.S.C. 1415(c), (d); H. R. Rep. No. 94-864, at p. 49 (1975))

Note 1: The SEA may conduct its review either directly or through another State agency acting on its behalf. However, the SEA remains responsible for the final decision on review.

Note 2: All parties have the right to continue to be represented by counsel at the State administrative review level, whether or not the reviewing official determines that a further hearing is necessary. If the reviewing official decides to hold a hearing to receive additional evidence, the other rights in § 300.508 relating to hearings also apply.

§ 300.511 Civil action.

Any party aggrieved by the findings and decision made in a hearing who does not have the right to appeal under § 300.510, and any party aggrieved by the decision of a reviewing officer under § 300.510, has the right to bring a civil action under section 815(e)(2) of the Act. (Authority: 20 U.S.C. 1415)

§ 300.512 Timeliness and convenience of hearings and reviews.

(a) The public agency shall ensure that not later than 45 days after the receipt of a request for a hearing—

(1) A final decision is reached in the hearing; and

(2) A copy of the decision is mailed to each of the parties.

(b) The SEA shall ensure that not later than 30 days after the receipt of a request for a review—

(1) A final decision is reached in the review; and

(2) A copy of the decision is mailed to each of the parties.

(c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.

(d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.

(Authority: 20 U.S.C. 1415)

§ 300.513 Child's status during proceedings.

(a) During the pendency of any administrative or judicial proceeding regarding a complaint, unless the public agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement.

(b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings.

(Authority: 20 U.S.C. 1415(e)(3))

Note: Section 300.513 does not permit a child's placement to be changed during a complaint proceeding, unless the parents and agency agree otherwise. While the placement may not be changed, this does not preclude the agency from using its normal procedures for dealing with children who are endangering themselves or others.

§ 300.514 Surrogate parents.

(a) *General.* Each public agency shall ensure that the rights of a child are protected when—

(1) No parent (as defined in § 300.13) can be identified;

(2) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

(3) The child is a ward of the State under the laws of that State.

(b) *Duty of public agency.* The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for

MEMORANDUM

State of Alaska

Department of Law

TO: Sheila Peterson
Legislative Liaison
Department of Education

DATE: March 23, 1993

FILE NO.:

TEL. NO: 465-3603

SUBJECT: HB 235

FROM:

Jan Gregg Levy
Jan Gregg Levy
Assistant Attorney General
Human Services-Juneau

You have asked whether the children in need of aid statute, AS 47.10.010, provides a procedure for a district initiated hearing as authorized by 34 C.F.R. § 300.506(a). As I understand the question, a member of the public has advanced the view that the existence of the statute obviates the need for section 8 of HB 235. In our opinion, AS 47.10.010 does not provide the procedure required by the federal regulations.

34 C.F.R. § 300.506(a) provides that "[a] parent or a public educational agency may initiate a hearing on any of the matters described in § 300.504(a)(1) and (2)." Those sections include proposals and refusals to initiate an evaluation of a child. The law thus grants the right to a hearing. Section 8 of HB 235 sets out a procedure for such a hearing.

AS 47.10.010 is simply not a functional substitute for a hearing. It would be extremely unlikely that failure to consent to an evaluation would ever be enough to invoke the statute. Thus, the statute does not permit a district to exercise its right to a hearing as provided by federal regulation. The statute provides for a state court proceeding relating to minors who are found to be in need of aid. Examples of situations that qualify children being in need of the state's aid are those where the children have violated criminal laws, are absent from the home or physically abandoned, have suffered substantial physical harm, and have or are in danger of being sexually abused. AS 47.10.010(a)(2)(B) is the only paragraph that could even arguably be broad enough to bring failure to consent to a special education evaluation within its language. It applies where the child is in need of aid as a result of

the child being in need of medical treatment to cure, alleviate, or prevent substantial physical harm, or in need of treatment for mental harm as evidenced by failure to thrive, severe anxiety, depression, withdrawal, or untoward aggressive behavior or hostility toward others, and the

Sheila Peterson
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Page 2

child's parent, guardian, or custodian has knowingly failed to provide the treatment[.]

Id. Even this language, however, requires a finding that the parents are withholding certain treatment. Failure to consent to an evaluation is not failure to provide treatment. Thus, this statute cannot be invoked to remedy failure to consent to a special education evaluation.

Even if the statute could be construed to cover such a case, it still would not operate to provide the hearing authorized by federal regulation. Federal regulation states that the "hearing must be conducted by the state educational agency or the public agency directly responsible for the education of the child." 34 C.F.R. § 300.506(b). Any hearing under AS 47.10.010 will be in state court, and not conducted by a public educational agency.

Finally, the usual remedy under the children in need of aid statute is additional evidence that this statute should not be invoked when parents refuse to consent to evaluation: the most common remedy is assumption of custody by the court -- removal of the child from the home. It is highly unlikely that such a result would be desired by any of the parties, and underscores why this state court proceeding is not a suitable vehicle for providing the hearing authorized by 34 C.F.R. § 300.506(a).

Thus, we are unpersuaded that the children in need of aid statute provides a hearing procedure that satisfies 34 C.F.R. § 300.506.

JGL/bap

Post-It™ brand fax transmittal memo 7871		# of pages: 2	
To: Sheila Peterson		From: Jan Levy	
Cc:		Cc:	
Dept: DOE		Phone #:	
Fax #:		Fax #:	



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

DRAFT

Ms. Myra Howe
Director
Office of Special and Supplemental
Services
Office of Special Education
Alaska Department of education
301 West 10th Street, Suite 200
Juneau, Alaska 99801-1894

Dear Ms. Howe:

This is in response to your conversation with Chuck Laster during the week of February 14, 1993, at which time you posed questions regarding the Alaska Department of Education's (AKDE) conditional approval of its 1992-1994 State Plan. It is the understanding of the Office of Special Education Programs (OSEP) that AKDE has continued to have difficulty in completing the statutory and regulatory changes that were required as a condition of OSEP's approval of AKDE's 1992 State Plan.

In a letter from former AKDE State Director of the Office and Special and Supplemental Services, Jim Rich, to former OSEP Director, Judy Schrag, on June 1, 1992, Alaska House Bill 419 and Senate Bill 371 were tabled by the legislature. Mr. Rich assured OSEP that the legislation would be resubmitted when the legislature resumed in January of 1993. According to the information you shared with Mr. Laster in February, you are concerned that these Bills may again be tabled.

Although OSEP commends AKDE for its efforts to ensure that the required statutory and regulatory requirements be amended and included in its State Plan, OSEP must advise you that AKDE's upcoming 1994 grant award cannot be released until the required revisions to its 1992 State Plan have been completed. (See OSEP Memo 93-13, page 2, item B., dated March 12, 1993, copy attached.)

Please note the following excerpt from OSEP's letter of September 11, 1992 to Commissioner Gerald Covey:

As soon as possible, but not later than July 1, 1993, your agency must provide OSEP with copies of all amended State Plan documents, including the revised regulations that have been adopted by the State Board of Education, the revised statute that has been enacted by the State Legislature, and the required documents to the monitoring system.

Page 2 - Ms. Myra Howe

In addition, OSEP advised AKDE that:

Your State's Part B grant award for 1994 (i.e., the grant period beginning July 1, 1993) will be issued as funds become available for obligation at the Federal level, and if, in addition to meeting the conditions noted above, the following criteria are met:

- (1) The State meets the conditions of eligibility required under section 612 of the Act, including having in effect an approved Part B State Plan for the period of the FY 1994 award;
- (2) Your agency submits amendments to the Part B State Plan to conform to the changes required by P.L. 101-476 and P.L. 102-119 and those amendments are approved by OSEP; and
- (3) Your agency provides OSEP with copies of (a) all required certifications, including ED Form 80-0013, and (b) all required reports, including the Annual Data Report and Annual Performance Report.

I hope that this letter is responsive to your request for information regarding your 1994 grant award. Thank you for your continuing efforts to ensure the provision of quality educational services to children and youth with disabilities.

Sincerely,

Patricia J. Guard
Acting Director
Office of Special Education
Programs

cc. Honorable Gerald Covey



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

March 12, 1993

Contact Person:
Thomas B. Irvin
Telephone: (202) 205-8825

OSEP 93-13

OSEP MEMORANDUM

TO : State Directors of Special Education

FROM : Patricia J. Guard, *Patricia J. Guard*
Acting Director
Office of Special Education Programs

SUBJECT: Reminder About Grant Requirements Under IDEA-Part B and
the Preschool Grants Program for FY 1994 (i.e., the
Grant Period Beginning July 1, 1993)

This memorandum is a brief follow-up to OSEP Memo 93-3, dated November 9, 1992 -- which set out the requirements your State must meet to receive grant awards for Fiscal Year (FY) 1994 under Part B of the Individuals with Disabilities Education Act (Act; Part B), and the Preschool Grants Program under section 619 of the Act. The purposes of the memorandum are (1) to remind you about the requirements in OSEP 93-3, and (2) to ask that you inform us, as appropriate, of the date(s) on which you will be submitting the various State Plan documents to the Office of Special Education Programs (OSEP).

A. New State Plan Requirements -- APPLICABLE TO ALL STATES

In order for your State to receive a grant under Part B for FY 1994, the State must (1) submit information demonstrating that it is meeting the new State Plan requirements that were added by the September 29, 1992, final Part B regulations, and (2) meet any other applicable provisions -- including the public participation requirements -- that apply. (See OSEP Memo 93-3 for specific information about the grant requirements for FY 1994.)

In meeting the new State Plan requirements, please follow the appropriate procedures, below, that apply to your State.

1. States Submitting New 3-year State Plans (i.e., Group I States).¹ If your State is submitting an FY 1994-96 State Plan, please address the new requirements added by the 9-29-92 final Part B regulations -- by incorporating the new material into each specific State Plan section that is covered by those requirements.
2. All Other States (i.e., those whose current Part B Plans remain in effect throughout FY 1994). If your State is in this category, please provide OSEP with ONLY the changes in your State Plan that have been made as a result of the 9-29-92 final Part B regulations.² Please do not re-submit the entire State Plan.

These changes may be typed on a single document -- with specific headings to identify the precise section of the plan that is being amended. Alternatively, each change may be included on a separate page(s), with specific identifying information to correspond to the specific section of the Plan that is being amended;

B. States with Conditionally Approved Plans

In addition to meeting the new requirements added by the September 29, 1992, final Part B regulations, any State that currently has a State Plan that was conditionally approved last year must also submit information demonstrating that it has met the conditions in its FY 1993 conditional approval letter. (As you know, a State's Part B grant award for FY 1994 cannot be issued until documentation is received that those conditions are met.)

C. Certification Forms and other Requirements

Please be sure to submit a signed copy of ED Form 80-0013 ("Certifications Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace

¹ Group I States include AR, CA, DE, GA, HI, IN, KS, KY, LA, MD, MA, MN, NV, OH, OK, RI, SC, TX, WV, and CNMI, Guam, and Palau.

² If you have made any other changes in your State Plan since it was last approved, those changes also must be submitted to OSEP, and would be subject to public comment.

Requirements") with your State Plan documents. Also, if you have not already done so, please submit your State's Annual Data Report and Annual Performance Report.

D. Preschool Grants Application with Your State Plan Documents

If your State is submitting an FY 1994-96 State Plan, please submit your State's 3-year Preschool Grants Application with the State Plan documents identified above.

E. Public Participation Requirements

Please note that all States are required to meet the public participation requirements under Part B and General Education Provisions Act (GEPA) -- for any changes in State Plans required by the new Part B regulations, and for relevant changes that the State makes on its own. (See OSEP Memo 93-3, pages 2-3). Group I States that are submitting Preschool Grants Applications also must meet applicable public participation requirements.

F. Timelines

Your agency may submit the materials discussed above as soon as possible after the documents are final and the public participation requirements are met. However, in order to facilitate timely review, these materials must be received no later than Monday, May 3, 1993. If you will not be able to meet the above timeline, please let us know by Friday, April 2, 1993, the date that you will be submitting the State Plan materials from your State.

We look forward to receiving the information that is requested in this memorandum. In the meantime, if you have comments or questions about the memorandum, or if we can be helpful in meeting the various State Plan requirements in your State, please call your OSEP/DAS State contact.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SCSCS HB 235 (STA)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to educational programs and services for children with disabilities..." BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: Bunde
 Requestor: Senate State Affairs COMPONENT SERIAL NO. 43

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McGee, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: _____

Approved by Commissioner: Nancy Bear Usura Date: 4/20/93
 Agency: Department of Administration

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