

**HB**

**71**

22-GH1010\F  
Ford  
4/20/01

**CS FOR HOUSE BILL NO. 71( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the education of children with disabilities and to the Governor's**  
2 **Council on Disabilities and Special Education; and providing for an effective date."**

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

4 **\* Section 1. AS 14.16.050(a) is amended to read:**

5 (a) The following provisions apply with respect to the operation and  
6 management of a state boarding school as if it were a school district:

7 (1) requirements relating to school district operations:

8 (A) AS 14.03.030 - 14.03.050 (defining the school term, day in  
9 session, and school holidays);

10 (B) AS 14.03.083 - 14.03.140 (miscellaneous provisions  
11 applicable to school district operations);

12 (C) regulations adopted by the board under authority of  
13 AS 14.07.020(a) that are applicable to school districts and their schools, unless

1 the board specifically exempts state boarding schools from compliance with a  
2 regulation:

3 (D) AS 14.12.150 (authorizing school districts to establish and  
4 participate in the services of a regional resource center);

5 (E) AS 14.14.050 (imposing the requirement of an annual  
6 audit);

7 (F) AS 14.14.110 (authorizing cooperation with other school  
8 districts);

9 (G) AS 14.14.140(b) (establishing a prohibition on  
10 employment of a relative of the chief school administrator);

11 (H) AS 14.18 (prohibiting discrimination based on sex in  
12 public education);

13 (2) requirements relating to the public school funding program and the  
14 receipt and expenditure of that funding:

15 (A) AS 14.17.500 (relating to student count estimates);

16 (B) AS 14.17.505 (relating to school operating fund balances);

17 (C) AS 14.17.500 - 14.17.910 (setting out the procedure for  
18 payment of public school funding and imposing general requirements and  
19 limits on money paid);

20 (3) requirements relating to teacher employment and retirement:

21 (A) AS 14.14.105 and 14.14.107 (relating to sick leave);

22 (B) AS 14.20.095 - 14.20.215 (relating to the employment and  
23 tenure of teachers);

24 (C) AS 14.20.220 (relating to the salaries of teachers  
25 employed);

26 (D) AS 14.20.280 - 14.20.350 (relating to sabbatical leave  
27 provisions for teachers);

28 (E) AS 23.40.070 - 23.40.260 (authorizing collective  
29 bargaining by certificated employees), except with regard to teachers who are  
30 administrators and except that the board may delegate some or all of its  
31 responsibilities under those statutes;

1 (F) AS 14.25 (provisions regarding the teachers' retirement  
2 system);

3 (4) requirements relating to students and educational programs:

4 (A) AS 14.30.180 - 14.30.350 (relating to educational services  
5 for [EXCEPTIONAL] children with disabilities);

6 (B) AS 14.30.360 - 14.30.370 (establishing health education  
7 program standards);

8 (C) AS 14.30.400 - 14.30.410 (relating to bilingual and  
9 bicultural education).

10 \* Sec. 2. AS 14.30.180 is amended to read:

11 **Sec. 14.30.180. Purpose.** It is the purpose of AS 14.30.180 - 14.30.350 to

12 (1) provide an appropriate public education for each child with a  
13 disability [EXCEPTIONAL CHILDREN] in the state who is [ARE] at least three  
14 years of age but less than 22 years of age;

15 (2) allow procedures and actions necessary to comply with the  
16 requirements of federal law, including 20 U.S.C. 1400 - 1487 [20 U.S.C. 1400 - 1485]  
17 (Individuals with Disabilities Education Act).

18 \* Sec. 3. AS 14.30.186(a) is repealed and reenacted to read:

19 (a) Special education and related services shall be provided by

20 (1) a borough or city school district for a child with a disability residing  
21 within the district;

22 (2) the board of a regional educational attendance area operating a school  
23 in the area for a child with a disability residing in the area served by the school;

24 (3) the borough, city school district, or regional educational attendance  
25 area in which a treatment facility or a correctional or youth detention facility is located  
26 for a child with a disability placed at the facility;

27 (4) a state boarding school established under AS 14.16 for a child with a  
28 disability enrolled at a state boarding school; or

29 (5) a school district that provides a statewide correspondence study  
30 program for a child with a disability who is enrolled in the program.

31 \* Sec. 4. AS 14.30.186(e) is amended to read:

1 (e) If the parent of a child with a disability [EXCEPTIONAL CHILDREN  
2 BEING EDUCATED AS PROVIDED UNDER AS 14.30.010(b) MAY RECEIVE  
3 SPECIAL EDUCATION AND RELATED SERVICES AS PROVIDED UNDER  
4 AS 14.30.180 - 14.30.350. THE EXCEPTIONAL CHILD OF A PARENT WHO]  
5 elects to educate the child as allowed under AS 14.30.010(b), the child may not be  
6 compelled to receive the special education and related services provided under  
7 AS 14.30.180 - 14.30.350.

8 \* Sec. 5. AS 14.30.186 is amended by adding a new subsection to read:

9 (f) The department shall, by regulation, establish standards for the allocation of  
10 financial responsibilities and the coordination of the provision of special education and  
11 related services among the educational agencies listed in (a) of this section when more  
12 than one educational agency is responsible for providing those services.

13 \* Sec. 6. AS 14.30.191(a) is amended to read:

14 (a) A school district shall obtain the written informed consent of the child's  
15 parent before an initial evaluation or placement of a child with a disability in a  
16 program of special education and related services.

17 \* Sec. 7. AS 14.30.191(b) is amended to read:

18 (b) After initial placement in a program of special education and related  
19 services and not less than once every three years for as long as the child is assigned to  
20 the program, a [AN EXCEPTIONAL] child with a disability shall receive an  
21 educational evaluation [FOR THE IDENTIFICATION AND CLASSIFICATION OF  
22 EXCEPTIONAL CHILDREN].

23 \* Sec. 8. AS 14.30.191(c) is amended to read:

24 (c) Before a school district initiates or refuses a change in the [A CHILD'S]  
25 placement or educational program of a child with a disability, the district shall  
26 notify the child's parent.

27 \* Sec. 9. AS 14.30.191(d) is amended to read:

28 (d) Upon completion of an [THE] evaluation or reevaluation under this  
29 section [AND BEFORE PLACEMENT], the school district shall provide to the parent  
30 of each [EXCEPTIONAL] child evaluated under this section an opportunity to  
31 participate in the determination of the

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(1) child's eligibility for special education and related services:  
[FOR CONSULTATION ABOUT THE EVALUATION. A CONSULTATION  
MUST BE AVAILABLE AFTER EACH REEVALUATION OF THE CONDITION]  
and

(2) educational placement of the [EXCEPTIONAL] child if the child  
is determined to be eligible for special education and related services.

\* Sec. 10. AS 14.30.191 is amended by adding new subsections to read:

(h) A school district shall provide written notice of its decision under this section to the parent of the child. The notice must include a description of the procedural safeguards available to the parent and child under federal law.

(i) In this section, "hearing" means a due process hearing under AS 14.30.193.

\* Sec. 11. AS 14.30.193 is repealed and reenacted to read:

**Sec. 14.30.193. Due process hearing.** (a) A school district or a parent of a child with a disability may request a due process hearing on any issue related to identification, evaluation, or educational placement of the child, or the provision of a free, appropriate, public education to the child. A request is made by providing written notice to the other party to the hearing. A parent shall make a request for a due process hearing under this section not later than 12 months after the date that the school district provides the parent with written notice of the decision with which the parent disagrees. A school district shall make its request for a due process hearing in accordance with the time limit established by the department by regulation.

(b) If a due process hearing is requested by either a school district or a parent, the school district shall contact the department to request appointment of a hearing officer. The department shall select a hearing officer through a random selection process, from a list maintained by the department under (g) of this section. Within five working days after receipt of the request, the department shall provide to the school district and the parent a notice of appointment, including the name and a statement of qualifications, of the hearing officer that the department determines is available to conduct the hearing.

(c) The school district and the parent each have the right to reject, without stating a reason, one hearing officer appointed under this section. The rejecting party shall notify the department of that rejection in writing within five days after receipt of the

1 department's notice of appointment. If a hearing officer is rejected under this subsection,  
2 the department shall, within five working days after receipt of the written rejection,  
3 provide a notice of appointment, including the name and a statement of qualifications, of  
4 another hearing officer that the department determines is available to conduct the  
5 hearing. Each appointment is subject to a right of rejection under this subsection by a  
6 party who has not previously rejected an appointment.

7 (d) After a hearing officer is appointed and the time for rejection under (c) of  
8 this section has expired, the hearing officer shall immediately inform the parent and  
9 the school district of the availability of the mediation process provided under  
10 AS 14.30.194 and encourage use of that process to attempt to resolve the disagreement  
11 between the parent and the school district. If the mediation process does not result in  
12 settlement of all of the issues, the hearing officer shall conduct a hearing in  
13 conformance with the requirements of federal law, including 34 C.F.R. 300.507 - 509.  
14 After the hearing is completed, the hearing officer shall issue a written decision that

15 (1) upholds the school district's decision; or

16 (2) overturns the school district's decision with specific instructions for  
17 modification of the identification, evaluation, educational placement, or provision of the  
18 education program by the district.

19 (e) A hearing officer's decision under this section is final and binding on the  
20 school district and parent unless appealed under (f) of this section. Notwithstanding a  
21 decision by the hearing officer, a child may not be evaluated, placed, transferred, or  
22 compelled to receive special education or related services from the school district until  
23 the period for filing an appeal under (f) of this section has expired or, if an appeal is  
24 filed, until the appellate review process has been completed.

25 (f) A hearing officer's decision under this section is a final administrative  
26 order, subject to appeal to the superior court for review in the manner provided under  
27 AS 44.62.560.

28 (g) The department shall maintain a list of qualified hearing officers and shall  
29 provide for qualification of hearing officers through a training program that is open to  
30 all individuals who meet the criteria set by the department by regulation. The list of  
31 qualified hearing officers shall be maintained as a public record.

1 (h) For purposes of this section, a student with a disability aged 18 - 21 has the  
2 same rights and obligations under this section as a parent of a child with a disability.

3 \* Sec. 12. AS 14.30 is amended by adding a new section to read:

4 Sec. 14.30.194. Mediation. (a) The department shall, by regulation,  
5 establish and implement a voluntary mediation process in conformance with the  
6 requirements of federal law, including 34 C.F.R. 300.506. The department shall  
7 encourage the use of mediation for settlement of disputes under AS 14.30.180 -  
8 14.30.350.

9 (b) The department shall

10 (1) maintain a list of individuals who are qualified mediators  
11 knowledgeable in the federal and state statutes and regulations relating to the  
12 provision of special education and related services; and

13 (2) provide for qualification of mediators through a training program  
14 that is open to all individuals who meet the criteria set by the department by  
15 regulation.

16 \* Sec. 13. AS 14.30.231 is amended to read:

17 Sec. 14.30.231. Advisory panel [COMMITTEE]. The Governor's Council  
18 on Disabilities and Special Education established under AS 47.80 shall serve as the  
19 state [AN] advisory panel [COMMITTEE], the function of which is to provide  
20 information and guidance for the development of appropriate programs of special  
21 education and related services for [EXCEPTIONAL] children with disabilities.

22 \* Sec. 14. AS 14.30.250 is amended to read:

23 Sec. 14.30.250. Teacher qualifications. A person may not be employed as a  
24 teacher of [EXCEPTIONAL] children with disabilities unless that person possesses a  
25 valid teacher certificate and, in addition, the [SUCH] training that [AS] the  
26 department requires [MAY REQUIRE] by regulation.

27 \* Sec. 15. AS 14.30.270 is amended to read:

28 Sec. 14.30.270. Substitutes. AS 14.30.250 does not prohibit the employment  
29 of a person, otherwise qualified to serve as a substitute teacher, to serve as a substitute  
30 teacher of [EXCEPTIONAL] children with disabilities.

31 \* Sec. 16. AS 14.30.272 is amended to read:

1           **Sec. 14.30.272. Procedural safeguards.** (a) A school district shall inform  
2 the parent of a [AN EXCEPTIONAL] child with a disability of the right

3                   (1) to review the child's educational record;

4                   (2) [,] to review evaluation tests and procedures;

5                   (3) [,] to refuse to permit evaluation or a change in the child's  
6 educational placement;

7                   (4) [,] to be informed of the results of evaluation;

8                   (5) [,] to obtain an independent evaluation by choosing a person from a  
9 list provided by the school district or by choosing a person by agreement between the  
10 parent and school district;

11                   (6) [,] to request a due process [AN IMPARTIAL] hearing;

12                   (7) [,] to appeal a hearing officer's decision; and

13                   (8) [, AND] to give consent or deny access to others to the child's  
14 educational record.

15           (b) The department shall establish, by regulation, impartial procedures for a  
16 school district to follow for due process hearings [UNDER AS 14.30.193] to comply  
17 with requirements necessary to participate in federal grant-in-aid programs, including  
18 20 U.S.C. 1400 - 1487 [20 U.S.C. 1400 - 1485] (Individuals with Disabilities  
19 Education Act).

20 \* **Sec. 17.** AS 14.30.274 is amended to read:

21           **Sec. 14.30.274. Identification of [EXCEPTIONAL] children with**  
22 **disabilities.** Each school district shall establish and implement written procedures to  
23 ensure that all [EXCEPTIONAL] children with disabilities under the age of 22 for  
24 whom the agency is responsible under AS 14.30.186 to provide special education  
25 and related services [WHO RESIDE IN THE DISTRICT] are identified and located  
26 for the purpose of establishing their need for special education and related services.

27 \* **Sec. 18.** AS 14.30.276 is amended to read:

28           **Sec. 14.30.276. Least restrictive environment.** Each school district shall  
29 ensure that, to the maximum extent appropriate, [EXCEPTIONAL] children with  
30 disabilities, including children in public or private institutions or other care facilities,  
31 are educated with children who are not children with disabilities [EXCEPTIONAL]

1 and that special classes, separate schooling, or other removal of [EXCEPTIONAL]  
2 children with disabilities from the regular educational environment occurs only when  
3 the nature or severity of the child's disability [EXCEPTIONALITY] is such that  
4 education in regular classes with the use of supplementary aids and services cannot be  
5 achieved satisfactorily.

6 \* Sec. 19. AS 14.30.278 is repealed and reenacted to read:

7       **Sec. 14.30.278. Individualized education program.** A school district shall  
8 develop an individualized education program for special education and related  
9 services for each eligible child with a disability. The plan must be completed not later  
10 than 30 days after the determination of the child's eligibility. Each individualized  
11 education program shall be developed and periodically reviewed and revised as  
12 necessary in conformance with federal requirements, including 34 C.F.R. 300.340 -  
13 350.

14 \* Sec. 20. AS 14.30.285(a) is amended to read:

15       (a) The department shall institute a statewide program for the education of  
16 [EXCEPTIONAL] children with disabilities [,] to ensure that whenever possible  
17 children are educated in the state at locations in or near their resident school district.

18 \* Sec. 21. AS 14.30.285(b) is amended to read:

19       (b) An identified [EXCEPTIONAL] child with a disability may be sent to an  
20 educational program or residential school outside the child's community or school  
21 district if the child resides in a community or school district where an appropriate  
22 educational program cannot reasonably be made available and if the school district  
23 [DEPARTMENT] determines that provision of special education and related services  
24 in another educational program or residential school is appropriate. If the school  
25 district approves [AND THE DEPARTMENT APPROVE] the enrollment of a [THE  
26 EXCEPTIONAL] child with a disability in another educational program or  
27 residential school outside the child's community or school district and the child is  
28 enrolled, the child's education expenses shall be paid as follows:

29               (1) except as otherwise provided by (2) of this subsection, the sending  
30 district shall pay all costs associated with the transfer;

31               (2) the department may provide financial assistance to the school

1 district for a child's education provided for in (1) of this subsection under regulations  
2 adopted by the department.

3 \* Sec. 22. AS 14.30.285(e) is amended to read:

4 (e) The educational assessment of a [AN EXCEPTIONAL] child with a  
5 disability that indicates that the educational program that is locally available is  
6 inappropriate for the needs of the child must conform to the standards set out in  
7 AS 14.30.191.

8 \* Sec. 23. AS 14.30.285(f) is amended to read:

9 (f) A school district shall obtain informed [THE] consent of the child's parent  
10 before a child may be transferred to a school outside the district in which the child  
11 resides.

12 \* Sec. 24. AS 14.30.285(g) is amended to read:

13 (g) The withholding of informed consent by a parent [OR  
14 DEPARTMENTAL APPROVAL] for the transfer of a [AN EXCEPTIONAL] child  
15 with a disability under this section does not relieve a school district of the obligation  
16 to provide special education and related services to the [AN EXCEPTIONAL] child  
17 [UNDER AS 14.30.186].

18 \* Sec. 25. AS 14.30.325(a) is amended to read:

19 (a) The department shall [MAY] by regulation provide for the appointment of  
20 surrogate parents to represent a child with a disability [EXCEPTIONAL  
21 CHILDREN] in matters relating to the provision of an appropriate public education.

22 \* Sec. 26. AS 14.30.335 is amended to read:

23 **Sec. 14.30.335. Eligibility for federal funds.** Notwithstanding any other  
24 provision of AS 14.30.180 - 14.30.350, the department may do all things necessary to  
25 qualify for federal funds that are available to the state for the education of  
26 [EXCEPTIONAL] children with disabilities.

27 \* Sec. 27. AS 14.30.340 is amended to read:

28 **Sec. 14.30.340. Provision of special education in a private school, home, or**  
29 **hospital setting.** (a) If a parent of a [AN EXCEPTIONAL] child with a disability  
30 enrolls the child in a private school, including a religious school, at the parent's  
31 expense or teaches the child at home, the school district in which the child resides [IS

1 LOCATED] shall make special education and related services available in  
2 conformance with federal requirements, including 34 C.F.R. 300.450 - 462. A  
3 parent teaching the parent's child at home may refuse special education and  
4 related services for the child [AN INDIVIDUALIZED EDUCATION PROGRAM  
5 UNDER AS 14.30.278].

6 (b) If a physician certifies in writing, and if the child's individualized  
7 education program under AS 14.30.278 provides [TEAM THEN DETERMINES]  
8 that a child's bodily, mental, or emotional condition does not permit attendance at a  
9 school and the child's parents do not elect to teach the child at home as permitted  
10 under AS 14.30.010(b), the school district in which the child is located shall enroll the  
11 child in public school and provide the child with special education and related services  
12 in conformance with the child's [AN] individualized education program [UNDER  
13 AS 14.30.278] at the child's home or at a medical treatment facility.

14 \* Sec. 28. AS 14.30.347 is amended to read:

15 **Sec. 14.30.347. Transportation of [EXCEPTIONAL] children with**  
16 **disabilities.** When transportation is required to be provided as a related service, a  
17 **child with a disability** [SERVICES, AN EXCEPTIONAL CHILD] shall be  
18 **transported** [CARRIED] with **children who are not children with disabilities**  
19 [OTHER CHILDREN] if the district provides transportation to [OTHER] children in  
20 the district, except when the nature of the physical or mental disability is such that it is  
21 in the best interest of the [EXCEPTIONAL] child with a disability, as provided in  
22 **the child's individualized education program** [DETERMINED BY THE SCHOOL  
23 DISTRICT], that the child be transported separately. State reimbursement for  
24 transportation of [EXCEPTIONAL] children with disabilities shall be as provided for  
25 transportation of all other pupils except that eligibility for reimbursement is not  
26 subject to restriction based on the minimum distance between the school and the  
27 residence of the exceptional child with a disability.

28 \* Sec. 29. AS 14.30.350(2) is repealed and reenacted to read:

29 (2) "child with a disability" means a child with one or more of the  
30 following:

31 (A) mental retardation;

- 1 (B) learning disabilities;
- 2 (C) emotional disturbance;
- 3 (D) deafness;
- 4 (E) deaf-blindness;
- 5 (F) hearing impairment;
- 6 (G) orthopedic impairment;
- 7 (H) other health impairment;
- 8 (I) speech or language impairment;
- 9 (J) visual impairment;
- 10 (K) multiple disabilities;
- 11 (L) early childhood development delay;
- 12 (M) autism;
- 13 (N) traumatic brain injury;

14 \* Sec. 30. AS 14.30.350(8) is repealed and reenacted to read:

- 15 (8) "parent" means a
  - 16 (A) child's natural or adoptive parent;
  - 17 (B) child's guardian, but not the state if the child is in the legal
  - 18 custody of the state;
  - 19 (C) person who is acting in the place of a child's natural or
  - 20 adoptive parent, such as a grandparent or stepparent with whom the child lives,
  - 21 or a person who is legally responsible for the child's welfare; and
  - 22 (D) child's surrogate parent who has been appointed under
  - 23 AS 14.30.325;

24 \* Sec. 31. AS 14.30.350(9) is repealed and reenacted to read:

- 25 (9) "related services" means services described in 34 C.F.R. 300.24;

26 \* Sec. 32. AS 14.30.350(10) is repealed and reenacted to read:

- 27 (10) "school district" means a borough school district, a city school
- 28 district, a regional educational attendance area, a state boarding school, and the state
- 29 centralized correspondence study program;

30 \* Sec. 33. AS 14.30.350(11) is repealed and reenacted to read:

- 31 (11) "special education" means an educational program described in 34

1 C.F.R. 300.26;

2 \* Sec. 34. AS 14.30.350 is amended by adding new paragraphs to read:

3 (12) "due process hearing" means a hearing conducted under  
4 AS 14.30.193;

5 (13) "informed consent" means that

6 (A) a child's parent has been fully informed, in the parent's  
7 native language or other mode of communication, of all information relevant to  
8 the activity for which consent is sought;

9 (B) the parent understands and agrees in writing to the carrying  
10 out of the activity for which the parent's consent is sought;

11 (C) the consent describes that activity and lists any records that  
12 will be released and to whom; and

13 (D) the parent understands that the granting of consent is  
14 voluntary on the part of the parent and may be revoked at any time.

15 \* Sec. 35. AS 14.30.640 is amended to read:

16 **Sec. 14.30.640. Eligibility for service.** The services of the agency shall be  
17 available to school districts that serve children whose special education needs occur  
18 infrequently, who require specialized services not normally available in the school  
19 district, and who cannot be easily served by local school district personnel because of  
20 the low number of students in the district in need of the particular service. The agency  
21 may provide services to a child with a disability [EXCEPTIONAL CHILDREN], as  
22 that term is defined in AS 14.30.350.

23 \* Sec. 36. AS 29.60.599(7) is amended to read:

24 (7) "school district" means a borough school district, a city school  
25 district, or a regional educational attendance area under AS 14 [HAS THE  
26 MEANING GIVEN IN AS 14.30.350];

27 \* Sec. 37. AS 44.21.410(a) is amended to read:

28 (a) The office of public advocacy shall

29 (1) perform the duties of the public guardian under AS 13.26.360 -  
30 13.26.410;

31 (2) provide visitors and experts in guardianship proceedings under

1 AS 13.26.131;

2 (3) provide guardian ad litem services to children in child protection  
3 actions under AS 47.17.030(e) and to wards and respondents in guardianship  
4 proceedings who will suffer financial hardship or become dependent upon a  
5 government agency or a private person or agency if the services are not provided at  
6 state expense under AS 13.26.112;

7 (4) provide legal representation in cases involving judicial bypass  
8 procedures for minors seeking abortions under AS 18.16.030, in guardianship  
9 proceedings to respondents who are financially unable to employ attorneys under  
10 AS 13.26.106(b), to indigent parties in cases involving child custody in which the  
11 opposing party is represented by counsel provided by a public agency, to indigent  
12 parents or guardians of a minor respondent in a commitment proceeding concerning  
13 the minor under AS 47.30.775;

14 (5) provide legal representation and guardian ad litem services under  
15 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on  
16 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or  
17 petitions for the termination of parental rights on grounds set out in  
18 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor  
19 under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under  
20 AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for  
21 protective orders on behalf of a minor; and in cases involving indigent persons who  
22 are entitled to representation under AS 18.85.100 and who cannot be represented by  
23 the public defender agency because of a conflict of interests;

24 (6) develop and coordinate a program to recruit, select, train, assign,  
25 and supervise volunteer guardians ad litem from local communities to aid in delivering  
26 services in cases in which the office of public advocacy is appointed as guardian ad  
27 litem;

28 (7) provide guardian ad litem services in proceedings under  
29 AS 12.45.046;

30 (8) establish a fee schedule and collect fees for services provided by  
31 the office, except as provided in AS 18.85.120 or when imposition or collection of a

1 fee is not in the public interest as defined under regulations adopted by the  
2 commissioner of administration;

3 (9) provide visitors and guardians ad litem in proceedings under  
4 AS 47.30.839;

5 (10) provide legal representation to an indigent parent of a child with  
6 a disability; in this paragraph, "child with a disability" has the meaning given in  
7 AS 14.30.350 [PARENTS UNDER AS 14.30.195(e)].

8 \* Sec. 38. AS 47.80.090(9) is amended to read:

9 (9) provide information and guidance for the development of  
10 appropriate special educational programs and services for a child with a disability  
11 [EXCEPTIONAL CHILDREN] as defined in AS 14.30.350;

12 \* Sec. 39. AS 47.80.900(6) is amended to read:

13 (6) "person with a handicap" means a person with a developmental  
14 disability as defined in (7) of this section or a person who is hard of hearing, deaf,  
15 speech impaired, visually handicapped, seriously emotionally disturbed,  
16 orthopedically or otherwise health impaired, or who has a specific learning disability;  
17 the term includes a child with a disability [BUT IS NOT LIMITED TO  
18 "EXCEPTIONAL CHILDREN"] as defined in AS 14.30.350;

19 \* Sec. 40. AS 14.30.186(b), 14.30.195, 14.30.315(b), 14.30.350(3), 14.30.350(5),  
20 14.30.350(6), and 14.30.350(7) are repealed.

21 \* Sec. 41. The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 TRANSITION: REGULATIONS. (a) The state Board of Education and Early  
24 Development may immediately proceed to adopt regulations necessary to implement the  
25 changes made by this Act. The regulations take effect under AS 44.62 (Administrative  
26 Procedure Act), but not before the effective date of the statutory change.

27 (b) To the extent they are not inconsistent with the statutory changes made by this  
28 Act, regulations adopted by the state Board of Education and Early Development and in effect  
29 on July 1, 2001, continue in effect until amended or repealed by the board, and may be  
30 enforced and implemented.

31 \* Sec. 42. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 REVISOR'S INSTRUCTIONS. The revisor of statutes is requested to change the  
3 following:

4 (1) the heading of Article 3 of AS 14.30 from "Education For Exceptional  
5 Children" to "Education for Children With Disabilities";

6 (2) the catchline of AS 14.30.285 from "Transfers of exceptional children" to  
7 "Transfers of children with disabilities."

8 \* Sec. 43. Section 41(a) of this Act takes effect immediately under AS 01.10.070(c).

9 \* Sec. 44. Except as provided in sec. 43 of this Act, this Act takes effect July 1, 2001.





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January 15, 2001

The Honorable Brian Porter  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Porter:

Alaska's responsibility for providing quality educational services for our children extends to all children, including those with unique educational needs. I transmit today a bill clarifying the state's role in the education of our exceptional children.

In 1997, Congress authorized amendments to the Individuals with Disabilities Education Act (IDEA). The subsequent federal regulations related to the IDEA took effect in May 1999. This bill amends inconsistent components of our state statutes to bring Alaska into compliance with these current federal special education mandates, including emphasizing the participation of parents in making decisions relating to special education eligibility and services.

An important protection provided to both school districts and children with disabilities is the due process hearing. This bill clarifies the procedures for requesting a due process hearing and streamlines the process for selecting a hearing officer by having the Department of Education and Early Development (department) randomly assign officers from a list maintained by the department. These procedures will help due process hearings be completed in a fair and timely fashion.

Alaska law presently requires that a school district provide special education services to children with disabilities who reside in the district. State law also exempts children from attending public school if children are enrolled in an alternative education program. This has resulted in confusion regarding which school district or other educational agency is responsible for providing special education services when children are enrolled in

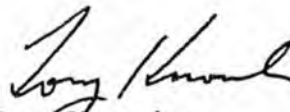
The Honorable Brian Porter  
January 15, 2001  
Page 2

alternate programs. This bill addresses this problem by providing for allocation of the responsibilities and coordination of the provision of special education services among the various educational agencies.

Present state law provides a combined program of services for gifted children and for children with disabilities. The detailed requirements of the federal IDEA and the federal program financing apply only to the state's educational programs for children with disabilities; federal money for the IDEA may not be used for programs for gifted children. To be consistent with federal requirements, this bill separates statutes regarding special education requirements for children with disabilities from those regarding requirements for gifted children. However, the bill maintains procedural safeguards for both programs.

As part of Alaska's commitment to quality education for all children, including children with disabilities and gifted children, I urge your prompt and favorable action on this bill.

Sincerely,



Tony Knowles  
Governor

HB 71

# FISCAL NOTE

**STATE OF ALASKA  
2001 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 71  
 (H) Publish Date: 01/17/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Education & Early Dev.  
 Title: An act relating to special education... BRU: Teaching & Learning  
 Component: Special and Supplemental Services  
 Sponsor: Rules Committee  
 Requester: Governor Component Number: 166

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

Currently, the department is charged, by state statute, to administer the state's Gifted Education program. This legislation clarifies the state's responsibilities relating to the Gifted Education program. Although the legislation does not add new responsibilities, the department has not had the resources to meet the requirements. Federal special education funds cannot be used for this purpose. The department has requested an increment of \$177,700 in general funds in the FY2002 budget for the Division of Teaching and Learning Support, Special and Supplemental Services Component to cover the costs for administering this program.

Prepared by: Barbara Thompson Phone 465-8727  
 Division: Teaching and Learning Support Date/Time 11/14/00 10:00 AM  
 Approved by: Bruce Johnson, Deputy Commissioner of Education Date 11/14/00  
 Agency: Dept. of Education & Early Development

For distribution information, call the Governor's Legislative Office

