

**HB**

**76**

<TARGET><BILL>HB 76</BILL><SUBJECT>HB  
76</SUBJECT><COMM>HHSS29</COMM></TARGET>

# Alaska Legislature

## Representative Charisse Millett

### Session:

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### *District 25*

### House Bill 76 Sponsor Statement

The mission of the Governor's Council on Disabilities and Special Education is to, "[create] change that improves the lives of Alaskans with disabilities". Since 1978, the Council has provided a constructive process that has connected the public with policymakers to ensure the thoughtful development of an efficient and seamless service delivery system that meets the needs of individuals with disabilities across their life spans.

However, within their enabling statutes, the State of Alaska also included "gifted" persons among the individuals that the Council need work for and support. The Council believes the term "gifted" to be confusing and ill-fitting within the scope of their aims and objectives. Furthermore, they believe "gifted" should be removed for the following reasons:

- Exceptionality is not a disability that entitles students to special education. Gifted education is a regular education program over which the Council has no oversight.
- Gifted children are not eligible for additional services under the Individuals with Disabilities Education Act (IDEA) or the Americans with Disabilities Act (ADA), policies whose adherence is required per the Council's responsibilities.
- Neither federal nor state law provide for special employment benefits, or special avenues through which to advocate for employment for those classified as gifted.

The Governor's Council works tirelessly to advocate for and access housing, employment, independent living, health, transportation and community inclusion for Alaskans with disabilities. Removing the word "gifted" from their enabling statutes allows Alaska law to be updated with the most accurate representation of the mission and work of the Council, as well as provide future Council membership with a clear roadmap for success.

Please support House Bill 76, and the removal of the perplexing inclusion of the word "gifted" in the enabling statutes of the Governor's Council on Disabilities and Special Education.

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*District 25*

House Bill 76  
Sectional Analysis

Section One: Removes the word “gifted” from the Governor’s council on disabilities and special education’s enabling statute.

Section Two: Removes reference to gifted persons in the council’s list of statutory responsibilities and updates references to reflect current U.S. law regarding state councils on developmental disabilities and designated state agencies.



# LEGISLATIVE RESEARCH SERVICES

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Division of Legal and Research Services  
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## Research Brief

TO: Representative Charisse Millett  
FROM: Susan Haymes, Legislative Analyst  
DATE: February 5, 2015  
RE: Legislative Intent behind Including "Gifted" in Governor's Council on Disabilities and Special Education  
*LRS Report 15.212*

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***You asked about the legislative intent behind the inclusion of "gifted" in the enabling statutes creating the Governor's Council on Disabilities and Special Education.***

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In 1978, the Alaska Legislature passed HB 472, which among things, created the Governor's Council for the Handicapped and Gifted (ch 165 SLA 1978).<sup>1</sup> We searched for bill files and committee meeting minutes and audio recordings in the Legislative Reference Library for discussion of this measure. Unfortunately, there were no bill files created for HB 472, and the few committee meetings for which an audio recording exists, did not include any discussion of the Council.

The Intent language for HB 472 notes that one of the purposes of the measure was to provide quality services to children and adults with mental and physical disabilities, handicapped persons, and persons qualifying for special education services under AS 14.30.180 – AS 14.30.350.<sup>2</sup> At the time HB 472 was enacted, gifted students were included in the definition of "exceptional" children who qualified for special education services. Specifically, in 1970, the Alaska Legislature passed SB 500, which, among other things, defined exceptional children to include those who are gifted (ch 144 SLA 1970).<sup>3</sup>

It is important to note that during the 1970s, Congress considered and/or enacted a number of bills supporting the education of gifted and talented children. In 1969, Congress directed the U.S. Office of Education to report on the status and need for programs for gifted students. In 1972, Sidney P. Marland, then U.S. Commissioner of Education, submitted a report to Congress, known as the *Marland Report*, which found that gifted and talented children can suffer psychological damage and permanent impairment of their abilities if they do not receive expanded services, similar to other populations with special needs. In 1974, Congress established an Office of Gifted and Talented in the U.S. Office of Education, which, among other things, provided grants to state and local agencies for gifted and talented programs. In 1978, Congress passed the Gifted and Talented Children's Education Act as Title IX-A of the Education Amendments of 1978 (P.L. 95-561).

In 1975, Congress required states that received certain funding for developmentally disabled persons to establish a State Planning Council to serve as an advocate for persons with developmental disabilities (P.L. 94-103). It is highly likely that this requirement was a major impetus to create the Governor's Council for the Handicapped and Gifted. Similarly, the inclusion of gifted students as those with special needs and the availability of federal funding for gifted and talented programs would most likely have been factors in including "gifted" in the enabling statutes for the Council.

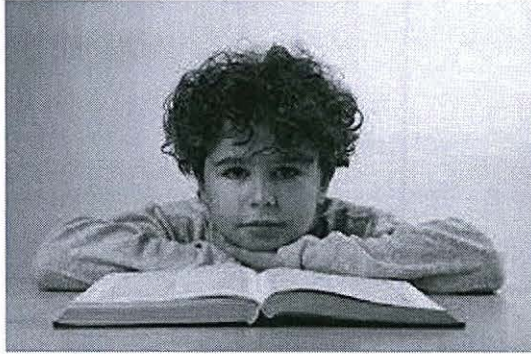
We hope this is helpful. If you have questions or need additional information, please let us know.

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<sup>1</sup> The name changed in 1992 to the current Governor's Council on Disabilities and Special Education (ch 13 SLA 1992).

<sup>2</sup> *Session Laws of Alaska*, Chapter 165, 1978.

<sup>3</sup> AS 14.30.351(1)(E) defined "gifted" as those children having outstanding intellect, ability or creative talent and stipulated that "programs or services beyond the level of those ordinarily provided as regular school programs shall be submitted to the department for supplemental funding on an approved program basis." In 2001, "exceptional" was replaced with "children with disabilities" and a new statute, AS 14.30.352, was enacted providing for education for gifted students (ch 67 SLA 2001).



**Please join the Governor's Council in supporting  
HB 76: A bill to update our enabling statute by  
removing the word "gifted."**

**GOAL**

To remove the term "gifted" from the Governor's Council on Disabilities and Special Education's enabling statute.

**WHAT IS IT?**

HB 76 is a bill allowing the Governor's Council to update our enabling statute to more accurately reflect the work that we do for individuals with disabilities and our State and Federal obligation to oversee special educational programs.

**WHY IS IT NEEDED?**

- Gifted children are not eligible for additional services under the Individuals with Disabilities Education Act (IDEA) or the Americans with Disabilities Act (ADA).
- The Governor's Council serves as the Office of Special Education Programs (OSEP) Special Education Advisory Panel, the Interagency Coordinating Council for Infants and Toddlers with Disabilities, and the governing board of the Special Education Service Agency in Alaska. These are special education grants and programs.
- Exceptionality is not a disability that entitles students to special education. Gifted education is a regular education program and because of this we cannot provide oversight for gifted programs in the state.

**Please support HB 76 and help the Governor's Council  
remove the word "gifted" from our enabling statutes.**

# Fiscal Note

State of Alaska  
2015 Legislative Session

Bill Version: HB 76  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB076-DHSS-SE-2-27-15  
Title: GOV COUNCIL ON DISABILITIES/SPECIAL ED  
Sponsor: MILLETT  
Requester: House HSS Committee

Department: Department of Health and Social Services  
Appropriation: Senior and Disabilities Services  
Allocation: Governor's Council on Disabilities and Special Education  
OMB Component Number: 2023

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

|                               | FY2016<br>Appropriation<br>Requested | Included in<br>Governor's<br>FY2016<br>Request | Out-Year Cost Estimates |            |            |            |            |            |
|-------------------------------|--------------------------------------|--|-------------------------|------------|------------|------------|------------|------------|
|                               |                                      |  | FY 2016                 | FY 2016    | FY 2017    | FY 2018    | FY 2019    | FY 2020    |
| <b>OPERATING EXPENDITURES</b> |                                      |  |                         |            |            |            |            |            |
| Personal Services             |                                      |  |                         |            |            |            |            |            |
| Travel                        |                                      |  |                         |            |            |            |            |            |
| Services                      |                                      |  |                         |            |            |            |            |            |
| Commodities                   |                                      |  |                         |            |            |            |            |            |
| Capital Outlay                |                                      |  |                         |            |            |            |            |            |
| Grants & Benefits             |                                      |  |                         |            |            |            |            |            |
| 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>0.0</b> | <b>0.0</b> |

**Fund Source (Operating Only)**

|              |            |            |            |            |            |            |            |            |
|--------------|------------|------------|------------|------------|------------|------------|------------|------------|
| None         |            |            |            |            |            |            |            |            |
| <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> | <b>0.0</b> | <b>0.0</b> |

**Positions**

|           |  |  |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |  |  |

|                           |  |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|--|
| <b>Change in Revenues</b> |  |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|--|

**Estimated SUPPLEMENTAL (FY2015) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2016) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? no  
If yes, by what date are the regulations to be adopted, amended or repealed? N/A

**Why this fiscal note differs from previous version:**

Not applicable, initial version.

|              |  |        |                     |
|--------------|--|--------|---------------------|
| Prepared By: | Duane Mayes, Director                                      | Phone: | (907)465-4874       |
| Division:    | Senior and Disabilities Services                           | Date:  | 02/27/2015 03:00 PM |
| Approved By: | Sarah Woods, Deputy Director Finance & Management Services | Date:  | 02/27/15            |
| Agency:      | Health & Social Service                                    |        |                     |

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2015 LEGISLATIVE SESSION

BILL NO. HB076

**Analysis**

This bill amends Alaska statute to comport with the *Individuals with Disabilities Education Act* (IDEA), which removed “gifted” children from eligibility for special education grants and programs. No fiscal impact to the Governor's Council is anticipated from this proposal.