

ALASKA LEGISLATURE

2209

HOUSE and SENATE FINANCE COMMITTEE FILES, 2001 - 2002

HB

71

HFIN

FILE

Adopted

Dawson

AMENDMENT 2

AS 14.30.315 is repealed and reenacted to read:

Sec. 14.30.315. Programs for gifted children. Every school district shall establish educational services for gifted children that provide for student identification, student eligibility, student learning plans, and parental and student participation including an appropriate review process, consistent with regulations adopted by the department.

Dawies

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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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

100? Federal Receipts						
100? GF Match						
100? GF						
100? GF/Program Receipts						
103? GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
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

AMENDMENT

TO CSHB 71(HES)

of Rep. Kerttula

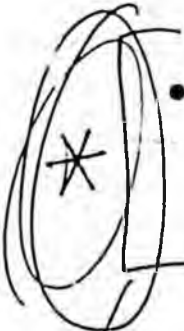
TV

Speaking on behalf of ~~Rep. Kerttula~~ several constituents who have followed ~~in~~ HB 71.

Juneau
I am also speaking as a parent advocate for gifted Ed. Sves.

- Currently, Alaska Statutes provides direction to public school districts to ~~have a program to~~ identify and provide educational services to gifted children. ~~Currently~~, About 5,000 Alaskan kids throughout the state are identified as gifted because of their outstanding intellect & abilities.

- These statutes have been in place in Alaska for approximately 30 years.



- The State has an obligation to provide educational leadership. As a policy-matter, the State has recognized the needs of gifted children *for 30 years.*

- Local school districts have flexibility to define the educational services and the level of funding they provide to the gifted children. The State does NOT dictate what they offer.

- All Alaskan children deserve an education geared to their abilities so that they can maximize their potential. For high ability children, the bar needs to be raised higher.

- Without an educational program ^{we} that provides adequate stimulation, these children often ^{are} bored and not infrequently become underachievers.

- While we address the very serious needs of children with disabilities in HB 71, we should also ^{continue to} recognize the special educational needs of another group of Alaskan children. ~~by~~ adopting this amendment to put back in place what we have been doing for roughly 30 years.

I urge the committee to ~~keep~~

~~pass the gifted children~~
~~in the statute~~

~~Amend this bill to~~

add back Article 3A

for The Education of Gifted
Children

5/2/01

AMENDMENT
OFFERED IN THE HOUSE
TO: CS HB 71(HES)

BY: Rep. Eric Croft

1) Page 3, Line 5 is amended by adding a new subsection:
"(B) AS 14.30.351 - 14.30.359 (relating to educational services for gifted children):"

2) Page 13, Line 14, INSERT a new Section to read:

Article 3A. Education for Gifted Children.

Sec. 14.30.351. Purpose. It is the purpose of AS 14.30.351-14.30.359 to provide an appropriate education for each gifted children who enrolls in a public school in the state.

Sec. 14.30.352. Coverage. Each school district shall establish a program for identification of and provision of educational services to gifted children who enrolls in the schools of the school district.

Sec. 14.30.353. Identification, evaluation, and placement of gifted children.

- (a) Each school district shall establish and implement written procedures to ensure that all gifted children who enroll in public school in the district are identified and located for the purposes of establishing their needs for a gifted education programs.
- (b) A school district shall obtain the written informed consent of the child's parent before an initial evaluation or placement of a gifted child in a gifted education program.
- (c) After initial placement in a gifted education program and not less than once every three years for as long as the child is assigned to the program, a gifted child shall receive an educational evaluation for the identification of gifted children.
- (d) Before a school district initiates or refuses a change in the placement or educational program of a gifted child, the school district shall notify the child's parent.
- (e) Upon completion of the evaluation and before placement, the school district shall provide to the parent of each gifted child an opportunity for consultation about the evaluation. A consultation must be available after each reevaluation of the condition and placement of the gifted child.
- (f) A parent may obtain an independent educational evaluation by choosing a person from a list provided by the school district or by choosing a person by agreement between the parent and the school district, at the expense of the school district, if the parent disagrees with the evaluation obtained by the school district. The school district may initiate a due process hearing under AS 14.30.357 to show that its evaluation is appropriate. If the hearing officer determines that the evaluation is appropriate, the school district may not be required to pay for the independent educational evaluation.
- (g) If the parent obtains an independent educational evaluation at private expense, the results of the evaluation
 - (1) must be considered by the school district in a decision made with the respect to the provision of an appropriate gifted education program to the child; and
 - (2) may be presented as evidence at a due process hearing regarding the child.
- (h) If a hearing officer requests an independent educational evaluation as part of a due process hearing, the school district shall pay for the evaluation.
- (i) A school district shall provide written notice of the school district's decision under this section to the parent of the child. The notice must include a description of the procedural safeguards available under AS 14.30.356.

Sec. 14.30.354 Individualized gifted educational program. (a) Each school district shall provide for the development of an individualized gifted education program for each gifted child that includes

- (1) a statement of the child's present levels of educational performance;
- (2) a statement of annual goals, including short-term instructional objectives;
- (3) a statement of the specific gifted education services to be provided to the child and the extent to which the child will be able to participate in regular educational programs;
- (4) the projected dates for initiation of services and the anticipated duration of the services; and

- (5) appropriate objective criteria and evaluation procedures and schedules for deterring, on at least an annual basis, whether the short-term instructional objectives are being achieved.
- (b) The people invited to participate in each meeting to develop the program under (a) of this section shall include
- (1) a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of a gifted education;
 - (2) the child's teacher
 - (3) at least one of the child's parents
 - (4) the child, if appropriate; and
 - (5) other individuals selected by the parent or school district

Sec. 14.30.355. Reimbursement for transportation of gifted children.

State reimbursement for transportation of gifted children shall be provided for transportation of all other pupils, except that eligibility for reimbursement is not limited to transportation between the child's residence and the school, but shall also include transportation between a school and other location of instruction as required by the child's individualized gifted education program.

Sec. 14.30.356. Procedural safeguards. A school district shall inform the parent of a gifted child that the parent has the right to:

- (1) review the child's educational record;
- (2) review evaluation tests and procedures;
- (3) refuse the permit evaluation or a change in the child's educational placement;
- (4) be informed of the results of evaluation;
- (5) obtain an independent evaluation by choosing a person from a list provided by the school district or by choosing a person by agreement between the parent and school district;
- (6) request a due process hearing;
- (7) appeal a hearing officer's decision; and
- (8) give consent or deny access to other to the child's educational record

Sec. 14.30.357. Due Process Hearing. (a) A school district or a parent of a gifted child 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 request for a due process hearing under this section must be made not later than 12 months after the date that the school district provides the parent with the written notice of the decision with which the parent disagrees.

(b) If a due process hearing is requested by either a parent or the school district, the district shall appoint a trained, impartial mediator to administer a mediation process in an attempt to resolve the disputes between the parent and the district. The mediator may not be an employee of the district and may not have a personal or professional conflict of interest in the matter in dispute. The district shall pay the costs of the mediation process..

(c) If the mediation process required in (b) of this section does not resolved all of the issues raised in the request for a due process hearing provided under (a) of this section, the school district shall contact the department to request appointment of an available hearing officer. The department shall select a hearing officer through a random selection process from a list maintained by the department. Within five working days after receipt of the request for appointment of a hearing officer, the department shall provide to the 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.

(d) The school district and the parent each have the right to reject, without statement of cause, 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 department's notice of appointment. If a hearing officer is rejected under this subsection, the department shall, within five working days after receipt of the written rejection, provide a notice of appointment, including the name and a statement of qualifications, of another hearing officer that the department

determines is available to conduct the hearing. Each appointment is subject to a right of rejection under this section by a party who has not previously rejected an appointment.

(e) After a hearing officer is appointed and the time for rejection under (d) of this section has expired, the hearing officer shall conduct an informal prehearing settlement conference and attempt to resolve the disagreement between the parent and the school district. If the conference does not result in settlement of all of the issues and a hearing is conducted, the hearing officer shall issue a written decision after the hearing is completed that

- (1) upholds the school district's decision; or
- (2) overturns the school district's decision with specific instructions for modification of the identification, evaluation, educational placement, or provision of the education program by the district.

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

Sec. 14.30.358 Teacher qualifications; substitutes. A person may not be employed as a teacher of gifted children unless that person possesses a valid teacher certificate and, in addition, any training the department requires by regulation. This section does not prohibit the employment of a person, otherwise qualified to serve as a substitute teacher, to serve as a substitute teacher of gifted children.

Sec. 14.30.359. Definitions. Unless the context otherwise requires, in AS 14.30.351 - 14.30.359,

- (1) "appropriate education" means personalized instruction with sufficient support services to permit a child to benefit educationally from the instruction;
- (2) "due process hearing" means a hearing under AS 14.30.357;
- (3) "educational record" means those files, documents, records and other materials that contain information directly related to a student and are maintained by a school district or a person acting for a school district; "educational record" does not include the personnel records of the school district that are maintained in the normal course of business that relate exclusively to a person's capacity as an employee or other records as designated by the department in regulation;
- (4) "gifted children" means children who exhibit outstanding intellect, ability, or creative talent as determined under regulations adopted by the department;
- (5) "gifted education" means specially designated instruction, at no cost to the parent, to meet the unique needs of gifted children; in this paragraph, "at no cost" means that all specially designated instruction is provided without charge but does not preclude incidental fees that are normally charged to students who are not gifted children or their parents as part of the regular education program;
- (6) "informed consent" means that
 - (a) a child's parent has been fully informed, in the parent's native language or other mode of communications, of all information relevant to the activity for which consent is sought;
 - (b) the parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought;
 - (c) the consent describes the activity and lists any records that will be released and to whom; and
 - (d) the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time;
- (7) "school district" means a borough school district, a city school district, a regional educational attendance area, a state boarding school, and the state centralized correspondence study program.

Page 15, Line 11, after "AS 14.30.350" insert

"and gifted children as defined in AS 14.30.359"

Renumber accordingly

TONY KNOWLES
GOVERNOR
governor@gov.state.ak.us

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JUNEAU

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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

HB 71

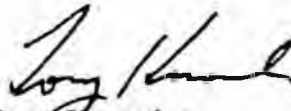
The Honorable Brian Porter
January 15, 2001
Page 2

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

Citizen Testimony
HB 71 Finance Committee
1:30 pm today

2, 2001

Mr. Eldon Mulder
 Chair, House Finance Committee

Dear Mr. Mulder:

Regarding House Bill 71, I recommend strongly that it be revised to include education for all exceptional children, not only children with disabilities. The original bill's language included both disabled and gifted children, and the bill should be returned to its original language.

I acknowledge that there are different federal requirements for disabled children and gifted children, but this does not preclude Alaska statute from addressing all exceptional children fairly and equitably. Nothing in federal law or regulation prevents the State of Alaska from including all exceptional children under one statutory umbrella, as long as the state does not co-mingle finances for disabled programs with gifted programs. I believe that separation of the programs into two statutes will diminish the quality of gifted educational services in Anchorage schools. First, it is fundamentally wrong to treat gifted education as a separate, distinct requirement. Both gifted and disabled children require special education in order to maximize their achievements. All exceptional children deserve to reach their highest potential. This is no less important for gifted children than for disabled children.

Second, separation into two bills lessens the chance of passage for the gifted bill. Without a statutory requirement, each community has the authority to eliminate educational programs for gifted children. This would have a shockingly bad effect on both gifted children and the traditional classrooms forced to accommodate them. Gifted children require a fundamentally different educational style; if forced into a traditional classroom, they fail to be challenged. This translates to boredom, with concomitant behavioral problems not far behind. The outcome is a loss of intellectual growth, both on the part of the gifted child and the other children in the classroom.

I encourage you to support *all* of Alaska's exceptional children, and include them in HB 71. Thank you for the opportunity to have input into statutes that govern the education our children receive.

Sincerely,

Mollie TeVrucht

Mollie TeVrucht
 16300 Elizabeth Street
 Anchorage, AK 99516
 (907) 345-7357

OPTIONAL FORM 90 (7-90)

URGENT!

FAX TRANSMITTAL

of pages = 1

To: Eldon Mulder	From: Mollie TeVrucht
Dept./Agency:	Phone #: 250-6986
Fax #: 465-3518	Fax #: 345-7357

FORM 76-00 01-017-7000

6000-101

GENERAL SERVICES ADMINISTRATION

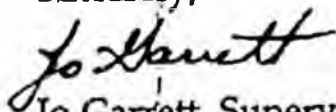
Dear House Finance Committee:

Once again, we are enlisting your help on behalf of the gifted students throughout the state of Alaska. On Saturday, April 21st, the House of Representatives Committee on Education dealt a blow to gifted education in our state. At that time, they voted (6-1) to eliminate Article 3A from HB 71; the Special Education/Gifted and Talented bill. Greg Maloney, the state Director of Special Education articulated the position of the gifted community, however the bill still passed, with Sharon Cissna the lone vote in opposition to the removal of gifted from the bill.

This would have disastrous effects on gifted education in Alaska. It would eliminate the state mandate for gifted education programs; leaving the option to offer special programs for these students at the discretion of the local districts, and it would also do away with reimbursement for transporting gifted students. This would mean no reimbursement funding for busing our students in either the IA program at Rogers Park or for the students bused to IGNITE sites for gifted services. This could mean that over 2,000 students would receive little or no gifted instruction.

The bill now is in the House Finance Committee. It is **IMPERATIVE** that the members of this committee hear the views of their constituents. Parents, students, staff the Board of Education and the Gifted Program of the Anchorage School District **STRONGLY** support the addition of Article 3A back to this bill. We want our legislators to be responsive to the needs of the voters in Anchorage and amend HB 71 to include gifted students before sending it to the Senate. Our students deserve the same equity of education that is extended to other students with exceptionalities. I look forward to discussing this issue with you later today.

Sincerely,



Jo Garrett, Supervisor of Gifted Programs
Anchorage School District

Mr. Edw Mulder
 Finance Co-Chair
 Fax# 907-465-3518

Mr. Mulder:

Please, please, please reconsider
 HB 71 and the elimination of Article 3A.

We need this article in HB 71.

If it is not included (Article 3A in HB 71)
 there will be disastrous effects on gifted
 education in Alaska

We need to foster gifted education as
 they are our future inventors, writers, artists,
 pastors, leaders, musicians, Problem Solvers ETC.

How can you and the finance committee
 let these children down?

Please, we need Article 3A in HB 71!

Sincerely,
 Arland S. Crail
 Arland S. Crail
 Fax# 907-277-0177

FROM :

FAX NO. :

May. 02 2001 12:39PM P1

PO Box 111685
Anchorage, AK 99511-1685
2 May 01

Attn: Eldon Mulder (Chairman, House Finance Subcommittee on Education and Early Development)

RE: House Bill 71

Members of the committee,

If HB 71 passes as amended, there will no longer be a state requirement for gifted education. This would be a disaster for our gifted children. It is imperative that highly gifted children be in a self-contained program.

Please ensure that House Bill 71 provides for the education of *all* exceptional children as originally written. My daughter's education is at stake, and I will be following this issue very closely. Thank you for your attention.

Sincerely,

Eric K. Grosch

Gifted Education
Anchorage School District
1901 South Bragaw, Anchorage AK 99508
(907) 787-3972, FAX (907) 787-3978

Mr. Eldon Mulder
Co-Chair, House Finance Committee
Dear Mr. Bunde,

I am a gifted education teacher working for the Anchorage School District, and I am writing to express my opinion on HB71 and the impact of this legislation on gifted education

This would have disastrous effects on gifted education in Alaska. It would eliminate the state mandate for gifted education programs; leaving the option to offer special programs for these students at the discretion of the local districts, and it would also do away with reimbursement for transporting gifted students. This would mean no reimbursement funding for busing our students in either the IA program at Rogers Park or for the students bused to IGNITE sites for gifted services.

The many gifted youngsters in Alaska would be done a grave disservice if this legislation becomes law. Gifted students require specialized services and need the protection currently afforded them by state mandate.

If gifted students are to be educated in the "least restrictive environment" as are other exceptional children, then the state mandate for gifted services and the transportation reimbursement needs to remain in effect. If gifted services are scaled back or eliminated, then the educational needs of thousands of Alaskan children will not be met.

All students deserve a quality education that meets their needs, and I urge you amend this legislation to include and protect gifted students.

Very Sincerely



Peter Ljubicich, Gifted Program Teacher
Anchorage School District

HB 71/SB 40

**An Act Relating to the Education
of Children with Disabilities and
Gifted Children**



- Alaska Department of -
EDUCATION
& EARLY DEVELOPMENT

Highlights of HB 71/SB 40

"An Act Relating to the Education of Children with Disabilities and Gifted Children"

Purpose:

1. To update state special education statutes to conform with the federal Individuals with Disabilities Education Act, as amended in 1997 (IDEA 97). IDEA 97 contains a number of policy amendments and emphasizes the importance of parental rights and parental participation in identifying and serving children with disabilities.
2. To delineate the federal and state requirements for providing educational services to children with disabilities, and the state requirements for providing educational services to gifted children.
3. To ensure that Alaska continues to qualify for federal special education funds.
4. To define Alaska's special education policy in areas where federal requirements provide states with discretion.

Revisions to Current State Law

Changes to the current state law include the following:

- The term "exceptional children" is replaced by the terms "child with a disability" and "gifted child". The statutory sections that pertain to children with disabilities have been separated from those that pertain to gifted children.
- Under current state law, the school district of a student's residence must provide special education and related services for a child with a disability. The revised statute requires state boarding schools and statewide correspondence schools that enroll children with disabilities from outside their districts to provide special education and related services to these students.
- The due process hearing procedure is changed, requiring the department rather than the school district to assign hearing officers. Appeals of hearing officer decisions will be made to superior court rather than the department. Similar hearing procedures will be used for both special education and gifted education.
- Mediation, a voluntary dispute resolution process for school districts and parents of children with disabilities, is added to the state statute in conformance with IDEA 97.
- Currently, children with disabilities enrolled in private schools are entitled to a full range of special education services from their public school district of residence. The revised statute limits district responsibility for providing special education services to children voluntarily enrolled in private schools to match the requirements contained in IDEA 97.

- Districts are required to serve only gifted children enrolled in the school district and attending public school.
- Districts are no longer required to provide related services, such as individualized transportation services, to gifted children.
- Significant changes to definitions include the following:
 - "serious emotional disturbance" is changed to "emotional disturbance" to reflect the federal definition;
 - "preschool developmental delay" is changed to "early childhood developmental delay" to reflect current terminology;
 - "parent" is changed to.
 1. specify that the state cannot serve as the child's guardian in educational matters; and,
 2. include a person with legal responsibility for a child's welfare who is acting in place of a child's natural or adoptive parent;
 - "related services" is changed to incorporate the federal IDEA 97 definition;
 - "school district" is changed to add state boarding schools and the state centralized correspondence study program;
 - "special education" is changed to incorporate the federal IDEA 97 definition;
 - "due process hearing" is added and defined according to AS 14.30.193;
 - "informed consent" is added to provide more specific guidance regarding what informed parental consent constitutes;
 - "gifted education" is added to distinguish gifted education from special education; and,
 - "Individualized gifted education program" is added to distinguish gifted program plans from special education program plans.

Budget Considerations

The department has the responsibility for administering the state's gifted education program under the current law, but has not had the resources to address due process hearings, training, and technical assistance for parents and school districts.

The department has requested an increment of \$177,700 in general funds in the FY 2002 budget to cover the costs for administering this program, since federal special education funds cannot be used for this purpose.

**HB 71 / SB 40: Special Education Statute
Comparison of Current and Proposed Legislation**

Current Statute	Proposed Statute: HB 71/ SB 40	Effect/Rationale
<p>Sec. 14.16.050. Applicability of education laws. (a) The following provisions apply with respect to the operation and management of a state boarding school as if it were a school district: (4) requirements relating to students and educational programs: (A) AS 14.30.180 - 14.30.350 (relating to educational services for exceptional children); (B) AS 14.30.360 - 14.30.370 (establishing health education program standards); (C) AS 14.30.400 - 14.30.410 (relating to bilingual and bicultural education).</p>	<p>Section 1. AS 14.16.050. (a)(4) is amended to read: (4) requirements relating to students and educational programs: (A) AS 14.30.180 - 14.30.350 (relating to educational services for [EXCEPTIONAL] children <u>with disabilities</u>); (B) <u>AS 14.30.351 - 14.30.359 (relating to educational services for gifted children)</u>; (C) AS 14.30.360 - 14.30.370 (establishing health education program standards); (D) [(C)]AS 14.30.400 - 14.30.410 (relating to bilingual and bicultural education).</p>	<p>This section is amended to:</p> <ul style="list-style-type: none"> - replace "exceptional children" with "children with disabilities" and "gifted children"; - to revise the statutory reference to education for gifted children; and, - to update other state statutory references to state boarding school responsibilities for providing educational services
<p>Sec. 14.30.180. Purpose. It is the purpose of AS 14.30.180 - 14.30.350 to (1) provide an appropriate public education for exceptional children in the state who are at least three years of age but less than 22 years of age; (2) allow procedures and actions necessary to comply with the requirements of federal law, including 20 U.S.C. 1400 - 1485 (Individuals with Disabilities Education Act).</p>	<p>AS 14.30.180 is amended to read: Sec. 14.30.180. Purpose. It is the purpose of AS 14.30.180 - 14.30.350 to (1) provide an appropriate public education for <u>each child with a disability [EXCEPTIONAL CHILDREN]</u> in the state who <u>is [ARE]</u> at least three years of age but less than 22 years of age; (2) allow procedures and actions necessary to comply with the requirements of federal law, including <u>20 U.S.C. 1400 - 1487 [20 U.S.C. 1400-1485]</u> (Individuals with Disabilities Education Act), <u>as amended.</u></p>	<p>This section is amended to clarify that "exceptional children" refers to "children with disabilities". The reference to the federal statute, the Individuals with Disabilities Education Act (IDEA 97), is also updated.</p>
<p>Sec. 14.30.185. Programs shall be established. [Repealed, Sec. 59 ch 98 SLA 1966]. Repealed or Renumbered</p>		

**HB 71 / SB 40: Special Education Statute
Comparison of Current and Proposed Legislation**

Sec. 14.30.186. Coverage.

(a) A borough or city school district shall provide special education and related services for exceptional children residing in the district.

(b) The board of a regional educational attendance area shall provide special education and related services in a school in the area for exceptional children residing in the area served by the school.

(c) [Repealed, Sec. 19 ch 147 SLA 1984].

(d) [Repealed, Sec. 19 ch 147 SLA 1984].

(e) Exceptional children being educated as provided under AS 14.30.010(b) may receive special education and related services as provided under AS 14.30.180 - 14.30.350. The exceptional child of a parent who elects to educate the child as allowed under AS 14.30.010 (b) may not be compelled to receive the special education and related services provided under AS 14.30.180 - 14.30.350.

Section 14.30.186 is amended to read:

Sec. 14.30.186. Coverage. (a) Special education and related services shall be provided

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

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

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

(4) by a state boarding school established under AS 14.16, for a child enrolled at the boarding school; or

(5) by a school district that provides a statewide correspondence study program for a child with a disability who is enrolled in the program. [A BOROUGH OR CITY SCHOOL DISTRICT SHALL PROVIDE SPECIAL EDUCATION AND RELATED SERVICES FOR EXCEPTIONAL CHILDREN RESIDING IN THE DISTRICT]

Subsection (a) is amended to indicate that state boarding schools and school districts' statewide correspondence study programs are responsible for providing special education and related services for children with disabilities enrolled in these programs.

Subsection (e) is amended by replacing "exceptional children" with "a child with a disability".

A new subsection (f) is added to indicate that the department will establish regulations to guide the coordination of and payment for the provision of special education and related services when more than one of the agencies listed in (a) has responsibility for providing services.

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	<p>AS 14.30.186(e) is amended to read: <u>a child with a disability</u> [EXCEPTIONAL CHILDREN BEING EDUCATED AS PROVIDED UNDER AS 14.30.010(b) MAY RECEIVE SPECIAL EDUCATION AND RELATED SERVICES AS PROVIDED UNDER AS 14.30.180 - 14.30.350. THE EXCEPTIONAL CHILD] of a parent who elects to educate the child as allowed under AS 14.30.010(b) may not be compelled to receive the special education and related services provided under AS 14.30.180 - 14.30.350.</p> <p>AS 14.30.186 is amended by adding a new subsection to read: (f) The department shall establish standards in regulations for the allocation of financial responsibilities and the coordination of the provision of special education and related services among the educational agencies listed in (a) of this section when more than one educational agency is responsible to provide those services.</p>	
<p>Sec. 14.30.190. Establishment of standards by Department of Health and Social Services. [Repealed, Sec. 4 ch 144 SLA 1970]. Repealed or Renumbered</p>		
<p>Sec. 14.30.191. Educational evaluation and placement. (a) A school district shall obtain the consent of the child's parent before an initial evaluation or placement in a program of special education and related services. (b) After initial placement in a program of</p>	<p>AS 14.30.191 is amended to read: Sec. 14.30.191. Educational evaluation and placement. (a) A school district shall obtain the <u>written informed</u> consent of the child's parent before an initial evaluation or placement <u>of a child with a disability</u> in a program of special education</p>	<p>This section is amended to clarify that "consent" means "written informed consent" and to replace "exceptional children" with "a child with a disability".</p> <p>Subsection (d) is amended to</p>

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

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

(d) Upon completion of the evaluation and before placement, the school district shall provide to the parent of each exceptional child an opportunity for consultation about the evaluation. A consultation must be available after each reevaluation of the condition and placement of the exceptional child.

(e) A parent may obtain an independent educational evaluation by choosing a person from a list provided by the district or by choosing a person by agreement between the parent and the school district, at the expense of the school district, if the parent disagrees with an evaluation obtained by the school district. The school district may initiate a hearing to show that its evaluation is appropriate. If the hearing officer determines that the evaluation is appropriate, the school district may not be required to pay for the independent

and related services.

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

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

(d) Upon completion of an [THE] evaluation or reevaluation under this section. [AND BEFORE PLACEMENT,] the school district shall provide to the parent of each [EXCEPTIONAL] child evaluated under this section an opportunity to participate in the determination of the 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 to participate in the determination of the educational placement of the [EXCEPTIONAL] child if the child is determined to be eligible for special education and related services.

AS 14.30.193 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

indicate that the requirement to provide parents with the opportunity to participate in the determination of a child's eligibility for special education and related services, as well as the child's placement, includes both initial evaluations and re-evaluations.

A new subsection (h) is added that requires school districts to provide parents with written notice of the evaluation and placement decisions made with regard to the child. The notice must include a description of the procedural safeguards available to the parent. This is in line with IDEA 97 requirements.

A new subsection (i) is added to clarify that "hearing" refers to a due process hearing.

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<p>educational evaluation. (f) If the parent obtains an independent educational evaluation at private expense, the results of the evaluation (1) must be considered by the school district in a decision made with respect to the provision of an appropriate public education to the child; (2) may be presented as evidence at a hearing regarding the child. (g) If a hearing officer requests an independent educational evaluation as part of a hearing, the school district shall pay for the evaluation.</p>	<p>child. The notice shall include a description of the procedural safeguards available to that parent and child under federal law. (i) In this section, "hearing" means a due process hearing under AS 14.30.193.</p>	
<p>Sec. 14.30.193. School district hearings. (a) If a parent refuses to consent, or does not respond within 30 days to the school district's request for consent, under AS 14.30.191 (a) or 14.30.285(f), the school district may appoint an impartial hearing officer to conduct a hearing to determine whether the school district may initiate the evaluation or placement of the child, or transfer the child. (b) If a parent disagrees with the school district's intended placement of a child or program for a child, the parent may request a hearing. If a hearing is requested under this subsection, the school district shall appoint an impartial hearing officer to conduct the hearing.</p>	<p>AS 14.30.193 is repealed and reenacted to read: Sec. 14.30.193. Due process hearing. 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 request by a parent for a due process hearing under this section must be made 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 in regulations of the department. (b) If a due process hearing is requested by</p>	<p>This section amends the due process hearing procedures. The purpose of these changes is to make the process more efficient while still ensuring that the rights of both parents and school districts are protected. This process also allows the department to more effectively track the number of due process hearings requested as well as the issues raised.</p> <p>Proposed changes include the following:</p> <ul style="list-style-type: none"> - Parents must file a request for a due process hearing

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(c) A hearing officer may not be appointed under this section unless approved in writing by the parent; however, parent approval of a hearing officer is not required if the parent has been offered and has rejected three different hearing officers. After a hearing officer is appointed under this section, the hearing officer shall conduct an informal prehearing settlement conference and attempt to resolve the disagreement between the parent and the school district. If, after a hearing under this section, the hearing officer determines that the school district's intended action is in accordance with law and is in the child's best interest, the hearing officer shall approve that action.

(d) If a parent participates in the hearing but refuses to comply with the decision of the hearing officer, the district shall document in the hearing record the district's attempt to evaluate, place, or transfer the child.

(e) If a parent does not participate in the hearing, the district shall document in the hearing record the district's attempt to evaluate, place, or transfer the child and the parent's lack of participation in evaluation, placement, or transfer.

(f) A hearing officer's decision under this section is final and binding on the school

either a school district or a parent, the school district shall contact the department to request appointment of an available 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 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 statement of cause, 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 department's notice of appointment. If a hearing officer is rejected under this subsection, the department shall, within five working days after receipt of the written rejection, provide a notice of appointment, including the name and a statement of qualifications, of another hearing officer that the department determines is available to conduct the hearing. Each appointment is subject to a right of rejection under the subsection by a party who has not previously rejected an appointment.

(d) After a hearing officer is appointed and the time for rejection under (c) of this section has expired, the hearing officer shall immediately inform the parent and the school district of the availability of the mediation process provided

- with the school district no later than 12 months following the decision with which they disagree; the timeline for districts shall be established in regulation in order to allow the State Board of Education & Early Development to consider the effects of different timeline options;
- The department will appoint a hearing officer through a random selection process;
- The school district and the parent may each reject one hearing officer without stating a reason; after this is exhausted, a hearing officer will be appointed
- The appointed hearing officer will inform the parent and the school district of the availability of mediation;
- Due process hearings will be conducted according to

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district and parent, unless appealed under (g) of this section. Notwithstanding a decision by the hearing officer, a child may not be evaluated, placed, transferred, or compelled to receive special education or related services from the school district until the period for filing an appeal under (g) of this section has expired or, if an appeal is filed, until the department and court appellate review process has been completed.

(g) A parent or a school district may appeal a hearing officer's decision under this section to the department by requesting an appeal hearing under AS 14.30.195. The appeal hearing request must be in writing and must be received by the department within 30 days after receipt of the hearing officer's decision.

(h) The department shall maintain a list of qualified hearing officers. The department shall qualify hearing officers through a training program that shall be open to all residents of the state. A hearing officer may be qualified for a period not to exceed five years. The list of qualified hearing officers shall be maintained as a public record.

under AS 14.30.194 and encourage use of that process to attempt to resolve the disagreement between the parent and the school district. If the mediation process does not result in settlement of all of the issues, the hearing officer shall conduct a hearing in compliance with the requirements of federal law, including 34 CFR 300.507 - 509, as amended. After the hearing is completed the hearing officer shall issue a written decision that (1) upholds the school district's decision; or (2) overturns the school district's decision with specific instructions for modification of the identification, evaluation, educational placement, or provision of the education program by the district.

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

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

(g) The department shall maintain a list of qualified hearing officers. The department shall provide for the qualification of hearing officers

- federal requirements, including those contained in 34 CFR 300.507 -- 509 .
- The hearing officer's written decision is final but may be appealed to the superior court. Appeals are no longer made to the department.

Subsection (h) clarifies that students with disabilities aged 18-21 have the same rights and obligations as parents of children with disabilities.

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	<p>through a training program that is open to all individuals who meet the criteria set by the department in regulation. The list of qualified hearing officers shall be maintained as a public record.</p> <p>(h) For purposes of this section, a student with a disability aged 18-21 has the same rights and obligations under this section as a parent of a child with a disability.</p>	
	<p>AS 14.30 is amended by adding a new section to read:</p> <p>Sec. 14.30.194 Mediation (a) The department shall, by regulation, establish and implement a voluntary mediation process in conformance with the requirements of federal law, including 34 CFR 300.506, as amended. The department shall encourage the use of mediation for settlement of disputes under AS 14.30.180 - 14.30.350.</p> <p>(b) The department shall maintain a list of individuals who are qualified mediators knowledgeable in the federal and state statutes and regulations relating to the provision of special education and related services. The department shall provide for qualification of mediators through a training program that is open to all individuals who meet the criteria set by the department by regulation.</p>	<p>Mediation, under IDEA 97, is a voluntary dispute resolution process for school districts and parents that states are required to offer when due process hearings are requested.</p>
<p>Sec. 14.30.195. Hearings. (a) The department shall, by regulation, provide for administrative appeal hearings,</p>		<p>This section has been repealed since the revised due process hearing procedures no longer</p>

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<p>based on the record, of impartial hearing officers' decisions under AS 14.30.193 . An administrative appeal hearing shall comply with all requirements necessary for participation in federal grant-in-aid programs, including 20 U.S.C. 1400 - 1485 (Individuals with Disabilities Education Act).</p> <p>(b) The agency conducting a hearing under this section may issue subpoenas under AS 44.62.430 and may petition the superior court for adjudications of contempt under AS 44.62.590 .</p> <p>(c) After an appeal hearing under this section, the department shall render its decision affirming, reversing, modifying, or remanding the hearing officer's decision under AS 14.30.193 .</p> <p>(d) A parent or the school district may appeal to the appropriate court for review of the department's decision on appeal under (c) of this section.</p> <p>(e) A parent who appeals to the court and who is determined by the court to be an indigent person may be provided with a court appointed attorney at public expense. In this subsection, "indigent person" has the meaning given in AS 18.85.170 .</p>		<p>include an administrative appeal to the department. The department will now conduct the due process hearing through the department-appointed hearing officer. The appeal of the hearing officer's decision is to be made to the superior court.</p>
<p>Sec. 14.30.200. - 14.30.220 Eligibility; budget; forfeiture of right to reimbursement. [Repealed, Sec. 5 ch 70</p>		

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<p>SLA 1963]. :ao;14.30.220 Repealed or Renumbered</p>		
<p>Sec. 14.30.230. Special education. [Repealed, Sec. 6 ch 144 SLA 1970]. Repealed or Renumbered</p>		
<p>Sec. 14.30.231. Advisory committee. The Governor's Council on Disabilities and Special Education established under AS 47.80 shall serve as an advisory committee, the function of which is to provide information and guidance for the development of appropriate programs of special education and related services for exceptional children.</p>	<p>Section 14.30.231 is amended to read: Sec. 14.30.231. Advisory panel [COMMITTEE]. The Governor's Council on Disabilities and Special Education established under AS 47.80 shall serve as the <u>state</u> [AN]advisory <u>panel</u> [COMMITTEE], the function of which is to provide information and guidance for the development of appropriate programs of special education and related services for [EXCEPTIONAL] children <u>with disabilities</u></p>	<p>This section is amended by changing "advisory committee" to "state advisory panel" consistent with IDEA 97 terminology. This section is amended to substitute "children with disabilities" for "exceptional children".</p>
<p>Sec. 14.30.235. Withdrawal of consent. If under a provision of this chapter the consent of the parent is required, the parent may withdraw the parent's consent.</p>		
<p>Sec. 14.30.240. Supervisor. [Repealed, Sec. 5 ch 70 SLA 1963]. Repealed or Renumbered</p>		
<p>Sec. 14.30.250. Teacher qualifications. A person may not be employed as a teacher of exceptional children unless that person possesses a valid teacher certificate and, in addition, such training as the department may require by regulation.</p>	<p>Section 14.30.250 is amended to read: Sec. 14.30.250. Teacher qualifications. A person may not be employed as a teacher of [EXCEPTIONAL] children <u>with disabilities</u> unless that person possesses a valid teacher certificate and, in addition, such training as the department may require by regulation.</p>	<p>This section is amended to substitute "children with disabilities" for "exceptional children".</p>

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<p>Sec. 14.30.255. Administrator qualifications. A person may not be employed as an administrator of a program of special education and related services unless that person possesses a valid administrative certificate and, in addition, such training as the department may require by regulation.</p>		
<p>Sec. 14.30.260. Exception to qualifications. [Repealed, Sec. 19 ch 147 SLA 1984]. Repealed or Renumbered</p>		
<p>Sec. 14.30.270. Substitutes. AS 14.30.250 does not prohibit the employment of a person, otherwise qualified to serve as a substitute teacher, to serve as a substitute teacher of exceptional children.</p>	<p>AS 14.30.270 is amended to read Sec. 14.30.270. Substitutes. AS 14.30.250 does not prohibit the employment of a person, otherwise qualified to serve as a substitute teacher, to serve as a substitute teacher of [EXCEPTIONAL] children <u>with disabilities</u>.</p>	<p>This section is amended to substitute "children with disabilities" for "exceptional children".</p>
<p>Sec. 14.30.272. Procedural safeguards. (a) A school district shall inform the parent of an exceptional child of the right to review the child's educational record, to review evaluation tests and procedures, to refuse to permit evaluation or a change in the child's educational placement, to be informed of the results of evaluation, to obtain an independent evaluation by choosing a person from a list provided by</p>	<p>AS 14.30.272 is amended to read: Sec. 14.30.272. Procedural safeguards. (a) A school district shall inform the parent of [AN EXCEPTIONAL] child <u>with a disability</u> of the right to review the child's educational record, to review evaluation tests and procedures, to refuse to permit evaluation or a change in the child's educational placement, to be informed of the results of evaluation, to obtain an independent evaluation by choosing a person from a list provided by the</p>	<p>This section is amended to substitute "child with disabilities" for "exceptional child".</p> <p>This section is amended to clarify that "impartial hearing" and "hearings" refer to due process hearings.</p>

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<p>the district or by choosing a person by agreement between the parent and school district, to request an impartial hearing, to appeal a hearing officer's decision, and to give consent or deny access to others to the child's educational record.</p> <p>(b) The department shall establish, by regulation, impartial procedures for a school district to follow for hearings under AS 14.30.193 to comply with requirements necessary to participate in federal grant-in-aid programs, including 20 U.S.C. 1400 - 1485 (Individuals with Disabilities Education Act).</p>	<p>district or by choosing a person by agreement between the parent and school district, to request a <u>due process</u> [AN IMPARTIAL] hearing, to appeal a hearing officer's decision, and to give consent or deny access to others to the child's educational record.</p> <p>(b) The department shall establish, by regulation, impartial procedures for a school district to follow for <u>due process</u> hearings [UNDER AS 14.30.193] to comply with requirements necessary to participate in federal grant-in-aid programs, including <u>20 U.S.C. 1400 - 1487</u> [20 U.S.C. 1400 - 1485] (Individuals with Disabilities Education Act) <u>as amended</u>.</p>	<p>Subsection (b) is amended by updating the citation to the federal Individuals with Disabilities Education Act as amended in 1997.</p>
<p>Sec. 14.30.274. Identification of exceptional children. Each school district shall establish and implement written procedures to ensure that all exceptional children under the age of 22 who reside in the district are identified and located for the purpose of establishing their need for special education and related services.</p>	<p>AS 14.30.274 is amended to read: Sec. 14.30.274. Identification of [EXCEPTIONAL] children <u>with disabilities</u>. Each school district shall establish and implement written procedures to ensure that all [EXCEPTIONAL] children <u>with disabilities</u> under the age of 22 <u>for whom the agency is responsible under AS 14.30.186 to provide special education and related services</u> [WHO RESIDE IN THE DISTRICT] are identified and located for the purpose of establishing their need for special education and related services.</p>	<p>This section is amended to substitute "children with disabilities" for "exceptional children".</p> <p>This section is amended to clarify that a school district's responsibility for serving children with disabilities is consistent with the criteria listed in AS 14.30.86, rather than based solely on a child's residency.</p>
<p>Sec. 14.30.276. Least restrictive environment. Each school district shall ensure that to the maximum extent appropriate, exceptional children, including children in public or</p>	<p>AS 14.30.276 is amended to read Sec. 14.30.276. Least restrictive environment. Each school district shall ensure that to the maximum extent appropriate, [EXCEPTIONAL] children <u>with</u></p>	<p>This section is amended to substitute "children with disabilities" for "exceptional children" and "disability" for</p>

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<p>private institutions or other care facilities, are educated with children who are not exceptional and that special classes, separate schooling, or other removal of exceptional children from the regular educational environment occurs only when the nature or severity of the child's exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p>	<p><u>disabilities</u>, including children in public or private institutions or other care facilities, are educated with children who are not [EXCEPTIONAL] children <u>with disabilities</u>, and that special classes, separate schooling, or other removal of [EXCEPTIONAL] children <u>with disabilities</u> from the regular educational environment occurs only when the nature or severity of the child's <u>disability</u> [EXCEPTIONALITY] is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p>	<p>"exceptionality".</p>
<p>Sec. 14.30.278. Individualized education program. (a) The individualized education program for each exceptional child must include (1) a statement of the child's present levels of educational performance; (2) a statement of annual goals, including short term instructional objectives; (3) a statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs; (4) the projected dates for initiation of services and the anticipated duration of the services; (5) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional</p>	<p>AS 14.30.278 is amended to read Sec. 14.30.278. Individualized education program. <u>A school district shall develop an individualized education program for special education and related services for each child with a disability. The plan must be completed no later than 30 days after the determination of the child's eligibility. Each individualized education program shall be developed and periodically reviewed and revised as necessary in conformance with federal requirements, including 34 CFR 300.340 - 350, as amended.</u> [(a) THE INDIVIDUALIZED EDUCATION PROGRAM FOR EACH EXCEPTIONAL CHILD MUST INCLUDE (1) A STATEMENT OF THE CHILD'S PRESENT LEVELS OF EDUCATIONAL PERFORMANCE; (2) A STATEMENT OF ANNUAL GOALS, INCLUDING SHORT TERM INSTRUCTIONAL OBJECTIVES;</p>	<p>This section is amended to specify that a child's IEP must be in effect no later than 30 days after the determination of eligibility. The section is amended to include citations for federal IDEA 97 requirements that guide the development and content of an individualized education program.</p>

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<p>objectives are being achieved.</p> <p>(b) Each meeting concerning an exceptional child must include</p> <p>(1) a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of special education;</p> <p>(2) the child's teacher;</p> <p>(3) at least one of the child's parents;</p> <p>(4) the child, when appropriate;</p> <p>(5) other individuals selected by the parent or school district.</p> <p>(c) Each school district shall develop an individualized education program for every exceptional child who receives services or whose parent requests services under AS 14.30.180 - 14.30.350.</p>	<p>(3) A STATEMENT OF THE SPECIFIC SPECIAL EDUCATION AND RELATED SERVICES TO BE PROVIDED TO THE CHILD, AND THE EXTENT TO WHICH THE CHILD WILL BE ABLE TO PARTICIPATE IN REGULAR EDUCATIONAL PROGRAMS;</p> <p>(4) THE PROJECTED DATES FOR INITIATION OF SERVICES AND THE ANTICIPATED DURATION OF THE SERVICES;</p> <p>(5) APPROPRIATE OBJECTIVE CRITERIA AND EVALUATION PROCEDURES AND SCHEDULES FOR DETERMINING, ON AT LEAST AN ANNUAL BASIS, WHETHER THE SHORT TERM INSTRUCTIONAL OBJECTIVES ARE BEING ACHIEVED.</p> <p>(b) EACH MEETING CONCERNING AN EXCEPTIONAL CHILD MUST INCLUDE</p> <p>(1) A REPRESENTATIVE OF THE SCHOOL DISTRICT, OTHER THAN THE CHILD'S TEACHER, WHO IS QUALIFIED TO PROVIDE OR SUPERVISE THE PROVISION OF SPECIAL EDUCATION;</p> <p>(2) THE CHILD'S TEACHER;</p> <p>(3) AT LEAST ONE OF THE CHILD'S PARENTS;</p> <p>(4) THE CHILD, WHEN APPROPRIATE;</p> <p>(5) OTHER INDIVIDUALS SELECTED BY THE PARENT OR SCHOOL DISTRICT.</p> <p>(C) EACH SCHOOL DISTRICT SHALL</p>	
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	<p>DEVELOP AN INDIVIDUALIZED EDUCATION PROGRAM FOR EVERY EXCEPTIONAL CHILD WHO RECEIVES SERVICES OR WHOSE PARENT REQUESTS SERVICES UNDER AS 14.30.180 - 14.30.350.]</p>	
<p>Sec. 14.30.280. Psychologist qualifications. [Repealed, Sec. 19 ch 147 SLA 1984]. Repealed or Renumbered</p>		
<p>Sec. 14.30.285. Transfers of exceptional children. (a) The department shall institute a statewide program for the education of exceptional children, to ensure that whenever possible children are educated in the state at locations in or near their resident school district. (b) An identified exceptional child may be sent to an educational program or residential school outside the child's community or school district if the child resides in a community or school district where an appropriate educational program cannot reasonably be made available and if the department determines that provision of special education and related services in another educational program or residential school is appropriate. If the school district and the department approve the enrollment of the exceptional child in another educational program or residential school outside the child's community or</p>	<p>AS 14.30.285 is amended to read: Sec. 14.30.285. Transfers of [EXCEPTIONAL] children with disabilities. (a) The department shall institute a statewide program for the education of [EXCEPTIONAL] children <u>with disabilities</u>, to ensure that whenever possible children are educated in the state at locations in or near their resident school district. (b) An identified [EXCEPTIONAL] child <u>with a disability</u> may be sent to an educational program or residential school outside the child's community or school district if the child resides in a community or school district where an appropriate educational program cannot reasonably be made available and if the <u>school district</u> [DEPARTMENT] determines that provision of special education and related services in another educational program or residential school is appropriate. If the school district <u>approves</u> [AND THE DEPARTMENT APPROVE] the enrollment of a [THE EXCEPTIONAL] child <u>with a disability</u> in another educational program or residential school outside</p>	<p>This section is amended to substitute "children with disabilities" for "exceptional children".</p> <p>This section is amended to indicate that it is the school district, with parental consent, that determines if it is appropriate for a child with a disability to receive special education and related services outside of his/her district of residence.</p> <p>Subsection (f) is amended to specify that a parent's consent must be informed consent.</p>

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school district and the child is enrolled, the child's education expenses shall be paid as follows:

(1) except as otherwise provided by (2) of this subsection, the sending district shall pay all costs associated with the transfer;
(2) the department may provide financial assistance to the district for a child's education provided for in (1) of this subsection under regulations adopted by the department.

(c) [Repealed, Sec. 19 ch 147 SLA 1984].

(d) For the purposes of this section a child's education expenses are limited to the actual cost of necessary care, transportation, and special education and related services, including room and board.

(e) The educational assessment of an exceptional child that indicates that the educational program that is locally available is inappropriate for the needs of the child must conform to the standards set out in AS 14.30.191.

(f) A school district shall obtain the consent of the child's parent before a child may be transferred to a school outside the district in which the child resides.

(g) The withholding of consent by a parent or departmental approval for the transfer of an exceptional child under this section does not relieve a school district of the obligation to provide special education and related

the child's community or school district and the child is enrolled, the child's education expenses shall be paid as follows:

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

(2) the department may provide financial assistance to the school district for a child's education provided for in (1) of this subsection under regulations adopted by the department.

(c) [Repealed, Sec. 19 ch 147 SLA 1984].

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

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

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

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<p>services to an exceptional child under AS 14.30.186.</p>		
<p>Sec. 14.30.290. Purposes of appropriations. [Repealed, Sec. 5 ch 70 SLA 1963]. Repealed or Renumbered</p>		
<p>Sec. 14.30.295. Special education outside state. [Repealed, Sec. 4 ch 79 SLA 1974]. Repealed or Renumbered</p>		
<p>Sec. 14.30.300. Nonresident apportionment. [Repealed, Sec. 5 ch 70 SLA 1963]. Repealed or Renumbered</p>		
<p>Sec. 14.30.305. State support of programs for children hospitalized or confined to their homes. A child who is hospitalized or confined to home and who receives at least 10 hours of special education and related services per week may be counted as a pupil in average daily membership when computing state support under the public school funding program.</p>		
<p>Sec. 14.30.310. Hospitalized and homebound children. [Repealed, Sec. 5 ch 70 SLA 1963]. Repealed or Renumbered</p>		

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<p>Sec. 14.30.315. State support of programs for gifted children. (a) [Repealed, Sec. 39 ch 83 SLA 1998]. (b) Nothing in this section prohibits the department from requiring approval of programs of special education and related services for other categories of exceptional children.</p>		<p>Subsection (b) is repealed since the term "exceptional children" is no longer used.</p>
<p>Sec. 14.30.320. Reimbursement for hospitalized or homebound children. [Repealed, Sec. 5 ch 70 SLA 1963]. Repealed or Renumbered</p>		
<p>Sec. 14.30.325. Surrogate parents. (a) The department may by regulation provide for the appointment of surrogate parents to represent exceptional children in matters relating to the provision of an appropriate public education. (b) A surrogate parent is not liable for civil damages as a result of an act or omission committed in the surrogate parent's official capacity, except that a surrogate parent may be liable for civil damages as a result of gross negligence or intentional misconduct.</p>	<p>AS 14.30.325 is amended to read: Sec. 14.30.325. Surrogate parents. (a) The department <u>shall</u> [MAY] by regulation provide for the appointment of surrogate parents to represent <u>a child with a disability</u> [EXCEPTIONAL CHILDREN] in matters relating to the provision of an appropriate public education.</p>	<p>This section is amended to substitute "child with a disability" for "exceptional children". This section is amended to indicate that the department is required to provide for the appointment of surrogate parents.</p>
<p>Sec. 14.30.330. Application for enrollment. [Repealed, Sec. 19 ch 147 SLA 1984]. Repealed or Renumbered</p>		

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<p>Sec. 14.30.335. Eligibility for federal funds. Notwithstanding any other provision of AS 14.30.180 - 14.30.350, the department may do all things necessary to qualify for federal funds that are available to the state for the education of exceptional children.</p>	<p>AS 14.30.335 is amended to read: Sec. 14.30.335. Eligibility for federal funds. Notwithstanding any other provision of AS 14.30.180 - 14.30.350, the department may do all things necessary to qualify for federal funds that are available to the state for the education of [EXCEPTIONAL] children <u>with disabilities</u>.</p>	<p>This section is amended to substitute "children with disabilities" for "exceptional children".</p>
<p>Sec. 14.30.340. Provision of special education in a private school, home, or hospital setting. (a) If a parent of an exceptional child enrolls the child in a private school at the parent's expense or teaches the child at home, the school district in which the child is located shall make special education and related services available in conformance with an individualized education program under AS 14.30.278 . (b) If a physician certifies in writing, and if the child's individualized education program team then determines that a child's bodily, mental, or emotional condition does not permit attendance at a school and the child's parents do not elect to teach the child at home as permitted under AS 14.30.010 (b), the school district in which the child is located shall enroll the child in public school and provide the child with special education and related services in conformance with an individualized</p>	<p>AS 14.30.340 is amended to read: Sec. 14.30.340. Provision of special education in a private school, home, or hospital setting. (a) If a parent of a [AN EXCEPTIONAL] child <u>with a disability</u> enrolls the child in a private school, <u>including a religious school</u>, at the parent's expense or teaches the child at home, the school district in which the child <u>resides</u> [IS LOCATED] shall make special education and related services available in conformance with <u>federal requirements, including 34 CFR 300.450 - 462 as amended, Parents teaching their children at home may refuse special education and related services for their children</u> [AN INDIVIDUALIZED EDUCATION PROGRAM UNDER AS 14.30.278]. (b) If a physician certifies in writing, and if the child's individualized education program <u>under AS 14.30.278 then provides</u> [TEAM THEN DETERMINES] that a child's bodily, mental, or emotional condition does not permit attendance at a school and the child's parents do not elect to teach the child at home as permitted under AS 14.30.010(b), the school district in which the child is</p>	<p>This section is amended to substitute "children with disabilities" for "exceptional children".</p> <p>Subsection (a) is amended to clarify that religious schools are included in the category of private schools.</p> <p>Subsection (a) is changed to align the requirements for districts to provide special education and related services to children with disabilities with federal IDEA 97 requirements, which are not as comprehensive as the requirements for children with disabilities enrolled in publicly funded educational agencies.</p> <p>Subsection (b) is changed to state that along with written certification by a physician, it is</p>

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<p>education program under AS 14.30.278 at the child's home or at a medical treatment facility.</p>	<p>located shall enroll the child in public school and provide the child with special education and related services in conformance with <u>the child's</u> [AN] individualized education program [UNDER AS 14.30.278] at the child's home or at a medical treatment facility.</p>	<p>the individualized education program created by the school district under state statutory requirements that determines whether a child's condition does not permit school attendance.</p>
<p>Sec. 14.30.345. Regulations. [Repealed, Sec. 59 ch 98 SLA 1966]. Repealed or Renumbered</p>		
<p>Sec. 14.30.347. Transportation of exceptional children. When transportation is required to be provided as related services, an exceptional child shall be carried with other children if the district provides transportation to other children in the district except when the nature of the physical or mental disability is such that it is in the best interest of the exceptional child, as determined by the school district, that the child be transported separately. State reimbursement for transportation of exceptional children shall be as provided for transportation of all other pupils except that eligibility for reimbursement is not subject to restriction based on the minimum distance between the school and the residence of the exceptional child.</p>	<p>AS 14.30.347 is amended to read: Sec. 14.30.347. Transportation of [EXCEPTIONAL] children with disabilities. When transportation is required to be provided as a related service[S], a <u>child with a disability</u> [AN EXCEPTIONAL] shall be <u>transported</u> [CARRIED] with <u>children who are not children with disabilities</u> [OTHER CHILDREN] if the district provides transportation to other children in the district, except when the nature of the physical or mental disability is such that it is in the best interest of the <u>child with a disability</u> [EXCEPTIONAL CHILD], as <u>provided in the child's individualized education program</u> [DETERMINED BY THE SCHOOL DISTRICT], that the child be transported separately. State reimbursement for transportation of [EXCEPTIONAL] children <u>with disabilities</u> shall be as provided for transportation of all other pupils except that eligibility for reimbursement is not subject to restriction based on the minimum distance between the school and the residence of</p>	<p>This section is amended to substitute "child with a disability" for "an exceptional child". This section is amended to specify that "other children" refers to children who do not have disabilities.</p>

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<p>Sec. 14.30.350. Definitions. In AS 14.30.180 - 14.30.350, (1) "appropriate education" means personalized instruction with sufficient support services to permit a child to benefit educationally from the instruction; (2) "children with disabilities" means children with mental retardation; hearing impairments, including deafness; speech or language impairments; visual impairments, including blindness; serious emotional disturbance; orthopedic impairments; autism; traumatic brain injury; other health impairments; specific learning disabilities; or preschool developmental delays; (3) "consent" means the parent has been fully informed of all information relevant to the activity or the release of records for which consent is sought and the parent understands and voluntarily agrees to the activity or release of records; (4) "educational records" means those files, documents, records, and other material that contain information directly related to a student and are maintained by a school district or a person acting for a school district; the term "educational records" does not include the personnel records of the school district, maintained in the normal course of business, that relate exclusively to a person's capacity as an employee, or other</p>	<p>the [EXCEPTIONAL] child <u>with a disability</u>.</p> <p>AS 14.30.350 is amended to read: Sec. 14.30.350. Definitions. (2) "child with a disability" means a child with one or more of the following: (A) mental retardation; (B) learning disabilities; (C) emotional disturbance; (D) deafness; (E) deaf-blindness; (F) hearing impairment; (G) orthopedic impairment (H) other health impairment; (I) speech impairment; (J) visual impairments; (K) multiple disabilities; (L) early childhood developmental delay; (M) autism; (N) traumatic brain injury; (8) "parent" means a (A) child's natural or adoptive parent; (B) child's guardian, but not the state if the child is in the legal custody of the state; (C) person who is acting in the place of a child's natural or adoptive parent, such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare; and (D) child's surrogate parent who has been appointed under AS 14.30.325;</p>	<p>The following changes are made to the definitions section: (2) is changed as follows: - "children with disabilities" is changed to "child with a disability"; - the category "serious emotional disturbance" is changed to "emotional disturbance" to reflect the federal definition; and - "preschool developmental delay" is changed to "early childhood developmental delay" to reflect current terminology; (8) "parent" is changed to specify that the state cannot serve as the child's guardian in educational matters, and to include a person with legal responsibility for a child's welfare who is acting in place of a child's natural or adoptive parent; (9) "related services" is changed to adopt the definition of "related services" contained in the federal IDEA 97 regulations; (10) "school district" is changed</p>
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<p>records as designated by the department in regulation;</p> <p>(5) "exceptional children" means children with disabilities, and gifted children, who differ markedly from their peers to the degree that special facilities, equipment, or methods are required to make their educational program effective;</p> <p>(6) "gifted children" means children who exhibit outstanding intellect, ability, or creative talent as determined under regulations adopted by the department;</p> <p>(7) "individualized education program team" means a group of people that translates child assessment information regarding a child into a practical plan for specially designed instruction and delivery of services for the child, and includes the following:</p> <p>(A) a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of special education;</p> <p>(B) the child's teacher;</p> <p>(C) the child's parent;</p> <p>(D) the child, if appropriate;</p> <p>(E) other individuals, at the discretion of the child's parent or the school district;</p> <p>(8) "parent" includes a guardian, a person acting as a parent of a child, and a surrogate parent appointed under AS 14.30.325 .</p>	<p>(9) "related services" means services that are considered as "related services" in 34 CFR 300.24, as amended;</p> <p>(10) "school district" means a borough school district, a city school district, a regional educational attendance area, a state boarding school, and the state centralized correspondence study program;</p> <p>(11) "special education" means an educational program that is considered as "special education" in 34 CFR 300.26, as amended;</p> <p>(12) "due process hearing" means a hearing conducted under AS 14.30.193;</p> <p>(13) "informed consent" means that</p> <p>(A) a child's parent has been fully informed, in the parent's native language or other mode of communication, of all information relevant to the activity for which consent is sought;</p> <p>(B) the parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought;</p> <p>(C) the consent describes that activity and lists any records that will be released and to whom; and</p> <p>(D) the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.</p>	<p>to add state boarding schools and the state centralized correspondence study program;</p> <p>(11) "special education" is changed to incorporate the federal definition of special education under IDEA 97;</p> <p>(12) "due process hearing" is added to this section and provides the state statutory reference;</p> <p>(13) "informed consent" is added to this section to specify the conditions under which appropriate written consent may be obtained from parents.</p>
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(9) "related services" means transportation and developmental, corrective, and other supportive services required to assist children with disabilities or gifted children to benefit from special education and includes but is not limited to speech pathology and audiology, psychological services, physical and occupational therapy, recreation, counseling services including rehabilitation counseling, and medical services for diagnostic or evaluation purposes; the term also includes school health services, school social work services, and parent counseling and training;

(10) "school district" means a borough school district, a city school district, or a regional educational attendance area;

(11) "special education" means specially designed instruction, at no cost to the parent, to meet the unique needs of exceptional children, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions; the term includes speech pathology, or any other related service, if the service consists of specially designed instruction, at no cost to the parents, to meet the unique needs of exceptional children, and is considered special education rather than a related

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<p>service under state standards; the term also includes vocational education if it consists of specially designed instruction, at no cost to the parents, to meet the unique needs of exceptional children; in this paragraph (A) "at no cost" means that all specially designed instruction is provided without charge but does not preclude incidental fees that are normally charged to nonexceptional students or their parents as a part of the regular education program; (B) "physical education" means the development of physical and motor fitness, fundamental motor skills and patterns, skills in aquatics, dance, and individual and group games, and sports (including intramural and lifetime sports); the term includes special physical education, adapted physical education, movement education, and motor development; (C) "vocational education" means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.</p>		
	<p>AS 14.30 is amended by adding new sections to read: Article 3A. Education for Gifted Children</p>	<p>The following sections have been added to clarify the statutory requirements for providing gifted education programs.</p>

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<p>Sec. 14.30.180. Purpose. It is the purpose of AS 14.30.180 - 14.30.350 to (1) provide an appropriate public education for exceptional children in the state who are at least three years of age but less than 22 years of age; (2) allow procedures and actions necessary to comply with the requirements of federal law, including 20 U.S.C. 1400 - 1485 (Individuals with Disabilities Education Act).</p>	<p>Sec. 14.30.351. Purpose. It is the purpose of AS 14.30.351 - 14.30.359 to provide an appropriate education for each gifted child who enrolls in a public school in the state.</p>	<p>This section substitutes "gifted child" for "exceptional children". This section changes "appropriate public education" to "appropriate education" for children enrolled in a public school.</p>
<p>Sec. 14.30.186. Coverage. (a) A borough or city school district shall provide special education and related services for exceptional children residing in the district. (b) The board of a regional educational attendance area shall provide special education and related services in a school in the area for exceptional children residing in the area served by the school. (c) [Repealed, Sec. 19 ch 147 SLA 1984]. (d) [Repealed, Sec. 19 ch 147 SLA 1984]. (e) Exceptional children being educated as provided under AS 14.30.010(b) may receive special education and related services as provided under AS 14.30.180 - 14.30.350. The exceptional child of a parent who elects to educate the child as allowed under AS 14.30.010 (b) may not be compelled to receive the special education</p>	<p>Sec. 14.30.352. Coverage. Each school district shall establish a program for identification and provision of educational services to gifted children who enroll in the schools of the district.</p>	<p>This section substitutes "gifted child" for "exceptional children". This section clarifies that districts must provide gifted education services only to gifted children who are enrolled in the district.</p>

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<p>and related services provided under AS 14.30.180 - 14.30.350.</p>		
<p>Sec. 14.30.191. Educational evaluation and placement. (a) A school district shall obtain the consent of the child's parent before an initial evaluation or placement in a program of special education and related services. (b) After initial placement in a program of special education and related services and not less than once every three years for as long as the child is assigned to the program, an exceptional child shall receive an educational evaluation for the identification and classification of exceptional children. (c) Before a school district initiates or refuses a change in a child's placement or program, the district shall notify the child's parent. (d) Upon completion of the evaluation and before placement, the school district shall provide to the parent of each exceptional child an opportunity for consultation about the evaluation. A consultation must be available after each reevaluation of the condition and placement of the exceptional child. (e) A parent may obtain an independent educational evaluation by choosing a person from a list provided by the district</p>	<p>Sec. 14.30.353. Identification, evaluation and placement of gifted children. (a) Each school district shall establish and implement written procedures to ensure that all gifted children who enroll in public school in the district are identified and located for the purpose of establishing their need for a gifted education program. (b) A school district shall obtain the written informed consent of the child's parent before an initial evaluation or placement in a gifted education program. (c) After initial placement in a gifted education program and not less than once every three years for as long as the child is assigned to the program, a gifted child shall receive an educational evaluation for the identification of gifted children. (d) Before a school district initiates or refuses a change in a child's placement or program, the school district shall notify the child's parent. (e) Upon completion of the evaluation and before placement, the school district shall provide to the parent of each gifted child an opportunity for consultation about the evaluation. A consultation must be available after each reevaluation of the condition and placement of the gifted child. (f) A parent may obtain an independent educational evaluation by choosing a person from a list provided by the school district or by choosing a</p>	<p>This section substitutes "gifted child" for "exceptional child".</p> <p>This section specifies that each district must create a plan for identifying children enrolled in public school who are gifted.</p> <p>This section lists the requirements that districts must fulfill in providing gifted education services, including</p> <ul style="list-style-type: none"> - obtaining informed parental consent; - notifying parents of changes in their child's placement or program; - providing parents with the opportunity to consult with the team regarding the results of evaluations and re-evaluations; - providing for independent evaluations; and - providing written notice

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<p>or by choosing a person by agreement between the parent and the school district, at the expense of the school district, if the parent disagrees with an evaluation obtained by the school district. The school district may initiate a hearing to show that its evaluation is appropriate. If the hearing officer determines that the evaluation is appropriate, the school district may not be required to pay for the independent educational evaluation.</p> <p>(f) If the parent obtains an independent educational evaluation at private expense, the results of the evaluation</p> <p>(1) must be considered by the school district in a decision made with respect to the provision of an appropriate public education to the child;</p> <p>(2) may be presented as evidence at a hearing regarding the child.</p> <p>(g) If a hearing officer requests an independent educational evaluation as part of a hearing, the school district shall pay for the evaluation.</p>	<p>person by agreement between the parent and the school district, at the expense of the school district, if the parent disagrees with an evaluation obtained by the school district. The school district may initiate a due process hearing under AS 14.30.357 to show that its evaluation is appropriate. If the hearing officer determines that the evaluation is appropriate, the school district is not required to pay for the independent educational evaluation.</p> <p>(g) If the parent obtains an independent educational evaluation at private expense, the results of the evaluation</p> <p>(1) must be considered by the school district in a decision made with respect to the provision of an appropriate gifted education program to the child; and</p> <p>(2) may be presented as evidence at a due process hearing regarding the child.</p> <p>(h) If a hearing officer requests an independent educational evaluation as part of a due process hearing, the school district shall pay for the evaluation.</p> <p>(i) A school district shall provide written notice of its decisions under this section to the parent of the child. The notice shall include a description of the procedural safeguards available under AS 14.30.356.</p>	<ul style="list-style-type: none"> - of its decisions under this - section that includes a description of the available procedural safeguards.
<p>Sec. 14.30.278. Individualized education program.</p> <p>(a) The individualized education program for each exceptional child must include</p> <p>(1) a statement of the child's present levels</p>	<p>Sec. 14.30.354. Individualized gifted education program. (a) Each school district shall provide for the development of an individualized gifted education program for each gifted child, that includes:</p>	<p>This section substitutes "gifted child" for "exceptional children".</p> <p>This section changes "individualized education</p>

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<p>of educational performance;</p> <p>(2) a statement of annual goals, including short term instructional objectives;</p> <p>(3) a statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs;</p> <p>(4) the projected dates for initiation of services and the anticipated duration of the services;</p> <p>(5) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.</p> <p>(b) Each meeting concerning an exceptional child must include</p> <p>(1) a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of special education;</p> <p>(2) the child's teacher;</p> <p>(3) at least one of the child's parents;</p> <p>(4) the child, when appropriate;</p> <p>(5) other individuals selected by the parent or school district.</p> <p>(c) Each school district shall develop an individualized education program for every exceptional child who receives services or whose parent requests services</p>	<p>(1) a statement of the child's present levels of educational performance;</p> <p>(2) a statement of annual goals, including short term instructional objectives;</p> <p>(3) a statement of the specific gifted education services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs;</p> <p>(4) the projected dates for initiation of services and the anticipated duration of the services;</p> <p>(5) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.</p> <p>(b) The persons invited to participate in each meeting to develop the program under (a) of this section must include</p> <p>(1) a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of gifted education;</p> <p>(2) the child's teacher;</p> <p>(3) at least one of the child's parents;</p> <p>(4) the child, if appropriate; and</p> <p>(5) other individuals selected by the parent or school district.</p>	<p>program" to "individualized gifted education program" and lists the components required to be addressed in the gifted education program.</p> <p>This section clarifies that "related services" are not required to be provided for gifted children. A gifted child may still receive these types of services if also determined eligible for special education and related services as a child with a disability.</p> <p>This section clarifies the required team members to develop the gifted education program.</p>
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<p>under AS 14.30.180 - 14.30.350.</p>		
<p>Sec. 14.30.276. Least restrictive environment. Each school district shall ensure that to the maximum extent appropriate, exceptional children, including children in public or private institutions or other care facilities, are educated with children who are not exceptional and that special classes, separate schooling, or other removal of exceptional children from the regular educational environment occurs only when the nature or severity of the child's exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p>	<p>Sec. 14.30.355. Least restrictive environment. Each school district shall ensure that to the maximum extent appropriate, gifted children are educated with children who are not gifted and that special classes, separate schooling, or other removal of gifted children from the regular educational environment occurs only when education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p>	<p>This section substitutes "gifted child" for "exceptional children".</p>
<p>Sec. 14.30.272. Procedural safeguards. (a) A school district shall inform the parent of an exceptional child of the right to review the child's educational record, to review evaluation tests and procedures, to refuse to permit evaluation or a change in the child's educational placement, to be informed of the results of evaluation, to obtain an independent evaluation by choosing a person from a list provided by the district or by choosing a person by agreement between the parent and school district, to request an impartial hearing, to</p>	<p>Sec. 14.30.356. Procedural safeguards. A school district shall inform the parent of a gifted child of the following procedural safeguard rights:</p> <ul style="list-style-type: none"> (1) to review the child's educational record; (2) to review evaluation tests and procedures; (3) to refuse to permit evaluation or a change in the child's educational placement; (4) to be informed of the results of evaluation; (5) to obtain an independent evaluation by choosing a person from a list provided by the school district or by choosing a person by 	<p>This section substitutes "gifted child" for "exceptional children".</p>

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<p>appeal a hearing officer's decision, and to give consent or deny access to others to the child's educational record. (b) The department shall establish, by regulation, impartial procedures for a school district to follow for hearings under AS 14.30.193 to comply with requirements necessary to participate in federal grant-in-aid programs, including 20 U.S.C. 1400 - 1485 (Individuals with Disabilities Education Act).</p>	<p>agreement between the parent and school district; (6) to request an impartial hearing; (7) to appeal a hearing officer's decision; and (8) to give consent or deny access to others to the child's educational record.</p>	
<p>Sec. 14.30.193. School district hearings. (a) If a parent refuses to consent, or does not respond within 30 days to the school district's request for consent, under AS 14.30.191 (a) or 14.30.285(f), the school district may appoint an impartial hearing officer to conduct a hearing to determine whether the school district may initiate the evaluation or placement of the child, or transfer the child. (b) If a parent disagrees with the school district's intended placement of a child or program for a child, the parent may request a hearing. If a hearing is requested under this subsection, the school district shall appoint an impartial hearing officer to conduct the hearing. (c) A hearing officer may not be appointed under this section unless approved in writing by the parent; however, parent approval of a hearing officer is not required</p>	<p>Sec. 14.30.357. Due process hearing. (a) A school district or a parent of a gifted child may request a due process hearing on any issue related to identification, evaluation, 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 request for a due process hearing under this section must be made not later than 12 months after the date that the school district provides the parent with written notice of the decision or initially takes the action with which the parent disagrees. (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 an available hearing officer. The department shall select a hearing officer through a random selection process, from a list maintained by the department. Within five working days after receipt of the request, the department shall provide to the district and the parent a notice of appointment, including the name,</p>	<p>This section amends the due process hearing procedures. The purpose of these changes is to make the process more efficient while still ensuring that the rights of both parents and school districts are protected. This process will also allow the department to more effectively track the number of due process hearings as well as the issues involved. This process will ensure consistency for due process hearings relating to children with disabilities and gifted children.</p> <p>Proposed changes include the following:</p> <ul style="list-style-type: none"> - Parents must request a

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<p>if the parent has been offered and has rejected three different hearing officers. After a hearing officer is appointed under this section, the hearing officer shall conduct an informal prehearing settlement conference and attempt to resolve the disagreement between the parent and the school district. If, after a hearing under this section, the hearing officer determines that the school district's intended action is in accordance with law and is in the child's best interest, the hearing officer shall approve that action.</p> <p>(d) If a parent participates in the hearing but refuses to comply with the decision of the hearing officer, the district shall document in the hearing record the district's attempt to evaluate, place, or transfer the child.</p> <p>(e) If a parent does not participate in the hearing, the district shall document in the hearing record the district's attempt to evaluate, place, or transfer the child and the parent's lack of participation in evaluation, placement, or transfer.</p> <p>(f) A hearing officer's decision under this section is final and binding on the school district and parent, unless appealed under (g) of this section. Notwithstanding a decision by the hearing officer, a child may not be evaluated, placed, transferred, or compelled to receive special education or</p>	<p>and a statement of qualifications of the hearing officer that the department determines is available to conduct the hearing.</p> <p>(c) The school district and the parent each have the right to reject without statement of cause, one hearing officer appointed under this section. The rejecting party shall notify the department of that rejection in writing within five days of receipt of the department's notice of appointment. If a hearing officer is rejected under this subsection, the department shall, within five working days after receipt of the written rejection, provide a notice of appointment, including the name and a statement of qualifications, of another hearing officer that the department determines is available to conduct the hearing. Each appointment is subject to a right of rejection under this subsection by a party who has not previously rejected an appointment.</p> <p>(d) After a hearing officer is appointed and the time for rejection under (c) of this section has expired, the hearing officer shall conduct an informal prehearing settlement conference and attempt to resolve the disagreement between the parent and the school district. If the conference does not result in settlement of all of the issues and a hearing is conducted, the hearing officer shall issue a written decision that (1) upholds the school district's decision, or (2) overturns the school district's decision with specific instructions for modification of the identification, evaluation, educational placement, or provision of the education program by the district.</p>	<p>due process hearing no</p> <ul style="list-style-type: none"> - later than 12 months - following the decision; - The department will appoint a hearing officer through a random selection process; - The school district and the parent may each reject one hearing officer for any reason; after this is exhausted, a hearing officer will be appointed. - Once appointed, the hearing officer will conduct an informal prehearing settlement conference to attempt to resolve the issue. - If the prehearing conference is unsuccessful, the officer will conduct a due process hearing; - The hearing officer's written decision is final but may be appealed to the superior court.
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**HB 71 / SB 40: Special Education Statute
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<p>related services from the school district until the period for filing an appeal under (g) of this section has expired or, if an appeal is filed, until the department and court appellate review process has been completed.</p> <p>(g) A parent or a school district may appeal a hearing officer's decision under this section to the department by requesting an appeal hearing under AS 14.30.195 . The appeal hearing request must be in writing and must be received by the department within 30 days after receipt of the hearing officer's decision.</p> <p>(h) The department shall maintain a list of qualified hearing officers. The department shall qualify hearing officers through a training program that shall be open to all residents of the state. A hearing officer may be qualified for a period not to exceed five years. The list of qualified hearing officers shall be maintained as a public record.</p>	<p>(e) A hearing officer's decision under this section is a final administrative order, subject to appeal to the superior court for review in the manner provided under AS 44.62.560.</p>	<p>Appeals are no longer made to the department.</p>
	<p>Sec. 14.30.358. Teacher qualifications; substitutes. A person may not be employed as a teacher of gifted children unless that person possesses a valid teacher certificate and, in addition, any training the department requires by regulation. This section does not prohibit the employment of a person, otherwise qualified to serve as a substitute teacher, to serve as a substitute teacher of gifted children.</p>	<p>This section specifies that teachers of gifted children must be certified.</p> <p>This section clarifies that qualified substitute teachers without gifted certification may also serve as substitute teachers of gifted children.</p>

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<p>Sec. 14.30.350. Definitions. In AS 14.30.180 - 14.30.350,</p> <p>(1) "appropriate education" means personalized instruction with sufficient support services to permit a child to benefit educationally from the instruction;</p> <p>(2) "children with disabilities" means children with mental retardation; hearing impairments, including deafness; speech or language impairments; visual impairments, including blindness; serious emotional disturbance; orthopedic impairments; autism; traumatic brain injury; other health impairments; specific learning disabilities; or preschool developmental delays;</p> <p>(3) "consent" means the parent has been fully informed of all information relevant to the activity or the release of records for which consent is sought and the parent understands and voluntarily agrees to the activity or release of records;</p> <p>(4) "educational records" means those files, documents, records, and other material that contain information directly related to a student and are maintained by a school district or a person acting for a school district; the term "educational records" does not include the personnel records of the school district, maintained in the normal course of business, that relate exclusively to</p>	<p>Sec. 14.30.359. Definitions. Unless the context otherwise specifies, in AS 14.30.351 - 14.30.359,</p> <p>(1) "appropriate education" means personalized instruction with sufficient support services to permit a child to benefit educationally from the instruction;</p> <p>(2) "due process hearing" means a hearing under AS 14.30.357;</p> <p>(3) "educational records" means those files, documents, records, and other material that contain information directly related to a student and are maintained by a school district or a person acting for a school district; "educational records" does not include the personnel records of the school district that are maintained in the normal course of business, that relate exclusively to a person's capacity as an employee, or other records as designated by the department in regulation;</p> <p>(4) "gifted children" means children who exhibit outstanding intellect, ability, or creative talent as determined under regulations adopted by the department;</p> <p>(5) "gifted education" means specially designed instruction, at no cost to the parent, to meet the unique needs of gifted children; in this paragraph "at no cost" means that all specially designed instruction is provided without charge but does not preclude incidental fees that are normally charged students who are not gifted children or their parents as a part of the regular</p>	<p>These definitions have been placed in this section since they pertain to gifted education.</p> <p>The term "gifted education" has been added to the definition list to distinguish the term from special education or education for exceptional children.</p>
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**HB 71 / SB 40: Special Education Statute
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a person's capacity as an employee, or other records as designated by the department in regulation;

(5) "exceptional children" means children with disabilities, and gifted children, who differ markedly from their peers to the degree that special facilities, equipment, or methods are required to make their educational program effective;

(6) "gifted children" means children who exhibit outstanding intellect, ability, or creative talent as determined under regulations adopted by the department;

(7) "individualized education program team" means a group of people that translates child assessment information regarding a child into a practical plan for specially designed instruction and delivery of services for the child, and includes the following:

(A) a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of special education;

(B) the child's teacher;

(C) the child's parent;

(D) the child, if appropriate;

(E) other individuals, at the discretion of the child's parent or the school district;

(8) "parent" includes a guardian, a person acting as a parent of a child, and a

education program;

(6) "informed consent" means that

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

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

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

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

(7) "school district" means a borough school district, a city school district, a regional educational attendance area, a state boarding school, and the state centralized correspondence study program.

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surrogate parent appointed under AS 14.30.325 .

(9) "related services" means transportation and developmental, corrective, and other supportive services required to assist children with disabilities or gifted children to benefit from special education and includes but is not limited to speech pathology and audiology, psychological services, physical and occupational therapy, recreation, counseling services including rehabilitation counseling, and medical services for diagnostic or evaluation purposes; the term also includes school health services, school social work services, and parent counseling and training;

(10) "school district" means a borough school district, a city school district, or a regional educational attendance area;

(11) "special education" means specially designed instruction, at no cost to the parent, to meet the unique needs of exceptional children, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions; the term includes speech pathology, or any other related service, if the service consists of specially designed instruction, at no cost to the parents, to meet the unique needs of exceptional children, and is considered

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<p>special education rather than a related service under state standards; the term also includes vocational education if it consists of specially designed instruction, at no cost to the parents, to meet the unique needs of exceptional children; in this paragraph (A) "at no cost" means that all specially designed instruction is provided without charge but does not preclude incidental fees that are normally charged to nonexceptional students or their parents as a part of the regular education program; (B) "physical education" means the development of physical and motor fitness, fundamental motor skills and patterns, skills in aquatics, dance, and individual and group games, and sports (including intramural and lifetime sports); the term includes special physical education, adapted physical education, movement education, and motor development; (C) "vocational education" means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.</p>		
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	<p>ADDITIONAL STATUTORY REVISIONS:</p> <p>AS 14.30.640 AS 47.80.990(9) AS 47.80.900(6)</p> <p>AS 29.60.599 (7)</p>	<p>These three sections have been amended to delete references to "exceptional" children and to insert "children with disabilities" and "gifted children" as appropriate.</p> <p>This section is amended to update its definition of "school district" to include the components listed in AS 14.30.350 and AS 14.30.359.</p>
	<p>REPEALED SECTIONS IN PROPOSED STATUTE</p> <p>AS 14.30.186(b) The board of a regional educational attendance area shall provide special education and related services in a school in the area for exceptional children residing in the area served by the school.</p> <p>AS 14.30.193(b) If a parent disagrees with the school district's intended placement of a child or program for a child, the parent may request a hearing. If a hearing is requested under this subsection, the school district shall appoint an impartial hearing officer to conduct the hearing.</p> <p>AS 14.30.195 (a) The department shall, by regulation, provide for administrative appeal hearings, based on the record, of impartial hearing</p>	<p>The revised AS 14.30.186 clarifies the agencies responsibility for providing special education and related services.</p> <p>The revised AS 14.30.193 clarifies that the department, not the school district, is responsible for appointing an impartial hearing officer.</p> <p>This section is repealed since the revised due process hearing procedures no longer contain the</p>

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officers' decisions under AS 14.30.193 . An administrative appeal hearing shall comply with all requirements necessary for participation in federal grant-in-aid programs, including 20 U.S.C. 1400 - 1485 (Individuals with Disabilities Education Act).

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

(c) After an appeal hearing under this section, the department shall render its decision affirming, reversing, modifying, or remanding the hearing officer's decision under AS 14.30.193 .

(d) A parent or the school district may appeal to the appropriate court for review of the department's decision on appeal under (c) of this section.

(e) A parent who appeals to the court and who is determined by the court to be an indigent person may be provided with a court appointed attorney at public expense. In this subsection, "indigent person" has the meaning given in AS 18.85.170 .

AS 14.30.315(b) Nothing in this section prohibits the department from requiring approval of programs of special education and related services for other categories of exceptional children.

AS 14.350(3) (3) "consent" means the parent has been fully informed of all information relevant to the activity or the release of records for which

provision for an appeal of a due process hearing to the department.

This subsection is repealed since the term "exceptional children" is no longer used. The department's general authority to regulate educational programs is also contained in AS 14.07.020.

The definition of "consent" has been replaced by the definition of

**HB 71 / SB 40: Special Education Statute
Comparison of Current and Proposed Legislation**

	<p>consent is sought and the parent understands and voluntarily agrees to the activity or release of records;</p> <p>AS 14.350(5) "exceptional children" means children with disabilities, and gifted children, who differ markedly from their peers to the degree that special facilities, equipment, or methods are required to make their educational program effective;</p> <p>AS 14.350(6) "gifted children" means children who exhibit outstanding intellect, ability, or creative talent as determined under regulations adopted by the department;</p> <p>AS 14.350(7)"individualized education program team" means a group of people that translates child assessment information regarding a child into a practical plan for specially designed instruction and delivery of services for the child, and includes the following: (A) a representative of the school district, other than the child's teacher, who is qualified to provide or supervise the provision of special education; (B) the child's teacher; (C) the child's parent; (D) the child, if appropriate; (E) other individuals, at the discretion of the child's parent or the school district;</p>	<p>the term "informed consent".</p> <p>The definition of "exceptional children" is repealed since this term is no longer used in the statute.</p> <p>The definition of "gifted children" is repealed and replaced in section 14.30.359.</p> <p>The definition of "individualized education program team" is not carried over into the gifted program, since it is a federal regulation term applicable to special education. The persons required to be included in the development of an "individualized gifted education program" are specified and listed in the proposed section AS 14.30.354.</p>
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HB

71

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 06 2001
SENATE FINANCE COMMITTEE

DATE: 5/5/01

FURTHER:

DATE TURNED
IN TO OFFICE: 6 May 2001

Finance Committee considered **CS FOR HOUSE BILL NO. 71(FIN) am**
HB 71 EDUCATION OF DISABLED OR GIFTED CHILDREN

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

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Education	11/14/00		✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>				
<i>[Signature]</i>	⊗			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

MAY 06 2001

SENATE FINANCE
COMMITTEE

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
Sponsor: Rules Committee Component: Special and
Requester: Governor Component Number: 166
Supplemental Services

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
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

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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

HB 71

The Honorable Brian Porter

January 15, 2001

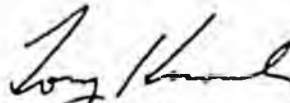
Page 2

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