

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2872 SCOMM 125: HOUSE SPECIAL COMMITTEE ON EDUCATION 2001-02

2/3

Didn't the PTPC accept a complaint against Dr. Johnson for violation of numerous portions of state law but then dismissed that complaint based on the PTPC staff's belief that it was because Dr. Johnson was just doing what he was told..... Could Dr. Johnson address whether he disagrees with the PTPC and if not, could he explain from where he received the erroneous information that caused him to violate so many portions of our statutes and regulation?

Why did the department propose regulations that would disqualify a hearing officer who has ever represented a parent in any action against any school district but not put that in the statute?

Why should we believe that the dept. is in favor of maintaining an appropriate cadre of qualified hearing officers when the dept has never complied with the 1993 amendments regarding hearing officers?

I don't like that this bill allows the dept. to establish by regulation "impartial procedures for a school district to follow for due process hearings to comply with 20 USC 1400-1487." After going through due process steps I have reservations about what regs AKDEED may or may not write.

Why does the statute still fail to provide for a hearing officers subpoena power? Parents should not have to have a two-tier system that wastes their time and money with no subpoena power, etc.

Isn't the selection process identified impracticable as it requires both district and parent to simultaneously challenge an appointment, which raises the question of whether such simultaneous challenge results in loss of both sides pre-empts... and what about a further appointment which is not mentioned, etc. ?

WHY considering the adamant opposition from parents as well as the fact that every argument in support has been debunked is AKDEED still trying to adopt one set of laws for one set of exceptional children and another set for another set of exceptional children?

Investigation has demonstrated that the department has been unable to comply with state law with respect to the existing lenient statutes and regulations..... isn't it time to make those requirements a bit stricter and place oversight provisions to put an end to the department's gross misconduct with respect to supervising the issuance of credentials?

3/3

In 1994 a proposal was put forth that would have required all teachers to be endorsed in special ed to obtain certification by the Millenium. AkDEED scoffed at the proposal then and has proposed nothing remotely similar since (still allowing unqualified staff to be placed for entire years in situations where IEPs require endorsed staff), could you explain wly you feel that such training is unwarranted?

Where is the Comprehensive System of Personnel Development statute? There are other items that appear to be unaddressed, but I am not a lawyer. I want a private lawyer to review this. To read more of my concerns, visit

<http://www.akceptional.org/cgi-bin/HyperNews/get/akceptionalities.html>

I don't like that AkDEED appears to have no oversight in this important legislation.

Additional Procedural Safeguards should be written into Statute !!

" procedures to ensure testing and evaluation materials and procedures ... not be racially or culturally discriminating... no single ~~criterion~~ procedure shall be the sole criterion for determining an appropriate educational program. "

This is NEW & should be in statute.

FAPE - grade to grade advancement - must be provided & noted in the CHILDFIND notice

Louise Parish
Box 1182
Valdez AK 99666

Subject: Sp. Ed. Test Results

Date: Fri, 26 Jan 2001 09:05:32 -0900

From: Representative Con Bunde <Representative_Con_Bunde@legis.state.ak.us>

Organization: Alaska State Legislature

To: Beth Nordlund <beth_nordlund@eed.state.ak.us>

Beth --

Is there data on the Competency Results for special education students yet? If so, where can I get that?

If DoE doesn't have it, do you know of any districts that are pulling that data out of the results for their own use?

Thanks!
Karen

PS -- I will notice the HB 71 hearing for February 7th, 8-10 in House HESS room later today if you have no unsuspected problems.

Cost of assessment system:

Fiscal Note for HB 71: Zero reflects request for \$177,000 that's in the budget. They'll probably change the fiscal note. Up to two years ago, the feds were paying for the gifted stuff. DoE stopped doing that when the feds pulled. \$177,000 is what it will cost to replace the ~~fed~~ \$ w/ state dollars.

(Per Dale - the chances of DoE getting \$177,000 for this are slim to none! Slim left town.)

STATE OF ALASKA

Department of Education & Early Development

Office of the Commissioner

TONY KNOWLES, GOVERNOR

Goldbelt Place
801 West Tenth Street, Suite 200
Juneau, Alaska 99801-1894
(907) 465-2800
(907) 465-4156 Fax

January 25, 2001

The Honorable Con Bunde, Chairman
House Special Committee on Education
Alaska State Legislature
State Capitol, Room 501
Juneau, AK 99801-1182

*Scheduled
for next opening*

Dear Representative Bunde:

The Governor's bill to update the education statutes for children with disabilities and gifted children, HB 71, has been assigned to your committee. I would like to request that you hold a hearing for that bill at your earliest convenience.

In 1997, Congress authorized amendments to the Individuals with Disabilities Education Act (IDEA 97), with the supporting regulations adopted in May, 1999. HB 71 brings Alaska's special education statute into alignment with these federal requirements, including emphasizing parental participation in the process of educating children with disabilities. This bill helps ensure that Alaska will continue to qualify for federal special education funds.

HB 71 also distinguishes the requirements that pertain to special education programs from those that pertain to gifted programs, and clarifies that statewide correspondence programs must provide special education services to children with disabilities enrolled in these programs.

Your support for K-12 education in Alaska is greatly appreciated. I look forward to working with your committee on behalf of this important piece of legislation.

Sincerely,



Shirley J. Holloway, Ph.D.
Commissioner

Cc: Mike Abbot, Legislative Director
Office of the Governor

• 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.

Subject: RE: HB 71 Written testimony

Date: 4 Apr 2001 06:31:58 -0800

From: "Wiget_Larry" <wiget_larry@msmail.asd.k12.ak.us>

To: "Representative Con Bunde" <Representative_Con_Bunde@legis.state.ak.us>

Karen, the testimony I e-mailed you (text reproduced below) does two things differently than the written testimony we previously provided the committee:

1. Supports the EED amendments.
2. Eliminates comment section on gifted education.

The remaining information maintains and reiterates our comments and concerns on the bill that were previously provided the committee.

Larry.

TO: THE HONORABLE CON BUNDE, CHAIR
HOUSE SPECIAL COMMITTEE ON EDUCATION

FROM: DEBBIE OSSIANDER, CHAIR, LEGISLATIVE SUBCOMMITTEE
ANCHORAGE SCHOOL BOARD

DATE: MARCH 03, 2001

The Anchorage School District would like to thank the Department of Education & Early Development and the House Special Committee on Education for being responsive to the concerns of the gifted community.

We especially appreciate and support the amendments to HB71 VERSION 22-GH1010\A put forth by EED in its letter of March 30, 2001 to Representative Bunde.

Thank you!

The following are comments and concerns the Anchorage School Board has regarding other elements of the proposed changes to special education statute in HB 71:

AS 14.16.050

We support the deletion of exceptional children language and the separation of gifted statutes from those for children with disabilities.

AS 14.30.186-Coverage

We support this new subsection that will enable the department to provide guidance through regulation regarding the provision of special education and related services for students covered by more than one agency. This issue has become increasingly complex with students attending correspondence programs while still living within our district.

AS 14.30.193-Due process hearing

A timeline of 12 months following the decision with which the parties disagree has been added. This will give the parents or district appropriate time for filing for a due process hearing. This timeline is very practical and will assist districts and parents in providing a timely response to concerns regarding a child's special education program.

a) This change establishes a one tiered hearing process. We have significant concerns with this change. This will require the state to appoint a hearing officer through a random selection. The district/parent will have the opportunity to reject one selection. This process could be more costly to the districts. There may be in a situation where the hearing officer would live out of the district and will have

significant costs associated with the hearing to cover travel and living expenses during the hearing process. The other choice would be to conduct much of the process telephonically and this is not as good an option as working through issues in person. Another significant concern with the state involvement in this process is that it escalates the parental concerns beyond the district without the district having the ability to solve them first. We advocate that complaint and due process hearings are attempted to be resolved at the lowest level possible beginning with the school districts.

(c) The school district and parent are given the ability to reject one hearing officer without cause. We have concerns that this is the only option that a district or parent has for rejecting a hearing officer. There needs to be an ability to declare a conflict of interest with the hearing officer appointed by the state. An example of a conflict of interest could be a hearing officer being the parent of a child with disabilities in the district where he or she has been appointed. If this is the case a district should be able to declare a conflict of interest and have the hearing officer removed as a candidate for that district.

d.) The hearing officer is responsible for informing the parent of the availability of mediation to resolve the differences between the district and parent. There are concerns about the appropriateness of a hearing officer in this role. The hearing officer is not involved in the mediation nor is it appropriate for attorneys to be involved. Mediation needs to be focused at the district level with the parent working directly with the school district and mediators.

f) With a one-tiered hearing process the decision of the hearing officer is final unless it is appealed to the superior court. The administrative appeal through the department will be eliminated as an option. There are significant concerns regarding the elimination of the administrative appeal. This has the potential of escalating costs for the district by going directly to the superior court for appeal. The superior court may be more likely to have a hearing allowing new evidence rather than a review of the record as is done in an administrative appeal.

AS 14.30.278 Individualized education program.

Reference to completion of the plan within 30 days of determining eligibility needs to stipulate "school days" rather than calendar days. Reference to federal law for conformance to annual review of the plan is not sufficient. We need to have the specific expectations delineated within the statute.

AS 14.30.285-Transfers of children with disabilities

b.) This change eliminates the department from the decision making of the need for residential school outside the school district. We have concerns regarding the exclusion of the department in this decision making process. The department is ultimately responsible for the provision of appropriate educational services for students within the state.

The involvement and assistance of the department in the issue of residential placement is very important. Insuring the quality and appropriateness of possible residential settings for students is very difficult for districts and a responsibility that would best be shared with the department.

Language needs to be added that delineates the process to be used for parental placement of students in residential placements. This language should reflect the federal statutes 34 CFR 300.403.

AS 14.30.340-Provision of special education in a private school, home, or hospital setting.

We support this proposed change in language. The new language will assist districts in working with private schools to define the type and amount of special education services that will be provided to students with disabilities in private schools. The current state requirement for provision of services at the same level as those provided in public school settings is an unfunded state mandate above the requirements of federal special education law-IDEA.

The ASD is currently challenged to provide special education supports and services to student s with disabilities within the public school settings. These challenges include significant teacher shortages and fiscal restraints. The current state law of

full provision of all special education supports and services to students in private schools is very costly and difficult to provide.. This change will allow us to work with private schools to clearly define the special education services that we can offer and how they will be provided.

AS 14.30.350-Definitions

(13) Informed consent-This definition of informed consent is difficult to implement. Parents may request substantial information regarding complex evaluation processes thus delaying the evaluation for a child. It is requested that the state provide the parent rights documents in the various languages, as it is extremely costly and difficult for each district to provide this in all the languages spoken within the district. We have significant concerns with parents having the ability to withdraw consent during an evaluation process.

Additional Issues:

• We have specific concerns regarding the proposed language for state statutes. In many sections the new statutes have specific reference to federal statutory language. This leads to confusion and misunderstanding. It is preferred that the state statutes be written with specific and clear language that has all required language delineated within the statute. Areas of concern are as follows:

Sec. 14.30.193 Due Process Hearing-(d)

Sec. 14.30.194 Mediation

Sec. 14.30.270 Procedural Safe Guards

Sec. 14.30.278 Individualized Education Program

Sec. 14.30.340 Provision of special education in a private school, home, or hospital setting

Sec. 14.30.350 Definitions

• The statutes are lacking in specific language regarding discipline of students with disabilities. This is one of the most controversial areas of special education. Districts, parents and advocates need clear, direct and precise language regarding this area of special education. Reference to federal statute is not sufficient.

• Specific language regarding methods for ensuring and funding of special education services is needed. The federal statutes and regulations have specific language regarding the use of third party payment and Medicaid. Assistance and guidance is needed by districts regarding the funding of supports and services for students in special education.

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

MEMORANDUM

MARCH 13, 2001

TO: HOUSE SPECIAL COMMITTEE ON EDUCATION

FROM: LAWRENCE A. WIGET, EXECUTIVE DIRECTOR, PUBLIC AFFAIRS
(w) 907 - 742-4322 (f) 907 - 7145 (e-mail) Wiget_Larry@msmail.asd.k12.ak.us

SUBJECT: HB 71, AN ACT RELATING TO THE EDUCATION OF CHILDREN WITH
DISABILITIES AND OF GIFTED CHILDREN

On behalf of the Anchorage School District, thank you for the opportunity to provide the House Special Committee on Education with written comments regarding HB 71.

As this is an important piece of legislation, we felt it important to provide the committee with a careful analysis of the strengths and weaknesses of this legislation from the perspective of the Anchorage School District.

Please do not hesitate to contact me if you any additional questions regarding our position on this legislation.

Thank you!

AS 14.16.050

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AS 14.30.186-Coverage

We support this new subsection that will enable the department to provide guidance through regulation regarding the provision of special education and related services for students covered by more than one agency. This issue has become increasingly complex with students attending correspondence programs while still living within our district.

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- a) This change establishes a one tiered hearing process. I have significant concerns with this change. This will require the state to appoint a hearing officer through a random selection. The district/parent will have the opportunity to reject one selection. This process could be more costly to the districts. There may be in a situation where the hearing officer would live out of the district and will have significant costs associated with the hearing to cover travel and living expenses during the hearing process. The other choice would be to conduct much of the process telephonically and this is not as good an option as working through issues in person. Another significant concern with the state involvement in this process is that it escalates the parental concerns beyond the district without the district having the ability to solve them first. We advocate that complaint and due process hearings are attempted to be resolved at the lowest level possible beginning with the school districts.
- (c) The school district and parent are given the ability to reject one hearing officer without cause. We have concerns that this is the only option that a district or parent have for rejecting a hearing officer. There needs to be an ability to declare a conflict of interest with the hearing officer appointed by the state. An example of a conflict of interest could be a hearing officer being the parent of a child with disabilities in the district where he or she has been appointed. If this is the case a district should be able to declare a conflict of interest and have the hearing officer removed as a candidate for that district.
- d.) The hearing officer is responsible for informing the parent of the availability of mediation to resolve the differences between the district and parent.. There are concerns about the appropriateness of a hearing officer in this role. The hearing officer is not involved in the mediation nor is it appropriate for attorneys to be involved. Mediation needs to be focused at the district level with the parent working directly with the school district and mediators.
- f) With a one tiered hearing process the decision of the hearing officer is final unless it is appealed to the superior court. The administrative appeal through the department will be eliminated as an option. There are significant concerns regarding the elimination of the administrative appeal. This has the potential of escalating costs for the district by going directly to the superior court for appeal. The superior court may be more likely to have a hearing allowing new evidence rather than a review of the record as is done in an administrative appeal.

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The ASD is currently challenged to provide special education supports and services to students with disabilities within the public school settings. These challenges include significant teacher shortages and fiscal restraints. The current state law of full provision of all special education supports and services to students in private schools is very costly and difficult to provide.. This change will allow us to work with private schools to clearly define the special education services that we can offer and how they will be provided.

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Additional Issues:

• We have specific concerns regarding the proposed language for state statutes. In many sections the new statutes have specific reference to federal statutory language. This leads to confusion and misunderstanding. It is preferred that the state statutes be written with specific and clear language that has all required language delineated within the statute. Areas of concern are as follows:

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• **The statutes are lacking in specific language regarding discipline of students with disabilities.** This is one of the most controversial areas of special education. Districts, parents and advocates need clear, direct and precise language regarding this area of special education. **Reference to federal statute is not sufficient.**

• Specific language regarding methods for ensuring and funding of special education services is needed. The federal statutes and regulations have specific language regarding the use of third party payment and medicaid. Assistance and guidance is needed by districts regarding the funding of supports and services for students in special education.

•

ARTICLE 3A. EDUCATION FOR GIFTED CHILDREN

Sec: 14.30.351 to 14.30.354-

We support the provision of gifted services as proposed and the definition of the team to determine the appropriate services for the student.

Sec 14.30.355-Least restrictive environment

X
.Research and best practice in the area of gifted education speaks to the need for gifted students to have significant time with other gifted peers. This is not reflected in the language regarding least restrictive environment. This language is taken directly from special education law and does not apply to students who are gifted. These students need enrichment, acceleration and compacting that is difficult to provide solely within the regular education environment. Therefore the language as written is not appropriate for gifted education.

Additional Issues:

Fiscal

Boq Gov

why not medicaid

- The need for transportation for students that are gifted is significant. If students are to receive gifted services with other students of like abilities and talents then it may be necessary to transport the students to a centralized location to receive the services. This transportation is a necessary and related service for gifted students and should be fully funded by the state as it is for students with disabilities.

- Provision for mediation needs to be included within the due process hearing procedures. The district and parents need to have official access to this process to assist with positive resolution of disputes and differences.

February 12, 2001

Representative Con Bunde, Chair
House Special Committee on Education
Alaska State Capitol
Juneau, Alaska 99801-1182

RE: HB71

Dear Representative Bunde and committee members:

At a recent parents' advisory council meeting, I was alerted to a problem with the Governor's bill relating to children with disabilities and of gifted children. As the parent of a gifted child myself, I am concerned about language in Section 35 (page 15, lines 4-9) regarding "Least Restrictive Environment."

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.

It appears to me that this was simply a "cut and paste" of the language for students with disabilities. While mainstreaming may be a desirable goal and the least restrictive environment for disabled children, I do not believe this serves gifted and talented children in the same fashion.

I would propose alternate language with the intent as follows:

Sec. 14.30.355. Least restrictive environment. For purposes of gifted education, the least restrictive setting is provision of academically appropriate materials to classes or groups of gifted students with similar educational needs or 'pull-outs' where the needs of groups of similarly gifted students are addressed. If instruction is in inclusive classrooms, then the curriculum must be differentiated for gifted students by teachers trained to provide differentiated curriculum."

Shannon, my daughter, loves her pull-out classes. It is clear to me that she receives the most challenging and rewarding part of her education in the time she spends in the "Extended Learning" class. As one of the better students in her homeroom class, she simply does not get the attention she needs to develop to her potential, since the teacher must teach to the middle of the class (or below). Shannon has complained to me of boredom and frustration in the same setting proposed by the bill in its current form.

Beyond my personal experience, I understand there is an entire school in Anchorage that is set aside for gifted children. Entire classes are established in Wasilla and Fairbanks. Defining the least restrictive environment as currently proposed would jeopardize these fine educational programs.

I ask that you and the committee support changing the language in Sec. 35 as I have outlined to accommodate those Alaskan children who show promise to be tomorrow's leaders. Please feel free to contact me if you have any questions.

Cordially,

A handwritten signature in black ink, appearing to read 'Kevin Smith', with a stylized flourish at the end.

Kevin Smith
424 Fifth Street
Douglas, Alaska 99824

907-586-3222 work
907-364-3624 home
kev@pobox.alaska.net

Phone Message re: HB 71, "Education of Disabled or Gifted Children"
Dr. Robert Sewell
Juneau resident
Home Phone: 463-5074
Work Phone: 465-6359

Dr. Sewell has a gifted 15-year old daughter and is an advocate for special education students. He is happy with how most of the gifted education provisions in HB 71 have been treated this year. However, he has some concerns about the section on "least restrictive environment" in the bill as it pertains to gifted children.

The impulse to include the language comes from special education law. The problem when you lump gifted education students in with the interest for normalization is that it misses what they need. Gifted children are usually in regular classes with children who are slower academically. They get bored and can be disruptive with repeated questions. These students need radical acceleration, which can't be provided in the regular classroom. Requiring gifted students to be in regular classrooms by statute is a mistake.

He suggests the following language be substituted in the bill:

"Each school district shall ensure that to the maximum extent appropriate, academically appropriate materials are provided to classes or groups of gifted students with similar educational needs. If instruction occurs in the inclusive class, the curriculum shall be differentiated for gifted students by teachers trained to provide differentiated curriculum."

Department of Education Deputy Commissioner Bruce Johnson will be prepared to discuss this topic during the hearing on March 14th.

Don Bremner
P.O. Box 20161
Juneau, Ak. 99802

Feb 12, 2001

Chairman Con Bunde
House Special Committee on Education
Juneau, Alaska

RE: HB 71 section 14.30.355, Least Restrictive Environment

Dear Representative Bunde:

I have an eleven-year-old daughter that is in the Harborview Gifted Kids program. She is Tlingit/Irish and a very exceptional student. She has qualified to attend the John Hopkins University summer program for gifted students. The students in the Gifted Kids program are at the top end of school programs in every way. From excellent grades to social behavior and community programs, and they excel in sports as well. My daughter is on the Glacier Swim Team, U-12 soccer team for Juneau, and has excellent basketball skills.

These students have high expectations of themselves and of their peers. They are proud to achieve such high standards. This is accomplished with hard work, parent support, and by having the opportunity to work with teachers trained to work with students of this caliber. If section 14.30.355 is left as is it will eliminate years of work to get students like my daughter to excel in school beyond their years.

I recommend that section 14.30.355 language to read as follows;

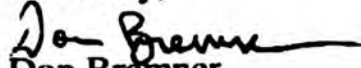
" For purposes of gifted education, the least restrictive environment is, Provision of academically appropriate materials to classes or groups of gifted students with similar educational needs or pull outs where the needs of groups of similarly gifted students are addressed. If instruction is in inclusive classrooms, then the curriculum must be differentiated for gifted students by teachers trained to provide a differentiated curriculum."

This will allow school districts, teachers, and parents to develop their current programs without having to start from ground zero. I fail to see why the State would destroy these young minds by doing away with existing opportunities.

I'd ask your full committee support of changing the language to continue to meet our Gifted Kids needs that cannot be met in regular classrooms by regular teachers.

Please call me at 586-9267 or e-mail. Don.bremner@sealaska.com for any questions you may have.

Sincerely,


Don Bremner

Cc/ Rep. Brian Porter
Rep. Joe Green
Rep. Peggy Wilson
Rep. Gary Stevens
Rep. Reggie Joule
Rep. Gretchen Guess

BILL ANALYSIS -- HB 71
1st Hearing February 7, 2001

Sponsor: House Rules by Request of the Governor

Bill Title: Education of Disabled or Gifted Children

Overview: See Sectional Analysis and the Side by Side Comparison under "Bill Backup"

- 1) Amends portions of Alaska Statute to bring them into compliance with current federal special education mandates, including emphasizing the participation of parents in decision making.
- 2) Clarifies the procedures for requesting a due process hearing
- 3) Streamlines the process for selecting a hearing officer.
- 4) Provides for allocation of responsibility and coordination of services among various education agencies for special education students who are enrolled in alternative education programs.
- 5) Requires local school districts to provide services to disabled children who attend private or religious schools or who are home-schooled.
- 6) Allows parents of a home-schooled child to refuse services.
- 7) Replaces the provision re: "separate transportation by a school district" with requirement that the issue be determined by an IEP.
- 8) Separates Alaska Statutes regarding special education services and gifted education services as required by federal law (IDEA). However, the bill maintains procedural safeguards for both programs.
- 9) Repeals and reenacts definitions.

Fiscal Note:

\$103,400 per year total — *to continue gifted programs*

There was a lot of discuss about this within the administration, whether there should be a fiscal note or just a mention that money has been requested for it in the Governor's budget.

Available to Testify:

Bruce Johnson,	Deputy Commission of DEED
Greg Maloney	Special Education Director, DEED
Phil Reeves	Lawyer for DEED

Teleconference Sites:

Unalaska
Anchorage
Fairbanks
Juneau

Alaska State Legislature
Representative Con Bunde
District 18

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Vice Chair: House Finance Committee

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FAX COVER SHEET

DATE: April 12, 2001
TO: Mike Ford, Leg. Legal
CC: Phil Reeves, Dept. of Law *see Beth*
FAX #: 2029
FROM: Karen McCarthy
Representative Con Bunde
RE: HB 71 Amendments
PAGES: 3 (including cover)

*Amendments fine -
sent to Clerk
4/17/01*

Mike --

In looking over the final for HB 71, I noticed that two of the amendments were not incorporated into the final exactly as written. There were a couple of minor little things. However, there were also changes that could be substantive. I wanted to check with you before taking the final down to the Clerk's office.

For amendment #1, in the second line of the text to be inserted, it reads, "...shall be provided as for transportation...". However, the final reads, "shall be as provided for...". The "provided" and the "as" were switched around. I don't know if that was a mistake or not.

For amendment #2, there are two changes. First, on line 3 of part (b) of the amendment, the word is "parents". In the final, it is "parent". Is that a substantive problem?

Second, on line 4 of part (b) of the amendment, the word is "must" but in the final, it is "may". Is that a substantive problem?

I will not be in the office on Friday or Monday. As these amendments originally came from the Department of Education, please contact Phil Reeves, their lawyer. His number is 4164. Whatever the two of you decide is fine with me. If you feel the need to check with the amendments' sponsor, Rep. Joule, his aide, Gwen Cornelius, may be in on Monday at 4833.

Please let me know if there is a need for a corrected final. If there is, we can have an exchange of hostages on Tuesday.

Thank you for taking a look at these questions. Have a happy holiday!
Karen

The information in and following this fax cover sheet is confidential and is intended for the addressee listed above.
If you have received this fax in error, please contact Representative Bunde at 1-800-892-4843.
Thank you!

Amendment

#2

Offered By: Representative Joule

adopted

Page 15, line 31, through page 16, line 6:

Delete current text and replace with the following:

(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 parents and the district. The mediator may not be an employee of the district and must not have a personal or professional conflict of interest in the matter in dispute. The district shall bear the costs of the mediation process.

(c) If the mediation process required in (b) of this section does not resolve all of the issues raised in the request for a due process hearing provided under (a) of this subsection, 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.

OK

OK

Page 16, line 7: Change "(c)" to "(d)"

Page 16, line 16: Change "(d)" to "(e)"

Page 16, line 26: Change "(e)" to "(f)"

This amendment adds in a requirement of mediation prior to a dispute going to a hearing officer. Mediation is far less expensive, and is often a more positive route for resolution of conflicts. The cost of settling disputes is handled by the district currently, so this does not impose an unfunded mandate. In fact, changing the bill lowers the cost of handling disputes for gifted/talented children, for districts.

Amendment #1

Offered By: Representative Joule

Page 15, lines 4-9

passed

Delete: [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.]

Insert: Sec. 14.30.355. Reimbursement for transportation of gifted children
State reimbursement for transportation of gifted children shall be provided as for
transportation of all other pupils except that eligibility for reimbursement is not
limited to transportation to and from the child's residence to the school, but shall
also include transportation between schools and other locations of instruction as
required by the child's individualized gifted education program.

OK

This amendment removes all "least restrictive environment" language as it pertains to gifted/talented students, and adds in a provision for the transportation of gifted/talented students. This transportation is currently reimbursed, so to not add it back in means taking away a service that is currently provided for those students. This amendment does not affect the fiscal note.

B - yes
S - yes
G - yes
J - yes
P - no
G - no
B -

Amendment #2

Offered By: Representative Joule

Page 11, line 24

Change to:

(I) speech or language impairment;

adopted
✓

This is an amendment requested by the Department and pertains to identification of Special Education students.

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

MEMORANDUM

MARCH 13, 2001

TO: HOUSE SPECIAL COMMITTEE ON EDUCATION

FROM: LAWRENCE A. WIGET, EXECUTIVE DIRECTOR, PUBLIC AFFAIRS
(w) 907 - 742-4322 (f) 907 - 7145 (e-mail) Wiget_Larry@msmail.asd.k12.ak.us

SUBJECT: HB 71, AN ACT RELATING TO THE EDUCATION OF CHILDREN WITH
DISABILITIES AND OF GIFTED CHILDREN

On behalf of the Anchorage School District, thank you for the opportunity to provide the House Special Committee on Education with written comments regarding HB 71.

As this is an important piece of legislation, we felt it important to provide the committee with a careful analysis of the strengths and weaknesses of this legislation from the perspective of the Anchorage School District.

Please do not hesitate to contact me if you any additional questions regarding our position on this legislation.

Thank you!

AS 14.16.050

We support the deletion of exceptional children language and the separation of gifted statutes from those for children with disabilities.

AS 14.30.186-Coverage

We support this new subsection that will enable the department to provide guidance through regulation regarding the provision of special education and related services for students covered by more than one agency. This issue has become increasingly complex with students attending correspondence programs while still living within our district.

AS 14.30.193-Due process hearing

A timeline of 12 months following the decision with which the parties disagree has been added. This will give the parents or district appropriate time for filing for a due process hearing. This timeline is very practical and will assist districts and parents in providing a timely response to concerns regarding a child's special education program.

Con Question- Why not require notification of problems to DOE? (Those problems that are brought to light in district based due process?) Answer- we aren't in the loop in this, so it's hard to keep track.

- a) This change establishes a one tiered hearing process. I have significant concerns with this change. This will require the state to appoint a hearing officer through a random selection. The district/parent will have the opportunity to reject one selection. This process could be more costly to the districts. There may be in a situation where the hearing officer would live out of the district and will have significant costs associated with the hearing to cover travel and living expenses during the hearing process. The other choice would be to conduct much of the process telephonically and this is not as good an option as working through issues in person. Another significant concern with the state involvement in this process is that it escalates the parental concerns beyond the district without the district having the ability to solve them first. We advocate that complaint and due process hearings are attempted to be resolved at the lowest level possible beginning with the school districts.
- b) The school district and parent are given the ability to reject one hearing officer without cause. We have concerns that this is the only option that a district or parent have for rejecting a hearing officer. There needs to be an ability to declare a conflict of interest with the hearing officer appointed by the state. An example of a conflict of interest could be a hearing officer being the parent of a child with disabilities in the district where he or she has been appointed. If this is the case a district should be able to declare a conflict of interest and have the hearing officer removed as a candidate for that district.
- c) The hearing officer is responsible for informing the parent of the availability of mediation to resolve the differences between the district and parent. There are concerns about the appropriateness of a hearing officer in this role. The hearing officer is not involved in the mediation nor is it appropriate for attorneys to be involved. Mediation needs to be focused at the district level with the parent working directly with the school district and mediators.
- d) With a one tiered hearing process the decision of the hearing officer is final unless it is appealed to the superior court. The administrative appeal through the department will be eliminated as an option. There are significant concerns regarding the elimination of the administrative appeal. This has the potential of escalating costs for the district by going directly to the superior court for appeal. The superior court may be more likely to have a hearing allowing new evidence rather than a review of the record as is done in an administrative appeal.

AS 14.30.278 Individualized education program.

Reference to completion of the plan within 30 days of determining eligibility needs to stipulate "school days" rather than calendar days.

fed law

Reference to federal law for conformance to annual review of the plan is not sufficient. We need to have the specific expectations delineated within the statute.

AS 14.30.285-Transfers of children with disabilities

b.) This change eliminates the department from the decision making of the need for residential school outside the school district. We have concerns regarding the exclusion of the department in this decision making process. The department is ultimately responsible for the provision of appropriate educational services for students within the state.

The involvement and assistance of the department in the issue of residential placement is very important. Insuring the quality and appropriateness of possible residential settings for students is very difficult for districts and a responsibility that would best be shared with the department.

Language needs to be added that delineates the process to be used for parental placement of students in residential placements. This language should reflect the federal statutes 34 CFR 300.403.

AS 14.30.340-Provision of special education in a private school, home, or hospital setting.

We support this proposed change in language. The new language will assist districts in working with private schools to define the type and amount of special education services that will be provided to students with disabilities in private schools. **The current state requirement for provision of services at the same level as those provided in public school settings is an unfunded state mandate above the requirements of federal special education law-IDEA.**

The ASD is currently challenged to provide special education supports and services to students with disabilities within the public school settings. These challenges include significant teacher shortages and fiscal restraints. The current state law of full provision of all special education supports and services to students in private schools is very costly and difficult to provide.. This change will allow us to work with private schools to clearly define the special education services that we can offer and how they will be provided.

AS 14.30.350-Definitions

(13) Informed consent-This definition of informed consent is difficult to implement. Parents may request substantial information regarding complex evaluation processes thus delaying the evaluation for a child. It is requested that the state provide the parent rights documents in the various languages as it is extremely costly and difficult for each district to provide this in all the languages spoken within the district. We have significant concerns with parents having the ability to withdraw consent during an evaluation process.

Additional Issues:

- We have specific concerns regarding the proposed language for state statutes. In many sections the new statutes have specific reference to federal statutory language. This leads to confusion and misunderstanding. It is preferred that the state statutes be written with specific and clear language that has all required language delineated within the statute. Areas of concern are as follows:

Sec. 14.30.193 Due Process Hearing-(d)

Sec 14.30.194 Mediation

Sec.14.30.270 Procedural Safe Guards

Sec. 14.30.278 Individualized Education Program

Sec. 14.30.340 Provision of special education in a privat school, home, or hospital setting

Sec. 14.30.350 Definitions

- **The statutes are lacking in specific language regarding discipline of students with disabilities.** This is one of the most controversial areas of special education. Districts, parents and advocates need clear, direct and precise language regarding this area of special education. **Reference to federal statute is not sufficient.**

- Specific language regarding methods for ensuring and funding of special education services is needed. The federal statutes and regulations have specific language regarding the use of third party payment and medicaid. Assistance and guidance is needed by districts regarding the funding of supports and services for students in special education.

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ARTICLE 3A. EDUCATION FOR GIFTED CHILDREN

Sec: 14.30.351 to 14.30.354-

We support the provision of gifted services as proposed and the definition of the team to determine the appropriate services for the student.

Sec 14.30.355-Least restrictive environment

.Research and best practice in the area of gifted education speaks to the need for gifted students to have significant time with other gifted peers. This is not reflected in the language regarding least restrictive environment. This language is taken directly from special education law and does not apply to students who are gifted. These students need enrichment, acceleration and compacting that is difficult to provide solely within the regular education environment. Therefore the language as written is not appropriate for gifted education.

Additional Issues:

Language is in regulation & hearing.

- The need for transportation for students that are gifted is significant. If students are to receive gifted services with other students of like abilities and talents then it may be necessary to transport the students to a centralized location to receive the services. This transportation is a necessary and related service for gifted students and should be fully funded by the state as it is for students with disabilities.

- Provision for mediation needs to be included within the due process hearing procedures. The district and parents need to have official access to this process to assist with positive resolution of disputes and differences.

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
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).	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).	This section is amended to: - 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.
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).	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</u> [EXCEPTIONAL CHILDREN] in the state who <u>is</u> [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 <u>20 U.S.C. 1400 - 1487</u> [20 U.S.C. 1400-1485] (Individuals with Disabilities Education Act), <u>as amended</u>.	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.
Sec. 14.30.185. Programs shall be established. [Repealed, Sec. 59 ch 98 SLA 1966]. Repealed or Renumbered		

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) <u>Special education and related services shall be provided</u> <u>(1) by a borough or city school district, for a child with a disability residing within the district;</u> <u>(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;</u> <u>(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;</u> <u>(4) by a state boarding school established under AS 14.16, for a child enrolled at the boarding school; or</u> <u>(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]</u>	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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HB 71 / SB 40: Special Education Statute
Comparison of Current and Proposed Legislation

	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. 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.	
Sec. 14.30.190. Establishment of standards by Department of Health and Social Services. [Repealed, Sec. 4 ch 144 SLA 1970]. Repealed or Renumbered		
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	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	This section is amended to clarify that "consent" means "written informed consent" and to replace "exceptional children" with "a child with a disability". Subsection (d) is amended to

HB 71 / SB 40: Special Education Statute

Comparison of Current and Proposed Legislation

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.

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

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.	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.	
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.	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	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. Proposed changes include the following: - Parents must file a request for a due process hearing

HB 71 / SB 40: Special Education Statute

Comparison of Current and Proposed Legislation

(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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	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. (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.	
	AS 14.30 is amended by adding a new section to read: 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. (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.	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.
Sec. 14.30.195. Hearings. (a) The department shall, by regulation, provide for administrative appeal hearings,		This section has been repealed since the revised due process hearing procedures no longer

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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). (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 .		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.
Sec. 14.30.200. - 14.30.220 Eligibility; budget; forfeiture of right to reimbursement. [Repealed, Sec. 5 ch 70		

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SLA 1963]. :ao;14.30.220 Repealed or Renumbered		
Sec. 14.30.230. Special education. [Repealed, Sec. 6 ch 144 SLA 1970]. Repealed or Renumbered		
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.	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> .	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".
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.		
Sec. 14.30.240. Supervisor. [Repealed, Sec. 5 ch 70 SLA 1963]. Repealed or Renumbered		
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.	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.	This section is amended to substitute "children with disabilities" for "exceptional children".

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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.		
Sec. 14.30.260. Exception to qualifications. [Repealed, Sec. 19 ch 147 SLA 1984]. Repealed or Renumbered		
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.	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>.	This section is amended to substitute "children with disabilities" for "exceptional children".
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	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	This section is amended to substitute "child with disabilities" for "exceptional child". This section is amended to clarify that "impartial hearing" and "hearings" refer to due process hearings.

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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. (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).	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. (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>.	Subsection (b) is amended by updating the citation to the federal Individuals with Disabilities Education Act as amended in 1997.
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.	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.	This section is amended to substitute "children with disabilities" for "exceptional children". 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.
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	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>	This section is amended to substitute "children with disabilities" for "exceptional children" and "disability" for

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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.	disabilities, including children in public or private institutions or other care facilities, are educated with children who are not [EXCEPTIONAL] children with disabilities, and that special classes, separate schooling, or other removal of [EXCEPTIONAL] children with disabilities from the regular educational environment occurs only when the nature or severity of the child's disability [EXCEPTIONALITY] is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.	"exceptionality".
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	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;	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.

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objectives are being achieved. (b) Each meeting concerning an exceptional child must include (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; (2) the child's teacher; (3) at least one of the child's parents; (4) the child, when appropriate; (5) other individuals selected by the parent or school district. (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.	(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 OBJECTIVES ARE BEING ACHIEVED. (b) EACH MEETING CONCERNING AN EXCEPTIONAL CHILD MUST INCLUDE (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; (2) THE CHILD'S TEACHER; (3) AT LEAST ONE OF THE CHILD'S PARENTS; (4) THE CHILD, WHEN APPROPRIATE; (5) OTHER INDIVIDUALS SELECTED BY THE PARENT OR SCHOOL DISTRICT. (C) EACH SCHOOL DISTRICT SHALL	
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	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.]	
Sec. 14.30.280. Psychologist qualifications. [Repealed, Sec. 19 ch 147 SLA 1984]. Repealed or Renumbered		
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	AS 14.30.285 is amended to read: Sec. 14.30.285. Transfers of [EXCEPTIONAL] children <u>with disabilities</u>. (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	This section is amended to substitute "children with disabilities" for "exceptional children". 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. Subsection (f) is amended to specify that a parent's consent must be informed consent.

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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 <u>school</u> 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 <u>with a disability</u> 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] <u>informed</u> 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 <u>informed</u> consent by a parent [OR DEPARTMENTAL APPROVAL] for the transfer of a [AN EXCEPTIONAL] child <u>with a disability</u> under this section does not relieve a school district of the obligation to provide special education and related services to <u>the</u> [AN EXCEPTIONAL] child. [UNDER AS 14.30.186.]	
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services to an exceptional child under AS 14.30.186.		
Sec. 14.30.290. Purposes of appropriations. [Repealed, Sec. 5 ch 70 SLA 1963]. Repealed or Renumbered		
Sec. 14.30.295. Special education outside state. [Repealed, Sec. 4 ch 79 SLA 1974]. Repealed or Renumbered		
Sec. 14.30.300. Nonresident apportionment. [Repealed, Sec. 5 ch 70 SLA 1963]. Repealed or Renumbered		
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.		
Sec. 14.30.310. Hospitalized and homebound children. [Repealed, Sec. 5 ch 70 SLA 1963]. Repealed or Renumbered		

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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.		Subsection (b) is repealed since the term "exceptional children" is no longer used.
Sec. 14.30.320. Reimbursement for hospitalized or homebound children. [Repealed, Sec. 5 ch 70 SLA 1963]. Repealed or Renumbered		
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.	AS 14.30.325 is amended to read: Sec. 14.30.325. Surrogate parents. (a) The department ~~shall~~ [MAY] by regulation provide for the appointment of surrogate parents to represent a <u>child with a disability</u> [EXCEPTIONAL CHILDREN] in matters relating to the provision of an appropriate public education.	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.
Sec. 14.30.330. Application for enrollment. [Repealed, Sec. 19 ch 147 SLA 1984]. Repealed or Renumbered		

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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.	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>.	This section is amended to substitute "children with disabilities" for "exceptional children".
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	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	This section is amended to substitute "children with disabilities" for "exceptional children". Subsection (a) is amended to clarify that religious schools are included in the category of private schools. 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. Subsection (b) is changed to state that along with written certification by a physician, it is

CORRECTION

**THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION**



Central Microfilm Services
Department of Education & Early Development
State of Alaska

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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.	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>.	This section is amended to substitute "children with disabilities" for "exceptional children".
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	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	This section is amended to substitute "children with disabilities" for "exceptional children". Subsection (a) is amended to clarify that religious schools are included in the category of private schools. 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. Subsection (b) is changed to state that along with written certification by a physician, it is

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education program under AS 14.30.278 at the child's home or at a medical treatment facility.	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.	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.
Sec. 14.30.345. Regulations. [Repealed, Sec. 59 ch 98 SLA 1966]. Repealed or Renumbered		
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.	AS 14.30.347 is amended to read: Sec. 14.30.347. Transportation of [EXCEPTIONAL] children <u>with disabilities</u>. 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	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.

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	the [EXCEPTIONAL] child <u>with a disability</u> .	
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	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;	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

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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 surrogate parent appointed under AS 14.30.325 .	(9) "related services" means services that are considered as "related services" in 34 CFR 300.24, as amended; (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; (11) "special education" means an educational program that is considered as "special education" in 34 CFR 300.26, as amended; (12) "due process hearing" means a hearing conducted under AS 14.30.193; (13) "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.	to add state boarding schools and the state centralized correspondence study program; (11) "special education" is changed to incorporate the federal definition of special education under IDEA 97; (12) "due process hearing" is added to this section and provides the state statutory reference; (13) "informed consent" is added to this section to specify the conditions under which appropriate written consent may be obtained from parents.
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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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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.		
	AS 14.30 is amended by adding new sections to read: Article 3A. Education for Gifted Children	The following sections have been added to clarify the statutory requirements for providing gifted education programs.

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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).	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.	This section substitutes "gifted child" for "exceptional children". This section changes "appropriate public education" to "appropriate education" for children enrolled in a public school.
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	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.	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.

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and related services provided under AS 14.30.180 - 14.30.350.		
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	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	This section substitutes "gifted child" for "exceptional child". This section specifies that each district must create a plan for identifying children enrolled in public school who are gifted. This section lists the requirements that districts must fulfill in providing gifted education services, including - 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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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. (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.	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. (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 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 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.	- of its decisions under this - section that includes a description of the available procedural safeguards.
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	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:	This section substitutes "gifted child" for "exceptional children". This section changes "individualized education

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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 objectives are being achieved. (b) Each meeting concerning an exceptional child must include (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; (2) the child's teacher; (3) at least one of the child's parents; (4) the child, when appropriate; (5) other individuals selected by the parent or school district. (c) Each school district shall develop an individualized education program for every exceptional child who receives services or whose parent requests services	(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; (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. (b) The persons invited to participate in each meeting to develop the program under (a) of this section must include (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; (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.	program" to "individualized gifted education program" and lists the components required to be addressed in the gifted education program. 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. This section clarifies the required team members to develop the gifted education program.
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under AS 14.30.180 - 14.30.350.		
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.	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.	This section substitutes "gifted child" for "exceptional children".
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	Sec. 14.30.356. Procedural safeguards. A school district shall inform the parent of a gifted child of the following procedural safeguard rights: (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	This section substitutes "gifted child" for "exceptional children".

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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).	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.	
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	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,	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. Proposed changes include the following: - Parents must request a

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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 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	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 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. (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.	due process hearing no - 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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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.	(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.	Appeals are no longer - made to the department.
	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.	This section specifies that teachers of gifted children must be certified. This section clarifies that qualified substitute teachers without gifted certification may also serve as substitute teachers of gifted children.

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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	Sec. 14.30.359. Definitions. Unless the context otherwise specifies, 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 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; (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 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	These definitions have been placed in this section since they pertain to gifted education. The term "gifted education" has been added to the definition list to distinguish the term from special education or education for exceptional children.
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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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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.		
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	ADDITIONAL STATUTORY REVISIONS: AS 14.30.640 AS 47.80.090(9) AS 47.80.900(6) AS 29.60.599 (7)	These three sections have been amended to delete references to "exceptional" children and to insert "children with disabilities" and "gifted children" as appropriate. 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.
	REPEALED SECTIONS IN PROPOSED STATUTE 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. 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. AS 14.30.195 (a) The department shall, by regulation, provide for administrative appeal hearings, based on the record, of impartial hearing	The revised AS 14.30.186 clarifies the agencies responsibility for providing special education and related services. The revised AS 14.30.193 clarifies that the department, not the school district, is responsible for appointing an impartial hearing officer. This section is repealed since the revised due process hearing procedures no longer contain the

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

	consent is sought and the parent understands and voluntarily agrees to the activity or release of records; 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; AS 14.350(6) "gifted children" means children who exhibit outstanding intellect, ability, or creative talent as determined under regulations adopted by the department; 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;	the term "informed consent". The definition of "exceptional children" is repealed since this term is no longer used in the statute. The definition of "gifted children" is repealed and replaced in section 14.30.359. 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.
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FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____

Bill Version: _____

HB 71

() Publish Date: _____

Revision Date/Time (Note if correction): 2/6/01

Dept. Affected: Education & Early Dev.

Title: An Act relating to special education . .

BRU: Teaching & Learning Support

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	40.4	40.4	40.4	40.4	40.4	40.4
Travel	6.0	6.0	6.0	6.0	6.0	6.0
Contractual	47.0	47.0	47.0	47.0	47.0	47.0
Supplies	10.0	10.0	10.0	10.0	10.0	10.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	103.4	103.4	103.4	103.4	103.4	103.4

CAPITAL EXPENDITURES

CHANGE IN REVENUES ()

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	103.4	103.4	103.4	103.4	103.4	103.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	103.4	103.4	103.4	103.4	103.4	103.4

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time	1					
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 a general fund increment 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, Deputy Director

Division: Teaching & Learning Support

Approved by: _____

Agency: Department of Education & Early Development

Phone 465-8727

Date/Time 2/6/01 12:00 AM

Date 2/6/01

For distribution information, call the Governor's Legislative Office

HB 71
Fiscal Note Budget Narrative

Current state law and the proposed HB 71 require the state to oversee gifted education programs provided by school districts. Federal special education funding may not be used for these purposes since gifted education is not a federal mandate. Therefore, the following funds are required to enable the state to fulfill its oversight responsibility.

Personal Services

*.5 FTE Education Specialist II, 21 A/B	\$36,200
**10 FTE Admin. Clerk II, 8 B	<u>\$ 4,200</u>
Total	\$40,400

*This fiscal note includes personal services costs for a .5 FTE Education Specialist II. This position is reflected on page 1 of the fiscal note as 1 new full-time position. The other half of this position is reflected in a department increment in the FY2002 budget for the statewide correspondence program.

**An existing position will be used for the Administrative Clerk II position. No new position is being requested in this fiscal note.

Travel

Due Process Training for 2 days @ \$1,000 each	\$ 2,000
Monitoring to accompany contractor for 4 visits @ \$1,000 each	<u>\$ 4,000</u>
Total	\$ 6,000

Contractual

Contractor:

Training, 10 days @ \$500 per day	\$ 5,000
Due Process Hearings, 4 @ \$5,000 each	\$20,000
Monitoring visits, 2 contractors at \$500 per day, 3 days each, 4 districts per year	\$12,000
Monitoring visits, \$1,000 each trip, 4 trips	\$ 4,000
Postage, phone, copier, printing	<u>\$ 6,000</u>
Total	\$47,000

Supplies

Training materials, other supplies	<u>\$10,000</u>
Total	\$10,000

Grand Total \$103,400

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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