

# 1996-97 State Budget Overview

The joint House/Senate Conference Committee adopted its final conference report on the state budget for 1996-97 in late May which was subsequently adopted by both the House and Senate. As reported in earlier issues of Actionline, all indications were that health and human services programs, including many benefitting people with mental retardation and other developmental disabilities, would face major budget cuts. **The good news is that, in most cases, the budget cuts did not materialize.** The Comptroller's last minute certification of another \$500+ million in available revenue gave conference committee members the flexibility to restore many of the cuts that had been proposed in the House version of the budget.

However, the proposed budget includes reduced funding levels for some programs as well as new budget instructions to the agencies that potentially could lead to selective budget cuts during the biennium.

The following is a summary of major budget decisions as they stand today:

**(1) Texas Department of Mental Health and Mental Retardation (TXMHMR):** Not only did TXMHMR avoid budget cuts, the Legislature granted limited funding increases that should allow a modest expansion of critical services over the next two years.

Travis State School, probably by the end of 1997. The budget fully funds community placements for all state **In-Home and Family Support Services:** The Legislature provided \$1 million in expansion funding for each year of the biennium. Such will allow approximately 350 additional families to be served.

**Intermediate Care Facilities: Mentally Retarded:** The budget fully funds all current ICFMR placements through the biennium but provides little room for a rate increase in the next two years. The

rate issue may present a problem to some classes of ICFMR providers who have not received a major rate increase in several years.

**Home and Community-based Services:** Advocates had been concerned that the HCS budget would be cut resulting in 600 current recipients losing services. This did not happen. The Legislature fully funded the HCS budget to allow all current recipients to continue to be served.

**State School Closure:** The budget allows for the continued downsizing of the state school system according to the Lelsz Settlement Agreement. Fort Worth State School is expected to close late this summer; school residents projected to move into

## *Legislature granted limited funding increases.*

community programs for the next two years. Surprisingly, the Legislature also allowed TXMHMR to retain within its budget the roughly \$9 million in general revenue expected to be saved by the closure of the Fort Worth State School and other institutional downsizing efforts (often referred to as the "closure dividend").

**Equity of Access:** TXMHMR plans to use the \$9 million "closure dividend" to draw down about \$12 million of federal Medicaid funds to fund new HCS placements. These new placements will be targeted toward those areas of the state (i.e. mostly major metro areas such as Harris and Dallas Counties) which are currently below the state average for mental retardation services dollars. This strategy should enable TXMHMR to fully fund the first two years of its long-term Equity of Access Plan for Mental Retardation Services. Hundreds of new HCS placements will be developed in these areas by 1997.

**Supported Employment:** Despite a strong advocacy effort and the support of Comptroller John Sharp, the Legislature did not provide expansion funds for Supported Employment activities. But, there is some good news. The Legislature enacted legislation that likely will, over time, produce more employment opportunities for people with disabilities. See story below.

**(2) Texas Rehabilitation Commission (TRC):** TRC fared moderately well in the budget battle. The Legislature fully funded all current TRC services and provided for a modest increase in the General Vocational Rehabilitation program...if additional federal funding becomes available. Most importantly, threatened budget cuts in the Extended Rehabilitation Services (ERS) program did not occur. No service cut-backs in either the TRC supported work program or TRC funded sheltered workshops are expected in the next two years.

**(3) Early Childhood Intervention (ECI):** ECI was one of the few state agencies that did not face the threat of budget cuts in 1996-97. Because ECI became an "entitlement" program last year it will receive an increase in federal funds in the next biennium. This influx of federal money should ensure the operation of all current programs and a modest level of expansion over the biennium.

**(4) Texas Department of Human Services (TDHS):** TDHS programs took some severe budget hits. The Frail Elderly program which provides alternatives to nursing home placement for persons who are elderly and non-elderly physically disabled will be completely phased out in 1997. Thousand of people with functional disabilities will lose services and face placement in nursing homes. In addition, no increases were granted for

(Continued on page 3)

## Budget Overview...

(Continued from page 2)

the TDHS In-Home and Family Support program which has a large waiting list.

However, there was some good news. The CLASS (Community Living Assistance and Support Services) received a modest budget increase: \$ 2 million for the biennium.

**(5) Texas Department of Health (TDH):** While some TDH programs were cut, two of interest to people with disabilities received modest budget increases and one avoided threatened budget cuts:

**Immunization Services** received a \$1.9 million increase for the biennium.

**Chronically Ill and Crippled Children Services** was granted \$5 million in expansion funds for 1996-97.

**Early and Periodic Screening, Diagnosis, and Treatment (EPSDT)** was funded at current service levels.

While most - but not all - disability services fared well in the budget process, at least two legislative budget decisions may present big problems for state agencies over the next two years:

(1) In an effort to reduce the size of state government, the Legislature has directed state agencies to downsize their staffs. **The Legislature will reduce the general revenue budgets of each agency by 1.26% each year to force compliance.** For TXMHMR, that could mean a loss of up to \$10 million per year. Since TXMHMR services are employee-intensive, the agency will face a real problem in complying with this legislative directive. Other health and human

services agencies face similar difficulties.

(2) In an effort to get agencies to reduce their Workers Compensation claims, the Legislature directed that **25% of those claims be paid directly out of the agency's program budgets** rather than from a separate state fund which has previously paid all claims. Again, for TXMHMR, this could mean a loss to program budgets of up to \$7.5 million per year. Other agencies face a similar dilemma.

Disability advocates, including Arc members and ACTIONLINE readers, deserve much credit for their efforts to support key agency program budgets. Your efforts helped to stop proposed budget cuts and were, in part, responsible for increased budgets in several important programs. **CONGRATULATIONS.**

## TEXAS EDUCATION AGENCY APPROPRIATION NEWS

◆ Despite attempts by the Texas Education Agency (TEA) to decrease the amount from the \$13 million originally recommended by the Legislative Budget Board and passed by the full House and Senate to \$6 million, the Arc, Advocacy Inc. and the Texas Planning Council for Developmental Disabilities were able to secure inclusion in the appropriations bill of \$10 million to be "set-aside" for professional development for school personnel who will be working with students with disabilities in integrated settings. The money would come

from IDEA discretionary funds, not from the allotment that goes to school districts for providing special education services.

### ***The money would come from IDEA discretionary funds.***

Special thanks to Representative Rob Junell (D- San Angelo) and Senator Carlos Truan (D-Corpus Christi) of the joint House-Senate conference committee on appropriations for working with

advocates to facilitate the \$10 million compromise with TEA Commissioner Moses.

◆ The TEA budget also includes money ear-marked for Non-Educational Community Based Support Services for students at risk of institutional placement, and continues to allocate \$50,000 for programs for parents and professionals who work with students with autism.



## EDUCATION REFORM UPDATE

Actionline readers know that the Texas Legislature worked all session to re-authorize the Texas Education Code. After months of testimony, debate and political bargaining, a bill was finally approved by both chambers that will change the face of public schools for years to come. Major proposals regarding, among others, teacher certification and salary increases, de-regulation and local control, "safe schools", operation of Education Service Centers, and textbook adoption were enacted into law.

Because both the Senate and House versions of SB 1 contained a number of significant differences, a conference committee composed of Senators Ratliff, Luna, Sibley, Nelson and Armbrister and Representatives Sadler, Williamson, Hochberg, Dear and Hernandez was appointed to iron out the discrepancies. The following is a summary of

several of the most important aspects of the bill to persons interested in special education, Arc's activity on the issue, and which legislators were most helpful in advancing our position. If any of the legislators named are *your* representatives, please be sure



Denise Brady, Claude Wilson of the DD Council and Senate Education Committee Policy Analyst Stephanie Korcheck discuss Special Ed concerns in SB 1.

to thank them in the coming weeks!

While we were able to develop a number of new "friends" in the capitol this session, more work needs to be done in the interim educating legislators and the new Commissioner of Education on the importance of

considering the impact on students with disabilities in everything they do. With one or two exceptions, most legislators don't consider students with disabilities when they are discussing general school reform. Every battle to include students with disabilities in portions of the bill not specifically labelled "Special Education" -- such as accountability, discipline, and others -- took an extraordinary amount of time and effort. We need **you** to help us educate and inform both local and state

policy makers during the interim to insure students with disabilities will benefit from the many reforms passed with this bill. NOW is the time to get involved like never before!

Note: A special thanks this session goes to Kay Lambert of Advocacy Inc., as well as Cassie Fahrney of the Texas Council of Administrators of Special Education and Claude Wilson

from the Texas Planning Council on Developmental Disabilities for their work with Arc on education issues this session. Through collaboration and teamwork we achieved much more than any organization could have done alone. Our gratitude!

# INSIDE SENATE BILL 1

## LOCAL CONTROL

Provisions in SB 1 will allow voters in school districts to decide to apply to TEA for various types of "charters", which if granted would allow them to waive most state laws and regulations that apply to other schools. Among the several types of charters -- home rule charters, open enrollment charters, and campus or campus program charters -- **home rule** became the most controversial.

Although home rule districts as originally proposed would have had to follow **federal** special education laws, advocates argued that state special education laws provide some important additional guarantees for students with disabilities. Working with members of the Legislative Study Group (the "progressive caucus" in the House of Representatives) also concerned about allowing school districts to function with so little regulation, we were able to assist with an amendment to add

protections in the bill requiring home rule and other charter schools to comply with federal **and state** special education laws.

Thank you to Representative Vilma Luna (D-Corpus Christi) and her staff for sponsoring a floor amendment to add the special education language. Appreciation also goes to the conference committee for voting to keep the language in the final version of the bill.

## VOUCHERS

A Senate proposal to establish a limited number of pilot projects allowing certain "economically disadvantaged" students to receive a *public education scholarship* redeemable at a participating private school (including religious schools) was **eliminated** by the conference committee and **will not** be in the new law. The Senate proposal had included protections for special education students and would have required the private school to provide the

educational and related services the student needed.

Although The Arc of Texas had taken no official position on vouchers, every major education, professional and

parent/teacher organization was opposed to the proposal. Thanks to Senator Ratliff (R-Mt. Pleasant) for his work in ensuring students with disabilities would have been able to access the program if it



Senator Bill Ratliff assures Denise Brady students with special needs will be protected. The Senator's General Counsel, Ellen Williams looks on.

## FUNDING WEIGHTS

The system of funding special education has not been addressed this session as it was a part of the school finance sections of the law that are *not* expiring in September. However, the bill directs the

Legislative Budget Board to conduct a study of the various allotments in the code, **including the funding weights for special education**, and report the results to the legislature by November of 1996. You'll recall that a similar study mandated two

sessions ago formed the basis for revisions last session in the funding weights to eliminate some of the incentive to segregate students. This study will be a very important activity and we will keep you informed of its progress.

### ACCOUNTABILITY

The Arc, Advocacy, Inc, the Texas Planning Council on Developmental Disabilities and the Texas Council of Administrators of Special Education were successful in maintaining provisions in the final bill requiring TEA to develop a method of including students who do not take the TAAS test (in some districts almost half of special education students) in the state's accountability system. By the 1998-99 school year, all schools should be utilizing an alternative assessment system to measure

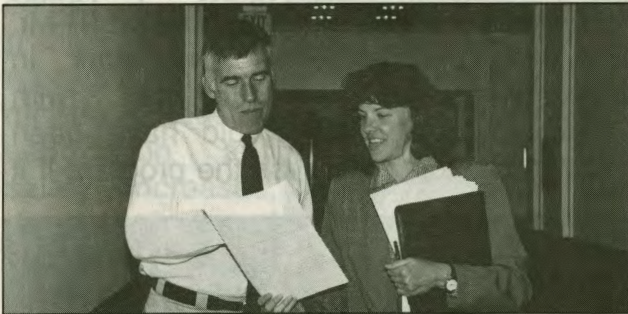
the progress of students who are unable to take the standardized TAAS test. The information about the progress of those students will then be included in a district's annual performance report sent out to the public, the school's "campus report card", and will be a part of the *Academic Excellence Indicators* that are considered before a school receives an accreditation ranking (i.e. "exemplary", "recognized", "acceptable", or "unacceptable").

Until the alternative system is in place, however, TEA is supposed to increase its monitoring of the number of exemptions districts report. For example, the Commissioner must authorize a *special accreditation investigation* when there are determined to be "excessive numbers of allowable

exemptions" from the state assessment.

Thanks to Senator Ratliff and his staff, Representative Scott Hochberg (D-Houston) and his staff, and Representative Ric Williamson (R-Weatherford) for their continued support on this issue.

Note: The Division of Special Education at TEA has been looking into developing an alternative assessment system for several years. The agency has recently contracted with the Region IV Education Service Center to develop an "Issue Paper" and action plan regarding how an alternative system might be implemented in Texas. An advisory group to the study will be meeting over the summer and early fall and will contain representatives from The Arc, Inclusion Works and the state's Special Education Advisory Committee as well as other disability organizations.



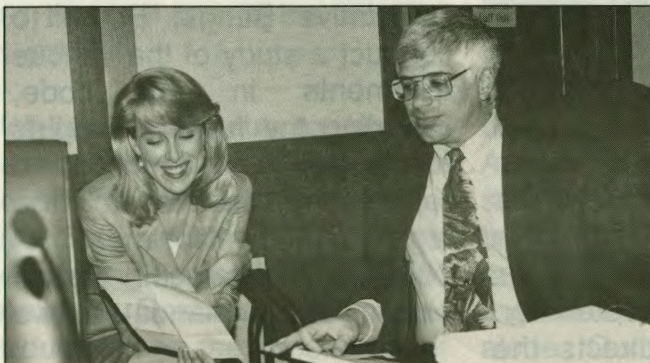
Representative Ric Williamson points out important accountability provisions in the final version of SB1.

### ALTERNATIVE SCHOOLS

The Arc and Advocacy Inc. were also successful in getting protections in SB 1 that will prohibit students with disabilities from being sent to "alternative schools" unless they meet the behavioral criteria other students must meet to be referred there.

Thanks to Senator Ratliff, Representative Christine Hernandez (D-San Antonio) and Representative Williamson

and their staffs for including these protections in their alternative schools proposals.



Legislative aide Rhonda McCullough points out an amusing proposal for SB1 to Representative Scott Hochberg.



## DIPLOMAS FOR STUDENTS WHO RECEIVE SPECIAL EDUCATION SERVICES

**W**ithout any advance notice, a proposal was put forward during the conference committee deliberations requiring all students to pass the TAAS test before receiving a high school diploma. This would mean that thousands of special education students would no longer get high school diplomas after graduating under an Individualized Education Plan.

The rationale for the proposal involved several concerns, foremost of those being the possible unfairness of allowing special education students to get diplomas without passing TAAS while not giving diplomas to *non-special* education students who can't pass the test. Additionally, some legislators felt that employers and the public would experience an increased faith in the often maligned public school system if they could expect a high school diploma to represent a graduate's ability to read, write

and perform math. Those legislators advocated that students who could not master such skills (as evidenced by the TAAS test) but who did complete



Representative Paul Sadler tries to pound into Denise that the phone calls worked. They got the message.

their IEP's be allowed to participate in graduation and receive a "Certificate of Coursework Completion", but not receive a diploma.

Within 24 hours of hearing news of the proposed action, parents, special ed administrators, advocates, teachers and others generated **hundreds** of phone

calls to members of the conference committee opposing the Certificates of Completion instead of diplomas for special education students. The proposal was revisited later the next day, and language allowing special education students to continue receiving diplomas if they complete their IEP was passed by a 8-2 margin. Senators Jane Nelson (R-Flower Mound) and David Sibley (R-Waco) continued to vote against the compromise.

Many many thanks to all the individuals who responded so quickly by generating "phone trees" in their communities on this issue. Grass roots action really does work!!! Thanks also to Representative Sadler (D-Henderson) and the other members of the conference committee who supported our efforts.

## STATE BOARD OF EDUCATION RULES

SB 1 lessens the authority of the State Board of Education to adopt and implement rules to govern school district activity in a number of areas, including special education. In addition, the code requires the State Board to "sunset" all current rules and only re-authorize those that are thought to be absolutely required by state or federal law.

Advocates may remember that the SBOE special education rules underwent a "sunset" process in early 1991. During that process, numerous parents came to Austin to testify and wrote letters to the Commissioner of Education expressing support for most of the special education rules. SBOE rules govern the day-to-day behavior of school districts regarding

special ed students, including who may come to an ARD meeting, timelines for notifying parents, specific components of an IEP, and others.

Arc and Advocacy Inc. attempted to exempt special education rules from another sunset process due to the recent review but were not successful. We will continue to keep you informed on this issue.

## SUPPORTED EMPLOYMENT

Even though the Legislature did not fund the TXMHMR request for new funding to expand Supported Employment services to additional workers with mental retardation, two pieces of good news may help promote an expansion of such services in coming years.

**(1) HB 1863, the proposed Welfare Reform bill, includes language recommended by Comptroller John Sharp which will improve the degree to which agencies work cooperatively in developing supported employment services. The bill includes the following provisions:**

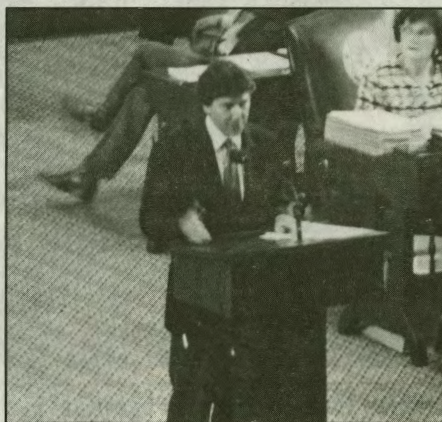
a. The Legislature directs the Health and Human Services Commission, each health and human services state agency, and each agency that operates a workforce development programs to adopt the following Statement of Vision:

**" The State of Texas shall ensure that all Texans with disabilities have the opportunity and support necessary to work in individualized, competitive employment in the community and to have choices about their work and careers."**

b. The Legislature authorizes an

interagency work group to implement the action plan adopted at the 1994 Supported Employment Summit. The Comptroller will monitor the work group to ensure the implementation of the plan.

c. The Legislature also directs agencies to fill more positions within their employee ranks with people with disabilities, directs TRC to provide training to other



Representative Elliott Naishtat debates the Supported Employment bill on the House floor.

agency personnel in the use of federal work incentives to fund Supported Employment services, and directs TEA to take steps to better prepare special education students for integrated work options upon graduation.

(2) Last November, the Board of

TXMHMR adopted a far-reaching and visionary Policy Statement supporting expansion of Supported Employment Services for people with mental illness and mental retardation. **The Board directed staff to develop a five-year state plan for expanding supported employment services within the MHMR system.**

MHMR staff unveiled their plan in May. It calls for every MHMR authority in the state to develop specific local plans for expanding supported work opportunities and requires that local service contracts funded by the state reflect specific program goals. The plan also commits the TXMHMR central office to providing technical assistance, marketing and other support to achieve the stated goals.

TXMHMR is putting the plan out to the public for comment. If you would like a copy, call Susan at The Arc of Texas State Office.

These developments may result in positive action by TXMHMR and other state agencies to utilize current resources, including program budgets, to promote and expansion of Supported Work programs in coming years.

## OTHER BILLS OF INTEREST

### **HB 573 by Naishtat:**

This bill would have prohibited the execution of persons with mental retardation convicted of a capital offense effective September 1, 1995. It would have also placed a moratorium on the execution of persons considered to be mentally retarded currently on death row and established an interim

legislative study committee to review the circumstances of people with mental disabilities involved in the criminal justice system. **This bill died in House Committee.**

### **HB 648 by Ramsay:**

This bill would have increased the Personal Needs Allowance for

residents of ICFMR facilities from \$30 to \$35. **This bill died in House Committee due to the size of its fiscal note.**

### **HB 1659 by Naishtat:**

This bill requires that at least one member of the nine-member Board of TXMHMR be a consumer or

*(Continued on page 9)*

# MEDICAID REFORM

As reported in earlier editions, Medicaid reform was a major project for the Texas Legislature this session. The House and Senate passed a set of bills that constitute a sweeping reform of the state's Medicaid program. These bills have implications for both acute care and long-term care services.

The acute care portions of the proposal will call for most poor people, including many people with disabilities, to receive Medicaid-funded medical services through some type of managed care

organization. **The proposal may make it easier for many poor people to have access to a doctor, but may also limit the scope or quality of care.** Much of the details of how this proposal will work have yet to be developed. We will try to keep you updated as additional information becomes available. The Arc and other health and human services advocates were successful in adding language that we hope will protect the rights and interests of people with disabilities and their families as this new system is developed.

The proposal also calls for the state to experiment with home and community-based alternatives to nursing homes and other institutions for the delivery of long-term care services to people who are elderly or disabled. Again, much of the detail of these proposals have yet to be worked out. **But the legislation may expand the number and scope of community-based services for people with mental retardation and other disabilities.**

## D.C. HAPPENINGS

**A**s the state Legislative Session winds its way towards completion, things are beginning to heat up in the federal Congress. Several issues currently on the Congressional front-burner could dramatically impact people with mental retardation and other disabilities.

### (1) Children's Supplemental Security Income (SSI) program:

Serious discussion of the future of the Supplemental Security Income (SSI) program for children with disabilities is now underway in the halls of Congress. The House has already adopted a proposal that would reform the children's SSI program by drastically cutting the number of children that would be eligible, the supports they could receive, and the conditions under which they could benefit from the program. **If the House proposal becomes law, tens of thousands of children could potentially be**

**excluded from SSI payments and medical services.**

The Senate is just beginning to develop its proposals regarding children's SSI. **Advocates are encouraged to make personal phone calls to the U.S. Senate offices of Senator Phil Gramm and Kay Bailey Hutchison to urge them not to deny SSI to kids with disabilities.**

**Senator Gramm:**

**202-224-2934**

**Senator Hutchison:**

**202-224-5922**

We anticipate additional Action Alerts from our national Arc Governmental Affairs office when the Senate is nearing action on a specific proposal. We will pass those alerts on to you as we get them.

### (2) Medicaid Restructuring Proposals:

A variety of proposals are being recommended to both the U.S. House of Representatives and the Senate regarding reforming the federal Medicaid program. Proposals that may be seriously considered later this summer include: **Block granting Medicaid and transferring authority for administration of the program to the states, capping the amount of federal dollars that can be directed into the Medicaid program in the future, or ending the "entitlement" feature of Medicaid.** Since the Texas mental retardation and disability service system is largely funded by Medicaid, any change in the program could have serious consequences for Texans with mental retardation and other disabilities.

We are advised that action on the issues could come as early as August. Again, we will keep you

*(Continued on page 11)*



**MORE D.C. HAPPENINGS...**

advised of developments in this arena. In the meantime, advocates are encouraged to contact your Congressperson to urge their support for Medicaid funding for disability programs.

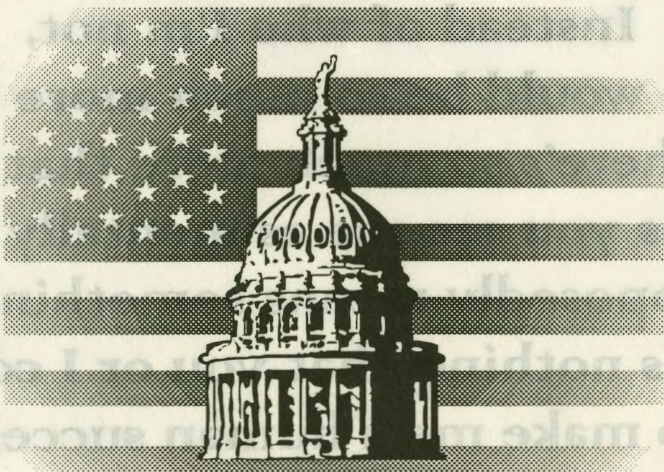
**(3) IDEA**

The reauthorization of the IDEA is still on schedule for the summer and fall months. Major sections of the law will be expiring on October 1st of this year if not re-enacted. Hearings are planned in D.C. over the summer, and Congress hopes to have a bill drafted by the August recess.

Congressional staff working on the issue have requested that families and students who have received special education services write letters regarding the benefits of IDEA. Send your letters to: The Honorable Bill Frist, Chair Subcommittee on Disability Policy Senate Committee on Labor and Human Resources

Washington, D.C. 20510  
Send a copy of your letter to The Arc of Texas c/o Denise Brady for our files.

In other federal education news, the Office of Special Education Programs (OSEP) is scheduled to once again visit Texas for a monitoring visit in October of this

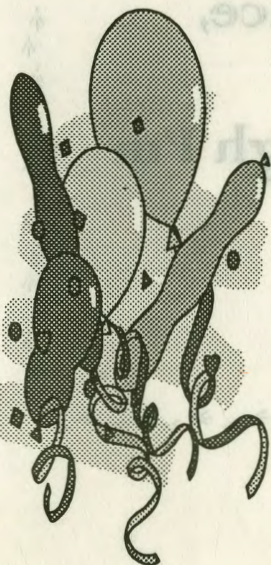


year. OSEP periodically visits each state to assess their compliance with federal IDEA regulations. Their last visit was in 1992, and numerous individuals

testified about concerns at a series of public hearings OSEP conducted before touring selected school districts. Watch your mail for more information on the fall visits.

**(4) Assault on the ADA**

Several members of the U.S. House of Representatives are preparing legislation that could dramatically impact the rights of citizens with disabilities. **The Americans with Disabilities Act is under a heavy barrage of Congressional criticism.** House members, including the influential Rep. Dick Armey of Texas, are recommending that the ADA be amended to restrict the definition of "disability". Efforts are now underway by the disability community at the national level to prevent the unproductive amendment of the ADA. More information will be shared as we get the news.



**YOU MADE  
A DIFFERENCE!!**

**SPECIAL THANKS TO EACH AND EVERY  
ONE OF YOU FOR YOUR HELP DURING  
A VERY TOUGH  
LEGISLATIVE SESSION**

Oh, What a Beautiful Mourning

If you could only know me for who I am  
Instead of who I'm not,  
There would be so much more to see  
'Cause there's so much more that I've got  
So long as you see me as mentally retarded  
Which supposedly means something, I guess,  
There is nothing that you or I could do  
To make me a human success.  
Someday you'll know that tests aren't built  
To let me stand next to you.  
By the way you test me, all they can do  
Is make me look bad through and through.  
And someday soon I'll get my chance,  
When some of you finally adapt  
You'll be delighted to know that though I'm  
Mentally retarded,  
I'm not at all handicapped!