

Introduced: 4/23/71
Referred: Health, Welfare
& Education

1 IN THE SENATE

BY MERDES

2 CS SENATE BILL NO. 236

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a food service and nutrition
7 education program for children; and providing for
8 state participation in similar federal programs."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 14 is amended by adding a new chapter to read:

11 CHAPTER 52. FOOD SERVICE AND NUTRITION EDUCATION.

12 Sec. 14.52.010. FINDINGS. (a) The legislature finds and declares

13 (1) the proper nutrition of the state's children is a matter
14 of highest priority;

15 (2) there is a demonstrated relationship between the intake
16 of food and good nutrition and the capacity of children to develop and
17 learn;

18 (3) the teaching of the principles of good nutrition in
19 schools has been seriously inadequate, as evidenced by the existence
20 of poor or less than adequate diets at all levels of family income;

21 (4) any procedure or "means test" to determine the eligi-
22 bility of a child for a free or reduced price meal is often degrading
23 and injurious both to the child and his parents; and

24 (5) the national school lunch and related child nutrition
25 programs, while making significant contributions in the field of applied
26 nutrition research, are not, as presently constituted, capable of
27 achieving the goal of good nutrition for all children.

28 (b) The assurance of proper nutrition for our children is a
29 public concern. The legislature urges that, when possible, assistance

1 be provided from all available state and local sources to children in
2 nonprofit private schools and in nonpublic, nonprofit service institu-
3 tions, as well as to children in the state's public schools, so that
4 they may receive the full benefits of the programs authorized under
5 this chapter. Nevertheless, in situations where this assistance is
6 not forthcoming in adequate amounts the schools and institutions may
7 require of parents a registration fee to help finance the operation
8 of food service programs.

9 Sec. 14.52.020. POLICY; LEGISLATIVE INTENT. (a) It is the
10 policy of the state to assure adequate nutrition offerings for the
11 state's children, to encourage the teaching of the principles of good
12 nutrition as an integral part of the total educational process, and
13 to strengthen state and local administration of food service programs
14 for children. It is also the policy of the state that food service
15 programs conducted under this chapter be available to all children on
16 the same basis without singling out or identifying certain children
17 as different from their classmates.

18 (b) It is the intent of the legislature in enacting this chapter
19 to implement the federal Child Nutrition Act of 1971 and authorize the
20 state's participation in this program.

21 Sec. 14.52.030. FOOD SERVICE PROGRAM FOR CHILDREN ESTABLISHED.

22 (a) The commissioner shall formulate and administer cooperatively with
23 appropriate federal, state and local agencies a universal food service
24 and nutrition education program for children in the schools of the
25 state and in service institutions conducting programs for the benefit
26 of all children. To the fullest extent practicable, the commissioner
27 shall utilize the available services and expertise of other related
28 federal, state and local departments and agencies, school districts
29 and private organizations concerned with nutrition and nutrition

1 education in the formulation of program requirements and regulations.
2 The program shall be designed to provide each child an equal opportunity
3 to participate on the same basis as all other children with no dis-
4 crimination as to time or place of serving or types and amounts of
5 foods offered.

6 (b) On recommendation of the advisory commission, the commissioner
7 shall promulgate regulations to carry out the purposes of this chapter,
8 and in so doing, shall comply with the Administrative Procedure Act
9 (AS 44.62) and applicable federal statutes and regulations.

10 Sec. 14.52.040. FEDERAL AID; STATE MATCHING. (a) The legis-
11 lature assents to federal aid under the Child Nutrition Act of 1971
12 on behalf of the state. The commissioner shall cooperate with the
13 federal government and do all things necessary to continue state
14 eligibility under that Act or any Act amending or supplementing it,
15 subject to prior concurrence of the governor.

16 (b) If the United States Congress enacts legislation making
17 federal money available to the states for a universal food service and
18 nutrition education program for children under the Child Nutrition Act
19 of 1971 it is the desire of the legislature that the governor or the
20 commissioner of education, as federal law may require, have sufficient
21 flexibility in the use of money appropriated to the Department of
22 Education to meet all reasonable federal requirements for obtaining
23 the full amount of federal money which may be obtained by the state
24 under this federal aid program. To the extent applicable, the provi-
25 sions of AS 14.50 are incorporated by reference in this chapter.

26 (c) For the first and second fiscal years of operations under
27 this chapter, expenditures from funds appropriated to the department
28 under this chapter, other than for the purchase or acquisition of land
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1 or for the cost of construction or alteration of buildings, shall con-
2 stitute at least 10 per cent of total operating costs of the program.
3 For the third fiscal year, the state share shall be increased to 12
4 per cent of operating costs and shall be increased by two per cent
5 every second year thereafter to reach a maximum of 20 per cent. For
6 each fiscal year of operations under this chapter, expenditures by
7 schools, school districts and service institutions, other than for the
8 purchase or acquisition of land or for the cost of construction or
9 alteration of buildings, shall constitute at least five per cent of
10 total operating costs of the program.

11 (d) The commissioner may make agreements with the appropriate
12 federal departments or agencies to enable participation in the programs
13 authorized by the Child Nutrition Act of 1971. The commissioner shall
14 incorporate, in his agreements with the federal government, the express
15 requirements under this chapter insofar as they may be applicable and
16 those provisions as in his opinion are reasonably necessary or appropri-
17 ate to effectuate the purposes of this chapter.

18 Sec. 14.52.050. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS. (a)
19 Meals and supplemental food services provided by schools and service
20 institutions participating in programs under this chapter shall meet
21 minimum nutritional requirements prescribed by the commissioner on the
22 basis of tested nutritional research and on recommendation of the
23 advisory commission.

24 (b) Food service programs operated under this chapter and
25 applicable federal legislation shall be operated on a nonprofit basis
26 under the supervision of the governing bodies of participating schools
27 or service institutions. Participating schools and service institutions
28 shall offer at least one meal a day without charge to all children in
29 attendance. The meal shall consist of a combination of foods meeting

1 a minimum of one-third of the child's daily nutritional requirements.
2 Additional meals or supplemental food services before, during or after
3 the school day may be offered to all children in attendance based on
4 economic or nutritional needs.

5 (c) No affidavit nor certification may be required of any parent
6 or guardian in order that a child take part in the food service program
7 operated by the school or service institution.

8 (d) The sale of extra food and beverage items offered on a regular
9 basis during the regular school day shall be restricted to those items
10 recognized as making a contribution to, or permitted by the school to
11 be served as a part of, a meal meeting the nutritional requirements
12 prescribed by the commissioner, and income from the sale of these items
13 shall be deposited to the account of the nonprofit food service program
14 and the income shall be used only for program purposes.

15 (e) The department shall determine the eligibility of applicant
16 schools and service institutions to participate in programs authorized
17 under this chapter and applicable federal legislation, shall determine
18 their need for assistance to carry out the purposes of this chapter
19 and shall establish controls to insure effective use of funds.

20 Sec. 14.52.060. DIRECT FOOD ASSISTANCE. A school or service
21 institution participating in programs authorized under this chapter
22 shall, insofar as practicable, utilize in its program foods donated
23 by the United States Department of Agriculture under applicable federal
24 law.

25 Sec. 14.52.070. APPORTIONMENTS AND PAYMENTS TO SCHOOLS, SERVICE
26 INSTITUTIONS. (a) The apportionment to each participating school,
27 school district and service institution shall be made on the basis of
28 the factors established by federal law, as supplemented by regulations
29 promulgated by the commissioner under sec. 30(b) of this chapter.

1 (b) The commissioner shall certify to the commissioner of adminis-
2 tration from time to time the amounts to be paid to any school, school
3 district or service institution under the provisions of this chapter
4 and the time or times these amounts are to be paid and the commissioner
5 of administration shall pay to the schools, school districts or service
6 institutions at the time or times fixed by the commissioner the amounts
7 certified.

8 Sec. 14.52.080. USE OF FUNDS. (a) Funds paid to the state by
9 the federal government for any fiscal year shall be disbursed to schools,
10 school districts and service institutions to assist them in financing
11 the operating costs of their food service program including the costs
12 of obtaining, preparing and serving food.

13 (b) These disbursements shall be made by the department at least
14 monthly and may be made not earlier than 10 days before the beginning
15 of each month of operations. Periodic adjustments in the amounts of
16 funds disbursed shall be made to conform with the provisions of federal
17 law.

18 Sec. 14.52.090. NONFOOD ASSISTANCE. (a) On recommendation of
19 the advisory commission the commissioner shall formulate and carry out
20 a program to supply schools, school districts and service institutions
21 with equipment, other than land or buildings, for the storage, prepara-
22 tion and transportation, and serving of food to enable these schools
23 to establish or expand food service programs for children.

24 (b) For the first five years of operation under this chapter the
25 commissioner shall apportion 50 per cent of funds appropriated for
26 the purposes of this section among the schools, school districts and
27 service institutions without a food service.

28 Sec. 14.52.100. NUTRITION EDUCATION. (a) The commissioner, in
29 cooperation with the Office of Education of the United States Department

1 of Health, Education and Welfare, and on recommendation of the advisory
2 commission, is authorized to formulate the basic elements of a nutrition
3 education program for children to be extended on a voluntary basis
4 through the department to schools, school districts and service insti-
5 tutions participating in programs authorized under this chapter. The
6 program shall include, without limitation, the preparation of course
7 outlines, based on the advice of experts in the field of child nutri-
8 tion, classroom teaching aids, visual materials, the training of
9 school food service personnel, and the training of teachers to conduct
10 courses in child nutrition.

11 (b) For the first fiscal year of operations under this chapter,
12 grants, other than grants made under sec. 70 of this chapter, for the
13 conduct of nutrition education programs for children shall be based
14 on a rate of 50 cents for each child enrolled in schools or service
15 institutions within the state and, for each fiscal year thereafter,
16 grants will be based on a rate of \$1 for each child so enrolled.
17 Enrollment data used will be the latest available as certified by the
18 department to the Office of Education of the United States Department
19 of Health, Education and Welfare.

20 Sec. 14.52.110. STATE PLANS OF OPERATION. The commissioner shall
21 submit to the secretary state plans of operation under the federal
22 Child Nutrition Act of 1971 at least three months before the first
23 fiscal year of operations under this chapter. These plans shall
24 include, without limitation, the following:

- 25 (1) proposed state and local funding;
- 26 (2) plans to extend food service to all eligible schools;
- 27 (3) plans for a nutrition education program to be conducted
28 in schools and service institutions;
- 29 (4) the types and kinds of food service to be offered to

1 children attending participating schools and service institutions, and
2 procedures and methods to be employed to assure high quality, nutritious
3 and appetizing meals for participating children;

4 (5) plans for supervision and audit of program operations;
5 the plans of operation must be approved by the commissioner before
6 disbursement of funds to participating schools, school districts and
7 service institutions;

8 (6) plans for conducting training programs for school food
9 service personnel;

10 (7) plans for conducting experimental or demonstration
11 projects.

12 Sec. 14.52.120. STATE, LOCAL ADMINISTRATIVE, SUPERVISION EXPENSES,
13 COSTS. (a) The commissioner may utilize federal funds granted under
14 the Child Nutrition Act of 1971 for use for its administrative expenses
15 in supervising and giving technical assistance to the schools, school
16 districts or service institutions in their conduct of programs under
17 this chapter. These funds shall be utilized only in amounts and to the
18 extent determined necessary by the commissioner to assist these schools,
19 school districts or service institutions in the administration of
20 additional activities undertaken by them under this chapter. Any
21 employee paid in whole or in part with federal funds provided under
22 the Child Nutrition Act of 1971 shall be included under either a merit,
23 civil service, or tenure system covering employees of the department
24 or school district.

25 (b) The commissioner may accept and disburse out of the federal
26 grants for the purposes of this chapter funds to assist in the super-
27 vision of local program operations. The grant to each school, school
28 district or service institution is to be determined on the basis of
29 federal law and regulations promulgated under it.

1 Sec. 14.52.130. ASSISTANCE TO NONPROFIT PRIVATE SCHOOLS. (a)
2 Federal assistance for food service to nonprofit private schools shall
3 be provided by the department either in the form of direct payments
4 or by payments made through the school district in which the nonprofit
5 private school is geographically located.

6 (b) If the department is precluded by law from making direct or
7 indirect payments to these schools, the commissioner shall withhold
8 funds from the apportionments to the schools or districts for the
9 purpose of making direct payments to these schools. Withholding of
10 these funds shall be based on the rate of federal assistance per child
11 per year for the schools or districts as determined by federal law or
12 regulation and the number of children attending nonprofit private
13 schools in the state.

14 Sec. 14.52.140. PILOT OPERATIONS. In cooperation with the United
15 States Department of Agriculture during the first full fiscal year
16 following the passage of the federal Child Nutrition Act of 1971 and
17 this chapter, the commissioner shall begin pilot operations in schools,
18 school districts or service institutions he selects on recommendation
19 of the advisory commission, utilizing available federal, state and local
20 funds to test and develop the most effective techniques and procedures
21 for effectuating the provisions of this chapter and for the purpose of
22 developing appropriate estimates of participation and costs.

23 Sec. 14.52.150. ACCOUNTS, RECORDS AND REPORTS. (a) The depart-
24 ment, schools, school districts, and service institutions participating
25 in programs under this chapter and the federal Child Nutrition Act of
26 1971 shall keep whatever accounts and records may be necessary to enable
27 the secretary and the commissioner to determine whether there has been
28 compliance under federal law, this chapter and the regulations promul-
29 gated under them. The accounts and records shall at all times be

1 available for inspection and audit by representatives of the secretary
2 and the department and shall be preserved for three years.

3 (b) The department shall provide periodic reports on expenditures
4 of federal funds, program participation, program costs, and other
5 required data on the form the secretary prescribes.

6 Sec. 14.52.160. EVALUATION. The commissioner and the advisory
7 commission shall carefully and systematically evaluate the programs
8 conducted under this chapter, directly or by contracting for independent
9 evaluations, with a view to measuring specific benefits, as far as
10 practicable, and providing information needed to assess the effective-
11 ness of program procedures, policies and methods of operation.

12 Sec. 14.52.170. ADVISORY COMMISSION. (a) There is in the
13 department an advisory commission to be known as the Advisory Commission
14 on Child Nutrition which shall be composed of not less than 13 members
15 appointed by the commissioner. Membership shall include a school
16 administrator, a person engaged in child welfare, a person engaged in
17 vocational education, a nutrition expert, school food service manage-
18 ment experts (one each from a rural and urban school), a school
19 governing board member, one representative each from the division of
20 agriculture of the Department of Natural Resources and from the Depart-
21 ment of Health and Welfare specially qualified to serve on the commis-
22 sion because of their education, training, experience and knowledge in
23 matters relating to child nutrition, and active members of parent-
24 teacher organizations or parents who have children attending schools
25 or service institutions participating in programs under this chapter.
26 Women and minority group representatives shall be included among the
27 membership.

28 (b) Members appointed outside the Departments of Education,
29 Natural Resources and Health and Welfare shall be appointed for

1 staggered, four-year terms determined by lot. Members appointed from
2 the Departments of Education, Natural Resources and Health and Welfare
3 serve at the pleasure of the commissioners appointing them.

4 (c) The commissioner shall designate one of the members to serve
5 as chairman, and one to serve as vice chairman of the commission.

6 (d) The commission shall meet at the call of the chairman but
7 shall meet at least twice a year.

8 (e) A majority of the members shall constitute a quorum and a
9 vacancy on the commission shall not affect its powers.

10 (f) In addition to its other duties set out in this chapter,
11 the commission shall make a continuing study of the operation of
12 programs carried out under this chapter with a view to determining
13 how the programs may be improved. Annually, the commission shall
14 submit to the commissioner, the governor and the legislature a written
15 report of the results of its study together with the recommendations
16 for administrative and legislative changes it considers appropriate.

17 (g) The commissioner shall provide the commission with the
18 technical and other assistance, including secretarial and clerical
19 services that may be required to carry out its functions under this
20 chapter.

21 (h) Members of the commission receive no salary but are entitled
22 to the same travel and per diem provided for other boards and commis-
23 sions.

24 Sec. 14.52.180. DEFINITIONS. In this chapter

25 (1) "advisory commission" means the Advisory Commission on
26 Child Nutrition established by sec. 170 of this chapter;

27 (2) "commissioner" means the commissioner of education;

28 (3) "department" means the Department of Education;

29 (4) "nonprofit private school" means any private school

1 exempt from income tax under sec. 501(e)(3) of the United States
2 Internal Revenue Code of 1954, as amended;

3 (5) "operating costs" means the cost of food and nutrition
4 services administration and supervision, labor, supplies, acquisition,
5 storage, preparation and service of food used in the food service
6 program, utilities, maintenance, repair, and replacement of equipment;
7 this term does not include the cost or value of land or acquisition,
8 construction, or alteration of buildings, nor does it include any
9 part of the general administrative and maintenance expenses for the
10 total school program;

11 (6) "secretary" means the Secretary of the United States
12 Department of Agriculture;

13 (7) "service institution" means private, nonprofit institu-
14 tions or public institutions which provide day care or other child
15 care services for children or handicapped children;

16 (8) "school" or "school district" means the governing body
17 which is responsible for the administration of one or more attendance
18 units and which has the legal authority to operate a food service
19 program; the term includes any public or nonprofit private primary,
20 elementary or secondary school through grade 12, and kindergarten and
21 preschool programs operated by these schools;

22 (9) "universal food service and nutrition education program"
23 means a program designed and operated to offer all children in group
24 situations away from home at least one meal a day which meets at least
25 one-third of the child's daily nutritional requirements; additional
26 meals or supplemental food services may be offered to all children in
27 attendance based on economic or nutritional needs; all food service
28 programs conducted under this chapter will operate without charge to
29 the child; the children to be covered under this chapter include those

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attending preschool, kindergarten, primary, elementary and secondary schools through grade 12 and children in service institutions as defined in this chapter; the term also includes a broad program of nutrition education to teach all children basic principles of good nutrition and the importance of good nutrition to health.

Sec. 14.52.190. SHORT TITLE. This chapter may be cited as the Alaska Child Nutrition Act.