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Original sponsor: Merdes

1 IN THE SENATE

BY THE HEALTH, WELFARE AND  
EDUCATION COMMITTEE

2 CS FOR SENATE BILL NO. 236 *Am*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND 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 that insofar as the food  
19 service and nutrition education programs of city or borough school  
20 districts, or of the state operated schools are affected by this chapter,  
21 the directives of this legislation are guidelines; the policies of  
22 this chapter are permissive and not mandatory.

23 (c) It is the intent of the legislature in enacting this chapter  
24 to implement the federal Child Nutrition Act of 1971 and authorize the  
25 state's participation in this program.

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

27 (a) The commissioner shall formulate and administer cooperatively with  
28 appropriate federal, state and local agencies a universal food service  
29 and nutrition education program for children in the schools of the

1 state and in service institutions conducting programs for the benefit  
2 of all children. To the fullest extent practicable, the commissioner  
3 shall utilize the available services and expertise of other related  
4 federal, state and local departments and agencies, school districts  
5 and private organizations concerned with nutrition and nutrition  
6 education in the formulation of program requirements and regulations.  
7 The program shall be designed to provide each child an equal opportunity  
8 to participate on the same basis as all other children with no dis-  
9 crimination as to time or place of serving or types and amounts of  
10 foods offered.

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

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

21 (b) If the United States Congress enacts legislation making  
22 federal money available to the states for a universal food service and  
23 nutrition education program for children under the Child Nutrition Act  
24 of 1971 it is the desire of the legislature that the governor or the  
25 commissioner of education, as federal law may require, have sufficient  
26 flexibility in the use of money appropriated to the Department of Edu-  
27 cation to meet all reasonable federal requirements for obtaining the  
28 full amount of federal money which may be obtained by the state under  
29 this federal aid program. To the extent applicable, the provisions

1 of AS 14.50 are incorporated by reference in this chapter.

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

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

22 Sec. 14.52.050. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS. (a)  
23 It is desirable that meals and supplemental food services provided by  
24 schools and service institutions participating in programs under this  
25 chapter meet minimum nutritional requirements prescribed by the  
26 commissioner on the basis of tested nutritional research and on recom-  
27 mendation of the advisory commission.

28 (b) Food service programs operated under this chapter and  
29 applicable federal legislation should be operated on a nonprofit basis

1 under the supervision of the governing bodies of participating schools  
2 or service institutions. Participating schools and service institutions  
3 should offer at least one meal a day without charge to all children in  
4 attendance. The meal should consist of a combination of foods meeting  
5 a minimum of one-third of the child's daily nutritional requirements.  
6 Additional meals or supplemental food services before, during or after  
7 the school day may be offered to all children in attendance based on  
8 economic or nutritional needs.

9 (c) It is preferable that no affidavit nor certification be re-  
10 quired of any parent or guardian in order that a child take part in  
11 the food service program operated by the school or service institution.

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

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

24 Sec. 14.52.060. DIRECT FOOD ASSISTANCE. A school or service  
25 institution participating in programs authorized under this chapter  
26 should, insofar as practicable, utilize in its program foods donated  
27 by the United States Department of Agriculture under applicable federal  
28 law.

29 Sec. 14.52.070. APPORTIONMENTS AND PAYMENTS TO SCHOOLS, SERVICE

1 INSTITUTIONS. (a) The apportionment to each participating school,  
2 school district and service institution shall be made on the basis of  
3 the factors established by federal law, as supplemented by regulations  
4 promulgated by the commissioner under sec. 30(b) of this chapter.

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

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

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

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

28 (b) For the first five years of operation under this chapter the  
29 commissioner shall apportion 50 per cent of funds appropriated for

1 the purposes of this section among the schools, school districts and  
2 service institutions without a food service.

3 Sec. 14.52.100. NUTRITION EDUCATION. (a) The commissioner, in  
4 cooperation with the Office of Education of the United States Department  
5 of Health, Education and Welfare, and on recommendation of the advisory  
6 commission, is authorized to formulate the basic elements of a nutrition  
7 education program for children to be extended on a voluntary basis  
8 through the department to schools, school districts and service insti-  
9 tutions participating in programs authorized under this chapter. The  
10 program shall include, without limitation, the preparation of course  
11 outlines, based on the advice of experts in the field of child nutri-  
12 tion, classroom teaching aids, visual materials, the training of  
13 school food service personnel, and the training of teachers to conduct  
14 courses in child nutrition.

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

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

- 29 (1) proposed state and local funding;

- 1 (2) plans to extend food service to all eligible schools;  
2 (3) plans for a nutrition education program to be conducted  
3 in schools and service institutions;  
4 (4) the types and kinds of food service to be offered to  
5 children attending participating schools and service institutions, and  
6 procedures and methods to be employed to assure high quality, nutritious  
7 and appetizing meals for participating children;  
8 (5) plans for supervision and audit of program operations;  
9 the plans of operation must be approved by the commissioner before  
10 disbursement of funds to participating schools, school districts and  
11 service institutions;  
12 (6) plans for conducting training programs for school food  
13 service personnel;  
14 (7) plans for conducting experimental or demonstration  
15 projects.

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

29 (b) The commissioner may accept and disburse out of the federal

1 grants for the purposes of this chapter funds to assist in the super-  
2 vision of local program operations. The grant to each school, school  
3 district or service institution is to be determined on the basis of  
4 federal law and regulations promulgated under it.

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

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

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

27 Sec. 14.52.150. ACCOUNTS, RECORDS AND REPORTS. (a) The depart-  
28 ment, schools, school districts, and service institutions participating  
29 in programs under this chapter and the federal Child Nutrition Act of

1 1971 shall keep whatever accounts and records may be necessary to enable  
2 the secretary and the commissioner to determine whether there has been  
3 compliance under federal law, this chapter and the regulations promul-  
4 gated under them. The accounts and records shall at all times be  
5 available for inspection and audit by representatives of the secretary  
6 and the department and shall be preserved for three years.

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

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

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

1 Women and minority group representatives shall be included among the  
2 membership.

3 (b) Members appointed outside the Departments of Education,  
4 Natural Resources and Health and Social Services shall be appointed  
5 for staggered, four-year terms determined by lot. Members appointed  
6 from the Departments of Education, Natural Resources and Health and  
7 Social Services serve at the pleasure of the commissioners appointing  
8 them.

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

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

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

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

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

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

29 Sec. 14.52.180. DEFINITIONS. In this chapter

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

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

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

5 (4) "nonprofit private school" means any private school  
6 exempt from income tax under sec. 501(e)(3) of the United States  
7 Internal Revenue Code of 1954, as amended;

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

16 (6) "secretary" means the Secretary of the United States  
17 Department of Agriculture;

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

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

27 (9) "universal food service and nutrition education program"  
28 means a program designed and operated to offer all children in group  
29 situations away from home at least one meal a day which meets at least

1 one-third of the child's daily nutritional requirements; additional  
2 meals or supplemental food services may be offered to all children in  
3 attendance based on economic or nutritional needs; all food service  
4 programs conducted under this chapter should operate without charge to  
5 the child; the children to be covered under this chapter include those  
6 attending preschool, kindergarten, primary, elementary and secondary  
7 schools through grade 12 and children in service institutions as  
8 defined in this chapter; the term also includes a broad program of  
9 nutrition education to teach all children basic principles of good  
10 nutrition and the importance of good nutrition to health.

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