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1 IN THE SENATE

BY THE HEALTH, WELFARE AND
EDUCATION COMMITTEE

2 CS FOR SENATE BILL NO. 236

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) No affidavit nor certification is required of any parent
10 or guardian in order that a child take part in the food service program
11 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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