

SB

101

HFIN

FILE

(11)

Date Referred: May 3, 1994

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Date of Committee Action: 5/5/94

The FINANCE Committee considered:

CSSB 101(FIN)(title am)

CS FOR SENATE BILL NO. 101(FIN)(title am)

ELIGIBILITY FOR PUBLIC ASSISTANCE

"An Act relating to interim assistance under the adult public assistance program; requiring the Department of Health and Social Services to consult with the Department of Education in order to develop an application process and disability determination system to implement the adult public assistance program."

RECOMMENDATIONS:

be replaced with HCS CSSB 101 (Fin) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendation

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) (2) HES, 4/28/94

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Larry Martin		Ronald J. Larson		X	
		Sean Farrell		X	
		Mark Hanley		X	
		Richard Foster		X	
		Therriault		X	
		EP Maclean			

Ronald J. Larson
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: CSSB 101 (FIN)
(S) Publish Date: 4-28-94

Revision Date: _____ Dept. Affected: Health and Social Services
Title: An Act relating to the Adult Public Assistance program BRU: Assistance Payments
Sponsor: Rules by Request Component: Adult Public Assistance
Requestor: Senate Finance COMPONENT SERIAL NO. 0222

Expenditures/Revenues:		(Thousands of Dollars)					
OPERATING	FY95	FY96	FY97	FY98	FY99	FY00	
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0	
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0	
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0	
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0	
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0	
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0	
GRANTS, CLAIMS	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0	
TOTAL OPERATING	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	
CHANGES IN REVENUES	0	0	0	0	0	0	

FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	
1004 GF	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0	
Other	0.0	0.0	0.0	0.0	0.0	0.0	
TOTAL	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	

POSITIONS:							
FULL-TIME	0	0	0	0	0	0	
PART-TIME	0	0	0	0	0	0	
TEMPORARY	0	0	0	0	0	0	

Estimate of current year (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

CSSB 101(FIN) reduces the cost of Adult Public Assistance Interim Assistance by eliminating eligibility for individuals who are pursuing administrative appeals of Social Security Administration denials of their disability claims. (Continued on Page 2)

Prepared by: Jan L. Hansen, Director
Division: Division of Public Assistance
Approved by Commissioner: Margaret R. Lowe
Agency: Department of Health & Social Services

Phone: 465-2680
Date: 4/27/94
Date: 4/27/94

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ANALYSIS (cont.):

Until 1986, Interim Assistance payments were made to applicants for APA disability payments only while the Social Security Administration was making its initial determination of their disability. In the 1986 Moore v Bierne decision, the Alaska Supreme Court found that the Legislature intended that Interim Assistance be paid not only during the initial determination, but also during administrative appeals of initial denials by Social Security. CSSB 101(FIN) returns the program to policies in effect prior to the Moore v Bierne decision.

Under CSSB 101(FIN), Interim Assistance would be paid only while Social Security is making its decision on an APA disability applicant's initial application for federal Supplemental Security Income benefits.

This bill also requires that Interim Assistance payments to applicants who are ultimately found ineligible for SSI be treated as overpayments and recovered by DHSS. These recoveries would be effected primarily through garnishment of Permanent Fund dividends.

We are unable to determine the fiscal impact of this legislation. Several different factors are involved in the bill's impact. Savings would result from:

- Decreased Interim Assistance caseloads by gradually eliminating SSI appellants from the caseload
- Eventual recovery of Interim Assistance paid to SSI ineligibles.

These savings would be offset by:

- Increased expenditures for retroactive APA payments to SSI appellants who are finally found eligible for SSI.
- Reduced Federal Receipts generated by the existing Interim Assistance reimbursement process.

The savings generated by this legislation would not begin until March 1995, and would initially be quite small because only individuals who apply for Adult Public Assistance after implementing regulations take effect would be impacted. We estimate net GF savings of \$134.9 in FY 95. Savings in FY 96 may be as high as \$964.2. Neither of these figures is reliable, and neither may appropriately be used for planning purposes.

Adopt

AMENDMENT |

OFFERED IN THE HOUSE

TO: CSSB 101 (FIN)(title am)

Page 2, lines 19 - 21:

Delete all material.

Insert a new bill section to read:

**** Sec. 5. APPLICABILITY.** AS 47.25.455(a) and (d), as amended by this Act, and AS 47.25.455(e) and (f), added by sec. 4 of this Act. apply to

(1) applications for assistance under AS 47.25.455 that are submitted to, or pending with, the Department of Health and Social Services on or after the effective date of this Act; and

(2) recipients of assistance under AS 47.25.455 whose determinations of eligibility for assistance under 42 U.S.C. 1381 - 1385 are not final by the effective date of this Act.

AMENDMENT

2 failed

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSSB 101(FIN)(title am)

Page 1, line 14:

Delete "The"

Insert "Unless the department determines that the person would be subject to substantial hardship if assistance under this section is terminated, the"

Page 2, line 4, after "determination":

Insert ". If the department determines that the person would be subject to substantial hardship if assistance under this section is terminated, the department shall continue assistance under this section during subsequent appeals of the initial or subsequent determinations"

failed

A M E N D M E N T 3

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSSB 101(FIN)(title am)

Page 1, line 12:

Delete "an initial"

Insert "a final"

Page 2, line 1:

Delete "an initial"

Insert "a final"

Page 2, lines 2 - 3:

Delete "and may not continue assistance under this section during subsequent appeals of the initial determination"



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

MEMORANDUM

TO: Representative Ron Larson, Co-Chair
Representative Eileen Maclean, Co-Chair
House Finance Committee

FROM: Senator Steve Frank, Co-Chair
Senate Finance Committee

RE: CS SB 101 (Finance)

DATE: 3 May 1994

I respectfully request that you schedule a hearing for CS SB 101 (Finance) at the earliest possible date. This legislation would amend the statutes which govern the interim assistance program in four ways:

(1) Interim assistance shall be terminated after an initial determination of SSI eligibility has been made. This amendment would allow the Division of Public Assistance to return to its practice which existed prior to the 1986 Alaska Supreme Court ruling in Moore v Beirne. Since the State APA program is intended to supplement the federal SSI program, there is nothing to supplement if the applicant is not eligible for SSI. This provision would save the State roughly \$940,000 in fiscal year 1995.

(2) Individuals applying for interim assistance shall agree to repay the State for such assistance upon a final determination of ineligibility for SSI, and (3) the amount of interim assistance owed to the State is considered an overpayment of public assistance. These provisions further the general purpose of public assistance programs of ensuring that ineligible applicants do not take funds from those who are eligible. In addition, these sections should serve as a disincentive to individuals making unfounded or spurious disability claims.

(4) The Division of Public Assistance and Division of Vocational Rehabilitation shall cooperate in establishing consistent standards to govern the disability determination process. Roughly two-thirds of those persons who are granted presumptive interim assistance benefits are ultimately found to be ineligible for APA and SSI. Since DVR makes the determination of disability through a contract with the Social Security Administration, this amendment directs DPA to consult with DVR in order to develop an efficient application process and disability determination system.

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR FRANK

TO: CSSB 101(FIN)

Page 2, line 17, after "submitted to":

Insert ", or pending with,"



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

SPONSOR STATEMENT: CS SB 101 (FINANCE)

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Sec. 47.25.435. Exclusion of income. Notwithstanding the provisions of AS 47.25.430 — 47.25.615, if the applicable provisions of 42 U.S.C. 301 — 1397f (Social Security Act), as amended, permit, in determining the need of an applicant for, or a recipient of, an assistance grant under AS 47.25.430 — 47.25.615, the department shall exclude from the computation of the applicant's or recipient's income the amounts specified in 42 U.S.C. § 1382a(b), as amended, amounts specified in regulations adopted to implement the supplemental security income provisions of federal law, and any amounts specified by the department by regulation so long as exclusion of those amounts is not in conflict with federal law. (§ 1 ch 64 SLA 1973; am § 3 ch 149 SLA 1975; am § 16 ch 138 SLA 1982)

Revisor's notes. — Enacted as AS 47.25.885. Renumbered in 1973. permanent fund dividend from income or resources. see AS 43.23.085.

Cross references. — For exclusion of

Sec. 47.25.440. Application for assistance. A person requesting assistance shall apply for it, either personally or through another, upon forms furnished and under regulations adopted by the department. (§ 51-2-52 ACLA 1949)

Sec. 47.25.450. Investigation of applicant. Upon application, the department shall investigate promptly and record the circumstances of each applicant to determine the facts supporting the application and other information required by the department. (§ 51-2-53 ACLA 1949; am § 17 ch 138 SLA 1982)

Sec. 47.25.455. Interim assistance. (a) The department shall pay at least \$280 a month to a person eligible for assistance under this chapter while the eligibility of the person for benefits under 42 U.S.C. 1381 — 1385 (Title XVI, Social Security Act, Supplemental Security Income Program,) is being determined. Payments in excess of \$280 a month may be made under this section if the department determines that money is available for excess payments.

(b) Notwithstanding (a) of this section, the department may not make monthly payments in excess of the total amount of state and federal monthly payments to which the person would be entitled if the person is determined to be eligible for benefits under 42 U.S.C. 1381 — 1385. (§ 18 ch 138 SLA 1982)

NOTES TO DECISIONS

Period for payments. — This statute requires state payment of interim assistance through the SSI appeals process until a final SSI eligibility determination is made administratively. Moore v. Beirne, 714 P.2d 1284 (Alaska 1986).
Construction of related regulations. — 7 AAC 40.370(c), which specifies that

§ 47.25.455 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.25.455

Effect of amendments. — The 1993 amendment, effective August 24, 1993, re-wrote subsection (b), updating the U.S. Code citations, adding the third sentence, and requiring the legislature to appropriate money for benefits to be increased; and added subsection (e).

Sec. 47.25.455. Interim assistance. (a) The department shall pay at least \$280 a month to a person eligible for assistance under this chapter while the eligibility of the person for benefits under 42 U.S.C. 1381 — 1385 (Title XVI, Social Security Act, Supplemental Security Income Program,) is being determined. Payments in excess of \$280 a month may be made under this section if the department determines that money is available for excess payments.

(b) Notwithstanding (a) of this section, the department may not make monthly payments in excess of the total amount of state and federal monthly payments to which the person would be entitled if the person is determined to be eligible for benefits under 42 U.S.C. 1381 — 1385.

(c) A person applying for assistance under this section shall, as a condition of eligibility for assistance, agree to repay the state for assistance granted upon the person's receipt of a benefit under 42 U.S.C. 1381 — 1383 for a month in which the person received interim assistance under this section. The monthly repayment required by this subsection may not exceed the amount of assistance that the person received under 42 U.S.C. 1381 — 1383 for that month.

(d) Beginning the first full month after a person is determined to be eligible for assistance under 42 U.S.C. 1381 — 1383, the department shall terminate interim assistance to that person under this section and begin payments to the person under AS 47.25.430. (§ 18 ch 138 SLA 1982; am § 6 ch 29 SLA 1993)

Effect of amendments. — The 1993 amendment, effective August 24, 1993, added subsections (c) and (d).

Chapter 30. Mental Health.

Article

1. Mental Health Trust Authority (§§ 47.30.011 — 47.30.061)
3. Alcoholics (§§ 47.30.470, 47.30.475)
4. Community Mental Health Services (§§ 47.30.520 — 47.30.550, 47.30.590, 47.30.610)
5. State Mental Health Policy (§ 47.30.660)
6. Alaska Mental Health Board (§§ 47.30.662, 47.30.664, 47.30.666, 47.30.667)
8. Involuntary Admission for Treatment (§§ 47.30.772, 47.30.800)
9. Patient Rights (§§ 47.30.825, 47.30.836 — 47.30.840, 47.30.847, 47.30.850)
10. Miscellaneous Provisions (§§ 47.30.910, 47.30.915)



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

MEMORANDUM

TO: Senator Steve Frank, Co-Chair
Senator Drue Pearce, Co-Chair
Senate Finance Committee

FROM: David Skidmore, Staff Aide

RE: Interim Assistance Program: Historical Overview

DATE: 25 April 1994

This memorandum is intended to provide a practical and historical perspective of the interim assistance program.

The Supplemental Security Income (SSI) program is a federal program administered by the Social Security Administration that provides aid to needy aged, blind, or disabled. The basic monthly SSI check is the same in all states: \$434 for one person and \$642 for a couple.

The Alaska Adult Public Assistance (APA) program, administered by the Department of Health and Social Services, Division of Public Assistance, supplements the SSI award to achieve a higher benefit level. Applicants for APA must also apply for SSI, and acceptance by the SSI program guarantees acceptance to the APA program.

A State-funded interim assistance (IA) provision gives cash assistance in the amount of \$280 per month during the application period while eligibility for SSI--and APA--is being determined. Since decisions on applications for aged and blind individuals are generally prompt, only disabled applicants as a rule utilize these IA benefits. Interim assistance is granted to those individuals who pass a cursory screening evaluation. All that is required is a certification by a physician or psychiatrist that the applicant is likely to be determined to be disabled. This is done on a one-page form provided by the department.

The department and the Social Security Administration (SSA) both utilize virtually the same definition of "disability" (see AS 47.25.615(5)--below--or 42 USC sec. 1382c(3)(A)):

"[D]isabled means being unable to engage in substantial gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or that has lasted for a continuous period of not less than 12 months;"

Upon a finding of disability by the SSA, interim assistance terminates because the applicant then begins to receive APA benefits; in other words, if an applicant is determined by the SSA to be disabled, then he or she becomes eligible for APA benefits.

If the SSI application is approved, the State will be reimbursed by the federal government for all IA payments made to the applicant during the waiting period; however, if the application is not approved, the State will not be reimbursed for benefits paid during the waiting period.

The interim assistance program is not required by federal law. In 1978 the department began providing interim assistance as an advance of the State share of the ultimate grant, pending SSI determination. At the time there existed no statutory obligation to provide this assistance. The program itself--as well as the \$280 minimum payment level--was put into statute by Chapter 138, SLA 1982 (see AS 47.25.455). The department interpreted the statute such that IA was terminated upon the initial determination by the SSA that the applicant was not disabled.

This interpretation was struck down by a 1986 Alaska Supreme Court ruling (Moore v. Beirne) which held that the statute required State payment of interim assistance through the SSI appeals process until a final SSI eligibility determination is made, thereby reversing the superior court judgment which had upheld the department's interpretation.

The State argued in Moore v. Beirne that since the Legislature intended that APA would be a supplement to--and coordinated with--the SSI program, termination of interim assistance upon an initial SSI determination is consistent with the statute and is within the discretion conferred therein. As Assistant Attorney General Dianne Olsen wrote in her brief, "Nothing in the statute requires a presumption of eligibility despite a finding of ineligibility. Since the State program is supplemental, there is nothing to supplement if the applicant is not eligible for SSI." In spite of the ruling by the Supreme Court, this line of reasoning remains sound.

The Division of Public Assistance anticipates spending \$2,184,000 on interim assistance benefits in FY95. Of that amount,

- * 37% (\$808,080) will be recovered through federal reimbursement;
- * 63% (\$1,375,920) will not be subject to federal reimbursement;
- * 57% (\$1,244,900) will be paid to individuals awaiting an initial SSI decision; and
- * 43% (\$939,100) will be paid to individuals appealing an SSI denial.

Please alert me if I can provide further information on this topic.

DIVISION OF PUBLIC ASSISTANCE
ALASKA ADULT PUBLIC ASSISTANCE AND INTERIM ASSISTANCE

- \$125,000 Estimated initial annual administrative cost for Interim Assistance
- \$280 Monthly payment to Interim Assistance recipient
- 8.8 months Average number of months IA paid before Social Security makes a decision on SSI application
- 53% of all IA recipients qualify for initial application and through the Social Security appeal process
- \$2,293,200 Anticipated Interim Assistance to be paid in FY95
- \$1,215,396 Anticipated collection (reimbursement) to the State in FY95

State of Alaska
Department of Health and Social Services
Division of Public Assistance
March 1, 1994

Interim Assistance Facts

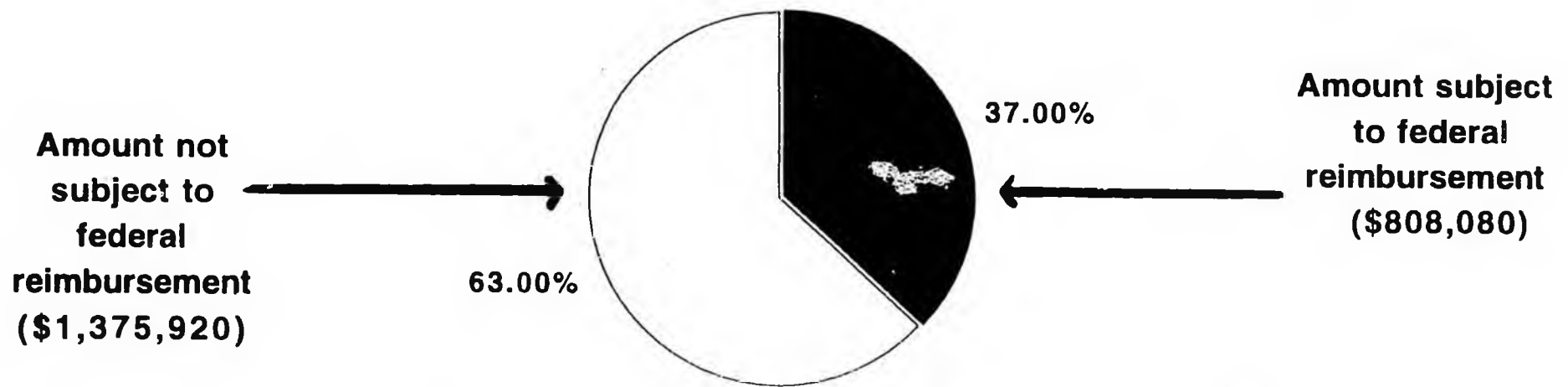
- Approximately 57 percent of all Interim Assistance (IA) recipients are awaiting an initial Supplemental Security Income (SSI) decision.
- The remaining 43 percent are appealing a negative SSI decision.
- Projected Adult Public Assistance (APA) expenditures for IA in FY 95 are \$2184.0. \$1244.9 (or 57 percent) of this will be paid to individuals who are awaiting an initial SSI decision. The remaining \$939.1 (or 43 percent) will be paid to individuals who are appealing an initial SSI denial.
- We expect to recover 37 percent of IA benefits paid in FY 95 through the Interim Assistance Reimbursement process.

**DIVISION OF PUBLIC ASSISTANCE
ADULT PUBLIC ASSISTANCE (APA)
CASELOAD BY CATEGORY**

	FY93 Actual	FY94 Projected	FY95 GOV	PerCent of Total
APA Program Cases				
Aid to the Disabled	4914	5461	6033	57.6%
Old Age Assistance	3802	4065	4354	41.5%
Aid to the Blind	91	92	92	0.9%
APA Total Cases	8807	9618	10479	100.0%
 APA Program Formula				
Aid to the Disabled	\$19,801.4	\$21,570.1	\$23,570.7	
Old Age Assistance	14374.3	15104.1	16070.7	
Aid to the Blind	383.6	384.8	381.3	
APA Total Budget	\$34,559.3	\$37,059.0	\$40,022.7	
OAA-ALB HH	2064.1	2267.6	2402.1	
TOTAL Expenditure	\$36,623.4	\$39,326.6	\$42,424.8	

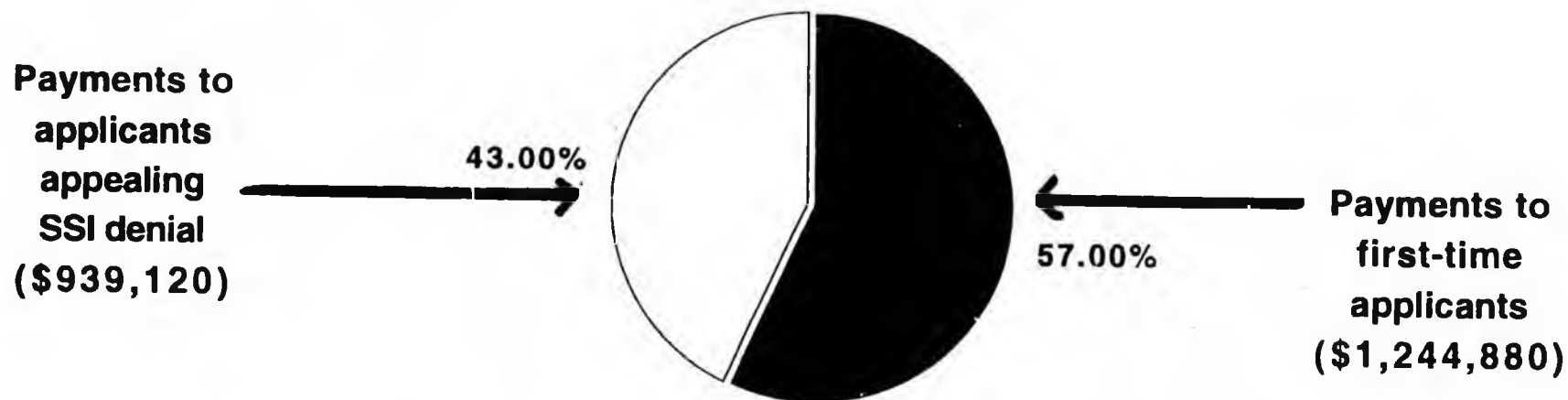
adoaab

FY95 INTERIM ASSISTANCE GRAPH 1



Total Projected Expenditure: \$2,184,000

FY95 INTERIM ASSISTANCE GRAPH 2



Total Projected Expenditure: \$2,184,000

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 5, 1993

101

The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Halford:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to eligibility for and payments of public assistance. The bill represents the Administration's proposal to control the growth of expenditures in formula welfare programs.

Section 1 of the bill would amend AS 47.25.320(a) to require that the maximum monthly amount of aid-to-families-with-dependent-children (AFDC) assistance for a second adult in a two-parent AFDC household be the same as for a second dependent child in a home where there is one adult. Currently, the monthly amount for a three-person household composed of two adults and one child is \$88 more than for a three-person household composed of one adult and two children; this difference increased to \$90 on January 1, 1993. Section 1 also amends the standards for families that include one or more dependent children living with a nonneedy relative, to bring the AFDC program into conformity with federal requirements that the increment for a second child be the same as the increment for any additional children.

The maximum grant amounts in AS 47.35.320(a) were last amended in 1982. However, under AS 47.35.320(d) those maximum amounts have been increased a number of times to reflect cost-of-living increases. Section 1 amends the maximum grant amounts, starting July 1, 1993, to roll back those amounts to the 1991 benefit level. Section 2 of the bill amends AS 47.25.320(d) to provide that the department may not increase those monetary maximums based on an increase in benefits that takes effect anytime during the calendar year that begins on January 1, 1994, nor on an increase in benefits that took effect on or before January 1, 1993.

Section 3 of the bill would allow DHSS to adopt regulations to establish a monthly need standard for AFDC that equals or exceeds the monthly payment standard for AFDC. In combination with the reduction of AFDC grant amounts in sec. 1 of the bill, this provision will provide an incentive for an AFDC family to augment its income within limits without automatically jeopardizing eligibility.

The Honorable Rick Halford
February 3, 1993
Page 2

Section 4 would amend AS 47.25.430(b), relating to cost-of-living increases in the adult public assistance program, to provide that the department will not increase the maximum state contribution to recipients by any cost-of-living increase that takes effect during the calendar year beginning on January 1, 1994, and to conform to the changes made by sec. 5 of the bill.

Section 5 of the bill requires DHSS to reduce the maximum state contribution to recipients in the adult public assistance program to the 1990 level and to adjust monthly grants of assistance accordingly.

Section 6 of the bill would amend AS 47.25.455 to provide for reimbursement for interim assistance and to eliminate retroactive adult public assistance payments to interim assistance recipients. The existing statute requires DHSS to pay \$280 per month to eligible individuals while the Social Security Administration (SSA) is processing their disability applications; once an individual is determined eligible, the SSA makes a retroactive payment to that person. With this change in AS 47.25.455, an applicant for interim assistance would have to agree at the time of initial application to have retroactive SSI benefits paid to DHSS to reimburse the state for the interim assistance received by the applicant.

Section 7 repeals AS 47.25.320(e) to conform to the change made in sec. 1 related to reducing grant amounts for two-parent households.

Section 8 provides transitional authority to allow DHSS to adopt regulations before July 1, 1993, but the regulations cannot take effect before that date. This provision should facilitate timely implementation of the new statutory changes.

Sections 9 and 10 provide for an effective date for the bill.

I urge your serious consideration of these proposals to control the growth of the state budget.

Sincerely,


Walter J. Hickel
Governor