

SB

116

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/22/01

FURTHER: Judiciary
Finance

Date of 5-Day Notice: 04/06/01
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 04/12/01

Health, Education and Social Services Committee considered SENATE BILL NO. 116
AK TEMPORARY ASSISTANCE PROGRAM AMENDMENTS

"An Act relating to the Alaska temporary assistance program; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 116 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Health & Social Services	2/15/01		X	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Craw D. Hansen</i>	✓			
<i>Asmussen</i>	✓			
<i>Betty Davis</i>	✓			
CHAIR: <i>Lyle Beer</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 116
(S) Publish Date: 2/22/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: ATAP Program Amendments BRU: Public Assistance
Component: ATAP
Sponsor: Rules
Requester: Governor Component Number: 220

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary.)*
Although this proposed legislation may allow more than 20% of the eligible ATAP caseload to receive benefits beyond 60 months, there are no projected financial impacts. The ATAP program is partially funded by the federal TANF block grant which does not vary regardless of the number of families served. Also, federal law requires the State to contribute a fixed amount of state funds toward the program, called maintenance of effort (MOE). Additionally, caseloads are projected to continue their downward trend.

Prepared by: Jim Nordlund Phone: _____
Division: Director of Public Assistance Date/Time: _____
Approved by: Elmer A. Lindstrom, Special Assistant Date: 2/15/01 4:29 PM
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

March 2, 2001

Honorable Lyda Green, Chair
Senate Health, Education and
Social Services Committee
State Capitol, Room 125
Juneau, AK 99801-1182

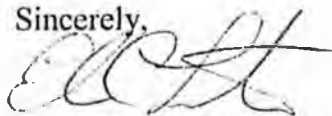
Dear Senator Green,

The Department of Health and Social Services respectfully requests a hearing in the Senate Health, Education and Social Services Committee on Senate Bill 116 "An Act relating to the Alaska temporary assistance program; and providing for an effective date."

This legislation would allow the department to refine the methodology used to determine hardship exemptions from the 60-month limit on receiving benefits through the Alaska temporary assistance program as well as to clarify the existing statutory provisions for seasonal reductions in benefits for two parent families.

A copy of the fiscal note submitted to the legislature at the time of introduction is attached. Your favorable consideration of this request will be most appreciated.

Sincerely,



Elmer A. Lindstrom
Special Assistant to the Commissioner

CC: Mike Abbott, Legislative Director
Office of the Governor

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: _____
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 Title: ATAP Program Amendments BRU: Public Assistance
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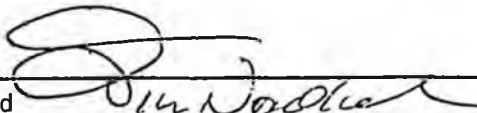
Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Although this proposed legislation may allow more than 20% of the eligible ATAP caseload to receive benefits beyond 60 months, there are no projected financial impacts. The ATAP program is partially funded by the federal TANF block grant which does not vary regardless of the number of families served. Also, federal law requires the State to contribute a fixed amount of state funds toward the program, called maintenance of effort (MOE). Additionally, caseloads are projected to continue their downward trend.

Prepared by: Jim Nordlund 
 Division: Director of Public Assistance
 Approved by: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 2-15-01
 Date/Time: _____
 Date: 2/15/01 9:05 AM

For distribution information, call the Governor's Legislative Office

SB
Proposed Amendment to HB 116

SEC 47.27.015 Disqualifying conditions

(f) The number of families for which an exemption is in effect under (a)(1) of this section may not exceed [10 PERCENT OR THE MAXIMUM PERCENTAGE OF FAMILIES ALLOWED AN EXEMPTION UNDER FEDERAL LAW, WHICHEVER IS GREATER] 20 percent of the average monthly number of families who were receiving Aid to Families With Dependent Children in state fiscal year 1994.

(g) A person who is an alien is not eligible for assistance under this chapter unless the person is a qualified alien under 8 U.S.C. 1641 or an alien excepted under 8 U.S.C. 1613

(h) A family that includes an adult who is eligible for the disregard of specific months under 42 USC 608(a)(7)(D) shall not have those specific months count for the purpose of disqualification under (a) of this section.

*Discuss w/
Reed*

**Proposed Amendment to
Senate Bill No. 116
3/15/2001 DRAFT**

Sec. 47.27.015. Disqualifying conditions. (a) A family is not eligible for assistance under the Alaska temporary assistance program if the family includes an adult who

(1) has received benefits under the Alaska temporary assistance program, or a program of another state operated under a federal assistance grant program for needy families, for a total of 60 months as the caretaker or spouse of a caretaker of a dependent child or as a pregnant woman, unless the caretaker or pregnant woman is

(A) a person who the department has reasonable cause to believe is or recently has been the victim of domestic violence, as defined in AS 18.66.990, and the physical, mental, or emotional well being of the victim would be endangered by a strict application of the time limit otherwise applicable under this subsection;

A victim of domestic violence will receive an extension beyond the 60-month time limit when it is determined that the individual is unable to gain or keep employment, participate in work activities, or achieve self-sufficiency as a result of the effects of domestic violence. If appropriate, the determination to allow an extension will be made in consultation with a domestic violence program and include a services plan that is designed to lead to work and alleviate the conditions that endanger the victim's well-being.

Proposed Amendment to
Senate Bill No. 116
3/15/2001 DRAFT

(B) determined, under regulations of the department to be physically or mentally unable to perform gainful activity;

The individual has a diagnosed physical condition or mental disorder severe enough to limit them from obtaining or retaining any type of employment either part- or full-time. Decisions to extend will be made in consultation with a qualified health professional. Exemptions will include but are not limited to:

1. The individual is physically ill or incapacitated as supported by documentation from a physician or other licensed medical professional and as a result of the illness or incapacity is not able to work;
2. The individual is diagnosed with a severe mental disorder and as a result of the disorder is not able to work;
3. The individual has applied for SSI but has not yet received a final determination of eligibility;
4. The individual is receiving needed treatment but is not job ready.

Proposed Amendment to
Senate Bill No. 116
3/15/2001 DRAFT

(C) a parent who is providing care for a child who is experiencing a disability;

[OR]

The individual is a parent who is not able to work because they are needed in the home to care for a disabled child with a diagnosed severe emotional, mental or physical condition.

- **The need for care must be supported by documentation from a physician or other licensed medical professional;**
- **The parent must be responsible for the personal care of the child;**

(D) a family determined by the department to be exempt from this paragraph by reason of hardship; [OR]

Hardship means that a family experiences severe or extraordinary barriers to employment and due to circumstances beyond their control is in need of additional months of assistance. To receive a hardship extension, a family must be identified as belonging to one of the defined categories below:

Proposed Amendment to
Senate Bill No. 116
3/15/2001 DRAFT

Lack of success at employment:

The individual complies with the Family Self-Sufficiency Plan and participates in work activities, and due to circumstances beyond their control, cannot earn wages sufficient to leave Temporary Assistance.

Exemptions would include but are not limited to:

- Diagnosed medical or mental health conditions that act as an impediment to employment for which care has been prescribed by a physician or other licensed medical professional including substance abuse and mental health treatment.
- Diagnosed functional limitations or impairments that act as an impediment to employment and take into consideration such factors as literacy level; learning or developmental disability; traumatic brain injury; or organic brain disorder.

Caring for a disabled relative

The individual is not able to work because they are needed in the home to care for a disabled relative with a diagnosed severe emotional, mental or physical condition. In addition the following conditions must apply:

- The need for care must be supported by documentation from a physician or other licensed medical professional;
- The individual must be responsible for the personal care of the relative;

**Proposed Amendment to
Senate Bill No. 116
3/15/2001 DRAFT**

Disaster

Families who are impacted by a specific catastrophic event meeting the criteria for a formal disaster declaration under state or federal laws.

Children at risk of placement

A child for whom an interagency team review determines that the termination of assistance would be likely to result in the child being placed into emergency shelter or foster care.

(2) is determined to be fleeing to avoid prosecution, custody, or confinement after conviction, in this or another jurisdiction, for a crime that is classified as a felony or a class A misdemeanor under AS 11 or the criminal laws of the jurisdiction where the criminal activity was committed.

(b) A family is not eligible for assistance under this chapter for a period of 120 months beginning on the date the adult applicant for the family is convicted or having fraudulently misrepresented the applicant's residence in order to receive assistance in more than one state under a program financed with federal money under any successor federal program that replaces the aid to families with dependent children program.

(c) A family is not eligible for the following time periods if the family's

**Proposed Amendment to
Senate Bill No. 116
3/15/2001 DRAFT**

demonstrated need for assistance is due to a refusal of or voluntary separation from suitable employment by the adult applicant, or a custodial parent or caretaker, without good cause:

- (1) one month for the first refusal or separation without good cause;
- (2) six months for the second refusal or separation without good cause; and
- (3) 12 months for the third and subsequent refusal or separation without good cause.

(d) A family is not eligible for assistance for up to 12 months if the family's demonstrated need is due to an intentional transfer of an asset or assets at less than fair market value for the purpose of establishing eligibility for assistance. A period of ineligibility shall begin on the first day of the month following the transfer of the asset or assets and shall remain in effect for a number of months equal to the fair market value of the transferred asset or assets divided by the maximum payment amount for the family as established under AS 47.27.025, or for 12 months, whichever is less.

(e) An Alaska temporary assistance program applicant or participant who is administratively disqualified for making a false statement or misrepresentation knowing it was false, or for knowingly failing to disclose a material fact, in order to obtain or increase assistance or services under this chapter is not eligible to receive assistance under this chapter for a period of

- (1) six months following the first disqualification;
- (2) 12 months following the second disqualification; and

**Proposed Amendment to
Senate Bill No. 116
3/15/2001 DRAFT**

(3) permanently following the third disqualification.

(f) The number of families for which an exemption is in effect under (a)(1) of this section may not exceed 10 percent or the maximum percentage of families allowed an exemption under federal law, whichever is greater.

(g) A person who is an alien is not eligible for assistance under this chapter unless the person is a qualified alien under 8 U.S.C. 1641 or an alien excepted under 8 U.S.C. 1612(b). However, a qualified alien may only be eligible for assistance under this chapter if the person is not precluded by the limited eligibility provision of 8 U.S.C. 1613.

(h) A family that includes an adult who is eligible for the disregard of specific months under 42 USC 608(a)(7)(D) shall not have those specific months count for the purpose of disqualification under (a) of this section.

(i) In determining if an individual or a family meets the criteria under (a)(1) the department will take into consideration compelling reasons for not achieving self-sufficiency. Compelling reasons under this section include the availability of services or treatment documented in the family's self-sufficiency plan.

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 21, 2001

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

Dear President Halford:

Five years ago my Administration worked with the Legislature to create a new welfare law for Alaska. Under the banner of welfare reform, we repealed the Aid to Families with Dependent Children and Job Opportunity and Basic Skills programs and created the Alaska Temporary Assistance Program (ATAP). We have had great success with the program, with more Alaskans transitioning from welfare to work and our caseload dropping by more than 40 percent. Like many other states addressing welfare reform, we recognize what changes are needed to improve our program administration and ensure its continued success. These changes are addressed in the bill I transmit today.

The bill repeals the percentage limit on the number of families that may continue on assistance for more than 60 months due to hardship. Removal of this limit will permit the Department of Health and Social Services to base its hardship exceptions on objective criteria rather than on a fixed percentage of overall caseload. As families are successful in finding work and the overall caseload decreases, the number of hardship cases makes up a greater percentage of the total.

Alaska set an extremely aggressive goal, compared to other states, in capping our hardship cases at a specific percentage of the total. Other states either avoided time limits completely or set a broader range of exemptions to the limits. We now recognize the fixed percentage in our law artificially bars needy families with disabled adults from receiving essential cash assistance and services for their children. The first families will begin to exceed the 60-month lifetime limit in July of 2002.

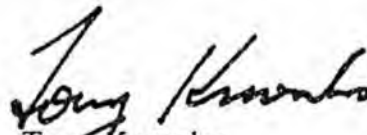
The Honorable Rick Halford
February 21, 2001
Page 2

The bill also addresses the seasonal reduction provisions for a two-parent needy family by removing outdated eligibility requirements as cited in a Superior Court ruling. This change permits the department to apply the seasonal reduction provision to all two-parent needy families in which both parents are physically and mentally able to work.

Finally, the bill requires disabled parents to have self-sufficiency plans. The state can better serve these parents by promoting their efforts toward self-sufficiency.

We have seen dramatic, positive changes for poor Alaska families. Thousands of recipients have been assisted into work and the state has saved millions of dollars in welfare benefit payments. The reform measures provided a durable framework for a new era of welfare in Alaska. I urge your favorable consideration for these improvements to the program.

Sincerely,


Tony Knowles
Governor

**Alaska Temporary Assistance Program Amendments:
Bill Summary
HB 142/SB 116**

Division of Public Assistance
February 8, 2001

**Section 1
Two-Parent Seasonal Reduction**

Two-parent families who receive Alaska Temporary Assistance (ATAP) benefits are subject to a seasonal benefit reduction during the months of July, August, and September when summer employment opportunities are high. During these months, ATAP payments to two-parent families are cut in half.

This section clarifies the statutory language regarding the seasonal reduction to two-parent families to support regulations that will reduce ATAP payments for able-bodied two-parent families by 50% during the months of July, August, and September regardless of employment status or which parent is the family's principal wage earner. In November 2000, the Superior Court found the Department's regulation inconsistent with the statute. The court found that to apply the two-parent seasonal benefit reduction the department must make a determination of which parent is the family's primary wage earner (PWE) and make a determination of whether the PWE is unemployed before it reduces the family's benefit in half. This would require the Division of Public Assistance (DPA) to return to policies similar to those in effect for ATAP's predecessor program Aid to Families with Dependent Children (AFDC). Setting this eligibility criteria discourages formation of two-parent families and does not "make work pay." It also involves cumbersome rules and administratively demanding processes that are both unnecessary and do not promote a family's self-sufficiency goals.

**Section 2
The 20% Cap on Exemptions**

July 2002 marks the first month families in Alaska will exceed the 60-month time limit for receiving Temporary Assistance benefits. Although the 60-month limit is a key element of welfare reform, there are families who will need continued support after receiving 60 months of assistance.

There has been a 42% overall caseload reduction in ATAP since November 1996. The rate of caseload decline is slowing, however, and many clients who remain on the caseload have significant challenges to employment such as family violence, learning disabilities, mental and physical health problems and problems with substance abuse. Some, but not all, of these families will be eligible for an exemption from the 60-month limit. Federal and state laws cap the exemptions at 20% of the current caseload and define eligibility criteria for the exemptions. As the caseload has declined sharply, so has the number of possible exemptions under the 20% rule. Less than half the families who could be considered for an exemption when ATAP passed can now receive one. In future years, the number of families receiving greater than 60 months of assistance will exceed the number of exemption slots available. Many of these recipients will be

unable to work despite their best efforts. The 20% cap in both federal and state laws precludes the use of either federal or state funds to serve many families who are truly needy.

This section repeals the arbitrary 20% cap on exemptions to the 60-month limit on benefits and allows the Department to grant extensions to each family based on the criteria in current law. Extensions can then be granted to all families who meet the specific criteria. This change is necessary to avoid placing families who meet the criteria on a waiting list for an extension, and meanwhile, denying supports for basic needs.

Family Self-Sufficiency Planning for Incapacitated Adults

This section repeals a provision now in statute which exempts incapacitated adults (physically or mentally unable to perform gainful activity) from completing a Family Self-Sufficiency Plan (FSSP). This change will help these vulnerable families to address their challenges by requiring them to engage in appropriate self-sufficiency activities such as wellness plans, treatment activities or pursuit of disability benefits. Even if the adult cannot work, the FSSP can be used to promote activities that will enhance well-being and quality of life for the individual and the family.

Section 3 Regulations

This section allows DHHS to immediately adopt regulations necessary to implement this legislation.

Sections 4 & 5 Effective Dates

FAMILIES FACING THE ALASKA TEMPORARY ASSISTANCE PROGRAM 60-MONTH TIME LIMIT

The Alaska Temporary Assistance Program (ATAP) provides assistance with basic needs and employment services to needy Alaskan families. Eligibility for the program is time-limited – state and federal law limits most families to a lifetime maximum of 60-months of assistance.

July 2002 marks the first month that some families in Alaska will reach the 60-month time limit for receiving Temporary Assistance. Although the time limit on Temporary Assistance is a key element of welfare reform, there are truly needy families who, despite their best efforts, will need continued support beyond 60 months. These families experience serious personal and social problems that interfere with their ability to find and keep work.

A survey of case managers who work with long-term recipients (those who have had 40 or more months of assistance) completed by the Division of Public Assistance reveals that the challenges faced by these families mirror national data on welfare recipients and include:

- **Physical health problems** - 49% suffer with moderate to severe health problems that make it difficult or impossible to work.
- **Disabled children in the home** – 21% care for children with severe medical or emotional problems.
- **Disabled relative in the home** – 11% care for another adult with a severe medical problem.
- **Domestic violence** - 23% reported family violence that impacted their ability to find or keep work.
- **Mental health issues** - 33% experienced mental health problems that interfere with employment.
- **Substance abuse** - 16% have problems with alcohol or other drugs.
- **Learning disabilities** – 12% experience a learning disability, which makes it difficult to read, write or handle mathematic calculations.
- **Literacy** – 18% have low literacy rates.
- **Multiple challenges** – 56% experienced two or more challenges, 28% faced three or more challenges.



Real Families With Real Needs

Examples of Families who are Helped by HB 142/SB 116

Frank* is a 48-year-old father of two children whose wife, Marianne, has significant medical problems requiring him to care for her. Marianne is permanently disabled and receives Social Security. Frank and their two children receive Temporary Assistance. One of the children is blind, requiring extra care. Frank participates in a home-based training program while he cares for his family, and plans to begin his own computer repair business, but it could be awhile before he works his way off assistance. The family has only 18 months before reaching the time limit.

Diane is a 40-year-old single mother with two children, one with severe medical problems. The child is in special education classes, but is ill often, which requires Diane to be available for care. She has not found an employer who is able to accommodate her need for frequent sick leave. The family has only 17 months left before reaching the time limit.

Theresa is a 36-year-old mother battling depression while raising three children. In addition to Theresa's medical condition, she had serious challenges with a teenage son. Theresa and her son are both doing better and she hopes her medical condition is stabilized. Theresa has been working part-time this last year and is attempting to get a full-time job. The family has 20 months before reaching the time limit.

Deborah is a 46-year-old mother supporting her husband Charlie, who is incapacitated, and their five children. Deborah dropped out of high school and has minimal job skills. The family does not own a car and must use public transportation. Charlie is applying for Social Security disability benefits, and Deborah works full-time, resulting in a very low monthly benefit payment – but the family's assistance is still counting towards the 60-month time limit. They have four kids, one with a serious medical problem, plus they took in a nephew who might otherwise have gone into the child welfare system. The family has 20 months before reaching the time limit.

Helen is a 27-year-old single mother with 3 children. She has a learning disability and a low reading level and has received some remedial help in literacy. She is now employed and has a supportive boss who helps her work through the learning difficulties she encounters on the job. With further assistance, Helen may attain full-time employment at a higher wage, but it could take some time. The family has 25 months before reaching the time limit.

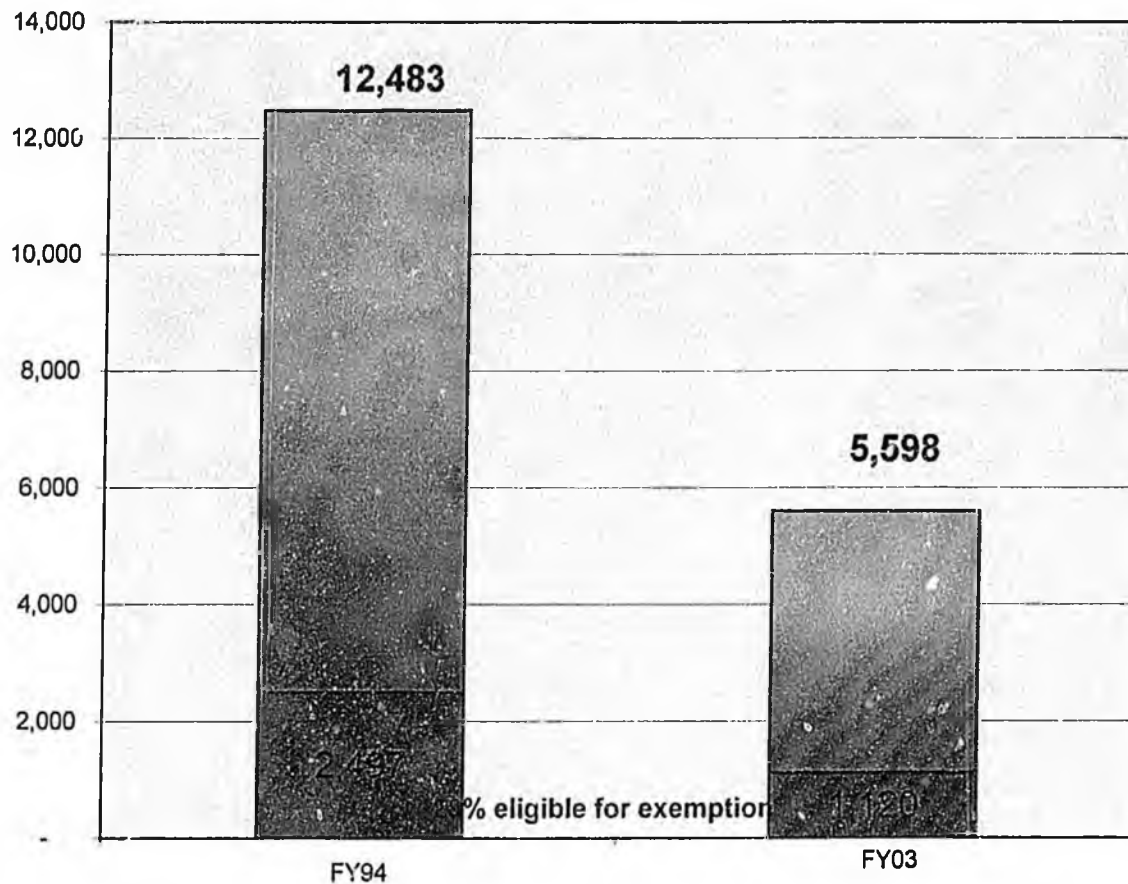
**all names have been changed to protect confidentiality*

Proposed Exemption Criteria for Families Reaching the 60-Month Time Limit for Receiving Temporary Assistance

State law provides that recipients may be eligible for an exemption from the 60-month time limit if they meet certain criteria. The Division of Public Assistance has been further developing these criteria for adoption in regulation. The criteria includes families in the following circumstances:

- **Victim of domestic violence**
A family would receive an exemption if an individual were unable to find or keep employment, participate in work activities or achieve self-sufficiency as a result of the effects of domestic violence.
- **Adult who is physically or mentally unable to perform gainful activity**
An exemption would be allowed for families with an adult who has a diagnosed physical condition or mental disorder severe enough to limit them from obtaining or retaining any type of employment either part- or full-time.
- **Parent who is providing care for a child who is experiencing a disability**
A parent would be exempted if he or she is not able to work because they are needed in the home to care for a disabled child with a diagnosed severe emotional, mental or physical condition. A licensed medical professional must verify the need for care.
- **Hardship**
Hardship means that a family is experiencing severe or extraordinary barriers to employment and, due to circumstances beyond their control, is in need of additional months of assistance. To receive a hardship exemption, a family must belong to one of the categories below:
 - **Lack of success at employment**
The recipient complies with the Family Self-Sufficiency Plan and is doing everything possible to become self-supporting, but cannot earn wages sufficient to leave Temporary Assistance. Examples of situations that could qualify include but are not limited to:
 - Diagnosed medical or mental health conditions that act as an impediment to employment for which care has been prescribed by a licensed medical professional;
 - Diagnosed functional limitations or impairments that act as an impediment to employment and take into consideration such problems as literacy level, learning or developmental disability or other brain disorders.
 - **Caring for a disabled relative**
The recipient is not able to work because they are needed in the home to care for a disabled relative with a diagnosed severe emotional, mental or physical condition that is verified by a licensed medical professional.
 - **Disaster**
Families are impacted by a specific catastrophic event meeting the criteria for a formal disaster declaration under state and federal laws.
 - **Children at risk of placement outside the home**
It is determined, based on prior involvement with Division of Family and Youth Services and a current assessment, that a child would likely be removed from the home and placed into emergency shelter or foster care if assistance was ended.

**Comparison of Number of Families
Eligible for 60-month Exemption, FY94 and FY03**



In FY94 the average monthly ATAP caseload was 12,483. By FY 2003, we expect the caseload will be 5,598. 20% of the FY94 caseload is 2,497, and 20% of the FY03 average caseload is 1,120. This is a 55% decline in the number of families eligible for an exemption to the 60-month limit.

**Projected Number of Temporary Assistance Families
Exceeding the 60-Month Time Limit**

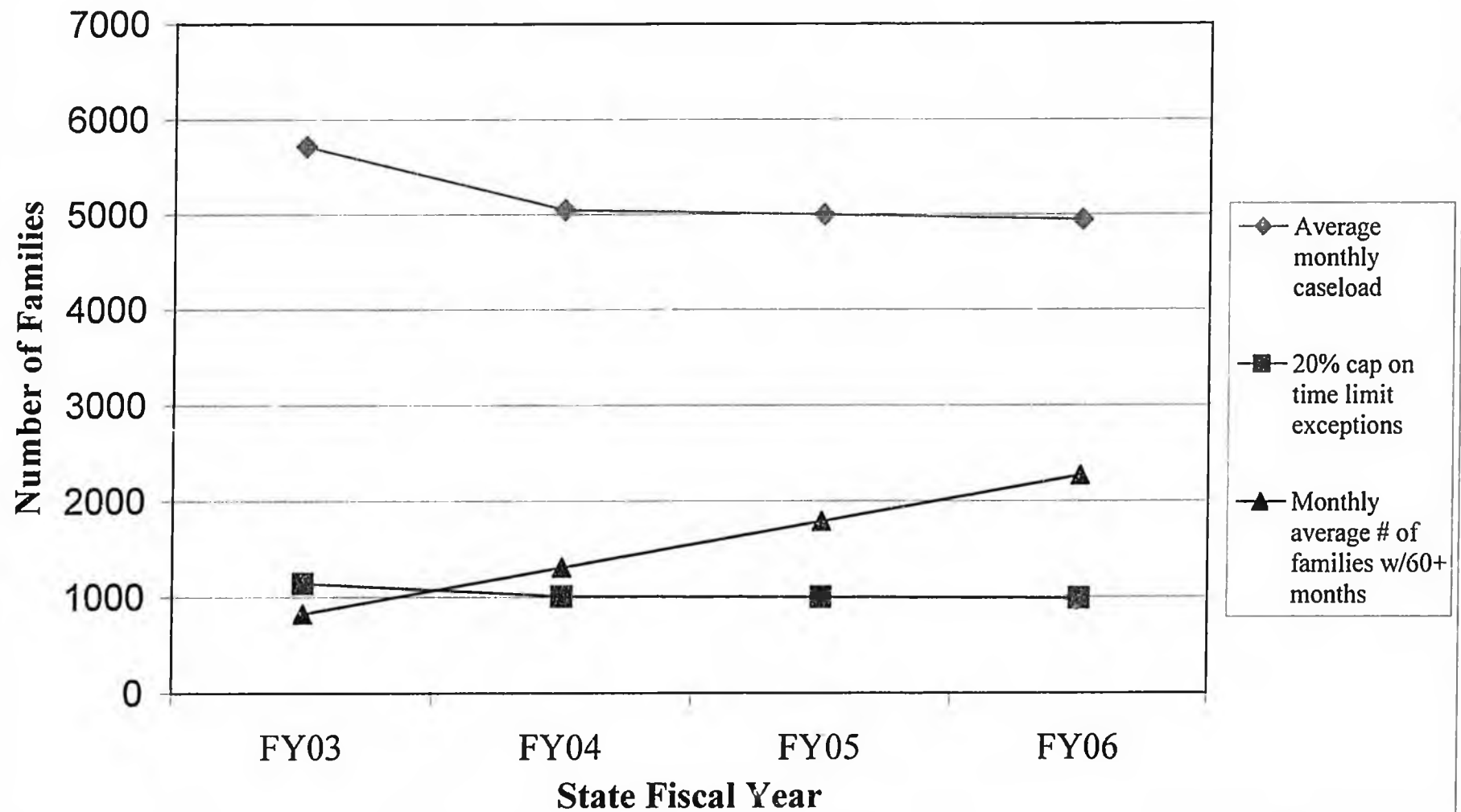
Fiscal Year	Average Monthly Caseload	Change From Previous Year	Exemptions Allowed under 20% Cap	Projected Average Families Over 60 mo.	Hardship Families Projected Eligible for Exemption	Non-Hardship Families Cut-Off	Hardship Families Cut-Off
FY94	12483		2497				
FY97	12096	0.6%	2419				
FY98	10514	-13.1%	2103				
FY99	8890*	-15.4%	1778				
FY00	7596*	-14.6%	1519				
FY01	6091**	-19.8%	1240				
FY02	5888	-3.3%	1178				
FY03	5598	-4.9%	1120	825	713	112	0
FY04	5262	-6.0%	1052	1265	1097	168	45
FY05	4900	-6.9%	980	1553	1349	204	369

Note: All Figures FY01 and later are estimates

* TCC excluded

** TCC, T&H, AVCP excluded FY01 forward

Results of Decrease in Caseload and Increase in Families with 60+ Months of Assistance



STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

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April 10, 2001

Honorable Lyda Green
Chair of the Senate HES Committee
Alaska State Legislature
State Capitol, Room 125
Juneau, AK 99801-1182

Re: Proposed CSSB 116

Dear Senator Green:

This is a response to the two questions posed for the Department of Law at the Senate HES Committee on Monday, April 9, 2001.

QUESTION 1: The first question was posed by Sen. Ward and sought clarification of the meaning of Alaska Native village for the purpose of the federal law's exclusion from the 60 month limit. The federal law cited in Section 1 of proposed CSSB 116 states:

(D) Disregard of months of assistance received by adult while living in Indian country or an Alaska Native village with 50 percent unemployment.

(i) In general

In determining the number of months for which an adult has received assistance under a State or tribal program funded under this part, the State or tribe shall disregard any month during which the adult lived in Indian country or an Alaskan Native village if the most reliable data available with respect to the month (or a period including the month) indicate that at least 50 percent of the adults living in Indian country or in the village were not employed.

(ii) "Indian country" defined

As used in clause (i) the term "Indian country" has the meaning given such term in section 1151 of Title 18.

The TANF legislation did not define or otherwise address the classification of "Alaska Native village. However, when the department adopted regulations to address time limits at 7 AAC 45.600(c), Alaska Native village was identified by reference to the ANCSA law:

For the purposes of this subsection, "Alaska Native village" means a village listed in 43 U.S.C. 1610 or 1615 (secs. 11 and 16 of the Alaska Native Claims Settlement Act). To determine the population and unemployment status of the adults living in a village or on a reservation, the division shall use the most current state or federal statistical data available, consistent with federal law.

An excerpt from federal law that lists the ANCSA recognized Alaska Native villages is enclosed with this letter.

QUESTION 2: The second question was directed to determining whether section 2 of CSSB 116 solved the problem raised by the court case. Because there were a number of issues raised in the court case and the court addressed only the one that it needed to in order to remand the case to the department, this question can be posed in a number of ways:

A) Does the language of CSSB 116 address the problem in the statutory language that was identified by the court?

YES. By removing the antiquated AFDC program based language, and replacing it with language that more clearly identifies two-parent families in terms of the ATAP program classifications set out at AS 47.27.010, the language that appears to require the department to evaluate each family on the basis of primary wage earner and employment status is removed.

B) Does the language in CSSB 116 maintain the categories that were originally intended to be subject to the seasonal reduction in the original ATAP legislation?

NO. This language requires that the seasonal reduction be applied to all two-parent families, without regard to whether there are two parents in the family who are capable of working. Thus, this language is a policy shift from the former language which exempted two-parent families in which one or more of the parents were incapacitated, or, in the language proposed in SB 116, "unless the second needy parent is determined, under regulations of the department, to be physically or mentally unable to perform gainful activity."

This category has already been defined by the department for the purpose of application of AS 47.27.015, 47.27.025, and 47.27.030 at 7 AAC 45.235. A copy of that regulation is enclosed for your reference.

Honorable Lyda Green
Chair of the Senate HES Committee

April 10, 2001
Page 3


C) Does the language in CSSB 116 address the complaint raised by the plaintiff in the court case?

NO. The plaintiff sought to expand the category of families that were exempt from the seasonal reduction by adding the category of those families in which one of the parents was providing care for a child who is experiencing a disability. (This family has a child who requires constant care due to her serious disabilities.)

If you have any other questions about the court case or the bill language, please feel free to contact me.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Kristen F. Bomengen
Assistant Attorney General

KFB:ebc

Enclosures

(b) List of Native villages subject to chapter; review; eligibility for benefits; expiration of withdrawals for villages; alternative eligibility; eligibility of unlisted villages

(1) The Native villages subject to this chapter are as follows:

NAME OF PLACE AND REGION

Afognak, Afognak Island.
 Akliok, Kodiak.
 Akiachak, Southwest Coastal Lowland.
 Akiak, Southwest Coastal Lowland.
 Akutan, Aleutian.
 Alakanuk, Southwest Coastal Lowland.
 Alatna, Koyukuk-Lower Yukon.
 Aleknagik, Bristol Bay.
 Allakaket, Koyukuk-Lower Yukon.
 Ambler, Bering Strait.
 Anaktuvuk, Pass, Arctic Slope.
 Andreefsey, Southwest Coastal Lowland.
 Aniak, Southwest Coastal Lowland.
 Anvik, Koyukuk-Lower Yukon.
 Arctic Village, Upper Yukon-Porcupine.
 Atka, Aleutian.
 Atkasook, Arctic Slope.
 Atmautluak, Southwest Coastal Lowland.
 Barrow, Arctic Slope.
 Beaver, Upper Yukon-Porcupine.
 Belkofsky, Aleutian.
 Bethel, Southwest Coastal Lowland.
 Bill Moore's, Southwest Coastal Lowland.
 Biorka, Aleutian.
 Birch Creek, Upper Yukon-Porcupine.
 Brevig Mission, Bering Strait.
 Buckland, Bering Strait.
 Candle, Bering Strait.
 Cantwell, Tanana.
 Canyon Village, Upper Yukon-Porcupine.
 Chalkyitsik, Upper Yukon-Porcupine.
 Chanilut, Southwest Coastal Lowland.
 Charfornak, Southwest Coastal Lowland.
 Chevak, Southwest Coastal Lowland.
 Chignik, Kodiak.
 Chignik Lagoon, Kodiak.
 Chignik Lake, Kodiak.
 Chistochina, Copper River.
 Chitina, Copper River.
 Chukwuktoligamute, Southwest Coastal Lowland.
 Circle, Upper Yukon-Porcupine.

Clark's Point, Bristol Bay.
 Copper Center, Copper River.
 Crooked Creek, Upper Kusk.
 Deering, Bering Strait.
 Dillingham, Bristol Bay.
 Dot Lake, Tanana.
 Eagle, Upper Yukon-Porcupine.
 Eek, Southwest Coastal Lowland.
 Egegik, Bristol Bay.
 Eklutna, Cook Inlet.
 Ekuak, Bristol Bay.
 Ekwok, Bristol Bay.
 Elim, Bering Strait.
 Emmonak, Southwest Coastal Lowland.
 English Bay, Cook Inlet.
 False Pass, Aleutian.
 Fort Yukon, Upper Yukon-Porcupine.
 Gakona, Copper River.
 Galena, Koyukuk-Lower Yukon.
 Gambell, Bering Sea.
 Georgetown, Upper Kuskokwim.
 Golovin, Bering Strait.
 Goodnews Bay, Southwest Coastal Lowland.
 Grayling, Koyukuk-Lower Yukon.
 Gulkana, Copper River.
 Hamilton, Southwest Coastal Lowland.
 Holy Cross, Koyukuk-Lower Yukon.
 Hooper Bay, Southwest Coastal Lowland.
 Hughes, Koyukuk-Lower Yukon.
 Huslia, Koyukuk-Lower Yukon.
 Igiugig, Bristol Bay.
 Iliamna, Cook Inlet.
 Inalik, Bering Strait.
 Ivanof Bay, Aleutian.
 Kaguyak, Kodiak.
 Kaktovik, Arctic Slope.
 Kalskag, Southwest Coastal Lowland.
 Kaltag, Koyukuk-Lower Yukon.
 Karluk, Kodiak.
 Kasigluk, Southwest Coastal Lowland.
 Kiana, Bering Strait.
 King Cove, Aleutian.
 Kipnuk, Southeast Coastal Lowland.
 Kivalina, Bering Strait.
 Kobuk, Bering Strait.
 Kokhanok, Bristol Bay.

reflts: expi-
ty of

Clark's Point, Bristol Bay.
Copper Center, Copper River.
Crooked Creek, Upper Kuskokwim.
Deering, Bering Strait.
Dillingham, Bristol Bay.
Dot Lake, Tanana.
Eagle, Upper Yukon-Porcupine.
Eek, Southwest Coastal Lowland.
Egegik, Bristol Bay.
Eklutna, Cook Inlet.
Ekuk, Bristol Bay.
Ekwok, Bristol Bay.
Elim, Bering Strait.
Emmonak, Southwest Coastal Lowland.
English Bay, Cook Inlet.
False Pass, Aleutian.
Fort Yukon, Upper Yukon-Porcupine.
Gakona, Copper River.
Gaiena, Koyukuk-Lower Yukon.
Gambell, Bering Sea.
Georgetown, Upper Kuskokwim.
Golovin, Bering Strait.
Goodnews Bay, Southwest Coastal Lowland.
Graying, Koyukuk-Lower Yukon.
Guikana, Copper River.
Hamilton, Southwest Coastal Lowland.
Holy Cross, Koyukuk-Lower Yukon.
Hooper Bay, Southwest Coastal Lowland.
Hughes, Koyukuk-Lower Yukon.
Huslia, Koyukuk-Lower Yukon.
Igiugig, Bristol Bay.
Iliamna, Cook Inlet.
Inalik, Bering Strait.
Ivanof Bay, Aleutian.
Kaguyak, Kodiak.
Kaktovik, Arctic Slope.
Kaiskag, Southwest Coastal Lowland.
Kaitag, Koyukuk-Lower Yukon.
Kariuk, Kodiak.
Kasigiuk, Southwest Coastal Lowland.
Kiana, Bering Strait.
King Cove, Aleutian.
Kipnuk, Southeast Coastal Lowland.
Kivalina, Bering Strait.
Kobuk, Bering Strait.
Kokhanok, Bristol Bay.

Koliganek, Bristol Bay.
 Kongiganak, Southwest Coastal Lowland.
 Kotlik, Southwest Coastal Lowland.
 Kotzebue, Bering Strait.
 Koyuk, Bering Strait.
 Koyukuk, Koyukuk-Lower Yukon.
 Kwethluk, Southwest Coastal Lowland.
 Kwigillingok, Southwest Coastal Lowland.
 Larsen Bay, Kodiak.
 Levelock, Bristol Bay.
 Lime Village, Upper Kuskokwim.
 Lower Kalskag, Southwest Coastal Lowland.
 McGrath, Upper Kuskokwim.
 Makok, Koyukuk-Lower Yukon.
 Manley Hot Springs, Tanana.
 Manokotak, Bristol Bay.
 Marshall, Southwest Coastal Lowland.
 Mary's Igloo, Bering Strait.
 Medfra, Upper Kuskokwim.
 Mekoryuk, Southwest Coastal Lowland.
 Mentasta Lake, Copper River.
 Minchumina Lake, Upper Kuskokwim.
 Minto, Tanana.
 Mountain Village, Southwest Coastal Lowland.
 Nabesna Village, Tanana.
 Naknek, Bristol Bay.
 Napaimute, Upper Kuskokwim.
 Napakiak, Southwest Coastal Lowland.
 Napaskiak, Southwest Coastal Lowland.
 Nelson Lagoon, Aleutian.
 Nenana, Tanana.
 Newhalen, Cook Inlet.
 New Stuyahok, Bristol Bay.
 Newtok, Southwest Coastal Lowland.
 Nightmute, Southwest Coastal Lowland.
 Nikolai, Upper Kuskokwim.
 Nikolski, Aleutian.
 Ninilchik, Cook Inlet.
 Noatak, Bering Strait.
 Nome, Bering Strait.
 Nondalton, Cook Inlet.
 Nooiksut, Arctic Slope.
 Noorvik, Bering Strait.
 Northeast Cape, Bering Sea.
 Northway, Tanana.
 Nulato, Koyukuk-Lower Yukon.

Nunapitchuk, Southwest Coast.
 Ohogamiut, Southwest Coastal
 Old Harbor, Kodiak.
 Oscarville, Southwest Coastal
 Ouzinkie, Kodiak.
 Paradise, Koyukuk-Lower Yukon
 Pauloff Harbor, Aleutian.
 Pedro Bay, Cook Inlet.
 Perryville, Kodiak.
 Pilot Point, Bristol Bay.
 Pilot Station, Southwest Coast
 Pitkas Point, Southwest Coast
 Platinum, Southwest Coastal
 Point Hope, Artic Slope.
 Point Lay, Arctic Slope.
 Portage Creek (Ohgsenakale).
 Port Graham, Cook Inlet.
 Port Heiden (Meshick), Aleutian
 Port Lions, Kodiak.
 Quinhagak, Southwest Coast.
 Rampart, Upper Yukon-Port
 Red Devil, Upper Kuskokwim
 Ruby, Koyukuk-Lower Yukon
 Russian Mission or Chautha
 Russian Mission (Yukon), St.
 St. George, Aleutian.
 St. Mary's, Southwest Coast
 St. Michael, Bering Strait.
 St. Paul, Aleutian.
 Salamatof, Cook Inlet.
 Sand Point, Aleutian.
 Savonoski, Bristol Bay.
 Savoonga, Bering Sea.
 Scammon Bay, Southwest Coast
 Selawik, Bering Strait.
 Seldovia, Cook Inlet.
 Shageluk, Koyukuk-Lower
 Shaktoolik, Bering Strait.
 Sheldon's Point, Southwest
 Shishmaref, Bering Strait.
 Shungnak, Bering Strait.
 Slana, Copper River.
 Sleetmute, Upper Kuskokwim
 South Naknek, Bristol Bay
 Squaw Harbor, Aleutian.
 Stebbins, Bering Strait.

Lowland. land.	Nunapitchuk, Southwest Coastal Lowland. Ohogamiut, Southwest Coastal Lowland. Old Harbor, Kodiak. Oscarville, Southwest Coastal Lowland. Ouzinkie, Kodiak.
kon. Lowland. il Lowland.	Paradise, Koyukuk-Lower Yukon. Pauloff Harbor, Aleutian. Pedro Bay, Cook Inlet. Perryville, Kodiak. Pilot Point, Bristol Bay.
im. ostal Lowland.	Pilot Station, Southwest Coastal Lowland. Pitkas Point, Southwest Coastal Lowland. Platinum, Southwest Coastal Lowland.
n.	Point Hope, Arctic Slope. Point Lay, Arctic Slope. Portage Creek (Ohgsenakale), Bristol Bay. Port Graham, Cook Inlet. Port Heiden (Meshick), Aleutian. Port Lions, Kodiak.
owland.	Quinhagak, Southwest Coastal Lowland. Rampart, Upper Yukon-Porcupine. Red Devil, Upper Kuskokwim. Ruby, Koyukuk-Lower Yukon.
Lowland.	Russian Mission or Chauthalue (Kuskokwim), Upper Kuskokwim. Russian Mission (Yukon), Southwest Coastal Lowland.
.kokwim.	St. George, Aleutian. St. Mary's, Southwest Coastal Lowland. St. Michael, Bering Strait. St. Paul, Aleutian.
Coastal Lowland.	Salamatof, Cook Inlet. Sand Point, Aleutian. Savonoski, Bristol Bay. Savoonga, Bering Sea.
1. Lowland. Lowland.	Scammon Bay, Southwest Coastal Lowland. Selawik, Bering Strait. Seldovia, Cook Inlet. Shageluk, Koyukuk-Lower Yukon. Shaktoolik, Bering Strait. Sheldon's Point, Southwest Coastal Lowland. Shishmaref, Bering Strait. Shungnak, Bering Strait. Slana, Copper River. Sleetmute, Upper Kuskokwim. South Naknek, Bristol Bay. Squaw Harbor, Aleutian.
owland. Lowland.	Stebbins, Bering Strait.
on.	

ATTORNEY GENERAL
 U.S. DEPARTMENT OF THE INTERIOR
 ALASKA

Stevens Village, Upper Yukon-Porcupine.
 Stony River, Upper Kuskokwim.
 Takotna, Upper Kuskokwim.
 Tanacross, Tanana.
 Tanana, Koyukuk-Lower Yukon.
 Tatilek, Chugach.
 Tazlina, Copper River.
 Telida, Upper Kuskokwim.
 Teller, Bering Strait.
 Tetlin, Tanana.
 Togiak, Bristol Bay.
 Toksook Bay, Southwest Coastal Lowland.
 Tulusak, Southwest Coastal Lowland.
 Tunturuliak, Southwest Coastal Lowland.
 Tununak, Southwest Coastal Lowland.
 Twin Hills, Bristol Bay.
 Tyonek, Cook Inlet.
 Ugashik, Bristol Bay.
 Unalakleet, Bering Strait.
 Unalaska, Aleutian.
 Unga, Aleutian.
 Uyak, Kodiak.
 Venetie, Upper Yukon-Porcupine.
 Wainwright, Arctic Slope.
 Wales, Bering Strait.
 White Mountain, Bering Strait.

(2) Within two and one-half years from December 18, 1971, the Secretary shall review all of the villages listed in subsection (b)(1) hereof, and a village shall not be eligible for land benefits under section 1613(a) and (b) of this title, and any withdrawal for such village shall expire, if the Secretary determines that—

(A) less than twenty-five Natives were residents of the village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; or,

(B) the village is of a modern and urban character, and the majority of the residents are non-Native.

Any Native group made ineligible by this subsection shall be considered under section 1613(h) of this title.

(3) Native villages not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this chapter and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from December 18, 1971, determines that—

(A) twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and

(B) the village is not of a majority of the residents are Native.
 (Pub.L. 92-203, § 11, Dec. 18, 1971, 85 S

Historical

References in Text. The public land laws, referred to in subsec. (a)(1), (2), are classified generally to this title.

The mining laws, referred to in subsec. (a)(1), (2), are classified generally to Title 30, Mineral Lands and Mining.

The mineral leasing laws, referred to in subsec. (a)(1), (2), have been defined in sections 351, 505, 530, and 541e of Title 30, Mineral Lands and Mining, to mean Acts Oct. 20, 1914, c. 330, 38 Stat. 741; Feb. 25, 1920, c. 35, 41 Stat. 437; Apr. 17, 1926, c. 153, 44 Stat. 301; and Feb. 7, 1927, c. 60, 44 Stat. 1057. The Act of Oct. 20, 1914, was repealed by Pub.L. 36-252, § 1, Sept. 9, 1959, 73 Stat. 490. The Act of Feb. 25, 1920, is popularly known as the Mineral Lands Leasing Act and is classified principal-

Cross Refer

Acreage limitations on native land selections, see s Applications for lands within National Park System applicable law—

Applications pursuant to Act May 17, 1906, s Applications pursuant to Acts of June 1, 1938,

see section 3215 of Title 16, Conservati Areas located outside land withdrawn under this see section 1613 of this title.

Conveyance of surface estate in township withdrawn see section 1641 of this title.

"Native village" defined, see section 1602 of this title Tlingit-Haida settlement funds in lieu of additional Underselections—

Fulfillment of Village Corporation's entitlement Replacement acreage, see section 1631 of this title Withdrawals of public lands—

From appropriation for ninety-day period not authority within areas withdrawn, see sec

Outside conservation system unit, National R national forests and forest additions, status see section 1635 of this title.

Notes of Decisi

Exhaustion of administrative remedies	4	1. I
Injunction	6	Gi
Leases	1	to w
Persons entitled to maintain action	5	offer
Remand to Secretary	7	use, f
Village eligibility determination		and t
Generally	2	not c
Right to hearing	3	plaint
		Burgl.

Historical Note

References in Text. The Alaska National Interest Lands Conservation Act, referred to subsec. (b), is Pub.L. 96-487, Dec. 2, 1980, 94 Stat. 2371. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

1980 Amendment. Pub.L. 96-487 designated existing provision as subsec. (a) and added subsec. (b).

Legislative History. For legislative history and purpose of Pub.L. 92-203, see 1971 U.S. Code Cong. and Adm. News, p. 2192. See, also, Pub.L. 96-487, 1980 U.S. Code Cong. and Adm. News, p. 5070.

Library References

United States ⇨ 105.
C.J.S. United States §§ 143, 155.

§ 1615. Withdrawal and selection of public lands; funds in lieu of acreage

(a) Withdrawal of public lands; list of Native villages

All public lands in each township that encloses all or any part of a Native village listed below, and in each township that is contiguous to or corners on such township, except lands withdrawn or reserved for national defense purposes, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended:

Angoon, Southeast.
Craig, Southeast.
Hoonah, Southeast.
Hydaburg, Southeast.
Kake, Southeast.
Kasaan, Southeast.
Klawock, Southeast.
Saxman, Southeast.
Yakutat, Southeast.

(b) Native land selections; Village Corporations for listed Native villages; acreage; proximity of selections; conformity to Lands Survey System

During a period of three years from December 13, 1971, each Village Corporation for the villages listed in subsection (a) of this section shall select, in accordance with rules established by the Secretary, an area equal to 23,040 acres, which must include the township or townships in which all or part of the Native village is located, plus, to the extent necessary, withdrawn lands from the townships that are contiguous to or corner on such townships. All selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water, and shall conform as nearly as practicable to the United States Lands Survey System.

The funds appropriate to the judgment of the Court for the Indians of Alaska, et al. distributed to the Tlingit Indians, 1970 (84 Stat. 431) [25 acreage to be conveyed title.

(d) Withdrawal of lands for chapter; existing entitlement Village; location, character and selection periods; selection by other Native

(1) The Secretary is authorized to withdraw one thousand and five hundred acres of public land that the Village Corporation of three thousand and forty holders thereof shall offer this chapter to the same as elected to acquire title to of this title: *Provided*, existing entitlement of section 1613(h) of this withdrawn from an area prior consultation with the the foregoing provisions and until the Village Corporation to Chilkat Indian Village, 18, 1934 (48 Stat. 984), 1250), all its right, title, in and vested by the Act are hereby conveyed and simple absolute, free of prance, or otherwise: *Provided*, Village Corporation for the Chilkat Indian Village and derived from the reserve September 2, 1957, after

(2) The lands withdrawn this subsection shall be to be of similar character and of the Chilkat Valley surr shall be made within the Corporation for the villa the time that the with thousand and forty acres for selection by the Vill have been selected by,

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 92-203, see 1971 U.S. Code Cong. and Adm. News, p. 2192. See also, Pub.L. 96-487, 1980 U.S. Code Cong. and Adm. News, p. 5070.

Designation and

Bibliographic References

Selection of public lands; funds in lieu

Public lands; list of Native villages

Land that encloses all or any part of a Native township that is contiguous to or corners withdrawn or reserved for national defense and, subject to valid existing rights, from all public land laws, including the mining and selection under the Alaska Statehood Act, as

Village Corporations for listed Native villages; conformity to Lands Survey System

From December 18, 1971, each Village established in subsection (a) of this section shall be established by the Secretary, an area equal to the township or townships in which all land is located, plus, to the extent necessary, townships that are contiguous to or corner on townships shall be contiguous and in reasonably close proximity to bodies of water, and shall conform as to the Lands Survey System.

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(c) Tlingit-Haida settlement

The funds appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case of The Tlingit and Haida Indians of Alaska, et al. against The United States, numbered 47,900, and distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431) [25 U.S.C.A. § 1211], are in lieu of the additional acreage to be conveyed to qualified villages listed in section 1610 of this title.

(d) Withdrawal of lands for selection for village of Klukwan; benefits under this chapter; existing entitlements; forest reserves; quitclaims to Chilkat Indian Village; location, character, and value of lands to be withdrawn; withdrawal and selection periods; nonwithdrawal of lands selected or nominated for selection by other Native Corporation or located on Admiralty Island

(1) The Secretary is authorized and directed to withdraw seventy thousand acres of public lands, as defined in section 1602 of this title, in order that the Village Corporation for the village of Klukwan may select twenty-three thousand and forty acres of land. Such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this chapter to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 1618(b) of this title: *Provided*, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 1613(h)(8) of this title: *Provided further*, That no such lands shall be withdrawn from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957, after December 18, 1971, and prior to January 2, 1976.

(2) The lands withdrawn by the Secretary pursuant to paragraph (1) of this subsection shall be located in the southeastern Alaska region and shall be of similar character and comparable value, to the extent possible, to those of the Chilkat Valley surrounding the village of Klukwan. Such withdrawal shall be made within six months of October 4, 1976, and the Village Corporation for the village of Klukwan shall select, within one year from the time that the withdrawal is made, and be conveyed, twenty-three thousand and forty acres. None of the lands withdrawn by the Secretary for selection by the Village Corporation for the village of Klukwan shall have been selected by, or be subject to an outstanding nomination for

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ATTORNEY GENERAL

INDEX

DETERMINING PHYSICAL OR MENTAL ABILITY TO PERFORM GAINFUL ACTIVITY.

(a) For the purposes of AS 47.27.015, 47.27.025, 47.27.030, and this chapter, an individual is "physically or mentally unable to perform gainful activity" if the individual

(1) is eligible for disability benefits under the supplemental security income program (42 U.S.C. 1381 - 1383f), the social security disability insurance program (42 U.S.C. 401 - 433) or the adult public assistance program (AS 47.25.430 - 47.25.615) because of blindness or disability; or

(2) has a physical or mental condition that, on the basis of competent medical evidence submitted in accordance with (b) of this section, the division reasonably expects will last at least 30 days, and that is severe enough

(A) to prevent the individual from working at full-time employment;

(B) to prevent the individual from performing normal home maintenance activities, such as cooking, cleaning, and child care, without extensive assistance;

(C) to prevent the individual from performing activities necessary to obtain sufficient subsistence materials to maintain the household, such as hunting, fishing, and cutting firewood; or

(D) that potential employers refuse to hire the individual or provide a reasonable accommodation under the Americans with Disabilities Act (42 U.S.C. 12101 - 12213).

(b) To substantiate a claim of inability under (a)(2) of this section, medical evidence from a licensed medical or health care practitioner as to the nature, extent, and expected duration of the condition is required. The evidence must be submitted on a form provided or a format specified by the division, and may be obtained at reasonable cost at the division's expense, when authorized by the division. The division may allow the individual up to two months to provide the medical evidence if

(1) the individual resides in a remote area of Alaska;

(2) for reasons directly related to the remoteness of the individual's residence, the individual has been unable to gain access to licensed medical or health care practitioner within the three months immediately preceding the date of application, or the three months preceding the date of application, or the three months since the onset of the inability to perform gainful activity, whichever period is shorter;

(3) the individual demonstrates to the division's satisfaction that the individual is unable to gain access to a licensed practitioner within 30 days after receipt of an application in a district office of the division; and

(4) in place of a medical evidence from a licensed medical or health care practitioner, the individual provides a statement on the individual's condition from a village health aide or other health care provider who is familiar with the individual's condition.

ALASKA STATE LEGISLATURE



Interim:

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SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE SENATOR LYDA GREEN, CHAIR

To: Terry Lauterbach, Legal Services

From: Aurora Hauke, Committee Aide

A handwritten signature in black ink, appearing to be "Aurora Hauke".

Date: April 6, 2001

x3762

Subject: SB 116 ATAP Amendments

Please prepare another CS for SB 116 from the previously prepared CS to add the following:

AS 47.27.015 is amended by adding a new subsection to read:

(h) When determining under (a)(1) of this section whether an adult has received benefits for a total of 60 months, the department shall disregard the months that are required to be disregarded under 42 U.S.C. 608(a)(7)(D).

This should be the same language that is used in Sec. 2 of the Work Draft Cs For HB 142 (HES) 22-GH1023\F.

Thanks.

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR JERRY WARD, SENATOR GARY WILKEN, SENATOR BETTYE DAVIS

To: Terry Lauterbach
From: Aveda Hauke
for HESCS

SENATE BILL NO. 116

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/22/01

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska temporary assistance program; and providing for an
2 effective date."

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

4 * Section 1. AS 47.27.025(c) is amended to read:

5 (c) The department shall, for the months of July, August, and September,
6 reduce by 50 percent the maximum assistance for which the family is otherwise
7 eligible if the family's eligibility for assistance is based on AS 47.27.010(4), ~~unless~~
8 ~~the second needy parent is determined, under regulations of the department, to~~
9 ~~be physically or mentally unable to perform gainful activity~~ [THE
10 UNEMPLOYMENT OF THE FAMILY'S PRINCIPAL WAGE EARNER].
11 However, if the commissioner determines that temporary economic conditions have
12 resulted in decreased employment opportunities during those months and a reduction
13 in assistance would impose an undue hardship on a family, the department may waive
14 application of this subsection with respect to that family.

1 * Sec. 2. ~~AS 47.27.030(c)(2)~~ are repealed.

2 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 TRANSITION: REGULATIONS. Notwithstanding sec. 5 of this Act, the
5 Department of Health and Social Services may immediately proceed to adopt regulations
6 necessary to implement the changes made by this Act. The regulations take effect under
7 AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory
8 change.

9 * Sec. 4. Sections 1 and 3 of this Act take effect immediately under AS 01.10.070(c).

10 * Sec. 5. Except as provided in sec. 4 of this Act, this Act takes effect July 1, 2001.

22-GH1023\F
Lauterbach
3/24/01

CS FOR HOUSE BILL NO. 142(HES)

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): **HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

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3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. AS 47.27.015(f) is amended to read:

5 (f) The number of families for which an exemption is in effect under (a)(1) of
6 this section may not exceed 20 [10] percent of the average monthly number of
7 families who were receiving assistance under former AS 47.25.301 - 47.25.420
8 (Aid to Families with Dependent Children Act) during the state fiscal year that
9 ended June 30, 1994 [OR THE MAXIMUM PERCENTAGE OF FAMILIES
10 ALLOWED AN EXEMPTION UNDER FEDERAL LAW, WHICHEVER IS
11 GREATER].

12 * Sec. 2. AS 47.27.015 is amended by adding a new subsection to read:

13 (h) When determining under (a)(1) of this section whether an adult has
14 received benefits for a total of 60 months, the department shall disregard the months

needs to be done by federal law

not required, based on their projections currently there depends on current roles

these people will be part of the 20%

TAFIF statute

Village w/ 50% unemployment

that are required to be disregarded under 42 U.S.C. 608(a)(7)(D).

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THE FAMILY'S PRINCIPAL WAGE EARNER]. However, if the commissioner determines that temporary economic conditions have resulted in decreased employment opportunities during those months and a reduction in assistance would impose an undue hardship on a family, the department may waive application of this subsection with respect to that family.

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If we want to have 50% red, these changes need to be made, except for exemptions

required by court... not required

currently in stat, but not required

Can this language be legal - has been a different does the inclusion of the child who is experiencing a disability.

exempt family self sufficiency plan for incapacitated adult (not required)

The family that brought this about, who has a child with a disability, has prevailed in court because the statute didn't support the regs.

CS for HB 142 (HES) Work Draft F

Requirements

Sec. 1

- ❖ Currently: Exemptions to the 60-month limit are capped at 10% of current roles or the maximum federal exemption limit (20% of current roles).
- ❖ Proposed: Exemptions to the 60-month limit are capped at 20% of the 1994 roles. This allows for a static number instead of a decreasing number and is based upon their projects for the number of people that will be exempted from the 60-month limit.
- ❖ This is not required.

note: house hess just brought me a draft of this bill which removes this section.

Sec. 2

- ❖ Currently: Federal law requires people in native villages that have an unemployment rate of 50% or above be exempted from the 60-month limit. The Attorney General's office says that under current statute, these people will be included in the total number of exemption allowed.
- ❖ Proposed: These people would not be included in the 20% exemption.
- ❖ Federal law requires that these people are exempt from the 60-month rule. However, if the state doesn't want them to be included in the capped amount of exemptions required, this section is required.

*Owns take base then include with 20%
separate
this mean?*

Sec. 3

❖ Part 1:

- ❖ Current: If a family's eligibility for ATAP is based upon the unemployment of the principal wage-earner, they will receive a 50% reduction in their benefits for the summer months.
- ❖ Proposed: If a family's eligibility is based upon AS 47.27.010 (a two-parent family with physical custody of one or more related dependent children).

Should be with?

If ... then

- ❖ This is required by the courts, which said that statute didn't back up their regs. This statute was based upon AFDC language and not ATAP language and needs to be updated because ATAP doesn't distinguish between the principal wage earner and the second parent. If we want to do the 50% reduction, this change needs to be made.

- ❖ Part 2:

- ❖ Currently: Nothing.
- ❖ Proposed: Exempts 2 parent families in which one parent is unable to work or 2 parent families with a child with a disability from the 50% reduction.
- ❖ This is not required.

- ❖ Part 3:

- ❖ Currently: The commissioner may waive the 50% reduction if a temporary economic condition has caused a decrease in employment opportunities.
- ❖ Proposed: No changes.
- ❖ This is not required, however it is currently in statute.
- ❖ Note: This section would take effect immediately in order for the department to prepare for the summer months.

Sec. 4

- ❖ Currently: Families with a parent with a disability are not required to prepare a family self-sufficiency plan.
- ❖ Proposed: Families with a parent with a disability would be required to prepare a family self-sufficiency plan. The department feels that people with disabilities must also work on the plan because it gives the department a way to work with these people to try to get them off the roles. Also, these people may or may not be exempt from the 60-month limit, therefore they should be prepared to come off the roles.

omit

Why is this in the bill of making changes?

Proposed

Subject: HB 142 - 2-parent seasonal reduction

Date: Mon, 2 Apr 2001 15:51:55 -0800

From: "Salerno, Angela" <Angela_Salerno@health.state.ak.us>

To: "Aurora Hauke (E-mail)" <Aurora_Hauke@legis.state.ak.us>

CC: "Lindstrom, Elmer A." <Elmer_Lindstrom@health.state.ak.us>,
"Nordlund, Jim" <Jim_Nordlund@health.state.ak.us>,
"Fitzjarrald, Ellie" <Ellie_Fitzjarrald@health.state.ak.us>

Hello Aurora:

When considering the question of "cost" for exempting additional 2-parent families from the seasonal reduction, remember that our federal funding for ATAP comes from a capped block grant, and the amount of GF we spend is regulated by the TANF statute - we must maintain state funding at a specific "maintenance of effort" level (MOE). Therefore, there would not be additional costs associated with exempting families caring for a disabled child from the seasonal reduction.

To be eligible for the seasonal reduction, at least one of the parents in a 2-parent family must have the status of "incapacitated." There are currently 18 2-parent families where one or both adults have a "medically unable to participate" work exemption. People in this category may or may not rise to the level of "incapacitated," depending on the length of their work exemption. Should all 18 families qualify as incapacitated and receive an exemption from the seasonal reduction, DPA would pay the family the full benefit for July, August and September, approximately \$6,675 per month or \$20,025 for the entire season.

There are 9 additional 2-parent families where at least one parent has the work exemption "caring for a disabled child." This translates to about \$3,080 per month or \$9,240 for the entire season.

Please let me know if you have questions. Thanks, Angela

22-GH1023F
Lauterbach
3/24/01

CS FOR HOUSE BILL NO. 142(HES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

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 13 subsection with respect to that family.

*either
also
needed
small*

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22-GH1023V
Lauterbach
4/2/01

DRAFT

DRAFT

CS FOR HOUSE BILL NO. 142()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

DRAFT

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

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Alaska Temporary Assistance Program Two-Parent Seasonal Reduction Issue Paper

Division of Public Assistance
January 29, 2001


ISSUE

Two-parent families who receive Alaska Temporary Assistance benefits are subject to a seasonal benefit reduction during the months of July, August, and September when summer employment opportunities are high. During these months, ATAP payments to two-parent families are cut in half.

AS 47.27.025(c) states: The department shall, for the months of July, August, and September, reduce by 50 percent the maximum assistance for which the family is otherwise eligible **if the family's eligibility for assistance is based on the unemployment of the family's principal wage earner.**

BACKGROUND

- **"Unemployment of the Principal Wage Earner."** This criterion was carried over from ATAP's predecessor program, Aid to Families with Dependent Children (AFDC). Under AFDC, children in two-parent families were found eligible for assistance only when the principal wage earner parent was unemployed and working less than 100 hours a month. There were cumbersome rules and administratively demanding processes in place to make this determination. For example, the principal wage earner (PWE) was determined by comparing the amount of wages each parent had earned over the past two years. The parent who earned the most money in the prior two years was considered the PWE, regardless of the family's current situation. Unemployment of the PWE was measured based on thirteen quarters of work in the five years before the family applied for assistance.
- The AFDC unemployed parent rules were administratively burdensome, discouraged the formation of two-parent families and they did not "make work pay." Many states requested and were granted waivers of the AFDC unemployed parent rules as part of their welfare reform initiatives.
- When ATAP was implemented the department regulated the criteria for determining eligibility for two-parent families to correct the deficiencies of the method used under the AFDC program.
- The department's regulation, 7 AAC 45.525(g) states:
 - (g) For the purpose of applying the 50 percent seasonal reduction required by AS 47.27.025(c), the family's eligibility for assistance is based on the unemployment of the principal wage earner when
 - (1) there are two parents in the home;
 - (2) both parents are physically and mentally able to work; and
 - (3) the family's income is below the level of need established under 7AAC45.275.

- 
- In 1999, a two-parent family challenged the application of this policy when their benefits were reduced for the summer.
 - In November 2000, the Superior Court found that to apply the two-parent seasonal benefit reduction the department must make a determination of which parent is the family's primary wage earner (PWE) and make a determination of whether the PWE is unemployed before it reduces the family's benefit in half.

PROBLEM

- The finding of the Superior Court would require a return to the unworkable policies of the AFDC program that require a determination of which parent is the principle wage earner before the seasonal reduction can be applied. This determination is unnecessary and does not promote a family's self-sufficiency goals.

SOLUTION

Amend the language in the statute governing the two-parent seasonal benefit reduction

- Clarify the statutory language regarding the seasonal reduction to two-parent families to support regulations that:
 - ✓ Reduce ATAP payments for able-bodied two-parent families by 50% during the months of July, August, and September, regardless of which parent is the family's principal wage earner.
 - ✓ Apply the two-parent seasonal reductions to all able-bodied two-parent families, regardless of employment status.
 - ✓ Exclude two-parent families from the seasonal benefit reduction when one parent is disabled or too sick to work.

Subject: RE: HB 142 - 2-parent seasonal reduction

Date: Tue, 3 Apr 2001 08:20:53 -0800

From: "Salerno, Angela" <Angela_Salerno@health.state.ak.us>

To: "Aurora Hauke" <Aurora_Hauke@legis.state.ak.us>

The regs that allow the exemption for 2-P families are found at 7 AAC 45.525 Determining the Amount of Payment.

I've attached a briefing paper on the 2-P reduction. Let me know if you'd like to speak to Kristen Bomengen, and I ask her to call you. Thanks,
Angela

-----Original Message-----

From: Aurora Hauke [mailto:Aurora_Hauke@legis.state.ak.us]

Sent: Monday, April 02, 2001 5:13 PM

To: Salerno, Angela

Subject: Re: HB 142 - 2-parent seasonal reduction

But did the lawsuit require that we allow any exemptions to that 2p seasonal reduction?

"Salerno, Angela" wrote:

> You are correct that the lawsuit did not require the exemption of 2-P
> families with a disabled child - the House HESS committee requested that
> change. What the lawsuit did was invalidate the 2-P seasonal reduction
> for
> all 2-P families - while it's a little complicated, the ruling said that
> our
> current statute does not support the regulations we wrote. So, the
> original
> bill would have fixed the statute, and simply returned us to the status
> quo
> - we give the seasonal reduction to all 2-P families unless one of them
> is
> incapacitated.
>
> Angela

> -----Original Message-----

> From: Aurora Hauke [mailto:Aurora_Hauke@legis.state.ak.us]

> Sent: Monday, April 02, 2001 4:14 PM

> To: Salerno, Angela

> Subject: Re: HB 142 - 2-parent seasonal reduction

>
> Just to make absolutely positively sure, am I correct in my understanding
> that
> the lawsuit did not require us to exempt 2p families with a child with a
> disability from the deduction?


>
> Also, did the lawsuit require that the a 2p family with one adult unable
> to
> work
> be exempted?

>
> If you are unclear about my questions, please give me a call at 3762.

>
> "Salerno, Angela" wrote:

>

> > Hello Aurora:
> >
> > When considering the question of "cost" for exempting additional
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> > families from the seasonal reduction, remember that our federal funding
> > for
> > ATAP comes from a capped block grant, and the amount of GF we spend is
> > regulated by the TANF statute - we must maintain state funding at a
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> > a
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> > currently 18 2-parent families where one or both adults have a
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> > receive
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> > full
> > benefit for July, August and September, approximately \$6,675 per month
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> > Please let me know if you have questions. Thanks, Angela
> >
> >

 Seasonal Reduction issue paper.doc	Name: Seasonal Reduction issue paper.doc Type: Winword File (application/msword) Encoding: base64 Download Status: Not downloaded with message
--	---

Subject: RE: HB 142 - 2-parent seasonal reduction

Date: Mon, 2 Apr 2001 16:40:08 -0800

From: "Salerno, Angela" <Angela_Salerno@health.state.ak.us>

To: "Aurora Hauke" <Aurora_Hauke@legis.state.ak.us>

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> benefit for July, August and September, approximately \$6,675 per month or \$20,025 for the entire season.

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> \$3,080 per month or \$9,240 for the entire season.
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> Please let me know if you have questions. Thanks, Angela
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>

22-GS1023V
Lauterbach
4/10/01

CS FOR SENATE BILL NO. 116(HES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

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ALASKA STATE LEGISLATURE



Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:

State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE SENATOR LYDA GREEN, CHAIR

To: Terri Lauterbach, Legislative Legal Services
From: Aurora Hauke, Committee Aide
Date: April 10, 2001
Subject: SB 116 ATAP Amendments

Please prepare a CS from CS SB 116 (HES) Work Draft 22-GS1023\F which includes the following change:

Page 1, Line 11

After "AS 47.27.010(4)" insert ", unless the second needy parent is determined, under regulations of the department, to be physically or mentally unable to perform gainful activity"

This language should be the same as the original version of the bill, 22-GS1023\A.

I will need this for committee tomorrow, Wednesday, April 11, 2001 at 1:30 pm.

Thank you.

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR JERRY WARD, SENATOR GARY WILKEN, SENATOR BETTYE DAVIS

22-GS1023\C
Lauterbach
4/5/01

CS FOR SENATE BILL NO. 116(HES)

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6 reduce by 50 percent the maximum assistance for which the family is otherwise
7 eligible if the family's eligibility for assistance is based on AS 47.27.010(4) [THE
8 UNEMPLOYMENT OF THE FAMILY'S PRINCIPAL WAGE EARNER].
9 However, if the commissioner determines that temporary economic conditions have
10 resulted in decreased employment opportunities during those months and a reduction
11 in assistance would impose an undue hardship on a family, the department may waive
12 application of this subsection with respect to that family.

13 * **Sec. 2.** AS 47.27.030(c)(2) is repealed.

14 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITION: REGULATIONS. Notwithstanding sec. 5 of this Act, the
3 Department of Health and Social Services may immediately proceed to adopt regulations
4 necessary to implement the changes made by this Act. The regulations take effect under
5 AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory
6 change.

7 * **Sec. 4.** Sections 1 and 3 of this Act take effect immediately under AS 01.10.070(c).

8 * **Sec. 5.** Section 2 of this Act takes effect July 1, 2001.

Subject: SB 116 ATAP Amendment Questions

Date: Thu, 5 Apr 2001 13:26:05 -0800

From: "Fitzjarrald, Ellie" <Ellie_Fitzjarrald@health.state.ak.us>

To: "Aurora_Hauke@legis.state.ak.us" <Aurora_Hauke@legis.state.ak.us>

CC: "Nordlund, Jim" <Jim_Nordlund@health.state.ak.us>,
"Salerno, Angela" <Angela_Salerno@health.state.ak.us>,
"Lindstrom, Elmer A." <Elmer_Lindstrom@health.state.ak.us>,
"Clarke, Janet E." <Janet_Clarke@health.state.ak.us>

Aurora,

Here is the information you requested regarding proposed amendments to SB 116, and your request for legal opinions.

Please let me know if you have any questions.

QUESTION 1

What cost is associated with exempting families in which one parent is unable to work from the 50% seasonal reduction?

Answer: The information Angela gave you on April 2 regarding costs is correct. There would be no additional costs because of the nature of the funding for ATAP being a fixed amount from the federal TANF block grant and the TANF state "maintenance of effort" spending requirement (MOE).

How many families in the state does this apply to?

Answer: In January 2001, there were 118 Incapacitated Parent families receiving Temporary Assistance. These are families where at least one parent has a medical condition that is serious enough that they cannot work. The 18 two parent families Angela reported to you previously were not Incapacitated Parent families, but instead two parent families who had a parent exempt from participating in work activities because of a short-term medical-related problem expected to last less than 30 days.

What cost is associated with exempting families that are caring for a child with a disability from the 50% seasonal reduction?

Answer: Same as above.

How many families in the state does this apply to?

Answer: There are currently 9 two-parent families receiving Temporary Assistance where one of the parent's is exempted from work participation requirements because they are needed in the home to care for a child experiencing a disability.

QUESTION 2

In Section 1, if we remove the exemption language, will the issues brought forth by the court case be resolved.

Answer: See attached legal opinion from Kristen Bomengen, Dept. of Law.

QUESTION 3


In section 1, if we remove the exemption language, will the department still have the power to provide exemptions (or rather qualifying specifications that both parents must be able to work) in regulation, as is done now.

Answer: See attached legal opinion from Kristen Bomengen, Dept. of Law.

If the exemption language is removed from statute, would the department have the power to provide for other exemptions besides one parent unable to work.

Answer: See attached legal opinion from Kristen Bomengen, Dept. of Law.

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MEMORANDUM

State of Alaska
Department of Law

TO: Ellie Fitzjarrald
Chief, Policy & Program Development
Division of Public Assistance
Department of Health and Social Services

DATE: April 4, 2001

FILE NO.:

TEL NO.: 465-3600

FAX: 465-2539

FROM: Kristen F. Bomengen
Assistant Attorney General
Human Services Section-Juneau

SUBJECT: SB 116

You have asked for a response to Questions 2 and 3 of the memo from Aurora Hauke, dated April 4, 2001, concerning SB 116. The following should explain the reasons that the amendment to AS 47.27.025(c) was worded with an exception for families with incapacitated parents.

Question 2:

In Section 1, if we remove the exemption language, will the issues brought forth by the court case be resolved?

Answer:

If the exception language in the proposed amendment is removed, the remaining language will eliminate the outdated AFDC-based language, replacing it with a direct reference to the present statute. This will not contradict the outcome of the court case, but it also will not restore the statute to its originally intended application. (The language of the proposed amendment is intended to maintain the original intent of the language of SB98, enacted as 1996 SLA 107.)

The department's regulation was necessary because it was needed to clarify the application of the AFDC language in the statute, which did not by its simple meaning reflect the specificity of the AFDC category that was being identified. This is because families in which there was an incapacitated parent were eligible under a different AFDC criteria than the one that was described under the AFDC criteria as "based on the unemployment of the family's principal wage earner."

The intent that this language only apply to the category of families in which both parents are able to work is further clarified by the explanations offered by the bill's sponsor and the

Ellie Fitzjarrald
Chief, Policy & Program Development
Division of Public Assistance

April 4, 2001
Page 2

department at a House HES hearing on April 27, 1996 at Tape 96-47, Side B, @1900 – Tape 96-48, Side A, @30. At that hearing, the use of the language was explained and it was made explicit that families with an incapacitated parent were not to be subject to the seasonal benefit reduction.

Question 3:

In Section 1, if we remove the exemption language, will the department still have the power to provide exemptions (or rather qualifying specifications that both parents must be able to work) in regulation, as is done now?

If the exemption language is removed from statute, would the department have the power to provide for other exemptions besides one parent unable to work?

Answer:

No. The department would not be able to regulate to except families in which one parent is incapacitated nor any other category of families under the new language if the exception were to be removed.

KFB:ebc

STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

P.O. BOX 110300
DIAMOND COURT HOUSE, 5TH FLOOR
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-2539

April 10, 2001

Honorable Lyda Green
Chair of the Senate HES Committee
Alaska State Legislature
State Capitol, Room 125
Juneau, AK 99801-1182

Re: Proposed CSSB 116

Dear Senator Green:

This is a response to the two questions posed for the Department of Law at the Senate HES Committee on Monday, April 9, 2001.

QUESTION 1: The first question was posed by Sen. Ward and sought clarification of the meaning of Alaska Native village for the purpose of the federal law's exclusion from the 60 month limit. The federal law cited in Section 1 of proposed CSSB 116 states:

(D) Disregard of months of assistance received by adult while living in Indian country or an Alaska Native village with 50 percent unemployment.

(i) In general

In determining the number of months for which an adult has received assistance under a State or tribal program funded under this part, the State or tribe shall disregard any month during which the adult lived in Indian country or an Alaskan Native village if the most reliable data available with respect to the month (or a period including the month) indicate that at least 50 percent of the adults living in Indian country or in the village were not employed.

(ii) "Indian country" defined

As used in clause (i) the term "Indian country" has the meaning given such term in section 1151 of Title 18.

The TANF legislation did not define or otherwise address the classification of "Alaska Native village. However, when the department adopted regulations to address time limits at 7 AAC 45.600(c), Alaska Native village was identified by reference to the ANCSA law:

For the purposes of this subsection, "Alaska Native village" means a village listed in 43 U.S.C. 1610 or 1615 (secs. 11 and 16 of the Alaska Native Claims Settlement Act). To determine the population and unemployment status of the adults living in a village or on a reservation, the division shall use the most current state or federal statistical data available, consistent with federal law.

An excerpt from federal law that lists the ANCSA recognized Alaska Native villages is enclosed with this letter.

QUESTION 2: The second question was directed to determining whether section 2 of CSSB 116 solved the problem raised by the court case. Because there were a number of issues raised in the court case and the court addressed only the one that it needed to in order to remand the case to the department, this question can be posed in a number of ways:

A) Does the language of CSSB 116 address the problem in the statutory language that was identified by the court?

YES. By removing the antiquated AFDC program based language, and replacing it with language that more clearly identifies two-parent families in terms of the ATAP program classifications set out at AS 47.27.010, the language that appears to require the department to evaluate each family on the basis of primary wage earner and employment status is removed.

B) Does the language in CSSB 116 maintain the categories that were originally intended to be subject to the seasonal reduction in the original ATAP legislation?

NO. This language requires that the seasonal reduction be applied to all two-parent families, without regard to whether there are two parents in the family who are capable of working. Thus, this language is a policy shift from the former language which exempted two-parent families in which one or more of the parents were incapacitated, or, in the language proposed in SB 116, "unless the second needy parent is determined, under regulations of the department, to be physically or mentally unable to perform gainful activity."

This category has already been defined by the department for the purpose of application of AS 47.27.015, 47.27.025, and 47.27.030 at 7 AAC 45.235. A copy of that regulation is enclosed for your reference.

Honorable Lyda Green
Chair of the Senate HES Committee

April 10, 2001
Page 3

C) Does the language in CSSB 116 address the complaint raised by the plaintiff in the court case?

NO. The plaintiff sought to expand the category of families that were exempt from the seasonal reduction by adding the category of those families in which one of the parents was providing care for a child who is experiencing a disability. (This family has a child who requires constant care due to her serious disabilities.)

If you have any other questions about the court case or the bill language, please feel free to contact me.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:


Kristen F. Bomengen
Assistant Attorney General

KFB:ebc

Enclosures

(b) List of Native villages subject to chapter; review; eligibility for benefits; explanation of withdrawals for villages; alternative eligibility; eligibility of unlisted villages

(1) The Native villages subject to this chapter are as follows:

NAME OF PLACE AND REGION

Afognak, Afognak Island.
 Akhiok, Kodiak.
 Akiachak, Southwest Coastal Lowland.
 Akiak, Southwest Coastal Lowland.
 Akutan, Aleutian.
 Alakanuk, Southwest Coastal Lowland.
 Alatna, Koyukuk-Lower Yukon.
 Aleknagik, Bristol Bay.
 Allakaket, Koyukuk-Lower Yukon.
 Ambler, Bering Strait.
 Anaktuvuk, Pass. Arctic Slope.
 Andraefsey, Southwest Coastal Lowland.
 Aniak, Southwest Coastal Lowland.
 Anvik, Koyukuk-Lower Yukon.
 Arctic Village, Upper Yukon-Porcupine.
 Atka, Aleutian.
 Atkasook, Arctic Slope.
 Atmautluak, Southwest Coastal Lowland.
 Barrow, Arctic Slope.
 Beaver, Upper Yukon-Porcupine.
 Belkofsky, Aleutian.
 Bethel, Southwest Coastal Lowland.
 Bill Moore's, Southwest Coastal Lowland.
 Biorka, Aleutian.
 Birch Creek, Upper Yukon-Porcupine.
 Brevig Mission, Bering Strait.
 Buckland, Bering Strait.
 Candle, Bering Strait.
 Cantwell, Tanana.
 Canyon Village, Upper Yukon-Porcupine.
 Chalkyitsik, Upper Yukon-Porcupine.
 Chanilut, Southwest Coastal Lowland.
 Cherfornak, Southwest Coastal Lowland.
 Chevak, Southwest Coastal Lowland.
 Chignik, Kodiak.
 Chignik Lagoon, Kodiak.
 Chignik Lake, Kodiak.
 Chistochina, Copper River.
 Chitina, Copper River.
 Chukwuktoligamute, Southwest Coastal Lowland.
 Circle, Upper Yukon-Porcupine.

Clark's Point, Bristol Bay.
 Copper Center, Copper River.
 Crooked Creek, Upper Kuskokwim.
 Deering, Bering Strait.
 Dillingham, Bristol Bay.
 Dot Lake, Tanana.
 Eagle, Upper Yukon-Porcupine.
 Eek, Southwest Coastal Lowland.
 Egegik, Bristol Bay.
 Eklutna, Cook Inlet.
 Ekuk, Bristol Bay.
 Ekwok, Bristol Bay.
 Elim, Bering Strait.
 Emmonak, Southwest Coastal Lowland.
 English Bay, Cook Inlet.
 False Pass, Aleutian.
 Fort Yukon, Upper Yukon-Porcupine.
 Gakona, Copper River.
 Galena, Koyukuk-Lower Yukon.
 Gambell, Bering Sea.
 Georgetown, Upper Kuskokwim.
 Golovin, Bering Strait.
 Goodnews Bay, Southwest Coastal Lowland.
 Grayling, Koyukuk-Lower Yukon.
 Gulkana, Copper River.
 Hamilton, Southwest Coastal Lowland.
 Holy Cross, Koyukuk-Lower Yukon.
 Hooper Bay, Southwest Coastal Lowland.
 Hughes, Koyukuk-Lower Yukon.
 Huslia, Koyukuk-Lower Yukon.
 Igiugig, Bristol Bay.
 Iliamna, Cook Inlet.
 Inalik, Bering Strait.
 Ivanof Bay, Aleutian.
 Kaguyak, Kodiak.
 Kaktovik, Arctic Slope.
 Kalskag, Southwest Coastal Lowland.
 Kaltag, Koyukuk-Lower Yukon.
 Karluk, Kodiak.
 Kasigluk, Southwest Coastal Lowland.
 Kiana, Bering Strait.
 King Cove, Aleutian.
 Kipnuk, Southeast Coastal Lowland.
 Kivalina, Bering Strait.
 Kobuk, Bering Strait.
 Kokhanok, Bristol Bay.

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pense of

Clark's Point, Bristol Bay.
 Copper Center, Copper River.
 Crooked Creek, Upper Kuskokwim.
 Deering, Bering Strait.
 Dillingham, Bristol Bay.
 Dot Lake, Tanana.
 Eugie, Upper Yukon-Porcupine.
 Eek, Southwest Coastal Lowland.
 Egegik, Bristol Bay.
 Eklutna, Cook Inlet.
 Ekuk, Bristol Bay.
 Ekwok, Bristol Bay.
 Elim, Bering Strait.
 Emmonak, Southwest Coastal Lowland.
 English Bay, Cook Inlet.
 Faise Pass, Aleutian.
 Fort Yukon, Upper Yukon-Porcupine.
 Gakona, Copper River.
 Galena, Koyukuk-Lower Yukon.
 Gambell, Bering Sea.
 Georgetown, Upper Kuskokwim.
 Golovin, Bering Strait.
 Goodnews Bay, Southwest Coastal Lowland.
 Grayling, Koyukuk-Lower Yukon.
 Guikana, Copper River.
 Hamilton, Southwest Coastal Lowland.
 Holy Cross, Koyukuk-Lower Yukon.
 Hooper Bay, Southwest Coastal Lowland.
 Hughes, Koyukuk-Lower Yukon.
 Huslia, Koyukuk-Lower Yukon.
 Igiugig, Bristol Bay.
 Iliamna, Cook Inlet.
 Inalik, Bering Strait.
 Ivanof Bay, Aleutian.
 Kaguyak, Kodiak.
 Kaktovik, Arctic Slope.
 Kaiskag, Southwest Coastal Lowland.
 Kaitag, Koyukuk-Lower Yukon.
 Kartuk, Kodiak.
 Kasigiuk, Southwest Coastal Lowland.
 Klana, Bering Strait.
 King Cove, Aleutian.
 Kipnuk, Southeast Coastal Lowland.
 Kivalina, Bering Strait.
 Kobuk, Bering Strait.
 Kokhanok, Bristol Bay.

Koliganek, Bristol Bay.
 Kongiganak, Southwest Coastal Lowland.
 Kotlik, Southwest Coastal Lowland.
 Kotzebue, Bering Strait.
 Koyuk, Bering Strait.
 Koyukuk, Koyukuk-Lower Yukon.
 Kwethluk, Southwest Coastal Lowland.
 Kwigillingok, Southwest Coastal Lowland.
 Larsen Bay, Kodiak.
 Levelock, Bristol Bay.
 Lime Village, Upper Kuskokwim.
 Lower Kalskag, Southwest Coastal Lowland.
 McGrath, Upper Kuskokwim.
 Makok, Koyukuk-Lower Yukon.
 Manley Hot Springs, Tanana.
 Manokotak, Bristol Bay.
 Marshall, Southwest Coastal Lowland.
 Mary's Igloo, Bering Strait.
 Medfra, Upper Kuskokwim.
 Mekoryuk, Southwest Coastal Lowland.
 Mentasta Lake, Copper River.
 Minchumina Lake, Upper Kuskokwim.
 Minto, Tanana.
 Mountain Village, Southwest Coastal Lowland.
 Nabesna Village, Tanana.
 Naknek, Bristol Bay.
 Napaimute, Upper Kuskokwim.
 Napakiak, Southwest Coastal Lowland.
 Napaskiak, Southwest Coastal Lowland.
 Nelson Lagoon, Aleutian.
 Nenana, Tanana.
 Newhalen, Cook Inlet.
 New Stuyahok, Bristol Bay.
 Newtok, Southwest Coastal Lowland.
 Nightmute, Southwest Coastal Lowland.
 Nikolai, Upper Kuskokwim.
 Nikolski, Aleutian.
 Niniichik, Cook Inlet.
 Noatak, Bering Strait.
 Nome, Bering Strait.
 Nondalton, Cook Inlet.
 Nooiksut, Arctic Slope.
 Noorvik, Bering Strait.
 Northeast Cape, Bering Sea.
 Northway, Tanana.
 Nulato, Koyukuk-Lower Yukon.

Nunapitchuk, Southwest Coast.
 Ohogamiut, Southwest Coastal
 Old Harbor, Kodiak.
 Oscarville, Southwest Coastal
 Ouzinkie, Kodiak.
 Paradise, Koyukuk-Lower Yukon
 Pauloff Harbor, Aleutian.
 Pedro Bay, Cook Inlet.
 Perryville, Kodiak.
 Pilot Point, Bristol Bay.
 Pilot Station, Southwest Coast
 Pitkas Point, Southwest Coast
 Platinum, Southwest Coastal
 Point Hope, Arctic Slope.
 Point Lay, Arctic Slope.
 Portage Creek (Ohgsenakale).
 Port Graham, Cook Inlet.
 Port Heiden (Meshick), Aleutian
 Port Lions, Kodiak.
 Quinhagak, Southwest Coast
 Rampart, Upper Yukon-Port
 Red Devil, Upper Kuskokwim
 Ruby, Koyukuk-Lower Yukon
 Russian Mission or Chautha
 Russian Mission (Yukon), S.
 St. George, Aleutian.
 St. Mary's, Southwest Coast
 St. Michael, Bering Strait.
 St. Paul, Aleutian.
 Salamatof, Cook Inlet.
 Sand Point, Aleutian.
 Savonoski, Bristol Bay.
 Savoonga, Bering Sea.
 Scammor Bay, Southwest Coast
 Selawik, Bering Strait.
 Seldovia, Cook Inlet.
 Shageluk, Koyukuk-Lower
 Shaktoolik, Bering Strait.
 Sheldon's Point, Southwest
 Shishmaref, Bering Strait.
 Shungnak, Bering Strait.
 Slana, Copper River.
 Sleetmute, Upper Kuskokwim
 South Naknek, Bristol Bay
 Squaw Harbor, Aleutian.
 Stebbins, Bering Strait.

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Nunapitchuk, Southwest Coastal Lowland.
Ohogamiut, Southwest Coastal Lowland.
Old Harbor, Kodiak.
Oscarville, Southwest Coastal Lowland.
Ouzinkie, Kodiak.
Paradise, Koyukuk-Lower Yukon.
Pauloff Harbor, Aleutian.
Pedro Bay, Cook Inlet.
Perryville, Kodiak.
Pilot Point, Bristol Bay.
Pilot Station, Southwest Coastal Lowland.
Pitkas Point, Southwest Coastal Lowland.
Platinum, Southwest Coastal Lowland.
Point Hope, Artic Slope.
Point Lay, Arctic Slope.
Portage Creek (Ohgsenakale), Bristol Bay.
Port Graham, Cook Inlet.
Port Heiden (Meshick), Aleutian.
Port Lions, Kodiak.
Quinhagak, Southwest Coastal Lowland.
Rampart, Upper Yukon-Porcupine.
Red Devil, Upper Kuskokwim.
Ruby, Koyukuk-Lower Yukon.
Russian Mission or Chauthalue (Kuskokwim), Upper Kuskokwim.
Russian Mission (Yukon), Southwest Coastal Lowland.
St. George, Aleutian.
St. Mary's, Southwest Coastal Lowland.
St. Michael, Bering Strait.
St. Paul, Aleutian.
Salamatof, Cook Inlet.
Sand Point, Aleutian.
Savonoski, Bristol Bay.
Savoonga, Bering Sea.
Scammon Bay, Southwest Coastal Lowland.
Selawik, Bering Strait.
Seldovia, Cook Inlet.
Shageluk, Koyukuk-Lower Yukon.
Shaktoolik, Bering Strait.
Sheldon's Point, Southwest Coastal Lowland.
Shishmaref, Bering Strait.
Shungnak, Bering Strait.
Slana, Copper River.
Sleetmute, Upper Kuskokwim.
South Naknek, Bristol Bay.
Squaw Harbor, Aleutian.
Stebbins, Bering Strait.

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Stevens Village, Upper Yukon-Porcupine.
 Stony River, Upper Kuskokwim.
 Takotna, Upper Kuskokwim.
 Tanacross, Tanana.
 Tanana, Koyukuk-Lower Yukon.
 Tatilek, Chugach.
 Tazlina, Copper River.
 Telida, Upper Kuskokwim.
 Teller, Bering Strait.
 Tetlin, Tanana.
 Togiak, Bristol Bay.
 Toksook Bay, Southwest Coastal Lowland.
 Tulusak, Southwest Coastal Lowland.
 Tuntutuliak, Southwest Coastal Lowland.
 Tununak, Southwest Coastal Lowland.
 Twin Hills, Bristol Bay.
 Tyonek, Cook Inlet.
 Ugashik, Bristol Bay.
 Unalakleet, Bering Strait.
 Unalaska, Aleutian.
 Unga, Aleutian.
 Uyak, Kodiak.
 Venetie, Upper Yukon-Porcupine.
 Wainwright, Arctic Slope.
 Wales, Bering Strait.
 White Mountain, Bering Strait.

(2) Within two and one-half years from December 18, 1971, the Secretary shall review all of the villages listed in subsection (b)(1) hereof, and a village shall not be eligible for land benefits under section 1613(a) and (b) of this title, and any withdrawal for such village shall expire, if the Secretary determines that—

(A) less than twenty-five Natives were residents of the village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; or,

(B) the village is of a modern and urban character, and the majority of the residents are non-Native.

Any Native group made ineligible by this subsection shall be considered under section 1613(h) of this title.

(3) Native villages not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this chapter and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from December 18, 1971, determines that—

(A) twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and

(B) the village is not of a majority of the residents are Native.
 (Pub.L. 92-203, § 11, Dec. 18, 1971, 85 S

Historic

References in Text. The public land laws, referred to in subsec. (a)(1), (2), are classified generally to this title.

The mining laws, referred to in subsec. (a)(1), (2), are classified generally to Title 30, Mineral Lands and Mining.

The mineral leasing laws, referred to in subsec. (a)(1), (2), have been defined in sections 351, 305, 330, and 341e of Title 30, Mineral Lands and Mining, to mean Acts Oct. 20, 1914, c. 330, 38 Stat. 741; Feb. 25, 1920, c. 85, 41 Stat. 437; Apr. 17, 1926, c. 158, 44 Stat. 301; and Feb. 7, 1927, c. 60, 44 Stat. 1057. The Act of Oct. 20, 1914, was repealed by Pub.L. 36-252, § 1, Sept. 9, 1959, 73 Stat. 490. The Act of Feb. 25, 1920, is popularly known as the Mineral Lands Leasing Act and is classified principal-

Cross Refer

Acreage limitations on native land selections, see Applications for lands within National Park System applicable law—

Applications pursuant to Act May 17, 1906, see Applications pursuant to Acts of June 1, 1938,

see section 3215 of Title 16, Conservation Areas located outside land withdrawn under this section see section 1613 of this title.

Conveyance of surface estate in township withdrawn see section 1641 of this title.

"Native village" defined, see section 1602 of this title
 Tlingit-Haida settlement funds in lieu of additional Underselections—

Fulfillment of Village Corporation's entitlement Replacement acreage, see section 1631 of this title
 Withdrawals of public lands—

From appropriation for ninety-day period not authority within areas withdrawn, see section Outside conservation system unit, National Park national forests and forest additions, status see section 1635 of this title.

Notes of Decisi

Exhaustion of administrative remedies	4	1. 1
Injunction	6	Gr
Leases	1	to w
Persons entitled to maintain action	5	offer
Remand to Secretary	7	itself
Village eligibility determination		and t
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(B) the village is not of a modern and urban character, and a majority of the residents are Natives.

(Pub.L. 92-203, § 11, Dec. 18, 1971, 85 Stat. 696.)

Historical Note

References in Text. The public land laws, referred to in subsec. (a)(1), (2), are classified generally to this title.

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ly to chapter 3A (section 181 et seq.) of Title 30. The Act of Apr. 17, 1926, is classified generally to subchapter VIII (section 271 et seq.) of chapter 3A of Title 30. The Act of Feb. 7, 1927, is classified principally to subchapter IX (section 281 et seq.) of chapter 3A of Title 30. For complete classification of these Acts to the Code, see Tables volume.

The Alaska Statehood Act, as amended, referred to in subsec. (a)(1), (2), is Pub.L. 85-508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables volume.

Legislative History. For legislative history and purpose of Pub.L. 92-203, see 1971 U.S. Code Cong. and Adm. News, n. 2192.

Cross References

- Acreage limitations on native land selections, see section 1611 of this title.
- Applications for lands within National Park System, etc., or patented and deeded to State, applicable law—
 - Applications pursuant to Act May 17, 1906, see section 1634 of this title.
 - Applications pursuant to Acts of June 1, 1938, May 3, 1927, May 14, 1898, Mar. 2, 1891, see section 3215 of Title 16, Conservation.
- Areas located outside land withdrawn under this section, authority for additional conveyances, see section 1613 of this title.
- Conveyance of surface estate in township withdrawn under this section to Village Corporations, see section 1641 of this title.
- "Native village" defined, see section 1602 of this title.
- Tlingit-Haida settlement funds in lieu of additional acreage, see section 1615 of this title.
- Underselections—
 - Fulfillment of Village Corporation's entitlement, see section 1621 of this title.
 - Replacement acreage, see section 1631 of this title.
- Withdrawals of public lands—
 - From appropriation for ninety-day period not to have affected selection and patent authority within areas withdrawn, see section 1616 of this title.
 - Outside conservation system unit, National Recreation or Conservation Areas, new national forests and forest additions, status as land subject to future State selections, see section 1635 of this title.

Notes of Decisions

- Exhaustion of administrative remedies 4
- Injunction 5
- Leases 1
- Persons entitled to maintain action 5
- Remand to Secretary 7
- Village eligibility determination
 - Generally 2
 - Right to hearing 3

- 1. Leases
 - Given discretion of Secretary of Interior as to whether to lease lands at all, plaintiffs' offer for oil and gas leases could not in and of itself vest plaintiffs with any right to lease, and the subsequent withdrawal of land was not constitutionally infirm as a taking of plaintiffs' property without due process. *Burglin v. Morton*, C.A.Alaska 1976, 527

Historical Note

References in Text. The Alaska National Interest Lands Conservation Act, referred to subsec. (b), is Pub.L. 96-487, Dec. 2, 1980, 94 Stat. 2371. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

1980 Amendment. Pub.L. 96-487 designated existing provision as subsec. (a) and added subsec. (b).

Legislative History. For legislative history and purpose of Pub.L. 92-203, see 1971 U.S. Code Cong. and Adm. News, p. 2192. See, also, Pub.L. 96-487, 1980 U.S. Code Cong. and Adm. News, p. 5070.

Library References

United States ☞ 105.

C.J.S. United States §§ 143, 155.

§ 1615. Withdrawal and selection of public lands; funds in lieu of acreage

(a) Withdrawal of public lands; list of Native villages

All public lands in each township that encloses all or any part of a Native village listed below, and in each township that is contiguous to or corners on such township, except lands withdrawn or reserved for national defense purposes, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended:

Angoon, Southeast.
 Craig, Southeast.
 Hoonah, Southeast.
 Hydaburg, Southeast.
 Kake, Southeast.
 Kasaan, Southeast.
 Klawock, Southeast.
 Saxman, Southeast.
 Yakutat, Southeast.

(b) Native land selections; Village Corporations for listed Native villages; acreage; proximity of selections; conformity to Lands Survey System

During a period of three years from December 13, 1971, each Village Corporation for the villages listed in subsection (a) of this section shall select, in accordance with rules established by the Secretary, an area equal to 23,040 acres, which must include the township or townships in which all or part of the Native village is located, plus, to the extent necessary, withdrawn lands from the townships that are contiguous to or corner on such townships. All selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water, and shall conform as nearly as practicable to the United States Lands Survey System.

The funds appropriate: the judgment of the Cou Indians of Alaska, et al. distributed to the Tlingit 1970 (84 Stat. 431) [25 acreage to be conveyed title.

(d) Withdrawal of lands for chapter; existing entitl Village; location, chara and selection periods; selection by other Nati

(1) The Secretary is a sand acres of public land that the Village Corporat three thousand and forty holders thereof shall othe this chapter to the same e elected to acquire title to of this title: *Provided*, existing entitlement of section 1613(h)(8) of this withdrawn from an area prior consultation with th the foregoing provisions and until the Village Cor to Chilkat Indian Village. 18, 1934 (48 Stat. 984), 1250), all its right, title, in and vested by the Act are hereby conveyed and simple absolute, free of brance, or otherwise: P Village Corporation for t Chilkat Indian Village an derived from the reserv: September 2, 1957, after

(2) The lands withdra this subsection shall be lo be of similar character an of the Chilkat Valley sur: shall be made within s: Corporation for the villa the time that the with: thousand and forty acres for selection by the Vill: have been selected by,

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 92-203, see 1971 U.S. Code Cong. and Adm. News, p. 2192. See also, Pub.L. 96-487, 1980 U.S. Code Cong. and Adm. News, p. 5070.

Designation and

Library References

selection of public lands; funds in lieu

public lands; list of Native villages

Chapter that encloses all or any part of a Native township that is contiguous to or corners withdrawn or reserved for national defense 1. subject to valid existing rights, from all public land laws, including the mining and selection under the Alaska Statehood Act, as

Village Corporations for listed Native villages; conformity to Lands Survey System

from December 18, 1971, each Village established in subsection (a) of this section shall be established by the Secretary, an area equal to the township or townships in which all is located, plus, to the extent necessary, townships that are contiguous to or corner on as shall be contiguous and in reasonably defined by bodies of water, and shall conform as provided by the Alaska Statehood Act, as amended by the Alaska Lands Survey System.

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(c) Tlingit-Haida settlement

The funds appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case of The Tlingit and Haida Indians of Alaska, et al. against The United States, numbered 47,900, and distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431) [25 U.S.C.A. § 1211], are in lieu of the additional acreage to be conveyed to qualified villages listed in section 1610 of this title.

(d) Withdrawal of lands for selection for village of Klukwan; benefits under this chapter; existing entitlements; forest reserves; quitclaims to Chilkat Indian Village; location, character, and value of lands to be withdrawn; withdrawal and selection periods; nonwithdrawal of lands selected or nominated for selection by other Native Corporation or located on Admiralty Island

(1) The Secretary is authorized and directed to withdraw seventy thousand acres of public lands, as defined in section 1602 of this title, in order that the Village Corporation for the village of Klukwan may select twenty-three thousand and forty acres of land. Such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this chapter to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 1618(b) of this title: *Provided*, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 1613(h)(8) of this title: *Provided further*, That no such lands shall be withdrawn from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957, after December 18, 1971, and prior to January 2, 1976.

(2) The lands withdrawn by the Secretary pursuant to paragraph (1) of this subsection shall be located in the southeastern Alaska region and shall be of similar character and comparable value, to the extent possible, to those of the Chilkat Valley surrounding the village of Klukwan. Such withdrawal shall be made within six months of October 4, 1976, and the Village Corporation for the village of Klukwan shall select, within one year from the time that the withdrawal is made, and be conveyed, twenty-three thousand and forty acres. None of the lands withdrawn by the Secretary for selection by the Village Corporation for the village of Klukwan shall have been selected by, or be subject to an outstanding nomination for

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DETERMINING PHYSICAL OR MENTAL ABILITY TO PERFORM GAINFUL ACTIVITY.

(a) For the purposes of AS 47.27.015, 47.27.025, 47.27.030, and this chapter, an individual is "physically or mentally unable to perform gainful activity" if the individual

(1) is eligible for disability benefits under the supplemental security income program (42 U.S.C. 1381 - 1383f), the social security disability insurance program (42 U.S.C. 401 - 433) or the adult public assistance program (AS 47.25.430 - 47.25.615) because of blindness or disability; or

(2) has a physical or mental condition that, on the basis of competent medical evidence submitted in accordance with (b) of this section, the division reasonably expects will last at least 30 days, and that is severe enough

(A) to prevent the individual from working at full-time employment;

(B) to prevent the individual from performing normal home maintenance activities, such as cooking, cleaning, and child care, without extensive assistance;

(C) to prevent the individual from performing activities necessary to obtain sufficient subsistence materials to maintain the household, such as hunting, fishing, and cutting firewood; or

(D) that potential employers refuse to hire the individual or provide a reasonable accommodation under the Americans with Disabilities Act (42 U.S.C. 12101 - 12213).

(b) To substantiate a claim of inability under (a)(2) of this section, medical evidence from a licensed medical or health care practitioner as to the nature, extent, and expected duration of the condition is required. The evidence must be submitted on a form provided or a format specified by the division, and may be obtained at reasonable cost at the division's expense, when authorized by the division. The division may allow the individual up to two months to provide the medical evidence if

(1) the individual resides in a remote area of Alaska;

(2) for reasons directly related to the remoteness of the individual's residence, the individual has been unable to gain access to licensed medical or health care practitioner within the three months immediately preceding the date of application, or the three months preceding the date of application, or the three months since the onset of the inability to perform gainful activity, whichever period is shorter;

(3) the individual demonstrates to the division's satisfaction that the individual is unable to gain access to a licensed practitioner within 30 days after receipt of an application in a district office of the division; and

(4) in place of a medical evidence from a licensed medical or health care practitioner, the individual provides a statement on the individual's condition from a village health aide or other health care provider who is familiar with the individual's condition.

22-GS1023\F
Lauterbach
4/6/01

CS FOR SENATE BILL NO. 116(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): **SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska temporary assistance program; and providing for an
2 effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 47.27.015 is amended by adding a new subsection to read:

5 (h) When determining under (a)(1) of this section whether an adult has
6 received benefits for a total of 60 months, the department shall disregard the months
7 that are required to be disregarded under 42 U.S.C. 608(a)(7)(D).

8 * **Sec. 2.** AS 47.27.025(c) is amended to read:

9 (c) The department shall, for the months of July, August, and September,
10 reduce by 50 percent the maximum assistance for which the family is otherwise
11 eligible if the family's eligibility for assistance is based on AS 47.27.010(4) [THE
12 UNEMPLOYMENT OF THE FAMILY'S PRINCIPAL WAGE EARNER].
13 However, if the commissioner determines that temporary economic conditions have
14 resulted in decreased employment opportunities during those months and a reduction

1 in assistance would impose an undue hardship on a family, the department may waive
2 application of this subsection with respect to that family.

3 * Sec. 3. AS 47.27.030(c)(2) is repealed.

4 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITION: REGULATIONS. Notwithstanding sec. 6 of this Act, the
7 Department of Health and Social Services may immediately proceed to adopt regulations
8 necessary to implement the changes made by this Act. The regulations take effect under
9 AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory
10 change implemented by the regulations.

11 * Sec. 5. Sections 2 and 4 of this Act take effect immediately under AS 01.10.070(c).

12 * Sec. 6. Sections 1 and 3 of this Act take effect July 1, 2001.