

SJR

43



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement Senate Joint Resolution 43

“Requesting the United States Congress to grant a two-year moratorium on requirements for certain state payments under federal programs.”

Senate Joint Resolution 43 requests that the United States Congress grant a two-year moratorium on maintenance of effort requirements on states receiving federal funds..

Alaska is facing a serious “fiscal gap.” Federal requirements for maintenance of effort for federally mandated programs inhibit the states ability to reduce or reallocate state expenditures.

This resolution, if granted, would give states more flexibility to adjust their budgets to appropriate levels without losing federal funding.

DD/mjw

Senate Joint Resolution 43, "Requesting the United States Congress to grant a two-year moratorium on requirements for certain state payments under federal programs."

DH&SS Maintenance of Effort Requirement (MOE)

<i>COMPONENT</i>	<i>FY 03 State MOE</i>
	(in thousands of dollars)
ATAP Payments	\$ 27,171.7
Tribal Assistance (Native TANF)	7,154.2
Work Services	3,279.1
Child Care	3,000.0
Public Assistance Administration	187.3
Quality Control	58.1
PA Field Services	2,047.4
Fraud Investigation	236.3
PA Data Processing	590.0
Other DH&SS (direct and indirect)	343.0
Mental Health	33,500.0
Substance Abuse	24,000.0
Maternal, Child and Family Health	4,500.0
<i>Total MOE</i>	<i>\$106,067.1</i>

Prepared by: Marilyn Wilson, Legislative Aide
to Senator Dave Donley

March 29, 2003

(S) FIN Estimate
for FY03 State MOE

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF ADMINISTRATIVE SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 110650
JUNEAU, ALASKA 99811-0650
PHONE: (907) 465-3082
FAX: (907) 465-2499

March 19, 2002

Deb Davidson
Senate Finance Committee staff
State Capitol, Room 518
Juneau, AK 99801-1182

Dear Ms Davidson:

The following information is provided in response to your request to Elmer Lindstrom.

Could you please provide me with a copy of the TANF rules requiring the maintenance of effort? Attached is Section 409 (7) of Public Law 104-193 regarding the penalties for failure of the state to maintain a certain level of historic effort for the Temporary Assistance to Needy Families program.

Would you also provide me with a breakdown of what the maintenance of effort level is for each of the programs affected by TANF? (my understanding is this would be 80% of the state share of FFY 94 AFDC).

To qualify as state maintenance of effort (MOE) for TANF the state GF expenditure must be made to or on behalf of a family eligible for ATAP. The majority of the state GF MOE expenditures help finance ATAP cash payments, Native Family Assistance state grants, ATAP eligibility determination and case management activity, work services intended to help ATAP recipients into the workforce, and child care for ATAP families working their way off welfare.

The state's TANF MOE requirement is based on the state's share of AFDC expenditures in FFY1994. In order to earn the annual TANF block grant, states must spend at least 80 percent of their FFY 1994 spending. Federal law allows designated Native organizations to operate their own TANF programs and to receive TANF grants directly from the federal government. The federal grants for Native TANF reduce the state block grant amount dollar for dollar. In addition, the required state maintenance of effort (MOE) is reduced.

For Alaska the MOE floor changed after the implementation last year of two more Native TANF programs effective October 1, 2000. The current MOE floor is approximately \$44 million that must be met to comply with federally mandated MOE. As long as the three Native organizations TCC, T&H and AVCP continue to run their own Native TANF programs and elect not to return TANF back to the state, then the annual state MOE for TANF will be about \$44 million. If a Native TANF program returns to the state, then the state MOE amount goes back up.

DHSS Letter

The amount in the following table show the approximate distribution of expenditures by component that make up the total state MOE for TANF in the Division's FY2003 budget. These values can vary because the amounts that are attributable to MOE in the Division's administrative components are determined based on a time study that introduces some variability.

Component	FY03 Gov State MOE
ATAP Payments	\$ 27,171.7
Tribal Assistance (Native TANF)	7,154.2
Work Services	3,279.1
Child Care	3,000.0
Public Assistance Admin	187.3
Quality Control	58.1
PA Field Services	2,047.4
Fraud Investigation	236.3
PA Data Processing	590.0
Other DHSS (direct and indirect)	343.0
 Total MOE for TANF	 \$ 44,067.1

States failing to meet the federal TANF MOE requirement are penalized by a dollar-for-dollar reduction in their annual federal TANF block grant and are required to replace lost federal dollars with state funds (with further penalties assessed if additional state funds are not provided). In the six years since the implementation of TANF, no state has violated the required MOE.

TANF is the only program administered by the Division of Public Assistance with MOE requirements. The other ongoing casework DPA manages under the Food Stamp and Medicaid programs requires state GF Match funds to earn the respective federal share of expenditures. The loss of state GFM funding results in a dollar-for-dollar reduction in federal funds that can be received.

Is TANF the only federal program with the MOE requirements?

In addition to TANF, there are other programs in the Department of Health and Social Services that have MOE requirements. Both the Division of Mental Health and Developmental Disabilities and the Division of Alcoholism and Drug Abuse have federal Substance Abuse and Mental Health Services Administration (SAMHSA) block grants that are subject to the following MOE requirement in 45 CFR part 96.134(a) that states:

“...The agency shall for each fiscal year maintain aggregate State expenditures by the principal agency for authorized activities at a level that is not less than the two year period preceding the fiscal year for which the State is applying for the grant.”

Failure to meet this maintenance of effort requirement results in a dollar reduction of federal funds for each dollar reduction in qualifying state maintenance of effort expenditures as calculated on the two-year average. The Mental Health FY02 MOE is \$33.5 million and the Substance Abuse FY01 MOE is \$24.0 million state funds.

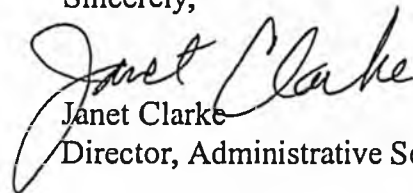
The Division of Public Health also has a maintenance of effort requirement for their Maternal, Child and Family Health block grant. The MOE is set at the level of FY89 state expenditures on Public Health programs for women and children, which is \$4.5 million.

There are also federal programs that have non-supplanting provisions. For example, Public Health's Infant Learning Program Part C funding requires that federal funds will be used to supplement the level of State and local funds expended and do not supplant those state and local funds. To meet this requirement the total amount of state and local funds budgeted for expenditures in the current fiscal year must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Similarly the anticipated \$6.9 million federal funding for bioterrorism preparedness and response has a non-supplanting requirement.

Additionally numerous programs have state match requirements, which if not met, would result in a reduction in federal funds that could be utilized.

If you require clarification or additional information, please contact me at 465-1630

Sincerely,



Janet Clarke
Director, Administrative Services

Attachment

cc: Jay Livey, Commissioner
Elmer Lindstrom, Deputy Commissioner
Russ Webb, Deputy Commissioner
Jim Nordlund, Director, DPA
Walter Majoros, Director, DMHDD
Karen Pearson, Director, DPH
Peggy Bray, Administrative Manager, DPH
Randy Moore, Administrative Manager, DPA
Sharon Lowe, Administrative Manager, ADA
Laura Baker, Chief Budget Analyst, Administrative Services

"(c) **NONDISCRIMINATION PROVISIONS.**—The following provisions of law shall apply to any program or activity which receives funds provided under this part:

"(1) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

"(2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(4) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

"(d) **ALIENS.**—For special rules relating to the treatment of aliens, see section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

42 USC 609.

SEC. 409. PENALTIES.

"(a) **IN GENERAL.**—Subject to this section:

"(1) **USE OF GRANT IN VIOLATION OF THIS PART.**—

"(A) **GENERAL PENALTY.**—If an audit conducted under chapter 75 of title 31, United States Code, finds that an amount paid to a State under section 403 for a fiscal year has been used in violation of this part, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by the amount so used.

"(B) **ENHANCED PENALTY FOR INTENTIONAL VIOLATIONS.**—If the State does not prove to the satisfaction of the Secretary that the State did not intend to use the amount in violation of this part, the Secretary shall further reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.

"(2) **FAILURE TO SUBMIT REQUIRED REPORT.**—

"(A) **IN GENERAL.**—If the Secretary determines that a State has not, within 1 month after the end of a fiscal quarter, submitted the report required by section 411(a) for the quarter, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.

"(B) **RESCISSION OF PENALTY.**—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report if the State submits the report before the end of the fiscal quarter that immediately succeeds the fiscal quarter for which the report was required.

"(3) **FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.**—

"(A) **IN GENERAL.**—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has failed to comply with section 407(a) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than the applicable percentage of the State family assistance grant.

"(B) **APPLICABLE PERCENTAGE DEFINED.**—As used in subparagraph (A), the term 'applicable percentage' means, with respect to a State—

"(i) if a penalty was not imposed on the State under subparagraph (A) for the immediately preceding fiscal year, 5 percent; or

"(ii) if a penalty was imposed on the State under subparagraph (A) for the immediately preceding fiscal year, the lesser of—

"(I) the percentage by which the grant payable to the State under section 403(a)(1) was reduced for such preceding fiscal year, increased by 2 percentage points; or

"(II) 21 percent.

"(C) **PENALTY BASED ON SEVERITY OF FAILURE.**—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance, and may reduce the penalty if the noncompliance is due to circumstances that caused the State to become a needy State (as defined in section 403(b)(6)) during the fiscal year.

"(4) **FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.**—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant.

"(5) **FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.**—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity or in establishing, modifying, or enforcing a child support order in accordance with such part and who do not qualify for any good cause or other exception established by the State under section 454(29), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

"(6) **FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.**—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 406 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter (without regard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary shall not forgive any outstanding loan amount or interest owed on the outstanding amount.

"(7) **FAILURE OF ANY STATE TO MAINTAIN CERTAIN LEVEL OF HISTORIC EFFORT.**—

Excerpt from the Federal Welfare Reform Act

"(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section 403(a)(1) for fiscal year 1998, 1999, 2000, 2001, 2002, or 2003 by the amount (if any) by which qualified State expenditures for the then immediately preceding fiscal year are less than the applicable percentage of historic State expenditures with respect to such preceding fiscal year.

"(B) DEFINITIONS.—As used in this paragraph:

"(i) QUALIFIED STATE EXPENDITURES.—

"(I) IN GENERAL.—The term 'qualified State expenditures' means, with respect to a State and a fiscal year, the total expenditures by the State during the fiscal year, under all State programs, for any of the following with respect to eligible families:

"(aa) Cash assistance.

"(bb) Child care assistance.

"(cc) Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except expenditures which involve the provision of services or assistance to a member of an eligible family which is not generally available to persons who are not members of an eligible family.

"(dd) Administrative costs in connection with the matters described in items (aa), (bb), (cc), and (ee), but only to the extent that such costs do not exceed 15 percent of the total amount of qualified State expenditures for the fiscal year.

"(ee) Any other use of funds allowable under section 404(a)(1).

"(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include expenditures under any State or local program during a fiscal year, except to the extent that—

"(aa) the expenditures exceed the amount expended under the State or local program in the fiscal year most recently ending before the date of the enactment of this part; or

"(bb) the State is entitled to a payment under former section 403 (as in effect immediately before such date of enactment) with respect to the expenditures.

"(III) ELIGIBLE FAMILIES.—As used in subclause (I), the term 'eligible families' means families eligible for assistance under the State program funded under this part, and families that would be eligible for such assistance but for the application of section 408(a)(7) of this Act or section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

"(ii) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means for fiscal years 1997 through 2002, 80 percent (or, if the State meets the

requirements of section 407(a) for the fiscal year, 75 percent) reduced (if appropriate) in accordance with subparagraph (C)(ii).

"(iii) HISTORIC STATE EXPENDITURES.—The term 'historic State expenditures' means, with respect to a State, the lesser of—

"(I) the expenditures by the State under parts A and F (as in effect during fiscal year 1994) for fiscal year 1994; or

"(II) the amount which bears the same ratio to the amount described in subclause (I) as—

"(aa) the State family assistance grant, plus the total amount required to be paid to the State under former section 403 for fiscal year 1994 with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994); bears to

"(bb) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994.

Such term does not include any expenditures under the State plan approved under part A (as so in effect) on behalf of individuals covered by a tribal family assistance plan approved under section 412, as determined by the Secretary.

"(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include—

"(I) any expenditures from amounts made available by the Federal Government;

"(II) any State funds expended for the medic-aid program under title XIX;

"(III) any State funds which are used to match Federal funds; or *under 403(a)(5)*

"(IV) any State funds which are expended as a condition of receiving Federal funds under Federal programs other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent that the total amount of such expenditures does not exceed an amount equal to the amount of State expenditures in fiscal year 1994 or 1995 (whichever is greater) that equal the non-Federal share for the programs described in section 418(a)(1)(A).

"(8) SUBSTANTIAL NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

"(A) IN GENERAL.—If a State program operated under part D is found as a result of a review conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter, and the Secretary determines that the program is not complying substantially with such requirements at the time the finding is made, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the quarter and each subsequent quarter that ends before the 1st quarter

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SJR 43
(S) Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Maintenance of Effort on Federal Programs BRU _____
Sponsor Finance Component _____
Requester Senate State Affairs Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: SENATE STATE AFFAIRS COMMITTEE Phone 465-4797
Division _____ Date/Time _____
Approved by: /s/ Senator Therriault, Chair Date 4/3/02
Agency _____