

**HB**

**380**

<TARGET><BILL>HB 380</BILL><SUBJECT>HB  
380</SUBJECT><COMM>HHSS28</COMM></TARGET>



# ALASKA STATE LEGISLATURE

Rep. Neal Foster  
Rep. Bob Herron  
Rep. Kurt Olson  
Rep. Lora Reinbold  
Rep. Sam Kito III



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## COMMUNITY & REGIONAL AFFAIRS COMMITTEE

### SPONSOR STATEMENT

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#### HOUSE BILL 380

HB 380 compels the Alaska Department of Health and Social Services to seek permission from the United States Department of Agriculture to provide a hardship exemption to vendor selection and approval criteria in the Women, Infants, and Children (WIC) supplemental food program.

Alaska is an increasingly diverse state with people of many different cultural, religious, and ethnic backgrounds sharing our local communities. These cultural enclaves are often populated by people of low-income status who need government assistance in making ends meet. Currently one of the only significant sources of food for the people on supplemental food programs are big-box stores which are either too far from the community or do not provide the items necessary for their unique cultural or religious needs.

Adding a hardship exemption to the WIC vendor program would allow those people with specific cultural or religious sustenance needs to have those needs meet without undue expense or hardship.

HB 380 recognizes that Alaska is a diverse community and allows that diversity to be rewarded and to prosper.

28-LS1616\N  
Mischel  
3/27/14

**HOUSE BILL NO.**

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

**BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE**

**Introduced:  
Referred:**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the selection by the Department of Health and Social Services of**  
2 **vendors under the federal Special Supplemental Food Program for Women, Infants, and**  
3 **Children."**

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

5 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
6 to read:

7 **WOMEN, INFANTS, AND CHILDREN PROGRAM PLAN AMENDMENT.** The  
8 Department of Health and Social Services shall immediately apply to the United States  
9 Department of Agriculture for an amendment to the state plan for the Special Supplemental  
10 Food Program for Women, Infants, and Children under 42 U.S.C. 1786 to provide for a  
11 hardship exemption to vendor selection and approval criteria. The hardship exemption  
12 application must seek authorization to select and approve a vendor for participation in the  
13 Special Supplemental Food Program for Women, Infants, and Children if the vendor serves at  
14 least 35 recipients under the program who are of a specific nationality, ethnicity, religion, or

- 1 culture and are likely to encounter language, food selection, or other cultural barriers when
- 2 purchasing from another vendor.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: HB 380  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB380-DHSS-WIC-04-09-14  
Title: WIC SUPPLEMENTAL FOOD PROGRAM  
VENDOR  
Sponsor: COMMUNITY & REGIONAL AFFAIRS  
Requester: House Health & Social Services

Department: Department of Health and Social Services  
Appropriation: Public Assistance  
Allocation: Women, Infants and Children  
OMB Component Number: 1013

### Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>								
Personal Services			***	***	***	***	***	***
Travel								
Services	252.0							
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>252.0</b>	<b>0.0</b>	***	***	***	***	***	***

### Fund Source (Operating Only)

1004 Gen Fund	252.0							
<b>Total</b>	<b>252.0</b>	<b>0.0</b>	***	***	***	***	***	***

### Positions

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>								
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

### ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **Yes**  
If yes, by what date are the regulations to be adopted, amended or repealed? **01/01/16**

### Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Ron Kreher, Director	Phone:	(907)465-5847
Division:	Division of Public Assistance	Date:	04/09/2014 02:00 PM
Approved By:	Sarah Woods, Deputy Director, Finance & Management Services	Date:	04/09/14
Agency:	Health & Social Services		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HB380 \_\_\_\_\_

### Analysis

The actual prevalence of Limited English Proficiency (LEP) as a barrier to purchase of WIC approved foods is unknown. As part of the process of expanding vendor selection criteria, the Division of Public Assistance would need to conduct a *needs assessment* to determine the extent to which LEP limits participation in the WIC program, the languages involved, and the number and location of recipients affected by language-related barriers.

The proposed legislation could have a significant impact on the resources to administer this program in the areas of vendor selection and monitoring. If LEP is a significant barrier that can only be addressed by approval of additional vendors, it is likely this increase on administrative demands will result in a reduction in the amount of federal funding available to WIC clients for direct (food) service.

Until a needs assessment is completed, the division is unable to determine the long-term fiscal impacts and out year costs potentially resulting from this legislation.

#### Assumptions:

A statewide needs assessment will be conducted during FY2015.

The needs assessment will identify and evaluate potential barriers to program access and participation, with a focus on language barriers, and will provide recommendations for remediation.

A state plan amendment will be developed to address barriers to program access and participation.

The Division will hire a contractor to conduct the needs assessment. Scope of work:

- Identify, collect data on, and analyze under-served individuals, communities, and regions where access barriers to WIC services may exist - (\$150.0)
- Identify, collect data on, and analyze under-served individuals, communities, and regions where participation barriers to purchase of WIC approved foods may exist - (\$65.0)
- Travel to each WIC service region - (\$26.0)
- Develop a report of recommendations to the State - (\$11.0)

TOTAL = \$252.0



# LEGISLATIVE RESEARCH SERVICES

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Division of Legal and Research Services  
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## Research Brief

TO: Senator Bill Wielechowski  
FROM: Susan Haymes, Legislative Analyst  
DATE: January 8, 2014  
RE: WIC Requirements for Vendors  
*LRS Report 14.138*

*You asked about the criteria used to authorize stores to participate in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Specifically, you wished to know if other states use selection criteria that consider WIC participants' language or cultural needs when determining authorized vendors for a specific area.*

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) provides food assistance, nutrition education, breastfeeding promotion and support, and referrals to health and social services for low-income pregnant, breastfeeding, and postpartum women, as well as to infants and children up to age five. The U.S. Department of Agriculture's Food and Nutrition Service provides funds to the states to provide WIC services.<sup>1</sup> States are responsible for providing the food benefits to participants, ensuring that these funds are properly spent on WIC-authorized foods, and selecting and managing WIC vendors. Participants in the WIC program receive warrants, including Fruit and Vegetable vouchers that prescribe foods they can obtain free of charge at stores that have a written vendor agreement with the WIC program. Vendors may be retail grocery stores, military commissaries, or pharmacies, which may only provide special infant formulas. To become a WIC authorized vendor, each store must apply and meet certain selection criteria established by the state.

While vendor authorization policies may vary somewhat among states, the overall model is the same: the vendor must submit an application, meet the state's selection criteria, have a satisfactory store inspection, stock the required WIC foods and/or infant formulas, and sell them at competitive prices.<sup>2</sup> Other selection criteria typically used require stores to be authorized to participate in the USDA Food Stamp Program; be open eight hours per day, six days per week; maintain sanitary conditions; and have a history of compliance with WIC rules.

Federal regulations require states to ensure that all WIC participants have adequate access to WIC vendors.<sup>3</sup> To this end, each state must authorize a sufficient number and geographic distribution of vendors to ensure reasonable participant convenience and access, the lowest practicable food prices, and effective state oversight and review of the authorized vendors. Most states use a participant-to-vendor ratio to determine the number of vendors authorized in a defined area. For example, Delaware uses a 300:1 ratio, which means in a geographic area with 900 WIC participants, the number of authorized vendors is three.<sup>4</sup> For geographic areas with populations below 500 participants, no less than two vendors are selected.

<sup>1</sup> In Alaska, the Department of Health and Social Services (DHSS), Division of Public Assistance, administers the WIC program and awards grants to local agencies such as health departments, Native corporations, and social service agencies to provide direct services. More information on Alaska's WIC Program can be accessed at <http://dhss.alaska.gov/dpa/Pages/nutr/wic/default.aspx>.

<sup>2</sup> Federal law requires that each state assign authorized stores to a peer group. Pricing information submitted by authorized stores is used to compute the peer group maximum reimbursement levels. Vendors must stay within their peer groups Not to Exceed (NTE) Amount for each food item (7 CFR § 246.12[g][4]). Alaska has 13 peer groups. Additionally, because larger chain stores often have a competitive advantage, federal WIC regulations encourage states to consider the impact of vendor authorization decisions on small businesses (7 CFR § 246.12[g][8]).

<sup>3</sup> 7 CFR § 246.12. Federal WIC regulations can be accessed at [www.ecfr.gov/cgi-bin/text-idx?SID=3fa65f4bcaaa48968e8f091195e0c880&node=7-4.1.1.10&rgn=div5](http://www.ecfr.gov/cgi-bin/text-idx?SID=3fa65f4bcaaa48968e8f091195e0c880&node=7-4.1.1.10&rgn=div5).

<sup>4</sup> Delaware determines geographic areas through an analysis of zip codes of where participants reside. The Delaware WIC Vendor Handbook can be accessed at <http://dhss.delaware.gov/dph/chca/fjies/wicvendorhandbook.pdf>.

There must be a minimum of 15 WIC participants who live in the community, or are able to travel to the community to shop, for each vendor that is authorized in most areas of Alaska. In addition, DHSS will only authorize vendors in locations that WIC staff can visit to conduct training and monitor compliance.<sup>5</sup>

Many states have adopted policies that allow for extra vendors in certain circumstances that may impact participant access to food benefits. For example, Missouri considers participant access to be inadequate in an urban area if the vendor density is less than one per 500 participants or participants must travel more than one mile to a vendor. In rural areas, inadequate participant access is defined as fewer than two authorized vendors in the county or participants having to travel more than 15 miles to a vendor.<sup>6</sup> At least three states—Delaware, Idaho, and West Virginia—have policies that specifically allow a vendor to be authorized under circumstances in which WIC participants may have inadequate access to other vendors due to a language barrier.

- In Delaware the state agency may find a hardship if 50 or more participants are of a specific nationality whose needs can only be properly served by a specific vendor due to a language barrier.<sup>7</sup>
- In Idaho the state may consider as a contributing factor in vendor selection a circumstance in which the vendor serves ten or more WIC participants whose nationality cannot be properly served by another authorized vendor located within the geographic area due to a language barrier.<sup>8</sup>
- In West Virginia, the selection criteria may be waived if the vendor serves 10 or more WIC participants whose specific nationality could not be properly served by another authorized vendor located within a reasonable distance because of a language barrier.

Although Missouri policy does not specifically identify a language barrier as a hardship in the selection process, it does allow authorization of a vendor in order to accommodate *special populations* such as migrant workers and their families. Similarly, Pennsylvania WIC regulations define inadequate participant access as ten or more participants whose “specific nationality, ethnicity or religious dietary needs” cannot be served by another WIC authorized store in the area. This provision is only considered, however, when deciding whether to place a store on probation for a program violation.<sup>9</sup>

We hope this is helpful. If you have questions or need additional information, please let us know.

<sup>5</sup> In Alaska about 20 percent of the statewide caseload, or about 5,000 WIC participants, live in remote locations without access to an approved WIC retail food vendor. An authorized vendor provides these participants with food packages through a Mail Order Vendor (MOV) program. Alaska is the only state with an MOV program. The Alaska WIC Vendor Manual and policies can be accessed at [http://dhss.alaska.gov/dpa/Pages/nutri/wic/vendors/vendorpandp\\_manuals.aspx](http://dhss.alaska.gov/dpa/Pages/nutri/wic/vendors/vendorpandp_manuals.aspx).

<sup>6</sup> The Missouri WIC Vendor Manual can be accessed at <http://health.mo.gov/living/families/wic/wicvendor/wicvendormanual.php>.

<sup>7</sup> Delaware Vendor Handbook at p. 4.

<sup>8</sup> The Idaho WIC Program Vendor Guide can be accessed at [www.healthandwelfare.idaho.gov/Portals/0/FoodCashAssistance/WomenInfantsandChildren/Vendor%20Guide\\_2012%20-%20online%20version.pdf](http://www.healthandwelfare.idaho.gov/Portals/0/FoodCashAssistance/WomenInfantsandChildren/Vendor%20Guide_2012%20-%20online%20version.pdf). The information on participant hardship can be found at p. 54.

<sup>9</sup> 28 PA. Code § 1103.7.

To the Honorable members of the House Health & Social Services Committee,

We represent a number of Anchorage small businesses primarily serving minority customers. On behalf of our customers, our community and our business interests we whole-heartedly support House Bill 380. Expanding WIC vendor eligibility would allow those of us who serve minority communities with significant language barriers to accept WIC vouchers.

In Alaska, two groups have been significantly affected by the narrowed WIC vendor eligibility: small businesses like us and our customers. Locally-owned businesses have been excluded from these regulations, which have come at a great cost to minority communities like ours. The diverse minority groups that make our Anchorage neighborhoods to vibrant rely on stores like ours to meet their unique cultural needs. When these minority populations also rely on WIC, local shops like ours play an even more fundamental role within the community.

HB 380 would also help address how current WIC regulations prioritize corporate big-box chains over small businesses like ours. We accept that controlling costs has to be an important consideration of programs like WIC but the fundamental purpose of WIC is to help those who are most vulnerable. Giving preference to corporate chain stores that don't employ people that speak the language of these minority customers at the expense of those local entrepreneurs that do is counterproductive to this end.

We all have a mutual interest in creating a cultural component to Alaskan WIC regulations is critical to the health of our communities. Small businesses like ours enrich the neighborhoods we serve by providing for their unique needs better than larger retail chains. We urge you to seek a waiver to expand WIC vendor eligibility requirements in Alaska.

Support small businesses and pass HB 380.

Name	Signature	Date	Phone#
1 George V Yang		4/10/14	(907) 277-1747
2 Chi Yang		4/10/14	(907) 903-0007
3 Eekiong		4/10/14	(632) 5180
4 Chalern Tho		4/10/14	(907) 575-4965
5 Chameng yang		4/10/14	(907) 375-2105
6 Ka Yang		4/20/14	(907) 441-6044
7 Kao thao		4/10-14	907-310-4383
8 Tony G Yang		4-10-14	907-440-1172
9 Youa yang		4/10/14	(907) 764-3935
10 Nhia Lou xiong		4-10-14	907 268 9521
11 ying yang		4-10-14	907 231 5267
12 Yey Vang		4-10-14	907 278-4064
13 Andy Lee		4-10-14	907-907-6909
14 <del>Murder</del>		4-10-14	907 322-0645
15 mai lor		4/10/14	(907) 744-1998
16 Maicee Th		4/10/14	(907) 440-0035
17 Paul Yang		4 10 14	907 6998430
18 Bee Vang		4-10-14	907-440-2664
19 Nolan Thuo		4-10-14	907-804-1358
20 Henry Chang		4-10-14	907-538-4835
21 Khamta Vue		4-10-14	907-332-1998
22 mai Lor		4-10-14	907-244-2311
23 Lia Chang		4-10-14	907-764-4316
24 Hue xiong		4-10-14	907-891-2424
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Name	Signature	Date	Phone#
1 Amy Saechao		4-10-14	907-333-3112
2 Kou Her		4-10-14	907-980-1197
3 Wa Yang		4-10-14	907-782-7948
4 Mang Lee		4-10-14	907-980-8217
5 Mee Thao		4-10-14	907-980-8217
6 Chue Lee		4-10-14	907-575-3663
7 Lor Lee		4-10-14	907-575-5208
8 Liang Yang		4-10-14	
9 Xue Thao		4-10-14	907-274-0264
10 Yer Vang		4-10-14	907-278-4064
11 Nou Lor		4-10-14	
12 Mee Her		4-10-14	907-339-7153
13 Nou Vang		4-10-14	907-333-0050
14 Xia Xiong		4-10-14	907-744-1117
15 Bao Thao		4-10-14	907-529-4017
16 Yer Lor		4-10-14	907-748-0131
17 Mai Kue Her		4-10-14	907-854-3510
18 Seem Vang		4-10-14	907-244-1330
19 Mao Vang		4-10-14	907-258-8144
20 Ka Thao		4-10-14	907-891-9203
21 Yer Lor		4-10-14	907-310-5169
22 Kazoua Lee		4-10-14	907-310-5169
23 Wa Chang		4-10-14	907-632-9956
24 Kia Thao		4-10-14	
25 Mai Chang		4-10-14	907-414-2512
26 moua mong Richard Chang		4-10-14	907-632-2385
27 Xia Vang		4-10-14	907-444-6088
28 Kayeng Vang		4-10-14	907-333-9393
29 Ker Thao		4-10-14	907-980-4339
30 Mai Vue		4-10-14	907-376-8142
31 mang Chang		4-10-14	