

848

HHESS

HJR

29

-

SB

163

87

WORK RELIEF PRECLUDED UNDER FEDERALLY AIDED ASSISTANCE PROGRAMS

QUESTIONS HAVE ALSO BEEN RAISED BY STATES AS TO WHETHER A CHILD, OTHERWISE ELIGIBLE FOR AFDC, OR THE ENTIRE UNIT COULD, UNDER FEDERAL POLICIES BE DENIED AID IF AN APPLICANT OR RECIPIENT REFUSED TO WORK OFF IN PROJECTS OR WORK RELIEF PROGRAMS, THE ASSISTANCE TO WHICH HE WAS OTHERWISE ENTITLED UNDER TITLE IV-A OF THE ACT.

SUCH A STATE PLAN PROVISION IS CLEARLY PROHIBITED UNDER 45 CFR 233.140 WHICH SPECIFIES THAT:

"FEDERAL FINANCIAL PARTICIPATION WILL NOT BE AVAILABLE IN EXPENDITURES MADE IN THE FORM OF PAYMENTS FOR WORK PERFORMED IN ANY MONTH AFTER JUNE 1968, EXCEPT UNDER THE WORK INCENTIVE PROGRAM AUTHORIZED BY TITLE IV, PART C OF THE SOCIAL SECURITY ACT, OR UNDER THE WORK EXPERIENCE AND TRAINING PROGRAMS AUTHORIZED BY TITLE V OF THE ECONOMIC OPPORTUNITY ACT."

ABSENT CONGRESSIONAL AUTHORITY TO THE CONTRARY, A NEEDY AND OTHERWISE ELIGIBLE CHILD AND HIS NEEDY CARETAKER RELATIVE MUST RECEIVE ASSISTANCE UNDER TITLE IV-A OF THE ACT TO WHICH HE IS OTHERWISE ENTITLED. THIS VIEW IS CONSISTENT WITH THE UNITED STATES SUPREME COURT DECISION IN THE CASE OF TOWSE v. SWANK. (404 U.S. 202)

WORK RELIEF REFERS TO ANY SYSTEM IN WHICH AN INDIVIDUAL IS ASSIGNED TO WORK-OFF THE ASSISTANCE GIVEN, OR TO WORK WITHOUT PAY AS A CONDITION OF

RECEIVING SUCH NEEDS-RELATED CASH ASSISTANCE FOR HER OR HIS FAMILY.

IT INCLUDES SYSTEMS IN WHICH THE AFDC ASSISTANCE IS SPECIFICALLY CHARACTERIZED AS PAYMENT FOR THE WORK, SYSTEMS IN WHICH HOURS OF WORK REQUIRED ARE DETERMINED BY ASSIGNING AN HOURLY VALUE TO THE WORK PERFORMED AND DETERMINING THE NUMBER OF HOURS THIS HELD TO BE NECESSARY TO MEET THE NEEDS, AND SYSTEMS IN WHICH ACCEPTANCE OF THE OTHERWISE UNPAID WORK IS SIMPLY A CONDITION OF ELIGIBILITY FOR ASSISTANCE. IT IS UNCLEAR AS TO WHETHER THE INTENT OF ALASKA HOUSE BILL 340 1, TO LIMIT ELIGIBILITY AT INTAKE OR TO DENY AN ALREADY DETERMINED ELIGIBLE RECIPIENT UPON REFUSAL TO WORK FOR NO COMPENSATION. SUCH A DISTINCTION HOWEVER IS NOT. SUCH WORK RELIEF CREATES A CLASS OF WORKERS WHO PERFORM WORK WITH NEITHER THE STATUS NOR THE BENEFITS GENERALLY ACCEPTED AS THE RIGHT OF EMPLOYEES. FOR EXAMPLE, AS NON-EMPLOYEES THEY ARE EXCLUDED FROM COLLECTIVE BARGAINING, FROM PENSION SYSTEMS, AND THEY CANNOT QUALIFY FOR PROMOTION. IN ADDITION, GENERALLY THE FAMILY SUFFERS AN OUT-OF-POCKET LOSS SINCE THEY CONTINUE TO RECEIVE ONLY THE AMOUNT OF THEIR REGULAR AFDC ASSISTANCE WITHOUT AN INCREMENT TO ACCOUNT FOR THE EXPENSES INCURRED AS A RESULT OF PARTICIPATION IN THE WORK RELIEF ASSIGNMENT.

FROM THE INITIAL ENACTMENT OF THE PUBLIC ASSISTANCE PROGRAMS IN 1935 HEM HAS TAKEN THE POSITION THAT REQUIRING AN INDIVIDUAL TO ACCEPT ASSIGNMENT TO A WORK RELIEF PROJECT, I.E., TO WORK OFF, OR WORK FOR, ASSISTANCE PROVIDED FOR IN TITLE IV-A OF THE ACT IS INCONSISTENT WITH THE BASIC REQUIREMENT THAT AFDC PAYMENTS BE UNRESTRICTED MONEY PAYMENTS, 42 U.S.C. §905(b). THIS PORTION IS REFLECTED IN THE MINUTES OF THE SOCIAL SECURITY

BOARD, FEBRUARY 23, 1936, BD. DOCUMENT NO. 73, 45 CFR 233.140. THE VIEW WAS BASED ON ITS CONCLUSION THAT A REQUIREMENT THAT AN INDIVIDUAL ACCEPT OTHERWISE UNDENUMERATED WORK AS A CONDITION OF ELIGIBILITY FOR AID IS, IN FACT, A REQUIREMENT THAT THE INDIVIDUAL "EARN" THE FAMILY'S ASSISTANCE BY WORK SO THAT THE WELFARE PAYMENT IS ACTUALLY COMPENSATION FOR SERVICES RENDERED AND NOT AID WITHIN THE MEANING OF U.S.C. § 406(b).

THE CORRECTNESS OF THIS INTERPRETATION OF THE STATUTE WAS CONFIRMED BY THE 1952 ENACTMENT OF 42 U.S.C. §609, THE COMMUNITY WORK AND TRAINING PROGRAM, WHICH PROVIDED SPECIFIC AUTHORIZATION FOR THE ESTABLISHMENT OF WORK RELIEF TYPE PROGRAMS IN AFDC UNTIL ITS REPEAL IN 1958 BECAUSE OF CONGRESSIONAL DISSATISFACTION WITH THE PROGRAM. UPON THIS REPEAL HEW PROMULGATED THE STILL EFFECTIVE 45 CFR 233.140 TO REESTABLISH ITS PRE-1952 RULE. SUBSEQUENT LEGISLATIVE PROPOSALS TO REINSTATE 42 U.S.C. §609 WERE REJECTED.

THIS POSITION WAS REAFFIRMED BY HEW IN 1971, WHEN BOTH CALIFORNIA AND NEW YORK PROPOSED WORK RELIEF PROGRAMS FOR AFDC RECIPIENTS AND WERE ADVISED THAT FEDERAL FUNDING WOULD NOT BE AVAILABLE IF THEIR REGULAR AFDC PLAN REQUIRED RECIPIENTS TO ACCEPT ASSIGNMENT TO WORK RELIEF.

THE ONLY EXCEPTION HAS BEEN THE APPROVAL OF PLACEMENTS FOR NOT TO EXCEED 13 WEEKS UNDER THE WIN PROGRAM, ON THE GROUNDS THAT WHERE THE INDIVIDUAL HAD HAD VERY MINIMAL ATTACHMENT TO THE LABOR MARKET, ONE COULD CONSIDER "EXPOSURE TO WORK" TO BE A FORM OF TRAINING. SEE WIN HANDBOOK, CHAPTER SIX, PAGE 5, PARAGRAPH E.

IN 1974 HEW PUBLISHED A REVOCATION OF \$233.140 OF THE REGULATIONS; HOWEVER THIS REVOCATION WAS CHALLENGED IN A SUIT BROUGHT BY RECIPIENTS ORGANIZATIONS (INREO v. DWIGHT) AND, THE REGULATION WAS REINSTATED.

STATE-ONLY WORK REQUIREMENTS

DURING THE PAST YEAR THERE WERE NUMEROUS INQUIRIES AS TO WHETHER, IN THE ABSENCE OF FEDERAL LAW, STATES COULD IMPOSE THEIR OWN WORK REQUIREMENTS AS A CONDITION OF RECEIVING AID UNDER TITLE IV-A IN ADDITION TO THESE PROVIDED IN THE ACT AS DESCRIBED ABOVE. THE ONLY ADDITIONAL INDIVIDUALS NOT COVERED UNDER CURRENT LAWS AND REGULATIONS WOULD BE RECIPIENTS IN NON-WIN AREAS. THE POSITION OF HEW TO DATE HAS BEEN THAT IN THE ABSENCE OF LEGISLATIVE AUTHORITY THE DEPARTMENT WOULD NOT ISSUE A POLICY TO SUPPORT STATE-ONLY WORK REQUIREMENTS.)

CONGRESS ENACTED, AS A PART OF P.L. 95-216, THE SOCIAL SECURITY AMENDMENTS OF 1977, SECTION 404 ENTITLED STATE DEMONSTRATION PROJECTS. THIS SECTION AMENDS AND EXPANDS SECTION 1115 OF THE SOCIAL SECURITY ACT WHICH RELATES TO DEMONSTRATION PROJECTS. UNDER THIS AUTHORITY THE SECRETARY OF HEW COULD WAIVE CERTAIN STATUTORY REQUIREMENTS AND PERMIT NOT MORE THAN THREE DEMONSTRATION PROJECTS PER STATE. THESE PROJECTS COULD PROVIDE FOR PUBLIC SERVICE EMPLOYMENT. THERE ARE CERTAIN RESTRICTIONS CONNECTED WITH THIS AUTHORITY:

- A. NOT MORE THAN ONE SUCH PROJECT COULD BE CONDUCTED ON A STATEWIDE BASIS.
- B. WITH RESPECT TO PUBLIC SERVICE EMPLOYMENT -

- . APPROPRIATE HEALTH AND SAFETY STANDARDS AND TRAINING CONDITIONS MUST BE MADE
- . THE PROJECT MUST NOT RESULT IN DISPLACEMENT OF EMPLOYED WORKERS
- . COMPENSATION FOR WORK IS SPECIFIED AT AN HOURLY WAGE EQUAL TO THE LOCAL PREVAILING WORK WAGE
- . WORK CONDITIONS MUST BE REASONABLE
- . WORKMEN'S COMPENSATION MUST BE PROVIDED

(DEMONSTRATION PROJECTS MUST NOT LAST LONGER THAN TWO YEARS AND ALL MUST BE TERMINATED NOT LATER THAN SEPTEMBER 30, 1978)

THE FACT THAT THE CONGRESS FELT COMPELLED TO BROADEN SECTION 1115 OF THE ACT TO PERMIT WORK PROGRAMS SUCH AS THOSE UNDER DISCUSSION HERE IS CONSISTENT WITH THE CURRENT DEPARTMENTAL POSITION THAT SUCH PROGRAMS ARE INCONSISTENT WITH THE PROVISIONS OF THE SOCIAL SECURITY ACT ABSENT ANY OTHER SPECIFIC LEGISLATIVE AUTHORITY.

THE ONLY PROVISIONS IN FEDERAL LAW OR REGULATIONS WHEREBY A STATE MAY DENY AFDC TO INDIVIDUALS OR TO CHILDREN, ON THE BASIS OF WORK REQUIREMENTS, ARE THOSE CONTAINED IN SECTION 407 (b) (1) OF THE ACT AND 45CFR 233.100 (a) (5) PERTAINING TO THE UNEMPLOYED FATHER AND IN SECTION 402 (a) (19) (F) OF THE ACT AND 45CFR 224.21(b), 224.51(a) (1) AND 233.110 PERTAINING TO THE PROVISION OF FOSTER CARE FOR OTHER INDIVIDUALS UNDER THE WIN PROGRAM.

ENACTMENT OF ALASKA HOUSE BILL NO. 840 AS IT IS NOW WRITTEN WOULD BE
INCONSISTENT WITH THE SOCIAL SECURITY ACT AND FEDERAL REGULATIONS,
ENACTMENT OF THIS PROPOSED BILL WOULD RESULT IN A COMPLIANCE ISSUE
WITH THE STATE OF ALASKA'S PUBLIC WELFARE DIVISION AND COULD PLACE THE
FEDERAL FINANCIAL PARTICIPATION DOLLARS AT RISK.

THANK YOU,

LOUIS E. WEISSMAN
ACTING ASSISTANT REGIONAL COMMISSIONER
OFFICE OF FAMILY ASSISTANCE

• HEW
LETTER
ON

• WORK FARE



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

REGION X

ARCADE PLAZA BUILDING
1321 SECOND AVENUE
SEATTLE, WASHINGTON 98101

September 28, 1978

OFFICE OF THE REGIONAL DIRECTOR

Mr. Gregg K. Erickson
Director of Research
Legislative Affairs Agency
State of Alaska
Pouch Y - State Capitol
Juneau, Alaska 99811

Dear Mr. Erickson:

This is in response to your inquiry regarding potential Federal implications if the State of Alaska withdrew from participation in the AFDC Program. The State may, of course, withdraw from the AFDC Program at any time.

Before addressing the specific questions you raised, a general discussion of the compliance process, as it pertains to each of these programs, may be helpful. The compliance process reflects one way in which the Secretary may withhold part or all of the Federal funding for a particular program. The Social Security Act and regulations give the Department broad discretion in compliance proceedings. Pertinent sections of the Social Security Act which describe the compliance process include Sections 404(a) for AFDC, 443 for WIN, 1904 for Medicaid and 2003(c) and (e) for Title XX. The compliance processes for AFDC, Medicaid and Title XX are similar.

There are three ways stated in the regulation in which a question of compliance may arise. 45 CFR 201.6(a) states that:

A question of noncompliance of a State plan may arise from an unapprovable change in the approved State plan, the failure of the State to change its approved plan to conform to a new Federal requirement for approval of state plans, or the failure of the State in practice to comply with a Federal requirement, whether or not its State plan has been amended to conform to such requirement.

All or part of the payments made pursuant to a State plan may be withheld after a finding of noncompliance. 45 CFR 201.6(e) provides that:

If the Administrator makes a finding of noncompliance with respect to a matter under paragraph (a) of this section, the State agency is notified that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the plan not affected by such failure), until the Administrator is satisfied that there will no longer be any such failure to comply. Until he is so satisfied, no further payments will be made to the State (or will be limited to categories under or parts of the plan not affected by such failure).

A State may appeal an adverse decision to the Court of Appeals for the circuit in which the State is located. (45 CFR 201.7.)

WIN's provision differs, but contains notice and hearing requirements (Section 443). Title XX contains an additional requirement that a State must comply with certain funding requirements (Section 2003(c)), but again there is a notice and hearing requirement.

You have inquired as to which part of a program would lose funds, or whether funding for a certain program would be jeopardized under a given set of circumstances. As stated previously, the Social Security Act gives the Secretary broad discretion in compliance proceedings. For example, noncompliance with one AFDC requirement could result in the withholding of part or all of the Title IV-A funds. There is no loss of Federal funds until a State has its hearing.

The State should be aware that Federal funds may be affected by audit exceptions or fiscal disallowances with respect to individual payments that may occur prior to or at the same time the Department decides to initiate compliance proceedings.

Regional office staff have the primary responsibility for identifying questions of compliance and reporting them to the State involved and to the appropriate officials in Washington, D.C. If a question of compliance cannot be resolved through negotiation, a compliance hearing may be scheduled. If a State is dissatisfied with an action taken on a State plan, it can request a reconsideration.

Title IV-D does not contain the compliance and hearing provisions found elsewhere in the Social Security Act. Instead, Congress enacted a 5 percent penalty to be assessed at such time as the annual audit establishes that a State failed to have an effective child support enforcement program, (Section 403(h)). In order to have an effective program, a State must be in compliance with each of the State plan requirements identified in 45 CFR 305.20. Use of the term "compliance" in discussions of the child support enforcement program refers to the audit and penalty provisions, rather than the process of raising a question of compliance and then holding a hearing.

We now proceed to the questions raised in your letter of June 28, 1978, answering them in the order raised.

I. TITLE IV-D OF THE SOCIAL SECURITY ACT

1. If the Department of Revenue were to implement these instructions, would Alaska be found noncompliant with Title IV-D requirements?

There are two situations in which implementation of the instructions of House Concurrent Resolution 134 would result in noncompliance with Title IV-D regulations.

The first is one in which the practical result of the instruction is that the Child Support Enforcement Agency works no paternity cases. Under those circumstances, the State does not meet the criteria outlined in 45 CFR Part 305. If a limited number of cases are worked, there is a serious question about compliance and therefore a serious question about the effectiveness of the child support program.

The second situation arises from OCSE's approach to the audit and penalty regulations. Although regulations covering the initial start up period are more flexible, HEW intends to amend those regulations and apply more stringent standards as the child support program moves out of the developmental stage and becomes more fully operational nationwide.

2. If found noncompliant, what fiscal penalties would be assessed on the Title IV-D program?

If the State does not comply with the audit criteria, Alaska's Title IV-A reimbursement will be reduced by 5 percent for the period audited.

While not a penalty provision, there is another fiscal consequence of implementation of the resolution that should be mentioned. Activities such as notifying individuals of their right to privacy under the State constitution and obtaining a waiver are outside the scope of Title IV-D and therefore are not eligible for Federal financial participation. The Department of Revenue would need to establish a mechanism for identifying those costs and excluding them from the claim for Federal reimbursement.

There are also some additional ramifications for children and taxpayers in Alaska we feel should be mentioned. The failure to establish the paternity of a child can have grave social and legal consequences. A child's right to those benefits which accrue to a child via the parent-child relationship may be lessened or eliminated if paternity has never been established. This could affect such benefits as Social Security, workmen's compensation and medical and life insurance. The failure to establish paternity will, in many cases, result in shifting the burden for child support from the child's father to the taxpayers in Alaska.

If there is no AFDC program in the State, and therefore no AFDC component of the child support program, there is virtually no chance that HEW could approve a State plan for child support. In that event, no Federal funds would be available for the costs of obtaining financial support for children. It seems likely that Alaskans would want to continue providing child support services to women and children not on assistance and that taxpayers would want the State to recover welfare costs from parents with the obligation and financial ability to support their children. Without a IV-D State plan, Alaska would have to pay all costs of providing these services. In the twelve-month period ending March 31, 1978, costs of these services were \$1,043,445. The Federal Government paid \$782,584 of this amount.

3. Would noncompliance with Title IV-D result in noncompliance for Title IV-A (AFDC)?

If a question of compliance is raised with regard to whether an aspect of a Title IV-A requirement would not or could not be met, there could be both a compliance and a Federal matching issue involved. Clearly, a compliance issue would exist if the State plan does not contain language requiring applicants and recipients to cooperate in establishing paternity, as well as if, in practice, the State does not assist recipients in establishing paternity. Furthermore, Federal matching questions may arise if recipients are not cooperating in establishing paternity.

Section 402(a)(27) of the Social Security Act requires that as a part of the State's plan for aid and services to needy families, provision is to be made for a child support program which conforms with Part D of Title IV, as well as the State plan requirements of Section 454, "State Plan for Child Support."

4. If the answer to question number 3 is yes, what would be the penalty assessed on Alaska's Title IV-A program?

If a State is found to be out of compliance after a hearing, it could jeopardize all of their Federal AFDC funds, should the State fail to take steps to immediately come into compliance. (45 CFR 201.6).

II. WORK REQUIREMENTS FOR AFDC RECIPIENTS

1. Has this Federal position remained unchanged regarding the impact on AFDC for institution of a work requirement program as outlined by House Bill No. 840?

Yes, the Federal position remains unchanged with regard to the implications of the enactment of House Bill No. 840. Should Alaska wish to explore alternatives allowable under current policy and law, HEW is willing to explore the possibility of demonstration programs authorized under Sections 1115(a) and 1115(b) of the Social Security Act.

2. Would the Alaska AFDC program be deemed wholly or partially noncompliant if Alaska were to enact House Bill No. 840?
3. What would be the fiscal penalty assessed on the AFDC program if a question of compliance were raised?

These two questions can be best addressed with a single response. Simply enacting the legislation without further action on the part of the State would not affect the program. Should Alaska choose to implement the legislation, however, HEW would be faced with two courses of action. First, the necessary State plan would be disapproved and expenditures for the portion of the grant affected would not be subject to Federal financial participation (FFP). Second, HEW would have to determine whether the nature of the program, should the State choose to operate it without FFP, raises a substantial compliance issue. If HEW decides this is the case, and the State, subsequent to a hearing, is found to be substantially out of compliance with any provision required by Section 402 of the Social Security Act, fiscal sanctions would be imposed. These sanctions range from the withholding of specific amounts of money to disallowance of all FFP for AFDC.

4. Would Federal financial participation be withdrawn from the Alaska WIN program? In whole or in part?

Alaska's WIN allocation would not be affected by a compliance issue generated by the passage of House Bill 840. The term "Federal financial participation" has no direct relevance to the WIN program. That term applies to the Federal share of AFDC grants and administrative costs, not to WIN program funds.

The amount of funding Alaska receives for the WIN program is determined by two factors:

- a. Fifty percent of the funds for Alaska's WIN program are based on the number of WIN registrants in Alaska in January of the previous fiscal year, as a proportion of the average number registered in all the States. Hence, any reduction in the number of AFDC recipients registered in WIN will directly affect the level of WIN funds provided to Alaska.
- b. In addition to this statutory requirement, the balance of Federal funding to the State's WIN program is allocated on a formula in which the State's performance and potential are measured against other States. A high performance level by the State's WIN program in reducing welfare grants and placing individuals in well-paying jobs having a high job retention rate, will have a positive affect on WIN funding. In contrast, any modification of the AFDC program which results in fewer WIN registrants or a reduced level of WIN performance will adversely affect program funding.

5. Would Federal financial participation in the AFDC foster care component also be jeopardized?

Yes. This would, however, depend upon the nature of the compliance issue. If the State was found substantially out of compliance, a fiscal sanction would be imposed on the entire program, including the foster care component.

6. If the answer to question 5 is yes, what amount of monies would be lost?

In the event that a fiscal sanction were imposed on the entire program, then all FFP for AFDC foster care would cease.

7. Could the Alaska WIN program itself be expanded without penalty to include a nonpaid public service component such that nonprofit agencies and public agencies could provide at no cost to the WIN program nonpaid work experience and job training for WIN registrants who are not in other WIN components?

Our response is a "qualified yes." The WIN regulations provide for a work experience component (45 CFR 224.43(b)) which has similarities to a nonpaid public service component.

A WIN experience assignment is limited to 13 weeks for any individual (45 CFR 224.35(b)). Participants must be provided a \$30 per month incentive payment plus training and related expenses. Assignment to WIN work experience, as with any other WIN training or employment component, must be part of an individual's employability development plan. Work experience sites can only be established in public and private nonprofit agencies.

As all WIN funding has been allocated to the States, the only way work experience could be expanded would be to restructure the existing program to give work experience a higher priority. Such restructuring would necessitate a modification to the State's WIN plan and approval by the Regional Coordination Committee (RCC).

Increased utilization of the work experience component could, of course, adversely affect Alaska's WIN allocation. If this restructuring resulted in fewer placements, Alaska's allocation in the subsequent year would be reduced as a result of the performance-based feature of WIN's allocation formula.

8. If the answer to question 7 is yes, to what extent can Alaska receive Federal financial participation in such a component (assuming a compliant AFDC program)? Or have WIN funds essentially reached a ceiling such that any additional expenditures would be State-only funds?

As explained in the answer to question #4, the term "Federal financial participation" is not applicable to the WIN funding process. Should the

State decide to modify its program to provide for more extensive use of work experience, this should be addressed in the form of a request to the RCC for a WIN plan amendment. Such an amendment would have to be viable given existing funding levels and constraints.

III. MEDICAID (TITLE XIX)

1. (a) If Alaska had no approved Title IV-A (AFDC) plan because it chose to withdraw from AFDC, could its Medicaid State plan still be approved even though we would be lacking coverage of a mandatory group?
- (b) Could Alaska's Medicaid State plan be approved if the State covered these same individuals under Medicaid, but they received their cash assistance under a 100 percent State funded grant program rather than AFDC, if the State chose to withdraw from that program?

These two questions can best be answered together.

Title XIX coverage is mandated for the categorically needy, defined in 42 CFR 448.1(a)(1)(i) as individuals who are eligible for or receiving financial assistance under Titles IV-A (AFDC) or XVI (SSI) of the Social Security Act, or under an SSI State supplement. A State also has the option of extending coverage to the medically needy, as defined in 42 CFR 448.1(a)(2) as well as certain other optional coverage groups described in 42 CFR 448.1(c).

There are no specific provisions in Title XIX or the applicable Federal regulations which require a State to implement a Title IV-A and/or a Title IV-D program as a prerequisite for participating in Medicaid. If Alaska withdrew from participation in AFDC, but elected to retain Medicaid, then Medicaid services could continue to be made available, but only to the SSI required coverage group and the optionally-related Title XVI individuals included in the approved Title XIX State plan. If this were to occur, a question might be raised as to where eligibility determination for SSA eligibles for Medicaid services would be made.

Furthermore, it is not possible to operate a medically needy program without a Title IV-A program, since Section 1903 (f)(1)(B)(i) relates medically needy income to $133 \frac{1}{3}$ of the highest money payment under an approved Title IV-A State plan. If no Title IV-A State plan exists, there would be no basis for making this determination.

Title IV-A - type families and individuals receiving cash assistance under a State-only funded program would not be eligible for Title XIX services, because eligibility is based in part upon eligibility under an approved Title IV-A program. If the State opted to withdraw from Title IV-A, there would be no basis under law or regulation to determine eligibility for Medicaid services.

2. Does the phrase "approved State plans under Title IV-A" mean total compliance with provisions of Title IV-A or substantial compliance? If the latter is the case, what constitutes substantial compliance? Specifically:
 - (a) If Alaska were found not in compliance with the AFDC program due to noncompliance with Title IV-D requirements, would the Title XIX (Medicaid) State plan also be ruled noncompliant as well, due to that action?
 - (b) If Alaska instituted mandatory work requirements as outlined in Alaska House Bill No. 840 and the State was found to be noncompliant with Title IV-A (AFDC), would the Title XIX (Medicaid) State plan also be ruled noncompliant due to that action?
 - (c) If Alaska was found not in compliance with Title IV-A (AFDC) for reasons listed in both above questions 2(a) and 2(b), would the State's Medicaid State plan also be found noncompliant?

All the components of this question are best answered together. As stated earlier, compliance is judged on the accuracy of the State plan, as well as the way in which it is actually being administered. If a question of compliance is raised regarding the Medicaid State plan and cannot be resolved through negotiation, a compliance hearing may be scheduled by the Administrator of the Health Care Financing Administration. A finding of substantial compliance or noncompliance would be made after the hearing, and would depend on the nature of the question. If a compliance hearing were held on a Title IV-A and/or Title IV-D issue, the decision rendered would not directly affect Title XIX in the withholding of Federal Medicaid funds. On the other hand, if the result of a Title IV-A hearing was a determination that a given AFDC population was ineligible for AFDC, this group of individuals would not be eligible for Title XIX either. There must be a clear and undisputed eligibility for Title IV-A or Title XVI before there is an entitlement to Federal financial participation (FFP) under Title XIX. Therefore, in response to your specific questions, the Title XIX State plan would not necessarily be judged out of compliance as a direct result of a finding that Alaska's AFDC State plan is out of compliance because of Title IV-D requirements or a mandatory work program.

3. What would be the fiscal penalty in the Medicaid program for a partially noncompliant AFDC program? Would the result be a total, a partial, or zero withholding of Federal funding under Title XIX (Medicaid)?
4. If the Title IV-A State plan were deemed totally noncompliant, would the fiscal effect on the Medicaid program be the same as if the State withdrew from participation in the AFDC program? Would this result in a total loss of Federal financial participation in Medicaid?

These two questions are best answered with a single response.

As noted in our response to question #2, we are unaware of any fiscal penalty which would be applied to Title XIX if Alaska were to withdraw from participation in the Title IV-A and/or Title IV-D programs, but there may be FFP implications.

Donna Rogers of Alaska met with HCFA staff on August 21, 1978. During that meeting, she posed several questions regarding the relationships between Titles XIX, IV-A and IV-D. Our response to the questions she raised follows:

1. Could Alaska have a medically needy program and include unemployed fathers not included in the IV-A program?

No, this would not be possible. 42 CFR 448.1(d) specifies that if a State opts to include medically needy individuals under Title XIX, the State plan must specify that it covers all medically needy groups that correspond to the categorically needy groups covered in the plan. There is no provision in law or regulation to extend medically needy coverage to other groups of individuals.

2. Can retroactive 90 day coverage go before that date if service were delivered, e.g. 4 or 5 months previously?

No, this would not be possible. 45 CFR 206.10(a)(6)(ii) provides for retroactive medical coverage up to three months prior to the month of application. Again, there is no provision in law or regulation to allow coverage prior to the 3 month retroactive period.

3. Spend-down: Utah requires recipients to make their payments the first of each month before medical coupons are issued. Is this acceptable?

No, this would not be possible. 42 CFR 448.3(c)(2)(ii) provides that in determining when spend-down requirements are met "income will be applied to costs incurred . . ." (emphasis added). Since the Utah method requires that individuals not only incur costs, but pay them as well, before eligibility is established, it is not acceptable.

IV. SOCIAL SERVICES (TITLE XX)

1. We are concerned that the fifty percent rule (45 CFR 228.56) may cause a partial or total reduction in the amount of Title XX Federal financial participation if the State withdrew from participation in AFDC. Thus, we need to know the fiscal impact of 45 CFR 228.56. Would the effect be to eliminate all Social Services Federal funding if the State no longer had an approved State plan under Title IV-A? Or would the effect be to reduce the amount of Title XX funding due to the fact there would be no AFDC Federal funding included in the calculation contained in the fifty percent regulation?

The fifty-percent rule (45 CFR 228.56) applies to Title XVI (SSI), Title XIX (Medicaid), and Title IV-A (AFDC) recipients or those eligible to participate in these three programs. If there were no AFDC program, the fifty-percent rule would then need to be applied to the remaining two income maintenance groups -- Medicaid and SSI. If Medicaid eligibles would no longer be eligible for Title XIX services because of no approved Title IV-A AFDC plan, the fifty-percent rule would then need to be applied to the category of SSI recipients and SSI eligibles only. If this were to happen, some Title XX funding would be lost, but not the total amount.

If the fifty-percent rule is not met, the Federal share is adjusted downward until the rule is, in effect, met. You may wish to refer to 45 CFR 228.56(a) which states, in part, that ". . . Federal funds will be adjusted so the total Federal reimbursement does not exceed twice the amount of the total expenditures in behalf of those individuals. . ." who come under the rule.

The loss of Federal dollars for failure to meet the fifty-percent rule would amount to the difference between what the total Federal share would have been had the rule been met, and twice what was spent on social services and personnel training. Downward adjustment of the eligible population will reduce the Federal share of Title XX funds, but will not eliminate Federal participation altogether.

2. If the State were found noncompliant with AFDC Federal requirements, would the fiscal effect on Title XX Federal funding be the same as if the State withdrew from Title IV-A? If there is a different fiscal impact, please detail those differences.

If the State were found noncompliant with AFDC Federal requirements, it would be assumed that the State would be operating an AFDC program under a plan which would be approved to a certain degree. There would be no change in Title XX FFP in such a case. If the State withdrew from Title IV-A, however, there would be no approved plan under Title IV-A, and the fifty-percent rule would then need to be applied, minus this former category of income maintenance status eligibles.

3. If the State no longer had an approved State plan under Title IV-A, but instituted a State-only cash assistance program for those individuals who previously were or would have been covered by AFDC, would Federal financial participation for Title XX services to these people be the same as if they were receiving AFDC? If so, to what degree? We are assuming here that such a State-only program would be essentially the same as a Title IV-A program.

Application of the Title XX fifty-percent rule is based on individuals ". . . who are receiving aid under the plan of the State approved (our emphasis) under Part A of Title IV or who are eligible to receive such aid. . ." (45 CFR 228.56(a)(1)). The fifty-percent rule would not allow FFP consideration of State-only cash assistance recipients as though they were eligible for AFDC.

4. If the State were only partially noncompliant with Title IV-A requirements and partial rather than total Federal penalties were assessed on the AFDC program, would there be a partial withholding of Title XX Federal funding? If so, to what degree and for what reasons?

As indicated in our response to question #2, if the State had an approved AFDC plan and was found partially noncompliant, there would be no Title XX funding constraints, assuming there would be no change in the number of eligibles (45 CFR 228.56(a)(1)).

5. Title XX requires AFDC recipients to be informed of the availability of family planning services. If the State had no AFDC program, how would this action affect this Title XX mandatory requirement? Would fiscal penalties result? What if the State were able to inform these types of low income individuals of family planning services and these individuals received their grants through a 100 percent funded State-only program, would Title XX funding still be jeopardized? What fiscal penalties might still result?
6. If the State were found noncompliant with all or part of the AFDC Federal requirements, but still was informing AFDC recipients of family planning service availability, would there be any fiscal penalty imposed on Title XX? That is, is the family planning issue totally separate from other AFDC requirement considerations when compliance with Title XX requirements are addressed?

These two questions can be best addressed with a single response. Failure to provide family planning services under provisions of Section 402(a)(15) of the Social Security Act would result in a disallowance of a reduction by one percentum of the quarterly amount payable to the State for all expenditures under Title IV-A (45 CFR 201.14 (a)(2)). The fiscal penalty involved is not a Title XX funding penalty, but rather a loss of FFP to the State under its AFDC program. If there is no AFDC program with no AFDC FFP, there can be no reduction. If, however, there continues to be a program with noncompliance Title IV-A reductions, there would be no further penalties, providing there was compliance with the provisions of Section 402(a)(15).

V. OTHER PROGRAMS

There would undoubtedly be many other programs affected by a decision to withdraw from the AFDC program. For example, loss of Medicaid funds for AFDC eligibles would almost certainly have a negative impact on Community

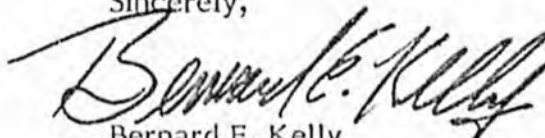
Mental Health Centers (CMHCs). Although there are no references in the CMHC legislation (Title III of P.L. 94-63) requiring that AFDC clients be served, there are a number of areas which could be interpreted as applicable:

- Within the limits of its capacity, a CMHC should provide services to any individuals residing or employed within the catchment area regardless of ability to pay (Section 201 (a)(1)(B)).
- The provision of services shall be coordinated with the provision of services by other health and social services agencies (Section 201 (b)(2)).
- If the area is a designated poverty area, additional grant funds received because of this designation will be used to provide services for people unable to pay (Section 206 (c)(1)(G)).
- CMHCs will develop a financial plan to insure adequate support from other Federal and nonfederal sources, will have a contractual arrangement with the State agency that administers Title XIX and will make every effort to collect reimbursement. (Section 206 (c)(1)(H)(I)(J)).

Because most CMHCs are currently operating on such tight budgets, we expect that potential clients with no means of reimbursement are likely to receive minimal, if any, services. CMHCs claim a significant number of fee reimbursements through Medicaid. Loss of Medicaid funds for AFDC eligibles would limit access to mental health care and could seriously undermine the community mental health program in Alaska. Other public health services would probably be similarly affected.

Because of the magnitude of the issues you have raised, we recognize there may well be other Federal implications not addressed in this letter, and that our response may precipitate additional questions. This response constitutes a preliminary reaction to the questions you have raised. Some portions have been sent to Washington, D.C. for review and it is possible there may be some modifications. We shall look forward to a continuing dialogue with the Legislative Affairs Agency on these subjects. Please feel free to contact me again if I can be of additional assistance.

Sincerely,


Bernard E. Kelly
Principal Regional Official

• STATES
INTER-
ESTED

• in

WORKFARE

U.S. DEPARTMENT OF LABOR
EMPLOYMENT AND TRAINING ADMINISTRATION
WASHINGTON, D.C. 20213



SEP 29 1978

MEMORANDUM FOR: MERWIN S. HANS ✓
SHELLY BLOOM

FROM: JAY ROWEN *JWR*

SUBJECT: State Initiatives Toward AFDC Workfair Programs

The attached "TABA" represents the most recent Office of Family Assistance attempt to get information on State initiatives.

From the list and my discussions with Gene Walker I identify the following as of most immediate concern to us:

Kentucky

The State plan amendment request should be in the regional office in the near future.

Michigan

Started out with a focus on Kent County (Grand Rapids). This is not pure work relief, but a mixture of employment training and work relief. The word is that Michigan is looking at what happens in Colorado, and may move in that direction. Sue Foster (Under Secretary's Office) is supposed to be calling a meeting. Hans name is on the list.

Wisconsin

Regional office has this request, but for some odd reason has not sent a copy into National OFA. So Walker does not know its contents. Supposedly, the regional office is waiting to see what response is made to Michigan.

Alaska

We have been in on this. There is pending legislation to establish a work program. State is looking a consequences.

Other efforts either appear to be dormant, have not reached an action point, or are not really workfair proposal, iè-- Pennsylvania is taking about a strong work search and acceptance of jobs in non-WIN counties.

For the directors meeting, I suggest we give them the attached document and ask that they give us more complete information where available, also that they obtain any documents such as legislative actions and plan requests on State initiatives. Caution them to use fineese in dealing with Regional OFA staff since they have just been approached by Walker to get this information.

TAB A

The following States have expressed interest in implementing mandatory work programs for AFDC recipients:

REGION I

CONNECTICUT - State law passed which established Employability Benefit and Equity Program which requires all employable persons to participate in a community project program. Law has not been implemented.

MAINE - Discussed with Regional Office staff the possibility of a work program.

MASSACHUSETTS - Submitted Amendment to State plan establishing Work Experience Program, but withdrew plan in favor of Special Initiative under the WIN program.

NEW HAMPSHIRE - Discussed with Regional Office staff the possibility of having a work program.

REGION II

NEW JERSEY - Senate Minority Leader plans to introduce a Bill which would establish public work programs.

NEW YORK - State is not interested in a work program, however several upstate counties have discussed with State staff the desirability of such a program.

REGION III

PENNSYLVANIA - Has submitted an amendment to State plan establishing a work registration requirement.

REGION IV

FLORIDA - Currently has an 1115 project in operation.

KENTUCKY - State law passed January 1978 establishing a work requirement. Plan material not yet submitted.

MISSISSIPPI - Expressed interest to R.O.

NORTH CAROLINA - Expressed interest to R.O.

TENNESSEE - Expressed interest to R.O.

REGION V

MICHIGAN - State plan amendment submitted establishing an employment and training requirement. Pending in Central Office.

WISCONSIN - State plan amendment submitted establishing an employment and training requirement. Pending in Regional Office.

REGION VI

NEW MEXICO - A Bill establishing a work requirement has been introduced in the State Senate.

REGION VII

No interest in a work requirement, however, Iowa, Kansas, Missouri, and Nebraska has discussed with Regional Office staff a Job Search requirement.

REGION VIII

COLORADO - State Law passed which establishes a work requirement. State plan material pending in Central Office.

UTAH - Operating an approved Work Experience and Training Program.

REGION IX

No interest.

REGION X

ALASKA

- A Bill establishing a Work Requirement has been introduced in the State Legislature.

IDAHO

- The State has passed legislation which establishes a WIN-like work in non-WIN counties, however the legislature did not fund the program.

OREGON

- Discussion with Regional staff to establish a program under 1115(b).

WASH WASHINGTON

- The Governor is in favor of a Work Requirement.
apparently not in favor



- PAST &
PRESENT
WARRANTFARE
- BILLS

Introduced: 3/8/79
Referred: Health, Education &
Social Services

1 IN THE HOUSE

BY PHILLIPS AND MARTIN

2 HOUSE JOINT RESOLUTION NO. 29

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 Requesting Congress to permit work-
6 fare programs and urging all states
7 to make similar requests of Congress.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 WHEREAS welfare costs have skyrocketed in Alaska, more than tripling in
10 the most recent eight-year time period; and

11 WHEREAS excess welfare costs drain scarce dollars that are much needed
12 throughout Alaska for many other basic state programs and services such as
13 education, health, and public safety; and

14 WHEREAS Aid to Families with Dependent Children (AFDC) is the largest
15 federal and state funded cash assistance program providing over \$18 million
16 in aid to over 13,000 needy Alaskan children and their families; and

17 WHEREAS Alaska pays one-half of the total costs of the AFDC program
18 administered in the state, yet is given little flexibility by the federal
19 government to design a program that channels our limited dollars to needy
20 children and only to those needy AFDC adults who are disabled or who are
21 willing to work in exchange for their welfare checks; and

22 WHEREAS many Alaskans, as well as other taxpayers across the United
23 States, are alarmed by the rising costs of welfare and are demanding a
24 mechanism to require able-bodied AFDC adults to provide society with some
25 tangible work product; and

26 WHEREAS mandatory workfare programs are seen by many as not only pro-
27 viding the state with a mechanism to remove from the welfare rolls idlers who
28 refuse to work for their welfare grant, but also as (1) promoting client
29 dignity, self-esteem, and responsible work attitudes, (2) assisting clients

1 in establishing a work history often necessary for obtaining permanent gain-
2 ful employment, and (3) providing needed services to society that might
3 otherwise require additional state revenues; and

4 WHEREAS those states which have attempted to implement workfare systems
5 have been threatened with the loss of substantial federal funds because
6 workfare programs are not permitted under federal law;

7 BE IT RESOLVED that the Alaska State Legislature respectfully requests
8 the United States Congress to amend provisions of federal law to permit
9 workfare programs for AFDC able-bodied adults without jeopardizing federal
10 funding for the state's welfare programs; and be it

11 FURTHER RESOLVED that the Alaska State Legislature calls on the state
12 legislatures in all of the states to forward similar resolutions to the
13 United States Congress acknowledging their interest in such a change of
14 federal law and urging Congress to pass legislation allowing for workfare
15 programs.

16 COPIES of this resolution shall be sent to the Honorable Warren G.
17 Magnuson, President Pro Tempore of the United States Senate; the Honorable
18 Thomas P. O'Neill, Jr., Speaker of the United States House of Representa-
19 tives; to the Honorable Ted Stevens and the Honorable Mike Gravel, U. S.
20 Senators, and the Honorable Don Young, U. S. Representative, members of the
21 Alaska delegation in Congress; and to the presiding officers of each house of
22 the legislatures of all the states and the governing bodies of Puerto Rico,
23 the Virgin Islands, Guam and the District of Columbia.

Introduced: 2/8/79
Referred: Health, Education
& Social Services and
Finance

1 IN THE SENATE

BY TILLION

2 SENATE BILL NO. 124

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to general relief assistance; and
7 providing for an effective date."

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

9 * Section 1. The legislature

10 (1) finds that excessive welfare costs are a burden on the tax-
11 payers of the state and a drain on limited state revenues which are much
12 needed in other state programs and services; that, in view of these con-
13 straints, state general relief assistance must be provided only to those
14 needy citizens who are unable to work and those with dependent children; and
15 that to discourage idlers and to promote responsible work attitudes and
16 self-esteem, a work requirement must accompany state general relief assist-
17 ance for able-bodied recipients; and

18 (2) declares that the purpose of this Act is to limit general
19 relief assistance payments to persons who are at least 55 years old, are
20 disabled, or have dependent children in their homes, and who are unable to
21 provide sufficient support for themselves or their dependents.

22 * Sec. 2. AS 47.25.120 is repealed and re-enacted to read:

23 Sec. 47.25.120. ELIGIBILITY FOR ASSISTANCE. (a) Financial
24 assistance may be given under AS 47.25.120 - 47.25.300, so far as prac-
25 ticable under the conditions in this state, to an eligible individual
26 who is

27 (1) at least 55 years old, or disabled, or who has dependent
28 children in the home;

29 (2) not receiving other assistance under this chapter;

1 (3) unable to provide sufficient support for himself or those
2 dependent upon him; and

3 (4) a resident of the state.

4 (b) For the purpose of determining whether an individual seeking
5 assistance under this section is a resident of the state, the department
6 shall consider, but is not limited to considering, the following fac-
7 tors:

8 (1) enrollment in the welfare program of another state and
9 receipt of welfare benefits from another state;

10 (2) physical presence in the state;

11 (3) maintenance of a place of residence in the state;

12 (4) furnishings and household and personal effects sufficient
13 to lead a reasonable person to conclude that the place of residence is
14 more than a public accommodation;

15 (5) registration to vote;

16 (6) motor vehicle operator's license and motor vehicle regis-
17 tration;

18 (7) enrollment of children in local schools;

19 (8) bank accounts in this state or another state.

20 (c) An individual who is at least 55 years old is eligible for
21 general relief assistance if the individual

22 (1) is unemployed for reasons other than misconduct or volun-
23 tary separation without cause;

24 (2) is actively and diligently seeking gainful employment;

25 (3) has not refused to accept employment when offered;

26 (4) has registered and is available for work as required by
27 AS 23.20.375; and

28 (5) has exhausted all of his benefits, if so entitled, under
29 AS 23.20, except that if his benefits under AS 23.20 are less than those

1 for which he would otherwise be eligible under this section, he is
2 eligible for supplementary general relief assistance.

3 (d) A disabled individual between the ages of 18 and 65 years is
4 eligible for general relief assistance if the individual is (1, deter-
5 mined to be needy in accordance with standards established by regula-
6 tions of the department; (2) unable to meet the requirements established
7 by the federal Supplemental Security Income Program or its successor
8 agency; and (3) unable to engage in substantial gainful employment
9 because of a physical or mental impairment determined and certified by a
10 licensed physician. "Substantial gainful employment" as used in this
11 paragraph means at least 30 hours of work per week. An individual
12 determined to be eligible under this subsection may be referred to the
13 appropriate state agency for vocational rehabilitation services and is
14 required to accept such services as an additional condition of eligibil-
15 ity under this section. An individual determined to be eligible under
16 this subsection may be required to seek employment or to participate in
17 public service employment projects under AS 47.25.145 as an additional
18 condition of eligibility under this section.

19 (e) An individual with children is eligible for general relief
20 assistance if he satisfies the requirements of (c)(1) - (5) of this
21 section.

22 (f) In addition to the requirements and conditions of (c) and (e)
23 of this section, the department shall require that an individual who is
24 physically fit, able to work, and employable shall, as a condition to
25 receiving general relief assistance, accept an assignment to work under
26 AS 47.25.145.

27 (g) An applicant for and recipient of general relief assistance
28 must satisfy all applicable provisions of this section. Recipients
29 disqualified for failure to comply with a requirement of this section

1 shall be excluded from general relief assistance for a period not longer
2 than 12 months.

3 (h) The department shall adopt regulations under the Administra-
4 tive Procedure Act (AS 44.62) necessary to enforce this section and to
5 establish criteria and standards for the conditions and requirements of
6 general relief assistance.

7 * Sec. 3. AS 47.25 is amended by adding a new section to read:

8 Sec. 47.25.145. PUBLIC SERVICE EMPLOYMENT. (a) The department is
9 responsible for providing public service employment on public works
10 projects to an individual who is receiving (1) general relief assistance
11 under this chapter; or (2) unemployment compensation benefits under
12 AS 23.20 that are within the last two weeks of eligibility and who, upon
13 termination of those benefits, will be eligible for full or partial
14 general relief assistance from the state. A general relief assistance
15 recipient participating in public service employment is considered to be
16 an employee of the employing agency. Except for workmen's compensation
17 coverage under AS 23.30, the laws relating to public employees do not
18 apply to individuals employed under this section. Payment for public
19 service employment may not be made from the funds of the agency employ-
20 ing the general relief assistance recipient, but shall be made from the
21 funds of the department.

22 (b) The department shall adopt regulations under the Administra-
23 tive Procedure Act (AS 44.62) to carry out the purpose of this section.
24 The regulations shall include, but are not limited to, provisions re-
25 quiring that

26 (1) the employment of a general relief assistance recipient
27 may not displace a state or municipal employee or an individual per-
28 forming work for the state or a municipality on a contractual basis;

29 (2) the period of employment may not exceed that number of

1 hours which, when multiplied by the prevailing rate of compensation for
2 the work, equals the amount of general relief assistance provided;

3 (3) there shall be no discrimination based upon race, color,
4 creed, sex, age, religion, or national origin; and

5 (4) an individual refusing without justification to accept
6 suitable work under this section shall be ineligible for general relief
7 assistance.

8 * Sec. 4. AS 47.25.300 is amended by adding new paragraphs to read:

9 (5) "children" does not include unborn children and means
10 individuals who are

11 (A) ineligible for and unable to obtain aid under a
12 federal assistance program;

13 (B) in need, and without sufficient income or other
14 resources to provide health care and essential support;

15 (C) under 18 years old, except that a child between 18
16 and 21 years may be eligible for assistance under AS 47.25.120 -
17 47.25.300, if the child is

18 (i) regularly attending high school to complete
19 requirements leading to a high school diploma or its equiv-
20 alent;

21 (ii) employed part time and is enrolled at least
22 half time in an organized program of vocational or technical
23 training designed to fit the child for gainful employment; or

24 (iii) employed part time and is enrolled at least
25 half time in a local college or university; and

26 (D) living in a home with his father, mother, grand-
27 father, grandmother, brother, sister, stepfather, stepmother,
28 uncle, aunt, first cousin, nephew, niece, or foster parents in a
29 place of residence maintained by the relative as his own home; or

1 is living in a family home or institution conforming to the stand-
2 ards fixed by the department;

3 (6) "public work projects" includes any kind of labor under
4 the Department of Transportation and Public Facilities, department of
5 public works of any municipality, or under any other agency of the state
6 or a municipality.

7 * Sec. 5. An individual receiving general relief assistance on the effec-
8 tive date of this Act who would otherwise be excluded by the provisions of
9 this Act shall continue to receive assistance if he satisfies the require-
10 ments of AS 47.25.120(c), 47.25.120(e), and 47.25.120(f).

11 * Sec. 6. This Act takes effect July 1, 1979.
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Introduced: 2/14/78
Referred: Health, Education &
Social Services and Finance

BY PHILLIPS, DANKWORTH, HAYES,
KELLY, LETHIN AND URION

1 IN THE HOUSE

2 HOUSE BILL NO. 840

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to work requirements for recipients of
7 public assistance."

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

9 * Section 1. AS 47.05.010 is amended by adding a new paragraph to read:

10 (15) solicit the cooperation of all governmental units and
11 nonprofit agencies in developing unpaid job positions with those units
12 or agencies, with a view toward placing persons receiving assistance
13 under AS 47.25.120 - 47.25.300 and 47.25.310 - 47.25.420 in the posi-
14 tions.

15 * Sec. 2. AS 47.25 is amended by adding new sections to read:

16 Sec. 47.25.285. WORK REQUIREMENT. Needy persons receiving assis-
17 tance under secs. 120 - 300 of this chapter are required to work for no
18 compensation up to 24 hours a week in positions developed under AS
19 47.05.010(15), if available. Refusal to accept, or to perform with due
20 diligence, work required under this section shall result in discontinu-
21 ance of the assistance provided under secs. 120 - 300 of this chapter.

22 Sec. 47.25.407. WORK REQUIREMENT. Parents or relatives receiving
23 assistance under secs. 310 - 420 of this chapter, not participating in
24 the work incentive program for welfare recipients authorized under AS
25 23.15.650 and not exempt under 42 U.S.C. 602(19)(A)(i), (ii), (iv) - (vi)
26 are required to work for no compensation up to 24 hours a week in posi-
27 tions developed under AS 47.05.010(15), if available. Refusal to accept,
28 or to perform with due diligence, work required under this section shall
29 result in discontinuance of that portion of the monthly assistance

1 provided under secs. 310 - 420 of this chapter attributable to the needs
2 of the parent or relative.

3 * Sec. 3. AS 23.10.055(6) is amended to read:

4 (6) an individual engaged in the activities of a nonprofit
5 religious, charitable, cemetery or educational organization where the
6 employer-employee relationship does not, in fact, exist, and where ser-
7 vices rendered to the organization are on a voluntary basis, or an in-
8 dividual placed in a position developed under AS 47.05.010(15);
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

SB

15

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SB 15
 Title An Act increasing the Alaska Longevity Bonus and providing an effective date
 Requested by Senators Kerttula and Ferguson Date 1-26-79

II. FISCAL DETAIL
 Agency Affected Department of Administration
 Program Category Affected Division of Pioneers' Benefits
 Budget Request Unit(s) Affected Alaska Longevity Bonus

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	0	4,482.6	4,736.4	4,990.2	5,244.0	5,497.8
TOTAL	0	4,482.6	4,736.4	4,990.2	5,244.0	5,497.8

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND	0	4,482.6	4,736.4	4,990.2	5,244.0	5,497.8
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill would raise to \$200 the amount of the Alaska Longevity Bonus and provide an effective date of July 1, 1979

YEAR	RECIPIENTS		\$	MO.		TOTAL
FY 1980	7471	x	50	x 12	-	4,482.6
FY 1981	7894	x	50	x 12	-	4,736.4
FY 1982	8317	x	50	x 12	-	4,990.2
FY 1983	8740	x	50	x 12	-	5,244.0
FY 1984	9163	x	50	x 12	-	5,497.8

IV. DATE February 26, 1979 PREPARED BY Marie E. Swanson
 AGENCY Longevity Bonus Program

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

PHONE 465-4416

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. S.B. 15
 Title An Act increasing the Alaska Longevity Bonus & providing for an effective date.
 Requested by Senators Kerttula & Ferguson Date 01/26/79

II. FISCAL DETAIL
 Agency Affected Department of Administration
 Program Category Affected Social & Economic Assistance to the Aged.
 Budget Request Unit(s) Affected Alaska Longevity Bonus

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	0	4,932.6	5,299.8	5,667.0	6,034.2	6,401.4
TOTAL	0	4,932.6	5,299.8	5,667.0	6,034.2	6,401.4

FUNDING (Thousands of Dollars)

GENERAL FUND	0	4,932.6	5,299.8	5,667.0	6,034.2	6,401.4
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Since submission of the Fiscal Note dated February 26, 1979, it has become apparent that the number of Alaskans who are eligible for the Longevity Bonus is increasing at a more rapid rate than anticipated. This revised Fiscal Note is based on a projection which includes actual experience from the beginning of FY 77 to the present time.

This bill would raise the amount of the Alaska Longevity Bonus from \$150 to \$200 per month, and provide an effective date of July 1, 1980.

Year	Recipients	Increase	Months	Total Increase
FY 1981	8,221	x \$50	x 12	= \$4,932.6
FY 1982	8,833	x 50	x 12	= 5,299.8
FY 1983	9,445	x 50	x 12	= 5,667.0
FY 1984	10,057	x 50	x 12	= 6,034.2
FY 1985	10,669	x 50	x 12	= 6,401.4

IV. DATE 12/19/79 PREPARED BY George T. Michael
 AGENCY Department of Administration
 PHONE 465-4401

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

90
 [Handwritten initials]

SB

32

POSITION PAPER / Department of Health and Social Services

POSITION PAPER

SENATE BILL NO. 32

"An Act adopting the Interstate Corrections Compact; and providing for an effective date."

The Department of Health and Social Services and the Division of Corrections are in support of Senate Bill No. 32.

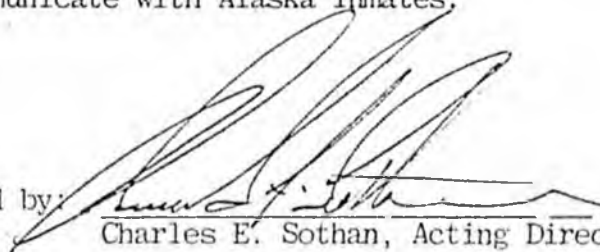
Alaska is presently a party to the Western Interstate Corrections Compact along with 11 other states. There are presently 16 member states to the Interstate Corrections Compact; 5 of those states are also parties to the Western Corrections Compact. In effect, joining the Interstate Corrections Compact would increase Alaska's out-of-state placement resources for prisoners by 50 percent; 11 additional states.

The Interstate Corrections Compact was initiated in order to allow an exchange of prisoners for the purpose of treatment and long-range release planning. Also, the Compact provides a means of placing prisoners out of state for protective purposes.

Alaska has prisoners with special needs. Membership in the Interstate Corrections Compact would expand the Division of Corrections ability to meet these special needs, and provide the most effective rehabilitation programs on an individual basis without increasing the cost of care.

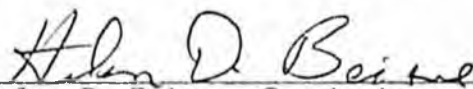
Alaska would maintain jurisdiction over prisoners confined out of state. Alaska would also have the authority to inspect out-of-state facilities and to communicate with Alaska inmates.

Recommended by:


Charles E. Sothan, Acting Director
Division of Corrections

1/26/79
Date

Approved by:


Helen D. Beirne, Commissioner
Department of Health &
Social Services

2/1/79
Date

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Proposed Legislation
 Title An Act Adopting Interstate Corrections Compact
 Requested by Department of Health & Social Services Date 1/9/79

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
 Program Category Affected Administration of Justice
 Budget Request Unit(s) Affected Adult Confinement

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE January 9, 1979 PREPARED BY *Leeland Hally*
 AGENCY Division of Corrections
 PHONE 465-2376
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

S B

8 8

Proposed CS

Amend AS 47.10.010 (a) (2) by adding a new subsection (F) to read:

(F) the child being habitually truant from school, except as provided in AS 14.30.010 (b); however, when a child is found to be in need of aid under this subsection, the court may issue no orders under AS 47.10.080 (c) (1) and (3).

Memo

To: Thelma
From: Don Clockwin
Date: April 16, 1979
Subject: SB & F - Truant Children

Proposed CS:

Amend AS 47.10.010 (a) (2) by adding a new subsection (F) to read:

(F) the child being habitually truant from school, except as provided in AS 14.30.010 (b); however, when a child is found to be in need of aid under this subsection, the court may issue no orders under AS 47.10.080 (c) (1) and (3).

Explanation: As I understand it, the concern is that courts would have the power to terminate parental rights, allow an adoption, or institutionalize a child because ~~that~~ he or she doesn't ~~not~~ go to school, regardless of whether the parent is at fault. My proposed CS would allow a child to ^(determined) be ~~in~~ in need of aid if he or she is habitually truant (except where there is an exception to the mandatory attendance statute) but would not allow a court to order the child institutionalized under AS 47.10.080 (c) (1) or terminate parental rights under AS 47.10.080 (c) (3). Therefore, the court would be allowed in truancy situations only to 1) release the child to "his parents, guardian, or some other suitable person," 2) order that person to

" provide medical or other care or treatment,"
or 3) have the department "supervise the
care and treatment given to the minor..."

These powers, which appear in AS 47.10.
080 (c) (2), would be strong enough to be
the deterrence the school administrators
want yet would not impose the severe
punishments of institutionalization or
termination of parental rights, which the
committee seems to fear.

I hope this helps.

SB

162

SB 162

9 April 1979

Representative Thelma Buchholdt
Capitol 110
Juneau, Alaska 99801

Dear Representative Buchholdt:

The undersigned respectfully solicit your support for passage in the House of Senator Don Bennett's Senate Bill 162 which recently passed in the Senate by a margin of 12 to 7. The bill amends the definition of "peace officer" to include probation officers who supervise adults, parole officers, and correctional officers.

Without elaboration I wish to refer you to the attached:

- (1) Copy of SB 162
- (2) Recent editorial in behalf of SB 162
- (3) Letter of support from the State President of the Alaska Peace Officers Association directed to Governor Hammond.
- (4) Letter of support from the President of the Fairbanks Chapter of the Peace Officers Association.
- (5) Letter of support from the President of the Juneau Chapter of the Peace Officers Association.

What better endorsement for passage of this bill to include Adult probation officers, parole officers and correctional officers than from the Peace Officers Association themselves. Other letters of support could have been attached but it is felt the ones selected here convey with logical reasoning the justification for passage of this bill.

Respectfully yours,

Curtis Masingill

CURTIS MASINGILL
Adult Parole/Probation Supervisor

Ronald A. Murray

RONALD A. MURRAY, Parole/Probation Officer

Donald H. Allen

DONALD H. ALLEN, Parole/Probation Officer

Joe L. Anderson

JOE L. ANDERSON, Parole/Probation Officer

Stephen D. Korenek

STEPHEN D. KORENEK, Parole/Probation Officer

Lawrence Calderone

LAWRENCE CALDERONE, Superintendent of
Fairbanks Correctional
Center.

P.S. Administration attempts to subvert SB 162 by amendment were rejected by the Senate. We support only the bill as presented in its original form.

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL 162

For an Act entitled: "An Act relating to peace officers."

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

* Section 1. AS 01.10.060(6) is amended to read:

(6) "peace officer" means any officer of the state troopers, members of the police force of any incorporated city or borough, United States marshals and their deputies, probation officers who supervise adults, parole officers, correctional officers, and other officers whose duty it is to enforce and preserve the public peace;

A Need for Firearms For Safety's Sake

Unfortunately state probation and parole officers have been forced between a rock and a hard place. They have been caught in the cross-fire of clashing political philosophies and petty jealousies in a matter that greatly affects their work and service to the state. At the crux is the need of probation and parole officers who supervise adult felons to carry concealed weapons.

In the past the probation and parole officers have carried concealed weapons either on the off-the-cuff interpretation of judges that they were peace officers and allowed to do so or on the basis of special permits issued by the Commissioner of Public Safety. But recently the new Commissioner of Public Safety William R. Nix moved to revoke the special permits issued just last fall by former Commissioner Richard Burton and the probation and parole officers have been forced to go to court to get the revocations blocked by restraining order or injunction. In the meantime, Senator Don Bennett has sponsored a bill, Senate Bill 162, which would make it perfectly clear that probation and parole officers are "peace officers" and are allowed to carry concealed weapons. The bill has passed the senate and is now being considered in the House.

But certain high officials in the state administration who reportedly believe "it's bad enough to have state troopers carrying concealed weapons, let alone probation and parole officers." These officials are attempting to lobby against Senate Bill 162 although they have been unsuccessful thus far in presenting a logical rationale of why probation and parole officers should not be able to carry concealed weapons. At first, opponents brought up the lack of firearms training as a reason. Then it was shown that the probation and parole officers have the same firearms training as troopers. One bubble popped. Next it was alleged that the probation and parole officers did not have occasion to use concealed weapons. Then it was shown that often these officers get into precarious situations where they were needed. In one case they foiled a bank robbery scheme. In another, they arrested a parolee who had a cache of high-powered weapons, even a bullet-proof vest. Another bubble popped. And so on down the line.

Still the Commissioner of Public Safety, the Commissioner of Health and Social Services, and the State Attorney General appear to be vehement in their opposition to the parole-probation officers being able to carry concealed weapons, despite the fact that the Peace Officers Associations are fully behind the latter, despite the fact that most judges are behind the latter, despite the fact that most rank and file police officers are behind the latter. Even the former Director of Corrections was behind them on this issue.

The probation and parole officers say this matter is very vital to them because it affects their quality of work. How can they adequately supervise probationers and parolees if they are afraid to make unannounced home or work visits? Are probation and parole officers indirectly being forced to slack off their supervision and be content to receive once-a-month written reports from those under their charge? Is this a move to force good probation and parole officers--those with integrity--to leave state employment? If this is the design of some state cabinet members, they may very well succeed but the real brunt will be felt in the long run by the people of Alaska. We urge State House members to pass SB 162 without delay.

"Good, the more communicated, the more abundant grows."
John Milton



State APOA Office
P.O. Box 3520 DT
Anchorage, AK 99510
Phone 337-7712

February 9, 1979

Governor Jay S. Hammond
Pouch "A"
Juneau, Alaska 99811

Dear Governor Hammond:

It has come to my attention that the Acting Commissioner of Public Safety has recently attempted to rescind the Special Commissions that had been extended to the Adult Probation/Parole Officers of the State. I observe that Commissioner Nix's opinion is inconsistent with the decision that had been previously made by Commissioner Burton. Commissioner Burton and previous representatives of the Department of Public Safety were so convinced of the Probation/Parole Officers' need to protect themselves, that to resolve the dispute between the Attorney General and the Probation/Parole Officers, Commissioner Burton, as others have done in the past, issued Special Officer status pursuant to AS 18.65.010. Probation/Parole Officers have not changed their role or function. Their job, if anything, has become tougher in recent years.

The zealous attempt of the Attorney General to strip the Adult Probation/Parole Officer of the concealed firearm is beyond comprehension. I understand the Attorney General has focused on the definition of peace officer and has argued that the legislature's failure to specifically include the Probation/Parole Officer meant that the legislature must have meant to exclude the class from the coverage of the definition. It is observed that in the Criminal Code, which recently passed the legislature and which will go into effect January 1, 1980, the legislature specifically defined a peace officer as: "a public servant vested by law with a duty to maintain order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders." This new definition of "peace officer" includes Probation/Parole Officers. I have also been apprised that the Attorney General has taken issue with a court order issued by Superior Court Judge Gerald J. VanHoomissen. The court order specifically orders that the Adult Probation/Parole Officer of the Fourth Judicial District is authorized to carry a concealed firearm.

Court action to resolve the Special Commission issue is pending in the Third Judicial District. Action to resolve the Attorney General's question concerning Superior Court Judge Gerald J. VanHoomissen's court order is pending a Supreme Court Hearing in Fairbanks. A great deal of effort is being expended by the Attorney General in opposing judicial and executive efforts in trying to disarm the State's Adult Probation/Parole Officers.

Governor Jay S. Hammond
February 9, 1979
Page -2-

It is difficult to understand why the Attorney General has taken such a fanatic position in attempting to disarm the Adult Probation/Parole Officer of this critically needed tool. It would appear that the Attorney General's motivations for taking issue with such a trivial matter is motivated by something other than a fact of law.

It has been my personal observation that on numerous occasions, the Adult Probation/Parole Officer, while acting within his authority, has initiated and assisted in investigations and the arrests of dangerous and armed felons. I, as a supervisor of a narcotics unit over the past four years, have had occasion to work closely with the Adult Probation/Parole Officers in Fairbanks and have found their actions to be of the highest quality and professionalism. I have participated in investigations where the presence of an armed Probation/Parole Officer was of a great advantage to the safety of all concerned.

Why such tunnel-visioned focus on this issue is not yet understood.

I understand that one area frequently argued by the Attorney General is that a State Trooper or other police officer could be called upon to accompany an Adult Probation/Parole Officer when violence is expected. It would be a serious waste of manpower to require an additional police officer to assist when the Adult Probation/Parole Officer is more than capable of handling the situation at hand. It should be noted that the most dangerous situations are not always the most obvious situations.

When the State sends out an Adult Probation/Parole Officer to effect an arrest of a felon (all arrests made by the Adult Probation/Parole Officers are felonies), it will be done peaceably if possible or forcibly if necessary. It is beyond my comprehension how the Attorney General and the Acting Commissioner of Public Safety can rationalize their attempts to disarm these officers. We should be careful not to make their jobs so dangerous to perform that they might shrink from their duties and hesitate from the action which the proper protection of society demands.

I submit that the continued arming of our Adult Probation/Parole Officers is in the best interest of the citizens of this state. I am writing you in an effort to keep you informed of law enforcement's position in this important issue. I simply seek to make our position known and sincerely hope it will not create any animosities.

Your attention to this important issue would be greatly appreciated.

Sincerely,



Craig A. Forster, President
Alaska Peace Officers Association
656 7th Avenue
Fairbanks, Alaska 99701



**ALASKA PEACE OFFICERS ASSOCIATION
FARTHEST NORTH CHAPTER**

AFZT-PM-W

9 February 1979

Mr. Wayne Anthony Ross
Attorney at Law

Dear Sir,

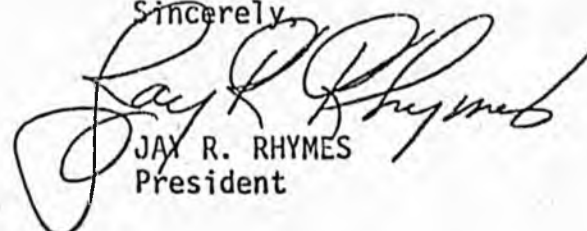
Information concerning the recent objection for Removal of Commissions for Adult Parole and Probation Officers to carry concealed weapons in the performance of their duties has been brought to our attention. This alarming objection comes as a grave disappointment and extreme concern for our fellow Law Enforcement Officers. The reasoning for this action considering their role in the Criminal Justice System is baffling to say the least. These Officers confront on a daily basis known felons who without question have little or no respect for law and order and even less for representatives of Law Enforcement.

These Officers have all met the Police Standards Council and are fully qualified. Additionally a vast majority have previous Law Enforcement background which include the attendance of Police Academies and various Law Enforcement Seminars. Many Law Enforcement Officers were personally contacted and expressed their concern over this action.

The Farthest North chapter of APOA gave their vote of confidence in addressing Former Commissioner Burton's Task Force report in 1976 for commissioning these officers. Our position is unchanged and speaking for the largest chapter of APOA we fully support and indorse the Parole and Probation Officers of Fairbanks Office. They are without question true professionals and exhibit the highest standards of any parole and probation office I have worked with.

Having been associated with Law Enforcement work over the last nineteen (19) years there is little question in my mind that these Officers of the Adult Parole and Probation Office are fully qualified and warrant the commission to carry weapons, by virtue of their extreme high potential of encountering a felon who has little regard for Law Enforcement representatives. The decision of this action impacts greatly upon their mission. It is our sincere wish that in the final analysis that these Officers be permitted to retain their Commissions.

Sincerely,


JAY R. RHYMES
President

cc: Adult Parole/Probation
Executive Board APOA

ALASKA PEACE OFFICERS ASSOCIATION



Capital City Chapter
P. O. Box 751
Juneau, Alaska 99802

27 February 1979

Mr. Wayne Anthony Ross
Attorney at Law

Dear Mr. Ross:

The Capital City chapter of the Alaska Peace Officers Association has recently been advised of an effort to prevent select probation officers handling adult caseloads from carrying a concealed weapon (hand gun) in the performance of their official duties.

This has been an on-again, off-again situation for a considerable number of years, to the point that many members of our association have been concerned about the extent State government is willing to go in providing avenues of legal and administrative relief for criminal offenders and, at the same time, fail to recognize the need of those Justice System personnel who are hired and sworn to uphold the law.

In our opinion, government is supposed to represent the best interests of the people and, in doing so, ensure that the probation officers in this case, who are public servants, have the necessary equipment to properly discharge their duties in the safest manner possible.

This most recent action directed against probation officers who exercise, by law, their authority to arrest with or without a warrant, the very same criminal element as police, many of which the police would not even think of apprehending, if unarmed and expected to do so, only tends to reinforce our concern about the criminal element's welfare and rights being placed above the safety and welfare of those government employees charge with enforcing the law.

No one can argue philosophy with any degree of success in the face of cold facts and reality concerning this matter. When a probation officers happens upon a probation or parole violator, there are two thing he will know for sure if he is prohibited from carrying a firearm in the performance of his duties.

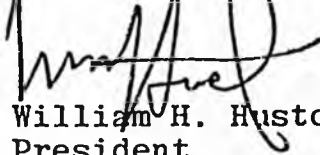
- A. He will know for sure that he is not armed.
- B. He will have no way of knowing whether the violator is armed or not.

Mr. Wayne Anthony Ross
Attorney at Law
February 27, 1979
Page Two

In view of such facts, it would appear an easy decision to make: allowing probation officers to carry firearms in the performance of their duties.

Thank you.

Very truly yours,



William H. Huston
President
Capital City Chapter
Alaska Peace Officers Association

P. O. Box 751
Juneau, Alaska 99802

From the Desk of
SENATOR DON BENNETT

3 May 1979

Dear Thelma,

Thought you might find this interesting,
as it directly supports my SB 162 which
seems to be bogged down.

Don

RECEIVED APR 23 1979

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKA PUBLIC EMPLOYEES)
ASSOCIATION, et al.,)
))
Plaintiffs,)
))
vs.)
))
STATE OF ALASKA,)
))
Defendant.)
)

No. 3AN79-846 Civil

MEMORANDUM DECISION AND ORDER

The State of Alaska (State) and the Alaska Public Employees Association (APEA), together with the individual probation and parole officers, have filed cross motions for summary judgment. These motions came on for hearing on March 8, 1979.

The court finds that there are no genuine issues of material fact and that summary judgment is appropriate on the following issues raised in the summary judgment motions:

I. Whether probation and parole officers are peace officers within the immunity to prosecution for carrying concealed weapons offenses. See AS 11.55.010 and AS 11.55.020.

II. Whether the Commissioner of Public Safety was within his discretion to revoke the special officer appointments of the probation and parole officers.

III. Whether the subject of carrying weapons while on duty is a subject for grievance arbitration under the contract between APEA and the State.

I..

AS 11.55.010 makes it unlawful for a person to carry a concealed weapon. AS 11.55.020 makes this section inapplicable to "a peace officer whose duty it is to serve process or make arrest." Plaintiff probation and parole officers claim that they are peace officers with the duty to

make arrests within the contemplation of AS 11.55.020 so that they are immune to prosecution for carrying a concealed weapon. The duty of probation and parole officers to make arrests is clear. See AS 33.05.070 and AS 33.15.210.

The primary point of contention on this issue is whether parole and probation officers are "peace officers" within the contemplation of AS 11.55.020. Plaintiffs have offered several definitions for "peace officer" derived from the Alaska Statutes. The State correctly asserts that the applicable definition is the general definition found at AS 01.10.060(6):

"peace officer" means any officer of the state troopers, members of the police force of any incorporated city or borough, United States marshals and their deputies, and other officers whose duty it is to enforce and preserve the public peace.

(Emphasis added.) Plaintiffs argue that they fall within the emphasized language in that their duties as parole and probation officers require them to help enforce and preserve the public peace. The State relies on Alaska Attorney General's Opinion of September 18, 1977, Definition of "Peace Officer" under AS 01.10.060(6) and "Police Officer" under AS 18.65.290(2), which defines "peace officer" in a restrictive fashion:

. . . he or she must be empowered with a full range of police duties and authority and must be currently functioning on essentially a full time basis in that role.

Opinions of the Attorney General are usually accorded some persuasive weight by the courts. In this case, however, the court finds the opinion relied upon by the State to be most unpersuasive. The Attorney General's analysis depends on assumptions for which this court finds no basis, either in the opinion or the language of the statute construed.

This court finds that the duties of probation and parole officers in enforcing the parole and probation laws

clearly help preserve the public peace and are an integral part of Alaska's system of enforcement of its laws. Therefore, the court holds that probation and parole officers are "peace officers" within AS 01.10.060(6) and that they may not be prosecuted under AS 11.55.010 in accordance with AS 11.55.020.

NOTED
/

Plaintiffs are not persuasive, however, in asserting that their status as peace officers mandates them to carry weapons while on duty. The power of peace officers to carry and use weapons while on duty is subject to limitation. See Figaro v. Ward, 383 N.Y.S.2d 529 (1976).

The Commissioner of Health and Social Services is charged with general supervision and control of probation and parole officers. See AS 33.05.010; 33.05.020; and 33.15.150. It is up to the commissioner to determine the methods and equipment to be used by probation and parole officers in carrying out their functions. Section 2210, Firearms Policy of the Department of Health and Social Services Manual, is an apparently well considered and admirable set of guidelines for implementing the policies of the commissioner as regards firearms use by probation and parole officers. This policy made the officer's ability to carry firearms contingent on training and obtaining a special officer commission from the Commissioner of Public Safety. Apparently, Dr. Beirne had decided to revise this firearms policy to deny the use of firearms to parole and probation officers. In the light of the court's holding, supra, that the legislature has determined that such officers may carry concealed weapons without being prosecuted, it is incumbent on the commissioner to articulate her reasoning and the underlying policies that led her to effectively reverse this legislative judgment.

The court will not substitute its judgment for that of the commissioner in formulating a firearms policy, in the absence of the commissioner's arbitrary abuse of her discretion. But the court feels that the firearms policy here in issue is of such fundamental concern to the plaintiff officers' safety, and the public welfare, that some explanation of the reasoning behind the new policy must be forthcoming before the court can rule on whether Dr. Beirne has abused her discretion. Accordingly, the temporary restraining order will remain in effect until Dr. Beirne fully articulates the basis for her policy decision with regards to firearms and her reasons for abrogating the policy of Section 2210. If such a policy determination is not forthcoming within 60 days from the date of this order, this court will enter its order permitting parole and probation officers to carry concealed weapons in performing their duties under appropriate guidelines formulated by this court after appropriate hearings.

II.

Even if this court could find an abuse of discretion by Dr. Beirne in revoking the earlier policy of the Department of Health and Social Services as embodied in Section 2210, Firearms Policy, it would not help the plaintiffs with regard to special officer permits. They have consistently maintained that they are properly subject to Section 2210. Section 2210 makes the ability of the parole and probation officers to carry concealed weapons subject, among other conditions, to the officer being appointed special officer by the Commissioner of Public Safety under AS 18.65.010. The Commissioner of Public Safety has revoked the special officer commissions of the plaintiffs, so that they no longer qualify under Section 2210.

Plaintiffs contend that the revocation of their permits was an abuse of the Commissioner of Public Safety's discretion. This court cannot agree. By its terms, AS 18.65.010 vests the power to make special officer commissions ". . . as he [the commissioner] considers necessary . . ." The statute is also quite clear that special officers serve at the pleasure of the commissioner. The court interprets this grant of discretion to be broad enough to permit the Commissioner of Public Safety to revoke special officer commissions when he no longer perceives the special officer to be necessary to aid and assist the state troopers. This court also finds persuasive the argument advanced by the State that AS 18.65.010 was enacted for the purpose of strengthening state trooper personnel in remote areas of Alaska rather than to those in the position of the plaintiffs. See Report of the Committee on State Affairs accompanying CSHB 48, Alaska State House of Representatives, House Journal, Alaska State Legislature, Second Legislature, First Session, p. 105 (1961) (quoted in Alaska Attorney General's Opinion of December 22, 1977, Special Police Commissions).

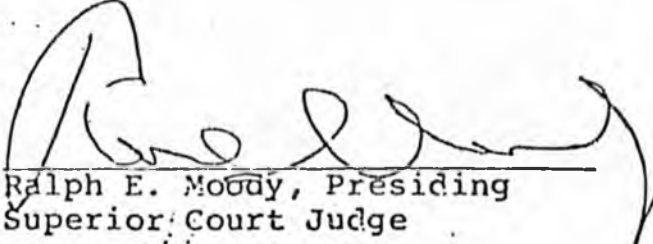
Accordingly, the court holds that the Commissioner of Public Safety was within his authority in exercising his discretion to revoke the special officer commissions of the plaintiff parole and probation officers. However, parole and probation officers' rights to carry concealed weapons are not dependent upon the special officer commission from the Commissioner of the Department of Public Safety. This procedure used by the two commissioners in authorizing weapons to the petitioning officers is commendable and consistent with insuring they were properly trained in use of the weapons before being permitted to carry them, but is not dispositive of their rights to carry concealed weapons.

III.

Plaintiffs also assert that the subject of carrying weapons is a subject for grievance arbitration under the contract between APEA and the State and that their special officer commissions cannot be revoked until the matter has been grieved. As discussed above, plaintiffs' rights to carry weapons are subject to the discretion of the Commissioner of Health and Social Services and their right to special officer permits is subject to the discretion of the Commissioner of Public Safety. This discretion is one of policy rather than "wages, hours and other terms and conditions of employment." See AS 23.40.070 and AS 28.40.250(1). This court cannot assume that the legislature has implicitly divested these executive departments of their power to determine policy matters. Kenai Peninsula Borough School District v. Kenai Education Association, 572 P.2d 416 (Alaska 1977). Additionally, firearms policy is generally regarded as a management decision outside the proper scope of collective bargaining. See San Jose Police Officer's Association v. City of San Jose, 144 Cal. Rptr. 538 (Cal. App. 1978).

Therefore, this court holds that the firearms policy of the Commissioner of Health and Social Services and the revocation of special officer commissions by the Commissioner of Public Safety are not subject to collective bargaining or the grievance and arbitration procedures of the contract between the APEA and the State.

DONE at Anchorage, Alaska, this 23rd day of April, 1979.


Ralph E. Moody, Presiding
Superior Court Judge

S B

163



ALASKA SCHOOL ACTIVITIES ASSOCIATION

650 INTERNATIONAL AIRPORT ROAD ANCHORAGE, ALASKA 99502

LESLIE D. WELLS
EXECUTIVE SECRETARY

907-272-9045

January 18, 1980

The Honorable Vernon L. Hurlburt
House HESS Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Hurlburt:

This letter concerns Senate Bill 163am which has been setting in the House HESS Committee since last spring. As you may know, we had asked that this bill be held without action as it was necessary for the Activities Association to work with the State Board of Education and the Alaska Association of School Boards to strengthen the concept of local school board control in this bill. This has been accomplished and both of these bodies have given their approval to the changes as outlined in the attached amendment. They support the bill as revised and we now seek favorable action by your committee.

I have been in contact with your Chairman, Mrs. Buchholdt, and have discussed the next steps with her. She agreed that it would be timely for this communication to bring you up to date on the status of this bill. Please note my letter to Mrs. Buchholdt and the complete backup materials.

We ask for your support and assistance in moving this bill favorably through the committee. If you have any questions, please call me at 272-9045.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Leslie D. Wells".

ASAA Board of Control
By: Leslie D. Wells
Executive Secretary

LDW:jle

Enclosures

cc: Board of Control
Mrs. Thelma Langdon
Mr. Robert Greene
Mr. Cliff Hartman

Introduced: 2/13/79
Referred: Health, Education
& Social Services

1 IN THE SENATE BY HACKNEY

2 SENATE BILL NO. 163 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to interschool activities; and pro-
7 viding for an effective date."

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

9 * Section 1. PURPOSE.. The legislature finds that the establishment,
10 promotion and governance of interscholastic athletic activities and other
11 interschool contests and programs can best be accomplished by the schools in
12 the state through self-organization and control and with a minimum of state
13 supervision and involvement and that accomplishment of these goals is a valid
14 public purpose. The legislature further finds that, because of the rela-
15 tively small number of schools in the state and the high costs associated
16 with coordinating, on a statewide basis, various interschool activities, the
17 establishment, promotion and governance of interscholastic activities cannot
18 be carried out in an efficient and adequate manner without the provision of
19 some financial assistance from the state.

20 * Sec. 2. AS 14.12 is amended by adding new sections to read:

21 ARTICLE 4. INTERSCHOOL ACTIVITIES.

22 *see proposed amendment*
23 Sec. 14.12.200. VOLUNTARY INTERSCHOOL ACTIVITIES ASSOCIATION. (a)
24 School districts, on behalf of one or more of their schools, and private
25 schools in the state may join together to establish a voluntary associa-
26 tion to provide for the efficient governing, promotion and control of
27 interscholastic athletic activities and other interschool contests or
28 programs recognized by the association.

29 (b) The association established under (a) of this section is not a
state agency, nor is it a school district or other political subdivision

over

see proposed amendment

1 of the state. However, employees of the association may participate in
2 the public employees' retirement system (AS 39.35) or, if the employee
3 possesses or is eligible to possess a teacher certificate under AS
4 14.20.020, the teacher's retirement system (AS 14.25).

5 Sec. 14.12.210. INTERSCHOOL ACTIVITIES GRANTS. The commissioner
6 of education may make grants to an association established under AS
7 14.12.200 from funds appropriated for that purpose if the association

8 (1) has adopted a constitution and bylaws for the governance,
9 operation, regulation and supervision of interschool activities which
10 treat the regions of the state and students in member schools on an
11 equitable basis and in the best interests of the entire state;

12 (2) has a governing body whose membership is elected and is
13 representative of the member schools in the various regions of the
14 state;

15 (3) has adopted a reasonable operating budget for the period
16 covered by the grant; and

17 (4) provides for an audit of the association's use of its
18 grant funds within four months of the close of the grant period.

19 * Sec. 3. AS 14.07.053 and 14.07.054 are repealed.

20 * Sec. 4. This Act takes effect July 1, 1979.

- December 10, 1979

Sec. 14.12.200 Voluntary Interschool Activities Association

- (A) School Districts, by formal resolution of the board of education, on behalf of one or more of their schools, and private schools in the State may join together to establish a voluntary Association to provide for the efficient governing, promotion and control of interscholastic activities, contests or programs recognized by the Association.
- (B) Governance for the Association established under (A) of this section is provided when a majority of member school boards, by resolution, have:
- (1) Adopted a Constitution & By-Laws for the operation, regulation and supervision of interschool activities which treat the regions of the State and students in member school districts on an equitable basis and in the best interests of the entire State.
 - (2) Has a governing body whose membership is elected and is representative of the member school districts in the various regions of the State.
- (C) The Association established under (A) of this section is not a State agency, nor is it a school district or a political subdivision of the State. However, employees of the association may participate in the public employees' retirement system (AS 39.35) or, if the employee possesses or is eligible to possess a teacher certificate under AS 14.20.020, the teacher's retirement system (AS 14.25).
- (D) The State Board of Education shall approve the Association's Constitution and By-Laws and any revisions thereof to insure that all regions of the State are treated on an equitable basis and in the best interests of the State.

Sec. 14.12.210 Interschool Activities Grants

The commissioner of education may make grants to an association established under AS 14.12.200 from funds appropriated for that purpose if the association:

- (1) Has complied with the provisions of A.S. 14.12.200 (B) (1 and 2);
- (2) Has adopted a reasonable operating budget for the period covered by the grant; and
- (3) Provides for an audit of the association's use of its grant funds within four months of the close of the grant period.



ALASKA SCHOOL ACTIVITIES ASSOCIATION

650 INTERNATIONAL AIRPORT ROAD ANCHORAGE, ALASKA 99502

LESLIE D. WELLS
EXECUTIVE SECRETARY

907-272-9015

January 1980
Les Wells

RATIONALE FOR LEGISLATIVE AMENDMENT - SB 163am

The membership and the Board of Control of the Alaska School Activities Association believes that school interscholastic activities programs, including athletics, music, and speech and drama, can best be accomplished by member schools through self organization and control, with a minimum of state supervision and involvement. It is recognized that the Association requires a legal basis and assistance in funding its efforts because of the relatively small number of schools and high costs associated with the coordination and operation of activities in such a large state.

The Association has done an outstanding job of sponsoring activities for Alaskan youth over the past twenty-two years and now believes that the current legislation passed in 1976 should be amended in order that the Association may better function to serve the needs of its membership. Current problems are:

1. There is duplication of effort and unnecessary administrative structure. It is agreed by the Commissioner of Education and the Association that it is unnecessary to operate the Association within the Department of Education. The authority for school participation and the operation of the Association also comes from member schools, their school boards, superintendents and principals.
2. The current statute is restrictive and does not allow each regional association to freely elect their Board of Control member.
3. The operation of the budget and the accounting system should be accomplished at the Association level to facilitate the needs of the organization, i.e., collection of officials' fees, purchase and sale of rule books, funding of officials' workshops, and the operation of state meets, tournaments and events.

The control of the Association lies with school districts and Boards of Education in the approval of organizational structure. The Association is operated by the superintendents of schools as approved by school boards, either directly or through appointed representatives. The revised legislation would foster this local control and would give the Association greater ability to react to the needs of its members.

Adequate funding from the state is essential in order to support the basic operation of the Association Office. While other states have adequate income from state tournament receipts to support their total operation and to pay for participant's travel expenses, the small number of Alaskan schools and long distances between communities severely limits tournament gate receipts for such needs. A basic state grant program is thus necessary.



LAWS OF ALASKA

1976

Source

SCS 338B 399(Finance)

Chapter No.

120

AN ACT

Creating the School Activities Association within the Department of Education; and providing for an effective date.

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

Section 1. AS 14.07 is amended by adding new sections to read:

Sec. 14.07.053. ALASKA SCHOOL ACTIVITIES ASSOCIATION.

(a) There is created within the Department of Education the Alaska School Activities Association.

(b) The purposes of the association are to provide for the efficient governing of interscholastic activities through the promotion of those activities and other inter-school contests or programs sanctioned by the association and to assist in the promotion of those other activities and interests as it may from time to time elect.

(c) A public or private school or school district in the state may become a member of the association if it applies for membership. The Department of Education shall make applications available to all public or private schools or school districts in the state.

(d) The governing body of the association shall be the board of control with at least one member from each judicial district on the board of control. A member of the board shall be elected from each regional activities association by the members of that region. The term of office for each member is two years, except that one-half of the members elected to the first elected board shall be elected for one-year terms under regulations prescribed by the commissioner of education.

(e) The board in consultation with the Department of

Education shall appoint an executive secretary, prescribe his duties and fix his compensation. He shall serve at the pleasure of the board.

(f) The board of control of the existing Alaska High School Activities Association in office on the effective date of this Act shall serve as the initial board of control for no longer than six months.

(g) The Department of Education shall approve the association's constitution and bylaws to ensure that all regions of the state are treated on an equitable basis and in the best interests of the state.

Sec. 14.07.054. ALASKA SCHOOL ACTIVITIES FUND. (a) The Alaska school activities fund is established within the Department of Education.

(b) The commissioner of education shall review the budget request of the Alaska School Activities Association and request a sum he approves that is equitable to all regions of the state.

(c) School districts and member schools of the Alaska School Activities Association may appropriate money to the fund.

Sec. 2. This Act takes effect July 1, 1976.



ALASKA SCHOOL ACTIVITIES ASSOCIATION

650 INTERNATIONAL AIRPORT ROAD ANCHORAGE, ALASKA 99502

LESLIE D. WELLS, J.D.D.
EXECUTIVE SECRETARY

907-272-9045

April 17, 1979

Representative Thelma Buchholdt
Pouch V
Juneau, Alaska 99811

Dear Mrs. Buchholdt:

As you know, I have been in contact with Shannon Garrett, your Administrative Assistant, concerning Senate Bill 163 am. We appreciate your cooperation in not calendaring this bill as it has given us the opportunity to work with the educational agencies who have an interest in this legislation.

We are interested in keeping this bill in Committee until we can meet this next month with the State School Boards Association and members of the State Board of Education. It is hoped that we can work out language that is mutually satisfactory and come back to your Committee with a unified position.

If you have any questions concerning this request, please do not hesitate to call me.

Sincerely yours,

A handwritten signature in cursive script that reads "Leslie D. Wells".

Leslie D. Wells
Executive Secretary

LDW:jle

cc: Glenn Hackney

STATE OF ALASKA

DEPARTMENT OF EDUCATION

STATE BOARD OF EDUCATION

JAY S. HAMMOND, GOVERNOR

March 29, 1979

Honorable Thelma Buchholdt
State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Buchholdt:


During its March 22 Special Meeting on Legislation, the State Board of Education took formal action on several bills presently before the Legislature.

The Board is on record supporting the passage of CSSB 199 (Finance), which deals with the Public School Foundation Program.

The Board does not support either SB 163 am, which deals with the Interschool Activities Association, or HB 411, which deals with sex discrimination in education.

I respectfully request that you take into account the State Board's position on these bills as you determine your own degree of support for them.

Sincerely,



Thelma Langdon, President
State Board of Education



KETCHIKAN HIGH SCHOOL
— 2810 Fourth Avenue
KETCHIKAN, ALASKA
99901

R. W. STEKL, SUPERINTENDENT
M. BRUCE SLAMA, PRINCIPAL
ROBERT D. VINCENT, VICE-PRINCIPAL

17 March 1979

Representative Thelma Bucholdt
Health, Education and Social Services
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Thelma:

As a former Anchorage resident and current principal of Ketchikan High School, I am writing to you to voice my opposition to the passage of Senate Bill 163 relating to the creation of an independent Alaska School Activities Association. This constructive action on my part is related to the continually changing policies of the Board of Control which hampers effective control of student activities at the Building level because the Board of Control neither has the foresight or planning ability to stick with a decision over a long period of time. They are continually rewriting and changing policies. Let me give you the latest example. Almost over a year ago they voted to limit the number of students traveling to State tournaments. Two weeks ago they caved in and expanded, once again, the number of participants.

On some occasions the Board of Control will make decisions at almost the last minute without regard for the problems it creates for the member schools. Example, changing the seasons of the Girl's Basketball program in June for the coming school year. Result: Ketchikan High School had to host a State Tournament and play in a Boy's Southeast Tournament the same weekend. After requesting the Board of Control to help us out and getting nowhere, our local school board protested the action to the State Board of Education and finally succeeded in winning the appeal.

I hope your committee will not pass this Bill out to the House floor. Let the Alaska School Activities Association clean up its act first and earn its independence.

Sincerely,

M. Bruce Slama
Principal



Les Wells -
272-9045
ALASKA SCHOOL ACTIVITIES ASSOCIATION

650 INTERNATIONAL AIRPORT ROAD ANCHORAGE, ALASKA 99502

LESLIE D. WELLS, ED.D.
EXECUTIVE SECRETARY

907-272-9045

February 27, 1979

Hon. Thelma Buchholdt, Chairman
HESS Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mrs. Buchholdt:

The Board of Control and members of the Alaska School Activities Association request your support for the attached legislation, Senate Bill 163. Basically, it is a clean up bill and contains no request for funds. It will serve to improve the Association's operation and remove some limiting aspects. The full rationale is attached with the proposed bill, the current statute and other background information.

The proposal was drafted by Mr. Ron Lorensen of the Attorney General's office and has the support of the Commissioner of Education. Resolutions of support have been passed by the membership of the State School Boards Association, the Superintendent's Association and the Secondary School Principals Association and are enclosed.

The Association earnestly requests your leadership and assistance in this effort and assures you that it is in the best interest of girl's and boy's school activities and the total educational community. This office stands ready to give full attention to this effort and supply you with any information that may be requested.

I will contact you next week (March 5th) concerning this legislation. I am available to meet with you and/or your committee with 24 hours advance notice.

Sincerely,

Leslie D. Wells
Executive Secretary

LDW:jle

Attachments:

cc: HESS Committee:
Joyce Munson, Vice Chairman
Ramona L. Barnes
M. F. "Mike" Bairne
C. V. "Chat" Chatterton
Vernon L. Hurlbert
Bill Miles

Board of Control:

Region I	Dale Lunsford, Naknek
Region II	Wayne Taylor, Nenana
Region III	Ed Frandser, Wasilla
Region IV	Ed Nash, Eagle River
Region V	Ed James, Juneau-Douglas
Region VI	Bill Brannian, Fairbanks
State Dept.	Vern Williams, Juneau
Student Mem.	Sheryl Hall, AASG



ALASKA SCHOOL ACTIVITIES ASSOCIATION

650 INTERNATIONAL AIRPORT ROAD ANCHORAGE, ALASKA 99502

LESLIE D. WELLS, ED.D.
EXECUTIVE SECRETARY

907-272-9045

February 1979

RATIONALE FOR ALASKA SCHOOL ACTIVITIES ASSOCIATION

LEGISLATIVE AMENDMENT

The membership and the Board of Control of the Alaska School Activities Association believe that school interscholastic activities programs, including athletics, music, and speech and drama, can best be accomplished by member schools through self organization and control, with a minimum of state supervision and involvement. It is recognized that the Association requires a legal basis and assistance in funding its efforts because of the relatively small number of schools and high costs associated with the coordination and operation of activities in such a large state.

The Association has done an outstanding job of sponsoring activities for Alaskan youth over the past twenty-two years and now believes that the current legislation passed in 1976 should be amended in order that the Association may better function to serve the needs of its membership. Current problems are:

1. There is duplication of effort and unnecessary administrative structure. It is agreed by the Commissioner of Education and the Association that it is unnecessary to operate the Association within the Department of Education. The authority for school participation and the operation of the Association also comes from member schools, their school boards, superintendents and principals.
2. The current statute is restrictive and does not allow each regional association to freely elect their Board of Control member.
3. The operation of the budget and the accounting system should be accomplished at the Association level to facilitate the needs of the organization, i.e., collection of officials' fees, purchase and sale of rule books, funding of officials' workshops, and the operation of state meets, tournaments and events.

The control of the Association lies with school districts and Boards of Education in the approval of organizational structure. The Association is operated by the superintendents of schools, either directly or through their appointed representatives. The revised legislation would foster this local control and would give the Association greater ability to react to the needs of its members.

Adequate funding from the state is essential in order to support the basic operation of the Association office. While other states have adequate income from state tournament receipts to support their total operation and to pay for participants' travel expenses, the small number of Alaskan schools and

(Over)

Rationale for Alaska School Activities Association
Legislative Amendment

Page -2-

Long distances between communities severely limits tournament gate receipts for such needs.

The Association has applied for funding of \$65,000 for Fiscal Year 1980 through the Department of Education. At this time the amount included in their budget as submitted to the legislature is \$57,700 for the Alaska School Activities Association. Current year funding is \$57,200. This provides funding only for the Association office operation and salaries and represents about 50% of the total financial plan. The other 50% is raised by membership dues and income from officials' fees, rule books and tournaments' income.

Further information concerning the Association is given in the attached "11 Questions About Your Alaska School Activities Association."

LDW:jle

"11 Questions About Your Alaska School Activities Association"

Other Information That May Be Requested:

ASAA Constitution and Bylaws
ASAA Member School Director
ASAA 1978/79 Annual Report & Audit

RESOLUTIONS FAVORING SENATE BILL 163

Alaska School Boards Association
Resolution Passed November 12, 1978 #24

ALASKA SCHOOL ACTIVITIES ASSOCIATIONLEGISLATION

WHEREAS, schools in Alaska have ever-increasing activities for students; and

WHEREAS, there is a statewide Alaska School Activities Association; and

WHEREAS, the Alaska School Activities Association is controlled by appointed representatives of the member schools, their administration and their school boards; and

WHEREAS, the Alaska School Activities Association is now tied to the Alaska Department of Education by law; and

WHEREAS, this position leaves the functions of Alaska School Activities Association hindered by further administrative and appeals channels; and

THEREFORE BE IT RESOLVED, that the Association of Alaska School Boards support separation of the Alaska School Activities Association from the Department of Education.

Alaska Association School Administrators
October 1978 - Passed - Resolution #14

Title: Legislation - Alaska School Activities Association

WHEREAS, schools in Alaska have ever increasing activities for students, and

WHEREAS, there is a Statewide Alaska School Activities Association, and

WHEREAS, the Alaska School Activities Association is controlled by appointed representatives of the member schools, their administration and their School Boards

WHEREAS, this position leaves the functions of Alaska School Activities Association hindered by further administrative and appeals channels, and

WHEREAS, the Alaska Commissioner of Education is in favor of a separate State of Alaska funded agency

NOW THEREFORE BE IT RESOLVED, that the Alaska Association of School Administrators support separation of the Alaska School Activities Association from the Department of Education and be established as a separate agency under the draft law attached.

(Over)

ALASKA SCHOOL ACTIVITIES ASSOCIATION

LEGISLATION

WHEREAS, schools in Alaska have ever increasing activities for students, and

WHEREAS, there is a statewide Alaska School Activities Association, and

WHEREAS, the Alaska School Activities Association is controlled by appointed representatives of the member schools, their administration and their school boards,

WHEREAS, the Alaska School Activities Association is now tied to the Alaska Department of Education by law, and

WHEREAS, this position leaves the functions of Alaska School Activities Association hindered by further administrative and appeals channels, and

WHEREAS, the Alaska Commissioner of Education is in favor of a separate State of Alaska funded agency,

NOW THEREFORE BE IT RESOLVED, that the AASSP supports separation of the Alaska School Activities Association from the Department of Education and established as a separate agency.



ALASKA SCHOOL ACTIVITIES ASSOCIATION

650 INTERNATIONAL AIRPORT ROAD ANCHORAGE, ALASKA 99502

LESLIE D. WELLS, ED.D.
EXECUTIVE SECRETARY

907-272-9045

11 QUESTIONS

ABOUT YOUR

ALASKA SCHOOL ACTIVITIES ASSOCIATION

1. WHAT IS ASAA?

The Alaska School Activities Association is a voluntary, non-profit state legislature-approved organization of member schools operating under the auspices of the State Department of Education. Organized by and for the schools, the purpose of the Association is to promote, improve and regulate interschool competition and activities in music, speech and drama, athletics and other areas of activities as the membership may so desire.

2. WHY ARE REGULATIONS NEEDED?

In early high school days, problems in interschool competition began to appear. Among the problems were that coaches played on school teams, playing rules and conditions could not be agreed upon, trained officials were lacking, etc. Fair, equal and safe competition was by chance. Chaos often prevailed. Today girls and boys are assured of the opportunity to participate in sound and healthy educational activities.

3. HOW WAS ASAA STARTED?

In the early 1950's school administrators showed a deep concern about the abuses in interscholastic athletics. They saw the need for rules on age, amateurism, and attendance and formed the organization known as the Alaska High School Activities Association in 1956. Meetings were held in conjunction with the annual Fur Rendezvous. A five-man Board of Control administered the affairs of the Association. This was a time for groping, yet much of the basic philosophy for our Activities Association was established during these early years. Basketball in twenty-four high schools was the only area of concern in early years.

Today some twenty-three years later, ninety-five schools are involved in one or more of nine non-athletic areas and eleven athletic areas of interschool activities. On July 1, 1976, legislation became law which placed the Activities Association under the general direction and support of the State Department of Education. It is operated by member schools, who vote for and instruct their regional representative to the State Board of Control, approve changes in the constitution and bylaws and participate in activities that fit the needs of their school and community.

Member schools are represented by their elected member on the State Board of Control. This body sets policies, schedules, state event site, budget and employs an Executive Secretary and other staff to administer the Association's business.

(over)

4. WHO MAKES THE RULES?

Being aware that rules and regulations are necessary for any well-run activity organization, the member schools, through ASAA, have set forth necessary rules to assure equal opportunity and competition.

The constitution outlines the scope and purpose of the Association, while the bylaws deal with age, health, transfer, residence, scholarship, officials awards, insurance, amateurism, etc., of pupils; the qualification of coaches; the sponsorship, supervision and number of games; practice and playing seasons; and special rules for various sports.

By adoption of the constitution and bylaws through application for and payment of membership dues, member schools by their own initiative have acted to control their own interscholastic activities accordingly. It is therefore the schools themselves through their school board and superintendent that provides the authority under which the Association functions as approved at this time through State Board of Education.

5. HOW DOES ASAA WORK?

New rules and modifications of existing regulations are made by the member schools through the six regional associations. For purposes of administration and representation, the State of Alaska is divided into six representative regions. Membership in a region is based upon considerations including geography, school size and transportation considerations.

At present there are six regions:

Region I in western Alaska with 33 schools and 2,400 students.

Region II in central and south central Alaska with 20 schools and 1,500 students.

Region III a region of schools from all parts of Alaska (except southeast) with 11 schools and 3,400 students.

Region IV in the Anchorage bowl with 6 schools and 12,000 students.

Region V in southeast Alaska with 16 schools and 3,600 students.

Region VI in the Fairbanks area with 5 schools and 3,400 students.

The Board of Control is the executive and administrative body that carries out the work of the Association through their Executive Secretary. This body enforces the rules voted by member schools. The members of the Board are elected for terms of two years and represent the six regional associations. The Board, which meets four to six times per year, is in charge of the funds of the Association, rules on the eligibility of contestants in all activities, hears and decides protests, recommends changes in regional school placement, and sets dates, sites and qualifications and number of participants for the various state activities and tournaments.

6. WHAT DOES ASAA AND THE REGIONAL ASSOCIATIONS DO?

Develops, approves and directs interscholastic activities such as:

Basketball

Cross-Country Running

Cross-Country Skiing

Future Homemakers of America

Future Farmers of America

Football

Forensics & Drama

Distributive Ed. Club

Gymnastics

Honor Band and Choir

(over)

Hockey	Tennis
Music Festivals	Track & Field
Office Education Assoc.	Volleyball
AASG(Student Gov't. Assoc.)	Wrestling
Swimming	Vocations & Ind. Club

- Sets dates, sites and qualifications for state events;
- Publishes a monthly newsletter, the official handbook and numerous guidelines;
- Works constantly for the safety of participants;
- Strives to promote good sportsmanship and cooperative spirit among schools;
- Encourages a high quality of scholarship;
- Requires physical examinations and insurance standards for participants;
- Seeks to keep awards for achievement on a sound, sensible basis;
- Requires a coach to be a certified teacher and regularly employed by the school they represent, or controlled exceptions;
- Aids officials, coaches and players in acquiring a thorough knowledge of the playing rules;
- Distributes rule books and films to schools and officials;
- Promotes ethical codes among officials, coaches, players and fans;
- Conducts clinics and rule interpretations meetings;
- Tests and registers officials;
- Provides numerous free publications and materials to schools;
- Sactions interstate events and meets;
- Organizes, controls and directs state championships.

7. HOW IS ASAA FINANCED?

ASAA, with a budget of \$110,000 in 1978/79, derives its income from the State Legislature through the Department of Education (50%), membership dues (25%), officials dues, sale of publications, and tournaments (largely basketball) (25%).

No transportation expenses for participants are paid by the State Association due to lack of income.

All monies over and above operating expenses from tournaments and meets are used to make up losses in other activity areas.

8. WHAT IS ASAA'S ROLE IN EDUCATION?

School people have long recognized the values of a reasonable and sound school activities program. The purpose of the Alaska School Activities Association is to approve, develop and direct interscholastic programs so that these values are enhanced. ASAA exercises control to reduce over-emphasis and to assure that activities will remain in proper perspective as an integral part of the total educational program. It stresses the cultural values involved in all activities so that the students who participate will grow educationally. The goal is a well-rounded, educational experience for all students.

(over)