

ASTORIA TUGBOAT COMPANY
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HJUD

SB 45

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SB 53

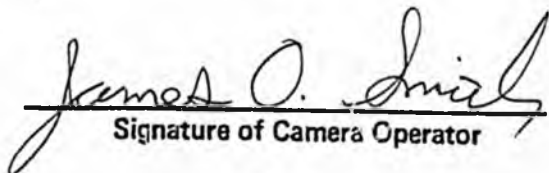
SB

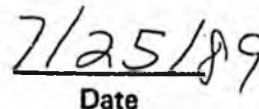


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STATE OF ALASKA
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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	2/11/86	1:30 pm
" "	2/17/86	1:30 pm

COMMITTEE REPORT
HOUSE

2/19

(7)

FURTHER: FINANCE

(Waived from HESS 4/22/85)

4/22/85

Date: _____

The Committee on JUDICIARY has had CSSB 545 (HESS) am

"An Act relating to hospital inspections and investigations by the Department of Health and Social Services."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for 11 CS CSSB 45 (Jud) same title new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] - no rec

[Signature]

CHAIRMAN

Introduced: 1/14/85
Referred: Health, Education and
Social Services and
Finance

1 IN THE SENATE

BY FAIKS

2

SENATE BILL NO. 45

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to hospital inspections and investi-

7

gations by the Department of Health and Social Ser-

8

vices."

9

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

10

* Section 1. AS 18.20.080(a) is amended to read:

11

(a) The department shall make [ANNUAL] inspections and investi-

12

gations of hospital facilities.

Offered: 3/13/85
Referred: Finance

Original sponsor: Faiks

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2

CS FOR SENATE BILL NO. 45 (HESS) am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

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* Section 1. AS 18.20.080(a) is amended to read:

11

(a) The department shall make annual inspections and investi-

12

gations of hospital facilities. The department may accept

13

accreditation by the Joint Commission on the Accreditation of

14

Hospitals in lieu of its own annual inspections.

HEIN

Original sponsor: Faiks

IN THE SENATE

BY THE JUDICIARY COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 45 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to hospital inspections and investigations by the Department of Health and Social Services."

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

* Section 1. AS 18.20.080(a) is amended to read:

(a) The department shall make annual inspections and investigations of hospital facilities. The department may accept accreditation by the Joint Commission on the Accreditation of Hospitals in lieu of an annual inspection by the department for the year in which the accreditation was granted if the accreditation standards of the commission are substantially similar to the inspection standards of the department.

Original sponsor: Faiks

IN THE SENATE

BY THE JUDICIARY COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 45 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to hospital inspections and investigations by the Department of Health and Social Services."

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

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(a) The department shall make annual inspections and investigations of hospital facilities. The department may accept accreditation by the Joint Commission on the Accreditation of Hospitals in lieu of an annual inspection by the department for the year in which the accreditation was granted.

POSITION PAPER
CS FOR SENATE BILL NO. 45 (HESS)

"An Act relating to hospital inspections and investigations by the Department of Health and Social Services."

I. Background:

The purpose of SB45 is two fold; a) to reduce the annual hospital licensing demands on limited departmental staff, and b) to reduce the level of interruption to hospital operations as a result of duplicative licensing review activities.

The Joint Commission on the Accreditation of Hospitals (JCAH) reviews each hospital in Alaska once every three years. In addition, the Alaska Department of Health & Social Services conducts a review of each hospital annually. The Department recognizes that JCAH review standards are often equal to those of the state, and that substitution of the JCAH review where possible would permit better utilization of limited State staff resources.

The administrative burden on the state licensing agency has expanded greatly in the last two years with no corresponding increase in State staff. Although the department has streamlined its review procedures to accommodate this larger workload, substituting the JCAH review would complement the other improvements already made. This would not create any undue risk to the public as significant differences have seldom been noted between the JCAH and State level review findings. In addition, the Department recommends discretionary language be added to SB45 which would permit the Department to conduct a State review if there is reason to believe the JCAH review findings may not be adequate.

II. Departmental Position:

The Department supports SB45, but recommends adoption of the changes proposed by the Alaska Hospital Association in a letter dated January 24, 1985. The changes proposed by the Hospital Association are not substantive, but rather further clarify the intent of SB45.

Recommend By:

Rod Betit
Rod Betit, Director
Division of Medical Assistance

Date:

Feb 3, 1986

Approved By:

J.R.P.
John R. Pugh, Commissioner
Department of Health & Social
Services

Date:

2/3/86

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSRB45 (HESS) am
 Title : An Act relating to hospital inspections & investigations
 Sponsor : Faiks
 Requestor : _____
 Date of Request : 2/3/86

FISCAL DETAIL

Agency Affected : DHSS
 BRU : Medical Assistance Administration
 Components : Certification & Licensing

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
----------------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
----------------	-----	-----	-----	-----	-----	-----

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Rod Bettit, Director *R. Bettit*
 Division : Medical Assistance *2/3/86*

Phone : 465-3355 *Joe*
 Date : 2/3/86

Approved by Commissioner : J. R. P.
 Agency : Department of Health & Social Services

Date : 2/9/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB45
 Title: An Act relating to hospital inspections & investigations
 Sponsor: Faiks
 Requestor: _____
 Date of Request: 1/29/85

FISCAL DETAIL

Agency Affected: DHSS
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: Medical Assistance Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME	None					
TEMPORARY	required					

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Rod Betit, Director *R Betit* Phone: 465-3355
 Division: Medical Assistance Date: 1/29/85

Approved by Commissioner: John R. Egan *John R. Egan* Date: 3/1/85 *JCC*
 Agency: Health & Social Services

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

POSITION PAPER
SENATE BILL NO. 45

"An Act relating to hospital inspections and investigations by the Department of Health and Social Services."

I. Background:

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The administrative burden on the state licensing agency has expanded greatly in the last two years with no corresponding increase in State staff. Although the department has streamlined its review procedures to accommodate this larger workload, substituting the JCAH review would complement the other improvements already made. This would not create any undue risk to the public as significant differences have seldom been noted between the JCAH and State level review findings. In addition, the Department recommends discretionary language be added to SB45 which would permit the Department to conduct a State review if there is reason to believe the JCAH review findings may not be adequate.

II. Departmental Position:

The Department supports SB45, but recommends adoption of the changes proposed by the Alaska Hospital Association in a letter dated January 24, 1985. The changes proposed by the Hospital Association are not substantive, but rather further clarify the intent of SB45.

Recommend By: Rod Betit
For: Rod Betit, Director
Division of Medical Assistance

Date: 2/28/85

Approved By: John R. Pugh
John R. Pugh, Commissioner
Department of Health & Social Services

Date: 3/1/85

CHAS

168 CHANDALAR DR.
Eagle River, AK 99577
694-4108
Feb. 2, 1986

The Honorable Sam Cotten
P.O. Box V
Juneau
Alaska 99811

Dear Rep. Cotten,

I am very concerned about two health related items before the legislature this session and feel I need to express those concerns. The first is support for the Developmentally Disabled (DD).

There are two major facilities in Alaska offering professional, twenty-four hour care for DD clients, Harborview Developmental Center in Valdez and Hope Cottages in Anchorage. Both facilities are licensed by the state and federally certified to provide Intermediate Care for the Mentally Retarded. Both receive federal and state funds.

I am a Health Facility Surveyor for the state and the only person, I believe, who has spent any substantial amount of time working and observing in both facilities during the past three years. I honestly believe that the state may be being led down the wrong path by some current pressures from the administration. There seems to be a powerful move afoot, combined with some unexplainable power on the part of Hope Cottages, to gut and, eventually, close down Harborview. I find that many of the players make a vague but definite assumption that Harborview by nature is bad and undesirable, does not deserve to exist. Many people seem equally inclined that Hope Cottages are wonderful, the perfect answer for DD clients. I do not agree!!

My personal opinion is that, currently, Harborview offers by far the better treatment and environment for their clients and has the potential, with fair funding and support, to become one of the best facilities of their kind in the United States. In fact, they may already be. I don't mean to say that Hope Cottages are bad because they are not. They just, simply, aren't automatically better as so many people currently seem to think.

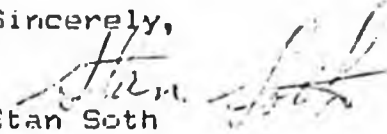
The second issue is even more important, in that it could affect the quality of health care for the majority of Alaskans. It is SB 45 which deals with the limitation of licensure visits to hospitals which have been accredited by the Joint Commission on Accreditation of Hospitals (JCAH). Numerous hospital administrators have made it clear to me that when this bill is in effect they will no longer be subject to any state visits, even though many politicians seem to think it only eliminates visits during the year of the actual JCAH visit which can be as infrequent as every 3 or 4 years. Many people in the health care

industry feel that JCAH inspections are ineffective and akin to the "fox guarding the henhouse." JCAH is controlled by three national physicians organizations and the American Hospital Association. Their written standards are, generally, excellent but their visits are brief and usually infrequent. These organizations have successfully lobbied the national legislature to exclude JCAH hospitals from certification surveys. If state visits are also eliminated, there may not be adequate watchdog efforts to benefit Alaskan health consumers.

The problem at Alaska Psychiatric Institute is a prime example of the need for inspections beyond JCAH since shortly after their most recent visit an expert federal team decertified the facility. JCAH had granted full certification.

Substantial information is available regarding both of the issues I address above. I would be happy to discuss any of it with you or anyone on your staff.

Sincerely,


Stan Soth

PS - I just found out about the identical
bill introduced as HB 320 which I, of
course, equally oppose,

Chairman of the Board
Edward Zeine
Cordova Community Hospital
Cordova

Chairman-Elect
Michael Herring
South Peninsula Hospital
Homer

Immediate Past Chairman
Mark Hawkins
Sitka Community Hospital
Sitka

Secretary/Treasurer
Emma Ivy
Wrangell General Hospital
Wrangell

Delegate to the American
Hospital Association
Al M. Camosso
Providence Hospital
Anchorage

Alternate Delegate to the
American Hospital Assoc.
Sister Barbara Haase
Ketchikan General Hospital
Ketchikan

Delegate to the American
Health Care Association
Jack Buck
St. Ann's Nursing Home
Juneau

Alternate Delegate to the
American Health Care
Association
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Petersburg General Hospital
Petersburg

Delegate to the Association
of Western Hospitals
Keith Campbell
Seward General Hospital
Seward

Alternate Delegate to the
Association of Western
Hospitals
Jane Sabes
Norton Sound Regional
Hospital
Nome

Trustee Delegate to the
American Hospital Assoc.
Moe Kadish
Trustee, Providence
Hospital
Anchorage

Alternate Trustee Delegate
to the American Hospital
Association
Maxine Robertson
Trustee, Ketchikan
General Hospital

Physician Member of
the Board
Morris Horning, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

POLICY STATEMENT

Frequency of Licensure

Position: Provide the Department of Health and Social Services the option of surveying facilities on a less than annual cycle.

Rationale:

The Joint Commission on the Accreditation of Hospitals (JCAH) survey is accepted for purposes of Medicare and Medicaid certification and in 35 states is a part of or in lieu of state licensure. In Alaska, permitting the use of JCAH survey in lieu of licensure would reduce licensure survey costs to the Department of Health and Social Services and would reduce duplicate surveys and the attendant added costs for facilities. Injecting flexibility into the law would permit the Department to focus its activities in depth in areas of need rather than across the board.

Process: Amend AS 18.20.080(a) to read:

Section 18.20.080. Inspections and consultation for alternations.

(a) The department shall make inspections and investigations of hospital facilities.

December 6, 1984

alaska
state
hospital
association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

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Cordova Community Hospital
Cordova

Chairman Elect
Michael Herring
South Peninsula Hospital
Homer

Immediate Past Chairman
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to the American Hospital
Association
Maxine Robertson
Trustee, Ketchikan
General Hospital

Physician Member of
the Board
Morris Hornig, M.D.
Anchorage

President
Dennis L. DeWitt
Juneau

January 24, 1985

Senator Jan Faiks
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

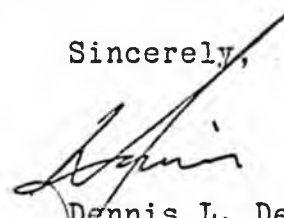
Dear Senator Faiks:

The Alaska State Hospital Association has reviewed Senate Bill No. 45 and wishes to indicate our support for its passage.

We respectfully request that it be amended to specifically permit the Department of Health and Social Services to accept the Joint Commission on the Accreditation of Hospitals survey in lieu of licensure. This would relieve any ambiguity as to the intent of the legislation. I have attached a suggested amendment for your consideration.

We are anxious to be of whatever help is necessary to assist in the passage of SB 45.

Sincerely,



Dennis L. DeWitt
President

DLD/agk

cc: Friday Mailing
Senator Fahrenkamp
Commissioner Pugh

alaska
state
hospital
association

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790

REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

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the Board
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President
Dennis L. DeWitt
Juneau

AMENDMENT

Section 1. AS 18.20.080 (a) is amended to read:

(a) The department shall make [ANNUAL] inspections and investigations of hospital facilities. The department may accept accreditation by the Joint Commission on the Accreditation of Hospitals in lieu of its own inspections.

JCAH

Joint Commission on Accreditation of Hospitals
875 North Michigan Avenue
Chicago, Illinois 60611
312/642-6061

John E. Affeldt, MD
President

JB/S

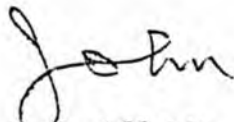
November 5, 1984

Dennis L. DeWitt
President
Alaska State Hospital
Association
319 Seward Street
Juneau, Alaska 99801

Dear Dennis:

I appreciate learning that my presentation to your association meeting was favorably received. I also appreciate learning that you and John Pugh are planning to proceed towards a JCAH involvement in the licensing process in Alaska. Again my thanks for the opportunity to meet with your group and I look forward to hearing further from you as developments occur.

Sincerely,



John E. Affeldt, M.D.
President

JEA:cav

cc: Lawrence A. Hill
Paul E. Mullen

SB 45
FILE copy

AMHI/84

Accreditation
Manual for
Hospitals

JCAH Joint Commission
on Accreditation
of Hospitals

Foreword

In 1981, JCAH began revising the *Accreditation Manual for Hospitals* to develop less prescriptive, more goal-oriented standards that focus on essential elements of quality care. With the 1984 edition of this *Manual*, we are pleased to introduce the first of these revisions: new chapters on governing body and management and administrative services, and new standards for monitoring and evaluation in clinical support services.

The chapters on governing body and management and administrative services have been completely revised and updated. Placement in an outline format is intended to enhance readability, clarify the intent of the standards, eliminate ambiguity, and focus on those aspects of the standards that are basic to the provision of quality care; this format will be followed in all future revisions to the *AMH*. The changes to these chapters are further explicated in Appendix A.

Standards for monitoring and evaluation in clinical support services appear in the following chapters: Anesthesia Services, Dietetic Services, Emergency Services, Home Care Services, Hospital-Sponsored Ambulatory Care Services, Nursing Services, Pharmaceutical Services, Pathology and Medical Laboratory Services, Radiology Services, Rehabilitation Programs/Services, Respiratory Services, Social Work Services, and Special Care Units. In developing these standards, JCAH eliminated frequency requirements and other prescriptive language to allow hospitals greater flexibility in conducting quality assurance activities, which is in keeping with the intent of the original quality assurance standard published in 1979. These changes also are explained in Appendix A.

New standards for hospitals that provide psychiatric/substance abuse services also have been developed, appear in several chapters throughout the book, and are described in Appendix A. With the development of these standards, JCAH offers chief executive officers of hospitals that provide only psychiatric/substance abuse services the option of an accreditation survey using either the standards contained in this *Manual* or those standards contained in the *Consolidated Standards Manual for Child, Adolescent, and Adult Psychiatric, Alcoholism, and Drug Abuse Facilities*. The same option is applicable to a psychiatric/substance abuse department/service of a general hospital and will be honored for a three-year period beginning on the April 1, 1984, effective date of this *Manual*.

In fulfilling its mission to improve the quality of care and services provided in health care settings through the voluntary accreditation process, JCAH recognizes the importance of maintaining standards and survey procedures that reflect current practice and the dynamic environment of the health care industry. In conjunction with the standards revision process, JCAH has been modifying accreditation survey procedures: The implementation of a three-year accreditation cycle, the introduction of a tailored survey process, and the development of interim monitoring mechanisms are designed to enhance the consultative nature

of JCAH surveys and recognize the individual needs and unique features of facilities.

As we continue to revise the standards and modify accreditation procedures, we will continue to look to the health care professions for advice and assistance. In the past two years, during numerous field reviews and a field trial of the proposed standards, and during feasibility studies of proposed modifications in the survey process, we have appreciated the support and cooperation that you have provided.

John E. Affeldt, MD
President

Editor's Note

Throughout this *Accreditation Manual for Hospitals* reference is made to documents or standards published by other organizations. Each such reference is to a specific document at a given point in time. Subsequent editions of any materials used as a reference do not automatically become the authoritative reference of JCAH until approved as such by the Board of Commissioners.

Pronouns throughout this document have been chosen to provide ease in reading and are not meant to exclude reference to the opposite sex.

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Rights and Responsibilities of Patients

The basic rights of human beings for independence of expression, decision, and action, and concern for personal dignity and human relationships are always of great importance. During sickness, however, their presence or absence becomes a vital, deciding factor in survival and recovery. Thus it becomes a prime responsibility for hospitals to endeavor to assure that these rights are preserved for their patients.

In providing care, hospitals have the right to expect behavior on the part of patients and their relatives and friends, which, considering the nature of their illness, is reasonable and responsible.

This statement does not presume to be all-inclusive. It is intended to convey JCAH's concern about the relationship between hospitals and patients, and to emphasize the need for the observance of the rights and responsibilities of patients.

The following basic rights and responsibilities of patients are considered reasonably applicable to all hospitals.

Patient Rights

Access to Care

Individuals shall be accorded impartial access to treatment or accommodations that are available or medically indicated, regardless of race, creed, sex, national origin, or sources of payment for care.

Respect and Dignity

The patient has the right to considerate, respectful care at all times and under all circumstances, with recognition of his personal dignity.

Privacy and Confidentiality

The patient has the right, within the law, to personal and informational privacy, as manifested by the following rights:

- To refuse to talk with or see anyone not officially connected with the

hospital, including visitors, or persons officially connected with the hospital but not directly involved in his care.

- To wear appropriate personal clothing and religious or other symbolic items, as long as they do not interfere with diagnostic procedures or treatment.
- To be interviewed and examined in surroundings designed to assure reasonable audiovisual privacy. This includes the right to have a person of one's own sex present during certain parts of a physical examination, treatment, or procedure performed by a health professional of the opposite sex; and the right not to remain disrobed any longer than is required for accomplishing the medical purpose for which the patient was asked to disrobe.
- To expect that any discussion or consultation involving his case will be conducted discreetly and that individuals not directly involved in his care will not be present without his permission.
- To have his medical record read only by individuals directly involved in his treatment or the monitoring of its quality, and by other individuals only on his written authorization or that of his legally authorized representative.
- To expect all communications and other records pertaining to his care, including the source of payment for treatment, to be treated as confidential.
- To request a transfer to another room if another patient or visitors in that room are unreasonably disturbing him by smoking or other actions.
- To be placed in protective privacy when considered necessary for personal safety.

Personal Safety

The patient has the right to expect reasonable safety insofar as the hospital practices and environment are concerned.

Identity

The patient has the right to know the identity and professional status of individuals providing service to him, and to know which physician or other practitioner is primarily responsible for his care. This includes the patient's right to know of the existence of any professional relationship among individuals who are treating him, as well as the relationship to any other health care or educational institutions involved in his care. Participation by patients in clinical training programs or in the gathering of data for research purposes should be voluntary.

Information

The patient has the right to obtain, from the practitioner responsible for coordinating his care, complete and current information concerning his diagnosis (to the degree known), treatment, and any known prognosis. This information should be communicated in terms the patient can reasonably be expected to understand. When it is not medically advisable to give such information to the patient, the information should be made available to a legally authorized individual.

Communication

The patient has the right of access to people outside the hospital by means of visitors, and by verbal and written communication.

When the patient does not speak or understand the predominant language of the community, he should have access to an interpreter. This is particularly true where language barriers are a continuing problem.

Consent

The patient has the right to reasonably informed participation in decisions involving his health care. To the degree possible, this should be based on a clear, concise explanation of his condition and of all proposed technical procedures, including the possibilities of any risk of mortality or serious side effects, problems related to recuperation, and probability of success. The patient should not be subjected to any procedure without his voluntary, competent, and understanding consent, or that of his legally authorized representative. Where medically significant alternatives for care or treatment exist, the patient shall be so informed.

The patient has the right to know who is responsible for authorizing and performing the procedures or treatment.

The patient shall be informed if the hospital proposes to engage in or perform human experimentation or other research/educational projects affecting his care or treatment, and the patient has the right to refuse to participate in any such activity.

Consultation

The patient, at his own request and expense, has the right to consult with a specialist.

Refusal of Treatment

The patient may refuse treatment to the extent permitted by law. When refusal of treatment by the patient or his legally authorized representative prevents the provision of appropriate care in accordance with professional standards, the relationship with the patient may be terminated upon reasonable notice.

Transfer and Continuity of Care

A patient may not be transferred to another facility unless he has received a complete explanation of the need for the transfer and the alternatives to such a transfer, and unless the transfer is acceptable to the other facility. The patient has the right to be informed by the practitioner responsible for his care, or his delegate, of any continuing health care requirements following discharge from the hospital.

Hospital Charges

Regardless of the source of payment for his care, the patient has the right to request and receive an itemized and detailed explanation of his total bill for services rendered in the hospital. The patient has the right to timely notice prior

to termination of his eligibility for reimbursement by any third-party payer for the cost of his care.

Hospital Rules and Regulations

The patient should be informed of the hospital rules and regulations applicable to his conduct as a patient. Patients are entitled to information about the hospital's mechanism for the initiation, review, and resolution of patient complaints.

Patient Responsibilities

Provision of Information

A patient has the responsibility to provide, to the best of his knowledge, accurate and complete information about present complaints, past illnesses, hospitalizations, medications, and other matters relating to his health. He has the responsibility to report unexpected changes in his condition to the responsible practitioner. A patient is responsible for making it known whether he clearly comprehends a contemplated course of action and what is expected of him.

Compliance with Instructions

A patient is responsible for following the treatment plan recommended by the practitioner primarily responsible for his care. This may include following the instructions of nurses and allied health personnel as they carry out the coordinated plan of care and implement the responsible practitioner's orders, and as they enforce the applicable hospital rules and regulations. The patient is responsible for keeping appointments and, when he is unable to do so for any reason, for notifying the responsible practitioner or the hospital.

Refusal of Treatment

The patient is responsible for his actions if he refuses treatment or does not follow the practitioner's instructions.

Hospital Charges

The patient is responsible for assuring that the financial obligations of his health care are fulfilled as promptly as possible.

Hospital Rules and Regulations

The patient is responsible for following hospital rules and regulations affecting patient care and conduct.

Respect and Consideration

The patient is responsible for being considerate of the rights of other patients and hospital personnel, and for assisting in the control of noise, smoking, and the number of visitors. The patient is responsible for being respectful of the property of other persons and of the hospital.

General Administrative Policies and Procedures

Who May Apply for Survey

To be eligible for a JCAH accreditation survey, a hospital* must meet the following requirements:

- Be located within the United States or one of its territories or possessions or, unless an exception is made by the president of JCAH (or in the absence of the president, the chairman of the Board of Commissioners), be owned or controlled by the United States or by an entity organized under the laws of the United States or one of its states, territories, or possessions.
- Have a valid, current license to operate.
- Maintain facilities, beds, and services that are available over a continuous 24-hour period, seven days a week.
- Be a hospital where the median length of stay is 30 days or less (exceptions may be made by the president of JCAH) or where the treatment provided is of such a nature that patients would not ordinarily be transferred to another facility for more intensive care. Not included are convalescent or domiciliary homes, homes for the aged, or other like establishments where only custodial care is provided.† Also excluded are student health centers and offices or clinics that primarily provide ambulatory care patient services and do not regularly admit inpatients.
- Have been in operation and actively caring for patients for at least six months before the survey so there is a record of performance that can be evaluated.
- Have a governing body, an organized medical staff,‡ and a nursing service.
- Have the primary function of diagnosis, treatment, and/or rehabilitation.

*The chief executive officer of a hospital that provides only psychiatric/substance abuse services has the option of an accreditation survey using either the standards contained in this *Manual* or the standards contained in the *Consolidated Standards Manual for Child, Adolescent, and Adult Psychiatric, Alcoholism, and Drug Abuse Facilities*. The same option is applicable to a psychiatric/substance abuse department/service of a general hospital. This option will be honored for a three-year period, beginning with the April 1, 1984, effective date of this *Manual*.

†JCAH conducts a special survey for rehabilitation hospitals and other specialty hospitals, such as chronic disease hospitals, burn centers, and orthopedic hospitals, in which the median length of stay is over or under 30 days. Such facilities are surveyed for compliance with selected standards from this *Manual* and the *Accreditation Manual for Long Term Care Facilities*.

‡See Glossary.

- Provide for the following:

Building and grounds safety	Pharmaceutical services
Dietetic services	Professional library services
Emergency services	Quality assurance program
Functional safety and sanitation	Radiology services
Infection control	Rehabilitation programs/services
Medical record services	Respiratory care services*
Nuclear medicine services*	Social work services
Pathology and medical laboratory services	Special care services*
- Have at least one of the following acute clinical services—medicine, obstetrics-gynecology,† pediatrics, or surgery;‡ child, adolescent, or adult psychiatric services; or alcoholism or drug abuse services.
- Must provide that only a member of the medical staff, either individually or in cooperation with a licensed practitioner with clinical privileges, has the authority to admit a patient to the hospital.
- Must provide that only a licensed practitioner with clinical privileges will be directly responsible for a patient's diagnosis and treatment within the area of his privileges, that each patient's general medical condition will be the responsibility of a physician member of the medical staff, and that other direct medical care to patients will be provided only by a member of the house staff‡ or by allied health personnel acting under the supervision of a licensed practitioner with clinical privileges.
- Provide registered nurse supervision at all times, as well as other nursing services necessary for continuous patient care.
- Complete and return an Application for Survey with the nonrefundable application-processing fee.
- Provide the information requested in the *Hospital Survey Profile*.
- Operate without restriction by reason of sex, race, creed, or national origin.

How To Apply for Survey

Hospitals that wish to be accredited by JCAH should begin by sending a request for an Application for Survey to the following address:

Joint Commission on Accreditation of Hospitals
Scheduling Department—Application Requests
875 North Michigan Avenue
Chicago, Illinois 60611

JCAH sends the hospital one application for completion. The application should be returned to JCAH with the nonrefundable application-processing fee. The hospital should retain a copy for its records.

Survey Fees

Survey fees are related to the cost of maintaining JCAH operations and ordinarily are determined annually.

When a hospital is scheduled for survey, JCAH sends the hospital an invoice

*Not required for hospitals that provide only psychiatric/substance abuse services.

†Must have anesthesia services as well.

‡See Glossary.

and asks the hospital to pay the fees in accordance with the terms specified in the invoice, except where prohibited by law.

Section 952, PL 96-499, the Omnibus Reconciliation Act of 1980, requires that Medicare providers include, in all their contracts for services costing \$10,000 or more in any 12-month period, a clause allowing the secretary of the US Department of Health and Human Services (DHHS), the US comptroller general, or their representatives to examine the contract and the contractor's books and records. To satisfy this statutory requirement with respect to any such hospital paying JCAH \$10,000 or more in any 12-month period and to avoid the necessity for executing a special contract with each such hospital, JCAH herein stipulates that if its charges to any such hospital amount to \$10,000 or more in any 12-month period, the contract or any agreement upon which such charges are based and any of JCAH's books, documents, and records that may be necessary to verify the extent and nature of JCAH costs will be available for four years after the survey to the secretary of DHHS, the comptroller general, or any of their duly authorized representatives. The same conditions will apply to any subcontracts JCAH has with related organizations if the payments under such contracts amount to \$10,000 or more in any 12-month period. This stipulation applies to all contracts and JCAH books and records pertinent to charges paid to JCAH on December 5, 1980, or later.

Survey Personnel, Duration of Survey, and Schedules

Accreditation surveys are conducted by JCAH surveyors. The number of days required for a survey and the composition of the survey team are based on information in the hospital's Application for Survey. The hospital is notified of the date of its survey approximately four weeks in advance. To keep survey fees to a minimum, JCAH attempts to schedule surveys systematically and efficiently.

Multiple-Category Facilities

JCAH has standards for the following four categories of service: (1) acute care general hospitals, including hospital-sponsored ambulatory health care services; (2) psychiatric and substance abuse facilities and programs;* (3) long term care facilities; and (4) ambulatory health care organizations, excluding hospital-sponsored ambulatory health care services. JCAH refers to a facility offering two or more of these categories of service as a "multiple-category facility."

The Application for Survey contains provisions for a multiple-category facility to indicate all health care services provided by its corporate body. For accreditation purposes, a corporate body is an organization that has a single governing body that is legally, organizationally, and functionally responsible for managing one or more health care facilities, programs, or services within a reasonable geographic area, usually considered to be 100 miles or less. Corporations with facilities located over large geographic areas can be excluded from this definition. JCAH realizes that due to their nature and circumstances, certain government-owned or corporate-owned facilities may have to be considered on an individual basis and be given special consideration.

JCAH tailors the survey process to the nature and needs of a multiple-category facility. A single survey is conducted by a survey team specifically

*Facilities that provide services only to child, adolescent, or adult psychiatric patients, to alcoholism or drug abuse patients, or to any combination of the aforementioned age and disability groups are not considered multiple-category facilities. Such facilities are surveyed for compliance with this Manual or with the *Consolidated Standards Manual for Child, Adolescent, and Adult Psychiatric, Alcoholism, and Drug Abuse Facilities*.

chosen for its expertise in the standards that will be used to survey the facility, and the facility receives a single accreditation decision and a single survey report based on JCAH's evaluation of all health care services provided by the facility's corporate body. Policies that are specific to the tailored survey process are published periodically in *JCAH Perspectives*.

JCAH also has standards for community mental health service programs, which are published in *Principles for Accreditation of Community Mental Health Service Programs*, and standards for hospice service programs, which are published in the *Hospice Standards Manual* (available December 1983). JCAH does not require multiple-category facilities that include community mental health and hospice service programs to be surveyed under these standards. However, if a multiple-category facility wishes to seek special recognition of these programs by requesting a survey under the standards for the programs, JCAH will handle the survey as part of the tailored survey process just described.

Accreditation Survey Procedures

The purpose of a JCAH accreditation survey is to assess the extent of a hospital's compliance with the applicable standards in this *Manual*. A hospital's compliance with the standards is assessed through at least one of the following means:

- Statements from authorized and responsible hospital personnel;
- Documentation of compliance provided by the hospital;
- Answers to questions concerning the implementation of a standard, or examples of its implementation, that will enable a judgment of compliance to be made; and
- On-site observations by JCAH surveyors.

Because each standard has some degree of importance, a hospital must be prepared to provide evidence of its compliance with each standard that is applicable to its operations. To be accredited, a hospital must demonstrate that it is in substantial compliance with the standard, although it need not be in full compliance with each applicable standard.

In the event that JCAH surveyors find that some aspect of hospital operations adversely affects patient health and safety, their findings may be considered for accreditation purposes even if the standards do not specifically address those operations. In considering any such findings, JCAH may obtain expert consultation.

Public Information Interviews

Although JCAH does not ask a hospital to announce its forthcoming survey through the mass media, it does ask the hospital to provide an opportunity during a full on-site survey for the presentation of information by consumers and the public as well as personnel and staff of the facility undergoing survey. Anyone who has information about a hospital's compliance with the accreditation standards may request a public information interview.

JCAH requires a hospital to post, in a public place on its premises, the official JCAH announcement of the date of survey and of the opportunity for a public information interview. Ordinarily, the public notice must be posted four weeks before the survey date; the notice must indicate that requests for a public information interview must be made in writing and that JCAH must receive them at least two working days before a hospital's accreditation survey begins. The notice must remain posted until the first day of the survey. Furthermore, if

someone asks about the survey, JCAH expects the hospital to inform the person of the survey dates and the fact that a public information interview may be requested or that such an interview is already scheduled.

The hospital should promptly send any request for a public information interview that it receives to JCAH's Hospital Accreditation Program and retain a copy for its files. JCAH acknowledges each request and sends a copy of this acknowledgment to the facility. The hospital is responsible for notifying the interviewees of the exact date, time, and place of the public information interview.

JCAH surveyors are required to report on whether JCAH policies concerning public information interviews have been carried out properly. This includes reporting the manner in which the notice was posted in the hospital.

Public information interviews usually are conducted during the morning of the first survey day and ordinarily do not exceed two hours in length. The hospital is expected to provide reasonable accommodation either within the hospital or at a location that is conveniently accessible to the hospital. Surveyors conduct the interview session and receive the information. Representatives of the hospital are expected to attend.

The interview consists only of the orderly receipt of information offered, verbally or in writing, within the prescribed time limit. All information received is fully considered for pertinence and verification; the findings are reported to JCAH central office staff with the results and recommendations of the survey. Any further participation in the survey by an outside source of information must be authorized by the hospital.

Accreditation Decision and Appeal

At the completion of the on-site survey, the surveyors hold a summation conference with one or more representatives of at least the hospital's governing body, administration, medical staff, and nursing staff. The form of the conference is of the hospital's choosing. During the conference, the surveyors present survey findings for discussion and clarification, and representatives of the hospital are given full opportunity to comment on any adverse findings noted by the surveyors.

JCAH staff evaluates the results of the survey, the recommendations of the surveyors, and any other relevant information, such as the extent of the hospital's compliance with recommendations, evidence of recent improvements, or documentation of plans to correct deficiencies. Based on its evaluation, JCAH staff recommends to the Accreditation Committee of the Board of Commissioners that the hospital either be accredited or be denied accreditation. (See Appendix B for a full discussion of accreditation and appeal procedures.)

When JCAH staff tentatively determines that it will recommend nonaccreditation to the Accreditation Committee, a representative of JCAH contacts the hospital, informs the chief executive officer of staff's intent, and discusses the areas of noncompliance upon which the recommendation would be based. When necessary, arrangements may be made for further discussions between representatives of the hospital and JCAH.

JCAH also sends the chief executive officer of the hospital a list of the areas of less than substantial compliance. If the chief executive officer maintains that sufficient documentation can be submitted to demonstrate either that the hospital was in compliance with the standards in question or that the hospital has corrected the major deficiencies identified during the on-site survey, the hospital is given 15 days to submit the documentation. JCAH staff reviews the documentation and will take one of the following actions: (1) change its recommendation and submit a recommendation to grant accreditation, along with the survey

findings and the hospital's documentation, to the Accreditation Committee for a decision; (2) conduct a resurvey of all or part of the hospital; or (3) submit its recommendation to deny accreditation, along with the survey findings and the hospital's documentation, to the Accreditation Committee for decision.

The Accreditation Committee considers the recommendation of JCAH staff and will either grant accreditation to the hospital or initially decide to deny accreditation. The hospital is notified of the decision and is provided with recommendations for improvements. Copies of these recommendations are sent to the chairman of the hospital's governing body, the chief executive officer, and the president of the medical staff.

Any decision of the Accreditation Committee to accredit a hospital is final, and the hospital's accreditation is effective as of the first day after completion of the survey.

If the Accreditation Committee initially decides that accreditation should be denied, and if the facility was not an accredited hospital at any time during the two years before the survey, the committee may direct JCAH staff to inform the hospital that instead of either accepting a nonaccreditation decision or requesting an interview, it may elect to consider the survey a consultation and education visit that does not result in a nonaccreditation decision.

Any initial decision of the Accreditation Committee that accreditation should be denied entitles the hospital to appeal the nonaccreditation decision in accordance with the procedures described in Appendix B of this *Manual*. These procedures are summarized in the following paragraphs.

Except in rare and unusual circumstances where patient life or safety may be in jeopardy, the hospital is given an opportunity to come to JCAH for an interview with representatives of JCAH after the Accreditation Committee has made an initial decision to deny accreditation. The results of the interview are reported to the Accreditation Committee for its consideration. If the Accreditation Committee decides to deny accreditation, the hospital has the right to a hearing before an Appeals Hearing Panel composed of impartial individuals selected by the president of JCAH. If the hospital fails to properly request an interview or a hearing, as described in Appendix B, any decision of the Accreditation Committee to deny accreditation becomes final.

If a hearing is held, the Appeals Hearing Panel considers the survey findings and all other available materials, including any oral and written presentations made by the hospital. The panel then makes a recommendation concerning accreditation to the Board of Commissioners.

The Board of Commissioners or a committee of the Board of Commissioners (excluding any members who may have participated in any earlier consideration by the Accreditation Committee) considers the recommendation of the Appeals Hearing Panel and decides either to grant or deny accreditation to the hospital. Any decision of the Board of Commissioners or its committee to accredit the hospital is final, and the hospital's accreditation is effective as of the first day after completion of the survey; any decision of the Board of Commissioners or its committee to deny accreditation is also final and is effective as of the date of the decision.

Duration of Accreditation

If it is found to be in substantial compliance with JCAH standards, a hospital is awarded accreditation for three years. Approximately 18 months from the date of its survey, each accredited hospital is asked to conduct an interim self-survey, using procedures and submitting reports as required by JCAH. At the request of an accredited hospital, JCAH will conduct a full accreditation survey more frequently than once every three years.

In the process of deciding to accredit a hospital, the Accreditation Committee determines whether survey findings warrant any contingencies. When a hospital is accredited subject to one or more contingencies, JCAH will monitor the hospital's efforts to improve an area of concern identified during an accreditation survey. The type of monitoring required and the time allotted for demonstrating improvement depends on the nature of the concern—particularly its effect on patient care—and the time required to satisfactorily address the concern. Hospitals that receive contingencies ordinarily are asked either to submit a written progress report or to undergo a focused on-site survey. During a focused survey, JCAH surveyors ordinarily address only those concerns identified in contingencies. Some contingencies, however, may require surveyors to address issues related to the areas of concern. The size of the survey team and the duration of the focused survey depend on the number and extent of concerns addressed in contingencies. Usually, focused surveys are not as extensive as full accreditation surveys.

Accreditation is not automatically renewable. A hospital must undergo another full accreditation survey and demonstrate substantial compliance with JCAH standards to renew accreditation. Several months before a hospital's accreditation is due to expire, JCAH will send the hospital an Application for Survey and, upon receipt of the completed application, JCAH will schedule the survey. JCAH ordinarily schedules the survey as near as possible to the hospital's survey anniversary date. However, to allow latitude in adjusting to a hospital's needs, surveys may be scheduled within a 90-day period surrounding the hospital's anniversary date. With a hospital's consent, JCAH may schedule the survey up to 90 days before accreditation is due to expire.

Following a survey, a hospital's previous accreditation status continues until a decision is made to accredit the hospital or a final decision is made to deny accreditation to the hospital.

An accredited hospital may be surveyed at any time at the discretion of JCAH. Ordinarily, no fee is charged for a survey initiated at JCAH's discretion.

A hospital that is not granted accreditation or that has its accreditation withdrawn may apply for a resurvey, but the resurvey will not be conducted until six months after the final nonaccreditation decision. This six-month waiting period may be waived by the president of JCAH if the hospital demonstrates sufficient progress in addressing recommendations to justify such a waiver.

Accreditation is not automatically transferable. If an accredited hospital changes ownership or control or undergoes a major change in its capacity or in the categories of services offered, it must notify JCAH not more than 30 days after such change. Accreditation is continued until JCAH can determine whether a resurvey is necessary. If JCAH decides to resurvey the hospital, the hospital will be asked to submit an Application for Survey and the required fee within 20 days of notification by JCAH. Failure to comply with these provisions results in loss of accreditation.

An accredited hospital also must notify JCAH not more than 30 days after a merger or consolidation or a major change in facilities or organization; for example, JCAH must be notified when a hospital relocates or undergoes a major renovation. As in the case of a change of ownership or control, JCAH may decide that the hospital has to be resurveyed.

Confidentiality

In submitting its Application for Survey, the hospital must provide, or authorize JCAH to obtain, official records and reports of private organizations and of public or publicly recognized licensing, examining, reviewing, or planning bodies.

Except as required by law, all information obtained by JCAH in the accreditation survey process, including the public information interview, and the results and recommendations of the survey are treated as confidential matters between JCAH and the surveyed hospital. The results and recommendations of the survey will be provided only to the surveyed hospital, which may release them at its discretion.

However, when a serious condition jeopardizing public safety or the safety of a patient is found in a hospital, and when this condition has been pointed out to the chief executive officer, the proper local or state authority will be notified of the problem in writing.

Except as required by law and as noted in the preceding paragraph, JCAH does not release any information obtained through the survey process that identifies a particular hospital without the written authorization of the hospital. This restriction does not prevent JCAH from publishing aggregate data obtained from accreditation surveys.

JCAH does provide the following information upon request from anyone:

- Whether JCAH has received an Application for Survey from a particular hospital;
- A list of hospitals tentatively scheduled for survey, without indication of specific survey dates;
- Upcoming survey dates for a particular hospital after the hospital has been notified of the survey dates; and
- Whether a hospital is or is not accredited.

Public Recognition

JCAH provides each accredited hospital with a certificate of accreditation. A hospital is not charged for the initial certificate or any new certificate issued to reflect a change in the hospital's name. Additional certificates can be obtained from JCAH at cost.

The certificate and all copies remain the property of JCAH and must be returned to JCAH if the hospital is issued a new certificate reflecting a change in name or if its accreditation expires or is withdrawn or denied for any cause.

health association of alaska

319 Seward St., Juneau, Alaska 99801 • (907) 586-1790
REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES
POSITION PAPER

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the Board
Morris Horning, M.D.
Anchorage

President
Dennis DeWitt
Juneau

FREQUENCY OF LICENSURE SURVEY

POSITION:

The Joint Commission on the Accreditation of Hospitals (JCAH) survey is accepted for purposes of Medicare and Medicaid certification and in 35 states is a part of or in lieu of state licensure. In Alaska, permitting the use of the JCAH survey in lieu of licensure would reduce licensure survey costs to the Department of Health and Social Services and would reduce duplicate surveys and the attendant added costs for facilities. Injecting flexibility into the law would permit the Department to focus its activities in depth in areas of need rather than across the board.

ACTION:

Pass Senate Bill 45 which is supported by this Association and the Department of Health and Social Services.

December 6, 1985

FORMERLY

alaska
state
hospital
association

Senate
Finance

ANALYSIS FOR SENATE BILL 45

An Act relating to hospital inspections and investigations by the Department of Health and Social Services

This bill amends current statute concerning annual hospital inspections by the Department of Health and Social Services. Facility inspections would occur annually, as they do now, on hospitals not accredited (20 in Alaska) by the Joint Commission on the Accreditation of Hospitals. For accredited hospitals, (7 in Alaska) the Department would be authorized to accept the JCAH inspection in lieu of its own inspection for those years in which the accreditation applies. JCAH accreditations apply for a period of 3 years. However, the Department would have the discretion to perform an inspection in any year, regardless of whether a JCAH accreditation had been performed.

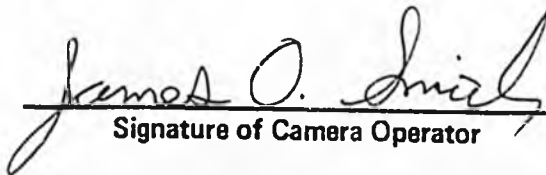
There is no fiscal impact.

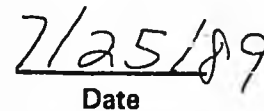


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Signature of Camera Operator


Date

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STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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JUNEAU, ALASKA 99811
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	5/2/85	1:30 pm
" "	5/7/85	7:00 pm
" "	5/8/85	7:00 pm
" "		1:30 pm
" "	5/9/85	1:00 pm

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 8, 1985

SUBJECT: Change to HCS CSSB 53(Jud) - draft version #1

TO: Representative M. Mike Miller
Attn: Hayden Kaden, Counsel
House Judiciary Committee

FROM: Michael F. Ford *M.F.*
Legislative Counsel

Please note that I have made a minor change to the language requested for HCS CSSB 53(Jud). I have changed the words "required under" to "specified in" in section 1, as I believe the section referred to does specify rather than require certain information.

MFF:ojb
Ji4/098

Original sponsor: Rules/Governor

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IN THE SENATE

BY THE JUDICIARY COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 53 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to exchange of unemployment insurance information; and providing for an effective date."

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

* Section 1. AS 23.20.110(e) is repealed and reenacted to read:

(e) The department shall provide information requested by a state or federal agency under an income and eligibility verification system that meets the requirements of 42 U.S.C. 1320b-7 (Social Security Act).

* Sec. 2. AS 23.20.110(f) is repealed.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Original sponsor: Rules/Governor

1
2 IN THE SENATE

BY THE JUDICIARY COMMITTEE

3 HOUSE CS FOR CS FOR SENATE BILL NO. 53 (Judiciary)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to exchange of unemployment insur-
8 ance information; and providing for an effective
9 date."

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

11 * Section 1. AS 23.20.110(e) is repealed and reenacted to read:

12 (e) The department shall provide information specified in (c) of
13 this section requested by a state or federal agency under an income
14 and eligibility verification system that meets the requirements of
15 42 U.S.C. 1320b-7 (Social Security Act).

16 * Sec. 2. AS 23.20.110(f) is repealed.

17 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).

STATE OF ALASKA

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

P.O. BOX 1149
JUNEAU, ALASKA 99802
PHONE: (907) 465-2700

May 8, 1985

The Honorable Mike M. Miller, Chairman
House Judiciary Committee
Pouch V
Juneau, AK 99811

Dear Representative Miller:

Thank you for working Senate Bill 53 into your committee schedule last night. In reviewing the Committee's amendment to the bill with the Department of law this morning, however, a problem has been brought to our attention.

Prior to amendment by the Judiciary Committee, this bill provided for the Department of Labor to disclose unemployment insurance wage information to appropriate state and federal programs funded by the Social Security Act (Aid to Families with Dependent Children, Medicaid, Food Stamps, Old Age Assistance, Aid to the Blind, Aid to Permanently and Totally Disabled, and Supplemental Security Income for Aged, Blind and Disabled).

This provision was in response to a 1984 amendment to the Social Security Act which establishes a system for verifying the income and eligibility of persons receiving benefits from programs operating under the Social Security Act. Basically, the verification system consists of the exchange of income and eligibility information among the programs.

As amended by the Judiciary Committee, however, this bill now provides for disclosure of unemployment insurance claim information only. Claim information is presently disclosable to public assistance agencies under AS 23.20.110(c), and the bill no longer provides for the required disclosure of wage information to Social Security Act programs.

My understanding is that the Committee intended a friendly amendment to the bill, and that it was not intended to preclude Alaska's participation in the information exchange system mandated by the U.S. Department of Labor.

The Honorable Mike M. Miller

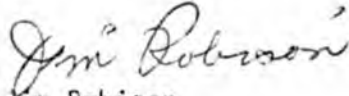
-2-

May 8, 1985

Accordingly, I would appreciate the Judiciary Committee's concurrence in amending the bill as proposed by the Department in my May 3, 1985 letter.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Jim Robison".

Jim Robison
Commissioner

JR:cm
12802

STATE OF ALASKA

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

P.O. BOX 1149
JUNEAU, ALASKA 99802
PHONE:

May 3, 1985

The Honorable M. Mike Miller, Chairman
House Judiciary Committee
Pouch V
Juneau, AK 99811

Dear Representative Miller:

This is in reference to Committee Substitute for Senate Bill 53 (L&C).

As requested in your hearing yesterday, enclosed are copies of 42 USC 1320b-7 (Attachment A), as well as a copy of 42 USC 503 (Attachment B), which provides that the U.S. Department of Labor may withhold administrative funding if states do not comply with certain federal requirements. As indicated on page 3 of the attached Unemployment Insurance Program Letter No. 1-85 (Attachment C), the U.S. Department of Labor has advised that Alaska's administrative funding is conditioned on participation in the income and eligibility verification system.

We have also re-examined AS 23.20.110(c) and find that it does not duplicate the provisions of CS for SB 53. Although subsection (c) specifically addresses public assistance programs, it pertains to release of unemployment insurance claim information only and does not limit disclosure to public assistance programs administered under the Social Security Act, such as subsidized housing, educational loan programs, etc. The disclosure provided in CS for SB 53, on the other hand, relates to wage information only and limits disclosure to Social Security Act programs.

However, we do find that AS 23.20.110(e) and (f) are duplicative of the provisions of CS for SB 53, inasmuch as the Aid to Families with Dependent Children and Food Stamp programs covered by these subsections are included in those programs which must participate in the eligibility and verification system under 42 USC 1320b-7.

Accordingly, also enclosed for your consideration are draft amendments to the bill to remedy the duplication problem. We apologize for this oversight and appreciate the assistance of the Committee in this matter.

Please note also that 42 USC 1320b-7, subsection (a)(5) provides an assurance that the wage information be made available only for valid administrative needs and that it be protected against unauthorized disclosure.

Sincerely,

A handwritten signature in cursive script that reads "Jim Robison".

Jim Robison
Commissioner

Enclosures

12 § 1320b-6

PUBLIC HEALTH AND WELFARE

20

(h) Report to Congress by Secretary

The Secretary shall from time to time submit to the Congress a report on the progress and current status of each of the approved pilot projects under this section. Each such report shall reflect the periodic reports theretofore submitted to the Secretary by the States involved under subsection (g) of this section, and shall contain such additional comments, findings, and recommendations with respect to the operation of the program under this section as the Secretary may determine to be appropriate.

(i) Study of program by Comptroller General

The Comptroller General shall, at such time or times as he determines to be appropriate, review and evaluate any or all of the pilot projects undertaken pursuant to this section, and shall from time to time report to the Congress on the results of such reviews and evaluations together with his findings and recommendations with respect thereto.

(j) Authorization of appropriations

There are authorized to be appropriated, for each fiscal-year period beginning with the fiscal year 1955, such sums, not to exceed \$10,000,000 in the aggregate, as may be necessary to carry out this section.

(Aug. 14, 1935, c. 531, Title XI, § 1136, as added 98 Stat. 1137.)

Pub.L. 98-369, Title VI, § 2630,

References in Text. The Rehabilitation Act of 1973, referred to in subsec. (f)(1), is Pub.L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (section 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see note set out under section 701 of Title 29 and Tables volume.

Effective Date. Section effective October 1, 1984, see section 2646 of Pub.L. 98-369, set out as a note under section 602 of this title.

Legislative History. For legislative history and purpose of Pub.L. 98-369, see 1984 U.S. Code Cong. and Adm. News, p. 697.

§ 1320b-7. Income and eligibility verification system

(a) Requirements of State eligibility systems

In order to meet the requirements of this section, a State must have in effect an income and eligibility verification system under which—

(1) the State shall require, as a condition of eligibility for benefits under any program listed in subsection (b) of this section, that each applicant for or recipient of benefits under that program furnish to the State his social security account number (or numbers, if he has more than one such number), and the State shall utilize such account numbers in the administration of that program so as to enable the association of the records pertaining to the applicant or recipient with his account number;

(2) wage information from agencies administering State unemployment compensation laws available pursuant to section 3304(a)(16) of Title 26, wage information reported pursuant to paragraph (3) of this subsection, and wage, income, and other information from the Social Security Administration and the Internal Revenue Service available pursuant to section 6103(f)(7) of Title 26, shall be requested and utilized to the extent that such information may be useful in verifying eligibility for, and the amount of, benefits available under any program listed in subsection (b) of this section, as determined by the Secretary of Health and Human Services (or, in the case of the unemployment compensation program, by the Secretary of Labor, or, in the case of the food stamp program, by the Secretary of Agriculture);

(3) employers in such State are required, effective September 30, 1983, to make quarterly wage reports to a State agency (which may be the agency administering the State's unemployment compensation law) except that the Secretary of Labor (in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture) may waive the provisions of this paragraph if he determines that the State has in effect an alternative system which is as effective and timely for purposes of providing employment related income and eligibility data for the purposes described in paragraph (2);

(4) the State agencies administering the programs listed in subsection (b) of this section adhere to standardized formats and procedures established by the Secretary of Health and Human Services (in consultation with the Secretary of Agriculture) under which—

(A) the agencies will exchange with each other information in their possession which may be of use in establishing or verifying eligibility or benefit amounts under any other such program;

(B) such information shall be made available to assist in the child support program under part D of subchapter IV of this chapter, and to assist the Secretary of Health and Human Services in establishing or verifying eligibility or benefit amounts under subchapters II and XVI of this chapter, but subject to the safeguards and restrictions established by the Secretary of the Treasury with respect to information released pursuant to section 6102(f) of Title 26; and

(C) the use of such information shall be targeted to those uses which are most likely to be productive in identifying and preventing ineligibility and incorrect payments;

(5) adequate safeguards are in effect so as to assure that—

(A) the information exchanged by the State agencies is made available only to the extent necessary to assist in the valid administrative needs of the program receiving such information, and the information released pursuant to section 6103(f) of Title 26 is only exchanged with agencies authorized to receive such information under such section 6103(f); and

(B) the information is adequately protected against unauthorized disclosure for other purposes, as provided in regulations established by the Secretary of Health and Human Services, or, in the case of the unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture, or in the case of information released pursuant to section 6103(f) of Title 26, the Secretary of the Treasury;

(6) all applicants for and recipients of benefits under any such program shall be notified at the time of application, and periodically thereafter, that information available through the system will be requested and utilized; and

(7) accounting systems are utilized which assure that programs providing data receive appropriate reimbursement from the programs utilizing the data for the costs incurred in providing the data.

(b) Applicable programs

The programs which must participate in the income verification system are—

(1) the aid to families with dependent children program under part A of subchapter IV of this chapter;

(2) the medicaid program under subchapter XIX of this chapter;

(3) the unemployment compensation program under section 3304 of Title 26;

(4) the food stamp program under the Food Stamp Act of 1977 [7 U.S.C.A. § 2011 et seq.]; and

(5) any State program under a plan approved under subchapter I, X, XIV, or XVI of this chapter.

(c) Protection of applicants from improper use of information

(1) In order to protect applicants for and recipients of benefits under the programs identified in subsection (b) of this section, or under the supplemental security income program under subchapter XVI of this chapter, from the improper use of information obtained from the Secretary of the Treasury under section 6103(l)(7)(B) of Title 26, no Federal, State, or local agency receiving such information may terminate, deny, suspend, or reduce any benefits of an individual until such agency has taken appropriate steps to independently verify information relating to—

(A) the amount of the asset or income involved,

(B) whether such individual actually has (or had) access to such asset or income for his own use, and

(C) the period or periods when the individual actually had such asset or income.

(2) Such individual shall be informed by the agency of the findings made by the agency on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(Aug. 14, 1935, c. 531, Title XI, § 1137, as added July 15, 1964, Pub. L. 98-369, Title VI, § 2651(a), 98 Stat. 1147.)

References in Text. The Food Stamp Act of 1977, referred to in subsec. (b)(4), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (section 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see note set out under section 2011 of Title 7 and Tables volume.

Effective Date. Section 2651 (of Pub. L. 98-369) provided that:

"(1) The amendments made by subsections (j) and (k) [amending section 1383(e)(1)(B) of this title and section 6103 of Title 26, Internal Revenue Code] shall become effective on the date of the enactment of this Act [July 18, 1984].

"(2) Except as otherwise specifically provided, the amendments made by subsections (a) through (i) [enacting this section, amending sections 302, 503, 602, 1202, 1352, and 1396a of this title, and section 2020 of Title 7, Agriculture, repealing section 611 of this title, and amending provisions

set out as a note under section 1382 of this title] shall become effective on April 1, 1985. In the case of any State which submits a plan describing a good faith effort by such State to come into compliance with the requirements of such subsections, the Secretary of Health and Human Services (or, in the case of the State unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture) may by waiver grant a delay in the effective date of such subsections, except that no such waiver may delay the effective date of section 1137(c) of the Social Security Act [subsec. (c) of this section] (as added by subsection (a) of this section), or delay the effective date of any other provision of or added by this section beyond September 30, 1986."

Legislative History. For legislative history and purpose of Pub. L. 98-369, see 1984 U.S. Code Cong. and Adm. News, p. 697.

PART B—PEER REVIEW OF UTILIZATION AND QUALITY OF HEALTH CARE SERVICES

§ 1320c. Purpose

Effective Date. Section 149 of Pub. L. 97-248, as amended Pub. L. 98-369, Title III, § 2354(c)(3)(C), July 18, 1984, 98 Stat. 1102, provided that: "The amendments made by this subtitle [subtitle C of Pub. L. 97-248, comprising sections 141 to 150 of such Public Law which enacted this part, amended sections 1395b-1, 1395g, 1395k, 1395l, 1395x, 1395y, 1395cc, 1395pp, 1396a and 1396b of this title, omitted

sections 1320c-14 to 1320c-19, 1320c-21, and 1320c-22 of this title, and enacted provisions set out as notes under this section and section 1305 of this title] shall, subject to section 150 [section 150 of Pub. L. 97-248, set out as a note below], be effective with respect to contracts entered into or renewed on or after the date of the enactment of this Act [Sept. 3, 1982]."

§ 1320c-1. Definition of utilization and quality control peer review organization

Westlaw Administrative Law References

Databases: CFR FR

Sample Query:

(42 + 5 1320C-1) (1152 + 6 "SOCIAL SECURITY ACT") & OSTEOPATH!

Query Formulation: see Explanation Page.

§ 1320c-2. Contracts with utilization and quality control peer review organizations

[See main volume for text of (a)].

(b) Organizations entitled to contract with Secretary

[See main volume for text of (1)].

(2)(A) Prior to November 15, 1984, the Secretary shall not enter into a contract under this part with any entity which is, or is affiliated with (through management, ownership, or common control), an entity (other than a self-insured employer) which directly or indirectly makes payments to any practitioner or provider whose health care services are reviewed by such entity or would be reviewed by such entity if it entered into a contract with the Secretary under this part. For purposes of this paragraph, an entity shall not be considered to be affiliated with another entity, which makes payments (directly or indirectly) to any practitioner or provider, by reason of management, ownership, or common control, if the management, ownership, or common control consists only of one individual member of the governing

Note: 42 USC 503 equates to 1984 Amendments
Section 303 of the
Social Security Act.

57 PUBLIC HEALTH AND WELFARE

42 § 503

§ 503. State laws

(a) Provisions required

The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act, includes provision for—

[See main volume for text of (1) to (3)]

(4) The payment of all money received in the unemployment fund of such State (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 3305(b) of the Federal Unemployment Tax Act), immediately upon such receipt, to the Secretary of the Treasury to the credit of the unemployment trust fund established by section 1104 of this title; and

(5) Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305(b) of the Federal Unemployment Tax Act: *Provided*, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration: *Provided further*, That the amounts specified by section 1103(c)(2) of this title may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices: *Provided further*, That nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor; and

[See main volume for text of (6) to (9); (b)]

(c) Denial of certification; availability of records to Railroad Retirement Board; cooperation with Federal agencies

The Secretary of Labor shall make no certification for payment to any State if he finds, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law—

(1) that such State does not make its records available to the Railroad Retirement Board, and furnish to the Railroad Retirement Board at the expense of the Railroad Retirement Board such copies thereof as the Railroad Retirement Board deems necessary for its purposes;

(2) that such State is failing to afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law; or

[See main volume for text of (3); (d)]

(e) Disclosure of wage information; non-compliance of State agency

[See main volume for text of (1)]

(2)(A) The State agency charged with the administration of the State law—

(i) shall require each new applicant for unemployment compensation, to disclose whether or not such applicant owes child support obligations (as defined in the last sentence of paragraph (1)),

[See main volume for text of (ii) to (iv)]

Any amount deducted and withheld under clause (iii) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State or local child support enforcement agency in satisfaction of his child support obligations.

[See main volume for text of (B), (C), (3) and (4)]

(f) Income and eligibility verification system

The State agency charged with the administration of the State law shall provide that information shall be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1320b-7 of this title.

(As amended July 18, 1984. Pub.L. 98-369, Title VI, §§ 2651(d), 2663(b)(2)-(5), 98 Stat. 1149, 1165.)

¹ So in original. Probably should be "Unemployment Trust Fund".

1984 Amendment. Subsec. (a)(4). Pub.L. 98-369, § 2663(b)(2), substituted "3305(b)" for "1606(b)".

Subsec. (a)(5). Pub.L. 98-369, § 2663(b)(3)(A), substituted "3305(b)" for "1606(b)".

Pub.L. 98-369, § 2663(b)(3)(B), substituted a colon for the punctuation mark immediately before the last proviso. Amendment corrected an error in the directory language of Pub.L. 98-21 which had added a single punctuation mark rather than a colon. As correction had already been made editorially, no change in text resulted.

Subsec. (c)(1), (2). Pub.L. 98-369, § 2663(b)(4), substituted "that" for "That".

Subsec. (e)(2)(A)(i). Pub.L. 98-369, § 2663(b)(5), substituted "child support obligations" for "child support obligatons".

Subsec. (f). Pub.L. 98-369, § 2651(d), added subsec. (f).

Effective Date. Amendment by Pub.L. 98-369 effective April 1, 1985, see section 2651(f)(2) of Pub.L. 98-369, set out as a note under section 1320b-7 of this title.

Amendment by section 2663 of Pub.L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub.L. 98-369, set out as a note under section 401 of this title.

Legislative History. For legislative history and purpose of Pub.L. 98-369, see 1984 U.S. Code Cong. and Adm. News, p. 697.

West's Federal Forms

Complaint, see § 1645.

Westlaw Administrative Law References

Databases: CFR FR

Sample Query:

(42 - 5 503) (303 + 5 "SOCIAL SECURITY ACT") & UNEMPLOYMENT

Query Formulation: see Explanation Page.

Notes of Decisions**12. Eligibility for benefits**

A determination of eligibility for unemployment compensation benefits gives rise to only a conditional entitlement to weekly benefits, subject to cessation if a claimant subsequently becomes reemployed, and subject to other subsequent determinations by the compensation authorities which alter a claimant's eligibility status. *Daniels v. Com., Unemployment Compensation Bd. of Review, Pa.Cmwlth.1983, 465 A.2d 726, 77 Pa.Cmwlth. 244.*

16. — Periods within which payments due

Unemployment compensation benefits are due at the close of the week for which they represent compensation, not at the moment of determination of eligibility. *Daniels v. Com., Unemployment Compensation Bd. of Review, Pa.Cmwlth. 1983, 465 A.2d 726.*

25. Hearing—Generally

Requirement under this chapter for an opportunity for a fair hearing for individuals whose claims for unemployment compensation are denied imposes requirements which are the same as due process requirements under U.S.C.A. Const. Amend. 5 and Amend. 14. *Camacho v. Bowling, D.C.Ill.1983, 562 F.Supp. 1012.*

29. — Termination of benefits

Department of Employment Security's post-termination evidentiary hearing procedure, which satisfied federal standards for timeliness in all phases of administrative process in unemployment compensation cases, fully comported with requirement of this section that state unemployment compensation laws provide a method of administration reasonably calculated to ensure full payment of unemployment compensation when due; declining to follow *Wheeler v. State of Vermont, 335 F.Supp. 856, Gray v. Department of Employment Sec., Utah 1984, 681 P.2d 807.*

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20213

CLASSIFICATION

UI ATTACHMENT C

CORRESPONDENCE SYMBOL

TEURL

DATE

October 10, 1984

DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 1-85

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : BERT LEWIS
Administrator for
Regional Management

SUBJECT : Amendments Made by P.L. 98-369, (The Deficit
Reduction Act of 1984), Which Affect the
Federal-State Unemployment Compensation
Program

1. Purpose. To advise State agencies of the amendments made by the subject Act to Section 3306 of the Federal Unemployment Tax Act (FUTA), Section 112 of the Revenue Act of 1978, and Titles III and XI of the Social Security Act.

2. References. Sections 1073, 1074, 1075, and 2651 of P.L. 98-369.

3. Background. The amendments made by P.L. 98-369 have made several significant changes affecting the unemployment compensation program which may require changes in State laws.

Section 1073 adds a new subsection (s) to Section 3306 of FUTA to include all tip income (including charged tips) which is reported by the employee to the employer as "wages" for purposes of FUTA.

Section 1074 amends Section 822(b) of the Economic Recovery Tax Act of 1981 to extend the exclusion from "employment" of certain fishing boat services under Section 3306(c)(18) of FUTA for calendar years 1983 and 1984.

RESCISSIONS

EXPIRATION DATE

October 31, 1985

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Employment Security Division
JUNEAU
EXECUTIVE DIRECTOR

San Juan

11/2/84

ADD
1850
150
X Agents
X U.T.M.
X R.A.
X Admin.
X Benefits
X A.C.

Section 1075 amends Section 112(d) of the Revenue Act of 1978 (relating to taxation of unemployment benefits at certain income levels) by excluding from taxation unemployment compensation attributable to weeks of unemployment ending before December 1, 1978, which were paid after December 31, 1978.

Section 2651 amends Title XI of the Social Security Act to establish an income and eligibility verification system for exchange of information among State agencies administering programs for AFDC, Medicaid, Food Stamps, SSI and UI, and any State program under a plan approved under Title I, X, XIV or XVI of the Social Security Act. Subsection (a) of Section 2651 adds Section 1137 to the Social Security Act. Subsection (a) of Section 1137 specifies the requirements of the Income and Eligibility Verification System as follows:

1. The State shall require, as a condition of eligibility for benefits under any of the specified programs, that the claimant furnish the State the individual's social security account number (or numbers, if more than one), and the State shall utilize such numbers in the administration of the program specified.

2. Wage information available under Section 3304(a)(16), FUTA, Section 1137(a)(3) and Section 6103(1)(7) of the Internal Revenue Code of 1954 shall be requested and utilized in verifying eligibility for and the amount of benefits available under any of the programs specified.

3. Employers in the State are required, effective September 30, 1988, to make quarterly wage reports to a State agency (which may be the SESA) except that the Secretary of Labor (in consultation with the Secretary of Agriculture and the Secretary of Health and Human Services) may waive this requirement if he determines that the State has in effect an alternative system which is as effective and timely for purposes of providing employment-related income and eligibility data for the purposes of income and eligibility verification.

Section 2651(d) also amends Title III of the Social Security Act (by adding subsection (f) to Section 303) requiring that the State agency charged with the administration of the State UI law shall provide that information be requested and exchanged for purposes of income and eligibility verification in accordance with a State system that meets the requirements of the income and eligibility verification system established pursuant to the requirements of the amendment to Title XI of the Social Security Act outlined above.

Accounting systems will be used to assure that programs providing data receive reimbursement for costs involved from programs utilizing the data.

Subsections (b) and (c) of Section 2651 contain amendments to Titles IV and XIX of the Social Security Act adding the same information request and exchange requirements for the AFDC and Medicaid programs. Subsections (e) through (j) of Section 2651 add the same requirements to the programs under Titles I, X, XIV, and XVI of the Social Security Act and the Food Stamp Act of 1977.

Explanations and interpretations of each of these amendments are provided in the attachment to this UIPL on a section-by-section basis corresponding to the section number in P.L. 98-369.

P.L. 98-369 also includes amendments pertaining to the Targeted Jobs Tax Credit and the Trade Adjustment Assistance program. Information on these provisions will be provided in separate issuances.

None of the amendments discussed in this letter are required for conformity with FUTA. However, Section 2651(d) establishes a new condition in Section 303(f) of the Social Security Act for the receipt of grants for administrative costs. The effective dates for the provisions as well as the action appropriate for each of these amendments are set forth in the attachment to this UIPL.

4. Action Required. SESAs are requested to notify appropriate staff of these amendments.
5. Inquiries. Inquiries should be directed to your regional office.
6. Attachment. Explanation and interpretation of amendments.

EXPLANATION AND INTERPRETATION OF AMENDMENTS
Made by Public Law 98-369

1. Section 1073. Tips Treated as Wages for Purposes of Federal Unemployment Tax

Text of Amendment to Section 3306:

"(s) TIPS TREATED AS WAGES. -- For purposes of this chapter, the term 'wages' includes tips which are--

"(1) received while performing services which constitute employment, and

"(2) included in a written statement furnished to the employer pursuant to section 6053(a)."

Discussion:

Under previous law, only a portion of tip income was considered as FUTA wages, and in general as State UI-subject wages. By expanding the coverage of FUTA wages, it is anticipated that all State UI laws (where the change in FUTA definition is not automatically applied to State coverage) will be amended to include all reported tip income as taxable wages and qualifying wages. This will provide improved UI protection to employees depending on tips for a part of their usual remuneration.

Section 1073 of P.L. 98-369 amends Section 3306 of FUTA (relating to the definition of terms for the purposes of FUTA) to include all tip income (including charged tips) which is reported by the employee to the employer as "wages" for FUTA purposes. Under Section 6053 of the IRC and implementing rules, employees are required to furnish a written statement to the employer reporting all tips received if they total \$20 or more for a month whether they are received directly from a person other than the employer or are paid over to the employee by the employer. This includes amounts designated as tips by a customer who uses a credit card to pay the bill.

Prior to this amendment, the regulations pertaining to FUTA excluded from "wages" tips and gratuities paid directly to an employee by a customer of an employer and not accounted for by the employee to the employer. The mere reporting of tips by an employee to the employer for purposes of the FICA and income tax withholding (under Section 6053) did not mean that the tips are "accounted for" as under FUTA regulations. Tips reported in writing to an employer were wages for FUTA purposes to the extent that they were taken into account by the employer in determining the employee's compensation under the Federal minimum wage law.

Thus, under the law and regulations in effect prior to the amendment, tip income was considered wages for purpose of FUTA only to the extent that (a) it was paid directly to the employee by the patron; (b) it was reported by the employee to the employer, and (c) it was used by the employer to satisfy the minimum wage rate applicable to the employer under the Fair Labor Standards Act (FLSA).

The effect of the amendment is to bring all tip income reported by the employee to the employer under the definition of wages for purposes of FUTA. The written report of tip income of \$20 or more a month provided by the employee to the employer will, by virtue of this amendment, constitute "accounting for" within the meaning of the Internal Revenue Code of 1954.

It will be the responsibility of the Internal Revenue Service to interpret and apply this change in the definition of wages for purposes of FUTA.

Action Required. States which wish to obtain the maximum tax offset permissible for their employers may need to amend the definition of "wages" in their laws to the extent that they are less comprehensive than the Federal law.

Effective Date. This provision is generally effective on January 1, 1986. However, in the case of any State whose legislature (1) did not meet in a regular session which begins during 1984 and after the date of enactment, and (2) did not meet in a session which began before the date of enactment and remained in session for at least 25 calendar days after the date of enactment, the provision is effective on January 1, 1987.

2. Section 1074. Exclusion of Certain Services from the Federal Unemployment Tax Act

Section 1074 of the Deficit Reduction Act of 1984, P.L. 98-369, extends the permitted exclusion from coverage under Section 3306(c)(18) of FUTA, for calendar years 1983 and 1984, of "...service described in Section 3121(b)(20) of the Internal Revenue Code of 1954."

Section 3121(b)(20) of the IRC excludes from employment covered by the Federal Insurance Contributions Act (FICA):

"(20) service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which --

"(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

"(B) such individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

"(C) the amount of such individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

"but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals."

This amendment is effective with respect to remuneration paid during calendar years 1983 and 1984. It will have no application beyond 1984 unless it is further extended.

The Internal Revenue Service will have the responsibility for interpreting and applying this provision.

Action Required. Although this is not a Federal law requirement for conformity, States that want to amend their laws to coincide with this change in FUTA should seek an appropriate amendment at any legislative session scheduled this year in view of the limited time remaining in calendar year 1984. However, under the requirements of Section 303(a)(5) of the Social Security Act and Section 3304(a)(4) of the FUTA, no cash refund of contribution is allowable with respect to any retroactive exclusion from coverage.

3. Section 1075. Taxation of Unemployment Compensation Not to Apply to Compensation Paid for Weeks of Unemployment Ending Before December 1, 1978

Section 112 of the Revenue Act of 1978, P.L. 95-600, provided for the taxation of unemployment compensation paid after 1978 in taxable years ending after 1978. Thus, benefits paid in 1979 and subsequent years were subject to income tax even if such payments were attributable to weeks of unemployment before January 1, 1979.

Section 1075(a) of P.L. 98-369 amended the Revenue Act of 1978 to exclude from taxation unemployment compensation attributable to weeks of unemployment ending before December 1, 1978, which were paid after calendar year 1978.

In allowing recovery of unemployment compensation for this time period, Congress waived the applicable statute of limitations under certain circumstances described in Section 1075(b). If a tax credit or refund permitted under Section 1075(a) is barred as of the date of enactment of the Deficit Reduction Act of 1984 (Act) or at any time during the one year period beginning on the date of the enactment of the Act by operation of law or rule of law (including res judicata), the tax credit or refund permitted under Section 1075(a) may nevertheless be allowed if the claim therefor is filed before the close of such one year period.

These changes could result in requests from claimants for detailed information on unemployment compensation received during 1979 or later which were attributable to periods of unemployment ending prior to December 1, 1978.

The Internal Revenue Service will be responsible for administering and interpreting these provisions.

4. Section 2651. Income and Eligibility Verification Procedures

Section 2651(a) of the Deficit Reduction Act of 1984, P.L. 98-369, amends Part A of Title XI of the Social Security Act by adding a new Section 1137 - "Income and Eligibility Verification System." Section 2651(d) amends Section 303 of the Social Security Act by adding a new subsection (f).

I. In General. The purpose of Section 1137 is to develop in all States a new income verification program to provide for a comprehensive exchange of information among State programs that are Federal-assisted, and to provide access by these agencies to information on income of individuals available from the Internal Revenue Service and the Social Security Administration.

The law provides for several effective dates:

(1) All States must have in effect by April 1, 1985, most elements of a system for exchange of information among State agencies administering programs for AFDC, Medicaid, Food Stamps, UI, and State programs under Titles I, X, XIV and XVI the Social Security Act. These elements include the requirement of obtaining social security account numbers and use of the numbers in the records system for storage and retrieval purposes (Section 1137(a)(1)); requesting and using wage, income and other information available from the various State agencies, the Social Security Administration, and the Internal Revenue Service (Section 1137(a)(2)); adhering to standardized formats and procedures (Section 1137(a)(4)), putting adequate safeguards into effect (Sections 1137(a)(5) and 1137(c)); giving claimants sufficient notice (Section 1137(a)(6)); and implementing a system for recovery of costs (Section 1137(a)(7)).

EXCEPTION. In the case of the UI program, the Secretary of Labor may by waiver grant a delay in this effective date if the State submits a plan describing a good faith effort to comply with the requirements of Section 1137(a) through (i) through but not beyond September 30, 1986. However, the Secretary may not grant a delay in the effective date of Section 1137(c), which requires an information verification system for the protection of claimants with respect to information obtained under Section 6103(1)(7)(B) of the Internal Revenue Code of 1954. Details with respect to delay in implementation of the exchange of information requirement and waiver procedure will be made available in a future issuance.

(2) Title III of the Social Security Act is amended to provide that: "The State agency charged with the administration of the State law shall provide that information shall be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of Section 1137 of this Act." Effective date as in (1) above. The State must comply with this amendment in order to receive grants for administrative costs under Title III.

Compliance with this new Title III requirement may take any of the following forms:

(a) Certification of State UI laws or other State law, identifying appropriate citation;

(b) Certification of State executive order or general regulation, or State UI regulation, identifying appropriate citation;

(c) Certification of State inter-agency agreement in which UI agency is participant.

(3) All States must require employers, effective September 30, 1988, to make quarterly wage reports to a State agency (which may be the agency administering the State's UI law).

EXCEPTION. A State may apply to the Secretary of Labor for waiver of this requirement. To be approved, such application must provide information on the basis of which the Secretary determines that the State has in effect an alternative system which is as effective and timely for purposes of providing employment related income and eligibility data for income and eligibility verification for the purposes described in Section 1137(a)(2).

This requirement does not mandate that a State collect this information through its UI program, nor is any State required to change its UI law to comply with the amendment. However, any State which now uses quarterly wage reports in its UI program meets this requirement, as does any State which has a separate system of quarterly wage reporting by employers that is accessible by all State agencies specified in Section 1137(b).

II. Discussion of Specific Items

(1) Funding of Costs of Implementation

(a) Where States use the UI program to operate a wage reporting system, its costs are reimbursable as a UI administrative cost under Title III. In such cases, other agencies requesting wage information from the SESA are required to make appropriate payment for the costs to the UI system involved in providing the information.

(b) Where a State elects to establish a wage record system outside the UI program, the costs of the wage reporting system would be appropriately shared among all the programs required by P.L. 98-369 to use the information it provides and among any other programs for which the State uses the system. Section 1137(a)(7).

(2) Use of Social Security Account Number. The Act specifies that the State shall require, as a condition for eligibility for benefits under listed programs, that each applicant furnish his or her social security account number and that the State agencies use social security account numbers in program administration. Section 1137(a)(1).

(3) Use of Data. UI, IRS, and SSA wage, income and other information shall be used to verify eligibility for and the amount of benefits. Section 1137(a)(2).

(4) Standardized Formats. State agencies must use standardized formats and procedures established by the Secretary of HHS in consultation with the Secretary of Agriculture to exchange information with each other for establishing or verifying eligibility or benefit amounts. Section 1137(a)(4). However, any State UI procedure which makes necessary information available need not be changed.

(5) Protection Against Unauthorized Disclosure. The Secretary of Treasury will promulgate regulations that establish safeguards and restrictions with respect to information released pursuant to Section 6103(1) of the Internal Revenue Code of 1954, and the Secretaries of HHS, Labor and Agriculture will establish regulations with respect to programs which they administer. Information must be adequately protected against unauthorized disclosure. Section 1137(a)(5).

(6) Claimant Notification. Applicants for benefits must be notified at the time of application and periodically thereafter that information available through the system will be requested and utilized. Section 1137(a)(6).

(7) Reimbursement. Accounting systems must be used which assure that programs providing data receive appropriate reimbursement from programs utilizing the data for costs incurred in providing the data. Section 1137(a)(7).

(8) Due Process. Agencies may not terminate, deny, suspend or reduce benefits until appropriate steps are taken to independently verify information relating to amount of the asset or income, whether an individual actually has access to such asset or income for his own use and the period when the individual actually had the asset or income. Individuals must be informed of the agency's findings and be given opportunity to contest the findings in the same manner that applies to other information and findings relating to eligibility factors under the program. Section 1137(c).

(9) Availability of Information. The Commissioner of Social Security shall, on written request, disclose information on net earnings from self employment wages, and payments of retirement income. The IRS on written request will disclose current return information with respect to unearned income. Section 2651(k).

Action Required. For States with UI wage record systems in existence, there is no need to change State law, except for such changes as may be necessary to authorize obtaining from and exchanging with other agencies the required information and to comply with regulations issued by the Secretaries of Treasury, Labor, HHS, and Agriculture. For other States, either a change in the State UI law requiring quarterly wage records or adoption of an alternative system of wage records approved by the Secretary of Labor is required.

III. Reference Material

(1) Provisions of Section 1137 Applicable to the UI Program. See following two pages from the "Congressional Record" of June 22, 1984, and excerpts from the Conference Report and the Senate Report.

IV. Paperwork Reduction Act

Pursuant to the requirements of the Paperwork Reduction Act of 1980, the requirements of the Income and Eligibility Verification System will be submitted to the Office of Management and Budget (OMB) for approval. The provision of this UIPL will not be effective until OMB approval is obtained and a control number is assigned.

*Subtitle C—Implementation of Grace Commission
Recommendations*

**INCOME AND ELIGIBILITY VERIFICATION
PROCEDURES**

SEC. 2852. (a) Part A of title XI of the Social Security Act (as amended by section 2830 of this Act) is further amended by adding at the end thereof the following new section:

INCOME AND ELIGIBILITY VERIFICATION SYSTEM

Sec. 1137 (a) In order to meet the requirements of this section, a State must have in effect an income and eligibility verification system under which—

(1) the State shall require, as a condition of eligibility for benefits under any program listed in subsection (b), that each applicant for or recipient of benefits under that program furnish to the State his social security account number (or numbers, if he has more than one such number), and the State shall utilize such account numbers in the administration of that program so as to enable the association of the records pertaining to the applicant or recipient with his account number;

(2) wage information from agencies administering State unemployment compensation laws available pursuant to section 3304(a)(16) of the Internal Revenue Code of 1954, wage information reported pursuant to paragraph (3) of this subsection, and wage, income, and other information from the Social Security Administration and the Internal Revenue Service available pursuant to section 6103(f)(7) of such Code, shall be requested and utilized to the extent that such information may be useful in verifying eligibility for, and the amount of, benefits available under any program listed in subsection (b), as determined by the Secretary of Health and Human Services (or, in the case of the unemployment compensation program, by the Secretary of Labor, or, in the case of the food stamp program, by the Secretary of Agriculture);

(3) employers in such State are required, effective September 30, 1988, to make quarterly wage reports to a State agency (which may be the agency administering the State's unemployment compensation law) except that the Secretary of Labor (in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture) may waive the provisions of this paragraph if he determines that the State has in effect an alternative system which is as effective and timely for purposes of providing employment related income and eligibility data for the purposes described in paragraph (2);

(4) the State agencies administering the programs listed in subsection (b) adhere to standardized formats and procedures established by the Secretary of Health and Human Services (in consultation with the Secretary of Agriculture) under which—

(A) the agencies will exchange with each other information in their possession which may be of use in establishing or verifying eligibility or benefit amounts under any other such program;

(B) such information shall be made available to assist in the child support program under part D of title IV of this Act, and to assist the Secretary of Health and Human Services in establishing or verifying eligibility or benefit amounts under titles II and XVI of this Act, but subject to the safeguards and restrictions established by the Secretary of the Treasury with respect to information released pursuant to section 6103(f) of the Internal Revenue Code of 1954; and

(C) the use of such information shall be targeted to those uses which are most likely

to be productive in identifying and preventing ineligibility and incorrect payments;

(5) adequate safeguards are in effect so as to assure that—

(A) the information exchanged by the State agencies is made available only to the extent necessary to assist in the valid administrative needs of the program receiving such information, and the information released pursuant to section 6103(f) of the Internal Revenue Code of 1954 is only exchanged with agencies authorized to receive such information under such section 6103(f); and

(B) the information is adequately protected against unauthorized disclosure for other purposes, as provided in regulations established by the Secretary of Health and Human Services, or, in the case of the unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture, or in the case of information released pursuant to section 6103(f) of the Internal Revenue Code of 1954, the Secretary of the Treasury;

(6) all applicants for and recipients of benefits under any such program shall be notified at the time of application, and periodically thereafter, that information available through the system will be requested and utilized; and

(7) accounting systems are utilized which assure that programs providing data receive appropriate reimbursement from the programs utilizing the data for the costs incurred in providing the data.

(b) The programs which must participate in the income verification system are—

(1) the aid to families with dependent children program under part A of title IV of this Act;

(2) the medicaid program under title XIX of this Act;

(3) the unemployment compensation program under section 3304 of the Internal Revenue Code of 1954;

(4) the food stamp program under the Food Stamp Act of 1977; and

(5) any State program under a plan approved under title I, X, XIV, or XVI of this Act.

(c)(1) In order to protect applicants for and recipients of benefits under the programs identified in subsection (b), or under the supplemental security income program under title XVI, from the improper use of information obtained from the Secretary of the Treasury under section 6103(f)(7)(B) of the Internal Revenue Code of 1954, no Federal, State, or local agency receiving such information may terminate, deny, suspend, or reduce any benefits of an individual until such agency has taken appropriate steps to independently verify information relating to—

(A) the amount of the asset or income involved;

(B) whether such individual actually has (or had) access to such asset or income for his own use; and

(C) the period or periods when the individual actually had such asset or income.

(2) Such individual shall be informed by the agency of the findings made by the agency on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(b)(1) Section 402(a)(25) of the Social Security Act is amended to read as follows:

"(25) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act";

(3) Section 402(a)(29) of such Act is repealed.

(3) Section 613 of such Act is repealed.

(e) Section 1902(a) of the Social Security Act (as amended by section 2367 of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (44);

(2) by striking out the period at the end of paragraph (45) and inserting in lieu thereof "and"; and

(3) by inserting after paragraph (45) the following new paragraph:

"(46) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act";

(d) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) The State agency charged with the administration of the State law shall provide that information shall be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act";

(e) Section 21(a) of the Social Security Act is amended—

(1) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "and"; and

(2) by adding at the end thereof the following new paragraph:

"(11) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act";

(f) Section 1002(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (12); and

(2) by inserting before the period at the end thereof the following: "and (14) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act";

(g) Section 1402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (11); and

(2) by inserting before the period at the end thereof the following: "and (13) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with the State system which meets the requirements of section 1137 of this Act";

(h) Section 1602(a) of the Social Security Act (as in effect with respect to Puerto Rico, Guam, and the Virgin Islands) is amended—

(1) by striking out "and" at the end of paragraph (13);

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "and"; and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act";

(i) Section 11(e)(19) of the Food Stamp Act of 1977 is amended to read as follows:

"(19) that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of the Social Security Act and that any additional information available from agencies administering State unemployment compensation laws under the provisions of

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section 1031(d) of the Social Security Act shall be requested and utilized by the State agency (described in section 3(n)(1) of this Act) to the extent permitted under the provisions of section 1031(d) of the Social Security Act."

Section 1631(e)(1)(B) of the Social Security Act is amended by adding at the end thereof the following: "For this purpose and for purposes of federally administered supplementary payments of the type described in section 1616(a) of this Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), the Secretary shall, as may be necessary, request and utilize information available pursuant to section 6103(i)(7) of the Internal Revenue Code of 1954, and any information which may be available from State systems under section 1137 of this Act, and shall comply with the requirements applicable to States with respect to information available pursuant to section 6103(i)(7)(B) of such Code) under subsections (a) (6) and (c) of such section 1137."

(k)(1) Section 6103(i)(7) of the Internal Revenue Code of 1954 is amended to read as follows:

"(7) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL AGENCIES ADMINISTERING CERTAIN PROGRAMS UNDER THE SOCIAL SECURITY ACT OR THE FOOD STAMP ACT OF 1977.—

"(A) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request, disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection, to any Federal, State, or local agency administering a program listed in subparagraph (D).

"(B) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request, disclose current return information from returns with respect to unearned income from the Internal Revenue Service files to any Federal, State, or local agency administering a program listed in subparagraph (D).

"(C) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security and the Secretary shall disclose return information under subparagraphs (A) and (B) only for purposes of, and to the extent necessary in determining eligibility for, or the correct amount of, benefits under a program listed in subparagraph (D).

"(D) PROGRAMS TO WHICH RULE APPLIES.—The programs to which this paragraph applies are:

"(i) aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;

"(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act;

"(iii) supplemental security income benefits provided under title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66);

"(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

"(v) unemployment compensation provided under a State law described in section 3304 of this Code;

"(vi) assistance provided under the Food Stamp Act of 1977; and

"(vii) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66)."

(2) Section 6103(a)(2) of such Code is amended by striking out "or of any local child support enforcement agency" and inserting in lieu thereof "any local child support enforcement agency, or any local agency administering a program listed in subsection (i)(7)(D)".

(3) The amendments made by subsections (j) and (k) shall become effective on the date of the enactment of this Act.

(2) Except as otherwise specifically provided, the amendments made by subsections (a) through (i) shall become effective on April 1, 1985. In the case of any State which submits a plan describing a good faith effort by such State to come into compliance with the requirements of such subsections, the Secretary of Health and Human Services (or, in the case of the State unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture) may by waiver grant a delay in the effective date of such subsections, except that no such waiver may delay the effective date of section 1137(c) of the Social Security Act (as added by subsection (c) of this section), or delay the effective date of any other provision of or added by this section beyond September 30, 1986.

(2) Excerpt from JOINT EXPLANATORY STATEMENT (Report of the House-Senate Conference Committee).

"Senate Amendment. The Senate amendment requires, rather than allows, the Secretary of Treasury to disclose unearned income return information upon request of the specified agencies. Disclosure can only be made upon request of the specified agencies. Disclosure can only be made to agencies that meet the requirements to safeguard this confidential information against disclosure. The Senate amendment contains a provision requiring verification of the unearned income information prior to taking action to reduce or terminate benefits that are similar to the House bill. In addition, the individual must be given notice of the proposed reduction or termination, and an opportunity to refute the information. Further, all applicants for and recipients of benefits under any program must be notified at the time of application, and periodically thereafter, that information verifying their assets and income will be requested and used.

"The Senate amendment replaces existing statutory provisions relating to use (for purposes of AFDC) of return and other wage information and use of social security numbers, by adding a new section to the Social Security Act requiring States to have in effect an income and eligibility verification system for use in administering the AFDC, Medicaid, unemployment compensation, and food stamp programs (and the adult assistance programs in the territories). State agencies must request and make use of (1) wage and other income information available under the Internal Revenue Code; and (2) quarterly wage information. Each State is required to maintain a quarterly wage reporting system, although not necessarily through its unemployment compensation system.

"The income and eligibility system requires use of standardized data formats to facilitate exchange of information, for the purpose of identifying and reducing ineligibility and incorrect payments. The requirement for standardized formats is intended to assure easy exchange of information by progress (sic-should read programs) within States, and to facilitate the exchange of information among States. This requirement does not require the use by States of identical systems, but only that each State must be able to provide certain essential eligibility data in a format which can be used by the agencies and jurisdictions with which data exchanges are made. Information exchanged by State agencies is protected against unauthorized disclosure for other purposes.

"Conference Agreement. The conference agreement follows the Senate amendment with the following modifications: (1) the effective date of the requirement that States maintain a system of quarterly wage reporting as part of the income and eligibility verification system is delayed until September 30, 1988; (2) the provision regarding verification of IRS unearned income information is broadened to prohibit denial or suspension of benefits until the agency has taken steps to independently verify the information; (3) the amendment includes a provision describing the steps required to independently verify the information; and (4) that only unearned income from the current information file may be disclosed by the IRS.

"Because the unemployment compensation program is part of the income verification system, the amendment requires IRS disclosure of wage and unearned income return information to this program. However, the managers expect that the data will be supplied to one agency in each State, and will be shared only with agencies which find it useful. The Conference agreement provides for the State to target the information to those uses most likely to be productive and cost-effective."

(3) Excerpt from REPORT OF THE SENATE COMMITTEE ON FINANCE (relating to the Senate Amendment) -- as adopted in P.L. 98-369.

"The quarterly wage reporting requirement does not mandate a State to collect data through its unemployment insurance program, nor would any State be required to change its UI system to comply with the amendment. Further, no State now collecting quarterly wage information through the UI system, or by any other means, would be required to alter its existing wage reporting format or the extent of its coverage so long as an existing system is reasonably comprehensive.

"States which do not have quarterly wage reporting systems would have the option of developing such systems either within their unemployment compensation programs or elsewhere in State government. If States use the unemployment program to operate the wage reporting system, its cost would be reimbursable as an unemployment administrative expense on the same basis and under the same conditions as now apply to those 40 States which currently use wage reporting for the unemployment program.

"(However, the amendment requires that other programs utilizing the data make appropriate payments for the costs involved in providing information.) If a State elects to establish a wage reporting system in a manner which would not, under existing rules, qualify for reimbursement as an unemployment insurance program cost, the costs of the wage reporting system would be appropriately shared among all those programs required by the amendment to use the information it provides and among any other programs for which the State uses the system."

In effect prior to 1984

42 § 502

PUBLIC HEALTH AND WELFARE

tion were transferred to the Secretary of Labor by 1949 Reorg Plan No. 2, § 1, set out in the Appendix to Title 5.

Section 1 of 1949 Reorg Plan No. 2, also provided that the functions transferred by this section shall be performed by the Secretary of Labor, or subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate.

"Administrator" was substituted for "Board" by section 4 of 1946 Reorg Plan No. 2, set out in the Appendix to Title 5. See note under section 902 of this title.

Division of Disbursement and certain other offices and agencies and their functions were

consolidated into Fiscal Service of Treasury Department by section 1(a) of Reorg Plan No. III of 1940, set out in the Appendix to Title 5.

Fiscal Year Transition Period of July 1, 1976, Through September 30, 1976. Deemed Fiscal Year. Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (a) of this section, see section 201(12) of Pub L. 94-274, Title II, Apr. 21, 1976, 90 Stat. 390, set out as a note under section 345 of Title 7, Agriculture.

Cross References

Withholding amounts from certification for payment, see section 363 of Title 45, Railroads.

Code of Federal Regulations

Administration and procedures pertaining to state unemployment compensation laws, see 20 CFR 601.1 et seq.

Library References

Social Security and Public Welfare 4. C.J.S. Social Security and Public Welfare § 10.

Notes of Decisions

Amount allowable to states 2 S.Ct. 883, 301 U.S. 548, 81 L.Ed. 1279, 109 A.L.R. 1293.

1. Constitutionality

Grants to assist states in administration of their unemployment relief laws, operations of which would relieve federal government of portion of potential relief burden and thus protect federal treasury, are justified, since reasonable protection of federal treasury is part of general welfare in a constitutional sense. Chas. C. Steward Mach. Co. v. Davis, C.C.A. Ala 1937, 89 F.2d 207, affirmed 57

2. Amount allowable to states

Under this section former Board [now Secretary], was authorized to finance only that part of the total cost of a state's public employment offices which was over and above the expense the state otherwise would have to incur to enable such offices to perform required duties not necessary for the proper administration of the state's unemployment compensation law. 1939, 39 Op Atty Gen 296.

§ 503. State laws

(a) Provisions required

The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act, includes provision for—

- (1) Such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office, and

compensation of any individual employed in accordance with such methods) as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation solely through public employment offices or such other agencies as the Secretary of Labor may approve; and

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied; and

(4) The payment of all money received in the unemployment fund of such State (except for refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 1606(b) of the Federal Unemployment Tax Act), immediately upon such receipt, to the Secretary of the Treasury to the credit of the unemployment trust fund¹ established by section 1104 of this title; and

(5) Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 1606(b) of the Federal Unemployment Tax Act: *Provided*, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration: *Provided further*, That the amounts specified by section 1103(c)(2) of this title may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices: *Provided further*, That nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor; and

(6) The making of such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports; and

(7) Making available upon request to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of such recipient's rights to further compensation under such law; and

(8) Effective July 1, 1941, the expenditure of all moneys received pursuant to section 502 of this title solely for the purposes and in the

amounts found necessary by the Secretary of Labor for the proper and efficient administration of such State law; and

(9) Effective July 1, 1941, the replacement, within a reasonable time, of any moneys received pursuant to section 502 of this title, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of such State law.

(b) Failure to comply; payments stopped

Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—

(1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law; or

(2) a failure to comply substantially with any provision specified in subsection (a) of this section;

the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such denial or failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State: *Provided*, That there shall be no finding under clause (1) until the question of entitlement shall have been decided by the highest judicial authority given jurisdiction under such State law: *Provided further*, That any costs may be paid with respect to any claimant by a State and included as costs of administration of its law.

(c) Denial of certification; availability of records to Railroad Retirement Board; cooperation with Federal agencies

The Secretary of Labor shall make no certification for payment to any State if he finds, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law—

(1) That such State does not make its records available to the Railroad Retirement Board, and furnish to the Railroad Retirement Board at the expense of the Railroad Retirement Board such copies thereof as the Railroad Retirement Board deems necessary for its purposes;

(2) That such State is failing to afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law; or

(3) that any interest required to be paid on advances under subchapter XII of this chapter has not been paid by the date on which such interest is required to be paid or has been paid directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State's unemployment fund, until such interest is properly paid.

**(c) Disclosure of unemployment compensation information;
non-compliance of State agency**

(1) The State agency charged with the administration of the State law—

(A) shall disclose, upon request and on a reimbursable basis, to officers and employees of the Department of Agriculture and to officers or employees of any State food stamp agency any of the following information contained in the records of such State agency—

(i) wage information,

(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual,

(iii) the current (or most recent) home address of such individual, and

(iv) whether an individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor, and

(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under the food stamp program established under the Food Stamp Act of 1977 [7 U.S.C.A. § 2011 et seq.].

(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State.

(3) For purposes of this subsection, the term "State food stamp agency" means any agency described in section 3(n)(1) of the Food Stamp Act of 1977 [7 U.S.C.A. § 2012(n)(1)] which administers the food stamp program established under such Act.

(e) Disclosure of wage information; non-compliance of State agency

(1) The State agency charged with the administration of the State law—

(A) shall disclose, upon request and on a reimbursable basis, directly to officers or employees of any State or local child support enforcement agency any wage information contained in the records of such State agency, and

(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of estab-

lishing and collecting child support obligations from, and locating, individuals owing such obligations.

For purposes of this subsection, the term "child support obligations" only includes obligations which are being enforced pursuant to a plan described in section 654 of this title which has been approved by the Secretary of Health and Human Services under part D of subchapter IV of this chapter.

(2)(A) The State agency charged with the administration of the State law—

(i) shall require each new applicant for unemployment compensation to disclose whether or not such applicant owes child support obligations (as defined in the last sentence of paragraph (1)),

(ii) shall notify the State or local child support enforcement agency enforcing such obligations, if any applicant discloses under clause (i) that he owes child support obligations and he is determined to be eligible for unemployment compensation, that such applicant has been so determined to be eligible,

(iii) shall deduct and withhold from any unemployment compensation otherwise payable to an individual—

(I) the amount specified by the individual to the State agency to be deducted and withheld under this clause,

(II) the amount (if any) determined pursuant to an agreement submitted to the State agency under section 654(19)(B)(i) of this title, or

(III) any amount otherwise required to be so deducted and withheld from such unemployment compensation through legal process (as defined in section 662(e) of this title), and

(iv) shall pay any amount deducted and withheld under clause (iii) to the appropriate State or local child support enforcement agency.

Any amount deducted and withheld under clause (iii) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State or local child support enforcement agency in satisfaction of his child support obligations.

(B) For purposes of this paragraph, the term "unemployment compensation" means any compensation payable under the State law (including amounts payable pursuant to agreements under any Federal unemployment compensation law).

(C) Each State or local child support enforcement agency shall reimburse the State agency charged with the administration of the State unemployment compensation law for the administrative costs incurred by such State agency under this paragraph which are attributable to child support obligations being enforced by the State or local child support enforcement agency.

(3) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the re-

quirements of paragraph (1) or (2), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State.

(4) For purposes of this subsection, the term "State or local child support enforcement agency" means any agency of a State or political subdivision thereof operating pursuant to a plan described in the last sentence of paragraph (1).

(Aug. 14, 1935, c. 531, Title III, § 303, 49 Stat. 626; June 25, 1938, c. 680, § 13(g), 52 Stat. 1112; June 20, 1939, c. 227, § 18, 53 Stat. 848; Aug. 10, 1939, c. 666, Title III, § 302, 53 Stat. 1378; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, c. 951, Title IV, § 416(c), 60 Stat. 991; 1949 Reorg. Plan No. 2, § 1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; Aug. 28, 1950, c. 809, Title IV, § 405(b), 64 Stat. 560; Aug. 5, 1954, c. 657, § 5(a)(1), 68 Stat. 673; May 26, 1980, Pub.L. 96-249, Title I, § 127(b)(1), 94 Stat. 366; June 9, 1980, Pub.L. 96-265, Title IV, § 408(b)(1), 94 Stat. 468; Oct. 19, 1980, Pub.L. 96-473, § 6(e)(1), 94 Stat. 2265; Aug. 13, 1981, Pub.L. 97-35, Title XXIII, § 2335(b), 95 Stat. 863; Sept. 3, 1982, Pub.L. 97-248, Title I, §§ 171(b)(3), 175(a)(2), 96 Stat. 401, 403; Apr. 20, 1983, Pub.L. 98-21, Title V, §§ 515(a), 523(b), 97 Stat. 147, 148.)

¹ So in original. Probably should be "Unemployment Trust Fund".

² So in original. Probably should be "obligations".

Historical Note

References in Text. The Federal Unemployment Tax Act, referred to in subsec. (a), comprised subchapter C (sections 1600 to 1611) on chapter 9 of the Internal Revenue Code of 1939. Chapter 9 of the 1939 Code was repealed (subject to certain exceptions) by section 7851(a)(3) of the Internal Revenue Code of 1954. The Federal Unemployment Tax Act also comprises chapter 23 (§ 3301 et seq.) of the Internal Revenue Code of 1954.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1954 Code, see section 7852(b) of the 1954 Code. For table of comparisons of the 1939 Code to the 1954 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1954 is classified generally to Title 26.

The Food Stamp Act of 1977, referred to in subsec. (d)(1)(B), is Pub.L. 88-525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (section 2011 et seq.) of Title 7, Agriculture. Section 3(m)(1) of such Act, referred to in subsec. (d)(3) of this section, is classified to section 2012 (m)(1) of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables volume.

1983 Amendment. Subsec. (a)(5). Pub.L. 98-21, § 523(b), added provision that nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor.

Subsec. (c)(5). Pub.L. 98-21, § 515(a), added par. (5).

1982 Amendment. Subsec. (e)(2)(A)(i). Pub.L. 97-248, § 175(a)(2), substituted "of paragraph (1)" for "of this subsection".

Subsec. (e)(2)(A)(iii)(II). Pub.L. 97-248, § 171(b)(3), substituted "(19)" for "(20)".

1981 Amendment. Subsec. (e)(1). Pub.L. 97-35, § 2335(b)(3), in provision following subpar. (B) substituted "this subsection" for "the preceding sentence".

Subsec. (e)(2). Pub.L. 97-35, § 2335(b)(1), added par. (2) and redesignated former par. (2) as (3).

Subsec. (e)(3). Pub.L. 97-35, § 2335(b)(1), (2), redesignated former par. (2) as (3), and in par. (3) as so redesignated, substituted "paragraph (1) or (2)" for "paragraph (1)". Former par. (3) redesignated (4).

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS SB 53 (1 & C)
 Title: "An act relating to unemployment insurance..."
 Sponsor: Rules Committee
 Requestor: Senate Judiciary
 Date of Request: 3/4/85

FISCAL DETAIL

Agency Affected: labor
 Program Category Affected: Social Services
 BRU, Program or Subprogram(s) Affected: Employment Security - Unemployment Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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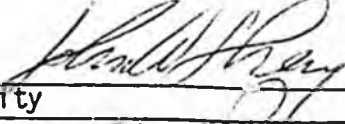
FUNDING: (Thousands of Dollars)

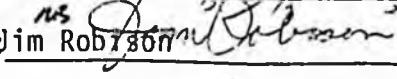
	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: ¹⁶ John W. Shay 
 Division: Employment Security Phone: 465-2712
 Date: 3/4/85

Approved by Commissioner: ¹⁵ Jim Robinson 
 Agency: labor Date: 3/4/85

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Bill No. Committee Substitute for Senate Bill No. 53
(L&C) (Title am)

Date April 8, 1985

Title

"An Act relating to exchange of unemployment
insurance information."

Contact:

Eileen Plate
465-2700
John W. Shay, Jr.
465-2712

Committee Substitute for Senate Bill 53 amends a provision in Alaska's unemployment insurance law which deals with disclosure of unemployment insurance claim and wage information.

Specifically, this bill provides for the Department of Labor to disclose unemployment insurance benefit and wage information to appropriate state and federal programs funded by the Social Security Act (Aid to Families with Dependent Children, Medicaid, Food Stamps, etc.).

This provision is in response to a 1984 amendment to the Social Security Act which establishes a system for verifying the income and eligibility of persons receiving benefits from programs operating under the Social Security Act. Basically, the verification system consists of the exchange of income and eligibility information among the programs.

State unemployment insurance programs are required, under the amendments to the Social Security Act, to participate in this exchange of information by April 1, 1985. The amendment to Alaska's unemployment insurance law set out in CS SB 53 is necessary to enable the Department of Labor to make the appropriate disclosures and thereby assure that federal funding received by the Department for administration of its Unemployment Insurance and Employment Service programs is not jeopardized.

Obviously, Alaska has not met the April 1, 1985 deadline for participating in the information exchange. However, the U.S. Department of Labor is aware that Alaska's participation is contingent upon legislative action which is presently underway. Accordingly, it is not expected that any immediate action will be initiated at the federal level to withdraw Alaska's administrative funding (over twenty-two million dollars). Nonetheless, because the funds are technically in jeopardy at this time, the Department is anxious to obtain legislative approval, as set out in Committee Substitute for Senate Bill 53, to participate in the information exchange system.

The Department supports passage of this bill. It will not have a fiscal impact on the Department.

APPROVED:



Jim Robison, Commissioner
Department of Labor

POSITION PAPER/Department of Labor

powers provided in this chapter with respect to the administration of this chapter which the department considers necessary or appropriate to facilitate the administration of the unemployment compensation or public employment service law of another state or the federal government. (§ 326 ch 5 ESLA 1955)

Sec. 23.20.100. Employment service. The department shall establish and maintain free public employment offices in the number and in the places which may be necessary for the administration of this chapter and for the purposes of performing functions which are within the scope of the Wagner-Peyser Act, as amended. The provisions of the Wagner-Peyser Act, as amended, are accepted by this state, and the department is designated the agency of this state for the purposes of that Act. All money received by this state under that Act shall be paid into the employment security administration fund and shall be expended solely for the maintenance of the state system of public employment offices. (§ 331 ch 5 ESLA 1955)

Cross references. — For the Wagner-Peyser Act, see the cross references at AS 23.20.005.

Sec. 23.20.105. Employing units to keep records and reports. An employing unit shall keep work records containing information which the department prescribes. The records shall be open to inspection and may be copied by the department at any reasonable time and as often as may be necessary. The department may require an employing unit to submit sworn or unsworn reports, with respect to persons employed by it, which are considered necessary for the administration of this chapter. (§ 315 ch 5 ESLA 1955)

Sec. 23.20.110. Information obtained by department. (a) The department shall hold information obtained from an employing unit or individual in the course of administering this chapter and determinations as to the benefit rights of an individual confidential and may not disclose them or open them to public inspection in a manner which reveals the identity of the individual or employing unit. A claimant or the legal representative of the claimant is entitled to information from the records of the department to the extent necessary for the proper presentation of the claim in a proceeding under this chapter. Subject to restrictions which the department prescribes by regulation, the information may be made available to an agency of this state or another state or federal agency charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices, or, for the purposes of the Federal Unemployment Tax Act, to the Internal Revenue Service of the United States, or, for tax purposes, to the Department of Revenue. Information obtained in connection with the administration of the employment service may be

made available to persons or agencies for purposes appropriate to the operation of a public employment service.

(b) Upon request the department shall furnish to an agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to a state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and the recipient's rights to benefits under this chapter.

(c) Upon request of an agency of this or another state or of the federal government which administers or operates one or more programs of public assistance under either federal law or the law of this state, or which is charged with any duty or responsibility under any such program, and if that agency is required by law to impose safeguards for the confidentiality of information at least as effective as required under this section, the department shall provide, with respect to any named individual specified by the requesting agency, the following information:

(1) whether the individual is receiving, has received, or has made application for unemployment compensation under this chapter;

(2) the period, if any, for which unemployment compensation was payable and the weekly rate of compensation paid;

(3) the individual's most recent address; and

(4) whether the individual has refused an offer of employment, and, if so, the date of the refusal and a description of the employment refused including duties, conditions of employment, and rate of pay.

(5) The department may require that an agency to which it provides information under this section reimburse the department for its costs of furnishing that information.

(e) The department shall provide wage information used to administer this chapter to an agency of this or another state which administers or operates a public assistance program that provides aid and services to needy families with dependent children under Part A of Title IV of the Social Security Act if

(1) the agency makes a request for the wage information;

(2) the United States Secretary of Health and Human Services has adopted regulations which require the release of the wage information to public assistance agencies; and

(3) the wage information will only be used to determine the eligibility of the individual for the public assistance program or the amount of aid or services to which the individual is entitled under the public assistance program.

(f) On request of the United States Department of Agriculture or an agency of this or another state that administers the food stamp program established by 7 U.S.C. 2011—2026, if that agency has agreed that information provided by the department will be used only to determine an individual's eligibility for food stamp benefits or the amount

of the benefits, the department shall provide, for each individual named by the requesting agency, any of the following information contained in the records of the department:

(1) wage and employer information;

(2) the information specified in (c) of this section; and

(3) the amount of unemployment compensation, if any, to be received.

(g) The requirements of this section concerning the confidentiality of information obtained in the course of administering this chapter apply to officers and employees of a state or federal agency to whom the department provides information as authorized by this section. (§ 323 ch 5 ESLA 1955; am § 1 ch 79 SLA 1969; am § 2 ch 122 SLA 1977; am § 3 ch 9 SLA 1980; am § 2 ch 115 SLA 1982)

Effect of amendments. — The 1980 amendment added subsection (e).

The 1982 amendment added subsection (f).

Opinions of attorney general. — Although subsection (a) of this section and former AS 43.20.190(a) (replaced by AS

43.05.230 (a)) guarantee confidentiality of records in the Department of Labor and Revenue, AS 24.20.271(6) enables the Division of Audit to have access to the records of every state agency whether confidential or not. 1977 Op. Att'y Gen. (Nov. 21, 1972).

Sec. 23.20.115. Unauthorized disclosure of information. A member of the department, an employee of the department, an agent of the department, or an officer or employee of a state or federal agency that has been provided with information by the department who, in violation of AS 23.20.110, makes a disclosure of information obtained from an employing unit or from an individual in the administration of this chapter, or a person who has obtained a list of applicants for work or of claimants or recipients of benefits under this chapter and who uses or permits the use of the list for a purpose not authorized by AS 23.20.110 is guilty of a class B misdemeanor. (§ 905 ch 5 ESLA 1955; am § 4 ch 9 SLA 1980; am § 3 ch 115 SLA 1982)

Cross references. — For sentences for class B misdemeanors, see AS 12.55.035(b)(1) and 12.55.135(b).

Effect of amendments. — The 1980 amendment deleted "or" preceding "an employee of the department" near the beginning of the section, inserted "or an agent of the department" following "an employee of the department," and substituted "is guilty of a class B misdemeanor"

for "upon conviction, is punishable by a fine of not more than \$200, or by imprisonment for not more than 90 days, or by both" at the end of the section.

The 1982 amendment substituted the language beginning "an agent of the department" and ending "with information by the department" for "or an agent of the department."

Sec. 23.20.120. Examination of bank. The department may request the Comptroller of the Currency of the United States to make or have made an examination of the correctness of a return or report of a national banking association rendered under this chapter. The department may, in connection with the request, transmit the report

UNITED STATES CODE ANNOTATED

Title 42
The Public Health and Welfare
§§ 1001 to 1399

1985
Cumulative Annual Pocket Part

Replacing prior pocket part for use in 1984
in back of volume

Includes the Laws of the
98th CONGRESS, SECOND SESSION (1984)

For close of Notes of Decisions
See page III

CURRENT LAWS AND LEGISLATIVE HISTORY

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(h) Report to Congress by Secretary

The Secretary shall from time to time submit to the Congress a report on the progress and current status of each of the approved pilot projects under this section. Each such report shall reflect the periodic reports theretofore submitted to the Secretary by the States involved under subsection (g) of this section, and shall contain such additional comments, findings, and recommendations with respect to the operation of the program under this section as the Secretary may determine to be appropriate.

(i) Study of program by Comptroller General

The Comptroller General shall, at such time or times as he determines to be appropriate, review and evaluate any or all of the pilot projects undertaken pursuant to this section, and shall from time to time report to the Congress on the results of such reviews and evaluations together with his findings and recommendations with respect thereto.

(j) Authorization of appropriations

There are authorized to be appropriated, for the four-fiscal-year period beginning with the fiscal year 1985, such sums, not to exceed \$8,000,000 in the aggregate, as may be necessary to carry out this section.

(Aug. 14, 1935, c. 531, Title XI, § 1136, as added July 18, 1984, Pub.L. 98-369, Title VI, § 2630, 98 Stat. 1137.)

References in Text. The Rehabilitation Act of 1973, referred to in subsec. (f)(1), is Pub.L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (section 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see note set out under section 701 of Title 29 and Tables volume.

Effective Date. Section effective October 1, 1984, see section 2646 of Pub.L. 98-369, set out as a note under section 602 of this title.

Legislative History. For legislative history and purpose of Pub.L. 98-369, see 1984 U.S. Code Cong. and Adm. News, p. 697.

§ 1320b-7. Income and eligibility verification system**(a) Requirements of State eligibility systems**

In order to meet the requirements of this section, a State must have in effect an income and eligibility verification system under which—

(1) the State shall require, as a condition of eligibility for benefits under any program listed in subsection (b) of this section, that each applicant for or recipient of benefits under that program furnish to the State his social security account number (or numbers, if he has more than one such number), and the State shall utilize such account numbers in the administration of that program so as to enable the association of the records pertaining to the applicant or recipient with his account number;

(2) wage information from agencies administering State unemployment compensation laws available pursuant to section 3304(a)(16) of Title 26, wage information reported pursuant to paragraph (3) of this subsection, and wage, income, and other information from the Social Security Administration and the Internal Revenue Service available pursuant to section 6103(f)(7) of Title 26, shall be requested and utilized to the extent that such information may be useful in verifying eligibility for, and the amount of, benefits available under any program listed in subsection (b) of this section, as determined by the Secretary of Health and Human Services (or, in the case of the unemployment compensation program, by the Secretary of Labor, or, in the case of the food stamp program, by the Secretary of Agriculture);

(3) employers in such State are required, effective September 30, 1988, to make quarterly wage reports to a State agency (which may be the agency administering the State's unemployment compensation law) except that the Secretary of Labor (in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture) may waive the provisions of this paragraph if he determines that the State has in effect an alternative system which is as effective and timely for purposes of providing employment related income and eligibility data for the purposes described in paragraph (2);

(4) the State agencies administering the programs listed in subsection (b) of this section adhere to standardized formats and procedures established by the Secretary of Health and Human Services (in consultation with the Secretary of Agriculture) under which—

(A) the agencies will exchange with each other information in their possession which may be of use in establishing or verifying eligibility or benefit amounts under any other such program;

(B) such information shall be made available to assist in the child support program under part D of subchapter IV of this chapter, and to assist the Secretary of Health and Human Services in establishing or verifying eligibility or benefit amounts under subchapters II and XVI of this chapter, but subject to the safeguards and restrictions established by the Secretary of the Treasury with respect to information released pursuant to section 6103(f) of Title 26; and

(C) the use of such information shall be targeted to those uses which are most likely to be productive in identifying and preventing ineligibility and incorrect payments;

(5) adequate safeguards are in effect so as to assure that—

(A) the information exchanged by the State agencies is made available only to the extent necessary to assist in the valid administrative needs of the program receiving such information, and the information released pursuant to section 6103(f) of Title 26 is only exchanged with agencies authorized to receive such information under such section 6103(f); and

(B) the information is adequately protected against unauthorized disclosure for other purposes, as provided in regulations established by the Secretary of Health and Human Services, or, in the case of the unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture, or in the case of information released pursuant to section 6103(f) of Title 26, the Secretary of the Treasury;

(6) all applicants for and recipients of benefits under any such program shall be notified at the time of application, and periodically thereafter, that information available through the system will be requested and utilized; and

(7) accounting systems are utilized which assure that programs providing data receive appropriate reimbursement from the programs utilizing the data for the costs incurred in providing the data.

(b) Applicable programs

The programs which must participate in the income verification system are—

(1) the aid to families with dependent children program under part A of subchapter IV of this chapter;

(2) the medicaid program under subchapter XIX of this chapter;

(3) the unemployment compensation program under section 3304 of Title 26;

(4) the food stamp program under the Food Stamp Act of 1977 [7 U.S.C.A. § 2011 et seq.]; and

(5) any State program under a plan approved under subchapter I, X, XIV, or XVI of this chapter.

(c) Protection of applicants from improper use of information

(1) In order to protect applicants for and recipients of benefits under the programs identified in subsection (b) of this section, or under the supplemental security income program under subchapter XVI of this chapter, from the improper use of information obtained from the Secretary of the Treasury under section 6103(f)(7)(B) of Title 26, no Federal, State, or local agency receiving such information may terminate, deny, suspend, or reduce any benefits of an individual until such agency has taken appropriate steps to independently verify information relating to—

(A) the amount of the asset or income involved,

(B) whether such individual actually has (or had) access to such asset or income for his own use, and

(C) the period or periods when the individual actually had such asset or income.

(2) Such individual shall be informed by the agency of the findings made by the agency on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(Aug. 14, 1935, c. 531, Title XI, § 1137, as added July 18, 1984, Pub.L. 98-369, Title VI, § 2651(a), 98 Stat. 1147.)

References in Text. The Food Stamp Act of 1977, referred to in subsec. (b)(4), is Pub.L. 88-525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (section 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see note set out under section 2011 of Title 7 and Tables volume.

Effective Date. Section 2651(f) of Pub.L. 98-369 provided that:

"(1) The amendments made by subsections (j) and (k) [amending section 1383(c)(1)(B) of this title and section 6103 of Title 26, Internal Revenue Code] shall become effective on the date of the enactment of this Act [July 18, 1984].

"(2) Except as otherwise specifically provided, the amendments made by subsections (a) through (i) [enacting this section, amending sections 302, 503, 602, 1202, 1352, and 1396a of this title, and section 2020 of Title 7, Agriculture, repealing section 611 of this title, and amending provisions

set out as a note under section 1382 of this title] shall become effective on April 1, 1985. In the case of any State which submits a plan describing a good faith effort by such State to come into compliance with the requirements of such subsections, the Secretary of Health and Human Services (or, in the case of the State unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture) may by waiver grant a delay in the effective date of such subsections, except that no such waiver may delay the effective date of section 1137(c) of the Social Security Act [subsec. (c) of this section] (as added by subsection (a) of this section), or delay the effective date of any other provision of or added by this section beyond September 30, 1986."

Legislative History. For legislative history and purpose of Pub.L. 98-369, see 1984 U.S. Code Cong. and Adm. News, p. 697.

PART B—PEER REVIEW OF UTILIZATION AND QUALITY OF HEALTH CARE SERVICES

§ 1320c. Purpose

Effective Date. Section 149 of Pub.L. 97-248, as amended Pub.L. 98-369, Title III, § 2334(c)(3)(C), July 18, 1984, 98 Stat. 1102, provided that: "The amendments made by this subtitle [subtitle C of Pub.L. 97-248, comprising sections 141 to 150 of such Public Law which enacted this part, amended sections 1395b-1, 1395g, 1395k, 1395l, 1395x, 1395y, 1395cc, 1395pp, 1396a and 1396b of this title, omitted

sections 1320c-14 to 1320c-19, 1320c-21, and 1320c-22 of this title, and enacted provisions set out as notes under this section and section 1305 of this title] shall, subject to section 150 [section 150 of Pub.L. 97-248, set out as a note below], be effective with respect to contracts entered into or renewed on or after the date of the enactment of this Act [Sept. 3, 1982]."

§ 1320c-1. Definition of utilization and quality control peer review organization

Westlaw Administrative Law References

Databases: CFR FR

Sample Query:

(42 + 5 1320c-1) (1152 + 6 "SOCIAL SECURITY ACT") & OSTEOPATHI

Query Formulation: see Explanation Page.

§ 1320c-2. Contracts with utilization and quality control peer review organizations

[See main volume for text of (a)]

(b) Organizations entitled to contract with Secretary

[See main volume for text of (1)]

(2)(A) Prior to November 15, 1984, the Secretary shall not enter into a contract under this part with any entity which is, or is affiliated with (through management, ownership, or common control), an entity (other than a self-insured employer) which directly or indirectly makes payments to any practitioner or provider whose health care services are reviewed by such entity or would be reviewed by such entity if it entered into a contract with the Secretary under this part. For purposes of this paragraph, an entity shall not be considered to be affiliated with another entity which makes payments (directly or indirectly) to any practitioner or provider, by reason of management, ownership, or common control, if the management, ownership, or common control consists only of one individual member of the governing

board being affiliated (through management, ownership, or common control) with a health maintenance organization or competitive medical plan which is an "eligible organization" as defined in section 1395mm(b) of this title.

(B) If, after November 14, 1984, the Secretary determines that there is no other entity available for an area with which the Secretary can enter into a contract under this part, the Secretary may then enter into a contract under this part with an entity described in subparagraph (A) for such area if such entity otherwise meets the requirements of this part.

(C) Repealed. Pub.L. 98-369, Title III, § 2347(c)(3), July 18, 1984, 98 Stat. 1097

(3)(A) The Secretary shall not enter into a contract under this part with any entity which is, or is affiliated with (through management, ownership, or common control), a health care facility, or association of such facilities, within the area served by such entity or which would be served by such entity if it entered into a contract with the Secretary under this part.

(B) For purposes of subparagraph (A), an entity shall not be considered to be affiliated with a health care facility or association of facilities by reason of management, ownership, or common control if the management, ownership, or common control consists only of not more than 20 percent of the members of the governing board of the entity being affiliated (through management, ownership, or common control) with one or more of such facilities or associations.

[See main volume for text of (c) to (f)]

(As amended July 18, 1984, Pub.L. 98-369, Title III, §§ 2334(a), (b), 2347(c), 98 Stat. 1090, 1097.)

1984 Amendment. Subsec. (b)(2)(A). Pub.L. 98-369, § 2347(c)(1), substituted "Prior to November 15, 1984" for "During the first twelve months in which the Secretary is entering into contracts under this section".

Pub.L. 98-369, § 2334(b)(1), substituted "an entity (other than a self-insured employer) which directly" for "an entity which directly".

Pub.L. 98-369, § 2334(b)(2), added provision that for purposes of this paragraph, an entity shall not be considered to be affiliated with another entity which makes payments (directly or indirectly) to any practitioner or provider, by reason of management, ownership, or common control, if the management, ownership, or common control consists only of one individual member of the governing board being affiliated (through management, ownership, or common control) with a health maintenance organization or competitive medical plan which is an "eligible organization" as defined in section 1395mm(b) of this title.

Subsec. (b)(2)(B). Pub.L. 98-369, § 2347(c)(2), substituted "after November 14, 1984" for "after the expiration of the twelve-month period referred to in subparagraph (A)".

Subsec. (b)(2)(C). Pub.L. 98-369, § 2347(c)(3), struck out subpar. (C), which had provided that the twelve-month period formerly

referred to in subpar. (A) would be deemed to have begun not later than October 1983.

Subsec. (b)(3). Pub.L. 98-369, § 2334(a), designated existing provisions as subpar. (A), and added subpar. (B).

Effective Date of 1984 Amendment. Section 2334(c) of Pub.L. 98-369 provided that: "The amendments made by this section [amending subsec. (b)] shall become effective on the date of the enactment of this Act [July 18, 1984]."

Section 2347(d) of Pub.L. 98-369 provided that: "The provisions of, and amendments made by, this section [amending subsec. (b)(2) of this section and section 1395cc(a)(1),(F) of this title and enacting provisions set out as a note under section 1395cc of this title] shall become effective on the date of the enactment of this Act [July 18, 1984]."

Legislative History. For legislative history and purpose of Pub.L. 98-369, see 1984 U.S. Code Cong. and Adm. News, p. 697.

Westlaw Administrative Law References

Databases: CFR FR

Sample Query:

(42 + 5 1320c-2) (1153 + 6 "SOCIAL SECURITY ACT")

Query Formulation: see Explanation Page

§ 1320c-3. Functions of peer review organizations

Westlaw Administrative Law References

Databases: CFR FR

Sample Query:

(42 + 5 1320c-3) (1154 + 6 "SOCIAL SECURITY ACT")

Query Formulation: see Explanation Page

§ 1320c-4. Right to hearing and judicial review

Westlaw Administrative Law References

Databases: CFR FR

Sample Query:

(42 + 5 1320c-4) (1155 + 6 "SOCIAL SECURITY ACT")

Query Formulation: see Explanation Page