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B

105

COMMITTEE REPORT

SENATE

1/26/81

FURTHER: Finance

Date: _____

Mr. President:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had SB 105

establishing the Alaska Native Child Welfare Task Force

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

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

MEMBERS SIGNING
DO PASS

[Handwritten signatures]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Handwritten signature]

CHAIRMAN

Alaska Native Child Welfare
Task Force

Representatives from the 12 Non-profit Regional Corporations during
1980 - 1981:

Aleutian/Tribilof Island Association

Mr. Arthur Potts
1689 "C" Street
Anchorage, Alaska 99501
Phone: 276-2700

Association of Village Council
Presidents

Martha Jack
Village Council
Box 219
Bethel, Alaska 99559

Bristol Bay Native Association

Mary Backford
Dillingham, Alaska 99576

Central Council Tlingit & Haida
Indian Tribes of Alaska

Francine Eddy
One Sealaska Plaza, Suite 200
Juneau, Alaska 99801
Phone: 586-1432

Cook Inlet Native Association

Jennifer Evans
670 West Fireweed Lane
Anchorage Alaska 99503
Phone: 278-4041

Copper River Native Association

Marianne Riland
Pouch G
Copper Center, Alaska 99573

Inupiat Community of the Arctic
Slope

Barbara Bodenhern
Box 437
Barrow, Alaska 99723

Kawerak, Inc.

Nome Area
need for a representative

Kodiak Area Native Association

Elaine Loomis
Kodiak Native Association
Box 172
Kodiak, Alaska 99615
Phone: 486-5725

Launeluk Association

Gerri Adams
Box 256
Kotzebue, Alaska 99752
Phone: 442-3311

The North Pacific Rim

Sally Mea, & Richard Rolland
903 W. Northern Lights
Anchorage, Alaska 99503
Phone: 276-2121

Tanana Chiefs Conference, Inc.

Josephine Fields
First & Hall Street
Fairbanks, Alaska 99701
Phone: 452-8251

ALASKA NATIVE CHILD WELFARE TASK FORCE

One Year Budget

I. Regional Representatives Travel:

	<u>Training</u> (2 trips)	<u>Quarterly Mtgs.</u> (4 trips)	<u>Per Diem</u>
1. Aleutian-Pribilof			
2. Assoc. of Village Council Presidents (Bethel)	\$466.20	\$932.40	\$1,008
3. Bristol Bay (Dillingham)	\$408	\$81	\$1,008
4. Tlingit & Haida Central Council (Juneau)	\$532	\$1,064	\$1,008
5. Cook Inlet (Anchorage Based)	\$186	\$ 372	\$1,008
6. Copper River (Copper Center)			
7. Inupiat Comm. of Arctic Slope (Barrow)	\$712	\$1,424	\$1,008
8. Kawerak (Nome)	\$612	\$1,224	\$1,008
9. Kodiak Area	\$300	\$ 600	\$1,008
10. Mauneluk (Katzebue)	\$608	\$1,216	\$1,008
11. North Pacific Rim (Anchorage-Based)			
12. Tanana Chief (Fairbanks)	\$320	\$ 640	\$1,008
TOTAL	<u>\$4,144.20</u>	<u>\$7,288.40</u>	<u>\$9,012</u>

II <u>Executive Committee Travel:</u>	Airfare	Per Diem
1. Aleutian Pribolof	500	186
2. AVCP-(Bethel)	254. (1 trip)	186
3. Bristol Bay-(Dillingham)	204. (1 trip)	166
4. Tlingit & Haida- (Juneau)	798. (3 trips)	747
5. Cook Inlet Native Assoc.	552. (2 trips)	288
6. Coprer River	93. (1 trip)	124
7. Inupiat Comm. of Arctic Slope	356. (1 trip)	222
8. Kawerak -(Nome)	306.	180
9. Kodiak	150. (1 trip)	168
10. Mauneluk - (Kotzebue)	304. (1 trip)	182
11. North Pacific Rim	250.	168
12. Tanana Chief	160. (1 trip)	134
13. Out-of-State	2500.	1,200
14. Allowances	750.	
<hr/>		
TOTAL	<u>7,137</u>	<u>5,951</u>

III Training :

Consultant	5,000
Supplies	1,500
Travel	1,625
Facility Lease	1,000

TOTAL	<u>9,125</u>
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IV Support Services :

Telephone	3,000
Printing	3,000
Postage	600
Xeroxing	1,500
Subscriptions, Dues	187.40

TOTAL	<u>8,282.40</u>
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TOTAL BUDGET	\$50,000
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POSITION PAPER

SENATE BILL NO. 105

"An Act establishing the Alaska Native Child Welfare Task Force; and providing for an effective date."

The Department of Health and Social Services supports Senate Bill No. 105 establishing the Alaska Native Child Welfare Task Force. The Indian Child Welfare Act imposes significant and far-reaching changes in operations for courts, attorneys, and agencies placing children in either foster care or adoption. A task force to study the various issues concerning child welfare services for Alaskan Natives would be very valuable in terms of future planning and policy development. The Department would be pleased to participate in such a task force.

Department of Health and Social Services is in support of Senate Bill No. 105.

RECOMMENDED BY:


John R. Pugh, Director
Division of Family and
Youth Services

DATE:

2/5/81

APPROVED BY:


Helen D. Beirne
Commissioner

DATE:

2/12/81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 105

Title An Act establishing the Alaska Native Child Welfare Task Force.

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Health & Social Services

Program Category Affected _____

BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

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

Senate Bill No. 105 has no fiscal impact on the Department of Health and Social Services.

IV. DATE 2/5/81

PREPARED BY John R. Pugh John R. Pugh, Director
AGENCY Division of Family & Youth Services
PHONE 456-3170

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

M&B Approval

Date 2/5/81



CENTRAL COUNCIL
Tlingit and haida indian tribes of alaska
One Sealaska Plaza - Suite 200
Juneau, Alaska 99801
(907) 586-1432 or 586-3613

TESTIMONY ON SENATE BILL NO. 105 & 106
BEFORE THE SENATE HESS COMMITTEE

March 27, 1981
3:00 p.m.

MY NAME IS TONY STRONG, AND I AM THE ACTING EXECUTIVE DIRECTOR FOR THE CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA. THE CENTRAL COUNCIL WOULD LIKE TO PRESENT TESTIMONY ON SENATE BILL NO. 105 AND SENATE BILL NO. 106.

THE CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA IS THE CONGRESSIONALLY RECOGNIZED GENERAL GOVERNING BODY FOR MORE THAN 16,000 TLINGIT AND HAIDA INDIANS. A MAJORITY OF THOSE CONSTITUENTS RESIDE IN SOUTHEAST ALASKA. THE CENTRAL COUNCIL HAS BEEN OPERATING HUMAN AND COMMUNITY SERVICE PROGRAMS SINCE 1965. CENTRAL COUNCIL FEELS THAT IT IS VERY IMPORTANT THAT THE MEMBERS OF THIS COMMITTEE REVIEW THESE PROPOSED BILLS IN A PROPER HISTORICAL PERSPECTIVE.

THE ALASKA NATIVE CHILD WELFARE TASK FORCE WAS FORMED IN THE FALL OF 1979 AS A STATE WIDE EFFORT TO ADVOCATE AND ASSIST ALASKA NATIVES AND AMERICAN INDIANS IN THE IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT, PUBLIC LAW 95-608. CENTRAL COUNCIL HAS BEEN A MEMBER OF THE TASK FORCE SINCE ITS INCEPTION.

PUBLIC LAW 95-608 IS A FEDERAL LAW ENACTED BY CONGRESS ON MAY 8, 1978. THE ACT WAS PASSED IN RESPONSE TO THE TESTIMONY OF MANY INDIAN AND NON-INDIAN PEOPLE FROM ACROSS THE COUNTRY WHO WERE APPALLED AT THE EXTREME NUMBER OF INDIAN CHILDREN WHO WERE PLACED IN NON-INDIAN FOSTER AND ADOPTIVE HOMES. THE CENTRAL COUNCIL IS COMMITTED TO THE IMPLEMENTATION OF PL 95-608 IN THE STATE OF ALASKA.

DURING THE ELEVENTH ALASKA STATE LEGISLATURE IN 1980, CENTRAL COUNCIL WAS INSTRUMENTAL IN WORKING WITH REPRESENTATIVE DUNCAN IN FORMULATING HOUSE CONCURRENT RESOLUTION NO. 43, " A RESOLUTION ENDORSING THE CONCEPT AND REQUESTING IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT OF 1978". I WOULD LIKE TO QUOTE FROM THAT RESOLUTION:

"BE IT RESOLVED BY THE ALASKA STATE LEGISLATURE THAT (1) THE LEGISLATURE ENDORSE AND SUPPORT THE CONCEPT AND POLICY OF THE INDIAN CHILD WELFARE ACT OF 1978 (2) THE GOVERNOR IS URGENTLY REQUESTED TO DIRECT THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES TO PROMPTLY TAKE THE STEPS NECESSARY TO IMPLEMENT THE ACT IN ALASKA AND TO PROVIDE THE FINANCING NECESSARY FOR IMPLEMENTATION (3) THE CHIEF JUSTICE OF THE ALASKA SUPREME COURT IS REQUESTED TO DIRECT THE COURT SYSTEM TO PROMPTLY TAKE STEPS NECESSARY TO COOPERATE IN THE IMPLEMENTATION OF THE ACT".

SENATE BILL 105 WOULD PROVIDE THE MECHANISM TO ESTABLISH THE ALASKA NATIVE CHILD WELFARE TASK FORCE TO ASSIST THE STATE IN CARRYING OUT ITS MANDATE TO IMPLEMENT THE INDIAN CHILD WELFARE ACT.

IT PROVIDES THE MEANS FOR NATIVE REPRESENTATIVES FROM ACROSS THE STATE TO ADDRESS NATIVE CHILD WELFARE ISSUES, CONCERNS, AND IDEAS. THE ALASKA NATIVE CHILD WELFARE TASK FORCE, BECAUSE OF ITS STATE-WIDE MEMBERSHIP, ADDRESSES THE DIVERSITY OF CULTURES, LANGUAGES, VALUES, LIFE STYLES, AND POLITICAL SYSTEMS OF OUR NATIVE PEOPLES ACROSS THE STATE THAT NEED TO BE CONSIDERED IN IMPLEMENTING PL 95-608.

CENTRAL COUNCIL IS IN AGREEMENT WITH THE TASK FORCE'S RECOMMENDATION TO CHANGE THE PROPOSED MEMBERSHIP FROM REGIONAL CORPORATIONS TO REGIONAL NON-PROFIT NATIVE CORPORATIONS. THIS IS THE BASE OF THE PRESENT MEMBERSHIP AND CENTRAL COUNCIL SUPPORTS MAINTAINING THAT MEMBERSHIP.

IN ADDRESSING SENATE BILL 106, CENTRAL COUNCIL WOULD SUPPORT AN APPROPRIATION THAT WOULD ADEQUATELY FUND THE ALASKA NATIVE CHILD WELFARE TASK FORCE TO FUNCTION AND CARRY OUT ITS GOALS.

IN CONCLUSION, CENTRAL COUNCIL REMAINS COMMITTED TO THE IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT IN ALASKA AND TO THE ESTABLISHMENT OF THE ALASKA NATIVE CHILD WELFARE TASK FORCE. CENTRAL COUNCIL HAS ATTACHED TO ITS TESTIMONY COPIES OF HOUSE CONCURRENT RESOLUTION NO. 43, THE PURPOSES OF THE ALASKA NATIVE CHILD WELFARE TASK FORCE, AND THE CURRENT MEMBERSHIP LIST OF THE TASK FORCE.

THANK YOU.

ALASKA NATIVE CHILD WELFARE TASK FORCE

The Alaska Native Child Welfare Task Force is a state-wide effort to advocate and to assist Alaskan Natives and American Indians in the implementation of the Indian Child Welfare Act, Public Law 93-608. The Alaskan Federation of Natives endorsed, supported and officially sanctioned the Alaska Native Child Welfare Task Force at the 1979 annual A.F.N. Convention in Anchorage.

PURPOSE

The purpose of the Alaska Native Child Welfare Task Force shall be to address the following objectives:

Section 1. To actively participate in the formalization, establishment, and review of policies in order to safeguard the spirit and intent of the Indian Child Welfare Act.

Section 2. To serve as an advocate on Indian Child Welfare issues in the community, state and national levels of the government.

Section 3. To provide educational and training programs on the Indian Child Welfare Act and related subjects to Alaskan Natives, Native organizations, and other agencies who provide services to Native children and families.

Section 4. To serve as a clearing house of information on the Indian Child Welfare Act and related subject matter, whereby, materials, books and films will be available for utilization by the Task Force members.

Alaska Native Child Welfare
Task Force

Representatives from the 12 Non-profit Regional Corporations during
1980 - 1981:

Aleutian/Pribilof Island Association

Mr. Arthur Potts
1689 "C" Street
Anchorage, Alaska 99501
Phone: 276-2700

Association of Village Council
Presidents

Martha Jack
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Dillingham, Alaska 99576

Central Council Tlingit & Haida
Indian Tribes of Alaska

Francine Eddy
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Cook Inlet Native Association

Jennifer Evans
67C West Fireweed Lane
Anchorage, Alaska 99503
Phone: 278-4641

Copper River Native Association

Marianne Rolland
Pouch G
Copper Center, Alaska 99573

Inupiat Community of the Arctic
Slope

Barbara Bodenhern
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Kawerak, Inc.

Nome Area
need for a representative

Kodiak Area Native Association

Elaine Loomis
Kodiak Native Association
Box 172
Kodiak, Alaska 99615
Phone: 486-5725

Mauneluk Association

Gerri Adams
Box 256
Kotzebue, Alaska 99752
Phone: 442-3311

The North Pacific Rim

Sally Mead & Richard Rolland
903 W. Northern Lights
Anchorage, Alaska 99503
Phone: 276-2121

Tanana Chiefs Conference, Inc.

Josephine Fields
First & Hall Street
Fairbanks, Alaska 99701
Phone: 452-8251

ALASKA NATIVE CHILD WELFARE TASK FORCE

STATEMENT AND GOALS

Statement

The Alaska Native Child Welfare Task Force is a state-wide effort to advocate/assist Alaskan Natives/American Indians to ensure that the intent of the Indian Child Welfare Law is implemented.

1. Monitoring/evaluating child placements.
2. Education:
 - a) Alaskan Natives
 - b) Native Organizations
 - c) Other Agencies involved in child placements
3. Recruiting Native Adoption/Foster Homes.
4. Lobbying for state/federal legislation in the area of child welfare.

Goals

1. Legislative Activity

Keeping up with legislative activity, reporting to Task Force and bringing copies of the various bills for Task Force Members.

2. Training/Education

Developing training for the Regions so they in turn can train communities in their area.

3. Task Force Information

This is the responsibility of all Task Force Members. If you are aware of speakers/agencies to share information with us at our meetings (example - Adoption, Foster Care, Legislator, etc.) submit a written statement to the Chairperson regarding their presentation - what information they'll share with us and also hand outs if possible, or call; but this must be done at least two weeks prior to the meeting date. This will give the Chairperson an opportunity to put it on the agenda. The agenda will be sent out two weeks before the meeting date.

4. Public Relations/Membership Drive

Spreading information about our Task Force (radio spots, Television, newspapers, etc.) and recruiting more members.

5. Clearing House of Information

Indian Child Welfare reading materials, books, bibliographies, etc. will be centralized in one location and available for our Task Force members to use.

Briefing Statement

Re: Alaska Native Child Welfare
Task Force

I. The Indian Child Welfare Act

The Indian Child Welfare Act (ICWA), Public Law 95-608, is a federal law enacted by Congress on May 8, 1978. The Act was passed in response to the testimony of many Indian and non-Indian people who were appalled at the extreme number of Indian children who were placed in non-Indian foster and adoptive homes. The testimony revealed that these large number of placements were without regard for preserving the child's identity and culture were a significant cause of the breakdown of Indian families and tribes.

Thereby, the Act was passed to protect the integrity of Indian families and to help ensure that Indian children who are placed in adoptive or foster care homes continue to live in their natural cultural environment. The ICWA establishes national standards which state courts must follow before Indian children can be removed from their parents or Indian custodians.

The overall spirit and intent of the Act is to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families.

Title II of the Indian Child Welfare Act authorizes the Secretary of the Interior to make grants to Indian Tribes and organizations. During the fiscal year 1980, \$5.5 million was appropriated on a national level. Fourteen (14) Native agencies in Alaska received funding for a child and family program for the 1980 ICWA Grant Year, which went from June 1980 to March 31, 1981. The Alaska Native agencies include: the Aleutian -Pribilof Islands Association; the Admiralty Citizens Council, Inc.; the Bristol Bay Native Association; Central Council Tlingit and Haida Indian Tribes of Alaska; Copper River Native Association; Kodiak Area Native Association; Kotzebue IRA Council; Mauneluk Association; Metlakatla Indian Community; North Pacific Rim; Sitka Community Association; Tanana Chiefs Conference and the United Crow Band of Alaska.

II. Alaska State Legislation Concerning the Indian Child Welfare Act

During the Eleventh Legislature - second session (1980), Tlingit and Haida Central Council was instrumental in working with Representative Duncan in formulating House Concurrent Resolution No. 43 to the Alaska State Legislature; and very involved in developing and organizing the joint hearings that pertained to this bill and the Juneau White House Conference on families that was held on February 23, 1980.

The House Concurrent Resolution No. 43 did pass the legislature, thereby, the Alaska Department of Health and Social Services and the court system were to promptly take steps necessary to cooperate in the implementation of the ICWA in Alaska.

The Juneau White House Conference on Families of February 1980, centered around the issues that are impacting the stability and security of families in Juneau. The people who provided testimony spoke to upholding the traditional view of the family, to bringing God back into the home and schools and to getting rid of governmental interference in the family. The written testimony was more liberal in expressing a need to pass such issues as ERA, gay rights, freedom to choose abortion, and the acceptance of the "non-Traditional family". A report reflecting the conclusions and recommendations from the hearings was prepared by the Steering Committee Members.

III. The Alaska Native Child Welfare Task Force

In the Fall of 1979 representatives from several Alaska Native Human Services Programs moved to organize an ICWA Task Force. The representatives from these programs participated in the formulation of the Task Force concept and movement towards organization of the group. The Task Force submitted before the 1979 Alaska Federation of Natives Convention a resolution to seek their endorsement and support.

The resolution did pass, whereby, the Alaska Federation of Natives officially sanctioned the Alaska Native Child Welfare Task Force. The Alaska Native Child Welfare Task Force is a state-wide effort to advocate and to assist Alaskan Natives and American Indians in the implementation of the Indian Child Welfare Act, P.L. 95-608. The objectives of the Task Force are:

- (1) To actively participate in the formalization, establishment, and review of policies in order to safeguard the spirit and intent of the Indian Child Welfare Act;
- (2) To serve as an advocate on Indian Child Welfare issues in the community, state and national levels of the government;
- (3) To provide educational and training programs on the ICWA and related subjects to Alaskan Natives, Native Organizations, and other agencies who provide services to Native children and families; and
- (4) To serve as a clearing house of information on the Indian Child Welfare Act and related subject matter, whereby, material, books, films will be available for utilization by the Task Force members.

During this past year (1980) the Task Force membership has been comprised of Cook Inlet Native Association staff and representation from the ICWA grantees who could cover the expenses for staff travel.

Over the past year (1980) the Task Force has assumed an informational sharing focus in respects to addressing issues concerning implementation of the Act in Alaska and the ICWA grant application process.

IV. Development of Senate Bills 105 and 106

During the general Task Force meeting at the 1980 Alaska Federation of Natives Convention in Anchorage, the existing Task Force membership identified the need to formally organize the Task Force and to secure a funding base.

The purpose of organizing the existing Task Force is in order to ensure statewide representation of the Native agencies. And in order to pursue the Task Force objectives there is a need for a funding base from which to work.

Indian Child Welfare Act

Because of the significance of the Indian Child Welfare Act for all Indian children, families and tribes, *Indian Family Defense* is reprinting the act in its entirety.

An Act

To establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Child Welfare Act of 1978".

SEC. 2. Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds—

(1) that clause 3, section 8, article I of the United States Constitution provides that "The Congress shall have Power . . . To regulate Commerce . . . with Indian tribes" and, through this and other constitutional authority, Congress has plenary power over Indian affairs;

(2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

SEC. 3. The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

SEC. 4. For the purposes of this Act, except as may be specifically provided otherwise, the term—

(1) "child custody proceeding" shall mean and include—

(i) "foster care placement" which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator when the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(ii) "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;

(iii) "preadoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

(iv) "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents.

(2) "extended family member" shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

(3) "Indian" means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in section 7 of the Alaska Native Claims Settlement Act (85 Stat. 688,689);

(4) "Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

(5) "Indian child's tribe" means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b) in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;

(6) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;

(7) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;

(8) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 4(c) of the Alaska Native Claims Settlement Act (85 Stat. 688,689), as amended.

(9) "parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoption under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established.

(10) "reservation" means Indian country as defined in section 1151 of title 18, United States Code and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation.

(11) "Secretary" means the Secretary of the Interior.

(12) "tribal court" means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

TITLE I—CHILD CUSTODY PROCEEDINGS

SEC. 101. (a) An Indian tribe shall have jurisdiction, exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) In any State court proceeding for the foster care placement

of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: *Provided*, That such transfer shall be subject to declination by the tribal court of such tribe.

(c) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

SEC. 102(a) In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: *Provided*, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(b) In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to the Act of November 2, 1921 (42 Stat. 201, 25 U.S.C. 13).

(c) Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(d) Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(e) No foster care placement may be ordered in such proceedings in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(f) No termination of parental rights may be ordered in such proceedings in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child

by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

SEC. 103. (a) Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(b) Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(c) In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(d) After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

SEC. 104. Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 101, 102, and 103 of this Act.

SEC. 105. (a) In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.

(b) Any child accepted for foster care or pre-adoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or pre-adoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with—

- (1) a member of the Indian child's extended family;
- (2) a foster home licensed, approved, or operated by the Indian child's tribe; (2a) a foster home licensed, approved, or operated by an authorized non-Indian licensing authority; or
- (3) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(c) In the case of a placement under subsection (a) or (b) of this section of the Indian child's tribe, such placement shall be of preference to placement in any other setting, including the placement of the child in a foster home, if the placement shall be in a setting which is in the best interest of the child, as provided in subsection (b) of this section. Such appropriate the protection of the Indian child or parent shall be

considered: *Provided*, That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(d) The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

(e) A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

SEC. 106. (a) Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of section 102 of this Act, that such return of custody is not in the best interests of the child.

(b) Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, pre-adoptive, or adoptive placement, such placement shall be in accordance with the provisions of this Act, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

SEC. 107. Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

SEC. 108. (a) Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1923 (67 Stat. 523), as amended by title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

(b) (1) In considering the petition and feasibility of the plan of a tribe under subsection (a), the Secretary may consider, among other things:

(i) whether or not the tribe maintains a membership roll or alternative program for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;

(ii) the size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;

(iii) the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and

(iv) the feasibility of the plan in cases of multistate occupation of a whole reservation or geographic area.

(2) In those cases where the Secretary determines that the jurisdictional provisions of section 101(a) of this Act are not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise tribal jurisdiction as provided in section 101(b) of this Act, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in section 101(a) over limited communities or geographic areas without regard for the reservation status of the area affected.

(3) If the Secretary approves any petition under subsection (a), the Secretary shall publish notice of such approval in the Federal

Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a), the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

(d) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 109 of this Act.

SEC. 109. (a) States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

(b) Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

SEC. 110. Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

SEC. 111. In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this title, the State or Federal court shall apply the State or Federal standard.

SEC. 112. Nothing in this title shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this title, transfer the child to the jurisdiction of the appropriate Indian tribe, or return the child to the parent or Indian custodian, as may be appropriate.

SEC. 113. None of the provisions of this title, except sections 101(a), 104, and 109, shall affect a proceeding under State law for termination of parental rights, pre-adoptive placement, or adoptive placement which was initiated or completed, not to one hundred and eighty days after the enactment of this Act, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings at a time the custody or placement of the same child.

TITLE II—INDIAN CHILD AND FAMILY PROGRAMS

SEC. 201. (a) The Secretary is authorized to make grants to Indian tribes and organizations in the establishment, maintenance, or Indian child and family service programs and/or residential care and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program

shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs may include, but are not limited to—

(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

(2) the operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;

(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care;

(4) home improvement programs;

(5) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;

(6) education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;

(7) a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenance and medical needs; and

(8) guidance, legal representation, and advice to Indian families involved in tribal, State, or Federal child custody proceedings.

(b) Funds appropriated for use by the Secretary in accordance with this section may be utilized as non-Federal matching share in connection with funds provided under titles IV-B and XX of the Social Security Act or under any other Federal financial assistance programs which contribute to the purpose for which such funds are authorized to be appropriated for use under this Act. The provision or possibility of assistance under this Act shall not be a basis for the denial or reduction of any assistance otherwise authorized under titles IV-B and XX of the Social Security Act or any other federally assisted program. For purposes of qualifying for assistance under a federally assisted program, licensing or approval of foster or adoptive homes or institutions by an Indian tribe shall be deemed equivalent to licensing or approval by a State.

SEC. 202. The Secretary is also authorized to make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs which may include, but are not limited to—

(1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate State standards of support for maintenance and medical needs;

(2) the operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;

(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care; and

(4) guidance, legal representation, and advice to Indian families involved in child custody proceedings.

SEC. 203. (a) In the establishment, operation, and funding of Indian child and family service programs, both on and off reservation, the Secretary may enter into agreements with the Secretary of Health, Education, and Welfare and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health, Education, and Welfare provided that authority to make payments pursuant to such agreements shall be effective only to the extent and in such amounts as may be provided in advance by appropriation Acts.

(b) Funds for the purposes of this Act may be appropriated pursuant to the provisions of the Act of November 2, 1921 (42 Stat. 208), as amended.

SEC. 204. For the purposes of sections 202 and 203 of this title, the term "Indian" shall include persons defined in section 4(c) of the Indian Health Care Improvement Act of 1976 (90 Stat. 1400, 1401).

TITLE III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

SEC. 301. (a) Any State court entering a final decree or order in any Indian child adoptive placement after the date of enactment of this Act shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show—

(1) the name and tribal affiliation of the child;

(2) the names and addresses of the biological parents;

(3) the names and addresses of the adoptive parents; and

(4) the identity of any agency having files or information relating to such adoptive placement.

Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall not be subject to the Freedom of Information Act (5 U.S.C. 552), as amended.

(b) Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to enrollment under the criteria established by such tribe.

SEC. 302. Within one hundred and eighty days after the enactment of this Act, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act.

TITLE IV—MISCELLANEOUS

SEC. 401. (a) It is the sense of Congress that the absence of locally convenient day schools may contribute to the breakup of Indian families.

(b) The Secretary is authorized and directed to prepare, in consultation with appropriate agencies in the Department of Health, Education and Welfare, a report on the feasibility of providing Indian children with schools located near their homes, and to submit such report to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within two years from the date of this Act. In developing this report the Secretary shall give particular consideration to the provision of educational facilities for children in the elementary grades.

SEC. 402. Within sixty days after enactment of this Act, the Secretary shall send to the Governor and to each State copy of this Act, together with committee reports and an explanation of the provisions of this Act.

SEC. 403. If any provision of this Act or any responsibility imposed is held invalid, the remaining provisions of this Act shall not be affected thereby.

Approved November 8, 1976

Native group gets \$250,000 grant

By Empire Staff

The Juneau Indian Education Corporation this week received a quarter-million dollar federal grant which local school officials say will be used to help Native children deal with modern society while maintaining pride in their heritage.

The grant went from the Bureau of Indian Affairs to the Johnson-O'Malley program.

"JOM is designed to keep kids in school," according to Carmel Roberts, a grants administrator with BIA. "The program is a means of keeping

students from dropping out by offering them something positive."

Roberts said JOM administrators believe education is a tool Native children need to take advantage of if they are to adjust to the "dominant culture."

"Education is essential for kids to get the skills they need to become something," Roberts said. She added that one of JOM's objectives is to find ways to improve the self-image of Native students.

Roberts stressed that while educators hope to help Native

students adjust to American society, the program also intends to instill pride and enhance the self image of the students as Indians.

JOM operates at the elementary, junior and senior high levels. Program administrators plan to use the funds to hire counselors to provide classroom and extracurricular activities to supplement the basic education provided by the school district, Roberts said. The counselors are usually Natives who have faced similar problems, she said.

Roberts said Native education has changed since the

Alaska Native Claims Settlement Act.

"ANCSA created a culture shock by accelerating awareness of race and culture. All of a sudden, there was the realization that 'Hey—I'm Indian,'" Roberts said.

The local JOM grant means several programs will be available to Native students in addition to their regular classroom activities, Roberts said. Cultural heritage, career education, personal guidance and tutoring are among the new areas into which Roberts says JOM administrators will take the program.

Proposed Amendments

For Senate Bill 105

Section 2. MEMBERSHIP (a) The Alaska Native Child Welfare Task Force is composed of 30 members, selected as follows:

- (1) 2 - representatives from each of the 12 - Alaska - based regional Native corporations created by the Alaska Native Claims Settlement Act, to be appointed by each of the regional corporations. Voting power will be designated to one of the two representatives from each of the 12-regional Native corporations.
- (2) the commissioner of health and social services or his designee.
- (3) the administrator of the Alaska Court System or his designee;
- (4) an assistant attorney general appointed by the governor.
- (5) three-at-large members that will be designated by the Executive Committee of the Task Force.

Section 4. Executive Committee.

There shall be a Chairman, Vice-Chairman, Secretary, and Treasurer elected from among the members of the Task Force.

Section 5. MEETINGS

The Alaska Native Child Welfare Task Force shall hold four quarterly meetings to carry out the duties prescribed in this act.

Planning and organizational meetings will be held on a monthly basis.

Proposed Amendments

for Senate Bill No. 106

Section 1. The sum of \$50,000 is appropriated from the general fund to the Alaska Native Child Welfare Task Force for the operations of the Task Force for a period of one year.

February 25, 1981

Dear Ms. Plotnik:

The purpose of this letter is to provide additional information in reference to Senate Bill No. 105 and 106. Enclosed please find an outline of the Alaska Native Child Welfare Task Force Statement and Goals.

I would like to encourage you to contact me if any questions do arise concerning the bills or if additional information on the Alaska Native Child Welfare Task Force is needed.

Sincerely,

Francine Eddy

Francine Eddy
Vice President
Alaska Native Child Welfare Task Force

March 26, 1981

Dear Rocky,

Attached please find a copy of the Indian Child Welfare Act and a briefing statement on the Alaska Native Child Welfare Task Force. I feel this is pertinent information for the legislators to review in order to place Senate Bills 105 and 106 in perspective.

Prior to the hearing on Friday, March 27, Jennifer Evans and I will present to you a list of peoples' names who would like to testify.

If you have questions on any of the materials, please let me know.

Thank you.

Sincerely,

Francine Eddy

Francine Eddy, MSW
Vice-Chairman
Alaska Native Child Welfare
Task Force