

HB

98

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/11/00

REPORTED OUT OF
SFC 4/7/00

FURTHER:

DATE TURNED
IN TO OFFICE: 17 April 00

Finance Committee considered

CS FOR HOUSE BILL NO. 98(HES) am

PUB.ASSISTANCE:PROGRAMS/GRANTS/CONTRACTS

and recommends:

- be replaced with 5 CS CS HB 98 (FIN)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
 - new title
- House Bill:
- same title
 - technical title
 - new: SCR# _____

SIGNING, DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Bill Calder</i>	<input checked="" type="checkbox"/>	<i>Bill E. Rye</i>	<input checked="" type="checkbox"/>		
		<i>Frank Miller</i>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
		<i>Robert Hill</i>	<input checked="" type="checkbox"/>		
		<i>Clayton D. Hupew</i>	<input checked="" type="checkbox"/>		
		<i>Gregory L. Hill</i>	<input checked="" type="checkbox"/>		
		<i>W. Lee Souley</i>	<input checked="" type="checkbox"/>		
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair:		Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

REVENUE	3/23/00	<input checked="" type="checkbox"/>	
HB 55	3/7/00	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 18, 2000

SUBJECT: Deficient bill title in SCS CSHB 98(FIN), version "K" (Alaska Native TANF programs)

TO: Senator John Torgerson
Attn: Darwin Peterson

FROM: Terri Lauterbach
Legislative Counsel 

Enclosed is the SCS you requested for HB 98.

The title of the bill does not satisfy the state constitution's requirement that the subject of the bill be expressed in the title because the amendment deleting "interpret" on page 3, line 20, is not reflected in the bill title. Page 3, line 20, relates to the entire ATAP program, not to any of the narrowly-delineated topics currently listed in the bill title.

The bill could be made constitutional by putting "interpret" back into the law on page 3, line 20. Otherwise the entire bill could be subject to challenge in court based on the flawed title.

Please let me know if you want an amendment drafted or if I can be of other assistance.

TML:pl:glc
00-145.plm

Enclosure

FISCAL NOTE

Bill Version: CSHB 98 (HES)
 (H) Publish Date: 3/27/00

STATE OF ALASKA
 2000 LEGISLATIVE SESSION

REPORTED OUT OF
 SFC 417/00

Revision Date/Time (Note if correction) _____ Dept. Affect: Department of Revenue
 Title Public Assistance: _____ BRU Child Support Enforcement Division
Programs/Grants/Contracts _____ Component Child Support Enforcement Division
 Sponsor Rules Committee _____
 Requester Finance Committee _____ Component I 111

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS:

(Attach a separate page if necessary)

The Child Support Enforcement Division receives incentive funding from the federal government based on the agency's collections in public assistance cases. That incentive funding covers about 15% of the child support agency's annual operating budget, reducing the need for state funds. The original version of this legislation would have resulted in reduced federal incentive funding as public assistance collections were converted to tribal assistance collections -- which are not eligible for incentive funding to the states. However, a new federal funding formula that started phasing in for FY2000 depends less on public assistance collections and more on the child support agency's general performance. Therefore, we expect this legislation will not materially affect incentive funding for FY2001 and 2002.

Prepared by: Barbara Miklos, Director Phone _____
 Division Child Support Enforcement Division Date/Time 3/22/00 2:08 PM

Approved by Commissioner Wilson L. Condon Date 03/23/2000
 Agency Revenue

FISCAL NOTE

No: 2

STATE OF ALASKA
2000 LEGISLATIVE SESSION

REPORTED OUT OF
SFC 4/17/00

Bill Version: CSHB 98 (HES)
(H) Publish Date: 3/3/00

Revision Date/Time (Note if correction): _____
Title: Native Family Assistance Programs

Dept. Affected: Health and Social Services
BRU: Public Assistance
Component: Tribal Assistance
COMPONENT SERIAL NO. 2336
See also (SN#): _____

Sponsor: Rules Committee
Requestor: House (CRA)

Expenditures/Revenues: (Thousands of Dollars)

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

OPERATING	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	

CAPITAL EXPENDITURES						
CHANGES IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	

Estimate of any current year (FY2000) cost: \$0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Under federal law, 12 Alaska Native regional non-profits and the village of Metlakatla are authorized to receive federal funds for the administration of tribal family assistance programs. This legislation provides appropriations, in addition to the federal funds, for the operation of tribal family assistance programs. Tribal family assistance programs will provide temporary assistance and supportive services to recipients living in regions served by the regional non-profits and the village of Metlakatla. The legislation also provides for the approval of regional public assistance programs, serving both Native and non-Native families, designed to achieve administrative efficiency and cost effectiveness.

Passage of this legislation will have profound impacts both on the delivery of temporary assistance and supportive services to needy Alaskan Natives and others served by regional assistance programs and on general DPA operations. (Continued)

Prepared by: Jim Nordlund *Jim Nordlund* Phone: 465-2680
Division: Public Assistance Date/Time: 2/7/00 2:08 PM
Approved by Commissioner: Karen Perdue, Commissioner Date: 2/7/2000
Agency: Department of Health & Social Services

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COMMITTEE COPY

Title: Native Family Assistance Programs
Bill No.: CSHB 98 (CRA)
Sponsor: Rules Committee

Analysis Continued

Effects will be felt in various areas of DPA program administration and operation. Fiscal impacts, however, are contingent upon which organizations actually pursue implementation of Native assistance programs and the approval of regional public assistance programs.

A new component has been added to the DPA budget that will accommodate the inclusion of Native family assistance programs and regional assistance programs in the agency's planning process. In the future, agency budget requests will reflect the financial impact resulting from the development and implementation of these programs.

TONY KNOWLES
GOVERNOR

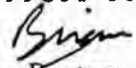


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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 18, 1998

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182


Dear Speaker Porter:

The bill I transmit today continues Alaska's efforts to implement effective and responsible welfare reform, particularly in rural areas. This bill builds on the provision in federal welfare reform law that allows regional non-profit Native corporations to develop and implement independent welfare programs promoting local responsibility for program success by tying program assistance to local economic and social conditions. Under this bill, the Department of Health and Social Services (DHSS) will be able to award grants to regional Native organizations operating tribal family assistance plans that differ from the Alaska Temporary Assistance Program plan because they are designed to meet regional circumstances.

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 provided that specifically named Alaska Native organizations could propose to operate tribal temporary assistance plans, independent of the state plan, to serve the Alaska Native and Indian populations within a specific geographical region. A state- and federally-approved tribal family assistance plan will receive, directly from the federal government, a portion of Alaska's allocation of the Temporary Assistance for Needy Families block grant money. The federal money, however, is only about half of the money that has historically been appropriated to serve this population. This bill establishes clear statutory standards under which the state would provide grants to Alaska Native organizations with federally-approved tribal plans that differ from the state's plan.

As of October 1, 1998, Tanana Chiefs Conference, Inc. (TCC) received approval from the federal government to operate its own tribal temporary assistance program for needy families. The DHSS developed a plan with TCC to serve tribal program recipients.

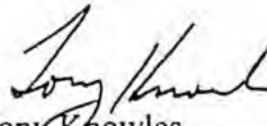
The Honorable Brian Porter
February 18, 1999
Page 2

Under current state law, however, the program must be identical to the state's temporary assistance program. As a consequence, the state loses the opportunity to shape regional programs to meet regional conditions. This bill will make it possible for regional programs to be designed to specifically address local circumstances.

Regional tribal plans are expected to be custom designed to meet the economic conditions and needs of the region. This bill also would allow the DHSS to adopt a regional plan for non-tribal members if such a plan appears more suitable to address regional conditions. Therefore, program standards under a regional plan could differ from some otherwise generally applicable standards of the state's plan, but would always contain specifically identified program elements.

This bill will contribute to making our public assistance programs more effective by considering regional conditions in plan developments. I urge your support of this measure.

Sincerely,



Tony Knowles
Governor

AMENDMENT

Sen Adams

OFFERED IN SENATE FIN

TO: ~~CSHB 98(HES)am~~ HB98 Version I

Page ~~11~~⁵, line ~~21~~³⁰:

Delete "traditions; and"

Insert "traditions;"

Page ~~11~~⁵, line ~~22~~³¹:

Following "(4)"

Insert:

"establish the same maximum number of months of benefits as is established for the state program under AS 47.27.015(a)(1); and (5)"

SENATE FINANCE COMMITTEE

Amendment Number: #/

Bill Number: HB 98

Sponsor: Adams Date: 4/14/00

Logged In By: Jamie

Green COMMITTEE
2000 COMMITTEE ACTION

Bill Number	HB 98		
Amendment	#1		
Motion	adopt		
<u>Motion by</u>	ft		
<u>Objection by</u>	D		
Removed	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Lyda Green			
Senator Randy Phillips			
Senator Dave Donley			
Senator Loren Leman			
Senator Al Adams			
Senator Gary Wilken			
Senator Pete Kelly			
Co-Chair Sean Parnell			
Co-Chair John Torgerson			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u> Pass			

SENATE FINANCE
COMMITTEE #2
Amendment Number: #2
Bill Number: HB98
Sponsor: Torawson Date: 4/17/00
Logged In By: Mindy

AMENDMENT

OFFERED IN SENATE FIN

TO: CSHB 98(HES)am Version "I"

8 3
Page ~~13~~, line ~~27~~:

Delete "a compelling interest"

Insert:
"that special circumstances exist that support the request"

Phillips COMMITTEE
2000 COMMITTEE ACTION

Bill Number	HB 418		
Amendment	#2		
Motion	adpt		
<u>Motion by</u>	G		
<u>Obiection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Randy Phillips			
Senator Dave Donley			
Senator Loren Leman			
Senator Al Adams			
Senator Gary Wilken			
Senator Pete Kelly			
Senator Lyda Green			
Co-Chair Sean Parnell			
Co-Chair John Torgerson			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

Donley COMMITTEE
2000 COMMITTEE ACTION

Bill Number	HB 98		
Amendment	#3		
Motion	adopt		
<u>Motion by</u>	Leman		
<u>Objection by</u>	none		
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Dave Donley			
Senator Loren Leman			
Senator Al Adams			
Senator Gary Wilken			
Senator Pete Kelly			
Senator Lyda Green			
Senator Randy Phillips			
Co-Chair Sean Parnell			
Co-Chair John Torgerson			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u> Pass			

Page 3 line 20
 delete "interpret"



Alaska State Senate

Senate Finance Committee

Official Business

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 4/17/00 TIME: 9:20

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 4

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: HB 98 1-GH 1011 I
plus 3 attached amendments

need by 10:00am Tues please

Thx, Mandy

CSHB 98 (HES)

- **Cannot Opt Out of Program** 47.27.071(k): if both a Native family assistance program and a standard state program exist in an area, individual must use the Native program unless a "compelling" interest is demonstrated to use the state program. That is the highest standard and is very difficult to meet.
- Yet the Native assistance program will be comprised of Natives only, probably selected through the regional corporations. Non-Natives will thus be bound by the all-Native program's decisions, but be ineligible to select members of the program. They will have no say in who gets selected, but they will be forced to follow the program's mandates.
- **Native Non-Profits Only** Note that there is no provision for any non-Native non-profits of this sort to be formed. The regional family assistance programs that are allowed must first be approved as an Alaska Native family assistance program [see 47.27.072(c)(1)]. Thus, even an area inhabited primarily by non-Natives will have only Native assistance programs.
- And in an area with an approved regional public assistance program, anyone in that area must use that program, and not the state program [see 47.27.072(f)]
- **Equal Protection Issue** If there is no Equal Protection problem because federal law requires Native programs to be "comparable" to the state TANF program, then isn't the very purpose of the legislation defeated? The stated purpose is to afford more latitude to the local group in awarding benefits, but if they must behave in the same manner as the state program because of Equal Protection, then there can be no special administration of these programs by the Native or regional programs.
- Also note in the federal law that says the programs must be "comparable" that comparability can be waived if the Native program requests it. Thus, the comparability may be eliminated.
- **Should Require Annual Audit** Large amounts of money will flow through these organizations. An annual audit should be required in this legislation. Note the problems with funds tracking at the federal level where annual audits are not required.

- **Who May Qualify to Receive Grants?** In the 'Findings and Intent' section, the bill talks of the new federal welfare law offering "Alaska Native Non-profit organizations" the opportunity to provide public assistance [see Sec. 1, (a)(3)]. But in the text of the bill, the State may award grants to "Alaska Native organizations." [see p.9, line 19]. At least one of the groups qualified to participate has argued for recognition as a federal Indian tribe. Thus, it needs to be clear who is included in the potential universe of grant recipients. Is it Tribes, non-profits, both?
- **Different Due Process Rights** Under the terms of the legislation, Native families may actually be afforded less due process in appealing these program decisions than non-Natives. On page 12, lines 12-14, referring to programs benefiting Native tribal families, the organization need only provide "an impartial appeals process" if a family disagrees with the decision. Yet at page 15, lines 2-11, where regional programs are discussed, and they cover people not already covered by the federally-approved tribal family assistance program, [i.e. non-Natives], the appeals process requires full appealability through the state court system. Thus, they get additional due process protection under a state benefit program.
- **Waiver of Sovereign Immunity** Under AS 47.27.070, which lists the organizations eligible to participate in delivering services, only Metlakatla is required to waive sovereign immunity. At least one other group on the list has a potential claim for tribal status. If immunity is claimed successfully, the state could be prevented from enforcing a contract to deliver the services. Thus, each one should be required to waive any immunity before being authorized to participate.
- **Potential Duplication of Efforts** The legislation leaves the door open for a Native non-profit to qualify and to provide services to Native families, but to decline to serve as a regional public assistance provider. In other words, a group could receive federal grant money to act as the tribal family provider in an area, where it is required to provide services only to Native families. If it declined to act as regional provider, the non-Natives in the region would then have to be served by the normal state system, thus creating the need for duplicate systems to serve both natives and non-Natives.
- **Disclaimer Needed** A disclaimer should be added ensuring that nothing in this legislation shall be construed as the legislature's recognition of these entities as tribes or their sovereign immunity.

Child Support Collections

Public Assistance:

When CSED collects child support in cases where the child's custodian is on public assistance, the state keeps a certain percentage and the remainder is sent to the federal government. The percentage retained by the state is governed by Federal Medical Assistance Percentages and may never exceed 50%. Right now, the federal government retains 54.13% of collections and the State of Alaska retains 45.87% of these collections.

Native Family Assistance Program:

The Division of Public Assistance has reached agreement with tribal organizations that the state shall retain 50% of the child support collections on these cases and the Native Assistance Program shall retain 50%.

The State shall estimate the collections and reduce 50% of that amount from the Native Family Assistance Program. If the collections are more or less than the original estimate, the actual amount will be reconciled at the end of the grant.

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MEMORANDUM

April 17, 2000

SUBJECT: Alaska Native family assistance programs (CSHB 98(HES)am)

TO: Senator John Torgerson
Attn: Darwin Peterson

FROM: Terri Lauterbach
Legislative Counsel *T. Lauterbach*

You have asked for a short discussion of whether CSHB 98(HES)am must be enacted in order to permit Alaska Natives to get federal approval of their proposed TANF programs or whether the Alaska Natives can contract directly with the federal government without state involvement.

The answer to your question, as I understand the federal law, is that the Alaska Natives can contract directly with the federal government, without state approval, but that would only get them federal dollars. Something like HB 98 is necessary in order to allow DHSS to give state TANF money to Alaska Native TANF programs.

As you know, public assistance programs like TANF normally involve state and federal sharing of the costs of the program. The federal dollars available directly to Alaska Natives to operate TANF programs represents only the federal share, not total program costs. Therefore, to make the federally-approved Alaska Native programs financially feasible, there would need to be some state dollars available to the programs. A law like HB 98 is necessary to authorize this use of state TANF dollars.

TML:glc
00-187.glc

MEMORANDUM

State of Alaska

Department of Law

TO: Karen Perdue, Commissioner
Dept. of Health and Social Services
Juneau, Alaska

DATE: April 14, 2000

TELEPHONE NO.: 465- 4137

FROM: ^{RJS} Kristen Bomehgen
Assistant Attorney General
Juneau, Alaska

SUBJECT: HB98 – Grants to Alaska
Native TANF Programs

Concerns have been raised about a provision in HB98 that requires families who are eligible to receive benefits under a Temporary Assistance for Needy Families (TANF) program approved by the federal government to be run by an Alaska Native organization to receive TANF program benefits from the Alaska Native organization. You have asked about the likely state response to a possible equal protection challenge based on requiring a family from a region in which both the state and an Alaska Native organization are operating TANF programs to receive services from the Alaska Native organization.

BACKGROUND

The program set out in AS 47.27.071 in HB 98 will allow the state to make grants to Alaska Native organizations (ANOs) that have received federal approval to operate a TANF program and who are receiving TANF funds directly from the federal government to serve the Alaska Native applicants for TANF-based assistance in that region. When an Alaska Native program is approved, the amount of federal funding provided to the ANO is deducted from the federal funds designated for TANF assistance to the State of Alaska and is based on the number of Alaska Native recipients served in the region in FY94. In other words, the federal funds to provide services to these families have been subtracted from the federal TANF grant to the state.

Since the state is operating its TANF program without the federal share of the funds that would otherwise be available to provide services to these families, it would be necessary for the state to supplement its TANF program with state general funds if it were to attempt to continue to serve all families, including those eligible for an Alaska Native TANF program, at a reasonable level. In addition, the ANOs do not receive adequate funding to provide reasonable levels of assistance to all of the families in its region without supplemental state funding. This is because, historically, the federal government provided approximately 50% of the funding for this program, matched by a 50% contribution from the state general fund.

By providing match funds through a grant to the ANOs that have approved TANF plans, the state will be providing funding to serve its Alaska Native residents within that region by a designation of the grantee ANO as the service provider for state purposes for that population. Through this funding method, both programs can provide comparable programs to Alaska residents.

The bill establishes that, in a region that is being served by both an Alaska Native TANF program and a state TANF program (ATAP), families that are eligible for the Alaska Native TANF program must seek TANF-based services from the ANO. This gives rise to a question concern about a possible constitutional challenge based on equal protection grounds.

EQUAL PROTECTION ANALYSIS

The court, in a review of an equal protection challenge, will apply Alaska's sliding scale test in which a greater or lesser burden is placed on the state to justify a classification depending on the importance of the individual right involved.

The court will determine what weight should be afforded the constitutional interest impaired by the challenged legislation, will examine the purposes of the legislation, and then will evaluate the state's interest in the particular means employed to further its goals. *Sonneman v. Knight*, 790 P.2d 702 (Alaska 1990).

Any challenge will likely assert that the state is making an impermissible classification based on the race of the individual. The state's response will be based on analyses in other equal protection cases that concluded that where the distinction is based on a federal act which addresses the federal government's trust relationship and responsibilities to the American Indian and Alaska Native populations, the distinction is one that recognizes a quasi-political classification, based on unique political status, and does not create an impermissible racial classification. (See *Morton v. Mancari*, 417 U.S. 535, 94 S.Ct 2474 (1974); *Alabama-Coushatta Indian Tribe of Texas v. Mattox*, 650 F.Supp. 282 (W.D. Tex. 1986).)

While it most certainly would be impermissible for the state to create this type of distinction on its own, in the absence of federal legislation, when responding to a federal act that has affected the state's ability to provide services equitably to all of its citizens, the state may respond reasonably to the distinction created by the federal government. If the court recognizes this classification as based in a quasi-political distinction, the state's burden in responding to a challenge on equal protection grounds will be lessened.

The court will apply its sliding scale test. The interest involved will be the interest of an individual to choose from which of the two programs offered in the region to seek services. Since services are not being denied outright based on this distinction, the impact on the family is not likely to be significant. Because the services offered under the two programs will be comparable (as they are required to be under state and federal law), it is unlikely that the court will conclude that the interest impaired is important. On the other hand, the interest asserted could be characterized simply as the interest to seek services from the state program. However, because the state is providing funding to the Alaska Native TANF program, in proportion with the funding it provides for all citizens receiving TANF-based assistance in the state, this program can be considered to be the state program for the purposes of serving this segment of its population.

The purposes of this legislation (HB 98) are numerous, but one is to assure that comparable TANF-based programs are available to all state residents, whether they are served under an Alaska Native TANF program or the state's ATAP program. The means employed by this legislation is to provide state grant funding to supplement the base funding provided by the federal government. This is accomplished by providing a realistic and predictable funding base, premised on the number of families that will be participating in the Alaska Native TANF program. This is best accomplished by establishing criteria for directing individuals to a specific program.

Since this criteria might not work effectively in all cases, however, an amendment was made to the legislation in the House. This amendment would allow an individual who was directed to the Alaska Native TANF program to request to be served by the state's ATAP program by demonstrating a compelling interest to receive services from the state program. The standard for this exception is to be established by the department in regulation. This provision assures that the distinction may be reviewed for fairness in circumstances that warrant an exception. However, this exception might be improved by allowing a broader option, such as a showing of special circumstances, to allow a recipient to change to the state program.

KFB:rca

cc: Elmer Lindstrum, Special Assistant
Jim Nordlund, Director, Div. of Public Assistance

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC ASSISTANCE

TONY KNOWLES, GOVERNOR

P.O. BOX 110640
JUNEAU, ALASKA 99811-0640
PHONE: (907) 465-3347

April 17, 2000

The Honorable John Torgerson
Co-Chairman, Senate Finance Committee
State Capitol, Room
Juneau, AK 99801-1182

Dear Senator Torgerson:

The following information is being provided in response to a question raised during the April 14th hearing on House Bill 98 relating to Alaska Native family assistance programs.

➤ *Why is the fiscal note zero if the bill promises to reduce welfare dependency among Alaska Natives and therefore, presumably, reduce the budget?*

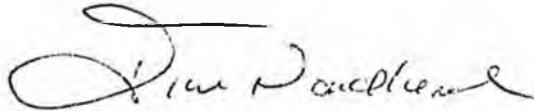
House Bill 98 was introduced with the belief that efforts to reduce welfare dependency are often more successful when programs are managed at the local level, where there is a closer connection to the local economy and other regional and cultural circumstances. In particular, HB98 allows programs to be more attuned to the conditions that cause welfare dependency among Alaska Natives. While the bill holds the promise of reducing welfare dependency and, in turn, reducing the need for state assistance, it is impossible at this juncture to incorporate a savings estimate into a fiscal note. This is true for at least a couple reasons:

1. HB98 simply enables any or all of the thirteen regional Native non-profit organizations to run a TANF program with state funding. At this time only one organization, Tanana Chiefs Conference Inc., is fully prepared to run a program under this new law. While two other Native organizations are planning to run a program, there is no guarantee they will, nor is any way of predicting which of the remaining Native non-profits will successfully begin operating a TANF program.
2. It is inevitable in the early going there will be some operating inefficiencies as the Native organizations become familiar with operating a TANF program. The effectiveness of these programs can be expected in succeeding years as they become more proficient in managing the program. Though it is impossible to predict with certainty, any future caseload decline due to the success of the Native programs it can be expected to reduce the need for state funds. It is important to note that any start-up or development costs are being fully absorbed between the

Department of Health and Social Services and the Native organization. Every dollar that is transferred to the Native organization is a dollar lost to the state operated program. There is no increase to the state budget as a result of HB98.

If you have questions or require additional clarification regarding this information, please contact me at 465-2680.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nordlund". The signature is fluid and cursive, with a large initial "J" and "N".

Jim Nordlund
Director of Public Assistance

**CSHB 98(HES) am
SECTIONAL ANALYSIS**

Section 1:

Describes legislative findings and intent. The findings address the self-sufficiency goals of welfare reform measures and the need to develop family assistance programs that are designed to meet local conditions, especially in Alaska's rural regions. This section specifies that the purpose of the legislation is to allow the department to award Alaska Native family assistance grants to Alaska Native organizations that have federally approved family assistance plans to provide temporary assistance and supportive services to families living in a specific region. It further intends to allow the approval of regional public assistance plans by the state in order to achieve uniform program administration, cost efficiencies, and regional benefits within a given region.

Sections 2 through 18 amend the Child Support Enforcement Division (CSED) statutes to allow the child support agency to make distributions of child support collected on behalf of recipients of Alaska Native family assistance programs as reimbursements to the Alaska Native program that is providing the assistance. Amendments to a number of sections are necessary to insert a reference to the Alaska Native family assistance program for each step of the child support collection process in which the program would be affected by the statutes. Amendments include references to an Alaska Native family assistance program as follows:

- Sec. 2 amends AS 25.27.045 to establish that CSED may appear in an action to establish or modify a child support order if money is owed to an Alaska Native family assistance program.
- Sec. 3 amends AS 25.27.062 to address the requirement that an Alaska Native family assistance program must repay to the state any overpayments erroneously disbursed to the program under an income withholding order.
- Sec. 4 amends AS 25.27.065 to establish that an agreement between parties to waive child support is not effective during a period in which the obligee is receiving assistance from an Alaska Native family assistance program.
- Sec. 5 amends AS 25.27.080 to authorize CSED to take legal action, as it can for the state, to enforce a child support order on behalf of an Alaska Native family assistance program.
- Secs. 6 through 8 amend AS 25.27.120 to establish that an obligor's child support obligation is owed to the Alaska Native family assistance program in the amount of the assistance provided by the program but not to exceed the amount of support required by the support order, to incorporate the requirement that notice be sent to the obligor within 30 days of the time CSED learns of the identity and address of the obligor, and to prohibit the collection of interest on the obligation if the notice requirement is not met.

- Secs. 9 through 12 amend AS 25.27.130 to extend the state's subrogated right to pursue legal action to collect child support to cases in which the child support obligation is owed to the Alaska Native family assistance program and to address the distributions of the amounts collected when they exceed the amount of benefits paid by the Alaska Native family assistance program or when the family is no longer receiving assistance.
- Sec. 13 amends AS 25.27.140 to establish that CSED may act on its own discretion to establish paternity or a child support obligation and may pursue enforcement under the agency's administrative procedures when an obligation is owed to an Alaska Native family assistance program, just as it can when the obligation is owed to the state. The other changes in this section improve the language without affecting the meaning of the law.
- Secs. 14 and 15 amend AS 25.27.165 to establish that CSED may institute an administrative proceeding to establish paternity upon an application from an Alaska Native family assistance program, just as it can upon an application of a mother, custodian, putative father, legal custodian, or any state, and further establishes that the costs of paternity testing may not be recovered from an Alaska Native family assistance program recipient.
- Sec. 16 amends AS 25.27.170 to include the liability owed to an Alaska Native family assistance program as a factor to be considered in administrative proceedings when determining the amount of periodic payments that will be required from a child support obligor to meet past, present, and future child support liability.
- Sec. 17 amends AS 25.27.180 to establish that, in administrative decisions, a child support obligor's liability to an Alaska Native family assistance program cannot exceed the total child support obligation.
- Sec. 18 amends AS 25.27.255 to establish that CSED may withhold from the obligee the amounts due to the Alaska Native family assistance program when making distributions to the obligor under a withholding order.

Section 19:

Amends state procurement code at AS 36.30.850(b) to exclude contracts with Alaska Native organizations operating an Alaska Native family assistance program from the general provisions of the state procurement code.

Section 20:

Amends AS 47.27.005, governing the duties of the department to include the establishment of regional plans necessary to meet conditions that are influenced by local conditions and vary from region to region. Other changes in this section correct terminology without changing the meaning of the law.

Section 21:

Amends AS 47.27.005 to allow the department to adopt program standards for regional plans that depart from the standards of the general ATAP program as long as the plan contains specific program elements identified by section 23 of this legislation.

Section 22:

Amends the provision concerning the required assignment of child support rights by recipients of temporary assistance by adding three new sections to establish that the participants of an Alaska Native family assistance program must assign child support rights to the Alaska Native family assistance program. These provisions also require that the participant cooperate with the child support enforcement agency and that the Alaska Native family assistance program must provide timely information to the child support agency to effectuate the assignment.

Section 23:

This section contains the substance of the legislation. It creates two new sections in statute authorizing the department to award Alaska Native family assistance grants and to contract with organizations to administer regional public assistance programs that are based on a federally approved tribal TANF plan. It specifies:

- Only Alaska Native organizations that have received approval of a tribal TANF plan and agree to operate an Alaska Native family assistance program under an approved plan are eligible for grant.
- The Alaska Native family assistance plan approved under this section must be operated on a state fiscal year basis.
- The process the department shall use to review a letter of intent and the subsequent grant proposal submitted by an Alaska Native organization before approving an Alaska Native family assistance grant.
- Guidelines for determining the grant amount for the first fiscal year and providing for specific allocation for Alaska Native family assistance grants by the legislature within the appropriations for public assistance programs in subsequent fiscal years.
- Standards the program must meet for plan approval by the department.
- Provisions for safeguarding confidentiality, record sharing, and data and fiscal record collection and exchange.
- The steps to take in order to terminate an Alaska Native family assistance program.
- Designation of the Alaska Native family assistance program as the program to serve all persons eligible for the program within the region and provision for appeal procedures.
- A provision permitting a person eligible for the Alaska Native family assistance program to make a request to receive the state program.

The second part of this section proposes AS 47.27.072, which establishes the authority of the department to develop and implement regional public assistance programs and authorizes the department to award contracts for the implementation of regional assistance programs. The region to be served in a regional public assistance program under this section may be a part of the region that is served by the Alaska Native family assistance program. Contracts under this section are exempt from competitive bid requirements of the state procurement code. Under this section, the department may only

contract for the implementation of a regional public assistance program within a region if:

- An Alaska Native organization is authorized to operate a federally approved family assistance program that provides services in the area that includes that region.
- The organization has been awarded an Alaska Native family assistance grant.
- The regional plan will serve eligible state residents not covered by the federally approved family assistance program.
- The organization agrees to provide state public assistance identical to that provided by the federally approved family assistance plan.

It also mandates the department's access to the Alaska Native organization's quarterly TANF fiscal reports, requires annual audits by a CPA and addresses safeguarding of confidential records and the development of an appeals process.

Section 24:

Defines "federally approved tribal family assistance plan."

Section 25:

Provides a mechanism for the transition of existing grants with Alaska Native Organizations operating under Alaska temporary assistance program (ATAP) grants to the grants and contracts authorized under this Act.

Section 26:

Provides instructions to the revisor of statutes to retain the language of the amendments made by this bill to the child support enforcement provisions if the repeal provisions established in 1997 and 1998 child support legislation take effect on July 1, 2001.

Section 27:

Establishes an effective date of January 1, 2001.

SENATE FINANCE COMMITTEE

SIGN-IN

HB 98-PUB.ASSISTANCE:PROGRAMS/GRANTS/CONTRACTS

NAME: Tim Nordlund Subject/Bill No: HB98
Co./Dept./Title: Director DPA Phone: x 5835
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: Kosken Bonengen Subject/Bill No: HB98
Co./Dept./Title: Asst Attorney General Phone: x 3600
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

Teleconference - Available if any questions

Off-Net 1

HB98 Diane Wendlandt, Dept. Law

Anc Liu

HB105 Kit Roberts

HB325 Leonard Anderson

Off-Net 2

HB 239

Jerry Kurtz - to testify