

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9787 HOUSE COMMUNITY & REGIONAL AFFAIRS

Galena	16	978,900
Gambell	1	58,500
Glennallen	15	1,653,431
Gustavus	3	339,500
Haines	66	6,123,170
Healy	19	2,425,800
Homer	84	10,980,340
Hoonah	15	1,254,850
Iliamna	3	276,950
Kake	3	278,869
Kasigluk	3	185,350
Kasilof	13	1,436,786
Kenai	55	7,111,680
Ketchikan	207	33,015,192
Kiana	4	385,854
King Cove	2	138,500
King Salmon	14	1,709,802
Klawock	8	1,132,638
Kodiak	411	60,701,374
Kotzebue	76	9,003,977
Koyuk	1	135,000
Lake Minchumina	1	28,900
Larson Bay	1	50,000
Manokotak	2	68,200
McGrath	9	676,764
Mekoryuk	3	170,000

Metlakatla	10	690,200
Naknek	17	2,150,346
Nenana	3	256,965
Nikiski	45	5,369,098
Nikolai	1	27,000
Ninilchik	11	1,260,092
Nome	169	18,822,601
Nondalton	1	62,027
Noorvik	2	311,531
Nuiqsut	1	103,500
Ouzinkie	1	130,000
Palmer	2	180,000
Pelican	9	640,525
Petersburg	205	25,253,409
Port Alexander	3	121,550
Port Heiden	1	65,000
Port Lions	1	38,000
Ruby	1	81,000
Salcha	1	81,000
Sand Point	10	836,693
Savoogna	1	31,000
Selawik	2	97,700
Seldovia	10	620,056
Seward	27	3,481,487
Shismaref	1	99,262
Skagway	28	2,407,849

Soldotna	105	12,989,849
St. George	1	41,923
St. Mary's	4	416,400
St. Paul Island	4	249,750
Stebbins	1	23,600
Sterling	37	4,959,504
Sutton	2	164,400
Talkeetna	9	1,072,150
Tanana	1	40,000
Tenakee	1	70,000
Thorne Bay	14	1,508,100
Tok	4	453,500
Trapper Creek	1	110,000
Unalakleet	6	775,071
Wasilla	1	85,000
Whale Pass	2	244,112
Wrangell	86	9,093,126
Yakutat	7	680,150
Totals	2,571	\$ 323,825,093

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Comparability Criteria for the State of Alaska and Alaska Tribal TANF programs

Section 412(h) of the Social Security Act requires Tribal TANF eligible entities in the State of Alaska to operate a program in accordance with requirements comparable to the State of Alaska's TANF program. Comparability means similarity between State and Tribal TANF programs in the State of Alaska. Comparability, when defined related to services provided, does not necessarily mean identical or equal services.

Comparability of programs has been established on the basis of the following program criteria developed by the Secretary in consultation with the State of Alaska and the Tribal TANF eligible entities in Alaska:

The Alaska Department of Health and Social Services and Tribal TANF eligible entities shall use the following standards to determine that comparability requirements are met in the state of Alaska:

(A) only families with at least one dependent child or a woman in the last trimester of pregnancy are eligible for assistance;

(B) amounts for assistance provided to eligible families may not exceed the amounts specified under AS 47.27.025(b);

(C) to remain eligible for assistance, any minor parent of a dependent child must meet the requirements of AS 47.27.027;

(D) families receiving assistance must comply with the provisions of AS 47.27.035(a) regarding participation in work activities;

(E) families receiving assistance must cooperate with the tribal TANF program and the State of Alaska Child Support Enforcement Division (CSED) or their tribe (when a tribe operates a child support enforcement program) in their efforts to establish paternity and to establish, modify, or enforce a child support order for a dependent child within a tribal TANF program family. A tribal TANF program applicant may not begin to receive benefits until he or she has assigned all rights to the tribal entity authorized under the Act to operate a TANF program for the period for which benefits are paid.

TERMS:

The Secretary retains the authority to amend the TANF program comparability criteria. Should any substantial changes in the federal or state welfare reform laws impact the state's TANF program or the TANF programs of any of the Alaska Native Organizations, the state or any of the Alaska Native Organizations may submit amendments to the program comparability criteria. The Secretary shall consider such submissions in consultation with the state and the Alaska Native Organizations. All amendments to the program comparability criteria shall be made in writing and shall become effective after notice and opportunity for comment by the state and the Alaskan tribal entities.


CERTIFICATION:

The State of Alaska and the following Alaska Native Organizations have been consulted by the Secretary to resolve the issue of comparability in the state of Alaska:

- | | |
|---|---------------------------------|
| Aleutian/Pribilof Islands Association | Copper River Native Association |
| Arctic Slope Native Association | Kawerak, Inc. |
| Association of Village Council Presidents | Kodiak Area Native Association |
| Bristol Bay Native Association | Maniilaq Association |
| Central Council of Tlingit & Haida Tribes | Metlakatla Indian Community |
| Chugachmiut | Tanana Chiefs Conference |
| Cook Inlet Tribal Council | |

By signing this document, I, the President of the Central Council of Tlingit and Haida Indian Tribes of Alaska, certify that my employee(s): 1) participated in the consultation process; 2) reviewed the document; 3) understand each comparability criteria; and 4) understand that this document will be utilized upon approval of a Tribal TANF program.

For the Alaska Native Organization - Central Council of Tlingit & Haida Indian Tribes of Alaska:


 Edward K. Thomas, President 11-3-98

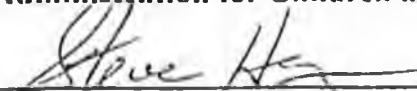
 Date

For the Alaska Department of Health & Social Services:


 Karen Perdue, Commissioner 10/13/98

 Date

For the U.S. Department of Health & Human Services, Administration for Children and Families:


 Steve Henigson, Regional Administrator 9/30/98

 Date

AS 47.27.020 WELFARE, SOCIAL SERVICES & INSTITUTIONS

Sec. 47.27.025. Family assistance. [See effective date of chapter note.]

- (b) The amounts of assistance for basic living expenses may not exceed the following:
- (1) for a dependent child living with a nonneedy relative caretaker, \$452 per month, plus \$102 for each additional child;
 - (2) for a dependent child living with at least one needy parent or relative caretaker, \$821 per month, plus \$102 for each additional child and \$102 for a second needy parent if the second parent is physically or mentally unable to perform gainful activity as defined by department regulation; or
 - (3) for a family consisting solely of an eligible pregnant woman, \$514 per month.

Sec. 47.27.027. Assistance to minors. [See effective date of chapter note.] (a) If an applicant under AS 47.27.020 is not married, is under the age of 18, and has not been previously emancipated under AS 09.55.590, the applicant must

(1) live in a home maintained by the applicant's parent, legal guardian, or other adult relative, unless the applicant establishes that there is good cause, as established by the department in regulation, to waive this requirement; if the department waives this requirement, the applicant must live in an approved, adult-supervised, supportive living environment;

(2) agree that assistance for basic living expenses on behalf of the applicant's family may be paid to the applicant's parent, legal guardian, or other adult relative, or if applicable, to the adult head of the adult-supervised, supportive living environment in which the applicant resides; and

(3) maintain attendance in a secondary school or other appropriate training program unless the applicant has a high school diploma or general equivalent diploma.

(b) The department shall reduce the assistance for which an assistance unit is otherwise eligible under this chapter if a minor parent in the assistance unit fails, without good cause, to meet standards of adequate levels of school attendance, as defined in regulations of the department. The reduction under this subsection shall be achieved by disregarding the needs of the person who failed to meet the school attendance standards. The person's needs shall be disregarded until the minor parent complies. (AS 7 ch 107 SLA 1996)

Sec. 47.27.035. Participation in work activities. [See effective date of chapter note.] (a) An Alaska temporary assistance program participant shall, after the participant's family has received a cumulative total of 24 months of assistance or sooner if assigned to do so by the department, participate in work activities as assigned by the department or its designee in order for the family to continue to receive assistance or services from the department under the Alaska temporary assistance program, unless the participant is exempt from the work participation requirements under one or more of the exemptions set out in (b) - (d) of this section.

(b) A parent or caretaker with a dependent child of up to 12 months of age may be exempt from work participation requirements for up to 12 months, as established in the family self-sufficiency plan.

(c) A parent or caretaker may be exempt from work participation requirements in the family self-sufficiency plan if

(1) the parent or caretaker is providing home care for a child who is experiencing a disability or a related, disabled person who requires 24-hour care;

(2) the parent or caretaker establishes an inability to participate for medical reasons supported by documentation from a physician or other licensed medical professional;

(3) the participation would impose an unreasonable hardship on the family; or

(4) there is a dependent child in the home that has not yet attained six years of age and the parent or caretaker demonstrates an inability to obtain needed child care because appropriate child care is not available.

(d) The department may not require a person to participate in work activities under (a) of this section

(1) if the person is the sole custodial parent for a child under six years of age unless the department agrees to pay for the costs of child care determined by the department to be necessary for the person's participation; and

(2) unless the department agrees to pay for transportation expenses determined by the department to be necessary for the person's participation in the activity.

Sec. 47.27.040. Assignment of support rights; cooperation with child support enforcement agency. [See effective date of chapter note.]

(b) An Alaska temporary assistance program participant shall cooperate with the child support enforcement agency of the Department of Revenue in establishing paternity or establishing, modifying, or enforcing a child support order requiring the payment of support by the noncustodial parent for a dependent child for whom Alaska temporary assistance program assistance is received unless the participant establishes good cause for refusing to cooperate.

Objectives in Developing CS SB 80

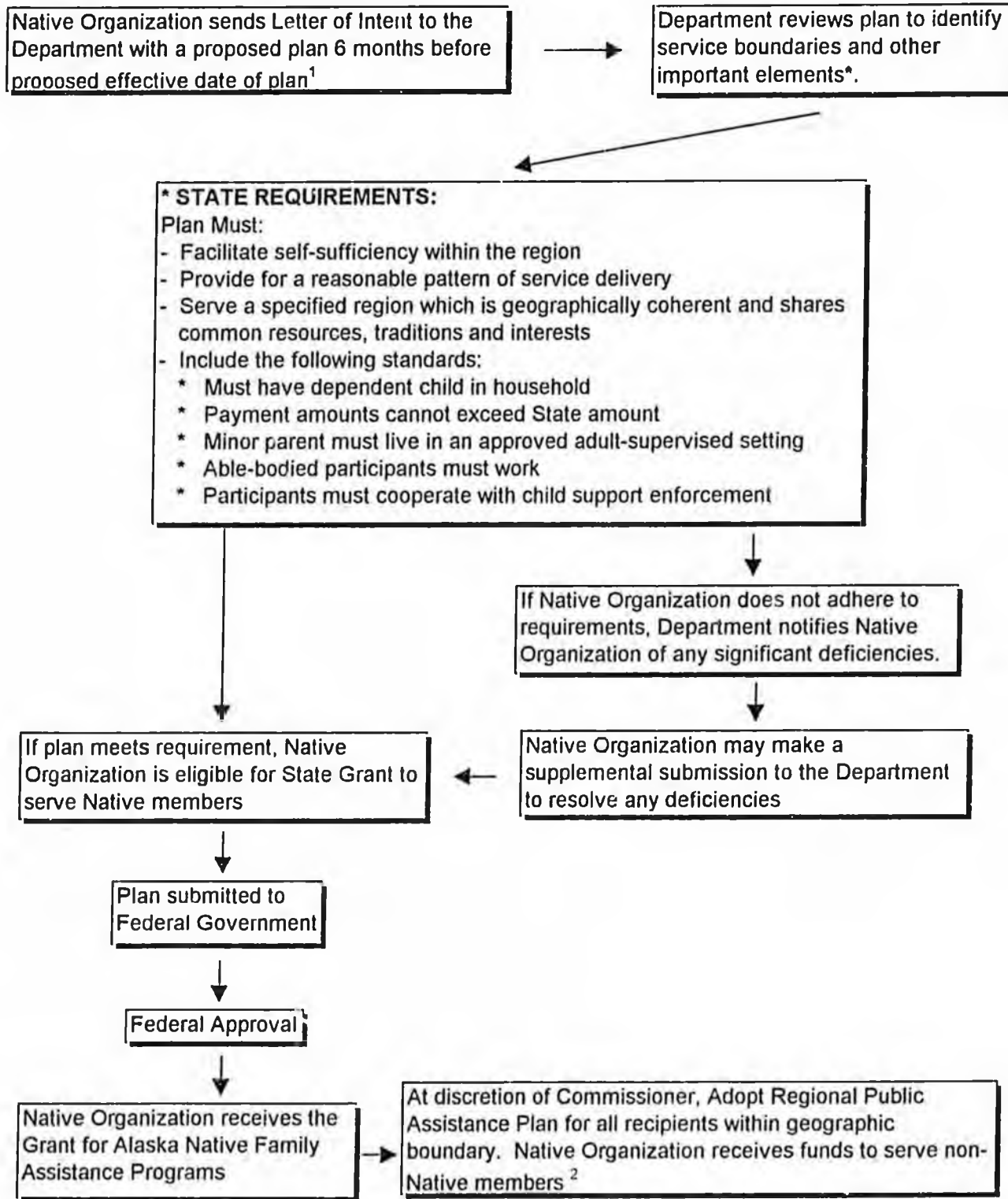
- ✓ **Promote self-sufficiency for families on public assistance, particularly in rural Alaska.**
 - Native organizations desire self-sufficiency for all Natives living in their region.

- ✓ **Promote flexibility in designing local approaches to achieving self-sufficiency.**
 - Native organizations have a better grasp of regional socio-economic conditions, which allows them to tailor services based on the unique needs of local communities.
 - Native organizations will be more successful in moving clients from welfare to work, therefore reducing caseload and expenditures
 - Providing state funds will free up federal block grant moneys that can be used for innovative welfare-to-work and self-sufficiency efforts.

- ✓ **Assure that both the State and Regional programs are managed efficiently and cost effectively.**
 - Local control and local presence puts Native organizations in the best position to administer the program
 - Federal funds alone are insufficient for operation for an Alaska Native Family Assistance Plan.
 - Supplementing Alaska Native Family Assistance Programs will help ensure effective service delivery models for rural Alaska
 - Native organizations can leverage existing programs they currently administer to support self-sufficiency goals of families (i.e. Native Employment Works!, Education, Employment & Training funds, General Assistance)

- ✓ **Regional Public Assistance Programs discourage disparity in benefits and services for Alaskans living in the same community or region.**

- ✓ **Promotes rural self-governance, supports community ownership and partnerships, and guarantees equitable service delivery in rural Alaska.**



¹ The Commissioner may waive the time deadline specified if the Commissioner:
 (1) Enters into a joint planning agreement between the department and the Native organization; or
 (2) finds good cause and the waiver is in the state's best interest.

² The Native organization must provide documentation that indicates federal approval of their Alaska Native Family Assistance Program. They must also be awarded an Alaska Native Family Assistance Grant before receiving additional funds to serve non-Native members through a Regional Public Assistance Program.

Summary of Issues Relating to the Legislation on Grants for Alaska Native Family Assistance Programs

Governor's Bill: "An Act relating to contracts for the provision of state public assistance to certain recipients in the state; establishing regional public assistance plans and programs to the state; relating to grants for Alaska Native family assistance programs; and providing for an effective date."

FINDINGS AND INTENT:

Section 1 (a):

- self-sufficiency for families is a statewide goal
- self-sufficiency efforts succeed when local communities take responsibility for reducing dependence
- new law offers Native organizations the opportunity to assume responsibility for providing services; and
- it is in the State's best interests to promote regional responsibility for the design of the state services.

Section 1 (b):

- Provide certain appropriations to the Native organizations assuming responsibility.
- State plans may be approved, may be administered uniformly in the region for all recipients.

THE LEGISLATION . . .

- allows the state to grant Native organizations that operate Alaska Native Family Assistance Programs.
- is supported by DHSS Commissioner and DPA staff.
- gives Native organizations the opportunity to serve all Native and non-Native families within their service areas through a Regional Public Assistance Program, which discourages different service packages for clients living in same region.

THE NATIVE ORGANIZATIONS . . .

- have local control and local presence.
- are in great position with years of administrative experience with state and federal programs: Child Care; Native Employment Works (old JOBS program); Employment & Training; Energy/General Assistance; Family Services, etc.
- will leverage existing programs to support the Alaska Native Family Assistance Programs.
- desire self-sufficiency for all Natives.
- know local economy and characteristics of Native people.
- held lengthy consultation period with DHSS on these very issues.

AFTER EFFECTS if legislation is not passed. . .

- Clients will continue to live in rural communities where DHSS/DPA has no or limited presence.
- impedes efforts to promote and support community ownership and partnerships in Welfare Reform efforts.
- Requires greater effort on part of state to guarantee equitable service delivery.

deems necessary to produce statistically valid estimates of the performance of State programs funded under this part. The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.

"(2) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—The report required by paragraph (1) for a fiscal quarter shall include a statement of the percentage of the funds paid to the State under this part for the quarter that are used to cover administrative costs or overhead.

"(3) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—The report required by paragraph (1) for a fiscal quarter shall include a statement of the total amount expended by the State during the quarter on programs for needy families.

"(4) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The report required by paragraph (1) for a fiscal quarter shall include the number of noncustodial parents in the State who participated in work activities (as defined in section 407(d)) during the quarter.

"(5) REPORT ON TRANSITIONAL SERVICES.—The report required by paragraph (1) for a fiscal quarter shall include the total amount expended by the State during the quarter to provide transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services.

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to define the data elements with respect to which reports are required by this subsection.

"(b) ANNUAL REPORTS TO THE CONGRESS BY THE SECRETARY.—Not later than 6 months after the end of fiscal year 1997, and each fiscal year thereafter, the Secretary shall transmit to the Congress a report describing—

"(1) whether the States are meeting—

"(A) the participation rates described in section 407(a); and

"(B) the objectives of—

"(i) increasing employment and earnings of needy families, and child support collections; and

"(ii) decreasing out-of-wedlock pregnancies and child poverty;

"(2) the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that become ineligible to receive assistance;

"(3) the characteristics of each State program funded under this part; and

"(4) the trends in employment and earnings of needy families with minor children living at home.

"SEC. 412. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

"(a) GRANTS FOR INDIAN TRIBES.—

"(1) TRIBAL FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—For each of fiscal years 1997, 1998, 1999, 2000, 2001, and 2002, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal

7(d) not to be defined

7(a) participation rates

42 USC 612.

year in an amount equal to the amount determined under subparagraph (B), and shall reduce the grant payable under section 403(a)(1) to any State in which lies the service area or areas of the Indian tribe by that portion of the amount so determined that is attributable to expenditures by the State.

"(B) AMOUNT DETERMINED.—

"(i) IN GENERAL.—The amount determined under this subparagraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 (as in effect during such fiscal year) for fiscal year 1994 attributable to expenditures (other than child care expenditures) by the State or States under parts A and F (as so in effect) for fiscal year 1994 for Indian families residing in the service area or areas identified by the Indian tribe pursuant to subsection (b)(1)(C) of this section.

"(ii) USE OF STATE SUBMITTED DATA.—

"(I) IN GENERAL.—The Secretary shall use State submitted data to make each determination under clause (i).

"(II) DISAGREEMENT WITH DETERMINATION.—If an Indian tribe or tribal organization disagrees with State submitted data described under subclause (I), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making the determination under clause (i) and the Secretary may consider such information before making such determination.

"(2) GRANTS FOR INDIAN TRIBES THAT RECEIVED JOBS FUNDS.—

"(A) IN GENERAL.—The Secretary shall pay to each eligible Indian tribe for each of fiscal years 1997, 1998, 1999, 2000, 2001, and 2002 a grant in an amount equal to the amount received by the Indian tribe in fiscal year 1994 under section 482(i) (as in effect during fiscal year 1994).

"(B) ELIGIBLE INDIAN TRIBE.—For purposes of subparagraph (A), the term 'eligible Indian tribe' means an Indian tribe or Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1995 under section 482(i) (as in effect during fiscal year 1995).

"(C) USE OF GRANT.—Each Indian tribe to which a grant is made under this paragraph shall use the grant for the purpose of operating a program to make work activities available to members of the Indian tribe.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$7,638,474 for each fiscal year specified in subparagraph (A) for grants under subparagraph (A).

"(b) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—

"(1) IN GENERAL.—Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan that—

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3 yr Pla

"(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with this section;

"(B) specifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compact with intertribal consortia, States, or other entities;

"(C) identifies the population and service area or areas to be served by such plan;

"(D) provides that a family receiving assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;

"(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and

"(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) APPROVAL.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

"(3) CONSORTIUM OF TRIBES.—Nothing in this section shall preclude the development and submission of a single tribal family assistance plan by the participating Indian tribes of an intertribal consortium.

"(c) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under the grant, and penalties against individuals—

"(1) consistent with the purposes of this section;

"(2) consistent with the economic conditions and resources available to each tribe; and

"(3) similar to comparable provisions in section 407(e).

"(d) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.

"(e) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—

"(1) generally accepted accounting principles; and

"(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(f) PENALTIES.—

"(1) Subsections (a)(1), (a)(6), and (b) of section 409, shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such subsections apply to a State.

"(2) Section 409(a)(3) shall apply to an Indian tribe with an approved tribal assistance plan by substituting 'meet minimum work participation requirements established under section 412(c)' for 'comply with section 407(a)'.

412(c) →
Applies to Tribal
Identity

(1), (a)(6), (b)
(3), removed
"comply with
407(a)"

"(g) DATA COLLECTION AND REPORTING.—Section 411 shall apply to an Indian tribe with an approved tribal family assistance plan.

"(h) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), an Indian tribe in the State of Alaska that receives a tribal family assistance grant under this section shall use the grant to operate a program in accordance with requirements comparable to the requirements applicable to the program of the State of Alaska funded under this part. Comparability of programs shall be established on the basis of program criteria developed by the Secretary in consultation with the State of Alaska and such Indian tribes.

"(2) WAIVER.—An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).

"SEC. 413. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

sec 411
Applies to
Tribes

Comparability

waiver poss.

42 USC 613.

"(a) RESEARCH.—The Secretary shall conduct research on the benefits, effects, and costs of operating different State programs funded under this part, including time limits relating to eligibility for assistance. The research shall include studies on the effects of different programs and the operation of such programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other area the Secretary deems appropriate. The Secretary shall also conduct research on the costs and benefits of State activities under section 409.

"(b) DEVELOPMENT AND EVALUATION OF INNOVATIVE APPROACHES TO REDUCING WELFARE DEPENDENCY AND INCREASING CHILD WELL-BEING.—

"(1) IN GENERAL.—The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children living at home with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed pursuant to this paragraph.

"(2) EVALUATIONS.—In performing the evaluations under paragraph (1), the Secretary shall, to the maximum extent feasible, use random assignment as an evaluation methodology.

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall develop innovative methods of disseminating information on any research, evaluations, and studies conducted under this section, including the facilitation of the sharing of information and best practices among States and localities through the use of computers and other technologies.

"(d) ANNUAL RANKING OF STATES AND REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—

"(1) ANNUAL RANKING OF STATES.—The Secretary shall rank annually the States to which grants are paid under section 403 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable method for calculating this information becomes available, diverting individuals from formally applying to the State program and receiving assistance.

Opportunity Reconciliation Act of 1996) shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 are inconsistent with the waiver.

“(B) NO EFFECT ON NEW WORK REQUIREMENTS.—Notwithstanding subparagraph (A), a waiver granted under section 1115 or otherwise which relates to the provision of assistance under a State program funded under this part (as in effect on September 30, 1996) shall not affect the applicability of section 407 to the State.

“(b) STATE OPTION TO TERMINATE WAIVER.—

“(1) IN GENERAL.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

“(2) REPORT.—A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary summarizing the waiver and any available information concerning the result or effect of the waiver.

“(3) HOLD HARMLESS PROVISION.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B) of this paragraph, submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the waiver.

“(B) DATE DESCRIBED.—The date described in this subparagraph is 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

“(c) SECRETARIAL ENCOURAGEMENT OF CURRENT WAIVERS.—The Secretary shall encourage any State operating a waiver described in subsection (a) to continue the waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of the waiver.

“(d) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue 1 or more individual waivers described in subsection (a).

USC 616.

“SEC. 416. ADMINISTRATION.

“The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law, and the Secretary shall reduce the Federal workforce within the Department of Health and Human Services by an amount equal to the sum of 75 percent of the full-time equivalent positions at such Department that relate to any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under the Personal Responsibility and Work Opportunity Act of 1996 and the amendments made by such Act, and by an amount equal to 75 percent of that portion of the total full-time equivalent departmental management positions at such Department that bears the same relationship to the amount

appropriated for any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under the Personal Responsibility and Work Opportunity Act of 1996 and the amendments made by such Act, as such amount relates to the total amount appropriated for use by such Department, and, notwithstanding any other provision of law, the Secretary shall take such actions as may be necessary, including reductions in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to reduce the full-time equivalent positions within the Department of Health and Human Services by 245 full-time equivalent positions related to the program converted into a block grant under the amendment made by section 2103 of the Personal Responsibility and Work Opportunity Act of 1996, and by 60 full-time equivalent managerial positions in the Department.

“SEC. 417. LIMITATION ON FEDERAL AUTHORITY.

42 USC 617.

“No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.”; and

(2) by inserting after such section 418 the following:

“SEC. 419. DEFINITIONS.

42 USC 619.

“As used in this part:

“(1) ADULT.—The term ‘adult’ means an individual who is not a minor child.

“(2) MINOR CHILD.—The term ‘minor child’ means an individual who—

“(A) has not attained 18 years of age; or

“(B) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

“(3) FISCAL YEAR.—The term ‘fiscal year’ means any 12-month period ending on September 30 of a calendar year.

“(4) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the terms ‘Indian’, ‘Indian tribe’, and ‘tribal organization’ have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(B) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—The term ‘Indian tribe’ means, with respect to the State of Alaska, only the Metlakatla Indian Community of the Annette Islands Reserve and the following Alaska Native regional nonprofit corporations:

“(i) Arctic Slope Native Association.

“(ii) Kawerak, Inc.

“(iii) Maniilaq Association.

“(iv) Association of Village Council Presidents.

“(v) Tanana Chiefs Conference.

“(vi) Cook Inlet Tribal Council.

“(vii) Bristol Bay Native Association.

“(viii) Aleutian and Pribilof Island Association.

“(ix) Chugachmuit.

“(x) Tlingit Haida Central Council.

“(xi) Kodiak Area Native Association.

“(xii) Copper River Native Association.

**Alaska Native Organization Contacts - Welfare Reform
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ALASKA FEDERATION OF NATIVES, INC.

1998 ANNUAL CONVENTION

RESOLUTION NO. 98-36

TITLE: SUPPORTING STATE MATCHING FUNDS FOR TRIBAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) PROGRAMS

WHEREAS: The twelve Alaska Native Regional Non-Profits are eligible under federal law to contract for administration of the Temporary Assistance for Needy Families (TANF) Program; and,

WHEREAS: The twelve Alaska Native Regional Non-Profits request the State of Alaska Legislature to support and fund the match towards the State Temporary Assistance to Needy Families (TANF) Program; and,

WHEREAS: These Alaska Naive organizations eligible to contract for TANF fully support the Alaska Human Resources Investment Council and other non-profit organizations in their efforts to have the State of Alaska Legislature to fund a match towards Tribal Temporary Assistance to Needy Families (TANF) Programs;

NOW THEREFORE BE IT RESOLVED that the Delegates to the 1998 Annual Convention of the Alaska Federation of Natives, Inc., that AFN supports the legislation to fund matching funds through the State of Alaska for Tribal Temporary Assistance for Needy Families (TANF) Programs.

SUBMITTED BY: Bristol Bay Native Association

COMMITTEE RECOMMENDATION: DO PASS

CONVENTION ACTION: PASSED



WELFARE REFORM

1997 was a productive year for addressing many of the important issues involved with the implementation of welfare reform in Alaska. At the federal level, the technical amendments to the Federal legislation helped to remove barriers to implementation of the act in rural Alaska. At the State level, representatives from the regional Native non-profit corporations and the Alaska Department of Health and Social Services held joint meetings throughout the year to identify issues of concern and design a model tribal Temporary Assistance to Needy Families (TANF) plan.

The good news is that all parties seem to agree on the fundamental principles underlying welfare reform. The regional non-profits strongly support the notion of moving tribal members from welfare to work. For decades, the welfare system has had a devastating impact on the Native community resulting in an unhealthy dependency by tribal members in the State for economic survival. Assisting tribal members to become self sufficient will go a long way toward strengthening the Native community. The joint State/tribal meetings have also played a key role in establishing a constructive dialogue with the State on welfare reform. We would especially like to thank Deputy Commissioner Jay Livey and other DHSS staff for their dedication in addressing some of the more difficult issues involved with welfare reform.

In 1998, the State contracted with Tanana Chiefs Conference (TCC) to operate a Tribal Family Assistance Program, allowing them to receive state funding for benefits to those that are eligible under the Athabascan Self-Sufficiency Assistance Partnership (ASAP) Program. This is a two year demonstration project between the state Division of Public Assistance and TCC.

As we look ahead, it is vitally important that we continue to forge a true partnership between the State and the regional non-profits in order to make welfare reform a success in rural Alaska. Regional non-profits across the state are ready and willing to operate a tribal TANF in their region provided that the State is willing to enter into an agreement as a full partner.

While a great deal of progress has been made, there are still major areas of concern that need to be addressed in order to move forward with welfare reform.

WELFARE REFORM RECOMMENDATIONS 1999 STATE LEGISLATIVE PACKET

The Alaska Federation of Natives (AFN) is making the following recommendations:

1. We urge the Alaska legislature to appropriate matching funds for tribal TANF programs. Federal law authorizes the 12 Native regional non-profits and Metlakatla to operate tribal TANF programs. We feel that proposed legislation submitted by

Commissioner Perdue's office will provide us with the opportunity to provide an effective program for clients throughout Alaska. It has been our experience as a service provider that the programs we design ourselves are the most successful. We also feel that cooperative welfare reform efforts between regional Native non-profits and the State will not only benefit clients but the State of Alaska as well.

2. Earmark funds to develop comprehensive welfare to work services based on the "One Stop Shop" developed for the urban centers in Alaska. These services should be modified to address the unique rural economic conditions. We are recommending that the State form a partnership with the regional non-profits since we have the infrastructure to make this program a success. One possible source of funds for this program might be the welfare reform savings the State is realizing already. As part of this partnership, the State should contract with Native non-profits to provide rural employment services.

3. Many long-term recipients will need training, education, employment, ongoing support and other vital services to help them make a successful transition to being self-sufficient citizens before reaching their 60-month limit. Since clients have been required to work under the new law, the regional non-profits' education, employment and training programs have experienced increased demand for services from ATAP clients. Native organizations currently receive State-funded Case Management grants to provide supportive services leading to direct employment. This program supports short-term training as opposed to long-term training. Despite the availability of funds, the funding level is insufficient to support clients that require an array of services that would meet their short-term training education, employment and training needs. Regional non-profits are requesting adequate funding and support services (such as childcare, transportation) to assist clients in transition from dependency to employment.

4. Under the Welfare Reform, Alaska Temporary Assistance Program (ATAP) clients are limited to 60-months of ATAP benefits. Clients who live in communities meeting the *50% or more of the adult population not employed* criteria, are exempt from the 60-month time limit. Many of our villages have estimated unemployment rates as high as 60 - 80%. Currently, villages that do not meet the exemption criteria are able to request reconsideration for the exemption status from the Division of Public Assistance. There is an annual deadline of December 1st to request reconsideration. We are urging that the State DPA make every consideration to exempt villages whose rates are close to the 50% rate. Additionally, because economic conditions change rapidly in rural Alaska, the Division should provide this reconsideration process throughout the lifetime of the Temporary Assistance program without specific deadlines.

5. The State needs to request the Federal Government to provide a formal waiver for the State Welfare to Work (WtW) Program paperwork and administrative requirements. Currently, the Federal Government has acknowledged that Native organizations with the P.L. 102-477 status are not required to provide detailed financial monthly report required under State WtW, but there is no formal waiver.

6. The Alaska Human Resources Investment Council needs to coordinate with the regional non-profit to address the issues of economic development, unemployment, employment and training and welfare reform in rural Alaska. In order to do this, we need Native representatives on local workforce boards.

7. Long-lasting welfare reform in rural Alaska can succeed only with long term sustainable economic development. We recommend that state and federal economic development programs be combined for rural programs, similar to how ATAP works - federal dollars and matching state funds. There has to be a strong commitment and a strong partnership among the State and Federal governments and regional Native non-profits to address the monumental challenges we face out in the rural communities and we are asking for your help.

One example of this type of commitment and partnership is the Unalakleet Fish Plant. The IRA, Native Corporation, and city worked with Kawerak, DCRA, Norton Sound Economic Development Corporation, Alaska Village Initiatives, and the Indian HUD CDBG program to plan and finance the construction of the facility. Once it is in operation, it will employ an estimated 63 people during fishing and around seven individuals year round. This facility will also help to support the 250 commercial fishermen and their 250 - 400 crewmen. If there was an easier and more efficient way to combine funds and efforts in enterprises like this, more could be accomplished in rural Alaska. Regional non-profits are ready and willing to work with DCRA and other appropriate state agencies to develop a process for economic development in rural Alaska.

8. Increase federal and state economic development and loan programs for rural Alaska. We also recommend that a process be developed to make it easier to access these funds.

PLEASE REFER TO ENCLOSED AFN RESOLUTION 98-36

February 18, 1999

289

SB 80

"An Act relating to contracts for the provision of state public assistance to certain recipients in the state; providing for regional public assistance plans and programs in the state; relating to grants for Alaska tribal family assistance programs; and providing for an effective date."

was read the first time and referred to the Community and Regional Affairs, Health, Education and Social Services and Finance Committees.

Zero fiscal note published today from Department of Health and Social Services.

Governor's transmittal letter dated February 18:

Dear President Pearce:

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 geographic 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

February 18, 1999

290

SB 80

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 Chief's 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. 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,
/s/
Tony Knowles
Governor

SB 81

SENATE BILL NO. 81 BY THE SENATE RULES COMMITTEE
BY REQUEST OF THE GOVERNOR, entitled:

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

PO BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

February 24, 1999

Honorable Andrew Halero, Co-Chairman
House Community and Regional
Affairs Committee
Room 418 Capitol
Juneau, AK 99801-1182


Dear Representative Halero,

The Department of Health and Social Services respectfully requests a hearing in the House Community and Regional Affairs Committee on House Bill 98 *"An Act relating to contracts for the provision of state public assistance to certain recipients in the state; providing for regional public assistance plans and programs in the state; relating to grants for Alaska tribal family assistance programs; and providing for an effective date."*

The bill was introduced by the Rules Committee at the request of Governor Knowles. A zero fiscal note was attached at the time of introduction.

Your favorable consideration of this request will be appreciated.

Sincerely,


Elmer A. Lindstrom
Special Assistant to the Commissioner

cc: Jim Nordlund, Director
Division of Public Assistance
Pat Pourchot, Legislative Director
Office of the Governor

Objectives in Developing HB 98 or SB 80

- ✓ **Promote self-sufficiency for families on public assistance, particularly in rural Alaska.**
 - Native organizations desire self-sufficiency for all Tribal members.

- ✓ **Promote flexibility in designing local approaches to achieving self-sufficiency.**
 - Native organizations have a better grasp of regional socio-economic conditions, which allows them to tailor services based on the unique needs of local communities.
 - Alaska Native organizations will be more successful in moving clients from welfare to work, therefore reducing caseload and expenditures.
 - Providing state funds will free up federal block grant moneys that can be used for innovative welfare-to-work and self-sufficiency efforts.

- ✓ **Assure that both the State and Regional programs are managed efficiently and cost effectively.**
 - Local control and local presence puts Tribes in the best position to administer the program.
 - Federal funds alone are insufficient for operation for a TFAP.
 - Supplementing Tribal Family Assistance Programs will help ensure effective service delivery models for rural Alaska.
 - Tribes can leverage existing programs they currently administer to support self-sufficiency goals of families (i.e. Native Employment Works!, Education, Employment & Training funds, General Assistance).

- ✓ **Regional Public Assistance Programs discourage disparity in benefits and services for Alaskans living in the same community or region.**

- ✓ **Promotes rural self-governance, supports community ownership and partnerships, and guarantees equitable service delivery in rural Alaska.**

Summary of Issues Relating to the Legislation on Grants for Alaska Tribal Family Assistance Programs

Governor's Bill "An Act relating to contracts for the provision of state public assistance to certain recipients in the state; establishing regional public assistance plans and programs to the state; relating to grants for Alaska tribal family assistance programs; and providing for an effective date."

FINDINGS AND INTENT:

Section 1 (a):

- self-sufficiency for families is a statewide goal
- self-sufficiency efforts succeed when local communities take responsibility for reducing dependence
- new law offers Native organizations the opportunity to assume responsibility for providing services; and
- it is in the State's best interests to promote regional responsibility for the design of the state services.

Section 1 (b):

- Provide certain appropriations to the Native organizations assuming responsibility.
- State plans may be approved, may be administered uniformly in the region for all recipients.

THE LEGISLATION . . .

- allows the state to grant Tribal Organizations that operate Tribal Family Assistance Programs (TFAP)
- is supported by DHSS Commissioner and DPA staff.
- gives Native organizations the opportunity to serve all Native and non-Native families within their service areas through a Regional Public Assistance Program, which discourages different service packages for clients living in same region.

THE NATIVE ORGANIZATIONS . . .

- have local control and local presence.
- are in great position with years of administrative experience with state and federal programs: Child Care, Native Employment Works (old JOBS program), Employment & Training, Energy/General Assistance, Family Services, etc.
- will leverage existing programs to support TFAP.
- desire self-sufficiency for all Tribal members.
- know local economy and characteristics of Tribal members.
- held lengthy consultation period with DHSS on these very issues.

AFTER EFFECTS if legislation is not passed. . .

- Clients will continue to live in rural communities where DHSS/DPA has no or limited presence or enforcement.
- impedes efforts to promote and support community ownership and partnerships in Welfare Reform efforts.
- Requires greater effort on part of state to guarantee equitable service delivery.

Native Organization sends Letter of Intent to the Department with a proposed plan 8 months before proposed effective date of plan¹

Department reviews plan to identify service boundaries and other important elements*

*** STATE REQUIREMENTS:**
 Plan Must:

- Facilitate self-sufficiency within the region
- Provide for a reasonable pattern of service delivery
- Serve a specified region which is geographically coherent and shares common resources, traditions and interests
- Include the following standards:
 - * Must have dependent child in household
 - * Payment amounts cannot exceed State amount
 - * Minor parent must live in an approved adult-supervised setting
 - * Able-bodied participants must work
 - * Participants must cooperate with child support enforcement



If Native Organization does not adhere to requirements, Department notifies Native Organization of any significant deficiencies.



Native Organization may make a supplemental submission to the Department to resolve any deficiencies

If plan meets requirement, Native Organization is eligible for State Grant to serve Tribal members



Plan submitted to Federal Government



Federal Approval



Native Organization receives the Grant for Alaska Tribal Family Assistance Programs



At discretion of Commissioner, Adopt Regional Public Assistance Plan for all recipients within geographic boundary. Native Organization receives funds to serve non-Tribal members²



¹ The Commissioner may waive the time deadline specified if the Commissioner:
 (1) Enters into a joint planning agreement between the department and the Native organization; or
 (2) finds good cause and the waiver is in the state's best interest.
² The Native organization must provide documentation that indicates federal approval of TFAP. They must also be awarded an Alaska Tribal Family Assistance Grant before receiving additional funds to serve non-Tribal members through a Regional Public Assistance Program.

TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

1402
P O Box 110001
Juneau Alaska 99811-0001
(907) 465-3500
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February 18, 1998

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

Brian
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 Chief's 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

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK. 99801-1182

COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

REPRESENTATIVE ANDREW HALCRO, REPRESENTATIVE JOHN HARRIS, CO-CHAIRMEN

STATE CAPITOL, ROOM 418
JUNEAU, ALASKA 99801-1182
(907) 465-3882

AGENDA

MARCH 16, 1999

1. Call Meeting To Order
2. Call Roll
 - a. Morgan
 - b. Murkowski
 - c. Joule
 - d. Kookesh
 - e. Dyson
 - f. Harris
 - g. Halcro
3. HB 103 - Liability Relating to Firearms
 - a. Opening Statement, Representative Fred Dyson
 - b. Public Testimony
4. HB 98 - Public Assistance Programs (CS- Requested by Governor's Office - technical changes)
 - a. Opening Statement, Jim Nordland, Dir. Division of Public Assistance
 - b. Public Testimony
5. Any announcements from other members of the Committee
6. Motion to Adjourn

FISCAL NOTE

No: 1

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: HB 98
(H) Publish Date: 2/19/99

Revision Date/Time (Note if correction): _____
Title: Tribal Family Assistance Programs
Sponsor: Rules Committee
Requestor: Governor

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

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	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	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY1999) 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 authorizes the department to grant and contract with Alaska Native regional non-profit organizations for the operation of tribal family assistance programs providing 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
Division: Public Assistance
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-2680
Date/Time: 12/29/98 12:34 PM

Date: 1/14/99

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ANALYSIS (cont.):

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 tribal assistance programs and the approval of regional assistance programs.

A new component has been added to the DPA budget that will accommodate the inclusion of tribal 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.

*Yonnie
Toul*

*Rep.
Karkosh*

1-GH1011VD
Lauterbach
3/9/99

**CS FOR HOUSE BILL NO. 98(CRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION**

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to contracts for the provision of state public assistance to
2 certain recipients in the state; providing for regional public assistance plans and
3 programs in the state; relating to grants for Alaska Native family assistance
4 programs; and providing for an effective date."

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

6 * Section 1. FINDINGS AND INTENT. (a) The legislature finds that

7 (1) self-sufficiency for Alaska families is a statewide goal and that achieving
8 self-sufficiency is greatly influenced by local conditions, particularly in rural Alaska with its
9 unique mix of subsistence and cash economies;

10 (2) self-sufficiency efforts are more likely to succeed when local communities
11 in a region of Alaska take responsibility for reducing dependence and when those efforts
12 accurately reflect the social and economic conditions of that region;

13 (3) new federal welfare reform law offers Alaska Native nonprofit
14 organizations the opportunity to assume responsibility for providing public assistance and self-

1 sufficiency services throughout the state; and

2 (4) it is in the best interests of the state to promote regional responsibility for
3 the design of the state public assistance program and self-sufficiency services.

4 (b) It is the intent of the legislature

5 (1) to provide certain appropriations that would otherwise be used to provide
6 assistance and self-sufficiency services to the recipients living in a public assistance region
7 through an Alaska Native family assistance grant to the Alaska Native nonprofit organizations
8 that are assuming the responsibility for providing assistance and services in that region;

9 (2) that state public assistance plans may be approved on a regional basis in
10 appropriate circumstances and, if approved, may be administered uniformly in the region for
11 all recipients in order to achieve the maximum cost efficiencies and benefits of a regionally
12 designed program.

13 * Sec. 2. AS 36.30.850(b) is amended by adding a new paragraph to read:

14 (41) contracts awarded under AS 47.27.072 for state public assistance
15 provided under a regional public assistance plan.

16 * Sec. 3. AS 47.27.005 is amended to read:

17 **Sec. 47.27.005. Duties of the department.** The department shall

18 (1) administer the Alaska temporary assistance program by providing
19 assistance with basic living expenses and self-sufficiency services to needy children
20 and their families under this chapter and, if appropriate, by establishing regional
21 public assistance programs to provide effectively for varying economic conditions
22 in regions of the state designated by the department:

23 (2) establish, by regulation, program standards that will provide
24 incentives to work, incentives for financial planning, and opportunities to develop
25 self-sufficiency while providing assistance with basic living expenses;

26 (3) prepare, submit to the federal government, and amend, if necessary,
27 a state plan designed to ensure [ASSURE] that federal money is available to the state
28 for the operation of the program set out in this chapter to provide assistance for basic
29 living expenses and self-sufficiency services to needy children and their families
30 consistent with the state objectives identified in (2) of this subsection [SECTION];

31 (4) adopt methods of program administration to ensure consistency with

1 the federal requirements under a successor federal program that replaces the aid to
2 families with dependent children program;

3 (5) make reports regarding the program to the federal government as
4 required under federal law [ANY SUCCESSOR FEDERAL PROGRAM THAT
5 REPLACES THE AID TO FAMILIES WITH DEPENDENT CHILDREN
6 PROGRAM], in the form and containing the information required, and comply with
7 the provisions that the federal government determines are necessary to ensure correct
8 and verifiable information on the program;

9 (6) provide to the legislature an annual executive summary of the
10 information required to be reported to the federal government under (5) of this
11 subsection [SECTION];

12 (7) conduct studies and research in order to evaluate and monitor the
13 effectiveness of the state program; and

14 (8) adopt regulations and take action to implement, interpret, and
15 administer the provisions of this chapter.

16 * Sec. 4. AS 47.27.005 is amended by adding a new subsection to read:

17 (b) In implementing its duties under (a) of this section, the department may
18 adopt program standards that vary by region in the state in order to incorporate the
19 standards of an Alaska Native family assistance plan into a regional plan. The
20 program standards adopted under this subsection need not contain all of the
21 requirements of this chapter if they meet the standards set out in AS 47.27.072 and
22 contain the program elements set out in AS 47.27.071.

23 * Sec. 5. AS 47.27 is amended by adding new sections to read:

24 **Sec. 47.27.071. Alaska Native family assistance grants.** (a) Notwithstanding
25 a contrary provision of this chapter and in addition to grants awarded under
26 AS 47.27.050, the department may award and administer Alaska Native family
27 assistance grants in accordance with this section to Alaska Native organizations that
28 meet the requirements of AS 47.27.070. Only an organization that received approval
29 for, and has agreed to operate, a federally approved tribal family assistance plan in this
30 state is eligible to receive a grant under this section. An organization that receives a
31 grant under this section shall operate the plan approved under this section on a state

1 fiscal year basis.

2 (b) If an organization intends to apply for a grant under this section, the
3 organization shall first submit to the department a letter of intent along with a copy
4 of the proposed federal tribal family assistance plan that will be submitted to the
5 federal government for approval. The organization shall make its submission to the
6 department at least six months before the proposed effective date of the federal tribal
7 family assistance plan. The department shall review the submission and notify the
8 organization of significant deficiencies that would make the organization ineligible to
9 be considered for an Alaska Native family assistance grant even if federal approval is
10 received without significant changes to the federal tribal family assistance plan and
11 federal grant money is awarded for implementation of that plan. The organization may
12 make a supplemental submission to the department to resolve deficiencies noted by the
13 department. If, after departmental review and supplemental revision, an organization's
14 plan remains eligible for consideration for a grant award under this section, the
15 department shall notify the organization that the organization may submit a proposal
16 for a grant award after the organization has received notice of federal approval of the
17 federal tribal family assistance plan and the pending award of federal grant money.
18 The commissioner may waive the time deadline specified in this subsection if the
19 commissioner

20 (1) enters into a joint planning agreement between the department and
21 the organization; or

22 (2) finds good cause and the waiver is in the state's best interest.

23 (c) If the department awards a grant under this section, the grant shall be in
24 an amount that

25 (1) for the first fiscal year under the plan accepted by the department,
26 represents a fair and equitable portion of the state appropriations for the state public
27 assistance program administered under this chapter intended to serve the state residents
28 who will be served by the plan; and

29 (2) for the second and subsequent state fiscal years under the plan
30 accepted by the department, represents a fair and equitable portion of state
31 appropriations made for public assistance programs that is allocated for Alaska Native

1 family assistance grants to be awarded under this section in order to serve the state
2 residents who will be served by the plan; if the money is not allocated for these grants,
3 the amounts shall be made in the same manner as described in (1) of this subsection.

4 (d) For an organization to be eligible to be awarded a grant under this section,
5 the organization's proposal must include

6 (1) documentation that the organization

7 (A) has received federal approval of its federal tribal family
8 assistance plan to operate a tribal assistance program in this state; and

9 (B) will receive a grant directly from the federal government to
10 implement the federal tribal family assistance plan;

11 (2) a plan for operation of the Alaska Native family assistance grant
12 that meets the requirements of (c) of this section; and

13 (3) if the commissioner determines that a federally approved tribal
14 family assistance plan would be a cost-effective and efficient means of administering
15 the program established in this chapter in that region of the state and the needs of state
16 public assistance recipients receiving assistance under this chapter can be met through
17 a contract awarded under AS 47.27.072, the organization's agreement to enter into a
18 contract with the department to provide state public assistance to those eligible state
19 residents in the region who are not included in the population to be served by the
20 federally approved tribal family assistance plan.

21 (e) An organization's plan for operation of the Alaska Native family assistance
22 grant must

23 (1) be designed to facilitate self-sufficiency of assistance recipients in
24 the region specified in the federally approved tribal family assistance plan by
25 addressing the conditions specific to that region;

26 (2) provide for a reasonable pattern of service delivery from all
27 providers serving that region;

28 (3) serve a specified region that consists of a geographically cohesive
29 group of communities that share similar interests, resources, and traditions; and

30 (4) provide for administration of the grant money received under this
31 section to establish a program in accordance with the plan accepted by the department

1 and in compliance with other requirements of this section; the program must include
2 the following standards for providing assistance to eligible families:

3 (A) only families with at least one dependent child or a woman
4 in the last trimester of pregnancy are eligible for assistance paid from an
5 Alaska Native family assistance grant;

6 (B) amounts for assistance provided from an Alaska Native
7 family assistance grant to eligible families may not exceed the amounts
8 specified under AS 47.27.025(b) when combined with assistance provided
9 under the federally approved tribal family assistance grant;

10 (C) to remain eligible for assistance paid from an Alaska Native
11 family assistance grant, a minor parent of a dependent child must meet the
12 requirements of AS 47.27.027;

13 (D) families receiving assistance paid from an Alaska Native
14 family assistance grant shall comply with the provisions of AS 47.27.035(a)
15 regarding participation in work activities;

16 (E) families receiving assistance paid from Alaska Native family
17 assistance grant money shall comply with the provisions of AS 47.27.040
18 regarding assignment of support rights and cooperation with the child support
19 enforcement agency of the Department of Revenue;

20 (F) the organization has an impartial appeals process to allow
21 for affected families in the region of the state covered by the plan accepted by
22 the department to have a fair hearing.

23 (f) The department may award a grant under this section only if the department
24 determines that the proposal, including a plan for operation of the grant, meets the
25 criteria specified in (d) and (e) of this section and that an award of the grant to the
26 organization would be in the public interest. The department may not distribute grant
27 money until a grant agreement between the organization and the department is
28 executed that meets the requirements of this section.

29 (g) Records pertaining to recipients of assistance from an Alaska Native family
30 assistance grant awarded under this section are confidential public assistance records
31 under AS 47.05.020 and regulations adopted under AS 47.05.020. Use and misuse of

1 these records are subject to the provisions of AS 47.05.030. It is an official purpose
2 under AS 47.05.020 for an organization receiving a grant under this section and the
3 department or another agency of the state to exchange information concerning
4 recipients of assistance under this section if the information requested is for purposes
5 directly connected with the administration of a grant under this section.

6 (h) An organization receiving a grant under this section shall provide to the
7 department a copy of its quarterly report made under 42 U.S.C. 611. The organization
8 shall have its financial records audited annually by a certified public accountant
9 authorized to practice under AS 08.04. The department may prescribe the form and
10 specify the information required to document compliance with this section.

11 (i) If an organization wishes to terminate its program before the end of the
12 time period for which the grant was awarded under this section, the organization must
13 obtain the consent of the department or provide notice to the department 120 days
14 before the anticipated date of termination. At the end of a grant agreement or by early
15 termination under this section, the organization shall provide an inventory of property
16 valued at \$1,000 or over and purchased, in whole or in part, with grant money awarded
17 under this section. The department shall notify the organization of the required
18 disposition of the property listed on the inventory.

19 (j) If the department awards a grant under this section, a person applying for
20 assistance under this chapter who is covered by the federally approved tribal family
21 assistance plan in that region of the state may obtain assistance from the department
22 only through the organization designated by the department to serve the region. A
23 person aggrieved by a decision made by an organization under a grant awarded under
24 this section may use the appeal procedure specified in AS 47.27.072(c).

25 **Sec. 47.27.072. Regional public assistance plans, programs, and contracts.**

26 (a) Notwithstanding a contrary provision of this chapter, the department may develop
27 a regional public assistance plan and implement a regional program for the
28 administration of this chapter in order to provide state public assistance in a uniform
29 and cost-effective manner in a region of this state. The department may develop a
30 regional public assistance plan only if an Alaska Native organization is authorized to
31 implement a federally approved tribal family assistance plan in the region and has been

1 awarded an Alaska Native family assistance grant for a program in that region for the
2 applicable fiscal year under AS 47.27.071. The regional public assistance plan under
3 this section must be designed to serve eligible state residents in the region who are not
4 covered by a federally approved tribal family assistance program in that region.

5 (b) The department may award contracts to implement this section. A contract
6 authorized for delivery of state public assistance under a regional public assistance plan
7 under this section is exempt from the competitive bid requirements of AS 36.30 (State
8 Procurement Code). Subject to appropriation, a contract under this section must be in
9 an amount that represents a fair and equitable share of the money appropriated to serve
10 the state residents specified in (a) of this section. This section provides additional
11 authority to contract to that available under AS 47.05.015 or other law.

12 (c) The department may award a contract under this section only to an
13 organization that

14 (1) has been awarded an Alaska Native family assistance grant for a
15 program in that region under AS 47.27.071;

16 (2) agrees to administer state public assistance under this chapter to
17 state residents in the region who are not served by the Alaska Native family assistance
18 grant awarded under AS 47.27.071;

19 (3) agrees to provide state public assistance identical to that provided
20 under the federally approved tribal family assistance plan for which Alaska Native
21 family assistance grant money has been awarded under AS 47.27.071; and

22 (4) agrees to implement an appeals process as described in (e) of this
23 section.

24 (d) Records pertaining to recipients of state public assistance under a contract
25 awarded under this section have the same confidential protections as are provided to
26 recipients of assistance from Alaska Native family assistance grants under
27 AS 47.27.071.

28 (e) An organization that receives a contract under this section shall provide an
29 appeals process to applicants for or recipients of state public assistance covered by the
30 contract awarded under this section. The appeals process must be the same as the
31 method available under the federally approved tribal family assistance plan, except that

1 the decision reached will be considered as a recommended decision to the department.
2 Within 30 days after receiving a recommended decision, the department shall review
3 the recommended decision and issue a decision accepting or rejecting the
4 recommended decision. If the department rejects the recommended decision, the
5 department shall independently review the record and issue its final decision. The
6 final decision of the department on the matter is appealable to the courts of this state.

7 (f) If the department establishes a regional public assistance plan and awards
8 a contract to provide state public assistance under this section, a person applying for
9 state public assistance under this chapter in the region of the state covered by the
10 regional public assistance plan may obtain state public assistance from the department
11 only through the organization designated by the department to serve the region.

12 * Sec. 6. AS 47.27.900 is amended by adding a new paragraph to read:

13 (10) "federally approved tribal family assistance plan" means a plan
14 that meets the requirements of 42 U.S.C. 612 and has been approved for financing
15 through a tribal family assistance grant directly from the United States Department of
16 Health and Human Services.

17 * Sec. 7. APPLICABILITY. This Act does not apply to the provisions of an existing
18 Alaska Native family assistance grant agreement in effect on the effective date of this Act
19 until the earliest of the following occurs:

20 (1) the grant agreement expires;

21 (2) the grant agreement is terminated;

22 (3) a substantial modification is made to the grant agreement; routine technical
23 amendments to an existing Alaska Native family assistance grant agreement in effect on the
24 effective date of this Act do not constitute a substantial modification for purposes of this
25 paragraph.

26 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

PO. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

February 24, 1999

Honorable Andrew Halero, Co-Chairman
House Community and Regional
Affairs Committee
Room 418 Capitol
Juneau, AK 99801-1182

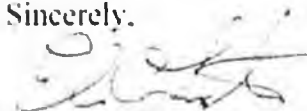
Dear Representative Halero,

The Department of Health and Social Services respectfully requests a hearing in the House Community and Regional Affairs Committee on House Bill 98 *"An Act relating to contracts for the provision of state public assistance to certain recipients in the state; providing for regional public assistance plans and programs in the state; relating to grants for Alaska tribal family assistance programs; and providing for an effective date."*

The bill was introduced by the Rules Committee at the request of Governor Knowles. A zero fiscal note was attached at the time of introduction.

Your favorable consideration of this request will be appreciated.

Sincerely,



Elmer A. Lindstrom
Special Assistant to the Commissioner

cc: Jim Nordlund, Director
Division of Public Assistance
Pat Pouchot, Legislative Director
Office of the Governor

Objectives in Developing HB 98 or SB 80

- ✓ **Promote self-sufficiency for families on public assistance, particularly in rural Alaska.**
 - Native organizations desire self-sufficiency for all Tribal members.

- ✓ **Promote flexibility in designing local approaches to achieving self-sufficiency.**
 - Native organizations have a better grasp of regional socio-economic conditions, which allows them to tailor services based on the unique needs of local communities.
 - Alaska Native organizations will be more successful in moving clients from welfare to work, therefore reducing caseload and expenditures.
 - Providing state funds will free up federal block grant moneys that can be used for innovative welfare-to-work and self-sufficiency efforts.

- ✓ **Assure that both the State and Regional programs are managed efficiently and cost effectively.**
 - Local control and local presence puts Tribes in the best position to administer the program.
 - Federal funds alone are insufficient for operation for a TFAP.
 - Supplementing Tribal Family Assistance Programs will help ensure effective service delivery models for rural Alaska.
 - Tribes can leverage existing programs they currently administer to support self-sufficiency goals of families (i.e. Native Employment Works!, Education, Employment & Training funds, General Assistance)

- ✓ **Regional Public Assistance Programs discourage disparity in benefits and services for Alaskans living in the same community or region.**

- ✓ **Promotes rural self-governance, supports community ownership and partnerships, and guarantees equitable service delivery in rural Alaska.**

Summary of Issues Relating to the Legislation on Grants for Alaska Tribal Family Assistance Programs

Governor's Bill: "An Act relating to contracts for the provision of state public assistance to certain recipients in the state; establishing regional public assistance plans and programs to the state; relating to grants for Alaska tribal family assistance programs; and providing for an effective date."

FINDINGS AND INTENT:

Section 1 (a):

- self-sufficiency for families is a statewide goal
- self-sufficiency efforts succeed when local communities take responsibility for reducing dependence
- new law offers Native organizations the opportunity to assume responsibility for providing services; and
- it is in the State's best interests to promote regional responsibility for the design of the state services.

Section 1 (b):

- Provide certain appropriations to the Native organizations assuming responsibility.
- State plans may be approved, may be administered uniformly in the region for all recipients.

THE LEGISLATION . . .

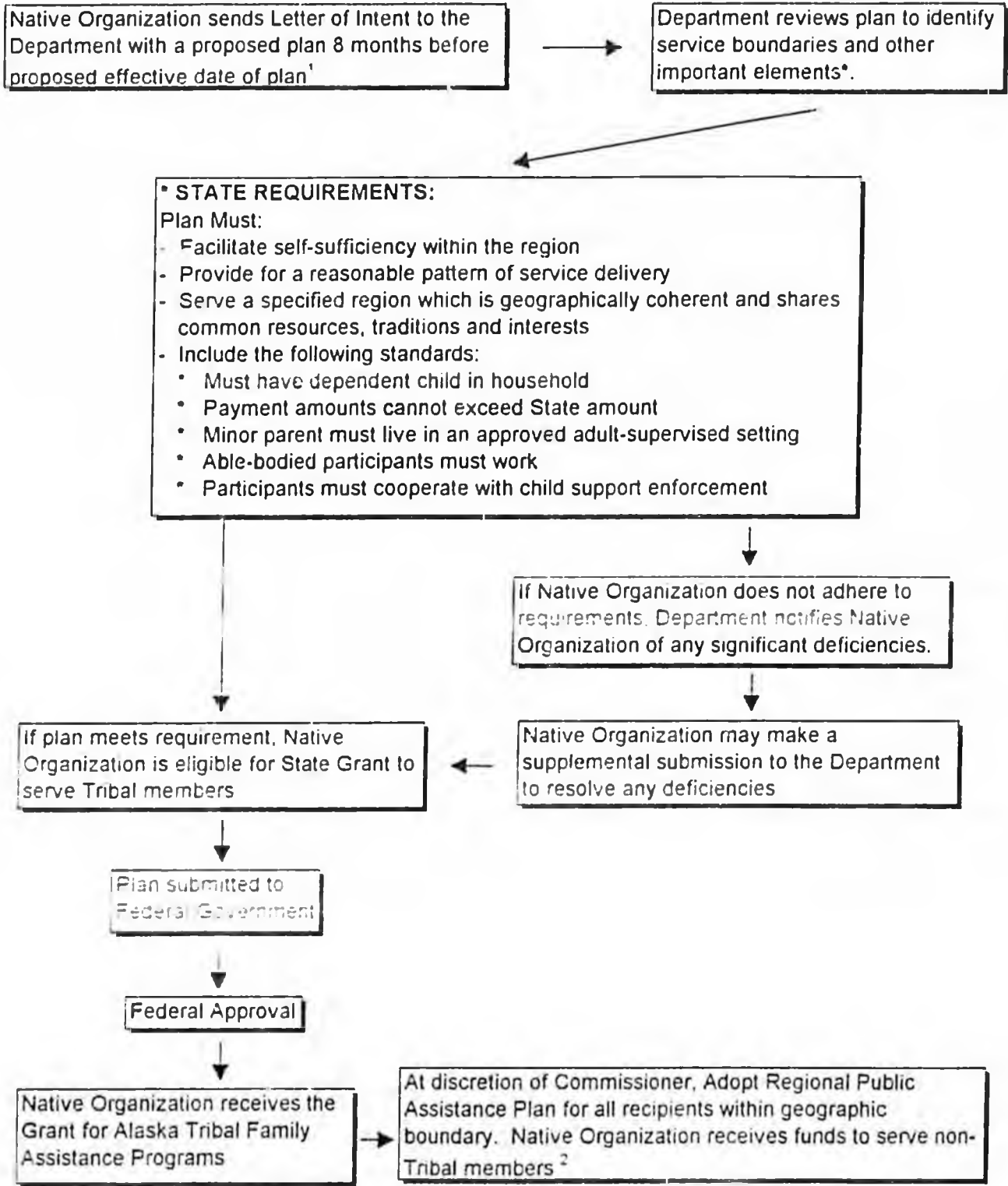
- allows the state to grant Tribal Organizations that operate Tribal Family Assistance Programs (TFAP)
- is supported by DHSS Commissioner and DPA staff.
- gives Native organizations the opportunity to serve all Native and non-Native families within their service areas through a Regional Public Assistance Program, which discourages different service packages for clients living in same region.

THE NATIVE ORGANIZATIONS . . .

- have local control and local presence
- are in great position with years of administrative experience with state and federal programs - Child Care, Native Employment Works (old JOBS program), Employment & Training, Energy General Assistance, Family Services, etc.
- will leverage existing programs to support TFAP.
- desire self-sufficiency for all Tribal members.
- know local economy and characteristics of Tribal members.
- held lengthy consultation period with DHSS on these very issues.

AFTER EFFECTS if legislation is not passed. . .

- Clients will continue to live in rural communities where DHSS/DPA has no or limited presence or enforcement.
- impedes efforts to promote and support community ownership and partnerships in Welfare Reform efforts.
- Requires greater effort on part of state to guarantee equitable service delivery.



¹ The Commissioner may waive the time deadline specified if the Commissioner:
 (1) Enters into a joint planning agreement between the department and the Native organization; or
 (2) finds good cause and the waiver is in the state's best interest.

² The Native organization must provide documentation that indicates federal approval of TFAP. They must also be awarded an Alaska Tribal Family Assistance Grant before receiving additional funds to serve non-Tribal members through a Regional Public Assistance Program.

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

Brian
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 Chief's 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

HEB

103

Please add to your HB 103 file

The attached material was received after
your packet was assembled.

Date: March 16, 1999



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
555 CAPITOL MALL, SUITE 455
SACRAMENTO, CA 95814
(916) 446-2455

March 11, 1999

TO: Alaska State Legislators
FROM: Brian Judy, NRA-ILA Alaska State Liaison
RE: Support for Senate Bill 77 and House Bill 103

On behalf of the more than 18,000 NRA members who live in Alaska, I urge strong support for both Senate Bill 77 and House Bill 103. Passage of this legislation is of paramount importance to the National Rifle Association and its members.

These bills would prevent cities and other municipalities in Alaska from filing frivolous liability lawsuits against the firearms industry and would, in effect, assert that the lawful marketing of firearms to the public is not an unreasonably dangerous or socially unacceptable activity.

This legislation is necessary because officials in many cities across the United States are now trying to achieve through the courts what anti-gun activists have been unsuccessful in achieving through the legislative process: firearms prohibition. The basis for these cases has been the suggestion that traditional product liability law can be extended to include the notion that firearms are defective in design because they can *potentially* be misused by criminals or others. These cases have taken the concepts of individual responsibility and personal accountability and turned them on their heads.

If these lawsuits against manufacturers, dealers, and trade associations go forward, they will have a chilling effect on the availability of firearms. At the very least, the cost of firearms to law-abiding individuals will increase dramatically. Thus, the right of law-abiding citizens to keep and bear arms would be infringed. Make no mistake--the point of these lawsuits is to bankrupt the firearms industry and put the manufacturers and dealers of these legal products out of business.

The passage of these bills would put Alaska on record against these frivolous lawsuits and could conceivably encourage the relocation of firearms manufacturers to the state of Alaska, bringing new business to the state and creating jobs.

Please support Senate Bill 77 and House Bill 103.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Targeting Gun Makers With a Cigarette Strategy

Having tasted victory in the tobacco wars, cities are suing to recover the costs of violent crime

by Roberto Suro

Washington Post Staff Writer

In a sudden wave of litigation that could rival the recent legal assault on the tobacco industry, city governments across the country are preparing lawsuits seeking to hold handgun manufacturers responsible for the multibillion-dollar costs of violent crimes.

New Orleans and Chicago led the way with suits filed last fall. Boston, San Francisco, Bridgeport, Conn., and Miami-Dade have announced they are putting together legal teams to develop complaints. And Philadelphia Mayor Edward G. Rendell has proposed a simultaneous filing by as many as 100 cities on the same day sometime next year.

"This is just the beginning," Chicago Mayor Richard M. Daley said last month after hosting officials from 15 cities and the U.S. Conference of Mayors to discuss litigation plans.

Inspired by the success of anti-tobacco lawsuits, elected officials and gun control advocates see a chance to hit handgun manufacturers with so many suits in so many places that the industry will be forced not only to pay huge dollar settlements but to accept tough new regulations on the sale of their products.

"The tobacco suits prompted some new strategic thinking," says Kristen Rand, director of federal policy at the Violence Policy Center, a Washington, D.C.-based research and advocacy group. "Both tobacco and gun manufacturing have largely escaped regulation in the past, and now the justice system has emerged as the best way to ensure that they are held accountable for their products."

Gun manufacturers, like cigarette makers, have successfully defended themselves against numerous lawsuits brought by individuals. But gun control advocates hope to end that streak by bringing the public sector's vast resources and powerful new legal arguments into the battle.

THAT STRATEGY HAS WORKED. AT LEAST to a degree, with tobacco. So far, cigarette manufacturers have agreed to payments of \$246 billion to settle lawsuits brought by state governments and have accepted restrictions on advertising and the sponsorship of sporting events. The settlements are narrower than an unsuccessful deal proposed last year, but gun control advocates and city officials still see great potential in pursuing similar litigation against gun manufacturers. And many believe they have an easier target.

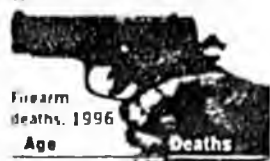
"The gun manufacturers are not nearly as big, as rich, or as unified as the tobacco people, and so they may well buckle when they have to fight lawsuits in every major city in America simultaneously," says a top aide to a big-city mayor who asked not to be named.

Acknowledging their vulnerability to big-time legal warfare fought on many fronts, gun company executives have expressed concern that they might simply be driven out of business by the costs of fighting the suits.

"The survival of a domestic gun manufacturing industry is at stake," says Bob Ricker, director of government affairs at the American Shooting Sports Council, a trade association and lobbying organization for gun manufacturers, which is a defendant in the New Orleans

litigation campaign against the gun industry is still in its opening phase and no central leadership or common strategy has emerged on either side. The National Rifle

In the Line of Fire



Age	Deaths
0-4	
5-9	95
10-14	510
15-19	1,950
20-24	4,816
25-29	3,989
30-34	3,414
35-39	3,118
40-44	2,746
45-49	2,289
50-54	1,693
55-59	1,317
60-64	1,077
65-69	1,191
70-74	1,161
75-79	1,027
80-84	785
85+	546
Unknown	28
Total	34,040

SOURCE: National Center for Health Statistics

Association, for example, is not playing as prominent a role as it has on other occasions when the gun industry felt under assault, and the industry itself is fragmented among big international firms such as Beretta and Glock that have large military and law enforcement contracts and a great many downscale manufacturers of Saturday night specials.

Meanwhile, gun control advocacy groups are divided over legal tactics and have not played a dominant role. For example, the Center to Prevent Handgun Violence, an influential Washington, D.C.-based organization, advised New Orleans on developing a complaint that relies on product liability law, while the Violence Policy Center that is recommending the approach behind the Chicago suit has spent a decade fighting lawsuits against gun manufacturers and has developed a theory that seeks to declare gun manufacturers and distributors a public nuisance. In the meantime, attorneys such as Wendell H. Gauthier who were prominent in the tobacco litigation are helping guide some of the gun suits.

For the moment there is no drive to agree on a unified strategy. "Every city is going to have to tailor a legal theory to its local circumstances and its state laws," says Tom Cochran, executive director of the U.S. Conference of Mayors, which has a long record of promoting gun control measures and is acting as a clearinghouse of information for cities that are undertaking lawsuits.

Indeed, some attorneys involved in the lawsuits see an advantage in starting out with a variety of approaches, because if many different assaults are launched, there is a better chance that a few at least will make it through the uncharted legal territory ahead.

Anti gun advocates also hope to get an unprecedented glimpse into the inner workings of the gun industry by smoking out whistleblowers and forcing them, through litigation, to turn over corporate documents.

"We are going to get into a phase of discovery, just as with tobacco, that will open the gun industry to a kind of scrutiny that it has never experienced," says David Kairy, a professor of law at Temple University, who helped Chicago develop its lawsuit and is now working with other cities.

The attorneys, for example, hope to find evidence that manufacturers of Saturday night specials exploit the guns' extensive use by criminals or that industry marketing strategies are based on large numbers of illegal, or at least questionable, sales. Even if only one proceeding generates damaging

Individual gun manufacturers and industry groups insist they should not be made to answer for the acts of criminals.

revelations, the entire effort will benefit, the lawyers said.

Several different battle plans already are developing. The Chicago lawsuit argues, in effect, that handgun manufacturers have knowingly profited from crime and fear of crime, while the New Orleans suit contends more narrowly that the industry has violated state gun safety laws by failing to install devices, such as high-tech gun locks, that would prevent accidental shootings, especially by children.

Regardless of the allegation, the goal is to make handgun manufacturers collectively liable for the municipal costs of handgun violence, expenses that can range from law enforcement salaries to the purchase of emergency medical equipment.

Individual gun manufacturers and industry groups insist they should not be made to answer for the acts of criminals. "The idea that guns in and of themselves are responsible for crime is ridiculous," says Ricker, of the shooting sports council.

THE KEY DEVELOPMENT, FIRST IN THE tobacco litigation and now in the gun lawsuits, is a change in the nature of the plaintiff—the party that brings the legal action.

"When one person has sued, whether it's on tobacco or on guns, the industries have scored points by attacking that person and claiming the harm was all their fault," says Dennis Henigan, director of the legal action project at the Center to Prevent Handgun Violence.

For example, judges and juries routinely have concluded that smokers freely chose to light up and so tobacco companies should not be held liable for the health consequences of that choice. Similarly, gun manufacturers have successfully argued that it was not their fault when someone chose to commit a crime and fired a gun at someone else illegally.

"The states' lawsuits to recover health care costs from tobacco companies showed that a public plaintiff can overcome these obstacles and focus attention on the broad costs to society," Henigan says.

Still, the analogy to tobacco is by no means perfect.

In tobacco cases, plaintiffs could argue that even when cigarettes were used properly, as the manufacturers had intended, a defect—the carcinogenic effect of smoke, for example—inflicted harm on the smoker and the manufacturer should be held liable for it. Moreover, the

tobacco suits also argued that manufacturers misled smokers both about those dangers and about the addictive powers of nicotine, which furthered the harm and diminished the consumer's ability to avoid it.

There is no chemical addiction when it comes to guns. And there is no secret they are dangerous. And courts have repeatedly rejected claims that guns are somehow defective when they fire bullets.

"No one has been injured when using a gun properly," says Ricker, expressing the industry view that it cannot be held liable for injuries that result from crimes or accidents.

So far, two legal theories have been developed to try to get around these roadblocks. Others are under consideration.

THE NEW ORLEANS SUIT ARGUES THAT under Louisiana's unusually strict product liability law, guns are "unreasonably dangerous" because manufacturers have failed to take steps that would prevent the guns' use by children and other unauthorized users. For example, the suit alleges that manufacturers have failed to include adequate warnings of the risks that minors could gain access to weapons or instructions on how to store a gun to avoid that risk.

The suit also claims that a number of devices have been available for more than 20 years that would prevent an unauthorized person from using the weapons. These include simple combination locks built into the handgun and more technologically complex "personalized" guns that will only fire when the shooter is wearing a ring equipped with an encoded chip.

"The taxpayers of my city should not bear the continuing increase in hospital costs and police costs and ambulance costs associated with this spate of violence," says New Orleans Mayor Marc M. Morial.

The New Orleans suit names 15 major handgun manufacturers, three industry trade associations and several local gun dealers as defendants. Without specifying an amount, the suit seeks damages to cover the city's costs for "police protection, emergency services, medical care, facilities and services, as well as lost tax revenues due to defendants' products and actions."

In response, the gun manufacturers will argue that "the single most important gun safety device is the brain of the owner, and if the owner does not use the gun responsibly, there is no device that can make it absolutely safe," Ricker says.

The Chicago lawsuit, by contrast, argues that gun manufacturers have become a "public nuisance" by using marketing and distribution methods designed to circumvent the city's highly restrictive gun laws, which forbid handgun sales. The gun makers "knowingly oversupply" gun shops just outside the city boundaries with the intention that many of those weapons will be sold to city residents according to the suit.

The suit seeks \$433 million in city costs related to gun violence over the past five years and names 16 gun stores and 22 manufacturers as defendants.

"Handgun manufacturers knowingly participate in an illegal market that supplies criminals, and then they turn around and feed off the rear of crime by convincing people they can protect themselves by buying these products," Kairy says. "They profit from crime and so they should pay the public costs of crime."

Ricker responds: "How can a city claim that guns cause crime when it gives guns out to police officers in order to stop crime? It is not the guns that are at fault when a criminal commits a crime."

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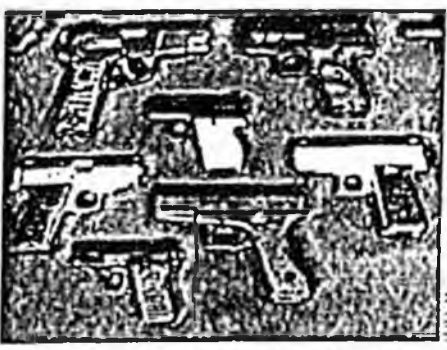
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Gun industry finds itself at wrong end of the barrel

Brooklyn verdict could "open floodgates"

February 12, 1999
Web posted at: 9:56 a.m. EST (1456 GMT)



(CNN) -- Controversy has swirled around gun control in the United States for decades, but manufacturers have managed to fend off critics -- and plaintiffs - by claiming that they are not at fault when handguns are used to commit crimes.

Recent developments, however, pose a challenge not only to the way the gun industry does its business, but perhaps to its livelihood as well.

Related Video

CNN's Jeff Flock reports on America's fascination with guns



Windows Media 28K 56K

CNN's Peg Tyre reports on Philadelphia and gun control

Windows Media 28K 56K

In a case bound to rock America's gun industry, a federal jury in Brooklyn, New York, found 15 of the nation's largest handgun makers negligent in their marketing and distributing practices.

In the past, gun companies have defeated lawsuits charging that they made defective guns or objects that were inherently dangerous, but the Brooklyn suit was the first to take a broader perspective and charge them with negligent marketing.

The cities of New Orleans, Chicago, Atlanta, Bridgeport and Miami-Dade have also sued gun manufacturers and industry groups, and a number of other cities -- Los Angeles, Boston, Philadelphia, St. Louis and San Francisco among them -- are expected to follow

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Philadelphia Mayor [Edward G. Rendell](#) has proposed that as many as 100 suits be filed on the same day to overwhelm the industry. And Chicago Mayor [Richard M. Daley](#) warned in December that "this is just the beginning."

The Brooklyn case

The Brooklyn suit was viewed as a test case for anti-gun suits brought by cities. Some predict that the verdict in the case could set off a free-for-all in which the industry might be forced to pay large sums for damages to cities around the country. It could also lead to restrictions on marketing and production as well.

"I thank God, we absolutely won," said lead plaintiff Freddie Hamilton, whose son, Njuzi, was slain in 1993. She predicted the verdict would bring a "new phase" of litigation against the firearms industry.

Families of six homicide victims and the severely wounded man brought the civil lawsuit against 25 gun manufacturers, seeking millions of dollars in compensation. In the one case where the shooting victim survived, the jury assessed the gun manufacturers \$4 million in damages. But the victim, Steven Fox, and his mother will get only a portion of that -- a sum in excess of \$500,000.

No damages were awarded to families of the dead, an issue that one juror said divided the panel in its six days of deliberations.

The February 11 verdict cleared 10 of the 25 manufacturers named in the suit of negligence. "We have seen some things they did that helped take guns off the street ... and stuff like that, that a lot of others didn't do," juror Charles Beatty said.

A lawyer representing six of the companies said all efforts will be made to have the verdict overturned.

The plaintiffs in the Brooklyn case argued handgun makers

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Should gun manufacturers be held liable for gun violence?

- Yes
 No
 Sometimes

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New Orleans claims that the industry has violated state gun safety laws by failing to install high-tech gun locks and other devices that would prevent unauthorized users from firing them.

Chicago is suing the industry for contributing to a "public nuisance" by oversupplying surrounding suburban stores with guns, knowing that the surplus will find its way into the city where laws are tight.

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Jumping the Gun?

Attacks on Firearms Echo Earlier Assaults On Tobacco Industry

But Contrasts Are Big, Too;
No Leaked Memos Yet,
Nor Same Sums at Stake

'Cigarettes Can Only Kill You'

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL

Tobacco lawsuits indisputably spawned the new wave of suits against the gun industry. In the escalating public debate over mass-injury litigation, the two tend to be equated, as if gun makers will inevitably tread the same path.

Not so fast.

Depicting themselves as children of the tobacco crusade, a determined group of antigun lawyers has mounted a serious threat to the way the gun industry does business that would have been unimaginable only two years ago. But at least some veterans of the tobacco fight aren't yet convinced the analogy holds up. David Kessler, the former chief of the U.S. Food and Drug Administration who played a critical role in pressuring tobacco companies to the bargaining table, says he still doesn't "see the comparison" between cigarette and gun makers.

On the Sidelines

Attorney Richard Scruggs helped lead the courtroom offensive on tobacco. But he has turned down invitations to get involved in the gun suits. Likewise, Prof. Laurence Tribe of Harvard Law School, who helped shape strategy against cigarette makers, rejected feelers made on behalf of gun foes.

The legal theory behind the gun suits—that governments should be reimbursed for public costs related to gun violence—was adapted from the tobacco suits brought by state attorneys general. But, as suggested by the reticence of Messrs. Kessler, Scruggs and Tribe, the legal fight over guns so far lacks elements that were critical to achieving the states' landmark settlement with the tobacco industry.

Guns, while controversial, can be used for self-protection, target shooting and law enforcement, and thus can't be demonized to the degree tobacco was, says Mr. Scruggs, who keeps a handgun at home. "Cigarettes can only kill you," he says.

Internal memos and whistleblowers revealing corporate deceit badly weakened tobacco defenses, notes Dr. Kessler, now dean of Yale Medical School. They haven't surfaced—at least not yet—in the gun story. Conditioned by real-life headlines and Hollywood legal thrillers, potential jurors, judges and politicians now expect this kind of "smoking gun" evidence before taking mass-injury suits seriously, says Harvard's Prof. Tribe.

But while cigarette makers for decades disputed the fundamental deadliness of smoking, firearm companies don't hide the fact that guns are designed to kill.

In private, some lawyers suing the firearm industry concede that, as one puts it, "Guns are more complicated than cigarettes." The mere names of some of the companies being sued—Colt's Manufacturing Co. and Smith & Wesson Corp., for example—bring to mind for many people images of frontier individualism or honorable law enforcement.

In another important respect, gun suits can't imitate their predecessors: The dollars aren't there. With annual U.S. sales of \$45 billion, cigarette manufacturers had the wherewithal to settle with the states for a total of \$246 billion over 25 years. Annual gun manufacturer sales total \$1.4 billion.

Shallow Pockets

Mr. Scruggs says he isn't convinced "that there's so much money at the end of the day" for a potential settlement. With an estimated 230 million guns already in circulation in the U.S., the Pascagoula, Miss., attorney questions whether lawsuits are the best way to curb violence. And he also acknowledges that unprecedented fees from the cigarette wars have dulled some lawyers' pecuniary appetites. His own small firm stands to take home hundreds of millions for its tobacco work.

Fatigue is another issue for some top tobacco antagonists. "We need to recharge our batteries," Mr. Scruggs says.

But a consortium of plaintiffs' firms that tried unsuccessfully to mount a national class-action suit on behalf of smokers—and therefore might be hungrier than Mr. Scruggs—has turned its attention to guns. Headed by New Orleans attorney Wendell Gauthier, the group has already signed up that city as a client and is negotiating with several other municipalities about representing them.

Mr. Gauthier, who despite missing out on the big tobacco settlements has won many millions for plaintiffs over the years, warns that it is far too early to write off gun lawsuits. The tobacco suits at first were ridiculed as fanciful, he notes. "We're going to see whistleblowers coming out of the woodwork on guns," he predicts. And he sees last month's partial victory in federal court in Brooklyn, N.Y., by a group of individual shooting victims who sued gun companies as a promising sign for the municipal litigation.

Although his group would take 30% of any jury award to New Orleans, or 20% of a settlement, Mr. Gauthier says he isn't in the gun fight primarily for the money. He maintains that if enough municipalities sue the gun industry simultaneously, companies will be forced to agree to long-re-

Please Turn to Page A6, Column 1

Where Gun and Tobacco Suits Diverge

Continued From First Page

sisted regulation of how they make and market firearms.

The cities' claims bear some similarities to those against the tobacco industry. New Orleans and other cities allege that gun companies failed to make "safer" guns that can be fired only by authorized users, much as states claimed the tobacco industry blocked development of a safer cigarette. Another allegation against the gun companies is that they target markets with lax gun laws, causing weapons to flow to criminals; tobacco companies were accused of targeting minors, who legally can't buy cigarettes. (The gun industry strongly denies both allegations.)

'A Gut Sense'

But legal theory, says Prof. Tribe, doesn't tell the whole story. When trailblazing tobacco suits drafted on behalf of attorneys general in Mississippi, Florida and Texas ran into political opposition in the mid-1990s, "it was the intangibles, a gut sense of the participants," that ultimately pushed the cases forward, says the professor, who advised government and private attorneys in the three states. The gut sense was: that a growing body of leaked internal corporate documents indicating tobacco industry dishonesty about the dangers of smoking, as well as marketing allegedly aimed at hooking teenagers, had made the once-invincible cigarette business vulnerable.

Antitobacco lawyers' instincts in the mid-1990s were critically reinforced by Dr. Kessler, who relied on the same sort of documents to publicly brand smoking a "pediatric disease," turning the debate into one about protecting children. In 1995, he proposed for the first time that the FDA regulate nicotine as a drug. The pincer-like threat of state lawsuits and federal regulation was critical in motivating tobacco chieftains to seek a deal.

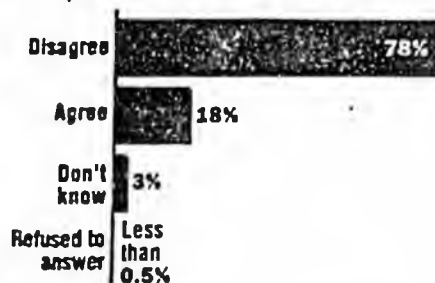
Dr. Kessler doesn't see the same threat against the gun companies, at least not yet. Those companies haven't obfuscated the lethality of what they make, he points out, and a gun whistleblower comparable to Jeffrey Wigand hasn't yet emerged to put a human face on the revelation of alleged duplicity.

Mr. Wigand, former research chief for the Brown & Williamson Tobacco Corp. unit of British American Tobacco PLC, testified in a 1995 deposition that the chairman of his former employer had lied under oath to Congress about his views on nicotine addiction. This revelation and others "eroded the industry defense that people choose freely to smoke," Dr. Kessler says.

Public Opinion on Guns

Gun Makers' Liability

Companies that make guns should be held financially liable if judges or juries find that their products were used to commit a crime.



Sources: I.G.R. Survey Research Group; Roper Center for Public Opinion Research, 1997

Support for Lawsuits

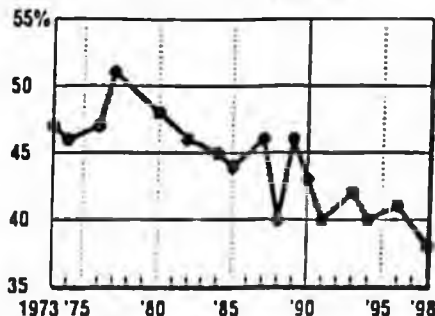
Do you support or oppose governments suing gun manufacturers for the cost of violent crime?



Source: DecisionQuest, 1999

Guns in the Home

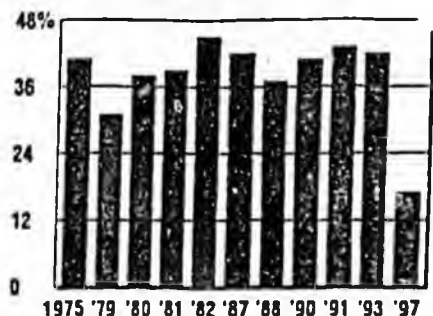
Households that have a gun, in percent



Source: National Opinion Research Center, University of Chicago, 1998

Handgun-Ban Support

Those who support a ban, in percent



Sources: Gallup Organization, Prof. Gary Kleck, Florida State University

Reluctant Witness

The only potential gun-industry turn-coat to surface so far hasn't had any discernible impact. Robert Hass, a former senior vice president for marketing at Smith & Wesson, a unit of Britain's Tomkins PLC, said in a deposition in the Brooklyn lawsuit that gun companies could do more to police distribution of their wares. But because of his reluctance to speak publicly, combined with health problems, the Connecticut retiree didn't appear at trial to elaborate. Lawyers familiar with the situation say he isn't eager to do so in other cases.

A defector of a different sort also helped push tobacco interests to seek a truce. Bennett LeBow, a New York financier who controls Liggett Group Inc., the weakest of the industry's five largest players, agreed in 1996 to cut his losses and settle four state suits at a time when other tobacco firms were vowing never to surrender. A year later, he again broke with rivals to declare nicotine addictive and admit that cigarette makers target minors.

More fractious and diverse than the tobacco business, the gun industry could conceivably produce a renegade who would effectively turn state's evidence. But so far, that hasn't happened. The recent ousting of a firearms trade group executive who opened back-channel communication with antigun lawyers has been seen as a sign that industry hard-liners aligned with the National Rifle Association are trying to take control of the litigation.

'Pressure Will Build'

Some veterans of the tobacco wars nevertheless see the same sort of process beginning again with guns. Richard Daynard, a law professor at Northeastern University in Boston who for 15 years has advocated tobacco suits, is leading the first academic conference to foster gun suits, scheduled for May. He has changed the title of his strategic-litigation course to: "Controlling Tobacco, Guns & Other Politically Protected Hazards."

"Political pressure will build for mayors to bring these cases against gun companies, just as it did for the attorneys general with cigarettes," Prof. Daynard says. If the number of cases grows, "the possibility of even a few breaking through" becomes a serious threat. "The connection between cigarettes and guns," he continues, "is that both used political influence to escape safety regulation, and eventually people got tired of that and turned to the courts" to rein them in.

Popular opinion of makers of cigarettes and guns is hard to discern. Hostility toward smoking increased distinctly in the 1980s and 1990s, as measured by national polls and imposition of workplace and restaurant smoking bans. But even as the tobacco suits mounted, large majorities of poll respondents said they opposed pinning liability on the companies, as opposed to smokers.

Similarly, popular support for modest forms of gun control, such as requiring permits and buyer background checks, has remained steady and strong, but most poll respondents express opposition to government suits against gunmakers. A survey released in January of 1,008 adults by DecisionQuest, a jury-consulting firm in Los Angeles that has done work for the gun industry, found that 66% opposed such suits and only 19% supported them, with 15% unsure.

Prof. Daynard maintains that, in contrast to answering abstract poll questions, the experience of seeing first-hand the evidence of alleged corporate deceit has inspired juries in a handful of smokers' suits to hold manufacturers liable—and that the possibility of this recurring in a state suit drove cigarette makers to settle. If similar

evidence emerges about the gun industry, he adds, it would face the same threat.

Phil Anthony, DecisionQuest's chief executive, sees a distinction, though. A majority of focus-group participants interviewed by his company tend to associate the Second Amendment right "to keep and bear arms" with other constitutionally protected freedoms. The Second Amendment doesn't ban suits against gun makers, but it has deep meaning for many Americans, especially in the South and West, Mr. Anthony says. Millions of law-abiding people still hunt. There is no tobacco equivalent to the politically potent NRA, with its three million dues-paying members.

In contrast, says Mr. Anthony, as legal attacks on tobacco mounted in the mid-1990s, few people in focus groups or on actual juries spoke up for smokers' rights. Many smokers want to quit.

Mixed Messages

The jury in the Brooklyn case reflected the assessments of both Messrs. Anthony and Daynard. Interviews with five of the 11 jurors revealed that most members of the panel saw themselves as sympathetic to manufacturers. But a persistent minority persuaded the majority to interpret certain manufacturer contracts with wholesalers as evidence of "negligent distribution" by 15 of the 25 defendants. Three defendants were ordered to pay a total of \$520,000 in damages.

What concerned some jurors about the contracts was that some manufacturers had failed to ban wholesalers from selling handguns to dealers who operate at gun shows or who don't have stores—two sources of illegal gun trafficking, according to law-enforcement officials.

This evidence may lack the drama of documents that allegedly show that cigarette manufacturers covertly manipulated nicotine levels to addict smokers. In Brooklyn, though, it was enough for a breakthrough verdict—the first ever to hold the industry collectively responsible for a criminal shooting.

The question is whether that verdict was an aberration or an analog to the handful of successful smokers' suits that presaged the settlement of state litigation against the tobacco industry.

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CS FOR SENATE BILL NO. 77(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS PETE KELLY, Ward

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting certain civil actions against firearms or ammunition
2 manufacturers and dealers."

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

4 * Section 1. AS 09.65 is amended by adding a new section to read:

5 Sec. 09.65.155. Civil liability of firearms or ammunition manufacturer or
6 dealer. A civil action to recover damages or to seek injunctive relief may not be
7 brought against a person who manufactures or sells firearms or ammunition if the
8 action is related to the lawful sale, manufacture, design, or marketing of firearms or
9 ammunition. However, this section does not prohibit a civil action for negligent
10 design, breach of contract, or breach of warranty.

11 * Sec. 2. APPLICABILITY. This Act applies to a civil action that accrues on or after the
12 effective date of this Act.

FISCAL NOTE

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: An Act relating to civil actions by BRU: _____
municipalities and certain public ... Component: _____
 Sponsor: REP. Dyson, Austerman
 Requestor: House CRA Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 00	FY 01	FY 02	FY 03	FY04	FY 05
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	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current (FY99) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation would have no fiscal impact on the department.

Prepared by: Yvonne Chase, Acting Director *Yvonne Chase* Phone: 465-4709

Division: Division of Administrative Services *Yvonne Chase* Date: 3/10/99

Approved by Commissioner: *Mike Dwyer* Date: 3/10/99

Agency: Community & Regional Affairs

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A Republican Seeks to Ban Suits Against Gun Makers

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- [Join a Discussion on Gun Control](#)

By LIZETTE ALVAREZ

WASHINGTON -- Opening a second front in the latest battle to protect the gun industry, Representative Bob Barr Tuesday introduced legislation that would block the lawsuits filed by cities against gun manufacturers.

Barr, a Georgia Republican who is a board member of the National Rifle Association, the country's largest gun lobbying organization, said that Federal legislation was needed to preserve free enterprise and stymie get-rich schemes by trial lawyers. The bill would bar lawsuits that seek to hold gun manufacturers and dealers liable when someone commits a crime with one of their weapons, provided that the firearm is legal and not defective and that the customer is not a known criminal.

"If these lawsuits are allowed to proceed, it will really be 'Katie bar the door,'" Barr said, "because there will be no industry in America that will be safe from these abusive and predatory lawsuits."

With cities now challenging gun manufacturers in court, the longtime struggle over gun control and the rights of gun owners has been infused with energy and importance on Capitol Hill this year.

The new strategy by local governments to recover damages from gun makers has stoked the Democrats' campaign to crack down on firearms after having failed to get any gun-control legislation passed since the Republicans won control of Congress in 1994. In the past two weeks alone, the Democrats have introduced

three bills and more are expected.

Tuesday, Senator Barbara Boxer, Democrat of California, said she planned to counteract Barr's bill by introducing legislation that would guarantee cities the right to sue gun manufacturers.

"If local governments believe the fight against crime is being hampered because of a mass proliferation of guns, I believe it is in the national interest to allow them to take action in court," Ms. Boxer said.

Tuesday morning, Senator Dianne Feinstein, Ms. Boxer's fellow California Democrat, laid out her own legislation to close a loophole that permits the import of high-capacity ammunition clips for assault weapons that cannot be manufactured in the United States.

Another Democratic proposal would require the Federal Government to regulate the design, manufacture and distribution of guns.

"The activity on the city level is sending a signal to everybody in Capitol Hill that people really do care about this," Mrs. Feinstein said. "And that this totally unregulated, produce-anything, sell-anything, kill-as-many-people sort of attitude is just not acceptable."

Republicans, sensing a serious threat this time, have moved swiftly to try to protect the gun industry.

Surrounded by law-enforcement and gun lobbyists, Barr held up a wooden Louisville Slugger bat at a news conference to warn of the domino effect. Once trial lawyers sue one industry for liability of this sort, he said, the strategy will be used against other businesses.

These bats, Barr intoned, "are used in the commission of crimes, with some frequency unfortunately. Should the manufacturers of Louisville Sluggers, already reeling under changes in their industry, be subject to devastating, abusive lawsuits because their lawful products, none defectively manufactured, are abused by criminals? Obviously not."

His bill, Barr emphasized, would not shield manufacturers from lawsuits for selling defective firearms or selling guns to known criminals.

The legislation would serve as a stopgap for lobbyists who have been furiously working with state legislatures to halt the spate of lawsuits. Using the tobacco industry lawsuits as a model, five cities have sued the gun industry: Atlanta, Bridgeport, Conn., Chicago, Miami and New Orleans. Others, including St. Louis, are considering doing the same.

The cities seek to recover expenses from violent gun crimes, including law-enforcement and hospital costs. Most also argue that the gun industry is negligent for not including more safety features.

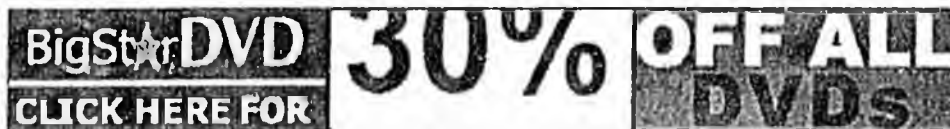
Gun lobbyists have taken note of a ruling last month in Federal District Court in Brooklyn. In a lawsuit filed by private citizens, a jury held 9 of 25 gun manufacturers liable for three shootings that involved illegally obtained handguns.

So far, only in Georgia has the Legislature enacted a law to block a lawsuit, Atlanta's in this case, although similar legislation is being considered in at least 12 other states. The Florida Legislature is considering a bill that would make it a felony for a local official to file a lawsuit against the gun industry.

But tackling the offensive state-by-state is expensive and time-consuming. Barr's bill would accomplish the same feat all at once, but its prospects are uncertain.

The proposal puts Republican lawmakers in a bit of a philosophical bind. They could wind up defending a law that undermines local governments and leaves them open to the question of whether they defend local governments or the gun industry.

Barr said the decision was simple: they will defend the status quo. "There is nothing more conservative than maintaining the status quo," he said.



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Subject: Mar 16 Committee Hearing on House Bill 103

Date: Sat, 06 Mar 1999 13:21:36 -0900

From: "Coons, Mike" <mikecoons@matnet.com>

**To: Representative_Andrew_Halcro@legis.state.ak.us,
Representative_John_Harris@legis.state.ak.us**

CC: Representative_Fred_Dyson@legis.state.ak.us

Please include for the record when the Community and Regional Affairs Committee meets to discuss HB 103. Because I will be at work, I will not be able to attend the LIO teleconference.

To CRA Committee

We ask that the following be placed as an amendment to HB 103, with the appropriate AS numbers replacing that of the Florida statutes.

(7)(a) Any official, agent, or employee of a county, municipality, town, special purpose district, or other political subdivision or agent of the state, while he or she was acting in his or her official capacity and within the scope of his or her employment or office, who willfully and knowingly brings or is party to bringing an action in violation of this section commits a felony of the third degree, punishable as provided in s. 775.081 and s. 775.083.

(b) Any civil action brought in violation of this section shall entitle the defendant to recover all expenses resulting from such action from the person, persons, and/or unit of government bringing such action.

(c) In any civil action where the court finds that the defendant is immune as provided in this section, the court shall award the defendant all attorney's fees, and costs and compensation for loss of income, plus any and all expenses incurred as a result of such action.

Sincerely
Mike and Sandy Coons
P.O. Box 4229
Palmer, AK 99548
(907) 745-8779
Regards
Mike Coons

Subject: Mar 16 Committee Hearing on House Bill 103

Date: Sat, 06 Mar 1999 12:14:34 -0900

From: "Coons, Mike" <mikecoons@matnet.com>

To: Representative_Andrew_Halcro@legis.state.ak.us

Please include for the record when the Community and Regional Affairs Committee meets to discuss HB 103. Because I will be at work, I will not be able to attend the LIO teleconference.

To CRA Committee

I write in full support of HB 103. I would like to see an amendment to this bill however. That would be to hold criminally responsible for any governmental employee or elected official to file a lawsuit against any gun manufacture such as Chicago, Brooklyn, New Orleans, Atlanta, Miami, etc. have filed. I would urge the language used in the Florida legislation which would make it a Felony with a 5 year prison term. The reason for this drastic measure is that although Georgia has signed into law legislation similar to this, the Atlanta Mayor is still going with the suit. This is because there is no punitive damage to disregard State Law!

This legislation, HB 103 is even more important today than it was when it was first introduced. For as of Thursday, 4 Mar 99, a bill has been introduced in the Washington D.C. Senate, Gun Industry Accountability Act. This bill would give Federal Funds, our taxpayer dollars to those counties, cities and States who file a frivolous lawsuit against the firearms industry. Senator Schumer and Lautenberg made it very clear that they are out to bankrupt the firearms industry, both guns and ammunition manufactures! They made it plain in their Press Conference that just the suits themselves will be enough to kill the industry by spending dollars and time defending these frivolous lawsuits. There is no intention on winning any of the suits, just to bankrupt the industry.

We have written to all the Senators urging the defeat of this bill, prior to ever getting on the floor for a vote! How does this impact HB 103? Simply that even "if" the Gun Industry Accountability Act were to pass, that no municipality, city or the state government could sue, much less get Federal funding!

We urge the passage of HB 103, with our suggested amendment. The continuous attacks against the American and Alaskan citizens who enjoy the freedom of the Constitution and Bill of Rights must be defeated pro actively.

Sincerely

Mike and Sandy Coons

P.O. Box 4229

Palmer, AK 99645

(907) 745-6779

Regards

Mike Coons



REPRESENTATIVE FRED DYSON

Alaska State Legislature

- Interim (May-Dec) -
10928 Eagle River Rd. Suite 140
Eagle River Alaska 99577
☎ (907) 694-6683
FAX (907) 694-1015

- Session (Jan-May) -
Alaska State Capitol
Juneau, Alaska 99801-1182
☎ (907) 465-2199
FAX (907) 465-4557

Toll free (800) 342-2199

MEMORANDUM

March 2, 1999

To: ✓ Representative Andrew Halcro, Co-Chair
Representative John Harris, Co-Chair
Community and Regional Affairs Committee

From: Representative Fred Dyson

Subject: Request to schedule HB 103 

Please schedule a Community and Regional Affairs Committee hearing on HB 103, "An Act relating to civil actions by municipalities and certain public corporations and prohibiting certain civil actions by them against firearms or ammunition manufacturers and dealers." Attached is a Sponsor Statement for your review.

- E-mail -
Representative_Fred_Dyson
@Legis.state.ak.us

- Internet -
<http://www.akrepublicans.org>



Alaska State Legislature

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Juneau, Alaska 99801-1182
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Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

HB 103 Sponsor Statement

"An Act relating to civil actions by municipalities and certain public corporations and prohibiting certain civil actions by them against firearms or ammunition manufacturers and dealers."

Around the country municipalities have been suing firearm manufacturers to establish liability for gun violence. The most often stated objective is to pay for costs related to violence in cities. The theory is that firearm manufacturers have conspired to dump excessive guns in friendly markets knowing that the overflow would be illegally filtered into cities with strict gun control laws.

It is the intent of this Act to prohibit political subdivisions in Alaska from seeking reimbursement for the costs of gun-related violence from businesses engaged in the lawful manufacture, sale, design, or marketing of firearms or ammunition. It is not the intent of the legislation to prevent bringing an action for breach of contract or warranty as to firearms or ammunition purchased by a political subdivision or local government authority.

Gun related manufacturing is a legal enterprise producing quality products which are lawfully and safely used by thousands of Alaskans for hunting, sport, recreation and protection. Some municipalities are seeking to create gun control through judicial means rather than through the legislative process, where it belongs.

- E-mail -
Representative_Fred_Dyson
@Legis.state.ak.us

- Internet -
<http://www.akRepublicans.org>

Subject: HB 103

Date: Sat, 13 Mar 1999 08:25:31 -0900

From: Michael McDonough <mmcdono555@sprynet.com>

Organization: Lawyer

To: Representative_Fred_Dyson@legis.state.ak.us

Rep. Dyson,

I would appreciate your support of HB 103.

Thank you,

Mike McDonough

19732 Big Diomedes Circle

Eagle River, AK. 99577

HB

133

COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS
REPRESENTATIVE ANDREW HALCRO, REPRESENTATIVE JOHN HARRIS, CO-CHAIRMEN
STATE CAPITOL, ROOM 418
JUNEAU, ALASKA 99801-1182
(907) 465-3882

AGENDA
MARCH 25, 1999

1. Call Meeting To Order
2. Call Roll
 - a. Morgan
 - b. Murkowski
 - c. Joule
 - d. Kookesh
 - e. Dyson
 - f. Harris
 - g. Halcro
3. HB 133 - Voter Approval of Service Area Changes
 - a. Representative Con Bunde - Sponsor
 - b. Public Testimony
4. HB 63 - Land Use in Home Rule Municipalities
 - a. Additional Public Testimony
5. Any announcements from other members of the Committee
6. Motion to Adjourn

03/30/99
08:07:55

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)

LTN1150
BY:FBX
FOR:FBX

TCN:90423 SCHEDULED FOR:03/30/99 08:00 TO 10:00
PUBLIC HEARING HOUSE COMMUNITY AND REGIONAL AFFAIRS

LOCATION: FAIRBANKS

HB 133	MR.	MERLE	JANTZ	TESTIFY
HB 133	MR.	BILL	MCDONALD	TESTIFY
HB 133	MR.	RANDY	FRANK	TESTIFY
HB 133	MR.	RANDY	CLENDANIEL	TESTIFY

03/30/99
08:06:55

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)

LTN1150
BY:MAT
FOR:MAT

TCN:90423 SCHEDULED FOR:03/30/99 08:00 TO 10:00
PUBLIC HEARING HOUSE COMMUNITY AND REGIONAL AFFAIRS

LOCATION:MATSU

HB 133	MR	HENRY	<u>CORBIN</u>	TESTIFY
HB 133	MR	JIM	<u>NORCROSS</u>	TESTIFY

Alaska State Legislature

DURING SESSION
STATE CAPITOL ROOM 501
JUNEAU, AK 99801-1182
(907) 465-4843 (800) 892-4843
FAX: (907) 465-3871

WEB SITE
<http://www.akrepublicans.org/Bunde.htm>



REPRESENTATIVE CON BUNDE

District 18

VICE-CHAIR HOUSE FINANCE COMMITTEE
MEMBER LEGISLATIVE BUDGET & AUDIT COMMITTEE

DURING INTERIM
716 W FOURTH AVE
ANCHORAGE AK 99501-2133
(907) 269-0181
FAX (907) 269-0184

E-MAIL
Representative_Con_Bunde@legis.state.ak.us

SPONSOR STATEMENT

House Bill 133

" An Act relating to municipal service areas and providing for voter approval of the formation, alteration. Or abolishment of certain service areas; and providing for an effective date."

Alaska's Constitution provides for maximum local self-government (Art. X sec. 1) and for the creation, alteration, or abolishment of service areas subject to the provisions of law (Art. X sec. 5).

AS. 29.35.450 codifies these Constitutional provisions and establishes the mechanism by which service areas are created, altered, and abolished.

Alaska has approximately 200 service areas; in these areas, the local residents assess themselves to pay for a particular service, like snow plowing and road maintenance from private contractors.

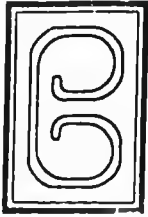
HB 133 amends AS. 29.35.450 to support local control by clearly identifying whom should vote on the abolishment and alteration of a service area under three scenarios:

1. **Abolishment of a service area.**
Subject to approval by the majority of the voters residing in the service area.
2. **Abolishment and replacement of a service area.**
Must be approved separately by a majority of voters inside an existing service area and by a majority of the voters residing in the proposed service area **BUT OUTSIDE** the existing service area.

3. **Alteration of a service area or combining it with another service area.**
Must be approved, separately, by a majority of the voters who vote on the question and who reside in each of the service areas or in a proposed service area affected by the proposal.

This proposed legislation would settle a long time debate about who is entitled to vote during the creation, alteration or abolishment of a service area. This legislation has support throughout service areas in Alaska and I urge the favorable consideration of this committee.

FEB 18 1998



Karen L. Hendrickson

DESIGN OPTIONS CONSULTANT

February 12, 1998

Senator Sean Parnell
State Capitol Room 504
Juneau, AK 99801

Dear Senator Parnell:

I am writing to you on behalf of the Board of Supervisors of the Talus West Limited Road Service Area. The board wishes to express its support for Senate Bill 208. The legislation you have sponsored speaks directly to our ability as residents of a particular area to decide upon, and contract for, the services that best suit our particular needs. The recent forced annexation of the hillside to the Anchorage Police Departments jurisdiction, against the wishes and votes of the residents, has made it obvious the service areas lack protection from a local government takeover of those services they choose to administer for themselves. We urge you to vigorously pursue passage of protection for our service area.

Sincerely,

Karen L. Hendrickson

Karen L. Hendrickson
Member - Talus West LRSA Board of Supervisors
4731 Talus Drive
Anchorage, AK 99516

This letter is
being reused to
support HB 133
with permission of
Karen L. Hendrickson

4731 TALUS DRIVE • ANCHORAGE, ALASKA 99516



Municipality of Anchorage

Rick Mystrom, Mayor



Girdwood Board of Supervisors

P.O. Box 890 • Girdwood, Alaska 99587

February 25, 1998

Senator Sean Parnell
State Capitol
Room 504
Juneau, AK 99801-1182

Re: Senate Bill 208

Dear Sen. Parnell,

The Girdwood Board of Supervisors unanimously supported a motion to endorse the passage of Senate Bill 208 at our last regular meeting, February 16, 1998. The board also supports Rep. Bunde's companion bill, HB 365.

The board strongly feels both bills strengthen the intent of the Municipal Charter as we understand it.

Sincerely,

Keith Tryck
Keith Tryck
Chairman

*Refused to Support
HB 133 with
Permission of
Keith Tryck*

Mid-Hillside Community Council

10005 Main Tree Drive Anchorage, Alaska 99516-6430
Chris Birch, Board President
907 346-3265 (home)
907 346-3197 (fax)



February 13, 1998

Senator Sean Parnell
State Capitol
Juneau, Alaska 99801-1182

Subject: SB 208, An Act Relating to Municipal Service Areas

Dear Senator Parnell;

VIA FAX ONLY

Thank you for providing a copy of the subject legislation for community review and comment.

The Mid-Hillside Community Council is forcefully on record supporting the community right of decision regarding self-determination in service area related annexations. I very much appreciate your efforts to affirm in statute what most would assume was well outlined in our municipal charter, the right of a community to vote their approval of additional proposed services and taxes.

You have our full support in your efforts to advance this vital legislation. You may even wish to consider a means of enabling existing Anchorage service areas an opportunity to competitively bid current neighborhood services. I have heard repeated complaints from the members of the Anchorage Road and Drainage Service Area (ARDSA), the service area providing municipal road maintenance, about the 3 day delay in snow removal and excessive costs for this service. Our Valli Vue Road Service Area contractor provides a much better quality of service for half the ARDSA mill rate. It would be wonderful if the residents of Anchorage could enjoy these same competitive advantages, kind a reverse annexation opportunity!

I hope to see you in Juneau next week or tomorrow at the Anchorage Caucus and District 18 Town Meetings.

Sincerely,

Chris Birch
Board President

This letter is being
reused to support
HB 133 with the
Permission of
Chris Birch

XC: Mid Hillside Board of Directors
Allan Johnston, President, Hillside East Board of Directors



Hillside East Community Council

March 13, 1998

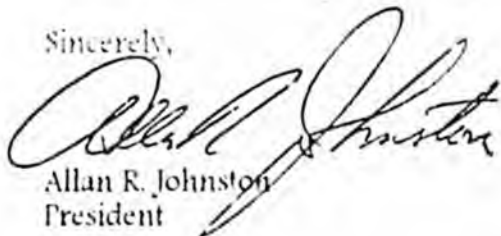
Senator Sean Farnell
State Capital Room 504
Juneau, AK 99801

Re: Senate Bill 208

Dear Senator Farnell:

Congratulations on your introduction and good work on Senate Bill 208. Please put Hillside East Community Council unanimously behind your bill.

Sincerely,



Allan R. Johnston
President

This letter is being
reused for HB 133
with permission of
Allan R Johnston
former President
and
Ann Ballaw
President - Hillside East CC

Community Councils Center

301 E. Fireweed Lane, Suite #101 Anchorage, AK 99503-2110

Allan R. Johnston, President H 346-1087
John O'Brien, 1st Vice-President H 562-6949
Richard Day, 2nd Vice-President H 346-3689

Inge Lentfer, Treasurer H 346-1567
Ann Ballow, Secretary H 346-1989
James Cazort, Director H 346-8308

Jennifer Williams, Director H 346-0188
Linda Orell, Director H 346-2745
Joan Dewey, Director H 346-1756

FEB 06 1998

February 2, 1998
Cordes Drive Service Area
Service Area Commissioners
Fairbanks, Alaska

Senator Sean Parnell
State Capitol Room 504
Juneau, Alaska 99801

Dear Senator Parnell,

Thank-you for introducing Senate Bill #208. We support it and are contacting our representatives to let them know. We agree that the residents of existing service areas should have control of any proposed changes to their service areas.

Sincerely,

Francis O'Connor
Francis O'Connor

Jean Leder
Jean Leder

Bill Griffith
Bill Griffith

Refused to support
HB 133 with permission
of Cordes Drive SAC

Author: ffjha@aurora.alaska.edu (James H Anderson) at CC2MHS1
Date: 2/12/98 1:29 PM
Priority: Normal
TO: Senator Sean Parnell at LAA_TRANS
CC: bdelana@polarnet.com at CC2MHS1, alaskarc@polarnet.com at CC2MHS1
Subject: SB 208
Dear Senator Parnell,

Thank you for your letter of January 20 explaining your bill, SB 208.

I have discussed the matter addressed in your bill with the other members of the Spinach Creek Road Service Area Commission. We agree enthusiastically with the intent of the bill, and we extend to you our support of it.

I will send messages in support of SB 208 to John Davies and Gary Wilken.

Thank you for helping us to provide the best service to the residents of our service area.

Jim Anderson
Chairman
Spinach Creek Road Service Area Commission
Fairbanks North Star Borough

907 455-6077

PO Box 84607
Fairbanks AK 99708

Reused to support
HB 133 with
Permission of
SCRSAC

Board of Supervisors
R.S.A. #25 Bogard
P.O. Box 2274
Palmer, AK. 99645

January 24, 1998

TO: Senator Sean Parnell
State Capitol Room 504
Juneau, AK. 99801

Dear Senator Parnell,

The board of supervisors for R.S.A. # 25 Bogard has discussed Senate Bill 208 and we enthusiastically support it. We believe it is still important to allow taxpayers to have a voice in the spending of their tax monies. Local control is important to the residents of this road service area. Thank you for your assistance in maintaining it.

Sincerely Yours,

Valen C. Bair
Primary R.S.A. # 25

Valen C. Bair

William I. Arkin
Board R.S.A. # 25

William I. Arkin

Wrex Diem
Board R.S.A. # 25

Wrex R. Diem

Reused to support
HB 133 with
Permission of those
Signed above