



ALASKA FEDERATION OF NATIVES 2016 STATE PRIORITIES

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The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska. Our membership includes 185 federally recognized tribes, 153 village corporations, 12 regional corporations, and 12 regional nonprofit and tribal consortium's that contract and compact to run federal and state programs. AFN is governed by a 38-member board, which is elected by its membership at the annual convention held each October. Formed 50 years ago, AFN continues to be the principal forum for Alaska Native peoples in dealing with critical issues of public policy and government.

OUR MISSION

Alaska Native people began as members of full sovereign nations and continue to enjoy a unique political relationship with the federal government. We will survive and prosper as distinct ethnic and cultural groups and will participate fully as members of the overall society. The mission of AFN is to enhance and promote the cultural, economic and political voice of the entire Alaska Native community. AFN's major goals are to:

- Advocate for Alaska Native people, their governments and organizations, with respect to federal, state and local laws;
- Foster and encourage preservation of Alaska Native cultures;
- Promote understanding of the economic needs of Alaska Natives and encourage development consistent with those needs;
- Protect, retain and enhance all lands owned by Alaska Natives and their organizations; and
- Promote and advocate for programs and systems which instill pride and confidence in individual Alaska Natives.



TRIBAL CO-MANAGEMENT OF ALASKA'S FISH AND WILDLIFE RESOURCES

BACKGROUND:

Alaska's renewable fish and wildlife resources are vital to the food security of Alaska Natives, symbolizing the cornerstone of ancient cultures and economic systems. Accordingly, Native peoples have a strong interest in managing these resources through maximum self-determination.

Federal law, embodied in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA), provides rural Alaskan residents with a subsistence use priority in times of scarcity, and confers management authority of fish and wildlife resources to the state, provided Alaska manages these resources according to federal subsistence requirements. The Alaska legislature amended the state subsistence statute in 1986 to bring Alaska law in line with ANILCA. However, in 1989, the Alaska Supreme Court ruled that the "equal access" clause of the Alaska Constitution prohibited special priorities in the taking of fish and wildlife. Consequently, the federal government took over the management of fish and wildlife for subsistence purposes on Alaska public lands in 1990 (approximately 60% of Alaska lands), leaving the state to manage the remaining 40% of Alaska lands, including Native lands. This dual federal and state management system is complicated and sometimes conflicting.

Climate change has recently exacerbated the conflict between the dual federal and state management systems by causing drastic changes in the Alaskan landscape and fish and game numbers. Because a changing climate is anticipated to affect the sustainability of Alaska's fish and wildlife resources and their uses, Alaska Natives would like to share our traditional knowledge in the assessment and development of adaptation strategies through broad based co-management.

Co-management is not a new concept in Alaska. The National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) have entered into more than a dozen co-management agreements with Alaska Native tribes and tribal organizations since 1984. By example, the Alaska Eskimo Whaling Commission (AEWC) has co-managed the bowhead whale subsistence hunt through a Cooperative Agreement with the National Oceanic and Atmospheric Association (NOAA) since 1991. Additionally, the USFWS, Alaska Department of Fish and Game, and the Association of Village Council Presidents entered into the Yukon-Kuskokwim Goose Management Plan in 2005 to manage the harvest of migratory birds in southwest Alaska. Alaska Natives have embraced co-management in isolated incidents, and are ready to build upon our internal capacity with homegrown talent and strategic partnerships.

To this end, representatives from the Ahtna region are working to create a demonstration project through which tribal members from the Ahtna region and Ahtna, Inc. representatives would be authorized to manage wildlife, including hunting, on Ahtna Inc. lands. Ideally, the Ahtna group, the State of Alaska, and the federal government would enter into a co-management agreement for the lands within Ahtna's traditional territory (state, federal and ANCSA lands). Alaska Native tribal leaders from the Lower Kuskokwim River region are working with the US Department of the Interior on the Kuskokwim Inter-Tribal Fish Commission demonstration project, which will give the Commission a meaningful voice in the management of salmon stocks on the river.

Protecting our subsistence way of life through maximum self-determination is critically important to Alaska Natives, particularly as we cope with the effects of climate change on our lands and resources. Tribal co-management of fish and game resources will help to unify Alaska's dual system for the betterment of all Alaskans.



CONSTITUTIONAL AMENDMENT ON SUBSISTENCE

The Alaska Federation of Natives encourages the Governor of Alaska and the State Legislature to:

- Approve and adopt a proposal to amend the Alaska Constitution to recognize and preserve the heritage of Alaska's aboriginal citizens' opportunity and priority right to subsistence hunt, fish and gather.
- Submit the proposal to the voters of the State of Alaska at the next general election for approval.

BACKGROUND:

Title VIII Section 3114 of the Alaska National Interest Lands Conservation Act (ANILCA) provides rural Alaskan residents with a priority in the taking of fish and wildlife on public lands for subsistence purposes in times of scarcity. Section 3115 sets out the authority for the State of Alaska to exclusively manage renewable fish and wildlife resources on public lands provided it implements laws consistent with the priority preference in §3114.

Alaska, through the Board of Fisheries and Game, initially made meaningful attempts to comply with ANILCA by adopting a subsistence priority through regulations in 1982. However, in 1985 the Alaska Supreme Court struck these regulations down in *Madison v. State*, ruling Alaska law prohibited such a priority. The Alaska State Legislature then amended the state's subsistence statutes in 1986 to provide for the priority, but in 1989 the Alaska Supreme Court held in *McDowell v. State* that the equal access clause of the Alaska Constitution precluded the state from implementing a rural subsistence priority that was consistent with ANILCA. Over the next ten years, despite the urging of three separate governors and numerous regular and special legislative sessions, Alaska was unable to reassume responsibility for the management of subsistence hunting and fishing on the state's public lands.



Subsistence hunting, fishing and gathering are at the core of the physical, spiritual, cultural and traditional life-being of all Alaska Native people. The delegates at the 2015 Alaska Federation of Natives Annual Convention passed Resolution 15-5, calling for an amendment to the Alaska State Constitution to recognize and preserve the heritage of Alaska's aboriginal citizens' opportunity and priority right to subsistence hunt, fish and harvest.

With such a change, the state could reassume management of fish and game on public lands, thus ending the complicated and sometimes conflicting dual state/federal management that currently exists. We urge you to start the process of amending the Alaska Constitution to reflect the cultural and historical significance of subsistence to Alaska's first peoples.



SUBSISTENCE ECONOMIC DISASTER DECLARATION PROGRAM

Alaska is a vast land mass, home to many distinct indigenous peoples. For generations, we have relied the plentiful lands and waters to hunt, fish, and gather wild plant food through an economy and way of life that has been commonly termed ‘subsistence.’ Indeed, one study estimated the average subsistence harvest of rural Alaska residents to be about half of their diet, and suggested that replacing subsistence foods would cost between \$98 and \$164 million per year.

Regrettably, as the climate changes, subsistence regions, communities, and users from around the State of Alaska are reporting threats to their food security with the diminished availability of fish and wildlife resources as a consequence of the dramatic changes in the environment. Salmon runs in western Alaska have experienced failures since 2000. The Alaska Governor declared the walrus hunts on St. Lawrence Island a disaster in 2013, and two villages on the island have requested a disaster declaration for the 2015 hunt.

Amendments to the Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) authorize the President to issue major disaster and emergency declarations, and allow federally recognized tribal governments to seek a declaration of emergency or major disaster directly from the President, rather than going through a state to clear the way for assistance from the Federal Emergency Management Agency (FEMA). However, there is no clear regulatory or statutory mechanism for tribes to request a disaster declaration for subsistence catastrophes.

In 2012, the Governor of Alaska and the US Secretary of Commerce declared the commercial king salmon fisheries on the Yukon and Kuskokwim Rivers and the Upper Cook Inlet to be a disaster. Congress appropriated \$20.8 million to offset the economic loss, of which \$1.2 million was allocated each to the Alaska Village Council of Presidents (AVCP) and the Tanana Chiefs Conference (TCC) for subsistence related relief.



The precedent for subsistence disaster relief as part of a commercial disaster declaration therefore exists; however, it is unclear whether tribes may obtain such relief absent a commercial effect.

Proposed Solutions:

- Issue an emergency order to provide for immediate relief for loss of subsistence resources as an economic disaster.
- Work to establish a new category and mechanism in state disaster regulations to provide food security and relief for subsistence disasters.
- Establish a disaster response team or task force to develop adaptation or resiliency plans for communities who seek assistance when low subsistence harvests result in disasters, regardless of what category the disaster falls under.



SUBSISTENCE OPPORTUNITIES FOR VILLAGE RESIDENTS

The Alaska Federation of Natives urges the Alaska Department of Fish and Game, the Alaska Board of Game, the National Park Service, the Bureau of Land Management, the U.S. Fish and Wildlife Service, and the Federal Subsistence Board to:

- Work together to develop a comprehensive sport hunting management plan, including strict enforcement of state/federal trespass and hunting laws, that will ensure meaningful and consistent opportunities for rural Alaska residents to practice a subsistence way of life; and
- Meaningfully engage in consultation with Alaska Native tribes and Alaska Native corporations on this plan.

BACKGROUND:

Subsistence is the foundation of Alaska Native cultures and the mainstay of food security in rural villages. Geographic and economic limitations, such as the high cost of fuel and equipment, make living a subsistence lifestyle hard for rural residents. Increasingly, rural residents are also facing competition from urban residents who travel to villages to hunt and fish, pushing game away from the villages and making it more expensive for rural residents who have to travel further to subsist. Additionally, transporter access and aircraft over-flights are not adequately regulated or policed, leading to abuses and legal violations by some hunters and transporters.

The delegates at the 2015 Alaska Federation of Natives Annual Convention passed Resolution 15-7 asking the state of Alaska to address conflicts between village residents and sports hunters and to ensure meaningful subsistence opportunities for village residents.

We ask that the Alaska Department of Fish and Game, and the Alaska Board of Game, the National Park Service, the Bureau of Land Management, the U.S. Fish and Wildlife Service, and the Federal Subsistence Board work together to develop a comprehensive sport hunting management plan. This plan should include strict enforcement of state and federal trespass and hunting laws, and should provide for meaningful and consistent opportunities for rural Alaska residents to subsistence hunt and fish. We also ask that these groups develop this plan with meaningful consultation with Alaska Native tribes and Alaska Native corporations.





OPPORTUNITIES FOR STATE CONTRACTING CONSOLIDATION AND EFFICIENCIES

The Alaska Federation of Natives urges the Governor to create a pilot project to consolidate funding streams between various state agencies and the tribes and tribal organizations currently providing services through grants and contracts.

477 PROGRAM EXAMPLE:

The Tribal Employment and Training Program (PL 102-477), signed into law in 1992, provides authority for Tribes to streamline Tribal employment and job-training efforts by combining federal funding from the Departments of Interior, Labor, Health & Human Services, and Education for these programs under a single program plan with a single budget and a single reporting system. The flexibility provided by this program, which is known as the 477 program, has allowed Tribes and Tribal organizations to eliminate duplicative administrative costs while enhancing the quantity and quality of services to Native people nationwide. Over the last 19 years, this flexibility has successfully facilitated the creation of more culturally appropriate programs, eliminated duplicative administrative costs, and increased direct services at no additional cost to the federal government.

Alaska Native tribes and tribal organizations consider this program an essential tool. Without the flexibility provided by 477 they could not have achieved the outstanding results that they have-- moving people from welfare to work, preventing TANF utilization and reducing caseloads. Tribal organizations, like CITC have been able to serve 20% more participants as a result of reinvesting the administrative savings provided by 477 back into direct services.

APPLICATION TO STATE FUNDING AND PROGRAM OPERATIONS:

Tribal organizations currently operate programs funded by the state from multiple funding sources requiring corresponding scores of financial and program reports per year. This administrative burden is expensive and diverts needed funds from direct services. Equally important, it inhibits the whole person/whole family approach to social services that produces improved results for individuals and families. For example, CITC operates nine different programs requiring 52 financial and 44 program reports per year. There is a better model: the federal government has worked for almost two decades to eliminate such redundancy and permit efficiency via the 477 program. While 477 is a tribal program at the federal level, a comparable idea can be used in Alaska to achieve similar goals for Alaska Native self-sufficiency and state efficiency.

The State funding mechanisms seem to provide authority for non-profit organizations to streamline child welfare, recovery and public assistance/job training efforts by combining funding from within the Department of Health & Social Services (DHSS) for these programs under a single program plan with a single budget and single reporting system. The flexibility provided by this program would allow organizations to eliminate duplicative administrative costs while enhancing the quantity and quality of services to Native people. Programs in other departments would also benefit from this consolidation.

Modelled on the success of the federal program, tribes and tribal organizations could anticipate substantial annual savings due to reduced administrative redundancy; staff cross training; and coordinated MIS, intake, and support services across programs. This savings would allow them to serve many additional participants.

NEED FOR COORDINATION AND EXTENT OF PROBLEMS WITHIN DHSS PROGRAMS:

There is a high correlation between low-income/TANF and risk of child maltreatment, as well as substance abuse. Tribal TANF programs have achieved a high rate of success in addressing economic and supportive service issues with the target population – for example, CITC's Tribal TANF has achieved its target participant activity rate since beginning

service provision in 2005. However, there is no systematic screening conducted specifically for child maltreatment to identify high-risk families and, therefore, no systematic prevention work being done with this population. Alaska Native children are vastly over-represented among families involved with the Alaska Office of Children’s Services (OCS).

At present, different case management systems (the Family Self Sufficiency Plan for Tribal TANF and the Family Services Plan for child welfare) are used by the two departments which, despite often serving the same individuals concurrently and often have overlapping requirements, are not accessible by case managers from the other department. Finally, despite working for the same organization, Tribal TANF and child welfare staff each tend to be unfamiliar with the expectations and “language” of the other system.

Many tribes and tribal organizations have instituted holistic service provisions that have resulted in a standardized intake and release of information infrastructure across all service departments (e.g. Recovery Services, Education, Employment and Training, and Child & Family Services). This infrastructure development creates a “no wrong door” method for participants to enter services. What remains to be achieved is translating this new infrastructure to true interoperability between Tribal TANF, Recovery Services, and Child & Family Services departments – leveraging improved screening capacity to prioritize participants with more significant needs, allow for prevention rather than only crisis intervention, and better understand the relationship between the Tribal TANF population and the Office of Children’s Services by intentionally tracking it.

Having identified these problems, a tremendous opportunity exists to enhance the relationship between Tribal TANF, Recovery Services, and child welfare services. Clients enrolled in multiple concurrent programs perform better than persons enrolled in single programs. Participants with concurrent TANF and CFS perform significantly better than those only in CFS programs. Links with tribal health systems provide additional untapped opportunities to increase participant success.

REQUEST:

Create a pilot project to consolidate funding streams between various state agencies and tribes and tribal organizations currently providing services through grants and contracts. One possibility would be to start with DHSS, where significant grants and contracts already exist.

Details of a Proposed Program for DHSS as an example:

- Programs eligible for inclusion include programs designed to promote health and self-sufficiency for Alaska Native people, including Family Contact and Family Preservation, TANF, LIHEAP, WIC, and Residential Treatment.
- Funding for the proposed program is transferred to tribes and tribal organizations through contracts, not competitive grants. This transfer mechanism is an essential element of the success of the program, and will provide them with maximum flexibility to achieve maximum efficiency, through leveraging other funding while maintaining adherence to program guidelines.
- Efficiencies will allow more participants to be served per program dollar, and permit innovative new program initiatives that better serve participants, such as vertical service provision, where family case managers can follow families from family preservation to family contact. More importantly, efficiencies and programmatic coordination gained through this mechanism will enable tribes and tribal organizations to engage actively with high risk families to prevent child welfare system involvement through internal referrals, provide wraparound services and increased family success.
- Combined resources will free funding from administrative positions, thus providing more resources for increased program direct services, including possible co-location of staff in state offices if needed.



SUPPORTING THE TOXIC-FREE CHILDREN'S ACT (SB 111/HB 199)

The Alaska Federation of Natives calls upon the Alaska State Legislature to protect the health of our children and future generations by passing the Toxic-Free Children's Act which would:

1. Prevent the manufacture, sale, and distribution of ten toxic and unnecessary flame retardant chemicals in children's products and home furniture; and
2. Require the labelling of children's products to inform people whether these products contain toxic flame retardant chemicals.

BACKGROUND:

Toxic exposures continue to threaten our health because Congress has not yet passed meaningful or protective reform of the ineffective and outdated federal law—the Toxic Substances Control Act of 1976 (TSCA) that was intended to regulate chemicals used in commerce. Due to the ineffectiveness of this law, there are approximately 85,000 chemicals on the market, most of which have never been tested for safety and human health effects. Many of these chemicals are ultimately found in our traditional foods, our environment, our bodies, and in our homes, even though these chemicals have never been produced in Alaska or the circumpolar Arctic. The chemicals are present in our bodies and have multigenerational effects—they are passed on to our children and harm their ability to learn our languages, songs, stories, and cultures.

Research has demonstrated that Alaska Native and other Native American populations are at higher health risk from certain substances that are toxic, persistent, and bioaccumulate in the environment, the food web, and the human body. Our children are particularly vulnerable to the harmful effects of chemical exposures to their developing brains, which can cause learning and developmental disabilities, birth defects, reproductive disorders, and cancers.

Chemical flame retardants are widely used in children's products, carpeting, and home furniture. These harmful chemicals are found in toys, nap mats, nursing pillows, changing pads, baby carriers, carpet padding, and upholstered furniture foam. Under current federal law, these toxic chemicals are virtually unregulated for their safety. Yet, these chemicals pose a serious public health threat, are particularly toxic to children, and do not provide a fire safety benefit.

Because of the lack of meaningful chemical policy reform at the federal level, we respectfully request the Alaska State Legislature demonstrate bipartisan leadership, and take swift action to protect the health of our children and future generations by passing the Toxic-Free Children's Act (SB 111/HB 199) during the 2016 session.



THE TUNUNAK FIX: ALASKA'S ANSWER TO ADOPTIVE COUPLE V. BABY GIRL

The Alaska Federation of Natives respectfully requests the Alaska State Legislature enact into law SB 112 and its companion bill HB 200, which would:

- establish procedures related to a petition for adoption of a child in state custody;
- add a definition of proxy for a formal petition;
- amend Rule 6(a), Alaska Adoption Rules; and
- provide for an effective date.

BACKGROUND – TUNUNAK I

In the original case of *Native Village of Tununak v. State of Alaska, Department of Health & Social Services, Office of Children's Services*¹, baby Dawn was taken into custody by the state and placed in a non-ICWA compliant home. Baby Dawn was determined to be a child in need of aid (CINA). While Dawn and her mother worked toward re-unification, the Native Village of Tununak intervened. On several occasions during the pendency of the CINA case, baby Dawn's maternal grandmother asked for placement of Dawn in her home. Dawn was not placed back in the village in part to facilitate visitation with Dawn's mother and also because Dawn's grandmother's home had a variety of 'hazardous' conditions that needed to be addressed.

It wasn't until after Dawn's mother's parental rights had been terminated that the Native Village of Tununak formally protested the non-ICWA placement. While the Tribe's issues were being litigated, Dawn's foster family filed for adoption. In issuing a decision on placement, the Superior Court found "good cause" to deviate from ICWA and affirmed the non-ICWA placement after using a 'preponderance of the evidence' standard of proof in reviewing the evidence. Based on that decision, the adoption petition was granted.

The Native Village of Tununak appealed both the placement decision and the adoption. The Native Village of Tununak won the appeal regarding the placement decision when the Alaska Supreme Court determined that the Superior Court is required to apply a higher standard of proof to deviate from ICWA's placement preferences. The case was remanded back to the Superior Court with instructions to determine whether there is 'clear and convincing' evidence to deviate from ICWA. The adoption appeal was stayed until the rehearing by the Superior Court.

BACKGROUND – TUNUNAK II

The victory in Tununak I was hollow. Before the Superior Court had a chance to rehear the placement issue under a new standard of review, the United States Supreme Court decided *Adoptive Couple v. Baby Girl*². The holding in that case determined that ICWA does not apply to adoptions unless an ICWA compliant placement has filed a formal adoption request. The Alaska Supreme Court asked for additional briefing in the adoption appeal believing that the new federal case law would likely affect its decision.

Dawn's grandmother had asked the Office of Children's Services for placement directly and had testified under oath that she wished to be considered as an adoptive placement for her granddaughter; however she had never formally filed for adoption. The Alaska Supreme Court liberally applied the ruling in *Adoptive Couple v. Baby Girl* and held

1 334 P.3d 165 (Alaska 2015).

2 133 S.Ct. 2552 (2013).

that since no alternative adoption petition had been filed in Superior Court that ICWA did not apply and granted the adoption petition filed by Dawn's foster parents.

EMERGENCY REGULATIONS A "QUICK FIX"

Prior to the final decision in Tununak II, the Walker administration issued emergency regulations that allowed a relative, tribal member or other Indian family, the child's tribe or tribe in which the child is eligible for enrollment to request immediate placement and adoption of a child in a child in need of aid case by phone, mail, fax, electronic mail, in person or in any court proceeding. That request would be considered a "proxy" to a formal adoption petition and address the problem presented by *Adoptive Couple v. Baby Girl*.

The emergency regulation, 7 AAC 54.600, became permanent in the Alaska Administrative Code in August 2015.

STATUTORY SOLUTION STILL PENDING

At the request of the Governor, the Senate Rules Committee introduced SB 112 An Act establishing procedures related to a petition for adoption of a child in state custody; adding a definition of 'proxy for a formal petition'; amending Rule 6(a), Alaska Adoption Rules; and providing for an effective date. The companion bill in the House is HB 200.

Currently, both bills are referred to the Health and Social Services Committees, with a second referral to the Judicial Committee. The bills codify the new regulations and update the Alaska Adoption Rules to ease the procedural burdens to Alaska Native families seeking placement and adoption of Alaska Native children in the care of the state.

RECOMMENDATION:

We request the Alaska
Legislature pass SB 112
and HB 200 in 2016.



VILLAGE PUBLIC SAFETY OFFICER PROGRAM ISSUES

The Alaska Federation of Natives respectfully requests that:

- the Village Public Safety Officer (VPSO) Program not incur any additional budget cuts;
- the State of Alaska Department of Public Safety (DPS) explore policy changes with the Alaska Police Standard's Council which would allow non-government agencies the ability to keep law enforcement employees certified continually OR, in the alternative, establish a VPSO waiver system;
- the DPS amend 13 AAC 96.010(b)(6) to require that the department provide training, equipment, equipment fuel and maintenance, office, telephone, radio, and jail cells to VPSOs;
- the DPS delete the requirements in 13 AAC 96.040(a)(1)(A-C) and add those to 13 AAC 96.010 as items to be provided by the DPS;
- State Legislators include language in the Tribal Court Diversion Program legislation whereby VPSOs would be authorized to enforce tribal law at the village level; and
- DPS collect data on the amount of amount of work undertaken by the VPSOs to document the cost savings to the state.

BACKGROUND:

Per the Alaska Constitution, public safety is the State of Alaska's responsibility. Since its inception in the late 1970's, the VPSO Program has provided cost savings to the state while serving some of our most isolated communities. VPSOs are tasked with the protection of life and property in rural areas and with assisting the Department of Corrections in supervising rural probation and parole cases. Additionally, VPSOs act as emergency responders, fire fighters and aid in sexual assault response.

Troopers in hub communities generally only respond to emergencies and reported felonies, leaving the vast majority of criminal behaviors and emergencies to be handled exclusively by VPSOs stationed in our remote areas. At its largest, the VPSO program had 115 funded VPSO positions. Due to budget cuts, the program currently supports 78 VPSOs and 10 VPSO Coordinator positions.

Over the years, VPSO advocates have successfully achieved improved training opportunities and are making headway on communication capabilities and access to reporting databases. Hurdles remain, largely related to the financial burden on our cities and tribes to support safe work environments. Currently, the state gets the benefit of 2 VPSOs for the price of one trooper. Rural communities are treated unequally. Compared to the Alaska State Troopers, the VPSO Program does a massive amount of work for Department of Public Safety on a very small budget. The VPSO program can't absorb any additional cuts to funding.

There has unfortunately been a steady increase in reported crime and level of violence in our villages. The program will be facing further cuts with the current state fiscal situation, and can't do the proactive policing or VPSO placement needed in order to address rising crime issues.

Alaska law mandates that in order for rural villages to receive state funding for VPSO positions, the city or tribe has to finance all support systems in the community. On the other hand, the Department of Public Safety doesn't require communities where Troopers are stationed to subsidize the cost of having an Alaska State Trooper in their community. Alaska State Troopers serving communities such as Delta, Glennallen, and Healy have Troopers who are fully funded and supported by the State of Alaska. Further, VPSOs do not receive a rural pay differential for serving in a rural post, while state troopers do.

Despite all of the work and expense on the part of the community and tribe, VPSOs may not currently enforce tribal law or ordinances, nor can they refer crimes to the tribal court.

VPSOs graduate from the Alaska Law Enforcement Training academy with police certification. However, VPSOs will lose their police certification after two years because the Alaska Police Standard's Council does not recognize work done for non-government agencies. That policy may result in losing VPSOs to municipal police departments or state agencies in an effort to keep certifications current and in good standing.

RECOMMENDATIONS:

Explore policy changes with the Alaska Police Standard's Council to allow non-government agencies the ability to keep law enforcement employees certified continually OR, in the alternative, establish a VPSO waiver system for certification.

Amend 13 AAC 96.010(b)(6), which currently states that the department will, in its discretion, provide training and equipment to village public safety officers. We recommend that the language be amended to read that: The department will provide training, equipment, equipment fuel and maintenance, office, telephone, radio, and jail cells to VPSOs.

Amend 13 AAC 96.040(a)(1) by deleting the requirements in A-C that a community provide office space, long-distance telephone service, and jail cells in order to have a VPSO, and adding those requirements to 13 AAC 96.010 to be provided by the DPS.

Currently, approval is needed to enforce tribal ordinances and laws and refer cases to tribal courts. We request State Legislators include language in the Tribal Court Diversion Program legislation to authorize VPSOs to further support their community laws.

On a larger scale, data collection needs to exist that show the amount of cost savings to the state from utilization of the VPSO program. Possible data sets should include, but not be limited to: number of arrests made, number of investigations conducted, number of emergency responses, and differences in crime levels in communities with a VPSO presence as opposed to those without a VPSO.



PUBLIC EDUCATION

The Alaska Federation of Natives strongly urges the Governor and the Alaska State Legislature to:

- Restore to the Governor's Budget an increase in and inflation adjustment to the base student allocation for public school funding and maintain HB 278's one-time education spending levels for next year;
- Support continued funding for the Technical Vocational Education Program and vote against HB 265; and
- Keep the minimum student enrollment count at 10 for Alaska schools.

BACKGROUND:

While we recognize that the State of Alaska is facing a severe budget deficit, we believe there is a core group of services which are a basic right of every Alaskan. Education is one of those core services and we respectfully urge the Alaska Legislature and Governor to restore to the Governor's Budget an increase in and inflation adjustment to the base student allocation for public school funding and maintain HB 278's one-time education spending levels for next year (\$50.00 in 2016). This change would increase the Base Student Allocation from \$5,880 to \$5,930. Alaska's school districts have dealt with four years of budget deficits, program cuts, and layoffs and cannot continue to incur cuts.

ALASKA TECHNICAL VOCATIONAL EDUCATION PROGRAM:

In 2000, legislation was enacted establishing the Alaska Technical and Vocational Education Program. Recipients of TVEP non-competitive grant funds are part of a statewide vocational training system, working together with industry and state agencies to provide a comprehensive and unified response to Alaska's training needs.

TVEP funds must be used for technical and vocational training programs that align with workforce regional demands and the Alaska Workforce Investment Board's industry priorities. This initiative fills a gap in our educational system. The majority of Alaska high school graduates do not attend college and, of those who do attend college, most do not complete their course of study and graduate. The Technical Vocational Education Program provides a means to expose rural high school students to vocational fields and aids them in selecting and pursuing courses of study so that they are able to find jobs in their chosen field.

We encourage the Alaska Legislature to support continued funding for the TVEP program and to vote against HB 265, which would terminate the Alaska Technical and Vocational Education Program.

SMALL SCHOOL CLOSURE:

We urge the Alaska Legislature to not raise the minimum student enrollment count in Alaska schools. If legislators increase the minimum student count from 10 to 25, it could lead to the shutdown of about 60 schools, which often serve as the lifeblood of rural villages. By example, we estimate that such a move would cause the Lake and Peninsula Borough School District to lose about nine of its 12 schools. In the schools that would close statewide, about 2/3 of the students are Alaska Native or belong to another minority.

Closing schools will also displace entire families from their home communities so their children can attend school. Alternatively, children will have to be sent away to attend school, resulting in divided families. Rural Alaska has seen generations of its children shipped off to boarding schools and it's not something we wish to repeat. Further, many of the boarding elementary, junior and high schools which rural students were able to attend in the past are no longer in existence: Covenant High School, William E. Beltz Regional High School, and Copper Center School. There are serious financial and social costs associated with the boarding school model.

Classrooms in schools that remain open will become even more overcrowded than they already are, and teachers will be even more hard-pressed to provide quality education in their classrooms. The education department does not support increasing the minimum student count because the savings are not significant enough to put an undue burden on schools and students (\$5.9m).

Recommendation:

AFN requests the Legislature keep the minimum student enrollment count at 10 for Alaska schools.



EDUCATION OPPORTUNITIES FOR YOUTH AT THE AFN CONVENTION AND THE ELDERS AND YOUTH CONFERENCE

The Alaska Native delegates of the 2015 AFN Annual Convention this past October considered 52 resolutions, and among them was the unanimously passed Resolution 15-49 recognizing that the annual Elders & Youth Conference and AFN Convention are valuable educational opportunities for Alaska's youth. The resolution was submitted to AFN by Elders & Youth Conference participants.

The Alaska Federation of Natives was formed in October 1966, when more than 400 Alaska Natives representing 17 Native organizations gathered for a three-day conference to address Alaska Native aboriginal land rights. AFN has met every year since and 2016 marks AFN's 50th Convention, with 4,000 to 5,000 attendees expected. It serves as AFN's annual business meeting, with reports from the governor and Alaska's congressional delegation, keynote speeches by inspiring leaders, expert panels and special reports. The Convention is the largest representative annual gathering in the United States of any Native peoples. Policy guidelines and advocacy statements are set by the dozens of resolutions passed by voting delegates. The Convention also features several evenings of cultural performances known as Qujana Alaska. It is also the primary social and cultural gathering for the statewide Native community. Many say it's like a giant family get-together.



Since 1983, the Elders and Youth Conference has been held in conjunction with the AFN Convention. Designed to facilitate dialogue between generations and address concerns specific to Native elders and youth, the Conference immediately precedes the AFN Convention. Hosted by First Alaskans Institute since 2004, the Conference has grown in both number of participants and length. It combines talking circles with more traditional podium presentations, and now features cultural performances as well. Resolutions are debated, voted on, and forwarded to the AFN Convention for consideration by the delegates.

Both events comprise an entire week, affording young Alaska Natives the chance to meet and interact with peers from other regions across our vast state, learn the challenges facing the statewide Native community, participate in important discussions, and experience leadership both in observing today's leaders and as becoming the leaders of tomorrow.

It's very important that Native youth attend the historic events in person. News and information in the social media stratosphere rarely has a Native perspective. Nor is there much about Alaska Natives in high school curricula. The week of these two Native events is a chance for full immersion into Native affairs and Native voices, and to solidify a sense of self-identity and pride in heritage. Everyone who observes and participates in the proceedings comes away with a strong sense of the importance of Alaska Natives to Alaska's economy, arts, culture, and history.

RECOMMENDATION:

Students should receive credit towards their graduation requirements for attending the Elders and Youth Conference and the AFN Convention, rather than penalization for absence from school.



RESOLVING NATIVE ALLOTMENT TITLE RECOVERY IN ALASKA

The Alaska Federation of Natives urges the Alaska State Legislature and the Walker Administration to amend AS 38.05.035(a) this legislative session to make it mandatory that the State of Alaska reconvey *Aguilar* land to settle Native allotment claims.

BACKGROUND:

In 1906, Congress passed the Alaska Native Allotment Act (Allotment Act) that authorized individual Alaska Natives to receive title for up to 160 acres of land. A 1956 amendment to the Allotment Act required that Native allotment applicants provide proof of use and occupancy of lands claimed. The Alaska Native Claims Settlement Act (ANCSA) in 1971 repealed the Allotment Act, however, all pending applications were allowed to be processed.

In 1979, a U.S. District Court held that a Native allotment applicant's use and occupancy of the land prior to the State of Alaska's (State) selection gave them a preference right which was not eliminated simply because the State filed an application prior to the applicant filing a Native allotment application¹. Therefore, the U.S. Department of the Interior had a responsibility to determine whether land conveyed to the State was erroneously conveyed based on whether the Native allotment application, filed subsequent to the conveyance, claimed use and occupancy prior to the State's selection. If it was determined that an applicant's use and occupancy was prior to the State's selection, then the Department of the Interior had a responsibility to recover the land for the Native allotment applicant.

CURRENT STATUS:

There are more than 301 pending allotment applications for land that were mistakenly or erroneously conveyed to the State by the Department of Interior (Bureau of Land Management). The Alaska Department of Natural Resources (DNR) interprets the reconveyance of Native allotment land as discretionary authority under AS 38.05.035(b)(9) even though the Native Allotment applicant has been found to have a valid preexisting right to the land under the *Aguilar* decision.

The State has reconveyed some Native allotment lands, however, when it does so the State requires that applicants and heirs sign a settlement and release agreement that grants the SOA property rights that reduce the land's value. If the applicants or heirs refuse to sign, the DNR refuses to reconvey.

Reconveyance under *Aguilar* will not reduce the State's entitlement to land because federal law provides for land in lieu of reconveyed Native allotment lands. Reconveyance will conclude prolonged administrative and judicial reviews, eliminate legal appeals, resolve *Aguilar* cases, and nearly complete Native allotment adjudication in Alaska, thus saving the State money. Allotment owners and their heirs will finally receive title to the land they have used for generations.

We strongly urge the Governor and the Legislature to amend AS 38.05.035(a) to make it mandatory for the State to reconvey *Aguilar* land, pursuant to the District Court's holding.

¹ *Aguilar v. United States*, 474 F. Supp. 840 (D. Alaska 1979).



CRIMINAL JUSTICE REFORM AND REINVESTMENT IN ALASKA

The Alaska Federation of Natives urges the Governor of Alaska and the Alaska State Legislature to:

- Adopt the whole of the Alaska Criminal Justice Commission’s recommendations into law.
- Recognize the state’s disproportionate confinement of Alaska Natives, and support the components of the reform package aimed at:
 - Diverting the lowest level offenders from prison,
 - Reducing pretrial incarceration for defendants accused of nonviolent offenses,
 - Bringing sentencing penalties in line with other states,
 - Strengthening community supervision, and
 - Making penalties for non-criminal violations of probation and parole more proportional to the problem behavior.
- Support the reinvestment of some portion of the projected savings into culturally competent programming and treatment services for offenders and crime victims.

BACKGROUND:

In 2014, the Alaska Legislature established the bi-partisan, interbranch Alaska Criminal Justice Commission (“Commission”) and it was tasked with “develop[ing] recommendations aimed at safely controlling prison and jail growth and recalibrating our correctional investments to ensure that we are achieving the best possible public safety return on our state dollars.” In addition, Senate President Kevin Meyer and House Speaker Mike Chenault requested that, because the state’s difficult budget situation rendered reinvestment in evidence-based programs and treatment possible only with significant reforms, the Commission forward policy options that would not only avert future prison growth, but would also reduce the prison population between 15 and 25 percent below current levels.

The Commission developed a comprehensive package of policy recommendations that would protect public safety, hold offenders accountable, and reduce the state’s average daily prison population by 21%, netting an estimated savings of \$424 million over the next decade for the state.

The Commission found that a disproportionate number of Alaska Natives are being confined. While Alaska Natives represent 15 percent of the state resident population, they represent 36 percent of the state’s pretrial inmates, 34 percent of the state’s sentenced prisoners, and 42 percent of the probation and parole violators in prison. Measures recommended in the Criminal Justice Commission report aimed at reducing pretrial incarceration, diverting offenders from prison, adjusting criminal penalties, and making penalties for probation and parole violations more proportional will have a disproportionately positive effect on Alaska Natives, who are overrepresented in the state’s incarcerated population.

RECOMMENDATION:

We strongly urge you to adopt the whole of the Commission’s recommendations into law. Also, we ask that you recognize the state’s disproportionate confinement of Alaska Natives and give particular support to the components of the recommendations that would alleviate this injustice, some of which are listed above. Finally, we encourage you to support the reinvestment of some portion of the projected savings into culturally competent programming and treatment services for offenders and crime victims.



ARCTIC MARINE TRANSPORTATION PLANNING

The Alaska Federation of Natives requests that the State of Alaska engage with coastal Alaska Native villages, tribes, and ANCSA Corporations regarding Arctic Marine Transportation Planning activities and processes.

BACKGROUND:

The State of Alaska's Arctic Policy Implementation Plan identifies four lines of effort: economic and resource development; response capacity; healthy communities; and science and research with recommendations that are critical to address the increase in Arctic activities. With Shell pulling out their off-shore assets from the Arctic, it is imperative that the state and the federal governments invest in Arctic infrastructure for national security, environmental response and search and rescue.

Recent reduction of dense, multi-year ice is giving way to thin layers of seasonal ice, making more of the arctic navigable year-round, and encouraging the growth of commercial shipping via international trans-Arctic routes. All coastal villages in Alaska, including regions outside of the Arctic are likely to be impacted, both positively and negatively, by increased marine transportation to and from the Arctic.

Meaningful consultation with Alaska's coastal communities should be included in the State of Alaska's Arctic transportation planning meetings and policy. Local Residents are concerned about management of potential marine disasters with limited emergency response facilities and capacity in the Arctic. These communities are seeking to establish partnerships with appropriate state and federal agencies to execute marine incident prevention and response to ensure food security and the safety of our coastal regions.



The State of Alaska is routinely included in arctic marine transportation planning meetings and discussions with the federal government, but many of Alaska's coastal communities, such as the Pribilof Islands, Bristol Bay and Bethel areas, are usually excluded. AFN respectfully requests the state government to ensure that all Alaska coastal communities are included in arctic marine transportation planning and consultations.



PRESERVING ALASKA'S MERIT BASED JUDICIAL SELECTION AND RETENTION SYSTEM

The Alaska Federation of Natives asks the Governor and State Legislature to preserve the current merit-based judicial selection and retention system, and oppose any attempts to politicize the system.

BACKGROUND:

Concerted efforts were made during the 2014 and 2015 Alaska Legislature sessions to amend the Judiciary Article of Alaska's Constitution to politicize the judicial decision-making process by increasing the number of political appointees on the Alaska Judicial Council. The Judicial Council is an independent body of three attorneys, three non-attorneys and the Chief Justice of the Alaska Supreme Court tasked with evaluating applicants for judgeships and recommending to Alaskans which judges should be retained. Legislative approval is currently required for all appointees.

SJR 21 (2014) and SJR 3 (2015) were introduced in recent years and sought to increase the number of non-attorney members appointed by the governor. Sponsors of the resolutions have vowed to continue their efforts in the 2016 legislative session. The Alaska Federation of Natives (AFN) believes that changing the current process in such a way would be detrimental to the state and its people, and threaten the fairness and impartiality of our courts.

The Judiciary Article is the cornerstone of Alaska's constitution and the principal reason that the state has enjoyed a long history of judicial excellence. The system of judicial selection and retention embodied in Alaska's constitution ensures that judicial nominees forwarded to the Governor for appointment are selected based on merit, not politics. Legal competence, integrity, fairness, and judicial temperament determine an applicant's fitness to serve on the bench, not political views or affiliations. This system balances the public's interest in a highly skilled and fair-minded judiciary – determined by the council's evaluation of merit – with the Governor's prerogative to make the final choice.

State legislators, recognizing these and other benefits of preserving the Judiciary Article and the proud heritage of equal justice it has fostered, should oppose any resolution to change this system during the 2016 legislative session. Doing so will –

- Keep politics out of Alaska's courtrooms;
- Preserve the separation of powers;
- Protect the merit-based selection and retention of judges;
- Ensure a non-partisan judicial selection and retention process; and
- Foster continued excellence in Alaska's judiciary.

AFN believes that the state's merit-based judicial selection and retention system has served Alaskans well since statehood and is worth preserving.



SUPPORT FOR THE ALASKA LEGAL SERVICES CORPORATION

The Alaska Federation of Natives urges the Governor and the Alaska State Legislature to retain the appropriation for the Alaska Legal Services Corporation (ALSC), and to create a stable funding source for ALSC by passing SB 49 and HB 154.

BACKGROUND:

The Alaska Federation of Natives has long been a supporter of the Alaska Legal Services Corporation, which provides civil legal aid to people who cannot afford it. ALSC has 11 offices around the state, many in rural areas with predominantly Alaska Native populations and limited access to legal services or understanding of the court system. The vast majority of ALSC's cases involve the basic human necessities of family safety, shelter, food, access to medical care, and income maintenance.

ALSC's current resources only stretch far enough to help about 6,300 people each year, and they regularly turn away hundreds of qualified individuals with critical legal needs due to limited resources. Senator Lesil McGuire has introduced SB 49 and Representative Bryce Edgmon sponsored companion bill HB 154 to allow appropriation to the civil legal services fund from court filing fees to safeguard low-income Alaskans' access to the civil justice system by creating a stable and sustainable mechanism for funding ALSC.

While we understand the current state fiscal situation, we ask that you continue to fund ALSC's critical work to ensure Alaskans have access to equal justice. We also request you to pass SB 49 and HB 154 to create a stable funding source for ALSC going forward.



SUPPORTING THE PERMANENT FUND DIVIDEND VOTER REGISTRATION BALLOT INITIATIVE

The Alaska Federation of Natives asks the Governor and Alaska State Legislature to support the Permanent Fund Dividend voter registration ballot initiative.

BACKGROUND:

A growing coalition of Alaskan organizations and individuals, including the Alaska Federation of Natives, is proposing a common sense solution to add thousands of new Alaskan voters and dramatically improve the long-term accuracy of Alaska's voter rolls while reducing bureaucracy and processing costs through a ballot initiative.

Modeled after recent successes in Oregon and other states, the PFD Voter Registration ballot initiative seeks to automatically register PFD applicants to vote unless the applicant opts out. The initiative similarly seeks to empower the Lieutenant Governor to make Alaska's electoral process the best in the country, and to build momentum for the critical process of modernizing and coordinating information-technology platforms across state government departments. Best of all, the initiative provides significant cost savings to the state since successful PFD applicants who are otherwise qualified to vote will be automatically registered, thereby reducing state processing costs.



Voter registration is particularly low among certain Alaskan demographics, including young Alaskans, disabled Alaskans, rural Alaskans, Alaskans in the military, and Alaska's ethnic minority communities, especially Alaska Natives and Latinos. Consequently, AFN believes that simplifying the voter registration process represents an important first step to expanding and improving the voting capability of these Alaskans.

RECOMMENDATION:

AFN calls on Governor and the members of the Alaska State Legislature to support PFD Voter Registration, and to work to have the initiative in place for the 2016 general election.



REPLACE ARCS INFRASTRUCTURE

The Alaska Federation of Natives urges Governor Walker and the Alaska State Legislature to provide funding to replace obsolete satellite distribution system equipment that provides multiple public communications services, including:

- video and audio distribution for the ARCS rural television service;
 - statewide emergency communications services (EAS); and
 - public television, public radio, and UATV's distance education services.
-

BACKGROUND:

Health, safety and emergency alerts and information are embedded in, and represent an important part of, the public communications services delivered by this satellite infrastructure into communities throughout bush, rural and urban Alaska. Satellite services play an important role in the SOA's ability to quickly and efficiently distribute emergency information statewide and well beyond the reach of traditional media.

ARCS is integrated with the SOA DHS&EM State and National Emergency Alert Systems as a Relay Network under Alaska's EAS Plan, delivering emergency alerts to commercial and non-commercial broadcasters, their listeners and viewers across Alaska. This satellite infrastructure also extends the reach of IT based emergency information sources.

The ARCS Digital Conversion Project is converting analog single channel systems in bush Alaska to digital multichannel services, breathing new life into the aging infrastructure that makes up the last mile delivery into viewers homes. However, the satellite infrastructure which delivers these services must be replaced to ensure their continuation. Components of the current uplink equipment have begun to fail; the system is running at full capacity on backup components. Further failures will result in fractional or complete loss of services. Proactive replacement is prudent and cost effective.

Alaskans face the brunt of weather and climate extremes. They depend heavily on reliable sources of accurate information to plan and prepare for safe passage while hunting, fishing, traveling and living in remote areas of the state. This equipment will ensure a dependable link that can save lives.

RECOMMENDATION:

On behalf of the users, stakeholders, and statewide audiences served, we urge the Governor and the State Legislature to fund the total cost of \$450,000 to replace the State of Alaska's Public Communications Services Satellite Distribution Infrastructure.



FULLY FUND ARCS, SATELLITE SERVICES AND PUBLIC BROADCASTING SERVICES

The Alaska Federation of Natives urges Governor Walker and the Alaska State Legislature to provide funding to ensure:

- ARCS, satellite services, and emergency alert services operate at full capacity;
- Twenty-six public radio licenses operate at full capacity; and
- Four public television licensees operate at full capacity.

BACKGROUND:

ARCS is a State of Alaska owned and operated rural television service. ARCS is a key component in Alaska's Emergency Alert System (EAS) plan and Emergency Relay Network, feeding commercial and non-commercial broadcasters' EAS systems. Emergency alerts from state and federal authorities are fed directly into the ARCS satellite signal and are carried directly into the homes of viewers.

Public broadcasting in Alaska is a system of independent locally owned and operated non-profit businesses that provide over the air non-commercial public service programming to un-served and under-served audiences throughout Alaska. Twenty-six radio licensees, four television licensees and one statewide radio news network, the Alaska Public Radio Network (APRN), a collaborative system reaching 95% of the state's population.

For many bush residents, ARCS, public radio, or public television are the only available over-the-air signals. Programming includes many hours of Alaska news and weather, highly sought after information in many bush communities. They also provide children's and educational programs, and live coverage of unique Alaska events such as the Alaska Federation of Natives Convention and the Iditarod.

ARCS communities supply the electrical power, time and labor, local support and equipment space for the ARCS equipment in their village.

Several licensees provide regional and statewide services such as daily statewide news from APRN, and the Alaska Public Television and 360 North (Gavel Alaska) public television services. The return on investment is approximately 6:1, a very successful partnership with the private sector and the federal government.

RECOMENDATION:

On behalf of these stakeholders, and the statewide audiences served, we urge the Governor and the State Legislature to fully fund ARCS and these Public Communications Services.



REBUILDING THE NATIONAL GUARD IN RURAL ALASKA

The Alaska Federation of Natives encourages the Governor of Alaska and the State Legislature to:

- Support measures that enable more rural Alaskans to serve in the Alaska National Guard.
- Support the growth of the Alaska State Defense Force to augment the Alaska National Guard.

BACKGROUND:

The Alaska Territorial Guard (ATG) was formed in 1942 in direct response to the invasion of several Aleutian Islands by Japan. The ATG was made up of diverse indigenous peoples and the immigrant population of the territory of Alaska. Their mission was to protect the Alaska coastline and the air route to Russia. From this was born the “Eskimo Scouts” which was the start of the Alaska Army National Guard, which has both Air National Guard units and Army National Guard units.



ATG Soldiers in Barrow, AK

Currently, there are only 17 active National Guard armories throughout the state of Alaska, and about 1,730 soldiers. Fewer than 100 of those soldiers are off of the road system. These numbers have fallen from 76 active armories and 2,250 soldiers in 1995 due to loss of the Scout Waiver program, sequestration and other issues.

National Guard units provide vital support in emergency situations such as floods. In 2013, there was a fall flood in Kotlik that affected the whole village. There was only one National Guardsman in the village. Though lives were not lost due to the flood, a lot of property was damaged. The outcome would likely have been improved had more National Guard members been present.

Rural villages face daunting social issues such as high rates of suicide and rape. The structure and training of the National Guard bolster village leadership and discipline and, we believe, help to reduce social ills. Service in the National Guard promotes camaraderie among the National Guardsmen, and leads to training and careers in law enforcement and other related fields.

The Alaska State Defense Force (ASDF) is a volunteer organization whose primary role is to augment and support the Alaska National Guard. ASDF soldiers are equipped and trained for various missions including communications, emergency management, medical, logistical support, chaplaincy, and shelter management.

We applaud Governor Walker for his efforts to rebuild the National Guard and reshape the ASDF, and we ask him to consider hiring a Native liaison to work with the recruiters. We urge the Legislature to fund Governor Walker’s rural military initiative which will rebuild National Guard and ASDF numbers.



CRIMINAL JUSTICE REFORM AND THE FAIRBANKS FOUR CONVICTIONS

The Alaska Federation of Natives encourages the Governor and the Alaska State Legislature to prevent and correct wrongful convictions in Alaska by:

- Lowering the burden of proof for post-conviction relief in cases involving police or prosecutorial misconduct;
- Change Alaska law to clarify that courts may grant post-conviction testing of key evidence that has a reasonable likelihood of containing biological material;
- Bring preservation of evidence standards up to best practices;
- Pass HB 55 to allow those wrongfully convicted an avenue to pursue compensation;
- Pass legislation that would provide compensation to the Fairbanks Four;
- Extend the Criminal Justice Commission to review wrongful conviction and post-conviction relief cases; and
- Pass HB 243 which would allow Alaskans who have had their convictions overturned to apply for the Permanent Fund Dividend.

BACKGROUND:

While the Alaska Native community was thrilled at the release of Eugene Vent, George Frese, Marvin Roberts and Kevin Pease from prison, the fact that these men, commonly referred to as the Fairbanks Four, served 18 years in prison for a crime they did not commit has raised serious concerns about the justice system in Alaska. Allegations of coercive interrogation practices, reliance on fraudulent or unpredictable forensic evidence, prosecutorial misconduct, and even racism have been raised. We would like to focus on taking the lessons we have learned from this case and using them to help improve the justice system for all Alaskans.

The four men were convicted of killing 15-year old John Hartman in 1997, although they have maintained their innocence from the beginning. They appealed the original decision, however under Alaska law a person who is convicted of a crime has a high burden of proof for obtaining post-conviction relief¹. One way is to show that there exists evidence of material facts, not previously presented and heard by the court, that requires vacation of the conviction or sentence in the interest of justice. Time limits to this rule may only be disregarded if the “newly discovered evidence”: was not known to the defendant, not cumulative to the evidence at trial, not impeachment evidence AND establishes innocence by clear and convincing evidence². A possible legislative fix in this area would be to lower the burden of proof in cases involving police or prosecutorial misconduct.

DNA evidence was not at issue in this case, but our research related to this case has shown that in Alaska, a defendant must show that biological evidence does exist before a court will allow post-conviction DNA testing. In May of 2015, Texas passed a law that clarifies that courts may grant post-conviction testing of key evidence that has “a reasonable likelihood of containing biological material.”³ Alaska could follow suit in the interest of justice. Also, Alaska does not currently meet the best practice standards for preservation of evidence, and this should be remedied.

1 AS 12.72.010

2 AS 12.72.020(b)(2)(A-D)

3 <http://www.innocenceproject.org/news-events-exonerations/press-releases/texas-governor-signs-measure-to-fix-texas-dna-testing-law#sthash.JRgy3Xse.dpuf>, last visited February 4, 2016.

The settlement that the Fairbanks Four had to enter into to obtain their freedom prevents them from pursuing compensation from the State of Alaska for wrongful imprisonment. Currently, 29 states have laws regarding compensation in such cases. House Bill 55, which is in the House Judiciary Committee, would provide an avenue for those wrongfully convicted and imprisoned in Alaska to pursue compensation. We urge you to pass this legislation.

The State of Alaska says that the settlement with the Fairbanks Four is not an exoneration. As currently written, HB 55 would not apply to this case but the legislature can pass legislation that would compensate the Fairbanks Four for their time in prison.

Currently, Alaska already has in place a Criminal Justice Commission to investigate recidivism and prisoner re-entry issues in an effort to save money. It should be required that the Commission that is already in place be extended to look at wrongful conviction and post-conviction relief cases – where lab operations, investigation practices, prosecution and judicial review are examined and safeguards are codified to limit wrongful conviction.

Finally, Representative Bob Lynn has introduced HB 243, which would allow Alaskans who have had their convictions overturned to apply for the Permanent Fund Dividend. The bill was passed out of the State Affairs Committee and is now in the Finance Committee. We urge you to pass this bill to help those who are wrongfully convicted to regain their rights.