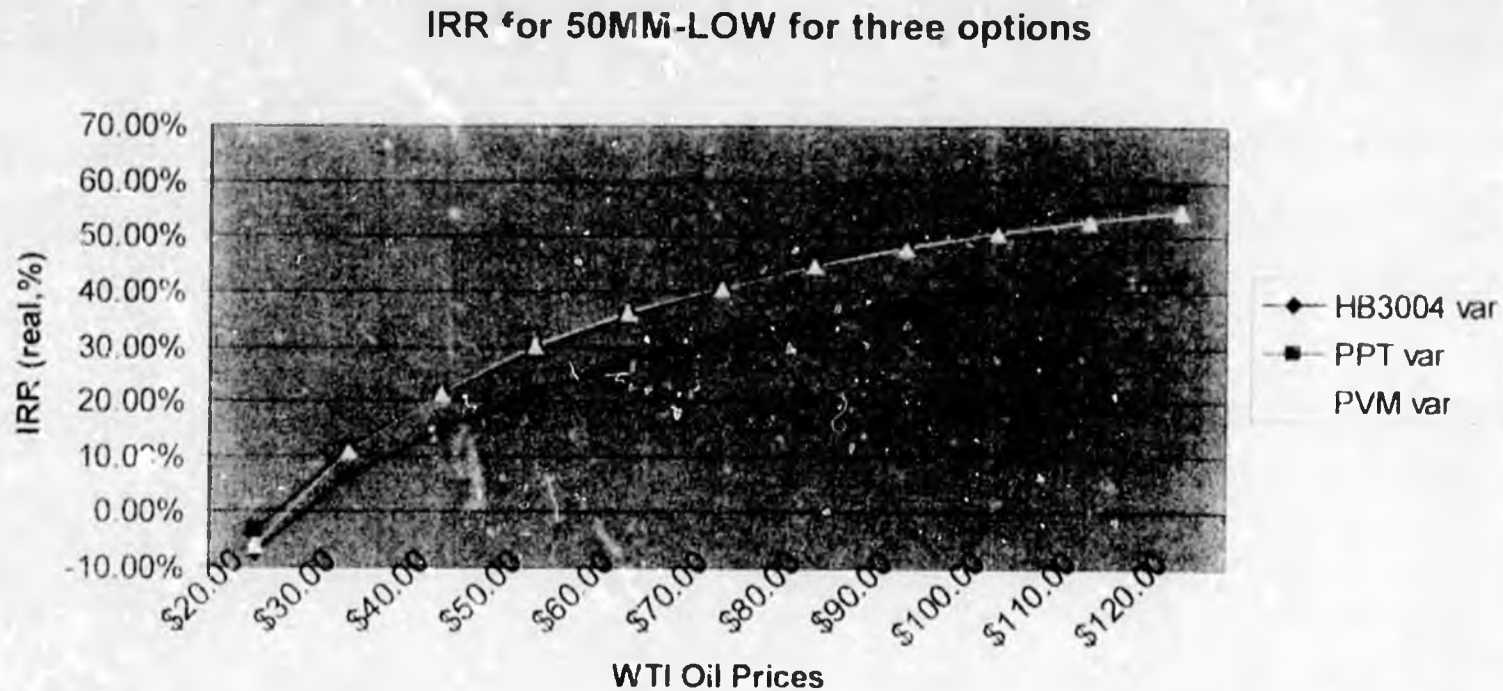


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Impact on Investors

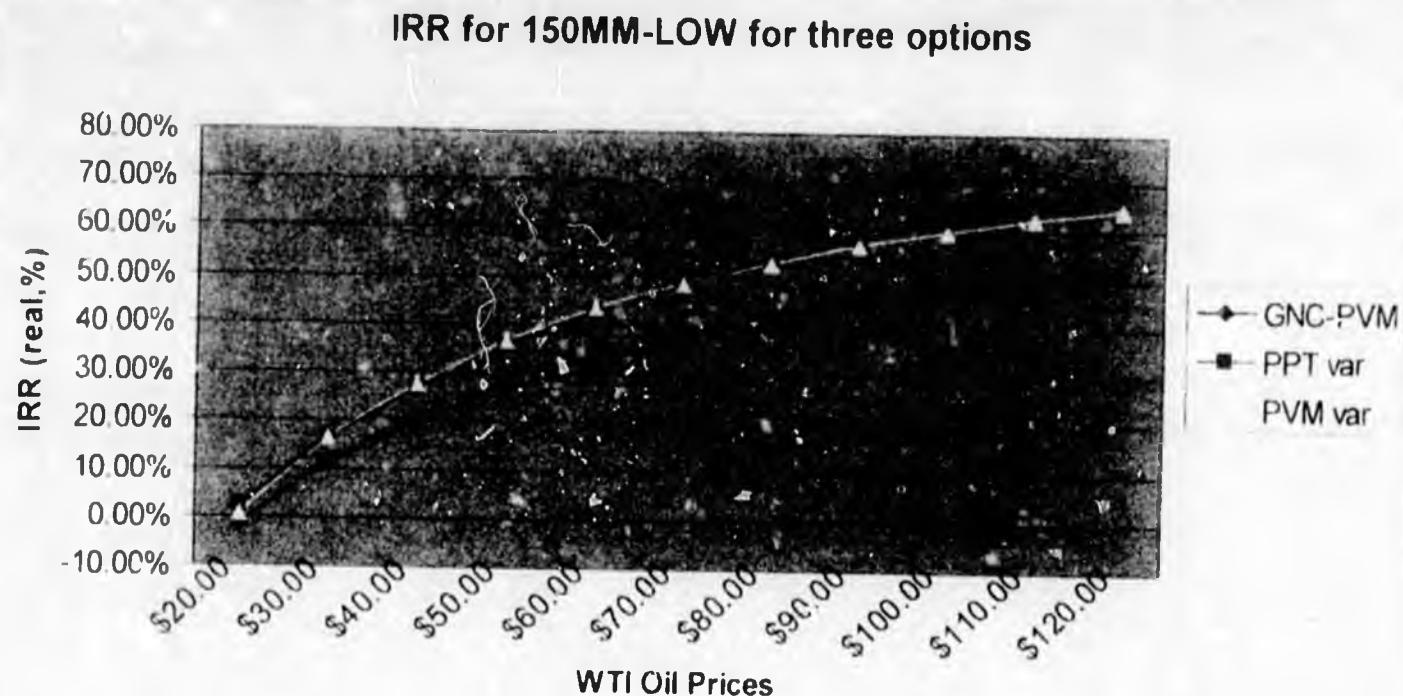
Three options – IRR – 50 MM Low



The PPT and PVM variations provide for a near identical IRR. The HB 3004 variation results in a much lower IRR.

Impact on Investors

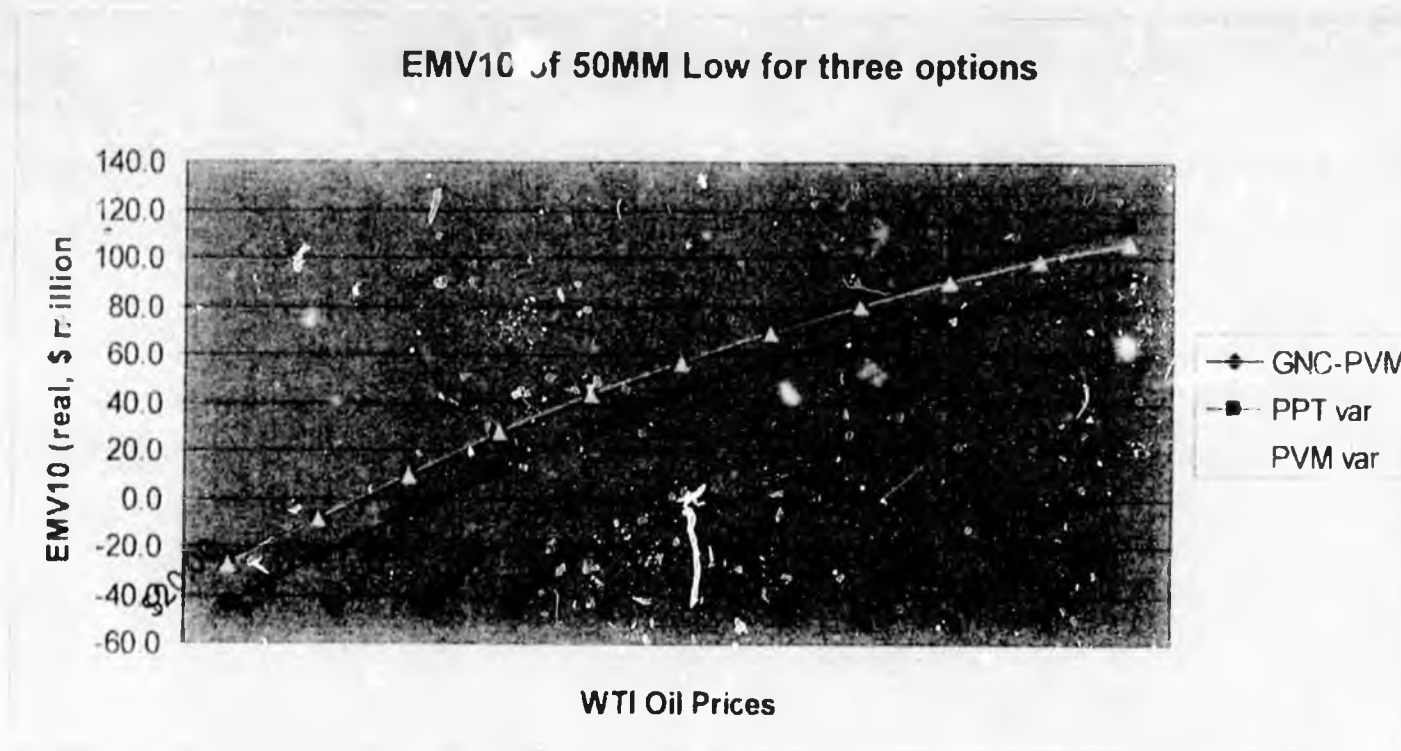
Three options – IRR – 150 MM Low



The PPT and PVM variations provide for a near identical IRR. The HB 3004 variation results in a much lower IRR.

Impact on Investors

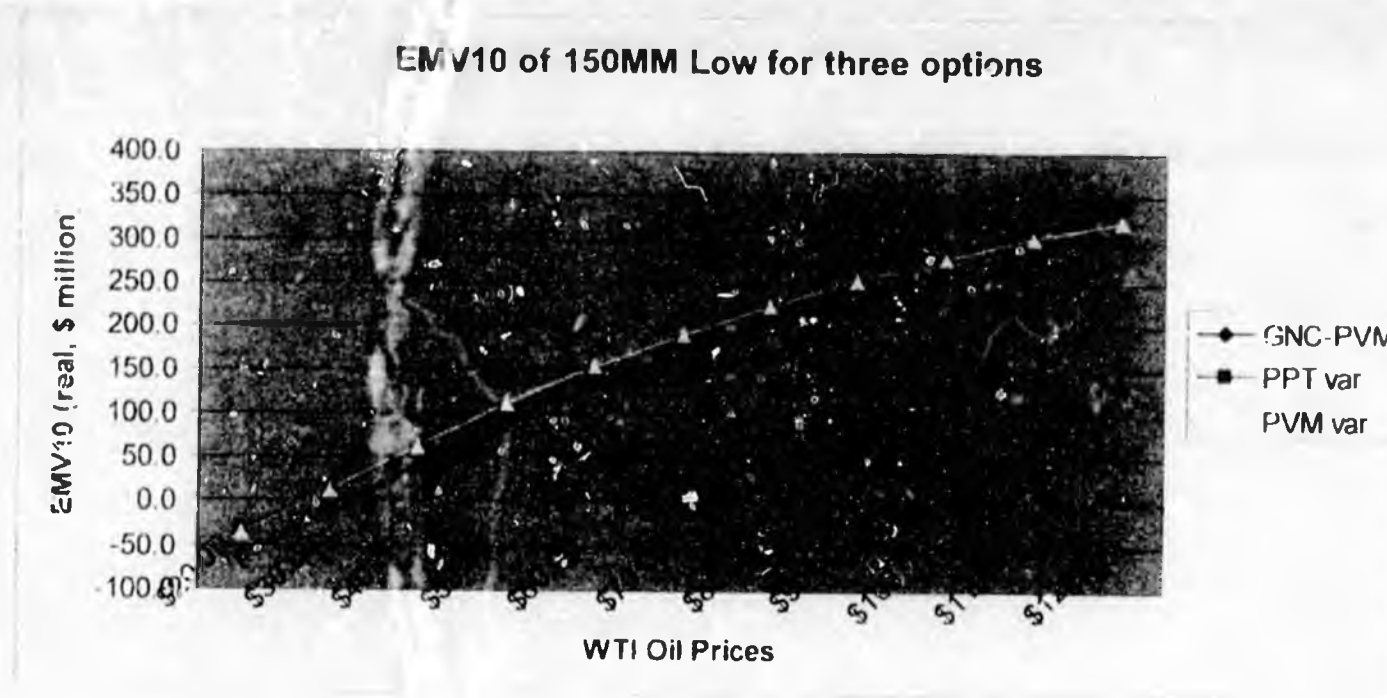
Three options – EMV10 – 50 MM Low



The PPT and PVM variations provide for a near identical EMV10. The HB 3004 variation results in a much lower EMV10.

Impact on Investors

Three options – EMV10 – 150 MM Low



The PPT and PVM variations provide for a near identical EMV10. The HB 3004 variation results in a much lower EMV10.

Impact on Investors

The HB 3004 variation is less attractive because as far as the production tax is concerned:

- Under the HB 3004 variation, if investors invest \$ 1 million, they count it as \$ 1 million because there are no tax deductions.
- Under the PPT and PVM2001 variations if investors invest \$ 1 million, they count it as \$ 600,000, because they will get a reduction in tax of \$ 400,000. The fact that the **net investment** is only \$ 600,000 makes the project more profitable on an incremental basis.

Fiscal Structure

However, the government ends up with the same undiscounted revenues under all three variations, because under the PPT and PVM2001 variations the government compensates the PPT tax saving by investors with a higher tax later on. This means the structure of these two variations is more back end loaded.

Under the PPT and PVM 2001 variations the government first levies a **higher** tax and then permits the tax reduction in order to end up with the same revenues as under the HB 3004 variation.

Fiscal Structure

International Framework

Many jurisdictions have already discovered that the best way to encourage investment is to ensure that the **net investments are low**. Providing tax deductions and tax credits is the best way to encourage re-investment.

Fiscal Structure

International Framework

Alaska is competing with jurisdictions that provide such incentives to re-invest. In the OECD area the most important examples are Norway, UK, the Netherlands, Denmark, Alberta, Newfoundland, NWT and Australia. However, there are more than 60 other nations with profit based or profit oil based systems.

Fiscal Structure

Reinvestment or No Reinvestment

The fiscal structure issue is therefore not "gross versus net".

The issue is whether Alaska will establish a new production tax that:

- **encourages re-investment in Alaska, such as the PPT and PVM 2001 variations with tax credits and/or tax deductions of cost, or**
- **does not encourage re-investment in Alaska, such as the HB 3004 variation.**

Fiscal Structure

Two Options with Tax Credits

In early 2003 two different fiscal structures were considered with tax credits:

- A revised version of the 2001 proposal which consisted of a production tax on gross and tax credits, and
- The PPT concept.

Both systems can be designed in such a way to result in a very similar overall incentive to re-invest in Alaska.

Why was the PPT fiscal structure recommended to the Governor?

Fiscal Structure

Gross with tax credits

A production tax based on gross with tax credits has a number of disadvantages compared to the PPT related to:

- “Shelf life” of formulas
- Definition of “field”
- Heavy oil provisions

Fiscal Structure

Gross with Tax credits: "Shelf life"

Alaska has already a fiscal feature that is based on gross: the royalty.

Royalties provide about half of the State's oil and gas income.

To design a tax also largely based on gross in addition to the royalty is difficult economically.

In order to make the tax fit with the economic reality of the Alaska North Slope resources it is necessary to introduce sliding scales and formulas in order to make the widest possible range of investment opportunities economic. This resulted 1989 in the ELF formula.

Fiscal Structure

Gross with Tax Credits: "Shelf life"

The problem is that the "shelf life" of such formulas is relatively short. The ELF became outdated after about 10 years and it has now already taken more than five years to try to get a replacement of the ELF.

The reason for the short "shelf life" is that economic and technical conditions change rapidly and therefore the economic basis for the formula becomes rapidly outdated.

It is far simpler to base a system on net revenues. A system based on net revenues adjusts better to changing economic circumstances.

Fiscal Structure

Gross with Tax Credits: "Field" definition

In order to make a system based on "gross" work it is necessary to define a "field" or some type of area or unit to which the production tax formulas relate.

It is increasingly difficult to define such "fields". Most investments on the North Slope relate to deeper or shallower reservoirs, reservoir extensions, satellite fields, EOR in existing reservoirs, etc.

Fiscal Structure

Gross with Tax Credits: "Field" definition

Therefore, a system based on gross creates automatically inequities between different types of investments. If investments are made in the same "field", taxes may be high, if investments are made in new "fields" taxes may be low. These problems have already emerged.

A State or North Slope wide system based on net revenues avoids all these problems.

Fiscal Structure

Gross with Tax Credits: Heavy Oil

An important problem is that the future of the North Slope oil production will be largely based on heavy oil.

A system based on “gross” for light oil is not applicable to “heavy oil”. Therefore special provisions need to be made.

Fiscal Structure

Gross with Tax Credits: Heavy Oil

Creating such special provisions for heavy oil is difficult with respect to the following:

- Definition of heavy oil
- Definition of economic difference between light oil and heavy oil. Rapid technological progress will change costs.
- Administration of special heavy oil provisions.

Fiscal Structure

Gross with Tax Credits: Conclusion

The North Slope developments are now at a mature stage in the traditional State lease areas. This creates a situation where it is no longer possible to define economics based on simple "field" or "unit" definitions and where it is important to kick off major developments in heavy and viscous oil.

This mature situation no longer lends itself to a gross production tax even if significant tax credits are introduced.

Fiscal Structure

Conclusion

A State wide system based on net revenues, such as the PPT, requiring a single tax return per company, is much easier to administer than a production tax based on gross revenues.

A PPT is also more durable. This is important.

However, what about cost control?

Fiscal Structure

PPT and cost control

The fact that so many nations have successfully worked with profit based systems during the last three decades indicates that these systems “work”.

Cost control is an important issue, but it should not be overblown.

Fiscal Structure

PPT and Cost Control

For instance, even if an company would illegally claim 30% more costs than actually are permitted as deductions, and Alaska auditors would not identify this, the effect on overall tax collection would be modest.

Assuming average costs of \$ 6 per barrel (operating and capital). The tax and tax credit losses under the 20/20 PPT would be \$ 0.54 per barrel. In an environment of \$ 30 to \$ 60 per barrel at the point of production, this is a relatively modest problem.

Fiscal Structure

PPT and Cost Control

Nevertheless, Section 25 of the PPT bill provides for a long list of non-deductible costs, including:

1. Depreciation, depletion, amortization
2. Financing charges and cost of raising equity
3. Acquisition costs of leases
4. Cost for arbitration, litigation
5. Partnership, JV, and other organizational costs
6. Any expenditures in excess of fair market value
7. Expenditures to purchase another company or business
8. Certain abandonment costs
9. Losses and damages of oil discharges.

SB

51

4/26/05

AMENDMENT #1

*Hand moved
to withdraw
AMR effects*

OFFERED IN THE HOUSE
TO: CSSB 51(FIN)

BY REPRESENTATIVE KELLY

Berk object

1 Page 3, line 17:

2 Delete "a tribal assistance program in this state"

3 Insert "an Alaska Native organization family assistance program under AS 47.27.070"

*Y
LM
JH
JC* *NI
EB
BK
VK*

*NR
4-3 passes*

*Law-son object, Neutral on amendments
long as is was sufficient.*

*EB: effort by those not friendly to tribal sovereignty
no impo*

AMENDMENT #2

REP KELLY
CAT 43+

Coghill moved
Berk object

OFFERED IN THE HOUSE
TO: CSSB 51(FIN)

1 Page 9, following line 21:

2 Insert a new subsection to read:

3 "(q) In this section, "organization" means an organization identified in
4 AS 47.27.070(a)."
5

6 Page 11, following line 11:

7 Insert a new subsection to read:

8 "(g) In this section, "Alaska Native organization" or "organization" means an
9 organization identified in AS 47.27.070(a)."

Y

JH
JC
VK
LM
WR
S-2

N

EB
BK

CS FOR SENATE BILL NO. 51(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 3/2/05
Referred: Rules

Sponsor(s): SENATE 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 certain**
2 **recipients in the state; providing for regional public assistance plans and programs in**
3 **the state; relating to grants for Alaska Native family assistance programs; relating to**
4 **assignment of child support by Alaska Native family assistance recipients; relating to**
5 **paternity determinations and genetic testing involving recipients of assistance under**
6 **Alaska Native family assistance programs; and providing for an effective date."**

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

8 *** Section 1.** AS 47.27 is amended by adding a new section to read:

9 **Article 3. Alaska Native Family Assistance Grants.**

10 **Sec. 47.27.200. Alaska Native family assistance grants. (a)**
11 **Notwithstanding any contrary provision of this chapter, and in addition to grants**
12 **awarded under AS 47.27.050, the Department of Health and Social Services may**
13 **award and administer Alaska Native family assistance grants in accordance with this**

1 section. Unless specified otherwise in this section, the provisions of AS 47.27.010 -
 2 47.27.085 do not apply to grants under this section or to an Alaska Native family
 3 assistance program operated under such a grant. To be awarded a grant under this
 4 section, an applicant shall

5 (1) meet the requirements of AS 47.27.070;

6 (2) have received approval for, and have agreed to operate, a federally
 7 approved tribal family assistance plan in this state,

8 (3) agree to operate the plan approved under this section on a state
 9 fiscal year basis; and

10 (4) meet the other requirements of this section.

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

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

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

1 (c) If the department awards a grant under this section, the grant must be in an
2 amount that

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

7 (2) for the second and subsequent state fiscal years under the plan
8 accepted by the department, represents a fair and equitable portion of state
9 appropriations made for public assistance programs that is allocated for Alaska Native
10 family assistance grants to be awarded under this section in order to serve the state
11 residents who will be served by the plan; if the money is not allocated for these grants,
12 the amounts shall be made in the same manner as described in (1) of this subsection.

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

15 (1) documentation that the organization

16 (A) has received federal approval of its federal tribal family
17 assistance plan to operate an Alaska Native org. bap under AS 47.27.076
18 a tribal assistance program in this state; and

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

21 (2) a plan for operation of the Alaska Native family assistance grant
22 that meets the requirements of (e) of this section; and

23 (3) if the commissioner determines that a federally approved tribal
24 family assistance plan would be a cost-effective and efficient means of administering
25 the program established in this chapter in that region of the state and the needs of state
26 public assistance recipients receiving assistance under this chapter can be met through
27 a contract awarded under AS 47.27.300, the organization's agreement to enter into a
28 contract with the department to provide state public assistance to those eligible state
29 residents in the region who are not included in the population to be served by the
30 federally approved tribal family assistance plan.

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

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

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

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

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

10 (5) provide for administration of the grant money received under this
11 section to establish a program in accordance with the plan accepted by the department
12 and in compliance with other requirements of this section; the program must include
13 the following standards for providing assistance to eligible families:

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

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

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

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

27 (E) families receiving assistance paid from Alaska Native
28 family assistance grant money shall comply with the provisions of (l) - (n) of
29 this section regarding assignment of support rights and cooperation with the
30 child support services agency;

31 (F) the organization has an impartial appeals process to allow

1 affected families in the region of the state covered by the plan accepted by the
2 department to have a fair hearing.

3 (f) The department may award a grant under this section only if the
4 department determines that the proposal, including a plan for operation of the grant,
5 meets the criteria specified in (d) and (e) of this section and that an award of the grant
6 to the organization would be in the public interest. The grant agreement must state
7 that the Alaska Native family assistance program will require all program participants
8 to assign child support rights to the Alaska Native family assistance program unless
9 the Alaska Native organization elects to require participants to assign those child
10 support rights to the state. The department may not distribute grant money until a
11 grant agreement between the organization and the department is executed that meets
12 the requirements of this section.

13 (g) Records pertaining to recipients of assistance from an Alaska Native
14 family assistance grant awarded under this section are confidential public assistance
15 records under AS 47.05.020 and regulations adopted under AS 47.05.020. Use and
16 misuse of these records are subject to the provisions of AS 47.05.030. It is an official
17 purpose under AS 47.05.020 for an organization receiving a grant under this section
18 and the department or another agency of the state to exchange information concerning
19 recipients of assistance under this section if the information requested is for purposes
20 directly connected with the administration of a grant under this section.

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

26 (i) If an organization wishes to terminate its program before the end of the
27 time period for which the grant was awarded under this section, the organization must
28 obtain the consent of the department or provide notice to the department 120 days
29 before the anticipated date of termination. At the end of a grant agreement or by early
30 termination under this section, the organization shall provide an inventory of property
31 valued at \$1,000 or over and purchased, in whole or in part, with grant money

1 awarded under this section. The department shall notify the organization of the
2 required disposition of the property listed on the inventory.

3 (j) If the department awards a grant under this section, a person applying for
4 assistance under this chapter who is covered by the federally approved tribal family
5 assistance plan in that region of the state may obtain assistance from the department
6 only through the organization designated by the department to serve the region. A
7 person aggrieved by a decision made by an organization under a grant awarded under
8 this section may use the appeal procedure specified in AS 47.27.300(e).

9 (k) Notwithstanding (j) of this section, a person applying for assistance under
10 this chapter in a region of the state that is served by both an Alaska Native family
11 assistance program that receives a grant under this section and a program administered
12 directly by the department may request to receive assistance under the program
13 administered directly by the department by applying to the department under this
14 subsection and in accordance with regulations adopted under this subsection. The
15 department shall approve the application if the department finds that the applicant has
16 shown that special circumstances exist that support the request to use the state
17 program.

18 (l) A participant in an Alaska Native family assistance program shall assign to
19 the Alaska Native family assistance program, unless the program has elected to require
20 assignment to the state, all rights to ongoing child support that accrues after the
21 effective date of the assignment for the support of the individuals in the family for
22 whom assistance is provided, but not to exceed the total amount of assistance paid by
23 the Alaska Native family assistance program to the family. The assignment takes
24 effect when information required under (n) of this section is provided to the child
25 support services agency following the determination of eligibility. Except with
26 respect to any unpaid support that accrued under the assignment, the assignment
27 terminates when the family ceases to participate in the Alaska Native family assistance
28 program. All assignments to an Alaska Native family assistance program of unpaid
29 child support obligations transfer to the state upon the termination of an Alaska Native
30 family assistance program.

31 (m) An Alaska Native family assistance program participant shall cooperate

1 with the child support services agency in the manner described in AS 47.27.040(b) in
2 establishing paternity or establishing, modifying, or enforcing a child support order
3 requiring the payment of support by the noncustodial parent for a dependent child for
4 whom assistance is received. The child support services agency shall inform the
5 Alaska Native family assistance program if it determines that the participant is not in
6 good faith compliance with the requirements of AS 47.27.040(b). The Alaska Native
7 family assistance program shall determine whether the participant has good cause for
8 refusing to cooperate.

9 (n) An Alaska Native family assistance program that receives assignments of
10 ongoing child support shall provide public assistance information concerning those
11 assignments to the child support services agency in a timely manner in order to
12 establish a valid assignment. The information shall be provided by electronic means
13 and in a format acceptable to the child support services agency. For the purposes of
14 this subsection, "timely manner" means within the time constraints established for
15 child support agency distributions under federal law.

16 (o) The applicability of AS 25.27 in the case of a recipient under an Alaska
17 Native family assistance program includes the following:

18 (1) an obligor is liable to the Alaska Native family assistance program
19 in the amount of the family assistance provided by the program to a child to whom the
20 obligor owes a duty of support except that, if a support order has been entered, the
21 liability of the obligor for assistance provided by an Alaska Native family assistance
22 program may not exceed the amount of support provided for in the support order, and,
23 if a medical order of support has been entered, the liability of the obligor for assistance
24 granted under AS 47.07 may not exceed the amount of support provided for in the
25 medical order of support; the child support services agency shall send notice of
26 accruing liability under this paragraph in the same manner as required under
27 AS 25.27.120(c), and, if the agency fails to comply with the notice requirement of this
28 paragraph, interest does not accrue on the liability to the Alaska Native family
29 assistance program unless a support order or medical support order, as applicable, has
30 been entered;

31 (2) the child support services agency may appear in an action

1 authorized under AS 25.27.045 at the agency's own discretion if an obligor under
2 AS 25.27 is liable to the Alaska Native family assistance program under (1) of this
3 subsection;

4 (3) an Alaska Native family assistance program to which the child
5 support services agency erroneously disburses an overpayment of child support under
6 an income withholding order is liable to the state for the amount disbursed, plus
7 interest at the rate imposed under AS 25.27.062(l)(1);

8 (4) when the right to receive child support has been assigned to an
9 Alaska Native family assistance program, an agreement under AS 25.27.065(a) that
10 has not been adopted as an administrative order of the child support services agency is
11 not effective during a period when the obligee is receiving assistance under an Alaska
12 Native family assistance program;

13 (5) the child support services agency, on behalf of an Alaska Native
14 family assistance program, shall take all necessary action permitted by law to enforce
15 child support orders entered under AS 25.27, including petitioning the court for orders
16 to aid in the enforcement of child support;

17 (6) if an obligor under AS 25.27 is liable to an Alaska Native family
18 assistance program under (1) of this subsection, the state is subrogated to the rights of
19 the obligee to take actions authorized under AS 25.27.130(a);

20 (7) notwithstanding AS 25.27.130(c), the recovery of an amount for
21 which an obligor under AS 25.27 is liable that exceeds the total assistance granted
22 under AS 47.07 and this chapter shall be paid to the obligee;

23 (8) except as provided in AS 25.27.130(f), if an obligee under
24 AS 25.27 is not receiving assistance under AS 47.07 or this chapter at the time the
25 state recovers money in an action under AS 25.27.130(d) or (1) of this subsection, the
26 recovery of any amount for which the obligor is liable shall be distributed to the
27 obligee for support payments, including medical support payments, that had become
28 due and unpaid since the termination of assistance under AS 47.07 or this chapter
29 under a support order in favor of the obligee;

30 (9) after payment to the obligee under (8) of this subsection, the state
31 may retain an amount not to exceed the total unreimbursed assistance paid on behalf

1 of the obligee under AS 47.07 or this chapter;

2 (10) if an alleged obligor is liable to an Alaska Native family
3 assistance program under (1) of this subsection, and a support order has not been
4 entered, the child support services agency may, at its own discretion, undertake an
5 action to establish paternity and a duty of support using the procedures prescribed in
6 AS 25.27 and may enforce a duty of support using the procedures prescribed in
7 AS 25.27; the agency may also institute administrative proceedings to determine the
8 paternity of a child born out of wedlock upon application of an Alaska Native family
9 assistance program; the agency may not recover costs of genetic tests required under
10 this paragraph from a person who is a recipient of assistance under an Alaska Native
11 family assistance program;

12 (11) when a hearing officer makes a determination under
13 AS 25.27.170(d), the hearing officer shall, in addition to the factors described in
14 AS 25.27.170(e), consider the amount of the alleged obligor's liability to an Alaska
15 Native family assistance program under (1) of this subsection;

16 (12) notwithstanding AS 25.27.255(a), the child support services
17 agency may not pay to an obligee any money that has been assigned to an Alaska
18 Native family assistance program.

19 (p) Nothing in this section requires the department to continue to fund an
20 Alaska Native family assistance grant program at a level funded before the current
21 grant period or to replace federal funds for the program with state funding.

22 * Sec. 2. AS ^{(g) definition "organization"} 47.27 is amended by adding a new section to read:

23 **Article 4. Regional Programs.**

24 **Sec. 47.27.300. Regional public assistance programs.** (a) The department
25 may develop a regional public assistance program for the administration of this
26 chapter in order to provide state public assistance in a uniform and cost-effective
27 manner in a region of this state if an Alaska Native organization is authorized to
28 implement a federally approved tribal family assistance plan that includes that region
29 and has been awarded an Alaska Native family assistance grant for a program that
30 includes that region for the applicable fiscal year under AS 47.27.200. The regional
31 public assistance program developed under this section must be designed to serve

1 eligible state residents in the region covered by the program who are not already
2 covered by a federally approved tribal family assistance plan in that region.

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

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

13 (1) has been awarded an Alaska Native family assistance grant under
14 AS 47.27.200 for a program that includes that region;

15 (2) agrees to administer state public assistance under this chapter to
16 state residents in the region who are not served by the Alaska Native family assistance
17 grant awarded under AS 47.27.200;

18 (3) agrees to provide state public assistance identical to that provided
19 under the federally approved tribal family assistance plan for which Alaska Native
20 family assistance grant money has been awarded under AS 47.27.200; and

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

23 (d) Records pertaining to recipients of state public assistance under a contract
24 awarded under this section have the same confidential protections as are provided to
25 recipients of assistance from Alaska Native family assistance grants under
26 AS 47.27.200.

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

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

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

12 * Sec. 3. AS 47.27.900 is amended by adding new paragraphs to read:

13 (11) "Alaska Native family assistance grant" means a grant under
 14 AS 47.27.200;

15 (12) "Alaska Native family assistance program" means a program
 16 funded in part by a grant under AS 47.27.200;

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

21 * Sec. 4. The uncoded law of the State of Alaska is amended by adding a new section to
 22 read:

23 TRANSITION: REGULATIONS. Regulations adopted by the Department of Health
 24 and Social Services to implement ch. 96, SLA 2000, and in effect on June 29, 2005, remain in
 25 effect, and may be implemented and enforced as regulations implementing this Act.

26 * Sec. 5. The uncoded law of the State of Alaska is amended by adding a new section to
 27 read:

28 REVISOR'S INSTRUCTIONS. The revisor of statutes is instructed to designate
 29 existing

30 (1) AS 47.27.005 as "Article 1. Administrative Provisions";

31 (2) AS 47.27.010 - 47.27.085 as "Article 2. Alaska Temporary Assistance

1 Program"; and

2 (3) AS 47.27.900 - 47.27.990 as "Article 5. General Provisions."

3 * Sec. 6. This Act takes effect June 30, 2005.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 51
 (S) Publish Date: 1/12/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title REAUTHORIZATION OF NATIVE FAMILY ASSISTANCE GRANTS PROGRAM

RDU Public Assistance

Component Tribal Assistance

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester GOVERNOR

Component No. 2336

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	4,093.8	4,093.8	4,093.8	4,093.8	4,093.8	4,093.8
Miscellaneous						
TOTAL OPERATING	4,093.8	4,093.8	4,093.8	4,093.8	4,093.8	4,093.8

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match	3,685.8	3,685.8	3,685.8	3,685.8	3,685.8	3,685.8
1004 GF						
1037 GF/Mental Health						
1007 Interagency Receipts	408.0	408.0	408.0	408.0	408.0	408.0
Other(Specify Type-do not abbreviate)						
TOTAL	4,093.8	4,093.8	4,093.8	4,093.8	4,093.8	4,093.8

Estimate of any current year (FY2005) cost:

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

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 TANF programs. This legislation reauthorizes the Alaska Native family assistance grant program established under Chapter 96, SLA 2000, and gives the Department of Health & Social Services the ability to award and administer state grants to Native non-profit organizations to supplement their federally approved Tribal TANF Assistance programs. Approval of this legislation would maintain support for the three organizations currently running Tribal TANF programs and receiving state supplemental Native family assistance grant funds: TANF - Tanana Chiefs Conference (TCC), Central Council of Tlingit & Haida Indian Tribes of Alaska (T&H) and Association of Village Council Presidents (AVCP). In addition to reauthorizing the existing programs this bill would also include the other nine Alaska native non-profit organizations authorized in federal law to operate tribal TANF programs. Cook Inlet Tribal Council (CITC) plans to begin operating a tribal TANF program in July 2005. The fiscal note assumes implementation of the CITC

Prepared by: Katherine Farnham
 Division: Public Assistance
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 269-7930
 Date/Time 12/07/2004
 Date 12/10/2004

FISCAL NOTE
FN # 1

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB 51

ANALYSIS CONTINUATION

Analysis Continued:

program as planned and reflects the associated budget impacts.

State supplemental grant to CITC to operate tribal TANF in the Anchorage service area:

Funding for Native TANF program operation comes from the federal TANF block grant and is supplemented by state grant funds that would otherwise be spent to serve the same Native welfare recipients. This fiscal note reflects the 'transfer' of \$4,093.8 state funding to the Tribal Assistance component from the ATAP component to supplement the federal TANF for the operation of tribal TANF by CITC. Funds provided by this state grant will be used for the purpose of providing temporary assistance benefits to eligible families through CITC's tribal TANF program.

<u>Summary of all component impacts for CITC's NEAP</u>	Total	Federal	GFM	I/A
ATAP component	(6,727.0)	(563.2)	(5,755.8)	(408.0)
Tribal Assistance	4,093.8		3,685.8	408.0
Work Services component	(1,346.4)	(1,346.4)	-	-
Child Care Benefits component	<u>(931.5)</u>	<u>(931.5)</u>	<u>-</u>	<u>-</u>
Total net fiscal impact for CITC Native TANF	(4,911.1)	(2,841.1)	(2,070.0)	-

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2

Bill Version: SB 51

(S) Publish Date: 1/12/05

Revision Date/Time (Note if correction):

Dept. Affected: Health & Social Services

Title REAUTHORIZATION OF NATIVE FAMILY ASSISTANCE GRANTS PROGRAM

RDU Public Assistance

Component Work Services

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester GOVERNOR

Component No. 2537

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(1,346.4)	(1,346.4)	(1,346.4)	(1,346.4)	(1,346.4)	(1,346.4)
Miscellaneous						
TOTAL OPERATING	(1,346.4)	(1,346.4)	(1,346.4)	(1,346.4)	(1,346.4)	(1,346.4)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	(1,346.4)	(1,346.4)	(1,346.4)	(1,346.4)	(1,346.4)	(1,346.4)
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(1,346.4)	(1,346.4)	(1,346.4)	(1,346.4)	(1,346.4)	(1,346.4)

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation reauthorizes the Department of Health and Social Services (DHSS) to award and administer state funds under the Alaska Native family assistance grant program to support the operation of federally approved Tribal TANF programs. In addition to reauthorizing the existing programs this bill would also allow DHSS to provide grants to the other nine Alaska native non-profit organizations authorized in federal law to operate tribal TANF programs. Cook Inlet Tribal Council (CITC) plans to begin operating a tribal TANF program in July 2005.

The fiscal note assumes implementation of the CITC program as planned and reflects the budget impacts. Work Services is a budget category for case management staff and supportive service payments that assist TANF clients from welfare to work. This fiscal note deletes \$1,346.4 federal authority for the decline in Work Services component expenditure due to the transfer of the existing Native Temporary Assistance caseload in Anchorage to CITC.

Prepared by: Katherine Farnham

Phone 269-7930

Division: Public Assistance

Date/Time 12/07/2004

Approved by: Joel S. Gilbertson, Commissioner

Date 12/10/2004

Agency: Department of Health and Social Services

FISCAL NOTE
FN # 2

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB 51

ANALYSIS CONTINUATION
Analysis Continued: Work Services

<u>Summary of all component impacts for CITCs NEAP</u>	Total	Federal	GFM	I/A
ATAP component	(6,727.0)	(563.2)	(5,755.8)	(408.0)
Tribal Assistance	4,093.8		3,685.8	408.0
Work Services component	(1,346.4)	(1,346.4)	-	-
Child Care Benefits component	<u>(931.5)</u>	<u>(931.5)</u>	<u>-</u>	<u>-</u>
Total net fiscal impact for CITC Native TANF	(4,911.1)	(2,841.1)	(2,070.0)	-

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: SB 5
 (S) Publish Date: 1/12/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title REAUTHORIZATION OF NATIVE FAMILY ASSISTANCE GRANTS PROGRAM

RDU Public Assistance

Component ATAP

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester GO NOR

Component No. 220

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(6,727.0)	(6,727.0)	(6,727.0)	(6,727.0)	(6,727.0)	(6,727.0)
Miscellaneous						
TOTAL OPERATING	(6,727.0)	(6,727.0)	(6,727.0)	(6,727.0)	(6,727.0)	(6,727.0)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	(563.2)	(563.2)	(563.2)	(563.2)	(563.2)	(563.2)
1003 GF Match	(5,755.8)	(5,755.8)	(5,755.8)	(5,755.8)	(5,755.8)	(5,755.8)
1004 GF						
1037 GF/Mental Health						
1007 Interagency Receipts	(408.0)	(408.0)	(408.0)	(408.0)	(408.0)	(408.0)
Other(Specify Type-do not abbreviate)						
TOTAL	(6,727.0)	(6,727.0)	(6,727.0)	(6,727.0)	(6,727.0)	(6,727.0)

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS:

(Attach a separate page if necessary)

This legislation reauthorizes the Department of Health & Social Services (DHSS) to award and administer state funds under the Alaska Native family assistance grant program to support the operation of federally approved Tribal TANF programs. The three organizations currently running programs and receiving Native family assistance grants are: Tanana Chiefs Conference (TCC) in the interior Doyon region, Central Council of Tlingit & Haida Indian Tribes of Alaska (T&H) in SE Alaska, and the Association of Village Council Presidents in the YK Delta. Approval of this legislation maintains state support for these programs at the current, status quo level (no fiscal impact or change for existing Native family assistance programs). In addition to reauthorizing the existing programs this bill would also allow DHSS to provide grants to the other nine Alaska native non-profit organizations authorized in federal law to operate tribal TANF programs. Cook Inlet Tribal Council (CITC) plans to begin operating a tribal TANF program in July 2005. This fiscal note assumes implementation of the CITC program on July 1, 2005 and reflects the associated budget impacts.

Prepared by: Katherine Farnham
 Division Public Assistance
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 269-7930
 Date/Time 12/07/2004
 Date 12/10/2004

FISCAL NOTE
FN # 3

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB 51

ANALYSIS CONTINUATION
Analysis Continued:

State supplemental grant to CITC to operate tribal TANF in the Anchorage service area:

Funding for tribal TANF program operations comes from the federal TANF block grant and is supplemented by state grant funds that would otherwise be spent to serve the same number of Native families receiving assistance from the State's temporary assistance program. This fiscal note reflects the 'transfer' of \$4,093.8 in state funding from the ATAP component to the Tribal Assistance component to support the operation of tribal TANF administered by CITC. Funds provided by this state grant supplement CITC's federal TANF block grant and will be used for purpose of providing temporary assistance payments to eligible families through the CITC tribal TANF program.

Native Operated TANF programs & Changes in MOE

The state maintenance of effort (MOE) requirement for TANF is based on the state share of AFDC expenditures in FFY1994. In order to earn the annual TANF block grant, states must spend at least 75-80 percent of their FFY 1994 spending. Federal law allows designated Native organizations to operate their own TANF programs and to receive TANF grants directly from the federal government. The federal grants for Native TANF reduce the state block grant amount dollar for dollar. In addition, the required state maintenance of effort (MOE) is reduced.

State general funds savings of roughly \$25 million have been previously deleted from the ATAP budget to a level equal to the minimum 75% MOE amount. Due to CITC implementing a new tribal TANF program, DHSS can reduce the required MOE by an additional \$2,070.0 million GF. This fiscal note changes ATAP component funding sources by deleting \$2,070.0 GF (MOE) and replacing with federal TANF authority. The change in fund source assumes a reduction in state TANF MOE amount due to the implementation of the CITC tribal TANF program.

Delete excess Federal TANF - ATAP caseload transfers to CITC

This fiscal note deletes \$2,633.2 federal budget authority for the projected decline in ATAP component formula payments due to the transfer of the existing Native Temporary Assistance caseload in Anchorage to CITC.

<u>Summary ATAP component impacts</u>	Total	Federal	GFM	I/A
"Transfer" to Tribal Assistance component	(4,093.8)	-	(3,685.8)	(408.0)
Delete GFM to the revised MOE floor	-	2,070.0	(2,070.0)	-
Delete excess federal TANF federal authority	<u>(2,633.2)</u>	<u>(2,633.2)</u>	-	-
ATAP component net change	(6,727.0)	(563.2)	(5,755.8)	(408.0)

<u>Summary of all component impacts for CITC's NEAP</u>	Total	Federal	GFM	I/A
ATAP component	(6,727.0)	(563.2)	(5,755.8)	(408.0)
Tribal Assistance	4,093.8		3,685.8	408.0
Work Services component	(1,346.4)	(1,346.4)	-	-
Child Care Benefits component	<u>(931.5)</u>	<u>(931.5)</u>	-	-
Total net fiscal impact for CITC Native TANF	(4,911.1)	(2,841.1)	(2,070.0)	-

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4

Bill Version: SB 51

(S) Publish Date: 1/12/05

Revision Date/Time (Note if correction):

Dept. Affect. J: Health & Social Services

Title REAUTHORIZATION OF NATIVE FAMILY ASSISTANCE GRANTS PROGRAM

RDU Public Assistance

Component Child Care Benefits

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester GOVERNOR

Component No. 1897

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(931.5)	(931.5)	(931.5)	(931.5)	(931.5)	(931.5)
Miscellaneous						
TOTAL OPERATING	(931.5)	(931.5)	(931.5)	(931.5)	(931.5)	(931.5)

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

CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	(931.5)	(931.5)	(931.5)	(931.5)	(931.5)	(931.5)
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(931.5)	(931.5)	(931.5)	(931.5)	(931.5)	(931.5)

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation reauthorizes the Department of Health & Social Services (DHSS) to award and administer state funds under the Alaska Native family assistance program to support the operation of federally approved Tribal TANF programs. In addition to reauthorizing the existing Native Family Assistance Programs (NFAP), this bill would also allow DHSS to provide grants to the other nine Alaska Native non-profit organizations authorized in federal law to operate tribal TANF programs. Cook Inlet Tribal Council (CITC) plans to begin operating a tribal TANF program in July 2005.

The fiscal note assumes implementation of the CITC program on July 1, 2005, and reflects the associated budget impacts. Child Care benefits are direct subsidies paid to childcare providers for TANF families. This fiscal note deletes \$931.5 federal budget authority for the decline in childcare expenditures due to the transfer of the existing Native Temporary Assistance caseload in Anchorage to CITC.

Prepared by: Katherine Farnham

Phone 269-7930

Division: Public Assistance

Date/Time 12/07/2004

Approved by: Jocel S. Gilbertson, Commissioner

Date 12/10/2004

Agency: Department of Health and Social Services

FISCAL NOTE

FN # 4

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB 51

ANALYSIS CONTINUATION

Analysis Continued: Child Care Benefits

<u>Summary of all component impacts for CITCs NEAP</u>	Total	Federal	GFM	I/A
ATAP component	(6,727.0)	(563.2)	(5,755.8)	(408.0)
Tribal Assistance	4,093.8		3,685.8	408.0
Work Services component	(1,346.4)	(1,346.4)	-	-
Child Care Benefits component	<u>(931.5)</u>	<u>(931.5)</u>	<u>-</u>	<u>-</u>
Total net fiscal impact for CITC Native TANF	(4,911.1)	(2,841.1)	(2,070.0)	-

Governor's transmittal letter dated January 11, 2005:

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Native family assistance grant program. This bill would reauthorize the Alaska Native family assistance grant program, which was enacted in ch. 96, SLA 2000 as a temporary pilot program.

The federal Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (P.L.104-193) (PRWORA) gave Alaska Native and American Indian tribes the authority to assume responsibility for providing public assistance and self-sufficiency services by administering the Temporary Assistance for Needy Families program (TANF) independent of state welfare agencies. The law also set out the methodology for federal financing of tribal TANF programs, but did not address state financing or any state maintenance-of-effort provisions. In response, ch. 96, SLA 2000 was enacted into law, authorizing the Department of Health and Social Services (department) to award and administer federally authorized tribal TANF providers in Alaska with Native Family Assistance Program (NFAP) grants on a pilot program basis. The financing was limited to only four of the 13 Alaska Native nonprofit organizations authorized in PRWORA: Tanana Chiefs Conference, Tlingit-Haida Central Council, Association of Village Council Presidents, and the Metlakatla Indian Community of the Annette Islands Reserve. Each of these organizations, except Metlakatla, is now operating a tribal TANF program and receiving financing from the department in the form of an Alaska Native family assistance grant. This temporary law program will sunset on June 30, 2005.

In addition to reauthorizing the pilot program on a permanent basis in statute, this bill also would include the other nine Alaska native nonprofit organizations authorized in federal law to operate tribal TANF programs: Arctic Slope Native Association, Kawerak, Inc., Maniilaq Association, Cook Inlet Tribal Council, Bristol Bay Native Association, Aleutian and Pribilof Island Association, Chugachmiut, Kodiak Area Native Association, and Copper River Native Association.

From the outset, the State of Alaska has supported the establishment and development of the tribal TANF programs. The NFAP program affirms the state's interest in promoting regional responsibility and local control for public assistance programs in Alaska. Families served by tribal TANF programs have been successful in moving families from welfare to work. The local presence and familiarity with village and community life puts the tribal administrators in the best position to implement the program and to successfully promote self-sufficiency for their clients.

Since enactment of ch. 96, SLA 2000, three Alaska Native groups not currently authorized to receive Alaska Native family assistance grants are either actively planning a tribal TANF program or have expressed interest in beginning the planning process. Cook Inlet Tribal Council plans to begin operating a tribal TANF program in July 2005 and is currently receiving technical support from the department. The Bristol Bay Native Association has submitted a letter of intent to begin operating a tribal TANF program in

July 2005, and Chugachmiut has also advised the department of its interest in developing a tribal TANF program.

Funding for tribal TANF program operations comes from the federal TANF block grant and is supplemented by state grant funds that would otherwise be spent to serve the same number of Alaska Native families receiving assistance from the state's temporary assistance program. Enacting this bill will not take away the state oversight of TANF program operations. Tribal providers who receive NFAP grants enter into a contractual agreement with the State of Alaska to provide timely and accurate cash assistance, eligibility services, case management and other welfare-to-work services, supportive services, child care assistance, and administrative support to all eligible families living within their service area. Furthermore, the contract requires tribal providers to report monthly to the Division of Public Assistance (DPA) and allows DPA to monitor and evaluate the tribal program to assure grant money is being used to serve eligible families.

Sincerely,

/s/

Frank H. Murkowski
Governor

Sectional Analysis

Bill No. CSSB 51 (FIN)

"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 Native family assistance programs; relating to assignment of child support by Alaska Native family assistance recipients; relating to paternity determinations and genetic testing involving recipients of assistance under Alaska Native family assistance programs; and providing for an effective date

HB 51 was amended in (S) Finance to include a provision to ensure that the state would not be obligated to fund the NFAP program at current levels, or replace declining federal funds with state general funds.

Section 1:

Amends AS 47.27 by adding a new article authorizing the Department of Health and Social Services (DHSS) to award and administer Alaska Native family assistance program (NFAP) grants. NFAP grants and programs operated under NFAP grants need not conform to legislative provisions authorizing the state administered Alaska Temporary Assistance Program (ATAP).

Outlines requirements for eligibility for an NFAP grant by specifying:

- which entities are eligible for NFAP grants under this legislation. AS 47.27.070 references the 12 Alaska Native non-profit corporations and the Metlakatla Indian Community of the Annette Islands Reserve;
- only tribes with a federally approved tribal TANF plan and those that agree to operate a tribal family assistance program under an approved plan are eligible for grant;
- the plan approved under this section must be operated on a state fiscal year basis;
- the process the department will use for approving an NFAP grant;
- guidelines for determining the grant amount;
- standards the program must meet for plan approval by the department;
- provisions for safeguarding confidentiality record sharing, data and fiscal record collection and exchange, and termination of the program.

Specifies that a person residing in an area covered by a tribal family assistance plan will be served only through that tribal organization and outlines an appeal process.

Requires that a participant in an Alaska Native family assistance program assign to that program all rights to ongoing child support and cooperate with all CSSD enforcement activities unless the program finds the participant has good cause for refusing to cooperate.

Requires a Native family assistance program to provide CSSD with information needed to make a valid child support assignment, and specifies the applicability of AS 25.27 (Child Support Services Agency) to a recipient under an Alaska Native family assistance program.

Clarifies that the department is not obligated to fund an Alaska Native family assistance grant program at a previous funding level or to replace lost federal funds with state funds.

Section 2:

Amends AS 47.27 by adding a new article establishing the authority of DHSS to develop and implement regional public assistance plans and programs and authorizes the department to award contracts for the implementation of regional assistance programs. Contracts under this section are exempt from competitive bid requirements of the state procurement code. Under this section, DHSS can only contract for the implementation of a regional public assistance program if:

- an Alaska Native organization is authorized to operate a federally approved tribal assistance program;
- the organization has been awarded an NFAP grant;
- the regional plan will serve eligible state residents not covered by the federally approved tribal assistance program;
- the organization agrees to provide state public assistance identical to that provided by the federally approved tribal family assistance plan;
- the organization provides an appeals process for applicants or recipients that uses the same methodology available under the federally approved plan.

Mandates that recipient records be kept confidential.

Section 3:

Defines "Alaska Native family assistance grant;" "Alaska Native family assistance programs;" "federally approved tribal family assistance plan."

Section 4:

Provides authority for DHSS to adopt transitional regulations

Section 5:

Provides Revisor's instructions.

Section 6

Establishes an effective date of June 30, 2005.

State of Alaska
Department of Health & Social Services

Frank H. Murkowski
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
FACT SHEET



Joel Gilbertson
Commissioner
907-465-3030
FAX: 907-465-3068
www.hss.state.ak.us

April 18, 2005

Reauthorization of the Native Family Assistance Program Fact Sheet

- Federal law authorizes 13 Alaska Native regional non-profit agencies to deliver their own unique tribal TANF programs to their members. Currently, three non-profit agencies operate tribal TANF programs that serve 995 families in Alaska.
- These tribal agencies have successfully administered TANF programs that reflect the unique needs and conditions in local communities while moving tribal members from welfare to work. Tribes have the knowledge and experience to provide culturally relevant services to their members.
- Tribal TANF programs are funded with federal dollars; tribal providers receive a share of the state's TANF block grant equal to the amount formerly expended by the state to serve tribal members.
- Both Alaska state and tribal officials agree that federal funds alone are insufficient for operation of a viable tribal TANF program. Moreover, federal law requires Alaska tribal TANF programs be comparable to the state-run TANF program. In response, state law passed in 2000 authorizes the Department of Health and Social Services to supplement four of the 13 non-profit agencies with Native Family Assistance Program grants (NFAP). NFAP grants are based on the amount of state funds formerly expended by the state to serve tribal members. This law will sunset on June 30, 2005. In 2004, the three tribal TANF programs currently operating in Alaska received approximately \$8.7 million in NFAP grants
- Interest in development of tribal TANF programs in Alaska is on the rise. The Division of Public Assistance reports that three additional Native non-profit organizations have formally begun the process of developing tribal TANF programs.

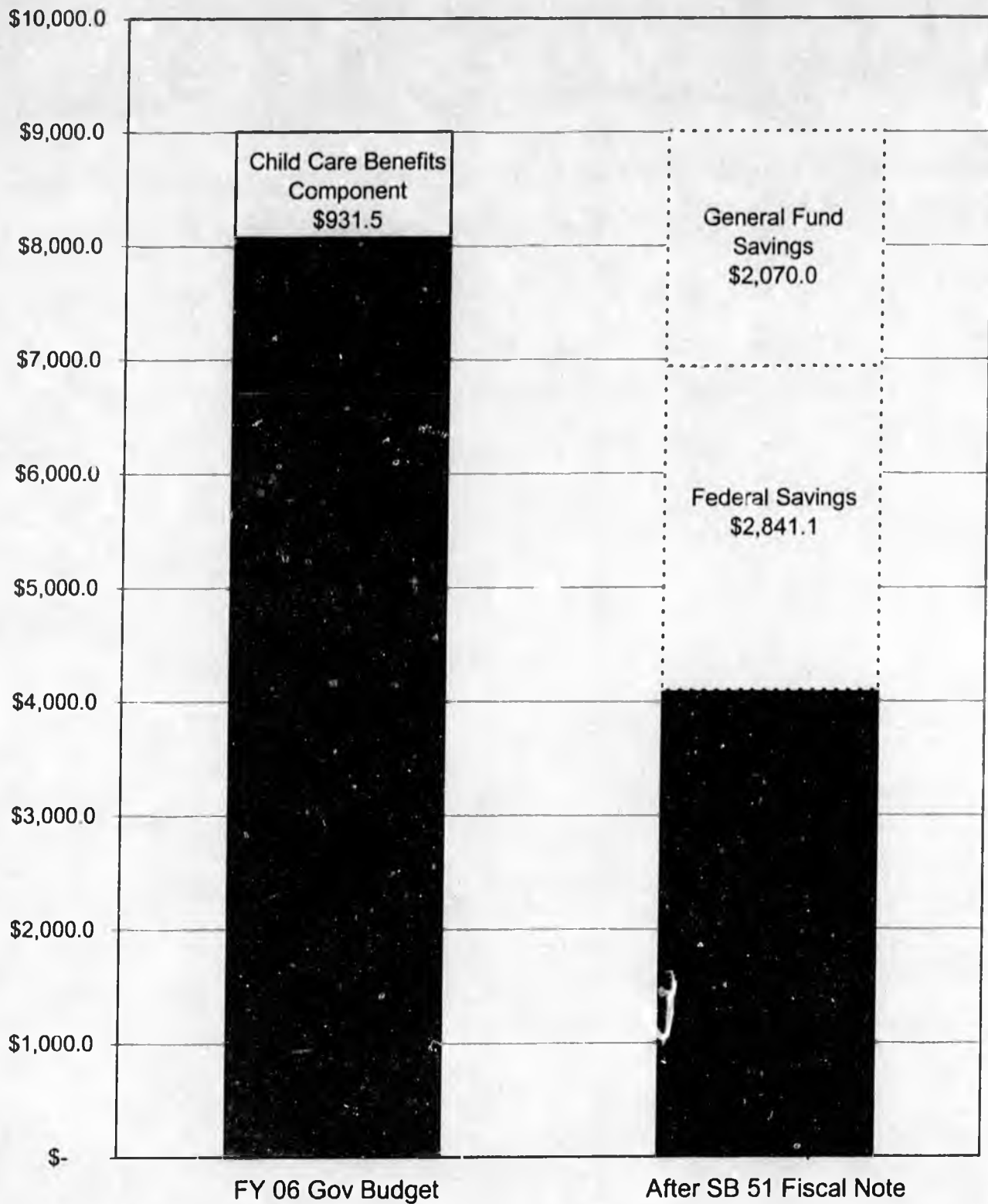
CSSB 51:

- Reauthorizes the Native Family Assistance Program and places its provisions in permanent statute.
- Expands eligibility for NFAP grants to all 13 federally authorized tribal TANF providers.
- Ensures the viability of current tribal TANF programs and supports the development of additional locally operated and culturally relevant Tribal TANF programs.

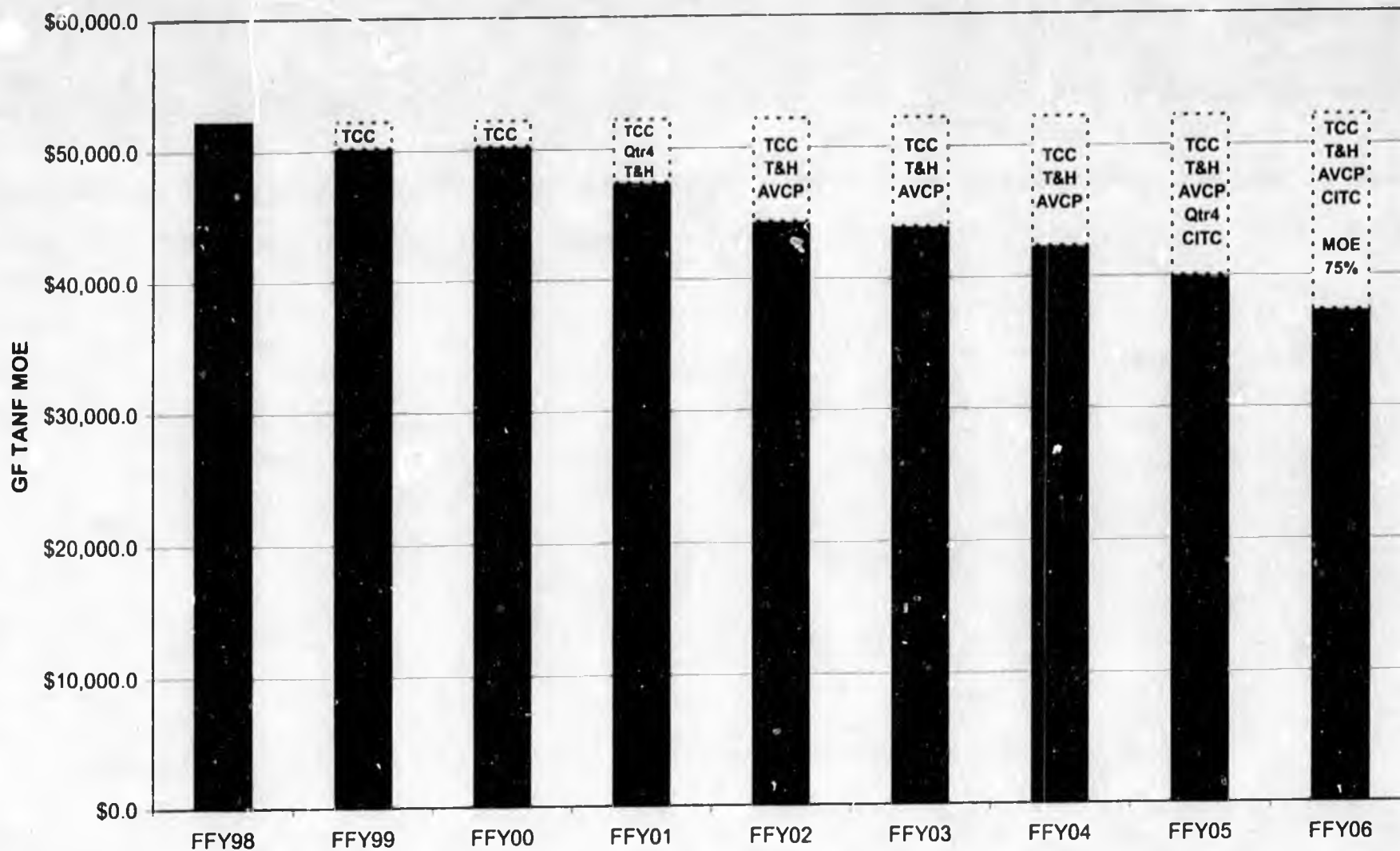
The net impact of CSSB 51 is a GF savings of \$2,070.0

Summary ATAP component impacts	Federal	GFM	I/A	Total
ATAP component	(563.2)	(5,755.8)	(408.0)	(6,727.0)
Tribal Assistance	-	3,685.8	408.0	4,093.8
Work Services Component	(1,346.4)	-	=	(1,346.4)
Child Care Benefits component	(931.5)	-	-	(931.5)
Total net fiscal impact for CITC Native TANF	(2,841.1)	(2,070.0)		(4,911.1)

FY06 Budget Impact for State-CITC Transfer



**TANF General Fund Maintenance of Effort (MOE)
Spending and Savings Due to Tribal TANF**



SB

140

Accepted 5/3/05

24-LS0996VA
Luckhaupt
5/2/05

HOUSE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Introduced:
Referred:

A RESOLUTION

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**
2 **Legislature, concerning Senate Bill No. 140, relating to computers and the Internet.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of
5 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding
6 changes to the title of a bill, are suspended in consideration of Senate Bill No. 140, relating to
7 computers and the Internet.

*AS
out as am
w/late bn*

24-LS05921Y.4
Luckhaup
5/2/05

AMENDMENT #1

*5/3/05
Coghull moved
Relegated
removed
adopted
unanim*

OFFERED IN THE HOUSE
TO: CSSB 140(JUD)

1 Page 1, line 1:

2 Delete "to spyware and unsolicited Internet advertising"
3 Insert "to computers, computer communications, and the Internet"

5 Page 1, following line 2:

6 Insert new bill sections to read:

7 **** Section 1.** AS 11.41 is amended by adding a new section to read:

8 **Sec. 11.41.452. Online enticement of a minor.** (a) A person commits the
9 crime of online enticement of a minor if the person, being 18 years of age or older,
10 knowingly uses a computer to communicate with another person to entice, solicit, or
11 encourage the person to engage in an act described in AS 11.41.455(a)(1) - (7) and

12 (1) the other person is a child under 16 years of age; or
13 (2) the person believes that the other person is a child under 16 years
14 of age.

15 (b) In a prosecution under (a)(2) of this section, it is not a defense that the
16 person enticed, solicited, or encouraged was not actually a child under 16 years of age.

17 (c) In a prosecution under this section, it is not necessary for the prosecution
18 to show that the act described in AS 11.41.455(a)(1) - (7) was actually committed.

19 (d) Except as provided in (e) of this section, online enticement is a class C
20 felony.

21 (e) Online enticement is a class B felony if the defendant was, at the time of
22 the offense, required to register as a sex offender or child kidnapper under AS 12.63 or
23 a similar law of another jurisdiction.

1 * **Sec. 2.** AS 11.61 is amended by adding a new section to read:

2 **Sec. 11.61.128. Electronic distribution of indecent material to minors. (a)**

3 A person commits the crime of electronic distribution of indecent material to minors if
4 the person, being 18 years of age or older, knowingly distributes to another person by
5 computer any material that depicts an act described in AS 11.41.455(a)(1) - (7) and

6 (1) the other person is a child under 16 years of age; or

7 (2) the person believes that the other person is a child under 16 years
8 of age.

9 (b) In this section, it is not a defense that the victim was not actually under 16
10 years of age.

11 (c) Except as provided in (d) of this section, electronic distribution of indecent
12 material to minors is a class C felony.

13 (d) Electronic distribution of indecent material to minors is a class B felony if
14 the defendant was, at the time of the offense, required to register as a sex offender or
15 child kidnapper under AS 12.63 or a similar law of another jurisdiction."

16

17 Page 1, line 3:

18 Delete "Section 1"

19 Insert "Sec. 3"

20

21 Renumber the following bill sections accordingly.

22

23 Page 4, following line 24:

24 Insert a new bill section to read:

25 "** **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **APPLICABILITY.** Sections 1 and 2 of this Act apply to offenses occurring on or
28 after the effective date of this Act."

Legal remedies in SB 140

SB 140 establishes two new legal footings.

- 1) The AG under the Fair Trade Practices may take action upon violation of the new statute under criminal procedures.
- 2) A person or entity may use the new statute to establish a "course of action" in matter of a civil remedy. (As opposed to the more difficult path of establishing actual damage absent the statute.)

Remedies are available under AS 45.50 under actions in dealing with unfair trade practices.

From: Senator Thermanet

Alaska State Legislature

SENATOR
GENE THERRIAULT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-7797
Fax: (907) 465-3884
SENATE DISTRICT F

SB 140 Sponsor Statement

Spyware, which includes malware, trackware and adware, is the categorical name for any application that may track a user's online and/or offline PC activity and is capable of locally saving or transmitting those findings for third parties either with, or more often without, the computer user's knowledge or consent.

According to reports by the National Cyber Security Alliance, in 2003 nine out of 10 PCs connected to the Internet were infected with spyware. A joint spy audit report by Earthlink and Webroot in October, 2004, detected an average of 26 spyware traces on any given PC. Over a nine-month random computer audit, Earthlink and Webroot detected 82 million pieces of spyware and other potentially unwanted software programs.

Spyware can install tracking cookies that marketers use to monitor online activities to tailor pop-up ads directly to the user. More harmful programs can record keystrokes to get personal information such as Social Security Number, bank account numbers, login names, passwords and credit card numbers that can be used to commit identity theft.

In addition to frustrating users with pop-up ads that are misleading and anticompetitive, the cost of removing unwanted spyware from PCs in homes, businesses, schools, universities and governments is staggering.

Senate Bill 140 would make it unlawful for a person to engage in deceptive acts or practices using spyware, including causing a pop-up ad to be shown on a computer screen knowing, or with reckless disregard, that the ad is the consequence of a user accessing a certain website.

While prosecutions and enforcement may be challenging, SB 140 sends the message that Alaska takes computer invasion seriously and will not leave its citizens without recourse.

ALASKA STATE LEGISLATURE



SENATOR HOLLIS FRENCH

SB 119 – OUTLAWING ELECTRONIC DISTRIBUTION OF INDECENT MATERIAL TO MINORS

Sponsor Statement

SB 119 will make electronic distribution of indecent materials, i.e., pornography, to minors a felony under Alaska law. This bill, along with SB 118, will help provide a “safety net” to help protect Alaska’s children from sexual predators.

Online victimization, which includes sexual enticement/solicitation, unwanted exposure to sexual material, and harassment, is one of the worst byproducts of the age of the Internet. Alaska, being the most “wired” state in the country, offers a particularly rich target for cyberpredators. Alaska also ranks among the highest in its rate of sexual abuse of children, and unfortunately many of these cases begin through contacts made via Internet chat rooms.

A key element in many of these seductions is breaking down a child's sense of what is “normal” or “right” by exposing the child to pornographic images. SB 119 will give the Alaska law enforcement community a new tool to help fight this type of child victimization.

Please join me in supporting SB 119 and taking another step in making Alaska a safer place for children.

March 3, 2005

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mall Stop 3101

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

MEMORANDUM

April 27, 2005

SUBJECT: CSSB 140(JUD) and the Commerce Clause
(Work Order No. 24-LS0592\Y)

TO: Senator Gene Therriault
Attn: Dave Stancliff

FROM: Barbara R. Craver *BRC*
Legislative Counsel

You have asked whether CSSB 140(JUD), which relates to spyware and unsolicited Internet advertising, violates the federal Commerce Clause. It is my opinion that a challenge would not be successful based on general commerce clause analysis.¹ Regulation of spyware is a legitimate local concern and does not burden out-of-state businesses any more than local businesses, so it appears not to erect a barrier to interstate trade which is the focus of the federal commerce clause.

Commerce Clause generally

The commerce clause grants Congress the power to "regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." Article I, sec. 8, cl. 3, Constitution of the United States. "Although the Clause speaks in terms of powers bestowed upon Congress, the [U.S. Supreme Court] long has recognized that it also limits the power of the States to erect barriers against interstate trade." Lewis v. BT Investment Managers, Inc., 447 U.S. 27, 35, 64 L.Ed.2d 702, 711 (1980). The limitation imposed by the commerce clause on state regulatory power is by no means absolute, and the states retain authority under their general police powers to regulate matters of legitimate local concern, even though interstate commerce may be affected. Maine v. Taylor, 477 U.S. 131, 138, 91 L.Ed.2d 110, 120 (1986).

"In determining whether a State has overstepped its role in regulating interstate commerce, [the U.S. Supreme Court] has distinguished between state statutes that burden interstate transactions only incidentally, and those that affirmatively discriminate against such transactions. While statutes in the first group violate the Commerce Clause only if the burden they impose on interstate trade are 'clearly excessive in relation to the putative

¹ As you know, legal research cannot take priority over drafting of legislation, so I have not been able to fully research your request in regard to spyware or state Internet regulation in particular. Please contact me after the session if you would like a more in depth discussion of this issue.

Senator Gene Therriault

April 27, 2005

Page 2

local benefits,' Pike v. Bruce Church, Inc., [397 U.S. 137, 142, 25 L.Ed.2d 174, 178 (1970)], statutes in the second group are subject to more demanding scrutiny. The [U.S. Supreme Court] explained in Hughes v. Oklahoma, [441 U.S. 322, 336, 60 L.Ed.2d 250, 262 (1979)], that once a state law is shown to discriminate against interstate commerce 'either on its face or in practical effect,' the burden falls on the State to demonstrate both that the statute 'serves a legitimate local purpose,' and that this purpose could not be served as well by nondiscriminatory means." Maine, 477 U.S. at 138, 91 L.Ed.2d at 120-121.

Protection of in-state industries from out-of-state competition is almost never a legitimate local purpose. State laws that amount to economic protectionism are virtually always invalid. Philadelphia v. New Jersey, 437 U.S. 617, 624, 57 L.Ed.2d 475, 481 (1978). However, I do not see this bill as a protectionist as it applies to in-state as well as out-of-state companies.

If I may be of further assistance, please advise.

BRC:med

05-314.med

ALASKA STATE LEGISLATURE



SENATOR HOLLIS FRENCH

SB 118 – OUTLAWING ONLINE ENTICEMENT OF MINORS

Sponsor Statement

SB 118 will make online enticement of minors a felony under Alaska law. Along with SB 119, the measure will help protect Alaska's children from sexual predators and provide a "safety net" for them as they navigate the Internet.

Alaska has the distinction of being the most "wired" state because it has the highest number of computers and Internet connections per capita in the US. Regrettably, Alaska also ranks among the highest in its rate of sexual abuse of children, and unfortunately many of these cases begin through contacts made via Internet chat rooms.

Online victimization, which includes sexual enticement/solicitation, unwanted exposure to sexual material, and harassment, is one of the worst byproducts of the age of the Internet. Research by the University of New Hampshire found that one in five children between the ages of 10 and 17 received a sexual solicitation over the Internet in the last year. One in thirty-three received an aggressive solicitation - a solicitor who asked to meet them somewhere; called them on the telephone; or sent them regular mail, money, or gifts.

While current statutes can be stretched to allow prosecution of online solicitation, the better approach is to recognize that this new form of criminality requires a new statute. Please join me in supporting SB 118 and taking another step in making Alaska a safer place for children.

March 3, 2005

CS FOR SENATE BILL NO. 119(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/29/05
Referred: Finance

Sponsor(s): SENATORS FRENCH, Kookesh, Bunde, Dyson, Huggins, Seekins, Wilken, Davis, Elton, Ellis, Green, Olson, Stedman, Cowdery, Guess, Therriault, Wagoner

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to dissemination of indecent material to minors."**

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

3 *** Section 1.** AS 11.61 is amended by adding a new section to read:

4 **Sec. 11.61.128. Electronic distribution of indecent material to minors. (a)**

5 A person commits the crime of electronic distribution of indecent material to minors if
6 the person, being 18 years of age or older, knowingly distributes to another person by
7 computer any material that depicts an act described in AS 11.41.455(a)(1) - (7) and

8 (1) the other person is a child under 16 years of age; or

9 (2) the person believes that the other person is a child under 16 years
10 of age.

11 (b) In this section, it is not a defense that the victim was not actually under 16
12 years of age.

13 (c) Except as provided in (d) of this section, electronic distribution of indecent
14 material to minors is a class C felony.

15 (d) Electronic distribution of indecent material to minors is a class B felony if

1 the defendant was, at the time of the offense, required to register as a sex offender or
2 child kidnapper under AS 12.63 or a similar law of another jurisdiction.

3 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 **APPLICABILITY.** This Act applies to offenses occurring on or after the effective
6 date of this Act.

CS FOR SENATE BILL NO. 118(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/29/05
Referred: Finance

Sponsor(s): SENATORS FRENCH, Kookesh, Bunde, Dyson, Elton, Ellis, Guess, Cowdery, Therriault, Olson, Stedman, Ben Stevens, Seekins, Wagoner, Davis, Green, Huggins

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to online enticement of minors."**

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

3 *** Section 1.** AS 11.41 is amended by adding a new section to read:

4 **Sec. 11.41.452. Online enticement of a minor.** (a) A person commits the
5 crime of online enticement of a minor if the person, being 18 years of age or older,
6 knowingly uses a computer to communicate with another person to entice, solicit, or
7 encourage the person to engage in an act described in AS 11.41.455(a)(1) - (7) and

8 (1) the other person is a child under 16 years of age; or

9 (2) the person believes that the other person is a child under 16 years
10 of age.

11 (b) In a prosecution under (a)(2) of this section, it is not a defense that the
12 person enticed, solicited, or encouraged was not actually a child under 16 years of age.

13 (c) In a prosecution under this section, it is not necessary for the prosecution
14 to show that the act described in AS 11.41.455(a)(1) - (7) was actually committed.

15 (d) Except as provided in (e) of this section, online enticement is a class C

1 felony.

2 (e) Online enticement is a class E felony if the defendant was, at the time of
3 the offense, required to register as a sex offender or child kidnapper under AS 12.63 or
4 a similar law of another jurisdiction.

5 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 **APPLICABILITY.** This Act applies to offenses occurring on or after the effective
8 date of this Act.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 140
 (S) Publish Date: 3/29/05

Revision Date/Time (Note if correction): _____ Dept Affected: Administration
 Title Ban Internet Spyware RDU Enterprise Technology S
 Component Enterprise Technology S
 Sponsor (S) L&C
 Requester _____ Component No. 2082

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill will not have a fiscal impact upon the agency

Prepared by: Stan Herrera, Director Phone 465-5735
 Division Enterprise Technology Services Data/Time 3/22/05 7:21 AM
 Approved by: Michael Tibbles, Deputy Commissioner Date 3/22/2005
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 140
 (S) Publish Date: 3/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: "An Act relating to spyware and unsolicited RDU: CIVIL
Internet advertising." Component: Commercial & Fair Business
 Sponsor: Senator Therriault
 Requester: Senate Labor & Commerce Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 45.45 (Trade and Commerce - Trade Practices) by adding new sections to prohibit the use of "spyware" that causes "pop-up" ads to appear on a computer when the user accesses a certain website. The Department of Law is currently charged with enforcing Alaska's Consumer Protection Act, AS 45.50.471 et seq., which includes enforcement of AS 45.50.479- 481 relating to electronic mail. We would likely enforce this provision of AS 45.45 in a similar manner, and we do not believe this bill will require additional funds for effective enforcement.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 3/21/05 11:44 AM
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 3/21/2005
 Agency: Department of Law

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

Fiscal Note Number: 3
 Bill Version: SB 140
 (S) Publish Date: 3/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title: "An Act relating to spyware and unsolicited Internet advertising" RDU: Alaska State Troopers
 Sponsor: Senator Therriault Component: AST Detachments
 Requester: Senate Labor & Commerce Component No.: 2325

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

--	--	--	--	--	--	--

CHANGE IN REVENUES ()

--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 Passage of this bill will have no fiscal impact on the Alaska State Troopers.

The bill prohibits spyware pop-up advertisements on computers in our state and helps undermine the economic incentives for spyware providers to sneak onto a user's computer. Penalties for a violation of these provisions are civil.

Prepared by: Lieutenant Todd Sharp Phone 907-269-4532
 Division: Alaska State Troopers Date/Time 3/18/05 3:24 PM
 Approved by: Commissioner William Tandeske Date 3/18/2005
 Agency: Department of Public Safety



Judges
will uphold

Judge: See ya later, Gator

By Stefanie Olsen

http://news.com.com/Judge+See+ya+later%2C+Gator/2100-1023_3-943515.html

Story last modified Fri Jul 12 13:35:00 PDT 2002

A federal judge on Friday ordered software company Gator to temporarily stop displaying pop-up advertising over Web publishers' pages without their permission.

The order was issued in a lawsuit filed against Gator in June by *The Washington Post*, *The New York Times*, Dow Jones and seven other publishers, which allege the company's ads violate their copyrights and steal revenue.

On Friday, Judge Claude Hilton granted the motion, according to the clerk's office at the federal court in Alexandria, Va., where the suit was filed.

The companies had sought a temporary injunction against Gator preventing it from delivering ads keyed to their sites pending the resolution of the suit, in which they are seeking a permanent injunction against the company and monetary damages for any advertising dollars made from their Web pages.

Terence Ross, attorney for the plaintiffs, said the judge quickly granted the motion, prohibiting Gator "from tampering with the 16 Web sites involved in the litigation during the pendency of the case.

"This really is a clear-cut case in my opinion; Gator is infringing our copyrights and trademarks. The judge came to that conclusion, and a jury will make the same decision in a trial."

By delivering unauthorized pop-up ads, Gator is altering the intended display of the publishers' works, a right that has been recognized by the Supreme Court, Ross has argued.

In early August the judge will set a court schedule, and the case will go to trial before the end of the year, Ross said.

In a statement issued Friday, Redwood City, Calif.-based Gator said that it would honor the judge's request but asked for an expedited trial.

"We are highly confident that once all the facts are presented in the upcoming trial, no court will issue a ruling eliminating a consumer's right to decide for themselves what is displayed on their own computer screens," Gator CEO Jeff McFadden said in the statement.

"Such a ruling would attack a consumer's right to use hundreds of popular software applications that automatically display separate windows while the consumer is surfing the

Internet."

Gator develops software that manages passwords and fills out forms for about 10 million Web surfers who often download the application unwittingly through other popular file-sharing programs. Also bundled in Gator's software is a program called OfferCompanion, which monitors Web surfing behavior and delivers targeted pop-up ads to viewers. For example, a Web surfer may see an advertisement for Ford Motor--delivered by Gator--while visiting Toyota.com.

Gator has been selling such advertising for more than a year and has accumulated several top-tier advertisers, including Target.com. According to Ross, the plaintiffs were stirred to action after the company published marketing material in April essentially promising ad buyers placement on the Web sites of specific publications, including *The New York Times*.

According to the suit, Gator is "essentially a parasite on the Web that free rides on the hard work and the investments of plaintiffs and other Web site owners. In short, Gator sells advertising space on the plaintiffs' Web sites without (their) authorization and pockets the profits from such sales."

The decision does not bar Gator from delivering pop-up ads over other sites. But it could establish a precedent that prohibits third-party software operators from delivering ads that alter another Web page. It also highlights mounting tension over tactics used by Gator and others.

Earlier this year, WeightWatchers.com sued rival DietWatch.com for using Gator to deliver ads to visitors of its site. On June 11, a court granted WeightWatchers a permanent injunction barring DietWatch from serving ads on its site.

Last year, the Interactive Advertising Bureau (IAB) criticized Gator for selling banner ads that obscure those sold by online publishers. Gator sued the IAB, alleging "malicious disparagement" over its statements, but the two parties found common ground when Gator agreed to stop selling banner overlays.

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Spyware 101



Curtis Clothier
Data Processing Manager
Legislative Affairs Agency
April 7, 2005