

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: CSHB 16(FIN)  
 (H) Publish Date: 3/19/03

Revision Date/Time (Note if correction): March 10, 2003 Dept. Affected: Revenue  
 Title Stranded Gas BRU Administration and Support  
Development Act Amendments Component Commissioner's Office  
 Sponsor Representatives Fate and Whitaker  
 Requester House Oil and Gas Committee Component No. 123

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	89.5	89.5				
Travel	25.0	25.0				
Contractual	750.0	750.0				
Supplies	2.0	2.0				
Equipment	5.0	1.0				
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>871.5</b>	<b>867.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	121.5	117.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Statutorily Designated Receipts	750.0	750.0				
<b>TOTAL</b>	<b>871.5</b>	<b>867.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time	1	1				
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

See attached analysis.

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 Division: Department of Revenue Date/Time 3/10/03 4:32 PM  
 Approved by: Larry Persily, Deputy Commissioner Date 3/10/2003  
 Agency: Department of Revenue

## FISCAL NOTE #4

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. CSHB 16(FIN)

### ANALYSIS CONTINUATION

The intent of the Stranded Gas Development Act, AS 43.82, is to provide a mechanism for achieving the fiscal certainty that potential project sponsors say they need before proceeding with the large investment needed to bring Alaska North Slope natural gas to market. The Act allows the state to negotiate a contract for payments in lieu of taxes with a project sponsor. This contract could cover all state and municipal taxes on a project, including state corporate income taxes, production taxes, state and municipal property taxes, and any special municipal assessments. The Act also allows for negotiation of gas valuation methods for use in determining state royalties.

This bill, CS HB16 (RES), would amend the 1998 Stranded Gas Development Act to:

- Expand the Act to include a natural gas pipeline to serve mid-America and gas-to-liquid (GTL) projects as eligible projects under the law. The existing statute limits the application of the Act to only liquefied natural gas projects. This change would allow sponsors of either an LNG project and/or a natural gas pipeline to mid-America and/or a GTL project to apply to the state under the provisions of the Act to negotiate a contract for payments in lieu of taxes.
- Replace the June 30, 2001 deadline in statute for applications with a new deadline of March 31, 2005.
- Impose a \$1.5 million limit on the reimburseable expenses the state may require the project applicant(s) to repay the state for independent contractors used in evaluating the application or in the development of the contract terms. The Act allows the state to obtain reimbursement from the project applicant(s) for these expenses, and this bill would impose a \$1.5 million on the reimbursement. The Act also is amended to require that the expenses be "reasonable and nonredundant."
- It is the intent of this legislation, and the administration, that the \$1.5 million limit would be shared between all state agencies involved with the project application. The Department of Revenue, under the Act, is the lead agency in this effort, and would share the reimburseable agreement funding with the Department of Law and Department of Natural Resources.

### OPERATING EXPENSES

The Act allows the Department of Revenue under AS 43.82.240 to recover from a project applicant the costs of contracting with an independent consultant to assist the state in evaluating applications submitted under the Act and in developing contract terms. Those statutorily designated program receipts are shown above as the authority to receive and expend those funds.

The Act does not allow the state to seek reimbursement from a project applicant for any other costs. The Department of Revenue would hire a project manager for the estimated two years of contract development, negotiations and approval, and the personnel services, travel and equipment expenses for that position and other commissioner's office expenses are shown as General Fund money.

The above costs are essentially the same as the Legislature approved for the Department of Revenue in passing the 1998 Stranded Gas Act.

## The Stranded Gas Development Act

The Stranded Gas Development Act, AS 43.82, was passed into law by the Alaska Legislature in 1998. During the session it was House Bill 393. The application deadline for a project application under the Act was June 30, 2001. There were no applications by that date. Legislative action is required to reopen the option for a gas project developer. Such a reopener failed to win legislative approval last session, and has been introduced again this year as HB 16, sponsored by Representatives Fate and Whitaker.

The Act's genesis was in HB 250, which in 1997 established a North Slope Gas Commercialization Team in the administration to research and recommend changes to state law to encourage commercialization of North Slope gas. The team issued a report to the Governor in February 1998. The team's conclusions were that the project faced considerable risk, namely construction cost risk and gas price risk, and the state's fiscal system exacerbated those risks. Three of the risks of particular concern were fiscal uncertainty, the state's regressive tax system, and the front-end aspects of the fiscal system. We will discuss these in turn.

Given the high cost of the project, coupled with the volatility of gas prices, the project is financially risky. Given that the project is marginal under the current fiscal system, there is concern among potential project sponsors that if a project is started, the state could later modify the fiscal terms after the project had been built, changing its overall attractiveness to investors after they had invested. This is the fiscal uncertainty risk.

Second, there are two significant elements of the state's fiscal system that make it regressive. Regressivity means that the state's take in terms of share of the profits is high at low prices and low at high prices. Regressive systems exacerbate the risk of low prices to the project developers. First, the property tax is based on cost of the asset. The higher the cost, the higher the tax. Second, the basis of value for the severance tax and royalty is at the wellhead and does not consider capital and operating costs. Thus when capital and operating costs are high, and prices are low, the state's take is a high percentage of the low profits. (Regressive systems also reduce what the state's take could be at high prices, which means the state loses out on a greater slice of revenues during high prices and high profits.)

Third, the property tax makes for a front-end loaded system. The property tax is payable when construction begins, which could be several years before revenues start accruing. On a time value of money basis, this diminishes the rate of return on the project and exacerbates the risk of not recovering the investment.

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After the team issued its report to the Governor, it worked with the major Prudhoe Bay producers to develop legislation to deal with these risks. The producers at the time had been studying commercializing gas through an LNG project to tidewater. The result was HB 393.

The law provided a mechanism for converting the state's fiscal system from a statutory basis to a contractual basis. This would provide for greater fiscal certainty. The fiscal system would be negotiated between the administration and the project sponsors and approved by the Legislature. And per the Act the contract terms could provide for a more progressive (less regressive) system.

The process for developing the contract was as follows: A sponsor would submit a project plan and application to the administration for contract negotiation. The project had to produce 500 billion cubic feet within 20 years and be an LNG export project. (The original bill called for any project. It was changed to only LNG during the legislative process.)

The sponsor group would negotiate fiscal terms with the state. Payments to the state would be made in-lieu of taxes. Fiscal terms would be customized to the specific project structure. The term of the contract could not exceed 35 years.

The Revenue Commissioner would be the main agent for negotiating and implementing the contract. However, the Natural Resources Commissioner is also responsible for reviewing the project plan for acceptability, and for negotiating any changes in royalty issues. The only royalty provisions subject to negotiation under the Act are the gas valuation method and the timing of royalty in-kind and royalty in-value notices.

The law allowed the commissioner of Revenue to use independent contractors to assist in the evaluation of any project application, and to condition the contract on an agreement with the project applicant that it would fully reimburse the state for the cost of the contractors retained for the state's analysis. The fiscal note for the legislation authorized the Department of Revenue to collect and expend those application fees to cover its contractor costs. The Legislature in 1998 also approved General Fund money for the Department of Revenue to hire a full-time project coordinator for two years to help manage the application review and negotiations. That position was never filled because there was no project application.

*(Note: It is the intent this year of CSHB16(Resources) that the Department of Revenue would share those reimbursable agreement funds with the Department of Law and Department of Natural Resources as necessary for those agencies to fulfill their work assignments in this effort.)*

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In addition to replacing state oil and gas production taxes and corporate income taxes with a contract for payments, the Act also allowed the Revenue commissioner to include municipal sales taxes, municipal special assessments, state and municipal property taxes and any other state or municipal taxes in the negotiations. The intent was to wrap up as much as possible into the contract for payments in lieu of taxes.

Once a contract was developed, preliminary findings would be submitted to the governor. If the governor chose to proceed the preliminary findings would be given to the Legislature and the public. There would be a 30-day public review period.

After the review, the commissioner of Revenue would modify the contractual terms as appropriate and if acceptable to the sponsors. The final contract would be submitted to the governor. The governor would transmit the contract to the legislature with a request for authorization to execute the contract. Finally, the legislature would vote on it.

There was great concern by local municipalities that a contract could compromise the property tax revenues they might receive, especially given the concerns about the property tax discussed above. Accordingly, the Act requires that a portion of the payments due under the contract is paid to affected municipalities. Also, the law created a municipal advisory group to participate in developing contract terms.

The law also has provisions intended to help make gas available to communities, to promote local hire, and to deal with confidential information provided by the sponsors.