

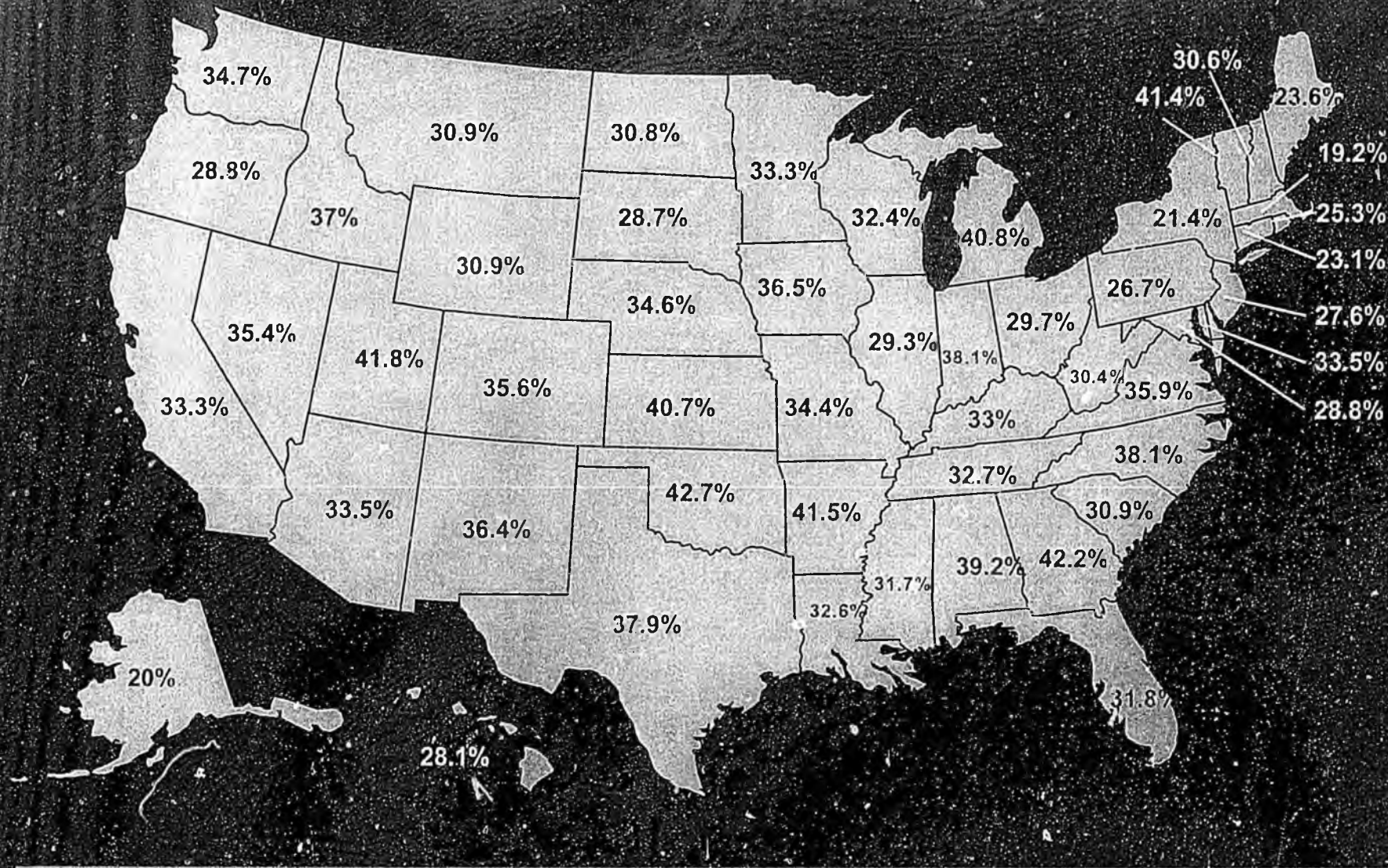
ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004

8672

11314 SENATE RESOURCES

#6

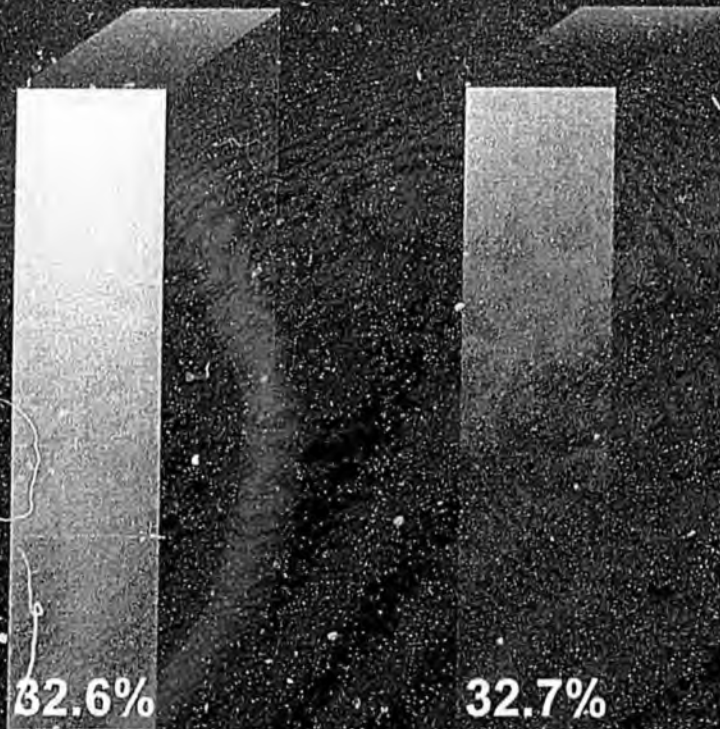
# Percent of State Budget Allocated To Public Education



Source: Census Bureau - State Government Finance 2000

#7

## Percent of State Budget Allocated To Public Education

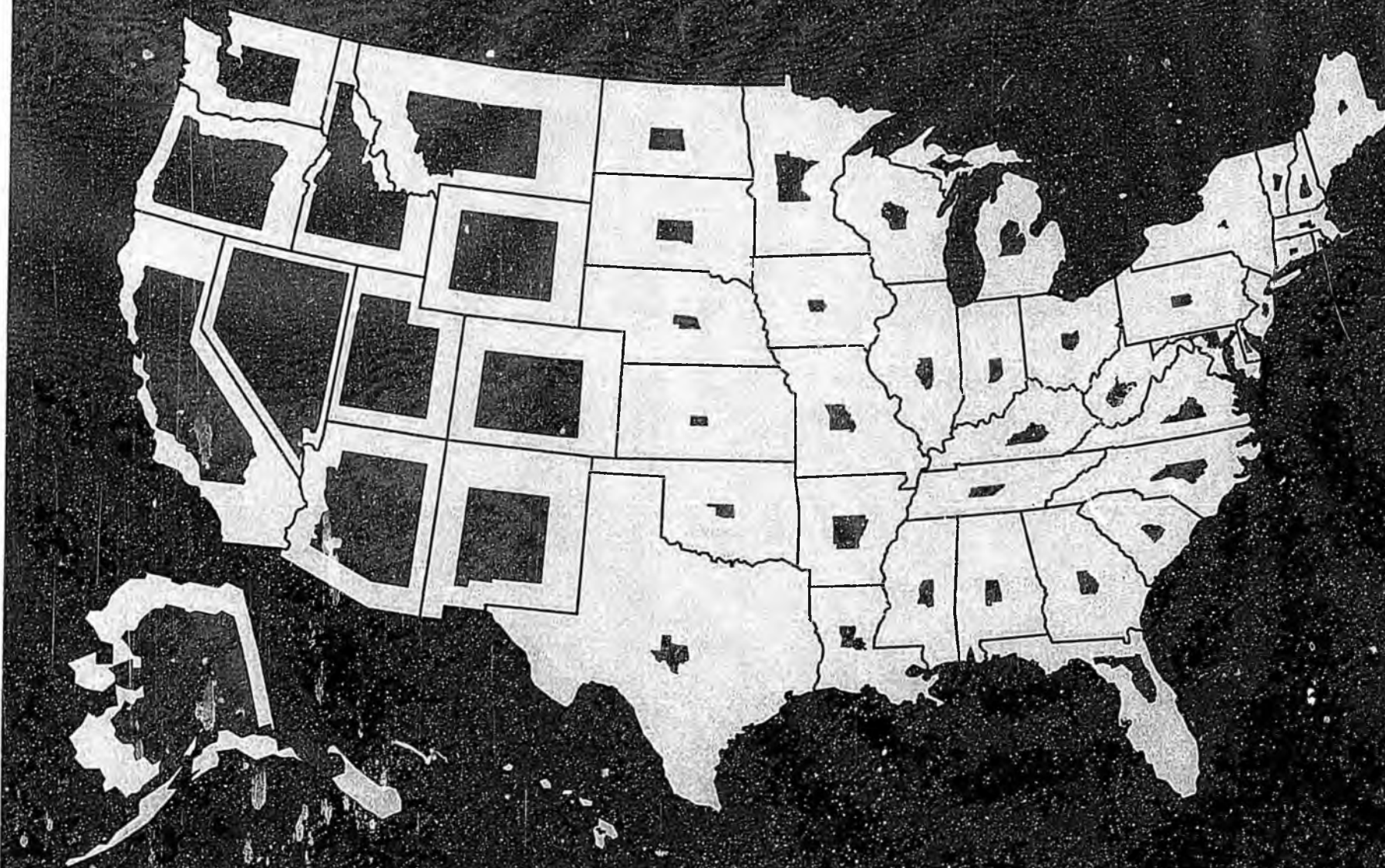


■ 13 Western States Average  
■ 37 Other States Average



#9

# Federal Land Ownership



# 10

## Percent Of Federal Land Ownership

51.9%

4.1%

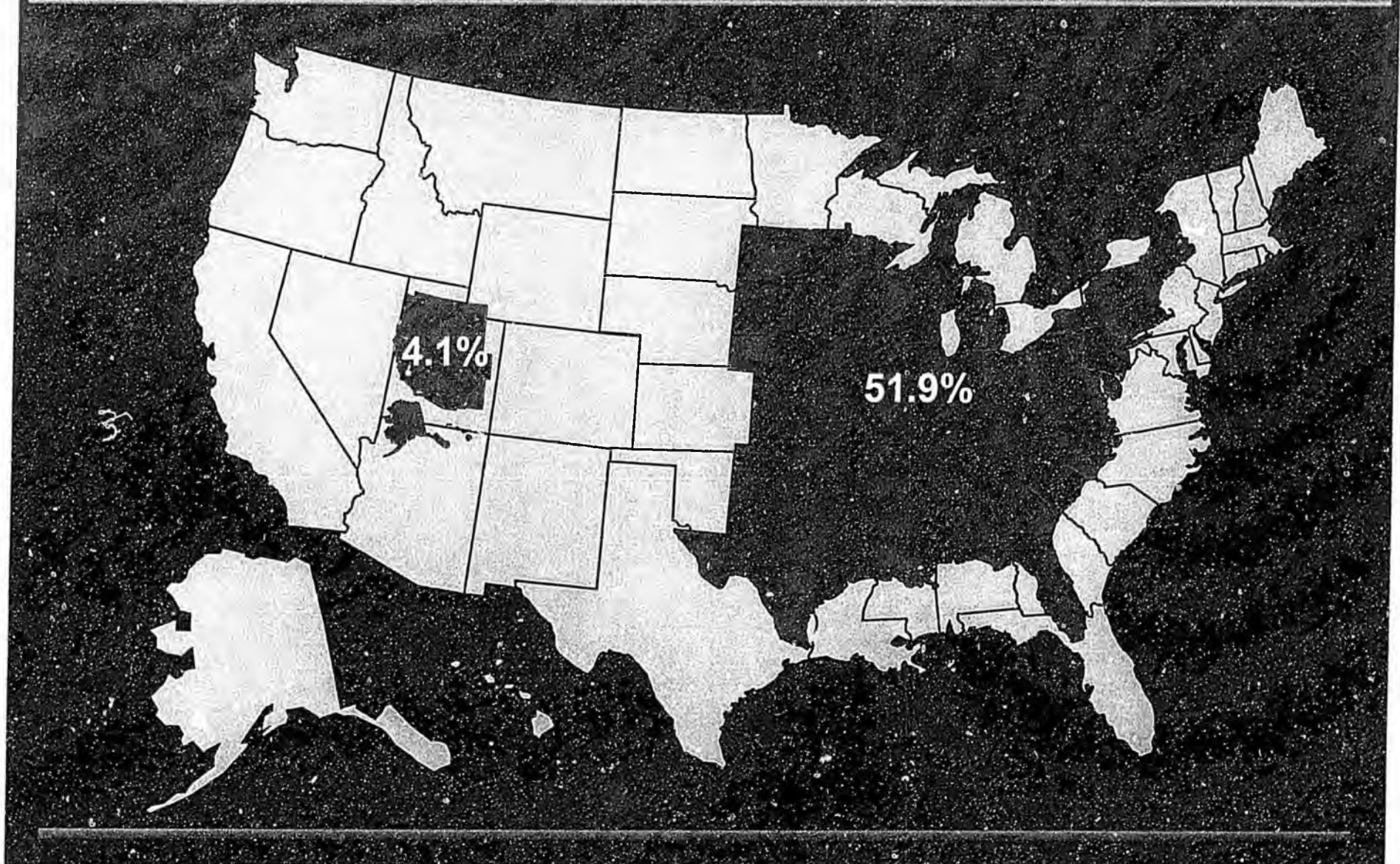
13 Western States

37 Other States



#11

# Percent Of Federal Land Ownership - Reversed



**SR**

**4**

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 5/3/04

FURTHER:

Date of 5-Day Notice: \_\_\_\_\_  
 (in accordance with Uniform Rule 23)

DATE TURNED  
 IN TO OFFICE: 5-4-04

Resources Committee considered SENATE RESOLUTION NO. 4

**SR 4 AMEND WILDERNESS ACT**

Requesting the United States Congress to amend the federal Wilderness Act to authorize fishery enhancement programs and similar activities in wilderness areas.

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
S. Res	5/3/04			✓	1

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Ralph Veltri</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>	✓			



# Alaska State Legislature

**Senate Majority** Web: <http://www.akrepublicans.org>

**Sponsor:** Senate Resources Committee  
**Current Version:** SR 4  
**Contact:** Linda Hay, 465-3878 Interim: 376-4866  
**Date:** May 10, 2004

## Fact Sheet for: Senate Resolution 4

**Short Title:** Amend Wilderness Act

### Summary:

- Expresses the Alaska State Senate's request to Congress to amend the Wilderness Act to exclude noncommercial activities such as the sockeye salmon enhancement program in Tustumena Lake from consideration as a commercial enterprise under provisions of the Act.

### Benefits:

- Loss of the enhancement program would result in a reduction of 100,000 adult fish, totaling 400,000 pounds of harvestable salmon, in Cook Inlet and the Kasilof River.
- The lawsuit has broad economic implications throughout Alaska and the nation concerning conduct of any commercially related activities such as guiding, trapping, customary trade, commercial lodges, eco-tourism and other similar operations, within or near wilderness areas.
- The decision of the en banc panel could be broadly construed to prohibit other fish and wildlife management and research programs in wilderness areas designed to benefit a wide variety of users.
- The U.S. Fish and Wildlife Service should have the discretion to permit fishery enhancement programs in wildlife refuges and refuge wilderness areas if the activity is consistent with the wilderness and refuge values.

### Background:

The Wilderness Society and the Alaska Center for the Environment brought suit against the U.S. Fish and Wildlife Service in federal court to challenge the legality of the long-standing sockeye salmon enhancement program in Tustumena Lake, which is located in the Kenai Wilderness, under provisions of the federal Wilderness Act. Despite recognition by the U.S. Fish and Wildlife Service, the U.S. District Court for Alaska and a three-judge panel of the Ninth Circuit Court of Appeals that the stocking of sockeye salmon fry is consistent with the Wilderness Act, an en banc panel of the Ninth Circuit Court ruled that the stocking is an impermissible "commercial enterprise" prohibited by the Act. The Department of Justice has determined that a further appeal of the decision of the U.S. Court of Appeals of the Ninth Circuit would not be appropriate.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SR 4  
 () Publish Date: 5/3/2004

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Amend Wilderness Act BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Senate Resources Committee \_\_\_\_\_  
 Requester \_\_\_\_\_ Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Prepared by: Linda Hay Phone 465-4907  
 Division: Senate Resources Committee Aide Date/Time 5/3/04 2:26 PM  
 Approved by: Senator Scott Ogan Date 5/3/2004  
 Agency: Senate Resources Committee

HB

16

# SENATE COMMITTEE REPORT

DATE: 3/28/03

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Resources Committee considered CS FOR HOUSE BILL NO. 16(FIN) am

## HB 16 STRANDED GAS DEVELOPMENT ACT AMENDMENTS

"An Act amending, for purposes of the Alaska Stranded Gas Development Act, the standards applicable to determining whether a proposed new investment constitutes a qualified project, the standards used to determine whether a person or group qualifies as a project sponsor or project sponsor group, and the deadline for applications relating to the development of contracts for payments in lieu of taxes and for royalty adjustments that may be submitted for consideration, and modifying the conditions bearing on the use of independent contractors to evaluate applications or to develop contract terms; providing statements of intent for the Act relating to use of project labor agreements and to reopening of contracts; and providing for an effective date."

and recommends:

be replaced with S CS HB 16 (RES)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to \_\_\_\_\_ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
REV	3/10/03	✓		4
DCED	2/5/03		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	✓			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
CHAIR: <i>[Signature]</i>	✓			

23-LS0101\W  
Chenoweth  
4/2/03

SENATE CS FOR CS FOR HOUSE BILL NO. 16(RES)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES FATE, Whitaker, Chenault, Holm, Kohring, Heinze, Crawford,  
Guttenberg, Lynn

A BILL

FOR AN ACT ENTITLED

1 "An Act amending, for purposes of the Alaska Stranded Gas Development Act, the  
2 standards applicable to determining whether a proposed new investment constitutes a  
3 qualified project, the standards used to determine whether a person or group qualifies  
4 as a project sponsor or project sponsor group, and the deadline for applications relating  
5 to the development of contracts for payments in lieu of taxes and for royalty  
6 adjustments that may be submitted for consideration, and modifying the conditions  
7 bearing on the use of independent contractors to evaluate applications or to develop  
8 contract terms; providing statements of intent for the Act relating to use of project labor  
9 agreements and to reopening of contracts; and providing for an effective date."

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

11 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
12 to read:

1 LEGISLATIVE INTENT. It is the intent of the legislature that

2 (1) in awarding contracts under the Alaska Stranded Gas Development Act, a  
3 qualified sponsor or qualified sponsor group and contractors of the qualified sponsor or  
4 qualified sponsor group may develop and enter into project labor agreements with appropriate  
5 collective bargaining organizations for each project for which a contract is entered into; and

6 (2) each contract for payments in lieu of taxes and for royalty adjustments  
7 entered into under the Alaska Stranded Gas Development Act contain a provision by which  
8 the contract may be reopened by any party to the contract; the subject matter of the reopening  
9 may be dealt with through the use of arbitration proceedings agreed on by the parties.

10 \* Sec. 2. AS 43.82.100 is amended to read:

11 Sec. 43.82.100. **Qualified project.** Based on information available to the  
12 commissioner, the commissioner may determine that a proposal for new investment is  
13 a qualified project under this chapter [ONLY] if the project

14 (1) principally involves

15 (A) the transportation of North Slope natural gas by a  
16 natural gas pipeline to one or more markets, together with any associated  
17 processing or treatment;

18 (B) [IS A PROJECT FOR] the export of liquefied natural gas  
19 from the state to one or more other states or countries; or

20 (C) any other technology that commercializes the shipment  
21 of natural gas within the state or from the state to one or more other states  
22 or countries;

23 (2) would produce at least 500,000,000,000 cubic feet of stranded gas  
24 within 20 years from the commencement of commercial operations; and

25 (3) is capable, subject to applicable commercial regulation and  
26 technical and economic considerations, of making gas available to meet the reasonably  
27 foreseeable demand in this state for gas within the economic proximity of the project.

28 \* Sec. 3. AS 43.82.110 is amended to read:

29 Sec. 43.82.110. **Qualified sponsor or qualified sponsor group.** The  
30 commissioner may determine that a person or group is a qualified sponsor or qualified  
31 sponsor group if the person or a member of the group

1 (1) intends to own an equity interest in a qualified project, intends to  
2 commit gas that it owns to a qualified project, or holds the permits that the department  
3 determines are essential to construct and operate a qualified project; and

4 (2) meets one or more of the following criteria:

5 (A) owns a working interest in at least 10 percent of the  
6 stranded gas proposed to be developed by a qualified project;

7 (B) has the right to purchase at least 10 percent of the stranded  
8 gas proposed to be developed by a qualified project;

9 (C) has the right to acquire, control, or market at least 10  
10 percent of the stranded gas proposed to be developed by a qualified project;

11 (D) has a net worth equal to at least 10 [33] percent of the  
12 estimated cost of constructing a qualified project;

13 (E) has an unused line of credit equal to at least 15 [25] percent  
14 of the estimated cost of constructing a qualified project.

15 \* Sec. 4. AS 43.82.170 is amended to read:

16 Sec. 43.82.170. **Application deadline.** The commissioner of revenue or the  
17 commissioner of natural resources may not act on an application for a contract  
18 submitted under AS 43.82.120 unless the application is received by the Department of  
19 Revenue no later than March 31, 2005 [JUNE 30, 2001].

20 \* Sec. 5. AS 43.82.240(a) is amended to read:

21 (a) The commissioner may use independent contractors [AN  
22 INDEPENDENT CONTRACTOR] to assist in the evaluation of an application or in  
23 the development of contract terms under AS 43.82.200. The commissioner may  
24 condition the development of a contract under AS 43.82.020 on an agreement by the  
25 applicant to reimburse the state for the reasonable expenses of independent  
26 contractors [AN INDEPENDENT CONTRACTOR] under this section. A  
27 reimbursement of expenses that is required in an agreement authorized by this  
28 subsection may not exceed \$1,500,000 for each application.

29 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 16(RES), Draft Version "V"

- 1 Page 2, line 15, following "by":
- 2       Insert "a natural gas"

23-LS0101\V  
Chenoweth  
4/1/03

SENATE CS FOR CS FOR HOUSE BILL NO. 16(RES)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES FATE, Whitaker, Chenault, Holm, Kohring, Heinze, Crawford,  
Guttenberg, Lynn

A BILL

FOR AN ACT ENTITLED

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7 entered into under the Alaska Stranded Gas Development Act contain a provision by which  
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15 (A) the transportation of North Slope natural gas by  
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17 or treatment; or

18 (B) [IS A PROJECT FOR] the export of liquefied natural gas  
19 from the state to one or more other states or countries;

20 (2) would produce at least 500,000,000,000 cubic feet of stranded gas  
21 within 20 years from the commencement of commercial operations; and

22 (3) is capable, subject to applicable commercial regulation and  
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24 foreseeable demand in this state for gas within the economic proximity of the project.

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13 **Sec. 43.82.170. Application deadline.** The commissioner of revenue or the  
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21 condition the development of a contract under AS 43.82.020 on an agreement by the  
22 applicant to reimburse the state for the reasonable expenses of independent  
23 contractors [AN INDEPENDENT CONTRACTOR] under this section. A  
24 reimbursement of expenses that is required in an agreement authorized by this  
25 subsection may not exceed \$1,500,000 for each application.

26 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

# ALASKA STATE LEGISLATURE

## House of Representatives

Representative Hugh (Bud) Fate

State Capitol, Room 128  
Juneau, AK 99801  
Phone: (907) 465-4976  
Fax: (907) 465-3883  
Toll Free: (866) 465-4976



Chair Resources  
Member:  
*Military & Veterans Affairs*  
*Oil & Gas*  
*Transportation*

### Sponsor Statement

#### CS for House Bill 16

**“An Act amending, for purposes of the Alaska Stranded Gas Development Act, the standards applicable to determining whether a proposed new investment constitutes a qualified project, the standards used to determine whether a person or group qualifies as a project sponsor or project sponsor group, and the deadline for applications relating to the development of contracts for payments in lieu of taxes and for royalty adjustments that may be submitted for consideration, and modifying the conditions bearing on the use of independent contractors to evaluate applications or to develop contract terms; providing statements of intent for the Act relating to use of project labor agreements and to reopening of contracts; and providing for an effective date.”**

House Bill 16 is cleanup language for the qualification and application procedures the Commissioners of Natural Resources, Revenue, or Labor and Workforce Development may use when considering a project involving natural gas. The changes update the language in order to allow continued interest in the development of the resource. By expanding the areas of potential gas exploration and development that fall under the Act.

Presently, statute only allows for natural gas projects if the product is to be exported in a liquefied form. HB 16 resolves this limitation, by expanding gas development and transportation in any form. With a lowering of the bar in capitol net assets and lines of credit, it expands the potential for a number of companies including those in Alaska, to become a part of the pipeline project.

When the Alaska Stranded Gas Development Act was passed, the language included an application deadline of June 30, 2001. HB 16 extends that deadline so the state and producers can resume contract negotiations with a clear understanding that the goal is the development of Alaska's natural gas for in-state, foreign and domestic markets.

Alaska State Legislature  
House of Representatives  
Representative Hugh "Bud" Fate



State Capitol, Room 128  
Juneau, AK 99801  
Phone: (907) 465-4976  
Fax: (907) 465-3883  
Toll Free: (866) 465-4976

Chair Resources  
Member:  
*Energy Council*  
*Military & Veterans Affairs*  
*Oil & Gas*  
*Transportation*

Memorandum

To: Senator Scott Ogan, Chair Senate Resources Committee  
Fm: Jim Pound, Chief of Staff  
Cc:  
Date: March 27, 2003  
Re: CS for HB 16 (FIN) am

Please accept this memo and attached documents as a request for the Senate Resources Committee to hear CS for House Bill 16 (FIN) am, "STRANDED GAS DEVELOPMENT ACT AMENDMENTS." This legislation updates existing language allowing for the development and delivery of Alaska natural gas within the state and to other markets. It modifies the qualifications for persons or groups to submit applications and extends the deadline.

Thanks you for your consideration of this Bill.

Attached: Sponsor Statement, HB 16-CSHB 16(FIN)am, Fiscal Notes: DCED, DNR, DOR, Journal Text for Oil & Gas, Resources, and Finance Committees and House Floor, Support Letter, Copy of AS 43.82

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 16(O&G)  
(H) Publish Date: 2/28/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
Title Stranded Oil & Gas Development Act BRU Regulatory Commission of Alaska (399)  
Amendments Component Regulatory Commission of Alaska  
Sponsor Representative Fate  
Requester House Oil & Gas Component No. 2417

**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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</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  
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill has no fiscal impact on this agency.

Prepared by: G. Nanette Thompson, Chair Phone 907-276-6222  
Division Regulatory Commission of Alaska Date/Time 2/5/03 6:00 PM  
Approved by: Edgar Blatchford, Commissioner Date 2/5/2003  
Agency Department of Community & Economic Development

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: CSHB 16(O&G)  
 (H) Publish Date: 2/28/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Stranded Oil & Gas Development Act BRU Regulatory Commission of Alaska (399)  
Amendments Component Regulatory Commission of Alaska  
 Sponsor Representative Fate  
 Requester House Oil & Gas Component No. 2417

**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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</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

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill has no fiscal impact on this agency.

Prepared by: G. Nanette Thompson, Chair Phone 907-276-6222  
 Division Regulatory Commission of Alaska Date/Time 2/5/03 6:00 PM  
 Approved by: Edgar Blatchford, Commissioner Date 2/5/2003  
 Agency Department of Community & Economic Development

# FISCAL NOTE

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

Fiscal Note Number: 2  
 Bill Version: CSHB 16(O&G)  
 (H) Publish Date: 2/28/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title: Stranded Gas Development Act Amend. BRU: Oil and Gas Development  
 Component: Oil and Gas Development  
 Sponsor: Fate  
 Requester: House Oil and Gas Component No. 439

**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						
Travel	10.0	10.0				
Contractual	289.0	289.0				
Supplies	1.0	1.0				
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>300.0</b>	<b>300.0</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	300.0	300.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>300.0</b>	<b>300.0</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						
Part-time						
Temporary						

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

This bill would authorize the executive branch to negotiate a contract with sponsors of proposed projects to develop stranded gas in Alaska. The payments required by the contract would replace some or all of the state royalties and taxes and municipal taxes that would otherwise pertain to major economic activity engendered by the project.

Given the extended time frame to develop and market the large volumes of stranded gas, revenue impacts expected as a result of the bill are outside the time horizon of this fiscal note.

Under AS 43.82.220, the state is responsible for evaluating and negotiating contract terms relating to royalties.

Prepared by: Mark D. Myers Phone 269-8800  
 Division: Oil and Gas Date/Time 2/5/03 11:12 AM  
 Approved by: Tom Irwin Date 2/5/2003  
 Agency: Natural Resources

FISCAL NOTE #2

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. CSHB 16(O&G)

ANALYSIS CONTINUATION

Pursuant to these responsibilities, DNR is requesting a total of \$600,000 over a two-year period.

The line item breakdown for the two years is as follows:

Contractual:

\$550,000 is to fund contractual services and advice from experts in technical, fiscal, regulatory, contract negotiation, legal, and financial areas. These technical, evaluative, and negotiation services would be required to assist the state in substantive and complex contract development and negotiation, potentially with multiple sponsors. The state does not have all of this expertise in-house. \$75,000 of these costs will be incurred in preparation for the application process regardless of whether there are applicants.

As per the proposed bill, contract applications are not time-limited. Expenditures for contractual services, therefore, may be necessary any time. Furthermore, one North Slope producer has estimated that contract development and negotiations will take two years. Since there is no way of knowing now specifically when expenditures would be required, it may be beneficial to treat this \$550,000 as a continuing appropriation.

The proposed legislation allows reimbursement of the state by the applicant for the expenses of independent contractors used to assist in the evaluation of an application. Consequently, some or all of these expenditures may be recouped.

\$28.0 is for miscellaneous contractual expenditures such as purchase of technical reports and conference participation.

Other:

\$20.0 to fund the travel for negotiations, and \$2.0 for miscellaneous supplies.

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSHB 16(O&G)  
(H) Publish Date: 2/28/03

Revision Date/Time (Note if correction): \_\_\_\_\_ 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	150.0	200.0				
Supplies	2.0	2.0				
Equipment	5.0	1.0				
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>271.5</b>	<b>317.5</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	150.0	200.0				
<b>TOTAL</b>	<b>271.5</b>	<b>317.5</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.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469  
Division: Department of Revenue Date/Time 2/5/03 2:59 PM  
Approved by: Larry Persily, Deputy Commissioner Date 2/5/2003  
Agency: Department of Revenue

## FISCAL NOTE #3

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. CSHB 16(O&G)

### ANALYSIS CONTINUATION

#### BILL DISCUSSION

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 and royalties on a project, including state corporate income taxes, production taxes, royalties, state and municipal property taxes, and any special municipal assessments.

This bill (House Bill 16) would amend the 1998 Stranded Gas Development Act to:

- Expand the Act to include a natural gas pipeline to serve mid-America as an eligible project 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 to apply to the state under the provisions of the Act to negotiate a contract for payments in lieu of taxes. This amendment also would limit eligible applicants under the Act to only a natural gas pipeline to mid-America that would parallel the Trans-Alaska Pipeline System and the Alaska Highway, thereby eliminating from inclusion in the Act the so-called "over-the-top" route.
- Eliminate the June 30, 2001 deadline in existing statute for project applications. This legislation does not introduce a new deadline, but rather simply eliminates any deadline in statute.
- Add a requirement that only those projects producing gas from north 64 degrees north latitude (roughly Delta Junction) would qualify for the provisions of the Act.

#### 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.

The Act does not allow the state to seek reimbursement from a project applicant for any other costs. The department 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 in the fiscal note 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.

**Page 4 of 5**  
**House Bill 16**  
**Department of Revenue**

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 commissioner of Revenue would be the primary agent for negotiating and implementing the contract. However, the commissioner of Natural Resources is also responsible for reviewing the project plan for acceptability, and for negotiating changes in royalty terms, if any.

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 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.

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.

**Page 5 of 5**  
**House Bill 16**  
**Department of Revenue**

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.

# 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.

Prepared by: Larry Persily, Deputy Commissioner  
Division: Department of Revenue  
Approved by: Larry Persily, Deputy Commissioner  
Agency: Department of Revenue

Phone 465-5469  
Date/Time 3/10/03 4:32 PM  
Date 3/10/2003

## 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.

Page 4 of 5 - FiscalNote #4  
CSHB 16(FIN)  
Department of Revenue

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.)*

**Page 5 of 5 - Fiscal Note #4  
CSHB 16(FIN)  
Department of Revenue**

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.

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES



*Re: Testimony Before House Finance Committee, March 17, 2003  
In Support of HB 16*

Dear Representative Williams and Representative Harris:

For the record, my name is Ken Thompson. I am the past President of ARCO Alaska, Inc. Currently I am the President and CEO of a new Alaska company called Pacific Star Energy LLC.

This letter is written in support of HB 16 being reviewed by the House Finance Committee. The timing is right to support this bill that will grant the Administration authority to negotiate fiscal terms with North Slope gas project sponsors so that a project can be expedited. It is my opinion that within the next 10 years, Alaska's natural gas will be needed in the Lower 48 where natural gas supply is declining more steeply than forecast and demand is continuing to climb.

Pacific Star Energy is a consortium of various Alaska companies across the State that are interested in having an equity investment ownership in any North Slope natural gas project. In the Alaska oil industry, not one Alaska company owns a sizeable equity ownership in North Slope oil production nor in the TAPS oil pipeline. Rather, in the oil industry, Alaska companies play the important role of service and support. However, when the North Slope natural gas industry evolves, several Alaska companies desire an equity ownership stake in the gas pipeline and ancillary natural gas businesses within the State. Pacific Star Energy has been formed to pool together these interested companies under one "umbrella" company that is financially strong and capable to own an equity interest in the gas pipeline.

If Pacific Star Energy has cash flow from a natural gas pipeline project, we will then play a vital role in building natural gas infrastructure within the State. Pacific Star Energy is interested in constructing "hub" distribution centers in Alaska, natural gas processing facilities for distribution of natural gas liquids such as propane and butane to interior communities, and interested in constructing spur pipelines to Fairbanks, Anchorage, and potentially Valdez.

To date, several companies have either approved or are obtaining final approval for initial investment in Pacific Star Energy. Five Alaska companies – Arctic Slope Regional Corporation; Cook Inlet Region, Inc.; Koniag, Inc.; Pacific Rim Leadership Development; and Jim Jansen of Lynden, Inc. – have approved startup funding for this new consortium company. Several other companies in February and March have expressed interest in investing and plan to review investment in this consortium company with their Board of Directors in April: Ahtna, Inc.; Chugach Alaska; Doyon Ltd.; Nana, Inc.; Sealaska Corporation; and Enstar Natural Gas. We are hopeful some if not all of these companies approve investment in Pacific Star Energy. Discussions are also planned with 5-10 other Alaska companies and institutions to continue building a financially strong and broad coalition of Alaska companies to invest in the North Slope natural gas project.

Pacific Star Energy will be working cooperatively with the major producers over the next years to show that our consortium of Alaska companies can participate alongside them and add positive value to any North Slope natural gas project. Pacific Star Energy can provide assistance in: 1) obtaining pipeline permitting across Native and other lands, 2) assist in government relationships, 3) foster investments in in-state natural gas use and value added processing, 4) assist in transportation arrangements of gas owned by smaller producers and the State in-kind royalty gas, and 5) keep more profits within the State to help the State economy.

Our coalition of Alaska companies – Pacific Star Energy – supports approval of HB 16.

**Re: Testimony To Senate Resources Committee, March 28, 2003  
In Support of SB 92, Alaska Stranded Gas Development Act**

Dear Senator Ogan:

**Introduction**

For the record, my name is Ken Thompson from Anchorage, Alaska. I am the past President of ARCO Alaska, Inc. Currently I am the President and CEO of a new Alaska company called Pacific Star Energy LLC.

**Support of SB 92**

This letter is written in support of SB 92, the Alaska Stranded Gas Development Act, being held by the Senate Resources Committee. I do have a few additional recommendations, however, as mentioned below. SB 92 is a counterpart bill to House Bill 16 that passed the House unanimously on March 26, 2003. The timing is right to support this bill that will grant the Administration authority to negotiate fiscal terms with North Slope gas project sponsors so that a project can be expedited. It is my opinion that within the next 10 years, Alaska's natural gas will be needed in the Lower 48 where natural gas supply is declining more steeply than forecast and demand is continuing to climb.

**Recommended Changes to SB 92 to Agree With HB 16**

Importantly, there are key elements in HB 16 that should be endorsed by the Senate but which are different from the current SB 92 version. HB 16 requires an application for a fiscal contract from a gas project sponsor or group of sponsors to be received by the Commissioners of DOR or DNR no later than March 31, 2005. SB 92 stipulates a later deadline of June 30, 2006. I urge the deadline of March 31, 2005, as two more years is more than adequate time to move forward with a gas project considering the multiple years of work and studies already completed. More importantly, the gas market timing is right in my opinion for Alaska gas to enter the Lower 48 market by 2011-12 to prevent being offset by additional importation of LNG from foreign countries. To meet the 2011-12 gas sales timetable, a project must be sanctioned before late 2004 or early 2005. I urge the Senate to also stipulate a deadline of March 31, 2005, for a project sponsor or group of sponsors to submit an application for a contract.

Also, HB 16 made some very important changes to the qualifications of a "sponsor" or "sponsor group", and I urge the Senate to also endorse these changes. Under the old Stranded Gas Act, a sponsor had to have a net worth equal to 33% of the estimated cost of constructing a project. HB 16 amended this to allow a sponsor to have a net worth of 10% of the estimated project cost. Another stipulation in the old Stranded Gas Act was that a sponsor had to have an unused line of credit equal to 25% of the estimated cost of constructing a project; HB 16 changed this to 15%. Pacific Star Energy urges the Senate to also adopt these changes. Only one, but not both, these stipulations must be met to qualify as a sponsor along with other options for qualification in HB 16.

## Pacific Star Energy – A Consortium of Alaska Companies Interested In Gas Investment

Pacific Star Energy is a consortium of various Alaska companies across the State that is interested in having an equity investment ownership in any North Slope natural gas project. In the Alaska oil industry, not one Alaskan company owns a sizeable equity ownership in North Slope oil production or in the TAPS oil pipeline. Rather, in the oil industry, Alaska companies play the important role of service and support. However, when the North Slope natural gas industry evolves, several Alaska companies desire an equity ownership stake in the gas pipeline and ancillary natural gas businesses within the State. Pacific Star Energy has been formed to pool together these interested companies under one "umbrella" company that is financially strong and capable to own an equity interest in the gas pipeline.

If Pacific Star Energy has cash flow from a natural gas pipeline project, we will then play a vital role in building natural gas infrastructure within the State. Pacific Star Energy is interested in constructing "hub" distribution centers in Alaska, natural gas processing facilities for distribution of natural gas liquids such as propane and butane to interior communities, and interested in constructing spur pipelines to Fairbanks, Anchorage, and potentially Valdez.

To date, several companies have either approved or are obtaining final approval for initial investment in Pacific Star Energy. Five Alaska companies – Arctic Slope Regional Corporation; Cook Inlet Region, Inc.; Koniag, Inc.; Pacific Rim Leadership Development; and Jim Jansen of Lynden, Inc. – have approved startup funding for this new consortium company. Several other companies in February and March have expressed interest in investing and plan to review investment in this consortium company with their Board of Directors in April: Ahtna, Inc.; Chugach Alaska; Doyon Ltd.; Nana, Inc.; Sealaska Corporation; and Enstar Natural Gas. We are hopeful some if not all of these companies approve investment in Pacific Star Energy.

Discussions are also planned throughout this year with numerous other qualified Alaska companies and institutions to continue building a financially strong and broad coalition of Alaska companies to invest in the North Slope natural gas project.

Pacific Star Energy will be working cooperatively with the major producers over the next few years to show that our consortium of Alaska companies can participate alongside them and add positive value to any North Slope natural gas project. Pacific Star Energy can provide assistance in: 1) obtaining pipeline permitting across Native and other lands, 2) assist in government relationships, 3) foster investments in in-state natural gas use and value added processing, 4) assist in transportation arrangements of gas owned by smaller producers and the State in-kind royalty gas, and 5) keep more profits within the State to help the State economy.

Our coalition of Alaska companies – Pacific Star Energy – supports approval of SB 92 with the changes to agree with HB 16.

Respectfully submitted,

*Ken Thompson*

3/28/2003



217 Second Street, Suite 200 • Juneau, Alaska 99801  
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

April 4, 2003

Senator Scott Ogan  
Chair, Senate Resources Committee  
State Capitol, Room 103  
Juneau, AK 99801

Re: H.B. 16

Dear Senator Ogan,

The Alaska Municipal League (AML) Legislative Committee has not taken a specific position on this bill.

However, the AML Policy Statement reads:

the League opposes unilateral state preemption of a local municipality's ability to tax [a] pipeline and pipeline facilities. The program should be structured in such a way to include a provision for a PILT program or other guaranteed mechanism[s] for municipalities to levy local taxes.

Given the AML policy position on state preemption of the local ability to levy normal property and other local taxes, AML would not be in support of efforts to expand the scope of projects for which the state may preempt local taxing authority without provisions for giving impacted municipalities a "seat at the table" for negotiations.

Sincerely,

Kevin Ritchie  
Executive Director

**Subject: Testimony In Support of SB 92 With Changes**

**Date:** Thu, 27 Mar 2003 17:54:48 -0900

**From:** "Ken Thompson \PSE\" <ken@pacificstarenergy.com>

**To:** "Senator Scott Ogan" <Senator\_Scott\_Ogan@legis.state.ak.us>,  
"Senator Thomas Wagoner" <Senator\_Thomas\_Wagoner@legis.state.ak.us>,  
"Senator Fred Dyson" <Senator\_Fred\_Dyson@legis.state.ak.us>,  
"Senator Ralph Seekins" <Senator\_Ralph\_Seekins@legis.state.ak.us>,  
"Senator Ben Stevens" <Senator\_Ben\_Stevens@legis.state.ak.us>,  
"Senator Kim Elton" <Senator\_Kim\_Elton@legis.state.ak.us>,  
"Senator Georgianna Lincoln" <Senator\_Georgianna\_Lincoln@legis.state.ak.us>

**CC:** "Ken Thompson \PSE\" <ken@pacificstarenergy.com>

Dear Senator Ogan and Members of the Senate Resources Committee, attached is a memo I wish to have entered as testimony in support of SB 92, the renewal of the Alaska Stranded Gas Development Act. SB 92 is the counterpart bill to House Bill 16 that unanimously passed the House on March 26, 2003. I urge that SB 92 be passed but with some changes that incorporate some key elements included in House Bill 16.

As past president of ARCO Alaska and as current CEO of Pacific Star Energy LLC, a new Alaska company, I believe the time is right to pass legislation that facilitates the timely progress of a North Slope gas project.

Pacific Star Energy is a consortium of various Alaska companies across the State that is interested in having an equity investment ownership in any North Slope natural gas project. In the Alaska oil industry, not one Alaskan company owns a sizeable equity ownership in North Slope oil production or in the TAPS oil pipeline. Rather, in the oil industry, Alaska companies play the important role of service and support. However, when the North Slope natural gas industry evolves, several Alaska companies desire an equity ownership stake in the gas pipeline and ancillary natural gas businesses within the State. Pacific Star Energy has been formed to pool together these interested companies under one "umbrella" company that is financially strong and capable to own an equity interest in the gas pipeline.<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

If Pacific Star Energy has cash flow from a natural gas pipeline project, we will then play a vital role in building natural gas infrastructure within the State. Pacific Star Energy is interested in constructing "hub" distribution centers in Alaska, natural gas processing facilities for distribution of natural gas liquids such as propane and butane to interior communities, and interested in constructing spur pipelines to Fairbanks, Anchorage, and potentially Valdez.

To date, several companies have either approved or are obtaining final approval for initial investment in Pacific Star Energy. Five Alaska companies – Cook Inlet Region, Inc.; Arctic Slope Regional Corporation; Jim Jansen of Lynden, Inc.; Pacific Rim Leadership Development LLC; and Kcniag, Inc. – have approved startup funding for this new consortium company. Several other companies in February and March have expressed interest in investing and plan to review investment in this consortium company with their Board of Directors in April: Enstar Natural Gas; Ahtna, Inc.; Chugach Alaska; Doyon Ltd.; Nana, Inc.; and Sealaska Corporation. We are hopeful some if not all of these companies approve investment in Pacific Star Energy.


Discussions are also planned throughout this year with numerous other qualified Alaska companies and institutions to continue building a financially strong and broad coalition of Alaska companies to invest in the North Slope natural gas project.

Pacific Star Energy will be working cooperatively with the major producers over the next few years to show that our consortium of Alaska companies can participate alongside them and add positive value to any North Slope natural gas project. Pacific Star Energy can provide assistance in: 1) obtaining pipeline permitting across Native and other lands, 2) assist in government relationships, 3) foster investments in in-state natural gas use and value added processing, 4) assist in transportation arrangements of gas owned by smaller producers and the State in-kind royalty gas, and 5) keep more profits within the State to help the State economy.

Our coalition of Alaska companies – Pacific Star Energy – supports approval of SB 92, the renewal of the Alaska Stranded Gas Development Act, with the changes to agree with HB 16.

Respectfully submitted,

*Ken Thompson*

 <a href="#">Support of SB 92 to Senate Resources Ctee.doc</a>	<b>Name:</b> Support of SB 92 to Senate Resources Ctee.doc <b>Type:</b> WINWORD File (application/msword) <b>Encoding:</b> base64 <b>Download Status:</b> Not downloaded with message
--	--

***Re: Testimony To Senate Resources Committee, March 28, 2003  
In Support of SB 92, Alaska Stranded Gas Development Act***

Dear Senator Ogan:

**Introduction**

For the record, my name is Ken Thompson from Anchorage, Alaska. I am the past President of ARCO Alaska, Inc. Currently I am the President and CEO of a new Alaska company called Pacific Star Energy LLC.

**Support of SB 92**

This letter is written in support of SB 92, the Alaska Stranded Gas Development Act, being held by the Senate Resources Committee. I do have a few additional recommendations, however, as mentioned below. SB 92 is a counterpart bill to House Bill 16 that passed the House unanimously on March 26, 2003. The timing is right to support this bill that will grant the Administration authority to negotiate fiscal terms with North Slope gas project sponsors so that a project can be expedited. It is my opinion that within the next 10 years, Alaska's natural gas will be needed in the Lower 48 where natural gas supply is declining more steeply than forecast and demand is continuing to climb.

**Recommended Changes to SB 92 to Agree With HB 16**

Importantly, there are key elements in HB 16 that should be endorsed by the Senate but which are different from the current SB 92 version. HB 16 requires an application for a fiscal contract from a gas project sponsor or group of sponsors to be received by the Commissioners of DOR or DNR no later than March 31, 2005. SB 92 stipulates a later deadline of June 30, 2006. I urge the deadline of March 31, 2005, as two more years is more than adequate time to move forward with a gas project considering the multiple years of work and studies already completed. More importantly, the gas market timing is right in my opinion for Alaska gas to enter the Lower 48 market by 2011-12 to prevent being offset by additional importation of LNG from foreign countries. To meet the 2011-12 gas sales timetable, a project must be sanctioned before late 2004 or early 2005. I urge the Senate to also stipulate a deadline of March 31, 2005, for a project sponsor or group of sponsors to submit an application for a contract.

Also, HB 16 made some very important changes to the qualifications of a "sponsor" or "sponsor group", and I urge the Senate to also endorse these changes. Under the old Stranded Gas Act, a sponsor had to have a net worth equal to 33% of the estimated cost of constructing a project. HB 16 amended this to allow a sponsor to have a net worth of 10% of the estimated project cost. Another stipulation in the old Stranded Gas Act was that a sponsor had to have an unused line of credit equal to 25% of the estimated cost of constructing a project; HB 16 changed this to 15%. Pacific Star Energy urges the Senate to also adopt these changes. Only one, but not both, these stipulations must be met to qualify as a sponsor along with other options for qualification in HB 16.

## Pacific Star Energy – A Consortium of Alaska Companies Interested In Gas Investment

Pacific Star Energy is a consortium of various Alaska companies across the State that is interested in having an equity investment ownership in any North Slope natural gas project. In the Alaska oil industry, not one Alaskan company owns a sizeable equity ownership in North Slope oil production or in the TAPS oil pipeline. Rather, in the oil industry, Alaska companies play the important role of service and support. However, when the North Slope natural gas industry evolves, several Alaska companies desire an equity ownership stake in the gas pipeline and ancillary natural gas businesses within the State. Pacific Star Energy has been formed to pool together these interested companies under one "umbrella" company that is financially strong and capable to own an equity interest in the gas pipeline.

If Pacific Star Energy has cash flow from a natural gas pipeline project, we will then play a vital role in building natural gas infrastructure within the State. Pacific Star Energy is interested in constructing "hub" distribution centers in Alaska, natural gas processing facilities for distribution of natural gas liquids such as propane and butane to interior communities, and interested in constructing spur pipelines to Fairbanks, Anchorage, and potentially Valdez.

To date, several companies have either approved or are obtaining final approval for initial investment in Pacific Star Energy. Five Alaska companies – Arctic Slope Regional Corporation; Cook Inlet Region, Inc.; Koniag, Inc.; Pacific Rim Leadership Development; and Jim Jansen of Lynden, Inc. – have approved startup funding for this new consortium company. Several other companies in February and March have expressed interest in investing and plan to review investment in this consortium company with their Board of Directors in April: Ahna, Inc.; Chugach Alaska; Doyon Ltd.; Nana, Inc.; Sealaska Corporation; and Enstar Natural Gas. We are hopeful some if not all of these companies approve investment in Pacific Star Energy.

Discussions are also planned throughout this year with numerous other qualified Alaska companies and institutions to continue building a financially strong and broad coalition of Alaska companies to invest in the North Slope natural gas project.

Pacific Star Energy will be working cooperatively with the major producers over the next few years to show that our consortium of Alaska companies can participate alongside them and add positive value to any North Slope natural gas project. Pacific Star Energy can provide assistance in: 1) obtaining pipeline permitting across Native and other lands, 2) assist in government relationships, 3) foster investments in in-state natural gas use and value added processing, 4) assist in transportation arrangements of gas owned by smaller producers and the State in-kind royalty gas, and 5) keep more profits within the State to help the State economy.

Our coalition of Alaska companies – Pacific Star Energy – supports approval of SB 92 with the changes to agree with HB 16.

Respectfully submitted,

*Ken Thompson*

3/28/2003



April 1, 2003

The Honorable Scott Ogan  
Chairman, Senate Resources Committee  
State Capitol (MS 3101)  
Juneau, Alaska 99801-1182

APR - 8 2003

**Re: Testimony To Senate Resources Committee, In Support of SB 92, Alaska Stranded Gas Development Act**

**Dear Senator Ogan:**

For the record, my name is Barney Uhart from Anchorage, Alaska. I am the President of Chugach Alaska Corporation, the Alaska Native Regional Corporation for the Prince William Sound and Gulf Coast Region. Chugach believes that the gas line project will have significant economic benefits to Alaska, and that public policy makers can have a significant role in maximizing those benefits to Alaskans.

Chugach supports SB 92, the Alaska Stranded Gas Development Act, being held by the Senate Resources Committee. SB 92 is a counterpart bill to HB 16 that passed the House unanimously on March 26, 2003. Chugach believes the timing is right to support this bill that will grant the Administration authority to negotiate fiscal terms with North Slope gas project sponsors so that a project can be expedited. Supply and demand trends in the lower 48 strongly suggest that now is the time to move this long anticipated project forward, so the natural gas can be supplied to lower 48 markets to meet forecast demand by 2011-2012.

HB 16 differs from the current version of SB 92 in two important ways, and I urge the Senate to adopt these important provisions from the House bill. HB 16 requires an application for a fiscal contract from a gas project sponsor or group of sponsors to be received by the Commissioners of DOR or DNR no later than March 31, 2005. SB 92 stipulates a later deadline of June 30, 2006. I urge you to incorporate the March 31, 2005 deadline into SB 92. Two years is more than adequate time to move forward with a gas project considering the multiple years of work and studies already completed. Deferring the project beyond this date runs the risk of gas market demand being filled by competing sources, such as LNG imports.

HB 16 also made some very important changes to the qualifications of a "sponsor" or "sponsor group", and I urge the Senate to also endorse these changes. Under the old Stranded Gas Act, a sponsor had to have a net worth equal to 33% of the estimated cost

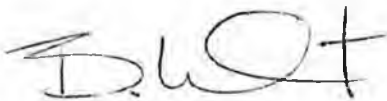
Honorable Scott Ogan

of constructing a project. HB 16 amended this to allow a sponsor to have a net worth of 10% of the estimated project cost. Another stipulation in the old Stranded Gas Act was that a sponsor had to have an unused line of credit equal to 25% of the estimated cost of constructing a project; HB 16 changed this to 15%. Only one, but not both, these stipulations must be met to qualify as a sponsor along with other options for qualification in HB 16. Chugach urges the Senate to also adopt these changes.

Chugach anticipates participating in Pacific Star Energy, a consortium of Alaska Companies seeking participation in the gas line project through an ownership interest. Pacific Star Energy will be working cooperatively with the major producers over the next few years to show that our consortium of Alaska companies can participate alongside them and add positive value to any North Slope natural gas project. Pacific Star Energy can provide assistance in: 1) obtaining pipeline permitting across Native and other lands, 2) assist in government relationships, 3) foster investments in in-state natural gas use and value added processing, 4) assist in transportation arrangements of gas owned by smaller producers and the State in-kind royalty gas, and 5) keep more profits within the State to help the State economy.

By moving forward on the fiscal terms with the project sponsors, and encouraging producers to allow financially sound Alaska companies to participate in the ownership of the gas line, this project can come to fruition and provide maximum opportunities and benefits to Alaska, Alaskan companies and their shareholders.

Respectfully submitted,



Barney Uhart,  
President

Cc: via email Senator Thomas Wagoner  
Senator Fred Dyson  
Senator Ralph Seekins  
Senator Ben Stevens  
Senator Kim Elton  
Senator Georgianna Lincoln

**HB**

**24**

# SENATE COMMITTEE REPORT

DATE: 5/17/03

FURTHER:

DATE TURNED  
IN TO OFFICE: 5-19-03

Resources Committee considered CS FOR HOUSE BILL NO. 24(JUD)

## HB 24 AGREEMENTS ON MANAGEMENT OF FISH AND GAME

"An Act relating to intergovernmental agreements with the federal government regarding management of fish or game in the state."

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to \_\_\_\_\_ Committee

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical title

new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
H. RES	3/7/03		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	No REC	AMEND
<i>Frank Brown</i>	✓			
<i>John H. ...</i>	✓			
<i>Ralph Seckins</i>	✓			
CHAIR: <i>Scott Ogden</i>	✓			

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 24(RES)  
(H) Publish Date: 3/10/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
Title Agreements on management of fish ar BRU \_\_\_\_\_  
Sponsor Representative Weyhrauch Component \_\_\_\_\_  
Requester \_\_\_\_\_ Component No. \_\_\_\_\_

**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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</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  
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Prepared by: Jim Pound Phone 465-2338  
Division: Resources Committee Date/Time 3/7/03 4:32 PM  
Approved by: Representative Fate Date 3/7/2003  
Agency: Co-Chair House Resources Committee

# ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4

ALASKA  
STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

(907) 465-3744  
FAX (907) 465-2273

## CS FOR HB 24 (JUD)

### CO-MANAGEMENT AGREEMENTS GLACIER BAY NATIONAL PARK AND PRESERVE

- Under this bill, ADF&G could not enter into an agreement with the federal government if that agreement cedes jurisdiction of the state over management of our fish and game.
- This is particularly important now because federal law requires the federal government to have co-management agreements with the state regarding fisheries in Glacier Bay.
- HB 24 includes transitional language stating that any current intergovernmental agreement or severable portion of an agreement that was entered into before the effective date is voided on or after July 1, 2004.
- The intent is to prevent state government officials from ceding the state's management jurisdiction over fish and game resources by means of a contract without a full airing of the public policy implications through the legislature.

Updated: May 20, 2003

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POOR  
ORIGINAL  
COPIES

# ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4

ALASKA  
STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

(907) 465-3744  
FAX (907) 465-2273



CS for HB 24 (JUD)

Co-Management Agreements Regarding  
Glacier Bay National Park & Preserve

## Sectional Analysis

Section 1 of the bill amends AS 16.20.010 by adding a new subsection providing that no provision of AS 16 grants authority to the department or a board to enter into agreements with the a department or agency of the federal government that cedes state authority for the management of fish and game in the state to the federal government.

In this subsection, "management" means the regulation of the method, manner means, time, or place of taking fish or game or the regulation of the amount of fish or game that may be taken.

This subsection does not prevent the department or a board from entering into agreements with other federal agencies involving the Migratory Bird Treaty Act, Northern Pacific Halibut Act, Marine Mammal Protection Act, Magnuson-Stevens Fishery Conservation and Management Act, Endangered Species Act, or the Pacific Salmon Treaty Act.

Section 2 of the bill is a transitional provision providing for legislative review of current intergovernmental agreements by adding a new section to read:

### STATUS OF EXISTING AGREEMENTS REGARDING MANAGEMENT OF FISH AND GAME IN THE STATE.

An agreement, or a severable portion of an agreement between the Department of Fish and Game, the Board of Fisheries, or the Board of Game and a department or agency of the federal government that was entered into before the effective date of this Act and that cedes any state authority for the management from the state to the federal government is void on and after July 1, 2004

*Updated: May 3, 2003*

# LEGAL SERVICES

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

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

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

## MEMORANDUM

April 8, 2003

**SUBJECT:** CSHB 24(RES); Legislative approval of intergovernmental agreements with the National Park Service regarding management of fish and game in Glacier Bay National Park and Preserve (Work Order No. 23-LS0135\U)

**TO:** Representative Bruce Weyhrauch

**FROM:** George Utermohle  
Legislative Counsel

You have inquired whether the requirement of CSHB 24(RES) for legislative approval of intergovernmental agreements between the Department of Fish and Game, the Board of Fisheries, or the Board of Game and the National Park Service regarding management of fish and game in Glacier Bay National Park and Preserve would violate the doctrine of separation of powers under the Alaska Constitution.

Alaska recognizes the separation of powers doctrine as inherent in the Constitution of the State of Alaska.<sup>1</sup> In Bradner v. Hammond, 533 P.2d 1, 5 (Alaska 1976) the Alaska Supreme Court observed:

In Alaska State-Operated School System v. Mueller, 536 P.2d 99, 103 (Alaska 1975), we observed that [those] who wrote our constitution followed the traditional framework of American government. The governmental authority of the State of Alaska was distributed among the three branches, the executive, the legislative and the judicial. Analyzing this tripartite form of government provided for Alaska, this court concluded, in Public Defender Agency v. Superior Court, Third Judicial District, 534 P.2d 947, 950 (Alaska 1975), that . . . it can be fairly implied that this state does recognize the separation of powers doctrine. Our recent opinion in Continental Insurance Cos. v. Bayless & Roberts, Inc., 548 P.2d 398, 410-11 (Alaska 1976), acknowledges that the underlying rationale of the doctrine of separation of powers is the avoidance of tyrannical aggrandizement of power by a single branch of government through the mechanism of diffusion of governmental powers. It is clear that the doctrine is not a common law concept; it is, however, a brooding

<sup>1</sup> "The separation of powers doctrine and its complementary doctrine of checks and balances are implicit in the Alaska Constitution." State v. Planned Parenthood of Alaska, Inc., 28 P.3d 904, 913 (Alaska 2001).

Representative Bruce Weyhrauch

April 8, 2003

Page 2

omnipresence by virtue of its conceptually central role in the structure of American constitutional government.

Article III, sec. 1, Constitution of the State of Alaska, provides that "[t]he executive power of the State is vested in the governor." Article III, sec. 16, Constitution of the State of Alaska, further provides that:

The governor shall be responsible for the faithful execution of the laws. He may, by appropriate court action or proceeding brought in the name of the State, enforce compliance with any constitutional or legislative mandate, or restrain violation of any constitutional or legislative power, duty, or right by any officer, department, or agency of the State or any of its political subdivisions. This authority shall not be construed to authorize any action or proceeding against the legislature.

In the Bradner case (cited above), the legislature sought to compel that certain state officers, other than commissioners of principal departments and members of regulatory and quasi-judicial boards, be subject to legislative confirmation. The Alaska Supreme Court struck down the requirement for legislative confirmation of those officers because the requirement was a violation of the doctrine of separation of powers. The Alaska Constitution states in art. III, secs. 25 and 26 which officers of the executive branch were subject to legislative confirmation. The legislature did not have the power to expand the number or type of executive officers that were subject to confirmation beyond those set out in the Alaska Constitution.

In a number of instances the Alaska Supreme Court has reviewed challenges to legislative action affirming or rejecting actions undertaken by the executive branch. In most cases, the requirement for legislative approval was upheld, but in the A.L.I.V.E. Voluntary case, the Alaska Supreme Court struck down the legislative veto of regulations adopted by the agencies of the executive branch. State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980). The court reached its conclusion that the legislature had exceeded its constitutional authority because the legislature had chosen to veto regulations by means of a concurrent resolution. The court found that the legislature could annul regulations, which were themselves law, only by the enactment of law. The legislative process for the adoption of legislative resolutions did not comport with the constitutionally mandated procedures for the enactment of law and thus was ineffective in repealing regulations. "While the power to void agency regulations could be exercised by either the legislature or by an agency, when the legislature exercises such power it must do so while acting as a legislature." Id. at 778. The A.L.I.V.E. Voluntary case did not hold that the legislature could not annul regulations of executive branch agencies, instead it merely held that the legislature may do so only by law.

In the Baxley case, legislative approval of amendments of oil and gas leases issued by the Department of Natural Resources was upheld in spite of challenges on a number of constitutional grounds. Baxley v. State, 958 P.2d 422 (Alaska 1998). In the Public Employees Local 71 case, the court enforced a statute that required legislative approval

Representative Bruce Weyhrauch

April 8, 2003

Page 3

by law of the monetary terms of a collective bargaining agreement under AS 23.40.215. Public Employees Local 71 v. State, 775 P.2d 1062 (Alaska 1989); also, Public Safety Employees Association v. State, 895 P.2d 980 (Alaska 1995); and University of Alaska Classified Employees Association v. University of Alaska, 988 P.2d 105 (Alaska 1999). In each of the cases mentioned in this paragraph, just as in CSHB 24(RES), statutory authority was conferred on an agency of the executive branch to negotiate certain agreements subject to legislative approval by law before the agreements could take effect.

Though A.L.I.V.E. Voluntary, Baxley, and the collective bargaining agreement cases are supportive of the authority of the legislature to make actions of executive branch agencies subject to legislative approval, none of the cases involved a specific separation of powers challenge. There is a lingering possibility that the court could reconsider its acceptance of the requirements for legislative approval in these cases, in light of the separation of powers doctrine, and find that such requirements do violate the separation of powers doctrine.

Where, as in CSHB 24(RES), the legislature proposes to withhold discretionary authority to enter into certain intergovernmental agreements, circumscribing the authority of the Department of Fish and Game and the boards of fisheries and game, to ensure compliance with objectives consistent with the legislature's perception of the statement of policy under article VIII, section 1 and the general authority provided under article VIII, sections 2, 3, and 6 for management of state land and natural resources by the legislature, it hardly seems that the legislature is engaged in action constituting a violation of separation of powers. It is by statute that the legislature determines and prescribes the nature of an executive agency's duties and, unless the enactment is arguably contrary to a constitutional provision, a statutory grant of authority to the agency does not thereafter keep the legislature from providing for reasonable regulation and oversight of the agency's actions by law.

In conclusion, the history of the separation of powers doctrine in this state cautions that legislative oversight and regulation of the discretion bestowed on executive branch agencies may exceed the legitimate bounds of legislative authority but, at the same time, does not describe where the boundary between legitimate legislative oversight and regulation and excessive legislative interference in matters of the executive branch lies. Until the Alaska Supreme Court considers a separation of powers challenge to a requirement for legislative approval of executive branch actions, there will be no meaningful guidance as to whether the legislature can require the Department of Fish and Game and the boards of fisheries and game to submit intergovernmental agreements to the legislature for approval. However, given the available judicial precedent in the state, I cannot say that CSHB 24(RES) exceeds the scope of legitimate legislative oversight and regulation of executive branch agency actions.

If I may be of further assistance, please advise.

GU:med

03-375.med

**HB**

**28**

# SENATE COMMITTEE REPORT

DATE: 5/18/03

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 5-19-03

Resources Committee considered CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 28(FIN)

## HB 28 OIL & GAS ROYALTY MODIFICATION

"An Act relating to adjustments to royalty reserved to the state to encourage otherwise uneconomic production of oil and gas; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DOR	5/2/03	✓		2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>Thomas H. ...</i>	✓			
<i>Ben ...</i>	✓			
<i>Kaeph ...</i>	✓			
CHAIR: <i>Scott ...</i>	✓			

# FISCAL NOTE

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

Fiscal Note Number: 2  
 Bill Version: CSSSHB 28(FIN)  
 (H) Publish Date: 5/17/03

Revision Date/Time (Note if correction): 5-8-03 Dept. Affected: Natural Resources  
 Title Oil & Gas Royalty Modification BRU Resource Development  
 Component Oil and Gas Development  
 Sponsor Kohring, Rokeberg  
 Requester House Finance Component No. 439

**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						
Travel						
Contractual	150.0	150.0	150.0	150.0	150.0	150.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>150.0</b>	<b>150.0</b>	<b>150.0</b>	<b>150.0</b>	<b>150.0</b>	<b>150.0</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						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Statutory Designated Prog. Receipt	150.0	150.0	150.0	150.0	150.0	150.0
<b>TOTAL</b>	<b>150.0</b>	<b>150.0</b>	<b>150.0</b>	<b>150.0</b>	<b>150.0</b>	<b>150.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Fiscal Note for CS SS HB 28(RES):

HB 28 would amend AS 38.05.180(j) which addresses oil and gas royalty modifications. The \$150,000 per year would pay for the services of an independent contractor to assist the DNR Commissioner in evaluating the applicant's financial and technical data prior to making a determination on royalty modification. Under paragraph (6)(A), "V" version, page 5, lines 14-26, this amount would be reimbursed to the state by the applicant.

Prepared by: Mark D. Myers Phone 269-8800  
 Division Oil and Gas Date/Time 5/8/2003  
 Approved by: Tom Irwin, Commissioner Date 5/8/2003  
 Agency Natural Resources

# ALASKA STATE LEGISLATURE

*Interim:*

600 East Railroad Avenue  
Wasilla, Alaska 99654  
(907) 373-1842  
Fax (907) 373-4729



*Session:*

State Capitol Building  
Juneau, Alaska 99801-1182  
(907) 465-2186  
Fax (907) 465-3818

## REPRESENTATIVE VIC KOHRING DISTRICT 14

### SPONSOR STATEMENT

#### SSHB 28

House Bill 28 will take a royalty adjustment system that is an understandable and usable adjustment method for fields that might otherwise prove to be uneconomic. It will provide a usable system for reduction of royalties belonging to Alaska so that the State can encourage production of oil and gas fields that might be marginal or not economically feasible were it not for such reductions.

As has been pointed out so many times, in this global market, Alaska needs to remain competitive in order to encourage development of its oil and gas resources. Development of these resources will provide a broader economic base, more employment for Alaskans and a safer, more stable environment for all concerned.

The 19<sup>th</sup> Alaska Legislature amended AS 38.05.180(j) and put in place, the current system. Unfortunately, the calculation contained in the current law is arguably unintelligible to many. The implementation of the current statute is too limiting in the flexibility allowed to the Commissioner to craft a deal acceptable to individuals and in the best interest of Alaska. The end result is that oil is left in the ground that could be extracted and adding to the State's economic base.

Although the idea behind HB 28 is not new, it sets forth an understandable modification formula; protecting the public's interest in such proceedings and maintaining the public's ability to comment on the preliminary findings and determination made by the Commissioner. This legislation further maintains the involvement of the Legislature through the Legislative Budget and Audit Committee, a committee that holds meetings year round. HB 28 is consistent with the Governor's goal of increasing oil and gas production and increasing Alaska's resource revenue.

# ALASKA STATE LEGISLATURE

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REPRESENTATIVE VIC KOHRING  
DISTRICT 14

## SECTIONAL ANALYSIS CSSSHB 28 (FIN)

### ADDENDUM to Legal Services' May 9 analysis

Paragraph (5) -- assignability of royalty modification:

- at page 4, lines 13 – 18: replaces the term **modification** with the word **reduction** and adds a provision that the commissioner may not unreasonably withhold the written approval required by the section.

Other page/line number changes noted on May 9 analysis

# LEGAL SERVICES

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

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

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

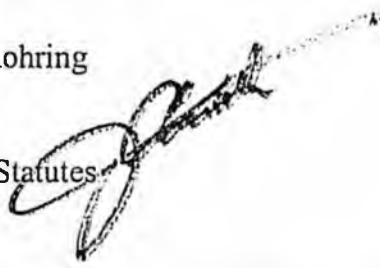
## MEMORANDUM

May 9, 2003

**SUBJECT:** CSSSHB 28 (RES) -- sectional analysis  
(Work Order No. 23-LS0177\V)

**TO:** Representative Vic Kohring

**FROM:** Jack Chenoweth  
Assistant Revisor of Statutes



Per staff's further request, set out below is an overview by bill section of CSSSHB 28 (RES), a measure relating to adjustments to royalty reserved to the state to encourage otherwise uneconomic production of oil and gas. The bill, as introduced, would substantially amend the text of current AS 38.05.180(j). That subsection was last amended for other than stylistic reasons by ch. 85, SLA 1995 (SCS CSHB 207 (Finance) am S of the 1995 regular session). Proposed in this bill is replacement of much, but not all, of the current text of subsection (j) with the text of a House-passed predecessor version of the 1995 Act, CSHB 207 (Finance) am, together with particular additional changes sought by the House Special Oil and Gas Committee. The bill also makes conforming changes in three related subsections of AS 38.05.180.

**Bill section 1.** The provisions set out a series of changes to subsection (j). The principal substantive changes are as follows:

*Paragraph (1) -- circumstances allowing for royalty modification:*

-- at page 1, lines 6 and 7: explicit authority to change royalty by "an increase or decrease" is here deleted, retaining only the more generic reference to "modification";

-- at page 1, line 13 - page 2, line 3: the condition on modification that tied to authorization or reauthorization by law in a preceding 10 year period is removed as is the July 1, 2015, cutoff date authorizing royalty modifications;

-- at page 2, lines 11 - 12, 15 - 17, and 18 - 19: with respect to an oil or gas field or pool, additional conditions, all relating to a determination on the part of the commissioner of natural resources of economic "feasibility," are added for circumstances involving requests for royalty reductions involving new production, or for those sought "to prolong the economic life" of a field or pool or portion of either when decreasing oil or gas prices influence future production, or for those sought to reestablish production of shut-in oil or gas production;

**Paragraph (2) -- showing required; applicable standard:**

-- at page 2, lines 20 - 23: no substantive change is made in this paragraph; the insertion and deletion restores the choice of term first set out in the 1995 House-passed version;

**Paragraph (3) -- conditions to be attached to requested royalty modification:**

-- at page 2, line 24 - page 4, line 2: explicit authority to change royalty by "an increase or decrease or other modification" is added; specific detailed requirements relating to descriptions accompanying findings that support a royalty modification and detailed terms and conditions applicable to a modification, distinguishing in their terms as between modification of royalty to support new production versus modification relating to prolonging the life of a field or pool or modification to reestablish production of shut-in oil or gas, are replaced by a more generic, universally applicable, single standard ("*sliding scale royalty or other mechanism that shall be based on a change in the price of oil or gas and may also be based on other relevant factors . . .*"); the standard described is not new but its invariable application to *all* royalty modification-related change requests apparently would be;

**Paragraph (4) -- limits on royalty modification:**

-- at page 4, lines 3 - 12: modifies the application of the terms of the existing condition of paragraph (4) to have it apply only in the event of a royalty "reduction"; limits on the amount of the royalty that may be determined for new production versus modification relating to prolonging the life of a field or pool, or modification to reestablish production of shut-in oil or gas set out in current law are retained;

**Paragraph (5) -- assignability of royalty modification:**

*See Addendum*  
-- at page 4, lines 13 - ~~19~~<sup>18</sup> *modifies* eliminates the requirement of existing paragraph (5) *to change* that a royalty modification must be accompanied by a provision allowing the royalty modification to be assigned only with consent of the commissioner of natural resources;

**Existing paragraph (6) -- procedures applicable to supporting data:**

-- at page 4, line ~~20~~<sup>19</sup> - page 5, line ~~12~~<sup>8</sup>: revises the text on public disclosure of information submitted to support an applicant's request for a reduction of royalty;

**Existing paragraph (7) -- hiring and use of consultants:**

-- at page 5, line ~~13~~<sup>9</sup> - page 6, line ~~8~~<sup>5</sup>: revises the set of circumstances under which the commissioner may require evaluation by an independent contractor, and establishes terms and conditions that apply when the commissioner chooses to require a lessee or

Representative Vic K...ring

May 9, 2003

Page 3

lessees to pay for the services of an independent contractor; the circumstances differ as between royalty modifications for encouraging new production and royalty modifications to prolong economic life or to reestablish production; in each instance, the payment requirement is limited to \$150,000 and the commissioner is to determine the scope of the work to be performed by the contractor;

*Existing paragraph (8) -- preliminary findings and determination; public notice and comment; procedures applicable to preliminary approval of governor and legislative review:*

-- at page 6, beginning at line <sup>6</sup>~~8~~: amends the set of circumstances under which the commissioner must make and publish preliminary findings to limit it to instances of requested royalty reductions, and substitutes a common, more simplified public notice and comment process for all applications;

*Existing paragraph (9) -- disclosure of the effects of royalty reduction:*

-- at page 7, lines <sup>14</sup>~~17~~ - <sup>17</sup>~~20~~: eliminates the requirement of existing paragraph (9) obligating the commissioner of natural resources to include in the findings "the reasonably foreseeable effects of the proposed royalty modification on the state's revenue";

*Existing paragraph (10) -- opportunity for and procedures applicable to Legislative Budget and Audit Committee review of preliminary findings and determination:*

-- at page 7, line <sup>18</sup>~~21~~ through ~~page 8~~, line <sup>30</sup>~~2~~: reinserts a deadline for the commissioner's appearance before the Legislative Budget and Audit Committee and eliminates explicit authority for the commissioner to appear before the committee in an executive session insofar as discussion may involve disclosure to the committee of confidential financial and technical data that support the commissioner's preliminary findings and determination;

*Existing paragraph (11) -- transmittal of preliminary determination to legislature:*

<sup>Page 7 line 1 thru Pg 8 line 6</sup>  
-- at page <sup>4</sup>~~8~~, lines <sup>6</sup>~~3~~ - ~~19~~: although renumbered, no change is made in this paragraph;

*Existing paragraph (12) -- final action:*

-- at page 8, beginning at line <sup>7</sup>~~10~~: eliminates the requirement that the governor approve the final findings and determination that are prepared by the commissioner; makes other word changes consistent with amendments set out earlier in the bill;

*Existing paragraph (13) -- certain related provisions made inapplicable to limit the commissioner's authority to modify royalty under subsection (j):*

-- at page 9, lines <sup>1</sup>~~A~~ and <sup>2</sup>~~B~~: no substantive change is made in this paragraph.<sup>1</sup>

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<sup>1</sup> The provisions referenced in the text of this paragraph provide as follows:

**Sec. 38.05.134. Conversion to lease.** If the licensee requests and the commissioner determines that the work commitment obligation set out in an oil and gas exploration license issued under AS 38.05.132 has been met, the commissioner shall convert to one or more oil and gas leases all or part, as the licensee may indicate, of the area described in the exploration license that remains after the relinquishments, removals, or deletions required by AS 38.05.132(d)(2). A lease issued under this section

(3) must be conditioned upon a royalty in amount or value of not less than 12.5 percent of production, except that the lessee who, proceeding under AS 38.05.131 - 38.05.134, under a lease issued in the Cook Inlet sedimentary basin who is the first to file with the commissioner a nonconfidential sworn statement claiming to be the first to have drilled a well discovering oil or gas in a previously undiscovered oil or gas pool and who is certified by the commissioner within one year of completion of that discovery well to have drilled a well in that pool that is capable of producing in paying quantities shall pay a royalty of five percent on all production of oil or gas from that pool attributable to that lease for a period of 10 years following the date of discovery of that pool, and thereafter the royalty payable on all production of oil or gas from the pool attributable to that lease shall be determined and payable as specified in the lease; the payment of the five percent royalty under this paragraph is authorized only to a holder of a lease who meets the requirements of AS 38.05.180(f)(4);

*[AS 38.05.180. Oil and gas leasing.]* (f) Except as provided by AS 38.05.131 - 38.05.134 and 38.05.177, the commissioner may issue oil and gas leases on state land to the highest responsible qualified bidder as follows:

(1) the commissioner shall issue an oil and gas lease to the successful bidder determined by competitive bidding under regulations adopted by the commissioner; bidding may be by sealed bid or according to any other bidding procedure the commissioner determines is in the best interests of the state;

(2) whenever, under any of the leasing methods listed in this subsection, a royalty share is reserved to the state, it shall be delivered in pipeline quality and free of all lease or unit expenses, including but not limited to separation, cleaning, dehydration, gathering, salt water disposal, and preparation for transportation off the lease or unit area;

(3) following a pre-sale analysis, the commissioner may choose at least one of the following leasing methods:

of not less than 12.5 percent in amount or value of the production removed or sold from the lease;

(A) a cash bonus bid with a fixed royalty share reserved to the state;

(B) a cash bonus bid with a fixed royalty share reserved to the state of not less than 12.5 percent in amount or value of the production removed or sold from the lease and a fixed share of the net profit derived from the lease of not less than 30 percent reserved to the state;

(C) a fixed cash bonus with a royalty share reserved to the state as the bid variable but no less than 12.5 percent in amount or value of the production removed or sold from the lease;

(D) a fixed cash bonus with the share of the net profit derived from the lease reserved to the state as the bid variable;

(E) a fixed cash bonus with a fixed royalty share reserved to the state of not less than 12.5 percent in amount or value of the production removed or sold from the lease with the share of the net profit derived from the lease reserved to the state as the bid variable;

(F) a cash bonus bid with a fixed royalty share reserved to the state based on a sliding scale according to the volume of production or other factor but in no event less than 12.5 percent in amount or value of the production removed or sold from the lease;

(G) a fixed cash bonus with a royalty share reserved to the state based on a sliding scale according to the volume of production or other factor as the bid variable but not less than 12.5 percent in amount or value of the production removed or sold from the lease;

(4) notwithstanding a requirement in the leasing method chosen of a minimum fixed royalty share, on and after March 3, 1997, the lessee under a lease issued in the Cook Inlet sedimentary basin who is the first to file with the commissioner a nonconfidential sworn statement claiming to be the first to have drilled a well discovering oil or gas in a previously undiscovered oil or gas pool and who is certified by the commissioner within one year of completion of that discovery well to have drilled a well in that pool that is capable of producing in paying quantities shall pay a royalty of five percent on all production of oil or gas from that pool attributable to that lease for a period of 10 years following the date of discovery of that pool, and thereafter the royalty payable on all production of oil or gas from the pool attributable to that lease shall be determined and payable

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as specified in the lease; for purposes of this paragraph, the reduced royalty authorized by this paragraph is subject to the following:

(A) only one reduction of royalty authorized by this paragraph may be allowed on each lease that qualifies for reduction of royalty under this paragraph;

(B) if, under this paragraph, application is made for a royalty reduction for a lease that was entered into before March 3, 1997, the commissioner may approve the application only if, on that date, the lease was a nonproducing lease that was not committed to a unit approved by the commissioner under (m) of this section, that is not part of a unit under (p) or (q) of this section, and that has not been made part of a unit under AS 31.05;

(C) if application for a royalty reduction is made under this paragraph for a lease on which a discovery royalty was claimed or may be claimed under the discovery royalty provisions of former AS 38.05.180(a) in effect before May 6, 1969, the commissioner shall disallow the application under this paragraph unless the applicant waives the right to claim the right to a reduced royalty under the discovery royalty provisions of former AS 38.05.180(a) in effect before May 6, 1969; and

(D) the commissioner shall adopt regulations setting out the standards, criteria, and definitions of terms that apply to implement the filing of applications for, and the review and certification of, discovery oil and gas royalty certifications under this paragraph;

(5) notwithstanding and in lieu of a requirement in the leasing method chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases unitized as described in (p) of this section, leases subject to an agreement described in (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of an oil or gas field identified in this section that has been granted approval of a written plan submitted to the Alaska Oil and Gas Conservation Commission under AS 31.05.030(i) shall, subject to (dd) of this section, pay a royalty of five percent on the first 25,000,000 barrels of oil and the first 35,000,000,000 cubic feet of gas produced for sale from that field that occurs in the 10 years following the date on which the production for sale commences; the fields eligible for royalty reduction under this paragraph, all of which are located within the Cook Inlet sedimentary basin, were discovered before January 1, 1988, and have been undeveloped or shut in from at least January 1, 1988, through December 31, 1997, are

- (A) Falls Creek;
- (B) Nicolai Creek;
- (C) North Fork;
- (D) Point Starichkof;
- (E) Redoubt Shoal; and
- (F) West Foreland.

Representative Vic Keating  
May 9, 2003  
Page 7

**Bill sections 2 - 4.** These provisions make conforming amendments to subsections (p), (s), and (t) of AS 38.05.180, substituting "reduce royalty" for "decrease royalty" in places indicated.

**Bill section 5.** Under the referenced paragraph<sup>2</sup>, there is in the State Procurement Code an exemption for contracts with experts retained by the commissioner of natural resources to help evaluate the request for a royalty modification. One of the changes made in the bill shifts the contracting obligation from the department to the applicant. Repeal of the paragraph would eliminate the Procurement Code exemption for the retention of experts.

**Bill section 6** gives the measure an immediate effective date.

JBC:med  
03-506.med

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<sup>2</sup> The text of the material to be repealed, paragraph (33) of AS 36.30.850(b), reads as follows:

(b) This chapter (i.e. the State Procurement Code) applies to every expenditure of state money by the state, acting through an agency, under a contract, except that this chapter does not apply to

...  
(33) contracts between the Department of Natural Resources and contractors qualified to evaluate hydrocarbon development, production, transportation, and economics, to assist the commissioner of natural resources in evaluating applications for oil and gas royalty increases or decreases or other oil and gas royalty adjustments, and evaluating the related financial and technical data, entered into under AS 38.05.180(j); . . . .

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

**Unocal Alaska**  
Union Oil Company of California  
808 West 9th Avenue, P.O. Box 186247  
Anchorage, Alaska 98519-6247  
Telephone (907) 276-7800  
Fax (907) 263-7698



**Kevin A. Tabler, Manager**  
Land/Government Affairs

March 7, 2003

Representative Norman Rokeberg  
State of Alaska Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Re: Oil and Gas Royalty Modification  
Information

Representative Rokeberg:

During my recent visit to Juneau, March 4, 2003, you asked me for certain background information regarding Union Oil Company of California's (Unocal) application to the Department of Natural Resources (DNR) for royalty relief under HB 207. Specifically, you asked two (2) questions:

1. You wanted to know our opinion and experience with the application process and as an applicant, our thoughts on the applicant for a royalty modification having input into the selection of a contractor; and
2. Information regarding the availability of certain data that may be requested by DNR in the application approval process, particularly over a property that was previously owned by another company.

Attached to this letter are copies of testimony I provided during the 1995 hearing process partially addressing the issues above. I also participated in answering questions at several hearings wherein I expressed Unocal views not specifically stated in the attached testimony. I hope the attached will provide some context to the following comments. It's clear from the outcome of the legislation in 1995 that some of the concerns expressed thru testimony and subsequent non-use of HB207 were proven correct. We applaud your efforts to correct these deficiencies.

Concern over contractor selection was intensely debated in 1995. Unocal expressed concern over the necessity of adding additional costs to the process by not using DNR personnel to evaluate the applicant's submittal. It was felt then, and we continue to believe, DNR has the personnel to make the evaluation. Applicants may choose to contract the services of contractors or consultants to help in the analysis and preparation of an application only later to find the dollars expended will be of no value or duplicated in the DNR application approval process without selection input from the applicant; only the duty to pay for such additional services.

During the Unocal application process, we spent approximately \$250,000.00 in consulting fees when the total resulting benefit to Unocal would have amounted to around \$600,000.00. We hired Gaffney Cline as our consultant because the State of Alaska had just used them for a reserve study in Cook Inlet. The thought here was that Gaffney Cline would provide credibility and DNR would be comfortable with their work and our analysis. We ultimately pulled the application because we had over 12 months and too many man-hours involved to justify the time and expense for such a nominal benefit. The biggest problem with the process was that the requirements for justifying royalty reduction were undefined so the applicant did not know what criteria they were trying to satisfy. The process has to be simple, predictable, easily understood and administered. It can't be a process for DNR to try and get into the financial workings of a company in order to make a determination of what the DNR believes a reasonable rate of return should be. Additionally, it can't be a process where any relief is tied somehow to the state being made whole in the future. The reality may be the State won't be made whole in terms of royalty revenue receipts from future production but compensated through ancillary benefits.

With mature fields in Cook Inlet, when a royalty application is needed, the volumes of production and corresponding royalty associated therewith are such that life extension of the facility is the primary benefit. If you wait until the field is truly uneconomic to apply or qualify then there is very little benefit to the applicant since royalty relief does not really add enough revenue to significantly increase field life. The time to get relief is when you are still economic and there is potential to increase field life by investing more capital or expense dollars to increase production. With such an extension you have the ancillary benefits of jobs, taxes and the multiplying effect of money in a community.

Although we understood the concerns expressed in 1995 regarding contractor selection, if we have to have a selection process, a process where the DNR provides a list of approved contractors and the applicant can pick from the list and negotiate the price seems most fair. The criteria would be determined up front and the costs would be established to provide certainty to the process. The applicant can then decide if the cost is justified in proceeding with the application.

Secondly, the issue of data availability is an important one. Not all data that may be requested by the DNR is available for all facilities. In past years, properties have exchanged hands on a number of occasions and the resulting effect is each company has different policies for retaining, evaluating, maintaining and storing data. Historical data,

in particular financial and production data, is often lost, determined to be confidential or not provided at all.

In one Unocal transaction, the selling party decided to make duplicate copies of the files for their records. Labeled file jackets were removed and retained for the selling parties duplicate files. The original contents were bound by rubber bands, unidentified and placed in boxes for shipping. Upon arrival, we had no transmittal verification of what was sent. The selling company was later acquired by another company and the duplicate set of files destroyed. It took a year to sort out what was sent, and in the process, paperwork and files determined at the time to be of no value were destroyed.

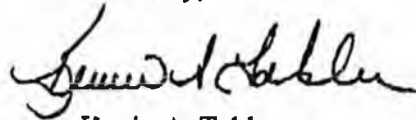
In another case, a property transferred to Unocal years ago, involved a Purchase and Sales Agreement and a Bill of Sale. No operational, financial or production data was ever received by Unocal. Additionally, it is not uncommon for geological and geophysical data licenses to be non-transferable. Unless the selling party has an ownership in the data, or the data is proprietary to the selling company, the purchaser may not be entitled to certain data requested or required by DNR for its royalty modification application review.

Finally, data acquired today has a better chance of being retained, inventoried and located due to electronic imaging. Historical information is bulky, cumbersome, requires storage and often destroyed as standard past operating procedure.

The issues of data availability and contractor selection become less problematic if the application process is clear and concise and the qualifying criteria quickly and automatically administered.

Hopefully, the foregoing answers your questions.

Sincerely,



Kevin A. Tabler

Attachments

Union Oil Company of California  
Testimony on HB207  
House Committee on Oil and Gas  
March 16, 1995

Mr. Chairman and members of the Oil and Gas Committee--My name is Kevin A. Tabler, Land Manager for Union Oil Company of California (Unocal) in Alaska. I appreciate this opportunity to be heard today and to present Unocal's comments on House Bill 207. First I'd like to say, we are very encouraged with the positive atmosphere and effort expended, thus far, by the Legislature and Administration in trying to develop incentive legislation to enhance and stimulate further exploration and development throughout the State. We recognize and appreciate the concerted in-depth effort being made by your committee to fully assess the utilization and applicability of this Bill prior to subsequent referral. This time, spent early on, understanding the implications of the Bill, and providing the opportunity for intended users to clarify and augment specific sections, will greatly enhance its acceptability and help ensure its passage into legislation.

By broadening the applicability of AS 38.05.180 (j), we believe this Bill is a step in the right direction toward revising existing Statutes. This approach provides additional opportunity for certain marginally economic fields to compete both, internally within a company and externally on a global basis. But, before I address specifics under Section 2., I would like to make a brief comment about Section 1.

Unocal is taking a neutral position on the appropriateness or need to revise the funding mechanism previously established for the Alaska permanent fund under AS 37.13.010(a). The sharing of revenues and proceeds derived through leasing, exploration and development of the States mineral wealth, split between the permanent fund and general fund, is not the focus of our analysis of this Bill. Our focus and concern of the Bill is one of clarification, administration and utilization as it pertains to our Cook Inlet operations.

Section 2.

Last Thursday, I listened to a discussion during the first hearing on this Bill regarding the need to define the term "field". Bill Van Dyke did an excellent job of explaining the differences between fields, pools, horizons, and the delineation of same, in the context of the applicability of each, regarding this Section. To help clarify and more accurately describe the aerial extent of an accumulation for which this Section would apply, we offer the following suggestions. On line 29, page 2 after the word field, insert ", pool or portion of a field or pool". On line 30, we would suggest that the word "an" be eliminated and the words "a producing" be inserted between "of" and "oil". The same wording suggested on line 29, would apply after the word "field" on line 30. The application here is that the

AOGCC has clearly defined pools and separate horizons or zones associated with any recognized field. Similar testimony was provided Tuesday by DNR and we support their modification.

Our second comment is related to lines 8 thru 10 on page 3. As a condition of evaluating an application and data, the commissioner may require the lessee to pay the costs of contractors selected by the commissioner to assist in the evaluation. We feel all attempts should be made to utilize existing DNR staff wherever possible to reduce costs. On Thursday, the commissioner indicated the intent of this subsection was to have mutual agreement between the applicant and the commissioner as to the selection of contractors. We believe it is important to spell this out in the Bill. Equally important is the need to mutually agree on the costs contemplated for expenditure by lessee, prior to the hiring of a contractor. For extremely marginal properties, such as our Stump Lake Unit, the cost of hiring a consultant (at say \$20,000 – a likely amount) could eliminate most of the benefit derived from royalty reduction. This Bill currently has no control over costs. Alternatively we heard from commissioner Dave Johnston of AOGCC on Tuesday, recommending that the applicant hire and pay for the contractor in support of its application to control costs. The commissioner of DNR would provide a list of contractors that would be acceptable to DNR and the applicant would then have the ability to select one for the analysis. This approach makes the most sense, in that the company would then be able to negotiate the best price possible and thereby have some control on costs. We would support this concept. This preferred approach would also eliminate the need for the costly and time consuming RFP process DNR would have to employ.

The elimination of the reasonable rate of return criteria on lines 13 thru 17 page 3 is a positive step in cleaning up the Statute. This determination is too subjective and open to debate. It is unrealistic to think that common agreement will ever be reached by any two parties. This requirement is unnecessary and therefore is better left out.

We need a very clear understanding that modifications made to existing Statutes do not inadvertently have a debilitating or limiting effect on the mature, marginally economic future development of Cook Inlet. There is a monumental difference between the exhausted fields typically found in Cook Inlet as opposed to those on the North Slope.

The next two comments are very important to Unocal and its operations in Cook Inlet, but first, let me give you an example of one economic scenario involving our platform operations:

Four (4) of the ten (10) Unocal operated producing platforms produce less than 2,000 BOPD each. One (1) produces less than 900 BOPD. Expenses on all of these properties make them marginally profitable. In an effort to increase

production, Unocal committed over \$80 million in capital investments over the last two years, with the potential to spend an additional \$31 million in 1995 on these four (4) platforms. At this point, it is difficult to commit additional capital to develop these properties due to their short remaining platform lives and marginal profitability. Reducing or eliminating the state's royalty on these marginal properties could make the projects economically viable and significantly increase the economic life of the platforms, thereby maintaining employment and the associated community benefits. For fields or platforms facing abandonment today, such as a platform with less than 1000 BOPD, complete royalty relief is warranted. These properties provide minimal income to the state and complete royalty relief will extend field life and employment by about years.

Lines 17 thru 21 provide for a modification and change to the existing Statute, limiting the commissioners ability to reduce royalty by specifying certain limits. We propose this additional language and limitation be taken out in its entirety. We believe it is in the state's best interest for the commissioner to have the flexibility to reduce royalty down to 0, as currently provided, given a finding on the part of the commissioner, supported by financial and technical data which demonstrates the benefits of such action is warranted.

Lines 23 and 24 need revisions to eliminate the unilateral right of the commissioner to increase royalty beyond the state's original royalty share prior to any reduction on a previously producing mature field or re-establishment of commercial production of shut-in oil or gas. The big upside potential of a field, as discussed last Thursday and again at Tuesday's hearing, only applies to delineated but not previously produced fields where one may reasonably expect a pleasant surprise. A previously negotiated change in royalty at the time of the initial reduction, under strict criteria, may be warranted in the case of a delineated but not previously produced field. Bids were made on leases and evaluated on known parameters and an economic analysis at the time of bidding. Companies need the opportunity to evaluate any royalty change upward in light of field economics and overall company economics, and agree to any royalty modifications prior to committing manpower and capital to a project. It's not realistic to anticipate that mature producing fields hold the same type of promise. For the commissioner to have unilateral authority to increase the royalty rate to whatever level beyond the royalty originally specified in the lease, is not warranted in these mature fields. For mature fields, the impact of price only effects extending field life. If we are opening ourselves to the possibility of higher future royalty by applying for a reduction today, we may be eliminating the incentive to apply. Companies need certainty for planning and capital commitment purposes.

Line 1 on page 4 indicates the commissioner's decision regarding a request is final and not appealable. This really is no change from the current Statute. If this provision is of concern to the committee or the Legislature, then perhaps a peer review of the decision could be conducted. In Tuesday's hearing, the

AOGCC provided a couple of alternative approaches to address the concern of oversight and appealability, both of which are acceptable to Unocal.

in conclusion, We believe this Bill has the potential to add certain attractive parameters to the administration of the royalty reduction process. For Unocal, at this time, this Bill has application only to our existing producing fields. Page 3 changes proposed in the bill, further restrict Unocal's ability to seek royalty relief beyond what is currently in Statute and make it difficult to support in its current form. With the changes we have proposed, we believe the interests of all parties are protected while at the same time afford the commissioner the discretion he is entitled under current Statute.

Unocal already has in place a vehicle under current Statute to address the concerns of its marginal fields in Cook Inlet, as they reach their economic limit. Albeit not an ideal vehicle, at least one which is less onerous than that which is proposed. Although we like the ability to expand the applicability of this Statute, and eliminate the requirement for a subjective reasonable rate of return determination, the potential for increased royalty beyond that which was originally agreed and an arbitrary floor placed on the amount royalty may be reduced, eliminates flexibility and hurts our efforts toward field life extension in Cook Inlet.

We look forward to working with the Legislature as this Bill progresses through the legislative process.

Thank You

Union Oil Company of California  
Testimony on CS HB 207  
Senate Resources Committee  
April 28, 1995

Mr. Chairman and members of the Resources Committee--My name is Kevin A. Tabler, Land Manager for Union Oil Company of California (Unocal) in Alaska. I appreciate this opportunity to be heard today and to present Unocal's comments on CSHB 207. I would like to begin my testimony by saying that the Sectional Analysis provided after the April 26, 1995 Hearing was particularly helpful in making a more informed analysis of the Bill. Some of the concerns I expressed in Wednesday's Hearing have been clarified by the Analysis and therefore the enclosed testimony more accurately reflects Unocal's view and opinion of the Bill.

**Subsection (j)(1)**

From purely a Unocal perspective, based on its present acreage position, Unocal is not directly impacted by paragraph (A). Most of the Unocal leases held today are located within producing fields, some of which are nearing the end of their economic viability. We have however, testified in earlier hearings on this Bill that we have not endorsed the concept of Sunset Provisions.

**Subsection (j)(3)**

Paragraph (B) appears to be a reopener. As long as it is clear the conditions of any future adjustments are determined at the time of royalty reduction and not intended to be a unilateral determination on the part of the Commissioner, we don't have an objection. I believe the wording should be changed to make this point absolutely clear. }

**Subsection (j)(4)**

We believe the requirement for legislative approval under paragraph (A) will be a time consuming and unnecessary requirement resulting in an administratively burdensome process. Under the House Finance version of the Bill, adequate Commissioner oversight is provided under Subsection (j)(8).

In reading the provisions of paragraph (B) of this Subsection, it is unclear to me as to the intent of the language "in amount or value of the Production". If this is to mean a net 3% floor or a maximum 76% reduction of the current royalty rate, then Unocal is opposed to this revision. Under the House Finance version of the Bill, the floor established for producing and shut-in fields is 90%. There needs to be clarification on this point. Any increase in the floor reducing flexibility would be inconsistent with our position and prior testimony.

#### **Subsection (j)(5)**

The assignment of all right, title and interest in a lease is a fundamental principle in the oil industry. Property trades will be greatly restricted if assignability of a royalty adjustment is not allowed. The ability and desire to acquire a lease that has favorable royalty terms may be the catalyst and incentive for a company to invest capital and employ new ideas in fields where the current owners may be less inclined. Companies are rationalizing properties and focusing investments in core areas to take advantage of their particular operational, infrastructure or informational strengths. Lost opportunity for earlier development of a lease or field is sure to occur if this limitation is imposed. The intent of this legislation should be to create opportunity with certainty, not further limit the creativity of the industry.

#### **Subsection (j)(7)**

This issue was thoroughly discussed in prior hearings with what we thought was an equitable compromise and consensus opinion of the parties testifying. We see no advantage to changing this Subsection and would prefer to see Subsection (6) of the House Finance version reinstated.

#### **Subsection (j)(8)**

Thirty (30) days rather than sixty (60) days is an appropriate time period for public comment. The whole review process needs to be streamlined wherever possible.

#### **Subsection (j)(9)**

Reviewing and addressing all the requirements under this Subsection will be very expensive, time consuming and may not be applicable in all circumstances. We believe the Commissioner should have the discretion to provide for the contents of the best interests finding and determination. The Department of Natural Resources is well equipped for this process. We feel it is unnecessary for this Subsection to be in the Bill, and in fact, the degree to which each of these conditions are to be investigated will be the subject of much debate. If the committee and legislature feel the need to include the details of the finding and determination in this Bill, then paragraphs (A) through (G) should only be suggestions of issues the Commissioner may consider in a royalty adjustment application.

#### **Subsection (j)(12)**

We have a similar comment in this Subsection as in Subsection (j)(4) in that legislative approval is unnecessary and administratively burdensome. We contend that Subsection (j)(10) of the House Finance Bill is more appropriate and should replace this Subsection.

We look forward to working with the Legislature as this Bill progresses through the legislative process.

Thank You

Union Oil Company of California  
Testimony on CS HB 207  
Senate Resources Committee  
May 1, 1995

Mr. Chairman and members of the Resources Committee--My name is Kevin A. Tabler, Land Manager for Union Oil Company of California (Unocal) in Alaska. I appreciate this opportunity to be heard today and to present Unocal's comments on CSHB 207. I would like to begin my testimony by saying that the Sectional Analysis provided with the Bill is particularly helpful in making a more informed analysis of the Bill. Some of the concerns I expressed in last Wednesday's Hearing have been clarified by the Analysis and therefore the enclosed testimony more accurately reflects Unocal's view and opinion of the Bill today.

**Subsection (j)(1)**

From purely a Unocal perspective, based on its present acreage position, Unocal is not directly impacted by paragraph (A). Most of the Unocal leases held today are located within producing fields, some of which are nearing the end of their economic viability. We have however, testified in earlier hearings on this Bill that we have not endorsed the concept of Sunset Provisions.

**Subsection (j)(4)**

We believe the requirement for legislative approval under paragraph (A) will be a time consuming and unnecessary requirement resulting in an administratively burdensome process. Under the House Finance version of the Bill, adequate Commissioner oversight is provided under Subsection (j)(8).


In reading the provisions of paragraph (B) of this Subsection, it is unclear to me as to the intent of the language "in amount or value of the Production". If this is to mean a net 3% floor or a maximum 76% reduction of the current royalty rate, than Unocal is opposed to this revision. Under the House Finance version of the Bill, the floor established for producing and shut-in fields is 90%. There needs to be clarification on this point. Any increase in the floor reducing flexibility would be inconsistent with our position and prior testimony.

**Subsection (j)(5)**

Although we appreciate the attempt in this CS to address the assignability question, we believe a strong argument still exists for elimination of this restriction all together. The assignment of all right, title and interest in a lease is a fundamental principle in the oil industry. Property trades will be greatly restricted if assignability of a royalty adjustment is not allowed. Because of the confidential nature of property transactions, companies are not going to disclose their intent to the public in asking for permission to assign until negotiations are complete and commitments have been made. Prior approval does not work in this situation. A negative response to a request for assignment could jeopardize a potentially beneficial trade to the state. The ability and desire to acquire a

lease that has favorable royalty terms may be the catalyst and incentive for a company to invest capital and employ new ideas in fields where the current owners may be less inclined. Companies are rationalizing properties and focusing investments in core areas to take advantage of their particular operational, infrastructure or informational strengths. Lost opportunity for additional development of a lease or field is sure to occur if this unnecessary limitation is imposed. The intent of this legislation should be to create opportunity with certainty, not further limit the creativity of the industry. The state's best interest will not be served with this restriction.

**Subsection (j)(7)**

This issue of contractor selection was thoroughly discussed in prior hearings with what we thought was an equitable compromise and consensus opinion of the parties testifying. We see no advantage to changing this Subsection and would prefer to see Subsection (6) of the House Finance version reinstated. 

**Subsection (j)(9)**

Reviewing and addressing all the requirements under this Subsection will be very expensive, time consuming and may not be applicable in all circumstances. We believe the Commissioner should have the discretion to provide for the contents of the best interests finding and determination. The Department of Natural Resources is well equipped for this process. The degree to which each of these conditions are to be investigated will be the subject of much debate. If the committee and legislature feel the need to include the details of the finding and determination in this Bill, then paragraphs (A) through (D) should only be suggestions of issues the Commissioner may consider not requirements in a royalty adjustment application.

**Subsection (j)(12)**

We have a similar comment in this Subsection as in Subsection (j)(4) in that legislative approval is unnecessary, time consuming and administratively burdensome. We contend that Subsection (j)(10) of the House Finance Bill is more appropriate and should replace this Subsection.

In conclusion, we want and need a Bill and process that is, clear, fair, flexible and equitable, otherwise we will end up with a piece of legislation that is under utilized.

We look forward to working with the Legislature as this Bill progresses through the legislative process.

Thank You