

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 4(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

**Offered:
Referred:**

**Sponsor(s): REPRESENTATIVES HAWKER AND CHENAULT, Millett, Johnson, Neuman, Hughes, Olson,
Gattis, Reinbold, Holmes, Tammie Wilson, Thompson**

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Gasline Development Corporation; establishing the**
2 **Alaska Gasline Development Corporation as an independent public corporation of the**
3 **state; establishing and relating to the in-state natural gas pipeline fund; making certain**
4 **information provided to or by the Alaska Gasline Development Corporation and its**
5 **subsidiaries exempt from inspection as a public record; relating to the Joint In-State**
6 **Gasline Development Team; relating to the Alaska Housing Finance Corporation;**
7 **relating to judicial review of a right-of-way lease or an action or decision related to the**
8 **development or construction of an oil or gas pipeline on state land; relating to the lease**
9 **of a right-of-way for a gas pipeline transportation corridor, including a corridor for a**
10 **natural gas pipeline that is a contract carrier; relating to the cost of natural resources,**
11 **permits, and leases provided to the Alaska Gasline Development Corporation; relating**
12 **to procurement by the Alaska Gasline Development Corporation; relating to the review**

1 by the Regulatory Commission of Alaska of natural gas transportation contracts;
 2 relating to the regulation by the Regulatory Commission of Alaska of an in-state natural
 3 gas pipeline project developed by the Alaska Gasline Development Corporation; relating
 4 to the regulation by the Regulatory Commission of Alaska of an in-state natural gas
 5 pipeline that provides transportation by contract carriage; repealing the statutes
 6 relating to the Alaska Natural Gas Development Authority and making conforming
 7 changes; exempting property of a project developed by the Alaska Gasline Development
 8 Corporation from property taxes before the commencement of commercial operations;
 9 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:

13 **LEGISLATIVE FINDINGS AND INTENT.** (a) The legislature finds that

14 (1) an in-state natural gas pipeline developed by the Alaska Gasline
 15 Development Corporation is required for public convenience and necessity;

16 (2) the development of a natural gas pipeline by the Alaska Gasline
 17 Development Corporation is in the best interest of the state;

18 (3) making the Alaska Gasline Development Corporation an independent
 19 public corporation of the State of Alaska located for administrative purposes under the
 20 Department of Commerce, Community, and Economic Development will enhance the ability
 21 of the Alaska Gasline Development Corporation to accomplish its purposes.

22 (b) It is the intent of the legislature that

23 (1) the Alaska Gasline Development Corporation, in its new placement as an
 24 independent public corporation of the state, shall be treated for all purposes as the transfer of a
 25 corporation within the state and not as the creation of a new entity by the State of Alaska;

26 (2) to the maximum extent permitted by law, in developing a natural gas
 27 pipeline, the Alaska Gasline Development Corporation shall procure services, labor, products,
 28 and natural resources from qualified businesses located in the state, including organizations

owned by Alaska Natives and municipal organizations directly affected by the project, if those persons are competitive; and

(3) the Alaska Gasline Development Corporation shall, to the maximum extent permitted by law,

(A) hire qualified residents from throughout the state for management, engineering, construction, operations, maintenance, and other positions for a natural gas pipeline project;

(B) establish hiring facilities in the state or use existing hiring facilities in the state; and

(C) use, as far as practicable, the job centers and associated services operated by the Department of Labor and Workforce Development and an Internet-based labor exchange system operated by the state.

* Sec. 2. AS 18.56.086 is amended to read:

Sec. 18.56.086. Creation of subsidiaries. The corporation may create subsidiary corporations for the purpose of financing or facilitating the financing of school construction, facilities for the University of Alaska, facilities for ports and harbors, the acquisition, development, management, or operation of affordable housing, prepayment of all or a portion of a governmental employer's share of unfunded accrued actuarial liability of retirement systems, or other capital projects. [A SUBSIDIARY CORPORATION MAY ALSO BE CREATED FOR THE PURPOSE OF PLANNING, CONSTRUCTING, AND FINANCING IN-STATE NATURAL GAS PIPELINE PROJECTS OR FOR THE PURPOSE OF AIDING IN THE PLANNING, CONSTRUCTION, AND FINANCING OF IN-STATE NATURAL GAS PIPELINE PROJECTS.] A subsidiary corporation created under this section may be incorporated under AS 10.20.146 - 10.20.166. The corporation may transfer assets of the corporation to a subsidiary created under this section. A subsidiary created under this section may borrow money and issue bonds as evidence of that borrowing, and has all the powers of the corporation that the corporation grants to it. However, a subsidiary created for the purpose of financing or facilitating the financing of prepayment of a governmental employer's share of unfunded accrued actuarial liability of retirement systems may borrow money and issue bonds only if the state

1 bond rating is the equivalent of AA- or better and subject to AS 37.15.903. [A
 2 SUBSIDIARY CORPORATION CREATED FOR THE PURPOSE OF PLANNING,
 3 CONSTRUCTING, AND FINANCING IN-STATE NATURAL GAS PIPELINE
 4 PROJECTS OR FOR THE PURPOSE OF AIDING IN THE PLANNING,
 5 CONSTRUCTION, OR FINANCING OF IN-STATE NATURAL GAS PIPELINE
 6 PROJECTS IS EXEMPT FROM AS 36.30, INCLUDING AS 36.30.015(d) AND (f).]

7 Unless otherwise provided by the corporation, the debts, liabilities, and obligations of
 8 a subsidiary corporation created under this section are not the debts, liabilities, or
 9 obligations of the corporation.

10 * Sec. 3. AS 31 is amended by adding a new chapter to read:

11 **Chapter 25. Alaska Gasline Development Corporation.**

12 **Article 1. Organization, Administration, and Powers.**

13 **Sec. 31.25.010. Structure.** The Alaska Gasline Development Corporation is a
 14 public corporation and government instrumentality located for administrative purposes
 15 in the Department of Commerce, Community, and Economic Development, but
 16 having a legal existence independent of and separate from the state. The corporation
 17 may not be terminated as long as it has bonds, notes, or other obligations outstanding.
 18 Upon termination of the corporation, its rights and property pass to the state.

19 **Sec. 31.25.020. Governing body.** (a) The corporation shall be governed by a
 20 board of directors consisting of

21 (1) five public members; and

22 (2) two individuals designated by the governor that are each the head
 23 of a principal department of the state, except that the commissioner of natural
 24 resources and the commissioner of revenue may not be designated to serve on the
 25 board unless the project for which a license is issued under AS 43.90 has been
 26 abandoned or is no longer receiving the inducements in AS 43.90.110(a) or the
 27 commissioner of natural resources and the commissioner of revenue are no longer
 28 signatories on a valid contract under AS 43.90.

29 (b) Public members of the board shall be appointed by the governor and are
 30 subject to confirmation by the legislature. When appointing a public member to the
 31 board, the governor shall consider an individual's expertise and experience in natural

1 gas pipeline construction, operation and marketing; finance; large project
 2 management; and other expertise and experience that is relevant to the purpose,
 3 powers, and duties of the corporation. Public members of the board serve staggered
 4 five-year terms. A public member serves at the pleasure of the governor. A vacancy
 5 shall be filled in the same manner as the original appointment.

6 (c) Notwithstanding AS 39.05.055, the terms of the initially appointed public
 7 members of the board shall be set by the governor to be two years for two members,
 8 three years for two members, and five years for one member.

9 (d) The public members of the board receive \$400 compensation for each day
 10 spent on official business of the corporation and may be reimbursed by the corporation
 11 for actual and necessary expenses at the same rate paid to members of state boards
 12 under AS 39.20.180.

13 **Sec. 31.25.030. Meetings of board.** (a) The board shall elect a chair, secretary,
 14 and treasurer from among its membership at each annual meeting. A majority of the
 15 members constitutes a quorum for organizing the board, conducting its business, and
 16 exercising the powers of the corporation. The board shall meet at the call of the chair.
 17 The board shall meet at least once every three months.

18 (b) The board may meet and transact business by electronic media if

19 (1) public notice of the time and locations where the meeting will be
 20 held by electronic media has been given in the same manner as if the meeting were
 21 held in a single location;

22 (2) participants and members of the public in attendance can hear and
 23 have the same right to participate in the meeting as if the meeting were conducted in
 24 person; and

25 (3) copies of pertinent reference materials, statutes, regulations, and
 26 audio-visual materials are reasonably available to participants and to the public.

27 (c) A meeting by electronic media as provided in this section has the same
 28 legal effect as a meeting in person.

29 (d) For the purposes of this chapter, public notice of 24 hours or more is
 30 adequate notice of a meeting of the board at which the issuance of corporation bonds
 31 is authorized.

- 1 (e) An affirmative vote of at least four members of the board is required to
2 approve
- 3 (1) the sale and issuance of bonds;
- 4 (2) the sale or other disposition of a substantial asset or substantial
5 amount of the assets of the corporation; the corporation shall adopt a regulation that
6 defines a substantial asset and a substantial amount of assets for the purposes of this
7 paragraph;
- 8 (3) the ownership structure for a pipeline project of which the
9 corporation is a participant;
- 10 (4) an action committing the corporation to an additional natural gas
11 pipeline project; and
- 12 (5) action on other matters identified in a regulation adopted by the
13 corporation as being subject to this subsection.

14 **Sec. 31.25.035. Minutes of meetings.** The board shall keep minutes of each
15 meeting and send certified copies to the governor and to the Legislative Budget and
16 Audit Committee.

17 **Sec. 31.25.040. Administration of affairs.** (a) The board shall manage the
18 assets and business of the corporation and may adopt, amend, and repeal bylaws and
19 regulations governing the manner in which the business of the corporation is
20 conducted and the manner in which its powers are exercised. The board shall delegate
21 supervision of the administration of the corporation to the executive director,
22 appointed in accordance with AS 31.25.045.

23 (b) The board shall adopt and publish procedures to govern the procurement
24 by the corporation of supplies, services, professional services, and construction. The
25 procurement procedures must provide for an Alaska veterans' preference that is
26 consistent with the Alaska veterans' preference in AS 36.30.175.

27 **Sec. 31.25.045. Executive director.** The corporation shall employ an
28 executive director who may not be a member of the board. The executive director shall
29 be appointed by the board and serves at the pleasure of the board.

30 **Sec. 31.25.050. Legal counsel.** The corporation shall retain legal counsel to
31 advise the corporation in legal matters and represent it in litigation.

1 **Sec. 31.25.060. Employment of personnel.** The board may appoint other
2 officers and engage professional and technical advisors as independent contractors.
3 The executive director may hire employees of the corporation and engage professional
4 and technical advisors under contract with the corporation. The board shall prescribe
5 the duties and compensation of corporation personnel, including the executive
6 director.

7 **Sec. 31.25.065. Personnel exempt from State Personnel Act.** The personnel
8 of the corporation are exempt from AS 39.25.

9 **Sec. 31.25.070. Purpose.** The corporation shall, to the fullest extent possible,
10 (1) advance an in-state natural gas pipeline as described in the July 1,
11 2011, project plan prepared under former AS 38.34.040 by the corporation while a
12 subsidiary of the Alaska Housing Finance Corporation, with modifications determined
13 by the corporation to be appropriate to develop, finance, construct, and operate an in-
14 state natural gas pipeline in a safe, prudent, economical, and efficient manner, for the
15 purpose of making natural gas, including propane and other hydrocarbons associated
16 with natural gas other than oil, available to Fairbanks, the Southcentral region of the
17 state, and other communities in the state at the lowest rates possible;

18 (2) endeavor to develop natural gas pipelines to deliver natural gas,
19 including propane and other hydrocarbons associated with natural gas other than oil, to
20 public utility and industrial customers in areas of the state to which the natural gas,
21 including propane and other hydrocarbons associated with natural gas other than oil,
22 may be delivered at commercially reasonable rates; and

23 (3) endeavor to develop natural gas pipelines that offer commercially
24 reasonable rates for shippers and access for shippers who produce natural gas,
25 including propane and other hydrocarbons associated with natural gas other than oil, in
26 the state.

27 **Sec. 31.25.080. Powers and duties.** (a) In addition to other powers granted in
28 this chapter, the corporation may

29 (1) determine the form of ownership and the operating structure of an
30 in-state natural gas pipeline developed by the corporation and may enter into
31 agreements with other persons for joint ownership, joint operation, or both of an in-

1 state natural gas pipeline;

2 (2) plan, finance, construct, develop, acquire, maintain, and operate a
3 pipeline system, including pipelines, compressors, storage facilities, and other related
4 facilities, equipment, and works of public improvement, in the state to facilitate
5 production, transportation, and delivery of natural gas or other related natural
6 resources to the point of consumption or to the point of distribution for consumption;

7 (3) lease or rent facilities, structures, and properties;

8 (4) exercise the power of eminent domain and file a declaration of
9 taking under AS 09.55.240 - 09.55.460 to acquire land or an interest in land that is
10 necessary for an in-state natural gas pipeline; the exercise of powers by the
11 corporation under this paragraph may not exceed the permissible exercise of the
12 powers by the state;

13 (5) acquire, by purchase, lease, or gift, land, structures, real or personal
14 property, an interest in property, a right-of-way, a franchise, an easement, or other
15 interest in land, or an interest in or right to capacity in a pipeline system determined to
16 be necessary or convenient for the development, financing, construction, or operation
17 of an in-state natural gas pipeline project or part of an in-state natural gas pipeline
18 project;

19 (6) transfer or otherwise dispose of all or part of an in-state natural gas
20 pipeline project developed by the corporation or transfer or otherwise dispose of an
21 interest in an asset of the corporation;

22 (7) elect to provide transportation of natural gas as a contract carrier,
23 common carrier, or otherwise;

24 (8) provide light, water, security, and other services for property of the
25 corporation;

26 (9) conduct hearings to gather and develop data consistent with the
27 purpose and powers of the corporation;

28 (10) advocate for new pipeline capacity before the Federal Energy
29 Regulatory Commission;

30 (11) make and execute agreements, contracts, and other instruments
31 necessary or convenient in the exercise of the powers and functions of the corporation

- 1 under this chapter, including a contract with a person, firm, corporation, governmental
- 2 agency, or other entity;
- 3 (12) sue and be sued in its own name;
- 4 (13) adopt an official seal;
- 5 (14) adopt bylaws for the regulation of its affairs and the conduct of its
- 6 business and adopt regulations and policies in connection with the performance of its
- 7 functions and duties;
- 8 (15) employ fiscal consultants, engineers, attorneys, appraisers, and
- 9 other consultants and employees that may, in the judgment of the corporation, be
- 10 required and fix and pay their compensation from funds available to the corporation;
- 11 (16) procure insurance against a loss in connection with its operation;
- 12 (17) borrow money as provided in this chapter to carry out its
- 13 corporate purposes and issue its obligations as evidence of borrowing;
- 14 (18) include in a borrowing the amounts necessary to pay financing
- 15 charges, interest on the obligations for a period not exceeding one year after the date
- 16 on which the corporation estimates funds will otherwise be available to pay the
- 17 interest, consultant, advisory, and legal fees, and other expenses that are necessary or
- 18 incident to the borrowing;
- 19 (19) receive, administer, and comply with the conditions and
- 20 requirements of an appropriation, gift, grant, or donation of property or money;
- 21 (20) do all acts and things necessary, convenient, or desirable to carry
- 22 out the powers expressly granted or necessarily implied in this chapter;
- 23 (21) invest or reinvest, subject to its contracts with noteholders and
- 24 bondholders, money or funds held by the corporation, including funds in the in-state
- 25 natural gas pipeline fund (AS 31.25.100), in obligations or other securities or
- 26 investments in which banks or trust companies in the state may legally invest funds
- 27 held in reserves or sinking funds or funds not required for immediate disbursement,
- 28 and in certificates of deposit or time deposits secured by obligations of, or guaranteed
- 29 by, the state or the United States.
- 30 (b) Upon commencement of construction of an in-state natural gas pipeline,
- 31 the corporation shall analyze potential natural gas pipelines connecting to industrial,

1 residential, or utility customers in other regions of the state. If the corporation finds
 2 that a natural gas pipeline analyzed under this subsection is in the best interest of the
 3 state and can meet the needs of industrial, residential, or utility customers at
 4 commercially reasonable rates, the corporation may finance, construct, or operate the
 5 natural gas pipeline as necessary. When developing or constructing a connecting line,
 6 the corporation shall, to the maximum extent feasible, use existing land, structures,
 7 real or personal property, rights-of-way, easements, or other interests in land acquired
 8 by the corporation.

9 (c) The corporation may not develop or construct a natural gas pipeline that is
 10 a competing natural gas pipeline project for purposes of AS 43.90.440 unless the
 11 project for which a license is issued under AS 43.90 has been abandoned or is no
 12 longer receiving the inducements in AS 43.90.110(a).

13 (d) The corporation shall establish a schedule of reasonable fees, rental rates,
 14 and other charges, and collect fees, rentals, and other charges for use of the facilities
 15 of the corporation.

16 (e) If commitments to acquire firm transportation capacity are received in an
 17 open season conducted by the corporation, the corporation shall, within 10 days after
 18 accepting and executing the written commitments received during the open season,
 19 report the results of the open season to the president of the senate and the speaker of
 20 the house of representatives and inform the public of the results of the open season
 21 through publication on the Internet website of the corporation and in a press release or
 22 other announcement to the media. The results made public must include the name of
 23 each prospective shipper, the amount of capacity allocated, and the period of the
 24 commitment.

25 **Sec. 31.25.090. Confidentiality; interagency cooperation.** (a) The
 26 corporation shall have access to information of departments, agencies, and public
 27 corporations of the state that is directly related to the planning, financing,
 28 development, acquisition, maintenance, construction, or operation of an in-state
 29 natural gas pipeline. The corporation shall avoid duplicating studies, plans, and
 30 designs that have already been provided or obtained by other state entities. All
 31 departments, agencies, and public corporations of the state shall cooperate with and

1 shall provide information, services, and facilities to the corporation upon its request
2 and, except for requests from the Alaska Gasline Inducement Act coordinator
3 (AS 43.90.250), give priority to requests of the corporation.

4 (b) Upon request by the corporation, a state entity shall provide water, sand
5 and gravel, other nonhydrocarbon natural resources, and a permit or a lease to the
6 corporation at the usual and customary rates, except as provided in (d) of this section.
7 Review of and action on a request shall be conducted and taken as provided in
8 AS 38.34.020. In this subsection, "state entity" means a state department, authority, or
9 other administrative unit of the executive branch of state government, a public
10 university, or a public corporation of the state.

11 (c) That part of the cost of providing, under (b) of this section, water, sand and
12 gravel, or other nonhydrocarbon natural resources, or of entering into a lease or
13 issuing a permit, that is borne by the corporation for an in-state natural gas pipeline
14 project that is owned in whole or in part by the corporation may not be included in the
15 rate base in a proceeding under AS 42 or before the Federal Energy Regulatory
16 Commission.

17 (d) Notwithstanding any contrary provision of law, the Department of Natural
18 Resources shall grant the corporation a right-of-way lease under AS 38.35 for the gas
19 pipeline transportation corridor at no appraisal or rental cost if

20 (1) a complete right-of-way lease application under AS 38.35.050 is
21 submitted;

22 (2) the lease application is made the subject of notice and other
23 reasonable and appropriate publication requirements under AS 38.35.070; and

24 (3) the corporation submits the application for the right-of-way lease
25 and agrees to be bound by those right-of-way lease covenants set out in

26 (A) AS 38.35.120 for an in-state natural gas pipeline that the
27 corporation intends to be a common carrier; or

28 (B) AS 38.35.121 for an in-state natural gas pipeline that the
29 corporation intends to be a contract carrier.

30 (e) After approval by the commissioner of natural resources, a right-of-way
31 lease received by the corporation under (d) of this section may be transferred to a

1 successor in interest under the same terms and conditions applicable to the right-of-
2 way lease granted to the corporation.

3 (f) The corporation may enter into confidentiality agreements necessary to
4 acquire or provide information to carry out its functions. If a state agency determines
5 that a law or provision of a contract to which the state agency is a party requires the
6 state agency to preserve the confidentiality of the information and that delivering the
7 information to the corporation would violate the confidentiality provision of that law
8 or contract, the state agency shall

9 (1) identify the applicable law or contract provision to the corporation;
10 and

11 (2) obtain the consent of the person who has the right to waive the
12 confidentiality of the information under the applicable law or contract provision before
13 the state agency transfers the information to the corporation.

14 (g) The portions of records containing information acquired or provided by the
15 corporation under a confidentiality agreement are not subject to AS 40.25. The
16 corporation may enter into confidentiality agreements with a public agency, as defined
17 in AS 40.25.220, to allow release of confidential information. The portions of the
18 records and files of a public agency bound by a confidentiality agreement that reflect,
19 incorporate, or analyze information subject to a confidentiality agreement under this
20 subsection are not public records. Confidentiality agreements entered into under this
21 subsection are valid and binding against all parties in accordance with the terms of the
22 confidentiality agreement.

23 (h) Information and trade secrets of the corporation are confidential and not
24 subject to AS 40.25 if the corporation determines that disclosure would cause
25 commercial or competitive harm or damage to the corporation. Information that
26 discloses the particulars of a business or the affairs of a private enterprise, investor,
27 advisor, consultant, counsel, or manager that is developed or obtained by the
28 corporation and related to the development, financing, construction, or operation of an
29 in-state natural gas pipeline project by the corporation is confidential and not subject
30 to AS 40.25. The corporation may waive the confidentiality described in this
31 subsection, except for information that is confidential under another provision of state

1 law or under a federal law or regulation and except for information acquired from
2 another person that is subject to a confidentiality agreement, if the waiver is consistent
3 with the interests of the state and will facilitate the development, financing, or
4 construction of an in-state natural gas pipeline. On the date that the in-state natural gas
5 pipeline project becomes operational, the corporation shall make available, upon
6 request under AS 40.25, records that were exempt from AS 40.25 under this
7 subsection or (g) of this section, unless the corporation determines that
8 (1) maintaining the confidentiality of the information is necessary to
9 protect the economic interests of the corporation or the state; or
10 (2) disclosure of the information will violate another provision of state
11 law, a federal law or regulation, or the terms of a confidentiality agreement or other
12 agreement to which the corporation is a party or that is binding on the corporation.
13 **Sec. 31.25.100. In-state natural gas pipeline fund.** The in-state natural gas
14 pipeline fund is established in the corporation and consists of money appropriated to
15 it. The corporation shall determine fund management and may contract with the
16 Department of Revenue for fund management. Unless otherwise provided by law,
17 money appropriated to the fund lapses into the general fund on the day this section is
18 repealed. Interest and other income received on money in the fund shall be separately
19 accounted for and may be appropriated to the fund. The corporation may use money
20 appropriated to the fund without further appropriation for the cost of managing the
21 fund and for the planning, financing, development, acquisition, maintenance,
22 construction, and operation of an in-state natural gas pipeline.
23 **Sec. 31.25.120. Creation of subsidiaries.** The corporation may create
24 subsidiary corporations for the purpose of developing, constructing, operating, and
25 financing in-state natural gas pipeline projects; for the purpose of aiding in the
26 development, construction, operation, and financing of in-state natural gas pipeline
27 projects; or for the purpose of acquiring the state's royalty share of natural gas, natural
28 gas from the North Slope, and natural gas from other regions of the state, including the
29 state's outer continental shelf, and making that natural gas available to markets in the
30 state, including the delivery of natural gas, including propane and other hydrocarbons
31 associated with natural gas other than oil, to coastal communities in the state, or for

1 export. A subsidiary corporation created under this section may be incorporated under
 2 AS 10.20.146 - 10.20.166. The corporation may transfer assets of the corporation to a
 3 subsidiary created under this section. A subsidiary created under this section may
 4 borrow money and issue bonds as evidence of that borrowing and has all the powers of
 5 the corporation that the corporation grants to it. Unless otherwise provided by the
 6 corporation, the debts, liabilities, and obligations of a subsidiary corporation created
 7 under this section are not the debts, liabilities, or obligations of the corporation.

8 **Sec. 31.25.130. Administrative procedure; regulations.** (a) Except for
 9 AS 44.62.310 - 44.62.319 (Open Meetings Act), AS 44.62 (Administrative Procedure
 10 Act) does not apply to this chapter. The corporation shall make available to members
 11 of the public copies of the regulations adopted under (b) - (e) of this section. Within 45
 12 days after adoption, the chair of the board shall submit a regulation adopted under (b) -
 13 (e) of this section to the chair of the Administrative Regulation Review Committee
 14 under AS 24.20.400 - 24.20.460.

15 (b) The board may adopt regulations by motion or by resolution or in another
 16 manner permitted by its bylaws.

17 (c) The board may adopt regulations to carry out the purposes of this chapter.

18 (d) Except as provided in (e) of this section, at least 15 days before the
 19 adoption, amendment, or repeal of a regulation, the board shall give public notice of
 20 the proposed action by posting notice on the corporation's Internet website and on the
 21 Alaska Online Public Notice System and by mailing a copy of the notice to every
 22 person who has filed a request for notice of proposed regulations with the board or the
 23 corporation. The public notice must include a statement of the time, place, and nature
 24 of the proceedings for the adoption, amendment, or repeal of the regulation and must
 25 include an informative summary of the proposed subject of the regulation. On the date
 26 and at the time and place designated in the notice, the board shall give each interested
 27 person or an authorized representative, or both, the opportunity to present statements,
 28 arguments, or contentions in writing and shall give members of the public an
 29 opportunity to present oral statements, arguments, or contentions for a total period of
 30 at least one hour. The board shall consider all relevant matter presented to it before
 31 adopting, amending, or repealing a regulation. At a hearing under this subsection, the

1 board may continue or postpone the hearing to a time and place that it determines. A
2 regulation that is adopted, or its amendment or repeal, may vary in content from the
3 informative summary specified in this subsection if the subject matter of the
4 regulation, or its amendment or repeal, remains the same and the original notice was
5 written to ensure that members of the public are reasonably notified of the proposed
6 subject of the board's action in order for them to determine whether their interests
7 could be affected by the board's action on that subject.

8 (e) A regulation or order of repeal may be adopted as an emergency regulation
9 or order of repeal if the board makes a finding in its order of adoption or repeal,
10 including a statement of the facts that constitute the emergency, that the adoption of
11 the regulation or order of repeal is necessary for the immediate preservation of the
12 orderly operation of the corporation's bonding programs. Upon adoption of an
13 emergency regulation, the board shall, within 10 days after adoption, give notice of the
14 adoption in accordance with (d) of this section. An emergency regulation adopted
15 under this subsection does not remain in effect more than 120 days unless the board
16 complies with (d) of this section during the 120-day period.

17 (f) A regulation adopted under (b) - (e) of this section becomes effective
18 immediately upon its adoption by the board, unless otherwise specifically provided by
19 the order of adoption.

20 **Sec. 31.25.140. Exemption from the State Procurement Code; application**
21 **of the Executive Budget Act; corporation finances.** (a) The corporation and its
22 subsidiaries are exempt from the provisions of AS 36.30 (State Procurement Code).

23 (b) The operating budget of the corporation and a subsidiary of the corporation
24 are subject to AS 37.07 (Executive Budget Act).

25 (c) To further ensure effective budgetary decision making by the legislature,
26 the board shall

27 (1) annually review the corporation's assets, including the assets of the
28 in-state natural gas pipeline fund under AS 31.25.100, to determine whether assets of
29 the corporation exceed an amount required to fulfill the purposes of the corporation as
30 defined in this chapter; in making its review, the board shall determine whether, and to
31 what extent, assets in excess of the amount required to fulfill the purposes of the

1 corporation during the next fiscal year are available without

2 (A) breaching an agreement entered into by the corporation;

3 (B) materially impairing the operations or financial integrity of
4 the corporation; or

5 (C) materially affecting the ability of the corporation to fulfill
6 the purposes of the corporation as defined in this chapter;

7 (2) specifically identify in the corporation's assets the amounts that the
8 board believes are necessary to meet the requirements of (1)(C) of this subsection; and

9 (3) present to the legislature by January 10 of each year a complete
10 accounting of all assets of the corporation, including assets of the in-state natural gas
11 pipeline fund under AS 31.25.100, and a report of the review and determination made
12 under (1) and (2) of this subsection; the accounting shall be audited by an independent
13 outside auditor.

14 **Article 2. Bonds and Notes.**

15 **Sec. 31.25.160. Bonds and notes.** (a) The corporation may, by resolution,
16 issue bonds and bond anticipation notes to provide funds to carry out its purposes.

17 (b) The principal of and interest on the bonds or notes are payable from
18 corporation funds. Bond anticipation notes may be payable from the proceeds of the
19 sale of bonds or from the proceeds of sale of other bond anticipation notes or, in the
20 event bond or bond anticipation note proceeds are not available, from other funds or
21 assets of the corporation. Bonds or notes may be additionally secured by a pledge of a
22 grant or contribution from the federal government, or a corporation, association,
23 institution, or person, or a pledge of money, income, or revenue of the corporation
24 from any source.

25 (c) Bonds or bond anticipation notes may be issued in one or more series and
26 shall be dated, bear interest at the rate or rates a year or within the maximum rate, be
27 in the denomination, be in the form, either coupon or registered, carry the conversion
28 or registration provisions, have the rank or priority, be executed in the manner and
29 form, be payable from the sources in the medium of payment and place or places
30 within or outside the state, be subject to authentication by a trustee or fiscal agent, and
31 be subject to the terms of redemption with or without premium, as the resolution of the

1 corporation may provide. Bond anticipation notes shall mature at the time or times that
2 are determined by the corporation. Bonds shall mature at a time, not exceeding 50
3 years from their date, that is determined by the corporation. Before the preparation of
4 definitive bonds or bond anticipation notes, the corporation may issue interim receipts
5 or temporary bonds or bond anticipation notes, with or without coupons, exchangeable
6 for bonds or bond anticipation notes when the definitive bonds or bond anticipation
7 notes have been executed and are available for delivery.

8 (d) Bonds or bond anticipation notes may be sold in the manner and on the
9 terms the corporation determines.

10 (e) If an officer whose signature or a facsimile of whose signature appears on
11 bonds or notes or coupons attached to them ceases to be an officer before the delivery
12 of the bond, note, or coupon, the signature or facsimile is valid the same as if the
13 officer had remained in office until delivery.

14 (f) In a resolution of the corporation authorizing or relating to the issuance of
15 bonds or bond anticipation notes, the corporation has power by provisions in the
16 resolution that will constitute covenants of the corporation and contracts with the
17 holders of the bonds or bond anticipation notes

18 (1) to pledge to a payment or purpose all or a part of its revenue to
19 which its right then exists or may thereafter come into existence, the money derived
20 from the revenue, and the proceeds of the bonds or notes;

21 (2) to covenant against pledging all or a part of its revenue or against
22 permitting or suffering a lien on the revenue of its property;

23 (3) to covenant as to the use and disposition of payments of principal
24 or interest received by the corporation on investments held by the corporation;

25 (4) to covenant as to establishment of reserves or sinking funds and the
26 making of provision for and the regulation and disposition of the reserves or sinking
27 funds;

28 (5) to covenant with respect to or against limitations on a right to sell
29 or otherwise dispose of property of any kind;

30 (6) to covenant as to bonds and notes to be issued, and their
31 limitations, terms, and condition, and as to the custody, application, and disposition of

1 the proceeds of the bonds and notes;

2 (7) to covenant as to the issuance of additional bonds or notes or as to
3 limitations on the issuance of additional bonds or notes and the incurring of other
4 debts;

5 (8) to covenant as to the payment of the principal of or interest on the
6 bonds or notes, as to the sources and methods of the payment, as to the rank or priority
7 of the bonds or notes with respect to a lien or security, or as to the acceleration of the
8 maturity of the bonds or notes;

9 (9) to provide for the replacement of lost, stolen, destroyed, or
10 mutilated bonds or notes;

11 (10) to covenant against extending the time for the payment of bonds
12 or notes or interest on the bonds or notes;

13 (11) to covenant as to the redemption of bonds or notes and privileges
14 of their exchange for other bonds or notes of the corporation;

15 (12) to covenant to create or authorize the creation of special funds of
16 money to be held in pledge or otherwise for operating expenses, payment or
17 redemption of bonds or notes, reserves, or other purposes, and as to the use and
18 disposition of the money held in the funds;

19 (13) to establish the procedure, if any, by which the terms of a contract
20 or covenant with or for the benefit of the holders of bonds or notes may be amended or
21 abrogated, the amount of bonds or notes the holders of which must consent to
22 amendment or abrogation, and the manner in which the consent may be given;

23 (14) to covenant as to the custody of any of its properties or
24 investments, the safekeeping and insurance of its properties or investments, and the
25 use and disposition of insurance money;

26 (15) to covenant as to the time or manner of enforcement or restraint
27 from enforcement of any rights of the corporation arising by reason of or with respect
28 to nonpayment or violation of the terms of an agreement to which the corporation is a
29 party or with respect to which the corporation has enforcement rights;

30 (16) to provide for the rights, liabilities, powers, and duties arising
31 upon the breach of a covenant, condition, or obligation, and to prescribe the events of

1 default and the terms and conditions on which any or all of the bonds, notes, or other
2 obligations of the corporation become or may be declared due and payable before
3 maturity and the terms and conditions on which a declaration and its consequences
4 may be waived;

5 (17) to vest in a trustee or trustees within or outside the state the
6 property, rights, powers, and duties in trust as the corporation may determine, which
7 may include any or all of the rights, powers, and duties of a trustee appointed by the
8 holders of the bonds or notes, and to limit or abrogate the right of the holders of the
9 bonds or notes of the corporation to appoint a trustee under this chapter or limit the
10 rights, powers, and duties of the trustee;

11 (18) to pay the costs or expenses incident to the enforcement of the
12 bonds or notes or of the provisions of the resolution or of a covenant or agreement of
13 the corporation with the holders of its bonds or notes;

14 (19) to agree with a corporate trustee, which may be a trust company
15 or bank having the powers of a trust company within or outside the state, as to the
16 pledging or assigning of revenue or funds to which or in which the corporation has any
17 rights or interest; the agreement may further provide for other rights and remedies
18 exercisable by the trustee as may be proper for the protection of the holders of the
19 bonds or notes of the corporation and not otherwise in violation of law and may
20 provide for the restriction of the rights of an individual holder of bonds or notes of the
21 corporation;

22 (20) to appoint and provide for the duties and obligations of any
23 paying agent or paying agents, or other fiduciaries as the resolution may provide
24 within or outside the state;

25 (21) to limit the rights of the holders of the bonds or notes to enforce a
26 pledge or covenant securing bonds or notes;

27 (22) to make covenants other than and in addition to the covenants
28 expressly authorized in this section, of like or different character, and to make
29 covenants to do or refrain from doing acts and things as may be necessary, or as may
30 be convenient and desirable, to better secure bonds or notes or that, in the absolute
31 discretion of the corporation, would tend to make bonds or notes more marketable,

1 notwithstanding that the covenants, acts, or things may not be enumerated in this
2 section.

3 **Sec. 31.25.170. Independent financial advisor.** In negotiating the sale of
4 bonds or bond anticipation notes to an underwriter, the corporation may retain a
5 financial advisor. A financial advisor retained under this section must be independent
6 from the underwriter.

7 **Sec. 31.25.180. Validity of pledge.** The pledge of assets or revenue of the
8 corporation to the payment of the principal of or interest on an obligation of the
9 corporation is valid and binding from the time the pledge is made, and the assets or
10 revenue are immediately subject to the lien of the pledge without physical delivery or
11 further act. The lien of the pledge is valid and binding against all parties having claims
12 of any kind in tort, contract, or otherwise against the corporation, regardless of
13 whether those parties have notice of the lien of the pledge. This section does not
14 prohibit the corporation from selling assets subject to a pledge, except that the sale
15 may be restricted by the trust agreement or resolution providing for the issuance of the
16 obligations.

17 **Sec. 31.25.190. Capital reserve funds.** (a) The corporation may not establish
18 a capital reserve fund as described in this section except as expressly authorized by
19 law. The enactment of this section does not express that authorization. Upon
20 enactment of a law expressly authorizing the establishment of a capital reserve fund
21 described in this section and for the purpose of securing one or more issues of its
22 obligations, the corporation may establish one or more special funds, called "capital
23 reserve funds," and shall pay into those capital reserve funds

24 (1) money appropriated and made available by the state for the purpose
25 of any of those funds;

26 (2) proceeds of the sale of its obligations, to the extent provided in the
27 resolution or resolutions of the corporation authorizing their issuance; and

28 (3) other money that may be made available to the corporation for the
29 purposes of those funds from another source.

30 (b) All money held in a capital reserve fund, except as provided in this section,
31 shall be used as required, solely for the payment of the principal of obligations or of

1 the sinking fund payments with respect to those obligations; the purchase or
2 redemption of obligations; the payment of interest on obligations; or the payment of a
3 redemption premium required to be paid when those obligations are redeemed before
4 maturity. However, money in a fund may not, at any time, be withdrawn from the fund
5 in an amount that would reduce the amount of that fund to less than the capital reserve
6 requirement set out in (c) of this section, except for the purpose of making, with
7 respect to those obligations, payment, when due, of principal, interest, redemption
8 premiums, and the sinking fund payments for the payment of which other money of
9 the corporation is not available. Income or interest earned by, or increment to, a capital
10 reserve fund, because of the investment of the fund or other amounts in it, may be
11 transferred by the corporation to other funds or accounts of the corporation to the
12 extent that the transfer does not reduce the amount of the capital reserve fund below
13 the capital reserve fund requirement.

14 (c) If the corporation decides to issue obligations secured by a capital reserve
15 fund, the obligations may not be issued if the amount in the capital reserve fund is less
16 than a percentage, not exceeding 10 percent of the principal amount of all of those
17 obligations secured by that capital reserve fund then to be issued and then outstanding
18 in accordance with their terms, as may be established by resolution of the corporation
19 (called the "capital reserve fund requirement"), unless the corporation, at the time of
20 issuance of the obligations, deposits in the capital reserve fund from the proceeds of
21 the obligations to be issued or from other sources, an amount that, together with the
22 amount then in the fund, would not be less than the capital reserve fund requirement.

23 (d) In computing the amount of a capital reserve fund for the purpose of this
24 section, securities in which all or a portion of the funds are invested shall be valued at
25 par or, if purchased at less than par, at amortized costs as the term is defined by
26 resolution of the corporation authorizing the issue of the obligations, or by some other
27 reasonable method established by the corporation by resolution. Valuation on a
28 particular date shall include the amount of interest earned or accrued to that date.

29 (e) The chair of the corporation shall annually, not later than January 2, make
30 and deliver to the governor and chairs of the house and senate finance committees a
31 certificate stating the sum, if any, required to restore a capital reserve fund to the

capital reserve fund requirement. The legislature may appropriate that sum, and the corporation shall deposit all sums appropriated by the legislature during the then current fiscal year for the restoration in the proper capital reserve fund. Nothing in this section creates a debt or liability of the state.

Sec. 31.25.200. Remedies. A holder of obligations or coupons attached to them issued under this chapter, and a trustee under a trust agreement or resolution authorizing the issuance of the obligations, except as restricted by a trust agreement or resolution, either at law or in equity,

(1) may enforce all rights granted under this chapter, under the trust agreement or resolution, or under another contract executed by the corporation under this chapter; and

(2) may enforce and compel the performance of all duties required by this chapter or by the trust agreement or resolution to be performed by the corporation or by an officer of the corporation.

Sec. 31.25.210. Negotiable instruments. All obligations and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 31.25.220. Obligations eligible for investment. Obligations issued under this chapter are securities in which all public officers and public bodies of the state and its political subdivisions and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Those obligations may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds, notes, or obligations of the state is authorized by law.

Sec. 31.25.230. Refunding obligations. (a) The corporation may provide for the issuance of refunding obligations for the purpose of refunding obligations then outstanding that have been issued under this chapter, including the payment of the redemption premium on them and interest accrued or to accrue to the date of redemption of the obligations. The issuance of the obligations, the maturities and other details of them, the rights of the holders of them, and the rights, duties, and obligations

1 of the corporation with respect to them are governed by the provisions of this chapter
2 that relate to the issuance of obligations, insofar as those provisions may be
3 appropriate.

4 (b) Refunding obligations may be sold or exchanged for outstanding
5 obligations issued under this chapter and, if sold, the proceeds may be applied, in
6 addition to other authorized purposes, to the purchase, redemption, or payment of the
7 outstanding obligations. Pending the application of the proceeds of refunding
8 obligations, with other available funds, to the payment of the principal of, accrued
9 interest on, and any redemption premium on the obligations being refunded and, if so
10 provided or permitted in the resolution authorizing the issuance of the refunding
11 obligations or in the trust agreement securing them, to the payment of any interest on
12 the refunding obligations and any expenses in connection with the refunding, the
13 proceeds may be invested in direct obligations of, or obligations the principal of and
14 the interest on which are unconditionally guaranteed by, the United States that mature
15 or that will be subject to redemption, at the option of the holders of them, not later
16 than the respective dates when the proceeds, together with the interest accruing on
17 them, will be required for the purposes intended.

18 **Sec. 31.25.240. Credit of state not pledged.** (a) Obligations issued under this
19 chapter do not constitute a debt, liability, or obligation of the state or of a political
20 subdivision of the state or a pledge of the faith and credit of the state or of a political
21 subdivision of the state but are payable solely from the revenue or assets of the
22 corporation. Each obligation issued under this chapter shall contain on its face a
23 statement that the corporation is not obligated to pay the obligation or the interest on
24 the obligation except from the revenue or assets of the corporation and that neither the
25 faith and credit nor the taxing power of the state or of any political subdivision of the
26 state is pledged to the payment of the principal of or the interest on the obligation.
27 This subsection applies to all debt, obligations, and liabilities of the corporation
28 regardless of how the debt, obligations, or liabilities are created, including by contract,
29 tort, or bond or note issuance. Except as provided in this subsection, a person may not
30 bring suit against the state or a political subdivision of the state other than the
31 corporation in the courts of the state to enforce or seek a remedy with respect to a

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1 debt, obligation, or liability of the corporation.

2 (b) Expenses incurred by the corporation in carrying out the provisions of this
3 chapter are payable from funds provided under this chapter and liability may not be
4 incurred by the corporation in excess of those funds.

5 **Article 3. General Provisions.**

6 **Sec. 31.25.250. Limitation on personal liability.** A member of the board or
7 other officer of the corporation or a subsidiary of the corporation is not subject to
8 personal liability or accountability because the member or officer executed or issued
9 an obligation.

10 **Sec. 31.25.260. Tax exemption.** (a) The exercise of the powers granted by this
11 chapter is, in all respects, for the benefit of the people of the state, for their well-being
12 and prosperity, and for the improvement of their social and economic conditions, and
13 the corporation is not required to pay a tax or assessment on any property owned by
14 the corporation under the provisions of this chapter or on the income from it, including
15 state taxes levied or authorized under AS 43.56.010(a) and local taxes under
16 AS 43.56.010(b) as provided in AS 43.56.020.

17 (b) All obligations issued under this chapter are declared to be issued by a
18 body corporate and public of the state and for an essential public and governmental
19 purpose, and the obligations, and the interest and income on and from the obligations,
20 and all fees, charges, funds, revenue, income, and other money pledged or available to
21 pay or secure the payment of the obligations, or interest on the obligations, are exempt
22 from taxation except for transfer, inheritance, and estate taxes.

23 **Sec. 31.25.270. Annual report.** (a) The corporation shall prepare and transmit
24 annually a report to the governor accounting for the efficient discharge of all
25 responsibility assigned by law or by directive to the corporation. The corporation shall
26 notify the legislature that the report is available.

27 (b) By January 10 of each year, the board shall prepare a report of the
28 corporation. The board shall notify the governor and the legislature that the report is
29 available, and publish notice to the public on the Alaska Online Public Notice System
30 under AS 44.62.175 that the report is available on the corporation's Internet website.
31 The report shall be written in easily understandable language. The report must include

1 a financial statement audited by an independent outside auditor and any other
 2 information the board believes would be of interest to the governor, the legislature,
 3 and the public. The annual income statement and balance sheet of the corporation shall
 4 be published on the Internet. The board may also publish electronically or in print, at
 5 the corporation's discretion, other reports it considers desirable to carry out its
 6 purpose.

7 **Sec. 31.25.390. Definitions for AS 31.25.010 - 31.25.390.** In AS 31.25.010 -
 8 31.25.390, unless the context clearly indicates a different meaning,

9 (1) "board" means the board of directors of the corporation;

10 (2) "bond" or "obligation" means a bond, bond anticipation note, or
 11 other note of the corporation authorized to be issued by the corporation under this
 12 chapter;

13 (3) "corporation" means the Alaska Gasline Development Corporation;

14 (4) "governmental agency" means a department, division, public
 15 agency, political subdivision, or other public instrumentality of the state or the federal
 16 government;

17 (5) "in-state natural gas pipeline" means a natural gas pipeline for
 18 transporting natural gas in the state;

19 (6) "natural gas pipeline" means a total system of pipe and connected
 20 facilities for the transportation, treatment or conditioning, delivery, storage, or further
 21 transportation of natural gas, including all pipe, compressor stations, station
 22 equipment, and all other facilities used or necessary for an integral line of pipe to carry
 23 out the transportation of the natural gas.

24 * **Sec. 4.** AS 36.30.850(b) is amended by adding a new paragraph to read:

25 (46) the Alaska Gasline Development Corporation (AS 31.25) and
 26 subsidiaries of the Alaska Gasline Development Corporation.

27 * **Sec. 5.** AS 37.05.146(c)(22) is amended to read:

28 (22) Regulatory Commission of Alaska under AS 42.05, [AND]
 29 AS 42.06, and AS 42.08;

30 * **Sec. 6.** AS 38.05.180(bb)(1) is amended to read:

31 (1) "gas or electric utility" includes an electric cooperative organized

1 under AS 10.25, a municipal utility, and a gas or electric utility regulated under
 2 AS 42.05; [PROVIDED THAT,] if the contract gas is transmitted to consumers
 3 through a pipeline and the gas utility either owns the pipeline or is related in
 4 ownership to the owner of the pipeline, then the gas utility qualifies as a "gas or
 5 electric utility" within the meaning of this paragraph only if it is bound or agrees to be
 6 bound by the covenants set out in AS 38.35.120 or 38.35.121, as applicable;

7 * Sec. 7. AS 38.34.099 is repealed and reenacted to read:

8 **Sec. 38.34.099. Definitions.** In this chapter,

9 (1) "Alaska Gasline Development Corporation" means the corporation
 10 created under AS 31.25.010;

11 (2) "in-state natural gas pipeline" and "natural gas pipeline" have the
 12 meanings given in AS 31.25.390.

13 * Sec. 8. AS 38.35.100(d) is amended to read:

14 (d) The commissioner shall include in a conditional lease each requirement
 15 and condition of the covenants established under AS 38.35.120 or 38.35.121, as
 16 applicable. The commissioner may also require that the lessee agree to additional
 17 conditions that the commissioner finds to be in the public interest. In place of the
 18 covenant established under AS 38.35.120(a)(9), the commissioner shall require the
 19 lessee to agree that it will not transfer, assign, pledge, or dispose of in any manner,
 20 directly or indirectly, its interest in a conditional right-of-way lease or a pipeline
 21 subject to the conditional lease, unless the commissioner, after considering the public
 22 interest and issuing written findings to substantiate a decision to allow the transfer,
 23 authorizes the transfer. The commissioner shall also require the lessee to agree not to
 24 allow the transfer of control of the lessee without the approval of the commissioner; as
 25 used in this subsection, "transfer of control of the lessee" means the transfer of 30
 26 percent or more, in the aggregate, of ownership interest in the lessee in one or more
 27 transactions to one or more persons by one or more persons.

28 * Sec. 9. AS 38.35.120(a) is amended to read:

29 (a) Except as provided for a natural gas pipeline subject to AS 38.35.121,
 30 a [A] noncompetitive lease of state land for a right-of-way for an oil or natural gas
 31 pipeline valued at \$1,000,000 or more may be granted only upon the condition that the

1 lessee expressly covenants in the lease, in consideration of the rights acquired by it
2 under the lease, that
3 (1) it assumes the status of and will perform all of its functions
4 undertaken under the lease as a common carrier and will accept, convey, and transport
5 without discrimination crude oil or natural gas, depending on the kind of pipeline
6 involved, delivered to it for transportation from fields in the vicinity of the pipeline
7 subject to the lease throughout its route both on state land obtained under the lease and
8 on the other land; it will accept, convey, and transport crude oil or natural gas without
9 unjust or unreasonable discrimination in favor of one producer or person, including
10 itself, as against another but will take the crude oil or natural gas, depending on the
11 kind of pipeline involved, delivered or offered, without unreasonable discrimination,
12 that the Regulatory Commission of Alaska shall, after a full hearing with due notice to
13 the interested parties and a proper finding of facts, determine to be reasonable in the
14 performance of its duties as a common carrier; however, a lessee that owns or operates
15 a natural gas pipeline
16 (A) subject to regulation either under 15 U.S.C. 717 et seq.
17 (Natural Gas Act) [THE NATURAL GAS ACT (15 U.S.C. 717 ET SEQ.) OF
18 THE UNITED STATES] or by the state or a political subdivision
19 [SUBDIVISIONS] with respect to rates and charges for the sale of natural gas,
20 is, to the extent of that regulation, exempt from the common carrier
21 requirement in this paragraph;
22 (B) that is a North Slope natural gas pipeline (i) is required to
23 operate as a common carrier only with respect to the intrastate transportation of
24 North Slope natural gas, as that term is defined in AS 42.06.630, and (ii) is not
25 required to operate as a common carrier as to a liquefied natural gas facility or
26 a marine terminal facility associated with the pipeline, and is not otherwise
27 required to perform its functions under the lease as a common carrier; for
28 purposes of this subparagraph, "North Slope natural gas pipeline" means all the
29 facilities of a total system of pipe, whether owned or operated under a contract,
30 agreement, or lease, used by a carrier for transportation of North Slope natural
31 gas, as defined by AS 42.06.630, for delivery, for storage, or for further

- 1 transportation, and including all pipe, [PUMP, OR] compressor stations,
- 2 station equipment, tanks, valves, access roads, bridges, airfields, terminals and
- 3 terminal facilities, including docks and tanker loading facilities, operations
- 4 control centers for both the upstream part of the pipeline and the terminal,
- 5 tanker ballast treatment facilities, fire protection system, communication
- 6 system, and all other facilities used or necessary for an integral line of pipe,
- 7 taken as a whole, to carry out transportation, including an extension or
- 8 enlargement of the line;
- 9 (2) it will interchange crude oil or natural gas, depending on the kind
- 10 of pipeline involved, with each like common carrier and provide connections and
- 11 facilities for the interchange of crude oil or natural gas at every locality reached by
- 12 both pipelines when the necessity exists, subject to rates and regulations made by the
- 13 appropriate state or federal regulatory agency;
- 14 (3) it will maintain and preserve books, accounts, and records and will
- 15 make those reports that the state may prescribe by regulation or law as necessary and
- 16 appropriate for purposes of administration of this chapter;
- 17 (4) it will accord at all reasonable times to the state and its authorized
- 18 agents and auditors the right of access to its property and records, of inspection of its
- 19 property, and of examination and copying of records;
- 20 (5) it will provide connections, as determined by the Regulatory
- 21 Commission of Alaska under AS 42.06.340, to facilities on the pipeline subject to the
- 22 lease, both on state land and other land in the state, for the purpose of delivering crude
- 23 oil or natural gas, depending on the kind of pipeline involved, to persons (including
- 24 the state and its political subdivisions) contracting for the purchase at wholesale of
- 25 crude oil or natural gas transported by the pipeline when required by the public
- 26 interest;
- 27 (6) it shall, notwithstanding any other provision, provide connections
- 28 and interchange facilities at state expense at [SUCH] places the state considers
- 29 necessary if the state determines to take a portion of its royalty or taxes in oil or
- 30 natural gas;
- 31 (7) it will construct and operate the pipeline in accordance with

- 1 applicable state laws and lawful regulations and orders of the Regulatory Commission
- 2 of Alaska;
- 3 (8) it will, at its own expense, during the term of the lease,
- 4 (A) maintain the leasehold and pipeline in good repair;
- 5 (B) promptly repair or remedy [ANY] damage to the leasehold;
- 6 (C) promptly compensate for [ANY] damage to or destruction
- 7 of property for which the lessee is liable resulting from damage to or
- 8 destruction of the leasehold or pipeline;
- 9 (9) it will not transfer, assign, or dispose of, in any manner, directly or
- 10 indirectly, or by transfer of control of the carrier corporation, its interest in a right-of-
- 11 way lease, or [ANY] rights under the lease or a [ANY] pipeline subject to the lease to
- 12 a [ANY] person other than another owner of the pipeline (including subsidiaries,
- 13 parents, and affiliates of the owners), except to the extent that the commissioner, after
- 14 consideration of the protection of the public interest (including whether the proposed
- 15 transferee is fit, willing, and able to perform the transportation or other acts proposed
- 16 in a manner that will reasonably protect the lives, property, and general welfare of the
- 17 people of Alaska), authorizes; the commissioner shall not unreasonably withhold
- 18 consent to the transfer, assignment, or disposal;
- 19 (10) it will file with the commissioner a written appointment of a
- 20 named permanent resident of the state to be its registered agent in the state and to
- 21 receive service of notices, regulations, decisions, and orders of the commissioner; if it
- 22 fails to appoint an agent for service, service may be made by posting a copy in the
- 23 office of the commissioner, filing a copy in the office of the lieutenant governor, and
- 24 mailing a copy to the lessee's last known address;
- 25 (11) the applicable law of this state will be used in resolving questions
- 26 of interpretation of the lease;
- 27 (12) the granting of the right-of-way lease is subject to the express
- 28 condition that the exercise of the rights and privileges granted under the lease will not
- 29 unduly interfere with the management, administration, or disposal by the state of the
- 30 land affected by the lease, and that the lessee agrees and consents to the occupancy
- 31 and use by the state, its grantees, permittees, or other lessees of any part of the right-

1 of-way not actually occupied or required by the pipeline for the full and safe
2 utilization of the pipeline, for necessary operations incident to land management,
3 administration, or disposal;

4 (13) it will be liable to the state for damages or injury incurred by the
5 state caused by the construction, operation, or maintenance of the pipeline and it will
6 indemnify the state for the liabilities or damages;

7 (14) it will procure and furnish liability and property damage insurance
8 from a company licensed to do business in the state or furnish other security or
9 undertaking upon the terms and conditions the commissioner considers necessary if
10 the commissioner finds that the net assets of the lessee are insufficient to protect the
11 public from damage for which the lessee may be liable arising out of the construction
12 or operation of the pipeline.

13 * Sec. 10. AS 38.35.120(b) is amended to read:

14 (b) Except as provided for a natural gas pipeline subject to AS 38.35.121,
15 for [FOR] a right-of-way lease granted under this chapter for an oil or natural gas
16 pipeline valued at \$1,000,000 or more to be valid and of legal effect, it must contain
17 the terms required to be inserted under the provisions of AS 38.35.110 - 38.35.140. An
18 oil or natural gas pipeline right-of-way lease granted under this chapter and subject to
19 this section that does not contain the required terms is null and void and without legal
20 effect and does not vest any interest in state land or any authority in the carrier granted
21 the lease.

22 * Sec. 11. AS 38.35 is amended by adding a new section to read:

23 **Sec. 38.35.121. Covenants required to be in a lease to a natural gas**
24 **pipeline that is a contract carrier.** (a) For a lease of state land for a right-of-way for
25 which an applicant has applied as a contract carrier under AS 42.08, a noncompetitive
26 lease of state land for a right-of-way for a natural gas pipeline valued at \$1,000,000 or
27 more may be granted only on the condition that the lessee expressly covenant in the
28 lease, in consideration of the rights acquired by it under the lease, that

29 (1) except for the covenants in AS 38.35.120(a)(1), (2), and (5), it will
30 meet the requirements of AS 38.35.120;

31 (2) it will interchange natural gas and provide connections with each

1 public utility pipeline, common carrier pipeline, or contract carrier pipeline, and
 2 facilities for the interchange of natural gas at every locality reached by both pipelines
 3 when the necessity exists, as provided in contracts on file with the Regulatory
 4 Commission of Alaska;

5 (3) it assumes the status of and will perform all of its functions
 6 undertaken under the lease as a contract carrier and, subject to contracts with shippers,
 7 will accept, convey, and transport, without discrimination, natural gas delivered to it
 8 for transportation from fields in the vicinity of the pipeline subject to the right-of-way
 9 lease throughout the pipeline route, both on state land obtained under the lease and on
 10 other land, and that, subject to contracts with shippers, it will accept, convey, and
 11 transport natural gas without unjust or unreasonable discrimination in favor of itself or
 12 one producer or person against another, but will take the natural gas delivered or
 13 offered without unreasonable discrimination;

14 (4) it will expand the natural gas pipeline on commercially reasonable
 15 terms that, when possible, encourage exploration and development of gas resources in
 16 this state without increasing transportation costs for a shipper except as provided for in
 17 the contract with the shipper; in this paragraph, "commercially reasonable terms"
 18 means terms that produce sufficient revenue from transportation contracts to cover the
 19 cost of the expansion, including increased fuel costs and a reasonable return on capital,
 20 without impairing the ability of the pipeline to recover the costs of existing facilities;

21 (5) it will not require a shipper to pay a rate in excess of the rates
 22 provided for in the contract with that shipper.

23 (b) A contract carrier may offer to a shipper firm transportation service,
 24 interruptible transportation service, or both. In this subsection, "firm transportation
 25 service" has the meaning given in AS 42.08.900.

26 (c) The lessee may not construct or expand or allow the construction or
 27 expansion of a natural gas pipeline under (a) of this section to be a competing natural
 28 gas pipeline project unless the project for which a license is issued under AS 43.90 has
 29 been abandoned or is no longer receiving the inducements under AS 43.90.110(a). In
 30 this subsection,

31 (1) "competing natural gas pipeline project" has the meaning given in

AS 43.90.440;

(2) "license" has the meaning given in AS 43.90.900.

* Sec. 12. AS 38.35.140 is amended by adding a new subsection to read:

(c) Notwithstanding (a) of this section, a right-of-way lease shall be granted without appraisal or rental costs to the Alaska Gasline Development Corporation created under AS 31.25.010.

* Sec. 13. AS 38.35.200 is amended by adding new subsections to read:

(c) Except as provided for an applicant in (a) of this section and notwithstanding any contrary provision of law, an action or decision of the commissioner or other state officer or agency concerning the issuance or approval of a necessary right-of-way, permit, lease, certificate, license, or other authorization for the planning, financing, acquisition, maintenance, development, construction, or initial operation of a natural gas pipeline by the Alaska Gasline Development Corporation under AS 31.25 that uses a right-of-way subject to this chapter may not be subject to judicial review, except that a claim alleging the invalidity of this subsection must be brought within 60 days after the effective date of this Act, and a claim alleging that an action will deny rights under the Constitution of the State of Alaska must be brought within 60 days following the date of that action. A claim that is not filed within the limitations established in this subsection is barred. A complaint under this subsection must be filed in superior court, and the superior court has exclusive jurisdiction. Notwithstanding AS 22.10.020(c), except in conjunction with a final judgment on a claim filed under this subsection, the superior court may not grant injunctive relief, including a temporary restraining order, preliminary injunction, permanent injunction, or stay, against the issuance of a necessary right-of-way, permit, lease, certificate, license, or other authorization for the planning, financing, acquisition, maintenance, development, construction, or initial operation of a natural gas pipeline by the Alaska Gasline Development Corporation. In this subsection, "natural gas pipeline" has the meaning given in AS 38.34.099.

(d) An appeal of a permitting decision or authorization by the Department of Environmental Conservation under AS 46.03 or AS 46.14 that is made under a program approved or delegated by the United States Environmental Protection Agency

- 1
- is not
- 2
- (1) subject to the limitation in (a) of this section;
- 3
- (2) included in the actions or decisions described in (c) of this section.
- 4
- * Sec. 14. AS 39.25.110(11) is amended by adding a new subparagraph to read:
- 5
- (H) Alaska Gasline Development Corporation and subsidiaries
- 6
- of the Alaska Gasline Development Corporation;
- 7
- * Sec. 15. AS 39.50.200(b) is amended by adding a new paragraph to read:
- 8
- (64) the board of directors of the Alaska Gasline Development
- 9
- Corporation or the board of directors of a subsidiary of the Alaska Gasline
- 10
- Development Corporation.
- 11
- * Sec. 16. AS 40.25.120(a) is amended to read:
- 12
- (a) Every person has a right to inspect a public record in the state, including
- 13
- public records in recorders' offices, except
- 14
- (1) records of vital statistics and adoption proceedings, which shall be
- 15
- treated in the manner required by AS 18.50;
- 16
- (2) records pertaining to juveniles unless disclosure is authorized by
- 17
- law;
- 18
- (3) medical and related public health records;
- 19
- (4) records required to be kept confidential by a federal law or
- 20
- regulation or by state law;
- 21
- (5) to the extent the records are required to be kept confidential under
- 22
- 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
- 23
- or retain federal assistance;
- 24
- (6) records or information compiled for law enforcement purposes, but
- 25
- only to the extent that the production of the law enforcement records or information
- 26
- (A) could reasonably be expected to interfere with enforcement
- 27
- proceedings;
- 28
- (B) would deprive a person of a right to a fair trial or an
- 29
- impartial adjudication;
- 30
- (C) could reasonably be expected to constitute an unwarranted
- 31
- invasion of the personal privacy of a suspect, defendant, victim, or witness;

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1 (D) could reasonably be expected to disclose the identity of a
2 confidential source;

3 (E) would disclose confidential techniques and procedures for
4 law enforcement investigations or prosecutions;

5 (F) would disclose guidelines for law enforcement
6 investigations or prosecutions if the disclosure could reasonably be expected to
7 risk circumvention of the law; or

8 (G) could reasonably be expected to endanger the life or
9 physical safety of an individual;

10 (7) names, addresses, and other information identifying a person as a
11 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the
12 advance college tuition savings program under AS 14.40.803 - 14.40.817;

13 (8) public records containing information that would disclose or might
14 lead to the disclosure of a component in the process used to execute or adopt an
15 electronic signature if the disclosure would or might cause the electronic signature to
16 cease being under the sole control of the person using it;

17 (9) reports submitted under AS 05.25.030 concerning certain
18 collisions, accidents, or other casualties involving boats;

19 (10) records or information pertaining to a plan, program, or
20 procedures for establishing, maintaining, or restoring security in the state, or to a
21 detailed description or evaluation of systems, facilities, or infrastructure in the state,
22 but only to the extent that the production of the records or information

23 (A) could reasonably be expected to interfere with the
24 implementation or enforcement of the security plan, program, or procedures;

25 (B) would disclose confidential guidelines for investigations or
26 enforcement and the disclosure could reasonably be expected to risk
27 circumvention of the law; or

28 (C) could reasonably be expected to endanger the life or
29 physical safety of an individual or to present a real and substantial risk to the
30 public health and welfare;

31 (11) the written notification regarding a proposed regulation provided

1 under AS 24.20.105 to the Department of Law and the affected state agency and
2 communications between the Legislative Affairs Agency, the Department of Law, and
3 the affected state agency under AS 24.20.105;

4 (12) records that are

5 (A) proprietary, privileged, or a trade secret in accordance with
6 AS 43.90.150 or 43.90.220(e);

7 (B) applications that are received under AS 43.90 until notice is
8 published under AS 43.90.160;

9 **(13) information of the Alaska Gasline Development Corporation**
10 **created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development**
11 **Corporation that is confidential by law or under a valid confidentiality**
12 **agreement.**

13 * Sec. 17. AS 42.04.080(a) is amended to read:

14 (a) Except as provided in AS 42.05.171 or AS 42.06.140, when a matter
15 comes for decision before the commission under AS 42.05, [OR] AS 42.06, or
16 AS 42.08, the chair shall appoint a hearing panel composed of three or more members
17 to hear, or if a hearing is not required, to otherwise consider, and decide the case. The
18 panel shall exercise the powers of the commission with respect to the matter.

19 * Sec. 18. AS 42.05 is amended by adding a new section to read:

20 **Sec. 42.05.433. Review of certain contracts by the commission.** (a) A
21 precedent agreement or contract entered into by a public utility with the Alaska
22 Gasline Development Corporation or its successors or assigns may contain a covenant
23 for the public utility to establish, charge, and collect rates sufficient to meet its
24 obligations under the contract. If the precedent agreement associated with the contract
25 is approved by the commission under AS 42.08, the rate covenant in the associated
26 contract is valid and enforceable.

27 (b) A public utility negotiating to purchase natural gas to be shipped through
28 an in-state natural gas pipeline regulated under AS 42.08 shall submit the contract to
29 the commission before the contract takes effect.

30 (c) A public utility negotiating to contract for the storage of natural gas
31 shipped in an in-state natural gas pipeline regulated under AS 42.08 shall submit the

contract to the commission before the contract takes effect.

(d) The commission shall review and may conduct an investigation and hearing to determine whether a contract submitted under (b) or (c) of this section is just and reasonable. The review and determination shall be conducted as provided in AS 42.08.320(b) - (d). The commission shall either approve the contract as presented or, if the commission finds that a contract is not just and reasonable, disapprove the contract. Notwithstanding AS 42.05.175, if the commission has not acted within 180 days after the contract is submitted, the contract shall be considered approved and shall take effect immediately. The commission may, by order, extend the 180-day review period by the duration of a delay caused by a failure of the public utility to submit supplemental information that is available to the public utility. A contract that is approved or considered approved under this section is not subject to further review by the commission.

* Sec. 19. AS 42.05.711 is amended by adding a new subsection to read:

(t) An in-state natural gas pipeline subject to AS 42.08 and an in-state natural gas pipeline carrier subject to AS 42.08 are exempt from this chapter.

* Sec. 20. AS 42.06 is amended by adding a new section to article 7 to read:

Sec. 42.06.601. Exemption. An in-state natural gas pipeline subject to AS 42.08 and an in-state natural gas pipeline carrier subject to AS 42.08 are exempt from this chapter.

* Sec. 21. AS 42 is amended by adding a new chapter to read:

Chapter 08. In-State Pipeline Contract Carrier.

Article 1. Application of Chapter; Purpose.

Sec. 42.08.010. Application of chapter; exemption. (a) This chapter applies to the regulation of in-state natural gas pipelines that provide transportation by contract carriage.

(b) An in-state natural gas pipeline subject exclusively to federal jurisdiction is exempt from this chapter.

Sec. 42.08.020. Qualification of the Alaska Gasline Development Corporation; findings. (a) The Alaska Gasline Development Corporation is financially fit, willing, and able to take the actions, perform the service, and conform

1 to the requirements of this chapter.

2 (b) The board of directors and the officers of the Alaska Gasline Development
3 Corporation are managerially fit, willing, and able to manage the Alaska Gasline
4 Development Corporation and to take the actions, perform the service, and conform to
5 the requirements of this chapter.

6 (c) The proposed service, construction, and operation of an in-state natural gas
7 pipeline for which the Alaska Gasline Development Corporation applies for a
8 certificate under this chapter is required by present and future public convenience and
9 necessity.

10 (d) The findings that the Alaska Gasline Development Corporation is
11 financially fit in (a) of this section and managerially fit in (b) of this section and that
12 an in-state natural gas pipeline is required by present or future public convenience and
13 necessity in (c) of this section are conclusive and binding on the commission.

14 (e) The commission shall determine whether a person making application
15 under this chapter is technically fit, willing, and able to take the actions, perform the
16 service, and conform to the requirements in this chapter.

17 **Article 2. Powers and Duties of Regulatory Commission of Alaska.**

18 **Sec. 42.08.220. General powers and duties.** (a) The commission shall

19 (1) regulate, under the provisions of this chapter, an in-state natural gas
20 pipeline that provides transportation by way of contract carriage;

21 (2) require permits for the construction, enlargement in size or
22 operating capacity, extension, connection and interconnection, operation, or
23 abandonment of an in-state natural gas pipeline facility under the provisions of this
24 chapter and subject to the same standards as certification in AS 42.08.330;

25 (3) to the extent necessary to perform the duties of the commission
26 under this chapter, have access to, and may designate its employees, agents, or
27 consultants to inspect and examine, the accounts, financial and property records,
28 books, maps, inventories, appraisals, valuations, and related reports kept by an in-state
29 natural gas pipeline carrier, or kept for an in-state natural gas pipeline carrier by
30 others, that directly affect the interests of the state and directly relate to in-state natural
31 gas pipelines located in the state during normal business hours;

- 1 (4) provide all reasonable assistance to the Department of Law in
- 2 intervening in, offering evidence in, and participating in proceedings before an officer,
- 3 department, board, commission, or court of another state or the United States
- 4 involving an in-state natural gas pipeline carrier or an affiliated interest and affecting
- 5 the interests of the state.
- 6 (b) The commission may
- 7 (1) review and approve recourse tariffs filed by an in-state natural gas
- 8 pipeline carrier under this chapter;
- 9 (2) review and approve contracts;
- 10 (3) investigate on its own motion or after receiving a complaint, a
- 11 dispute
- 12 (A) related to rules, regulations, services, practices, and
- 13 facilities that are not subject to the dispute resolution provisions in an in-state
- 14 natural gas pipeline carrier's contracts or recourse tariff;
- 15 (B) presented by a complainant that does not have a contract
- 16 with the in-state natural gas pipeline carrier;
- 17 (C) related to the conduct of an in-state natural gas pipeline
- 18 carrier's open season under AS 42.08.300; to resolve the dispute, the
- 19 commission may order an expansion of an in-state natural gas pipeline or order
- 20 an open season under the terms provided for an expansion or open season in
- 21 this chapter or AS 38.35.121(a)(4) and (c); or
- 22 (D) related to an unreasonable diminution in quantity or quality
- 23 in the provision of service to a public utility that
- 24 (i) is a violation of the in-state natural gas pipeline
- 25 carrier's tariff or contract with the public utility;
- 26 (ii) has not been resolved by the in-state natural gas
- 27 pipeline carrier; and
- 28 (iii) will result in immediate injury, loss, or damage to
- 29 the peace, health, safety, or general welfare of the public as clearly
- 30 demonstrated by specific facts shown by affidavit or verified
- 31 complaint;

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- (4) adopt regulations that are necessary and proper to the performance of the duties of the commission under this chapter, including regulations governing practices and procedures of the commission; regulations adopted by the commission may not be inconsistent with state law;
- (5) initiate, intervene in, and appear personally or by counsel and offer evidence in and participate in, proceedings before an officer, department, board, commission, or court of this state involving an in-state natural gas pipeline carrier and affecting the interests of the state; and
- (6) appoint a qualified, unbiased, and impartial administrative law judge with experience in the general practice of law to conduct hearings under this chapter; the administrative law judge may perform other duties in connection with the administration of this chapter and other laws; an administrative law judge hired to conduct hearings under this chapter shall have been admitted to practice law for at least five years immediately before appointment under this paragraph.
- (c) Except with regard to a precedent agreement under AS 42.08.320(a) that is filed before the issuance of a certificate, consideration of an application for a contract carriage certificate under AS 42.08.330, and an initial recourse tariff under AS 42.08.350(a), the commission may extend a timeline required under this chapter if all parties of record consent to the extension or if, for one time only, before the timeline expires, the
- (1) commission reasonably finds that good cause exists to extend the timeline;
- (2) commission issues a written order extending the timeline and setting out its findings regarding good cause; and
- (3) extension of time is 30 days or less.
- (d) Except as provided in this chapter, the commission may not
- (1) require rates, rate design, or tariff rates or regulations;
- (2) require an in-state natural gas pipeline carrier to make a recourse tariff filing;
- (3) order a modification of a contract that is approved, considered approved, or filed under this chapter; or

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1 (4) conduct further review or investigation of a contract that is
2 approved, considered approved, or filed under this chapter.

3 **Sec. 42.08.230. Commission decision-making procedures.** The commission
4 shall comply with AS 42.04.080(a) and expeditiously adjudicate all matters that come
5 before the commission.

6 **Sec. 42.08.240. Publication of reports, orders, decisions, and regulations.**
7 All reports, orders, decisions, and regulations of the commission shall be in writing.
8 The commission shall notify all affected operators of in-state natural gas pipeline
9 facilities and interested parties of reports, orders, decisions, and regulations as they are
10 issued and adopted and, when appropriate, publish them in a manner that will
11 reasonably inform the public or the affected consumers of the services of an in-state
12 natural gas pipeline facility. The commission may set charges for costs of printing or
13 reproducing and furnishing copies of reports, orders, decisions, and regulations. The
14 publication requirement, as it pertains to regulations, does not supersede the
15 requirements of AS 44.62 (Administrative Procedure Act).

16 **Sec. 42.08.250. Application of Administrative Procedure Act.** (a) The
17 administrative adjudication procedures of AS 44.62 (Administrative Procedure Act)
18 do not apply to adjudicatory proceedings of the commission under this chapter, except
19 that final administrative determinations by the commission are subject to judicial
20 review under AS 44.62 (Administrative Procedure Act) as provided in AS 42.08.530.

21 (b) AS 44.62 (Administrative Procedure Act) applies to regulations adopted
22 by the commission.

23 **Sec. 42.08.260. Annual report.** The commission shall include in its annual
24 reports under AS 42.05.211 and AS 42.06.220 a review of its activities under this
25 chapter during the previous fiscal year. The report must address the regulation of in-
26 state natural gas pipeline facilities in the state as of June 30 of each year and must
27 contain details about the commission's compliance with the performance measures in
28 this chapter.

29 **Article 3. Contract Review; Contract Carriage Certificate; Open Seasons.**

30 **Sec. 42.08.300. Open seasons.** (a) An in-state natural gas pipeline carrier shall
31 include in its approved recourse tariff the procedures for conducting open seasons for

1 uncommitted firm transportation service and for expansion. At a minimum, the in-state
2 natural gas pipeline carrier shall publish reasonable public notice in advance of an
3 open season. The notice shall contain the approved recourse tariff, the proposed form
4 of the precedent agreement, the proposed form of the firm transportation service
5 agreement, and other information sufficient to show the proposed route, capacity,
6 operating pressures, in-service date, quality specifications, and other operating
7 conditions that the pipeline carrier determines are relevant to an evaluation of the
8 proposed service. The notice shall also state the methods for awarding capacity and
9 whether presubscription agreements have been executed. An in-state natural gas
10 pipeline carrier shall provide a mechanism for providing additional relevant
11 information requested by potential shippers.

12 (b) An open season shall be conducted and firm transportation service shall be
13 awarded without undue discrimination or preference.

14 (c) An in-state natural gas pipeline carrier shall conduct an open season for
15 firm transportation service when it has existing uncommitted firm transportation
16 capacity and has received a request for firm transportation capacity from one or more
17 potential shippers that meet the pipeline's creditworthiness requirements.

18 (d) An in-state natural gas pipeline carrier shall conduct an open season for an
19 expansion of its pipeline system when it has received one or more requests for firm
20 transportation service from potential shippers that meet the pipeline's creditworthiness
21 requirements and that, in the aggregate, would enable the expansion of the pipeline's
22 system on a commercially reasonable basis. An expansion of the pipeline system is not
23 commercially reasonable if the expansion would cause the pipeline to be a competing
24 natural gas pipeline project as defined in AS 43.90.440 unless the project for which a
25 license is issued under AS 43.90 has been abandoned or is no longer receiving the
26 inducements in AS 43.90.110(a).

27 (e) A natural gas pipeline carrier may enter into presubscription agreements
28 before the start of an open season, but not before an initial recourse tariff is approved.

29 (f) An in-state natural gas pipeline carrier shall file revised recourse rates
30 before conducting an open season under (c) and (d) of this section unless the in-state
31 natural gas pipeline carrier filed revised recourse rates during the immediately

preceding two-year period.

Sec. 42.08.310. Transportation service. (a) Firm transportation service shall be made available only through a presubscription agreement, a recourse tariff, or an open season conducted in accordance with AS 42.08.300.

(b) The pipeline carrier shall offer a recourse tariff for firm transportation service. The rates included in the recourse tariff shall be determined on a cost-of-service basis and may be levelized over the depreciation life of the pipeline. The recourse tariff may not preclude the pipeline carrier from collecting rolled-in rates so long as the resulting rate for prior shippers does not exceed the initial maximum rate allowable under agreements for capacity.

(c) An in-state natural gas pipeline carrier may contract to provide firm transportation service for rates and containing provisions different than those in the recourse tariff. For purposes of this subsection, "provisions" are limited to those terms and conditions that directly relate to the rate and do not include the general operating terms and conditions of the recourse tariff.

(d) An in-state natural gas pipeline carrier shall provide interruptible transportation service through capacity not used for firm transportation service. An in-state natural gas pipeline carrier shall establish means for routinely advising potential shippers of the availability of interruptible transportation service and of uncommitted firm transportation capacity.

Sec. 42.08.320. Review of certain contracts by the commission. (a) An in-state natural gas pipeline carrier shall submit each of its precedent agreements for firm transportation service and any substantial amendments to the commission. A precedent agreement negotiated with an entity that is not a public utility regulated by the commission may be filed under seal. Under AS 42.08.400, the commission shall keep confidential a precedent agreement filed under seal. Submission of precedent agreements to the commission is permissible before construction of an in-state natural gas pipeline and before a request for certification under this chapter. In this subsection, "substantial amendment" means an amendment that materially changes a rate or term and condition of service.

(b) In the review of a precedent agreement submitted under (a) of this section

1 or a related contract submitted under AS 42.05.433(b) or (c), the commission shall

2 (1) conclude that a precedent agreement or related contract negotiated

3 at arm's length between the parties is just and reasonable unless the commission finds

4 that unlawful market activity affected the rate or unfair dealing, such as fraud or

5 duress, affected the formation of the contract;

6 (2) review and may conduct an investigation and hearing to determine

7 whether a contract submitted under (a) of this section is just and reasonable; the

8 commission shall either approve the contract as presented or, if the commission finds

9 that a contract is not just and reasonable, disapprove the contract; if the commission

10 has not acted within 180 days after the submission of a contract, the contract shall be

11 considered approved and shall take effect immediately; a contract that is approved or

12 considered approved under this paragraph and the associated firm transportation

13 service agreement are not subject to further review by the commission.

14 (c) For purposes of (b)(1) of this section, a precedent agreement or related

15 contract is arm's length

16 (1) if it incorporates the approved recourse tariff; or

17 (2) if it does not incorporate the approved recourse tariff,

18 (A) the precedent agreement or related contract is between two

19 state-owned parties;

20 (B) the parties are not affiliated; or

21 (C) if the parties are affiliated, the precedent agreement or

22 related contract is substantially similar to a precedent agreement or related

23 contract between unaffiliated parties, and the formation of the precedent

24 agreement or related contract was not affected by unlawful market activity or

25 unfair dealing as described in (b)(1) of this section.

26 (d) If a precedent agreement or related contract is not arm's length, the

27 commission shall determine whether the precedent agreement or related contract is

28 just and reasonable using the standards normally applied under AS 42.06.140. If the

29 commission is reviewing a precedent agreement under (c)(2) of this section, the

30 commission may consider the in-state natural gas pipeline carrier's approved recourse

31 tariff, including the cost data underlying that tariff. When considering whether to

1 approve a contract as just and reasonable under this subsection, the commission shall
2 consider the consequences of failing to approve the contract.

3 **Sec. 42.08.330. Contract carriage certificate.** (a) The owner of an in-state
4 natural gas pipeline subject to this chapter may not engage in the transportation of
5 natural gas or undertake the construction of a natural gas pipeline facility for that
6 purpose, or acquire or operate an in-state natural gas pipeline facility, unless a
7 certificate of public convenience and necessity by the commission authorizing contract
8 carriage is in force with respect to that owner. A certificate shall describe the nature
9 and extent of the authority granted, including, as appropriate for the services involved,
10 a description of the authorized area and scope of operation for the in-state natural gas
11 pipeline facility.

12 (b) Application for a certificate shall be made in writing to the commission
13 and verified under oath. The commission by regulation shall establish the
14 requirements for the form of the application and the information to be contained in the
15 application. Notice of the application shall be provided to interested parties in the
16 manner provided by regulation.

17 (c) Within 180 days after receiving an application under this chapter, the
18 commission shall issue a contract carriage certificate authorizing, in whole or in part,
19 the operation, service, construction, or acquisition covered by the application to a
20 qualified applicant if the commission finds that the applicant is fit, willing, and able to
21 do the acts, perform the proposed service, and conform to the provisions of this
22 chapter and the requirements of the commission, and that the proposed service,
23 operation, construction, extension, or acquisition, to the extent authorized by the
24 certificate, is or will be required by the present or future public convenience and
25 necessity. The commission may, by order, extend the 180-day period for considering
26 an application by the duration of a delay caused by the failure of the applicant to
27 provide additional information reasonably required by the commission. If, within the
28 180-day period and any extension of the period for considering the application, the
29 commission fails to issue a contract carriage certificate and does not make a finding
30 that the applicant is not fit, willing, and able under this subsection or that the proposed
31 service is not required by public convenience and necessity, the application shall be

considered approved and the contract carriage certificate shall take effect immediately.

(d) The commission may attach to a contract carriage certificate reasonable terms and conditions that are consistent with the terms of this chapter and are for the mutual benefit of the in-state natural gas pipeline facility and the public.

(e) Operating authority may not be transferred by sale or lease of the contract carriage certificate or by the sale of substantially all of the stock or assets of a pipeline carrier holding a certificate without prior approval and a finding by the commission that the safe and efficient operation of the natural gas pipeline is not impaired by the transfer. The commission shall summarily approve a transfer not involving a substantial change in ownership.

(f) After receiving a complaint or on its own motion, the commission, after notice and hearing and for good cause shown, may amend, modify, suspend, or revoke, in whole or in part, a certificate. Good cause for amendment, modification, suspension, or revocation of a certificate is shown by

- (1) misrepresentation of a material fact in obtaining the certificate;
- (2) unauthorized discontinuance or abandonment of all or part of a service that is the subject of the certificate;
- (3) wilful failure to comply with the provisions of this chapter or a regulation or order of the commission; or
- (4) wilful failure to comply with a term, condition, or limitation of the certificate.

(g) A person holding a certificate issued under this chapter may not abandon or permanently discontinue the use of all or a portion of an in-state natural gas pipeline without permission and approval by the commission, after due notice and hearing and a finding by the commission that continued service is not required by public convenience and necessity. An interested person may file a protest or memorandum of opposition to or in support of discontinuance or abandonment with the commission. The commission may order the temporary suspension of a service or part of a service.

Sec. 42.08.340. Filing requirements; recourse tariffs. (a) An in-state natural gas pipeline carrier shall file with the commission a complete recourse tariff containing rates, rules, regulations, terms, and conditions pertaining to service

1 provided under the certificate and copies of all contracts with shippers that in any way
 2 affect or relate to the carrier's rates, tariffs, charges, classifications, rules, regulations,
 3 terms, and conditions to service provided under the certificate.

4 (b) The terms and conditions under which an in-state natural gas pipeline
 5 carrier offers its services and facilities to the public shall be governed strictly by the
 6 provisions of its currently effective recourse tariff as supplemented and modified by
 7 contracts that have been approved by the commission. A legally filed and effective
 8 recourse tariff rate, charge, rule, regulation, or condition of service may not be
 9 changed except as provided in this chapter. The in-state natural gas pipeline carrier
 10 shall maintain copies of its recourse tariff on file at its principal business office and at
 11 places designated by the commission and make the copies available to and subject to
 12 inspection by the general public on demand.

13 (c) A change in a recourse tariff rate, charge, rule, regulation, or condition of
 14 service is not effective until filed under (a) of this section. If more than one recourse
 15 tariff rate or charge may reasonably be applied for billing purposes, the recourse tariff
 16 rate or charge most advantageous to the shipper shall be used.

17 (d) The commission may reject the filing of all or part of a recourse tariff that
 18 is not consistent with this chapter. A recourse tariff rate or provision so rejected is
 19 void.

20 (e) Initial and revised recourse tariffs shall be filed in the manner provided in
 21 AS 42.08.350.

22 **Sec. 42.08.350. Initial or revised rates.** (a) An in-state natural gas pipeline
 23 carrier may not establish or place in effect an initial recourse tariff containing rates,
 24 charges, rules, regulations, conditions of service, or practices without providing notice
 25 to the commission and to the public at least 30 days before establishing or placing in
 26 effect the initial recourse tariff. Notice shall be filed with the commission before an
 27 open season and by making the recourse tariff provisions available for public
 28 inspection. The notice shall plainly indicate the time when the recourse tariff will go
 29 into effect and include a supporting cost model. The commission may prescribe
 30 additional requirements for the notice and the form in which the notice must be
 31 provided. The commission, for good cause shown, may allow initial recourse tariffs to

1 take effect on less than 30 days' notice under conditions the commission prescribes by
2 order. Submission of a precedent agreement or an associated contract is not subject to
3 this section.

4 (b) The commission shall review the proposed initial recourse tariff and verify
5 that the proposed terms and conditions of service are not unduly discriminatory. The
6 commission also shall review the supporting cost model provided with an initial
7 recourse tariff filing and verify, taking into consideration the expected risks, that the
8 proposed rate of return on equity is within the range of permissible rates of return as
9 determined by the Federal Energy Regulatory Commission in recent decisions related
10 to the construction of natural gas pipelines, that the cost model incorporates a
11 reasonable depreciation methodology and depreciable life, and that the cost model
12 uses a reasonable capital structure. A proposed depreciation methodology, economic
13 life, or capital structure is reasonable if it is commonly accepted or used by the
14 commission or the Federal Energy Regulatory Commission.

15 (c) Upon written complaint or in its own motion, and after reasonable notice,
16 the commission may conduct a hearing to determine whether the initial recourse tariff
17 filed with the commission complies with the requirements in (b) of this section.
18 Pending a hearing the commission may, by order stating the reasons for its action,
19 suspend the operation of the initial recourse tariff for a period not longer than 90 days
20 beyond the time when the initial recourse tariff would otherwise go into effect. An
21 order suspending an initial recourse tariff filing may be vacated if, after investigation,
22 the commission finds that it is in all respects proper. Otherwise the commission shall
23 hold a hearing on the suspended filing and issue its order, before the end of the
24 suspension period, granting or denying the suspended initial recourse tariff.

25 (d) Unless a recourse tariff is denied because it includes a proposed term or
26 condition of service that is unduly discriminatory, includes a proposed rate element
27 that does not comply with (b) of this section, or violates a provision of this chapter, the
28 commission shall approve the initial recourse tariff. If the commission does not issue
29 its ruling within the 90-day period, and the period of suspension, if any, the initial
30 recourse tariff filing shall be considered approved.

31 (e) An in-state natural gas pipeline carrier may not establish or place in effect

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1 a revised rate, charge, rule, regulation, condition of service, or practice contained in a
 2 recourse tariff before providing notice to the commission and to the public at least 90
 3 days before taking the action. After construction or an expansion of the pipeline, and
 4 at any time that a carrier files for a revised recourse rate, the carrier shall file a
 5 supporting cost study. Notice shall be given by filing with the commission and
 6 keeping open for public inspection the revised recourse tariff provisions, which shall
 7 plainly indicate the changes to be made in the schedules then in force and the time
 8 when the changes will go into effect. The commission may prescribe additional means
 9 of giving notice. The commission, for good cause shown, may allow changes to take
 10 effect on shorter notice under conditions the commission prescribes by order.
 11 Submission of a precedent agreement or an associated contract is not subject to this
 12 subsection.

13 (f) The commission shall review a proposed revised recourse tariff in the same
 14 manner as the review of a proposed initial recourse tariff under (b) of this section,
 15 except that the depreciable life may be adjusted in accordance with the time period
 16 between the approval of the recourse tariff and the approval of the revised recourse
 17 tariff. The commission shall verify that the carrier is using the same elements that
 18 were last approved by the commission. A proposed recourse tariff with a new or
 19 revised term or condition of service that is unduly discriminatory shall be denied. The
 20 commission also shall deny a revised tariff rate that does not use the previously
 21 approved value of the specified rate element, unless the carrier proves that the new
 22 value is just and reasonable. If the commission does not issue its ruling within 90
 23 days, the revised recourse tariff filing shall be considered approved.

24 (g) A person initiating a change in an existing recourse tariff bears the burden
 25 of proving the reasonableness of the change. The in-state natural gas pipeline carrier
 26 bears the burden of proving the recourse tariff terms and conditions are not unduly
 27 discriminatory.

28 (h) An in-state natural gas pipeline carrier shall provide for separate rates for
 29 one or more classes of firm transportation service and for interruptible transportation
 30 service in a recourse tariff filed with the commission under (a) of this section. An in-
 31 state natural gas pipeline carrier may impose a reservation fee or similar charge for

1 reservation of capacity in an in-state natural gas pipeline as a condition of providing
2 firm transportation service, but may not impose a reservation fee or similar charge for
3 reservation of capacity in an in-state natural gas pipeline for interruptible
4 transportation service.

5 **Sec. 42.08.360. Uniform system of accounts.** An in-state natural gas pipeline
6 carrier operating under this chapter shall maintain its records and accounts in
7 accordance with the uniform system of accounts for class A natural gas pipelines in 18
8 C.F.R. 201 (Federal Energy Regulatory Commission), as amended.

9 **Sec. 42.08.370. Expansion; dispute resolution.** (a) A contract entered into by
10 an in-state natural gas pipeline carrier may provide for expansion unless the expansion
11 would cause the pipeline to be a competing natural gas pipeline project as defined in
12 AS 43.90.440 unless the project for which a license is issued under AS 43.90 has been
13 abandoned or is no longer receiving the inducements in AS 43.90.110(a).

14 (b) The recourse tariff or a contract filed by an in-state natural gas pipeline
15 carrier may include a dispute resolution procedure. A dispute resolution procedure
16 shall

17 (1) provide that notice of a dispute be given to all shippers;
18 (2) culminate in a process that is determined by an independent third
19 party or panel; and

20 (3) permit the participation of existing shippers and creditworthy
21 potential shippers that have previously made good faith requests for firm
22 transportation service; a participant must satisfy the commission's standard for
23 intervention in an adjudicatory proceeding and demonstrate that the participant has a
24 property, financial, or other significant interest in the dispute.

25 **Sec. 42.08.380. Regulatory cost charge.** (a) Each year, a person operating an
26 in-state natural gas pipeline under this chapter shall pay to the commission a
27 regulatory cost charge if the pipeline for which the charge is assessed is subject to this
28 chapter and the commission has taken action on the pipeline or certificate under this
29 chapter during the prior fiscal year. The amount of the regulatory cost charge may not
30 exceed the sum of the following percentages of gross revenue derived from operations
31 in the state:

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- (1) 0.7 percent to fund the operations of the commission; and
- (2) 0.17 percent to fund operations of the public advocacy function under AS 42.04.070(c) and AS 44.23.020(e) in the Department of Law.
- (b) The commission shall by regulation establish a method to determine annually the amount of the regulatory cost charge that will apply to a pipeline regulated under this chapter. If the amount the commission expects to collect under (a) of this section, AS 42.05.254(a), and AS 42.06.286(a) exceeds the authorized budgets of the commission and the Department of Law public advocacy function under AS 42.04.070(c) and AS 44.23.020(e), the commission shall, by order, reduce the percentage determined under a regulation adopted under this subsection so that the total amount of the fees collected approximately equals the authorized budgets of the commission and the Department of Law public advocacy function under AS 42.04.070(c) and AS 44.23.020(e) for the fiscal year.
- (c) The commission shall administer the charge imposed under this section. The Department of Revenue shall collect and enforce the charge imposed under this section. The Department of Administration shall identify the amount of the operating budgets of the commission and the Department of Law public advocacy function under AS 42.04.070(c) and AS 44.23.020(e) that lapse into the general fund each year. The legislature may appropriate an amount equal to the lapsed amount to the commission and to the Department of Law public advocacy function under AS 42.04.070(c) and AS 44.23.020(e) for operating costs for the next fiscal year. If the legislature does so, the commission shall reduce the total regulatory cost charge collected for that fiscal year by a comparable amount.
- (d) The commission may adopt regulations under AS 44.62 (Administrative Procedure Act) necessary to administer this section, including procedures and requirements for reporting information and a requirement for paying the regulatory cost charge in quarterly payments. The Department of Revenue may adopt regulations under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed information and for collecting required payments.
- Sec. 42.08.390. Effect of chapter on taxes and royalties.** Nothing in this chapter shall alter the calculation of a production tax under AS 43.55.011 - 43.55.180

1 or the calculation of a royalty due for a lease issued under AS 38.05.180.

2 **Article 4. Public Records; Investigations.**

3 **Sec. 42.08.400. Public records.** (a) Except as provided in (b) and (c) of this
4 section or prohibited from disclosure under state or federal law, records in the
5 possession of the commission are open to public inspection at reasonable times.

6 (b) The commission may by regulation classify records received from an in-
7 state natural gas pipeline carrier or in-state natural gas pipeline as privileged records
8 that are not open to the public for inspection.

9 (c) A record filed with the commission that is a precedent agreement between
10 an in-state natural gas pipeline carrier and an unregulated entity is a privileged record
11 that is not open to the public for inspection. For a record that relates to a precedent
12 agreement, or is or relates to a contract other than a precedent agreement between an
13 in-state natural gas pipeline carrier and an unregulated entity, if an in-state natural gas
14 pipeline carrier identifies the provisions of the record that contain information that, if
15 disclosed, could adversely affect the competitive position of the shipper or could cause
16 commercial or competitive harm or damage if disclosed and the commission agrees,
17 the information shall be treated by the commission as confidential.

18 (d) A person may make written objection to the public disclosure of
19 information contained in a record filed under this chapter or of information obtained
20 by the commission or by the attorney general under this chapter, stating the grounds
21 for the objection. When an objection is made, the commission shall order the
22 information withheld from public disclosure if the information adversely affects the
23 interest of the person making written objection and disclosure is not required in the
24 interest of the public.

25 (e) A commissioner may certify as to all official records of the commission
26 under this section and may certify as to all official acts of the commission under this
27 chapter.

28 **Sec. 42.08.410. Investigations.** The commission may investigate any matter
29 for which an investigation is authorized under this chapter. An investigation may be
30 public, nonpublic, or both. In conducting an investigation, the commission may
31 compel the attendance and testimony of witnesses and the production of records and

1 testimony before the commission or its designee. In the course of an investigation, the
 2 commission may, subject to AS 44.23.020(e), exclude from attendance at the taking of
 3 investigative testimony all persons except a person compelled to attend, that person's
 4 attorney, members of the commission or the commission's staff, and a person
 5 authorized to transcribe the proceedings.

6 **Article 5. Accounts, Records, and Reports.**

7 **Sec. 42.08.450. Accounts; records; triennial reports.** (a) To the extent
 8 necessary for the commission to perform the duties of the commission under this
 9 chapter,

10 (1) the commission may by regulation require an in-state natural gas
 11 pipeline carrier or affiliated interest engaged in activities relating to pipelines to
 12 establish and maintain as part of its system of accounts continuing property records
 13 showing, as to property that is actually being used in pipeline activity in this state, the
 14 year of placement in service, original cost, and current location, and, as to a pipeline
 15 system, accounts and records in a manner showing, on a current basis, the original cost
 16 of the system in the state and related reserves for depreciation;

17 (2) the in-state natural gas pipeline carrier shall

18 (A) keep its accounts for its pipeline facilities located in this
 19 state separate from any accounts relating to any other business, including
 20 another pipeline facilities business or a subsidiary business, in which it
 21 engages, directly or indirectly; except as the commission provides, property,
 22 expense, or revenue used in or derived from the other business may not be
 23 considered in establishing the rates and charges of the facility;

24 (B) keep books, accounts, papers, and records required by this
 25 chapter or by regulations adopted by the commission under this chapter in an
 26 office in this state and may not remove them from the state except upon written
 27 authority by the commission; and

28 (C) file a report with the commission that contains an updated
 29 cost study and a calculation of the three-year average actual return on equity;
 30 the report shall be filed every three years after the pipeline begins operations,
 31 within 90 days after the close of the annual accounting period for the in-state

natural gas pipeline carrier, or within additional time granted by the commission upon a showing of good cause.

(b) The commission shall review the cost study described in (a)(2)(C) of this section and verify that, for the rate elements specified in AS 42.08.350(b), the carrier is using the same elements that were last approved by the commission. If the carrier does not use the correct rate elements in its triennial report, the commission may require the carrier to recalculate and file a corrected report. If, on the date the report described in (a)(2)(C) of this section is delivered, the report reflects that the three-year average actual return on equity exceeds the approved rate of return, the carrier shall, not later than 90 days after the date the report is delivered, deposit an amount equal to the excess in a segregated operating reserve fund. The carrier shall continue to deposit the excess described in this subsection at the times described in this subsection until the amount in the operating reserve fund is equal to 20 percent of the most recent three-year average of the carrier's annual operating costs. The carrier may use money in the operating reserve fund to offset any shortage in the recovery of operating costs set out in another triennial report. If a deposit will cause the operating reserve fund to exceed 20 percent of the most recent three-year average of the carrier's annual operating costs, the amount exceeding 20 percent must be used to reduce, on a volumetric basis, the firm transportation service rates for all shippers for the next three-year period.

Article 6. General Provisions.

Sec. 42.08.510. Designation of service agents. An in-state natural gas pipeline carrier shall file with the commission a written appointment of a named permanent resident, which may be a corporation, of this state as its registered agent in this state on whom service of all notices, regulations, and requests of the commission may be made. The appointment shall specify the address in this state of the appointed agent. The address may be changed from time to time by filing a new address in the state with the commission. If an in-state natural gas pipeline carrier fails to appoint a registered agent, service of notices, regulations, and requests may be made by posting a copy in the main office of the commission and filing a copy in the office of the lieutenant governor.

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- Sec. 42.08.520. Effect of regulations.** Regulations adopted by the commission under this chapter have the effect of law.
- Sec. 42.08.530. Judicial review and enforcement.** (a) Except as provided in AS 38.35.200(c), a final order of the commission under this chapter is subject to judicial review under AS 44.62.560 and 44.62.570.
- (b) If an appeal is not taken from a final order of the commission within 10 calendar days after an investigation under AS 42.08.220(b)(3), the commission may apply to the superior court for enforcement of the order of the commission. The court shall enforce the order by injunction or other process.
- Sec. 42.08.540. Joinder of actions.** Under the applicable court rules, appeals from orders of the commission and applications for enforcement of orders of the commission may be joined. The court may, in the interests of justice, separate the actions.
- Sec. 42.08.900. Definitions.** In this chapter,
- (1) "commission" means the Regulatory Commission of Alaska (AS 42.04.010);
- (2) "commissioner" means a member of the commission;
- (3) "firm transportation service" means service by a natural gas pipeline carrier that is not subject to a prior claim by another shipper or another class of service; service constitutes "firm transportation service" if the service receives the same priority as any other class of firm transportation service;
- (4) "in-state natural gas pipeline" or "in-state natural gas pipeline facility" means a natural gas pipeline that transports or will transport natural gas in the state by way of contract carriage;
- (5) "in-state natural gas pipeline carrier" means the owner, including a corporation, company, or other entity organized under the laws of the United States or of any state, of an in-state natural gas pipeline or an interest in it, or a person, including a corporation, company, or other entity organized under the laws of the United States or of any state, that transports or will transport natural gas as a contract carrier;
- (6) "natural gas pipeline" has the meaning given in AS 31.25.390;

1 (7) "precedent agreement" means a contractual commitment, including
2 a presubscription agreement, to acquire firm transportation capacity, executed between
3 an in-state natural gas pipeline carrier and another person, that establishes the rates,
4 terms, and conditions for service;

5 (8) "record" means a report, file, book, account, paper, or application
6 and the facts and information contained in it.

7 * **Sec. 22.** AS 43.56.020 is amended by adding a new subsection to read:

8 (d) Taxable property of a natural gas pipeline project owned or financed by
9 the Alaska Gasline Development Corporation or a joint venture, partnership, or other
10 entity that includes the Alaska Gasline Development Corporation is exempt from state
11 taxes levied or authorized under AS 43.56.010(a) and local taxes levied or authorized
12 under AS 43.56.010(b) before the commencement of commercial operations of that
13 natural gas pipeline project. In this subsection, "commencement of commercial
14 operations" means the first flow of natural gas in the project that generates revenue to
15 the owners of the natural gas pipeline project.

16 * **Sec. 23.** AS 36.30.850(b)(45); AS 38.34.030, 38.34.040, 38.34.050, 38.34.060;
17 AS 39.25.110(11)(G); AS 39.50.200(b)(57); AS 41.41.010, 41.41.020, 41.41.030, 41.41.040,
18 41.41.050, 41.41.060, 41.41.070, 41.41.080, 41.41.090, 41.41.100, 41.41.110, 41.41.120,
19 41.41.130, 41.41.140, 41.41.150, 41.41.200, 41.41.300, 41.41.310, 41.41.320, 41.41.330,
20 41.41.340, 41.41.350, 41.41.360, 41.41.370, 41.41.380, 41.41.390, 41.41.400, 41.41.410,
21 41.41.450, 41.41.500, 41.41.900, and 41.41.990 are repealed.

22 * **Sec. 24.** Sections 1 and 5, 2002 Ballot Measure No. 3, are repealed.

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

25 **TRANSITION AND LEGISLATIVE INTENT.** (a) It is the intent of the legislature
26 that a right-of-way lease subject to AS 31.25.090(d), enacted by sec. 3 of this Act,
27 AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of
28 this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and AS 38.35.121, enacted by
29 sec. 11 of this Act, that is entered into between the commissioner of natural resources and the
30 Alaska Gasline Development Corporation before the effective dates of secs. 3 and 8 - 11 of
31 this Act be amended as soon as practicable after the effective dates of secs. 3 and 8 - 11 of this

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1 Act to conform to the requirements of AS 31.25.090(d), enacted by sec. 3 of this Act,
 2 AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of
 3 this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and AS 38.35.121, enacted by
 4 sec. 11 of this Act.

5 (b) The transition of the Alaska Gasline Development Corporation from a subsidiary
 6 of the Alaska Housing Finance Corporation to an independent public corporation of the state
 7 may not disrupt, interfere, or alter the work of the Alaska Gasline Development Corporation.
 8 The governor shall appoint the board of the Alaska Gasline Development Corporation as soon
 9 as practicable after the effective date of this Act. It is the intent of the legislature that the
 10 governor appoint the new board of the Alaska Gasline Development Corporation within 90
 11 days after the effective date of this Act. The board of the Alaska Housing Finance
 12 Corporation shall serve as the board of the Alaska Gasline Development Corporation until the
 13 governor appoints the board of the Alaska Gasline Development Corporation under this
 14 subsection. The board of directors of the Alaska Gasline Development Corporation shall work
 15 with the board of directors of the Alaska Housing Finance Corporation and the commissioner
 16 of commerce, community, and economic development to ensure the smooth transition of the
 17 Alaska Gasline Development Corporation to being an independent public corporation,
 18 including modifying the articles of incorporation of the Alaska Gasline Development
 19 Corporation.

20 (c) It is the intent of the legislature that the transition of the Alaska Gasline
 21 Development Corporation to being an independent public corporation of the state located for
 22 administrative purposes in the Department of Commerce, Community, and Economic
 23 Development be treated for all purposes only as a change of placement within the state and
 24 not as the creation of a new public corporation of the state.

25 (d) It is the intent of the legislature that the Alaska Housing Finance Corporation, the
 26 board of directors of the Alaska Gasline Development Corporation as a subsidiary created
 27 under AS 18.56.086 by the Alaska Housing Finance Corporation, and the commissioner of
 28 commerce, community, and economic development expeditiously amend the articles of
 29 incorporation, the bylaws, and other documents of the Alaska Gasline Development
 30 Corporation to reflect the change in the placement of the Alaska Gasline Development
 31 Corporation from being a subsidiary of the Alaska Housing Finance Corporation to being an

1 independent public corporation of the state as provided in AS 31.25, enacted by sec. 3 of this
2 Act.

3 (e) It is the intent of the legislature that the Alaska Housing Finance Corporation and
4 the commissioner of commerce, community, and economic development coordinate the
5 transition of the Alaska Gasline Development Corporation to its new placement within the
6 state as an independent public corporation of the state and assist the newly appointed board of
7 directors of the Alaska Gasline Development Corporation to ensure that the development of
8 an in-state natural gas pipeline is not unreasonably delayed because of the change in
9 placement within the state of the corporation.

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

12 REVISOR'S INSTRUCTIONS. The revisor of statutes shall change the catch lines of

13 (1) AS 38.35.120 from "Covenants required to be included in lease" to
14 "Covenants required to be included in lease to a pipeline that is not a natural gas pipeline
15 contract carrier"; and

16 (2) AS 38.35.200 from "Judicial review of decisions of commissioner on
17 application" to "Judicial review."

18 * **Sec. 27.** This Act takes effect immediately under AS 01.10.070(c).

