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**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 4(RESFIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE HOUSE ~~RESOURCES~~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

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

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

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

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

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

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

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

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

1 natural 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. ~~Members~~Public members of the board serve  
4 staggered ~~seven~~five-year terms. A public member ~~may be removed from office~~  
5 ~~by~~serves at the ~~governor only for cause. A removal by~~pleasure of the governor ~~must~~  
6 ~~be in writing, must state the reason for the removal, and must be made available to the~~  
7 ~~public~~. A vacancy shall be filled in the same manner as the original appointment.

8 (c) Notwithstanding AS 39.05.055, the terms of the initially appointed public  
9 members of the board shall be set by the governor to be two years for ~~one member~~two  
10 members, three years for ~~one member, two members, and~~ five years for one member;  
11 ~~and seven years for two members.~~

12 (d) The public members of the board ~~described in (a) of this section~~ receive  
13 \$400 compensation for each day spent on official business of the corporation and may  
14 be reimbursed by the corporation for actual and necessary expenses at the same rate  
15 paid to members of state boards under AS 39.20.180.

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

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

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

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

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

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

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

4 (e) An affirmative vote of at least ~~three~~four members of the board is required  
5 to approve

6 (1) the sale and issuance of bonds;

7 (2) the sale or other disposition of a substantial asset or substantial  
8 amount of the assets of the corporation; the corporation shall adopt a regulation that  
9 defines a substantial asset and a substantial amount of assets for the purposes of this  
10 paragraph;

11 (3) the ownership structure for a pipeline project of which the  
12 corporation is a participant;

13 (4) an action committing the corporation to an additional natural gas  
14 pipeline project; and

15 (5) action on other matters identified in a regulation adopted by the  
16 corporation as being subject to this subsection.

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

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

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

30 **Sec. 31.25.045. Executive director.** The corporation shall employ an  
31 executive director, who may not be a member of the board. The executive director

1 shall be appointed by the board and serves at the pleasure of the board.

2 **Sec. 31.25.050. Legal counsel.** The corporation shall retain ~~an attorney as~~  
3 legal counsel ~~for the corporation. The attorney retained by the corporation shall to~~  
4 advise the corporation in legal matters and represent it in ~~suits~~litigation.

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

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

13 **Sec. 31.25.070. Purpose.** The corporation shall, to the fullest extent possible,

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

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

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

31 **Sec. 31.25.080. Powers and duties.** (a) In addition to other powers granted in

1 this chapter, the corporation may

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

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

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

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

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

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

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

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

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



1 (10) advocate for new pipeline capacity before the Federal Energy  
2 Regulatory Commission;

3 (11) make and execute agreements, contracts, and other instruments  
4 necessary or convenient in the exercise of the powers and functions of the corporation  
5 under this chapter, including a contract with a person, firm, corporation, governmental  
6 agency, or other entity;

7 (12) sue and be sued in its own name;

8 (13) adopt an official seal;

9 (14) adopt bylaws for the regulation of its affairs and the conduct of its  
10 business and adopt regulations and policies in connection with the performance of its  
11 functions and duties;

12 (15) employ fiscal consultants, engineers, attorneys, appraisers, and  
13 other consultants and employees that may, in the judgment of the corporation, be  
14 required and fix and pay their compensation from funds available to the corporation;

15 (16) procure insurance against a loss in connection with its operation;

16 (17) borrow money as provided in this chapter to carry out its  
17 corporate purposes and issue its obligations as evidence of borrowing;

18 (18) include in a borrowing the amounts necessary to pay financing  
19 charges, interest on the obligations for a period not exceeding one year after the date  
20 on which the corporation estimates funds will otherwise be available to pay the  
21 interest, consultant, advisory, and legal fees, and other expenses that are necessary or  
22 incident to the borrowing;

23 (19) receive, administer, and comply with the conditions and  
24 requirements of an appropriation, gift, grant, or donation of property or money;

25 (20) do all acts and things necessary, convenient, or desirable to carry  
26 out the powers expressly granted or necessarily implied in this chapter;

27 (21) invest or reinvest, subject to its contracts with noteholders and  
28 bondholders, money or funds held by the corporation, including funds in the in-state  
29 natural gas pipeline fund (AS 31.25.100), in obligations or other securities or  
30 investments in which banks or trust companies in the state may legally invest funds  
31 held in reserves or sinking funds or funds not required for immediate disbursement,

1 and in certificates of deposit or time deposits secured by obligations of, or guaranteed  
2 by, the state or the United States.

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

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

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

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

29 **Sec. 31.25.090. Confidentiality; interagency cooperation.** (a) The  
30 corporation shall have access to information of departments, agencies, and public  
31 corporations of the state that is directly related to the planning, financing,

1 development, acquisition, maintenance, construction, or operation of an in-state  
2 natural gas pipeline. The corporation shall avoid duplicating studies, plans, and  
3 designs that have already been provided or obtained by other state entities. All  
4 departments, agencies, and public corporations of the state shall cooperate with and  
5 shall provide information, services, and facilities to the corporation upon its request  
6 and, except for requests from the Alaska Gasline Inducement Act coordinator  
7 (AS 43.90.250), give priority to requests of the corporation.

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

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

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

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

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

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

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

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

3 (e) After approval by the commissioner of natural resources, a right-of-way  
4 lease received by the corporation under (d) of this section may be transferred to a  
5 successor in interest under the same terms and conditions applicable to the right-of-  
6 way lease granted to the corporation.

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

13 (1) identify the applicable law or contract provision to the corporation;  
14 and

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

18 (g) ~~Information~~The portions of records containing information acquired or  
19 provided by the corporation under a confidentiality agreement ~~is~~are not subject to  
20 ~~disclosure under AS 40.25.110~~. The corporation may enter into confidentiality  
21 agreements with a public agency, as defined in AS 40.25.220, to allow release of  
22 confidential information. The portions of the records and files of a public agency  
23 bound by a confidentiality agreement that reflect, incorporate, or analyze information  
24 subject to a confidentiality agreement under this subsection are not public records.  
25 Confidentiality agreements entered into under this subsection are valid and binding  
26 against all parties in accordance with the terms of the confidentiality agreement.

27 ~~(h) The conduct of and results from field studies and other technical~~  
28 ~~information; trade secrets; and information~~(h) Information and trade secrets of the  
29 corporation are confidential and not subject to AS 40.25 if the corporation determines  
30 that disclosure would cause commercial or competitive harm or damage to the  
31 corporation. Information that discloses the particulars of a business or the affairs of a

1 private enterprise, investor, advisor, consultant, counsel, or manager that is developed  
2 or obtained by the corporation ~~relating and related~~ to the development, financing,  
3 construction, or operation of an in-state natural gas pipeline project by the corporation  
4 ~~are is~~ confidential and not subject to ~~disclosure under~~ AS 40.25.110. The corporation  
5 may waive the confidentiality ~~of the information~~ described in this subsection, except  
6 for information that is confidential under another provision of state law or under a  
7 federal law or regulation and except for information acquired from another person that  
8 is subject to a confidentiality agreement, if the waiver is consistent with the interests  
9 of the state and will facilitate the development, financing, or construction of an in-state  
10 natural gas pipeline. On the date that the in-state natural gas pipeline project becomes  
11 operational, the corporation shall make available ~~to the public information, upon~~  
12 request under AS 40.25, records that ~~would otherwise be were~~ exempt from ~~public~~  
13 ~~disclosure~~ AS 40.25 under this subsection or (g) of this section, unless the corporation  
14 determines that

15 (1) maintaining the confidentiality of the information is necessary to  
16 protect the economic interests of the corporation or the state; or

17 (2) disclosure of the information will violate another provision of state  
18 law, a federal law or regulation, or the terms of a confidentiality agreement or other  
19 agreement to which the corporation is a party or that is binding on the corporation.

20 **Sec. 31.25.100. In-state natural gas pipeline fund.** The in-state natural gas  
21 pipeline fund is established in the corporation and consists of money appropriated to  
22 it. The corporation shall determine fund management and may contract with the  
23 Department of Revenue for fund management. Unless otherwise provided by law,  
24 money appropriated to the fund lapses into the general fund on the day this section is  
25 repealed. Interest and other income received on money in the fund shall be separately  
26 accounted for and may be appropriated to the fund. The corporation may use money  
27 appropriated to the fund without further appropriation for the cost of managing the  
28 fund and for the planning, financing, development, acquisition, maintenance,  
29 construction, and operation of an in-state natural gas pipeline.

30 **Sec. 31.25.120. Creation of subsidiaries.** The corporation may create  
31 subsidiary corporations for the purpose of developing, constructing, operating, and

1 financing in-state natural gas pipeline projects; for the purpose of aiding in the  
2 development, construction, operation, and financing of in-state natural gas pipeline  
3 projects; or for the purpose of acquiring the state's royalty share of natural gas, natural  
4 gas from the North Slope, and natural gas from other regions of the state, including the  
5 state's outer continental shelf, and making that natural gas available to markets in the  
6 state ~~or for export.~~ including the delivery of natural gas, including propane and other  
7 hydrocarbons associated with natural gas other than oil, to coastal communities in the  
8 state, or for export. A subsidiary corporation created under this section may be  
9 incorporated under AS 10.20.146 - 10.20.166. The corporation may transfer assets of  
10 the corporation to a subsidiary created under this section. A subsidiary created under  
11 this section may borrow money and issue bonds as evidence of that borrowing and has  
12 all the powers of the corporation that the corporation grants to it. Unless otherwise  
13 provided by the corporation, the debts, liabilities, and obligations of a subsidiary  
14 corporation created under this section are not the debts, liabilities, or obligations of the  
15 corporation.

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

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

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

26 (d) Except as provided in (e) of this section, at least 15 days before the  
27 adoption, amendment, or repeal of a regulation, the board shall give public notice of  
28 the proposed action by posting notice on the corporation's Internet website and on the  
29 Alaska Online Public Notice System and by mailing a copy of the notice to every  
30 person who has filed a request for notice of proposed regulations with the board or the  
31 corporation. The public notice must include a statement of the time, place, and nature

1 of the proceedings for the adoption, amendment, or repeal of the regulation and must  
2 include an informative summary of the proposed subject of the regulation. On the date  
3 and at the time and place designated in the notice, the board shall give each interested  
4 person or an authorized representative, or both, the opportunity to present statements,  
5 arguments, or contentions in writing and shall give members of the public an  
6 opportunity to present oral statements, arguments, or contentions for a total period of  
7 at least one hour. The board shall consider all relevant matter presented to it before  
8 adopting, amending, or repealing a regulation. At a hearing under this subsection, the  
9 board may continue or postpone the hearing to a time and place that it determines. A  
10 regulation that is adopted, or its amendment or repeal, may vary in content from the  
11 informative summary specified in this subsection if the subject matter of the  
12 regulation, or its amendment or repeal, remains the same and the original notice was  
13 written to ensure that members of the public are reasonably notified of the proposed  
14 subject of the board's action in order for them to determine whether their interests  
15 could be affected by the board's action on that subject.

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

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

28 **Sec. 31.25.140. Exemption from the State Procurement Code**~~and;~~  
29 **application of the Executive Budget Act; corporation finances.** (a) The corporation  
30 and its subsidiaries are exempt from the provisions of AS 36.30 (State Procurement  
31 Code)~~and AS 37.07 (Executive Budget Act).~~

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

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

5 (1) annually review the corporation's assets, including the assets of the  
6 in-state natural gas pipeline fund under AS 31.25.100, to determine whether assets of  
7 the corporation exceed an amount required to fulfill the purposes of the corporation as  
8 defined in this chapter; in making its review, the board shall determine whether, and to  
9 what extent, assets in excess of the amount required to fulfill the purposes of the  
10 corporation during the next fiscal year are available without

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

12 (B) materially impairing the operations or financial integrity of  
13 the corporation; or

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

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

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

## 23 Article 2. Bonds and Notes.

24 ~~Sec. 31.25.150. Federal taxation of interest on bonds and bond anticipation~~  
25 ~~notes. If the interest on bonds or bond anticipation notes of the corporation becomes~~  
26 ~~taxable under the income tax laws of the United States, the legislature may appropriate~~  
27 ~~an amount sufficient to pay the outstanding principal of and interest on the bonds or~~  
28 ~~bond anticipation notes. Nothing in this section creates a debt or liability of the state.~~

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

31 (b) The principal of and interest on the bonds or notes are payable from



1 corporation funds. Bond anticipation notes may be payable from the proceeds of the  
2 sale of bonds or from the proceeds of sale of other bond anticipation notes or, in the  
3 event bond or bond anticipation note proceeds are not available, from other funds or  
4 assets of the corporation. Bonds or notes may be additionally secured by a pledge of a  
5 grant or contribution from the federal government, or a corporation, association,  
6 institution, or person, or a pledge of money, income, or revenue of the corporation  
7 from any source.

8 (c) Bonds or bond anticipation notes may be issued in one or more series and  
9 shall be dated, bear interest at the rate or rates a year or within the maximum rate, be  
10 in the denomination, be in the form, either coupon or registered, carry the conversion  
11 or registration provisions, have the rank or priority, be executed in the manner and  
12 form, be payable from the sources in the medium of payment and place or places  
13 within or outside the state, be subject to authentication by a trustee or fiscal agent, and  
14 be subject to the terms of redemption with or without premium, as the resolution of the  
15 corporation may provide. Bond anticipation notes shall mature at the time or times that  
16 are determined by the corporation. Bonds shall mature at a time, not exceeding 50  
17 years from their date, that is determined by the corporation. Before the preparation of  
18 definitive bonds or bond anticipation notes, the corporation may issue interim receipts  
19 or temporary bonds or bond anticipation notes, with or without coupons, exchangeable  
20 for bonds or bond anticipation notes when the definitive bonds or bond anticipation  
21 notes have been executed and are available for delivery.

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

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

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

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

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

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

8 (4) to covenant as to establishment of reserves or sinking funds and the  
9 making of provision for and the regulation and disposition of the reserves or sinking  
10 funds;

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

13 (6) to covenant as to bonds and notes to be issued, and their  
14 limitations, terms, and condition, and as to the custody, application, and disposition of  
15 the proceeds of the bonds and notes;

16 (7) to covenant as to the issuance of additional bonds or notes or as to  
17 limitations on the issuance of additional bonds or notes and the incurring of other  
18 debts;

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

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

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

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

29 (12) to covenant to create or authorize the creation of special funds of  
30 money to be held in pledge or otherwise for operating expenses, payment or  
31 redemption of bonds or notes, reserves, or other purposes, and as to the use and

1 disposition of the money held in the funds;

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

6 (14) to covenant as to the custody of any of its properties or  
7 investments, the safekeeping and insurance of its properties or investments, and the  
8 use and disposition of insurance money;

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

13 (16) to provide for the rights, liabilities, powers, and duties arising  
14 upon the breach of a covenant, condition, or obligation, and to prescribe the events of  
15 default and the terms and conditions on which any or all of the bonds, notes, or other  
16 obligations of the corporation become or may be declared due and payable before  
17 maturity and the terms and conditions on which a declaration and its consequences  
18 may be waived;

19 (17) to vest in a trustee or trustees within or outside the state the  
20 property, rights, powers, and duties in trust as the corporation may determine, which  
21 may include any or all of the rights, powers, and duties of a trustee appointed by the  
22 holders of the bonds or notes, and to limit or abrogate the right of the holders of the  
23 bonds or notes of the corporation to appoint a trustee under this chapter or limit the  
24 rights, powers, and duties of the trustee;

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

28 (19) to agree with a corporate trustee, which may be a trust company  
29 or bank having the powers of a trust company within or outside the state, as to the  
30 pledging or assigning of revenue or funds to which or in which the corporation has any  
31 rights or interest; the agreement may further provide for other rights and remedies

1 exercisable by the trustee as may be proper for the protection of the holders of the  
2 bonds or notes of the corporation and not otherwise in violation of law and may  
3 provide for the restriction of the rights of an individual holder of bonds or notes of the  
4 corporation;

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

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

10 (22) to make covenants other than and in addition to the covenants  
11 expressly authorized in this section, of like or different character, and to make  
12 covenants to do or refrain from doing acts and things as may be necessary, or as may  
13 be convenient and desirable, to better secure bonds or notes or that, in the absolute  
14 discretion of the corporation, would tend to make bonds or notes more marketable,  
15 notwithstanding that the covenants, acts, or things may not be enumerated in this  
16 section.

17 **Sec. 31.25.170. Independent financial advisor.** In negotiating the ~~private~~ sale  
18 of bonds or bond anticipation notes to an underwriter, the corporation may retain a  
19 financial advisor. A financial advisor retained under this section must be independent  
20 from the underwriter.

21 **Sec. 31.25.180. Validity of pledge.** The pledge of assets or revenue of the  
22 corporation to the payment of the principal of or interest on an obligation of the  
23 corporation is valid and binding from the time the pledge is made, and the assets or  
24 revenue are immediately subject to the lien of the pledge without physical delivery or  
25 further act. The lien of the pledge is valid and binding against all parties having claims  
26 of any kind in tort, contract, or otherwise against the corporation, regardless of  
27 whether those parties have notice of the lien of the pledge. This section does not  
28 prohibit the corporation from selling assets subject to a pledge, except that the sale  
29 may be restricted by the trust agreement or resolution providing for the issuance of the  
30 obligations.

31 **Sec. 31.25.190. Capital reserve funds.** ~~(a) For~~(a) The corporation may not

1 establish a capital reserve fund as described in this section except as expressly  
2 authorized by law. The enactment of this section does not express that authorization.  
3 Upon enactment of a law expressly authorizing the establishment of a capital reserve  
4 fund described in this section and for the purpose of securing one or more issues of its  
5 obligations, the corporation may establish one or more special funds, called "capital  
6 reserve funds," and shall pay into those capital reserve funds

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

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

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

13 (b) All money held in a capital reserve fund, except as provided in this section,  
14 shall be used as required, solely for the payment of the principal of obligations or of  
15 the sinking fund payments with respect to those obligations; the purchase or  
16 redemption of obligations; the payment of interest on obligations; or the payment of a  
17 redemption premium required to be paid when those obligations are redeemed before  
18 maturity. However, money in a fund may not, at any time, be withdrawn from the fund  
19 in an amount that would reduce the amount of that fund to less than the capital reserve  
20 requirement set out in (c) of this section, except for the purpose of making, with  
21 respect to those obligations, payment, when due, of principal, interest, redemption  
22 premiums, and the sinking fund payments for the payment of which other money of  
23 the corporation is not available. Income or interest earned by, or increment to, a capital  
24 reserve fund, because of the investment of the fund or other amounts in it, may be  
25 transferred by the corporation to other funds or accounts of the corporation to the  
26 extent that the transfer does not reduce the amount of the capital reserve fund below  
27 the capital reserve fund requirement.

28 (c) If the corporation decides to issue obligations secured by a capital reserve  
29 fund, the obligations may not be issued if the amount in the capital reserve fund is less  
30 than a percentage, not exceeding 10 percent of the principal amount of all of those  
31 obligations secured by that capital reserve fund then to be issued and then outstanding

1 in accordance with their terms, as may be established by resolution of the corporation  
2 (called the "capital reserve fund requirement"), unless the corporation, at the time of  
3 issuance of the obligations, deposits in the capital reserve fund from the proceeds of  
4 the obligations to be issued or from other sources, an amount that, together with the  
5 amount then in the fund, would not be less than the capital reserve fund requirement.

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

12 (e) The chair of the corporation shall annually, not later than January 2, make  
13 and deliver to the governor and chairs of the house and senate finance committees a  
14 certificate stating the sum, if any, required to restore a capital reserve fund to the  
15 capital reserve fund requirement. The legislature may appropriate that sum, and the  
16 corporation shall deposit all sums appropriated by the legislature during the then  
17 current fiscal year for the restoration in the proper capital reserve fund. Nothing in this  
18 section creates a debt or liability of the state.

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

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

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

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

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

9           **Sec. 31.25.230. Refunding obligations.** (a) The corporation may provide for  
10 the issuance of refunding obligations for the purpose of refunding obligations then  
11 outstanding that have been issued under this chapter, including the payment of the  
12 redemption premium on them and interest accrued or to accrue to the date of  
13 redemption of the obligations. The issuance of the obligations, the maturities and other  
14 details of them, the rights of the holders of them, and the rights, duties, and obligations  
15 of the corporation with respect to them are governed by the provisions of this chapter  
16 that relate to the issuance of obligations, insofar as those provisions may be  
17 appropriate.

18           (b) Refunding obligations may be sold or exchanged for outstanding  
19 obligations issued under this chapter and, if sold, the proceeds may be applied, in  
20 addition to other authorized purposes, to the purchase, redemption, or payment of the  
21 outstanding obligations. Pending the application of the proceeds of refunding  
22 obligations, with other available funds, to the payment of the principal of, accrued  
23 interest on, and any redemption premium on the obligations being refunded and, if so  
24 provided or permitted in the resolution authorizing the issuance of the refunding  
25 obligations or in the trust agreement securing them, to the payment of any interest on  
26 the refunding obligations and any expenses in connection with the refunding, the  
27 proceeds may be invested in direct obligations of, or obligations the principal of and  
28 the interest on which are unconditionally guaranteed by, the United States that mature  
29 or that will be subject to redemption, at the option of the holders of them, not later  
30 than the respective dates when the proceeds, together with the interest accruing on  
31 them, will be required for the purposes intended.

1           **Sec. 31.25.240. Credit of state not pledged.** (a) Obligations issued under this  
2 chapter do not constitute a debt, liability, or obligation of the state or of a political  
3 subdivision of the state or a pledge of the faith and credit of the state or of a political  
4 subdivision of the state but are payable solely from the revenue or assets of the  
5 corporation. Each obligation issued under this chapter shall contain on its face a  
6 statement that the corporation is not obligated to pay the obligation or the interest on  
7 the obligation except from the revenue or assets of the corporation and that neither the  
8 faith and credit nor the taxing power of the state or of any political subdivision of the  
9 state is pledged to the payment of the principal of or the interest on the obligation.  
10 This subsection applies to all debt, obligations, and liabilities of the corporation  
11 regardless of how the debt, obligations, or liabilities are created, including by contract,  
12 tort, or bond or note issuance. Except as provided in this subsection, a person may not  
13 bring suit against the state or a political subdivision of the state other than the  
14 corporation in the courts of the state to enforce or seek a remedy with respect to a  
15 debt, obligation, or liability of the corporation.

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

### 19                           **Article 3. General Provisions.**

20           **Sec. 31.25.250. Limitation on personal liability.** A member of the board or  
21 other officer of the corporation or a subsidiary of the corporation is not subject to  
22 personal liability or accountability because the member or officer executed or issued  
23 an obligation.

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

31           (b) All obligations issued under this chapter are declared to be issued by a



1 body corporate and public of the state and for an essential public and governmental  
2 purpose, and the obligations, and the interest and income on and from the obligations,  
3 and all fees, charges, funds, revenue, income, and other money pledged or available to  
4 pay or secure the payment of the obligations, or interest on the obligations, are exempt  
5 from taxation except for transfer, inheritance, and estate taxes.

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

10 (b) By January 10 of each year, the board shall prepare a report of the  
11 corporation. The board shall notify the governor and the legislature that the report is  
12 available, and publish notice to the public on the Alaska Online Public Notice System  
13 under AS 44.62.175 that the report is available on the corporation's Internet website.  
14 The report shall be written in easily understandable language. The report must include  
15 a financial statement audited by an independent outside auditor, ~~a comparison of the~~  
16 ~~corporation's performance with the goals of the corporation,~~ and any other information  
17 the board believes would be of interest to the governor, the legislature, and the public.  
18 The annual income statement and balance sheet of the corporation shall be published  
19 on the Internet. The board may also publish electronically or in print, at the  
20 corporation's discretion, other reports it considers desirable to carry out its purpose.

21 **Sec. 31.25.390. Definitions for AS 31.25.010 - 31.25.390.** In AS 31.25.010 -  
22 31.25.390, unless the context clearly indicates a different meaning,

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

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

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

28 (4) "governmental agency" means a department, division, public  
29 agency, political subdivision, or other public instrumentality of the state or the federal  
30 government;

31 (5) "in-state natural gas pipeline" means a natural gas pipeline for

1 transporting natural gas in the state;

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

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

8 (46) the Alaska Gasline Development Corporation (AS 31.25) and  
9 subsidiaries of the Alaska Gasline Development Corporation.

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

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

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

14 (1) "gas or electric utility" includes an electric cooperative organized  
15 under AS 10.25, a municipal utility, and a gas or electric utility regulated under  
16 AS 42.05; [PROVIDED THAT,] if the contract gas is transmitted to consumers  
17 through a pipeline and the gas utility either owns the pipeline or is related in  
18 ownership to the owner of the pipeline, then the gas utility qualifies as a "gas or  
19 electric utility" within the meaning of this paragraph only if it is bound or agrees to be  
20 bound by the covenants set out in AS 38.35.120 or 38.35.121, as applicable;

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

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

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

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

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

28 (d) The commissioner shall include in a conditional lease each requirement  
29 and condition of the covenants established under AS 38.35.120 or 38.35.121, as  
30 applicable. The commissioner may also require that the lessee agree to additional  
31 conditions that the commissioner finds to be in the public interest. In place of the

1 covenant established under AS 38.35.120(a)(9), the commissioner shall require the  
2 lessee to agree that it will not transfer, assign, pledge, or dispose of in any manner,  
3 directly or indirectly, its interest in a conditional right-of-way lease or a pipeline  
4 subject to the conditional lease, unless the commissioner, after considering the public  
5 interest and issuing written findings to substantiate a decision to allow the transfer,  
6 authorizes the transfer. The commissioner shall also require the lessee to agree not to  
7 allow the transfer of control of the lessee without the approval of the commissioner; as  
8 used in this subsection, "transfer of control of the lessee" means the transfer of 30  
9 percent or more, in the aggregate, of ownership interest in the lessee in one or more  
10 transactions to one or more persons by one or more persons.

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

12 (a) **Except as provided for a natural gas pipeline subject to AS 38.35.121,**  
13 **a** [A] noncompetitive lease of state land for a right-of-way for an oil or natural gas  
14 pipeline valued at \$1,000,000 or more may be granted only upon the condition that the  
15 lessee expressly covenants in the lease, in consideration of the rights acquired by it  
16 under the lease, that

17 (1) it assumes the status of and will perform all of its functions  
18 undertaken under the lease as a common carrier and will accept, convey, and transport  
19 without discrimination crude oil or natural gas, depending on the kind of pipeline  
20 involved, delivered to it for transportation from fields in the vicinity of the pipeline  
21 subject to the lease throughout its route both on state land obtained under the lease and  
22 on the other land; it will accept, convey, and transport crude oil or natural gas without  
23 unjust or unreasonable discrimination in favor of one producer or person, including  
24 itself, as against another but will take the crude oil or natural gas, depending on the  
25 kind of pipeline involved, delivered or offered, without unreasonable discrimination,  
26 that the Regulatory Commission of Alaska shall, after a full hearing with due notice to  
27 the interested parties and a proper finding of facts, determine to be reasonable in the  
28 performance of its duties as a common carrier; however, a lessee that owns or operates  
29 a natural gas pipeline

30 (A) subject to regulation either under **15 U.S.C. 717 et seq.**  
31 **(Natural Gas Act)** [THE NATURAL GAS ACT (15 U.S.C. 717 ET SEQ.) OF

1 THE UNITED STATES] or by the state or a political subdivision  
 2 [SUBDIVISIONS] with respect to rates and charges for the sale of natural gas,  
 3 is, to the extent of that regulation, exempt from the common carrier  
 4 requirement in this paragraph;

5 (B) that is a North Slope natural gas pipeline (i) is required to  
 6 operate as a common carrier only with respect to the intrastate transportation of  
 7 North Slope natural gas, as that term is defined in AS 42.06.630, and (ii) is not  
 8 required to operate as a common carrier as to a liquefied natural gas facility or  
 9 a marine terminal facility associated with the pipeline, and is not otherwise  
 10 required to perform its functions under the lease as a common carrier; for  
 11 purposes of this subparagraph, "North Slope natural gas pipeline" means all the  
 12 facilities of a total system of pipe, whether owned or operated under a contract,  
 13 agreement, or lease, used by a carrier for transportation of North Slope natural  
 14 gas, as defined by AS 42.06.630, for delivery, for storage, or for further  
 15 transportation, and including all pipe, [PUMP, OR] compressor stations,  
 16 station equipment, tanks, valves, access roads, bridges, airfields, terminals and  
 17 terminal facilities, including docks and tanker loading facilities, operations  
 18 control centers for both the upstream part of the pipeline and the terminal,  
 19 tanker ballast treatment facilities, fire protection system, communication  
 20 system, and all other facilities used or necessary for an integral line of pipe,  
 21 taken as a whole, to carry out transportation, including an extension or  
 22 enlargement of the line;

23 (2) it will interchange crude oil or natural gas, depending on the kind  
 24 of pipeline involved, with each like common carrier and provide connections and  
 25 facilities for the interchange of crude oil or natural gas at every locality reached by  
 26 both pipelines when the necessity exists, subject to rates and regulations made by the  
 27 appropriate state or federal regulatory agency;

28 (3) it will maintain and preserve books, accounts, and records and will  
 29 make those reports that the state may prescribe by regulation or law as necessary and  
 30 appropriate for purposes of administration of this chapter;

31 (4) it will accord at all reasonable times to the state and its authorized

1 agents and auditors the right of access to its property and records, of inspection of its  
2 property, and of examination and copying of records;

3 (5) it will provide connections, as determined by the Regulatory  
4 Commission of Alaska under AS 42.06.340, to facilities on the pipeline subject to the  
5 lease, both on state land and other land in the state, for the purpose of delivering crude  
6 oil or natural gas, depending on the kind of pipeline involved, to persons (including  
7 the state and its political subdivisions) contracting for the purchase at wholesale of  
8 crude oil or natural gas transported by the pipeline when required by the public  
9 interest;

10 (6) it shall, notwithstanding any other provision, provide connections  
11 and interchange facilities at state expense at [SUCH] places the state considers  
12 necessary if the state determines to take a portion of its royalty or taxes in oil or  
13 natural gas;

14 (7) it will construct and operate the pipeline in accordance with  
15 applicable state laws and lawful regulations and orders of the Regulatory Commission  
16 of Alaska;

17 (8) it will, at its own expense, during the term of the lease,

18 (A) maintain the leasehold and pipeline in good repair;

19 (B) promptly repair or remedy [ANY] damage to the leasehold;

20 (C) promptly compensate for [ANY] damage to or destruction  
21 of property for which the lessee is liable resulting from damage to or  
22 destruction of the leasehold or pipeline;

23 (9) it will not transfer, assign, or dispose of, in any manner, directly or  
24 indirectly, or by transfer of control of the carrier corporation, its interest in a right-of-  
25 way lease, or [ANY] rights under the lease or a [ANY] pipeline subject to the lease to  
26 a [ANY] person other than another owner of the pipeline (including subsidiaries,  
27 parents, and affiliates of the owners), except to the extent that the commissioner, after  
28 consideration of the protection of the public interest (including whether the proposed  
29 transferee is fit, willing, and able to perform the transportation or other acts proposed  
30 in a manner that will reasonably protect the lives, property, and general welfare of the  
31 people of Alaska), authorizes; the commissioner shall not unreasonably withhold

1 consent to the transfer, assignment, or disposal;

2 (10) it will file with the commissioner a written appointment of a  
3 named permanent resident of the state to be its registered agent in the state and to  
4 receive service of notices, regulations, decisions, and orders of the commissioner; if it  
5 fails to appoint an agent for service, service may be made by posting a copy in the  
6 office of the commissioner, filing a copy in the office of the lieutenant governor, and  
7 mailing a copy to the lessee's last known address;

8 (11) the applicable law of this state will be used in resolving questions  
9 of interpretation of the lease;

10 (12) the granting of the right-of-way lease is subject to the express  
11 condition that the exercise of the rights and privileges granted under the lease will not  
12 unduly interfere with the management, administration, or disposal by the state of the  
13 land affected by the lease, and that the lessee agrees and consents to the occupancy  
14 and use by the state, its grantees, permittees, or other lessees of any part of the right-  
15 of-way not actually occupied or required by the pipeline for the full and safe  
16 utilization of the pipeline, for necessary operations incident to land management,  
17 administration, or disposal;

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

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

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

28 (b) **Except as provided for a natural gas pipeline subject to AS 38.35.121,**  
29 **for** [FOR] a right-of-way lease granted under this chapter for an oil or natural gas  
30 pipeline valued at \$1,000,000 or more to be valid and of legal effect, it must contain  
31 the terms required to be inserted under the provisions of AS 38.35.110 - 38.35.140. An

1 oil or natural gas pipeline right-of-way lease granted under this chapter **and subject to**  
2 **this section** that does not contain the required terms is null and void and without legal  
3 effect and does not vest any interest in state land or any authority in the carrier granted  
4 the lease.

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

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

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

14 (2) it will interchange natural gas and provide connections with each  
15 public utility pipeline, common carrier pipeline, or contract carrier pipeline, and  
16 facilities for the interchange of natural gas at every locality reached by both pipelines  
17 when the necessity exists, as provided in contracts on file with the Regulatory  
18 Commission of Alaska;

19 (3) it assumes the status of and will perform all of its functions  
20 undertaken under the lease as a contract carrier and, subject to contracts with shippers,  
21 will accept, convey, and transport, without discrimination, natural gas delivered to it  
22 for transportation from fields in the vicinity of the pipeline subject to the right-of-way  
23 lease throughout the pipeline route, both on state land obtained under the lease and on  
24 other land, and that, subject to contracts with shippers, it will accept, convey, and  
25 transport natural gas without unjust or unreasonable discrimination in favor of itself or  
26 one producer or person against another, but will take the natural gas delivered or  
27 offered without unreasonable discrimination;

28 (4) it will expand the natural gas pipeline on commercially reasonable  
29 terms that, when possible, encourage exploration and development of gas resources in  
30 this state without increasing transportation costs for a shipper except as provided for in  
31 the contract with the shipper; in this paragraph, "commercially reasonable terms"

1 means terms that produce sufficient revenue from transportation contracts to cover the  
2 cost of the expansion, including increased fuel costs and a reasonable return on capital,  
3 without impairing the ability of the pipeline to recover the costs of existing facilities;

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

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

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

14 (1) "competing natural gas pipeline project" has the meaning given in  
15 AS 43.90.440;

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

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

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

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

22 (c) Except as provided for an applicant in (a) of this section and  
23 notwithstanding any contrary provision of law, an action or decision of the  
24 commissioner or other state officer or agency concerning the issuance or approval of a  
25 necessary right-of-way, permit, lease, certificate, license, or other authorization for the  
26 planning, financing, acquisition, maintenance, development, construction, or initial  
27 operation of a natural gas pipeline by the Alaska Gasline Development Corporation  
28 under AS 31.25 that uses a right-of-way subject to this chapter may not be subject to  
29 judicial review, except that a claim alleging the invalidity of this subsection must be  
30 brought within 60 days after the effective date of this Act, and a claim alleging that an  
31 action will deny rights under the Constitution of the State of Alaska must be brought



1 within 60 days following the date of that action. A claim that is not filed within the  
2 limitations established in this subsection is barred. A complaint under this subsection  
3 must be filed in superior court, and the superior court has exclusive jurisdiction.  
4 Notwithstanding AS 22.10.020(c), except in conjunction with a final judgment on a  
5 claim filed under this subsection, the superior court may not grant injunctive relief,  
6 including a temporary restraining order, preliminary injunction, permanent injunction,  
7 or stay, against the issuance of a necessary right-of-way, permit, lease, certificate,  
8 license, or other authorization for the planning, financing, acquisition, maintenance,  
9 development, construction, or initial operation of a natural gas pipeline by the Alaska  
10 Gasline Development Corporation. In this subsection, "natural gas pipeline" has the  
11 meaning given in AS 38.34.099.

12 (d) An appeal of a permitting decision or authorization by the Department of  
13 Environmental Conservation under AS 46.03 or AS 46.14 that is made under a  
14 program approved or delegated by the United States Environmental Protection Agency  
15 is not

16 (1) subject to the limitation in (a) of this section;

17 (2) included in the actions or decisions described in (c) of this section.

18 \* **Sec. 14.** AS 39.25.110(11) is amended by adding a new subparagraph to read:

19 (H) Alaska Gasline Development Corporation and subsidiaries  
20 of the Alaska Gasline Development Corporation;

21 \* **Sec. 15.** AS 39.50.200(b) is amended by adding a new paragraph to read:

22 (64) the board of directors of the Alaska Gasline Development  
23 Corporation or the board of directors of a subsidiary of the Alaska Gasline  
24 Development Corporation.

25 \* **Sec. 16.** AS 40.25.120(a) is amended to read:

26 (a) Every person has a right to inspect a public record in the state, including  
27 public records in recorders' offices, except

28 (1) records of vital statistics and adoption proceedings, which shall be  
29 treated in the manner required by AS 18.50;

30 (2) records pertaining to juveniles unless disclosure is authorized by  
31 law;

- 1 (3) medical and related public health records;
- 2 (4) records required to be kept confidential by a federal law or  
3 regulation or by state law;
- 4 (5) to the extent the records are required to be kept confidential under  
5 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure  
6 or retain federal assistance;
- 7 (6) records or information compiled for law enforcement purposes, but  
8 only to the extent that the production of the law enforcement records or information
- 9 (A) could reasonably be expected to interfere with enforcement  
10 proceedings;
- 11 (B) would deprive a person of a right to a fair trial or an  
12 impartial adjudication;
- 13 (C) could reasonably be expected to constitute an unwarranted  
14 invasion of the personal privacy of a suspect, defendant, victim, or witness;
- 15 (D) could reasonably be expected to disclose the identity of a  
16 confidential source;
- 17 (E) would disclose confidential techniques and procedures for  
18 law enforcement investigations or prosecutions;
- 19 (F) would disclose guidelines for law enforcement  
20 investigations or prosecutions if the disclosure could reasonably be expected to  
21 risk circumvention of the law; or
- 22 (G) could reasonably be expected to endanger the life or  
23 physical safety of an individual;
- 24 (7) names, addresses, and other information identifying a person as a  
25 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the  
26 advance college tuition savings program under AS 14.40.803 - 14.40.817;
- 27 (8) public records containing information that would disclose or might  
28 lead to the disclosure of a component in the process used to execute or adopt an  
29 electronic signature if the disclosure would or might cause the electronic signature to  
30 cease being under the sole control of the person using it;
- 31 (9) reports submitted under AS 05.25.030 concerning certain

1 collisions, accidents, or other casualties involving boats;

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

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

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

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

14 (11) the written notification regarding a proposed regulation provided  
15 under AS 24.20.105 to the Department of Law and the affected state agency and  
16 communications between the Legislative Affairs Agency, the Department of Law, and  
17 the affected state agency under AS 24.20.105;

18 (12) records that are

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

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

23 **(13) information of the Alaska Gasline Development Corporation**  
24 **created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development**  
25 **Corporation that is confidential by law or under a valid confidentiality**  
26 **agreement.**

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

28 (a) Except as provided in AS 42.05.171 or AS 42.06.140, when a matter  
29 comes for decision before the commission under AS 42.05, [OR] AS 42.06, **or**  
30 **AS 42.08**, the chair shall appoint a hearing panel composed of three or more members  
31 to hear, or if a hearing is not required, to otherwise consider, and decide the case. The

1 panel shall exercise the powers of the commission with respect to the matter.

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

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

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

13 (c) A public utility negotiating to contract for the storage of natural gas  
14 shipped in an in-state natural gas pipeline regulated under AS 42.08 shall submit the  
15 contract to the commission before the contract takes effect.

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

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

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

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

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

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

5                           **Chapter 08. In-State Pipeline Contract Carrier.**

6                                   **Article 1. Application of Chapter; Purpose.**

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

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

12           **Sec. 42.08.020. Qualification of the Alaska Gasline Development**  
13 **Corporation; findings.** (a) The Alaska Gasline Development Corporation is  
14 financially fit, willing, and able to take the actions, perform the service, and conform  
15 to the requirements of this chapter.

16                   (b) The board of directors and the officers of the Alaska Gasline Development  
17 Corporation are managerially fit, willing, and able to manage the Alaska Gasline  
18 Development Corporation and to take the actions, perform the service, and conform to  
19 the requirements of this chapter.

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

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

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

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

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

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

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

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

(4) provide all reasonable assistance to the Department of Law in intervening in, offering evidence in, and participating in proceedings before an officer, department, board, commission, or court of another state or the United States involving an in-state natural gas pipeline carrier or an affiliated interest and affecting the interests of the state.

(b) The commission may

(1) review and approve recourse tariffs filed by an in-state natural gas pipeline carrier under this chapter;

(2) review and approve contracts;

(3) investigate on its own motion or after receiving a complaint, a dispute

(A) related to rules, regulations, services, practices, and facilities that are not subject to the dispute resolution provisions in an in-state natural gas pipeline carrier's contracts or recourse tariff;

(B) presented by a complainant that does not have a contract with the in-state natural gas pipeline carrier;

(C) related to the conduct of an in-state natural gas pipeline

1 carrier's open season under AS 42.08.300; ~~to resolve the dispute, the~~  
2 commission may order an expansion of an in-state natural gas pipeline or order  
3 an open season under the terms provided for an expansion or open season in  
4 this chapter or AS 38.35.121(a)(4) and (c); or

5 (D) related to an unreasonable diminution in quantity or quality  
6 in the provision of service to a public utility that

7 (i) is a violation of the in-state natural gas pipeline  
8 carrier's tariff or contract with the public utility;

9 (ii) has not been resolved by the in-state natural gas  
10 pipeline carrier; and

11 (iii) will result in immediate injury, loss, or damage to  
12 the peace, health, safety, or general welfare of the public as clearly  
13 demonstrated by specific facts shown by affidavit or verified  
14 complaint;

15 (4) adopt regulations that are necessary and proper to the performance  
16 of the duties of the commission under this chapter, including regulations governing  
17 practices and procedures of the commission; regulations adopted by the commission  
18 may not be inconsistent with state law;

19 (5) initiate, intervene in, and appear personally or by counsel and offer  
20 evidence in and participate in, proceedings before an officer, department, board,  
21 commission, or court of this state involving an in-state natural gas pipeline carrier and  
22 affecting the interests of the state; and

23 (6) appoint a qualified, unbiased, and impartial administrative law  
24 judge with experience in the general practice of law to conduct hearings under this  
25 chapter; the administrative law judge may perform other duties in connection with the  
26 administration of this chapter and other laws; an administrative law judge hired to  
27 conduct hearings under this chapter shall have been admitted to practice law for at  
28 least five years immediately before appointment under this paragraph.

29 ~~(c)~~ Except with regard to a precedent agreement under AS 42.08.320(a) that  
30 is filed before the issuance of a certificate, consideration of an application for a  
31 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

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

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

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

**Sec. 42.08.250. Application of Administrative Procedure Act.** (a) The administrative adjudication procedures of AS 44.62 (Administrative Procedure Act)



1 do not apply to adjudicatory proceedings of the commission under this chapter, except  
2 that final administrative determinations by the commission are subject to judicial  
3 review under AS 44.62 (Administrative Procedure Act) as provided in AS 42.08.530.

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

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

### 12 **Article 3. Contract Review; Contract Carriage Certificate; Open Seasons.**

13 **Sec. 42.08.300. Open seasons.** (a) An in-state natural gas pipeline carrier shall  
14 include in its approved recourse tariff the procedures for conducting open seasons for  
15 uncommitted firm transportation service and for expansion. At a minimum, the in-state  
16 natural gas pipeline carrier shall publish reasonable public notice in advance of an  
17 open season. The notice shall contain the approved recourse tariff, the proposed form  
18 of the precedent agreement, the proposed form of the firm transportation service  
19 agreement, and other information sufficient to show the proposed route, capacity,  
20 operating pressures, in-service date, quality specifications, and other operating  
21 conditions that the pipeline carrier determines are relevant to an evaluation of the  
22 proposed service. The notice shall also state the methods for awarding capacity and  
23 whether presubscription agreements have been executed. An in-state natural gas  
24 pipeline carrier shall provide a mechanism for providing additional relevant  
25 information requested by potential shippers.

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

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

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

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

12 (f) An in-state natural gas pipeline carrier shall file revised recourse rates  
13 before conducting an open season under (c) and (d) of this section unless the in-state  
14 natural gas pipeline carrier filed revised recourse rates during the immediately  
15 preceding two-year period.

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

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

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

30 (d) An in-state natural gas pipeline carrier shall provide interruptible  
31 transportation service through capacity not used for firm transportation service. An in-

1 state natural gas pipeline carrier shall establish means for routinely advising potential  
2 shippers of the availability of interruptible transportation service and of uncommitted  
3 firm transportation capacity.

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

14 (b) In the review of a precedent agreement submitted under (a) of this section  
15 or a related contract submitted under AS 42.05.433(b) or (c), the commission shall

16 (1) conclude that a precedent agreement or related contract negotiated  
17 at arm's length between the parties is just and reasonable unless the commission finds  
18 that unlawful market activity affected the rate or unfair dealing, such as fraud or  
19 duress, affected the formation of the contract;

20 (2) review and may conduct an investigation and hearing to determine  
21 whether a contract submitted under (a) of this section is just and reasonable; the  
22 commission shall either approve the contract as presented or, if the commission finds  
23 that a contract is not just and reasonable, disapprove the contract; if the commission  
24 has not acted within 180 days after the submission of a contract, the contract shall be  
25 considered approved and shall take effect immediately; a contract that is approved or  
26 considered approved under this paragraph and the associated firm transportation  
27 service agreement are not subject to further review by the commission.

28 (c) For purposes of (b)(1) of this section, a precedent agreement or related  
29 contract is arm's length

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

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

1 (A) the precedent agreement or related contract is between two  
2 state-owned parties;

3 (B) the parties are not affiliated; or

4 (C) if the parties are affiliated, the precedent agreement or  
5 related contract is substantially similar to a precedent agreement or related  
6 contract between unaffiliated parties, and the formation of the precedent  
7 agreement or related contract was not affected by unlawful market activity or  
8 unfair dealing as described in (b)(1) of this section.

9 (d) If a precedent agreement or related contract is not arm's length, the  
10 commission shall determine whether the precedent agreement or related contract is  
11 just and reasonable using the standards normally applied under AS 42.06.140. If the  
12 commission is reviewing a precedent agreement under (c)(2) of this section, the  
13 commission may consider the in-state natural gas pipeline carrier's approved recourse  
14 tariff, including the cost data underlying that tariff. When considering whether to  
15 approve a contract as just and reasonable under this subsection, the commission shall  
16 consider the consequences of failing to approve the contract.

17 **Sec. 42.08.330. Contract carriage certificate.** (a) The owner of an in-state  
18 natural gas pipeline subject to this chapter may not engage in the transportation of  
19 natural gas or undertake the construction of a natural gas pipeline facility for that  
20 purpose, or acquire or operate an in-state natural gas pipeline facility, unless a  
21 certificate of public convenience and necessity by the commission authorizing contract  
22 carriage is in force with respect to that owner. A certificate shall describe the nature  
23 and extent of the authority granted, including, as appropriate for the services involved,  
24 a description of the authorized area and scope of operation for the in-state natural gas  
25 pipeline facility.

26 (b) Application for a certificate shall be made in writing to the commission  
27 and verified under oath. The commission by regulation shall establish the  
28 requirements for the form of the application and the information to be contained in the  
29 application. Notice of the application shall be provided to interested parties in the  
30 manner provided by regulation.

31 (c) Within 180 days after receiving an application under this chapter, the

1 commission shall issue a contract carriage certificate authorizing, in whole or in part,  
2 the operation, service, construction, or acquisition covered by the application to a  
3 qualified applicant if the commission finds that the applicant is fit, willing, and able to  
4 do the acts, perform the proposed service, and conform to the provisions of this  
5 chapter and the requirements of the commission, and that the proposed service,  
6 operation, construction, extension, or acquisition, to the extent authorized by the  
7 certificate, is or will be required by the present or future public convenience and  
8 necessity. The commission may, by order, extend the 180-day period for considering  
9 an application by the duration of a delay caused by the failure of the applicant to  
10 provide additional information reasonably required by the commission. If, within the  
11 180-day period and any extension of the period for considering the application, the  
12 commission fails to issue a contract carriage certificate and does not make a finding  
13 that the applicant is not fit, willing, and able under this subsection or that the proposed  
14 service is not required by public convenience and necessity, the application shall be  
15 considered approved and the contract carriage certificate shall take effect immediately.

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

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

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

- 29 (1) misrepresentation of a material fact in obtaining the certificate;  
30 (2) unauthorized discontinuance or abandonment of all or part of a  
31 service that is the subject of the certificate;

1 (3) wilful failure to comply with the provisions of this chapter or a  
2 regulation or order of the commission; or

3 (4) wilful failure to comply with a term, condition, or limitation of the  
4 certificate.

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

12 **Sec. 42.08.340. Filing requirements; recourse tariffs.** (a) An in-state natural  
13 gas pipeline carrier shall file with the commission a complete recourse tariff  
14 containing rates, rules, regulations, terms, and conditions pertaining to service  
15 provided under the certificate and copies of all contracts with shippers that in any way  
16 affect or relate to the carrier's rates, tariffs, charges, classifications, rules, regulations,  
17 terms, and conditions to service provided under the certificate.

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

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

31 (d) The commission may reject the filing of all or part of a recourse tariff that

1 is not consistent with this chapter. A recourse tariff rate or provision so rejected is  
2 void.

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

5 **Sec. 42.08.350. Initial or revised rates.** (a) An in-state natural gas pipeline  
6 carrier may not establish or place in effect an initial recourse tariff containing rates,  
7 charges, rules, regulations, conditions of service, or practices without providing notice  
8 to the commission and to the public at least 30 days before establishing or placing in  
9 effect the initial recourse tariff. Notice shall be filed with the commission before an  
10 open season and by making the recourse tariff provisions available for public  
11 inspection. The notice shall plainly indicate the time when the recourse tariff will go  
12 into effect and include a supporting cost model. The commission may prescribe  
13 additional requirements for the notice and the form in which the notice must be  
14 provided. The commission, for good cause shown, may allow initial recourse tariffs to  
15 take effect on less than 30 days' notice under conditions the commission prescribes by  
16 order. Submission of a precedent agreement or an associated contract is not subject to  
17 this section.

18 (b) The commission shall review the proposed initial recourse tariff and verify  
19 that the proposed terms and conditions of service are not unduly discriminatory. The  
20 commission also shall review the supporting cost model provided with an initial  
21 recourse tariff filing and verify, taking into consideration the expected risks, that the  
22 proposed rate of return on equity is within the range of permissible rates of return as  
23 determined by the Federal Energy Regulatory Commission in recent decisions related  
24 to the construction of natural gas pipelines, that the cost model incorporates a  
25 reasonable depreciation methodology and ~~economic~~depreciable life, and that the cost  
26 model uses a reasonable capital structure. A proposed depreciation methodology,  
27 economic life, or capital structure is reasonable if it is commonly accepted or used by  
28 the commission or the Federal Energy Regulatory Commission.

29 ~~(c)~~ Upon written complaint or in its own motion, and after reasonable notice,  
30 the commission may conduct a hearing to determine whether the initial recourse tariff  
31 filed with the commission complies with the requirements in (b) of this section.

1 Pending a hearing the commission may, by order stating the reasons for its action,  
2 suspend the operation of the initial recourse tariff for a period not longer than 90 days  
3 beyond the time when the initial recourse tariff would otherwise go into effect. An  
4 order suspending an initial recourse tariff filing may be vacated if, after investigation,  
5 the commission finds that it is in all respects proper. Otherwise the commission shall  
6 hold a hearing on the suspended filing and issue its order, before the end of the  
7 suspension period, granting or denying the suspended initial recourse tariff.

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

14 (de) An in-state natural gas pipeline carrier may not establish or place in effect  
15 a revised rate, charge, rule, regulation, condition of service, or practice contained in a  
16 recourse tariff before providing notice to the commission and to the public at least 90  
17 days before taking the action. After construction or an expansion of the pipeline, and  
18 at any time~~thereafter~~ that a carrier files for a revised recourse rate, the carrier shall file  
19 a supporting cost study. Notice shall be given by filing with the commission and  
20 keeping open for public inspection the revised recourse tariff provisions, which shall  
21 plainly indicate the changes to be made in the schedules then in force and the time  
22 when the changes will go into effect. The commission may prescribe additional means  
23 of giving notice. The commission, for good cause shown, may allow changes to take  
24 effect on shorter notice under conditions the commission prescribes by order.  
25 Submission of a precedent agreement or an associated contract is not subject to this  
26 subsection.

27 (ef) The commission shall review ~~the~~a proposed revised recourse tariff ~~and~~  
28 ~~verify that a new or revised term or condition of service is not unduly discriminatory.~~  
29 ~~The commission shall in the same manner as the~~ review ~~the cost study supporting of a~~  
30 ~~revised~~proposed initial recourse tariff ~~filing and verify that, for the rate elements~~  
31 ~~specified in~~under (b) of this section, except that the depreciable life may be adjusted



1 in accordance with the time period between the approval of the recourse tariff and the  
2 approval of the revised recourse tariff. The commission shall verify that the carrier is  
3 using the same elements that were last approved by the commission. A proposed  
4 recourse tariff with a new or revised term or condition of service that is unduly  
5 discriminatory shall be denied. The commission also shall deny a revised tariff rate  
6 that does not use the previously approved value of the specified rate element, unless  
7 the carrier proves that the new value is just and reasonable. If the commission does not  
8 issue its ruling within 90 days, the revised recourse tariff filing shall be considered  
9 approved.

10 (fg) A person initiating a change in an existing recourse tariff bears the burden  
11 of proving the reasonableness of the change. The in-state natural gas pipeline carrier  
12 bears the burden of proving the recourse tariff terms and conditions are not unduly  
13 discriminatory.

14 (gh) An in-state natural gas pipeline carrier shall provide for separate rates for  
15 one or more classes of firm transportation service and for interruptible transportation  
16 service in a recourse tariff filed with the commission under (a) of this section. An in-  
17 state natural gas pipeline carrier may impose a reservation fee or similar charge for  
18 reservation of capacity in an in-state natural gas pipeline as a condition of providing  
19 firm transportation service, but may not impose a reservation fee or similar charge for  
20 reservation of capacity in an in-state natural gas pipeline for interruptible  
21 transportation service.

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

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

31 (b) The recourse tariff or a contract filed by an in-state natural gas pipeline

1 carrier may include a dispute resolution procedure. A dispute resolution procedure  
2 shall

- 3 (1) provide that notice of a dispute be given to all shippers;
- 4 (2) culminate in a process that is determined by an independent third  
5 party or panel; and
- 6 (3) permit the participation of existing shippers and creditworthy  
7 potential shippers that have previously made good faith requests for firm  
8 transportation service; a participant must satisfy the commission's standard for  
9 intervention in an adjudicatory proceeding and demonstrate that the participant has a  
10 property, financial, or other significant interest in the dispute.

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

- 18 (1) 0.7 percent to fund the operations of the commission; and
- 19 (2) 0.17 percent to fund operations of the public advocacy function  
20 under AS 42.04.070(c) and AS 44.23.020(e) in the Department of Law.

21 (b) The commission shall by regulation establish a method to determine  
22 annually the amount of the regulatory cost charge that will apply to a pipeline  
23 regulated under this chapter. If the amount the commission expects to collect under (a)  
24 of this section, AS 42.05.254(a), and AS 42.06.286(a) exceeds the authorized budgets  
25 of the commission and the Department of Law public advocacy function under  
26 AS 42.04.070(c) and AS 44.23.020(e), the commission shall, by order, reduce the  
27 percentage determined under a regulation adopted under this subsection so that the  
28 total amount of the fees collected approximately equals the authorized budgets of the  
29 commission and the Department of Law public advocacy function under  
30 AS 42.04.070(c) and AS 44.23.020(e) for the fiscal year.

31 (c) The commission shall administer the charge imposed under this section.

1 The Department of Revenue shall collect and enforce the charge imposed under this  
2 section. The Department of Administration shall identify the amount of the operating  
3 budgets of the commission and the Department of Law public advocacy function  
4 under AS 42.04.070(c) and AS 44.23.020(e) that lapse into the general fund each year.  
5 The legislature may appropriate an amount equal to the lapsed amount to the  
6 commission and to the Department of Law public advocacy function under  
7 AS 42.04.070(c) and AS 44.23.020(e) for operating costs for the next fiscal year. If the  
8 legislature does so, the commission shall reduce the total regulatory cost charge  
9 collected for that fiscal year by a comparable amount.

10 (d) The commission may adopt regulations under AS 44.62 (Administrative  
11 Procedure Act) necessary to administer this section, including procedures and  
12 requirements for reporting information and a requirement for paying the regulatory  
13 cost charge in quarterly payments. The Department of Revenue may adopt regulations  
14 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed  
15 information and for collecting required payments.

16 **Sec. 42.08.390. Effect of chapter on taxes and royalties.** Nothing in this  
17 chapter shall alter the calculation of a production tax under AS 43.55.011 - 43.55.180  
18 or the calculation of a royalty due for a lease issued under AS 38.05.180.

#### 19 **Article 4. Public Records; Investigations.**

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

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

26 (c) A record filed with the commission that is a precedent agreement between  
27 an in-state natural gas pipeline carrier and an unregulated entity is a privileged record  
28 that is not open to the public for inspection. For a record that relates to a precedent  
29 agreement, or is or relates to a contract other than a precedent agreement between an  
30 in-state natural gas pipeline carrier and an unregulated entity, if an in-state natural gas  
31 pipeline carrier identifies the provisions of the record that contain information that, if

disclosed, could adversely affect the competitive position of the shipper or could cause commercial or competitive harm or damage if disclosed and the commission agrees, the information shall be treated by the commission as confidential.

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

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

**Sec. 42.08.410. Investigations.** The commission may investigate any matter for which an investigation is authorized under this chapter. An investigation may be public, nonpublic, or both. In conducting an investigation, the commission may compel the attendance and testimony of witnesses and the production of records and testimony before the commission or its designee. In the course of an investigation, the commission may, subject to AS 44.23.020(e), exclude from attendance at the taking of investigative testimony all persons except a person compelled to attend, that person's attorney, members of the commission or the commission's staff, and a person authorized to transcribe the proceedings.

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

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

(1) the commission may by regulation require an in-state natural gas pipeline carrier or affiliated interest engaged in activities relating to pipelines to establish and maintain as part of its system of accounts continuing property records showing, as to property that is actually being used in pipeline activity in this state, the year of placement in service, original cost, and current location, and, as to a pipeline

1 system, accounts and records in a manner showing, on a current basis, the original cost  
2 of the system in the state and related reserves for depreciation;

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

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

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

14 (C) file a report with the commission that contains an updated  
15 cost study and a calculation of the three-year average actual return on equity;  
16 the report shall be filed every three years after the pipeline begins operations,  
17 within 90 days after the close of the annual accounting period for the in-state  
18 natural gas pipeline carrier, or within additional time granted by the  
19 commission upon a showing of good cause.

20 (b) The commission shall review the cost study described in (a)(2)(C) of this  
21 section and verify that, for the rate elements specified in AS 42.08.350(b), the carrier  
22 is using the same elements that were last approved by the commission. If the carrier  
23 does not use the correct rate elements in its triennial report, the commission may  
24 require the carrier to recalculate and file a corrected report. If, on the date the report  
25 described in (a)(2)(C) of this section is delivered, the report reflects that the three-year  
26 average actual return on equity exceeds the approved rate of return, the carrier shall,  
27 not later than 90 days after the date the report is delivered, deposit an amount equal to  
28 the excess in a segregated operating reserve fund. The carrier shall continue to deposit  
29 the excess described in this subsection at the times described in this subsection until  
30 the amount in the operating reserve fund is equal to 20 percent of the most recent  
31 three-year average of the carrier's annual operating costs. The carrier may use money

1 in the operating reserve fund to offset any shortage in the recovery of operating costs  
 2 set out in another triennial report. If a deposit will cause the operating reserve fund to  
 3 exceed 20 percent of the most recent three-year average of the carrier's annual  
 4 operating costs, the amount exceeding 20 percent must be used to reduce, on a  
 5 volumetric basis, the firm transportation service rates for all shippers for the next  
 6 three-year period.

7 **Article 6. General Provisions.**

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

18 **Sec. 42.08.520. Effect of regulations.** Regulations adopted by the commission  
 19 under this chapter have the effect of law.

20 **Sec. 42.08.530. Judicial review and enforcement.** (a) Except as provided in  
 21 AS 38.35.200(c), a final order of the commission under this chapter is subject to  
 22 judicial review under AS 44.62.560 and 44.62.570.

23 (b) If an appeal is not taken from a final order of the commission within 10  
 24 calendar days after an investigation under AS 42.08.220(b)(3), the commission may  
 25 apply to the superior court for enforcement of the order of the commission. The court  
 26 shall enforce the order by injunction or other process.

27 **Sec. 42.08.540. Joinder of actions.** Under the applicable court rules, appeals  
 28 from orders of the commission and applications for enforcement of orders of the  
 29 commission may be joined. The court may, in the interests of justice, separate the  
 30 actions.

31 **Sec. 42.08.900. Definitions.** In this chapter,

1 (1) "commission" means the Regulatory Commission of Alaska  
2 (AS 42.04.010);

3 (2) "commissioner" means a member of the commission;

4 (3) "firm transportation service" means service by a natural gas  
5 pipeline carrier that is not subject to a prior claim by another shipper or another class  
6 of service; service constitutes "firm transportation service" if the service receives the  
7 same priority as any other class of firm transportation service;

8 (4) "in-state natural gas pipeline" or "in-state natural gas pipeline  
9 facility" means a natural gas pipeline that transports or will transport natural gas in the  
10 state by way of contract carriage;

11 (5) "in-state natural gas pipeline carrier" means the owner, including a  
12 corporation, company, or other entity organized under the laws of the United States or  
13 of any state, of an in-state natural gas pipeline or an interest in it, or a person,  
14 including a corporation, company, or other entity organized under the laws of the  
15 United States or of any state, that transports or will transport natural gas as a contract  
16 carrier;

17 (6) "natural gas pipeline" has the meaning given in  
18 AS ~~38.34.099~~31.25.390;

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

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

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

26 (d) Taxable property of a natural gas pipeline project owned or financed by  
27 the Alaska Gasline Development Corporation or a joint venture, partnership, or other  
28 entity that includes the Alaska Gasline Development Corporation is exempt from state  
29 taxes levied or authorized under AS 43.56.010(a) and local taxes levied or authorized  
30 under AS 43.56.010(b) before the commencement of commercial operations of that  
31 natural gas pipeline project. In this subsection, "commencement of commercial

1 operations" means the first flow of natural gas in the project that generates revenue to  
2 the owners of the natural gas pipeline project.

3 \* **Sec. 23.** AS 36.30.850(b)(45); AS 38.34.030, 38.34.040, 38.34.050, 38.34.060;  
4 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,  
5 41.41.050, 41.41.060, 41.41.070, 41.41.080, 41.41.090, 41.41.100, 41.41.110, 41.41.120,  
6 41.41.130, 41.41.140, 41.41.150, 41.41.200, 41.41.300, 41.41.310, 41.41.320, 41.41.330,  
7 41.41.340, 41.41.350, 41.41.360, 41.41.370, 41.41.380, 41.41.390, 41.41.400, 41.41.410,  
8 41.41.450, 41.41.500, 41.41.900, and 41.41.990 are repealed.

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

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

12 **TRANSITION AND LEGISLATIVE INTENT.** (a) It is the intent of the legislature  
13 that a right-of-way lease subject to AS 31.25.090(d), enacted by sec. 3 of this Act,  
14 AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of  
15 this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and AS 38.35.121, enacted by  
16 sec. 11 of this Act, that is entered into between the commissioner of natural resources and the  
17 Alaska Gasline Development Corporation before the effective dates of secs. 3 and 8 - 11 of  
18 this Act be amended as soon as practicable after the effective dates of secs. 3 and 8 - 11 of this  
19 Act to conform to the requirements of AS 31.25.090(d), enacted by sec. 3 of this Act,  
20 AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of  
21 this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and AS 38.35.121, enacted by  
22 sec. 11 of this Act.

23 (b) The transition of the Alaska Gasline Development Corporation from a subsidiary  
24 of the Alaska Housing Finance Corporation to an independent public corporation of the state  
25 may not disrupt, interfere, or alter the work of the Alaska Gasline Development Corporation.  
26 The governor shall appoint the board of the Alaska Gasline Development Corporation as soon  
27 as practicable after the effective date of this Act. It is the intent of the legislature that the  
28 governor appoint the new board of the Alaska Gasline Development Corporation within 90  
29 days after the effective date of this Act. The board of the Alaska Housing Finance  
30 Corporation shall serve as the board of the Alaska Gasline Development Corporation until the  
31 governor appoints the board of the Alaska Gasline Development Corporation under this



1 subsection. The board of directors of the Alaska Gasline Development Corporation shall work  
2 with the board of directors of the Alaska Housing Finance Corporation and the commissioner  
3 of commerce, community, and economic development to ensure the smooth transition of the  
4 Alaska Gasline Development Corporation to being an independent public corporation,  
5 including modifying the articles of incorporation of the Alaska Gasline Development  
6 Corporation.

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

12 (d) It is the intent of the legislature that the Alaska Housing Finance Corporation, the  
13 board of directors of the Alaska Gasline Development Corporation as a subsidiary created  
14 under AS 18.56.086 by the Alaska Housing Finance Corporation, and the commissioner of  
15 commerce, community, and economic development expeditiously amend the articles of  
16 incorporation, the bylaws, and other documents of the Alaska Gasline Development  
17 Corporation to reflect the change in the placement of the Alaska Gasline Development  
18 Corporation from being a subsidiary of the Alaska Housing Finance Corporation to being an  
19 independent public corporation of the state as provided in AS 31.25, enacted by sec. 3 of this  
20 Act.

21 (e) It is the intent of the legislature that the Alaska Housing Finance Corporation and  
22 the commissioner of commerce, community, and economic development coordinate the  
23 transition of the Alaska Gasline Development Corporation to its new placement within the  
24 state as an independent public corporation of the state and assist the newly appointed board of  
25 directors of the Alaska Gasline Development Corporation to ensure that the development of  
26 an in-state natural gas pipeline is not unreasonably delayed because of the change in  
27 placement within the state of the corporation.

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

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

31 (1) AS 38.35.120 from "Covenants required to be included in lease" to

1 "Covenants required to be included in lease to a pipeline that is not a natural gas pipeline  
2 contract carrier"; and

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

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