

LEGAL SERVICES

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MEMORANDUM

March 24, 2026

SUBJECT: Qualified Pipeline Property Alternative Tax
(CSSB 280(RES); Work Order No. 34-GS2038\N)

TO: Senator Cathy Giessel
Chair of the Senate Resources Committee
Attn: Paige Brown

FROM: Emily Nauman 
Director

You requested revision of SB 280, the governor's bill related to pipeline taxation, to conform to the *Manual of Legislative Drafting*. You also asked that our office identify any legal issues with the bill. The attached committee substitute conforms the bill to the *Manual* and to the style of the Alaska Statutes. Please consider the following notes and questions that arose during that revision.

Public School Contributions. Please note that the amended definition of "local contribution" in sec. 2 of the bill will apply to both the voluntary local and required local contributions.

Equal Protection, School Funding. Amending the definition of "local contribution" to exclude amounts resulting from the volumetric tax in the bill may raise constitutional issues under the equal protection clause of the Alaska Constitution.¹ As you are aware, art. VII, sec. 1, of the Alaska Constitution requires the legislature to provide a system of public education. The legislature has delegated this function to certain classifications of municipalities by requiring them to operate public school systems,² while it has forbidden others from doing so, reserving the responsibility to the state of providing for schools in certain areas.

In *Kasayulie v. State*, the superior court found that the state had not met its obligation under the equal protection clause of the Alaska Constitution with respect to funding for rural schools.³ The superior court found that, because urban schools had access to funding through bond debt reimbursement while rural schools did not, the state violated the equal protection clause of the Alaska Constitution.⁴ Excluding revenues from the

¹ Art. I, sec. 1, Constitution of the State of Alaska.

² See AS 29.35.160 and 29.35.260(b).

³ No. 3AN-97-3782, 1999 WL 34793400 (Alaska Sup. Ct. Sept. 1, 1999).

⁴ *Id.* at 3 - 5.

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volumetric tax may raise similar equal protection issues under the Alaska Constitution if a disparity in education funding results from the change in law. If you have additional questions on this issue, please let us know and we would be happy to provide you with a more detailed response.

Sales Tax. Please review secs. 8 and 10 of the bill. These sections were added to conform to the municipal sales and use tax exemptions found elsewhere in the bill. Does the language added in those sections accurately capture the suspension of sales and use taxes intended by the bill? In an attempt to capture the intent of SB 280, it is drafted broadly. Is it too broad? Will it capture sales not intended to be excluded from the tax?

Role of Commissioner. Please review the changes to sec. 43.56.021. Do the changes accurately capture the role of the commissioner in the notification process?

Major Component. Section 43.56.020(d) defines "major component of a natural gas pipeline project" to include "each part" of the project. Could that include the small construction components of the project (nuts, bolts, etc.)? Is that what is intended? Would "each major unit" or some other similar phrase more accurately capture what may not be taxed?

Spur Line Definition. Section 43.56.021(c) includes a definition of "spur line" that, as introduced, references a line described in AS 31.25.390. AS 31.25.390 is a definitions section with several pipelines described, including the Alaska liquefied natural gas project, which is not a spur line. Should the cross reference to AS 31.25.390 be made more specific to one of the projects listed in AS 31.25.390? In the meantime, to avoid confusion, I removed the reference in this committee substitute.

Tax Rate. Section 43.56.022(b) of the bill sets the rate of the tax at "\$0.06 per 1,000 cubic feet of natural gas throughput." The subsection continues that the rate increases "by one percent of the rate imposed during the preceding year." If read that the rate increases by one percent each year, the rate would be \$0.06 in year one, \$0.0606 in year two, \$0.061206 in year three, \$0.06181806 in year four, and so on. Is this what was intended? If so, should the rate be rounded to the nearest cent or hundredth of a dollar (three decimal places)? Also, you may want to consider whether the rate should have a cap.

Tax Application. Section 43.56.022(b) of the bill sets out the rate of tax by volume of throughput. Section 43.56.022(a) states that the tax is paid by the owner of the qualified property. Under sec. 43.56.027(1), qualified property is defined to mean "an Alaska liquefied natural gas project as defined in AS 31.25.390 and any other facility or sub-project attendant or related to the project." It is unclear to me who will be responsible for how much tax. Is \$0.06 due for each unit of throughput, regardless of how many owners there are? In other words, if there are multiple owners, will the owners split the \$0.06 per unit of throughput, or will each owner pay the full \$0.06 cents for each unit of throughput? By way of example, if owner A owns a liquefied natural gas pipeline and owner B owns the liquefaction facility, are both owners A and B responsible for the full \$0.06 for each unit of throughput through their own property (resulting in

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\$0.12 being collected for each unit of throughput)? Or would owners A and B split the \$0.06? And, if the liquefied natural gas pipeline and the liquefaction facility have one owner, would that owner owe \$0.06 per unit of throughput, despite the ownership of two facilities?

More generally, should the bill specify that the tax and the related abatement are meant to apply only to one project? Or perhaps instead be modified to apply to more than one project or more than one part of a project? Could there be more than one abatement period, for multiple projects, or multiple parts or phases of a single project? If the commencement of commercial operations is a determination that will occur only once, a delayed repeal after commencement may be appropriate.

Interest and Penalties. Please consider how sec. 43.56.022 will work with existing AS 43.05.220(a), which assesses a five percent penalty for certain delinquent taxes. AS 43.05.220(a) would also apply to the volumetric tax, if the bill were enacted.

Municipal levy and collection. Sec. 43.56.023(a) requires a municipality to levy and collect the alternative volumetric tax imposed by AS 43.56.022 on the portion of qualified property within the municipality. Note that this requirement is mandatory, even if a municipality does not otherwise levy a property tax.

Appeals. The A version of SB 280, at sec. 43.23.022(f), stated that "AS 43.56.090, 43.56.100, 43.56.135, 43.56.140, and 43.56.150 do not apply to the alternative volumetric tax levied under this section." Those sections apply to appeals of assessment notices. Excluded from the list was AS 43.56.110, 43.56.120, and 43.56.130, which also relate to appeals, but are specific to taxpayers receiving an assessment notice (see AS 43.56.110(a)). Because owners of qualified property under the bill will no longer be receiving assessment notices, AS 43.56.110, 43.56.120, and 43.56.130 were added to the span of inapplicable statutes. Should the bill also exempt the volumetric tax from the general tax appeals process in AS 43.05.240 - 43.05.242 and 43.05.405 - 43.05.499? Note that the bill contains a separate appeals process for the volumetric tax in sec. 43.56.024.

Vested in the Department. As introduced and in this committee substitute, sec. 43.56.023(d) states that the "assessment of the tax levied on qualified property for purposes of this section is legally vested in the department." I'm unclear on the purpose of that language. Would it be clearer to say something along the lines of only the state may assess the value of property, only the state is liable for errors in assessment, and that the state will exclusively handle assessment appeals?

If I may be of further assistance, please advise.

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Attachment