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SENATE CS FOR CS FOR HOUSE BILL NO. 369(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES CHENAULT, Ramras, Olson, Johnson, Austerman, Hawker, Petersen, Lynn, Neuman, Millett, Muñoz

SENATORS McGuire, Huggins, Paskvan, Meyer, Thomas

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an in-state natural gas pipeline, the office of in-state gasline project**
2 **coordinator, and the Joint In-State Gasline Development Team; requiring the**
3 **development of an in-state natural gas pipeline plan, to be delivered to the legislature by**
4 **July 1, 2011, that provides for a natural gas pipeline that is operational by December 31,**
5 **2015; directing the Joint In-State Gasline Development Team to assume responsibilities**
6 **under sec. 19, ch. 14, SLA 2009; requiring expedited review and action by state agencies**
7 **or entities relating to the in-state natural gas pipeline project; clarifying the purpose of**
8 **the Alaska Natural Gas Development Authority; relating to definitions of certain terms**
9 **that relate to a project that may be developed by the Alaska Natural Gas Development**
10 **Authority; relating to an exemption from application of AS 38.35 for certain natural gas**
11 **carriers; and providing for an effective date."**

12 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

1 * **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
2 to read:

3 LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

4 (1) by 2018, declining oil flow through the Trans Alaska Pipeline System will
5 seriously diminish state revenue;

6 (2) Cook Inlet natural gas reserves are depleting at a rate that could cause
7 significant short-term shortages for residential and commercial gas users in Southcentral
8 Alaska by 2013;

9 (3) a proposed natural gas pipeline to deliver North Slope gas reserves to the
10 North American domestic gas pipeline grid at a connection in central Alberta will not produce
11 revenue for the benefit of the state before 2020;

12 (4) the state's significant reserves of natural gas should be made available on a
13 priority basis in the state to enhance employment opportunities, expand the state's economy,
14 and supply a significant portion of community energy needs;

15 (5) the Alaska Railroad Corporation is a public corporation charged with
16 promoting economic development in the state, enjoys unique authority, and may issue
17 revenue bonds to finance construction of a natural gas pipeline;

18 (6) the Alaska Natural Gas Development Authority is studying a pipeline spur,
19 aggregating in-state demand for natural gas, and facilitating delivery of natural gas and
20 natural gas liquids to Alaskans; and

21 (7) in light of competing demands for future uses of the state's North Slope
22 natural gas reserves, an aggressive effort involving planning, permitting, and coordination of
23 information sharing, of necessary agreements and commitments, and commercial negotiations
24 among interested parties is necessary for completion of construction of an in-state natural gas
25 pipeline that will provide significant direct benefit to the people of the state at the earliest
26 possible date.

27 (b) It is the purpose of sec. 4 of this Act

28 (1) to give general direction to the Joint In-State Gasline Development Team
29 to plan and develop construction of a high pressure in-state natural gas pipeline sufficient to
30 provide for the distribution of natural gas for residential and commercial purposes at locations
31 along the pipeline route;

(2) to give general direction to the Joint In-State Gasline Development Team that, to the maximum extent practicable, the plan for development of an in-state natural gas pipeline required under AS 38.34.040 is compatible but not competitive with the projects described in AS 41.41 and AS 43.90; and

(3) to direct the executive director of the Alaska Housing Finance Corporation to oversee all aspects of the project described in sec. 4 of this Act.

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

Sec. 18.56.086. Creation of subsidiaries. The corporation may create subsidiary corporations for the purpose of financing or facilitating the financing of school construction, facilities for the University of Alaska, facilities for ports and harbors, prepayment of all or a portion of a governmental employer's share of unfunded accrued actuarial liability of retirement systems, or other capital projects. A subsidiary corporation may also be created for the purpose of planning, constructing, and financing in-state natural gas pipeline projects or for the purpose of aiding in the planning, construction, and financing of in-state natural gas pipeline projects. A subsidiary corporation created under this section may be incorporated under AS 10.20.146 - 10.20.166. The corporation may transfer assets of the corporation to a subsidiary created under this section. A subsidiary created under this section may borrow money and issue bonds as evidence of that borrowing, and has all the powers of the corporation that the corporation grants to it. However, a subsidiary created for the purpose of financing or facilitating the financing of prepayment of a governmental employer's share of unfunded accrued actuarial liability of retirement systems may borrow money and issue bonds only if the state bond rating is the equivalent of AA- or better and subject to AS 37.15.903. A subsidiary corporation created for the purpose of planning, constructing, and financing in-state natural gas pipeline projects or for the purpose of aiding in the planning, construction, or financing of in-state natural gas pipeline projects is exempt from AS 36.30, including AS 36.30.015(d) and (f). Unless otherwise provided by the corporation, the debts, liabilities, and obligations of a subsidiary corporation created under this section are not the debts, liabilities, or obligations of the corporation.

* **Sec. 3.** AS 36.30.850(b) is amended by adding a new paragraph to read:

(48) a subsidiary of the Alaska Housing Finance Corporation created under AS 18.56.086 for the purpose of planning, financing, or constructing in-state natural gas pipeline projects or for the purpose of aiding in the planning, financing, or constructing of in-state natural gas pipeline projects.

* **Sec. 4.** AS 38 is amended by adding new sections to read:

Chapter 34. In-State Natural Gas Pipeline.

Sec. 38.34.010. In-state gasline project coordinator. (a) The position of in-state gasline project coordinator is created in the Office of the Governor. The Office of the Governor shall provide administrative support for the position. The position shall continue until one year after commencement of commercial operation of the in-state natural gas pipeline.

(b) The governor shall appoint an individual to the position of in-state gasline project coordinator. The coordinator is in the exempt service under AS 39.25.110. The person serving as the in-state gasline project coordinator may be removed from the position at the discretion of the governor, who shall appoint another person to the position.

(c) The in-state gasline project coordinator shall collaborate with other state agencies or entities to coordinate and facilitate the provisions of AS 38.34.020.

Sec. 38.34.020. Expedited review and action by state agencies or entities.

(a) A state agency or entity conducting a review or taking action relating to the in-state natural gas pipeline project under this chapter shall expedite the review or action in a manner consistent with the timely completion of the project.

(b) Notwithstanding any contrary provision of law, a state agency or entity may not include in any project certificate, right-of-way, permit, or other authorization a term or condition that is not required by law if the in-state gasline project coordinator determines that the term or condition would prevent or impair, in any significant respect, the expeditious construction and operation or expansion of the in-state natural gas pipeline project.

(c) Unless required by law, a state agency or entity may not add to, amend, or abrogate any certificate, right-of-way, permit, or other authorization if the in-state gasline project coordinator determines that the action would prevent or impair, in any

significant respect, the expeditious construction, operation, or expansion of the in-state natural gas pipeline project.

Sec. 38.34.030. Joint In-state Gasline Development Team. (a) The Joint In-State Gasline Development Team is established in the Alaska Housing Finance Corporation. The development team consists of five members as follows:

(1) the commissioner of transportation and public facilities, or the commissioner's designee;

(2) the chair of the board of directors of the Alaska Railroad Corporation;

(3) the chief executive officer of the Alaska Natural Gas Development Authority;

(4) the in-state gasline project coordinator; and

(5) the executive director of the Alaska Housing Finance Corporation.

(b) The executive director of the Alaska Housing Finance Corporation is the chair of the development team.

(c) The development team may hire staff, enter into contracts, and exercise other powers necessary to carry out its functions. The development team shall separately account for expenditures made to carry out its functions and submit to the legislature a quarterly report of those expenditures. The development team shall also submit to each member of the legislature monthly updates on the progress of the in-state natural gas pipeline project.

Sec. 38.34.040. Duties of the development team. (a) The Joint In-State Gasline Development Team shall produce a project plan for the development of an in-state natural gas pipeline. The development team shall ensure that the project plan is completed and delivered to the legislature by July 1, 2011. The project plan must specify and document how an in-state natural gas pipeline can be designed, financed, constructed, and made operational by December 31, 2015.

(b) The Joint In-State Gasline Development Team shall assume executive authority over and managerial responsibility for all activities enumerated under sec. 19, ch. 14, SLA 2009, including work previously completed, work in process, and work for which money has been encumbered but that is not completed on the effective

1 date of this subsection.

2 (c) The project plan must include specific plans to coordinate and facilitate
3 construction, ownership, operation, and management of a natural gas pipeline serving
4 Fairbanks, the southcentral region of the state, and other communities whenever
5 practicable, connecting with or enhancing the existing gas pipeline system, and
6 reaching to tidewater in the Southcentral region of the state.

7 (d) The development team's work product shall include an analysis of
8 alternative possible routes and the selection of a route that, consistent with the other
9 requirements of this section,

10 (1) is economically feasible;

11 (2) makes natural gas available to residents at the lowest possible cost;

12 (3) allows for connecting lines to serve industrial, residential, and
13 utility customers along the entire route, and in other regions of the state that can be
14 served at commercially feasible rates;

15 (4) uses state land and existing state highway and railroad rights-of-
16 way to the maximum extent feasible;

17 (5) uses existing highway and railroad bridges, gravel sources,
18 equipment yards, maintenance facilities, and other existing facilities and resources to
19 the maximum extent feasible.

20 (e) With the intent that any project-related assets acquired or developed be
21 available for transfer or sale to the entity best able to complete the project, the
22 development team shall

23 (1) prepare plans and designs necessary for construction of the in-state
24 natural gas pipeline project;

25 (2) coordinate with entities qualified to build, own, and operate the
26 natural gas pipeline;

27 (3) identify, apply for, and obtain rights-of-way and other permits for
28 the project route;

29 (4) work with other entities to promote gas supply and purchase
30 contracts required for the project to be commercially viable;

31 (5) prepare cost estimates for the project design, construction, and

operation to determine the project's economic feasibility and the projected cost of natural gas to consumers;

(6) coordinate with and, to the fullest extent possible, use existing work by other state agencies and entities before contracting for new reports and research and analysis;

(7) determine regulatory authority over the pipeline project and perform any necessary compliance requirements;

(8) identify and apply for, or support extension of, existing permits for export of Alaska natural gas if that export improves project economics and will reduce the price of natural gas to in-state consumers.

(f) Notwithstanding any other provision of law, any rights to a natural gas pipeline corridor obtained by a state agency under eminent domain may be transferred to a private entity.

(g) Notwithstanding any other provision of law, a state agency acquiring an interest in land by eminent domain may grant a permit authorizing a private person to construct, manage, and operate a gas pipeline over, under, along, across, or upon the land.

(h) In preparing the project plan required in this section, the development team may consider all aspects of the in-state natural gas pipeline project, including public, private, or joint construction alternatives, marketing of natural gas, financing alternatives for pipeline construction, procurement of natural gas from producers, maximization of local hire, opportunities for promoting value added industries, gas-to-liquids manufacturing opportunities, production and delivery of liquefied natural gas or propane to Yukon River, interior, and coastal communities, alternatives for transporting natural gas to other locations in the state, the acquisition of natural gas commitments sufficient to ensure the long-term feasibility of the in-state natural gas pipeline project, the development of a global natural gas trading hub in the state, and facilitating the project developer's commitment, to the maximum extent permitted by law, to

(1) hire qualified residents from throughout the state for management, engineering, construction, operations, maintenance, and other positions on the

proposed project;

(2) contract with businesses located in the state;

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

and

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

(i) The Joint In-State Gasline Development Team shall take all action necessary to complete its responsibilities under this section.

Sec. 38.34.050. Cooperation and access to information. (a) The Joint In-state Gasline Development Team may have access to information of all state agencies that is directly related to the planning, design, construction, or operation of the in-state natural gas pipeline.

(b) All state agencies or entities shall cooperate with and, except for requests from the Alaska Gasline Inducement Act coordinator (AS 43.90.250), give priority to requests for information from the Joint In-state Gasline Development Team. The development team shall avoid duplicating studies, plans, and designs that have already been produced or otherwise obtained by other state entities.

(c) Notwithstanding any contrary provision of law, the Department of Natural Resources shall grant the Alaska Housing Finance Corporation a right-of-way lease under AS 38.35 for the gasline transportation corridor if

(1) the corporation submits a complete right-of-way lease application under AS 38.35.050;

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

(3) the corporation agrees to be bound by the right-of-way lease covenants set out in AS 38.35.120.

(d) Notwithstanding any contrary provision of law, a right-of-way lease granted under (c) of this section is subject to AS 38.05, except that the best interest findings requirements of AS 38.05 and the permit requirements of AS 38.05.850 do not apply to a lease made under this section.

1 **Sec. 38.34.060. Conflicts of interest.** (a) If a member of the Joint In-state
2 Gasline Development Team acquires, owns, or controls an interest, direct or indirect,
3 in property, an organization, or a business that might be affected by the in-state natural
4 gas pipeline project or other matter under consideration by the development team, the
5 member shall immediately disclose the interest to the development team. The
6 disclosure is a matter of public record and shall be included in the minutes of the first
7 meeting of the development team held after the disclosure.

8 (b) The members of the development team are subject to AS 39.50 and
9 AS 39.52.

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

11 (1) "in-state natural gas pipeline" means a pipeline for transporting
12 natural gas that runs from the North Slope to tidewater in the state;

13 (2) "North Slope" means that area of Alaska lying north of 68 degrees
14 North latitude.

15 * **Sec. 5.** AS 38.35.220(a) is amended to read:

16 (a) Natural gas carriers **that operate as public utilities** holding easements,
17 rights-of-way or permits for pipelines on state public land on May 20, 1972, are
18 unaffected by this chapter within the scope of their existing operations, normal
19 expansions and extensions thereof so long as their original or present purpose and
20 function remains unchanged. **This exemption does not apply to a natural gas**
21 **pipeline constructed outside of the**

22 **(1) Southcentral region of the state;**

23 **(2) Matanuska-Susitna Borough;**

24 **(3) Kenai Peninsula Borough;**

25 **(4) Municipality of Anchorage;**

26 **(5) Chugach Regional Educational Attendance Area; or**

27 **(6) Copper River Regional Educational Attendance Area.**

28 * **Sec. 6.** AS 39.25.110 is amended by adding a new paragraph to read:

29 (43) the in-state gasline project coordinator appointed under
30 AS 38.34.010.

31 * **Sec. 7.** AS 41.41.010(a) is amended to read:

(a) There is established the Alaska Natural Gas Development Authority, the purpose of which is to provide one or more of the following services and functions in order to bring natural gas from the North Slope **or other regions of the state** to market, including

(1) the acquisition and conditioning of [NORTH SLOPE] natural gas;
(2) the design and construction of the pipeline system;
(3) the operation and maintenance of the pipeline system;
(4) the design, construction, **and** operation [,] of other facilities necessary for delivering the gas to market, **including markets in the state** [AND TO SOUTHCENTRAL ALASKA]; and

(5) the acquisition of natural gas market share sufficient to ensure the long-term feasibility of [THE] pipeline system **projects** [PROJECT].

* **Sec. 8.** AS 41.41.010(d) is amended to read:

(d) The acquisition of natural gas from the North Slope **and other regions of the state, including the Alaska outer continental shelf,** and its delivery to **markets in the state for use by markets in the state or to** tidewater for shipment to market by the authority **are** [IS AN] essential government **functions** [FUNCTION] of the state.

* **Sec. 9.** AS 41.41.990(3) is amended to read:

(3) "project" means the gas transmission pipeline, together with all related property and facilities, to extend from [THE PRUDHOE BAY AREA ON] the North Slope of Alaska **or other regions of the state to a market in the state, or be available to a market in the state, and** [EITHER] to tidewater at a point on Prince William Sound [AND THE SPUR LINE FROM GLENNALLEN TO THE SOUTHCENTRAL GAS DISTRIBUTION GRID] or [TO TIDEWATER AT A POINT ON] Cook Inlet, and includes planning, design, and construction of the pipeline and facilities as described in AS 41.41.010(a)(1) - (5).

* **Sec. 10.** AS 41.41.990 is amended by adding a new paragraph to read:

(4) "North Slope" means that part of the state that lies north of 68 degrees North latitude and includes the Brooks Range foothills.

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

1 TRANSITIONAL PROVISIONS. (a) In discharging its obligations, the Joint In-State
2 Gasline Development Team shall

3 (1) seek letters of intent from buyers and sellers of natural gas to ship gas
4 using the facilities of the project and, from information obtained, define the project
5 parameters that would allow the project to be commercially viable;

6 (2) seek letters of interest from private pipeline construction and operating
7 companies to develop the project;

8 (3) prepare and submit to the governor and the presiding officer of each house
9 of the legislature, by December 15, 2010, any initial legislation necessary to advance the
10 project;

11 (4) prepare and submit a report to the governor, the speaker of the house of
12 representatives, and the president of the senate when each duty set out in (1) - (3) of this
13 subsection is complete.

14 (b) The parties having responsibility for contracts, permit and acquisition
15 applications, and studies in progress on the effective date of this Act initiated or entered into
16 by the Office of the Governor or a state agency or entity that relate to an in-state natural gas
17 pipeline shall transfer those obligations and initiatives to the Alaska Housing Finance
18 Corporation. Transfer of those obligations and initiatives may not be unreasonably delayed. If
19 the corporation forms a subsidiary under AS 18.56.086 for the purpose of planning,
20 constructing, and financing in-state natural gas pipeline projects or for aiding those projects,
21 the corporation shall transfer the obligations and initiatives to its subsidiary.

22 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).