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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES HAWKER AND CHENAULT, Millett, Johnson, Neuman, Hughes, Olson,
Gattis, Reinbold

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

by the Regulatory Commission of Alaska of natural gas transportation contracts; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline project developed by the Alaska Gasline Development Corporation; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline that provides transportation by contract carriage; repealing the statutes relating to the Alaska Natural Gas Development Authority and making conforming changes; exempting property of a project developed by the Alaska Gasline Development Corporation from property taxes before the commencement of commercial operations; and providing for an effective date."

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

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

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

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

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

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

(b) It is the intent of the legislature that

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

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

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

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

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

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

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

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

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

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 31 is amended by adding a new chapter to read:

Chapter 25. Alaska Gasline Development Corporation.

Article 1. Organization, Administration, and Powers.

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

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

(1) five public members; and

(2) two individuals designated by the governor that are each the head of a principal department of the state.

(b) Public members of the board shall be appointed by the governor and are subject to confirmation by the legislature. When appointing a public member to the board, the governor shall consider an individual's expertise and experience in natural gas pipeline construction, operation and marketing; finance; large project management; and other expertise and experience that is relevant to the purpose, powers, and duties of the corporation. Public members of the board serve staggered five-year terms. A public member serves at the pleasure of the governor. A vacancy shall be filled in the same manner as the original appointment.

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

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

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

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

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

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

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

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

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

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

(1) the sale and issuance of bonds;

(2) the sale or other disposition of a substantial asset or substantial amount of the assets of the corporation; the corporation shall adopt a regulation that

defines a substantial asset and a substantial amount of assets for the purposes of this paragraph;

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

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

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

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

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

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

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

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

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

1 director.

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

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

5 (1) advance an in-state natural gas pipeline as described in the July 1,
6 2011, project plan prepared under former AS 38.34.040 by the corporation while a
7 subsidiary of the Alaska Housing Finance Corporation, with modifications determined
8 by the corporation to be appropriate to develop, finance, construct, and operate an in-
9 state natural gas pipeline in a safe, prudent, economical, and efficient manner, for the
10 purpose of making natural gas available to Fairbanks, the Southcentral region of the
11 state, and other communities in the state at the lowest rates possible;

12 (2) endeavor to develop natural gas pipelines to deliver natural gas to
13 public utility and industrial customers in areas of the state to which the natural gas
14 may be delivered at commercially reasonable rates; and

15 (3) endeavor to develop natural gas pipelines that offer commercially
16 reasonable rates for shippers and access for shippers who produce natural gas in the
17 state.

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

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

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

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

30 (4) exercise the power of eminent domain and file a declaration of
31 taking under AS 09.55.240 - 09.55.460 to acquire land or an interest in land that is

necessary for an in-state natural gas pipeline; the exercise of powers by the corporation under this paragraph may not exceed the permissible exercise of the powers by the state;

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

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

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

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

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

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

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

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

(13) adopt an official seal;

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

(15) employ fiscal consultants, engineers, attorneys, appraisers, and other consultants and employees that may, in the judgment of the corporation, be

required and fix and pay their compensation from funds available to the corporation;

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

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

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

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

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

(21) invest or reinvest, subject to its contracts with noteholders and bondholders, money or funds held by the corporation, including funds in the in-state natural gas pipeline fund (AS 31.25.100), in obligations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or funds not required for immediate disbursement, and in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the state or the United States.

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

(c) The corporation may not develop or construct a natural gas pipeline that is

1 a competing natural gas pipeline project for purposes of AS 43.90.440 unless the
2 project for which a license is issued under AS 43.90 has been abandoned or is no
3 longer receiving the inducements in AS 43.90.110(a).

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

7 (e) If commitments to acquire firm transportation capacity are received in an
8 open season conducted by the corporation, the corporation shall, within 10 days after
9 accepting and executing the written commitments received during the open season,
10 report the results of the open season to the president of the senate and the speaker of
11 the house of representatives and inform the public of the results of the open season
12 through publication on the Internet website of the corporation and in a press release or
13 other announcement to the media. The results made public must include the name of
14 each prospective shipper, the amount of capacity allocated, and the period of the
15 commitment.

16 **Sec. 31.25.090. Confidentiality; interagency cooperation.** (a) The
17 corporation shall have access to information of departments, agencies, and public
18 corporations of the state that is directly related to the planning, financing,
19 development, acquisition, maintenance, construction, or operation of an in-state
20 natural gas pipeline. The corporation shall avoid duplicating studies, plans, and
21 designs that have already been provided or obtained by other state entities. All
22 departments, agencies, and public corporations of the state shall cooperate with and
23 shall provide information, services, and facilities to the corporation upon its request
24 and, except for requests from the Alaska Gasline Inducement Act coordinator
25 (AS 43.90.250), give priority to requests of the corporation.

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

1 university, or a public corporation of the state.

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

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

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

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

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

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

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

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

25 (f) The corporation may enter into confidentiality agreements necessary to
26 acquire or provide information to carry out its functions. If a state agency determines
27 that a law or provision of a contract to which the state agency is a party requires the
28 state agency to preserve the confidentiality of the information and that delivering the
29 information to the corporation would violate the confidentiality provision of that law
30 or contract, the state agency shall

31 (1) identify the applicable law or contract provision to the corporation;

1 and

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

5 (g) The portions of records containing information acquired or provided by the
6 corporation under a confidentiality agreement are not subject to AS 40.25. The
7 corporation may enter into confidentiality agreements with a public agency, as defined
8 in AS 40.25.220, to allow release of confidential information. The portions of the
9 records and files of a public agency bound by a confidentiality agreement that reflect,
10 incorporate, or analyze information subject to a confidentiality agreement under this
11 subsection are not public records. Confidentiality agreements entered into under this
12 subsection are valid and binding against all parties in accordance with the terms of the
13 confidentiality agreement.

14 (h) The conduct of and results from field studies and other technical
15 information; trade secrets; and information that discloses the particulars of a business
16 or the affairs of a private enterprise, investor, advisor, consultant, counsel, or manager
17 developed or obtained by the corporation relating to the development, financing,
18 construction, or operation of an in-state natural gas pipeline project by the corporation
19 that, if disclosed, could cause commercial or competitive harm or damage are
20 confidential and not subject to AS 40.25.110. The corporation may waive the
21 confidentiality described in this subsection, except for information that is confidential
22 under another provision of state law or under a federal law or regulation and except for
23 information acquired from another person that is subject to a confidentiality
24 agreement, if the waiver is consistent with the interests of the state and will facilitate
25 the development, financing, or construction of an in-state natural gas pipeline. On the
26 date that the in-state natural gas pipeline project becomes operational, the corporation
27 shall make available, upon request under AS 40.25, records that were exempt from
28 AS 40.25 under this subsection or (g) of this section, unless the corporation determines
29 that

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

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

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

Sec. 31.25.120. Creation of subsidiaries. The corporation may create subsidiary corporations for the purpose of developing, constructing, operating, and financing in-state natural gas pipeline projects; for the purpose of aiding in the development, construction, operation, and financing of in-state natural gas pipeline projects; or for the purpose of acquiring the state's royalty share of natural gas, natural gas from the North Slope, and natural gas from other regions of the state, including the state's outer continental shelf, and making that natural gas available to markets in the state or for export. 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. 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. 31.25.130. Administrative procedure; regulations. (a) Except for AS 44.62.310 - 44.62.319 (Open Meetings Act), AS 44.62 (Administrative Procedure Act) does not apply to this chapter. The corporation shall make available to members

1 of the public copies of the regulations adopted under (b) - (e) of this section. Within 45
2 days after adoption, the chair of the board shall submit a regulation adopted under (b) -
3 (e) of this section to the chair of the Administrative Regulation Review Committee
4 under AS 24.20.400 - 24.20.460.

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

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

8 (d) Except as provided in (e) of this section, at least 15 days before the
9 adoption, amendment, or repeal of a regulation, the board shall give public notice of
10 the proposed action by posting notice on the corporation's Internet website and on the
11 Alaska Online Public Notice System and by mailing a copy of the notice to every
12 person who has filed a request for notice of proposed regulations with the board or the
13 corporation. The public notice must include a statement of the time, place, and nature
14 of the proceedings for the adoption, amendment, or repeal of the regulation and must
15 include an informative summary of the proposed subject of the regulation. On the date
16 and at the time and place designated in the notice, the board shall give each interested
17 person or an authorized representative, or both, the opportunity to present statements,
18 arguments, or contentions in writing and shall give members of the public an
19 opportunity to present oral statements, arguments, or contentions for a total period of
20 at least one hour. The board shall consider all relevant matter presented to it before
21 adopting, amending, or repealing a regulation. At a hearing under this subsection, the
22 board may continue or postpone the hearing to a time and place that it determines. A
23 regulation that is adopted, or its amendment or repeal, may vary in content from the
24 informative summary specified in this subsection if the subject matter of the
25 regulation, or its amendment or repeal, remains the same and the original notice was
26 written to ensure that members of the public are reasonably notified of the proposed
27 subject of the board's action in order for them to determine whether their interests
28 could be affected by the board's action on that subject.

29 (e) A regulation or order of repeal may be adopted as an emergency regulation
30 or order of repeal if the board makes a finding in its order of adoption or repeal,
31 including a statement of the facts that constitute the emergency, that the adoption of

the regulation or order of repeal is necessary for the immediate preservation of the orderly operation of the corporation's bonding programs. Upon adoption of an emergency regulation, the board shall, within 10 days after adoption, give notice of the adoption in accordance with (d) of this section. An emergency regulation adopted under this subsection does not remain in effect more than 120 days unless the board complies with (d) of this section during the 120-day period.

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

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

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

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

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

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

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

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

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

(3) present to the legislature by January 10 of each year a complete accounting of all assets of the corporation, including assets of the in-state natural gas

pipeline fund under AS 31.25.100, and a report of the review and determination made under (1) and (2) of this subsection; the accounting shall be audited by an independent outside auditor.

Article 2. Bonds and Notes.

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

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

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

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

(e) If an officer whose signature or a facsimile of whose signature appears on

bonds or notes or coupons attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid the same as if the officer had remained in office until delivery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (17) to vest in a trustee or trustees within or outside the state the
27 property, rights, powers, and duties in trust as the corporation may determine, which
28 may include any or all of the rights, powers, and duties of a trustee appointed by the
29 holders of the bonds or notes, and to limit or abrogate the right of the holders of the
30 bonds or notes of the corporation to appoint a trustee under this chapter or limit the
31 rights, powers, and duties of the trustee;

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

4 (19) to agree with a corporate trustee, which may be a trust company
5 or bank having the powers of a trust company within or outside the state, as to the
6 pledging or assigning of revenue or funds to which or in which the corporation has any
7 rights or interest; the agreement may further provide for other rights and remedies
8 exercisable by the trustee as may be proper for the protection of the holders of the
9 bonds or notes of the corporation and not otherwise in violation of law and may
10 provide for the restriction of the rights of an individual holder of bonds or notes of the
11 corporation;

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

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

17 (22) to make covenants other than and in addition to the covenants
18 expressly authorized in this section, of like or different character, and to make
19 covenants to do or refrain from doing acts and things as may be necessary, or as may
20 be convenient and desirable, to better secure bonds or notes or that, in the absolute
21 discretion of the corporation, would tend to make bonds or notes more marketable,
22 notwithstanding that the covenants, acts, or things may not be enumerated in this
23 section.

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

28 **Sec. 31.25.180. Validity of pledge.** The pledge of assets or revenue of the
29 corporation to the payment of the principal of or interest on an obligation of the
30 corporation is valid and binding from the time the pledge is made, and the assets or
31 revenue are immediately subject to the lien of the pledge without physical delivery or

1 further act. The lien of the pledge is valid and binding against all parties having claims
2 of any kind in tort, contract, or otherwise against the corporation, regardless of
3 whether those parties have notice of the lien of the pledge. This section does not
4 prohibit the corporation from selling assets subject to a pledge, except that the sale
5 may be restricted by the trust agreement or resolution providing for the issuance of the
6 obligations.

7 **Sec. 31.25.190. Capital reserve funds.** (a) The corporation may not establish
8 a capital reserve fund as described in this section except as expressly authorized by
9 law. The enactment of this section does not express that authorization. Upon
10 enactment of a law expressly authorizing the establishment of a capital reserve fund
11 described in this section and for the purpose of securing one or more issues of its
12 obligations, the corporation may establish one or more special funds, called "capital
13 reserve funds," and shall pay into those capital reserve funds

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

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

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

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

transferred by the corporation to other funds or accounts of the corporation to the extent that the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

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

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

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

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

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

1 this chapter; and

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

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

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

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

25 (b) Refunding obligations may be sold or exchanged for outstanding
26 obligations issued under this chapter and, if sold, the proceeds may be applied, in
27 addition to other authorized purposes, to the purchase, redemption, or payment of the
28 outstanding obligations. Pending the application of the proceeds of refunding
29 obligations, with other available funds, to the payment of the principal of, accrued
30 interest on, and any redemption premium on the obligations being refunded and, if so
31 provided or permitted in the resolution authorizing the issuance of the refunding

obligations or in the trust agreement securing them, to the payment of any interest on the refunding obligations and any expenses in connection with the refunding, the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States that mature or that will be subject to redemption, at the option of the holders of them, not later than the respective dates when the proceeds, together with the interest accruing on them, will be required for the purposes intended.

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

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

Article 3. General Provisions.

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

Sec. 31.25.260. Tax exemption. (a) The exercise of the powers granted by this

chapter is, in all respects, for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions, and the corporation is not required to pay a tax or assessment on any property owned by the corporation under the provisions of this chapter or on the income from it, including state taxes levied or authorized under AS 43.56.010(a) and local taxes under AS 43.56.010(b) as provided in AS 43.56.020.

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

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

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

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

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

(2) "bond" or "obligation" means a bond, bond anticipation note, or

other note of the corporation authorized to be issued by the corporation under this chapter;

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

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

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

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

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

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

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

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

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

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

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

Sec. 38.34.099. Definitions. In this chapter,

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

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

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

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

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

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

(1) it assumes the status of and will perform all of its functions undertaken under the lease as a common carrier and will accept, convey, and transport without discrimination crude oil or natural gas, depending on the kind of pipeline involved, delivered to it for transportation from fields in the vicinity of the pipeline subject to the lease throughout its route both on state land obtained under the lease and on the other land; it will accept, convey, and transport crude oil or natural gas without unjust or unreasonable discrimination in favor of one producer or person, including itself, as against another but will take the crude oil or natural gas, depending on the

1 kind of pipeline involved, delivered or offered, without unreasonable discrimination,
2 that the Regulatory Commission of Alaska shall, after a full hearing with due notice to
3 the interested parties and a proper finding of facts, determine to be reasonable in the
4 performance of its duties as a common carrier; however, a lessee that owns or operates
5 a natural gas pipeline

6 (A) subject to regulation either under **15 U.S.C. 717 et seq.**
7 **(Natural Gas Act)** [THE NATURAL GAS ACT (15 U.S.C. 717 ET SEQ.) OF
8 THE UNITED STATES] or by the state or **a** political **subdivision**
9 [SUBDIVISIONS] with respect to rates and charges for the sale of natural gas,
10 is, to the extent of that regulation, exempt from the common carrier
11 requirement in this paragraph;

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

30 (2) it will interchange crude oil or natural gas, depending on the kind
31 of pipeline involved, with each like common carrier and provide connections and

1 facilities for the interchange of crude oil or natural gas at every locality reached by
2 both pipelines when the necessity exists, subject to rates and regulations made by the
3 appropriate state or federal regulatory agency;

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

7 (4) it will accord at all reasonable times to the state and its authorized
8 agents and auditors the right of access to its property and records, of inspection of its
9 property, and of examination and copying of records;

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

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

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

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

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

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

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

30 (9) it will not transfer, assign, or dispose of, in any manner, directly or
31 indirectly, or by transfer of control of the carrier corporation, its interest in a right-of-

1 way lease, or [ANY] rights under the lease or a [ANY] pipeline subject to the lease to
2 a [ANY] person other than another owner of the pipeline (including subsidiaries,
3 parents, and affiliates of the owners), except to the extent that the commissioner, after
4 consideration of the protection of the public interest (including whether the proposed
5 transferee is fit, willing, and able to perform the transportation or other acts proposed
6 in a manner that will reasonably protect the lives, property, and general welfare of the
7 people of Alaska), authorizes; the commissioner shall not unreasonably withhold
8 consent to the transfer, assignment, or disposal;

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

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

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

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

28 (14) it will procure and furnish liability and property damage insurance
29 from a company licensed to do business in the state or furnish other security or
30 undertaking upon the terms and conditions the commissioner considers necessary if
31 the commissioner finds that the net assets of the lessee are insufficient to protect the

public from damage for which the lessee may be liable arising out of the construction or operation of the pipeline.

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

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

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

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

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

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

(3) it assumes the status of and will perform all of its functions undertaken under the lease as a contract carrier and, subject to contracts with shippers, will accept, convey, and transport, without discrimination, natural gas delivered to it for transportation from fields in the vicinity of the pipeline subject to the right-of-way lease throughout the pipeline route, both on state land obtained under the lease and on other land, and that, subject to contracts with shippers, it will accept, convey, and

transport natural gas without unjust or unreasonable discrimination in favor of itself or one producer or person against another, but will take the natural gas delivered or offered without unreasonable discrimination;

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

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

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

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

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

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

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

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

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

(c) Except as provided for an applicant in (a) of this section and notwithstanding any contrary provision of law, an action or decision of the commissioner or other state officer or agency concerning the issuance or approval of a

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

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

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

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

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

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

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

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

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

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

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

6 (2) records pertaining to juveniles unless disclosure is authorized by
7 law;

8 (3) medical and related public health records;

9 (4) records required to be kept confidential by a federal law or
10 regulation or by state law;

11 (5) to the extent the records are required to be kept confidential under
12 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
13 or retain federal assistance;

14 (6) records or information compiled for law enforcement purposes, but
15 only to the extent that the production of the law enforcement records or information

16 (A) could reasonably be expected to interfere with enforcement
17 proceedings;

18 (B) would deprive a person of a right to a fair trial or an
19 impartial adjudication;

20 (C) could reasonably be expected to constitute an unwarranted
21 invasion of the personal privacy of a suspect, defendant, victim, or witness;

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

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

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

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

31 (7) names, addresses, and other information identifying a person as a

participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the advance college tuition savings program under AS 14.40.803 - 14.40.817;

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

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

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

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

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

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

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

(12) records that are

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

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

(13) information of the Alaska Gasline Development Corporation created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development

Corporation that is confidential by law or under a valid confidentiality agreement.

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

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

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

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

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

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

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

submit supplemental information that is available to the public utility. A contract that is approved or considered approved under this section is not subject to further review by the commission.

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

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

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

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

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

Chapter 08. In-State Pipeline Contract Carrier.

Article 1. Application of Chapter; Purpose.

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

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

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

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

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

(d) The findings that the Alaska Gasline Development Corporation is

1 financially fit in (a) of this section and managerially fit in (b) of this section and that
2 an in-state natural gas pipeline is required by present or future public convenience and
3 necessity in (c) of this section are conclusive and binding on the commission.

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

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

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

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

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

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

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

27 (b) The commission may

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

30 (2) review and approve contracts;

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

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

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

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

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

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

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

(6) appoint a qualified, unbiased, and impartial administrative law judge with experience in the general practice of law to conduct hearings under this

chapter; the administrative law judge may perform other duties in connection with the administration of this chapter and other laws; an administrative law judge hired to conduct hearings under this chapter shall have been admitted to practice law for at least five years immediately before appointment under this paragraph; and

(7) order an expansion of an in-state natural gas pipeline or order an open season under the terms provided for an expansion or open season in this chapter.

(c) Except with regard to a precedent agreement under AS 42.08.320(a) that is filed before the issuance of a certificate, consideration of an application for a contract carriage certificate under AS 42.08.330, and an initial recourse tariff under AS 42.08.350(a), the commission may extend a timeline required under this chapter if all parties of record consent to the extension or if, for one time only, before the timeline expires, the

(1) commission reasonably finds that good cause exists to extend the timeline;

(2) commission issues a written order extending the timeline and setting out its findings regarding good cause; and

(3) extension of time is 90 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

1 facilities and interested parties of reports, orders, decisions, and regulations as they are
2 issued and adopted and, when appropriate, publish them in a manner that will
3 reasonably inform the public or the affected consumers of the services of an in-state
4 natural gas pipeline facility. The commission may set charges for costs of printing or
5 reproducing and furnishing copies of reports, orders, decisions, and regulations. The
6 publication requirement, as it pertains to regulations, does not supersede the
7 requirements of AS 44.62 (Administrative Procedure Act).

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

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

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

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

22 **Sec. 42.08.300. Open seasons.** (a) An in-state natural gas pipeline carrier shall
23 include in its approved recourse tariff the procedures for conducting open seasons for
24 uncommitted firm transportation service and for expansion. At a minimum, the in-state
25 natural gas pipeline carrier shall publish reasonable public notice in advance of an
26 open season. The notice shall contain the approved recourse tariff, the proposed form
27 of the precedent agreement, the proposed form of the firm transportation service
28 agreement, and other information sufficient to show the proposed route, capacity,
29 operating pressures, in-service date, quality specifications, and other operating
30 conditions that the pipeline carrier determines are relevant to an evaluation of the
31 proposed service. The notice shall also state the methods for awarding capacity and

whether presubscription agreements have been executed. An in-state natural gas pipeline carrier shall provide a mechanism for providing additional relevant information requested by potential shippers.

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

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

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

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

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

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

(b) The pipeline carrier shall offer a recourse tariff for firm transportation service. The rates included in the recourse tariff shall be determined on a cost-of-service basis and may be levelized over the depreciation life of the pipeline. The recourse tariff may not preclude the pipeline carrier from collecting rolled-in rates so

long as the resulting rate for prior shippers does not exceed the initial maximum rate allowable under agreements for capacity.

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

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

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

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

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

(2) review and may conduct an investigation and hearing to determine whether a contract submitted under (a) of this section is just and reasonable; the commission shall either approve the contract as presented or, if the commission finds

that a contract is not just and reasonable, disapprove the contract; if the commission has not acted within 180 days after the submission of a contract, the contract shall be considered approved and shall take effect immediately; a contract that is approved or considered approved under this paragraph and the associated firm transportation service agreement are not subject to further review by the commission.

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

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

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

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

(B) the parties are not affiliated; or

(C) if the parties are affiliated, the precedent agreement or related contract is substantially similar to an approved precedent agreement or related contract between unaffiliated parties.

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

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

1 pipeline facility.

2 (b) Application for a certificate shall be made in writing to the commission
3 and verified under oath. The commission by regulation shall establish the
4 requirements for the form of the application and the information to be contained in the
5 application. Notice of the application shall be provided to interested parties in the
6 manner provided by regulation.

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

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

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

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

(1) misrepresentation of a material fact in obtaining the certificate;

(2) unauthorized discontinuance or abandonment of all or part of a service that is the subject of the certificate;

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

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

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

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

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

places designated by the commission and make the copies available to and subject to inspection by the general public on demand.

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

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

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

Sec. 42.08.350. Initial or revised rates. (a) An in-state natural gas pipeline carrier may not establish or place in effect an initial recourse tariff containing rates, charges, rules, regulations, conditions of service, or practices without providing notice to the commission and to the public at least 90 days before establishing or placing in effect the initial recourse tariff. Notice shall be filed with the commission before an open season and by making the recourse tariff provisions available for public inspection. The notice shall plainly indicate the time when the recourse tariff will go into effect and include a supporting cost model. The commission may prescribe additional requirements for the notice and the form in which the notice must be provided. The commission, for good cause shown, may allow initial recourse tariffs to take effect on less than 90 days' notice under conditions the commission prescribes by order. Submission of a precedent agreement or an associated contract is not subject to this section.

(b) The commission shall review the proposed initial recourse tariff and verify that the proposed terms and conditions of service are not unduly discriminatory. The commission also shall review the supporting cost model provided with an initial recourse tariff filing and verify, taking into consideration the expected risks, that the proposed rate of return on equity is within the range of permissible rates of return as determined by the Federal Energy Regulatory Commission in recent decisions related to the construction of natural gas pipelines, that the cost model incorporates a

1 reasonable depreciation methodology and depreciable life, and that the cost model
2 uses a reasonable capital structure. A proposed depreciation methodology, economic
3 life, or capital structure is reasonable if it is commonly accepted or used by the
4 commission or the Federal Energy Regulatory Commission.

5 (c) Upon written complaint or in its own motion, and after reasonable notice,
6 the commission may conduct a hearing to determine whether the initial recourse tariff
7 filed with the commission complies with the requirements in (b) of this section.
8 Pending a hearing the commission may, by order stating the reasons for its action,
9 suspend the operation of the initial recourse tariff period not longer than six months
10 beyond the time when the initial recourse tariff would otherwise go into effect. An
11 order suspending an initial recourse tariff filing may be vacated if, after investigation,
12 the commission finds that it is in all respects proper. Otherwise the commission shall
13 hold a hearing on the suspended filing and issue its order, before the end of the
14 suspension period, granting or denying the suspended initial recourse tariff.

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

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

Submission of a precedent agreement or an associated contract is not subject to this subsection.

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

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

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

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

Sec. 42.08.370. Expansion; dispute resolution. (a) A contract entered into by an in-state natural gas pipeline carrier may provide for expansion unless the expansion

1 would cause the pipeline to be a competing natural gas pipeline project as defined in
2 AS 43.90.440 unless the project for which a license is issued under AS 43.90 has been
3 abandoned or is no longer receiving the inducements in AS 43.90.110(a).

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

7 (1) provide that notice of a dispute be given to all shippers;

8 (2) culminate in a process that is determined by an independent third
9 party or panel; and

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

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

22 (1) 0.7 percent to fund the operations of the commission; and

23 (2) 0.17 percent to fund operations of the public advocacy function
24 under AS 42.04.070(c) and AS 44.23.020(e) in the Department of Law.

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

total amount of the fees collected approximately equals the authorized budgets of the commission and the Department of Law public advocacy function under AS 42.04.070(c) and AS 44.23.020(e) for the fiscal year.

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

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

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

Article 4. Public Records; Investigations.

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

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

(c) A record filed with the commission that is a precedent agreement between an in-state natural gas pipeline carrier and an unregulated entity is a privileged record

that is not open to the public for inspection. For a record that relates to a precedent agreement, or is or relates to a contract other than a precedent agreement between an in-state natural gas pipeline carrier and an unregulated entity, if an in-state natural gas 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 system, accounts and records in a manner showing, on a current basis, the original cost of the system in the state and related reserves for depreciation;

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

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

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

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

(b) The commission shall review the cost study described in (a)(2)(C) of this section and verify that, for the rate elements specified in AS 42.08.350(b), the carrier is using the same elements that were last approved by the commission. If the carrier does not use the correct rate elements in its triennial report, the commission may require the carrier to recalculate and file a corrected report. If, on the date the report described in (a)(2)(C) of this section is delivered, the report reflects that the three-year average actual return on equity exceeds the approved rate of return, the carrier shall, not later than 90 days after the date the report is delivered, deposit an amount equal to

the excess in a segregated operating reserve fund. The carrier shall continue to deposit the excess described in this subsection at the times described in this subsection until the amount in the operating reserve fund is equal to 20 percent of the most recent three-year average of the carrier's annual operating costs. The carrier may use money in the operating reserve fund to offset any shortage in the recovery of operating costs set out in another triennial report. If a deposit will cause the operating reserve fund to exceed 20 percent of the most recent three-year average of the carrier's annual operating costs, the amount exceeding 20 percent must be used to reduce, on a volumetric basis, the firm transportation service rates for all shippers for the next three-year period.

Article 6. General Provisions.

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

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

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

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

Sec. 42.08.540. Joinder of actions. Under the applicable court rules, appeals

from orders of the commission and applications for enforcement of orders of the commission may be joined. The court may, in the interests of justice, separate the actions.

Sec. 42.08.900. Definitions. In this chapter,

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

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

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

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

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

(6) "natural gas pipeline" has the meaning given in AS 31.25.390;

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

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

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

(d) Taxable property of a natural gas pipeline project owned or financed by the Alaska Gasline Development Corporation or a joint venture, partnership, or other entity that includes the Alaska Gasline Development Corporation is exempt from state

taxes levied or authorized under AS 43.56.010(a) and local taxes levied or authorized under AS 43.56.010(b) before the commencement of commercial operations of that natural gas pipeline project. In this subsection, "commencement of commercial operations" means the first flow of natural gas in the project that generates revenue to the owners of the natural gas pipeline project.

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

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

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

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

(b) The transition of the Alaska Gasline Development Corporation from a subsidiary of the Alaska Housing Finance Corporation to an independent public corporation of the state may not disrupt, interfere, or alter the work of the Alaska Gasline Development Corporation. The governor shall appoint the board of the Alaska Gasline Development Corporation as soon as practicable after the effective date of this Act. It is the intent of the legislature that the governor appoint the new board of the Alaska Gasline Development Corporation within 90

1 days after the effective date of this Act. The board of the Alaska Housing Finance
2 Corporation shall serve as the board of the Alaska Gasline Development Corporation until the
3 governor appoints the board of the Alaska Gasline Development Corporation under this
4 subsection. The board of directors of the Alaska Gasline Development Corporation shall work
5 with the board of directors of the Alaska Housing Finance Corporation and the commissioner
6 of commerce, community, and economic development to ensure the smooth transition of the
7 Alaska Gasline Development Corporation to being an independent public corporation,
8 including modifying the articles of incorporation of the Alaska Gasline Development
9 Corporation.

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

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

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

31 * **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

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

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

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

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