

HOUSE BILL NO. 519

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Introduced: 4/16/02

Referred: House Special Committee on Oil and Gas, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing priority treatment under the Right-of-Way Leasing Act for an
2 Alaska North Slope natural gas project; expanding the scope for the kinds of gas
3 development projects that may become qualified projects under the Alaska Stranded
4 Gas Development Act; extending the deadline for submitting applications under the
5 Alaska Stranded Gas Development Act; exempting an Alaska North Slope natural gas
6 project from state property tax and all municipal taxes during construction; and
7 providing for an effective date."

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

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

11 FINDINGS AND INTENT. The legislature finds that

12 (1) a vast quantity of gas in Alaska is currently stranded from commercial
13 development, in part due to the cost associated with providing access to markets for that gas;

1 the Alaska North Slope has the largest known discovered natural gas resources, estimated to
2 be 35 trillion cubic feet, in the United States and has undiscovered gas resources estimated to
3 be in excess of 100 trillion cubic feet;

4 (2) demand for natural gas in the lower 48 states is expected to experience
5 record growth; the lower 48 states have an inadequate resource base to meet this expected
6 demand, and there is an urgency to make an Alaska natural gas pipeline project move forward
7 to fill this gap with North American gas rather than with gas from uncertain sources overseas;

8 (3) it is important for the United States to have a reliable and affordable source
9 of domestic natural gas for energy for its economy, for the well-being of its citizens, for the
10 growth of its businesses, and for the national security;

11 (4) the North Slope of Alaska is one of the few known locations in the United
12 States that can supply significant natural gas supplies to the lower 48 states for years to come;

13 (5) during the past three decades, several companies and entities have studied
14 different ways to commercialize Alaska North Slope gas and have been unsuccessful in
15 identifying an economic project; most recently, the three major producers, through their
16 Alaska Gas Producers Pipeline Team, have studied a southern route approximately following
17 a route along the Trans Alaska Pipeline System from Pump Station One to Delta Junction and
18 along the Alaska Highway through Alaska and Canada to the lower 48 states and a northern
19 route off the shore of the Arctic National Wildlife Refuge in the Beaufort Sea, and have
20 concluded that neither is sufficiently economic, given the magnitude of the risks associated
21 with the project; however, at least one producer has indicated a willingness to proceed further
22 if federal and state enabling legislation with provisions to mitigate long-term natural gas price
23 risks and for fiscal certainty and incentives is enacted;

24 (6) the major producers have proposed new federal enabling legislation that
25 they believe will expedite the construction and operation of a natural gas pipeline from the
26 North Slope to the lower 48 states;

27 (7) in addition to the state's receipt of revenue from taxes and royalties,
28 Alaskans will benefit from the commercialization of Alaska North Slope natural gas through
29 opportunities for in-state use of the natural gas and for participation by Alaskans in
30 construction, maintenance, and operation of a natural gas pipeline project, and the northern
31 route offers few of these benefits to Alaska;

1 (8) because of the high cost of providing access to markets for Alaska North
2 Slope gas, exploration efforts on the North Slope have historically focused on oil; recently,
3 some companies have expressed interest in gas exploration; if the infrastructure needed to
4 provide access to market for Alaska North Slope gas were available, new gas exploration
5 efforts might be initiated on the Alaska North Slope and in other basins that currently remain
6 largely unexplored for oil and gas; it is vital to the State of Alaska that there be continued and
7 robust exploration and development of natural gas resources on the Alaska North Slope;

8 (9) Alaskans need a portion of the gas from a natural gas pipeline project for
9 in-state use; however, it is unlikely that markets will develop within the state that would need
10 more than a relatively small portion of the volume of gas already discovered on the Alaska
11 North Slope; it is vital for economic development that Alaska communities and businesses
12 have access under fair and reasonable terms to the pipeline for in-state use of Alaska North
13 Slope natural gas;

14 (10) the construction and operation of a natural gas pipeline in the state and
15 the sale of Alaska North Slope gas is critical to the health and welfare of the state;

16 (11) for a natural gas pipeline project to become economically viable and
17 competitive, the estimated costs of constructing the project and the associated financial risk
18 must be reduced significantly; changes in the local, state, and federal tax structure may also be
19 necessary to make commercialization of the gas resources economically viable by, in part,
20 structuring tax and royalty incentives related to the project and providing as much clarity and
21 certainty as possible regarding the taxes that would apply to a project throughout its life;

22 (12) art. IX, sec. 4, Constitution of the State of Alaska, empowers the
23 legislature to create tax exemptions by general law, and the creation of tax exemptions to
24 make Alaska North Slope gas commercially viable and competitive is consistent with the
25 legislature's responsibility under art. VIII, sec. 2, Constitution of the State of Alaska;

26 (13) good faith efforts by producers and other companies engaged in the
27 design, construction, and operation of the natural gas pipeline voluntarily to provide
28 employment opportunities for Alaska residents and opportunities for Alaska businesses are in
29 the long-term interests of the state;

30 (14) there has been a history of costly disputes between producers of oil and
31 the state over the determination of the production taxes due for oil produced and sold, in part

1 because of disputes over the definition of terms pertinent to the calculation of the tax;

2 (15) it is in the state's best interest to provide clarity and certainty to the
3 process of determining a producer's tax liability; AS 43.82 (Alaska Stranded Gas
4 Development Act) provides a mechanism for the state and the sponsor of a North Slope
5 natural gas pipeline project to negotiate a contract that could provide that clarity and certainty
6 and resolve other important issues.

7 * **Sec. 2.** AS 29.45.030(a) is amended to read:

8 (a) The following property is exempt from general taxation:

9 (1) municipal property, including property held by a public corporation
10 of a municipality, state property, property of the University of Alaska, or land that is
11 in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-
12 830, 70 Stat. 709, except that

13 (A) a private leasehold, contract, or other interest in the
14 property is taxable to the extent of the interest; however, an interest created by
15 a nonexclusive use agreement between the Alaska Industrial Development and
16 Export Authority and a user of an integrated transportation and port facility
17 owned by the authority and initially placed in service before January 1, 1999,
18 is taxable only to the extent of, and for the value associated with, those specific
19 improvements used for lodging purposes;

20 (B) notwithstanding any other provision of law, property
21 acquired by an agency, corporation, or other entity of the state through
22 foreclosure or deed in lieu of foreclosure and retained as an investment of a
23 state entity is taxable; this subparagraph does not apply to federal land granted
24 to the University of Alaska under AS 14.40.380 or 14.40.390, to other land
25 granted to the university by the state to replace land that had been granted
26 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the
27 university under AS 14.40.365;

28 (C) an ownership interest of a municipality in real property
29 located outside the municipality acquired after December 31, 1990, is taxable
30 by another municipality; however, a borough may not tax an interest in real
31 property located in the borough and owned by a city in that borough;

1 (2) household furniture and personal effects of members of a
2 household;

3 (3) property used exclusively for nonprofit religious, charitable,
4 cemetery, hospital, or educational purposes;

5 (4) property of a nonbusiness organization composed entirely of
6 persons with 90 days or more of active service in the armed forces of the United States
7 whose conditions of service and separation were other than dishonorable, or the
8 property of an auxiliary of that organization;

9 (5) money on deposit;

10 (6) the real property of certain residents of the state to the extent and
11 subject to the conditions provided in (e) of this section;

12 (7) real property or an interest in real property that is exempt from
13 taxation under 43 U.S.C. 1620(d), as amended;

14 (8) property of a political subdivision, agency, corporation, or other
15 entity of the United States to the extent required by federal law; except that a private
16 leasehold, contract, or other interest in the property is taxable to the extent of that
17 interest;

18 (9) natural resources in place including coal, ore bodies, mineral
19 deposits, and other proven and unproven deposits of valuable materials laid down by
20 natural processes, unharvested aquatic plants and animals, and timber;

21 **(10) all property and interests in property exempt from**
22 **municipal taxation under AS 43.55.017, AS 43.56.020 or 43.56.030.**

23 * **Sec. 3.** AS 38.35 is amended by adding a new section to read:

24 **Sec. 38.35.240. Expeditious priority treatment by state officials and**
25 **agencies in support of development and construction of an Alaska North Slope**
26 **natural gas project under this chapter.** (a) In the development and construction of
27 an Alaska North Slope natural gas project that requires the grant of a right-of-way
28 lease under this chapter, every state official and agency shall give full cooperation to
29 the commissioner, or to any official to whom delegation of the authority of the
30 commissioner is made by or under law, consistent with the provisions of the law
31 administered by the official or agency, by issuing or granting necessary permits,

1 certificates, authorizations, and similar actions required to be taken at the earliest
 2 practicable date, with action to be taken on an expedited basis and, notwithstanding
 3 any other provision of law, having precedence over any like matter pending before the
 4 official or agency.

5 (b) In this section, "Alaska North Slope natural gas project" has the meaning
 6 given to "North Slope natural gas pipeline" in AS 38.35.120(a)(1)(B), and related
 7 facilities, constructed to follow generally a route that parallels the Trans Alaska
 8 Pipeline System and the Alaska Highway to the Canadian border to transport natural
 9 gas derived from the area of the state lying north of 64 degrees North latitude.

10 * **Sec. 4.** AS 43.56.020(a) is amended to read:

11 (a) The following are exempt from local taxes levied or authorized under
 12 AS 43.56.010(b):

13 (1) property rights attached to or inherent in the right to explore for or
 14 produce oil or gas;

15 (2) oil or gas leases or properties, whether producing or not;

16 (3) oil or gas in place;

17 (4) oil or gas produced or extracted in the state;

18 (5) the value of intangible drilling expenses and exploration expenses;

19 (6) an interest in property described in AS 43.55.017(a);

20 **(7) an interest in taxable property that is part of an Alaska North**
 21 **Slope natural gas project, whether or not, under AS 43.82, the project has been**
 22 **determined by the commissioner of revenue to meet the requirements of**
 23 **AS 43.82.100, from the project's construction commencement date until**
 24 **December 31 of the second full calendar year in which the project is placed in**
 25 **service; for purposes of this paragraph, "Alaska North Slope natural gas**
 26 **project" has the meaning given in AS 38.35.240.**

27 * **Sec. 5.** AS 43.56.020(b) is amended to read:

28 (b) There is exempt from state taxes levied or authorized under
 29 AS 43.56.010(a),

30 **(1)** before the construction commencement date, property that is
 31 committed by contract or other agreement for use in this state primarily for the

1 production or pipeline transportation of gas or unrefined oil, or in the operation or
 2 maintenance of facilities for the production or pipeline transportation of gas or
 3 unrefined oil; **and**

4 **(2) taxable property described in (a)(7) of this section, subject to**
 5 **the procedures set out in (d) of this section.**

6 * **Sec. 6.** AS 43.56.020 is amended by adding a new subsection to read:

7 (d) For the Alaska North Slope natural gas project, the exemptions provided in
 8 (a)(7) and (b)(2) of this section do not apply unless a taxpayer, or a person acting
 9 under contract with the taxpayer or the project's sponsor,

10 (1) complies with all relevant requirements of 15 U.S.C. 717z (Natural
 11 Gas Act) and 15 U.S.C. 719 - 719o (Alaska Natural Gas Transportation Act of 1976),
 12 as applicable to the project;

13 (2) complies with all valid federal, state, and municipal laws relating to
 14 hiring Alaska residents and contracting with Alaska businesses to work in the state in
 15 the design, construction, and operation of the project to the extent the residents and
 16 businesses are available and qualified;

17 (3) advertises for available positions in newspapers in the location
 18 where the work is to be performed and in other publications distributed throughout the
 19 state, including in rural areas, and uses Alaska job service organizations located
 20 throughout the state and not just in the location where the work is to be performed in
 21 order to notify Alaskans of work opportunities on the project;

22 (4) to the extent permitted by law, encourages the owner's contractors
 23 to train and hire state residents;

24 (5) recruits and employs state residents as workers on available jobs;
 25 the owner shall prepare and submit to the commissioner of labor and workforce
 26 development

27 (A) on an annual basis, a report that sets out in detail the
 28 specific measures that the owner and the owner's contractors have taken or are
 29 planning to take

30 (i) to recruit qualified state residents for available jobs
 31 and that describes job training opportunities; and

1 (ii) to use Alaska businesses;

2 (B) on a quarterly basis, a report concerning the use of state
3 residents, including the number of residents hired or employed during the
4 previous period;

5 (6) makes reasonable efforts

6 (A) to employ Alaska firms that are available and qualified to
7 perform engineering and construction services; and

8 (B) to fabricate or manufacture in the state needed gas
9 production and pipeline modules and other facilities.

10 * **Sec. 7.** AS 43.56.030 is amended to read:

11 **Sec. 43.56.030. In place of other taxes.** Except for those taxes imposed
12 under AS 43.55, the taxes levied or authorized under AS 43.56.010(b) are in place of
13 **all other**

14 (1) [ALL OTHER] ad valorem taxes or other taxes imposed by a
15 municipality on property subject to tax under this chapter or exempted from taxation
16 by AS 43.56.020; and

17 (2) [ALL OTHER] taxes imposed by a municipality on or with respect
18 to the property subject to tax under this chapter or exempted from taxation by
19 AS 43.56.020, including, but not limited to,

20 (A) taxes on the retail sale or use of the property except for the
21 retail sales tax on the first \$1,000 of each sale; **however, the exception for**
22 **retail sales or use taxes on the first \$1,000 of each sale does not apply to a**
23 **retail sale or use involving property used or committed by contract or**
24 **other agreement for use in the development, construction, operation, or**
25 **maintenance of an Alaska North Slope natural gas project as that term is**
26 **defined in AS 38.35.240;**

27 (B) taxes on the sale or use of gas or unrefined oil;

28 (C) taxes on the sale or use of services used in or associated
29 with the property or in its maintenance or operation except for the sales tax on
30 the first \$1,000 of each sale; **however, the exception for retail sales or use**
31 **taxes on the first \$1,000 of each sale does not apply to a retail sale or use**

1 involving services used in or associated with the property used or
 2 committed by contract or other agreement for use in the development,
 3 construction, operation, or maintenance of an Alaska North Slope natural
 4 gas project as that term is defined in AS 38.35.240;

5 (D) taxes on or measured by gross or net income from the
 6 property, including income from the exploration for, production of, or pipeline
 7 transportation of gas or unrefined oil or property; and

8 (E) any license, excise, fee, charge, or other tax on or
 9 pertaining to the property or services.

10 * Sec. 8. AS 43.56.210(2) is amended to read:

11 (2) "construction commencement date" means, for property subject
 12 to tax under this chapter used in the exploration for, production of, or pipeline
 13 transportation of unrefined oil through a facility the construction of which was
 14 begun before April 1, 1974, the earlier of April 1, 1974, or the date the following
 15 occur, and, for property subject to tax under this chapter used in the exploration
 16 for, production of, or pipeline transportation of North Slope natural gas through
 17 an Alaska North Slope natural gas project, as that term is defined in
 18 AS 38.35.240, the date on which all of the following have occurred:

19 (A) there has been issued to the owner or an agent of the owner
 20 right-of-way permits, leases, and title and other rights in land, and other
 21 approvals, permits, licenses, and certificates, by federal, state, and local
 22 agencies that a reasonable and prudent person would consider adequate to
 23 commence construction of the facilities in the expectation that all other
 24 approvals, permits, licenses, and certificates necessary for the completion of
 25 facilities will be obtained;

26 (B) all approvals, permits, licenses, and certificates are in full
 27 force and effect, unrevoked and without any modification that might jeopardize
 28 the completion or continued construction of the facilities; and

29 (C) no order, judgment, decree, determination, or award of a
 30 federal, state, or local court or administrative or regulatory agency enjoining,
 31 either temporarily or permanently, the construction or the continuation of

1 construction of the facilities is in effect;

2 * **Sec. 9.** AS 43.82.100 is amended to read:

3 **Sec. 43.82.100. Qualified project.** Based on information available to the
4 commissioner, the commissioner may determine that a proposal for new investment is
5 a qualified project under this chapter only if the project

6 (1) is a project **that principally involves**

7 **(A) the transportation of natural gas by pipeline to one or**
8 **more markets outside the state, including an Alaska North Slope natural**
9 **gas project as that term is defined in AS 38.35.240; or**

10 **(B) [FOR] the export of liquefied natural gas from the state to**
11 **one or more other states or countries;**

12 (2) would produce at least 500,000,000,000 cubic feet of stranded gas
13 within 20 years from the commencement of commercial operations; and

14 (3) is capable, subject to applicable commercial regulation and
15 technical and economic considerations, of making gas available to meet the reasonably
16 foreseeable demand in this state for gas within the economic proximity of the project.

17 * **Sec. 10.** AS 43.82.170 is amended to read:

18 **Sec. 43.82.170. Application deadline.** The commissioner of revenue or the
19 commissioner of natural resources may not act on an application for a contract
20 submitted under AS 43.82.120 unless the application is received by the Department of
21 Revenue no later than June 30, **2005** [2001].

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

24 **RETROACTIVITY.** Sections 9 and 10 of this Act are retroactive to July 1, 2001.

25 * **Sec. 12.** Sections 2 and 4 - 8 of this Act are effective January 1, 2003.

26 * **Sec. 13.** Except as provided in sec. 12 of this Act, this Act takes effect immediately under
27 AS 01.10.070(c).