

CS FOR HOUSE BILL NO. 519(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/24/02

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE

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 to natural gas projects, including an Alaska North Slope natural
5 gas pipeline and any spurs; extending the deadline for submitting applications under the
6 Alaska Stranded Gas Development Act; exempting an Alaska North Slope natural gas
7 project from state and municipal property taxes during construction; and providing for
8 an effective date."

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

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

12 FINDINGS AND INTENT. The legislature finds that

1 (1) a vast quantity of gas in Alaska is currently stranded from commercial
2 development, in part due to the cost associated with providing access to markets for that gas;
3 the Alaska North Slope has the largest known discovered natural gas resources, estimated to
4 be 35 trillion cubic feet, in the United States and has undiscovered gas resources estimated to
5 be in excess of 100 trillion cubic feet;

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

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

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

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

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

29 (7) in addition to the state's receipt of revenue from taxes and royalties,
30 Alaskans will benefit from the commercialization of Alaska North Slope natural gas through
31 opportunities for in-state use of the natural gas and for participation by Alaskans in

1 construction, maintenance, and operation of a natural gas pipeline project;

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

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

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

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

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

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

31 (14) there has been a history of costly disputes between producers of oil and

1 the state over the determination of the production taxes due for oil produced and sold, in part
2 because of disputes over the definition of terms pertinent to the calculation of the tax;

3 (15) it is in the state's best interest to provide clarity and certainty to the
4 process of determining a producer's tax and royalty liability, AS 43.82 (Alaska Stranded Gas
5 Development Act) provides, among other provisions, in AS 43.82.020, 43.82.200, and
6 43.82.210, mechanisms for the state and the sponsor of a North Slope natural gas pipeline
7 project to negotiate a contract that could provide that clarity and certainty and resolve other
8 important issues, including accommodating the interests of affected municipalities.

9 * **Sec. 2.** AS 38.35 is amended by adding a new section to read:

10 **Sec. 38.35.240. Expeditious priority treatment by state officials and**
11 **agencies in support of development and construction of an Alaska North Slope**
12 **natural gas project under this chapter.** (a) In the development and construction of
13 an Alaska North Slope natural gas project that requires the grant of a right-of-way
14 lease under this chapter, every state official and agency shall give full cooperation to
15 the commissioner, or to any official to whom delegation of the authority of the
16 commissioner is made by or under law, consistent with the provisions of the law
17 administered by the official or agency, by issuing or granting necessary permits,
18 certificates, authorizations, and similar actions required to be taken at the earliest
19 practicable date, with action to be taken on an expedited basis and, notwithstanding
20 any other provision of law, having precedence over any like matter pending before the
21 official or agency.

22 (b) In this section, "Alaska North Slope natural gas project" has the meaning
23 given to "North Slope natural gas pipeline" in AS 38.35.120(a)(1)(B), and related
24 facilities, to be constructed to follow generally a route that parallels the Trans Alaska
25 Pipeline System and the Alaska Highway to the Canadian border, or to tidewater for
26 liquefied natural gas, and any spur lines to serve people in the state, to transport
27 natural gas derived from the area of the state lying north of 64 degrees North latitude.

28 * **Sec. 3.** AS 43.56.020(a) is amended to read:

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

31 (1) property rights attached to or inherent in the right to explore for or

1 produce oil or gas;

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

3 (3) oil or gas in place;

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

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

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

7 **(7) an interest in taxable property that is part of an Alaska North**
 8 **Slope natural gas project, whether or not, under AS 43.82, the project has been**
 9 **determined by the commissioner of revenue to meet the requirements of**
 10 **AS 43.82.100, from the project's construction commencement date, as determined**
 11 **by the commissioner, until December 31 of the second calendar year after the**
 12 **calendar year in which the project is placed in service; for purposes of this**
 13 **paragraph, "Alaska North Slope natural gas project" has the meaning given in**
 14 **AS 38.35.240.**

15 * Sec. 4. AS 43.56.020(b) is amended to read:

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

18 **(1)** before the construction commencement date, property that is
 19 committed by contract or other agreement for use in this state primarily for the
 20 production or pipeline transportation of gas or unrefined oil, or in the operation or
 21 maintenance of facilities for the production or pipeline transportation of gas or
 22 unrefined oil; **and**

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

25 * Sec. 5. AS 43.56.020 is amended by adding new subsections to read:

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

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

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

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

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

12 (5) recruits, to the extent permitted by law, and employs state residents
 13 as workers on available jobs; the owner shall prepare and submit to the commissioner
 14 of labor and workforce development

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

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

20 (ii) to use Alaska businesses;

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

24 (6) makes, to the extent permitted by law, reasonable efforts

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

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

29 (e) The provisions of (d) of this section do not create or abridge individual
 30 rights and do not create a private right of action or claim by any person.

31 * **Sec. 6.** AS 43.56.030 is amended to read:

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

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

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

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

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

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

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

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

31 * **Sec. 7.** AS 43.56.210(2) is amended to read:

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

9 (A) there has been issued to the owner or an agent of the owner
 10 right-of-way permits, leases, and title and other rights in land, and other
 11 approvals, permits, licenses, and certificates, by federal, state, and local
 12 agencies that a reasonable and prudent person would consider adequate to
 13 commence construction of the facilities in the expectation that all other
 14 approvals, permits, licenses, and certificates necessary for the completion of
 15 facilities will be obtained;

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

19 (C) no order, judgment, decree, determination, or award of a
 20 federal, state, or local court or administrative or regulatory agency enjoining,
 21 either temporarily or permanently, the construction or the continuation of
 22 construction of the facilities is in effect;

23 * **Sec. 8.** AS 43.82.100 is amended to read:

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

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

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

31 **(B) [FOR] the export of liquefied natural gas from the state to**

1 **one or more other states or countries;**

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

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

7 * **Sec. 9.** AS 43.82.170 is amended to read:

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

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

14 **RETROACTIVITY.** Sections 8 and 9 of this Act are retroactive to July 1, 2001.

15 * **Sec. 11.** Sections 3 - 7 of this Act are effective January 1, 2003.

16 * **Sec. 12.** Except as provided in sec. 11 of this Act, this Act takes effect immediately under
17 AS 01.10.070(c).