

CS FOR HOUSE BILL NO. 177(FIN) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/11/07

Offered: 5/11/07

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Gasline Inducement Act; providing inducements for the**
2 **construction of a natural gas pipeline and shippers that commit to use that pipeline;**
3 **establishing the Alaska Gasline Inducement Act reimbursement fund; providing for an**
4 **Alaska Gasline Inducement Act coordinator; making conforming amendments; and**
5 **providing for an effective date."**

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

7 *** Section 1.** AS 43 is amended by adding a new chapter to read:

8 **Chapter 90. Alaska Gasline Inducement Act.**

9 **Article 1. Inducement to Construction of a Natural Gas Pipeline in this State.**

10 **Sec. 43.90.010. Purpose.** The purpose of this chapter is to encourage
11 expedited construction of a natural gas pipeline that

12 (1) facilitates commercialization of North Slope gas resources in the
13 state;

1 (2) promotes exploration and development of oil and gas resources on
2 the North Slope in the state;

3 (3) maximizes benefits to the people of the state from the development
4 of oil and gas resources in the state; and

5 (4) encourages oil and gas lessees and other persons to commit to ship
6 natural gas from the North Slope to a gas pipeline system for transportation to markets
7 in this state or elsewhere.

8 **Article 2. Alaska Gasline Inducement Act License.**

9 **Sec. 43.90.100. Gas project.** (a) The commissioners may award an Alaska
10 Gasline Inducement Act license as provided in this chapter. The person awarded a
11 license under this chapter is entitled to the inducement set out in AS 43.90.110.

12 (b) Nothing in this chapter precludes a person from pursuing a gas pipeline
13 independently from this chapter.

14 **Sec. 43.90.110. Natural gas pipeline project construction inducement.** (a)
15 Subject to the limitations of this chapter, a license issued under this chapter entitles the
16 licensee or its designated affiliate to receive

17 (1) subject to appropriation, state matching contributions in the form of
18 reimbursements in a total amount not to exceed \$500,000,000, paid to the licensee
19 during the seven-year period immediately following the date the license is awarded;
20 the payment period may be extended by the commissioners under an amendment or
21 modification of the project plan under AS 43.90.210; a payment under this paragraph
22 shall be made according to the following:

23 (A) on or before the close of the first binding open season, the
24 state shall reimburse the licensee's qualified expenditures at the level specified
25 in the license; however, the state's reimbursements may not exceed 50 percent
26 of the qualified expenditures incurred before the close of the first binding open
27 season;

28 (B) after the close of the first binding open season, the state
29 shall reimburse the licensee's qualified expenditures at the level specified in
30 the license; however, the state's reimbursements may not exceed 90 percent of
31 the qualified expenditures incurred after the close of the first binding open

1 season;

2 (C) a qualified expenditure is a cost that is incurred after the
3 license is issued under this chapter by the licensee or the licensee's designated
4 affiliate, and is directly and reasonably related to obtaining a certificate of
5 public convenience and necessity from the Federal Energy Regulatory
6 Commission or the Regulatory Commission of Alaska, as appropriate, or
7 satisfying a requirement of an agency with jurisdiction over the project; in this
8 subparagraph, "qualified expenditures" does not include overhead costs,
9 litigation costs, the cost of an asset or work product acquired or developed by
10 the licensee before the license is issued, or civil or criminal penalties or fines;
11 and

12 (2) the benefit of an Alaska Gasline Inducement Act coordinator who
13 has the authority prescribed in AS 43.90.250.

14 (b) The commissioner of revenue in consultation with the commissioner of
15 natural resources shall adopt regulations for determining whether an expenditure is a
16 qualified expenditure for the purposes of (a) of this section.

17 **Sec. 43.90.120. Request for applications for the license.** (a) The
18 commissioners shall commence a public process to request applications for a license
19 under this chapter as soon as practicable after the effective date of this chapter.

20 (b) The commissioners may use independent contractors to assist them in
21 developing the request for applications and in evaluating applications received under
22 this chapter.

23 (c) The provisions of AS 36.30 do not apply to requests for applications under
24 this chapter.

25 **Sec. 43.90.130. Application requirements.** An application for a license must
26 be consistent with the terms of the request for applications under AS 43.90.120 and
27 must

28 (1) be filed by the deadline established by the commissioners in the
29 request for applications;

30 (2) provide a thorough description of a proposed natural gas pipeline
31 project for transporting natural gas from the North Slope to market, which description

1 may include multiple design proposals, including different design proposals for pipe
2 diameter, wall thickness, and transportation capacity, and which description shall
3 include

4 (A) the route proposed for the natural gas pipeline, which may
5 not be the route described in AS 38.35.017(b);

6 (B) the location of receipt and delivery points and the size and
7 design capacity of the proposed natural gas pipeline at the proposed receipt and
8 delivery points, except that this information is not required for in-state delivery
9 points unless the application proposes specific in-state delivery points;

10 (C) an analysis of the project's economic and technical
11 viability, including a description of all pipeline access and tariff terms the
12 applicant plans to offer;

13 (D) an economically and technically viable work plan, timeline,
14 and associated budget for developing and performing the proposed project,
15 including field work, environmental studies, design, and engineering,
16 implementing practices for controlling carbon emissions from natural gas
17 systems as established by the United States Environmental Protection Agency,
18 and complying with all applicable state, federal, and international regulatory
19 requirements that affect the proposed project; the applicant shall address the
20 following:

21 (i) if the proposed project involves a pipeline into or
22 through Canada, a thorough description of the applicant's plan to obtain
23 necessary rights-of-way and authorizations in Canada, a description of
24 the transportation services to be provided and a description of rate-
25 making methodologies the applicant will propose to the regulatory
26 agencies, and an estimate of rates and charges for all services;

27 (ii) if the proposed project involves marine
28 transportation of liquefied natural gas, a description of the marine
29 transportation services to be provided and a description of proposed
30 rate-making methodologies; an estimate of rates and charges for all
31 services by third parties; a detailed description of all proposed access

1 and tariff terms for liquefaction services or, if third parties would
2 perform liquefaction services, identification of the third parties and the
3 terms applicable to the liquefaction services; a complete description of
4 the marine segment of the project including the proposed ownership,
5 control, and cost of liquefied natural gas tankers, the management of
6 shipping services, liquefied natural gas export, destination, re-
7 gasification facilities, and pipeline facilities needed for transport to
8 market destinations, and the entity or entities that would be required to
9 obtain necessary export permits and licenses or a certificate of public
10 convenience and necessity from the Federal Energy Regulatory
11 Commission for the transportation of liquefied natural gas in interstate
12 commerce if United States markets are proposed; and all rights-of-way
13 or authorizations required from a foreign country;

14 (3) commit that if the proposed project is within the jurisdiction of the
15 Federal Energy Regulatory Commission, the applicant will

16 (A) conclude, by a date certain that is not later than 36 months
17 after the date the license is issued, a binding open season that is consistent with
18 the requirements of 18 C.F.R. Part 157, Subpart B (Open Seasons for Alaska
19 Natural Gas Transportation Projects) and 18 C.F.R. 157.30 - 157.39;

20 (B) apply for Federal Energy Regulatory Commission approval
21 to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain,
22 and use those procedures before filing an application for a certificate of public
23 convenience and necessity, except where the procedures are not required as a
24 result of sec. 5 of the President's Decision issued under 15 U.S.C. 719 et seq.
25 (Alaska Natural Gas Transportation Act of 1976); and

26 (C) apply for a Federal Energy Regulatory Commission
27 certificate of public convenience and necessity to authorize the construction
28 and operation of the proposed project described in this section by a date
29 certain;

30 (4) if the proposed project is within the jurisdiction of the Regulatory
31 Commission of Alaska, commit to

1 (A) conclude, by a date certain that is not later than 36 months
2 after the date the license is issued, a binding open season that is consistent with
3 the requirements of AS 42.06; and

4 (B) apply for a certificate of public convenience and necessity
5 to authorize the construction and operation of the proposed project by a date
6 certain;

7 (5) commit that after the first binding open season, the applicant will
8 assess the market demand for additional pipeline capacity at least every two years
9 through public nonbinding solicitations or similar means;

10 (6) commit to expand the proposed project in reasonable engineering
11 increments and on commercially reasonable terms that encourage exploration and
12 development of gas resources in this state; in this paragraph,

13 (A) "commercially reasonable terms" means that, subject to the
14 provisions of (7) of this section, revenue from transportation contracts covers
15 the cost of the expansion, including increased fuel costs and a reasonable
16 return on capital as authorized by the Federal Energy Regulatory Commission
17 or the Regulatory Commission of Alaska, as applicable, and there is no
18 impairment of the proposed project's ability to recover the costs of existing
19 facilities;

20 (B) "reasonable engineering increments" means the amount of
21 additional capacity that could be added by compression or a pipe addition
22 using a compressor size or pipe size, as applicable, that is substantially similar
23 to the original compressor size and pipe size;

24 (7) commit that the applicant

25 (A) will propose and support the recovery of mainline capacity
26 expansion costs, including fuel costs, from all mainline system users through
27 rolled-in rates as provided in (B) and (C) of this paragraph or through a
28 combination of incremental and rolled-in rates as provided in (D) of this
29 paragraph;

30 (B) will propose and support the recovery of mainline capacity
31 expansion costs, including fuel costs, from all mainline system users through

1 rolled-in rates; an applicant is obligated under this subparagraph only if the
2 rolled-in rates would increase the rates

3 (i) not described in (ii) of this subparagraph by not more
4 than 15 percent above the initial maximum recourse rates for capacity
5 acquired before commercial operations commence; in this sub-
6 subparagraph, "initial maximum recourse rates" means the highest cost-
7 based rates for any specific transportation service set by the Federal
8 Energy Regulatory Commission, the Regulatory Commission of
9 Alaska, or the National Energy Board of Canada, as appropriate, when
10 the pipeline commences commercial operations;

11 (ii) by not more than 15 percent above the negotiated
12 rate for pipeline capacity on the date of commencement of commercial
13 operations where the holder of the capacity is not an affiliate of the
14 owner of the pipeline project; for the purposes of this sub-
15 subparagraph, "negotiated rate" means the rate in a transportation
16 service agreement that provides for a rate that varies from the otherwise
17 applicable cost-based rate, or recourse rate, set out in a gas pipeline's
18 tariff approved by the Federal Energy Regulatory Commission, the
19 Regulatory Commission of Alaska, or the National Energy Board of
20 Canada, as appropriate; or

21 (iii) for capacity acquired in an expansion after
22 commercial operations commence, to a level that is not more than 115
23 percent of the volume-weighted average of all rates collected by the
24 project owner for pipeline capacity on the date commercial operations
25 commence;

26 (C) will, if recovery of mainline capacity expansion costs,
27 including fuel costs, through rolled-in rate treatment would increase the rates
28 for capacity described in (B) of this paragraph, propose and support the partial
29 roll-in of mainline expansion costs, including fuel costs, to the extent that rates
30 acquired before commercial operations commence do not exceed the levels
31 described in (B) of this paragraph;

1 (D) may, for the recovery of mainline capacity expansion costs,
2 including fuel costs, that, under rolled-in rate treatment, would result in rates
3 that exceed the level in (B) of this paragraph, propose and support the recovery
4 of those costs through any combination of incremental and rolled-in rates;

5 (E) will not enter into a negotiated rate agreement that would
6 preclude the applicant from collecting from any shipper, including a shipper
7 with a negotiated rate agreement, the rolled-in rates that are required to be
8 proposed and supported by the applicant under (B) of this paragraph or the
9 partial rolled-in rates that are required to be proposed and supported by the
10 applicant under (C) of this paragraph;

11 (8) state how the applicant proposes to deal with a North Slope gas
12 treatment plant, regardless of whether that plant is part of the applicant's proposal, and,
13 to the extent that the plant will be owned entirely or in part by the applicant, commit to
14 seek certificate authority from the Federal Energy Regulatory Commission if the
15 proposed project is engaged in interstate commerce, or from the Regulatory
16 Commission of Alaska if the project is not engaged in interstate commerce; for a
17 North Slope gas treatment plant that will be owned entirely or in part by the applicant,
18 for rate-making purposes, commit to value previously used assets that are part of the
19 gas treatment plant at net book value; describe the gas treatment plant, including its
20 design, engineering, construction, ownership, and plan of operation; the identity of any
21 third party that will participate in the ownership or operation of the gas treatment
22 plant; and the means by which the applicant will work to minimize the effect of the
23 costs of the facility on the tariff;

24 (9) propose a percentage and total dollar amount for the state's
25 reimbursement under AS 43.90.110(a)(1)(A) and (B) to be specified in the license;

26 (10) commit to propose and support rates for the proposed project and
27 for any North Slope gas treatment plant that the applicant may own, in whole or in
28 part, that are based on a capital structure for rate-making that consists of not less than
29 70 percent debt;

30 (11) describe the means for preventing and managing overruns in costs
31 of the proposed project, and the measures for minimizing the effects on tariffs from

1 any overruns;

2 (12) commit to provide a minimum of five delivery points of natural
3 gas in this state;

4 (13) commit to

5 (A) offer firm transportation service to delivery points in this
6 state as part of the tariff regardless of whether any shippers bid successfully in
7 a binding open season for firm transportation service to delivery points in this
8 state, and commit to offer distance-sensitive rates to delivery points in this
9 state consistent with 18 C.F.R. 157.34(c)(8); and

10 (B) offer distance-sensitive rates to delivery points in the state
11 consistent with 18 C.F.R. 157.34(c)(8);

12 (14) commit to establish a local headquarters in this state for the
13 proposed project;

14 (15) to the maximum extent permitted by law, commit to

15 (A) hire qualified residents from throughout the state for
16 management, engineering, construction, operations, maintenance, and other
17 positions on the proposed project;

18 (B) contract with businesses located in the state;

19 (C) establish hiring facilities or use existing hiring facilities in
20 the state; and

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

24 (16) waive the right to appeal the rejection of the application as
25 incomplete, the issuance of a license to another applicant, or the determination under
26 AS 43.90.180(b) that no application merits the issuance of a license;

27 (17) commit to negotiate, before construction, a project labor
28 agreement to the maximum extent permitted by law; in this paragraph, "project labor
29 agreement" means a comprehensive collective bargaining agreement between the
30 licensee or its agent and the appropriate labor representatives to ensure expedited
31 construction with labor stability for the project by qualified residents of the state;

1 (18) commit that the state reimbursement received by a licensee may
2 not be included in the applicant's rate base, and shall be used as a credit against
3 licensee's cost of service;

4 (19) provide a detailed description of the applicant, all entities
5 participating with the applicant in the application and the project proposed by the
6 applicant, and persons the applicant intends to involve in the construction and
7 operation of the proposed project; the description must include the nature of the
8 affiliation for each person, the commitments by the person to the applicant, and other
9 information relevant to the commissioners' evaluation of the readiness and ability of
10 the applicant to complete the project presented in the application;

11 (20) demonstrate the readiness, financial resources, and technical
12 ability to perform the activities specified in the application by describing the
13 applicant's history of compliance with safety, health, and environmental requirements,
14 the ability to follow a detailed work plan and timeline, and the ability to operate within
15 an associated budget.

16 **Sec. 43.90.140. Initial application review; additional information requests;**
17 **complete applications.** (a) After the deadline established by the commissioners for
18 filing an application has passed, the commissioners shall open and review each
19 application to determine whether it is consistent with the terms of the request for
20 applications and meets the requirements of AS 43.90.130. The commissioners shall
21 reject as incomplete an application that does not meet the requirements of
22 AS 43.90.130.

23 (b) To evaluate whether an application should be rejected under (a) of this
24 section, the commissioners may request additional information relating to the
25 application.

26 (c) If, within the time specified by the commissioners, the applicant fails to
27 provide the additional information requested under (b) of this section, or submits
28 additional information that is not responsive, the application shall be rejected.

29 (d) For an application not rejected under this section, the commissioners shall
30 make a determination that the application, including any requested additional
31 information, is complete.

1 (e) Except as provided under AS 43.90.150, and after determining which
2 applications are complete, the commissioners shall make all applications available to
3 the legislature.

4 **Sec. 43.90.150. Proprietary information and trade secrets.** (a) At the
5 request of the applicant, information submitted under this chapter that the applicant
6 identifies and demonstrates is proprietary or is a trade secret is confidential and not
7 subject to public disclosure under AS 40.25. After a license is awarded, all
8 information submitted by the licensee, retained under this chapter, and not determined
9 by the commissioners to be a proprietary or trade secret, shall be made public.

10 (b) If the commissioners determine that the information submitted by the
11 applicant is not proprietary or is not a trade secret, the commissioners shall notify the
12 applicant and return the information at the request of the applicant.

13 **Sec. 43.90.160. Notice, review, and comment.** (a) The commissioners shall
14 publish notice and provide a 60-day period for public review and comment on all
15 applications determined complete under AS 43.90.140. Except as provided under
16 AS 43.90.150, all applications filed under this chapter shall be made public, including
17 applications rejected as incomplete under AS 43.90.140.

18 (b) Applications received under this chapter are not subject to public
19 disclosure under AS 40.25 until the commissioners publish notice under this section.
20 However, information that the commissioners have determined is proprietary or a
21 trade secret under AS 43.90.150 may not be made public even after the notice is
22 published under (a) of this section, except as otherwise provided in AS 43.90.150. If
23 information is proprietary or a trade secret and is held confidential under
24 AS 43.90.150, the applicant shall provide a summary of the confidential information
25 that is satisfactory to the commissioners, and the commissioners shall make the
26 summary of the information available to the public.

27 (c) After the commissioners determine that all applications that have not been
28 rejected are complete under AS 43.90.140, information provided by the applicants to
29 the commissioners under this chapter, including information determined by the
30 commissioners to be confidential under AS 43.90.150, shall be disclosed to the
31 legislative auditor, the fiscal analyst who serves as head of the legislative finance

1 division, members of the legislature, and their respective agents and contractors, on
 2 request and after the individual making the request signs a confidentiality agreement
 3 prepared by the commissioners.

4 **Sec. 43.90.170. Application evaluation and ranking.** (a) The commissioners
 5 shall evaluate all applications determined to be complete under AS 43.90.140,
 6 consider public comments received under AS 43.90.160(a), and rank each application
 7 according to the net present value of the anticipated cash flow to the state from the
 8 applicant's project proposal using the factors in (b) of this section and weighted by the
 9 project's likelihood of success based on the commissioners' assessment of the factors
 10 listed in (c) of this section.

11 (b) When evaluating the net present value of anticipated cash flow to the state
 12 from the applicant's project proposal, the commissioners shall use an undiscounted
 13 value and, at a minimum, discount rates of two, five, and eight percent, and consider

14 (1) how quickly the applicant proposes to begin construction of the
 15 proposed project and how quickly the project will commence commercial operation;

16 (2) the net back value of the gas determined by the destination market
 17 value of the gas and estimated transportation and treatment costs;

18 (3) the ability of the applicant to prevent or reduce project cost
 19 overruns that would increase the tariff;

20 (4) the initial design capacity of the applicant's project and the extent
 21 to which the design can accommodate low-cost expansion;

22 (5) the amount of the reimbursement by the state under
 23 AS 43.90.110(a)(1)(A) and (B) proposed by the applicant under AS 43.90.130(9);

24 (6) economic value resulting from payments required to be made to the
 25 state under the terms of the proposal; and

26 (7) other factors found by the commissioners to be relevant to the
 27 evaluation of the net present value of the anticipated cash flow to the state.

28 (c) When evaluating the project's likelihood of success, the commissioners
 29 shall consider

30 (1) the reasonableness, specificity, and feasibility of the applicant's
 31 work plan, timeline, and budget required to be submitted under AS 43.90.130,

1 including the applicant's plan to manage cost overruns, insulate shippers from the
 2 effect of cost overruns, and encourage shippers to participate in the first binding open
 3 season;

4 (2) the financial resources of the applicant;

5 (3) the ability of the applicant to comply with the proposed
 6 performance schedule;

7 (4) the applicant's organization, experience, accounting and operational
 8 controls, technical skills or the ability to obtain them, and necessary equipment or the
 9 ability to obtain the necessary equipment;

10 (5) the applicant's record of

11 (A) performance on projects not licensed under this chapter;

12 (B) integrity and good business ethics; and

13 (6) other evidence and factors found by the commissioners to be
 14 relevant to the evaluation of the project's likelihood of success.

15 **Sec. 43.90.180. Notice to the legislature of intent to issue license; denial of**
 16 **license.** (a) If, after consideration of public comments received under AS 43.90.160(a)
 17 and evaluation of complete applications under AS 43.90.170, the commissioners
 18 determine that an application proposes a project that will sufficiently maximize the
 19 benefits to the people of this state and merits issuance of a license under this chapter,
 20 the commissioners shall

21 (1) issue a determination, with written findings addressing the basis for
 22 the determination; the determination becomes a final agency action on the effective
 23 date of a bill approving the issuance of the license under AS 43.90.190;

24 (2) publish notice of intent to issue a license under this chapter with
 25 written findings addressing the basis for the determination; and

26 (3) forward the notice under (2) of this subsection, along with the
 27 findings, supporting documentation, and determination under (1) of this subsection, to
 28 the presiding officer of each house of the legislature for action as provided in
 29 AS 43.90.190.

30 (b) If, after evaluation of complete applications under AS 43.90.170, the
 31 commissioners determine that no application sufficiently maximizes the benefits to the

1 people of this state and merits issuance of a license under this chapter, the
 2 commissioners shall issue a written finding that addresses the basis for that
 3 determination.

4 (c) The commissioners' determination under (b) of this section is a final
 5 agency action.

6 **Sec. 43.90.190. Legislative approval; issuance of license.** (a) After the
 7 presiding officer of each house of the legislature receives a determination from the
 8 commissioners under AS 43.90.180, the rules committee of each house of the
 9 legislature shall introduce a bill in the committee's respective chamber that provides
 10 for the approval of the license proposed to be issued by the commissioners.

11 (b) If a bill approving the issuance of the license passes the legislature within
 12 60 days after the last date a presiding officer receives a determination by the
 13 commissioners under AS 43.90.180, the commissioners shall issue the license as soon
 14 as practicable after the effective date of the Act approving the issuance of the license.

15 (c) Notwithstanding a legislative rule that prohibits the carryover of a bill after
 16 the end of a special session or after the end of a regular session of a legislature, a bill
 17 introduced under (a) of this section that is not passed or not withdrawn, defeated,
 18 vetoed, or indefinitely postponed shall be carried over to any subsequent regular or
 19 special legislative session convened during the 60-day period described in (b) of this
 20 section in the same reading or status it was in at the time of adjournment. However, a
 21 bill introduced under (a) of this section may not be carried over to the first regular
 22 session of a legislature.

23 (d) If the legislature fails to approve the issuance of the license, the
 24 commissioners

25 (1) may not issue the license that the legislature failed to approve; and

26 (2) may request new applications for a license under AS 43.90.120.

27 **Sec. 43.90.200. Certification by regulatory authority and project sanction.**

28 (a) A licensee that is awarded a certificate of public convenience and necessity from a
 29 regulatory agency with jurisdiction over the project shall accept the certificate on or
 30 before the date the order granting the certificate is no longer subject to judicial review.

31 (b) If the licensee has credit support sufficient to finance construction of the

1 project through ownership of rights to produce and market gas resources, firm
 2 transportation commitments, or government financing, the licensee shall sanction the
 3 project within one year after the effective date of the certificate of public convenience
 4 and necessity issued by the regulatory agency with jurisdiction over the project.

5 (c) If the licensee does not have credit support sufficient to finance
 6 construction of the project through ownership of rights to produce and market gas
 7 resources, firm transportation commitments, or government financing, the licensee
 8 shall sanction the project before the later of

9 (1) two years after the effective date of the certificate of public
 10 convenience and necessity issued by the regulatory agency with jurisdiction over the
 11 project; or

12 (2) five years after the close of the first binding open season of the
 13 project.

14 (d) If the licensee fails to sanction the project as required under this section,
 15 the licensee shall, upon request by the state,

16 (1) seek approval from the Federal Energy Regulatory Commission or
 17 the Regulatory Commission of Alaska, as applicable, to abandon and transfer the
 18 certificate to the state or the state's designee; and

19 (2) assign to the state or the state's designee all engineering designs,
 20 contracts, permits, and other data related to the project that are acquired by the
 21 licensee during the term of the license before the date of the abandonment or transfer.

22 (e) The transfer and assignments under (d) of this section as a result of failure
 23 to comply with (a) or (b) of this section are at no cost to the state or the state's
 24 designee. A transfer under (c) of this section shall be subject to the state's payment to
 25 the licensee of the net amount of expenditures incurred and paid by the licensee that
 26 are qualified expenditures for the purposes of AS 43.90.100.

27 (f) In this section, "effective date of the certificate of public convenience and
 28 necessity" means the earlier of the date the order granting the certificate is no longer
 29 subject to judicial review, or the date the licensee accepts the certificate.

30 **Sec. 43.90.210. Amendment of or modification to the project plan.** Subject
 31 to the approval of the commissioners, a licensee may amend or modify its project plan

1 if the amendments or modifications improve the net present value of the project to the
 2 state, are necessary because of an order or requirement by a regulatory agency with
 3 jurisdiction over the project or by the Alaska Oil and Gas Conservation Commission,
 4 or the amendment or modification is necessary because of changed circumstances
 5 outside the licensee's control and not reasonably foreseeable before the license was
 6 issued. An amendment or modification approved under this section must be consistent
 7 with the requirements of AS 43.90.130 and, except for an amendment or modification
 8 required because of an order or requirement of a regulatory agency with jurisdiction
 9 over the project or by the Alaska Oil and Gas Conservation Commission, may not
 10 substantially diminish the value of the project to the state or the project's likelihood of
 11 success.

12 **Sec. 43.90.220. Records, reports, conditions, and audit requirements.** (a) A
 13 licensee shall maintain complete and accurate records of all expenditures and
 14 commitments of state money received under this chapter, including receipts and
 15 records showing the payment or cost of purchased items and services, the names and
 16 addresses of the sellers and service providers, and the dates of service or delivery.

17 (b) Upon reasonable notice, the commissioners may audit the records, books,
 18 and files of the entity receiving the state money or making the expenditures and
 19 commitments of money received from the state under this chapter.

20 (c) The commissioners may do the following with respect to information
 21 relating to the project: conduct hearings or other investigative inquiries; compel the
 22 attendance of witnesses and production of documents; and require the licensee to
 23 furnish information in paper copy or electronic format.

24 (d) After a license has been issued and until commencement of commercial
 25 operations of a natural gas pipeline, the licensee shall allow the commissioners to

26 (1) have a representative present at all meetings of the licensee's
 27 governing body or bodies and equity holders that relate to the project;

28 (2) receive all relevant notices and information when and as sent to the
 29 governing body or bodies and equity holders;

30 (3) enjoy the same access to information about the licensee as the
 31 governing body members and equity owners receive; and

1 (4) receive relevant reports or information from the licensee that the
2 commissioners reasonably request.

3 (e) All proprietary information, privileged information, and trade secrets
4 received by the commissioners or their representative under (d) of this section are not
5 subject to public disclosure under AS 40.25.

6 (f) A licensee shall maintain the records and reports required under this
7 section for seven years from the date the licensee receives state money under this
8 chapter.

9 **Sec. 43.90.230. License violations; damages.** (a) A licensee is in violation of
10 the license if the commissioners determine that the licensee has

11 (1) requested and received money from the state under this chapter for
12 an expenditure that is not a qualified expenditure under AS 43.90.110;

13 (2) except as required to conform with a requirement of a regulatory
14 agency with jurisdiction over the project, substantially departed from the
15 specifications set out in the application without state approval of a project plan
16 amendment or modification under AS 43.90.210;

17 (3) violated any provision of this chapter or any other provision of
18 state or federal law material to the license;

19 (4) failed to accept a certificate as required under AS 43.90.200(a) or
20 failed to sanction the project as required under AS 43.90.200(b); or

21 (5) otherwise violated a material term of the license.

22 (b) The commissioners shall provide written notice to the licensee identifying
23 a license violation. The commissioners and the licensee have 90 days after the date the
24 notice is issued to resolve the violation informally.

25 (c) The commissioners may suspend disbursement of state reimbursements to
26 the licensee beginning on the date that the notice of violation issued under (b) of this
27 section is sent to the licensee. The commissioners may resume disbursement on the
28 date that the commissioners determine that the violation is cured.

29 (d) If the commissioners and the licensee are unable to resolve the violation
30 within the period described in (b) of this section, the commissioners shall notify the
31 licensee that the violation has not been cured and provide the licensee with an

1 opportunity to be heard. If, after notice and hearing, the commissioners determine that
 2 the violation has not been cured, the commissioners shall issue a written decision that
 3 is a final administrative action for purposes of appeal to the superior court in the state.

4 (e) If the determination issued under (d) of this section finds an unresolved
 5 violation, the commissioners may impose one or more of the following remedies:

6 (1) discontinuation of state reimbursements under this chapter;

7 (2) recoupment of state money that the licensee has received under this
 8 chapter to date, with interest, regardless of whether the licensee has expended or
 9 committed that money;

10 (3) license revocation;

11 (4) assignment to the state or the state's designee of all engineering
 12 designs, contracts, permits, and other data related to the project that are acquired by
 13 the licensee during the term of the license; and

14 (5) any other remedies provided by law or in equity.

15 **Sec. 43.90.240. Abandonment of project.** (a) If the commissioners and the
 16 licensee agree that the project is uneconomic, the project shall be abandoned, the
 17 inducement provided for in AS 43.90.110 terminated, and, except for requirements
 18 imposed on the licensee under (e) of this section and AS 43.90.220, the state and the
 19 licensee no longer have an obligation under this chapter with respect to the license.

20 (b) If the commissioners or the licensee determine that the project is
 21 uneconomic and the other party disagrees, the disagreement shall be settled by
 22 arbitration administered by the American Arbitration Association under the
 23 substantive and procedural laws of this state, and judgment on the award rendered by
 24 the arbitrators may be entered in superior court in the state. In the event of arbitration,
 25 each party shall select an arbitrator from the American Arbitration Association's
 26 National Roster, and the two arbitrators shall appoint a third arbitrator from the
 27 American Arbitration Association's National Roster who shall serve as the chair of the
 28 three-member arbitration panel. If the arbitration panel determines that the project is

29 (1) uneconomic, the state and the licensee no longer have an obligation
 30 under this chapter with respect to the license, except for requirements imposed on the
 31 licensee under (e) of this section and AS 43.90.220; or

1 (2) not uneconomic, the obligations of the licensee and the state
2 continue as provided under this chapter and the license.

3 (c) The arbitration panel in (b) of this section shall make a determination that
4 the project is uneconomic only if the panel finds that the party claiming the project is
5 uneconomic has proven by a preponderance of the evidence that the

6 (1) project does not have credit support sufficient to finance
7 construction of the project through firm transportation commitments, government
8 assistance, or other external sources of financing; and

9 (2) predicted costs of transportation at a 100 percent load factor, when
10 deducted from predicted gas sales revenue using publicly available predictions of
11 future gas prices, would result in a producer rate of return that is below the rate
12 typically accepted by a prudent oil and gas exploration and production company for
13 incremental upstream investment that is required to produce and deliver gas to the
14 project.

15 (d) If the state makes a payment to the licensee under AS 43.90.440, the
16 license is considered abandoned, and the state and the licensee no longer have any
17 obligations under this chapter with respect to the license, except that the licensee must
18 comply with the

19 (1) requirements imposed on the licensee under AS 43.90.220
20 regarding state money received by the licensee before the license was considered
21 abandoned; and

22 (2) requirements of AS 43.90.440.

23 (e) If the commissioners and the licensee agree that the project is uneconomic
24 or an arbitration panel makes a final determination that the project is uneconomic, the
25 licensee shall, upon the state's request, transfer to the state or the state's designee all
26 engineering designs, contracts, permits, and other data related to the project that are
27 acquired by the licensee during the term of the license upon reimbursement by the
28 state of the net amount of expenditures incurred and paid by the licensee that are
29 qualified expenditures for the purposes of AS 43.90.110.

30 **Sec. 43.90.250. Alaska Gasline Inducement Act coordinator.** (a) There is
31 created in the Office of the Governor the position of Alaska Gasline Inducement Act

1 coordinator. Administrative support for the position shall be provided by the Office of
 2 the Governor. The position shall continue until one year after commencement of
 3 commercial operations of the project.

4 (b) The governor shall appoint a person to the position of Alaska Gasline
 5 Inducement Act coordinator. The individual serving as the Alaska Gasline Inducement
 6 Act coordinator may be removed from the position at the discretion of the governor.

7 **Sec. 43.90.260. Expedited review and action by state agencies.** (a) A review
 8 conducted and action taken by a state agency relating to the project shall be expedited
 9 in a manner consistent with the completion of the necessary approvals in accordance
 10 with this chapter.

11 (b) Notwithstanding any contrary provision of law, a state agency may not
 12 include in any project certificate, right-of-way, permit, or other authorization issued to
 13 the licensee a term or condition that is not required by law if the coordinator
 14 determines that the term or condition would prevent or impair in any significant
 15 respect the expeditious construction and operation or expansion of the project.

16 (c) Unless required by law, a state agency may not add to, amend, or abrogate
 17 any certificate, right-of-way, permit, or other authorization issued to a licensee if the
 18 coordinator determines that the action would prevent or impair in any significant
 19 respect the expeditious construction, operation, or expansion of the project.

20 **Article 3. Resource Inducements.**

21 **Sec. 43.90.300. Qualification for resource inducements.** (a) Notwithstanding
 22 any contrary provision of law, a lessee or other person that demonstrates to the
 23 satisfaction of the commissioners that the person has committed to acquire firm
 24 transportation capacity in the first binding open season of the project is qualified to
 25 receive the resource inducement set out in AS 43.90.310 and 43.90.320 for gas
 26 produced on the North Slope and shipped in firm transportation capacity acquired in
 27 the first binding open season of the project. The inducement in AS 43.90.310 is
 28 contractual.

29 (b) A gas producer receiving a voucher under AS 43.90.330 is qualified to
 30 receive the resource inducement in AS 43.90.310 and 43.90.320 for the gas shipped in
 31 the firm transportation capacity described in the voucher for the period described in

1 AS 43.90.330.

2 **Sec. 43.90.310. Royalty inducement.** (a) Before the start of the first binding
3 open season to be conducted by the licensee, the commissioner of natural resources
4 shall adopt regulations that establish a method to determine the monthly value of the
5 state's royalty share of gas production and establish terms under which the state will
6 exercise its right to switch between taking its royalty in value or in kind for gas
7 committed for firm transportation in the first binding open season of the project or
8 shipped in the firm transportation capacity described in a voucher received by the gas
9 producer under AS 43.90.330. The regulations must

10 (1) minimize retroactive adjustments to the monthly value of the state's
11 royalty share of gas production;

12 (2) provide a method for establishing a fair market value for each
13 component of the state's royalty gas that is based on pricing data from reliable and
14 widely available industry trade publications and that uses appropriate adjustments to
15 reflect

16 (A) deductions for actual and reasonable transportation costs
17 for the state's royalty gas, including a reasonable share of the costs associated
18 with unused capacity commitments on gas pipelines from the North Slope to
19 the first destination market with reasonable market liquidity;

20 (B) location differentials between the destination markets
21 where North Slope gas could be sold;

22 (C) reasonable and actual costs for gas processing; in this
23 subparagraph, "gas processing" means post-production treatment of gas to
24 extract natural gas liquids; and

25 (D) deductions permitted under the 1980 Royalty Settlement
26 Agreement for Prudhoe Bay gas; and

27 (3) establish terms under which the state will exercise its authority to
28 switch between taking its royalty gas in value and in kind to ensure that the state's
29 actions do not unreasonably

30 (A) cause the lessee or other person to bear disproportionate
31 transportation costs with respect to the state's royalty gas;

1 (B) interfere with the lessee's or other person's long-term
2 marketing of its production.

3 (b) If a lessee or other person qualified for resource inducement under
4 AS 43.90.300 agrees under (c) of this section, the lessee or other person is entitled to
5 elect

6 (1) to calculate its gas royalty obligation under the regulations adopted
7 under (a) of this section for natural gas transported on a firm contract executed during
8 the project's first binding open season or under the methodology set out in the existing
9 leases from which the gas is produced, and

10 (A) upon the request of the lessee, the commissioner of natural
11 resources shall contractually amend the existing lease to effect the election
12 under this paragraph and incorporate as fixed contract terms the relevant
13 regulatory provisions; and

14 (B) the election under this paragraph remains in effect until
15 new regulations are adopted as a result of a review under (d) of this section, at
16 which time, a lessee or other person qualified under AS 43.90.300 may change
17 its election under this paragraph; upon the request of the lessee, the
18 commissioner of natural resources shall contractually amend the lease to
19 incorporate as fixed contract terms the relevant revised regulatory provisions;

20 (2) to enter into a contract with the state that amends the existing lease
21 terms by providing a mechanism that ensures that, when the state exercises its right to
22 switch between taking its royalty in value or in kind for gas committed for firm
23 transportation in the first binding open season of the project, the lessee or other person
24 does not bear disproportionate transportation costs with respect to the state's royalty
25 gas; and by modifying the required period of notice that the state must provide before
26 exercising the state's right to switch between taking its royalty in value or in kind for
27 gas committed for firm transportation in the first binding open season of the project.

28 (c) To claim the inducement under (b) of this section, a lessee or other person
29 qualified under AS 43.90.300 shall agree, on an application form provided by the
30 Department of Natural Resources, that the lessee or other person, and the lessee's or
31 other person's affiliates, successors, assigns, and agents will not protest or appeal a

1 filing by the licensee to roll in expansion costs of the mainline up to a level that is
 2 required in AS 43.90.130(7) if the Federal Energy Regulatory Commission does not
 3 have a rebuttable presumption in effect that rolled-in treatment applies to the cost of
 4 the expansion of the project. The agreement not to protest may not preclude the lessee
 5 or other person, or the lessee's or other person's affiliates, successors, assigns, and
 6 agents from protesting a filing to roll in mainline expansion costs that licensee is not
 7 required to propose and support under AS 43.90.130(7).

8 (d) The commissioner of natural resources shall provide for review of the
 9 regulations adopted under (a) of this section at least every two years after the
 10 commencement of commercial operations to determine whether the regulations
 11 continue to meet the requirements of (a) of this section under current conditions, and
 12 shall amend the regulations when the requirements are not being met.

13 (e) No provision of this chapter precludes the election set out in (b) of this
 14 section, nor may the commissioner of natural resources assert any provision of any
 15 existing lease or unit agreement as precluding the elections set out in (b) of this
 16 section.

17 **Sec. 43.90.320. Gas production tax exemption.** (a) If a person qualified for
 18 resource inducement under AS 43.90.300 agrees under (c) of this section, the person is
 19 entitled to an annual exemption from the state's gas production tax in an amount equal
 20 to the difference between the amount of the person's gas production tax obligation
 21 calculated under the gas production tax in effect during that tax year and the amount of
 22 the person's gas production tax obligation calculated under the gas production tax in
 23 effect at the start of the first binding open season held under this chapter. If the
 24 difference is less than zero, the gas production tax exemption is zero.

25 (b) The exemption under this section may be applied within 10 years
 26 immediately following commencement of commercial operations and only applied to
 27 production taxes that are levied on North Slope gas shipped through firm
 28 transportation capacity the person acquired during the first binding open season or
 29 shipped in the firm transportation capacity described in a voucher received by the gas
 30 producer under AS 43.90.330.

31 (c) The person claiming the exemption under this section shall agree that the

1 person, and the person's affiliates, successors, assigns, and agents, will not protest or
2 appeal a filing by the licensee to roll in mainline expansion costs up to the level that
3 the licensee is required to propose and support under AS 43.90.130(7) if the Federal
4 Energy Regulatory Commission does not have a rebuttable presumption in effect that
5 rolled-in treatment applies to the cost of the expansion of the project. The agreement
6 required under this subsection may not preclude the person, or the person's affiliates,
7 successors, assigns, and agents, from protesting a filing to roll in mainline expansion
8 costs that the licensee is not required to propose and support under AS 43.90.130(7).

9 (d) In this section, "gas production tax" means the tax levied on the production
10 of gas under AS 43.55.

11 **Sec. 43.90.330. Inducement vouchers.** (a) A person that acquires firm
12 transportation capacity in the first binding open season of the project, that does not
13 hold an oil and gas lease on the North Slope, and that is not an affiliate of a person that
14 holds an oil and gas lease on the North Slope, may apply to the commissioners for a
15 voucher under this section. A voucher issued by the commissioners must describe the
16 firm transportation capacity in the project to which the voucher is applicable.

17 (b) A voucher issued by the commissioners under this section entitles the
18 holder of the voucher to the resource inducements in AS 43.90.310 and 43.90.320 for
19 gas shipped in the firm transportation capacity acquired by the person applying for the
20 voucher during the first binding open season of the project and described in the
21 voucher. The voucher may be transferred to a gas producer that has a binding
22 obligation to sell gas to the person transferring the voucher under a gas purchase
23 agreement.

24 (c) A gas producer holding a voucher may claim the resource inducements for
25 gas shipped through the firm transportation capacity described in the voucher and only
26 on gas that is produced and delivered to the purchaser on the North Slope. A gas
27 producer may claim the resource inducements under this subsection until the earlier of
28 the termination of the binding gas purchase agreement or the expiration of the
29 inducements by operation of law.

30 (d) A person that receives a voucher under this section and a gas producer that
31 receives resource inducements under a voucher shall agree that the person and the gas

1 producer and their respective affiliates, successors, assigns, or agents will not protest
 2 or appeal a filing by the licensee to roll-in mainline expansion costs up to the level that
 3 the licensee is required to propose and support under AS 43.90.130(7) if the Federal
 4 Energy Regulatory Commission does not have a rebuttable presumption in effect that
 5 rolled-in treatment applies to the cost of the expansion of the project. The agreement
 6 required under this subsection may not preclude the person or gas producer or their
 7 respective affiliates, successors, assigns, or agents from protesting a filing to roll-in
 8 mainline expansion costs that the licensee is not required to propose and support under
 9 AS 43.90.130(7).

10 **Article 4. Miscellaneous Provisions.**

11 **Sec. 43.90.400. Alaska Gasline Inducement Act reimbursement fund;**
 12 **disbursements; audits.** (a) There is established in the general fund an Alaska Gasline
 13 Inducement Act reimbursement fund. The fund consists of money appropriated to it by
 14 the legislature for disbursement to pay the state's reimbursements under AS 43.90.110.
 15 Money appropriated to the fund may be spent for the purposes of the fund without
 16 further appropriation. Appropriations to the fund do not lapse under AS 37.25.010, but
 17 remain in the fund for future disbursements. Nothing in this subsection creates a
 18 dedicated fund.

19 (b) The Department of Revenue shall manage the fund, and may invest money
 20 in the fund so as to yield competitive market rates as provided in AS 37.10.071.
 21 Income earned on the fund shall be accounted for separately and may be appropriated
 22 annually to the fund.

23 (c) The commissioners shall adopt regulations that provide for application to
 24 receive reimbursements for qualified expenditures as provided under AS 43.90.110,
 25 and that provide for periodic audits of the use of money disbursed as reimbursements
 26 under this chapter.

27 (d) Within 10 days after the convening of each regular session of the
 28 legislature, the commissioners shall submit to the legislature a report that lists all the
 29 disbursements from the fund during the preceding fiscal year with a written
 30 justification for each disbursement and the projected amount of money that will be
 31 required for reimbursements in each of the next three fiscal years.

1 **Sec. 43.90.410. Regulations.** The commissioners may jointly adopt or amend
2 regulations for the purpose of implementing the provisions of this chapter. The
3 commissioner of revenue and the commissioner of natural resources may adopt or
4 amend regulations adopted under authority outside of this chapter as necessary to
5 implement the provisions of this chapter.

6 **Sec. 43.90.420. Statute of limitations.** A person may not bring a judicial
7 action challenging the constitutionality of this chapter or the constitutionality of a
8 license issued under this chapter unless the action is commenced in a court of the state
9 of competent jurisdiction within 90 days after the date that a license is issued.

10 **Sec. 43.90.430. Interest.** When a payment due to the state under this chapter
11 becomes delinquent, the payment bears interest at the rate applicable to a delinquent
12 tax under AS 43.05.225.

13 **Sec. 43.90.440. Licensed project assurances.** (a) Except as otherwise
14 provided in this chapter, the state grants a licensee assurances that the licensee has
15 exclusive enjoyment of the inducements provided under this chapter before the
16 commencement of commercial operations. If, before the commencement of
17 commercial operations, the state extends to another person preferential royalty or tax
18 treatment or grant of state money for the purpose of facilitating the construction of a
19 competing natural gas pipeline project in this state, and if the licensee is in compliance
20 with the requirements of the license and with the requirements of state and federal
21 statutes and regulations relevant to the project, the licensee is entitled to payment from
22 the state of an amount equal to three times the total amount of the expenditures
23 incurred and paid by the licensee that are qualified expenditures for the purposes of
24 AS 43.90.110 that the licensee incurred in developing the licensee's project before the
25 date that the state first extended preferential treatment to another person. The payment
26 under this subsection is subject to appropriation. Upon payment by the state of the
27 amount owed under this section, the licensee shall, at no additional cost to the state,
28 assign to the state or the state's designee all engineering designs, contracts, permits,
29 and other data related to the project that were acquired by the licensee during the term
30 of the license. The payment under this subsection is in full satisfaction of all claims
31 the licensee may bring in contract, tort, or other law related to the events that gave rise

1 to the payment.

2 (b) The review, processing, or facilitation of a permit, right-of-way, or
3 authorization by a state agency in connection with a competing natural gas pipeline
4 project does not create an obligation on the part of the state under this section.

5 (c) In this section,

6 (1) "competing natural gas pipeline project" means a project designed
7 to accommodate throughput of more than 500,000,000 cubic feet a day of North Slope
8 gas to market;

9 (2) "preferential royalty or tax treatment" does not include

10 (A) the state's exercise of its right to resolve disputes involving
11 royalties and taxes; or

12 (B) the state's exercise of its right to modify royalties as
13 authorized by law in effect on the effective date of this section.

14 **Sec. 43.90.450. Assignments.** (a) A licensee may transfer all or part of the
15 license, including the rights and obligations arising under the license, if, after
16 publishing notice of the proposed transfer, providing notice to the presiding officer of
17 each house of the legislature, and providing a period of not less than 30 days for public
18 review and comment,

19 (1) the transfer is approved in writing in advance by the
20 commissioners; and

21 (2) the transfer does not increase or diminish the obligations created by
22 the license or diminish the likelihood of success of the project or the net present value
23 of the license to the state.

24 (b) Notwithstanding the commissioners' approval of a transfer of all or part of
25 a license under (a) of this section, the transferor of the license remains subject to the
26 requirements of AS 43.90.220 regarding all state money received by the licensee
27 before the effective date of the transfer.

28 (c) A person may transfer that person's rights to the royalty inducement under
29 AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in
30 connection with a sale or merger that results in transfer of all the person's assets in the
31 North Slope along with the person's firm transportation capacity contracts in the

1 project.

2 (d) Except for the transfer of a voucher to a producer under AS 43.90.330(b),
3 a person receiving a voucher under AS 43.90.330 based on the person's acquisition of
4 firm transportation capacity in the first binding open season of the project may transfer
5 the voucher only if the transfer is in connection with the permanent assignment by the
6 person of 100 percent of the firm transportation capacity acquired in the first binding
7 open season of the project.

8 **Sec. 43.90.460. Conflicting laws.** Nothing in this chapter shall be construed to
9 repeal or abrogate the administrative, regulatory, or statutory procedures and functions
10 of state and federal law governing the development and oversight of a project.

11 **Sec. 43.90.470. State pipeline employment development.** The commissioner
12 of labor and workforce development shall develop a job training program that will
13 provide training for Alaskans in gas pipeline project management, construction,
14 operations, maintenance, and other gas pipeline-related positions.

15 **Article 5. General Provisions.**

16 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise
17 requires,

18 (1) "affiliate" means another person that controls, is controlled by, or is
19 under common control with a person, and includes a division that operates as a
20 functional unit;

21 (2) "Alaska Gasline Inducement Act coordinator" or "coordinator"
22 means the person appointed under AS 43.90.250;

23 (3) "applicant" means a person or group of persons that files an
24 application for a license;

25 (4) "certificate of public convenience and necessity" and "certificate"
26 means a certificate of public convenience and necessity issued by the Federal Energy
27 Regulatory Commission or the Regulatory Commission of Alaska or an amendment to
28 a certificate of public convenience and necessity issued by the Federal Energy
29 Regulatory Commission under 15 U.S.C. 719 et seq. (Alaska Natural Gas
30 Transportation Act of 1976);

31 (5) "commencement of commercial operations" means the first flow of

1 gas in the project that generates revenue to the owners;

2 (6) "commissioners" means the commissioner of revenue and the
3 commissioner of natural resources, acting jointly;

4 (7) "control" means the possession of ownership interest or authority
5 sufficient to, directly or indirectly, and whether acting alone or in conjunction with
6 others, direct or cause the direction of the management or policies of a company, and
7 is rebuttably presumed if the voting interest held is 10 percent or more;

8 (8) "equity holder" means the

9 (A) stockholders of a corporation;

10 (B) members of a limited liability company;

11 (C) partners of a partnership;

12 (D) joint venturers of a joint venture;

13 (E) members of a governmental authority and similar persons;

14 or

15 (F) holders of any other entity or person;

16 (9) "gas treatment plant" means a facility downstream of the point of
17 production that conditions gas and removes nonhydrocarbon substances from the gas
18 for the purpose of rendering the gas acceptable for tender and acceptance into a gas
19 pipeline system.

20 (10) "governing body" means a corporation's board of directors, a
21 limited liability company's managing members, a partnership's general partners, a joint
22 venturer's joint venturers, a governmental authority's board or council members, and
23 similar entities;

24 (11) "lease" means an oil and gas, or gas, lease issued by this state;

25 (12) "lessee" means a person that holds a working interest in an oil and
26 gas, or gas, lease issued by this state;

27 (13) "license" means a license issued under this chapter;

28 (14) "licensee" means the holder of a license issued under this chapter
29 and all affiliates, successors, assigns, and agents of the holder;

30 (15) "net present value" means the discounted value of a future stream
31 of cash flow;

1 (16) "North Slope" means that part of the state that lies north of 68
2 degrees North latitude;

3 (17) "open season" means the process that complies with 18 C.F.R.
4 Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects) or
5 a similar process for soliciting commitments for pipeline capacity under the
6 regulations, policies, rules, or precedent of the Regulatory Commission of Alaska;

7 (18) "point of production" has the meaning given in AS 43.55.900;

8 (19) "project" means a natural gas pipeline project authorized under a
9 license issued under this chapter;

10 (20) "proprietary," when used to describe information, means that the
11 information is treated by an applicant as confidential and the public disclosure of that
12 information would adversely affect the competitive position of the applicant or
13 materially diminish the commercial value of the information to the applicant;

14 (21) "recourse rates" means cost-based rates with a minimum and
15 maximum range that are approved by the Federal Energy Regulatory Commission, the
16 Regulatory Commission of Alaska, or the National Energy Board of Canada, as
17 appropriate, and set out in the pipeline's tariff; "recourse rates" includes only those
18 rates that the pipeline must make available to all shippers;

19 (22) "sanction" means to make financial commitments to go forward
20 with the project as evidenced by entering into financial commitments of at least
21 \$1,000,000,000 with third parties;

22 (23) "trade secret" has the meaning given in AS 45.50.940;

23 (24) "under common control with" has the meaning given "control" in
24 this section;

25 (25) "unit agreement" means an agreement executed by the working
26 interest owners and royalty owners creating the unit.

27 **Sec. 43.90.990. Short title.** This chapter may be cited as the Alaska Gasline
28 Inducement Act.

29 * **Sec. 2.** AS 36.30.850(b) is amended by adding a new paragraph to read:

30 (45) contracts for an arbitration panel to determine whether a project is
31 uneconomic under AS 43.90.240, and contracts for the development of application

1 provisions for licensure and for the evaluation of those applications under AS 43.90.

2 * **Sec. 3.** AS 38.05.020(b) is amended to read:

3 (b) The commissioner may

4 (1) establish reasonable procedures and adopt reasonable regulations
5 necessary to carry out this chapter and, whenever necessary, issue directives or orders
6 to the director to carry out specific functions and duties; regulations adopted by the
7 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act);
8 orders by the commissioner classifying land, issued after January 3, 1959, are not
9 required to be adopted under AS 44.62 (Administrative Procedure Act);

10 (2) enter into agreements considered necessary to carry out the
11 purposes of this chapter, including agreements with federal and state agencies;

12 (3) review any order or action of the director;

13 (4) exercise the powers and do the acts necessary to carry out the
14 provisions and objectives of this chapter;

15 (5) notwithstanding the provisions of any other section of this chapter,
16 grant an extension of the time within which payments due on any exploration license,
17 lease, or sale of state land, minerals, or materials may be made, including payment of
18 rental and royalties, on a finding that compliance with the requirements is or was
19 prevented by reason of war, riots, or acts of God;

20 (6) classify tracts for agricultural uses;

21 (7) after consulting with the Board of Agriculture and Conservation
22 (AS 03.09.010), waive, postpone, or otherwise modify the development requirements
23 of a contract for the sale of agricultural land if

24 (A) the land is inaccessible by road; or

25 (B) transportation, marketing, and development costs render
26 the required development uneconomic;

27 (8) reconvey or relinquish land or an interest in land to the federal
28 government if

29 (A) the land is described in an amended application for an
30 allotment under 43 U.S.C. 1617; and

31 (B) the reconveyance or relinquishment is

1 (i) for the purposes provided in 43 U.S.C. 1617; and

2 (ii) in the best interests of the state;

3 (9) lead and coordinate all matters relating to the state's review and
4 authorization of resource development projects;

5 **(10) exercise the powers and do the acts necessary to carry out the**
6 **provisions and objectives of AS 43.90 that relate to this chapter.**

7 * **Sec. 4.** AS 39.25.110 is amended by adding a new paragraph to read:

8 (41) the Alaska Gasline Inducement Act coordinator appointed under
9 AS 43.90.250.

10 * **Sec. 5.** AS 40.25.120(a) is amended to read:

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

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

15 (2) records pertaining to juveniles unless disclosure is authorized by
16 law;

17 (3) medical and related public health records;

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

20 (5) to the extent the records are required to be kept confidential under
21 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
22 or retain federal assistance;

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

25 (A) could reasonably be expected to interfere with enforcement
26 proceedings;

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

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

31 (D) could reasonably be expected to disclose the identity of a

1 confidential source;

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

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

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

9 (7) names, addresses, and other information identifying a person as a
10 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the
11 advance college tuition savings program under AS 14.40.803 - 14.40.817;

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

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

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

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

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

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

30 (11) the written notification regarding a proposed regulation provided
31 under AS 24.20.105 to the Department of Law and the affected state agency and

1 communications between the Legislative Affairs Agency, the Department of Law, and
2 the affected state agency under AS 24.20.105;

3 **(12) records that are**

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

6 **(B) applications that are received under AS 43.90 until**
7 **notice is published under AS 43.90.160.**

8 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 FIRST REQUEST FOR APPLICATIONS FOR THE LICENSE. It is the intent of the
11 legislature that the first request for applications for the license by the commissioners under
12 AS 43.90.120, as enacted in sec. 1 of this Act, be issued within 90 days after the effective date
13 of this Act.

14 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 EXPEDITED CONSIDERATION OF COURT CASES. It is the intent of the
17 legislature that the courts of the state, when considering a case related to the development and
18 construction of a natural gas pipeline under this Act or to the commitment of a shipper to
19 acquire firm transportation capacity during the first binding open season for a project
20 developed under this Act, expedite the resolution of the case by giving the case priority over
21 all other civil cases to the extent permitted under the Alaska Rules of Court.

22 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application
25 of it to any person or circumstance, is held invalid, the remainder of this Act and the
26 application to other persons or circumstances are not affected.

27 * **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).