

SENATE BILL NO. 104

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/5/07

Referred: Resources, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline**
2 **Inducement Act matching contribution fund; providing for an Alaska Gasline**
3 **Inducement Act coordinator; making conforming amendments; and providing for an**
4 **effective date."**

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

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

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

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

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

11 (1) facilitates commercialization of North Slope gas resources in this
12 state;

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

1 (3) maximizes benefits to the people of this state of development of oil
2 and gas resources in this state; and

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

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

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

10 **Sec 43.90.110. Natural gas pipeline project construction inducement.**
11 Subject to the limitations of this chapter, a license issued under this chapter entitles the
12 licensee or its designated affiliate to receive

13 (1) state matching contributions in an amount not to exceed
14 \$500,000,000, paid in total to the licensee over a five-year period; the payment period
15 may be extended by the commissioners under an amendment or modification of the
16 project plan under AS 43.90.220; the payment period commences on the date of the
17 issuance of the license; payments under this paragraph shall be made according to the
18 following:

19 (A) on or before the close of the first binding open season, the
20 state shall match equally the licensee's qualified expenditures;

21 (B) after the close of the first binding open season, the state
22 shall match the licensee's qualified expenditures at a level specified in the
23 license; however, the state's matching contribution may not be greater than 80
24 percent of the qualified expenditures incurred after the close of the first
25 binding open season;

26 (C) qualified expenditures are costs that occurred after the
27 license was issued under this chapter, were incurred by the licensee or the
28 licensee's designated affiliate, and are directly and reasonably related to
29 obtaining a certificate of public necessity and convenience from the Federal
30 Energy Regulatory Commission or the Regulatory Commission of Alaska, as
31 appropriate, for development of the project; in this subparagraph, "qualified

1 expenditures" do not include overhead costs, litigation costs, assets or work
2 product predating the issuance of the license, or civil or criminal penalties or
3 fines;

4 (2) the benefit of an Alaska Gasline Inducement Act coordinator who
5 has the authority prescribed in AS 43.90.330; and

6 (3) the benefits of a state program that provides training for
7 employment in gas pipeline project management, construction, operations,
8 maintenance, and other gas pipeline-related positions.

9 **Sec. 43.90.120. Abandonment of project.** (a) If the commissioners and the
10 licensee agree that the project is uneconomic and should be abandoned, inducement
11 provided for in AS 43.90.110 terminates and, except for requirements imposed on the
12 licensee under AS 43.90.230, the state and the licensee no longer have any obligations
13 under this chapter with respect to the license.

14 (b) If the commissioners or the licensee independently determine that the
15 project is uneconomic and should be abandoned, but the other party does not agree,
16 the commissioners or the licensee may request that an impartial third party take
17 evidence and hear arguments of the commissioners and the licensee and make a final
18 determination of the matter. The commissioners and the licensee shall select the
19 impartial third party by mutual agreement. If the impartial third party determines that
20 the project is uneconomic and should be abandoned, the state and the licensee no
21 longer have any obligations under this chapter with respect to the license, except for
22 requirements imposed on the licensee under AS 43.90.230.

23 (c) If the state makes a payment to the licensee under AS 43.90.440, the
24 license is deemed abandoned and the state and the licensee no longer have any
25 obligations under this chapter with respect to the license except that the licensee must
26 comply with the

27 (1) requirements imposed on the licensee under AS 43.90.230
28 regarding state money received by the licensee before the license was deemed
29 abandoned; and

30 (2) requirements of AS 43.90.440.

31 (d) The commissioners shall establish by regulation the procedures governing

1 the impartial third-party process authorized under this section.

2 **Sec. 43.90.130. Request for applications for the license.** (a) The
3 commissioners shall commence a public process to request applications for a license
4 under this chapter within three months of the effective date of this chapter.

5 (b) The commissioners may use independent contractors to assist in
6 developing the provisions for the application for a license and in evaluating
7 applications received under this chapter.

8 (c) Requests for applications under this chapter are not subject to AS 36.30
9 (State Procurement Code).

10 **Sec 43.90.140. Application requirements.** An application for a license must
11 be consistent with the terms of the request for applications under AS 43.90.130 and
12 must

13 (1) be filed by the deadline established by the commissioners in the
14 request for applications;

15 (2) provide a detailed description of a proposed natural gas pipeline
16 project for transporting natural gas from the North Slope of this state to market,
17 including

18 (A) the route proposed for the natural gas pipeline;

19 (B) receipt and delivery points and the size and design capacity
20 of the proposed natural gas pipeline at the proposed receipt and delivery
21 points;

22 (C) an analysis demonstrating the project's economic and
23 technical viability as required in the request for applications;

24 (D) an economically and technically viable work plan, timeline,
25 and associated budget for developing the proposed project, including how the
26 applicant will perform field work, environmental studies, design, and
27 engineering, and how the applicant will comply with all applicable state,
28 federal, and international regulatory requirements that affect the proposed
29 project; the work plan must address the following:

30 (i) if the proposed project involves a pipeline into or
31 through Canada, a description in detail of the applicant's proposal to

1 obtain necessary rights-of-way and authorizations in Canada;

2 (ii) if the proposed project involves marine
3 transportation of liquefied natural gas, a description of the pipeline
4 route, system, and capacity proposed to bring North Slope gas to
5 tidewater, including a description of proposed transportation services to
6 be provided by third parties and an estimate of rates and charges for all
7 services; a detailed description of all access and tariff terms the
8 applicant would propose for liquefaction services or, if third parties
9 would perform liquefaction services, identify the third parties and the
10 terms they would offer; and a complete description of the proposed
11 ownership and control of liquefied natural gas tankers, the management
12 of shipping services, and the entity or entities that would be required to
13 obtain necessary export permits or a certificate of public convenience
14 and necessity from the Federal Energy Regulatory Commission for the
15 transportation of liquefied natural gas in interstate commerce if United
16 States markets are proposed;

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

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

23 (B) apply for Federal Energy Regulatory Commission approval
24 to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain,
25 and use those procedures before filing an application for a certificate of public
26 convenience and necessity; and

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

31 (4) commit that if the proposed project is within the jurisdiction of the

1 Regulatory Commission of Alaska, the applicant will

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

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

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

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

14 (A) "commercially reasonable terms" means that, subject to the
15 provisions of (7)(A) of this section, revenue from expansion contracts covers
16 the cost of the expansion and there is no impairment of the proposed project's
17 ability to recover the costs of existing facilities;

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

22 (7) commit that the applicant

23 (A) will propose and support recovery of mainline capacity
24 expansion costs from all mainline system users through rolled-in rates if the
25 recovery of all expansion costs through rolled-in rates would increase existing
26 shippers' rates by no more than 15 percent of the initial maximum recourse
27 rates from the North Slope to the proposed project's downstream terminus; if
28 rolled-in expansion costs would increase existing shippers' rates from the
29 North Slope to the project's downstream terminus by more than 15 percent, the
30 applicant will propose and support the partial roll-in of mainline expansion
31 costs from all mainline system users to the extent that existing shippers' rates

1 would not be increased by more than 15 percent of the initial maximum
2 recourse rates from the North Slope to the proposed project's downstream
3 terminus; in this subparagraph, "initial maximum recourse rates" means
4 highest cost-based rates for any specific transportation service set by the
5 Federal Energy Regulatory Commission, the Regulatory Commission of
6 Alaska, or the National Energy Board of Canada, as appropriate, at the time of
7 the initial regulatory approval of the proposed project;

8 (B) may propose any combination of incremental or rolled-in
9 rates for recovery of costs of mainline capacity expansion that exceeds the 15
10 percent level described in (A) of this paragraph;

11 (C) agrees not to enter into negotiated rate agreements that
12 would preclude the applicant from collecting from any shipper, including
13 shippers with negotiated rate agreements, the roll-in rates that are required to
14 be proposed and supported by the applicant under (A) of this paragraph; in this
15 subparagraph, "negotiated rate agreements" means transportation service
16 agreements that are subject to rates that vary from the otherwise applicable
17 cost-based rates, or recourse rates, set out in a gas pipeline's tariff approved by
18 the Federal Energy Regulatory Commission, the Regulatory Commission of
19 Alaska, or the National Energy Board of Canada, as appropriate;

20 (8) commit to seek certificate authority from the Federal Energy
21 Regulatory Commission if the proposed project is engaged in interstate commerce, or
22 from the Regulatory Commission of Alaska if the project is not engaged in interstate
23 commerce, for any North Slope gas treatment plant that will be owned entirely or in
24 part by the applicant and, for rate-making purposes, commit to value previously used
25 assets that are part of the gas treatment plant at net book value;

26 (9) propose a percentage, to be specified in the license, that will define
27 the level of the state's matching contribution under AS 43.90.110(1)(B);

28 (10) commit that the applicant will propose and support rates for the
29 proposed project and for any North Slope gas treatment plant that the applicant may
30 own, in whole or in part, that are based on a capital structure for rate-making that
31 consists of no less than 70 percent debt;

1 (11) describe the means by which the applicant plans to manage
 2 overruns in costs of the proposed project, if any, and the measures that the applicant
 3 proposes to mitigate the impacts of any overruns;

4 (12) commit to provide for a minimum of five delivery points of
 5 natural gas in this state;

6 (13) commit to offer firm transportation service to delivery points in
 7 this state as part of the tariff regardless of whether any shippers bid successfully in a
 8 binding open season for firm transportation service to delivery points in this state, and
 9 commit to offer distance sensitive rates to delivery points in this state consistent with
 10 18 C.F.R. 157.34(c)(8);

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

13 (15) commit to hire qualified residents from throughout this state for
 14 management, engineering, construction, operations, maintenance, and other positions
 15 on the proposed project and contract with businesses located in this state to the extent
 16 permitted by law; and

17 (16) otherwise demonstrate that the applicant is ready and able to
 18 perform the activities specified in the application, including the detailed work plan,
 19 timeline, and associated budget.

20 **Sec. 43.90.150. Initial application review; additional information requests;**
 21 **complete applications.** (a) The commissioners shall review each application
 22 submitted under AS 43.90.130 to determine whether it is consistent with the terms of
 23 the request for applications and meets the requirements of AS 43.90.140. The
 24 commissioners shall reject any application that does not meet those terms and
 25 requirements.

26 (b) To evaluate an application not rejected under (a) of this section, the
 27 commissioners may request from an applicant additional information.

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

31 (d) For an application not rejected under (a) or (c) of this section, the

1 commissioners shall make a determination that the application, including any
2 requested additional information, is complete.

3 **Sec. 43.90.160. Proprietary information and trade secrets.** At the request of
4 the applicant, information submitted under this chapter that the applicant identifies and
5 demonstrates is proprietary or is a trade secret is confidential and not subject to public
6 disclosure under AS 40.25.

7 **Sec. 43.90.170. Application evaluation criteria.** The commissioners shall
8 evaluate all applications determined complete under AS 43.90.150 based upon

9 (1) the timing of the applicant's proposed actions specified in the
10 application;

11 (2) how the applicant plans to manage overruns in costs of the
12 proposed project;

13 (3) the extent to which the applicant will provide low transportation
14 rates, including the applicant's ability to prevent or reduce overruns in costs of the
15 proposed project and will offer tariff provisions that minimize the rate impact of
16 overruns in costs that may occur;

17 (4) the initial design capacity of the proposed project and the extent to
18 which the design can accommodate low cost expansion;

19 (5) the percentage of the state's matching contribution proposed under
20 AS 43.90.140(9);

21 (6) the reasonableness, specificity, and feasibility of the work plan,
22 timeline, and budget required by AS 43.90.140; and

23 (7) the applicant's financial resources; ability to comply with the
24 proposed performance schedule; record of performance on other projects not licensed
25 under this chapter; record of integrity and business ethics; organization; experience;
26 accounting and operational controls and technical skills, or ability to obtain them; and
27 possession of necessary equipment or ability to obtain it.

28 **Sec. 43.90.180. Notice, review, and comment.** (a) The commissioners shall
29 publish notice and provide a 60-day period for public review and comment on all
30 applications determined complete under AS 43.90.150.

31 (b) Applications received under this chapter are not public records and are not

1 subject to public disclosure under AS 40.25 until the commissioners publish notice
 2 under this section. However, information that the commissioners have determined is
 3 confidential under AS 43.90.160 may not be made public even after the notice is
 4 published under (a) of this section. If information is held confidential under this
 5 subsection, the commissioners shall make available to the public a summary of the
 6 information.

7 **Sec. 43.90.190. Notice to the legislature of intent to issue license; denial of**
 8 **license.** (a) If, after evaluation of complete applications under AS 43.90.170 and
 9 consideration of public comments received under AS 43.90.180, the commissioners
 10 determine that an application would sufficiently maximize the benefits to the people of
 11 this state and merits issuance of a license under this chapter, the commissioners shall

12 (1) issue a determination, with written findings addressing the basis for
 13 the determination; the determination becomes a final agency action in accordance with
 14 AS 43.90.200;

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

17 (3) forward the notice under (2) of this subsection, along with the
 18 findings, supporting documentation, and the determination under (1) of this
 19 subsection, to the legislature for action as provided in AS 43.90.200.

20 (b) If, after evaluation of complete applications under AS 43.90.170, the
 21 commissioners determine that no application sufficiently maximizes the benefits to the
 22 people of this state and merits issuance of a license under this chapter, the
 23 commissioners shall issue a written finding that addresses the basis for that
 24 determination.

25 (c) The commissioners' determination under this (b) of this section is a final
 26 agency action for purposes of appeal to the court under the Alaska Rules of Appellate
 27 Procedure.

28 **Sec. 43.90.200. Legislative action; issuance of license.** (a) A determination
 29 and notice of intent to issue a license under AS 43.90.190 is a final agency action,
 30 effective under this chapter on the 30th legislative day after the date of referral to the
 31 legislature, unless the notice of intent is disapproved by joint resolution of the

1 legislature. After the determination and notice of intent are effective under this
2 subsection, the commissioners may issue the license under this chapter.

3 (b) If the legislature disapproves the notice of intent to issue a license before
4 the 30th legislative day after referral, the commissioners may commence another
5 public process under AS 43.90.130 to request applications.

6 (c) Upon becoming effective under (a) of this section, the commissioners'
7 notice of intent is appealable to the court under the Alaska Rules of Appellate
8 Procedure.

9 **Sec. 43.90.210. Certification by regulatory authority and project sanction.**

10 (a) A licensee that is awarded a certificate of public convenience and necessity for the
11 project shall accept a certificate issued by the Federal Energy Regulatory Commission
12 if the project is engaged in interstate commerce, or the Regulatory Commission of
13 Alaska if the project is not engaged in interstate commerce.

14 (b) If the licensee has credit support sufficient to finance construction of the
15 project through ownership of rights to produce and market gas resources, firm
16 transportation commitments, or government financing, the licensee shall sanction the
17 project within one year after the effective date of the certificate of public convenience
18 and necessity issued by the Federal Energy Regulatory Commission, or the Regulatory
19 Commission of Alaska, as applicable.

20 (c) If the licensee does not have credit support sufficient to finance
21 construction of the project through ownership of rights to produce and market gas
22 resources, firm transportation commitments, or government financing, the licensee
23 shall sanction the project within five years after the effective date of the certificate of
24 public convenience and necessity issued by the Federal Energy Regulatory
25 Commission, or the Regulatory Commission of Alaska, as applicable.

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

28 (1) seek approval from the Federal Energy Regulatory Commission or
29 Regulatory Commission of Alaska, as appropriate, to abandon and transfer the
30 certificate to the state or the state's designee; and

31 (2) assign to the state's designee all project data, engineering designs,

1 contracts, and permits owned or acquired by the licensee as of the date of the
2 abandonment or transfer.

3 (e) The transfer of any certificate or material as a result of failure to comply
4 with (a) or (b) of this section is at no cost to the state or the state's designee. A transfer
5 under (c) of this section is at the licensee's net cost.

6 **Sec. 43.90.220. Amendment of or modification to the project plan.** Subject
7 to the approval of the commissioners, a licensee may amend or modify its project plan
8 if the amendments or modifications are necessary as a result of changed circumstances
9 outside the licensee's control and not reasonably foreseeable before the license was
10 issued. An amendment or modification approved under this section must be consistent
11 with the requirements of AS 43.90.140 and may not diminish the value to the state of
12 the project.

13 **Sec. 43.90.230. Records, reports, conditions, and audit requirements.** (a) A
14 licensee shall maintain complete and accurate records of all expenditures and
15 commitments of state money received under this chapter, including receipts and
16 records showing the payment or cost of purchased items and services, the names and
17 addresses of the sellers and service providers, and dates of service or delivery.

18 (b) Upon reasonable notice, the commissioners may audit the records of a
19 licensee relating to the licensee's expenditures and commitments of money received
20 from the state under this chapter, and may

21 (1) examine all books, records, and files of the licensee;

22 (2) conduct hearings or other investigative inquiries, and complete the
23 attendance of witnesses and documents; and

24 (3) require the licensee to furnish information in paper copy or
25 electronic format.

26 (c) After a license has been issued, and until commencement of commercial
27 operations of a natural gas pipeline, the licensee shall allow the commissioners to have
28 a representative present at all meetings of the licensee's governing body and equity
29 holders that relate to the project, to receive all relevant notices and information sent to
30 the governing body and equity holders, to receive the same access to information
31 about the licensee as the governing body members and equity owners receive, and to

1 receive additional relevant reports or information from the licensee that the
2 commissioners reasonably request.

3 (d) A licensee shall maintain the records and reports required under this
4 section for seven years from the date the licensee received state money under this
5 chapter.

6 **Sec. 43.90.240. License violations; damages.** (a) A licensee is in violation of
7 the license if the commissioners determine that the licensee

8 (1) has committed state money received under this chapter for
9 purposes other than those set out in AS 43.90.110(1);

10 (2) has substantially departed from the specifications set out in the
11 application without state approval of a project plan amendment or modification under
12 AS 43.90.220;

13 (3) has violated any provision of this chapter or any other provision of
14 state or federal law material to the license; or

15 (4) has otherwise violated a material term of the license.

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

19 (c) The commissioners may suspend disbursement of state matching
20 contributions to the licensee beginning on the date that the notice of violation issued
21 under (b) of this section is sent to the licensee. The commissioners may resume
22 disbursement on the date that the commissioners determine that the violation is cured.

23 (d) If the commissioners and the licensee are unable to resolve the violation
24 within the time specified in (b) of this section, the commissioners shall, after providing
25 the licensee with notice and opportunity to be heard, make a written determination
26 regarding the violation. The written determination made under this subsection is the
27 final agency action for purposes of appeal to the court under the Alaska Rules of
28 Appellate Procedure.

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

31 (1) discontinuation of state matching contributions under this chapter;

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

4 (3) license revocation;

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

6 **Article 3. Resource Inducement; Alaska Gasline Inducement Act Coordinator.**

7 **Sec. 43.90.300. Qualification for resource inducement.** Notwithstanding any
 8 contrary provision of law, a person that demonstrates to the commissioners'
 9 satisfaction that the person has committed to acquire firm transportation capacity in
 10 the first binding open season of the project is qualified to receive the resource
 11 inducement set out in AS 43.90.310 and 43.90.320 for the gas shipped in firm
 12 transportation capacity acquired in the first binding open season of the project.

13 **Sec. 43.90.310. Royalty inducement.** (a) Before the beginning of the first
 14 binding open season to be conducted by the licensee, the commissioner of natural
 15 resources shall adopt regulations to establish a method to determine the monthly value
 16 of the state's royalty share of gas production and establish terms under which the state
 17 will exercise its right to switch between taking its royalty in value or in kind for gas
 18 committed for firm transportation in the first binding open season of the project.

19 (b) The regulations must

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

22 (2) contain provisions to establish a fair market value for each
 23 component of the state's royalty gas that are based on pricing data from reliable and
 24 widely available industry trade publications and use appropriate adjustments to reflect

25 (A) deductions for actual and reasonable transportation costs
 26 for the state's royalty gas, including a fair share of the costs associated with
 27 unused capacity commitments on pipelines from the North Slope of this state
 28 to the first destination market with reasonable market liquidity;

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

31 (C) reasonable and actual costs for gas processing; and

1 (D) deductions permitted under the 1980 Royalty Settlement
2 Agreement for Prudhoe Bay gas;

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

6 (A) cause the lessee to bear disproportionate transportation
7 costs with respect to the state's royalty gas;

8 (B) interfere with the lessee's long-term marketing of its
9 production; and

10 (4) require that in order to exercise an election under this section, a
11 person shall agree, on an application form provided by the Department of Revenue,
12 that the person, and the person's affiliates, successors, assigns, and agents, will not
13 protest or appeal a filing by the licensee to roll in expansion costs of the mainline up to
14 a level that is required in AS 43.90.140(7); the agreement not to protest may not
15 preclude the person, or the person's affiliates, from protesting a filing to roll in
16 mainline expansion costs that licensee is not required to propose and support under
17 AS 43.90.140(7).

18 (c) The commissioner of natural resources shall provide for review of the
19 regulations adopted under this section at least every two years after the
20 commencement of commercial operations of the project to determine whether the
21 regulations continue to meet the requirements of this section under current conditions;
22 the commissioner shall amend the regulations as necessary.

23 (d) If new regulations are adopted as a result of the review required under (c)
24 of this section, a state oil and gas lessee qualified under AS 43.90.300 may change its
25 election to calculate its gas royalty obligation, as provided by regulation, for natural
26 gas transported on a firm contract negotiated during the project's first binding open
27 season or the methodology set out in the lessee's existing leases or unit agreements.
28 The election remains in effect until the regulations are amended.

29 (e) No provision of this chapter precludes the election set out in (d) of this
30 section, nor may the commissioner of natural resources assert any provision of any
31 existing lease or unit agreement as precluding that election.

1 **Sec. 43.90.320. Gas production tax exemption.** (a) If a person qualified for
 2 resource inducement under AS 43.90.300 agrees under (c) of this section, the person is
 3 entitled to an annual exemption from the state's gas production tax in an amount equal
 4 to the difference between the amount of the person's gas production tax obligation
 5 calculated under the gas production tax in effect during that tax year and the amount of
 6 the person's gas production tax obligation calculated under the gas production tax in
 7 effect at the conclusion of the first binding open season held under this chapter. If the
 8 difference is less than zero, the gas production tax exemption is zero.

9 (b) The exemption under this section may be applied within 10 years
 10 immediately following commencement of commercial operations of the project only
 11 to production taxes that are levied on North Slope gas shipped through firm
 12 transportation capacity the person acquired during the first binding open season.

13 (c) To claim the exemption under this section, a person shall agree, on an
 14 application form provided by the Department of Revenue, that the person, and the
 15 person's affiliates, successors, assigns, and agents, will not protest or appeal a filing by
 16 the licensee to roll in mainline expansion costs up to the level that the licensee is
 17 required to propose and support under AS 43.90.140(7); the agreement under this
 18 subsection may not preclude the person, or the person's affiliates, successors, assigns,
 19 and agents, from protesting a filing to roll in mainline expansion costs that the licensee
 20 is not required to propose and support under AS 43.90.140(7).

21 **Sec. 43.90.330. Alaska Gasline Inducement Act coordinator.** (a) The
 22 governor shall appoint, subject to legislative confirmation, an Alaska Gasline
 23 Inducement Act coordinator. The person appointed as the Alaska Gasline Inducement
 24 Act coordinator shall serve in that position until one year after commencement of
 25 commercial operations of the project.

26 (b) The Alaska Gasline Inducement Act coordinator shall

27 (1) coordinate expeditious performance of all activities by state
 28 agencies with respect to the project;

29 (2) ensure compliance by state agencies with the provisions of this
 30 chapter; and

31 (3) coordinate with the federal coordinator for natural gas

1 transportation projects in this state.

2 **Sec. 43.90.340. Expedited review and action by state agencies.** (a) All
3 reviews conducted and actions taken by a state agency relating to a project shall be
4 expedited in a manner consistent with the completion of the necessary approvals in
5 accordance with this chapter.

6 (b) Notwithstanding any contrary provision of law, a state agency may not
7 include in any project certificate, right-of-way, permit, or other authorization issued to
8 the licensee any term or condition that is not required by law if the Alaska Gasline
9 Inducement Act coordinator determines that the term or condition would prevent or
10 impair in any significant respect the expeditious construction and operation or
11 expansion of the project.

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

17 **Article 4. Miscellaneous Provisions.**

18 **Sec. 43.90.400. Alaska Gasline Inducement Act matching contribution**
19 **fund; disbursements; audits.** (a) There is established in the general fund an Alaska
20 Gasline Inducement Act matching contribution fund. The fund consists of money
21 appropriated to it by the legislature for disbursement to pay the state's matching
22 contributions under AS 43.90.110. Appropriations to the fund do not lapse under
23 AS 37.25.010, but remain in the fund for future disbursements.

24 (b) The Department of Revenue shall manage the fund, and may invest money
25 in the fund so as to yield competitive market rates as provided in AS 37.10.071.
26 Interest received on money in the fund shall be accounted for separately and may be
27 appropriated to the fund annually.

28 (c) The commissioners shall adopt regulations that provide for application to
29 receive matching contributions for qualified expenditures as provided under
30 AS 43.90.110, and that provide for periodic audits of the use of money disbursed as
31 matching contributions under this chapter.

1 (d) Within 10 days after the convening of each regular session of the
 2 legislature, the commissioners shall submit to the legislature a report that lists all the
 3 disbursements from the fund in the preceding year with a written justification of each
 4 disbursement and the projected amount of money that will be needed for matching
 5 contributions in each of the next three fiscal years.

6 **Sec. 43.90.410. Regulations.** The commissioners may jointly adopt
 7 regulations for the purpose of implementing the provisions of this chapter. The
 8 commissioner of revenue may change regulations adopted under existing authority in
 9 this title as necessary to implement the provisions of this chapter. The commissioner
 10 of natural resources may change regulations adopted under existing authority in AS 38
 11 as necessary to implement the provisions of this chapter.

12 **Sec. 43.90.420. Statute of limitations.** A person may not bring a judicial
 13 action challenging the constitutionality of this chapter or a license unless the action is
 14 commenced in a court of proper jurisdiction in this state within 90 days from the date
 15 that a license was issued.

16 **Sec. 43.90.430. Interest.** When a payment due to the state under this chapter
 17 becomes delinquent, the payment bears interest in a calendar quarter at the annual rate
 18 of five percentage points above the annual rate charged member banks for advances by
 19 the 12th Federal Reserve District as of the first day of that calendar quarter, or at the
 20 annual rate of 11 percent, whichever is greater, compounded quarterly as of the last
 21 day of that quarter.

22 **Sec. 43.90.440. Licensed project assurances.** Except as otherwise provided in
 23 this chapter, the state grants a licensee assurances that the licensee has exclusive
 24 enjoyment of the inducement provided under this chapter. If the state extends to
 25 another person preferential royalty, tax, or monetary treatment for the purpose of
 26 facilitating the construction of a competing natural gas pipeline project in this state,
 27 and if the licensee is in compliance with the requirements of the license and with the
 28 requirements of state and federal statutes and regulations relevant to the project, the
 29 licensee is entitled to payment from the state of an amount equal to three times the
 30 total of the reasonable costs that the licensee has incurred in developing the licensee's
 31 project as of the date that the state first extended preferential treatment to another

1 person. Upon payment by the state of the amount owed under this section, the licensee
 2 shall, at no cost to the state, assign to the state all project data, engineering designs,
 3 contracts, and permits related to the project that are owned or were acquired by the
 4 licensee.

5 **Sec. 43.90.450. Assignments.** (a) A licensee may transfer all or part of the
 6 license, including the rights and obligations arising under the license, if

7 (1) the transfer is approved in writing in advance by the
 8 commissioners; and

9 (2) the transfer does not increase or diminish the obligations created by
 10 the license or diminish the value of the license to the state.

11 (b) Notwithstanding the commissioners' approval of a transfer of all or part of
 12 a license under (a) of this section, the transferor of the license remains subject to the
 13 requirements of AS 43.90.230 regarding all state money received by the licensee
 14 before the effective date of the transfer.

15 (c) A person may transfer that person's rights to the royalty inducement under
 16 AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in
 17 connection with a sale or merger that results in transfer of all the person's assets in the
 18 North Slope of this state, include the firm transportation capacity contracts in the
 19 project.

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

23 **Article 5. General Provisions.**

24 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise
 25 requires,

26 (1) "affiliate" means another person that controls, is controlled by, or is
 27 under common control with, a person; "affiliate" includes a division that operates as a
 28 functional unit;

29 (2) "Alaska Gasline Inducement Act coordinator" means the person
 30 appointed under AS 43.90.330;

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

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

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

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

9 (6) "equity holder" means the

10 (A) stock holders of a corporation;

11 (B) members of a limited liability company;

12 (C) partners of a partnership;

13 (D) joint venturers of a joint venture;

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

15 or

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

17 (7) "gas processing" means post-production treatment of gas to extract
18 natural gas liquids;

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

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

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

26 (11) "license" means a license issued under this chapter;

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

29 (13) "project" means a natural gas pipeline project authorized under a
30 license issued under this chapter;

31 (14) "recourse rates" means cost-based rates with a minimum and

1 maximum range that are approved by the Federal Energy Regulatory Commission, the
 2 Regulatory Commission of Alaska, or the National Energy Board of Canada, as
 3 appropriate, and set out in the pipeline's tariff; "recourse rates" includes only those
 4 rates that the pipeline must make available to all shippers;

5 (15) "sanction" means procurement commitments to go forward with
 6 the project as evidenced by entering into procurement commitments of at least
 7 \$1,000,000,000 with third parties;

8 (16) "under common control with" has the meaning given "control" in
 9 this section;

10 (17) "unit agreement" means an agreement executed by the working
 11 interest owners and royalty owners creating the unit.

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

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

15 (45) contracts for an impartial third party to determine abandonment of
 16 a project under AS 43.90.120, and contracts for the development of application
 17 provisions for licensure under AS 43.90 and for the evaluation of those applications.

18 * **Sec. 3.** AS 39.25.110 is amended by adding a new paragraph to read:

19 (41) the Alaska Gasline Inducement Act coordinator appointed under
 20 AS 43.90.330.

21 * **Sec. 4.** AS 40.25.120(a) is amended by adding a new paragraph to read

22 (12) records that are

23 (A) proprietary or a trade secret in accordance with
 24 AS 43.90.160;

25 (B) applications that are received under AS 43.90 until
 26 AS 43.90.180.

27 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).