

**CS FOR SENATE BILL NO. 104(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/11/07

Referred: Today's Calendar

Sponsor(s): SENATE 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 matching contribution fund; providing**  
4 **for an Alaska Gasline Inducement Act coordinator; making conforming amendments;**  
5 **and 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 matching contribution may not exceed 50  
26 percent of the qualified expenditures incurred before the close of the first  
27 binding open 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 matching contribution may not exceed 90  
31 percent of the qualified expenditures incurred after the close of the first

1 binding open 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 pursuing firm transportation  
 5 commitments in a binding open season, to securing financing for the project, or  
 6 to obtaining a certificate of public convenience and necessity from the Federal  
 7 Energy Regulatory Commission or the Regulatory Commission of Alaska, as  
 8 appropriate, or satisfying a requirement of an agency with jurisdiction over the  
 9 project; in this subparagraph, "qualified expenditures" does not include  
 10 overhead costs, lobbying costs, litigation costs, the cost of an asset or work  
 11 product acquired or developed by the licensee before the license is issued, or  
 12 civil or criminal penalties or fines; and

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

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

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

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

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

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

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

31 (2) provide a thorough description of a proposed natural gas pipeline

1 project for transporting natural gas from the North Slope to market, which description  
2 may include multiple design proposals, including different design proposals for pipe  
3 diameter, wall thickness, and transportation capacity, and which description shall  
4 include

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

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

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

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

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

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

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

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

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

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

1 Commission of Alaska, commit to

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 nonbinding 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) of this section, revenue from transportation contracts covers  
16 the cost of the expansion, including increased fuel costs and a reasonable  
17 return on capital as authorized by the Federal Energy Regulatory Commission  
18 or the Regulatory Commission of Alaska, as applicable, and there is no  
19 impairment of the proposed project's ability to recover the costs of existing  
20 facilities;

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

25 (7) commit that the applicant

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

31 (B) will propose and support the recovery of mainline capacity

1 expansion costs, including fuel costs, from all mainline system users through  
2 rolled-in rates; an applicant is obligated under this subparagraph only if the  
3 rolled-in rates would increase the rates

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

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

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

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

1 described in (B) of this paragraph;

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

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

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

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

28 (10) commit to propose and support rates for the proposed project and  
29 for any North Slope gas treatment plant that the applicant may own, in whole or in  
30 part, that are based on a capital structure for rate-making that consists of not less than  
31 70 percent debt;

1 (11) describe the means for preventing and managing overruns in costs  
2 of the proposed project, and the measures for minimizing the effects on tariffs from  
3 any overruns;

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

6 (13) commit to

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

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

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

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

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

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

21 (C) establish hiring facilities or use existing hiring facilities in  
22 the state; and

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

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

29 (17) commit to negotiate, before construction, a project labor  
30 agreement; in this paragraph, "project labor agreement" means a comprehensive  
31 collective bargaining agreement between the licensee or its agent and the appropriate

1 labor representatives to ensure expedited construction with labor stability for the  
2 project by qualified residents of the state;

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

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

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

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

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

28 (c) If, within the time specified by the commissioners, the 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 shall be rejected.

31 (d) For an application not rejected under this section, the commissioners shall

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

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

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

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

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

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

29 (c) After the commissioners determine that the applications are complete  
30 under AS 43.90.140, information provided by an applicant to the commissioners under  
31 this chapter, including information determined by the commissioners to be

1 confidential under AS 43.90.150, shall be disclosed to the legislative auditor, the fiscal  
 2 analyst who serves as head of the legislative finance division, members of the  
 3 legislature, and their respective agents and contractors, on request and after the  
 4 individual making the request signs a confidentiality agreement prepared by the  
 5 commissioners.

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

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

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

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

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

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

25 (5) the amount of the matching contribution by the state under  
 26 AS 43.90.110(a)(1)(A) and (B) proposed by the applicant under AS 43.90.130(9);

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

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

31 (c) When evaluating the project's likelihood of success, the commissioners

1 shall consider

2 (1) the reasonableness, specificity, and feasibility of the applicant's  
3 work plan, timeline, and budget required to be submitted under AS 43.90.130,  
4 including the applicant's plan to manage cost overruns, insulate shippers from the  
5 effect of cost overruns, and encourage shippers to participate in the first binding open  
6 season;

7 (2) the financial resources of the applicant;

8 (3) the ability of the applicant to comply with the proposed  
9 performance schedule;

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

13 (5) the applicant's record of

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

15 (B) integrity and good business ethics; and

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

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

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

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

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

1 AS 43.90.190.

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

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

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

14 (b) If a bill approving the issuance of the license passes the legislature within  
15 60 days after the last date a presiding officer receives a determination by the  
16 commissioners under AS 43.90.180, the commissioners shall issue the license as soon  
17 as practicable after the effective date of the Act approving the issuance of the license.

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

26 (d) If the legislature fails to approve the issuance of the license, the  
27 commissioners

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

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

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

31 (a) A licensee that is awarded a certificate of public convenience and necessity from a

1 regulatory agency with jurisdiction over the project shall accept the certificate on or  
2 before the date the order granting the certificate is no longer subject to judicial review.

3 (b) If the licensee has credit support sufficient to finance construction of the  
4 project through ownership of rights to produce and market gas resources, firm  
5 transportation commitments, or government financing, the licensee shall sanction the  
6 project within one year after the effective date of the certificate of public convenience  
7 and necessity issued by the regulatory agency with jurisdiction over the project.

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

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

15 (2) five years after the close of the first binding open season of the  
16 project.

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

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

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

25 (e) The transfer and assignments under (d) of this section as a result of failure  
26 to comply with (a) or (b) of this section are at no cost to the state or the state's  
27 designee. A transfer under (c) of this section shall be subject to the state's payment to  
28 the licensee of the net amount of expenditures incurred and paid by the licensee that  
29 are qualified expenditures for the purposes of AS 43.90.110.

30 (f) In this section, "effective date of the certificate of public convenience and  
31 necessity" means the earlier of the date the order granting the certificate is no longer

1 subject to judicial review or the date the licensee accepts the certificate.

2 **Sec. 43.90.210. Amendment of or modification to the project plan.** Subject  
 3 to the approval of the commissioners, a licensee may amend or modify its project plan  
 4 if the amendments or modifications improve the net present value of the project to the  
 5 state, are necessary because of an order or requirement by a regulatory agency with  
 6 jurisdiction over the project or by the Alaska Oil and Gas Conservation Commission,  
 7 or the amendment or modification is necessary because of changed circumstances  
 8 outside the licensee's control and not reasonably foreseeable before the license was  
 9 issued. An amendment or modification approved under this section must be consistent  
 10 with the requirements of AS 43.90.130 and, except for an amendment or modification  
 11 required because of an order or requirement of a regulatory agency with jurisdiction  
 12 over the project or by the Alaska Oil and Gas Conservation Commission, may not  
 13 substantially diminish the value of the project to the state or the project's likelihood of  
 14 success.

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

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

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

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

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

31 (2) receive all relevant notices when and as issued and information

1 when and as sent to the governing body or bodies and equity holders;

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

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

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

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

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

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

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

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

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

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

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

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

1 (d) If the commissioners and the licensee are unable to resolve the violation  
 2 within the period described in (b) of this section, the commissioners shall notify the  
 3 licensee that the violation has not been cured and provide the licensee with an  
 4 opportunity to be heard. If, after notice and hearing, the commissioners determine that  
 5 the violation has not been cured, the commissioners shall issue a written decision that  
 6 is a final administrative action for purposes of appeal to the superior court in the state.

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

- 9 (1) discontinuation of state matching contributions under this chapter;
- 10 (2) recoupment of state money that the licensee has received under this  
 11 chapter to date, with interest, regardless of whether the licensee has expended or  
 12 committed that money;
- 13 (3) license revocation;
- 14 (4) assignment to the state or the state's designee of all engineering  
 15 designs, contracts, permits, and other data related to the project that are acquired by  
 16 the licensee during the term of the license; and
- 17 (5) any other remedies provided by law or in equity.

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

23 (b) If the commissioners and the licensee do not agree that the project is  
 24 uneconomic, the disagreement shall be settled by arbitration administered by the  
 25 American Arbitration Association under the substantive and procedural laws of this  
 26 state, and judgment on the award rendered by the arbitrators may be entered in  
 27 superior court in the state. In the event of arbitration, each party shall select an  
 28 arbitrator from the American Arbitration Association's National Roster, and the two  
 29 arbitrators shall appoint a third arbitrator from the American Arbitration Association's  
 30 National Roster who shall serve as the chair of the three-member arbitration panel. If  
 31 the arbitration panel determines that the project is

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

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

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

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

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

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

22 (1) requirements imposed on the licensee under AS 43.90.220  
23 regarding state money received by the licensee before the license was considered  
24 abandoned; and

25 (2) requirements of AS 43.90.440.

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

1 qualified expenditures for the purposes of AS 43.90.110.

2 **Sec. 43.90.250. Alaska Gasline Inducement Act coordinator.** (a) There is  
3 created in the Office of the Governor the position of Alaska Gasline Inducement Act  
4 coordinator. Administrative support for the position shall be provided by the Office of  
5 the Governor. The position shall continue until one year after commencement of  
6 commercial operations of the project.

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

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

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

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

### 23 **Article 3. Resource Inducements.**

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

1 (b) A gas producer receiving a voucher under AS 43.90.330 is qualified to  
 2 receive the resource inducement in AS 43.90.310 and 43.90.320 for the gas shipped in  
 3 the firm transportation capacity described in the voucher for the period described in  
 4 AS 43.90.330.

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

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

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

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

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

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

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

30 (3) establish terms under which the state will exercise its authority to  
 31 switch between taking its royalty gas in value and in kind to ensure that the state's

1 actions do not unreasonably

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

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

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

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

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

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

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

31 (c) To claim the inducement under (b) of this section, a lessee or other person

1 qualified under AS 43.90.300 shall agree, on an application form provided by the  
2 Department of Natural Resources, that the lessee or other person, and the lessee's or  
3 other person's affiliates, successors, assigns, and agents will not protest or appeal a  
4 filing by the licensee to roll in expansion costs of the mainline up to a level that is  
5 required in AS 43.90.130(7) if the Federal Energy Regulatory Commission does not  
6 have a rebuttable presumption in effect that rolled-in treatment applies to the cost of  
7 the expansion of the project. The agreement not to protest may not preclude the lessee  
8 or other person, or the lessee's or other person's affiliates, successors, assigns, and  
9 agents from protesting a filing to roll in mainline expansion costs that licensee is not  
10 required to propose and support under AS 43.90.130(7).

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

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

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

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

1 shipped in the firm transportation capacity described in a voucher received by the gas  
2 producer under AS 43.90.330.

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

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

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

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

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

1 inducements by operation of law.

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

#### 13 **Article 4. Miscellaneous Provisions.**

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

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

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

30 (d) Within 10 days after the convening of each regular session of the  
 31 legislature, the commissioners shall submit to the legislature a report that lists all the

1 disbursements from the fund during the preceding fiscal year with a written  
 2 justification for each disbursement and the projected amount of money that will be  
 3 required for contributions in each of the next three fiscal years.

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

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

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

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

1 and other data related to the project that were acquired by the licensee during the term  
 2 of the license. The payment under this subsection is in full satisfaction of all claims  
 3 the licensee may bring in contract, tort, or other law related to the events that gave rise  
 4 to the payment.

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

8 (c) In this section,

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

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

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

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

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

22 (1) the transfer is approved in writing in advance by the  
 23 commissioners; and

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

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

31 (c) A person may transfer that person's rights to the royalty inducement under

1 AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in  
 2 connection with a sale or merger that results in transfer of all the person's assets in the  
 3 North Slope along with the person's firm transportation capacity contracts in the  
 4 project.

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

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

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

#### 18 **Article 5. General Provisions.**

19 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise  
 20 requires,

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

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

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

28 (4) "certificate of public convenience and necessity" and "certificate"  
 29 mean a certificate of public convenience and necessity issued by the Federal Energy  
 30 Regulatory Commission or the Regulatory Commission of Alaska, and an amendment  
 31 to a certificate of public convenience and necessity issued by the Federal Energy

1 Regulatory Commission under 15 U.S.C. 719 et seq. (Alaska Natural Gas  
2 Transportation Act of 1976);

3 (5) "commencement of commercial operations" means the first flow of  
4 gas in the project that generates revenue to the owners;

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

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

11 (8) "equity holder" means the

12 (A) stockholders of a corporation;

13 (B) members of a limited liability company;

14 (C) partners of a partnership;

15 (D) joint venturers of a joint venture;

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

17 or

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

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

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

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

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

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

31 (14) "licensee" means the holder of a license issued under this chapter

1 and all affiliates, successors, assigns, and agents of the holder;

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

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

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

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

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

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

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

22 (22) "sanction" means to make financial commitments to go forward  
23 with the project as evidenced by entering into financial commitments of at least  
24 \$1,000,000,000 with third parties;

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

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

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

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

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

2 (45) contracts for an arbitration panel to determine whether a project is  
3 uneconomic under AS 43.90.240, and contracts for the development of application  
4 provisions for licensure and for the evaluation of those applications under AS 43.90.

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

6 (b) The commissioner may

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

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

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

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

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

23 (6) classify tracts for agricultural uses;

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

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

28 (B) transportation, marketing, and development costs render  
29 the required development uneconomic;

30 (8) reconvey or relinquish land or an interest in land to the federal  
31 government if

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

3 (B) the reconveyance or relinquishment is

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

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

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

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

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

11 (41) the Alaska Gasline Inducement Act coordinator appointed under  
12 AS 43.90.250.

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

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

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

18 (2) records pertaining to juveniles unless disclosure is authorized by  
19 law;

20 (3) medical and related public health records;

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

23 (5) to the extent the records are required to be kept confidential under  
24 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure  
25 or retain federal assistance;

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

28 (A) could reasonably be expected to interfere with enforcement  
29 proceedings;

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

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

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

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

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

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

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

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

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

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

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

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

30 (C) could reasonably be expected to endanger the life or  
31 physical safety of an individual or to present a real and substantial risk to the

1 public health and welfare;

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

6 **(12) records that are**

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

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

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

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

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

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

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

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

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