

**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 4(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/1/13

Referred: Today's Calendar

Sponsor(s): REPRESENTATIVES HAWKER AND CHENAULT, Millett, Johnson, Neuman, Hughes, Olson, Gattis, Reinbold, Holmes, Tammie Wilson, Thompson, Costello, Nageak, Higgins, Isaacson, LeDoux, Lynn

SENATORS Micciche, McGuire, Giessel, Kelly, Dyson, Huggins

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the Alaska Gasline Development Corporation; establishing the  
2 Alaska Gasline Development Corporation as an independent public corporation of the  
3 state; establishing and relating to the in-state natural gas pipeline fund; making certain  
4 information provided to or by the Alaska Gasline Development Corporation and its  
5 subsidiaries exempt from inspection as a public record; relating to the Joint In-State  
6 Gasline Development Team; relating to the Alaska Housing Finance Corporation;  
7 relating to judicial review of a right-of-way lease or an action or decision related to the  
8 development or construction of an oil or gas pipeline on state land; relating to the lease  
9 of a right-of-way for a gas pipeline transportation corridor, including a corridor for a  
10 natural gas pipeline that is a contract carrier; relating to the cost of natural resources,  
11 permits, and leases provided to the Alaska Gasline Development Corporation; relating  
12 to procurement by the Alaska Gasline Development Corporation; relating to the review

1 by the Regulatory Commission of Alaska of natural gas transportation contracts;  
 2 relating to the regulation by the Regulatory Commission of Alaska of an in-state natural  
 3 gas pipeline project developed by the Alaska Gasline Development Corporation; relating  
 4 to the regulation by the Regulatory Commission of Alaska of an in-state natural gas  
 5 pipeline that provides transportation by contract carriage; repealing the statutes  
 6 relating to the Alaska Natural Gas Development Authority and making conforming  
 7 changes; exempting property of a project developed by the Alaska Gasline Development  
 8 Corporation from property taxes before the commencement of commercial operations;  
 9 and providing for an effective date."

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

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

13 **LEGISLATIVE FINDINGS AND INTENT.** (a) The legislature finds that

14 (1) an in-state natural gas pipeline developed by the Alaska Gasline  
 15 Development Corporation is required for public convenience and necessity;

16 (2) the development of a natural gas pipeline by the Alaska Gasline  
 17 Development Corporation is in the best interest of the state;

18 (3) making the Alaska Gasline Development Corporation an independent  
 19 public corporation of the State of Alaska located for administrative purposes under the  
 20 Department of Commerce, Community, and Economic Development will enhance the ability  
 21 of the Alaska Gasline Development Corporation to accomplish its purposes.

22 (b) It is the intent of the legislature that

23 (1) the Alaska Gasline Development Corporation, in its new placement as an  
 24 independent public corporation of the state, shall be treated for all purposes as the transfer of a  
 25 corporation within the state and not as the creation of a new entity by the State of Alaska;

26 (2) to the maximum extent permitted by law, in developing a natural gas  
 27 pipeline, the Alaska Gasline Development Corporation shall procure services, labor, products,  
 28 and natural resources from qualified businesses located in the state, including organizations

1 owned by Alaska Natives and municipal organizations directly affected by the project, if  
2 those persons are competitive; and

3 (3) the Alaska Gasline Development Corporation shall, to the maximum  
4 extent permitted by law,

5 (A) hire qualified residents from throughout the state for management,  
6 engineering, construction, operations, maintenance, and other positions for a natural  
7 gas pipeline project;

8 (B) establish hiring facilities in the state or use existing hiring facilities  
9 in the state; and

10 (C) use, as far as practicable, the job centers and associated services  
11 operated by the Department of Labor and Workforce Development and an Internet-  
12 based labor exchange system operated by the state.

13 \* **Sec. 2.** AS 18.56.086 is amended to read:

14 **Sec. 18.56.086. Creation of subsidiaries.** The corporation may create  
15 subsidiary corporations for the purpose of financing or facilitating the financing of  
16 school construction, facilities for the University of Alaska, facilities for ports and  
17 harbors, the acquisition, development, management, or operation of affordable  
18 housing, prepayment of all or a portion of a governmental employer's share of  
19 unfunded accrued actuarial liability of retirement systems, or other capital projects. [A  
20 SUBSIDIARY CORPORATION MAY ALSO BE CREATED FOR THE PURPOSE  
21 OF PLANNING, CONSTRUCTING, AND FINANCING IN-STATE NATURAL  
22 GAS PIPELINE PROJECTS OR FOR THE PURPOSE OF AIDING IN THE  
23 PLANNING, CONSTRUCTION, AND FINANCING OF IN-STATE NATURAL  
24 GAS PIPELINE PROJECTS.] A subsidiary corporation created under this section  
25 may be incorporated under AS 10.20.146 - 10.20.166. The corporation may transfer  
26 assets of the corporation to a subsidiary created under this section. A subsidiary  
27 created under this section may borrow money and issue bonds as evidence of that  
28 borrowing, and has all the powers of the corporation that the corporation grants to it.  
29 However, a subsidiary created for the purpose of financing or facilitating the financing  
30 of prepayment of a governmental employer's share of unfunded accrued actuarial  
31 liability of retirement systems may borrow money and issue bonds only if the state

1 bond rating is the equivalent of AA- or better and subject to AS 37.15.903. [A  
 2 SUBSIDIARY CORPORATION CREATED FOR THE PURPOSE OF PLANNING,  
 3 CONSTRUCTING, AND FINANCING IN-STATE NATURAL GAS PIPELINE  
 4 PROJECTS OR FOR THE PURPOSE OF AIDING IN THE PLANNING,  
 5 CONSTRUCTION, OR FINANCING OF IN-STATE NATURAL GAS PIPELINE  
 6 PROJECTS IS EXEMPT FROM AS 36.30, INCLUDING AS 36.30.015(d) AND (f).]  
 7 Unless otherwise provided by the corporation, the debts, liabilities, and obligations of  
 8 a subsidiary corporation created under this section are not the debts, liabilities, or  
 9 obligations of the corporation.

10 \* **Sec. 3.** AS 31 is amended by adding a new chapter to read:

11 **Chapter 25. Alaska Gasline Development Corporation.**

12 **Article 1. Organization, Administration, and Powers.**

13 **Sec. 31.25.010. Structure.** The Alaska Gasline Development Corporation is a  
 14 public corporation and government instrumentality located for administrative purposes  
 15 in the Department of Commerce, Community, and Economic Development, but  
 16 having a legal existence independent of and separate from the state. The corporation  
 17 may not be terminated as long as it has bonds, notes, or other obligations outstanding.  
 18 Upon termination of the corporation, its rights and property pass to the state.

19 **Sec. 31.25.020. Governing body.** (a) The corporation shall be governed by a  
 20 board of directors consisting of

21 (1) five public members; and

22 (2) two individuals designated by the governor that are each the head  
 23 of a principal department of the state, except that the commissioner of natural  
 24 resources and the commissioner of revenue may not be designated to serve on the  
 25 board unless the project for which a license is issued under AS 43.90 has been  
 26 abandoned or is no longer receiving the inducements in AS 43.90.110(a) or the  
 27 commissioner of natural resources and the commissioner of revenue are no longer  
 28 signatories on a valid contract under AS 43.90.

29 (b) Public members of the board shall be appointed by the governor and are  
 30 subject to confirmation by the legislature. When appointing a public member to the  
 31 board, the governor shall consider an individual's expertise and experience in natural

1 gas pipeline construction, operation and marketing; finance; large project  
 2 management; and other expertise and experience that is relevant to the purpose,  
 3 powers, and duties of the corporation. Public members of the board serve staggered  
 4 five-year terms. A public member serves at the pleasure of the governor. A vacancy  
 5 shall be filled in the same manner as the original appointment.

6 (c) Notwithstanding AS 39.05.055, the terms of the initially appointed public  
 7 members of the board shall be set by the governor to be two years for two members,  
 8 three years for two members, and five years for one member.

9 (d) The public members of the board receive \$400 compensation for each day  
 10 spent on official business of the corporation and may be reimbursed by the corporation  
 11 for actual and necessary expenses at the same rate paid to members of state boards  
 12 under AS 39.20.180.

13 **Sec. 31.25.030. Meetings of board.** (a) The board shall elect a chair, secretary,  
 14 and treasurer from among its membership at each annual meeting. A majority of the  
 15 members constitutes a quorum for organizing the board, conducting its business, and  
 16 exercising the powers of the corporation. The board shall meet at the call of the chair.  
 17 The board shall meet at least once every three months.

18 (b) The board may meet and transact business by electronic media if

19 (1) public notice of the time and locations where the meeting will be  
 20 held by electronic media has been given in the same manner as if the meeting were  
 21 held in a single location;

22 (2) participants and members of the public in attendance can hear and  
 23 have the same right to participate in the meeting as if the meeting were conducted in  
 24 person; and

25 (3) copies of pertinent reference materials, statutes, regulations, and  
 26 audio-visual materials are reasonably available to participants and to the public.

27 (c) A meeting by electronic media as provided in this section has the same  
 28 legal effect as a meeting in person.

29 (d) For the purposes of this chapter, public notice of 24 hours or more is  
 30 adequate notice of a meeting of the board at which the issuance of corporation bonds  
 31 is authorized.

1 (e) An affirmative vote of at least four members of the board is required to  
2 approve

3 (1) the sale and issuance of bonds;

4 (2) the sale or other disposition of a substantial asset or substantial  
5 amount of the assets of the corporation; the corporation shall adopt a regulation that  
6 defines a substantial asset and a substantial amount of assets for the purposes of this  
7 paragraph;

8 (3) the ownership structure for a pipeline project of which the  
9 corporation is a participant;

10 (4) an action committing the corporation to an additional natural gas  
11 pipeline project; and

12 (5) action on other matters identified in a regulation adopted by the  
13 corporation as being subject to this subsection.

14 **Sec. 31.25.035. Minutes of meetings.** The board shall keep minutes of each  
15 meeting and send certified copies to the governor and to the Legislative Budget and  
16 Audit Committee.

17 **Sec. 31.25.040. Administration of affairs.** (a) The board shall manage the  
18 assets and business of the corporation and may adopt, amend, and repeal bylaws and  
19 regulations governing the manner in which the business of the corporation is  
20 conducted and the manner in which its powers are exercised. The board shall delegate  
21 supervision of the administration of the corporation to the executive director,  
22 appointed in accordance with AS 31.25.045.

23 (b) The board shall adopt and publish procedures to govern the procurement  
24 by the corporation of supplies, services, professional services, and construction. The  
25 procurement procedures must provide for an Alaska veterans' preference that is  
26 consistent with the Alaska veterans' preference in AS 36.30.175.

27 **Sec. 31.25.045. Executive director.** The corporation shall employ an  
28 executive director who may not be a member of the board. The executive director shall  
29 be appointed by the board and serves at the pleasure of the board.

30 **Sec. 31.25.050. Legal counsel.** The corporation shall retain legal counsel to  
31 advise the corporation in legal matters and represent it in litigation.

1           **Sec. 31.25.060. Employment of personnel.** The board may appoint other  
 2 officers and engage professional and technical advisors as independent contractors.  
 3 The executive director may hire employees of the corporation and engage professional  
 4 and technical advisors under contract with the corporation. The board shall prescribe  
 5 the duties and compensation of corporation personnel, including the executive  
 6 director.

7           **Sec. 31.25.065. Personnel exempt from State Personnel Act.** The personnel  
 8 of the corporation are exempt from AS 39.25.

9           **Sec. 31.25.070. Purpose.** The corporation shall, to the fullest extent possible,

10                   (1) advance an in-state natural gas pipeline as described in the July 1,  
 11 2011, project plan prepared under former AS 38.34.040 by the corporation while a  
 12 subsidiary of the Alaska Housing Finance Corporation, with modifications determined  
 13 by the corporation to be appropriate to develop, finance, construct, and operate an in-  
 14 state natural gas pipeline in a safe, prudent, economical, and efficient manner, for the  
 15 purpose of making natural gas, including propane and other hydrocarbons associated  
 16 with natural gas other than oil, available to Fairbanks, the Southcentral region of the  
 17 state, and other communities in the state at the lowest rates possible;

18                   (2) endeavor to develop natural gas pipelines to deliver natural gas,  
 19 including propane and other hydrocarbons associated with natural gas other than oil, to  
 20 public utility and industrial customers in areas of the state to which the natural gas,  
 21 including propane and other hydrocarbons associated with natural gas other than oil,  
 22 may be delivered at commercially reasonable rates; and

23                   (3) endeavor to develop natural gas pipelines that offer commercially  
 24 reasonable rates for shippers and access for shippers who produce natural gas,  
 25 including propane and other hydrocarbons associated with natural gas other than oil, in  
 26 the state.

27           **Sec. 31.25.080. Powers and duties.** (a) In addition to other powers granted in  
 28 this chapter, the corporation may

29                   (1) determine the form of ownership and the operating structure of an  
 30 in-state natural gas pipeline developed by the corporation and may enter into  
 31 agreements with other persons for joint ownership, joint operation, or both of an in-

1 state natural gas pipeline;

2 (2) plan, finance, construct, develop, acquire, maintain, and operate a  
3 pipeline system, including pipelines, compressors, storage facilities, and other related  
4 facilities, equipment, and works of public improvement, in the state to facilitate  
5 production, transportation, and delivery of natural gas or other related natural  
6 resources to the point of consumption or to the point of distribution for consumption;

7 (3) lease or rent facilities, structures, and properties;

8 (4) exercise the power of eminent domain and file a declaration of  
9 taking under AS 09.55.240 - 09.55.460 to acquire land or an interest in land that is  
10 necessary for an in-state natural gas pipeline; the exercise of powers by the  
11 corporation under this paragraph may not exceed the permissible exercise of the  
12 powers by the state;

13 (5) acquire, by purchase, lease, or gift, land, structures, real or personal  
14 property, an interest in property, a right-of-way, a franchise, an easement, or other  
15 interest in land, or an interest in or right to capacity in a pipeline system determined to  
16 be necessary or convenient for the development, financing, construction, or operation  
17 of an in-state natural gas pipeline project or part of an in-state natural gas pipeline  
18 project;

19 (6) transfer or otherwise dispose of all or part of an in-state natural gas  
20 pipeline project developed by the corporation or transfer or otherwise dispose of an  
21 interest in an asset of the corporation;

22 (7) elect to provide transportation of natural gas as a contract carrier,  
23 common carrier, or otherwise;

24 (8) provide light, water, security, and other services for property of the  
25 corporation;

26 (9) conduct hearings to gather and develop data consistent with the  
27 purpose and powers of the corporation;

28 (10) advocate for new pipeline capacity before the Federal Energy  
29 Regulatory Commission;

30 (11) make and execute agreements, contracts, and other instruments  
31 necessary or convenient in the exercise of the powers and functions of the corporation

1 under this chapter, including a contract with a person, firm, corporation, governmental  
2 agency, or other entity;

3 (12) sue and be sued in its own name;

4 (13) adopt an official seal;

5 (14) adopt bylaws for the regulation of its affairs and the conduct of its  
6 business and adopt regulations and policies in connection with the performance of its  
7 functions and duties;

8 (15) employ fiscal consultants, engineers, attorneys, appraisers, and  
9 other consultants and employees that may, in the judgment of the corporation, be  
10 required and fix and pay their compensation from funds available to the corporation;

11 (16) procure insurance against a loss in connection with its operation;

12 (17) borrow money as provided in this chapter to carry out its  
13 corporate purposes and issue its obligations as evidence of borrowing;

14 (18) include in a borrowing the amounts necessary to pay financing  
15 charges, interest on the obligations for a period not exceeding one year after the date  
16 on which the corporation estimates funds will otherwise be available to pay the  
17 interest, consultant, advisory, and legal fees, and other expenses that are necessary or  
18 incident to the borrowing;

19 (19) receive, administer, and comply with the conditions and  
20 requirements of an appropriation, gift, grant, or donation of property or money;

21 (20) do all acts and things necessary, convenient, or desirable to carry  
22 out the powers expressly granted or necessarily implied in this chapter;

23 (21) invest or reinvest, subject to its contracts with noteholders and  
24 bondholders, money or funds held by the corporation, including funds in the in-state  
25 natural gas pipeline fund (AS 31.25.100), in obligations or other securities or  
26 investments in which banks or trust companies in the state may legally invest funds  
27 held in reserves or sinking funds or funds not required for immediate disbursement,  
28 and in certificates of deposit or time deposits secured by obligations of, or guaranteed  
29 by, the state or the United States.

30 (b) Upon commencement of construction of an in-state natural gas pipeline,  
31 the corporation shall analyze potential natural gas pipelines connecting to industrial,

1 residential, or utility customers in other regions of the state. If the corporation finds  
2 that a natural gas pipeline analyzed under this subsection is in the best interest of the  
3 state and can meet the needs of industrial, residential, or utility customers at  
4 commercially reasonable rates, the corporation may finance, construct, or operate the  
5 natural gas pipeline as necessary. When developing or constructing a connecting line,  
6 the corporation shall, to the maximum extent feasible, use existing land, structures,  
7 real or personal property, rights-of-way, easements, or other interests in land acquired  
8 by the corporation.

9 (c) The corporation may not develop or construct a natural gas pipeline that is  
10 a competing natural gas pipeline project for purposes of AS 43.90.440 unless the  
11 project for which a license is issued under AS 43.90 has been abandoned or is no  
12 longer receiving the inducements in AS 43.90.110(a).

13 (d) The corporation shall establish a schedule of reasonable fees, rental rates,  
14 and other charges, and collect fees, rentals, and other charges for use of the facilities  
15 of the corporation.

16 (e) If commitments to acquire firm transportation capacity are received in an  
17 open season conducted by the corporation, the corporation shall, within 10 days after  
18 accepting and executing the written commitments received during the open season,  
19 report the results of the open season to the president of the senate and the speaker of  
20 the house of representatives and inform the public of the results of the open season  
21 through publication on the Internet website of the corporation and in a press release or  
22 other announcement to the media. The results made public must include the name of  
23 each prospective shipper, the amount of capacity allocated, and the period of the  
24 commitment.

25 **Sec. 31.25.090. Confidentiality; interagency cooperation.** (a) The  
26 corporation shall have access to information of departments, agencies, and public  
27 corporations of the state that is directly related to the planning, financing,  
28 development, acquisition, maintenance, construction, or operation of an in-state  
29 natural gas pipeline. The corporation shall avoid duplicating studies, plans, and  
30 designs that have already been provided or obtained by other state entities. All  
31 departments, agencies, and public corporations of the state shall cooperate with and

1 shall provide information, services, and facilities to the corporation upon its request  
2 and, except for requests from the Alaska Gasline Inducement Act coordinator  
3 (AS 43.90.250), give priority to requests of the corporation.

4 (b) Upon request by the corporation, a state entity shall provide water, sand  
5 and gravel, other nonhydrocarbon natural resources, and a permit or a lease to the  
6 corporation at the usual and customary rates, except as provided in (d) of this section.  
7 Review of and action on a request shall be conducted and taken as provided in  
8 AS 38.34.020. In this subsection, "state entity" means a state department, authority, or  
9 other administrative unit of the executive branch of state government, a public  
10 university, or a public corporation of the state.

11 (c) That part of the cost of providing, under (b) of this section, water, sand and  
12 gravel, or other nonhydrocarbon natural resources, or of entering into a lease or  
13 issuing a permit, that is borne by the corporation for an in-state natural gas pipeline  
14 project that is owned in whole or in part by the corporation may not be included in the  
15 rate base in a proceeding under AS 42 or before the Federal Energy Regulatory  
16 Commission.

17 (d) Notwithstanding any contrary provision of law, the Department of Natural  
18 Resources shall grant the corporation a right-of-way lease under AS 38.35 for the gas  
19 pipeline transportation corridor at no appraisal or rental cost if

20 (1) a complete right-of-way lease application under AS 38.35.050 is  
21 submitted;

22 (2) the lease application is made the subject of notice and other  
23 reasonable and appropriate publication requirements under AS 38.35.070; and

24 (3) the corporation submits the application for the right-of-way lease  
25 and agrees to be bound by those right-of-way lease covenants set out in

26 (A) AS 38.35.120 for an in-state natural gas pipeline that the  
27 corporation intends to be a common carrier; or

28 (B) AS 38.35.121 for an in-state natural gas pipeline that the  
29 corporation intends to be a contract carrier.

30 (e) After approval by the commissioner of natural resources, a right-of-way  
31 lease received by the corporation under (d) of this section may be transferred to a

1 successor in interest under the same terms and conditions applicable to the right-of-  
2 way lease granted to the corporation.

3 (f) The corporation may enter into confidentiality agreements necessary to  
4 acquire or provide information to carry out its functions. If a state agency determines  
5 that a law or provision of a contract to which the state agency is a party requires the  
6 state agency to preserve the confidentiality of the information and that delivering the  
7 information to the corporation would violate the confidentiality provision of that law  
8 or contract, the state agency shall

9 (1) identify the applicable law or contract provision to the corporation;  
10 and

11 (2) obtain the consent of the person who has the right to waive the  
12 confidentiality of the information under the applicable law or contract provision before  
13 the state agency transfers the information to the corporation.

14 (g) The portions of records containing information acquired or provided by the  
15 corporation under a confidentiality agreement are not subject to AS 40.25. The  
16 corporation may enter into confidentiality agreements with a public agency, as defined  
17 in AS 40.25.220, to allow release of confidential information. The portions of the  
18 records and files of a public agency bound by a confidentiality agreement that reflect,  
19 incorporate, or analyze information subject to a confidentiality agreement under this  
20 subsection are not public records. Confidentiality agreements entered into under this  
21 subsection are valid and binding against all parties in accordance with the terms of the  
22 confidentiality agreement.

23 (h) Information and trade secrets of the corporation are confidential and not  
24 subject to AS 40.25 if the corporation determines that disclosure would cause  
25 commercial or competitive harm or damage to the corporation. Information that  
26 discloses the particulars of a business or the affairs of a private enterprise, investor,  
27 advisor, consultant, counsel, or manager that is developed or obtained by the  
28 corporation and related to the development, financing, construction, or operation of an  
29 in-state natural gas pipeline project by the corporation is confidential and not subject  
30 to AS 40.25. The corporation may waive the confidentiality described in this  
31 subsection, except for information that is confidential under another provision of state

1 law or under a federal law or regulation and except for information acquired from  
2 another person that is subject to a confidentiality agreement, if the waiver is consistent  
3 with the interests of the state and will facilitate the development, financing, or  
4 construction of an in-state natural gas pipeline. On the date that the in-state natural gas  
5 pipeline project becomes operational, the corporation shall make available, upon  
6 request under AS 40.25, records that were exempt from AS 40.25 under this  
7 subsection or (g) of this section, unless the corporation determines that

8 (1) maintaining the confidentiality of the information is necessary to  
9 protect the economic interests of the corporation or the state; or

10 (2) disclosure of the information will violate another provision of state  
11 law, a federal law or regulation, or the terms of a confidentiality agreement or other  
12 agreement to which the corporation is a party or that is binding on the corporation.

13 **Sec. 31.25.100. In-state natural gas pipeline fund.** The in-state natural gas  
14 pipeline fund is established in the corporation and consists of money appropriated to  
15 it. The corporation shall determine fund management and may contract with the  
16 Department of Revenue for fund management. Unless otherwise provided by law,  
17 money appropriated to the fund lapses into the general fund on the day this section is  
18 repealed. Interest and other income received on money in the fund shall be separately  
19 accounted for and may be appropriated to the fund. The corporation may use money  
20 appropriated to the fund without further appropriation for the cost of managing the  
21 fund and for the planning, financing, development, acquisition, maintenance,  
22 construction, and operation of an in-state natural gas pipeline.

23 **Sec. 31.25.120. Creation of subsidiaries.** The corporation may create  
24 subsidiary corporations for the purpose of developing, constructing, operating, and  
25 financing in-state natural gas pipeline projects; for the purpose of aiding in the  
26 development, construction, operation, and financing of in-state natural gas pipeline  
27 projects; or for the purpose of acquiring the state's royalty share of natural gas, natural  
28 gas from the North Slope, and natural gas from other regions of the state, including the  
29 state's outer continental shelf, and making that natural gas available to markets in the  
30 state, including the delivery of natural gas, including propane and other hydrocarbons  
31 associated with natural gas other than oil, to coastal communities in the state, or for

1 export. A subsidiary corporation created under this section may be incorporated under  
2 AS 10.20.146 - 10.20.166. The corporation may transfer assets of the corporation to a  
3 subsidiary created under this section. A subsidiary created under this section may  
4 borrow money and issue bonds as evidence of that borrowing and has all the powers of  
5 the corporation that the corporation grants to it. Unless otherwise provided by the  
6 corporation, the debts, liabilities, and obligations of a subsidiary corporation created  
7 under this section are not the debts, liabilities, or obligations of the corporation.

8 **Sec. 31.25.130. Administrative procedure; regulations.** (a) Except for  
9 AS 44.62.310 - 44.62.319 (Open Meetings Act), AS 44.62 (Administrative Procedure  
10 Act) does not apply to this chapter. The corporation shall make available to members  
11 of the public copies of the regulations adopted under (b) - (e) of this section. Within 45  
12 days after adoption, the chair of the board shall submit a regulation adopted under (b) -  
13 (e) of this section to the chair of the Administrative Regulation Review Committee  
14 under AS 24.20.400 - 24.20.460.

15 (b) The board may adopt regulations by motion or by resolution or in another  
16 manner permitted by its bylaws.

17 (c) The board may adopt regulations to carry out the purposes of this chapter.

18 (d) Except as provided in (e) of this section, at least 15 days before the  
19 adoption, amendment, or repeal of a regulation, the board shall give public notice of  
20 the proposed action by posting notice on the corporation's Internet website and on the  
21 Alaska Online Public Notice System and by mailing a copy of the notice to every  
22 person who has filed a request for notice of proposed regulations with the board or the  
23 corporation. The public notice must include a statement of the time, place, and nature  
24 of the proceedings for the adoption, amendment, or repeal of the regulation and must  
25 include an informative summary of the proposed subject of the regulation. On the date  
26 and at the time and place designated in the notice, the board shall give each interested  
27 person or an authorized representative, or both, the opportunity to present statements,  
28 arguments, or contentions in writing and shall give members of the public an  
29 opportunity to present oral statements, arguments, or contentions for a total period of  
30 at least one hour. The board shall consider all relevant matter presented to it before  
31 adopting, amending, or repealing a regulation. At a hearing under this subsection, the

1 board may continue or postpone the hearing to a time and place that it determines. A  
 2 regulation that is adopted, or its amendment or repeal, may vary in content from the  
 3 informative summary specified in this subsection if the subject matter of the  
 4 regulation, or its amendment or repeal, remains the same and the original notice was  
 5 written to ensure that members of the public are reasonably notified of the proposed  
 6 subject of the board's action in order for them to determine whether their interests  
 7 could be affected by the board's action on that subject.

8 (e) A regulation or order of repeal may be adopted as an emergency regulation  
 9 or order of repeal if the board makes a finding in its order of adoption or repeal,  
 10 including a statement of the facts that constitute the emergency, that the adoption of  
 11 the regulation or order of repeal is necessary for the immediate preservation of the  
 12 orderly operation of the corporation's bonding programs. Upon adoption of an  
 13 emergency regulation, the board shall, within 10 days after adoption, give notice of the  
 14 adoption in accordance with (d) of this section. An emergency regulation adopted  
 15 under this subsection does not remain in effect more than 120 days unless the board  
 16 complies with (d) of this section during the 120-day period.

17 (f) A regulation adopted under (b) - (e) of this section becomes effective  
 18 immediately upon its adoption by the board, unless otherwise specifically provided by  
 19 the order of adoption.

20 **Sec. 31.25.140. Exemption from the State Procurement Code; application**  
 21 **of the Executive Budget Act; corporation finances.** (a) The corporation and its  
 22 subsidiaries are exempt from the provisions of AS 36.30 (State Procurement Code).

23 (b) The operating budget of the corporation and a subsidiary of the corporation  
 24 are subject to AS 37.07 (Executive Budget Act).

25 (c) To further ensure effective budgetary decision making by the legislature,  
 26 the board shall

27 (1) annually review the corporation's assets, including the assets of the  
 28 in-state natural gas pipeline fund under AS 31.25.100, to determine whether assets of  
 29 the corporation exceed an amount required to fulfill the purposes of the corporation as  
 30 defined in this chapter; in making its review, the board shall determine whether, and to  
 31 what extent, assets in excess of the amount required to fulfill the purposes of the

1 corporation during the next fiscal year are available without

2 (A) breaching an agreement entered into by the corporation;

3 (B) materially impairing the operations or financial integrity of  
4 the corporation; or

5 (C) materially affecting the ability of the corporation to fulfill  
6 the purposes of the corporation as defined in this chapter;

7 (2) specifically identify in the corporation's assets the amounts that the  
8 board believes are necessary to meet the requirements of (1)(C) of this subsection; and

9 (3) present to the legislature by January 10 of each year a complete  
10 accounting of all assets of the corporation, including assets of the in-state natural gas  
11 pipeline fund under AS 31.25.100, and a report of the review and determination made  
12 under (1) and (2) of this subsection; the accounting shall be audited by an independent  
13 outside auditor.

## 14 **Article 2. Bonds and Notes.**

15 **Sec. 31.25.160. Bonds and notes.** (a) The corporation may, by resolution,  
16 issue bonds and bond anticipation notes to provide funds to carry out its purposes.

17 (b) The principal of and interest on the bonds or notes are payable from  
18 corporation funds. Bond anticipation notes may be payable from the proceeds of the  
19 sale of bonds or from the proceeds of sale of other bond anticipation notes or, in the  
20 event bond or bond anticipation note proceeds are not available, from other funds or  
21 assets of the corporation. Bonds or notes may be additionally secured by a pledge of a  
22 grant or contribution from the federal government, or a corporation, association,  
23 institution, or person, or a pledge of money, income, or revenue of the corporation  
24 from any source.

25 (c) Bonds or bond anticipation notes may be issued in one or more series and  
26 shall be dated, bear interest at the rate or rates a year or within the maximum rate, be  
27 in the denomination, be in the form, either coupon or registered, carry the conversion  
28 or registration provisions, have the rank or priority, be executed in the manner and  
29 form, be payable from the sources in the medium of payment and place or places  
30 within or outside the state, be subject to authentication by a trustee or fiscal agent, and  
31 be subject to the terms of redemption with or without premium, as the resolution of the

1 corporation may provide. Bond anticipation notes shall mature at the time or times that  
2 are determined by the corporation. Bonds shall mature at a time, not exceeding 50  
3 years from their date, that is determined by the corporation. Before the preparation of  
4 definitive bonds or bond anticipation notes, the corporation may issue interim receipts  
5 or temporary bonds or bond anticipation notes, with or without coupons, exchangeable  
6 for bonds or bond anticipation notes when the definitive bonds or bond anticipation  
7 notes have been executed and are available for delivery.

8 (d) Bonds or bond anticipation notes may be sold in the manner and on the  
9 terms the corporation determines.

10 (e) If an officer whose signature or a facsimile of whose signature appears on  
11 bonds or notes or coupons attached to them ceases to be an officer before the delivery  
12 of the bond, note, or coupon, the signature or facsimile is valid the same as if the  
13 officer had remained in office until delivery.

14 (f) In a resolution of the corporation authorizing or relating to the issuance of  
15 bonds or bond anticipation notes, the corporation has power by provisions in the  
16 resolution that will constitute covenants of the corporation and contracts with the  
17 holders of the bonds or bond anticipation notes

18 (1) to pledge to a payment or purpose all or a part of its revenue to  
19 which its right then exists or may thereafter come into existence, the money derived  
20 from the revenue, and the proceeds of the bonds or notes;

21 (2) to covenant against pledging all or a part of its revenue or against  
22 permitting or suffering a lien on the revenue of its property;

23 (3) to covenant as to the use and disposition of payments of principal  
24 or interest received by the corporation on investments held by the corporation;

25 (4) to covenant as to establishment of reserves or sinking funds and the  
26 making of provision for and the regulation and disposition of the reserves or sinking  
27 funds;

28 (5) to covenant with respect to or against limitations on a right to sell  
29 or otherwise dispose of property of any kind;

30 (6) to covenant as to bonds and notes to be issued, and their  
31 limitations, terms, and condition, and as to the custody, application, and disposition of

1 the proceeds of the bonds and notes;

2 (7) to covenant as to the issuance of additional bonds or notes or as to  
3 limitations on the issuance of additional bonds or notes and the incurring of other  
4 debts;

5 (8) to covenant as to the payment of the principal of or interest on the  
6 bonds or notes, as to the sources and methods of the payment, as to the rank or priority  
7 of the bonds or notes with respect to a lien or security, or as to the acceleration of the  
8 maturity of the bonds or notes;

9 (9) to provide for the replacement of lost, stolen, destroyed, or  
10 mutilated bonds or notes;

11 (10) to covenant against extending the time for the payment of bonds  
12 or notes or interest on the bonds or notes;

13 (11) to covenant as to the redemption of bonds or notes and privileges  
14 of their exchange for other bonds or notes of the corporation;

15 (12) to covenant to create or authorize the creation of special funds of  
16 money to be held in pledge or otherwise for operating expenses, payment or  
17 redemption of bonds or notes, reserves, or other purposes, and as to the use and  
18 disposition of the money held in the funds;

19 (13) to establish the procedure, if any, by which the terms of a contract  
20 or covenant with or for the benefit of the holders of bonds or notes may be amended or  
21 abrogated, the amount of bonds or notes the holders of which must consent to  
22 amendment or abrogation, and the manner in which the consent may be given;

23 (14) to covenant as to the custody of any of its properties or  
24 investments, the safekeeping and insurance of its properties or investments, and the  
25 use and disposition of insurance money;

26 (15) to covenant as to the time or manner of enforcement or restraint  
27 from enforcement of any rights of the corporation arising by reason of or with respect  
28 to nonpayment or violation of the terms of an agreement to which the corporation is a  
29 party or with respect to which the corporation has enforcement rights;

30 (16) to provide for the rights, liabilities, powers, and duties arising  
31 upon the breach of a covenant, condition, or obligation, and to prescribe the events of

1 default and the terms and conditions on which any or all of the bonds, notes, or other  
2 obligations of the corporation become or may be declared due and payable before  
3 maturity and the terms and conditions on which a declaration and its consequences  
4 may be waived;

5 (17) to vest in a trustee or trustees within or outside the state the  
6 property, rights, powers, and duties in trust as the corporation may determine, which  
7 may include any or all of the rights, powers, and duties of a trustee appointed by the  
8 holders of the bonds or notes, and to limit or abrogate the right of the holders of the  
9 bonds or notes of the corporation to appoint a trustee under this chapter or limit the  
10 rights, powers, and duties of the trustee;

11 (18) to pay the costs or expenses incident to the enforcement of the  
12 bonds or notes or of the provisions of the resolution or of a covenant or agreement of  
13 the corporation with the holders of its bonds or notes;

14 (19) to agree with a corporate trustee, which may be a trust company  
15 or bank having the powers of a trust company within or outside the state, as to the  
16 pledging or assigning of revenue or funds to which or in which the corporation has any  
17 rights or interest; the agreement may further provide for other rights and remedies  
18 exercisable by the trustee as may be proper for the protection of the holders of the  
19 bonds or notes of the corporation and not otherwise in violation of law and may  
20 provide for the restriction of the rights of an individual holder of bonds or notes of the  
21 corporation;

22 (20) to appoint and provide for the duties and obligations of any  
23 paying agent or paying agents, or other fiduciaries as the resolution may provide  
24 within or outside the state;

25 (21) to limit the rights of the holders of the bonds or notes to enforce a  
26 pledge or covenant securing bonds or notes;

27 (22) to make covenants other than and in addition to the covenants  
28 expressly authorized in this section, of like or different character, and to make  
29 covenants to do or refrain from doing acts and things as may be necessary, or as may  
30 be convenient and desirable, to better secure bonds or notes or that, in the absolute  
31 discretion of the corporation, would tend to make bonds or notes more marketable,

1 notwithstanding that the covenants, acts, or things may not be enumerated in this  
2 section.

3 **Sec. 31.25.170. Independent financial advisor.** In negotiating the sale of  
4 bonds or bond anticipation notes to an underwriter, the corporation may retain a  
5 financial advisor. A financial advisor retained under this section must be independent  
6 from the underwriter.

7 **Sec. 31.25.180. Validity of pledge.** The pledge of assets or revenue of the  
8 corporation to the payment of the principal of or interest on an obligation of the  
9 corporation is valid and binding from the time the pledge is made, and the assets or  
10 revenue are immediately subject to the lien of the pledge without physical delivery or  
11 further act. The lien of the pledge is valid and binding against all parties having claims  
12 of any kind in tort, contract, or otherwise against the corporation, regardless of  
13 whether those parties have notice of the lien of the pledge. This section does not  
14 prohibit the corporation from selling assets subject to a pledge, except that the sale  
15 may be restricted by the trust agreement or resolution providing for the issuance of the  
16 obligations.

17 **Sec. 31.25.190. Capital reserve funds.** (a) The corporation may not establish  
18 a capital reserve fund as described in this section except as expressly authorized by  
19 law. The enactment of this section does not express that authorization. Upon  
20 enactment of a law expressly authorizing the establishment of a capital reserve fund  
21 described in this section and for the purpose of securing one or more issues of its  
22 obligations, the corporation may establish one or more special funds, called "capital  
23 reserve funds," and shall pay into those capital reserve funds

24 (1) money appropriated and made available by the state for the purpose  
25 of any of those funds;

26 (2) proceeds of the sale of its obligations, to the extent provided in the  
27 resolution or resolutions of the corporation authorizing their issuance; and

28 (3) other money that may be made available to the corporation for the  
29 purposes of those funds from another source.

30 (b) All money held in a capital reserve fund, except as provided in this section,  
31 shall be used as required, solely for the payment of the principal of obligations or of

1 the sinking fund payments with respect to those obligations; the purchase or  
2 redemption of obligations; the payment of interest on obligations; or the payment of a  
3 redemption premium required to be paid when those obligations are redeemed before  
4 maturity. However, money in a fund may not, at any time, be withdrawn from the fund  
5 in an amount that would reduce the amount of that fund to less than the capital reserve  
6 requirement set out in (c) of this section, except for the purpose of making, with  
7 respect to those obligations, payment, when due, of principal, interest, redemption  
8 premiums, and the sinking fund payments for the payment of which other money of  
9 the corporation is not available. Income or interest earned by, or increment to, a capital  
10 reserve fund, because of the investment of the fund or other amounts in it, may be  
11 transferred by the corporation to other funds or accounts of the corporation to the  
12 extent that the transfer does not reduce the amount of the capital reserve fund below  
13 the capital reserve fund requirement.

14 (c) If the corporation decides to issue obligations secured by a capital reserve  
15 fund, the obligations may not be issued if the amount in the capital reserve fund is less  
16 than a percentage, not exceeding 10 percent of the principal amount of all of those  
17 obligations secured by that capital reserve fund then to be issued and then outstanding  
18 in accordance with their terms, as may be established by resolution of the corporation  
19 (called the "capital reserve fund requirement"), unless the corporation, at the time of  
20 issuance of the obligations, deposits in the capital reserve fund from the proceeds of  
21 the obligations to be issued or from other sources, an amount that, together with the  
22 amount then in the fund, would not be less than the capital reserve fund requirement.

23 (d) In computing the amount of a capital reserve fund for the purpose of this  
24 section, securities in which all or a portion of the funds are invested shall be valued at  
25 par or, if purchased at less than par, at amortized costs as the term is defined by  
26 resolution of the corporation authorizing the issue of the obligations, or by some other  
27 reasonable method established by the corporation by resolution. Valuation on a  
28 particular date shall include the amount of interest earned or accrued to that date.

29 (e) The chair of the corporation shall annually, not later than January 2, make  
30 and deliver to the governor and chairs of the house and senate finance committees a  
31 certificate stating the sum, if any, required to restore a capital reserve fund to the

1 capital reserve fund requirement. The legislature may appropriate that sum, and the  
2 corporation shall deposit all sums appropriated by the legislature during the then  
3 current fiscal year for the restoration in the proper capital reserve fund. Nothing in this  
4 section creates a debt or liability of the state.

5 **Sec. 31.25.200. Remedies.** A holder of obligations or coupons attached to  
6 them issued under this chapter, and a trustee under a trust agreement or resolution  
7 authorizing the issuance of the obligations, except as restricted by a trust agreement or  
8 resolution, either at law or in equity,

9 (1) may enforce all rights granted under this chapter, under the trust  
10 agreement or resolution, or under another contract executed by the corporation under  
11 this chapter; and

12 (2) may enforce and compel the performance of all duties required by  
13 this chapter or by the trust agreement or resolution to be performed by the corporation  
14 or by an officer of the corporation.

15 **Sec. 31.25.210. Negotiable instruments.** All obligations and interest coupons  
16 attached to them are negotiable instruments under the laws of this state, subject only to  
17 applicable provisions for registration.

18 **Sec. 31.25.220. Obligations eligible for investment.** Obligations issued under  
19 this chapter are securities in which all public officers and public bodies of the state and  
20 its political subdivisions and all insurance companies, trust companies, banking  
21 associations, investment companies, executors, administrators, trustees, and other  
22 fiduciaries may properly and legally invest funds, including capital in their control or  
23 belonging to them. Those obligations may be deposited with a state or municipal  
24 officer of an agency or political subdivision of the state for any purpose for which the  
25 deposit of bonds, notes, or obligations of the state is authorized by law.

26 **Sec. 31.25.230. Refunding obligations.** (a) The corporation may provide for  
27 the issuance of refunding obligations for the purpose of refunding obligations then  
28 outstanding that have been issued under this chapter, including the payment of the  
29 redemption premium on them and interest accrued or to accrue to the date of  
30 redemption of the obligations. The issuance of the obligations, the maturities and other  
31 details of them, the rights of the holders of them, and the rights, duties, and obligations

1 of the corporation with respect to them are governed by the provisions of this chapter  
2 that relate to the issuance of obligations, insofar as those provisions may be  
3 appropriate.

4 (b) Refunding obligations may be sold or exchanged for outstanding  
5 obligations issued under this chapter and, if sold, the proceeds may be applied, in  
6 addition to other authorized purposes, to the purchase, redemption, or payment of the  
7 outstanding obligations. Pending the application of the proceeds of refunding  
8 obligations, with other available funds, to the payment of the principal of, accrued  
9 interest on, and any redemption premium on the obligations being refunded and, if so  
10 provided or permitted in the resolution authorizing the issuance of the refunding  
11 obligations or in the trust agreement securing them, to the payment of any interest on  
12 the refunding obligations and any expenses in connection with the refunding, the  
13 proceeds may be invested in direct obligations of, or obligations the principal of and  
14 the interest on which are unconditionally guaranteed by, the United States that mature  
15 or that will be subject to redemption, at the option of the holders of them, not later  
16 than the respective dates when the proceeds, together with the interest accruing on  
17 them, will be required for the purposes intended.

18 **Sec. 31.25.240. Credit of state not pledged.** (a) Obligations issued under this  
19 chapter do not constitute a debt, liability, or obligation of the state or of a political  
20 subdivision of the state or a pledge of the faith and credit of the state or of a political  
21 subdivision of the state but are payable solely from the revenue or assets of the  
22 corporation. Each obligation issued under this chapter shall contain on its face a  
23 statement that the corporation is not obligated to pay the obligation or the interest on  
24 the obligation except from the revenue or assets of the corporation and that neither the  
25 faith and credit nor the taxing power of the state or of any political subdivision of the  
26 state is pledged to the payment of the principal of or the interest on the obligation.  
27 This subsection applies to all debt, obligations, and liabilities of the corporation  
28 regardless of how the debt, obligations, or liabilities are created, including by contract,  
29 tort, or bond or note issuance. Except as provided in this subsection, a person may not  
30 bring suit against the state or a political subdivision of the state other than the  
31 corporation in the courts of the state to enforce or seek a remedy with respect to a

1 debt, obligation, or liability of the corporation.

2 (b) Expenses incurred by the corporation in carrying out the provisions of this  
3 chapter are payable from funds provided under this chapter and liability may not be  
4 incurred by the corporation in excess of those funds.

5 **Article 3. General Provisions.**

6 **Sec. 31.25.250. Limitation on personal liability.** A member of the board or  
7 other officer of the corporation or a subsidiary of the corporation is not subject to  
8 personal liability or accountability because the member or officer executed or issued  
9 an obligation.

10 **Sec. 31.25.260. Tax exemption.** (a) The exercise of the powers granted by this  
11 chapter is, in all respects, for the benefit of the people of the state, for their well-being  
12 and prosperity, and for the improvement of their social and economic conditions, and  
13 the corporation is not required to pay a tax or assessment on any property owned by  
14 the corporation under the provisions of this chapter or on the income from it, including  
15 state taxes levied or authorized under AS 43.56.010(a) and local taxes under  
16 AS 43.56.010(b) as provided in AS 43.56.020.

17 (b) All obligations issued under this chapter are declared to be issued by a  
18 body corporate and public of the state and for an essential public and governmental  
19 purpose, and the obligations, and the interest and income on and from the obligations,  
20 and all fees, charges, funds, revenue, income, and other money pledged or available to  
21 pay or secure the payment of the obligations, or interest on the obligations, are exempt  
22 from taxation except for transfer, inheritance, and estate taxes.

23 **Sec. 31.25.270. Annual report.** (a) The corporation shall prepare and transmit  
24 annually a report to the governor accounting for the efficient discharge of all  
25 responsibility assigned by law or by directive to the corporation. The corporation shall  
26 notify the legislature that the report is available.

27 (b) By January 10 of each year, the board shall prepare a report of the  
28 corporation. The board shall notify the governor and the legislature that the report is  
29 available, and publish notice to the public on the Alaska Online Public Notice System  
30 under AS 44.62.175 that the report is available on the corporation's Internet website.  
31 The report shall be written in easily understandable language. The report must include

1 a financial statement audited by an independent outside auditor and any other  
 2 information the board believes would be of interest to the governor, the legislature,  
 3 and the public. The annual income statement and balance sheet of the corporation shall  
 4 be published on the Internet. The board may also publish electronically or in print, at  
 5 the corporation's discretion, other reports it considers desirable to carry out its  
 6 purpose.

7 **Sec. 31.25.390. Definitions for AS 31.25.010 - 31.25.390.** In AS 31.25.010 -  
 8 31.25.390, unless the context clearly indicates a different meaning,

9 (1) "board" means the board of directors of the corporation;

10 (2) "bond" or "obligation" means a bond, bond anticipation note, or  
 11 other note of the corporation authorized to be issued by the corporation under this  
 12 chapter;

13 (3) "corporation" means the Alaska Gasline Development Corporation;

14 (4) "governmental agency" means a department, division, public  
 15 agency, political subdivision, or other public instrumentality of the state or the federal  
 16 government;

17 (5) "in-state natural gas pipeline" means a natural gas pipeline for  
 18 transporting natural gas in the state;

19 (6) "natural gas pipeline" means a total system of pipe and connected  
 20 facilities for the transportation, treatment or conditioning, delivery, storage, or further  
 21 transportation of natural gas, including all pipe, compressor stations, station  
 22 equipment, and all other facilities used or necessary for an integral line of pipe to carry  
 23 out the transportation of the natural gas.

24 \* **Sec. 4.** AS 36.30.850(b) is amended by adding a new paragraph to read:

25 (46) the Alaska Gasline Development Corporation (AS 31.25) and  
 26 subsidiaries of the Alaska Gasline Development Corporation.

27 \* **Sec. 5.** AS 37.05.146(c)(22) is amended to read:

28 (22) Regulatory Commission of Alaska under AS 42.05, [AND]  
 29 AS 42.06, and AS 42.08;

30 \* **Sec. 6.** AS 38.05.180(bb)(1) is amended to read:

31 (1) "gas or electric utility" includes an electric cooperative organized

1 under AS 10.25, a municipal utility, and a gas or electric utility regulated under  
 2 AS 42.05; [PROVIDED THAT,] if the contract gas is transmitted to consumers  
 3 through a pipeline and the gas utility either owns the pipeline or is related in  
 4 ownership to the owner of the pipeline, then the gas utility qualifies as a "gas or  
 5 electric utility" within the meaning of this paragraph only if it is bound or agrees to be  
 6 bound by the covenants set out in AS 38.35.120 **or 38.35.121, as applicable**;

7 \* **Sec. 7.** AS 38.34.099 is repealed and reenacted to read:

8 **Sec. 38.34.099. Definitions.** In this chapter,

9 (1) "Alaska Gasline Development Corporation" means the corporation  
 10 created under AS 31.25.010;

11 (2) "in-state natural gas pipeline" and "natural gas pipeline" have the  
 12 meanings given in AS 31.25.390.

13 \* **Sec. 8.** AS 38.35.100(d) is amended to read:

14 (d) The commissioner shall include in a conditional lease each requirement  
 15 and condition of the covenants established under AS 38.35.120 **or 38.35.121, as**  
 16 **applicable**. The commissioner may also require that the lessee agree to additional  
 17 conditions that the commissioner finds to be in the public interest. In place of the  
 18 covenant established under AS 38.35.120(a)(9), the commissioner shall require the  
 19 lessee to agree that it will not transfer, assign, pledge, or dispose of in any manner,  
 20 directly or indirectly, its interest in a conditional right-of-way lease or a pipeline  
 21 subject to the conditional lease, unless the commissioner, after considering the public  
 22 interest and issuing written findings to substantiate a decision to allow the transfer,  
 23 authorizes the transfer. The commissioner shall also require the lessee to agree not to  
 24 allow the transfer of control of the lessee without the approval of the commissioner; as  
 25 used in this subsection, "transfer of control of the lessee" means the transfer of 30  
 26 percent or more, in the aggregate, of ownership interest in the lessee in one or more  
 27 transactions to one or more persons by one or more persons.

28 \* **Sec. 9.** AS 38.35.120(a) is amended to read:

29 (a) **Except as provided for a natural gas pipeline subject to AS 38.35.121,**  
 30 **a** [A] noncompetitive lease of state land for a right-of-way for an oil or natural gas  
 31 pipeline valued at \$1,000,000 or more may be granted only upon the condition that the

1 lessee expressly covenants in the lease, in consideration of the rights acquired by it  
2 under the lease, that

3 (1) it assumes the status of and will perform all of its functions  
4 undertaken under the lease as a common carrier and will accept, convey, and transport  
5 without discrimination crude oil or natural gas, depending on the kind of pipeline  
6 involved, delivered to it for transportation from fields in the vicinity of the pipeline  
7 subject to the lease throughout its route both on state land obtained under the lease and  
8 on the other land; it will accept, convey, and transport crude oil or natural gas without  
9 unjust or unreasonable discrimination in favor of one producer or person, including  
10 itself, as against another but will take the crude oil or natural gas, depending on the  
11 kind of pipeline involved, delivered or offered, without unreasonable discrimination,  
12 that the Regulatory Commission of Alaska shall, after a full hearing with due notice to  
13 the interested parties and a proper finding of facts, determine to be reasonable in the  
14 performance of its duties as a common carrier; however, a lessee that owns or operates  
15 a natural gas pipeline

16 (A) subject to regulation either under 15 U.S.C. 717 et seq.  
17 (Natural Gas Act) [THE NATURAL GAS ACT (15 U.S.C. 717 ET SEQ.) OF  
18 THE UNITED STATES] or by the state or a political subdivision  
19 [SUBDIVISIONS] with respect to rates and charges for the sale of natural gas,  
20 is, to the extent of that regulation, exempt from the common carrier  
21 requirement in this paragraph;

22 (B) that is a North Slope natural gas pipeline (i) is required to  
23 operate as a common carrier only with respect to the intrastate transportation of  
24 North Slope natural gas, as that term is defined in AS 42.06.630, and (ii) is not  
25 required to operate as a common carrier as to a liquefied natural gas facility or  
26 a marine terminal facility associated with the pipeline, and is not otherwise  
27 required to perform its functions under the lease as a common carrier; for  
28 purposes of this subparagraph, "North Slope natural gas pipeline" means all the  
29 facilities of a total system of pipe, whether owned or operated under a contract,  
30 agreement, or lease, used by a carrier for transportation of North Slope natural  
31 gas, as defined by AS 42.06.630, for delivery, for storage, or for further

1 transportation, and including all pipe, [PUMP, OR] compressor stations,  
2 station equipment, tanks, valves, access roads, bridges, airfields, terminals and  
3 terminal facilities, including docks and tanker loading facilities, operations  
4 control centers for both the upstream part of the pipeline and the terminal,  
5 tanker ballast treatment facilities, fire protection system, communication  
6 system, and all other facilities used or necessary for an integral line of pipe,  
7 taken as a whole, to carry out transportation, including an extension or  
8 enlargement of the line;

9 (2) it will interchange crude oil or natural gas, depending on the kind  
10 of pipeline involved, with each like common carrier and provide connections and  
11 facilities for the interchange of crude oil or natural gas at every locality reached by  
12 both pipelines when the necessity exists, subject to rates and regulations made by the  
13 appropriate state or federal regulatory agency;

14 (3) it will maintain and preserve books, accounts, and records and will  
15 make those reports that the state may prescribe by regulation or law as necessary and  
16 appropriate for purposes of administration of this chapter;

17 (4) it will accord at all reasonable times to the state and its authorized  
18 agents and auditors the right of access to its property and records, of inspection of its  
19 property, and of examination and copying of records;

20 (5) it will provide connections, as determined by the Regulatory  
21 Commission of Alaska under AS 42.06.340, to facilities on the pipeline subject to the  
22 lease, both on state land and other land in the state, for the purpose of delivering crude  
23 oil or natural gas, depending on the kind of pipeline involved, to persons (including  
24 the state and its political subdivisions) contracting for the purchase at wholesale of  
25 crude oil or natural gas transported by the pipeline when required by the public  
26 interest;

27 (6) it shall, notwithstanding any other provision, provide connections  
28 and interchange facilities at state expense at [SUCH] places the state considers  
29 necessary if the state determines to take a portion of its royalty or taxes in oil or  
30 natural gas;

31 (7) it will construct and operate the pipeline in accordance with

1 applicable state laws and lawful regulations and orders of the Regulatory Commission  
2 of Alaska;

3 (8) it will, at its own expense, during the term of the lease,

4 (A) maintain the leasehold and pipeline in good repair;

5 (B) promptly repair or remedy [ANY] damage to the leasehold;

6 (C) promptly compensate for [ANY] damage to or destruction  
7 of property for which the lessee is liable resulting from damage to or  
8 destruction of the leasehold or pipeline;

9 (9) it will not transfer, assign, or dispose of, in any manner, directly or  
10 indirectly, or by transfer of control of the carrier corporation, its interest in a right-of-  
11 way lease, or [ANY] rights under the lease or a [ANY] pipeline subject to the lease to  
12 a [ANY] person other than another owner of the pipeline (including subsidiaries,  
13 parents, and affiliates of the owners), except to the extent that the commissioner, after  
14 consideration of the protection of the public interest (including whether the proposed  
15 transferee is fit, willing, and able to perform the transportation or other acts proposed  
16 in a manner that will reasonably protect the lives, property, and general welfare of the  
17 people of Alaska), authorizes; the commissioner shall not unreasonably withhold  
18 consent to the transfer, assignment, or disposal;

19 (10) it will file with the commissioner a written appointment of a  
20 named permanent resident of the state to be its registered agent in the state and to  
21 receive service of notices, regulations, decisions, and orders of the commissioner; if it  
22 fails to appoint an agent for service, service may be made by posting a copy in the  
23 office of the commissioner, filing a copy in the office of the lieutenant governor, and  
24 mailing a copy to the lessee's last known address;

25 (11) the applicable law of this state will be used in resolving questions  
26 of interpretation of the lease;

27 (12) the granting of the right-of-way lease is subject to the express  
28 condition that the exercise of the rights and privileges granted under the lease will not  
29 unduly interfere with the management, administration, or disposal by the state of the  
30 land affected by the lease, and that the lessee agrees and consents to the occupancy  
31 and use by the state, its grantees, permittees, or other lessees of any part of the right-

1 of-way not actually occupied or required by the pipeline for the full and safe  
 2 utilization of the pipeline, for necessary operations incident to land management,  
 3 administration, or disposal;

4 (13) it will be liable to the state for damages or injury incurred by the  
 5 state caused by the construction, operation, or maintenance of the pipeline and it will  
 6 indemnify the state for the liabilities or damages;

7 (14) it will procure and furnish liability and property damage insurance  
 8 from a company licensed to do business in the state or furnish other security or  
 9 undertaking upon the terms and conditions the commissioner considers necessary if  
 10 the commissioner finds that the net assets of the lessee are insufficient to protect the  
 11 public from damage for which the lessee may be liable arising out of the construction  
 12 or operation of the pipeline.

13 \* **Sec. 10.** AS 38.35.120(b) is amended to read:

14 (b) **Except as provided for a natural gas pipeline subject to AS 38.35.121,**  
 15 **for** [FOR] a right-of-way lease granted under this chapter for an oil or natural gas  
 16 pipeline valued at \$1,000,000 or more to be valid and of legal effect, it must contain  
 17 the terms required to be inserted under the provisions of AS 38.35.110 - 38.35.140. An  
 18 oil or natural gas pipeline right-of-way lease granted under this chapter **and subject to**  
 19 **this section** that does not contain the required terms is null and void and without legal  
 20 effect and does not vest any interest in state land or any authority in the carrier granted  
 21 the lease.

22 \* **Sec. 11.** AS 38.35 is amended by adding a new section to read:

23 **Sec. 38.35.121. Covenants required to be in a lease to a natural gas**  
 24 **pipeline that is a contract carrier.** (a) For a lease of state land for a right-of-way for  
 25 which an applicant has applied as a contract carrier under AS 42.08, a noncompetitive  
 26 lease of state land for a right-of-way for a natural gas pipeline valued at \$1,000,000 or  
 27 more may be granted only on the condition that the lessee expressly covenant in the  
 28 lease, in consideration of the rights acquired by it under the lease, that

29 (1) except for the covenants in AS 38.35.120(a)(1), (2), and (5), it will  
 30 meet the requirements of AS 38.35.120;

31 (2) it will interchange natural gas and provide connections with each

1 public utility pipeline, common carrier pipeline, or contract carrier pipeline, and  
2 facilities for the interchange of natural gas at every locality reached by both pipelines  
3 when the necessity exists, as provided in contracts on file with the Regulatory  
4 Commission of Alaska;

5 (3) it assumes the status of and will perform all of its functions  
6 undertaken under the lease as a contract carrier and, subject to contracts with shippers,  
7 will accept, convey, and transport, without discrimination, natural gas delivered to it  
8 for transportation from fields in the vicinity of the pipeline subject to the right-of-way  
9 lease throughout the pipeline route, both on state land obtained under the lease and on  
10 other land, and that, subject to contracts with shippers, it will accept, convey, and  
11 transport natural gas without unjust or unreasonable discrimination in favor of itself or  
12 one producer or person against another, but will take the natural gas delivered or  
13 offered without unreasonable discrimination;

14 (4) it will expand the natural gas pipeline on commercially reasonable  
15 terms that, when possible, encourage exploration and development of gas resources in  
16 this state without increasing transportation costs for a shipper except as provided for in  
17 the contract with the shipper; in this paragraph, "commercially reasonable terms"  
18 means terms that produce sufficient revenue from transportation contracts to cover the  
19 cost of the expansion, including increased fuel costs and a reasonable return on capital,  
20 without impairing the ability of the pipeline to recover the costs of existing facilities;

21 (5) it will not require a shipper to pay a rate in excess of the rates  
22 provided for in the contract with that shipper.

23 (b) A contract carrier may offer to a shipper firm transportation service,  
24 interruptible transportation service, or both. In this subsection, "firm transportation  
25 service" has the meaning given in AS 42.08.900.

26 (c) The lessee may not construct or expand or allow the construction or  
27 expansion of a natural gas pipeline under (a) of this section to be a competing natural  
28 gas pipeline project unless the project for which a license is issued under AS 43.90 has  
29 been abandoned or is no longer receiving the inducements under AS 43.90.110(a). In  
30 this subsection,

31 (1) "competing natural gas pipeline project" has the meaning given in

1 AS 43.90.440;

2 (2) "license" has the meaning given in AS 43.90.900.

3 \* **Sec. 12.** AS 38.35.140 is amended by adding a new subsection to read:

4 (c) Notwithstanding (a) of this section, a right-of-way lease shall be granted  
5 without appraisal or rental costs to the Alaska Gasline Development Corporation  
6 created under AS 31.25.010.

7 \* **Sec. 13.** AS 38.35.200 is amended by adding new subsections to read:

8 (c) Except as provided for an applicant in (a) of this section and  
9 notwithstanding any contrary provision of law, an action or decision of the  
10 commissioner or other state officer or agency concerning the issuance or approval of a  
11 necessary right-of-way, permit, lease, certificate, license, or other authorization for the  
12 planning, financing, acquisition, maintenance, development, construction, or initial  
13 operation of a natural gas pipeline by the Alaska Gasline Development Corporation  
14 under AS 31.25 that uses a right-of-way subject to this chapter may not be subject to  
15 judicial review, except that a claim alleging the invalidity of this subsection must be  
16 brought within 60 days after the effective date of this Act, and a claim alleging that an  
17 action will deny rights under the Constitution of the State of Alaska must be brought  
18 within 60 days following the date of that action. A claim that is not filed within the  
19 limitations established in this subsection is barred. A complaint under this subsection  
20 must be filed in superior court, and the superior court has exclusive jurisdiction.  
21 Notwithstanding AS 22.10.020(c), except in conjunction with a final judgment on a  
22 claim filed under this subsection, the superior court may not grant injunctive relief,  
23 including a temporary restraining order, preliminary injunction, permanent injunction,  
24 or stay, against the issuance of a necessary right-of-way, permit, lease, certificate,  
25 license, or other authorization for the planning, financing, acquisition, maintenance,  
26 development, construction, or initial operation of a natural gas pipeline by the Alaska  
27 Gasline Development Corporation. In this subsection, "natural gas pipeline" has the  
28 meaning given in AS 38.34.099.

29 (d) An appeal of a permitting decision or authorization by the Department of  
30 Environmental Conservation under AS 46.03 or AS 46.14 that is made under a  
31 program approved or delegated by the United States Environmental Protection Agency

1 is not

2 (1) subject to the limitation in (a) of this section;

3 (2) included in the actions or decisions described in (c) of this section.

4 \* **Sec. 14.** AS 39.25.110(11) is amended by adding a new subparagraph to read:

5 (H) Alaska Gasline Development Corporation and subsidiaries

6 of the Alaska Gasline Development Corporation;

7 \* **Sec. 15.** AS 39.50.200(b) is amended by adding a new paragraph to read:

8 (64) the board of directors of the Alaska Gasline Development

9 Corporation or the board of directors of a subsidiary of the Alaska Gasline

10 Development Corporation.

11 \* **Sec. 16.** AS 40.25.120(a) is amended to read:

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

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

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

18 (3) medical and related public health records;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (11) the written notification regarding a proposed regulation provided

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

4 (12) records that are

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

7 (B) applications that are received under AS 43.90 until notice is  
 8 published under AS 43.90.160;

9 **(13) information of the Alaska Gasline Development Corporation**  
 10 **created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development**  
 11 **Corporation that is confidential by law or under a valid confidentiality**  
 12 **agreement.**

13 \* **Sec. 17.** AS 42.04.080(a) is amended to read:

14 (a) Except as provided in AS 42.05.171 or AS 42.06.140, when a matter  
 15 comes for decision before the commission under AS 42.05, [OR] AS 42.06, **or**  
 16 **AS 42.08**, the chair shall appoint a hearing panel composed of three or more members  
 17 to hear, or if a hearing is not required, to otherwise consider, and decide the case. The  
 18 panel shall exercise the powers of the commission with respect to the matter.

19 \* **Sec. 18.** AS 42.05 is amended by adding a new section to read:

20 **Sec. 42.05.433. Review of certain contracts by the commission.** (a) A  
 21 precedent agreement or contract entered into by a public utility with the Alaska  
 22 Gasline Development Corporation or its successors or assigns may contain a covenant  
 23 for the public utility to establish, charge, and collect rates sufficient to meet its  
 24 obligations under the contract. If the precedent agreement associated with the contract  
 25 is approved by the commission under AS 42.08, the rate covenant in the associated  
 26 contract is valid and enforceable.

27 (b) A public utility negotiating to purchase natural gas to be shipped through  
 28 an in-state natural gas pipeline regulated under AS 42.08 shall submit the contract to  
 29 the commission before the contract takes effect.

30 (c) A public utility negotiating to contract for the storage of natural gas  
 31 shipped in an in-state natural gas pipeline regulated under AS 42.08 shall submit the

1 contract to the commission before the contract takes effect.

2 (d) The commission shall review and may conduct an investigation and  
 3 hearing to determine whether a contract submitted under (b) or (c) of this section is  
 4 just and reasonable. The review and determination shall be conducted as provided in  
 5 AS 42.08.320(b) - (d). The commission shall either approve the contract as presented  
 6 or, if the commission finds that a contract is not just and reasonable, disapprove the  
 7 contract. Notwithstanding AS 42.05.175, if the commission has not acted within 180  
 8 days after the contract is submitted, the contract shall be considered approved and  
 9 shall take effect immediately. The commission may, by order, extend the 180-day  
 10 review period by the duration of a delay caused by a failure of the public utility to  
 11 submit supplemental information that is available to the public utility. A contract that  
 12 is approved or considered approved under this section is not subject to further review  
 13 by the commission.

14 \* **Sec. 19.** AS 42.05.711 is amended by adding a new subsection to read:

15 (t) An in-state natural gas pipeline subject to AS 42.08 and an in-state natural  
 16 gas pipeline carrier subject to AS 42.08 are exempt from this chapter.

17 \* **Sec. 20.** AS 42.06 is amended by adding a new section to article 7 to read:

18 **Sec. 42.06.601. Exemption.** An in-state natural gas pipeline subject to  
 19 AS 42.08 and an in-state natural gas pipeline carrier subject to AS 42.08 are exempt  
 20 from this chapter.

21 \* **Sec. 21.** AS 42 is amended by adding a new chapter to read:

22 **Chapter 08. In-State Pipeline Contract Carrier.**

23 **Article 1. Application of Chapter; Purpose.**

24 **Sec. 42.08.010. Application of chapter; exemption.** (a) This chapter applies  
 25 to the regulation of in-state natural gas pipelines that provide transportation by  
 26 contract carriage.

27 (b) An in-state natural gas pipeline subject exclusively to federal jurisdiction  
 28 is exempt from this chapter.

29 **Sec. 42.08.020. Qualification of the Alaska Gasline Development**  
 30 **Corporation; findings.** (a) The Alaska Gasline Development Corporation is  
 31 financially fit, willing, and able to take the actions, perform the service, and conform

1 to the requirements of this chapter.

2 (b) The board of directors and the officers of the Alaska Gasline Development  
3 Corporation are managerially fit, willing, and able to manage the Alaska Gasline  
4 Development Corporation and to take the actions, perform the service, and conform to  
5 the requirements of this chapter.

6 (c) The proposed service, construction, and operation of an in-state natural gas  
7 pipeline for which the Alaska Gasline Development Corporation applies for a  
8 certificate under this chapter is required by present and future public convenience and  
9 necessity.

10 (d) The findings that the Alaska Gasline Development Corporation is  
11 financially fit in (a) of this section and managerially fit in (b) of this section and that  
12 an in-state natural gas pipeline is required by present or future public convenience and  
13 necessity in (c) of this section are conclusive and binding on the commission.

14 (e) The commission shall determine whether a person making application  
15 under this chapter is technically fit, willing, and able to take the actions, perform the  
16 service, and conform to the requirements in this chapter.

17 **Article 2. Powers and Duties of Regulatory Commission of Alaska.**

18 **Sec. 42.08.220. General powers and duties.** (a) The commission shall

19 (1) regulate, under the provisions of this chapter, an in-state natural gas  
20 pipeline that provides transportation by way of contract carriage;

21 (2) require permits for the construction, enlargement in size or  
22 operating capacity, extension, connection and interconnection, operation, or  
23 abandonment of an in-state natural gas pipeline facility under the provisions of this  
24 chapter and subject to the same standards as certification in AS 42.08.330;

25 (3) to the extent necessary to perform the duties of the commission  
26 under this chapter, have access to, and may designate its employees, agents, or  
27 consultants to inspect and examine, the accounts, financial and property records,  
28 books, maps, inventories, appraisals, valuations, and related reports kept by an in-state  
29 natural gas pipeline carrier, or kept for an in-state natural gas pipeline carrier by  
30 others, that directly affect the interests of the state and directly relate to in-state natural  
31 gas pipelines located in the state during normal business hours;

1 (4) provide all reasonable assistance to the Department of Law in  
 2 intervening in, offering evidence in, and participating in proceedings before an officer,  
 3 department, board, commission, or court of another state or the United States  
 4 involving an in-state natural gas pipeline carrier or an affiliated interest and affecting  
 5 the interests of the state.

6 (b) The commission may

7 (1) review and approve recourse tariffs filed by an in-state natural gas  
 8 pipeline carrier under this chapter;

9 (2) review and approve contracts;

10 (3) investigate on its own motion or after receiving a complaint, a  
 11 dispute

12 (A) related to rules, regulations, services, practices, and  
 13 facilities that are not subject to the dispute resolution provisions in an in-state  
 14 natural gas pipeline carrier's contracts or recourse tariff;

15 (B) presented by a complainant that does not have a contract  
 16 with the in-state natural gas pipeline carrier;

17 (C) related to the conduct of an in-state natural gas pipeline  
 18 carrier's open season under AS 42.08.300; to resolve the dispute, the  
 19 commission may order an expansion of an in-state natural gas pipeline or order  
 20 an open season under the terms provided for an expansion or open season in  
 21 this chapter or AS 38.35.121(a)(4) and (c); or

22 (D) related to an unreasonable diminution in quantity or quality  
 23 in the provision of service to a public utility that

24 (i) is a violation of the in-state natural gas pipeline  
 25 carrier's tariff or contract with the public utility;

26 (ii) has not been resolved by the in-state natural gas  
 27 pipeline carrier; and

28 (iii) will result in immediate injury, loss, or damage to  
 29 the peace, health, safety, or general welfare of the public as clearly  
 30 demonstrated by specific facts shown by affidavit or verified  
 31 complaint;

1 (4) adopt regulations that are necessary and proper to the performance  
 2 of the duties of the commission under this chapter, including regulations governing  
 3 practices and procedures of the commission; regulations adopted by the commission  
 4 may not be inconsistent with state law;

5 (5) initiate, intervene in, and appear personally or by counsel and offer  
 6 evidence in and participate in, proceedings before an officer, department, board,  
 7 commission, or court of this state involving an in-state natural gas pipeline carrier and  
 8 affecting the interests of the state; and

9 (6) appoint a qualified, unbiased, and impartial administrative law  
 10 judge with experience in the general practice of law to conduct hearings under this  
 11 chapter; the administrative law judge may perform other duties in connection with the  
 12 administration of this chapter and other laws; an administrative law judge hired to  
 13 conduct hearings under this chapter shall have been admitted to practice law for at  
 14 least five years immediately before appointment under this paragraph.

15 (c) Except with regard to a precedent agreement under AS 42.08.320(a) that is  
 16 filed before the issuance of a certificate, consideration of an application for a contract  
 17 carriage certificate under AS 42.08.330, and an initial recourse tariff under  
 18 AS 42.08.350(a), the commission may extend a timeline required under this chapter if  
 19 all parties of record consent to the extension or if, for one time only, before the  
 20 timeline expires, the

21 (1) commission reasonably finds that good cause exists to extend the  
 22 timeline;

23 (2) commission issues a written order extending the timeline and  
 24 setting out its findings regarding good cause; and

25 (3) extension of time is 30 days or less.

26 (d) Except as provided in this chapter, the commission may not

27 (1) require rates, rate design, or tariff rates or regulations;

28 (2) require an in-state natural gas pipeline carrier to make a recourse  
 29 tariff filing;

30 (3) order a modification of a contract that is approved, considered  
 31 approved, or filed under this chapter; or

1 (4) conduct further review or investigation of a contract that is  
2 approved, considered approved, or filed under this chapter.

3 **Sec. 42.08.230. Commission decision-making procedures.** The commission  
4 shall comply with AS 42.04.080(a) and expeditiously adjudicate all matters that come  
5 before the commission.

6 **Sec. 42.08.240. Publication of reports, orders, decisions, and regulations.**  
7 All reports, orders, decisions, and regulations of the commission shall be in writing.  
8 The commission shall notify all affected operators of in-state natural gas pipeline  
9 facilities and interested parties of reports, orders, decisions, and regulations as they are  
10 issued and adopted and, when appropriate, publish them in a manner that will  
11 reasonably inform the public or the affected consumers of the services of an in-state  
12 natural gas pipeline facility. The commission may set charges for costs of printing or  
13 reproducing and furnishing copies of reports, orders, decisions, and regulations. The  
14 publication requirement, as it pertains to regulations, does not supersede the  
15 requirements of AS 44.62 (Administrative Procedure Act).

16 **Sec. 42.08.250. Application of Administrative Procedure Act.** (a) The  
17 administrative adjudication procedures of AS 44.62 (Administrative Procedure Act)  
18 do not apply to adjudicatory proceedings of the commission under this chapter, except  
19 that final administrative determinations by the commission are subject to judicial  
20 review under AS 44.62 (Administrative Procedure Act) as provided in AS 42.08.530.

21 (b) AS 44.62 (Administrative Procedure Act) applies to regulations adopted  
22 by the commission.

23 **Sec. 42.08.260. Annual report.** The commission shall include in its annual  
24 reports under AS 42.05.211 and AS 42.06.220 a review of its activities under this  
25 chapter during the previous fiscal year. The report must address the regulation of in-  
26 state natural gas pipeline facilities in the state as of June 30 of each year and must  
27 contain details about the commission's compliance with the performance measures in  
28 this chapter.

29 **Article 3. Contract Review; Contract Carriage Certificate; Open Seasons.**

30 **Sec. 42.08.300. Open seasons.** (a) An in-state natural gas pipeline carrier shall  
31 include in its approved recourse tariff the procedures for conducting open seasons for

1 uncommitted firm transportation service and for expansion. At a minimum, the in-state  
2 natural gas pipeline carrier shall publish reasonable public notice in advance of an  
3 open season. The notice shall contain the approved recourse tariff, the proposed form  
4 of the precedent agreement, the proposed form of the firm transportation service  
5 agreement, and other information sufficient to show the proposed route, capacity,  
6 operating pressures, in-service date, quality specifications, and other operating  
7 conditions that the pipeline carrier determines are relevant to an evaluation of the  
8 proposed service. The notice shall also state the methods for awarding capacity and  
9 whether presubscription agreements have been executed. An in-state natural gas  
10 pipeline carrier shall provide a mechanism for providing additional relevant  
11 information requested by potential shippers.

12 (b) An open season shall be conducted and firm transportation service shall be  
13 awarded without undue discrimination or preference.

14 (c) An in-state natural gas pipeline carrier shall conduct an open season for  
15 firm transportation service when it has existing uncommitted firm transportation  
16 capacity and has received a request for firm transportation capacity from one or more  
17 potential shippers that meet the pipeline's creditworthiness requirements.

18 (d) An in-state natural gas pipeline carrier shall conduct an open season for an  
19 expansion of its pipeline system when it has received one or more requests for firm  
20 transportation service from potential shippers that meet the pipeline's creditworthiness  
21 requirements and that, in the aggregate, would enable the expansion of the pipeline's  
22 system on a commercially reasonable basis. An expansion of the pipeline system is not  
23 commercially reasonable if the expansion would cause the pipeline to be a competing  
24 natural gas pipeline project as defined in AS 43.90.440 unless the project for which a  
25 license is issued under AS 43.90 has been abandoned or is no longer receiving the  
26 inducements in AS 43.90.110(a).

27 (e) A natural gas pipeline carrier may enter into presubscription agreements  
28 before the start of an open season, but not before an initial recourse tariff is approved.

29 (f) An in-state natural gas pipeline carrier shall file revised recourse rates  
30 before conducting an open season under (c) and (d) of this section unless the in-state  
31 natural gas pipeline carrier filed revised recourse rates during the immediately

1 preceding two-year period.

2 **Sec. 42.08.310. Transportation service.** (a) Firm transportation service shall  
3 be made available only through a presubscription agreement, a recourse tariff, or an  
4 open season conducted in accordance with AS 42.08.300.

5 (b) The pipeline carrier shall offer a recourse tariff for firm transportation  
6 service. The rates included in the recourse tariff shall be determined on a cost-of-  
7 service basis and may be levelized over the depreciation life of the pipeline. The  
8 recourse tariff may not preclude the pipeline carrier from collecting rolled-in rates so  
9 long as the resulting rate for prior shippers does not exceed the initial maximum rate  
10 allowable under agreements for capacity.

11 (c) An in-state natural gas pipeline carrier may contract to provide firm  
12 transportation service for rates and containing provisions different than those in the  
13 recourse tariff. For purposes of this subsection, "provisions" are limited to those terms  
14 and conditions that directly relate to the rate and do not include the general operating  
15 terms and conditions of the recourse tariff.

16 (d) An in-state natural gas pipeline carrier shall provide interruptible  
17 transportation service through capacity not used for firm transportation service. An in-  
18 state natural gas pipeline carrier shall establish means for routinely advising potential  
19 shippers of the availability of interruptible transportation service and of uncommitted  
20 firm transportation capacity.

21 **Sec. 42.08.320. Review of certain contracts by the commission.** (a) An in-  
22 state natural gas pipeline carrier shall submit each of its precedent agreements for firm  
23 transportation service and any substantial amendments to the commission. A precedent  
24 agreement negotiated with an entity that is not a public utility regulated by the  
25 commission may be filed under seal. Under AS 42.08.400, the commission shall keep  
26 confidential a precedent agreement filed under seal. Submission of precedent  
27 agreements to the commission is permissible before construction of an in-state natural  
28 gas pipeline and before a request for certification under this chapter. In this subsection,  
29 "substantial amendment" means an amendment that materially changes a rate or term  
30 and condition of service.

31 (b) In the review of a precedent agreement submitted under (a) of this section

1 or a related contract submitted under AS 42.05.433(b) or (c), the commission shall

2 (1) conclude that a precedent agreement or related contract negotiated  
3 at arm's length between the parties is just and reasonable unless the commission finds  
4 that unlawful market activity affected the rate or unfair dealing, such as fraud or  
5 duress, affected the formation of the contract;

6 (2) review and may conduct an investigation and hearing to determine  
7 whether a contract submitted under (a) of this section is just and reasonable; the  
8 commission shall either approve the contract as presented or, if the commission finds  
9 that a contract is not just and reasonable, disapprove the contract; if the commission  
10 has not acted within 180 days after the submission of a contract, the contract shall be  
11 considered approved and shall take effect immediately; a contract that is approved or  
12 considered approved under this paragraph and the associated firm transportation  
13 service agreement are not subject to further review by the commission.

14 (c) For purposes of (b)(1) of this section, a precedent agreement or related  
15 contract is arm's length

16 (1) if it incorporates the approved recourse tariff; or

17 (2) if it does not incorporate the approved recourse tariff,

18 (A) the precedent agreement or related contract is between two  
19 state-owned parties;

20 (B) the parties are not affiliated; or

21 (C) if the parties are affiliated, the precedent agreement or  
22 related contract is substantially similar to a precedent agreement or related  
23 contract between unaffiliated parties, and the formation of the precedent  
24 agreement or related contract was not affected by unlawful market activity or  
25 unfair dealing as described in (b)(1) of this section.

26 (d) If a precedent agreement or related contract is not arm's length, the  
27 commission shall determine whether the precedent agreement or related contract is  
28 just and reasonable using the standards normally applied under AS 42.06.140. If the  
29 commission is reviewing a precedent agreement under (c)(2) of this section, the  
30 commission may consider the in-state natural gas pipeline carrier's approved recourse  
31 tariff, including the cost data underlying that tariff. When considering whether to

1 approve a contract as just and reasonable under this subsection, the commission shall  
2 consider the consequences of failing to approve the contract.

3 **Sec. 42.08.330. Contract carriage certificate.** (a) The owner of an in-state  
4 natural gas pipeline subject to this chapter may not engage in the transportation of  
5 natural gas or undertake the construction of a natural gas pipeline facility for that  
6 purpose, or acquire or operate an in-state natural gas pipeline facility, unless a  
7 certificate of public convenience and necessity by the commission authorizing contract  
8 carriage is in force with respect to that owner. A certificate shall describe the nature  
9 and extent of the authority granted, including, as appropriate for the services involved,  
10 a description of the authorized area and scope of operation for the in-state natural gas  
11 pipeline facility.

12 (b) Application for a certificate shall be made in writing to the commission  
13 and verified under oath. The commission by regulation shall establish the  
14 requirements for the form of the application and the information to be contained in the  
15 application. Notice of the application shall be provided to interested parties in the  
16 manner provided by regulation.

17 (c) Within 180 days after receiving an application under this chapter, the  
18 commission shall issue a contract carriage certificate authorizing, in whole or in part,  
19 the operation, service, construction, or acquisition covered by the application to a  
20 qualified applicant if the commission finds that the applicant is fit, willing, and able to  
21 do the acts, perform the proposed service, and conform to the provisions of this  
22 chapter and the requirements of the commission, and that the proposed service,  
23 operation, construction, extension, or acquisition, to the extent authorized by the  
24 certificate, is or will be required by the present or future public convenience and  
25 necessity. The commission may, by order, extend the 180-day period for considering  
26 an application by the duration of a delay caused by the failure of the applicant to  
27 provide additional information reasonably required by the commission. If, within the  
28 180-day period and any extension of the period for considering the application, the  
29 commission fails to issue a contract carriage certificate and does not make a finding  
30 that the applicant is not fit, willing, and able under this subsection or that the proposed  
31 service is not required by public convenience and necessity, the application shall be

1 considered approved and the contract carriage certificate shall take effect immediately.

2 (d) The commission may attach to a contract carriage certificate reasonable  
3 terms and conditions that are consistent with the terms of this chapter and are for the  
4 mutual benefit of the in-state natural gas pipeline facility and the public.

5 (e) Operating authority may not be transferred by sale or lease of the contract  
6 carriage certificate or by the sale of substantially all of the stock or assets of a pipeline  
7 carrier holding a certificate without prior approval and a finding by the commission  
8 that the safe and efficient operation of the natural gas pipeline is not impaired by the  
9 transfer. The commission shall summarily approve a transfer not involving a  
10 substantial change in ownership.

11 (f) After receiving a complaint or on its own motion, the commission, after  
12 notice and hearing and for good cause shown, may amend, modify, suspend, or  
13 revoke, in whole or in part, a certificate. Good cause for amendment, modification,  
14 suspension, or revocation of a certificate is shown by

15 (1) misrepresentation of a material fact in obtaining the certificate;

16 (2) unauthorized discontinuance or abandonment of all or part of a  
17 service that is the subject of the certificate;

18 (3) wilful failure to comply with the provisions of this chapter or a  
19 regulation or order of the commission; or

20 (4) wilful failure to comply with a term, condition, or limitation of the  
21 certificate.

22 (g) A person holding a certificate issued under this chapter may not abandon  
23 or permanently discontinue the use of all or a portion of an in-state natural gas pipeline  
24 without permission and approval by the commission, after due notice and hearing and  
25 a finding by the commission that continued service is not required by public  
26 convenience and necessity. An interested person may file a protest or memorandum of  
27 opposition to or in support of discontinuance or abandonment with the commission.  
28 The commission may order the temporary suspension of a service or part of a service.

29 **Sec. 42.08.340. Filing requirements; recourse tariffs.** (a) An in-state natural  
30 gas pipeline carrier shall file with the commission a complete recourse tariff  
31 containing rates, rules, regulations, terms, and conditions pertaining to service

1 provided under the certificate and copies of all contracts with shippers that in any way  
2 affect or relate to the carrier's rates, tariffs, charges, classifications, rules, regulations,  
3 terms, and conditions to service provided under the certificate.

4 (b) The terms and conditions under which an in-state natural gas pipeline  
5 carrier offers its services and facilities to the public shall be governed strictly by the  
6 provisions of its currently effective recourse tariff as supplemented and modified by  
7 contracts that have been approved by the commission. A legally filed and effective  
8 recourse tariff rate, charge, rule, regulation, or condition of service may not be  
9 changed except as provided in this chapter. The in-state natural gas pipeline carrier  
10 shall maintain copies of its recourse tariff on file at its principal business office and at  
11 places designated by the commission and make the copies available to and subject to  
12 inspection by the general public on demand.

13 (c) A change in a recourse tariff rate, charge, rule, regulation, or condition of  
14 service is not effective until filed under (a) of this section. If more than one recourse  
15 tariff rate or charge may reasonably be applied for billing purposes, the recourse tariff  
16 rate or charge most advantageous to the shipper shall be used.

17 (d) The commission may reject the filing of all or part of a recourse tariff that  
18 is not consistent with this chapter. A recourse tariff rate or provision so rejected is  
19 void.

20 (e) Initial and revised recourse tariffs shall be filed in the manner provided in  
21 AS 42.08.350.

22 **Sec. 42.08.350. Initial or revised rates.** (a) An in-state natural gas pipeline  
23 carrier may not establish or place in effect an initial recourse tariff containing rates,  
24 charges, rules, regulations, conditions of service, or practices without providing notice  
25 to the commission and to the public at least 30 days before establishing or placing in  
26 effect the initial recourse tariff. Notice shall be filed with the commission before an  
27 open season and by making the recourse tariff provisions available for public  
28 inspection. The notice shall plainly indicate the time when the recourse tariff will go  
29 into effect and include a supporting cost model. The commission may prescribe  
30 additional requirements for the notice and the form in which the notice must be  
31 provided. The commission, for good cause shown, may allow initial recourse tariffs to

1 take effect on less than 30 days' notice under conditions the commission prescribes by  
2 order. Submission of a precedent agreement or an associated contract is not subject to  
3 this section.

4 (b) The commission shall review the proposed initial recourse tariff and verify  
5 that the proposed terms and conditions of service are not unduly discriminatory. The  
6 commission also shall review the supporting cost model provided with an initial  
7 recourse tariff filing and verify, taking into consideration the expected risks, that the  
8 proposed rate of return on equity is within the range of permissible rates of return as  
9 determined by the Federal Energy Regulatory Commission in recent decisions related  
10 to the construction of natural gas pipelines, that the cost model incorporates a  
11 reasonable depreciation methodology and depreciable life, and that the cost model  
12 uses a reasonable capital structure. A proposed depreciation methodology, economic  
13 life, or capital structure is reasonable if it is commonly accepted or used by the  
14 commission or the Federal Energy Regulatory Commission.

15 (c) Upon written complaint or in its own motion, and after reasonable notice,  
16 the commission may conduct a hearing to determine whether the initial recourse tariff  
17 filed with the commission complies with the requirements in (b) of this section.  
18 Pending a hearing the commission may, by order stating the reasons for its action,  
19 suspend the operation of the initial recourse tariff for a period not longer than 90 days  
20 beyond the time when the initial recourse tariff would otherwise go into effect. An  
21 order suspending an initial recourse tariff filing may be vacated if, after investigation,  
22 the commission finds that it is in all respects proper. Otherwise the commission shall  
23 hold a hearing on the suspended filing and issue its order, before the end of the  
24 suspension period, granting or denying the suspended initial recourse tariff.

25 (d) Unless a recourse tariff is denied because it includes a proposed term or  
26 condition of service that is unduly discriminatory, includes a proposed rate element  
27 that does not comply with (b) of this section, or violates a provision of this chapter, the  
28 commission shall approve the initial recourse tariff. If the commission does not issue  
29 its ruling within the 90-day period, and the period of suspension, if any, the initial  
30 recourse tariff filing shall be considered approved.

31 (e) An in-state natural gas pipeline carrier may not establish or place in effect

1 a revised rate, charge, rule, regulation, condition of service, or practice contained in a  
2 recourse tariff before providing notice to the commission and to the public at least 90  
3 days before taking the action. After construction or an expansion of the pipeline, and  
4 at any time that a carrier files for a revised recourse rate, the carrier shall file a  
5 supporting cost study. Notice shall be given by filing with the commission and  
6 keeping open for public inspection the revised recourse tariff provisions, which shall  
7 plainly indicate the changes to be made in the schedules then in force and the time  
8 when the changes will go into effect. The commission may prescribe additional means  
9 of giving notice. The commission, for good cause shown, may allow changes to take  
10 effect on shorter notice under conditions the commission prescribes by order.  
11 Submission of a precedent agreement or an associated contract is not subject to this  
12 subsection.

13 (f) The commission shall review a proposed revised recourse tariff in the same  
14 manner as the review of a proposed initial recourse tariff under (b) of this section,  
15 except that the depreciable life may be adjusted in accordance with the time period  
16 between the approval of the recourse tariff and the approval of the revised recourse  
17 tariff. The commission shall verify that the carrier is using the same elements that  
18 were last approved by the commission. A proposed recourse tariff with a new or  
19 revised term or condition of service that is unduly discriminatory shall be denied. The  
20 commission also shall deny a revised tariff rate that does not use the previously  
21 approved value of the specified rate element, unless the carrier proves that the new  
22 value is just and reasonable. If the commission does not issue its ruling within 90  
23 days, the revised recourse tariff filing shall be considered approved.

24 (g) A person initiating a change in an existing recourse tariff bears the burden  
25 of proving the reasonableness of the change. The in-state natural gas pipeline carrier  
26 bears the burden of proving the recourse tariff terms and conditions are not unduly  
27 discriminatory.

28 (h) An in-state natural gas pipeline carrier shall provide for separate rates for  
29 one or more classes of firm transportation service and for interruptible transportation  
30 service in a recourse tariff filed with the commission under (a) of this section. An in-  
31 state natural gas pipeline carrier may impose a reservation fee or similar charge for

1 reservation of capacity in an in-state natural gas pipeline as a condition of providing  
 2 firm transportation service, but may not impose a reservation fee or similar charge for  
 3 reservation of capacity in an in-state natural gas pipeline for interruptible  
 4 transportation service.

5 **Sec. 42.08.360. Uniform system of accounts.** An in-state natural gas pipeline  
 6 carrier operating under this chapter shall maintain its records and accounts in  
 7 accordance with the uniform system of accounts for class A natural gas pipelines in 18  
 8 C.F.R. 201 (Federal Energy Regulatory Commission), as amended.

9 **Sec. 42.08.370. Expansion; dispute resolution.** (a) A contract entered into by  
 10 an in-state natural gas pipeline carrier may provide for expansion unless the expansion  
 11 would cause the pipeline to be a competing natural gas pipeline project as defined in  
 12 AS 43.90.440 unless the project for which a license is issued under AS 43.90 has been  
 13 abandoned or is no longer receiving the inducements in AS 43.90.110(a).

14 (b) The recourse tariff or a contract filed by an in-state natural gas pipeline  
 15 carrier may include a dispute resolution procedure. A dispute resolution procedure  
 16 shall

17 (1) provide that notice of a dispute be given to all shippers;

18 (2) culminate in a process that is determined by an independent third  
 19 party or panel; and

20 (3) permit the participation of existing shippers and creditworthy  
 21 potential shippers that have previously made good faith requests for firm  
 22 transportation service; a participant must satisfy the commission's standard for  
 23 intervention in an adjudicatory proceeding and demonstrate that the participant has a  
 24 property, financial, or other significant interest in the dispute.

25 **Sec. 42.08.380. Regulatory cost charge.** (a) Each year, a person operating an  
 26 in-state natural gas pipeline under this chapter shall pay to the commission a  
 27 regulatory cost charge if the pipeline for which the charge is assessed is subject to this  
 28 chapter and the commission has taken action on the pipeline or certificate under this  
 29 chapter during the prior fiscal year. The amount of the regulatory cost charge may not  
 30 exceed the sum of the following percentages of gross revenue derived from operations  
 31 in the state:

1 (1) 0.7 percent to fund the operations of the commission; and

2 (2) 0.17 percent to fund operations of the public advocacy function  
3 under AS 42.04.070(c) and AS 44.23.020(e) in the Department of Law.

4 (b) The commission shall by regulation establish a method to determine  
5 annually the amount of the regulatory cost charge that will apply to a pipeline  
6 regulated under this chapter. If the amount the commission expects to collect under (a)  
7 of this section, AS 42.05.254(a), and AS 42.06.286(a) exceeds the authorized budgets  
8 of the commission and the Department of Law public advocacy function under  
9 AS 42.04.070(c) and AS 44.23.020(e), the commission shall, by order, reduce the  
10 percentage determined under a regulation adopted under this subsection so that the  
11 total amount of the fees collected approximately equals the authorized budgets of the  
12 commission and the Department of Law public advocacy function under  
13 AS 42.04.070(c) and AS 44.23.020(e) for the fiscal year.

14 (c) The commission shall administer the charge imposed under this section.  
15 The Department of Revenue shall collect and enforce the charge imposed under this  
16 section. The Department of Administration shall identify the amount of the operating  
17 budgets of the commission and the Department of Law public advocacy function  
18 under AS 42.04.070(c) and AS 44.23.020(e) that lapse into the general fund each year.  
19 The legislature may appropriate an amount equal to the lapsed amount to the  
20 commission and to the Department of Law public advocacy function under  
21 AS 42.04.070(c) and AS 44.23.020(e) for operating costs for the next fiscal year. If the  
22 legislature does so, the commission shall reduce the total regulatory cost charge  
23 collected for that fiscal year by a comparable amount.

24 (d) The commission may adopt regulations under AS 44.62 (Administrative  
25 Procedure Act) necessary to administer this section, including procedures and  
26 requirements for reporting information and a requirement for paying the regulatory  
27 cost charge in quarterly payments. The Department of Revenue may adopt regulations  
28 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed  
29 information and for collecting required payments.

30 **Sec. 42.08.390. Effect of chapter on taxes and royalties.** Nothing in this  
31 chapter shall alter the calculation of a production tax under AS 43.55.011 - 43.55.180

1 or the calculation of a royalty due for a lease issued under AS 38.05.180.

2 **Article 4. Public Records; Investigations.**

3 **Sec. 42.08.400. Public records.** (a) Except as provided in (b) and (c) of this  
4 section or prohibited from disclosure under state or federal law, records in the  
5 possession of the commission are open to public inspection at reasonable times.

6 (b) The commission may by regulation classify records received from an in-  
7 state natural gas pipeline carrier or in-state natural gas pipeline as privileged records  
8 that are not open to the public for inspection.

9 (c) A record filed with the commission that is a precedent agreement between  
10 an in-state natural gas pipeline carrier and an unregulated entity is a privileged record  
11 that is not open to the public for inspection. For a record that relates to a precedent  
12 agreement, or is or relates to a contract other than a precedent agreement between an  
13 in-state natural gas pipeline carrier and an unregulated entity, if an in-state natural gas  
14 pipeline carrier identifies the provisions of the record that contain information that, if  
15 disclosed, could adversely affect the competitive position of the shipper or could cause  
16 commercial or competitive harm or damage if disclosed and the commission agrees,  
17 the information shall be treated by the commission as confidential.

18 (d) A person may make written objection to the public disclosure of  
19 information contained in a record filed under this chapter or of information obtained  
20 by the commission or by the attorney general under this chapter, stating the grounds  
21 for the objection. When an objection is made, the commission shall order the  
22 information withheld from public disclosure if the information adversely affects the  
23 interest of the person making written objection and disclosure is not required in the  
24 interest of the public.

25 (e) A commissioner may certify as to all official records of the commission  
26 under this section and may certify as to all official acts of the commission under this  
27 chapter.

28 **Sec. 42.08.410. Investigations.** The commission may investigate any matter  
29 for which an investigation is authorized under this chapter. An investigation may be  
30 public, nonpublic, or both. In conducting an investigation, the commission may  
31 compel the attendance and testimony of witnesses and the production of records and

1 testimony before the commission or its designee. In the course of an investigation, the  
 2 commission may, subject to AS 44.23.020(e), exclude from attendance at the taking of  
 3 investigative testimony all persons except a person compelled to attend, that person's  
 4 attorney, members of the commission or the commission's staff, and a person  
 5 authorized to transcribe the proceedings.

6 **Article 5. Accounts, Records, and Reports.**

7 **Sec. 42.08.450. Accounts; records; triennial reports.** (a) To the extent  
 8 necessary for the commission to perform the duties of the commission under this  
 9 chapter,

10 (1) the commission may by regulation require an in-state natural gas  
 11 pipeline carrier or affiliated interest engaged in activities relating to pipelines to  
 12 establish and maintain as part of its system of accounts continuing property records  
 13 showing, as to property that is actually being used in pipeline activity in this state, the  
 14 year of placement in service, original cost, and current location, and, as to a pipeline  
 15 system, accounts and records in a manner showing, on a current basis, the original cost  
 16 of the system in the state and related reserves for depreciation;

17 (2) the in-state natural gas pipeline carrier shall

18 (A) keep its accounts for its pipeline facilities located in this  
 19 state separate from any accounts relating to any other business, including  
 20 another pipeline facilities business or a subsidiary business, in which it  
 21 engages, directly or indirectly; except as the commission provides, property,  
 22 expense, or revenue used in or derived from the other business may not be  
 23 considered in establishing the rates and charges of the facility;

24 (B) keep books, accounts, papers, and records required by this  
 25 chapter or by regulations adopted by the commission under this chapter in an  
 26 office in this state and may not remove them from the state except upon written  
 27 authority by the commission; and

28 (C) file a report with the commission that contains an updated  
 29 cost study and a calculation of the three-year average actual return on equity;  
 30 the report shall be filed every three years after the pipeline begins operations,  
 31 within 90 days after the close of the annual accounting period for the in-state

1 natural gas pipeline carrier, or within additional time granted by the  
2 commission upon a showing of good cause.

3 (b) The commission shall review the cost study described in (a)(2)(C) of this  
4 section and verify that, for the rate elements specified in AS 42.08.350(b), the carrier  
5 is using the same elements that were last approved by the commission. If the carrier  
6 does not use the correct rate elements in its triennial report, the commission may  
7 require the carrier to recalculate and file a corrected report. If, on the date the report  
8 described in (a)(2)(C) of this section is delivered, the report reflects that the three-year  
9 average actual return on equity exceeds the approved rate of return, the carrier shall,  
10 not later than 90 days after the date the report is delivered, deposit an amount equal to  
11 the excess in a segregated operating reserve fund. The carrier shall continue to deposit  
12 the excess described in this subsection at the times described in this subsection until  
13 the amount in the operating reserve fund is equal to 20 percent of the most recent  
14 three-year average of the carrier's annual operating costs. The carrier may use money  
15 in the operating reserve fund to offset any shortage in the recovery of operating costs  
16 set out in another triennial report. If a deposit will cause the operating reserve fund to  
17 exceed 20 percent of the most recent three-year average of the carrier's annual  
18 operating costs, the amount exceeding 20 percent must be used to reduce, on a  
19 volumetric basis, the firm transportation service rates for all shippers for the next  
20 three-year period.

#### 21 **Article 6. General Provisions.**

22 **Sec. 42.08.510. Designation of service agents.** An in-state natural gas pipeline  
23 carrier shall file with the commission a written appointment of a named permanent  
24 resident, which may be a corporation, of this state as its registered agent in this state  
25 on whom service of all notices, regulations, and requests of the commission may be  
26 made. The appointment shall specify the address in this state of the appointed agent.  
27 The address may be changed from time to time by filing a new address in the state  
28 with the commission. If an in-state natural gas pipeline carrier fails to appoint a  
29 registered agent, service of notices, regulations, and requests may be made by posting  
30 a copy in the main office of the commission and filing a copy in the office of the  
31 lieutenant governor.

1           **Sec. 42.08.520. Effect of regulations.** Regulations adopted by the commission  
2 under this chapter have the effect of law.

3           **Sec. 42.08.530. Judicial review and enforcement.** (a) Except as provided in  
4 AS 38.35.200(c), a final order of the commission under this chapter is subject to  
5 judicial review under AS 44.62.560 and 44.62.570.

6           (b) If an appeal is not taken from a final order of the commission within 10  
7 calendar days after an investigation under AS 42.08.220(b)(3), the commission may  
8 apply to the superior court for enforcement of the order of the commission. The court  
9 shall enforce the order by injunction or other process.

10          **Sec. 42.08.540. Joinder of actions.** Under the applicable court rules, appeals  
11 from orders of the commission and applications for enforcement of orders of the  
12 commission may be joined. The court may, in the interests of justice, separate the  
13 actions.

14          **Sec. 42.08.900. Definitions.** In this chapter,

15               (1) "commission" means the Regulatory Commission of Alaska  
16 (AS 42.04.010);

17               (2) "commissioner" means a member of the commission;

18               (3) "firm transportation service" means service by a natural gas  
19 pipeline carrier that is not subject to a prior claim by another shipper or another class  
20 of service; service constitutes "firm transportation service" if the service receives the  
21 same priority as any other class of firm transportation service;

22               (4) "in-state natural gas pipeline" or "in-state natural gas pipeline  
23 facility" means a natural gas pipeline that transports or will transport natural gas in the  
24 state by way of contract carriage;

25               (5) "in-state natural gas pipeline carrier" means the owner, including a  
26 corporation, company, or other entity organized under the laws of the United States or  
27 of any state, of an in-state natural gas pipeline or an interest in it, or a person,  
28 including a corporation, company, or other entity organized under the laws of the  
29 United States or of any state, that transports or will transport natural gas as a contract  
30 carrier;

31               (6) "natural gas pipeline" has the meaning given in AS 31.25.390;

1 (7) "precedent agreement" means a contractual commitment, including  
 2 a presubscription agreement, to acquire firm transportation capacity, executed between  
 3 an in-state natural gas pipeline carrier and another person, that establishes the rates,  
 4 terms, and conditions for service;

5 (8) "record" means a report, file, book, account, paper, or application  
 6 and the facts and information contained in it.

7 \* **Sec. 22.** AS 43.56.020 is amended by adding a new subsection to read:

8 (d) Taxable property of a natural gas pipeline project owned or financed by  
 9 the Alaska Gasline Development Corporation or a joint venture, partnership, or other  
 10 entity that includes the Alaska Gasline Development Corporation is exempt from state  
 11 taxes levied or authorized under AS 43.56.010(a) and local taxes levied or authorized  
 12 under AS 43.56.010(b) before the commencement of commercial operations of that  
 13 natural gas pipeline project. In this subsection, "commencement of commercial  
 14 operations" means the first flow of natural gas in the project that generates revenue to  
 15 the owners of the natural gas pipeline project.

16 \* **Sec. 23.** AS 36.30.850(b)(45); AS 38.34.030, 38.34.040, 38.34.050, 38.34.060;  
 17 AS 39.25.110(11)(G); AS 39.50.200(b)(57); AS 41.41.010, 41.41.020, 41.41.030, 41.41.040,  
 18 41.41.050, 41.41.060, 41.41.070, 41.41.080, 41.41.090, 41.41.100, 41.41.110, 41.41.120,  
 19 41.41.130, 41.41.140, 41.41.150, 41.41.200, 41.41.300, 41.41.310, 41.41.320, 41.41.330,  
 20 41.41.340, 41.41.350, 41.41.360, 41.41.370, 41.41.380, 41.41.390, 41.41.400, 41.41.410,  
 21 41.41.450, 41.41.500, 41.41.900, and 41.41.990 are repealed.

22 \* **Sec. 24.** Sections 1 and 5, 2002 Ballot Measure No. 3, are repealed.

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

25 **TRANSITION AND LEGISLATIVE INTENT.** (a) It is the intent of the legislature  
 26 that a right-of-way lease subject to AS 31.25.090(d), enacted by sec. 3 of this Act,  
 27 AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of  
 28 this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and AS 38.35.121, enacted by  
 29 sec. 11 of this Act, that is entered into between the commissioner of natural resources and the  
 30 Alaska Gasline Development Corporation before the effective dates of secs. 3 and 8 - 11 of  
 31 this Act be amended as soon as practicable after the effective dates of secs. 3 and 8 - 11 of this

1 Act to conform to the requirements of AS 31.25.090(d), enacted by sec. 3 of this Act,  
2 AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of  
3 this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and AS 38.35.121, enacted by  
4 sec. 11 of this Act.

5 (b) The transition of the Alaska Gasline Development Corporation from a subsidiary  
6 of the Alaska Housing Finance Corporation to an independent public corporation of the state  
7 may not disrupt, interfere, or alter the work of the Alaska Gasline Development Corporation.  
8 The governor shall appoint the board of the Alaska Gasline Development Corporation as soon  
9 as practicable after the effective date of this Act. It is the intent of the legislature that the  
10 governor appoint the new board of the Alaska Gasline Development Corporation within 90  
11 days after the effective date of this Act. The board of the Alaska Housing Finance  
12 Corporation shall serve as the board of the Alaska Gasline Development Corporation until the  
13 governor appoints the board of the Alaska Gasline Development Corporation under this  
14 subsection. The board of directors of the Alaska Gasline Development Corporation shall work  
15 with the board of directors of the Alaska Housing Finance Corporation and the commissioner  
16 of commerce, community, and economic development to ensure the smooth transition of the  
17 Alaska Gasline Development Corporation to being an independent public corporation,  
18 including modifying the articles of incorporation of the Alaska Gasline Development  
19 Corporation.

20 (c) It is the intent of the legislature that the transition of the Alaska Gasline  
21 Development Corporation to being an independent public corporation of the state located for  
22 administrative purposes in the Department of Commerce, Community, and Economic  
23 Development be treated for all purposes only as a change of placement within the state and  
24 not as the creation of a new public corporation of the state.

25 (d) It is the intent of the legislature that the Alaska Housing Finance Corporation, the  
26 board of directors of the Alaska Gasline Development Corporation as a subsidiary created  
27 under AS 18.56.086 by the Alaska Housing Finance Corporation, and the commissioner of  
28 commerce, community, and economic development expeditiously amend the articles of  
29 incorporation, the bylaws, and other documents of the Alaska Gasline Development  
30 Corporation to reflect the change in the placement of the Alaska Gasline Development  
31 Corporation from being a subsidiary of the Alaska Housing Finance Corporation to being an

1 independent public corporation of the state as provided in AS 31.25, enacted by sec. 3 of this  
2 Act.

3 (e) It is the intent of the legislature that the Alaska Housing Finance Corporation and  
4 the commissioner of commerce, community, and economic development coordinate the  
5 transition of the Alaska Gasline Development Corporation to its new placement within the  
6 state as an independent public corporation of the state and assist the newly appointed board of  
7 directors of the Alaska Gasline Development Corporation to ensure that the development of  
8 an in-state natural gas pipeline is not unreasonably delayed because of the change in  
9 placement within the state of the corporation.

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

12 REVISOR'S INSTRUCTIONS. The revisor of statutes shall change the catch lines of

13 (1) AS 38.35.120 from "Covenants required to be included in lease" to  
14 "Covenants required to be included in lease to a pipeline that is not a natural gas pipeline  
15 contract carrier"; and

16 (2) AS 38.35.200 from "Judicial review of decisions of commissioner on  
17 application" to "Judicial review."

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