

**HB**

**302**

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 302  
(H) Publish Date: 4/8/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
Title: Alaska Gas Corporation BRU: Administration and Support  
Component: Commissioner's Office  
Sponsor: Representative Whitaker  
Requester: House Oil and Gas Committee Component No. 123

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation directs the Joint Committee on Natural Gas Pipelines to submit a project plan by January 2003 on "whether the construction and operation of a natural gas transmission pipeline project ... by a public corporation is feasible." The plan would include findings, recommendations and conclusions from engineering and consulting firms on a detailed list of gas supply, financial, regulatory, market, local-hire and local-buy matters. If the project is judged feasible, the legislation directs that a new entity within Revenue, the Alaska Gas Corporation, would be responsible for one or more of the following: design, construction, operation and maintenance of the pipeline.

Because a legislative committee would pay for and manage the feasibility study, that portion of this legislation would not effect the department's operating budget.

And because the feasibility of the project, and the state's possible role in construction and/or operation of the project, would be determined by the feasibility study, it is premature at this time for the department to estimate any budgetary needs for the new public corporation.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469  
Division: Department of Revenue Date/Time 4/1/02 7:20 PM  
Approved by: Wilson Condon, Commissioner Date 4/1/2002  
Agency: Department of Revenue

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# Alaska State Legislature

Representative Jim Whitaker  
House of Representatives  
District 31



Session  
Capitol Building, Room 411  
Juneau, Alaska 99801  
Phone: (907) 465-3004  
Fax: (907) 465-2070

Interim  
119 N. Cushman St. Suite 213  
Fairbanks, AK 99701  
Phone: (907) 452-1088  
Fax: (907) 452-1146

## Sponsor Statement House Bill 302 – Alaska Gas Corporation

Article VIII, Section 2 of the Constitution of the State of Alaska specifies that, "the legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people." For many years, the State of Alaska has relied heavily on the production of oil to foster its livelihood, provide opportunities for its people, and generate revenues to ensure continued prosperity. We have all seen and enjoyed the positive effects of oil development. However, oil price fluctuations and reduced competition resulting in reduced production have adversely affected the State's ability to provide a secure economic future. As we face an enormous budget deficit, we must look beyond our reliance on oil production, budget cutting, and taxation as the only means of ensuring a long-term fiscal solution. It is incumbent upon the leaders of this state to recognize that further resource development is critical in order to secure an additional and substantial revenue stream to the State of Alaska. Conservatively, 100 trillion cubic feet of natural gas is stranded on the North Slope, and the failure to recognize this vital resource as a valuable commodity is in direct conflict with the provisions of the Constitution of the State of Alaska.

In order to facilitate the extraction and sale of natural gas, House Bill 302 establishes the Alaska Gas Corporation. The prime responsibility of the corporation is to provide for a basic commodity transportation system: a natural gas pipeline system; open to all potential competitors, and open to all realistic market access opportunities.

Overcoming a number of impediments is essential in order for a project of this nature to become a reality. We have extensively studied the economics, market viability, financial needs, and regulatory obstacles associated with the construction and operation of this project. However, in order to truly understand the economic viability of the Alaska Gas Corporation, we must turn to professionals in the engineering, financial and market sectors in order to establish absolute economic feasibility, and an associated project plan.

House Bill 302 requires a natural gas pipeline feasibility study and plan be completed and presented to the twenty-third Alaska State Legislature and the Governor. This report shall contain specific information pertaining to technical, financial, regulatory and market access matters relating to the project. The passage of HB 302 is of paramount importance in order to move forward and develop our natural resources in the maximum best interest of the citizens of the State of Alaska.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 2, 2002

**SUBJECT:** House Bill 302 -- sectional analysis  
(Work Order No. 22-LS1205\C)

**TO:** Representative Jim Whitaker

**FROM:** Jack Chenoweth  
Assistant Revisor of Statutes

The principal purpose of this measure is to establish the Alaska Gas Corporation as a public corporation and to define the structure, management, responsibilities, and operation of the corporation. The chief mission of the Alaska Gas Corporation is to facilitate the commercial development of the state's North Slope natural gas reserves.

**Bill section 1**, an uncodified provision, sets out the findings and intent that have influenced development of the legislation.

**Bill section 2:** These provisions set out in a new chapter of title 41 of the Alaska Statutes (AS 41.41) the corporate structure, powers, and responsibilities of the Alaska Gas Corporation. The chapter is arranged by articles.

### *Article 1.*

The sections identified as AS 41.41.010 - 41.41.130 are set out to define the organization of the corporation:

**AS 41.41.010** establishes the corporation, enumerates its purposes, and affirms that it is intended to be a public corporation of the state.

**AS 41.41.020** creates the corporation's board of directors, a board composed of six public members. The general qualifications of persons to serve as members are stated, and the corporation's obligation to establish its organization is set out.

**AS 41.41.030** sets overlapping four-year terms for the members and authorizes reappointment.

**AS 41.41.040** circumscribes the governor's authority to remove members and sets out procedures to be followed relating to removal and filling of the vacancy created.

*Sectional*

AS 41.41.050 defines quorum and voting requirements.

AS 41.41.060 prescribes compensation for members and authorizes payment of per diem and travel expenses comparable to those provided to state employees for members.

AS 41.41.070 authorizes the board to employ an executive director who, in turn, is assigned responsibility for selection and employment of additional staff "with the approval of the board." The concluding subsection authorizes the corporation to contract for specialized services.

AS 41.41.080: Provisions of law requiring disclosure of financial and business interests (AS 39.50) are made applicable to members of the board. In addition, provision is made for specific disclosure of information concerning a board member's or employee's involvement in an entity or project "in which assets of the corporation are invested."

AS 41.41.090 sets out the budgetary and financial relationship between the corporation and the state's budget and fiscal procedure acts.

AS 41.41.100 authorizes the Legislative Budget and Audit Committee to undertake post audit and performance evaluation of corporate obligations.

AS 41.41.110 prescribes publication of an annual report of the corporation and the contents of the report.

AS 41.41.120 bars the corporation from using its resources to finance or influence political activities.

AS 41.41.130 defines information in the corporation's possession that is or is not to be treated as a public record under AS 40.25.110 - 40.25.140 and sets limits on the use or disclosure of confidential, non-disclosable information.

#### *Article 2.*

The one section in this article, AS 41.41.200, enumerates general powers of the corporation.

#### *Article 3.*

The sections identified in AS 41.41.300 - 41.41.410 generally bear upon the corporation's issuance of securities (bonds and notes and other evidence of debt). Much of the material

is technical boilerplate and is included so that, as a public corporation, under article IX, section 11 of the state constitution, the corporation enjoys full authority to contract debt based on its ability to repay out of its anticipated future revenues:

**AS 41.41.300:** This section authorizes issuance of revenue bonds and related evidence of debt, using provisions not unlike those included in chapters establishing other public corporations of the state to facilitate the use of debt obligations.

**AS 41.41.310** prescribes permissible covenants that the corporation's board may make in conjunction with issuance of revenue bond debt.

**AS 41.41.320** makes the level of the corporation's authorized debt subject to legislative authorization.

**AS 41.41.330** permits the board to contract for the services of an independent financial advisor in conjunction with private sale of debt instruments.

**AS 41.41.340** describes the nature of the corporation's pledge of its assets or revenues to payment of principal and interest on corporation-issued debt.

**AS 41.41.350** details use of "capital reserve funds" to meet repayment obligations in conjunction with the corporation's indebtedness.

**AS 41.41.360** addresses remedies available to holders of debt obligations and their representatives to enforce the timely payment of an obligation or a related obligation.

**AS 41.41.370** makes the corporation's obligations negotiable instruments.

**AS 41.41.380** explicitly makes the corporation's obligations permissible investments for public officers and for others handling surplus funds as identified in the section's text.

**AS 41.41.390** authorizes use of refunding bonds as a device to adjust the corporation's bond obligations to obtain the benefit of more advantageous terms and conditions.

**AS 41.41.400** affirms that, because the corporation's obligations are revenue-based debt instruments, the credit of the state is not pledged. Liability on the debt instrument is limited to the assets and revenues of the corporation.

**AS 41.41.410** releases the corporation's officers from personal liability with reference to action taken by the corporation with respect to a debt obligation.

*Article 4.*

The one section in this article, AS 41.41.450, authorizes the Alaska Gas Corporation to acquire and hold property and interests in property "necessary or convenient for the financing of the [Trans Alaska Gas Pipeline] project."

*Article 5.*

The article contains general provisions:

AS 41.41.900 reaffirms the blanket immunity from taxation that the Alaska Gas Corporation enjoys and provides a general tax exemption provision: the corporation and its operations and earnings are exempt from taxes and assessments in the state; bonds and security instruments are exempted from taxes and assessments made by the state.

AS 41.41.990 sets out a series of definitions for terms used in the chapter.

**Bill section 3** amends AS 39.25 to add employees of the Alaska Gas Corporation as members in the exempt service under the State Personnel Act.

**Bill section 4** amends AS 39.50.200 to add the Alaska Gas Corporation's board of directors and executive director as persons who are subject to the state's general conflict of interest law (AS 39.50).

**Bill section 5:** This uncodified provision directs the preparation and delivery of a "project plan" or feasibility study for planning, design, construction, and operation of a gas transmission pipeline. The specific points that are to be covered or addressed in the feasibility study and a time line for its presentation are set out.

**Bill section 6** prescribes initial terms of office for the initially appointed members of the corporation's board of directors in order to establish overlapping terms of office.

JBC:med  
02-343.med

Walter J. Hickel

Box 101700  
Anchorage, Alaska 99510-1700  
907-276-7400

Distributed By  
Representative Scott Ogan  
District 27

March 23, 2001

The Honorable Scott Ogan  
Alaska State House of Representatives  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

FAX 907-465-3265

Dear Representative Ogan,

While I had hoped to visit you and the House Special Committee on Oil and Gas before the end of March, I'm not able to do so because I'm traveling to Moscow for a meeting of Northern Forum leaders. Nevertheless, I want to compliment you and the Committee on its efforts to understand where Alaska stands in world markets for natural gas.

Any successful gas project requires willing buyers, willing sellers, willing transporters, and financing. My work in this area has been to try to bring those elements together, and I hope your committee can do the same.

If I were there, I would make three points.

First, Alaska has to look out for its own interests. In the late 1970s, an overland project failed – but not before Alaska's efforts helped Canadian reserves get to market. If overland was the best way to go, we would have an oil pipeline to Bellingham today. We don't. Tidewater gives us the most options, and while we can pursue an overland route, we can't allow the tidewater option to be ignored by the state or the producers. We must aggressively pursue Asian markets, and that means ensuring that a gas supply is independently offered for sale. So far, that has not been done. Instead, we're telling the Asian market we're not ready to sell.

Second, I've attached an excerpt from a talk the late Senator Bob Bartlett gave to Alaska's Constitutional Convention. He warned about companies with assets Outside Alaska warehousing assets they acquire in Alaska. Of course, no oil company would admit that they are warehousing gas, or keeping it out of the market because it has other supplies available. But a state owner of such a large resource has to protect itself, because it could happen. It is clear to me we haven't protected ourselves.

What do we do? We must be tough. Our options range from a reserve tax to taking back the resource for non-performance. Neither of these options would

HICKEL

be necessary if a sufficient gas supply to serve the LNG route were committed to an independent marketing effort.

Third, we must learn our lessons from the oil line: Unless structured correctly, a pipeline owned by producers is likely to result in tariff, royalty, and tax disputes because of a conflict in incentives between profits from transportation and profits from wellhead production. Since TAPS began, the state has had to collect close to \$10 billion in dispute because of the way the Trans-Alaska Pipeline was structured. Two options could help head off similar disputes on gas. First may be requiring an independent transportation company to carry the gas. Second may be having the state take an ownership interest in the pipeline at least equal to its royalty interest in the gas. Ken Thompson's trading hub idea also has merit in heading off this kind of conflict.

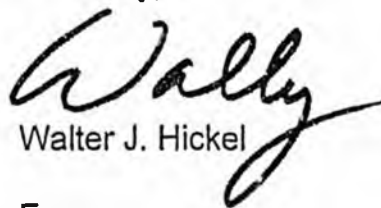
At least two transport companies have invested millions of dollars designing and permitting systems to deliver North Slope gas. The state is doing nothing I'm aware of to help bring these investors together with the producers.

I look forward to further discussion with you on my return. I'm doing what I can, as an individual, to urge producers, transporters, buyers, and financiers to get together. The state must help to do the same.

If this letter is presented to your Committee in my absence, Mead Treadwell – who works with me – can attempt to answer any questions you have.

With best regards.

Sincerely,



Walter J. Hickel

Enc.

Excerpt from

MEETING THE CHALLENGE

By

Delegate E. L. Bartlett

Alaska Constitutional Convention

University of Alaska

November 8, 1955

... The various bills for statehood enabling legislation which have been introduced in the Congress in recent years have uniformly called for large grants of land from the United States public domain to be made to the State of Alaska. The figure mentioned has been in excess of 100 million acres, an area roughly equal to the total land area of the State of California. The 100 million acre figure would appear to be approximately the figure which will finally be adopted.

The State of Alaska would choose almost all this acreage from the lands not included in present federal reservations and withdrawals, or which is otherwise unappropriated. The 100 million plus acres represent a veritable empire, a wealth of land and resources never before conferred on any state, saving only Texas which, upon its entry into the Union, was allowed to retain all its public lands. Alaska will receive also, in addition to the 100 million acre plus grant, an uncounted but tremendous acreage of submerged lands, land which under decisions of the Supreme Court of the United States have been held in trust for the future state. These submerged lands include lands under the beds of navigable rivers, lakes, and streams; the tidelands proper; and the submerged soils of the marginal sea out to the three-mile limit.

... Two very real dangers are present. The first, and most obvious, danger is that of exploitation under the thin disguise of development. The taking of Alaska's mineral resources without leaving some reasonable return for the support of Alaska governmental services and the use of all the people of Alaska will mean a betrayal in the administration of the people's wealth. The second danger is that outside interests, determined to stifle any development in Alaska which might compete with their activities elsewhere, will attempt to acquire great areas of Alaska's public lands in order NOT to develop them until such time as, in their omnipotence and the pursuance of their own interests, they see fit. If large areas of Alaska's patrimony are turned over to such corporations the people of Alaska may be even more the losers than if the lands had been exploited.