

SCOMM

143:3

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 6/1/06

FURTHER:

Date of 5-Day Notice: 5/31. 24 hr. Spec. Session
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

The Senate Special Committee on Natural Gas Development considered SENATE BILL NO. 2004

SB 2004 STRANDED GAS DEVELOPMENT ACT AMENDMENTS

"An Act relating to the Alaska Stranded Gas Development Act, including clarifications or provision of additional authority for the development of stranded gas fiscal contract terms; making a conforming amendment to the Revised Uniform Arbitration Act; relating to municipal impact money received under the terms of a stranded gas fiscal contract; and providing for an effective date."

and recommends:

- ☒ be replaced with CS SB 2004 (SNGD) [] Same Title [] New Title
- [] attached amendment(s)
- [] adopt _____ Letter of Intent
- [] further referral to _____ Committee

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Inds.	Zero	FNA

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Inds.	Zero	FNA

SIGNATURES AND RECOMMENDATIONS	PRINTED LAST NAME	DO PASS	DO NOT PASS	IN FID	IN DIS
				✓	
					✓
				✓	
					✓
					✗
	Green	✓			
	WAGNER				✓
	Bunde	✓			
CHAIR:	SEEKINS	✓			

FRANK H. MURKOWSKI
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SB2004

May 31, 2006

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill amending the Alaska Stranded Gas Development Act (AS 43.82) (SGDA) to clarify or provide additional authority for the development of stranded gas fiscal contract terms.

When the SGDA was originally passed in 1998, the Legislature had in mind a very different kind of state involvement than is presently written into the proposed fiscal contract now under preliminary review by the Legislature. The original intent was to authorize the development of a contract that could reduce the tax burdens on a project. Under the proposed fiscal contract, the state would become a part owner of a large-diameter gas pipeline with a design capacity to transport approximately 4 billion cubic feet per day of stranded gas from the Alaska North Slope to markets in Canada and the Lower 48 states. The proposed fiscal contract would create obligations to make payments in lieu of taxes that are roughly equivalent to the taxes in effect for the 2005 tax period.

After analysis of the economics of the project, it was determined by the state that the best method for inducing the sponsor group to proceed with development was for the state to agree to take an ownership interest and to agree to assume financial responsibility for shipping its gas through the pipeline. It was also considered important that each owner's interest in the project should correspond to the amount of the owner's gas that would be shipped through the pipeline. By taking payment of certain tax obligations in gas rather than money, the state could establish an ownership interest of approximately 20 percent. These key terms would increase the potential profitability of the project in a way that would not require the state to materially reduce public revenue in the future.

COMMITTEE COPY

The legislative history of the SGDA was clear that the original intent was to provide fiscal certainty only on gas taxes. The sponsor group made a compelling argument that fiscal certainty must extend to taxes on oil as well as on gas. The production of oil goes hand in hand with the production of gas. Because of this connection, any fiscal constraints placed on the exploration or development for oil also have a direct effect on the exploration and development of gas. For this and other reasons, it was agreed that fiscal certainty should be extended to taxes applicable to oil production.

The amendments proposed in this bill are intended to provide express authority in the SGDA for the terms in the proposed fiscal contract. To accomplish this intent, the bill would broaden the scope of the purposes of the SGDA to include fiscal terms relating to oil as well as to gas. The fiscal terms would also extend to a related party, which may include the mainline entity formed to own and operate the gas pipeline and related facilities.

The bill would broaden the scope of subjects that may be negotiated under the SGDA. These new subjects include equity ownership, payment of obligations in gas rather than money, and changes in existing leases and other agreements with the state regarding oil and gas properties.

The bill would expand the types of terms that may be included in a contract. This is accomplished by a provision that would give the commissioner of the Department of Revenue broad discretion to adopt terms that are reasonable and promote the purposes of the SGDA. Terms are also appropriate if they are consistent with the long-term fiscal interests of the state. The authority granted would cover terms in the fiscal contract now under review by the Legislature and the public. These terms include "netting-out" provisions, payment of interest on obligations, ability to provide fiscal terms to others, confidentiality of payment-in-lieu records, state acquisition of pipeline capacity, indemnity given by the state, exemption from a reserves or resource tax, Regulatory Commission of Alaska jurisdiction, audits, and limits on damages.

The bill would expand the scope of authority to adopt contract terms that modify existing law set out in AS 38 concerning oil and gas property. Under existing law, authority extends only to timing and notice requirements applicable to royalties. The bill includes provisions to allow broader powers to adopt terms resolving conflicts between the terms of the contract and provisions in existing oil and gas leases and unit agreements. Under the bill, the terms of the contract prevail over contrary provisions in state leases or unit agreements.

The Honorable Ben Stevens
May 31, 2006
Page 3

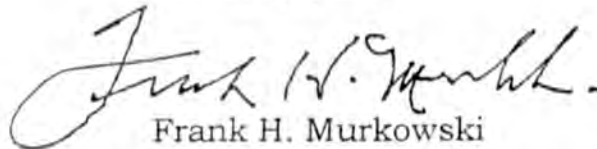
The bill would place a limit of 45 years on the expected term of the contract from the effective date. It is expected that it will take approximately 10 years from the effective date to achieve commencement of commercial operations. Existing law provides that the term is 35 years from the commencement of commercial operations. The bill also authorizes the contract to provide for a suspension of the running of the term during periods of force majeure.

The bill would provide interim authority for the commissioner of the Department of Revenue to negotiate collateral agreements to form limited liability companies, limited liability partnerships, or any other recognized form of business association that would own or operate any part of the project.

The bill would create an account in the general fund to receive municipal impact payments from the sponsor group and also a fund into which the money will be subsequently appropriated by the Legislature. Once in the fund, the money will be available for grants to economically affected municipalities and certain nonprofit organizations serving the unorganized borough; the grants would be administered by the Department of Commerce, Community, and Economic Development.

I urge your prompt and favorable consideration of this bill.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Frank H. Murkowski", with a stylized flourish at the end.

Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 2004
(S) Publish Date: 5/31/06

Revision Date/Time (Note if correction):
Title Stranded Gas Development Act Amendments
Sponsor Rules Committee
Requester Governor
Dept. Affected: Revenue
RDU Administration and Support
Component Commissioner's Office
Component No. 123

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Bond Proceeds						
Bond Bank Investment Earnings						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends the Alaska Stranded Gas Development Act (AS 43.82) (SGDA) to clarify and/or provide additional authority for the development of stranded gas fiscal contract terms. Funding for negotiations under the SGDA has been previously provided and no additional funding is required as a result of this legislation.

Prepared by: Jerry Burnett
Division: Administrative Services
Approved: Steve Porter
Agency: Department of Revenue

Phone 465-2312
Date/Time 5/9/06 12:00 AM
Date 5/9/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 2004
(S) Publish Date: 5/31/06

Revision Date/Time (Note if correction):
Title Stranded Gas Development Act Amendments

Dept. Affected: Natural Resources
RDU Resource Development
Component Oil and Gas Development

Sponsor Rules by Request of the Governor
Requester Governor

Component No. 439

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()					**Indeterminate
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would modify authorization granted to the Commissioner of Revenue to negotiate a contract under AS 43.82. By itself, such modified authorization has zero fiscal impact. Fiscal effects can occur only if a contract is negotiated under the new authorities that changes the status quo fiscal terms or imparts additional costs on the department. This analysis therefore presumes that the draft contract released on May 10, 2006, and discussed in the Commissioner of Revenue's Fiscal Interest Finding is executed. It further assumes that a gasoline is constructed as a result of that contract.

**** INDETERMINATE.** The Fiscal Interest Finding finds that North Slope gas resources would not be developed but for the terms of the proposed contract. It logically follows that long-term (45 years) net fiscal impacts of the bill's authorization, combined with the proposed contract, are very large and positive – on the order of \$12 billion in net present value, according to the Fiscal Interest Finding. The rest of this analysis describes DNR's assessment of costs and benefits associated with various contract provisions that would be authorized by this bill as they affect royalties – costs and benefits that have been largely included already in the Fiscal Interest Finding's assessment of overall net State benefits. (Continued)

Prepared by: William Van Dyke, Acting Director

Phone 269-8800

Division Oil and Gas

Date/Time 5/19/2006

Approved by: Michael Menge, Commissioner

Date 5/19/2006

Agency Natural Resources

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. SB 2004

ANALYSIS CONTINUATION

Sections 2 and 5 of the bill permit a contract negotiated under AS 43.82 to include contract terms that modify provisions of applicable oil and gas leases, unit agreements and other agreements under AS 38. Under the contract (Article 12), the State will agree to take its royalty gas in-kind (RIK) for 35 years. Taking its royalty gas in-kind, with delivery at the first point of accurate metering, entails revenue losses over the life of the contract for the State compared with taking royalty gas in-value (RIV). These revenue losses presume that the gas resources could be developed within a similar timeframe under the existing 2005 fiscal system and include:

- The lost value that the State might receive under its "higher-of" RIV lease valuation provisions. Such value has been estimated at approximately 2 percent of the destination value of the gas. Assuming a \$5.50 real gas price, the loss of this 2 percent has an undiscounted real cost of roughly \$540 million, or \$270 million discounted at 3 percent, over 35 years.
- Costs of putting royalty gas either from non-DL-1 leases or from DL-1 leases outside of Prudhoe Bay Unit into marketable or pipeline quality condition at the Gas Treatment Plant. The State's position has consistently been that it is not responsible for such costs in an RIV framework. Over 35 years the real undiscounted cost to the State of paying these costs will total approximately \$460 million, or \$220 million discounted at 3 percent.
- Gas marketing. The State will market its RIK gas – a service provided free under RIV lease terms. The State conservatively estimates that this will cost 5 cents per Mcf. This equates to \$310 million (undiscounted, real dollars), or \$160 million discounted at 3 percent. DNR would also bear costs in assembling a marketing organization.
- The lost option value associated with the ability to switch between receiving gas RIV and RIK. Based in part on a negotiated (but never executed) RIK gas sale contract that exploited this option value, the State estimates that the ability to switch between RIK and RIV is worth roughly 2 cents/Mcf. This comes to an undiscounted real figure of \$110 million, or \$60 million discounted at 3 percent.
- Costs of impurity disposal. These costs will be the subject of a future negotiation between the owners of a gas treatment plant and a Unit's working interest owners; they will include all full-cycle, direct, indirect, incremental and consequential costs (see Article 8.5) for disposal of water, carbon dioxide and hydrogen sulfide. The State estimates that each 1 cent/Mcf charge for impurity disposal will reduce undiscounted real royalty value by \$11.6 million, or \$4 million discounted at 3 percent. Full-cycle disposal methods and costs have not been estimated to date nor has any positive value been assigned to the impurity stream.
- Costs associated with potentially increased pipeline transportation charges on existing North Slope pipelines (e.g. the existing Northstar pipelines, the Oliktok pipeline, the Badami pipeline). Taking gas RIK will require the State to pay Federal Energy Regulatory Commission approved tariffs. FERC tariffs will likely be based on an existing pipeline's replacement value, rather than its book value (see Article 8.6). However, original DL-1 leases issued do not specify a FERC transportation deduction for determining RIV value. If the State were to argue for and prevail on some notion of "actual and reasonable" pipeline costs, then the RIV transportation deduction might reflect the book rather than the replacement value of existing pipelines. The State has not quantified these costs.
- Costs associated with long-term storage. For RIV valuation purposes long-term storage is generally considered to be a marketing cost, and therefore is not a cost the State would reimburse. Under RIK, the State will pay gas storage fees to the extent RIK gas is stored. The State has not quantified the extent of such costs.
- Sections 2 and 5 also authorize the State to agree to pay an Upstream Cost Allowance (UCA) (Article 20) on all royalty gas. At 22.4 cents/Mcf, escalating with inflation, the State will receive approximately \$590 million (undiscounted, real dollars) or \$50 million (discounted at 3 percent) less than under an RIV regime. The 1980 Royalty Settlement obligates the State to pay a UCA for gas produced from the Prudhoe Bay Unit; gas produced from other units is not obligated to pay a UCA.

Section 2 of the bill authorizes the State to acquire an interest in the project. Article 7.2(a) of the draft contract requires the State to own a 20 percent interest in the Gas Treatment Plant, the Alaska to Canadian border pipeline, and the Canadian border to Alberta pipeline. If the cost for these elements holds at 2001 estimates, indexed to inflation, the State will spend roughly \$2.7 billion. The Fiscal Interest Finding finds that, for both royalty in-kind and tax in-kind gas, net earnings from the pipeline are roughly \$707 million (undiscounted, real) or \$577 million (discounted at 3 percent) (Table 12). Roughly two thirds of this benefit can be ascribed to increased royalty value (\$471 million undiscounted and \$385 million discounted at 3 percent).

Article 7.2(b) requires the State to take an ownership interest, commensurate with its share of expected throughput, in gas transmission lines from all existing units. These costs are unknown as they remain to be negotiated. Depending upon the ultimate purchase price demanded of the State, the net benefits to royalty value may be either positive or negative.

Article 7.2(c) requires the State to take an ownership interest, commensurate with its share of expected throughput, in a gas transmission line from the National Petroleum Reserve Alaska, to a Gas Treatment Plant or the mainline if that transmission line is sanctioned before commencement of commercial operations. Because the State will likely have minimal or no royalty gas in-kind traveling on such a pipeline, the value for royalty will be largely unaffected.

Finally, Sections 2 and 5 of the bill permit modification of unit and other agreements. Article 23.2 of the contract makes use of this authorization. The fiscal effects of this Article, which prohibits the DNR Commissioner from altering or modifying the rate of development at PTU, or from enforcing the Point Thomson Expansion Agreement, are indeterminate.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB26J4-DNR-O&G-06-01-06
 () Publish Date: _____

Revision Date/Time (Note if correction): 6/1/2006 Dept. Affected: Natural Resources
 Title: Stranded Gas Development Act Amendments RDU: Resource Development
 Component: Oil and Gas Development
 Sponsor: Rules by Request of the Governor
 Requester: Governor Component No. 439

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()					**Indeterminate
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would modify authorization granted to the Commissioner of Revenue to negotiate a contract under AS 43.82. By itself, such modified authorization has zero fiscal impact. Fiscal effects can occur only if a contract is negotiated under the new authorities that changes the status quo fiscal terms or imparts additional costs on the department. This analysis therefore presumes that the draft contract released on May 10, 2006, and discussed in the Commissioner of Revenue's Fiscal Interest Finding is executed. It further assumes that a gasline is constructed as a result of that contract.

**** INDETERMINATE.** The Fiscal Interest Finding finds that North Slope gas resources would not be developed but for the terms of the proposed contract. It logically follows that long-term (45 years) net fiscal impacts of the bill's authorization, combined with the proposed contract, are very large and positive – on the order of \$12 billion in net present value, according to the Fiscal Interest Finding. The rest of this analysis describes DNR's assessment of costs and benefits associated with various contract provisions that would be authorized by this bill as they affect royalties – costs and benefits that have been largely included already in the Fiscal Interest Finding's assessment of overall net State benefits. (Continued)

Prepared by: William Van Dyke, Acting Director Phone 269-8800
 Division: Oil and Gas Date/Time 6/1/2006
 Approved by: Michael Menge, Commissioner Date 6/1/2006
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA 2006 LEGISLATIVE SESSION

BILL NO. SB2004-DNR-O&G-06-01-06

ANALYSIS CONTINUATION

Sections 2 and 5 of the bill permit a contract negotiated under AS 43.82 to include contract terms that modify provisions of applicable oil and gas leases, unit agreements and other agreements under AS 38. Under the contract (Article 12), the State will agree to take its royalty gas in-kind (RIK) for 35 years. Taking its royalty gas in-kind, with delivery at the first point of accurate metering, entails revenue losses over the life of the contract for the State compared with taking royalty gas in-value (RIV). These revenue losses presume that the gas resources could be developed within a similar timeframe under the existing 2005 fiscal system and include:

- The lost value that the State might receive under its "higher-of" RIV lease valuation provisions. Such value has been estimated at approximately 2 percent of the destination value of the gas. Assuming a \$5.50 real gas price, the loss of this 2 percent has an undiscounted real cost of roughly \$540 million, or \$270 million discounted at 3 percent, over 35 years.
- Costs of putting royalty gas either from non-DL-1 leases or from DL-1 leases outside of Prudhoe Bay Unit into marketable or pipeline quality condition at the Gas Treatment Plant. The State's position has consistently been that it is not responsible for such costs in an RIV framework. Over 35 years the real undiscounted cost to the State of paying these costs will total approximately \$460 million, or \$220 million discounted at 3 percent.
- Gas marketing. The State will market its RIK gas – a service provided free under RIV lease terms. The State conservatively estimates that this will cost 5 cents per Mcf. This equates to \$310 million (undiscounted, real dollars), or \$160 million discounted at 3 percent.
- The lost option value associated with the ability to switch between receiving gas RIV and RIK. Based in part on a negotiated (but never executed) RIK gas sale contract that exploited this option value, the State estimates that the ability to switch between RIK and RIV is worth roughly 2 cents/Mcf. This comes to an undiscounted real figure of \$110 million, or \$60 million discounted at 3 percent.
- Costs of impurity disposal. These costs will be the subject of a future negotiation between the owners of a gas treatment plant and a Unit's working interest owners; they will include all full-cycle, direct, indirect, incremental and consequential costs (see Article 8.5) for disposal of water, carbon dioxide and hydrogen sulfide. The State estimates that each 1 cent/Mcf charge for impurity disposal will reduce undiscounted real royalty value by \$11.6 million, or \$4 million discounted at 3 percent. Full-cycle disposal methods and costs have not been estimated to date nor has any positive value been assigned to the impurity stream.
- Costs associated with potentially increased pipeline transportation charges on existing North Slope pipelines (e.g. the existing Northstar pipelines, the Oliktok pipeline, the Badami pipeline). Taking gas RIK will require the State to pay Federal Energy Regulatory Commission approved tariffs. FERC tariffs will likely be based on an existing pipeline's replacement value, rather than its book value (see Article 8.6). However, original DL-1 leases issued do not specify a FERC transportation deduction for determining RIV value. If the State were to argue for and prevail on some notion of "actual and reasonable" pipeline costs, then the RIV transportation deduction might reflect the book rather than the replacement value of existing pipelines. The State has not quantified these costs.
- Costs associated with long-term storage. For RIV valuation purposes long-term storage is generally considered to be a marketing cost, and therefore is not a cost the State would reimburse. Under RIK, the State will pay gas storage fees to the extent RIK gas is stored. The State has not quantified the extent of such costs.
- Sections 2 and 5 also authorize the State to agree to pay an Upstream Cost Allowance (UCA) (Article 20) on all royalty gas. At 22.4 cents/Mcf, escalating with inflation, the State will receive approximately \$630 million (undiscounted, real dollars) or \$290 million (discounted at 3 percent) less than under an RIV regime. The 1980 Royalty Settlement obligates the State to pay a UCA for gas produced from the Prudhoe Bay Unit; gas produced from other units is not obligated to pay a UCA.

Section 2 of the bill authorizes the State to acquire an interest in the project. Article 7.2(a) of the draft contract requires the State to own a 20 percent interest in the Gas Treatment Plant, the Alaska to Canadian border pipeline, and the Canadian border to Alberta pipeline. If the cost for these elements holds at 2001 estimates, indexed to inflation, the State will spend roughly \$2.7 billion. The Fiscal Interest Finding finds that, for both royalty in-kind and tax in-kind gas, net earnings from the pipeline are roughly \$707 million (undiscounted, real) or \$577 million (discounted at 3 percent) (Table 12). Roughly two thirds of this benefit can be ascribed to increased royalty value (\$471 million undiscounted and \$385 million discounted at 3 percent).

Article 7.2(b) requires the State to take an ownership interest, commensurate with its share of expected throughput, in gas transmission lines from all existing units. These costs are unknown as they remain to be negotiated. Depending upon the ultimate purchase price demanded of the State, the net benefit to royalty value may be either positive or negative.

Article 7.2(c) requires the State to take an ownership interest, commensurate with its share of expected throughput, in a gas transmission line from the National Petroleum Reserve Alaska, to a Gas Treatment Plant or the mainline if that transmission line is sanctioned before commencement of commercial operations. Because the State will likely have minimal or no royalty gas in-kind traveling on such a pipeline, the value for royalty will be largely unaffected.

Finally, Sections 2 and 5 of the bill permit modification of unit and other agreements. Article 23.2 of the contract makes use of this authorization. The fiscal effects of this Article, which prohibits the DNR Commissioner from altering or modifying the rate of development at PTU, or from enforcing the Point Thomson Expansion Agreement, are indeterminate.

FRANK H. MURKOWSKI
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June 2, 2006

The Honorable Ralph Seekins
Alaska State Senator
State Capitol, Room 125
Juneau, AK 99801-1182

Dear Senator Seekins:

At the request of Senator Wilken I was asked during a hearing of your committee held on June 1, 2006 to describe the grant cycle that is intended by the proposed amendments to the Stranded Gas Development Act set out in sec. 14 of SB 2004 (24th Alaska State Legislature, 2nd Special Sess.).

Under the bill, it is contemplated that:

(1) The Department of Commerce, Community, and Economic Development will adopt regulations that will establish an application deadline by which eligible municipalities and non profit organizations can apply for an impact grant.

(2) After receipt of grant applications, the commissioner will consult with the municipal advisory group before awarding grants.

(3) In awarding grants, priority must be given to municipalities and organizations experiencing the "most direct or severe impact from gas pipeline construction".

(4) The grants are to be awarded to all meritorious grant applications each year, to the extent there are appropriated amounts available.

(5) The department must report to the legislature within 10 days after the convening of each regular session with a list of the grants made during past grant cycle with justification for awards made, the municipalities and organizations that are eligible for grants, but did not receive funding during the cycle, and an estimate of the amount that would be necessary to fulfill this unmet need.

The Honorable Ralph Seekins
June 2, 2006
Page 2

Senator Wilken also asked for some clarification concerning the treatment of economically-affected municipalities and revenue-affected municipalities under the SGDA. Economically-affected municipalities are those cities and boroughs that will be reasonably required to provide additional public services as a consequence of the qualified project. AS 43.82.900(4). Revenue-affected municipalities are those cities and boroughs whose taxing powers will be restricted under the terms of the fiscal contract. AS 43.82.900(12). In developing contract terms which relate to payments in lieu of municipal taxes, the commissioner of revenue is directed to consider five criteria set out in AS 43.82.510(b). One of these criteria provides that revenue-affected municipalities are to be given preference over economically-affected municipalities in the allocation of these payments. AS 43.82.510(b)(1). These criteria appear to be directory in nature and give the commissioner broad discretion as to how the payments will be allocated. The SGDA also provides that the impact payments covered by the proposed grant program should be governed by the same criteria set out in sec. 510(b). AS 43.82.505. Again, these criteria are directory, not mandatory in nature and priority criteria does not appear to be operative for the economically-affected communities for which the impact funds authorized in AS 43.82.505 are expressly intended.

I hope the foregoing answers Senator Wilken's questions, if not please let me know.

Sincerely,



Kevin Jardell
Legislative Director

Cc: Senator Lyda Green
Senator Gary Wilken
Senator Con Bunde
Senator Fred Dyson
Senator Bert Stedman
Senator Lyman Hoffman
Senator Donny Olson
Senator Thomas Wagoner
Senator Ben Stevens
Senator Kim Elton
Senator Albert Kookesh

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June 2, 2006

The Honorable Jay Ramras
Alaska State Representative
State Capitol, Room 104
Juneau, AK 99801-1182

Dear Representative Ramras:

This letter contains the questions posed during yesterday's House Resources Committee's hearing on the Stranded Gas Development Act Amendments (HB 2004) and the corresponding answers.

1. What are the terms of members of a Municipal Advisory Group (MAG)?

Representatives are appointed to a MAG by the mayor of a municipality. AS 43.82.510(b). State law does not prescribe a term for the representatives. The SGDA does require that a MAG itself is to serve only until final action is taken on the application for which the group was appointed. AS 43.82.510(c).

Section 15 of HB 2004 will amend the law to provide that the MAG serves until the final distribution of impact payment money or until commencement of commercial operations.

2. Whether a tax rate incorporated into a payment in lieu of tax provision of a contract ratified by the legislature can be later modified by mutual agreement of the parties.

This administration does not view the fiscal contract as allowing for any material amendments to the tax related provisions.

However, after careful review of the contract, we believe there is an argument that such an amendment is, at least theoretically, possible. Article 39.1 allows the contract to be amended in writing by mutual agreement of the parties.

To avoid there being such an issue, the legislature could consider amending AS 43.82.435 by adding: "A contract authorized by this section and executed by the Governor may contain provisions that provide for amendment of contract terms without further action by the legislature except that any term relating to taxes described in AS 43.82.210(a), or payments in lieu of such taxes, may not be amended without further legislative authorization under this section."

3. The proposed amendments to AS 43.82.020, in Sec. 2 of HB 2004, authorize the commissioner to negotiate terms for inclusion in a proposed contract for certain adjustments regarding oil and gas lease agreements, unit agreements and other agreements. What are some examples of modification of lease and unit agreements?

The proposed contract provisions (1) redefine upstream royalty responsibilities of the state with respect to payment of gas-related field costs such as cleaning, gathering, treating, and dehydration; (2) assign responsibility to the state for conditioning of royalty gas and disposal of impurities associated with the conditioning of that gas; (3) limit over the term of the contract the state's ability to switch between royalty in kind and royalty in value; (4) define points of delivery for royalty gas; (5) assign responsibility for downstream NGL extraction; and (6) provide an optional alternative royalty rate for certain sliding scale royalty leases.

The contract also contains provisions that amend the requirements for the Point Thomson Unit lessees to submit further plans of development and establishes certain work commitments for the Point Thomson Unit lessees.

4. The issue of Section 6(c) of HB 2004, 43.82.220(1)(c), and ramp up of local gas use—

Many questions were raised concerning the availability of gas for in-state use. The amendments to the Stranded Gas Act are intended to ensure the State has the necessary authority to provide opportunities for in state gas use.

The Honorable Jay Ramras
June 2, 2006
Page 3

We will have FERC counsel from Morrison Foerster available telephonically to respond to these questions and discuss opportunities for in state gas use under the contract.

5. Compare the case law relating to "*in best interests of the state*" to "*in the long-term fiscal interests of the state*"?

AS 43.82.200 sets standards under which the commissioner of Revenue may develop a contract under the Alaska Stranded Gas Development Act. Under current law, the commissioner may include terms or conditions "necessary to further the purposes of [AS 43.82]; or in the best interests of the state."

Once a contract is developed, before the commissioner presents his preliminary and final findings and determinations to the legislature, he must determine that the contract terms are "in the long-term fiscal interests of the state." AS 43.82.400(a); AS 43.82.430(b).

In our view, having a standard to be met for developing contract terms that is potentially different than the standard necessary to be met for forwarding contract terms is ambiguous and confusing. To date, we have not been able to find any legislative history on the SGDA that discusses why there are different standards for contract terms contained in the act.

It is difficult to describe precisely the practical difference between the standards because the standard "long-term fiscal interests of the state" neither appears elsewhere in Alaska statutes nor has it been interpreted by the Alaska Supreme Court.

The standard "in the best interests of the state," however, does appear in statute and has been interpreted numerous times by the Alaska Supreme Court. The statute most analogous to the SGDA is probably AS 38.05.035(e). Under that statute, the commissioner of Natural Resources may approve contracts for sale, leases or disposals of state land "upon written findings that the interests of the state will be best served."

The Alaska Supreme Court has found that this standard can be traced to Art. VIII, of the Alaska Constitution. Art. VIII, sec. 1 says that "[i]t is policy of the State to encourage . . . the development of its resources by making them available for maximum use consistent with the public interest." In turn, sec. 2 of Art. VIII authorizes the legislature to provide for the utilization, development, and conservation of all natural resources belonging to the state . . . for the

maximum benefit of its people." *Kachemak Bay Conservation Society v. State, Department of Natural Resources*, 6 P.3d 270, 276 (Alaska 2000).

In our view, the standard "long-term fiscal interests of the state" would probably be traced to the same constitutional provisions as the "best interest standard" described above, although it may be a somewhat narrower test than "best interests of the state."

This is because a "long-term fiscal interests of the state" standard focuses on fiscal interests (although it should be noted that the Stranded Gas Development Act requires the commissioner to consider factors such as safe management and operation of the project, mitigation of increased demand for public services. AS 43.82.120(b)), while a "best interests of the state" standard is, arguably, broader.

Because the Stranded Gas Development Act deals primarily with fiscal issues, the "long-term fiscal interest of the state" standard is arguably more relevant and in keeping with the purposes of the Act.

Again, including two distinct standards in the Stranded Gas Development Act raises the issue of why the legislature chose to include a "in the best interest of the state" standard for terms and conditions in AS 43.82.200 and a "long-term fiscal interests of the state" in AS 43.82.400 and AS 43.82.430 since all three sections deal with the development of the same contract. There appears to be no particular reason in either the legislative history or from a reading of the rest of the Stranded Gas Development Act. The language change proposed in section 3 of SB 2004 will merely insure that a court considers the commissioners' proposed contract terms and preliminary and final findings under the same standards.

6. Could state law be amended to impose a tax on limited liability companies (LLC) owning a portion of the project?

Under Article 11.1 of the fiscal contract, participant's interests are exempt from taxation except for income tax PILT (SCIT) set forth in Article 19 of the fiscal contract, which is limited to the law in effect as of October 1, 2005. If the state were to impose a general income tax on LLCs it is unlikely under the terms of the contract that it could be made to apply to the LLCs that are midstream entities under the terms of the contract.

The Honorable Jay Ramras

June 2, 2006

Page 5

The members of the LLCs which would be affiliates of the producers would pay corporate income tax under the terms of Article 19 as part of the unitary business of the producer.

In accordance with Article 31.1(b) an assignee of a membership interest in an LLC, that is not an affiliate of a producer, would not receive fiscal certainty with regard to corporate income tax.

We hope this answers the committee's questions.

Sincerely,



Kevin Jardell
Legislative Director

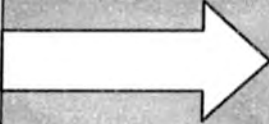
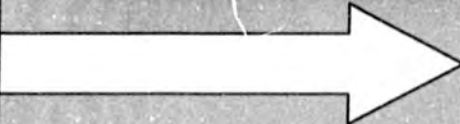
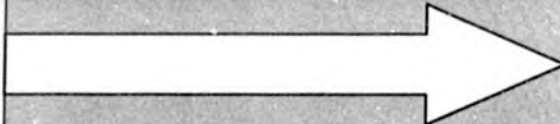
Cc: Representative James Elkins
Representative Carl Gatto
Representative Gabrielle LeDoux
Representative Kurt Olson
Representative Paul Seaton
Representative Harry Crawford
Representative Mary Kapsner

Oil Tax Certainty

Amendment 4

SB 2004



		"4" years +/-		14 years fixed		Remaining years equals 25 years minus ("Pre-build" years) minus ("Capital Cost Recovery" years)
						
Period Description		Pre-build		Capital Cost Recovery		Stabilization
Oil Tax Certainty		<u>None</u> Dependent on gasline progress		<u>Fixed</u> oil tax certainty "PPT"		<u>Fiscal Stabilization</u> (Material change criteria)
Comment				Total Revenue minus Corp Income Tax equals <u>Capital Cost Recovery</u>		If oil taxes change, gas taxes may be adjusted to maintain "fiscal stability".

6/4/2006

grw

SB 2004
AS 43.82 is amended by adding a new section to read:

Sec. 43.82.255. Term of contract provisions related to oil. (a) The provisions of this section apply to a contract developed under AS 43.82.020 that provides for periodic payment in lieu of taxes on oil under AS 43.55.

(b) For the part of the contract term beginning immediately after the date of full project funding or the date of issuance of a certificate of public convenience and necessity for construction and initial operation of the Alaska Natural Gas pipeline, whichever date is later, and ending 14 years after that date, the commissioner may develop a term for the contract that provides for payments in lieu of the taxes on oil set out in AS 43.55. For the part of the contract term covered by this subsection, the payments in lieu of taxes may be established with as much certainty as the Constitution of the State of Alaska allows.

(c) For the part of the contract term beginning immediately after the period described in (b) of this section, and ending on a date not later than 25 years after the effective date of the contract, the amount of the payment in lieu of tax on oil under AS 43.55 must be equal to the amount of the tax levied by law. However, the commissioner may develop a contract term that, in the event of a material change in the taxes enacted after the effective date of the contract, establishes a procedure for restoring the parties to substantially the same economic position they had as of the end of the period described in (b) of this section immediately before the change.

(d) Implementation of a contract provision authorized in this section may be made subject to the dispute resolution procedures of the contract.

6/3 4:45
HELD
motion made
to adopt

AMENDMENT

adopted

OFFERED IN THE SENATE

BY SENATOR BEN STEVENS

TO: SB 2004

1 Page 6, following line 8:

2 Insert a new bill section to read:

3 * **Sec. 10. AS 43.82** is amended by adding a new section to read:

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22 of the period described in (b) of this section immediately before the change.

23 (d) Implementation of a contract provision authorized in ^{(c) of} this section may be

1 made subject to the dispute resolution procedures of the contract."

2

3 Renumber the following bill sections accordingly.

4

5 Page 10, line 23:

6 Delete "Sections 1 - 12, 15, 16, and 18"

7 Insert "Sections 1 - 13, 16, 17, and 19"

8

9 Page 10, line 25:

10 Delete "Section 17"

11 Insert "Section 18"

Special Committee on Natural Gas Development

6/3/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#4		
Motion	adopt-as twice amended		
<u>Motion by</u>	Stevens		
<u>Objection by</u>	Stevens		
<u>Removed</u>	✓		
<u>Second Objection by</u>	Elton		
<u>Committee Member</u>	Y	Vote	N
Senator Kookesh	✓		
Senator B. Stevens	✓		
Senator Stedman	✓		
Senator Bunde	✓		
Senator Olson	✓		
Senator Dyson	✓		
Senator Wilken	✓		
Senator Elton			✓
Senator Hoffman	✓		
Vice-Chair Green	✓		
Vice-Chair Wagoner	✓		
Chair Seekins	✓		
<u>Tally</u>			
Yea	11		
Nay	1		
Absent	—		
<u>MOTION</u>	Pass		

6/3/06 HELD

6/4 updated version before committee

Natural Gas Development
COMMITTEE #4(updated) amend (#1)
Amendment #
To Bill Number: SB 2004
Sponsor: Stevens
Date: 6/4/06 Logged by: Mindy
24-GS2046A.12
Bailey
6/3/06

adopted

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR BEN STEVENS

TO: SB 2004

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23 (d) Implementation of a contract provision authorized in this section may be

(c) of
^

insert

Special Committee on Natural Gas Development

6/4/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#4		
Motion	Amend #1		
<u>Motion by</u>	Green		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

Adopted

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OFFERED IN THE SENATE

BY SENATOR BEN STEVENS

TO: SB 2004

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Special Committee on Natural Gas Development

6/4 /2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#4		
Motion	amend #2		
<u>Motion by</u>	Green		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

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7 Insert "Sections 1 - 13, 16, 17, and 19"

8

9 Page 10, line 25:

10 Delete "Section 17"

11 Insert "Section 18"

This amendment makes it mandatory that future expansions are priced on a roll-in basis.

Rolled-in pricing spreads the cost of expansion over both existing and new customers.

Incremental pricing puts all the cost associated with expansion on the parties who cause the expansion.

Rolled-in pricing is the only way to encourage exploration.

- It takes a long time to explore and develop gas properties. Independents will not be in a position to bid on capacity initially – they will be dependent on the second, third and maybe even fourth round of pipeline expansion to get their gas to market
- With rolled-in pricing, all participants will know up front that any gas they discover will have access to expansion capacity on competitive terms.
- If the pipeline isn't expanded, they probably won't commit the money to explore, drill or develop their leases
- If pricing of pipeline expansion is not guaranteed to be based on roll-in pricing, it will be prohibitively expensive for new customers and be a disincentive to invest in Alaska. (rolled-in pricing is the rule in Canada, and we would be at a competitive disadvantage if we don't assure new shippers of rolled-in pricing)
- Since rolled-in pricing is the rule in Canada, using rolled-in pricing would make us consistent along the entire length of the line

The contract does not address expansion with a view toward encouraging exploration

FERC established a presumption that future expansion would be priced on a rolled-in basis. They did this after consideration of the unique aspects of the Alaska pipeline – that it likely will be a producer-owned single pipeline.

But the contract does not:

- Commit all parties to use rolled-in pricing for looping-based expansion
- Doesn't address voluntary expansion at all
- The contract has a possible barrier. In the section on state-initiated expansion – the contract guarantees the right of the 'mid-stream entity' to reject any expansion certificate that departs in any material way from what was proposed (for instance - if the FERC requires rolled-in pricing after the Sponsors have proposed to use incremental pricing)

provided by Sen. Hoffman
Re: Amendment #9 SB 2009

Quotes from the FERC (The Federal Energy Regulatory Commission)
Briefing Paper Nov. 9 2004

The challenge for FERC was to create rules that give birth to competition, even in the face of an Alaska gas pipeline that will be a natural monopoly and may be owned by those with production interests better served by suppressing competition.

Interested parties recognize that if rolled-in tariffs accompany expansions achieved through adding compression and incremental tariffs are the price of expansions through looping, incremental tariffs will serve as the ultimate form of capacity allocation. Moreover, the mere possibility of incremental tariffs threatens competition in exploration, and may doom an Alaska gas pipeline to transporting nothing more than 6.0 billion cubic feet/day.

Without advance assurance that rolled-in pricing will be available for all expansions, those who would otherwise undertake exploration with the knowledge that they might not be ready to commit to capacity for the first open seasons may simply forego exploration.

Uncertainty about tariff methodology will reduce the competition within the gas industry in Alaska and, ultimately, will reduce the amount of gas produced from Alaska. Otherwise stated, companies that do not own or effectively control the pipeline will be at a severe competitive disadvantage and may be economically denied capacity.

Drilling efforts in Alaska require long lead times as a result of the remoteness of the resource and the limits imposed by the seasons. Consequently, companies must have reason to believe that future pipeline expansions will be undertaken when production volumes make them economic. Without having a long-term guarantee that expansions will be priced on a rolled-in basis, companies are unlikely to risk their capital by drilling in Alaska. There are obviously many other locations where they can drill and have reasonable assurance that their gas will have an outlet once it is developed.

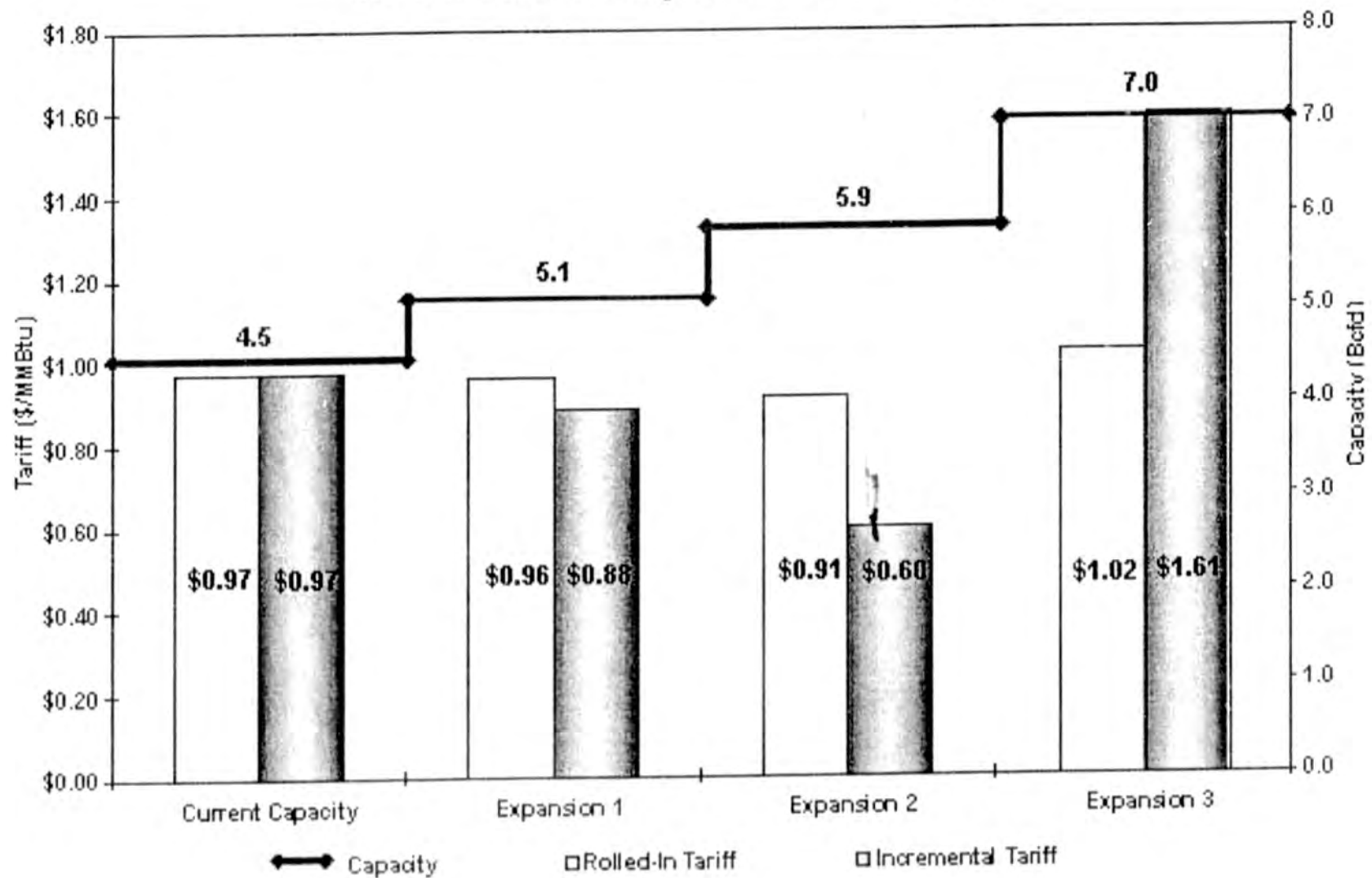
Inasmuch as rolled-in pricing of pipeline expansions is the rule in Canada, companies are likely to drill there unless they have some assurances that Alaska production can access a pipeline under comparable rate terms. More drilling in Canada and less in Alaska is not an optimal result either for the State of Alaska or for the nation, especially since our federal government is providing substantial financial backing for this pipeline.

With rolled-in pricing all participants will know up front that any gas they discover will have access to expansion capacity on competitive terms.

Under incremental pricing there will almost certainly be no competition after the less expensive capacity goes into service. Expansions, priced incrementally, will virtually preclude new exploration programs by companies other than the preexisting holders of pipeline capacity. Thus, to comply with the Commission's statutory obligations under § 103 of the Act, the Commission must address at least one aspect of rate design for expansions as a critical element of open season rules, and in that context it must require that the initial pipeline and all expansions must be based on a rolled-in rate design."

Re. Award #9 532004

Indicative Expansion Tariffs



Re: Amendment #9 SB2009

Provided by Sen R. Steinbock

Mandatory Expansion Under 2004 Federal Law

FERC must find:

1. Rates must recover costs (including return on investment)
2. Existing shippers must not subsidize expansion
3. Expansion shippers will comply with existing tariff
4. Facilities will not adversely affect financial or economic viability of project
5. Facilities will not adversely affect overall operations
6. Proposed facilities will not diminish contract rights of existing shippers
7. All environmental reviews must be completed
8. Adequate downstream facilities must exist or be expected to exist

Re. April #9 3/5/2004

State-Initiated Expansion Under Contract

9. Must not require existing shipper to pay a higher rate than w/o an expansion
10. Must not require existing shipper to be assessed a higher fuel retention percentage than w/o expansion
11. Only available every 5 years
12. Minimum volume (50,000 Mcf on Gas Transmission Lines/125,000 Mcf on Mainline)
13. Does not require Project Entity to construct lateral from the Pipeline
14. No more than 100-miles of looping
15. Min. vols. exclude producer affiliate vols. But rate calculations must include producer affiliate vols.
16. Expansion shipper must meet credit standards of tariff
17. Expansion shipper pays in advance its share of costs related to cert. Application
18. Expansion shipper obligates itself to pro-ration in open season

Re: Amend #9 SB 2004

Article 8.7 of Contract

Article 8.7 is effective unless *FERC* determines that any of its provisions are contrary to *Law*. If *FERC* issues a certificate on a basis different than the expansion proposal filed by the *Project Entity*, then the *Project Entity* shall reject the certificate unless any such difference is minor or all the members of the *Project Entity* vote otherwise.

Re: Amended #9 SB2008

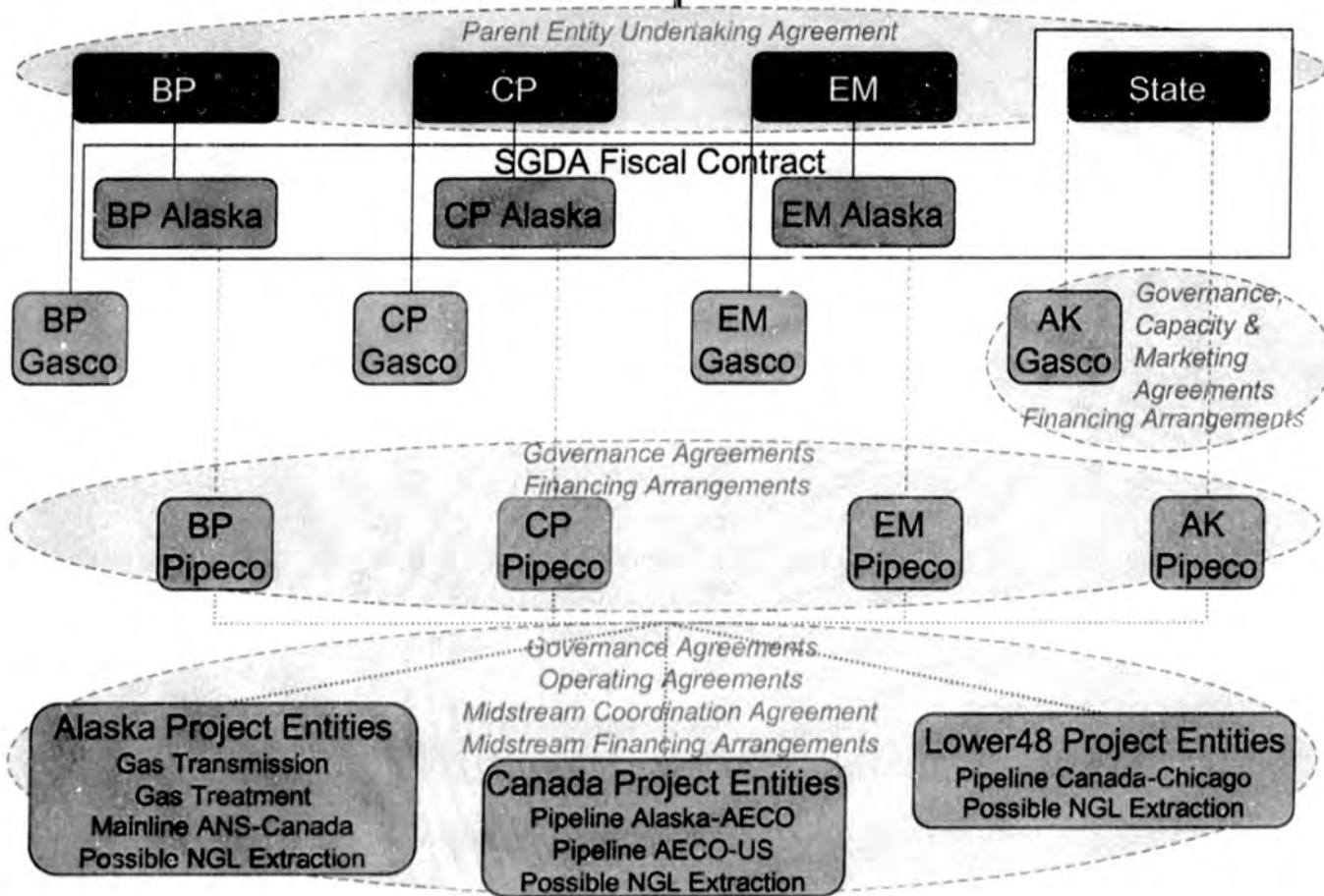
Alaska's Status Quo

- For oil and gas arrangements Alaska uses
 - ◆ Lease structure
 - ◆ Royalty / Tax regime
 - ◆ Manages through regulation

Re: Annual #9 SB 2009

Annex 2

Possible Gas Pipeline Structure



Re: Annex #13 SB 2009

BP Testimony
Senate Special Committee on Natural Gas Development
SB-2004 (SGDA Amendments)
June 4, 2006

Thank you for the opportunity to testify this morning. My name is Ken Konrad. I am Sr. Vice President – Gas for BP Alaska. Thank you for the opportunity to address this committee regarding SB-2004 and the topic of fiscal stability.

I understand this is a topic of considerable interest to this committee and indeed, it is the fundamental purpose of the SGDA itself and the proposed fiscal contract that would allow a gas project to advance.

Why fiscal certainty?

Sovereign governments around the world enter into contracts specifying government take for very large energy projects. They do this for a reason. They do this in order to attract expertise and investment capital that will in turn create wealth and vital economic activity for their country.

Similarly, states and municipalities negotiate contractual payments in lieu of taxes (PILTs) in order to attract investment for factories or other investments that can create long term economic benefits and prosperity for their citizens. Although these investments and their potential benefits are much smaller than the Alaska gas opportunity, the principle is the same.

Here in Alaska, similar contractual tax stability concepts were employed over forty years ago to attract the investment necessary to build large gas facilities on the Kenai Peninsula. Alaska is still benefiting from these key infrastructure investments.

Royalty contracts cover both oil and gas. Internationally, production sharing contracts include terms for both oil and gas. General oil and gas tax laws across the U.S. and internationally address both oil and gas.

The specific parameters for each may be different, but the parameters are known. Governments want to know how much money they will receive from oil and gas production. Similarly, investors need to know how much they will pay governments when oil and gas is produced and sold and make their investment decisions accordingly.

The economic linkage of oil and gas is particularly acute here in Alaska when considering a gas pipeline given the unique operating challenges on the North Slope and the criticality of economies of scale.

Building a gas pipeline is effectively a commitment by the major producers to maintain vital North Slope infrastructure for another 40-50 years. This is a daunting challenge and a significant risk.

It is vital investors have confidence the rules won't change after these massive commitments are made. To keep everything running, investors need confidence they will be able to maintain a healthy oil business, which means massive investments in both oil and gas wells and producing infrastructure.

It protects investors from after-the-fact tax increases on their business after a gas pipeline has been built and we have no choice but to pay and produce regardless. This is what happened as TAPs entered service some 30 years ago.

Caspian Example

One recent case in point where contracts with sovereign governments have enabled huge projects to advance is a series of very large projects in excess of \$20bn where BP is the operator opening a new basin and developing resources in the Caspian region. The

Decisions should be taken carefully and thoughtfully

We recognize that this is an important issue for the legislature to deliberate and consider carefully. However, any decisions regarding the duration and nature of fiscal stability on oil should not be taken now. The contract details regarding oil stability were only released two weeks ago. A public review process is underway.

The ultimate decision on any contract and its duration by this legislature should be taken at the appropriate time and after the legislature fully understands the prospective benefits and attributes of the gas project and the fiscal contract. Significantly altering or foreclosing a fundamental underpinning of the proposed contract now, in a rushed fashion, does not benefit anyone.

SB 2004, as originally written and offered, provides the necessary framework for the legislature to approve or not approve the proposed contract in its current or modified form following the public comment period. BP opposes any amendments to limit or to foreclose critical oil stability provisions.

Thank you. I'd be happy to answer any questions.

Greenberg Traurig

Memorandum

TO: Alaska State Legislature
Legislative Budget and Audit Committee
Attention: Senator Gene Therriault and Representative Ralph Samuels

FROM: Phillip C. Gildan

DATE: June 3, 2006

RE: SB 2004 Proposed Stranded Gas Development Act Conforming Legislation
Legislative Amendments For Consideration Re Alternate Dispute Resolution

In addition to our June 2, 2006, memorandum addressing potential amendments to SB 2004, Section 11, regarding Project Entities, we have proposed an amendment for consideration addressing concerns regarding alternative dispute resolution provisions of the proposed SGFC.

This amendment arises from the following concerns based on review of the proposed Stranded Gas Fiscal Contract ("SGFC").

Waiver of Sovereign Immunity. The SGFC contains numerous provisions effecting a waiver of sovereign immunity by the State in various different capacities, predominantly to allow for claims to be brought against the State by the Producers. Under the doctrine of sovereign immunity, without an express waiver, the state would not be subject to claims actions. The determination to provide such waivers or not is a policy level decision. However, one feature usually attendant to a state's waiver of sovereign immunity is not expressly addressed in the SGFC; that is a reasonable monetary limitation on the size of individual and aggregate claims against the state, absent which the state's potential liability is limitless. If the legislature wishes to address this concern, an optional amendment to SB 2004 is set forth below in AS 43.82.200(5)(A).

Indemnification. The SGFC contains numerous provisions requiring the State to indemnify or reimburse the Producers for losses in a variety of different situations. See Sections 8.3, 10.10, 11.12, 21.3 and 22.1(g)(ii). Indemnification is an equitable doctrine that shifts the risk of loss from a direct party that incurs the loss, to an indirect party for whom or on whose behalf the direct party was acting. The determination to provide indemnification or not is a policy level decision. However, one feature often attendant to a grant of indemnity which is missing from the SGFC indemnifications is a limitation against indemnifying a direct party for losses caused by its own negligence, intentional actions or crimes, and to further limit indemnity to actual damages. It is generally considered unfair to shift the risk of loss to an indirect party, where the direct party is at fault and caused the loss. If the legislature wishes to address these

concerns, optional amendments to SB 2004 are set forth below in AS 43.82.200(5)(B)(C) and (D).

Burdens of Proof/Presumptions/Remedies. Section 38.3 of the SGFC eliminates any legal or equitable presumptions in favor or against a party in the interpretation of the SGFC (except for a minor presumptions provided in Section 19.10 of the SGFC). Exhibit C to the SGFC provides mandatory dispute resolution procedures which apply to any Dispute pursuant to Article 26 of the SGFC. These provisions are policy level decisions, and may benefit any given party on any given dispute. Section 5.5 of the SGFC, however, purports to supersede the provisions of Section 38.3 and Exhibit C for a Dispute arising out of a Participant's failure to act by Diligence, imposing different burdens of proof, limiting available remedies and imposing different presumptions, each of which negatively impacts the State and benefits of the Participants. For example, the State's right to seek specific performance by the Producers as a remedy is removed and the State is limited to termination of the contract. As another example, the normal dispute burden of proof is raised from the preponderance of evidence standard to a clear and convincing standard, a significantly more difficult burden of proof for a claimant. Whether to provide such exception for this one Dispute is also a policy decision. If the legislature wishes to address this concern, options include subjecting a Section 5.5 Dispute to the same dispute resolution provisions as other Disputes under Article 26 and Section 38.3, or amending the SGDA as per proposes AS 43.82.200(5)(E) below.

Amend Section 3 of SB 2004, to further amend AS 43.82.200 (5) to read as follows:

Sec. 3. AS 42.82.200 is amended to read:

(5) Terms regarding arbitration or alternative dispute resolution procedures, provided,

(A) the state shall not agree to a waiver of sovereign immunity without a reasonable monetary limit on such waiver under the facts and circumstances;

(B) the state shall not agree to indemnify, or otherwise hold harmless any person or entity that has been adjudged in a judicial, administrative, or alternative dispute resolution proceeding to be liable for negligence or misconduct in the performance of the person's or entity's duty or has been adjudged guilty of a crime or had such criminal adjudication withheld subject to probationary terms;

(C) the state may not eliminate claims for actual damages incurred by the state, and may not eliminate the equitable rights to seek specific performance and injunctive relief;

(D) the state shall not provide reimbursement or indemnification of special, consequential, incidental, lost profits or punitive damages; and

(E) arbitration or alternative dispute resolution procedures shall incorporate equivalent presumptions and burdens of proof as set forth for civil trials in Rule 301, Presumptions in General in Civil Actions and Proceedings, and Rule 302, Applicability of Federal Law in Civil Actions and Proceedings, Alaska Rules of Evidence, as amended.

Local School Funding Worksheet
Comparison with Oil & Gas Properties Included and Excluded from the Full & True Value

Calculation of local school funding
INCLUDING Oil & Gas property in the Full Value

	2005 AS 29.45 Full Value	2005 AS 43.56 (oil & Gas) Assessed Value	2005 Total Full Value	Min School Contribution 4 mill equiv. (whichever is LESS)	Required Local OR Effort of Basic Need (45%) (whichever is LESS)	Additional 2 mills of Full value Allowed For Schools (whichever is GREATER)	OR 23% of basic need	Total Education Revenue From Municipalities
Fairbanks (FNSB)	\$ 6,183,658,600	\$ 275,302,600	\$ 6,458,961,200	\$ 25,835,845		\$ 12,917,922	\$ 24,609,526	\$ 50,445,371
Kenai (KPB)	\$ 5,204,892,000	\$ 561,688,547	\$ 5,766,580,547	\$ 23,066,322		\$ 11,533,161	\$ 15,755,230	\$ 38,821,552
North Slope (NSB)	\$ 226,735,100	\$ 10,132,394,975	\$ 10,359,130,075	\$ 41,436,520	\$ 9,770,566	\$ 20,718,260	\$ 4,993,845	\$ 30,488,826
Valdez	\$ 576,954,900	\$ 652,470,440	\$ 1,229,425,340	\$ 4,917,701	\$ 3,067,693	\$ 2,458,851	\$ 1,567,932	\$ 5,526,544

Calculation of local school funding
EXCLUDING Oil & Gas property in the Full Value

	2005 AS 29.45 Full Value	2005 AS 43.56 (oil & Gas) Assessed Value	2005 Total Full Value	Percent Reduction of Full Value	Min School Contribution 4 mill equiv.	Additional 2 mills of Full value Allowed For Schools (whichever is GREATER)	OR 23% of basic need	Total Education Revenue From Municipalities
Fairbanks (FNSB)	\$ 6,183,658,600	\$ 275,302,600	\$ 6,183,658,600	4.3%	\$ 24,734,634	\$ 12,367,317	\$ 24,609,526	\$ 49,344,161
Kenai (KPB)	\$ 5,204,892,000	\$ 561,688,547	\$ 5,204,892,000	9.7%	\$ 20,819,568	\$ 10,409,784	\$ 15,755,230	\$ 36,574,798
North Slope (NSB)	\$ 226,735,100	\$ 10,132,394,975	\$ 226,735,100	97.8%	\$ 906,940	\$ 453,470	\$ 4,993,845	\$ 5,900,785
Valdez	\$ 576,954,900	\$ 652,470,440	\$ 576,954,900	53.1%	\$ 2,307,820	\$ 1,153,910	\$ 1,567,932	\$ 3,875,752

Education--Basic Need
(supplied by Dept. of Education)

Fairbanks	\$ 106,997,940
Kenai	\$ 68,501,000
North Slope	21,712,369
Valdez	6,817,096

Revenue Difference

Fairbanks (FNSB)	\$ 1,101,210	2%	Percent loss of (Municipal) Education Revenues
Kenai (KPB)	\$ 2,246,754	6%	
North Slope (NSB)	\$ 24,588,041	81%	
Valdez	\$ 1,650,792	30%	

Education Spending Breakdown Scenario State & Local Contribution

Scenario #1 Including Oil & Gas in Full Value

	REQUIRED Local Contribution	State Payment	Allowable Additional Local Funding	Total Educational funds
Fairbanks (FNSB)	\$ 25,835,845	\$ 81,162,095	\$ 24,609,526	\$ 131,607,466
Kenai (KPB)	\$ 23,066,322	\$ 45,434,678	\$ 15,755,230	\$ 84,256,230
North Slope (NSB)	\$ 9,770,566	\$ 11,941,803	\$ 20,718,260	\$ 42,430,629
Valdez	\$ 3,067,693	\$ 3,749,403	\$ 2,458,851	\$ 9,275,946

Scenario #2 Excluding Oil & Gas in Full Value

Municipality	REQUIRED Local Contribution	State Payment	Allowable Additional Local Funding	Total Educational funds	Overall Spending Including State Revenues
Fairbanks (FNSB)	\$ 24,734,634	\$ 82,263,306	\$ 24,609,526	\$ 131,607,466	No Change
Kenai (KPB)	\$ 20,819,568	\$ 47,681,432	\$ 15,755,230	\$ 84,256,230	No Change
North Slope (NSB)	\$ 906,940	\$ 20,805,428	\$ 4,993,845		Percent Loss → 26,706,214 -37.1% Loss of Revenue
Valdez	\$ 2,307,820	\$ 4,509,276	\$ 1,567,932		Percent Loss \$ 8,385,028 -9.6% Loss of Revenue

Education--Basic Need--
(supplied by Dept. of Education)

Fairbanks	\$ 106,997,940
Kenai	\$ 68,501,000
North Slope	21,712,369
Valdez	54,687,836

Basic Need Less Local Contribution Equals State Payment

North Slope Borough	\$ 15,724,415	Dollars Lost
City of Valdez	\$ 890,919	Dollars Lost

Special Committee on Natural Gas Development

SB 2004

AMEND #	SPONSOR	TOPIC	MOVED	OBJECT	AMEND	VOTE	ADOPT
6/3 #1	Dyson	1A.3					✓
#2	↓	1A.5		NOT OFFERED (defer to #1)			
#3	Wilken	1A.4			*		✓
#4	Stevens	Term of contract provisions related to oil			Replaced w/ #4 update		
6/4 #4 updated	Stevens	1A.12 identical to 1			*	11-1	✓
#5	Dyson	amend #4 DIVIDED	A/B		*		✓
#6		1A.8			WITHDRAWN		
#7		1A.9			*		✓
#8		1A.10			WITHDRAWN		
#9	Hoffman	1A.7			WITHDRAWN		
#10	Wagner	1A.13	DIVIDED - See Page 2				
#11	Dyson	1A.11			Not offered (defer to #13)		
#12	Hoffman	1A.14 to #9		1A.14 Action Rescinded then Amended	*		✓
#13	Dyson	1A.16	DIVIDED	A/B	WITHDRAWN		
#14	Wilken	1A.18			*		✓
Conceptual #15	Bunde	delete Sec. 11					✓
#16	Wilken for Thernauit	1A.17			— FAILED —		
X							

See page 2

Special Committee on Natural Gas Development

SB 2004

Page 2

AMEND #	SPONSOR	TOPIC	MOVED	OBJECT	AMEND	VOTE	ADOPT
#10	Wagoner	1A.13	DIVIDED				
		10A	Adoption Action Rescinded				
			then FAILED TO BE ADOPTED				
		10B	withdrawn without objection				
		10C					
		10D					
		10E					
		10 F					
		10 G					
		10 H					
		10 I					
		10 J					
		10 K					
		10 L					
		10 M					
		10 N					
		10 O					
		10 P					
X							

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004, as amended.		
Amendment			
Motion	to Report from Committee		
Motion by	Bunde		
Objection by	Elton		
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh	✓		
Senator B. Stevens	✓		
Senator Stedman	✓		
Senator Bunde	✓		
* Senator Olson	✓		✗
Senator Dyson	✓		
Senator Wilken	✓		
Senator Elton			✓
Senator Hoffman	✓		
Vice-Chair Green	✓		
Vice-Chair Wagoner	✓		
Chair Seekins	✓		
Tally			
Yea	10	11	
Nay	2	1	
Absent	—		
MOTION	PASSED		

* Senator Olson
changed his
Nay vote
to yea vote.

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment			
Motion	to table		
Motion by	Stevens		
Objection by			
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh	✓		
Senator B. Stevens	✓		
Senator Stedman	✓		
Senator Bunde	~~✓~~		
Senator Olson	✓		
Senator Dyson		✓	
Senator Wilken		✓	
Senator Elton		✓	
Senator Hoffman	✓		
Vice-Chair Green	✓		
Vice-Chair Wagoner		✓	
Chair Seekins		✓	
Tally			
Yea		7	6
Nay		5	6
Absent			
MOTION PASSED FAILED			

Senator Bunde changed vote to No

made to table SB 2004

to No sooner than
July 10, 2006

SENATE BILL NO. 2004

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SPECIAL SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 5/31/06

Referred: Secretary's Desk

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Stranded Gas Development Act, including clarifications
2 or provision of additional authority for the development of stranded gas fiscal contract
3 terms; making a conforming amendment to the Revised Uniform Arbitration Act;
4 relating to municipal impact money received under the terms of a stranded gas fiscal
5 contract; and providing for an effective date."

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

7 * Section 1. AS 43.82.010 is amended to read:

8 Sec. 43.82.010. Purpose. The purpose of this chapter is to

9 (1) encourage new investment to develop the state's stranded gas resources by
10 authorizing establishment of fiscal terms related to oil and gas agreements and taxes
11 for a qualified sponsor, the members of a qualified sponsor group, or a related
12 party and related to their oil and gas business activity in the state [THAT NEW
13 INVESTMENT WITHOUT SIGNIFICANTLY ALTERING TAX AND ROYALTY

ADOPTED

METHODOLOGIES AND RATES ON EXISTING OIL AND GAS INFRASTRUCTURE AND PRODUCTION];

(2) allow the fiscal terms applicable to a qualified sponsor, [OR] the members of a qualified sponsor group, or a related party, with respect to a qualified project, to be tailored to the particular economic conditions of the project and to establish those fiscal terms in advance with as much certainty as the Constitution of the State of Alaska allows; and

(3) maximize the benefit to the people of the state of the development of the state's stranded gas resources.

* Sec. 2. AS 43.82.020 is amended to read:

Sec. 43.82.020. Negotiation of contract terms [CONTRACTS FOR PAYMENTS IN LIEU OF OTHER TAXES AND FOR ROYALTY ADJUSTMENTS]. The commissioner may, under this chapter, negotiate terms for inclusion in a proposed contract with a qualified sponsor or qualified sponsor group providing for

(1) periodic payment in lieu of one or more taxes that otherwise would be imposed by the state or a municipality on the qualified sponsor, [OR] members of the qualified sponsor group, or a related party; [AS A CONSEQUENCE OF THE SPONSOR'S OR GROUP'S PARTICIPATION IN AN APPROVED QUALIFIED PROJECT UNDER THIS CHAPTER; AND]

(2) certain adjustments regarding oil and gas lease agreements, unit agreements, and other agreements [ROYALTY] under AS 43.82.220; in this paragraph, "oil and gas lease agreements" includes royalty provisions of those agreements;

(3) payment of gas production tax under AS 43.55, or payment in lieu of gas production tax, by delivery of gas; and

(4) acquisition by the state of an ownership interest in the project that is the subject of the proposed contract, and terms relating to collateral agreements authorized under AS 43.82.437.

* Sec. 3. AS 43.82.200 is amended to read:

Sec. 43.82.200. Contract development. If the commissioner approves an

1 **(1)** pertaining to the state's rights to receive its royalty on gas in kind
2 or in value if

3 **(A)** [(1)] the viability of the approved qualified project depends
4 on long-term gas **shipping commitments** [PURCHASE AND SALE
5 AGREEMENTS];

6 **(B)** [(2)] certainty over time regarding the quantity of royalty
7 gas that the state may be taking in kind is needed to **enter into long-term gas**
8 **shipping commitments or marketing agreements** [SECURE THE LONG-
9 TERM PURCHASE AND SALE AGREEMENTS];

10 [(3) THE SPECIFIED PERIOD OF THE STATE'S COMMITMENT
11 TO TAKE ITS ROYALTY SHARE IN VALUE OR IN KIND DOES NOT EXCEED
12 THE TERM OF THE PURCHASE AND SALE AGREEMENTS;] and

13 **(C)** [(4)] the modification does not impair the ability of
14 the approved qualified project or the state to meet the reasonably
15 foreseeable demand in this state for gas within economic proximity of
16 the project during the term of the contract developed under
17 AS 43.82.020; **and**

18 **(2) relating to lease or unit expenses for separation, cleaning,**
19 **dehydration, gathering, salt water disposal, and preparation for transportation**
20 **on or off the lease.**

21 * Sec. 7. AS 43.82.220(c) is amended to read:

22 (c) The commissioner of revenue shall include any proposed terms
23 [RELATING TO ROYALTY] developed in accordance with this section in the
24 proposed contract under AS 43.82.400.

25 * Sec. 8. AS 43.82.220 is amended by adding a new subsection to read:

26 (e) An agreement by the state to take royalty gas in kind as part of a contract
27 developed under this chapter that satisfies (a)(1)(A) - (C) of this section is not subject
28 to the provisions of AS 38, or regulations adopted under that title, relating to decisions
29 to take royalty in kind.

30 * Sec. 9. AS 43.82.250 is amended to read:

31 **Sec. 43.82.250. Term of contract; effective date.** The term of a contract

1 developed under AS 43.82.020 [MAY BE FOR NO LONGER THAN IS
2 NECESSARY TO DEVELOP THE STRANDED GAS THAT IS SUBJECT TO THE
3 CONTRACT; HOWEVER, THE TERM OF THE CONTRACT] may not exceed 35
4 years from the commencement of commercial operations of the approved qualified
5 project, excluding suspensions of contract obligations that are covered by the
6 force majeure terms of any contract developed under this chapter. However, the
7 term of contract may not exceed 45 years from the effective date of a contract
8 approved under AS 43.82.435.

9 * Sec. 10. AS 43.82.270 is amended to read:

10 Sec. 43.82.270. Project plans and work commitments. A contract under
11 AS 43.82.020 must include provisions for implementation of the qualified project
12 plan approved under AS 43.82.140, as may be modified as a result of the
13 development of a contract under this chapter, and provisions for updating the plan
14 at reasonable intervals until the commencement of commercial operations of the
15 approved qualified project. The commissioner of revenue, in consultation with the
16 commissioner of natural resources, may, as a term in a contract under AS 43.82.020,
17 include work commitments or other obligations in the contract to be accomplished
18 before the commencement of commercial operations of the approved qualified project.

19 * Sec. 11. AS 43.82 is amended by adding a new section to read:

20 Sec. 43.82.437. Collateral agreements. (a) The commissioner of revenue,
21 with the concurrence of the commissioner of natural resources, may negotiate
22 collateral agreements that are required to implement the state's acquisition of an
23 ownership interest in the project that is the subject of a proposed contract developed
24 under this chapter. The authority of the commissioner of revenue to negotiate
25 collateral agreements on behalf of the state lapses 180 days after the effective date of
26 the law authorizing the contract under AS 43.82.435.

27 (b) A collateral agreement negotiated by the commissioner on behalf of a
28 public corporation that is established by law to enter into agreements to acquire an
29 ownership interest in the project to be developed under the authorized contract may be
30 executed and implemented by the board of directors of the public corporation.
31 Notwithstanding any other provision of law, the commissioner members of the board

delete

1 constitute a quorum for doing the business of the corporation for the first 120 days
2 following the effective date of a law establishing the public corporation. During this
3 transition period, actions by the board must be approved (A) by unanimous
4 commissioner member approval, or (B) if some or all of the public members of the
5 board have been appointed at the time of the action, by a majority of all the board
6 members existing as of the date the action is taken.

7 (c) A collateral agreement executed by the members of the board of a public
8 corporation under (b) of this section is binding only on the public corporation and does
9 not make the state a party to the collateral agreement.

10 (d) Except as provided in this section and in AS 43.82.310, a collateral
11 agreement necessary to implement a contract that has been authorized by the
12 legislature under the terms of AS 43.82.435 is not subject to any of the provisions of
13 this chapter.

14 (e) In this section, "collateral agreement" includes agreements between either
15 the state or entities established by the state, and a qualified sponsor or qualified
16 sponsor group, or affiliates of those entities, to form limited liability companies,
17 limited liability partnerships, or any other recognized form of business association,
18 whether incorporated or unincorporated, that would own or operate any portion of the
19 project that is the subject of a proposed contract developed under this chapter.

delete

20 * Sec. 12. AS 43.82.500 is amended to read:

21 **Sec. 43.82.500. Obligation to share payments with municipalities.** If the
22 commissioner develops a contract under AS 43.82.020 that includes terms that exempt
23 a qualified sponsor, the members of a qualified sponsor group, or a related party
24 to the contract, and the property, gas, products, and activities associated with the
25 approved qualified project that is subject to the contract, from a municipal tax or
26 assessment in accordance with AS 29.45.810 or AS 29.46.010(b), or AS 43.82.200
27 and 43.82.210, the commissioner shall include a term in the contract that provides for
28 [THE PARTY PAY] a portion of the periodic payments to be made payable [DUE
29 UNDER THE CONTRACT] to the revenue-affected municipality.

30 * Sec. 13. AS 43.82.505 is amended to read:

31 **Sec. 43.82.505. Payments to economically affected municipalities.** If the

1 commissioner executes a contract under AS 43.82.020 that will produce one or more
2 economically affected municipalities, the commissioner shall include a term in the
3 contract that provides for [A PORTION OF THE] periodic impact payments to the
4 state that may be appropriated to the Alaska Natural Gas Pipeline Construction
5 Impact Fund established in (c) of this section to benefit the economically affected
6 municipalities under the principles in AS 43.82.520.

7 * Sec. 14. AS 43.82.505 is amended by adding new subsections to read:

8 (b) A special account is established in the general fund into which the
9 Department of Revenue shall deposit impact payments received by the state under (a)
10 of this section.

11 (c) The Alaska Natural Gas Pipeline Construction Impact Fund is established
12 in the Department of Commerce, Community, and Economic Development. The
13 legislature may appropriate money deposited in the special account established in (b)
14 of this section, as well as any additional money considered necessary, to the Alaska
15 Natural Gas Pipeline Construction Impact Fund to address the economic and social
16 impacts incurred by an economically affected municipality, or incurred by a nonprofit
17 organization serving the unorganized borough, during the construction of a project that
18 is the subject of a proposed contract developed under this chapter.

19 (d) The Department of Commerce, Community, and Economic Development
20 shall adopt regulations under which economically affected municipalities and
21 nonprofit organizations may apply for and be eligible to receive grants to alleviate
22 impact caused by construction of a gas pipeline. The department shall give priority in
23 the allocation of grants to municipalities and organizations that are experiencing or
24 will experience the most direct or severe impact from gas pipeline construction. The
25 department shall finance under (e) of this section all meritorious grant applications
26 each year, to the extent money is available in the Alaska Natural Gas Pipeline
27 Construction Impact Fund. Within 10 days after the convening of each regular session
28 of the legislature, the department shall submit to the legislature a list of all
29 municipalities and organizations that have received grants, a list of all municipalities
30 and organizations determined by the department to be eligible for further grants, a
31 recommendation of the amount of money to be granted for those additional

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	# 15		
Motion	delete Sec. 11		
Motion by	Bunde		
Objection by	None		
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
Tally			
Yea			
Nay			
Absent			
MOTION	PASSED		

delete P. 6 line 19

thru P. 7 line 19

delete P. 2 lines 27 - 29

A DOPTED

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR WILKEN

TO: SB 2004

1 Page 1, line 5, following "contract;":

2 Insert "relating to determination of full and true value of property and required
3 contributions for education in municipalities affected by stranded gas fiscal contracts;"
4

5 Page 10, following line 1:

6 Insert a new section to read:

7 "** Sec. 16. AS 43.82 is amended by adding a new section to article 7 to read:

8 **Sec. 43.82.650. Calculations of education funding.** To determine the amount
9 of required local contribution under AS 14.17.410(b)(2) and (c) for a school district in
10 a revenue-affected municipality, and to perform its duties under AS 14.17.510, the
11 Department of Commerce, Community, and Economic Development shall adopt
12 regulations. The regulations must establish assessment standards for any property that
13 would have been assessed under AS 43.56 but is instead generating a payment to a
14 revenue-affected municipality in lieu of a municipal property tax as provided in a
15 contract developed under this chapter. The regulations must ensure that the property is
16 included in the full and true value of the city or borough school district for the purpose
17 of determining required local contributions for education funding under
18 AS 14.17.410(b)(2) and (c)."
19

20 Renumber the following bill sections accordingly.
21

22 Page 10, line 23:

23 Delete "Sections 1 - 12, 15, 16, and 18"

- 1 Insert "Sections 1 -12, 15 - 17, and 19"
- 2
- 3 Page 10, line 25:
- 4 Delete "Section 17"
- 5 Insert "Section 18"

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#14		
Motion	to adopt		
Motion by	Wilken		
Objection by	Wilken		
Removed	✓		
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
Tally			
Yea			
Nay			
Absent			
MOTION	PASSED		

1 ~~contractors used under AS 43.82.240 available to the public and to~~

2 ~~(A) the presiding officer of each house of the legislature,~~

3 ~~(B) the chairs of the finance and resources committees of the~~
4 ~~legislature; and~~

5 ~~(C) the chairs of the special committees on oil and gas, if any,~~
6 ~~of the legislature;~~

7 ~~(3) offer to appear before the Legislative Budget and Audit Committee~~
8 ~~to provide the committee a review of the commissioner's preliminary findings and~~
9 ~~determination, the proposed contract, and the supporting financial, technical, and~~
10 ~~market data; if the Legislative Budget and Audit Committee accepts the~~
11 ~~commissioner's offer, the committee shall give notice of the committee's meeting to~~
12 ~~the public and all members of the legislature, if the financial, technical, and market~~
13 ~~data that is to be provided must be kept confidential under AS 43.82.310, the~~
14 ~~commissioner may not release the confidential information during a public portion of~~
15 ~~a committee meeting; and~~

16 (4) establish a period of at least ⁶⁰~~90~~ [30] days for the public and
17 members of the legislature to comment on the proposed contract and the preliminary
18 findings and determination made under AS 43.82.400.

19 ~~* Sec. 13. AS 43.82.430(b) is amended to read:~~

20 ~~(b) After considering the material described in (a) of this section and securing~~
21 ~~the agreement of the other parties to the proposed contract regarding any proposed~~
22 ~~amendments prepared under (a) of this section, if the commissioner determines that~~
23 ~~the contract is in the long-term fiscal interests of the state, the commissioner shall~~
24 ~~submit the contract with the supporting documentation, including the documents~~
25 ~~required under AS 43.82.400(a)(3) to the governor.~~

26 ~~* Sec. 14. AS 43.82.435 is amended to read:~~

27 ~~Sec. 43.82.435. Legislative authorization. The governor may transmit a~~
28 ~~contract developed under this chapter with the supporting documentation, including~~
29 ~~the documents required under AS 43.82.400(a)(3) to the legislature together with a~~
30 ~~request for authorization to execute the contract. A contract developed under this~~
31 ~~chapter is not binding upon or enforceable against the state or other parties to the~~

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#13 B, ^{as} amended		
Motion	to adopt		
Motion by	Dyson		
Objection by	Stevens		
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh	✓		
Senator B. Stevens			✓
Senator Stedman			✓
Senator Bunde	✓		
Senator Olson	✓		
Senator Dyson	✓		
Senator Wilken	✓		
Senator Elton	✓		
Senator Hoffman	✓		
Vice-Chair Green			✓
Vice-Chair Wagoner	✓		
Chair Seekins			✓
Tally			
Yea	8		
Nay	4		
Absent			
MOTION	PASSED		

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#13 B, n		
Motion	to amend		
Motion by	Dyson		
Objection by			
Removed	/		
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
Tally			
Yea			
Nay			
Absent			
MOTION	PASSED		

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	13 B		
Motion	to adopt		
Motion by	Dyson		
Objection by			
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
Tally			
Yea			
Nay			
Absent			
MOTION			

page 2, lines 16-18

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	13B, as amended		
Motion	to rescind action		
Motion by	Hoffman		
Objection by	Bunde		
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
Tally			
Yea			
Nay			
Absent			
MOTION	WITHDRAWN		

6/5/06
11:35am

AMENDMENT

OFFERED IN THE SENATE

TO: SB 2004

1 Page 6, following line 18:

2 Insert new bill sections to read:

3 **** Sec. 11. AS 43.82.400(a) is amended to read:**

4 (a) If the commissioner develops a proposed contract under AS 43.82.200 -
5 43.82.270, the commissioner shall

6 (1) make preliminary findings and a determination that the proposed
7 contract terms are in the long-term fiscal interests of the state and further the purposes
8 of this chapter; [AND]

9 (2) prepare a proposed contract that includes those terms and shall
10 submit the contract to the governor: and

11 (3) submit to the governor all documents related to the ownership,
12 governance, management, control, and operation of the project and participating
13 entities at the same time the contract is submitted under (2) of this subsection.

14 *** Sec. 12. AS 43.82.410 is amended to read:**

15 **Sec. 43.82.410. Notice and comment regarding the contract. The**
16 **commissioner shall**

17 (1) give reasonable public notice of the preliminary findings and
18 determination made under AS 43.82.400;

19 (2) make copies of the proposed contract, the commissioner's
20 preliminary findings and determination, the documents required under
21 AS 43.82.400(a)(3), and, to the extent the information is not required to be kept
22 confidential under AS 43.82.310, the supporting financial, technical, and market data,
23 including the work papers, analyses, and recommendations of any independent

contractors used under AS 43.82.240 available to the public and to

(A) the presiding officer of each house of the legislature;

(B) the chairs of the finance and resources committees of the legislature; and

(C) the chairs of the special committees on oil and gas, if any, of the legislature;

(3) offer to appear before the Legislative Budget and Audit Committee to provide the committee a review of the commissioner's preliminary findings and determination, the proposed contract, and the supporting financial, technical, and market data; if the Legislative Budget and Audit Committee accepts the commissioner's offer, the committee shall give notice of the committee's meeting to the public and all members of the legislature; if the financial, technical, and market data that is to be provided must be kept confidential under AS 43.82.310, the commissioner may not release the confidential information during a public portion of a committee meeting; and

(4) establish a period of at least 90 [30] days for the public and members of the legislature to comment on the proposed contract and the preliminary findings and determination made under AS 43.82.400.

* Sec. 13. AS 43.82.430(b) is amended to read:

(b) After considering the material described in (a) of this section and securing the agreement of the other parties to the proposed contract regarding any proposed amendments prepared under (a) of this section, if the commissioner determines that the contract is in the long-term fiscal interests of the state, the commissioner shall submit the contract with the supporting documentation, including the documents required under AS 43.82.400(a)(3) to the governor.

* Sec. 14. AS 43.82.435 is amended to read:

Sec. 43.82.435. Legislative authorization. The governor may transmit a contract developed under this chapter with the supporting documentation, including the documents required under AS 43.82.400(a)(3) to the legislature together with a request for authorization to execute the contract. A contract developed under this chapter is not binding upon or enforceable against the state or other parties to the

1 contract unless the governor is authorized to execute the contract by law. The state and
2 the other parties to the contract may execute the contract within 60 days after the
3 effective date of the law authorizing the contract."
4

5 Renumber the following bill sections accordingly.
6

7 Page 10, line 23:

8 Delete "Sections 1 - 12, 15, 16, and 18"

9 Insert "Sections 1 - 16, 19, 20, and 22"
10

11 Page 10, line 25:

12 Delete "Section 17"

13 Insert "Section 21"

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#13		
Motion	to divide		
<u>Motion by</u>	Seekins		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
<u>Yea</u>			
<u>Nay</u>			
<u>Absent</u>			
<u>MOTION</u>	No objection		

Amendment #13
divided

Special Committee on Natural Gas Development

10/5 /2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	# 13		
Motion	to adopt		
Motion by	Dyson		
Objection by			
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
Tally			
Yea			
Nay			
Absent			
MOTION			

Natural Gas Development
COMMITTEE
Amendment # #12, amended
To Bill Number: SB 2004
Sponsor: Hoffman
Date: 6/4/06 Logged by: Mindy
24-GS2046/A.14
Bailey
6/4/06

ADOPTED
6/15/06

AMENDMENT

by Sen Hoffman

OFFERED IN THE SENATE

TO: SB 2004

- 1 Page 1, line 12, following "state": expansion
- 2 Insert "including gas pipeline pricing that encourages further gas exploration"

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#12, amended		
Motion			
Motion by	Hoffman		
Objection by	—		
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Eiton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
Tally			
Yea			
Nay			
Absent			
MOTION	PASSED, No objection		

Natural Gas Development
COMMITTEE

Amendment # #12

To Bill Number: SB 2004

Sponsor: Hoffman

Date: 6/4/06 Logged by: Jindy

24-GS2046VA.14

Bailey
6/4/06

Adopted

*by Sen Hoffman Action
Rescinded*

AMENDMENT

OFFERED IN THE SENATE

TO: SB 2004

- 1 Page 1, line 12, following "state":
- 2 Insert ", including gas pipeline pricing that encourages further gas exploration"

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	# 12		
Motion	Rescind Action		
Motion by	Green		
Objection by			
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
Tally			
Yea			
Nay			
Absent			
MOTION	PASSED, No		

of 6/4/06

objection

Special Committee on Natural Gas Development

6/4/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#12		
Motion	adopt		
<u>Motion by</u>	Hoffman		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	PASS		

Natural Gas Development
COMMITTEE
Amendment # #7 - amended
To Bill Number: SB 2004
Sponsor: Dyson
Date: 6/4/06 Logged by: Mindy

24-GS2046A.9
Bailey
6/3/06

AMENDMENT

Amended &
Adopted

OFFERED IN THE SENATE

BY SENATOR DYSON

TO: SB 2004

- 1 Page 3, line 31:
- 2 Delete "state" of Alaska
- 3 Insert "project"

Special Committee on Natural Gas Development

6/4/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#7		
Motion	adopt - as amended		
<u>Motion by</u>	Dyson		
<u>Objection by</u>	Seekins		
<u>Removed</u>			
<u>Second Objection by</u>	Elton ✓		
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
• Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

Special Committee on Natural Gas Development

6/4/2006

COMMITTEE ACTION

Bill Number	SB 2804		
Amendment	# 7		
Motion	amend		
Motion by	Dyson		
Objection by	none		
Removed			
Second Objection by			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

Natural Gas Development
COMMITTEE
Amendment # #7
To Bill Number: SB 2004
Sponsor: Dyson
Date: 6/4/06 Logged by: Mindy

24-GS2046A.9
Bailey
6/3/06

AMENDMENT

OFFERED IN THE SENATE
TO: SB 2004

BY SENATOR DYSON

- 1 Page 3, line 31:
- 2 Delete "state"
- 3 Insert "project"

Natural Gas Development
COMMITTEE # 5A-2 amended
Amendment #
To Bill Number: SB 2004
Sponsor: Dyson
Date: 6/4/06 Logged by: Cindy

AMENDMENT to AMENDMENT #4

SB 2004

OFFERED BY: Senator Fred Dyson

adopted

1 Subparagraph (b), lines ¹¹~~5 and 6~~:

2 Delete [DEVELOP A TERM FOR THE CONTRACT THAT PROVIDES FOR]

3 Insert "modify those terms of the contract relating to"

4

5 ~~Subparagraph (c), line 4: After "equal to" insert:~~

delete

6 ~~Delete [EQUAL TO THE AMOUNT OF THE TAX LEVIED BY LAW.]~~

7 ~~Insert "equal to or greater than the amount of the tax then levied by law."~~

8

9 Subparagraph (c), lines 4 through 9: Replace last sentence with the following:

10 "In the event taxes levied by law have changed, and remain in effect, in excess of

11 three percentage points from those taxes in effect at the end of the period described

12 in (b) of this section, the commissioner may develop contract provisions for payment

13 in lieu of tax equivalent to the taxes in effect at the end of the period described in (b)

14 of this section."

15

AMENDMENT to AMENDMENT #4

SB 2004

Natural Gas Development
COMMITTEE
Amendment # #5A
To Bill Number: SB 2004
Sponsor: Dyson
Date: 6/4/04 Logged by: Mindy
divided

OFFERED BY: Senator Fred Dyson

1 Subparagraph (b), lines ¹¹~~5 and 6~~.

2 Delete [DEVELOP A TERM FOR THE CONTRACT THAT PROVIDES FOR]

3 Insert "modify those terms of the contract relating to"

4
5 Subparagraph (c), line ¹⁸~~4~~: After "equal to" insert:

6 Delete [EQUAL TO THE AMONT OF THE TAX LEVIED BY LAW.]

7 Insert "equal to or greater than the amount of the tax then levied by law."

8
9 Subparagraph (c), lines 4 through 9: Replace last sentence with the following:

10 "In the event taxes levied by law have changed, and remain in effect, in excess of
11 three percentage points from those taxes in effect at the end of the period described
12 in (b) of this section, the commissioner may develop contract provisions for payment
13 in lieu of tax equivalent to the taxes in effect at the end of the period described in (b)
14 of this section."

15

Special Committee on Natural Gas Development

6/4/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	5 ft		
Motion	adopt - as amended		
<u>Motion by</u>	Dyson		
<u>Objection by</u>	Seekins		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

amended by Sen. Dyson w/out objection

Natural Gas Development
COMMITTEE
Amendment # #5B
SB 2004
son
ged by: Mindy

amendments
to SB 2004
A not yet
acted on
vote sheets at the
ready behind each

Amendment
#5B
HELD
motion made to
adopt 6/4

OFFERED BY: Senator

- 1 Subparagraph (b), lines 5 and 6:
2 Delete [DEVELOP A TERM FOR THE CONTRACT THAT PROVIDES FOR]
3 Insert "modify those terms of the contract relating to"

#5B
not
offered
6/5/06

- 4
5 Subparagraph (c), line 4: After "equal to" insert:
6 Delete [EQUAL TO THE AMOUNT OF THE TAX LEVIED BY LAW.]
7 Insert "equal to or greater than the amount of the tax then levied by law."

- 8
9 Subparagraph (c), lines 4 through 9: Replace last sentence with the following:
10 "In the event taxes levied by law have changed, and remain in effect, in excess of
11 three percentage points from those taxes in effect at the end of the period described
12 in (b) of this section, the commissioner may develop contract provisions for payment
13 in lieu of tax equivalent to the taxes in effect at the end of the period described in (b)
14 of this section."

HELD
motion
made to
adopt
6/4

here's the scoop:

Amendment #5 was divided to A+B
#5A was amended & adopted

#5B was moved for adoption
then held

Special Committee on Natural Gas Development

6/ /2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#5B		
Motion	adopt		
<u>Motion by</u>	Dyson		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>			

6/4 4:30 pm - held

Natural Gas Development
COMMITTEE #5
Amendment # #5
To Bill Number: SB 2004
Sponsor: Dyson
Date: 6/4/04 Logged by: Mindy

AMENDMENT to AMENDMENT #4

SB 2004

OFFERED BY: Senator Fred Dyson

- 11
- 1 Subparagraph (b), lines ~~5 and 6~~
- 2 Delete [DEVELOP A TERM FOR THE CONTRACT THAT PROVIDES FOR]
- 3 Insert "modify those terms of the contract relating to"
- 4
- 1B
- 5 Subparagraph (c), line ~~A~~. After "equal to" insert:
- 6 Delete [EQUAL TO THE AMONT OF THE TAX LEVIED BY LAW.]
- 7 Insert "equal to or greater than the amount of the tax then levied by law."
- 8
- 9 Subparagraph (c), lines 4 through 9: Replace last sentence with the following:
- 10 "In the event taxes levied by law have changed, and remain in effect, in excess of
- 11 three percentage points from those taxes in effect at the end of the period described
- 12 in (b) of this section, the commissioner may develop contract provisions for payment
- 13 in lieu of tax equivalent to the taxes in effect at the end of the period described in (b)
- 14 of this section."
- 15

Amend
#5
divided
into
SA +
SB

Special Committee on Natural Gas Development

6/ /2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#5		
Motion	adopt		
<u>Motion by</u>	Dyson		
<u>Objection by</u>	Dyson / Green		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
• Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>			

Divided w/out objection

A = lines 1-7

B = lines 9-14

Natural Gas Development
COMMITTEE
Amendment # #5
To Bill Number: SB 2004
Sponsor: Dyson
Date: 6/4/04 Logged by: Mindy

AMENDMENT to AMENDMENT #4
SB 2004

OFFERED BY: Senator Fred Dyson

1 Subparagraph (b), lines ~~5 and 6~~ ¹¹

2 Delete [DEVELOP A TERM FOR THE CONTRACT THAT PROVIDES FOR]

3 Insert "modify those terms of the contract relating to"

4
5 ~~Subparagraph (c), line 4: After "equal to" insert:~~

6 ~~Delete [EQUAL TO THE AMOUNT OF THE TAX LEVIED BY LAW.]~~

7 ~~Insert "equal to or greater than the amount of the tax then levied by law."~~

8

9 Subparagraph (c), lines 4 through 9: Replace last sentence with the following:

10 "In the event taxes levied by law have changed, and remain in effect, in excess of

11 three percentage points from those taxes in effect at the end of the period described

12 in (b) of this section, the commissioner may develop contract provisions for payment

13 in lieu of tax equivalent to the taxes in effect at the end of the period described in (b)

14 of this section."

15

(mark up
final
version)

Natural Gas Development P. 02
COMMITTEE
Amendment # #3 AG Twice
To Bill Number: SB2004 amended
Sponsor: Wilken 24-GS2046A.4
Date: 6/3/06 Logged by: Mindy Bailey
6/3/06

ADOPTED

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR WILKEN

TO: SB 2004

1 Page 9, following line 14:

2 Insert a new subsection to read:

3 "(f) Before making awards of grants under this section for a fiscal year, the
4 commissioner of commerce, community, and economic development shall provide
5 reasonable public notice of all grant applications received, the recommendations of the
6 relevant municipal advisory group, preliminary determinations made concerning the
7 eligibility of each municipality or organization for a grant, the eligibility of each
8 expenditure or proposed expenditure for a grant, and the proposed allocation of
9 available money among grant proposals. The public notice must specify a time and
10 place for a public hearing during which the commissioner will receive comments
11 concerning the preliminary determinations and allocations of the department. The
12 commissioner shall give reasonable public notice of the final awards of grants made
13 under this section. ~~Final awards take effect~~ ^{such} 30 days after public notice is given ^{final awards}
14 may be paid to the grantees according to procedures established by regulation." ^{take effect}
15 ^{and}

16 Reletter the following subsections accordingly.

17

18 Page 9, following line 25:

19 Insert a new subsection to read:

20 "(j) In this section, "direct or severe impact" means a clearly demonstrable
21 effect on a community that proximately contributes to a material change to
22 transportation, infrastructure, law enforcement, emergency services, health and human
23 services, education, labor force, population, wages, subsistence, or ^{for} ~~another~~

cont. →

socio-cultural impacts

1

~~sociocultural element~~ brought about by the construction of a gas pipeline."

(insert hyphen)

Special Committee on Natural Gas Development

6/ 3 /2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#3-25 amended		
Motion	adopt twice		
<u>Motion by</u>	Wilken		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	PASS		

Natural Gas Development
COMMITTEE
Amendment # #3-amend#1
To Bill Number: SB2004
Sponsor: Wilken
Date: 6/3/06 Logged by: Mindy

P. 02

24-GS2046A.4

Bailey
6/3/06

ADOPTED

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR WILKEN

TO: SB 2004

1 Page 9, following line 14:

2 Insert a new subsection to read:

3 "(f) Before making awards of grants under this section for a fiscal year, the
4 commissioner of commerce, community, and economic development shall provide
5 reasonable public notice of all grant applications received, the recommendations of the
6 relevant municipal advisory group, preliminary determinations made concerning the
7 eligibility of each municipality or organization for a grant, the eligibility of each
8 expenditure or proposed expenditure for a grant, and the proposed allocation of
9 available money among grant proposals. The public notice must specify a time and
10 place for a public hearing during which the commissioner will receive comments
11 concerning the preliminary determinations and allocations of the department. The
12 commissioner shall give reasonable public notice of the final awards of grants made
13 under this section. Final awards take effect 30 days after public notice is given and
14 may be paid to the grantees according to procedures established by regulation."

15

16 Reletter the following subsections accordingly.

17

18 Page 9, following line 25:

19 Insert a new subsection to read:

20 "(j) In this section, "direct or severe impact" means a clearly demonstrable
21 effect on a community that proximately contributes to a material change to
22 transportation, infrastructure, law enforcement, emergency services, health and human
23 services, education, labor force, population, wages, subsistence, ~~or another~~ ^{or for}

cont. →

24-GS2046VA.4

Socio-cultural impacts

1

~~sociocultural element~~ brought about by the construction of a gas pipeline."

(insert hyper)

Special Committee on Natural Gas Development

6/3/2006

COMMITTEE ACTION

Bill Number	SB 2003		
Amendment	#3		
Motion	Amend		
<u>Motion by</u>	Elton		
<u>Objection by</u>	Bunde		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
• Senator Kookesh	✓		
Senator B. Stevens	✓		
Senator Stedman	✓		
Senator Bunde			✓
Senator Olson	✓		
Senator Dyson	✓		
Senator Wilken	✓		
Senator Elton	✓		
Senator Hoffman	✓		
Vice-Chair Green	.		✓
Vice-Chair Wagoner	✓		
Chair Seekins	✓		
<u>Tally</u>			
Yea		10	
Nay		2	
Absent		1	
<u>MOTION</u>	Pass		

Natural Gas Development
COMMITTEE

P. 02

Amendment # #3-amend #2

To Bill Number: SB2004

Sponsor: Wilken

24-GS2046A.4

Date: 6/3/06 Logged by: Mindy

Bailey
6/3/06

FAILED

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR WILKEN

TO: SB 2004

1 Page 9, following line 14:

2 Insert a new subsection to read:

3 "(f) Before making awards of grants under this section for a fiscal year, the
4 commissioner of commerce, community, and economic development shall provide
5 reasonable public notice of all grant applications received, the recommendations of the
6 relevant municipal advisory group, preliminary determinations made concerning the
7 eligibility of each municipality or organization for a grant, the eligibility of each
8 expenditure or proposed expenditure for a grant, and the proposed allocation of
9 available money among grant proposals. The public notice must specify a time and
10 place for a public hearing during which the commissioner will receive comments
11 concerning the preliminary determinations and allocations of the department. The
12 commissioner shall give reasonable public notice of the final awards of grants made
13 under this section. Final awards take effect 30 days after public notice is given and
14 may be paid to the grantees according to procedures established by regulation."

15

16 Reletter the following subsections accordingly.

17

18 Page 9, following line 25:

19 Insert a new subsection to read:

20 "(j) In this section, "direct or severe impact" means a clearly demonstrable
21 effect on a community that proximately contributes to a material change to
22 transportation, infrastructure, law enforcement, emergency services, health and human
23 services, education, labor force, population, wages, ^{or} subsistence, ~~or another~~ delete

24-GS2046\A.4

1

~~sociocultural element~~ brought about by the construction of a gas pipeline." *delete*

Special Committee on Natural Gas Development

6/3/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#3		
Motion	amend (#2)		
<u>Motion by</u>	Bunde		
<u>Objection by</u>	Olson		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			✓
Senator B. Stevens			✓
Senator Stedman			✓
Senator Bunde	✓		
Senator Olson			✓
Senator Dyson	✓		
Senator Wilken			✓
Senator Elton			✓
Senator Hoffman			✓
Vice-Chair Green	✓		
Vice-Chair Wagoner			✓
Chair Seekins			✓
<u>Tally</u>			
Yea	3		
Nay	0		
Absent	1		
<u>MOTION</u>	Failed		

Natural Gas Development
COMMITTEE
Amendment # #3-amend #3
To Bill Number: SB2004
Sponsor: Wilken
Date: 6/3/06 Logged by: Mindy

P. 02

24-GS2046\A.4
Bailey
6/3/06

ADOPTED

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR WILKEN

TO: SB 2004

1 Page 9, following line 14:

2 Insert a new subsection to read:

3 "(f) Before making awards of grants under this section for a fiscal year, the
4 commissioner of commerce, community, and economic development shall provide
5 reasonable public notice of all grant applications received, the recommendations of the
6 relevant municipal advisory group, preliminary determinations made concerning the
7 eligibility of each municipality or organization for a grant, the eligibility of each
8 expenditure or proposed expenditure for a grant, and the proposed allocation of
9 available money among grant proposals. The public notice must specify a time and
10 place for a public hearing during which the commissioner will receive comments
11 concerning the preliminary determinations and allocations of the department. The
12 commissioner shall give reasonable public notice of the final awards of grants made
13 under this section. ~~Final awards take effect~~ ^{such} 30 days after public notice is given ^{Final awards}
14 may be paid to the grantees according to procedures established by regulation." ^{take}
15 ^{effect}
16 ^{and}

16 Reletter the following subsections accordingly.

17

18 Page 9, following line 25:

19 Insert a new subsection to read:

20 "(j) In this section, "direct or severe impact" means a clearly demonstrable
21 effect on a community that proximately contributes to a material change to
22 transportation, infrastructure, law enforcement, emergency services, health and human
23 services, education, labor force, population, wages, subsistence, or another

24-GS2046VA.4

1

sociocultural element brought about by the construction of a gas pipeline."

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR WILKEN

TO: SB 2004

1 Page 9, following line 14:

2 Insert a new subsection to read:

3 "(f) Before making awards of grants under this section for a fiscal year, the
4 commissioner of commerce, community, and economic development shall provide
5 reasonable public notice of all grant applications received, the recommendations of the
6 relevant municipal advisory group, preliminary determinations made concerning the
7 eligibility of each municipality or organization for a grant, the eligibility of each
8 expenditure or proposed expenditure for a grant, and the proposed allocation of
9 available money among grant proposals. The public notice must specify a time and
10 place for a public hearing during which the commissioner will receive comments
11 concerning the preliminary determinations and allocations of the department. The
12 commissioner shall give reasonable public notice of the final awards of grants made
13 under this section. Final awards take effect 30 days after public notice is given and
14 may be paid to the grantees according to procedures established by regulation."

15

16 Reletter the following subsections accordingly.

17

18 Page 9, following line 25:

19 Insert a new subsection to read:

20 "(j) In this section, "direct or severe impact" means a clearly demonstrable
21 effect on a community that proximately contributes to a material change to
22 transportation, infrastructure, law enforcement, emergency services, health and human
23 services, education, labor force, population, wages, subsistence, or another

24-GS2046\A.4

1

sociocultural element brought about by the construction of a gas pipeline."

Natural Gas Development
COMMITTEE
Amendment # #1
To Bill Number: SB 2004
Sponsor: Dyson
Date: 6/3/06 Logged by: Mindy

24-GS2046\A.5
Bailey
6/3/06

Adopted

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR DYSON

TO: SB 2004

- 1 Page 3, lines 3 - 4:
- 2 Delete "modifications of taxes on oil and gas, including terms providing for"
- 3
- 4 Page 3, line 4, following "taxes":
- 5 Insert "on oil or gas or both"

Special Committee on Natural Gas Development

6/3/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	# 1		
Motion	adopt		
<u>Motion by</u>	Dyson		
<u>Objection by</u>	Dyson		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

Natural Gas Development
COMMITTEE
Amendment # #11
To Bill Number: SB 2004
Sponsor: Dyson
Date: 6/4/06 Logged by: Mindy

Not offered

24-GS2046/A.11
Bailey
6/3/06

These either
'FAILED
' Not offered
or
' Withdrawn

AMENDMENT

OFFERED IN THE SENATE

TO: SB 2004

OFFERED BY SEN. DYSON

1 Page 6, following line 18:

2 Insert new bill sections to read:

3 **"* Sec. 11. AS 43.82.400(a) is amended to read:**

4 (a) If the commissioner develops a proposed contract under AS 43.82.200 -
5 43.82.270, the commissioner shall

6 (1) make preliminary findings and a determination that the proposed
7 contract terms are in the long-term fiscal interests of the state and further the purposes
8 of this chapter; [AND]

9 (2) prepare a proposed contract that includes those terms and shall
10 submit the contract to the governor; and

11 (3) if state participation is proposed, submit to the governor all
12 documents reasonably related to the ownership, governance, management, and
13 control of the state's participation at the same time the contract is submitted
14 under (2) of this subsection.

15 *** Sec. 12. AS 43.82.410 is amended to read:**

16 **Sec. 43.82.410. Notice and comment regarding the contract. The**
17 **commissioner shall**

18 (1) give reasonable public notice of the preliminary findings and
19 determination made under AS 43.82.400;

20 (2) make copies of the proposed contract, the commissioner's
21 preliminary findings and determination, the documents required under
22 AS 43.82.400(a)(3), and, to the extent the information is not required to be kept
23 confidential under AS 43.82.310, the supporting financial, technical, and market data,

1 including the work papers, analyses, and recommendations of any independent
2 contractors used under AS 43.82.240 available to the public and to

3 (A) the presiding officer of each house of the legislature;

4 (B) the chairs of the finance and resources committees of the
5 legislature; and

6 (C) the chairs of the special committees on oil and gas, if any,
7 of the legislature;

8 (3) offer to appear before the Legislative Budget and Audit Committee
9 to provide the committee a review of the commissioner's preliminary findings and
10 determination, the proposed contract, and the supporting financial, technical, and
11 market data; if the Legislative Budget and Audit Committee accepts the
12 commissioner's offer, the committee shall give notice of the committee's meeting to
13 the public and all members of the legislature; if the financial, technical, and market
14 data that is to be provided must be kept confidential under AS 43.82.310, the
15 commissioner may not release the confidential information during a public portion of
16 a committee meeting; and

17 (4) establish a period of at least 90 [30] days for the public and
18 members of the legislature to comment on the proposed contract and the preliminary
19 findings and determination made under AS 43.82.400.

20 * Sec. 13. AS 43.82.430(b) is amended to read:

21 (b) After considering the material described in (a) of this section and securing
22 the agreement of the other parties to the proposed contract regarding any proposed
23 amendments prepared under (a) of this section, if the commissioner determines that
24 the contract is in the long-term fiscal interests of the state, the commissioner shall
25 submit the contract with the supporting documentation, including the documents
26 required under AS 43.82.400(a)(3) to the governor.

27 * Sec. 14. AS 43.82.435 is amended to read:

28 Sec. 43.82.435. Legislative authorization. The governor may transmit a
29 contract developed under this chapter with the supporting documentation, including
30 the documents required under AS 43.82.400(a)(3) to the legislature together with a
31 request for authorization to execute the contract. A contract developed under this

chapter is not binding upon or enforceable against the state or other parties to the contract unless the governor is authorized to execute the contract by law. The state and the other parties to the contract may execute the contract within 60 days after the effective date of the law authorizing the contract."

Renumber the following bill sections accordingly.

Page 10, line 23:

Delete "Sections 1 - 12, 15, 16, and 18"

Insert "Sections 1 - 16, 19, 20, and 22"

Page 10, line 25:

Delete "Section 17"

Insert "Section 21"

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#11		
Motion	adopt		
<u>Motion by</u>			
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>			

No Motion
made...
Withdrawn

Natural Gas Development
COMMITTEE

Amendment # #2

To Bill Number: SB 2004

Sponsor: Dyson

Date: 6/3/06 Logged by: Mindy

24-GS2046VA.3

Bailey

6/3/06

AMENDMENT

NOT OFFERED

OFFERED IN THE SENATE

BY SENATOR DYSON

TO: SB 2004

- 1 Page 3, lines 3 - 4:
- 2 Delete "modifications of taxes on oil and gas, including terms providing for"

Natural Gas Development

COMMITTEE

Amendment # 13 A

To Bill Number: SB 2004

Sponsor: Dyson

Date: 6/5/06 Logged by: Robin

WITHDRAWN

24-GS2046\A.16

Bailey

6/5/06

AMENDMENT

OFFERED IN THE SENATE

TO: SB 2004

1 Page 6, following line 18:

2 Insert new bill sections to read:

3 **** Sec. 11.** AS 43.82.400(a) is amended to read:

4 (a) If the commissioner develops a proposed contract under AS 43.82.200 -
5 43.82.270, the commissioner shall

6 (1) make preliminary findings and a determination that the proposed
7 contract terms are in the long-term fiscal interests of the state and further the purposes
8 of this chapter; [AND]

9 (2) prepare a proposed contract that includes those terms and shall
10 submit the contract to the governor; and

11 (3) submit to the governor all documents related to the ownership,
12 governance, management, control, and operation of the project and participating
13 entities at the same time the contract is submitted under (2) of this subsection.

14 *** Sec. 12.** AS 43.82.410 is amended to read:

15 **Sec. 43.82.410.** Notice and comment regarding the contract. The
16 commissioner shall

17 (1) give reasonable public notice of the preliminary findings and
18 determination made under AS 43.82.400;

19 (2) make copies of the proposed contract, the commissioner's
20 preliminary findings and determination, the documents required under
21 AS 43.82.400(a)(3), and, to the extent the information is not required to be kept
22 confidential under AS 43.82.310, the supporting financial technical, and market data,
23 including the work papers, analyses, and recommendations of any independent

1 contractors used under AS 43.82.240 available to the public and to

2 (A) the presiding officer of each house of the legislature;

3 (B) the chairs of the finance and resources committees of the
4 legislature; and

5 (C) the chairs of the special committees on oil and gas, if any,
6 of the legislature;

7 (3) offer to appear before the Legislative Budget and Audit Committee
8 to provide the committee a review of the commissioner's preliminary findings and
9 determination, the proposed contract, and the supporting financial, technical, and
10 market data; if the Legislative Budget and Audit Committee accepts the
11 commissioner's offer, the committee shall give notice of the committee's meeting to
12 the public and all members of the legislature; if the financial, technical, and market
13 data that is to be provided must be kept confidential under AS 43.82.310, the
14 commissioner may not release the confidential information during a public portion of
15 a committee meeting; and

16 ~~(4) establish a period of at least 90 [30] days for the public and~~
17 ~~members of the legislature to comment on the proposed contract and the preliminary~~
18 ~~findings and determination made under AS 43.82.400.~~

19 * Sec. 13. AS 43.82.430(b) is amended to read:

20 (b) After considering the material described in (a) of this section and securing
21 the agreement of the other parties to the proposed contract regarding any proposed
22 amendments prepared under (a) of this section, if the commissioner determines that
23 the contract is in the long-term fiscal interests of the state, the commissioner shall
24 submit the contract with the supporting documentation, including the documents
25 required under AS 43.82.400(a)(3) to the governor.

26 * Sec. 14. AS 43.82.435 is amended to read:

27 **Sec. 43.82.435. Legislative authorization.** The governor may transmit a
28 contract developed under this chapter with the supporting documentation, including
29 the documents required under AS 43.82.400(a)(3) to the legislature together with a
30 request for authorization to execute the contract. A contract developed under this
31 chapter is not binding upon or enforceable against the state or other parties to the

contract unless the governor is authorized to execute the contract by law. The state and the other parties to the contract may execute the contract within 60 days after the effective date of the law authorizing the contract."

Renumber the following bill sections accordingly.

Page 10, line 23:

Delete "Sections 1 - 12, 15, 16, and 18"

Insert "Sections 1 - 16, 19, 20, and 22"

Page 10, line 25:

Delete "Section 17"

Insert "Section 21"

Special Committee on Natural Gas Development

6 / 5 / 2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	# 13 A		
Motion	to adopt		
<u>Motion by</u>	Dyson		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	WITHDRAWN		

2 PM
==

Natural Gas Development
Committee
Amendment # #6
To Bill Number: SB 2004
Sponsor: Dyson
Date: 6/4/06 Logged by: Mindy

24-GS2046A.8
Bailey
6/4/06

AMENDMENT

WITHDRAWN

OFFERED IN THE SENATE

BY SENATOR DYSON

TO: SB 2004

- 1 Page 3, line 28, following "waiver":
- 2 Insert "on a case-by-case basis"
- 3
- 4 Page 3, line 28, following "general":
- 5 Insert "and the consent of the legislature"

Special Committee on Natural Gas Development

6/4/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#6		
Motion	adopt		
<u>Motion by</u>	Dyson		
<u>Objection by</u>	Seekins		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Withdrawn		

Natural Gas Development
COMMITTEE # 8

To Bill Number: SB 2004

Sponsor: Dyson

Date: 6/4/06 Logged by: Mindy

24-GS2046\A.10

Bailey

6/3/06

Withdrawn

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR DYSON

TO: SB 2004

1 Page 9, line 14, following "section.":

2 Insert "Before making a final determination of the grants to be awarded, the
3 commissioner shall submit recommendations for annual grant allocations to the Legislative
4 Budget and Audit Committee for approval. The Legislative Budget and Audit Committee
5 shall approve or modify the commissioner's recommendations within 10 days after receipt
6 from the commissioner. If the Legislative Budget and Audit Committee does not respond to
7 the commissioner within 10 days, the commissioner may proceed with grant payments as
8 recommended."

Special Committee on Natural Gas Development

6/4/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#8		
Motion	adopt		
<u>Motion by</u>	Dyson		
<u>Objection by</u>	Dyson		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	WITHDRAWN		

Natural Gas Development
COMMITTEE
Amendment # #9
To Bill Number: SB 2004
Sponsor: Hoffman
Date: 6/4/06 Logged by: Mindy

24-GS2046\A.7
Bailey
6/4/06

WITHDRAWN

AMENDMENT

By: Sen. Hoffman

OFFERED IN THE SENATE

TO: SB 2004

1 Page 3, line 26:

2 Delete "a new subsection"

3 Insert "new subsections"

4

5 Page 4, following line 2:

6 Insert a new subsection to read:

7 "(c) The commissioner shall include in any contract developed under this
8 chapter gas pipeline "rolled in" expansion pricing to provide for expansion of the
9 pipeline that encourages further gas exploration."

This amendment makes it mandatory that future expansions are priced on a roll-in basis.

Rolled-in pricing spreads the cost of expansion over both existing and new customers.

Incremental pricing puts all the cost associated with expansion on the parties who cause the expansion.

Rolled-in pricing is the only way to encourage exploration.

- It takes a long time to explore and develop gas properties. Independents will not be in a position to bid on capacity initially – they will be dependent on the second, third and maybe even fourth round of pipeline expansion to get their gas to market
- With rolled-in pricing, all participants will know up front that any gas they discover will have access to expansion capacity on competitive terms.
- If the pipeline isn't expanded, they probably won't commit the money to explore, drill or develop their leases
- If pricing of pipeline expansion is not guaranteed to be based on roll-in pricing, it will be prohibitively expensive for new customers and be a disincentive to invest in Alaska. (rolled-in pricing is the rule in Canada, and we would be at a competitive disadvantage if we don't assure new shippers of rolled-in pricing)
- Since rolled-in pricing is the rule in Canada, using rolled-in pricing would make us consistent along the entire length of the line

The contract does not address expansion with a view toward encouraging exploration

FERC established a presumption that future expansion would be priced on a rolled-in basis. They did this after consideration of the unique aspects of the Alaska pipeline – that it likely will be a producer-owned single pipeline.

But the contract does not:

- Commit all parties to use rolled-in pricing for looping-based expansion
- Doesn't address voluntary expansion at all
- The contract has a possible barrier. In the section on state-initiated expansion – the contract guarantees the right of the 'mid-stream entity' to reject any expansion certificate that departs in any material way from what was proposed (for instance - if the FERC requires rolled-in pricing after the Sponsors have proposed to use incremental pricing)

distribute.
When #9
comes up

provided by Sen. Hoffman

**Quotes from the FERC (The Federal Energy Regulatory Commission)
Briefing Paper Nov. 9 2004**

The challenge for FERC was to create rules that give birth to competition, even in the face of an Alaska gas pipeline that will be a natural monopoly and may be owned by those with production interests better served by suppressing competition.

Interested parties recognize that if rolled-in tariffs accompany expansions achieved through adding compression and incremental tariffs are the price of expansions through looping, incremental tariffs will serve as the ultimate form of capacity allocation. Moreover, the mere possibility of incremental tariffs threatens competition in exploration, and may doom an Alaska gas pipeline to transporting nothing more than 6.0 billion cubic feet/day.

Without advance assurance that rolled-in pricing will be available for all expansions, those who would otherwise undertake exploration with the knowledge that they might not be ready to commit to capacity for the first open seasons may simply forego exploration.

Uncertainty about tariff methodology will reduce the competition within the gas industry in Alaska and, ultimately, will reduce the amount of gas produced from Alaska. Otherwise stated, companies that do not own or effectively control the pipeline will be at a severe competitive disadvantage and may be economically denied capacity.

Drilling efforts in Alaska require long lead times as a result of the remoteness of the resource and the limits imposed by the seasons. Consequently, companies must have reason to believe that future pipeline expansions will be undertaken when production volumes make them economic. Without having a long-term guarantee that expansions will be priced on a rolled-in basis, companies are unlikely to risk their capital by drilling in Alaska. There are obviously many other locations where they can drill and have reasonable assurance that their gas will have an outlet once it is developed.

Inasmuch as rolled-in pricing of pipeline expansions is the rule in Canada, companies are likely to drill there unless they have some assurances that Alaska production can access a pipeline under comparable rate terms. More drilling in Canada and less in Alaska is not an optimal result either for the State of Alaska or for the nation, especially since our federal government is providing substantial financial backing for this pipeline.

With rolled-in pricing all participants will know up front that any gas they discover will have access to expansion capacity on competitive terms.

Under incremental pricing there will almost certainly be no competition after the less expensive capacity goes into service. Expansions, priced incrementally, will virtually preclude new exploration programs by companies other than the preexisting holders of pipeline capacity. Thus, to comply with the Commission's statutory obligations under § 103 of the Act, the Commission must address at least one aspect of rate design for expansions as a critical element of open season rules, and in that context it must require that the initial pipeline and all expansions must be based on a rolled-in rate design."

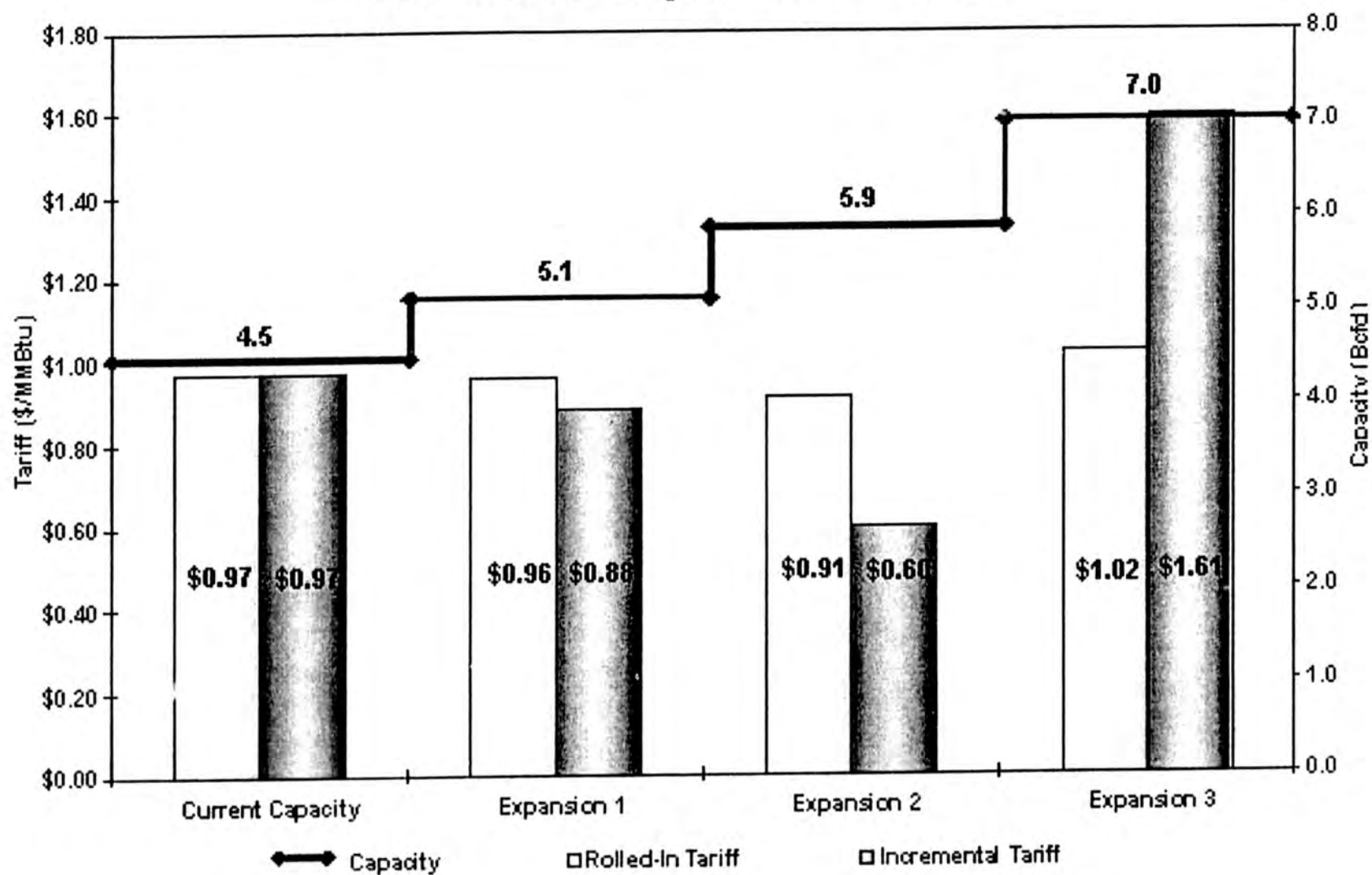
Special Committee on Natural Gas Development

6 / 4 / 2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#9		
Motion	adopt		
<u>Motion by</u>	Hoffman		
<u>Objection by</u>	Seekins		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
• Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	WITHDRAWN		

Indicative Expansion Tariffs



Mandatory Expansion Under 2004 Federal Law

FERC must find:

1. Rates must recover costs (including return on investment)
2. Existing shippers must not subsidize expansion
3. Expansion shippers will comply with existing tariff
4. Facilities will not adversely affect financial or economic viability of project
5. Facilities will not adversely affect overall operations
6. Proposed facilities will not diminish contract rights of existing shippers
7. All environmental reviews must be completed
8. Adequate downstream facilities must exist or be expected to exist

State-Initiated Expansion Under Contract

9. Must not require existing shipper to pay a higher rate than w/o an expansion
10. Must not require existing shipper to be assessed a higher fuel retention percentage than w/o expansion
11. Only available every 5 years
12. Minimum volume (50,000 Mcf on Gas Transmission Lines/125,000 Mcf on Mainline)
13. Does not require Project Entity to construct lateral from the Pipeline
14. No more than 100-miles of looping
15. Min. vols. exclude producer affiliate vols. But rate calculations must include producer affiliate vols.
16. Expansion shipper must meet credit standards of tariff
17. Expansion shipper pays in advance its share of costs related to cert. Application
18. Expansion shipper obligates itself to pro-ration in open season

Article 8.7 of Contract

Article 8.7 is effective unless *FERC* determines that any of its provisions are contrary to *Law*. If *FERC* issues a certificate on a basis different than the expansion proposal filed by the *Project Entity*, then the *Project Entity* shall reject the certificate unless any such difference is minor or all the members of the *Project Entity* vote otherwise.

Alaska's Status Quo

- For oil and gas arrangements Alaska uses
 - ◆ Lease structure
 - ◆ Royalty / Tax regime
 - ◆ Manages through regulation

SENATE FINANCE
COMMITTEE

FAILED

Amendment # 16

To Bill Number: SB 2004

24-GS2046\A.17

Sponsor: Therrell / Seakins

Wayne

Date: 6/5/06 Logged by: Robin

6/5/06

AMENDMENT

OFFERED IN THE SENATE

TO: SB 2004

1 Page 3, line 26:

2 Delete "a new subsection"

3 Insert "new subsections"

4

5 Page 4, following line 2:

6 Insert a new subsection to read:

7 "(c) Nothing in a contract under this chapter diminishes the legal authority of
8 the Regulatory Commission of Alaska or indemnifies any person or entity from future
9 decisions of the Regulatory Commission of Alaska or a successor to the Regulatory
10 Commission of Alaska."

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

2 PM

Bill Number	SB 2004		
Amendment	#16		
Motion	to adopt		
Motion by	Wilken		
Objection by	Wilken / Green		
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh	✓		
Senator B. Stevens			✓
Senator Stedman			✓
Senator Bunde			✓
Senator Olson	✓		
Senator Dyson	✓		
Senator Wilken	✓		
Senator Elton	✓		
Senator Hoffman			✓
Vice-Chair Green			✓
Vice-Chair Wagoner	✓		
Chair Seekins			✓
Tally			
Yea	6		
Nay	6		
Absent			
MOTION	FAILED		

NATURAL GAS DEVELOPMENT
COMMITTEE
Amendment # #10 A
To Bill Number: SB 2004
Sponsor: Wagoner
Date: 6/4/06 Logged by: Mindy

24-GS2046A.13
Bailey
6/4/06

FAILED

11:15
am
6/5/06

AMENDMENT

OFFERED IN THE SENATE

BY Wagoner

TO: SB 2004

Amend
10A

- 1 Page 6, line 23, following "project":
2 Insert "and each project entity to be created to own and operate any part of the project"
3
4 Page 6, line 24, following "chapter.":
5 Insert "Each collateral agreement shall be a condition subsequent to the proposed
6 contract developed under this chapter shall be subject to review and authorization to execute
7 by the legislature and, on approval, may be entered into by the public corporation as provided
8 in (b) of this section."

9

10 Page 6, line 26, following "AS 43.82.435":

- 11 Insert ", except that, with respect to collateral agreements submitted by the
12 commissioner of revenue to the legislature within the 180-day time limit, the time limit shall
13 be extended to five days after authorization has been approved. Each project entity collateral
14 agreement to be negotiated must incorporate the following minimum elements:

15 (1) if organized to do business in the state, the project entity shall be a
16 limited liability company organized under AS 10.50 (Alaska Revised Limited Liability
17 Company Act);

18 (2) for project entities organized under AS 10.50, the operating
19 agreement adopted under AS 10.50.095, or equivalent governing document for project
20 entities organized under other jurisdictions ("Operating Agreement"), must include the
21 limitation that the state's obligation to fund continuing capital and operating
22 obligations shall be subject to annual appropriation by the legislature, and that the
23 state's failure to appropriate a capital or operating obligation may not be considered a

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	10A.		
Motion	to adopt		
Motion by	Wagoner		
Objection by	Green		
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh			✓
Senator B. Stevens			✓
Senator Stedman			✓
Senator Bunde			✓
Senator Olson			✓
Senator Dyson	✓		
Senator Wilken	✓		
Senator Elton	✓		
Senator Hoffman			✓
Vice-Chair Green			✓
Vice-Chair Wagoner	✓		
Chair Seekins			✓
Tally			
Yea	4		
Nay	8		
Absent			
MOTION	FAILED		

AMENDMENT

OFFERED IN THE SENATE

BY Wagoner

TO: SB 2004

1 Page 6, line 23, following "project":

2 Insert "and each project entity to be created to own and operate any part of the project"

3

4 Page 6, line 24, following "chapter.":

5 Insert "Each collateral agreement shall be a condition subsequent to the proposed
6 contract developed under this chapter shall be subject to review and authorization to execute
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23 state's failure to appropriate a capital or operating obligation may not be considered a

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	10 A		
Motion	to rescind action		
Motion by	Hoffman		
Objection by	Dyson Elton Wagoner		
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh	✓		
Senator B. Stevens	✓		
Senator Stedman	✓		
Senator Bunde	✓		
Senator Olson	✓		
Senator Dyson			✓
Senator Wilken			✓
Senator Elton			✓
Senator Hoffman	✓		
Vice-Chair Green	✓		
Vice-Chair Wagoner			✓
Chair Seekins	✓		
Tally			
Yea	8		
Nay	4		
Absent	—		
MOTION	PASSED		

AMENDMENT

ADOPTED

OFFERED IN THE SENATE

BY Wagoner

TO: SB 2004

1 Page 6, line 23, following "project":

2 Insert "and each project entity to be created to own and operate any part of the project"

3

4 Page 6, line 24, following "chapter.":

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17 ~~Company Act);~~

18 ~~(2) for project entities organized under AS 10.50, the operating~~
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20 ~~entities organized under other jurisdictions ("Operating Agreement"), must include the~~
21 ~~limitation that the state's obligation to fund continuing capital and operating~~
22 ~~obligations shall be subject to annual appropriation by the legislature, and that the~~
23 ~~state's failure to appropriate a capital or operating obligation may not be considered a~~

AMENDMENT

OFFERED IN THE SENATE

BY Wagoner

TO: SB 2004

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22 ~~obligations shall be subject to annual appropriation by the legislature, and that the~~
23 ~~state's failure to appropriate a capital or operating obligation may not be considered a~~

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	10A		
Motion	to adopt		
Motion by	Wagoner		
Objection by	Stevens		
Removed			
Second Objection by			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Kookesh	✓		
Senator B. Stevens			✓
Senator Stedman			✓
Senator Bunde	✓		
Senator Olson	✓		
Senator Dyson	✓		
Senator Wilken	✓		
Senator Elton	✓		
Senator Hoffman			✓
Vice-Chair Green			✓
Vice-Chair Wagoner	✓		
Chair Seekins			✓
<u>Tally</u>			
Yea	7		
Nay	5		
Absent	—		
MOTION	PASSED		

AMENDMENT

OFFERED IN THE SENATE

BY Wagoner

TO: SB 2004

1 Page 6, line 23, following "project":

2 Insert "and each project entity to be created to own and operate any part of the project"

3

4 Page 6, line 24, following "chapter.":

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19 agreement adopted under AS 10.50.095, or equivalent governing document for project
20 entities organized under other jurisdictions ("Operating Agreement"), must include the
21 limitation that the state's obligation to fund continuing capital and operating
22 obligations shall be subject to annual appropriation by the legislature, and that the
23 state's failure to appropriate a capital or operating obligation may not be considered a

1 default of the state's obligation, but shall be considered only to reduce the state's
2 ownership interest on a pro rata basis based on the amount of the failed appropriation
3 relative to the amount of the capital or operating obligations funded by the remaining
4 project owners;

5 (3) the Operating Agreement must provide that

6 (A) the state may not agree to a waiver of sovereign immunity
7 without a reasonable monetary limit on that waiver under the facts and
8 circumstances;

9 (B) the state may not indemnify or otherwise hold harmless any
10 person or entity that has been adjudged in a judicial, administrative, or
11 alternative dispute resolution proceeding to be liable for negligence or
12 misconduct in the performance of the person's or entity's duty or has been
13 adjudged guilty of a crime or had a criminal adjudication withheld subject to
14 probationary terms;

15 (C) the state may not eliminate claims for actual damages
16 incurred by the state and may not eliminate the equitable rights to seek specific
17 performance and injunctive relief; and

18 (D) the rights and limitations provided in this paragraph shall
19 apply to collateral agreements to be entered into under this section;

20 (4) the Operating Agreement must provide that, in the event of a
21 dispute between or among the members of the entity, a subsidiary entity, an affiliate of
22 a member, a member representative, and any other person or legal entity that has a
23 membership or ownership interest in an owner entity of the project, that dispute shall
24 be subject to the dispute resolution terms and procedures set out in the contract as
25 approved by the legislature under AS 43.82.435; for purposes of this paragraph,
26 "dispute" means a dispute, matter, controversy, or claim arising out of or relating to
27 any owner entity of the project, any ownership interest in the project, any agreement
28 between or among the members or owners of any owner entity of the project arising
29 out of or relating to that owner entity of the project, or the operation, management, or
30 implementation of the project, including its interpretation, construction, performance,
31 enforcement, privileges, rights, or obligations; those dispute resolution terms must

1 incorporate equivalent presumptions and burdens of proof as set out for civil trials in
2 Rule 301, Alaska Rules of Evidence, Presumptions in General in Civil Actions and
3 Proceedings, and Rule 302, Alaska Rules of Evidence, as amended, Applicability of
4 Federal Law in Civil Actions and Proceedings;

5 (5) the Operating Agreement must provide that the managing members
6 and member representatives owe a duty to act in the best interest of the entity and
7 perform their duties in good faith toward the goal of implementation of the project;

8 (6) the Operating Agreement must provide that the entity may not
9 effect a material change or amendment to the Qualified Project Plan without the
10 review and authorization of the legislature;

11 (7) the Operating Agreement must provide that the members of the
12 governing body of any subsidiary entity organized by the entity shall be the members
13 of the governing board of the entity, unless otherwise authorized by the legislature;

14 (8) the Operating Agreement must provide that the state has the
15 unilateral right to initiate expansions of the project if the state funds or obtains third-
16 party funding from a creditworthy customer for the expansion or extension and must
17 include terms for voluntary expansion, including

18 (A) holding periodic binding or nonbinding open seasons to
19 assess market demand for expansion every three to five years;

20 (B) committing to satisfy all creditworthy demands for capacity
21 expansion in reasonable engineering increments;

22 (C) committing to expansion for creditworthy shippers in less
23 than reasonable engineering increments when the shippers commit to
24 contributions in aid of construction sufficient to keep the project entity whole,
25 including authorized return; and

26 (D) committing the project entity to propose and defend the use
27 of rolled-in pricing for all expansions;

28 (9) the Operating Agreement must provide that, in the event the entity
29 elects to contract with a vendor to operate the entity or implement the project, the
30 vendor shall be independent of and not an affiliate of the members of the entity;

31 (10) the Operating Agreement must provide that the state member shall

1 have the right to participate in all meetings of the governing board of the entity and
2 vote on all decisions of the entity, including decisions affecting tax allocations
3 between or among the taxpaying members of the entity;

4 (11) the Operating Agreement must provide that the state member shall
5 have the right to review all books and records of the entity, including all contracts, and
6 to audit the finances of the entity at any time and from time to time;

7 (12) the Operating Agreement must provide that, on termination,
8 liquidation, or dissolution of the entity, the state shall have a right of first refusal and
9 option to acquire all of the assets of the entity at the then fair value of the assets;

10 (13) the Operating Agreement must provide that, in the event a
11 member seeks to transfer or divest its ownership interest in the entity, the state shall
12 have a right of first refusal and option to acquire the member's ownership interest at
13 the then fair value of the interest;

14 (14) the Operating Agreement must provide that, in the event that the
15 entity seeks to transfer or divest any or all of the project assets, the state shall have a
16 right of first refusal and option to acquire the project assets at the then fair value of the
17 project assets;

18 (15) the Operating Agreement must include a right of first refusal and
19 option by which the state may acquire all or any part of the project assets at the then
20 fair value of the project assets in the event that the Federal Energy Regulatory
21 Commission, United States Department of Energy, the United States Department of
22 Justice, the Federal Trade Commission, or other applicable federal or state agency or
23 adjudicatory body orders one or more qualified sponsors, the qualified sponsor group,
24 or an affiliate of a qualified sponsor or sponsor group to divest any or all ownership
25 interest in the project;

26 (16) the Operating Agreement must provide that the project entity shall
27 use project financing supported by federal guarantee instruments as defined in the
28 Alaska Natural Gas Pipeline Act to the maximum extent available from the United
29 States Treasury and must limit the equity portion of project capitalization to not more
30 than 20 percent of total capital;

31 (17) for the purposes of the provisions required by this subsection, the

- 1 Operating Agreement must define "fair value" as the value as agreed to by the affected
- 2 members or as determined under the dispute resolution process if agreement cannot be
- 3 reached; "fair value" shall be determined based on original cost less depreciation,
- 4 comparable sales, or income approach valuation methodologies"

Special Committee on Natural Gas Development

6/5 /2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	#10		
Motion	adopt		
<u>Motion by</u>	WAGONER		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>			

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	# 10		
Motion	To Table The Amendment		
Motion by	Stevens		
Objection by			
Removed			
Second Objection by			
Committee Member	Y	Vote	N
Senator Kookesh			✓
Senator B. Stevens	✓		
Senator Stedman	✓		
Senator Bunde			✓
Senator Olson			✓
Senator Dyson			✓
Senator Wilken			✓
Senator Elton			✓
Senator Hoffman	✓		
Vice-Chair Green	✓		
Vice-Chair Wagoner			✓
Chair Seekins	✓		
Tally			
Yea	5		
Nay	7		
Absent			
MOTION	FAILED		

9:00 AM

Special Committee on Natural Gas Development

6/5/2006

COMMITTEE ACTION

Bill Number	SB 2004		
Amendment	10B-Q		
Motion	to withdraw		
<u>Motion by</u>	Wagoner		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Kookesh			
Senator B. Stevens			
Senator Stedman			
Senator Bunde			
Senator Olson			
Senator Dyson			
Senator Wilken			
Senator Elton			
Senator Hoffman			
Vice-Chair Green			
Vice-Chair Wagoner			
Chair Seekins			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>			

10B-Q Not offered

AMENDMENT

OFFERED IN THE SENATE

BY Wagoner

TO: SB 2004

1 Page 6, line 23, following "project":

2 Insert "and each project entity to be created to own and operate any part of the project"

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1 default of the state's obligation, but shall be considered only to reduce the state's
2 ownership interest on a pro rata basis based on the amount of the failed appropriation
3 relative to the amount of the capital or operating obligations funded by the remaining
4 project owners;

5 (3) the Operating Agreement must provide that

6 (A) the state may not agree to a waiver of sovereign immunity
7 without a reasonable monetary limit on that waiver under the facts and
8 circumstances;

9 (B) the state may not indemnify or otherwise hold harmless any
10 person or entity that has been adjudged in a judicial, administrative, or
11 alternative dispute resolution proceeding to be liable for negligence or
12 misconduct in the performance of the person's or entity's duty or has been
13 adjudged guilty of a crime or had a criminal adjudication withheld subject to
14 probationary terms;

15 (C) the state may not eliminate claims for actual damages
16 incurred by the state and may not eliminate the equitable rights to seek specific
17 performance and injunctive relief; and

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19 apply to collateral agreements to be entered into under this section;

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22 a member, a member representative, and any other person or legal entity that has a
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 21 Commission, United States Department of Energy, the United States Department of
 22 Justice, the Federal Trade Commission, or other applicable federal or state agency or
 23 adjudicatory body orders one or more qualified sponsors, the qualified sponsor group,
 24 or an affiliate of a qualified sponsor or sponsor group to divest any or all ownership
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4 comparable sales, or income approach valuation methodologies"